

General Issues & Reforms to reduce the wrongful convictions in India

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Abstract- *Wrongful convictions never occur when judges can be trusted to make fair decisions. Every wrongful conviction was the product of a deliberate procedure involving law enforcement officers, prosecutors, and perhaps both trial and appellate level judges. Even though authors have condemned prosecutors, police detectives, defence lawyers, and lab workers for their roles in wrongful convictions, judges have often been given a pass. Judges are often portrayed in the news and other forms of broadcast media as unbiased, apolitical individuals who possess exceptional intelligence, wisdom, and compassion and care deeply that justice is served in every circumstance while sitting in their high positions, which may explain why they are not more involved in the community. But in reality, things seem quite different from that rosy picture.*

Keywords - *Wrongful convictions, Criminal Justice System of India, Judicial misconduct, Fabricating evidence, False testimony*

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INTRODUCTION

There is no accountability for the actions of police, prosecutors, or judges that result in unjust convictions, such as the fabrication of evidence, the presentation of false testimony, or the refusal to accept proof of innocence. There is no way they could be held accountable for their actions, no matter how egregious, because of the rules of immunity.

Our ability to successfully convict the guilty and exonerate the innocent relies on the reliability of our criminal justice system. However, we are well aware that there are instances of wrongful convictions. If we want to keep our justice system functioning properly, we need to learn about and acknowledge the factors that lead to erroneous convictions. In *Courts on Trial: Myth and Reality in American Justice*, one of the only comprehensive assessments of the American judicial system published by an insider, Federal Judge Jerome Frank said, "Our judicial system is a key component of our government." Nothing about the government should be mysterious in a democracy.

Many laypeople, however, remain perplexed by the concept of "court-house governance." In contrast to "the typical hush-policy surrounding the courts," as Judge Frank phrased it, his book was a refreshing break from the norm. That unspoken strategy continues to keep the courts' inner workings secret. When one looks behind the public facade that has long sheltered judges from rigorous examination, they are able to observe the most important character in the

real-life drama of an innocent person's trial and conviction: the judge.

Wrongful conviction, often known as a miscarriage of justice, occurs when an innocent person is declared guilty and sentenced to jail. Due to basic wrongdoing on the part of several states, wrongful convictions are all too often in India, calling into serious doubt the credibility and fairness of the country's criminal justice system. Many innocent people suffer from mental health issues, anxiety disorders, and stress when they are incarcerated after being wrongfully convicted. It complicates matters and lowers the likelihood that innocent individuals will be able to lead regular lives again after being freed from jail.

The fact that many states in India do not provide monetary compensation to those mistreated by the criminal justice system highlights the urgent need for a mechanism that would act effectively in situations of unfair convictions in the country's courts. Laws must be scrupulously carried out, and judges must make sure that biases of any form are not taken into consideration when pronouncing decisions. Plea bargains that incentivize the judge hearing the case to find the innocent prisoner guilty, judicial misconduct, and other forms of rapid decision-making may all lead to a false conviction. Wrongful convictions occur for many different reasons. In this piece, we examine the problem of wrongful conviction and the steps the government has taken to help repair the damage it has caused. Take into account that you have been found guilty and

condemned to jail or maybe the death penalty for a crime that you did not commit. This is the naive experience of some individuals. Nowadays, there are many innocent individuals in jail. Holding someone in custody during the administration of justice is seen as an affront to the rule of law.

Unfortunately, victims in such cases face conditional legal delays, and the state must be held responsible for its incompetence and arrears. It lasts for many years and impacts mental health. This raises doubts concerning the preservation of the rights of the persons enshrined in India's constitution.

Just recently in 2019, Madhumala Das was released from a correctional centre after spending three years in falsely accused of a crime she did not commit. Her daughter, who was deaf and dumb, became traumatised as she searched the community for her mother. The inquiry revealed that this occurrence was a case of mistaken identification. Because of her unfortunate similarity to the murderer, Madhumala had three years snatched from her life. The victims of unjustified arrest and incarceration suffer not just the loss of years but also the stigmatisation and exclusion from society that follows their release.

Despite spending years apart from loved ones, many with terrible beliefs do not get freedom in the end. Even if the accused person is later exonerated, the stigma of having been accused remains.

In Rudul Shah v. the State of Bihar, the Supreme Court was first requested to compensate a falsely convicted victim whose basic rights had been infringed back in 1983. For a whopping fourteen years, the petitioner was detained in jail against his will.

In accordance with Article 32 of the Constitution, he sent a habeas corpus letter to the Supreme Court, asking for monetary damages. The Supreme Court granted the petitioner Rs. 30,000 in compensation, deciding that its "authority to offer compensation for infringements of basic rights only in circumstances where the infringement of rights is substantial" falls within the ambit of Art.32.

There is currently no statute or prison mechanism in the United States for paying those who have been wrongly detained, according to the Court's opinion in the seminal case of Babloo Chauhan Dabloo v. State Government of NCT of Delhi. A few years in jail is often followed by an acquittal with the help of the High Court or the Supreme Court. Because their formative years were spent behind bars, unseen behind the massive prison walls, they are left to their own devices with little desire for reintegration into society or rehabilitation. Legislation to provide victims of wrongfully prosecuted and incarcerated individuals with access to appropriate relief and rehabilitative services is urgently required.

In the 2005 suicide bombing case in Hyderabad, Two police officers were murdered on October 12, 2005,

when a suicide bomber detonated his or her explosives outside the office of the police task force. The defendants in this case were charged with conspiracy in connection with this attack. He emphasised that the arrests of the individuals were made without any concrete proof, and that the prosecution had no way of proving a conspiracy.

Ten years of the victims' life may have been lost had the authorities not been so careless. The cops have made similar errors in the past. In these high-profile instances, police are frequently under political pressure and make false arrests. The officials involved should be dealt with harshly in such a situation.

MEANING OF WRONGFUL CONVICTION

The term wrongful conviction here is analyzed in terms of a combination of two concepts i.e.:

1. Wrongful
2. Conviction

If the rules for the investigation, the recording of confessions, the identification of witnesses, and the right to counsel were not followed, or if the conviction seemed to be biased or prejudiced, it would be considered wrongful. This conviction is similar to the one handed down in cases when the trial court or the first court of appeals made a mistake in its ruling.

CLASSIFICATION OF WRONGFUL CONVICTION

A conviction may be classified as wrongful for two reasons:

- The person convicted is factually innocent of the charges.
- There were procedural errors that violated the convicted person's rights.

Duhaime's Law Dictionary defines a 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." People whose convictions were acquired via violations of constitutional or other procedural rights are included by this concept.

Criminal processes become unjust when innocent people are found guilty or when defendants are coerced into confessing to crimes they did not commit in order to escape the death penalty or a sentence of severe length in prison. When an innocent person spends years on execution row or in jail. This is the very first time someone who has never committed a crime has been convicted of one. Until the true individual is sentenced to death, acquitted, or murdered, the overturning of unlawful sentences may not be permanent. If you haven't committed the crime for which you were tried and sentenced, it's unfair that you're in jail for it. Anxiety

disorders and post-traumatic stress disorder are not prevalent, but research and anecdotal data suggest that a high percentage of wrongfully sentenced convicts have these conditions. It's a myth that dangerous criminals are hiding within the jail population. For those who have been incarcerated and have shown signs of change, this might make it challenging to readjust to society upon release. The majority of states do not permit victims of crime to get monetary compensation.

Despite an uptick in recent years in the number of states with compensation laws, released inmates who have made a full recovery have not been eligible for the same privileges as those who are on parole. There is no predetermined path to prosecution or reward money from law enforcement.

Although there have been some successful instances in this area in recent years, this is because specific misconduct by criminal justice authorities is required to overcome immunity defences.

PROJECT FOR INNOCENCE

More innocent individuals than ever before are now being held in American jails and prisons. The increasing prevalence of tax exemption may be directly attributed to the flawed administration of criminal justice. Statistics on incidents when an innocent person was wrongfully convicted but later rehabilitated and released are kept and used in the project's ongoing work.

Some persons have had their wrongful sentences not reversed for decades, even after they were executed, freed, or died while innocent. Since many erroneous convictions have never been reversed, estimating the true frequency of judicial mistakes is challenging. The project utilised cutting-edge DNA testing procedures to successfully vacate the sentences of 375 American inmates. However, only around 5-10% of cases are resolved with DNA testing. Because only capital murder and rape cases are eligible for the acquittal of the acquittal plan, there is a greater likelihood that defendants may be wrongfully convicted when there is insufficient evidence to support their release. To estimate, assume that anywhere between 2.3% and 5% of all inmates in the USA are really innocent.

EXONERATIONS

Many of the factors that lead to unjust convictions may be learned through exonerations. The term "exoneration" is used to describe the process through which a person who has been wrongfully convicted of a crime gets released from prison. One way this might happen is if:

- A pardon based on actual innocence.
- An acquittal at retrial.
- A conviction being vacated and the indictment dismissed.
- DNA Exoneration

After conviction, the DNA evidence is used to formally exonerate the accused (i.e., the outcome of the DNA test is the deciding factor in whether or not the accused is innocent in reality, and is therefore necessary for revoking the conviction and/or exempting the conviction). About 15% of the cases that Innocence works on include DNA evidence (such as blood or other body fluids) as a primary piece of evidence in the case; these cases often involve assault, sexual assault, or DNA murder. None of the above applies in the USA.

CAUSES OF WRONGFUL CONVICTIONS

These are common causes of wrongful convictions:

Eyewitness Mis-identification

Eyewitness False identification is a leading cause of erroneous convictions across the country. The human mind is not like a tape recorder, as science has revealed. We won't be taking frame-by-frame recordings of what's going on, nor will we be rewinding time to capture what happened. On the contrary, a witness's recollection of events is as reliable as any other evidence gathered at the site of the crime. Any disorder in its storage or removal increases the risk of contamination.

Invalid Scientific Claims

There is a lack of adequate evaluation and assessment of the utility and reliability of many forensic procedures despite their widespread usage. Forensic analysts are called upon to offer evidence when there is a solid scientific foundation for a conclusion. The forensic community isn't perfect, and sometimes analysts act inappropriately. False conclusions may also result from faulty forensics investigations. There are several forensic techniques that have not been verified by science. Examples of such pseudoscientific practises are:

- Hair microscopy
- Bite mark comparisons
- Firearm tool mark analysis
- Shoe print comparisons

False Confessions

False confessions, false declarations, and guilty pleas are common outcomes even when the accused is innocent. No of the confessor's age, mental condition, or ability, there comes a time during the questioning process when they realise that admitting is in their best interest.

Government Misconduct

Despite little evidence or even obvious proof of innocence, government authorities can take measures to ensure that a suspect is convicted.

Bad Lawyer

Overworked attorneys have failed to properly investigate, summon witnesses, or prepare for trial, leading to the wrongful conviction of their clients.

WRONGFUL CONVICTION IN INDIA

According to the Constitution of India, which was ratified by the people of India, India is a democratic union governed by the rule of law. The rule of law is safeguarded by penalties, is constantly accessible, and responds to the demands and challenges of people in a reasonable and non-judgmental manner; all of these characteristics are shown by the regulation of the law. A nation's economic and legal infrastructure, which must be applied with dispatch and fairness, is the basis for its development. Several basic rights, essential to human flourishing, were granted to us by our Constitution. As the saying goes, "a hundred guilty may be left but one innocent should not be punished," which is the guiding philosophy for Indian judges. There is practical importance to criminal procedural law because of its role in actualizing the purposes and aspirations of criminal justice. The Code of Criminal Procedure's overarching goal is to expeditiously bring those responsible for crimes to justice.

Only works if the true bad guy is caught and charged with the crime. This may be secured by ensuring that law enforcement, investigative agencies, prosecutors, and judges are held accountable for carrying out their tasks effectively and without making any intentional mistakes. The integrity of the criminal justice system is essential to restoring the public's faith in a nation's judicial system. Only by punishing the wicked and sparing the innocent can this be accomplished.

In the criminal justice system, the victim of a false conviction experiences pain on two fronts. On the one hand, it is very personal; after all, it is the victim of wrongful conviction who has been incarcerated.

Second, since the criminal justice system failed, the wrongfully convicted person will be stigmatised and hated for the rest of his life.

People are punished in this fashion such that they remain social outcasts for life, even if they are later proven innocent of the crime or narrative for which they were originally condemned. The individual who sought retribution for the shortcomings of the criminal justice system deserves to be put to death with the respect due to a human being.

The criminal justice system has failed to deliver on this front up to this point. This backing comes in the form of money and the acknowledgement that you are a free man. After almost 70 years of independence, certain

crimes still go unpunished because of flaws in the criminal justice system:

1. Illegal detention by the police.
2. Torture.
3. Malicious methods of investigation.
4. Harassment of family members.
5. Continuing surveillance even after exoneration.

GENERAL ISSUES OF WRONGFUL CONVICTION

The following are some of the most important reasons why our criminal justice system is broken:

- The lack of honesty and efficiency that has been followed and practised has created uncertainties that have, in turn, created gaps in the inquiry and the structuring of charge sheets.
- The suspect or victim tampers with or steals evidence; in rare circumstances, the investigating officer is also implicated.
- Investigations are more likely to fail if they are based on false information or false identities.
- Caste prejudice towards the victims who are also the unfairly arrested defendants.
- The witness's incapacity to positively identify the perpetrator of the crime.
- The police agency made a mistake by not giving the individual with specialised knowledge of the matter adequate weight.
- False Evidence or contaminated evidence
- Mala fide and Doctored Forensic evidence
- Misleading or fabricated confession extracted under pressure from the police investigator.
- Another common kind of misconduct that often results in wrongfully convicted individuals is corruption and political influence.

REFORMS: REDUCING THE NUMBER OF WRONGFUL CONVICTIONS

Many practical reform strategies that may minimise legal mistakes have resulted from research and methodical thought on the direct causes of wrongful convictions. Evidence from controlled experiments shows that the proposed alignment reforms cut down on the amount of false positives without substantially impacting the number of true ones. For this reason, it is important to remind witnesses in both live and picture lineups that the culprit may not be there. The victim's vocal description, rather than physical likeness to the suspect, should be used to pick all line-ups.

Each forensics lab has to be approved by a governing body, and its examiners need to be trained and tested regularly. Defense lawyers,

prosecutors, and judges all need training in forensic testing methods, and there must be enough money to examine material that has been questioned.

The most widely supported proposal for improving interrogation practises is to videotape the whole interrogation, not just the confessions, from start to finish, including any time before or after the Miranda warning is given to the suspect.

Interrogations that are caught on tape may be reviewed by pretrial courts to see whether they were coercive or led to a false confession. Police may gain much from filmed interrogations since the statements of guilty individuals can be used as rock-solid evidence in court.

Many false confessions result from prolonged questioning, thus it's best to keep interrogations under 2 hours, particularly for susceptible suspects like minors.

By allowing prosecutors and investigators to focus on fewer cases, more money might improve their familiarity with each case, leading to fewer incorrect convictions. Prosecutors should instruct law enforcement and forensics labs to include exculpatory material in their findings.

Prosecutors shouldn't stifle reasonable post-conviction requests for reexamination of evidence and should advocate for laws and regulations that improve line-ups and interrogations based on best practises established by psychological research. More manpower and money are needed for police investigators so that they can better handle their workloads. Investigation standards and training should be updated to better prepare investigators for wrongful conviction cases, raise awareness of the dangers of tunnel vision, and encourage the inclusion of mitigating evidence in their reports. This may be very difficult to do since it requires a shift in police culture from prosecution partisanship to a more objective, scientific approach to criminal investigations.

There are a few methods to do this, but we call it the "adhesion procedure" when the victim seeks restitution via the criminal justice system. The provisions of the Indian Constitution and the Code of Criminal Procedure 1973 should serve as the basis for the legislation in India on this topic.

CASE LAWS ON WRONGFUL CONVICTION

In 1979, Hussainara Khatoon and Others v. the State of Bihar shed attention on the predicament of undertrials. Several stories in Indian Express detailed the appalling circumstances in Bihar's jails, and the Supreme Court took notice.

Several convicts, including women and children, have been held in the jails for at least two to five years while they await trial, according to press publications. Most

of those awaiting trial have been there for three to ten years, despite having been arrested on offences that normally carry a sentence of little more than a few months.

The administration of justice in the state of Bihar was called into question when a writ petition of habeas corpus was filed with the Supreme Court. The Supreme Court agreed to hear the petitions, and now the Government of Bihar must give a detailed report on all of its detainees and those still awaiting trial. The Supreme Court issued a precedent-setting ruling in his favour, upholding the need of a prompt trial in any system of justice. What's more, the state has a responsibility to safeguard this right since it's a constitutional one.

The Supreme Court had to answer some tough issues about bail for defendants who couldn't afford it in the case of Motiram v. Madhya Pradesh State. In 1978, the Supreme Court had to rule on whether or not a personal bond may be used to get bail under the Code of Criminal Procedure of 1973.

Second, what should be the criterion for reimbursement of the amount stated for the bond and how should it be calculated? Third, if a person lives or dwells in another district or state, or owns property in other districts or state, theirs if their request for a bond might be declined for the same reasons. The Apex Court found that the Criminal Procedure Act has various deficiencies and gaps in terms of representing the underprivileged segment of society; several unclear rules and difficulties need to be resolved by making certain adjustments.

Article 14 of India's Constitution states that "balancing of procedural law" must be included into legislation to address the concerns of various groups within Indian society on the problems at hand. Each and every criminal case adheres to "the right to equality before the law."

LAW COMMISSION OF INDIA

Several changes were proposed for the Criminal Procedure Code, 1973 by the Law Commission of India in its 277th Report, titled Wrongful Prosecution (Miscarriage of Justice): Legal Remedies and authored by the Hon'ble Justice Dr. B. S. Chauhan (Cr.P.C). This article will not be able to critically investigate all of the suggestions LCI provided in the aforementioned study, but it will offer a quick evaluation of the suggestions given in regard to the Compensation Legislative Framework. The Commission suggests that "Special Courts" be established in every jurisdiction to ensure that victims get prompt and effective justice. Injustice victims and their families have the only right to file Compensation Pleas in these Courts. These Courts' respective jurisdictions have been categorised as follows:

- The place in which the wrongful prosecution took place;
- District in which the victim resides.

Special Courts will use summary procedures in accordance with Order XXXVII of the Civil Procedure Code of 1908. The petitioner has the burden of proving that the defendant engaged in wrongdoing that constituted the Wrongful prosecution.

The Compensation legal framework proposed by the Law Commission of India in its report is the most significant aspect of the suggestion. After realising that it could be impractical to establish a fixed sum of compensation for these victims, the Law Commission of India suggested include "Guiding Principles" to be used by courts while determining the amount of compensation due to each individual case. Those concepts will be included into the revisions mandated by the Law Commission of India. The "seriousness of the crime," "severity of punishment," "duration of imprisonment," "injury to health," "reputation," and "loss of opportunity" are all examples of these guiding criteria.

Interim compensation payments by the state to victims are also mandated by the Indian Law Commission. The compensation shall be of a "Pecuniary" and "Non-Pecuniary" nature, with "Pecuniary" referring to the monetary amount awarded by a court in accordance with the Guiding principles, and "Non-Pecuniary" referring to the steps taken by the state to help the victim rejoin society, such as providing them with access to the workforce and erasing the social stigma associated with a crime they did not commit.

Measures were taken by the State to undo the harm caused by wrongful convictions

False convictions are a clear and present danger to society and a violation of basic human rights. Article 21 of the Indian Constitution guarantees every citizen the right to freedom and the opportunity to lead a life they see as worthy of human dignity. This right to live with dignity encompasses both the right to exist as an animal and the right to live in a free society free from governmental atrocities. When basic rights are violated as a consequence of police violence, prosecutorial overreach, or judicial prejudice, the state bears responsibility. The concept of compensatory jurisprudence, which holds the State responsible for violations of human rights, has evolved through time due to the work of the court.

In India, the number of innocent persons imprisoned due to wrongful convictions has reached an all-time high. The State cannot be held responsible for its mistakes since no legal structure or compensation plan exists. Therefore, victims of the justice transfer system often seek redress in court. In the case of *Thana Singh v. Central Bureau of Narcotics*, the Supreme Court stated that the State's approach reflected a lack of compassion for the incarcerated person's possible suffering and a disregard for human

dignity. The Court argues that issues like wrongful conviction are the result of the criminal justice system's inherent callousness.

Individuals' human rights are violated when they are unjustly convicted, hence it is imperative that the state provide reparations to those wronged in this way. The State has made it possible to make amends for the damage caused by an unjust conviction. The Indian government cannot be held accountable for its actions since, as was previously noted, no mechanism for compensation or punishment exists. There are no explicit provisions in the acts that would enable someone wrongfully convicted to seek redress. Currently, three types of judicial remedies exist for exonerating an innocent defendant:

PUBLIC LAW REMEDY

The Constitution of India lays the groundwork for public law redress. Subchapter III of the Constitution. Article 22 ensures that you won't be subject to unlawful arrest and imprisonment, in addition to the protections afforded by Article 21 regarding your right to life and freedom. Furthermore, the Constitution provides remedies for the breach, including the provision of compensation to the victim, via the Supreme Court's writ jurisdiction under Article 32 and the High Courts' writ power under Article 226. Due to the courts' outsized role in drawing attention to these kinds of abuses, a body of law known as "compensatory jurisprudence" developed. It was argued before the Supreme Court in the case of *Ram Lakhan Singh vs. State Govt. of UP* that unjust convictions are an abuse of the legal system and a violation of the individual's basic rights. In such circumstances, the courts have the authority to require the State to compensate the accused and provide rehabilitation services. The Supreme Court maintained the idea of strict accountability for infringement of basic rights in the case *Nilabati Behera vs. State of Orissa*, holding that compensation given in writ proceedings provides a remedy under public law. In previous instances, such as *Bhim Singh, Mla v. State of J & K And Ors.* and *Saheli, A Women's Resources v. Commissioner of Police, Delhi*, the Supreme Court has found the State responsible for wrongful convictions and awarded reparations. Despite a handful of wrongful conviction cases being upheld by the Supreme Court and High Courts, there is no well-established structure for proving the validity of a claim for compensation or determining how much should be awarded. Since public law remedies are applied strictly on an individual basis, they are very sensitive to the particulars of each case. Therapeutic treatment may therefore be sporadic or even noncontinuous.

PRIVATE LAW REMEDY

One "private law remedy" is to file a lawsuit in civil court against the government and its agents to seek monetary damages. Private law remedies are laid

forth in detail under Article 300 of the Indian Constitution. This remedy, according to the Supreme Court, is separate from the constitutional remedy available via writ jurisdiction. There is a distinction between damages and compensation, with the former based on private law rights like torts and the latter on the idea of exemplary repair.

CRIMINAL LAW REMEDY

In Chapter IX of the Indian Penal Code, you'll find the meat and potatoes of criminal law remedies. In Chapter IX, we learn about the crimes done by public officials, as well as those committed by those who were either involved with or benefited from these crimes. As well as providing false evidence and obstructing the administration of justice, Chapter IX addresses offences against public justice. Falsified confessions and manipulated evidence are major contributors to false convictions; Chapter IX of the IPC outlines punishments for any deliberate interference with the investigation, prosecution, trial, or other criminal proceedings by the investigative authorities.

The accused in the case of Mohd. Jalees Ansari & Ors. Vs. Central Bureau of Investigation was arrested by police in 1994 and charged with two separate bombings in 1993 and 1994 under the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA). The defendant admitted guilt, was arrested, and spent the next 23 years in an Ajmer jail before being proven guilty and handed a life sentence by a TADA court. In 2016, the Supreme Court reviewed the case and reversed the TADA court's ruling after concluding that the confession was false and forced and that it lacked legal legitimacy when used as the sole basis for the conviction. Thus, the original verdict was overturned.

CONCLUSION

Wrongful convictions remain a problem in the Indian justice system, which is a gross abuse of human rights. Countless innocent individuals throughout history have been incarcerated for crimes they did not commit, spending years or even decades away from their families, friends, and the happy, successful lives they were destined to lead. People who are wrongfully condemned endure immense mental anguish in addition to their physical suffering.

An increasing number of wrongful convictions in Indian courts call into doubt the integrity of the criminal justice system there. Although there are remedies for wrongful conviction available in Indian courts, there is an urgent need for real compensation programmes and legal mechanisms that enable the state to be penalised in situations of wrongful conviction. The country needs a moral legal provision that provides instant redress to those who have been wrongfully convicted. Further evidence of the need need for a body inside the Indian Court System willing to take effective action in situations of wrongful conviction is shown by the fact that numerous states do not allow or

offer monetary compensation to persons who have been unfairly convicted.

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