

Journal of Law & Social Studies (JLSS)

Volume 7, Issue 1, pp 65-72

www.advancelrf.org

Wrongful Convictions in Death Penalty: Effects of Systematic Failures on Rule of Law Hampering Fair and Just Punishment

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Abstract

The irreversible nature of death penalty necessitates an unwavering commitment to justice, especially in the light of the alarming incidence of wrongful convictions. Wrongful conviction in death penalty undermine the integrity of the justice system, revealing its potential for cruelty and inhumanity. Such miscarriages of justice not only violate individual rights but also erode public confidence in legal system. This paper delves into complexities surrounding wrongful convictions and the death penalty from both international and national perspective with a focused analysis of Pakistan judicial history, specifically the trial and execution of Zulfikar Ali Bhutto. Wrongful convictions have devastating consequences as individuals unjustly sentenced to death endure loss of freedom, psychological trauma, and, in some cases, execution. Their families suffer emotional distress and socioeconomic hardships, especially when the convicted person is the primary breadwinner, in this particular way society at large experiences a decline in confidence in the judicial system questioning its fairness and reliability. It concludes with recommendations aimed at reducing the risks of wrongful convictions in death penalty cases.

Keywords: Wrongful Conviction, rule of law, death penalty, systematic failure, justice, Bhutto case.

1. Introduction

The prevalence of wrongful convictions in death penalty cases highlights the weakness of the justice system. It has made the face of the justice system an untrustworthy one. Innocent people being sentenced to death is, against the very purpose of justice. It further shows significant issues in criminal investigation and adjudication. It denotes systemic failures, largely hinting at public policy changes. If the justice system is not accurate, it is not a just system. (Nancy La Vign, 2023). Such failed systems do not protect anyone except those in power or the rich, which goes against the rule of law. As Martin Luther King said, *injustice anywhere is a threat to justice everywhere*.

2. Background

Wrongfully convicted victims have not committed the crime for which they are charged (Black's Law Dictionary, n.d.). A leading scholar, Ronald Huff, gives an inclusive description, defining it as 'arresting and detaining without charge, or dropping of these charges without trial'. (Huff, 2006). This highly impacts the individuals, their families, and society at large, revealing emotional, psychological, and financial toll (Wilson, n.d.). These people are not criminals, but entering a rotten criminal system changes them significantly. These are the impacts on the actual being; imagine the horrendous effect it has if the person faces the death penalty. Wrongful convictions in the death penalty remove the trust of society in the justice system, which in turn results in social and economic problems. The angle they look at the justice system and law changes destructively. A wrongful conviction comes at the price of losing one's freedom, which the system cannot give back once lost

(Schneider, Bartlett, & Zottoli, 2022). This problem is not just in underdeveloped countries but in well-established countries as well (Ito, 2013).

3. Causes of Wrongful Convictions in Death Penalty Cases

After reviewing hundreds of articles (Le et al., 2023), research scholars and peers witnessed multiple factors. This paper will provide regional analysis and will divide it on basis of continents. False confessions are a significant issue in the criminal justice system of many countries. It often arises due to systemic flaws in investigation processes, societal pressure and strong reliance on confessions as evidence in prosecutions. Beginning with Asian countries, China as one of the most influential Asian countries, faces challenges related to false confession. (Hui & Lo, 2015; Guo, 2019).

These confessions are often regarded by police officers, investigators, and prosecutors. While in Japan, it's due to over-dependence on interrogation statements rather than court trials. (Ito, 2013). In Singapore, the situation is more severe, as the confession of co-accused can lead to the punishment of the accused (Chen & Chua, 2010). Additionally, investigative and proprietorial misconduct plays a role. Police often fail to collect reliable evidence or manipulate it. Errors in eyewitness testimonies, as seen in Indonesia (Sumampouw et al., 2021), and the misuse of forensic evidence, including the fabrication of false reports, further undermine the justice process (Hui & Lo, 2015; Adams et al., 2013; Le et al., 2023).

Regarding America or the UK, factors are the same, but eyewitness mis-identifications are the leading causes of wrongful convictions, as per Ronald Huff and his peers. DPIC states these causes are "official misconduct, perjury or false accusations". The United States of America has exonerated victims' criticism more than any other country. In 2000 (Illinois), 12 people were executed, and a 13th death row inmate was released due to wrongful conviction (Ryan, n.d.). DPIC also shows data on people who have demonstrated strong evidence of innocence but have been executed. Even if the person remains alive, what about the torture and trauma they have face for years in prison? Who will grant them justice for suffering at the hands of saviour of law? This is an insult to the whole judicial system and the people who look up to them for justice. It is murder of faith and trust of people on judicial system.

When a system fails to protect lives of its people, such a system is bound to fail. Almost 47% of wrongful convictions are result of inadequate prosecutions (National Registry of Exoneration, n.d.). Countries such as the USA might have racial bias among authorities as a factor for such convictions, but in other nations, such a factor is sometimes irrelevant. However, some concerns regarding a systemic failure include failed legal counselling, less experience of lawyers and resources, lack of competent legal attorneys in capital punishment cases, and less contact with clients. In countries where the death penalty exists, police training and investigations also have proven to be questionable, as mentioned above. (Cornell Center on the Death Penalty Worldwide, 2018).

The cases of Todd Willingham, Alan Newton and Troy Davis highlight the alarming issue of wrongful convictions in US. (Justice Project, n.d.) In the case of Todd Willingham, where he was lethally injected in 2004, but after 13 years, it was found that he was not guilty and that there was false forensic evidence and analysis. Newton was wrongly convicted of rape, robbery and assault in 1985. Despite requesting DNA testing in 1994, his request was denied due to presumed lost evidence. The Innocence Project intervened in 2005 and the evidence was found, leading to Newton exoneration in 2006 after 21 years in prison. Similarly, in 2011, as per Amnesty International, a death row prisoner, Troy Davis, since 1991 in Georgia, was sentenced to death despite a lacked proof against him.

In Africa, there have been very few releases of innocent death row prisoners due to scarcity of resources and competent lawyers or due to no funding. Hectic and lengthy interrogations which involve abuse as well also cause victims to accept falsely. This happens in Sub-Saharan Africa, where people are jailed for ten years before the trial. Cornell Center on the Death Penalty Worldwide, 2018).

4. The Erosion of the Rule of Law

Wrongful Convictions have a gripping impact on the application of the death penalty. They highlight the weaknesses, flaws and prejudices in the judicial framework, which leave its footprints on the application of the death penalty. Innocents getting convicted of a crime they did not commit and sentenced to the death penalty raises doubt and concern about human capital punishment. Wrongful convictions can be detrimental to the way the public sees the death penalty and are unlikely to have an effective effect. Sentencing an innocent person to the death penalty is against the idea of respecting human life and is also a violation of the basic fundamental rights of an individual. (Rizer, 2003), They raise questions about whether capital punishment is a just and precise demonstration of the punishment of a crime. Execution of an innocent person is equivalent to a breach of the principle of natural justice, and emphasize that the judiciary places more importance on the finality of the ruling rather than the acceptance of justice.

When a wrongful conviction comes to light, it often leads to investigating the root of the mistake. The investigation examines factors contributing to the wrongful conviction as highlighted by HRCF and FIDH are inadequate legal representation, faulty forensic evidence, tortured and coerced confession and institutional biases. By addressing these shortcomings, we can bolster the system. The main objective is to minimize the mistakes contributing to wrongful convictions, ensure fair trials of individuals, and uphold principles of natural justice.

Instances of people being illegally sentenced to death may considerably shift public opinion on the matter (Norris & Mullinix, 2020). Media coverage of wrongful conviction cases can increase suspicion amongst the public and create doubts about the fairness and effectiveness of capital punishment.

The main consequence of wrongful convictions, as displayed by high-profile cases like Rani Bibi (wrongly jailed for murder of her husband) (Farmer, 2020), Shafqat Hussain (a juvenile tortured into confession), Kanizan Bibi (whose confession was obtained through torture) and zulfiqar ali khan (Whose lawyer failed to challenge false evidence) can lead to public indignation and inquiry. All these cases presented not just as isolated incidents, but as symptomatic of broader issues within Pakistan legal system that lead to wrongful convictions (JPP 2016). Wrongful Conviction Cases tend to doubt the credibility of evidence, testimonies made by witnesses, and the judicial procedure. With more knowledge of the likelihood of killing innocent persons, a strong opposition has evolved against capital punishment in society today. The possibility that somebody could be wrongfully executed brings it closer to home for ordinary citizens. Such cases remind them that justice is meted out by human beings prone to errors and that these errors do not just have minor consequences but affect someone's whole life immensely. Wrongful convictions prove that these fundamental principles have been violated and emphasize that deficiencies exist in the legal system, which are meant to protect individuals from miscarriages of justice. The arbitrary and often hasty nature of many convictions is also repeatedly stressed, showing a disregard for basic fairness and due process protection enshrined in international human rights law (HRCF).

5. Pakistan's Institutional Failure with Regards to Wrongful Convictions

Pakistan and its wrongful convictions in death penalty cases is an epidemic. Structural and institutional failures are seen almost everywhere. One of the report by Justice Project Pakistan highlights that how wrongful convictions stem from systemic failures within the Pakistan justice system violate the international human rights standards It is not an isolated issue rather it is something which is inter-wined aspect of a deeply flawed system. People do not have a good opinion of the justice system, and trust is nowhere to be seen. The reason is slow access to justice, which often becomes a failure (Aamer, Ayub, & Khan, 2023). Despite having laws that make such a crime, there is no application, making these laws ineffective and hollow. There are hundreds of reported and many unreported instances where people face the death penalty for a crime they have not committed. This often is followed by the release of such victims but at the expense of their freedom of decades, which

the system can never compensate or apologize for. This not only shows that the justice system is ruthless and inhumane (Foundation of Fundamental Rights Report, 2019).

6. The Case Study of Bhutto

Recently, in a landmark ruling of the Supreme Court (PLD 2024 SC212), it was declared that the decision to hang Bhutto in 1979 was a violation of his right to fair trial and due process. Justice Qazi Faez Isa remarks on the case of Zulifqar Ali Bhutto highlight that systematic failure within the justice system that led to wrongful conviction. Zulifqar Ali Bhutto was briskly tried and found guilty despite the lack of evidence and due to numerous procedural errors and bias within the legal system. After 44 years, Bhutto got justice, but all in vain. As we all know, *justice delayed is justice denied*. An ex-supreme court judge termed this case as:

‘a murder of trial, not a trial of murder.’

After the ruling of the Supreme Court, human rights activists and supporters of the Pakistan People's Party questioned the validity of the accusations against Bhutto and the impartiality of the trial process. They aimed to hold the authorities responsible for this wrongful conviction.

The systematic failure in the Bhutto case is miscellaneous. From insufficient legal representation for Bhutto to faulty investigation methods and violation of the right to a fair trial, this case demonstrates a justice system that prioritizes the rush above fairness and thoroughness. Both apparent and implicit biases contaminated the proceedings, resulting in a miscarriage of justice. The case of Zulifqar Ali Bhutto calls attention to reforms needed in the system to address the issues, including the right to a fair trial, the protection of fundamental rights, unbiased investigations, and access to legal representatives. It also raised questions about the rule of law within the country. The case emphasizes the importance of upholding the principles of natural justice to prevent wrongful convictions and safeguard all individuals' rights. Ensuring a fair and transparent judicial process can protect the rights of every individual involved. This case also raised questions about the functions of executive authority, as this authority is responsible for accountability and transparency in a democratic Country. Montesquieu (French legal philosopher) wrote in his book '**Esprit des Lois**' (Spirit of the Laws) that:

“There is no greater tyranny than that which is perpetrated under the shield of the law and in the name of justice”.

In Pakistan, the plight of wrongful conviction victims is all too real. These two cases highlight the terrible effect of wrongful convictions on innocent lives. In 2015, the brothers *Ghulam Sarwar* and Qadir (Malik, 2016), were wrongfully executed, shattering their family. Though justice was served too late, the Supreme Court eventually reversed their conviction. Similarly, Mazhar Hussain spent 13 years incarcerated on death row before the Supreme Court eventually recognised his innocence, but only after his untimely death in custody (Malik, 2019).

According to a recent study by Reprieve and the Foundation for Fundamental Rights (FFR), 39% of death penalty appeals in the Supreme Court ended in a total acquittal, indicating a high proportion of wrongful convictions. This report also highlights that before being found not guilty by the Supreme Court, innocent people had to serve an average life of ten years and, in some cases, more than twenty years in jail. In 2017, a man falsely accused in a blasphemy case was acquitted of a death sentence by the Supreme Court after spending nine years in prison. People who get wrongfully convicted have to spend most of their lives in jail, and sometimes they even die or get executed. This highlights that the judiciary must exercise extreme caution in these cases, considering the sanctity of human life, profound impact on innocent lives and fair trial guarantees to minimize wrongful convictions and ensure that justice is served.

This report reviewed the 310 Supreme Court judgements and found that Supreme Court overturned death sentences in 78% of cases with this rate rising to 83% from 2015-2018. this report highlight that 39% of cases that resulted in acquittal are result of wrongful convictions. All these cases show

how our judiciary cannot cope with an expanding caseload. This highlights the flaws and potential abuses within the legal system. It is important to have a mechanism to review the cases rigorously, certify the due process of law, and uphold the basic principle of natural justice where there is uncertainty about the validity of convictions that result in the death penalty. Legal systems must constantly work to increase accountability, transparency, and fairness to reduce the possibility of erroneous convictions and unfair use of the death penalty.

7. Recommendations

Strengthening legal safeguards to prevent wrongful convictions is crucial to ensuring justice is served, and innocent individuals are not wrongly punished. There are some recommendations to minimize wrongful convictions:

7.1 Enhance Forensic Science and Evidence Preservation

To further build forensic science and evidence preservation, one has to take a few main steps. First, there must be some legal certification enforcement in the law enforcement world of labs, i.e. by ensuring that all forensic labs are accredited by recognized agencies and that all forensic examiners meet stiff licensing and continuing education requirements. Set up independent oversight commissions that would audit forensic practice on a regular basis, investigate proven instances of misconduct, and enter into a set of established testing rules. Standardized guidelines for the preservation of evidence help ensure that physical and biological evidence in all criminal cases may be stored and handled properly, allowing for DNA or some other kind of testing years after conviction. Also proposing a separate Rapid DNA Funding Project, jointly funded by state and federal sources, could further permit the new testing techniques to be endorsed with complete assurance from financial insolvency. Utilizing DNA tests during a criminal trial is a necessity to unveil wrongful convictions and thereby address injustices. It is vital for these tests to be made available once in a life or death situation, for DNA evidence can set someone free or convict someone by proving his or her innocence or guilt. DNA testing can set the record straight and help prevent wrongful convictions. With this effort, the justice system can theoretically strive for greater accuracy and fairness at the risk of convicting an innocent person and serving true justice to all.

7.2 Strengthen Trial Procedures

In order to overcome the wrongful convictions, trial procedures should be reinforced and for this purpose, some important steps can be followed. First of all, the enforcement of discovery laws can provide assurance that prosecutors provide all non-privileged evidence, including exculpatory materials, at the earliest possible time in criminal proceedings. This may be done by standardized rules that mandate disclosure, minimizing "ineffective assistance" claims by defense teams because of incomplete or late access to case files. Furthermore, using centralized, accessible databases to monitor evidence from collection through disposal can aid in preserving any evidence with potential exculpatory value. Reforms can be introduced in the field of eyewitness identification to reduce false identifications. This can involve the application of double-blind, sequential lineups where the identity of the suspect is not known by the law enforcement officials conducting the lineup, and lineup members are presented one after another instead of all at once. In addition to this, giving appropriate and standardized instructions to witnesses and recording their confidence statements directly after the lineup can reduce errors. Capturing the full lineup process on video enables future independent review. Interrogation techniques could also be enhanced by requiring videotaping of all custodial interrogations from the moment Miranda rights are read. This shields against coercion and leaves an objective record that could be replayed for signs of false confessions. Implementing interrogation policies with an emphasis on suspect rights, including training officers to refrain from coercive methods and encouraging alternative interviewing styles like the PEACE model, can further prevent false confessions. With these steps taken, the purity of the trial process can be upheld, ensuring fewer wrongful convictions.

7.3 Reform Defense and Prosecutorial Practices

In order to reform defense and prosecutorial practices, a number of steps can be taken. First, boosting defense funding for indigent defendants is important. This can be done by creating a separate capital litigation fund and raising the budget for public defenders so that defendants who are facing the death penalty have qualified full-time representation. Also, instituting training and certification for appointed counsel can decrease ineffective assistance of counsel. This can be achieved by following standard procedures for appointing and performing counsel in death penalty cases. It is equally crucial to ensure prosecutorial accountability. This can be done by establishing independent review and disciplinary bodies, like conviction integrity units, to review prosecutorial actions and investigate misconduct. These units must have the power to impose disciplinary measures, including suspension and disbarment when appropriate. Additionally, a requirement of complete informant incentive and deal disclosure can prevent unjust convictions by ensuring that the defense and court are fully informed of any deals made with jailhouse informants, and restricting the use of informant testimony when not supported by independently verifiable evidence. With these reforms in place, the justice system can be made more robust, minimizing the occurrence of unjust convictions.

7.4 Institutional and Legislative Policies

Several steps will help to solve both the problems of wrongful convictions and the death penalty. First of all, innocence commissions and conviction integrity units could be established to let them investigate post-conviction cases, identify institutional deficiencies, and advise more extensive changes. The commissions could be structured after those of North Carolina and provide thorough investigations and advice to avoid wrongful convictions. Furthermore, increasing the units of prosecutorial conviction integrity can assist to evaluate and probe possible wrongful convictions before making final decisions. Also important is limiting the range and applications of the capital punishment. Passing laws to limit aggravating circumstances, reduce and specify the times when the death penalty can be applied, will help to achieve this. A moratorium on executions until complete structural changes are carried out can also help to heal and suppress wrongful convictions from causing lethal results. Compensation of the unjustly convicted needs to be provided, and the clemency procedure should be changed. By simplifying and extending clemency processes, establishing clear rules and criteria for providing clemency or sentence reductions to prisoners with strong real claims of innocence would help. Implementing post-exoneration compensation can also offer exonerates financial help, healthcare, vocational training, and other support to help them reintegrate into society and appreciate the long-term damage caused by erroneous convictions. These measures help the justice system ensure the justice of the wrongfully accused, prevent wrongful convictions, and assist the wrongfully convicted. It can restore historical wrongs as well as rebuild public support of the justice system.

7.5 Support openness, data collection, and citizen engagement.

Several steps can be taken to encourage public involvement, data gathering, and openness. To track and distribute exoneration data, therefore, first a central, open database of wrongful convictions could be developed and used, therefore allowing for public engagement and oversight. Mandating this database to cover procedural errors in capital cases, exonerations, and wrongful convictions would make it an open and complete source. Furthermore needed is independent research support. State and federal grants supporting independent and academic studies on wrongful convictions and the death penalty help to constantly improve policies based on most current knowledge. Public awareness of systematic threat is also vital. Starting public awareness campaigns to inform juries, communities, and legislators about the complex reasons of wrongful convictions and the irrevocable damage of putting a wrongfully convicted person will help to achieve that. Real case studies and personal narratives of exonerees can help to increase knowledge level. These measures will bring the justice system closer to improved openness, responsibility, and public involvement, therefore lowering the risk of wrongful convictions and guaranteeing justice and equity for all.

8. Conclusion

Wrongful convictions, especially in death penalty cases, highlight a sad state of affairs in any country's justice system. There have been worldwide attempts to undo the wrongs. Still, globally, it has been seen that innocents get pushed into the system's inadequacy to grant a fair trial or transparent representation. When innocents get a wrongful conviction, not only do they lose trust in the system, but their families, friends, and communities also start to distrust such officials and everyone who is in charge of such a system. Whether it's the USA as the leading human rights activist or Pakistan, which ranks below in the world justice rankings, justice has been denied in many cases, and institutions have failed. There are so many cases one could cite, but one of the most notable ones in history, which got its decision in 2024, is the Bhutto case, which opens questions to which no one has an answer. Mistakes indeed happen, but if they keep happening at the expense of innocence, the system needs to look into its roots for survival.

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