

WRONGFUL CONVICTION AND MISCARRIAGE OF JUSTICE

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ABSTRACT

Failure of justice system accounts for the conviction of innocents. The Criminal Justice system in Pakistan is badly affected by imperfections. It has many eccentricities and loopholes constituting a vicious circle, notwithstanding the gist of Criminal Justice System (CJS) in Pakistan is based on a well settled principle that no one is convicted without trying all the elements of justice but innocent suffers due to these loopholes and shortcomings. Due to myriad legal factors, extending to the imperfections of CJS, the innocents are convicted by court without trying all the elements of justice and upon their release by superior court, CJS leaves them empty handed because System offers no mechanism of compensation for such a tyranny which is committed under the aegis of Justice system, leading to the miscarriage of justice. In this research, explicit focus is on the procedural rules and norms and how the shortcomings in our CJS can pave a way to a systematic manner of injustice. This paper encompasses the leading factors for wrongful conviction extracted from cases, legal remedies and recommendations.

Keywords: Wrongful Conviction, Miscarriage of Justice, Compensation, Victims.

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INTRODUCTION

Montesquieu, a French jurist and philosopher once articulated in the spirit of law that there is no greater tyranny than that which is committed under the aegis of law (Spector, 2020). The nuancing miscarriage of justice has become a prevalent norm in Pakistan's judicial system. Nothing would ring more true than the victims of wrongful conviction in Pakistan. The victims of wrongful conviction suffer a motley of misfortunes including personal, social and economic misery as well as no compensation from the government as a token of curtesy for wasting youthful years of victims. The article is a gloomy tale of wrongful conviction phenomena in Pakistan and the subsequent treatment after acquitting of charge.

Any sort of blunder which happens at trial that abnegates the accused from qualification is unnatural birth cycle of equity (Qayum et al., 2016). The miscarriage of

justice conception encapsulates the inconsistent cycle of equity which signifies a repertoire of eccentricities in the criminal justice system. In case of Pakistan, the procedural inadequacies are most significant. Most instances of miscarriage of justice happens due to the mistakes in translation of laws or in the execution of law and blunders that disregard the procedure of justice consequently bringing about the conviction of innocents.

Miscarriage of justice holds different notions, which includes wrongful prosecution, wrongful conviction or false conviction. Wrongful prosecution ultimately results in wrongful conviction. The wrongful prosecution includes prosecution instituted with mala-fide intention, corruption, lack of due care and attention. It includes the wrongful initiation of bogus proceedings by prosecution against the applicant, without reasonable and probable cause. It also involves the scenario, where due to the incompetency of police or prosecution the convicted person after suffering a lengthy trial and spending the best years of his life in jail is exonerated by the higher courts (Madni & Imran Habib, 2019).

The concept of wrongful conviction implies a situation in which a person accused of a crime, a corollary of subsequent proceedings proves that person innocent and makes a pragmatic expression of wrongful conviction. The victim of wrongfully convicted suffers a lot and he begins to lose support of his family and friends and his reputation deteriorates once he goes to prison. The irony is that upon his release there is no statue to offer him compensation for the time he has been wrongfully incarcerated and in the similar vein, miscarriage of justice wrecks his life (Jenkins, 2013). The wrongful conviction is a dark side of a definite criminal justice system in Pakistan and needs scholarly attention.

Pakistan's flawed justice system exhibits lengthy trials and no compensation to the innocents who have been wrongfully convicted by the court of law. It also implies a liability free responsibility on behalf of judges that there is no scrutiny of the quality of judicial decisions and vis-a-vis credibility of the judge. It is not an accusation that the prevalent judicial practice of wrongful convictions is deliberate rather an indication of a corrupted criminal justice system. After conviction for crimes they did not commit, these individuals have nary a place to dwell. After having a felonious record, ability to find a decent work deteriorates and the chances to have a sustainable source of income also vanishes (Leipold, 2005). This study aims to debunk the prevalent notion of miscarriage of justice in Pakistan and the tendency of wrongful conviction. It also endeavors to highlight the extent of available legal remedies to wrongfully convicted persons in substantive criminal law. The study investigates the legal causes of ameliorating cases of wrongful conviction in Pakistan.

The specific significance of the study is highlighted by considering the following two questions; 1) What are the factors for the prevalence of wrongful conviction in the criminal justice system of Pakistan? 2) What remedies are available to reconcile the lives of wrongfully convicted individuals under the substantial criminal law of Pakistan?

This study adopts a qualitative approach to study the cases of wrongful conviction primarily to highlight the reasons and causes for the wrongful conviction. The data used comprises the case studies of significant cases, journal articles, books, reports of newspaper and human rights organizations. The rationale behind choosing the qualitative methodology is the nature of the problem statement. In order to understand the phenomena of wrongful conviction in detail, there is need to case study the victims

of wrongful conviction and extract the problematic elements and devise a solution. The article is structured logically to cater the necessary elements of the given topic. The first part presents the case briefs of different wrongful conviction cases. Part two explain the problems categorically extracted from the case studies before moving on to talk about possible remedies and solutions in part three. The article ends with conclusion in part four.

Case Briefs of Wrongful Conviction Victims

Mazhar Hussain Case

Mazhar Hussain was wrongly convicted in 1997, accused of murdering Ismail Hussain in 1997 in Sihala, Pakistan. Mazhar was sentenced to death. He died from cardiac arrest in 2014 amidst his incarceration. The apex court of Pakistan was unaware regarding his inexplicable death and heard his appeal. The Court was belatedly informed of Mazhar's death. On October 6, 2016 the Supreme Court posthumously acquitted Mazhar Hussain. The Court ruled that Mazhars' conviction was founded on false testimony, and the trial judge erred by not fully examining the facts. In announcing the decision, a judge asked rhetorically that who was accountable for the 17 years that Mazhar had spent wrongly imprisoned (Hans Sherrer, 2016). The apex court acquitted the Mazhar Hussain by making an inference that the accused was convicted on the basis of false testimony.

Ghulam Muhammad case

Ghulam Mohammad was wrongly convicted on April 23, 2018 of attempting to plant an improvised explosive device in Peshawar, Pakistan in 2017. Mohammad was arrested on August 15, 2017 at his home in Garyala village in Mardan. His prosecution was based on the allegation that he planted a five kg explosive device near a bridge in Peshawar. His defense was that he was over 30 miles from where the device was planted, and he was arrested at his home. Several witnesses testified for the defense that Mohammad was arrested in Garyala. He was sentenced to 10 years rigorous imprisonment. Mohammad appealed in September 2018 a three-judge panel of the Peshawar High Court unanimously set aside Mohammad's conviction on the basis that the prosecution's evidence was insufficient because it did not connect him with the commission of the offence. Incompetence of prosecution and maneuvering of police, built a foundation of wrongful conviction as it is proved from this case (Sherrer, 2018).

Malik Taj Muhammad case

Malik Taj Mohammad was wrongly sentenced to life in prison in 2003 of killing a woman who he reiterated again and again was alive. He was released in July 2006 after three years of wrongful incarceration when the woman, Malkani Bibi, found alive in a Pakistani jail, having served two years of a jail sentence for theft. Authorities discovered Bibi's whereabouts based on information that Malik Taj Mohammad provided. Officials announced that Mohammad would be awarded compensation. It is an irony that the alleged victim was found alive. This case accounts to the incompetency of police and prosecution(Hans Sherrer, 2006).

Muhammad Rasool case

Mohammad Rasool and Mohammad Irfan were co-defendants wrongly convicted in March 2014 of explosives and drug charges in Kalupur, Pakistan. Rasool and Irfan were in a car stopped by Pakistani police on July 4, 2012, in which the police arrested them claiming that they found explosives and 20kg of *charas* (Hashish). Rasool and Irfan were both sentenced to 14 years in prison. They appealed on January 27, 2015 and the

Peshawar High Court acquitted Rasool and Irfan based on evidence that the material was not explosive that was seized by the police, and that their vehicle had no secret apartment to place all those explosives, where the police testified at trial they found the drugs. Police falsely testified that they seized explosive materials and their accounts of the drugs they allegedly seized didn't match the vehicle of the defendant. Both the defendants suffered because of false testimony and FIR by the police (Hens Sherrer, 2015).

CAUSES OF WRONGFUL CONVICTION

The conviction of an innocent person is the worst nightmare to anyone who believes in justice. Eighty years ago, Learned Judge Hand said, "Our procedure has always been haunted by the ghost of the innocent man convicted. It is an unreal dream (Furman, 2003). Although the criminal justice adapted itself with the passage of time and designed safeguards to ensure that wrongful convictions are avoided. The procedure also made sure that majority of the convictions should be on the determinations of fact, notwithstanding amidst all this effort and adaptation it is crystal clear that wrongful conviction do occur due to shortcomings in CJS.

The fundamental principle states that no justice system can operate perfectly, unless it can sincerely distinguish between guilt and innocence. The accuracy of the criminal justice system has been called into question in recent years by revelations of innovative inventions, often generated by new DNA investigative techniques. One could forgive such horrifying incidents of maladministration of justice and wrongful convictions if they were outliers. However, amongst the legal community such stories are neither breathtaking nor alien. They are the norm.

A recent report launched by the Foundation of Fundamental Rights (FFR) and Reprieve, which conducted a detailed analysis of Supreme Court judgements on death penalty appeals from 2010 to 2018, it has extrapolated that 39 percent of all capital cases end up in complete acquittal. However, the average time spent by innocent convicted persons, until they are acquitted by the Supreme Court on appeal is a shocking 10 years. In fact, one in every 10 wrongfully convicted inmates must wait for more than 15 years before he or she is released (Podgers, 2008).

Contributing Factors leading to Wrongful Conviction

False Identification

The single most common factor which contributes to wrongful convictions is false identification. A study of 500 wrongful convictions that also confirmed earlier studies reached to this corollary in 1987. A more recent study of around 70 cases on DNA evidence provided that an innocent person had been wrongfully convicted concluded that false identification was a common factor in 87 percent of the cases studied (Furman, 2003).

As in Pakistan it has become a normative fact, In order to avoid this flaw certain measures could be adopted like a through description of the accused person quickly after the offence has happened otherwise there are chances to get involve the innocent, which ultimately leads to the wrongful conviction in a corollary of this inconsistency.

It has been acknowledged that the police must do their best to preserve identification evidence and follow prerequisites, law enforcement should get as detailed and thorough a description of the accused of an offense as quickly as possible. This is based on a fact that a person's memory of an event is best immediately and then tends to fade quickly

as the time lapses. Additionally, every effort must be made to ensure that law enforcement personnel do nothing any sort of act amidst the course of an investigation that might affect the ability of an eyewitness to make an unbiased identification. Biased identification conversely leads to the conviction of innocents (Garrett, 2020)

As the principle goes without saying that the innocent suffers under the aegis of law and sometimes to some extent it becomes tyrannical. In Pakistan there are multiple cases in which identification parade does not occurred or maneuvered just to meet the formality of the element of procedural law, which ultimately leads to imprisonment of wrong people and sometimes in a hasty process mistakenly capture the wrong person without the thorough description of the accused which leads to the wrongful conviction.

In Mian Sohail Ahmed case the judgment holds a stance that “in approximately 75% of DNA exonerations in the United States, mistaken identification was the principal cause of wrongful conviction furthermore, in 80 to 90 per cent of all DNA exonerations at least one eye-witness made a mistaken identification.”

Eye witness identification is also full of flaws in Pakistan and considered less accurate than originally believed. In Pakistan, reliance on the false eye witness’s identification leads to the mistaken identification of innocents. It would be no offence to extrapolate the fact from the above mentioned judgment that mistaken identification is the initial cause leading and corrupting the credibility of the whole criminal justice system (Poyser & Milne, 2011).

Misconduct of Police

Misconduct of the police includes malicious misconduct such as perjury and intentional decimation or blockage of evidence. Incompetency of police encapsulates the inadequate investigations, delayed investigation, lack of motivation and supervision. Mal-treatment of police is well known in Pakistan and needs no exaggeration. Both types of conduct may lead to the wrongful conviction (Kane, 2002).

Pakistani police also use their special power in the registration of a case, arrest, and detention in a politicized manner to bring false charges against rivals as a form of intimidation or punishment. The Pakistan Code of Criminal Procedure 1898 (CrPC 1898), under section 54 empowers police to arrest without a warrant any person against whom there is “reasonable suspicion” of being involved or “concerned in” certain types of criminal offenses or against whom there exists a “reasonable complaint” or “credible information” of such involvement, the police used to exploit this power. They can arrest a person whom they “suspect of designing” to commit certain types of offenses. The family members of concerned exposed that police threatened them to lodge false cases if they continued to pursue complaints of police abuse (Abuse, 2021).

The complaints regarding torturing of innocents to procure confessions or other information, to coerce bribes, or because of pressure from local politicians or landowners are very common. For example, Akhtar Ali died on June 3, 2015, from police torture, as per enunciated by his wife, Riffat Naz. When she last saw him, after the police brought him there, she said “he was in coma with a broken skull, there was no hair on the back of his head, his nose was broken and there were scars on his face.” The police categorically negated the allegations of torture, however, she said that, an officer came to her house to offer compensation for his death (Abuse, 2021).

Malicious conduct of Police may become the cause of miscarriage of justice due to the maneuvering of the extensive power given to the police as per the law (Scott & McPherson, 1971). In our culture it is like handwriting on a wall that the police is

politicized and mostly work under the influence of powerful people in which they use destructive methods to procure the false confessions to convict a wrongful person (Wolfe & Piquero, 2011).

The Police have a special role for the initiation of the whole case from lodging FIR to follow the further procedure of identification parade of the suspects to the witness (Haworth, 2009). But it manipulates the whole procedure by corrupting the parade through inadequate inquisition and using ill means to procure the false confessions mostly when they are under pressure by the high authority. This demeanor consequently leads to the wrongful incarceration of innocents and wrongful conviction.

Misconduct of Prosecution

The wrongfully prosecuted convicts suffer multiple folds of psychological trauma and mental stress in a consequence from incarceration and the exertion put forward to reconcile their lives after exoneration (Brnett, 2005).

After spending time in prison for crimes they did not commit at the first place, it is more than equivocal to state that all inmates suffer although to varying degrees (Grounds, 2004). Even those people, who serve a minimum time in prison are not exempted from this cataclysm. Deprived of rights and freedoms; they suffer from violence and consternation for their safety. They are seldom punished more than actual offenders because they maintain a fact that they are innocent, and upon exoneration, they need to acclimatize to a world that has changed while they were in prison (Day et al., 2011).

After studying multiple cases of wrongful conviction fake prosecution was the prominent cause of miscarriage of justice. In the application of criminal justice system the prosecution has a prerogative role to represent the state and holds accountable the actual offender rather than innocents, on the contrary it works imperfectly to cause the conviction of wrongful persons.

In khawaja Salman Rafique case the judgment stated a nuance that “The Constitution of Pakistan, 1973, under Article 25 ensures fundamental right, and stresses that a person is presumed to be innocent until proved guilty, this principle stems from a general rule that burden of proof in a criminal case is on prosecution to establish guilt beyond doubt of an accused person, justification for above principle is that outcome a wrongful conviction is far worse than that of a wrongful acquittal.”

False Confession

A person would confess to a crime that he or she did not commit may seem mundane. Without the savage treatment by the law enforcement in order to exonerate the obligation, and to redeem accountability, what could possibly stimulate a person to confess? This phenomenon is not an exaggerated fairytale, conversely it has been proved by the psychological and sociological studies that it happens occasionally even if not spasmodically. The Actual Innocence study found that 16 of the 74 cases studied included reports from the police that the person convicted were confessed to the crime. Physical coercion is largely a thing of the past, the inquisition techniques used by law enforcement today sometimes result in false confessions (Furman, 2003).

Principle of a fair trial is the right against self-incrimination, people accused of a crime cannot be forced to testify against themselves. Where people still choose to admit to criminal conduct in compulsion, the law mandates that great care must be taken to ensure they do so voluntarily without any duress and pressure, free from any coercion, torture or mal-treatment (Gerstein, 1970). The criminal justice system of Pakistan has

number of buffers to prevent this ill treatment to happen at the first place. For example, both suspects and accused have to be presented before a magistrate in accordance with the procedural law as soon as possible without any procrastination after arrest, and the law prohibits 'police remand' (custody for inquisition purposes) for protracted periods. Those who are in custody must be given the right to meet lawyers, family, which reflects the point of being humanly treated in the eye of law till the final verdict of the court. Provisions in law are also there for detainees to raise complaints of torture and mal-treatment before courts and other independent redress mechanisms (Brimbal & Jones, 2017).

The Human Rights Commission of Pakistan (HRCP), Asian Human Rights Commission (AHRC), World Organization against Torture (OMCT), Amnesty International and other international human rights organizations have raised serious concerns over the mal-treatment by the police personnel in Pakistan during the inquisition and pretrial incarceration of the accused. As provisions are there in substantial laws, to protect the ill demeanor by the law enforcement agencies. Yet, there are no specific laws in place to criminalize torture. Vociferous tales of custodial torture morphs into the influential confession.

When the torture report of CIA was published in 2014, Pakistan condemned the "systematic torture" of terror suspects but what about the norm of systematic torture which is prevailing in Pakistan? In fact torture is so ingrained that police officers believe that slapping the suspect, pushing him or her around and *chittars* (beating with shoes) do not even classify as degrading or inhumane treatment and they use the appropriate part of body to chastise the accused in order to extrapolate (Häkkinen et al., 2009). It seems like practices of such nature are codified in the procedural law of CrPC 1898 and are an integral part of carrying out arrests, interrogations and detentions. Indeed torture is the most common strategy used to obtain confessions and one of the burgeoning causes behind false convictions in Pakistan (Human & International, 2021).

Political and extraterrestrial pressure

Other factors have been identified leading to the wrongful conviction in Pakistan. Pakistan is a society consisting of mainly two classes including the elite and the proletariat respectively. The elite class in Pakistan is mostly in politics. The cases of politically motivated nature may always have the manipulation in the judgments leading to the incarceration of innocents. This factor accounts to the sheer corruption of judges too, whether they decided the case in a political pressure or were involved by bribery to exploit the case.

The judiciary has been involved in corruption since its beginning. Corrupt practices by judges, while deciding the case of politically motivated nature is very common in Pakistan (Abbasi, 2016). The highlighted cases in which the politicians have the pressure from public or from the superior office could lead to the wrongful conviction, when the case would be summarized in haste. At local level practices of same nature involving the sheer corruption of judges are exclusive examples in this regard. The party with powerful influence in a case would be at large after committing an offence and through manipulation some innocent would be behind the bars.

The remarks of ex justice of Islamabad high court is worth mentioning here,

"Again, it was shocking for me to know about the claim of this official that he was in a position to influence the proceedings of the honorable SJC."(Malik, 2021)

The decisions can be manipulated by the political or extraterrestrial influences and ultimately leading to the wrongful conviction of innocents (Sheptycki, 2004). It is a matter of shame that our criminal justice system is silent on this horrible picture of saga.

Under military rule, it is common practice that political opponents are prosecuted and convicted for ordinary offences, such as theft or fraud (as in Ukraine), deviant sexual behavior (as in Malaysia) or corruption (as in Pakistan). Emil Plywasczewski (2008) has offered remarkable illustrations that this was a practice under the communist regime in Poland. Typical of such miscarriages of justice is a criminal justice system that is tightly controlled by the political elite. The Schmidheiny case in Turin is an emblematic illustration of how wrongful convictions can occur in a basically democratic country with an independent criminal justice system (Killias, 2014),

LEGAL REMEDIES FOR WRONGFUL CONVICTION

Criminal justice system is flawed in Pakistan due to its old procedural structure. It is unable to compensate the victim of wrongful conviction. For a man convicted wrongfully deserve justice to break the vicious cycle of criminal injustices. There is no suitable compensation for the time he spent incarcerated but to cover up his loss there should be a mechanism of compensation of monetary in nature. There is no mechanism of compensation for the wrongfully convicted persons in Pakistan, Hence remuneration and damages are available in case of tort law under malicious prosecution. Notwithstanding as I have presented the fact of protection the rights of liberty which is present in constitution of Pakistan. There is an utter need for enactment for the victims of miscarriage of justice in which they would be compensated for their illicit incarceration.

In other countries like China which has recently adopted a contemporary criminal justice system by initiating a policy of compensation for the wrongfully convicted persons. The cases of SHE Xianglin's and Zhao Zuohai's exoneration forced the Chinese government to take tough measures to contain the wrongful conviction and enacted a State Compensation Law State Compensation Law (SCL) to compensate the victims of wrongful conviction (Na & Yue, 2018).

America also enacted a law to compensate the victims of wrongful conviction. The first bill was presented to the government of Georgia for more than 700,000\$ but later on was reconstructed to 500,000\$ (Carrega, 2021). On the contrary in Pakistan there is no such policy addressing the compensation for the victims of miscarriage of justice. There is a need of serious attention to this neglected domain.

There is no direct repertoire directing the socioeconomic suffering of all the accused persons due to the frail judicial system. When we lack in this dynamic of direct perspective relating to the compensational states accounting the sufferings of wrongfully incarcerated persons then we tend to look at the alternate perspectives. But as ill luck would have it, indirect alternates to the remedial content of wrongfully incarcerated persons involve myriad of problems getting it or even claiming it due to the lack of practice or having difficulty at finance and ultimately leading to a complete fiasco.

The here is of threefold, the first one is getting remedy under the tort law by filing a lawsuit of tort, the second one is highlighting the procedural law provision endorsing the remedial content for the wrongfully convicted person and the third one is to look into the constitution, What is there to relate the begging question of hour?

Malicious Prosecution

The malicious prosecution is a civil wrong which enables a person who is the subject of groundless prosecution to seek a civil claim against the prosecutor. The offended party must enunciate the malignancy against him, without sensible and reasonable justification that they ended to support him, and that he has endured harm. Harms may be asserted in such an activity under three heads including the harm to individual, harm to property and harm to the notoriety.

But the real problem in pursuing tort law in Pakistan is that there is no practice of tort law and no precedents are available for emulating the fact for getting the compensation. The seeking of remedy in lawsuits under the tort law, the nature to initiate the litigation against the liable party is a very sensitive concern as lawsuits under tort law are addressed as defamation suit for damages as well as negligent conduct and conspiracy.

In 2008, Pakistan became signatory to the International Covenant on Civil and Political Rights 1966 which guarantees compensation for those who are wrongfully convicted in accordance with the law. There is no implementation such treaty. A very famous case of wrongful conviction of Rani Bibi should be enough to depict the current position of where the criminal justice system stands and what are the loop holes in it and how we are addressing those barricades, is an eye-opening case in which she was acquitted after spending 19 years in prison. Even after the miscarriage of justice, she received no compensation, and imprisonment of almost two decades ruined her teenage and youth years in jail without any crime. This is not just about Rani Bibi, thousands of other innocents are facing the same and they are not in any record of being reported. In a recent report of Media for Transparency, there is no data available in Pakistan for wrongful conviction cases (Garrett, 2020) that can estimate the endemic miseries of wrongful conviction in Pakistan.

Section 250 of CRPC

It empowers the Magistrates by whom the case is heard to grant compensation for false or frivolous accusation. The case is instituted upon complaint or upon information given to police officer or to Magistrates. It could be against one or more persons, making the alleged persons accused before magistrate of any offence triable by magistrate, after hearing the case, the Magistrate discharges or acquits the accused. The magistrates while discharging or acquitting the accused is of the opinion that the accusation was spurious, And if the complainant is present and the accused calls upon him forthwith to show- cause why he should not pay compensation.

The section 250 of CRPC gives power to the learned magistrate to grant compensation in case of false accusation and on setting aside the conviction and sentence against the accused. Conversely, appellate Court acting in revision has no power under this section to make an order awarding compensation to the accused as against the complaint. One way or the other provisions of alternate nature addressing the compensation to the wrongfully convicted or incarcerated persons are blocked and sometimes limiting the scope of pragmatism for the victims of this tyranny.

Constitution of Pakistan, 1973

The Constitution of Pakistan 1973 in several articles endorse the compensational mechanism for those who suffer due to the mal practices of some individual or

institution. But there is lack of implementation of the law. There are victims of miscarriage of justice who suffer a great deal socially and economically.

The constitution is our grund norm stating a great deal of provisions which are prejudice to someone should be abnegated. Here some of the provisions are worth mentioning to limelight the significance of having laws upon remedial content for the wrongfully incarcerated persons, but in that case they are missing and this ill phenomenon has attained the speed of hawks.

- **Right of individual to be dealt with in accordance with law (Article 4 of 1973 Constitution)**

Article 4 which clearly protects the indispensable right of an individual that he should be dealt in accordance with law. When a man suffers under the aegis of law itself, which in true sense is protecting the rights of an individual, it would become an irony. Article 4 of 1973 Constitution provides a cue to abhor the act leading towards the miscarriage of justice. It states that no action perilous to life, liberty, body, reputation or property of any person should be taken except in accordance with law. When person gets wrongfully convicted and then incarcerated for so long, he gets deprivation of his life, liberty and reputation. His socioeconomic life becomes anathema and he suffers more when he finds out that the shortcomings in our judicial system caused this anathema happened to him.

- **Safeguard as to arrest and detention**

The topic also relates a corollary with the right of an individual regarding arrest and detention. It stresses that no one shall be arrested or detained without being informed about the grounds on which arrest or detention is being made. It also stresses the right to be consulted and defended by a legal practitioner and if a person is getting arrested, he should be produced before the learned magistrate within 24 hours of his arrest or detention.

It is matter of fairness and significance that our constitution prohibits all the mal practices which leads to the miscarriage of justice and prejudice to the accused. All these provisions of 1973 Constitution protect the life, liberty, prohibitory arrest and detention, well it's all good and bravo but on the contrary there is not a single provision in the Constitution stressing the wrongful conviction of a person. What would become for a person who has completed his sentence on a false accusation or on any factor leading to wrongful conviction of that person? How would he be compensated? Who would be accountable to this tyranny?

International law about compensation for wrongful conviction

The requisite behind mentioning the international documents here is that Pakistan is a signatory to the number of international treaties and covenants which clearly states that the wrongfully convicted person should be compensated in case of acquittal after proving his innocence. It highlights the need for the compensation and enactment for the persons wrongfully convicted and became the victims of this tyranny. In the event that there ought to emerge an event of illegitimate sentiments a few worldwide instruments will give the option to pay. Universal Declaration on Human Rights guarantee right of pay. Article 3 of the European Convention on Human Rights and Article 10 of the American Convention on Human Rights also relatively stresses compensation.

International Covenant on Civil and Political Rights

The ICCPR is an international agreement focused on the protection of human rights and as such, it acknowledges the importance of including provisions to assure that the persons whose legal rights have been violated are entitled to compensation, e.g. Article 9(5) “Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation”.

Article 14(6) “When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.”

It is a matter of complacency to see that the gist in protecting the rights of the victims of a miscarriage of justice is such that the relevant provisions of the ICCPR encompassing from the moment of arrest or detention to the overturning of their convictions. But these provisions are only applicable in those countries who are signatory to ICCPR. It is sad to mention here that the Pakistan is not a signatory of ICCPR yet.

As from the abovementioned provisions of international law, it is clear that law is not silent rather the deficiency in CJS in Pakistan. The price to this shortcoming is paid by the persons who became the victim of this monstrous prejudice. The question is still there, if a shortcoming in our judicial system or in legislation to institutionalize the account of wrongfully convicted persons not addressed by the forces of power then ultimately it would become a prevalent norm like the corruption in Pakistan

CONCLUSIONS AND RECOMMENDATIONS

The result regarding the question of wrongful conviction becoming prevalent in Pakistan accounts the connotation of imperfect working of CJS. The result stresses the inconsistencies of our CJS, how the abovementioned legal factors cause the wrongful conviction of innocents and ultimately lead to the miscarriage of justice. To overcome those eccentricities compounding the imperfect CJS, It is necessary for the legislators to give concern about the enactment of wrongful conviction.

The abovementioned findings are depicting the concern accounting the evolution in the criminal justice system to contain the miscarriage of justice. Notwithstanding the mentioning of three legal documents for the content of victims of miscarriage of justice is not enough to sustain their lives and to cover their suffering for they went through all. The Pakistan is also signatory to many international conventions and treaties which offer a suitable compensation to all the victims of wrongful conviction and incarcerated people, despite that the criminal justice system is silent over the incompetency of legislators or those accountable for not concerning this horrible evil.

Perfection is hard to achieve for any system but that does not count that you do not even try to make things look like perfect. The same commotion applies to the CJS in Pakistan, which is a product of frailty comprising many follies in it and, also works imperfectly. It is already taken into account that no system is perfect and mistakes happen, but accepting these convictions as the inevitable failures of the justice system leaves people free but without any remedial content, because system offers only one

single provision of 250 CRPC, which offers a remedy in case of acquittal by the court of first instance.

Suggestions and Recommendations

Pakistan can step toward enhancing the circumstance for the wrongfully sentenced by;

- Making a definite remedial enactment that addresses financial and non-monetary misfortune happens in a consequence to the wrongful conviction; in light of the fact that Pakistan does not have any compensation statutes so it must enact and ensure compensation just, feasible and sufficient for the wrongfully convicted persons.
- Making possible reforms and amendments to eradicate the inconsistencies and aberrations in CJS leading to the wrongful conviction in the first instance. For wrongfully convicted persons, Statutes ought to incorporate either a settled total or a procurement of resilience scope for the very downtrodden.
- To ameliorate the fruitful modification of the lives of the wrongfully sentenced people, Statutes ought to be legislated for the quick obtainment of subsistence supports and access to benefits to an effective come back to society, sustenance, including dwelling, work abilities preparation, training, mental counseling and other important help required.
- At trial stage the statements of the suspects should be tape-recorded whenever it is feasible. As in some countries the legislation has been passed to tape record the statements of suspects accused in murder or same nature of heinous offence. Our criminal justice system lacks in modernity, the technology must be utilized to counter this challenge.
- The criminal justice system could adapt social sciences research and implement procedures that improve the legitimacy of identifications through the implementation of relatively minor changes in the procedures.
- Monitor the informants because in some cases they deliberately impersonate the wrong people to contain the true ones due to any reason like personal vendetta. So, law enforcement agencies should be more suspicious of informants.

Concluding the discussion; some of these proposals may be unworkable. Other possibilities have undoubtedly been overlooked. Everyone in the criminal justice system needs to engage in a vigorous and honest debate about ways to reduce the dire incidents of wrongful convictions.

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