Wrongful Convictions and Remedies to Minimize Imprisonment

EMN Perera[1#]

[1]General Sir John Kotelawala Defence University, Sri Lanka

[#]Corresponding author; <naminip93@gmail.com>

Abstract—Wrongful conviction is generally viewed as the conviction of a factually innocent person. It denotes the exoneration of an individual who was convicted of a crime that he or she did not commit or have any stake in. In the present context, there are so many innocents convicted wrongfully in Sri Lanka and a large number of cases have been reported regarding wrongful conviction of innocents. Wrongful accusations (e.g., by eyewitnesses, forensic scientists, or the police) include errors in the process of administration of justice that is supposed to correct errors and prevent wrongful convictions (e.g., errors by counsel or judges or errors resulting from deficiencies in the institutional framework for the conduct of trials or review of convictions). It is evidenced that large number of innocent persons are imprisoned due to wrongful convictions not even in Sri Lanka but in comparative jurisdictions as well. Therefore, time has come to take necessary action to prevent such wrongful imprisonments and to produce real offenders to the court and to charge them accordingly for their criminal activities. Thus, this research study is focused on identifying the causes of wrongful convictions and making recommendation for mechanism to check the accuracy of the verdict or act and to catch the real offenders in criminal justice system. The qualitative research method will be used for this study. Under the qualitative research method data will be collected through secondary sources. Secondary data will be collected from published books, journals, theses and online data from websites, e-databases, e-journals, e-theses and e-books. Collected data will be analyzed through its strengths, weaknesses, opportunities and threats to prevent imprisonment of innocence. In this context, it will reveal the existing strengths to prevent the wrongful convictions as well as weaknesses. In one hand, it will discuss the opportunities the victims have to prove their innocence. On the other hand, it discusses existing threats for victim, if their innocence is proved. In this research study, it is expected to find out a concrete solution to wrongful convictions and to educate public on how to escape from such convictions and to justify the criminal justice system.

Keywords— **Wrongful conviction, Imprisonment of innocence, Criminal justice system**

I. INTRODUCTION

A wrongful conviction is defined as the criminal conviction of an actually innocent person. Actual innocence does not mean innocence based on a defect in the legal proceedings. It means factual innocence. A wrongful conviction is the conviction of someone who had no involvement in the crime charged whatsoever (Deskovic, 2012). Similarly, Roman, Walsh, Lachman and Yahner, (2012) stated that conviction may be classified as wrongful for one of two reasons (1) the person convicted is factually innocent of the charges, or (2) there were procedural errors that violated the convicted person's rights. Roman et al further pointed out that DNA evidence is the tool used to detect wrongful convictions. Post-conviction DNA testing cannot be used to detect erroneous convictions due to reversible procedural errors. Moreover, they stated that previous research on wrongful convictions has been based on data known only for cases in which the convicted offender (or others on his/her behalf) actively pursued exoneration. Given this caveat, there is a substantial body of literature that indicates certain attributes of the victim, offender, and crime may be associated with the likelihood that an individual is wrongly convicted.

II. PROBLEM STATEMENT

The discovery of innocence also has propelled criminal justice reforms aimed at reducing the likelihood of future wrongful convictions. Policy reforms regarding eyewitness identification, false and coerced confessions, evidence preservation, and forensic oversight are aimed at curbing wrongful convictions. While reforms in these areas are ongoing and uneven, concerns about convicting innocent people have inspired reforms within the criminal justice system (Baumgartner, Westervelt, Cook, 2013). Thus, this research study is focused to identify the causes of wrongful convictions and to find out a method to check the accuracy of the verdict or act and to catch the real offenders in criminal justice system to minimize the imprisonment of innocence.

III. LITERATURE REVIEW

False eyewitness testimony and faulty forensic evidence were the leading causes of wrongful convictions (Conners et al. 1996; Garrett 2008, Gross et al. 2005; Innocence Project web site). In the Garrett (2008) study, false eyewitness testimony contributed to a wrongful conviction in 79 percent of his sample, while faulty forensic evidence was present in 55 percent of wrongful convictions (a defendant could be convicted based on more than one type of evidence, so these percentages do not sum to 100 percent).

Wrongful convictions have had devastating effects on the lives of the convicted and their families. Imprisoned for

years, these innocent individuals frequently lose their jobs, their homes, their reputations and sometimes those that matter most to them - their spouses and partners, friends, children and other family members. They are released from prison after years or decades, often just with the shirts on their back (Aborn, n.d.). Aborn further stated that the conviction of an innocent individual – while the actual offender goes free – erodes both public safety and confidence in the criminal justice system. Scientific advancements have led to the increased use of forensic evidence, particularly DNA, to exonerate wrongfully convicted individuals. But law enforcement has not always kept up with the advances of science. However, it is evidenced that identifying the causes of wrongful convictions and implementing practical reforms that can be increased the fairness, accuracy and reliability of criminal justice system. According to the existing literature it is proved that there are many other wrongful convictions that have been cleared without the benefit of DNA. Misidentification can be occurred in either photo or live line ups. Apart from that, other factors can be taken as false forensic testimony, reliance on unreliable or limited forensic methodologies such as microscopic hair comparison or serology inclusion), testimony from informants or accomplices with incentives to lie, false confessions and guilty pleas, suppression of exculpatory evidence, ineffective assistance of counsel, and investigative and prosecutorial tunnel vision (The Justice Project, 2009). It further revealed that the most fundamental and important protection against wrongful conviction is access to a qualified defense attorney. With appropriate investigative and expert resources, defenders can meaningfully test the evidence against their clients and argue an effective line of defense. In practice, defenders frequently go without these much-needed resources and may often lack training, skills, and support—all factors that put innocent defendants. In this context, it is clear that there should be a qualified lawyer who has gained experience and skills to handle such cases without putting the innocents in trouble. Moreover, The Justice Project further stated that the crimes that are committed in the time between a wrongful conviction and the identification of the true culprit are an immeasurable cost to the community. Not only that, true culprits are not investigated or punished and due to that public safety is at risk. In one hand, it takes long time to clear the wrongful convictions and to imprison the real culprit. On the other hand, most of the wrongful conviction cases are dried up un-resolving.

IV. METHODOLOGY

The qualitative research method was used for this study. Denzin and Lincoln (1994) defined that qualitative research as "multi-method in focus, involving an interpretive, naturalistic approach to its subject matter. Under the qualitative research method data was collected through secondary sources such as published books, journals, theses and online data from websites, e-databases, e-journals, e-theses and e-books.

A. Data Analysis

Collected data was analyzed through SWOT analysis system and in this manner it is discussed the strengths, weaknesses, opportunities and threats of suggested remedies for wrongful convictions.

V. RESULTS AND DISCUSSION

A. Causes of Wrongful Convictions (Deskovic, 2012)
1. Victim misidentification
2. Eyewitness misidentification

B. Reforms to Reduce Misidentification
1. Sequential Lineups and Photo Arrays
2. Lineup Choices or Photographs that are Similar in Appearance
3. Informing Victims and Witnesses the Perpetrator May Not Be Present
4. Advising Victims and Witnesses the Investigation Will Continue Whether or Not They Make an Identification
5. Utilizing the Double-Blind Method
6. Video recording the identification process
7. Allowing confidential statements by witnesses regarding their level of certainty about the identification; and, finally
8. Eliminating show-ups.

In this context, collected data can be analyzed as follows.

1) *Strengths*: As suggested by Deskovic (2012) the above-mentioned reforms can be applied to reduce misidentification.

2) *Weaknesses*: Causes of wrongful convictions can be treated as weaknesses.

3) *Opportunities*: Scientific advancements have led to the increased use of forensic evidence, particularly DNA, to exonerate wrongfully convicted individuals can be taken as an opportunity to minimize the imprisonment of innocence at some extent.

4) *Threats*: False eyewitness testimony and faulty forensic evidence were the leading causes of wrongful convictions can be considered as one of the major threats to identifying the culprit.

It is suggested to evaluate the proposed reforms by lawyers, judges, legal scholars, criminologists to obtain the accurate, reliable confession to prevent wrongful convictions.

V. CONCLUSION

It is far better to prevent wrongful convictions in the first place than to remedy them after the fact. Thus, the cases built upon confessions require careful evaluation of the suspect, police tactics, verifying evidence, and recordings of the questioning.

Prosecutors can reject cases built upon coerced confessions and insist police investigators amass additional reliable evidence to support the charges. Prosecutors should review cases based on identification with care, and search for significant signs of misidentification, such as a victim's description of a perpetrator is not fitting with the suspect's physical characteristics, lineups and photo arrays were presented in a suggestive manner; etc. Moreover, it is proved that systemic deficiencies lead to wrongful convictions, and be on the lookout for false confessions, misidentification, incentivized witnessing, bad lawyering, junk science, prosecutorial misconduct, and prejudicial pre-trial publicity (Deskovic, 2012).

Namini Perera is a 3rd year undergraduate following LLB degree program at General Sir John Kotelawala Defence University.

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