



ROLE OF JUDICIARY IN PROVIDING COMPENSATION TO THE VICTIMS OF WRONGFUL IMPRISONMENT IN INDIA

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ABSTRACT

Wrongful imprisonment represents a grave miscarriage of justice that undermines the very foundation of human rights and the rule of law. In democratic societies, the judiciary plays a pivotal role in safeguarding individual liberty and ensuring justice is not only done but seen to be done. This paper explores the evolving jurisprudence and institutional mechanisms through which the Indian judiciary has addressed the issue of wrongful imprisonment, particularly focusing on the compensation awarded to victims. While the Indian Constitution guarantees the right to life and personal liberty under Article 21, the absence of specific statutory provisions for compensating the wrongfully incarcerated has led to judicial innovation, primarily through the exercise of writ jurisdiction under Article 32 and 226. Landmark decisions such as Rudal Shah v. State of Bihar and Bhim Singh v. State of J&K have laid the foundation for recognizing compensation as a constitutional remedy. However, the lack of uniformity and absence of a codified framework continue to hinder consistent redress. This paper critically examines the role of the judiciary in balancing state accountability with individual rights, and advocates for a comprehensive legal framework to institutionalize compensation mechanisms for victims of wrongful imprisonment in India. It also draws a comparative perspective from international legal systems, particularly the ICCPR and practices from jurisdictions such as the UK and USA, to highlight best practices and gaps in the Indian context.



KEYWORDS: Wrongful imprisonment, Prosecution, Compensatory Jurisprudence, Victim.

INTRODUCTION

Justice is not merely a theoretical ideal but a lived experience, especially for individuals who suffer due to the failures of the criminal justice system. One of the most distressing manifestations of such failure is wrongful imprisonment, which is a situation where a person is incarcerated despite being innocent or without proper legal justification. This not only strips individuals of their fundamental rights but also inflicts deep psychological, social, and economic damage. In such circumstances, the judiciary becomes the last line of defence to restore dignity and offer reparation through compensation.¹

In India, Article 21 of the Constitution guarantees the right to life and personal liberty, a right that has been judicially expanded to include protection from arbitrary arrest, custodial torture, and

¹ Chapter 3, *Criminal Justice system and wrongful Conviction*, available at: <http://14.139.58. jspuj bitstream> (Last visited on May 24, 2021).

unlawful detention. However, unlike many progressive democracies, India lacks a specific statutory framework that mandates compensation for wrongful imprisonment. This void has compelled the judiciary to evolve constitutional remedies under public law, particularly through Articles 32 and 226, to offer compensation as a means of enforcing fundamental rights. Additionally, Section 357 of the Criminal Procedure Code (Cr.P.C) empowers courts to order compensation to victims of crime, including those who have suffered loss or injury due to unlawful detention².

Unlawful arrests and detention not only cause loss of years in life, but also creates social stigma and ostracisation even after being released.³ This is evident from authoritative narrative accounts by individuals who have been victims of false prosecutions. For instance, 'Framed as a Terrorist: My 14-Year Struggle to Prove My Innocence' is another harrowing narrative of a young Indian Muslim man, Mohammad Aamir Khan, who was kidnapped by the police, falsely accused of being a terrorist, framed, and kept in jail for almost 14 years⁴. A poor man from a Dalit community, Ravi Kumar from Haryana was falsely implicated in a **double murder case**. He remained in jail for **8 years as an under trial**, with no conviction. Later on, he was acquitted by the Punjab and Haryana High Court in 2021 due to lack of evidence. Ravi lost all means of livelihood and his children had to drop out of school.⁵ In one case Vishnu Tiwari from Uttar Pradesh arrested in 2000 on charge of rape and SC/ST Act. He Spent **20 years in jail**, including several years without legal aid. In 2021, the **Allahabad High Court acquitted him**, finding that the charges were false and based on a land dispute. Tiwari came out to a world he no longer recognized because his family had died, and he was physically frail and emotionally devastated⁶. In other case Malook from Uttar Pradesh, a poor farmer, was accused of theft in a land dispute matter. Without access to a proper legal defence, he spent 11 years in prison. In 2018, the court found that he had been falsely implicated and the case was fabricated. But till that time Malook lost his land, and his family fell into extreme destitution and court offered no compensation to him⁷.

Providing compensation to such victims of wrongful prosecution and imprisonment is the least that the State can do as reparations for the wrong done, as the criminal justice system is basically meant to redress the victimization of the victims and to address the issues surrounding him.⁸

However getting justice in Indian criminal justice system has never been a bed of roses for the victims of offence and abuse of power. The last few decades however have witnessed ground-breaking reforms in the approach of legal systems nationally as well as internationally with reforms not only in statutory laws but also in judicial approach towards the victims of crime and abuse of power. This fact is quite evident from a number of judgements pronounced by the judiciary in India.

RESEARCH METHODOLOGY:

In pursuing the present study, the researcher has followed a doctrinal method of research. It involves the collection of data from primary and secondary sources; primary sources like statutes, reports of the commissions and committees and secondary sources like books written by eminent authors and articles found in the journals and websites. Use of online resources also became very relevant to find out the most updated, relevant and pertinent information which helped the researcher

² Prof (Dr.) G.S. Bajpai, On Wrongful Incarceration: Default in Payment of Fine, Suspension of Sentence (National Law University Delhi 2017) accessed 7 January 2021

³ Silvy Sheetal, *The Preventive Detention Laws in India –Perishing Human Values in the name of Suspicion*, p. 51 (X press Publishing Tamilnadu, Aug 24, 2020).

⁴ *Framed As a Terrorist: My 14-Year Struggle to Prove My Innocence* by Mohammed Aamir Khan and Nandita Haksar, 2016

⁵ Civil society reports (Haryana Human Rights Group reports, 2021)

⁶ Vishnu v. State of UP, AIR ONLINE 2021 ALL 103, see also <https://www.livelaw.in/top-stories/allahabad-hc-vishnu-tiwari-acquitted-after-20-years-in-jail-170123> (Revisited 4 April, 2021)

⁷ NCRB (2020 & 2021): Under trial Statistics and Time in Detention.

⁸ Anurag Bhaskar, 'Jailed for years: Why India needs a right to compensation for wrongful arrest and detention', *The Print*, July 9, 2019.

in exploring the subject from various dimensions. Inductive methodology i.e. getting general results from specific points by analysis of literature studied has also been used.

International Covenants and Treaties

The right to compensation for wrongful prosecution, imprisonment, and convictions has been recognized by various international covenants and has been enforced by various enactments, statutes, and Acts in jurisdictions all over the globe.⁹ The International Covenant on Civil and Political Rights, 1966 lays down the basic commitments that State Parties need to adhere to protect the civil and political liberties of the individual. The right to compensation for wrongful convictions is laid down in Article 14(6)¹⁰ of the covenant and it states:

'When a person has by a final decision been convicted of a criminal offense 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'

Further even remedies for wrongful arrests and detentions have been provided by the covenant through Article 9(5)¹¹ which states that:

'Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.'

The European Convention on Human Rights is the only treaty that specifically enumerates the grounds which can lawfully justify a deprivation of liberty in the Contracting States. This list is exhaustive and "must be interpreted strictly"¹² Article 5 of The European Convention for the Protection of Human Rights and Fundamental Freedoms talks about the Right of Liberty and Security of individuals and lays down the procedure established by law for arrests and detention. Further Article 5(5)¹³ of the convention lays down the right to compensation for wrongful arrests and detentions and states that;

'Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.'

Even Article 10¹⁴ of the American Convention on Human Rights provides for the right to compensation in cases of miscarriage of justice and states that:

'Every person has the right to be compensated in accordance with the law in the event he has been sentenced by a final judgment through a miscarriage of justice.'

Thus, evidently, under the International Covenant on Civil and Political Rights, 1966 (ICCPR, 1966), signatories are required to take steps to ensure the right to compensation for wrongful imprisonment and detention.¹⁵ Such compensation is not explicitly mentioned in the Constitution. While ratifying the ICCPR, India had expressed reservations that the Indian legal system does not

⁹ Udai Yashvir Singh, Smita Singh, 'Right to Compensation for Wrongful Prosecution, Incarceration, and Conviction: A Necessity of the Contemporary Indian Socio-Legal Framework', Volume 4, Issue 2 435 IJLMH P. 451 – 561 (2021).

¹⁰ Art. 14(6) of International Covenant on Civil and Political Rights, Dec 16, 1966,

¹¹ Art. 5(9) of International Covenant on Civil and Political Rights, Dec 16, 1966,

¹² Bouamar v. Belguim (1989) 11 EHRR 1, judgment of 29 February 1988 of European Court of Human Rights, Series A, No. 129, p. 19, para. 43. see 'Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers', Chapter 5, *Human Rights and Arrest, Pre-trial Detention and Administrative Detention*, page 164. published by the Office of the High Commissioner for Human Rights in cooperation with the International Bar Association, United Nations, New York and Geneva, 2003.

¹³ European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, art. 5(5).

¹⁴ American Convention on Human Rights, Nov. 22, 1969, art. 10,

¹⁵ Anurag Bhaskar, 'Jailed for Years: Why India needs a right to compensation for wrongful arrests and detention', *The Print* (July 9, 2019).

recognise the right to compensation for victims of unlawful arrest and detention.¹⁶ It means that when India ratified the International Covenant on Civil and Political Rights, 1966 in June 1978; the Indian Government went on record and made a declaration which stated that 'Under the Indian legal system, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State'.¹⁷ However, the jurisprudence created by the Supreme Court of India has made this reservation redundant and the Supreme Court evolved the compensatory jurisprudence through its various landmark pronouncements and thus, the award of compensation has been recognized as a public law remedy for violation of Constitutional right against wrongful imprisonment and detention which is part and parcel of Constitutional right to life and Liberty under Article 21.¹⁸

Indian Legal Provisions and Judicial Innovation:

The Constitutional as well as various other statutory rights provided under Articles 20, 21, 22, 32 and 226 and Sections 43, 46, 49, 50-A, 53, 57, 59, 237, 250, 357, 357-A, 358, 359 of Criminal Procedure Code, 1973, Section 5 of the Probation of Offenders Act, 1958, Section 18 of the Protection of Human Rights Act, 1993 etc. showed the path to the judiciary to take initiatives in this respect through the pronouncement of various landmark judgements from time to time.

Thus, in this direction, the Apex Court, in particular, in cases of **Francis Coralie Mullin v. Administrator, Union Territory of Delhi**¹⁹ and **Nilabati Behera v. State of Orissa**²⁰, have been formally and finally laid down the Constitutional and juristic foundations of this liability of the State.

Again, the Supreme Court of India, in the case of **Kali Ram v. State of Himachal Pradesh**²¹ observed that "it is no doubt that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse; however is the wrongful conviction or imprisonment of an innocent person. The consequences of the conviction of an innocent person are far more serious and its reverberations cannot be felt in a civilized society."

Factually, our criminal justice system has a very low rate of conviction. However, at the same time, nearly 75 per cent of our prison population is made of under-trials who spend long periods in prison without ever being found guilty. So, the plight of under trials was also highlighted in the case of **Hussainara Khatoon and Others v. Home Assistant State of Bihar**,²² in 1979. The Supreme Court took note of various articles published in Indian Express regarding the terrible conditions in the prisons of Bihar. The articles in the newspaper disclosed that several prisoners, including women and children, had been detained in the prisons as under-trials for at least 2-5 years. Out of them, most of the under-trials were arrested for minor charges, the punishment of which was not more than few months; however these detainees had been in the prison since 3 to 10 years. A writ petition of habeas corpus was filed in the Supreme Court which revealed a disturbing picture of under trials in the State of Bihar particularly in case of wrongful imprisonment and challenged the administration of justice in the State.

After that, in case of **Khatari (I) v. State of Bihar**,²³ the victims of Bhagalpur blinding were provided medical justice, the victims of communal violence were given rehabilitative justice. In the atrocities done by police officials, on the accused in their custody, was brought to light. The case demonstrated the careless attitude of police officers and the degradation of the ethics prescribed in

¹⁶ Silvy Sheetal, *The Preventive Detention Laws in India- Perishing Human Values in the name of Suspicion*, (Notion Press Xpress Publishing, Tamil Nadu, Ed.1stAugust 24, 2020).

¹⁷ Justice G. Yethirajulu, 'Article 32 and the Remedy of Compensation', *The Practical Lawyer* (2004), available at: https://www.supremecourtcases.com/index2.php?option=com_content&itemid=5&do_pdf=1&id=272, (last visited on March 1, 2021).

¹⁸ V.K. Sircar, 'Compensation for Violation of Fundamental Rights: A New Remedy in Public Law distinct from Relief of Damages in Tort', *First Year-Issue - 2 J.T.R.I. Journal* (Year - April - June, 1995).

¹⁹ (1981) 1 SCC 608.

²⁰ (1993) 2 SCC 746.

²¹ (1973) 2 S.C.C. 808.

²² *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.

²³ (1981) 1 SCC 623.

Criminal Procedure Code. In this case, numerous writ petitions were filed by the petitioners alleging that police blinded them while they were in detention. Thus, petitions were filed under **Article 32 for the implementation of the Fundamental Rights enshrined in Article 21**. During the trial, it was questioned that whether the court can give order for the production of specific reports given by the **Central Investigation Department (CID)** to the State Government and some correspondence between the Government and certain authorities. This example of custodial abuse gave a set back and wrecked the faith on the Indian criminal justice system for the police detention.

The case of **Khatari v. State of Bihar**,²⁴ has inspired the legal thought paving way for awarding compensation. However, the landmark judgment which set the precedent of providing compensation by the exercise of writ jurisdiction in cases of wrongful detention was that of **Rudal Sah v. State of Bihar** (1983)²⁵. The petitioner, in this case, was unlawfully detained for 14 years and the Supreme Court while awarding a compensation of Rs. 30,000 to the petitioner due to the violation of Articles 21 and 22 of the Constitution held that:

'One of the telling ways in which the violation of that right can reasonably be prevented and due compliance with the mandate of Article 21 secured, is to mulct its violators in the payment of monetary compensation.'

Thus, in the absence of statutory provision in any other law, for the first time the Supreme Court of the country recognised right of compensation to the victim for violation of human rights in this landmark judgment of **Rudal Shah v. State of Bihar**.²⁶ The Supreme Court recognised the need for compensation in cases of abuse of power by the State machinery and directed the State Government to pay compensation to the victim, Rudal Shah, for illegal imprisonment for long years. The Supreme Court while directing release of the petitioner awarded a total sum of 35,000/- by way of compensation. This judgment was later followed in subsequent judgments of the Supreme Court as well as the various High Courts as such power can also be exercised by an Appellate Court, the High Court and even the Court of Sessions while exercising revision jurisdiction.

In addition to the judgement of **Rudal Shah v. State of Bihar**²⁷, **Vishaka v. State of Rajasthan**²⁸ and **D. K. Basu v. State of West Bengal**,²⁹ are also illustrative of the liberal approach of judiciary in granting the compensation to the victims of abuse of power while exercising its Constitutional writ jurisdiction.

In the same line, in another case of **Bhim Singh, MLA v. State of Jammu & Kashmir & Others**³⁰ also, the Supreme Court awarded a sum of Rs. 50,000/- as compensation for the illegal detention of an MLA who was deliberately prevented from attending a session of the Legislative assembly by arresting him and illegally detaining him in police custody hence violating the rights provided under Article 21 and Article 22(2) of the Constitution. It was held by the court that:

'When a person comes to us with the complaint that he has been arrested and imprisoned with mischievous or malicious intent and that his Constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free. In appropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation.'

Similarly, with respect to protection of fundamental rights from excesses and abuse of power, the Courts have always taken a very restrictive view of the "Sovereign functions" of the State, thereby expanding the scope of State's liability. Even the claim of sovereign immunity arising out of the State discharging sovereign functions is held to be no defense at all against the acts of violation of the

²⁴ AIR 1981 SC 928

²⁵ Rudal Sah v. State of Bihar, AIR 1983 SC 1086 (India).

²⁶ (1983) 4 SCC 141.

²⁷ AIR 1983 SC 1086.

²⁸ (1997) 6 SCC 241.

²⁹ AIR 1997 SC 610.

³⁰ Bhim Singh, MLA v. State of Jammu & Kashmir & Others (1985) 4 SCC 677 (India).

constitutionally guaranteed Foundational Human Rights.³¹ As is highlighted in the case of **People's Union for Civil Liberties v. Union of India & Others**,³² in which the Supreme Court held, "The State cannot deprive a citizen of his life and liberty except according to the procedure established by law, and cannot claim immunity on the ground that the said deprivation of life occurred while the officers of the State were exercising the sovereign power of the State. The claim for compensation is based on the principle of strict liability to which the defence of sovereign immunity is not available. The right to life under Article 21 is available not only to "citizens", but also to "persons" which would include "non-citizens".³³

Hence, in response to the issue of illegal arrest and detention, the judiciary has pronounced several guidelines to be kept in mind while making it (arrest). The judiciary through these judgements has made it very clear that any police officer, investigative officer, or even Magistrate involved in an illegal and wrongful arrest will not be spared from the departmental enquiry and actions, if the allegations made against them are proved to be true.

In this way, the expansion of writ jurisdiction in cases like Rudal Shah, D K Basu, Visakha, Khatri, Union Carbide Corporation etc. have also provided social justice to the victims by making the State liable to pay the compensation in case of the abuse of the power by the State Authorities. So, the judiciary by the pronouncements of a number of judgements performed its role constructively in this direction by providing compensation as well as guiding to compensate the victims of crimes and abuse of power.³⁴

The law on award of compensation for abuse of power was also crystallized in the case of **Nilabati Behera v. State of Orissa**.³⁵ In this case, the deceased was arrested by the police and kept in police custody. The next day, his dead-body was found on a railway track. The Court treated it as a case of custodial death and awarded compensation to the mother of the deceased. Supreme Court observed in this case (**Nilabati Behera v. State of Orissa**)³⁶ as, *"The wide powers given to this court by Article 32, which itself is a fundamental right, imposes a constitutional obligation on this court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enable the award of monetary compensation in appropriate cases, where that is the only mode of redress available. The power available to this court under Article 142 is also an enabling provision in this behalf."*

In the same direction, the Supreme Court in the case of **D. K. Basu v. State of West Bengal**³⁷ dealt with the principle Ubi jus, ibi remedium i.e., there is no wrong without a remedy. The law wills that in every case where a man is wronged and damaged, he must have a remedy.

In this case (**D.K. Basu**)³⁸, the Hon'ble Supreme Court of India also came up with some paramount principles which created an alertness in the criminal justice system about the adeptness of **natural justice principles**. They were encompassed in eleven guidelines, which must be followed by a police official when an arrest of an accused person was made. Hon'ble Supreme Court observed that these guidelines would protect the interest of the accused since it would reduce unnecessary arrest and detention. The court additionally expressed that since the number of judges was not sufficient in our nation, the error of investigation group and the police officers to play out their obligation with due steadiness would be the two-fold issues in the nation. It was only because of this timely interference of

³¹ National Human Rights Commission, Annual Report (1999- 2000).

³² AIR 1997 SC 1203; see also: Nasiruddin v. State, (2001) CriLJ 4925; Tasleema v. State (NCT of Delhi), (2009) 161 DLT 660.

³³ Anwar v. State of J & K, (1977) 3 SCC 367.

³⁴ Abhishek Anand, 'Compensation to the Victim of Crime: Assessing Legislative Frame Work and Role of Indian Courts', *NLUJ* (2012) available at: <http://www.legalserviceindia.com/articles/pun.htm> (last visited on July 2, 2021).

³⁵ (1993) 2 SCC 746.

³⁶ AIR 1993 SC 1960.

³⁷ AIR 1997 SC 610.

³⁸ Ibid.

the Hon'ble Supreme Court in many instances, there had been several constructive changes that happened in the behaviour of the police officials and Government officials in conducting inquiry and in the administration of justice. Further discussing the scope of right to compensation under Indian Constitution, the apex court again in **D K Basu v. State of West Bengal**³⁹ observed that, *"There is indeed no express provision in the Constitution of India for grant of compensation for violation of a fundamental right to life. Nonetheless, this court has judicially evolved a right to compensation in cases of established un-constitutional deprivation of personal liberty or life."*⁴⁰ The Court observed, *"The claim in public law for compensation for un-constitutional deprivation of the Fundamental right to life and liberty, the protection of which is guaranteed under the Constitution, is a claim based on strict liability and is in addition to the claim available in private law for damages for torturous acts of public servants. Public law proceedings serve a purpose different from private law proceedings. Award of compensation for established infringement of the indivisible rights guaranteed under Article 21 is a remedy available in public law, since the purpose of public law is not only to civilize public power but also to assure the citizens that they live under a legal system where their rights and interests shall be protected and preserved."* In this way, Supreme Court further went on to state that, *"Grant of compensation in proceedings under Article 32 or Article 226 of the Constitution of India for the established violation of the fundamental rights guaranteed under Article 21 is an exercise of the courts under the public law jurisdiction for penalizing the wrong doer and fixing the liability for the public wrong on the State which failed in the discharge of its public duty to protect the fundamental rights of the citizen."*⁴¹

After that, in **Daulat Ram v. State of Haryana**⁴² it was discovered that the investigating police had forged a case under Terrorism and Disruptive Activities Prevention Act, 1987 (TADA) and the Arms Act 1959, awarded a sum of Rs. 5000 to the accused individuals, payable by the State of Haryana. It further permitted the State of Haryana to re-claim the amount from the police officials. Similarly, in the case of **Mohammed Zahid v. Government of the National Capital Territory of Delhi**⁴³, the Supreme Court discovered that the Delhi police had interfered with the Daily Diary and also had falsified other evidences. The legal proceedings of this case continued for almost 7 years and the Supreme Court ordered that an amount of Rs. 50,000 should be awarded as compensation to the guiltless victims. State was free to reclaim the amount from the offending police officers. Supreme Court later gave an order to investigate into the forged evidences by the police officials.

However, other side of the coin is that there is tremendous pressure on the police and prosecutors to produce convictions using methods that are colonial vestiges.⁴⁴ In this context, there are perverse incentives to manufacture torture-based evidence, plant evidence, engage in prosecutorial misconduct and to routinely suppress exculpatory evidence. Resultantly, wrongful prosecutions and convictions in the country are far more rampant than is imagined or acknowledged. Manisha Sethi's powerful analysis of terror trials in Kafkaland and the excellent work by the Quill Foundation in the context of terror prosecutions is stark proof of that.⁴⁵

In the case of **Yash Giri v. Union of India**⁴⁶, a petition has been filed in the Apex Court to formulate a law to compensate and rehabilitate for wrongfully incarcerated persons who were later acquitted after having languished in prisons for long on account of their wrongful prosecution and imprisonment. Plea has been taken that instances of wrongful prosecution are not a rarity in the Indian

³⁹ D. K. Basu v. State of West Bengal, AIR 1997 SC 610.

⁴⁰ Ibid at para 42.

⁴¹ Ibid at para 44.

⁴² AIR 1995 SC 1998.

⁴³ AIR 1998 SC 2023

⁴⁴ Editorial, 'An Abhorrent and Unjust Device', *The Hindu*, March 15, 2019.

⁴⁵ Anup Surendranath, 'India's Broken Criminal Justice System cannot Support the Death Penalty', *Indian Express* dated March 13, 2019, *available at*: <https://indianexpress.com/article/opinion/columns/supreme-court-death-sentence-order-reversed-nashik-5621517/> (last visited on May 4, 2021).

⁴⁶ On June 10, 2020.

criminal legal system. The arena of wrongful prosecution due to absence of fair disclosure by the prosecution has been a twilight zone for a long time. However, on July 17, 2020, the Supreme Court declined to entertain a plea seeking direction to the Government to enact laws to provide compensation and rehabilitation of persons who are acquitted after languishing in jails for jails for wrongful prosecution and imprisonment. A Bench headed by Justice U. U. Lalit was not inclined to hear the plea and it was said that it was for the trial court to grant compensation in case of wrongful prosecution and a general rule cannot be framed. Thereafter, the plea was withdrawn.⁴⁷

CONCLUSION AND RECOMMENDATIONS

Hence, evidently there is at present in our country no statutory or legal scheme for compensating those who are wrongfully incarcerated. The instances of those being acquitted by the High Court or the Supreme Court after many years of imprisonment are frequent.⁴⁸ They are left to their devices without any hope of reintegration into society or rehabilitation as the best years of their life have been spent behind bars, invisible behind the high prison walls without any fault on their part. Furthermore, the likelihood of invoking civil remedies can by no stretch of imagination be considered effective, reasonably priced or timely.⁴⁹ This has to invariably await the final outcome of the case which may take an unconscionably long time.

Rather, a limited legal framework for victims has made it an onerous responsibility for the Indian judiciary to protect the rights of victims. In fact, in India, the Supreme Court has played a significant role in protecting and respecting the rights of victims of abuse of power in the shape of wrongful prosecution and imprisonment.⁵⁰ In this direction, the affirmative action of the Supreme Court as well as High Courts has contributed a lot in elevating the rights of these victims.

The judgments pronounced by judiciary from time to time in this respect have touched victims of a wide range of offences resulting into their wrongful imprisonment. In a series of cases from 1982 to 1996, the Supreme Court of India has emphasised on the concept of restitution and restoration of victims. For this purpose, the Court has enhanced the quantum of compensation awarded to the victims in these cases. There are a number of landmark judgments which have advocated dispensation of restorative justice.

⁴⁷ 'SC declines to entertain plea seeking compensation for persons incarcerated after wrongful prosecution', ANI, New Delhi, July 17, 2020, Yahoo News, *available at*: <https://in.news.yahoo.com/sc-declines-entertain-plea-seeking-compensation-persons-incarcerated/164640107.html> (last visited on July 27, 2021).

⁴⁸ Law Commission of India, Report No. 277 on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies, August 2018.

⁴⁹ Babloo Chauhan @ Dabloo v. State Government of NCT of Delhi on 30th November, 2017; Staff Reporter, 'Law needed for Those Wrongfully Imprisoned: Delhi High Court', *The Hindu*, December 4, 2017.

⁵⁰ Law Commission of India, Report No. 277 on Wrongful Prosecution (Miscarriage of Justice): Legal Remedies, August 2018.