

Wrongful convictions in canada essay sample

[Law](#), [Crime](#)



One of the most controversial issues existing in the Criminal Justice System is the concept of wrongful convictions. The problem is that occasionally innocent accused persons are convicted of crimes that they have not committed resulting in unfair prison sentences. Criminologists in Canada are exploring the causes and consequences of wrongful convictions in an effort to find preventative measures to stop this disturbing glitch within the Canadian criminal justice system. Research suggested that although wrongful convictions were rare in the past, “ more recent estimates of the frequency of such miscarriages range from very few cases each year to 20 percent of all convictions” (Roberts & Grossman, 2012, p. 253). Wrongful convictions occur when an individual has been arrested on criminal charges and is waiting for a plea or verdict but is in fact innocent (Robert & Grossman, 2012). Survey of Canadian criminal defence lawyers found “ that 46. 3% of this sample believe that they had represented a client who had been wrongly convicted and sentenced to at least one year in prison” (Ricciardelli, Bell & Clow, 2009, p. 413).

Reasons for Wrongful Convictions

Research suggests that wrongful convictions are not the result of one individual making a mistake, rather “ several individual or systematic factors, alone or in concert, contribute to wrongful convictions” (Roberts & Grossman, 2012, p. 253). Factors that contribute to wrongful convictions include eye “ witness error, erroneous forensic science, false confessions, the use of jailhouse informants, professional and institutional misconduct, and racial bias” (Roberts & Grossman, 2012, p. 253). Other factors that lead to wrongful convictions include ineffective defence counsel, police tunnel

vision, perjury, and police misconduct. Lastly, research suggest that other factors such as racial prejudice, social inequality, and class bias increase the likelihood that minorities and those who are socially and economically disadvantaged will be victims of wrongful convictions (Ricciardelli, Bell & Clow, 2009). Government officials argue that since the criminal trial process always involves a multitude of human variables for all participants, it is difficult sometimes to prevent a wrongful conviction. Nonetheless, criminologists argue that “ the identification of specific problems and the implementation of practices designed to ensure fairness and accountability will result in the optimal utilization of science and expertise in the search for justice” (Jeffrey, 2006, p. 299).

The Canadian Criminal Justice System

In Canada, the Criminal Code “ gives the federal Minister of Justice the power to review a conviction under federal law to determine whether there may be have been a miscarriage of justice, or what is often called a wrongful conviction” (Scullion, 2004, p. 190). If the Minister identifies that a miscarriage of justice has likely to have occurred, he has the authority to order a new trial or refer the matter to the Court of Appeal. The Minister is not responsible for deciding whether a convicted person is guilty or not, rather, that role is assigned to the Court of Appeal. One of the criticisms of the review process is that it places the onus on the applicant to demonstrate that a miscarriage has occurred with the system. In addition, the cost associated with filling an application to the minister is often out of reach for most applicants (Scullion, 2004). Lastly, the criminal conviction review process lacks independence because “ one government department is

reviewing another government department, the review process contains an apparent conflict of interest" (Scullion, 2004, p. 194). Critics of this system argue that the review process is both lengthy and costly for the accused.

The government awards money to persons that were wrongfully accused as a means to rectify the miscarriage of justice (Roberts & Grossman, 2012).

The accused in wrongful convictions typically seek financial compensation for the damage they have suffered. In 1988, Canada adopted a set of federal and provincial guidelines for compensation and conditions for eligibility (Roberts & Grossman, 2012). Criminologists argue that the government has to do more than just provide compensation to individuals who have been wrongfully accused, because money alone does not rectify the emotional, social and psychological damages brought about by a wrongful conviction. Efforts need to be made to help individuals who have been wrongfully convicted on many different levels, including providing free government programs that assist with emotional and psychological rehabilitation for these individuals.

There are significant negative effects associated with wrongful convictions for the accused. Persons who are wrongfully convicted experience losses ranging from liberty, romantic relationships and security (Roberts & Grossman, 2012). In terms of parole, it is difficult for many accused to request for parole especially when the person has not committed a crime. Research suggested that most accused are not given parole for the first few times that they request for a review (Tracey, 2006). The other problem is many lawyers are not going to commit to a tedious and time-consuming task

of proving miscarriage of justice with few prospects of monetary rewards (Tracey, 2006).

News Stories on Wrongful Convictions in Canada

In Canada, several cases of wrongful convictions have occurred raising the question of the effectiveness of the criminal justice system. The Vancouver Sun published an article by Hannah Hoag on July 2012 discussing the impact of wrongful convictions on the accused, specifically the case of Rejean Hinse who was compensated \$13.2 million by the federal and Quebec governments for wrongful imprisonment in the 1960s (Hoag, 2012).

According to reports, a victim picked out Hinse out of a police lineup, but the victim's memory was distorted.

The article highlights that the number one reason for wrongful convictions are due to eyewitness misidentification accounts. According to psychologists, individuals who experience traumatic events experience memories that are often times manipulated. Psychologists studying this phenomenon argue that memories formed during emotional or traumatic events are unreliable even though people are confident in the accuracy of their recollection (Hoag, 2012). Roberts and Grossman (2012) claimed that "the questionable eyewitness testimony and the undue weight it receives from criminal justice personnel make eyewitness identifications a significant contributor to wrongful convictions" (p. 254). The article concludes by discussing ways that the witness identification of suspects can be improved through best practices such as showing photo lineups to a witness sequentially, not as a group.

While many parties are negatively affected by wrongful convictions, the accused typically suffers not only loss of liberty but also infringement on their rights. The Province published an article by Keith Fraser on July 10, 2012 discussing the conviction of Ivan William Henry who sued the B. C. government for not granting him a court appeal for his convictions involving sex attacks against eight women (Keith, 2012). The attorney-general's ministry wants to dismiss the lawsuit of the convicted serial rapist arguing there was no negligence or breach of his rights arguing the "the actions of Crown counsel in the course of a criminal prosecution are immune from civil liability" (Keith, 2012, p. 1). Henry argued that the wrongful conviction resulted in his loss of liberty, reputation and privacy while in jail. Henry firmly believed in his innocence, filing more than 50 applications seeking to the convictions overturned (Keith, 2012). Henry believes that the government owes him money for the damages he has endured in prison. The article highlights the struggle innocent accused persons go through when dealing with a wrongful conviction in seeking compensation and rewards for damages through the government.

Conclusion

Although Canada is considered a democratic society that takes great pride on the fairness of its criminal justice system, there are still miscarriages of justices that have occurred in Canada which include lengthy terms of imprisonment. Both individual and systematic errors can lead to wrongful convictions of an individual resulting in years of emotional, social, psychological and financial damage. Education programs need to be implemented to help lawyers and law enforcement to gain awareness of how

wrongful convictions can be prevented within the criminal justice system. It is important for cases of wrongful convictions to be released and shared with the public in an effort to raise awareness on how this phenomenon impacts the lives of the accused and what measures the criminal justice system needs to take to rectify this problem.

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