

# The criminal justice system law general essay

Law



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There have been many cases, worldwide, where a miscarriage of justice has taken place, including that of the Cardiff three, wrongly imprisoned for four years for the murder of Lynnette White. The Birmingham six, who spent sixteen years in prison, convicted of killing twenty-one people in two pub bombings. And there is a situation where judges can make mistakes resulting in a miscarriage of justice, Derrick Bentley case is a good example for this. Furthermore there are situations where the law may be erroneous leading to a miscarriage of justice such cases are DDP V Lynch the House Of Lords held that duress was a defence for murder where as it was changed later in R V Howe, that duress is not a defence for murder . This essay will attempt to explain the reasons why these miscarriages of justice, plus many more have taken place. The fallibility of the British legal system was revealed by these high profile miscarriages of justice during the period of Irish Republican Army ( IRA) . There are several factors that lead to a miscarriage of justice; these are unfair and oppressing conduct of the police, Over reliance of forensic science evidence, non-disclosure of evidence, mistaken identity, whether deliberate, or accidental, and unreliable confessions, judges can make mistakes and law may be erroneous leading to miscarriage of justice. In response to the public outrage against the bombers, the Government introduced the Prevention of Terrorism Act 1974 (PTA) which gave new powers to the police to arrest on suspicion of terrorism, and to detain suspects for up to five days without charge. It was clear that the police were under enormous pressure to capture the IRA bombers who had brought the war to Britain. Unfortunately, this led to numerous arresting and convictions of innocent people. And one of the major case was Birmingham six, here the defendant was convicted of causing in a <https://assignbuster.com/the-criminal-justice-system-law-general-essay/>

pub in Birmingham in the year of 1987. The court of appeal quashed the conviction while the evidence proved that the defendant had been defeated when obtaining evidence therefore the confession was false . In 1989 when the Court of Appeal quashed the convictions of the Guildford Four, who had been found guilty of bombing pubs in Guildford and Woolwich on behalf of the IRA. It was later found the police had both construct and forcibly put an end to the evidence of this case after the typed records of the interviews. This led to a reconsideration of the case of the Maguire Seven; their convictions were quashed in 1990. Annie Maguire, five members of her family, and a family friend were imprisoned in London for possessing explosives. And that was assumed by the prosecution to bomb in London and Guildford. The Court of Appeal reluctantly overturned the convictions because new evidence about the possibility of innocent contamination cast substantial doubt on the scientific evidence at trial that the defendants had been in contact with explosives. When it comes to Australia in the case of Nudd V Queen, the appellant had been convicted of importing cocaine into Australia. His appeal against conviction on grounds of incompetent counsel which resulted in a miscarriage of justice. It was identified that the miscarriage of justice had resulted in an unfair trial that was conducted without looking the subject matter of the conduct. Cesan v DPP was another famous case found in Australia, where the two men conspiring to import a commercial quality narcoits. The decision handed out down in the court of Australia on the 3rd of September 2008 quashing the convictions on the appeal to the court of criminal Appeal of the Supreme Court of South Wales . It was said that the trial judge had been asleep during some parts of the trail when evidence was given. While the court of Criminal appeal had found that <https://assignbuster.com/the-criminal-justice-system-law-general-essay/>

the judge was nodding off and on occasion actually asleep from the time during the trial. This led to miscarriage of justice where juries are not infallible. They are bound to make mistakes when the decision is complex. The major Canadian case of Hanemaayer v R, Hanemaayer changed pleas of not guilty to guilty charges arising from attempted sex assault on a 15 year old girl. In June 2008 the Ontario Supreme Court permitted him to withdraw the pleas and quashed the convictions. Victim's mother as eye witness has identified the man Hanemaayer in dark conditions but later real defendant confessed to the police due to the testimony of the victim's mother. Christine Jessop is another Canadian case the murder of nine year old girl Christine Jessop and the wrongful conviction of Guy Paul Morin was one of the first cases in Canada in which DNA proved the innocence of an alleged killer. This is a dark tale of kidnapping, rape and murder and even darker tale of cops and a prosecutor framing a completely innocent man. The saddest thing about this case is that for more than 25 years a child killer walked free. Criminal justice systems in England and Japan have been severely challenged in recent times by a number of high-profile cases of miscarriages of justice. In England the main body of cases relates to Irish terrorism, whereas in Japan the focus has been on the release of death penalty prisoners. As in the case of Sakae Menda Wrongly convicted of murder and robbery in 1949 based on his false confession. Sakae Menda was sentenced to death. Menda's conviction quashed in 1983 based on determination he had falsely confessed and that the prosecution had failed to disclose exculpatory evidence to Menda's lawyers prior to his trial. Menda was released after 34 years on death row. The cases such as Shigeyoshi Taniguchi and Yoshino Saito which shows the defendant convicted for <https://assignbuster.com/the-criminal-justice-system-law-general-essay/>

murder and was sentenced to death. Later after a retrial he was found and was acquitted . In my point of view I will agree on the topic as to emphasizing on crime control rather than due process will inevitably produce miscarriage of justice . As it is already proven by the body of the easy by taking in to account of cases of the countries namely United Kingdom, Canada, Australia and Japan. It has more emphasis on the crime control model rather than due process model. So In the United Kingdom cases such as Birmingham six, Guildford Four and Maguire Seven are good examples for the cause that the agencies go for the conviction at any cost . Also in Australia in the case of Nudd v Queen goes to show no matter how well the court systems are doing , if the council are not competent miscarriages will occur. And the case Cesan V DPP shows that juries are not infallible. They are bound to make mistakes. In the Canadian case of Hanemaayer V R and Christine Joseph are good examples where miscarriages are possible due to wrong eye witness and over reliance on forensic science evidence. Shigeyoshi Taniguchi and Yoshino Saito are well known Japanese cases to show that wrong conviction had lead innocent person to receive life imprisonment. In order to prevent the numbers of cases of miscarriages of justice from increasing, the legal system must accept this reality and should take interest in identifying mechanisms which can reduce these cases. Further improvements to reforms or legislation must be considered as an ongoing struggle, to ensure that such misfortunes do not increase. Cases that are evident of the failings in the criminal justice system must be uncovered and lessons must be learnt from them in order to protect other such innocents from going through this injustice. My conclusion goes to show that, when a state emphasis on the crime control model rather than the due <https://assignbuster.com/the-criminal-justice-system-law-general-essay/>

process model it fails to protect the liberties of citizens. Therefore if we more focus on crime control rather than due process will inevitably produce miscarriage of justice.