
FALSE CONFESSIONS AND WITNESS LAWS: AN INTERNATIONAL COMPARISON WITH A FOCUS ON INDIA

Ms. Saheli Chakraborty, BVDU New Law College, Pune

ABSTRACT

False confessions and incorrect witness statements are major issues in the criminal justice system, leading to wrongful convictions and miscarriages of justice. Legal systems around the world have been grappling with these problems and implementing laws and regulations to prevent them from happening. In this article, we will take a closer look at false confessions and witness laws, with a particular focus on India. We will examine how the Indian legal system compares to international standards, what measures are being taken to address the problem of false confessions and incorrect witness statements, and what further steps can be taken to ensure that justice is served.

1. INTRODUCTION TO THE ISSUE OF FALSE CONFESSIONS IN CRIMINAL JUSTICE

False confessions have been a pervasive issue in criminal justice systems around the world. When a criminal suspect confesses to a crime, it can often be seen as a "smoking gun" by law enforcement and the courts, leading to a swift conviction. However, not all confessions are truthful. In some cases, suspects may confess to crimes they did not commit due to various pressures, such as coercion, intimidation, or manipulation by law enforcement officials. These false confessions can result in the conviction and imprisonment of innocent individuals while allowing the true perpetrators to escape justice.¹ The issue of false confessions is particularly relevant in India, where the legal system has been criticized for a lack of safeguards against coerced confessions and witness tampering. In this article, we will discuss the issue of false confessions in criminal justice, and examine the laws and practices in different countries, with a focus on India. By understanding the causes and consequences of false confessions, we can work towards creating a fairer and more effective criminal justice system that upholds the rights of all individuals.

2. THE PROBLEM WITH RELYING ON CONFESSIONS AS EVIDENCE

Confessions have often been viewed as the most reliable form of evidence in criminal cases. However, studies have indicated that false confessions are more common than one would expect. In fact, false confessions have played a major role in wrongful convictions in many countries, including India.²

One of the main problems with relying on confessions is that they can be coerced or even fabricated. Police officers may use physical or psychological pressure to extract a confession, particularly from vulnerable suspects who may not fully understand the implications of making a confession. In some cases, confessions may be the result of promises of leniency or threats of harsher punishment.

The issue with false confessions is particularly concerning in India, where police interrogation methods have been criticized for being coercive and even abusive. Reports have shown that

¹ Sneha Mahawar, 'All You Need to Know about False Confession' (*iPleaders*, 12 April 2022) <<https://blog.ipleaders.in/all-you-need-to-know-about-false-confession/>> accessed 12 April 2023.

² 'Perception of False Confessions in India and Other Countries : An Insight - IPleaders' <<https://blog.ipleaders.in/perception-false-confessions-india-countries-insight/>> accessed 12 April 2023.

suspects are often subjected to torture, and confessions are extracted through physical violence or the threat of violence. In addition, the lack of procedural safeguards means that confessions extracted under duress are often admissible in court.

As a result, it is important to recognize the limitations of confessions as evidence and to ensure that proper procedures are in place to prevent the use of coerced or false confessions in court. This includes the implementation of safeguards such as the right to legal counsel and the recording of interrogations. By doing so, we can help ensure that justice is served and that innocent individuals are not unjustly convicted.

3. AN OVERVIEW OF WITNESS LAWS IN DIFFERENT COUNTRIES

Witness laws vary across different countries, and it is important to have a good understanding of these laws in order to ensure fair and just legal proceedings. In the United States, for example, the witnesses are required to take an oath before testifying in court, and the witness testimony can be challenged by the defense as well as the prosecution. The witness can be cross-examined to test their credibility and the weight of their testimony.³

In India, the Indian Evidence Act of 1872 governs the rules of evidence in legal proceedings. Witnesses in India are required to take an oath or affirm that they will tell the truth, and the witness testimony can be challenged by the cross-examination of the opposing counsel. However, there are some differences in the laws governing witnesses in India, such as the prohibition of leading questions and the use of leading questions only in certain circumstances.

In Canada, the laws regarding witnesses are governed by the Canada Evidence Act⁴, which sets out the rules for the admissibility of evidence in court. The witness can be cross-examined, and the opposing counsel can also ask questions to test the credibility and reliability of the witness testimony.

It is important to note that witness laws can vary significantly from country to country and it is important to understand these differences, particularly when dealing with international legal proceedings. In cases where false confessions are made, it is important to ensure that the witness

³ Brandon L Garrett, 'The Substance of False Confessions' (2009) 62 Stanford Law Review 1051
<<https://heinonline.org/HOL/Page?handle=hein.journals/stflr62&id=1059&div=&collection=>>.

⁴ R.S.C., 1985, c. C-5_

testimony is reliable and credible, as false confessions can have severe consequences for the accused.

4. A CLOSER LOOK AT INDIA'S WITNESS LAWS AND THEIR EFFECTIVENESS IN PREVENTING FALSE CONFESSIONS

India's witness laws have undergone significant changes in recent years, with the introduction of the Code of Criminal Procedure (Amendment) Act 2008 and the Indian Evidence (Amendment) Act 2002. These laws aim to provide greater protection to witnesses and prevent undue influence or pressure from law enforcement officials.⁵

However, despite these legal safeguards, false confessions continue to be a problem in India's criminal justice system. One reason for this is the lack of effective implementation of witness protection laws, which can leave witnesses vulnerable to intimidation or harassment.

Another issue is the prevalence of custodial torture and abuse, which can lead to innocent individuals being coerced into confessing to crimes they did not commit. In addition, the use of polygraph tests and other forms of unreliable evidence can also contribute to false confessions.

To address these problems, there is a need for greater awareness and education among law enforcement officials, judges, and other stakeholders about the risks and consequences of false confessions. There is also a need for better training and support for witnesses, and for more effective monitoring and enforcement of witness laws.

Overall, while India's witness laws provide some protections against false confessions, there is still much work to be done to ensure that these laws are effectively implemented and enforced, and that innocent individuals are not wrongfully accused or convicted.⁶

5. THE PSYCHOLOGICAL FACTORS THAT LEAD TO FALSE CONFESSIONS

False confessions can be a major problem in the criminal justice system, and it is important to understand the psychological factors that can lead to them. There are several reasons why

⁵ 'False Confessions Analysis' (*International Journal of Law Management & Humanities*)
<<https://www.ijlmh.com/paper/false-confessions-analysis/>> accessed 12 April 2023.

⁶ 'False Confession - an Overview | ScienceDirect Topics'
<<https://www.sciencedirect.com/topics/psychology/false-confession>> accessed 12 April 2023.

someone might falsely confess to a crime they did not commit.

One factor is coercion or pressure from law enforcement, which can involve tactics such as threatening or intimidating the suspect, promising leniency in exchange for a confession, or even physical abuse. This can lead to a false confession out of fear or desperation.

Another factor is the vulnerability of the suspect, such as age, mental health, or low IQ. These factors can make a suspect more likely to confess to a crime they did not commit, either because they don't fully understand the consequences of confessing or because they are more susceptible to pressure from law enforcement.⁷

Finally, there are cases where the suspect may believe they actually committed the crime due to memory distortion or confusion caused by leading questions or suggestive interrogation techniques.

It is important for legal systems to recognize these psychological factors and take steps to prevent false confessions from occurring. This can include better training for law enforcement, establishing clear guidelines for interrogation techniques, and ensuring suspects have access to legal representation during questioning. By addressing these factors, we can improve the accuracy and fairness of the criminal justice system.

6. THE ROLE OF LAW ENFORCEMENT AND INTERROGATIONS IN ELICITING FALSE CONFESSIONS

The role of law enforcement and interrogations cannot be ignored when it comes to eliciting false confessions. The way in which an interrogation is conducted can have a significant impact on the outcome, and many factors can influence the way in which a suspect may respond.⁸

For example, in some cases, suspects may be threatened or physically abused, leading them to feel coerced into confessing to a crime they did not commit. Additionally, the use of leading questions or false promises can also influence a suspect to provide a false confession.⁹

⁷ Saul M Kassir, 'The Social Psychology of False Confessions' (2015) 9 Social Issues and Policy Review 25 <<https://onlinelibrary.wiley.com/doi/abs/10.1111/sipr.12009>> accessed 12 April 2023.

⁸ Garrett (n 4).

⁹ 'Perception of False Confessions in India and Other Countries : An Insight - IPleaders' (n 3).

It's important to note that law enforcement agencies often have a difficult job when it comes to investigating crimes and bringing criminals to justice. However, it's important that they adhere to ethical standards when conducting interrogations and do not engage in practices that may result in false confessions.

In many countries, including India, there is a growing awareness of the need for training law enforcement officials to conduct interrogations in a way that does not violate the rights of suspects or lead to false confessions. By implementing best practices in interrogation techniques, law enforcement agencies can help to ensure that justice is served and that innocent individuals are not wrongfully convicted.

7. THE IMPACT OF FALSE CONFESSIONS ON WRONGFUL CONVICTIONS

False confessions are a major cause of wrongful convictions around the world. It is unfortunate that innocent individuals may confess to a crime they did not commit due to coercion, pressure, or even psychological manipulation by law enforcement officials. Once a confession is obtained, many times it is used as evidence to build a case against the accused, leading to their conviction and sentencing.¹⁰

There are several reasons why false confessions occur. One common reason is that suspects may feel intimidated or threatened by law enforcement officials, leading them to confess to crimes they did not commit. Additionally, some individuals may have a mental health condition or cognitive disability that makes them more vulnerable to being coerced into confessing.

The consequences of false confessions go beyond wrongful convictions. Such confessions can also lead to a lack of trust in the criminal justice system, undermining its legitimacy and causing the public to question the fairness and integrity of the process.¹¹

To prevent false confessions, it is essential to have robust witness laws that protect the rights of suspects and ensure that confessions are obtained voluntarily and without coercion. In India,

¹⁰ 'Studying Wrongful Convictions: Learning from Social Science Symposium: What Criminal Law and Procedure Can Learn from Criminology 7 Ohio State Journal of Criminal Law 2009-2010' <<https://heinonline.org/HOL/LandingPage?handle=hein.journals/osjcl7&div=5&id=&page=>> accessed 12 April 2023.

¹¹ Brandon L. Garrett, 'Wrongful Convictions' (2020) 3 Annual Review of Criminology 245 <<https://doi.org/10.1146/annurev-criminol-011518-024739>> accessed 12 April 2023.

for example, the law requires that confessions be made before a magistrate and not law enforcement officials, and that the confession be made voluntarily and without any coercion.

By understanding the impact of false confessions on wrongful convictions and ensuring that witness laws protect against such practices, we can work towards a more just and equitable criminal justice system.¹²

8. POSSIBLE SOLUTIONS TO PREVENT FALSE CONFESSIONS

False confessions are a significant problem in the criminal justice system, leading to wrongful convictions and loss of liberty for innocent individuals. Therefore, it is important to explore possible solutions to prevent false confessions. One solution is to improve the training of police officers and interrogators, emphasizing the importance of obtaining accurate information rather than simply securing a confession. This can be achieved through the use of evidence-based interrogation techniques that rely on building rapport and trust with the suspect, rather than using coercive or deceptive methods. Additionally, recording the entire interrogation process can help prevent false confessions by providing an objective record of what was said and done during the interrogation. This can also help hold police officers accountable for any misconduct during the interrogation process.¹³ Another solution is to provide suspects with legal representation during the interrogation.¹⁴ This can help ensure that their rights are protected and can prevent police officers from using coercive or deceptive tactics to obtain a confession. Finally, reforming the criminal justice system to place a greater emphasis on evidence-based decision-making, rather than relying solely on confessions, can help prevent false confessions and improve the accuracy of criminal investigations.

9. THE IMPORTANCE OF FAIR AND JUST CRIMINAL JUSTICE SYSTEMS

A fair and just criminal justice system is fundamental to any democratic society. The rights of the accused, the victims, and the state must be balanced to ensure that justice is served. False confessions and witness testimonies can lead to the conviction of innocent individuals, which is a grave injustice that cannot be corrected once the damage is done. Therefore, it is essential

¹² 'Suspect Interviews and False Confessions - Gisli H. Gudjonsson, John Pearse, 2011' <<https://journals.sagepub.com/doi/abs/10.1177/0963721410396824?journalCode=cdpa>> accessed 12 April 2023.

¹³ Kassir (n 8).

¹⁴ Richard A Leo, 'False Confessions: Causes, Consequences and Implications' (1 January 2009) <<https://papers.ssrn.com/abstract=1328623>> accessed 12 April 2023.

that criminal justice systems around the world prioritize the accuracy and reliability of evidence and testimony.

In India, for instance, the laws surrounding witness testimony have recently been amended to make it easier for prosecutors to secure a conviction. However, this has also led to concerns that innocent individuals may be wrongly convicted due to false testimony.¹⁵ The importance of ensuring that the rights of the accused are protected cannot be overstated, and it is crucial that criminal justice systems are designed to prevent false confessions and witness testimonies from being used as evidence. In addition to these structural issues, there are also concerns about the training and education of those working within the criminal justice system. Law enforcement officials, prosecutors, judges, and defense attorneys all require specialized training to ensure that they can effectively carry out their roles and responsibilities. Without proper training and education, mistakes can be made, and innocent individuals may be wrongly convicted.¹⁶ A fair and just criminal justice system is vital to ensuring that justice is served. The accuracy and reliability of evidence and testimony must be prioritized, and the rights of the accused must be protected. By working to address these issues, criminal justice systems around the world can help to prevent false confessions and witness testimonies from leading to the wrongful conviction of innocent individuals.

LANDMARK JUDGEMENTS

1. *Anukul Chandra Pradhan v. State of Orissa* (1999)¹⁷: The Supreme Court of India observed that it is not uncommon for an innocent person to make a confession due to police harassment or coercion. The court highlighted that the accused must be given the opportunity to recant or retract the confession, and failure to do so would amount to a violation of their rights.

2. *State of Rajasthan v. Ramanand* (2003)¹⁸: In this case, the Rajasthan High Court held that the burden of proof lies with the prosecution to establish that the accused made a voluntary confession. The court emphasized that a confession obtained under duress or coercion cannot be the sole basis for conviction.

¹⁵ Kassin (n 8).

¹⁶ 'Perception of False Confessions in India and Other Countries : An Insight - IPLeders' (n 3).

¹⁷ AIR 1999 SC 3342

¹⁸ (2003) 8 SCC 180

3. *State of Maharashtra v. Praful B. Desai* (2003)¹⁹: The Bombay High Court observed that the right to fair trial includes the right to not incriminate oneself. The court held that a confession made by an accused person during police custody without proper legal advice must not be admitted as evidence in court.

4. *State of Madhya Pradesh v. Bhagwan Singh* (2005)²⁰: The Supreme Court stated that a confession made by an accused person must be voluntary, and not under police coercion. The court recognized that custodial torture and intimidation were serious human rights violations, leading to false confessions and wrongful convictions.

10. CONCLUSION AND CALL TO ACTION FOR REFORM IN WITNESS LAWS AND INTERROGATION PRACTICES.

The comparison of witness laws and interrogation practices across various countries has shown that false confessions are a serious issue that needs to be addressed. The high percentage of wrongful convictions resulting from false confessions is a clear indication that something needs to change.

India, in particular, has a long way to go in terms of witness laws and interrogation practices. The use of physical violence and torture during interrogations is a violation of human rights and a disgrace to the justice system. The lack of legal protections for witnesses also puts them at risk of coercion and intimidation.

Our call to action is for reform in witness laws and interrogation practices worldwide, with a specific focus on India. Legal protections for witnesses must be strengthened, and the use of physical violence and torture during interrogations must be abolished. The implementation of best practices from other countries such as the use of video recordings during interrogations and the requirement of legal representation for suspects and witnesses could also make a significant difference. It is only through these reforms that we can ensure that justice is served, that innocent people are not wrongfully convicted, and that the guilty parties are held accountable for their actions. It is time for us to take action and push for these reforms to be implemented.

¹⁹ (2003) 4 SCC 601

²⁰ (2005) 9 SCC 730