

THE PSYCHOLOGY OF FALSE CONFESSIONS: WHY INNOCENT PEOPLE CONFESS, AND WHAT THE LAW SHOULD DO ABOUT IT

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Abstract : When an innocent person makes a confession, it may be sincere and apparently voluntary but may be false. The outcome of the evidentiary problem is not just the taint of any subsequent investigation evidence but in addition the challenge of overturning a conviction based on such evidence. This Article combines the psychological research with the comparative evidence of exoneration under doctrinal analysis of the Indian constitutional guarantees, Bharatiya Sakshya Adhiniyam, 2023, Bharatiya Nagirik Suraksha Sanhita, 2023 and the Supreme Court judgments. It differentiates between the various types of confessions – voluntary, coerced-compliant and coerced-internalised – and explores how the influence of fatigue, suggestion, vulnerability and information provided by investigators poses a challenge to the traditional approach to determining the voluntariness of confessions. The analysis reveals that Indian law details significant restrictions on police-confessions and procedural safeguards on Magistrate-recorded statements, but these do not guarantee the same of a subsequent one or the origins of any purported corroborating evidence. The United States exoneration rates show that there is a record of error, but they do not show the rate of false confessions in India. It proposes the continuous interrogation recording, disclosure of crime-specific information and documentation, individualized safeguards, judicial separation of compulsion, admissibility and factual reliability. This would retain a legitimate investigation and allow for challenged confessions to be subject to review and limit the risk that a suspect's words will replace independent evidence. They also build the evidentiary foundation for the consideration of complaints that the confession affected subsequent investigations.

Keywords: False Confessions; Psychological Coercion; Self-Incrimination; Judicial Confessions; Investigative Reform

1. INTRODUCTION

A confession seems to settle the question of guilt without question: the defendant is said to give the prosecution its strongest evidence – his own. But there is no contradiction between innocence and confession. Someone can concede to an admission to stop questioning and/or to avoid an immediate threat or to go with the authoritative account or to get rid of a skewed memory. The evidentiary peril is not necessarily connected with harsh interrogation. Epistemic and constitutional issues are thus central to the problem: A legal system has to break down a confession into one that is freely made, and one that actually reflects the behavior of the accused.¹

Indian criminal procedure has robust “formal” deterrents to the admission of police confessions and a right against compelled self-incrimination. However, the lack of a police statement does not end the pressures which are responsible for it, particularly if a subsequent statement is made before a Magistrate or in the case of assumed evidence of discovery, if the evidence is based on the custody of the party making the statement. What these modern psychological studies question, is whether a simple statement of voluntariness is enough to cure earlier influences. The issue is not just whether or not an official voiced a threat at the time of recording but whether the entire investigative train created credible knowledges or compliance to a preferred narrative.²

The Article is a mixture of doctrinal analysis based on the constitutional and statutory contexts of Indian law and research based on experiments along with some exoneration data and recent judicial decisions. It differentiates the historical authorities under the previous laws from the one currently in force Bharatiya Sakshya Adhiniyam, 2023 and Bharatiya Nagarik Suraksha Sanhita, 2023. It says that the current exclusions should be combined with detailed interrogation records, the protection of vulnerable suspects, sensitivity towards contamination and independent processing of any admissions made. These measures make the pursuit of truth and freedom of expression complementary imperatives, and not competing institutional goals.³

2. PSYCHOLOGICAL MECHANISMS OF FALSE CONFESSION

A False Confession is a confession about something that the speaker did not do. It must be distinguished from an inadmissible confession which may be accurate; and from a retracted confession which may be accurate or retracted. Psychological classification helps to clarify the effects of the pressures that occur prior to an admission on the meaning and evidentiary value of an admission.⁴

¹Saul M. Kassin, Steven A. Drizin, et.al., “Police-Induced Confessions: Risk Factors and Recommendations”, 34 *Law and Human Behavior* 3 (2010).

²The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), s. 23.

³Saul M. Kassin, Hayley M. D. Cleary, et.al., “Police-Induced Confessions, 2.0: Risk Factors and Recommendations”, 49 *Law and Human Behavior* 7 (2025).

⁴Michael Welner, Matt DeLisi, et.al., “False Confessions: An Integrative Review of the Phenomenon”, 43 *Behavioral Sciences & the Law* 185 (2025).

2.1 Motivation, Compliance and Internalisation

Voluntary false confessions can occur without direct pressure of questioning: a person may do this out of love for another person, or to draw attention to or take responsibility for something, regardless of his or her actual involvement. Coerced-compliant confessions are confessions that are made when the person knows they are lying, but sees it as the cost of relief. The risk of coerced internalised confessions is the opposite – that they may be suggestive and may result in true yet false belief in guilt. Kassins's narration underscores the fact that such mechanisms should not be determined just by the "confidence" of a speaker, or the presence of a coherent story line.¹

Compliance and internalisation is a legal issue. A compliant suspect may subsequently disconfirm after the initial pressures have dissipated and an internalised suspect may go on to confirm a false statement. Similarly, if no retraction then no reliability is established, and retraction does not prove innocence. Gudjonsson's description of interrogative suggestibility highlights individual differences with regards to how much people accept the premises and how much they adjust answers when they are corrected with a negative response. The nature of the statement, along with how purported recollections were compiled, thus must be investigated in an evidentiary inquiry.²

2.2 Interrogation Environment and Decision-Making

Custodial interrogation reorganises a suspect's incentives. The feeling of uncertainty, isolation and loss of control can take over from the far off promise of conviction when the investigators put forward agreement as the only way to get a rest or release. Keeping asking about the same things may give your child a sense of hopelessness for being denied. Gudjonsson's synthesis later proposes that there is an interplay between situational pressure and personal susceptibility, and not that they are two separate causes. The bottom line, in practice, is that no one individual factor (including length, demeanor, lack of injuries, etc.) of an interview is a sufficient answer to the reliability question without looking at the entire interview.³

Inquiries may also influence investigators' notions of corroboration. An interviewer who reveals details of the crime may get another account which has the same details, but this alleged similarity does not indicate that the suspect had independent knowledge. Investigators after the admission may use an admission as a prism for perceiving conflicting evidence and ignore other suspects. The institutional evolution from suspicion to an admission-based understanding of a case is a conception that is central to Leo's study on interrogation. When a certain fact is first introduced, who puts it before the Court, at what point was it introduced, and is the fact a spontaneous introduction by the suspect?⁴

2.3 Vulnerability, Fatigue and Memory

Children and adolescents can have greater sensitivity to authority figures, to the immediate consequences and promises of relief, and some adults can have similar limitations due to intellectual disability, communication challenges, and/or acute distress. These categories are not measures of untruthfulness, but are flags to indicate when a traditional interview might not provide a fair test of factual knowledge. Personal adjustments, rather than the assumption that all vulnerable people will make false disclosures are to be preferred. Educational studies of police-initiated confession give the following list of risk factors which interact in causing youth to confess: youth, lack of intellectual ability, long and/or dishonest questioning.⁵

Fatigue affects the mode of choice, even if the individual is still able to speak clearly. Sleep deprivation increased the probability of signing an inaccurate admission, after having been asked to do so, by a factor of 4.5 when compared to rested participants, in a controlled experiment. The misconduct in the laboratory does not equal a serious criminal charge; nor can the result provide an Indian false-confession prevalence rate. It nevertheless examines a viable causal route: decreased executive control can cause an immediate offer of escape to be particularly salient.⁶

3. EMPIRICAL EVIDENCE AND THE LIMITS OF INFERENCE

Empirical research confirms that false confessions do exist, though this research needs to consider sample selection and research design in the interpretation of the findings. The databases documenting exonerations contain only the denominator of convictions

¹ Saul M. Kassins, *Duped: Why Innocent People Confess and Why We Believe their Confessions* 12 (Prometheus Books, Guilford, Connecticut, 1st edn., 2022).

² Gisli H. Gudjonsson, *The Psychology of Interrogations and Confessions: A Handbook* 173 (John Wiley & Sons, Chichester, 1st edn., 2003).

³ Gisli H. Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* 63 (John Wiley & Sons, Hoboken, 1st edn., 2018).

⁴ Richard A. Leo, *Police Interrogation and American Justice* 195 (Harvard University Press, Cambridge, Massachusetts, 1st edn., 2008).

⁵ Saul M. Kassins, Steven A. Drizin, et.al., “Police-Induced Confessions: Risk Factors and Recommendations”, 34 *Law and Human Behavior* 3 (2010).

⁶ Steven J. Frenda, Shari R. Berkowitz, et.al., “Sleep Deprivation and False Confessions”, 113 *Proceedings of the National Academy of Sciences* 2047 (2016).

or interrogations, and controlled studies test only mechanisms and do not mimic all the conditions and elements of a serious criminal investigation.⁷

3.1 Exoneration Evidence

In 2024 had 22 false confession exoneration in 158 total U.S. exoneration and 19 false confession exoneration in 97 total U.S. exoneration in 2025, according to the National Registry of Exonerations. The corresponding percentages are about 13.9 per cent and 19.6 per cent, but the number of cases per year is not a stable population figure: older cases are added on, and identified cases of exoneration are added to the register, not all cases of miscarriage of justice. As seen in Figure 1 above, the contraction of a chart of only percentages would obscure the denominator - the number of cases not involved with a confession.⁸



Figure 1: False-confession involvement in United States exoneration, 2024 and 2025

Between these recording years the absolute number of recorded false confession exoneration dipped, but both categories of exoneration decreased at a sharper rate such that the percentage of recorded false confession exoneration rose. The juxtaposition brings to light the reasons for reading both a proportional and an absolute comparison. None of the measurements show that police behaviour or false confessions by suspects in India has any particular pattern.⁹

A second pitfall to exoneration cases is that confession evidence can serve as a "yardstick" against which to measure forensic interpretations and witness recollections and eyewitness evidence. Garrett's research on the documented United States miscarriages of justice characterizes documents that included otherwise corroborating information in a suspect's account as a result of questioning. The doctrinal implication is more limited than to assume that all the confirming facts are compromised. The standard of the court is to determine if corroboration was brought about independently – especially if the fact was also known to investigators prior to the admission and could have been related during interrogation.¹⁰

3.2 Experimental and Comparative Evidence

A review of experimental interrogation studies revealed some interrogations styles that would lead to false confessions in which evidence plays yielded higher odds of a false confession than approaches designed for gathering information. The majority of the studies included in the meta-analyses examined mock suspects, often university students; therefore, the generalizability of the effect sizes to Indian custodial situations is questionable. Their value is that they point to practices that might have an adverse effect on accuracy, but for which there is no demonstrated need to get information. Together with this causal evidence, such information

⁷ Michael Welner, Matt DeLisi, et.al., "False Confessions: An Integrative Review of the Phenomenon", 43 *Behavioral Sciences & the Law* 185 (2025).

⁸ National Registry of Exonerations, "2025 Annual Report" 5 (April, 2026).

⁹ Michael Welner, Matt DeLisi, et.al., "False Confessions: An Integrative Review of the Phenomenon", 43 *Behavioral Sciences & the Law* 185 (2025).

¹⁰ Brandon L. Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* 14 (Harvard University Press, Cambridge, Massachusetts, 1st edn., 2011).

should form part of an Indian reform program which can be collected in India and keeps personal details of the duration of detention and failure to record information taken from suspects to the courts protected.¹¹

The empirical literature is not all similarly definitive in regard to scholarship. An integrative review cautions that the situations and stakes encountered in actual investigations are not completely reproducible in staged experiments, and conceptual definitions and case selection influence estimates. There is a danger in these restrictions in assuming that a rate, or that all confessions made under

psychological pressure was false, could be set nationwide. These do not warrant the omission of psychological knowledge in

legal evaluations. The more defensible use of the evidence is diagnostic – identifying the circumstances in which a court will require a fuller description of the investigative process and other more solid, independent sources of evidence.¹²

4. CONSTITUTIONAL AND STATUTORY CONTROL IN INDIA

The Indian law distinguishes between right to freedom from self-incrimination and right to admission of confession and how it is recorded. One must thus read the modern legislation in the context of the constitutional guarantees and in light of the previous legislation under which previous decisions were made.¹³

4.1 Compulsion and Personal Liberty

The constitution prohibits compelling a person to incriminate themselves in any case through Article 20(3) and in the case of arrest the constitution guarantees personal liberty and safeguards in Article 21 and 22. Nor is the privilege a blanket prohibition on going to the possible source of truth: compulsory production of relevant non-testimonial information presents different issues as watchful waiting of a talking witness does. The essence of the constitutionally significant distinction between physical and psychological coercion is whether the restraint, if any, is so great that it prevents a declarant from exercising the choice whether to supply incriminating testimonial content.¹⁴

In *Nandini Satpathy v. P.L. Dani and Another*¹⁵, the Supreme Court of India interpreted the term compulsion to mean more than just the physical compulsion and included protection against incriminating answers which a person might be required to give while questioned by police. The decision came in the context of the previous Code of Criminal Procedure, 1973 and the discussion in the statute cannot be interpreted in terms of the subsequent enactment. It is still relevant today on a constitutional basis - it is not as if there is an actual threat recorded, but the atmosphere of interrogation can make for a false choice.

In *Selvi and Others v. State of Karnataka and Another*¹⁶, the Court held that the involuntary administration of narcoanalysis, polygraph testing and brain-mapping techniques violates constitutional protections, while voluntary administration remains subject to safeguards. It does not rule ordinary, verbal interviewing to be unlawful, nor does the judgment mechanically answer whether any specific confession is true. It, however, emphasises the importance of safeguarding the right to make decisions when investigative methods are used to obtain evidence of a testimonial nature.

4.2 The Bharatiya Sakshya Adhiniyam

The confession is irrelevant if it is obtained through a qualifying inducement, threat, coercion or promise which is derived from a person in authority with regard to the charge under Section 22 of Bharatiya Sakshya Adhiniyam 2023. Some of its proviso's: (1) the previous influence can be completely eradicated, then another confession can be admissible as late evidence, and (2) an otherwise admissible confession can not be declared inadmissible on the ground of the deception alone. The second part of the clause is not a declaration that deceptive practices are harmless and that there is no constitutional scrutiny. This reveals a doctrinal contradiction between a rule aimed at certain inducements and psychological studies of false evidence, suggestion and strategically hinted at latitude.¹⁷

Section 23(1) bars the adducement of evidence of a confession made to a police officer against the accused. Section 23(2) also excludes a confession made in police custody unless made in the presence of a Magistrate; it also states that a confession so made can only be proved if it includes information separately relating to a fact from which the confession is proved to be made. A description of such a statement of confession as a "discovery statement" cannot serve to change the nature of the confession itself as a police statement. Nor does the production of an object of a charged offence suffice to prove that the accused committed the

¹¹ Mary Catlin, David B. Wilson, et.al., "Interview and Interrogation Methods and their Effects on True and False Confessions: A Systematic Review Update and Extension", 20 *Campbell Systematic Reviews* e1441 (2024).

¹² Michael Welner, Matt DeLisi, et.al., "False Confessions: An Integrative Review of the Phenomenon", 43 *Behavioral Sciences & the Law* 185 (2025).

¹³ The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), ss. 22, 23.

¹⁴ The Constitution of India, arts. 20(3), 21, 22.

¹⁵ (1978) 2 SCC 424.

¹⁶ (2010) 7 SCC 263.

¹⁷ The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), s. 22.

charged offence. There must be a distinction between the fact found and the limited admissible information and/or the independent probative value of the object by the finder of fact.¹⁸

4.3 Procedural Recording and Counsel

Section 182 of the Bharatiya Nagarik Suraksha Sanhita, 2023, bans certain types of inducements, Section 38 provides the right to meet an advocate of choice while interrogation, and Section 183 prescribes the requirements for making a confession before a Magistrate. Presence of an advocate does not in and of itself create continuous legal attendance at questioning. Nor does Section 183

place a general duty on all police to video record every interview: it simply allows for the recording of the audio and video of certain Magistrate hearings in the presence of the advocate. It's important to differentiate these rules from recommendations that would further protection at the earlier custodial phase.¹⁹

A confession is only valid if made before a Magistrate who has made it known that the person is not required to make a

confession and that a confession can be used to incriminate them, and who has questioned the person and has reason to believe that the confession is being made voluntarily. In addition, Section 183 covers scenarios in which they refuse to confess prior to recording,

but make a confession after they are in police custody, which cannot be authorised. But in a brief interview with a judge, evidence of threats or suggestion may be overlooked, working days before.²⁰

4.4 Protection of Children

Section 10 of the Juvenile Justice (Care and Protection of Children) Act, 2015, requires a child alleged to be in conflict with law to be placed with the special juvenile police unit or designated child welfare police officer and produced before the Juvenile Justice Board; police lockup and jail placement are prohibited. This protective framework can only be implemented in the context of developmentally appropriate questioning and meaningful legal assistance, all of which are related to the custodial setting. If a child responds favorably in an uncomfortable situation to put an end to it, this does not mean that the child has made the same kind of decision as an appropriately advised adult.²¹

5. JUDICIAL SCRUTINY AND EVIDENTIARY RELIABILITY

Indian case law provides safeguards to evidence of an improper confession, a distinction that needs to be maintained between exclusion and weight. An admission made to a police officer may be inadmissible even if it is true; a recording made by a judge may be admissible even though the validity of the confession is disputed. This distinction is reiterated by recent decisions.²²

5.1 Voluntariness Beyond Formal Certification

Supreme Court in *Shivappa v. State of Karnataka*²³, insisted that there must be enquiry into the voluntariness of a confession recording before a Magistrate and also discussed the evil of continuing police influence. A signed memorandum cannot, therefore, be considered as an independent assurance of accuracy. The recording officer needs to give circumstances in which refusal is a real possibility, as they cannot just give a caution and take an answer. If the accused had been subjected to pressure in the past, the court should consider where and when the pressure had changed, and whether the influence of the pressure had really passed.

The Supreme Court had laid down the principles of safeguards against arrest and detention in *D.K. Basu v. State of West Bengal*²⁴ to deal with the custodial abuse. Arrest records, notification and medical examination can have a direct impact on liberty, and can attract some evidence that could be of some importance to a challenged confession. By themselves, they do not give any indication of an unrecorded false-evidence scheme or more sophisticated manipulation; not having an injury documented cannot prove voluntariness. There is a need for both custody documentation and a complete interrogation record for reasons that are quite apparent, given their different functions. The examination of a person by a judge would take place in the order of the person's arrest, the questioning by police and finally any later appearance before the Magistrate.

¹⁸ The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), s. 23.

¹⁹ The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), ss. 38, 182, 183.

²⁰ The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 183.

²¹ The Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 10.

²² The Bharatiya Sakshya Adhiniyam, 2023 (Act 47 of 2023), ss. 22, 23.

²³ (1995) 2 SCC 76.

²⁴ (1997) 1 SCC 416.

5.2 Police Confessions and Later Judicial Decisions

In *Aghnoo Nagesia v. State of Bihar*²⁵²⁶²⁷, the Supreme Court extended the prohibition on police-confession that was laid down in the previous evidence statute on the accused person's confessional FIR, with certain limited exceptions. The reasoning is to be understood as a decision under the Indian Evidence Act, 1872 and it sheds light upon the nature of the exclusion which is being given protection. To prove by incriminating admissions the substance of an excluded confession by the indirect characterisation of a report's non-confessional formal characteristics would be wrong in principle. Looking at the evidentiary role of a challenged extract, courts are required to look critically at the role it plays.

In August 2025, the Supreme Court also ruled in *Narayan Yadav v. State of Chhattisgarh*³⁰ which was based on a confession in the FIR that was held to be inadmissible and considered whether the remaining parts would be sufficient to establish the guilt of the accused. The judgment is significant because the exclusion of the confession does not mechanically rule on the ultimate question of guilt or innocence; there has to be an assessment of the admissible evidence as well. It has institutional rather than diagnostic value in the analysis of false-confession. The Court did not pretend that all police confessions are psychologically false, but reasserted that the

law bars use by the prosecution of certain types of confession.

In May 2025, the Supreme Court while considering bail in the case of *P. Krishna Mohan Reddy v. State of Andhra Pradesh*³¹, found the reliance on confessional police statements to be relevant. This type of action requires a different type of evidence than is required at trial; when a court considers observations made on a bail record, it should not draw a general conclusion that all charges are false. The broader issue is that there is contamination through accusation: if one person says it in a context in which a police confession is not likely to happen, it shouldn't be that reliable just because it's stating a co-accused.

5.3 Special Investigative Powers and Corroboration

In *Tofan Singh v. State of Tamil Nadu*²⁸, Supreme Court has ruled that the officers under Section 53 of the Narcotic Drugs and Psychotropic Substances Act, 1985, must be treated as the officers of the police for the purposes of the earlier confession exclusion and that the confessional statement made under Section 67 of the Act would not be admissible at the trial as confessions. The

decision is not with respect to all official investigations, but only as to that statute and its investigative powers. It demonstrates the importance of the functional authority of the authorities to whom the protection applies, and that, of course, the admissibility of a specific document will remain to be determined by the enactment and the context of the proceedings to which it applies.

Tendency to give fair treatment to seemingly independent evidence can also be distorted by a confession. Experimental studies on the impact of confession evidence on lay fact-finders find that this evidence does make a difference in verdict decisions, and test the "repair" capabilities of some trial safeguards. Given the absence of a jury system in the criminal adjudication process of India, the results of the experiments should not be adopted as is. The gist of the practical lesson is this: "Pre-confession forensic notes and witness testimony must be preserved by investigators and a judge must take into account corroboration without adding credibility to an item that is corroborated on the basis of a confession."²⁹

6. DESIGNING RELIABLE INVESTIGATIONS AND REMEDIES

Abolishing questioning or discounting authentic admissions is not an immediate reform goal. It is to make the way from suspicion to confession subject to scrutiny and to prevent one statement infecting the remainder of the evidence. The interrogation policy, judicial supervision and post-conviction remedies should be formulated as a combined system.³⁰

6.1 Recording, Disclosure and Interview Design

Audiovisual recording should commence prior to the commencement of substantive suspect interrogation and be continuous through the interrogation including the cautions, breaks, discussions about potential benefits and transfers between officials. It is better to have a camera that can capture the questioner and the interviewee as opposed to a close-up camera that would not be able to capture how the investigator is conducting himself. Tamper evident time/date stamps should be present on the record and there should be a chain of custody which can be audited; gaps in custody should be documented at the time they occur and provided to defence. The new scientific analysis of police induced confessions suggests it should be fully recorded and reject the confrontational approach. These measures enhance the detection of coerced behavior as well as the security of investigators from false accusations of coerced behavior.³¹

²⁵ AIR 1966 SC 119.

²⁶ INSC 927.

²⁷ INSC 725.

²⁸ (2021) 4 SCC 1.

²⁹ Amelia Mindthoff, Patricia A. Ferreira, et.al., "The Effect of Confession Evidence on Jurors' Verdict Decisions: A Systematic Review and Meta-Analysis", 48 *Law and Human Behavior* 163 (2024).

³⁰ Saul M. Kassin, Steven A. Drizin, et.al., "Police-Induced Confessions: Risk Factors and Recommendations", 34 *Law and Human Behavior* 3 (2010).

³¹ Saul M. Kassin, Hayley M. D. Cleary, et.al., "Police-Induced Confessions, 2.0: Risk Factors and Recommendations", 49 *Law and Human Behavior* 7 (2025).

An information-gathering interview uses open questions, challenges conflicting accounts with facts and focuses on facts, and does not force the interviewee to confess. Investigators should record known facts in a separate place prior to talking with the suspect and a record should be kept as to when facts are disclosed. Only crime specific knowledge that can be traced to a source can be useful. Any technique which suggests that confession leads to release, or invents evidence as conclusive, can be a factor in changing a decision on long term criminal liability to an immediate decision. Reform must be able to control these mechanisms to still provide a strong questioning, based on verifiable information.³²

6.2 Individualised Safeguards and Judicial Review

The vulnerability assessment should discuss the need for an interpreter, legal support or an appropriate adult, but should not assume that the fact that someone has a disability or is aged makes them inherently untrustworthy. It is important to ascertain the suspect's understanding of cautionary language in his or her own phrasing. Interviews should include documented rest breaks and an expedient medical escort if fatigue or distress becomes an obstacle to the participation in the interview. There is expert psychological evidence which can help to explain suggestibility and contamination of memory but which can only be used to explain risk situations and cannot be used to establish guilt. The court has responsibility to apply the law to the record.³³

A Magistrate upon receiving a judicial confession should review all the interview history and if it is the first time the suspect has made a judicial confession, ask the police why the person has changed his/her position, and determine if the police can regain control of the situation if the person refuses to confess. A reasoned record must assess the voluntariness and the factual reliability: freedom from a current threat is one, independent accuracy is another. In cases where there is a substantial amount of material in the interview that has been omitted, the court should ask for an explanation and evaluate the species of limitation expressly. The exclusion cannot be based on an unrecorded conversation which a helpless suspect then must be able to repeat verbatim.³⁴

6.3 Institutional Learning and Corrective Justice

The statistics on exoneration included in the National Registry's case documentation show that the phenomenon of wrongful conviction is not the only factor in determining exoneration statistics; discovery, litigation and institutional capacity are all important. In India, therefore, prospective information about the contestation of confessions and later court verdicts is required and not estimates from another jurisdiction. Training for police should involve de-identified interview footage to look for early accusations,

leading questions and loss of exculpatory leads. Audits must also safeguard the nature of a legitimate investigation and must assess officers on accuracy and disclosure, rather than on the number of admissions that they make.³⁵

Compensation and post-conviction review represent an effort at helping the injured beyond the repair of an actual record. The Law Commission of India Report No 277 has recommended an institutionalized approach as a starting point towards timely remedies in case of false prosecution. A false-confession claimant is likely to have a credibility issue; the prosecution can use his or her own words against him or her. Preserved recordings or forensic evidence should be subject to a workable review mechanism and distribution of disclosure records should be accessible, as well as a review of any knowledge of alleged crime-specific knowledge. Standards of compensation should not presume a forced confession is a voluntary one to a wrongful conviction.³⁶

7. CONCLUSION

False confessions occur at the intersection of interpersonal pressure and cognitive susceptibility and investigative hypotheses. Important sorts of confessional evidence have been excluded under the Indian constitution and statutory principles and a rule excluding a police statement can never be a rule for determining what was done and what was not done by the accused, or whether an apparently voluntary judicial confession is in fact correct or not.⁴¹

The main doctrinal point is that of compulsion, admissibility and reliability. There are constitutional protections for interference with autonomous testimonial choice, statutory protections for proof of specific statements, and factual reliability which relies on the integrity of the investigative process and on external verification. The literature studied by the psychologists determines risks but does not provide any concrete quintal figure on the prevalence of the problem in the country of India and allow any easy conclusion about the guilt of individuals. Currently, the United States have exonerations that show that confusion-of-counsel errors can even be made through prosecution, but their selected sample does no good to replace Indian exonerations. This means the required legal response is thus procedural and evidentiary, not a presumed truthfulness or falseness of the confession.³⁷

³² Mary Catlin, David B. Wilson, et.al., "Interview and Interrogation Methods and their Effects on True and False Confessions: A Systematic Review Update and Extension", 20 *Campbell Systematic Reviews* e1441 (2024).

³³ Gisli H. Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* 63 (John Wiley & Sons, Hoboken, 1st edn., 2018).

³⁴ The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 183.

³⁵ National Registry of Exonerations, "2025 Annual Report" 7 (April, 2026).

³⁶ Law Commission of India, "Report No. 277: Wrongful Prosecution (Miscarriage of Justice): Legal Remedies" (August, 2018).

⁴¹ Gisli H. Gudjonsson, *The Psychology of False Confessions: Forty Years of Science and Practice* 63 (John Wiley & Sons, Hoboken, 1st edn., 2018).

³⁷ The Constitution of India, art. 20(3).

A coherent framework brings together investigative interviewing that is documented, consultation with counsel that is meaningful,

safeguards for the vulnerable persons that are adapted, and preservation of corroborating material and reasoned inspection of the path to confession by the judge that is independent. These measures provide real substance to current safeguards, but do not prevent lawful investigations. Their wider implications relate to the shift from a question of admission to one of whether the facts admitted have been independently established by a process which may be tested. Effective review and proportionate redress is also an inherent part of the administration of criminal justice where a confession is found out to be untrue or a conviction is set aside.³⁸

8. SUGGESTIONS

Specific changes in the process of recording confessions, to review evidence and institutional accountability are necessary to stop miscarriage of justice.

1. **Mandate full-length recording:** The recording of the proceedings from the first substantive custodial question to the last interview should be by the continuous recording of audio-visual. Investigators should make a record of all instances of disruption, and prosecutors should provide full copies to the defence, but under narrowly tailored protective order.
2. **Preserve original interview files:** The original recordings should be kept in a tamper evident repository with a cryptographic checksum, as well as access logs and retention periods, that last through appeal and reopening processes. All viewing copies edited should be traceable to the original.
3. **Require pre-interview evidence inventories:** On a case-by-case basis, investigators should document what facts relating to the crime were already known to the investigators prior to questioning, and once a suspect is informed of what facts. The inventory should be used to separate the information from the trial court's discovery of the evidence of actual independent knowledge from that presented by the interviewers.
4. **Guarantee meaningful legal contact:** Whenever feasible, substance custodial questioning should be preceded by private, prompt access to counsel of choice for persons arrested. Requests for access, consultations and any decision made, after consultation or by the investigating officer's own information, not to proceed with consultations should be recorded by the investigating officer.
5. **Screen for functional vulnerability:** Police should ensure that before an interrogation is booked, a brief written evaluation of understanding, age, communication needs and acute distress is done by supervisors. Interpreters, or specialised support or an appropriate accompanying adult, should be activated when needs are identified.
6. **Control interrogation duration:** In police rules, there should be a requirement for breaks to be timed along with access to food and water and medical referral if there is evidence of fatigue or distress. The reasons for prolonged questioning should be recorded and provided by a supervisor prior to being approved.
7. **Restrict fabricated-evidence ploys:** Legislatures should ban promissory statements or forensic assertions that are knowingly false that the individual would be released if he or she confessed. Training should focus investigators to ask information gathering questions that can be verified to test alternative explanations.

8. **Standardise Magistrate inquiry:** High Courts should adopt a checklist for recording confessions that includes a list of elements, with reasons that address the prior custody, manner of questioning, access to counsel, information provided by the investigator and sleep information. Magistrates should record the suspect's answers and the time period that they were not under police custody.
9. **Isolate corroborative assessment:** Where possible, the forensic lab and witnesses should document their findings first, prior to exposure to the suspect's confession. While courts should recognize that some evidence at trial may corroborate a confession, it is important to differentiate what has already corroborated a confession from what might later be developed by the investigators after admitting the confession.
10. **Create review and redress routes:** State legal services organizations should provide for expert help with the filing of applications involving a significant confession-reliability claim involving new material. Legislatures should contemplate a set payment process for known false prosecution and conviction, and have the ability to have investigatory records kept.

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