

**The risk of wrongful convictions in Israel: Key factors and suggestions for reducing it**  
**In the wake of the book by Boaz Sangero, *Convicting the Innocent in Israel and Worldwide: Causes and Solutions*\***

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**Abstract**

The article discusses the important issue of the risk of wrongful conviction of innocent people in Israel, in the wake of Prof. Boaz Sangero's book, *Convicting the Innocent in Israel and Worldwide*, published in 2014.

The article addresses the following questions: Is there is a real danger of wrongful convictions in Israel? If yes, what are the main reasons for it? Can we estimate the rate of wrongful convictions? And most important, what steps must we take to reduce the risk?

It is commonly accepted that no legal system is free from errors. The key questions are: What is the extent of the risk? Is the current situation satisfactory? If not, what can we do to reduce the risk as much as possible?

I agree that there is no denying the risk of convicting innocent people in Israel. It is not a negligible risk, and it should not be treated lightly. On the contrary, we should address it seriously and examine the various proposals for reducing the risk, while at the same time maintaining a proper balance between all the relevant values and interests.

I share the view of Prof. Sangero that in some important areas the legal situation in Israel is unsatisfactory, particularly with regard to the following possibilities: convicting a defendant based only on his confession during the investigation plus "something else;" convicting a defendant based on the evidence provided by a single identifying eyewitness, without additional evidence; and convicting a defendant by a majority ruling. I therefore agree with Prof. Sangero that we must rigidly observe statutory requirements regarding the possibility of conviction, although the solutions I propose differ from those offered by Prof. Sangero, and are more moderate.

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\* Resling, 2014.

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Some of my proposals concern additions to evidentiary requirements, including stricter enforcement of existing ones and the addition of new ones: corroboration of a defendant's confession made during investigation or made to an informer, or at least external support for the evidence concerning an important controversial point, instead of "something else;" corroboration of the testimony of an accomplice given before the accomplice's trial, or at least supporting evidence that meets two out of the three requirements for corroboration; support for single eyewitness identification testimony and support for the sole testimony of the plaintiff in sex offenses, so that as a rule a defendant cannot be convicted based on such testimony without some additional support, unless the court sees fit to rule based on unsupported testimony for reasons that it specifies.

I also suggest to shorten the detention period imposed until the end of proceedings for cases tried in Magistrates' Court (for offenses that are not under concurrent District Court jurisdiction), from nine months to six. This would reduce the risk that an innocent person detained until the end of proceedings would confess to an offense that he did not commit as part of a plea-bargain in which he admits to a lesser charge and receives a sentence that is shorter than the nine months of detention until the end of proceedings.

Furthermore, I propose changing the law so that as a rule conviction of a defendant must be unanimous, except in the case of a minority opinion of one judge in a panel of more than three judges, or when the dispute is over purely legal matters. In any case, I propose that when the evidence is circumstantial, the exculpatory minority opinion of a single judge should be sufficient to acquit the defendant in Appeals Court.