Convicting the Innocent in Belgium: Historical Exonerations and Their Contemporary Relevance

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Over the past three decades, awareness of wrongful convictions has surged, mobilizing an innocence movement that started in the United States and later expanded internationally. Research into wrongful convictions has contributed to this awareness and remains a crucial component in addressing the issue, also in democracies with ostensibly robust criminal justice systems. In Belgium, however, discussions on wrongful convictions have been limited since the issue is considered an anomaly in this country. This narrative is supported by the apparent absence of formal exonerations. Yet, our research demonstrates that people have been wrongfully convicted and exonerated by the Belgian criminal justice system, including for serious crimes. Drawing on the works of the late journalist Jos Cels, we conducted a comprehensive investigation into historical exoneration cases using open sources, such as the Belgian official gazette and digital newspaper archives. The findings include 28 exoneration cases spanning from 1830 to 1963, involving 33 exonerees. For a subset of these cases, we provide descriptive information and document the factors that allegedly contributed to the wrongful conviction, such as fraudulent forensic expert testimony, and report the grounds on which the wrongfully convicted people were eventually exonerated. This study confirms the existence of historical exonerations in Belgium and takes a first step in collating these seemingly overlooked injustices. Our findings resonate with research on contemporary wrongful convictions across the globe. Given the universal characteristics of wrongful convictions, these historical cases help raise awareness and foster understanding of modern-day injustices, among criminal justice professionals, irrespective of their jurisdiction.

I. Introduction

The fact that people can be wrongfully convicted for a crime that they did not commit is frightening. Not only do such miscarriages of justice impose profound harm on the involved individuals and their families, they can also undermine the public trust in and the legitimacy of the criminal justice system.[1] Moreover, another serious concern is that the true perpetrator remains at liberty, posing a continuing threat to public safety.[2]

The issue of wrongful convictions has gained significant scholarly and public attention over the past decades.[3] As part of the research into the topic, exoneration databases have been developed in which cases of confirmed wrongful convictions are documented. They serve as vital resources for researchers, policymakers, and reform advocates, offering data on exonerations and giving insight into factors contributing to the injustice. Major databases now

[1] Samantha K Brooks & Neil Greenberg, "Psychological impact of being wrongfully accused of criminal offences: A systematic literature review" (2021) 61:1 Med Sci Law 44, online: <https://journals.sagepub.com/doi/10.1177/0025802420949069>; Mark A Cohen, "Pain, suffering, and jury awards: A study of the cost of wrongful convictions" (2021) 20:4 Criminology & Public Policy 691, online: <https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12559>; Seri Irazola et al, "Addressing the impact of wrongful convictions on crime victims" (2014) 274 NIJ 34, online: <https://www.ojp.gov/pdffiles1/nij/247881.pdf>; Jeff, Kukucka, Ashley M Horodyski & Christina M Dardis, "The Exoneree Health and Life Experiences (ExHaLE) study: Trauma exposure and mental health among wrongly convicted individuals." (2022) 28:3 Psychology, Public Policy, and Law 387, online: <https://doi.apa.org/doi/10.1037/law0000358>.

[2] Robert J Norris et al, "The criminal costs of wrongful convictions: Can we reduce crime by protecting the innocent?" (2020) 19:2 Criminology & Public Policy 367, online: <https://onlinelibrary.wiley.com/doi/10.1111/1745-9133.12463>.

[3] Jon Gould & Richard Leo, "One Hundred Years Later: Wrongful Convictions After a Century of Research" (2010) 10:3 Journal of Criminal Law and Criminology 825; Richard A Leo, "The Criminology of Wrongful Conviction: A Decade Later" (2017) 33:1 Journal of Contemporary Criminal Justice 82; Brandon L Garrett "Wrongful Convictions" (2020) 3:1 Annu Rev Criminol 245, online: <https://www.annualreviews.org/doi/10.1146/annurev-criminol-011518-024739>.

exist documenting exonerations in the United States (the National Registry of Exonerations), Canada (the Canadian Registry of Wrongful Convictions), and the United Kingdom (Exeter Miscarriage of Justice Registry). Since 2024, Europa has its own exoneration database with the establishment of the European Registry of Exonerations (EUREX).[4] EUREX registers exoneration cases that occurred in member states of the Council of Europe, covering wrongful convictions dating back to 1970.[5]

In November 2025, EUREX listed 139 exonerations from 20 countries across Europe, such as France, Germany, Italy, and Ukraine. Belgian cases are absent from the listed exonerations. Indeed, Belgian journalists, lawyers, and other practitioners in the criminal justice system have argued that Belgium has no wrongful convictions.[6] There are, however, also scholars, lawyers, and journalists who have asserted that wrongful convictions occur in Belgium and have argued that it would be naive to assume that the Belgian criminal justice system is infallible.[7] In this study, we demonstrate that Belgian wrongful convictions and exonerations exist but have become largely invisible over time due to limited documentation and public access. We systematically identified cases based on existing documentation and analyzed the mechanisms underlying the wrongful convictions and subsequent exonerations. Despite their historical nature, these cases reveal persistent patterns that align with findings from contemporary international research. We begin by providing definitions of wrongful conviction and exoneration, followed by a brief overview of how such injustices may occur and how they can be remedied.

A. Defining wrongful conviction and exoneration

The terminology used to describe individuals erroneously involved in the criminal justice system lacks consistency in the literature. Terms such as "wrongful conviction," "exoneration," "innocence," and "miscarriage of justice" are frequently used interchangeably despite representing distinct concepts.[8] Approximately 40% of psychology publications using

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[4] *European Registry of Exonerations (EUREX)*, online: European Registry of Exonerations <https://www.registryofexonerations.eu/>. [*EUREX*]

[5] *Ibid*.

[6] Ricardo Nieuwkamp & Lore Mergaerts. "Psychologie en recht: een geslaagd huwelijk? Over de moeizame doorwerking van de rechtspsychologie in de Belgische strafprocedure [Psychology and law: a successful marriage? On the difficult impact of legal psychology on Belgian criminal procedure]" (2022) Boom juridisch 215.

[7] Katrien Verhesschen & Cyrille Fijnaut, "Chosen Blindness or a Revelation of the Truth?: A New Procedure for Revision in Belgium" (2020) 13:4 Erasmus Law Review 13, online: <https://www.boomportaal.nl/doi/10.5553/ELR.000183>; Peter J Van Koppen & Robert Horselenberg "Waarom er in België en Nederland geen rechterlijke dwalingen zijn [Why there are no miscarriages of justice in Belgium and the Netherlands]" (2018) 6 Expertise & Recht 276, online: <https://www.petervankoppen.nl/ewExternalFiles/2018%20Waarom%20er%20in%20Belgie%CC%88%20en%20Nederland.pdf>. [*Van Koppen*]

[8] David Hamer, "Conceptions and degrees of innocence: the principles, pragmatics, and policies of the innocence movement" (2023) 35:1 Current Issues in Criminal Justice 81, online: <https://www.tandfonline.com/doi/full/10.1080/10345329.2022.2114870>; Taya D Henry et al, "Are they synonyms? A review of the use of the terms innocence, miscarriages of justice, wrongful conviction, and exoneration." (2025) Psychology, Public Policy, and Law, online: <https://doi.apa.org/doi/10.1037/law0000468>.

these terms fail to define them, and when definitions are provided, they are often inconsistent.[9] Similarly, the aforementioned databases use different terms to refer to seemingly identical concepts or fail to define their terminology altogether. For example, the Canadian database states that "a wrongful conviction occurs when a criminal conviction is overturned based on new matters of significance related to guilt not considered when the accused was convicted or pled guilty".[10] Thus, this database only considers an erroneous conviction to be a wrongful conviction once the courts have officially recognized the error. In the US database, however, this definition would fit what they term an exoneration, defined as occurring "when a person who has been convicted of a crime is officially cleared after new evidence of innocence becomes available".[11] Definitional ambiguity may hamper research comparability, may inadvertently exclude certain categories of wrongfully convicted individuals, and can contribute to public confusion.[12]

Given these issues, we explicitly define the key terms used in this study. We define wrongful conviction as occurring when someone who did not commit the alleged crime (thus, factually innocent) receives a final conviction for that crime. This includes cases where no crime occurred or where the crime was committed by another person. A final conviction refers to a conviction at the conclusion of the regular appeal process, when a defendant no longer has a possibility to appeal the judgment.[13] With this definition we, therefore, exclude cases in which defendants were wrongfully held in pretrial detention, were first convicted followed by an acquittal on regular appeal, or were convicted and sentenced even though they could not be held criminally responsible (e.g., insanity defense). We refer to an exoneration when a final conviction and the associated criminal liability are officially removed by an authorized government body from a person who was convicted of a crime while being factually innocent.[14] In practice, there will be more wrongful convictions than exonerations since it is unlikely that all wrongful convictions are brought back into court after the final conviction. Moreover, when addressed, not all requests for revision are found admissible, let alone result in the acquittal of a wrongfully convicted person.[15]

B. Factors Contributing to Wrongful Convictions

When a case moves through the criminal justice system, various professionals such as police, prosecutors, experts, and ultimately judges and/or juries extensively review and weigh the evidence to reach a verdict. Because the system relies heavily on human judgment, it is

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[9] Henry, *Ibid*.

[10] *About: Canadian Registry of Wrongful Convictions*, online: Canadian Registry of Wrongful Convictions <https://www.wrongfulconvictions.ca/about>.

[11] *Understanding the Registry*, online: The National Registry of Exonerations <https://exonerationregistry.org/understanding-registry>.

[12] Hamer, *supra* note 8; Henry, *supra* note 8.

[13] David Hamer, "Wrongful Convictions, Appeals, and the Finality Principle: The Need for a Criminal Cases Review Commission" (2014) University of New South Wales Law Journal, online: <https://www.austlii.edu.au/au/journals/UNSWLawJl/2014/12.html>.

[14] Jon B Gould & Richard A Leo, "The Path to Exoneration" (2016) 79:2 Albany Law Review 325, online: <https://www.albanylawreview.org/article/70029-the-path-to-exoneration>.

[15] Joost Nan, Nina Holvast & Sjarai Lestrade, "A European Approach to Revision in Criminal Matters?" (2020) 13:4 Erasmus Law Review 102, online: <https://www.boomportaal.nl/doi/10.5553/ELR.000189>. [*Nan*]

vulnerable to the kinds of perceptual, cognitive, organizational, and structural issues that can lead to error. Social science research has therefore played an important role in understanding how wrongful convictions can occur. Studies of exoneration cases in the United States and elsewhere have identified a range of factors that are frequently present in such cases and may help explain the erroneous decision-making that resulted in a wrongful conviction.[16] It is important to note, however, that the presence of these factors does not in itself establish that they caused the wrongful conviction. Most factors commonly observed in exoneration cases are correlates rather than demonstrated causes, and meaningful causal inference requires comparison with other types of cases—such as accurate convictions or "near misses"—to determine whether these factors occur at different rates.[17] That said, research shows that when appropriate comparison groups are used, certain factors can predict differential outcomes among innocent defendants who have been indicted, helping explain why some are ultimately (wrongfully) convicted while others are cleared.

Factors associated with wrongful convictions include false confessions, eyewitness misidentification, errors related to forensic evidence, unreliable informant testimony, and other false accusations, as well as misconduct by officials.[18] We introduce these issues briefly and refer to relevant literature for the interested reader.

Perhaps the most counterintuitive of these factors is when people falsely confess to a crime that they have not committed.[19] Although people assume that they would never confess to a crime they did not commit, scholars have identified contextual (e.g., pressure on the police to solve the crime), situational (e.g., sleep deprivation, long and high-pressure interrogations)

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[16] Brandon Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* (Harvard University Press, 2011), online: <https://www.degruyter.com/document/doi/10.4159/harvard.9780674060982/html>; Fredericke Leuschner, Martin Rettenberger & Axel Dessecker, "Imprisoned But Innocent: Wrongful Convictions and Imprisonments in Germany, 1990-2016" (2020) 66:5 Crime & Delinquency 687, online: <http://journals.sagepub.com/doi/10.1177/0011128719833355>; Mark Godsey, "The Global Innocence Movement" in Daniel S Medwed, ed, Wrongful Convictions and the DNA Revolution, 1st edn (Cambridge University Press, 2017) 356, online: <https://www.cambridge.org/core/books/abs/wrongful-convictions-and-the-dna-revolution/global-innocence-movement/107FD3F5DC9F2B3B406076A74A0FE803>.

[17] For example, see Jon B Gould, Julia Carrano, Richard A. Leo, & Joseph K. Young, "Predicting Erroneous Convictions: A Social Science Approach to Miscarriages of Justice: (2013) 20 Univ of San, online: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2231777>.

[18] Gould, *supra* note 3; Robert J Norris, Catherine L Bonventre & James R Acker, When justice fails: causes and consequences of wrongful convictions, second edition edn (Durham, North Carolina: Carolina Academic Press, LLC, 2021); Ryan Schneider, Jennifer Bartlett & Tina M Zottoli, "Wrongful Conviction" in Wrongful Conviction (Routledge, 2022), online: <https://doi.org/10.4324/9780367198459-REPRW95-1>. [*Schneider*]

[19] Saul M Kassin, "False confessions" (2017) 8:6 WIRES Cognitive Science e1439, online: <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcs.1439>; Saul M Kassin et al, "Police-induced confessions, 2.0: Risk factors and recommendations." (2025) 49:1 Law and Human Behavior 7, online: <https://doi.apa.org/doi/10.1037/lhb0000593>; Kyle C Scherr, Allison D Redlich & Saul M Kassin, "Cumulative Disadvantage: A Psychological Framework for Understanding How Innocence Can Lead to Confession, Wrongful Conviction, and Beyond" (2020) 15:2 Perspect Psychol Sci 353, online: <https://journals.sagepub.com/doi/10.1177/1745691619896608>.

and personal (e.g., young age, suggestibility) factors that make someone vulnerable to falsely confessing, even to murder.[20]

Another contributing factor that has gathered much scientific interest is eyewitness (mis)identification.[21] Eyewitness identification refers to the process in which a witness or a victim identifies who they recognize as the perpetrator, for example, in a lineup at the police station. This identification process can go awry because of reasons that can be classified into two categories: estimator variables and system variables.[22] Estimator variables refer to the circumstances in which the crime was witnessed and that can increase the risk of a misidentification, such as poor lighting, heightened stress, intoxication of the witness, or racial bias.[23] These variables are beyond the control of the criminal justice system. Variables under the control of the criminal justice system are referred to as system variables and relate to the procedures that law enforcement relies on during investigations, such as lineup procedures and interviewing techniques.[24] Misidentification can occur, for instance, when the lineup procedure is biased toward a particular suspect or when interviewers ask suggestive questions.[25] Such improper practices are often unintentional, resulting from a lack of knowledge or awareness. When police officers intentionally obstruct best practices, this constitutes misconduct.

The systematic study of exonerations also revealed that forensic science, often considered as objective 'hard' science, was a major contributing factor to wrongful convictions.[26] That is, forensic science practitioners have provided erroneous testimony

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[20] See for example Gisli H Gudjonsson, "The Science-Based Pathways to Understanding False Confessions and Wrongful Convictions" (2021) 12 Front Psychol 633936, online: <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.633936/full>.

[21] Stephen D Lindsay, et al, "Eyewitness suspect identification: six claims regarding the state of the science" (2025) 33:7 Memory 757, online: <https://www.tandfonline.com/doi/full/10.1080/09658211.2025.2551222>; National Research Council, ed, Strengthening forensic science in the United States: a path forward (Washington, DC: National Academies Press, 2009), online: <https://www.ojp.gov/pdffiles1/nij/grants/228091.pdf>; Annelies Vredeveldt, Robert Horselenberg, R., & Peter van Koppen, "Fundamenten van herkennen [Fundaments of recognition] " in Tussen wet en wetenschap: De psychologie van het recht (Boom juridisch, 2024).

[22] Gary L Wells, "Applied eyewitness-testimony research: System variables and estimator variables." (1978) 36:12 Journal of Personality and Social Psychology 1546, online: <https://doi.apa.org/doi/10.1037/0022-3514.36.12.1546>.

[23] Carolyn Semmler, et al "The role of estimator variables in eyewitness identification." (2018) 24:3 Journal of Experimental Psychology: Applied 400, online: <https://doi.apa.org/doi/10.1037/xap0000157>.

[24] Miko M Wilford & Gary L Wells, "Eyewitness system variables." in Brian L Cutler, ed, Reform of eyewitness identification procedures (Washington: American Psychological Association, 2013) 23, online: <https://doi.org/10.1037/14094-002> .

[25] Gary L. Wells et al, "Policy and procedure recommendations for the collection and preservation of eyewitness identification evidence." (2020) 44:1 Law and Human Behavior 3, online: <https://doi.apa.org/doi/10.1037/lhb0000359>. [*Wells*]

[26] Chris M Fabricant, Junk science and the American criminal justice system (Brooklyn, New York: Akashic Books, 2023); Brandon L Garrett, Autopsy of a Crime Lab: Exposing the Flaws in Forensics, 1st edn (University of California Press, 2021).

resulting from analytical errors and mistaken conclusions regarding the available evidence (e.g., DNA, fingerprints, bloodstains, gun residue). This finding has spurred two national reviews of forensic sciences in the United States that concluded that the forensic field oftentimes does not meet the scientific standards for reliability and validity.[27] Since these reviews, the scientific community has invested in advancing forensic sciences, for example, through the foundation of the Center for Statistics and Applications in Forensic Evidence (CSAFE) and the Organization of Scientific Area Committees (OSAC). Areas of advancement efforts include addressing psychometric and technical limitations, how findings are communicated in reports and in courts (e.g., used terminology and error rate information), and expert proficiency.[28] Another key issue is understanding and minimizing the impact of cognitive bias on forensic analyses.[29] The implementation of bias mitigation strategies and other advancements is, however, an ongoing challenge.[30]

A less studied contributing factor is the use of informants who are incentivized to provide information and testimony to law enforcement.[31] Informants have similar vulnerabilities and are as error-prone as other witnesses, but on top of that, they often receive an incentive for the information or testimony they provide (e.g., benefits in prison, reduction in sentence). Incentives, such as getting leniency or avoiding punishment, have been shown to increase the likelihood that people would lie,[32] making informants a particularly high-risk source of inaccurate testimony. However, informants are not the only source of false accusations in criminal cases. A false accusation occurs when someone provides a false statement about someone's involvement in a crime, and the accuser knows the allegation is untrue or has no reasonable basis to believe it is true. These accusations can come from multiple sources: actual perpetrators seeking to deflect blame, co-defendants attempting to secure favorable plea deals, witnesses with personal vendettas against the accused, or even victims and bystanders who genuinely but mistakenly identify the wrong individual. When false accusations

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[27] National Research Council, *supra* note 21; President's Council of Advisors on Science and Technology, Forensic science in criminal courts: Ensuring scientific validity of feature-comparison methods. (2016), online: <https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/PCAST/pcast_forensic_science_report_final.pdf> .

[28] Garrett, *supra* note 26; Henry Swofford, Strategic opportunities to advance forensic science in the United States : a path forward through research and standards, by Henry Swofford, NIST SP 1319 (Gaithersburg, MD: National Institute of Standards and Technology (U.S.), 4 September 2024).

[29] See for an overview on bias in forensics, Jeff Kukucka & Itiel E Dror, "Human Factors in Forensic Science: Psychological Causes of Bias and Error" in David DeMatteo & Kyle C Scherr, eds, The Oxford Handbook of Psychology and Law, 1st edn (Oxford University Press, 2023) 621.

[30] Carolina Rojas Alfaro et al, "A practical approach to mitigating cognitive bias effects in forensic casework" (2025) 10 Forensic Science International: Synergy 100569, online: <https://linkinghub.elsevier.com/retrieve/pii/S2589871X24001165>; Swofford, *supra* note 28.

[31] Alexandra Natapoff, "Beyond Unreliable: How Snitches Contribute to Wrongful Convictions" (2006) 17 Golden Gate University Law Review 107, online: <https://ssrn.com/abstract=905864> .

[32] Dale Chappell, "Government Snitches: Incentivized Witnesses Are the Leading Cause of Wrongful Convictions", online: <https://www.criminallegalnews.org/news/2019/feb/14/government-snitches-incentivized-witnesses-are-leading-cause-wrongful-convictions/>;
Simon Schindler & Stefan Pfattheicher, "The frame of the game: Loss-framing increases dishonest behavior" (2017) 69 Journal of Experimental Social Psychology 172, online: <https://linkinghub.elsevier.com/retrieve/pii/S0022103116303523>.

are intentional, motivations can be diverse and may include fear of retaliation, revenge, jealousy, or self-preservation.[33] When false accusations are willfully made under oath (e.g., in court), they constitute perjury.

a. Official Misconduct

Official misconduct involves the violation of legal, professional, and ethical standards on the part of police, forensic experts, prosecutors, judges, and defense attorneys.[34] In their report on government misconduct, the American National Registry of Exonerations defines misconduct as intentional behavior that "produces unreliable, misleading or false evidence of guilt, or that conceals, distorts or undercuts true evidence of innocence".[35] The National Registry of Exonerations considers five categories of misconduct typically conducted by police and/or prosecutors: witness tampering; misconduct in suspect interrogations; fabricating evidence; concealing exculpatory evidence, and misconduct at trial such as police perjury or lying by prosecutors.[36]

Witness tampering refers to acts in which the police manipulates or forces witnesses to falsely testify against a defendant.[37] Misconduct in interrogations can involve using coercion, (threats of) violence, and in some situations or jurisdictions presenting false evidence during a suspect interview is also considered misconduct.[38] There are indications that the use of deception by police during an interrogation can increase the risk of false confessions.[39] A third type of misconduct, fabricating evidence, typically involves police officers and forensic experts. Such misconduct occurs, for example, when a police officer plants evidence (e.g., drugs, a knife) at an alleged crime scene or writes up a fabricated confession.[40] Forensic fraud committed by experts can, for example, involve the fabrication of false matches, in which forensic experts falsely link a defendant to a crime scene.[41] A fourth type includes misconduct by prosecutors which typically involves concealing exculpatory evidence. This means that prosecutors break their legal duty to disclose any evidence that could imply a defendant's

[33] James J McNamara, Sean McDonald & Jennifer M Lawrence, "Characteristics of False Allegation Adult Crimes" (2012) 57:3 Journal of Forensic Sciences 643–646, online: <https://onlinelibrary.wiley.com/doi/10.1111/j.1556-4029.2011.02019.x>.

[34] Schneider, *supra* note 18.

[35] Samuel R Gross et al, "Government Misconduct and Convicting the Innocent, The Role of Prosecutors, Police and Other Law Enforcement" (2020) at iii, online: <https://www.ssrn.com/abstract=3698845>.

[36] *Ibid.*

[37] *Ibid*.

[38] *Ibid*; Klara Stephens, "Misconduct and bad practices in false confessions: interrogations in the context of exonerations" (2019) 11:2 Northeastern Univ L Rev 593.

[39] Jennifer T Perillo & Saul M Kassin, "Inside interrogation: The lie, the bluff, and false confessions." (2011) 35:4 Law and Human Behavior 327, online: <https://doi.apa.org/doi/10.1007/s10979-010-9244-2> .

[40] Stephens, *supra* note 38.

[41] Gross, *supra* note 35; Brent Turvey, Forensic Fraud : Evaluating Law Enforcement and Forensic Science Cultures in the Context of Examiner Misconduct Bond University, 2013).

innocence.[42] Lastly, misconduct can happen during the trial itself when, for example, police officers or prosecutors lie in court about the investigation and/or the evidence, when prosecutors misrepresent the law, or when they ask improper or impermissible questions during cross-examination.[43]

In addition to misconduct by police and prosecutors, there can be misconduct by judges and defense attorneys. Misconduct by judges is a sensitive topic because integrity, impartiality, and fairness are core values of the judicial profession and its legitimacy.[44] It is delicate for defense lawyers to imply judicial misconduct and as a result it is seldom mentioned in wrongful conviction investigations and litigation.[45] The reluctance to address potential judicial misconduct makes it difficult to study the issue.

Poor representation by defense attorneys can also be considered as official misconduct. Although defense lawyers are not 'officials' in the sense that they represent the government - not even when they are provided and paid for by the government - we argue that defense attorneys fit into this category as they are an official party in the criminal justice system with legal, professional and ethical obligations towards the defendant. Examples of misconduct by defense lawyers typically involve the failure to investigate and gather exonerating evidence (e.g., testimony of an alibi witness) or familiarize themselves sufficiently with their client's case.[46] Because inadequate legal defense is often a failure to act, such misconduct can be challenging to detect and study.[47]

b. Prevalence of Contributing Factors

Table 1 provides an overview of the prevalence of factors contributing to wrongful convictions as reported in the various exoneration databases. These percentages provide an indication of how frequently the aforementioned factors are present in exoneration cases in the respective jurisdictions. However, databases and jurisdictions cannot be directly compared because of considerable differences. Not only do the databases represent countries with different criminal justice systems, they also differ in methodology. That is, databases may use different definitions and may vary in how and which contributing factors they code. This ties in the broader definitional challenges in wrongful conviction scholarship discussed earlier.[48]

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[42] Margaret Kovera & Melanie B Fessinger, "Prosecutorial Misconduct" in David DeMatteo & Kyle C Scherr, eds, The Oxford Handbook of Psychology and Law, 1st edn (Oxford University Press, 2023) 692, online: <https://doi.org/10.1093/oxfordhb/9780197649138.013.40>; Gould, *supra* note 3.

[43] Russell Covey, "Police Misconduct as a Cause of Wrongful Convictions" (2013) 90:4 Washington University Law Review 1133, online: <https://openscholarship.wustl.edu/law_lawreview/vol90/iss4/2>; Kovera, *Ibid*; Stephens, *supra* note 38.

[44] Nina Varsava, "Professional Irresponsibility and Judicial Opinions" (2021) 59:1 Hou L Rev, online: <https://houstonlawreview.org/article/29552-professional-irresponsibility-and-judicial-opinions> .

[45] Gross, *supra* note 35.

[46] Sheila Martin Berry, "Bad Lawyering-How Defense Attorneys Help Convict the Innocent." (2003) 30 N. Ky. L. Rev. 487; Gould, *supra* note 3.

[47] Gross, *Supra* note 35.

[48] Hamer, *supra* note 8; Henry, *supra* note 8.

We refer to the respective websites for an overview of which factors are included in each registry and which definitions they use.[49]

Table 1: Contributing Factors in Exoneration Cases as Documented in Four Databases

Contributing factor	European database (*N* = 136)	USA database (*N* = 3586)	UK database (*N* = 490)	Canadian database (*N* = 89)
False confession	37%	13%	20%	16%
False accusation	32%	64%	12%	19%
Eyewitness Misidentification	25%	27%	25%	28%
Incorrect forensic science	25%	29%	17%	35%
Use of informants	-	7%	-	20%
Official misconduct	15%	60%	29%	31%
Inadequate defense	-	28%	-	2%

Note. The percentages do not add up to 100% because multiple factors can be present in one case. The empty cells indicate that the database did not report on the factor at the time of writing.

c. Contributing Factors in Belgium

It is unlikely that these contributing factors are absent in the Belgian criminal justice system. There have been cases in which evidentiary issues and official misconduct became apparent during trial. Fortunately, these factors were identified in time and the defendants were acquitted.[50] For example, in the case of Carlo V. H., the judge concluded that the defendant made a false confession and excluded the questionable confession from the admissible evidence.[51] Carlo was acquitted of a murder charge. Moreover, the judge criticized the police investigation and referred to tunnel vision among the police officers. Subsequently, one of the police officers working on the case was convicted of forgery for not truthfully documenting an interrogation session in the official police report.[52] This is a case in which erroneous evidence was rectified in court, but the question remains whether all errors are discovered in time.

[49] European database: https://www.registryofexonerations.eu/;
USA database: https://www.law.umich.edu/special/exoneration/Pages/about.aspx;
UK database: https://evidencebasedjustice.exeter.ac.uk/miscarriages-of-justice-registry/;
Canadian database: https://www.wrongfulconvictions.ca/.

[50] Henry Otgaar et al, "Het belang van foutenmarges in de rechtspsychologie ter preventie van gerechtelijke dwalingen: Een vergelijking tussen België en Nederland op het gebied van academisch onderzoek en onderwijs [The importance of margins of error in legal psychology to prevent miscarriages of justice: A comparison between Belgium and the Netherlands in the field of academic research and education]" in Strafrechtelijk beleid in een vergelijkend perspectief (Boom, 2023)

[51] Dennis Rombaut, Dennis, "The Belgian Confession Tapes : de zaak waar men een onschuldige toch een moord liet bekennen[The Belgian Confession Tapes: The case where an innocent man was made to confess to murder]" (28 October 2020), online: Studio Pegale <https://studio-legale.com/the-belgian-confession-tapes-de-zaak-waar-men-een-onschuldige-toch-een-moord-liet-bekennen/>.

[52] Dendermonde (18 October 2020), online: <https://www.vrt.be/content/dam/vrtnieuws/bestanden/R.P.%20(geanonimiseerd)%2018.10.22.pdf>.

C. Grounds for Revision of a Conviction

When a wrongful conviction occurs, many (yet not all) countries have a revision procedure in place that provides the opportunity to rectify the injustice and exonerate the wrongfully convicted person.[53] Overall, the process of getting a final conviction revised is strenuous because it interferes with the rule of finality.[54] This important principle dictates that the criminal justice system should strive for a final resolution and there should be a limit to the possibilities for defendants to appeal a conviction.[55] Nevertheless, because errors and wrongful convictions occur, there should be the possibility to rectify a wrongful conviction.[56] Although rules and regulations differ by jurisdiction and criminal justice system, general arguments for revision can be identified. Most importantly, someone can be exonerated if there is new evidence that was not available during the initial court proceedings and that demonstrates that the convicted person is innocent.[57] This could entail new forensic evidence (e.g., DNA evidence), new witness testimony or a recanting key witness, a confession from the real perpetrator, or proof of official misconduct such as proof that exculpatory evidence was concealed.

a. Grounds for Revision in Belgium

The Belgian Code of Criminal Procedure (CCP) mentions three grounds for revision (Art. 443 CCP). The first ground involves irreconcilable convictions. This occurs when two or more people were convicted for the same crime in separate cases where it was factually impossible to have multiple perpetrators; therefore, at least one of the convicted persons must be innocent. A second ground is when a witness who played a central role in the conviction was convicted for perjury with respect to the testimony they provided against the defendant. The third and last ground is the discovery of a so-called *novum*, which is a given that was unknown to the judge or jury at the time of the initial trial(s) and, if known, would have resulted in an acquittal, dismissal of charges, or lower classification of the crime. The Belgian CCP uses the broad term ‘given’ to highlight that not only new or newly discovered facts or circumstances can serve as a novum but also new appreciations by or conclusions from experts.[58] Although the first two revision grounds could also be considered as examples of a novum, Belgian legislatures decided to describe these three grounds separately and establish different revision procedures for each ground.[59]

D. The Current Study

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[53] Brandon Garrett, “Towards an International Right to Claim Innocence” (2017) 105:4 California Law Review 1173, online: <https://scholarship.law.duke.edu/faculty_scholarship/3873>; Jon Robins, *Murder, Wrongful Conviction and the Law: An International Comparative Analysis*, 1st edn (London: Routledge, 2023).

[54] Garrett, *Ibid.*

[55] *Ibid*; Hamer, *supra* note 13.

[56] Katrien Verhesschen en Frank Verbruggen, *Niets dan de waarheid? Grenzen aan de waarheidsvinding in het strafrecht [Nothing but the truth? Limits to truth-finding in criminal law]* (2020), online: <https://lirias.kuleuven.be/retrieve/549469>.

[57] Nan, *supra* note 15.

[58] For a discussion, see Verhesschen, *supra* note 7.

[59] See Verhesschen, *supra* note 7.

The Belgian judicial system is infamous for its lack of registration.[60] There is no centralized data available on requests for revision of criminal convictions and their outcomes. The experience of the first author is that this information is scattered and difficult to obtain. It depends on the willingness and availability of instances such as the Court of Cassation or courts of appeal to answer requests for information. With the lack of publicly available official judicial information, we turned to other sources. Specifically, a late Belgian journalist with an interest in wrongful convictions published several works about Belgian exoneration cases. In two Flemish books, this journalist, Jos Cels, documented 28 Belgian wrongful convictions. According to Cels, 21 cases were successfully reviewed resulting in the official exoneration of 26 people, and the other 7 (alleged) wrongful convictions did not end in an exoneration.[61] In the current study, we set out to confirm the exoneration cases through open sources, gather descriptive information about the cases, and document the factors that allegedly contributed to the wrongful conviction as well as the grounds that eventually led to the exoneration. Despite the historical nature of these cases, analyzing the mechanisms underlying these wrongful convictions and their exonerations may give insight into similarities across decades and criminal justice systems. That is, the findings will be contextualized within the broader context of research derived from international databases and contemporary cases.

II. Methods

The cases mentioned by Jos Cels cover a time period between 1830 (the independence of Belgium) and 1963, when the first book of Cels was published which was also the year of the most recent exoneration case he describes. His second book mainly elaborates on one specific wrongful conviction case that was mentioned in the first book (i.e., the conviction of Clementine Lyssens in 1928, see below). Cels reported one case that occurred prior to the independence of Belgium (i.e., conviction of Karel Claus in 1817), however, we decided to use 1830 as a starting point to report on Belgian exoneration cases. In sum, for the period 1830–1963, we sought to identify exoneration cases using two open sources: the Belgian Official Gazette and Belgian newspaper archives.

A. Belgian Official Gazette

The ‘Official Gazette’ (Het Staatblad) is the state’s official daily bulletin in which new laws, royal decrees, and other governmental decisions are published in French and Flemish. This outlet is relevant to the study of exonerations because financial compensations for exonerees are published here. Exoneree compensations are considered official expenses of the Ministry of Justice and are therefore officially reported in the Belgian Official Gazette. Decisions about compensation for exonerees are published using the following statement (translated):

[60] J Decoker, Beredeneerde overtuiging of twijfel: een verhaal over evidente twijfels, betwijfelbare evidenties, perfecte imperfectie en imperfecte perfectie[Reasoned belief or doubt: a story about evident doubts, questionable evidence, perfect imperfection and imperfect perfection] (2024). 25:1 Tijdschrift voor Strafrecht 3.

[61] Jos Cels, Zij waren onschuldig: Ongekende facetten van ons rechtsleven [They were innocent: Unknown aspects of our judicial system] (Opdebeek, 1983); Jos Cels, De gifmoord van Steendorp: Een gerechtelijke dwaling [The Steendorp poison murder: A miscarriage of justice] (De Roerdomp, 1985).

> In application of the article 447 of the Code of Criminal Procedure, amended by the law of June 18, 1894, by royal decree of [date], a compensation of [amount] francs has been awarded to [name], residing in [municipality], allocated from the budget of the Ministry of Justice.

These compensation announcements were used as a starting point to corroborate the cases reported by Cels. The Belgian Official Gazette was systematically searched for such announcements for the period between June 1894 and 1963. The start date of our search (June 1894) corresponds with the month and year in which the law on compensation for exonerees was introduced (i.e. the Act of June 18th 1894 in the Belgian Code of Criminal Procedure). We conducted a manual search in the indices of each quarterly Gazette for Flemish keywords 'herziening' (i.e., revision) and 'strafrecht' (criminal law). For books without an index, each day of the Official Gazette was reviewed for the presence of an exoneree compensation announcement.

B. Digital Newspaper Archives

A second source to confirm the exoneration cases mentioned by Jos Cels was the Belgian newspaper archive. Belgium's national library, the Royal Library of Belgium, collects all Belgian publications and the online platform *BelgicaPress* gives access to a digital archive of 142 Belgian newspapers.[62] The online collection covers the period from the independence of Belgium (1830) until 1950. Our university provided access to the complete database in which a word search was conducted. First, the names of the exonerees were searched, followed by a more general search using the term 'miscarriage of justice' both in Flemish (*gerechtelijke dwaling*) and French (*erreur judiciaire*).

C. Coding

For each identified case, three types of information were coded in an Excel spreadsheet (see https://osf.io/4mtvb/overview): descriptive information about the case, factors that likely contributed to the wrongful conviction, and the grounds for revision. Descriptive information included the name and gender of the wrongfully convicted, the offense type, the (alleged) victim, year in which the offense occurred, year and court in which the person was wrongfully convicted, and the sentence the person received. With respect to the revision procedure, we coded the year in which the request for revision was filed, the year in which the person was released from prison, and the year and court in which the person was eventually exonerated. Additionally, we coded the amount of financial compensation the exoneree received as well as the announcement and publication date of the compensation announcement in the Official Gazette. As mentioned earlier, in addition to these details, information about the grounds for revision and the most central contributing factor(s) was gathered.

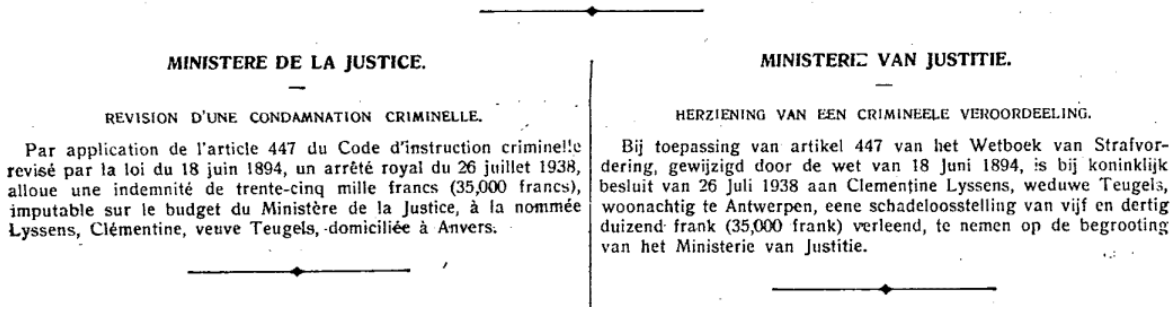
III. Results

The search in the archives of the Belgian Official Gazette started with nine exoneree announcement dates reported by Jos Cels and eight announcements were found. Additionally, Cels had mentioned the names of 10 exonerees without referring to any received compensation: eight of these names were identified in the Belgian Official Gazette. Besides confirming cases

[62] "KBR - Belgicapress", online: <https://www.belgicapress.be/?lang=EN>.

that were reported by Cels, our systematic search of the Official Gazette resulted in nine additional royal decrees mentioning exoneree compensation. Thus, using the Belgian Official Gazette, evidence for 25 exoneration cases (8 + 8 + 9) involving 28 exonerees was found for the period between June 1894 and December 1963 (see Table 2). Figure 1 provides an example of a compensation announcement in the Belgian Official Gazette.

Figure 1: Example of an Announcement of an Exoneree Compensation in the Belgian Official Gazette



MINISTERE DE LA JUSTICE.

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REVISION D'UNE CONDAMNATION CRIMINELLE.

Par application de l'article 447 du Code d'instruction criminelle revisé par la loi du 18 juin 1894, un arrêté royal du 26 juillet 1938, alloue une indemnité de trente-cinq mille francs (35,000 francs), imputable sur le budget du Ministère de la Justice, à la nommée Lyssens, Clémentine, veuve Teugels, domiciliée à Anvers.

MINISTERIE VAN JUSTITIE.

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HERZIENING VAN EEN CRIMINEELE VEROORDEELING.

Bij toepassing van artikel 447 van het Wetboek van Strafvordering, gewijzigd door de wet van 18 Juni 1894, is bij koninklijk besluit van 26 Juli 1938 aan Clementine Lyssens, weduwe Teugels, woonachtig te Antwerpen, eene schadeloosstelling van vijf en dertig duizend frank (35,000 frank) verleend, te nemen op de begrooting van het Ministerie van Justitie.

Table 2: List of Exonerees who Received Compensation from the Ministry of Justice as Published in the Official Belgian Gazette

Exoneree	Amount	Date Royal Decree	Publication date
1. Jozef Lacanne	Not mentioned	07.07.1909	05.08.1909
2. Petrus Vatlet	1500 francs	9.10.1910	22.10.1910
3. Frans Vermeylen	20,291 francs	14.10.1910	23.10.1910
4. Arthur De Gryse	3000 francs	20.10.1910	29.10.1910
5. Hendrik Hubrecht	990 francs	4.01.1911	20.01.1911
6. Herman Schuermans	650 francs	4.01.1911	20.01.1911
7. Julius Lapère	40 francs	5.10.1911	18.10.1911
8. Lodewijk Fiolet	200 francs	25.04.1912	4.05.1912
9. Alfons Van Dorpe	15,000 francs	06.09.1912	28.09.1912
10. Mathias Habets	1000 francs	11.04.1919	11.05.1919
11. Léon Toret	7500 francs	22.12.1920	29.01.1921
12. Joseph Mouchet	6000 francs	03.05.1922	26-27.05.1922
13. Maurits Charlier	Not mentioned	13.12.1922	31.12.1922
14. Maria Van den Bossche	10,000 francs	28.02.1924	16.03.1924
15. Francois Vandenvelde	1,000 francs	11.10.1934	28.10.1934
16. Clementine Lyssens	35,000 francs	26.07.1938	22-23.08.1938
17. Octaaf Wyffels	350,000 francs	21.12.1943	31.12.1943
18. Laurent Devorst	50,000 francs	11.04.1950	18.05.1950
19. André Proesmans; Jacques Stoffels	125,000 francs; 125,000 francs	25.11.1952	18.12.1952
20. Raoul Hoornaert	300,000 francs	31.08.1953	27.9.1953
21. Hubert Masy	65,000 francs	13.10.1953	23-24.11.1953
22. Jean-Léon Malchair	100,000 francs	13.10.1953	23-24.11.1953
23. Alfred De Smet; Cesar Van de Walle; Marcel Vermassen	40,000 francs; 65,000 francs; 70,000 francs	30.11.1961	11.01.1962
24. Michaël Geukens	400,000 francs	11.07.1963	03.08.1963
25. Emiel D'Haens	400,000 francs	17.12.1963	28.01.1964

Through a search in the digital newspaper archive BelgicaPress, we were able to corroborate two more cases reported by Cels and found an additional exoneration that was not reported by Cels. In total, when combining the information from the Belgian Official Gazette and BelgicaPress, we identified 28 exoneration cases including 33 people who were exonerated between 1830 and 1963 (see Table 3).

A. Descriptive Information of the Exoneration Cases

Based on the books by Cels, the newspapers, and the royal decrees, descriptive information about the cases was gathered. For 12 cases (12 exonerees), only minimal information was found based on data in the Belgian Official Gazette (i.e., name, place of residence, announcement date, amount of compensation). For the other 16 cases (21 exonerees), additional information could be obtained and is presented in Table 3.

In these 16 cases, exonerees were convicted for crimes that occurred between 1841 and 1955. Nine involved an armed robbery and in three of these instances, the robbery resulted in the death of one of the victims. Other crimes concerned: four (attempted) homicides, two war-related crimes, and one accessory to burglary and theft. Four people received the death penalty. Fortunately, death penalties were no longer executed in Belgium and they were converted into a lifelong prison sentence. In the other convictions, people were convicted and sentenced to prison terms between 6 months and life. Most exonerees were male (19:2) and eventually spent six months to five years in prison for a crime they did not commit. The wrongful convictions occurred in various types of courts across Belgium: courts of assizes (jury trials), courts-martial (court for members of the military), courts of appeal, and, in one instance, a criminal court of first instance. The exoneration always occurred in a different court than the original conviction, typically in a court of assizes or a court of appeal. That said, some exonerations occurred in a court-martial or a court of first instance. In one instance, of Guillaume Verdenne, the person was exonerated by the Minister of Justice without the involvement of a criminal court. In what follows, we will first discuss what contributed to the wrongful convictions, followed by a brief account of the grounds for revision on which the people were exonerated.

Table 3: Confirmed Exonerees with Information on Type of Crime, Conviction and Exoneration Year, Sentence, and Time Spent in Prison

Name	Sex	Crime	Year of Conviction	Sentence	Year of Exoneration	Estimated years in prison
1. Hendrik Bonné	M	Armed robbery	1842	Death penalty, converted to lifelong penal labor	1843	3
2. Jan-Baptist Bonné	M	Armed robbery	1842	Death penalty, converted to lifelong penal labor	1843	3
3. Jan Geens	M	Armed robbery	1842	Death penalty, converted to lifelong penal labor	1843	3
4. Alfons Van Dorpe	M	Armed robbery	1905	15 years of penal labor	1912	6

5.	Florimond Vermeylen	M	Armed robbery with homicide	1905	Death penalty, converted to lifelong penal labor	1910	5
6.	Emile D'Haens	M	Deserting	1921	1-year prison sentence	1961	1
7.	Joseph Mouchet	M	Homicide	1919	20 years of penal labor	1921	0.5
8.	Maria Van den Bossche	F	Reporting to the enemy	1920	6 months prison sentence	1923	2
9.	Petrus Visschers	M	Accessory to attempted homicide	1924	20 years of penal labor	1928	4
10.	Clementine Lyssens	F	Homicide	1928	20 years of penal labor	1938	4
11.	Francois Vandenvelde	M	Accessory to burglary and theft	1933	1-year prison sentence	1934	1
12.	Octaaf Wyffels	M	Homicide	1935	10-year prison sentence	1943	3
13.	Michel Geukens	M	Armed robbery	1944	4 years and 6 months prison sentence	1961	2
14.	André Proesmans	M	Armed robbery with homicide	1945	lifelong penal labor	1950	3
15.	Jacques Stoffels	M	Armed robbery with homicide	1945	lifelong penal labor	1950	3
16.	Jean Malchair	M	Armed robbery	1945	15 years of penal labor	1953[a]	1
17.	Hubert Masy	M	Armed robbery	1945	15 years of penal labor	1953[a]	1
18.	Guillaume Verdenne	M	Armed robbery with homicide	1945	20 years of penal labor	1947	2
19.	Alfred De Smet	M	Armed robbery	1956	7-year prison sentence	1961	1
20.	Cesar Van de Walle	M	Armed robbery	1956	7-year prison sentence	1961	1
21.	Marcel Vermassen	M	Armed robbery	1956	2-year prison sentence	1961	1
22.	Jozef Lacanne	-	-	-	-	1909[a]	
23.	Petrus Vatlet	-	-	-	-	1910[a]	
24.	Arthur De Gryse	-	-	-	-	1910[a]	
25.	Herman Schuermans	-	-	-	-	1910[a]	
26.	Hendrik Hubrecht	-	-	-	-	1910[a]	

27. Julius Lapère	-	-	-	-	1911 [a]
28. Lodewijk Fiolet	-	-	-	-	1912 [a]
29. Mathias Habets	-	-	-	-	1919 [a]
30. Léon Toret	-	-	-	-	1920 [a]
31. Maurits Charlier	-	-	-	-	1922 [a]
32. Laurent Devorst	-	-	-	-	1950 [a]
33. Raoul Hoornaert	-	-	-	-	1953 [a]

*Note***.** Exonerees marked in grey were convicted and exonerated in the same case: exonerees 1, 2 and 3; exonerees 14 and 15; exonerees 19, 20 and 21. The year of exoneration for exonerees 22 – 33 is an estimation based on the announcement date of compensation. This is a condensed version of the table. The complete table, with additional variables (i.e., involved courts, year of crime, year of release) can be found and downloaded at https://osf.io/4mtvb/overview.

[a] In the available documents, no exoneration year was mentioned, this is the year they received financial compensation.

B. Contributing Factors

Based on the limited information that was available, the most prominent contributing factor could be extracted for 12 cases (14 exonerees; see Table 4). Eyewitness misidentification was mentioned as the main contributing factor in 6 cases. In five cases, a false accusation was the leading contributing factor and in one case, the wrongful conviction was largely due to a fraudulent forensic report.

Table 4: Contributing Factors in 12 Confirmed Historical Wrongful Conviction Cases in Belgium

Key contributing factor	Exonerees
Eyewitness misidentification	Alfons Van Dorpe Joseph Mouchet Michel Geukens Jean Malchair Hubert Masy Guillaume Verdenne
False accusation	Florimond Vermeylen Petrus Visschers Octaaf Wyffels Alfred De Smet, Cesar Van de Walle, and Marcel Vermassen Maria Van den Bossche
Fraudulent forensics (official misconduct)	Clementine Lyssens

a. Cases with Eyewitness Misidentification

Alfons Van Dorpe (convicted in 1905, exonerated in 1912) was misidentified as being part of a group of four men that was seen in the vicinity of the robbery. This group was noticed

and linked to the crime because they were not residents of the town and the men had a reputation of being a gang of thieves from the neighboring city. The town's constable had also seen and recognized the men that afternoon and he provided a list with three names and one nickname to the investigative judge. During the investigation, the investigative judge confronted the constable with a suspect who carried the respective nickname. However, the constable stated that he did not recognize this man as being part of the group. Instead, he mistakenly identified Alfons Van Dorpe, who had also been arrested as a suspect, as one of the four perpetrators he had seen that afternoon. Based on this misidentification, Van Dorpe was convicted along with two other men, despite not actually being part of the gang.

Joseph Mouchet (convicted in 1919, exonerated in 1921) was misidentified by his niece. She told police that she had seen her uncle close to the crime scene 10 to 15 minutes before the crime. Although she had indeed seen him, she was mistaken about the timing of her sighting: more time had passed between seeing him and the occurrence of the crime. In fact, Joseph Mouchet had a strong alibi, with multiple people stating that they saw him and/or were with him elsewhere in the village at the time of the crime. This alibi, however, was ignored at trial.

Michel Geukens (convicted in 1944, exonerated in 1961) was misidentified by the victims of an armed robbery when police confronted them with Geukens in a show-up. That is, the police presented Geukens, who had become a suspect for unknown reasons, to the victims and asked them whether they recognized this man as one of the perpetrators. Two of them readily confirmed, while one was doubtful and believed that Geukens was not the perpetrator. However, later during the investigation, the police organized a second show-up with Geukens and this time all three victims identified him as the perpetrator.

Similarly, Guillaume Verdenne (convicted in 1945, exonerated in 1947) was misidentified by the surviving victim of a home invasion. Two brothers living together had been attacked and robbed by three men in their farmhouse. The surviving brother thought he had recognized Verdenne as one of the perpetrators.

Lastly, Jean Malchair and Hubert Masy (convicted separately in 1945, exonerated in 1953) were also misidentified by witnesses. According to the newspapers, they showed striking resemblances to the true perpetrators.

b. Cases with False Accusations

Florimond Vermeylen (convicted in 1905, exonerated in 1910) was accused of being the main perpetrator by the true perpetrator of a robbery-homicide. At his arrest, the true perpetrator told the police that Vermeylen committed the break-and-entry and assaulted the residents, while claiming he himself was only involved as a lookout. He used this strategy to minimize his role in the crime to reduce potential consequences. The police accepted his version of events and arrested Vermeylen even though there was no evidence that tied him to the crime scene. Both men were convicted, and the strategy worked: the true (and only, it would later turn out) perpetrator received a reduced sentence for his "confession".

Petrus Visschers (convicted in 1924, exonerated in 1928) was falsely accused by a codefendant for taking part in an attempted homicide of a taxi driver. The codefendant confessed to the police that the two had a preconceived plan to rob the driver and steal the car. The robbery, however, went wrong and the driver was shot in the head. Visschers maintained his innocence and stated that he did not know that his codefendant would try to rob the driver.

Octaaf Wyffels (convicted in 1935, exonerated in 1943) was falsely accused of murder by the victim's sister. The victim, a 32-year-old woman, was found dead and buried in the dunes at the Belgian coast. She had been with Wyffels and another friend the last evening she was seen. Rumors arose that Wyffels had something to do with her death, and the victim's sister was especially vocal in her accusations. There was, however, no evidence linking Wyffels to the crime. Journalists who reported on the trial proceedings wrote that the prosecutor stated: "There is no need for evidence! This man is guilty. I take full responsibility". Such a statement may qualify as official misconduct. Yet, Wyffels was convicted of murder and sentenced to 10 years' imprisonment. This sentence was perceived as low given the offence and journalists speculated that the court (i.e., judges and jury in a court of assizes) likely compensated for the doubt they had about the conviction.

Exonerees De Smet, Van de Walle, and Vermassen (convicted in 1956, exonerated in 1961) were falsely accused of an armed robbery by the alleged victim. A milk carrier who transported dairy noticed that the proceeds of the day had disappeared from his truck. The money had been lost or stolen. Fearing that his boss would accuse him of theft, he fabricated a story about being robbed by two men. In subsequent weeks, police arrested two men who were in the area at the time of the alleged crime and who had prior criminal records. The milk carrier identified one of them as one of the so-called perpetrators. Later, a third person, an employee of the dairy farm, was arrested as an accomplice who allegedly provided the perpetrators with information needed to plan the robbery. All three men were convicted based on the fabricated story and testimony of the alleged victim.

Lastly, Maria Van den Bossche (convicted in 1920, exonerated in 1923) was convicted of reporting a neighbor, who was smuggling letters and people across the border during the First World War, to the Germans who were considered the enemy. Her conviction was based on false testimony from multiple witnesses who had planned this accusation to claim compensation from the wrongly convicted.

c. Case with Fraudulent Forensic Testimony

Clementine Lyssens (convicted in 1928, exonerated in 1938) was convicted of poisoning and killing her husband. The conviction was based on a toxicological report by a renowned toxicologist and professor. The forensic expert concluded that arsenic was present in the husband's intestines as well as in the thermos from which the deceased had drunk. This was deemed sufficient evidence by the prosecutor and the jury that Lyssens, who had prepared the coffee, had poisoned him. Throughout the court proceedings, Lyssens, who became known as the 'poisoner of Steendorp', maintained her innocence. In 1932, five years after her conviction, she was unexpectedly released from prison. It turned out that the professor was standing trial for fraud, and during these proceedings, former assistants revealed that the professor manipulated his analyses. One assistant noted that in the poisoning case of Clementine Lyssens, the professor had sent the toxicological report to the investigative judge while the jars containing the remains that were to be tested were still sealed. No toxicological investigation had been conducted, and the report was therefore fabricated. Without this report, there was no evidence that Lyssens poisoned her husband or even that a crime had been committed. The husband had likely died of uremia due to kidney failure, as stated in the death certificate by his doctor.

C. Grounds for Revision

Using newspaper articles and the books of Jos Cels, we were able to extract information about the grounds for revision in 15 cases (20 exonerees). As mentioned in the introduction, the Belgian Code of Criminal Procedure provides three grounds for exoneration: 1) irreconcilable convictions, 2) key witness convicted of perjury, and 3) a novum that was unknown to the court at the time of the conviction and, if known, would have led to a different outcome in favor of the person convicted.

Table 5: Grounds for Revision in 15 Historical Belgian Exoneration Cases

Ground for revision	Exoneree
Ground 1: Irreconcilable convictions	Hendrik Bonné, Jan-Baptist Bonné & Jan Geens Alfons Van Dorpe Michel Geukens André Proesmans & Jacques Stoffels Jean Malchair Hubert Masy
Ground 2: Witness convicted of perjury	Maria Van den Bossche Alfred De Smet, Cesar Van de Walle, & Marcel Vermassen
Ground 3: Novum	Florimond Vermeylen Emile D'Haens Joseph Mouchet Petrus Visschers Clementine Lyssens Octaaf Wyffels Guillaume Verdenne

a. Irreconcilable Convictions

Six exonerations were based on the ground that multiple people were convicted of the same crime while these convictions were incompatible, meaning that at least one of the convictions had to be wrong. This happened for Alfons Van Dorpe. Six years after their arrest in 1904, one of the codefendants became remorseful and confessed that Van Dorpe had not been involved in the crime and disclosed the name of the actual accomplice. After this confession, Van Dorpe was quickly released and the true accomplice was arrested. This person confessed to the crime and confirmed that Van Dorpe was innocent. In 1911, the accomplice was convicted of the crime, which was irreconcilable with the conviction of Alfons Van Dorpe. The latter received a new trial in 1912, during which he was formally exonerated. A similar chain of events happened to Proesmans and Stoffels. After nearly three years' imprisonment, the codefendants became remorseful. They confessed that André Proesmans and Jacques Stoffels had nothing to do with the crime and they named the two actual accomplices. These two men were arrested and confessed to the crime in 1948. Proesmans and Stoffels were immediately released. The true perpetrators were convicted that same year, and two years later, in 1950, Proesmans and Stoffels were exonerated.

In the case of Hendrik Bonné, Jan-Baptist Bonné, and Jan Geens, one of the true perpetrators confessed to the crime and disclosed who else had been involved. These individuals were arrested and convicted for the crime. After this, in 1843, father and son Bonné and Jan Geens were officially exonerated.

Michel Geukens had to wait longer for formal rehabilitation. In 1946, after serving half of his prison sentence, Michel Geukens was suddenly and unexpectedly released from prison. Later he would learn, by chance in a newspaper article, that other men had been convicted of the crime he had been convicted of, albeit in a different court. With this proof of his innocence, he rushed to the prosecutor's office to get his name cleared. The gang who had been responsible for the respective armed robbery had confessed to the crime and their gang leader had provided testimony that explicitly exonerated Geukens. Despite this new evidence (in addition to an already existing alibi), Michel Geukens was not readily exonerated. The Attorney General believed that Michel Geukens was still involved in the crime, be it as an accomplice keeping guard. It would take 15 years and two revision requests before the criminal justice system would exonerate Geukens in 1961.

For Jean Malchair and Hubert Masy, the process went by faster. After their convictions for armed robberies, both in 1945, the investigation into the many burglaries and robberies in the region continued. Less than one year later, a gang of thieves was arrested and evidence was found that this gang was responsible for the robberies Malchair and Masy had been convicted of. The two men were released in 1946 and after the conviction of the true perpetrators, they were formally exonerated somewhere between 1947 and 1953.

b. Witness Convicted of Perjury

In two cases, it was discovered that key witnesses — the alleged victims — had purposefully provided false testimony in court. These witnesses were later convicted for perjury. It concerned the milk carrier in the case of De Smet, Van de Walle, and Vermassen (convicted in 1956, exonerated in 1961), and the witnesses who accused Maria Van den Bossche (convicted in 1920, exonerated in 1923) of reporting to the enemy in war time (see 'Cases with False Accusations'). Following the perjurers' convictions, the people who had been wrongfully convicted based on false testimony were exonerated.

c. Novum

In seven cases, people were exonerated based on a novum that came to the attention of the wrongfully convicted and the criminal justice system after the final conviction. It concerned a given that likely would have resulted in a different outcome for the defendant if the court had known about it. In four of these seven cases, the novum concerned an exonerating confession. That is, someone who had been involved in the crime confessed that the convicted person had nothing to do with the crime. In two cases (Joseph Mouchet; Guillaume Verdenne), the confession originated from the true perpetrator who was later arrested in the context of another crime. In the other two cases (Florimond Vermeylen; Petrus Vissers), the confession originated from codefendants who became remorseful. Note that cases in which the confession by a codefendant or the true perpetrator resulted in the conviction of the true perpetrator, are coded as cases with irreconcilable convictions (i.e., first ground).

In three other cases, the novum involved new exonerating witness testimony. One example is the case of Emile D'Haens, who was convicted in 1921 by a military court for

unlawfully leaving his military squad in 1914 during the First World War. After serving his sentence for desertion, D'Haens continued searching for evidence to prove his innocence. He eventually wrote to the commander of the establishment he had belonged to during WW1. This commander replied that an eviction order by the governor had caused chaos among the troops, and that during such periods of chaos, soldiers were permitted to act at their own discretion. In the subsequent revision procedure, the lieutenant-colonel testified that D'Haens' departure had therefore not been unlawful. Forty years after his wrongful conviction, Emile D'Haens was exonerated in 1961.

Similarly, Octaaf Wyffels set out to prove his innocence once he was conditionally released from prison in 1938. First, he documented and investigated the inconsistencies in the accusation made by the victim's sister. Second, he tracked down two witnesses who heard someone else confessing to the murder and stating that Wyffels was innocent. The confessor had left the country around the time the victim disappeared. He was arrested in 1943 and transported back to Belgium to testify during the revision procedure. In court, however, the man denied having made this confession. A second novum in the revision procedure involved a police officer who had been at the crime scene but never testified at the initial trial. This time, he came forward with new information about the position of the body that was not disclosed before and he informed the court that several facts had been documented incorrectly at the time of the original trial. The combination of this new evidence (i.e., witnesses of another man's confession and unknown facts about the crime scene) was sufficient to exonerate Octaaf Wyffels in 1943, eight years after his wrongful conviction.

In the case of Clementine Lyssens, who was wrongfully convicted in 1928 based on a fraudulent expert report, new evidence demonstrating the unreliability of the toxicologist's investigation and overall credibility issues with this expert resulted in her exoneration.[63] In the request for revision, her lawyers documented new evidence that could be considered a novum. For example, they referred to the civil and criminal proceedings that had been held against the toxicologist. During these proceedings, it was established that he had committed fraud on various levels: embezzling university money, giving fictitious grades to students, and delivering fraudulent expert reports. With respect to the latter, the government department of health reanalyzed the examinations that the expert had conducted in the context of food inspection, and they discovered that none of his results lined up with the results obtained by the Central Laboratory in Brussels. The toxicologist was asked to resign as an expert affiliated with the health department and he was removed from their expert registry. Since these findings were not directly related to the case of Lyssens, her lawyers additionally invited two international experts to evaluate the expert report submitted in her case. Both experts independently concluded that the investigation was scientifically unsound. These elements were sufficient to have the case revised,[64] and Clementine Lyssens was exonerated in 1938.

[63] Rechtskundig Weekblad, "Herziening In Strafzaken. - Omstandigheden Die De Veroordeeling Hebben Beinvloed. - Vertrouwbaarheld En EerLijkheld Van Den Deskundige" (1937) Hof van Beroep te Brussel. 1e Kamer - 13 maart 1937 [Brussels Court of Appeal, First Chamber - March 13, 1937] at 1235–1239, online: <https://rw.be/archief/629/pdf>.

[64] *Ibid*.

IV. Discussion

This study challenges the perception among some Belgian legal professionals and scholars that successful exonerations are virtually absent from the country's legal history.[65] To our knowledge, this is the first systematic examination of historical exoneration cases in Belgium. It builds on the work of the late journalist Jos Cels, whose documentation served as a crucial foundation for this research. Using publicly available sources, we identified 28 exoneration cases between 1830 and 1963, involving 33 individuals. The findings demonstrate that revision procedures were successful for a variety of offenses, ranging from theft and desertion to homicide.

A. Key Contributing Factors and Grounds for Revision

For approximately half of the cases, we identified contributing factors to the wrongful conviction and the legal grounds that led to exoneration. Overall, eyewitness misidentifications and false accusations were the most prevalent contributing factors, consistent with findings in contemporary wrongful conviction research (see Table 1). While investigative methods and legal safeguards have evolved, these issues remain relevant today. Eyewitness errors and false accusations continue to pose risks, underscoring the importance of rigorous investigative practices to mitigate tunnel vision and ensure reliable evidence collection, both incriminating and exonerating. Social science research has made significant strides to identify best practices for criminal investigations, offering evidence-based recommendations for procedures such as suspect identification, witness interviewing, and minimizing cognitive biases among investigators.[66] For example, the use of "show-ups," where a witness is presented with a single suspect, has been shown to increase the risk of misidentification and should be avoided where possible.[67] In practice, however, the police may still decide on applying this identification method when more reliable lineup procedures are not feasible such as in active search-and-detain operations.[68] These insights highlight the ongoing need for criminal justice systems to integrate empirical findings into policy and practice to prevent errors that may lead to wrongful convictions. With respect to grounds for revision, all three grounds available in Belgium—irreconcilable convictions, perjury by witnesses, and a novum—were applied in the historical exoneration cases. The most commonly used grounds were irreconcilable convictions and novum, invoked six and seven times respectively.

B. Importance of Documenting Exoneration Cases

A key contribution of this study is its collation of historical exoneration cases, providing a foundation for future research and public awareness. Currently, Belgium lacks a systematic registry of wrongful convictions or exonerations, even at the Court of Cassation, which is

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[65] *Van Koppen*, *supra* note 7.

[66] Example: Jan de Keijser , Robert Horselenberg & Annelies Vredeveldt, *Tussen Wet en Wetenschap: De Psychologie Van Het Recht*, 1st ed (Boom Jurisdich, 2024); Andy Griffiths & Rebecca Milne, *The Psychology of Criminal Investigation: from Theory to Practice* (Milton: Routledge, 2018); *Schneider*, *supra* note 18.

[67] Margaret B. Kovera et al, "Science-based recommendations for the collection of eyewitness identification evidence." (2022) 58 Court Review 130, online: <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1847&context=ajacourtreview>.

[68] *Ibid*; *Wells*, *supra* note 25.

responsible for processing revision requests. Documenting exoneration cases is essential for preserving history, promoting transparency, and fostering accountability within a criminal justice system.[69] Publicly accessible records allow scholars, journalists, and policymakers to study these cases, draw lessons from past errors, and educate the public about the risks of wrongful convictions. Documentation is necessary to maintain a collective memory concerning these cases.[70] As we have seen in the United States, documentation efforts by scholars, journalists, and advocacy organizations have facilitated the study of wrongful convictions and their contributing factors. This information, in turn, can be applied to improve the quality of a criminal justice system (Hicks et al., 2021).[71] Last but not least, documenting exoneration cases has the potential to promote accountability among criminal justice stakeholders and inform systemic reforms aimed at preventing future miscarriages of justice.[72]

The findings of this study contribute to ongoing discussions about wrongful convictions and revision procedures in Europe, a region where systematic data remain scarce.[73] As highlighted in Nan and colleagues' special issue on wrongful convictions in Western Europe, the absence of comprehensive data hinders cross-jurisdictional comparisons and limits the ability to identify best practices. Transparent documentation of exoneration cases by European jurisdictions would enable more impactful research which may help to increase the fairness of criminal justice systems, by learning from each other's challenges and best practices. The creation of the EUREX database has been an important step in this process.

Moving forward, Belgium could benefit from establishing systematic documentation and reporting of revision requests and their outcomes. Such a system would not only enhance transparency, but also provide a valuable resource for empirical research and comparative analysis. By learning from historical and contemporary cases, Belgian policymakers and legal professionals can work towards a more transparent and accountable system that prioritizes justice and minimizes the risk of wrongful convictions.

C. Limitations and Future Research

This study faces several limitations, primarily stemming from the sources that were used to identify and analyze historical exoneration cases in Belgium between 1830 and 1961. Without an official registry of Belgian exonerations, there is no certainty that all relevant cases have been identified. However, under the 1894 Act, it is reasonable to assume that all financial compensation awarded to exonerees were reported in the Official Gazette and, therefore, included in our search.

Because we relied on the Official Gazette as a source, the extracted case information was limited to basic details such as the exoneree's name, place of residence, announcement date

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[69] Robert J Norris & Kevin J Mullinix, "Framing innocence: an experimental test of the effects of wrongful convictions on public opinion" (2020) 16:2 J Exp Criminol 311, online: <http://link.springer.com/10.1007/s11292-019-09360-7>.

[70] Robert J Norris, *Exonerated: A History of the Innocence Movement* (NYU Press, 2017).

[71] William D Hicks, Kevin J Mullinix & Robert J Norris, "The Politics of Wrongful Conviction Legislation" (2021) 21:3 State Politics Policy 306 at 306-325, online: <https://www.cambridge.org/core/product/identifier/S1532440020000043/type/journal_article>.

[72] *Ibid.*

[73] *Nan*, *supra* note 15.

of the financial compensation, and the amount awarded. To supplement this data, the Belgian newspaper archive, BelgicaPress, was used. However, this source only provides access to newspapers published up to 1950, resulting in incomplete information for 12 of the 33 identified cases. For these cases, only the exoneree's name and compensation year were available (see Table 3). For the cases described in newspaper articles, the accounts often lacked detailed descriptions of the police investigation or court proceedings. For example, critical elements such as eyewitness identification methods or other procedural details were rarely documented. Additionally, newspaper articles may include bias, errors, and inconsistencies. For example, names were spelled differently across the various sources and, in some cases, the chain of events surrounding the crime was described slightly differently between newspapers or between the newspaper and the narrative provided by Jos Cels.

Future research should address these limitations by studying the original court files. Criminal court files for cases more than 100 years old are publicly accessible under Belgian archival law.[74] For more recent cases, access may require formal permission from an attorney general and there may be logistical challenges in finding and accessing the court files. Given Belgium's slow progress on digitizing court judgments and making them publicly available,[75] it is unlikely that such old court files will be digitized any time soon – if ever. Moreover, the physical files may have been destroyed. Criminal court files have a retention period of 20 years after which they are collected for destruction. An exception can be made for cases that had significant societal relevance, as judged by the court's principal clerk; those cases are preserved at the National Archive of Belgium.[76]

Despite these challenges, access to the original court files would enable a more detailed coding of central features such as the crime, the police investigation, the court proceedings, the person wrongfully convicted, the contributing factors, and the grounds for exoneration. Additionally, future studies could employ predefined coding frameworks and assess interrater reliability to enhance methodological rigor, practices not implemented in the current study.

Nevertheless, the current study of historical cases provides insight into Belgian wrongful convictions and past implementations of the revision procedure. A comparative analysis of historical and contemporary criminal revision cases in Belgium would also be valuable. This could reveal how legal standards and judicial approaches to exoneration have evolved. However, such analysis is currently unfeasible due to a lack of data on revision requests and formal exonerations in recent decades. As mentioned earlier, the Court of

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[74] *Archief van hoven en rechtbanken [Archives of Courts and Tribunals]*, online: Rijksarchief in België [State Archives of Belgium] <https://www.arch.be/index.php?l=nl&m=over-ons&r=wat-bewaren-we&sr=specifieke-raadplegingsmodaliteiten&p=archief-van-hoven-en-rechtbanken>.

[75] Laurius, "Stand van zaken: de online databank JustJudgment en de digitale dossiers Justview, JustConsult en JustRestart [Status: the online database JustJudgment and the digital files Justview, JustConsult and JustRestart] " (17 January, 2024), online: LinkedIn <https://nl.linkedin.com/pulse/stand-van-zaken-de-online-databank-justjudgment-en-digitale-vhe0e>; Terzake,
"Digitalisering bij Justitie: kroniek van een eeuwige stilstand | VRT NWS: nieuws" (24 May 2024), online: VRT NWS <https://www.vrt.be/vrtnws/nl/kijk/2024/05/24/tza-kroniek-van-een-lijdensweg-mimir-636ce302-3092-423b-bd01-6db/>.

[76] Federale Overheidsdienst Justitie, "Selectielijst voor de archieven van de rechterlijke macht" (2021) online:<https://www.arch.be/docs/surv-toe/TT-SL/fed/2021_SL_RO_vdef.pdf>.

Cassation does not systematically report on requests for revision and statistics such as frequency and success rates. The relevance of the current study extends beyond the Belgian context in that it provides a first opportunity to compare Belgian exoneration cases with cases in the European and Anglo-Saxon databases. The brief comparison in this article revealed shared characteristics in terms of factors contributing to the wrongful convictions. A more in-depth comparison of case characteristics, contributing factors, and the applied exoneration strategy may provide further insights into universal mechanisms leading to such injustices, but also into what works in reversing miscarriages of justice.[77]

V. Conclusion

In Belgium, the issue of wrongful convictions has not received as much attention as in other countries like the United States or, closer to home, the Netherlands.[78] This study, however, reveals that the Belgian criminal justice system has a history of exonerations that has been largely absent from the Belgian collective memory. Acknowledging these cases is important not only for fostering a more comprehensive understanding of the Belgian criminal justice system, but also for ensuring that such injustices are addressed and prevented in the future. The findings confirm the importance of having a formal and legitimate remedy to correct wrongful convictions. Ultimately, this study aims to expand awareness of wrongful convictions, fostering a broader conversation about their implications for individuals and society.

[77] *Nan*, *supra* note 15.

[78] See EUREX, *supra* note 4; Linda Geven & Karien van den Doel, "Miscarriages of justice in the Netherlands" in Jon Robins, 1st ed, *Murder, Wrongful Conviction and the Law* (Routledge, 2023) 53-64, online: <https://doi.org/10.4324/9781003251484>.