

Europäische Perspektive

Wars on wages. 'Lohngerechtigkeit' in nineteenth-century Belgium

Bruno Debaenst, Uppsala

I. Introduction

In the year 1885, the Belgian socialist Louis Bertrand (1856-1943) published a book entitled 'Essai sur le salaire' ('Essay on Wages' in English).¹ In this work, he examined an array of facets related to wages, delving into a total of sixteen chapters. These encompassed a wide spectrum of topics, including the historical evolution of wages, the dichotomy between natural and nominal wages, the intricate interplay between the natural wage and labor costs, the various modes of wage compensation (whether based on time, such as daily wages, or quantity, such as piecework), the close relationship between wages and the monetary system, the prevailing conditions experienced by wage-earning individuals, a comparative analysis of wages in relation to the concept of property, the role of wages in the expansion of capital, the dynamic correlation between wages and profits, the influence of wages on population dynamics, and the impact of wages on the occurrence of labor strikes.

In essence, Bertrand's 'Essai sur le salaire' provides an exploration of the multifaceted dimensions inherent to the concept of wages, meticulously dissecting the historical, economic, and social intricacies surrounding this fundamental element of labor compensation. In his introduction, Bertrand formulates what I consider to be a commendable definition of the concept of 'Lohngerechtigkeit', a term which proves challenging to translate directly into English. He articulates it as follows: 'Il faut arriver à ce que tous aient, des produits du travail, la part qui leur revient', which can be roughly translated in English as: 'It is necessary to ensure that everyone has, of the products of his or her work, the share that is theirs'.²

The term 'Lohngerechtigkeit' is via its component 'Gerechtigkeit' fundamentally concerned with the notions of fairness and justice. Its essence

1 Louis Bertrand, *Essai sur le salaire*, Berghmans, Brussels/Paris 1885.

2 Bertrand, vi.

lies in the imperative to establish an equitable distribution of the rewards of labor, guaranteeing that each worker receives a just and fair portion of the fruits derived from their efforts. It embodies fairness in the realm of compensation, aiming to rectify imbalances and uphold the rightful entitlement of individuals to the outcomes of their work. The concept of 'Lohngerechtigkeit', in other words, serves as a captivating prism through which to examine the historical trajectory of social law.

In this contribution, my focus will be directed towards three topics within Belgian social legal history in the nineteenth century: collective wage conflicts, individual wage disputes, and the provision of compensation for wage loss subsequent to workplace accidents. I have selected these three topics for two specific reasons. Firstly, because my familiarity with them due to my previous studies allows me to engage with them more comprehensively. Secondly, because I believe that these topics hold the potential to offer intriguing insights into the concept of 'Lohngerechtigkeit'.

II. Collective wage conflicts

Few artistic works encapsulate the tensions inherent in collective wage conflicts as profoundly as the 1886 painting 'Der Streik' ('The Strike') by the German American painter Robert Köhler.³ The canvas portrays an imagined confrontation between a contingent of factory workers (positioned to the right) and their employer (situated to the left). Although the depicted scene is set in Munich, Germany, it readily resonates with the industrial landscape of Belgium, which, following England, was the second nation to undergo industrialization. Notably, the year 1886 holds a mythic stature within Belgian social historiography due to a series of momentous events. During the spring of that year, an industrial upheaval unfolded in the southern regions of Belgium, culminating in a period of collective dissent during the months of March and April. Fueled by the dire conditions brought about by a deep-seated economic depression, workers took to revolt, setting factories ablaze in a fervent display of discontent.

3 James M. Dennis, Robert Koehler's *The Strike: The Improbable Story of an Iconic 1886 Painting of Labor Protest*, University of Wisconsin, Madison 2011. More recently, see Filip Dorsssement (ed.), *On the Artistic Representation of Industrial Disputes in the Shadow of Repression in European Art, from 1870 to 1914 and Beyond*, Springer, Cham 2024.

This upheaval necessitated the intervention of the Belgian military, which regrettably resorted to force, resulting in the loss of life and injury among the workers. The gravity of these events prompted the Belgian parliament to establish a labor commission, charged with the investigation of the working and labor conditions endured by Belgian workers. The outcome of this inquiry yielded a set of recommendations, subsequently paving the way for the introduction of the initial wave of social legislation in the ensuing years.⁴ The legacy of these developments shaped the trajectory of social rights and labor regulations in Belgium, marking a decisive chapter in the nation's social and industrial history.⁵

The events of 1886 indeed stand out for their intensity and brutality, leaving a lasting impact on the collective memory.⁶ However, it is important to acknowledge that collective conflicts were not exclusive to that particular year; they have been a recurring phenomenon throughout history, and it's likely that they will continue to arise in the future. Despite this ongoing nature of collective conflicts, it remains interesting to examine how these conflicts were managed during the nineteenth century in Belgium. By studying the strategies employed to address such conflicts during this period, we gain a deeper understanding of the challenges faced by workers, the role of institutions in mediating disputes, and the ways in which the outcomes of these conflicts contributed to the development of social, economic, and legal labor policies.

The legal framework governing collective labor conflicts during the nineteenth century in Belgium was primarily rooted in the Code pénal (Criminal Code), originally of French origin. Specifically, articles 414 through 416 of this code addressed what was termed the 'délit de coalition' ('coalition offense').

4 On the political debates and development of social legislation from 1886 till 1914, see: *Jo Deferme*, *Uit de ketens van de vrijheid. Het debat over de sociale wetgeving in België, 1886-1914*, Universitaire Pers Leuven, Leuven 2007.

5 *Gita Deneckere*, The transformative impact of collective action: Belgium, 1886, *International review of social history* 38 (1993), 345-367.

6 1886 is generally accepted to be the beginning of social law in Belgium. There was for instance a commemoration day on 12 November 1886 in Brussels. The lectures there were published in a special edition of the journals *Arbeidsblad* and *Belgisch Tijdschrift voor Sociale Zekerheid*: Pierre Van der Vorst (ed.), *Honderd jaar sociaal recht in België. 1886/1887 – 1986-1987. Handelingen van de herdenkingsdag van 12 november 1886*, Paleis voor Congressen te Brussel, Ministerie van Sociale Voorzorg, Brussels 1986. There were also a number of articles dedicated to the centenary in the *Arbeidsblad* of 1987.

Article 414 of the Code pénal targeted those who employed workers, that is, the employers.⁷ If employers engaged in a coalition with the intent of reducing wages, they could face punishment, which might involve imprisonment or fines. Importantly, this punishment was only applicable if the actions were deemed unjust or abusive ('injustement ou abusivement'). In practice, it was tremendously challenging to prove that such employer coalitions had indeed occurred. Employers could convene in small private gatherings to make some agreements, making detection arduous. Even when a coalition of employers operated openly, the legal authorities had the discretion to assess whether wage reductions were justified or not, based on the criterion of 'injustement ou abusivement'. Given the economic nature of these matters, it was often feasible to provide justifiable arguments for such actions, citing factors like adverse economic conditions, international competition, and the like. This complexity explains the absence of documented instances in Belgium where employers have faced legal consequences under these particular provisions. Individual employers maintained the freedom to unilaterally lower wages at their discretion, whereas the criminal code specifically targeted coalitions of employers. The subsequent two articles, namely articles 415 and 416, were directed at the workers.⁸ They were also prohibited from forming coalitions with the purpose of suspending work, thereby seeking wage increases. These provisions were designed to protect the principles of economic liberalism and the tenets of a free market, as earlier articulated by the renowned economist Adam Smith (1723-1790).

7 Article 414 Code pénal : 'toute coalition entre ceux qui font travailler des ouvriers, tendant à forcer injustement ou abusivement l'abaissement des salaires, suivie d'une tentative ou d'un commencement d'exécution, sera punie d'un emprisonnement de six jours à un mois et d'une amende de 200 à 3000 frs.'

8 Article 415 Code pénal : 'toute coalition de la part des ouvriers pour faire cesser en même temps le travail dans un atelier, empêcher de s'y rendre et d'y rester, avant ou après certaines heures et, en général pour suspendre, empêcher, enchérir les travaux, sera punie d'un mois au moins et de trois mois au plus. Les chefs ou moteurs seront punis d'un emprisonnement de 2 à 5 ans.'

Article 416 Code pénal : 'Seront punis de la peine portée par l'article précédent et d'après les mêmes distinctions, les ouvriers qui auront prononcé des amendes, des défenses, des interdictions ou toutes proscriptions sous le nom de damnation et sous quelque qualification que ce puisse être, soit contre les directeurs d'ateliers et entrepreneurs d'ouvrages, soit les uns contre les autres. Dans le cas du présent article et dans celui du précédent, les chefs ou moteurs du délit pourront après l'expiration de leur peine, être mis sous la surveillance de la haute police pendant deux ans au moins et cinq ans au plus.'

Any manipulation of wages was generally viewed unfavorably within this framework.

I have conducted prior research on these legal practices using archival documents published by Hubert Wouters in the 1960s and 1970s.⁹ These documents are interesting because of their comprehensive coverage, providing not only insights into the criminal prosecution but also shedding light on the entire context preceding the events: the social conflicts, their underlying causes, and even potential informal resolutions.

My research has yielded several noteworthy observations, albeit I will refrain from delving into detail here.¹⁰ Firstly, social conflicts frequently arose, often triggered by unilateral alterations in labor conditions or demands for such changes. Employers have been observed to engage in practices such as wage reductions, imposing longer working hours for the same pay, introducing new wage calculation methods, or resorting to other strategies aimed at de facto lowering wages. Conversely, from the perspective of workers, social conflicts could emerge due to demands for higher wages or reduced working hours while maintaining current pay levels.

The resolution of these social conflicts often involved one of the parties yielding. Alternatively, the workers might initiate a collective action. Such actions could take on a defensive nature, with workers spontaneously protesting unilateral changes imposed by employers. They might also assume an offensive character, reinforcing their demands through collective action.

Subsequently, the process often progressed to the stage of criminal repression, typically initiated following a complaint or a plea for assistance from the employers. In these instances, the legal authorities, including the police, the major, and the public prosecutor, first attempted mediation. If these efforts proved ineffective, they proceeded to apprehend the leaders of the collective action.

It is important to note that criminal prosecution did not always ensue. I have encountered cases where employers have requested a refraining from prosecution, citing that the situation had stabilized as the workers had returned to work, and prosecution could potentially reignite the conflict.

9 Hubert Wouters, *Documenten betreffende de geschiedenis der arbeidersbeweging*, 3 Volumes (1831-1853, 1853-1865, 1866-1880), Nauwelaerts, Leuven 1963/1966 and 1970-71.

10 For more details, see: Bruno Debaenst, *Laborers in the courtroom: from a rock to a hard place? Two case studies from nineteenth century Belgium*, *Rechtskultur* 1 (2012) 22-29.

In instances where workers did face prosecution, a disparity in treatment becomes apparent. Particularly in cases involving defensive collective actions, judges frequently deemed the workers' actions justified and subsequently acquitted them. It is noteworthy, however, that even with such favorable rulings, the benevolent decisions of the judges did not avert the fact that the defensive actions had already been suppressed by the legal authorities in the previous phase.

The contemporaries of that time were not oblivious to the inherent injustice posed by the 'délit de coalition' towards the workers. Consequently, a movement was initiated against this criminal provision during the 1850s, known as the 'Movement against the laws on the coalitions' ('Mouvement contre les lois sur les coalitions'). Their persistent efforts bore fruit in 1866 when articles 414-416 were ultimately repealed. In their place, a new article 310 was introduced in the 1867 Criminal Code.¹¹

Subsequent to this revision, the prohibition on forcing wage increases or decreases remained intact, albeit the mere act of coalition was now permitted. In the initial years following the enactment of the new criminal provision, prosecutions were limited in number. However, this landscape changed significantly following the events of 1886, leading to a multiplication in the occurrences of prosecutions.

This figurative 'sword of Damocles' continued to loom over the workers and their associations until 1921, when the socialist Minister of Justice Émile Vandervelde succeeded in the abolition of Article 320 of the Criminal Code.¹²

11 Art. 310 of the 1867 Criminal Code: 'Sera puni d'un emprisonnement d'un mois à deux ans et d'une amende de cinquante à mille francs, ou d'une de ces peines seulement, toute personne qui, dans le but de forcer la hausse ou la baisse des salaires, ou de porter atteinte au libre exercice de l'industrie ou du travail, aura commis des violences, proféré des injures ou des menaces, prononcé des amendes, des défenses, des interdictions ou toute proscription quelconque soit contre ceux qui travaillent. Il en sera de même de ceux qui auront porté atteinte à la liberté des maîtres et des ouvriers, soit en se livrant à des actes d'intimidation à l'adresse des ouvriers qui se rendent au travail ou qui en reviennent, soit en provoquant des explosions près des établissements où s'exerce le travail ou des habitations ou terres occupées par les ouvriers, soit en détruisant ou rendant impropres à l'usage auquel ils sont destinés les outils, instruments, appareils ou engins du travail ou de l'industrie'.

12 On the long struggle for the abolition of the crime of coalition, see: Bruno Debaenst, *Het stakingswapen als politiek breekijzer in de Belgische rechtstraditie*, in: Bruno Debaenst/Bram Delbecque (eds.), *Malcontenten van de moderniteit. Het politiek misdrijf en de politieke structuren in België (1831-2015)*, Academia Press, Gent 2015, 65-84. See also: Bruno Debaenst/Patrick Humblet, *Een andere kijk op de decrimi-*

Viewed through the lens of 'Lohngerechtigkeit', the dynamics of collective wage conflicts manifest as encroachments upon the principles of free market dynamics, thus warranting prohibition according to the criminal code. The prevailing notion was that wage levels should be dictated by market forces. Consequently, both employers forming coalitions to diminish wages and workers seeking to increase them were expressly forbidden by law. This legal framework disproportionately impacted workers, as discerned from the jurisprudential landscape. It is evident from judicial practices that judges exhibited a degree of empathy towards workers who were responding to unilateral alterations in labor conditions imposed by their employers. Consequently, these workers were often acquitted in court proceedings.

III. Individual wage conflicts

The contemplation of individual wage conflicts in Belgium during the nineteenth and twentieth centuries invariably directs attention to the role played by the industrial tribunals, known as 'conseils de prud'hommes'. This institution originated as a creation of the Napoleonic era, amalgamating elements from earlier models of the 'Ancien Régime' – as evidenced by the adoption of the term 'prud'hommes' – while simultaneously introducing novel features. The inaugural instance of a 'conseil de prud'hommes' emerged in 1806 in Lyon, France, as a response to the challenges faced within the silk industry. This innovation rapidly disseminated throughout France, encompassing its territorial expanse within the 'Belgian departments' as well.¹³ The initial establishment of these tribunals in 'Belgium' occurred in 1810 in Ghent and was subsequently replicated in Bruges in 1813. Notably, when Belgium achieved its independence during the 1830-31 period, these remained the sole two industrial tribunals in existence.

Subsequently, the 'conseils de prud'hommes' experienced a notable expansion in three phases. The initial phase spanned from 1842 to 1884,

naliseren van de staking, in: Joachim Meese et al. (eds.), *En passant. Liber Amicorum Philip Traest*, Antwerp, Gompels & Svacina 2025, 265-283.

13 Between 1795 and 1813, the Belgian territories were part of the French Empire. It is therefore anachronistic to talk about 'Belgium' at that time. See: *Bruno Debaenst*, *An Introduction to Belgian Legal Culture*, in: Sören Koch/Marius Mikkelsen Kjølstad (eds.), *Handbook on Legal Cultures. A Selection of the World's Legal Cultures*, Springer Nature, Vol. 1, Cham, 107-145, III.

during which new industrial tribunals were established in the North-Western region of Belgium, with a specific focus on the textile and artisanal sectors. In the subsequent phase, spanning from 1884 to 1927, the industrial tribunals expanded further to encompass the heavy industrial regions in the Southern part of Belgium. The third phase, from 1927 to 1967, marked a period of institutional streamlining, involving the dissolution of excess industrial tribunals and the establishment of new ones in regions that previously lacked them.

The year 1967 brought about a new judicial code that entailed a comprehensive reorganization of the judicial system in Belgium. In this transformative context, the erstwhile industrial tribunals were replaced by labor tribunals and labor appeal courts, representing a significant shift in the competence and nomenclature of these adjudicative bodies. In other words, one has to be careful when wanting to study individual labor conflicts in Belgium during this period. The industrial tribunals were not functioning everywhere all the time – they were only gradually introduced. Even when they were introduced, they did not cover all the industrial sectors, so not all workers were included.

This raises the pertinent question of which authorities were vested with the jurisdiction to address individual labor disputes for workers who fell outside the purview of the industrial tribunals. Primarily, this category encompassed justices of the peace, although instances such as the majors and the civil and commercial courts also must have played a role. Regrettably, there exists a considerable gap in our understanding of this aspect, as this particular area has not yet undergone comprehensive scholarly examination.

The industrial tribunals have, in themselves, garnered rather limited scholarly attention.¹⁴ Notably, only the activities of the industrial tribunal in Ghent have undergone thorough investigation, primarily attributed to Ghent's significance as a prominent industrial textile hub and a birthplace of the workers' movement. The Ghent industrial tribunal, being the most aged and significant among such tribunals, boasts well-preserved archives that endure to the present day. In this vein of research, Kathlijn Pittomvils

14 For a comprehensive exploration of earlier resources regarding the Belgian *conseils de prud'hommes*, it is advisable to refer to the citations listed below; see also for an oversight of the state and perspectives of the history of social law in Belgium: Bruno Debaenst, *State and Perspectives of the History of Social Law – Belgium, Rechtsgeschiede* 24 (2016) 387-392, 389.

has directed her focus towards individual labor conflicts in Ghent spanning the initial half of the nineteenth century.¹⁵

Her research findings underscore that a significant proportion of wage conflicts (85%) in the industrialized textile sector were rooted in employers' reluctance to fulfill wage obligations.¹⁶ Various factors attributed to this reluctance encompassed (alleged) equipment damages, theft or unaccounted material disappearance, subpar work quality, or outstanding debts owed by workers. Remarkably, employers exhibited a degree of compliance in numerous instances, driven by economic considerations or paternalistic tendencies. Additionally, wage disputes also encompassed grievances regarding wage deductions, stemming from factors such as indebtedness, unsatisfactory work performance, or absenteeism. In rare instances, cases revolved around the imposition of fines.

Patricia Van den Eeckhout's scholarly pursuits have also encompassed an investigation within the archival records of the Ghent 'conseil de prud'hommes'. Her focus has centered on diverse facets of labor relations, spanning topics like employment termination procedures and the intricacies of labor contracts. A particular emphasis has been dedicated to the unique perspective of Ghent's foremen – a subset situated within the echelons of the worker's elite. This choice of subject holds significance owing to the abundance of historical insights that it offers.¹⁷

My own research endeavors have revolved around comprehending the evolution and proliferation of industrial tribunals in Belgium, coupled with an exploration of their internal dynamics.¹⁸ More recently, Jasper

15 *Kathlijn Pittomvils*, Alledaagse arbeidsconflicten in de Gentse textielindustrie. De praktijk van de werkrechtshraden in de eerste helft van de negentiende eeuw, *Tijdschrift voor sociale geschiedenis* 21 (1995) 181-211.

16 *Loc. Cit.*, 203-205.

17 *Patricia Van Den Eeckhout*, Giving notice: the legitimate way of quitting and firing (Ghent, 1877-1896), in: Peter Scholliers/Leonard Schwartz (eds.), *Experiencing wages. Social and cultural aspects of wage forms in Europe since 1500*, Berghahn Books, Oxford/New York 2003, 81-109; *Patricia Van Den Eeckhout*, Van werkboekje tot arbeidscontract. De negentiende-eeuwse arbeidsrelaties revisited, *Belgisch Tijdschrift voor Nieuwste Geschiedenis* 35 (2005) 153-200; *Patricia Van Den Eeckhout*, Secrets, Lies and Contracts: Conflicts between Employers and Their Foremen in Nineteenth-Century Ghent (1885-1913), in: *Id.* (ed.), *Supervision and Authority in Industry: Western European Experiences, 1830-1939*, Berghahn Books, New York 2009, 83-110.

18 *Bruno Debaenst*, Op zoek naar de leek in de werkrechtshraden, in: Dave De ruyscher (ed.), *Rechtspreken en lekenparticipatie. Noodzaak of traditie?*, Maklu, Antwerpen 2013, 95-120. See also: *Bruno Debaenst*, *Organisch gegroeid. Van de Gentse*

Van de Woestijne also has embarked on a comprehensive study of the industrial tribunals. His master's thesis delved into the realm of instances of appeal, specifically the 'werkrechtshraden van beroep' or 'conseils de prud'hommes en appel,' who were introduced in 1910 in Belgium.¹⁹ Moreover, between 2021 and 2025, he was engaged in doctoral research on a comparative analysis of industrial tribunals across Belgium, France, Germany, and the Netherlands. This comparative study uncovered underlying patterns and distinctions in the functioning of industrial tribunals within these diverse national contexts.

When looking at the legal practice of the industrial tribunals, we see that customs and equity were important in the first century of its existence in Belgium. In the 1922 proposal to change the 1910 Act on the labor courts, it was formulated as follows: 'For a long time, labor courts (= the conseils de prud'hommes) really had nothing more than to apply customary law and rules of equity. After the introduction of the Labor Contract Act of 10 March 1900, it became necessary to interpret legal texts. From then on, the usefulness of legal expert assistance proved'.²⁰ Especially the secretary seems to have played a vital role. As Jules Vilain expressed it in 1861:²¹ 'The court clerk is the only stable element within the industrial tribunal; he is

werkrechtshraad tot de moderne arbeidsgerechten in België (1810-1970), Flore Claus/Jasper Van de Woestijne (eds.), *De arbeidsgerechten in België*, Die Keure, Bruges 2025, 3-19.

- 19 See: *Jasper Van de Woestijne*, *De werkrechtshraad van beroep van Gent: op het snijvlak tussen arbeid, recht en crisis*, *Pro Memorie* 23, 2 (2021) 149-179; *Jasper Van de Woestijne*, *De werkrechtshraden van beroep (1910-1970) en de ontvoogding van de arbeidsrechtshpraak in België*, *Tijdschrift voor sociaal recht* (2021) 607-638; *Jasper Van de Woestijne*, *Wise minds beyond borders. The legacy of the Napoleonic conseil de prud'hommes on labour adjudication in France, Belgium, Germany, and the Netherlands*, Ghent University. Faculty of Law and Criminology, 2025.

- 20 'langen tijd hadden de arbeidsgerechten eigenlijk niets meer dan het gewoonterrecht en de billijkheidsregelen toe te passen. Na het invoeren van de wet van 10 maart 1900 op het arbeidscontract werd het noodig wetteksten uit te leggen. Van toen af bleek het nut van rechtskundigen bijstand.'

'Memorie van toelichting' on the date of 26 april 1923 'Wetsontwerp tot herziening van de bepalingen der wet van 15 mei 1910 op de Arbeidshgerechten', *Parliamentary pieces of the Senate*, Nr. 130, 5.

- 21 'Le greffier constitue le seul élément stable qu'il y ait au sein des conseils de prud'hommes; il est comme le dépôt vivant des traditions du conseil, dont les décisions sont la plupart du temps orales (...) (il) est l'âme, la cheville ouvrière.' Jules Vilain, *Guide théorique et pratique des conseils de prud'hommes*. (Brussels : Weissenbruch, 1861), ix.

like the living repository of the tribunal's traditions, whose decisions are mostly oral (...) (he) is the soul, the linchpin...'.²¹

In each of these cases, we find a captivating field awaiting thorough research—an exploration of customary labor law during the nineteenth century. This involves an in-depth analysis of the legal practices within industrial tribunals, coupled with a comparative examination of those within the justices of the peace system. An equally intriguing avenue is the investigation of the labor committees, active during the periods of 1843-1848 and 1886-1888, which offer a wealth of information in the form of surveys. This research could be further enriched by drawing upon a diverse range of sources, such as parliamentary debates and professional literature. An additional compelling resource lies in the regulations governing workplaces, known as 'règlements d'atelier' or 'werkhuysreglementen'. An example is the workplace regulation from the Société des laminoirs, forges et fonderie de Jemappes V. Demerbe & Cie which I discovered within one of the criminal files I scrutinized during my PhD research.²² In this text, the following articles can be found (with the original French text provided in a footnote):²³

"Art. 20 Wages are set by the hour, by the day or by the company, depending on the nature of the work for which the workers are employed and

22 Criminal File of the mortal accident of Adolphe Cardinal on 16 June 1900, as preserved in the series 'non lieu' of the Criminal Tribunal of Mons, State Archives Mons, in Mons.

23 Art. 20 Les salaires sont fixés à l'heure, à la journée ou à l'entreprise selon la nature des travaux auxquels les ouvriers sont employés et les conventions prises avec chacun. Le Règlement de ces salaires se fait deux fois par mois, et jusqu'à nouvel avis le 10 et le 25 de chaque mois. Lorsqu'une de ces dates tombera un dimanche ou un jour férié, le paiement aura lieu la veille ou le lendemain.

Art. 21 Pour le contrôle, les ouvriers payés à l'entreprise ont le droit d'assister au pesage des matières premières et des produits bruts ou finis qui servent à déterminer leurs salaires. Les résultats des pesées sont portés à un tableau qui reste affiché dans l'usine pendant toute la durée de la pause, puis sont reportés dans un livre spécial. Tableau et livre peuvent être contrôlés par les ouvriers intéressés. En cas de réclamation quelconque, l'ouvrier doit s'adresser immédiatement au contre-maître ou au chef de service.

Art. 22 Pour recevoir le paiement de leur salaire, les ouvriers doivent se présenter en personne au guichet du bureau où se fait le paiement. Le paiement en mains tiercées n'aura lieu que pour autant que l'ouvrier dépose au bureau de paiement une déclaration désignant la personne qu'il autorise à recevoir en son lieu et place. En cas de réclamation, les ouvriers doivent s'adresser au plus tard le lendemain ou le surlendemain du paiement si le lendemain est un dimanche ou jour férié, au bureau de paiement.

the agreements made with each of them. These wages shall be settled twice a month, and until further notice on the 10th and 25th of each month. If one of these dates falls on a Sunday or public holiday, payment will be made the day before or the day after.

Art. 21 For control purposes, workers paid by the company have the right to attend to the weighing of raw materials and raw or finished products used to determine their wages. The results of the weighing are recorded in a table which is displayed in the factory throughout the break and is then entered in a special book. The table and book may be inspected by the workers concerned. In the event of any complaint, the worker must immediately contact the foreman or the head of the department.

Art. 22. In order to receive payment of their wages, workers must go in person to the counter of the office where the payment is made. Payment in escrow will only be made if the worker deposits a declaration at the payment office designating the person whom he authorizes to receive payment on his behalf. In the event of a complaint, workers must contact the payment office no later than the day following payment or the day after if the day following payment is a Sunday or public holiday.”

I have provided the complete articles above because they offer a variety of insightful details pertaining to wages, which are relevant within the context of ‘Lohngerechtigkeit’ (‘wage justice’). For instance, Article 20 in our workplace regulation defines the method by which wages are determined, considering the nature of the work and the agreements reached among individuals. Additionally, it outlines guidelines for the timing and frequency of payment.

A crucial aspect relates to inspection. To assure workers of fair compensation, they are granted the opportunity to participate in the weighing of raw materials and finished products, with meticulous records kept and accessible for scrutiny. Furthermore, a rudimentary process for addressing grievances is in place: workers are expected to promptly contact the foreman or department head in case of concerns.

Article 23 introduces measures aimed at ensuring the correct disbursement of payments to the intended recipient. In case of complaints, workers are again expected to act promptly.

These provisions clearly indicate that the workplace regulations encompass safeguards to shield workers against potential wage infringements, thus ensuring their ‘Lohngerechtigkeit’ or wage fairness.

These workplace regulations operated as a form of personalized codification, unique to each factory or workplace, reflecting the established customary norms. As posited by Pittomvils, the workplace regulations in Ghent held legal authority subsequent to the resolution passed by the Ghent city council on February 10, 1810, and were enforced by the 'conseil de prud'hommes' in Ghent.²⁴ Originally, there existed no legal requirement for their implementation, yet numerous companies voluntarily adhered to them and often lodged copies with the 'conseil de prud'hommes' for record-keeping and proof in case of disputes. In 1896, new legislation was introduced that made it obligatory for larger companies, those with a workforce of at least ten employees, to adopt these workplace regulations.

It is highly plausible that these workplace regulations significantly influenced the crafting of the 1900 Labor Contract Act. This implies that the Act can be understood as a compilation of the labor practices that had evolved throughout the nineteenth century in Belgium. By formalizing and encapsulating these established practices, the Act played a pivotal role in shaping and solidifying the national legal framework governing labor relations, drawing from historical precedents within the workplace regulations while also addressing the evolving requirements of the changing industrial milieu.

IV. Wage compensation after workplace accidents

Another intriguing facet within the lens of 'Lohngerechtigkeit' revolves around the potential compensation workers received subsequent to a workplace accident. I have scrutinized this particular matter during the latter half of the nineteenth century in Belgium.²⁵ A noteworthy revelation emerged – a considerable number of workers did not receive any form of compensation. In this context, sustaining an injury on the job was not accorded distinct treatment compared to accidents occurring elsewhere. Such incidents were regarded as 'malheurs' – unfortunate occurrences.

24 Pittomvils, *Alledaagse arbeidsconflicten in de Gentse textielindustrie*. De praktijk van de werkrechtssraad in de eerste helft van de negentiende eeuw, *Tijdschrift voor sociale geschiedenis* 21 (1995) (Fn. 15) 201.

25 With reference to my published PhD research in: *Bruno Debaenst*, *Een proces van bloed, zweet en tranen! Juridisering van arbeidsongevallen in de negentiende eeuw in België*, Koninklijke Vlaamse Academie voor Wetenschappen en Kunsten, Brussels 2011.

Victims of workplace accidents, along with their families, were reliant on assistance from their immediate circle, encompassing family members, friends, and charitable organizations, to navigate the financial setbacks incurred due to the loss of income and the expenses associated with a workplace accident. This underscores the absence of a structured compensation system during that era, rendering individuals susceptible to economic challenges following such incidents.

At times, workers did manage to secure modest compensation from their employers, often motivated by a charitable inclination and a sense of paternalistic duty. Concurrently, the emergence of mutual funds (*'caisse de mutualité'*) gained traction, although these were primarily confined to specific vocations, such as miners and fishermen.

An alternative avenue was to resort to legal action, wherein individuals could pursue claims for damages based on extra-contractual liability law (tort law). The legal foundation for this course of action was delineated within Articles 1382 to 1386 of the (Napoleonic) civil code.

Regrettably, the pursuit of "fairness" in this realm was notably constrained. To commence, only a fraction of workers found their way to the courtroom; the majority remained unaware of the potential for legal recourse. Even for those who were cognizant of this option, formidable barriers loomed large. Challenging the very entity that provided sustenance wasn't a straightforward decision. Furthermore, identifying a lawyer who was willing to undertake pro bono work posed an additional challenge.

Compounded by numerous procedural complexities, the path to justice was arduous. The plaintiff bore the onerous responsibility of furnishing substantial evidence demonstrating that the employer's actions had directly caused the accident. In many instances, this causal link was difficult to establish – the accident might have been a consequence of an unknown cause (*'Act of God'*) or the result of the worker's imprudent actions. Even in cases where the employer's liability was evident, the worker had to furnish concrete proof, often relying on witnesses who might have been reluctant to testify. Moreover, legal procedures were protracted affairs, spanning several years, and the prospect of appeals introduced further delays, extending the timeline significantly. It comes as no surprise that a substantial number of plaintiffs, disheartened by the prolonged and arduous process, eventually abandoned their pursuit of justice along the way. Consequently, it is hardly surprising that only a minority of plaintiffs managed to secure compensation as granted by the judges.

Even within the cohort of individuals who did secure compensation, the notion of "fairness" remained a subjective and variable concept. A specific example can serve to illustrate this point.

I have conducted an examination of the damages awarded by the civil tribunal of Mons between 1892 and 1903 following fatal accidents.²⁶ The saying 'In Death, we are all equal' does not hold entirely true, since there is a significant variance in the sums awarded as damages. These amounts span from 100 Belgian francs to 63.210,10 Belgian francs. This phenomenon can be elucidated by examining the identity of the employer. The rationale is straightforward: the financial means of the defendants hold the key. For instance, when the employer was a small business proprietor, like a brewer or a constructor with a limited workforce, the average compensation amounted to approximately 1,250 francs. Conversely, in cases involving substantial corporations like mining companies, the average award surged to around 6,000 francs. Notably, when the Belgian state stood as the defendant, the average compensation skyrocketed to approximately 22,500 francs. In essence, the judicial decisions appeared to be informed by the depth of the defendant's financial resources. In a certain sense, a semblance of 'fairness' can also be discerned within this context, at least for the employers.

In the latter part of the nineteenth century, the emergence of insurance marked a significant development. This commenced gradually, with select companies opting to secure coverage with private insurers. Notably, German insurance companies exerted a prominent presence within the Belgian market.²⁷ In 1903, the Belgian parliament enacted legislation that extended the right to (partial) compensation for damages sustained due to accidents

26 Bruno Debaenst, L'évaluation des dommages-intérêts des accidents du travail à la fin du XIXe siècle en Belgique : le case de Mons, in: Jacqueline Hoareau-Dodinau/Guillaume Métairie (ed.), *La Victime II. La réparation du dommage*, Cahiers de l'Institut d'Anthropologie juridique 22 (2009) 415-438.

27 Curiously, following the conclusion of the First World War, these insurance companies, along with their associated documentation, were placed under sequestration. This accounts for the preservation of robust pre-war archives from entities such as Allianz, Magdeburger Feuerversicherungsgesellschaft, Gladbacher Feuerversicherungsgesellschaft, Germania, Albingia, Atlas, and Victoria. While my intention had been to delve into these archives to explore workplace accident insurances, the constraints of time prevented me from undertaking this study. See: Kristof Carrein, *De sekwestrachieven na Wereldoorlog I: beschouwingen over het ontstaan, het beheer en de aanwending voor (bedrijfs)historisch onderzoek van een unieke verzameling bedrijfsarchieven*, Belgisch Tijdschrift voor Nieuwste Geschiedenis 33 (2003) 425-454, 422.

to all workers covered under the act. This legislative stride can be regarded as the inception of modern social security in Belgium.

V. Conclusion

'Lohngerechtigkeit' serves as an illuminating lens that casts light upon numerous dimensions within the history of social law. Within this discourse, I have employed this multifaceted perspective to scrutinize three distinct phenomena from Belgian social legal history.

Initially, I delved into the realm of collective labor conflicts. Throughout the larger part of the nineteenth century, the attainment of 'wage fairness' was ostensibly bound to the tenets of free market dynamics. This formulation entailed the existence of protective criminal legislation that prohibited both employers and workers from forming coalitions to diminish or augment wages. In actuality, this legislative framework was far from equitable, as it de facto exclusively targeted workers while sparing employers from such constraints.

Moreover, I examined individual labor conflicts in nineteenth-century Belgium. Although often associated with the 'conseils de prud'hommes', the narrative here is intricate. These instances were only introduced gradually and exclusively addressed the individual labor disputes of certain segments of the workforce. Scrutinizing their legal practices reveals a reliance on customs and mediation during the nineteenth century. These customary norms were initially privately codified, eventually culminating in national legislation by the century's end. This legislative codification effort played a pivotal role in safeguarding workers' 'wage fairness'.

Lastly, I explored the domain of compensation for damages stemming from workplace accidents. While not directly concerning literal wages, this sphere pertains to the substitute mechanism triggered by workplace accidents. The nineteenth century unfolds an array of compensation modalities, all of which were limited and uncertain, thereby lacking substantial fairness. The introduction of the 1903 Workplace Accident Insurance Act marked a notable stride towards rectification. The exemplars presented above underscore that 'Lohngerechtigkeit' represents a multifaceted concept capable of unraveling the intricate tapestry of social law's historical complexity.