

## TABLE OF CONTENTS

### RETHINKING THE APPROACH TO WRONGFUL CONVICTIONS IN EUROPE: SOME PRELIMINARY REMARKS

*Luca Lupária*

..... pag. 1

#### PART I

#### MISCARRIAGE OF JUSTICE: CRITICAL ISSUES AND NEW CHALLENGES IN AMERICA AND EUROPE

##### CHAPTER I

##### THE HUMAN FACTOR IN WRONGFUL CONVICTIONS ACROSS NATIONAL BORDERS

*Mark Godsey*

1. Introduction .....	pag.	13
2. Confirmation bias and faulty forensic conclusions.....	»	16
3. Memory problems, eyewitness identification and false confessions .....	»	24
4. Lie detection, tunnel vision and police/prosecutor misconduct.....	»	30
5. Conclusion.....	»	32

##### CHAPTER II

##### INNOCENCE WORK IN THE AMERICAS

*Justin Brooks*

1. Introduction .....	pag.	33
2. The challenges .....	»	34
3. The future .....	»	36

## CHAPTER III

ACCOUNTING FOR THE POTENTIAL  
OF ERROR IN THE EVALUATION OF THE WEIGHT  
OF SCIENTIFIC EVIDENCE*J. Vuille, A. Biedermann, F. Taroni*

1.	Introduction .....	pag.	39
2.	Erroneous scientific evidence.....	»	40
3.	Uncertainty in forensic science.....	»	44
4.	Uncertainty in the evaluation of forensic findings: the role of probability and Bayesian inference.....	»	45
5.	Interpreting scientific evidence with Bayes' Theorem: the example of forensic DNA evidence.....	»	48
	5.1. An introduction to forensic DNA analysis .....	»	48
	5.2. Probabilistic evaluation of DNA profiling results .....	»	50
	5.3. Probabilistic evaluation of DNA profiling results and the potential of error.....	»	52
6.	Conclusion.....	»	55

## CHAPTER IV

WRONGFUL CONVICTIONS  
AS A RESULT OF POLITICAL PRESSURE*Martin Killias*

1.	Wrongful convictions: an American subject? .....	pag.	57
2.	Factors that increase risk of miscarriages of justice .....	»	59
3.	Almost forgotten: "intentional" miscarriages of justice .....	»	62
4.	Outreau and DSK: two cases in France .....	»	64
5.	The Torino Eternit trial: an emblematic case.....	»	65
	5.1. The background.....	»	65
	5.2. The defendant and asbestos.....	»	67
	5.3. Reactions to a tragedy of huge dimensions .....	»	70
	5.4. Confusing legal technicalities.....	»	71
	5.5. Distorting facts .....	»	75
	5.6. The <i>Deus ex machina</i> : the Supreme Court.....	»	77
	5.7. Not over yet.....	»	78
6.	Preventing and remedying abusive trials.....	»	79

**PART II**  
**WRONGFUL CONVICTIONS IN EUROPE:**  
**PREVENTION AND REMEDIES**

CHAPTER V

THE EMERGING PHENOMENON OF WRONGFUL  
CONVICTIONS IN THE NETHERLANDS:  
CAUSES AND SOLUTIONS

*G.G.J. Knoops, E.L.I. Bell*

1.	Introduction .....	pag.	83
2.	Identifying the number of wrongful convictions .....	»	86
	2.1. Introduction: comparative issues .....	»	86
	2.2. Wrongful conviction ‘crimes’ .....	»	87
3.	Reopening criminal cases within the Dutch criminal justice system .....	»	89
	3.1. Introduction .....	»	89
	3.2. The law on redressing miscarriages of justice .....	»	89
	3.3. The ACAS system .....	»	95
4.	Causes of wrongful convictions .....	»	98
	4.1. False confessions and true denials .....	»	99
	4.2. Forensic errors .....	»	103
5.	The inquisitorial justice system and its impact upon miscarriages of justice .....	»	105
6.	Conclusions and recommendations .....	»	109

CHAPTER VI

MISCARRIAGE OF JUSTICE AND AWARENESS  
OF THE ITALIAN JUDGE

*Giuseppe Gennari*

1.	Premises .....	pag.	111
2.	The inertia effect on wrongful convictions .....	»	112
3.	What can we do in Italy to protect innocent people? ....	»	114

CHAPTER VII

REMEDIES FOR MISCARRIAGE OF JUSTICE IN ITALY

*Mitja Gialuz*

1.	Introduction .....	pag.	117
2.	Revision as main mechanism of reparation for miscarriage of justice .....	»	121

3.	The exclusion of partial revision .....	pag.	124
4.	The scope of application of revision.....	»	125
5.	Revision and new scientific evidence.....	»	128
6.	Compensation for miscarriage of justice .....	»	133

### Chapter VIII

#### WRONGFUL CONVICTIONS IN THE FRENCH CRIMINAL JUSTICE SYSTEM: SOME CONSIDERATION

*Sylvain Cormier*

1.	Introduction .....	pag.	137
2.	The revisions obtained before the law of 20 June 2014. ....	»	140
3.	Since the law of 20 June 2014: the Machin case .....	»	142

### PART III

#### THE EXPERIENCE OF THE INNOCENCE PROJECTS IN EUROPE

##### CHAPTER IX

#### THE COMMON VOCABULARY OF INNOCENCE: INTERNATIONALIZATION OF THE INNOCENCE NETWORK AS A HUMAN RIGHTS ORGANISATION

*David Langwallner*

1.	By way of an introduction .....	pag.	149
2.	Local differences .....	»	151
3.	What then do we have in common?.....	»	153
4.	Students: embedded learning and human right consciousness .....	»	158
5.	Conclusions .....	»	161

##### CHAPTER X

#### THE UK INNOCENCE MOVEMENT: PAST, PRESENT, AND FUTURE?

*Holly Greenwood*

1.	Introduction .....	pag.	163
2.	The UK innocence movement: the background .....	»	164
3.	Research summary.....	»	169

4.	The UK innocence movement: an overview.....	pag.	170
4.1.	Limitations of the innocence project model .....	»	170
4.2.	Systemic problems .....	»	176
5.	A view to the future.....	»	183
6.	Conclusion.....	»	191

## CHAPTER XI

WRONGFUL CONVICTIONS IN POLAND  
AND THE POLISH INNOCENT PROGRAM*Maria Ejchart – Dubois*

1.	Introduction .....	pag.	193
2.	Empowerments and major activity of Innocence Clinic .....	»	194
3.	Causes of miscarriage of justice .....	»	197
3.1.	Scene examination.....	»	198
3.2.	Identification parade and incorrect identification by a witness .....	»	199
3.3.	Admission of guilty .....	»	201
3.4.	Expert witness .....	»	202
3.5.	False accusation.....	»	204
4.	Summary .....	»	206

## CHAPTER XII

WORKING WITH STUDENTS IN INNOCENCE  
EFFORTS: MERITS AND CHALLENGES*Martina Cagossi*

1.	Premises.....	pag.	207
2.	Clinical legal education in United States and Europe....	»	208
3.	The benefits from working in an innocence project law clinic .....	»	213
4.	The Italy Innocence Project.....	»	216

**PART IV**  
**MISCARRIAGES OF JUSTICE**  
**UNDER A SOUTH AMERICAN PERSPECTIVE**

CHAPTER XIII

WRONGFUL CONVICTIONS IN CHILE:  
 CHALLENGES FOR THE NEW  
 CRIMINAL PROCEDURE

*A. Alvarado Urizar, I. Castillo Val*

1.	Introduction .....	pag.	221
2.	The origin of concern for the wrongfully convicted people: identifying the problem and its causes .....	»	224
3.	The Chilean experience on wrongful convictions .....	»	225
	3.1. Criminal procedure reform: from an inquisitorial procedure to an adversarial design ..	»	225
	3.2. Brief analysis of the effective progress of the reform .....	»	227
	3.3. The role of precedents in general .....	»	229
	3.4. Role of appeals for review before the Supreme Court.....	»	230
4.	The conviction of innocent defendants in the new Chilean criminal procedure: selected case analysis .....	»	236
	4.1. The Lobos Parra case .....	»	237
	4.1.1. Analysis of the trial and conviction of the V Oral Criminal Court of Santiago ..	»	237
	4.1.2. The Police's tunnel vision.....	»	238
	4.1.3. The state prosecution's tunnel vision .....	»	239
	4.1.4. The court's tunnel vision .....	»	240
	4.1.5. Analysis of the appeal for review and the Supreme Court's decision .....	»	244
	4.2. The Robles Vergara case .....	»	247
	4.2.1. The case and the trial court's decision analysis and the appeal for annulment ...	»	247
	4.2.2. Appeal for review and the Supreme Court decision's analysis .....	»	255
5.	Conclusions .....	»	257