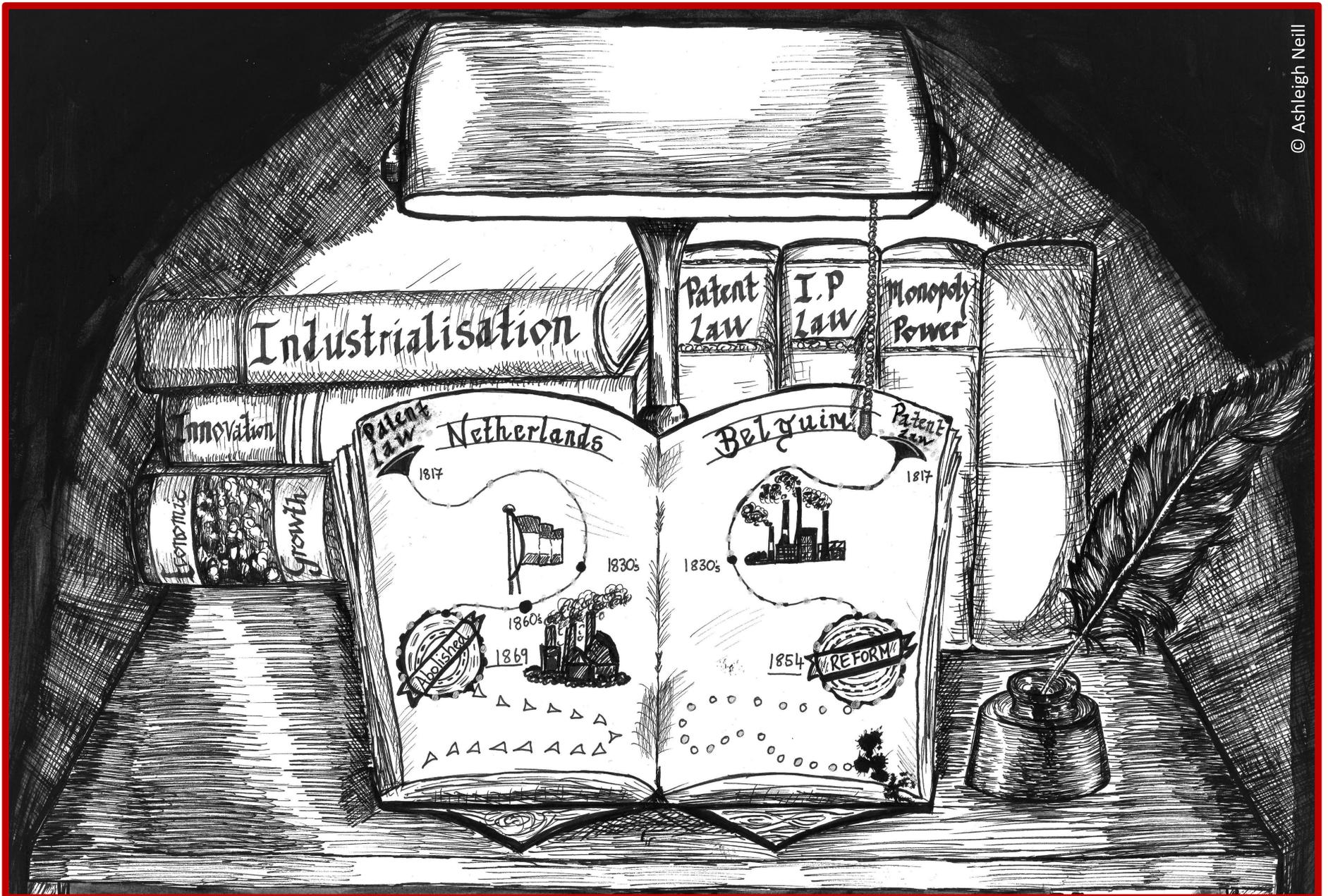


A Unique Patent Law

The Patent System in the Netherlands before Abolition, 1815-1869

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1. Overall Problem

- Belgium industrialised early (1830s) while the Netherlands industrialised late (1860s), but they shared the same patent law.
- Why did NL abolish (in 1869) and Belgium reform (in 1854)?
- What was the role of the patent system?

2. Relevance

- Debate on relationship patents and industrialisation (Khan 2005, Galvez-Behar 2008, Bottomley 2014)
- Only one earlier study of the Dutch patent system (Doorman, 1947)
- The Dutch/Belgian system was a unique patent law we can learn from
- Two polities shared the same law, revealing the role of informal institutions and administrative practices in the patent system

3. The system: a flexible law

- State discretion on
 - Interpretation of the definition & whether to grant a patent
 - Whether to give a reward (prize) or a patent
 - Patent length (5, 10 or 15 years) and prolongation
 - Costs (was lump sum, but could be made free)
 - Further conditions: Open license, working clause
 - Transfers of patents
 - Nullification of patents
- Court discretion on
 - Infringement and punishment

4. Application: Diverging Paths after 1830

Belgium (Péters, 2014)	Netherlands (own research)
Strong administrative focus: policymaking, standardisation	Weak administrative focus: no policies, reactive
Protectionism: examination on utility and novelty	Liberalism: examination increasingly only on novelty

5. A Crucial Divergence in Case law

Case (Derosne vs Rupe): A sugar refinery buys a refining machine from a patent holder. The machine satisfies the factory owner. Rather than placing a new order, however, he asks local workmen to copy the machine. Was he allowed to do this?

- Dutch court (1846): yes. The law only protects production *and* selling. Principles of liberty and privacy of individuals would be so harmed otherwise
- Belgian court (1845): no. Allowing own use of the patent severely harms the benefits of obtaining a patent.

6. Conclusion

- Path dependency seems to have played a large role in the development of the administrative practices and the informal institutions surrounding the patent system
- The relationship between these specific patent institutions and industrialisation unclear. The Netherlands industrialised without patents (Schiff, 1971), while Belgium industrialised with a strong focus on them.
- Work in progress: who made use of the system? What sort of incentives did it give, and to whom? Did the Dutch government discriminate against foreigners -> quantitative analyses on the basis of the patent registries