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GUILTY OF NOT DOING THAT! / Marco Mazzocca

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Abstract: *Since ancient times, many legal constructions regarding blame or responsibility require subjects to be deemed accountable for their actions as well as for their omissions. The primary purpose of this work is to account for some legal and philosophical issues regarding the so-called negative events (i.e., events that have not occurred) through the development of two simple ideas. The first idea is to consider that, in most cases, a negative event is simply a normal positive event described negatively. The other idea is to distinguish the causal explanations of an event from the causal reports of an event. In this sense, it is shown how these two ideas not only clarify some fundamental philosophical issues, but they are also an excellent starting point for the interpretation and the application of some legal rules concerning omission.*

Key words: *event-based perspective of law; events; negative events; omission; causal omission; simple omission; omission in law*

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1. INTRODUCTION

The world we live in is extremely complicated. If someone is asked to write a catalogue of all that is in the world, that person will likely include not only the objects or persons who inhabit our planet but also anything that happens to these objects and people (see e.g. Broad, 1923, p. 242).[1] If then this individual is a lawyer, he or she will likely tell us more than just what happens in the world: He or she might tell us also what ought to happen in the world.

In the Law School, indeed, jurists learn to distinguish between what the case is and what the case ought to be. In this sense, suppose that a car is parked above the yellow lines. In that case, even if it is the case that the vehicle is parked on the yellow lines, that ought not to be the case according to the law. Similarly, for example, even if it is not the case that a tenant paid the rent, he or she ought to have paid for it according to the

[1] This "catalogue" is a simple list of what is around us and to which we usually refer when we speak or when we plan our actions. It is, in other words, a catalogue of everything that exists, has existed, and also of what, perhaps, may exist in the future. In this regard, the first author to use this metaphor was likely Charlie Broad.

law (and the contract she signed) (see e.g. Bix, 2000, pp. 1613–1624; Evans & Elqayam, 2018; Sinha, 1976, pp. 839–859).[2]

The two cases just mentioned – the parking on the yellow line and the non-payment of the rent – although similar, are different. While the first is an event that the law forbids, the second is an event that the law prescribes. But there is more: as the careful reader has already noticed, while in the first case the event seems like it happened, in the second the event did not occur. It should have happened, but it did not. And it is precisely on these particular not-occurred events that this brief essay focuses.

Indeed, the main objective of this work is to outline some of the most important philosophical issues related to the so-called negative events (i.e., events that did not happen) while showing their legal relevance. Specifically, after briefly outlining the concept of "event" and explaining why it is crucial even in the legal field, this paper focuses on two kinds of legally relevant omissions. Finally, in order to address some legally relevant issues related to the omissions, some philosophical strategies are suggested.

2. EVENT

Once one takes seriously the hypothesis that certain actions and events should be included in the catalogue of what there is in the world, the variety certainly would not be lacking: there are voluntary events (such as the stabbing of Caesar by Brutus) and involuntary events (such as the manoeuvre with which Jess hit a pedestrian), simple events (such as a shot) and complex events (such as the shareholders' meeting of a public limited company), positive events (such as the signing of a contract) and negative events (such as the non-payment of taxes). It is a list that could go on for a long time (cf. Varzi, 2001, pp. 39–40).

Of course, the variety of events just considered is not just about legal events. However, before going any further it is necessary to clarify what is meant by the word "event." In this regard, it should be noticed how some philosophers argue that events should be treated as concrete entities that occupy a specific space-time region. According to Quine (1960, p. 131), indeed: *"Physical objects [...] are not to be distinguished from events [...] Each comprises simply the content, however heterogeneous, of some portion of space-time, however disconnected or gerrymandered."*

Thus, according to this conception, the objects themselves would be nothing more than "long event[s]." (Broad, 1923, p. 393; cf. Varzi, 2001, p. 45).[3] Sometimes it certainly seems not so easy to locate the spatial-temporal boundaries of an event. However, we must not let ourselves be deceived: these are semantic problems, not metaphysical ones. If we cannot be precise about an event, this does not mean that the event itself is vague, but simply that we are talking vaguely (maybe because we have a vague idea of what happened). We are often unable to be precise, but that does not mean that the responsibility for this lies with the things we are talking about (Varzi, 2001, p. 47).

According to other philosophers, on the contrary, it is possible to characterize events in a pluralistic way rather than a monistic way – without using, at the same time, the semantics of possible worlds. In this regard, for example, the philosopher Jaegwon

[2] The bibliography on the distinction between *is* and *ought to* in legal philosophy is enormous. Since it is not possible to account for all this considerable bibliography which, starting from Hume's *Treatise of Human Nature* (1739), has been constantly enriched with new contributions, I only mention the works of Sinha, Bix, and Evans and Elqayam. These works could be considered as a valid starting point for the study of such a topic.

[3] It should be noted, however, that even if we support a philosophical position of this kind, we could still maintain a certain difference between events and object, being the first entities that *protract* over time, while the second are entities that *persist* over time.

Kim (1973, p. 222) suggested to characterize an event in the following way: *"We think of an event as a concrete object (or n-tuple of objects) exemplifying a property (or n-adic relation) at a time."*

In this sense, it might seem like a reductionist conception according to which events are related to other entities. However, at a closer look the properties mentioned in Kim's formulation would correspond to events understood as universal and, consequently, the individual events would be nothing more than recurrences of such universals. To explain this point, let us imagine a material object such as an apple. Suppose that after we perceive its shape, colour, weight, and all its other properties, we notice that its colour is precisely the same red as the bicycle parked outside the Empire State Building. The apple and the bicycle would then have a common property. Obviously, the red of the apple and the red of the bicycle are two distinct things: they are examples of the same property but in two different places and times and as such, they are particulars. Moreover, since they are properties that can be exemplified, in this case, by two different objects (an apple and a bicycle) (Varzi, 2001, p. 51) which, in turn, simultaneously exemplify other properties, we can conclude that they are abstract – and not concrete – particulars. They are what Donald Williams (1953) calls "tropes."

According to this last conception, thus, all events are tropes. Therefore, if exemplifications of different properties are different tropes, then exemplifications of different "event-proprieties" are different events. In this sense, for instance, "killing" is different from "killing violently" which, in turn, is different from "killing violently with premeditation".

These two different positions on events, the radical "unifiers" position (the monistic one) and the radical "multipliers" position (the pluralistic one), provide us with two different perspectives on what happens in the world. Both, however, tend to consider events as particular entities placed in a specific time and space. Both positions, in other words, are inclined to consider events as particular entities that can occur but not recur – in other words, an event may happen one time and one time only. But when it comes to examining events from a legal perspective, the legal philosophies seem to confuse matters.

In this sense, for instance, those who adopt a philosophy of natural law might be comfortable with Kim's position. They probably would say that legal events, after all, are nothing more than exemplifications of property-events plus one legal propriety: being against (or in accordance) with the natural law. Slightly different would be the response of the legal positivists. For the latter, legal rules would be nothing more than a long list of abstract event-properties which, if exemplified by an event, might trigger some legal consequences. In the first case, therefore, the task of the natural law theorists would be to understand if an event exemplifies all properties (including the legal one). In the second case, on the other hand, the task of the scholars of the legal positivism is to discover if some properties exemplified by an event appear in a legal norm – there are no legal properties.

The position of the theorists of legal realism (or of some of its derived theories) is also different. Of course, since both legal realism and legal positivism consider law as a human construct, they do not differ so much – in certain respects. However, unlike the positivists, realists think that the law does not provide determinate guidance to the solution of concrete legal cases. That is precisely the point for legal realists: "*statutes and the like may be law, but […] Because the law is indeterminate, judges actually decide cases on the basis of nonlegal considerations*." (Green, 2005, p. 1918) For this reason, in the opinion of legal realists, the task of lawyers should be to convince a judge (or a jury) that a specific event is (or is not) a specific legal event – using even non-legal arguments.

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In any case, whatever legal-philosophical position one adopts, when something that ought not to happen occurs, a good lawyer should at least be able to recognize the difference between what the case is and what the case ought to be according to the law. It seems more problematic, instead, to solve those cases in which something that, according to the law, ought to have occurred does not happen.

3. OMISSION

As everyone knows, in our ordinary world events happen or do not happen. It happened that the sun rose this morning at 5:01 a.m. in Košice, just as it happened that someone shot John F. Kennedy in Dallas on November 22, 1963, at 12:30 p.m. However, many events have not happened: some of them could have happened, but they have not happened – they are somewhat "unactualized possible" (Quine, 1948, p. 22) events. Some other events, on the other hand, could never have happened – they are "impossible events".

The problem, as Davidson (1985, p. 175) rightly explained, is that we "*often count among the things an agent does things he does not do*". In this moment, for example, I am not drinking coffee, I am not riding a bike, and I am definitely not dancing. Of course, if someone asked me what I am doing, I can simply answer that I am writing this short essay, but the answer may vary depending on the context. Suppose, for example, that my doctor, worried about my health, calls me and asks me what I am doing. I would likely say to him that I am not drinking coffee. This is because in that context my doctor would not be interested in what I am doing but in knowing if I am overdosing on caffeine.

In this sense, many philosophers argue that talking about events that do not happen is like talking about objects or people that do not exist. Of course, no one can forbid us to say that "the present king of France is bald," but that would be a bizarre statement since, as far as I know, there is no king in France today (see Quine, 1948; Varzi, 2001, pp. 22–23; cf. Russell, 1905, pp. 479–493; Berto, 2010; Meinong, 1904, pp. 1–50).[4] Therefore, although we often talk referring to things that do not exist, it is likely that we do not want to make any ontological commitment when we do that. Similarly, it is likely that when we talk about events that did not occur, we do not want to say that a non-event such as "the walk I did not take" really occurs. Nevertheless, often the language practices we use to indicate specific events in the legal discourse seem to refer precisely to negative (legal) events such as the following:

(1) Charlie's non-performance of the contract
(2) Gordon's non-payment of taxes
(3) Dr. House's failure to provide medical care caused the death of the patient
(4) Johnny's failure to turn off the gas caused an explosion (Varzi, 2007, pp. 155–167).[5]

These are just some of the examples of negative events that we should take seriously at least with regard to the legal field.

3.1 Simple Omission

In the legal field, when we talk about a negative event, we often refer to an ordinary, positive event under a negative description.

[4] The issue presented here in a maybe too simplistic way is actually well studied. For Bertram Russell, for example, this statement does not say anything about a specific individual who is currently the king of France and is bald. That statement, instead, says that a particular individual is currently the king of France and is bald.
[5] The event (4) proposed here is one of the events provided in Varzi.

Indeed, it is not difficult to imagine several possible descriptions for a single event. An event description often depends on the context one is speaking about and on what they want to describe. Nevertheless, this must not lead us to conclude that in the same spatiotemporal portion two or more different events have occurred. More simply, the same event may have different descriptions. Thus, why could we not describe an event also in negative terms?

Obviously, when we talk about events such as (1) or (2), we are not referring to negative actions; we are referring to what Charlie and Gordon actually did "*by mentioning a salient property that it lacked*" (Varzi, 2006, p. 136). A negative description, indeed, "*has a negative sense, not a negative referent*" (Varzi, 2006, p. 136). After all, in a legal context what is missing could be the only noteworthy information. Charlie, for example, may not have performed his contract because he went to a pub instead of showing up for work. Likewise, Gordon may have spent his money on an expensive car rather than paying taxes.

In cases like (1) and (2), no matter what people did; what matters is what they did not do. And it is important precisely because in those cases it seems legitimate to expect the occurrence of a particular event – which, instead, did not occur. If we assume that something happens just because a legal rule imposes it – thus, it ought to happen – then the non-occurrence of such an event will undoubtedly be legally relevant. The problem is precisely this expectation that something will happen just because a legal rule prescribes it to happen. The latter is such a pervasive problem that it cannot be adequately addressed here. In this paper it is sufficient to note how stating that an event should happen because it is prescribed by law does not mean that it will occur because of that law. Events happen or do not happen regardless of the law. Indeed, if one believes that a rule can physically prevent the occurrence of an event, he or she could have some trouble demonstrating the direct physical influence of a rule on the flow of events. Of course, a rule could influence people's behaviour and prevent them from acting against the law, but it is not the rule itself that makes it impossible;[6] it is the rule's observance. In this sense, then, it would make no sense to assume that just because a certain rule prohibiting a certain action exists, this action will not occur. The prohibited action could still occur: it would "only" be unlawful. The law, indeed, does not act in the domain of what is possible but in the domain of what is lawful (cf. Zanetti, 2017). In other words, events such as murders, robberies or theft will continue to happen even if prohibited by law.

It can sometimes happen that we want to make certain events happen so that we can consider them as legal events – and thus benefit from their legal effects. To put it more clearly, we often regard certain actions as having a particular legal significance because we wish to benefit from their legal consequences. Let us consider, once again, the first example. Both Charlie and his employer concluded the contract in all likelihood to enjoy its legal effects. It is because of that contract (and contract law applied to it) that it was legitimate to expect specific behaviour from Charlie (such as, for instance, showing up at work). Behaviour that, unfortunately, did not occur. Charlie did something different (such as, for example, going to the pub) from what, according to the employment agreement he signed, he was supposed to do (going to work). Nevertheless, it is useful to repeat that neither Charlie nor Gordon performed "negative actions". They simply performed other "positive actions" which, in both cases, lacked an expected property: respectively, fulfilling a contract and paying taxes.

[6] In this regard, it is important to distinguish between motivation and causation, even in the legal field. A person could be driven to cause a specific event by certain motives (including legal ones such as, for example, the willingness to follow a rule). However, the motivation does not cause an event; at most, it justifies it.

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These types of omissions – i.e., positive events under a negative description – are legally relevant precisely because of the positive event that occurred is not the positive event required by law. They are, in other words, what can be called simple omissions. In this case, it is possible to use the term "simple" to refer to such omissions precisely because, after all, their "complexity" seems to be linked to the way we speak. In that sense, then, although we often say that, for example, someone has not paid taxes or has not fulfilled a contract, we probably do not want to claim that actions they committed are non-actions. No one can perform a non-action, such as not paying taxes or not fulfilling contracts. What one can do instead is to take actions other than what should happen under the law. Once that is clarified, it should be easy to reason about such types of negative events.

3.2 Causal Omission

There is at least another type of omission that seems to be significant in a legal context. Indeed, while events like (1) and (2) appear to be legally significant because of the expected event did not occur, other events, such as (3) and (4) seem to be legally significant because they appear to have caused a legally relevant event. In other words, in these last cases one is not blamed for not having done something, but they are blamed for causing legally relevant events through his or her omission. For this reason, one might call this second type of omission causal omission.

Now, to think that the failure of an event may have caused another event seems to be challenging our "robust sense of reality" (see Bonino, 2014, p. 376; cf. Russell, 1919, pp. 169–170).[7] That is because we are generally used to think that a) omissions are negative actions, and b) causation depends only on positive action. Thus, it seems contradictory to state that c) omissions have a causal role (Tuzet, 2013).

It should also be stressed how the English language, using the word "failure" to refer to omission, tries to solve the problem upstream. It is a kind of linguistic fiction which, far from simplifying problems, seems to complicate them. When, in fact, we say that "someone fails to do something", we could mean two different things: that someone did not do something that they should do (i.e. a negative event), or that someone did not succeed in what he or she was trying to do (i.e. a failed positive event). However, even in the second case, although it may appear to be a failed positive event, it is a real negative event. Indeed, even if a person had tried to do something, it would still be an omission precisely because the attempt is failed (Varzi, 2006, pp. 146–149).[8] In this sense, if, for example, at the last inning of a baseball game the third batter of the losing team is called as being out, it is quite evident that he failed to hit the ball even though he tried. In other words, although he tried, the positive event "batter hitting the ball" did not occur. Further, it is also possible that the hitter does not even try to hit the ball. In both cases, however, the event "batter hitting the ball" would not have happened. Are we willing to say that the winning team won because the last batter of the losing team did not hit the ball?

[7] This is a reference to Russell's robust sense of reality, which, according to Bonino, can be defined as *"a philosophical attitude close to a sort of common sense empiricism."*

[8] In this regard, as Varzi rightly explains, "The notion of trying, however, is itself troublesome. For we can try to do something just as we can try not to do something. In the first case, the something we are trying to do is an action of some sort (turning off the gas, for instance). But what about the second case? Shall we say that when we try not to do something, our trying is directed towards a negative action of some sort? [...] I think this is another case where our intuitions and linguistic practices are seriously misleading. [...] For when we try to do something, we are striving for there to be some event of a certain kind. When we try not to do something, however, our endeavours admit of two different construals: one can push the analogy and say that we are again striving for there to be some event of a certain (negative) kind; but one can also say that we are striving for there to be no event of a certain (positive) kind."

We can assume that no one is willing to argue that the winning team won because of the points not made by the losing team. On the contrary, anyone could agree that the winning team won because of the points it earned.

Naturally, one could argue that this approach applies perfectly to baseball and not to the law. Yet, in legal discourse we often tend to blame those who are held liable for having caused something by their failure to act. However, exactly like the "batter's failure to hit the ball" did not cause the victory of the opposing team, "Dr. House's failure to provide medical care" did not cause the death of the patient and "Johnny's failure to turn off the gas" did not cause an explosion. In truth, the death of the patient was likely caused by his or her disease, and the explosion was caused by the one who switched on the gas.[9]

Therefore, assuming that no omissions have a causal role, all that remains is to understand how to assess causal omissions correctly. Indeed, since it was not Dr. House who caused the patient's disease in (3), and it was not Johnny who, turning on the light, caused the explosion in (4), one may wonder what would have happened if Dr. House had provided medical care and Johnny had turned off the gas.

The patient would probably not have died and there would certainly not have been an explosion. In other words, Dr. House and Johnny's failure to act did not cause anything: their failure did not stop the occurrence of something. We could then rephrase (3) and (4) as follows:

(3)' Dr. House's failure to provide medical care did not stop the death of the patient

(4)' Johnny's failure to turn off the gas did not stop an explosion

In other words, according to events (3)' and (4)', one is not blamed for causing something but for not preventing that something occurred.[10] This last consideration, however, could easily lead to bizarre conclusions. As an example, consider the case of the event (4)': *"not only does the causal history that led to the explosion include no event of Johnny's turning off the gas, it includes no event of my turning off the gas, either. Still, had I turned off the gas, there would have been no explosion,"* (Varzi, 2007, p. 164).

So, why should I not be blamed?

The answer is both spatial-temporal and legal in nature. This is because not everyone can stop an event from occurring. It is true that neither Johnny nor I – and nor you – turned off the gas. Nobody did it. However, unlike Johnny, I was not there at that time. I do not know who this Johnny is, I do not know where he lives, and I do not even know when the explosion happened, so why blame me?

To prevent the occurrence of an event, it is, therefore, necessary at least to be spatiotemporally close to it.[11] But it may not be enough. In some cases, in fact, to be

[9] It is also worth noting how it is not even useful to consider events like (3) and (4) only as negative descriptions of positive events as we previously did with simple omissions. Probably both Dr. House and Johnny did something else besides what they were supposed to do. However, those omissions are not legally relevant itself. They are legally relevant only because it seems to have caused something else. Thus, if the patient had recovered or the house had not exploded, no one would have had anything to complain about Dr. House and Johnny's failures.

[10] On closer inspection, indeed, some legal systems provide this kind of reading of what I call causal omissions. The Italian Criminal Code, for example, is explicit: In Article 40(2), it states that "where someone has the legal obligation to impede a crime, failing to prevent that crime is the same as committing such crime". In short, for the Italian penal code causal omissions are nothing more than a *fictio iuris*.

[11] A minimum of attention must be paid to what is meant by "being spatiotemporally close to an event". Imagine, for example, that there is a fire a few kilometres from where I am. If I see smoke out of the window or I smell burning in the air, then I am probably close enough to the event to perceive it directly. If, on the contrary, the fire is on another continent and I would hear about it only because someone told me over the phone, then I am not close enough to the event to be blamed for not stopping it. This was for two simple

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spatiotemporally close to the event is not sufficient to prevent the occurrence of that event.

Consider, for example, the event (3). Even if I had been there, in that hospital room at the exact moment the patient was being examined, what could I have done? Not being a physician, I would not have known how to prevent the patient's condition from deteriorating. In that case, therefore, only a person with the right skills and who was spatiotemporally close to the patient could have prevented the patient's death. Hence, to prevent an event it seems necessary at least a) to be close in space and time to the event and b) to be able to prevent it – in other words, to have the "qualities" to prevent it. But be careful: "necessary" does not mean "sufficient." Often, for example, the law requires an additional criterion: c) the existence of a legal duty to prevent such an event.

Now, since it is not a task of this work to explain what is meant by, and from what this legal duty derives – each philosophy of law, in truth, is potentially able to give a different response to these issues – in the last part of this section, two further brief considerations on causal omissions are presented.

In this regard, it should first be emphasized, once again, how what this work calls causal omissions are not causal at all. In this sense, they are not true causal reports since they do not express any cause of any event. But if causal omissions are not true causal reports, what are they?

Sure, omissions like (3) or (4) explicitly involve the word "caused" and this might lead us to think they are speaking of causes and effects. However, as Beebee rightly pointed out, to explain the cause of an event does not imply that the cause of the event should be identified precisely. Indeed, *"the way in which causal facts enter into an explanation can be more complicated than that. One can give information about an event's causal history in all sorts of other ways – by saying, for instance, that certain events or kinds of event do* not *figure in its causal history, or by saying that an event of such-and-such* kind *occurred, rather than that some* particular *event occurred. The moral here, then, is that something can be the explanans of a causal explanation without itself being a cause of the event cited in the explanandum"* (2004, p. 302).

Therefore, it is for this reason that causal omissions should not be considered as causal reports but rather as a causal explanation. The difference between them is, at this point, quite simple to understand: While causal reports make explicit the cause of an event, causal explanations explain why an event occurred. Of course, sometimes it is possible to produce a causal explanation of a certain event that explicitly mentions its causes. Other times, this is not possible and, as in (3) and (4), one can simply highlight how a particular event, which could have prevented specific effects, did not occur.

"In such cases, we have a causal explanation that cannot be matched by a genuine causal report. […] And although we can always switch from the 'cause' language to its 'because' counterpart, the converse does not hold. Every causal report translates directly into a causal explanation, but not vice versa," (Varzi, 2006, p. 144).

On closer inspection, it appears that this last distinction – between causal reports and causal explanations – might have enormous influence on jurists' reasoning. Indeed,

reasons: 1) whoever made me aware of the fire could prevent it from spreading (for example, by calling the fire brigade) 2) I was not close enough to the event to make sure that it happened. The question of time is a little different. Suppose a person confesses to me that he intends to commit a crime. If I stopped him or her at that moment, I would not precisely prevent a criminal action because expressing the intention to do something is not the same as doing it. Perhaps blocking him or her before he starts doing the action is tantamount to preventing him or her from committing it in the future, but this could lead to adverse consequences. Think, in fact, what would happen if we imprisoned people just for thinking of committing a criminal act. Thus, "temporal proximity to the event" means to be close to an event taking place or about to take place.

if one of the aims of the law is to prevent the occurrence of an event – of course, not "physically"– then it is interesting to note how it seems more useful to declare unlawful not stopping it, rather than to declare unlawful causing it. This is because a ban that "contemplates" only the causes of an event fails to impose anything on those who, despite not having contributed to causing it, were in the condition to stop it from occurring – while, on the contrary, to impose on someone to stop an event from occurring also implies prohibiting that person from causing it.

To be honest, everything that happens has not been stopped before it happened. In this sense, then, even simple omissions such as (1) or (2) might be considered problematic. After all, no one prevented Charlie from not fulfilling the contract, nor did someone prevent Gordon from not paying taxes. So, why has nobody – except Gordon and Charlie – been blamed for such events?

The answer probably lies in the choices made by the lawmaker. Choices that, whichever way one looks at them, appear to be not unproblematic.

4. CONCLUSION

Providing an overview of everything that happens in the world is certainly not an easy task. Doing it from a legally conscious perspective seems to be even more difficult. This is because such a perspective seems to have to take into account, alongside what happens, even what does not happen. For this reason, if we adopt a point of view that considers not only what the case is but also what the case ought to be, then our image of the world could become more complex.

Taking seriously what does not happen (i.e. the negative events) may seem an unnecessary effort by our legal systems. We could, indeed, build legal systems based only on positive events. In that case, however, we should also be prepared to deal with rather strange rules. This is because, for example, we would no longer punish the "non-performance of a contract" as in the case (1), but the "doing something instead of fulfilling the contract", updating, from time to time, the catalogue of possible positive events which cannot be performed instead of the fulfilment of the contract.

On the other hand, even the opposite solution does not sound tempting. Indeed, if it is true that one can refer to a positive event (such as the "killing of a person") through the description of a negative event (such as the "failure to preserve that person's life"), it is also true that such a solution could make legal reasoning much more complicated.

It is not the task of this work to outline such perspectives. What is most interesting here is to provide some food for thought about negative events. Speaking of omissions, we have seen how a sort of ontological confusion on the so-called negative events could lead to a consequent confusion concerning how to address them legally. The law, as this paper tried to illustrate, does not seem able to solve this kind of issue unless we clarify first what an omission is and how to deal with it from an ontological point of view.

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