

The Bridge Built Backwards

The Morandi trial and the style of the defence of the powerful. The guilt of the dead always washes away that of the living.

Essay · The Morandi Trial · by Luca Santa Maria · 14 July 2026 [Download the PDF](#) ↓

To Prof. Federico Stella, the master of all: first a great man and a great jurist, and only then a great lawyer.

I.

This essay should be read for what it is, and above all for what it is not. It is not a brief, not a closing argument; it does not address the Genoa Court of Assize, nor does it presume to touch the judgment that three judges, after four years of trial and more than two hundred and eighty hearings, will deliver in a few days' time. Those judges know infinitely more about the trial than the present writer: they have read the expert report, listened to the party-appointed experts, weighed the papers. The present writer has not read the court records. He has read the judicial reporting — first among it that of the Genoese broadcaster which followed the trial hearing by hearing — and so everything attributed here to the parties is a second-hand account, declared with its source, never passed off as established. If a single one of the circumstances recalled here were to be contradicted by the records, the page containing it would have to be rewritten. This is the limit, and it is declared first.

But the essay has something else on its side, which the records do not give. The present writer has spent more than thirty years in the criminal trial, and for a long part of those years he was an *intraneus* to the rooms in which the defence teams of powerful defendants build their defences. He has watched them being designed. He knows that a line of defence, in those trials, is not born: it is manufactured. The materials are chosen, the loads are calculated, one decides where to rest it. And he knows — for having seen it done, and at times for having done it — what the design requirement is that governs the choice among the available hypotheses. It is not truth. It is immunity. Among several possible reconstructions, the one that cannot be disproved is preferred: it is chosen so that it can be neither refuted nor verified. Not because it is true. Truth, if there is any, is a welcome accident; irrefutability is the technical specification.

Let one point be clear before any other: there is nothing unlawful in this, and nothing in this essay insinuates bad faith on the part of the defence counsel in the Genoa trial, who

exercise a sacred right with the tools of the trade. The writer's experience entitles him to recognise a *genre* — as a tailor recognises the cut of a hand — not to prove the genesis of this particular defence, and the distinction will stand firm to the last line. The essay's question is a different one, and it is epistemic before it is legal: what can a hypothesis constructed so that nothing in the world can disprove it do, inside a criminal trial? And what can it not?

Before the methods, the numbers, which no method must be allowed to make us forget. On 14 August 2018, at 11.36, the collapse of pier 9 killed forty-three people, injured sixteen, and drove five hundred and sixty-six residents of Via Porro and the surrounding streets from their homes. Of this scale are the crimes of the powerful; and it is for this scale that the workmanship of their defences deserves to be studied. The image that governs these pages, and that will close them, is a second bridge: a bridge built backwards, from those ruins back up to the construction site of 1967. It is the work that the principal defence thesis has erected over the Polcevera, and it is — let it be said without irony — fine engineering.

II.

Look at the anatomy. The defences' master thesis is that the collapse stems from a hidden construction defect: a cavity at the top of the stay of pier 9 — concrete never injected where it should have been — which for half a century allegedly fed a corrosion that was invisible, unforeseeable by anyone. Now observe where it rests, this bridge built backwards. The cause dwells in the only point of the structure declared uninspectable in service: probing it, say the party experts, would have turned the stay into a *gruyère*. Its verification became possible only in the archive that the tragedy itself opened: the defect was discovered by the autopsy of the rubble, in a pre-trial evidentiary hearing, on a numbered exhibit. Its designated author is the only person structurally beyond the reach of trial: the designer, who died in 1989. And the document that should recount its genesis does not exist: of the works diary, compulsory even then on every construction site, there is no trace — and the absence itself is enlisted as evidence of the concealment. Four supports, four points beyond the reach of any check. Every door of empirical access is closed by construction.

A proposition so made has a precise name in the philosophical tradition of the twentieth century. Carnap, who measured the sense of statements by their verifiability, would have called it metaphysics: a statement removed by construction from any check of experience is devoid of cognitive meaning. The Wittgenstein of the *Tractatus* would have placed it beyond the limit of what can meaningfully be said. Popper — more generous, and more useful here — would not have called it senseless: he would have called it *irrefutable*, and for that very reason outside the domain of controllable knowledge; and he would have called the moves that protect it immunising stratagems. Three different criteria, a single verdict. With a precision that guards against the easy objection: the defect in itself is not metaphysical. The cavity is an exhibit, established in a pre-trial evidentiary hearing.

Metaphysical, in the sense of the three, is its *epistemic history*: no one could know it; only one man knew it; and he is dead. It is this second proposition, not the first, that is manufactured so that the world cannot disprove it. The defect is a fact. Its history is an artefact.

III.

The artefact, however, has a cost, and it is worth looking it in the face, because in the courtroom this has not been done. Since an error of that magnitude can hardly leave no trace, the thesis has had to evolve: from *hidden* to *concealed*. It has been said that the designer engaged in criminal conduct by hiding the defect; that at the tensioning of the cables the bridge suffered a settlement of twenty centimetres, later kept silent; that an accident during a concrete pour was deliberately left unrecorded. Accept the postulate, for a moment, and follow its consequence. Riccardo Morandi dies in 1989 knowing — in the defences' reconstruction — that his creature will sooner or later fall and kill. Twenty-two years of traffic before his eyes. Not even *in articulo mortis* does he speak: not a letter, not a note, not a confidence. The thesis does not attribute a professional error to him: it attributes to him a damnation chosen and guarded to his last breath. And it attributes it to him while at the same time acknowledging the report of the 1980s with which — according to the prosecution, anything but vague — he indicated with precision the points of the viaduct to be kept under watch. The man who seals the secret so as not to discredit the work is the same man who writes in black and white that it should be monitored precisely where the secret dwells. The portrait does not hold together. This is not a fact: it is the logical consequence of the defence's own declaration — a *reductio* that the thesis produces by itself.

Then there is the objection that stands even leaving the designer's soul in peace. A bridge of that scale is a collective work: the studio with its collaborators, the site supervision, the certifying engineers, and the contractor — a giant of the state-shareholding system that built the viaduct in four years. A settlement of twenty centimetres at tensioning, a grid that collapses during a pour: site events, under dozens of eyes. The thesis then demands a tailor-made sociology of the secret: many know in 1967; no one speaks for decades; the secret is not passed on and dies out exactly with the first generation; the successors take over *tabula rasa*; the rediscovery occurs only after the collapse, on the rubble. Every link is calibrated to produce the only procedurally useful outcome: the knowledge existed just enough to blame the dead, and died out just enough to exonerate the living. An ad hoc hypothesis squared — immunised on the merits, immunised in its transmission. The investigations, contrary to a defence complaint, did take place: the Guardia di Finanza searched the former premises of the construction company, found photographs of the site but not of pier 9, and no useful name of technicians still alive — the only one traced, a ninety-year-old carpenter, had worked on the foundations. The search was made, and it found a void. A void which, honesty demands, does not discriminate: it is as compatible with concealment as with the simple archival dispersal of sixty years.

IV.

There exists, however, a counter-history that has no need of the thread of 1967, because it rests on what the trial itself has brought to light. A 2011 email between the operator and the monitoring company, found by the court-appointed experts. A 2015 endoscopic inspection which — according to a former collaborator of the designer, as heard by the press — did not find the cable where it should have been and detected a cavity, so much so that a restoration project was drawn up. A meeting of July 2017, secretly recorded, from which awareness of the absence of injection in the stays would appear to emerge more than a year before the collapse. And a certification, signed by one of the principal defendants, attesting the pier safe until 2030. If these elements withstand the test of the records, the relevant secret is not that of 1967 handed down through generations: it is the one rediscovered in-house and shut away again. The warning signs were there; the silence lasted. And note the structure of interest of the defence thesis, its *cui prodest*: it absolves all the living and damns only the dead. A theory of guilt that selects the guilty by date of death.

Here it is worth pausing, because this is the point at which the defence thesis ceases to be merely fragile and becomes dangerous for those who handle it. In trials for corporate disasters, the proof of intent is the most difficult thing there is for a prosecution: the representation of the event dwells in the mind of the guarantor; it cannot be seized and cannot be examined by experts, and it must be reconstructed from external signs — words, papers, admissions — which almost never exist. It is the reason why, in similar cases, the intent charged regularly dissolves into negligence through the successive instances of judgment. Now look at what the defence of the concealed defect does: it handles precisely the category the prosecution always lacks — knowledge. It asserts that the cause of the collapse, or its presumed cause, was once known, and kept silent. But a knowledge declared to exist is a knowledge that can walk. The thesis stands only if its two halves stand together: the admissive half — the defect left traces, it was seen, it was understood — and the exonerating half — that knowledge died with the designer and never reached the living. If the second half creaks, and here it creaks a great deal — the 2011 email, the 2015 endoscopy, the recorded meeting of 2017, the certification of safety until 2030 — only the first remains standing: someone knew. And *I know it will fall, I do not know when, and I do not close it* is no longer the lexicon of negligence: it is the formula of intent, which already figures in the counts of the indictment. The defence walks on a razor's edge of its own construction: to remove the guarantors from negligence, it has opened for the prosecution the motorway towards intent — the one which, in trials like this, no prosecution ever manages to travel by its own strength.

If the concealed defect falls, the precautionary rule was not to intensify the monitoring, nor to design a strengthening and put it out to tender: it was to report and close the bridge immediately, because in the face of a class of catastrophic events — the collapse of an urban viaduct over an inhabited district — the permitted risk tends to zero, and the time of a tendering procedure is paid in lives. And if in the end no one saw anything des-

pite the signs, it means only that those who were supposed to see voluntarily blindfolded themselves; one walks on the grey ridge that separates *dolus eventualis* (conditional intent) from conscious negligence. *Dolus eventualis*, or negligence aggravated by the failure to close, or negligence for failure of oversight: the defect thesis produces acquittal on neither horn — and on the higher horn it itself delivers the proof the prosecution lacked. The only way out is to deny the signs one by one, that is, to fight on the facts. It would not stand easily, though.

V.

That this is a style, and not an episode, history tells — and here the writer's experience crosses a personal memory that is worth a source. On 19 July 1985, at 12.22, the settling basins of the Prestavel fluorite mine, suspended above the Stava valley, gave way: three minutes were enough for a flow travelling at ninety kilometres per hour to erase a village and kill 268 people, among them 28 children. Of the three hotels swept away, one — the Miramonti — was run by the Milanese ACLI (the Catholic workers' associations): more than fifty dead inside that hotel, almost all from the Brianza branches, sitting at table. The ACLI gathered dozens of families and, to seek the truth, called to the bench of the civil parties (claimants for damages within the criminal trial) a professor of the Catholic University who ten years earlier had written the founding book on criminal causation: Federico Stella. It is one of the very rare cases in which a master of criminal law has occupied the other bench in the courtroom of justice.

The present writer was in that courtroom in Trento, and attests as a witness to the word Stella pronounced against the principal defendant, Montedison: *capitalismo straccione* — beggarly capitalism. Not criminal, not greedy: beggarly. A capitalism that extracts wealth from a mountain and skimps on the price of a stability check.

At Stava too the defence of the powerful had a style, and it was the same genre with the direction reversed. Montedison cast the blame on the last arrival: the small company that had taken over the concession five years before the collapse, the final link of a chain the group had fused together over twenty years. Offloading *forwards*, onto the last; at Genoa the offloading is *backwards*, onto the first — the dead designer, the extinct company. Two opposite directions, a single manoeuvre: to expel guilt from the time of one's own management.

Stella opposed the thesis of the original sin: whoever builds and enlarges two superimposed basins on a slope, a few hundred metres from the houses, creates a risk that no subsequent management can cure and that every subsequent management has a duty to know. And he won, because that original sin had a property that decides everything: it stood in the things with a crudeness that admitted no reply. There, one was simply not to build, full stop.

When some calculation was made — in 1975, entrusted by the mining district to experts chosen by the concession-holder itself — it found an *exceptional* gradient and a stability *at the limit*, and it was translated into a reassurance; the basin was even enlarged.

The Court's experts would later write that the plant was *a continuous threat looming over the valley*.

On 8 July 1988 the Trento Court convicted ten defendants, from those responsible for the construction of the basin to those of the district that omitted the checks, with the entire corporate chain — Montedison at its head — held civilly liable; the Court of Cassation ruling of 6 December 1990 made of that case the proving ground of the model Stella had written in 1975, causation as subsumption under scientific laws, the book become living law; the second Cassation ruling, in June 1992, upheld it.

Then the sentences imposed on those who stood low in the Group's hierarchy were reduced and remitted: no one served a day in prison. The paradigm won; the punishment evaporated. It is the effect of the productive capitalism that would have itself go unpunished, and which, when it loses on the law, comes back in through the door of sentence enforcement.

The symmetry with Genoa is exact, and inverted. At Stava the original sin was there before everyone's eyes — a postcard was enough to discover it — and for this reason it founded the conviction of those who had committed and covered it. At Genoa the original sin is confessed and is defined as unknowable, arbitrarily and at variance with every plain logic of common sense, and for this reason it is supposed to found the acquittal of those who were meant to watch over it.

The same figure, with its epistemic status turned upside down. Even the ritual repeats itself: the 1975 check managed in-house and translated into a reassurance; the 2015 endoscopy — if the records confirm it — which finds the cavity and ends up in a drawer. Surveillance celebrated as ceremony and deactivated as knowledge.

VI.

Federico Stella died in Milan on 8 July 2006 — twenty years ago in these very days — on the same date on which, eighteen years earlier, the first-instance judgment on Stava had been read out in Trento. The present writer was his pupil, and what follows should be read for what it is: the regard a pupil preserves for an extraordinary master. Regard, not flattery — because taking a master seriously means weighing his legacy, not burning incense to it.

No trial among the many he won generated in him a happiness equal to the Stava trial. To stand for once on the side of the victims resonated in him as the true garment he would have wished to wear.

Destiny not infrequently carries us far from ourselves and from what, deep down, we would wish to be.

After the Stava trial, he rewrote, in a re-edition of the 1975 book, the introduction and, to remain faithful to himself, pointed his readers to a corrective of his celebrated thesis.

There are cases, like Stava, in which the causal mechanism producing the event cannot be established exhaustively, link by link, until the entire chain of the necessary and sufficient condition is recomposed.

When, however, an originating fact imposes itself with brutality — a tailings dam on a slope overlooking a town — that fact is itself a necessary antecedent of the event, whatever the subsequent causal path, among the very many possible, may then have been.

A dam above a town simply is not to be built, full stop, just as a bridge with a defect that takes somersaults to call hidden for decades simply must be closed, full stop.

Here, then, the defence confesses; it serves the prosecution and not itself.

Two more words for my Master.

The two legacies that Stella handed down to the legal order, and which in the Genoa trial stand one on each bench, do not carry the same weight.

The first is the paradigm of scientific laws: causation as controllable explanation, the prohibition for the prosecution of shortcuts and of intuitions dressed up as proof — an achievement of civilisation without reservations, written in 1975 and carried into the courtroom, in Trento, on the side of the victims.

The second is the rule of beyond any reasonable doubt, and its history is less limpid because of the use made of it by those who exploited Stella for the base ends of their own shop.

Stella, drawing the BARD rule from American sources, built a book devoted to corporate crime, above all environmental crime, in which — precisely during another historic environmental trial, over the Petrochemical plant of Porto Marghera — he saw the rule as an embankment against the convictions of the defendants in the great industrial trials.

Stella had intuited what, unfortunately, is still today too arduous for the majority of criminal lawyers, first among them the teachers of the Academy.

In the Risk Society the necessary condition, of noble nineteenth-century birth, is dead and buried, and in its place rises a giant difficult to handle: Probability.

Stella feared Probability because he felt the ground giving way beneath his feet, and that, in the absence of a legal culture capable of reworking *funditus*, starting from his 1975 book, a balanced and logically founded concept of objective imputation of the event, the dangers of arbitrary judgments could not be stopped.

He found BARD as a landing place and had no time to do more.

Even then, there was something that did not add up.

What was missing, in those pages of his, as it would be missing ever more gravely in the debate that followed, was the counterweight that a rule of civilisation would demand: why is it never said, with the same emphasis, that reasonable doubt also applies to the crimes of the weak — to the defendants without defence teams, without party experts, without conferences — who in the everyday courtrooms are convicted with a rather different nonchalance?

The objection, in truth, belongs less to the master than to his epigones: those who, in the last months of his life, in 2006, consecrated the rule in positive law inside a statute packaged as a viaticum for the trials of Silvio Berlusconi, claiming for themselves a scientific legitimacy they did not have by taking it directly from Stella.

Whom reasonable doubt really serves, in the real Italy, is a theme that deserves a reflection of its own, and here it is only announced.

Of that teaching the present writer also keeps a confidence, which it is time to place on record. A few years after *Giustizia e modernità*, the 2001 book, Stella told him that he knew well that the work did not answer one objection: the procedural code, at Article 192, gives full course to proof by circumstantial evidence, provided it is serious, precise and concordant — and no circumstantial proof, strictly speaking, is ever certain beyond any reasonable doubt. Seriousness, precision and concordance do not say certainty, but only high logical probability.

The antinomy is anything but academic, and is indeed crucial precisely for the trials of the powerful, which are the pure genre of the circumstantial trial: in corporate disasters there is no eyewitness to the decision; there is the convergence of papers, omissions, silences. If reasonable doubt were understood as certainty, Article 192 would be a dead letter and no powerful man would ever be convicted.

The defences of the Polcevera live legitimately off the second legacy. But the second does not house the first turned inside out. The defence, it is true, does not need to prove its own hypothesis: a reasonable doubt is enough for it. The point lies entirely in the adjective. A doubt is reasonable when it rests on data in the proceedings; a hypothesis manufactured to be uncontrollable is, by definition, a conjecture — and conjecture does not found doubt, it simulates it. Into the trial enter only propositions that the world can disprove. The others are tales.

The defences will reply, and it is right to anticipate them: *it is not credible*, they will say, does not exist in the trial; implausibility is not a category of the code. True. But the serious epistemic theme is another. *Quid iuris* when direct proof is missing through a thousand accidents — time, sixty years of dispersed archives, perhaps the will of those who made the evidence disappear — and against it stands a well-founded empirical generalisation, by which it is almost impossible that the course of events was the one hypo-

thesised? A secret shared by dozens of site men, kept for half a century, transmitted to no one and rediscovered only from the rubble violates no scientific law: it violates all the generalisations by which human experience knows secrets.

One instrument, on close inspection, the living law already possesses: by settled case-law, no reasonable doubt is generated by the alternative hypothesis which, though abstractly possible, remains without support in the evidence of the proceedings and foreign to the natural order of things and to normal human rationality. But the boundary between the maxim of experience that closes an evidentiary gap and the conjecture that throws it wide open remains the most delicate question of the whole of judicial epistemology — and it too demands a separate reflection, which these pages confine themselves to promising.

VII

The last question remains, the one that the two cases, set side by side, impose: what do Stava and Genoa have in common? The scheme. Identical, travelled in opposite directions. The typical — and, it seems, indispensable — stylistic signature of the defence of the powerful is the prior identification of one or more scapegoats. The defences of the powerful need, that is, faced with the scandal posed by the absolute gravity of the effects the enterprise has caused, someone onto whom to offload the guilt so as to call the top echelons out of it.

Internal to the company, preferably: employees, middle managers, executives of no more than intermediate rank — inside enough to be plausible, low enough to be expendable. Or external: sometimes — the rarest variant, and the most impudent — the oversight authorities, reproached for not having prevented the offences of those who reproach them; more often weak third-party companies — the small last-hour successor at Stava, the extinct company and the dead designer at Genoa.

And mind the order of operations, because it is the order that makes the signature: first the scapegoat is designated, then the defence is built, moulding the facts so that they converge on the opportunistic explanation already chosen. One does not move from the facts towards a culprit: one moves from the useful culprit towards the facts that serve. It is, in its every girder, the bridge built backwards.

In this the defence of the powerful uses — or abuses — the client's power to impose in the trial the narrative that benefits the powerful: it reproduces inside the courtroom the logics that power practises outside.

The means are those, and they are not equal: batteries of celebrated party experts that no ordinary defendant will ever be able to field, and the technique of derision — the opposing arguments, above all the technical-scientific ones, are not refuted but mocked; not because false, but because sustained by less rhetoric and less authority.

Knowledge, in those courtrooms, does not weigh by its content: it weighs by the pedigree of the one who pronounces it.

There exists a sociological literature on this mechanism — from Girard, who recognised in the scapegoat the rite by which a community discharges onto a designated victim the violence it does not wish to attribute to itself, to the studies of organisations that describe the selection of the culprit of intermediate rank as a survival technique of the top — with a twist that deserves to be noted: the ancient rite appeased the crowd; this one protects the top. And the conclusion of that literature is disheartening: the design almost always succeeds. Why it succeeds — why the courtrooms of justice prove so often permeable to the very asymmetries of power they are supposed to neutralise — is the third question these pages bequeath to a future essay; and it is the most important of all.

In a few days, in Genoa, three judges who have filled four years of hearings with evidence-taking often indecipherable — not only because written in technical-scientific language but because written not to be understood, only to be suggestive — will decide whether to cross the bridge built backwards.

Whatever happens, the bridge will remain visible — and beside the bridge the scheme that produced it, with its designated scapegoat. This, and only this, was the purpose of these pages.

The language of the trial is never neutral, as people deluded themselves it was a few decades ago; it is a language laden with tacit presuppositions, and forged to achieve ends of victory at any price — even that of deceiving the Judge.

Naturally, in the duly respectable form of courtroom Etiquette.

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