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Thieves, Fools, Fraudsters, and Gamblers? The Ambivalence of Moral Criticism in the Credit Crunch of 2008

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S A S C H A M Ü N N I C H

*Thieves, Fools, Fraudsters, and Gamblers?
The Ambivalence of Moral Criticism in the
Credit Crunch of 2008*

Abstract

This article examines public debates on the legitimacy of banking profits in the 2008 credit crunch. A content analysis of 957 newspaper articles published in Germany and the UK in the early weeks after the Lehman Brothers collapse examines critical statements directed at illegitimate forms of financial profit in order to identify the cultural legitimacy of financial capitalism. The conceptual framework provided by the French sociology of justification points to the role of shared orders of value as a normative reference for public discourses. In both national debates, four important boundaries for legitimate profits were drawn that concerned the problems of ownership, risk-management capacities of traders, fraudulent client relations, and speculative gambling. The meaning of this classical moral criticism of banks was transformed in the context of the 2008 crisis: a line between “normal” and “excessive” financial profits was drawn, defining an area of legitimate profit-seeking that hewed to the basic assumptions of the market model. Economic theory was used as a scheme of public economic morality. The seemingly harsh critical debate effectively reproduced a legitimate image of a functioning financial market, deflecting public attention away from the structural ambivalences of financial profit-seeking and granting legitimacy to the institutional status quo of financial capitalism.

Keywords: Moral economy; Financial crisis; Institutions; Legitimacy; Financialization; Neoliberalism; Profit.

DOES CONTEMPORARY FINANCIAL CAPITALISM have to be accompanied by ideas that grant normative legitimacy to this economic order?¹ If this is the case, the legitimacy of financial capitalism seems to be in question since the crisis of 2007-2008. We have seen anti-capitalist rhetoric regain ground in the public sphere,

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but the harsh criticism of capitalism has accompanied only very modest institutional changes in financial regulation. In the present article, I propose an explanation for this puzzle that involves the deeper argumentative structure of contemporary public attacks on financial capitalism. I will primarily examine normative boundaries drawn between legitimate and illegitimate financial profits with the help of an empirical analysis of public debates in Germany and the UK in the first few weeks after the Lehman collapse in 2008. The public cultural and moral categories that underlie contemporary financial capitalism will be described from a comparative view (Lamont and Thévenot 2000). The interpretation of this material will then show how moral attacks on the deservedness of banking profits simultaneously constructed a *positive* image of bank profits that granted legitimacy to financial markets beyond the acute crisis. The basic legitimizing principles of capitalism such as stability, efficiency, and growth were publicly characterized as dependent on the normatively appropriate behavior of financial traders. These observations shed light on the affirmative role of moral economies in a time of crisis—even for such criticism that has nothing to do with explicitly liberal, market-friendly ideas. The recent reemergence of moral reservations against finance cannot conceal that in these public debates, at least as far as they were led by political, economic actors and journalists, the scope of criticism has been reduced from a fundamental attack on the justice of such profits toward a public assault on “excessive” financial profit-seeking. This points to a deeper transformation of the cultural context in which economic orders are evaluated.

My argument refers to sociological works that were important in legitimizing the early emergence of capitalism. Max Weber demonstrated how Protestant ethics contributed to the accelerated triumph of capitalism, giving moral self-confidence to early capitalist entrepreneurs in a traditionalist context (Weber and Parsons 1998). Thompson (1971) has argued that protest movements in early modern times were not driven by emotional upheaval alone but by the desire to re-erect a legitimate economic order. Albert Hirschman has pointed to the role of philosophical ideas in providing legitimacy to capitalism “before its triumph” among eighteenth-century French and British social reformers. These groups welcomed capitalism as an “institution that diverts men from the antagonistic competition for power to the [...] essentially harmless accumulation of wealth” (Hirschman 1997: 134). The legitimacy of economic orders that these authors

focused on remains an important facet of understanding *contemporary* capitalism, as I will show: in the crisis of 2008, an underlying moral economy of finance came to the discursive forefront that serves to *positively* embed the institutional structure of financial capitalism. I will demonstrate empirically how criticism that was triggered by the apparent inability of financial markets to assure stability and growth in fact targeted only “excessive” profit-seeking—and excessive profits turned out to be defined as profits from financial practices that violated core principles of the economic market model.

In an interpretative analysis of 957 articles from German and British newspapers in the first four weeks after Lehman, I analyze critical public statements concerning the legitimacy of profit-seeking in financial markets. My analysis is conceptually guided by the French “sociology of justification” of Boltanski and Thévenot (1999), who have argued that in a practical situation of ambivalence, social conflicts about the justification of an observed (market) order evolve around shared “orders of value”. These orders define an ideal type of a legitimate, just structure of inequality linked to standards of achievement and the common good. Every debate on public legitimacy invokes such a generalizable order of value. This provides analytic access to the shared elements transcending public conflicts.

I will first show how the public debate at the outset of the credit crunch revealed four moral boundaries between legitimate and illegitimate forms of profit-seeking. These four normative arguments framed certain profit strategies by banks as (1) appropriation, (2) incapacity, (3) deception, and (4) gambling. In spite of their anti-capitalist tone, these delegitimizing arguments discursively reproduced core assumptions of the economist’s model of financial markets as *realities reachable in practice* if market actors could abstain from “excessive” profits. Thus the public criticism is similar to the perception of the crisis by many financial experts, who called for a renewed regulatory framework to make real markets comply with the model. I discuss how these moral arguments distilled the inevitable structural inconsistencies between individual profit-seeking and collective welfare in financial markets into individual morality. Such an empirical “sociology of critique” illustrates how economic practices are subject to public evaluation rooted in culturally shared principles of justice and achievement (Bandelj 2008). The market model highly influenced contemporary public debate on the financial crisis which points to the discursive power of economics *beyond* academia and full-fledged liberals.

Concepts and method

I have chosen the early weeks of the credit crunch in the fall of 2008—which marked the transition from the American subprime mortgage crisis into the global financial crisis—as a crucial episode in which to study public criticism of financial capitalism. Most sociological research on the cultural embeddedness of markets has primarily focused on the cultural legitimacy of certain *products*, such as life insurance (Zelizer 1992), prostitution and the organ trade (Sandel and Reuter 2012; Satz 2010). There has been much less research into what conditions predispose specific economic *practices* within markets in which otherwise legitimate goods are traded. Profit-seeking is of interest because one of the most important legitimizing promises of the market economy is the idea that the individual pursuit of profit will guarantee rationality and growth at the aggregate level, as spelled out by political philosophers from Mandeville and Smith to Friedman. Their idea of congruence between individual and collective welfare also came to be an important legitimizing argument for the financialization of capitalism that began in the late 1970s. However, the severity of the 2008 credit crunch and the scale of the European bailout measures suggest that the recent financial crisis was a *moment of tension* between individual and collective rationality, in which the legitimacy of financial capitalism was likely to be publicly contested.

In order to identify culturally specific elements in public discourses on the moral (financial) economy I selected two very distinct cases in regard to the institutional and cultural heritage of the national model of capitalism and its financial system. In the vast literature on different institutional configurations of capitalism within comparative political economy Germany and the UK have very often been typified as maximum distant cases (Deeg 1999; Hall and Soskice 2001). The historical configuration of the German financial regime is described as the prototype of a bank-based system, in sharp contrast to the British and US market-oriented systems. German firms are entangled in network capitalism in their financial relations as much as in industrial and work relations. German corporate financial relations are characterized by long-term “patient capital” in the form of bank debt rather than short-term market-based financing through stock and tradable bonds. Financial competition is largely blocked by the principle of a “house bank” as well as by corporatist forms of regulation within a strong public (or semi-public) banking sector. However, in the 1990s regulatory liberalizations by different governments have led Germany to develop what could be

referred to as a “hybrid” system (Vitols 2003: 254-254) by establishing US style regulated securities markets, privatizing pensions and tax subventions for capital returns. Changes were most prominent within the banking sector, not only because the big German private banks such as Deutsche, Commerzbank and Dresdner became key players in international investment banking and securities trading, but also because the public *Landesbanken* had to be bailed out in the 2008 crisis due to their deep engagements in toxic credit. In spite of these changes, from an empirical point of view, core characteristics of embedded capitalism show a high resilience (Amable 2003). Thus, differences between the German and the British banking systems are still significant. The distinct institutional roots and regulatory principles that have guided financial market policies over decades justify the choice of Germany and Britain as two distinct cases of public moral economies even after this period of convergence. Moral economies presumably reflect the institutional legacy of financial regulation over decades rather than their most recent changes.

From these institutional preconditions it could be derived that the public legitimacy of financial markets and the profits raised by arm’s length, market-oriented investment strategies should be considerably lower and fragile in Germany than in the UK. In the UK, the core role of the City of London in international finance and the importance of financial services to the British economy should raise the legitimacy of financial profits. Moreover, free market-competition as an institutional template for economic relations enjoys high legitimacy in many other fields of Anglo-Saxon economies. The comparison of these distinct cases draws our attention towards more general mechanisms observable in both countries concerning the interplay between crisis context, public economic discourse and legitimation.

I selected 957 articles from four German (*Süddeutsche*, *Frankfurter Allgemeine*, *Frankfurter Rundschau*, *Financial Times Deutschland*) and two British leading newspapers (*The Guardian*, *The Daily Telegraph*), each according to topic relevance and length². In these articles statements

² Articles selected were (1) published between 15 September and 15 October 2008, (2) have more than 500 words, and (3) contain the word “financial crisis”, “bank crisis”, “credit crunch” or “credit crisis” (or their German translation) at least three times. (4) As an additional criterion it was required that the word “bank” with all possible endings appeared three times in the article, in order to make sure that the banking crisis as such was the article’s central topic. Selection criteria for the newspapers were

circulation (all newspapers are among the five top national newspapers in circulation) and political leaning (liberal vs. conservative in the UK; liberal, conservative and social-democratic orientation in Germany). In order to avoid unintentional capturing of the selectivity of the newspaper editorial board only such statements were coded that were either (1) direct citations of political and economic actors, or (2) explicit political commentaries by journalists assignable by name.

that discuss the legitimacy, morality or deservedness of banking profits before the crisis were coded. Besides speaker and regulatory topic the statements were mainly analyzed for their normative content concerning the implied boundary between legitimate and illegitimate forms of financial profit-seeking, as well as the implicit image of a just and legitimate financial economy.

The sociology of justification provides a good conceptual framework for examining the moral content of public economic discourse. It describes both justification and criticism as comprising a “reality test” (Boltanski and Thévenot 1999: 373) in which the discussants provide an assessment of the (criticized) situation for which they employ legitimizing and delegitimizing patterns that Boltanski and Thévenot call “principles of equivalence”. These principles define the conditions under which one individual is entitled to be ranked higher than another, according to standards of achievement and the common good (Boltanski and Thévenot 2006: 40). In line with this work, the analytical units used in my analysis are single statements that use moral principles to either criticize or defend certain types of profits. All statements considered were provided by clearly identifiable actors that are either directly quoted or have indicated their authorship. Statements were then coded according to the image of a moral financial economy that informed how the speakers draw boundaries between deserved and undeserved profits. By analyzing direct quotes in newspaper articles it is possible to examine an arena in which political, economic actors, journalists and academics equally take part³. The results of the content analysis will be presented in two steps: first will describe the justificatory frame of those financial experts and economists whose policy advice and explanations for the crisis were mandated by political authorities. Second, criticism of financial profit-seeking issued in the articles will be presented and discussed.

Financial experts: making the model work

How did financial experts and regulators in 2007-2008 react to the apparent crack in the justificatory scheme that had accompanied

³ Although nearly all relevant statements are direct quotations, the newspapers were sampled with the aim of capturing different political leanings in order to control for any editorial influence over who was or was not quoted. However,

this method of measuring public debate by examining the high quality-press leaves out important aspects of economic culture such as popular stereotypes, academic debate or professional discourses in finance and ethics.

financialization since the 1970s? Investors had been believed to be more secure if risks were spread across a global capital market. Moreover, democratization of access to capital was promised (MacKenzie and Millo 2003: 114).

The legitimizing promise of the model: risk transfer, efficiency and democracy

In 2004, Alan Greenspan publicly argued against stronger financial regulation by referring to derivatives as “an extraordinarily useful vehicle to transfer risk from those who shouldn’t be taking it to those who are willing to and are capable of doing so” (*New York Times*, 10/09, A1). During the 2008 crisis, the Financial Stability Forum (FSF) referred to this risk transfer argument for the originate-to-distribute-model (OTD)⁴ in its recommendations to the G7:

Originators can benefit from greater capital efficiency, enhanced funding availability, and lower earnings volatility since the OTD model disperses credit and interest rate risks to the capital markets. Investors can benefit from a greater choice of investments, allowing them to diversify and to match their investment profile more closely to their risk preferences. Borrowers can benefit from expanded credit availability and product choice, as well as lower borrowing costs (FSF 2008: 9).

The efficiency argument is built on a Hayekian concept of competition. It does not assume perfect information for all actors, but the idea that competition “is important primarily as a discovery procedure whereby entrepreneurs constantly search for unexploited opportunities” (Hayek 2002: 18). Actors with bad information about the future dynamics of the underlying assets will lose money; those with better information will gain. “It is precisely through the disappointment of expectations that a high degree of agreement of expectations is brought about” (Hayek 2002: 15). Debt certificates are constantly reevaluated during the market process, making it possible to eventually transfer all uncertainties into (calculable) risks (Knight 2002; Beckert 1996). To enhance this collective evaluation process, it is necessary to allow short selling, defined as the trading of future buying contracts for assets that are not presently owned. Short selling allows actors to inject their knowledge about the probable *decline* of an asset value. The risk-transfer argument legitimizes profits by arguing that they can only be realized by bringing *better* information to the

⁴ The OTD model describes the practice of creating securities backed by credit card debt or mortgages with the immediate goal of passing the risk on within the market.

market, thereby enhancing stability and efficiency. This model also rests on the assumption that individual mistakes are stochastically distributed: the law of large numbers allows mistaken estimates to be ignored if their probability was mathematically calculable (MacKenzie and Millo 2003: 127ff.). Finally, a free market for asset-backed securities is expected to allow each investor to find the right combination of risk, interest sum, and duration. This includes capital access for those who bear “bad” risks (subprime) and therefore can get no help from the traditional banking system. Thus the risk transfer argument is expanded towards a *democracy and welfare* argument (Seabrooke 2010: 53):

There’s something very empowering about this business. It’s helping those people who are trying to achieve the dream of home ownership. Or, forget about the dream, they’re just trying to get their family into a house. Why is that such a bad thing, if we can manage the risk? (Richard Bitner, major American subprime trader, *The Guardian*, 09/19: 39).

Experts’ reaction to the crisis

One dimension of the public reaction to the crisis can be seen in the statements of financial regulatory authorities, among them the German *Boersenaufsicht*, the British FSA, the IMF, the World Bank, the European Central Bank, and the US Federal Reserve. They are joined by a group of financial economists who publicly committed to explaining the crisis and proposed solutions at the international and national levels. These experts can be regarded as an epistemic community, meaning a “network of professionals” who share “principled” normative as well as “causal” beliefs substantiated by a common “policy enterprise” (Haas 1992: 3). They believed the crisis had occurred because there was not enough regulation to ensure that the real dynamics of financial markets bore out the assumptions of the model. The G7 report cited “an exceptional boom in credit growth and leverage” (FSF 2008: 10) as triggering a problematic dynamic that had expanded the gap between model assumptions and an ill-regulated reality (Claessens *et al.* 2010).

First, there was a *lack of incentives for sound risk management*. One of the first economist analyses cited “misaligned incentives along the value chain” (Franke and Krahn 2008: 1) as a primary cause: the profits realized during the boom years were not linked to achievement in risk monitoring, and the practice of “pooling and tranching” (13) caused problems. Multiple assets such as credit card debts and

mortgages were cut into small high- and low-risk pieces and reassembled into highly complex diversified portfolios. The originating banks also had little incentive to monitor risk, since during the boom phase they were able to pass even very high risks on to the market at a good price: they could “pass the trash” (Block 2014: 18). The segmentation of risk-relevant information processing was aggravated by problematic compensatory mechanisms within the banking sector. Profitable transactions could yield high bonuses that bankers had almost no risk of losing, even if such transactions had put the solvency of the bank or the whole market at risk (27). Fueled by loose monetary policies, the huge increases in interbank and state lending allowed banks to *leverage* their actual assets with debt contracts in order to expand profits and bankers’ bonuses.

Investment banks, such as Lehman Brothers, Merrill Lynch and Goldman Sachs, are (or were) at the centre of this process, taking on massive amounts of debt relative to their capital base (that is, becoming highly leveraged) in order to deal profitably in the complex web of markets (John Eatwell, Director of the Centre for Financial Analysis and Policy, *The Guardian*, 09/19: 42).

Second, there was a *lack of transparency and adequate credit rating*. The complexity of the traded products made it difficult for investors to monitor problems. This placed the burden of transparency on the rating agencies and their mathematical models.

Many investors placed excessive reliance on credit ratings, neither questioning CRA’s methodologies nor fully understanding the information credit ratings do and do not transmit about the risk characteristics of rated products (FSF 2008: 8).

Some researchers have also pointed to the growing optimism within the mathematical models concerning the estimated default risks of traded assets (MacKenzie 2011: 1821). The rating agencies themselves had “conflicts of interest” (FSF 2008: 8) because they were being compensated by inventors of new products in return for the agencies’ support in the licensing process.

In wide parts of the financial community, regulatory failure was the primary reason why these problems proliferated and eventually caused the system to collapse.

Public authorities recognized some of the underlying vulnerabilities in the financial sector but failed to take effective countervailing action, partly because they may have overestimated the strength and resilience of the financial system (FSF 2008: 10).

The “underlying vulnerabilities” are those of the market model as implemented in the real world: “public authorities” are being criticized

for believing too strongly in the self-stabilization of markets, and—with different intensity among different economists—regulatory action is urged in order to create a market that provides the collective benefits described in the model. Here the “core purpose of financial regulation is to mitigate systemic risks” (Eatwell, *The Guardian*, 09/19: 42).

However, it should be made clear that the current problems are largely a failure of existing supervision, not necessarily a lack of rules. What is needed are smarter rules and better implementation of them (Spokesman of the Alternative Investment Management Association, *The Daily Telegraph*, 10/15: 6).

This community of experts believed that the crisis did not develop because the model was flawed, but because it had not been fully and actively implemented. They called for state regulation “to protect the fundamental integrity and quality of markets” (Hector Sants, Chief Executive of the FSA, *The Guardian*, 9/19: 1). The main regulatory issues raised beyond the reform of executive compensation were (1) capital reserves and deleveraging, and (2) the implementation of accounting standards to prevent bubble dynamics from affecting the balance sheets through the use of market prices to value a bank’s assets (Congleton 2009: 311).

Some firms seem to have handled these challenges better than others. This suggests that it is not the OTD model or securitization per se that are problematic. Rather, these problems, and the underlying weaknesses that gave rise to them, show that the underpinnings of the OTD model need to be strengthened (FSF 2008: 10).

When the model fails to capture reality, regulators are called on to increase transparency and enact new rules to monitor risks appropriately: in short, to *put the model into practice* to achieve efficiency and stability.

The public debate: four arguments against illegitimate financial profits

The public discourse in both countries centered on the distributive impact of the bailouts passed in mid-October 2008. *The Daily Telegraph* (10/11: 20) called the bailout measures “the biggest transfer of wealth from relatively poor taxpayers to rich bankers ever undertaken”. *The Guardian* even quoted Lenin: “Capitalists can buy themselves out of any crisis, so long as they make the workers pay” (09/29). The contradiction between privatized profits and socialized risks is in explicit focus here. But the distributive issue is not

exclusively or even primarily a quantitative problem; *how* financial profits were realized before the crisis is being put to a justificatory test. What are the normative principles by which the distribution of financial profits was perceived to be unjustified? Four critical arguments that describe boundaries between “legitimate” and “illegitimate” forms of profit predominate in the public debates of both countries. These arguments are very often linked to each other, but I focus here on isolating the ideal-types of moral boundaries present in the debates. Moreover, instead of describing in detail the argumentation of different actors I will show that the core principles of justification in the two debates were shared by diversely positioned actors.

Appropriation vs. commodity exchange

In both countries we see attempts to delegitimize traders’ entitlement to gains by stressing the uncertainty of whether traders actually *owned* the assets they were trading. Commentators question the degree to which trading securities and derivatives can be seen as a legitimate form of property and highlight the normative problem of defining them as such:

Bankers encouraged staff to speculate with depositors’ money by awarding them huge bonuses to maintain turnover. Those charged with the guardianship of other people’s savings behaved, in effect, like thieves (comment in *The Guardian*, 09/17: 30).

Banks are supposed to be “custodians of our money” (comment in *The Guardian*, 10/10: 34). As Geraint Anderson, a former broker and book author states: “*Actually* they play with other people’s money” (*Süddeutsche* 10/15: 30). Especially in journalists’ commentaries the profit-seeking of banks is considered illegitimate because the money used for the transactions is not wholly in the possession of the bank at the time. The money deposited in a bank belongs to the bank only to the degree that full payback is promised; it is not money owned, but money lent. The problem of legitimate property becomes salient when leverage is at stake (comment in *The Daily Telegraph*, 9/26: 22). One article quotes Gordon Brown as saying that “nobody should take more out of the system than he brings into it” (*Süddeutsche*, 10/15: 30). Another comment in *The Guardian* (9/17: 23) describes the assets as “whipped out of thin air” and a German commenter on the article raises the same point:

It is too dangerous that to this day, banks are allowed to borrow additional sums for their transactions that are thirty times as high as their own capital, with their speculation endangering the whole world.

Profits should only be drawn from *real* economic assets, goes the argument: money may be traded as a good, but it should be money that *physically exists*, reflecting another material asset and not merely created as a loan. A German article describes the money traded in derivatives markets as “*virtual money*” (*Frankfurter Allgemeine*, 10/09: 33). A normative distinction between real money and book money is present in other statements as well:

The money supply consists of cash money and of book money created by banks that is ten times as high. Book money is not safeguarded in the common sense of the word (Commentary in *Frankfurter Allgemeine*, 10/17: 37).

A normatively acceptable concept of property is apparently being violated if the future payments of third parties serve as currency for present transactions. This mechanism creates externalities for third parties outside the two-sided contract. Banks can use their potential access to new money from the central bank or interbank lending to employ more of this good to an exchange without actually owning it. The legitimacy boundary present in public debate is drawn between “real money” and “virtual money”. Morally postulating the abolition of leverage simultaneously perpetuates the idea that credit *could* be traded as a physical commodity. This is close to what the economic market model claims when it assumes that capital transactions do nothing but channel capital to the most promising investments in the real economy. If monetary policy is rational, then the money sum at any moment should correspond to the sum of real values, and capital trading could in principle be reduced to the exchange of real economic resources. Public commentators reproduce this image as a *moral postulate*, a boundary of legitimate profits: banks *should* refrain from making profits by leveraging their portfolios and therefore stick to their market-making task of handing on money as a commodity.

Risk-management and trader incapacity

The second discursive boundary in the early weeks of the credit crunch casts doubt on the individual achievements of the financial traders, lest this serve as a legitimizing argument for the high profits they earned. Successful risk management became the yardstick for the moral evaluation of bankers’ capacities:

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For this government, and I believe the whole country, the guiding idea is fair reward for hard work, effort and enterprise, not incentives for irresponsibility or excessive risk-taking for which the rest of us have paid (Gordon Brown, *The Guardian*, 10/14: 7).

Gordon Brown's evaluation compares financial profits to ordinary wages. The formulation "excessive risk-taking" reveals the expectation that a "good" banker will only take "reasonable risks". The formulation "hard work, effort and enterprise" is further illustrated by a statement from chancellor Alistair Darling:

It is really quite extraordinary that boards themselves did not more fully understand what risks they were allowing their banks to become exposed to. The first line of defense, not just for shareholders but for everyone else, is to make sure boards are up to the job (*The Guardian*, 10/14: 1).

Here it becomes clearer what is meant by "hard work"—a moral responsibility for bankers and their supervisors to "fully understand" and rationally calculate their investments. In this sense, irrationality is immoral. Not understanding or losing control in the process of trading small-dice tranches of credit risk is considered to be the result of not putting enough care and effort into it:

It should not be possible for banks to sell products they themselves do not understand (Chancellor Merkel, *Frankfurter Allgemeine*, 10/7: 2).

This argument is raised not only by government representatives, but also critical financial experts claim that such underachievement should not be rewarded with bonus payments.

The important question is: did bank managers consciously take over these risks to satisfy their hunger for returns-on-investment? Or did they actually not fully know which risks they loaded upon themselves? (Juergen Stark, ECB Chief Economic Advisor, *Frankfurter Allgemeine*, 10/13: 14).

The "good" risk-taker has a legitimate claim on profits as a reward for taking on risks after careful calculation. The correct, successful calculation of risks defines the boundary between legitimate profit and greed. Rationality in the sense of measuring "correct" risks is not exclusively seen as a problem of failed incentives, but becomes a moral postulate. This is further illustrated in a statement by Bernard Gault from the financial firm Perella Weinberg:

It was about greed. Bankers stopped believing in the products they were selling. But as long as they could keep pulling in their year-end bonuses, they kept going (*The Guardian*, 09/20: 28).

Here we can see how individual profit maximization in the derivatives markets becomes subject to moral criticism, while at the same time profit-seeking is welcomed as a *principal* orientation of financial actors contributing to efficiency and growth. Brown's call to "bring an end to rewards for failure" (*The Guardian*, 10/14: 7) shows that a good banker should only claim profits for bearable risks, so as to avoid the threat of a systemic destabilization. As German economist Ernst-Ulrich von Weizsaecker has stated: "when optimism turns into blindness, things go wrong" (*Frankfurter Rundschau*, 10/09: 19).

The moral boundary of the profit principle marked by "excessive risk-taking" refers to the problem of how to accurately calculate economic risk. Bankers have a moral obligation to refrain from strategies that pay out without being conditioned on a well-informed transformation of uncertainty into risk. The definition of legitimately rewarded achievement presupposes that bankers have a special ability to estimate real risks better than ordinary people. This invokes the idea that financial profits are legitimate because traders provide a special service to the economy—the capacity to assess and manage risks—and fits an important assumption of the market model: the compensation earned must be for *equivalent* goods or services. Again we see how this is turned into a normative expectation: bankers should only accept payment for successfully contributing to stable risk management.

Deception and fraud

A third argument around legitimacy involves the fairness of exchange relations between banks and their clients. In the German press, stories such as the following could often be found:

Gerda Kielmann (name changed) [...], a 68-year-old woman from Frankfurt, invested her money in a supplementary personal pension plan. She consulted the Frankfurter Sparkasse, an institution with a long-standing tradition. They strongly recommended a Lehman Certificate to her. Gerda Kielmann was "absolutely shocked"; she is far from being a gambler. They told her again and again that it would all be safe, preventing her from backing out in time. There are no securities for these certificates. She is expected to have lost EUR 20,000 (*Frankfurter Rundschau*, 10/02: 3).

The moral element of these stories is the accusation of fraud. There are legitimacy problems involved if the banker-client relationship turns from a counseling or trustee relationship, where interests are

aligned, into a conflict-laden sales relationship, where the banker wants to unload bad risks for a high price.

The banking crisis has again increased customers' willingness to change from bankers to fund managers. The customers realize that their banks see them more as product buyers because the banks must preserve their systems (Hubert Thaler, Financial Consultant, *Süddeutsche*, 09/27: R2).

The German debate has a special institutional problem: the semi-public Sparkassen, which have always presented themselves as maximally risk-averse savings- and credit-oriented neighborhood banks for small savers and firms, issued Lehman certificates and other toxic papers to their banking customers. However, representatives of public and semi-public banks used the crisis to promote their idea of legitimate banking.

"I had a specific reason for consulting the Sparkasse and no other bank." He considered them to be reliable partners who handled the money of their customers responsibly. "I wanted to avoid any risk. And so I told them" (Sparkasse customer, *Frankfurter Rundschau*, 09/26: 15).

Some statements in the British debate, especially from the political left, take up a similar point, while the moral burden here tends to be shared with the customers to a higher degree.

Let us be clear: the banks have been greedy, sometimes hideously greedy. And they have collaborated in encouraging the greed and credulity of home-owners, on both sides of the Atlantic, who have taken on more debt than they can manage (Boris Johnson, Labour mayor of London, *The Daily Telegraph*, 09/23: 20).

Sometimes even "fraud" or "deception" is used to describe how traders drove private clients into asset-backed securities.

Dishonesty became endemic in loan applications. By the end, Bitner reckons that 70% of submissions to the company from brokers were deceptive (Richard Bitner, former subprime banker and book author, *The Guardian*, 9/19: 39).

Bankers are normatively expected to act as *consultants* in the interest of their customers, as mediators or market makers (*Financial Times Deutschland*, 10/08: 25). Their profits should flow from the investment yield the savings client earns as the principal investor. Ironically, the idea that there should be *no* market exchange between a bank and its clients can be seen as reproducing basic assumptions of the market model: the profit opportunity during the financial boom stemmed from the distortion of information and the gatekeeping function banks served for their clients. Here again we see the assumption that the financial market consists (or could consist) of

free and equal exchange of information and interests between *lenders* and *borrowers* about the insuring of real economic risks. The banks' primary function in this model is to facilitate the processing of information as intermediaries with no special profit claims beyond their service to the investors. In contrast, the crisis made it clear that high windfall profits could be reaped from a fundamentally disturbed information process in real existing markets, signaling power imbalances that are not part of the model. The cognitive ideal of a free information flow between investors and demanders in efficiency theory resurfaces here as a state that is reachable in practice, when the normative expectation to abstain from "greed"—that is, to avoid model-breaking profit opportunities—is fulfilled.

Speculation and gambling

Both debates feature the negatively connoted concept of "speculation", albeit more strongly in Germany than the UK. In this legitimizing argument, securities markets are criticized as "the casino table of investment banking" (*Financial Times Deutschland*, 09/24: 10). Financial markets have witnessed a "perversion into a form of casino" (Simon Heffer, *The Guardian*, 10/08: 22) or "wild speculative gambling". The argumentative core consists of a moral boundary drawn between legitimate investment banking that is financing real economic processes and banking that profits from "betting" on price dynamics.

We will not accept that the banking industry throws the results of their wild speculative gambling at the Federal Government's feet even as it continues to claim all gains and future profits for itself (Fritz Kuhn, Green Party, *Frankfurter Allgemeine*, 10/06: 1).

Although German liberals blamed the bubble on a lack of government regulation and low interest rate policies, they shared the Green Party's low opinion of speculative profits (Hermann-Otto Solms, FDP, *Frankfurter Allgemeine*, 09/26: 1). Their criticism derived from the normative claim that speculation is essentially gambling and that winning such a lottery should not grant economic legitimacy across the borders of all political camps:

Businesses such as Lehman Brothers and Merrill Lynch borrow stupendous sums in wholesale money markets, and use them to place bets in a fashion indistinguishable from punters at Newbury racecourse or in Las Vegas (commentary by Max Hastings, *The Guardian*, 09/15: 32).

The problem with speculation is the lack of a direct link to the production and circulation of goods. The “bad” speculator is concerned with “virtual” economic processes in a “self-created illusionary world” (comment in *Süddeutsche*, 10/04: 4). In the German debate, as well as among trade unionists in the UK, “speculation” is primarily used to describe short selling. It is considered an especially problematic bet on economic failure, in contrast to money earned from successful businesses and growth creation (commentary, *Süddeutsche*, 09/23: 19).

“Staff in financial services should not have to pay the price for the greed and excess of the short-sellers and speculators”, said Unite’s deputy secretary, Graham Goddard (*The Guardian*, 09/19: 1).

Historically, speculation has been connected to manipulation of markets and the exploitation of consumers in dire need of goods such as money, food, and shelter (Preda 2009; De Goede 2004). The concept in the 2008 debate, however, marks a much less fundamental criticism that does not delegitimize financial profits as speculative action *in general*, but defines a boundary between “legitimate” returns on estimating the real economy and “illegitimate” betting on price movements of (virtual) papers. Again this boundary is linked to the principles of economists’ basic model of the market according to which financial investment is a mere reflection of the present and future risk structures of the real economy. Model deviation is reformulated as a moral problem: actors are normatively expected to refrain from speculative profit strategies; they are expected to help prevent decoupling rather than to profit from it.

Discussion: the legitimacy of profits in financial markets

In both the German and the British crisis context, financial market actors were accused of (1) trading other people’s money (thieves), (2) not knowing what they were actually doing (fools), (3) deceiving savers and clients (fraudsters), and (4) gambling instead of supporting real economic growth (gamblers). In their ideal-typical form, these four normative criticisms recall social types of banking criticism that date far back in the history of financial markets (De Goede 2004; Preda 2009: 172; Clary 2011): profits should come from individual work, not just from chance or the passage of time. Banks have always

faced scrutiny for “robbing” and “deceiving” ordinary people, even more so in financial crises. In the framework applied here, the justification process consists of a discursive conflict in which participants test empirically observed patterns of value distribution against abstract orders that are deemed legitimate and just. In the crisis actors of all political stripes from very different interest positions used arguments in their attacks on the finance world that harked back to these classical critiques of capitalism.

The headlines heralding a fundamental crisis of legitimacy of financial capitalism in European countries after 2008, however, failed to see that the strong moralization of the recent debate was aimed at determining boundaries for legitimate profit-seeking *within* financial markets. The illegitimate forms of profit are held against a possibly legitimate way of gaining from financial transactions. The German and British debates define four such boundaries:

- (1) It is legitimate for bankers to profit from capital transactions as long as those fulfill the preconditions of an exchange of real commodities, meaning that the money is fully owned by the trader.
- (2) Gains from trade in risks are legitimate as long as the risks are adequately calculated based on traders’ unique risk-management capacity.
- (3) Bank profits are legitimate provided that they stem from *improving* and not distorting the information provided to customers.
- (4) Legitimate profits are directly coupled to real economic processes and do *not* derive from speculating on price dynamics.

Boltanski and Thévenot (1999) have argued that justificatory practices consist of a discursive procedure in which the actual definition and distribution of values in a field such as the financial market is measured against abstract, ideal-typical orders of value that define order and are mutually accepted as just and legitimate. Any “order of value” consists of four elements (Boltanski and Thévenot 1999: 368). (1) The “mode of evaluation” defines the measure of worth applied to a distribution. In the public debates of 2008, efficiency and productivity were the demonstrable measures of a legitimate distribution of value. Actors’ private gains were considered legitimate if their financial transactions had contributed to these common goals. Here we can see the influence of the market model in the assumption that individual rationality *will* create collective benefits if all actors limit their profit-seeking to such strategies. (2) The “format of relevant information” defines which information is legitimately

considered to be relevant in an ideal-typical social order. We have seen that relevant information in financial markets should be concerned with real economic processes, rather than with price dynamics in financial markets. Legitimate gains should only come from improving the information in the market, not from disturbing it. (3) The “elementary relationship” defines which forms of social relationships are legitimate. The relationship between financial traders should resemble an exchange of individually owned commodities, while relationships between bankers and their clients should be defined by mutual interests. This reproduces the market model, in which banks are only mediators of the free exchange between capital demanders and suppliers. (4) The “human qualification” defines the conditions under which individuals may rank higher than others in the value distribution. Here the special capacity of financial market actors to adequately calculate and hedge risks is the justificatory core of the debates. This reproduces the market principle that every payment reflects a productive service.

Even though public critics clearly do not believe in the self-stabilization of financial markets, the four boundaries explained above are informed by a positive blueprint of legitimate financial profits. That blueprint is defined with the help of the market model of efficiency theory that is turned into morality here: financial markets could be legitimate if everybody stuck to profit chances that do not violate these principles. The key to achieving the collective benefits of a financial market lies in the moral behavior of the single market actor.

Therefore the justificatory context of the four moral arguments against banking has changed in contrast to the older stereotypes they evoke. Whereas the historical connotation of the critical social types in banking (thieves, fools, fraudsters and gamblers) aimed at a fundamental immorality of credit and money trading, the cultural-discursive context of these arguments is different in the crisis of 2008. The same moral conceptions are now used to delineate the *boundaries* of legitimate profit-seeking, with principles of the market model of efficiency theory defining boundaries of morality.⁵

⁵ The different frequencies and connotations of the four boundaries in a comparison between the two countries will be further discussed in another forthcoming article. It is necessary to examine how the different institutional regimes of finance are linked to the different cultural emphasis in each country: speculation and client

relations in Germany, and ownership and risk management capacities in the UK. These differences should not be overstressed, however. Instead, the four boundaries described here provide the cultural toolkit (Swidler 1986) for financial market legitimacy that is applied to public debates in both countries.

Legitimacy and the social structure of financial markets

It is now necessary to say a few words about the relationship between legitimacy discourses and *actual* profit opportunity structures in financial markets. We may ask whether financial markets would actually have remained stable if actors had behaved in the manner that public commentators demanded. While there is not enough space here to discuss this at length, I will present sociological research on financial markets and the recent crisis that put this claim into question. This is due to four structural aspects of financial profit seeking presented in the fourth column of the Table.

An essential structural element of capital market activities lies in the *distortion of time*. Credit markets involve the trading of future

TABLE
The moral economy of financial profits

Problem Definition	Legitimacy Boundary	Market Model Principle	Structural Ambivalence of Financial Profits
Thieves	Appropriation vs. Ownership; Real-Money vs. Virtual Money	On-the-spot exchange of commodities	Time distortion
Fools	Incapacity vs. Risk- Management	Calculability of all economic risks	Uncertainty
Fraudsters	Counseling vs. Trading	Banks as mediators only	Selectivity
Gamblers	Investment vs. Gambling	Coupling between financial markets and real economy	Reflexivity

payment promises. The image of an on-the-spot-exchange is violated not only by “excessive” profit seekers, but by the core concept of credit and even money itself: banks need to “double” deposits for their lending, which is not a problem unless all customers decide to withdraw their money at the same time; borrowing from other banks and the state instead of from clients only exacerbates the leverage problem that lies at the heart of *any* form of credit trading. The overly optimistic growth in leverage was based on the perception among actors that credit would always be available, thanks to several years of steady bull markets and the cheap liquidity provided by central banks. Then the gradual proliferation ended and this abundant flow of credit abruptly ceased. But how could a single market actor possibly have assessed in advance whether her transactions would overstretch the leverage principle?

Second, *the transferability of uncertainty into calculable risk is precarious*. As social studies of finance have shown, in order to make risks calculable, all stochastic-mathematical models used by traders or ratings agencies must assume a probability distribution concerning the potential behavior of the underlying assets (Markowitz 1991, MacKenzie 2011; Beunza and Stark 2004). A major factor in the crisis was the incorrect estimation of “correlation”, the probability that many creditors would default at the same time (MacKenzie and Spears 2013). Macroeconomic factors systematically undermine the assumption that individual economic decisions can be framed as stochastically independent of each other. The transferability of uncertainty into risks is therefore not a question of risk management capacities alone. The quality of foresight also depends on the macroeconomic context, a stable or at least foreseeable “state of the economy” (27) over a few years.

Third, *all information in financial markets is selective and distorted*. During the boom, the tranching and pooling of debt systematically reduced the information content of the compiled “vanilla” portfolios to single numbers without adding any knowledge about the validity of future repayment expectations. This makes trust a salient issue of information processing in financial markets (Granovetter 1985; Zucker 1986). Banks claim fees for providing institutionally trustworthy information (Block 2014: 12), but in the pooling and tranching world they cannot know much more than the rating agencies and the stochastic models. This brings in the possibility of *collective fraud*, where all people involved in the trade chain rely on false information.

It seems problematic to place the moral blame on the last link in the chain if the information distortion is inevitable.⁶

Fourth, speculation on prices and on real economic processes is inseparable, making financial markets highly reflexive. There is an inevitable element of speculation in every investment. In fact, as Knight claims, uncertainty is the prime source of profits (Knight 2002). The moral boundary between investment and speculation is predicated on the extent to which financial transactions are decoupled from real economic processes (De Goede 2004). Financial markets achieve coordination by reducing complexity; traders' calculations of an uncertain future are based on little more than asset prices and assumed probability distributions. The problem of double contingency (how new pieces of information may change prices via the action of all other market actors) leads to a high degree of reflexivity in the capital market (Esposito 2011). Moreover, as Polillo has shown, the power struggle within the financial field is fought with cognitive schemes that constantly change how information is processed and prices are built (Polillo 2011: 378). Information about real economic processes can therefore only enter the market through the medium of actors' perceptions and trade decisions: it is not possible for a single trader to know in advance (and therefore favor the more "moral" choice) whether profits will be realized from a *correct* estimation of the underlying asset value or from a favorable collective perception that could be illusory (e.g. from a "herd effect"). Finally, if all actors were forced to thoroughly examine their assets, the advantage of managing the complexity of real economic risks exclusively through price signals would disappear. Thus, where does legitimate selectivity in the observance of the real economy end and illegitimate de-coupling begin?

To sum up, financial market sociology would consider the 2008 credit crisis to be more rooted in the proliferation of structural inconsistencies that are indispensable to *all* profit opportunities in financial markets than in individual decisions to cross clear-cut boundaries of legitimate profit strategies. If the crisis is attributed to a *moral* failure of individual actors, then, there is an underlying expectation that traders could have individually straightened out the

⁶ From a legal perspective, however, what individual traders actually knew and hid from their clients about the situation of Lehman and the rest of the market remains important. There could also be a difference between what was said and what was written in the contract. But beyond these legally clear

cases of individually accountable disinformation, the only way to justify suing the traders for fraud is to argue that they should have informed their clients about a more generalized problem: that *all* market actors rely on stochastic models that may turn out to be inadequate.

structural ambivalences inevitable in all forms of financial profit. This moralization inhibits the consideration of *systematic* deviations between financial profit seeking and the efficiency model of the market.

The broader question I raised in this article was whether contemporary financial capitalism is still legitimized by cultural and normative principles, as Weber, Hirschman and Thompson claimed of early capitalism. Four moral boundaries of legitimate profit-seeking in finance have been empirically described; these shaped the public perception of the crisis in Germany and in the UK as evidenced in public debates about the moral behavior of banks and financial actors in the early weeks of the 2008 banking crisis. These boundaries appeared consistently in the statements of very different political and economic actors, all of whom accused bankers of being thieves, fools, fraudsters, or gamblers. Although these elements reproduce fundamental and traditional moral reservations against banking, their use in recent debates has been as moral boundaries for profit-seeking *within* financial markets that themselves are considered to be generally legitimate and potentially stable. I have argued that the sociology of justification provides a good conceptual tool with which to analyze how legitimate and illegitimate financial profit-seeking is evaluated in public debates. In both countries, the four boundaries define a special “order of value” for financial markets in which the unequal distribution of financial profits is justified if it complies with mutually shared definitions of achievement and the common good. This augments Hirschman’s perspective on the legitimacy of capitalism: if we wish to understand the public legitimacy of *contemporary* capitalism, it is not enough to apply his ideal-typical distinction between “*doux commerce*” and “the self-destruction of capitalism” (Hirschman 1986) to a dichotomous cultural conflict of pro- and anti-capitalism in boom times and crises. Rather, the two sides are deeply intermingled: in the public moral economy studied here, the criticism of capitalism defines an *arena* of “*doux commerce*” in which legitimate profits can be realized, in opposition to an arena of “excessive profits” that destabilize the economy. The boundary between the two arenas is circumscribed by four building blocks of the efficiency theory market model: the idea that all market transactions resemble the on-the-spot exchange of commodities; all individual payments reflect productive services; profits can only be realized by improving the information processing; and all financial transactions are monetary reflections of real economic processes. Financial markets are perceived to reside in the former arena (and are therefore legitimate) if actors *morally* refrain

from seeking profit beyond the aforementioned boundaries. Thus, the relationship between economy and culture should not be reduced to a dichotomous understanding of morality on one side and rational pursuit of economic interest on the other. Contemporary economic culture is influenced by the inherent normativity of the rational market model.

These empirical results can help us determine why the harsh public attack on financial capitalism that apparently exceeded all classical political cleavages and transcended different financial regimes has not led to fundamental institutional reforms. The argument here has not been focused on the power of financial interests or a normative triumph of neoliberalism, but has been directed toward the underlying shifts in the cultural embeddedness of the capitalist market order and its public legitimacy in particular. Criticism of capitalism has been transformed from a denunciation of the fundamental immorality of the profit principle into a moral postulate that market actors avoid “excessive” profits. Remarkably reminiscent of the finance experts’ claim that a financial market in line with the common good would be possible if institutions were regulated successfully, the public debate takes inspiration from the market model to define what “excessive” means in moral terms. The economic market model reappears as a morality check in the last place we would expect: as part of public denunciations of the immorality of financial capitalism.

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Résumé

Cet article étudie les débats publics consacrés à la légitimité des profits bancaires à l'occasion de la crise du crédit de 2008. Une analyse du contenu de 957 articles de journaux publiés en Allemagne et au Royaume-Uni dans les premières semaines qui suivirent la faillite de Lehman Brothers recense les principales critiques dénonçant l'illégitimité des profits financiers. Le cadre conceptuel apporté par la sociologie française de la justification souligne le rôle des ordres partagés de valeurs comme référence normative pour les discours publics. Dans les deux débats nationaux étudiés, sont particulièrement discutés en rapport avec l'idée de profit légitime des problèmes d'appropriation, la capacité des traders à gérer les risques, les relations frauduleuses avec la clientèle et les paris purement spéculatifs. La critique morale classique des banques prend un sens nouveau dans le contexte de la crise de 2008 : une ligne est désormais tirée entre les profits financiers « normaux » et les profits financiers « excessifs » définissant du même coup une zone de recherche du profit légitime. La théorie économique apparaît alors comme un schème de moralité publique. Le débat critique en apparence virulent ne fait que reproduire l'image d'un marché financier fonctionnel, détournant l'attention publique des ambivalences structurelles de la recherche de profit financier et accordant une nouvelle légitimité *à statu quo* institutionnel du capitalisme financier.

Mots-clés : Morale économique ; Crise financière ; Institutions ; Légitimité ; Financiarisation ; Néolibéralisme ; Profit.

Zusammenfassung

In diesem Artikel werden öffentliche Debatten über die Legitimität von Finanzprofiten in der Bankenkrise von 2008 untersucht. In einer Inhaltsanalyse von 957 Zeitungsartikeln, die in Deutschland und Großbritannien in den ersten Wochen nach dem Zusammenbruch von Lehman Brothers erschienen, werden kritische Angriffe auf die Legitimität von Finanzprofiten betrachtet um die kulturelle Dimension des Finanzkapitalismus in den Blick zu nehmen. Aus Sicht der französischen Soziologie der Rechtfertigung geraten geteilte Wertordnungen als normative Bezugspunkte einer öffentlichen Moralökonomie in den Blick.

In beiden nationalen Diskursen finden sich vier wichtige Grenzziehungen des legitimen Profits die den Eigentumsstatus der gehandelten Gelder, die professionelle Kompetenz der Risk-Manager, die Frage von betrügerischen Kundenbeziehungen und die Rolle von spekulativem Glücksspiel betreffen. Die Bedeutung dieser klassischen Elemente jeder moralischen Kritik an Banken veränderte sich im Kontext der Krise von 2008: So wurden Profite aus Finanzgeschäften nicht generell in Frage gestellt, sondern in der Debatte wurde eine Linie zwischen „normalen“ und „exzessiven“ Finanzprofiten gezogen. Als Maßstab für die so definierte Zone des legitimen Profits diente das ökonomische Marktmodell. So wurde ökonomische Theorie in den Debatten von 2008 zum Maßstab öffentlicher Wirtschaftsmoral.

Die scheinbar radikale öffentliche Kritik am Profitmodell der Banken reproduzierte somit letztlich das legitime Bild eines funktionierenden Finanzmarktes „in greifbarer Nähe“, wenn nur die Akteure sich moralisch, d.h. systemkonform verhalten würden. Dies zog die öffentliche Aufmerksamkeit weg von den strukturellen Ambivalenzen aller Finanzprofite und legitimierte so den institutionellen Status Quo des Finanzmarktes.

Schlüsselwörter: Moralökonomie; Finanzkrise; Institutionen; Legitimität; Finanzialisierung; Neoliberalismus; Profit.