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# **Rhetorical strategies of legitimation in the professional field of banking**

Sabina Siebert, Graeme Martin and Gavin Simpson

## **Abstract**

*In this study we analyse the rhetorical strategies of legitimation used by professionals when their conduct is exposed as wrong. Focusing on banking as a professional field and the conduct of bankers during the 2007–8 global financial crisis, we ask two questions: What rhetorical strategies did senior bankers use to justify their actions and defend the legitimacy of their profession in the face of widespread public disapproval of banking practices? How did bankers use their professional field to legitimize their behaviour? To answer these questions, we analyse the justificatory rhetoric used by UK banking executives during the Treasury Select Committee hearings following the crisis. Drawing on our analysis we developed a typology of rhetorical strategies of legitimation used by the bankers, based in part on the concept of neutralization techniques. We argue that bankers, with some exceptions, drew largely on intra-field rhetoric, deeply embedded in institutionalized practices, to justify their behaviour and legitimize their profession. The lack of more convincing inter-field rhetoric only accentuated the mismatch between the moral universe of the bank executive and that of the traditional citizen, voter and taxpayer.*

**Keywords:** banking, professional fields, institutional theory, justifications, legitimacy, neutralization techniques, professions, rhetoric.

## INTRODUCTION

Widespread public condemnation of the behaviour of British banks following the global financial crisis of 2007–8 has drawn attention to the competence, integrity and trustworthiness of the professionals who led these major banks (Montagon, 2014; Haslam, 2016). Arguably, the collapse of certain major British banks reflected failure by those bankers who directed them in the period leading up to the crisis (Engelen, et al., 2012). In the light of this widely shared perception, we examine the rhetorical strategies of legitimation deployed by senior executives to defend themselves and their professional field in the aftermath of the crisis.

The management and organizational studies literature has offered a range of explanations of British bankers' motivations, discourses and actions pre- and post-global financial crisis. These explanations typically draw on a banking field logic that developed from the 1980s onwards in the US and UK, involving greater risk-taking and aggressive marketing (Martin, 2013; Fraser, 2014; Haslam, 2016), the 'dark side' of market logics (Linstead, et al., 2014), stigma over the finance industry (Roulet, 2015), and bankers' hubristic behaviour (Boddy, et al, 2015; Claxton, et al, 2015). While accepting the general tenor of these earlier studies, we offer a complementary explanation that brings together research on the rhetorical strategies of legitimation and the neutralization techniques originating in criminology and used widely in other social sciences. This choice of theoretical perspective is motivated not by a desire to criminalize banking executives implicated in the financial crisis, but instead by a wish to shed new light on how and why they drew on practices and rhetoric often deemed socially acceptable within their field to justify actions perceived as unacceptable outwith their profession (Bebchuk and Fried, 2010; Whittle and Mueller, 2011; Riaz et al., 2016; Whittle, et al, 2016).

Our approach to this topic is in line with the fertile tradition of inquiry which has focused on how actors attempt to legitimize the behaviour of their professions, organizations, and professional field through the use of rhetorical strategies (Suchman, 1995; Phillips, Lawrence and Hardy, 2004; Suddaby and Greenwood, 2005; Lamin and Zaheer, 2012). In some respects, the field of banking provided an extreme test of the rhetorical skills of professional actors who were subjected to virulent criticism from the general public, the media and politicians of all parties for behaviour that could best be described as wrongdoing (Haslam, 2016).

Our research questions are: What rhetorical strategies did senior bankers use to justify their actions and defend the legitimacy of their profession and professional field in the face of widespread public disapproval of banking practices? How did bankers use their professional field to legitimize their behaviour? To answer these questions we draw on data from the House of Commons Treasury Select Committee who investigated the Banking Crisis and the failure of the UK Banks during the global financial crisis of 2007–8. The ostensible intention of this public inquiry was to put bankers, their organizations and the field of banking ‘in the dock’ (Whittle and Mueller, 2011), which offered a discursive space in which the narratives of British parliamentarians competed for attention with those of senior banking leaders, who sought to maintain their own reputations and the reputation of their profession. By drawing on the neutralization techniques originally developed in other disciplines, we demonstrate how such approaches can be used in organization studies to legitimize professional wrongdoing, not only in banking but in other fields of professional activity. To do so, we draw on the distinction between intra- and inter-field rhetoric and propose a new typology of the rhetorical strategies of legitimation used by professionals to justify their actions (Bitektine and Haack, 2015; Harmon, et al. 2015).

This new typology includes techniques identified in the existing literature on deviant behaviour (Sykes and Matza, 1957; Minor, 1981) – denial of responsibility, denial of the victim, and appeal to higher loyalties. As well as three further techniques that emerged from our analysis of the data – rule-based or legalistic, case-based casuistic, and one that we labelled as identification with the victim. So while we take it as a priori that actor agency by senior banking professionals is likely to have played an important role in the financial crisis (Mayer, 2014), we acknowledge that institutionalized banking scripts are also an important source of explanation for a decline in public trust in banks. Hence, we identify an intra-field relationship between individuals and professional institutions that functions to preserve the status quo. We argue that bankers, with some exceptions, drew largely on intra-field rhetoric, deeply embedded in institutionalized professional practices, to justify their personal behaviour, legitimize their profession, their organizations and the changing professional field of banking that was dominated by a market logic. By so doing, they failed to draw on effective inter-field rhetoric (Harmon et al, 2015) when given the formal opportunity to do so, thus limiting their chances of legitimizing their individual behaviour and that of their profession in the ‘court of public opinion’.

Our paper explores the rhetoric of legitimation in the professional field of banking in the UK. Banking in the UK is illustrative of a professional field that was once characterised by a strong professional association and code of ethics but has become increasingly governed by a market logic (Bevort & Suddaby, 2015). Thus, it provides a test of the work of Scott (2008: 2019) who saw professions as ‘preeminent institutional agents of our time’ in the context of a changing traditional profession. More recently a number of researchers have studied professions as institutions in their own right (e.g. Adler and Kwon, 2013; Muzio, Brock and Suddaby, 2013; Dent, Bourgeault, Denis and

Kuhlmann, 2016). Professions have also been used to explain broader processes of institutionalization, for example by Greenwood, et.al., (2002) Reay and Hinings, (2009), Suddaby and Viale, (2011), Adler and Kwon, (2013), and Kipping and Kirkpatrick (2013).

In line with the logic of our research question we briefly map out two bodies of literature that informed our analysis of the methods used by actors to regain legitimacy when accused of wrongdoing: research into organizational legitimacy and neutralization techniques.

### **Legitimacy**

In their recent review of the literature on legitimacy, Suddaby, et al. (2017) identified three distinctive but related ways of theorizing legitimacy in the context of organizations, all of which have relevance to our study of professional legitimacy. The first is legitimacy-as-property studies, which consider legitimacy as a property, resource or capacity of an entity such as an organization or profession, and as a product of actors and their environments when attempting to achieve fit. Suchman's (1995) classic work falls into this tradition in making a distinction between strategic and institutional legitimacy. Strategic legitimacy is a largely agentic perspective in which 'organizations instrumentally manipulate and deploy evocative symbols in order to garner societal support' (Suchman, 1995: 572). As Suddaby et al (2017) pointed out, this form of legitimacy may occur in three ways – by conforming to environmental pressures (isomorphism), by superficially conforming or decoupling to achieve fit with competing environments, or by demonstrating a pragmatic or technical legitimacy in which actors showcase their innovative potential. Institutional legitimacy, in contrast, refers to the ways 'sector-wide structuration dynamics generate cultural pressures that transcends any single organization's purposive control' (Suchman, 1995: 572).

A second way of theorizing legitimacy is based on legitimacy-as-perception (Suddaby, et al. 2017). This is a form of socio-cognitive perception or evaluation, which retains the idea of legitimacy as a property but, this time, focuses on how audience perceptions and judgements – rather than organizational or professional practices – create, maintain and destroy legitimacy. In other words, those researching in this tradition view legitimacy from the perspective of the beholder, for example the media, regulators and employees, who make judgements on often unstable psychosocial scales influenced by changing social norms or reference groups (Bitektine, 2011). One of the fundamental elements of this perspective is the variety of judgements at the micro-level concerning the legitimacy of an organization or professional practice. To paraphrase current views on the formation of reputations (Foreman, et al. 2012), legitimacy as perception is an evaluation of something by someone. Accordingly, these perceptions can vary from person to person and situation to situation, so for individual judgements to translate into macro-level legitimacy, widespread consensus and isomorphism are required (Suddaby et al, 2017). However, the low probability of achieving such collective validation at the macro-level makes it very difficult for organizations or professions to set or follow generic strategies to build and maintain proprietorial legitimacy.

A third way of theorizing is legitimacy-as-process studies, which focus on an interactive process of legitimation, typically by drawing on a social constructionist perspective (Suddaby, et al. 2017). As such, this type of research is not so much concerned with whether organizations, professions or people possess legitimacy, but instead focuses on how legitimacy is created and maintained, typically through methods of interaction, impression management techniques and rhetorical strategies (Goffman, 1959). Consequently, this process perspective assumes considerable agency by key actors to build legitimacy from the bottom-up using discourse, actions, activities and events. The

literature of this tradition depicts legitimizing as involving three processes (Suddaby et al, 2017): persuasion/translation/narration; theorization; and identification/categorization.

Persuasion, translation and narration rely on language to generate collective 'meaning-making' (Suddaby, et al., 2017 p. 27) but differ in the levels of agency and control of language use they ascribe to actors. Persuasion assigns substantial agency to actors, which has given rise to a considerable body of research on the skilful use of language in different contexts (e.g. Golant and Sillince, 2007; Sillince and Brown, 2009). However, there is little about the accomplished use of language in rhetoric, which is the subject of our research. Theorization occurs when actors problematize existing structures or practices and provide new solutions that sometimes diffuse across an organizational or professional field, for example, in the kinds of identity work and rhetoric used by medical professionals to justify their career moves into leadership positions. Identification and categorization, which are largely concerned with answering the 'who are we' question, are linked to the so-called 'uniqueness paradox' (Martin, et al. 1983). This paradox suggests why and how organizations and professions need to be different (unique) but also need to be 'different in the same ways' (isomorphic, in our case, with their profession). Both are driven by a need for social approval by different audiences, for example, with their public and professional colleagues, and rely on different forms of identity work and rhetoric by institutional actors to reconcile the tensions between their simultaneous needs for uniqueness and isomorphism. This uniqueness paradox explains why much of the rhetoric in professional fields, such as law, medicine and accounting, is intra-field rather than inter-field.

The distinction between intra-field and inter-field rhetoric is discussed in more detail by Harmon, et al. (2015). These authors drew on Toulmin's (1958) distinction



between intra- and inter-field rhetoric to explain how actors' assumptions about legitimacy and legitimation strategies are shaped by different levels of 'backing' or institutional context. This line of thought involves the notion of field dependency in which social actors are, explicitly or implicitly, constrained in using evidence, claims and warrants that question or challenge the legitimacy of their field. So intra-field rhetoric appears to be effective in situations where the normative requirements are well understood, where there is no disagreement over, or questioning of, the institutional context, and where there is no desire or attempt to challenge the status quo. In contrast, inter-field rhetoric is used when social actors argue across fields to 'determine which shared understandings or the context should apply' (Harmon et al, 2015: 79). The dynamics present in inter-field rhetoric are thus more likely to invoke challenging and questioning of a field in order to de-legitimize its institutions, so creating, as well as reflecting, the conditions for institutional change to occur. We now turn to a context in which intra-field rhetoric is used to justify the practices and actions of professionals, their organizations and the professional field in which they operate face social disapproval.

### **Neutralization techniques**

Theories of deviance have been applied successfully in other areas of social science, especially those areas where researchers attempt to explain the undesirable behaviours of social actors. Transgressions explained by theories, for example, in organization studies, may not be crimes *per se*; however, patterns of transgression and the rationalizations that transgressors offer for their actions allow us to draw comparisons between criminology and organizational studies. Drawing on the theory of deviance, we use the typology of neutralization techniques applied by individuals to master and conquer guilt in order to neutralize their transgressions.

The concept of 'neutralization' was introduced by Sykes and Matza (1957) to demonstrate that delinquents adhered to the same morality as everybody else, and showed this by the need they felt to neutralize moral claims, i.e. to satisfy themselves that the claims of morality were in their particular case not binding. Sykes and Matza's approach was characterized by a desire not to see the group's interest, in their case, juvenile delinquents, as strongly different from that of the rest of the population, that is, not a subculture with their own ideas of right and wrong. Sykes and Matza's original list of neutralizations used by juvenile delinquents was: denial of responsibility (not my fault); denial of injury (no one was hurt); denial of victim (the victim deserved what s/he got); condemnation of the condemners (those who condemn have no right to do so), and the appeal to higher loyalties (there are larger duties involved).

Many elements of these techniques are broadly congruent with the general tendencies of the Anglo-American criminal justice system. Denial of responsibility is fundamental, and a successful plea of non-responsibility will in general negate liability. Denial of injury is not, in general, effective for negating liability, nor in general is denial of the victim, unless within the narrow limits of self-defence or provocation. Appeals to higher duties, like appeals to previous good character, will be used as mitigation, and there are no general exceptions for conscience or character in Anglo-American law. Condemnation of the condemners is in a category of its own; a very unusual strategy, sometimes in itself a crime (for example, Scots law knows an ancient offence of 'murmuring a judge') and was explicitly disallowed at the Nuremberg and Tokyo trials, where it would have had a significant political effect (Buruma, 1994).

This list of neutralizations was extended by Minor (1981) by two more categories: necessity (which Minor glossed as necessity *perceived as such* by the agent involved) and entitlement, or what Minor called 'the ledger approach' – a self-administered test of the

agent's moral achievement or contribution, which if in 'credit' may justify certain misdeeds. For our purposes the most interesting category in the list is Minor's (1981) 'necessity'. In Minor's conceptualization, if an act is perceived as necessary, then one need not feel guilty about it even if it is wrong in the abstract. One of Minor's examples is a situation where white-collar criminals assert that illegal activities are standard business practice and necessary in a competitive business climate (Minor, 1981: 298). A defence of necessity is known in the Anglo-Saxon legal tradition; the most famous outing of the necessity plea, where it was rejected, is probably that in *Regina v Dudley and Stephens* (1884), in which the ship's captain and mate were on trial for the murder of the cabin boy, whom they had eaten under desperate circumstances. The case was withdrawn from the jury, who were presumed to be sympathetic to the defendants, and effectively reinforced the view that necessity is not a defence to a charge of murder, at least in English law (Simpson, 1984). Such situations have been intensively discussed, from ancient times (for example Cicero contemplated the predicament of two drowning men and a plank sufficient to support one), and have with good reason formed a staple of the casuistic tradition.

Although neutralization techniques were first identified in the studies of youth gangs in Chicago, and are to this day widely used in the study of criminal activity, they have continued to influence research on various transgressions outside the field of criminology. Examples include studies of ethical behaviour in business (Dalton and Kesner, 1988), ethical marketing and ethical consumption (Piacentini et al 2012), and various aspects of organizational misbehaviour such as bullying or harassment (Nelson and Lambert, 2001).

Nelson and Lambert (2001) proposed to extend Sykes and Matza's (1957) work by examining how university professors who are accused of bullying may attempt to recast

their conduct as laudable rather than disreputable. Nelson and Lambert's study proposed three plausible devices, each operating at the level of more or less conscious manipulation of ideas by people skilful at deploying the written word. *Emotional obfuscation* refers to the way one chooses those symbols and images which are calculated to work with the target audience; *appropriation and inversion* is where you turn the enemy's categories round on them; and *evidentiary solipsism*, where you simply insist that you know better than anybody else. Each of these techniques can be used to recast a way of understanding the world in order to enhance the users public face. These techniques use fairly subtle arguments and rhetorical devices to turn the tables on those advancing a hostile view. The arguments used have factual content as well as emotional colour and, above all, appeal to milieu-specific values. In so doing, the techniques employed by the accused bully challenged the canons of how certain narratives are constructed, and what conclusions are drawn from them.

Nelson and Lambert (2001) purposely used the term 'normalization' because the phenomenon in which they were interested was slightly different from the neutralization of deviant behaviour that interested Sykes and Matza (1957) and Minor (1981). Essentially, the criminologists were dealing with more or less agreed and uncontroversial norms that were also respected by the deviants, whereas the Nelson and Lambert research addressed a politically-contested situation where bullies sought to impose their view of academic life on others. There was no relevant framework under which the bullies were 'deviants', because they rejected the framework; in terms of their framework, it was the politically correct academics that were the deviants. In effect, they invoked the notion of casuistry, characterized by the different stories told, different values advanced for protection, and arguments drawn from different fields.

## **METHODOLOGY**

To answer our research questions, we conducted a study of British-domiciled senior bankers' responses to questioning by members of the UK Treasury Select Committee in relation to their role before and after the global financial crisis. A brief analysis of the context in the UK is important in explaining our findings. Prior to the 1970s, the British banking system was dominated by sixteen large clearing banks based in London and Scotland, which were essentially retail banks taking deposits from and lending to private and corporate customers. This was an era in which institutions such as the Chartered Banker Institute, founded in 1875, attempted to professionalise banking by introducing a system of qualifications and code of professional ethics. Important changes, however, emerged in the 1960s and 1970s as foreign-owned banks began to trade in the UK, including, most significantly, key American investment banks. Regulatory changes in the 1970s and early 1980s, including the abolition of exchange controls and the establishment of a Restrictive Practices Court, began to create greater competition in the UK financial services sector (Davies et al., 2010). This process of change culminated in so-called 'Big Bang' in 1986 when, in one day, the City of London's financial markets were de-regulated as part of a strategy to make the City of London a key player in global finance. Big Bang had a number of effects, one of which resulted in the UK banking system becoming more concentrated through acquisition activity into four large banking groups – RBS, Barclays, HSBC and Lloyds TSB. All of these banking groups, to a greater or lesser degree, entered into new and often speculative financial markets (Whittle, Mueller and Carter, 2016), with two in particular, RBS and Lloyds TSB most notable for their 'entrepreneurship' (Martin 2013). Allied to these changes was the increased influence of US investment banks in the City and the editorials of the Financial Times in particular (Lok, 2010), both of which extolled the virtues of shareholder value as a governance

model and in linking executive pay to its creation (Martin et al., 2016). These new logics and the bull markets in the 1990s created by the success of the system during the same period, led to financial services firms competing for scarce talent - especially investment analysts, traders and entrepreneurial leaders - by offering ever greater levels of financial incentives to individuals who were more willing to engage in risk-taking behaviour (Rajan 2010). It has become received wisdom that this 'bonus culture' culminated in the willingness of the banks to take on increasing risks in dealing in securitised products and selling loans to individuals and companies that could not afford pay them back to that led to the Global Financial Crisis in 2008 and to the failure and problems of the four major UK banking groups, a number of smaller banks and building societies and other financial institutions (Martin, 2013). Two of these banking groups – RBS and Lloyds - along with HBOS other UK financial institutions, had to be rescued through the UK Government Bank Recapitalisation Fund, representing a massive investment by the UK taxpayer in institutions that were claimed to be 'too big to fail'.

Thus, these UK government's rescue operations and the widespread criticism of the risks taken by banks' leaders provided the context for the terms of reference of the Treasury Select Committee – to identify lessons learned from the UK banking crisis, and to protect taxpayers, consumers and shareholders. In 2008–9 the House of Commons Treasury Committee undertook a wide-ranging inquiry into the failures of UK banks in the financial crisis of 2008. The inquiry produced a report, *Banking Crisis: dealing with the failure of the UK banks*. These 120 pages of text contains the views of academics and business experts as to what happened and what might sensibly be done to prevent a further banking crisis. As part of the work of preparing this report, the Committee held public discussions with executives of the four major banking groups and other banks

caught up in the crisis. Transcriptions of these were published as document HC144-I, which we analysed in this study. The list of bankers who took part in these hearings is in Table 1.

*Insert Table 1 about here*

Parliamentary select committees, dating back to the nineteenth century, have been established by the House of Commons to scrutinize key aspects of policy and administration related to government departments, such as the UK Treasury. These committees enjoy delegated powers, in theory at least, to require any person or body to attend a formal meeting of a committee to give oral or written evidence, or submit particular documents that the committee deems of interest to the inquiry. Private individuals can be compelled to appear before a select committee, which comprises parliamentarians (who are appointed in direct proportion to the number of seats held by political parties represented in the House of Commons). Normally committees have around twelve members and, since 2010, chairs are elected by a secret ballot of MPs.

The inquiry process, which is nearly always held in public, is standard for most select committees: identify an issue, appoint a specialist adviser, solicit written evidence, take oral evidence during hearings and produce a report. Furthermore, the select committee has considerable power to compel private individuals to attend. If private individuals refuse, they can be held in contempt of Parliament; they are also required to answer all questions put to them. The reports are made available online, along with transcripts of the proceedings usually containing full oral evidence. Such reports are intended to be an authoritative account of complex events, containing a narrative establishing the causes, effects and lessons to be learned on particular issues. However,

some critics have argued that such inquiries are largely ceremonial. This suggests that the rituals and stage-management of the inquiry process and the reports produced are often a means by which the state seeks to mobilize active consent to an univocal narrative of complex events, with the aim of repairing legitimacy issues so that the state apparatus is further strengthened (Brown, 2004, 2005).

### **Data analysis**

Arguably, Parliamentary Select Committee hearings formed a discursive space where competing narratives and logics interfaced and in which the questioning was never intended to be neutral (Hardy and Maguire, 2008). Insofar as these hearings were the result of design, they may have been intended to reflect what MPs understood as the public interest and their own duties as public servants. Our study is located in the broader philosophical perspective of phenomenology, particularly that of Alfred Schutz (1967) who was a proponent of multiple realities and insisted upon the need to study intentions and the settings in which these make sense; an approach which foregrounds the institutional bases of society. Specifically, we were looking at an event where public representatives sought to hold to account the executives of powerful institutions that rely upon publicly acknowledged norms, and where these banking professionals sought to defend their organizations using whatever conceptual resources they had available to them.

Our analysis followed abductive reasoning by iterating between existing theory on legitimacy and our findings. At the beginning of the analysis we used open coding (Strauss & Corbin, 1998) of the transcripts to identify empirical themes (first order codes) related to legitimating behaviour. Following the recommendations of Miles and



Huberman (1994), we engaged in repeated readings of the material — the transcripts of the questions and answers — moving back and forth between our data and the techniques identified in the deviance literature, until we were satisfied that we had identified usable conceptual categories.

This first-order coding was followed by axial coding into more abstract, second-order conceptual categories. We identified recurring techniques through reading and re-reading of the material, and then compared the techniques with the neutralization techniques codified in earlier literature (e.g. Sykes and Matza, 1957; Minor, 1981). We were able to identify evidence of some of the existing techniques: denial of responsibility, denial of victim, and the appeal to higher loyalties. However, our analysis led us to the view that three types of justifications were identifiable in the data that did not match any of the techniques. We labelled these legalistic strategies, casuistic strategies and identification with victims.

We then aggregated these second-order conceptual categories into the rhetorical strategies underlying the neutralization techniques vis-à-vis the framework of intra- and inter-field strategies as discussed by Harmon et al. (2015).

## **FINDINGS**

Drawing on the literature outlined earlier in the paper and our analysis of transcripts of the Select Committee hearings, we formulated a typology of the rhetorical strategies of legitimation used by the bankers in response to questioning by Inquiry members. These strategies are classified as justifications as they purport to justify

perceived failures of competence and integrity brought to the fore by the financial crisis. This typology can be found in Table 2.

*Insert Table 2 about here*

### **Denial of responsibility**

In Sykes and Matza's (1957) original research, 'denial of responsibility' was introduced to categorize responses showing an agent's readiness to accept the reality of malfeasance or at least injury, but denial of any actual guilt. This was a common line taken among the bank executives summoned before the Select Committee. Something had gone awfully wrong, they admitted, for which they were sorry; however, they refused to see themselves as individually responsible, preferring to shift blame to features of the banking field. Denial of responsibility was implied in a claim that the bankers were overwhelmed by a situation that was beyond their control, and that the unforeseen was unforeseeable:

*At the time it did not seem like a bad mistake. Our shareholders approved the transaction in August of 2007. Barclays' shareholders approved it in the middle of September 2007. After the Barclays shareholders approved it – and Barclays stayed in the fight to get ABN Amro right to the end and revised their bid terms up – our bid stayed the same throughout. We got to 17 September 2007 and ABN Amro reconfirmed their earnings estimates for 2007 and specifically stated that credit market markdowns had not affected them. They specifically stated that their credit portfolio and credit outlook was good. Again, that may seem hard to believe now, but at the time that fitted into the context [Q1680].*

The most noticeable attempts to deny individual responsibility and foreseeability came from the accounts of RBS and HBOS senior bankers. Since these executives were the ones most associated by the general public with reprehensible behaviour, arguably

they had most to gain by attributing blame to the vagaries of the field of banking. For example, Fred Goodwin, RBS's CEO, drew on a form of mock *mea culpa*, when stating: *'if you want to blame it all on me and close the book, that will get the job done very quickly, but it does not go anywhere close to the cause of all of this (Q1895)*. Instead, his explanation for RBS's demise was that it *'was post-Lehman's that the collapse in confidence, the collapse in markets, just came round and hit us'*. Similarly, Tom McKillop, the RBS Chairman, further denied the culpability of RBS: *'We had no idea of the speed and the interconnectedness and how quickly it could all have turned out'*.

Goodwin invoked another form of field level explanation of the problems by making a distinction between investment merchant banking, where *'everybody chops up any money there is'*, and retail banking, which was about *'conserving and guarding the money of ordinary people'*. He emphasized the gradual slippage away from safe and proper practices in normal retail banking due to continued pressure to produce the things the market wanted:

*Fred Goodwin: As the industry went on, there became more and more demand from investors for more and more, so we started to get into doing the exercise with synthetics and other products related to sub-prime. One of the consequences of this was that it magnified the effect and individual loans were being referenced more than once. That is why you got a big multiplication that went on and that is why, when the music stopped, some of these were still held. It was thought that the junior tranches had been sold, that the most risky piece had been sold and was out there somewhere with someone else.*

In answer to a question tangentially raising the issue of the commercial morality of packaging and trading worthless assets, denial of responsibility also developed into blaming others in the banking field: *'No, it was not sub-prime in our hands. We were doing it as agents for other people [Q1886]*. Similarly, Stephen Hester, who subsequently took over from Goodwin, placed emphasis on the systematic role of the rating agencies, which had the same effect of shifting responsibility to the field:

*The world needs some shorthand of credit analysis because many people who use financial markets do not have the resources and time and expertise to do the work themselves, so the world does need credit rating agencies and we need them to be as good as they can be. (Q2107)*

The following exchange between parliamentarians and HBOS bankers also shows a willingness to deny individual responsibility by pointing to field-level problems:

*Questioner: Could I interrupt you. Just a word here: has it lived up to it? (Q1650)*

*Lord Stevenson of Coddenham: In everything we tried to do, yes, and we hit the first major market failure in wholesale markets, as did virtually every other bank in the world.*

### **Denial of the victim**

A further justification used by bankers was denial of a victim, which evoked those members of the financial community who should have ‘known better’ – a form of *caveat emptor*. Goodwin invoked this form of denial when challenged over his knowledge of the securitized products RBS bought and the amount of sub-prime debt they contained. At one point Goodwin was tested on his lack of professional knowledge, a popular charge also levelled at some bankers by the financial press prior to the global financial crisis. In this exchange the questioner showed incredulity at Goodwin’s apparent cynicism and desire to manipulate his audience. Infact, there was a distinct lack of sympathy implied in respect of these market agents, echoing Sykes and Matza’s delinquents’ attitude towards victims who had brought trouble on themselves. As the following exchange illustrates, Goodwin argued that this was a market in which there were willing buyers and willing sellers who knew the risks they were taking:

*Nick Ainger: Just following on from that, from what Sir Fred was telling us, are you not culpable in some way? The excuse that we have had constantly is pointing the finger at the credit rating agencies, that they give the CDOs and so on triple-A ratings, but you are saying that you actually did really deep due diligence, knew that there was a substantial element of sub-prime and yet you still carried on*

*dealing with them and ended up with them on your books. Are you not culpable for that? [Q1893]*

*Sir Fred Goodwin: We did not end up with those on our books. That is what I said.*

*Mr Mudie: But you said that as—*

*Sir Fred Goodwin: The willing buyer and willing seller. This was a business which was conducted and there was no secret about it and there was no subterfuge involved. Again, just to be absolutely clear, I am not pointing the finger at the ratings agencies, and I go right back to the opening statement made. [Q1894]*

We also found evidence of such a denial when there was insistence that while some worthless assets might have been sold, the buyers were skilled investors who had their eyes open:

*Questioner: But then, as a banker, a sophisticated banker, could you pass these on with triple A, knowing the content, knowing that the houses that were being sold were being built and mortgaged in America, all over America?*

*Fred Goodwin: These were knowingly being originated by professionals and sold on to professional investors and rated by their agents. [Q1888]*

This is a revealing exchange, as there was an implicit admission that the bank was feeding a bubble, followed by an exculpatory argument that the specific traders who bought from the bank had no grounds for complaint. Arguably, there was a distinct lack of sympathy implied in respect of these market agents, again echoing Sykes and Matza's delinquents' attitude. The bankers did not go as far as to claim that victims 'deserved what they got', though they implied that a case could be made against people who over-borrowed (the so called 'liars' loans') or investors who were left holding worthless assets.

### **The appeal to higher loyalties**

Another category of neutralization invoked by the bankers was that of 'higher loyalty'. The bank executives appeared chary of parading whatever private affiliations

may have motivated them, but they were prepared to invoke a more general interest, such as the interest of the world financial system, over that of the national community. So we found an appeal to cosmopolitan ideals in support of a bank's apparent lack of interest in lending at home. For Hester, the question was one of preventing the UK from falling into isolationism: *'Governments everywhere around the world are supporting the financial system and supporting banks of all nationalities. ... It is very important that the world not retreat into a process of isolationism'*.

### **Casuistry: Necessity and universal practice**

The analysis of the transcripts yielded material that resonates with the techniques codified by Sykes and Matza (1957). But we also identified other justifications that rely on a background set of normative requirements that appear to have been violated, and the supposed violators produced justifications that 'neutralized' their behaviour in one way or another. In this context, we evoke the notion of casuistry, an approach that starts from the case, i.e. 'circumstances alter cases'. In our analysis we see some examples of casuistry, in which bankers attempt to defend themselves against implied charges of moral turpitude by invoking rules or justifications from an external context and applying them to their own situations. For instance, necessity in relation to market requirements, and universal practice in the banking profession.

Necessity was invoked in the context of market requirements: pay levels, bonus systems, and dubious securities trading practices are all enforced by the processes of competition in the relevant market. The necessity argument featured strongly in the justification of generous payments to CEOs and of the bonus system as it operates at the highest levels in the banking system. Rod Kent's enthusiasm for this argument led him to

overlook the uncomfortable semantics of the expression 'guaranteed bonus', even when challenged by the questioner:

*Questioner: Why is a bonus guaranteed? If it is guaranteed should it be on his salary? A bonus is there for performance.*

*Rod Kent: Normally that is the case but when you are having to attract somebody at high speed to a difficult job you do need to make exceptions, and that is not unusual in the employment market amongst bankers.*

The urgency to hire staff, according to Kent, created a necessity, for example, when the previous chief executive became ill and had to be replaced quickly.

*Rod Kent: Our previous chief executive became seriously ill at the end of May 2008... One of the first priorities was to find a new chief executive. This was not an amazingly attractive post, if I can put it that way, and therefore it was up to us to put together as a board a remuneration package which would attract somebody, and that was what we did with Richard Pym and he came in to a difficult situation, of course. In his defence, that was what was necessary in the marketplace and we took external advice to attract somebody of his calibre to come in.*

Minor's conception of necessity has clear resonance with this statement by the former chairman of one of the smaller banks:

*Rod Kent: There is a market place out there; we could not get round it. We are not large enough, as Bradford and Bingley, to make the market; we had to respond to that, so we took external advice from one if not two people to see what the market was and in general terms we were absolutely not hitting the lights out in terms of our executive pay; we were very firmly in the middle of the pack. You can therefore criticize the whole of the financial services pay scales – and many have, particularly in the light of what is now happening, but that is the position that we, as an individual company, found ourselves in.*

The defence of necessity, interpreted as what is perceived to be unavoidable in the given situation, is indifferent to the precise mechanism invoked. Fred Goodwin again can be seen to refer to field level explanations, pointing to the coercive force of the 'star' system in the financial services industry in the UK, a result of the spread of American models of corporate governance and the deregulation seen in the 1980s:

*Fred Goodwin: Many of the remuneration practices have been imported from the United States. As London has emerged as more and more of a global financial services centre a lot of these practices have come across from the United States. This has been a source of angst within banks, if you talk to other bank chief executives who have activities in this area for years and years. It is very difficult for an individual institution to make a change unilaterally. [Q781]*

Necessity is not self-explanatory but implies a background against which necessity can plausibly be claimed – a background that may very well be foreign to the field in which the wrongdoing took place. In the case of remuneration, the professional field of banking is the background.

While analysing the transcripts, we also identified an argument from universal practice, usually invoked in the context of the banking profession. Arguably, however, universal practice is rarely universal, otherwise it would not need to be invoked as justificatory. The following extract deploys a variety of arguments from universal practice to rebut an implied charge of negligence or incompetence:

*Questioner: When the tripartite authorities came before us – the Bank of England and the FSA in particular – they said they had sent warnings out to the banks and they cited January 2007 and April 2007. Sir Fred, why do you think that those warnings were not heeded?*

*Fred Goodwin: ... at the time there was a view, not that things would continue forever, there was a definite mood that the economy in this country and generally was going to slow down, that financial markets were going to slow down; but at no point did anyone get the scale or the speed at which. It was not that our business was premised on everything continuing to go upwards forever; but that things could turn as quickly as they did, I do not think anyone saw. [...] I think this is the part which has just caught everyone out, and it was not possible at the time to envisage.*

There was also an argument that all the lines of business, such as the more egregious types of securitization, were justified by universal practice. For example, Stephen Hester claimed distance from the decisions made by his predecessors, while at the same time invoking tragic pathos – incomprehensible decisions prompt the thought that it was all somehow inevitable: *‘Many of the issues were judgments honestly made on*



*very big things that have turned out to be very badly wrong, but they were judgments that were very visible to many.'* [Q 2038]

More prosaically, we found the following reference to practices shared by other big companies. In relation to the excessive bonuses, Andy Hornby referred to a practice shared by all the other FTSE companies:

*Questioner: You get paid a million pounds a year! I want that on the record, we are not accepting your point of view fully. Your million pounds people see as a very generous million pounds.*

*Hornby: Chairman, I accept, along with all other FTSE companies.* [Q1665]

### **Legalism: Justification by procedure and entitlement**

The analysis of the transcripts revealed a long list of justificatory materials framed in procedural terms: 'procedure was adhered to' and 'we were entitled to it' because of rules or contracts. We refer to these procedural terms as legalism, i.e. a rationalizing approach that applies general rules to specific cases. Shklar (1964: 1) defined legalism as 'the ethical attitude that holds moral conduct to be a matter of rule following, and moral relationships to consist of duties and rights determined by rules'. Some strategies used by the bankers can readily be interpreted as legalistic in the sense of using legal/procedural categories.

Faith in procedure was widespread in the banking industry, and it resonates with Elsbach's (1994: 65) notion of 'institutional characteristics' as a way of organizational accounting for 'normative and socially endorsed organizational practices' following a crisis. An exchange with the CEO of Santander provided the following illustration:

*Questioner: Mr Beed: As a very minimum, most people would have looked at the auditing arrangements. The auditing arrangements in terms of Madoff consisted of a 78-year-old man living in Florida, one qualified accountant and a secretary. What sort of due diligence did you do on that?* [2055]

*António Horta-Osório: It is easier to say that with hindsight.*

*Questioner: Mr Breed: Absolutely, but why did you not do it? [2056]*

*António Horta-Osório: We have strong due diligence processes....*

The representatives of HBOS were determined to plead guilty to one failure of judgement (reliance on wholesale funding) but the question of asset-side risk and an out-of-control sales culture was ruled out of the discussion: *'we did a clear review of it, at the end of which the FSA regarded the matter as closed'*.

Such a distinction raises many questions. In terms of responsibility, it was difficult to make a distinction between the bank's policy on funding, which proved disastrous, and the bank's policy on lending, which also proved disastrous. It would have been consistent for the bank to deny fault in both cases, or to admit it in both cases. Instead the bankers grudgingly accepted that they *'did not prophesize'* developments on the funding side but made a mistake about how rapidly the wholesale credit market would disappear. However, with regard to making unsafe loans, they admitted no blame at all because procedures were followed and the FSA signed off on them. So why did the HBOS executives take this path? Part of the answer is that it was essential for them to resist admitting culpability in the context of the sales culture of the bank, a matter very much within their own control (Haslam, 2016).

A similar reliance upon reviews done and procedures duly followed marks the former RBS chairman's responses to a series of questions with regard to diligence claims and the acquisition of ABN Amro:

*Ms Keeble: Sir Tom, before we move on, you say due diligence was done on ABN Amro earlier on, but the deal was completed in October 2007. I remember, along with my colleagues in this Committee, sitting here with the Governor of the Bank of England in September talking about Northern Rock in crisis and here, a month after the earthquake has hit the financial services industry, your organisation signed up to ABN Amro. Can you say to us hand on heart here that the due diligence was done in October and you were still very happy with it?[ Q1691]*

*Tom McKillop: The due diligence was done in May, as Fred said, and then there were a series of meetings with the senior people of ABN Amro to determine if there were any further developments.... There were a series of meetings and, as Fred indicated earlier, ABN Amro came out with a statement in September of that year which was very clear about their financial position and, indeed, their views on the status of their business in the middle of all of this which was very reassuring.*

The blame attached to authorities was implied rather than explicit in Dennis Stevenson's statement where he brought the regulator, the FSA, in on the side of HBOS management in the context of the Moore affair: *The FSA personally reviewed the sales culture you are referring to...* [Q1763]

Those arguments essentially referring to procedure fell into a special class. Procedure was invoked to justify an acquisitions policy that in hindsight appeared irrational, a sales culture that appeared to have been out of control, and an investment in the notorious Ponzi scheme. In each case the executives concerned invoked procedures that were allegedly followed: both procedures internal to the banks concerned, and procedures involving recourse to the regulator. In each case there is a hint of legalism, as if criticism is wrongly directed at a result whereas it ought to stop dead at the mention of the process used: I followed procedure – what would you have me do? Such a pattern of exculpation is not unknown to the law: my brakes failed, but they were regularly maintained; the surgery failed, but the best techniques were used. But it is particularly at home in the culture of bureaucratic organizations.

It was only in the exceptional case that bankers were disposed to admit that procedure was inadequate. For example, we identified an unusual recognition of the inherent impotence of procedures in Stephen Hester's response to a question about the lessons that can be taken from the banking crisis:

*Mr Thurso: Mr Hester, can I come to you? I look at RBS, a once proud Scottish banking institution, British banking institution, brought to its knees. I look at those names on that nonexecutive board and say to myself, how come none of them said, 'No, this is nuts'? What is the lesson in this for corporate governance? Q1977*

*Stephen Hester: This is a really, really difficult question. I think that all companies struggle with the non-executive balance, and it gets down to humans rather than process, and it is really incumbent that you have an executive that wants strong challenge and that gives information to enable it... I have to tell you, I am not sure this is an issue of process. I think it is, unfortunately, an issue of humans and their behaviour.*

Entitlement, or what Minor also called *the ledger approach*, was also called into play in the hearings. This entitlement refers to when a wrongdoer points to previously stored merits or contributions. It is almost as empty a concept as necessity, in the sense that it always needs to be filled up with content from a particular set of social relationships: these relationships can be there in the background, or they can be imported from a different institutional context. The argument of entitlement is thus a protean one: it can be used to argue two completely different, and sometimes contradictory, positions. In this case the same argument of entitlement was recognizably invoked to defend the banks against the criticism that banking profits are privatized while admitting that banking risks are socialized:

*Questioner: Would you accept that over the last ten years the profits of your industry have been privatised but the risks socialised?*

*Stephen Hester: I think that there is an extent to which we are all learning the interrelationships in banking and society, and I think we have learned that in one sense of that word they are socialised, although it would also be the case that banks, of course, have been the biggest taxpayers to the economy over many years until now. Now the reverse is happening and that is a source of enormous sadness and disappointment. [Q1918]*

This answer politely accepted the questioner's systematic thesis in the leading question posed but then abandoned systematic discussion, suggesting instead some kind of balance between tax as contribution and subvention as help; entitlement based upon

the most basic tit-for-tat reciprocity. Furthermore, a similar tack was taken when John Varley, faced with an allegation that Barclays was trying to avoid paying UK corporation tax, referred to the amount of tax generated by Barclays in the previous five years:

*Questioner: Mr Varley, talking about the whole issue of bonuses and pay and such, it has been reported that one of your employees has been paid the staggering amount of £40 million in order to devise the best tax avoidance schemes possible so that Barclays can avoid paying legitimate UK corporation tax. Is paying somebody that staggering sort of amount to avoid tax an appropriate way for a UK bank to perform?*

*John Varley: [These reports] are not accurate in this case. I said earlier that it is important for us to be both receptive and sensitive to the spirit of the age as it relates to compensation at the moment. If I go to your question about Barclays as a taxpayer, if I look at the amount of tax that we have paid to the Inland Revenue here in the United Kingdom over the course of the last five years, it totals about £10 billion, and I think it goes right to the statement made by Stephen Hester a moment ago, which is that I think it is in the interests of this economy here in the United Kingdom for banks to be profitable and for banks to create employment opportunities as a result of that and for banks to pay the taxes that go with those profits, and that is what we do. [Q1927-8]*

The variation here was that Varley dismissed the allegation of tax avoidance and moved smoothly into generalities about the bank as a contributor; switching back to a general systematic theme: we make profits, and we pay taxes. It would have been harder for him to start and finish with a systematic defence of bank profits since such a defence raised an obvious counter about banking oligopolies. On the other hand, leading questions of entitlement were raised by some of the MPs, which can be interpreted as politicians' attempts to align themselves with 'ordinary people – pensioners in Britain':

*Questioner: As a principle, would it not be fair that your pension, which is quoted as being rather a high pension—over eight million I have seen quoted—would it not be fair to other pensioners in Britain that your pension was linked to the share value of the bank that you ran?*

*Fred Goodwin: No, my pension is the same as everyone else in the Bank who is in a defined benefit pension scheme. It is determined in the same way as anyone else, and anywhere else, in a defined benefit pension scheme.*

And it is notable that the respondent absolutely refused to be drawn on to the ground of justifying pension payments using any sort of entitlement other than the right to payments due under a contract. The ways in which entitlement was deployed in the defence of the banks had more in common with Nelson and Lambert's techniques in that the classification of the supposed transgression was open to the question – Is one person's entitlement, another's egregious overpayment?

When the question of tax-avoiding behaviour by Barclays was raised, its CEO, John Varley mounted a defence in terms of the legal duties of a 'publicly owned' company, which also invoked the notion of procedure:

*Questioner: If you had not undertaken the tax avoidance schemes, how much more would you have paid in tax?*

*John Varley: I do not recognise the statement that we have undertaken tax avoidance schemes. What we are required to do, as you understand, as a publicly owned company—by that I mean having institutional shareholders—is to manage our tax affairs efficiently, but there are very prescriptive and clear laws governing tax in the United Kingdom and, of course, we take it seriously that we have an obligation to abide by those. Q1929*

### **Identification with the victim ('I too was a victim')**

Our analysis of the data revealed identification with the victim as another neutralization technique. We found two variants of this technique. The first was when banking executives were at pains to emphasize the alignment of their financial interests with those of shareholders. This was certainly evident in the answers by Andy Hornby, when he claimed '*My interests have been entirely aligned with shareholders and I never received one single penny of cash bonuses*'. Following on from this claim, Hornby invoked a second form of identification with the victims – I also suffered personally – when pointing out his losses:

*Andy Hornby: At HBOS I would say, and it is not in any way drawing back the apology we have made earlier about the situation we have found ourselves in, not just myself but all the other executive directors were encouraged to take all of their cash bonuses in shares. To put it in perspective, in the two years that I have been Chief Executive I have lost considerably more money in my shares than I have been paid. I think that is showing I have been aligned with shareholders' interests. [Q1658]*

A similar line of thinking was evident in Goodwin's response that he had lost money by buying shares, alluding to how the decline in RBS share price had affected him personally:

*Between the end of 2007 and now I would estimate I have lost somewhere in the region of over £5 million in the decline in value on shares that I have put into the company. I bought shares on the day we completed the ABN Amro transaction – more than a year's salary. So the decline in share price in RBS has affected me. I am not complaining but it is highly germane to this conversation, but my pension is not linked. (Q1702)*

A sense of dramatic outrage at the £60,000 per month pay package awarded to Hornby for consultancy work, following his dismissal from HBOS, can be detected in Mr Mann's question, which appears to accuse Hornby of greed:

*Mr Mann: Is not the thing that really annoys them—I know from letters I have seen—that you are still being paid, are you not? Is it £60,000 a month? [Q1714]*

*Mr Hornby: Mr Mann, I have a short-term consultancy arrangement with Lloyds TSB which, can I just stress, Lloyds TSB asked me to do.*

*Mr Mann: £60,000 a month? [Q1715]*

*Mr Hornby: That is correct.*

*Mr Hornby: If Lloyds TSB still want me to help them after the three month period I will certainly carry on for as long as required and will do it for free and provide Eric Daniels with all the assistance that he looks for; secondly, can I just please reiterate in terms of your impression about rewards for failure what I outlined earlier; that I have invested [every] single penny of my bonuses in my time with HBOS into shares; I have lost considerably more money over the last two years for the period I have been Chief Executive than I have earned; and I share all your concerns for staff morale.*

Some executives were at pains to emphasize the alignment of their financial interest with those of shareholders:

*Andy Hornby: Last year, in common with every single year for the previous eight years, I invested my entire cash bonus in shares. I have never received a single penny of cash bonus during either the two years I have been Chief Executive of HBOS or in the previous seven years when I was on the board of HBOS. My interests have been entirely aligned with shareholders and I never received one single penny of cash bonuses. Q1657*

Identification, in the sense of establishing common ground with one's hearers, has been analysed by Kenneth Burke (1969). Goodwin made an attempt to identify with the common people by stating that he and his colleagues also had shares and options in the company like ordinary investors. However, Burke (1969: 22) also warned: 'to begin with 'identification' is, by the same token, though roundabout, to confront the implications of division' (1969: 22). It is not easy for an audience who are not substantial wealth holders to identify with men who enjoy extremely high rewards. Perhaps the main persuasive force of this approach is to point out the indeterminacy and hazard in the whole situation. As detailed in Whittle and Mueller's (2011: 129) treatment of the British bankers' self-perception as being the victims of a financial tsunami, faced with extreme 'conditions that are beyond the control of the individuals involved and which indiscriminately create victims'.

## **DISCUSSION AND CONCLUSIONS**

Our research questions focused on how bankers justified their professional conduct and defended the legitimacy of their banks in the face of widespread public disapproval. A Treasury Select Committee was established to investigate the conduct of the UK banks during the global financial crisis but had no remit to bring about criminal charges or ask for 'heads to roll'. Instead, their findings brought into focus questions



about the competence, integrity and trustworthiness of senior figures charged with the direction of banks as institutions key to economic success and how societal logics of shaped their worldviews and decision-making that did not meet societal expectations (Martin et al., 2016; Reay and Hinings, 2009; Roulet 2015). When the Chairman of the Treasury Select Committee pressed the former heads of RBS and HBOS to rate themselves against the *Oxford English Dictionary* definition of banking as looking after other people's money (QQ766-773), he was invoking a traditional set of expectations which it would be very difficult for bankers to ignore. Indeed, dereliction of the duties outlined in the simple dictionary definition was widely believed to have damaged the UK financial system. Our analysis was shaped by an interest in the legitimacy of the banking profession, and how this legitimacy was defended when events had brought it deeply into question. We wanted to understand what rhetorical strategies senior bankers used to justify their actions and defend the legitimacy of their profession in the face of widespread public disapproval of banking practices. Moreover, how did bankers use their professional field to legitimize their behaviour? We structured our discussion around the two bodies of theory we outlined in the introduction to this paper: neutralization techniques, and theory on legitimacy and intra- and inter-field strategies of legitimation.

### **Bankers' use of neutralization techniques**

We acknowledge the wealth of literature on the use of rhetoric in management (e.g. MacCloskey, 1985), but in this paper we specifically focus on neutralization techniques to provide a more nuanced understanding of bankers' use of rhetorical legitimation strategies. We treat neutralization techniques as rhetorical devices, as we believe that they have great potential to explain how individuals legitimize their profession when the legitimacy of individual actors and their profession are called to account (Deephouse and

Suchman, 2009). Although we focused on an elite community of senior bank executives occupying a 'small world' whose governance principles often appear to be disconnected from other actors in wider society (Galvin, Lange and Ashforth, 2015), we argue that the neutralization techniques they use can explain the behaviour of other professions in organizations, especially those found in the private sector (Dent et al, 2016).

The original neutralization techniques (classified by Sykes and Matza, 1957, and Minor, 1981) were evident in the bankers' statements. There were attempts to deny responsibility, deny the victim, and appeal to higher loyalties. However, the repertoire of strategies identified in the Select Committee evidence also required us to move beyond the standard techniques and extend the classification to include legalism (including justification by procedure, and entitlement), casuistry (including necessity and universal practice) and identification with the victim.

As we explained earlier, legalism is a rationalizing approach that applies general rules to specific cases. Some strategies used by the bankers can readily be interpreted as legalistic in the sense of using legal/procedural categories. The most general criticism advanced of the UK banks and banking professionals is that they are supposed to act as the responsible trustees of the funds of others (Mayer, 2014). In other words, the expectation of the public and Parliamentarians was that bankers were supposed to act as traditional professionals, following a professional code of ethics instilled into them during a system of banking training and socialisation resembling a gentlemen's club. This was the picture of banking and bankers that had been portrayed by the banks and organizations like the Bankers Institute before deregulation and the incursion of a market logic and shareholder value. Instead, the public and Parliamentarians had to deal with a situation where bankers cared little about trustees and their general image, and instead

indulged in risky methods of trading in securities to secure often eyewatering bonuses. Justification by procedure was widely used by the bankers in the Treasury Select Committee hearing and is an example of a legalistic strategy. The references to auditing procedures, Financial Services Authority regulations, and tax laws discussed above could be classified as legalistic. A classification that works not only in a common-sense way based on the legal concepts invoked, but also in the more theoretical sense invoked by Shklar (1986: 1) as the equation of moral conduct with rule following.

Casuistry, by contrast, is an approach that starts from the case, i.e. 'circumstances alter cases'; Toulmin (2001) referred to it as a narrative approach. Some justifications put forward by the bankers eschew legalism, by proposing that other considerations make the law inapplicable. So the law may say the bankers were trustees, but they did not act like trustees because they had to behave like businessmen in a private sector pursuing shareholder value. This line of reasoning is casuistic, i.e. circumstances alter cases and understanding these circumstances is worth a sackful of rules. As Jonsen and Toulmin (1988) noted, casuistry started life as a 'repair kit' for legalism: its proponents held that it was akin to jurisprudence rather than mere rhetoric, and its original purpose was to equip confessors to investigate the penitent conscience, just the way a magistrate might investigate a criminal offence. Typically, casuistic arguments worked by changing the argument, as the bank executives can be seen to argue: traditional banking practice required a conservative risk function, but modern finance permits and requires other approaches to risk, and even to commercial morality.

Casuistry, by its nature, is adapted to combating hyper-generalizing formulae and legalistic approaches to normative regulation; for example, suppose that one is accused of killing and the relevant law is based upon a legal code which simply forbids killing; one may be motivated to shift the context, perhaps by invoking another standard which allows

killing under certain circumstances. This is a classic strategy of casuistry (Sampson, 1988). Casuistry carries a healthy tinge of scepticism towards generalization in normative matters. Indeed, Toulmin (2001) has emphasized the degree to which case-based arguments share their power with the rich circumstantial detail of mere narrative. For such reasons, and because it represents a store of resources for defensive or justificatory strategies, we argue that it is helpful to apply the notion of casuistry to the bank executives' responses to normative pressures. The historic casuistry of the seventeenth century referred to defined procedures that the 'well-informed conscience' had to follow before it was entitled to draw any conclusions about what was lawful for it to do (Jonsen and Toulmin, 1988). The casuistry we identified allows for a creative institutionalization of practices, and is at home with situations where a one-time necessity becomes universal practice, like the guaranteed bonuses discussed in the Findings above.

The classification of legitimation strategies is by its nature a stylized exercise. Although these strategies are presented here as distinct analytical categories, the complexity of the situation and the multiplicity of ways in which professional transgressions can be perceived and explained meant that there was a high degree of overlap between them. Moreover the same practices, such as egregious remuneration levels, could attract different justifications in different argumentative contexts. Also, the typology of legitimation strategies is by no means exhaustive, and new empirical contexts might offer new insights into the ways individuals and organizations justify their actions to themselves and other stakeholders. A question could also be posed about the boundary conditions of these legitimation strategies – Are they deployed by other professions? It is conceivable that other professions would use the same or similar justifications – medical doctors, accountants or lawyers. Especially when faced with financial pressures (Faulconbridge and Muzio, 2009; Muzio et al. 2016), they may well draw on the legalistic

or casuistic explanations to put forward a convincing narrative of taken-for-granted practices. A key question remains: How is the professional field of banking evoked in these strategies?

### **Inter- and intra-field legitimation strategies**

Although we focused on the bankers' responses and the types of justifications they used, we also need to consider the professional field of banking as a source of legitimation of wrongdoing. Our analysis suggests that bankers, with some exceptions, drew largely on intra-field rhetoric, deeply embedded in institutionalized professional practices, to justify their behaviour and legitimize their profession. Hence, we identify an intra-field relationship between individuals, professional institutions and professional fields that functions to preserve the status quo. This relationship between professionals and the professional field suggests broader field-level explanations of legitimacy as a process in organizational studies.

Recent research on legitimacy as a process (Suddaby et al, 2017) can be used to explain how professions such as banking have sought to make visible the way judgements of propriety are formed at the micro-level by professionals such as elite banking executives, and how such judgements achieve validation at the institutional level (Bitektine, 2011; Tost, 2011; Bitektine and Haack, 2015). Such an approach calls for '[extension of] discursive and rhetorical approaches to legitimacy... to the exploration of social influence and institutional strategies that competing actors use to change legitimacy judgements' (Bitektine and Haack, 2015: 50). We argue that in the case of banking, the Select Committee hearings were a key site of such competition.

Drawing on Toulmin's (1958) analysis of argumentation, Harmon, et al. (2015) argued that rhetoric is connected to institutions in two distinct ways – inter-field and intra-field. This distinction allowed Harmon et al. (2015) to advance several proposals about how intra-field rhetoric was largely aimed at institutional maintenance, typically failing to question the status quo, while institutional change required inter-field rhetoric that challenged prevailing ideas, assumptions and logics. We also found the distinction useful. In our analysis of the Parliamentary Select Committee, bankers deployed largely intra-field rhetorical strategies of legitimation in response to often highly critical questioning by parliamentarians, who took the opportunity to remove the constraints placed on them by the reliance of the government of the day to effectively silence criticism of the 'financialisation' of the British economy and the tax revenues it generated (Martin, 2013; Meyer, 2015; Riaz et al, 2016). The questioners, acting as representatives and arbiters of public good and morality, sought to hold banking professionals, their organizations and the changing professional field of banking and finance to account for what was generally felt to be wrongdoing on the part of all. These intra-field strategies were denial of individual responsibility, denial of the victim, appeals to higher loyalties, legalism and casuistry. All of which were used by the bankers in legitimizing their own behaviour and shoring up the legitimacy of the professional field they represent. Furthermore, these intra-field rhetorical strategies of legitimation are unlikely to transcend the boundaries of the banking professional field because they do not challenge the status quo. Like defendants in a criminal investigation, the bank executives provided defences, excuses, and justifications of their profession's behaviour, aimed variously at showing that the order had not been violated or that, if it had, special circumstances existed which mitigated responsibility. Only one strategy that we identified could largely be referred to as inter-field – identification with the victim. However, this strategy could also be

interpreted as self-referential rhetoric unsupported by convincing evidence. The lack of more convincing inter-field rhetoric only accentuated a mismatch between the moral universe of a much changed banking 'professional', the organizations they led and the professional field of banking, and that of the 'traditional' citizen, voter and taxpayer.

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**Table 1:** Bankers whose responses are included in the analysis

Name	Function
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Fred Goodwin	Former Chief Executive, Royal Bank of Scotland (RBS)
Tom McKillop	Former Chairman, Royal Bank of Scotland (RBS)
Andy Hornby	Former Chief Executive, Halifax Bank of Scotland (HBOS)
Stephen Hester	Group Chief Executive, Royal Bank of Scotland (RBS)
Dennis Stevenson	Former Chairman, HBOS
Richard Pym	Chairman, Bradford and Bingley
Rod Kent	Former Chairman, Bradford and Bingley
John Varley	Group Chief Executive, Barclays
António Horta-Osório	Chief Executive, Abbey
Eric Daniels	Group Chief Executive, Lloyds Banking

Table 2

Sykes and Matza (1957)	
Denial of responsibility <i>'I didn't do it'</i>	<p><b>Banks were overwhelmed by events and unforeseeable circumstances</b></p> <ul style="list-style-type: none"> <li>[It] was post-Lehman's that the collapse in confidence, the collapse in markets, just came round and hit us</li> </ul> <p><b>Responsibility was diluted by pointing to the behaviour of others</b></p> <ul style="list-style-type: none"> <li>Our shareholders approved the transaction</li> </ul> <p><b>Gradual slippage away from safe and proper practices, under continued pressure to produce results</b></p> <ul style="list-style-type: none"> <li>As the industry went on, there became more and more demand from investors for more and more, so we started to get into doing the exercise with synthetics and other products related to sub-prime</li> </ul> <p><b>Acting on behalf of others / too much reliance upon the rating agencies</b></p> <ul style="list-style-type: none"> <li>The world needs some shorthand of credit analysis because many people who use financial markets do not have the resources and time and expertise to do the work themselves, so the world does need credit rating agencies and we need them to be as good as they can be.</li> </ul> <p><b>Whatever mistakes were made, intentions were always good</b></p> <ul style="list-style-type: none"> <li>At the time it did not seem like a bad mistake. Our shareholders approved the transaction in August of 2007</li> </ul>
Denial of the victim <i>'The victim deserved it'</i>	<p><b>There is a willing seller and a willing buyer</b></p> <p><i>Question: Are you not culpable for that?</i></p> <p><i>Goodwin: [There was a] willing buyer and willing seller. This was a business which was conducted and there was no secret about it and there was no subterfuge involved.</i></p> <p><b>Professional investors and their agents should have known better</b></p> <ul style="list-style-type: none"> <li>These were knowingly being originated by professionals and sold on to professional investors and rated by their agents.</li> </ul>

Denial of injury <i>'I didn't cause any harm'</i>	<p><b>The faulty products paid out in the end</b></p> <ul style="list-style-type: none"> <li><i>You can pass some [assets] on as triple A and the others are more junior. The interesting thing in all of this is that there was actually latterly a bigger appetite for the junior tranches than the seniors because the junior tranches, because of higher risk, had higher yield.</i></li> </ul>
Appeal to higher loyalties <i>'There are larger duties involved'</i>	<p><b>Stopping the world from retreating into a process of isolationism</b></p> <ul style="list-style-type: none"> <li><i>Governments everywhere around the world are supporting the financial system and supporting banks of all nationalities. ... It is very important that the world not retreat into a process of isolationism</i></li> </ul>
<b>Minor (1981)</b>	
Necessity/universal practice If an act is perceived as necessary, then one need not feel guilty about it even if it is wrong	<p><b>High salaries had to be paid to attract high caliber of staff</b></p> <ul style="list-style-type: none"> <li><i>Our previous chief executive became seriously ill at the end of May 2008... One of the first priorities was to find a new chief executive. This was not an amazingly attractive post, if I can put it that way, and therefore it was up to us to put together as a board a remuneration package which would attract somebody</i></li> </ul> <p><b>Following the common practice in the financial services business</b></p> <ul style="list-style-type: none"> <li><i>All I can say is that it is common practice in the financial services business. The remuneration committee, which is staffed by non-executives, has to look at the market out there because its key objective is to retain and motivate the executives that it has, and attract where necessary.</i></li> </ul> <p><b>Many of the remuneration practices have been imported from the US</b></p> <ul style="list-style-type: none"> <li><i>As London has emerged as more and more of a global financial services centre a lot of these practices have come across from the United States.</i></li> </ul>
Entitlement	<p>Entitlement</p> <ul style="list-style-type: none"> <li><i>We are entitled because of rules or contract</i></li> <li><i>Banks created jobs and contributed to the economy hence executives were entitled to high bonuses</i></li> </ul> <p><b>Banks created jobs and contributed to the economy hence executives were entitled to high bonuses</b></p> <ul style="list-style-type: none"> <li><i>It is in the interests of this economy here in the United Kingdom for banks to be profitable and for banks to create employment opportunities as a result of that and for banks to pay the taxes that go with those profits, and that is what we do.</i></li> </ul>

Other neutralization techniques	
<p>Justification by procedure <i>'We did it by the book'</i></p>	<p><b>Justificatory material is framed in terms of procedure: procedure was adhered to, procedure was robust, due diligence was carried out</b></p> <ul style="list-style-type: none"> <li><i>Banks in particular have very, very public disclosures to make. There are lots of filings made in country of origin, obviously, but also for a bank like RBS or ABN Amro in the United States—very full disclosures of the nature of their business, any issues that are in those banks, the litigation and so on. All of those public disclosures were gone through in enormous detail. We had 15 work streams looking at the due diligence. 15 different sets of activities; all of those reported to the Board on the due diligence.</i></li> </ul> <p><b>Defence in terms of the legal duties of a publicly owned company</b></p> <ul style="list-style-type: none"> <li><i>I do not recognise the statement that we have undertaken tax avoidance schemes. What we are required to do, as you understand, as a publicly owned company—by that I mean having institutional shareholders—is to manage our tax affairs efficiently, but there are very prescriptive and clear laws governing tax in the United Kingdom and, of course, we take it seriously that we have an obligation to abide by those.</i></li> </ul>
<p>Identification with the victim <i>'I too was a victim'</i></p>	<p><b>Bankers also suffered personally (lost their money in shares)</b></p> <ul style="list-style-type: none"> <li><i>In the two years that I have been Chief Executive I have lost considerably more money in my shares than I have been paid. I think that is showing I have been aligned with shareholders' interests</i></li> </ul>