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The Bankers and the 'Nameless Virtue'

Tom Sorell

Introduction

Morally conscientious people sometimes blame themselves for things that are not within their control. The driver who unavoidably kills someone nevertheless kills someone, and because it is normally awful to have killed someone, it makes sense for the driver to blame him- or herself. It makes sense, although the death was not the driver's fault. Blame also makes some sense where a driver who does not kill anyone but who does not maintain his or her car properly, identifies with someone else who runs a child over through failure to maintain the car. Although there has been no bad outcome of the second agent's negligence, the second agent feels guilty for having carelessly increased the risk of the same kind of road death that the first agent is actually responsible for. This sort of expansive self-blame is probably not entirely rational; but it can be admirable all the same.█

Susan Wolf (2014) has connected scruples about matters outside one's control with a 'nameless virtue' that acknowledges our involvement in a world where things are inevitably affected by luck and chance. This context of contingencies, according to her, should not be taken to be irrelevant to ascriptions of responsibility, as if the only thing we can take blame or take responsibility for is how we direct the will. Human agency is not just a matter of what is willed but of what happens for better or worse when one's will is translated into action. Expansive self-blame is, according to her, an expression of this mixed context of human action (see also Walker, 1991). It gets over the gaps in responsibility otherwise created by moral luck. It is not just open to individuals acting on their own behalf, she says, but to powerful role holders acting *ex officio* in institutions. It is the virtue that is displayed when leaders of businesses or governments are quick to take responsibility for bad outcomes even when they or their institutions are not strictly or wholly at fault. When we are dissatisfied with the reluctance of leaders to respond appropriately to bad things that happen on their watch, we may be in sensing a failure to exercise a virtue that Wolf's account identifies and helps to define.

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There is a connection between the nameless virtue and the global financial crisis (GFC). Many ask why the bankers have been so slow to apologise or why their apologies have been so meagre when taken together with the cost in public money of bank bailouts. Wolf's account suggests an answer: namely, the lack of the nameless virtue. The bankers' lack of this virtue also explains the half-heartedness with which they have introduced a new culture into banks after the GFC. In short, the absence of this virtue helps make sense of the disapproval we feel for the principal players in the crisis. On the other hand, the arguable *presence* of the virtue in one exceptional UK banker—Sir James Crosby—may explain why, virtually uniquely, he seems to deserve admiration for the way he responded to his role in the GFC. In other words, the presence or lack of the nameless virtue seems to rationalise reactive attitudes it has been natural to direct towards some bankers since 2008. The nameless virtue does not function merely, as Wolf suggests, to allow attributions of responsibility to stick in conditions of moral luck.

I shall try to say something about the *limits* of expansive self-blame as a virtue. Sometimes that sort of blame is insufficient for taking responsibility appropriately, even when it is accompanied by public expressions of remorse or regret. One reason is that taking responsibility appropriately sometimes requires an agent to submit to judgement by *others*, paradigmatically through legal proceedings and, in particular, by exposing themselves to proportionate punishment determined by independently devised and independently applied standards. Self-blame often does not meet these independence requirements. Again, except where it is psychologically so far-reaching that it dominates one's consciousness and is, for a time at least, inescapable, self-blame need not reach the threshold for being punishing at all. Minimal self-blame—a matter-of-fact acknowledgement of fault—is sometimes not enough for taking responsibility appropriately, even when self-blame is heartfelt and is expressed publicly.

This point seems particularly compelling where an agent—either an individual or an organisation—takes blame for a very bad outcome but is so rich or powerful that bearing even major money costs is easy and hardly alters the quality of life. In cases like these, self-blame by itself seems not to register on the scale for appropriately taking responsibility. Even if rich and powerful wrongdoers feel so bad about something that they are put off their champagne and caviar for a week, that cost may be so slight and forgettable for them, all things considered, as to be hardly any payment at all.

This is where the nameless virtue appears to come in, for it is expressed not in minimal but expansive self-blame. In fact, however, the nameless virtue does not even help with understanding the one case in which a leading banker has gone beyond feeling bad about the crisis and has given up money and symbols of status to demonstrate his or her contrition even when not directly responsible for a bank failure. To the extent that postulating the nameless virtue helps us admire the atonement of James Crosby, it produces the illusion

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that his response sets the pattern for the morally appropriate banker's response to the crisis. It does not, for two reasons: Firstly, it does not impose a sufficiently high financial cost, and secondly, personal roles in systemically important banks are subject to more than norms of personal character, norms that are properly legal and impersonal.

The Nameless Virtue

A good place to begin is with the following passage from Wolf's 'The Moral of Moral Luck':

There is a virtue that I suspect we all dimly recognize and commend that may be expressed as the virtue of taking responsibility for one's actions and their consequences. It is, regrettably, a virtue with no name, and I am at a loss to suggest a name that would be helpful. It involves living with an expectation and a willingness to be held accountable for what one does, understanding the scope of 'what one does,' particularly when costs are involved, in an expansive rather than a narrow way. It is the virtue that would lead one to offer to pay for the vase one broke, even if one's fault in the incident was uncertain; the virtue that would lead one to apologize, rather than get defensive, if one unwittingly offended someone or hurt her. Perhaps this virtue is a piece or an aspect of a larger one, which involves taking responsibility not just for one's actions and their consequences but also for a larger range of consequences that fall broadly within one's reach. One may offer to pay for the vase one's child broke or offer to take the blame for the harm someone suffered as a result of the practices of an agency of which one is the head. Like other virtues, this one is a matter of offering the right amount (whether it be of compensation, apology, or guilt) at the right time to the right person in the right way. It's not the case that the more responsibility one takes for the harms that lie at increasing distance from one's control, the better. Yet one ought to take responsibility for more than what, from a bystander's view would be justly impersonally assigned.

(Wolf, pp. 121–122)

Wolf distinguishes here between the nameless virtue and a larger one of which the nameless virtue is a part. The larger virtue—which involves taking responsibility for things beyond what one does but still within 'one's reach'—will turn out to be more relevant to the case of the bankers and the financial crisis than the narrower one. But before we come to that, the nameless virtue deserves discussion.

Firstly, the nameless virtue may not be nameless. 'Conscientiousness', which is Wolf's own gloss at times, comes close to it, and that is the term I

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shall use throughout. Conscientiousness in the relevant sense is not quite the same as 'conscientiousness' in ordinary English. In the ordinary sense, 'conscientiousness' might mean the disposition always to try to do the right thing, including by not doing harm or by making up for harm that one has done, including despite oneself. A conscientious agent in this sense might *not* go in for expansive self-blame, knowing that he or she had characteristically done his or her best to do the right thing. Again, the conscientious agent in the ordinary sense of 'conscientious' might behave as he or she does if he or she alone expected him- or herself to do right or abstain from harm. Wolf's nameless virtue, on the other hand, operates specifically in response to a convention of being held accountable (the central case of which is being held accountable by others), and it appears to be a matter of internalising a communal or social standard and applying it to one's own actions and to actions of those suitably related to oneself.

Although Wolf does not spell this out, conscientiousness in the relevant sense seems to lie somewhere between, and to counteract, two character defects—one of underestimating one's socially assigned sphere of responsibility for harm and one of over-estimating it. Underestimating one's socially assigned sphere of responsibility might be characteristic of a self-indulgent person. To the extent that such a person is disposed to take responsibility for things at all, it might take the form of offering to do the least inconvenient thing in response to harm. At the other extreme is the uncommon trait of over-estimating one's responsibility. This might occur in a person who is treated or treats him- or herself as some kind of jinx, or as irremediably clumsy and disruptive, and who apologises even for things that are not his or her fault. Alternatively, it might be the trait of someone who self-importantly exaggerates the effects of his or her actions or his or her power to benefit others. The expression of this latter defect might be or resemble officiousness. To be officious is to take it upon oneself to act in circumstances in which it is neither useful nor requested by others whose interests are at stake. By contrast with officiousness, conscientiousness responds in a timely way to genuine need, sometimes unspoken need, and produces assistance to meet it while being considerate of the beneficiary's feelings about receiving assistance. Unlike someone who is careless or self-indulgent, the conscientious agent also considers whether he or she has fallen short in detecting or acting appropriately to meet need 'within his or her reach'.

When taking responsibility for wrongdoing that he or she is not directly responsible for, the conscientious agent adopts a broad view of the circumstances in which it is appropriate for him or her to benefit those who have been adversely affected. Wolf does not say what happens when the conscientious agent is in a position to take the credit for doing something *right* or beneficial, but because he or she thinks conscientiousness is a kind of acknowledgement of the way the will is enmeshed in a world also containing contingency, one expects that either conscientiousness or some allied virtue

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will work to make one *minimise* one's estimate of one's own contribution to a good outcome. Here conscientiousness might have the effect of an agent's ascribing to good luck some or all of his or her success in carrying out a rescue or in being at the right place at the right time to offer some particular effective assistance. In this way conscientiousness in relation to bad outcomes in one's ambit might be the other side of the coin of humility or self-effacingness with respect to good outcomes.

Conscientiousness in Wolf's sense must be related somehow to justice. Presumably the just person does not necessarily take an *expansive* view of his or her responsibility, as the conscientious person does; otherwise conscientiousness would not be a nameless virtue but rather justice itself or an aspect of justice. To allow for a distinction in this area, let us call the just but unconscientious person 'merely just'. The merely just person may not wonder whether, when he or she obeys the letter of a legitimate law, his or her actions also reflect its spirit. Suppose he or she claims tax deductions that he or she is entitled to, while thinking that it would be better for the public treasury to have more money to discharge the policies that tax collection finances. This may be where, to forgo the deductions, the agent has to feel the force of the more exacting virtue. Conscientiousness has to take over from justice.

In relation to penal law, one could imagine the conscientious person being prepared to plead guilty to a charge with a more serious penalty than the charge that has actually been brought against him or her, or being prepared to plead guilty to more counts of the same crime, if he or she is in fact guilty of the more serious crime or more counts of the same crime. Suppose he or she is on trial for a breach of a secrecy law in, as he or she thinks, the public interest, and suppose he or she has not confessed to some further illegal disclosures he or she has in fact made that could attract fresh charges. Justice without conscientiousness might involve pleading guilty only to existing charges; justice with conscientiousness might involve confessing and pleading guilty to more. Conscientiousness, then, seems not only to exclude the evasion of legal responsibility, as justice does; conscientiousness also seeks out responsibility where law has been leniently applied or where it gives out altogether. Thus, expansive self-blame can be in place even when the bad things one has done or allowed to happen contravene no regulations.

According to Wolf, what I am calling conscientiousness might be part of a 'larger virtue'

which involves taking responsibility not just for one's actions and their consequences but also for a larger range of consequences that fall broadly within one's reach. One may offer to pay for the vase one's child broke or offer to take the blame for the harm someone suffered as a result of the practices of an agency of which one is the head.

We could call the smaller virtue 'personal conscientiousness' and the larger virtue 'wide conscientiousness'. Does Wolf have a coherent conception of this larger virtue? I shall suggest that she does not but that there is something of value to be distilled from the elements of her account. This will have a bearing on taking responsibility in the complicated case of the financial crisis.

Although it is hard to be sure on the basis of the little before us, Wolf may associate with the larger virtue at least the responsibility one takes on by acquiring a certain role, such as *parent* or *agency head*. But there are reasons to think that these do not work well as illustrations of the way the larger virtue, if there is one, works. For example, it is a familiar part of parental responsibility to apologise for one's children's transgressions and even, as in the example, to compensate those adversely affected by what the children have done. Or at least this seems to be part of parental responsibility when children have themselves not reached the age of responsibility. The parent of a careless 40-year-old does not seem to be irresponsible if he or she refuses to pay for the denting of someone's car in an accident. Only so long as one's children are 'under one's control'—typically before adulthood—are their actions widely taken by parents to be the parents' responsibility. It is doubtful, however, that acknowledging parental responsibility in the usual way would rise to the threshold for being *virtuous*. It seems too routine for that. Perhaps the threshold is reached by parents who take responsibility particularly promptly and are such good judges of appropriate compensation that there are never hard feelings on the part of those who have been adversely affected. But otherwise it is too routine a disposition to be given special moral credit.

Holding an office in an 'agency' and taking responsibility for its bad practices is different from conscientiousness as a parent of young children. In Wolf's example, it is possible to take the blame for the 'practices of an agency' as its head, presumably because one has directed people whom one manages to engage in those practices or because, although the practices were engaged in without one's permission, they were supposed to accomplish a purpose ~~for~~ which it is one's job as agency head to see accomplished in the right way. That is, although one has not authorised the practices, their connection to the agency's purposes and employees cannot honestly be disowned by the agency, and because one is the head of the agency, then *ex officio* one ought to own them, too. Whether, when one does so, one is exercising a *personal* virtue is far from clear. Perhaps someone who is unconscientious in their personal life could apply an agency policy of taking responsibility without endorsing that policy and perhaps while disagreeing with it. If so, then taking responsibility *ex officio* may come apart from personal conscientiousness. The case that seems to fit in best with Wolf's theme is where the agency has *no* policy and the head is being advised by others to take *no* responsibility. In that case, *the head* acts when he or she takes responsibility or blame: it is not just agency

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policy or the board acting through him or her. It is as if, in displaying wide conscientiousness, the agent personifies the agency and internalises the blame he or she claims on behalf of the agency.

Under the conception of conscientiousness that Wolf operates with, agents who go in for expansive self-blame both show signs of good 'psychic health' and display a virtue. They show good psychic health because they do not adopt the over-detached viewpoint of a bystander on their own actions, or on the actions of those they are connected with, even when those actions are not in their control. Disassociating oneself from the killing of the dead child when one is the driver is a case of over-detachment and threatens to make one psychologically compartmentalised and conflicted rather than unitary and whole. As for why conscientiousness is a virtue, Wolf's suggestion is that it is similar to, or possibly a case of, an undoubted virtue that does have a name: generosity:

Perhaps the more obvious reason for regarding [conscientiousness] as a virtue is that, when applied to harmful actions, this trait is a species of, or at least akin to, the well-established virtue of generosity. Generosity generally involves a willingness to give more—more time, more money, more lenience, more, in one way or another, of oneself than justice requires. In offering to pay for the broken vase or in trying to provide comfort to the grieving family beyond what a rationalist assignment of liability would demand, an agent benefits or tries to benefit others at cost to herself. That this should be seen as virtuous is not hard to understand.

(2003, p. 122)

Something goes wrong in this explanation of why conscientiousness is a virtue, but, as I will go on to claim, it is an instructive and suggestive mistake and one that will prove helpful in our discussion of blame-taking in the financial crisis.

What goes wrong is that Wolf runs together two different kinds of virtue—on the one hand, being generous, and on the other, being willing to bear significant costs as a way of being seriously contrite. Being generous is giving more than is required by justice. But to display generosity in this sense is not necessarily to do so at a cost to oneself, or at least an appropriately significant cost to oneself, which is where additional exactingness comes in.

To see this, consider a merchant with 100 melons to sell. If he or she gives away 20 melons to some very hungry passers-by, they will feel much better. The merchant is not obliged by justice to donate the melons: the passers-by are not starving, and although they are not rich, they can afford to buy the melons. In these circumstances, making a gift of the melons is generous. But let us stipulate that had the merchant not given away the melons, they would have remained unsold and would have had to be thrown away uneaten. The

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stipulation makes it true that the merchant does not forego income by giving away the melons. By the same token, it in fact costs nothing to give the melons away. To the extent that he or she bears a cost it is in the epistemic sense: for all he or she knew, he or she would have been forgoing income. In fact, the merchant gives the melons away at no additional cost and so sacrifices nothing. What is more, let us stipulate, the loss of the melons would make no noticeable difference to the merchant's felt wellbeing or to the wellbeing of those depending on him or her. This is an example of generosity—in the sense of a donation above the level required by justice—but at no personal cost.

It is easy to adapt the point to making reparations in a case in which one is not personally to blame. Suppose your friend has broken a stranger's vase, and you happen to have been given two identical vases, only one of which you have ever used. Let us stipulate that the unused duplicate is a delightful vase so that it amply fills the void left by the now broken vase in the stranger's house. It is generous of you to part with a delightful vase as recompense for someone else's damage. But it is generosity at no cost. Had the vase not been offered in recompense, it would have lain unnoticed, gathering dust in a cupboard. Generosity seems to be a matter of more than satisfying the requirements of justice: It is not this *as well as* sacrifice or taking a loss.

Is the conscientiousness under discussion a kind of generosity? Yes, because it is expansive blame taking with the corresponding willingness to offer more help to whomever is directly disadvantaged than is required by mere decency or even justice. One assumes liability in cases where one is not strictly responsible. One helps as if one had in fact been responsible, not as if one were merely a disconnected bystander. The willingness to give more than is strictly required is what is generous. On the other hand, the appropriateness of giving help *at significant personal cost* comes not from the expansiveness of expansive blame but from its being *blame*. To blame oneself is to have beliefs in common with those who think one ought to be punished: one has done wrong and should somehow pay for it. Feeling bad—experiencing agent regret—is not that payment; compensating the victim might be. But the feeling indicates the willingness of the agent to bear a significant cost. If no significant cost is borne, then agent regret seems to issue in business as usual, not action that is particularly praiseworthy and that reflects well enough on the agent to point to virtue. A payment that is too easy for the agent, although it is a payment, is not a payment that registers as appropriate in both the perspective of a blamer *and* a punisher. I am suggesting that this more exacting test of appropriateness—being costly from the perspective of both agent and punisher—is the one that has to be met by people who display the nameless virtue. The application of this suggestion will become clearer when the discussion turns to bankers.

Now expansive blame-taking is harder to read as virtuous the more it is *ex officio* blame-taking, the more it is blame-taking for large-scale harm or damage, the more that damage is at least partly attributable to an agency much

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bigger than a single person, and the more the resources used to pay for the harm or damage are not personal resources but those of an agency. To enlarge on these points in turn, *ex officio* blame taking by an individual is not necessarily personal blame-taking nor personally endorsed blame-taking, nor therefore personally virtuous. The individual may simply be the *channel* for apology or payout. Secondly, when what an agency is blaming itself for is large-scale harm or damage, the threshold that has to be reached for simple compensatory justice to be done and certainly to be seen to be done may already be very high—so high that claims of generosity as opposed to mere justice are likely to seem disputable. Thirdly, where an agency is the relevant agent and the agency is large and possibly collective, the agency may not be easily intelligible as a bearer of virtue:—Virtue tends to be defined for individuals capable of excellences contributing to species flourishing. Fourthly, the greater the resources of an agency, the harder it is to bear out the claim that the agency has paid enough to be generous.

Finally, large-scale disaster seems to *demand* expansive blame taking from even partly responsible agencies and their figureheads: It does not seem to be a case of *noblesse oblige*. If the disaster is big enough, not only regret or blame taking but prompt action to compensate victims seems to be obligatory. In the more extreme sort of case, justice seems to drive out what is discretionary and therefore what can be considered generous. Not only is expansive blame-taking and the appropriate compensatory action *demand*ed, but the standard of appropriate action can be very exacting.

Indeed, in the case of very large-scale disasters, less than personal *tirelessness* on the part of relevant agency heads is sometimes thought to be unseemly. When a BP oil well leaked in the Gulf of Mexico in 2010, for example, it did not do for the BP chief executive to take a holiday break during the initial clear-up efforts, even though he seems to have behaved conscientiously before reaching the point of considering a vacation. On the contrary, holidaying while the oil leaked was portrayed as outrageous personal behaviour, notwithstanding the fact that many others at BP were still attending to the problems in the *G*ulf. Wolf's account does not seem to extend to the case of personal responsibility for the actions of such large-scale agencies, especially when things go very wrong. It is as if the size or power of the agency, or the scale of its bad effects, disrupts the virtue framework. Fault fills up the space that would otherwise have been created by the expansiveness of expansive self-blame, and responsibility-taking that would have looked supererogatory in more domestic settings starts to look obligatory for the agency, with the result that there is not enough discretion left to the head of the agency to act in a way that seems personally virtuous.

Not only is *ex officio* blame-taking harder to regard as virtuous than *in propria persona* blame-taking; in practice^{italics} it also tends to be less of an option. After all, it can be required by one's office to *limit* the acknowledged liabilities of the agency. This requirement, what is more, can be morally

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inspired, because the money lost by admitting liability can be that of relatively weak or vulnerable people connected to the agency (e.g., small shareholders), or can involve losses to others (e.g., vulnerable clients).

The Global Financial Crisis

Although the damage done to many Western economies by the financial crisis has far exceeded the environmental damage caused by the BP oil spill, few bankers in leadership positions in 'systemically important' banks in the United States and Western Europe have done more than make apologies *ex officio*, and usually ceremonially, in set-piece confrontations with inquisitorial legislators before the television cameras. A *Washington Post* report by [Brady Dennis](#),

[Washington Post Staff Writer Friday, April 9, 2010](#)

<http://www.washingtonpost.com/wp-dyn/content/article/2010/04/08/AR2010040804865.html>

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for 9 April 2010 sets the tone:

Two top Citigroup executives who guided the bank along its disastrous path toward massive losses and multiple government bailouts expressed regret Thursday during testimony before a panel investigating the financial crisis [...]

'Let me start by saying I'm sorry,' Prince told members of the Financial Crisis Inquiry Commission. 'I'm sorry the financial crisis has had such a devastating impact on our country. I'm sorry for the millions of people, average Americans, who have lost their homes. And I'm sorry that our management team, starting with me, like so many others, could not see the unprecedented market collapse that lay before us' [...]

In an opening statement, Rubin cited numerous factors—including low interest rates, sharp increases in housing prices, misguided credit ratings and excessive risk-taking—that contributed to the unprecedented crisis. But he framed the breakdown at Citigroup and other companies as a collective failure, in which 'almost all of us [...] missed the powerful combination of forces at work and the serious possibility of a massive crisis. We all bear responsibility for not recognizing this, and I deeply regret that'.

These comments make it seem as if the failures at Citigroup were failures to discern the effects of complex financial forces to which bankers were related as mere observers. In fact, those forces were unleashed by bankers through the establishment of shadow banks and successful lobbying for permissive regulation on acquisitions of financial services companies by banks, and their ill effects would have come to the notice of top management earlier if internal processes had been more robust. In Citigroup in particular there was a culture of not reporting bad news, and there was misinformation within the firm about

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the size of its holdings in securitised mortgages. It had been assumed in the company that many of those holdings had been sold on.

In the UK, too, bankers have also gone in for highly detached apologies, where they have made apologies at all. The following exchange¹ [In the footnote \(fn 5\)](#) in February 2009 between the chair of the Treasury Committee of Parliament and the former CEO of the government-rescued RBS, Sir (now just plain Mr) Fred Goodwin, is indicative:

Q760 CHAIRMAN: Sir Fred, one of the members of the public said to me this morning, 'Do the institutions know what they have done to ordinary people's lives, families and jobs?' Everyone in the room pays some form of tax to the UK Government, and the UK Government has forwarded shed-loads, lots of money, to your institutions. What are we getting? In terms of your approach, some people say you have been hesitant to say 'sorry', so I am giving you your opportunity now.

SIR FRED GOODWIN: Thank you very much for that, Chairman. I apologised in full, and am happy to do so again, at the public meeting of our shareholders back in November. I too would echo Dennis Stevenson's and Tom [McKillop]'s comments that there is a profound and unqualified apology for all of the distress that has been caused and I would not wish there to be any doubt about that whatsoever.

The strangely impersonal 'There is a profound apology' instead of a simple 'I'm sorry' is particularly striking --so striking that --~~C~~certain discourse analysts have studied bankers' expressions of contrition (see [Harris et al. 2011](#)).

Few heads of systemically important banks have voluntarily resigned; none has personally started a programme of recompense to damaged shareholders and people irresponsibly sold inappropriate financial products; and many have resisted regulatory proposals intended to enforce greater prudence in banking and a return to the core banking purpose of intermediation for productive commercial investment. There is a widespread public sense of the insufficiency of *ex officio* apologies by bankers and of their willingness to cooperate with banking reforms. At first sight, it is a strength of Wolf's account that it enables us to articulate the nature of the insufficiency: Did certain bankers fail to take responsibility for things that possessors of the nameless virtue *would* have taken responsibility for? If so, then perhaps what keeps the apologies from being satisfying is the absence of the nameless virtue in bankers making the apologies.

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I shall dispute this diagnosis of the bankers' failure to take responsibility. In what follows I shall distinguish between taking responsibility for the financial crisis and taking responsibility for mismanagement leading to bank failure or mismanagement of a systemically important bank leading to a rescue to prevent failure. No one person is responsible for or can take responsibility for the financial crisis. But if they are placed correctly in the power structure of a particular bank, especially a systemically important bank that is known by its management to be systemically important, individuals *can* be responsible or mainly responsible for particular bank failures and also the costs of government pre-emption of a failure (Ewens, 2011). In these latter cases, there is scope for the personal exercise of the nameless virtue. But in these cases, too, the nameless virtue can fail to be sufficient from a moral point of view. I come to such a case in the next section, but I begin with responsibilities in and for the financial crisis as a whole.

The GFC is in part the responsibility of institutions and not only systemically important banks. These institutions include, in the private sector, specialised mortgage lenders, insurers, hedge funds, credit-rating agencies, accounting firms, and lobbying firms. In the public sector, institutions with responsibility in the crisis include sovereign wealth funds, a very wide array of regulatory bodies closest to the biggest financial markets in the United States and the UK, the big U.S. government-backed mortgage providers, Fanny Mae and Freddie Mac, and some sub-departments of the U.S. legislature concerned with the reform of banking law. In addition to institutional agents in the financial crisis, there are a host of irresponsible individual borrowers in real estate markets, individual dealers in derivatives, individual mis-sellers of mortgages, individual risk raters within banks and others.

In considering so complex an array of actors, it may be tempting to think that lines of responsibility are irremediably tangled so that blaming individual institutions, let alone particular people, is out of the question. But this is a mistake, attested to by the fact that no one connected to the banking industry denies the distinction between systemically important banks and others and because all of the systemically important banks had clearly identified leaderships, some of which had been in place for decades, as in the case of Lehman Brothers. Although not all systemically important banks in the crisis needed to be rescued, those that did have all publicly admitted to one kind or another of management failure or market misjudgement or risk miscalculation, and the hierarchies of these banks, and job descriptions of top executives, were well-enough defined to indicate where the loci of *ex officio* responsibility lie. In general terms, those at the top of the hierarchy of a systemically important rescued bank from around 2000–2007 are prime candidates for the ascription of personal responsibility in the crisis.

It is true that over the period that led up to the crisis, the growth of 'shadow banking'—I explain what that is shortly—and the development of new

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markets in financial derivatives may have proceeded at such speed that no one, not even those at the top of the systemically important financial institutions (SIFIs), would have been able to exercise suitable controls. If this conjecture is true, conditions for *virtuous* responses to the failure of SIFIs start to be in place. If no one could have stopped the runaway train of shadow banking, then, had more heartfelt apologies been made by top bankers in response to the crisis and stronger gestures of recompense and reform, those apologies and gestures might have started to look like exercises of the nameless virtue.

To come to shadow banking, a number of regulatory changes, mainly in the United States, had the effect over decades, but especially after 1999, of weakening the banking regime that had prevailed in the United States since the Great Depression (see [Johnson & Kwiatkowski, 2011](#), especially Chapters 4–6). The decisions to bring in these regulatory changes and create the conditions for shadow banking were neither monumental nor irreversible, but their effects were significant, and crucially, they were made under the active influence of bankers. Under the regime established in the United States immediately after the Great Depression, banks operated under relatively strict requirements to hold capital against liabilities, and there were limits on the interest rates they could offer to both retail and commercial customers. This conservative regime was maintained to avert another banking crisis, not to maximise growth in the banking industry. The banking industry-supported growth of retail and commercial money markets made it possible to sidestep these restrictions—money market funds are not legally banks, although they offer services similar to those of banks and were marketed to customers as facsimiles of banks.

Within money markets, particular funds could legally pay higher returns to retail depositors than in the deposit insurance-protected retail banking sector while also offering checking privileges and on-demand withdrawals or 'redemptions' of holdings. They also enabled commercial organisations to make more profitable use of cash reserves and to exploit the commercial possibilities of financing long-term investment with short-term borrowing. Commercial borrowers with good credit ratings could even insure against defaulting on short-term obligations by paying others—sellers of the class of derivatives called credit default swaps—to take on those liabilities. An important form of long-term investment was securitised packages of mortgages sold in different risk-rated tranches. These securitised products included, at the riskier end, collateralised debt obligations, the market that collapsed for many of the rescued systemically important banks.

Although there is a much longer story to be told here than I have space for ([Dempsey & Scovell, 2011](#)), the creation of money markets, along with developments in the sale of securities based on risk-rated tranches of mortgages, are important instalments in the narrative of the financial crisis. Partly on the strength of this narrative, many bankers have disputed the role of immorality in the events of 2007–2008. Instead, they have tended to admit

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to costly but excusable misjudgements of a wide variety of risks, including risks of illiquidity in money market finance and risks of a downturn in the American real estate market. The less repentant bankers' position can be put roughly as follows:

Although misjudgements of risks were undoubtedly costly, they were made in good faith, broke no criminal laws, and fell afoul of no financial regulator's requirements at the time. What is more, the risks in question were hard to judge, and considerable intelligence was put by banks into modelling them so that they could be better understood. If the models failed, that is not because they were unsophisticated through negligence but because, despite great expenditures of time, money and brain power, they were not sophisticated enough. In any case, the deficiencies of the models are not to be traced to moral malignancy, and the deficiencies couldn't have been that great; otherwise people could not have made as much money as they did *before 2007*.

This is the sort of position that invites or is consistent with the interpretation of the financial crisis as a case of very bad moral luck for the bankers and therefore as a potential site for the operation of nameless virtue on the part of those moved to apology, or serious banking reform, in response to the crisis. According to this interpretation, the moral character of any decisions made under uncertainty seems to depend on how they turn out, and the complex lending and borrowing decisions that underlay the financial crisis, although they went well and made many people rich in the early 2000s, eventually turned into a disaster. If bankers, particularly those in the rescued 'systemically important' banks, are amongst those to be blamed for this disaster, then they also deserve credit for the good times. Either that, or both the good and bad times are matters of luck, and neither credit nor blame is in order.

Let us grant, for the sake of the argument, that bad moral luck *was* operating when the collapse of the wholesale money markets drove many systemically important banks to the brink of failure and Lehman Brothers to outright bankruptcy. That is, suppose that many investment decisions made in good faith went wrong through no carelessness on the part of bank management. Had the leaders of the rescued systemically important banks possessed the nameless virtue, they would have taken responsibility even so. This would have meant offering abject apologies at least to those adversely affected. The victims of the financial crisis are legion. They include sub-prime borrowers in the United States, taxpayers across the developed world, elderly savers, poor non-taxpayers whose welfare provisions and other services have shrunk in the period of austerity following the recession, and credit-starved businesses. Foreign sovereign holders of the debt of countries at the heart of the crisis—the UK and the United States—have also been adversely affected. Then there are all those caught up in the global recession that has followed the crisis. In

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fact, few if any of these groups have been compensated, let alone quickly or spontaneously.

If moral luck creates conditions for exercises of the nameless virtue, does the GFC—with its arguable accretions of moral luck—create conditions for it? Suppose the answer is yes. Then couldn't the nameless virtue have guided the leaders of the 'systemically important' banks to do some of the things—make abject apologies, devise compensation schemes partly funded from personal wealth, or take part in vigorous banking reform—that they have been so roundly criticised for omitting to do?

In considering this question it is important to recall a conclusion argued for earlier:

Expansive blame taking is harder to read as virtuous the more it is *ex officio* blame-taking, the more it is blame-taking for large-scale harm or damage, the more that damage is at least partly attributable to an agency much bigger than a single person, and the more the resources used to pay for the harm or damage are not personal resources but those of an agency.

The damage of the financial crisis is on too large a scale and too extreme to call for a response informed by a purely personal virtue. Again, as was pointed out earlier:⁵

large-scale disaster seems to *demand* expansive blame taking from even partly responsible agencies and their figureheads: it does not seem to be a case of *noblesse oblige*. If the disaster is big enough, not only regret or blame-taking but prompt action to compensate victims seems to be obligatory. In the more extreme sort of case, justice seems to drive out what is discretionary and therefore what can be considered generous.

The scope for generosity, and so for the nameless virtue, seems to be very limited in the case of large-scale disasters, including the GFC. This seems to be true notwithstanding the operation of moral luck. The moral luck in the crisis, such as it was, depended on unavoidable loss of control and irremediable uncertainty surrounding investment decisions and innovations such as securitised real estate instruments.

Even if the outcomes of myriad investment decisions involving esoteric financial instruments were indeed beyond senior bankers' control, the establishment of shadow banking and departures from traditional norms of banking prudence were not. The rescued systemically important banks operated actively and deliberately in the shadow banking sector and took advantage of its looser capitalisation requirements and near anonymous, highly leveraged dealings in the derivatives market, which in turn contributed to the liquidity problems and share-selling panics that constituted the crisis proper. As I shall now argue, those actions should be seen as cases of injustice, which are far more serious than failures to exercise the nameless virtue. Claiming as much is perfectly compatible with saying that many investment

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decisions made within the shadow banking sector were subject to uncertainty and moral luck. But, by the same token, it is not the failure to operate nameless virtue that justifies our sense of the insufficiency of the bankers' reaction to the crisis but their injustice.

Elsewhere (Dempsey & Sorell 2018), I have contributed to a detailed narrative of the events of the financial crisis in New York and London as background for the claim that some heads of major New York banks were personally responsible, not just *ex officio* responsible, for some of the damaging events of the crisis, including the failure of Lehman Brothers and the near failure of other large banks. There is wide agreement, for example, that most of the systemically important banks over-borrowed in the early 2000s. It is widely agreed that there was an overconcentration of investment in real estate, especially through different kinds of securitised instruments. It is widely agreed that models employed by credit-rating agencies for measuring the risk of investments and the financial strength of banks were deeply flawed. Even if none of these factors was individually sufficient to cause the crisis, jointly they make its outbreak less than surprising. Nor are these just judgements in hindsight. All of these matters were seen as worrying by some in the banking industry before 2008. Some systemically important banks even escaped the need for government rescue by behaving more prudently *against* the trend of risk taking. JP Morgan, for example, was far less leveraged at the height of the crisis than other Wall Street institutions, which put it in a position to acquire Bear Stearns when the latter faced bankruptcy. Similarly, Lehman Brothers executives had raised questions about its exposure in the real estate market quite some time before it failed but were overruled by those at the top (Baker 2009, pp. 124ff).

The point of this narrative is that responsibility in and for the crisis was not exclusively collective or organisational: Some of it was individual responsibility, especially where some identifiable person making high-level decisions in a systemically important bank had held a leading position in such a bank for decades and had great latitude to implement a wide variety of strategies but chose what in retrospect were very risky ones. People meeting this description—Richard Fuld and Sanford Weill to name two—had powerful positions in Lehman Brothers and Citigroup, respectively, and there were other, similarly highly placed, people in some of the U.S. mortgage originators, such as Countrywide.

Some of these figures had to unlearn or actively dismantle the traditional norms of banking to over-borrow, to overinvest in real estate, and to move into financial services that, in the United States at least, had been closed to banks by law ever since the Great Depression. At least one leading banker, Sanford Weill, was actually instrumental in the repeal of the relevant legislation, the Glass-Steagall Act. Because many of the accounting and investment practices engaged in by the big banks in the early 2000s were self-consciously anti-traditional and, by traditional standards, highly imprudent, there were reasons

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for suspecting that things might go wrong quite apart from the inscrutability of trading algorithms or the complexity of higher-order collateralised debt obligations. In short, there was a flight from traditional prudence in lending and investment practice, although traditional prudence had not been discredited. How does this translate into injustice?

The systemically important banks put at risk deposits and share prices with policies that, because they avoidably increased the probability of losses, were unjust to depositors and shareholders. The banks did not make sufficient provisions to pay back their debts, adding injustice to creditors to their list of wrongs. When their collapse was imminent, they turned to the government they previously claimed had over-regulated them to bail them out, adding to the huge over-indebtedness of the United States and diverting funds that might otherwise have gone through social security and other benefits to the worst-off Americans. Here again there was injustice. Under further U.S. government policies that add to the injustices attributable to banks in relation to taxpayers, banks have been able to divest themselves of 'toxic' assets—without being exposed to the full scale of the losses that they would otherwise have had to face—injustice again.

The Case of James Crosby

We can distinguish the financial crisis from the failure of particular banks. We can also distinguish the difficulty of taking personal responsibility for the crisis from taking personal responsibility for the mismanagement of a particular bank. The leaders of rescued systemically important banks have a personal share in the complex responsibility for the financial crisis, but they may have a much larger share of personal responsibility for the expensive rescue of individual banks that would otherwise have failed.

Are there no cases of leaders of rescued systemically important banks expansively *taking* responsibility? Are there no leaders of systemically important banks, in other words, who displayed the nameless virtue? One apparent exception—perhaps the *sole* apparent exception—to the rule of half-hearted contrition is James Crosby, ex-chief executive officer of Halifax Bank of Scotland (HBOS). He was heavily criticised in a report from the UK Parliamentary Commission on Banking Standards in 2013, which in its turn was a response to the imposition by the UK FSA of a large fine on the HBOS chief financial officer. After giving a short summary of the issues that concerned both the FSA and the Parliamentary Commission, I shall describe Crosby's, at first sight, impressive, response to the criticisms directed at himself and other HBOS executives.

At first sight, Crosby's actions seem to show the nameless virtue in action, and what is more, the nameless virtue being displayed by someone at the top of a systemically important bank. Perhaps he did display the nameless virtue. I shall argue that impressive as that was, it was an *inadequate* response to his

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failings as a bank executive because the costs Crosby imposed on himself do not appear to be to proportionate to the failings for which he was ostensibly claiming responsibility, or to his own resources. We can have a sense of the insufficiency of a banker's response to the financial crisis, then, even when the nameless virtue *is* present.

Crosby's gestures are best understood against the background of the near failure of HBOS and its rescue by Lloyds Banking Group in 2006.

HBOS resulted from the merger in 2001 of a large UK retail mortgage provider (Halifax) and the Bank of Scotland (BoS). Before 2001, BoS had a retail and corporate banking business in Scotland and a smaller presence in England based on telephone banking and niche services connected to high-value mortgages and deposits. In corporate banking it concentrated on commercial real estate lending and servicing management buyouts. Its merger with Halifax gave it a retail depositor base in England, which put HBOS in a position to compete with the so-called Big Four in the UK as a new universal bank.

Crosby set an aggressive growth strategy. He aimed at exceeding the 20 per cent share of the market that Halifax had achieved in its core (retail) markets, and he sought to build its commercial loan book and commercial depositor base. Its international division attempted to establish a presence in Australia. Between 2001 and 2008, according to the Parliamentary Commission on Banking Standards, the group loan book more than doubled. But especially in commercial real estate, the loans were often of very doubtful quality, were often riskily financed in the wholesale money markets rather than from deposits, and were not often enough syndicated, so that HBOS took the risk of default alone. Eventually these big risks materialised on the HBOS books as 'impairments' or large write-downs of the value of loans. In its International Division HBOS's impaired loans as a proportion of its total loans were strikingly high by comparison to its competitors, typically more than twice as high as its competitors in the Irish market. In Australia, nearly a third of its loan book was impaired at a time when Australian banking was avoiding entirely the losses of financial institutions closer to the epicentre of the financial crisis. Even after 2008, impairments continued to be staggering in scale: The Parliamentary Commission estimate for retail loans between 2008 and 2011 is £7 billion.

In addition to bad loans, HBOS was overcommitted to short-dated money market funding for financing them. This was because its deposits were relatively low in comparison to the loan obligations it had taken on. As a result, HBOS was very vulnerable to illiquidity in the money markets. This vulnerability was recognised as early as 1 March 2005, when Crosby was still in charge of the bank, and although steps were taken to increase deposits and bring in longer-dated money market financing, HBOS's overall dependence on short-dated credit was not significantly reduced. The day after Lehman Brothers failed, HBOS, too, had in effect failed. Lord Stevenson, who was

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chair of HBOS from the time of the merger with Halifax, denied in evidence to the Parliamentary Commission that its failure was due to anything other than the seizing up of the wholesale markets. But the commission is scathing about that claim. For them, HBOS simply had too little capital. According to the report,

The HBOS failure was fundamentally one of solvency. Subsequent results have shown that HBOS would have become insolvent without injections of capital from the taxpayer and L[loyds]B[anking]G[roup].

The Parliamentary Commission claims that failings within HBOS were compounded by a malfunctioning regulatory regime in the UK. The FSA, although it raised questions about HBOS credit risks in 2003, about its ability to meet the requirements for a Basel II waiver—allowing it to be its own judge of capital adequacy—and about the effect on HBOS of the turbulence in New York, had been too ready to accept reassurances from HBOS officials that turned out to be ill founded.

Not that the FSA held no HBOS bankers responsible for HBOS's troubles. It served an 'enforcement notice' on Peter Cummings, head of the Corporate Division, in September 2012. This imposed a fine of £500,000 (reduced after lawyers' negotiations from £800,000) for failure to exercise due skill and care in the management of HBOS and for failure to manage risk at BoS. The fine punished the policy of growing the loan book quickly at the cost of a disproportionately high rate of impairment.

In evidence to the commission, Cummings complained of being singled out personally and complained, too, of the FSA's targeting HBOS when other banks were in a similar position. Up to a point, the commission agreed with Cummings. They concluded that not one person but four should have been pursued by the FSA. In addition to Cummings, they named (i) the long-serving chair of HBOS, Lord Stevenson, (ii) Crosby, who served as HBOS CEO until 2005, and (iii) Andy Hornby, who succeeded Crosby. The FSA's simply allowing the 'Approved Person' status of each of these three to lapse was insufficient. All three should have been barred from any further role in UK financial services.

There was no noticeable response from Lord Stevenson and Hornby to this recommendation. Crosby, on the other hand, promptly resigned his remaining (and lucrative) financial services positions and offered to return his knighthood, no doubt having had in mind the fact that the disgraced CEO of the government-rescued RBS had had his knighthood unilaterally removed. In addition, Crosby voluntarily took a 30 per cent reduction in his HBOS pension.

At least at first sight, these gestures seem honourable. Certainly they stand out from the meagre apologies and protestations of events beyond their control that have come from other prominent bankers on both sides of the Atlantic since 2008; in addition, they come from someone who left HBOS several

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years before it failed and who oversaw its considerable growth after the merger. This fact in particular seems to justify the claim that Crosby was being criticised by the Parliamentary Commission for things beyond his control and that, even so, he exercised the nameless virtue. Because there was an opportunity to rethink his strategy after he left and to introduce more prudence, Crosby is perhaps not first in line for the criticism that he brought the bank irresponsibly to the brink. Stevenson, who presided over the bank the whole time, is perhaps the guiltiest of the three.

Although Crosby deserves blame as architect of a policy that was insufficiently attentive to building up deposits and reducing dependence on wholesale markets, the fact that he made his gestures in 2013, eight years after leaving the bank, the fact that he did so promptly (relative to the publication of the Fourth Report of the Parliamentary Commission), and the fact that he did so at some cost to himself, may indeed make his gestures *prima facie* expressions of Wolf's 'nameless virtue'. Admittedly, his relation to the downfall of HBOS is not that of pure bystander, but his hand was not on the tiller when HBOS could have saved itself by changing course. So, in a sense, Crosby accepted a cost for something that he was not fully or directly responsible for: the bank's affairs for the whole period from 2001 to 2008 and in particular the bank's failure and the need for rescue years after he left.

For these gestures to deserve classification as expressions of the nameless virtue, they have to impose a cost on the agent that makes sense not only from his perspective but also from the point of view of someone who wants to mete out punishment. That was the conclusion reached in the first section of this chapter, when I reviewed some of the shortcomings of Wolf's own explication of the nameless virtue purely in terms of generosity. If Crosby had shown his remorse by privately slapping his own wrist, or by depriving himself for a year of a favourite recreation, that would presumably have fallen far short of a *prima facie* expression of the nameless virtue, just because it was too slight a cost relative to the enormity of the HBOS failure and its consequences. By being willing to pay a higher financial and reputational cost in a highly public way, Crosby went much further, far enough to exercise the nameless virtue. But was that far enough?

A relevant consideration is the size of the payment relative to Crosby's resources. The main financial sacrifice he made was to forgo 30 per cent of his pension. But it is a very big pension. The effect of the sacrifice was to reduce the annual payment to himself from £560,000 to £406,000. This hardly puts Crosby in the poor house. On the contrary, it leaves him with an annual income after retirement more than 80 times higher than that of the average private-sector worker in the UK.^[4] [In the footnote \(fn14\)](#) In addition, because he left HBOS in 2005, Crosby did not suffer the kind of losses that other leaders of distressed and failed or rescued banks experienced when the relevant share prices plummeted. On the contrary, he sold two-thirds of his shares in HBOS in 2006, considerably before the crash. As for the knighthood,

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that would probably have been taken away (with greater ignominy) if he had *not* given it up. The fact that he surrendered it voluntarily probably left his profile raised and his reputation in a better state than that of many other bankers. In short, reputationally at least, Crosby's gesture *cut* his losses.

As already made clear, it would be unfair to give Crosby no credit for his responses to the Parliamentary Commission. When they are compared with the total inaction of the two colleagues who were criticised alongside him, and the protestations of helplessness from other bankers, one feels that Crosby did *quite a lot* right, even if he did not give back enough or take responsibility early enough. We have already conceded that he exercised the nameless virtue. The problem is that exercising the nameless virtue does not go far enough. I am not claiming that Crosby bore no real costs (although they may have been insufficient) but that he acted as judge in his own case of how high the relevant costs should be, and in the end he was perhaps an overly lenient judge. What is missing in his response to the commission is the impartiality and independence in the determination of costs that (ideally at least) is associated with institutional justice.

In this respect Wolf seems to me to be wrong to extend the operation of the nameless virtue from personal life to personal action within big public or public-aspected roles. Wrongdoing with big consequences carried out in institutional roles is not answerable only or primarily to norms of personal character or norms of appropriate personal emotional response. The big public roles, including the role of leading a 'systemically important' bank, have an ineliminably impersonal, institutional aspect (Sorell 2011). This impersonal aspect is captured by some of the *legal* constraints on wrongdoing in office—by the fact that some wrongdoing is classified as crime—and, short of this, by the fact that one can be made legally ineligible to play certain kinds of potentially damaging public roles, including the role of bank director.

The Parliamentary Commission has recommended the introduction of a criminal offence of reckless banking to capture the kinds of wrongdoing that have eluded FSA rules in the UK and that arguably led to some of the worst consequences of the financial crisis. This idea may be impractical because it is hard to define in law the relevant kind of recklessness, because taking risks is inseparable from banking, and because the skills of modelling risk in modern banking are so sophisticated that they are hard for would-be regulators, let alone judges and juries, to understand. The criminalisation of recklessness may also be self-defeating because white-collar crime will inevitably attract sentences that are relatively light, disappointing the punitive intentions of the commission. Furthermore, prosecuting and imprisoning bankers would add significantly to the financial costs the state has already had to bear in rescuing the banks.

Nevertheless, there is something right about the idea of criminalising financial recklessness in the case of systemically important banks. The proposal correctly recognises the need for independent judgement of the

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behaviour of those at the top of the relevant banks and the appropriateness of addressing serious damage to the state's resources with serious punishment. Although the UK FSA is not a model institution, it is of the right general type for imposing genuine costs on bankers. Firstly, it is a regulatory authority subject to the oversight of a democratic central government. This not only makes it suitably independent of the banks (at least in theory) but also provides a line of accountability to taxpayers, who have been left having to pick up after HBOS and its ilk. Secondly, a financial regulatory agency is (or ought to be) staffed with people who have a detailed understanding of the duties and performance of high office holders in specific banks. Thirdly, such a body is well-positioned to understand the kinds of costs that office holders who are responsible for recklessness can easily evade when they have a level of legal help only they can afford or shrug off because they are so wealthy.

Leaders of systemically important banks who are reckless in their management should not only be exposed to very large fines, as Peter Cummings was; in the worst cases—the most costly in money terms and those involving the grossest mismanagement—they should be liable to significant periods of imprisonment. Chief executives and chief financial officers of systemically important banks might be particularly exposed to relevant charges when, as in the case of HBOS, borrowing and lending are for years demonstrably badly managed. This suggestion adds courts to financial regulators as arbiters of punishment and twice removes the judgement of appropriate costs from those whose conduct is in question.

Crosby's gestures, honourable as they appear to be when compared to the inaction and shamelessness of other bankers, seem to lack something if all they amount to is his forgoing a little of the icing on his cake. Justice might have required him to surrender a portion of the cake itself; but that is not all: It is risky, probably unjust, and a misunderstanding of a leadership role in a systemically important institution, for the authorities to allow good conduct to depend on the personal conscientiousness of individual bankers.

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Our reactive attitudes to ourselves in cases like these have great philosophical interest. If we blame ourselves for something, then we take responsibility for it. Being able to take responsibility—in the sense of acknowledging the action as one’s own—may be as important to *being* responsible as being causally operative in the production of the bodily movements that realise the action. This emerges from consideration of abnormal agents. Someone who feels deeply alienated from his or her actions most of the time is deficient in agency, and this deficiency may call into question attributions of blame (Frankfurt, 1988; Statman, 2003). There is a connection not only between the ability to take responsibility and unalienated agency but also between taking responsibility—in the sense of expansive self-blame—and the intelligibility of moral luck. If blaming oneself expansively makes some sense in the case of the non-negligent car accident in which the child is killed, then so (to the same extent) does the judgement that the agent in that case has bad moral (outcome) luck. In a relatively recent reflection on the arguments for the reality of moral luck that he originally put forward in his ground-breaking paper on the subject (Williams, 1981), Bernard Williams has insisted on the intelligibility and soundness of agent regret even in cases in which bad outcomes are not due to negligence (Williams, 1998). According to Williams, it makes sense to blame oneself for a death that was not one’s fault because that outcome is directly connected to what one did or was doing.

Taking responsibility can even mean forgoing due process protections (Sorell, 2018). The concept of SIFI has been developed by international regulators since 2008 to apply to banks, insurance companies, and other financial firms whose failure would have large-scale, unwanted economic consequences in economically important jurisdictions or globally. SIFIs, as they are now called, are now specifically required by international banking regulators to meet new (but

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arguably insufficiently demanding) capitalisation requirements, for example. What are now called SIFIs include the 'too-big-to-fail' banks that were bailed out by Western governments after 2008, such as RBS, Lloyds, and Citigroup. A sufficient condition for systemic importance is that a bank's failure would bring about the more or less immediate failure of many other financial institutions, the widespread loss of individuals' deposits, and widespread runs on other banks, sometimes in more than one jurisdiction. Side effects of such a failure could include, as in the case of the 2007–2008 financial crisis, the paralysis of inter-bank lending, huge reductions in commercial lending, sudden and sharp declines in the values of equities, and protracted deflation. Virtually the only systemically important bank to be allowed to fail during the financial crisis was Lehman Brothers, which was regulated in the United States. Other systemically important banks, including Citigroup in New York and RBS and Lloyds in the UK, received tens of billions in direct financial support from the United States and UK governments. All systemically important banks were in regular and routine contact with regulators before the crisis and in the time leading up to it, and it was common knowledge between banks and regulators that the market positions of these banks made them highly important to their respective national financial systems. Their de facto systematic importance was not suddenly revealed by the crisis.

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The bank fared less well later in the 'London Whale' scandal. See its Fourth Report: 'An Accident Waiting to Happen': The Failure of HBOS. (2013). London: The Stationery Office, p. 7.

Ibid. ch. 3.

Ibid. p. 14 (Table 2).

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Ibid. p. 38.

Ibid. ch. 5.

Ibid. p. 43.

www.guardian.co.uk/business/2013/apr/09/james-crosby-give-up-knighthood-pension

It has indeed recently been replaced by newly designed specialist agencies dealing with system-affecting balance sheet risks, on the one hand, and maladministration and mis-selling, on the other.