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CAPITALISM, KINSHIP, AND FRAUD

The Case of Bernie Madoff

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Abstract: Investment broker Bernie Madoff ran what is still considered the largest Ponzi scheme in history, defrauding thousands of investors over a 20-year period of more than \$20 billion. He worked his game almost entirely through kinship connections—relatives, friends of relatives, and relatives of friends. The relationship between kinship and capitalism has drawn renewed attention by anthropologists, part of a broader effort to rethink capitalism not as a free-standing ‘economy’ but as deeply embedded in a wide range of social relations. In this article I use the Madoff case to illustrate, and develop further, several aspects of the kinship/capitalism connection. I also consider briefly the boundary between fraud and ‘legitimate’ capitalism, which many economic historians consider a fuzzy boundary at best.

Keywords: boundaries, capitalism, feminist perspective, fraud, Jewish community, kinship, patriarchy

In December 2008, in the midst of what many have called the greatest American financial crisis since the crash of the stock market in 1929, a securities broker named Bernard L. Madoff (MAY-doff) was arrested for conducting what is now considered the biggest Ponzi scheme in history. It involved the largest amount of money ever seen in such a scheme, went on longer than any other known scheme, and involved more victims over more of the globe than any scheme on record. In terms of sheer scale and scope, it is considered among the ‘10 biggest frauds in recent U.S. history’ (*Forbes* n.d.), second only to the massive fraud of Enron Corporation in 2001.

Although at one level the Madoff case is extreme, at another level theorists and historians have argued that fraud is an intrinsic part of the history of capitalism. In his study on counterfeiting, for example, historian Stephen



Mihm (2007: 11) goes so far as to say: “At its core, capitalism was little more than a confidence game” (see also Balleisen 2017). Economic historian Ian Klaus (2014) argues that the entire history of capitalism can be understood as an evolving cycle in which the emergence of new markets and new financial instruments facilitated the emergence of new frauds, which provoked the emergence of new regulatory mechanisms that then provoked new opportunities for fraudulent activity and so on, round and round. Extending that argument, economic sociologist Wolfgang Streeck (2016: 70) contends that neo-liberalism is only the most recent phase of this cycle, but it may be the one that breaks the system entirely: “Fraud and corruption have forever been companions of capitalism. But there are good reasons to believe that with the rise of the financial sector to economic dominance, they have become ... pervasive ... Finance is an ‘industry’ where innovation is hard to distinguish from rule-bending or rule-breaking.” In short, there is never a clear boundary between legitimate capitalism and fraud. The legal system attempts to draw a line at any given time, but that line is always a moving target.

A Ponzi scheme is one kind of financial fraud that is actually very simple. Posing as a financial broker or trader of some kind (which Madoff actually was), the fraudster invites people to ‘invest’ in stocks, bonds, or other financial instruments. Pocketing their money, the fraudster does not invest it in anything, but pays the investors some kind of ‘returns’, such as dividends, interest, or capital gains. These returns come not from the ongoing or rising value of the investments, but from the money ‘invested’ by later victims. As long as these returns keep coming in, the victims remain complacent. But when they go to withdraw their money, it is not there.

The Ponzi scheme falls into a particular category known as ‘affinity fraud’, so called because the fraudster works the scheme largely through his (and it is usually ‘his’) personal networks. The Madoff case is a particularly rich, complex, and almost baroque example of this point as Madoff had relatives on both sides of the line, as it were. Some of his victims were his relatives, but at the same time he enriched other relatives and employed a significant number in his (legitimate) business, including his brother and sons. But the affinity networks for the fraud went beyond kin, as Madoff (himself Jewish) famously worked a large part of his game through the broader Jewish community and swindled many Jewish individuals, foundations, charities, and educational institutions.

The Madoff case also stands out for the extreme reactions to his crimes. He was reviled in terms that characterized him as inhuman—as a ‘monster’—and that characterized his deeds as virtually demonic. The judge who presided over his trial said in his summary that Madoff’s crimes were “extraordinarily evil” (Kirtzman 2010: 269) and sentenced him to 150 years in prison.

I should say at the outset that all of the data in the article have been drawn from published sources. Ideally, I would have preferred to conduct my own

ethnographic research on this subject, but that was not possible in this case. Fortunately, the material on the Madoff case is very rich, both in quantity and in depth of access to key sources. Because the case was so notorious, it generated a large number of books and articles. The primary text is *The Wizard of Lies: Bernie Madoff and the Death of Trust* by award-winning journalist Diana Henriques (2011), which draws on large numbers of interviews with insiders.¹ There are also several useful documentary films, also based on first-hand sources (especially Prosserman 2010). Finally, there are several first-person accounts by members of the immediate Madoff family (Sandell 2011; Mack and Jones 2011), and a televised interview with Madoff's wife (see Curran 2011), so again we get to hear the voices of many of the primary players in this drama.

I will begin by sketching out the numbers on the more material side of the fraud: the money, the time involved, and the number of victims. I will also provide a brief profile of the victims. But I will spend most of the article exploring the various dimensions of the inclusion and/or exploitation of kin. My interest here is to go beyond the moral revulsion, which I certainly share, and to use the case to engage with several important new lines of anthropological work on the continuing life of kinship relations within the modern capitalist economy, and on the workings of patriarchal power and authority within both kinship and capitalism.

Numbers and Beyond

Of course, we must start with the money. At the time of his arrest, Madoff mentioned a figure of \$50 billion, which was incredible even to people in the world of high finance. Several conversations are quoted in which the speaker says, "\$50 billion," and the hearer says, "\$50 million?" and the speaker says, "No, billion, with a 'b'" (Sandell 2011: 179, 182, 185). As it turned out, the figure was closer to \$64 billion, although that amount included the imaginary gains in all the accounts, which nonetheless had real effects (e.g., people paid taxes on those 'gains'). The total in real money was 'only' about \$20 billion (Henriques 2011: 327).

The second consideration is time. The fact that the fraud went on as long as it did is another major part of the notoriety of the case. In fact, nobody has ever been able to figure out exactly when it started. This matters in terms of defining which of Madoff's assets were legitimately the property of himself and his family, so Madoff had an interest in setting the starting point relatively late, sometime in the late 1980s, although most observers are fairly certain that it started earlier. But even if we accept Madoff's dating, the fact that the scheme did not become known until 2008 means that the fraud went on for at least 20 years without exposure, which is quite a long time for a scheme of this magnitude.

There are many reasons for this. One has to do with the alleged gullibility and/or greed of the investors—the idea that people simply were not paying attention or did not want to look too closely because they were profiting from the scheme. Another has to do with the failure of government regulation. An investment analyst named Harry Markopolous figured out the scam quite early in the game, and multiple times he notified the Securities and Exchange Commission (SEC), whose job it is to uncover and prosecute crimes like this. But the SEC either ignored Markopolous or sent in investigative teams that, for all intents and purposes, did not investigate (Prosserman 2010). Apparently, the SEC office was understaffed, in part because of government budget cutbacks, and in part because of a prevailing anti-regulatory climate, both of which are effects of the neo-liberal turn in American capitalism. In any event, the multiple failures of the SEC clearly extended the length of time of the fraud.

Next, we turn to the victims, and it is almost impossible to get an accurate number. By the end of 2010, over 16,500 claims were filed with Irving Picard, the financial trustee for the case (Henriques 2011: 327). More than 51,700 claims were filed as of 31 April 2014 with the separate Department of Justice Madoff Victim Fund (McCoy 2014), but there is a great deal of overlap between the two numbers. And we do not know if every victim submitted a claim.

Finally, going beyond the numbers, the profile of the victims was also part of the great scandal of the case. As already noted, Madoff swindled many relatives and friends. The defrauding of kin will be central to the discussion of this article, and I will say much more about it below. He also swindled many Jewish individuals, but the more notorious element here was the defrauding of a number of Jewish educational institutions (e.g., Yeshiva University) and Jewish charitable foundations, including the foundation of Nobel Laureate Elie Wiesel, Holocaust witness and survivor. And then there are thousands of ‘ordinary people’, especially elderly people whose survival in retirement depended on the money they thought they had invested with Madoff. Although some of the ‘victims’ were quite wealthy, and their victim status has been contested, the majority of the affected persons were of moderate means and had their livelihoods deeply affected or in some cases completely wiped out.²

Summarizing here, the huge amounts of money, the length of time the fraud went on, the literally incalculable number of victims, and the distinctive profile of the victims—all of these would in themselves add up to making the Madoff case a major phenomenon in the annals of fraud. The Department of Justice official in charge of the Madoff Victim Fund is quoted as saying, “Other than the Gobi Desert and the polar icecaps, few places on earth seem to have escaped the scourge of this fraud ... [it is] of epic and truly global proportions” (McCoy 2014).

But big as it is, that is only one side of the story. The other is what might be called the social relations of production of the fraud, especially the very

extensive range of involvement of family members and relatives in the case. This brings us to the endlessly complex relationship between kinship and capitalism.

Kinship and Capitalism

In the last decade or so, there has been a burgeoning of studies arguing persuasively for the ongoing relevance of kin relations for the workings of the capitalist economy.³ This trend may be traced to two somewhat distinct sources: a revival of interest in the work of Karl Polanyi, and a line of feminist (re)thinking about capitalism. With respect to Polanyi, first, there has been a new focus on his distinction between ‘formalist’ and ‘substantivist’ perspectives on the economy (see Polanyi 1977; Streeck 2016). Formalist approaches to the economy—mostly by economists—treat it as a kind of free-standing object, ‘disembedded’ (a key Polanyi term) from the rest of social life and largely equivalent to the structure and functioning of ‘the market’. Substantivist perspectives, on the other hand, treat the economy as part of the larger social world. Polanyi (1977: 39) referenced, among other things, Malinowski’s research on the Kula ring as an example of a substantivist approach. Although the socially embedded economy has been primarily associated with ‘pre-modern’ societies, recent work in economic anthropology (e.g., Appel et al. 2015; Hart et al. 2010; Ho 2009) argues for its relevance to understanding contemporary economies as well, including but not limited to capitalism.

Along these lines, then, we have been seeing a burgeoning of ethnographic studies of economic formations and practices from a substantivist point of view (without necessarily using the term), which reveal their deep embeddedness in relations of family, kinship, marriage, gender, generation, and more (see, e.g., Ong 1999a, 1999c; Marcus and Hall 1992; McKinnon and Cannell 2013b; Yanagisako 2002, 2013).

Converging with the Polanyi revival, we have seen the emergence of several specifically feminist-inspired lines of discussion that work from a similar position. J. K. Gibson-Graham’s (1996) *The End of Capitalism (As We Knew It): A Feminist Critique of Political Economy* is an early example, which was picked up more recently by a group of anthropologists calling themselves the Gens collective, who have published a ‘feminist manifesto for the study of capitalism’ (Bear et al. 2015). Central to their project is an emphasis on ‘generativity’, on the ways in which capitalist value is produced and transformed in diverse sites of social life, including those normally excluded as ‘domestic’ or ‘private’ (Tsing 2015). Discussing, for example, the work of Thomas Piketty (2014) on wealth and inequality, they argue that “his findings provide overwhelming evidence ... that class inequality cannot be understood or solved without attention to other structures of power, including those at work in the most intimate relations” (Bear et al. 2015).

It is in fact the specifically feminist perspective that gives a new twist, or several, to the question of the relationship between capitalism and the ‘intimate relations’ of social life. Thus, another feminist angle on the kinship-capitalism nexus involves drawing questions of patriarchy into the mix. As developed more fully in some of my more recent work (e.g., Ortner 2014), patriarchy as a formation of power crosscuts kinship, capitalism, and indeed virtually any hierarchical social arrangement, such as the military. It is a generalized—and gendered—structure of dominance and authority that not only places men over women, but also senior men over junior men. Within kinship, it is vested in the authority of the father and in all types of (kin) relations modeled on that original familial form. Within capitalism, we see it at work in the hierarchies of corporations and the organization of workplaces.

Patriarchal power takes a number of different forms, some of which embody the more brutal aspects of the patriarchal role: harsh authority, domination and bullying, sexual harassment and rape—patriarchy as power rather than authority. But patriarchy is also, and perhaps more commonly and insidiously, a kind of soft power, whereby the patriarch offers protection and care to those below him in exchange for their love, respect, and submission to his authority. It is patriarchy in this aspect that will be particularly relevant to the present article.

Along with patriarchy, a third line of feminist thinking on the kinship-capitalism nexus emphasizes the darker sides of kinship, the many ways in which the expected solidarity of kin relations are routinely violated. In her now classic work on Italian family businesses, Sylvia Yanagisako (2002) explores at length both the solidarities of kin within these businesses, and the many fault lines in those relationships. She concludes: “Betrayal and estrangement are as much a regular part of the organizational dynamics of Como family capitalism as are trust and kinship solidarity” (ibid.: 114). Citing Yanagisako among others, Kathryn Goldfarb and Caroline Schuster (2016: 1–2), in turn, develop a similar line of discussion, focusing on the frequent “dis-alignment, exclusion, and non-mutuality” of kin relations. Addressing particularly the relationship between kinship and capitalism (and other forms of value production), they argue that “the gaps of non-mutuality, exclusion, and difference are especially apparent in contexts where kinship production has collided with value production” (ibid.: 4).

Returning, then, to the Madoff case, we will see the many ways in which these various aspects of the kinship-capitalism relationship played into both the public scandal and private pain of the case. I will look first at the concept of relationships as ‘generative’, as a context that produced and reproduced value (both relational and material) on both sides of the link. I will then discuss the patriarchal aspects of the Madoff case, showing how patriarchy cut across kinship and capitalism in ways both productive and destructive. Finally, I follow the question of betrayal into a deeper level of subjectivity

through a close reading of some writings left behind by Madoff's son Mark before he committed suicide.

The Kinship-Capital Nexus as Generative

Bernard L. Madoff Investments Securities (hereafter BLMIS) occupied three floors of what is called the Lipstick Building in New York City. The nineteenth floor housed the trading floor of his legitimate business, BLMIS proper, and the eighteenth floor the tech and other support offices. The seventeenth floor contained the offices of his private 'investment advisory business'; in other words, it was the base camp of his Ponzi scheme. Here the paperwork was generated that led 'investors' to think their investments were safe and profitable. In theory, the people on the upper floors knew nothing about what was occurring on the seventeenth floor. Madoff claimed to have maintained a 'firewall' between the two businesses, and although many people later would doubt that, for the most part, it seems to have been true.⁴

I will come back to the firewall issue in the next section, but here I want to show how Madoff creatively deployed every imaginable form of kinship—'blood' relatives, in-laws, relatives of in-laws, fictive kin, and metaphoric family relations—to make money via both his legitimate business and his fraud. There are two points here. The first has to do with the nature of kinship itself, which Marshall Sahlins (2013: ix) has defined as "mutuality of being," that is, the idea that kin "participate intrinsically in each other's existence." Or as David Schneider (1968: 65–66) famously puts it in his study of American kinship, kin are people among whom there is a relationship of "diffuse, enduring solidarity," an expectation of trust and reliability. As just discussed, these views of kinship have been challenged, or at least modified, in recent work, but they clearly fit well with the logic of the Madoff case. The second point is about the intertwined generativity of kinship and capital: Madoff produced not only his capital via kinship relations, but his kinship relations via transfers of capital.

We begin with the legitimate business. Madoff actively and extensively included his close kin in Bernard L. Madoff Investments Securities. His younger brother, Peter, was the chief compliance officer and day-to-day manager of BLMIS, and his two sons, Mark and Andrew, were traders. Peter's wife, Marion, was on the payroll, and Peter's daughter Shana took a law degree and became the company's compliance attorney. Peter's son worked briefly in the firm before his death from leukemia. Charlie Wiener, the son of Bernie and Peter's sister Sondra, also worked at one point in the firm (Ross 2015: 180).

In addition to the employment of relatives, BLMIS maintained a 'family' type of environment for all its employees, in terms of the atmosphere in the workplace and in more material terms as well: "To most of his employees

[Madoff] was the amiable patriarch, walking the trading floor with a cardigan sweater over his shirt and tie, slapping backs and making small talk. When an employee fell behind on his mortgage, Bernie paid it off. When another got married, he paid for the honeymoon” (Kirtzman 2010: 104). Employees also had an unusual degree of employment security: “‘It was the kind of company you knew you could work at for the rest of your life,’ said one. ‘No one ever got laid off’” (ibid.: 106).

Turning then to the fraud, ‘family’ in a more extended sense ramified well beyond the confines of the BLMIS offices. These networks of relationship were established by means of a fractal chain of connections: friends of relatives, and relatives of friends. Many of the key connections worked through marriage and in-law relations. Madoff’s father-in-law, an accountant named Saul Alpern, was a major figure in the launching of Madoff’s career, lending him money at a critical point in time, and forming what amounted to the first ‘feeder fund’, consolidating small investments into larger bundles, which he channeled to Madoff for a fee. Alpern also praised Madoff to his three brothers, all of whom invested in Madoff for themselves and for their children. Alpern worked with two other accountants who also started a major feeder fund. The sister of one of the accountants married a man named Jeffry Picower who became one of Madoff’s biggest investors.⁵ The stepfather of Mark Madoff’s second wife was an investor, and so were the parents of Madoff’s lawyer. The son-in-law of another big investor became Madoff’s go-between at the Palm Beach Country Club. And so it went, on and on.

Madoff’s network exhibits some interesting characteristics from the point of view of standard American kinship patterns. Americans are known for not having large kinship networks (Schneider 1968).⁶ Because most nuclear families are small, most people have relatively few aunts, uncles, and cousins. But we learn from Schneider that when Americans enlarge their networks, they tend to do so by adding relatives of in-laws rather than more distant blood relatives (ibid.: 69). This was one of Madoff’s strategies: in-laws became extremely important connectors in the network, generating new webs. We also see the role of friendship in creating further kinship-based links. Thus, kin brought in friends, and those friends brought in their kin.

And then there was one more category of ‘relative’ in the Madoff case: fictive kin. Madoff was very close with two extremely wealthy older Jewish businessmen, Norman F. Levy and Carl J. Shapiro. Both were described as “surrogate fathers” to Madoff (Seal 2009). While he lavished them with luxurious gifts and paid them very high ‘returns’ on their investments, in the end he defrauded both of them of enormous amounts of money. In fact, Shapiro was his largest single ‘investor’, with an initial investment of \$250 million and a second \$250 million solicited by Madoff as his ship was sinking, a few nights before he confessed.

We see, then, that kinship not only facilitated Madoff's fraud, but was the very essence of it. Every possible type of kin relationship was activated—blood kin (children, brother, brother's children), in-laws and a widely ramifying network through in-laws, and even fictive kin, in the form of 'surrogate fathers'. People at the outer edges of the network, or who came in through feeder funds, did not need to be related to, or trust, Madoff personally or even know him—and many did not. But there were always kinship links no more than one or two degrees away, so that the whole network was infused with the aura of trust culturally associated with the very idea of kinship.

Madoff and the Jewish Community

As already noted, Madoff's network of 'investors', at least in the US, was almost entirely drawn from the Jewish community, including both individuals and institutions. Ethnic ties have some of the same cultural characteristics as kinship. They are seen as based on blood and are therefore assumed to be 'natural' and unbreakable, embodying a quality of trustworthiness and reliability compared to relations with the 'outside world'. Ethnicity is of course a vast and complex subject, and I will not try to theorize it here. For present purposes, I simply want to emphasize its parallels with kinship, the fact that both are culturally assumed to involve, in Sahlin's terms, a mutuality of being. But in the context of fraud, that mutuality of being becomes dangerous for the members of the group. Madoff's extensive purveyance of his fraud within the Jewish community was both a betrayal of the principles of ethnic solidarity within the group itself, and a kind of tainting of the community with his crimes vis-à-vis the outside world.

In *Betrayal: The Life and Lies of Bernie Madoff*, journalist Andrew Kirtzman (2010) describes in ethnographically rich detail the fallout of the Madoff fraud among the American Jewish community. He writes, for example, of Carl Shapiro, Madoff's 'surrogate father', who was 95 years old at the time the fraud was uncovered. Shapiro had invested \$500 million dollars in Madoff's fund and thus took an enormous financial hit. But the revelation was also a personal and emotional blow, which he described as "like a knife in the heart" (ibid.: 245).

Beyond the betrayal of personal relationships, there was also the betrayal of the Jewish community as a whole and of the principle of ethnic mutuality. For one thing, the Jewish 'community' was more than a metaphor of shared ethnicity. It was in many places an on-the-ground, face-to-face community, as in the Palm Beach country club where Madoff is estimated to have bilked one-third of the membership (Arvedlund 2009: 266). Further, the community viewed itself with pride as highly philanthropic, and was particularly aghast at the defrauding of charitable foundations and institutions. A Los Angeles

rabbi published an open letter to Madoff in *Newsweek*: “You betrayed charities whose good works you have extinguished in an afternoon. These betrayals are epic in their scope and dazzling in their utter lack of remorse or responsibility. There must be some new word invented to describe the way you have redefined betrayal” (quoted in Ross 2015: 168).

In addition to painful feelings of betrayal, there was another sentiment widespread in the Jewish community, a fear of exposure to vilification and hatred by the outside world. Given the nature of the crime, there was fear of reviving the old stereotype of Jews as inherently greedy (Arvedlund 2009: 276). As one of the victims who spoke at Madoff’s trial said, “Nobody has done more to reinforce the ugly stereotype that all we care about is money” (Henriques 2011: 276; see also Ross 2015: 168). As the rabbi of a Palm Beach temple stated, “That’s part of the great tragedy of this ... because it reinforced the prejudice and the hatred that many people have toward Jews” (quoted in Ross 2015: 168). And indeed there was an uptick in anti-Semitic postings on the Internet that bore out such fears (Henriques 2011: 213).

The Madoff Patriarchal Family

We earlier looked at kinship in its generative mode as a network of relations based on trust and mutuality that allowed Madoff to work his scam on an unprecedented scale. We have seen what happened within the Jewish community when the scam was exposed: people not only lost a great deal of money, but felt deeply betrayed and socially exposed. As we turn to the Madoff family, we will see all the same patterns, but with a twist: the family is not a network of kin and/or ethnic ties spread out in time and space, but a particular structuring of kinship relations involving hierarchy, power, and authority. It is one version of that broader structure of gendered social relations we call ‘patriarchy’.

Patriarchy is, as discussed briefly earlier, a complex arrangement that takes a variety of forms (Ortner 2014). It is usually associated with the idea of male power over women, but this is not always its most prominent characteristic. For purposes of the present article, I will emphasize a different aspect, what I will call ‘the patriarchal contract’, by which I mean the unspoken agreement that the father agrees to protect all members of the family in exchange for submission to his authority. There is also a dimension of threat in this arrangement: the contract is backed by a kind of ‘or else’ clause, and the patriarch always has some degree of power as well as authority. But in a well-functioning patriarchal entity, the appearance/acceptance of benevolent authority is maintained, and the arrangement works on care and respect as much as on threat and fear.

The key term in this definition is ‘protect’. The patriarch is meant to protect family members materially, that is, to protect them from want and need. But

there is also a range of social threats from which the patriarch offers protection, including violence, hatred, harassment, humiliation, and so forth, emanating from both specific Others (often themselves vilified)⁷ and the broader gaze of a judgmental society. There is of course enormous variation in the ways in which this is organized and the language in which it is framed, but a key dimension of the patriarchal contract is the patriarch's guarantee of protection from negative Others, however defined, in exchange for submission to his authority.

With these points in mind, I turn to the patriarchal dynamics of the Madoff family, drawing here on all the available sources, but especially on two insider accounts—one by Stephanie, the widow of Madoff's son Mark (see Mack and Jones 2011), and one commissioned by Madoff's other son, Andrew, and his fiancée Catherine (see Sandell 2011). Both books were written within a year or two after Madoff's confession, and there is a great deal of anger and hostility expressed among the various parties. Yet the portrait of the family that emerges from the various accounts is remarkably consistent, and I take that as a reasonable indicator of ethnographic accuracy.

The Madoff family ('Bernie', his wife Ruth, and their sons Mark and Andrew) was an almost picture-book example of a patriarchal family. By all accounts, the four of them were very close. Madoff and Ruth were close as a couple,⁸ and as parents they were close to their sons. When the boys were growing up, the family always went out of town on holidays, and they took all their vacations together. Madoff and Ruth were described as easy-going, loving parents, and Madoff was very generous with his money. After the sons graduated from college, Madoff took them into his legitimate business (BLMIS), and gave each son his own trading operation. The brothers worked very closely with each other, and they enjoyed a good working relationship with their father. This arrangement lasted for more than 20 years.

Madoff thus 'protected' his family from harm in all the classic patriarchal ways, providing them with material resources and what would seem to have been reliable and loving parental care. In this case, however, there was an additional need for protection. Madoff had to protect the family from the fallout of his own criminal activities. One way he seems to have tried to do this was by creating boundaries.

I noted earlier that Madoff went to great lengths to keep his legitimate business, located on the nineteenth floor of the Lipstick Building, completely cordoned off from his fraudulent operations located on the seventeenth floor. It will also be recalled that he employed many relatives, including his sons, in his legitimate business, and more broadly strove to run his legitimate business in a 'family' kind of way. While we may think of the barrier between the nineteenth and seventeenth floors as shielding Madoff and his fraud from visibility, there are also strong indications that he saw the barrier as shielding his relatives, and especially his sons, from accusations of complicity in his criminality.

Less remarked on, but I would say equally relevant, is the way that Madoff drew a kind of boundary around his nuclear family. According to his wife Ruth, Madoff resisted socializing with even his closest relatives outside of work, including Ruth's sister and her family, his own sister and her family, and even his brother Peter and his family. Ruth is quoted as saying, "He never wanted to do anything he didn't want to do—and for the most part, he didn't ever want to see family" (Sandell 2011: 50). Many people, of course, do not wish to socialize with their closest kin. In this case, however, I would suggest another interpretation—namely, that Madoff associated the world of kinship beyond his immediate family with his criminality. The vast network of kin, in-laws, friends of kin, and friends of in-laws was the universe of Madoff's illegality. Creating a boundary around the nuclear family may have been another way of protecting them.

These boundaries at both work and home can be read at multiple levels. I see them in part as drawing upon, and reinforcing in material practice, the existing cultural boundaries noted earlier between kinship and capitalism, family and market, domestic and public. I will return to these themes in the conclusion, but here I want to continue to trace the effects on the Madoff family of the violation of cultural boundaries on the kinship side of the equation, which up to this point had been held together by the 'patriarchal contract'—the classic combination of patriarchal power/authority and filial respect.

Cutting Kinship

Let us return to Marshall Sahlins's (2013: ix) definition of kinship as a "mutuality of being," in which persons defined as kin "participate intrinsically in each other's existence." This is of course only one definition of kinship, but one that is highly relevant to the present case. Sahlins expands: "Like the biblical sins of the father that descend on the sons," in kinship as mutuality of being "what one person does or suffers also happens to others" (ibid.: 2). The relevance to the Madoff case is immediately clear: As we will see in this section, Madoff's family suffered greatly for his sins, and thus went to great lengths to sever almost every shred of kinship that might obtain between him and them.

The patriarchal contract in the Madoff family/business may be seen as weakening earlier, with Madoff getting older and his sons seeking to clarify the question of succession of the businesses. I follow here Sylvia Yanagisako's (2002) discussion of succession in family businesses, which is almost always a point of tension, both between fathers and children, usually sons, and among the children/sons themselves. One early manifestation of the problem of succession in the Madoff case was Madoff's refusal to rename the company. The sons repeatedly asked him to rename it from Bernard L. Madoff Investment

Securities to simply Madoff Securities, which would have implicitly recognized their growing roles in the business, as well as the important role of Madoff's brother Peter. But Madoff always refused (Sandell 2011: 62). More directly on the question of succession, at a certain point the sons began asking their father to explain his "private investment advisory business" to them, as they would be responsible for it if/when something happened to him. But again, he always refused. This latter became a major and ongoing point of friction between Madoff and his sons (*ibid.*: 65; see also Mack and Jones 2011: 81–82).

But of course, there was not to be any succession. Madoff's scheme was exposed in 2008 during the near-crash of the stock market. 'Investors' began pulling out their money, and Madoff could not cover all the withdrawals. He confessed to his brother Peter, and then to his wife and two sons, that it was "a fraud, just one enormous lie, 'basically, a giant Ponzi scheme'" (Henriques 2011: 8). He broke down and wept. He stated his intention to take a week before turning himself in, during which time he would distribute money to deserving relatives, friends, and workers. Nobody objected at the time, but the sons stormed out of the meeting.

Their lives were turned upside down. They were under suspicion for years as possible accomplices to Madoff's crimes.⁹ All their assets were frozen, and they could not conduct normal transactions of daily life such as writing a check or charging a purchase. They were hounded relentlessly by the press. Two years later Mark would commit suicide, and I will return to his story below.

Andrew managed to keep his life together for some time, but was consumed with rage over Madoff's actions, which he described as "a betrayal of biblical proportions" (Sandell 2011: 247). He is quoted in a later conversation with Ruth as asking rhetorically whether Madoff had any guilt or remorse for what he did, and for its impact on him and Mark, and rejects the possibility absolutely: "In the last few years, all he was doing was using me as a shield. If you saw a war criminal grab a child and hold the child in front of him while he was being shot at, you would call that person an incomprehensible monster" (*ibid.*: 328). Andrew's language here is interesting in light of the question of patriarchal protection of the family. Andrew reverses the direction of protection, seeing Madoff as using his sons to protect himself rather than the other way around. Madoff is a monster, from Andrew's point of view, not only in his apparently complete lack of conscience, but also, it seems, for his perversion of the 'natural' patriarchal order.

The sons responded to their father's betrayal with a series of counter-betrayals. On the day of his confession to his family, they went home, immediately called their lawyers, and proceeded to turn their father in to the FBI. Part of the reason for this was legal: the lawyers advised the sons that if they knew Madoff was still distributing his illegal gains and did nothing, they would legally become accomplices to the crime. In other words, once he confessed,

they more or less had to turn him in. But this does not explain the ongoing and ultimately permanent nature of the break after that. The sons subsequently refused to co-sign his bail bond. And they never spoke to their father again.

But that was not the end of their cutting of kin ties. Their mother Ruth did not initially plan to sever ties with Madoff. As she later told Morley Safer in a *Sixty Minutes* interview, “I never thought of leaving. I don’t know why I didn’t, I just knew this man for so long, whom I loved for so many years. I didn’t know what else to do but stay there” (in Curran 2011). Thus, when Madoff went down and Ruth remained loyal, the sons cut her off too. When she sent them some of her jewelry, they turned it in to the FBI. When she asked them to co-sign Madoff’s bail bond, they were enraged by the request and refused to sign. They were furious that she remained in touch with Madoff after he went to prison and visited him there. After his first suicide attempt, Mark focused much of the blame for it on Ruth, and he gave her an ultimatum: either she would cut Madoff off completely or she would be banned from all future connection with family members, including her beloved grandchildren.

Ruth did eventually cut Madoff off because she could not tolerate the loss of her sons and grandchildren. This too infuriated the sons as she did not do it primarily out of moral condemnation of Madoff. After Mark committed suicide, Andrew partially blamed Ruth, and Mark’s widow Stephanie refused to let Ruth attend Mark’s memorial service. As the years went by, there was a certain amount of reconciliation between Ruth and Andrew’s family, but she continued to be “denied access to Mark and Stephanie’s children” (Sandell 2011: 32).

Because Madoff had betrayed them, and also because any association with him was socially and possibly legally toxic, the sons could only carry on (and eventually Mark could not) by severing all ties with Madoff completely and absolutely, including ties that would be felt to remain in force if their mother maintained her connection with him. Thus, they broke with their mother too, until she broke with their father. But even that was not enough. By then Mark was dead, and his widow continued to enforce cutting the ties to the grandchildren. It was as if the kinship ties were transmitting Madoff’s evil qualities and had to be almost literally, materially, cut and broken.¹⁰

Madoff’s Evilness and Mark’s Suicide

As noted earlier, theorists, historians, and critics of capitalism all agree that corruption and fraud have been endemic to the history of capitalism from the outset. The Madoff case was striking, not only because of the scope and scale of the fraud, but because of the extensive involvement of kinship and ethnic ties. This captured the public imagination and raised the fraud to a level of moral and ethical condemnation not normally seen in such cases. These moral

and ethical issues are particularly central to understanding perhaps the most dramatic outcome of the case—the suicide of Madoff’s son Mark.

It will be recalled that Madoff was subjected to extreme moral condemnation by the press and the public. He was described as a “monster” (Eren 2017: 9), as “the Devil” (ibid.: 122); as a “financial serial killer” (Arvedlund and Roth 2010: ii), as “Jekyll and Hyde” (Seal 2009), as the ‘Adolf Hitler of fraud’ (also shortened to ‘Madoff Hitler’),¹¹ as the “Charles Manson of Ponzi crimes” (Eren 2017: 119), and—again and again—as evil.¹² What does it mean that Madoff is seen as evil in an almost biblical way?¹³

In his classic essay on religion, Clifford Geertz (1973) talks about the problem of evil as part of what he calls a problem of meaning, a condition in which one’s sense of the purpose of life and the comprehensibility of the world is undermined and radically destabilized. I will quote Geertz at length on the broad problem of meaning, which he sees as emerging from the threat of chaos: “There are at least three points where chaos—a tumult of events which lack not just interpretations but *interpretability*—threatens to break in upon man: at the limits of his analytic capacities, at the limits of his powers of endurance, and at the limits of his moral insight. Bafflement, suffering, and a sense of intractable ethical paradox are all, if they become intense enough or are sustained long enough, radical challenges to the proposition that life is comprehensible and that we can, by taking thought, orient ourselves effectively within it (ibid.: 100; emphasis in original). Let us focus on one element of this broader package, the problem of “intractable ethical paradox” or, as Geertz says later, the problem of evil (ibid.: 105–106).

I want to propose that this is precisely what Madoff provoked and why he is perceived as evil. How could he swindle his own relatives? How could he swindle his own ethno-religious community? How could he swindle Elie Wiesel, the great moral witness of the Holocaust? How could he take the money from charitable foundations specifically created to do good in the world? And finally, how could he put his own wife, brother, and sons in harm’s way and destroy their lives? For the vast majority of observers, it is all beyond comprehension, given the basic moral assumptions of our culture about kinship, ethnic solidarity, support for the common good, and care of one’s family. Andrew Madoff called his father an ‘incomprehensible monster’, and I am suggesting here that the word ‘incomprehensible’ is as important as the word ‘monster’. If one looks at all the language reviling Madoff, it is not just the epithets that strike one, but the language of the impossibility of reconciling his behavior not only with the person he appeared to be, but with the fundamental ethical assumptions of our culture. As people said over and over again, his acts were incomprehensible, unimaginable, unthinkable—precisely what Geertz meant by a problem of meaning.

Most people, or at least people in reasonably comfortable situations, manage to deal with the pain and contradictions of life, whether with the help of

religion (which is what Geertz was writing about), or love or drugs—or all of the above and more. But several of Madoff's victims committed suicide, including Mark, and we may take them as having been overwhelmed by the impossibility of dealing with the moral, emotional, and practical impact of Madoff's crimes. Here I want to look at the accounts of Mark's psychological decline, as the language he used in that period fits precisely with this argument about the ways in which Madoff created for at least some people the sense of 'intractable ethical paradox', or in other words, the problem of evil. We will see that Mark simply could not comprehend, reconcile, or, in the vernacular, wrap his mind around the contradictions of his father's behavior.

In one account, Mark is quoted as repeatedly asking unanswerable questions about his father's deeds: "How can a parent do this to his children? I just don't understand" (in Sandell 2011: 264). Or again, "My whole life was a lie. My father is a scumbag, so who knows if anything he ever said was true. Who even knows if he loved me?" (ibid.: 273). In the other account, Mark's widow Stephanie quotes in full the first few pages of a book Mark began to write and never finished. In it, he starts with another question, which is also another statement of his own incomprehension: "My own father has stolen my life from me ... How do I explain to my children what I do not understand myself?" (in Mack and Jones 2011: 210). And then he focuses on what he clearly takes to be the central paradox of his experience: "The man who had taught me the importance of integrity had just told me that he was a thief" (ibid.: 207). Or again, at greater length: "My childhood was normal. I was taught right from wrong. Both of my parents were always there for me and both helped make me into the person that I am today. I was raised to be, and still am, a good and honest person" (ibid.: 208).

In other words, it was not just that his father had loved him and cared for him and later betrayed him. This was where the breach of the patriarchal contract came in. It went further and deeper. While his father had taught Mark right from wrong and raised him to be an ethical person, he himself then turned out to be a thief and a scumbag. Mark was clearly never able to resolve or get past this paradox, and was ultimately overwhelmed by it.

Conclusions: Boundaries

From a *theoretical* point of view, capitalism is, and must be seen as, 'embedded' in the wider world of social relations. But this does not mean there is an easy relationship between them since, from a *cultural* point of view, kinship and capitalism are supposed to be separate. The boundary, as it were, between domestic and public, family and business, kinship and contract is heavily policed and maintained in Western culture, law, and spatial arrangements. This

is precisely because social relations in the two domains are meant to operate on different principles—what Talcott Parsons calls the “communalistic” principle of family life, versus the individualistic and competitive relations of the economy (quoted in McKinnon and Cannell 2013a: 7).

It will immediately be objected that there are many forms of ‘family business’ that mix kinship and capitalism in the US and globally, and that is certainly true (see, e.g., Colli 2003). But this does not mean that the cultural contradiction is absent; the question is always an empirical one. In Madoff’s case, his criminal activities brought those contradictions very close to the surface. He wanted to run a family business, but also wanted to protect his family from the fallout of his criminality. Thus, he tried to reinforce the boundaries between the two. The more visible boundary was the one between his legitimate business and his fraudulent business, spatialized as the firewall between the nineteenth and the seventeenth floors of the Lipstick Building. This was widely interpreted as protecting himself from discovery, and indeed his sons later saw it that way. But it seems equally plausible to view it as Madoff trying to protect his sons and other close kin, all of whom worked on the nineteenth floor, from knowledge of and contamination by his criminal activities.

The less visible boundary was the one around his nuclear family. As his wife Ruth commented, Madoff resisted socializing with any of his relatives outside of work. There are many ways to interpret this, and again many people do not necessarily want to socialize with their kin for various reasons. But in the Madoff case, I have suggested that this was another kind of boundary drawing. Outside his nuclear family, Madoff’s entire universe of kinship was associated in one way or another with his criminal activities, whether as enablers (witting or unwitting) or as victims. Thus, Madoff tried to maintain a kind of firewall here too, between his nuclear family and the rest of his kin.

In the end, the firewalls failed, and the family was damaged beyond repair. I have interpreted the endgame of the Madoff family in part as a breach of the patriarchal contract, a failure of the patriarch to protect his family from harm. His crimes were thus visited upon his wife and sons, whose kinship ties with Madoff had to be severed literally and absolutely.

There is one final boundary that needs to be addressed: the boundary between fraud and legitimate capitalism. As noted earlier, many observers view that boundary as quite fuzzy, seeing capitalism itself as a kind of con game. Technically, however, the boundary is supposed to be clear: fraud is illegal, and normal business practices are not. Yet, as has been widely noted, in the world of big business and big finance, even when fraud is uncovered, very few people are prosecuted, no less punished (Aliber and Kindleberger 2015: 164). Legal writer Jesse Eisinger (2017: 233) brings the point to bear specifically on the Madoff case: “By 2015, the government had prosecuted some of [Madoff’s] colleagues and accountants. But what about Madoff’s enablers on Wall Street?”

Madoff had been banking enormous sums of money with J.P.Morgan for years, and memos show that suspicions had been raised within the bank but never acted upon. After the fraud broke, the bank was investigated but ultimately reached what Eisinger sees as a relatively cheap financial settlement in the case, with no admission of guilt and no individual executives being prosecuted. The bank took the position that because so many different people within the firm handled Madoff's accounts, no single individual knew enough to recognize what was going on (*ibid.*: 234).

I close with this emphasis on boundaries as a way of pulling together the various pieces of the discussions in this article. Since at least the 1970s, with the dawn of the neo-liberal economy, theorists, historians, and ethnographers have been working to rethink capitalism as a massive force in our world. One important direction in this work has been the attempt to rethink capitalism in relation to things from which it has been artificially cut off theoretically, in this case, relations of kinship. I have thus used the Madoff family/business as a case to bring to light some of the dynamics that are set in motion when the connections between kinship and capitalism are explicit: the ways in which the sentiments of kinship (and ethnicity) can be mobilized in favor of capital accumulation; the ways in which patriarchal relations command and sustain the loyalties of both family and business; and the ways in which financial crime becomes unbearable personal betrayal when kinship and capital are mixed.

At the same time I have emphasized that the division between the world of kinship and the world of capital has not been simply theoretically imposed on the data. It emerges from a cultural distinction that underlies both the theory and the data. The 'solidarity' and 'mutuality' of kinship are, from a cultural point of view, supposed to be kept separate and protected from the coldness and calculation of 'the market'. The Madoff case, and especially the suicide of Mark Madoff, allows us to see some of the seismic consequences that can ensue from mixing the two. Of course, the Madoff case is extreme, due to the criminality. On the other hand, I think we must take seriously economic historians' insistence that such criminality is rarely bounded off clearly from the rest of capitalism itself.

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Notes

1. For a film based on this book, see Levinson (2017).
2. In the aftermath of the case, financial trustee Picard divided Madoff clients into 'net winners' and 'net losers'. He tried to 'claw back' some of the winnings from the net winners and compensate the net losers. Needless to say, this was only possible up to a point, and very few people were satisfied with the results (Arvedlund and Roth 2010).
3. I am using David Harvey's (2005: 159) definition of capitalism, which characterizes our existing political-economic system as one that creates "accumulation by dispossession."
4. I take no position on the involvement of Madoff's family members in the fraud. Observers would later find it impossible to believe that the sons in particular were not involved, and that the wife was not at least knowledgeable. Thus, it is important to note that the wife and the sons were investigated extensively, but none of them was ever charged with, no less convicted of, any crime.
5. Madoff subsequently surmised that Picower, alone among the investors, may have figured out the scam and intentionally played Madoff (Henriques 2011: 134–135).
6. Schneider's (1968) study was largely of white, middle-class Americans. Readers may object that Madoff, with all his money, was hardly middle class. But he came from a middle-class background, and by all accounts he seems to have remained strongly shaped by that culture.
7. As this point suggests, patriarchy always involves significant othering. It generates in-groups and out-groups (families, tribes, etc.) and constitutes an important element of racial and ethnic difference, suspicion, and hatred. This point is developed in Ortner (n.d.).
8. Madoff does not appear to have been a womanizer, but he did have a long-term affair during his marriage, which was revealed after the fraud was exposed (Weinstein 2009).
9. Once again I make no presumption of the guilt or innocence of the sons. However, I note again that they were investigated at great length, but no charges were ever filed.
10. Ruth eventually left New York and went to live with her sister Joan, who took her in despite the fact that Joan and her husband had also been fleeced by Madoff. The role of the women in this account, including Ruth and the two daughters-in-law, is very interesting but beyond the scope of the present article.
11. See Hirschfield (2009) for an analysis of comparisons being made to Hitler.
12. While I claim no psychological expertise, the evidence suggests that the Jekyll and Hyde characterization may be closest to the truth. Madoff can be seen as a kind of split personality, both the genuinely good(-ish) father/boss and the completely conscienceless exploiter of kin and charity.
13. This is also one of the central questions of Colleen Eren's (2017) book. Her primary answer is that Madoff became a stand-in for the broader financial disaster that began in 2008.

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