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Are Lawyers Neurotic?

This paper reports on an ethnographic exploration of the lawyer-client relationship focusing on the attitudes held by legally aided lawyers to their criminal clients. The study combines formal interviews with participant observation in a mixed methodology approach designed to give voice to the lawyers taking part as well as allow the researcher to provide their own perspective. The research produced two quite contradictory viewpoints as lawyers claimed to hold positive attitudes of their clients in interview while presenting negative attitudes under observation. To reconcile this difference, the author suggests considering psychoanalytic literature on self-image, which can be applied to show that the lawyers may have been displaying signs of Freudian defence mechanisms and, ultimately, presented as neurotic in their practice.

Introduction

This paper explores the lawyer-client relationship under criminal legal aid by considering whether lawyers in England and Wales might be understood as neurotic in their attitudes toward clients. The reason for pursuing this line of enquiry on lawyers' mental states is not to claim individual lawyers suffered with neuroses but to provide an analytical schema that might help illuminate why lawyers under research might say one thing about clients in interview and quite another when observed during their everyday practice.¹ It is important to understand how lawyers perceive their clients because the state of the lawyer-client relationship can be held up as a key indicator of procedural justice in the English criminal courts. This research is premised on the notion that access to justice

¹ It should be noted that Shapiro's (1999) work suggests that everybody displays some neurotic states and that these are not necessarily problematic.

requires access to lawyers (Young and Wall, 1996).² The principle of the equality of arms means the criminal justice system presupposes roughly equal resources and expertise on both sides of the equation. The self-referential nature of the legal system, with its complex web of technical language and internal rules, acts to overwhelm and alienate defendants (McBarnet, 1981). In order that those suspected and accused of crimes can comprehend what is going on and, thus, properly be said to take part in their own cases, Cain (1983) has highlighted that they need a lawyer to act as a translator. The court system removes the defendant from the criminal process in significant ways: they become definitively a client, losing the ability to be active players as they are rendered reliant upon lawyers.³ They are locked into a process of, what Ericson and Baranek (1982) term, *legal dependency*.

With access to lawyers of such importance that it might be considered a human right to have a lawyer facilitate understanding of the criminal justice system (Luban, 2014),⁴ it becomes imperative that research ensure legal aid lawyers practice active defence and appear fully committed to their client, always putting their clients' interests first. This is the approach Smith (2013) labels *zealous advocacy* whereby the lawyer acts as a loyal partisan to their client, with the lawyer giving themselves fully to their client and all they represent. The *adversarial advocacy* model is perhaps one of the most commonly used means of attaining ethical practice by ensuring that lawyers work to give voice to their clients (Parker and Evans, 2007). Access to lawyers in and of itself cannot be

² While this paper considers criminal legal aid lawyers and the criminal justice system, it is important to note that issues of access to lawyers are, both, pressing and present different challenges in other areas of the English legal system. For example, following the cuts to legal aid enacted by the coalition government in the Legal Aid, Sentencing and Punishment of Offenders Act 2012, funding for lawyers has been removed from large areas of the civil law system. In civil cases, then, what emerges are issues around access to justice in terms of literal access to lawyers, the quantity of legal advice available. In criminal legal aid, as considered in this paper, the issue is much more the quality of legal advice.

³ And, by extension, legal aid. Access to justice specifically requires access to lawyers funded by legal aid. See Ashworth (1996).

⁴ For example, in Article 6 § 3 (c) (right to legal assistance) of the European Convention on Human Rights: 'Everyone charged with a criminal offence has the right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require'. The decision of the European Court of Human Rights in *Salduz v Turkey* went further, stating that 'as a rule, access to a lawyer should be provided as from the first interrogation of a suspect by the police'.

properly considered enough to produce access to justice in any meaningful sense of the word. Rather, the lawyer-client relationship must properly function to ensure that lawyers serve their clients to the best of their abilities and display a commitment to their client that is beyond reproach whatever the eventual result of a case. It is procedural justice that is crucial here and lawyers should be understood to take on an important role in realising defendant desires to feel they have been fairly and decently treated during the course of a case (Tyler, 1988). Mather et al (1995) have said that lawyers are like taxi drivers taking passengers (clients) to their destination meaning it is vital that each side can properly communicate allowing that they both know where they want to go. Sarat and Felstiner's (1988) work went a step further, suggesting that lawyers often controlled the destination as well as the route; lawyers generally make up their own minds about the course of action to be taken and spend much time persuading their clients. Indeed, Sarat and Felstiner (1995) found that lawyer and client interests are fundamentally at odds meaning lawyers focus on ensuring what the lawyers think important predominates. The aforementioned studies concerned divorce in the US but, as a more general point, it has been suggested that 'the production of justice might be defined as a dimension of the relationship of lawyers to clients' (Felstiner, 2001: 191). The *exchange of knowledge* that is the lawyer-client relationship makes justice about a social interaction (Suseno et al, 2006). Reducing justice to this exchange between the two means it is imperative to pay due attention to the social side of the lawyer-client relationship. This paper addresses that social relationship by looking at the attitudes lawyers hold toward their clients with these attitudes duly conceived of as the foundation that underpins the whole structure of doing access to justice. Lawyers do not necessarily need to like their clients to believe that they deserve representation and/or to provide competent representation but, if lawyers do not like their clients, it raises interesting questions about the nature of the lawyer-client relationship that are best brought out into the open and worked through.

The issue of attitudes, then, presents an invaluable aid through which to engage with the data obtained through lawyer-client research. The ethnographic data in this research, though, has not

produced a simple, unified picture of the issue of attitudes in the lawyer-client relationship. Instead, two apparently contradictory narratives arose. In formal interviews, lawyers presented positive attitudes when talking about their clients; however, participant observation showed lawyers displaying negative attitudes when discussing clients. In this paper, both accounts are offered individually. Material is presented to allow an appreciation of typical statements made by lawyers, first, in interview, and then at work. Thereafter these are drawn together into a critical debate reflecting on why there was such divergence and considering what impact this may have had on the lawyer-client relationship. The paper raises the question as to whether the practice of these lawyers was displaying symptoms of neuroses. A loose appropriation of Freud (and, later, Jung) is offered, albeit it one that is intended to say more about approaches to practice than individual psychology, as ideas from psychoanalytic theory are used as an heuristic device to promote new ways of thinking about the lawyer-client relationship. This echoes Shiner's (2010) study on police practice, wherein a psychoanalytic reading of self-image was offered to critique Hoyle's (1998) previous research. For Shiner, appropriating psychoanalysis provides a means to move beyond conventional socio-legal study with its focus on internal mental processes as well as the usual social activity. In Shiner's paper, an analysis of the psychological processes underpinning what the officers actually say provides a greater contextualisation of the statements and actions, through conceiving of the findings in terms of organisational defence mechanisms rather than simply social processes.

There is a rich potential for overlap between psychoanalysis and the law, as deftly outlined by Goldstein (1968: 1053):

Psychoanalysis endeavours to provide a systematic theory of human behaviour. Law, both as a body of substantive decisions and as a process for decision-making, has been created by man to regulate the behaviour of man. Psychoanalysis seeks to understand the workings of the mind. Law is mind-of-man-made.

Accordingly, there has been legal scholarship drawing on the insight provided by Freudian theory into the ideologies that underpin systems of law (Caudill, 1991), exploring key Freudian tenets such as motivation, aggression, and symbolism in legal principles (Schoenfeld, 1973) or considering the impact of Freud's pleasure principle on the regulation of morality (Cornell, 1997). Frank (2009) has applied Freudian psychoanalysis to lawyers, equating the legal practitioner's apparent need to perpetuate the myth that law is precise and coherent to a child's quest for security and authority in its father. Beyond this, in general, there is a large literature on law and psychology with several journals devoted to that field alone but Freudian theory has not been previously applied to legal practice. There has been little attention paid to ways Freudian theory can shine a light on the lawyer-client relationship. The value of Freudian theory in this paper is to allow the prospect of a more multifaceted, profound analysis with which to augment existing knowledge around the lawyer-client relationship. Such understandings have previously gone unheeded in work on the legal profession so there seems worth in applying them here. The deliberately relaxed usage of neuroses in this argument is purely about stimulating debate and not offering a diagnosis. As such, the paper offers an attempt at an embryonic explanatory framework revolving around self-image that is intended to open a dialogue and initiate discussion. Before outlining the results, though, the paper considers the methods and methodology of the study.

Giving Voice to Lawyers

This research is based on a 12-month ethnographic fieldwork split evenly between three law firms specialising in legally aided criminal defence.⁵ Social relationships as those between lawyers and clients are best understood by empirical social research that allows us to capture the reality of these interactions. Traditionally, though, empirical social research on the lawyer-client relationship has

⁵ A full discussion of the methods and methodology that underpin this research can be found in Newman (2013). The present paper builds on arguments around the role of defence mechanisms in the lawyer-client relationship first developed in this book. They have benefitted from being rewritten into the more concise and accessible format of this paper as well as gaining through being updated. Rather than use previously published data, this paper utilises mostly data from the fieldwork that was not included in the book and will thus be research presented for the first time here.

been somewhat lacking – whether due to the difficulty of gaining access to the legal profession or the lack of social research training for legal scholars (Hillyard, 2002). There has, then, long been a need for socio-legal research to shed light on the lawyer-client relationship (Abel, 1988). In the 1990s, two studies in particular answered the call for social enquiry into the lawyer-client relationship with *Standing Accused* by McConville et al (1994) and *The Reality of Law* by Travers (1997b) becoming iconic pieces of research for the manner in which they shed light on the English criminal justice system. Though more recent socio-legal research has produced excellent insight into the lawyer-client relationship,⁶ these two studies remain held up as key reference points, in no small part due to their scale: offering substantial ethnographic fieldwork of a kind that it is extremely rare to gain both funding and consent to undertake. Ethnography combines the full gamut of qualitative research techniques making it the most valuable tool for socio-legal studies (Flood, 2005). It provides insight into the richness of social life that illuminates the lawyer-client relationship. At least it should, but wider understanding has been clouded by the way these studies produced seemingly contradictory results. McConville et al revealed lawyers with little but contempt for their clients showing wanton disrespect while Travers talked about a profession that admired clients and dedicated their lives to supporting them. In part, this divergence results from the epistemologies underpinning the studies.

The selection of a method such as ethnography is only one component of designing an empirical social research project, the methodology used to interpret the results and frame the findings is quite another, and the two studies in question assumed opposing theoretical perspectives. The disagreement over methodology led to a heated exchange between the two research teams, wherein Travers (1997a) outlined his interpretivist analytical framework in opposition to the structuralism of McConville et al.⁷ McConville et al were accused of offering research that simply reflected their own values and ignored the perspectives of those they studied, with out of context

⁶ See, for example, the exemplary studies offered by Sommerlad (2001) and Tata et al (2004).

⁷ Reconvened here as Bridges et al (1997).

examples deployed to support a chosen line of attack. These authors hit back and criticised Travers' research for refusing to challenge the outlooks of those he studied, running the real possibility of a work that naïvely takes their views and self-justifications at face value. McConville et al sought a larger sample of firms to produce generalisable results, though this meant they stayed with some firms for very short periods, while Travers studied one firm for a significant length of time allowing for *thick description* but, as a result, had difficulty arguing the wider applicability of his data. My research followed in the footsteps of these studies; I adopted ethnography in an attempt to reconcile the discrepancy between the two and help further understanding of the lawyer-client relationship in England and Wales.

To bridge the gap between structuralism and interpretivism, I combined insights from both, splitting the 12 months between three firms. With four months at each, I spent the same amount of time that Travers was at one firm in three making my results more generalisable than his. At the same time, the dozens of firms studied by McConville et al means that my results are not as generalisable as theirs but they do allow some wider applicability with the added bonus of offering thick description of different firms. As such, the research contains, both, local knowledge lawyers themselves would recognise (to satisfy the interpretivist) and more general critique that allows me to engage in wider debates (to satisfy the structuralist). In addition to time considerations, the research was divided up into two phases at each firm: an initial three months of participant observation, shadowing the lawyers as they went about their daily practice in cafes, offices, police stations, meeting rooms and courts, and; a final month of formal exit interviews with 35 practitioners, allowing the lawyers to reflect on their practice. The former are more easily shaped by me as researcher than the latter, with my notebooks full of the events as I saw them in contrast to tape-recorded interviews allowing lawyers to speak on the record. The observation was purposively kept separate from the interviews, then, to further balance structuralist and interpretivist concerns. These were formal exit interview rather than relying on informal exchanges or concurrent interviews

to keep some distance between the two components and use this space to properly give lawyers the ability to describe their practice in their own words as removed from my influence as possible.

It follows that the results offered in this paper are organised into two sections where representative data from the research is presented to highlight the data as I found it. The interviews are offered first then the observation. These accounts are presented relatively free of critical engagement though they are selectively arranged to facilitate understanding of what happened. The approach can be characterised as thematic analysis: a method for identifying, analysing and reporting patterns across a data set that, thereon, minimally organises this information in rich detail (Braun and Clarke, 2006). This organisational structure pays heed to both the structuralist and interpretive traditions by providing spaces in which the lawyers' voices can be heard without ceding my responsibility as researcher.

In deploying this approach the key issue for this paper will become clear: how do we reconcile the stark difference between what the lawyers say in interview with the situation I collated through my account of the observation? For clarity, it is important to try and explain the different accounts of the lawyer-client relationship that emerge from balancing these two methodological approaches. In particular, I will offer the line that psychological insight might be of benefit. Ahead of considering the value of locating the results in a psychoanalytic context, though, it is important to first consider the data arising from the research in interviews and under observation.

Lawyers in Interview

Throughout the interviews the lawyers in this study talked with great gusto and no little passion about the importance of access to justice. Many duly identified this as the chief motivation that drove them into legally aided criminal defence and pushed them to work as hard as they were able thereafter. The following quote presents one lawyer's reason for entering this branch of the profession:

I wanted to go into legally aided work – I had idealistic views on helping people: the less advantaged, etc. So I was looking at crime, justice, human rights aspects. I had spent a year working for a charity before that. It was all about helping people for me.

In the next quote, another lawyer discusses how driven they are in their practice:

I'm very passionate about justice. I wouldn't even consider doing anything else. I mean, I know logically, if I did another type of law, I might earn twice what I'm being paid. But that wouldn't interest me. It's access to justice I believe in.

The above excerpts from interviews are entirely representative of the practitioners from the three firms studied. Two thirds of the lawyers – 24 out of 35 – identified access to justice reasoning in their rationale for entering this branch of the profession while every single lawyer presented such a worldview as underlining their continued practice. Lawyers would talk about the importance of preserving a criminal justice system 'based on fair play' that provided 'equal treatment for all'. In particular, almost all – 32 out of 35 – explicitly identified their own role in, what was labelled as, 'maintaining the rule of law'. The following quotes highlight the importance such lawyers found in their role serving justice:

I am proud to be in criminal defence. It's an ego thing, I suppose; I think it's hugely important. You have a member of the public who knows nothing and they have the might of the state against them and we are the knights in shining armour standing between the individual and the dragon of the state.

Criminal defence work is important and I think societies are often judged on how they treat the sick, the mentally ill and their own criminal population. There is part of me that feels incredibly privileged to be a part of all of this, to have a perception of this and a knowledge and an understanding of our society that means, one, I am not scared of it, and, two, I'm trying in some small way to do something that contributes perhaps to improving it.

By assuming this crucial position helping to deliver justice for all, the lawyers saw themselves as noble professionals representing a public service ethos that one practitioner branded a 'social agenda'. This social agenda entailed the lawyers claiming to practice for, what were often referred to as, 'altruistic' reasons, with lawyers stating that they 'wanted to be on the side of the underdog', 'standing up for the vulnerable' or 'fighting for the little guy'. The lawyers saw themselves as part of the welfare state, providing a vital public service; facilitating a public good. This was clear in the frequent comparisons to medical professionals that lawyers provided throughout the interviews. More than half of the lawyers – 20 out of 35 – drew such parallels with other areas of public service or identified legally aided criminal defence within the context of the welfare state, as in this extract:

What we are doing here is most accurately described as part of the welfare state. We're the part that goes ignored and people don't think about until they actually have to use us for whatever reason. Doctors, teachers, social security, everyone sees those parts and recognises their importance: we all rely on them and we all value them. But do we all need lawyers? Maybe we will, hopefully not. But there will always be some people who do, quite often the lower rungs of society, people who were failed by the education system and have no life chances and need someone to help them. They can't pay for lawyers, so it's us that come between them going to prison and getting into gangs, drugs, generally wasting their life or helping them to get out of it, to get help, keep their family together. We help the people that no one thinks about or certainly don't care about.

Accordingly, there was a great sense of self-importance amongst these lawyers with a clear theme running throughout the interviews that their work was 'important to society' and 'supporting those who are forgotten by society'. The social agenda these lawyers served made them perceive themselves as a fundamental element of the welfare state.

In order to meet the social agenda, it was apparent that client-centred practice was the ideal these lawyers professed to adhere to. At some stage of the interview every lawyer highlighted that their

practice was solely focused on meeting the wants and needs of those suspected or accused of crime. The following quotes give a flavour of the lawyers' explanation on how they delivered a client-centred service:

Always put the clients first, that's the first rule of being a lawyer. You don't break the law or anything – despite what people say, we're not about helping conmen get out of it – but you always work your hardest to give the client a result that they are happy with.

At the end of the day, I'm happy if they're [the client] happy. When you break it down, it isn't complicated what we do: someone comes to us for help and we help them. End of story.

It's all about the clients.... We wouldn't be here without them so it's important to remember that.

Many lawyers appeared to take pride in their serving clients in this way, with more than half – 19 out of 35 – explicitly making clear the satisfaction they derived from doing their best for clients. The lawyers talked about clients with no little sense of affection, expressing empathy and even respect for those they served with several explaining that they were happy to 'go above and beyond' for their clients. While only two addressed individual clients in their examples, most – 30 out of 35 – talked of their clients as a whole in positive terms extolling the 'long-term relationships' that were built up as in this quote:

We are a community practice and I am very proud to say that I represent this community.

The strong relationships I am able to build with clients means that the community recognises me as one of them. I'm not from [the local area] but I feel accepted because I serve them....

This is very important to me.

With clients so exalted within the lawyers' vision of themselves as professionals fighting for justice, it followed that almost all – 33 out of 35 – lawyers in these interviews would emphasize the manner in

which they fought hard for their clients at all times. The following quotes reflect the strong message that the lawyers saw themselves as practicing active defence:

You always fight for them [the client]...stand tall for them because they need you.

I am robust in my efforts to always push my client's case. We all are, it's what we do and why we are so popular: we stand up for them [the clients].

Whether you are in a trial or not, it's a battle, all of it is.... The defendant asks us to fight their cause; they trust us to stick up for them. So we fight.... I still call it going into battle...for them [the clients].

Lawyers were resolute in the idea that they always stood up for their clients; it was identified at the heart of a client-centred practice, the *raison d'être* of their public service remit and the essence of what it meant to be a professional. The lawyers were not unrealistic, and they explained how cases that went to trials were the minority and that many clients wanted to plead guilty, but all the same they presented this combative ideal of what they did for clients.

Overall, then, the interviews presented client-centred practice across all the firms with lawyers who placed great stock in their public service role serving the vulnerable and needy. This image was in glaring contrast with that which emerged from the observation.

Lawyers under Observation

While the interviews saw lawyers talking encouragingly about their clients, locating clients at the centre of their work, the observation showed quite the opposite scenario in practice. Lawyers displayed deeply negative feelings toward their clients, conceptualising clients in a most disparaging manner. First and foremost, the lawyers adopted a uniform approach of treating clients as if they were idiots, with all 35 lawyers at some point referring to an individual client by such condemnatory terms as 'stupid', 'moron' or 'so stupid he makes me want to cry'. The tone that lawyers adopted

when considering their clients' level of intelligence is reflected in the following quotes made to me, in turn, before, after and, in an aside, during meetings with clients:

Look at this fool, have a read of that [his statement to police].... It always seems to be me who gets stuck with these idiots.

Well, he won't be joining Mensa any time soon. I doubt he could even read; he could barely talk.

How are you keeping a straight face? This tosser is thick as shit.

Beyond simply pointing out how mentally deficient the lawyers believed their clients to be, the lawyers appeared to revel in the comedy they found mocking the supposed stupidity of those they were tasked with serving. Joking about their clients was something that every lawyer drew on as a foundation of their relationship with me and each other as in the following exchange between two lawyers:

Lawyer 1 – You want to stick around and check my guy out.

Lawyer 2 – Bit of entertainment is he?

Lawyer 1 – Thick like you wouldn't believe. I wouldn't be surprised if he gets his name wrong.

That the lawyers I observed did not think much about the understanding of their clients highlighted how the lawyers appeared to look down on their clients as inferior. The superiority displayed by these lawyers was taken a stage further in the moral judgement that was made of clients' characters.

Again and again in this research, lawyers – 35 out of 35 – would pass comment on the 'type' of client, sneering about how 'low' or 'vile' clients were and that they were a 'waste of space'. While lawyers may be pleasant to a client's face – there were only a handful of occasions I saw lawyers

openly rude to clients – lawyers were frequently patronising and could be extremely keen to communicate their distaste for the client as soon as they were out of earshot. On many occasions, lawyers would pass judgment on the clothes clients were wearing or the way they looked. These quotes represent some of the aversion displayed by these lawyers and the perception that clients were offensively lower class than them:

He came in here looking all smart. It's just a pity his trainers didn't match his suit

I did not expect someone with such a posh name to look like that. Typical inbred.

What a dirty bastard. I want to wash myself now, I tried everything I could to avoid shaking his hand.... I bet he stunk.

Some clients were damned for the area they came from ('have you seen what comes from that estate?'), others for their family ('I wouldn't expect anything different, I know his mother too...she's a sight') and others for the criminal offences they were charged with even before guilt was ascertained ('not a pleasant man at all'). Seeing clients as representatives of an 'underclass', to use the term offered by at least five of the lawyers, lawyers were willing to condemn the moral culpability of those who presented themselves to them at court. Demeaning comments of the type that these lawyers would regularly offer on clients could be taken to reflect a view of these clients as somehow deserving of their status as criminals, a view that saw its realisation in the widespread presumption of guilt that characterised the practice I observed.

Lawyers in this study routinely believed their clients to be guilty throughout the observation with all 35 displaying such prejudices at one point or another – sometimes before the lawyer had talked to the client, others even before they had received any of the prosecution material or their client's statement. Such practice is reflected in these examples of comments made to me:

I recognise this name.... He's going to be guilty, he comes from a family full of them.

Look at the colour of this file. Never believe a client from there.

I hope this idiot doesn't waste our time. I bet he wants to have a trial, pointless.

Past simply believing clients guilty, at some stage, I saw every lawyer push clients to plead guilty, in many cases despite the client asserting their innocence and wanting to plead not guilty. There are numerous reasons why a lawyer might convince their client to plead guilty, including systematic factors such as communicating the sentence discount, the expectation for plea bargaining since *R v Turner* and the Criminal Procedure Rules that oblige the defence to cooperate with the prosecution. Another possibility is financial incentives, whereby it is more efficient for a lawyer to conclude a case early to get a fee for doing little work, with criminal legal aid increasingly a volume-based industry whereby processing lots of cases quickly is imperative to financial survival. McConville and Marsh (2014) would suggest the reasons combine so that defence lawyers work to serve the interests of the state (not necessarily the client) in ensuring a conveyor-belt of guilt defendants. The negative attitude of lawyers acts to ensure their complicity in making sure clients go guilty.

The following quote shows the approach taken by many lawyers, whereby they set out to persuade a client to change their plea:

Our job today will just be persuading the client to plead guilty. It's an assault. So, really, our job today is to explain to him that there's no point in having a trial and he might as well plead guilty. He's usually alright, usually listens.

In a similar vein, I witnessed around two thirds of the lawyers – 22 out of 35 – explicitly encouraging clients to plead guilty without getting the client's side of the story despite the client insisting they were not guilty. In the following extract, a lawyer begins a meeting with a client by making it clear that there should be a guilty plea:

Lawyer – So, how are we pleading? Oh, I should warn you that the judge you'll be appearing before is very tough on public order offences. He's also very tough on breaches, and he's been sending people down all day for failures to surrender.

Client – Oh, right. I wanted to go not guilty, I didn't do anything.

Lawyer – I think you need to think very carefully about this before you come to a decision. There might be a deal on the table.

If clients were resistant to pleading guilty, the lawyers could get quite angry and at least half a dozen engaged in agitated rants about clients following a meeting, complaining that 'he just won't follow instructions', 'this idiot just doesn't listen' or 'who does he think he is ignoring me like that?'

Lawyers were so sure in their assessment of the moral deprivation and legal blameworthiness of the clients they encountered that client attempts to resist these stereotyped identities were met with consternation. In short, the lesser beings represented by these clients should listen to the lawyers and accept what the lawyer wants.

Overall, instead of a client-centred practice, the lawyers under observation showed a practitioner-centred practice in which the clients were, at best, a bothersome irrelevance, and, at worst, a problem to be eliminated. This image was in stark contrast to that produced from the interviews, a contradiction explored in the remainder of this paper as I bring in insight from the psychological literature.

Positive or Negative Attitudes

This study produced two contrasting images of the lawyer-client relationship. To read the interviews, lawyers had positive attitudes toward their clients. Under observation, there emerged negative attitudes. It seems important, therefore, to try to account for the difference between the attitudes claimed and displayed. Perhaps the immediate explanation that springs to mind is that someone is lying in this research. First and foremost, I may be claimed to be lying, perhaps this is what the lawyers would say: the positive attitudes they described in interview are true but I twisted the events depicted in the observation in order to produce a salacious story to make my written account more interesting. Maybe I had a hidden agenda all along that looked to cast lawyers in a bad light as so often happens when academics write about them. It would be hard for me to defend myself to such accusations, all I can offer is my word and to hope that readers credit me with more integrity than that.

Alternatively, maybe the lawyers were lying – and this seems a common sense approach to take when presented with self-justifications that do not tally with the facts as witnessed. The events shown in the observation are the reality of lawyer attitudes while their interviews represent an attempt at image management to cover up any malpractice. There is an argument that lawyers

would need to attend to the bad impression created by their practice because there was a real possibility it could be used to show that they fall short of the expectations outlined in the Solicitors Regulation Authority (2007) *Code of Conduct*, which posits their central responsibility to clients. The observation lasted for a long time and I built up good rapport thus the lawyers were off-guard and acted naturally. This meant the possibility of maintaining a superficially client-centred practice could not be realistically achieved so they had to engage in damage limitation after the matter when they reflected on what might be written about them. Under observation, the lawyers had no control over what I was writing in my notebook but, in taped interviews, their views were a matter of record, which would inevitably focus the mind on presenting a constructive picture of their practice. In such circumstances, perhaps it would be hard to envisage them doing anything other than engaging in a PR charm offensive.

While I recognise many will be convinced by the latter reasoning, I believe it is possible to take issue with such explanation. It seems a little crude to reduce understanding to a rehashing of the stereotypical lying lawyer trope. Personally, I felt as though I would be making a knee-jerk reaction to just write off the fieldwork in such simplistic terms and wondered if there was something more to the jarring juxtaposition of these two accounts. Better would be rationale that gives more depth to the issue and can be read either in place of or, at least, side-by-side with the notion that the lawyers were purposively telling lies. Rather, I explore an alternative approach whereby lawyers could legitimately claim to hold positive attitudes even while displaying negative attitudes and, crucially, do so while unaware of any apparent inconsistency. As such, the explanation explored in the remainder of this paper is premised on lawyers having learnt to differentiate between *the* client in general and *a* client in particular. What we are dealing with here is a question of attitude, which is an internal psychological construct developed over time and subject to change under the influence of external factors.

An attitude can be understood as 'a summary evaluation of an object' (Bohner and Wanke, 2002: 5). Attitudes are made up of two elements: an object and a response to that object. The object could encompass any of a wide array of stimuli, from the inorganic to the animate, the nonfigurative to the tangible. The response to that object involves a collection of cognitive, affective and behavioural parts, best conceptualised as beliefs, emotions and responses (Rosenberg and Hovland, 1960). Classical conditioning suggests that frequent and recurrent connection between the object and, either, positive or negative stimuli shapes (and can reshape) the nature of an individual's evaluation of the object (Staats and Staats, 1958). In a famous study, researchers consistently paired the names Ed and Ben with variously positive and negative stimuli to condition participants to see people with those names in a certain way (Berkowitz and Knurek, 1969). Attitudes, then, are learnt and can alter; a person's attitude to an object depends on the associations they have with that object at any particular moment of their life. Such insight can be applied to the lawyers who might be said to have learnt to hold particular attitudes to their clients. The learning of these attitudes, though, has not been a simple process, as various challenges to the self-image of these lawyers have complicated the issue of lawyer attitudes leading to internal mental conflict and the ability to harbour conflicting positive and negative attitudes concurrently.

Lawyers' Self-image

Katz' (1982) work on the lawyer-client relationship has shown that the lawyer's professional self-image is the most salient factor to consider when looking at the approach to practice, with clients dependent on state provision essentially finding themselves reliant on the perception a lawyer has of themselves and their work. Self-image refers to the representations that people have of themselves (Meffre, 2005). In psychoanalytic theory, self-image is developed by interacting with others. When considering self-image, Freud represents the most notable authority (Carveth, 1996). Indeed, it was Freud's work that legitimised the seeking of the impact subconscious processes exert on personality. Freudian theory entered day-to-day life and popular culture many years ago, from

references to Freudian slips to searching for the underlying meaning behind irrational acts. In contrast, Freud has been much maligned in the social sciences – especially in the UK (Bocock, 1981). Sociologists have resisted treating Freud as a social theorist, marginalising him as a therapist. While his work centred on the unconscious, it did not exclude the social and Freud himself saw sociology as applied psychology providing a testing ground for his concepts of the mind. His theories operate at the intersection between the individual and society allowing us to fully consider the relationship between the two. It has perhaps been easier for sociologists to avoid the complexity that engaging with the individual necessarily imported into their theory (Craib, 1989). The result, though, has been at times a stunted social theory, which operated on the surface and failed to understand how individuals related to one another.⁸ Freudian theory, then, offers latent potential to improve our social knowledge.

Freud's theory was far from perfect though. He was mistaken in claiming psychoanalysis as a science as it cannot satisfy the falsifiability criterion. Further, the theory has tended toward dogmatism without allowing room for criticism. These drawbacks can be overcome through using select Freudian concepts as and when they are judged to add value to an analysis under Butler's (1999) *bricolage* approach. A loose and reflexive appropriation of the Freudian toolbox allows for a social theory that can properly examine the concealed processes that influence social actors but may otherwise be ignored (Young, 1940). Most useful for the purposes of this paper is Freud's (1989) treatment of self-image, which centres on his understanding of the ego. Ego is one of the three components of the mind in Freudian analysis, operating together with id and super-ego. The id is the lowest level of the mind, which contains the basic, instinctual drives. The id is unconscious and driven by the *pleasure principle* that seeks constant gratification through the avoidance of pain and discomfort. In contrast, the super-ego is the highest level of the mind, the organised part of the personality structure, largely (but not completely) unconscious that internalises cultural rules. The super ego strives for perfection as it attempts to attain social acceptance through imposing the

⁸ Parsons (1964) posits social theory lacking if it does not give due attention to such psychic mechanisms.

moral judgments of the surrounding society. It is the ego that mediates between the id and super ego as it attempts to balance between the primitive drives of the id and the critical calculations of the super ego.

The ego is the site of human consciousness, whereby the largely conscious sense of self operates to determine the role individuals should take in wider society. While the id is driven by pleasure, the ego follows the *reality principle* and looks for socially acceptable ways to satisfy our base instincts thereby arbitrating between the id and the social world. While self-image arises from the interplay of all three parts of the mental structure, the extent to which the ego constitutes the organised part of the personality attributes it the central role in shaping self-image. The *ego-ideal* emerges here as the inner image of the self whereby the ego attempts to realise the perfection demanded by the super ego. The super ego is 'the vehicle of the ego ideal by which the ego measures itself, which it emulates, and whose demand for ever greater perfection it strives to fulfil' (Freud, 1995: 81). To achieve perfection, the ego establishes a series of rules to follow that enforce standards that must be achieved. The attainment of these goals leads to a sense of accomplishment with a strong feeling of pride in success in meeting the targets essential for a healthy self-image. Considering this process of striving for perfection and a positive self-image illuminates the lawyers in this research.

In interview, the lawyers in this study proudly self-identified as professionals. There was a sense of self-satisfaction in the professional position they saw themselves occupying. The ego-ideal's quest for perfection was realised by their perceived professional standing. These lawyers were imbued with an awareness of their own importance, revelling in the responsibility placed in their hands. The professional is a designation imputably linked with high social status owing to the rise of the original three learned professions (legal, medical and clerical) in Medieval times when to be a professional was to stand with aristocracy and nobility (Freidson, 1994). In particular, the legal profession was considered to confer gentlemanly status and has been shown to hold particularly high regard as a 'status profession' (Elliot, 1972: 14). The reverence given to professions in the UK is *the British*

disease as reflected in research detailing the varying perspectives of a cross-national study of law students (Asimow et al, 2005). That study features students drawn from institutions in Europe, North and South America but it was those in British universities that really bought into the high status of the legal profession. Over 80% of British respondents believed lawyers hold a lot of prestige, double those abroad. The legal profession has long fought to uphold social closure to individuals with the greatest levels of cultural capital (Francis and Sommerlad, 2009). It is a profession determined to maintain itself as a class apart. The lawyers' self-image as professionals in this study was thus largely centred on the high status they believed it to hold. This belief, though, was problematic because the lawyers' wages did not reflect those of a high status professional thus challenging their self-image.

The Challenge of Lesser Remuneration

Legally aided criminal defence trails many other professions in terms of remuneration. Despite their high levels of qualifications and years of training often achieved at a considerable level of debt, the average wage of criminal legal aid lawyers at the time of the research was £25,000, in line with the national average and well below the other public service providers with whom such lawyers are want to compare themselves such as teachers (£34,000) or GPs (£56,000) (Baksi, 2013).⁹ In addition, the cost of providing legal services extends beyond simply paying lawyers, it must finance the cost of running an entire office with overheads such as rent, business rates, utilities, insurance, IT, furniture, audit costs, transport, tax and national insurance on top of support staff and management working alongside fee earners. Hourly rates received by such lawyers were generally below the rate required for such firms to break even (Parry, 2015). The break-even figure would be £35.02 per hour, while a healthy business would require an hourly rate of £105.¹⁰ A comparison to the national average, then, is inappropriate. So it is that legal aid lawyers also compare themselves to other areas of the legal profession and those with whom they studied but now work in far more lucrative areas such as

⁹ These levels have since dropped further with the 8.75% cuts to legal aid fees introduced in 2014.

¹⁰ Talking of break-even costs here is putting an optimistic sheen on incomes as received wisdom suggests that a company need do more than break even to stay in business and, rather, should reinvest at least a third of earnings to grow the business and take a third in profit for the owners.

commercial practice, wherein it has been reported that lawyers can earn £850 per hour (Owen, 2013).

The stark comparison whereby criminal legal aid lawyers can earn a little over 1.5% that of their City brethren will be degrading to those in the former position. The lawyers in my study were sharply alert to this financial reality. Throughout the fieldwork, I was subjected to endless complaining about the lawyers having lower remuneration compared to their peers. During the observation, I regularly noted this as the chief topic of discussion. Indeed, lawyers lamented this situation with such regularity to anyone who would listen – each other, prosecutors, court staff, clients and, particularly, me – that I almost stopped writing it down through fatigue. In the interviews, every lawyer brought up remuneration of their own accord and all complained about their lot, often telling stories of lawyers they knew in other areas of practice who earned so much more than them. It was also common to complain about how little they were paid for duty work, especially in comparison to the call out fees charged by tradespeople (who were deemed inherently inferior). For these lawyers they were not simply undervalued in financial terms, meaning they might not be able to drive the car or have the second holiday they desired, but the level of their wage meant they were not treated with the respect they felt they deserved.

Most of these lawyers understood that they were not valued as high status professionals in financial terms. This may have challenged their self-image as professionals. Such would be logical when the basis of, what Larson (1977: xvii) labelled, *the professional project* was status elevation and marketability, with ‘professionalization...an attempt to translate one order of scarce resources – special knowledge and skills – into another – social and economic rewards’. Take, for example, the image presented by the large City firms when they appeal to students at law fairs; they do not sell commercial practice on moral good but present it as the domain of the high-flyer earning lots of money and able to fund a champagne lifestyle (Collier, 2005). With big commercial training contracts held in highest regard, these lawyers could be considered failures in the professional project in

juxtaposition to their high-earning City peers. This unfavourable comparison would have an emotional impact bringing pain and discomfort because, for these lawyers, their market value fell well below that of their self-image or, in Freudian terms, their ego-ideal. Their egos strived for perfection and, to realise this, the lawyers needed to play by a different set of rules and establish alternative criterion. Instead of achieving the high status professionals were seen to get via economic reward, these lawyers gave primacy to the social agenda. In this way, they would be able to meet their ego-ideal and feel proud with a sense of self-worth and accomplishment at the same time managing to dodge the pain and discomfort that would accompany being financial failures.

This entailed a process of rationalisation, whereby the pain and discomfort represented by an external threat is circumvented by distorting reality. A *disavowal defence*, rationalisation allows the individual's ego to avoid having to deal with circumstances that would otherwise cause it anxiety through setting up a fallacy of reasoning at a level below consciousness. In this process, previous choices made for one reason can be reframed as if they were made under quite different motivation. The result is that the truth of an individual's decision-making can be obfuscated and mistakes ignored to protect the ego from any harmful reality. In place will be substituted a false but preferable understanding allowing a positive self-image to be maintained in spite of challenge. For these lawyers, the social agenda was offered up as a rationalisation for why they entered practice in place of any desire for a financially rewarding career.

The interviews showed the prominence the lawyers attributed these values. The majority of lawyers earnestly identified themselves engaged in a vocation, doing something essential and making a difference. This relied on a traditional professional evocation: that they could use their specialist knowledge to fulfil a socially important role (Eraut, 1994), imbuing the assumption that public service and professional status were linked (Abbey and Boon, 1995). In this situation, it was the social agenda and not financial remuneration that provided their rewards, and it was meeting those aspirations that earned the designation *professional*, with the high status that accompanied it.

However, this claim to possess a social agenda is not something that should be accepted uncritically. The observation data demonstrates such a discrepancy from these values that it must cause us to question its substance. In particular, highlighting the importance of the social agenda may be deemed an act of rationalisation, thus providing an alternative explanation for lawyers' engagement in legally aided criminal defence.

That criminal legal aid carried such low levels of remuneration highlighted its place at the bottom of the profession and the difficulty with which it could be claimed as high status. The relatively poor remuneration would be a clear signifier of the lowly position of legally aided criminal defence, which would provide a major blow to the lawyers' egos, one that would disappoint the ego-ideal and deny it in its quest for perfection. There would be no pride at the low remuneration, which would deposit the lawyers well below the standards set for themselves as long as professional status was to be associated with earnings. To overcome this failure and the associated pain and discomfort to the ego, they required an alternative means to meet their ego-ideal. Sidestepping the link between accomplishment and financial reward, the lawyers found solace in establishing a rule that tied success in to their realising the social agenda. However, previous research shows that the social agenda is not a major pull-factor in terms of law student motivation compared with financial considerations.¹¹ Large-scale surveys have shown how 'practical and selfish aspirations came far above altruistic aspirations' (Boon, 2005: 236). Legal qualifications were most likely to be sought with an eye towards employment concerns. Public service desires lag behind both individual and vocational priorities as relevant variables. By this view, lawyers enter the legal profession because it represents a sensible career choice; financial considerations are to the fore.

Perhaps lawyers were in a poorly remunerated branch of the profession because they were unable to obtain better paid work. Demand for training contracts with the top commercial firms is notoriously intense with many losing out and having to enter further down the professional ladder.

¹¹ See, for example, Sherr and Webb (1989) and Boon et al (2001).

No lawyer in this study pointed to their own inadequacies leading to their practicing in a relatively low paid branch of the profession and it would not be fair to assert otherwise without evidence. However, many lawyers suggested that other lawyers around them at the courts were only in legally aided criminal defence because they were not good enough for the alternatives. While it need be recognised that such suggestions are unsubstantiated hearsay, this is worthy of note it was a common complaint amongst the lawyers in this study that standards were slipping and that criminal legal aid was becoming something of a dumping ground for those who could not get anything better. Lawyers would always identify the professional disappointment in others, while shielding their own egos from pain and discomfort by never countenancing the possibility that they were similarly engaged in this supposedly lower branch of the profession.

The social agenda, then, acted to protect the egos of these lawyers from any sense of failure with regards to their lower wages relative to peers. Whatever adverse judgment could be implicit in lesser remuneration, the lawyers could still assert their professional merit due to the valuable and meaningful function they played for the social good. The rationalisation that they were still high status professionals despite the fiscal reality, though, relied upon others accepting the value of this social agenda. That the social agenda may not have been universally held in such high regard means its place as a support to the lawyers' self-image was precarious.

Problems with Professionalism

Hughes (1962) developed the sociological understanding of *dirty work*, job-holders undertaking the tasks others avoid and dealing with the types of people that mainstream society would rather not know about. All occupations have a dirty work component but it is more significant in some jobs than others, with the sort of work that involves engaging with criminals amongst the highest so that 'contact with psychical, social or moral dirt leaves a taint' (McMurray, 2012: 128). Accordingly, the legal profession in England and Wales has been labelled:

A core of high status practitioners, concerned chiefly with the functions of capital, surrounded by a peripheral majority who deal in personal services for private clients...a lower form of legal practice somewhat similar to social work (McDonald, 1982: 273).

Such a view reflects a widely held lack of respect within other branches of the legal profession whereby criminal legal aid is looked down upon and held in contempt (Goriely, 1996).¹² There exists an 'element of distaste, sometimes even of disdain which is to be found amongst some solicitors of standing for those who do legal aid work' (White, 1976: 233). Indeed, criminal legal aid lawyers in previous studies recognise such a lowly designation (Thomas and Mungham, 1983). It is important to question, then, the validity of the social agenda talked about by the lawyers in this research and whether it has any validity across the wider profession. To judge from Sadefur's (2001) survey of legal prestige the answer would be no: from 42 areas of legal work, lawyers ranked criminal practice 31st. That study identified two key reasons why criminal work held such a low status amongst lawyers, a *professional purity thesis* and a *client-type thesis*. Both theses undermine the status of criminal lawyers due to the very nature of legal aid work, which invariably entails working with clients that may not be able to finance their own representation; a lower socio-economic class than will be dealt with by many other branches of the profession.

Theories of professionalisation show the manner in which clients' socio-economic class holds a key role in determining the standing of the profession (Larson, 1977), so it can be said that 'the importance of the clients affects the status of the professional providing the service' (Eraut, 1994: 5). This is as true for law as any other profession, perhaps even more so considering the wide disparities that exist between clientele such as the juxtaposition between criminal lawyers and the low value crimes often committed by addicts and commercial lawyers who service executives and glamorous companies. Studies have shown that lawyers who deal in higher status clients are particularly likely to make judgments of their fellow professionals who work with clients that they deem inferior

¹² McIntyre (1997) shows this to be a trait of state-funded lawyers dealing in criminal matters outside the UK as well.

(Heinz and Laumann, 1982). More so, criminal work in particular involves dealing not simply with the working class but what are sneeringly referred to as *the criminal classes*, perhaps the social group looked down upon more than any other in contemporary society. Working with those written off as criminals rubs off badly on the lawyers, who become guilty by association, in what Sommerlad (1996: 298) has described as a 'clear reflection of the connection between the status of the client and the lawyer'. When the lawyers' clients are demonised so are the lawyers and, if few value the practice or the practitioner, this seems to undermine the value of the social agenda in giving these lawyers a high status. Rather, it suggests that their social agenda actually adds to the lower status bestowed by the lesser financial rewards on offer. Without validation, research has shown that public service professionals can become sullen and dejected (Parker, 1999). Through their association with such a lowly clientele, the social agenda of these lawyers could not allow them to achieve the perfection required to satisfy their ego-ideals meaning that, as it was with remuneration, the lawyers were to be disappointed. At least they would be if another Freudian defence mechanism had not kicked in.

If rationalisation could be said to have protected these lawyers' egos from sensing failure at their lesser remuneration, displacement sheltered them from realisation of the failure of their social agenda to give them any standing of note. A *neurotic defence*, displacement involves transferring the pain and displeasure brought about by a dangerous object onto one considered safe. This displacement shields the ego from having to deal with trauma thus lessening anxiety. There were several targets that could have been identified for the lawyers' ire if they were reeling against the undermining of their social agenda. These include the media who created a populist anti-defendant line, the public that bought into this and demanded action, the government that reflected this in their policy-making, judges who convict innocent defendants or sentence them too harshly, prosecutors who bring unjustified charges and police who may lie. All contributed to the debasement of the practice of these lawyers by ensuring that those suspected and accused of crimes were generally looked down upon and little respect was given to those who represented them.

While the lawyers might have criticised the role of these parties on an intellectual level – as they did frequently in this research – these were powerful groups and largely beyond the reach of the lawyers when they were satisfying their emotional drives. Displacement involves selecting a weak, vulnerable and readily accessible victim to cast as a scapegoat. Clients provided the perfect soft target.

Displacement, then, can be picked out as a contributory factor in the lawyers shifting between professing positive attitudes to clients but concomitantly acting in quite the opposite manner. The clients were the reason they practiced under their client-centred approach yet those very clients were also the reason they were largely looked down upon and had their self-image challenged, therefore the clients could be blamed for any resultant pain and discomfort. In these circumstances, the lawyers resented the clients as evident in the sheer contempt shown throughout the observation. Displacement allowed such resentment to fester below the surface with lawyers thus able to continue to trumpet their social agendas and resultant claims to high status as their egos were being protected from the reality by this defence mechanism. They would be unaware of this process while any pain and discomfort that might otherwise be internalised if they were to perceive themselves as failures for how little due was given to their social agenda was simply channelled outward in their treatment of clients.

Conclusion: Are Lawyers Neurotic?

This paper has offered an account whereby the lawyers studied learnt to take out the pain and displeasure caused by challenges to their self-image upon their clients. I have suggested that lawyers can hold both positive and negative attitudes simultaneously without necessarily being conscious of this distinction nor its contradictory nature. Rationalisation and displacement combined to allow these lawyers to deceive themselves and protect a self-image as high status professionals whatever the reality.

As a final consideration, Jung's particular understanding of psychoanalysis offers a neat way to tie together the themes described in this paper. Jung is more radical than Freud and so his usage here is made with similar caveats, if not greater, to that of Freudian theory: his ideas offer a means for exploring the issues of this disjuncture in lawyer attitudes, not offered as a perfect theory to be strictly adhered to but one sufficiently illustrative and with potential illumination for the immediate goal of stimulating this debate. For Jung (2009: 414), an attitude can be understood as, 'the readiness of the psyche to act or react in a certain way'. Jung (2009: 415) holds that attitudes are organised in pairs: one conscious, the other unconscious, a distinction which means that, 'consciousness has a constellation of contents different from that of the unconscious, a duality particularly evident in neurosis'. Neurosis reflects an unresolved tension between opposing attitudes of the conscious and the unconscious. They arise when the conscious attitude is unable to distinguish or integrate elements deemed important to the unconscious attitude. As a result, a duality emerges between *abstractism* and *concretism*. These represent two ways of thinking and feeling – the former more sophisticated, rational and logical, and the latter is primitive, based entirely on perception through sensation. Concretism is useful for the manner in which it allows recognition of external reality; however, it is lacking in how that is subsequently interpreted.

Jung's duality offers insights that can be appropriated to conclude the psychoanalytic explanation for the conflicting accounts of lawyer attitudes. The lawyers suffered from a neurosis, a split between their consciously professing positive attitudes and unconsciously propagating negative attitudes. Lawyers were differentiating between *the* client and *a* client: the general and the particular. The client was that considered in abstract, regarded in theoretical terms through the lens of access to justice and, as such, reflecting the social agenda discussed in interview. On the other hand, a client was the concrete experience, that client dealt with in the *here and now*, connected with the pain and displeasure of their professional standing, which they subsequently appeared to resent under observation. When thinking objectively – detached and reasoning – the lawyer held positive attitudes towards the client. This is what happened in the interviews where lawyers were given time

and space to reflect thoughtfully. It was only when lost in the moment – reacting to demanding situations, working on instinct – that the lawyers displayed these negative attitudes towards a client. It was thus that the observation showed the unfiltered image of the lawyers in action and without time for deep and meaningful pontification.

This process necessitated a further act of rationalisation on the part of these lawyers. So as to resolve the tension that separated the negative attitudes shown as lawyers engaged in their routine practice with the higher ideals signified within the positive attitudes, they were acting out an elaborate fantasy. In this way, lawyers were able to shown complete disdain for their clients, disrespecting and debasing them at will, while still able to assert to holding positive attitudes as long as they felt they were doing their best in the job. As a result, the lawyers could actually believe they held positive attitudes thus allowing them to claim to be realising the social agenda and, therefore, meet their ego-ideal. Realising the ego-deal meant achieving perfection as they kept to the rules set and realised the standards that they primed themselves to hold to. As a result, lawyers were able to feel proud and experience a sense of accomplishment. The rationalisation defence mechanism thus had a double value here, protecting the lawyers from the realisation that they had failed to achieve high remuneration or be valued for upholding the social agenda. The reality of their two failures was successfully rebutted keeping their egos free from pain or discomfort. Returning to the idea that the lawyers may have been lying to me, then, this consideration makes it entirely reasonable to suppose that they were lying without realising it rather than being malicious or self-serving. By this line, there were not simply lying to me, though, they were lying to each other and, crucially, to themselves. I was treated as one of them and they talked to me as a peer, which meant presenting a professional, positive attitude in theoretical terms but showing the opposite in reality. When given the opportunity to muse at length on their attitudes to clients, the lawyers were thinking in the abstract thus falsely convincing themselves that this abstract was something more than a self-justificatory myth. I also saw the concrete and, as a result, have been able to document the discrepancy that existed between the two.

Regardless of the lawyers being aware of the reality, they were seen to display negative attitudes to their clients so the consequences for the state of the lawyer-client relationship need be further considered by those with an interest in ensuring access to justice. By bringing psychoanalysis into the lawyer-client relationship, this paper has sought to offer a new perspective for traditional discussions of access to justice. The issues covered here are, of course, open to other explanations and readers are not expected to necessarily agree with the analysis offered. There are a number of other possibilities for the distinction between what the criminal defence lawyers purport to think and the way they behave. For example, other areas of more rational psychology might be relevant such as the concept of cognitive dissonance, and Chemerinsky (1980) has applied this to lawyers in exploring what happens to lawyers that have to practice in ways that counter their own beliefs and values, which could be built on further. Elsewhere, the author has applied Marxist alienation to speculate that funding cuts and financial pressures may have debased the social perspectives of once altruistic lawyers and reduced the lawyers' ability to relate to clients (Newman, 2016). Perhaps, the way lawyers talk to each other about their work is frequently just an exaggerated version of their real views and does not necessarily translate into their actual working practices as has been shown in the criminal justice context through explorations of the police canteen subculture (Waddington, 1999). On the other hand, Blumberg (1967) has depicted a much more knowing and aware approach among criminal defence lawyers when he describes practice as a confidence game, with lawyers purposefully tricking their clients into thinking they are getting a better service than they are.

In light of the above, some readers will not be convinced that psychoanalysis is the most relevant framework to apply to legal practice, perhaps viewing it as out of date or too unorthodox. These may be valid observations and, indeed, could damage the argument of this paper were the paper seeking to follow the (flawed) line of Freud that psychoanalysis was a scientific theory, using it as some manner of authoritative grand narrative. This paper is not, though, claiming to offer a definitive reading of the lawyer-client relationship, it rather provides an innovative approach to the subject by drawing these two disparate literatures together in order to create a new way of looking at the

problems of access to justice. In particular, the argument here is intended as a provocation that will stimulate original responses from others and take the debate in a fresh direction.

In so doing, it is important to proceed with the conviction that access to lawyers alone is not enough to achieve access to justice; those lawyers need to be client-centred and fully serve their clients.

While legal aid cuts threaten advice deserts whereby those suspected or accused of crimes may find it difficult to get lawyers to represent them, it is as, if not more important, to ensure that the legal aid cuts do not intensify the defence mechanisms and resultant bad practice considered in this paper by posing even bigger threats to lawyer egos. Assessing the future impact requires properly understanding the nature of the lawyer-client relationship and fully exploring issues such as the attitudes lawyers hold toward their clients. Such studies could also bring in issues such as gender and social class, as means to engage with the relationships between lawyers and clients. Considering such additional factors of identity and self-understanding may take the research into new directions and provide yet more valuable perspectives. Further research also needs to be done with those suspected and accused of crimes in order to draw out their experience of the lawyer-client relationship. Due to the lack of empirical study in this area, it will be important to find out what clients perceive in relation to the issues raised in this paper, since they are also a material element in the process. An ethnographic research study with the defendants in the criminal process would provide a valuable follow up to broaden our understanding. The implications of all such further examination may have great significance in attempts at promoting ethical practice amongst criminal legal aid lawyers.

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