Are Lawyers Alienated Workers?

Author: Daniel Newman, Lecturer in Law, Cardiff Law School

Abstract

This paper applies Marx' theory of alienation to the work of criminal legal aid lawyers to suggest that the lawyers might be best understood as alienated workers. It reports findings from an ethnographic study of the lawyer-client relationship in England and Wales whereby lawyers were seen to take a diminished professional role characterised by the routine processing of guilty pleas wherein lawyers lost respect for themselves as well as the clients they worked for. The concept of alienation is put forward as a valuable analytical tool for understanding this vision of a substandard legal practice, which may have potential for moving forward future debates on whether the lawyer-client relationship serves access to justice and, if not, how it might be improved to better do so.

1. Introduction

Within an adversarial system of justice as operates in England and Wales, lawyers are vital to ensuring that access to justice is achieved. Indeed, for Young and Wall (1996: 6) "access to justice seems, therefore, to imply access to legal aid and lawyers". Ashworth (1996) explains that these lawyers must be funded by legal aid. He outlines four central arguments for legally aided criminal defence provision in England and Wales: criminal courts are complex institutions for lay persons; the police and Crown Prosecution Service have access to considerable resources; being convicted of an offence can exert a significant effect on an individual, and; it is morally wrong that one's personal wealth could be held up as the barrier between being able to offer a proper defence or not.

On his first point, it has been suggested that a key function of the criminal process has been to intimidate and confuse defendants through the arcane language and convoluted conventions of the court process (Carlen, 1976). Under the second consideration, it has been accepted that, if any workable conception of the equality of arms is to operate, those suspected and accused of crimes necessitate competing expertise (Young and Sanders, 2004). Thirdly, zemiological research into the social and psychological harms that can be wrought by the criminal justice system shows why we need to take conviction so seriously (Hillyard and Tombs, 2004). The fourth and final point refers to what has been understood as a fundamental principle of the normative need for robust representation from the defence in criminal justice (Goriely, 1996). Lawyers, then, perform a vital function in ensuring fairness under the criminal justice system such that "the production of justice might be defined as a dimension of the relationship of lawyers to clients" (Felstiner, 2001: 191). The role that lawyers play, though, in upholding access to justice is challenged by systematic pressures that restrict their ability and/or inclination to fight for their clients and work for justice (McConville, 2002).

The state can be held responsible for the chief structural infringements on legal practice, factors such as Criminal Procedure Rules, the sentence discount, the criminal court charge and legal aid reform. All these factors have restricted the professional capacity of legally aided criminal defence lawyers and cumulatively pose a great threat to their ability to

properly perform their professional function of upholding access to justice. The Auld Report (2001) led to the establishment of new Criminal Procedure Rules in 2005, which compel the defence to cooperate with the prosecution in the management and progression of cases. The defence must swear loyalty to efficiency-driven procedures and provide the prosecution with information about witnesses, written evidence and points of law. McConvile and Marsh (2014) highlight the manner in which this arrangement co-opts defence lawyers into the cause of those trying to prove the case against a defendant; to all intents and purposes the defence works for the prosecution. They identify the Criminal Procedure Rules as a tool for bringing the defence into line.

The process has been made harder still for the defence with the updated Criminal Procedure Rules 2015, intended to further encourage early guilty pleas. Codes of conduct for solicitors and barristers alike lay down guidelines for proper conduct premised upon representing the best interests of their clients (Solicitors Regulation Authority, 2011; Bar Standards Board, 2015). Sanders et al (2010: 451-460) have detailed the manner that this duty has long been incorporated within the mass production of guilty pleas that dominates the court system of England and Wales by obliging lawyers to communicate the benefits of an early guilty plea to their clients. The sentence discount principle requires that defence lawyers duly explain the benefits of an early plea to their clients at the earliest possible stage and effectively draws them into the world of plea bargaining. Since Baldwin and McConville's ground-breaking research of 1977, there had been surprisingly little research on the practice in this jurisdiction (Alge, 2013).

In ordinary cases, there is no formal framework of plea bargaining in England and Wales. The closest the courts came to tackling the issue was R v Turner [1970] in which plea bargaining was referred to as "the vexed question of so-called plea bargaining". [i] The resulting rules explain that:

> Counsel must be completely free to do what is his duty, namely to give the accused the best advice he can - if need be in strong terms. This will often include advice that a plea of guilty, showing an element of remorse, is a mitigating factor which may well enable the court to give a lesser sentence than would otherwise be the case.

The effect of such structural influences on lawyers is that it plays off due process principles against competing crime control practices.

The notion of crime control and due process comes from Packer (1968) and the two models of justice he identified to express divergent value systems at play in the criminal process. For Packer, "the crime control model is based on the proposition that the repression of criminal conduct is by far the most important function to be performed". Such a justice system would be a managerial institution, emphasising efficiency. A factual presumption of guilt is one way this efficiency would be achieved. The lawyer is unimportant, only involved once criminal proceedings are well underway. Instead, the police play a far more significant role with the process hinging on the integrity of their investigation. Vindicating victims' rights is thought to be of greater importance than protecting defendants' rights. By contrast, the due process model attributes far more importance to the role of the lawyer, who protects defendants' rights and ensures fairness and equality. Crucially, the due process model believes it to be preferable for a guilty man to be acquitted where the case against him has not been proven to the requisite standard, than for an innocent man to be wrongly incarcerated.

In addition to limiting Criminal Procedure Rules and the necessity of communicating the sentence discount principle, until recently the imposition of a criminal courts charge under the Criminal Justice and Courts Act 2015 also pushed the system more towards crime control and charged lawyers with embodying and promoting it to their clients. The charge entailed that those convicted of crimes faced a mandatory charge (in addition to the victim surcharge and any fine) to cover court costs: ranging from £150 for a guilty plea in the Magistrates' Court to £520 for a trial and, either, £900 for a Crown Court guilty plea or £1,200 for a trial. The magistrate or judge was instructed to disregard the offender's ability to pay and could not take into account the size of the fee when determining sentence despite it being clear that the charges were set a high a level with, for example, a Crown Court trial beyond the means of most defendants (Hough, 2015). It is for these reasons that the charge can be said to have displayed the "hallmarks of a plea bargaining system" (Fouzder, 2015). Lawyers had to inform their clients about this extra incentive to enter a guilty plea and the cost difference of over a thousand pounds between an uncontested case in the Magistrates' Court versus a trial at Crown Court can be understood to have presented a strong inducement against contesting a charge, even for clients who protest their innocence. Following a sustained campaign by the Howard League among others, the charge was abolished at the end of 2015, though its initial introduction highlights the anti-defendant ideology within which lawyers must operate.

Over the past year, criminal legal aid has been unlikely headline news in the UK as solicitors and barristers took industrial action, a strike in all but name, in protest against the swingeing cuts being made to lawyer remuneration (Bowcott, 2015). A particular bone of contention was a 17.5% drop in the amount of money solicitors would receive for representing criminal clients through legal aid. Following the protest, only half of the fee cut was implemented with the second of two staggered cuts of 8.75% suspended. This reduction in the fixed fees received for different types of case work makes it increasingly less profitable and is a major contributory factor to the fear that the majority of criminal legal aid practices will soon go out of business (Hyde, 2014). Those that remain will find it increasingly difficult to turn a profit. Hourly rates for many types of criminal work will now fall below the level legal firms need to break even let alone run a healthy practice (Parry, 2015). The former figure would be £35.02 and the latter £105.06 but, taking into account the length of time taken on various types of cases, the new rates will pay as little as £37.42 for Magistrates' work, £21.99 for the Crown Court and £14.89 for police stations.

The disincentivisation of lower fees can only lead to an inferior product being offered to clients by lawyers (Fenn et al, 2007). Even the most committed lawyers who dedicate themselves to public service will reach a point where they feel the need to compromise their principles for practical business concerns (Johnson, 1980). The idea of *ethical indeterminacy* highlights that corners will be cut when lawyers are faced with the choice of the best but lengthiest and therefore more expensive course or a cheaper, quicker option that would be, at best, good enough as they will increasingly take the option that suits them rather than their clients (Tata and Stephen, 2006). Profitability becomes the be all and end all as these firms fight to sustain themselves in a challenging marketplace with focus moving away from doing justice to simply staying in business. It is almost inevitable that attention will thus be drawn away from clients. The firms adopt the 'meet 'em, greet 'em and plead 'em' approach (Rhode, 2004: 12). The goal is to get clients in and out as quickly as possible with no time to waste.

The four structural features outlined can be said to mitigate against *zealous advocacy*, neutering the lawyers' role so that, rather than providing active defence they offer something altogether more passive (Smith, 2013). It is, then, imperative that empirical research be

conducted to adjudge the reality of the lawyer-client relationship and provide evidence as to how lawyers treat their clients and what implications this has for active defence. This paper reports on one such study that shows lawyers failing in their role of providing access to justice, offering the interpretation that the structural impacts that impinge on lawyers may have turned them into alienated workers. The research is based on a twelve-month ethnographic fieldwork split evenly between three English law firms specialising in legally aided criminal defence (Newman, 2013*a*). [ii] Following these lawyers day-in-day-out over the course of a year highlighted practice best identified as alienated. The result of this alienation is that the clients receive a substandard service, which poses a potential threat to the equality of arms within the criminal justice system.

2. Lawyers and the Class System

No doubt some will find it strange to talk about lawyers as workers in Marxist terms. As high status professionals commonly introduced with the title of 'fat cat', it may seem initially jarring to consider lawyers as sharing common cause with more obvious members of the proletariat living hand-to-mouth in menial jobs with poor working conditions. Understanding where to place lawyers - and other members of the 'intelligentsia' such as professors, doctors and writers - in the Marxist class system is not helped by a somewhat contradictory treatment of the class across his writings. In the *Communist Manifesto*, the intelligentsia are referred to as the "paid wage-labourers" of the bourgeoisie (Marx and Engels, 1969). The terminology used could lead us to accept a link between the intelligentsia and the proletariat. The treatment in later works, though, makes such a position less clear but suggests that Marx sees the intelligentsia as more tied to the bourgeoisie.

Indeed, in the *Class Struggles in France*, Marx (1969:15) talks of the intelligentsia as "the ideological representatives and spokesmen" of the bourgeoisie. He saw the intelligentsia and the capitalists to represent two aspects of the same class merely specialising in different areas of bourgeoisie activity with a division of labour inside the class between mental and physical work. Later in the *German Ideology*, Marx and Engels (1970: 65) refer to the intelligentsia as ideologues "who make the perfecting of the illusion of the class about itself their chief sources of livelihood". This point could be taken to refer to all members of the intelligentsia but is used specifically refer to a subsection of the bourgeoisie. In contrast, writing in *Capital*, Marx (1990) would go on to shift his position slightly again and talk of the 'ideological classes', ascribing to the intelligentsia a class - or, perhaps, several classes - of their own. In this way, the Marx of *Capital* seemed to imply that he wanted his statements on the intelligentsia in *German Ideology* to be taken more broadly. If Marx could flit between where he places the intelligentsia with regards to the proletariat and the bourgeoisie, he clearly can be seen to have changed his criteria for deciding what constitutes a class. Marx, then, offers conflicting indications of where to place lawyers as members of the intelligentsia in his class system, which can be considered symptomatic of the problems encountered in a straight economic division of society.

For clarity, it would be sensible to turn to a Marxist theorist that rejected economism and developed a more humanist theory with a greater emphasis on the cultural and, in particular, a more sophisticated treatment of the role that intellectuals play in society. Accordingly, Gramsci (2005) was able to resolve some of the confusion in Marx's treatment of intellectuals within the class system through his theory of the 'organic intellectual'. By this line, a cadre of traditional intellectuals could be found in pre-capitalist society, individuals who stood above classes. With the rise of capitalism, organic intellectuals emerge as the representatives of one

class or another: they choose a class to represent or are chosen by a class to represent them. In this role, the organic intellectual can be conceived of as translator - the 'tongue of the class' - and, as such, they act only to express the will of the class. Such is the position taken by the legal aid lawyers representing a client in the criminal justice system and, indeed, Cain (1994) considers the main role of such lawyers as being to translate: they are symbol traders, mediating the relationship between the proletariat and capital, the individual and the state.

The role of lawyers in making legal discourse comprehensible to lay clients, then, enables that they act as organic intellectuals who can be seen to serve the interests of the proletariat. As a result, it is reasonable to offer lawyers as representatives of the proletariat and thus potentially subject to at least some of the pressures of alienation Marx considered inherent to the proletariat in the capitalist system. For Szelenyi and Martin (1989: 280), all professionals should be considered as organic intellectuals but this branch of the legal profession is the best example, "the prototype of organic intellectuals". All the same, such lawyers are becoming deprofessionalised as the demands placed on them in terms of who they serve and what they do diminishes their status (Cape, 2004). The problems of legal aid funding have been held by Morrell (2006) to be largely responsible for the decline in status of criminal legal aid lawyers: their becoming a lower category of 'secondary professionals'. At the same time, Sommerlad (1995) outlines that the manner in which lawyers have ceded responsibility to the government has impugned the notion of professional control.

Through this process of deprofessionalisation, criminal legal aid lawyers, for Sommerlad (2002), are increasingly becoming proletarianised with changes from when Marx was writing (when there was no legal aid scheme), as the lawyers that once subsisted on stipends or private wealth now increasingly struggle as wage labourers. Such is particularly true in areas such as criminal legal aid with the proliferation of insecure low status jobs in law firms, in particular the rise of legal executives, which goes hand-in-hand with increasingly remote prospects of achieving partnership in a firm. These are working conditions that Bolton and Muzio (2007) consider exploitative and which they see as particularly likely to be faced by women - duly considered the proletariat of the profession. Ashley (2010: 20), though, explains that access to equity is outside the reach of most lawyers regardless of their sex, "less than 10 per cent of fee-earners within a firm make partnership on average, so that even if 100% of those are men, this still excludes most of the total originally admitted to the firm". As such, the bulk of both men and women working in legally aided criminal defence can be considered proletariat today whether or not Marx classified them as such himself some 150 years ago.

If the proletariat are the class that do not own the means of production and as a result must sell their labour, then legal aid lawyers can be considered as suitable candidates to be identified in this class - especially so when the dynamic between workers and owners sees the former wanting their wages as high as possible while the latter strive to reduce them as this echoes the current conflict between lawyers and the government that pays them yet wishes to cut legal aid remuneration. In this analysis, it should be understood that not all legal aid lawyers could properly be considered proletariat; solicitors who are partners might still be thought of as petit-bourgeois, working but also owning capital, with self-employed barristers in much the same position. Perhaps too, there would be difficulties in attributing the label to the many private practice commercial lawyers who can charge up to £850 an hour, an obscene figure more than fifty times the rate that can be claimed for criminal legal aid work (Owen, 2013). But the bulk of criminal legal aid lawyers effectively sell their labour to law

firms for sums with a wage that tallies with the national average (Baksi, 2013), a level that means they must continue to do so to provide for themselves and their family.

As such, whether we take a Gramscian line of seeing lawyers as representatives of the proletariat or consider the proletarianisation of the legally aided branch of the profession that has gone on since Marx, criminal legal aid lawyers are surprisingly fair game to contemplate with regards to the impact of alienation. Despite this, no account of legal practice has previously proceeded with such an examination. To begin redressing this absence, the next section will outline the nature of Marxist alienation.

3. Alienation and the Capitalist System

Alienation, of course, is a word found in common parlance, used to describe a feeling of detached otherness, wherein people see themselves as somehow foreign to the world around them and distanced from the society in which they live. The idea of alienation was central to Marx' early worldview as he built a theory around the idea that work was a fundamental social aspect of personal individuality. The human essence is to be found in a person's ability to transform the world around them by labour, which means the worker shapes nature through their activities and thus reaches towards realisation of their ultimate humanity. However, the liberatory potential of workers' labour power is curbed by capitalism and thus, for Marx, alienation is at its sharpest in stratified capitalist society, whence it is posited as a symptomatic evil writ through the nature of the capitalist system. Marx thus explored a specific form of economic and social alienation, in which he suggested that workers become disconnected from what they produce and why they produce. [iii]

These ideas are explored in the *German Ideology* where Marx attributes alienation in capitalist societies to the privately owned means of production meaning that the individual functions as a mechanistic instrument of capital and not a social being with individual agency. Under capitalism, workers invariably cede control of their lives - and, by extension, their very selves - by not having control over their work. It is, then, impossible for the proletariat to become autonomous, self-realised human beings in any meaningful sense as they are allowed to exist only in the manner that the bourgeoisie has use for the worker; as subservient to wider capitalist system goals and prescribed activities. In *Comments on James Mill*, Marx (1975*a*: 227-228) explains how this alienation impacted workers:

> Let us suppose that we had carried out production as human beings. Each of us would have, in two ways, affirmed himself, and the other person. (1) In my production I would have objectified my individuality, its specific character, and, therefore, enjoyed not only an individual manifestation of my life during the activity, but also, when looking at the object, I would have the individual pleasure of knowing my personality to be objective, visible to the senses, and, hence, a power beyond all doubt. (2) In your enjoyment, or use, of my product I would have the direct enjoyment both of being conscious of having satisfied a human need by my work, that is, of having objectified man's essential nature, and of having thus created an object corresponding to the need of another man's essential nature…. Our products would be so many mirrors in which we saw reflected our essential nature.

Work under the capitalist class system thus leads to workers becoming estranged from their humanity as capitalism mediates social relationships of production and thus denies workers'

ability to change the world around them. Taking away the ability of labour to give workers a fulfilling life, in its place emerges system of commodity fetishism - or 'thingification' - wherein the things people produce (commodities) take on a life of their own to which humans merely respond.

Writing in the *Economic and Philosophical Manuscripts*, Marx (1975*b*) identified four types of alienation that workers experience under capitalism: alienation from the work produced; alienation from the act of production; alienation from the species being, and; alienation from other workers. The first is alienation of the worker from the work produced, which is to say they become alienated from the product of their labour. Under this type of alienation, workers themselves are rendered unable to determine the design of a product or the nature of a service and the worker has no control over how it is produced. Instead, the capitalists assume full creative control over exactly what is done in regards to the labour process; it is they who decide what should be offered and how it would be delivered thus appropriating all aspects of the workers' labour power. Such sublimation renders the workers as automatons.

That development feeds into the second form of alienation, from the act of production - or the alienation of the worker from working. With autonomy over what is produced withdrawn from the worker, the resulting tasks lead to a monotonous and unstimulating pattern of work. Under capitalism, labour power is reduced from an activity that can lift the worker to new heights of self-discovery and fulfilment to simply an activity that is done for wages, demoting labour to a degrading exchange value. Workers become tied into an endless sequence of repetitive, trivial and, often, meaningless motions that will be inherently unsatisfying in nature and precludes achieving the feeling of a job well done. The alienation of the worker from the act of producing renders the worker unable to practice any variety of productive labour, which is a psychologically nourishing condition. This alienation reduces the worker to an object thus preventing them from activating every aspect of their human nature. Such builds into the third way in which workers are alienated, alienation from the species being whereby workers are alienated from themselves as producers.

The third element of alienation refers to what Marx viewed as the innate potential of individuals to develop towards their highest self through work, an ability so challenged by the downgrading of labour power under capitalism. For Marx, what separates human beings from animals is the human ability to think about the consequences of their actions, considering the ends of any activity as a purposeful idea different from the actions themselves. As people can distinguish ends from means, they can objectify intentions by separating the subject (themselves) from the object (the end result). Animals lack the ability to partake in conscious intention and simply engage in self-sustaining activity; however, as the intrinsic essence of labour power is repressed under the capitalist system of private production, the development of workers as human beings is severely stunted and their essence lost.

The previous three types of alienation lead to the fourth, whereby workers experience alienation from other workers. Here the capitalist system diminishes the act of work to a base economic practice - a simple commercial commodity - rather than recognising the social elements inherent within the act of production. Workers become a product to be traded in the wider labour market, workers are reduced to items on an inventory that can be bought and sold at will, moved around as financial judgements dictate. This commodification cheapens the act of work such that the constructive value as collective effort targeted at the betterment of society is no longer recognised. The worker is thus atomised and becomes alienated from their common cause with other workers. For Marx all workers should labour for the good of

the whole but through capitalist alienation workers become imbued with individualistic mind-sets that set them apart from one another and encourage them to act against each other. The resulting survival of the fittest highlights the destructive power of capitalist labour alienation.

The application of these four types of alienation can all be found in the practice of criminal legal aid lawyers such as those encountered in this ethnographic fieldwork. Lawyers cede control over their work in a system favouring quick guilty pleas, making legal practice increasingly routinised. As a result, lawyers' self-image is challenged, which means they start to lose touch with the clients they are meant to serve. The legal profession is a group of workers that has not been previously considered in relation to Marxist ideas of alienation but the exploration herein will show that such a heuristic lens is both applicable and valuable.

4. Lawyers' Alienation from the Work Produced

The lawyers in this study had become detached from the product of their labour and possessed little autonomy over the direction of a case nor, crucially, did they display the ability to uphold defendants' right to a fair trial. It was agents of the state that held authority; the police and prosecution working within the courts all under the auspices of the Criminal Procedure Rules enacted by the government.

While the equality of arms demands that lawyers work for their clients and thus implicitly prioritises the lawyer-client relationship, it was relationships with the police and prosecution that were at the forefront of lawyer activity. Lawyer views on the value of strong prosecution relations are highlighted in the following representative quotes:

> It's very important to build up a good relationship with the prosecutors. You won't get very far without it.
>
> When you start out, you think it's about us versus them but you quickly realise that's wrong. You need to work together for the good of everyone.

The trend for close ties between defence and prosecution has long been shown in the United States (Grossman, 1978) but has only more recently become apparent in England and Wales (McConville et al, 1994).

Positive attitudes to prosecutors and police were reflected in lawyer practice in this study. On getting to court, lawyers would pick up the files from the prosecutor and talk about the content of the cases thus allowing their perception of a case to be framed within the narrative set out by the prosecution rather than the defendant. The following reflects a typical conversation between defence and prosecution lawyers whereby the former invites the latter to take the lead in setting the tone of the case:

> Lawyer - Okay, what have we got today?
>
> Prosecution - ABH, looks like he got a bit handy after a few too many.
>
> Lawyer - So he did it then?
>
> Prosecution - Denies it but yeah. I'm not too worried about this one.

Lawyer - Okay, it shouldn't take long then. What did he say in his interview?

Prosecution - Says it wasn't him.

Lawyer - Is there CCTV?

Prosecution - Not that I know of. I think it's a pretty strong case though, couple of witnesses.

Lawyer - Okay, I'll see him this morning, try and get it sorted.

Sometimes lawyers would show preconceptions based on knowing the client, their family or the area that a client came from but, routinely, as in the previous example, lawyers would take the word of the prosecutor as standard. The case as set out by the prosecution is afforded legitimacy even when the lawyer knows no further details. In this way, the process of police case construction that McConville et al (1991) famously outlined, whereby the police put together a profile of the defendant as the ideal guilty party, seems to have been accepted by defence lawyers. The likely consequence of such an approach to practice is that identified by Heumann (1978) whereby the lawyers' mind-set shifts from the presumption of trial to a presumption of plea bargaining.

The client takes an inherently reactive position with restrictions over the way they can tell their story as lawyers routinely ground conversations within an assumption of guilt. The following quotes present typical openings to lawyer-client discussions of cases following lawyers meeting the prosecution:

It says here you want to plead not guilty. If you don't mind me being frank, can I ask you why? From what I can see you did it and would be best off just admitting that.

Right, first things first: I've talked to the prosecution and they have a very strong case. I know you told my colleague that you wanted to contest the charge but I'm not sure that's your best option really.

Clients might have been set on pleading not guilty but, with lawyers guided by prosecutors, clients frequently faced an uphill battle to convince lawyers. At times, then, it was as though lawyers were not giving advice to clients and taking their instructions as they are formally required to do but, rather, taking advice from the prosecution and giving instructions to clients. The next quote from a lawyer expresses something of the frustration that would be expressed if a client would not listen:

That client, he's a difficult one. He insists on going to trial. He won't take it, he just won't take instructions.

Pressure to go guilty could be implicit or explicit, though typically the more rigorous language of the latter approach would only be needed in extreme cases. As a matter of course, clients would tend to follow the guidance of their lawyers and usually accede to plead guilty as per the case set out by the prosecution. In the rare examples where a client stood their ground, lawyers would report back to prosecutors with embarrassment and/or frustration as in this exchange:

Lawyer - He's pleading not guilty.

Prosecutor - Why!?

Lawyer - Because, well.

Prosecutor - Oh, go on, make me laugh. Well, I just really wouldn't have expected him to go guilty.

Lawyer - I know.

Prosecutor - What a twat.

Lawyer - Yep. I've talked to him, he won't listen.

It is in these circumstances that Mulcahy (1994:412) notes that lawyers are more closely allied to the prosecutor than their client with the effect that:

> Legal practitioners involved in these negotiations are more concerned with punishing the guilty than with safeguarding defendants' rights…these representations represent common attitudes and a co-operative ethos among local practitioners.

All the lawyers in my study discussed the perceived moral culpability of their clients in disparaging terms, with a general presumption of guilt. The following lawyer quotes represent this typically cynical attitude to clients' claims of innocence:

> If there's one person you shouldn't lie to it's your solicitor. But they all do. They all lie! Just lie after lie, like I don't know they did it.
>
> No, I didn't believe her. Not at all. Why, did I do a good impression of making it seem like I believed her?!

Lawyers seem to have been co-opted into the prosecution worldview, then, seeing their clients through a guilty plea lens. My own research also found that guilty pleas are favoured for financial reasons similar to the findings of Tata et al (2004) who discussed how lawyers would compromise their values when under situations of financial stress. Under fixed fees, a guilty plea meant they were paid the same for a single court appearance as for a handful. Accordingly, it was most profitable for them to conclude cases quickly when most were terminated by a guilty plea anyway as reflected in the following representative quotes:

As a result of the changes the government have made to legal aid, we have got to, really, make sure that we get in and out of the case as quickly as possible.

> You can't give the service you would like to. It's the nature of legal aid and the decisions made by governments who do not value legal aid…. Every guilty plea is a victory so you inevitably favour them over drawn out cases that lasts several hearings and could still result in a guilty plea.

Lawyers such as those I studied seem to have lost control of their work meaning that the service they offer - the product they produce - has become compromised with important

decisions being taken out of their hands. Lawyers were alienated from the work produced. Therefore the feeling of making a meaningful impact on clients' lives in that idealistic vision of fighting for justice had been debased through lawyers being adopted into the ranks of the police, prosecution and courts simply looking to process guilty pleas. Inevitably, alienation from what they produced led into lawyers becoming alienated from the act of production as explored in the next section.

5. Lawyers' Alienation from the Act of Production

When considering criminal legal aid lawyers, alienation from the work they produce has had an incremental impact in also alienating them from the act of producing. The reduction of their ability to give voice to clients reduces the lawyer role to an increasingly routinised task. In the previous section, it was shown that lawyers were often complicit with agents of the state with the effect that they work together to push defendants towards early guilty pleas. Lawyers appear to have internalised systemic crime control messages that encourage them to treat all clients as though they were guilty and to process them accordingly under a sausage factory approach with standardised ideal type cases reducing the role of the lawyer to that of a machine.

Firms have moved from client-centred practice and turn towards a sausage factory approach putting speed and efficiency above all other considerations so that firms treat clients as standardised problems, reducing them to the status of cheap and easily processed produce (Newman, 2013*b*). The notion of a sausage factory in criminal legal practice draws on ideas from Sommerlad's (1999: 315) description of "the factory model of practice" and Goriely's (1996: 49) ideas of "sausage machines" - firms which churned out a mass of clients. Sausage factory firms duly process clients as if they were off-cuts of meat moving down a production line. Within the food industry, sausage factories reduce their diverse raw materials into uniform, easy to manage products rendering them suitable for standard packing, storage and display in the marketplace. This process is the quickest and cheapest means of mass production. Within a sausage factory firm, defendants become - for this process at least - similarly homogenised. The sole intention of these firms would be to speedily push clients through with as little effort as possible; they would provide a standardised service. There would be no time to get to know clients, listen to their stories or make them feel as though they had someone on their side - essential roles that lawyers should perform, every bit as significant as the result in the experience of many clients (Moorhead et al, 2003).

Lawyers in this study articulated the factory approach, as in these quotations:

> Compared to how it used to be, it's like a factory these days. You don't spend that much time with people, just deal with them as quickly as possible, rush it all through.

> We can only survive by taking a factory approach, and I think the quality will go. We just churn out case after case.

The lawyers would also comment on the way this relationship had reduced clients to the status of produce akin to sausages:

> The system means that clients are treated like pieces of meat.

> It's just a production line and they [the clients] get passed along it.

Lawyers in the study were acutely aware of the difference between public perceptions of criminal defence (contested trials) and the reality (processing guilty pleas), as reflected in the following representative quotes on the nature of practice:

> The reality is that most of our clients plead guilty and we very rarely go to trial.

> When you think of a criminal solicitor you just think of people who don't ever accept anything. And certainly all my friends always think that everything is contested and everything always results in a trial. Whereas, actually, probably 95% of the cases end up as guilty pleas.

In the previous section, it was shown that the lawyers in this study were encouraged to promote crime control values and push clients to plead guilty. It was understandably awkward to broach the topic of whether lawyers were unduly influenced by the prosecution but the lawyers were keen to reflect on how the criminal process made it more difficult to resist the expectation for guilty pleas. Indeed, there was a widely held belief that system imperatives such as the sentence discount restricted what lawyers were able to do. A strong explanation of the impact of incentivising guilty pleas was as follows:

> The discount for a guilty plea really hamstrings what we can do. You have to put it out there and you need to make sure your client understands - that is right and proper, a large part of our role is to ensure those who come to us understand what is going on and what might happen. So you will explain it in full, you will tell the client that by pleading [guilty] nearly always they will receive a lesser sentence and you tell them that if they go not guilty they are likely to be given a longer sentence. You tell new clients, after a short while those who have more experience of the court know this - they have internalised it so you go through the motions really. The impact is that the client becomes spooked; they are immediately put on the defensive because, no matter how you dress it up, you are telling your client that is in in their best interests to plead [guilty] and get it over with. It's no surprise that most do…. I do find it frustrating sometimes but it has become such an ingrained part of our job that, I will be honest, I often forget just how big an impact it has on what we can do with our clients.

Lawyers come to take on the role of simply communicating the benefits of early guilty pleas, standardising clients as model offences such as a "routine theft", "regular druggie", "gypsy fighting family", "quick and easy driving without" or "normal Friday night assault". With the lawyers in this study tending to compartmentalise clients into simple categories to aid processing them as swiftly as possible, lawyers are tied into a wider narrative of the commodification of state provision (Gorz, 1989). Lodziak (2000: 131) has discussed this issue in relation to health care, whereby the "standardization of caring means that the latter is not tailored to the specific needs of particular individuals…when the 'care' misses needs are left unsatisfied". The need to meet targets and drive for efficiency means that patients are offered standardised care - standard diagnoses within a standard consultation time all designed for a standard, model, patient. This principle can be readily applied to legally aided criminal defence - another arm of the welfare state subject to the pressures of reduced funding. For criminal legal aid lawyers in particular, Sommerlad (2001) identifies them to have been subsumed under the practise of new public management, with consumerist rhetoric inducing lawyers to cut corners on client care.

Legal practice has become, allegorically at least, factory work - Neo-Fordist assembly-line production. Detached from their clients, these lawyers have fallen privy to the alienation that Huws (2011) typifies the commodification of public service. Lawyers work, then, has been reduced to processing through cases and pushing clients into standard guilty plea moulds in order to get the case concluded and receive a payment before moving on to the next one. These expensively trained, highly skilled lawyers have seen their role reduced to simply processing a mass of clients through a bureaucratic system, alienated from the act of producing. The inevitable resultant impact of alienated lawyers finding themselves engaged in such a low standard of work upon, what Marx called, the workers' species being will be considered in the next section.

6. Lawyers' Alienation from the Species Being

With criminal legal aid lawyers' work degraded in the manner considered in the previous sections, it is logical that lawyers would become alienated from their species being as, in practice, these lawyers are not what they could or should be. The legal profession is traditionally of high social status and lawyers engaged in legally aided work consider themselves as part of a vocation doing virtuous and important work. If this is not happening and lawyers simply process guilty pleas, pushing clients to plead guilty along the way, such lofty notions are collapsed thus alienating the lawyer from themselves as producers (of justice).

The lawyers in this study all talked with great pride about being engaged in legally aided criminal defence. They considered themselves to be engaged in a distinguished profession, thus representing the ideals of justice and providing an essential public service. Lawyers talked about the importance of upholding the law as in these quotes:

> My role is for access to justice. There are times where you really feel that your being there makes a difference to somebody. I think the role of the defence solicitor is very important in protecting defendants against the state because there are an awful lot of people who are against them.
>
> We are a key cog in the criminal process, justice needs us. I don't know what would happen to the criminal justice system if there ever came a day that we weren't here…it would grind to a halt.

In the following quotes some lawyers locate practice as part of the welfare state:

> 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…. We help the people that no one thinks about or certainly don't care about. It's not sexy like saving lives and you can ignore it because it probably won't affect you but it is vital…we are one of the key elements of the welfare state, just like if you had no teachers society would fall apart, well maybe it's the same with us.
>
> This is a public service we provide. I'm proud to be in a position to help the vulnerable.

Thus the majority of lawyers in this study 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). The lawyers, then, can be identified to represent what Sommerlad and Wall (1999) have labelled a *social agenda*.

It is important to note that previous research into lawyers' perceptions of relative professional prestige has challenged the veracity of this social agenda and suggests that criminal defence is one of the least valued areas of legal practice (Sandefur, 2001). White (1976) identifies the "element of distaste, sometimes even of disdain which is to be found amongst some solicitors of standing for those who do legal aid work". Lawyers were denigrated through association with their clients. Accordingly, Sommerlad (1996: 298) posits that low status among peers for criminal legal aid lawyers can be seen to reflect a "clear reflection of the connection between the status of the client and the lawyer". While the fact that high-status lawyers may look down on legal aid lawyers does not invalidate the role definition that legal aid lawyers assume, lawyers in this study appreciated the debasement that clients brought about as in these comments:

> I talk to people I studied with and tell them what I do and they laugh. They can't understand why I'd want to spend my life looking after 'scum', that's their word obviously but I get it. We're definitely seen as the low budget end of the profession.

> I'm sick of being treated like shit because I work with criminals. I came into this because I wanted to make a difference…where's my recognition? Respect? Pah.

The lawyers' belief in their social value was further undermined by the relatively low remuneration they received, especially compared to other branches of the legal profession. With the average wage of criminal legal aid lagging so far behind other areas of law, lawyers in this study can be identified to occupy the bottom rung of the professional ladder (Gibb, 2015). The Conservative programme of cuts and reforms to contracts will reduce their income even further with comparative wages undermining the high social status they perceive for themselves.

> I look at what my peers are earning now and I wonder what I'm doing here.

> We're doing something really important here, we're standing up for the vulnerable, people with mental health problems, no education. But nobody cares and we get paid peanuts for it. It isn't right.

There was widespread resentment among these lawyers that all their years of training and their specific expertise married to the important social role they considered themselves to play did not merit higher financial reward. Lawyers complained about the manner in which they would "earn less for being on call than a plumber", "do the job of a social worker but don't get paid for it" or "if you're any good at law, you'll go into something commercial, something higher paid".

The lower remuneration that lawyers considered themselves to earn in relation to peers and other professions (or tradespeople, which was the somewhat snobbish comparison that the

angriest lawyers made), meant they felt disrespected. The following comments from lawyers reflect their reaction to low pay:

> Nobody respects what we do, and they should because what we do is important. We help people, we try to make a difference but we are treated like we're less important than a plumber.
>
> I always looked up to lawyers, rightly so, we help people. But, starting out, who looks up to lawyers today? There's no money so the law is seen as a dead end profession for the dross…. The government have trampled all over us and we're not worth anything.

The lawyers called for respect based on what they did but this was neither recognised socially nor financially. There was, thereon, a vicious circle whereby, the more lawyers were alienated and engaged in a routinised, inferior service, the less their practice could be argued to either represent a social good or a job that deserved higher remuneration. And so began a downward spiral. Their desired designation as high status professions became ever more tenuous in reality. Attaining the status of professional offers a means to neutralise the impact of alienation in capitalism but, that these particular lawyers find their work so denigrated necessitates we question whether the professional protection is experienced by lawyers as a whole. Beyond consequences for the lawyers' sense of self, though, the next section shows that the alienated work of legal practice impacts upon the defendants they represent - lawyers' alienation from other workers.

7. Lawyers' Alienation from Other Workers

The lawyers in my study had lost touch with the social aspect of their role: with the commodification of their legal practice to simply processing the guilty, the sense in which the criminal defence lawyer can help better society and stand up for the commons of justice has been waylaid. The end point of the lawyers' alienation as explored in the three previous sections is that lawyers become detached from their humanity and reach a point at which they fail to see the common cause they have with the others that they represent. Rather than a fellow citizen to help and support, the lawyers come to see their clients as merely things to work on and, as such, obstacles that lie in-between the lawyer and their goal of earning a wage. They thus become pitted against their clients.

The clients they served were less people than they were products. One lawyer used to describe practice as "a numbers game"; clients had lost their individual identity and instead had become numbers, perhaps one of the three cases on their list for Court 1 that morning or the one extra case to haggle over with other lawyers to make a day's workload more manageable. The lawyer who talked of the numbers game did not repeat the phrase with any apparent sense of resignation at what practice had become but talked about it almost excitedly, he would frequently laugh at absurdity of moving around these numbers and would boast when he was winning at "playing the game" by working through his numbers as quickly as possible. This devaluing of legal practice was akin to the 'ideology of triviality' identified by McBarnet (1981).

A standout example of this process involved a youth client that I encountered early on in my fieldwork. The 14-year old boy appeared at court with his mother charged with breaching the supervision order he was given for a non-dwelling burglary when he and some friends had

got carried away while out one evening. That had been his first offence. He was one of nine cases on the list of the lawyer whom I was shadowing that day, five of whom were adults in the Magistrates' Court while he and the other three were in the adjacent Youth Court. The lawyer greeted the boy's mother and we sat down in an interview room. The lawyer introduced himself and then me, as his "colleague". He announced to the room that I would be taking their instructions. I looked at the lawyer wide-eyed but, before I could say anything, he ripped a couple of pieces of paper from his pad and simply said:

You'll be alright. Try and fill a couple of sides, take about half an hour, and then come down and find me when you're done. I'll be getting on with this list.

He immediately left the room without another word. I told the mother I was a student with no legal training and no link to the firm. She was keen to tell me their story anyway so I struggled to think of appropriate questions and managed to scribble down enough words to fill the paper, though I was deeply unsure as to whether I had got the right type of information. When half an hour had passed, I took my leave and promised to find out what was going on from the lawyer. I caught up with him in the Magistrates' Court. He was too busy to talk about the boy's case so just took the paper from me and carried on with his list. Over the next two hours, he made numerous requests to get his Youth Court cases heard, telling me:

I want to get these out of the way quickly. Better things to do.

Youth Court cases tended to take longer and were a source of frustration to these lawyers as they dismissed them as being "more like social work". The Youth Court was particularly busy on this day, so the lawyer got increasingly agitated at his inability to make progress in getting the cases finished.

The lawyer had to leave the court at lunch-time so he made a call to the office around midday and they sent a second lawyer to the court. He arrived shortly before the one o'clock lunch break with the message that he would take the Youth Court work from the original lawyer. I went upstairs with the new lawyer and told him that I had interviewed the boy, pointing him and his mother out in the waiting area. The lawyer walked passed them without stopping and called out behind him:

I'll be dealing with your case now. I have all the information here. Hopefully get you on before lunch. Okay?

He was gone before they could respond, frantically trying to get his cases put in before lunch. There was no time left so we went to the Magistrates' Court for lunch. At half past one, a third lawyer from the firm came across to say that he would take the rest of the first lawyer's cases. The files were laid on a table and the two remaining lawyers split them between each other. Decisions on who would take what cases were done in reference to the courtrooms in which they would be listed with the third lawyer offering to take the Youth Court:

Lawyer One - So if you're going to take those, why don't I take this Youth Court stuff off you?

Lawyer Two - Okay.

Lawyer One - Is there much there?

Lawyer Two - Oh, nothing much.

Lawyer One - Have you seen the clients?

Lawyer Two - Yes, before lunch.

Lawyer One - Well I'll just say hello then.

I stayed in the Youth Court and, on our way over there, explained about the boy, that he had only been interviewed by me. As I had not met this lawyer before, I pointed out that I had no idea what I was doing so wasn't sure whether the notes were of any use. The lawyer looked at what I had written but said nothing as he moved on to the other cases he had inherited. By the time he had finished looking at the file it was time for the court to restart, two o'clock. At this point, the lawyer went to the waiting area and I showed him which clients were his as he briefly introduced himself. He addressed the boy and his mother for a moment:

I'll be taking your case, you'll be on soon. Sorry for the delay.

The lawyer managed to get the case heard soon after magistrates returned and it was adjourned.

The boy returned to court for the next hearing a month later whereupon he saw another lawyer; the fourth I had observed deal with the case. At court, the boy's mother enthusiastically greeted me, which confused the lawyer because the mother addressed me and not her. I had to explain that it was me who conducted the interview with the boy and took the notes she had in her file. Their conversation was short and to the point as the lawyer said she would get the case heard quickly and that she had "everything I need" from the file. The boy was found to be in breach of his supervision order, which was subsequently extended and he was sent away.

In just two hearings, the boy had seen four different lawyers (with at least one other conducting his original sentencing) and had only been interviewed by a postgraduate social science student without any legal experience, which was considered good enough to form the basis of his file. This was a case that created a strong emotional reaction in me as a researcher because I had seen a boy passed around between lawyers with little to no regard for how he was feeling. It would have felt galling to see any client treated with such disdain but this was occurring to such a youngster, especially one I felt to be young for his age and who had so little experience of the justice system. I saw plentiful examples of this kind of behaviour during my time at the court, though most involved adults and, thankfully, did not drag me into the process.

Examples such as this boy show that the client is changed into the object of a cold and impersonal bureaucracy; they take that form which best facilitates their being quickly and efficiently processed through the system. Individual clients became simply names on a list, cases; they were effectively reduced to the status of their *files*. The manner in which clients were transformed to their files acted to deny their humanity. Goffman (1990) has documented the process whereby a small but powerful group of workers with authority over a large and reliant mass of service users can impose order through dehumanisation. He talked of

institutions such as prisons but the same principles described the lawyer-client relationship in this study as collapsing unique individual identities into predictable stereotypes through standardisation meant clients became easily manageable for overworked lawyers. Rather than presenting a plethora of personalities and histories, clients were reduced to the constituent parts of a mitigation speech, bail application or evidence-in-chief. Anything more that clients said was deemed superfluous and thus trampled down. What this meant was that the lawyers took the humanity out of their clients, thus showing the lawyers' alienation from the fellow people they serve.

8. Conclusion

To address the title of this paper, are lawyers alienated workers? Considering the data on criminal legal aid lawyers collected in my research, with legal aid work largely reduced to the pushing of clients towards quick resolution by guilty pleas, it seems that the answer could be yes. The findings of this research study point toward the disenchantment of a profession as lawyers' practice is compromised by broader structural factors. Before establishing a definite affirmation though, it will be necessary to carry out further research with a wider sample of criminal legal aid lawyers, especially so in coming years as the impact of coalition and Conservative policy will be properly felt. It would also be valuable to consider other branches of legally aided provision such as family law, where cuts to remuneration have hit even harder (Hynes, 2012), or personal injury, where work has become increasingly mechanised through the use of technology (Leith and Hoey, 2014). Having posed the question of whether lawyers are alienated, the next pressing concern has to be to ask what can be done to alleviate the alienation or, at least, to mitigate some of the more harmful impacts on the ability of those suspected and accused of crimes to achieve access to justice. This paper merely attempts to raise the issue and next steps will need to be determined at greater length elsewhere.

Importing the concept of alienation into the lawyer-client relationship helps reaffirm the, rather self-evident, solution that the access to justice crises will likely be helped by improving remuneration (Smith, 2002). However, if this proposition is considered in terms of alienation, the answer is not the simplistic notion that paying lawyers more means that they will work harder. Lawyers must be made to feel empowered in their work, they need to see the work as a challenge, the work must present as important and, crucially, they should remember that their work involves helping other people. It is, then, vital that lawyers regain the essence of professionalism taken away from them by alienation and, it seems fair to suggest that, fixing the legal aid system has a major role to play in deproletarianising legal aid lawyers by helping to protect them from some of the worst effects of the class struggle. Legal aid funding need be organised in such a way that lawyers are simply representatives of the proletariat rather than necessarily members of the proletariat. Such is not to say that lawyers have an innate right to favour as a protected class merely that, within the present capitalist system, criminal legal aid lawyers perform a vital role in upholding access to justice for ordinary people, which needs to be maintained for the good of the many even if it does entail concomitantly giving special attention to favouring the few.

More importantly, improving legal aid funding alone cannot be assumed as the panacea to rectifying the type of problems in the lawyer-client relationship highlighted by my research, they pertain to deeper ethical issues whereby lawyers' moral compasses have become misaligned (see Newman, 2012). Economics may be at the root of the problem but addressing the knock on effects that result requires looking beyond pay packets. Other factors additional

to money will also have to be considered to improve the present situation. To address each of the four types of alienation in turn:

> 1 Alienation from the work produced will be aided by improving legal aid meaning lawyers do not feel pressured to process a quick mass of cases through and, as such, feel confident enough to take control back over their own practice from the police and prosecution who are currently allowed a great deal of free reign in case construction. In addition, though, attention could be given to making an argument for reforming the Criminal Procedure Rules and, in particular the disclosure elements, to strengthen the defences' own process of case construction in opposition to the police/prosecution and help to promote the independent functioning of the lawyer-client relationship.
>
> 2 Alienation from the act of production and the diminishing of casework to a series of routinised tasks can be tackled through better legal aid provision meaning lawyers are able to take more time over cases and thus utilise the full range of their skills while pursuing all possible directions in a case thereon challenging the present presumption for an early guilty plea that suits lawyers' profitability concerns. Beyond funding for lawyers, reforms to lessen the existing systematic inducements offered to defendants for early guilty pleas such as the sentence discount as has occurred with the recent scrapping of the court charge, which should reduce the pressure placed upon them because they will no longer have to frame their advice within a context that promotes early guilty pleas to defendants to such a debilitating extent.
>
> 3 Alienation from the species being can be lessened with improved legal aid remuneration by paying lawyers an appropriate wage for a high status, high stakes profession thus reiterating to the lawyers the significance of their practice. Wider recognition of the societal importance of their role and greater respect for the service lawyers are tasked with providing should also be considered invaluable in this regard through broad-backed campaigns (e.g. Justice Alliance) or official reviews (e.g. Labour Party).
>
> 4 Alienation from other workers can be addressed through legal aid funding reducing the three previous forms of alienation thus reducing the pressure lawyers gave into to treat clients as less than human and, as a result, encouraging lawyers to recover the humanity and some common cause with clients. Improved ethical training, and the promotion of pro bono schemes in law schools and throughout work could also have a key role to play in stimulating the moral rejuvenation of these lawyers by bringing them into greater and more regular contact with humanistic ethical issues.

My exposition here can be best understood as seeking to stimulate a wider debate about the effect of deprofessionalisation on the lawyer-client relationship. There is already an active literature on the impact of legal aid cuts and many of the answers will emerge from such research. But I hope that using the lens of alienation can help to add clarity to the problems that need to be tackled to help preserve access to criminal justice into the future. It is crucial that discussions are had which centre on how lawyers can be motivated through stimulating fresh enthusiasm for their work. Refocusing lawyers in this way must emphasise the humanity of those they serve in a client-centred approach as work that involves helping the most vulnerable in society against the power of the state should never be seen as mundane, uninteresting or below anyone. What these lawyers do is of the utmost importance, they should be made to feel that again for the good of all.

References

Abbey, R. and Boon, A. (1995) The provision of free legal services by solicitors: a review of the report by the Law Society's pro bono working party, *International Journal of the Legal Profession* 2(2): 261-280.

Alge, D. (2013) Negotiated Plea Agreements in Cases of Serious and Complex Fraud in England and Wales: A New Conceptualisation of Plea Bargaining?, *European Journal of Current Legal Issues* 19(1).

Ashley, L. (2010) 'They're not all bastards': Prospects for gender equality in the UK's elite law firms, *Cass Centre for Professional Service Firms Working Paper* (London: City University London).

Ashworth, A (1996) Legal Aid, Human Rights and Criminal Justice, in: R. Young and D.Wall (Eds) *Access to Criminal Justice* (London, Blackstone Press Ltd).

Auld, R. (2001) *Review of the Criminal Courts of England and Wales* (London, Lord Chancellor's Department).

Axelos, K. (1977) *Alienation, Praxis and Techne in the Thought of Karl Marx* (Austin, University of Texas Press).

Baldwin, J. and McConville, M. (1977) *Negotiated Justice* (London, Martin Robertson).

Baksi, C. (2013) Junioers 'on £14 a day' after legal aid cuts, MPs hear, *Law Society Gazette* (10 June).

Bar Standards Board (2015) *Bar Standards Board Handbook* (London, Bar Standards Board).

Bolton. S.and Muzio, D. (2008) The paradoxical processes of feminisation in the professions: the case of established, aspiring and semi-professions, *Work, Employment and Society* 22(2): 281-299.

Bowcott, O. (2015) Barristers and solicitors walk out over cuts to legal aid fees, *The Guardian* (5 January).

Cain, M. (1994) The Symbol Traders, in: M. Cain and C. Harrington (Eds), *The Sociology of the Professions* (Buckingham, Open University Press).

Cape, E. (2004) The Rise (and Fall?) of a Criminal Defence Profession, *Criminal Law Review* 401-416.

Carlen, P. (1976) *Magistrates' Justice* (London, Martin Robertson and Company).

Eraut, M. (1994) *Developing Professional Knowledge and Competence* (Abingdon, Routledge Falmer).

Felstiner, W.L.F. (2001) Synthesising socio-legal research: lawyer-client relations as an example, *International Journal of the Legal Profession*, 8(3), pp. 191-201.

Fenn, P., Gray, A. and Rickman, N. (2007) Standard fees for legal aid: an empirical analysis of incentives and contracts, *Oxford Economic Papers* (12 June).

Fouzder, M. (2015) Criminal courts charge introducing plea-bargaining 'through back door, *Law Society Gazette* (1 October).

Gibb, F. (2007) What do clients think of their lawyers?, *The Times* (6 December).

Gibb, F. (2015) Barristers get rich by turning away from crime, *The Times* (27 October).

Goffman, E. (1990) *The Presentation of Self in Everyday Life* (London, Penguin).

Goriely, T (1996) The Development of Criminal Legal Aid in England and Wales, in: R. Young and D.Wall (Eds) *Access to Criminal Justice* (London, Blackstone Press Ltd).

Gorz, Z. (1999) *Reclaiming Work: beyond the Wage-based Society* (Cambridge, Polity Press).

Gramsci, A. (2005) *Selections from the Prison Notebooks* (London, Lawrence and Wishart Ltd).

Grossman, B. (1978) *The Prosecutor* (Toronto, University of Toronto Press).

Heumann, M. (1978) *Plea Bargaining* (Chicago, University Of Chicago Press).

Hillyard P, Tombs S (2004) Beyond criminology?, in: P. Hillyard, C. Pantazis, S. Tombs and D. Gordon (Eds) *Beyond Criminology* (London, Pluto Press).

Hough, M. (2015) Criminal court charge: 'arbitrary, onerous and basically unfair', *The Justice Gap* (2 October).

Huws, U. (2011) Crisis as capitalist opportunity: new accumulation through public service commodification, *Socialist Register* 48.

Hyde, J. (2015) MoJ to press ahead with criminal legal aid reforms, *Law Society Gazette* (27 November).

Hynes, S. (2012) *Austerity Justice* (London, Legal Action Group).

Leith, P. and Hoey, A. (2013) *The Computerised Lawyer* (London, Springer).

Lodziak, C. (2000) On Explaining Consumption, *Capital and Class* 24(3): 111-133.

Johnson, E (1980) Lawyer's Choice: A Theoretical Appraisal of Litigation Investment Decisions, *Law and Society Review* 15(3): 567-610.

Marx, K. (1969) The Class Struggles in France, 1848-1850, in: K. Marx and F. Engels *Selected Works vol. 1* (Moscow, Progress Publishers).

Marx, K. (1975*a*) Comments on James Mill, in: K. Marx and F. Engels *Collected Works* (London, Lawrence and Wishart).

Marx, K. (1975*b*) Economic and Philosophical Manuscripts, in: K. Marx and F. Engels *Collected Works* (London, Lawrence and Wishart).

Marx, K. (1990) *Capital Volume 1* (Middlesex, Penguin Books).

Marx, K. and Engels, F. (1969) *The Communist Manifesto* (Moscow, Progress Publishers).

Marx, K. and Engels, F. (1970) *The German Ideology* (London, Lawrence and Wishart Ltd).

McBarnet, DJ (1981) *Conviction* (London, Macmillan).

McConville, M (2002) 'Plea Bargaining', in: M. McConville and G. Wilson (Eds) *The Handbook of the Criminal Justice Process* (Oxford, Oxford University Press).

McConville, M., Hodgson, J., Bridges, L. and Pavlovic, A. (1994) *Standing Accused* (Clarendon, Oxford University Press).

McConville, M. and Marsh, L. (2014) *Criminal Judges: Legitimacy, Courts and State-Induced Guilty Pleas in Britain* (Cheltenham, Edward Elgar).

McConville, M., Sanders, A. and Leng, R. (1991) *The Case for the Prosecution* (London, Routledge).

Moorhead, M., Sherr, A. and Paterson, A. (2003) What Clients Know: Client perspectives and legal competence, *International Journal of the Legal Profession* 10(1): 5-35.

Morrell, P. (2006) Some Notes on the Sociology of the Professions, *Homeopath International* at http://www.homeoint.org/morrell/misc/professions.htm.

Mulcahy, A. (1994) The justifications of justice, *British Journal of Criminology*, 34(4), pp. 411-430.

Newman, D. (2012) Still standing accused: addressing the gap between work and talk in firms of criminal defence lawyers, *International Journal of the Legal Profession* 19(1): 3-27.

Newman, D. (*2013a*) *Legal Aid Lawyers and the Quest for Justice* (Oxford: Hart Publishing, 2013).

Newman,D. (2013*b*) More than money, in: J. Robins (Ed) *No Defence: Lawyers and Miscarriages of Justice* (London, Wilmington Publishing).

Owen, I. (2013) Justice costs: Fury as lawyers' fees top £850 an hour, *The Lawyer* (26 November).

Packer, H. (1968) *The Limits of the Criminal Sanction* (California, Stanford University Press).

Parry, J. (2015) What are Criminal Legal Aid Lawyers Paid?, *Parry Welch Lacey* at https://parrywelchlacey.wordpress.com/what-are-criminal-legal-aid-lawyers-paid/.

Rhode, D. (2004) *Access to Justice* (Oxford, Oxford University Press).

Sanders, A., Young, R. and Burton, M. (2010) *Criminal Justice* (Oxford, Oxford University Press).

Sandefur, R. (2001) Work and Honor in the Law: Prestige and the Division of Lawyers' Labor, *American Sociological Review* 66(3): 382-403.

Solicitors Regulation Authority (2011) *Solicitors' Code of Conduct* (Redditch, Solicitors Regulation Authority).

Sommerlad, H. (1995) Managerialism and The Legal Profession: a new professional paradigm, *International Journal of the Legal Profession* 2(2): 159-185.

Sommerlad, H. (1996) Criminal legal aid reforms and the restructuring of legal professionalism, in: R.

Young and D. Wall (Eds) *Access to Criminal Justice* (London, Blackstone Press Ltd).

Sommerlad, H. (2001) 'I've lost the plot': an everyday story of legal aid lawyers, *Journal of Law and Society*, 28(3), pp. 335-360.

Sommerlad, H. (2002) Women Solicitors in a Fractured Profession: Intersections of Gender and Professionalism in England and Wales, *International Journal of the Legal Profession* 9(3): 213-234.

Sommerlad, H. and Wall, D. (1999) *Legally Aided Clients and their Solicitors* (London, Law Society).

Smith, R. (2012) *Legal Aid: Models of Organisation* (Budapest: European Forum on Access to Justice).

Smith, T. (2013) The 'quiet revolution' in criminal defence: how the zealous advocate slipped into the shadow, *International Journal of the Legal Profession* 20(1): 111-137.

Szelenyi, I. and Martin, B. (1989) The Legal Profession and the Rise and Fall of the New Class, in: R. Abel and P. Lewis (Eds) *Lawyers in Society, vol. 3: Comparative Theories* (Los Angeles, University of California Press).

Tata, C., Goriely, T., McCrone, P., Duff, P., Knapp, M., Henry, A., Lancaster, B. and Sherr, A. (2004) Does mode of delivery make a difference to criminal case outcomes and clients' satisfaction? The public defence solicitor experiment, *Criminal Law Review* 120-136.

Tata, C and Stephen, F (2006) 'Swings and Roundabouts': do changes to the structure of legal aid remuneration make a real difference to criminal case managements and case outcomes?, *Criminal Law Review* 722-741.

White, R. (1976) The Distasteful Character of Litigation for Poor Persons, in: N. MacCormick (Ed) *Lawyers in their Social Setting* (Edinburgh, W. Green and Son).

Young, R. and Sanders, A. (2004) The Ethics of Prosecution Lawyers, *Legal Ethics* 7(2): 190-209.

Young, R. and Wall, D. (1996) Criminal justice, legal aid and the defence of liberty, in: R. Young and D.Wall (Eds) *Access to Criminal Justice* (London, Blackstone Press Ltd).

---

[i] R v Turner (1970) 54 Cr. App. R. 352.

[ii] The rationale, methods and results of this paper are fully outlined in Newman (2013*a*). This paper uses unpublished data from that study and applies a novel analytical lens to the main themes in order to shed new light on the findings.

[iii] For an exploration of the other three ways in which Marx used alienation (political, human and ideological) see Axelos (1977).