Wealth Inequality: English Law's Unintended Legacy?

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"In its majestic equality, the law forbids rich and poor alike to sleep under bridges, beg in the streets and steal loaves of bread." – Anatole France

Many of my previous lectures during my four years as Gresham Professor have focused on race and racism. But today, I want to put the spotlight on class. This is something that lawyers rarely talk about, but we should. Because law is at the heart of class conflict. In hundreds of different ways, the legal system is a daily battleground between the class interests of the rich and the poor.

It is the law that defines and enforces property rights, and that punishes the poor for stealing from the rich or trespassing on their land. It is the law that determines how much the rich are taxed, and how much is redistributed to the poor via the welfare state. It is the law that determines when a landlord can evict a tenant, and how much they can charge in rent. It is the law that determines when an employer can sack an employee, and what rights an employee has at work. It is the law that enforces contracts, and the law that decides what happens to those who cannot pay their debts. All of these are deeply ideological choices. They affect the balance of economic power in society.

For centuries, English law has been a system weighted heavily in favour of the class interests of the rich. The class character of the English legal system was particularly stark during the eighteenth and nineteenth centuries. As I described in one of my previous lectures, during the eighteenth-century hundreds of minor offences were made punishable by death. This wasn't just about being tough on crime; it was about promoting the class interests of the rich within the incipient capitalist system. In the wake of the South Sea Bubble, England's first great stock market crash, and amidst the process of enclosure of rural land that left many labourers landless, Parliament passed the Black Act of 1723, which imposed the death penalty for many offences connected with poaching. Writing in *Counterfire*, Dominic Alexander refers to EP Thompson's classic work *Whigs and Hunters,* and states *"this was nothing less than a class war over the use of rural resources, and an unsparing attack on the traditional rights of the poor, and even middling ranks, over resources in the woods, streams and fields of England."* Alexander adds *"The enclosures, those countless acts of class robbery that privatised common lands, was already well underway, but they were only a part of the relentless drive to transform a subsistence economy into a market-orientated one. It was underpinned by new legal ideas: 'lawyers had become converted to the notions of absolute property ownership.' The result was the gradual impoverishment of rural labour, and the driving of people into low-wage industrial employment. The foundations of the industrial revolution lie here."*[1]

As Simon Fairlie describes the Black Act, *"Without doubt the most viciously repressive legislation enacted in Britain in the last 400 years, this act authorized the death penalty for more than 50 offences connected with poaching. The act stayed on the statute books for nearly a century, hundreds were hanged for the crime of*

[1] Dominic Alexander, "The South Sea Bubble: England's first stock market crisis 300 years ago," *Counterfire,* 1 July 2020 https://www.counterfire.org/article/the-south-sea-bubble-england-s-first-stock-market-crisis-300-years-ago/

feeding themselves with wild meat, and when the act was finally repealed, poachers were, instead, transported to the Antipodes for even minor offences."[2]

Another historical example of patent class warfare on the statute book is the Poor Law Amendment Act 1834, which forced destitute people into the workhouse. Conditions in the workhouse were deliberately intended to be worse than the conditions of the working poor. As Iain Ferguson writes, the 1834 Act was *"one of the earliest measures aimed at instilling labour discipline in the new working class".* He explains *"The core principle of the Poor Law, the principle of less eligibility, was aimed at disciplining the working class by ensuring that the alternative to working—the Workhouse, or Poor House—was so awful that workers would accept any jobs and any conditions. As one of the Poor Law Commissioners, Sir George Nicholls, put it at the time, "I wish to see the Poor House looked to with dread by the labouring classes and the reproach for being an inmate of it extend down from father to son… For without this, where is the stimulus to industry?". Similarly, the philosopher Jeremy Bentham, who developed the concept of "less eligibility", according to which poor relief should always be set at below the level of income of the worst paid, argued that "only the cheapest fare should be served in the house: an ample fare might be served only if it did not 'render the condition of the burdensome poor more desirable than that of the self-maintaining poor'".".*[3]

You might think that these examples belong to the distant past, and that the class character of the legal system is different today. But we can see many of the same patterns playing out again in recent history through which we have all lived. Most of us remember the 2008 financial crash, and the Conservative-Liberal Democrat coalition which came to power in 2010 and imposed a vicious regime of austerity, making the poor pay for a crisis caused by the rich. We can see real parallels between the 1834 Act's policy of "less eligibility" and the welfare policies of the present day; Universal Credit claimants are not given enough money for a dignified existence and are threatened with benefit sanctions if they don't comply with requirements designed to force them into work. We've seen the Government wage war on poor families through policies such as the "two-child limit", the "bedroom tax" and the "benefit cap". Like the 1834 Act, this is class warfare designed to benefit the rich by creating a pool of easily exploitable labour.

Nor has the State stopped using criminal law to repress those who threaten the class interests of the rich. Most of us will remember the harsh punishments meted out after the English riots of 2011, which included a six-month prison sentence for stealing bottles of water worth £3.50.[4] And while Parliament has passed legislation repealing the Vagrancy Act 1824, an Act which effectively criminalises the homeless, the Government has yet to bring the repeal into force.

In short, all too often, the law is a tool wielded by the poor against the rich. Yet it doesn't have to be that way. The measures taken by the reforming 1945 Labour government, such as the establishment of the NHS and the welfare state, the nationalisation of key industries and the introduction of civil legal aid, made life measurably better for the poor and narrowed inequality. Unfortunately, many of the achievements of the postwar decades have been undone since 1979 by a succession of Conservative and Labour governments wedded to neoliberal ideology, who have wielded the law unashamedly as a tool for promoting the class interests of the rich.

In this lecture, I'm going to talk about how various changes to the law in the past few decades have widened wealth inequality in the UK and promoted the class interests of the rich at the expense of the poor. I will close the lecture with a few thoughts on what we, as lawyers, can do about it.

Housing

I'm going to start by talking about housing. One of the leading causes of poverty and inequality in this country is the exorbitant cost of housing. Many of you will be intimately familiar with this, if you are renting your home

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[2] Simon Fairlie, "A short history of enclosure in Britain," Hampton Institute, 16 February 2020 https://www.hamptonthink.org/read/a-short-history-of-enclosure-in-britain

[3] Iain Ferguson, "Can the Tories abolish the welfare state?" *International Socialism* 141.9 (2014).

[4] Haroon Siddique and Maya Wolfe-Robinson, "Courts failed people 'caught up' in England riots in 2011, says ex-chief prosecutor," *The Guardian,* 1 August 2021 https://www.theguardian.com/uk-news/2021/aug/01/courts-failed-people-caught-up-in-uk-riots-in-2011-says-ex-chief-prosecutor

privately, or have family members who are. Housing in our society is thoroughly commodified. It's a for-profit business, in which properties are bought and sold not as homes but as investments. And the poor, especially the younger generation, are paying the price.

What you may not realise is that legal changes have played a major role in creating our current housing crisis. This housing crisis didn't come about organically, and it isn't inevitable. It is the product of the disastrous policies pursued since 1979 by both Conservative and Labour governments, which have undone many of the great achievements of the post-war decades.

Let's look back to the turn of the twentieth century. At that time, many working-class people lived in overcrowded slums that were unfit for human habitation. The Housing of the Working Classes Acts 1890 to 1900 gave local authorities the power to build publicly owned housing for the working classes – council housing, as it became known. They were also given powers to purchase land compulsorily for the purpose of providing housing.

The Housing and Town Planning Act 1919, known as the Addison Act and enacted in the wake of the First World War, launched the first major national council house building programme, with national subsidies for council house building. Famously, the Prime Minister, Lloyd George, promised "homes fit for heroes" for soldiers returning from the war. The University of the West of England explains in its history of council housing *"Planners promoted the construction of new suburban 'garden' estates, situated on the outskirts of cities. Mainly consisting of three bed houses for families, the design of the estates aimed to create self-contained communities of low density - often with no more than 12 houses per acre."* Facilities such as churches, schools and shops were provided, and houses had large gardens. Conditions were a great improvement over the slums that had previously existed.[5] It was intended that 500,000 homes would be built under the Act, although in fact only 213,000 were built.[6]

Nonetheless, in the interwar years there was a substantial amount of council house building. Under the first Labour government, the Housing (Financial Provisions) Act 1924, known as the Wheatley Act, increased central government subsidies for house building. The Housing Act 1930 gave local authorities powers to clear slum areas and re-house residents. To reduce costs, the size and standard of new council houses was reduced in this era relative to 1919; the University of the West of England states *"during this period, a new three-bedroom house was often only 620 square feet compared to over 1000 square feet in 1919".*[7] But this was still an improvement on the overcrowded slums in which people had been living. In total, 1.1 million council homes were built during the interwar years.[8]

The golden age of council housing came after the Second World War. Clement Attlee's Labour government came to power in 1945 on a socialist platform. At the time, there was a desperate need for new housing, thanks to wartime bombing. The Housing (Financial and Miscellaneous Provisions) Act 1946 provided government subsidies for the construction of new council housing. The Housing Act 1949 removed the previous restriction that councils could only provide homes for "the working classes"; it allowed them to provide homes for all sections of the population.

The Attlee government was hugely successful at building new housing on a massive scale. Around 1 million homes were built, of which around 80% were council houses.[9] That said, there were some problems. As the University of the West of England explains, some of the housing consisted of prefabs, which were intended to be temporary. And the use of Pre-cast Reinforced Concrete (PRC), which sped up housing construction,

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[5] University of the West of England, "The History of Council Housing," 2008 https://fet.uwe.ac.uk/conweb/house_ages/council_housing/print.htm

[6] UK Parliament, "Council housing" https://www.parliament.uk/about/living-heritage/transformingsociety/towncountry/towns/overview/councilhousing/#:~:text=In%201919%2C%20Parliament%20passed%20the,completed%20under%20the%20Act%27s%20provisions.

[7] University of the West of England, op. cit.

[8] UK Parliament, op. cit.

[9] The Guardian, "Falling supply and rising demand: the story of social housing – timeline," 25 September 2019 https://www.theguardian.com/society/2019/sep/25/falling-supply-and-rising-demand-the-story-of-social-housing-timeline

went on to cause structural problems in later decades.[10] Still, while not perfect, Attlee's housing programme was extraordinarily successful at reversing the wartime depletion of housing stock and providing decent homes for millions of ordinary people.

At that time, there was cross-party support for council housing. Large-scale council housing construction continued under both Conservative and Labour governments in the 1950s, 1960s and 1970s. As Shelter states, *"In the three and a half decades after the end of WWII, local authorities and housing associations built 4.4 million social homes at an average of more than 126,000 a year."*[11] Again, it wasn't perfect. As is widely known, some of the modernist high-rise estates built during this era acquired a poor reputation.[12] But it wasn't all high-rise flats. For example, in the 1970s Norwich had the highest proportion of council housing of any city in the country, despite having very few high-rise buildings.[13] Plenty of council tenants lived in houses with gardens, or in low-rise flats. And generally speaking, council housing was a great deal better than the overcrowded slums it replaced.

Meanwhile, from the First World War to the 1970s, the private rented sector was tightly regulated. Rent control was first introduced in 1915 as a temporary wartime measure during the First World War. Rent control was gradually phased out during the interwar years but reintroduced in 1939 at the start of the Second World War. Rent control continued after the war. As Wendy Wilson writes, in the decades after the war the private rented sector *"declined rapidly in both relative and absolute size".* She highlights that stock was reduced by sale to the owner-occupied sector, demolition through slum clearance schemes, and acquisition by local authorities. The Rent Act 1957 partially lifted rent control, including decontrolling tenancies after a landlord had obtained vacant possession; as Wilson explains, this *"gave landlords an incentive to remove sitting tenants by whatever means in order to charge higher rents or sell the property. This process became known as Rachmanism after a famously unscrupulous landlord."*[14]

Despite the partial decontrol of rents, the decline of the private rented sector continued. Wilson states that between April 1951 and December 1961 the sector reduced from 45% of the housing stock to 25%.[15]

The Rent Act 1965 introduced "regulated tenancies", under which rents were limited to "fair rents" determined by rent officers, and tenants had long-term security of tenure. These provisions were later consolidated in the Rent Act 1977. This is the type of rent control that many people of my generation remember; there are some elderly people who still have tenancies governed by the 1977 Act.

So, by 1979, there had been decades of council housebuilding on a massive scale. Conversely, the private rented sector, which was highly regulated, had declined precipitously. According to figures given in Parliament at the time, in 1978 32% of housing stock in Great Britain was rented from a local authority or new town corporation, while only 14% was privately rented; the latter figure included houses rented from housing associations. 55% was owner-occupied.[16] While no one would say that council housing in this era was perfect, it was a huge step in the right direction. Housing policy was focused on providing decent homes for ordinary people, rather than on helping landlords get rich.

Then in 1979, Margaret Thatcher's Conservative government came to power. She proceeded to inflict an extraordinary amount of damage on the British housing sector, in multiple ways.

The Housing Act 1980 introduced the "right to buy" council houses. Councils were required to sell homes at a massive discount to tenants who wished to buy them. They did not have discretion to refuse to sell. Predictably, this led to the depletion of council housing stock. That depletion occurred not just because of

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[10] University of the West of England, op. cit.
[11] Shelter, "The story of social housing" https://england.shelter.org.uk/support_us/campaigns/story_of_social_housing
[12] University of the West of England, op. cit.
[13] Norwich City Council, "Look back over a century of Norwich council homes" https://www.norwich.gov.uk/info/20385/look_back_over_a_century_of_norwich_council_homes
[14] Wendy Wilson, "A short history of rent control," House of Commons Briefing Paper No 6747, 30 March 2017 https://researchbriefings.files.parliament.uk/documents/SN06747/SN06747.pdf
[15] Wilson, op. cit.
[16] HC Deb 19 July 1979, vol 970, col 805 https://hansard.parliament.uk/commons/1979-07-19/debates/f6749a6a-f28b-4849-8a3c-bff7f7d29113/HousingStock

the right to buy itself, but because of the financial arrangements associated with it, which prevented councils from using the capital receipts to build more council housing. As the Communities and Local Government Select Committee explained in 2020:

> *"From the outset of the scheme, there was no commitment that the sold homes would be replaced, nor that local authorities would retain all of the capital receipts… For the first decade, the government intended that councils could use only 20 per cent of the receipts; limited restrictions however meant councils were able to spend more than the government intended, leading to stringent controls introduced in April 1990. Section 59 of the Local Government and Housing Act 1989 required authorities to set aside 75 per cent of Right to Buy receipts, which could only be used to reduce debt. From 2004, when the Local Government Finance (Supplementary Credit Approvals) Act 1997 came into force, 75 per cent of Right to Buy receipts went to the Treasury, with 25 per cent available for councils to replace stock or maintain remaining housing. Overall, since 1980, almost 2 million social homes have been sold through the Right to Buy scheme. Over the same period, the total social housing stock has shrunk from 5.52 million to 4.07 million."*[17]

Another major initiative of the Thatcher government was the deregulation of the private rented sector. The Housing Act 1988 abolished rent control on new private tenancies. From 15 January 1989, new private tenancies are either assured or assured shorthold tenancies, and the rents on these tenancies are unregulated. Famously, section 21 of the 1988 Act, which the Government has pledged to repeal, provides for "no-fault" evictions of assured shorthold tenants. Once the initial fixed term has expired, the landlord can recover possession of the property on just two months' notice, without having to prove any breach of the tenancy by the tenant. This fundamentally changed the balance of power in the private rented sector, disempowering tenants and empowering landlords. Over the past few decades it has become immensely profitable to be a landlord. Unsurprisingly, many former council properties sold under the right to buy have ended up in the private rented sector, a phenomenon that is sometimes called "Right to Buy to Let".[18]

With the massive decline in council house building, the private sector has not taken up the slack. Only 174,000 houses were completed in England in the 2022-23 financial year, according to Government figures, in comparison with 307,000 in 1969-70 and 241,000 in 1978-79.[19]

None of this has been put right by any of the governments that have since come to power, whether Labour or Conservative; instead, the problem has been left to get worse year on year. I'm going to be perfectly clear here. When Labour came to power in 1997 with a huge majority, it should have abolished the right to buy, reinstated rent control, and returned council house building to postwar levels. Obviously, it did none of those things. So Blair, as much as Thatcher, is responsible for the parlous state of the British housing market today. Disappointingly, it's clear that if and when he comes to power, Keir Starmer is going to continue Blair's legacy of ignoring the problems.[20]

The scale of homelessness in this country is a national scandal, as are the sky-high rents that are causing generational poverty for millions of people. In one of the richest countries in the world, there is no excuse for failing to provide adequate housing for all.

Employment

Another obvious area where the law affects the balance of power between rich and poor is the law governing employment and trade unions. In the postwar decades, one of the driving forces behind improved conditions

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[17] Communities and Local Government Select Committee, "Building more social housing," 27 July 2020, paras 111-112 https://publications.parliament.uk/pa/cm5801/cmselect/cmcomloc/173/17310.htm
[18] Ibid, paras 126-128
[19] UK Government, "Live tables on housing supply," 24 January 2024, table 213 https://www.gov.uk/government/statistical-data-sets/live-tables-on-house-building
[20] Ferguson, op. cit.

for the working classes was the strength of trade unions. When the Attlee government was elected in 1945, its base was in the trade union movement. To be sure, there are plenty of good reasons to criticise the Attlee government from the left. But Iain Ferguson, in arguing that the Attlee government *"operated very clearly within the framework of capitalism and had no hesitation in putting the needs of capital before those of the working class,"* also acknowledges that *"the fact that the reforms were introduced in Britain under a Labour government which had been elected with a massive majority on the back of the defeat of fascism meant that working class people felt a real sense of ownership of these reforms"* and that *"in a very real sense the welfare state was a product of class struggle that changed the balance of class forces in Britain".*[21]

As is well known, however, the Thatcher government waged war on trade unions, culminating in the infamous repression of the miners' strike in 1984-85. To a significant extent, the Conservative war on trade unions was waged through the legal system. As Dave Lyddon writes:

> *"Between 1980 and 1993 there were six Acts of Parliament which increasingly restricted unions' ability to undertake lawful industrial action. Secondary action, better known as 'sympathy strikes', was outlawed and picketing was restricted. Ballots were needed for official industrial action from 1984 and these had to be postal from 1993. Although unions have learned to use ballots as part of the negotiating process, they have imposed increasing financial costs, while the requirement to give employers seven days' notice further reduced unions' ability to respond quickly and potentially reduced the effectiveness of any action they took.*
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> *Employers could also gain injunctions from the High Court to stop unions undertaking strikes if there was any doubt as to their legality (facilitated by the increasing complexity of strike law). This tactic led to many strikes being abandoned, though if unions persisted they could be charged with contempt of court and fined or even have their assets seized. Injunctions gave employers a more immediate remedy than suing unions for damages - something that became possible again from 1982 (a return to the situation before the 1906 Trade Disputes Act when unions were at the mercy of the courts).*
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> *The Conservative government also interfered with the running of unions' internal affairs by compelling certain forms of election for executive committees and general secretaries, irrespective of the traditions of individual unions...*
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> *[…]*
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> *The incoming Labour government kept almost every aspect of Conservative trade union law; the new relationship with unions was dubbed 'fairness not favours', as if the right to strike was a favour."*[22]

One very important change was the outlawing of "closed shop" agreements, in which an employer and a union agree that all workers must belong to the union in order to be employed. These were outlawed by the Employment Act 1988.[23]

Tony Blair's Labour government deliberately chose not to roll back the Conservatives' assault on trade unions. The 1998 White Paper "Fairness at Work" said *"There will be no going back. The days of strikes without ballots, mass picketing, closed shops and secondary action are over."*[24]

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[21] Ibid.
[22] Dave Lyddon, "Anti-Union Legislation: 1980-2000," TUC History Online http://www.unionhistory.info/timeline/1960_2000_Narr_Display.php?Where=NarTitle+contains+%27Anti-Union+Legislation%3A+1980-2000%27
[23] Doug Pyper, "Trade union legislation 1979-2010," House of Commons Research Paper CBP 7882, 26 January 2017 https://researchbriefings.files.parliament.uk/documents/CBP-7882/CBP-7882.pdf
[24] Ibid.

The war on trade unions continues today, with the Strikes (Minimum Levels of Service) Act 2023, passed last year, that restricts the right to strike. This is another nakedly classist measure. Rather than conceding better pay and conditions for striking workers, the Government has moved to suppress them through the legal system, just as it did in the 1980s and 1990s.

This is not to say that all the changes to employment law since 1979 have been bad. On the contrary, we've seen important progress in a lot of areas. For instance, the National Minimum Wage Act 1998, passed under New Labour, introduced a minimum wage for the first time. The New Labour years also saw the expansion of legal protections against discrimination in employment, culminating in the Equality Act 2010, a piece of legislation which is vitally important, albeit flawed.

But that doesn't change the fact that the UK's labour market is heavily weighted in favour of employers and against employees. Increasingly, many workers work in precarious "gig economy" jobs in which they are nominally self-employed, and lack entitlement to the National Minimum Wage and basic employment law protections. The National Minimum Wage itself is not enough to live on. Since 2012, employees cannot claim for unfair dismissal until they have worked for their employer for a qualifying period of two years. And with the lack of legal aid for employment tribunal proceedings, many employees cannot afford effective access to justice.

Access to justice

That brings me on to the third and final theme of this lecture, which is legal aid. Much like council housing and the NHS, legal aid is a vital public service. Most people in their lifetimes will encounter circumstances in which they need a lawyer. That can arise in a wide range of situations, from being accused of a crime, to going through a divorce, to being discriminated against or unfairly dismissed at work. And anyone who's ever been a litigant in person, or seen one in action, will know that navigating the legal system without the assistance of a good lawyer is no easy task. The rich, of course, can afford the best lawyers. But for most of English history, if you were poor, legal representation was an unaffordable luxury.

The twentieth century saw the introduction of publicly funded legal aid. Criminal legal aid was first established by the Poor Prisoners Defence Act 1903, which introduced legal aid for trials on indictment. The Poor Prisoners Defence Act 1930 extended the availability of legal aid, which was available as of right in murder cases, and available in other indictable cases where the court considered it desirable in the interests of justice. Legal aid could also be granted exceptionally in magistrates' courts.[25]

A system of means-tested civil legal aid was introduced by the Attlee government in the Legal Aid and Advice Act 1949. It extended to most kinds of civil proceedings, with certain exceptions such as defamation.

In explaining at Second Reading why the Bill was needed, Sir Hartley Shawcross, the Attorney General, recounted an anecdote about a famous 1845 case of bigamy:

> *"Then there is the very famous sentence imposed by Mr. Justice Maule in a certain bigamy case. A hawker convicted of bigamy urged in extenuation that his wife had left her home and children to live with another man, that he had never seen her since and that he had married the second wife in consequence of the desertion of the first.*
> *Mr. Justice Maule said, "I will tell you what you ought to have done in the circumstances, and if you say you did not know I must tell you that the law conclusively presumes that you did. You should have instructed your attorney to bring an action against the seducer of your wife for damages. That would have cost you about £100. Having proceeded thus far, you should have employed a proctor and instituted a suit in the ecclesiastic courts for a divorce a mensa et thoro. That would have cost £200 or £300 more. When you had obtained a divorce a mensa et thoro, you only had to obtain a divorce a vinculo matrimonii. That procedure might possibly*

[25] Sir Henry Brooke, "The Poor Prisoners Defence Acts 1903 and 1930," 30 July 2016 https://sirhenrybrooke.me/2016/07/30/the-poor-prisoners-defence-acts-1903-and-1930/

have been opposed in all its stages in both Houses of Parliament and altogether those proceedings would have cost you £1,000. You will probably tell me that you never had one-tenth of that sum, but that makes no difference. Sitting here as an English judge, it is my duty to tell you that this is not a country in which there is one law for the rich and another for the poor." Then he added, "You will be imprisoned for one day." That was some considerable time ago."[26]

Sir Hartley was actually wrong about this; according to research by Rebecca Probert, the version of Mr Justice Maule's remarks he recounted is mythical, and the bigamist in question was actually sentenced to four months' imprisonment, not one day.[27] Clearly Mr Justice Maule wasn't as insightful a social commentator as later reports suggested. But even if these sentencing remarks were fictitious, they were an incisive satire of the state of the English legal system, and the unreality of expecting poor people to have recourse to legal remedies that they could not possibly have afforded. Of course, by 1949 divorce had been considerably simplified compared to 1845, but it was still out of reach of many poor people.

As Sir Henry Brooke explained, divorce work in the High Court was the first target of the new legal aid scheme, with legal aid gradually being extended to other areas of civil work.[28] The 1949 Act was later replaced with the Legal Aid Act 1974, and then the Legal Aid Act 1988. The scheme did see a tightening of eligibility. According to Sir Henry Brooke, whereas 77% of households were financially eligible for civil legal aid in 1979-80, only 47% were eligible in 1994-95.[29] By 2007, under New Labour, only 29% were eligible.[30]

But the biggest damage to legal aid was inflicted by the Conservative-Liberal Democrat coalition government. The Legal Aid, Sentencing and Punishment of Offenders Act 2012 significantly narrowed the scope of legal aid, taking many areas of legal work out of scope altogether.

Even when a person does have an entitlement to legal aid, whether they can actually find a legal aid lawyer is another matter. The state of legal aid in England is now dire. Many parts of the country are "legal aid deserts" where there is a chronic shortage of provision. Research by LexisNexis found that 12.45 million people live in legal aid deserts for housing law, 2.12 million people live in legal aid deserts for criminal law, and 1.09 million people live in legal aid deserts for family law.[31] According to the Law Society, the rate of advice agencies and law centres doing legal aid work has dropped by 59% since 2013.[32] Legal aid rates are often insultingly low, especially in crime, and make it impossible for lawyers to generate an adequate income and cover their costs. After the Government rejected the recommendations of the Independent Review of Criminal Legal Aid in 2022 and imposed a real-terms cut on solicitors' legal aid rates, the President of the Law Society gave the following stark warning: *"Our warning to those entering the profession, and considering a career in criminal defence practice, is that given the current situation with criminal legal aid, it is highly unlikely that you will be able to generate a reasonable professional income from this work."*[33] In short, the Government is refusing to pay criminal defence lawyers enough to keep the lights on. Once again, government policy has delivered one law for the rich and another for the poor.

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[26] HC Deb 15 December 1948, vol 459, cols 1221-1222 https://hansard.parliament.uk/commons/1948-12-15/debates/bb364331-c7fd-4cdf-b821-49c842e6445f/LegalAidAndAdviceBill

[27] Rebecca Probert, "R v Hall and the changing perceptions of the crime of bigamy," *Legal Studies* 39.1 (2019): 1-17 https://ore.exeter.ac.uk/repository/bitstream/handle/10871/34873/R%20v%20Hall.pdf?sequence=3

[28] Sir Henry Brooke, Bach Commission on Access to Justice, Appendix 6: The History of Legal Aid 1945-2010 https://fabians.org.uk/wp-content/uploads/2017/09/Bach-Commission-Appendix-6-F-1-1.pdf

[29] Ibid.

[30] Ibid.

[31] The LexisNexis Legal Aid Deserts Report https://www.lexisnexis.co.uk/insights/the-lexisnexis-legal-aid-deserts-report/index.html#section-Crime-NNrELgRHMe

[32] Law Society, "LASPO Act," 7 February 2024 https://www.lawsociety.org.uk/topics/legal-aid/laspo-act

[33] Law Society, "Raab's cut to legal aid will bring chaos to criminal justice," 30 November 2022 https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/raabs-cut-to-legal-aid-will-bring-chaos-to-criminal-justice

Conclusion

In this lecture, we've looked at how legal policy in the past few decades has widened wealth inequality and promoted the class interests of the rich, at the expense of the poor. I could finish the lecture in a conventional way by giving a wishlist of the kinds of reforms to the law I'd like to see, such as a massive council house building programme, rent control, a universal basic income, or a proper legal aid system. But that would be fairly pointless. In our current political landscape, there seems to be little chance of these policies being enacted.

So, instead, I want to finish the lecture by talking about the moral responsibility of lawyers. A lot of lawyers would agree with many of the criticisms of our legal system I've made in this lecture. But many of them would shy away from the suggestion that lawyers themselves bear any responsibility for it. After all, they would say, a lawyer's job is to represent their client whether or not they agree with their client's cause. I understand this point of view, and there is some truth to it, especially for barristers who are bound by the cab rank rule. But I would also sound a note of caution. Lawyers wield a lot of power in our society. As a lawyer, you do have a significant amount of agency in what kind of practice you have; and you do have a moral responsibility to care about the consequences of your work. What I've sought to show in this lecture is that law is inherently political. And all too many lawyers end up going into fields of practice where they are effectively waging war on the poor on behalf of the rich; whether by defending the Government's policies in court, or fighting to evict tenants, or prosecuting the poor. I would encourage those of you who are starting out on your careers in law, or thinking about a career in law, to think about that when you make your career decisions.