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Access to justice policy: legal aid in post-war UK general election manifestos

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ABSTRACT

This paper explores access to justice policy in England and Wales. This is achieved through a legal history approach analysing the treatment of, an important element of such policy, legal aid in UK general election manifestos. The paper covers the period from 1945, with the creation of the welfare state and the introduction of a formal legal aid system. It focuses on the two main parties that have led all the governments of that period, the Conservative and Unionist Party (Conservatives) and the Labour Party (Labour). The paper charts the rise and fall of legal aid in the general election manifesto, documenting an access to justice policy that falls into two distinct eras of social democracy and neoliberalism.

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Introduction

This paper offers a unique insight into the political treatment of legal aid in England and Wales: a compilation, synthesis and analysis of access to justice in UK general elections. While access to justice and access to lawyers are not the same, Felstiner (2001, p. 191) suggests that, “the production of justice might be defined as a dimension of the relationship of lawyers to clients”. Indeed, for Young and Wall (1996, p. 6), “access to justice seems, therefore, to imply access to legal aid and lawyers”. Legal aid is a publicly funded programme in which government can help meet the costs of advice and representation – as well as mediation – across various civil, criminal and family proceedings. Advice and representation are provided by a lawyer, their expertise valuable due to the complicated, self-referential and alienating nature of the legal system (Newman 2013). Legal aid can, thus, be taken as a measure of access to justice. Within certain (significant) constraints, that have varied and typically worsened over time, people can get legal aid if they can show that they cannot

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afford a lawyer and that their problem is serious. This paper offers a legal history of legal aid at the UK general election. It explores how access to justice in England and Wales was transformed in the twentieth and twenty-first centuries. Social democratic and neoliberal policies respectively informed Acts of parliament in 1949 and 2012 that brought, first, the growth and, thereafter, the decline of legal aid.

Party political presentation of access to justice issues will be explored to develop an insight into how legal aid has been treated in UK politics since World War Two and the rise of the welfare state with which it is associated. The paper is the first work of legal studies to interrogate general election manifestos as archival research to discern the comparative and changing approaches taken to legal aid in UK politics. The paper focuses on the two main parties at Westminster over this period.¹ The Conservatives and Labour have led every government in this time.² All political parties are coalitions made up of competing and complimentary factions that jostle for authority over time. The parties broadly represent right and left on the political spectrum. Despite right and left being political abstractions not necessarily accepted by all those they are assigned to, they continue to be used as general reference points (White 2005). The Conservatives have been seen to engage in periodic processes of repositioning (Buckler and Dolowitz 2012). Labour have been considered a *broad church* (Callaghan 1989). The Conservatives are notionally right of centre and Labour notionally left of centre. The Conservatives are a party rooted in British conservatism and unionism, with liberal, free market economics. Labour is a party often taken to represent social democracy and democratic socialism. Between them, the parties – with their success – represent something of the mainstream at UK-level politics.

The paper uses manifestos to set out the policies that the parties stand for and would seek to implement if elected. While general election manifestos can vary across the countries of the UK, the focus of this paper will be on the UK-level offering (Clark and Bennie 2018). These are official, publicly available publications that form the basis of the parties' general election campaigns and are a leading means of communicating to voters why people should vote for candidates of one party over another. They form a programme for government. They have long been and remain important parts of the political campaign; they can be used by floating voters and political partisans, and bought, accessed online, or engaged with via campaigners citing the material (Däubler 2015). Due to their value for setting a policy agenda, their construction – what goes in and what does not – can be sources of much debate and dispute within a political party (Pettitt 2018). Manifestos are not binding and there is an increasing trend for policies pledged to go undelivered in the UK (Norris 2019). However, there are incentives for parties to stick to their pledges (Paxton and Haddon 2024). Governments can refer to their electoral mandate when pushing through or defending a policy. In re-election campaigns, parties might point

to their previous pledges to show a record of delivery and encourage trust in them. And the Salisbury convention means that the House of Lords does not vote down government legislation passed from the House of Commons if it was outlined in the manifesto of the winning party. However, parties can also pursue policies that are not in their manifestos.

Political manifestos in UK general elections have broadly become longer documents over time (Thackeray and Toye 2020). For Thackeray and Toye (2020, p. 10), the increased number of words comes from changing demands on such political party publications:

The growing length of manifestos can be explained by expectations surrounding political promises – not merely the increasing numbers of pledges that were expected but the greater level of detail that was required to surround them.

There has been an increased bureaucratisation of policymaking, with manifestos increasingly drawing on more extensive published party programmes. There was thus a need for such manifestos to be more comprehensive in their discussion of policy. This expansion can be seen in the manifestos under consideration in this paper. The analysis starts in 1945, when the Conservatives were at 6,094 words and Labour were at 4,993 words. By the end of the century, the length had more than tripled to 21,053 words for the Conservatives and 17,657 words for Labour in the 1997 general election. For 2024, the word counts totalled 26,857 for the Conservatives and 26,459 for Labour.

This paper involves a search of these manifestos for the terms “access”, “advice”, “aid”, “law”, “lawyers”, “legal” and “justice”. Thereafter, the findings were restricted to those detail that related to access to justice. The Conservatives have discussed access to justice issues in 15/21 of their post-war manifestos, with the first appearance coming in 1955. Labour have discussed access to justice issues in 13/21 of their post-war manifestos, with the first appearance coming in 1970. The manifestos are not only relevant for when they explicitly talk about legal aid. The absence of legal aid in some manifestos tells us something about how it was perceived by the political parties at the time and the broader course that legal aid has taken over the passage of these political life cycles.

The point of this paper is not to follow through the promises to action. There would be merit in a lengthier legal history of party-political treatment of legal aid in England and Wales. Brooke’s (2016) valuable history of legal aid can be an important starting point that could be complimented by an academic work that directly engages with the detail of policy and offers contextual consideration of political economy. While there are academic journal papers that engage with policy, they tend to have a specific focus, such as Goriely’s (1994) leading examination of the first fifty years of civil legal aid, which could be built on with a broader scope and an updated time-frame. Such wider inquiry is beyond the remit of this paper, though, which provides

detail on the post-war manifestos and acts to chart the journey to the current position of access to justice. It provides a starting point for the process of interrogating what political parties have said – or not said – about legal aid in their official communications.

The paper allows for an appreciation of what it means when parties do include legal aid in a manifesto: whether they're promoting access to justice or setting legal aid up as a target for cuts. This paper will also be used to flesh out what it means when a party has omitted legal aid from a manifesto, helping scholars of access to justice to understand whether such lack of consideration is because legal aid was seen as irrelevant or may rather have been a strategic exclusion. The heuristic device of social democracy versus neoliberalism, a conceptualisation that has been used in criminological assessments of justice policy but rarely brought out explicitly in legal studies and never in relation to legal aid, acts to frame and structure this discussion. Through grounding the paper in this theory, looking at both what is there as well as what is not – and reflecting on why – the paper charts a historical trajectory of legal aid that also shows where we might be going next.

Two eras of legal aid

The 1945 and 1979 manifestos mark the two turning points around which this paper's narrative unfolds. What was offered by Labour and the Conservatives in turn would exert enduring influence beyond the parties' respective terms of government. For Diamond (2024), "[b]oth manifestos contained policy, but were significant, above all, because they established ideological direction". On Labour he highlights that their document was "compelling in establishing a vision of postwar reconstruction founded on the ideals of 'practical socialism' and state collectivism", while the later Conservative offering "elaborated a broad vision of how to roll back the frontiers of the state to liberalise markets and 'set the people free'" (Diamond 2024). Reflecting the importance of these landmarks, the resulting data on legal aid explored in this paper is organised into two sections, labelled the social democratic and neoliberal eras – with a final section on the 2024 general election as the most recent campaign at the time of writing.

By using these two eras as a frame of reference, the paper follows a pattern of western history as articulated in the justice realm by Reiner (2012). While recognising that there are many varieties of social democratic thinking, he offers an ideal-type to distil its key dimensions from World War Two onwards. He suggests that there are nine quintessential characteristics of social democracy. These include the primacy of the ethical; a moral commitment to mutuality, reciprocity and basic human equality. There is also a critique of capitalism, attacking its culture of possessive individualism and recognising the need for the state to intervene to prevent ever greater inequality.

Gradualism, is the commitment to building democratic consent through argument, not force. Another feature is equality *and* democracy, the belief that each is mutually reinforcing. There is a quiet optimism entailing a confidence in the movement towards greater and more inclusive equality. The dimensions of justice stress common humanity and lead to campaigns against inequalities such as those based on gender, race or sexuality. The state is perceived as an instrument of justice meaning that capturing the state is a crucial means of welfare and redistribution. Science is a condition of social advance, which means that rigorous social research is the key to evidence-led understanding and reform of social problems. Finally, is the belief that in is only in modern times that egalitarianism has plausibly come to be a practical political project. For Reiner (2012, p. 141) this social democracy was challenged by the late 1970s when “the postwar Keynesian, mixed economy, welfarist consensus rapidly became displaced by a neoliberal hegemony in economic and social policy”.

He identifies the growth of a more selfish, distrustful and ultimately pessimistic neoliberal era. This replaced the previous era, rooted in ideas from Keynes (2017 [1936]), which had justified government intervention through public policies that aim to achieve full employment and price stability. Such an approach, which helped inspire the growth of the welfare state in the UK, was now supplanted. Reiner (2006, p. 146) understands this neoliberal order as representing a new consensus:

This new hegemonic ‘culture of control’ ... has displaced the welfare/rehabilitative consensus that prevailed for most of the twentieth century in the Western world. This is part of a broader shift in politics and culture, the ‘death of the social’ ... The rise of neo-liberalism, individualism, and the ‘risk society’ ... eclipsed the Keynesian, mixed economy, welfare state consensus that prevailed for the first three post-war decades.

Reiner (2012) talks about how criminal justice policy has shifted from an understanding that crime was but one amongst many social problems, all of which were interlinked, to the idea that crime was public enemy number one – the most pressing issue of the day. Under this neoliberal shift, to what he called the *law and order consensus*, criminals must take sole blame for their criminality with any concern for understanding their behaviour or helping them to move past it abandoned for an ever more hardline approach. This was to be a system increasingly disinterested in offender rights and, rather, reorientated to place the victim iconically at the centre.

This criminal justice impact is just one part of, the often unspoken yet pervasive, spread of neoliberalism that has taken over all institutions of society (Monbiot and Hutchison 2024). Brown (2015) has outlined the *economisation* of policy under neoliberalism. Here, individualised responsibility and a withdrawal of state financial support is reframed as supporting the autonomy of

individuals, and giving freedom from state intervention. For Brown (2015, p. 17), what emerges is “a peculiar form of reason that configures all aspects of existence in economic terms”. This is a market-led approach to policy. In this mode of governance, Harvey (2006) argues that neoliberalism facilitates a form of wealth redistribution called *capital accumulation by dispossession*, in which wealth and power is funnelled upward, away from the poor. There are reductions in or removals of key state provision through shifts in economic power away from public services. This includes how legal aid is treated, which Sommerlad (2004) believes helped expand and give substance to citizenship in the social democratic era but caused social exclusion through its retraction as the state was reshaped under neoliberalism.

In neoliberalism, there has been a political convergence of the two parties in this study, with, first, the Conservatives and, later, Labour adopting neoliberal standpoints (English *et al.* 2016). Such has largely moved British politics to the right, with an increasing hostility to and skepticism of the state (Levitas 2012). Both parties have shifted rightwards albeit from differing starting points. The collapse of the postwar consensus around the welfare state has pushed the Conservatives generally more rightwards with the rise of the new right (Durham 1989). Labour is notable for shifting between left and right in the period covered by this paper, aligning with the social democratic to neoliberal shift albeit including a temporary break in continuity under the more radical leadership in the 2017 and 2019 election campaigns (Jacobs and Hindmoor 2024). Over the neoliberal era, the economics of these manifestos – being seen as *fiscally credible* – have grown in prominence with parties increasingly concerned about promises that the electorate might question over costs (Sloman 2021). Big promises for public spending have lessened as parties shift away from growing the state to diminishing it.

Legal aid is not alone here, and, for example, it has been possible to trace also the influence of neoliberalism over the post-war consensus in Pearce’s (2004) work on the growing marketisation of education in UK general election manifestos. In this paper, key access to justice policies that emerge from successive manifestos in post-war times are outlined.³ The next section will look at the social democratic era, from 1945 until the late 1970s. Following that, there will be a section exploring the neoliberal era from 1979 onwards. The final section will detail the latest policy offer as seeming to offer a continuation of the neoliberal era.

The social democratic era

Wartime leader Winston Churchill surprisingly lost the 1945 general election for the Conservatives with the coming of age of a new generation of politics as inspired by the American New Deal, the series of public works projects from the US (Franklin and Ladner 1995). From 1945, the Labour government

under Clement Atlee (the second Labour leader to be Prime Minister, but winning the first Labour majority) passed a series of measures which (later) became known as the welfare state. These developments ushered in the start of the post-war political settlement – with support across the political spectrum – that heralded the social democratic era (Addison 1975). These reforms were designed to take care of the British people *from the cradle to the grave* as detailed in the Beveridge Report, written by a future Liberal MP William Beveridge (1942). This report was commissioned and agreed under the wartime coalition government headed by Winston Churchill, and including Conservatives and Labour as well as Liberals. Some of this programme had been set in place before the election, such as the 1944 Education Act, but after the election came developments such as the National Health Service and a number of welfare programmes, which combined to make the most far-reaching measures any UK government had taken in the field of social reform. Legal aid complemented the welfare state and, following the recommendations of the 1945 Rushcliffe Committee – chaired by a former Conservative MP, Lord Ruschcliffe (1945) – the Legal Aid and Advice Act 1949. The Act introduced a consistent approach to legal aid in England and Wales based on a means test. Its overall aim was to make legal aid and advice more readily available for persons of small or moderate means. And it would involve public payment to lawyers in private practice to achieve this. The consensus that brought in such advancements of the state would hold for the next few decades.

Despite the Act, though, there was no mention of legal aid in either party's manifesto for 1945 (Conservative and Unionist Party 1945, Labour Party 1945). Thus, the formation of the modern legal aid system has no direct correspondence to access to justice promises made by either of the main political parties in their election campaigns. However, the 1945 Conservative manifesto is notable for representing a fundamental change in the party's formal approach to social policy as they – like Labour – committed to the Keynesian redistributive taxation model to tackle the extremes of wealth and poverty in the UK (Pierson 1996). Within a broader context of two political parties aligned on increasing government spending, the election set the context in which legal aid could emerge as a concerted offer from the state to its people.

There was no discussion of legal aid in the subsequent two sets of manifestos that followed the introduction of the scheme (Conservative and Unionist Party 1949; 1951, Labour Party 1949; 1951). In the first, Labour won a small majority and quickly went to the polls again for a bigger majority in the second, only to lose to the Conservatives returning Churchill to government. With Labour also making no note of access to justice issues in their next three manifestos (Labour Party 1955; 1959; 1964), it was only the Conservatives who were discussing them in their manifestos (Conservative and Unionist Party 1955; 1959; 1964). This was a decade notable for the Conservatives developing the *One Nation*

approach that offered their own take on an inclusive, supportive social policy distinguished from the statism of Labour but also firmly opposed to laissez-faire governance of the traditional right (Bridgen 2000). Legal aid grew over this era: when first introduced in 1950, it was for representation in the High Court but was extended to the County Court in 1956 and by 1959 would expand to also include advice. At this time, there was pride amongst the political classes in the legal aid system (Dworkin 1965). Legal aid was considered an institution working well (Thompson 1953). Such was the success, more popular supposedly than the National Health Service, there was a contemporary view that the England and Wales system would be adopted globally across other jurisdictions (Pelletier 1967).

In the 1955 general election, which the Conservatives won, they discussed legal aid under the heading *Liberty and the Law*. Here, the Conservatives showed support for extending the legal aid scheme:

Justice between citizen and citizen, and justice between citizen and State must be upheld and strengthened.

The Conservative Party regretted that economic difficulties made it necessary for the Socialist Government to defer indefinitely the operation of important parts of the Legal Aid and Advice Act. We are now preparing to extend legal aid to proceedings in the County Courts, and also intend during the life of the next Parliament to introduce the comprehensive scheme for legal advice. (Conservative and Unionist Party 1955)

In this discussion, the Conservatives attacked Labour for the limitations of the legal aid scheme under their 1945 government (though do not explain why the Conservative government of 1951 did not address the apparent deficiencies). This is where the development of expanding legal aid to County Courts came from, and where the growth to introduce a scheme for legal advice has its origins. Legal aid here is directly tied to ensuring that justice between citizens, and citizens and the state can be assured. What emerged was a positive vision for enhancing access to justice (Conservative and Unionist Party 1955).

Further, 1959 – another Conservative victory – saw a similarly titled heading *Liberty Under the Law*, in which there was also a further commitment to develop legal aid:

The Legal Aid and Advice Acts will be extended to remaining courts and to certain tribunals, and the present income and capital limits will be reviewed to ensure that help is not denied to anyone who needs it. (Conservative and Unionist Party 1959)

Legal aid was identified as a part of an approach to justice intended “to strengthen Britain’s traditional way of life, centered upon the dignity and liberty of the individual” (Conservative and Unionist Party 1959). Again, there was a constructive tone on legal aid for its role in access to justice.

Finally, the heading on *Upholding Law* from 1964 saw pledges that would further increase legal aid:

We shall extend legal aid to all care and protection cases in juvenile courts and, as resources permit, to tribunal cases beginning with the Lands Tribunal. (Conservative and Unionist Party 1964)

For a third manifesto in a row, there was a commitment to increase the provision offered by the legal aid scheme. What is clear across these three manifestos is that there was firm and unambiguous support for legal aid. And all of it from the Conservatives; they were the ones introducing legal aid to the manifestos. This development is notable considering that they are the generally more right-wing of the two parties when the building up of the state that legal aid represents may be considered a more likely interest from the political left. The Conservatives were in power over most of this period, until Harold Wilson's victory in 1964 for Labour.

Like Labour (Labour Party 1966), the Conservatives did not mention legal aid in their 1966 manifestos (Conservative and Unionist Party 1966), wherein Wilson turned his small majority from 1964 into a more workable large majority from 1966. The Conservatives made a brief mention of expanding housing advice in 1970 lamenting that “often those confronted with housing problems have nowhere to turn for advice” (Conservative and Unionist Party 1970). This campaign saw Labour raise legal aid for the first time (Labour Party 1970). In their *Law and Justice* section, the party showed their support for legal aid:

We have recently extended the legal aid scheme and it is our intention to ensure that people with modest means can obtain legal advice and be properly represented in the courts of law. (Labour 1970)

The Conservatives won this election under Edward Heath, whose approach to social policy over the decade of his tenure as Conservative leader was evidenced and reliant on expert input to inform decisions (Page 2015). He had been sure to maintain the postwar settlement by going further than any other Conservative leader in working with trade unions to ensure the economy functioned to underpin a supportive social policy at the heart of the state (Bogdanor 1996). This included radical ideas for a Conservative government to tackle the growing levels of poverty that were starting to (re)merge across the decade (Sloman 2016). Over this period, a new green form scheme was introduced for advice and assistance on any matter of English law based on a simplified test of income and expenditure, which was carried out by the solicitor. This shift made legal aid easier to administer for lawyers.

There were two general elections in 1974; the first won narrowly by the Conservatives but leading to a hung parliament in which Labour formed a minority government under Wilson. The politics of Wilson are notoriously unclear; he was a pragmatic political operator who did not confirm to any obvious tendency in Labour (Dorey 2012). What is clear, though, is that Labour did not discuss legal aid in their general action manifesto (Labour Party 1974a), but the Conservatives did (Conservative and Unionist Party 1974a). Following

the heading, *Freedom under the law*, they committed to “further improve the legal aid and advisory services” (Conservative and Unionist Party 1974a). Thus, they returned to offering a vision of growing legal aid.

Both parties addressed legal aid in their manifestos for the second general election of 1974 (Conservative and Unionist Party 1974b, Labour Party 1974b). This election was called by Wilson in the aim of securing a majority, which it did – albeit a small one. The Conservative manifesto featured a discussion of further expanding legal aid under the heading *Improving Justice*:

When the economic situation permits, we favour the phased extension of Legal Aid to proceedings before Tribunals on certain defined principles. (Conservative and Unionist Party 2024)

Though it is tied to the economy growing, there is here a commitment to increase legal aid further again. Labour’s manifesto had a heading *Individual Rights and the Community*, which framed legal aid discussion in the need “to protect and extend the processes of democracy at all levels” including reforms to “make legal advice more accessible to those most in need of help” and “extend legal aid to certain tribunal hearings” (Labour Party 1974b). Labour thus committed to extending legal aid and making legal advice more accessible alongside the Conservatives – the consensus for legal aid remained.

The neoliberal era

The 1979 election of Margaret Thatcher as Conservative Prime Minister – what was to be the longest serving Prime Minister of the twentieth century – signifies the start of the neoliberal era. Heath’s radicalism was increasingly unpalatable to many in the Conservative party and was significantly challenged on his defeat in 1974 (Roe-Crines 2021). Thatcher broke with the Keynesianism of her predecessors since World War Two, and was considered the candidate of the right to replace Heath, enacting fundamental changes to the party (Kavanagh 2005). Jessop (2003) saw Thatcher as a symbol of opposition to the post-war collectivist consensus that led to the creation of the British welfare state. Thatcher’s belief in reducing public spending, cutting taxes and privatising state-owned industries meant the Conservatives as a party were set on a course of rolling back the welfare state and giving greater reign to finance capital. Labour would eventually follow this course also. Legal aid continued to grow in the early part of this era, though, with duty solicitor schemes in magistrates’ courts becoming statutory in 1984, and duty schemes for police station advice, as per the Police and Criminal Evidence Act 1984, introduced in 1986. Such continued expansion helps reflect how, for Spencer (2002, p. 276), “the legal aid scheme in England survived the onslaught from free market philosophy much longer than most welfare services”. However, the growing legal aid budget would become an increasing focus of policy

intervention from the governments of this era as they set about reducing it (Wall 1996). This was a time when justice policy was informed by the rationale of rationing public spending on legal services (Moorhead 1998).

In 1979, for the first time only Labour included anything related to legal aid (Labour Party 1979), as there was no detail in the Conservative manifesto (Conservative and Unionist Party 1979). This speaks to the shift in ideology Thatcher's leadership represented considering that it was the Conservatives who had previously been strongest on the subject in their manifestos. Under the heading of *Law, Rights and the Community*, Labour noted that "protection and enhancement of human rights and civil liberties is an indispensable part of a wider democracy" where they discussed legal aid and – the first time a party had mentioned them – Law Centres:

During the next Parliament, we will increase Law Centres providing legal help for the ordinary citizen; provide more resources for the prison and probation services; extend legal aid to certain tribunal hearings; bring together and coordinate the various offices of Ombudsmen; consider responsibility for the conduct of prosecutions in the light of the report of the Royal Commission on Criminal Procedures; and provide further help for the victims of crime. (Labour Party 1979)

There was a commitment, then, to extend legal aid and increase Law Centres. In the previous decade, the Society of Labour Lawyers (1968) had published the pamphlet *Justice For All*, in which they argued that the legal aid scheme operating exclusively through private practitioners would not meet legal need for the poorest in society. They had called for the establishment of *neighbourhood law firms* on a US model with salaried lawyers located in the most deprived areas. They had failed to convince the Heath government of the time, which rejected independent Law Centres, instead strengthening the role of private practice with the green form. Undeterred, independent Law Centres were set up to provide free at the point of access advice, especially in social welfare law, with the first in North Kensington opening in 1970 and, by the time of this election, there were 27 across the UK. Labour was recognising their importance for access to justice here.

Again, the Conservatives did not discuss legal aid in their 1983 manifesto (Conservative and Unionist Party 1983). Labour had a discussion of legal aid and Law Centres under the heading *Access to legal services*:

We will not allow people's legal rights to go by default. Accessible level services are essential to protect human rights. As described in *Labour's Programme 1982*, we will increase central government spending to set up new law centres and help existing ones, and to improve the legal aid scheme by widening its provisions. We will also introduce a system of appeals against the refusal of legal aid in criminal cases.

We will speed the extension of duty solicitor schemes to all magistrate courts and police stations in England and Wales. We will also introduce measures to help citizens to secure their legal rights in the areas of tribunal and welfare rights law.

We will co-ordinate the responsibility for advice and legal services so that ministerial responsibility is clearer and more direct. We will also establish a new Legal Services Commission to be responsible for the provision and financing of public legal services. Our aim is to ensure that the expertise and training of the legal profession should be geared far more than at present to those legal problems affecting ordinary people. (Labour Party 1983)

This approach saw increased support for Law Centres, extension of duty solicitor schemes and a new Legal Services Commission to organise publicly funded legal services. All this encouragement of access to justice was captured in the idea that accessible legal services were important in protecting human rights. The offer was somewhat at odds with the growing neoliberal climate. It was dubbed “the longest suicide note in history” by Labour MP Gerald Kaufman for its pronounced offering of socialist policies and its 22,650-word length, more than twice the length of either party in the previous general election (Mann 2003). Labour duly lost in a landslide defeat to Thatcher, which was the most decisive election victory since that won by the Labour Party in 1945 to usher in the welfare state. The defeat was used as an excuse by those on the right of the party to claim a popular rejection of left-wing policies (Walker 1983).

The 1987 Conservative manifesto made no mention of legal aid (Conservative and Unionist Party 1987). Over the three elections since Thatcher would lead the party, then, their retreat from promoting legal aid was evident. Labour had a discussion of consumer rights including the commitment to “improve access to legal services where necessary” (Labour Party 1987). This election had another landslide defeat from Labour to Thatcher.

Both parties discussed legal aid related issues in their 1992 manifestos (Conservative and Unionist Party 1992, Labour Party 1992). Under the heading, *Our Legal System*, the Conservatives set out that in “a free society we must have a justice system that is fair, accessible and responsive to the citizen” (Conservative and Unionist Party 1992). There was also a discussion of civil justice that included accessing legal services:

We are committed to enabling people with limited means to have access to legal services. We are determined to ensure that these services are delivered efficiently, in a way which provides the best value for money. (Conservative and Unionist Party 1992)

This showed a commitment to provide legal services for those who lack financial means but in a way that foregrounds efficiency concerns. Here, for the first time in any manifesto, access to justice is presented in terms of value for money. This is the start of the neoliberal managerialist agenda creeping into legal aid (Sommerlad 2001). Over this period, the green form scheme would be abolished, which would reduce the number of firms offering legal aid. Discussion of legal aid from hereon alienates lawyers as they are devalued and detached from their purpose due to the influence of neoliberal ideology on understanding of their working practices (Newman and Welsh 2019).

Labour only discussed legal services in relation to business in a section devoted to strengthening regional economies, promising to “establish a network of one-stop advice centres providing them with access to high-quality specialist assistance” (Labour Party 1992). There is no mention of access to justice in the context of citizens and their needs as has typically occurred in previous evocations of advice. Neil Kinnock has been cited as setting the party on a reactionary course and stripping it of radical policy (Heffernan and Marqusee 1992). The framing here can be seen in this move away from legal aid for social justice as in earlier manifestos. Despite the lack of militancy in Labour politics, Kinnock still led Labour to a surprise defeat against John Major, which has been suggested as in part due to the hostility of the tabloid press presenting Labour’s offering as more radical than it was (Thomas 1998).

The 1997 general election saw both parties discuss legal aid in their manifestos (Conservative and Unionist Party 1997, Labour Party 1997). For the first time on the part of either party, the Conservatives had a heading of *Legal Aid*. But this was a negative reading of the topic. This section set out concerns around the funding of legal aid:

People are rightly concerned about the rising costs of legal aid. We have taken many steps to control the burden and to deny access to legal aid to the “apparently wealthy” – those who qualified technically, but whose lifestyles suggested they should not.

But more is required:

We will change the structure of legal aid to ensure that it, like other vital public services, functions within defined cash limits.

This will enable us to identify priorities and serve them much more efficiently than the present system. (Conservative and Unionist Party 1997)

The Conservatives referred to public concern about rising costs and set out the need to control the legal aid budget. They offered a commitment to change the entire structure of legal aid provision. While the party’s previous manifesto had set out the need for efficiency, the treatment of legal aid this time took that concern further. In Labour’s manifesto, legal aid was discussed under the heading of *Real rights for citizens* where the party promised a review of legal aid:

Labour will undertake a wide-ranging review both of the reform of the civil justice system and Legal Aid. We will achieve value for money for the taxpayer and the consumer. A community legal service will develop local, regional and national plans for the development of Legal Aid according to the needs and priorities of regions and areas. The key to success will be to promote a partnership between the voluntary sector, the legal profession and the Legal Aid Board. (Labour Party 1997)

This was a commitment to reform legal aid with the invocation of taxpayer concerns. Labour now also, for the first time, used the language of value for money

around legal aid. Both parties have now moved away from notions of expanding legal aid and were focused on discussing it in terms of its cost, with the implicit expectation of reducing or restricting legal aid. The financial reading of access to justice now fills both party's agendas (Sommerlad 2008). This represented a new anti-legal aid consensus. Discourse from now on would typically be infused by lawyer-bashing and talk of *gravy trains* (Hynes and Robins 2009). Tony Blair won a large majority for Labour – their first victory since before Thatcher and only the third Labour leader to win a majority – but for a self-titled rebrand of *New Labour* (Bevir 2009). Blair blamed Labour's previous defeats on the left of the party (Leys and Panitch 2001). This transformation has been understood as marking a neoliberal shift in the ideology of the party that would endure over subsequent elections under Blair (Hall 2005). For Hall (1998, p. 14), the Blair project followed on Thatcher's project:

However, the difficult truth seems to be that the Blair project, in its overall analysis and key assumptions, is still essentially framed by and moving on terrain defined by Thatcherism. Mrs Thatcher had a project. Blair's historic project is adjusting Us to It.

There was a continuation here, and that was the neoliberalisation of politics across the two main parties in the UK. Legal aid subsequently began to suffer as in the Access to Justice Act 1999, which imposed a hard cap on overall expenditure on legal aid or the plans for price competitive tendering in the Carter Review (Department for Constitutional Affairs 2006). This manifesto is also notable for the neoliberal trope of “personal responsibility” being invoked as Labour approached criminal justice through the hardline mantra of “tough on crime, tough on the causes of crime”, which would also endure across this era (Labour Party 1997).

2001 brought another Labour victory, in what was considered a more underwhelming yet inevitable, apathetic landslide (Harrop 2001). In 2001, Labour did not mention legal aid in their manifesto (Labour Party 2001), but the Conservatives did (Conservative and Unionist Party 2001). Legal aid was highlighted as part of a section outlining £8 billion of savings, specifically noted to represent £0.3 billion of those. The Conservatives outlined what they would do to save money here:

We will reform legal aid by creating a new Community Legal Aid Fund. In return for financing civil cases, the Fund will receive a portion of the damages when its clients win. (Conservative and Unionist Party 2001, p. 17)

The detail referred to a new common legal aid fund to take money from client damages. Again, this carried on the theme of reform premised on efficiency and prioritising taxpayers from recent manifestos.

The Conservatives did not include legal aid in their 2005 manifesto (Conservative and Unionist Party 2005). Labour did bring in these issues in their

manifesto (Labour Party 2005). Under the heading of *Backing the victim*, a noticeably tough on crime construction, the detail on improving the courts and prosecution service with a victim-focus. This was the start of a neoliberal trend to unbalance the criminal justice system, favouring the victim (Cape 2004). There was more discussion of legal aid reform:

Legal aid will be reformed to better help the vulnerable. We will ensure independent regulation of the legal profession, and greater competition in the legal services market to ensure people get value for money. We will tackle the compensation culture – resisting invalid claims, but upholding people’s rights. (Labour Party 2005, p. 49)

This was a call for more independent regulation and competition in legal services. Again, the approach is grounded in the importance of value for money. Such reflects research showing that by the time of the 2005 general election, the manifestos showed the parties “were fundamentally similar in their overall political market orientation as well as in their emphasis on different components” (Ormrod and Henneberg 2009, p. 201). The main reason for the Conservative loss was to be found in their lacking a central theme; the party came across simply as *nasty*, without any attempt at a positive vision (Seawright 2005).

The 2010 election found David Cameron’s Conservatives learning from the mistakes of 2005, framing their offering in terms of the *Big Society*, an idea gently grounded in neoliberalism but with a constructive pitch in which people would be empowered as individuals and communities, and encouraged to overcome a supposed reliance on government backed services and the state (Balazard *et al.* 2017). Cameron sought to use this approach to legitimate neoliberalism, recasting it as the kind of Fabian socialism historically seen to ground the Labour party (Byrne 2018). 2010 saw the Conservatives raise legal aid related issues in discussing families (Conservative and Unionist Party 2010). Here, they outlined a need “to increase the use of mediation” rather than lawyers (Conservative and Unionist Party 2010, p. 42). There was an extensive discussion outlining their plan to fight back against crime including foregrounding victims including strong police powers and sanctions. The harsher stance on crime is an important element of neoliberalism in access to justice issues – a more intrusive punitive state as well as the retraction of the state’s welfare services (Wacquant 2009). And there was specific talk about legal aid under the heading *Put the criminal justice system on the side of the public*. On legal aid, the manifesto offered a review:

We will carry out a fundamental review of legal aid to make it work more efficiently, and examine ways of bringing in alternative sources of funding. (Conservative and Unionist Party 2010, p. 56)

The language again referred to efficiency, thinking about how it can be funded in a new way that costs the state less. This is more efficiency-centred reform. Labour also had a focus on crime and victims including community payback

and a National Victims Service (Labour 2010). For Young, a neoliberal Labour saw them joining in with *banging the law and order drum* (Young 2003). Under the heading of *Punishment and reform*, the party also discussed finding ways to reduce the cost of legal aid:

To help protect frontline services, we will find greater savings in legal aid and the courts system – increasing the use of successful ‘virtual courts’ which move from arrest, to trial, to sentencing in hours rather than weeks or months. We will use the tax system to claw back from higher-earning offenders a proportion of the costs of prison. Asset confiscation will be a standard principle in sentencing, extended from cash to houses and cars. Every community will have the right to vote on how these assets are used to pay back to the community. (Labour Party 2010, p. 55)

Their line was that money must be taken from legal aid to ensure other services can be maintained; presumably legal aid is a lesser public service, more liable to cuts when supposed hard choices are being made. Savings in legal aid were placed alongside pledges to confiscate assets from offenders. There was more focus on the taxpayer here. Both manifestos, then, were premised on treating the legal aid as a burden. The Conservatives won but held no majority so needed to form a coalition with the, more centrist, Liberal Democrats. This coalition would usher in the era of austerity – which has been described as *neo-liberal dreams come true* (Farnsworth and Irving 2018). For access to justice, the centerpiece policy was the Legal Aid and Advice Act 2012, which removed large parts of legal aid cutting £350 million a year from the total £2.1 billion budget. This Act has been understood as applying neoliberal principles to access to justice: reducing the worth of legal aid to a purely economic calculation (Mant 2017). The use of mediation has also been suggested as part of the same neoliberal package, trying to encourage people away from lawyers (Hunter 2017). In backing away from funding lawyers, Robins (2012) noted that there was evidence of party’s stepping back from their obligations to the people:

As I said last week the campaign against LASPO [Legal Aid and Advice Act 2012] rightly focused on the government’s own responsibility to ensure access to justice as part of the rule of law. Tragically, it is a responsibility that our politicians don’t recognize ... the government’s shocking abdication of that responsibility.

He suggested it should be understood on a similar level that cutting back education or health service would: an undermining of core state duties.

Much of the public anger for the cuts under the 2010 austerity programme was placed on the Liberal Democrats as enablers (Evans 2011). This made a space for the Conservatives to win a majority in 2015. The election was ultimately cast as a failure for those who hoped for a return to social democracy, instead there was a growth in the populism of the right – including the rise, in votes rather than seats, of UKIP, a hard right party campaigning for a referendum on the UK’s European Union membership (Bogdanor 2016). The

populism of the Eurosceptic movement created an opportunity for a reorientation of neoliberal politics in the UK after the negative impact voters had felt resulting from austerity (Wood and Ausserladscheider 2021). This campaign saw the Conservatives deal with legal aid under the heading of *We will reform human rights law and our legal system* (Conservative and Unionist Party 2015). They talked about having stopped prisoner voting, deporting suspected terrorists and promised to scrap the Human Rights Act 1998. In this context, the party also stated that, “we will continue to review our legal aid systems, so they can continue to provide access to justice in an efficient way” (Conservative and Unionist Party 2015, p. 60). Such provided further presentation of legal aid as needing reform and used the language of efficiency. Labour did not mention legal aid in their manifesto (Labour Party 2015). Under the heading of *Better work and better pay*, though, they talked about increasing worker rights:

The Conservatives have introduced fees of up to £1,200 for employment tribunal claimants, creating a significant barrier to workplace justice. We will abolish the Government’s employment tribunal fee system as part of wider reforms to make sure that affordability is not a barrier to workers having proper access to justice, employers get a quicker resolution, and the costs to the tax payer do not rise. (Labour Party 2015, p. 23)

The pledge was to abolish employment tribunals. However, the detail included the note that there would be no extra costs to the tax payer, keeping implicit considerations of efficiency to the fore. Such compromise highlighted the uneasy balance their leader Ed Miliband tried – and failed – to achieve between social democratic traditions and the populist surge that resented big government at a time when people were struggling financially (Atkins 2015). The 2015 election would ultimately lead to the 2016 referendum on the UK’s membership of the European Union, a vote that would lead to the UK leaving – Brexit. Brexit can be understood to have occurred as the culmination of the growth in a neoliberal Euroscepticism that had dominated the right and taken hold of the Conservative party at this point (Cornelissen 2022).

The Brexit vote led to a return to two-party politics in the 2017 general election, with the issue decided, and a broad coalescence of leave voters for the Conservatives and remain voters for Labour (Hobolt 2018). In 2017, the Conservatives included the pledge to “strengthen legal services regulation and restrict legal aid for unscrupulous law firms that issue vexatious legal claims against the armed forces” (Conservative and Unionist Party 2017, p. 41). Labour had a heading of *Justice*, which contained access to justice issues united under the idea of making “Britain a fair society with liberties for all, governed by the rule of law, and in which the law is enforced equally” (Labour Party 2017, p. 80). The primary concern was that justice was increasingly inaccessible for the many:

Justice today has become the preserve of the rich. Budget cuts mean that thousands are deprived of fair resolutions. Justice is eroded by the poor decisions of privatised assessments, by the withdrawal of legal aid, by the removal of appeal rights, by the delays arising from overcrowded courts and by the costs of fees. (Labour Party 2017, p. 80)

The reduction in accessibility of legal aid was an important part of this. The party identified the problems of eligibility:

Eligibility for legal aid has been withdrawn across a whole range of areas. This has had disturbing consequences for the delivery of justice. (Labour Party 2017, p. 80)

Legal aid was highlighted as important for access to justice. The party pledged to “review the legal aid means tests, including the capital test for those on income-related benefits” (Labour Party 2017, p. 80). Labour also noted that it would “consider the reinstatement of other legal aid entitlements” (Labour Party 2017, p. 81), subject to the final recommendations of the Bach Commission (2017) on behalf of the Fabian Society (which would advocate for a right for justice). This was more reform, albeit now prioritising access to justice over efficiency concerns. Their overall offering, a radical left-wing programme under the leadership of Jeremy Corbyn provided a rupture to the neoliberal consensus: a more *utopian* social democratic offering as the country moved forward to Brexit (Byrne 2019). This manifesto has been claimed as the most-left wing since 1992 – before the Blair project (Allen and Bara 2019). The markedly different priorities of Labour were not enough to win the election but surprised most commentators by leading to a hung parliament in which the Conservatives were only able to form a government on a confidence and supply arrangement with the Democratic Unionist Party (Dorey 2017).

The 2019 election would also occur under the shadow of Brexit, as the parties competed for how the UK would look on finally leaving. For 2019, the Conservatives included the heading, *Protect our democracy* (Conservative and Unionist Party 2019). Here, the Conservatives promoted improvements to access to justice as part of a broader post-Brexit realignment of the state:

After Brexit we also need to look at the broader aspects of our constitution: the relationship between the Government, Parliament and the courts; the functioning of the Royal Prerogative; the role of the House of Lords; and access to justice for ordinary people. (Conservative and Unionist Party 2019, p. 48)

The needs of ordinary people were highlighted considering the new constitutional settlement that would be developed after leaving the European Union. There was no mention of legal aid but discussion of updating human rights and providing access to judicial review. The Labour manifesto again had a section on *Justice*, which included a halt to court closures and funding for probation alongside discussion of legal aid, lawyers and Law Centres:

Legal aid cuts mean essential legal help is too often denied. To help people enforce their rights, we will restore all early legal aid advice, including for housing, social security, family and immigration cases.

We will recruit hundreds of new community lawyers, promote public legal education and build an expanded network of Law Centres.

We will ensure legal aid for inquests into deaths in state custody and the preparation of judicial review cases. We will consult on the civil legal aid means-test levels and act on the criminal legal aid review. (Labour Party 2019, p. 47)

Early advice would be restored in social welfare law, and changes to eligibility as well as more lawyers encouraged in the community. Again, this meant more reform promised but in a way that increased the provision of publicly funded legal services to work in favour of access to justice. In this election, also under Corbyn, the ideological difference between Conservatives and Labour was said to be more pronounced again – extending the leftward shift of Labour from 2017 (Allen and Bara 2021). The divergent Labour offering would not prove as popular this time with a large Conservative victory, which can be identified as a win for neoliberalism over resurgent social democracy in part brought about by the populism unleashed from the Brexit vote (Gough 2020). The Conservative promise of a clean break from the European Union would outweigh Labour’s broader social policy offering (Cooper and Cooper 2020). The UK would leave the European Union in 2020, the same year that Corbyn would step down as Labour leader and be replaced by Kier Starmer. This shift to Starmer – the Starmer project as an authoritarian approach to politics – has been described as *a journey to the right* (Eagleton 2022).

The 2024 election

The 2024 manifestos were offered within the neoliberal era. The vision of the two leading candidates for Prime Minister was said to be largely similar – both rooted in the same “ruined economic and political model... of greater austerity” (Chakraborty 2024a). Though Starmer explicitly denied Labour would return the country to austerity, he also refused to rule out cutting public services (Medlicott 2024). As such, his party’s approach tacitly accepted existing spending plans that involved cuts – meaning austerity was *baked in* (Fisher 2024). The Institute for Government (2024) suggested that Labour, like the Conservatives, *ducked* the important questions on funding public services in their manifesto making cuts inevitable but unarticulated. Having assessed both manifestos, the Institute for Fiscal Studies claimed the parties were both partaking in a “conspiracy of silence” on the cuts they would both need to embark on due to the minimal attempts to raise taxes to support the growth of the state (Boileau *et al.* 2024). During the campaign, then, the two

parties were called out as being complicit in creating a *monoculture* for voters (Malik 2024). Labour was described as “formerly social democratic”, with the two parties again melded together in a new “age of consensus” (Edgerton 2024).

In their manifesto, the Conservatives had a section titled, *Our plan for safer streets and justice for victims of crime*, which set out their justice policies (Conservative and Unionist Party 2024). There was a major focus on prioritising victims, and a particular concern with countering supposed extremism. The approach to justice was centred on reducing crime, leading with policies primed to increase police, toughen sentences and build prisons. Legal aid was mentioned twice, both times within this narrative – rather than, for example, looking at defendant rights in the criminal justice system or in terms of advice in the civil justice system. Legal aid was to be continued to provide access to justice as part of a wider promise to reduce the suggested impact of the pandemic in slowing down the justice system:

We will cut the Covid court backlog by keeping open Nightingale courtrooms, funding sitting days and investing in court maintenance. And we will continue to digitise court processes and expand the use of remote hearings. We will match fund 100 criminal law pupillages to speed up justice for victims and will continue to ensure access to justice through legal aid provision. (Conservative and Unionist Party 2024, p. 46)

The court backlog, most notably a topic of discussion in relation to the criminal courts, had been attributed by preceding Conservative governments as being caused by the lockdowns of Covid-19 (Quinn 2021), though more accurately the pandemic only added to the problems caused by chronic underfunding to the system through austerity (Godfrey *et al.* 2022). The Conservatives had been pushing to reduce the backlog as part of a neoliberal tough on crime focus, “to get victims the justice they deserve and put more offenders behind bars” (Huskisson 2024). The neoliberal approach to crime was always at the forefront: this was about victims, particularly of crime, with a special emphasis on making people feel worried by the apparent threat of protest – which had increased in recent years with the cost of living crisis, increased attention given to the climate emergency and Israel’s invasion of Gaza. The manifesto linked protest with criminality. Within this framing, the party even promised to increase the provision of legal aid when it impacted victims:

We will expand the provision of legal aid at inquests related to major incidents where the Independent Public Advocate is appointed or in the aftermath of terrorist incidents. (Conservative and Unionist Party 2024, p. 45)

This increase in legal aid, then, was specific to the victim narrative and operates within the foregrounding of a terrorist threat that flows from the moral panic being created around protest.

The Labour manifesto had a section on justice under the heading of *Take Back our Streets* (Labour Party 2024). The focus was on policing and prison,

with drives to tackle anti-social behaviour and knife crime. The language of the title and the content of this part of the document was like the Conservatives, framing discussion in the neoliberal hardline approach on crime. They also wanted to decrease the court backlog, this time with reforms to prosecution. There was also no discussion of access to justice for defendants or of the advice sector but Labour had one mention of legal aid. As with the Conservatives, legal aid was related to victims:

Labour will introduce a ‘Hillsborough Law’ which will place a legal duty of candour on public servants and authorities, and provide legal aid for victims of disasters or state related deaths. (Labour Party 2024, p. 23)

Both parties, then, offered limited support for legal aid albeit specifically restricted to bolstering victims in these narrow applications and without any notion of expanding the wider scheme to meet the mass of everyday (often, unmet) legal need. The context for the Labour provision of legal aid was in the realm of reacting to *historical injustice*, a brief diversion from the overall crime-oriented offering. This reference came at the end of the section and was immediately followed by a summary that pitched the Labour offering as grounded in constructing a tougher criminal justice system that would prioritise clamping down on criminals.

Labour won the 2024 general election with a landslide victory, only just short of the number of seats Blair won in 1997, though they were far behind on vote share, which was even less than the 2017 defeat under Corbyn. While the number of votes was less than in 2019, Labour won 412 seats, consigning the Conservatives to their worst ever general election result, which led to a record 11 government ministers losing their seats. The victory made Starmer the first Labour Prime Minister since Gordon Brown left office in 2010 with five Conservative Prime Ministers occupying the office in the time between. Over that time, legal aid has struggled, most notably with the ill-effects of the austerity introduced by the coalition government. The reality, though, is that legal aid was in decline under the previous *New Labour* administration also. So the question remains, whether this Labour government would continue the deterioration of legal aid or whether there might be change – *change*, more broadly, was the tagline of Labour’s 2024 general election campaign (Stewart 2024). However, whether change in policy rather than just party would come was unsure.

Indeed, as Pike (2024) noted, Starmer seemed to lack a vision for what his part would do distinct from the *New Labour* of Blair. Rather than offering a fresh direction, he was pitched as the *heir to Blair* (Independent 2024). This could be seen in terms of personnel and how, for example, despite the huge number of new MPs, the party elevated *New Labour* figures such as Jacqui Smith (heavily embroiled in the 2009 MP expenses scandal) into ministerial teams via the House of Lords (Francis 2024b). But it was also a legacy

present in terms of policy as Labour would offer the state out to private investment from big business, as Blair had developed in the Private Finance Initiative, a neoliberal approach to public services promoting marketisation (Wickham *et al.* 2024). The party signified such intent in the early appointment of Alan Milburn, the former Labour MP who had been responsible for driving through the Private Finance Initiative into the NHS during the Blair era (later an adviser to private health care firms) to support the new Secretary of State for Health and Social Care's plans for healthcare reform (Turner 2024).

Starmer was to become the next Blair – both winning an election for Labour but also doing so through developing an approach that shifted the party away from progressive politics of redistribution (Seddon 2024). His manifesto was noted as showing a drift (back) to the right after Corbyn, not least over how “business” was mentioned 60 times while “inequality” only garnered one usage (Chakraborty 2024b). As such, Starmer, has been taken as reacting against the radical socialism of his predecessor that was defeated at election by reshaping the party in a neo-Blairist image (Murray 2022). While some characterised this approach as restructuring the party into *Red Tories* (the replacement of the traditionally blue Conservative colours by the notionally red Labour for the same package of ideas), Niven (2024) labelled it as *grey labour* – an unambitious acceptance of the neoliberal condition. Starmer's Labour party can be seen to conform to dominant neoliberal rules in their approach (Johnson *et al.* 2024). They eschew obvious recourse to contrasting social democratic values in the way that Corbyn appealed to socialism – which were more idealistic visions for a new society in the spirit of Labour's 1945 offering. Instead, they present a superficially depoliticised approach to substantive matters of policy that tacitly endorses the status quo. However, while Starmer's politics are less radical than Corbyn's, arguments have been made that they could be understood as reforming neoliberalism (Webb 2023). Some of his earlier appointments around justice, such as Richard Hermer as attorney general (Fouzder 2024a), and James Timpson as prisoners minister (Hattenstone 2024), both given peerages to use their supposed more progressive views on justice from their expertise outside parliament, hint that Starmer may be less authoritarian than expected by his hardline approach taken on issues such as the 2011 English Riots as Director of Public Prosecutions (Francis 2024a). The manifesto they were elected on was cited as “quietly radical” with the hope being that such radicalism might reveal itself once the party were in government (Eaton 2024). While it is less obvious and more underappreciated than advocating for wealth redistribution as did his antecedent, the line that Starmer is more low-key anti-neoliberal suggests that through constitutional reform and the empowerment of community anchors, the current economic orthodoxy of the neoliberal model would be challenged. However, there were efforts to dampen down even modest expectations of more radical reforms to the orthodoxy they inherited (Maguire 2024).

In their first budget, Labour did raise up to £40 billion of taxes with a promise to reverse the decline in UK public services (Partington and Elgot 2024). However, the institute for Fiscal Studies suggested that “an extra £9 billion of tax rises would be needed to avoid a fresh austerity drive in key public services” (Partington 2024). And there was no mention of legal aid at all although, shortly after, there was movement. An extra £3 million was added to police station and youth court fees on top of the £21 million committed by the previous government to criminal work (Fouzder 2024b). However, this modest funding increase was still short of the that advised by the Bellamy Review, over which the last government had been defeated at court for failing to properly implement its recommendations (Fouzder 2024c). And there was a 10% increase announced to immigration and housing fees – the first rise for civil legal aid fees in three decades, following the Review of Civil Legal Aid commissioned by the previous government (Rose 2024). However, it should be noted that the immigration fees were presented in the context of clearing the asylum backlog against a dog-whistle racist speech from Starmer bemoaning an “open borders experiment” from the previous government rather than promoting access to justice (Syal 2024), while there were concerns from the sector that the increases did not go far enough to make up for years of neglect (Fouzder 2024d). Other areas of civil legal aid would require further consultation but, in the meantime, while these moves may help sustain parts of the sector at their present, reduced, states, they are unlikely to increase recruitment or retention nor offer long term sustainability. As one practitioner put it, the move “doesn’t even touch the sides in terms of the changes needed” (Ames 2024).

Conclusion

This paper has considered where legal aid, as part of access to justice policy, has come from – the rise and fall, as it passes across two eras of social democratic and neoliberal politics. The absence of legal aid from a manifesto is as important as the presence. Reading these documents through the narrative of social democracy versus neoliberalism allows for an appreciation of how there are lessons to be learnt from what is said as much as what is not said about legal aid – it all speaks to broader political trends. There are questions that can be pursued by scholars picking up the political treatment of legal aid in these manifestos. Is this trajectory cyclical or linear? Does commitment to legal aid wax and wane according to the parties or is it on a steady march to oblivion? And if the latest manifesto is a damp squib, why is that? Does this suggest anything about what kind of future can be expected for legal aid?

There are numerous accounts into the debased and depleted state of access to justice in England and Wales in the twenty-first century from the ideal of the legal aid system as introduced after the second world war, including noting

the struggles in civil justice (Robins and Newman 2021), criminal justice (Thornton 2023), and family justice (Mant 2022). Legal aid has suffered such that the workforce has reached a state of crisis (Denvir *et al.* 2023). In the decade previous to the 2024 election, there had been a £728mn real-term reduction in legal aid spending causing the National Audit Office (2024) to urge more attention from government be given to securing the sustainability of the legal aid sector. The 2024 election took place against a background in which whole parts of that sector, such as housing (Swindells 2024), or immigration (Siddique 2023), were reported as under severe threat. With Labour's victory, it is uncertain whether neoliberalism is in the ascendancy such that governments continue the diminution of legal aid, or whether access to justice might be protected through a challenge to neoliberal orthodoxy that values legal aid in more than economic terms. And, in line with Goriely's (1994) key text on access to justice in policy, we must understand legal aid in tandem with the wider welfare state. While austerity, under the Conservatives was said to have broken the welfare state, Labour's offering has been dismissed as a sticking plaster rather than providing any ambition to fix it (Monbiot *et al.* 2024). The Nuffield Trust, for example, suggested that the plans for the NHS "would result in the next four years being the tightest in NHS history under the Conservative and Labour pledges – tighter even than the coalition government's 'austerity' period" (Gainsbury 2024). Against such a background, it can be expected that neither party made an offer that would provide the support to legal aid needed to help promote access to justice. Those who would champion access to justice need reflect on whether and how they can put the issue back onto the political agenda considering the continued lack of substantial support from the major parties. If a political party led by a former human rights lawyer – as with Labour in 2024 – does not foreground legal aid, what are the prospects for access to justice moving forward?

Further research in general election manifestos could broaden the scope of this paper to give complimentary insight into the place of legal aid in UK politics. There could be a wider range of parties considered. This paper has looked at the two largest parties in Westminster, whom have led every government over the period, as a readily justifiable and relevant sample. Greater breadth of understanding could be developed by considering more political parties, though due to the numerous and changing nature of the other parties on offer to the electorate, such research would need to carefully establish a selection criteria.⁴ It could also be beneficial to extend the remit to include more of the manifestos under consideration. This paper has focused on that material relating directly to legal aid to allow for a tight data set and coherent analysis. Looking in more detail at wider legal content, such as the frequent criminal justice policies, but also the broader social welfare, housing and immigration offerings amongst which law and justice operate could give added content, though it will need to be managed in a way that ensures the legal is still

discernable considering the relative minority of these document that directly touch on access to justice issues. In another study, there may also be merit in expanding the scope of party communication on these issues. This paper has concentrated on manifestos to offer a discrete historical record, recognisable and readily usable. Political communication goes wider than these documents to include debates in parliament, written statements, campaign appearances, interviews and briefings in the media, though care must be taken to ensure that the diffuse nature of these sources can be collected into a representative illustration. Hopefully, others will follow this paper and enhance the knowledge it provides on UK politics for our understanding of where legal aid is, how it has got here and where it might be going.

Notes

1. Northern Ireland and Scotland have their own legal – and legal aid – systems so the Northern Ireland Assembly and Scottish Parliament are not considered here. Wales has its own parliament – the Senedd – but currently justice is a reserved matter so legal aid is managed at the UK parliament level in Westminster.
2. This has included one formal coalition between the Conservatives and Liberal Democrats in 2010, as well as a confidence and supply arrangement between the Conservatives and the Democratic Unionist Party in 2017, and a minority Labour government after the first general election of 1974. But in most cases the victorious party has governed with a majority.
3. The manifestos are all available online. Those from the twentieth century are typically reproductions – lacking the original pagination. Those from the twenty-first century are available scanned or in their electronically released forms thus contain their original pagination.
4. Even thinking of parties that have been represented at Westminster over the period there can be complications. Some parties have been consistent since their formation, such as Plaid Cymru (albeit it with small variations to their name). But others have more complicated histories such as the Social Democratic Party and the Liberal Party who merged into what, today, is the Liberal Democrats but left continuity parties being formed (and reformed) using the original names.

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