



Setting the Terms of the Debate: The Ethics of Strategic Framing in Political Advocacy Campaigns

For several hundred years, anti-death penalty advocates in the United States argued that death penalty was morally wrong, did not deter crime, and was racist in its application. These efforts, by and large, failed. Even after the Supreme Court suspended executions in 1972, public opinion in favor of capital punishment rose and the practice returned several years later. In the late 1990s, many advocates changed their approach. These advocates decided the way to succeed was not to talk about the punishment but rather the process that led to the punishment - whether or not trials were fair and innocent people were being sentenced to death. The new approach has been by and large successful (Baumgartner, De Boef and Boydston, 2008). But the underlying moral questions about capital punishment, whether or not it deters crime, and the role race plays in America's criminal justice system were largely ignored. The advocates persuaded legislators in several states to abolish the death penalty and restrict its use in other states, got Congress to tighten federal death penalty rules, and generally drove down its use. But in doing so, they failed to address the roots of capital punishment. This tradeoff was intentional - and ethically loaded.



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Most issues can be considered from a variety of angles at once. But we tend to only consider one or two angles at a time when making a decision. The ways in which advocates, political leaders, and the media talk about issues tends to be how the public thinks about issues - which in turn helps determine how advocates, political leaders, and the media talk about them. How an issue is discussed determines the range of policies considered to deal with it, and the likely outcome of debates over those policies. This “aboutness” is often referred to as policy framing (see for example Baumgartner & Jones 1991; Baumgartner & Jones 2009; Jones 1994). For example, if a debate about expanding an airport runway is framed as protecting an endangered frog versus promoting economic development, the frogs will probably lose. But if it is framed as increasing traffic versus profits for airlines, then airlines (and the runway they want) will probably lose. Expanding the runway may be about all of these things and more, but we only focus a few pieces at a time. And people hate traffic more than they like frogs, so smart advocates who want to stop the runway will focus on traffic. Having won the debate with a focus on traffic, it will be hard to get anyone's attention about frogs - after all the runway was stopped and there are other pressing issues clamoring for everyone's attention.

Advocates consider a lot of factors when choosing which frames to use. For example, they need to think about which frame best reflects their values, which are most likely to work, and which are the most likely to set up future success. Frames that reflect the motives of advocates may be more true to an organization's values but may be less likely to succeed (for example,



environmentalists may want to talk about frogs, even if those who need persuading care more about traffic). Frames that focus exclusively on an immediate policy win may advance issues at the expense of an organization's values or other policy wins – only talking about traffic and not talking about frogs misses an opportunity to raise important environmental issues and may make other debates about other environmental issues tougher to win.

Criminal justice policy is one of the most important issues our nation faces. Keeping communities safe, treating people fairly and ensuring justice is truly blind, all within the bounds of government budgets and while accounting for what people feel are moral imperatives or limits of punishment, is extremely complicated. The task is made all the more difficult by America's long history of laws enforced (and sometimes enacted) in ways that disproportionately impact people of color (The Sentencing Project, n.d.).

One approach to promoting criminal justice policy change is to focus on fair and successful law enforcement, while not talking about the reasons the laws were created in the first place. Another approach is to focus on the logic of the laws and the underlying reasons the laws may be applied unfairly. Yet another approach focuses on the causes of crime and deals with those. The first assumes an unjust law can be made to work well and accurately, the second assumes that whether or not a law "works" is less important than an unjust system of which the law is a part and that real success can only be achieved by getting to root causes. The third assumes the reasons people break laws matters more than what happens once a law is broken (there are a lot of other approaches as well, but this is a short piece so we'll stick with three big ones). The approaches are not exclusive, of course, and every campaign can have multiple messages or approaches. But the most successful advocacy campaigns find a single frame and stick with it. They say "this seemingly complicated policy problem really is about this one simple thing, if we address that one thing we will go a long way toward solving the problem." That's the kind of message we all want to hear – "this one simple trick will make staying healthy easy!"

The challenge is this: choosing a frame involves tradeoffs. Immediate policy change prioritizes immediate wins potentially at the expense of long term, systemic reform. Systemic reform may allow bad policies to continue in the short term to achieve long term, broader, success. A focus on causes rather than consequences may risk leaving out questions of law enforcement altogether. If one of these approaches achieves its policy goal, the debate over the other issues will be difficult to engage - policymakers don't want to keep tackling the same problem.

Appeals to the cost-effectiveness of criminal justice policy and to the general fairness of the system may be more successful than appeals to racial disparities. For example, one study found "message frames that appeal to a respondent's self-interest or emphasize the unfairness of the punishment (not who is punished) tend to be most effective" (Gottlieb, 2017). The author found "respondents who were exposed to the message frames emphasizing racial disparities in incarceration and the character of offenders were both significantly less likely to support the reform proposal than were individuals exposed to the financial costs frame" (Gottlieb, 2017).

However, as *Washington Post* opinion writer Radley Balko put it, "much of the criminal-justice system was built, honed and firmly established during the Jim Crow era...The modern criminal-



justice system helped preserve racial order — it kept black people in their place. For much of the early 20th century, in some parts of the country, that was its primary function.” As Balko notes, “It means that we have systems and institutions that produce racially disparate outcomes, regardless of the intentions of the people who work within them” (Balko, 2018; see also Remnick, 2020).

Focusing on cost-effectiveness and fairness may be more persuasive to policymakers than other appeals, but these may miss a larger and more important point. In the words of civil rights advocate and attorney Michelle Alexander, the author of *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, when it comes to criminal justice reform “we have to make sure that we’re not simply addressing symptoms rather than underlying causes. True progress depends on us caring and demonstrating care, compassion, and concern for poor people, and people of color, and being willing to invest in their well-being and their health and their education and their thriving rather than simply in their punishment and in their control.” She further writes that “meaningful criminal-justice reform requires...viewing criminal-justice reform through a racial-justice lens” (Alexander, 2020).

Advocates who frame criminal justice reform as policy change, such as reforming qualified immunity or civil asset forfeiture, may achieve more immediate policy success. But this success may fail to address underlying racism in the system. Advocates who frame reform as addressing systemic racism may not change as many policies, but they may be addressing deeper and more important issues.

These are not abstract debates. The death penalty is about people’s lives. Criminal justice impacts people and entire communities every day. The pluses and minuses have names and families. A long-term approach may be more difficult and less likely to succeed, but it help many more people if it works - but at the expense of real people right now. A short-term approach may be easier and have a greater chance of success - but potentially at the expense of more lives in the future. As human rights advocate Elisa Massimino wrote, “if you never wake up in the middle of the night in a cold sweat worrying that you’re making the wrong trade-offs, it’s a pretty good sign that you’re not in the game” (Massimino, 2020).

Questions for Discussion:

1. Should advocates focus on immediate wins, long term solutions, or find ways to do both?
2. If the people you need to persuade will likely respond badly to arguments about race, but react sympathetically to arguments about funding, should you only talk about funding, or do you have an obligation to bring up issues of race?
3. By focusing on policies that attempt to fix or improve the system, are you making it more difficult to get other, structural reforms?
4. What ethical guidelines, or limits, do you see in the arena of political advocacy? Is it a matter of standing for what’s right, or what’s reasonable to accomplish?



Further Reading:

Alexander, Michelle (2020). *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (10th Anniversary Edition). The New Press.

Balko, Radley (Sept. 18, 2018) "There's overwhelming evidence that the criminal-justice system is racist. Here's the proof." *Washington Post*. Available at: <https://www.washingtonpost.com/news/opinions/wp/2018/09/18/theres-overwhelming-evidence-that-the-criminal-justice-system-is-racist-heres-the-proof/>

Baumgartner, Frank R., Suzanna L. De Boef and Amber E. Boydston. (2008). *The Decline of the Death Penalty and the Discovery of Innocence*. New York: Cambridge University Press.

Baumgartner, Frank R. and Bryan D. Jones (Nov. 1991) "Agenda Dynamics and Policy Subsystems" *Journal of Politics* Vol. 53, No. 4 pp 1044 - 1074.

Baumgartner, Frank R. and Bryan D. Jones (2009). *Agendas and Instability in American Politics* (2nd ed.). Chicago: University of Chicago Press.

Gottlieb, Aaron. (January 1, 2017). "The Effect of Message Frames on Public Attitudes Toward Criminal Justice Reform for Nonviolent Offenses." Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5606148/>

Jones, Bryan D. (April, 1994). "A Change of Mind or a Change of Focus: A theory of choice reversals in political" *Journal of Public Administration Research and Theory*. Vol. 4. No. 2 pp. 141-178.

Massimino, Elisa (2020). "Goalposts and Guardrails: A mixed-metaphor guide to ethics in advocacy campaigns." In *Political Communication Ethics: Theory and Practice* (ed. Peter Loge) Rowman & Littlefield.

Remnick, David. (Jan 17, 2020) "Ten Years After 'The New Jim Crow.'" *New Yorker*. Available at: <https://www.newyorker.com/news/the-new-yorker-interview/ten-years-after-the-new-jim-crow>

The Sentencing Project (n.d.) <https://www.sentencingproject.org/issues/racial-disparity/> (accessed July 26, 2020)

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