

## *Private Prisons in Public Discourse: Measuring Moral Legitimacy*

The Faculty of Oregon State University has made this article openly available.  
Please share how this access benefits you. Your story matters.

<b>Citation</b>	Burkhardt, B. C. (2014). Private Prisons in Public Discourse: Measuring Moral Legitimacy. <i>Sociological Focus</i> , 47(4), 279-298. doi:10.1080/00380237.2014.940264
<b>DOI</b>	10.1080/00380237.2014.940264
<b>Publisher</b>	Taylor & Francis
<b>Version</b>	Accepted Manuscript
<b>Terms of Use</b>	<a href="http://cdss.library.oregonstate.edu/sa-termsfuse">http://cdss.library.oregonstate.edu/sa-termsfuse</a>

## Private Prisons in Public Discourse: Measuring Moral Legitimacy

**Abstract:** *New policies require legitimacy to survive. Prison privatization represents a policy challenged by initial perceptions of illegitimacy. In the 1980s, governments began to allow private firms to run correctional facilities, thereby shifting an inherently coercive, traditionally governmental function—incarceration—to the private sector. With data from 706 articles in four major American newspapers spanning 24 years, this article uses the concept of diversionary reframing (Freudenburg and Alario 2007) to measure and track the moral legitimacy of prison privatization across time and place. Findings suggest that initially high levels of moral legitimacy facilitated some states' adoption of private prisons, while initially low levels of moral legitimacy stunted the growth of prison privatization in other states. The article thus presents a novel way of measuring moral legitimacy, demonstrates how the concept may be used to help explain controversial public policy changes, and documents the cultural content of private prison debates in the United States.*

## Private Prisons in Public Discourse: Measuring Moral Legitimacy

For most of the 20<sup>th</sup> century, incarceration in the United States was the sole responsibility of government, whether at the federal, state, or local level. In the 1980s, a movement to allow private firms to imprison charged or convicted persons arrived on the corrections scene, presenting itself as an alternative or a supplement to the governmental monopoly on incarceration (Feeley 2002). Private operation of prisons (or other correctional facilities) happens through a contractual arrangement in which a private firm (for-profit or not-for-profit) takes over full operational responsibility for a correctional facility and in exchange is paid by the government, typically on a per-inmate per-day basis (Harding 1997; Logan 1990).

The long-term prospects for such correctional contracting were not guaranteed at the outset. Like other new and controversial practices, prison privatization depended on some degree of legitimacy (Dowling and Pfeffer 1975; Meyer and Rowan 1977; Suchman 1995). One particular type of legitimacy, *moral legitimacy* refers specifically to the congruence between a practice and prevailing cultural norms of propriety (Suchman 1995). In short, a practice is morally legitimate if observers view it as "the right thing to do" (Suchman 1995: 579).

Prison privatization, in which a private entity takes over the role of jailer, has faced numerous challenges to its moral legitimacy. Critics argue that incarceration is a core governmental responsibility, one that cannot be appropriately turned over to private actors (e.g., Moe 1987; Schwartz and Nurge 2004; Walt and Hughes 1996). Opponents also take issue with the symbolism involved in private actors meting out justice, suggesting that it will diminish respect for the legal system (e.g., DiIulio 1988; Kettl and Winnick 1995). Still others argue that the profit motive is incompatible with justice and will introduce private incentives to increase demand for prisons (e.g., Hirsley 1985; Stinebaker 1995).

This study tracks the co-evolution of prison privatization and its moral legitimacy in the United States. The analysis is based on a novel measure of moral legitimacy, which assumes that moral legitimacy can

best be seen through silence; that is, morally legitimate practices are those whose moral foundations are not questioned. By analyzing four major American newspapers' coverage of prison privatization over 24 years, the article shows that public discourse on prison privatization initially raised concerns about whether private imprisonment was "the right thing to do." However, such concerns became increasingly inconsequential as the focus of public discourse was diverted almost entirely to instrumental concerns about the performance of private prisons. This *diversionary reframing* (Freudenburg and Alario 2007) of the issue relegated matters of morality and ethics to the periphery of public discourse, thereby bolstering the moral legitimacy of prison privatization. The diminishing concern for morality fostered an environment in which further privatization was less objectionable to initially skeptical policymakers and the public. Disaggregating the data, the analysis further suggests that initially high levels of moral legitimacy facilitated some states' adoption of private prisons, while initially low levels of moral legitimacy in other states stunted the growth of prison privatization. The paper makes three contributions. First, it offers a general method for measuring moral legitimacy in news coverage, drawing on concepts from the sociological literature on framing. Second, it uses this measure to demonstrate the utility of the moral legitimacy concept in understanding a controversial public policy change—in this case, prison privatization. Third, the results add depth to existing knowledge about the emergence and growth of the private prison industry in the U.S. by incorporating the cultural content of public discourse. The paper begins with a discussion of relevant sociological research on moral legitimacy and framing. It then offers a brief description of the history of prison privatization in the U.S. and describes challenges to the moral legitimacy of private prisons. After presenting the data, measures, and analytic methods, the paper presents results and then concludes by discussing the implications of the findings.

### **On Legitimacy**

New practices often face cultural challenges. New economic industries are criticized (e.g., Quinn 2008), new public policies are challenged (e.g., Wallner 2008), new forms of authority are questioned (e.g.,

Tyler, Shulhofer, and Huq 2010), and new organizational forms are attacked (e.g., Suddaby and Greenwood 2005). In order to persist, they must achieve some degree of legitimacy (Aldrich and Fiol 1994; Strang and Bradburn 2001). In an influential theoretical article, Suchman (1995: 574) defined *legitimacy* as "a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions." Legitimacy relies on congruence between the practice itself and the shared beliefs of a social group that observes it (Suchman 1995). One type of legitimacy is *moral legitimacy*: consent or support for a practice based on norms of appropriateness. An action has moral legitimacy if observers view it as consistent with beliefs about what *should* be done. Thus, an action is morally legitimate if it is seen as "the right thing to do" (Suchman 1995: 579). The concept of moral legitimacy suggests that the success of a practice hinges, in part, on how well it aligns with cultural beliefs about proper behaviors and relations.

Moral (il)legitimacy provides an avenue for opposing a controversial practice. This has implications in a number of policy areas (Mooney 1999), including criminal justice. Mauer (2001) has written that "instrumental considerations such as cost-benefit are but one component in the development of criminal justice policy" (16); another component is moral propriety (also see Dolovich 2009; Garland 1990). For example, opposition to the death penalty may be based on the inherent (im)morality of state killing or on its application in practice (e.g., the prevalence of post-sentencing exonerations or racial bias) (Garland 2002, esp. 460-64; also see Sasson 2004). Garland (1990) has written that a cultural distaste for immediate and visible physical pain have kept corporal punishment off the policy table. It has also influenced policies of state executions in the U.S., with lethal injection being the preferred method for the supposed lack of suffering inflicted on those executed (Garland 1990, 2010). Like these other punishment policies, conflicting beliefs about the propriety of prison privatization have led some to characterize it in public debates as a morally illegitimate practice.

## Frames, Diversion, and Legitimacy

The present research draws on sociological literature on framing to develop a novel way of measuring moral legitimacy that is derived from public discourse. Gamson and Modigliani (1987) defined a frame as "a central organizing idea or story line that provides meaning to an unfolding strip of events...The frame suggests what the controversy is about, the essence of the issue" (143). Frames do not necessarily imply a position on an issue (Ferree, Gamson, Gerhards, and Rucht 2002). Opposing camps may employ the same frames to support their position, making claims on a common terrain of debate. However, opponents may instead employ different frames and attempt to settle the terms of the debate in a way that they deem most favorable.

The strategic selection of frames by partisans led Freudenberg and Alario (2007) to call for closer examination of *diversionary reframing*. The essence of this concept is that attention to one frame deflects attention from another frame. There are a finite set of frames that will resonate with the public, and the task of self-interested parties in a public debate is to bring their frames to the forefront. Doing so successfully forces all parties engaged in the debate to do ideological battle on a terrain that favors the successful diverter.<sup>1</sup> Importantly, diversionary reframing has implications for legitimacy. Freudenberg and Alario (2007) wrote that legitimation "may be achieved most efficiently by keeping public attention focused on other topics" (147): that is, by *not* discussing the legitimacy of a practice or policy. The implication is that a practice need not be affirmatively legitimized in order to be viewed as legitimate; rather, what is important is that its legitimacy not be called into question.

According to the logic of diversionary reframing, what is crucial for moral legitimacy is a lack of discussion of morality. When a practice is accepted as being in line with norms of appropriateness, this fact need not be a topic of conversation. Conversely, when there are differing views on the propriety of a practice, opposing camps will debate its propriety. A practice is morally legitimate, then, to the extent that it is framed

in public discourse as something *other* than a moral issue. To be clear, the claim here is not that moral illegitimacy leads to public discussion. The degree to which a potentially illegitimate practice appears in the news (or other forum) is heavily influenced by external factors, including social movement mobilization (Andrews and Caren 2010). The claim here is rather that, conditional on being discussed at all, discourse on morally illegitimate practices will tend to frame the practice in moral terms.

### **The Case of Prison Privatization**

Private prisons emerged in the 1980s in the midst of an ascendant market-oriented political philosophy and increasing incarceration rates. Governments at all levels increasingly sought opportunities for contracting with the private sector to provide goods and services (Chi and Jasper 1998; Fixler, Poole, and Scarlett 1989; President's Private Sector Survey on Cost Control 1983). At this time, contracting was typically limited to services that were not deemed to be core functions of government, including custodial service, garbage disposal, facility maintenance, and information technology (Auger 1999; Camp and Camp 1984). Incarceration rates were also beginning to rise in the 1980s, starting a trend that would continue for nearly 30 years (Blumstein and Beck 1999; Bureau of Justice Statistics 2011).

In this fertile soil of fiscal conservatism and punitiveness, the roots of prison privatization took hold.<sup>2</sup> Reports from the Bureau of Justice Statistics show that the total number of private correctional facilities used by state and federal authorities grew from 67 in 1990 to 415 in 2005 (Stephan 1997, 2008; Stephan and Karberg 2003). By 2005 all but five states had some form of private correctional facility, and roughly seven percent (108,000) of the nation's inmates were held privately (Stephan 2008). At the local level, the number of private jails grew from 17 in 1993 to 47 in 1999 (Stephan 2001). At the federal level, private detention of immigrants has become especially commonplace. In 2009, 14 private detention centers held 27 percent of the detained immigrant population in the country (Schriro 2009; also see Mason 2012).

### **Questioning the Moral Legitimacy of Prison Privatization**

The sustained growth of prison privatization was not guaranteed at the outset. From the early days, opponents attempted to organize debate around a *Morality frame* that would call attention to the inherent (im)propriety of private imprisonment. This frame focused on the nature of imprisonment and the question of whether contracting it out to the private sector was "the right thing to do". Critiques employing the Morality frame came in three forms. First, some critics asserted the inherently governmental nature of imprisonment. For example, a *Los Angeles Times* editorial wrote, "[W]e urge the county not to relinquish its responsibility to enforce society's laws" (*Los Angeles Times* Editorial Staff 1988: 2), arguing that government bears a unique responsibility for law enforcement and punishment. Similarly, one District Attorney in Texas argued that "government ought to be the ones involved in punishing offenders. It's government's rules, governments ought to be the ones to handle it" (Walt and Hughes 1996: 1).

A second form of criticism viewed prison privatization as a threat to the legitimacy (in a non-technical sense) of the criminal justice system. One critic wrote, "As a matter of symbolism and public policy, it may well weaken the integrity of the criminal-justice system when an inmate looks at his keeper's uniform and, instead of seeing Department of Corrections, sees Acme Corrections Company" (Robbins 1989: 30). Another privatization skeptic remarked that "justice is not a service, it's a condition, an idea...It's not like garbage collection" (Tolchin 1985: 17). Similarly, a *New York Times* op-ed argued that the "efficacy [of the criminal justice system] is measured by how it metes out justice, not by cost economies" (Kettl and Winnick 1995: 15).

Other opponents voiced a third critique, which took aim at the profit motive often involved in contracting for incarceration. One Democratic state senator from Tennessee argued that if the state contracted out its prison management, "the top priority goals of the prison system then become high occupancy and profit, and that is wrong" (Hirsley 1985: 3). This sentiment was echoed by another opponent who complained that "their [private prisons] goal is not to protect the citizens of the county...Their goal is to



make money for the company, for the investors" (Stinebaker 1995: 1). Each of these examples, although emphasizing different points, tries to make the claim that private operation of prisons is not "the right thing to do".<sup>3</sup>

Counterposed against this discourse about morality is a discourse employing an *Instrumental frame* (Lindemann 2009), which focuses attention instead on the expected or actual performance of private prisons on various criteria. Perhaps the most commonly cited performance criterion is cost. Dolovich (2009) has criticized public discussion on prison privatization for its incessant focus on comparative efficiency, which asks whether government or private business can operate prisons at their current levels for less money. But other instrumental matters crop up as well, including physical control of inmates (Are inmates kept securely within the facility?), treatment of inmates (Do facilities provide safe conditions for inmates?), pressure relief for public prisons (Can private facilities accommodate surplus prison populations?), staff quality (Are private staff well-trained?), programs for inmates (Do inmates receive training or counseling?), and impacts on the local economy (Do private facilities create jobs and tax revenue?). The tension between the Morality frame and the Instrumental frame is the core of the following analysis of public discourse on prison privatization.

### **Data, Measurement, and Method of Analysis**

The analysis uses data from four major American newspapers spanning the period 1985 through 2008 to construct a measure of moral legitimacy, based on the concept of diversionary framing, which varies across time and space. Descriptive graphs and basic statistical analyses are used to document the co-evolution of prison privatization and its moral legitimacy.

#### ***Newspapers as Public Discourse Data***

The data come from four large newspapers: the *New York Times*, the *Los Angeles Times*, the *Chicago Tribune*, and the *Houston Chronicle*.<sup>4</sup> It is well known that news production is subject to a number of professional, corporate, and ideological pressures (Schudson 2002; Shoemaker and Reese 1996). Yet

newspapers are nonetheless a useful source of data on moral legitimacy. Newspapers serve as an important means of conveying information to a broad public; through 2005, more than half of adults in the top 50 American markets continued to read a daily newspaper (Newspaper Association of America 2012). Journalists inevitably write their articles both *as* members of the public and with an eye to their public readership. They are therefore processors of information who both reflect and contribute to the culture surrounding an issue (D'Angelo 2002; Deephouse and Suchman 2008: 56; Gamson and Modigliani 1987; Scheufele 1999: 117-118; Shoemaker and Reese 1996: 59-60).<sup>5</sup>

These particular newspapers have three features that recommend them for an analysis of moral legitimacy. First, they are among the most read newspapers in the country (New Audit Bureau of Circulations 2013). Second, they provide regional variation, which permits examination of how discourse on private prisons varied across different parts of the country. The third, and most important, benefit of using these newspapers is that they represent states that have used private corrections in two very different ways: early and often (California and Texas) and late and in a limited way (Illinois and New York). These different trajectories allow for a comparison of public discourse and moral legitimacy in the two contrasting contexts. Data from the Bureau of Justice Statistics (1993, 2009) provide evidence of these two different trajectories.<sup>6</sup> By 1990, seven percent of all Texas inmates (more than 3,700) and two percent of California inmates (more than 2,000) were held privately.<sup>7</sup> Texas alone accounted for nearly half of the country's total private inmate population that year (Bureau of Justice Statistics 1993). By the year 2005, Texas was the undisputed leader in private prisons, with nearly 15 percent of its inmates (nearly 24,000) held privately. It was followed by California, with nearly five percent (over 8,000) of its inmates held privately (Bureau of Justice Statistics 2009).<sup>8</sup>

In contrast, Illinois and New York have allowed private imprisonment on very limited terms. Both states have statutory bans on private prisons (Anderson 2010). The Illinois legislature prohibited contracting

for private imprisonment in 1990 (Illinois Compiled Statutes N.d.). The New York state legislature banned private prisons in 2007 (New York State Legislature N.d.; Nozzolio 2007). Despite these restrictions, both states have had some experience with private community-based, non-secure corrections facilities. Yet, in each state, these private community facilities held fewer than 400 inmates in 2005, equivalent to roughly one half of one percent of all inmates in both cases (Bureau of Justice Statistics 2009). Thus, correctional privatization in California and Texas started early and was more widespread, while correctional privatization in Illinois and New York started late and was severely restricted in its application.

The newspaper data span 1985 through 2008. The year 1985 represents an early period in the development of the private prison industry. Only a few small-scale local and immigration detention facilities and community correction centers were privately operated before 1985 (Logan 1990), and the role of the private sector in imprisonment was very much uncertain. Articles were collected from Proquest Newsstand (*Los Angeles Times*), Newspaper Source Plus (*New York Times*), the *Chicago Tribune's* online archive, and Factiva (*Houston Chronicle*). Each database offered full coverage of news articles and opinion pieces published in the specified time frame and provided full-text articles.

The analytic sample consists of the 706 articles about prison privatization published in the four newspapers in this time period. An article was deemed to be about prison privatization when it mentioned in the headline or in the first three paragraphs a privately-operated adult detention facility or company in the United States.<sup>9</sup> These articles rarely (roughly 1 in 15) appeared on the front page, but the majority (54 percent) of them were located in the Main (or National) section of the newspapers. Only 13 percent of the articles were opinion pieces (letters to the editor, editorials, or op-eds).

### ***Measuring Moral Legitimacy with Frames***

The diversionary approach to measuring moral legitimacy calls attention to the competitive relationship among multiple ways of framing an issue. A team of four coders (three research assistants and

the author) coded the articles for the presence or absence of the Morality frame and the Instrumental frame. An article could contain the Morality frame, the Instrumental frame, both, or neither. The Morality frame was identified by mentions of any of the following: philosophy or ethics of private prisons; imprisonment as a core responsibility of government; the proper role of government in punishment; private prisons undermining the legitimacy of the criminal justice system; or (in)justice in privatization. The Instrumental frame was identified by mentions of any of the following matters regarding private prisons: (1) control of inmates (i.e., escapes, disturbances); (2) cost to government; (3) local economy (e.g., job creation/loss, effect on the tax base, local business contracts); (4) relieving pressure on public facilities (i.e., accommodating surplus inmate populations); (5) programming (i.e., educational, vocational, or rehabilitative programs); (6) staffing (including quality and amount of staff); or (7) treatment of inmates (i.e., the health and well-being of inmates). Each of these seven items was coded separately, and the presence of any one of them was sufficient to identify the Instrumental frame. The coding team achieved high levels of inter-coder reliability, with Krippendorff's (2004) alphas ranging from 0.760 (staffing) to 0.936 (programming). (Additional details regarding coding procedures are available upon request.)

The primary measure of moral legitimacy is a ratio: the number of articles that use the Instrumental frame divided by the number of articles that use the Morality frame in a given time frame. This measure gauges the relative importance of one frame versus the other in talking about and understanding the issue of prison privatization, and it captures the essence of diversionary reframing (Freudenburg and Alario 2007). Higher levels of moral legitimacy, then, are indicated by higher levels of the ratio.

### ***Method of Analysis***

Analysis proceeds at two levels: national and state-level. The aggregate (national) analysis illustrates the evolution of moral legitimacy graphically, considering all articles in the dataset. The state-by-state analysis uses descriptive statistics to document variation in moral legitimacy across states at different points in time. If

moral legitimacy facilitated prison privatization, then the measure of moral legitimacy should correspond to government use of private prisons. With data aggregated across four newspapers, we expect to see an overall rise in moral legitimacy alongside the increasing use of private prisons nationally, as increasing legitimacy facilitates further privatization. In the disaggregated data, moral legitimacy should co-vary with the extent of prison privatization within a state. States with delayed or limited growth in their use of private prisons (i.e., Illinois and New York) should have newspapers indicating low levels of moral legitimacy, especially early on; states that made early and extensive use of private prisons (i.e., California and Texas) should have newspapers indicating high levels of moral legitimacy. Both sets of analyses emphasize the early years of prison privatization (1985-1996) when the issue was new to the public imagination and the character of prison privatization was still being contested in the public discourse.

## Results

The number of publications on private prisons varied over time and, especially, across papers. Figure 1 displays the annual frequency of articles published (along with the five-year moving average) and the number of private correctional facilities in the United States. News coverage of private prisons fluctuated over time, ranging from 13 to 60 articles published in a year. The moving average shows an unsteady downward trend: coverage declined from 1985 through the early 1990s, then increased through the late-1990s, and then declined again through the end of the series.<sup>10</sup> This decline in newspaper coverage runs counter to the growth in the number of private correctional facilities in the U.S. As contracting for correctional facilities became more prevalent, it clearly became less newsworthy.

[FIGURE 1 ABOUT HERE]

Among the four newspapers, the *Houston Chronicle* led coverage of private prisons, publishing 338 articles in the 24 years considered here (roughly 14 articles per year). The *Los Angeles Times* and *New York Times* offered moderate levels of coverage, publishing 186 and 128 articles, respectively. The *Chicago Tribune*

published only 54 articles in this span, just over two per year. The cross-paper differences in coverage are not surprising considering the experiences with private prisons in the newspapers' home states. Texas was at the forefront of prison privatization, and its paper produced the most output on private prisons; Illinois and New York banned most private prisons, and the papers from these states produced the least amount of coverage.

Figure 2 displays the annual proportion of all articles that used the Morality frame and the Instrumental frame, along with a five-year moving average. The Instrumental frame was used much more frequently than the Morality frame. This, though, is not surprising; after all, the Instrumental frame comprises a number of disparate elements, such as cost, staffing, and programming. Looking at each frame's trend individually shows that the aggregate use of the Morality frame declined over time.<sup>11</sup> The highest rates of Morality framing happened at the beginning of the series, in the mid-1980s. In 1985, more than one third of articles used the Morality frame. At this point, there were real questions about the scope of government and the place of profits in incarceration. After CCA proposed taking over Tennessee's entire state prison system, in 1985, a Democratic state senator from Memphis, said, "The state makes arrests, determines guilt or innocence and convicts criminals. Imprisoning them and trying to rehabilitate them should be a state function also, not parceled out to a private organization" (Hirsley 1985: 3). As for the profit motive in private corrections, the Chicago Tribune quoted the National Sheriffs Association, which opposed delegating corrections to "men and women in the private sector committed only to making profit out of the correctional operation" (Wiedrich and Rowley 1985:1). From 1985 on, the use of the Morality frame declined, albeit with a temporary rise in the mid-1990s.<sup>12</sup>

[FIGURE 2 ABOUT HERE]

Instrumental framing did not consistently rise or fall during the time period examined here. Instead, the use of the Instrumental frame fluctuated over time, appearing in between 60 and 80 percent of articles. In the aggregate, the salience of instrumental issues was rather high over time and unrelated to the growing

number of private prisons in the country. Supplemental analysis of the component elements of the Instrumental frame (not shown) reveals that *cost* was the most frequently used element, appearing in 37 percent of all articles (Dolovich 2009; see also Blakely and Bumphus 2005), followed by *control* and *pressure valve* (each 22 percent).<sup>13</sup>

The ratio of Instrumental to Morality frame use provides a direct measure of moral legitimacy. Figure 3 presents the five-year moving average of this trend, along with its natural log transformation.<sup>14</sup> The raw ratio starts below four, meaning that there were four articles containing an Instrumental frame for every one article containing the Morality frame. This low level of the ratio indicates the relative salience of moral matters in the public discourse on prison privatization during this early stage of prison privatization, when the phenomenon was new and its place in modern society was uncertain. After this early, morally contested period, the moral legitimacy ratio rises, in fits and starts, through the late-1990s, where it peaks above 14. It then declines somewhat after that, but it generally remains above 10, more than twice as high as its starting point in the 1980s. While the Morality frame never dominated public discourse on private prisons, it continually lost ground to the Instrumental frame, which itself came to dominate the discourse on private prisons in elite national newspapers.

[FIGURE 3 HERE]

The aggregate analysis of moral legitimacy conceals distinct patterns across newspapers. If moral legitimacy stunted the growth of prison privatization, we would expect to see high levels of moral legitimacy in states with more private prisons (California and Texas) and low levels of moral legitimacy in states with fewer private prisons (Illinois and New York). Across the entire series, the Morality frame was in fact used most often by the newspapers in states without private prisons. The *Chicago Tribune* and *New York Times* used it in 22 and 23 percent of their articles on private prisons, respectively. The *Los Angeles Times* used the Morality frame in 15 percent of its articles. The *Houston Chronicle* used it very rarely, in only five percent of

articles. Thus, little weight was given to moral dimensions of private prisons in states that were leaders in prison privatization: California and, especially, Texas.

But this finding could also indicate the reverse effect: prison privatization led to increased moral legitimacy. To more carefully identify the sequence of events, we can focus on moral legitimacy in the early years, when prison privatization was still an unfamiliar phenomenon in need of explanation and justification. Table 1 compares frame use by each newspaper in the first half of the series (1985-1996) and the second half (1997-2008). Panel A shows the percentage of articles using each frame. The most striking feature is the high rate at which articles in the *Tribune* and the *New York Times* raised moral issues early on. Roughly one in three articles (29.0 percent and 34.4 percent, respectively) in these papers through 1996 contained the Morality frame. During this early period, the rate of Morality framing was much lower in newspapers in the leading privatization states: 8.7 percent (*Chronicle*) and 14.2 percent (*Los Angeles Times*). In the second period, 1997 through 2008, the *Tribune's* and the *New York Times's* use of the Morality frame approached that of the other papers, falling to 6.3 percent and 11.9 percent, respectively. References to matters of morality were almost entirely absent from the *Chronicle* in this second period. And while the *Los Angeles Times* showed a (non-significant) increase in its use of the Morality frame, its level remained well below the early highs of the morality framing in the *Tribune* and the *New York Times*. Panel A also shows the corresponding newspaper-specific rates of Instrumental frame use, which was substantially higher than rates of Morality frame use across the board.

[TABLE 1 HERE]

Ratios of Instrumental frame use to Morality frame use, which capture diversionary framing, are presented in Panel B of Table 1. In the first half of the series, the newspapers in the privatization laggard states (Illinois and New York) had the lowest ratios (2.9 for the *Tribune* and 2.2 for the *New York Times*), indicating relatively low levels of moral legitimacy. The newspapers in the leading privatization states



(California and Texas) had the highest ratios (8.5 for the *Chronicle* and 5.3 for the *Los Angeles Times*), indicating high levels of moral legitimacy. Thus, in the early years of prison privatization, when the idea of private imprisonment was relatively undefined and the policy of contracting out incarceration duties had not yet spread across the country, public discourse in Illinois and New York reflected the morally contested nature of the practice. Public discourse in Texas and California, however, focused attention instead on instrumental matters related to the performance of private prisons. This discrepancy in framing was not stable, though, as the *Tribune* and *New York Times* increasingly fell in line with the Instrumental stance seen in the other papers. The *Tribune* ratio tripled (2.9 to 10.0) and the *New York Times* ratio doubled (2.2 to 4.9). Additionally, the *Houston Chronicle* became still more Instrumental in the second period, as its indifference to moral issues became almost absolute (see Panel A), which explains its astronomical ratio. In all three papers—the *Tribune*, the *Chronicle*, and the *New York Times*—prison privatization persisted as a practice with instrumental implications but with diminishing moral relevance. The *Los Angeles Times* was the exception to this pattern. Its preference for Instrumental framing was remarkably stable (and relatively high) throughout the period considered here. In all four papers, Instrumental framing firmly outstripped Morality framing in the later period. By this point in time, private prisons on the ground had become reality rather than potential. News coverage increasingly referred to actual private prisons in operation, rather than grappling with their moral merits (or demerits).

In sum, the moral legitimacy of prison privatization, as measured in four large, elite newspapers, was highest in those states that used private prisons most extensively. Moral legitimacy was at its lowest in states that resisted privatization, and this was especially true in the early days of the industry, when prison privatization was still struggling to define its role in the field of corrections.

## Discussion

In order for a new practice to persist, it must achieve some degree of legitimacy. When the practice challenges assumptions about what types of actions or relations are normatively appropriate, the practice faces the specific challenge of gaining an adequate degree of moral legitimacy (Suchman 1995). This article adopted a frame-based approach to measuring moral legitimacy and documented an overall increase in the moral legitimacy of prison privatization. Yet this overall increase masked variation within the U.S. Varying levels of moral legitimacy across states, especially early on, corresponded to later patterns of prison privatization. States in which prison privatization was discussed as a moral matter (Illinois and New York) exhibited only minimal privatization of corrections facilities. States in which the public discourse sidestepped moral issues regarding prison privatization (California and Texas) used private prisons early and often. While newspaper coverage of private prisons in Illinois and New York certainly was not *sufficient* to block privatization in these states, it did capture an important cultural opposition to—or, at least, ambivalence toward—prison privatization that was almost nonexistent in the California and Texas newspapers considered here.

In public debates, no amount of evidence could be brought to convince skeptical policymakers or the public that private imprisonment was "the right thing to do". Rather than focus on fundamental questions about the inherent nature of contracting out the coercive power of the state, public debates could instead argue over instrumental matters (e.g., Lindemann 2009), such as the performance and outcomes of private prisons. The use of private prisons in practice increasingly rendered questions of morality moot, and it gave policymakers and the public more empirical "data" regarding their actual performance. Although private prison proponents hardly had an easy time making their case on the basis of objective performance evaluations (e.g., Camp and Daggett 2005; Makarios and Maahs 2012; Perrone and Pratt 2003, Spivak and Sharp 2008), they could at least summon their own evidence to support their arguments. This shift in attention to more instrumental matters, signaling a diminishing dissonance between the policy itself and the

moral environment, likely made it easier for policymakers to either adopt private prisons or increase their use of them.

This article has made three contributions. The first contribution has been to offer a general method for measuring moral legitimacy, drawing on concepts from the sociological literature on framing. The concept of diversionary reframing (Freudenburg and Alario 2007) reminds us that legitimacy need not be actively and explicitly affirmed. Rather, legitimation can occur by failing to raise concerns about *illegitimacy*. In this case, moral legitimacy may be bolstered by framing prison privatization as a matter of consequences and outcomes rather than inherent, ethically laden properties. This diversion-based approach to analyzing legitimacy is general and can be extended to other areas of inquiry, including emergence of controversial industries (e.g., gambling (Dombrink and Hillyard 2007) or pornographic industries (Lindemann 2009)) or attempts to delegate other coercive or “core” state functions to the private sector. The latter research might examine the legitimation process of attempts by private firms to take over adjudication (Edelman, Erlanger, and Lande 1993), domestic policing (D'Alessio, Eitle, and Stolzenberg 2005), or foreign security (McCoy 2009) duties. In all cases, a reasonable hypothesis is that the salience of a Morality frame relative to an Instrumental frame would decrease the viability of these practices.

The second contribution of the article has been to demonstrate the utility of the *moral legitimacy* concept in understanding controversial public policy change. Moral legitimacy is rarely invoked in explaining policy change (but see Jensen 2003). This paper shows that the concept can aid in understanding the dynamics of policy changes. While moral legitimacy is not determinative of policy change, it is important because it lays a foundation on which citizens debate, advocates lobby, and social movements mobilize. Beyond the particular case of prison privatization, the concept may be applied to other contentious criminal justice policies, such as supermax prisons or the execution of juveniles, or even the broad exercise of state

coercive power.<sup>15</sup> To the extent that such policies and practices conflict with prevailing norms of appropriateness, moral legitimacy may be a valuable lens for examining their diffusion or demise.

A final contribution of the article has been to add depth to existing knowledge about the expansion of prison privatization in the U.S. by incorporating cultural content used to make sense of this mode of punishment. Culture can play an important role in punishment (Garland 2006; Smith 2008). Several studies of American private prisons have identified political liberalism as a robust predictor of privatization (Jing 2005; Nicholson-Crotty 2004; Price 2002). These studies have employed indirect measures of political beliefs derived from national public opinion polls (see Erikson, Wright, and McIver 2007) or policy ratings from liberal interest groups (see Berry, Ringquist, Fording, and Hanson 1998). While such studies demonstrate the relevance of political beliefs and policy preferences, they do not tap the *content* of the ideational opposition to (or support for) prison privatization. A frame-based measure derived from public discourse on prison privatization provides a measure that is attuned to the contours of the specific debate rather than inferred from indirect indicators. It thus captures something important about cultural perceptions of prison privatization and how they vary across time and region. Moral concerns about private actors forcibly detaining citizens did crop up in debates over private prisons, but not uniformly across the country. Moreover, the framing of prison privatization as a moral matter was quickly supplanted by a focus on instrumental questions of performance. These findings provide insight into the ideational frameworks that made environments hospitable or hostile to prison privatization.

The use of individual newspapers to represent states is one limitation of this paper. In reality, the mass media in a state present a complex and inconsistent picture of private prisons; no single newspaper can capture all of this complexity. The ideal dataset would include multiple newspapers from each state. Unfortunately, coding of newspaper articles is costly and time-consuming, and increasing variation within a state would have come at the expense of regional or temporal variation. A related issue is the reliance on a

single medium for data: newspapers. However, the tendency for other mainstream media (e.g., television news) to follow the agenda of elite newspapers (Danielian and Reese 1989; Golan 2006) implies that the results would not be substantially different if other media were considered. And although digital media (websites, blogs, Twitter) that are not bound by traditional journalistic norms may allow for more diverse styles of coverage of privatization, these technologies did not exist in the early years of prison privatization.

A second caveat cautions against a unidirectional story. There are likely to be reciprocal effects between moral legitimacy and prison privatization (Colyvas and Jonsson 2011; Phillips, Lawrence, and Hardy 2004). Increasing prison privatization has the potential to increase moral legitimacy of the practice. As private prisons became more common, the novelty of private imprisonment likely waned, an interpretation consistent with declining news coverage seen in Figure 1. And, as more private prisons were brought on line, more pressing elements involved in contracting (e.g., how to fund it, whether it was safe, etc.) were brought to the fore. The question of whether allowing private economic actors to imprison people was morally appropriate became moot. Further, increasing levels of privatization likely influenced the news coverage of private prisons. Researchers have long pointed to timeliness and novelty as factors in determining the news value of an event (McQuail:2010 311-318; O'Neill and Harcup 2009; Shoemaker and Reese:110-12; cf. Oliver and Myers 1999), and this tendency may have contributed directly to the increased moral legitimacy of private prisons. As the *existence* of private prisons became "old news," their actions and performance (e.g., new contracts, security breaches, inmate abuses, etc.) became the only pieces of newsworthy material. These types of episodic events are readymade for Instrumental framing, in which performance is the defining element. Thus, implementation of the policy in the early 1990s likely contributed to the shift away from moral matters and almost exclusively to instrumental matters, further locking in the pattern of one-sided, instrumentalist discourse.

Limitations and caveats notwithstanding, this article has documented an increase in the level of moral legitimacy granted to prison privatization, as indicated by the declining salience of the Morality frame in public discourse on the practice. With attention diverted from fundamental questions about whether private imprisonment is "the right thing to do," proponents of privatization faced one less obstacle on the path to further privatization. Supporters still had to make the case that private prisons were economical, effective, and safe, but they no longer had to convince opponents of their fundamental right to exist.

## Notes

---

<sup>1</sup> Freudenberg and Alario (2007) accentuated actors' *intentional* manipulation of media frames. The present article remains agnostic on the issue of intentionality, as it does not analyze the actors who employ different frames (cf. Steensland 2008) or their motivations.

<sup>2</sup> Convict leasing in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries in Southern states predated modern American prison privatization. However, this practice differed from modern prison privatization in that private business and plantation owners paid government in order to receive labor from inmates. The imprisonment responsibility acquired by the private entrepreneurs was an incidental role, secondary to exploiting the prisoners' labor and, at a macro level, suppressing black political power after the end of slavery (Hallett 2006: 43-51).

<sup>3</sup> When the Morality frame is invoked, it is generally used to criticize private prisons. It can, however, be invoked in a way to support the industry. For example, one op-ed argued that private foundations should invest in operating private prisons that reduce recidivism and improve the lives of inmates and those in society. The author argued that this would promote the public good and compared it to humanitarian aid and spending on medical research (Moran 1997). The dearth of pro-privatization Morality framing is a testament to the general claim, elaborated below, that moral legitimacy may best be cultivated by diverting attention from morality-based critiques of a practice.

<sup>4</sup> This dataset was constructed with [omitted for anonymity]. The following students assisted in gathering and coding data: Justin Deno, Kamra Krueger, Frank Leung, Aprameya Mysore, Natalie Neals, Rachel Sperling, and Elizabeth Wansley.

<sup>5</sup> The claim here is not that newspaper coverage is representative of public opinion, only that newspapers capture salient strands of discourse in the public debate. As a practical matter, there are no appropriate

---

surveys on which to base a comparison between newspaper coverage and public opinion (but see Thompson and Elling 2000).

<sup>6</sup> The following calculations refer to custodial (rather than jurisdictional) inmate populations and they omit federally contracted facilities.

<sup>7</sup> Figures for 1990 refer to midyear inmate counts. Figures for 2005 (below) refer to yearend inmate counts.

<sup>8</sup> Among all states, the median percentage of inmates held privately was 0.00 in 1990 and 3.33 in 2005 (Bureau of Justice Statistics 1993, 2009).

<sup>9</sup> This definition includes privately operated prisons, jails, immigrant detention facilities, and custodial work release centers. It excludes all public-operated facilities, private drug treatment centers, private industries located in prisons, boot camps, halfway houses, private firms that provide in-home detention services, juvenile facilities, and private prisoner transport services.

<sup>10</sup> The spike in coverage in 1996 and 1997 was due to Texas, which experienced escapes from multiple private jails (Bardwell 1996; Horswell and Muck 1996), riots in multiple private facilities (Associated Press 1997; *Houston Chronicle* News Service 1996), and inmate abuse at a private jail (*Houston Chronicle* Editorial Staff 1997).

<sup>11</sup> Instrumental framing and Morality framing were not mutually exclusive. In practice, very few articles (two percent) contained only the Morality frame. Thus, most of the variation in Morality framing was a matter of whether the Morality frame was included alongside the Instrumental frame (10 percent of articles).

<sup>12</sup> Supplemental analysis (available upon request) shows that editorials and, especially, letters to the editor were more likely than straight news pieces to employ the Morality frame. This fact contributed to the frequency of Morality framing in the early years, as opinion pieces were more common in the first half of the series than in the second.



---

<sup>13</sup> The results also show that only one component of the instrumental frame became significantly more common over time: *treatment of inmates*. This is the result of increased coverage of inmate abuses in private prison, in part a function of the increasing number of private facilities (results available upon request).

<sup>14</sup> The log transformation exaggerates the low end of the distribution and compresses the high end of the distribution. This is useful because a marginal change is more meaningful at the low end of the distribution than at the high end of the distribution. Because of its greater intuition, the raw ratio is discussed in the text.

<sup>15</sup> It is worth remembering that the Morality frame in the discourse on prison privatization was used to critically assess one particular manifestation of punishment: *private* prisons. A more fundamental critique would take aim at the moral legitimacy of prisons per se or mass imprisonment more generally (Berger 2013:15). I thank an anonymous reviewer for this observation.

## References

- Aldrich, Howard E. and C. Marlene Fiol. 1994. "Fools Rush In? The Institutional Context of Industry Creation." *The Academy of Management Review* 19(4):645-670.
- Anderson, Lucas. 2010. "Kicking the National Habit: The Legal and Policy Arguments for Abolishing Private Prison Contracts." Retrieved October 24, 2010 (<http://ssrn.com/abstract=1534372>).
- Associated Press. 1997. "2 Inmates Still Hospitalized after Uprising." *Houston Chronicle*, May 12, p. 16.
- Auger, Deborah A. 1999. "Privatization, Contracting, and the States: Lessons from State Government Experience." *Public Productivity & Management Review* 22(4):435-454.
- Bardwell, S.K. 1996. "Neighborhood, Officials Find Double Shock in Jail Escape " *Houston Chronicle*, August 9, p. 1.
- Berger, Dan. 2013. "Social Movements and Mass Incarceration." *Souls* 15(1-2):3-18.
- Berry, William D., Evan J. Ringquist, Richard C. Fording, and Russell L. Hanson. 1998. "Measuring Citizen and Government Ideology in the American States, 1960-93." *American Journal of Political Science* 42(1):327-348.
- Blakely, Curtis R. and Vic W. Bumphus. 2005. "The Print Media's Portrayal of the Private Prison." *Probation Journal* 52(1):69-75.
- Blumstein, Alfred and Allen J. Beck. 1999. "Population Growth in U. S. Prisons, 1980-1996." *Crime and Justice* 26:17-61.
- Bureau of Justice Statistics. 1993. "Census of State and Federal Adult Correctional Facilities, 1990." Retrieved July 27, 2010 (<http://dx.doi.org/10.3886/ICPSR09908>).
- . 1998. "Census of State and Federal Adult Correctional Facilities, 1995." Retrieved July 27, 2010 (<http://dx.doi.org/10.3886/ICPSR06953>).
- . 2004. "Census of State and Federal Adult Correctional Facilities, 2000." Retrieved July 27, 2010 (<http://dx.doi.org/10.3886/ICPSR04021>).

- . 2009. "Census of State and Federal Adult Correctional Facilities, 2005." Retrieved July 27, 2010  
(<http://dx.doi.org/10.3886/ICPSR24642>).
- . 2011. "Key Facts at a Glance: Incarceration Rate, 1980-2009." Retrieved February 28, 2011  
(<http://bjs.ojp.usdoj.gov/content/glance/tables/incrttab.cfm>).
- Camp, Camille Graham and George M. Camp. 1984. *Private Sector Involvement in Prison Services and Operations*.  
Washington, D.C.: U.S. Department of Justice.
- Camp, Scott D. and Dawn M. Daggett. 2005. "Quality of Operations at Private and Public Prisons: Using  
Trends in Inmate Misconduct to Compare Prisons." *Justice Research and Policy*, 7(1), 27–52.
- Chi, Keon S. and Cindy Jasper. 1998. *Private Practices : A Review of Privatization in State Government*. Lexington,  
KY: Council of State Governments.
- Colyvas, Jeannette A. and Stefan Jonsson. 2011. "Ubiquity and Legitimacy: Disentangling Diffusion and  
Institutionalization." *Sociological Theory* 29(1):27-53.
- Corrections Corporation of America. 1986. "Form S-1." Filed with the Securities and Exchange Commission  
August 15 and revised prospectus filed October 1.
- D'Alessio, Stewart J., David Eitle, and Lisa Stolzenberg. 2005. "The Impact of Serious Crime, Racial Threat,  
and Economic Inequality on Private Police Size." *Social Science Research* 34(2):267-282.
- D'Angelo, Paul. 2002. "News Framing as a Multiparadigmatic Research Program: A Response to Entman."  
*The Journal of Communication* 52(4):870–88.
- Danielian, Lucig H. and Stephen D. Reese. 1989. "A Closer Look at Intermedia Influences on Agenda  
Setting: The Cocaine Issue of 1986." Pp. 47-66 in *Communication Campaigns About Drugs: Government,  
Media, and the Public*, edited by P. J. Shoemaker. Hillsdale, NJ: Lawrence Erlbaum Associates.

- Deephouse, David L., and Mark Suchman. 2008. "Legitimacy in Organizational Institutionalism." Pp. 49–77 in *The SAGE Handbook of Organizational Institutionalism*, edited by Royston Greenwood, Christine Oliver, Kerstin Sahlin, and Roy Suddaby. Los Angeles: SAGE.
- DiIulio, John J., Jr. 1988. "What's Wrong with Private Prisons?" *Public Interest* 92:66-83.
- Dolovich, Sharon. 2009. "How Privatization Thinks: The Case of Prisons." in *Government by Contract: Outsourcing and American Democracy*, edited by J. Freeman and M. Minnow. Cambridge, MA: Harvard University Press.
- Dombrink, John and Daniel Hillyard. 2007. *Sin No More: From Abortion to Stem Cells, Understanding Crime, Law, and Morality in America*. New York: New York University Press.
- Dowling, John and Jeffrey Pfeffer. 1975. "Organizational Legitimacy: Social Values and Organizational Behavior." *The Pacific Sociological Review* 18(1):122-136.
- Edelman, Lauren B., Howard S. Erlanger, and John Lande. 1993. "Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace." *Law & Society Review* 27:497.
- Erikson, Robert S., Gerald C. Wright, and John P. McIver. 2007. "Measuring the Public's Ideological Preferences in the 50 States: Survey Responses Versus Roll Call Data." *State Politics & Policy Quarterly* 7(2):141-151.
- Feeley, Malcolm M. (2002). "Entrepreneurs of Punishment: The Legacy of Privatization." *Punishment & Society*, 4(3), 321–344.
- Ferree, Myra Marx, William Anthony Gamson, Jurgen Gerhards, and Dieter Rucht. 2002. *Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States*. Cambridge: Cambridge University Press.
- Fixler, Philip E., Jr., Robert W. Poole, Jr., and Lynn Scarlett. 1989. *Privatization 1989: Third Annual Report on Privatization*. Santa Monica: Reason Foundation.

- Freudenburg, William R. and Margarita Alario. 2007. "Weapons of Mass Distraction: Magicianship, Misdirection, and the Dark Side of Legitimation." *Sociological Forum* 22(2):146-173.
- Gamson, William A. and Andre Modigliani. 1987. "The Changing Culture of Affirmative Action." *Research in Political Sociology* 3:137-177.
- Garland, David. 1990. *Punishment and Modern Society: A Study in Social Theory*. Chicago: University of Chicago Press.
- . 2002. "The Cultural Uses of Capital Punishment." *Punishment & Society* 4(4):459-487.
- . 2006. "Concepts of Culture in the Sociology of Punishment." *Theoretical Criminology* 10(4):419-447.
- . 2010. *Peculiar Institution: America's Death Penalty in an Age of Abolition*. Cambridge, MA: Harvard University Press.
- Golan, Guy. 2006. "Inter-Media Agenda Setting and Global News Coverage: Assessing the Influence of the New York Times on Three Network Television Evening News Programs." *Journalism Studies* 7(2):323-333.
- Hallett, Michael A. 2006. *Private Prisons in America: A Critical Race Perspective*. Urbana: University of Illinois Press.
- Harding, Richard W. 1997. *Private Prisons and Public Accountability*. New Brunswick, NJ: Transaction Publishers.
- Hirsley, Michael. 1985. "Tennessee Tempted by Prison Plan." *Chicago Tribune*, November 17, p. 3.
- Horswell, Cindy and Patti Muck. 1996. "Authorities on the Hunt for 4 Escapees." *Houston Chronicle*, April 9, p. 13.
- Houston Chronicle* Editorial Staff. 1997. "Big Problems in Brazoria County Video Incident." *Houston Chronicle*, August 25, p. 16.
- Houston Chronicle* News Service. 1996. "Inmates Go on Rampage." *Houston Chronicle*, August 15, p. 31.

- Illinois Compiled Statutes. N.d. "Private Correctional Facility Moratorium Act." Retrieved January 19, 2010 (<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2007&ChapterID=55>).
- Jensen, Jason L. 2003. "Policy Diffusion through Institutional Legitimation: State Lotteries." *Journal of Public Administration Research and Theory* 13(4):521-541.
- Jing, Yijia. 2005. "State Prison Privatization in the U.S.: A Study of the Causes and Magnitude." PhD Dissertation Thesis, Program in Public Policy and Management, The Ohio State University, Columbus, OH.
- Kettl, Donald F. and Louis Winnick. 1995. "Privatize City Jails? Here's the Hitch." *New York Times*, August 22, p. 15.
- Lindemann, Danielle. 2009. "From Fire and Brimstone to Property Values: The Changing Style of Arguments against Pornographic Industries, Atlanta, 1969-1997." *Sociological Perspectives* 52(1):81-101.
- Logan, Charles H. 1990. *Private Prisons: Cons and Pros*. New York: Oxford University Press.
- Los Angeles Times* Editorial Staff. 1988. "Jail Operation Should Stay in Public Domain." *Los Angeles Times*, February 7, p. 2.
- Makarios, Matthew D. and Jeff Maahs. 2012. "Is Private Time Quality Time? A National Private–Public Comparison of Prison Quality." *The Prison Journal* 92(3):336-357.
- Mason, Cody. 2012. *Dollars and Detainees: The Growth of for-Profit Detention*. Washington, D.C.: The Sentencing Project.
- Mauer, Marc. 2001. "The Causes and Consequences of Prison Growth in the United States." *Punishment & Society* 3(1):9-20.
- McCoy, Katherine. 2009. "Uncle Sam Wants Them." *Contexts* 8(1):14-19.
- McQuail, Denis. 2010. *McQuail's Mass Communication Theory*. 6th ed. Los Angeles, CA: SAGE.

- Meyer, John W. and Brian Rowan. 1977. "Institutionalized Organizations: Formal Structure as Myth and Ceremony." *American Journal of Sociology* 83(2):340-363.
- Moe, Ronald C. 1987. "Exploring the Limits of Privatization." *Public Administration Review* 47(6):453-460.
- Mooney, Christopher Z. 1999. "The Politics of Morality Policy: Symposium Editor's Introduction." *Policy Studies Journal* 27(4):675-680.
- Moran, Richard. 1997. "A Third Option: Nonprofit Prisons." *New York Times*, August 23, p. 23.
- New Audit Bureau of Circulations. 2013. "Total Circ." Retrieved August 27, 2013, from <http://abcas3.auditedmedia.com/ecirc/newsform.asp>
- New York State Legislature. N.d. "Private Ownership or Operation of Correctional Facilities." Retrieved January 19, 2011 (<http://bit.ly/k7NIo9>).
- Newspaper Association of America. 2012. "Readership Archives." Retrieved September 11, 2012 (<http://www.naa.org/Trends-and-Numbers/Readership/Readership-Archives.aspx>).
- Nicholson-Crotty, Sean. 2004. "The Politics and Administration of Privatization: Contracting out for Corrections Management in the United States." *Policy Studies Journal* 32(1):41-57.
- Nozzolio, Michael F. 2007. "Nozzolio Bill Signed into Law Prohibits for-Profit Prisons in New York." Retrieved October 24, 2010 (<http://www.nysenate.gov/news/nozzolio-bill-signed-law-prohibits-profit-prisons-new-york>).
- Oliver, Pamela E., and Daniel J. Myers. 1999. "How Events Enter the Public Sphere: Conflict, Location, and Sponsorship in Local Newspaper Coverage of Public Events." *American Journal of Sociology* 105(1):38–87.
- O'Neill, Deirdre, and Tony Harcup. 2009. "News Values and Selectivity." Pp. 161–74 in *The Handbook of Journalism Studies*, edited by Karin Wahl-Jorgensen and Thomas Hanitzsch. New York, NY: Routledge.

- Perrone, Dina and Travis C. Pratt. 2003. "Comparing the Quality of Confinement and Cost-Effectiveness of Public Versus Private Prisons: What We Know, Why We Do Not Know More, and Where to Go from Here." *The Prison Journal* 83(3):301-322.
- Phillips, Nelson, Thomas B. Lawrence, and Cynthia Hardy. 2004. "Discourse and Institutions." *Academy of Management Review* 29(4):635-652.
- Pizarro, Jesenia M. and Raymund E. Narag. 2008. "Supermax Prisons What We Know, What We Do Not Know, and Where We Are Going." *The Prison Journal* 88(1):23-42.
- Pratt, Travis C. and Jeff Maahs. 1999. "Are Private Prisons More Cost-Effective Than Public Prisons? A Meta-Analysis of Evaluation Research Studies." *Crime & Delinquency* 45(3):358-371.
- President's Private Sector Survey on Cost Control. 1983. *Report on Privatization*. Washington, D.C.: U.S. Government Printing Office.
- Price, Byron Eugene. 2002. "Economics, Ideology, Politics, and Profits: What Drives Prison Privatization?" PhD Dissertation Thesis, Department of Political Science, Mississippi State University, Mississippi State, MS.
- Quinn, Sarah. 2008. "The Transformation of Morals in Markets: Death, Benefits, and the Exchange of Life Insurance Policies." *American Journal of Sociology* 114(3):738-780.
- Robbins, Ira P. 1989. "Even for Private Prison Entrepreneurs, Crime Shouldn't Pay." *New York Times*, April 21, p. 30.
- Sasson, Theodore. 2004. "How Science Matters: Discourse on Deterrence in a Death Penalty Debate." *Studies in Law, Politics, and Society* 30:161-181.
- Scheufele, Dietram A. 1999. "Framing as a Theory of Media Effects." *Journal of Communication* 49(1):103-22.
- Schriro, Dora. 2009. "Immigration Detention Overview and Recommendations." Retrieved October 4, 2011 (<http://www.ice.gov/doclib/about/offices/odpp/pdf/ice-detention-rpt.pdf>).



- Schudson, Michael. 2002. "The News Media as Political Institutions." *Annual Review of Political Science* 5(1):249–69.
- Schwartz, Martin and Dana Nurge. 2004. "Capitalist Punishment: Ethics and Private Prisons." *Critical Criminology* 12(2):133-156.
- Shoemaker, Pamela J., and Stephen D. Reese. 1996. *Mediating the Message: Theories of Influences on Mass Media Content, 2nd Edition*. White Plains, NY: Longman.
- Smith, Philip. 2008. *Punishment and Culture*. Chicago: University of Chicago Press.
- Spivak, Andrew L. and Sharp, Susan F. 2008. "Inmate Recidivism as a Measure of Private Prison Performance." *Crime & Delinquency*, 54(3), 482–508.
- Steenland, Brian. 2008. "Why Do Policy Frames Change? Actor-Idea Coevolution in Debates over Welfare Reform." *Social Forces* 86(3):1027–54.
- Stephan, James J. 1997. *Census of State and Federal Correctional Facilities, 1995*. Washington, D.C.: Bureau of Justice Statistics.
- . 2001. *Census of Jails, 1999*. Washington, D.C.: Bureau of Justice Statistics.
- . 2008. *Census of State and Federal Correctional Facilities, 2005*. Washington, D.C.: Bureau of Justice Statistics.
- Stephan, James J. and Jennifer C. Karberg. 2003. *Census of State and Federal Correctional Facilities, 2000*. Washington, D.C.: Bureau of Justice Statistics.
- Stinebaker, Joe. 1995. "County Jail Privatization Receives Serious Scrutiny." *Houston Chronicle*, July 9, p. 1.
- Strang, David and Ellen M. Bradburn. 2001. "Theorizing Legitimacy or Legitimizing Theory? Neoliberal Discourse and H.M.O. Policy, 1970–89." Pp. 129–158 in *The Rise of Neoliberalism and Institutional Analysis*, edited by J. L. Campbell and O. K. Pedersen. Princeton: Princeton University Press.
- Suchman, Mark C. 1995. "Managing Legitimacy: Strategic and Institutional Approaches." *The Academy of Management Review* 20(3):571-610.

- Suddaby, Roy and Royston Greenwood. 2005. "Rhetorical Strategies of Legitimacy." *Administrative Science Quarterly* 50(1):35-67.
- Thompson, Lyke, and Richard C. Elling. 2000. "Mapping Patterns of Support for Privatization in the Mass Public: The Case of Michigan." *Public Administration Review* 60(4):338-48.
- Tolchin, Martin. 1985. "Experts Foresee Adverse Effects from Private Control of Prisons." *New York Times*, September 17, p. 17.
- Tyler, Tom R., Stephen Schulhofer, and Aziz Z. Huq. 2010. "Legitimacy and Deterrence Effects in Counterterrorism Policing: A Study of Muslim Americans." *Law & Society Review* 44(2):365-402.
- Wallner, Jennifer. 2008. "Legitimacy and Public Policy: Seeing Beyond Effectiveness, Efficiency, and Performance." *Policy Studies Journal* 36(3):421-443.
- Walt, Kathy and Polly Ross Hughes. 1996. "Private Prison Boom, Gloom." *Houston Chronicle*, September 1, p. 1.
- Wiedrich, Bob and Storer Rowley. 1985. "Prisons-for-Profit Trend Breaking Out." *Chicago Tribune*, May 19, p. 1.

## Figures

Figure 1: Articles published about prison privatization per year, with private correctional facilities overlaid.

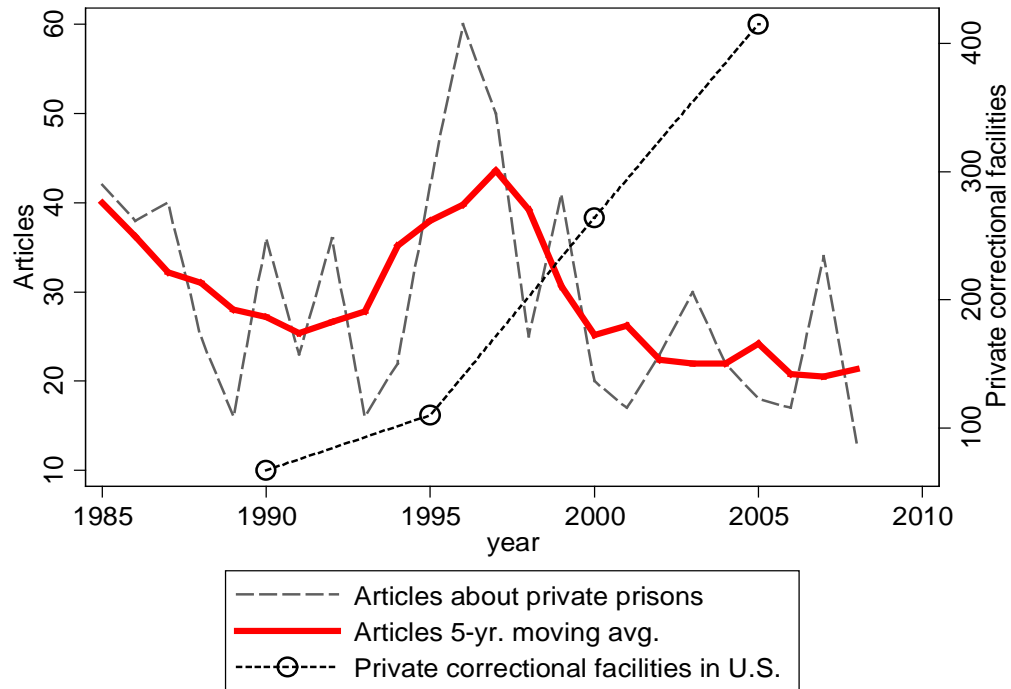


Figure 2: Morality frame and Instrumental frame use, 1985-2008.

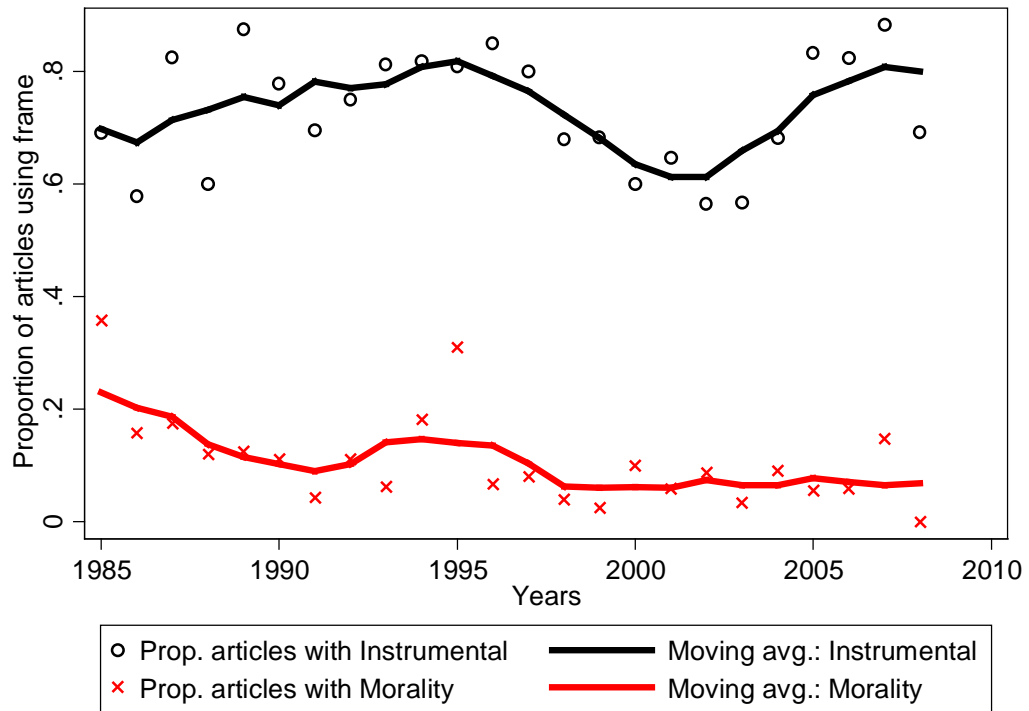
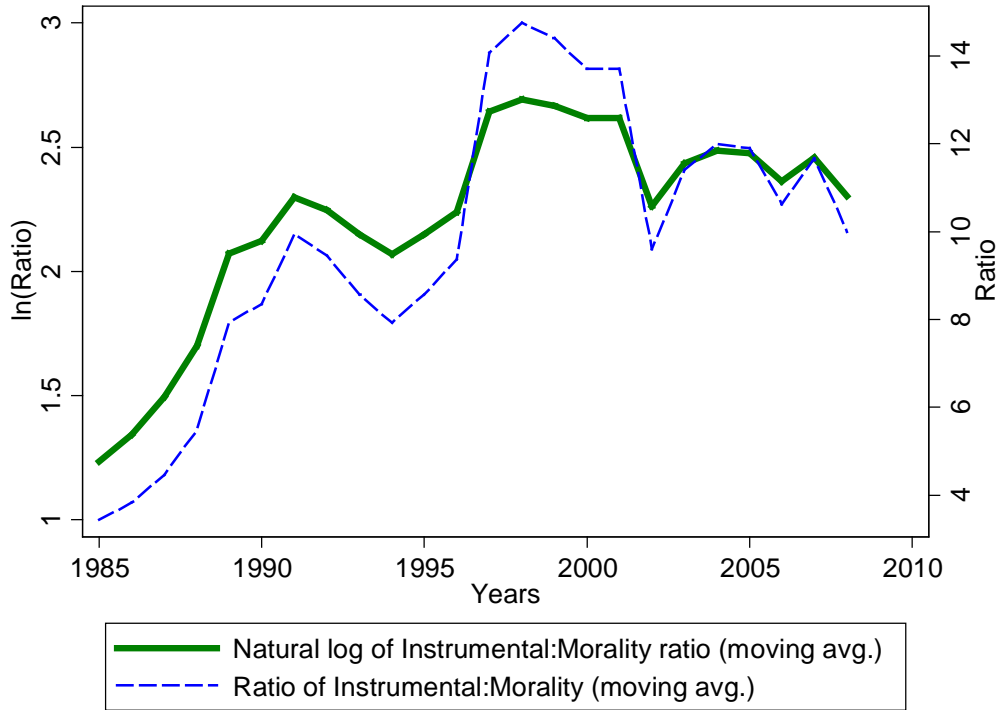


Figure 3: Ratio of Instrumental to Morality frames.



**Table 1: Percentages and ratios of frame use by newspaper over time.**

*A: Percentage of articles using each frame.*

Newspaper	% Morality			% Instrumental		
	1985-1996	1997-2008	Sig. <sup>a</sup>	1985-1996	1997-2008	Sig. <sup>a</sup>
Low Prison Privatization States						
<i>Chicago Tribune</i>	29.0	6.3	+	84.2	62.5	+
<i>New York Times</i>	34.4	11.9	**	77.1	58.2	*
High Prison Privatization States						
<i>Houston Chronicle</i>	8.7	0.7	**	73.9	75.3	
<i>Los Angeles Times</i>	14.2	15.1		75.2	76.7	

<sup>a</sup>: Significance level in a chi-square test across time periods (+ : p<=0.10; \* : p<=0.05; \*\* : p<=0.01).

*B: Ratios of Instrumental frame to Morality frame.*

Newspaper	Ratio(I:M)	
	1985-1996	1997-2008
Low Prison Privatization States		
<i>Chicago Tribune</i>	2.9	10.0
<i>New York Times</i>	2.2	4.9
High Prison Privatization States		
<i>Houston Chronicle</i>	8.5	116.0
<i>Los Angeles Times</i>	5.3	5.1