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Punctuated Equilibrium Public Policy Theory

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Punctuated Equilibrium Public Policy Theory

Abstract

The punctuated equilibrium theory on public policy formulation is a useful tool in understanding the ways in which public institutions craft policy. The theory, developed by Frank Baumgartner and Bryan Jones in 1995, states policy changes inherently occur gradually. Factors including the polarization of political ideologies and cultural divides generally make policy formulation a slow, often stagnant process. However, a policy can change dramatically spurred by fundamental events that can motivate the public to pressure policymakers to implement a new policy. For example, the terrorist attacks of September 11, 2001 were a punctuated moment that resulted in dramatic changes our country's homeland security and defense policies. In this paper, we will examine three areas in which the concepts of punctuated equilibrium theory can be used to illustrate and understand how the United States implemented rapid policy changes in three areas: environmental, gun-control, and homeland security. Each policy field can be directly applied to the punctuated equilibrium theory because of their nature of having long periods of policy stability which are punctuated by quick shifts in policy driven by short, but intense periods of instability and change.

Keywords

Public Policy, Punctuated Equilibrium Theory

Disciplines

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Comments

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Theory Paper: Punctuated Equilibrium Public Policy Theory

The punctuated equilibrium theory on public policy formulation is a useful tool in understanding the ways in which public institutions craft policy. The theory, developed by Frank Baumgartner and Bryan Jones in 1995, states policy changes inherently occur gradually. Factors including the polarization of political ideologies and cultural divides generally make policy formulation a slow, often stagnant process. However, a policy can change dramatically spurred by fundamental events that can motivate the public to pressure policymakers to implement a new policy.¹ For example, the terrorist attacks of September 11, 2001 were a punctuated moment that resulted in dramatic changes our country's homeland security and defense policies. In this paper, we will examine three areas in which the concepts of punctuated equilibrium theory can be used to illustrate and understand how the United States implemented rapid policy changes in three areas: environmental, gun-control, and homeland security. Each policy field can be directly applied to the punctuated equilibrium theory because of their nature of having long periods of policy stability which are punctuated by quick shifts in policy driven by short, but intense periods of instability and change.

¹ James True, et al. (Theories of the Public Policy Process, 2nd Edition 2006) *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

The environmental policy arena and related policy areas are relatively new across all levels of the American government. The issue of environmentalism was brought to public light during the mid-1960s counter-culture revolution. Movements such as the Civil Rights, anti-Vietnam war, and other movements helped lead to activism in many other areas. It was during this time that environmentalism also became a public issue. The rationale for the need to create federal government led environmental policies stem from the notion that, in a capitalistic system, private interests are not held accountable for environmental practices. In turn, individual and business self-interests tend to override public interests because of the lack of short-term effects environmentalism offer in terms of monetary benefits for example. The counter argument, which gained momentum by the 1960's counter-culture movement (as well as those who advocate for environmental policies today), is that the government must play a role in holding businesses and individuals accountable for actions which negatively impact our environment.

This conflict between private (corporate or individual) self-interest and the public highlights the "free-rider problem". Free-ridership is characterized by individuals use a communal public resource without repaying or being accountable, and how it can bring negative consequences on the collective. An example tied to environmental policy is where a business has a factory set up along a river and dumps its waste into the water.² Going with the flow downriver, the waste pollutes the water downstream and negatively effects other individuals living along the river. This unintended consequence has motivated public officials to enact environmental policies to prohibit businesses from actions that pollute/impact our environment. The 1960's counter-

² Jim Chappelow, (Investopedia 2020) *What is the Free-Rider Problem?*

culture movement in the United States brought new attention to these types of environmental issues.

A punctuated moment in environmental policy can be seen in the creation of the Environmental Protection Agency (EPA) created in 1970 by an executive order signed by President Nixon.³ This independent agency of the federal government was founded immediately following the activism of the 1960s where environmentalism and pollution related issues came into the public consciousness in America.⁴

The creation of the EPA serves as an example of the core concept of punctuated equilibrium theory -- long periods of policy stability and continuity disrupted by periods of intense attention - in action. The EPA drove immediate change in two areas of environmental policy. First, federal spending on environmental protection rose dramatically in the late 1970s. The rise in pollution control in America and the middle eastern oil shortage played a pivotal role in federal spending to rise in environmental policy at this time.⁵ Frank Baumgartner, who developed the punctuated equilibrium theory, described the surge in federal spending on environmental practices as an “alarmed discovery” where the spike in spending happened in a punctuated moment and then evened off following the spike.⁶ The second development that occurred in environmental policies emerging was the attention given by Congress to environmental issues and pollution. Between the period of 1968 to 1969, Congress held over sixty hearings on environmental issues. According to Baumgartner, these hearings and the new “disruptive”

³ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

⁴ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

⁵ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

⁶ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

attention given to environmental issues became a watershed moment for how these issues are viewed in the federal government.⁷

There are two key takeaways Baumgartner cites regarding the reforms driven by the significant rise in and visibility of federal government led environmental policies. The first is that environmental policy is a young policy field and has been marked by high profile legislation since it came into the spotlight.⁸ The second is that, using the punctuated equilibrium model, a shift in public opinion during the American counterculture movement of the 1960s and the promotion of environmentalism created a new field of policy where public officials put immense effort into environmental protection.

Gun control and related policy is another example of a policy area that can be used to illustrate the punctuated equilibrium theory in action. Over the past 30 years, gun control has become a pressing issue in the United States. The right to bear arms is explicitly defined in the second amendment of the U.S. Constitution and has been a lightning rod issue of debate due to America's recent problems with gun violence. The two sides of this issue of gun control are found in individuals who advocate for the right to bear arms and express their rights outlined in the Constitution and those who advocate for increased regulations on gun control and limitations on who can buy guns. Gun control and how it is interpreted in federal and state laws make it difficult for an explicit understanding of gun rights. The polarization of both ideologies in the gun debate alone fits into Baumgartner's punctuated equilibrium theory because of how slow the process in terms of crafting gun legislation. It is also an example of Baumgartner's concept of

⁷ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

⁸ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

framing where groups compete to influence how the policy is framed which, in turn, (negatively) impacts the speed in which new policies can be enacted.⁹¹⁰

Individuals who adhere to the pro-gun side of the gun control debate cite concerns that any form of gun control will infringe on their right to self-defense. The second amendment states:

"A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."¹¹

Pro-gun rights advocates take this phrase and use it as an individual right to bear arms. Contrary to this individualistic theory, a collective interpretation can be taken where “a well-regulated militia” was meant for states' right to regulate gun control. Individuals are not bound to the right to self-defense as they would argue, instead, government entities (federal, state, local) hold the right to exercise authority over gun control.

Punctuated moments have occurred in how the second amendment is interpreted and ruled on in the judicial branch of the federal government. Taking the collective approach to *United States v. Miller*. (307 U.S. 174) in 1939, the Supreme Court ruled that Congress could implement regulations on shotguns moving between states as commerce. This ruling was based upon the National Firearms Act of 1934 because the case had little relation to ensuring self-preservation of individuals. The majority argument the Supreme Court made was that the Second Amendment was enacted to ensure military efficiency and infrastructure.¹²

⁹ True, et. al. *Punctuated-Equilibrium Theory: Explaining Stability and Change in Public Policymaking*

¹⁰ Cairney (2016) *Policy Concepts in 1000 Words: Punctuated Equilibrium Theory*

¹¹ “Second Amendment.” (2020) *Legal Information Institute*

¹² “Second Amendment.” *Legal Information Institute*

The Supreme Court ruling made in 1939 with *United States v. Miller*. (307 U.S. 174) supporting the collective approach to the Second Amendment held precedent as recently as 2008. The Supreme Court reopened its ruling on gun control and the Second Amendment with *District of Columbia v. Heller* (07-290) where the constitutionality of a Washington D.C. handgun regulation was challenged. The court ruled flipped its precedent of over seventy years and took up the individualistic approach towards the right to bear arms. The argument was made that the Second Amendment clearly outlines citizens' rights are well-established that they can own guns. From 2008 up to the present day, the Court has continued to strengthen its precedent from *the District of Columbia v. Heller's* recent gun rights cases.¹³ All of these illustrate cases in which the Supreme Court has brought punctuated moments in a divisive policy field from its rulings and interpretations of how the “right to bear arms” is interpreted in the Second Amendment.

Gun legislation itself rarely passes through a polarized Congress and today's political climate and is a clear example of how partisan led polarization paralyzes policy making. The unfortunate reality of gun control laws being passed is that legislation is most likely going to be passed in times following a public shooting. In times of tragedy, public shootings bring a full spotlight onto the issue of the right to own guns amid public mourning. Public shootings, it can be argued, are the most likely punctuated events that have the ability to invigorate public policy reforms by Congress on gun control.

A fairly recent example of Congress passing gun legislation in the midst of a punctuated event is found in the Public Safety and Recreational Firearms Act of 1994. The act itself put a federal ban on the manufacturing and civilian use of assault rifles along with bullet magazines that could

¹³ “Second Amendment.” *Legal Information Institute*

hold large capacities.¹⁴ The disruptive event that broke the political deadlock in Congress relative to gun control related policy was the public outcry for change following the January 1989 Stockton Schoolyard Shooting. Patrick Purdy, who had an extended criminal history, was able to acquire a semi-assault rifle used it to carry out his attack at the Cleveland Elementary school. Purdy shot and killed five schoolchildren and injured 32 others.¹⁵ This attack was the first of its kind in that it was an attack on children at a non-college level school. A plethora of public calls for bans on assault rifles followed this attack citing how easy it was for the perpetrator, who had a clear criminal history, to acquire the weapon used to carry out this attack.¹⁶ The state of California took up the issue on the state level and implemented the Roberti-Roos Assault Weapons Control Act of 1989. The act passed by the California state government was the first of its kind in that it explicitly defined assault rifles and in turn banned them.¹⁷

Four years following the Cleveland Elementary school shooting, and with more public shootings occurring in the years that followed, Congress gained enough momentum to push the Public Safety and Recreational Firearms Act through both houses. The bill was narrowly passed by the senate and was signed in September of 1994 by President Bill Clinton. The Public Safety and Recreational Firearms Act was a built-in component of the Violent Crime Control and Law Enforcement Act of 1994. The Public Safety and Recreational aspect of the law enacted banned the selling of semi-assault rifles and ammunition magazines as defined by the act.^{18,19} The ban

¹⁴ Keneally, Meghan. (ABC News 2019) *Understanding the 1994 Assault Weapons Ban and Why It Ended*

¹⁵ Susan F. Rasky (New York Times 1989) *Import Ban on Assault Rifles Becomes Permanent*

¹⁶ Rasky, *Import Ban on Assault Rifles Becomes Permanent*

¹⁷ Assault Weapons Identification Guide (California Attorney General Office 2001)

¹⁸ Keneally, *Understanding the 1994 Assault Weapons Ban and Why It Ended*

¹⁹ Rasky, *Import Ban on Assault Rifles Becomes Permanent*

could only be applied to weapons sold after the act was put into law. The act served as a ten-year ban against the selling of assault rifles. However, in 2004, Congress voted against re-upping the ban and let it expire. Since that time, there have been multiple efforts since 2004 to reintroduce the law to little success.²⁰

Given the ideological divide over the Second Amendment, it has been extremely difficult for Congress to roll out gun control legislation throughout American history. The Supreme Court's rulings and interpretation of what the Second Amendment intended to mean have had, to some extent, punctuated impacts on how policies on gun control can be shaped and upheld in the Court of law. Apart from these Supreme Court decisions, unfortunate events such as the 1989 Cleveland Elementary school shooting were intense and punctuated events that fostered a very profound public outcry for legislation banning assault rifles. The unfortunate reality of gun legislation is that it appears that the policy stability can best be disrupted or impacted by public shootings and the subsequent outcry to spur action from the Federal government.

The third policy field that can be applied to the punctuated equilibrium theory and its impact on how policies are made is homeland security. Like environmental policy, homeland security is a new policy field which rose to prominence in the 21st century immediately following the attacks on New York and Washington D.C. on September 11, 2001. Amid a rapidly changing geopolitical landscape, the issue of homeland security against terrorism and domestic threats has become one of the most important policy fields in the federal government. The attacks on September 11 are a demonstration of a time of intense instability. As such, the policies enacted as a result clearly reflect the political equilibrium theory's foundation that a key punctuated event

²⁰ Keneally, *Understanding the 1994 Assault Weapons Ban and Why It Ended*

serves to drive significant public policy changes. Two critical junctures in our homeland security policy resulted from that punctuated moment on Sept 11, 2001. The first was the creation of the department of Homeland Security and, the second was the passing of the Patriot Act.

Following the events of September 11, 2001, President George W. Bush sought to take quick action and suggested dramatic changes to essentially overhaul national security policies. However, the significant policy reforms his administration sought to undertake presented a difficult task given a lack of bipartisan support regarding additional investment in homeland security. The September 11 attacks opened a window of opportunity for his administration as the nation grieved amid this horrific national tragedy. Following the terrorist attacks, President Bush immediately called for and begun a war on terror. In his State of the Union Address in 2002, President Bush labeled terrorists and states that sponsored terrorism as an “axis of evil” that will be brought to justice.²¹ The war on terror served as the grounds to go to war in Afghanistan and Iraq in the coming years.

It was in this context that the Department of Homeland Security was formed with the expressed mission of strengthening the American defense against terrorism. Created in 2002 as a direct result of the attacks on 9/11, the Department’s goal includes border protection, cybersecurity, disaster prevention, along with terrorism prevention. Among the department’s principles was to be more proactive than reactive. As such, they quickly began instituting numerous practices that had the potential to violate individual rights outlined in the Bill of Rights. In terms of terrorism, the mission of the Department of Homeland Security is to:

²¹ “Miller Center.” (2011) *State of the Union Address (January 29, 2002)*-Miller Center

“...detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.”²²

The digital age of the 21st century has further confused, complicated and raised additional issues and concerns surrounding the boundaries by which the Department can go to ensure America is protected by terrorism. Issues surrounding the collection of individual personal data, a direct violation of individuals' right to privacy in the Constitution, have been a point of controversy for the department as they seek to protect the United States from the threat of terrorism.

The Patriot Act of 2001, enacted by the Department of Homeland Security, brought these same concerns surrounding privacy into question. Signed on October 21, 2001 to strengthen national security, the act allowed for unprecedented actions to be taken in the name of safety.²³²⁴ Controversial provisions the Patriot Act included are that it allows authorities to detain illegal immigrants on an indefinite basis and gave the Federal Bureau of Investigation (FBI) permission to track individual telephone and online records without a court's permission.²⁵ Agencies such as the National Security Agency and FBI came under scrutiny when it was revealed how widespread their activities were in tracking personal information. Due to public backlash against these agencies violating the Constitution, the original provisions of the Patriot Act have been revised to a some extent.²⁶ Regardless of this amendment, the effects of what the Patriot Act and

²² “Mission.” (2019) *Department of Homeland Security*.

²³ “Mission.” *Department of Homeland Security*.

²⁴ “H.R.3162 - 107th Congress (2001) USA Patriot Act, *Congress.gov*

²⁵ Kelly, Erin. (2015 USA Today) “Senate Approves USA Freedom Act.”

²⁶ Kelly, “Senate Approves USA Freedom Act.”

the practices by Homeland Security have drastically changed defense policy in 21st century America.

The rapid reforms in environmental, gun control, and national security in policy can be put into the punctuated equilibrium theory because of how drastic the change in a polarized policy environment occurred. Public outcry, whether it is against environmental pollution, gun regulation, or national security, have all been key motivators in driving policy reforms to maintain a responsive democracy in America. The punctuated equilibrium theory can be applied to numerous policy shifts in American politics in the last century and will continue to be applicable to drive (policy) action in flashpoint moments that we experience in the future.

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