

How are advocates talking about the rule of law and access to justice?

A field frame analysis

July 2023

Tamsyn Hyatt, Director of Evidence at FrameWorks UK

Patrick O'Shea, PhD, Principal Researcher at the FrameWorks Institute

Contents

Introduction	3
Methods	4
Recommendations	5
#1: Talk about what the rule of law and access to justice make possible	5
#2: Focus on shared good - and not just retribution for specific harms	6
#3: Provide clear, consistent and light-touch definitions	9
#4: Avoid leading with complexity	12
#5: Pair crisis with agency and solutions.....	13
About FrameWorks UK	17

Introduction

This report explores the narratives and frames used by advocates to communicate about the rule of law and access to justice in England and Wales in 2022/3 - and analyses the likely effects of these narratives and frames on public thinking. It makes initial recommendations for how advocates can use communications to build understanding and drive change. These recommendations will be developed and refined as further empirical research is complete.

This research is part of a broader, mixed method framing project conducted in partnership with the Law Society. The project aims to identify evidence-based communications strategies that will strengthen support for the rule of law and access to justice. This report follows a distillation of expert interviews and literature (academic and grey) into the [core ideas held by the field of law and justice](#).

This report is organised around a set of five recommendations - ways in which the field of law and justice can shift its communications practice to build understanding and drive policy change. Under each recommendation, we describe the field's existing framing and storytelling strategies and explain a) how these approaches are likely to be received by the public and b) how these approaches differ from the core ideas held by the field. We explain where the approaches are likely to cue productive thinking - which can be built upon to improve understanding, and where they are likely to inadvertently reinforce unproductive thinking - or allow unproductive ways of thinking to go unchecked. We then explain how using each recommendation can help build understanding and support for change.

Methods

This research was designed to explore three questions:

1. What narratives and framing strategies does the field of law and justice use to communicate about the rule of law and access to justice?
2. How are these a) different from core ideas held by the field and b) likely to shape public thinking on these issues?
3. How could the field deploy different strategies to build understanding and drive change?

These questions were answered via a multistage process. First, with project partners, researchers generated a list of charities, advocacy organisations, and think tanks working on and communicating about the rule of law and access to justice (“the field”). Researchers then sampled public-facing communications materials from each organisation’s website that either focused on or explored issues related to these concepts. These included press releases, news articles, ‘about us’ pages and other materials published between May 2022 and May 2023. And excluded material behind a paywall or login. The final sample consisted of 45 materials across 15 organisations.

The analysis proceeded in three stages. First, researchers coded the sample to identify important narrative or framing components of each document, such as actors involved and values used. Next, researchers used qualitative analysis to identify themes, trends, and patterns of meaning in the data. Finally, findings from the first two steps were interpreted against core ideas advanced by the field in previous research - and how the wider public are likely to respond.¹

This three-step process was used to develop a set of communications recommendations: ways in which the field can cue and reinforce productive ways of thinking, amplify the effective frames already in use, and fill in the wider public’s gaps in understanding.

¹Hyatt, T and Stanley, K (2023). The Rule of Law and Access to Justice: Core Ideas from the field of Law and Justice, www.lawsociety.org.uk/campaigns/reframing-justice-core-ideas

Recommendations

Recommendation #1: Talk about what the rule of law and access to justice make possible

What the field is doing

Ends not means

The field often presents the rule of law and access to justice as ideal *ends* in themselves - and not the *means* to secure wider socio-political or economic good. This is typified by calls for “rights to be real”, to “protect natural justice” and, more often, to reject actions that undermine the rule of law or limit access to justice. For example:

“We work through a combination of research, policy work, training and legal casework to **promote the rule of law**, improve public decision-making and **facilitate access to justice.**”

“Providing your services for free is vitally important to **upholding the Rule of Law.**”

“...effective safeguards which **protect the constitutional right of access to justice.**”

The things that the rule of law and access to justice make possible, from business deals to more harmonious social relations, are often missing from field communications.

Rule of law as preventative

Field communications explicitly focus on what the rule of law *prevents* - or would prevent, if complied with and functioning well. Across our sample, the rule of law was positioned as a set of rules that required compliance. For example:

“**Compliance** with the rule of law requires states to act in accordance with the law”

“Most of the human population lives in a place that is less rule-of-law-**compliant** than before the pandemic.”

How this is likely to affect public thinking

Positioning the rule of law and access to justice as ideal ends has mixed implications. Ideals can be powerful motivators. Activating shared ideals early and often can collectivise an issue - and help people understand why it matters.

However, this approach is not without risk. A desired end is only made meaningful through concrete examples of *what its realisation achieves*. If something remains an ideal, it is a standard to be aimed for. It is an aspiration - and not the means by which we actively

structure and underpin what is possible in society. It then becomes harder for advocates to hold public and private bodies to account: falling short of our aspirations is both understandable - and acceptable.

Positioning the rule of law as preventative has similarly mixed implications. When used as a shield against the powerful, the rule of law holds power to account - and can provide a powerful means of redress. Without careful framing, however, the field remains vulnerable to accusations often advanced by opponents of rule of law measures: that the rule of law is yet more "red tape" to be overcome. And that, more often than not, the rule of law does not stop abuses - it stops progress.

Advocates must be able to connect what the rule of law prevents *with what it makes possible*. Establishing why this is needed, regardless of who is in power, will be a key task for future research.

What could help

- **Talk about the rule of law and access to justice as a means** to achieve broader goals.
- **Talk about what the rule of law and access to justice can make possible - but also what they do make possible**, here and now. Provide concrete examples to fill in the blanks.
- **Establish why a well-functioning rule of law and access to justice matter** to our social, political and economic systems, early and often.
- **Explain what it means to maintain the rule of law and access to justice** and the work that is involved.

Recommendation #2: Focus on shared good - and not just retribution for specific harms

What the field is doing

Stories about retribution

Examples in field communications often focus on retribution for harm. Vivid stories of hardship are shared with the same ending - that the central figure has been compensated or can now seek retribution (financial or moral).

"The initiative provides vital access to justice for **those who have experienced decades of disbelief...** compensation won't buy back the **years of survivors' lives spent in difficulty but it can provide a minimum level of comfort...**"

"**Child Q's case is an example that children's rights can [be] and are violated** and that all too often the rights of young people are not taken seriously... [but]

equipped with the relevant knowledge and properly supported by trusted individuals, **they may be able to achieve justice.**"

This *retribution* narrative is not incompatible with the core ideas held by the field - and in particular, that we are all equally answerable to the same set of rules. But it does limit it. Because *retribution* means we act - and society benefits - only after harm has taken place.

Stories about the ongoing, everyday benefits of the rule of law and access to justice - like proactive safeguarding, social stability and better decision-making - were largely missing from sampled materials.

Focus on vulnerable individuals and groups

Organisations often mention the importance of access to justice for vulnerable individuals (like Child Q) and groups (like people seeking asylum). Rarely is someone from an identified group the author of these messages. For example:

"More concerning for us is the increase in demand from some of **our more vulnerable client groups** particularly the elderly, the disabled and those suffering poor mental health."

"**Additional vulnerabilities**, such as domestic abuse, mental health difficulties, and substance abuse, **are prevalent amongst court users.**"

"This change is likely to have a disproportionate adverse impact on **people already in vulnerable positions.**"

This focus on vulnerable actors - as groups and individuals in extreme circumstances - does not align with claims by some organisations that "**we all** interact with the law every single day."

Blurred values: fairness, equality, equity

The values of fairness, equality and equity are used across field communications - with some explicit focus on societal good:

"At its heart, rule of law is about **fairness** - that is, accountability, **equal** rights, and justice for all."

"Our vision is of a **fair** and effective criminal justice system that works well for everyone and leads to a more **equitable** society."

"We have sought to ensure that the family justice system can deliver accessible, **fair** and effective outcomes in the best interests of children."

Fairness, equality and equity are rarely defined - and often used interchangeably or in sequence. Where definitions are either present or can be inferred, the field uses at least two different models of fairness/equality/equity - one broadly focused on access to resources (like equality of arms) and another focused on outcomes (such as equal punishment or consequence under the law).

How this is likely to affect public thinking

Focusing on retribution for past harms can make it harder to think about the factors that prevent future harm. It effectively backgrounds thinking about prevention, proactive work, or ongoing societal good. Previous FrameWorks research has found that people using a retribution model to understand criminal justice could not think beyond punishment - or consider the wider, systemic factors at play.²

The field's focus on vulnerable groups has mixed implications. Talking about power relations and disproportionate harms is vital and important work - but how we do this matters. Talking about 'the vulnerable' or 'the elderly' can lead to othering and stigma, as people hold themselves separate and fundamentally different from 'the vulnerable'.³

Without careful framing, then, the field risks reinforcing the narrative often advanced by opponents of access to justice initiatives: that they are only for the benefit of 'other' people, and not for society as a whole. Advocates must be able to talk about barriers to justice in ways that highlight specific needs - and without undermining the idea that access to justice means that *everyone's* legal needs are met. Identifying the most efficacious ways to do this will be a key task for the next steps in this research.

Values frames are one way to reorient public thinking towards shared good. They can provide a vital counterbalance against othering - and they prime collective thinking early on. However, values must be defined. The public often hold different - and sometimes competing - versions of values in mind. For example, our work on criminal justice found that, when considering punishment, people modelled fairness in two ways: 1) people are treated the same, regardless of circumstance and 2) people are treated in a way that considers their context and resources.⁴ The next phase of research will determine the most effective values to use here - and how to define them.

Values: fairness

This frame has promise insofar as it aligns with the impartiality expected of a functioning rule of law. However, when applied to the rule of law and access to justice, a fairness frame is not without risk.

When used as a lens to consider our *context and environment*, fairness can help people see the importance of equal access to resources and support. This could help make the case for equality of arms within the legal system.

When used as a lens to consider our *behaviours*, fairness can backfire. It can invite people to treat others according to their contributions to society - and to dismiss those

² Baran, M. et al (2014). 'Like a holiday camp': Mapping the gaps between expert and public understandings of criminal justice and criminal justice reform in England and Wales.

³ O'Neil, M et al (2020). Each and Every Child: How to Talk About Care Experience in Scotland.

⁴ Baran, M., et al (2014). 'Like a holiday camp': Mapping the gaps between expert and public understandings of criminal justice and criminal justice reform in England and Wales.

seen as 'taking' as undeserving of support. This could undermine calls for greater public funding of legal services.

What could help

- **Explain the collective benefits of a well-functioning rule of law and access to justice.** For example, how holding power to account can lead to better decision-making and better governance.
- **Use language** like 'us,' 'we,' and 'our' to prime collective thinking.
- **Talk more about the role of law and justice in civil cases** and how it underpins and improves different aspects of our lives. Provide specific, everyday examples to help fill gaps in understanding - like deposit protection for renters, or writing a will.
- **Move from the universal to the specific.** Talk about what we all, collectively, need from legal systems and services before talking about the specific needs of groups to avoid othering.
- Share stories using messengers with **lived experience and expertise** to establish agency and increase credibility.

Recommendation #3: Provide clear, consistent and light-touch definitions

What the field is doing

Partial or missing definitions

Organisations rarely define the rule of law and access to justice. Across our sample, definitions were either missing or partial - with specific features (like legal certainty or equality of arms) used as a proxy for both terms.

When mentioned explicitly, the rule of law and access to justice are often two items in a longer list of concepts and ideas. The following example is typical:

"[This is] a denial of the ability of a person to have their **rights vindicated** in a court. It undermines the centuries old **injunction of Magna Carta** that we will **deny justice** to no-one... undermines the **duty** to investigate deaths under the **European Convention on Human Rights** and undermines the **Rule of Law**."

This mix of concepts, conventions, charters and legal terms is not readily understandable to non-experts. And, thrown together, dilutes the significance of each.

Most materials did not focus on the rule of law and access to justice per se, but on a range of issues with rule of law or access to justice components - like education and migration policy.

Restating Myths

Organisations frequently restate myths about the rule of law and access to justice in order to rebut them. For example:

“Too often, **the rule of law is seen as an abstract concept, strictly for lawyers and politicians**, but it plays a huge role in each of our lives.”

“**The practice of seeking to apply and work within the laws created by our sovereign parliament is** neither ‘lefty’ nor ‘activist’.”

This practice - reacting to opposing narratives instead of advancing new ones - extends into defences of the legal profession. For example:

“To imply that **bringing legitimate challenges against removals is equivalent to ‘aiding and abetting criminals’** is not only untrue but has potentially severely damaging consequences.”

Competing narratives: democracy, government, justice system

Field communications often assert the relationships between the rule of law and access to justice and other systems or institutions of government - but do not explain them. The following quotes are typical:

“To create a thriving **democracy**, young people need positive encounters with the **legal system** as early as possible in their education.”

“a broad coalition of countries and civil society organisations called for a global renewal of a core pillar of **democracy** - the **rule of law**. The best way to do so, they said in a joint statement, is to rebuild citizen trust by embracing people-centred justice.”

These statements leave a number of questions unanswered: what is the relationship between democracy and the legal system? What is “people-centred” justice - and how does it rebuild trust in either democracy or the rule of law? And what actors are (or should be) involved in this process?

Where answers to these questions can be inferred, field materials are inconsistent. Within the three following samples, for example, the rule of law is presented as something that governs democracy, that supports democracy, and as something that should be democratised:

“The ability to legitimately challenge Government actions without fear of reprisals is fundamental to the functioning of a **democracy governed by the rule of law**.”

“a broad coalition of countries and civil society organisations called for a global renewal of **a core pillar of democracy - the rule of law**.”

“We’ll be releasing a new educational video each day to inform children about their rights, set them on track to become active citizens and ultimately **democratise the rule of law.**”

How this is likely to affect public thinking

The phrases “rule of law” and “access to justice” may be useful shorthand within the field, but limit effectiveness outside of it. Leaving these terms un- or partially defined invites people to insert their own definitions - which may differ from an author’s intent.

Without definition or explanation, people are more likely to draw on misconceptions to fill gaps in their understanding. Or to equate the rule of law and access to justice only with things that are more visible and immediate, like crime and the police.

Connecting the rule of law and access to justice to more concrete manifestations and other issue areas may be a helpful route forward here. Topics that are timely and top-of-mind can raise the salience of an issue - and make space for what is less known and understood. This could be a productive area for future research.

The field’s inconsistency when talking about democracy, government and the justice system is a particular challenge. It becomes harder for people to understand how the rule of law and access to justice relate to systems and institutions of government - and harder to see how they work in concert towards a shared good.

The field’s focus on myth busting is a further challenge. One of the strongest predictors of what people believe is the number of times they have heard it. Repeating an opposing narrative - even if to debunk or dispute - risks actively strengthening it in people’s minds.⁵

What could help

- **When explicitly referencing the rule of law and access to justice, provide a consistent definition.** Use it early and across field communications.
- **Talk more about the role of law and justice** in civil cases and how it underpins different aspects of our lives. Provide specific, everyday examples to help fill in the blanks - like deposit protection for renters or the expected quality of food purchases.
- **Avoid direct myth busting.** Present the positive, affirmative case without restating the counter argument or engaging in debate.
- Where possible, **avoid positioning concepts and institutions as binaries.** Clearly explain how they work together in concert and toward a shared good.

⁵ Iredale, M (2008). Why myth busting doesn’t work.

Recommendation #4: Avoid leading with complexity

What the field is doing

Technical complexity

Organisations frequently use technical or insider prose to discuss the rule of law and access to justice. For example, acronyms and legal terms are often used without definition or clear explanation:

“a multidisciplinary Court Team – consisting of the case progression officer and a **Cafcass officer**, to which specialists, e.g. in domestic abuse could be added”

“**PLP** believes that a scheme for the transfer of asylum-seekers which risks breaching the principles of **non-refoulement** and individuals’ fundamental rights including the right of access to justice, is unlawful – regardless of whether it is agreed by **MoU** or treaty.”

Where the rule of law is mentioned explicitly, it is often presented as intricate and complex - one index, for example, evaluates rule of law compliance using over 40 sub-factors. Such communications are not then designed for a public audience.

Missing actors

Field communications often criticise the complexity and inaccessibility of the legal system - without naming who or what is responsible. The passive voice dominates: families are said to “face a confusing and disaggregated landscape of advice and support” - and legal advice is recognised as “very difficult to obtain in practice.”

Complexity within the legal system is uniformly recognised as a problem - and as something detrimental to both the rule of law and access to justice. But it is not always obvious who or what is seen as responsible - and so it is not clear how this issue can and should be fixed:

“whether you look at the criminal law, the civil law, whether you look at housing regulations, whether you look at social security regulations... **it is all very complicated**, and increasingly so.”

How this is likely to affect public thinking

Order matters. Terms like “legal aid deserts,” “pro bono,” and “refoulement” signal that what follows is a matter for experts. It invites non-experts to step back and disengage from the issue.

Without accessible language and explanation, the field risks positioning the rule of law and access to justice as unknowable and unreachable. It becomes harder for people to see how these things underpin our social, political and economic systems and shape our everyday lives.

Lawyers using complex or insider language in public-facing communications create further challenges. It risks undermining the idea that lawyers are navigators of legal complexity. And instead positions lawyers as those who create and sustain it.

This risk is particularly fraught when the field criticises the legal system itself. Previous FrameWorks research suggests that people often see 'systems' as monolithic - drawing on models of understanding that treat complex collections of activities, structures, and people as a single object or thing. Complaints that the legal system is "too complex" and calls for greater accessibility may backfire if the legal profession is seen as part of - and actively creating - that complexity.

This is not to say that the field should avoid complex concepts - or criticisms of legal complexity. Rather, that an accessible justice system requires advocates to translate complexity into straightforward terms. More research is needed to determine the most effective way to do so.

What could help

- **Explain and contextualise terms.** Explain what terms like "pro bono" mean in accessible language. Use concrete examples to show what they look like, how they work, and what impact they have in our day-to-day lives.
- Take more opportunities to **explain in straightforward terms how legal processes work.** Instead of asserting the connections between cause and consequences, for example, explain them step-by-step.
- **Talk about how systems can and should be accessible with the right design and resource.** Sharing specific examples of good policy and practice can help fill in the blanks.
- **Name who is responsible** for complexity within the legal system - *and* who can reduce that complexity. Make people, not "the justice system," the subject of sentences.

Recommendation #5: Pair crisis with agency and solutions

What the field is doing

Crisis and fatalism

Organisations draw on crisis language to talk about the challenges facing legal systems and services, emphasising urgency and uncertainty. For example:

"We **urgently** need the further changes that will **stop the flight** from specialist criminal work of barristers and solicitors who keep the criminal justice system going."

“We are unlikely to see any significant changes until at least 2025. **This is too long as services are collapsing now.**”

“**We are unable to provide** the assurance that most seek at this point, and more crucially, we may **not be in a position to support them** without adequate funding.”

Problems are typically articulated clearly and in detail - and align closely with the core ideas advanced by the field. For example, legislative hyperactivity, restrictions on the legal rights of groups and underfunding are all identified as key challenges.

Solutions are far less prominent - and less granular - in field materials. Where present, solutions in our sample focused on two broad areas: financial (increasing lawyers wages, expanding legal aid, etc) and educational (public legal education, rights-based awareness campaigns, etc).

Models of Government

To a striking extent, the field depicts Government as causing or exacerbating harm. And as either lacking in basic competence or as deliberately iconoclastic. For example:

“The calamitous interlude of the Truss **Government, which so spectacularly destroyed** the UK's longstanding reputation for economic competence and stability.”

“10 years since the **government took an axe** to legal aid, justice is increasingly out of reach for those in most need”

“**government is eroding** the very protections that are designed to safeguard the basic rights and freedoms of individuals”

This risks depicting Government as inherently unable or unwilling to maintain the rule of law or access to justice. Sampled field communications often identified “the Government” in general terms as a problem - and only rarely named specific administrations or decision-makers.

Individualism

With few exceptions, the wider public are given little role to play in field communications in either solving problems or maintaining the rule of law and access to justice. Calls to “work together to rescue the rule of law” are aimed not at citizens, but at the “international rule of law and justice community.” And lawyers, not citizens, are asked to donate their skills in service of “upholding the Rule of Law.”

The public are instead depicted in passive terms: either as vulnerable individuals given justice, or as children and young people receiving legal education.

Competing narratives on pro bono work: charitable donation or essential service

Some field materials focus on free legal services as one way to improve access to justice -

usually via expanding pro bono work. Stories centred on charitable virtue are paired with a direct call for lawyers to donate their time. For example:

“I would urge lawyers to get involved where they can, it will be some of the most worthwhile work you will do”

“I encourage you to continue your excellent pro bono work. Providing your services for free is vitally important to... ensuring that everyone has equal access to legal advice.”

This focus sits in contrast with other materials in our sample. While some centred the *charitable* donation of services, others centred the *essential* nature of those services. And within the latter, pro bono work is positioned as something that fills in the gaps of - but is ultimately no substitute for - publicly-funded services like legal aid.

How this is likely to affect public thinking

Crisis framing is used by advocates, politicians and journalists to describe most social issues: from the cost of living, social care and NHS funding, to addiction, inflation and conflict. Against a backdrop of permacrisis, issues can get lost - and are frequently deprioritised in favour of the most immediate challenges.

Crisis framing, then, rarely does the work advocates need it to. It can foster disbelief (this can't be true) and fatalism (this can't be solved). When the field is focused on failures - or does not offer solutions that match the scale of an identified problem - it risks positioning the rule of law and access to justice as broken beyond repair. Advocates must be able to draw attention to the scale and severity of problems, but also our ability to fix them. This will be a key task for future research.

The field's focus on Government harms has mixed implications. Experts are clear that Government action can either undermine or strengthen the rule of law and access to justice. Only focusing on the former, while reinforcing Government's central role, makes it harder to see how it can and must do better.

Talking about lawyers' salaries - and pro bono work

Experts are clear: more free legal services are needed - and legally aided services need better pay and conditions to retain and recruit lawyers.

Starting with a direct call for higher salaries in this sector risks activating consumerist thinking - where the benefit of legal services is seen as limited to the individuals who pay for them. This could make it harder to see the need for publicly-funded services (and wage increases for lawyers) in the absence of someone's own immediate legal needs. And harder to highlight the ongoing, collective benefits of a functioning legal system with readily available legal services.

Narratives on pro bono work that focus on lawyers' charitable motivations pose a similar

challenge: if work is charitable, it is also optional. Public-facing communications that fail to centre the essential nature of legal services risk undermining calls to better fund those services. Previous research, for example, suggests that foregrounding the innate 'goodness' of workers may background thinking about improving the pay and conditions of those workers.

More research is needed to identify the most productive route forward.

What could help

- **Balance urgency (we must act) and efficacy (we can act)** when talking about the problems faced by legal systems and services.
- **Keep connecting the rule of law and access to justice to other timely and top-of-mind issues** to raise salience and cut-through.
- **Attribute responsibility.** Be clear that problems are a result of specific actions and decisions - and not an inherent trait of government.
- **Build a sense of collective efficacy.** Talk about how, with the right reforms, we can maintain and strengthen the rule of law and access to justice.
- **Connect calls for more funding with the specific changes that funding will secure** to help build understanding of how the rule of law and access to justice work in practice - and what will maintain and strengthen both.
- **Talk about the value of pro bono work to society** - and explain how this work keeps the justice system functioning - *before* appeals for volunteers.

About FrameWorks UK

We collaborate with mission-driven organisations to communicate about social issues in ways that create change.

Our research shows how people understand social issues. And we use this knowledge to develop and test strategic communications to help organisations create change.

Change the story. Change the world. Learn more at frameworksuk.org

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of FrameWorks UK.

© FrameWorks UK 2023