Jury Nullification: The Influence of Judicial Instruction on the Relationship Between Attitudes and Juridic Decision-Making

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Prior research on jury nullification has suggested that individuals tend to operate on their sentiments of justice when engaging in juridic decision-making tasks. Explicitly informing juries of this nullification power is believed to exacerbate the influence of personal bias as such decisions. In this study, participants (N = 240) were presented a measure of euthanasia attitudes and subsequently viewed a case involving nonphysician-assisted death that differed in the method of euthanasia, degree of remorse shown by the defendant, and type of jury instruction presented. Results indicated that participants were more likely to view the defendant as innocent when they received a nullification jury instruction, when they held pro-euthanasia attitudes, and when the defendant used mild form of euthanasia (pulling the plug on the respirator). Although participants' attitudes influenced pre-decision decisions, regardless of the instructions they received, post-decision decisions showed a curious moderation effect in the nullification instruction condition in which attitudinal influence was diminished via deliberation discussions between participants. Participants given a standard jury instruction reported being influenced more by evidence and legal aspects of the trial, whereas those in the nullification instruction conditions were more likely to rely upon their perceptions of the defendant's action, or more directly upon their attitudes toward euthanasia. Implications for the use of nullification instructions are discussed.

As generally defined, the role of the jury is to arrive at the facts of a case, given the particular testimony and evidence presented at trial, and to render a decision by applying the law, as administered by the judge, based upon their interpretation of the facts. However, a number of psychological researchers and legal scholars have questioned the extent to which juries might fail in this endeavor by allowing their personal bias, sentiment, or prior experiences to lead to a decision that is not consistent with the law (Elmore & Sales, 1985; Field, 1995). Often termed jury nullification, such decisions involve the jury's implicit power to arrive at a verdict based upon issues outside of the law, such as moral concerns, distributive justice, or even prejudice. Viewed in a positive light, this process could allow juries to confront issues of fairness and to act as the conscience of the community (Weinstein, 1998). Viewed negatively, these may be seen as instances of irresponsible "runaway juries." Jurors have this power because a verdict does not require explanation as to the jury's rationale (United States v. Thomas, 1997).

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Historical analyses of jury nullification have focused on events such as the 1735 sedition trial of American printer
John Peter Zenger. At a time when many American colonists resented the British-based court system, Zenger was accused of printing material not authorized by the government. His attorney told the jurors that they "had the right beyond all dispute to determine both the law and the facts" (Wrightman, Greene, Nietsch, & Fortune, 2002, p. 375). The jury acquitted Zenger. Similarly, in the mid-1800s, some abolitionist-minded jurats acquitted people who were accused of helping slaves escape from the South, an idea that defied the law (Finkel, 2000). In retalia-
tion, many jurats in the South refused to convict slave owners under laws that prohibited the mistreatment of slaves. Until the mid-1800s, it was commonplace for judges to instruct the jury of its right to disregard the court's view of the law (Clark, 2000).

The U.S. Supreme Court has not been supportive of such a viewpoint, however. In 1895, the Court ruled that jurors in criminal cases were obligated to apply the law as set out by the judge, and had no right to deviate from the law (Spief and Hansen v. United States, 1895). Despite this decision, however, the ensuing century saw a number of jury decisions that were at variance with the law and seemed to fit with the concept of jury nullification. These most often involved mi-
nor drug offenses, liquor violations (i.e., during the Prohibi-
tion era), drunk driving, prostitution, insanity defenses, anti-
abortion activities, and instances of euthanasia. There was a resurgence of jury nullification in the 1960s and 1970s, due largely to cases stemming from the Civil Rights movement and from protests against American involvement in the Vietnam War (Clark, 2000).

A new set of high-visibility cases appeared in the 1990s. These included the drug and perjury trial of Washington, DC mayor Marion Barry, in which he was convicted on only 1 of 14 counts, despite videotaped evidence that seemed to clearly indicate his guilt (Simon, 1992). In 1992, four White, Los Angeles police officers were found innocent of the beat-
ing of a Black man, Rodney King, even though the beating had been videotaped and King suffered a fractured skull and a broken leg. In 1995, former football star O. J. Simpson was found not guilty of the murder of his ex-wife and her friend, despite evidence that seemed, to many observers, to be strong indicative of his guilt. In his closing statement to the jury, defense attorney Johnny Cochran exhorted them to "send a message," telling them essentially that "you are the conscience of the community, and you set the standards. You tell us what is right and what is wrong" (Gormlie, 1996, p. 49). Concerning euthanasia, physician Jack Keeverkian (also known as "Doctor Death") was tried and acquitted three times during the decade for his actions in assisted sui-
cide cases. His attorney openly told the media that he would urge the jury to disregard the law in these instances (Slavenko, 1994).

Whereas each of the previously mentioned events has been classified as an instance of jury nullification by some observers, others have argued that this was not the case (e.g.,

Barak, 1996; Brigham & Wasserman, 1999; Clark, 2000;
Cowan & Fairchild, 1997; Gormlie, 1996; Wrightman et al., 2000). The disagreement stems from the difficulty in deciding what constitutes an occurrence of jury nullification. First of all, nullification decisions can be viewed as desirable or undesirable. In some instances, jurors may be viewed as "standing tall," disregarding the letter of the law in order to pursue justice on a higher level that is concerned with a sense of fairness. At the other extreme, nullifying jurors can be seen as willfully and irresponsibly defiant, disregarding their oath and instead following their prejudices, saying, in effect, "to hell with both the law and the rule of law, such that

anarchy results" (Finkel, 2000, p. 597).

According to Finkel (2000), four factors distinguish true cases of jury nullification, wherein a jury purposefully dis-
regards the legal standards in the presence of an explicit in-
struction to follow the law. First, the verdict must be clearly classifiable as "wrongful," that is, as conflicting with the law. In the Simpson case, researchers found a great racial di-
vide on this issue. To illustrate, shortly after the verdict, the vast majority of Black college students (91%) believed that the jury made the right decision, but fewer White students (47%) agreed (Brigham & Wasserman, 1999). Second, it should be shown that the verdict did not result because jurors were not allowed to deliver the verdict that made the most sense to them. After the verdict in another high-profile case, in which John Hinckley was found not guilty by reason of insanity in the shooting of President Reagan, the jury foreperson told a Senate committee that none of the possible verdicts they were allowed made sense to them. So they ap-
parently settled on a not guilty insanity verdict as the best compromise for a difficult situation (Finkel, 2000).

A third factor is "reasonable doubt." Decisions that result mostly from a juror's interpretation of the slippery concept of reasonable doubt should not be seen as nullification, Finkel (2000) argued. Finally, for a decision to be classified as nulli-
fication, it should be shown that the jurors comprehended the jury instructions and, nevertheless, decided to disregard them. Many studies have shown that jurors often do not un-
derstand the instructions given to them by the judge (e.g., see Lieberman & Sales, 1997; 2000; Shaffer & Wheatman, 2000). If a verdict results from the jurors' misunderstanding of the judge's instructions, then this cannot be classed as willful defiance of those instructions. Because of these fac-
tors, Finkel (2000) proposed that instances of jury nullifica-
tion are "probably nowhere near as prevalent as many critics contend" (p. 623; see also Rovella, 1997).

Nevertheless, the possibility that a jury may disregard their oath and willfully defy a judge's instruction remains a controversial issue. Despite court rulings that were not sup-
portive of the idea (Spief and Hansen v. United States, 1985; U.S. v. Dougherty, 1972), some have argued that jurors should be made aware of their right to disregard the letter of the law when they seek to act in fairness as the conscience of the community (Clark, 2000). Such awareness of the right of
nullification may be extended via a lawyer’s closing argu-
ments or through an explicit instruction presented by
the judge prior to deliberation. With regard to the former, a
report on jury nullification by the Committee on Profes-
sional Responsibility of the American Bar Association
(1999) recently concluded that “the law and ethical rules
do not clearly prohibit lawyers from arguing for jury nulli-
fication” (p. 203). However, the committee further argued, “A
lawyer’s freedom to argue for jury nullification is always sub-
ject to a court’s authority to limit argument” (p. 204), citing
relevant case law (e.g., People v. Weinstein, 1994). In terms of
instructions provided by the judge, three states (Maryland,
Georgia, and Indiana) currently permit a ‘very mild form of
instructon in which the jury may be permitted to rely on their
‘consciousness when deciding the case (Danez, 1996).

A highly controversial area in which these concepts may
apply concerns euthanasia (“mercy killing”) and physician-as-
sisted suicide. In 1994, the people of Oregon passed, by citi-
zens’ initiative, the nation’s first law allowing physician-as-
sisted suicide under carefully specified conditions. Known as
the Death with Dignity Act, the law was immediately chal-
enged in the courts and in the state legislature, and did not take
effect until 1998. In the law’s first year of operation in Oregon,
there were 60 requests for “ hastened death,” and 23 lethal pre-
scriptions were authorized (Benjamin, 2000). Controversy
continues to surround Oregon’s law, as well as similar others
proposed in the United States (e.g., Benjamin, Werth, & Gostin,
2000, Lee & Werth, 2000). An analogous, yet controversial, sit-
uation arises when someone other than a physician kills a loved
one who is suffering from a terminal, painful illness. Although
such cases clearly fit the criteria for precipitated first-degree
murder, juries have rendered decisions ranging all the way
from murder to manslaughter to acquittals (e.g., Mitchell,
1976; Whigman et al., 2002). Such acquittals would seem to
fit the criteria for jury nullification, given that the verdict con-
flicts with the law as it applies to the defendant’s actions.

Influence of Jury Nullification Instructions

In this study, we attempted to explore the link between an in-
dividual’s personal bias or sentiment and its application to
the jury decision-making task. In doing so, we utilized the
nullification paradigm as a manner in which to manipulate,
via explicit jury instructions, the likelihood that an individ-
ual might access relevant bias or sentiment and apply it to a
jurisdiction decision. This research addresses this very basic
social-cognitive question regarding the link between atti-
dudes and decision making, as well as the legal community’s
concern that nullification instructions might allow chaos
into the deliberation process. As noted previously, several
early decisions by the U.S. Supreme Court (Spur and
Hanson v. United States, 1895), and most recently a deci-
sion by the Court of Appeals for the District of Columbia in
United States v. Dougherty (1972) held that the role of the
jury was simply to apply the law to the facts of the case at
hand. The courts argued that although juries may implicitly
have the right to nullify in a given situation, to provide an
explicit instruction would be a first step in al-
lowing the demonstration of prejudice and inconsistency
where the law was clearly applicable (see also, United States

A series of research studies have previously investigated
the court’s assumption regarding the influence of jury nulli-
fication instructions on the manner in which jurors both
evaluate evidence and arrive at culpability judgments in
criminal and civil cases (Hill & Pfifer, 1992; Horowitz,
1985, 1988; Kerwin & Shaffer, 1991; Niedermeier, Horowitz, &
Kerr, 1999; Pfifer, Bringham, & Robinson, 1996). Empirical studies have generally found a tendency for
nullified juries to operate on their sentiments of justice and
fairness, including reliance upon highly prejudicial beliefs.
On the other hand, juries that receive a standard legal in-
struction from the judge have been found more likely to
avoid such considerations, and more often to follow the law
when reaching a verdict. In addition to confirming a nullifi-
cation bias, studies have demonstrated that judgments of
guilt are often tempered by individuals’ social perceptions of
the case at hand. For example, Horowitz (1985) found that
although nullified juries tended to vote not guilty in a case of
euthanasia more often than did standard instruction juries,
they were also more likely to arrive at guilty verdicts in a
drunk driving case. A third case involving murder showed no
effect due to the type of instruction. In a later study, Horowitz
(1988) replicated these results and, in addition, noted that
nullified juries judged a dangerous defendant severely, while
leniently acquitting one who was more sympathetic.

Hill and Pfifer (1992) also found evidence supporting
concerns that prejudice may influence guilt decisions when
they examined racial factors in a mock rape trial. While par-
ticipants were presented evidence suggesting that the defen-
and (either Black or White) had raped, at knife point, a
White woman. Subsequently, participants were provided
either no judicial instruction, a standard instruction currently
used by the courts, or one of two nullification statements
(i.e., an implicit mild instruction or a more explicit radical
version). Results indicated significantly lower guilt ratings
when participants judged a White defendant and were pre-
vented either no jury instruction or a radical nullification
statement. Thus, when participants were not fowled to follow
the law, they tended to be more lenient with a same-race de-
fendant compared to a defendant of another race.

In a more recent study, Pfifer, Bringham, and Robinson
(1996) examined several factors believed to influence individ-
uals’ perceptions of guilt in a case of non-physician-assisted
death. Specifically, three conditions were hypothesized to af-
fect individuals’ ratings of guilt: (a) the method of euthanasia
utilized by the defendant (gun or pulling the plug), (b) the
level of remorse displayed by the defendant (higher or low), and
(c) the type of instruction read to the jury (standard, mild

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nullification, or radical nullification). Although individuals were instructed to think as jurors, they did not take part in deliberation of the case. As predicted, individuals’ perceptions of guilt were significantly increased by a harsh form of euthanasia (guilt = set) and by standard jury instructions that stressed that they should follow the law. There was also a tendency (p = .07) for individuals to treat the defendant who demonstrated a high degree of remorse more leniently than when he showed no emotion, but this effect narrowly missed statistical significance.

Most recently, Niedermeier et al. (1999) sought to assess whether jury nullification instruction might further encourage jurors to consider “common, noncontroversial extralegal biases” such as gender, ethnicity, or severity of sentence (p. 333). The authors reasoned that if nullification instructions truly do invite chaos into jury decision-making, then jurors’ consideration of such biases should be exacerbated under conditions of nullification instruction. Their results indicated that although nullified jurors were more likely to reach a verdict based upon their personal sense of fairness, they were not more likely to extend decisions on the basis of biasing information that were jurors who received a standard instruction. Thus, Niedermeier et al. concluded that they observed a generally prudent use of the power to nullify as given through a judge’s instruction to the jury.

Attitudes and Jury Nullification

One question not yet addressed by the research literature is the specific manner and degree to which an individual’s attitudes may influence juridical decisions when jurors are provided with divergent types of instruction. For example, several studies have shown that jury nullification instructions are not a prerequisite for jurors to abandon proper application of the law such that they might instead apply their own personal notions of justice (also referred to as common sense justice) (Finkel, 1995; Finkel, Huberbiel, & Hughes, 1993; Smith, 1991). Other studies previously discussed have examined only the predicted direction of guilt judgments under nullification instruction conditions as evidence for the influence of public attitudes (Hill & Pfefster, 1992; Horowitz, 1982, 1988; Kerwin & Shaffer, 1991; Niedermeier et al., 1999; Pfefster et al., 1996). As alluded to previously, it is important that we seek to understand the manner in which personal attitudes are accessed and applied in juridical decision-making. The nullification paradigm provides a medium with which we are able to manipulate permission to access relevant personal sentiment via explicit judicial instruction, and thus allows us a method of control in exploring the relationship between attitudes and juridical decision making.

Our investigation builds upon the findings of Pfefster et al. (1996) by introducing a measure of attitudes toward euthanasia, and adding a group deliberation phase followed by a second, postdeliberation individual judgment. The attitude measure was included to assess the influence of personal attitudes and beliefs on guilt judgments under standard versus nullification instruction conditions. The group deliberation and postdeliberation individual ratings provide a more realistic view of the process of jury decision-making and its influence on individuals’ personal ratings of guilt apart from the group. Three variables were manipulated at trial: the type of instruction presented to the jury, the degree of remorse displayed by the defendant, and the method of euthanasia implemented.

In addition to assessing whether the main effects found in the previous study (Pfefster et al., 1996) would be replicated, our research addressed two new hypotheses. First, although some prior research and judicial findings might predict that jurors tend to rely upon their personal attitudes and prejudices under standard instruction conditions (Finkel, 1995), we hypothesized that nullification instructions should exacerbate this tendency by explicitly instructing jurors that they may do so. Our second hypothesis involved whether different aspects of the case would be discussed when individuals are presented a standard versus a nullification instruction. Horowitz (1988) found that standard jurors tend to consider the legal and evidential aspects of the case, whereas nullified jurors often evaluate each case based upon their perceptions of the defendant and his or her action. Accordingly, we assessed which factors individual mock jurors felt most influenced their decisions of guilt or innocence. It was predicted that, consistent with previous findings, standard and nullified jurors would differ in the factors they perceived as influencing their decision.

METHOD

Participants

A total of 240 undergraduate students participated in partial fulfillment of a research requirement for an introductory psychology course. Within the sample, 166 participants were women, while 74 were men. Ages ranged from 17 to 39, with a mean of 19.11 (SD = 2.23). Individuals were randomly assigned as members of 4-person groups (mock juries).

Neither conditions nor mock juries were controlled for assignment of women and men. Although post hoc analyses demonstrated a significant correlation between gender and attitudes toward euthanasia, r(240) = .19, p < .01, neither pre- nor postdeliberation ratings of guilt were correlated with gender, r(240) < .10, p > .10. Furthermore, inclusion of gender is a covariate in the tested ANOVA analysis failed to influence that pattern of findings reported, particularly the Type III ESS > Instruction interaction, F(4, 46) = 3.19, p < .05, η² = .09.
Materials

Euthanasia Attitudes Questionnaire (EAQ). The Euthanasia Attitudes Questionnaire (EAQ) was developed in our lab as a measure of individuals' perceptions of euthanasia. An initial questionnaire was created, comprising of 155 statements regarding various aspects of euthanasia, mercy killing, and right-to-die constructs. Some of these statements were derived from several existing measures involving individuals' attitudes toward euthanasia (Barrosse, Ousée, & Luna, 1992; Darley, Loew, & Hunter, 1994; Rogers, 1996; Ross & Kaplan, 1994; Tordella & Neumann, 1979), while the remainder were developed by the current authors. This initial questionnaire was presented to 311 undergraduate students who received course credit for their participation. Individuals responded to each question on a 7-point scale ranging from 1 (strongly disagree) to 7 (strongly agree). Principal components analysis (Varimax rotation) yielded six components with eigenvalues above 3.0, which, combined, accounted for 33% of the variance. Items were examined for high loadings on the primary component (values ≥ .60), while maintaining relatively low loadings on the remainder of components (values ≤ .30). The first component, labeled euthanasia, accounted for 18% of the variance and included 18 items that addressed the participants' general acceptance of the practice of euthanasia. The remaining five components each accounted for less than 6% of the variability in responses; thus, only the euthanasia factor was retained as a measure of individuals' attitudes.

We examined the reliability of the resulting 18-item Euthanasia Attitudes Questionnaire (EAQ) in the sample of 240 participants. The range and distribution of items approximated that of a normal curve and yielded no significant univariate or multivariate outliers. A confirmatory factor analysis (CFA) was conducted in an attempt to validate the factor structure extracted in the previous exploratory analysis (for a review, see Byrne, 1994). Results of a single factor CFA model indicated good overall fit to the observed data. Although the chi-square goodness of fit statistic yielded a significant value, χ²(136) = 262.40, the ratio of chi-square to degrees of freedom (1.93) fell below that of the 2.00 convention, indicating good fit to the data. Because the chi-square statistic is sensitive to sample size, we also report the results of two additional indicators of model fit: the Comparative Fit Index (CFI) and the Non-Normed Fit Index (NNFI). Both indicators can range from 0 to 1, with values of .90 or greater indicating good model fit (Bentler, 1995). Both the CFI and the NNFI indexes met the .90 standard for acceptable fit of the model (.94 and .95, respectively), and no standardized residuals exceeded the .20 convention for misfit. Examination of the pattern of factor loadings indicated that all items were highly related to the single Euthanasia factor, Zα ≥ .90.00, ps < .001. In addition, the EAQ measure yielded a Cronbach's α = .76.

Videotaped deposition and jury instructions. Participants were presented a 13-minute videotaped scenario that depicted a 52-year-old man's testimonial confession to the mercy-killing of his terminally ill wife. After viewing the defendant's deposition, participants viewed a judge who read a set of standard judicial instructions employed by most states that specified presumption of innocence, burden of proof, and reasonable doubt criteria. The standard instruction also contained the elements of first-degree murder and the duties of the jury in reaching consensus as to the guilt of the defendant. In addition to the first-degree murder instruction, a second set of participants were presented with the following mild satisfication instruction used by Florowitz (1985):

Members of the jury: This is a criminal case and under the constitution and laws of this jurisdiction the jury are the judges of law as well as of the facts of the case. What I have told you about the law, while it is intended to be helpful to you in reaching a just and proper verdict in the case, it is not binding upon you as members of the jury and you may accept or reject it. And you may apply the law as you apprehend it to be in the case.

Finally, a third set of participants were presented with the following version of a radical satisfication instruction, which Van Dyke (1970) suggested represents a more explicit statement of the power of the jury to nullify:

Members of the jury: This is a criminal case and under the constitution and laws of this jurisdiction the jury are the judges of law as well as the facts of the case. While you must give respectful attention to the laws, you have the final authority to decide whether or not to apply a given law to the acts of the defendant on trial. You represent the community, and as such it is appropriate to bring into your deliberations the feelings of the community and your own feelings based upon your conscience. Despite your respect for the law, nothing would bar you from acquitting the defendant if you feel that the law, as applied to the fact situation before you, would produce an inequitable or unjust verdict.

A total of 12 videotaped scenarios were developed with the assistance of the Florida State University Theater Department, each corresponding with a cell in the design. Scenarios were presented to participants on a standard 20-inch television with dual-head VCR.

Design

A nested 2 × 2 × 3 × 3 (× 2) repeated measures design was employed. The independent variables included between-subject variations in (a) the method of euthanasia used by the defendant (gasshoor or unplugging the respirator); (b) the
level of remorse displayed by the defendant (high or low), and (c) the type of instruction read to the jury (standard, mild nullification, or radical nullification). Respondent's attitudes toward the act of euthanasia (antisouthanasia, moderate, or pro euthanasia) were also included as an independent variable in the design. The repeated measure involved a pre-deliberation individual rating of guilt on a 7-point response scale, ranging from 1 (definitely not guilty) to 7 (definitely guilty), immediately following the judge's instruction, and a post-deliberation individual rating of guilt (on the same 7-point response scale) immediately following group deliberation. Prior to deliberation, participants were randomly assigned to groups, and the influence of this social interaction (tested design) was thus controlled for in subsequent analyses. The results of group deliberations were analyzed separately.

Procedure

Before viewing the videotape, participants were administered the EAQ measure and were permitted 30 min for its completion. The rationale for preadministration of the attitudes measure was that scores would not be influenced (polarized) by reactions to the case materials, and individuals' scores would therefore be more representative of their true perceptions of euthanasia. In addition, gaining access to mock juror' attitudes before trial can be seen as analogous to the process of voir dire, or jury selection, in which individuals are often questioned as to their beliefs and perceptions of hypothetical scenarios similar to the case before them.

Following completion of the EAQ measure, participants were presented with background information regarding a case in which a husband was charged with first-degree murder for the "euthanasia" of his terminally ill wife. Specifically, participants were informed:

On July 19, 1989, at 10:49 A.M., police were called to a house in response to a neighbor's call that Mr. Walter P had just killed his wife. Officers arrived at the scene and found the accused seated in his living room with his neighbors Ed and Cecile J., who lived across the street, and Mr. P's daughter Angela, whom they had called at her place of employment. Questioning revealed that at approximately 10:30 A.M., Mr. P had rung the neighbor's doorbell in obvious distress and stated that his wife of 27 years Beatrice had just died. Mr. and Mrs. J. were often in contact with Mr. and Mrs. P, and kept an eye on them in case Mr. P needed help with his wife, who was an invalid. The neighbors accompanied Mr. P to his house and after a brief examination were able to ascertain that Mrs. P had died (of a gunshot wound to the head) (and noted that her ventilator was unplugged). Upon questioning Mr. P, he admitted that he was responsible and Mr. and Mrs. J. decided that they had better telephone the police as well as Mr. P's daughter Angela.

Participants were then shown the videotaped deposition and judge's instruction, after which they were asked individually to rate the guilt of the defendant on a 7-point scale (predeliberation). Participants were then randomly assigned to groups of four persons. Each of the 60 groups was instructed to discuss the case and reach a unanimous verdict as to the guilt or innocence of the defendant. Groups were allotted 30 min to reach a decision and time of deliberation was recorded. After a verdict was reached or 30 min had passed, participants were again asked to anonymously rate the guilt of the defendant on a 7-point scale (postdeliberation). Additionally, individuals answered several questions involving central aspects of the case materials (manipulation checks). In particular, participants were asked (a) to recall the method of euthanasia employed by the defendant; (b) to rate the degree of remorse displayed by the defendant, using a 7-point scale from 1 (not remorseful) to 7 (very remorseful); (c) to identify the type of instruction which they had been presented by the judge (i.e., the addition of a mild or radical nullification statement); and (d) to rate how realistic the video presentation had been, using a 7-point scale from 1 (not realistic) to 7 (very realistic). Participants were also asked to provide a list of factors that most influenced their decision as to the defendant's guilt or innocence.

RESULTS

Euthanasia Attitudes and Jury Nullification

Previous research has indicated that individuals often rely upon their attitudes or sentiments in reaching a verdict, especially when provided with a nullification statement (Hill & Pfeifer, 1992; Horewitz, 1985, 1988; Kerwin & Shaffer, 1991; Niedermeier et al., 1999; Pfeifer et al., 1996). To examine this relationship, partial correlations were calculated between individuals' EAQ scores and guilt ratings for each type of instruction both before and after group deliberation. The various trial manipulations including the method of euthanasia and the degree of remorse displayed by the defendant were controlled for in the calculation. Additionally, as a consequence of the nested design utilized in the study, the deliberation group was also controlled in the postdeliberation correlations. Partial EAQ-Guilt correlations were significant across each type of instruction at predeliberation ($r_p > .53$, $p < .001$), and correlations did not significantly differ as a function of instruction type ($Z_{PC} < .51, p > .10$). However, at postdeliberation, only the standard instruction condition demonstrated a significant relationship between attitudes and guilt ratings ($r_p = .47$, $p < .001$). Significance tests demonstrated marginal differences between the standard and nullification instruction conditions at postdeliberation.
Individual Guilt Ratings

To more closely examine the correlational differences in attitudinal influence following group deliberation, participants' scores on the EQAI were dichotomized by way of a one-third percentile split (pro-, moderate, and anti-euthanasia attitudes). This variable was then included in a mixed factorial analysis investigating the influence of the type of instruction, method of euthanasia, and degree of remorse displayed at trial, on mock jurors' individual guilt ratings (pre-deliberation vs. post-deliberation). We utilized a hierarchical or nested design in which jurors were assigned randomly to conditions representing every combination of the independent variables, while individual jurors were randomly assigned to groups of four persons (mock juries).

In this hierarchical design, the appropriate procedure is to conduct a preliminary analysis mixed ANOVA to assess whether the variance attributable to groups significantly exceeds the variance due to the participants. If the preliminary analysis indicates that this is the case, then groups (nested within conditions) and individual variances (participants within groups) cannot be pooled, and the participants' effect must be tested with the larger group variance. Conversely, if the preliminary analysis finds no significant effect for groups, then the two error terms can be pooled (cf. Hopkins, 1982). We predicted that the group factor would have a significant effect on individual jurors' ratings over time, thereby demonstrating the influence of unique group processes not controlled for in this study. As predicted, the preliminary analysis indicated a significant influence of the group factor (mock juries), as represented by a significant Time x Group Interaction, F(48, 150) = 1.82, MSE = 1.20, p < .05, η² = .06, and a significant Group main effect, F(48, 150) = 2.20, MSE = .14, p < .001, η² = .10. This result demonstrated that participants' group factors not controlled for in this study were, in fact, influential on participants' guilt ratings over time. As a consequence of this effect, all subsequent analyses were conducted using the larger group variance.

We admit that use of an ANOVA design associated with dichotomization of the EQAI measure leads to a less powerful assessment of the possible influence of attitudinal judgments of guilt. However, the necessity of the alternative regression solution, requiring consideration of the usual portion of our design and repeated measures, would potentially hinder presentation of the results. The concern in testing linear effects is generally associated with the paradox of a continuous variable. We have attempted to avoid this concern somewhat by dividing participants into three groups. We thank Michael Hendle for pointing us to this concern and possible solutions.

Note. N = 80, η² correlations were controlled for method of euthanasia and degree of remorse displayed by the defendant; additionally, the influence of group assignment was controlled for at postsolution. *p < .001.

For the within-subjects effects, utilizing the group variance as the denominator term, a 2 x 2 x 3 = (2 x 2) repeated measures ANOVA yielded a significant Time x EIAI interaction, F(48, 471) = 2.15, MSE = 1.62, p < .01, η² = .15, and a higher-order Time x EQAI x Instruction interaction, F(48, 471) = 4.19, MSE = 1.44, p < .05, η² = .10. No other within-subjects effects were observed, Fs < 1.40, ps > .10, η² < .04. To further explore the 3-way interaction, follow-up 3 (x 2) repeated measures ANOVAs were performed across each level of the Instruction manipulation. Once again, the group variance was used as the denominator term in each analysis. The relevant Time x EQAI interaction was significant in both the mild nullification, F(2, 16) = 6.95, MSE = 2.34, p < .002, η² = .12, and radical nullification, F(2, 16) = 7.62, MSE = 2.32, p < .005, η² = .23, instruction conditions, but was not significant in the standard instruction condition, F(2, 16) = 0.31, MSE = 2.56, p > .10, η² < .01. For the mild nullification condition, simple effects comparisons indicated that participants with antieuthanasia attitudes lessen their ratings of guilt following deliberation, t(29) = 4.85, p < .001, while participants with proeuranasia attitudes increased their ratings of guilt following deliberation, t(19) = 2.49, p < .01. For the radical nullification condition, a similar pattern of effects were observed for both antieuthanasia, t(25) = 2.26, p < .05, and proeuranasia participants, t(31) = 3.02, p < .01. This pattern of results is illustrated in Figure 1, indicating that whereas standard structuring jurors' perceptions of guilt remained constant following group deliberation (top panel), nullified jurors appeared to shift over time such that each attitudinal group merged toward a common mean, regardless of their attitudes toward euthanasia (middle and bottom panels).

Tests of the between-subjects effects yielded no significant main effects for method of euthanasia, F(1, 48) = 0.00, MSE = 8.11, p < .05, η² = .10, and level of euthanasia attitudes, F(2, 46) = 0.98, MSE = 8.11, p < .05, η² = .22, and a marginal effect of Instruction type, F(2, 48) = 2.84, MSE = 8.15, p < .07, η² = .06. Overall, participants were more likely to see the defendant as guilty when they held anti-euthanasia attitudes compared with more moderate or pro-euthanasia attitudes (Ms = 4.46, 3.46, and 2.84, SSes = 1.97, 1.98, and 1.78, respectively), when he used a
FIGURE 1 Influence of attitudes toward euthanasia on guilt ratings for standard vs. nullification instruction conditions.

gun to commit the act as opposed to pulling the plug ($M_s = 3.97$ and 3.21; $SD_s = 2.05$ and 1.96, respectively), and when they received a standard instruction versus either the traditional or radical nullification instructions ($M_s = 3.97, 3.51$, and $3.19, SD_s = 2.11, 1.92$, and 1.97, respectively). No other interactions were observed, $F_s \leq 1.40, ps > .10, \eta^2 = .04$, consistent with Niedermeier et al. (1999).

Manipulation Checks

We instituted several manipulation checks such that we could be confident that the results of this study reflect purposeful variation in participants' responses. These checks included participants (a) recalling the method of euthanasia employed by the defendant, (b) rating the degree of remorse displayed by the defendant, (c) identifying the type of
Groups were more likely to reach consensus when the defendant demonstrated a high degree of remorse (97% reached a unanimous verdict) than when he showed no emotion at the trial (only 63% reached a verdict). Neither the method of euthanasia, $\chi^2(1, N = 60) = 6.41, p < .10$, nor the type of jury instruction, $\chi^2(2, N = 60) = 0.63, p > .16$, influenced the likelihood of a hung jury.

Secondly, it was hypothesized that groups composed of individuals with extremely differing views might fail to reach an agreement due to members’ inability to persuade one another. More specifically, it was predicted that hung juries would have greater dispersion in the EAQ scores of group members compared to that of juries who reached consensus. An independent samples t test on the standard deviation of each group’s EAQ scores confirmed the above hypothesis, $t(85) = 2.11, p < .05$. Thus, hung juries appeared to have begun their deliberations with a wider range of attitudes toward euthanasia, as measured by the standard deviation of the four EAQ scores ($M = 10.45, SD = 2.18$), when compared with juries that were able to reach consensus ($M = 8.44, SD = 3.10$).

Self-Reported Influential Factors

Following their second individual rating of guilt (postdeliberation), individuals were asked to list any factors in particular that may have influenced the decision of guilt or innocence. Categories used for coding individuals’ free responses were generated a priori from a set of theoretically plausible alternatives, after which participants’ free responses were categorically coded by two independent raters. Statements were coded for responses reflecting any of the following categorical responses: (a) the defendant’s display of remorse; (b) the strength of the evidence against the defendant; (c) the legal definitions of murder and law; (d) the degree of pain and suffering the defendant’s wife had gone through; (e) the terminal illness which had caused her agony; (f) euthanasia being perceived as a loving act; (g) or individuals’ general attitudes toward euthanasia (either pro- or anti-). Interrater reliability was high, with an average Kappa across categories of $.90$ ($SD = .05$).

It was hypothesized that standard juries, who were specifically instructed not to allow their attitudes or sentiments to enter their decisions of guilt, would provide more evidential or trial-related reasons for their judgments. Conversely nullified juries, who were encouraged to discuss their feelings toward euthanasia during group deliberation, were expected to provide more reasons in conjunction with their attitudes and perceptions of the defendant’s act.

Due to the possible influence of the random grouping of individuals into mock juries and subsequent group deliberations, our analysis was conducted on the proportion of individuals reporting a given factor within each grouping (mock jury). A multivariate ANOVA across the instruction
manipulation yielded several significant effects. As predicted, individuals given a standard instruction reported being influenced more by evidentiary and legal aspects of the trial (i.e., Evidence, F(2, 57) = 4.97, MSE = 0.04, p < .01, η² = .15, and Murder/Law, F(2, 57) = 7.56, MSE = 0.02, p < .001, η² = .21, response categories), whereas participants in the nullified condition were significantly more likely to rely upon their perceptions of the defendant's action (i.e., Loving Action, F(2, 57) = 5.09, MSE = 0.03, p < .01, η² = .15, response category), or more directly on their attitudes towards euthanasia (i.e., Euthanasia Attitudes, F(2, 57) = 4.12, MSE = 0.07, p < .05, η² = .13, response category). No other factors were significant, F(4, 116) = 1.30, p > .10, η² = .04, Table 2 presents the average proportion of responses for individuals within mock juries across the three instruction conditions.

DISCUSSION

In our study we examined whether explicit instructions regarding jury nullification might increase individuals' reliance upon personal attitudes when engaging in a juridic decision-making task. Although previous research has indicated that jurors may rely upon personal sentiments despite instruction to follow legal standards (Finkel, 1995), it was expected that instructions permitting access to personal attitudes would increase their subsequent influence upon verdict decisions. To assess this hypothesis, we examined the relationship between participants' attitudes and guilt judgments in an euthanasia case where manipulations were made to the type of jury instruction provided at trial. Additionally, a mixed-hierarchical analysis investigated the influence of several case manipulations (degree of remorse, method of euthanasia, and type of jury instruction) and individual attitudes toward euthanasia, on guilt judgments both before and after group deliberation. Group verdicts and factors influencing participants' decisions of guilt or innocence were also analyzed.

| TABLE 2 | Mean Proportions of Instructional Factors Regarded by Individuals Within Mock Juries |
|-----------------|---------------------------------|---------------|-----------------|---------------|-----------------|
| Influential Factors | Standard Instruction | Nullification | Radical Instruction |
| | M | SD | M | SD | M | SD |
| Remorse | .05 | .13 | .08 | .14 | .06 | .10 |
| Evidence** | .24 | .22 | .25 | .22 | .22 | .10 |
| Murder/Law*** | .16 | .18 | .05 | .04 | .04 | .06 |
| Pain/Suffering | .17 | .18 | .25 | .27 | .30 | .28 |
| Terminal Illness | .98 | .15 | .19 | .25 | .16 | .20 |
| Loving Action** | .05 | .10 | .21 | .17 | .18 | .21 |
| Euthanasia Attitudes* | .23 | .24 | .40 | .21 | .45 | .26 |

Note: N = 20, **p < .05, ***p < .01, *p < .001.

Partial correlations indicated that initial ratings of guilt were significantly related to general attitudes toward euthanasia in both the standard and nullification instruction conditions. However, contrary to predictions, postdeliberation guilt judgments made by jurors given nullification instructions were actually less strongly related to their personal attitudes than were those of standard-instruction jurors. Analyses of participants' pre- and postdeliberation guilt judgments indicated a similar interaction between general attitudes toward euthanasia (trichotomized; the type of instruction presented, and the process of group deliberation) and, in turn, of group deliberation (see Table 1). However, inconsistent with Niedermeier et al. (1999), case factors such as the degree of remorse shown by the defendant and the type of euthanasia implemented failed to interact with the instruction manipulation. Thus, nullification instruction jurors were not more likely to consider these biasing factors than were standard-instruction jurors.

Further examination of factors that mock jurors reported as influencing their decisions revealed that, consistent with predictions, nullification instructions permitted individuals and groups to focus more upon their personal attitudes and perceptions of the defendant's act. It is likely that such discussions, within the context of a standstill to reach a unanimous decision, may have encouraged adversarial concessions, thereby reflecting movement in guilt ratings across the extreme attitudinal conditions. Although the specific processes behind this moderation effect are not yet clear, a follow-up study in our lab (Wasserman & Meissner, 1999) replicated this effect in standard versus nullification instruction conditions. Whether this effect represents a true safe guard against the influence of extreme beliefs in cases involving other socially controversial issues (e.g., racial discrimination) remains an issue for further research.

Interestingly, jurors' judgments of guilt in the standard instruction condition demonstrated a high degree of attitudinal influence both prior to and, impressively, following, group deliberations. According to self-reports of influential factors, however, standard-instruction jurors reported considering more evidentiary and legal aspects of the case than did the nullification-instruction jurors. Additionally, individuals receiving standard instructions were more likely to vote guilty than those receiving a nullification instruction statement. One might suspect that such a curious pattern of results could indicate a failure of random assignment, with initial attitudinal differences between the instruction conditions producing the disparity in guilt judgments rendered by individuals. However, post hoc analyses demonstrated this not to be the case, as groups did not differ in general attitudes toward euthanasia, F(2, 237) = 1.07, MSE = 2017.53, p > .10, η² = .01.

One possible explanation is that standard-instruction jurors may have disregarded the instruction not to consider
their attitudes when deciding the case. For example, Kerwin and Shaffer (1994) found that mock jurors were more likely not to follow a judge’s instruction when asked to provide guilt judgments prior to group deliberation. Likewise, Finkel, Harabali, and Hughes (1993) demonstrated that, despite explicit instruction to the contrary, mock jurors were likely to take into consideration their attitudes and sentiments when deliberating individually on a case involving euthanasia. In this study, the group deliberation process may have reinforced standard-instruction jurors on the evidential and legal aspects of the case, and focused the discussion away from general attitudes toward euthanasia (see Table 2). Nevertheless, it is apparent that some degree of nullification occurred even within the standard instruction condition, consistent with prior notions that jurors will rely upon their personal attitudes and prejudices even under explicit instruction to follow the law (Finkel, 1995).

Group deliberations were more likely to result in guilty verdicts when the defendant displayed a low degree of remorse at trial, and when a harsher form of euthanasia (ganesh) was used. It appears that although both methods of euthanasia might be considered active, as opposed to passive forms of euthanasia (see Sugarman, 1980), jurors viewed the severity of the use of multiple ganeshos as much less acceptable a method when compared with pulling the respirator plug.

About one-fifth of our jurors were unable to reach a unanimous verdict. Hung juries were most likely to occur when the defendant had shown little remorse during his testimony, or when a wide range of preexisting attitudes toward euthanasia was present among the jury members. This latter finding of the significance of within-jury attitudinal beliefs, despite the influence of instruction, could have interesting courtroom application in cases involving other controversial issues.

Unfortunately, many studies conducted in the area of jury decision-making have evaluated only individuals’ responses to variations in case factors. As can be seen in this study, the grouping variable in the nested ANOVA (or the particular jury and the consequent deliberations among participants) explained a significant portion of the variability in individuals’ guilt judgments. Thus, studies failing to account for the influence of group deliberations provide us with an incomplete assessment of the processes involved in group decision-making, as it is apparent from our data that different factors may be influential in each context (individuals vs. groups).

Overall, our findings indicate that personal attitudes do play a role in juridic decision-making, regardless of the type of judicial instruction presented prior to deliberation. However, judicial instructions may actually limit the manner in which jurors are able to discuss relevant case information during group deliberations. In particular, standard instructions focused mock jurors on evidential and legal aspects, whereas nullification instructions permitted jurors to bring in relevant personal bias and perceptions of the defendant’s action. Within the context of the group deliberation process, this nullification instruction effect appears to have moderated the subsequent influence of personal attitudes on post-deliberation decisions. Thus, it is possible that the group deliberation process may actually provide a safeguard against extreme cases of negative social prejudice in juridic decision-making, particularly when jurors are encouraged to base decisions upon their personal sentiments of justice. Although further research will seek to address this question, for now it might be best to consider jury nullification as a two-edged sword, with the ability to produce both socially favorable (e.g., sympathetic or empathic) and socially unfavorable (e.g., prejudicial) verdicts.

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REFERENCES


