MORAL DISENGAGEMENT IN CAPITAL TRIALS: A QUANTITATIVE CONTENT ANALYSIS OF PROSECUTORS’ CLOSING ARGUMENTS

by

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ABSTRACT

Capital jurors often face a moral dilemma when sentencing a defendant to life or death. According to Albert Bandura’s theory of moral disengagement, individuals can behave in a manner contradictory to their moral standards by disengaging from self-regulatory processes through the use of eight mechanisms of moral disengagement. I assessed whether prosecutors engage these mechanisms in their closing arguments in capital cases to prompt jurors to sentence a defendant to death. I hypothesized that the more references to mechanisms of moral disengagement and the more references to different mechanisms in prosecutors’ closing arguments, the greater the likelihood of a death sentence. Through content analysis of 45 capital trial transcripts, researchers independently coded prosecutors’ penalty phase closing arguments for instances of moral disengagement, while being blind to the trial’s verdict. Results showed that the total references to mechanisms of moral disengagement, heinousness of the crime, and the transcript’s word count, together were able to significantly predict the verdict. However, the number of different mechanisms of moral disengagement referenced in the closing arguments was not able to reliably distinguish between life and death verdicts. The study’s implications and limitations are discussed.

Keywords: capital trial, moral disengagement, content analysis, closing arguments
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CHAPTER I
INTRODUCTION

Despite most citizens believing that killing another individual is an immoral act, a substantial portion of Americans continue to support the death penalty, making capital punishment a paradoxical and perplexing contradiction. Research has attempted to understand the public’s support for the death penalty for over 70 years, yet few have attempted to provide insight on the psychological mechanisms that enable jurors to sentence an offender to life or death. Therefore, this study attempts to uncover the psychological processes associated with judgments in actual capital trials by using Bandura’s mechanisms of moral disengagement as a framework (1990,1999).

When one’s behaviors and moral standards do not align, moral disengagement often ensues. Moral disengagement is the process of disengaging one’s self-regulation process, which prevents one from engaging in unethical behavior, in order to avoid self-condemnation. To what extent does moral disengagement affect jurors’ judgments, and how do attorneys facilitate that process? The present study addresses these questions.

Moral issues pervade capital punishment trials to a higher degree than other trials (Haney, Sontag, & Costanzo, 1994). Having a deeper understanding of actual capital jurors’ decision-making processes can reveal how they grapple with the moral question posed to them. It can also potentially aid the prosecution and defense in the construction of their cases. For example, during the voir dire process of a capital trial, jurors are asked about their opinions toward the death penalty along with several other factors related to
the trial. Assessing a perspective juror’s susceptibility to morally disengage will further aid attorneys in the jury selection process. As another example, prosecutors may encourage jurors to sentence a defendant to death by helping them to morally disengage from their beliefs about the immorality of killing. Therefore, this study attempts to offer insight on whether prosecutors influence juries’ sentencing decisions in capital trials by encouraging them to apply principles of moral disengagement.

**Attitudes Toward the Death Penalty**

Legal and political justification for the use of the death penalty in the United States largely stems from public support (Murray, 2003). Until recently, the majority of citizens supported the death penalty and support had remained stable between 2000 and 2010 (Newport, 2010). A recent poll indicated that death penalty support has declined, with now less than 50% of the population supporting capital punishment (The Editorial Board, 2016). Nevertheless, 31 states still utilize the death penalty (Death Penalty Information Center, 2015). There are demographic differences in individuals’ attitudes toward the death penalty as an appropriate sentence. Boots, Cochran, and Heide (2003) discovered that Caucasians, males, wealthier individuals, Republicans, victims of crime, individuals who fear crime, and those who reside in the Southern region of the United States were generally more supportive of the death penalty than African Americans, females, those of low income, Democrats, individuals who never experienced victimization, persons who do not fear crime, and those who reside in the Western region of the United States.

Attitudes related to the death penalty also derive from individuals’ perspectives on crime and the judicial process. Fitzgerald and Ellsworth (1974) labeled jurors as either
“due process oriented” or “crime control oriented” depending on their opposition or support for the death penalty, respectively. Jurors’ verdict preferences represent these perspectives and correspond with their beliefs regarding the death penalty. Numerous studies demonstrate that jurors who favor the death penalty exhibit a lower threshold for conviction (Thompson, Cowan, Ellsworth, & Harrington, 1984). Additionally, jurors who support the death penalty and were classified as “death qualified” through a voir dire process display more regret regarding mistaken acquittals and less regret regarding a mistaken conviction compared to those who oppose the death penalty (Thompson et al.). Therefore, death penalty attitudes are not isolated, but are associated with a constellation of attitudes or ideologies, and other internal belief systems, such as established moral standards.

**Justifications for the Death Penalty.**

A nation wide poll revealed three central justifications for the death penalty: retribution, general deterrence, and incapacitation (Bohm, 1987). Retribution is the belief that punishment is retaliation for the offender’s crime, and Bohm suggests that retributive feelings stem from religion, past victimization, or fear of crime. General deterrence, a second justification, is the belief that punishing one individual will deter others from committing similar acts. Bohm indicates that the public believes the death penalty is a deterrent of all crime, not only the crimes in which the death penalty is an appropriate sanction. Consistent with this justification, Goldberg, Lerner, & Tetlock (1999) suggest that even individuals who are not direct victims of crimes support punishment to protect social order. Incapacitation, the belief that executing criminals will prevent them from committing more crimes, and will thus save lives, is the last justification for support of
the death penalty. Related to this justification is the fiscal issue of incarcerating an individual versus sentencing him or her to die. Although life imprisonment is less expensive for the State, many individuals believed that the death penalty is cheaper than life imprisonment and used this as justification for the death penalty. Interestingly, individuals were more concerned with the death penalty’s supposed economical benefits than of its ability to save future victims’ lives. (Bohm, 1987).

The development of one’s moral standards influences how one rationalizes their support for the death penalty (Bohm, 1987). The hypothesis of developing moral standards is based on Kohlberg and Elfenebin’s theory of six moral stages and one’s progression through those stages. The authors found that those with stronger opposition toward the death penalty exhibited higher levels of moral reasoning (Kohlberg & Elfenebin, 1975).

**Capital Trial Procedures and Prospective Jurors’ Attitudes**

Capital trials encompass offenses that are deemed “most serious” by legislation, and thus warrant the death penalty. Statutes that deem a murder case “death eligible” vary from state to state but commonly include the following: “murder committed in the commission of a felony (e.g., robbery, rape or kidnapping); multiple murder; murder of a police or correctional officer acting in the line of duty; especially cruel or heinous murder; murder for financial gain; murder by an offender having a prior conviction or a violent crime; causing or directing another to commit murder” (Costanzo & White, 1994, p. 4). Approximately 80% of capital cases involve murder during the commission of a felony (Costanzo & White).
Because capital trials involve exceedingly serious crimes in which the most controversial and punitive penalty could be imposed, they require a unique set of practices. After the State charges the defendant with a capital offense and the prosecution intends to seek the death penalty, capital trial procedures unfold. These proceedings are distinct from other criminal trials in several regards. The *voir dire* process, otherwise known as jury selection, is where a judge or lawyer determines if prospective jurors are “death qualified.” To establish death qualification, legal officials inquire about potential jurors’ beliefs concerning the death penalty and personal experiences considered to be relevant to the case. If their beliefs or experiences do not inhibit them from considering and imposing a death sentence in appropriate circumstances, the citizen is labeled “death qualified.” After eliminating those not considered “death qualified,” the defense and prosecution select jurors to serve (Costanzo & White, 1994).

Furthermore, the configuration of a capital trial is distinct from ordinary trials in that it is “bifurcated,” meaning the trial is split into two distinct phases. The first phase is the guilt phase, where the jurors establish the defendant’s guilt or innocence. If the defendant is found guilty of the capital offense, the second phase, the penalty phase, ensues, where jurors determine the sentence. During the penalty phase, the jury hears additional evidence in order to establish a fitting punishment. This evidence consists of aggravating and mitigating circumstances, which appertain to the character of the offender and the context of the capital offense (Costanzo & Peterson, 1994). The prosecution presents the aggravating circumstances, which argues for the execution of the defendant (e.g., brutality of the murder), while the defense presents the mitigating circumstances (e.g., childhood or family circumstances) in support of a sentence other
than death. Typically, the evidence presented in the penalty phase is not permitted during the guilt phase, due to its potential to bias determination of the defendant’s culpability (Costanzo & White, 1994; Luginbuhal & Burkhead, 1994). Under law, the aggravating and mitigating circumstances should be the only factors considered when deciding a sentence (Platania & Moran, 1999). If the jury concludes that the aggravating circumstances outweigh the mitigating circumstances, the jury renders a death verdict. However, it is important to note that a few states permit the judge to make the final sentencing decision or supersede the jury’s sentencing decision. Lastly, every defendant sentenced to death is given the opportunity for an appellate review by the state Supreme Court (Costanzo & White, 1994).

Because aggravating and mitigating factors are intended to direct jurors’ sentencing decisions, research has examined the effectiveness of these factors. In regards to mitigating factors, previous research has examined the mitigating potential of several psychological and psychosocial factors; however, results have been inconclusive (Barnett, Brodsky, & Price, 2007; Garvey, 1998; McPherson, 1995). In fact, seemingly mitigating factors, such as mental illness and child abuse, are occasionally deemed to be irrelevant, but other times perceived as aggravating factors, which result in more punitive judgments. This phenomenon is known as the backfire effect (Barnett, Brodsky, & Davis, 2004). Some evidence suggests that this effect may occur because mitigating factors are more easily affected by the context of the attorney’s argument (Sandys, Pruss, & Walsh, 2009). Garvey discovered that jurors perceived the defendant as less culpable when the mitigating factors were less attributable to the defendant, which in turn reduced his personal responsibility in the crime and increased sentence leniency.
Evidence suggests that findings related to aggravating circumstances have a more consistent and persuasive impact on jurors. Evidence that suggests the risk of the defendant’s future dangerousness, particularly when coupled with psychopathy, is the most convincing aggravating factor, yielding more punitive sentences (Sandys et al., 2009).

**Persuasion in the Courtroom**

**Attorneys’ Arguments**

While evidence and arguments are presumed to be the influential factors in a trial, they are sensitive to the style of speech; thus, an attorney’s communication style becomes a persuasive mechanism. Attorneys rely on their communication styles and the manner in which they convey particular evidence to sway the jury in favor of their client. Because attorneys’ presentations can have large consequential outcomes, particularly in a death penalty trial, a myriad of research has examined particular communication techniques and their subsequent influence on jury members. Evidence suggests the features of the speaker’s language, specifically particular speech patterns, word choice, and one’s overall speech styles impact the speaker’s persuasiveness (Voss, 2005). Frederick (1987) examined the effectiveness of “powerful” speech, which is speech that lacks intensifiers (e.g., really, very), filler words (e.g., um), and hedge words (e.g., I think, maybe, kind of). They concluded that those who utilized aspects of powerful speech were viewed as “more competent, attractive, trustworthy, dynamic, and convincing” (Saks & Hastie, 178, p. 114).

Parts of speech, the simplest form of language, have been examined, with nouns and verbs being perceived as the most effective because they are objective, whereas adjectives are more subjective. In fact, jurors perceive arguments with an abundance of
adjectives as less trustworthy due to adjectives’ subjectivity (Voss). Persuasion techniques are also employed as early as jury selection by identifying jurors who may be susceptible or partial to particular arguments (Voss). Overall, trial experts recommend attorneys to be “simple, clear, organized, and logical” (Linz, Penrod, & McDonald, 1986, p. 282).

Primacy and recency effects also play a critical role in the persuasiveness of language used during a trial. The primacy effect asserts that the argument or evidence that is presented first is more likely to have a greater impact on jurors, whereas recency effects asserts that jurors are more likely to remember evidence or arguments presented last. These effects are also applicable to phases of the trial, making opening statements and closing arguments influential components of a capital trial. The primacy effect is alleged to be the most powerful due to its capacity to influence jurors to form early sentiments, which can bias subsequent evidence evaluation. However, experts disagree whether the primacy or recency effect is more effective in influencing the jurors’ decisions. (Costpoulos, 1972; Voss, 2005).

Another effective communication style for attorneys is the use of themes or story telling when presenting information to the jury. This technique increases jurors’ comprehension and recall of the evidence presented in a case. Presenting evidence in a narrative form influences jurors’ information processing by directing them to focus on specific information, influencing what evidence is encoded, providing a framework for memory when categorizing new information, and aiding in information retrieval from memory (Pennington & Hastie, 1992).
Obviously, prosecutors and defense attorneys have differing goals, and research has examined the effectiveness of various linguistic strategies utilized by opposing attorneys. Using the Linguistic Category Model, Schmid and Fiedler (1996) coded the prosecution and defense’s closing arguments from the Nuremberg Trials in order to compare the linguistic strategies and the attributional implications utilized by the opposing sides. This model classified predicates based on their degree of abstractness, ranging from descriptive action verbs being the least abstract to adjectives as the most abstract. The authors found that defense attorneys typically articulated the defendant’s positive characteristics in an abstract manner and refrained from using specific personal references when making negative statements. On the contrary, the prosecution produced high frequencies of action verbs, which in turn implied internal attributions of responsibility. While this research did not assess if these linguistic approaches influence jury attributions or sentencing decisions, it elucidated the differing approaches taken by opposing sides in order to enhance advocacy for their client.

**Comprehension of Jury Instructions**

Linguistic research additionally suggests that attorneys and witnesses should avoid convoluted language and use vocabulary consistent with an eighth-grade reading level (Voss, 2005). However, the legal language presented to jurors is complex and incomprehensible to many. The objective of jury instructions is to provide legal standards that guide jury members through trial procedures and sentencing decisions. However, if the instructions are not understood as they were intended, inaccurate application of instructions can result in severe implications. The syntax of the instructions, the method
in which the instructions are presented, and jurors’ inexperience with legal language can influence comprehension of instructions (Severance, Greene, Loftus, 1984).

Some research has examined the comprehension of the jury instructions in the sentencing phase of capital trials. Haney and Lynch (1994) read the California judicial instructions used for capital trials to lay people and found them to experience difficulty understanding, as evidenced by the fact that only 8% were able to deliver legally correct definitions of the terms aggravation and mitigation. Furthermore, individuals were asked to consider whether specific factors were mitigating or aggravating, and these concepts were frequently interpreted erroneously, suggesting that jurors conceptualize aggravation and mitigation incorrectly. To extend their preliminary research, Haney and Lynch (1997) used similar procedures to examine the comprehension of revised California penalty instructions. The majority of subjects still provided inaccurate definitions of key terms presented in the instructions. Only 41% could provide moderately correct definitions of both aggravation and mitigation, and the most misconstrued term was “extenuating.” After listening to the portion of the instructions that outlined the legal requirement to weigh mitigating and aggravating circumstances, only 15% understood that a life sentence is legally required when mitigating and aggravating factors are of equal weight. The revised instructions did not appear to enhance comprehensibility of instructions.

The second part of the study content-analyzed attorneys’ penalty phase arguments from 20 California capital cases in order to investigate if attorneys attempted to provide clarification of the concepts and procedures in the judge’s instructions. Attorneys defined aggravation in six cases and used non-legal terminology in only four, while mitigation
was defined in eight cases and explained in non-legal terminology in seven cases (Haney & Lynch, 1997). Taken together, these studies show that the primary components and terms of the jury instructions for the penalty phase are often misconstrued and the requirements embedded in the instructions appear to be applied improperly. Furthermore, most attorneys do not abate this problem by clarifying these terms, and if they attempt to do so, only some use non-legal language.

**Capital Trial Decision Making Research**

Some research has examined the types of persuasive devices that prosecutors and defenders use in penalty phase arguments of capital trials. To identify prevalent themes utilized by the prosecution and defense, Costanzo and Peterson (1994) conducted a content analysis of 40 closing arguments (i.e., 20 from defense and 20 from prosecution) from 20 capital trials. They noted seven comprehensive themes in both defense and prosecution: The attorneys’ feelings—attorneys’ testimonials regarding their personal feelings, judgments, experiences, and beliefs; the defendant and his life—statements about the defendant’s history, mental state, personality, and conduct; the murder—depictions of the murder and the nature of the murder; the victim(s)—facts about the victims and any suffering endured; juror obligations—statements made about jurors’ role and obligations while serving on a jury, particularly in rendering a sentence; the sentence—explanations about the two sentencing options and the degree of severity of each; and morality and justice—declarations about morality in each sentencing decision and the moral consequences of certain decisions (Costanzo & Peterson, 1994).

Although the defense and prosecution utilized the same seven themes, these attorneys employed different strategies. The defense tended to have a broader focus, and
they attempted to humanize the defendant, minimized the atrociousness of the crime, maximized the severity of a life without the possibility of parole (LWOP) punishment, and denoted the personal consequences jurors must deal with long after the trial, if voting for death. On the other hand, the prosecutions’ focus was narrow and direct, accentuating the brutality of the crime, the victims’ right to justice, the demands of the law, and that death is a fitting punishment (Costanzo & Peterson, 1994).

Research has explored the process by which capital jurors render a sentencing decision. White (1978) assessed the application of the death penalty by investigating penalty decisions in a jury stimulation study. The author examined penalty decisions by varying the nature of the crime and defense strategies used in the closing arguments. Results indicated that participants were more punitive in a multiple murder condition than a robbery murder condition. However, the relationship between crime type and defense strategy was mediated by perceived individual characteristics of the defendant. These included whether jurors believed that the defendant posed a threat to society (i.e., future dangerousness), his actions were intentional and under his own will, and he was dissimilar to other citizens.

Geimer and Amsterdam (1987-88) conducted interviews with jurors from ten capital cases, counterbalanced for life imprisonment and death verdicts. The predominant factor leading juries to life sentences was lingering skepticism of the defendant’s culpability. On the contrary, the primary explanations for jurors arriving at death sentences was the presupposition that they were required to recommend a death sentence, if not otherwise swayed, and the gruesome nature of the crime.
Costanzo and Costanzo (1992) postulated the jurors’ initial vote during penalty phase deliberations might be reflective of the jury’s final sentence verdict. Particularly, the authors claimed that juries in which the majority of initial votes were life sentences were more likely to render a life verdict than juries in which a majority initially chose death. Due to the finality of death, those originally voting for death may be more easily convinced to change their vote than those voting for life. However, when comparing life and death juries, it is critical to consider the punishment options provided to jurors. Some juries have the option of LWOP, while others are given the option of life with the possibility of parole (LWP). They suggest that when the jury must choose between LWP and death, those who feel inclined to protect society may vote for death in order to perform their obligation to society (Costanzo & Costanzo). Therefore, the sentence outcome could be contingent on the form of a life sentence offered to jurors.

Haney, Sontag, and Costanzo (1994) used post-trial interviews to explore the process in which jurors serving on capital trials reached their decisions. The sample consisted of 57 jurors from 19 capital trials that occurred in California and Oregon. The researchers asked jurors for the reasons they used to bolster their sentencing decision. Jury members who gave life verdicts most frequently mentioned the defendant’s prison conduct (i.e., his abilities to adjust to prison or make a positive influence) and their level of confidence in LWOP as a punishment that would guarantee the defendant would remain incarcerated. In regards to death juries, these jury members most frequently noted the nature of the crime, lack of remorse exhibited by the defendant, and apprehension about the LWOP sentence, consistent with previous research. Four out of five death jurors noted that they believed a LWOP sentence did not actually imply that the
defendant could never be released on parole. Although skepticism about life sentences influenced their verdicts, many jurors claimed that they were doubtful that their sentence would actually be implemented. In fact, many death jury members, even jurors who were uneasy with the death penalty in general, speculated that they would have chosen LWOP if it were an option, supporting Costanzo and Costanzo’s (1992) hypothesis.

Consistent with experimental research, actual jurors did not fully comprehend the instructions, as evidenced by jurors’ misconception of essential terms (i.e., aggravation and mitigation) and their request for the judge to further explain these terms. Despite this finding, jurors tended to rely heavily on the instructions as well as court officials and “the law” to diminish personal responsibility for the verdict. Utilizing these methods, jurors avoided having to grasp and process their personal accountability for the ramifications of their decision. Although jurors indicated the instructions were not clear, they appeared to understand the differences between the guilt phase and penalty phase. Jurors characterized the penalty phase as “more emotional,” “less-clear-cut,” and “more of a moral decision,” suggesting that they apply emotion and morality in their decisions and are cognizant of this process (Haney et al., 1994).

Conley (2013) recognized the morality embedded in sentencing decisions and the potential for jurors to encounter a moral dilemma. He indicated that the manner in which a juror refers to the defendant forges distance between the juror and the defendant, which promotes the rendering of a death sentence. Through examination of post-trial interviews with capital jurors, the author found that the context in which they referred to the defendant was contingent on the noun phrases they used to reference him. For instance, when jurors dehumanized the defendant they used “this guy.” However, when they
humanized the defendant by drawing on commonalities and exhibiting empathy for the defendant, the jurors used his given name. Conley suggests that these changes in the reference to the defendant may have helped jurors to justify sentence verdict. While jurors realize the morality involved in the sentencing phase, the precise psychological processes that enable them to manage moral conflicts related to the trial and sentence are unknown. But the theory of moral disengagement may offer some clues.

The Theory of Moral Disengagement

According to Bandura’s theory (1991) on moral agency, one acquires moral standards and behaves in a manner that aligns with those moral standards. This self-regulatory system is in place to monitor one’s behavior through cognitive processes that keep behaviors in accordance with internal standards and avoid self-censure. This occurs internally to eradicate fears of self-condemnation and to achieve the feeling of self-worth.

However, individuals routinely engage in behaviors that contradict their moral standards. Bandura’s theory of moral disengagement (1990, 1999) explains how people can deactivate their self-regulatory process that usually prevents unethical behavior. Bandura suggests that there are eight mechanisms of moral disengagement; these mechanisms are cognitive and social processes that allow one to disengage from his or her moral standards and perform injurious acts without facing the consequences one applies to oneself. The eight mechanisms identified by Bandura are: moral justification, euphemistic language, advantageous comparison, displacement of responsibility, diffusion of responsibility, distorting consequences, attribution of blame, and dehumanization. These mechanisms function to justify one’s actions, despite the actions
violating one’s personal values, which in turn reduce dissonance between one’s adapted moral standards and actions (Bandura, 1990, 1999).

Because conduct is not consistently regulated by moral standards, Bandura (2002) suggests that these mechanisms must be triggered, and their activation occurs at different points during the self-regulatory process. These points include reactions to the behavior, the agent of the action, and the recipient of the action. The eight mechanisms of moral disengagement occur in response to one of these focuses.

At the locus of the behavior, moral justification, euphemistic language, and advantageous comparison restructures the actions by transforming injurious actions to righteous actions. Moral justification permits injurious actions by morally rationalizing these actions and perceiving them as morally purposeful. In other words, well-intentioned actions are used to justify harmful, detrimental ends. Examples include “an eye for an eye” mentality or the belief that wrongdoers must be avenged. Euphemistic language converts the harmful conduct into a non-threatening manner by altering the labels used to describe these actions or objects, such as softening an execution by referring to it as the legal penalty for murder. Lastly, advantageous comparison creates a comparison between the injurious act and a more injurious act to further justify one’s actions. For instance, one might perceive one’s action creating less harm in comparison to another, particularly when comparing a defendant’s execution to the suffering the victim endured. This group of moral disengagement mechanisms permits the individual to disengage from a seemingly immoral decision by masking his or her actions as benevolent as opposed to injurious (Bandura, 2002).
The second site, the agent of the action, reduces or obfuscates the individual’s role in the detrimental effects that result from one’s actions. Examples include displacement of responsibility, diffusion of responsibility, and distortion of consequences. When one displaces his or her responsibility onto another individual or group, usually an authority figure, one’s moral regulator weakens, and one feels less liable for his or her actions. One does not recognize his or herself as the only contributor to his or her actions. Similarly, diffusion of responsibility allows one to feel less accountable for his or her actions in one of three ways: by rationalizing that he or she is simply making a group decision, dividing the tasks necessary to complete an injurious action among several people, or participating collectively in an injurious action. By diffusing the responsibility for a harmful act in any of these ways, the segmented task either appears less harmful or it reduces personal responsibility. When distorting the consequences, one underestimates or disregards the injurious outcome of his or her action and typically focuses on the benefits of the action (Bandura, 2002).

Functioning at the recipient locus are dehumanization and attribution of blame. Dehumanization strips individuals of their human qualities and characterizes them as inhuman, which in turn vindicates one’s actions to treat them as an animal as opposed to a human being. Lastly, attribution of blame functions by allowing one to believe that the recipient deserves the actions. For example, a wrongdoer has no one to blame other than himself for his fate. Through these two mechanisms, one performs injurious actions due to perceptions that the recipient has atrocious characteristics or performs horrific actions (Bandura, 2002).
Moral disengagement can be exhibited in unique circumstances, such as in the military and acts of terrorism, and in everyday situations involving honest and respectable people carrying out injurious acts or making unethical decisions (Bandura 1990; McAlister, Bandura, & Owen, 2004). However, individuals differ in their tendency to morally disengage, and research has recently examined individual differences that contribute to one’s proneness to morally disengage. McAlister et al. (2004) investigated several sociodemographics related to the degree one morally disengages, and found that males, those who possess a lower education level, and older individuals demonstrated higher levels of moral disengagement. Bandura and colleagues found moral disengagement to be a function of prosocial behavior in children, with prosocial behaviors (i.e., helpfulness, sharing, and kindness) decreasing with the use of moral disengagement (Bandura et al., 1996).

Particular individual differences play a role in increasing or decreasing one’s propensity to morally disengage when making unethical decisions. Detert et al. (2008) assessed individual differences that have been associated with moral cognition and action. They include trait cynicism, empathy, internal locus of control, chance locus of control, power locus of control, and moral identity. The authors found empathy and moral identity to be inversely related to moral disengagement, and thus, those more likely to empathize and identify themselves through their moral traits are less likely to morally disengage. Conversely, trait cynicism is positively related to moral disengagement, so those predominately dissatisfied or distrusting of others or institutions are more likely to morally disengage. The authors also found that those with a higher propensity to morally disengage are more likely to make unethical decisions. Furthermore, moral
disengagement was found to mediate individual differences and unethical decisions (Detert et al., 2008).

**Moral Disengagement in Legal Contexts**

Although this disengagement of moral self-sanctions through the application of any of the mechanisms leads to self-exoneration, it is important to note that moral disengagement often occurs beyond an individual level, and can create widespread and adverse effects on social systems and institutions. Moral disengagement is exemplified in unethical business decisions, questionable governmental judgments during times of war, and seemingly-immoral practices within our own legal system, such as government-sanctioned executions of citizens.

Recently, researchers have examined the role of moral disengagement in support for, and implementation of the death penalty. Osofsky, Bandura, and Zimbardo (2005) state that moral disengagement is applied to the death penalty at the societal, judicial, and execution levels. Many Americans favor the death penalty, and this warrants its continued use by the federal government and in more than half of the states in the United States. Members of society can alleviate the contradiction between their moral standards and their attitudes in this context by morally disengaging from the consequences of the punishment.

Interestingly, the characteristics of those with a propensity to morally disengage reflect the demographics of those who support capital punishment. For instance, Caucasians demonstrate a higher degree of moral disengagement concerning the execution of criminals than African Americans or Hispanics, and research has consistently demonstrated that Caucasians are generally more supportive of the death
penalty than African Americans (Boots, Cochran, & Heide, 2003; Osofsky et al., 2005). Vollum and Buffington-Vollum (2001) examined the relationship between mechanisms of moral disengagement and death penalty attitudes, and revealed that three of the eight mechanisms of moral disengagement significantly predicted death penalty support. Moral justification and dehumanization were positively related to death penalty support. While dehumanization remained a significant predictor of death penalty support for all types of offenders (including mentally ill and juvenile offenders), moral justification predicted only general support of the death penalty. The authors suggest that this outcome was due to individuals perceiving the mentally ill and juvenile offenders as less culpable for their crimes, and therefore this specific justification diminishes when considering appropriate punishments for various offenders. Conversely, displacement of responsibility was inversely related to death penalty support (Vollum & Vollum-Buffington, 2001).

**Moral disengagement in prison personnel.** Jurors play a distal role in the sentencing process. On the other hand, executioners and other penitentiary personnel are required to face more directly the lethality of their duties. Osofsky et al. (2005) examined the function of the mechanisms of moral disengagement in prison personnel who varied in their involvement in the administration of the execution process. Three subgroups were studied, including executioners, prison guards, and support teams that provide emotional support to victims’ families and the prisoner that is to be executed. Participants’ use of the eight mechanisms of moral disengagement was assessed through a 19-item scale. The results revealed that executioners exhibited higher use of moral disengagement compared to other prison personnel. Executioners predominately used the mechanisms of moral, social and economic justifications and dehumanization as well as
denial of personal responsibility in the offender’s death. All three groups denied that 
jurors or executioners are responsible for the defendant’s death, and displaced 
responsibility onto society due to society’s general support of capital punishment.
Additionally, the number of executions they performed or were involved in was not 
significantly related to their increased use of moral disengagement.

**Moral disengagement in capital jurors.** In addition to individual differences 
increasing one’s tendency to morally disengage, particular factors create environments 
that stimulate jurors’ use of moral disengagement. Haney (1997) examined moral 
disengagement at an individual level by investigating capital jurors’ practice of moral 
disengagement, and considered the distinctive context and conditions in capital trials that 
facilitate moral disengagement when contemplating the choice of life or death. Haney 
suggests that these conditions, passively established and built in to the sentencing process 
by the judicial system, enable and encourage ordinary and otherwise law-abiding citizens 
to sentence another individual to death by abating the moral implication that would 
generally accompany a decision to execute another individual. He elucidates the 
uniqueness of a capital trial penalty phase by pointing out that jurors, not judges, have the 
extraordinary responsibility to decide the defendant’s fate. Because jurors have this 
burden, Haney claims that prosecutors use the mechanisms of dehumanization under the 
assumption that jurors will act more punitively toward a defendant stripped of his or her 
human qualities and portrayed as threatening. Isolating the defendant’s malicious actions 
and suggesting that his crimes derive from his evil core, without contextualizing the 
crime, further accomplishes this. Moreover, prosecutors refer to the defendant as a non-
entity (i.e., “filth”) to create a further distinction between the defendant and jurors.
Through this portrayal, jurors perceive defendants as flawed, deviant, and essentially different from themselves, and thus are able to act more harshly toward the defendant. The defense, on the other hand, attempts to make connections between the jurors and the defendant by humanizing him and providing historical context of his acts; however, their only opportunity to accomplish this is during the penalty phase that occurs weeks or months into the trial (Haney, 1997).

Jurors view the death penalty as a way to protect themselves and the community from future crime by perceiving the death penalty through the mechanism of moral justification (Haney, 1997). By permitting prosecutors to create a graphic presentation of the violent crime or by suggesting the defendant will be dangerous in the future, the law facilitates and intensifies jurors’ natural and emotional response of fear regarding crime. This encourages feelings of vengefulness in jurors, which ultimately end in support for the use of executions. According to Haney, court officials depict the personal consequences that jurors face when rendering a death verdict as insignificant, allowing them to act more punitively due to the lack of personal costs. Jurors are kept in the dark about the execution process through laws that prohibit defense attorneys from presenting details of the process, and they are not aware of the consequences that result from executing the defendant, such as the victimization of the defendant’s family and friends (Haney, 1997). Therefore, the more uninformed jurors are about the details of an execution, the more likely they are to render a death sentence.

Jurors abate the personal consequences of their actions by upholding the belief that their sentence is merely advisory and that an appellate judge will ultimately make the final sentencing decision. Jury instructions state that the jury will make a
“recommendation,” obscuring the definitiveness of their decision. Therefore, jurors displace their responsibilities on various court officials and procedures. Jurors’ roles in sentencing someone to death are further distorted, and the moral implications of their decision are additionally minimized, due to dispersing the responsibility of the defendant’s death across court officials and other jury members. They may feel as if they are simply following the instructions from a court official or society.

Conley (2013) explains that even the configurations of the courtroom—with jurors seated as far as possible from the defendant—encourage jurors to disengage from the defendant, which in turn impacts jurors’ perceptions of the defendant’s “behavior, intentions, and morality” (p. 510). From post-trial interviews, Conley (2013) discovered that jurors actively avoided eye contact with the defendant when entering and leaving the courtroom. Furthermore, the use of complex syntax and legal language in jury instructions allows jurors to increase their perceived proximity to the sentencing decision as well as limit emotion and empathy during proceedings.

Conley (2013) examined the sentencing instructions from Texas, which instruct jurors to answer two questions regarding future dangerousness and mitigation. If jurors believe the defendant to be dangerous in the future and find that the mitigating factors do not warrant a life sentence, the defendant receives a death sentence. Therefore, the jurors are not directly asked if they are sentencing the defendant to death. These conditions and procedures alleviate the associated moral and psychological barriers experienced by ordinary individuals serving as jurors, and enable them to sentence another to death (Conley, 2013; Haney, 1997). Haney stated these instructions seem to be effective, as evidenced by 300 jurors each year sentencing an individual to death from 1980 to 1997.
Although our self-regulatory processes typically inhibit behaviors that challenge our moral standards, moral disengagement permits behaviors that do not align with our established morals through the cognitive restructuring of destructive actions. These behaviors can deviate from our moral standards in a wide range of situations; however, the greatest opposition to one’s morality may be the decision to condemn another human being to death. Therefore, when 12 ordinary citizens are faced with the greatest ethical decision possible, mechanisms of moral disengagement may permit this lethal choice.

Research demonstrates that citizens utilize moral disengagement in their support for the death penalty and various unethical decisions, that the judicial system establishes an environment conducive to fostering moral disengagement, and that executioners minimize their lethal role in the administration of the death penalty by morally disengaging from their actions (Detert et al., 2008; Haney, 1997; Osofsky et al., 2005).

Prosecutors’ closing arguments during the penalty phase of a capital trial, in which they encourage jurors to impose a death sentence on the defendant, could utilize these same psychological techniques to further promote jurors’ willingness to vote for execution.

The Current Study

Empirical studies have examined juries’ deliberations and the associated sentencing outcomes in addition to techniques utilized by attorneys in order to be compelling and persuasive. However, the extent to which attorneys’ arguments are persuasive and captivating, and thus effective, particularly in capital cases, is unknown. In these capital cases, attorneys are allowed considerable leeway in their closing arguments, and place great importance on them, considering them as a last plea for life or death. Prosecutors’ closing arguments that embody the mechanisms of moral
disengagement may be the vehicle that permits jurors to sentence someone to death. The purpose of this study was to examine the influence of prosecutors’ arguments, particularly their use of mechanisms of moral disengagement, on capital juries’ sentencing outcomes. The study involved a content analysis of prosecutors’ closing arguments from actual capital trials. Blind to the juries’ sentencing verdicts, I coded for uses of moral disengagement in order to explore their association with sentence outcomes. I hypothesized the following:

1. The more total references to mechanisms of moral disengagement present in prosecutors’ closing arguments, the more likely a jury is to sentence the defendant to death.

2. The more references to different mechanisms of moral disengagement (i.e., up to eight), present in prosecutors’ closing arguments, the more likely a jury is to sentence the defendant to death.
CHAPTER II

METHOD

Research Materials

The original sample of penalty phase transcripts included several hundred trial transcripts from capital murder trials conducted across the U.S. in the late 1990s and early 2000s. The transcripts were initially acquired through a multi-year grant from the National Science Foundation to Professor Narina Nunez at the University of Wyoming, who provided them to us. For this study, 45 capital trial transcripts were analyzed, and prosecutors’ closing arguments and rebuttals in the sentencing phases of these trials served as the study’s sample. (Although the original sample included several hundred transcripts, only 45 had closing arguments that could be extracted and met the study’s criteria.) Of the 45 transcripts, 21 had a sentence of life without the possibility of parole and 24 had a death sentence as their verdict. All cases involved male defendants. The transcripts of the closing arguments and rebuttals averaged 5,000 words and ranged from 2 to 60 pages.

Procedure

This study involved a content analysis of the prosecutor’s closing argument and rebuttal in the penalty phase of the trial, specifically looking for references to the eight mechanisms of moral disengagement. Closing arguments are of high importance in a capital trial. They are the attorneys’ final opportunity to plead for life or death and the last arguments juries hear before deliberation. Furthermore, closing arguments concisely
synthesize the evidence, including the aggravators and mitigators presented during the sentencing phase. (Considering that capital trials last for several days, or possibly weeks, the transcripts of the entire trial were extraordinarily long and unfeasible to code. Therefore, the prosecutors’ closing argument and rebuttal, when present, were coded for the current study.)

The coders used a coding scheme constructed for this study as a guide to identify and quantify mechanisms of moral disengagement. The coding scheme defined the eight mechanisms of moral disengagement in the context of a death penalty trial. For instance, the mechanism of dehumanization was described as “derogating the defendant because he lacks human qualities or because what he did to the victim was inhumane.” The description of each of the eight mechanisms included examples of the way that mechanism might be used. For instance, dehumanization examples included these: the defendant is evil, deviant, lacks remorse; the defendant is a non-entity; the defendant’s actions were evil and inhumane; the defendant does not deserve to be treated like a human being (To see full coding scheme refer to Appendix A). The coding scheme was used as a guideline, and coders were able to infer and interpret what the prosecutor might have meant even if the specific words in the description or examples were not used.

Through pilot testing, the coding scheme (mechanism descriptors and examples) was tested and revised several times. This ensured the coding scheme and guidelines’ specificity, clarity, and usefulness.

**Coding Procedure.** Two coders independently read and coded approximately one fifth of the transcripts. The primary investigator and a psychology Masters candidate were the coders for this phase of the study.
Coders identified prosecutors’ arguments that referred to any of the eight mechanisms of moral disengagement and tallied the total references to each mechanism present in each closing argument. For an argument to be identified, it must have been at least a “coherent point,” which was defined as a complete thought. The length of a coherent point could have been a phrase or up to several sentences that provided necessary context for the point. Furthermore, mechanisms could be coded in more than one category of moral disengagement and tallied under each relevant mechanism. If an argument was identified as a reference to moral disengagement, the coder recorded the mechanism it referenced, and the line and page number in the transcript, and noted whether the argument occurred during the closing argument or the rebuttal. For every transcript, there was a count of the total instances of any of the eight mechanisms of moral disengagement and a count of each instance of the different mechanisms of moral disengagement.

**Coding Training.** Coders began training using three pilot transcripts (not included in the sample analyzed for inter rater reliability) to build familiarity with the coding guidelines and coding scheme as well as with the identification of mechanisms in the transcripts. For the pilot transcripts, coders independently coded the transcripts, then compared, discussed, and resolved any coding discrepancies.

Once training was complete, coders independently coded the same 10 transcripts randomly selected from the entire sample. The coders were blind to the sentencing verdict. From these 10 transcripts, inter-rater reliability (IRR) was calculated to measure the degree of agreement between the coders’ independent ratings. The IRR was based on
the number of instances counted for each different category of moral disengagement. IRR results are reported below.

After an acceptable inter-rater reliability was reached, the raters resolved any rating discrepancies, and those agreed-upon codings were used for the main statistical analyses. The primary investigator independently coded the remaining transcripts.
CHAPTER III

RESULTS

Inter-rater Reliability

Inter-rater reliability was assessed using a two-way mixed, absolute agreement, single-measures intra-class correlation (ICC) to measure the degree of agreement between the two coders in their ratings of the number of instances of each different mechanism of moral disengagement. The ICC was chosen as the appropriate statistic for assessing IRR because the study’s variables are at the interval level. A two-way mixed ICC was chosen because the raters were fixed (only two raters were used in the study and both raters’ codings were included in ICC analysis) but the transcripts analyzed were randomly chosen. An absolute agreement was chosen because it was important that the raters’ codings were similar in their absolute value. These ratings were used to justify single coder codings for the remainder of the transcripts therefore, a single-measures ICC was chosen as the appropriate measurement. The common cutoff ranges used to interpret ICC values are values less than .40 indicating poor agreement, values in the .40 to .59 range indicating fair agreement, values in the .60 to .74 range indicating moderate agreement, and values in the .75 to 1.0 range indicating excellent agreement (Hallgren, 2012). The two coders analyzed 10 of the 45 transcripts (22%). A high degree of reliability was found between the coders for four of the eight mechanisms, indicating that these mechanisms were rated similarly. The ICC for these four mechanisms is as follows: moral justification ICC = .99, advantageous comparison ICC = .75, attribution of blame
ICC = .84, and dehumanization ICC = .81. The ICC for displacement of responsibility was in the fair range, ICC = .48, indicating reasonable agreement. For three mechanisms, euphemistic language, diffusion of responsibility and distorting consequences, neither rater found any instance in the ten transcripts they coded for IRR. Because the scale included zeros, the ICC for these mechanisms could not be calculated, though the fact that coders agreed obviously indicated a high degree of reliability. The moderate to high ICC across all mechanisms justified one coder independently coding the remaining transcripts.

**Initial Analyses on Independent Variables**

Initial analyses were conducted to compare the mean scores of the study’s predictors. An independent-samples t-test was conducted to compare the number of references of moral disengagement for the life and death cases. The Levene’s Test of Equal Variances indicated that this t-test violated the assumption of homogeneity; however, an adjusted value was used to correct for this assumption violation. After the correction, the t-test indicated that there were significantly fewer references to moral disengagement in the life cases ($M = 28.90$, $SD = 25.55$) than the death cases ($M = 55.54$, $SD = 31.90$), $t(43) = -3.11$, $p = .003$ (two-tailed).

Because the transcripts varied in length, the word count was included as a variable in the statistical analyses. The word count included only the prosecutor’s statements (i.e., closing argument and rebuttal) that the jury heard. Interruptions by the defense, instructions from the judge or sidebar conversations at the bench were not included in the word count. An independent samples t-test was conducted to compare the word count between the life and death cases. The Levene’s Test of Equal Variances indicated that
this test also violated the assumption of homogeneity, and an adjusted value was used to correct for this assumption violation. After the correction, the $t$-test revealed there was not a significant difference in the word count for the life cases ($M = 3692.76, SD = 2223.94$) and the death cases ($M = 5351.42, SD = 3566.39$), $t$ ($43$) = -1.90, $p = .07$ (two-tailed).

The heinousness of the crime was also included as a variable. The heinousness was determined from a depravity score for each case, which was calculated by the Capital Cases Data Project of the American Judicature Society. The score weighted various factors of the case, such as the number of crime(s) committed, the manner in which the victim was killed, the number of victims, the age of the victim, and the offender’s motives. This variable was included in the statistical analyses because perhaps the heinousness of the crime, not references to mechanisms of moral disengagement, affected sentencing outcomes. By controlling for the heinousness of the crime, I could more precisely examine the effect of mechanisms of moral disengagement on sentencing outcomes. An independent-samples $t$-test was conducted to compare the heinousness score for the life and death cases. The heinousness score significantly differed between the life cases ($M = 9.57, SD = 4.27$) and the death cases ($M = 13.46, SD = 7.58$), $t$ ($43$) = -2.10, $p = .04$ (two-tailed).

The number of references to different mechanisms of moral disengagement in closing arguments was also one of the study’s primary predictors. An independent samples $t$-test revealed that the number of references to different mechanisms of moral disengagement did not significantly differ between the life cases ($M = 3.71, SD = 1.55$) and the death cases ($M = 4.58, SD = 1.02$), $t$ ($43$) = -2.27, $p = .03$ (two-tailed). The
descriptive statistics and results of the t-tests for the study’s independent variables are also displayed in Table 1. Independent samples t-tests were also conducted to compare the number of references to individual mechanisms of moral disengagement in life and death cases, and the results are presented in Table 2.

Table 1

**t-test Results and Descriptive Statistics Predictors in Life and Death Cases**

<table>
<thead>
<tr>
<th>Predictors</th>
<th>Life Transcripts</th>
<th>Death Transcripts</th>
<th>t-test 95% CI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of references to moral disengagement</td>
<td>M    SD  Range   M    SD  Range</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Word Count</td>
<td>28.9  25.55  0-101</td>
<td>55.54  31.90  13-120</td>
<td>3.11** (-43.93, -9.35)</td>
</tr>
<tr>
<td>Heinousness</td>
<td>3693  2224  2-18</td>
<td>5351  3566  2-41</td>
<td>-1.90 (-3428.20, 110.90)</td>
</tr>
<tr>
<td>Total number of references to different mechanisms of moral disengagement</td>
<td>9.57  4.27  0-6</td>
<td>13.46  7.58  2-6</td>
<td>-2.10* (-7.66, -11)</td>
</tr>
<tr>
<td></td>
<td>3.71  1.55  0-6</td>
<td>4.58  1.02  2-6</td>
<td>-2.25* (-1.65, -0.9)</td>
</tr>
</tbody>
</table>

Note. *p < .05, **p < .01. For the predictors, total number of references to moral disengagement and word count, the independent samples t-test violated the assumption of homogeneity. To correct for this assumption violation, an adjusted value was used. The results reported for these three mechanisms used the adjusted values.

Statistical Analyses

Logistic regressions were conducted to assess the influence of mechanisms of moral disengagement on sentencing outcomes. Prior to running the logistic regressions, a linear regression was used to test for multicollinearity. Low variance inflation factor (VIF) scores for all predictors suggested that the assumption of multicollinearity was not violated (heinousness, VIF = 1.04; word count, VIF = 2.67; total references to moral disengagement, VIF = 2.73).
Table 2

_t-test Results and Descriptive Statistics for Individual Mechanisms of Moral Disengagement in Life and Death Cases_

<table>
<thead>
<tr>
<th>Predictors</th>
<th>Life Transcripts</th>
<th></th>
<th>Death Transcripts</th>
<th></th>
<th>t-test</th>
<th>95% CI</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>M</td>
<td>SD</td>
<td>Range</td>
<td>M</td>
<td>SD</td>
<td>Range</td>
</tr>
<tr>
<td>Moral Justification</td>
<td>4.6</td>
<td>6.64</td>
<td>22</td>
<td>11.58</td>
<td>10.00</td>
<td>38</td>
</tr>
<tr>
<td>Euphemistic Language</td>
<td>.14</td>
<td>.48</td>
<td>2</td>
<td>.21</td>
<td>.59</td>
<td>2</td>
</tr>
<tr>
<td>Advantageous Comparison</td>
<td>2.81</td>
<td>3.44</td>
<td>12</td>
<td>8.08</td>
<td>6.06</td>
<td>21</td>
</tr>
<tr>
<td>Displacement of Responsibility</td>
<td>3.00</td>
<td>3.22</td>
<td>10</td>
<td>3.17</td>
<td>3.07</td>
<td>10</td>
</tr>
<tr>
<td>Diffusion of Responsibility</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>.38</td>
<td>1.84</td>
<td>9</td>
</tr>
<tr>
<td>Distorting Consequences</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>.58</td>
<td>1.98</td>
<td>9</td>
</tr>
<tr>
<td>Attribution of Blame</td>
<td>11.76</td>
<td>14.87</td>
<td>58</td>
<td>16.79</td>
<td>12.22</td>
<td>42</td>
</tr>
<tr>
<td>Dehumanization</td>
<td>6.71</td>
<td>7.48</td>
<td>30</td>
<td>16.54</td>
<td>13.61</td>
<td>55</td>
</tr>
</tbody>
</table>

>Note. ** p < .01, ***p ≤ .001. For the mechanisms, advantageous comparison, distorting consequences, and dehumanization, the independent samples t-test violated the assumption of homogeneity. To correct for this assumption violation, an adjusted value was used. The results reported for these three mechanisms used the adjusted values.

The first logistic regression was performed using the total number of references to moral disengagement as a predictor of the verdict (i.e., life or death). Transcripts’ word count and heinousness score were included as covariates in the analysis, thus the model contained three independent variables. The full model was statistically significant, \( \chi^2 (3, N = 45) = 12.82, p < .01 \), indicating that the predictors were able to distinguish between life and death verdicts (Table 3). The model as a whole explained between 25% (Cox & Snell R square) and 33% (Nagelkerke R Square) of the variance in the verdict. Additionally, the full model was able to correctly predict the verdict of 78% of the cases.
Table 3

*Logistic Regression of Total Instances of Moral Disengagement Predicting Verdicts*

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.12</td>
<td>.08</td>
<td>2.30</td>
<td>.13</td>
<td>1</td>
<td>1.12</td>
<td>(.97, 1.30)</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>.26</td>
<td>.61</td>
<td>1</td>
<td>1.00</td>
<td>(1.00, 1.00)</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.04</td>
<td>.02</td>
<td>3.41</td>
<td>.07</td>
<td>1</td>
<td>1.04</td>
<td>(1.00, 1.09)</td>
</tr>
</tbody>
</table>

(81% of life cases and 75% of death cases); this was an increase from the chance likelihood, which could correctly identify 53% of the cases. As shown in Table 3, the total number of references to moral disengagement was the only independent variable that was marginally significant \( (p = .07) \). Therefore, the total number of references to moral disengagement made a unique, significant contribution in predicting a death sentence. The odds ratios for each predictor were also interpreted. The odds ratio in this statistical analysis indicated the likelihood of a life or death sentence based on the value of the predictor. An odds ratio less than one indicated the mechanism was likely to predict a life sentence, while an odds ratio greater than one indicated the mechanism was likely to predict a death sentence. When the odds ratio was one, the null hypothesis was supported, and the mechanism was not a predictor of a life or death sentence. The total number of references to moral disengagement had an odds ratio of 1.04, 95% CI (1.00, 1.09), indicating that this independent variable did not affect the likelihood of the case ending in a life or death sentence. Because the 95% CI included one, the odds ratio is not statistically significant. Similarly, heinousness was not a significant predictor in the model \( (p = .13) \) and recorded an odds ratio of 1.12 95% CI (.97, 1.30), suggesting that
heinousness score did not affect the likelihood of the case ending in a life or death sentence. Word count was also not a significant predictor \((p = .61)\), and recorded an odds ratio of 1.00 95% CI (1.00, 1.00), indicating the transcripts’ word count did not affect with the likelihood of the case ending in life or death verdict.

The second logistic regression assessed the likelihood of a death verdict based on the number of references to different mechanisms. Transcripts could have utilized from zero to eight different types of mechanisms \((M = 4.18, SD = 1.35)\). Transcripts’ word count and heinousness score were included as covariates in the analysis, thus the model contained three independent variables. The full model was significant, \(\chi^2\ (3, N = 45) = 10.21, p = .02\), indicating that the predictors were able to distinguish between life and death verdicts (Table 4). The model as a whole explained between 20% (Cox & Snell R square) and 27% (Nagelkerke R Square) of the variance in the verdict. The full model was able to correctly predict the verdict of 76% of the cases (76% of life cases and 75% of death cases); this was an increase from the chance likelihood, which could correctly identify 53% of the cases. However, no individual predictor was statistically significant. The number of different references to moral disengagement did not make a unique, significant contribution in predicting a death sentence \((p = .22)\) and had an odds ratio of 1.47, 95% CI (.80, 2.72). The predictor’s odd ratio was not significant, and thus, did not affect the likelihood of a life or death sentence. The heinousness score was also not significant \((p = .07)\), and an odds ratio of 1.15 95% CI (.989, 1.33) suggested that heinousness did not significantly affect the likelihood of the case ending in a life or death verdict. Similarly, word count was not a significant predictor \((p = .36)\), and recorded an
odds ratio of 1.00 95% CI (1.00, 1.00), indicating the transcripts’ word count did not affect with the likelihood of the case ending in life or death verdict.

Table 4

*Logistic Regression of Total References to Different Mechanisms of Moral Disengagement Predicting Verdicts*

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>Lower</th>
<th>Upper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.14</td>
<td>.08</td>
<td>3.28</td>
<td>.07</td>
<td>1</td>
<td>1.15</td>
<td>.99</td>
<td>1.33</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>.84</td>
<td>.36</td>
<td>1</td>
<td>1.00</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.39</td>
<td>.31</td>
<td>1.52</td>
<td>.22</td>
<td>1</td>
<td>1.47</td>
<td>.80</td>
<td>2.72</td>
</tr>
</tbody>
</table>

**Exploratory Analyses.** For exploratory purposes, a logistic regression was performed to determine if references to each of the individual mechanisms could predict the verdict, while controlling for word count and the heinousness score. Because the mechanism of diffusion responsibility and the mechanism of distortion of consequences were minimally referenced in the transcripts, these mechanisms were not included as variables in the logistic regression. Therefore, the model contained six mechanisms of moral disengagement, and each variable was the total number of references to that specific mechanism in a transcript. When all six variables were entered simultaneously, the full model was significant, $X^2 (8, N = 45) = 18.74, p = .02$, indicating the predictors were able to distinguish between life and death verdicts (Table 5). The model as a whole explained between 34% (Cox & Snell R square) and 46% (Nagelkerke R Square) of the variance in the verdict. However, the mechanism of advantageous comparison was the only individual mechanism that was significant ($p = .03$). Therefore, the mechanism of
advantageous comparison made a unique, significant contribution in predicting a death sentence.

Table 5

*Logistic Regression of Individual Mechanisms Predicting Verdicts*

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moral Justification</td>
<td>.10</td>
<td>.08</td>
<td>1.46</td>
<td>.23</td>
<td>1</td>
<td>1.11</td>
<td>(.94, 1.30)</td>
</tr>
<tr>
<td>Euphemistic Language</td>
<td>-.46</td>
<td>.79</td>
<td>.34</td>
<td>.56</td>
<td>1</td>
<td>.63</td>
<td>(.14, 2.95)</td>
</tr>
<tr>
<td>Advantageous Comparison</td>
<td>.22</td>
<td>.10</td>
<td>4.56</td>
<td>.03</td>
<td>1</td>
<td>1.25</td>
<td>(1.02, 1.53)</td>
</tr>
<tr>
<td>Displacement of Responsibility</td>
<td>.01</td>
<td>.13</td>
<td>.01</td>
<td>.94</td>
<td>1</td>
<td>1.01</td>
<td>(.79, 1.30)</td>
</tr>
<tr>
<td>Attribution of Blame</td>
<td>.03</td>
<td>.05</td>
<td>.45</td>
<td>.50</td>
<td>1</td>
<td>1.03</td>
<td>(.94, 1.13)</td>
</tr>
<tr>
<td>Dehumanization</td>
<td>.02</td>
<td>.05</td>
<td>.21</td>
<td>.65</td>
<td>1</td>
<td>1.02</td>
<td>(.93, 1.13)</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>1.14</td>
<td>.29</td>
<td>1</td>
<td>1.00</td>
<td>(1.00, 1.00)</td>
</tr>
<tr>
<td>Heinousness</td>
<td>.72</td>
<td>.08</td>
<td>.76</td>
<td>.38</td>
<td>1</td>
<td>1.08</td>
<td>(.91, 1.26)</td>
</tr>
</tbody>
</table>

The small sample size relative to the number of predictors in the logistic regression justified running separate logistic regressions for each predictor. Because the mechanism of diffusion of responsibility and the mechanism of distortion of consequences were minimally referenced in the transcripts, separate logistic regressions were not conducted assessing these mechanisms. Thus, six separate logistic regressions were conducted, with one mechanism of moral disengagement as the predictor variable in the model. These analyses assessed how well individual mechanisms predicted a death verdict when analyzed separately, while controlling for the transcripts’ word count and heinousness score. The first logistic regression assessed the mechanism of moral
justification, and the full model was significant, $\chi^2 (3, N = 45) = 10.99, p = .01$, indicating that the predictors as a set distinguished between life and death cases. The model as a whole explained between 22% (Cox & Snell R square) and 29% (Nagelkerke R Square) of the variance in the verdict and correctly classified 71% of cases. However, no predictor was significant (Table 6). The second logistic regression assessed the mechanism of euphemistic language and the full model was significant, $\chi^2 (3, N = 45) = 8.68, p = .03$, suggesting that the predictors distinguished between life and death cases. The model as a whole explained between 18% (Cox & Snell R square) and 23% (Nagelkerke R Square) of the variance in the verdict, and correctly classified 71% of cases. No predictor was statistically significant, although the heinousness score was marginally significant ($p = .06$) (Table 7). The third logistic regression assessed the mechanism of advantageous comparison, and the full model was significant, $\chi^2 (3, N = 45) = 14.54, p < .01$, indicating that the predictors as a set distinguished between life and death cases. The model as a whole explained between 28% (Cox & Snell R square) and 37% (Nagelkerke R Square) of the variance in the verdict and correctly classified 76% of cases. Advantageous comparison was the only significant predictor ($p = .03$), indicating that the mechanism of advantageous comparison makes a unique contribution in predicting a death sentence (Table 8). The fourth logistic regression assessed the mechanism of displacement of responsibility, and the full model was significant, $\chi^2 (3, N = 45) = 8.58, p = .04$, indicating that the predictors as a set distinguished between life and death cases. The model as a whole explained between 17% (Cox & Snell R square) and
23% (Nagelkerke R Square) of the variance in the verdict and correctly classified 73% of cases. No predictor was statistically significant, although the heinousness score was marginally significant ($p = .06$) (Table 9). The fifth logistic regression assessed the mechanism of attribution of blame, and the full model was significant, $\chi^2 (3, N = 45) = 8.76$, $p = .03$, indicating that the predictors as a set distinguished between life and death cases. The model as a whole explained between 18% (Cox & Snell R square) and 24% (Nagelkerke R Square) of the variance in the verdict and correctly classified 71% of cases. Heinousness score was the only significant predictor ($p = .05$), indicating that the heinousness of the crime makes a unique contribution in predicting a death sentence (Table 10). The sixth logistic regression assessed the mechanism of dehumanization, and the full model was significant, $\chi^2 (3, N = 45) = 12.01$, $p = .01$, indicating that the predictors as a set distinguished between life and death cases. The model as a whole explained between 23% (Cox & Snell R square) and 31% (Nagelkerke R Square) of the variance in the verdict and correctly classified 73% of cases. However, no predictor was significant (Table 11).

Table 6

*Logistic Regression of Moral Justification Predicting Verdicts*

<table>
<thead>
<tr>
<th>Predictors</th>
<th>$B$</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.11</td>
<td>.07</td>
<td>2.36</td>
<td>.13</td>
<td>1</td>
<td>1.12</td>
<td>.97</td>
</tr>
<tr>
<td>Word Count</td>
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<td>.00</td>
<td>.14</td>
<td>.71</td>
<td>1</td>
<td>1.00</td>
<td>1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
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<td>.06</td>
<td>1.91</td>
<td>.17</td>
<td>1</td>
<td>1.09</td>
<td>.96</td>
</tr>
</tbody>
</table>


Table 7

Logistic Regression of Euphemistic Language Predicting Verdicts

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.14</td>
<td>.08</td>
<td>3.70</td>
<td>.06</td>
<td>1</td>
<td>1.15</td>
<td>1.00 - 1.34</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>3.14</td>
<td>.08</td>
<td>1</td>
<td>1.00</td>
<td>1.00 - 1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.20</td>
<td>.06</td>
<td>.10</td>
<td>.76</td>
<td>1</td>
<td>1.23</td>
<td>.35 - 4.27</td>
</tr>
</tbody>
</table>

Table 8

Logistic Regression of Advantageous Comparison Predicting Verdicts

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.10</td>
<td>.08</td>
<td>1.86</td>
<td>.17</td>
<td>1</td>
<td>1.11</td>
<td>.96 - 1.30</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>.50</td>
<td>.48</td>
<td>1</td>
<td>1.00</td>
<td>1.00 - 1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.19</td>
<td>.09</td>
<td>4.58</td>
<td>.03</td>
<td>1</td>
<td>1.21</td>
<td>1.02 - 1.43</td>
</tr>
</tbody>
</table>

Table 9

Logistic Regression of Displacement of Responsibility Predicting Verdicts

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.14</td>
<td>.08</td>
<td>3.67</td>
<td>.06</td>
<td>1</td>
<td>1.16</td>
<td>1.00 - 1.34</td>
</tr>
<tr>
<td>Word Count</td>
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<td>.00</td>
<td>3.08</td>
<td>.08</td>
<td>1</td>
<td>1.00</td>
<td>1.00 - 1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
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<td>.11</td>
<td>.00</td>
<td>.98</td>
<td>1</td>
<td>1.21</td>
<td>.81 - 1.22</td>
</tr>
</tbody>
</table>
Table 10

Logistic Regression of Attribution of Blame Predicting Verdicts

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.15</td>
<td>.08</td>
<td>3.75</td>
<td>.05</td>
<td>1</td>
<td>1.17</td>
<td>1.00 - 1.36</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>1.01</td>
<td>.32</td>
<td>1</td>
<td>1.00</td>
<td>1.00 - 1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.02</td>
<td>.04</td>
<td>.18</td>
<td>.68</td>
<td>1</td>
<td>1.02</td>
<td>.95 - 1.09</td>
</tr>
</tbody>
</table>

Table 11

Logistic Regression of Dehumanization Predicting Verdicts

<table>
<thead>
<tr>
<th>Predictors</th>
<th>B</th>
<th>S.E.</th>
<th>Wald</th>
<th>Sig.</th>
<th>df</th>
<th>Odds Ratio</th>
<th>95% C.I. for Odds Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heinousness Score</td>
<td>.11</td>
<td>.08</td>
<td>1.97</td>
<td>.16</td>
<td>1</td>
<td>1.12</td>
<td>.96 - 1.30</td>
</tr>
<tr>
<td>Word Count</td>
<td>.00</td>
<td>.00</td>
<td>.27</td>
<td>.60</td>
<td>1</td>
<td>1.00</td>
<td>1.00 - 1.00</td>
</tr>
<tr>
<td>Total MD Instances</td>
<td>.08</td>
<td>.50</td>
<td>2.76</td>
<td>.10</td>
<td>1</td>
<td>1.09</td>
<td>.99 - 1.20</td>
</tr>
</tbody>
</table>

Additional analyses were conducted on demographic data of the defendant and victims. A logistic regression was conducted to determine if the number of victims predicted the verdict. The overall model was significant $\chi^2 (1, N = 45) = 6.73, p = .01$; an increase in the number of victims was associated with an increased probability of a death verdict ($b = 1.06, SE_b = .49, p = .03$). Another logistic regression was conducted to assess whether the victim’s age (i.e., child or adult) predicted the verdict. The model was not significant, $\chi^2 (1, N = 45) = 1.54, p = .22$, indicating that the victim’s age did not affect the sentencing outcome. Because nearly half of the transcripts ($N = 20$) did not specify
the race/ethnicity of the defendant, no analyses were conducted on this demographic data.

Sixteen transcripts did not contain a rebuttal, while 29 did; the presence of a rebuttal did not significantly affect the verdict, $\chi^2 (1, N = 45) = .92, p = .34$. 
CHAPTER IV
DISCUSSION

It was predicted that prosecutors’ use of moral disengagement in closing arguments would significantly affect sentencing outcomes. Specifically, the more often prosecutors referenced mechanisms of moral disengagement and the more references they made to different mechanisms, the greater the likelihood the jury would impose a death sentence. The results suggested that the predictors (i.e., word count, heinousness, and total references to mechanisms of moral disengagement) as a set distinguished between trials that ended in life and death sentences. None of the variables made a unique contribution to predicting the sentence; however, the total number of references to moral disengagement was marginally significant. The number of references to moral disengagement also significantly differed between the life and death transcripts, with more references to mechanisms of moral disengagement present in death transcripts. Together, these results indicated a trend that supports the first hypothesis. The results also suggested that the number of references to different mechanisms made by prosecutors did not differ between cases that ended in life and death sentences.

These findings were likely due to the small sample size, which reduced the study’s power. With an increased sample size, it is likely that these variables would have made a stronger contribution to predicting a death sentence. Furthermore, the small sample size partially explained why no individual mechanism could predict the verdict when the eight mechanisms were analyzed simultaneously. Fields, Miles, and Fields
(2012) suggested that there be 15 cases per predictor and thus a sample size of 45 was not sufficient for eight predictors in the model. Future studies should analyze more transcripts to increase the overall power of the study and determine a mechanism’s discrete ability to predict a death sentence relative to the other mechanisms.

When analyzed separately, the mechanism of advantageous comparison was found to significantly predict a death sentence. This mechanism focused on the victim and the victim’s family, and it minimized the defendant’s execution by emphasizing the victim’s suffering and inhumane death. This mechanism may have evoked more emotions than other mechanisms; thus, the effects of this mechanism can mirror the effects of victim impact evidence in trials. When considering this similarity, these results are consistent with research that has found mock jurors who were presented victim impact evidence were more likely to render a death sentence (Paternoster & Deise, 2011). Therefore, the possible emotionality associated with this mechanism may be the factor that led to its ability to facilitate a death sentence.

In addition, the mechanism of dehumanization was not found to be a significant predictor of a death verdict when analyzed separately. This is inconsistent with previous findings, in that lack of remorse, the crime’s brutality, and evidence of psychopathology, all of which are considered to be related to the mechanism of dehumanization, have been found to be the most persuasive aggravators (Sandys et al., 2009). This mechanism may not have been significant due to a high percentage of shared variance between the model’s predictors, the mechanism of dehumanization and heinousness score, which possibly reduced the mechanism’s individual variance. The high degree of shared
variance may be the result of the mechanism of dehumanization and the heinousness score both being related to the brutality of the crime.

Furthermore, Sandys et al. (2009) claim that the aforementioned aggravators (i.e., lack of remorse, psychopathology) are tied to the jurors’ perception of the defendant’s future dangerousness. However, moral justification, the mechanism that embodied the notion of future dangerousness in our coding scheme, was not found to be a significant predictor of a death sentence. This is especially surprising given that research has consistently found future dangerousness to be highly important to jurors when making their sentencing decisions (Sandys et al., 2009). In fact, approximately 62% of White jurors from 41 capital murder cases noted that when the defendant was believed to pose a threat in the future, they were more likely to give a death sentence (Garvey, 1998).

There are a few possible reasons why moral justification was not found as a significant predictor in the present study. It is common that prior to trial capital defendants undergo a risk assessment to gauge their future dangerousness. But, it is unknown if that evidence was admitted during trial for the 45 offenders, and if so, whether the defense successfully undermined the validity of the risk assessment. It is also undetermined if the risk assessment’s results contradicted the prosecutor’s claims of future dangerousness. Second, the states of Florida, Mississippi, and Indiana do not allow for the mention of future dangerousness. This regulation may have influenced the findings for this particular mechanism, considering that the sample included seven (16%) cases tried in those states.

The study’s use of closing arguments from actual capital trials provided the opportunity to examine how moral disengagement may be realistically utilized by
prosecutors. This increased the study’s external validity. Using an alternative approach, such as a mock jury, would have allowed for experimental control by manipulating the use of moral disengagement; however, this would have required the use of procedures that simulated capital trial court proceedings, which is difficult to do. This study’s approach permitted the examination of an effect in the context of actual trials, where jurors were exposed to all standardized capital trial proceedings and truly faced the choice to sentence a human being to life or death.

However, this approach did present limitations of its own. First, the researchers had no control over aspects of these trials, which limited the ability to draw causal conclusions. Second, no two trials were alike, so factors we have not accounted for may have influenced the sentencing verdicts. Mock jury studies have the ability to control for factors that typically vary from case to case. Capital trials, in particular, are extremely complicated compared to ordinary criminal trials, allowing even more opportunities for capital cases to differ (Sandys et al., 2009). The trials we examined undoubtedly included various witnesses and expert witnesses, involved attorneys that varied in competence and likeability, differed in the facts of the crime, and were tried in numerous states in which people hold varying political, religious, and death penalty attitudes. Thus, many extraneous factors could have influenced verdicts, and may, in part, be the reason why some results were not significant.

Still, this qualitative method is particularly useful for measuring notions of morality. Concerns about morality and the disengagement of moral codes can occur outside of one’s conscious awareness. This makes it difficult for jurors to articulate how these processes transpired and what factors facilitated it. Therefore, a content analysis of
trial transcripts provided the opportunity to observe and quantify the effect of prosecutors’ arguments about moral disengagement processes, even when those processes occurred at the subconscious level in jurors. Using actual cases across several states also increased the study’s external validity and generalizability.

This study examined only an isolated phase of an entire trial. Capital trials are comprised of several phases that usually occur over the course of several days to weeks and months. Attorneys have opportunities to employ these mechanisms in earlier phases of the trial. Therefore, future studies should examine whether the presence of moral disengagement mechanisms throughout the entirety of the trial influences guilt and sentencing outcomes. Moreover, this study only examined the prosecution’s arguments, and therefore, the study could not account for the defense’s counterarguments. The defense may have negated the effects of moral disengagement. Future studies should explore the effectiveness of moral disengagement in relation to the defense’s argument.

Despite these limitations, this research has begun to provide some understanding of how prosecutors in the past have aided jurors to overcome the moral issues imbedded in capital trials. Given the paucity of research on this topic, this study has provided a foundation for future studies to further examine the relationship between the use of moral disengagement in capital trials and sentencing outcomes. With a majority of individuals (61%) now supporting a sentence other than death as a penalty for murder (Death Penalty Information Center), techniques that enable individuals to disengage from their beliefs regarding punishment may be necessary to sway a jury to favor a death sentence.
REFERENCES


Conley, R. (2013). Living with the decision that someone will die: Linguistic distance and empathy in jurors' death penalty decisions. *Language In Society, 42*, 53-526. doi:10.1017/S004740451300064X


APPENDIX

• MORAL JUSTIFICATION: re-construing the death penalty in ways that make it appear morally justifiable.
  
  o Examples: it is morally justified to take the life of a person who has killed another; killing an offender who poses a future danger (such as violence or other destructive behaviors) or who has murdered previously is the right thing to do to protect society; an eye for an eye and a life for a life in that the victim deserves justice and justice requires the death penalty; murders must be avenged; it is necessary to execute murderers to deter others and spare societal costs of life imprisonment; society will be better off without people like the defendant

• EUPHEMISTIC LANGUAGE: masking the harmful nature of an act—the defendant’s death—with sanitized language (metaphor, simile, or convoluted verbiage)
  
  o Example: the execution is rendered benign by referring to it as an execution rather than state-sanctioned killing, or as just the legal penalty for murder. (Note that referring to the death penalty as “punishment” is not sufficiently euphemistic and shouldn’t be coded.)
• **ADVANTAGEOUS COMPARISON:** an execution is benign or of little consequence compared to the fate suffered by the victim

  - Examples: the inhumane way in which the defendant killed the victim was worse than the humane way in which he will be executed; the victim will never get his/her day in court, though the defendant will; the defendant showed no mercy toward the victim; the victim can no longer enjoy life [and unless you sentence to death, the defendant will go on living]. (Note that victim’s family, life or death must be mentioned or implied.)

• **DISPLACEMENT OF RESPONSIBILITY:** jurors are simply carrying out the orders of authorities and are not responsible for ordering an execution

  - Examples: by imposing a death sentence, jurors are just following the instructions from the judge or the wishes of society, the state, or the offender; jurors have a duty to follow the law; jurors are bound by the requirements of law; someone else will ultimately decide the sentence; jurors are not responsible for the defendant’s death because they are just following the dictates of others

• **DIFFUSION OF RESPONSIBILITY:** the presence of others makes an individual juror feel less responsible for the defendant’s death

  - Examples: individual jurors will not be held personally accountable or responsible for imposing a death sentence because it is a group decision; an individual juror plays only a small part in a death sentence
DISTORTING CONSEQUENCES: denying or minimizing the harmful consequences of putting defendant to death

- Examples: elaborate safeguards assure that no innocent person will be executed; current modes of execution minimize suffering of the defendant.

ATTRIBUTION OF BLAME: blaming the defendant for his own death

- Examples: the defendant has no one but himself to blame for his fate; the defendant brought on the death sentence by his own actions; the defendant deserves to die for what he did to the victim.

DEHUMANIZATION: derogating the defendant because he lacks human qualities or because what he did to the victim was inhumane

- Examples: the defendant is evil, deviant, lacks remorse, is a non-entity; the defendant’s actions were evil and inhumane; the defendant doesn’t deserve to be treated like a human being; the defendant displayed anti-social or a psychopathic traits.

Rules for Coding

Cases will all involve male perpetrators. Each transcript will be coded by 2 coders and when there are coding discrepancies, will discuss and resolve.

Coding rules:

1. The unit of language we will analyze is a “coherent point.” Its length can be a phrase or a sentence or multiple sentences that provide necessary context for the point. But if a singular phrase or sentence exemplifies one of the mechanisms, it can be counted as an instance of that mechanism. Any time that idea is repeated in a separate sentence, it is counted as a second instance of that point.
2. Items can be counted in more than 1 category.

3. Code initial closing argument and rebuttal separately

4. You may interpret what the prosecutor *might* have meant and count those points even if specific words provided on the previous page were not used.

**EXAMPLES:**

a. You may count an instance of future dangerousness when the prosecutor mentions something about the defendant’s ability to live in society around other people. Code this as *moral justification.*

b. Regarding *dehumanization,* you should not count descriptions of the facts of the crime (e.g., “he strangled the victim with an ace bandage”) but you should count descriptions that tap into jurors’ emotions about that act (e.g., “the victim was like a wild turkey fighting back”). Code only those items that capture one or more of the categories provided, understanding that the list of examples is not exhaustive.

c. Regarding *displacement of responsibility,* you should not count descriptions of court proceedings such as the fact that the judge will issue jury instructions or the fact that jurors will hear the explicit mention of aggravating and mitigating circumstances.

d. If there is reference or implication about the defendant’s actions being premeditated, code this as an example of *attribution of blame.*

5. When reading transcripts and coding examples of the 8 categories of moral disengagement, transcribe each relevant item, note its category or categories, and note the page number and line number of its location in the transcript.