Nullification threatens the Rule of law since it doesn't account for differences in community morality in a pluralistic society. **Fissell 13[[1]](#footnote--1)**

The accommodationists make a second major mistake: they take too simplistic a view of “community” morality. A bifurcated understanding is necessary, because **the morality of the area bound by the law need not always align with that of the area from which the jury panel will be selected,** and, because the morality of the jury is determinative, the possibility of nonalignment has consequences for the rule of law. **With respect to nullification,** one must speak of the **“community morality” [has two aspects:]** in two senses and not only one: **the conventional morality of the jurisdiction that** has input over and **is affected by the legislation** (jurisdictional morality), **and the conventional morality of the area from which a venire— and** ultimately a **jury panel—will be selected** (vicinage morality). These two communities of morality need not always be in agreement. **[But]** **Interests, values, and opinions can diverge between people** and groups**, often sharply and** often **geographically.** One need look no further than recent electoral maps, where “red” and “blue” counties generally come in large, geographically based clusters.62 There are many examples of this geographic moral divergence, where different locales take opposing views on the acceptability of conduct.63 The accommodationists err in their undifferentiated account of “community” morality; their theory relies upon a somewhat naive assumption of universal agreement that does not bear out in our pluralistic society. More seriously, this incorrect assumption leads them to miss out on the highly problematic implications that divergent moralities can have for the rule of law. **Localistic nullifications can arise when a vicinage morality diverges sharply from that of the larger jurisdiction** (aberrant localism) **and** also **when it takes an entrenched position on what is still an unsettled question at the jurisdictional level** (quasi-representative localism). **Localistic nullifications in these cases threaten the rule of law,** and the accommodationists have only weak replies to these objections. In his discussion of race-based Southern nullifications, Brown notes that these scenarios “seem to occur largely when local norms and sentiments strongly conflict with statutes and principles reflecting the consensus of the larger, national community.”64 After raising this possibility of localistic divergence, though, and concluding that these nullifications violate the rule of law, he refrains from abstracting any lesson from it beyond the specific context of racism.65 Surely there are other pernicious types of localism besides racism, many of which are equally threatening to rule-of-law values. Moreover, it is not clear that the Southern United States example is a good example of “localism.” As Brown himself admits, this was an extraordinary case where a very large percentage of the population was living somewhat outside of the rule of law.66 Localistic nullifications can arise in more ordinary circumstances, but Brown’s theory does not address these.

Nullification collapses the rule of law – transforms the jury into a legislative body.

**Haynie 97[[2]](#footnote-0)**

Rule of Law v. Rule of Men At the core of American constitutional jurisprudence is the notion that ours is a government of laws, not of men.84 **Under the rule of law,** citizen **behavior is regulated not [with]** according tothepassions and **prejudices** of human beings, **but [with]** according to **objective, published laws** formally **sanctioned by elected representatives through a pre-ordained process.** As a federal judge sitting at criminal law aptly observed in 1941: Our American system represents the collective wisdom, the collective industry, the collective common sense of people who for centuries had been seeking freedom, freedom from the tyranny of government actuated or controlled by the personal whims and prejudices of kings and dictators. The result is a government founded on principles of reason and justice, a government of laws and not of men." **Because nullification instructions give juries** affirmative **permission to ignore applicable legislative definitions of culpable conduct, such instructions undermine the rule of law.** 6 This reality was explained long ago in the Supreme Court's landmark decision of Sparf & Hansen v. United States,8 7 which addressed the issue of jury nullification in the federal court system. Holding that it is the right and duty of the trial judge to instruct the jury to follow the law, the Court wrote that: Public and private safety alike would be in peril if the principle be established that juries in criminal cases may, of right, [be told to] disregard the law as expounded to them by the court, and become a law unto themselves. Under such a system, the principal function of the judge would be to preside and keep order while jurymen, untrained in the law, would determine questions affecting life, liberty, or property according to such legal principles as, in their judgement, were applicable to the particular case being tried.... We must hold firmly to the doctrine that in the courts of the United States it is the duty of juries in criminal cases to take the law from the court, and apply that law to the facts as they find them to be from the evidence.& The Ninth Circuit has criticized nullification arguments by counsel as violative of the rule of law in even stronger terms: If we... allow lawyers to appeal for jury nullification at will and indefinitely, and if we grant defendants a Sixth Amendment right to explain themselves in legally irrelevant terms-then we move to a "system" in which the loudest voice carries the day, in which the phrase "order in the court" literally has no meaning, and in which the [rule of] law has about as much force as the Cheshire Cat's grin. 89 Stated another way, the principal danger in giving juries an affirmative option to ignore the criminal law is that **the jury is thereby transformed from a fact finding into a law-making body.**90 In so doing, **nullification instructions convert juries into** junior varsity **legislatures whose decisions undermine the impartial determination of justice** based on published law.91 Thus, explicit nullification instructions would convey "an implied approval that runs the risk of degrading the legal structure [below the level of integrity] requisite for true freedom, for an ordered liberty that protects against anarchy as well as tyranny."9 2 By refusing to allow the nullification power to be explained to juries, courts better ensure that jurors use the nullification power sparingly, departing from the rule of law only where their own conscience naturally compels a veto of a judge's instructions.

The rule of law is vital to solving disease and terrorism globally – the US is modeled. **Greco 5[[3]](#footnote-1)**

community† First,because **the rule of law is** so **central to everything the legal community stands for, both in the U**nited **S**tates **and around the world [so]** And second, because **we increasingly find that** our nation's **top international priorities-defeating terrorism**, corruption **and** even **the spread of deadly diseases-are being undone at the ground level by** poor governance and **lawlessness**. As Rice eloquently told the gathering, "In a world where threats pass even through the most fortified boundaries, **weak** and poorly governed **states enable disease to spread undetected, and** corruption to multiply unchecked, and **hateful ideologies to grow** more **violent and** more **vengeful**." **The only real antidote to** these **global threats is** governments, in all corners of the world, that operate with just, transparent and **consistent legal systems that are enforced by fair and independent judiciaries.** These issues are not just the province of distant foreign governments. Building the rule of law must begin at home. Recent revelations in our own country-that the CIA has maintained secret prisons for foreign detainees-underscore the urgent need for an independent, nonpartisan commission to investigate our treatment of such prisoners.

Terrorism causes extinction. **Myhrvold '13**[[4]](#footnote-2)

Several powerful trends have aligned to profoundly change the way that the world works. Technology ¶ now allows stateless groups to organize, recruit, and fund ¶ themselves in an unprecedented fashion. That, coupled ¶ with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be ¶ lead players on the world stage. They may act on their own, ¶ or they may act as proxies for nation-states that wish to ¶ duck responsibility. Either way, stateless groups are forces ¶ to be reckoned with.¶ At the same time, a different set of technology trends ¶ means that small numbers of people can obtain incredibly ¶ lethal power. Now, for the first time in human history, a ¶ small group can be as lethal as the largest superpower. Such ¶ a group could execute an attack that could kill millions of ¶ people. It is technically feasible for such a group to kill billions of people, to end modern civilization—perhaps even ¶ to drive the human race to extinction. Our defense establishment was shaped over decades to ¶ address what was, for a long time, the only strategic threat ¶ our nation faced: Soviet or Chinese missiles. More recently, ¶ it has started retooling to address tactical terror attacks like ¶ those launched on the morning of 9/11, but the reform ¶ process is incomplete and inconsistent. A real defense will ¶ require rebuilding our military and intelligence capabilities from the ground up. Yet, so far, strategic terrorism has ¶ received relatively little attention in defense agencies, and ¶ the efforts that have been launched to combat this existential threat seem fragmented.¶ History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by repeatedly attacking us or hectoring us for decades.

1. Brenner Fissell (Georgetown University Law Center). “Jury nullification and the rule of law.” LegalTheory 19 (3):217-241 (2013). <https://www.academia.edu/4020315/Jury_Nullification_and_the_Rule_of_Law> [↑](#footnote-ref--1)
2. (Erick J, Northwestern University School of Law, J.D., cum laude, Order of the Coif, 1998, Executive Editor, Journal of Criminal Law and Criminology, University of Portland, B.A., Political Science, summa cum laude, “Populism, Free Speech, and the Rule of Law: The Fully Informed Jury Movement and its Implications,” Volume 88 Issue 1 Fall Article 8 1997, <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6948andcontext=jclc)/> [↑](#footnote-ref-0)
3. (Michael S., President – American Bar Association, Miami Daily Business Review, 52.42, 12-5, Factiva)

   What makes the rule of law so important that it attracted such a distinguished [↑](#footnote-ref-1)
4. - Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , [Nathan July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>] [↑](#footnote-ref-2)