What’s Happening in a Jury Room?
- Insights from a Shadow Jury Deliberation Study in Korea
Research Questions

• Quality of Jury Deliberation
  – Are Korean jurors rational (or at least as good as judges)?
  – Do they engage in “quality” deliberation?
  – Any sign of “cultural” assumptions about the Korean people present? (e.g., emotional, shy, influenced by elders or learned people)

• Effect of the jury service to deliberative democracy
  – Self-efficacy as a citizen improved?
  – Trust in the system or in the government increased?
  – Tolerance towards differences of opinions increased?
  – Trust towards peer citizens increased?
Subject and Methodology

• “Shadow jury” study
• 1\textsuperscript{st} year (2010.11-2011.7), 2\textsuperscript{nd} year (2011.12-2012.6)
• “research jury” (deselected juror candidates) & “participatory jury” (recruited jury)
• cases/juror groups: 21/35(1\textsuperscript{st} year), 20/34(2\textsuperscript{nd} year)
• Content analysis on deliberation: 18 (1\textsuperscript{st} year) + 34 (2\textsuperscript{nd} year)
  – Analysis of jury deliberation dynamism, quality of deliberation
• questionnaire: 222 (1\textsuperscript{st} year) + 295 (2\textsuperscript{nd} year)
  – Juror satisfaction of the deliberation, trials, jury systems
• In-depth interview with jurors in the 2\textsuperscript{nd} year
Interaction in Deliberation

Role of Foreperson

Diversity Level

Frequency of Speech

Quality of Debate

Discussion Decorum

Evaluation of Jury Trial

Changed Opinion on Fairness
<table>
<thead>
<tr>
<th><strong>Issue</strong></th>
<th><strong>Committee Recommendation (2013)</strong></th>
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</thead>
</table>
| Bindingness     | *De facto* bindingness: the law specifies the court should respect jury verdict, unless it is clearly in contrary to the Constitution or the law  
- Jury opinion on the sentencing remains advisory                                       |
| Decision-making Rule | *¾ majority vote required to reach a verdict  
- If no ¾ majority reached, the court nevertheless can render judgment, taking into account the verdict*             |
| Initiation Requirement | *Defendant initiates  
- In some instance, the judge or public prosecutor can initiate, in order to promote democratic legitimacy and transparency* |
| Number          | *7 or 9*                                                                                             |
| Court Layout    | *Prosecutor and the defendant sits side by side (like in civil courtroom)*                           |
| Others          | *Judgment must include the number, guilt verdict, sentencing opinion of the jury  
- Minimum age of the jurors lowered to 19, jury instruction must include the summary of the prosecution  
- Other key aspects of the Korean jury system remains intact*                           |
Jury Trial Courtroom (U.S. & Korea)
Insights

• Bindingness
  – Role of the foreperson
    • Providing opportunity to speak
    • Requesting basis of the argument
    • Mediating the conflict situation effectively
    • Propensity of the foreperson (e.g., authoritative, opinionated, controlling)
  – Diversity of the jury
    • Demographic diversity
    • Speech diversity
  – Confusion and self-correction
    • Factual inconsistency
    • Legal inconsistency

• Diversity of the jury
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  • Speech diversity

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Insights

• Decision-making rule
  – “Verdict driven” vs. “evidence driven”?
    • Relatively short deliberation time (100 minutes average); but this does not lead to any conclusive generalization
  – Pros and cons of the unanimous rule
    • Combination of unanimous & majority decision-making rules

• Number
  – 5 jurors rarely used in practice (about 10%)
    • If less than 5, difficult to self-correct when the debate is skewed
    • If more than 9, debates tend not to be focused
    • Both “speech diversity” & “demographic diversity” measurements support more than 5 persons
Others

• Sentencing deliberation
  – Jurors mix sentencing considerations during the guilty determination stage
    • Is it always bad?
    • Can factual determination always be based on evidence?
    • Are judges free from this mixture?
  – Jurors’ tendency to weigh “narrative (story)” consistency
    • Closer to common-sense truth, social truth
## Judges’ Intervention during Deliberation

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<thead>
<tr>
<th>Style of Judges</th>
<th>Juror’s change of decisions</th>
<th>Total</th>
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<tr>
<td>Total</td>
<td>Frequency</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>30.1%</td>
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Deliberation with a Judge