

What's Happening in a Jury Room?

- Insights from a Shadow Jury Deliberation Study in Korea

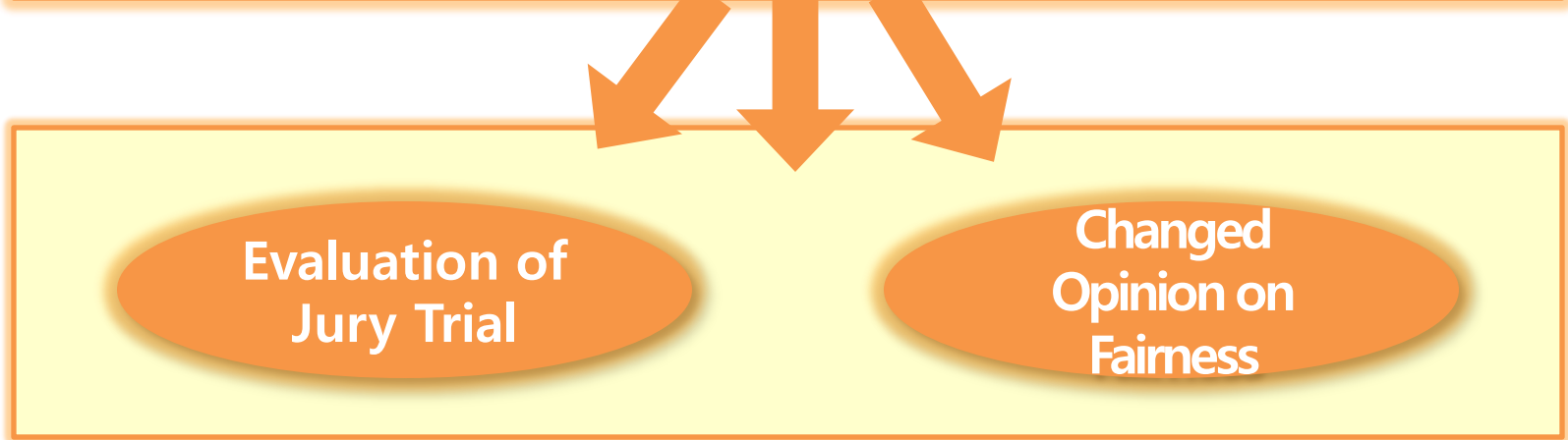
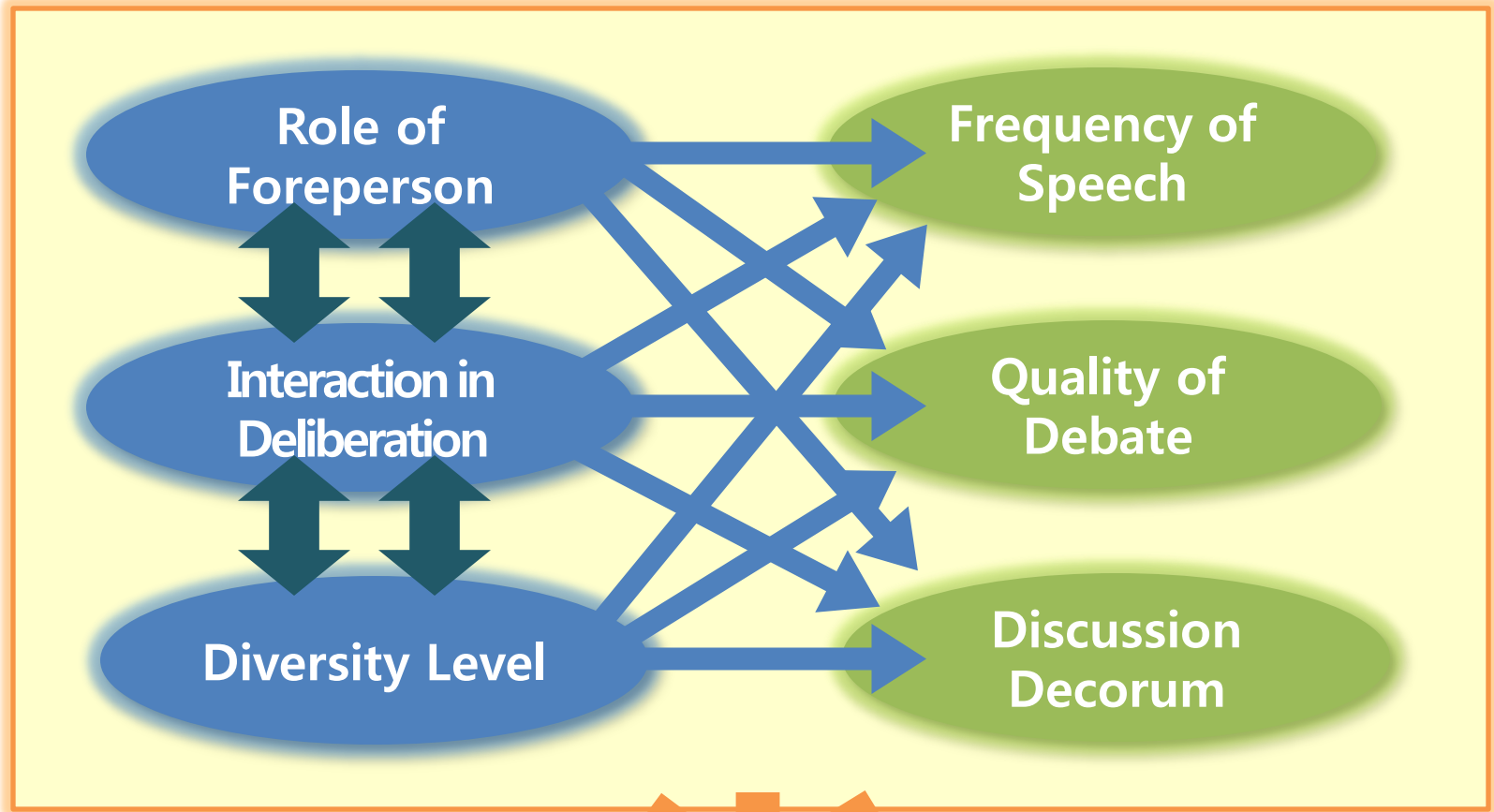


Research Questions

- 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?

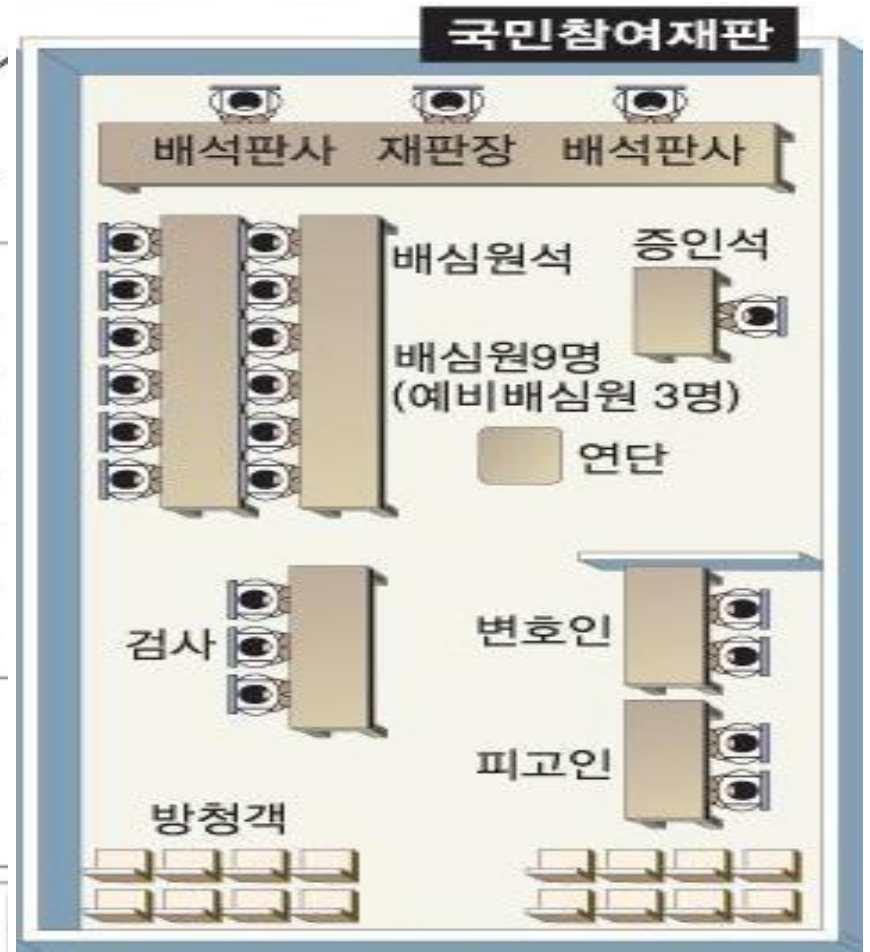
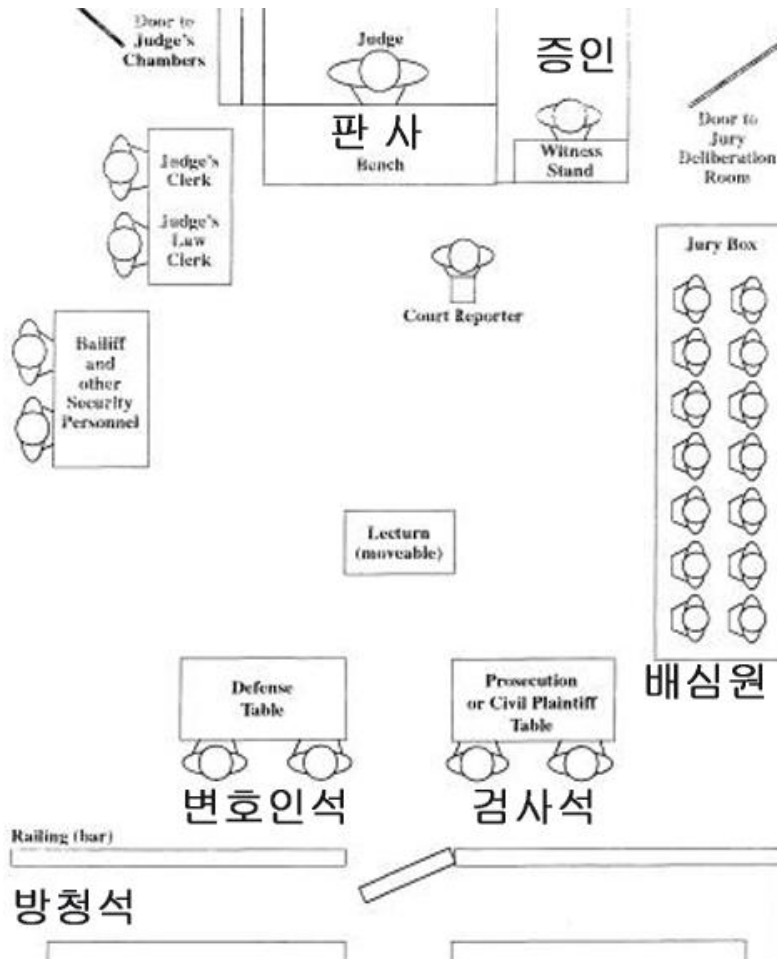
Subject and Methodology

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



Issue	Committee Recommendation (2013)
Bindingness	<ul style="list-style-type: none"> - <i>De facto</i> 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	<ul style="list-style-type: none"> - $\frac{3}{4}$ majority vote required to reach a verdict - If no $\frac{3}{4}$ majority reached, the court nevertheless can render judgment, taking into account the verdict
Initiation Requirement	<ul style="list-style-type: none"> - Defendant initiates - In some instance, the judge or public prosecutor can initiate, in order to promote democratic legitimacy and transparency
Number	<ul style="list-style-type: none"> - 7 or 9
Court Layout	<ul style="list-style-type: none"> - Prosecutor and the defendant sits side by side (like in civil courtroom)
Others	<ul style="list-style-type: none"> - 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

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

			Juror's change of decisions		Total
			Yes	no	
Style of Judges	Information Delivering	frequency	17	56	73
		%	23.3%	76.7%	100.0%
	Opinion providing	frequency	10	23	33
		%	30.3%	69.7%	100.0%
	Opinion imposing	frequency	7	0	7
		%	100.0%	.0%	100.0%
Total		Frequency	34	79	113
		%	30.1%	69.9%	100.0%

Deliberation with a Judge

