

# Is unanimity a nightmare?



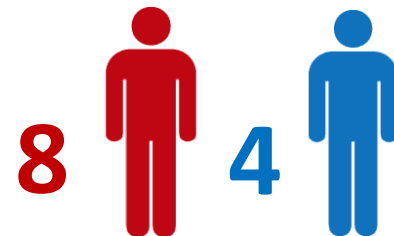
**Research about decision rules and verdicts  
from the jury in Argentina.**

*Mariana Bilinski & Natali Chizik.*

# Different rules



**Province of Neuquén**



# Different rules



## Province of Buenos Aires

$$12 \text{ (red icon)} / 10 \text{ (red icon)} = 2 \text{ (blue icon)}$$

# Different rules

Chaco



Rio Negro



12



# Is unanimity a nightmare? Why?



# 1. The possible increase of deadlocks

Hung  
 jury

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➤ Province of Buenos Aires

➤ Years 2015 / 2016

➤ **There were no hung juries**

# 1. The possible increase of deadlocks





# 1. The possible increase of deadlocks

Unusual



Usual



## 2. Unpunished crimes and political discredit



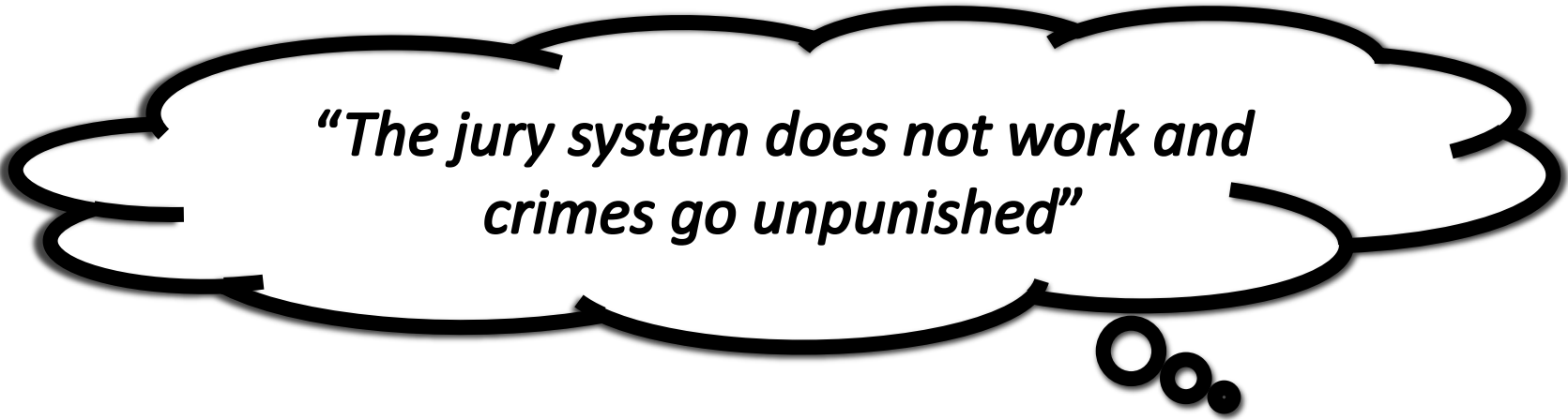
### 3. The lack of training of judicial actors



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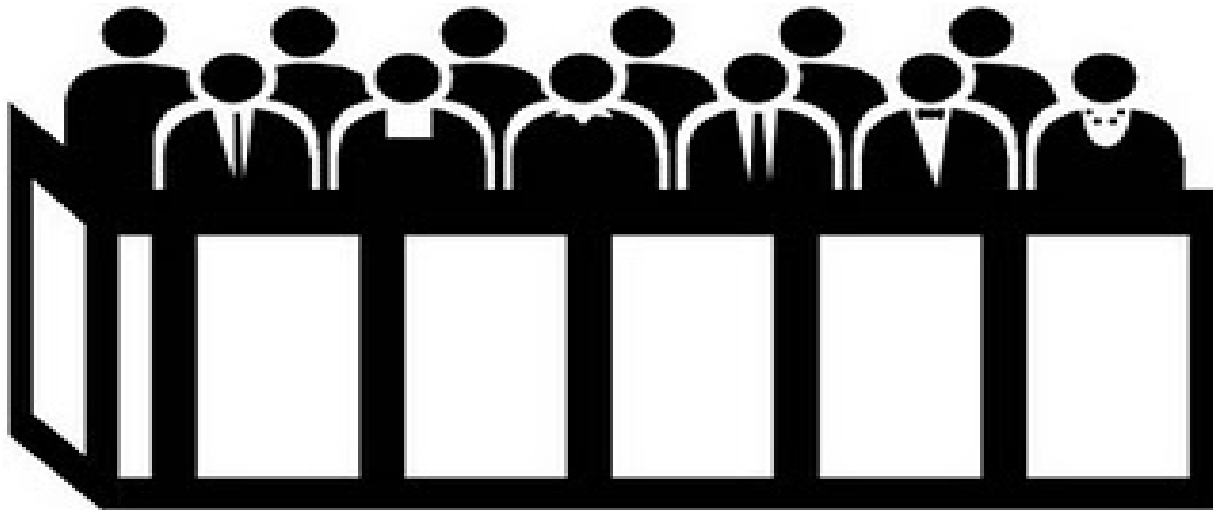
***“The time has come to propose a legislative change and review the jury trial law”***



***“The jury system does not work and crimes go unpunished”***

### 3. The lack of training of judicial actors

*“Trial by jury is the ultimate expression of litigation”*





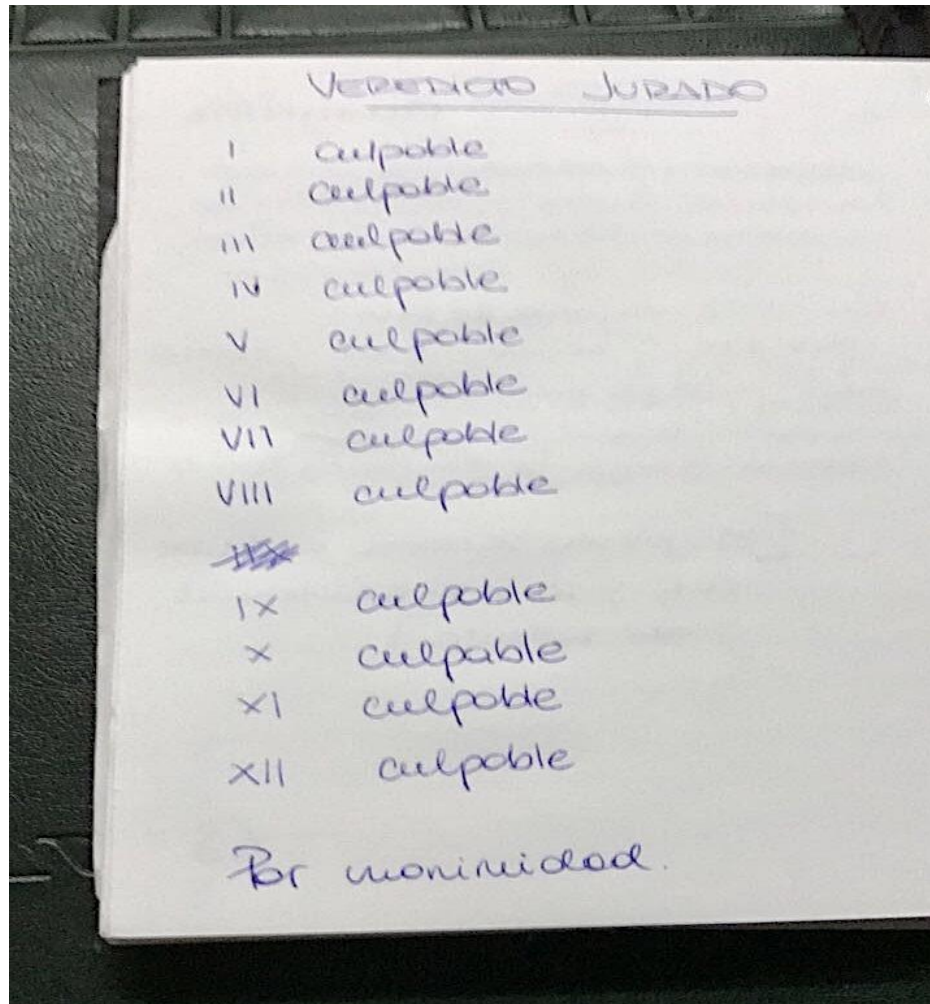
## 4. Lack of deliberation in the Judicial System



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# Empirical Data from Jury Trials in Argentina

## ➤ Province of Buenos Aires:

➤ Cases from 2015 and 2016.

➤ 93 trials

➤ Two Obstacles:

- 1) No record of not guilty verdicts

- 2) Do not know when life in prison was requested by the prosecution

# Empirical Data from Jury Trials in Argentina

## ➤ Neuquén:

- Cases from 2014 to April 2017.
- 33 trials (analyzed as 35 cases)
- Obstacle: No record of not guilty verdicts

# Convictions and Acquittals in Buenos Aires

## 60 convictions:

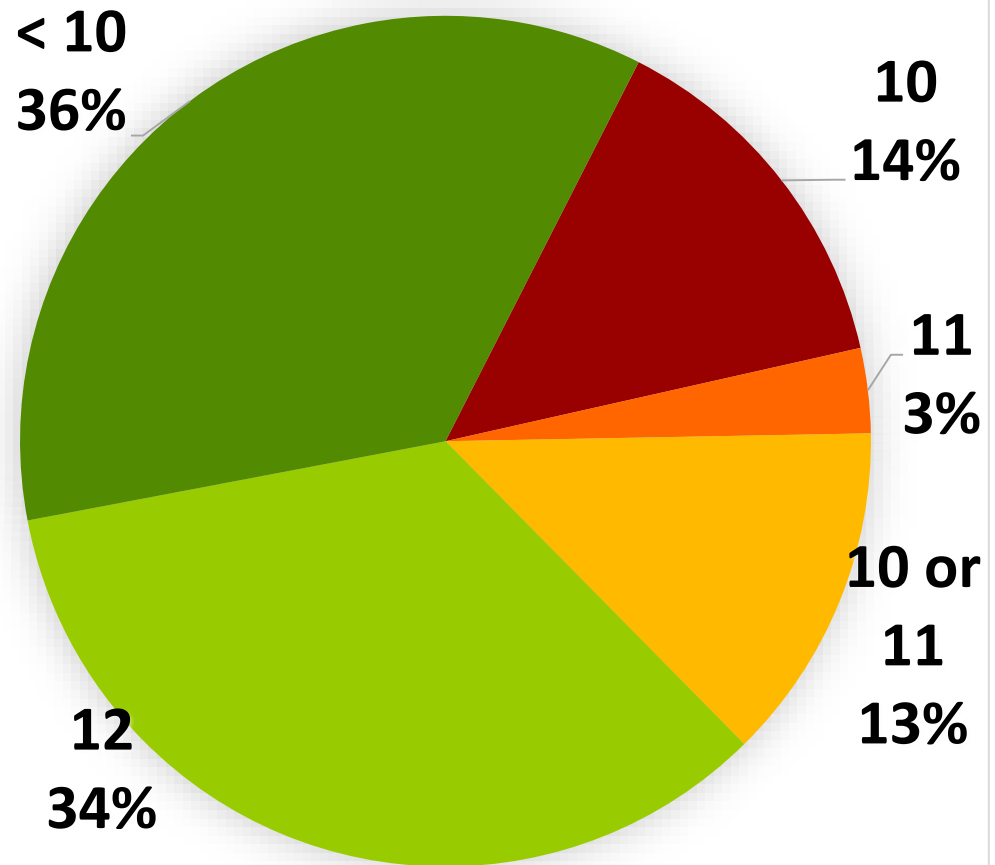
10 votes: 13 cases

11 votes: 3 cases

10/11 votes: 12 cases

12 votes: 32 cases

## 33 acquittals

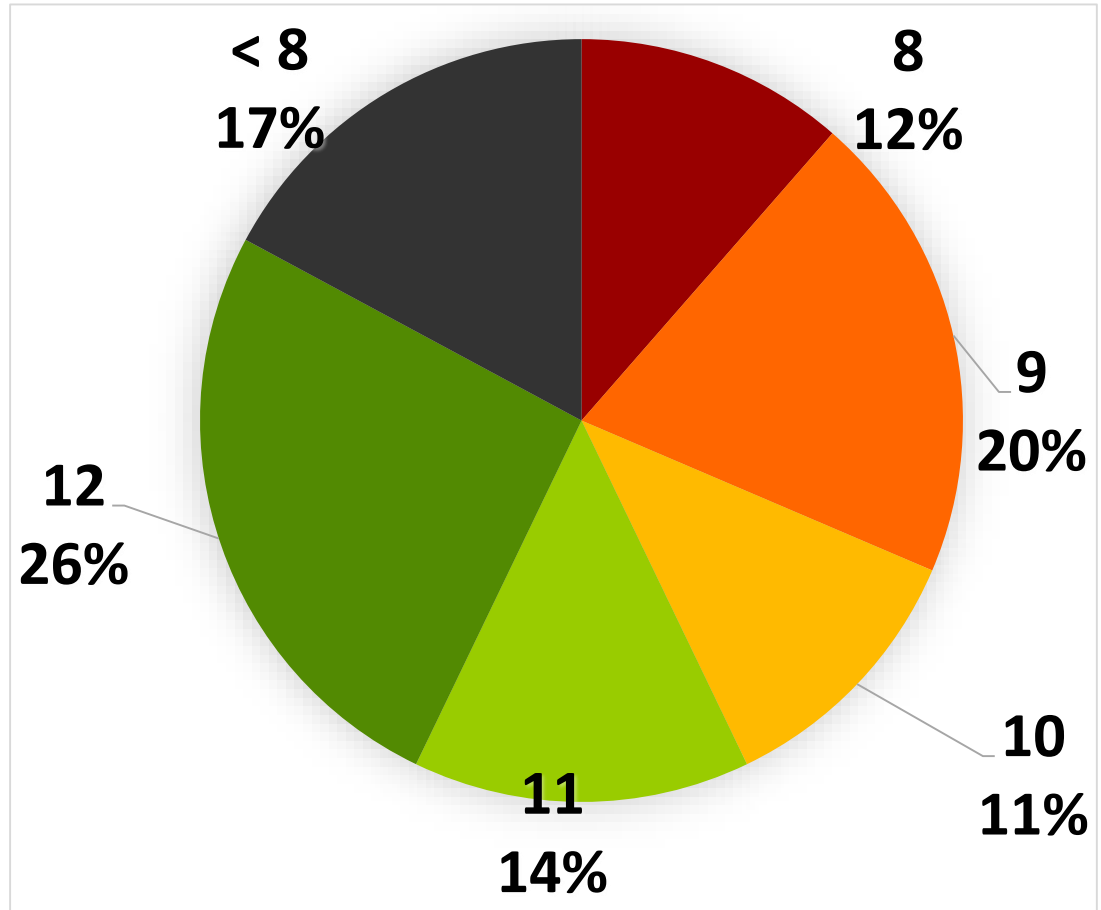


# Convictions and Acquittals in Neuquén

## 29 convictions:

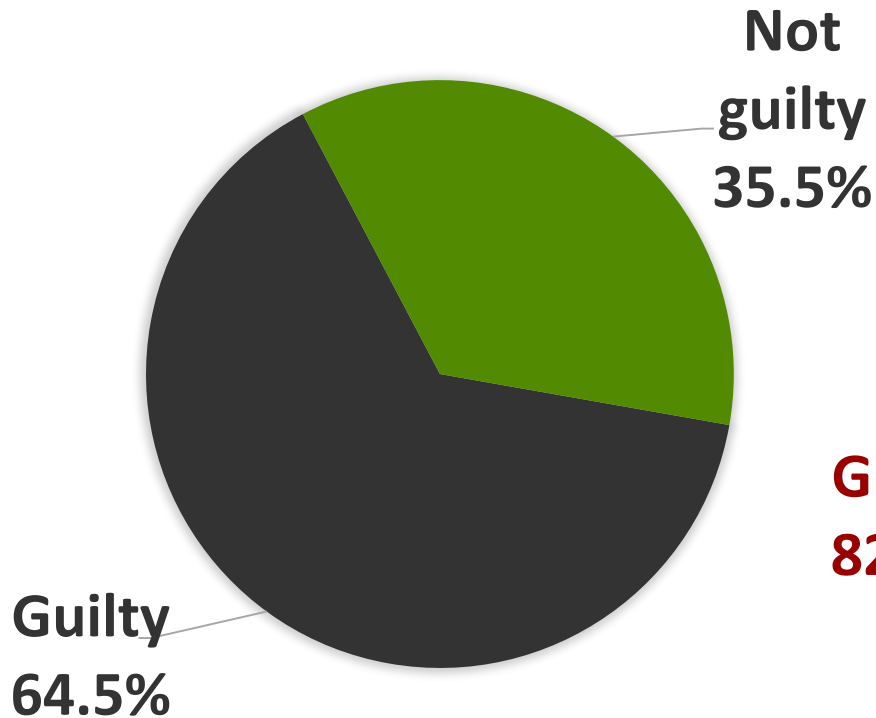
8 votes:	4 cases
9 votes:	7 cases
10 votes:	4 cases
11 votes:	5 cases
12 votes:	9 cases

6 acquittals

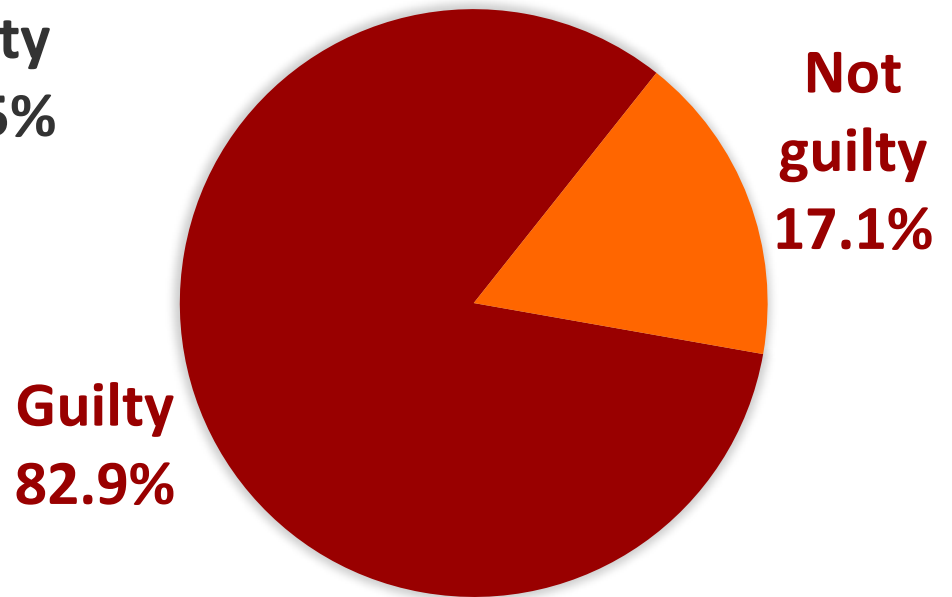


# Combined rates for convictions and acquittals for all crimes

**BUENOS AIRES**



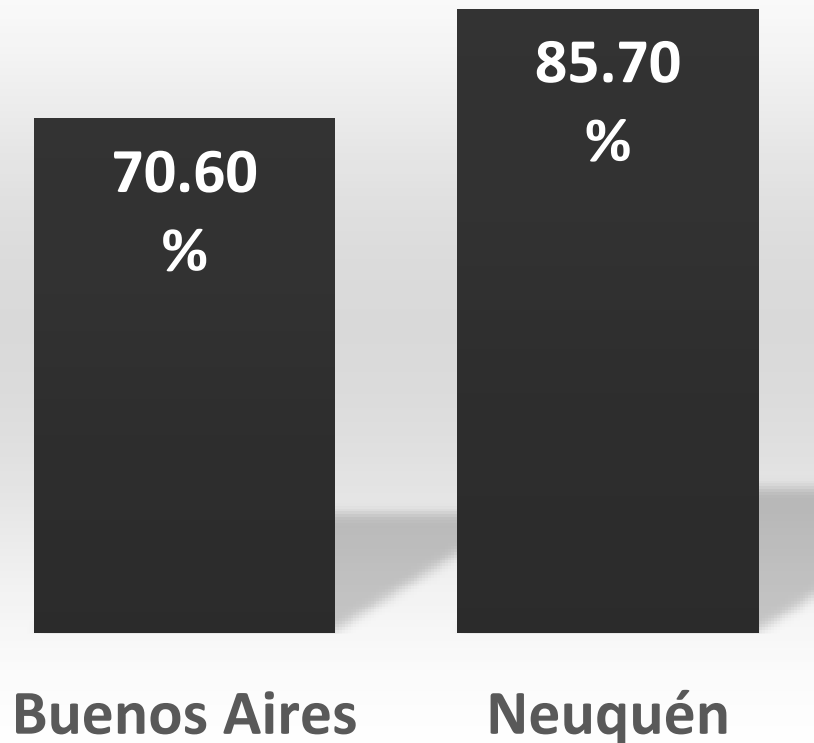
**NEUQUÉN**



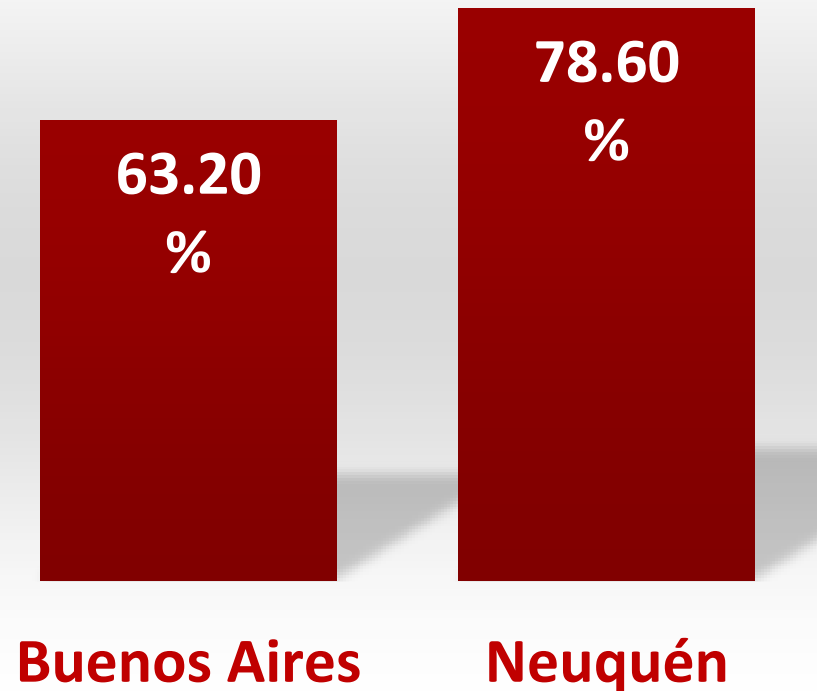
# Buenos Aires and Neuquén

## Aggravated Murder vs. Other offenses

Aggravated Murder GUILTY CASES



Other offenses GUILTY CASES



# Higher conviction rates in Neuquén. Why?

## POSSIBLE REASONS

- Jury trials are mandatory for the most serious crimes in Neuquén
- Prosecutors select their cases
- Defendants have no right to waive a jury trial
- Strong cases and compelling evidence
- **MIGHT ALSO EXPLAIN: 40% cases with 11 or 12 guilty votes in Neuquén**

# Higher conviction rates in Neuquén. Why?

## POSSIBLE REASONS

- In Buenos Aires Jury trials are also for the most serious crimes.
- BUT Defendants CAN waive a jury trial

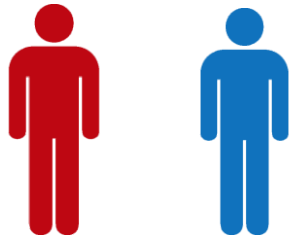
**MIGHT ALSO EXPLAIN HIGHER PROPORTION OF AGGRAVATED MURDER CASES IN NEUQUEN**



# Higher conviction rates in Neuquén. Why?

## LOWER MAJORITY REQUIRED TO CONVICT

Neuquén

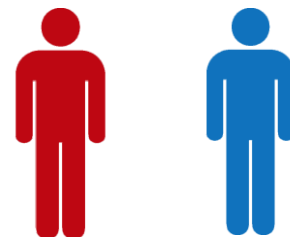


8

4

No Hung Juries

Buenos Aires



12

10

2

9

3

= Hung jury

# Consequences



- 31.4% cases in Neuquén would not have produced a conviction in Buenos Aires:
- 11.4% of cases that ended with 8 guilty votes for conviction.
- 20% of cases that ended with 9 guilty votes (would have been a deadlocked jury in Buenos Aires)

# Consequences

Hypothetical scenario for non-aggravated murder cases, requiring 10 instead of 8



Conviction rate would have been lower in Neuquén than in Buenos Aires

**Problem:** We cannot make assumptions



A change in decision rule would probably affect the final vote of the jury

# Length of deliberations in Neuquén

- No pattern between length of deliberation and majorities.
- Longer trials did not seem to produce longer deliberations.



THEN, THERE IS NO REASON TO BE WORRIED  
ABOUT ROBUSTNESS OF DELIBERATION!



YES! YOU SHOULD BE WORRIED! IT IS ONLY A SMALL  
SAMPLE AND OTHER REASONS MAY ACCOUNT FOR  
DELIBERATION TIME!

# Some Conclusions....

- The sample is too small (so far) for decisive conclusions
- A Different decision rule has major implications:
  - 1) Affects the outcome of a trial (Easier convictions)
  - 2) Parties face uneven consequences (Mainly the defendant)
- Problem in terms of equality before the law
- Reality: Jurors raised the bar and pursued unanimity in a significant number of cases

# Final Remarks

- Unanimity fosters a more robust debate-> jurors must all agree
- Greater legitimacy for the verdict
- Review the current laws
- Instructions encouraging to exhaustively deliberate
- Unanimity not only to convict but also to acquit

# Final Remarks



Alternate jurors deliberating in a jury trial held in San Martin,  
Province of Buenos Aires (March, 2017)