

EVALUATION OF CONFESSION EVIDENCE AND EXPERT TESTIMONY
IN ADVERSARIAL AND INQUISITORIAL TRIALS
IN THE UNITED STATES AND SOUTH KOREA

by

MINCHI KIM

A dissertation submitted to the Graduate Faculty in Psychology
in partial fulfillment of the requirements for the degree of
Doctor of Philosophy, The City University of New York

2010

© 2010

MINCHI KIM

All Rights Reserved

This manuscript has been read and accepted for the
Graduate Faculty in Psychology in satisfaction of the
dissertation requirement for the degree of Doctor of Philosophy.

January 29, 2010

Date

Steven D. Penrod, J.D., Ph.D.

Chair of Examining Committee

January 29, 2010

Date

Maureen O'Connor, J.D., Ph.D.

Executive Officer

Saul Kassin, Ph.D.

Maureen O'Connor, J.D., Ph.D.

Valerie Hans, Ph.D.

Hiroshi Fukurai, Ph.D.

Supervision Committee

THE CITY UNIVERSITY OF NEW YORK

Abstract

EVALUATION OF CONFESSION EVIDENCE AND EXPERT TESTIMONY
IN ADVERSARIAL AND INQUISITORIAL TRIALS
IN THE UNITED STATES AND SOUTH KOREA

by

Minchi Kim

Adviser: Professor Steven D. Penrod

There have been many attempts to determine the “better” legal system between inquisitorial and adversarial, but some legal scholars argue that a direct comparison of different justice systems is impossible because every system is distinctive. Based on van Koppen and Penrod (2003)’s argument that the trial system with fewer wrongful convictions should be considered as the “better” justice system, this dissertation compared the inquisitorial and adversarial trials by evaluating the quality of legal decision-making between legal professionals and lay people on the assessment of trial evidence and their verdicts in South Korea and the United States. This study examines how coerced confession evidence and expert testimony influence the legal decisions when the evidence is introduced in an adversarial or in an inquisitorial trial and whether the two forms of trial yield the same types of biases and errors. The results indicate that inquisitorial trials yield higher guilt probabilities and produce more guilty verdicts than adversarial trials. The presence of confession evidence significantly increases guilt

probability ratings and guilty verdicts. The introduction of expert testimony on confession evidence reduces the damaging effects of the confession evidence to a certain degree, but only lay persons are able to utilize expert testimony to critically evaluate the evidence. Koreans in general are more likely to perceive that the defendant's confession was coerced than Americans and give lower guilt probability ratings and guilty verdicts. When confession evidence and expert testimony are introduced in an adversarial trial, only lay persons are able to utilize the expert testimony information, give lower guilt probability ratings and were less likely to produce guilty verdicts. Americans' verdicts are more likely to be influenced by the trial type than Koreans. Americans in inquisitorial trials are more likely to vote guilty than Americans in adversarial trials. Furthermore, path analysis indicates that legal professionals and lay persons evaluate and weigh evidence differently, but legal professional-lay agreement rates indicated that the performance of lay persons is comparable to the performance of legal professionals. Korean legal professional-lay person agreement rates are also comparable to the American legal professional-lay person agreement rates. Implications for the Korean lay participation system are discussed.

ACKNOWLEDGMENTS

This dissertation would not have been possible without the support and guidance from a large number of people. First, I would like to thank my advisor Dr. Steven Penrod, for his thoughtful encouragement, advice, patience, and confidence throughout the years. This dissertation would not have been possible without your continuous support and encouragement. I was very fortunate to meet and know you as a person and to have you as an advisor.

I must also express my gratitude to other members of the committee: Dr. Saul Kassin, Dr. Maureen O'Connor, Dr. Valerie Hans, and Dr. Hiroshi Fukurai. I greatly appreciate Dr. Kassin for sharing information and helping me developing stimulus materials for the research. I also greatly appreciate for Dr. O'Connor's guidance and support during my years as a doctoral student. I am also indebted to both Dr. Hans and Dr. Fukurai. Thank you for your support, advice and encouragement. I am grateful for our intellectual discussions during conferences and opportunities to exchange our views and values as a person. All of your comments on earlier drafts of this dissertation greatly improved the quality of the work.

I would also like to thank Dr. Kwangbai Park, Dr. Soojung Lee, Honorable Judge Sangjun Kim in Korea and Maria T. Rivero at a District Attorney's Office and Dennis Murphy at The Legal Aid Society in New York City for agreeing to help in the data collection process. Without their help, I could not have completed my dissertation.

Finally, I am indebted to my parents and my brother for always being there for me and for providing me with the strength and support I needed to get through this process. I am grateful to have a wonderful brother who have quietly supported me and listened to

my frustrations (and excitements!) over the years. Thank you for being there for me as a brother and a good friend. I never would have survived NYC without you. Also, there are those who have shared my experiences and concerns (you know who you are!). I will always be grateful for their love and friendship.

TABLE OF CONTENT

LISTS OF TABLES.....	x
LISTS OF FIGURES	xii
CHAPTER 1. INTRODUCTION	1
CHAPTER 2. LITERATURE REVIEW	4
Adversarial versus Inquisitorial Systems	4
Judge-Jury Agreement Rate	9
Confession Evidence in Adversarial and Inquisitorial Trials	12
Expert Testimony in Adversarial and Inquisitorial Trials.....	16
Lay Participation System in South Korea	21
Purpose of the Research	23
CHAPTER 3. METHOD.....	27
Design.....	27
Participants.....	28
Procedure.....	30
Stimulus Materials.....	32
Dependent Measures	39
Hypotheses.....	39
CHAPTER 4. RESULTS.....	42
Verdicts	42
Post-Deliberation Verdicts in Adversarial Trial Conditions.....	51
Legal Professionals and Lay Verdict Agreement Rates.....	54
Legal Decision Making Models: Variables.....	57
Evaluation of the Confession Evidence 1	62
Basic Legal Decision Making Model: Mediated Path Analysis 1	66

Confession Evidence Model: Mediated Path Analysis 2	83
Evaluation of Confession Evidence 2.....	96
CHAPTER 5. DISCUSSION	97
Trial Type.....	97
Type of Evidence: Confession Evidence (WE) and Expert Testimony (CE).....	100
Country.....	103
Interaction between Trial Type and Confession Evidence (WE).....	107
Interaction between Trial Type and Confession Evidence and Expert Testimony (CE)	108
Interaction between Trial Type and Country.....	109
Deliberation Effect.....	110
Decision Makers: Legal Professionals and Lay.....	111
CHAPTER 6. CONCLUSIONS.....	113
Conclusions.....	113
Research Implications	115
Limitations	117
REFERENCES.....	122

LISTS OF TABLES

Table 1. Data Collection Procedure used in the Study	31
Table 2. Summary Content of the Adversarial and Inquisitorial Trial Stimulus Materials	34
Table 3. Logistic Regression for the Main Effects of Independent Variables	47
Table 4. Logistic Regression for the Effects of Previous and Interaction Variables for Murder Charge	48
Table 5. Logistic Regression for the Effects of Previous and Interaction Variables for Rape Charge	49
Table 6. Logistic Regression for Effects of Independent, Interactions and Pre- Deliberation Verdict Variables.....	53
Table 7. Judge-Jury Agreement Rates by the Presence of the Confession Evidence and Expert Testimony.....	56
Table 8. Factor Analysis Component Loadings for Witness/Evidence Evaluation Variables	59
Table 9. Factor Analysis Component Loadings for Overall Trial Evaluation Variables. .	60
Table 10. Adjusted and Unadjusted Group Means for Confession Evidence Evaluation Variables.....	65
Table 11. Specific Hypotheses for Legal Decision Making Model for Lay Participants..	72
Table 12. Direct, Indirect, and Total Effects for the Basic Decision Making Model on Lay Participants	79
Table 13. Direct, Indirect, and Total Effects for the Basic Decision Making Model on Legal Professionals.	80
Table 14. Means and Standard Deviations on the Probability of Guilt in the Legal Decision Model for Lay Participants.....	81
Table 15. Means and Standard Deviations on the Probability of Guilt in the Legal Decision Model for Legal professionals.....	82
Table 16. Hypotheses for the confession model	86

Table 17. Direct, Indirect, and Total Effects for the Confession Model on Lay Participants	94
Table 18. Direct, Indirect, and Total Effects for the Confession Model on Legal Professionals.....	95

LISTS OF FIGURES

Figure 1. Effects of the Country and the Trial Type on Verdicts for Murder	50
Figure 2. Effects of the Country and the Decision Makers on Verdicts for Murder	50
Figure 3. Effects of Confession Evidence and Trial Type Verdicts for Murder.....	50
Figure 4. Hypothesized Basic Legal Decision Making Model for Lay Participants.	76
Figure 5. Basic Legal Decision Making Model for Korean and American Lay Participants.	77
Figure 6. Basic Legal Decision Making Model for Korean and American Legal Professionals.....	78
Figure 7. The Hypothesized Confession Model for Korean and American Lay Participants.	91
Figure 8. The Confession Model for Korean and American Lay Participants.....	92
Figure 9. The Confession Model for Korean and American legal professionals.....	93

CHAPTER 1. INTRODUCTION

World judicial systems can be categorized into two common systems: the adversarial and inquisitorial, although every adversarial or inquisitorial country has distinguishable differences (Kaplan & Martin, 2006; van Koppen & Penrod, 2003). There have been many attempts to determine the “better” legal system between the inquisitorial and adversarial, but some legal scholars argue that a direct comparison of different justice systems is impossible because every system is distinctive and evolves constantly (van Koppen & Penrod, 2003). This raises the question of whether it is possible to determine which legal system is “better.” If it is possible, how would we determine which system is “better” or “superior” to the other?

In one approach to this question Thibaut, Walker, and their colleagues conducted a series of experimental studies during the 1970s to compare two legal systems in settling legal disputes. The authors found that participants favored and viewed the adversarial procedure as superior to the inquisitorial because the defense and the prosecution have greater control over the trial and the adversarial procedure is relatively free from bias (Walker, Latour, Lind, & Thibaut, 1974). Anderson and Otto (2003) recently asked Dutch and American undergraduate participants to evaluate the two legal systems after providing a short description of two systems. The results indicated that both participants believed that their own legal system was less likely to make bad decisions and preferred their own system. Americans, for example, were more likely to perceive that the adversarial system would present all the important information and evidence. Although the participants were provided with written descriptions of how the adversarial and inquisitorial systems operate, a short written description cannot be a realistic presentation

of how the two systems actually operate and how the legal decisions are made within the two systems. In an alternative attempt to compare and determine the “better” trial system between adversarial and inquisitorial legal procedures, van Koppen and Penrod (2003) argued that the “better” system might be determined by comparing the quality of legal decision making, and that the trial system with fewer wrongful convictions should be regarded as the “better” system.

There is, at present, no adequate empirical basis to directly evaluate the quality of decision making in adversarial and inquisitorial systems. A number of comparative analysis literatures and law reviews have sought to determine the strengths and weaknesses of each system and to identify what can be learned from each or incorporated into to improve the current legal procedure (Anderson & Nolan, 2004; Cross, 2003; Luna, 2004; Lee, 1997; Lempert, 2001; MacCoun, 2005; Malsch & Freckelton, 2005; Robbennolt, 2005). A limited body of empirical research has attempted to compare components of the legal systems in different countries; two different countries under the same legal systems; the perceived fairness of inquisitorial and adversarial systems (Anderson & Otto, 2003; Sheppard, 1985; Walker, LaTour, Lind, & Thibaut, 1974); and compare the quality of legal decisions using American versus British trial procedures (Collett & Kovera, 2003). Although these studies provide insight into the relative benefits of different trial procedures, study results are limited to the interpretation and predictions associated with that component.

The current research seeks to empirically compare the inquisitorial and adversarial trials by evaluating the quality and process of decision-making of legal professionals and jurors/juries in two countries: the United States and South Korea. More

specifically, the current research will examine how a factor that increases wrongful conviction rates influence the legal decisions of professional decision makers and lay persons by determining whether they commit the same types of biases and errors when assessing coerced confession evidence in an adversarial and an inquisitorial trials. The present study will provide valuable information about the quality and the process of legal decisions under a specific trial procedure and how it influences decision makers' evaluation of specific evidence.

CHAPTER 2. LITERATURE REVIEW

Adversarial versus Inquisitorial Systems

Researchers have recently increased efforts to not only examine the strengths and weaknesses of the justice system of their own country, but also to comparatively evaluate inquisitorial and adversarial legal systems (Anderson & Nolan, 2004; Anderson & Otto, 2003; Malsch & Freckelton, 2005; Kaplan & Martin, 2006; Park, Kim, Lee, & Seo, 2005; van Koppen & Penrod, 2003). The goal of both adversarial and inquisitorial systems is to find the ultimate truth. The inquisitorial system seeks the truth by the active involvement of the judge determining the facts of the case. Inquisitorial system varies from country to country. The adversarial system seeks the truth by placing the parties against each other in the hope that the competition will disclose the truth before an independent fact finder, a judge or jury. The adversarial system stresses fairness to the two parties, where both sides are given an equal opportunity to present their evidence in the most effective fashion and to cross-examine for the purpose of discrediting witnesses and evidence. Unlike judges in the inquisitorial system, judges in the adversarial system evaluate the admissibility of evidence and assist the jury during the trial. The adversarial system is mostly criticized for the fact that the process promotes competition which may ultimately distort the truth.

The most prominent differences between the inquisitorial and adversarial systems center on the trial proceedings. In the inquisitorial system, judges rely mostly upon dossiers – a collection of evidence in the form of summary documents – to make a legal decision because courts tend to trust statements made by government officials, such as prosecutors and police officers (Maslen, 1998; Ohtsubo, 2006). The judge examines the

dossiers and thereby forms legal conclusions in his or her chambers. Subsequently, the proceedings in court tend to function as a formality rather than as an opportunity, on the part of the judge, to investigate the accusations, which is regarded as an acceptable practice (Maslen, 1998; Ohtsubo, 2006). However, trial by dossiers and the structure of courts in the inquisitorial systems may interfere with the independence of judges and they may not be independent from possible political involvement. According to a Korean Bar Association survey conducted in 1980 (Yang, 1993), 67% of judges answered that independence of the court was not guaranteed and 83% believed that sometimes their decisions did not match their conscience and notion of justice. Although the survey was conducted during the military controlled regime, prosecutors and judges in South Korea are still subjected to severe public criticisms because of their possible failure to initiate prosecution, to complete a police investigation, or simply to hand down “biased” and/or lenient verdicts to politically powerful and wealthy individuals (Presidential Committee on Judicial Reform, 2005).

Several countries with the inquisitorial system have recently adopted an adversarial system or an adversarial procedure despite the consistent criticism from the opposition about the effectiveness of citizen participation in the judicial process (Kiss, 1999; Martin, Kaplan, & Alamo, 2003; Park, Kim, & Lee, 2006; Thaman, 1999). The Korean government has recognized the importance of democratization and reviewed alternative methods of lay participation in the judicial process. The government adopted in 2008, with a five year transitional period, a jury system which closely resembles the adversarial system of the United States (Seo, 2007). Under the new jury system, one to three professional judges and five to nine jurors will participate in the trial process,

depending on the complexity and/or the presence of a defendant's admission to all the charges brought against the defendant (Han, Kim, & Park, 2006). Since South Korea has not previously provided citizens with any opportunity to participate in the legal system, the idea of introducing a jury system generated an intense debate. The most pressing concern was whether lay people could make legal decisions that are comparable to legal decisions of professional judges.

Because legal decisions were solely determined by judges in South Korea, some legal scholars argued that a "correct" legal decision is most likely to be reached by judges because 1) judges are selected each year from the top of the class amongst a group who have already passed the Korean Bar Exam and received extensive legal training, and 2) jurors can be easily swayed and biased by sympathy or pity for the accused (Lee, 2009.; Yang, 1993). Considering that law and culture influence each other and operate in "a reflexive loop," some legal scholars also argued that a legal transplant, adaptation of one country's legal system into the legal system of another country, may fail because of cultural misfit (Chase 2005; Munger, 2007).

A contrasting perspective supported by behavioral theory indicates that overall, collective discussion may be superior. A central model of collective decision making, the Condorcet Jury Theorem (CJT) states that "the collective performance of a group in arriving at a correct judgment on the basis of majority rule will be superior to the average individual performance if a chance to make a correct decision by individual group members is more than fifty percent" (Kanazawa, 1998; Koch & Ridgley, 2000). If a chance to make a correct decision is greater than fifty percent for an individual, then it will also increase the chance to make a correct decision as a whole group. McKelvey and

Ordeshook (1986) demonstrated that only a few bits of information can increase the probability of making correct choices and thus, lay people only require very general information to vote correctly. Considering that a group of jurors reach a verdict based on facts presented in a trial and jurors can share different pieces of information during deliberation, a jury has a higher chance to make a correct decision. Therefore, a legal decision from a jury may be the best way to make a “correct” or “better” decision when compared to the verdict of an individual.

In one approach to this question Thibaut, Walker, and their colleagues conducted a series of experimental studies during the 1970s to compare two legal systems in settling legal disputes. The authors found that participants favored and viewed the adversarial procedure as superior to the inquisitorial because the defense and the prosecution have greater control over the trial and the adversarial procedure is relatively free from bias (Walker, Latour, Lind, & Thibaut, 1974).

As noted earlier, Thibaut, Walker, and their colleagues compared dispute resolution process in two legal systems during the early 1970s. In one of their studies, half of their undergraduate participants watched an adversarial trial, meaning that each side chose a lawyer to represent themselves to a neutral decision maker, a judge. The other half were exposed to an inquisitorial trial, meaning that they did not have their own lawyers, but a lawyer made arguments for both sides to a judge. The results found that participants viewed the adversarial procedure as superior to the inquisitorial because the defense and the prosecution have greater control over the trial and perceived that the adversarial procedure is relatively free from bias (Walker, Latour, Lind, & Thibaut, 1974). However, the research has been criticized insofar as they used only American participants

and used “pure forms” of the two systems rather than examining how the two systems actually operate (Anderson & Otto, 2003; Sheppard, 1985). The more recent research by Anderson and Otto (2003) also compared the two legal systems by providing a short description of a legal system to American and Dutch participants. The results indicated that participants preferred their own system. Authors argued that a clear preference of a legal system is due to the cultural values reflected in each system. Although Anderson and Otto research provided more realistic description of the two systems compared to the previous studies, a short description of a legal system cannot fully provide clear pictures of how the two systems actually operate.

Recently, Block, Parker, Vyboma, and Dusek (2000) conducted economic experiments comparing the relative efficiency of the adversarial and inquisitorial procedures in terms of “accuracy” and the information “revelation”. The results indicated that the inquisitorial procedure was more likely to reveal hidden and discrediting information when the information was only available to one party (private). Furthermore, the inquisitorial procedure was more likely to produce “accurate” decisions. However, when the information was shared by two parties, for example, providing a clue to the content of the discrediting information to the opposing party, the adversarial procedure was more likely to reveal the information and more accurate than the inquisitorial procedure. Therefore, the accuracy of the decision was primarily based on the structure of the information available to the parties.

Although many scholars have attempted to compare the two legal procedures experimentally (Anderson & Otto, 2003; Block, Parker, Vyboma, & Dusek, 2000; Walker, Latour, Lind, & Thibaut, 1974), there is, at present, no adequate empirical basis

to directly evaluate the quality of decision making in adversarial and inquisitorial systems. In an alternative attempt to compare and determine the “better” trial system between adversarial and inquisitorial legal procedures, van Koppen and Penrod (2003) argued that the trial system with fewer wrongful convictions should be regarded as the “better” system. The authors recommended that it is constructive to identify factors that increase wrongful convictions. Although there are many known factors that contribute to wrongful convictions, such as eyewitness misidentification and coerced confession evidence, there are systemic factors that could lead to differential wrongful convictions. For example, it is reasonable to suspect possible differences in the way legal decision makers evaluate and reach a final verdict when the evidence is presented in an adversarial trial compared to when the evidence is presented in an inquisitorial trial. Because evidence is presented verbally in an adversarial system, it is more likely that the nature and circumstances of how a certain type of evidence was collected can be scrutinized during trials by intense cross-examination. Considering that evidence is presented in summary document format in an inquisitorial system, there is a higher chance that illegally obtained evidence, such as a coerced confession, may be revealed or discovered in an adversarial system.

Judge-Jury Agreement Rate

Some legal professionals indicated that juries should be replaced by professional judges since they have special expertise about the law and its application; therefore, judges are expected to outperform jurors in legal decision making. Only a few studies directly compare the judge-jury agreement in civil and criminal cases. The classic study,

by Kalven and Zeisel (1966), examined the agreement rates between judges and jurors in 3,500 criminal jury trials. The result indicated that judges and jurors had 78% agreement rates. However, the jury acquitted in 19% of the cases when the judge would have convicted the same defendant and jury convicted in 3% of the cases when the judge would have acquitted. This result was replicated by more recent studies conducted by Heuer and Penrod (1994) and by Eisenberg and his colleagues (2005). Those results indicated that juries tend to acquit when the judges would convict more than the opposite case in which juries would convict when the judges would acquit. Furthermore, those studies also demonstrate consistent results in the jury-judge agreement rate. Diamond (2003) states that the jury-judge disagreements were not based on the inability to understand the evidence or fundamental differences, but the disagreement is based on insignificant differences in opinion. Since only a small portion of cases undergo jury trials, the 78% judge-jury agreement rates are considered as compatible to other type of agreement rates such as peer review (75%), employment interviewers (70%), psychiatrists on psychiatric diagnose (70%), and physicians on physical illness diagnose (67-77%) as well as judges themselves (70%) (Robbennolt, 2005).

More specific differences in the agreement rates have been examined in drinking and driving cases-cases which have drawn particular attention due to changes in judges' conviction rates. Bromley (1996) showed that the judges' conviction rate was 85% in 1953, but it had significantly dropped to 73.4% in 1993, whereas jurors' conviction rates have remained consistent since 1953. Furthermore, judge-jury agreement was 70% in 1953, but the rate also significantly declined to 58.4% in 1993. Since judges and jurors

disagreed in 41.6% of the cases, it is possible that judges and jurors weigh and evaluate the evidence differently.

More recently, Arce, Tortosa, and Alfaro (2004) compared performances between 15 three-member panels of judges and 15 nine-member lay juries in Spain. Both judges and jurors were shown a video-recording of one of three criminal cases and they were formed into 15 nine-member lay juries and 15 three-member judges for deliberation and a verdict. The study found a number of differences between the two groups: 1) the deliberation content of the lay jurors was more repetitive; 2) lay jurors were more focused on facts than others; and, 3) the decision of judges favored the recommendation of the prosecutor, but the decision by juries favored the defense. Although a few differences were observed, there were no significant differences in the deliberation content between the two groups that might account for the differences in final verdicts. Therefore, the results indicated that the performance of both lay jurors and judges was comparable in terms of their discussion of the relevant facts and the law. Although the research attempted to provide opportunities for variation in judge/jury performance by introducing three different versions of criminal cases, all three cases involved a defendant with a mental disorder and each case had relatively unsophisticated facts and evidence to evaluate. Thus, it is also possible that a high verdict agreement rate between judges and juries was reached and that there were no disagreements on major evidence and law because of the particular nature of the given cases.

Despite the high rate of judge-jury agreements, jury performance has been subject to severe criticism based on a number of empirical studies demonstrating the deficiencies of jurors and their proneness to biases and errors: easily influenced by sympathy,

experience difficulty understanding legal instructions and complex evidence (Devine, Clayton, & Dunford, 2001; Hastie, Penrod, & Pennington, 1983; Heuer & Penrod, 1994). Some legal scholars argued that jurors should be replaced by a judge (Blom-Cooper, 2003; Hastie & Viscusi, 1998; Mogin, 1998). If jurors are not effective decision makers and judges and jurors display differences in the use of “appropriate” and “inappropriate” information to reach their legal decision, there should be a difference in performance between a group of jurors and a judge. It is difficult to answer whether the “correct” decision is more likely to be reached by a group of jurors when compared to a single juror or a single judge. If a trained judge and lay jurors fall prey to the same types of problems in legal decision-making or behave in the same way, it is more likely that a legal decision made by a judge will not be different from a legal decision made by a jury. If lay jurors are less competent, there could be a difference in performance between a jury and a judge when, for example, biased information is introduced in a case. If final verdicts differ between judges in adversarial systems and judges in inquisitorial systems after evaluating the same evidence, it is also possible that the difference may stem from the evidence presentation method: examining dossiers or watching a trial.

Confession Evidence in Adversarial and Inquisitorial Trials

Most wrongful convictions stem from mistaken eyewitness identifications and false confessions (Kassin & Gudjonsson, 2004). Confession evidence is considered more damaging than other types of evidence, such as eyewitness and character testimony, because it can strongly influence a guilt judgment even in the absence of other evidence (DeClue, 2005; Kassin, Meissner, & Norwick, 2005). In an experiment by Kassin and

Sukel (1997), the conviction rate was 25% higher when confession evidence was introduced as compared to no confession evidence even though mock jurors recognized that the confession was coerced and less than voluntary. In the experiment, the judges ruled that the evidence was inadmissible, and jurors believed that the confession evidence had no influence on their judgment. Surprisingly, jury conviction rates for defendants who falsely confessed and plead not guilty ranged from 73% to 81% (Kassin & Gudjonsson; 2004; Leo & Ofshe, 1998; Drizin & Leo, 2004). Although the exact prevalence of wrongful conviction is unknown, full or partial confessions or incriminating statements appear in between 14% and 25% of wrongful conviction cases (Drizin & Leo, 2005; Innocence Project, 2005). Although courts state that confession evidence is similar to other types of evidence, empirical research illustrates that jurors treat confession evidence as the most incriminating evidence and have difficulty discounting unreliable confession evidence (Kassin & Neumann, 1997; Kassin & Sukel, 1997). Therefore, confession evidence itself, whether it was truthful or coerced, is highly damaging to a defendant.

As in the United States, some countries under the inquisitorial system such as the Netherlands, Germany, Japan, and France, have already acknowledged or reported miscarriages of justice (McNulty, 2007; Wagenaar, van Koppen, & Crombag, 1993). Although false confession research in the inquisitorial systems is rare, Gudjonsson and Sigurdsson (1994) claimed that false confessions in the inquisitorial systems might be unquestioned. The authors surveyed inmates in Icelandic prisons and found that twenty-seven (12%) out of two hundred twenty-nine inmate participants claimed that they made a false confession during police interviews, twenty-one (78%) subjects had never

withdrawn their false confession because they felt that there was no purpose in doing so, and twenty-one (78%) who made a false confession were convicted of the offenses. Wagenarr, van Koppen, & Crombag (1993) estimated that the frequency of coerced confession in the Netherlands is one in 2,500 cases or one in every 430 convictions. Under the inquisitorial systems, if a suspect confessed that he or she committed a crime, the investigating officer writes a summary of what has been said by the suspect during the interrogation without information about the kinds of questions that were asked by the interrogation officers, when interruptions occurred, or whether any physical or psychological threats were present. Kiss (2003) raised a question about whether this practice interferes with the right to receive a fair trial because judges in an inquisitorial system do not have a chance to examine the manner of speech and behavior of witnesses and of the defendant. The author further argued that the conviction of a defendant is already determined by the dossiers before the trial begins and judges tend to approve the legal conclusion drawn by prosecutors. The legitimacy of evidence presented in dossiers is usually unquestioned, does not challenge the circumstances of how the evidence was collected, and the cross-examination is performed in a limited fashion by the trial judges. Therefore, the confession statement functions as “a proof of guilt” without carefully examining whether the confession was truly voluntary or illegally obtained by investigating officers (Kiss, 1999; Maslen, 1998; van Koppen & Penrod, 2003). Since judges in South Korea or Japan usually concur with the legal decision made by a prosecutor in inquisitorial proceedings, 98.2% of the Korean defendants who received criminal trials in 2005 were convicted although the rate is continually decreasing every year (Yunhap News, 2006). Considering that the conviction rate is usually over 99% in

South Korea and Japan (Clack, 2003; *Yunhap News*, 2006), judges in the inquisitorial system usually concur with the legal decision made by a prosecutor.

East Asian countries, such as South Korea and Japan, are reluctant to exclude illegally obtained confession due to the traditional emphasis on confessions (Lu & Miethe, 2003; Maslen, 1998; Ohtsubo, 2006). Lu and Miethe (2003) indicated that confession in a collectivistic society is interpreted as sincere remorse, which is considered a beginning to rehabilitation. Therefore, defendants who confess are expected to receive lenient sentences because their confession functions as a mitigating factor. In the Netherlands, confession alone does not constitute sufficient proof of guilt, but the courts treat confession evidence as if they were sufficient proof of guilt even when no other evidence is present (Wagenarr, van Koppen, & Crombag, 1993). However, Hwang, McGarrell and Benson (2005) indicated that Korean citizens view police as a frontline of government authority who oppress innocent citizens to maintain the power of the government. Furthermore, the police are considered inefficient, authoritarian, and corrupt. Popular portrayal of South Korean investigative police officers show them as coercive (physically or psychologically coerce suspect to extract confession) and/or corrupt (involved in a crime or receive money in exchange of an illegal favor). Because of the lack of sufficient empirical research on the perception of police, it is difficult to predict whether Korean citizens evaluate and interpret coerced confession evidence in a similar way or evaluation differs depending on the case. However, South Korean citizens are likely to distrust police especially when a confession is disputed in a trial although confession evidence is generally viewed as an admission of guilt.

Interestingly, some scholars argue that adaptation of lay participation in traditionally inquisitorial system may decrease the likelihood of wrongful convictions due to coerced confession evidence (McNulty, 2007; Kiss, 2003). It is reasonable to suspect possible differences in the way legal decision makers evaluate and reach a final verdict when the evidence is presented in an adversarial fashion by oral arguments compared to when the evidence is presented in an inquisitorial fashion by examining dossiers. In an adversarial system, it is more likely that the nature and circumstances of how a certain type of evidence was collected can be scrutinized during preliminary hearings or trials through cross-examination. Thus, there is a higher chance that illegally obtained evidence, such as a coerced confession, may be revealed or discovered. Furthermore, it seems reasonable to expect that there should be notable differences in how a confession is viewed and treated within the given legal culture. The decision makers in diverse legal cultures may interpret confession evidence differently and the degrees of leniency towards the defendant may be different as well. It is an empirical question whether an inquisitorial system produces a higher rate of wrongful convictions based on false confessions when compared to an adversarial system.

Expert Testimony in Adversarial and Inquisitorial Trials

In inquisitorial systems, the court can appoint and utilize expert witnesses using a variety of methods (Browne, Williamson, & Barkacs, 2002; Lee, 1997). The court determines the necessity for expert witnesses, or either party can request to appoint an expert. If the court determines that an expert witness is necessary, then the court can choose the expert witness from a list, or by asking either party to nominate an expert. The

court may appoint an expert to work as an expert in addition to any experts selected by the parties. Regardless of how the expert is chosen, the expert is required to submit a written report to the court to provide information on certain facts, or give an ultimate opinion, or both. After the court and both parties receive the report, they may request an in-court examination of the expert. Although court-appointed experts are considered impartial and objective, judges also have the discretion to reject any part of the written report. The parties also may retain their “additional” experts to testify, but party-retained experts are presumed to be biased and less objective when they provide expert testimony contradictory to the testimony of the court-appointed expert. In adversarial system, the defense can introduce the expert if the judge allows the confession evidence in the trial. Unlike inquisitorial systems, jurors are responsible for evaluating whether the confession was voluntary or coerced (*Arizona v. Fulminante*, 1991).

It is possible that the decision to admit expert testimony about coerced confession evidence by the trial judge as well as the effectiveness of that expert testimony may differ in the inquisitorial and adversarial systems because of the differences in the evidence presentation methods and the admissibility criteria. The primary objective in providing expert testimony during the trial is to educate jurors, so confession expert testimony usually provides some explanation on how variables influence the reliability of a confession and the situational and psychological aspects of an interrogation (Citron, & Johnson, 2006). Based on the experts’ training, experience, and knowledge, the confession expert should be able to explain and identify how mental states of the defendant, tactics of the interrogators, and the circumstances of the situation interacted. The expert may explain how a vulnerable defendant was manipulated and how

information provided during the interrogation to the defendant altered the defendant's perceptions. It is more likely that jurors are educated about the circumstances of the confession and are able to evaluate the confession evidence more critically. This critical evaluation should influence jurors' interpretation of evidence/witnesses and as a result, the verdict. Therefore, it is more likely that jurors who watch/read confession expert testimony/report will produce fewer guilty verdicts than when the expert testimony/report is not provided.

Moffa and Plantania (2007) have investigated the effects of expert testimony and two interrogation tactics on how confession evidence is perceived in an adversarial setting. The results indicated that the expert testimony did not significantly influence jurors' perceptions on whether the confession was voluntary or coerced. However, the research did not specify the content of the expert testimony, and jurors' decision was based on the 10-page transcript of a homicide trial. It was unclear how effectively the expert testimony was provided within a 10-page trial transcript. Previous studies on the effects of expert testimony indicated (Cutler, Dexter, & Penrod, 1989; Woody & Forrest, 2009; Devine, Clayton, Dunford, Seying, & Price, 2001), introduction of expert testimony on coerced confession would sensitize jurors on confession evidence up to a certain degree. However, it is an empirical question whether expert testimony provided orally in an adversarial trial or provided as a report in an inquisitorial trial have the same effect on how decision makers evaluate confession evidence and other evidence.

Most experts in South Korea are selected from a limited pool of experts, mainly from professors from universities or professionals with higher degrees or with special certification or a license, who are regarded as 'expert' in a specific field of study or

discipline (Lee, 1997). Therefore, the South Korean standard and the standard of many East Asian countries is that expert witnesses hold white-collar positions, as traditionally, the importance of education has been strongly emphasized regardless of their experience or degree of specialized knowledge. The Korean Code of Civil Procedure (Korea Legislation Research Institute, 1992) states that only the court may appoint expert witnesses. A qualified expert witness is defined as “any person who is possessed of erudition and/or experience necessary for giving expert testimony.” Because the South Korean government adopted a jury system, there will be more opportunity for both parties to introduce their own experts. Thus, it is important to examine how Korean judges evaluate expert witnesses and which testimony, or which parts of testimony, are more likely to be accepted. Judges’ opinions on what constitutes an expert witness would provide general knowledge on what type and quality of expert, and testimony, would be admissible because their beliefs will influence their admissibility decisions.

In adversarial systems, experts are provided by each party and are often thought to be affiliated with the party selecting them, so trials are often described as “battles of experts” and the experts have been criticized as “whores of the court” (Hagen, 1997; Malsch & Freckelton, 2005). This criticism is possible because the trial judge does not perform any investigative tasks as in the adversarial systems. However, the U. S. courts set cautionary standards for introducing experts and different jurisdictions use somewhat varying criteria for determining admissibility of expert testimony.

According to *Daubert v. Merrell Dow Pharmaceuticals, Inc.* (1993), “any or all scientific testimony or evidence admitted is not only relevant but reliable and valid that should be obtained through sound scientific methods.” Furthermore, trial judges are

legally presumed to function as gatekeepers, and guided by four criteria to assist in assessing the admissibility: falsifiability (whether the theory is testable), known or potential error rate, peer review and publication (whether the work/research was peer reviewed), and general acceptance (“whether the theory is generally accepted to relevant scientific community”). The U. S. Supreme Court implicitly assumes that judges have the ability to understand and to apply these criteria—to be legal professionals as well as scientists. It is difficult to distinguish among “scientific” knowledge, “technical,” and “other specialized” knowledge, and what criteria should be used to determine reliability regarding each. Although Daubert criteria are increasingly used to evaluate a scientific evidence (Groscup, Penrod, Studebaker, Huss, & O’Neil, 2002), recent research shows that judges do not understand nor properly apply the Daubert criteria to admissibility decisions of expert evidence although most judges support their role as gatekeepers (Gatowski, Dobbin, Richardson, Ginsburg, Merlino, & Dahir, 2001; Kovera, & McAuliff, 2000; Kovera, Russano, & McAuliff, 2002). Judges were generally unable to differentiate valid scientific studies from invalid ones and demonstrated that they do not fully understand nor know how to apply the Daubert criteria.

Nevertheless, the courts have raised questions as to whether such testimony is helpful to jurors. For example, the trial judge excluded expert testimony on confessions because the testimony was not “truly scientific” or “readily subject to investigatory techniques” (Quintieri & Weiss, 2005). It is possible that the admissibility decision of experts on coerced confession evidence and the effectiveness of expert may differ between two types of trials and how much those differences in two legal systems impact

the final verdict produced by judges and jurors in an adversarial and an inquisitorial system is an empirical question.

Lay Participation System in South Korea

The modern legal system in South Korea is mostly based on the Japanese legal system, which was derived from the inquisitorial systems of Germany and France (Hahm, 2003; Maslen, 1998). During the Japanese subjugation of Korea between 1910 and 1945, Korean legal and economic systems were restructured to follow the Japanese systems. After the liberation from Japan, the Korean constitution was established in 1948 and amended several times. The Korean judiciary consists of three courts which are similar to the federal and state court systems in the United States: the Supreme Court, intermediate appellate courts and trial courts. Unlike the United States, the basis of Korean law is from the codes, not from previous court decisions. Article 27 of the Korean Constitution indicates that “all citizens have the right to be tried in conformity with the law by judges qualified under the Constitution and the law.” The word, “judge” in the Constitution refers to professionally trained judges who “find facts and interpret and apply the law” and “rule independently according to their conscience in conformity with the Constitution and the law” (Constitution of South Korea, 1987; Han, Kim, & Park, 2006). Depending on the complexity of the case and the several requirements listed in the law, a single judge or a panel of three judges make legal decisions. Unlike a jury system, judges are responsible for the fact-finding task. Prosecutors have discretionary powers to initiate prosecution as well as to close a police investigation, so prosecutors work closely with the police. Thus, the police should inform prosecutors of any offenses reported and

prepare a summary of the investigation for prosecutors. Evidence is typically offered by both the prosecution and defense in the form of a dossier to the judge(s), though the court has independent powers to gather evidence, such as summon witnesses who are independent from each party (Lee, 1997).

The Korean government has recognized the importance of democratization and the Supreme Court has started to review alternative methods of lay participation in the judicial process, including the American jury system and European mixed court system. The lay participation system, which closely resembles the jury system of the United States, was adopted by the government (Han, Kim, & Park, 2006). The new jury system started in 2008 with a planned five year transitional period (Seo, 2007). Under the lay participation system, three professional judges and five to nine jurors will participate in the trial process, depending on the complexity of the case and/or the defendant's admission of all the charges brought against the defendant (Han, Kim, & Park, 2006). The jury trials will be applied to serious felony cases such as murder, robberies with accompanying rape and/or wrongful death, rapes accompanied with bodily injury, and cases of corruption. Jurors are allowed to take notes during trials and request residing judges to direct specific questions to witnesses. After the presentation of witnesses and evidence, jurors will deliberate until they reach a unanimous verdict. If a unanimous verdict cannot be reached, the judge that presided over the trial will join the deliberation in a tribunal manner and the jury will reach a verdict under the simple majority rule, without considering the vote of the professional judge. If a final verdict is reached, either unanimously or by simple majority, each juror, not as a jury, will make a sentencing recommendation in the presence of the judges. The verdict and sentencing

recommendation of the jury will not be binding during the five years of transitional period. Korean lay jurors should consider defendant information as well as evidence and facts provided during the trials in order to decide an appropriate sentence for the defendant. It is possible that jurors may submit recommendations to judges, which could differ from the sentencing decisions of judges. Although each lay juror's sentencing decision will be treated as a recommendation for judges, judges may feel pressured to comply with or at least try to respect the lay jurors' decisions and sentencing recommendations when deciding their verdict and sentence for the defendant. When the transitional period is over in 2012, the verdict and sentencing recommendations of the jury will be fully binding, but it is possible that some adjustment can be made to the proposed bill of the lay participation system based on the empirical research studies and practical implications.

It is impossible to evaluate judges' opinions on all combinations of different crime types and circumstances around each case. However, the comparison of legal judgments of legal professionals and lay people on a typical criminal case will help us to identify possible difference in legal decision-making between two groups. Therefore, it is important to examine the performance of both legal professionals and lay people by comparing their evidence evaluation and the verdict in order to identify possible discrepancies in the interpretation of cases.

Purpose of the Research

There have been many attempts to determine the "better" legal system between inquisitorial and adversarial, but some legal scholars argue that a direct comparison of

different justice systems is impossible because every system is distinctive and evolves constantly (van Koppen & Penrod, 2003). Although there is a limited body of research on comparison of two legal systems exists, study results are limited to the interpretation and predictions associated with specific components of legal systems (Anderson & Otto, 2003; Collett & Kovera, 2003; Sheppard, 1985; Walker, LaTour, Lind, & Thibaut, 1974).

Furthermore, as the research currently stands, it is unclear how a specific legal procedure influences interpretation and evaluation of evidence and legal decisions. A complete and coherent explanation and demonstration of how different evidence presentation methods influence evaluation of evidence and the verdict would significantly advance our understanding of how two legal systems actually influences the legal decisions.

Although there are many published comparative law reviews, only a few experiments has been conducted and the total number of empirical studies comparing the two legal systems is rare in comparison to the other areas of legal psychology.

Currently, there are no published studies that have fully compared two legal systems using stimulus materials that closely resembles actual trials formats that currently operates in an adversarial and inquisitorial country from start to finish. The present studies improve upon past methodologies by taking advantage of a real criminal case with high probability of producing wrongful convictions. By making use of an actual criminal case, introduction of trial evidence as the two trial types actually operates and examining legal decision makers' perception of a specific evidence and the defendant culpability, a more complete understanding of how a specific trial type influences legal decisions will be provided. Furthermore, the study can provide some insights into which type of evidence presentation method has a higher probability of producing miscarriages

of justice. Because every adversarial and inquisitorial legal proceeding has distinguishable differences, it is impossible to carry out direct comparisons involving various aspects of adversarial and inquisitorial procedures. The comparison between the two trial types will be based on simplified trial procedures and focused on the evidence presentation method.

Almost no studies have given attention to the psychological processes of how coerced confession evidence and the expert testimony influence evaluation of other evidence, the probability of guilt, the perception of coerciveness of the defendant's confession and the verdict. The goal of the current study is to expand the past confession and expert testimony research and examine the mediational processes through which coerced confession evidence exerts its effects, test how the perceptions formed by confession evidence negatively influence legal decision makers' inferences about the defendant and trial evidence and assess how much confession and the expert testimony influence verdict decisions.

Because each culture has its culture-specific values, perceptions and normative values may be different. Na and Loftus (1998) examined the effect of culture on attitude toward law and toward prisoners by comparing Korean and American legal professionals (law school students) and lay people (undergraduate students). The results indicated that culture significantly influenced attitudes toward prisoners and legal training significantly influenced attitude toward law. More specifically, Korean lay people displayed less positive attitude toward law than Korean legal professionals, but had more positive attitudes toward prisoners than American lay people. This finding indicates that Korean and American legal professionals and lay people also possibly interpret and evaluate

evidence and defendants differently. However, Ling, Zheng, and Fang (2003) conducted cross-cultural research on social norms and the results indicated that Chinese, Japanese, and Americans share basic social ethics and moral norms, including value-orientations, general laws and the rules and social customs. If this is the case, it is possible that legal decisions in a trial can be the same regardless of cultural differences. However, it is reasonable to suspect the differences in the perception of specific forms of evidence due to the difference in evidence presentation method. An adversarial presentation via oral arguments versus an inquisitorial examination of a collection of documents may influence how legal decision makers interpret and value the evidence or simply prejudice them in a particular direction. The current research is the first attempt to provide answers to how much those procedural differences impact the legal decisions produced by legal professionals and lay people in an adversarial and an inquisitorial trial.

There are a few empirical research studies comparing the legal decisions of judges and lay people (Arce, Tortosa, & Alfaro, 2004; Bromley, 1996; Eisenberg, Hannaford-Agor, Hans, Waters, Munsterman, Schwab, & Wells, 2005; Heuer & Penrod, 1994; Kalven & Zeisel, 1966). However, researchers are unable to explain how legal professionals and lay people evaluate and weigh the evidence similarly or differently and how those evaluations and weighing of evidence influences the legal decisions. The purpose of the present research is to explain how legal professionals and lay people evaluate and weigh the evidence when coerced confession evidence is introduced in an adversarial and in an inquisitorial trial and to examine how much expert testimony can sensitize legal decision makers on the confession evidence and influence verdict decisions.

CHAPTER 3. METHOD

There is currently a natural confound between trial method and decision-maker in adversarial versus inquisitorial systems, with open trials and juries prominent in one system and judges and dossiers prominent in the other. For the current research, the experiment was only focused on a simple criminal proceeding in an adversarial and an inquisitorial trial with coerced confession evidence as primary evidence. The adversarial trial was presented in a form of trial videos and the inquisitorial trial was presented in a form of a collection of summary documents primarily collected and prepared by the police, the prosecutors, and the defense. Every effort was made to assure that the substantive content of both trials was identical except with respect to the manipulated variables.

Design

The research was a 2 (countries: the U. S., or South Korea) x 2 (decision makers: legal professionals or mock jurors) x 2 (type of trial: adversarial or inquisitorial) x 3 (type of evidence: both the coerced confession evidence and the expert testimony present, only the coerced confession evidence present, without the coerced confession evidence and the expert testimony) design.

Participants

Total of 1140 legal professionals and undergraduate participants in South Korea and the United States participated. Of those participants, 641 were recruited from South Korea and 499 were recruited from the United States.

Korean legal professional sample: Korean judges were recruited through either a continuing legal education summer program or through their acquaintances. During a break, the survey package was distributed to judges in a class. About half of the participants were recruited from judges' acquaintances, mostly from district and high courts in Seoul, Daejeon, and Suwon. A total of 58 Korean judges participated in the study (age: ranged from 27-51, $M = 38.47$, $SD = 5.70$) and 80.8% ($N = 42$) were male. Their judicial experience ranged from 2 – 22 years ($M = 9.01$, $SD = 5.90$). Their experience as a criminal judge ranged from 7 months to 10 years ($M = 3.47$, $SD = 2.20$).

Korean lay sample: Korean undergraduate participants were recruited from introductory classes in three different universities, two in Seoul and one located in the city of Suwon, about 30 minutes south of Seoul and they received extra credit for the course. A total of 583 Korean undergraduate students participated (age: ranged from 18-42, $M = 21.35$, $SD = 2.91$). Of this sample, 44.1% ($N = 237$) were male and 55.9% ($N = 301$) were female.

American legal professional sample: The contact information for New York States Judges was obtained from the New York State Unified Court System website. About 300 judges were randomly selected from the list of judges in criminal courts. The survey package was mailed, but 9 envelopes were returned to the sender due to various reasons (for example, judge retired, or no longer at address) and nine completed surveys

were returned. The response rate was about 3.1%. Since the response rate from the judges was low, a survey website was created to recruit legal practitioners on-line. A research participant recruitment email was sent out to the members of a local district attorneys' office and the local Legal Aid office in New York City. District Attorneys and lawyers who received the email contacted the researcher and a direct website link with a short instruction was sent to the participants via email. After survey completion, a check of either \$20 or \$ 30 was mailed to participants for their compensation depending on the length of their participation. A total of 46 prosecutors and lawyers participated and the data of American judges and legal professionals were collapsed. There were 55 judge/legal professionals (age: ranged from 24 – 69, $M = 38.57$, $SD = 12.09$), 55.6% ($N = 30$) were male. Their judicial experience ranged from 2 – 35 years ($M = 11.68$, $SD = 8.94$). Most participants, 77.4% identified themselves as Caucasian.

American lay sample: American undergraduate participants were recruited from psychology introductory classes and each participant received research participation credit for the course and randomly selected 50 participants received \$10 for compensation. A total of 444 undergraduate students participated (age: ranged from 18-59, $M = 22.31$, $SD = 5.48$). Of this sample, 32.1% ($N = 126$) were male and 67.9% ($N = 266$) were female. The racial background of the US participants varied greatly. Overall, 119 (30.4%) participants identified themselves as Caucasian, 82 (20.9%) as African American, 90 (23.0%) as Hispanic, 44 (11.2%) as Asian or Pacific Islander, 28 (7.1%) as Native American, and 29 (7.4%) as other/mixed race. All undergraduate participants were screened for jury eligibility.

Procedure

Participants received the stimulus materials in one of four ways: through mailing, in-class, in the laboratory, and on-line (see Table 1). First, participants received a survey package, containing a research introduction letter, step-by-step instructions, stimulus material (either a CD or dossiers), trial instructions, questionnaires, and an addressed prepaid envelope. The participant either read the trial dossiers or watched the trial video and answered the questionnaire and, as appropriate, returned the survey using the addressed prepaid envelope or had the package collected by the researcher, which was only used for judge participants. Second, participants were asked to read the dossiers (only for the inquisitorial trial condition) and then answer the questionnaire after a brief instruction in a class. This method was used for both Korean judges and Korean undergraduate participants.

Other participants came to the research lab and either watched a trial video or read a collection of dossiers and answered the first questionnaire. Participants in the trial video condition were randomly assigned into 6-person juries and deliberated on the case. After they reached verdicts as a jury, they were asked to answer the second (post-deliberation) questionnaire. The deliberations were videotaped. All participants who completed their participation were debriefed.

Finally, some participants were asked to participate on-line. Email invitations were sent out to a group of participants with a short description of the study, compensation information, and how to participate in the study. Participants were asked to send an email to the researcher to receive a direct link to the on-line study website. Once

they sign the on-line consent form, they were randomly assigned into an experimental condition. This method was used for American legal professionals only.

There are confounds between the trial type, country, decision makers, and the data collection procedures. The differences in the data collection procedure stem from the difficulty in accessing and the distributing stimulus materials to the targeted population. Due to the difficulty accessing Korean judges, the data were collected in a continuing legal education summer program class or recruited from judges' acquaintances. Although the business mailing addresses for U. S. judges is generally available to the public through the courts' websites, in Korea, judges mailing addresses or other contact information is not provided to the public. It was also difficult to recruit American legal professionals, mostly prosecutors and lawyers with criminal trial experiences, to come to the laboratory to participate in the study unless a large amount of compensation was provided. To ensure their participation with a minimal amount of compensation and to consider their various physical locations, the on-line survey site was added. In order to collect data from the targeted population in various physical locations, various data collection methods were utilized.

Table 1. Data Collection Procedure used in the Study

Country	Participants	Trial Type	
		Adversarial	Inquisitorial
Korea	Legal professionals (Judges)	Mailing	In class
	Lay people (undergraduates)	Laboratory	In class/ Laboratory
United States	Legal professionals (Judges, Prosecutors, Lawyers)	Mailing or On-line	Mailing or On-line
	Lay people (undergraduates)	Laboratory	Laboratory

Stimulus Materials

The inquisitorial and adversarial trial materials for the research were created based on an actual New York State criminal case of John K., using the actual trial transcript, police reports, written confession statements, forensic reports and pictures. The case involved a defendant and two co-defendants accused of killing a 16-year-old girl and it was believed that three men had together abducted, raped, and killed the victim. The defendant was tried separately from the other defendants. After 18 hours of interrogation, the police produced a confession from the defendant. Based on the confession evidence and the testimony of police officers who arrested and questioned the defendant, the defendant was convicted and sentenced to 33.5 years in prison. After he served 17 years in prison, the defendant was exonerated through DNA evidence.

For an adversarial trial, three mock trial videos were created. The trial video contained short instructions, opening statements, direct and cross-examination of prosecution witnesses, direct and cross-examination of defense witnesses including the defendant, and an expert who explained how specific factors promote false confessions, the closing arguments and legal instructions. The legal instructions were based on New York State legal instructions. Whether the confession evidence alone or both the confession evidence and the expert testimony were introduced, three different versions in two types of trials were created. For the adversarial trial, the full length of the trial video was 62 minutes long, which was labeled as CE (Confession evidence and Expert testimony present). Based on the full length trial video, the WE (Confession evidence present but Without Expert testimony) version was created, which was about 58 minutes long. The WC (Without Confession evidence) version was also created, which contains

no confession evidence or expert testimony and was about 40 minutes long. For the inquisitorial trial, three versions of parallel dossiers (CE, WE, and WC) were created based on the actual trial materials and the trial videos, but the names of the actual person in the case and the dates were modified to protect the identity of the individuals who were actually involved in the case. Every effort was made to assure that critical evidence is constant across trial and dossier formats although there were, of necessity, differences in the manner in which the material is presented. For example, the direct and cross-examination content in the trial video was turned into reports. The videotaped confession statement from the defendant, which was in question-and-answer between a district attorney and the defendant, was introduced as an audio excerpt in the trial video. This evidence was turned into a written report containing the verbatim of the audio excerpt in the trial video. Table 2 summarizes how the information contained in the trial videos were paralleled in the dossiers. In order to make the confession evidence the main incriminating evidence, other evidence remained ambiguous. For example, the forensic expert testimony/report indicated that DNA sample found from the victim's body did not match with the defendant's or his co-defendants'. The semen belonged to a single unidentified male and a search failed to locate the person from FBI's national DNA database who matches the DNA sample. However, the expert raised possibility that if condoms are used by the perpetrator, no semen can be found from the victim's body and the semen sample can originate from the victim's prior sexual activities since semen can remain in the victim's body for many days. The trial dossiers, the trial videos, questionnaires, and all research related materials were created in English first, and translated into Korean. Korean subtitles were provided for the trial videos.

Table 2. Summary Content of the Adversarial and Inquisitorial Trial Stimulus Materials

Conditions	Adversarial Videos	Inquisitorial Dossiers
CE, WE, WC	Initial Instruction from the judge	Written initial Instruction
Keep an open mind. Neither offer nor express an opinion as to whether the defendant is guilty or not guilty until further instruction is given. After considering all the evidence, legal instruction will be given and you will reach a verdict.		
CE, WE, WC	Opening Statements - Prosecution - Defense	N/A
<p><u>Prosecution:</u> While the defendant and two accomplices, JR and DH, were driving a van, they saw a 16 year old girl, Miss T. F., and invited her to their van on the night of 11/10/2006. After a short conversation, DH raped her in the van and JR raped her at a cemetery while the victim was unconscious. When she gained her conscious, she said “I’m going to tell, I’ve got to tell,” so the defendant strangled her and killed her. All three of them took her body to a wooded area, and dumped her body. The defendant was first interviewed on 03/21/2007, and admitted to knowing the other two people involved and he was interviewed again on March 25th at a police station. The police told him that they didn’t believe his story, about not being involved; and that it didn’t jive with his story. At this point, the defendant began to give the police several explanations for his involvement in the death of this young girl. After several versions of his story, the defendant signed seven page written statements that the police prepared, based upon what he told them about his participation in the murder. After he signed this confession, he agreed to take the police into the area and showed them where the incidents occurred. Then, the defendant was taken to the district attorney’s office and explained how he participated in the rape and the murder. This interview was videotaped. Therefore, the defendant assisted in the rape of T. F, and intentionally killed her to keep her quiet about the rape. Prior to make his confession, the defendant was advised of his rights, by detectives and that he was willing to speak to them covering the murder. Therefore, the defendant confessed voluntarily, and without the violation of any of his Constitutional rights.</p> <p><u>Defense:</u> Be fair and impartial and follow the instructions of the Judge. The presumption of innocence rests with the defendant. Hold the judgment until the judge has given his instructions on the law.</p>		
CE, WE	Videotaped Confession (Exhibit 4): introduced as an audio excerpt. The interview was conducted by a district attorney.	<ol style="list-style-type: none"> 1. Audio excerpt used in the video was provided as question-and-answer form in a written document. 2. Written confession statement signed by the defendant.
Miranda was given, background information was asked. The DA asked whether he recognizes the statement and whether the statement is true and the defendant’s answer was “yes.” The defendant was asked whether he recognized the women in a photograph, and whether he initialed at the back of the photograph, and the answer was “yes.” The DA asked the defendant to describe what happened when he saw the victim for the first		

Table 2. (cont'd).		
time and the defendant described that himself and two of his friend abducted, raped, and killed the victim. He took jewelry from the victim but threw away before he went home.		
CE, WE, WC	Prosecution Witness: Forensic expert, M. O.	Autopsy report DNA analysis report
The expert described his credentials and trainings and testified that the cause of death of the victim was ligature strangulation and several bruise were found on the victim's face and neck. He further testified that semen was found and DNA Test was done to try to individualize it, but there was no way of identifying anything other than the victim's own secretion. The semen belongs to a single unidentified male, but failed to locate the person from FBI's national DNA database who matches the DNA sample. The semen sample was not the defendant's or his co-defendants' but if condoms are used by the perpetrator, no semen will be found from the victim's body. The semen sample can be originated from previous sexual activities since semen can remain in the victim's body for many days.		
CE, WE, WC	Prosecution Witness: Detective G.	Police investigation document
Detective G. testified that he interviewed the defendant for the first time on 3/21/2007 and he just asked pedigree questions. The officer interviewed the defendant second time on 3/25/2007 and he testified that he gave the Miranda rights form to the defendant and explained it to the defendant. His interview was ended 9:26 pm, and told the defendant that he did not believe the defendant was telling the truth, and that he feels the defendant did murder the victim. The other detective, Detective V. asked him to come into the interview room around 10 pm and Detective V. read the defendants' Constitutional rights card on the night of 03/25/2007, and he left the room around 10:40 pm (Exhibit 1). Next day, Detective V., the defendant, and himself had breakfast together and he took the defendant with three other detectives to the areas where the incident happened. Then he returned to the police station and took the defendant again with the Detective V. to the district attorney's office to record his confession and took him back to the police station. The defendant was physically appeared normal and did not refuse to speak. During the interview, the defendant never admitted any involvement with the crime. He took the defendant to the areas where incident happened based on the statement given by the Detective V.		
CE, WE, WC	Prosecution Witness: Detective V.	Police investigation document
The detective V. testified that he saw the defendant March 25 th , at about 10:30 pm for the first time. He had a brief discussion with Detective G. for 30 minutes, and went to the room together. He explained the rights to the defendant, which he signed and dated the rights card (Exhibit 1). Detective G. also signed and dated the card. Although they dated the card as 03/26/2007, but they actually signed the form on 03/25/2007. Detective G. left the room and Detective V. told the defendant that Detective G. felt that he was not telling the truth and that he was involved in the murder. The defendant told him that he was riding with Mr. J. R. in his van, saw the young girl walking, and they stopped the van to talk to her. He showed him a picture of the victim, asked the defendant whether this was the girl, and he said yes, so the detective V. asked him to initial it and date it, which was 03/26/2007 (Exhibit 2). The girl sat in the front and Mr. J. R. drove him home.		

Table 2. (cont'd).		
<p>Detective V. told the defendant that he was lying and asked him to tell the truth and the defendant got into another version. When this conversation ended, it was about 25 minutes after midnight, which was the 26th. Once again he told the defendant that he was lying; his story was not consistent and he started to tell another version. After his story was done, the detective V. told him that the statement was inconsistent with the investigation. The defendant gave another version and when the conversation was done again, it was about 2:30 am. Again the detective told him that the story was too inconsistent with the investigation, and he gave another version of the story in detail. When his story ended, it was about 6:00 am. Detective V. told the defendant that the story was accurate so wanted to take a written statement from him and he said okay. Together they went over the details of this last oral statement he made and Detective V. reduced it to writing in a statement form, a seven-page statement (Exhibit 3). It was done about 9 am and the detective asked him to read and sign each of the pages, and signed his name, address, and the town he lives in on the last page. After breakfast with Detective G., the defendant went to the several locations to identify where the incidents occurred with Detective G. and three other detectives. After they returned, Detective G., the defendant, and Detective V. went to the district attorney's office to go over the details of the events of that night, which was videotaped. The defendant never asked for an attorney while conducting interview with him.</p>		
CE, WE, WC	Defense Witness: Defendant's fiancé, L. P.	Summary report of police interview of the defendant's fiancé
<p>The defendant's fiancée, Ms. L. P., testified that two detectives took the defendant for an interview on 03/21/2007 and two detectives came home again and took him for another interview on 03/25/2007. I called the police station three times, and they said they were in the middle of questioning the defendant. She called again at 11:30 pm, and they said they were just finishing up, and they would bring him home, within an hour. She woke up at 6 am the next day but he was not home, so she called the homicide squad but no information. So she went down to the police station and three detectives came down and told her that he confessed to the crime. During the night when the victim was missing (11/10/2006), the defendant and she went to arcades to play video games and went to Joe D.'s birthday party with other people. The defendant and 13 other people were at a school yard from around 9 pm until around 11:45pm. The defendant drank about two six-packs of beer and she had about a half can and they listened to a radio. They went to see a midnight movie, but she was not clear whether they went to the movie that night or went home.</p>		
CE, WE, WC	Defense Witness: Defendant's friend, J. C.	Summary report of police interview of the defendant's fiancé
<p>The defendant's friend, Mr. J. C., testified that and his friends went to a school yard to drink some beers and to hang out on 11/10/2006, from 9:30 pm until around 12 am. Then, they went to see a midnight movie. The defendant and he went to a movie theater and he had an argument with someone and cops arrived. The defendant was drunk and held a radio in his hand. However, they did not see the movie that night because they could not get in, so they went home. He had about 6 cans of beer the night of 11/10/2006 and he</p>		

Table 2. (cont'd).		
drank beer on 11/09/06 also. It was two years ago, so his memory was not clear whether the defendant and his fiancé were present at the school yard on 11/10/2006. But he remembers that they went to the movie theater on 11/10/2006 after the school yard.		
CE, WE, WC	Defense Witness: Defendant J. K.	Motion to suppress evidence
<p>The defendant testified that he discussed about the victim with Detective G. on 3/21/2007. He was questioned again by Detective G. on 3/25/2007, starting around 6:30 pm until 9:30 pm. Detective G. told him that he was lying. After he left, Detective V. came in and Detective G. came in with coffee and left. Detective V. sat down and told him that he is a liar and told him to keep his ass in the seat, and to listen to him. Detective V. stood up and came over in front of him and raised his arms, so my hands went up to defend him, but Detective V. slapped him arms down. He told him that he wanted to leave the place, but he was told to keep his ass in the seat and to shut up, and told that he was not leaving the place, because Detective V. told him that he was lying and he was not going anywhere until he got the truth. He tried to get out of it but they seemed set in their mind, they were not letting me leave. Detective V. was writing something and told him how he believed it happened and how this girl died. He pressured him, and told him “this is how it happened, didn’t it happen like this?” Detective V. wrote the first statement on the notepad but he ripped it and thrown away. Detective V. showed the picture of the victim and asked if he know her. He said, no and Detective V. asked him to sign it, so he signed it. For the second statement, Detective V. did not ask him, but he wrote the statement himself and told him what happened. The pressure started again and he told the detective to let me go home, and it was kept up until, he said all right, yeah, okay. The second statement was written, and the detective read it to himself, and he started all over again. And the whole process continued for five times and it seemed to build up to the last statement, the sixth one. Then, the detective asked him to read the final statement. Detective V. asked me to sign the bottom of each page, he put his initials and hand it back to him. At that point, a rights card was read to him around 10:30 am on 03/26/2007. Between 6:30 pm until 10:30 am next day, he had no food, but coffee and cigarettes. Detective V. drew a map and said, is this where it happened. The pressure went on, and he finally gave a yes, so the map was drawn and he went to the locations where incidents occurred with other detectives. Officers took him to places in the map and asked him where it happened, and he said yes. He went back to the police station and took him again to the D.A’s office. At the office, we started to talk about what happened at night and it was video recorded. Because he was up for thirty hours and being interrogated for eighteen to twenty hours, his mind was out at that point. He had to ask Detective V. for names because he could not remember. After it is done, we went back to the police station. He was not under arrest until 10:30 the next morning, so he told Detective V. that he was leaving, but he was told to sit down and no phone calls were allowed until he came back from the D. A.’s office. On 11/10/06, he did a moving job with his friend, went home, and went out with his fiancé to play videogames and went to birthday party held at a school field, and went to the movies that night. Movie ended about 2:30 am and walked home. He signed the rights form, but he does not remember signing the form. He also vaguely remembers his trip to the location with other detectives because he did not sleep for many hours. He was also threatened before the video recording.</p>		

Table 2. (cont'd).		
<p><u>Motion to suppress evidence</u>: Suppress all the evidence as a result of violation of the defendant's Rights under the Constitution of the United States or the State of New York. Constitutional Miranda Warning was given after the interrogation, therefore, the defendant's written statement and videotaped confession statement should be suppressed. Further, the defendant's statements were involuntarily made and coerced, due to psychological coercion, consisting of isolation, lack of sleep, deprivation of food and persistent intimidating questions. However, judge ruled that the motion was denied.</p>		
CE	Confession Expert Testimony: Dr. S. K.	Confession Expert report
<p>Dr. S. K., testified that there are three types of false confession: voluntary false confessions, coerced-compliant false confessions, and coerced-internalized false confessions. The second type, coerced-compliant false confession occurs when people think that the short-term benefits--like being left alone, or released, or allowed to call home--exceed the long-term costs of prosecution. If someone is in a difficult situation and sees confessing as a way out, and if someone believes he will be charged no matter what he says or that confessing may even help his cause, then again he is at risk. Sometimes people will say and do things that harm themselves in the long run just to get out of a bad situation. Physical threat, physical discomfort, being hungry or tired, feeling stressed, and being isolated and unable to communicate with loved ones make people falsely confess. The defendant was questioned and interrogated from about 6:30 pm on March 25th until 9 am on March 26th, which is about 15, 16 hours and for most of that time he had persistently maintained his innocence. The defendant was held in an interview room, without contact from family or friend, was not offered food, and was found to be sleep deprived at the time of his statements. The defendant's confession was similar to those found in documented "coerced-compliant" false confessions. Furthermore, his videotaped confession statements contain details already known by the police and did not lead to the discovery of new evidence. Therefore, the defendant's statements are ambiguous and potentially unreliable. However, the typology of false confessions are useful to describe the process which has led historically to a number of documented false confessions, but it has never been accepted as a predictor of whether a particular confession is true, false or questionable. He cannot tell with any certainty if a confession is true or false just by examining the statement or the situation it was given in. Detective V. did not record the defendant's initial statements, so there was no official record of his story and no recorded evidence of the aversive prodding and threatening that ultimately led to a coerced confession. So, he could not fully analyze the situation. He cannot say that the defendant's confessions were definitely false or unreliable. But there are risk factors presented which leads him to recommend being cautious about the statement.</p>		
CE, WE, WC	Closing Arguments - Defense - Prosecution	N/A
CE, WE, WC	Legal Instruction	Written legal instruction
<p>Instructions contained the description of the presumption of innocence, reasonable doubt, the burden of proof, the legal definition of coerced confession statement, and the definition of two charges, murder in the second degree and rape in the first degree.</p>		

Dependent Measures

After watching or reading the stimulus materials, both judges and lay persons were asked to answer the following items: 1) verdicts for two separate charges, murder in the second degree and rape in the first degree, 2) level of guilt probability, 3) verdict certainty, 4) verdict difficulty, 5) whether enough evidence was presented, 6) importance, believability, and honesty of each evidence/witness, 7) clarity and complexity of the evidence, 8) the strength of the government's and defendant's evidence, 9) level of sympathy towards the defendant and the victim, 10) the extent to which the confession was coerced, 11) clarity of the judge's instructions, 12) clarity, qualification and relevancy of the expert and his testimony to the case, and 13) demographic information. After the deliberation of lay participants in adversarial trial condition, lay participants were provided with the post-deliberation questionnaire, which included the following items: 1) dichotomous verdicts as a jury, 2) level of guilt probability, 3) individual's actual verdict preference, and 4) evaluation of deliberation experience. The probability of guilt was rated from 0 to 100% and other questions were rated on 7-point Likert-type scales.

Hypotheses

Depending on whether certain evidence, such as coerced confession evidence, is presented in an adversarial trial or in an inquisitorial trial, legal professionals and lay people may interpret and weigh the evidence differently, but it is expected that there will be no significant difference in the verdicts between Korean and American legal professionals and lay people. Previous research results on confession evidence indicated

that confession evidence is regarded as most damaging to the defendant, so introduction of confession evidence is likely to increase the probability of producing guilty verdicts regardless of the identity of the decision maker. The perception of whether the confession was coerced or not and the guilt of the defendant will be a function of the presence or absence of the expert testimony and the trial type (adversarial or inquisitorial).

Furthermore, legal professionals and lay people in inquisitorial trials are more likely to produce guilty verdicts than participants in adversarial trials. In both, however, lay people are more likely to show larger differences between adversarial and inquisitorial trials than legal professionals. Thus, the hypotheses for the current study are:

- 1) Trial type: Inquisitorial trials will produce more guilty verdicts than adversarial trials.
- 2) Presence of Confession evidence without Expert (WE) condition: Confession evidence will produce more guilty verdicts than when confession is not introduced.
- 3) Presence of Confession evidence and Expert testimony (CE) condition: Expert testimony will produce fewer guilty verdicts than when expert testimony is not introduced.
- 4) Decision Makers: There will be significant differences in how legal professionals and lay people evaluate and weigh the evidence but there will be no difference in guilt probability ratings and final verdicts.
- 5) Country: Koreans and Americans lay people will evaluate and weigh the evidence differently, but there will be no significant difference in guilt probability ratings and final verdicts.
- 6) Interaction between the trial type and CE condition: When the confession evidence and the expert testimony are introduced in an adversarial trial, both legal

professionals and lay people will rate the guilt probability less and as a result, will be less likely to produce guilty verdicts. The presence of the expert testimony in adversarial trials will sensitize lay people and increase skepticism towards the confession evidence.

- 7) Interaction between the trial type and decision makers: legal professionals and lay people in inquisitorial trials will produce significantly more guilty verdicts than legal professionals and lay people in adversarial trials.
- 8) The legal professional-lay people verdict agreement rate in Korea will be comparable to American legal professional-lay people verdict agreement rate.

CHAPTER 4. RESULTS

Verdicts

The defendant was charged with murder in the second degree and rape in the first degree. Verdict for murder and rape charges were measured by three outcomes, not guilty, guilty, and unsure for lay people, but legal professionals had two verdict options, not guilty or guilty. Before the analyses, lay people with unsure verdicts were collapsed with lay people with not guilty verdicts because people who were unsure about the verdict could be viewed as not reaching the subjective level to convict the defendant or failed to reach the “reasonable doubt” standard. The correlation of initial verdict outcomes between murder and rape was .452, indicating a moderate relationship, which indicates that participants separately considered the two charges.

The first step of the analyses was to determine which independent variables, the country (South Korea vs. the United States), the trial type (adversarial vs. inquisitorial), the evidence (the presence of confession evidence and expert testimony (CE), the presence of confession evidence without the expert testimony (WE) and absence of confession evidence and expert testimony (WC)), the decision makers (legal professionals vs. lay) and a combinations of those variables were predictors of verdicts (guilty vs. not guilty) for the two charges. For initial analysis, only independent variables were entered. The condition without the confession evidence and the expert testimony (WC) was used as a reference category. The results of the logistic regression analysis are shown in Table 3. Logistic regression analyses for the main effects of independent variables revealed that three predictors, Trial Type, the presence of the confession evidence without expert (WE), and the presence of the confession evidence and the

expert testimony (CE) were statistically significant predictors of verdict for the murder charge. The variable for the decision makers was marginally significant, but the country was not a statistically significant predictor. The model classified 72.7% of the data. Since there were only two verdict options (coded as 1 = guilty 0 = not guilty), the mean verdict ratings are provided in the two tables. The results indicated that the inquisitorial trials ($M = .35$) were more likely to produce guilty verdicts than the adversarial trials ($M = .26$). The presence of confession evidence (WE) ($M = .47$) was more likely to produce guilty verdicts than when the confession evidence was not present (WC) ($M = .10$). The presence of the confession evidence and the expert testimony (CE) ($M = .34$) were more likely to produce guilty verdicts than when such evidence was absent (WC) ($M = .10$). As expected, the introduction of the confession evidence significantly increased the probability of receiving a guilty verdict, but the presence of the expert testimony reduced the probability of a guilty verdict outcome. Furthermore, lay people ($M = .31$) were more likely to vote for guilty than legal professionals ($M = .24$) although the difference was only marginally significant ($p = .068$).

For rape charge, logistic regression analysis results revealed that two predictors, the presence of the confession evidence (WE) and the presence of the confession evidence and the expert testimony (CE) were statistically significant predictors for rape verdict. In contrast, Country, Trial Type, and Decision Makers were not statistically significant predictors. The model classified 83.1% of the data. The results indicated that the presence of confession evidence (WE) ($M = .23$) was more likely to produce guilty verdicts compared to when the confession evidence was not introduced (WC) ($M = .09$). The presence of confession evidence and the expert testimony (CE) ($M = .20$) were more

likely to produce a guilty verdict compared to when such evidence was not present (WC) ($M = .09$).

To determine if the inclusion of interaction terms in the equation alters previous findings, the analyses were expanded to incorporate two-way interaction terms. The results are presented in Table 4 and Table 5. Three interaction terms, the presence of confession evidence in an adversarial trial (WE x Adversarial), adversarial trials in South Korea (Adversarial x Korea), and South Korean lay people (Lay x Korea) were significant predictors for verdict. The model classified 73.7% of the data. Figure 1 illustrates the effects of the interaction between the country and the trial type on the verdict (coded as 1 = guilty, 0 = not guilty). The results showed that Americans with inquisitorial trials ($M = .43$) were more likely to produce guilty verdicts than any other conditions. It seems that Americans' verdict outcomes were more influenced by the trial type than Koreans. Figure 2 illustrates the effects of the interaction between the country and the decision makers on the verdict, which shows that American legal professionals ($M = .42$) were most likely to produce a guilty verdict than any other conditions. However, there was no difference on guilty verdict ratings between Korean and American lay people. There was a larger difference in the verdict of Korean legal professionals ($M = .07$) and lay people ($M = .31$) than American legal professionals ($M = .42$) and lay people ($M = .30$). Korean lay participants were more conviction prone than Korean legal professionals, but American legal professionals were more conviction prone than American lay people. Figure 3 shows the effects of the interaction between the evidence and the trial type on the verdict. When the confession evidence was introduced, an inquisitorial trial ($M = .59$) was most likely to produce a guilty verdict. Among the

earlier predictors, only Country was statistically significant indicating that Koreans ($M = .29$) in general were significantly less likely to produce a guilty verdict than Americans ($M = .32$).

For the rape charge, three interaction terms, the presence of confession evidence and the expert testimony in an adversarial trial (CE x Adversarial), the presence of confession evidence in an adversarial trial (WE x Adversarial), and Korean lay (Lay x Korea) were statistically significant predictors of verdict. The model classified 83.3% of the data. The examination of the verdict on the rape charge indicated that the pattern of the verdict outcome was similar to the pattern of the verdict outcome for a murder charge. The result showed that the confession evidence in an inquisitorial trial was most likely to produce guilty verdicts ($M = .28$) than any other conditions. Furthermore, the confession evidence and the expert testimony in an inquisitorial trial was most likely to produce a guilty verdict ($M = .23$) than other conditions. American legal professionals were most likely to produce a guilty verdict ($M = .26$), but Korean legal professionals were least likely to produce a guilty verdict ($M = .05$). The earlier predictors, Country, the presence of confession evidence (WE), the presence of confession evidence and expert testimony (CE) were also significant predictors. Koreans ($M = .18$) in general were more likely to produce a guilty verdict for rape than Americans ($M = .16$) and the presence of the confession evidence (WE) ($M = .23$) or both the confession evidence and the expert testimony (CE) ($M = .20$) were more likely to produce a guilty verdict than when no confession was introduced (WC) ($M = .09$).

The previous analyses were expanded to incorporate the three-way and four-way interaction terms. None of the three-way nor the four-way interactions was significant in

predicting the pre-deliberation verdicts for both murder and rape charges (results not shown).

Table 3. Logistic Regression for the Main Effects of Independent Variables

Murder Charge	B	S. E.	Wald	df	p	Odds Ratio	Verdict Mean
Korea/US	-.096	.140	.474	1	.491	0.908	
Adversarial/Inquisitorial	.593	.140	17.920	1	< .001	1.809	.26/.35
Lay/Legal Professionals	.447	.245	3.322	1	.068	1.564	.31/.24
Confession + Expert (CE)	1.597	.203	62.087	1	< .001	4.939	.34
Confession (WE)	2.154	.201	115.059	1	< .001	8.616	.47
No Confession + No Expert (WC)			115.168	2	< .001		.10
Constant	-2.885	.308	87.773	1	< .001	0.056	
R ² (Cox & Snell)		.136					
Corrected R ² (Nagelkerke)		.192					
-2 log likelihood model		1225.365					
Model χ^2		165.977	(df = 5, p < .001, N = 1138)				
Rape Charge							
Korea/US	.140	.163	.733	1	.392	1.150	
Adversarial/Inquisitorial	.222	.161	1.904	1	.168	1.249	
Lay/Legal Professional	.160	.280	.328	1	.567	1.174	
Confession + Expert (CE)	.978	.222	19.390	1	< .001	2.658	.20
Confession (WE)	1.146	.219	27.418	1	< .001	3.146	.23
No Confession + No Expert (WC)			28.911	2	< .001		.09
Constant	-2.702	.340	63.120	1	< .001	0.067	
R ² (Cox & Snell)		.031					
Corrected R ² (Nagelkerke)		.052					
-2 log likelihood model		996.990					
Model χ^2		35.593	(df = 5, p < .001, N = 1137)				

Table 4. Logistic Regression for the Effects of Previous and Interaction Variables for Murder Charge

Murder Charge	B	S. E.	Wald	df	p	Odds Ratio	Verdict Mean
Korea/US	-3.054	.797	14.697	1	< .001	.047	.29/.32
Adversarial/Inquisitorial	.262	.716	.134	1	.714	1.300	
Lay/Legal Professionals	18.201	.005	.000	1	.998	<.001	
Confession + Expert (CE)	20.664	.005	.000	1	.997	<.001	
Confession (WE)	21.767	.005	.000	1	.997	<.001	
No Confession + No Expert (WC)			2.909	2	.234		
CE x Adversarial	-.470	.411	1.311	1	.252	.625	
WE x Adversarial	-.865	.408	4.493	1	.034	.421	*
CE x Korea	-.196	.423	.214	1	.644	.822	
WE x Korea	.013	.420	.001	1	.976	1.013	
CE x Lay	-18.857	.005	.000	1	.997	<.001	
WE x Lay	-19.292	.005	.000	1	.997	<.001	
Adversarial x Lay	-.117	.624	.035	1	.852	.890	
Adversarial x Korea	.598	.290	4.265	1	.039	1.819	**
Lay x Korea	2.929	.701	17.474	1	<.001	18.700	***
Constant	-20.457	.005	.000	1	.997	<.001	
R ² (Cox & Snell)		.166					
Corrected R ² (Nagelkerke)		.236					
-2 log likelihood model		1184.390					
Model χ^2		206.952	(df = 14, p < .001, N = 1138)				

*

	WE	Other
Inquisitorial	.59	.25
Adversarial	.38	.20

**

	Korea	US
Inquisitorial	.30	.43
Adversarial	.28	.23

	Korea	US
Legal Professionals	.07	.42
Lay	.31	.30

Table 5. Logistic Regression for the Effects of Previous and Interaction Variables for Rape Charge

Rape Charge	B	S. E.	Wald	df	p	Odds Ratio	Verdict Mean
Korea/US	-1.837	.842	4.767	1	.029	.159	.18/.16
Adversarial/Inquisitorial	-.730	.730	1.001	1	.317	.482	
Lay/Legal Professionals	.384	1.150	.112	1	.738	1.468	
Confession + Expert (CE)	3.450	1.151	8.981	1	.003	31.498	.20
Confession (WE)	2.835	1.177	5.802	1	.016	17.033	.23
No Confession + No Expert (WC)			9.037	2	.011		.09
CE x Adversarial	-1.301	.480	7.356	1	.007	.272	*
WE x Adversarial	-1.510	.472	10.246	1	.001	.221	**
CE x Korea	-.344	.498	.477	1	.490	.709	
WE x Korea	-.356	.487	.534	1	.465	.701	
CE x Lay	-1.649	1.152	2.048	1	.152	.192	
WE x Lay	-.644	1.179	.298	1	.585	.525	
Adversarial x Lay	-.156	.636	.060	1	.806	.856	
Adversarial x Korea	.575	.349	2.720	1	.099	1.777	
Lay x Korea	2.186	.716	9.336	1	.002	8.904	***
Constant	-2.716	1.070	6.449	1	.011	.066	
R ² (Cox & Snell)		.059					
Corrected R ² (Nagelkerke)		.099					
-2 log likelihood model		963.507					
Model χ^2		69.077	(df = 14, p < .001, N = 1137)				

*

	CE	Other
Inquisitorial	.23	.17
Adversarial	.17	.15

**

	WE	Other
Inquisitorial	.28	.14
Adversarial	.18	.15

	Korea	US
Legal Professionals	.05	.26
Lay	.19	.15

Figure 1. Effects of the Country and the Trial Type on Verdicts for Murder

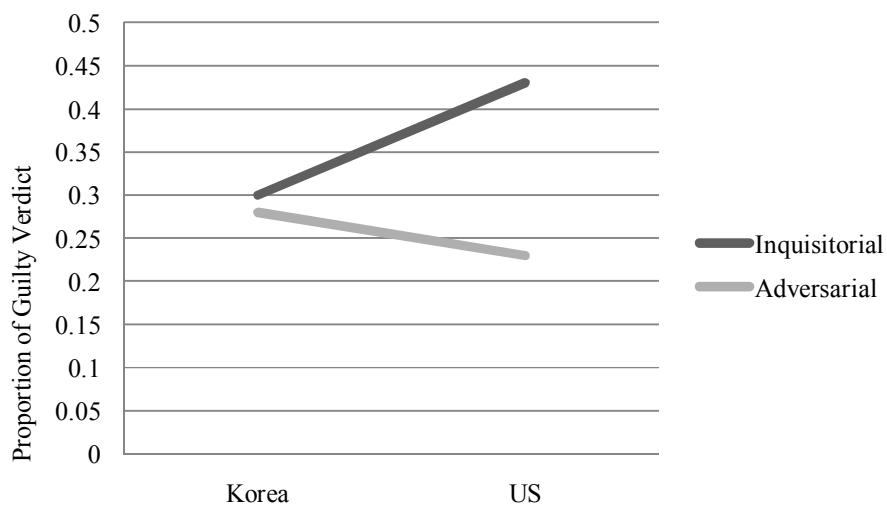


Figure 2. Effects of the Country and the Decision Makers on Verdicts for Murder

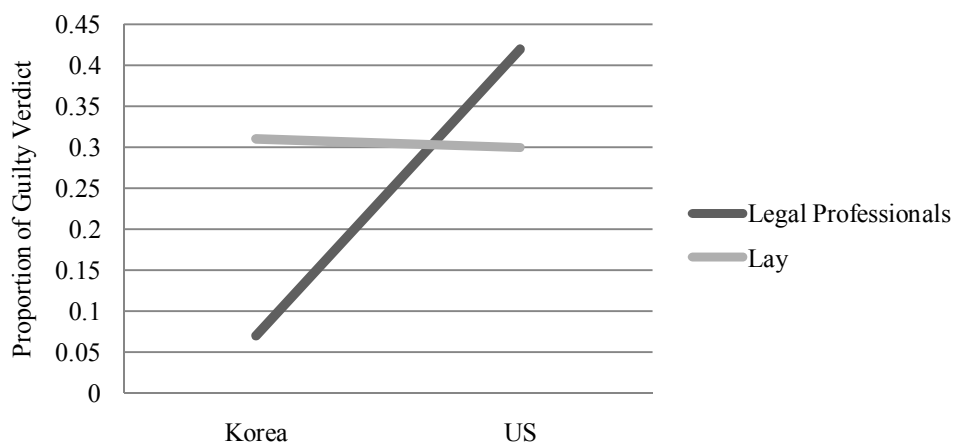
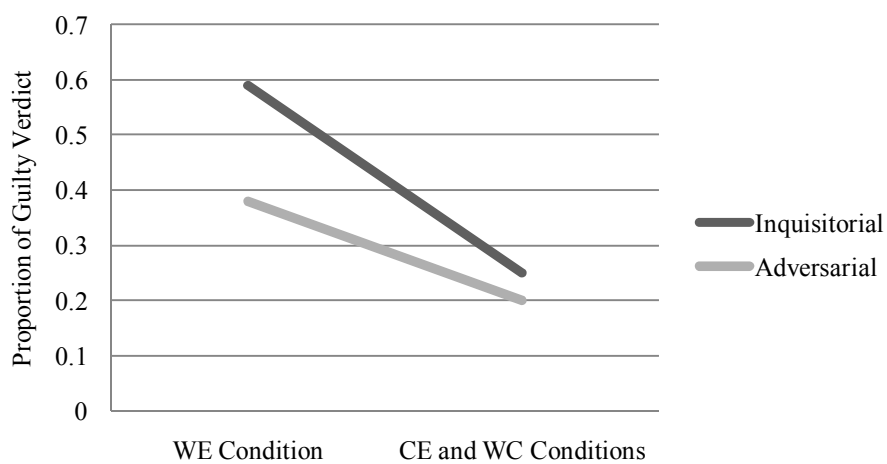


Figure 3. Effects of Confession Evidence and Trial Type Verdicts for Murder



Post-Deliberation Verdicts in Adversarial Trial Conditions

These analyses only included lay participants in the adversarial trial conditions. Lay participants were randomly assigned into 6-lay person groups for deliberation. Logistic regression analyses were performed to determine which independent variables, the country (South Korea vs. the United States), the presence of the confession evidence and the expert testimony (CE), the presence of the confession evidence without the expert testimony (WE), the pre-deliberation verdicts, and a combination of variables were predictors of lay people's individual post-deliberation verdicts (coded as 1= guilty, 0 = not guilty) on the two charges. As previous research already indicated that pre-deliberation verdicts favored by a majority are most likely to be the jury's final verdict, the individual pre-deliberation verdict were expected to be a significant predictor of individual post-deliberation verdict.

Independent variables, two interactions (country x CE and country x WE), and pre-deliberation verdicts were entered. No confession evidence and the expert testimony condition (WC) was used as reference category. The regression coefficients are presented in Table 6. Logistic regression results indicated that the model of four predictors, country, presence of the confession evidence and the expert testimony (CE), and presence of the confession evidence (WE), and pre-deliberation verdict were statistically reliable in distinguishing post-deliberation verdict for murder charge. The model classified 84.6% of the data. The results indicated that Korean lay ($M = .34$) participants were more likely to produce a guilty verdict than American lay ($M = .12$) participants. The confession evidence (WE) ($M = .46$) and the confession and the expert testimony (CE) ($M = .26$) were more likely to produce a guilty verdict compared to when such evidence was not

introduced (WC) ($M = .08$). Guilty pre-deliberation verdict ($M = .70$) was more likely to produce a guilty verdict compared to not guilty pre-deliberation verdict ($M = .12$). For the rape charge, the pre-deliberation outcome was the only significant predictor of post-deliberation verdict for rape charge. The model classified 91.2% of the data. Lay participants with guilty pre-deliberation verdict ($M = .20$) were more likely to vote for a guilty verdict after their deliberation when compared to not guilty pre-deliberation verdict ($M = .05$).

Table 6. Logistic Regression for Effects of Independent, Interactions and Pre-Deliberation Verdict Variables

Murder Charge	B	S.E.	Wald	df	p	Odds Ratio	Verdict Mean
Korea/US	2.402	1.089	4.869	1	.027	11.046	.34/.12
Confession + Expert (CE)	2.513	1.088	5.329	1	.021	12.337	.26
Confession (WE)	3.001	1.076	7.781	1	.005	20.108	.46
No Confession + No Expert (WC)			8.002	2	.018		.08
CE x Korea	-1.860	1.181	2.478	1	.115	.156	
WE x Korea	-1.312	1.163	1.271	1	.260	.269	
Pre-Deliberation Verdict (Guilty/Not Guilty)	2.652	.285	86.631	1	.000	14.185	.70/.12
Constant	-4.871	1.036	22.124	1	.000	.008	
R ² (Cox & Snell)		.331					
Corrected R ² (Nagelkerke)		.486					
-2 log likelihood model	343.301						
Model χ^2	185.953		(df= 6, p < .001, N = 462)				
<hr/>							
Rape Charge							
Korea/US	1.552	1.109	1.957	1	.162	4.722	
Confession + Expert (CE)	1.671	1.134	2.173	1	.140	5.320	
Confession (WE)	.407	1.275	.102	1	.749	1.502	
No Confession + No Expert (WC)			3.433	2	.180		
CE x Korea	-1.440	1.265	1.296	1	.255	.237	
WE x Korea	-.013	1.380	.000	1	.993	.987	
Pre-Deliberation Verdict (Guilty/Not guilty)	-2.762	.378	53.416	1	.000	.063	.20/.05
Constant	-2.055	1.052	3.816	1	.051	.128	
R ² (Cox & Snell)		.148					
Corrected R ² (Nagelkerke)		.330					
-2 log likelihood model	202.877						
Model χ^2	74.531		(df= 6, p < .001, N = 465)				

Legal Professionals and Lay Verdict Agreement Rates

The legal professional-lay verdict agreement rates in Korea and the United States were calculated in Table 7. The agreement rate was only calculated for the adversarial trial conditions and lay people were randomly assigned into groups of six people for deliberation. The analysis was based on 31 Korean legal professionals and 38 Korean lay groups and 27 American legal professionals and 32 American lay groups. Since the analyses were based on small number of legal professionals and lay groups, the results should be interpreted with caution.

Korean legal professional-lay verdict agreement rates were between 40.0% and 88.9% for murder and between 87.5% and 90.0% for rape depending on the type of evidence. The average legal professional-lay agreement rate for murder was 63.8% and for rape was 88.8%. When the confession evidence and the expert testimony were not introduced, the agreement rate was the highest, 88.9% for the murder charge. When the confession evidence was presented, the agreement rate decreased to 40.0% for murder. The disagreement rate, when lay groups were more likely to vote guilty while legal professionals were more likely to vote not guilty, were 50%. When the confession evidence and the expert testimony were presented, the agreement rate was increased to 62.5% although lay groups were still more likely to vote for guilty and legal professionals were more likely to vote for not guilty. The agreement rate for the rape charge showed similar patterns as the agreement rate for the murder charge.

American legal professionals-lay verdict agreement rates were between 12.5% and 100.0% for murder and between 55.6% and 100.0% for rape depending on the type of evidence. The average jury-jury agreement rate for murder was 77.8% and for rape

was 77.8%. When the confession evidence and the expert testimony were not introduced, the agreement rate was the highest, 100.0% for the murder charge. When the confession evidence was presented, the agreement rate was decreased to 12.5% for the murder charge. The disagreement rate was 62.5%; legal professionals were more likely to vote guilty while lay people were more likely to vote not guilty. The American disagreement pattern was the opposite of the Korean disagreement pattern. When the confession evidence and the expert testimony were presented, the agreement rate was increased to 62.5% although legal professionals were still more likely to vote guilty and lay people were more likely to vote not guilty. The agreement rate for the rape charge showed similar patterns as the agreement rate for murder charge.

Table 7. Judge-Jury Agreement Rates by the Presence of the Confession Evidence and Expert Testimony

South Korea		CE		WE		WC	
Charges		Lay NG*	Lay G*	Lay NG	Lay G	Lay NG	Lay G
Murder	Professionals NG (%)	5 (62.5)	2 (25.0)	4 (40.0)	5 (50.0)	8 (88.9)	1 (11.1)
	Professionals G (%)	1 (12.5)	0 (0.0)	1 (10.0)	0 (0.0)	0 (0.0)	0 (0.0)
Rape	Professionals NG (%)	7 (87.5)	0 (0.0)	9 (90.0)	1 (10.0)	8 (88.9)	0 (0.0)
	Professionals G (%)	1 (12.5)	0 (0.0)	0 (0.0)	0 (0.0)	1 (11.1)	0 (0.0)
United States							
Murder	Professionals NG (%)	4 (50.0)	1 (12.5)	0 (0.0)	2 (25.0)	9 (100.0)	0 (0.0)
	Professionals G (%)	2 (25.0)	1 (12.5)	5 (62.5)	1 (12.5)	0 (0.0)	0 (0.0)
Rape	Professionals NG (%)	5 (55.6)	1 (11.1)	7 (77.8)	0 (0.0)	8 (100.0)	0 (0.0)
	Professionals G (%)	3 (33.3)	0 (0.0)	2 (22.2)	0 (0.0)	0 (0.0)	0 (0.0)

* NG = Not Guilty, G = Guilty

Legal Decision Making Models: Variables

Previous analyses indicated that country, trial type, decision makers, the presence of confession evidence and the expert testimony, and the presence of confession evidence significantly influenced rating of the coerciveness of the defendant's confession and verdict outcomes for murder and rape charges. Interaction terms, between the trial type and confession evidence, between the trial type and the country, between the country and decision makers were also significantly influence the verdict outcomes. In order to understand how these effects were mediated, the probability of guilt ratings for the two charges were examined using path models. Evaluation of evidence and witnesses and overall evaluation of the trial variables were used as mediating variables. Since legal professionals and individual lay people produce significantly different pre-deliberation verdict outcomes and it is possible that they evaluate and weigh the evidence and witnesses differently, the model was separately examined between judges/legal professionals and mock jurors. Before creating the model, initial analyses were conducted.

Since the questionnaire contained a total of 45 variables to evaluate 1) the importance, believability, and honesty of the each witnesses/evidence and 2) the general evaluation of the trial, a factor analysis was conducted to combine variables that appear to overlap and to create a smaller number of variables based on Korean and American mock juror data (N = 1029). The first factor analysis was conducted based on 24 individual witness/evidence measures using principal components analysis and applied varimax rotation. Three criteria were used to determine the appropriate number of components to retain: eigenvalue, variance, scree plot, and residuals. This factor analysis was based on 960 cases and produced a total of five components, which accounted for

71.07% of the total variance in the original variables. The component loadings were provided in Component 1 accounted for 28.31% of the total variance and consisted of four variables and was labeled as “Credibility of Defense Witness.” Component 2 accounted for 16.36% of the total variance and consisted of four variables and was labeled as “Importance of Defense Witness.” Component 3 accounted for 10.22% of the total variance and consisted of four variables and was labeled as “Prosecution Witness Evaluation.” Component 4 accounted for 8.17 % of the total variance and was labeled as “Defendant Evaluation.” Component 5 accounted for 8.01% of the total variance and was labeled as “Forensic Evidence Evaluation.”

From 16 overall trial evaluation variables, a factor analysis was also conducted. The initial principal components analysis was conducted utilizing a varimax rotation. The initial analysis retained five components, accounting for 60.85% of the total variance of original variables. Four criteria were used to determine the appropriate number of components to retain: eigenvalue, variance, scree plot, and residuals. The component loadings were provided in Table 9. Component 1 accounted for 21.45% of the total variance and consisted of 4 variables, which was labeled as “Enough Evidence Presented for Verdict 1.” Component 2 accounted for 15.41% of the total variance and consisted of four variables, which was labeled as “Judgment Difficulty for Verdict Decisions.” Component 3 accounted for 9.53% of the total variance and consisted of three variables, which was labeled as “Clear Legal Instruction/Trial Reality.” Component 4 accounted for 7.43% of the total variance and labeled as “Enough Evidence Presented for Verdict 2.” Component 5 accounted for 7.03% of the total variance and labeled as “Sympathy.”

Table 8. Factor Analysis Component Loadings for Witness/Evidence Evaluation Variables

Variables for Evaluating Witness/Evidence	Loading	Communality
Component 1: Credibility of Defense Witness		
Cronbach's alpha: .918		
Honesty of Defense Witness 1	.878	.809
Honesty of Defense Witness 2	.871	.817
Believability of Defense Witness 1	.826	.719
Believability of Defense Witness 2	.825	.817
Component 2: Importance of Defense Witness		
Cronbach's alpha: .916		
Importance of Defense Witness 2 for 2 nd charge	.882	.830
Importance of Defense Witness 1 for 2 nd charge	.870	.817
Importance of Defense Witness 1 for 1 st charge	.835	.790
Importance of Defense Witness 2 for 1 st charge	.828	.777
Component 3: Prosecution Witness Evaluation		
Cronbach's alpha: .845		
Believability of Police Officer 1	.864	.756
Believability of Police Officer 2	.853	.749
Honesty of Police Officer 2	.848	.735
Honesty of Police Officer 1	.843	.730
Importance of Police Officer 2 for 1 st charge	.784	.673
Importance of Police Officer 1 for 1 st charge	.783	.671
Importance of Police Officer 2 for 2 nd charge	.782	.666
Importance of Police Officer 1 for 2 nd charge	.782	.661
Component 4: Defendant Evaluation		
Cronbach's alpha: .795		
Importance of defendant for 2 nd charge	.798	.691
Importance of defendant for 1 st charge	.792	.676
Believability of defendant	.757	.655
Honesty of defendant	.658	.570
Component 5: Forensic Evidence Evaluation		
Cronbach's alpha: .736		
Believability of forensic evidence	.820	.690
Honesty of forensic evidence	.768	.620
Importance of forensic evidence for 2 nd charge	.748	.568
Importance of forensic evidence for 1 st charge	.660	.493
Variables Added for the Confession Model		
Component 6: Confession Evidence Evaluation		
Believability of confession evidence	---	---
Importance of confession evidence on 1 st charge	---	---
Honesty of confession evidence	---	---
Importance of confession evidence on 2 nd charge	---	---
Component 7: Confession Coerced		
Confession was coerced	---	---

Table 9. Factor Analysis Component Loadings for Overall Trial Evaluation Variables.

Variables for Overall Trial Evaluation	Loading	Communality
Component 1: Enough Evidence for Verdict 1		
Cronbach's alpha: .712		
Enough evidence presented for providing verdict on 1 st charge	.837	.713
Persuasiveness of prosecution	.714	.599
Evidence presented clearly	.592	.580
Verdict certainty for 1 st charge	.546	.489
Component 2: Judgment Difficulty for Verdict Decisions		
Cronbach's alpha: .745		
Overall verdict difficulty	.870	.796
Verdict difficulty for 1 st charge	.809	.718
Verdict difficulty for 2 nd charge	.670	.675
Complexity of the trial	.555	.408
Component 3: Clear Legal Instructions/Trial Reality		
Cronbach's alpha: .588		
Clear legal instructions	.753	.596
Reality of the trial	.702	.551
Trial process satisfaction	.546	.587
Component 4: Enough Evidence for Verdict 2		
Cronbach's alpha: .418		
Verdict certainty for 2 nd charge	.669	.559
Enough evidence presented for providing verdict on 2 nd charge	.618	.562
Persuasiveness of defense	.513	.556
Component 5: Sympathy		
Cronbach's alpha: .283		
Feel sympathetic towards the defendant	.802	.729
Feel sympathetic towards the victim	.648	.617

The confession evidence was evaluated based on 5 measures. Previous research indicated that jurors are more likely to convict the defendant even though mock jurors recognized that the confession was coerced (Kassin & Sukel, 1997). Therefore, rather than conducting additional factor analysis with variables evaluating the confession evidence, two separate confession evidence evaluation variables were created, which were labeled as “Confession Evidence Evaluation” and “Confession Coerced.” General evaluation of confession evidence and ratings on the degree of coerciveness of the defendant’s confession were evaluated separately to examine how those variables influence the evaluation of other variables and the verdict decisions of Korean and American participants. The specific variables were provided in Table 8.

Evaluation of the Confession Evidence 1

A factorial multivariate analysis of variance (factorial MANOVA) was conducted to determine the effect of independent variables, country, trial type, decision makers, and type of evidence (CE and WE), on the two dependent variables: the evaluation of confession evidence and whether the confession was coerced. Since two DVs were analyzed, the alpha level was adjusted to $\alpha = .025$. The Box's Test was significant and indicates the homogeneity of variance-covariance was not fulfilled, so the more robust MANOVA test statistic, Pillai's Trace, was used to interpret the MANOVA results rather than Wilks' Lambda. MANOVA results indicated that country (Pillai's Trace = .092, $F(2,724) = 36.668$, $p < .001$, $\eta^2 = .092$), trial type (Pillai's Trace = .017, $F(2,724) = 6.425$, $p = .002$, $\eta^2 = .017$), decision makers (Pillai's Trace = .030, $F(2,724) = 11.321$, $p < .001$, $\eta^2 = .030$), and type of evidence (Pillai's Trace = .017, $F(2,724) = 6.298$, $p = .002$, $\eta^2 = .017$) significantly affect the combined DV of the evaluation of confession evidence and whether the confession was coerced. Two interactions were significant: country x trial type (Pillai's Trace = .011, $F(2,724) = 3.951$, $p = .020$, $\eta^2 = .011$) and country x decision makers (Pillai's Trace = .027, $F(2,724) = 9.901$, $p < .001$, $\eta^2 = .027$). Univariate ANOVA results indicated that the judgment about whether the confession was coerced was significantly different across countries ($F(1,725) = 40.202$, $p < .001$, $\eta^2 = .053$), trial type ($F(1,725) = 12.077$, $p = .001$, $\eta^2 = .016$), decision makers ($F(1,725) = 13.271$, $p = .018$, $\eta^2 = .018$), type of evidence ($F(1,725) = 10.210$, $p = .001$, $\eta^2 = .014$) and the interaction term, country x decision makers ($F(1,725) = 14.486$, $p < .001$, $\eta^2 = .020$). The evaluation of confession evidence was significantly different for country ($F(1,725) = 60.391$, $p < .001$, $\eta^2 = .077$), type of evidence ($F(1,725) = 7.113$, $p = .008$,

$\eta^2 = .010$), the interaction of country x trial type ($F(1,725) = 7.597, p = .006, \eta^2 = .010$) and the interaction of country x decision makers ($F(1,725) = 12.999, p < .001, \eta^2 = .018$). More specifically, Koreans ($M = 4.88$) perceived that the confession was more coerced than Americans ($M = 3.76$) and Americans ($M = 5.33$) evaluated that the confession evidence higher in general than Koreans ($M = 4.01$). Participants in adversarial trials ($M = 4.62$) judged that the confession was more coerced than the participants in inquisitorial trials ($M = 4.02$). Lay people ($M = 4.64$) viewed the confession as more coerced than legal professionals ($M = 4.00$). Participants with the expert testimony (CE) ($M = 4.60$) viewed the confession as more coerced than participants without the expert testimony (WE) ($M = 4.04$) and participants without expert testimony (WE) more positively evaluated the confession evidence ($M = 4.89$) than participants with the expert testimony (CE) ($M = 4.44$). Koreans in adversarial trials ($M = 5.04$) perceived that the confession was more coerced whereas Americans in inquisitorial trials were least likely to perceive that the confession was coerced ($M = 3.32$). This pattern was similar to the evaluation of confession evidence. Americans in inquisitorial trials ($M = 5.61$) most positively evaluated the confession evidence whereas Koreans in adversarial trials least positively evaluated the confession evidence ($M = 3.82$). The perception of coerciveness of the defendant's confession was not different between Korean legal professionals ($M = 4.89$) and Korean lay participants ($M = 4.86$), but American lay participants ($M = 4.42$) perceived that the confession was more coerced than American legal professionals ($M = 3.11$). However, the evaluation of confession evidence indicated that Korean lay participants ($M = 4.43$) more positively evaluated the confession evidence than Korean legal professionals ($M = 3.58$), but American legal professionals ($M = 5.51$) more

positively evaluated that confession evidence than American lay participants ($M = 5.14$).

Table 10 presents the adjusted and unadjusted group means for confession was coerced and evaluation of confession evidence by country, trial type, type of evidence, decision makers, and two interaction terms.

Table 10. Adjusted and Unadjusted Group Means for Confession Evidence Evaluation Variables.

	Confession was Coerced		Evaluation of Confession Evidence		
	Adjusted Mean	Unadjusted Mean	Adjusted Mean	Unadjusted Mean	
Country					
Korea	4.88	4.89	4.01	4.34	
US	3.76	4.30	5.33	5.17	
Trial Type					
Adversarial	4.63	4.90	4.62	4.56	
Inquisitorial	4.02	4.29	4.71	4.90	
Type of Evidence					
Confession + Expert (CE)	4.60	4.78	4.44	4.53	
Confession (WE)	4.04	4.46	4.89	4.90	
Decision Makers					
Legal professionals	4.00	3.97	4.545	4.55	
Lay participants	4.64	4.69	4.786	4.73	
Country x Trial Type					
Korea	Adversarial	5.04	5.07	4.20	4.26
	Inquisitorial	4.71	4.66	3.83	4.42
US	Adversarial	4.21	4.68	5.05	4.93
	Inquisitorial	3.32	3.87	5.61	5.44
Country x Decision Makers					
Korea	Professionals	4.89	4.86	3.580	3.56
	Lay	4.96	4.89	4.43	4.41
US	Professionals	3.11	3.97	5.51	5.51
	Lay	4.42	4.69	5.14	5.13

Basic Legal Decision Making Model: Mediated Path Analysis 1

The Lay Decision makers' Model. Based on the five evidence/witness evaluation variables and five overall trial variables, a decision making model was developed to explain how jurors evaluate evidence and reach their legal decisions. The model integrated relationships among the country, the trial type, both the presence of confession evidence (WE), the presence of confession and the expert testimony (CE), the interaction terms and the verdict decisions by using evidence evaluation and overall trial evaluation variables as moderating variables. Before the analysis, the correlation between the probability of guilt measures and the initial verdicts were examined and the probability of guilt and the verdict for the murder charge was .706 and for the rape charge was .643 for lay participants, .789 for murder and .734 for rape for legal professionals. Since the correlation between the probability of guilt and the verdicts for the two charges were high, (very high, in light of the attenuation of correlations between continuous and dichotomous variables), the probabilities of guilt, ranged from 0 to 100%, were used as the dependent variables rather than the less sensitive dichotomous measures.

Path analysis was used to determine if the observed data confirmed the hypothesized relations among the variables. The maximum likelihood estimation was used because the method of estimation “makes a sample as likely or typical as possible given values on the predictors and dependant variable”(Cohen, Cohen, West & Aiken, p. 498). The maximum likelihood estimation is applied to most models to determine the parameters that maximize the probability of the sample data and provides unbiased and reliable estimates of population parameters with smaller sample sizes (Meehan & Stuart, 2007). Several fit indices were used to assess model fit. The minimum value of

discrepancy (CMIN) measures the degree to which the model covariance matrix and the actual data differ. CMIN measure is often reported as the chi-square statistic and usually non-significant and small chi-square denotes less discrepancy, indication of adequate fit. Because the chi-square statistic is more likely to be significant when sample size grows larger, two additional fit indices were used. Comparative Fit Index (CFI) measures the degree of improvement between the baseline or null model and the researcher's model, which range from 0 to 1.00 with indicated cutoff values of .90 – .95 (King, 2002; Meehan & Stuart, 2007). Root Mean Square Error of Approximation (RMSEA) measures the degree of poor fit or the amount of error in the model. Because the RMSEA is less influenced by sample size, it is typically used as one of the fit indices with indicated cutoff values between .05 – .10 (King, 2002; Meehan & Stuart, 2007).

The hypothesized relationships among country (Korea vs. US), type of trial (adversarial vs. inquisitorial), presence of confession evidence (WE) and presence of the confession evidence and expert testimony (WE) using WC as a reference category, plus the interactions, trial type x CE, trial type x WE, and country x trial type and probability of guilt ratings are provided in Figure 4. The interaction terms that showed statistically significant influence on the pre-deliberation verdicts in the previous analyses were included in the analysis. The hypotheses for each path are listed in Table 11. The hypothesized model was tested using AMOS 16.0 Software. The independent variables were dummy coded since they were all categorical variables: the country (1 = South Korea, 0 = US), the trial type (1 = adversarial trials, 0 = inquisitorial trials), CE (1 = trials with the confession and the expert testimony, 0 = other), WE (1 = trials with confession evidence, but without the expert testimony, 0 = other), the first interaction (1 =

interaction between the adversarial trial and CE, 0 = other), the second interaction (1 = interaction between the adversarial trial and WE, 0 = other), and the third interaction (1 = interaction between the Korean and the adversarial trial, 0 = other) were entered. These variables were entered as predictors and the probability of guilt for both charges were used as dependent variables. The analysis was based on 1012 cases after the elimination of missing data.

The hypothesized model was tested and the results indicated that the hypothesized model fit the data, $\chi^2(111) = 854.241$, $p < .001$, CFI = .901 and RMSEA = .081, but Modification Indices indicated that the model could be improved. Therefore, the model was modified in order to increase the model fit. After modifications were implemented based on the Modification Indices, the model was finalized and is presented in Figure 5. The model fit measures indicated that the finalized model fit the data well, $\chi^2(104) = 407.127$, $p < .001$, CFI = .960 and RMSEA = .054. Table 12 shows the direct, indirect, and total effect sizes for the variables in the model (see Table 14 for means and standard deviations). This mediated model explains 51.1% of the variances in the probability of guilt rating for murder and 37.0% of the variances in the probability of guilt for rape charge.

Consistent with the previous results, the results indicated that Korean lay participants rated the guilt probability for murder ($b = -.043$) less, but more likely to rate the guilt probability for rape ($b = .082$) higher than American lay participants. Lay participants with adversarial trials rated the guilt probability for murder ($b = -.123$) and rape ($b = -.093$) lower than the lay participants with inquisitorial trials. When the confession evidence was provided (WE), lay participants rated the probability of guilt

higher for murder ($b = .304$) and rape ($b = .166$) than the lay participants without the confession evidence. Lay participants with the confession evidence and the expert testimony (CE) were also more likely to rate the probability of guilt for murder ($b = .240$) and rape charge ($b = .132$) higher when compared to the lay participants without the confession evidence and the expert testimony. Whether expert testimony was provided or not, lay participants rated the probability of guilt higher for both charges when the confession evidence was introduced. However, when the confession evidence and the expert testimony were introduced in an adversarial trial (interaction 1), lay participants rated the probability of guilt for murder ($b = -.012$) and rape ($b = -.006$) lower than other conditions. However, when the confession evidence alone was presented in an adversarial trial (interact 2), lay participants rated the probability of guilt higher for murder ($b = .042$) and rape ($b = .023$) charges. Therefore, the intended effect of the expert testimony – sensitize jurors about the confession evidence – was found when the expert testimony was provided in an adversarial trial although the total effect sizes were small. Korean lay participants with adversarial trials (interact 3) were also more likely to rate the guilty probability for murder ($b = .081$) and rape ($b = .044$) higher than participants in other conditions, which is consistent with previous findings. Most of hypotheses for the model were either supported or partially supported.

The Legal Professional Model. The finalized model for lay participants was tested again using the data from legal professionals in order to examine the comparability of the model. Before conducting the multi-group analysis, the model was tested to examine how consistent the model results were with the legal professionals. The results indicated that the model did not fit the data well, $\chi^2(104) = 217.839$, $p < .001$, CFI =

.877 and RMSEA = .100, compared to lay participants, which indicated model modifications. Based on Modification Indices, several paths were added and a number of non-significant paths were deleted based on non-significant critical ratios (C.R.) for structural (regression) weights. After several modifications, the model was finalized and is provided in Figure 5. The final model fit measures indicated that the model fit the data well, $\chi^2(117) = 157.692$, $p = .007$, CFI = .956 and RMSEA = .056. Table 13 shows the direct, indirect, and total effect sizes for the legal professional model (see Table 15 for means and standard deviations). This mediated model explains 69.5% of the variances in the probability of guilt rating for murder and 63.0% of variances in the probability of guilt for rape.

The results indicate that Korean legal professionals gave lower guilt probabilities for murder ($b = -.428$) and rape ($b = -.340$) than American legal professionals. Legal professionals with adversarial trials gave lower guilt probabilities for murder ($b = -.035$) and rape ($b = -.028$) than the legal professionals with inquisitorial trials. When the confession evidence was provided (WE), legal professionals rated the probability of guilt higher for murder ($b = .410$) and rape ($b = .325$) than the legal professionals without the confession evidence (WC). Consistent with lay participants, legal professionals with the confession evidence and the expert testimony (CE) rated the probability of guilt higher for murder ($b = .392$) and rape ($b = .312$) than the legal professionals without both forms of evidence (WC). Both interaction 1 (adversarial trial x CE) and interaction 2 (adversarial trial x WE) did not significantly influence the evidence/trial evaluation as well as the probability of guilt ratings. However, Korean legal professionals in

adversarial trials rated the guilt probability higher for murder ($b = .037$) and rape ($b = .030$) than legal professionals in other conditions.

Table 11. Specific Hypotheses for Legal Decision Making Model for Lay Participants

No	Hypotheses	Supported
	Trial Type	
1.1	Jurors in adversarial trials will be more likely to be skeptical about the prosecution witness, which will negatively influence the guilt probability rating for murder, which will positively influence the guilt probability rating for rape.	Yes
1.2	Jurors in adversarial trials will be more likely to be skeptical about the prosecution witness, which will influence whether they have enough evidence for reaching the verdict for murder (Enough evidence 1) and rape (Enough evidence 2), which separately influence the guilt probability for murder and rape. The guilt probability for murder will positively influence the guilt probability for rape.	Partially Supported
1.3	Jurors in adversarial trials will be more likely to be skeptical about the prosecution witness, which will influence Enough evidence 1, which will positively influence Enough evidence 2, which will influence the guilt probability for rape. Enough 1 will influence the guilt probability for murder.	Partially Supported
1.4	Jurors in adversarial trials will be more likely to be skeptical about the prosecution witness, which will influence the defense witness importance and the credibility, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim.	Partially Supported
1.5	Jurors in adversarial trials will be more likely to be skeptical about the prosecution witness, which will influence the defense witness importance and the credibility, which will influence Enough 1, which will influence the guilt probability for murder. The guilty probability for murder will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
1.6	Jurors in adversarial trials will positively evaluate the defense witness importance and credibility, which will positively influence the defendant evaluation and as a result, it will have a positive influence on the guilt probability rating for murder, which will influence the guilt probability rating for rape.	Partially Supported
1.7	Jurors in adversarial trials will perceive that legal instructions were clearer than jurors in inquisitorial trials, which will influence Enough 1 because the understanding of legal instructions influence the perception of whether jurors have enough evidence to reach their verdicts. Enough 1 will influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
WE Condition (Presence of the confession evidence)		

Table 11. (cont'd).		
2.1	The confession evidence will influence the defense witness credibility, which will influence the defendant evaluation, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. The defendant evaluation will also influence sympathy ratings for the defendant and the victim.	Yes
2.2	The confession evidence will influence the defense witness credibility, which will influence Enough 1, which will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	No
2.3	The confession evidence will influence Enough 1, which will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
CE Condition (Presence of the confession evidence and the expert testimony)		
3.1	The presence of the confession evidence and the expert testimony will influence the defense witness credibility, which will influence the defendant evaluation, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. The defendant evaluation will also influence sympathy ratings for the defendant and the victim.	Yes
3.2	The presence of the confession evidence and the expert testimony will influence the defense witness credibility, which will influence Enough 1, which will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2.	Partially Supported
3.3	The presence of the confession evidence and the expert testimony will influence Enough 1, which will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
Country		
4.1	Korean jurors will perceive that the legal instructions are more difficult than American jurors, because they are not familiar with legal terms and have no experience with making legal decisions. This will influence Enough 1 since jurors will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
4.2	Korean jurors will perceive that making legal judgment is more difficult and which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape.	Yes

Table 11. (cont'd).		
4.3	There will be differences between how Korean and American jurors evaluate trial evidence/witnesses. Korean jurors will evaluate the prosecution witness differently from American jurors, which will influence the defense witness importance and the credibility, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability rating for murder, which will influence the guilt probability for rape. The defendant evaluation will influence the sympathy rating.	Partially Supported
4.4	Korean jurors will evaluate the prosecution witness differently from American jurors, which will influence Enough 1 and Enough 2, which will separately influence the guilt probability for murder and the guilt probability for rape. The guilt probability for murder will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
4.5	Korean jurors will evaluate the prosecution witness differently from American jurors, which will influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
4.6	Korean jurors will evaluate the defense witness importance and the credibility differently from American jurors, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability rating for murder, which will influence the guilt probability for rape. The defendant evaluation will influence the sympathy rating.	Yes
4.7	Korean jurors will evaluate the defense witness importance differently from American jurors, which will influence Enough 1, which will influence the guilt probability for murder. The guilt probability for murder influences the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
4.8	Korean jurors will evaluate the defense witness credibility differently from American jurors, which will influence Enough 1, which will influence the guilt probability for murder. The guilt probability for murder influences the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	No
4.9	Korean jurors will evaluate the defendant differently than American jurors, which will influence the defendant evaluation and as a result, it will influence the guilt probability rating for murder, which will influence the guilt probability rating for rape. The defendant evaluation will influence the sympathy rating.	Yes
Interaction 1 (the trial type x CE)		
5.1	The presence of the confession evidence and the expert testimony in an adversarial trial will positively influence the defendant evaluation, which will negatively influence the guilt probability for murder. The guilt probability for murder will positively influence	Yes

Table 11. (cont'd).		
	the guilt probability for rape. The defendant evaluation will also influence the sympathy ratings for the defendant and the victim.	
Interaction 1 (the trial type x WE)		
5.1	The confession evidence in an adversarial trial will damage defense witness importance and defense witness credibility, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation will also influence the sympathy rating.	Partially Supported
5.2	The confession evidence in an adversarial trial will damage defense witness importance, which will influence Enough 1, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
5.3	The confession evidence in an adversarial trial will damage defense witness importance, which will influence the defense witness credibility, which will influence the Enough 1, which will influence the guilt probability for murder, which will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
5.4	The confession evidence in an adversarial trial will damage defense witness importance, which will influence defense witness credibility, which will influence the defendant evaluation, which will negatively influence the guilt probability for murder. The guilt probability for murder will positively influence the guilt probability for rape. The defendant evaluation will also influence the sympathy ratings for the defendant and the victim.	Yes
5.3	The confession evidence in an adversarial trial will damage defense witness credibility, which will influence Enough 1, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	No
Interaction 3 (Trial type x Country)		
6.1	Korean jurors with adversarial trials will perceive that the legal instructions are clear, which will influence their perception of whether enough evidence was introduced for murder, which influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. Enough 1 will influence Enough 2, which will influence the guilt probability for rape.	Partially Supported
6.2	Korean jurors with adversarial trials will perceive that the making legal judgment is more difficult than American jurors, which will influence guilt probability for murder, which influence the guilt probably for rape.	Yes

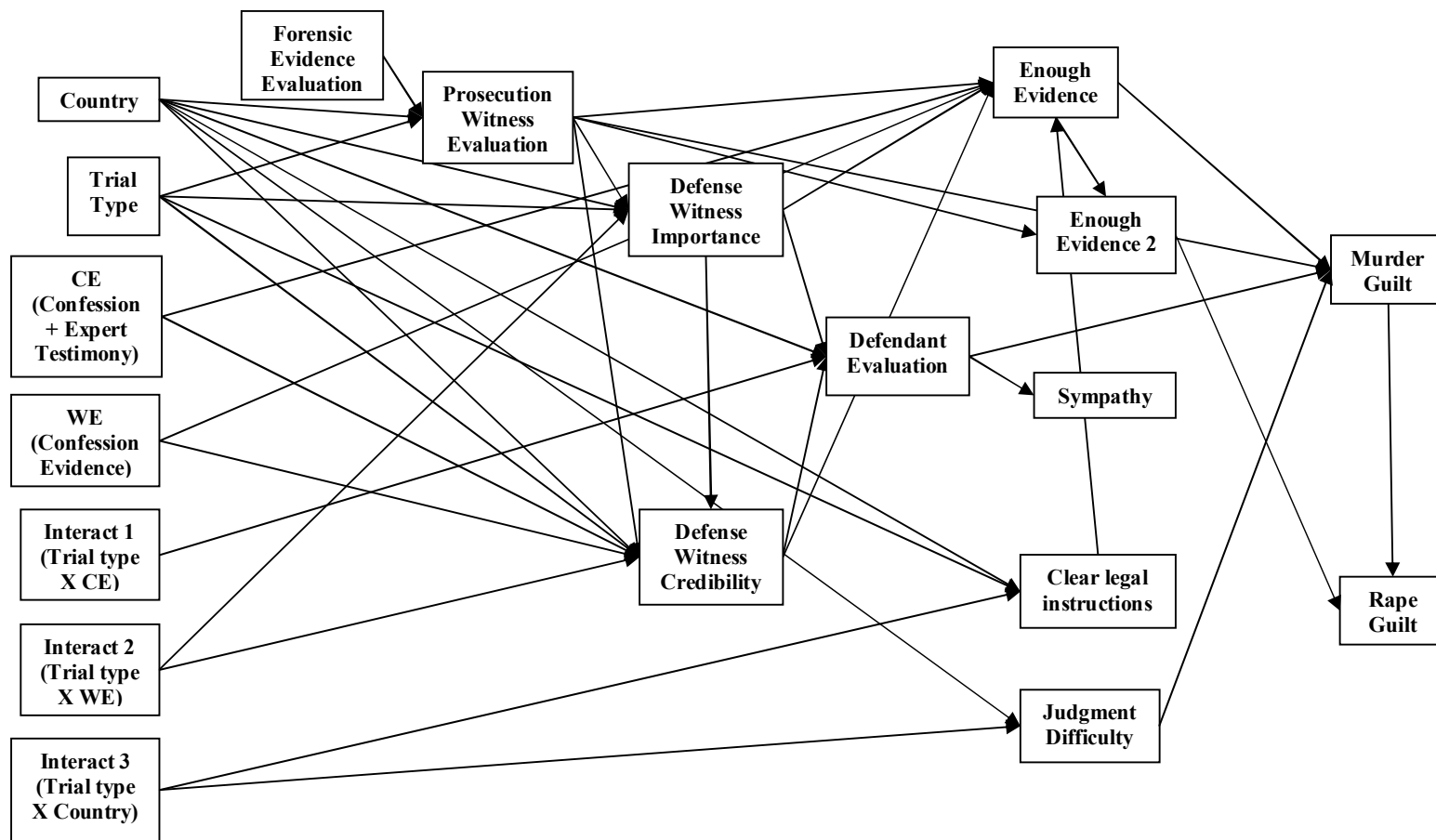


Figure 4. Hypothesized Basic Legal Decision Making Model for Lay Participants.
 Note: Error terms were omitted.

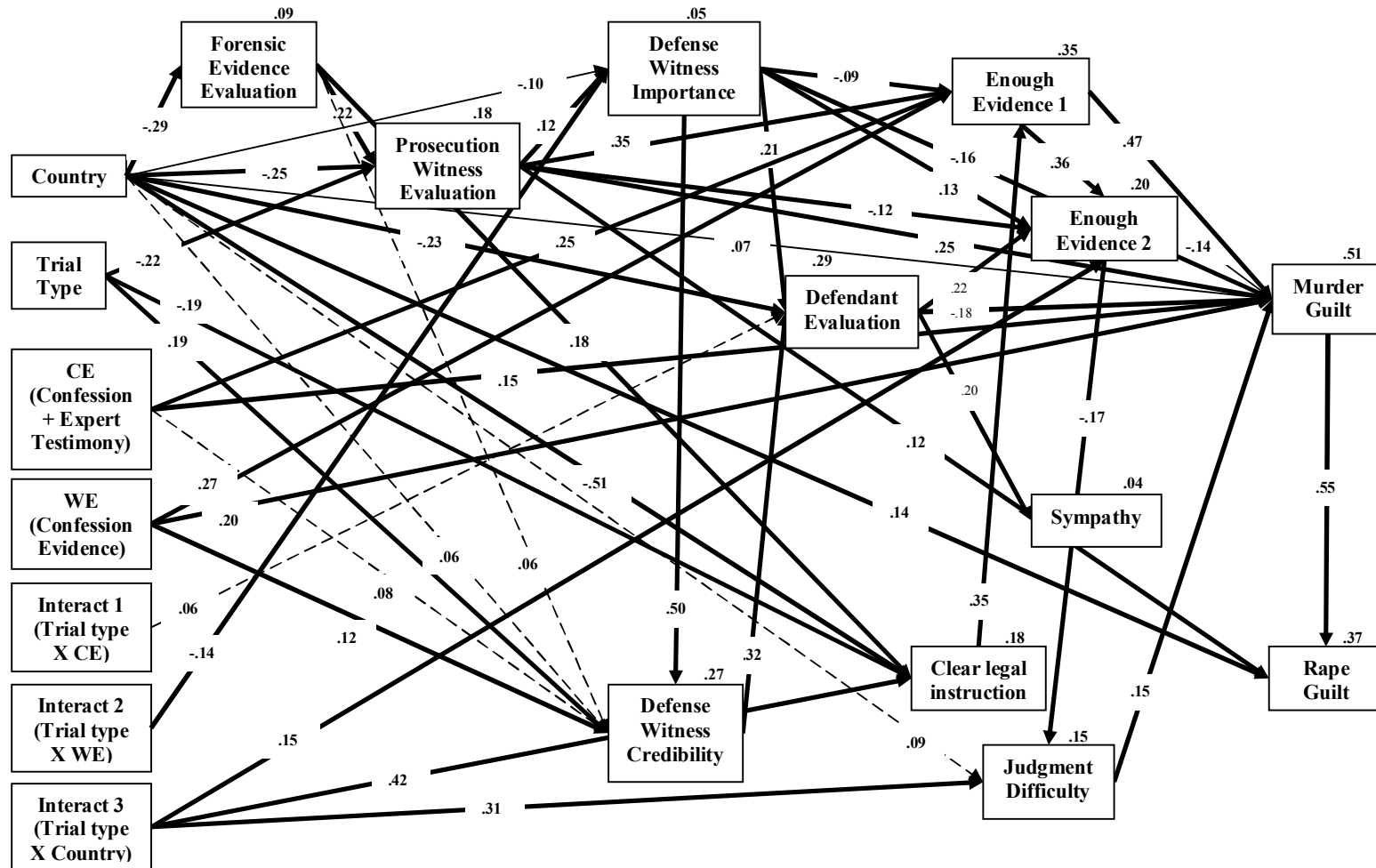


Figure 5. Basic Legal Decision Making Model for Korean and American Lay Participants.

Note: The thickness of a path indicates the level of significance. The bolded paths are significant at $p < .001$. The thin paths are significant at $p < .01$. The dotted paths are significant at $p < .05$. Error terms and correlation paths among independent variables were omitted.

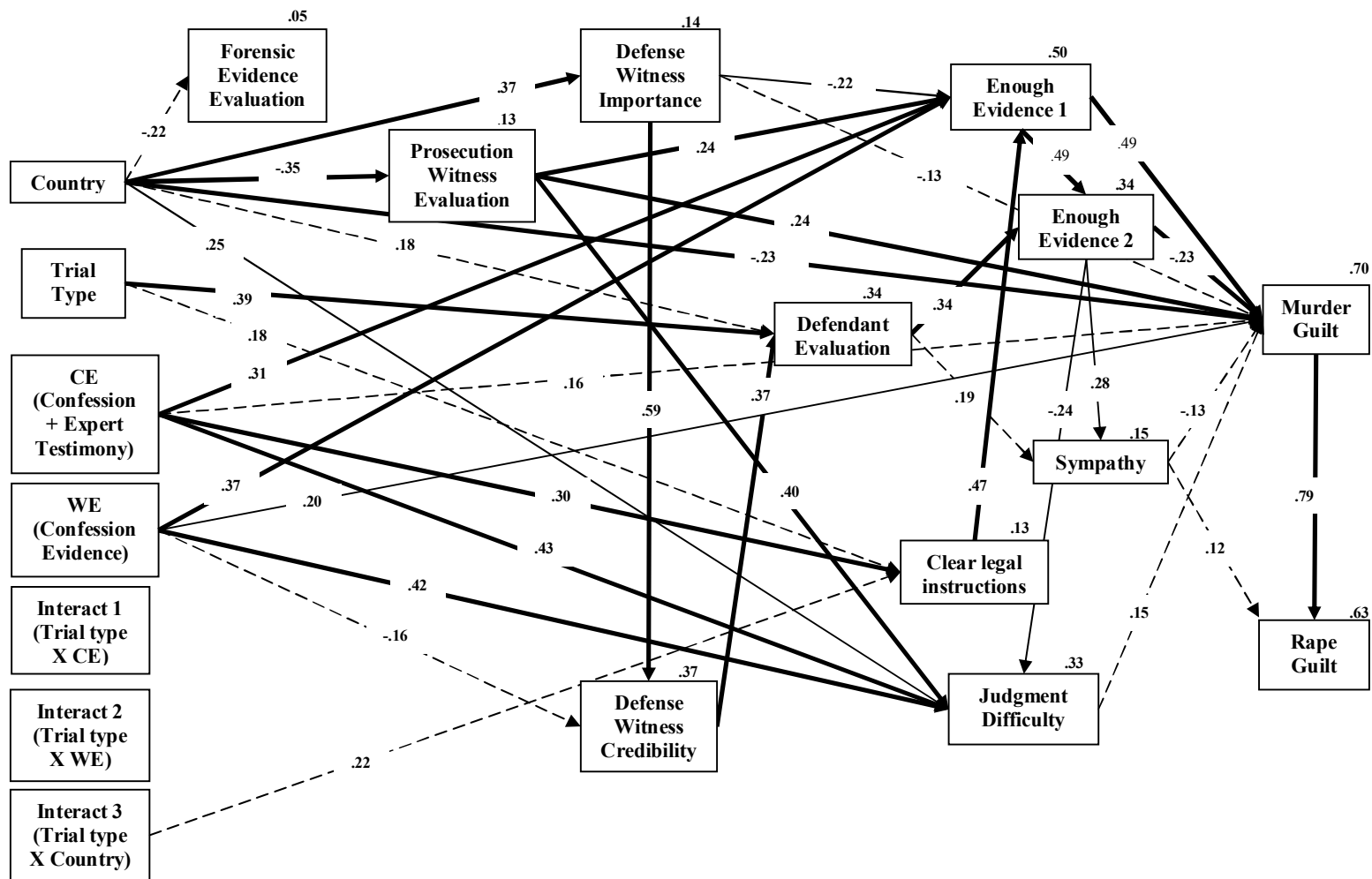


Figure 6. Basic Legal Decision Making Model for Korean and American Legal Professionals. The thickness of a path indicates the level of significance. The bolded paths are significant at $p < .001$. The thin paths are significant at $p < .01$. The dotted paths are significant at $p < .05$. Error terms and correlation paths among independent variables were omitted.

Table 12. Direct, Indirect, and Total Effects for the Basic Decision Making Model on Lay Participants

Variables		Country	Trial Type	CE	WE	Interact 1 Trial x CE	Interact 2 Trial x WE	Interact 3 Trial x Country
Forensic evidence evaluation R ² = .085	Direct	-.292	---	---	---	---	---	---
	Indirect	.000	---	---	---	---	---	---
	Total	-.292	---	---	---	---	---	---
Prosecution witness evaluation R ² = .182	Direct	-.253	-.216	---	---	---	---	---
	Indirect	-.064	.000	---	---	---	---	---
	Total	-.316	-.216	---	---	---	---	---
Defense witness importance R ² = .053	Direct	-.096	.000	---	---	---	-.141	---
	Indirect	-.039	-.027	---	---	---	.000	---
	Total	-.135	-.027	---	---	---	-.141	---
Defense witness credibility R ² = .266	Direct	.077	.188	.079	.121	---	.000	---
	Indirect	-.067	-.013	.000	.000	---	-.070	---
	Total	-.008	.175	.079	.121	---	-.070	---
Defendant evaluation R ² = .253	Direct	-.233	.000	.000	.000	.055	.000	---
	Indirect	-.031	.050	.025	.039	.000	-.052	---
	Total	-.264	.050	.025	.039	.055	-.052	---
Enough evidence presented 1 R ² = .353	Direct	.000	.000	.247	.271	.000	.000	.000
	Indirect	-.297	-.141	.000	.000	-.080	.013	.148
	Total	-.297	-.141	.247	.271	-.080	.013	.148
Enough evidence presented 2 R ² = .204	Direct	.000	.000	.000	.000	.000	.000	.154
	Indirect	-.143	-.016	.094	.105	.012	-.026	.053
	Total	-.143	-.016	.094	.105	.012	-.026	.207
Sympathy R ² = .040	Direct	.000	.000	.000	.000	.000	.000	---
	Indirect	-.053	.010	.005	.008	.011	-.010	---
	Total	-.053	.010	.005	.008	.011	-.010	---
Clear legal Instructions R ² = .184	Direct	-.510	-.193	---	---	.000	---	.418
	Indirect	-.051	.000	---	---	.028	---	.000
	Total	-.561	-.193	---	---	.028	---	.418
Judgment difficulty R ² = .151	Direct	.089	.000	.000	.000	.000	.000	.308
	Indirect	.024	.003	-.016	-.018	-.002	.004	-.035
	Total	.113	.003	-.016	-.018	-.002	.004	.272
Probability of guilt for murder R ² = .511	Direct	.070	.000	.145	.201	.000	.000	.000
	Indirect	-.114	-.123	.096	.103	-.012	.042	.081
	Total	-.043	-.123	.240	.304	-.012	.042	.081
Probability of guilt for rape R ² = .370	Direct	.144	.000	.000	.000	.000	.000	.000
	Indirect	-.062	-.093	.132	.166	-.006	.023	.044
	Total	.082	-.093	.132	.166	-.006	.023	.044

Table 13. Direct, Indirect, and Total Effects for the Basic Decision Making Model on Legal Professionals.

Variables		Country	Trial Type	CE	WE	Interact 1 Trial x CE	Interact 2 Trial x WE	Interact 3 Trial x Country
Forensic evidence evaluation R ² = .050	Direct	-.223	---	---	---	---	---	---
	Indirect	.000	---	---	---	---	---	---
	Total	-.223	---	---	---	---	---	---
Prosecution witness evaluation R ² = .125	Direct	-.353	---	---	---	---	---	---
	Indirect	.000	---	---	---	---	---	---
	Total	-.353	---	---	---	---	---	---
Defense witness importance R ² = .140	Direct	.374	---	---	---	---	---	---
	Indirect	.000	---	---	---	---	---	---
	Total	.374	---	---	---	---	---	---
Defense witness credibility R ² = .369	Direct	.000	---	---	-.163	---	---	---
	Indirect	.219	---	---	.000	---	---	---
	Total	.219	---	---	-.163	---	---	---
Defendant evaluation R ² = .340	Direct	.182	.385	---	.000	---	---	---
	Indirect	.081	.000	---	-.060	---	---	---
	Total	.262	.385	---	-.060	---	---	---
Enough evidence presented 1 R ² = .499	Direct	.000	.000	.309	.374	---	---	.000
	Indirect	-.167	.086	.142	.000	---	---	.103
	Total	-.167	.086	.451	.374	---	---	.103
Enough evidence presented 2 R ² = .338	Direct	.000	.000	.000	.000	---	---	.000
	Indirect	.007	.130	.221	.163	---	---	.050
	Total	.007	.130	.221	.163	---	---	.050
Sympathy R ² = .150	Direct	.000	.000	.000	.000	---	---	.000
	Indirect	.052	.110	.062	.035	---	---	.014
	Total	.052	.110	.062	.035	---	---	.014
Clear legal Instructions R ² = .134	Direct	---	.000	.298	---	---	---	.216
	Indirect	---	.183	.000	---	---	---	.000
	Total	---	.183	.298	---	---	---	.216
Judgment difficulty R ² = .331	Direct	.252	.000	.433	.419	---	---	.000
	Indirect	-.144	-.032	-.053	-.039	---	---	-.012
	Total	.108	-.032	.379	.380	---	---	-.012
Probability of guilt for murder R ² = .695	Direct	-.226	.000	.162	.204	---	---	.000
	Indirect	-.202	-.035	.230	.205	---	---	.037
	Total	-.428	-.035	.392	.410	---	---	.037
Probability of guilt for rape R ² = .630	Direct	.000	.000	.000	.000	---	---	.000
	Indirect	-.340	-.028	.312	.325	---	---	.030
	Total	-.340	-.028	.312	.325	---	---	.030

Table 14. Means and Standard Deviations on the Probability of Guilt in the Legal Decision Model for Lay Participants.

Variables	Murder	Rape
	Mean (SD)	Mean (SD)
Country		
Korea	49.86 (24.74)	41.26 (24.48)
US	49.96 (29.84)	35.67 (28.52)
Trial Type		
Adversarial	46.74 (25.25)	37.87 (25.75)
Inquisitorial	53.60 (28.64)	39.94 (27.23)
Type of Evidence		
Confession + Expert (CE)	53.54 (27.17)	40.66 (27.88)
Confession (WE)	60.28 (26.79)	44.68 (26.83)
No confession (WC)	36.95 (21.56)	31.72 (22.95)
Interaction 1 (Trial Type x CE)		
Adversarial	49.00 (26.15)	38.44 (27.11)
Inquisitorial	58.89 (27.47)	43.27 (28.63)
Interaction 2 (Trial Type x WE)		
Adversarial	55.25 (24.04)	42.49 (24.79)
Inquisitorial	66.60 (28.75)	47.43 (29.06)
Interaction 3 (Trial Type x Country)		
Adversarial	Korea	49.49 (22.91)
	US	43.54 (27.42)
Inquisitorial	Korea	50.25 (26.58)
	US	58.52 (30.84)

Table 15. Means and Standard Deviations on the Probability of Guilt in the Legal Decision Model for Legal professionals.

Variables	Murder	Rape
	Mean (SD)	Mean (SD)
Country		
Korea	29.83 (20.98)	25.00 (19.67)
US	59.25 (33.10)	46.42 (35.36)
Trial Type		
Adversarial	43.77 (29.37)	35.28 (29.65)
Inquisitorial	43.97 (32.76)	35.17 (30.79)
Type of Evidence		
Confession + Expert (CE)	52.00 (32.97)	45.71 (33.81)
Confession (WE)	57.37 (28.82)	41.84 (29.49)
No confession (WC)	22.90 (18.29)	18.95 (18.86)
Interaction 1 (Trial Type x CE)		
Adversarial	55.29 (30.85)	47.65 (31.13)
Inquisitorial	48.89 (35.46)	43.89 (36.96)
Interaction 2 (Trial Type x WE)		
Adversarial	53.68 (24.99)	38.42 (29.11)
Inquisitorial	61.05 (32.47)	45.26 (30.25)
Interaction 3 (Trial Type x Country)		
Adversarial	Korea	36.67 (22.53)
	US	51.15 (33.98)
Inquisitorial	Korea	23.87 (17.83)
	US	67.04 (30.86)

Confession Evidence Model: Mediated Path Analysis 2

In order to examine the effects of confession evidence and expert testimony on the probability of guilt ratings, the second model, called the confession evidence model, was created. Based on the finalized first model, the confession evidence evaluation variable and the confession-was-coerced variable were added as moderating variables. Since jurors in the WC condition were not exposed to the confession evidence and/or the expert testimony, jurors in WC condition were removed and only 655 cases were used in the analysis. The five independent variables were dummy coded: the country (1 = South Korea, 0 = US), the trial type (1 = adversarial trials, 0 = inquisitorial trials), CE (1 = trials with the confession and the expert testimony, 0 = trials with the confession evidence), and the interaction 1 (1 = adversarial trial x EC, 0 = other) and interaction 2 (1 = adversarial trial x Korea, 0 = other) were entered in the model. The paths in the model were based on the finalized basic decision making model for mock jurors. It is expected that CE (presence of the confession evidence and the expert testimony) condition and the interaction 2 (trial type x country) significantly influence the confession evidence evaluation and the specific hypotheses regarding the confession evidence in the model were listed in Table 16. The hypothesized causal relationship among the independent variables and the probability of guilt ratings for two charges is provided in Figure 7. The hypothesized model was tested and the results indicated that the hypothesized model fit the data well, $\chi^2(107) = 471.100$, $p < .001$, CFI = .925 and RMSEA = .072. Although the hypothesized model fit was satisfied, several modifications were indicated and the model was modified. The finalized model is presented Figure 8. The modified model fit indicated that the model fits the data well, $\chi^2(111) = 336.931$, $p < .001$, CFI = .954 and

RMSEA = .056. Table 17 shows the direct, indirect, and total effect sizes for the model. This mediated model explains 57.5% of the variances in the probability of guilt rating for murder and 30.9% of the variances in the probability of guilt for rape. The results indicated that Korean lay participants rated the guilt probability for murder ($b = -.024$) lower, but rated guilt probability for rape ($b = .141$) higher than American lay participants. Lay participants with adversarial trials rated the guilt probability for murder ($b = -.132$) and rape ($b = -.071$) lower than the lay participants with inquisitorial trials. Korean lay participants in adversarial trials (interaction 2) rated the guilt probability for murder higher ($b = .010$), but rated the guilt probability for rape ($b = -.006$) lower than any other conditions although the total effect sizes were very small. Most of the hypotheses for the model were either supported or partially supported.

The confession model for lay participants was also tested using the data from legal professionals in order to examine the comparability of the confession model. The results indicated that the model did not fit the data, $\chi^2(111) = 220.741$, $p < .001$, CFI = .843 and RMSEA = .118, indicated that legal professionals and lay participants evaluate and weigh the evidence differently. Therefore, the model was modified and several paths were eliminated. The final confession model for legal professionals is presented in Figure 9. After the modification, the model fit indices indicated that the model fit the data well, $\chi^2(131) = 163.222$, $p = .013$, CFI = .954 and RMSEA = .059. Table 18 shows the direct, indirect, and total effect sizes for the model. This mediated model explains 77.5% of the variances in the probability of guilt rating for murder and 55.3% of the variances in the probability of guilt for rape. The results indicated that Korean legal professionals rated the guilt probability for murder ($b = -.775$) and rape ($b = -.577$) lower than American

legal professionals. Legal professionals with adversarial trials rated the guilt probability for murder ($b = -.037$) and rape ($b = -.027$) lower than legal professionals with inquisitorial trials although the total effect sizes were small. Korean legal professionals with adversarial trials (interaction 2) rated the guilt probability for murder ($b = .249$) and rape ($b = .182$) higher than other conditions. The presence the confession evidence and the expert testimony or the interaction between the trial type and CE did not significantly influence the evidence/trial evaluation nor the probability of guilt ratings.

Table 16. Hypotheses for the confession model.

No	Hypotheses	Supported
	CE (the presence of the confession evidence and the expert testimony)	
1.1	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which directly influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
1.2	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence Enough 1 and Enough 2, because jurors will perceive that confession evidence is enough to make legal decisions. Enough 1 and Enough 2 will influence the guilt probability for murder. Enough 1 will influence Enough 2, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	Partially Supported
1.3	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	Yes
1.4	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which again will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	Yes
1.5	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which will influence the defendant witness credibility. The defense witness	Yes

Table 16. (cont'd).

	credibility will influence the defendant evaluation, which will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder.	
1.6	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which will again influence Enough 1 and Enough 2. They will influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
1.7	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which in turn will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape.	Yes
1.8	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the guilt probability for murder and rape. The guilt probability for murder will influence the guilt probability for rape.	Yes
1.9	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the Enough 1 and Enough 2, which will influence the guilty probability for murder. Enough 1 will influence Enough 2, which will influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty rating, which will influence the guilt probability for murder.	Partially Supported
1.10	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the defense witness credibility. The defense witness credibility evaluation will influence the defendant evaluation, which will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for rape. Enough 2 will also influence the judgment difficulty rating, which will influence the guilt	No

Table 16. (cont'd).		
	probability for murder.	
1.11	The presence of the confession evidence and the expert testimony will influence the perception of the confession evidence and its evaluation, which will influence the evaluation of whether the defendant's confession was coerced. The evaluation of confession evidence will influence judgment difficulty, which will influence the guilt probability rating for murder, which will influence the guilt probability for rape.	Yes
Interact 1 (Trial type x CE)		
2.1	Confession evidence and expert testimony in adversarial trials will influence the evaluation of whether the defendant's confession was coerced, which will influence the judgment difficulty, which will influence the guilt probability rating for murder, which will influence the guilt probability rating for rape.	No
Interact 2 (Trial type x Country)		
2.1	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which directly influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
2.2	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence Enough 1 and Enough 2, because jurors will perceive that confession evidence is enough to make legal decisions. Enough 1 and Enough 2 will influence the guilt probability for murder. Enough 1 will influence Enough 2, which will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	Partially Supported
2.3	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	Yes
2.4	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which again will influence the defendant evaluation. The defendant evaluation will influence the guilt probability for murder, which will influence the guilt	Yes

Table 16. (cont'd).		
	probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty, which will influence the guilt probability for murder.	
2.5	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which will influence the defendant witness credibility. The defense witness credibility will influence the defendant evaluation, which will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for murder.	Yes
2.6	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which will again influence Enough 1 and Enough 2. They will influence the guilt probability for murder, which will influence the guilt probability for rape.	Yes
2.7	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the defense witness importance, which in turn will influence the guilt probability for murder. The guilt probability for murder will influence the guilt probability for rape.	Yes
2.8	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the guilt probability for murder and rape. The guilt probability for murder will influence the guilt probability for rape.	Yes
2.9	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the prosecution witness evaluation, which will influence the Enough 1 and Enough 2, which will influence the guilty probability for murder. Enough 1 will influence Enough 2, which will influence the guilt probability for murder. Enough 2 will also influence the judgment difficulty rating, which will influence the guilt probability for murder.	Partially Supported
2.10	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the defense witness credibility. The defense witness	No

Table 16. (cont'd).

	credibility evaluation will influence the defendant evaluation, which will influence the guilt probability for murder, which will influence the guilt probability for rape. The defendant evaluation also will influence the sympathy ratings for the defendant and the victim. The defendant evaluation will influence Enough 2, which will influence the guilt probability for murder, which again influence the guilt probability for rape. Enough 2 will also influence the judgment difficulty rating, which will influence the guilt probability for murder.	
2.11	Korean lay participants in adversarial trials will influence the perception of the confession evidence and its evaluation, which will influence the evaluation of whether the defendant's confession was coerced, which influence the judgment difficulty. Judgment difficulty evaluation will influence the guilt probability rating for murder, which will influence the guilt probability rating for rape.	Yes

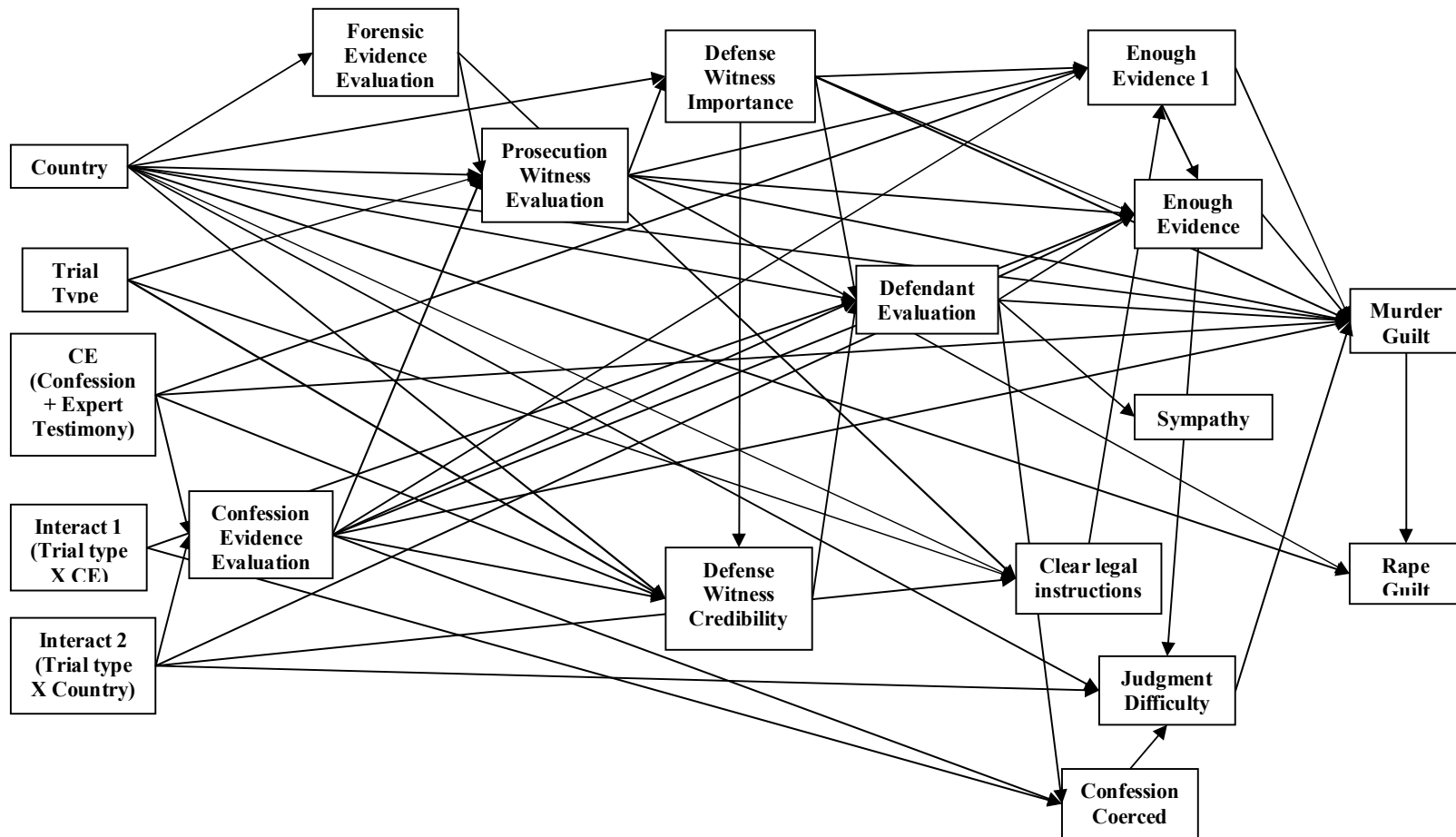


Figure 7. The Hypothesized Confession Model for Korean and American Lay Participants.
 Note: Error terms and correlation paths among independent variables were omitted.

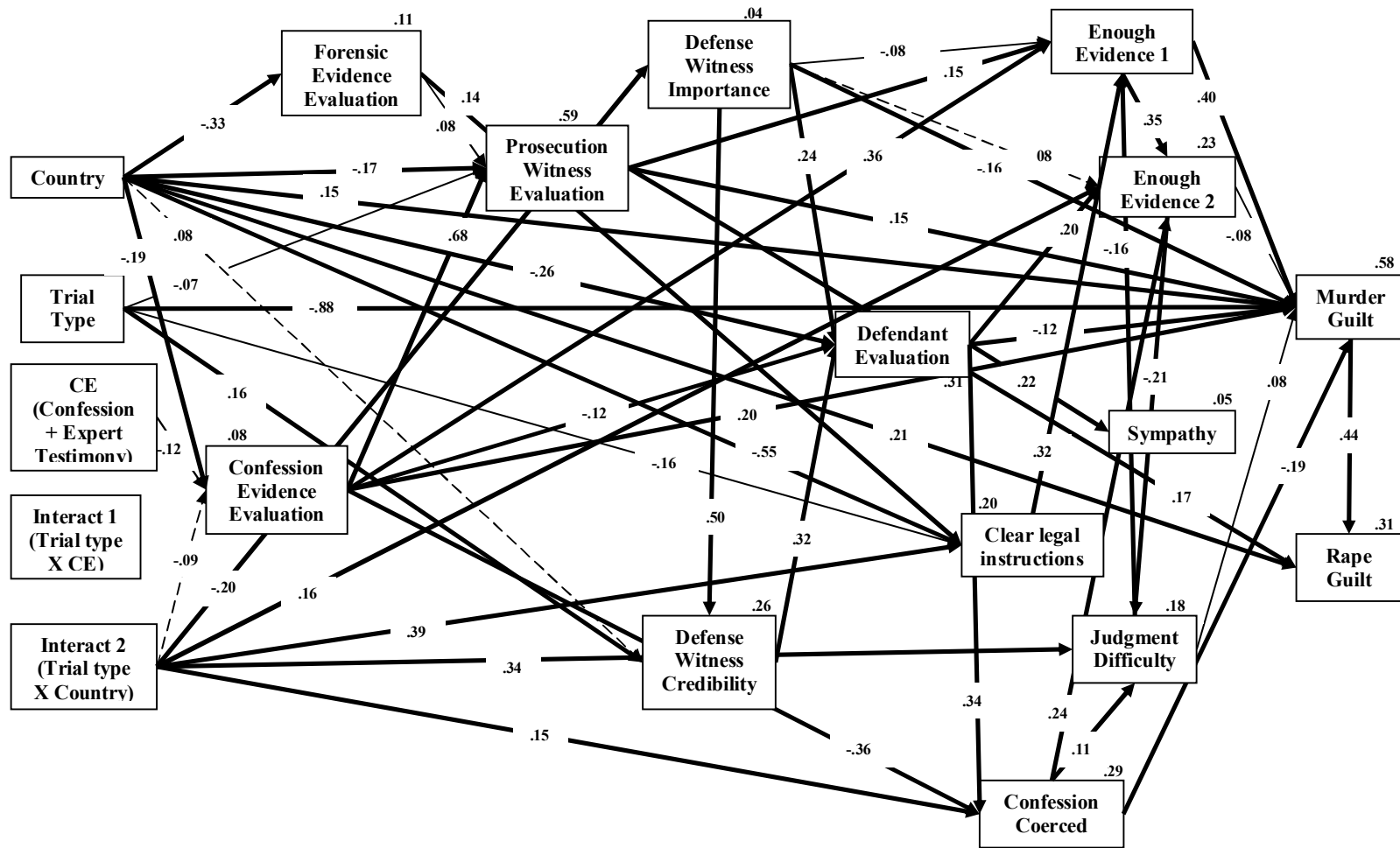


Figure 8. The Confession Model for Korean and American Lay Participants. The thickness of a path indicates the level of significance. The bolded paths are significant at $p < .001$. The thin paths are significant at $p < .01$. The dotted paths are significant at $p < .05$. Error terms and correlation paths among independent variables were omitted.

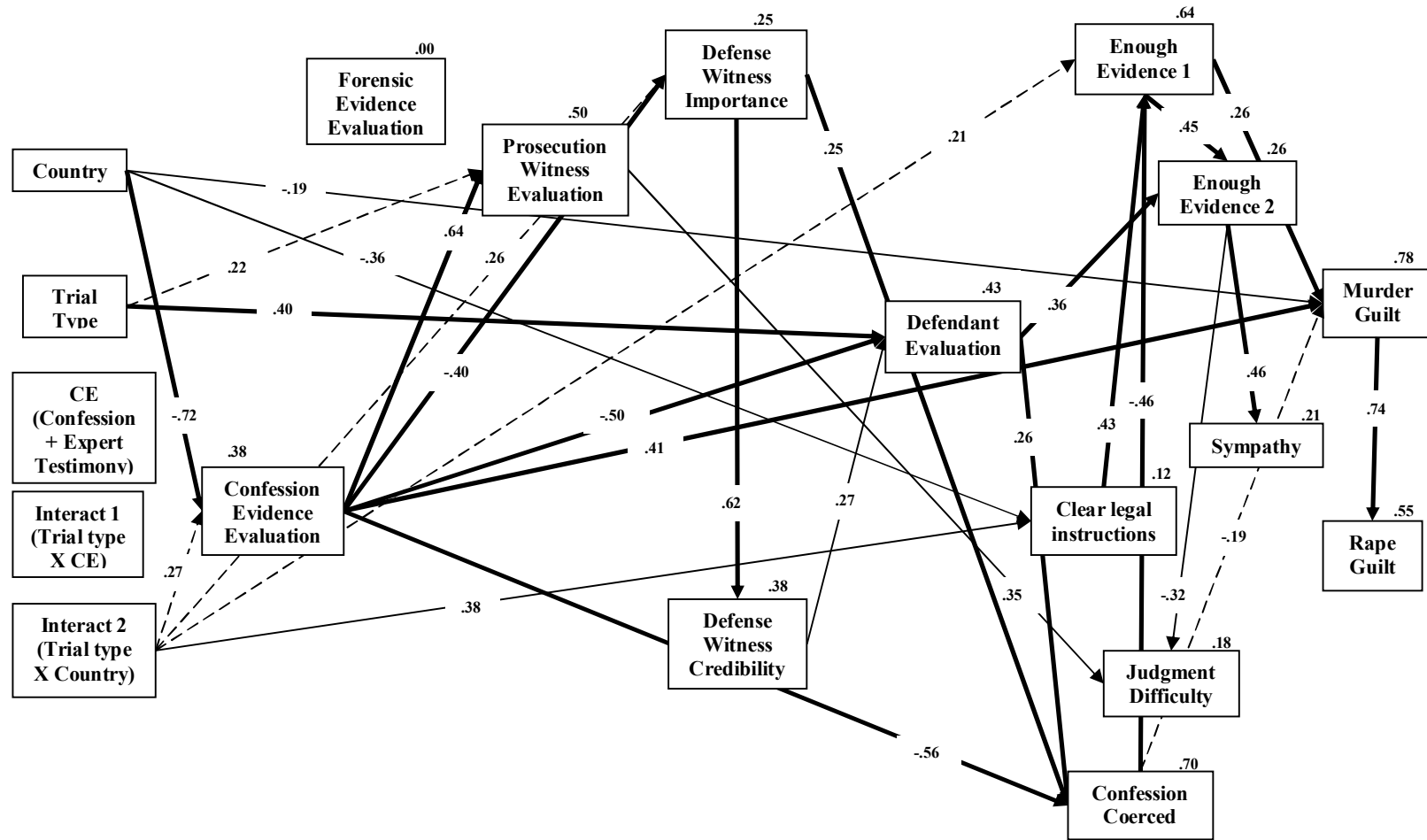


Figure 9. The Confession Model for Korean and American legal professionals. The thickness of a path indicates the level of significance. The bolded paths are significant at $p < .001$. The thin paths are significant at $p < .01$. The dotted paths are significant at $p < .05$. Error terms and correlation paths among independent variables were omitted.

Table 17. Direct, Indirect, and Total Effects for the Confession Model on Lay Participants

Variables		Country	Trial type	CE	Interact 1 Trial x CE	Interact 2 Trial x Country
Confession evidence evaluation R ² = .082	Direct	-.192	---	-.116	---	-.093
	Indirect	.000	---	.000	---	.000
	Total	-.192	---	-.116	---	-.093
Forensic evidence evaluation R ² = .107	Direct	-.327	---	---	---	---
	Indirect	.000	---	---	---	---
	Total	-.327	---	---	---	---
Prosecution witness evaluation R ² = .585	Direct	-.167	-.070	.000	---	.000
	Indirect	-.157	.000	-.079	---	-.063
	Total	-.324	-.070	-.079	---	-.063
Defense witness importance R ² = .040	Direct	---	---	---	---	-.200
	Indirect	---	---	---	---	.000
	Total	---	---	---	---	-.200
Defense witness credibility R ² = .257	Direct	.081	.163	---	---	.000
	Indirect	.000	.000	---	---	-.101
	Total	.081	.163	---	---	-.101
Defendant evaluation R ² = .309	Direct	-.264	.000	.000	---	.000
	Indirect	.048	.051	.014	---	-.069
	Total	-.216	.051	.014	---	-.069
Enough evidence presented 1 R ² = .429	Direct	.000	.000	.000	---	.000
	Indirect	-.311	-.062	-.055	---	.041
	Total	-.311	-.062	-.055	---	.041
Enough evidence presented 2 R ² = .233	Direct	.000	.000	.000	---	.155
	Indirect	-.139	-.004	-.003	---	.021
	Total	-.139	-.004	-.003	---	.176
Sympathy R ² = .048	Direct	.000	.000	.000	---	.000
	Indirect	-.047	.011	.003	---	-.015
	Total	-.047	.011	.003	---	-.015
Clear legal Instructions R ² = .199	Direct	-.548	-.161	---	---	.381
	Indirect	-.046	.000	---	---	.000
	Total	-.594	-.161	---	---	.381
Judgment difficulty R ² = .179	Direct	.000	.000	.000	---	.344
	Indirect	.029	.003	.006	---	-.020
	Total	.029	.003	.006	---	.324
Confession Coerced R ² = .228	Direct	.000	.000	.000	---	.154
	Indirect	-.004	.017	.047	---	.010
	Total	-.004	.017	.047	---	.164
Probability of Guilt for murder R ² = .575	Direct	.147	-.088	.000	---	.000
	Indirect	-.171	-.044	-.066	---	.010
	Total	-.024	-.132	-.066	---	.010
Probability of Guilt for rape R ² = .309	Direct	.207	.000	.000	---	.000
	Indirect	-.047	-.071	-.043	---	-.006
	Total	.141	-.071	-.043	---	-.006

Table 18. Direct, Indirect, and Total Effects for the Confession Model on Legal Professionals

Variables		Country	Trial Type	CE	Interact 1 Trial x CE	Interact 2 Trial x Country
Confession evidence evaluation R ² = .376	Direct	-.720	---	---	---	.265
	Indirect	.000	---	---	---	.000
	Total	-.720	---	---	---	.265
Forensic evidence evaluation R ² = .000	Direct	---	---	---	---	---
	Indirect	---	---	---	---	---
	Total	---	---	---	---	---
Prosecution witness evaluation R ² = .502	Direct	.000	.220	---	---	.000
	Indirect	-.458	.000	---	---	.169
	Total	-.458	.220	---	---	.169
Defense witness importance R ² = .250	Direct	.000	---	---	---	.258
	Indirect	.284	---	---	---	-.105
	Total	.284	---	---	---	.154
Defense witness credibility R ² = .381	Direct	.000	---	---	---	.000
	Indirect	.175	---	---	---	.095
	Total	.175	---	---	---	.095
Defendant evaluation R ² = .434	Direct	.000	.398	---	---	.000
	Indirect	.272	.066	---	---	-.058
	Total	.272	.464	---	---	-.058
Enough evidence presented 1 R ² = .642	Direct	-.295	.000	---	---	.210
	Indirect	-.408	-.055	---	---	.222
	Total	-.703	-.055	---	---	.432
Enough evidence presented 2 R ² = .261	Direct	.000	.000	---	---	.000
	Indirect	-.215	.142	---	---	.172
	Total	-.215	.142	---	---	.172
Sympathy R ² = .208	Direct	.000	.000	---	---	.000
	Indirect	-.098	.065	---	---	.078
	Total	-.098	.065	---	---	.078
Clear legal Instructions R ² = .124	Direct	-.363	---	---	---	.383
	Indirect	.000	---	---	---	.000
	Total	-.363	---	---	---	.383
Judgment difficulty R ² = .182	Direct	.000	.000	---	---	.000
	Indirect	-.094	.033	---	---	.005
	Total	-.094	.033	---	---	.005
Confession Coerced R ² = .698	Direct	.000	.000	---	---	.000
	Indirect	.547	.119	---	---	-.126
	Total	.547	.119	---	---	-.126
Probability of Guilt for murder R ² = .775	Direct	-.193	-.000	---	---	.000
	Indirect	-.582	-.037	---	---	.245
	Total	-.775	-.037	---	---	.245
Probability of Guilt for rape R ² = .553	Direct	.000	.000	---	---	.000
	Indirect	-.577	-.027	---	---	.182
	Total	-.577	-.027	---	---	.182

Evaluation of Confession Evidence 2

In order to examine whether legal professional experience influenced the confession evidence evaluation, legal professionals were divided into three groups: less experienced (legal experience between 0-9 years), moderately experienced (between 10-19 years), and highly experienced (20 years and over). An analysis of variance (ANOVA) was conducted to determine whether legal professional experience influenced confession evidence evaluation, coerciveness of the defendant's confession rating, and the verdicts for two charges. The results indicated that the effect of legal professional experience was significant with respect to the evaluation of the confession, $F(2,65) = 3.224$, $p = .046$, and ratings of the coerciveness of the defendant's confession, $F(2,64) = 2.961$, $p = .059$, were marginally significantly different. LSD post hoc test indicated that the moderately experienced legal professionals ($M = 5.583$, $SD = 1.40$) evaluated the confession evidence significantly higher than less experienced professionals ($M = 4.439$, $SD = 1.73$) and highly experienced ($M = 4.233$, $SD = .07$) and moderately experience legal professionals ($M = 3.00$, $SD = 2.24$) evaluated the coerciveness of the defendant's confession as significantly lower than less experienced ($M = 4.09$, $SD = 1.61$) and highly experienced ($M = 4.80$, $SD = .84$). In short, moderately experienced legal professionals were more likely to view the confession evidence positively and less likely to perceive that the confession was coerced than less experienced or highly experienced legal professionals.

CHAPTER 5. DISCUSSION

The current research provides an empirical basis to examine the quality of decision making in two types of trials in South Korea and the United States. The study examines how coerced confession evidence and expert testimony influenced the legal decisions of legal professionals and lay participants when the evidence is introduced in an adversarial or an inquisitorial trial and tests whether both decision makers display the same types of biases and errors when assessing coerced confession evidence. Considering that the confession evidence effect sizes of legal professionals' guilt probability ratings were greater than the effect sizes for lay participants, legal professionals appear more sensitive to variations in confession evidence than are lay persons. This indicates that the legal professionals make legal decisions more systematically than lay participants.

Trial Type

The results indicate that the trial type significantly influenced verdicts. As expected, inquisitorial trials were more likely to produce guilty verdicts than adversarial trials. The participants in adversarial trials were more likely to perceive that the confession was coerced than the participants in inquisitorial trials. The two mediational path models also demonstrated that lay participants in adversarial trials rated the guilty probability for murder ($b = -.123$ for the basic and $b = -.132$ for the confession model) and rape ($b = -.093$ for the basic and $b = -.071$ for the confession model) lower than the participants in inquisitorial trials. Lay participants in adversarial trials viewed the defense witness as more credible ($b = .175$ for the basic and $b = .163$ for the confession model) and positively evaluate the defendant ($b = .050$ for the basic and $b = .051$ for the

confession model), but rated the prosecution witnesses negatively ($b = -.216$ for the basic and $b = -.070$ for the confession model) than the participants in inquisitorial trials. Lay participants were also more likely to perceive that the evidence was not sufficient to reach their verdict for the murder ($b = -.141$ for the basic and $b = -.062$ for the confession model) and the rape ($b = -.016$ for the basic and $b = -.004$ for the confession model). Lay participants in adversarial trials were more likely to benefit from the cross-examination process although the trial type had no effect on the confession evidence evaluation for both legal professionals and lay participants. Lay participants in adversarial trials were more likely to perceive the confession as coerced ($b = .017$). Previous laboratory experiment (Kassin & Sukel, 1997) indicated that mock jurors recognized that the confession was coerced and they perceived that the confession had no influence, but the confession evidence increased the conviction rate. However, the current study indicated that participants in adversarial trials were more likely to perceive that the confession was coerced and less likely to produce guilty verdicts for both charges. Therefore, opposing arguments and the intensive cross-examination process in adversarial trials may provide an opportunity for lay persons to critically evaluate the evidence and the witnesses, including the coerciveness of the defendant's confession. Consequently, lay participants in adversarial trials were less likely to produce guilty verdicts for both charges than lay participants in inquisitorial trials. Furthermore, the adversarial trial process is more likely to increase lay participants' information processing and cognitive loading than is true for participants in inquisitorial trials. The confession model indicated that lay participants in adversarial trials found that making legal judgments was more difficult ($b = .003$ for the basic and $b = .003$ for the confession model) than participants in inquisitorial trials. It is

also interesting to note that lay participants in adversarial trials were more likely to perceive that the legal instructions were unclear ($b = -.193$ for the basic and $b = -.161$ for the confession model) than the participants in inquisitorial trials. The contents of the legal instructions were exactly the same: the judge provides the legal instructions verbally in adversarial trials but mock jurors read the written instructions in inquisitorial trials.

Similar to lay participants, legal professionals in adversarial trials rated the probability of guilt for murder ($b = -.035$ for the basic and $b = -.037$ for the confession model) and rape ($b = -.028$ for the basic and $b = -.027$ for the confession model) lower than legal professionals in inquisitorial trials. Legal professionals in adversarial trials generally positively evaluated the defendant ($b = .385$ for the basic and $b = .464$ for the confession model), and perceived that the evidence was sufficient to reach their verdict for the murder ($b = .086$ for the basic, but $b = -.055$ for the confession model) and the rape ($b = .130$ for the basic and $b = .142$ for the confession model). The two meditational path models indicated that legal professionals and jurors weigh and evaluate evidence differently. However, legal professionals and lay participants were more likely to produce a guilty verdict in the inquisitorial trials as expected. It seems that both legal professionals and lay participants were benefited from the cross-examination process in adversarial trials.

The classic experiments conducted by Thibaut and Walker in the 1970s indicated that lay participants (undergraduate students) expressed greater satisfaction with the fairness of adversarial procedure than inquisitorial procedure. The Thibaut and Walker studies indicate that people are generally concerned about whether the procedure is fair and impartial. Trial participants naturally want sufficient opportunity to tell their side of

the story. The adoption of the adversarial system in South Korea may not only provides opportunities to reduce wrongful convictions, but also trial participants are more likely to perceive the adversarial procedure as fair and unbiased versus inquisitorial procedure. However, it is unclear whether the Thibaut and Walker's results or the current study results describe the opinions of actual trial participants in criminal justice system. An undergraduate student sample has no concerns about paying their lawyers and the whole experimental process was completed within two and a half hours in maximum. Furthermore, participants were not faced with biased witnesses and trial tactics that obscure the truth. It is still an empirical question whether undergraduate participants might reconsider their views on procedural fairness when they are confronted with some of these realities of the adversarial process.

Type of Evidence: Confession Evidence (WE) and Expert Testimony (CE)

As expected, the introduction of confession evidence significantly increased the chance of producing guilty verdicts compared to when the confession evidence was not introduced. The basic path model also demonstrated that lay participants with the confession evidence rated the guilt probability higher for murder ($b = .304$ for the basic model) and rape ($b = .166$ for the basic model). The confession evidence had a direct effect on the probability of guilt ratings for murder ($b = .201$, $p < .001$). Furthermore, lay participants perceived that they had enough evidence to reach the verdicts for murder ($b = .271$) and rape ($b = .105$) when the confession evidence was introduced. Lay participants also perceived that making legal judgment was less difficult ($b = -.018$). Legal professionals rated the guilt probability for murder ($b = .410$) and rape ($b = .030$) higher

than legal professionals without the confession evidence. Legal professionals also perceived that they had enough evidence to reach the verdict for murder ($b = .374$) and rape ($b = .163$) and the confession evidence itself damages legal professionals' perception of the credibility of the defense witness ($b = -.163$) as well as the defendant evaluation ($b = -.060$). It seems that legal professionals and lay participants automatically assume that the defendant was guilty and considered that they have enough evidence to convict the defendant when the confession evidence was introduced regardless of whether legitimacy of the confession evidence was in dispute. Therefore, introduction of the confession evidence increased the guilt probability for both legal professionals and lay participants in general.

A similar pattern was found when both the confession evidence and the expert testimony were introduced. Decision makers were still more likely to produce guilty verdicts when the confession evidence and the expert testimony were introduced when compared to the decision makers without such evidence although the probability of producing a guilty verdict was reduced. It seems that introduction of the confession evidence increase the guilt probability ratings regardless of the presence of expert testimony. The basic path model indicated that lay participants were still more likely to rate the guilt probability higher for murder ($b = .240$) and rape ($b = .132$) than the lay participants without the confession evidence and the expert testimony. The introduction of confession evidence and expert testimony also directly influences the guilt probability rating for murder ($b = .145, p < .001$), and lay participants rated the guilt probability higher when compared to lay participants without the confession evidence and the expert testimony. Lay participants with the expert testimony were more likely to perceive that

defense witnesses were credible ($b = .175$) and positively evaluate the defendant ($b = .050$), but also perceived that they had enough evidence to reach their verdict for murder ($b = .247$) and rape ($b = .094$). However, the confession model indicated that lay participants with the confession evidence and the expert testimony rated the guilt probability for murder ($b = -.066$) and rape ($b = -.043$) lower than lay participants with the confession evidence only. Furthermore, lay participants were more likely to perceive that the defendant's confession was coerced ($b = .047$). It seems that lay participants actively evaluated the expert testimony, which sensitized lay participants to the confession evidence. Lay participants were still positively evaluated the defendant ($b = .014$), but negatively evaluated the prosecution witnesses ($b = -.079$) and were less likely to perceive that enough evidence was presented for murder ($b = -.055$) and rape ($b = -.003$) when compared to lay participants with the confession evidence only. The results indicated that expert testimony can reduce the effects of the confession evidence, but it was not sufficient to eliminate the effect of the confession evidence. The same evidence evaluation and decision making patterns were observed with legal professionals. The basic model indicated that legal professionals rated the guilt probability higher for murder ($b = .392$) and rape ($b = .312$) and more likely to perceive that they had enough evidence for murder ($b = .451$) and rape ($b = .221$) than legal professionals without such evidence. Once confession evidence is presented in court, both legal professionals and lay participants perceive that they already have enough evidence to reach their "guilty" verdict, which seemingly makes them fail to evaluate other evidence independently from the confession evidence although the expert testimony reduces the confession effects.

As indicated by the two path models and the study by Kassin and Sukel (1997), jurors were simply unable to discount the confession evidence regardless of whether the confession was coerced or voluntary. Previous empirical studies (Schklar & Diamond, 1999; Vidmar & Diamond, 2001) indicated that if the motivation to focus on the message is absent and/or the ability to process the message is impaired or present, people tend to peripherally or heuristically process the information. The two paths model indicated that the confession evidence alone or both the confession evidence and the expert testimony directly influenced the guilt probability ratings. The results indicated the possibility that the confession evidence significantly reduced legal decision makers' motivation to focus on or evaluate other types of evidence as evidence by the fact that the presence of confession evidence directly increased their guilt probability judgment. Both lay and legal professionals do evaluate and weigh other evidence, but it is possible that the confession evidence itself makes them less motivated to process other evidence systematically. Considering that confession evidence is usually introduced early during trials, early introduction of the confession evidence can influence the interpretation of other evidence presented later on. The confession evidence itself can be used as a filter for legal decision makers to select and interpret other evidence and force them to discount evidence that is incongruent with the confession evidence.

Country

There was a significant difference in the verdict outcomes between Koreans and Americans. Koreans were significantly less likely to produce guilty verdicts and more likely to view the confession as coerced than Americans, yet, Korean lay participants

were more likely to produce guilty verdicts than American lay participants. The meditational path models indicated that Korean lay participants evaluate and weigh evidence differently from American lay participants. Korean lay participants rated the guilt probability lower for murder ($b = -.043$ for the basic and $b = -.024$ for the confession model), but higher for rape ($b = .082$ for the basic and $b = .141$ for the confession model) than American lay participants. Korean lay participants were more skeptical about evidence in general: they rated the prosecution witnesses more negatively ($b = -.316$ for the basic and $b = -.324$ for the confession model), the defense witnesses less credible ($b = -.008$ for the basic, but $b = .081$ for the confession model) and less important ($b = -.135$ for the basic model), and more negatively evaluated the defendant ($b = -.264$ for the basic and $b = -.216$ for the confession model) than American lay participants. More importantly, the confession model indicated that Korean lay participants were more skeptical towards the confession evidence ($b = -.192$) in general, but less likely to view the confession as coerced ($b = -.004$) although the effect size was small. Furthermore, Korean lay participants were less likely to perceive that they had enough evidence to reach the verdicts for murder ($b = -.297$ for the basic and $b = -.311$ for the confession model) and rape ($b = -.143$ for the basic and $b = -.139$ for the confession model). The two models also indicated that being Korean directly influenced the guilt probability ratings for murder ($b = .070$, $p < .01$ for the basic and $b = .147$, $p < .001$ for the confession model) and rape ($b = .144$, $p < .01$ for the basic and $b = .207$, $p < .001$ for the confession model). Korean lay participants were less likely to perceive that the legal instructions were clear ($b = -.561$ for the basic and $b = -.594$ for the confession model) and more likely to

perceive that making legal judgment was difficult ($b = .113$ for the basic and $b = .029$ for the confession model) than the American lay participants.

Although the Korean government adopted a jury system in 2008, the majority of Koreans have not participated in the legal decision making process and have not been exposed to jury trials or its processes when compared to Americans. Empirical evidence indicates that American lay participants are often confused about jury instructions or the instructions are poorly understood, although the comprehension rate varies greatly depending on the research methodology, ranging from about 13% to 73% (Lieberman & Sales, 1997; Severance & Loftus, 1982). It is possible that Korean lay participants were more confused about jury instructions since the instruction contained abstract legal terms, such as “beyond reasonable doubt,” and most Koreans are not exposed to such legal terms. Therefore, it was expected that Korean lay participants would experience some difficulties in comprehension and application of legal instructions compared to American lay participants. Moreover, the legal instructions in the stimulus materials for the current study were originally created in English, based on American criminal procedural law. It is an empirical question whether Korean lay participants still experience more difficulties in understanding the legal instructions when actual Korean instructions are used.

Although there was a significant difference in the verdicts between Koreans and Americans in general, the larger difference was found between Korean and American legal professionals. Korean legal professionals were significantly less likely to produce guilty verdicts than American legal professionals. The two paths models also indicated that Korean legal professionals gave lower rating for the guilt probability for murder ($b = -.428$ for the basic and $b = -.775$ for the confession model) and rape ($b = -.340$ for the

basic and $b = -.577$ for the confession model) than American legal professionals. Korean legal professionals rated the defendant more positively ($b = .262$ for the basic and $b = .272$ for the confession model) as well as providing higher ratings of defense witness credibility ($b = .219$ for the basic and $b = .175$ for the confession model) and importance ($b = .374$ for the basic and $b = .284$ for the confession model). Furthermore, Korean legal professionals were more skeptical towards the confession evidence ($b = -.720$ for the confession model), more likely to perceive that the confession was coerced ($b = .547$), and more negatively evaluated the prosecution witness ($b = -.353$ for the basic and $b = -.458$ for the confession model). Therefore, Korean legal professionals were more likely to favor the defense than American legal professionals. It is also interesting to note that Korean legal professionals were more likely to be sympathetic towards the victim and the defendant ($b = .052$ for the basic model) than American legal professionals, whereas Korean lay participants were less sympathetic ($b = -.053$ for the basic model) than American lay participants. A t-test result showed that Korean legal professionals were more sympathetic towards the defendant than Korean lay participants, $t(636) = -3.533$, $p < .001$, whereas there was no difference in sympathy rating between American legal professionals and lay participants. Considering the popular argument that jurors can be easily swayed by sympathy or pity for the accused, the results indicate that Korean lay participants can be more objective decision makers than Korean legal professionals. In sum, Koreans and Americans evaluate and weigh the evidence differently and there was a significant difference in guilt probability ratings and final verdicts between Koreans and Americans.

Although lay people have been criticized for their inferiority in making legal decisions, the current study indicates that legal decisions of Korean lay persons were comparable to legal decisions of Korean legal professionals. Although Korean lay and legal professionals evaluate and weigh evidence differently, it is reasonable to believe that they can fall prey to the same type of errors, especially when confession evidence – whether coerced or voluntary – is presented.

Interaction between Trial Type and Confession Evidence (WE)

The interaction between the trial type and the presence of the confession evidence indicated that lay participants were more likely to produce guilty verdicts for murder ($b = .042$) and rape ($b = .023$) when the confession evidence was introduced in adversarial trials. The adversarial cross-examination process alone was not strong enough to discount the effects of the confession evidence. The presentation of confession evidence influence lay participants to perceive that they had enough evidence to reach a verdict for murder ($b = .013$) and negatively influence defense credibility ($b = -.070$) and importance ($b = -.141$) as well as the defendant evaluation ($b = -.052$). Unlike lay participants, there was no significant influence of the confession evidence in adversarial trials on verdicts for legal professionals. It seems that the effect of the confession evidence is stronger with lay participants than legal professionals when the evidence was introduced in adversarial trials.

Interaction between Trial Type and Confession Evidence and Expert Testimony (CE)

The interaction between the trial type and the presence of the confession evidence and the expert testimony indicated that when the expert testimony was presented in an adversarial trial, lay participants were less likely to rate the guilt probability. Therefore, the expert testimony is expected to educate and sensitize jurors to the confession evidence up to a certain degree. The two path model indicated that the expert testimony can significantly modify the guilt probability ratings when the expert testimony was introduced in an adversarial trial. When the confession evidence and the expert testimony were introduced in an adversarial trial, lay participants rated the guilt probability less for murder ($b = -.012$ for the basic model) and rape ($b = -.006$ for the basic model) although the effect sizes were small. Lay participants with the expert testimony in an adversarial trial were less likely to perceive that they had enough evidence to reach the verdict for murder ($b = -.080$ for the basic model), but more likely to perceive that they had enough evidence to reach the verdict for rape ($b = .012$ for the basic model). Moreover, lay participants were more likely to perceive that the legal instructions were clear ($b = .028$) and less likely to perceive that making legal decision was difficult ($b = -.002$). Therefore, the current study showed that providing expert testimony in an adversarial trial was enough to make jurors skeptical about the confession evidence and, as a result, less likely to produce guilty verdicts for both charges. Since the expert testimony effects were found in an adversarial trial with lay participants, the expert testimony was more likely to sensitize lay participants than legal professionals.

A previous study by Moffa and Platania (2007) indicated that expert testimony alone was not sufficient to modify jurors' perception of the confession and failed to find

an interaction effect between the expert testimony and the confession evidence although they recognized the possibility that the expert testimony had some influence on jurors' legal decisions. Considering that the expert testimony and the trial information were provided in a 10-page transcript in the previous study, it raises the question about the amount and the content of the expert testimony used in the study. It is not clear what type and how much information was provided by the expert in the study, but Sundby (1997) indicated that expert testimony is more influential when the expert testimony is concrete or specific to the case. The expert testimony used in the current study explained specific types of coerced confession and testified that the defendant's confession has to be treated with extreme caution since his confession was similar to a specific type of false confession. Because the expert testimony provided in the study were specific to the case, explanation of the circumstances surrounding the confession, and the cross-examination process provided more information to jurors, the expert testimony in the current study were sufficient enough to modify jurors' perception and effective to change jurors' legal decision. The testimony in the current study makes it possible for the decision makers to properly evaluate the confession.

Interaction between Trial Type and Country

It was interesting to note that the interaction between the country and the trial type was significant. The interaction indicated that Americans in general were more influenced by the trial type than Koreans. However, Koreans in adversarial trials were more likely to vote guilty than Americans in adversarial trials, but Americans in inquisitorial trials were more likely to vote guilty for murder than Koreans in inquisitorial

trials for the murder charge. The two mediational path model indicated that Korean lay participants in adversarial trials rated the guilt probability higher for murder ($b = .081$ for the basic and $b = .010$ for the confession model) and rape ($b = .044$ for the basic, but $b = -.004$ for the confession model). Same pattern was observed with Korean legal professionals with adversarial trials. They rated higher guilt probability for murder ($b = .037$ for the basic and $b = .245$ for the confession model) and rape ($b = .030$ for the basic and $b = .182$ for the confession model). Interestingly, the confession model indicated that Korean lay participants in adversarial trials were more skeptical towards the confession evidence ($b = -.093$) and more likely to view that the confession was coerced ($b = .164$) but Korean legal professionals in adversarial trials evaluated the confession evidence positively ($b = .265$) and less likely to view that the confession was coerced ($b = -.126$). It means Korean lay participants are less likely to be influenced by confession evidence when the evidence is presented in adversarial trials.

Deliberation Effect

The effects of country, confession evidence, expert testimony, and pre-deliberation verdicts on the post-deliberation verdicts indicated that Korean lay participants, lay participants with confession evidence, lay participants with the expert testimony were more likely to vote guilty for the murder charge after controlling for the pre-deliberation verdicts. It seems that the deliberation process increases the probability for guilty verdict outcome when the confession evidence was introduced. As expected from previous studies, the verdict favored by the majority of jurors at the pre-deliberation

is most likely to be the jury's final verdict (Devine et. al, 2001), the pre-deliberation verdicts were significant predictors for the post-deliberation verdicts.

Decision Makers: Legal Professionals and Lay

Although there is evidence that legal professionals and lay participants evaluate and weigh the evidence and the witnesses differently, the performance of Korean lay participants were comparable to the performance of Korean legal professionals. Korean legal professional-lay verdict agreement rate was 63.8% for murder and 88.8% for rape, whereas American legal profession-lay verdict agreement rate was 77.8% for murder and 77.8% for rape. Considering that the agreement rates based on actual criminal cases vary from 64% to 89% depending on the location in the United States (Eisenberg et al., 2003), the agreement rates in Korea were comparable to American agreement rates.

However, the legal professional-lay disagreement pattern illustrated that Korean lay participants showed pro-prosecution tendencies whereas Korean legal professionals showed pro-defense tendencies when confession evidence was introduced. When the confession evidence was presented, Korean lay participants were more likely to vote guilty whereas Korean legal professionals were more likely to vote not guilty. However, American lay participants were more likely to vote for not guilty whereas legal professionals were more likely to vote for guilty. American legal professionals' pro-prosecution tendency is consistent with previous findings (Heuer & Penrod, 1994). The difference in disagreement pattern between Korean and American participants requires more empirical research. Because an extensive survey is currently conducted on actual jurors and judges who participate in jury trials in Korea, it is important to look closely to

the content of the judge-jury disagreement. More empirical research with larger numbers of Korean judge participants may show more similar pattern to American judge-jury disagreement tendencies. According to Lee (2008), out of 225 cases filed, 60 cases resulted in jury trials during 2008 and Korean judge-jury agreement rates were about 88.3%. Most of judge-jury disagreement cases showed that juries tend to acquit when judges tend to convict. Although the jury trial case was still small in number, the results indicated that Korean judge-jury agreement and disagreement tendencies and patterns are similar to the American judge-jury patterns.

It was interesting to note that legal professional experience was significantly influence the evaluation of confession evidence and the coerciveness of the defendant's confession. Moderately experienced legal professionals were more likely to view the confession evidence positively and the defendant's confession was less coerced than less experienced and highly experienced legal professionals. The results indicated less experienced and highly experienced legal professionals were more cautious about the confession evidence. It is possible that lack of experience with confession evidence or much experience with confession evidence force legal professionals to carefully examine the evidence because they may have higher fear for wrongful judgments. However, it is empirical question whether moderately experienced legal professionals are significantly less concerned about wrongful judgments or other factors force them to evaluate the confession evidence more positively.

CHAPTER 6. CONCLUSIONS

Conclusions

There have been many attempts to determine the “better” legal systems between inquisitorial and adversarial, but most of the comparative law literature and law reviews were based on theoretical discussions. Recent empirical studies on the comparison of two types of legal system were subjected to criticisms on their research design that the study fail to reflect how the two systems actually operate (Anderson & Otto, 2003; Sheppard, 1985). The current study examined how legal decision makers evaluate and interpret confession evidence and how expert testimony influences legal decisions. As expected, both legal professionals and lay people produced fewer convictions when coerced confession evidence was introduced as major incriminating evidence in an adversarial trial than an inquisitorial trial. It is important to note that the adversarial trial effect was stronger for lay people than legal professionals. Furthermore, the results indicate it is important to provide expert testimony in order to produce more critical evaluations of confession evidence. The effect of expert testimony seems to be enhanced when the evidence was scrutinized by cross-examination because it provided an opportunity to examine the legitimacy of the evidence. Since the effects of the expert testimony in an adversarial trial were only influential to lay participants, the adoption of adversarial procedures in the traditionally inquisitorial country, such as South Korea, might be expected to reduce wrongful convictions.

The adversarial process is more likely to make lay people perceive that making legal decision is complex and difficult. However, previous empirical studies (Arce, Tortosa, & Alfaro, 2004; Eisenberg, 2003; Heuer & Penrod, 1994) as well as the current study indicated that the performance of lay people is comparable to the performance of

legal professionals although they evaluate and weigh evidence differently. Both legal professionals and lay people were unable to discount inappropriate evidence. Surprisingly, expert testimony in an adversarial trial did sensitize lay people, not legal professionals, and made them discount the disputed evidence. Unlike popular criticism that jurors are easily influenced by sympathy as compared to legal professionals (Devine, Clayton, & Dunford, 2001; Hastie, Penrod, & Pennington, 1983), Korean legal professionals were more likely to feel sympathetic towards the defendant and the victim than lay participants. Therefore, the current study indicated that lay people evaluated and interpreted evidence and produced fair verdicts compared to legal professionals.

Some differences in legal decision making patterns were observed between Korean and American participants. Not only did Korean and American legal professionals and lay persons evaluate and interpret evidence differently, but American legal professionals were more conviction prone than Korean legal professionals and Korean lay people were more conviction prone than American lay people. It is an empirical question whether those differences were based on cultural difference or based on the uniqueness of the research participants. It is possible that American legal professionals' higher tendency for guilty verdicts when compared to Korean legal professionals is due to the fact that the majority of American legal professional participants were prosecutors.

This study was the first attempt to compare the legal decision making of Korean and American legal professionals and lay people when coerced confession evidence and expert testimony were introduced in adversarial and inquisitorial trials. Although it is impossible to evaluate legal decisions on all combinations of various crime types and

evidence, the current research, for the first time, provides some valuable information about how legal decision makers evaluate and weigh evidence in two types of trials.

Research Implications

As previously discussed, the majority of criminal investigations in South Korea have relied on confession evidence. Recent newspaper articles indicated that the amount of monetary compensation for the wrongfully accused is 6,118,750,000 won (approximately \$5,562,500.00 and \$ 1 is about 1100 won) in 2008 (Park, 2009). The article reported that the large increase in monetary compensation in 2008 compare to 2007 (2,720,000,000 won, approximately \$2,472,727.27) was based on cases between 1960 and 1980 that were identified as wrongful convictions. It is clearly evident that wrongfully accused and convicted rates will increase in number. Seo (2007) indicted that judges in inquisitorial system are more likely to reach similar verdicts in certain types of cases, which can lead to legal decisions without full consideration of the unique characteristics of each case. The author suggested that the adoption of a jury system in South Korea will provide fresh perspectives on each case and force jurors to critically evaluate the evidence. Therefore, the adoption of a jury system is more likely to decrease wrongful conviction rates than the traditional inquisitorial system. Cross-examination in the adversarial system may force jurors to critically evaluate the evidence, and therefore, the circumstances of how evidence was obtained can be closely examined and there is a higher probability that illegally obtained evidence can be revealed or discovered.

However, it is important to provide more comprehensive jury instructions to jurors. Empirical evidence indicates that American jurors are often confused about jury

instructions or the instructions are poorly understood (Devine, Clayton, & Dunford, 2001; Lieberman & Sales, 1997; Severance & Loftus, 1982). The present study results also indicated that Korean lay participants experienced more difficulty understanding legal instructions than American lay participants. Since legal instructions used in the stimulus materials were based on New York State legal instructions and direct Korean translation was used without considering the comprehension level of Korean lay participants, it is somewhat expected that participants experienced more difficulties in comprehension and application of legal instructions. Complex, abstract terms, and jargons used in jury instructions can be substituted with more concrete words, shortening sentences, and replacing legal jargons in order to increase instruction comprehensibility (Severance, Green, & Loftus, 1984; Severance & Loftus, 1982). Experimental studies in legal instructions will provide useful input to government decisions on the adoption of jury instructions that are suitable to Korean legal contexts.

Moreover, it is important to utilize experts to educate jurors in trials. When the evidence is complex or does not clearly favor one side, jurors are more likely to use biasing factors. Jurors are often criticized as incapable of effectively evaluating complex evidence, specifically scientific, technical, and/or statistical evidence (Schklar & Diamond, 1999). The motivation to focus on the message is absent and/or the ability to process the message is impaired, people tend to peripherally or heuristically process the information by attending to extralegal information, which can influence jurors' decisions. However, a recent review (Vidmar & Diamond, 2001) of empirical studies concluded that jurors can use complex material when the information is offered in a form that they can utilize. Therefore, it is important to allow experts to educate Korean jurors on complex

evidence or to sensitize them to specific evidence that is known to increase wrongful convictions in order to prevent jurors to make biased legal decisions.

Jurors are subject to biases and stereotypes in any period of the trial process by selectively gathering and processing information, how and when evidence is introduced, and the amount of attention paid by individual jurors, which ultimately can bias jurors differently. However, providing more comprehensive judicial instructions and expert testimony are considered as the primary means to prevent jurors from making biased decisions. It is also important that jurors should be able to apply those instructions, but whether the instructions have been revised effectively should be considered first as well as making a continuous effort towards revision, until a certain level of comprehension is reached.

Limitations

The current study has a number of strengths and weaknesses. First, there have been no experimental studies conducted with Korean legal professionals before, especially with judges, and the research participation rate is usually very low with judges and legal professionals. The present study results provide valuable information about how legal professionals make legal decisions in the United States and Korea. Although path analysis enables us to measure the direct and indirect effects of one variable upon the other variable, the legal models were based on a small sample sizes. Considering the complexity of the two models, ideal analyses would require larger samples. Since the sample size was small, the statistical precision of the results are somewhat affected. Therefore, the legal professional models proposed here should be interpreted with

caution. Since the data from legal professionals was collected in a specific location, it may not accurately depict the decision making pattern of American and Korean legal professionals in general. Furthermore, Korean legal professionals ask direct questions to witnesses and defendants under the inquisitorial trial system. Since Korean judges under inquisitorial trial condition had no such opportunity in the current experiment, their evaluation of evidence and the final verdict may not accurately represent their true performance.

Second, some of the study results were based on undergraduate student samples. It is possible that undergraduate students and actual jurors evaluate and weigh evidence differently. Since potential jurors can vary in terms of age, educational level, and their life experience, it is possible that potential jurors may evaluate the evidence differently. This raises the questions of whether the influence of the confession evidence or the effects of the expert testimony would be greater for community members when compared to the student sample used in the present study. Bornstein (1999) argued that only minimal differences were observed between students and community members. Further study should be conducted in Korea to examine any differences between undergraduate students and potential jurors in their evaluation of evidence and the legal decision making process since no research has been conducted using a potential jury pool in South Korea.

Third, the current study was first empirical study to fully compare legal decision making in adversarial and inquisitorial trials in two countries. Although simplified adversarial and inquisitorial trials were used in the study, the two types of trial closely resemble the current adversarial and inquisitorial trials in the United States and South Korea. However, external validity is still an issue. The current study used a trial video as

an adversarial trial and summary of evidence documents as an inquisitorial trial.

Obviously, the videotaped civil trials lack realism and the dynamics of actual trials.

Actual jurors in an actual trial are exposed to more complete evidence, which may have a more powerful influence on jurors and judges. It is possible that actual jurors have more opportunities to observe more non-verbal behaviors of witnesses and the defendant and the presentation of other evidence, such as crime scene pictures, may influence how jurors decide the case.

Furthermore, Korean participants watched American trial videos although Korean subtitles were provided. Thus, it is possible that Koreans' perception or evaluation of witnesses, especially the police officers, may differ from Korean trials. Tsukasaki (2004) suggests that the meaning encoded in language structure not only influences cognition, but also daily practices of a given culture. Because culture has its specific values, perceptions and normative values may be different. However, Ling, Zheng, and Fang (2003) identified Chinese, Japanese, and Americans who were the same in their basic social norms, including ethics and morals, value orientations, laws and rules, and social customs. Although each Asian culture and American culture shares similar normative values in the areas of laws, ethics, and morals, it is possible that different cultural contexts and languages influence how individuals think and view the world. Thus, different perceptions and normative values may play an important role in the evaluation of case facts and the application of jury instructions, which may influence a cognitive framework of how to interpret the given information, a framework that may be different when presented in English. As a particular illustration, Korean citizens view police as inefficient, authoritative, corrupt and coercive (Hwang, McGarrell & Benson, 2005).

Because the prosecution witnesses in the trial video were American police officers, it is unclear whether Korean participants evaluated the witnesses based on their perception of American police officers, as they have seen from American movies or American popular TV shows, or their perception of police officers in general.

As mentioned by Bornstein (1999), there has been a variety of methods used to conduct jury research, but only a few differences have been observed in the presentation of trial materials and the types of participants. Jury simulation studies recently have used more realistic and ecologically valid methodologies. However, use of videotaped adversarial trials and inquisitorial trial dossiers as stimulus materials in the current study should be considered what Diamond (1997) referred to as “stage one” research in order to establish an empirical basis for future research. Thus, “stage two” research should use more ecologically valid methodology. An actual enactment of the trial in a court room may provide a “trial-like” atmosphere to mock jurors and the results may more accurately reflect how jurors evaluate trial evidence.

Fourth, there were confounds between the trial type, the country, the decision makers, and the data collection procedures. A mixture of mailing, on-line, laboratory, and in-class data collection methods were used in order to collect data from the targeted population in various physical locations. Furthermore, on-line data collection methods may raise novel questions. On-line data collection has the greatest advantage when conducting international research, involving a diverse population, and multiple study locations. Although questions may be raised about the methodological differences between the on-line data collection and the traditional laboratory method, the use of an on-line data collection site is becoming a widely accepted method in the field of

psychology and law and there is evidence that the pattern of results is similar across data collection methods (O'Neil & Penrod, 2001; O'Neil, Penrod, & Bornstein, 2003; Studebaker, Robbennolt, Penrod, Pathak-Sharma, Groscup, & Devenport, 2002). Mailing surveys to specific participants, including actual judges, has also been used in other legal decision making research (Kovera & McAuliff, 2000). A full assessment of the effects of data collection methods on substantive conclusions from psycho-legal research will require further research.

REFERENCES

- Anderson, K., & Nolan, M. (2004). Lay participation in the Japanese justice system: A few preliminary thoughts regarding the lay assessor system (saiban-in seido) from domestic historical and international psychological perspectives. *Vanderbilt Journal of Transnational Law*, 37(4), 935-992.
- Anderson, R. A., & Otto, A. L. (2003). Perceptions of fairness in the justice system: A cross-cultural comparison. *Social behavior and personality*, 31(6), 557-564.
- Arce, R., Tortosa, F., & Alfaro, E. (2004). Verdicts and deliberation content analysis of judges and juries in the Spanish legal context. *Psychology in Spain*, 8, 28-38.
- Bornstein, B. (1999). The ecological validity of jury simulations: Is the jury still out? *Law and Human Behavior*, 23, 75-91.
- Block, M. K., Parker, J. S., Vyborna, O. & Dusek, L. (2000). An experimental comparison of adversarial versus inquisitorial procedural regimes. *American Law and Economics Review*, 2(1), 170-194.
- Blom-Cooper, L. (Oct. 21, 2003). A judge can do the work of 12 amateurs, and better. *The Times*, Retrieved June 25th, 2009, from <http://business.timesonline.co.uk/tol/business/law/article995775.ece>.
- Bromley, R. S. (1996). Jury leniency in drinking and driving cases. Has it changed? 1958 versus 1993. *Law and Psychological Review*, 20, 27-55.
- Browne, M. N., Williamson, C. L., & Barkacs, L. L. (2002). The perspectival nature of expert testimony in the United States, England, Korea, and France. *Connecticut Journal of International Law*, 18, 76-100.
- Citron, K., & Johnson, M. B. (2006). Expert psychological testimony regarding disputed confession evidence in federal courts: United States v. Vallejo. *Journal of Forensic Psychology Practice*, 6(1), 1-27.
- Clack, M. (2003). Caught between hope and despair: An analysis of the Japanese criminal justice system. *Denver Journal of International Law and Policy*, 31(4), 525-553.
- Chase, O. G. (2005). Law, culture, and ritual. New York: NYU Press.
- Collett, M. E., & Kovera, M. B. (2003). The effects of British and American trial procedures on the quality of juror decision-making. *Law and Human Behavior*, 27(4), 403-422.

- Constitution of South Korea, (1987). Retrieved August 25th, 2007, from http://korea.na.go.kr/res/low_01_read.jsp?boardid=1000000035.
- Cross, F. B. (2003). Book review: American the adversarial. *Virginia Law Review*, 89(1), 189-233.
- Cutler, B. L., Dexter, H. R., & Penrod, S. D. (1990). Nonadversarial methods for sensitizing jurors to eyewitness evidence. *Journal of Applied Social Psychology*, 20, 1197-1207.
- Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993).
- DeClue, G. (2005). Psychological consultation in cases involving interrogations and confessions. *The Journal of Psychiatry and Law*, 33, 313-358.
- Devine, D. J., Clayton, L. D., Dunford, B. B., Seying, R., Pryce, J. (2001). Jury decision making: 45 years of empirical research on deliberating groups. *Psychology, Public Policy, and Law*, 7(3), 622-727.
- Diamond, S. S. (2003). Convergence and complementarity between professional judges and lay adjudicators. In P. J. van Koppen & S. D. Penrod (Eds.), *Adversarial versus inquisitorial justice*. New York: Springer.
- Drizin, S. A., & Leo, R. A. (2004). The problem of false confessions in the post-DNA world. *North Carolina Law Review*, 82, 891-1007.
- Eisenberg, T., Hannaford-Agor, P. L., Hans, V. P., Mott, N. L., Munsterman, G. T., Schwab, s. J., & Wells, M. T. (2005). Judge-Jury Agreement in Criminal Cases: A Partial Replication of Kalven and Zeisel's The American Jury. *Journal of Empirical Legal Studies*, 2, 171- 207.
- Froeb, L. M. & Kobayashi, B. H. (2001). Evidence production in adversarial vs. inquisitorial regimes, *Economics Letters*,70(2), 267-272.
- Gudjonsson, G. H., & Sigurdsson, J. F. (1994). How frequently do false confessions occur? An empirical study among prison inmates. *Psychology, Crime and Law*, 1(1), 21-26.
- Hagan, M. A. (1997). *Whores of the court: The fraud of psychiatric testimony and the rape of American justice*. New York: Harper Collins.
- Hahm, C. (2003). Law, culture, and the politics of Confucianism. *Columbia Journal of Asian Law*, 16, 253- 301.

- Han, S. H., Kim, S. J., & Park, K. B. (July, 2006). *Preparing the ground: The case of lay participation in Korea*. Paper presented at the meeting of the Law and Society Association, Baltimore, MD.
- Hastie, R., Penrod, S. D., & Pennington, N. (1983). *Inside the jury*. Cambridge, MA: Harvard University Press.
- Hastie, R., & Viscusi, V. K. (1998). What juries cant' do well: The jury's performance as a risk manager. *Arizona Law Review*, 40, 901-917.
- Heuer, L., & Penrod, S. (1994). Trial complexity: A field investigation of its meaning and its effects. *Law and Human Behavior*, 18, 29-51.
- Hwang, E. G., McGarell, E. F., & Benson, B. L. (2005). Public satisfaction with the South Korean Police: The effect of residential location in a rapidly industrializing nation. *Journal of Criminal Justice*, 33, 585-599.
- Innocence Project. (2005). Annual Report. Retrieved July 1, 2007, from http://www.innocenceproject.org/Images/40/ip_fall_06_newsletter.pdf.
- Kalven, H. & Ziesel, H. (1996). *The American jury*. Boston, MA: Little Brown.
- Kaplan, M. F., & Martin, A. M. (2006). Introduction and overview. In M. F. Kaplan & A. M. Martin (Eds.), *Understanding world jury systems: Through social psychological research*. New York: Psychology Press.
- Kassin, S. M., & Gudjonsson, G. H. (2004). The psychology of confessions: A review of the literature and issues. *Psychological Science in the Public Interest*, 5(2), 33-67.
- Kassin, S. M., Meissner, C. A., & Norwick, R. J. (2005). "I'd know a false confession if I saw one": A comparative study of college students and police investigators. *Law and Human Behavior*, 29(2), 211-227.
- Kassin, S. M., & Neumann, K. (1997). On the power of confession evidence: An experiemental test of the fundamental difference hypothesis. *Law and Human Behavior*, 21(5), 469-484.
- Kassin, S. M., & Sukel, H. (1997). Coerced confessions and the jury: An experimental test of the "harmless error" rule. *Law and Human Behavior*, 21, 27-46.
- Kiss, L. W. (1999). Reviving the criminal jury in Japan. *Law and Contemporary Problems*, 62, 261-287.
- Kanazawa, S. (1998). A brief note on a further refinement of the Condorcet Jury Theorem for heterogeneous groups. *Mathematical Social Sciences*, 35(1), 69-73.

- Koch, T., & Ridgley, M. (2000). The Condorcet's Jury Theorem in a bioethical context: The dynamics of group decision making. *Group Decision and Negotiation*, 9, 379-392.
- Korea Legislation Research Institute (1992). Korea Constitution, Article 101(2), translated in Current Laws of the Republic of Korea 3, 17 (ed., 1992).
- Kovera, M. B., & McAuliff, B. D. (2000). The effects of peer review and evidence quality on judge evaluations of psychological science: Are judges effective gatekeepers? *Journal of Applied Psychology*, 85, 574-586.
- Lee, E. I. (1997). Expert evidence in the public of Korea and under the U. S. federal rules of evidence: A comparative study. *Loyola of Los Angeles International and Comparative Law Review*, 19, 585-627.
- Lee, J. H. (2008). Getting citizens involved: Civil participation in judicial decision-making in Korea. *East Asia Law Review*, 4, 177-207.
- Lempert, R. O. (2001). Citizen participation in judicial decision making: Juries, lay judges and Japan. *Saint Louis-Warsaw Transatlantic Law Journal*, 1, 1-14.
- Leo, R. A., & Ofshe, R. J. (1998). The consequences of false confessions: Deprivations of liberty and miscarriages of justice in the age of psychological interrogation. *Journal of Criminal Law and Criminology*, 88, 429-496.
- Lieberman, J. D., & Sales, B. D. (1997). What social science teaches us about the jury instruction process. *Psychology, Public Policy, and Law*, 3, 589-644.
- Lieberman, J. D., & Sales, B. D. (2000). Jury instructions: Past, present, and future. *Psychology, Public Policy, and Law*, 6, 587-590.
- Ling, W., Zheng, X., & Fang, L. (2003). Cross-culture comparative research on social norms. *Acta Psychologica Sinica*, 32, 246-254.
- Lu, H., & Miethe, T. D. (2003). Confessions and criminal case disposition in China. *Law and Society Review*, 37(3), 549-578.
- Luna, E. (2004). A place for comparative criminal procedure. *Brandeis Law Journal*, 42, 277-321.
- MacCoun, R. J. (2005). Comparing legal factfinders: Real and mock, amateur and professional. *Florida State Law Review*, 32, 511-518.
- Malsch, M., & Freckelton, I. (2005). Expert bias and partisanship: A comparison between Australia and the Netherlands. *Psychology, Public Policy, and Law*, 11(1), 42-61.

- Martin, A., Kaplan, M. F., & Alamo, J. M. (2003). Discussion content and perception of deliberation in western European versus American juries. *Psychology, Crime, and Law*, 9, 247-263.
- Maslen, S. (1998). Japan and rule of law. *UCLA Pacific Basin Law Journal*, 16, 281-295.
- McKelvey, R. D., & Ordeshook, P. C. (1986). Information, electoral equilibria, and the democratic ideal. *Journal of Politics*, 48, 909-938.
- McNulty, J. (2007). Nations embracing jury system. *University of California Newsroom*. Retrieved October 4th, 2008, from <http://www.universityofcalifornia.edu/news/article/16823>
- Moffa, M. S. & Platania, J. (2007). Effects of expert testimony and interrogation tactics on perceptions of confessions. *Psychological Reports*, 100, 563-570.
- Mogin, P. (1998). Why judges, not juries, should set punitive damages. *University of Chicago Law Review*, 65, 179-210.
- Munger, F. (2007). Constitutional reform, legal consciousness, and citizen participation in Thailand. *Cornell International Law Journal*, 40, 455-475.
- Ohtsubo, Y. (2006). On designing a mixed jury system in Japan. In M. F. Kaplan & A. M. Martin (Eds), *Understanding world jury systems through social psychological research*. New York: Psychology Press.
- O'Neil, K. M.; Penrod, S. D. (2001). Methodological variables in web-based research that may affect results: Sample type, monetary incentives, and personal information. *Behavior Research Methods, Instruments & Computers*. 33, 226-233.
- O'Neil, K.M., Penrod, S. D., & Bornstein, B. H. (2003). Web-based research: Methodological variables' effects on dropout and sample characteristics. *Behavior Research Methods, Instruments, and Computers*, 35. 217-236.
- Park, K., Kim, S. J., Lee, E. L., & Seo, H. S. (2005). Social conformity and cognitive conversion during jury deliberations: A content analysis of deliberation arguments in the first officially simulated jury trial in Korea. The Korean Psychological Association: *Journal of Social and Personality Association*, 19 (3).
- Park, H. D. (October, 4, 2009). Wrongfully convicted and compensated 7,680,000 won. *Kyung Hyang Daily News*. Retrieved October 4th, 2009, from <http://media.daum.net/society/affair/view.html?cateid=1068&newsid=20091004182815553&p=khan>
- Quintieri, P., & Weiss, K. J. (2005). Admissibility of false-confession testimony: Know thy standard. *Journal of American Academy of Psychiatry and Law*, 33, 353-358.

- Robbennolt, J. K. (2005). Jury decision making: Evaluating juries by comparison to judges: A benchmark for judging? *Florida State University Law Review*, 32, 469-518.
- Seo, E. (2007). Creating the right mentality: Dealing with the problem of juror delinquency in the new South Korean lay participation system. *Vanderbilt Journal of Transnational Law*, 40, 265-293.
- Severance, L. J. & Loftus, E. F. (1982). Improving the ability of jurors to comprehend and apply criminal jury instructions. *Law and Society Review*, 17, 153-197.
- Sheppard, B. H. (1985). Justice is no simple matter: Case for elaborating our model of procedural fairness. *Journal of Personality and Social Psychology*, 49, 953-962.
- Schklar, J. & Diamond, S. S. (1999). Juror reactions to DNA evidence: Errors and expectancies. *Law and Human Behavior*, 23, 159-
- Severance, L. J., Green, E., & Loftus, E. F. (1984). Toward criminal jury instructions that jurors can understand. *The Journal of Criminal Law and Criminology*, 75, 198-233.
- Severance, L. J. & Loftus, E. F. (1982). Improving the ability of jurors to comprehend and apply criminal jury instructions. *Law and Society Review*, 17, 153-197.
- Studebaker, C. A., Robbennolt, J. K., Penrod, S. D., Pathak-Sharma, M. K., Groscup, J. L. and Devenport, J. L. (2002). Studying pretrial publicity effects: New methods for testing and improving external validity. *Law and Human Behavior*, 26, 19-41.
- Sundby, S. E. (1997). The jury as critic: An empirical look at how capital juries perceive expert and lay testimony. *Virginia Law Review*, 83(6), 1109-1188.
- Thaman, S. C. (1999). Europe's new jury systems: The case of Spain and Russia. *Law and Contemporary Problems* 62, 233-265.
- The Presidential Committee on Judicial Reform (2005). A general plan for lay participation in criminal trials in Korea. Seoul, Korea.
- Tsukasaki, T. (2004). Linguistic-cultural relativity of cognition: Rethinking the Sapir-Whorf hypothesis. *Japanese Psychological Review*, 47, 173-186.
- van Koppen, P. J., & Penrod, S. D. (2003). Adversarial or inquisitorial: Comparing systems. In P. J. van Koppen & S. D. Penrod (Eds.), *Adversarial versus inquisitorial justice*. New York: Springer.
- van Kampen, P. T. C. (2003). Expert evidence: The state of the law in the Netherlands and the United States. In P. J. van Koppen & S. D. Penrod (Eds.), *Adversarial versus Inquisitorial justice*. New York: Springer.

- Wagenarr, W. A., van Koppen, P. J., & Crombag, H. F. M. (1993). *Anchored Narratives: The psychology of criminal evidence*. New York, NY: St. Martin's Press.
- Walker, L., LaTour, S., Lind, E. A., & Thibaut, J. (1974). Reactions of participants and observers to modes of adjudication. *Journal of Applied Social Psychology*, 4, 295-310.
- Vidmar, N. & Diamond, S. S. (2001). Juries and expert evidence. *Brooklyn Law Review*, 66, 1121-1180.
- Yang, C. (1993). The judiciary in contemporary society: Korea. *Case Western Reserve Journal of International Law*, 25(2), 303-314.
- Yonhap News (October 7, 2006). Increase in not guilty verdict...How to receive compensation? Retrieved June 25th, 2007, from <http://www.chosun.com/national/news/200610/200610060020.html>.