

Japan's Saiban-in (lay judge) System

Practice, Challenges and the Way Forward

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Overview

1. Came into force in May 2009.

2. Subject Cases

Serious offenses (e.g., murder, robbery resulting in death or injury, inflicting bodily injury resulting in death, dangerous driving resulting in death, arson of inhabited building, kidnap-for-ransom, negligence as a guardian resulting in death)

Trial Procedure under Saiban-in

- Investigation
- Prosecution
- Trial preparation
(Pre-trial arrangement proceedings)

● Selection of the saiban-in (lay judges)

In principle, there are six lay judges and three professional judges. However, there are four lay judges and a professional judge in some cases.



〈Lay judge selection proceedings〉

Duty of the saiban-in (lay judges)

● Trial

Lay judges hear the witness testimony and examine the evidence.



● Deliberations

Lay judges and professional judges deliberate and determine together whether the defendant is guilty or innocent, and the sentence when guilty.



● Judgment

The presiding judge renders the judgment.



〈Trial〉



〈Deliberations〉

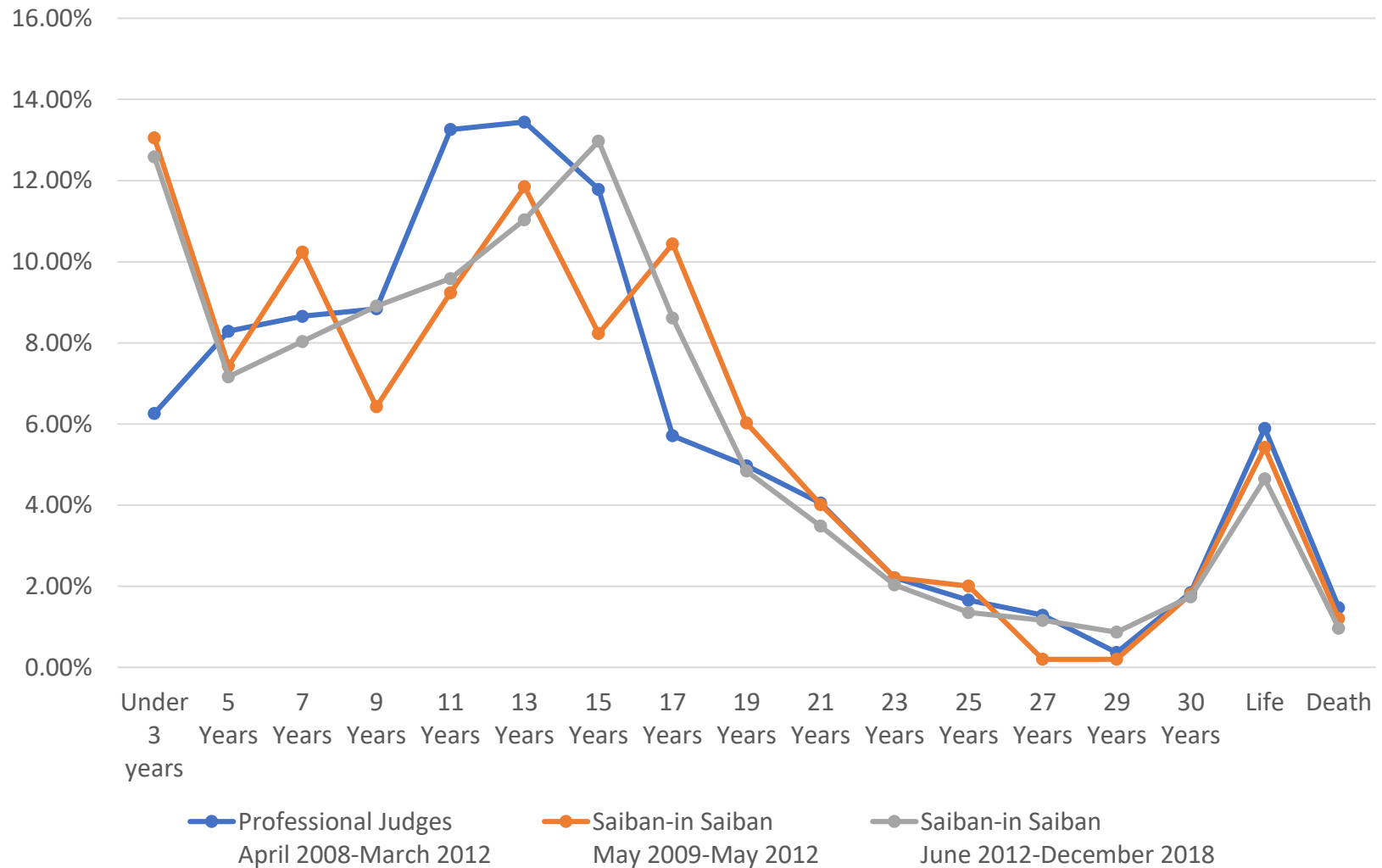
Re-establishment of Trial Centralism

- De-centralizing criminal investigation
 - Moving away from overly affidavit-based trials.
- Oral-evidence based criminal trial
 - Hearings that lay judges can easily understand with their own eyes and ears
- Verifying voluntariness of confessions
- Disclosure of Evidence - Pretrial Arrangement Proceedings

Statistics (Year 2022)

	Guilty Plea Case	Not-Guilty Plea Case
Cases Closed	325	371
Average time from charge to completion	10.7 Months	16.6 Months
Average duration of hearings	10.3 days	23.7 days

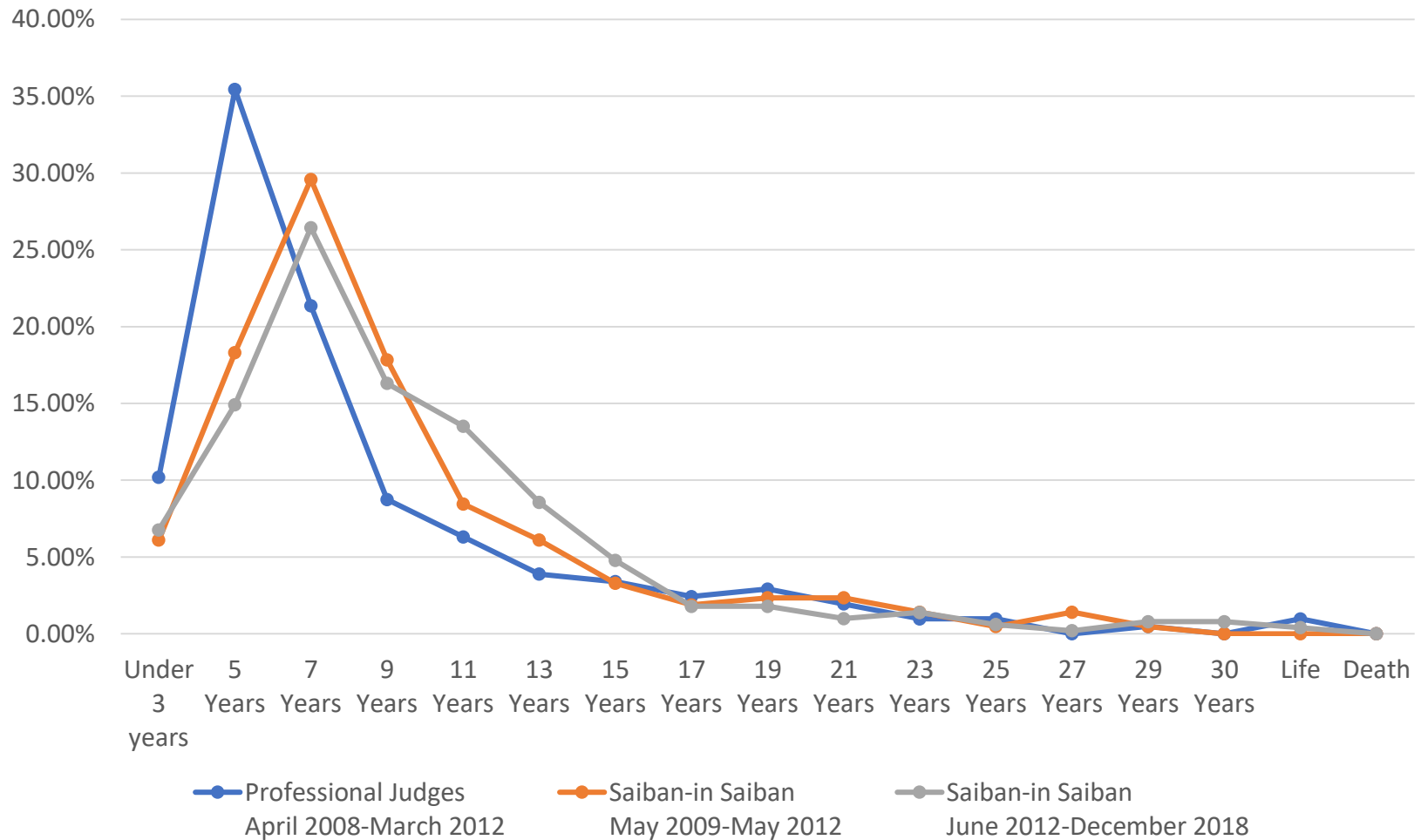
Sentencing Trends Murder cases



Supreme Court, Concluding observation on 10 years of Saiban-in
https://www.saibanin.courts.go.jp/vc-files/saibanin/file/r1_hyousi_honbun.pdf

Sentencing Trends

Rape resulting death or injury/Forcible Sexual Intercourse resulting death or injury



Death Penalty and Saiban-in

Seven Cases in which death sentences passed by juries have been overturned.

Case	Saiban-in	Appeal Court	Supreme Court
Robbery Homicide	15 March 2011 Tokyo District Court	20 June 2013 Tokyo High Court	3 February 2015
Robbery Homicide, Arson	30 June 2011 Tokyo District Court	8 October 2013 Tokyo High Court	3 February 2015
Robbery Homicide	6 December 2011 Nagano District Court	27 February 2014 Tokyo High Court	9 February 2015
Homicide	26 June 2015 Osaka District Court	9 March 2017 Osaka High Court	2 December 2019
Homicide	18 March 2016 Kobe District Court	10 March 2017 Osaka High Court	1 July 2019
Homicide	22 March 2017 Kobe District Court	27 January 2020 Osaka High Court	20 January 2021
Robbery Homicide	9 March 2018 Saitama District Court	5 December 2019 Tokyo High Court	9 September 2020

Evidentially Use of Video-Recorded Interrogations at Saiban-in (Imaichi Case, Utsunomiya District Court, 8 April 2016)

- The Court pronounced a life sentence on a defendant for murdering a girl, while the defendant insisted he was innocent.
- The definitive evidence that established his guilt was the video recording of the confession.
- Can lay judges adequately evaluate video records where suspects “sincerely confess” with gestures?

Thank you!

