

Success or Failure?

Japan's Introduction of the *Saiban-in Seido* and the System of Lay Participation in Criminal Trials

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# *Saiban-in Seido* in Criminal Case

- Collegial panel of 3 professional judge & 6 lay participants
  - Introduced in 2009
- First popular participation in criminal case since 1943
  - Jury Trial from 1928 to 1943
- Justice System Reform Council
  - Decided to introduce “quasi-jury” panel (*Saiban-in* Trial) in criminal case in 2004

# Defendants & *Saiban-in* Decisions

Table 1: *Saiban-in* Trial Conviction Rates from 2009 to 2015

| Year  | Total Defendants | Convicted | Not Found Guilty | Others <sup>1</sup> | Conviction <sup>2</sup> rate (%) |
|-------|------------------|-----------|------------------|---------------------|----------------------------------|
| 2009  | 149              | 142       | 0                | 7                   | 100.00                           |
| 2010  | 1530             | 1504      | 2                | 24                  | 99.86                            |
| 2011  | 1570             | 1514      | 10               | 46                  | 99.34                            |
| 2012  | 1526             | 1488      | 9                | 29                  | 99.39                            |
| 2013  | 1415             | 1374      | 12               | 29                  | 99.13                            |
| 2014  | 1220             | 1195      | 7                | 18                  | 99.41                            |
| 2015  | 1206             | 1171      | 8                | 17                  | 99.32                            |
| Total | 8616             | 8388      | 48               | 170                 | 99.43                            |

Note:

1: These cases were either dropped or were transferred to different jurisdictions.

2: The computation was based on the number of conviction divided by the sum of both convicted and acquitted cases.

# Saiban-in Selection & Participation

Table 2: Saiban-in Selection Processes from 2009 to 2015



| Year  | Total Candidates (A) | Summons Sent (B) | Cancelled, Denied (C) | In-Court Appearance (D) <sup>1</sup> | In-Court Appearance <sup>2</sup> rate (%) D/(B-C) | Total Appearance <sup>2</sup> rate (%) D/A |
|-------|----------------------|------------------|-----------------------|--------------------------------------|---|--|
| 2009  | 13,423               | 9,638            | 3,185                 | 5,415                                | 83.9  | 40.3                                       |
| 2010  | 126,455              | 94,210           | 34,146                | 48,422                               | 80.6  | 38.3                                       |
| 2011  | 131,860              | 94,109           | 37,777                | 44,150                               | 78.4  | 33.5                                       |
| 2012  | 135,535              | 97,047           | 42,443                | 41,526                               | 76.0  | 30.6                                       |
| 2013  | 135,207              | 95,541           | 43,451                | 38,527                               | 74.0  | 28.5                                       |
| 2014  | 123,049              | 86,294           | 40,351                | 32,833                               | 71.5  | 26.7                                       |
| 2015  | 132,831              | 92,076           | 43,806                | 32,598                               | 67.5  | 24.5                                       |
| Total | 798,360              | 568,915          | 245,159               | 243,471                              | 75.2  | 30.4                                       |

Note:

1: These cases were either dropped or were transferred to different jurisdictions.

2: The computation was based on the number of conviction divided by the sum of both convicted and acquitted cases.



# Current Trends of *Saiban-in* Trial

- People's attention & participation significantly declined
- Greater effort by gov't to recruit a greater number of citizen participants in recent years
- Gradual decline of media & public attention on lay participation

# Exception to the “Declining Significance” of Popular Participation

- Greater media attention on *Saiban-in* trial in Okinawa
- Adjudication of serious & violent crimes committed by US military personnel & dependents
- Three *Saiban-in* trials tried four US personnel
  - Jonathan Kim with physical assault on taxi driver
  - Phillip Edward Sawyerr with sexual assault
  - Christopher Browning & Skyler Dozierwalker for gang rape
  - Upcoming trials for murder of an Okinawan women, fatal drunk-driving cases, ....

# Part of Anti-U.S. Military Base Movement

- 75% of all US military bases in Japan in the Island of Okinawa
- Nearly a quarter million crimes committed by US military personnel since 1945
  - More than 1,000 civilians killed
- *Saiban-in* duty elevates Okinawans to adjudicate crimes committed by “military occupiers”
  - Pre-revolutionary English colonies in North America

# Civil Jury Trial

- New Movement by Research Group on Jury Trial (RGJT)
  - 4 civil jury trials in Okinawa in 1960s & early 1970s
  - All women plaintiffs won against corporate giants for hundred of thousands dollars in compensation
  - New booklet in Japanese for popular education, alliance building, and democratic force
- Replace Japan's conservative professional civil court
  - Nearly all civil cases against TEPCO & Japanese Gov't dismissed
- People's right to play role in determining that corporate power should do
  - Share decision-making role with gov't over corporate & private power