

## **Criminal Adjudication and Global Citizenship: A Case Study of Taiwan's Lay Judge System (2023–2026)**

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### **Abstract**

Taiwan's Lay Judge System, launched in January 2023, marks a significant milestone for public judicial integration in Asia. Employing a mixed-methods approach, this study analyzes 128 criminal judgments from 2023 to 2026. Drawing on Weber's legal rationality and social cognition theories, it evaluates the operational effectiveness of non-professional citizens in adjudication. The findings reveal that while the system enhances public engagement, the verdicts strongly exhibit "penal populism." Driven by media-constructed "risk society" fears, this populist stance prioritizes retributive sanctions over rehabilitation, tending toward heavier sentencing rather than maintaining offense-to-penalty proportionality. To prevent moral intuition from eclipsing professional legal logic, this study argues that civic literacy must encompass "epistemic responsibility"—the capacity to evaluate evidence independently. Furthermore, to safeguard deliberative proceedings against populist influence, the research recommends incorporating Peace Education principles into pre-trial instructions. This would strengthen cognitive bias awareness and emotional regulation, ultimately ensuring criminal justice proceedings remain objective, inclusive, and aligned with rehabilitative ideals.

*Keywords:* lay judge system, deliberative democracy, penal populism, global citizenship, peace education

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## Introduction

On January 1, 2023, Taiwan formally brought the Lay Judge Act into force, marking the most consequential structural reform to its criminal justice system in decades. The Act provides that where the minimum statutory sentence for an offense is ten years' imprisonment or death, the case shall be heard by a panel composed of six citizen lay judges sitting alongside three professional judges. This design sought to address several long-standing democratic demands at once: to open the judiciary beyond the closed circle of legal professionals, to allow verdicts to genuinely reflect society's moral judgments, and to rebuild public confidence in the courts through direct civic participation.

The reform was preceded by years of accumulated public frustration with what many perceived as the “ivory tower” detachment of professional judicial decision-making. A series of high-profile cases in which outcomes diverged sharply from public expectations generated a pervasive sense of judicial opacity, which ultimately drove the legislature to act. Yet the introduction of lay participation does not automatically guarantee improvements in adjudicative quality. At the same time, what lay judges bring into the courtroom is not only common sense and life experience, but also the preconceived impressions formed through sustained exposure to media narratives.

To understand this gap, Max Weber's sociology of law provides a productive analytical entry point. Weber (1922/1978) in *Economy and Society* distinguished between two modes of legal operation: “formal rationality” and “substantive rationality.” Formal rationality refers to adjudication governed by universally applicable, internally consistent abstract legal norms, without reference to the particular moral or political features of individual cases. In Taiwan, professional judges—trained in the civil law tradition and bound by the explicit provisions of codified statutes—operate squarely within this formally rational mode. Lay judges, by contrast, bring into deliberation what this study terms “experiential cognition”: a mode of reasoning rooted in everyday lived experience, moral intuition, and contextual understanding. The democratic legitimacy of lay participation rests in part on the premise that this experiential perspective enriches adjudication. The difficulty arises, however, when experiential cognition is infiltrated by media-amplified social fears, such that what lay judges carry into the deliberation room is not simply “common sense,” but rather punitive intuitions already shaped by particular narrative frameworks.

In Taiwan, the offense types that come before lay judge panels—fatal drunk driving, homicide, child abuse deaths—are precisely those that attract the most intensive media coverage and the most heated public sentiment. Beck's (1992) concept of the “risk society” captures how the perception of existential threats in contemporary society is continuously amplified through mass media and converted into a collective desire for severe punishment. It is within this context that “penal populism” (Pratt, 2007) takes hold: not as a deepening of democracy, but as a punitive impulse dressed in the garb of public opinion, one that privileges retribution over rehabilitation and pursues harsher sentencing at the expense of proportionality. The empirical data of this study are interpreted against this theoretical backdrop.

This paper examines all 128 lay judge judgments issued between January 2023 and January 2026 across three dimensions: first, the degree to which the system has realized its stated aim of incorporating public perspectives; second, the mechanisms through which penal populism takes hold at the critical stage of panel deliberation; and third, how institutional design might

transform lay participation in criminal justice into a site for cultivating “epistemic responsibility,” rather than a platform for the expression of populist thinking.

## **Main Findings**

### **Research Methodology**

This study employs a mixed-methods social science approach combining quantitative analysis and secondary data analysis. The quantitative component involves systematic coding of offense categories, sentencing outcomes (including the imposition of life imprisonment), and appellate results. The qualitative component draws on close reading of judicial reasoning in written judgments to compare deliberative perspectives between lay and professional judges, including documented instances of lay judge dissent and the grounds cited in appellate reversals.

Offense categories were developed through inductive coding against case facts across all judgments, yielding eight primary categories: intentional homicide, drunk driving causing death, drug-impaired driving causing death, assault causing death, child abuse causing death, abandonment causing death, arson causing death, and other violent offenses. Appellate outcomes were coded into five categories: appeal dismissed, no appeal filed, appeal pending, first-instance verdict reversed on appeal, and case remanded for retrial. Data were retrieved from the Judicial Yuan’s National Court Judgment Database (2023–2026), covering cases from all 21 district courts across Taiwan, from major metropolitan courts in Taipei, New Taipei, and Kaohsiung to district courts in Penghu, Kinmen, and Taitung.

### **Offense Distribution and the Scope of the System**

The 128 cases in the dataset reflect the jurisdictional design of the Lay Judge Act (2023), which confines lay participation to serious offenses. As Figure 1 shows, intentional homicide constitutes the largest single category ( $n = 51$ , 39.8%), followed by drunk driving causing death ( $n = 40$ , 31.3%), assault causing death ( $n = 10$ , 7.8%), drug-impaired driving causing death ( $n = 8$ , 6.3%), and other serious violent offenses.

It is worth noting that drunk driving and drug-impaired driving fatalities together account for 37.5% of all cases—a proportion that warrants attention. These offenses share the characteristic of having triggered large-scale media coverage and public advocacy campaigns in Taiwan, with activists often directly criticizing professional judges for “leniency in sentencing.” This means that lay judges entering deliberation in such cases have, in all likelihood, already formed particular punitive intuitions through their media exposure—precisely the kind of environment in which penal populism takes root.

**Figure 1**

*Distribution of Criminal Offense Types in Taiwan's Lay Judge Proceedings (2023–2026, N = 128)*

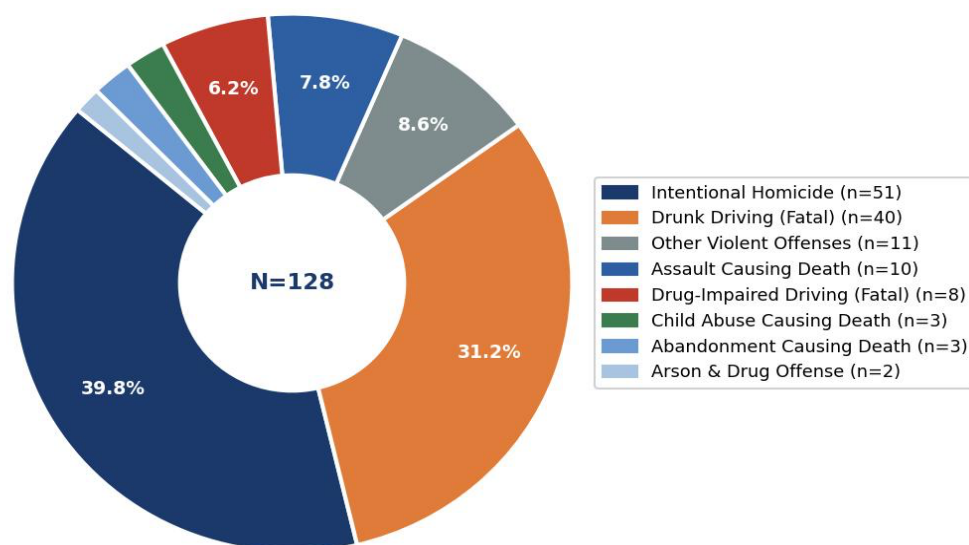


Table 1 presents a comprehensive summary of case distribution, life imprisonment rates, and first-instance reversal rates by offense category, forming the empirical basis for the subsequent analysis of sentencing patterns.

**Table 1**

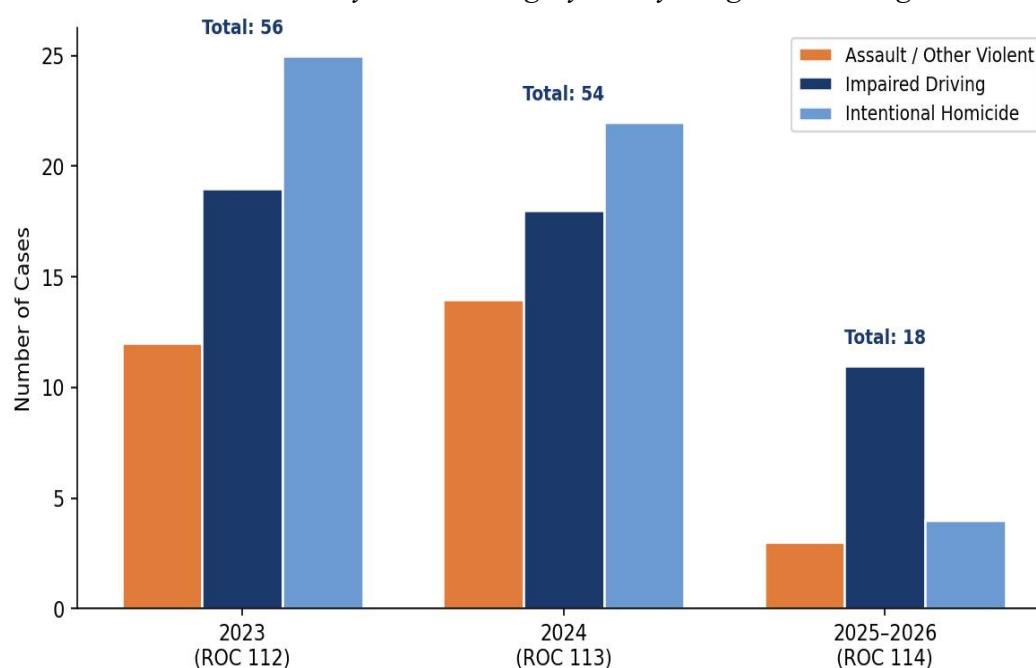
*Summary Statistics by Offense Category (N = 128)*

| Category                      | n          | %           | Life Imprisonment | Reversal Rate    |
|-------------------------------|------------|-------------|-------------------|------------------|
| Intentional Homicide          | 51         | 39.8%       | 18 (35.3%)        | 5 (9.8%)         |
| Drunk Driving (Fatal)         | 40         | 31.3%       | 0 (0%)            | 3 (7.5%)         |
| Assault Causing Death         | 10         | 7.8%        | 0 (0%)            | 1 (10.0%)        |
| Drug-Impaired Driving (Fatal) | 8          | 6.3%        | 0 (0%)            | 0 (0%)           |
| Child Abuse Causing Death     | 3          | 2.3%        | 0 (0%)            | 1 (33.3%)        |
| Other Violent Offenses        | 16         | 12.5%       | 4 (25.0%)         | 1 (6.3%)         |
| <b>TOTAL</b>                  | <b>128</b> | <b>100%</b> | <b>22 (17.2%)</b> | <b>10 (7.8%)</b> |

*Note.* Reversal rate calculated among cases with concluded appellate proceedings.

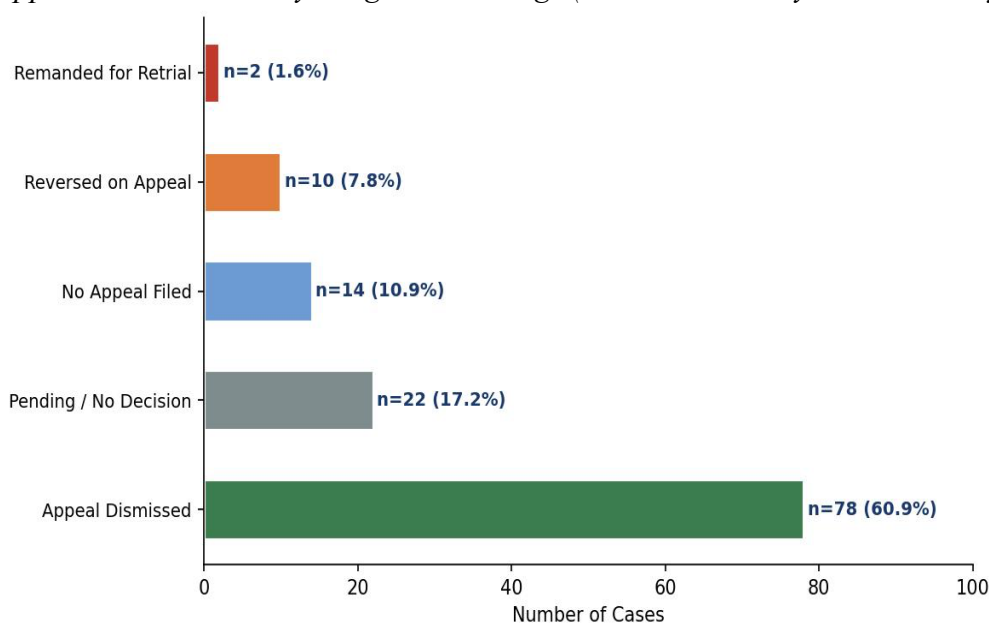
## Annual Case Volume and Trajectory

Figure 2 presents the annual distribution of lay judge cases across the three-year study period. Case volumes are broadly consistent across the first two full years of operation: 56 cases were filed under ROC Year 112 docket numbers (corresponding primarily to 2023), and 54 under ROC Year 113 docket numbers (primarily 2024). The 18 cases under ROC Year 114 numbers reflect proceedings that commenced in late 2024 or early 2025 and were concluded before the January 2026 cutoff. Taken together, the relatively stable annual caseload suggests that courts have moved beyond the initial adjustment phase and entered a stage of normalized operation.

**Figure 2***Annual Case Distribution by Crime Category in Lay Judge Proceedings*

### Appellate Outcomes and Judicial Review

The appellate data presented in Figure 3 represent one of the most significant empirical findings of this study. Among the 128 concluded first-instance proceedings, 78 appeals were dismissed (60.9% of cases with concluded appellate review); 10 first-instance verdicts were reversed by appellate courts (7.8%); 2 cases were remanded for retrial; 14 defendants filed no appeal; and 18 cases remained pending appellate disposition at the time of the study cutoff.

**Figure 3***Appeal Outcomes in Lay Judge Proceedings (N = 128, January 2023–January 2026)*

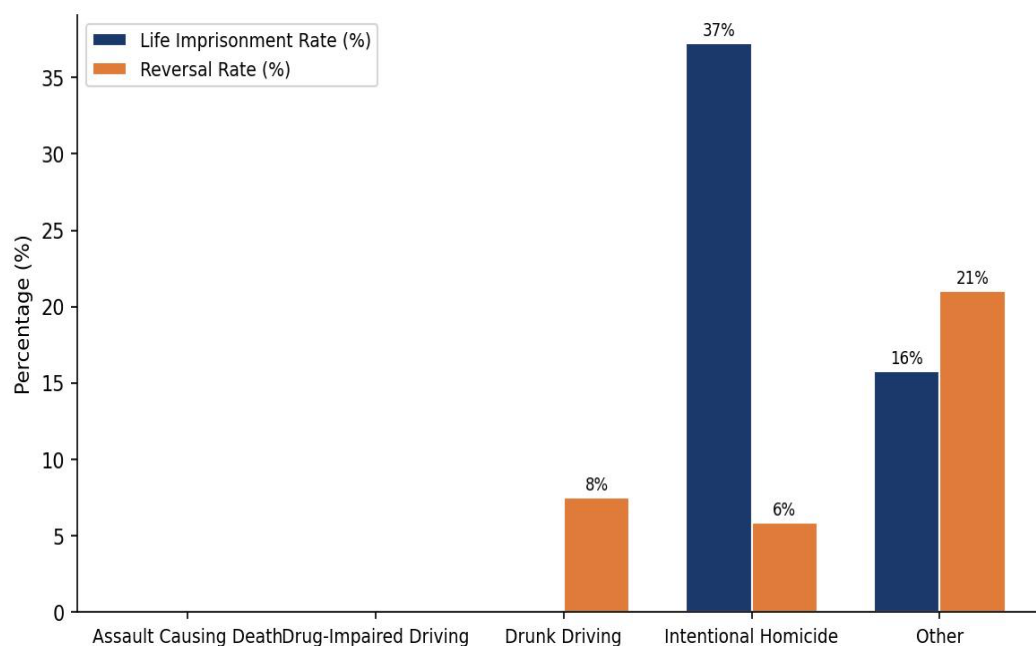
On the surface, a 7.8% reversal rate might suggest that the quality of lay judge verdicts is broadly adequate. A closer examination of the reversed cases, however, reveals a more troubling pattern. In multiple instances, the appellate court reduced the sentence imposed by the first-instance panel on the grounds that it was “manifestly disproportionate to the statutory range” or “departed from established sentencing precedent.” This phenomenon—heavier sentences at first instance, downward revision on appeal—is precisely consistent with the theoretical predictions of penal populism (Pratt, 2007; Roberts et al., 2003): first-instance panels with lay participation, under the weight of media-driven public sentiment, tend toward heavier sentences, while the professionally-led appellate stage serves as a corrective, “cooling” influence on punitive excess.

### Life Imprisonment and Sentencing Severity

Figure 4 examines life imprisonment rates and reversal rates across the four primary offense categories. Life imprisonment is heavily concentrated in intentional homicide cases (18 of 51, 35.3%), with a smaller number in other violent offenses (4 of 16, 25.0%). No life sentences were imposed in impaired driving or assault causing death cases, consistent with the statutory sentencing framework applicable to those offenses.

**Figure 4**

*Life Imprisonment and Reversal Rates by Major Crime Category*



The 35.3% life imprisonment rate in intentional homicide cases demands serious attention. Taiwan’s Criminal Code reserves life imprisonment for murders of the “gravest culpability,” yet the rate observed in this dataset appears to exceed the historical norm established by professional judges sitting alone. The reversal pattern reinforces this reading: of the 10 reversed cases, at least four involved downward revision from life imprisonment or lengthy determinate sentences, providing further evidence that appellate review is operating as a professional corrective on the sentencing severity that lay participation tends to produce.

## **Discussion: Epistemic Responsibility and the Institutional Significance of Peace Education**

### **The Media Mechanism of Penal Populism**

The sentencing severity documented above reflects, in this study's view, the operation of media-constructed "risk society" fears as a key mechanism. Research in cognitive psychology has established that people evaluating risk and forming judgments tend to rely on the availability heuristic—the more readily an event comes to mind, the more its seriousness and frequency are overestimated (Kahneman, 2011). For lay judges who have been repeatedly exposed to sensationalized coverage of particular offense types, those media-reinforced impressions are liable to resurface during deliberation in the guise of "common sense" or "moral intuition," shaping their assessments of defendants and their preferences for punishment.

This dynamic is further reinforced by the logic of populist punishment. The populist conception of criminal sanction treats severe punishment as the expression of justice, views rehabilitative reintegration as indulgence toward the offender, and dismisses legal discussions of proportionality as mere lawyerly sophistry. When this mode of thinking enters the sentencing deliberation stage, the resulting verdicts tend toward heavy sentences, with the clarity of the offense-to-penalty definition and the principle of proportionality between crime and punishment pushed to the margins.

### **Epistemic Responsibility and Civic Literacy**

In response to the difficulties identified above, the central argument of this study is that civic participation in the judiciary cannot consist of participation in form alone—it must also be accompanied by the capacity to participate responsibly. This study terms that capacity "epistemic responsibility": when citizens exercise participation in any aspect of a democratic society—including service as lay judges—they must be able to evaluate the evidence before them independently and critically, rather than allowing media-shaped prejudices to override their own independent judgment.

The concept of epistemic responsibility is continuous with the core values of global citizenship education (Galston, 2001; UNESCO, 2015). Global civic literacy is not merely cross-cultural empathy; it encompasses the capacity to reason independently in public affairs, to resist the influence of orchestrated opinion, and to form one's own judgment. Extending this concept into criminal justice means recognizing that service as a lay judge requires adequate comprehension, independent judgment, unbiased critical capacity, and emotional regulation—none of which can be left to individual "common sense" or accumulated social experience alone. These are capacities that must be cultivated through structured institutional education.

### **Incorporating Peace Education Into Pre-trial Instruction**

This study specifically recommends the incorporation of Peace Education principles into the mandatory pre-trial instruction course for lay judges. The current pre-trial instruction covers procedural norms and basic legal concepts, but contains no systematic guidance on the cognitive biases that may distort deliberation.

Peace Education interventions can focus on three core competencies. The first is cognitive bias awareness: equipping lay judges with knowledge of key cognitive mechanisms such as

“confirmation bias,” and providing scenario-based exercises through which participants can learn to identify and self-correct these biases during deliberation (Kahneman, 2011). The second is emotional regulation: criminal cases frequently involve severe violence, and lay judges inevitably encounter strong emotional and moral reactions upon exposure to the facts of the offense; pre-trial instruction should guide lay judges toward rational deliberation, supporting them in maintaining reasoned judgment even under emotional or moral pressure. The third is a restorative justice orientation: by introducing lay judges to the foundational ideas of restorative justice (Zehr, 2015), instruction can help them understand that “rehabilitative reintegration” and “proportionality between crime and punishment” are not indifference to victims, but core values of a mature democratic criminal justice system.

## **Implications for Global Citizenship**

As an increasing number of democratic legal systems incorporate mechanisms for lay participation in justice—jury systems, assessor systems, lay judge systems—the question of how to enable citizens to participate with genuine competence, rather than allowing populist thinking to infiltrate institutional decision-making, has become a core challenge confronting judicial reform across jurisdictions. Taiwan’s Lay Judge System offers a well-documented and analytically tractable case study, and its experience carries significant reference value for discussions of judicial democratization in Asia and beyond.

## **Conclusion**

This study has drawn on all 128 lay judge judgments issued in Taiwan between January 2023 and January 2026 to conduct a systematic examination of the system’s operation across three dimensions: offense type distribution, sentencing outcomes, and appellate review. The system has, on the whole, achieved a state of stable operation. At the same time, the data clearly show that in offense categories attracting intense media attention, lay judge panels exhibit a marked tendency toward heavier sentences, and appellate review consistently results in downward revision—an outcome closely aligned with the theoretical predictions of penal populism.

This finding points to a latent problem in the system as currently designed: the existing pre-trial instruction framework is insufficient to enable citizens, when confronted with criminal cases that generate intense public emotion, to form judgments free from populist influence. If the Lay Judge System is to function as a genuine force for democratic progress in the judiciary rather than a channel through which populist punishment is legitimized, the cultivation of “epistemic responsibility” must be embedded at the core of institutional design, and the integration of Peace Education principles into pre-trial instruction is currently the most operationally feasible starting point.

More broadly, what this study illuminates is a structural challenge inherent to democratic institutions: civic participation in judicial proceedings requires a corresponding investment in the cultivation of capability, if the aspirations of deliberative democracy are to be meaningfully realized. The future direction of Taiwan’s Lay Judge System should focus not on channeling more public opinion into the courts, but on enabling citizens equipped with epistemic responsibility to safeguard the core values of the judiciary—rehabilitative ideals, social reintegration, and proportionality between crime and punishment—in a manner that is more inclusive, more objective, and more genuinely deliberative.

### **Declaration of Generative AI and AI-Assisted Technologies in the Writing Process**

The author declares that an AI tool (claude.ai) was used in the preparation of this manuscript for the purposes of grammar checking, language refinement, and the generation of data visualizations. Its use was confined to correcting grammatical and typographical errors, presenting quantitative data in chart form, and rewording sentences to improve accuracy and clarity of expression. The author further declares that no other AI or AI-assisted technology was used to generate content in the course of this research. The research ideas, design, procedures, findings, analysis, and discussion presented in this paper are the original work of the author and derive from a rigorous and systematic research process.

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