



1985-2028

2028-

臺灣臺北地方法院

Taiwan Taipei
District Court

1896-1945



細說—台灣司法民主化的歷程 The Milestones of Taiwan's Judicial Democratization

審檢分立

Separation of Prosecutorial and Judicial Powers

1980年7月1日將高等法院以下各級法院由隸屬行政院司法行政部改隸屬司法院

In order to ensure both prosecutorial and judicial independence, the administrative supervision (originally exercised by the Ministry of Judicial Administration under the Executive Yuan) of Taiwan High Court and all levels of courts below it was officially transferred to the Judicial Yuan starting from Jul.1, 1980.

解除戒嚴

Lifting of the Martial Law

1987年7月15日解除戒嚴，將平民涉犯叛亂罪嫌及送交軍法審判的重大犯罪等由軍法審判改歸司法審判

With the lifting of martial law on Jul.15,1987, civilians charged with treason, sedition, subversive activities or felonies were no longer subject to military tribunals; they would be tried under the jurisdiction of civilian courts instead.

改良式當事人進行主義

Modified Adversarial System

2003年9月1日實施英美法系的交互詰問制度 (除基於公平正義部分外，法官原則上不介入)

The practice of cross-examination derived from the common law system was implemented on Sep.1, 2003. (i.e. A judge will intervene only when it's based on the needs of fairness and justice).

國民法官新制

A Whole New System of Citizen Judges Courts

2023年1月1日施行卷證不併送、人民與法官共同合審合判

The Citizen Judges Act will come into effect on Jan.1, 2023, bringing about major changes such as ——
“indictment without (previewing) the dossier to prevent bias”,
“citizens and professional judges adjudicating cases together”.

國民法官

Citizen
Judges

Coming Soon~~

2023.1.1



法官審判的權力來自人民的付託

The power to adjudicate cases is entrusted to the judiciary by the people.

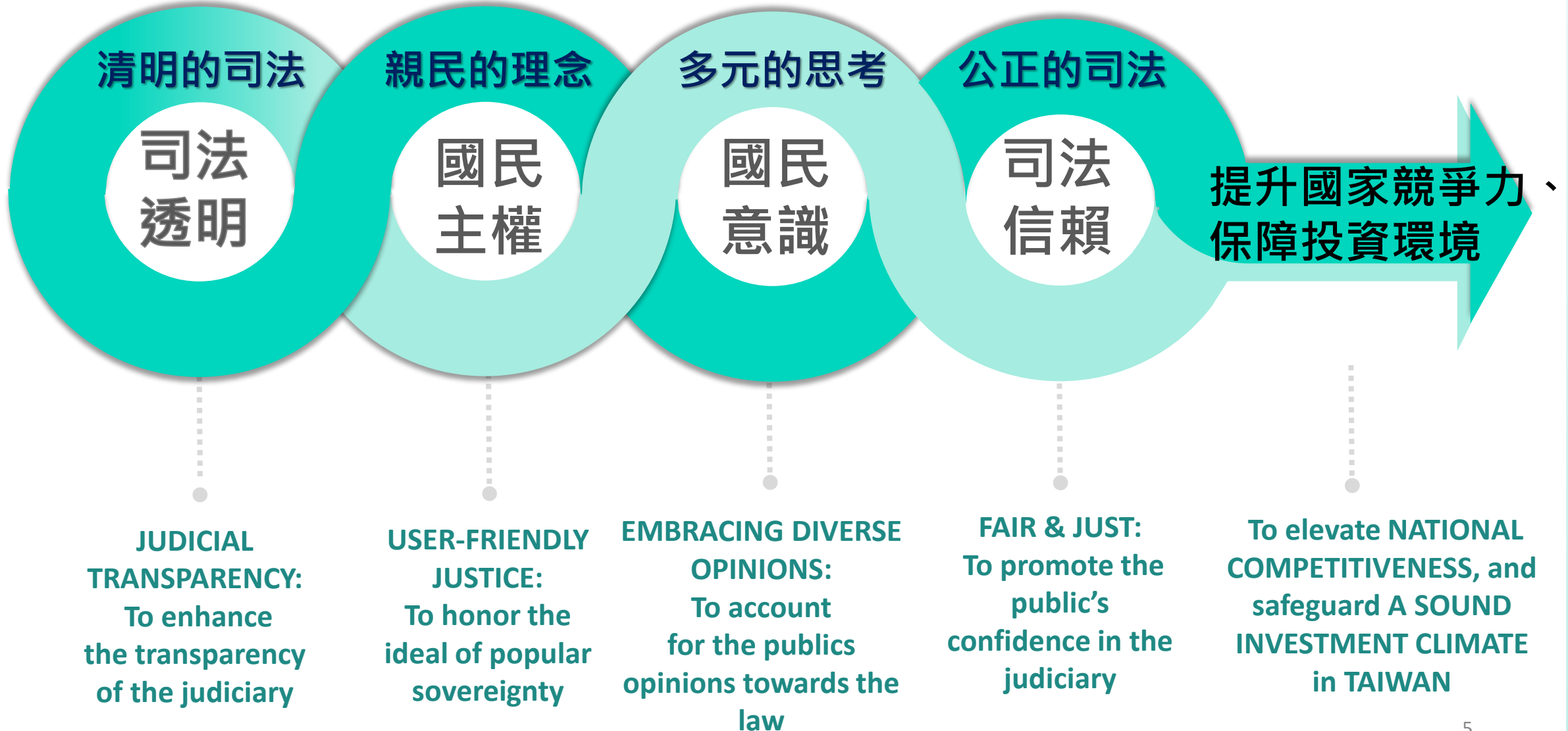
人民是國家的主人，和法官共同參與審判事務，更能彰顯司法主權的意涵

The meaning of popular sovereignty is truly manifested when citizen judges exercise their right and duty to decide criminal cases together with professional judges.

Taiwan Taipei
District Court



制度目的 Purposes



制度比較 Comparison

制度名稱 System	參審(德國) Lay Judges (Germany)	裁判員 Saiban-in Seido	國民法官法 The Citizen Judges Act	陪審(美國) Jury (U.S.)
參與者名稱 Name for the participants	參審員Schöffen/ Ehrenamtliche Richter	裁判員 Saiban-in	國民法官 Citizen Judges	陪審員 Jurors
參與者來源/時 間 Source of participants /Tenure	具有意願或受推薦者/任 期(5年) appointed volunteers/ serving for a period of 5 yrs	一般國民/個案 ordinary citizens/ randomly selected for a single trial		
參與者的法庭席 位Courtroom layout	與法官坐在一起 Lay participants are seated together with professional judges on the panel as a collegiate bench.			獨立一區，坐在法官一側 Jurors are seated in the jury box, separated from the judge.

制度比較 Comparison

制度名稱 System	參審(德國) Lay Judges (Germany)	裁判員 Saiban-in Seido	國民法官法 The Citizen Judges Act	陪審(美國) Jury (U.S.)
起訴狀一本主義 Indictment without (previewing) the dossier	無 N/A	有 Yes (i.e. Before trial, there is no access to the case file/dossier for both professional and lay judges in order to prevent forming bias.)		
參與者的職權 Rights & duties of the participants	決定有沒有罪及判多重： 與法官一起進行事實之認定、法律之適用與刑罰之量定 Mixed decision-making body: professional and lay judges decide guilt (or innocence) and sentencing together.			決定有沒有罪:單獨進行事實之認定及法律之適用 Independent decision-maker: to find the facts and apply the law as the jury finds them.

制度比較 Comparison

制度名稱 System	參審(德國) Lay Judges (Germany)	裁判員(日本) Saiban-in Seido	國民法官法 The Citizen Judges Act	陪審(美國) Jury (U.S.)
參與者與法官有無雙向交流 Interaction between professional and lay judges	有 Yes		有(如審前說明、釋疑、終局評議) Yes (e.g. pretrial instruction, interim discussion, final deliberation)	無 No
參與者可否詢問被告或證人 Right to question the witness?	可以 Yes (The lay participants may question the witness including the defendant, either directly or indirectly through the professional judges.)			原則上不可以 Generally, no
判決有無附理由 Written judgment with reasons	有 Yes			無 No
可否就事實認定錯誤上訴 Appeal based on error of fact ?	區法院：可以 邦法院：不可 District Crts.: Yes State Crts.: No	可以 Yes	可以 Yes	不可以 No

什麼是國民法官制度？
What does citizen judge stand for?



- 國民法官制度，是由一群透過**隨機抽選**，符合資格之來自各行各業的**6位民眾**，與**3位專業法官**一起坐在法檯上，共同審判，決定被告**是否有罪、罪名及應受處罰**的制度。

- # Randomly selected from qualified citizens from all walks of life
- # 6 citizen judges + 3 professional judges
- # Adjudicate cases jointly
- # Return a verdict of guilty or not guilty
- # Determine the sentence to be imposed after the conviction



國民法官資格 Qualifications

年滿23歲
over 23
years old

1

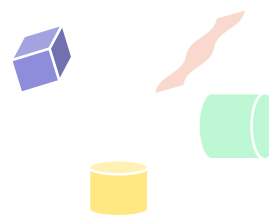
中華民國
國民
A national of
the Republic
of China

2

轄區住滿4
個月
Reside in the
jurisdiction for at
least 4 months

3

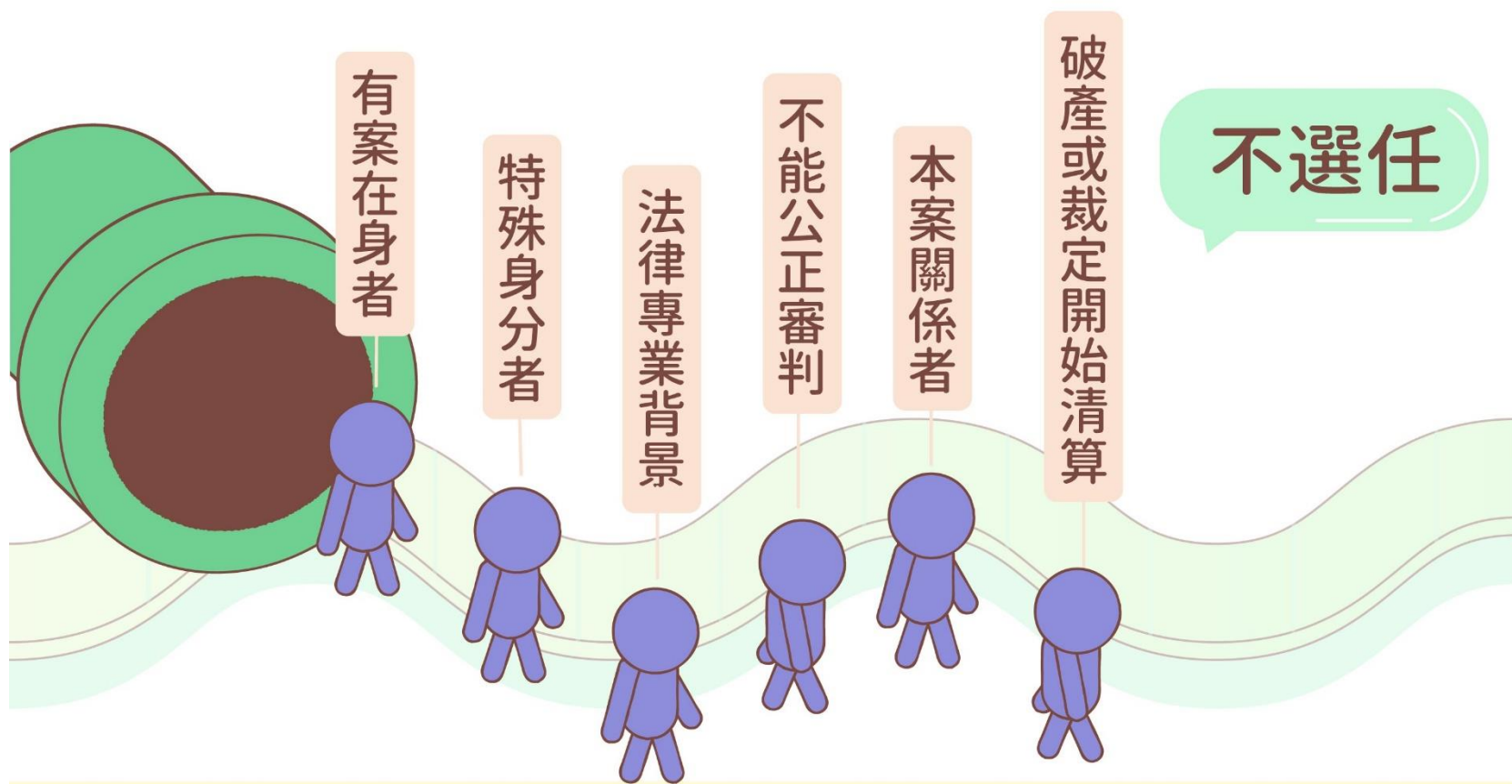
誰不能擔任國民法官? Exemptions



- 具有國民法官法第13條、第14條及第15條之消極資格者不得擔任國民法官，例如：
- Individuals who meet the conditions specified in Article 13、14、15 are exempt from citizen judge service.

E.g.

- Currently subject to felony charges punishable by imprisonment
- Having been convicted of a felony (and the civil rights not yet restored)
- Public officers or gov't officials with legal expertise/background.
- Law practitioners
- Having a conflict of interest to the case
- Bankrupt or undergoing a liquidation
- Prone to be partial or biased



國民可以拒絕擔任國民法官嗎？Excuses

• 國民法官法規定國民有參與審判的義務

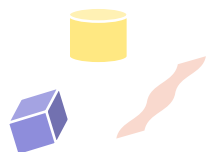
It is a legal duty of a TW citizen to participate in criminal trials as citizen judge.

- 但有下列所定情況的人，可以拒絕擔任國民法官。

A person who belongs to one of the following categories may **refuse** being appointed as a citizen judge

不拒絕
仍可擔任

- 年滿70歲以上者。 **Over 70 years of age**
- 公立或已立案私立學校之教師。 **Public or private school teachers**
- 在校學生。 **Public or private school students**
- 其他困難或不便（例如：有病在身執行職務顯有困難或執行嚴重影響健康、養育親屬之需求而執行職務顯有困難、發生重大災害而有處理之必要、有其他重大事故而執行職務顯有困難．．．）。 **Undue hardship or extreme inconvenience**
- 曾經參與過，而未滿一定期間。 **Already participated as a citizen judge or prospective citizen judge before, within a certain period of time**



國民法官選任過程

Selection
process



國民法官要做那些事情? Authority/Duty

- 國民法官之職權，除本法另有規定外，與法官同。

Unless otherwise provided in the Act, the authority of a citizen judge is the same as that of a Judge.

- 宣誓、全程參與審判、保密。

To take an oath, participate in the entirety of the proceedings, keep case information confidential.

- 訊問：得自行或請求審判長訊問證人等人

Examination: the citizen judges may question the witness including the defendant, either directly or indirectly through the professional judges.

- 參與評議：決定有沒有罪及應判何罪。（2/3多數決）
有罪時決定應判多重。（原則1/2、死刑2/3多數決）

Participate in the final deliberation:

Render a verdict of guilty or not guilty (2/3 majority)

Decide sentencing (1/2 majority ; while death penalty requires 2/3 majority)

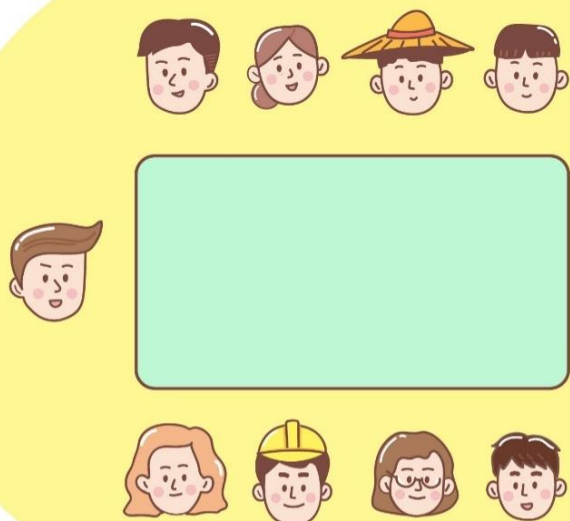
國民法官制度是用怎樣的方式決定被告是否有罪、 應判何罪與應受之刑罰? The methods of deliberation



評議方式:

一起討論後一起投票

Discuss and vote together



評議

6位國民將與
3位專業法官討論
並進行投票

評議門檻: threshold

國民法官與法官**1人1票**，
，共**9票**，每個人都要投票

1 person 1 vote, everyone has to vote

罪責: **2/3**，**6票**
verdict of guilty (6 votes ↑)

量刑: **1/2**，**5票**
Sentencing (5 votes ↑)

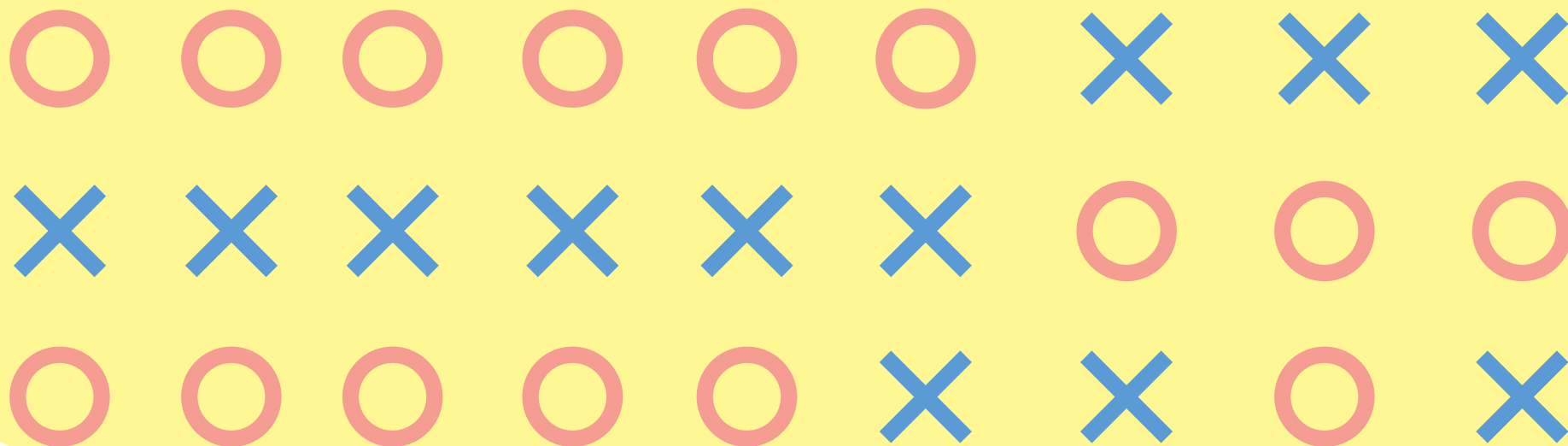
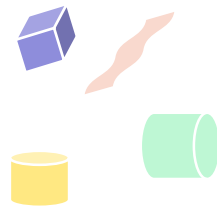
(**死刑2/3**，**6票**)
death penalty (6 votes ↑)

均需包含國民
法官及法官意
見

Including
at least one
citizen judge
and one judge.

評議門檻說明

diagram for explaining the majority threshold



不成立
No consensus
reached

不成立
No consensus
reached

成立
Consensus
reached



評議門檻：科刑部分

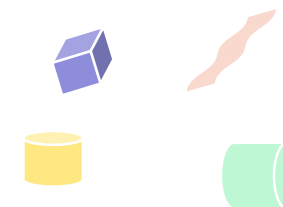
以包含國民法官及法官意見在內之1/2(死刑2/3)多數決決定

同意票要超過5票，且同時有國民法官及職業法官的同意，
意見歧異無過半意見時，將最不利算入次不利，直達半數。

Under the Citizen Judges Act, the verdict of guilty must be agreed upon by a 2/3 majority of the panel, with at least one citizen and one professional judge in the majority. Then the sentencing decision is reached by a 1/2 majority; while the threshold for death penalty is raised to a 2/3 majority. Once there are divided opinions pertaining to the sentencing decision, the least favorable opinion to the defendant will be added into the second least favorable, until a majority including at least one citizen judge and one judge is reached.



國民法官有那些保護? Protections



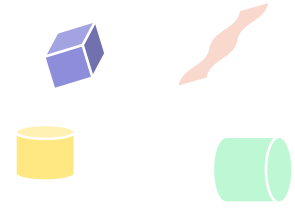
支給
日費及旅費
Fees,
compensation
for serving the
duty

給與公假、禁止雇
主給與不利處分
Approved leave of
absence from work,
unfavorable
employment
treatment prohibited

個人資料安全等
必要
保護措施
Personal
information of the
citizen judges are
confidential

禁止接觸、
刺探
Seeking /probing
disclosure of
information from
citizen judges is
strictly prohibited

國民法官有那些保護? Protections



審、檢、辯對國民
法官負擔之照料

In order to
alleviate the
burden felt by
citizen judges ,
professional
judges ,
prosecutors and
attorneys will
offer proper
assistance and
care .

評議時法官對國
民法官之照料

The Court will
provide sufficient
assistance during
final deliberation

其他人員之
守密義務

Duty of
confidentiality
of other
personnel

向國民法官
等實行犯罪
之處罰

Committing a
crime against
citizen judges
will be punished

向國民法官
行賄之處罰

Bribing will be
punished

擔任國民法官前，要不要參與研習或訓練等？

Is there any training required of the citizen judge before participation ?

國民法官法設有下列機制，可讓國民法官掌握審判內容並做出判斷，您只須於通知時間出席即可，無須另行參與研習或訓練：

A citizen only needs to appear on a particular date as the court summons, no extra or separate training is required.

審前說明

了解所需資訊

**PRETRIAL
INSTRUCTIONS:**
before litigation
proceedings, judges will
explain
necessary information

集中爭點、
用人民聽得懂
的語言來審理

減輕負擔

REDUCE THE BURDEN:
focus on issues, use easy-
to-understand plain
language instead of
unintelligible legalese

開審陳述

掌握舉證策略

OPENING STATEMENTS:
outline to the citizen judges what
each side contends the evidence
will establish

當事人
自主調查證據

**ADVERSARIAL
MODEL:**
evidence investigation
by petitioner

釋疑

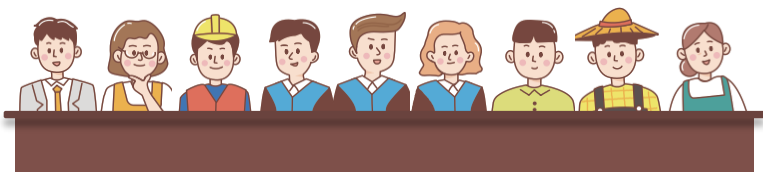
隨時解惑

**INTERIM
INSTRUCTIONS &
DISCUSSION :**
the citizen judge may
request explanation from
the professional judges
anytime

國民法官制度何時開始施行呢？

2023年1月1日正式施行

Passed by the congress and signed by President Tsai Ing-wen in August 12, 2020, the Citizen Judges Act will come into effect on January 1, 2023



2023年1月1日起適用於
故意犯罪因而發生死亡結果之罪

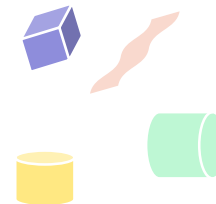
Starting from Jan.1st, 2023:
The Act applies to cases where
the defendant intentionally
committed an offense that
caused death.

毒品及少年
案件除外

Juvenile criminal
case and Narcotics
cases are
exceptions

2026年1月1日起擴大至
十年以上有期徒刑

Starting from Jan.1st, 2026:
The scope expands to cases
involving an offense
punishable with a minimum
punishment of
imprisonment for not less
than ten years



Thank you



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