A decorative border of various botanical illustrations surrounds a central white circle. The illustrations include green ferns, a red maple leaf, a green bell-shaped flower, a branch with small pink blossoms, a large green leaf, a red leaf, a purple flower, and a green bell-shaped flower.

# **Female Voice in the Courtroom**

**Effects of Female Judges in  
Japanese Criminal Cases**

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Marie Wako



What does it mean to have a woman in the room ?



# Roadmap



- I. Existing Research
- II. Japanese Court System
- III. Methodology (regression analysis)
- IV. Tentative Results
- V. Conclusion / Going Forward



# I. Existing Research



# Individual & Panel Effects

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## Individual Effects

- Do female and male judges decide cases distinctly?



## Panel Effects

- Do panels with female judges decide cases differently from panels consisting only of male judges ?



# Different Criminal Trial Court Systems

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## Single Judge

- Verdict and/or Sentencing is decided by a single judge
- Eg) In the U.S. Juries decide the verdict



## Panel of Judges (Japan)

- Verdict & Sentencing is decided by a panel of three judges
- After 2009 – along with 6 lay judges



# Previous Studies



	Individual	Panel
<b>Criminal</b>	female judges are more likely to incarcerate and impose longer sentences (Gruhl, Spohn & Welche, 1981; Steffensmeier & Herbert, 1990)	female judges hand out lighter sentences (Israel)(Bogoch, 1999) female judges do not differ from male judges (China)(Wei & Xiong, 2020)
<b>Civil</b> <b>(gender discrimination cases)</b>	female judges are more likely to support the position of the plaintiff (Boyd, Epstein & Martin, 2010)	male judges were more likely to find for plaintiffs when at least one female judge was on the panel (Farhang & Wawro, 2004; Peresie, 2005; Boyd, Epstein & Martin, 2010)

# Previous Studies



	Individual	Panel
Criminal	female judges are more likely to incarcerate and impose longer sentences (Gruhl, Spohn & Welche, 1981; Steffensmeier & Herbert, 1990)	female judges hand out lighter sentences (Israel)(Bogoch, 1999) female judges do not differ from male judges (China)(Wei & Xiong, 2020)
Civil (gender discrimination cases)	female judges are more likely to support the position of the plaintiff (Boyd, Epstein & Martin, 2010)	male judges were more likely to find for plaintiffs when at least one female judge was on the panel (Farhang & Wawro, 2004; Peresie, 2005; Boyd, Epstein & Martin, 2010)

# Why focus on Panel Effects in Trial Courts?

- What does it mean to have a woman in the room?
- Impact of female judges on other male judges in the same panel

## Panel Effect

## Trial Phase

- Fact finding and sentencing phase
- differences in the perception may manifest themselves more strongly



## II. Japanese Courts

Quasi-random assignment of Cases to Panels





# Quasi-random assignment

- **Cases are randomly assigned to panels with or without female judges**
- **No/minimum effect of selection bias**
  - cases are not assigned to panels with specific gender composition base on the category of crimes
  - Allows us to separate and examine the effect of gender from other factors



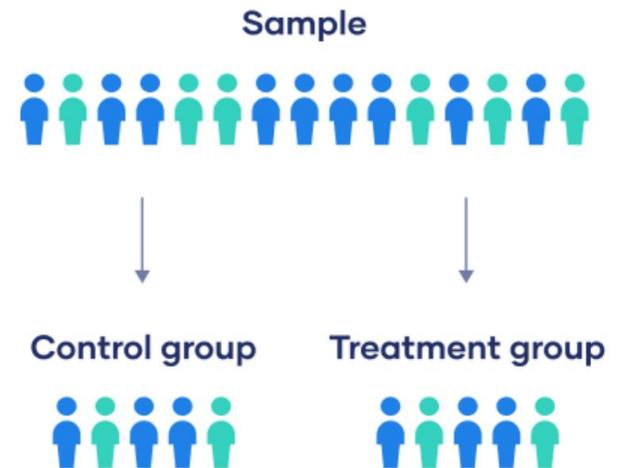
# Why is randomness important?

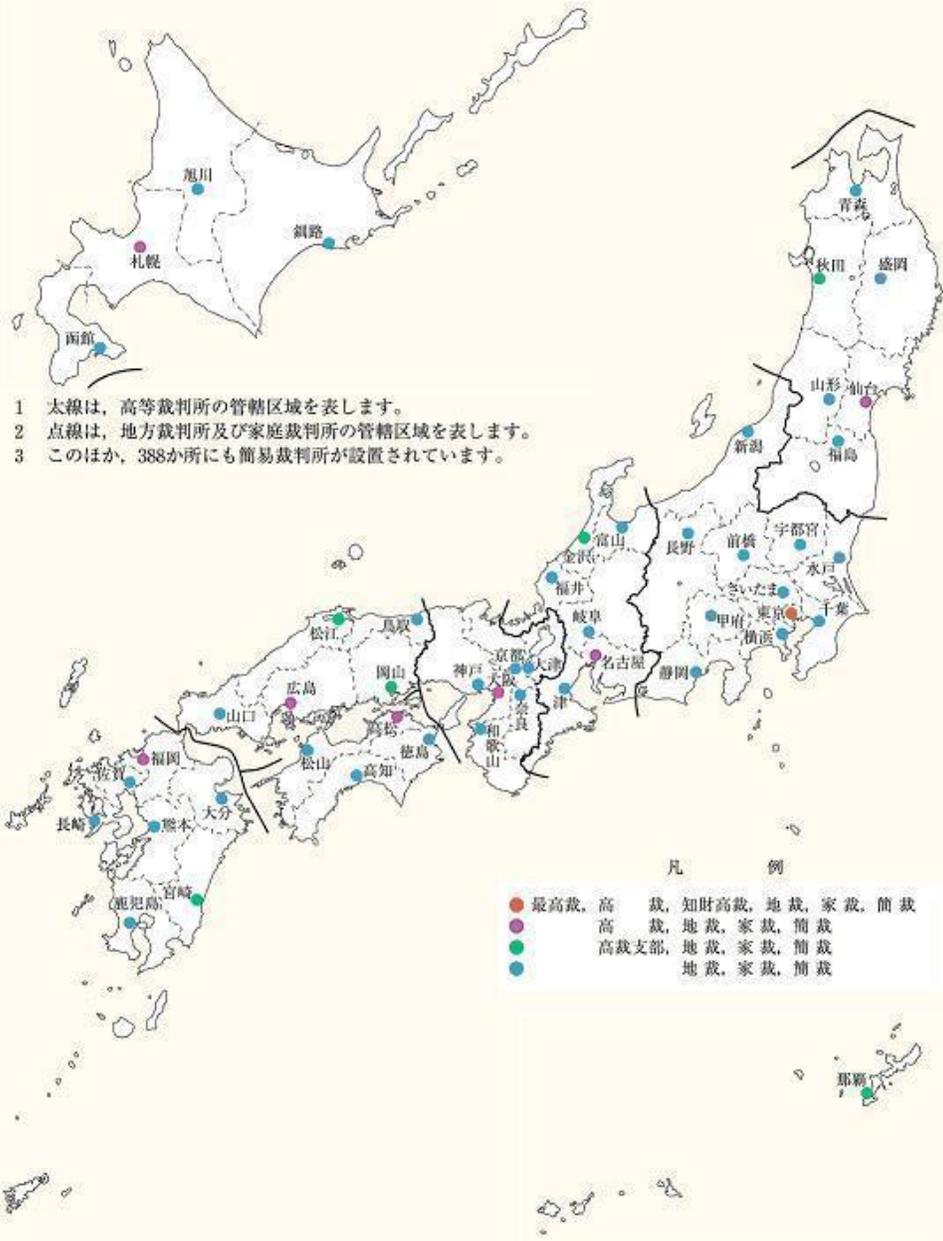


To understand the impact of female judges in criminal cases .....

- Ideally – we can collect many judges and conduct an experiment.
  - Some groups with female judges  $\Leftrightarrow$  other groups without female judges
- However, we cannot do that !
- **But if Judges are randomly assigned to cases, it is as we are conducting an experiment!**

## Random assignment





## District Courts

- First Court of Instance
- 50 cities
- Several Divisions within District Courts
  - e.g., Tokyo: 18 Criminal Divisions
- Each division has five to six judges
  - Panel of three judges

## Case assignments

- **Rotationally assigned to the Divisions**

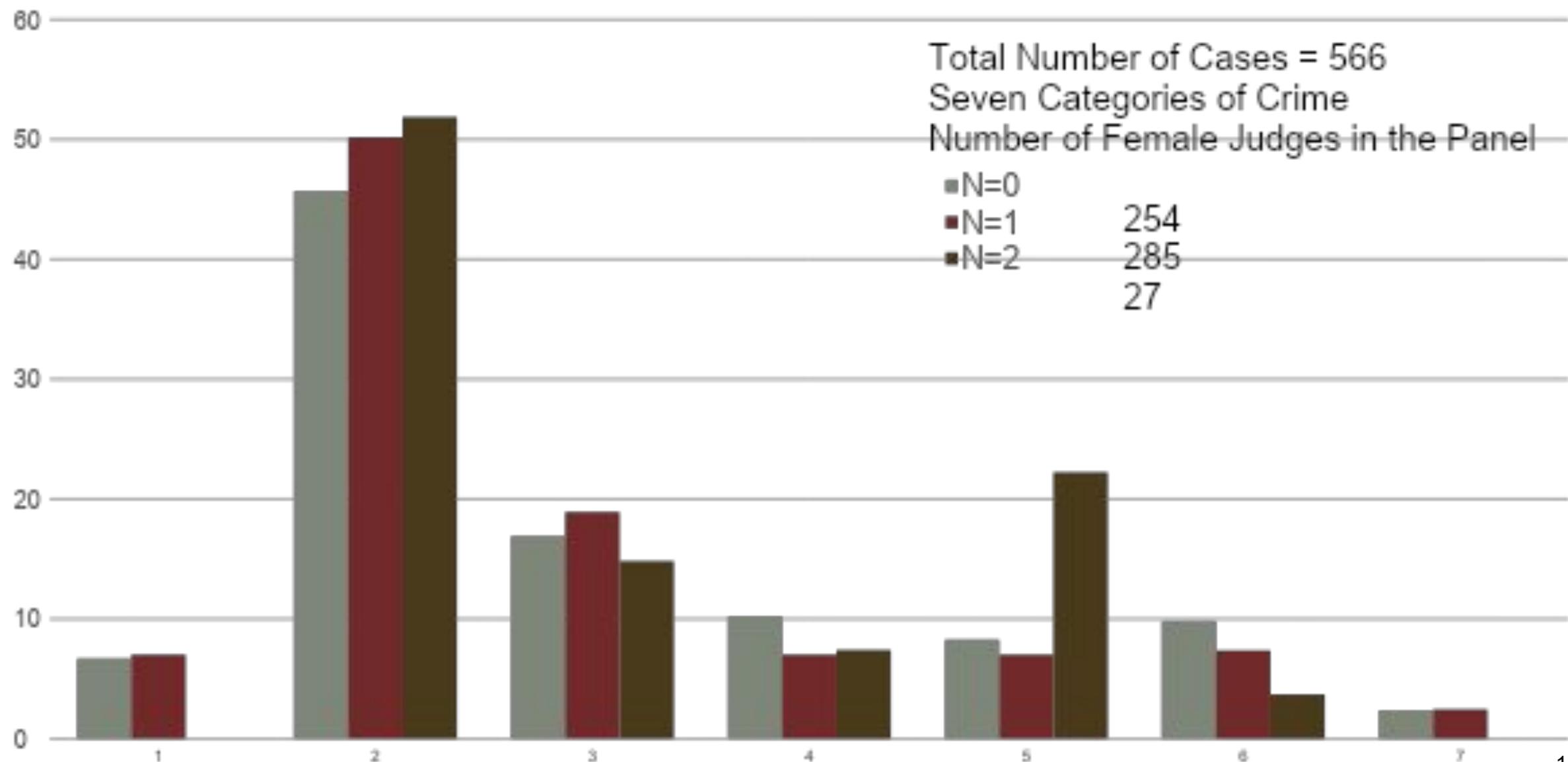
# Japanese Judges



## Appointment and Allocation

- Passing of the National Bar
- Appointed and allocated to the 50 district courts to by the Supreme Court HR
  - Centralized HR
  - Based on Bar exam scores/ universities/ age/ gender
- **Not appointed based on political views**
  - Prohibited to express their political/religious views
- **Re-allocated to another court every three years**
- Only **unanimous** judgements in district courts

# Assignment of Cases to Panels





# III. Methodology



# Cases to be Analyzed



- **Sexual Offences**

- robbery and rape (65)
- rape (126)
- rape resulting in injury (96)
- multiple perpetrator rape resulting in injury (11)
- forcible indecency resulting in injury (60)

- **Non-sexual Offences**

- robbery and battery (31)
- robbery resulting in injury (242)



$$\begin{aligned} \text{Rate}_{it} = & \alpha + \beta_1 * \text{Chief} + \beta_2 * \text{Right} + \beta_3 * \text{Left} \\ & + \gamma * \text{Control Variables} + v * \text{Year} + e_{it} \end{aligned}$$



$$Rate_{it} = \alpha + \beta_1 * Chief + \beta_2 * Right + \beta_3 * Left + \gamma * Control\ Variables + v * Year + e_{it}$$



- 
- Dependent Variable (How we measure the impact)
  - Sentencing Outcome in Ratio
  - $sentencing\ ratio = \frac{actual\ sentencing\ [years]}{prosecution's\ demand\ [years]}$
- Independent Variables (Effects we want to focus on)
  - Gender of Judges
  - Seniority of female judges (Chief/Senior/Junior)

$$Rate_{it} = \alpha + \beta_1 * Chief + \beta_2 * Right + \beta_3 * Left + \gamma * Control\ Variables + v * Year + e_{it}$$



- Control Variables (Effects we want to “subtract”)
  - Factors that might increase the sentencing
    - Recidivism
    - Concurrent Offences
  - Factors that might decrease the sentencing
    - Attenuating factors under law
    - Settlement
  - Other
    - Lay judge system



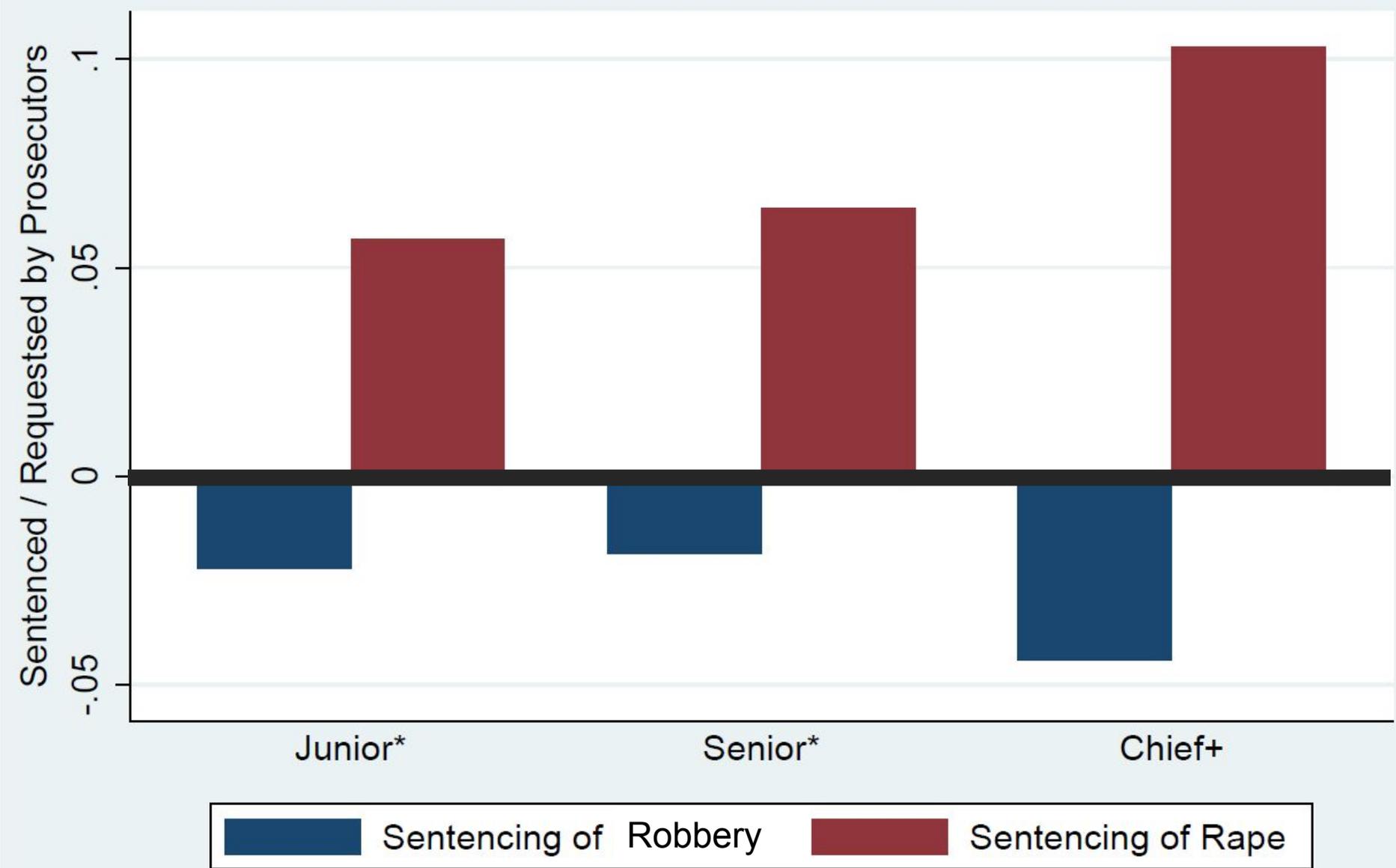
## IV. Tentative Results



	<b>Robbery</b>	<b>Rape</b>
<b>Chief</b>	-0.047	0.166*
	[-0.124, 0.031]	[0.006, 0.325]
<b>Senior</b>	-0.037	0.089*
	[-0.085, 0.011]	[0.017, 0.162]
<b>Junior</b>	-0.031	0.049+
	[-0.071, 0.010]	[-0.007, 0.105]
<b>Jury</b>	0.079	-0.158
	[-0.112, 0.269]	[-0.442, 0.126]
<b>Recidivism</b>	0.115***	0.092*
	[0.065, 0.164]	[0.010, 0.173]
<b>Attenuating</b>	-0.138*	0.023
	[-0.243, -0.033]	[-0.068, 0.114]
<b>Concurrent Offences</b>	0.051**	0.002
	[0.014, 0.089]	[-0.050, 0.055]
<b>Settlement</b>	-0.039+	-0.124*
	[-0.084, 0.007]	[-0.239, -0.009]
<b>Num.Obs.</b>	199	154

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

# Effect of Female Judges on Sentencing for Sexual Offences





# V. Conclusion/Going Forward





# Tentative Conclusions

✦ female judge in the panel



heavier sentencing for sexual offenses

✦ senior female judges have stronger impact

# Next Steps

What can we not understand from the regression analysis?



- Why is the sentencing heavier for sexual crimes?
  - Female judges are stricter?
  - The presence of female judges makes the male judge become stricter?
  - Introduction and incorporation of experience by female judges
- Supplement
  - Analysis of actual judgement texts – different trend in fact-finding?
    - E.g.) different perception
  - Interviews



*Thank  
you!*



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