Specific Legal Provision on Pre-Charge Detention for Further Offences: A Viewpoint of Police Enforcement in Malaysia

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ABSTRACT

Investigative detention plays a significant role in the Malaysian criminal justice system. At this stage, a suspect is still presumed innocent until proven guilty. However, there are situations where a suspect is detained for a long period for having more than one police report lodged against the suspect (further offenses). Such detention is referred to as chain remand. The practice of chain remand represents a blatant abuse of power by the Royal Malaysian Police and it is an infringement of an individual's fundamental human rights both under the Federal Constitution of Malaysia and the Universal Declaration of Human Rights. This practice exploits the existing loopholes and abuses the remand proceedings in order to unlawfully detain a person under the veil of legality. Therefore, this article will highlight the experience of investigating officers who have handled chain remand cases. This study recommends the specific laws of chain remand be regulated to prevent police officers from continuing to be accused of abusing their power. The methodology of this study is based on semi-structured interviews with 18 investigating officers who have experience conducting chain remand cases in Malaysia. Besides the interview, the author also used the comparative-legal method to look at the application of law in countries other than Malaysia. The results of this study show that there are weaknesses and loopholes in the existing legislation when the existing legislation fails to curb the problem of chain remand. Nevertheless, legal weaknesses are not the only factors contributing to the problem of chain remand practice; there are other factors such as the non-existence of clear guidelines to manage the chain remand cases, the difficulty of obtaining good cooperation from the complainant who lodged the police report, the inadequacy of courses to assist the police in carrying out their duties more smoothly, and the role of the prosecutor and the courts to expedite the order process involving chain remand cases. Therefore, this study indicates the importance of the existing laws, specifically on chain remand, in addition to suggesting other improvements related to chain remand to solve this problem.

Keywords: Police, Legislation, Criminal Justice, Chain Remand, Investigation

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INTRODUCTION

Investigation refers to the method of gathering information, for example when a buyer wants to buy a car, all the information regarding the car will be collected before the decision to buy or not to buy is given. This illustrates how an investigation is made to fold in all the necessary information before a suspect is charged in court. Therefore, the investigation process is essential, as when an investigator is wrong in their investigation proceedings, an innocent suspect can be convicted for a crime that he or she has not committed (Rossmo, 2009). Such a thing happened in The Schiedam Park Murder's case when the accused was not the perpetrator of the murder (Salet. R, 2017). Investigations in criminal cases also need a proper method to connect an offender who commits a crime through evidence admissible in a court of law (Kashem, 2017). The valuable viewpoints on the criminal investigation can be derived from the information hypothesis (Birmingham et al., 1971). According to the information hypothesis, the process of criminal investigation resembles a battle between police and suspect over crime-related information. In committing a crime, a suspect issued a "signal" or has left various data (fingerprints, eyewitness testimony, murder weapon, etc.). If the suspect can minimise the amount of information available to be collected by the police, or if the police cannot identify the data left behind, the suspect who commits crimes may not be arrested. Therefore, the suspect could win the battle. If the police can collect as many suspects' signals as possible, then the suspects who did the crimes will be identified and arrested. This perspective clearly emphasises how important a piece of information is in criminal investigations (Birmingham et al., 1971).

The main problem for police in conducting criminal investigations is that there is a large amount of potentially available information, but their authenticity is difficult to prove. The information obtained is often incomplete and inaccurate (UN, 2006). Further, to prove an accused guilty of the crimes committed, the evidence must be of quality, have fulfilled specific elements of crimes, and police must have followed all the necessary procedures. The police department is the main enforcement agency in Malaysia to conduct investigations and penalising the individual who commits deeds against the law. These two functions can be summarised into three categories, namely:
(1) a finding of a criminal offense has been made,
(2) the identification of the person/persons suspected of committing the crime, and
(3) the collection of evidence sufficient to convict the accused in court (Emily Berg, 2008).

Police detention for investigation is permissible and classifies as a necessity for the maintenance of universal peace, and it is similar to Lord Denning's as follows (1980):

> "It must be matched with social security, by which I mean peace and good order of the community in which we live. The freedom of a just man is worth little to him if he can be preyed upon by the murderer or the thief. Every society must have means to protect itself from marauders. It must have powers to arrest, search and imprison those who break its

> laws. So long as those powers are properly exercised, they are safeguards of freedom. But powers may be abused, and if those powers are abused, there is no tyranny like them".

Judge KC Vohrah agreed with Lord Denning, who stated that remand for investigation was an undeniable necessity. A remand for investigation was made for exemplary purposes and benefited justice (J. Gomez, 2003). Furthermore, investigations are difficult to conduct if remand for investigation is not continued within a certain period. According to Fred E. Inbau (1999), every extended detention for investigation refers to the difficulties of some cases, where there is no evidence or there is difficulty in obtaining proof, except by investigating suspects involved to obtain further information and assist the police in resolving the case under investigation.

Therefore, the police need sufficient time to help them gather all the solid evidence to charge a suspect. Nevertheless, this situation may be different when a suspect has many related cases. The investigation will be more difficult when a case has been outstanding for a long period and only then the suspect was successfully detected. This can happen in another situation when the suspect is connected to a syndicate or more than one offence. This led to the practice of chain remand. The practice of chain remand is said as a practice that violates the human rights of an individual. Individuals who are remanded in custody are perceived negatively by society when they are released, despite not being charged in court. There was even a case of a detainee being fired by his employer due to distrust, even though he was released with no charges imposed (Bottomley et al., 1991). Opportunities for promotion and career development are also affected even when a person is detained one and a half hours for example in the case of *Mejar Mohd Nazeri Haji Noor v. Sukjit Singh Shabee Singh & Yang Lain [2017] 1 LNS 620*. Being remanded often means losing the benefits of protective factors known to support resistance from crime, such as family relationships, work, and home life (Jacobson & Fair, 2016). A person's detention also affects his or her family; this depends on various factors such as whether the suspect is the sole or main breadwinner of the family, the size of the family, and the ability of the family to earn a living without the suspect (King. M, 1973). The effect of remand is greater if it involves poor families, burdensome legal fees, and other consequences (Hairston C.F, 2003). In some cases, family members will have to sell any valuable property or make a loan which will pose more difficulty for them.

Several circumstances indicate that, a suspect can be detained for up to hundreds of days as it happened in the case of *Selvakumar Subramaniam v Penguasa Pusat Pemulihan Akhlak Simpang Renggam, Johor Darul Takzim & Ors* (2013) where in this case, the suspect was detained for 826 days including detention under preventive remand. The non-governmental report known as Voice of Malaysia Citizen (Suara Rakyat Malaysia) (SUARAM) has documented cases where there are individuals were detained for investigations for close to 90 days using such practices. The practice does not discriminate as it has also been applied against minors and youth which have also been detained for more than 60 days (Asyraf. F, 2021). In 2020, SUARAM stated that a recent example in which a group of 25 individuals was arrested on 26 September 2020 and all of them was initially remanded for 11 days. They were detained for investigation of a shootout that occurred at Banting (Zolkepli. F, 2020). However, they were re-arrested and were detained for an additional 4 days at

Serdang police station. Although a remand extension was rejected by the court on 10 October, the police did not comply with the order, and yet again, these individuals were re-arrested by Jinjang police station. The remand application was rejected on 11 October 2020; at which point they were re-arrested by Putrajaya police station with another rejected remand application on 12 October 2020. The family was kept in the dark after that, but the detainees were re-arrested and remanded under the Security Offences (Special Measures) Act 2012 (SOSMA), which allows another 28 days of detention. The family members of the detainees only discovered on 14 October that the 'missing' detainees were detained under SOSMA. After the SOSMA detention, some were re-arrested again for investigation under the Societies Act 1966 whereas others are detained under the Prevention of Crime Act 1959 (POCA).

Even, in 2007, there were efforts by the government to address the issue of chain remand by enforcing a new provision; subsections 117 (3) and (4) of the CPC. This provision requires the investigating officer to detail the total period of detention that the suspect has undergone in their investigating diary. Thus, the magistrate will strike the balance by given the appropriate remand period for the suspect after considering the whole previous detention facing by the suspect before. On the other hand, this provision still does not provide a restriction period and it also overlaps with other remand involving different legislation such as SOSMA and POCA that will further extend a period of detention. This denotes that there are weaknesses and loopholes in the existing legislation to address this problem of chain remand. It is unfair to blame the police alone as there is unclear legislation to provide good direction in performing their duties. These occasions show that there is a need for a more detailed study to be conducted on chain remand, especially on the existing legal context related to it to address the problems that arise.

In this article, the authors divided the method into two which are comparative legal method and interview method in collecting the data. In each of method, the authors will explain the data obtained. The analysis of the findings will be performed separately based on the method used by the authors. At the end of the article, the author will combine both findings to conclude the proposed improvements that focus on the law of chain remand in Malaysia's criminal justice system.

COMPARATIVE LEGAL METHOD

This method of comparative legal research is used as one of the methods in this study. This method is used because the research topic is not strictly on international law or European law. The essence of comparative law is the act of comparing the law of one country to another country. Generally, comparative law has been employed as a discipline to understand foreign law and culture. It has also been used to better understand our own culture through the process of comparison to another culture (Eberle, 2011). By using this method, the authors aim to research these comparative aspects of police prolonged pre-charge detention especially on the limitation period of the detention and procedure aspect before focusing on the view of the investigative officer's perspective by using interview method regarding these practices.

The Position in Malaysia

The law of remand for investigation in Malaysia is stipulated in section 117 of the Criminal Procedure Code 1935 (Act 593). Section 117 CPC clearly shows that if an investigation cannot be completed within 24 hours, then the extended detention (remand) will be implemented on the suspect with a warrant from the magistrate, who is the authority that permitted the remand application to be carried out. There is no definition concerning remand under section 117 of the Criminal Procedure Code in Malaysia. The word remand, according to Mohd and others, is defined as sending back to custody and being kept until the hearing is resumed or the trial is commencing (Mohd et al., 2017). Whereas, according to Dr. Hamid Sultan, remand is "custody pending investigation and trial". Meanwhile, Singh appropriately explains that remand is the process by which a judicial order authorises the continued detention of a person. The main features of remand are: an order of remand can be made only by a court, it should be made for a specific period, and though it may authorise detention by the police or by the jail authorities, the detention is at a responsibility of the court (Mohd et al.,2017).

According to “Black’s Law Dictionary”, remand also means sending back to custody and kept until the trial begins or is resumed. If referred to, the Dictionary of Dewan Bahasa and Pustaka (2020) defines remand as the action to detain a person for a certain period after obtaining a court order for investigation. Furthermore, remand is also considered as a person detained for a while after obtaining a court order for investigation. Remand for investigation also detaining a person who commits a crime or sending a person back into custody (jail or lock-up) for further investigation pending trial, which they are not allowed to bail but need to be remanded until their case is mentioned again in court. Therefore, the remand for investigation is the process of detaining a person for some time for the purpose of gathering enough evidence before a person is arrested. In other words, the detainee was arrested on suspicion of committing the crime, but he was innocent until proven guilty by the court. Based on the above interpretation, it can be concluded that a remand is a form of detention of a person suspected of committing a crime. Its main purpose is to conduct further investigations into persons suspected of committing criminal offences.

Sentencing	Period of Remand for first application	Period of Remand for the second application	**Total**
The offence is punishable by no more than 14 years imprisonment	> 4 days	> 3 days	**> 7 days**
Offences that can be punished with death or imprisonment exceeded 14 years	> 7 days	> 7 days	**> 14 days**

Table 1: The Remand Application Period Schedule under Section 117 (2) (a) and (b) CPC

In the State of Maharashtra v Ramesh Taurani (1997) case, it was held that the court must approve an application of remand for investigation before remanding the suspect. Thus, the investigating officer must provide a notice to the court encompassing all evidence found throughout the suspect's investigation progression before applying remand against the suspect. The Criminal Procedure Code (CPC) underwent significant amendments on 7 September 2007 (A1274). This amendment also considers the motion submitted by the Royal Commission's Report for the Improvement of Conduct and Management of the Royal Malaysia Police, issued in 2005. Significant amendments can be seen in sections 28 and 117 CPC. After this amendment, section 28A CPC was created by granting rights that are more specific to the accused, like to be represented by counsel during his detention. Moreover, the investigating or arresting officer needs to be informed of the suspect’s grounds for arrest. The application of remand will depend on the type of offenses based on Table 1. Here, it can be determined that the strictness of section 117 is obvious and need to be applied before the amendment.

Legal practitioners remarked that after the section was amended, the phrase "arrest first, investigate later" could be removed (Rahim et al., 2018). Legal practitioners also argue that extended detention after the amendment is more realistic and controllable. The detention period for offences punishable by death or imprisonment for more than 14 years is different from the detention period for crimes of not exceeding 14 years. The amended provision is intended to obtain evidence from the detained party. The main factor in the amendment is to prevent detainees from being detained further without reasonable cause.

The Position in England and Wales

The provisions of investigative detention in England and Wales are prescribed under the Police and Criminal Evidence Act 1984 (PACE) and Code C which contains the guidelines of practice for the detention, treatment, and questioning of persons by police officers. The detention of suspects by the police without charge was initially limited to up to 24 hours. This 24-hour detention period is allowed if there is insufficient evidence to charge a suspect of committing a crime. Nonetheless, the custody officials believe that the detention is necessary to obtain evidence by questioning a suspect. In England and Wales, section 40 PACE claims that each detention will be reviewed over time to time to determine if further detention is needed or otherwise. This review will be done by a police officer who is assigned to make the review, called a "Review Officer". Concerning this, there are times that have been set according to PACE that the review period will start at the first 6 hours after the arrest and the second review will be conducted at the period of 9 hours after the first review. The third inspection period of 9 hours for each detention is imposed on the suspect.

In the meantime, when the suspect is arrested on a felony charge, the 24 hours can be extended by 12 hours by a senior police officer. Next, after 36 hours, a suspect must be prosecuted or acquitted. If the police still need time to further detain the suspect, a warrant for further detention up to 36 hours and up to a total period of 96 hours needs to be issued by the magistrate. In England and Wales, further police detention involving the suspect for another offence in a different police station or location is similar to chain remand practice in Malaysia. Thus, for further detention involving the suspect for another offence in a different police station or location like what happened in chain remand practice in Malaysia, PACE highlights that the calculation of the suspect detention period can be calculated in two ways. First, the detention period will be extended from the previous detention at the station; for example, the suspect is detained at station A for 3 hours and then the suspect is taken to station B, then the next period at station B will be extended from the last suspect detention period at station A. Meanwhile, the second way shows the shorter period, which is by the time the suspect is brought to the next station, only then will the detention period run. If it is found that the suspect also has other offenses at the same station, a "reasonable time" will be given. According to section 41 of the PACE, “reasonable time” is defined as a phase when the suspect arrives at the station for the first time arrested or within 24 hours after the suspect is arrested whichever is earlier. Meanwhile, the PACE also omitted the investigation period if the investigation could not be carried out on the suspect if the suspect has been hospitalised. The authors summarise the remand period in England and Wales as in Table 2.

No.	Detailed	Duration	Provision
1	Initial Detention	24 hours	Section 37 PACE 1984
2	Further Detention (First) (police power)	12 hours	Section 41 PACE
4	Further Detention (First) Warrant from the Court	36 hours	Section 42 PACE
5	Further Detention (Second) Warrant from the Court	36 hours Maximum period 96 hour	Section 43 PACE
6	If the suspect is involved in further offences	Same period as mention above (will apply concurrently and not separately)	Section 31 PACE
7	Review Officer and Custody Officer (different from Investigating Officer)		Section 34 dan section 38 PACE
8	Review Period	i. 6 hours after the first arrest ii. 9 hours iii. 9 hours consequently	Section 40 PACE

Table 2 Investigative Detention Period in England and Wales

The Position in India

Remand legislation in India is enshrined in section 167 of the Criminal Procedure Code of India (CrPC). Referring to the provisions of this section, the police should bring the suspect that has been arrested and detained before the nearest Magistrate for a further remand order if the investigation cannot be completed within 24 hours, but the police still have reason to believe that the suspect is involved in the offence. According to section 167 (2) of the CrPC, a remand period granted shall not exceed 15 days. However, remand laws in India have given some leeway to investigations that still cannot be completed within 15 days. Section 167 CrPC, has its similarities with section 117 CPC of Malaysia, which allocates 14 days, the total remand period, and including the 24 hours, that made the total of 15 days.

Section 167 (2) allows the court to extend remand detention to the suspect for up to 60 until 90 days based on the type of offence. If the 15-day remand granted expires, the magistrate may allow further remand but it will be granted under judicial custody, not the police. Remand for 90 days for offences involving the death penalty, life imprisonment, and imprisonment exceeding 10 years, while the maximum remand of 60 days involves offences punishable by less than 10 years imprisonment. However, under judicial custody, if the police require a suspect for the investigation, the police should apply to the court. The authors summarise the remand period of India in Table 3 as follows.

No	*Detailed*	*Duration*	*Provision*
1	Initial Detention	24 hours after arrest	Section 57 CrPC and Section 167 (1)
2	Extended Detention (court warrant)	15 days (under police custody)	Section 167 (2) CrPC
3	Extended Detention (court warrant)	60 days (for offences of sentence under 10 years) Covers all the same cases Judicial Custody	Section 167 (2) (a) (i) CrPC
4	Extended Detention (court warrant)	90 days (for offences of imprisonment exceeding 10 years and the death penalty) Judicial Custody	Section 167 (2) (a) (ii) CrPC

Table 3 Investigation Detention Period in India

In India, they do not use the term ‘chain remand’, but they focus on further detention other than the first arrest whether it involves the same nature of the case or not. The general principle of the investigative period of remand in India is not to exceed 15 days referring to a single police report. Yet in the case of *S. Harsimran Singh vs the State of Punjab* (1984), the court focused on the remand of the suspect which involves different types of offences and not the same offence when the suspect was remanded earlier. The court examines different police reports that can give space to the police in carrying out their duties, but the court that grants remand should evaluate properly in allowing remand. The court will be allowed further remand to be applied especially when it involved different cases and not the same nature of the case. This is undeniable that when it involves the different types of the case, it is fair for the police to investigate something that is still new and not yet in the knowledge. Yet, it is not the basis for prolonged detention.

Several cases are stating that investigation can be conducted against a suspect even though the suspect is under judicial custody involving the same case. The case of *Central Bureau of Investigation vs Anupam J. Kulkarni* (1992), it is about the diamond robbery that happened in several locations, and the court stressed suspect will not be detained under police custody after 15 days expire. The remand period can only be extended for 60 or 90 under judicial custody. After the period of 60 and 90 days ends and the investigation is still not completed, the suspect shall be given bail. Based on the case of *Gian Singh and Others vs State (Delhi Administration)* (1981), the court specified that the suspect who has been remanded under judicial custody cannot be taken out and re-arrested under police custody even for a different case. While in *State (Delhi Administration) vs Dharam Pal and Others* (1980), the suspect who has been brought to remand under judicial custody can be taken to any place of detention except the place of police detention. However, in the case of *The State of Bombay vs Bhanji Munji and Another* (1955) has stated that if the investigation to be conducted is a more serious offence than before, the police can ask the suspect who is currently under judicial custody to be taken out and remand under police custody. For example, if the previous suspect is detained for a robbery case and a new police report connecting the suspect to a murder case, then the suspect can be remanded under police custody for investigation.

According to section 167 of the CrPC, the total period of 15 days indicates that this amount is the sum as a whole. This was also confirmed in the case of *State (Delhi Administration) v. Ravinder Kumar Bhatnagar* (1982*)*, where the provision "for a period not exceeding 15 days in total" hereby clearly indicates the 15 days commencement when the suspect is brought before a Magistrate according to subsection (1) and police detention cannot be granted after the 15 days. The case of *State of Kerala v. Sadanadan* (1984), also interprets that the period of 15 days is the total remand given to the police to conduct an investigation. After that period ends and if the investigation is not yet completed or detention remand awaiting trial under section 309 CrPC, only then detention under court custody is allowed. The old CrPC provision made it possible for investigations to be carried out even involving the same case. Yet the new provision of section 167 (2) clearly states that the period shall be a total of fifteen days and custody rights further under the conditions of Section 167 (2) or Section 309 shall only be under the judiciary. The court in the case of *Chaganti Satyanarayana and others v. State of Andhra Pradesh* (1986), defines the scope of Section 167 (2) (a) (i) and (ii) and decides that the period of 15 days, 90 days, or 60 days specified therein is calculated from the date of remand of the accused and not from the date of his being arrested under Section 57. Police detention shall not exceed the period of 15 days and further remand must be to judicial detention.

Analysis of Comparative Legal Data

Based on the above explanation, it can be summarised that the courts in India, are very careful to allow the suspect to be placed under police custody if it involves same offences at a time. However, investigations involving different types of offences sometimes are allowed by court. Although the extension period granted in India is seen as long, this period covers all the offences connected to the suspect. The police must gather all offences committed and investigate within the period. This also applies in chain cases in India, where the police should investigate the whole case without the need for an extension of the remand period. In other words, India limits the application of remand to a period of 60 to 90 days and under court custody. The authors are of the view that the application of the law in India is clear as they limit the remand period of investigation, which is specifically contrasting in Malaysia that gives room for court discretion in determining it as sections 117 (3) and (4) of the CPC only seeks to know the total remand period of the suspect and did not specifically restrict it. Still, the 60 or 90 day period in India for researchers is still too long, but interestingly the period is under the custody of the courts and not the police. This can prevent the suspect from being beaten or pressured to plead guilty to the crime being investigated. The remand application process in India as stated above can reach to the level of "prima facie" in trying to prove an offence at trial. All relevant evidence must be brought to court and a remand trial can be conducted with the permission of the court if any witness that must be present able to give evidence before remand is allowed. Although extended detention in India is seen as long (this is among the negative aspects), but India has taken appropriate steps to limit the use of remand periods. Proof of strict remand applications also makes the legislation in India better than in Malaysia.

Meanwhile, England and Wales also provide a time limit for detention for further offenses, where the time limit is given is only up to 24 hours referring to section 31of the PACE. The author argues that this time is too limited which may make it difficult for the police to investigate. Interestingly, England and Wales manage to balance this period by providing a time deduction provision as provided under section 41 (7) Police and Evidence Act 1984. If the suspect is taken to hospital for medical treatment and no investigation can be carried out, then the period of detention is not included. Despite the short detention time for investigation in England and Wales, this provision is to exclude detention calculation on certain factors which are very beneficial to the police to carry out their duties competently. Furthermore, the law in England and Wales provided different officers rather than investigation officers alone to govern one suspect. As in England and Wales, they provide custody officers to control the issues of extended detention. The custody officer will determine whether the suspect will be further detained or not based on the investigation that had been carried out by the investigative officer, while review officer has been assigned to review the time of detention. Reviews of the detention of each person in police detention in connection with the investigation of an offence shall be carried out periodically in accordance with section 40 PACE.

In Malaysia, the deduction period is only on traveling time from the detention centre to the court during the detention period of the investigation. Nonetheless in Malaysia, there is no limit to the period of detention involving further offences. As discussed above, the period may be granted at the discretion of the magistrate who hears the application after examining and evaluating the investigation diary referring to section 117 (3) and (4) of the CPC. The author believed that the deduction period for certain factors needs to be considered as it is causing the delay to the police officer to complete their task accordingly.

INTERVIEW METHOD

In total, 18 experienced investigation officers have been interviewed in this study (N=18). They are based in different geographical states in Malaysia. The author tried to get each investigating officer to represent each state. In Malaysia, there are 14 states, namely Perak, Perlis, Terengganu, Kelantan, Kedah, Johor, Melaka, Kuala Lumpur, Selangor, Sabah, Sarawak, Pahang, Labuan and Putrajaya. However, in the context of this study, the author could not interview four representatives of investigating officers from Labuan, Putrajaya, Pahang, and Kelantan due to unavoidable reasons. The purpose of interviewing different investigating officers by the state is to see if the concept and practice of applying chain remand are the same or different. A purposive sampling technique was used to target investigation officers who had handled chain remand cases. Interviews were arranged upon the interviewees' consent, and no interviewee has rejected the interview invitation. During the interview, the author used the Malay language to attain the casualty of the conversation that is normally utilised by the language in Malaysia.

The interviews were conducted between earlier 2020 and up to January 2021. The interview was led with every one of the informants in a location that is pleasing for the informant. The interview, as a rule, began with a comprehensive inquiry on the general setting of the informant's experience as an investigating officer and the cases they took care of. The interview guide incorporated an outline of themes of topics to be investigated – subtleties of the case (realities, proof) and questions identified with these subjects were raised during the interview regarding interviewee reactions. Semi-structured interviews benefit from sustaining effortlessness in interviewee answers and further advancing the ascent of new conversation topics. Besides, this opportunity empowers the interviewer to adjust follow-up inquiries to the interviewee's interview setting and answers previously given.

After transcription, the interviews were analysed and coded before categorising the code into the thematic group. The theme and code of the interviews were discovered and put into order (Paillé and Mucchielli, 2012) in the analytical tool. Out of 18 investigating officer interviews, 6 had more than 10 years’ experience and 12 experiences less than 10 years’ experience in this field. Table 4 gives their salient details. The author explained the objective of the study and the interviewees' rights before each interview. Verbal or written consent was obtained following the author's university's research ethics standard. The interview was conducted for about one and a half hours and was audio-recorded after the informant consented to it. While recording the interview, the author also typed all the data. To protect the informant's identities, all of them will be referred to as PP1, PP2, PP3, etc.

No	*Gender*	*Years of Experience*	*Department*	*Special law on chain remand*	*States*
1	M	7 years	General Crimes	Agreed	Malacca
2	M	5 years	General Crimes	Disagree	Malacca
3	M	7 years	General Crimes	Agreed	Sabah
4	F	10 years	General Crimes	Agreed	Malacca
5	F	10 years	General Crimes	Agreed	Malacca
6	F	10 years	Commercial Crimes	Agreed	Malacca
7	F	10 years	Human Trafficking & Smuggling	Agreed	Kuala Lumpur
8	F	5 years	General Crimes	Agreed	Negeri Sembilan
9	F	5 years	General Crimes	Agreed	Perlis
10	M	5 years	Narcotic	Disagreed	Selangor
11	F	1 years 5 month	Sexual Crimes	Agreed	Pahang
12	F	13 years	General Crimes	Disagreed	Terengganu
13	F	5 years	General Crimes	Agreed	Perak
14	F	4 years	General Crimes	Agreed	Johor
15	F	5 years	Commercial Crimes	No View	Sarawak
16	M	14 years	General Crimes & Organized Crimes	Agreed	Kuala Lumpur
17	F	7 years 4 month	General Crimes	Agreed	Kedah
18	M	4 years	General Crimes	Disagreed	Kuala Lumpur

Table 4: Summary of the Investigating Officers Detailed

Analysis of Interview Data

The author using ATLAS.ti 9 as a tool to analyse the interview data. Analysis of the interviews revealed 13 out of 18 informants agreed that there is a need for special legislation governing chain remand (refer to Chart 1) based on their experience. For cross-tabulation analysis, the author divided the informant into two categories: those with experience of more than 10 years and those with less than 10 years' experience. As result, all the officers who have more than 10 years of experience wanted special law of chain remand, while half of the officers who possess less than 10 years of experience want specific law of chain remand to be implemented. This special law is seen to support investigative officers from continually being criticised for abusing their investigative remand powers. In contrast, the investigating officer was not given any proper direction or guidelines. At this juncture, the author summarises why most investigating officers require special chain remand laws based on Chart 3.

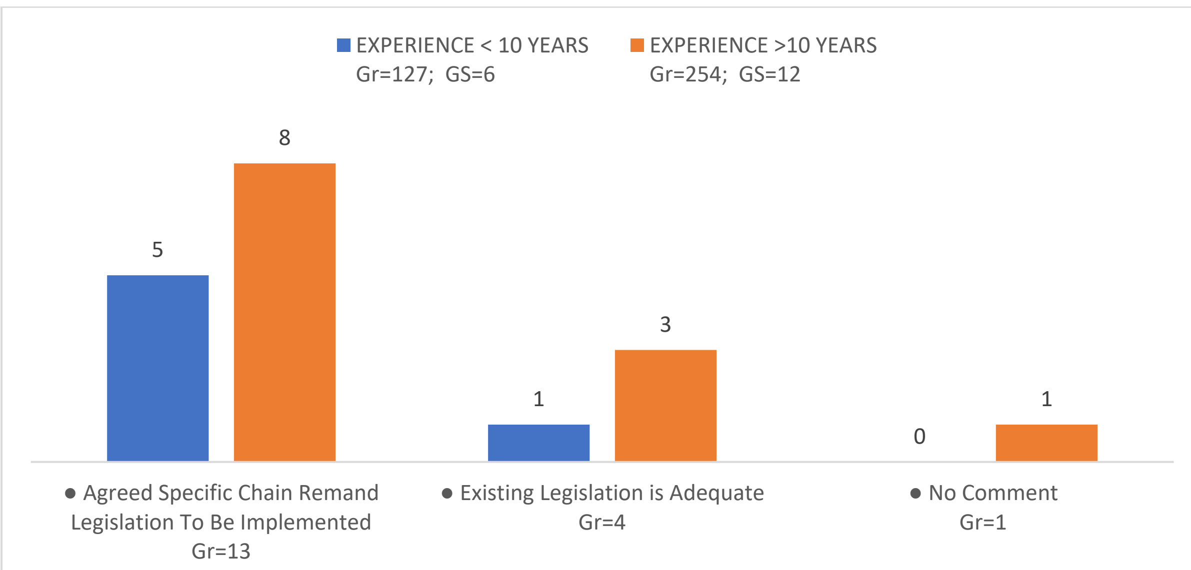

Chart 1: The Need to Establish a Special Law on Chained Remand (Investigating Officers) Based on Experience.

	EXPERIENC... 12 254	EXPERIENC... 6 127	Totals
Agreed Sp... 13	8	5	13
No Comm... 1	1		1
Existing Le... 4	3	1	4
Totals	12	6	18

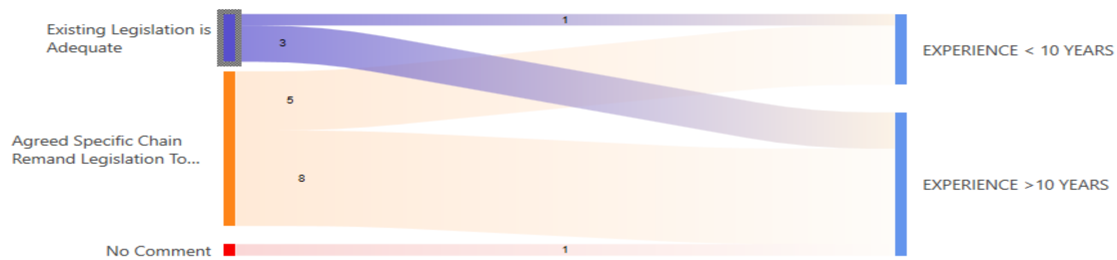

Chart 2: Cross-Tabulation Analysis of the Investigating Officer Experience Document Group with the Chained Remand Special Legal Code Group.

Based on Chart 3 (below), the theme has been divided into five and can be referred according to colour boxes - purple, green, blue, orange, and red. The higher reason why most of the investigating officers required special legislation is to ensure they will not be blamed for referring to a green colour box. The frequencies show 4 informants out of 13 informants stated the same theme. Another reason raised from the thematic analyses shows on 3 informants, who claimed them as been benefitted by the specific legislation as it provides better quality while conducting investigations (refer to purple colour box). A suggestion stipulated that the amendment needs to be satisfied for the investigation officer to carry out their task efficiently. Another 3 informants lay down that the specific law will reduce the complaint against the police officer for abusing their power (red colour box), while another 4 officers stated that the law will give direction (blue box colour) as well as safeguarding the rights of a suspect fairly, and clear the misunderstanding about the duties of the police officer (orange box colour). Other reasons invite exploration in chain remand cases that need improvement than the amendment. However, based on Chart 1, another 4 informants disagreed with the specific chain remand law that has been enforced due to certain reasons and another 1 officer has no view on this question.

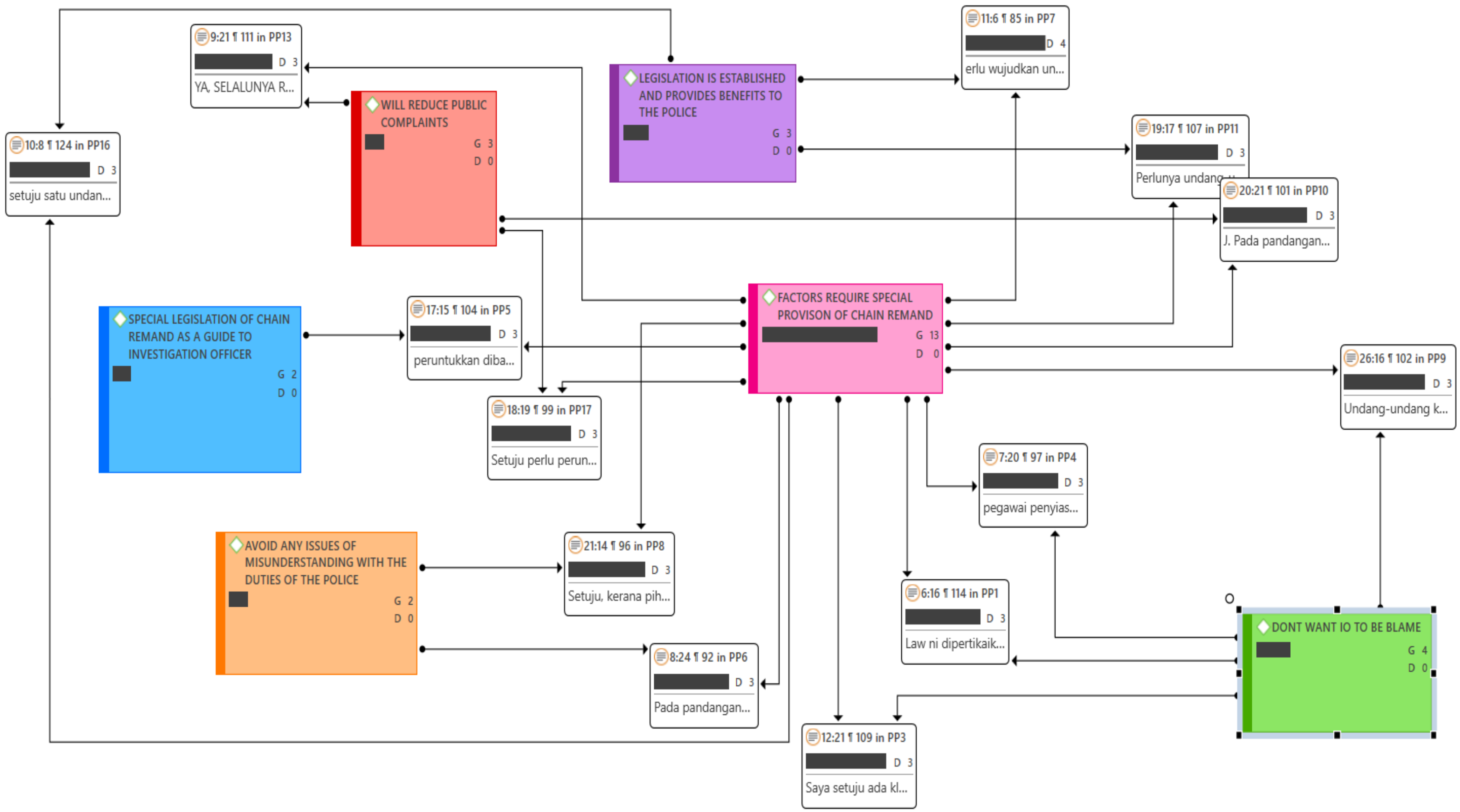

Chart 3: Theme Network Code Reasons Requires Special Law of Chain Remand

DISCUSSION

This is the first study that examines the chain remand law and perceptions of police officers in Malaysia to the author's knowledge. This study provides valuable insights into understanding the needs of Malaysian police officers. The findings seem to stress a prerequisite to establishing a specific law on chain remand and other improvements involving chain remand. Based on the responses received, there were potential concerns about chain remand application. Almost all of the officers indicated the department issues as having no guidelines to assist the investigation officer on how the procedure for the application of chain remand. Although there is an Inspector General Standing Order (IGSO) regarding chain remand, where every case of chain remand needs to get the permission of the Officer in Charge of Police District (OCPD), it is not precise and vibrant in practice. The author summarises the suggestions for improvement from the informants other than the existence of a special chain remand law based on Chart 4.

From Chart 4 below, it can be summarised that this improvement proposal touches on four themes (as refer to pink colour box) which are enhancing police administration and policy, enacting guidelines of chain remand, organising periodically courses and training about chain remand, and soothing roles of the higher authority which involved in chain remand cases. Based on the first themes concerning the administration and policy of the police department, the themes can be divided into six codes. Among the codes raise is the failure of the complaint to cooperate throughout the investigation which also causes the delay to the investigation process. Therefore, there is a need to implement the penalty clause to ensure the complaints will give their cooperation to furnish all the information needed by the police. In Chicago usually, the police will end their investigations when the complainant failed to give cooperation to them (Hopkins, 2009). The complainant is an important witness who is responsible for proving the complaint. Without their proof, certainly, an investigation cannot be completed. Therefore, the complainant needs to cooperate as soon as possible in order to smooth the progression of an investigation. The practice in Chicago may be adopted by Malaysia by closing the cases of complainants who are not interested in pursuing their cases without reasonable cause if the suggestion of the penalty clause would not be possible.

Additional codes that emerged from the themes are about centralised lock-up, facilitating the remand place to apply for remand, especially in rural areas, the appointment of one investigating officer handling chain remand cases, and the enrichment of manpower resources. In other words, the improvement leads to the transformation of the police system itself. On the issues of manpower, Tengpongsthorn (2017) expressed that the issue of the lop-sidedness of work and life, particularly within the viewpoint of the lop-sidedness of manpower and workload, impacted the capability of the police officers. The qualitative investigation found that the figure concerning the lop-sidedness of manpower and the workload was a deterrent to the practicality of police work accomplishment (Hongton, 1996). The centralised lock-up and one investigation officer who handles chain remand cases can reduce the number of manpower indirectly as an option to solve the issues of shortage of manpower. Therefore, investigations conducted will be faster and easier whether they involve chain remand cases or any other cases.

The second theme is about establishing the chain remand guidelines. Guidelines are a piece of information that suggests how something should be done. In Malaysia itself, the police department is one of the authorised bodies that have various guidelines distributed to assist members and their officers in carrying out their duties such as by the permanent order from the national police chief regarding the identification parade carried out during investigations. Even around the world, various guidelines are in place to help certain parties in carrying out their assigned tasks well based on existing legislation (Hamilton and Smykla, 2006; Powel et al, 2010; Stark, 1994). By establishing these chain remand guidelines, it can help to investigate officers to carry out their work. These guidelines should also be in line with existing legislation. Problems will arise if the guidelines that have been produced are not in line with the law. The relationship between law and public guidelines can be described as a 'hand in glove' (Kiyong, 2014). By referring to Harrington and Carter (2009), they portrayed regulatory law as the instrument that controls administrative power given to authoritative branches that "gives authenticity and specialist to state actions." It is imperative to note that there are four sets of laws that administer the behaviour: the directors, administrator, legislator, and constitution (Harrington, Carter, 2009). Clear rules and directions would strengthen the achievements of the police force. The police officers recommended that the vague rules and directions ought to be changed (Tengpongsthorn, 2017).

Thirdly, the theme refers to the role of the prosecutor and the court, and the reason behind the criminal justice system is to understand law and order, which is maybe the foremost important conditions for the sustainable change of social orders. For this reason, punishment must be given to the people who have damaged the law and extending the process of law. Moreover, the police are not only responsible to investigate, but they also keen in offering justice to the suspects, whereas prosecutors are answerable to check the investigation taken place by the police and to arrange the case for the charge, referring to the reasonable treatment of law. All in all, prosecutors are vested with the obligation of checking the police investigation in accordance with the law. Apart from their obligation to arrange criminal cases for indictment, prosecutors in each nation also play a few imperative parts in a criminal investigation despite the contrasts in fundamental lawful standards. In a few nations, prosecutors have an in general obligation over the investigation, whereas, in others, they have a restricted part in carrying out the investigation. Whereas prosecutors also can control police directed by law. Prosecutors may coordinate police investigative exercises and arrange them to seek after specific avenues of request, thus counting the investigation of conceivably exculpatory prove (Ed Cape et. al, 2007). The author believes that cooperation from the prosecutor to expedite any decision to prosecute or not to prosecute involving chain remand cases is a worthwhile endeavour. This is because only the prosecutor has the power to do the charge, and if this process can be accelerated by giving instructions for minutes of all remand cases chain at once, it simultaneously can speed up the process of detaining suspects either to continue to be detained or released.

Lastly, it is about the requirement to provide training and courses to investigating officers on the latest progress and issues raised in chain remand. Based on Skogan and colleagues (2015), their research shows that the huge training program involving about 9,000 police officers shows that all the officers who went for that training are getting higher scores on states of mind toward pointers of procedurally fair treatment in a quasi-experimental comparing to the non-attended group. Referring to Yuri (2018), she expressed the need for lawful understanding when she found the reason that leads to thousands of illegal detainments and arrests in Ohio, United States (2018). She also believed that training is one of the solutions to equip the police officers with the knowledge of the current legal position in dealing with their job specifications. When police officers do not get the constitutional imperatives on their activities, they cannot implement criminal laws lawfully (Yuri, 2018). Whereas, according to Wayne (2011), poor training also leads to a tense relationship between police officers and individuals of the societies where they serve.

The well-known maxim that “ignorance of the law is not an excuse” is regularly used against those charged with an infringement regarding statutes, which they claim to not have known. Police officers whose important work is to uphold the law should not be permitted to utilise this maxim to themselves. It is the obligation of the police officer to prepare themselves with the foundations of statutory laws they implemented to make sure they’re not abusing the power given to them. In the case of *United States v. Martin, 411 F.3d 998, 1001 (8th Cir. 2005)*, courts have recognised that police officers at some of the time would get destitute lawful training, counting within the setting of choosing whether a police officer’s failure of law was sensible. All of this exposed the critical nature of preparing police officers appropriately to conduct their duty legitimately. The results of all these studies lift the recommendation that the soundness of training programs will give an impact on the states of mind of police officers. Moreover, in-depthnlegal training covering all angles of law, and they will manage to convey their abilities that lead to be a superior, leading to make more intelligent choices when associated with their assignment. These well-trained officers will be in a better position to maintain a tactical distance from or anticipate illegal or flawed conduct.

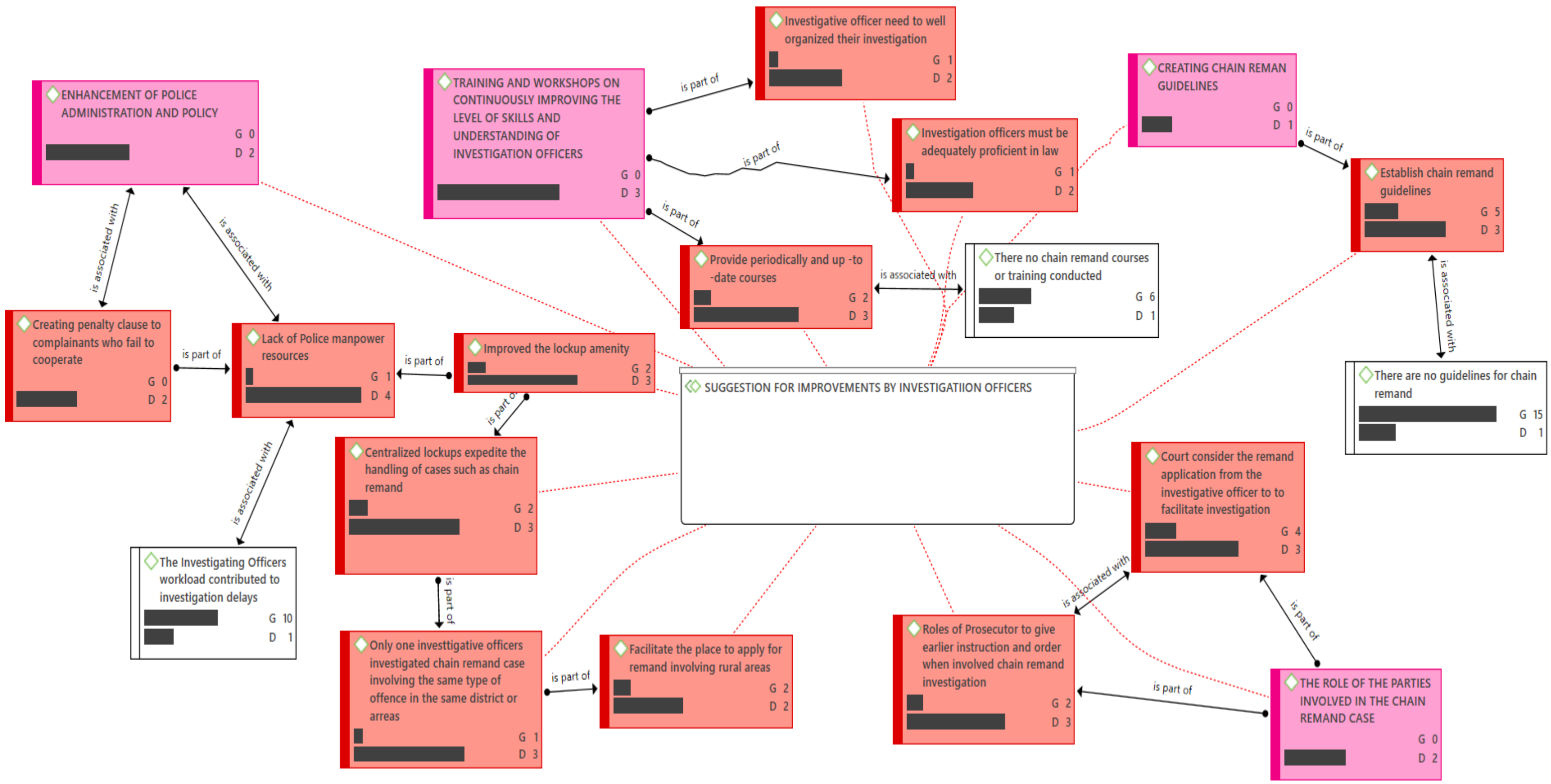

Chart 4: Recommendation and Improvement on the Perspective of Investigating Officers

FINDINGS

Based on the discussion and analysis carried out, the weaknesses and loopholes in the existing legislation, especially the laws that were previously formulated in section 117 (3) and (4) CPC are exposed. This happens when the public at large condemns police for abusing their power as they apply a lengthy remand period on a suspect who has yet to be proven guilty. This chain remand practice is like a punishment that is carried out even though the evidence is still not sufficient to indict the suspect. A comparison of the laws between E&W and India, shows that Malaysia has no time limit regarding suspects who have more than one offence as happened in the case of chain remand. The provisions of 117 (3) and (4) CPC require the investigation police to include all remand periods in the investigative diary that the suspect has undergone and its return to the court's discretion in considering the remand application after the previous period of detention. Although the author did not agree with a long remand period in India and a limited remand period in E&W, however, the limited period of detention shows that these two countries have a better law system than Malaysia.

Therefore, the author suggests a specific law on chain remand should be focused on section 117 (3) CPC, in which the limitation period of the section needs to be stipulated clearly in the provision, if at any time during the detention period, the suspect according to the recommended provision, with reasons to believe that the suspect has committed a relevant offence (‘other offence’), which is an offence other than the offence related to the first detention; and has reasons to believe that the continued detention of the suspect is necessary for the further investigation of the guilt of the other offence. The recommended provision also needs to be clearly explained further that detention is referred to (a) arrested for the same offences during the first arrest, or (b) arrested for different offences. Authors also suggest when the same offence or otherwise is investigated for more than one police report and the punishment not more than 14 years imprisonment, the detention shall not exceed seven days on the first application and seven days on the second application. While referring to the punishment of more than 14 years imprisonment or death sentence, then the detention should be 14 days on the first application, 7 days on the second application, and 7 days on the third application. In another words, the total period of remand for offences punishment not more than 14 years imprisonment is 14 days and for offences, punishment more than 14 years imprisonment or death sentence is 21 days. This 14 day period takes into account the previous provisions involving sentences exceeding 14 years imprisonment and the death penalty as per section 117 (2) (b) CPC. Under normal circumstances, this provision in accordance with the provisions of section 117 (2) (b) involves serious criminal cases and this period of 14 days should be sufficient for lighter cases involving chain remand cases. Whereas for a period of 21 days take into account the remand period in the investigation of preventive cases. The authors believe the proposed period is appropriate given the preventive cases also involve cases of more than one police report and all of the cases are grouped together for investigation.

What can be ascertained other than the specific legislation on chain remand is that all improvement proposals submitted should be considered in order to ensure that the issue of chain remand is resolved. The authors believe that these periodical courses and training can benefit police officers for a better understanding of the law. Although the law states the power to decide for a warrant of remand is under the court's discretion, but all information about the investigation is gathered through the investigating officer. If they fail to channel accurate information, a reasonable decision is also difficult to be obtained. Consequently, an improvement that ensures a balance between the police and the public should be given fairly to improve the existing situation.

CONCLUSION

This study provides preliminary insights into the attitudes of the police regarding the chain remand law in Malaysia. Findings highlight the importance of specific legislation on chain remand cases as able to assist police agencies to resolve a case. Besides, the comprehensive legislation also will not only minimise the criticism against them but also smooth the running of their work with clear and concise legislation. However as discussed above, the law is not the only issue since other elements also contribute to constraints on police enforcement. The investigation of chain remand cases conducted by police officers is not always guided by best practice procedures which may cause impediment in the progress of investigations, risk injustice for the people involved, and fuel the public's distrust of the police.

Therefore, this calls for an amendment of the current enactment strategies, preparing and execution of standardised rules in how investigation ought to be conducted. Collaborations and discourses between professionals and scholars should also be empowered, as this will offer superiority to the analysts in getting the desires of serving the police constrain and help in raising motivation of future research.

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