

An Empirical Study on Overview of Remand Under Civil Procedure Code

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Abstract: Remand typically refers to the action of a court sending a case or a person back to a lower court or another authority for further proceedings. In the context of the Civil Procedure Code (CPC), which may vary by jurisdiction, "remand" could occur when an appellate court decides that a case needs to be reconsidered or further examined by a lower court due to legal errors, new evidence, or other reasons. The code outlines procedures that Civil Courts must follow. The code offers the tools necessary to enforce rights and obligations. Send back is a synonym for remand. If the appellate court reverses the judgement that was previously passed and the trial court decides the suit on a preliminary point without recording findings on further issues, the case may be sent back to the trial court for further consideration. The code has no bearing on regional or particular laws. A survey is used to collect the data, with a sample size of 201. The review employs an accommodation testing methodology to acquire the data. The examples were collected from the general populace with particular attention on the Chennai region. The respondents' sex, age, educational level, occupation, monthly wage, and marital status are autonomous factors. The secondary variables include whether respondents believe that remand is a helpful procedure in civil cases, whether they are aware of the various remand procedures, the various scope of the remand procedure in civil cases, whether they agree that remand in civil cases is misused or not, and their opinions on the usefulness of various types of remand. Charts were used by the scientist to organize the information. This study aims to examine and analyze the scope of remand under the Civil Procedure Code.

Keywords: Remand, litigation, special laws, implementation, appellate courts

I. INTRODUCTION

Remand typically refers to the action of a court sending a case or a person back to a lower court or another authority for further proceedings. In the context of the Civil Procedure Code (CPC), which may vary by jurisdiction, "remand" could occur when an appellate court decides that a case needs to be reconsidered or further examined by a lower court due to legal errors, new evidence, or other reasons. It's essentially a process of sending the case back for additional actions or a new trial at a lower level of the judicial system. The specific procedures and rules for remand can vary based on local laws and regulations. The code contains procedures to be implemented by Civil Courts. The code provides the means to enforce rights and liabilities. Remand means to send back. Where the trial court has decided the suit on a preliminary point without recording findings on other issues and if the appellate court reverses the decree so passed, it may send back the case to the trial court to decide other issues and determine the suit

.The code does not impact local or special laws. The provision was added by the Code of Civil Procedure (Amendment) Act, 1976. The insertion of the Rule makes it explicit that even when the suit has been disposed of otherwise than on a preliminary point and the decree is being reversed on appeal, in such a case Appellate Court shall have the power of remand, if a re- trial is considered necessary. The provisions of Remand is incomplete without mentioning Rule 24 of Order XLI which enable the Appellate Court to dispose of a case finally without a remand if the evidence on record is enough; notwithstanding the Appellate Court proceeds on a ground entirely different from that on which the Lower



Court had proceeded. By reading all the three provisions together – that is Rule 23, 23 – A and 24 of the Order XLI bring forth the scope as also contours of the powers of remand that when the available evidence is sufficient to dispose of the case, the proposed course for the Appellate Court is to refer the mandate of Rule 24 of Order XLI of the Code and also to determine the suit finally. Whenever a re – trail of the case is necessary in such a case the Appellate Court shall adopt the course of remanding the case to the Lower Court. It is pertinent to note that the order of remand is not to be passed in a routine manner because an unwarranted order of remand merely elongates the life of the litigation without serving the cause justice. It was observed that the parties in the case had adduced all their evidence, whatever they had wished to; and there were no such cases where the Appellants were denied any opportunity to produce any particular evidence or if the trial was vitiated because of any alike reason. This study aims to examine and analyze the scope of remand under the Civil Procedure Code.

OBJECTIVE:

- To know whether remand is a beneficial procedure in civil cases.
- To know the various scope of the procedure of remand in civil cases.
- To understand the utility of various types of remand.
- To know whether remand in civil cases is misused or not.

II. REVIEW OF LITERATURE

Yannick van den Brink (2021) researched Remand decision-making in the youth court. A comparative analysis of youth remand and bail in England & Wales and the Netherlands. This article presents the findings of an in-depth comparative study of remand decision-making in youth courts in England & Wales and the Netherlands. (Lynch et al., 2022). Tom Smith (2020) researched on Rushing Remand? Pretrial Detention and Bail Decision Making in England and Wales. Deprivation of liberty as part of the criminal process is always a significant step, and arguably even more so when the person so deprived has not yet been convicted of an offense. (Finch et al., 2023). A. Hucklesby (1997) researched Remand decision makers. This article discusses the role of the various professional decision makers involved in the remand process. It argues that although, in theory, magistrates make remand decisions, in practice, many remand decisions are taken prior to the court hearing by other participants. (Hucklesby & Wahidin, 2013). Andrzej Sakowicz (2022) researched on The impact of the case law of the Constitutional Tribunal on the standard of detention on remand in Poland. Detention on remand is intrinsically linked to the fundamental rights and freedoms of the individual and, in particular, to personal freedom, the right to a fair trial and the principle of the presumption of innocence. (Sakowicz & Beck, 2023) Lisa Mary Armstrong (2022) researched on Remanding Women: Exploring the scope for using therapeutic jurisprudence as a framework in the bail and remand decision-making process. The use of problem-solving courts (PSCs) has grown increasingly out of recognition that offending can be linked to social and chronic health needs.

The research literature has tended to focus on sentencing neglecting one of the most important points in the legal process – the bail decision. (Masson & Booth, 2022). Oscar Bloem, Robbert-Jan Verkes, Erik Bulten (2021) researched on The Course of Psychiatric Symptoms During Remand Imprisonment. Imprisonment may pose a risk for unintended effects such as deterioration of psychiatric symptoms. (Bloem et al., 2023). Oscar Bloem, Erik Bulten, Robbert-Jan Verkes (2019) researched on Changes in subjective wellbeing of prisoners on remand. The purpose of this paper is to explore this development in a longitudinal study in association with mental disorders and socioeconomic factors. Philippa Tomczak (2022) researched on Highlighting “Risky Remands” Through Prisoner Death Investigations: People With Very Severe Mental Illness Transitioning From Police and Court Custody Into Prison on Remand. Prison suicide/self-inflicted death is an international public health crisis, harming stakeholders including bereaved families, prisoners, prison staff and death investigators. (Tomczak & Philippa, 2018). Louise Victoria Johansen (2021) researched Between Remand and Verdict: Ethnic Minority Prisoners’ Legal and Penal Consciousness. This article combines the analytical perspectives of ‘legal’ and ‘penal’ consciousness in order to analyze how ethnic minority prisoners in remand anticipate their upcoming court trial and how they subsequently make sense of the legal process and their sentence. (Field & Tata, 2023). Liz Campbell, Andrew Ashworth, Mike Redmayne (2019) researched on Remands



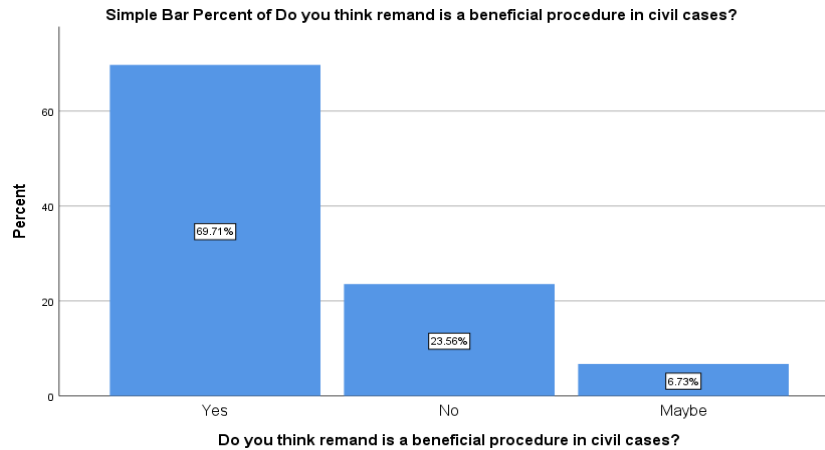
before trial. The impact on the liberty of a defendant is an important issue and this chapter analyzes remand decisions, scrutinizing the justifications for taking away liberty before trial.(Campbell et al., 2019).Sue King, David Bamford, Rick Sarre (2008) researched on the Remand Strategy: Assessing Outcomes. The continuing increases in the numbers of people in prison because they have been refused bail, together with the differential rates at which people in the various Australian jurisdictions are remanded in custody, raise urgent questions about the use of custodial remand.(Travers et al., 2021).Aisha Holloway,Jennifer Louise Ferguson, Richard Parker (2019) researched on Alcohol brief interventions for male remand prisoners: a mixed-methods feasibility and acceptability study. Drinking at levels that put a person at risk of health or social harms is a recognised public health concern in remand prisoners.(Yideum, 2019).Christopher J. Walker (2014) researched The Ordinary Remand Rule and the Judicial Toolbox for Agency Dialogue. When a court concludes that an agency's decision is erroneous, the ordinary rule is to remand to the agency to consider the issue anew (as opposed to the court deciding the issue itself).(Eisfeld et al., 2014).C.H Ghattargi, S.N Deshmukh (1999) researched on A Study Of Family Background Of Juveniles And Reasons For Their Admission To Remand Home. Approximately 2/3rd juvenile from both the groups had both parents illiterate. As the sibling position increased a decreased trend in admission to Remand Home was seen.(DeLisi, 2005).Prince Neto D.C.B. Waite (2010) researched An Inquiry into the ICC Appeals Chamber's Exercise of the Power of Remand. The ICC's Appeals Chamber (AC) has the authority to review, on appeal, judgments, decisions, orders and the exercise of power by the Pre-Trial and Trial Chambers.(DeLisi, 2005; United Nations Library (Geneva & Switzerland), 2011).Christine Morgenstern (2011) researched Remand Detention in Europe: Problems in a Comparative View. In many European states a large proportion of the prison population consists of remand detainees, many of whom are foreigners. A closer look at the situation reveals that a comparison of data is only possible to a certain extent because the scope and definition of «remand detention»are not congruent in all European jurisdictions.(Bruns et al., 2021).Jo Lipscombe (2006) researched on Fostering Children and Young People on Remand: Care or Control? Remand foster-carers can provide placements for children and young people awaiting trial or sentence within criminal courts. The role of fostering children and young people.(Goldson, 2013).Adam Reed (2011) researched the Hope on Remand. This article looks at life on remand in a Papua New Guinean prison. It examines the hopefulness of those inmates waiting for court and legal judgment. Their situation is explored through an engagement with the analysis offered by the New Melanesian Ethnography and the emergent field of hope studies.(Wikipedia contributors, n.d.).Pradnya P. Sathe, Shubhalaxmi D. Kotnis, S. K. Mangulikar (2017) researched on the study of psycho-social background of children placed in remand home. Children are one of the most vulnerable groups of societies and are at risk of many social evils. They should be identified and provided a protective environment and loving care for their adequate growth and development.(Social Stratification in Chinese Societies, 2009).D Mason, L Birmingham, Donald Grubin (1997) researched on the Substance use in remand prisoners: A consecutive case study. To determine the prevalence of drug and alcohol use among newly remanded prisoners, assess the effectiveness of prison reception screening, and examine the clinical management of substance misusers among remand prisoners.(Murray et al., 2008)

The research method followed is descriptive research. The information is gathered through a survey and an example size is 201. Accommodation testing technique is taken on in the review to gather the information. The examples were gathered from the overall population with exceptional reference to the Chennai locale. The autonomous factors are sex, age, schooling capability, occupation, month to month pay, conjugal status of the respondents. The subordinate factors are whether the respondents think that remand is a beneficial procedure in civil cases, whether they are aware of the various remand procedures, the various scope of the procedure of remand in civil cases, the agreeability on whether remand in civil cases is misused or not and the view on the utility of various types of remand. The scientist utilized charts to break down the information gathered.



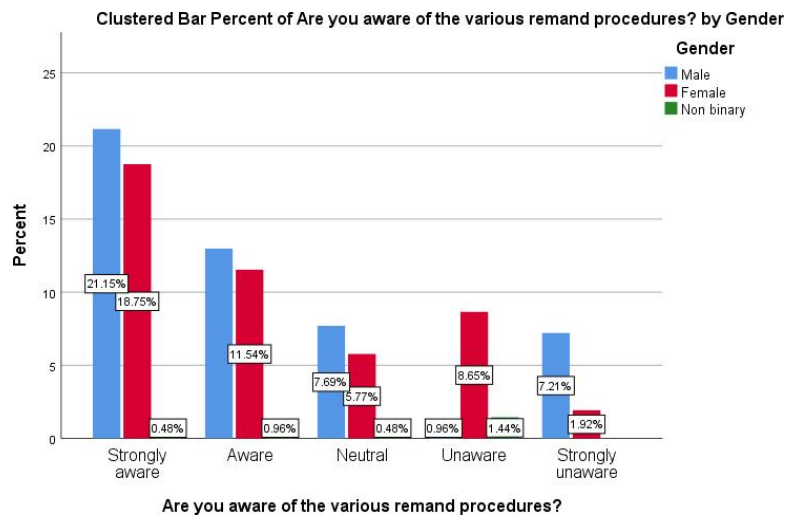
V. ANALYSIS

Figure 1:



Legend: Figure. 1 represents the percentage in which remand is considered as a beneficial procedure in civil cases.

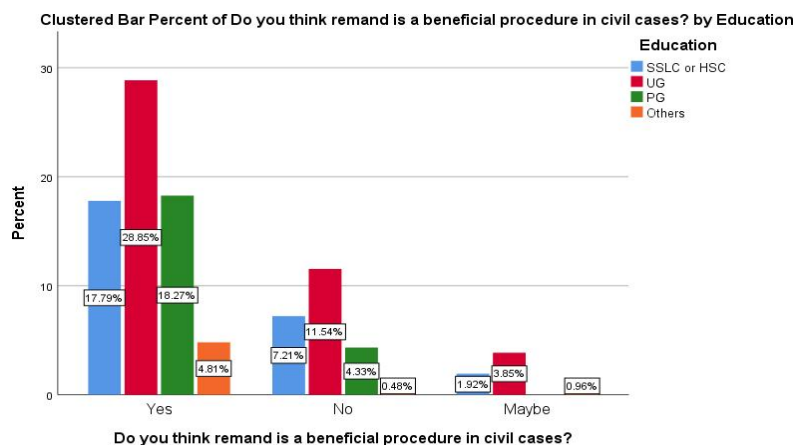
Figure 2:



Legend: Figure. 2 represents the agreeability on whether the respondents are aware of the various remand procedures.

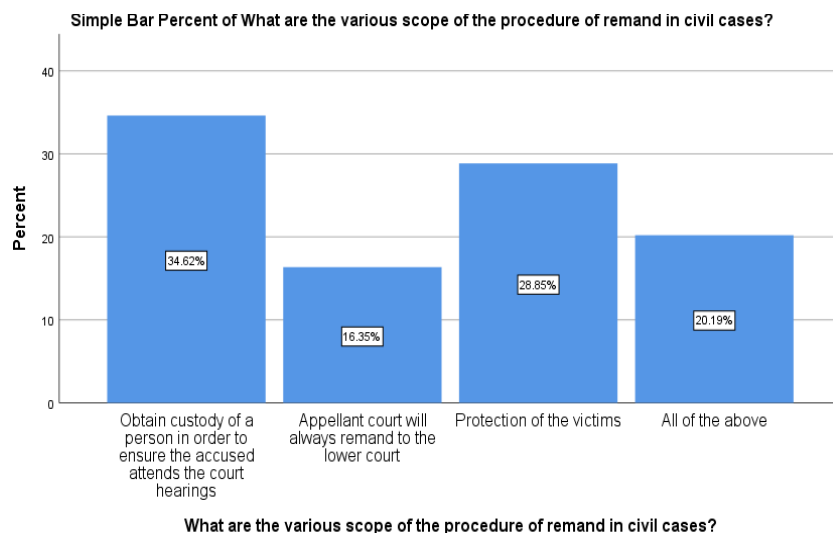


Figure 3:



Legend: Figure. 3 represents the percentage in which the respondents think that remand is a beneficial procedure in civil cases

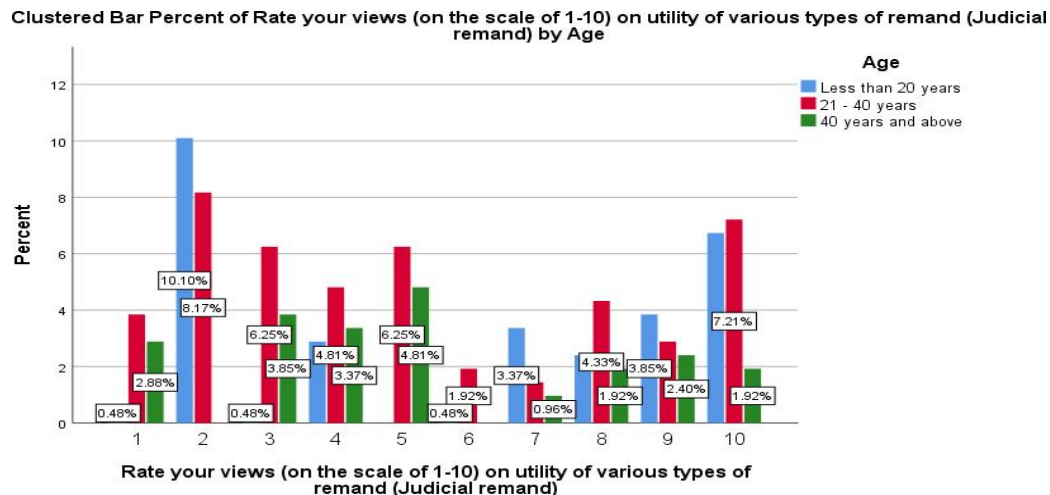
Figure 4:



Legend: Figure. 4 represents that the major scope of the procedure of remand is that to obtain custody of a person in order to ensure the accused attends the court hearings.

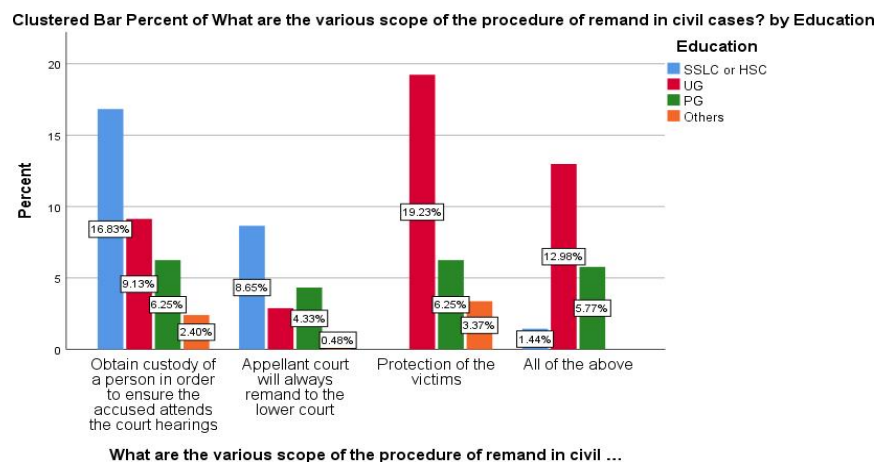


Figure 5:



Legend: Figure. 5 shows that the majority of the people have supported the statement

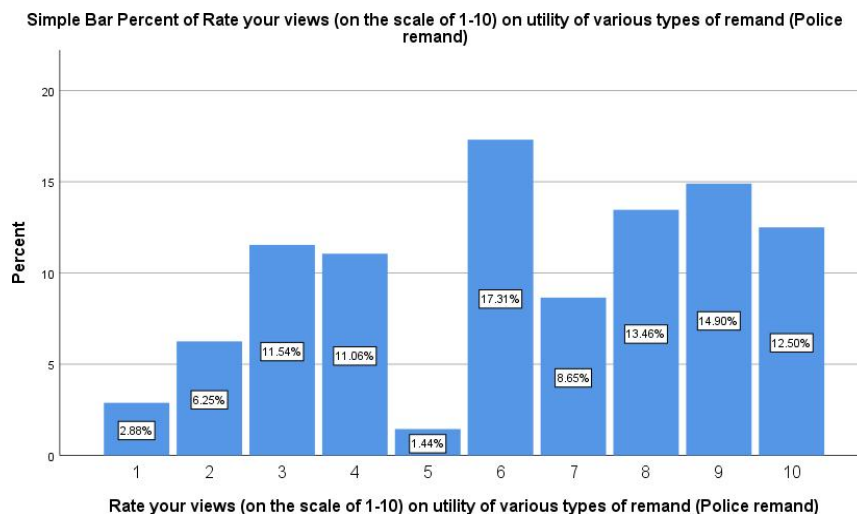
Figure 6:



Legend: Figure. 6 represents that the majority of the UG respondents have agreed that protection of victims is the major scope of remand.

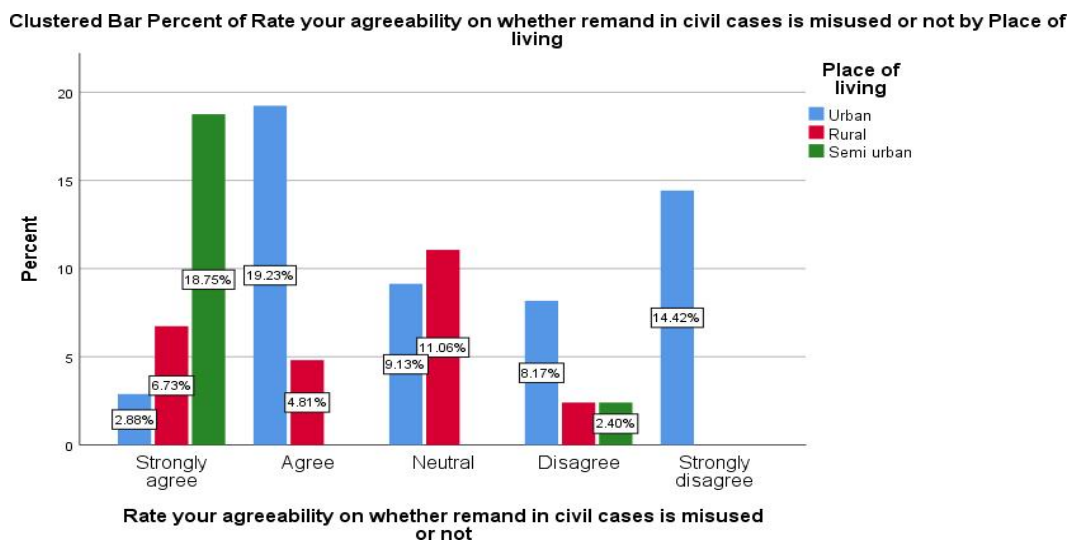


Figure 7:



Legend: Figure. 7 represents that the major utility is that of the police remand

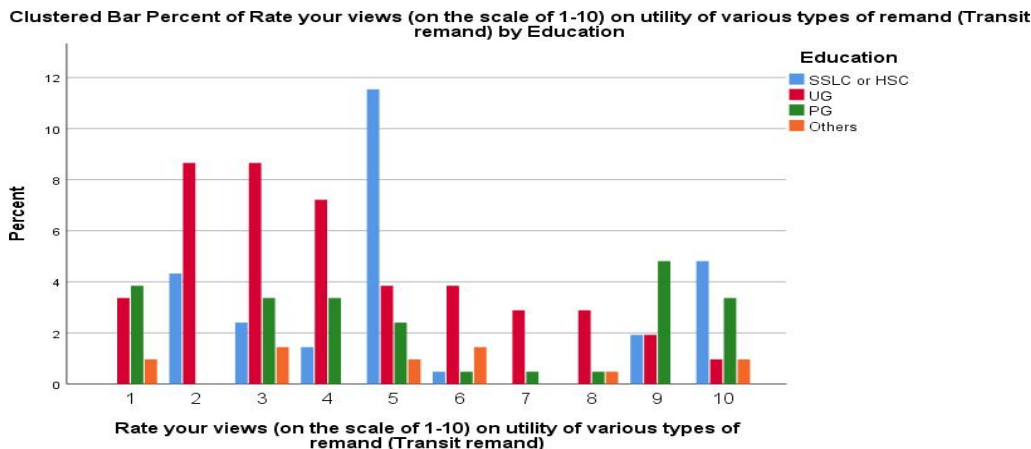
Figure 8:



Legend: Figure. 8 represents that remand in civil cases is misused with respect to their place of living.

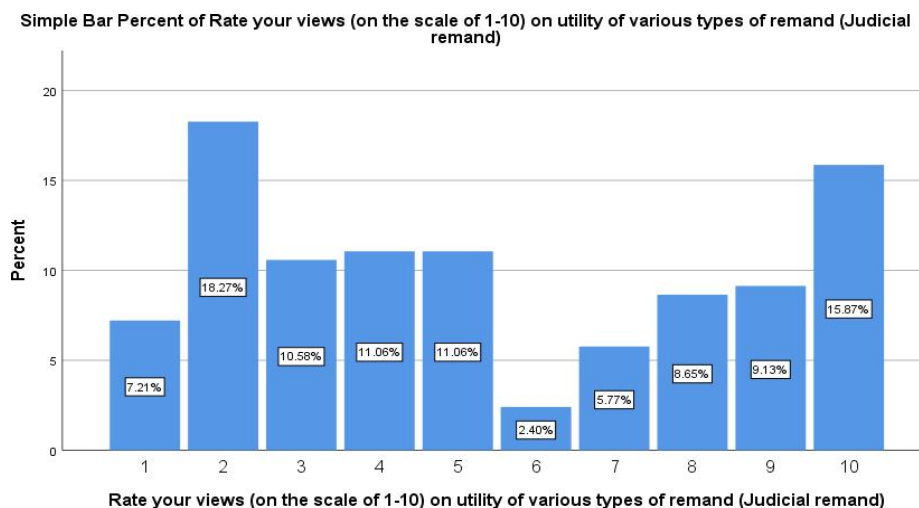


Figure 9:



Legend: Figure. 9 represents that transit remand is the major utility of various types of remand.

Figure 10:



Legend: Figure. 10 represents that judicial remand is the major utility of various types of remand.

V. RESULT

It shows clearly from **figure.1** that 69.71% of the respondents have agreed, 23.56% disagreed and 6.73% said may be. It shows clearly from **figure.2** that 21.15% of male and 18.75% of the female respondents have agreed that they are aware about the remanding procedures. It is shown clearly from **figure 3** that 28.85% of UGs have agreed followed by 18.27% of PG, 17.79% from school and 4.81% from the others category. It is shown clearly from the **figure.4** that 34.62% respondents who have voted to obtain custody shall ensure to attend the hearings. It is shown clearly from **figure.5** that the respondents between the age of 21-40 years support the statement as yes and the least by the respondents who are less than 20 years. It is shown clearly from **figure.6** that the 19.23% of the respondents remand helps in the protection of victims. It is shown clearly from **figure.7** that police remand has a greater utility with a



percent of 66.82%. It is clear from Figure.8 that 18.75% of the semi urban respondents agree that the power is being misused. 14.42% of the urban respondents strongly disagree with the state. It is shown clearly from figure.9 that most of the UG respondents disagree with the statement that transit remand is beneficial. It is shown clearly from figure.10 that 18.27% have rated 2 on a scale of 10 whereas 15.87% of the respondents rated 10 on the scale.

VI. DISCUSSION

It is clear from figure.1 that most of the respondents are male. This is because according to a study most of the males are aware of such networks or websites. It is clear from figure.2 that most of the respondents are of the age of 18-25 years. This is because these are the teenagers who are well aware of such websites as well as are mostly prompt to being victims of such cam sites. From figure.3 it is clear that most of the respondents whose monthly income is between 1 lakhs and 2 lakhs support the statement. This is because they are aware of such things. It is shown clearly that from figure.4 that most of the respondents are from private sectors. This is because most of the employment of most of the youngsters in private sectors as they are aware of such websites. From figure.5 it is clear that most of the respondents agree with the statement. This is because most of the girls are only being involuntarily involved in such cam websites due to certain reasons. From figure.6 it is clear that most of the respondents agree that lack of awareness is the reason for the increase in the level of cam websites. This is because most of the teenagers undergo these problems in which they don't know what it is, that is they aren't even aware of such things is the major reason. From figure.7 the respondents disagree with the statement. This might be because in today's world where every problem is covered there are also some problems which are not visible to the world, one among them is this problem. It is clear from Figure.8 that male respondents think that cyberbullying is the cause of such increase in webcam sites. This might be because when people go through such cybercrimes, they become vulnerable to do anything because they become used to being a victim. It is shown clearly that from figure.9 most of the male respondents think that sexual harassment is one of the major cause for girls to be indulge in webcam sites. This is because they are already a victim and under certain compulsion they might also be easily vulnerable to being victim of cam sites. It is shown clearly that from figure.10 most of the male respondents think that these camgirl culture leads to involvement in crimes. This might be because due to various factors it just becomes like they can commit many other crimes.

One of the major limitations is the use of convenience sampling methods that give a biased output which cannot be avoided. And there was a very short span of time to conduct and complete the research. Another limitation is we can't be able to assume the thoughts of the entire population in a country, state or city with limited sample size.

VII. SUGGESTION

Every remand application moved by police must be opposed in writing, as far as possible. When you oppose a remand, and further remand is not granted, the consequence is that the accused is released on bail. You must have conversations with the accused during this time. Remand is ordered only after considering evidence and not on the face of the application. Also, a maximum limit is set for which remand can be ordered. After expiry of that period, the accused is entitled to bail

VIII. CONCLUSION

The code contains procedures to be implemented by Civil Courts. The code provides the means to enforce rights and liabilities. Remand means to send back. Where the trial court has decided the suit on a preliminary point without recording findings on other issues and if the appellate court reverses the decree so passed, it may send back the case to the trial court to decide other issues and determine the suit. Thus remands in civil cases are being misused a lot. The major findings of this research is that remand in civil cases is made for various utility purposes like for the custody of a person in order to ensure the accused attends the court, for the protection of the victims. The appellate court will always remand to the lower courts. Thus remands in civil cases have many scopes. It is suggested that the remand in civil cases is mostly misused and is to be properly used for its perfect scope.



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