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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A STUDY ON THE ROLE OF INDIAN JUDICIARY IN PREVENTING CUSTODIAL DEATHS IN INDIA

AUTHORED BY - UVASRI¹ & MRS.PRIYANKA.P²

ABSTRACT:

Custodial death refers to deaths in police custody as well as deaths in judicial custody while pending trial or serving a sentence. The Constitution of India guarantees various rights to a Prisoner or a person in custody under Articles 20, 21 and 22 of the Constitution of India. The Supreme Court of India has interpreted certain rights such as Right against Handcuffing, Right to a Fair Trial, Right to Free Legal Aid etc as an integral part of Article 21 of The Constitution of India. The present study is conducted to determine the underlying reasons of prison violence as well as the role of Indian judiciary in preventing custodial deaths and various methods for avoiding this grave injustice. The majority of the population is still uneducated about various laws that protect their basic human rights. The research method followed is empirical research. The data is collected through a questionnaire and a sample size is 200. Convenience sampling method is adopted in the study to collect the data. The samples were collected from Egmore and through an online survey around Chennai. The independent variables are gender, age, educational qualification, occupation and place of residence of the respondents. The dependent variables are whether custodial deaths are a raising concern in our society and the main cause of custodial deaths and people's suggestion to reduce custodial deaths in India. The Code of Criminal Procedure, 1973 and the Indian Penal Code, 1860 provides protection to the accused person against arbitrary arrest and custodial violence. However, it is necessary for the legislation to implement new provisions under the Code and Indian Evidence Act, 1872 which specifically deals with the issue of custodial deaths whether it is unnatural or natural death in the police lockup.

KEYWORDS: Custodial death, Constitution, Prisoner, Judiciary, Accused person.

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INTRODUCTION:

Custodial death refers to deaths in police custody as well as deaths in judicial custody while pending trial or serving a sentence. The Constitution of India guarantees various rights to a Prisoner or a person in custody under Articles 20, 21 and 22 of the Constitution of India. The Supreme Court of India has interpreted certain rights such as Right against Handcuffing, Right to a Fair Trial, Right to Free Legal Aid etc as an integral part of Article 21 of The Constitution of India. The Code of Criminal Procedure, 1973 provides certain provisions to protect the person from custodial torture. There are various provisions enshrined under CrPC which should be kept in mind by Police Officials while having custody of the accused or suspected person. The power to arrest any person is given under Section 41 of the Code of Criminal Procedure, 1973. This section clearly states that a Police Officer has the power to arrest any person to investigate the case further, but has no power to use unnecessary force to extract the information from that person. Section 50 of the Code of Criminal Procedure, 1973 provides for the ground of arrest. These grounds of arrest must be in compliance with Article 22 of the Constitution of India, if the arrest is not complied with Art.22 then it is an illegal arrest. Section 161 of the Code of Criminal Procedure, 1973 provides for the statement to be recorded with all the facts and circumstances of the case by the Police Officer. Section 161 (2) provides that a person accused must not be bound to answer those questions which would have a tendency to expose him to a criminal charge. Further, certain provisions of the Indian Penal Code, 1860 also provides for the protection of the accused under the custody of the police. Section 330 and 331 of Indian Penal Code, 1860 provides for the protection of the accused from unnecessary harassment in custody as well as to extort information without his will. Also, the Indian Penal Code, 1860 provides that a Police Officer is liable to be punished if he exercises or abuses his power without any necessity. Sections 7 and 29 of the Police Act, 1861 provide for dismissal, penalty or suspension of police officers who are negligent in the discharge of their duties or unfit to perform the same. In [Prakash Kadam Vs Ramprasad Vishwanath Gupta, (2011) 6 SCC 189], the Supreme Court observed that Policemen are persons who are supposed to uphold the law. In our opinion, if crimes are committed by ordinary people, ordinary punishment should be given, but if the offence is committed by policemen, much harsher punishment should be given to them because they do an act totally contrary to their duties. In [Sunil Batra Vs. Delhi Administration AIR 1978 SC 1675 1] the Supreme court has made clear that during the prisoner's time in jail, the jail authorities do not have any rights to punish, torture or in any way discriminate against them without the explicit permission or orders of the court. Only the court had that right. The Court also found that Section 30(2) not to be in violation of Article 14, as

prisoners under death sentence may run the risk of being a danger to other prisoners and jail authorities. As such, keeping them in separate cells was seen as necessary. The Supreme Court also held that a prisoner under a death sentence does not come under the ambit of Section 30(2) when there are still chances of getting the decision of the court reversed. If a Death sentence given to any prisoner is final and irreversible, then and only then can the said prisoner be kept in a separate cell under the provisions of Section 30(2).

OBJECTIVES :

- To understand the role of the Indian judiciary in preventing custodial deaths.
- To know about the ill treatment of prisoners based on various factors.
- To further understand the need for strict laws for protection of prisoners.
- To make people know that all the rights would not be lost on any person being arrested.

REVIEW OF LITERATURE:

(Pracheen Raj 2021) Custodial Death is something which has universal problems and can be considered one of the cruelest forms of humankind. Custody means under the guardianship, just imagine the situation where the protector of mankind itself violating the law of human rights, it is one of the heinous crimes for the entire human kind. Where people believe that police are meant for their protection and police itself takes disadvantage of their authority. This article mainly focuses on the issue relation to the custodial death, various measure to delimit the powers of the police in relation with the custodial death with the help of law commission reports judicial pronouncement and lastly suggestive measure to curb down custodial death.

(Aashima gara, 2021) Many other countries have adopted a comprehensive legislative provision for custodian deaths whereas in India arrestees are often subjected to harassment, be it mental, physical or emotional and are denied basic protection, and therefore, there is an urgent requirement to fix this deficiency in our existing justice delivery framework. For India like country the custodial deaths or custodial torture is not new concept it has long history but basically from British period is highly increased till today we are trying to curb such social evil from our society. After independence the Indian government made major changes in law but did not make as effective a change as to curb the custodial violence from Indian society.

(Mulla, 2021) It stresses the need for the reformation of existing laws and formulation of the novel ones to ensure that the alleged offenders do not become the victims of Police Custodial Torture and Brutality and the pure soul of justice is not blemished by the inhuman behavior of the police personnel. The word custody indicates guardianship and protective care. Even when

it indicates arrest. it should not carry any sinister symptoms of violence during the custody. No civilized law assumes the existence of custodial cruelty. The custodial death is very worst cruel form of the abuse. mostly it happen where police officer uses unnecessary force, ultra virus of their powers and torture convicts beyond the limits to take the life of convicted person. **(Chahal et al., 2020)** Custodial deaths bring embarrassment to the law enforcement agencies. Accusations of making biased autopsy reports to help police or prison officials evade legal sanctions may be levelled against doctors. Keeping these points in mind, the doctors must follow the guidelines given by National Human Rights Commission while conducting autopsy in such cases Custodial deaths are presumed to be unnatural because the persons in the custody are solely dependent on the authorities for their constitutional rights including access to health care. On the contrary, it was found that the majority of such deaths in custody are natural . As per the present legislation in India the custodial torture is the grave result of death, rape and physical torture. The National Human Rights Commission has issued fresh guidelines to all State Governments. **(Aston, 2020)** It provides a summary of the report of the United Nations Special Rapporteur on arbitrary and extra-judicial executions. The chapter also discusses the right to protection against torture and the views and verdicts of the Supreme Court of India, and highlights the role of statutory bodies and commissions such as the Law Commission of India and the National Police Commission in preventing torture and custodial violence. The custodial death is very worst cruel form of the abuse. mostly it happen where police officer uses unnecessary force, ultra virus of their powers and torture convicts beyond the limits to take the life of convicted person. In Custodial Death is that concept where any arrested person died in police custody due to the torture done by any police or officer in charge of such custody, the custody may be police custody or magistrate custody. **(Das, 2020)** Custodial deaths are a rising concern in our society which is leading to mistrust in public. Because police officers are considered as safeguards and have the rights to protect the public's fundamental rights, sometimes the same person violates those laws instead of protecting it. In this article, the author analysed various legal perspectives on custodial deaths and the causes of the same. Information about the arrest and the place of custody of the arrested, within 12 hours after the arrest and in the Police Control Room Board, must be displayed on a visible notice board. As well as Article 3 to 11(A) of Universal declaration of human rights (UDHR) states that No one should be subjected to inhuman or cruelty. All are entitled to equal protection of law. **(Afrin Kalwater, 2020)** The word custody itself points to guardianship and protective care. Even if it indicates arrest or incarceration. No civilized law supports custodial cruelty – an inhuman trait that springs out of an evil desire to cause suffering when there is no possibility of any retaliation; a

senseless demonstration of superiority and physical power over the one who is overpowered or a collective indignation of sanctimonious thinking. In the civilized society, governed by the rule of law, custodial crime is one of the worst crimes and poses a serious threat to a tidy civilized society. Torture in custody scorns the basic rights of the citizens and is an aspersion to human dignity. Everyone has a right to effective remedy by competent national tribunals. No one is subjected to arbitrary arrest. All are entitled to fair and public hearing by an independent tribunal. Anyone charged with a penal offence has right to be proven guilty according to law in a public trial in national and international law at time when it was committed. **(Kamesh Kumar, 2020)** In India, where the rule of law is implicit in any action and the right to life and liberty is regarded as the fundamental right that adorns the highest position among all essential fundamental rights, torture instances and the use of third-degree tactics on suspects during unlawful detention and police detention throws a slur on the administration system itself. Custodial torture is widely recognized as one of the most barbaric types of violations of human rights. It is banned by the Constitution of India, the Supreme Court, the National Commission of Human Rights (NHRC) and the United Nations. But these institutions are being defied by the police across the country. In India various legislation, various international machinery and our Supreme court provided many guidelines and stringent legislation but still in India such evil practices are not curbed. Coming to the judicial perspective, the right of life and personal liberty mentioned under article 21 of the Indian constitution incorporates all the basic conditions for life with dignity and liberty. **(Shukla, Saboo 2020)** However there are certain citizens in the modern nation states which somehow are deprived of their rights of living their lives with decency and dignity. These are the custodial prisoners. The word custody implies guardianship and protective care. Even applied to indicate arrest or incarceration, it does not carry any sinister symptoms of violence during custody. No civilized law allows custodial cruelty-an inhuman trait that springs out of a preserved desire to cause suffering when there is no possibility of any retaliation; a senseless exhibition of superiority and physical power over the one who is overpowered or a collective wrath of hypocritical thinking. It happens where police officer uses unnecessary force, ultra vires of their powers and torture convicts beyond the limits to take the life of convicted person. In Custodial Death is that concept where any arrested person died in police custody due to the torture done by any police officer in charge of such custody, the custody may be police custody or magistrate custody. As per the present legislation in India the custodial torture is the grave result of death, rape and physical torture. The National Human Rights Commission has issued fresh guidelines to all State Governments. **(Jayshree, Mishra, 2020)** The word custody indicates guardianship and protective care. Even

if it indicates arrest or incarceration. No civilized law supports custodial cruelty an inhuman trait that springs out of an evil desire to cause suffering when there is no possibility of any retaliation; a senseless demonstration of superiority and physical power over the one who is overpowered or a collective indignation of sanctimonious thinking. In the civilized society, governed by the rule of law, custodial crime is one of the worst crimes and poses a serious threat to a tidy civilized society. Torture has not been defined under constitution or other laws. The word custody indicates guardianship and protective care. Even when it indicates arrest, it should not carry any sinister symptoms of violence during the custody. No civilized law assumes the existence of custodial cruelty. **(Sorna lakshmi, 2019)** Analyzed the law enforcement agencies are expected to maintain the law and order and protect the rights of individuals but police brutality against under trials, suspects and convicts have been increasing at a shocking rate. The word custody implies guardianship and protective care. Even applied to indicate arrest or incarceration, it does not carry any sinister symptoms of violence during custody. No civilized law allows custodial cruelty-an inhuman trait that springs out of a preserved desire to cause suffering when there is no possibility of any retaliation. In spite of various International conventions, constitutional and statutory provisions protecting such victims, their inhuman treatment has not come to an end. In this context, a study that focuses on raising the awareness among the common man of the rights remedies available to the victims of custodial violence is the need of the hour. **(Prince Khatri, 2018)** Stated the violation of human rights under the support of uniform and four walls of police station, prison where the victim is helpless. Violence is an apparatus used to impose one will on another and to feel power and superiority over others. Criminal Law promotes the desirable behavior of human beings in society and prevents the undesirable behavior of human beings in society. Hence Penal Law governs the forces that we permit the official agencies to bear on the individual. Accusations of making biased autopsy reports to help police or prison officials evade legal sanctions may be levelled against doctors. Keeping these points in mind, the doctors must follow the guidelines given by National Human Rights Commission while conducting autopsy in such cases. Custodial deaths are presumed to be unnatural because the persons in the custody are solely dependent on the authorities for their constitutional rights including access to health care. **(Shakya, 2018)** Analysed Deaths in police custody are sometimes controversial and raise the questions on trust in police because some custodial deaths are due to not providing proper care at proper time, some deaths are due to complications of physical torture by police and some deaths remain suspicious. In India reasons behind the Custodial death are no proper search while accused put behind bars and he committed suicide by cutting nerves, by hanging

by poisoning or by burning also, police used force or third degree of torture for interrogation and to get the information from accused. No appropriate knowledge and preparation about questioning, harassment by personal bias, political pressure over police against accused, lack of supervision by senior police officers, no medical aid to accused, traditional habits of police to bet on accused, no respect of law and human rights. **(Giles Linden and Stephen Roe, 2017)** A suicide that occurs within police custody (by, for example, hanging or deliberate suffocation) would be included within this 'deaths in or following police custody' collection. If a suicide occurs after release from police custody within two days of that release, and is reported to police forces, it is recorded as an 'apparent suicide following police custody'. In India various legislation, various international machinery and our Supreme court provided many guidelines and stringent legislation but still in India such evil practices are not curbed. Coming to the judicial perspective, the right of life and personal liberty mentioned under article 21 of the Indian constitution incorporates all the basic conditions for life with dignity and liberty. such an approach allows it to come down heavily on the system of administration of criminal justice. particularly speaking on custodial justice and law enforcement. **(Vohra et al., 2016)** stated custodial death invites public wrath, concern and mass resentment in any civilized society because such an event indicates the lack of careful handling on the part of the authorities' concerned. Custodial violence leading to death in lock-ups strike a blow at the rule of law. Not that at each time, the death is due to violent causes but at times it may be due to natural causes or due to inadequate medical facilities or medical attention and diagnosis, or negligent behavior of authorities. Police brutality often causes grave injuries to the accused and to prevent such mishaps, the police forces should be warned to use reasonable amounts of force. The perception created by the media against the accused is also a contributor to custodial violence. Usually, custody and arrest are perceived as synonymous. However, this is not true. Custody means keeping an individual in protective care based on the apprehension that he or she may cause harm to society. **(Sudha, prasanna, sheikh, 2016)** Analysed measures should be taken to provide a safe environment at the time of interrogation in police custody, following code of conduct by the police. There is also a need for proper reform to avoid deaths due to suicide, violence and self-harm among the inmates. There is a need to have constant surveillance over them and install Cameras to supervise their activities to prevent violence and suicide. Custodial death refers to the death of an accused during pre-trial or after conviction. The death is caused by the direct or indirect act of police during their custody. It includes death occurring not only in jail but also on medical or private premises, or in police or another vehicle. Custodial death can occur due to some natural sources, where there is no involvement of any

kind of foul play by the police, for example- instances when a convict or an accused dies of an illness. But the problem arises when the law enforcement authority gets involved in the death of an individual while he or she is in their custody. **(Shakya et al., 2016)** Said deaths in police custody are sometimes controversial and raise the questions on trust in police because some custodial deaths are due to not providing proper care at proper time, some deaths are due to complications of physical torture by police and some deaths remain suspicious. The death is caused by the direct or indirect act of police during their custody. It includes death occurring not only in jail but also on medical or private premises, or in police or other vehicles and instances when a convict or an accused dies of an illness. But the problem arises when the law enforcement authority gets involved in the death of an individual while he or she is in their custody. It becomes extremely difficult to prove the fault of police in such cases because of the tactics employed by them. Sometimes, even before an arrest is made, the accused are tortured by the police authority which enables the police to claim that the injuries are not caused due to custodial brutality but have occurred even before the accused was under the custody of the police. **(Anchan, 2014)** said custodial violence has been the crunch to mistreated police control for decades now. The present work focuses on the issue of this heinous offence by the police and its repercussions on the victims, loss of faith in the institution as one of the major problems as the smooth working of the criminal justice depends on the crucial element of social cooperation. Custodial violence is recognized as one of the most brutal forms of human rights abuse. The Constitution of India guarantees the right to life and liberty to individuals and prohibits any sort of custodial torture to take out confessions from the accused. The Constitution of India calls for the safety of convicts and accused in the police and judicial lock-ups, but the authorities such as the police undermine such constitutional structures and carry out custodial violence and torture. A lot of custodial death occurred because of suicide; however, it is not clear whether the inmates committed suicide or were they forced to avoid further violence and torture. The psychological aspects of prisoners are completely neglected and there is no psychiatric help available to these inmates to cope with the stress or trauma that they are experiencing. **(Bansal, Rao, Dalbir, 2010)** stated that sudden and unexpected death in custody is commonly associated with allegations of torture against law enforcement agencies. Delay in providing basic medical care is one of the commonest allegations by the relatives against jail authorities. In this study we analysed the pattern of custodial deaths that had been brought to the mortuary at PGIMER, Chandigarh for medico legal autopsy and have suggested few preventive measures to reduce the morbidity as well as mortality among prisoners. There is a need for new stringent laws to tackle the issue of custodial death as the

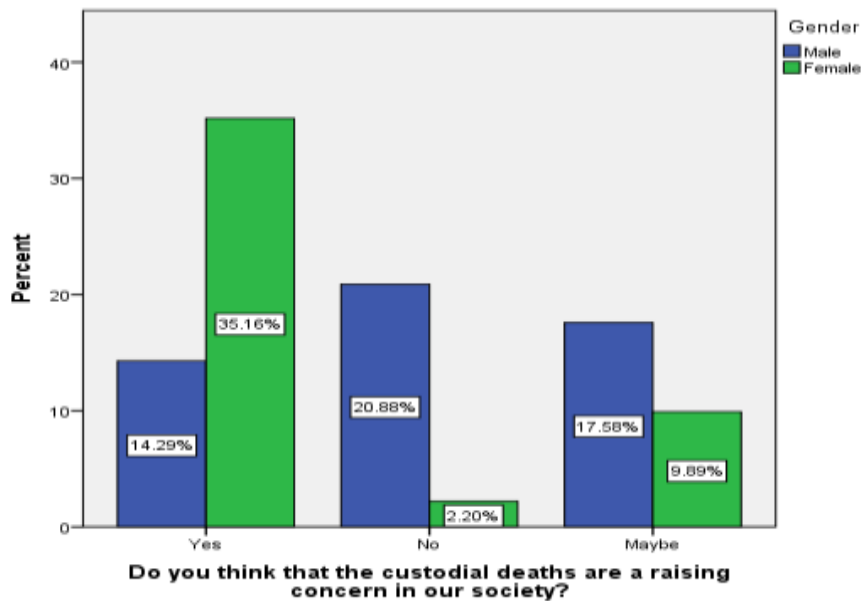
numbers in the recent past have risen exponentially. However, there are certain legal provisions in the Constitution to penalise the offence of custodial death. The growth in the number of custodial deaths can be attributed to the fact that no stringent actions were taken against the individuals in the past and no precedent has been set so far. It is high time to set a strong precedent so that the law-enforcing authorities do not exceed their powers. The psychological aspects of prisoners are completely neglected and there is no psychiatric help available to these inmates to cope with the stress or trauma that they are experiencing. **(Saini, 1994)** Analyzed the worst form of human rights violation has become a very serious and alarming problem in Third World countries like India. Brutal atrocities perpetrated by the police, jail authorities, armed forces and other law enforcing agencies on the suspects/accused persons and prisoners are menacingly on the increase day by day. Hardly a week passes without an incident of custodial torture or custody death being reported in the press. The prison conditions are miserable, to say the least, medical facilities offered to the inmates are not up to the mark apart from that there are frequent instances of fighting among inmates which are quite fatal. The physical agony just adds up to the mental trauma and severely impacts the mindset of an inmate. These are basic essential requirements that need to be ensured by the state authorities to protect the basic fundamental right Right to Life.

METHODOLOGY:

The research method followed is empirical research. The data is collected through a questionnaire and a sample size is 200. Convenience sampling method is adopted in the study to collect the data. The samples were collected from Egmore and through an online survey around Chennai. The independent variables are gender, age, educational qualification, occupation and place of residence of the respondents. The dependent variables are whether custodial deaths are a raising concern in our society and the main cause of custodial deaths and people's suggestion to reduce custodial deaths in India.

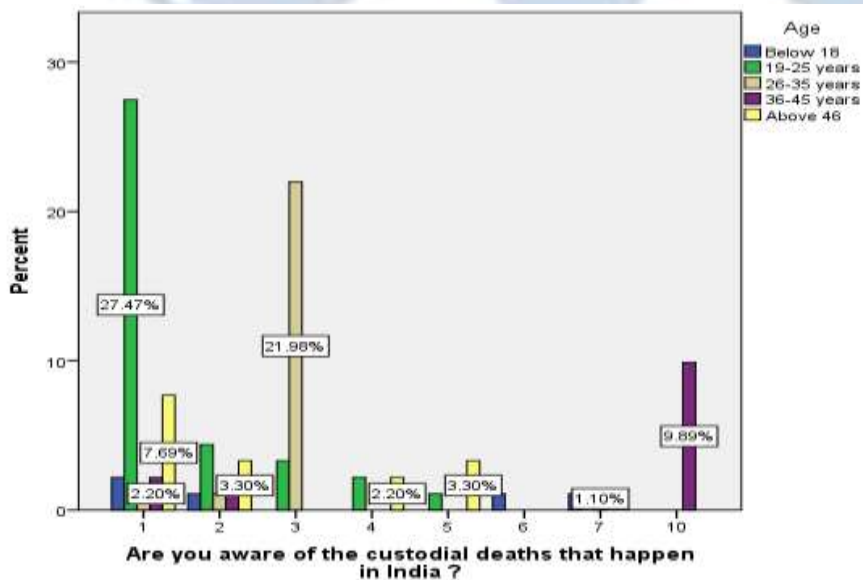
ANALYSIS:

FIGURE 1:



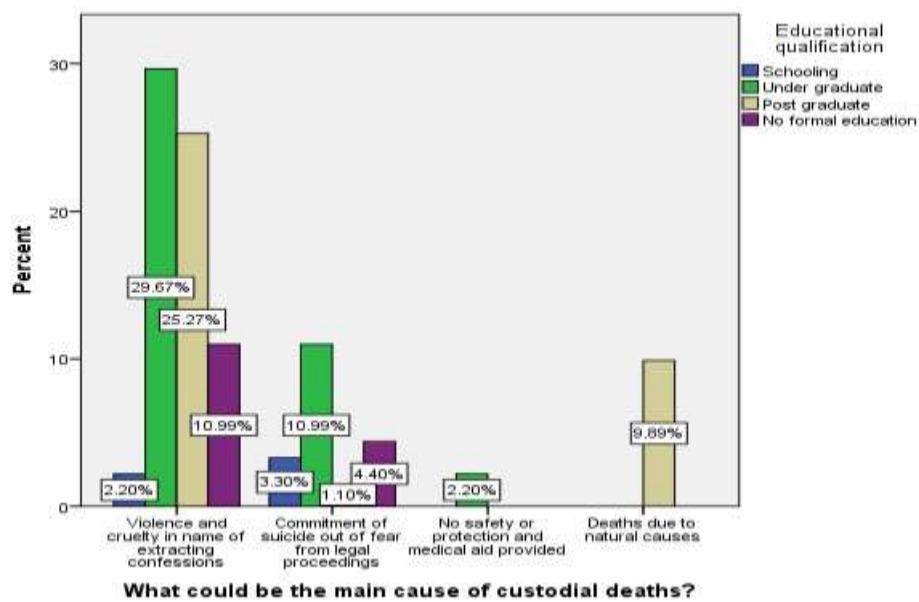
LEGEND: Figure 1 shows, are custodial deaths a raising concern in our society with reference to gender.

FIGURE 2:



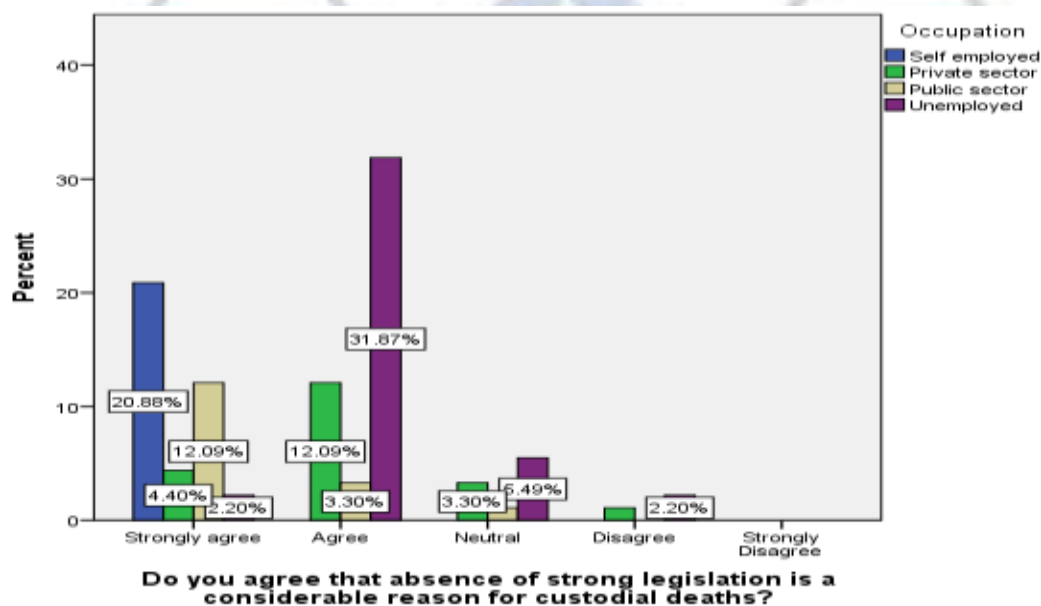
LEGEND: Figure 2 shows, are people aware of the custodial deaths happening in India with reference to age.

FIGURE 3:



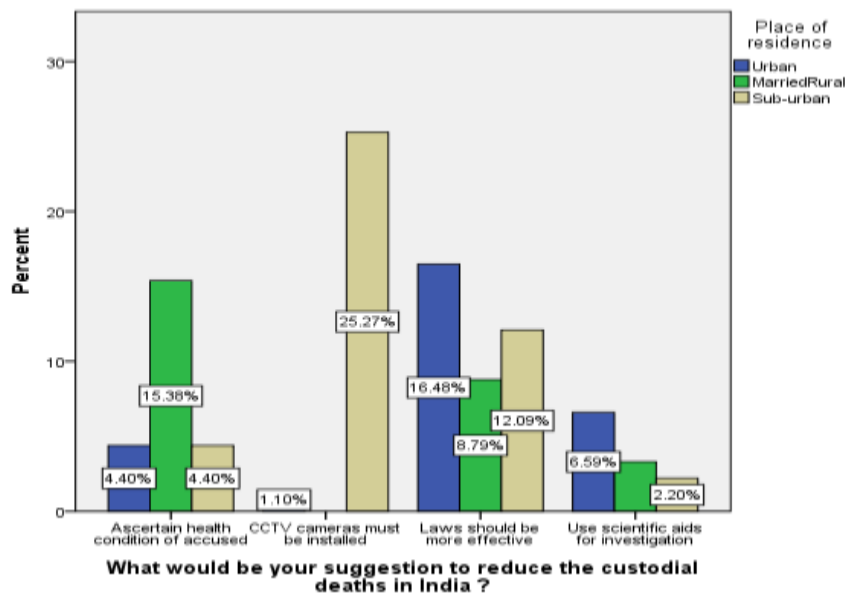
LEGEND: Figure 3, shows the main cause of custodial deaths with reference to educational qualification.

FIGURE 4:



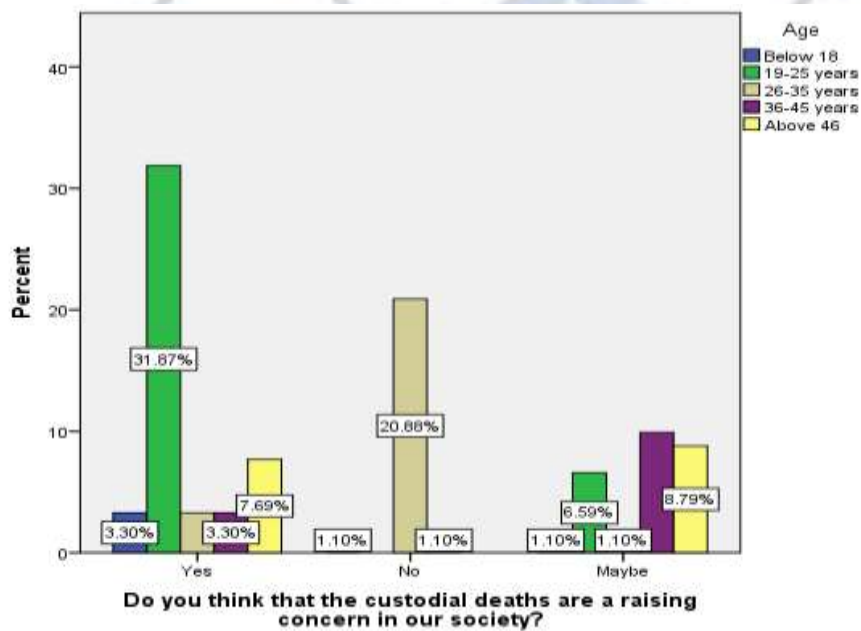
LEGEND: Figure 4 shows the agreeability of the respondents that the absence of strong legislation is a considerable reason for custodial deaths with reference to occupation.

FIGURE 5:



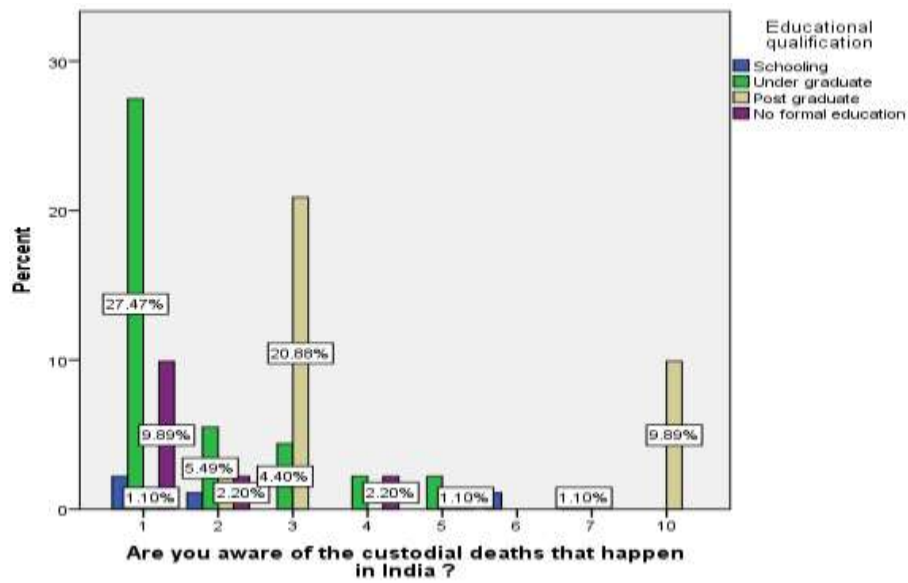
LEGEND: Figure 5 shows the suggestion of the respondents to reduce the custodial deaths in India with reference to place of residence.

FIGURE 6:



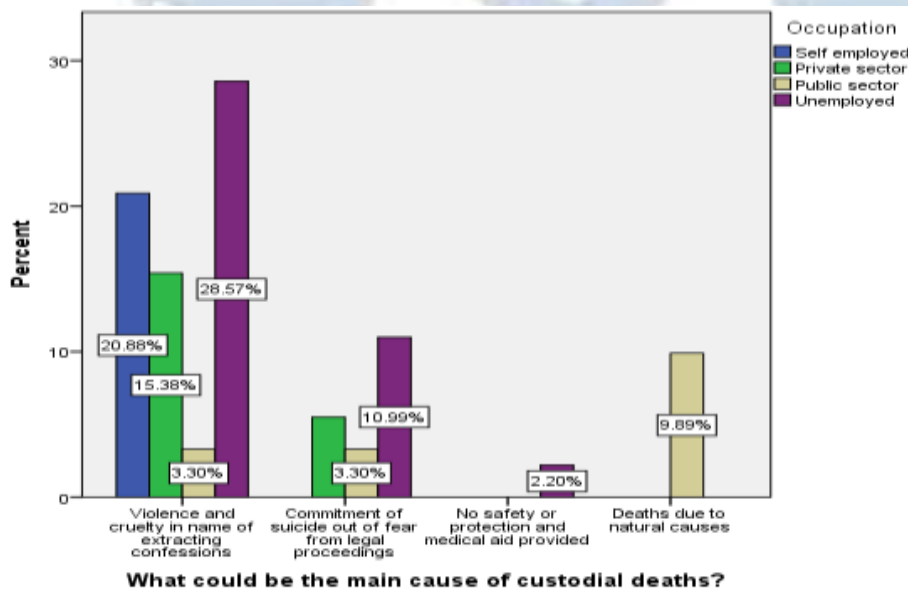
LEGEND: Figure 6 shows, are custodial deaths a raising concern in our society with reference to age.

FIGURE 7 :



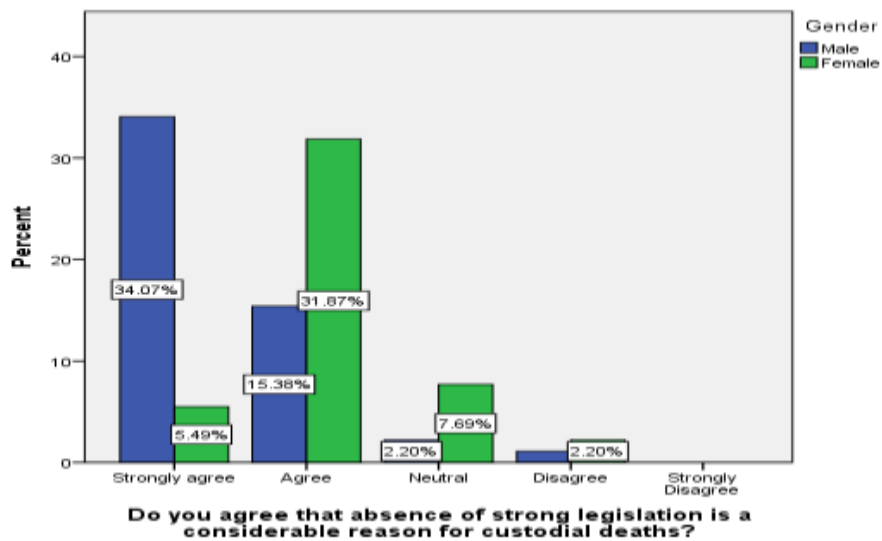
LEGEND : Figure 7 shows, are the respondents aware of the custodial deaths happening in India with reference to educational qualification.

FIGURE 8 :



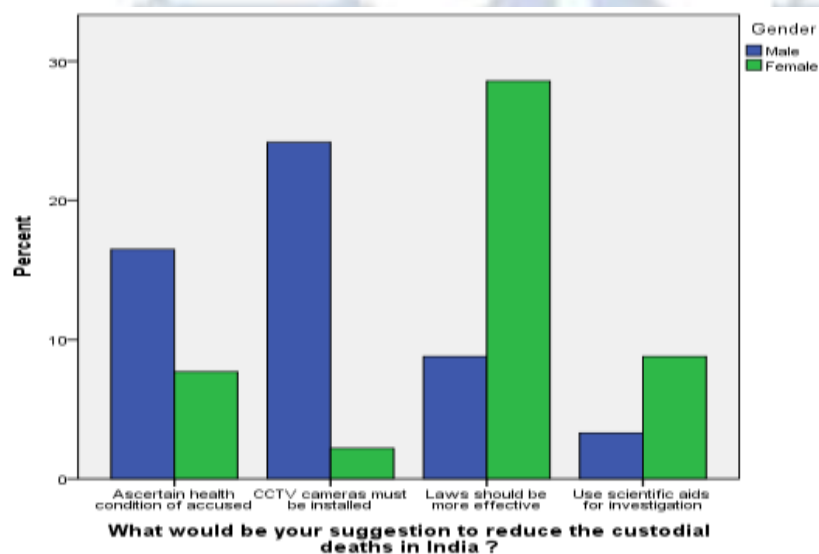
LEGEND : Figure 8 shows the main cause of custodial deaths with reference to occupation.

FIGURE 9 :



LEGEND: Figure 9, shows the agreeability of the respondents that the absence of strong legislation is a considerable reason for custodial deaths with reference to gender.

FIGURE 10:



LEGEND: Figure 10 shows the suggestion of the respondents to reduce the custodial deaths in India with reference to gender.

RESULTS:

FIGURE 1: From the graph, it shows that 35.16% of the female respondents and 14.29% of the male respondents agreed that custodial deaths are a rising concern in our society. **FIGURE 2:** From the graph, it shows that 27.47 % of the respondents in the age group 19 to 25 years answered they are very much less aware of custodial deaths. **FIGURE 3:** From the graph, it shows that 29.67% of the undergraduate respondents answered that the main cause of custodial deaths is violence and cruelty. **FIGURE 4:** From the graph, it shows that 31.87% of the unemployed respondents strongly agree that absence of strong legislation is a considerable reason for custodial deaths. **FIGURE 5:** From the graph, it shows that 25.27% of the sub-urban respondents suggest that CCTV cameras can be installed to reduce custodial deaths in India. **FIGURE 6:** From the graph, it shows that 31.87% of the respondents below the age of 19 to 25 answered yes that custodial deaths are a rising concern in society. **FIGURE 7:** From the graph, it shows that 27.47% of the undergraduate respondents are mostly not aware of custodial deaths that happen in Society. **FIGURE 8:** From the graph, it shows that 28.57% of the unemployed respondents answered that violence and cruelty in the name of extracting confessions is the main reason for custodial deaths. **FIGURE 9:** From the graph, it shows that 34.07% of male respondents strongly agree that absence of strong legislation is a considerable reason for custodial deaths. **FIGURE 10:** From the graph, it shows that 30% of female respondents suggested that law should be more effective to punish police brutality.

DISCUSSION:

FIGURE 1 : From figure 1, it is clear that 35.16% of the female respondents answered yes and 14.29% of the male respondents also agreed that custodial death are a raising concern in society because the number of cases of custodial deaths are every year increasing at a high rate and mostly the rural people are the victims of custodial deaths. **FIGURE 2:** From figure 2, it is clear that 27.47% of the respondents in the age group of 19 to 25 years answered that they are very much less aware of custodial deaths in India. It could be because these age group students are still yet to know and learn much about custodial deaths in India. **FIGURE 3:** From figure 3, it is clear that 29.67% of the undergraduate respondents answered that the main cause of custodial deaths as violence and cruelty in the name of extracting confessions, it is because the fact is true that the deaths which occur in custody are mostly because of the police brutality. **FIGURE 4:** From figure 4, it is clear that 31.87% of the unemployed respondents strongly agree that absence of strong legislation is a considerable reason for custodial deaths it is because most of the police misuse their power while interrogating the accused and there is no

separate law to punish the authorities who commit the offence of custodial death or violence.

FIGURE 5: From figure 5, it is clear that 25.27% of the sub-urban respondents suggest that CCTV cameras can be installed to reduce the custodial deaths in India because it helps to monitor the actions of prisoners and the authorities for every second. **FIGURE 6 :** From figure 6, it is clear that 31.87% of the respondents below the age of 19 to 25 years answered yes that custodial deaths are a raising concern in Society because custodial deaths from year to year is rapidly increasing in India and most often the rural people becomes the victim of custodial deaths. **FIGURE 7:** From figure 7, it is clear that 27.47% of the undergraduate respondents are mostly not aware of the custodial death which happens in society because the state government and the police department itself hides such news and keeps such information confidential. **FIGURE 8 :** From figure 8, it is clear that 28.57% of the unemployed respondents answered that violence and cruelty in the name of extracting confessions is the main reason for custodial deaths in India because everyone knows that the police are treating prisoners like animals by using the third degree method. **FIGURE 9 :** From figure 9, it is clear that 34.07% of the male respondents strongly agree that the absence of strong legislation is a considerable listen reason for custodial deaths in India because the power given to police is very much higher and India is yet to criminalise the police brutality i.e. Custodial violence. **FIGURE 10 :** From figure 10, it is clear that 30% of the female respondents suggested that law should be more effective to punish police brutality and it is absolutely necessary that India should enact separate laws to punish such crimes by police.

LIMITATIONS:

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.

SUGGESTIONS:

To prevent custodial deaths, the important suggestions are like the policemen should thoroughly check the prisoners to ensure that they were not carrying any sharp things while in the lock-up and should be checked for any medical illness if found proper medical treatment should be provided immediately. Finally, to ensure that custodial deaths were avoided CCTV, cameras must be installed inside the lock-ups, which would be continuously monitored by the higher officer in authority.

CONCLUSION:

A total of 4,484 deaths in police custody and 233 in alleged police encounters were reported in the country in the last two years, the home ministry informed Lok Sabha. Custodial death refers to deaths in police custody as well as deaths in judicial custody while pending trial or serving a sentence. The Constitution of India guarantees various rights to a Prisoner or a person in custody under Articles 20, 21 and 22 of the Constitution of India. The Supreme Court of India has interpreted certain rights such as Right against Handcuffing, Right to a Fair Trial, Right to Free Legal Aid etc as an integral part of Article 21 of The Constitution of India. To avoid such police brutality, use of scientific methods to interrogate the accused can be helpful to prevent custodial deaths. It is important that strict and mandatory laws are passed in order to stop custodial violence. In India, custodial violence is yet to be criminalised and an unfair benefit of which has been taken by those in power over the past many decades. The Code of Criminal Procedure, 1973 and the Indian Penal Code, 1860 provides protection to the accused person against arbitrary arrest and custodial violence. However, it is necessary for the legislation to implement new provisions under the Code and Indian Evidence Act, 1872 which specifically deals with the issue of custodial deaths whether it is unnatural or natural death in the police lockup.

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