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A COMPARATIVE STUDY ON CUSTODIAL DEATH IN SOUTHERN AND NORTHERN STATES OF INDIA

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ABSTRACT

The present paper is about the custodial death which happened within India . 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. The research method used in this paper is the empirical study, then the sampling method used in this study is a convenient sampling method. The total response collected through this survey is 212 samples. The aim of this research paper is to make people understand the offenses and mistakes made by the judicial officials and bring out the other side of government which the people normally don't know. By that they may understand how to overcome the situation of unnatural death. This research paper about custodial death gives a brief explanation over custodial death and the problem caused by it to Indian citizens. Custodial deaths are events of the demise of persons who are detained by police during pretrial or after conviction. The aim of the study is to make people understand the offenses and mistakes made by the judicial official and bring out the other side of the government which the people normally don't know.

KEYWORDS

Police, Death, Human rights, Judicial, Custody and Torture.

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INTRODUCTION

The current paper is about custodial death and gives a concise clarification over custodial death and the problem brought about by it to Indian residents particularly in Tamilnadu. Custodial deaths are occasions of the downfall of people who are confined by police during pretrial or after conviction. Custodial deaths can be extensively arranged into three kinds - Death in police custody; Death in judicial custody; and Death in custody of the army or paramilitary force. Custodial Death is broadly alluded to as death that happens to an under individual trial or has previously been convicted of a crime. It may very well be because of natural causes like ailment or may likewise occur due self destruction, infighting among detainees however in many examples, police ruthlessness and torment is the purpose for the death. The issue is exceptionally questionable and muddled. Frequently, the casualties are tormented before they are captured, for example before they are arrested, which helps the police advantageously guarantee that these are not occurrences of custodial violence, and the wounds have occurred before the capture. Some of the time, before the capture, the casualties are killed by counterfeit experiences. This is likewise a type of custodial death, which turns out to be exceptionally difficult to demonstrate. The most fascinating viewpoint is that all proof and records are with the police, outside proof is not really accessible. This results in extraordinary trouble in recognizing custodial violence and the resultant death that happens after it. Custodial deaths are one of the greatest types of infringement of common freedoms. Case regulation _ Joginder Kumar v. Province of U.P and others, 1994 The milestone judgment proposed a significant procedural system which could be demonstrated useful assuming it is carried out in the right soul. The judgment is significant in the substance that it perceives the key freedoms and essential basic liberties of the individual and gives an approach to safeguarding them. Government initiations **Section 164(4)** of the Code of Criminal Procedure, 1973 provides for recording and signature of confessions in proper manner and endorsement of the confession by a magistrate to the effect that it has been made voluntarily. This right against self-incrimination is in tune with **Article 14(3) (g)** of the International Covenant on Civil and Political Rights which calls on the member states to ensure that the accused is not compelled to testify against himself or to confess guilt. **Section 348** of Indian Penal Code, 1860, among others, lays down provisions relating to wrongful confinement and prohibits such confinement.

For extorting any confession Protection against Conviction or Enhanced Punishment under Ex-Post Facto Law: **Article 20(1)** of the Constitution of India. Protection against Double Jeopardy: **Article**

20(2) - Section 163 of the Code of Criminal Procedure, 1973 prohibits the investigating officers from making any inducement, threat or promise under Section 24 of the Indian Evidence Act (1872) but also prevents him from forcing any person to make any statement which he would like to make on his free will. **Section 49 of CrPC** accords a list of rights to an arrested person. It is explicitly mentioned there that the use of force while detaining a person should not be more than it is necessary to stop them from escaping. Factors affecting are The purposes behind the ascent in custodial deaths are complex. It is the obligation of the police to care for the wellbeing and security of a confined individual under custody. The Human Rights Commission should be educated in something like 24 hours on account of custodial death and 48 hours in an experience killing. As per the National Crime Records Bureau (NCRB), there was an increment of 9% from 92 of every 2016 to 100 out of 2017 in custodial deaths. 2018 jail reports of the NCRB express that a sum of 1,639 individuals passed on from 'natural causes', 149 from 'unnatural causes', and the rest from 'obscure causes' since a portion of the states were not enthusiastic about disclosing the subtleties. Comparison Whoever commits, abets or plots to commit the offense of custodial death or custodial sexual violence, will be rebuffed with detainment forever and with fine, which might reach out to Rs. 3 million," it states. Pakistan's parliament on July 12 passed a bill condemning torment and forestalling custodial killings by police or other government authorities. The aim of this research paper is to make people understand the offenses and mistakes made by the judicial officials and bring out the other side of the government which the people normally don't know. By that they may understand how to overcome the situation of unnatural death.

OBJECTIVES

- To make people understand the offenses and mistakes made by the judicial officials
- To bring out the other side of government which the people normally don't know.
- To make judicial officials, police officials, army officials know that people are getting through the idea of custodial death and it's a violation of human rights.
- To analyze the legislative rules and regulations which right is more effective and helpful to the public.

REVIEW OF LITERATURE

This article deals with the custodial death case of Nashik central prison. The Bombay High Court sought all inquiry documents related to the death of an inmate in the Nashik Central prison after the court learned that the family members were not intimated about the death of the victim. **Hakim 2021** (J. Kumar and Kumar 2021). This article deals about the case which brought a earthquake among the minds of Tamilnadi people. The death of a father and son due to alleged custodial torture in Sathankulam town near Thoothukudi in Tamil Nadu has sparked rage across the state. The Tamil Nadu Traders Association downed shutters across the state. Victims were traders belonging to the Nadar community, a socially and politically powerful community in southern Tamil Nadu. **Janardhanan 2020** (Verma and Thockchom 2000). This article deals the graphical analysis of increase in custodial death. In the last 10 years, the majority (69%) of 1,004 deaths in police custody have been attributed to either illness and natural causes (40%), or to alleged suicide (29%), in National Crime Records Bureau data. **Bagga and IndiaSpend.com 2020** (Chakraborty 2017). This article refers 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. **Shakya (2018)** (Verma and Thokchom 1998). This article refers The word custody implies guardianship and protective care. Even when applied to indicate arrest or incarceration, it does not carry any sinister symptoms of violence during custody. Preventing torture in custody and ensuring strict compliance of its guidelines in custodial deaths is one of the important agendas on the NHRC's list. **Jawale and Bhise (2020)**(Hayslip and Glover 2009). This article deals with the case of a Telangana lawyer couple. The lawyer couple had last year filed a PIL about the alleged custodial death of a Dalit man, Seelam Rangaiah, who was found hanging in the toilet of the Manthani police station. (“**Telangana: Lawyer Couple, Working on Dalit Man’s Custodial Death Case, Hacked to Death**”). Even applied to advisable arrest or confinement, it does not carry any ominous symptoms of cruelty during custody. No civilized law permits custodial cruelty, a brutal trait that leaps out of a preserved desire to cause harm when there is no probability of any retaliation; a sense of superiority and physical power over the one who is overpowered or a collective wrath of hypocensorious thinking. It is one of the worst crimes in our civilized society. **Mom Banerjee (2021)** (Miltenberger et al. 2004). Human Rights constitute the foundation for men and women to lead a civilized life liberal democracies all over the world have guaranteed a variety of rights so that their citizens lead a healthy life. In India, demand for fundamental rights had been voiced during the

nationalist struggle itself. So, after 1947, the Constituent Assembly took upon itself the responsibility of framing chapters on Fundamental Rights and made it a pivotal point for the life of its citizens. It was accorded so much importance that all other provisions and activities came to be either directly or indirectly influenced by it. **Surender Kumar (2018)**(Mathew 1997). In the present scenario of the criminal justice system in the country, a constant debate is going on which usually focuses on the lack of accountability and professionalization of the organization. India is a country where common law is followed which stresses the values of rule of law, hence prioritizing the fundamental rights of people. But in contrast, when we look at the power of the police, it still appears to be a pre-independence model, resulting in fragmented and incomplete reforms. **Madhavi Gautam (2020)**(Kopecká 2020) . A death in custody is a death of a person in the custody of the police. Custodial violence is a dark reality in our democratic country governed by the rule of law. They systematically violate their powers and employ torture as part of their investigation process but the poor, the deprived classes, women & political activists are the worst victims of police brutality. The huge pendency of cases in Indian courts of law and mention the prevalence of 3rd degree as an accepted form of custodial torture in India. This is sad but that is the true reality of our country. **Manisha Varsani (2020)**(Vohra et al. 2016).Police audacity and brutality is not an uncommon phenomenon. It has caught the attention of the public and the judiciary and eventually a catena of directions was promulgated by the National Human Rights Commissions (NHRC), High Courts as well as the Supreme Court of India right from the ancient era to technological era. Yet, the menace and inhumane attitude of the police officials have not declined; instead in step ahead. **Nirmal Singh Heera, A (2021)**(Vohra et al. 2016; Freeman, Elton, and Lambert South 2022). Atrocities are a specific form of violence committed by a collectivity or individual on the weaker sections in general and the scheduled castes and scheduled tribes in particular, in different parts of the country. Such violence manifests both in the social and physical forms. From the psychological point of view, it may be part of an aggressive personality and behavior patterns of a group or an individual, but sociologically this may have its roots in an equally organized social structure which may be concretely visible in the various forms of social inequality. **M.Subhash (2000)** (“EBSCOhost”). Whenever death occurs in custody, it raises the public interest and attracts media attention.

Not that at each time the death is due to natural causes or due to inadequate medical facilities or medical attention and diagnosis, or negligent behavior of authorities or may be due to physical

abuse and torture. Persons held in custody, by police or by prison authorities, retain their basic constitutional right except for their right to liberty and a qualified right to privacy. **Sinha U.S (2014)**. Human rights cut across political, social, ideological and cultural domains.' Human rights are of universal importance as they are available to the entire humanity irrespective of race, religion, color, sex or domicile. Violation of basic human rights is universally condemned, irrespective of cultural differences of Western and Asian countries. Unlawful arrest or arbitrary detention, torture, rape, racism, ethnic cleansing and politically motivated disappearances are not tolerated by any faith or culture, which respects humanity. **Ahmad (2003)**. The concept of human rights is as old as human civilization. The Greatest gift of classical and contemporary human thought and culture to civilization is the notion of human rights. The concept of human rights has been ever dynamic and constantly keeps touching new dimensions as each society continues to evolve. That is why there is hardly any consensus among the scholars about the universal definition of human rights. **M.Soni(2019)**(Verma and Thockchom 2000). 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 is one of the worst crimes in civilized society. Torture in custody flouts basic rights of citizens and is an affront to human dignity. Custodial deaths are perhaps one of the worst crimes in a civilized society governed by the Rule of Law. There are numerous cases where the police officers have misused their powers on the people and toyed with their lives. **V. Nivedha (2017)**. The medical profession is one of great antiquity in India. However, the history of medicine and, in particular, the role of medicine in the administration of justice in India has not been discussed very much. The present paper attempts to fill in this lacuna and traces the medicolegal practice from ancient times to British India. **Mathiharan (2005)**(Mathiharan 2005). This Article is emphasized on the custodial torture and their Rights. Whereas it says that Violence is the center of any criminal justice system and it is the commencement of its actions. The instigation for this action and its nourishment are vested as a responsibility with the custodians of law. Torture is generally characterized as an instrument to impose the will of the strong over the weak by suffering. Police outrages are a normal highlight of the Indian Situation. **Nelson Mandela (2020)**(“Home - The Law Brigade Publishers (India)” 2022). Dalits continue to be oppressed and discriminated against in villages, in educational institutions, in the job market, and on the political battlefield, leaving them to struggle against the unjust practices of exclusion and exploitation. In such a situation the Indian constitution assures justice, equality,

liberty and fraternity so that they remain socially included in the mainstream of the society. **Louis (2017)** Police in the state of Tamil Nadu, India, use a two-tier system in domestic violence cases. More serious cases, such as dowry deaths and murders resulting from domestic disputes, are registered in the First Information Report for official police investigation and filing of charges. All other domestic violence cases are initially registered in a register called Community Service Register before further investigation. **Sesha kethineni (2009)** Police force is not only an integral part of democracy but is vested with power, duty and responsibility to look after security and safety, of 'we the people', and to maintain peace and order. The unfortunate reality is that the violations of these vested duties have been going on by the same authority. The concept of 'rakshak' becoming 'bhakshak' has already been proved true in this nation. **Abhijeet Kumar (2014)**(A. Kumar 2014).

METHODOLOGY

The researcher used an empirical study. The method for collecting samples is a convenient sample. Primary sources such as questionnaires and surveys are used for this research. Secondary sources such as books, articles and journals were referred for the study. A total of 212 samples were collected from various sources. The researcher obtained the sample utilizing an online through Google form samples are convenient samples. Age, gender, and educational qualifications are the independent factors in this study. The dependent variables are political interference on custodial death, legislative rules, government initiatives.

HYPOTHESIS:

Null hypothesis:

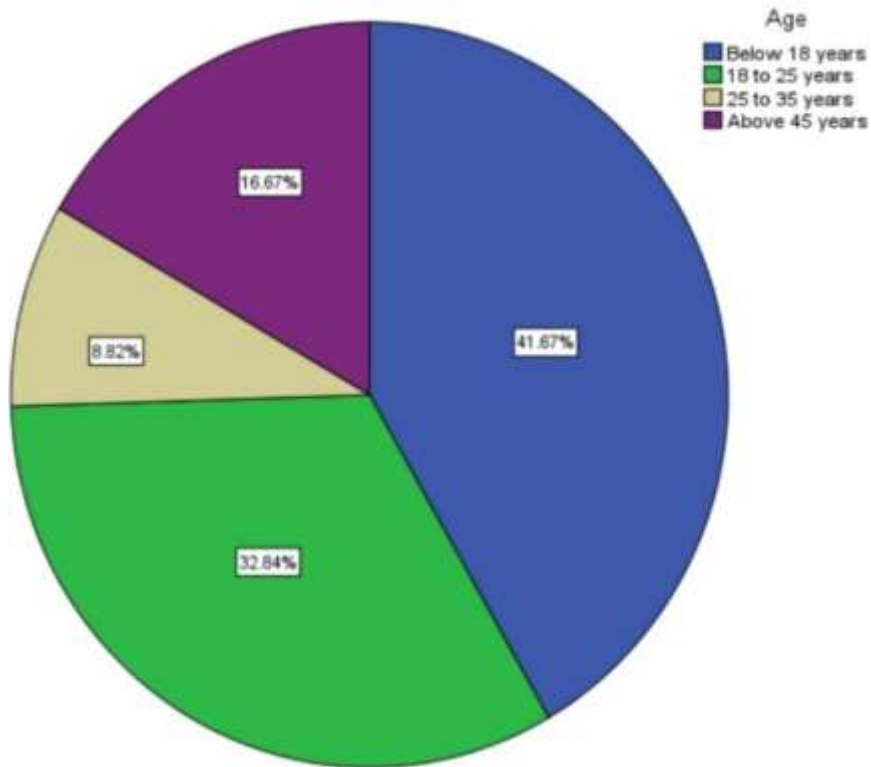
There is no significant relationship between the educational qualification of the respondents and their opinion on the political interference involved in custodial death.

Alternative hypothesis:

There is a significant relationship between the educational qualification of the respondents and their opinion on the political interference involved in custodial death.

ANALYSIS:

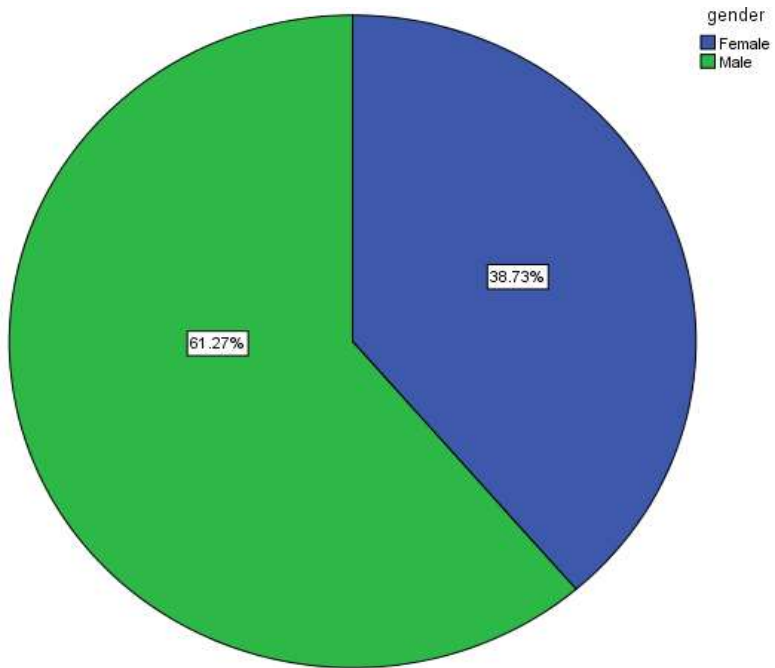
FIGURE 1



Legend:

Figure 1 shows the age distribution of the sample population in India.

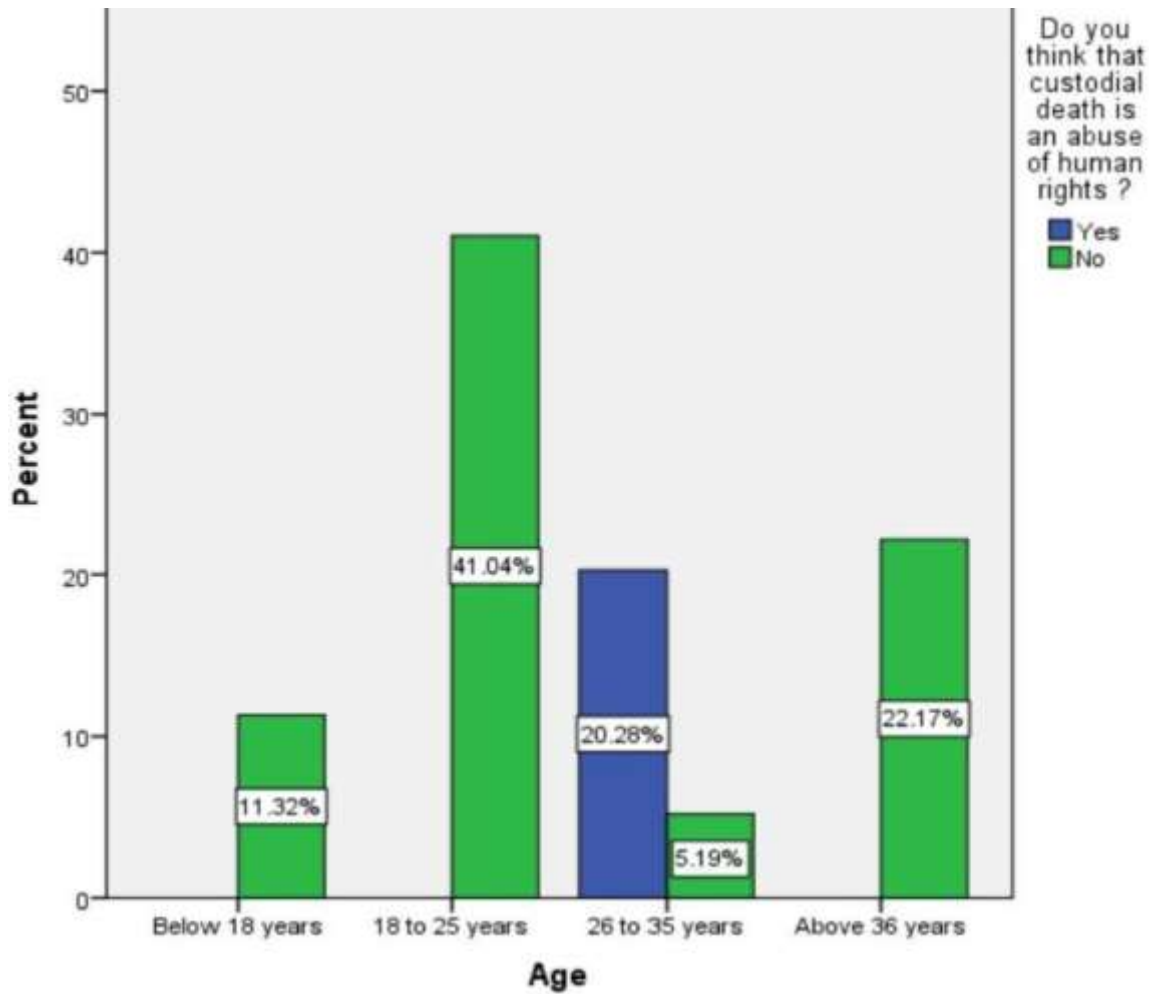
FIGURE 2



Legend :

Figure 2 shows the gender distribution of the sample population in India.

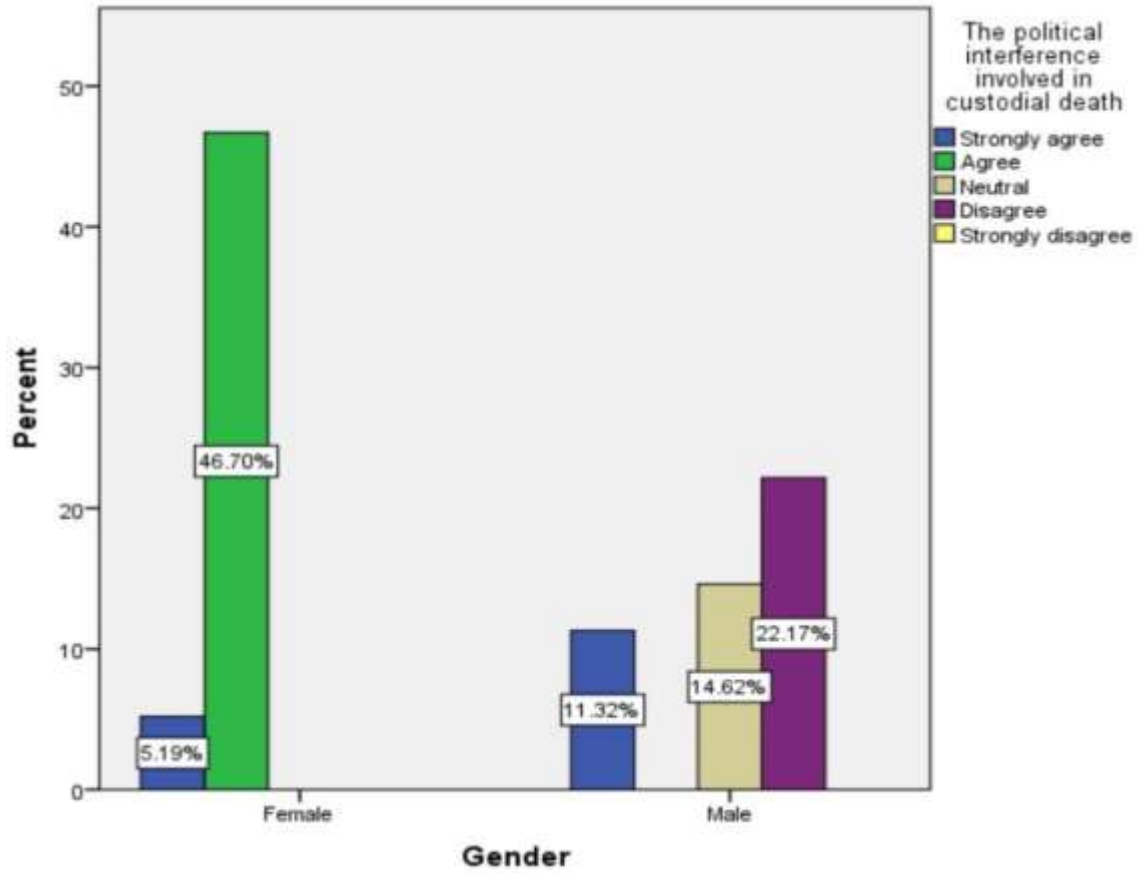
FIGURE 3



Legend:

Figure 3 = Represents the age wise distribution and the opinion towards the do you think that custodial death is an abuse of human rights.

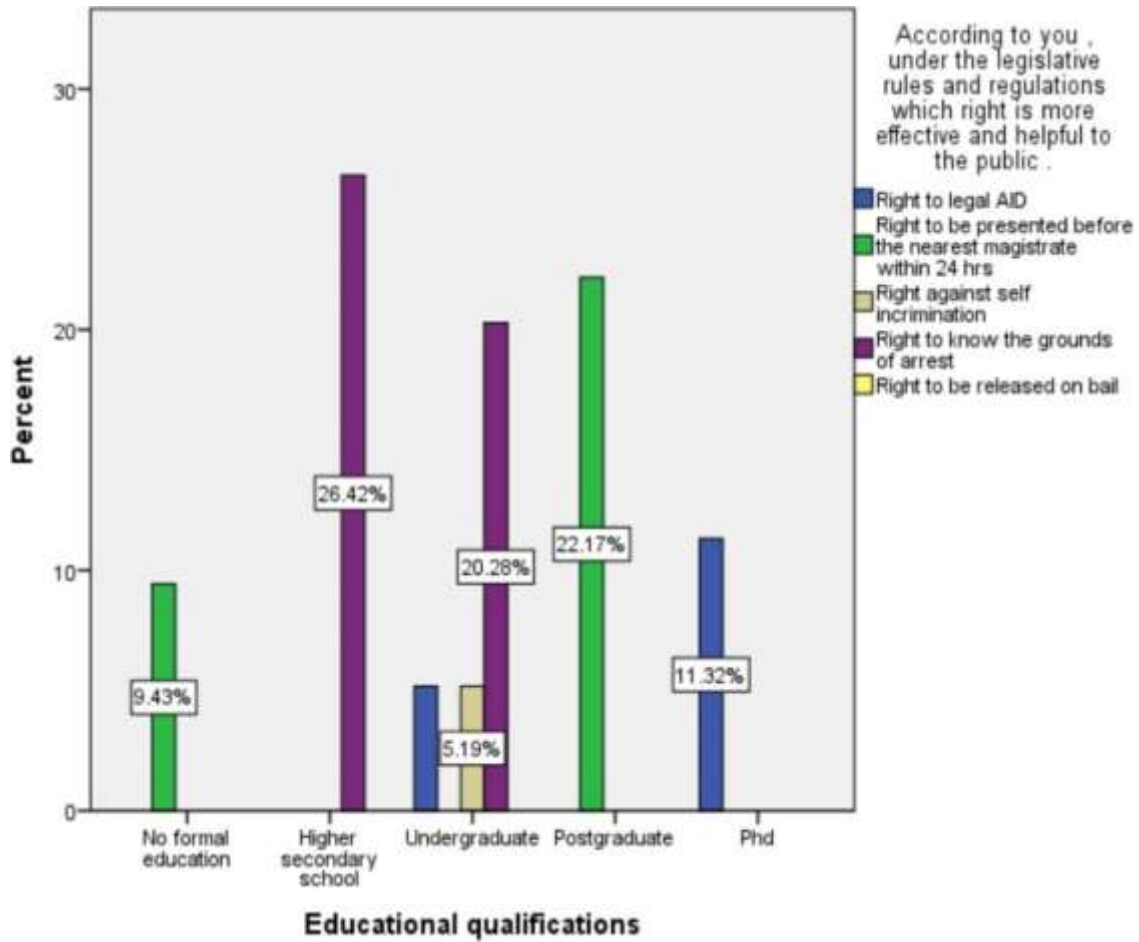
FIGURE 4



Legend:

Figure 4 = Represents the gender of distribution and the opinion towards do you think that the political interference involved in custodial death.

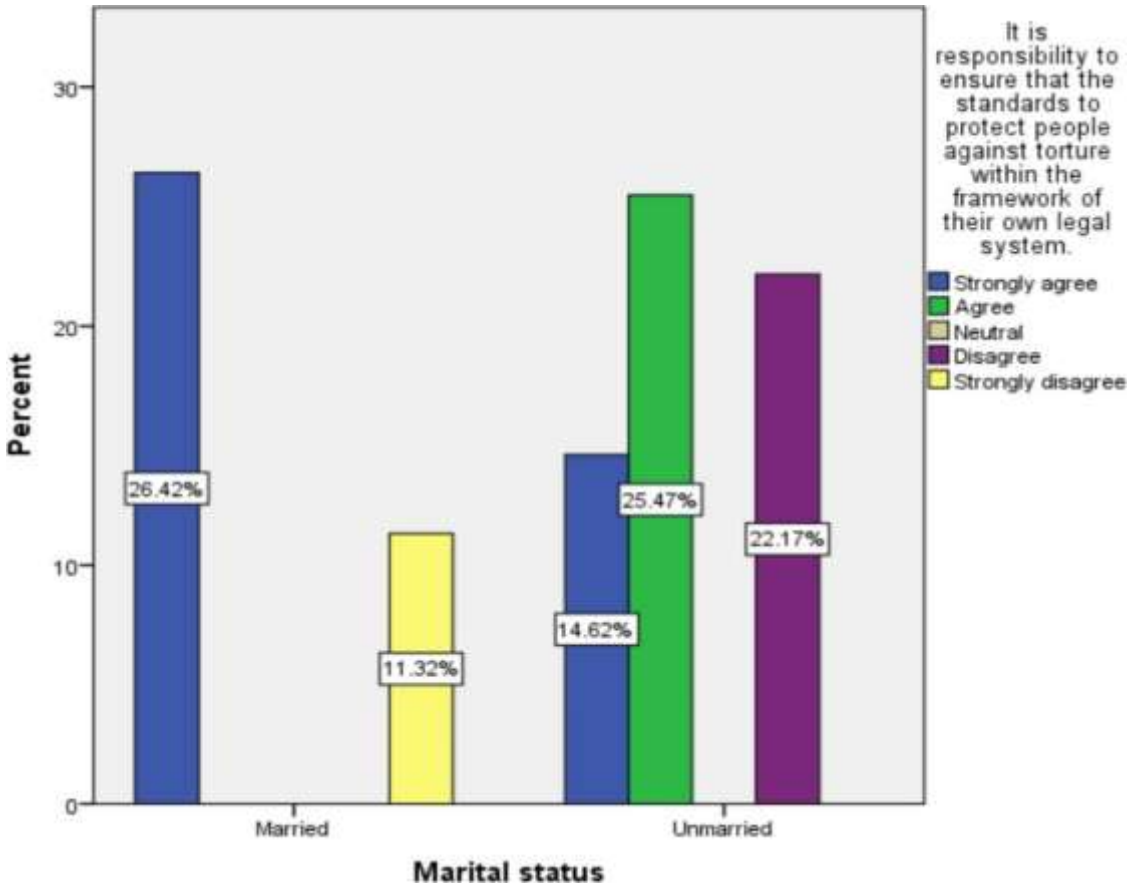
FIGURE 5



Legend :

Figure 5 = Represents the educational qualifications and the opinion towards the according to you, under the legislative rules and regulations which rights is more effective and helpful to the public

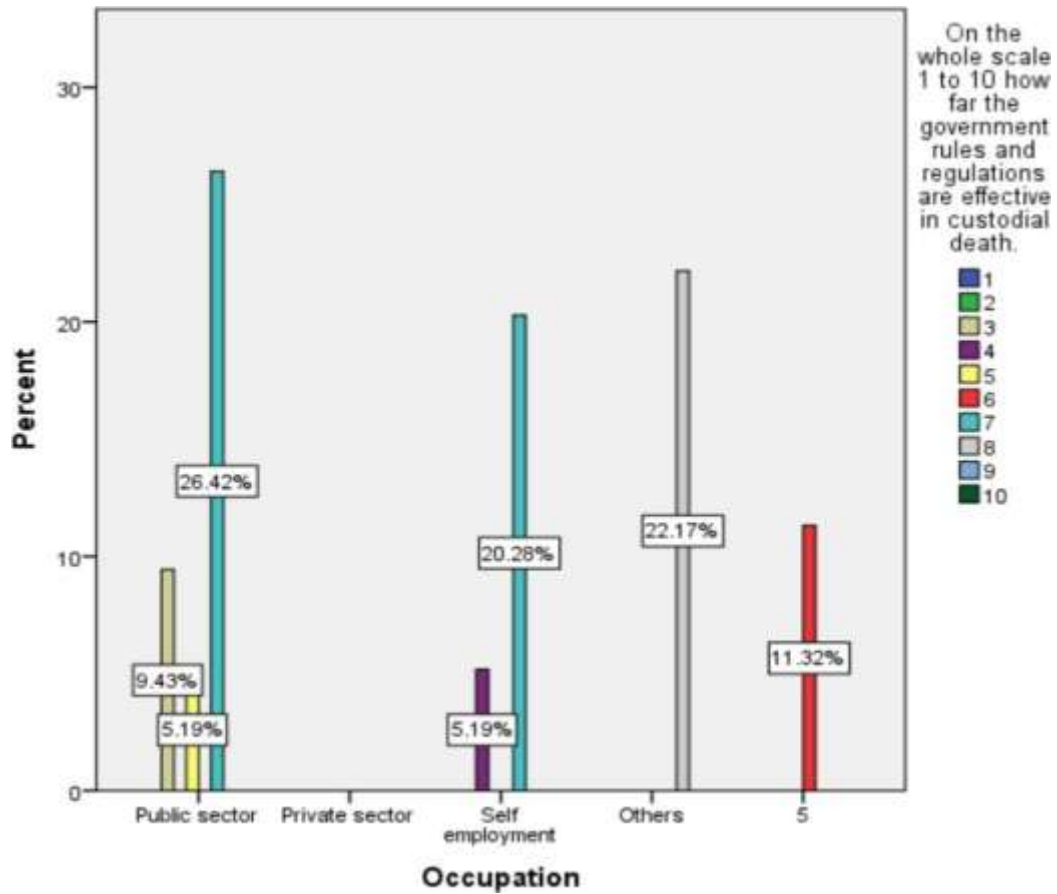
FIGURE 6



Legend:

Figure 6 = Represents the marital status and the opinion towards that it is responsibility to ensure that the standards to protect people against torture within the framework of their own legal system

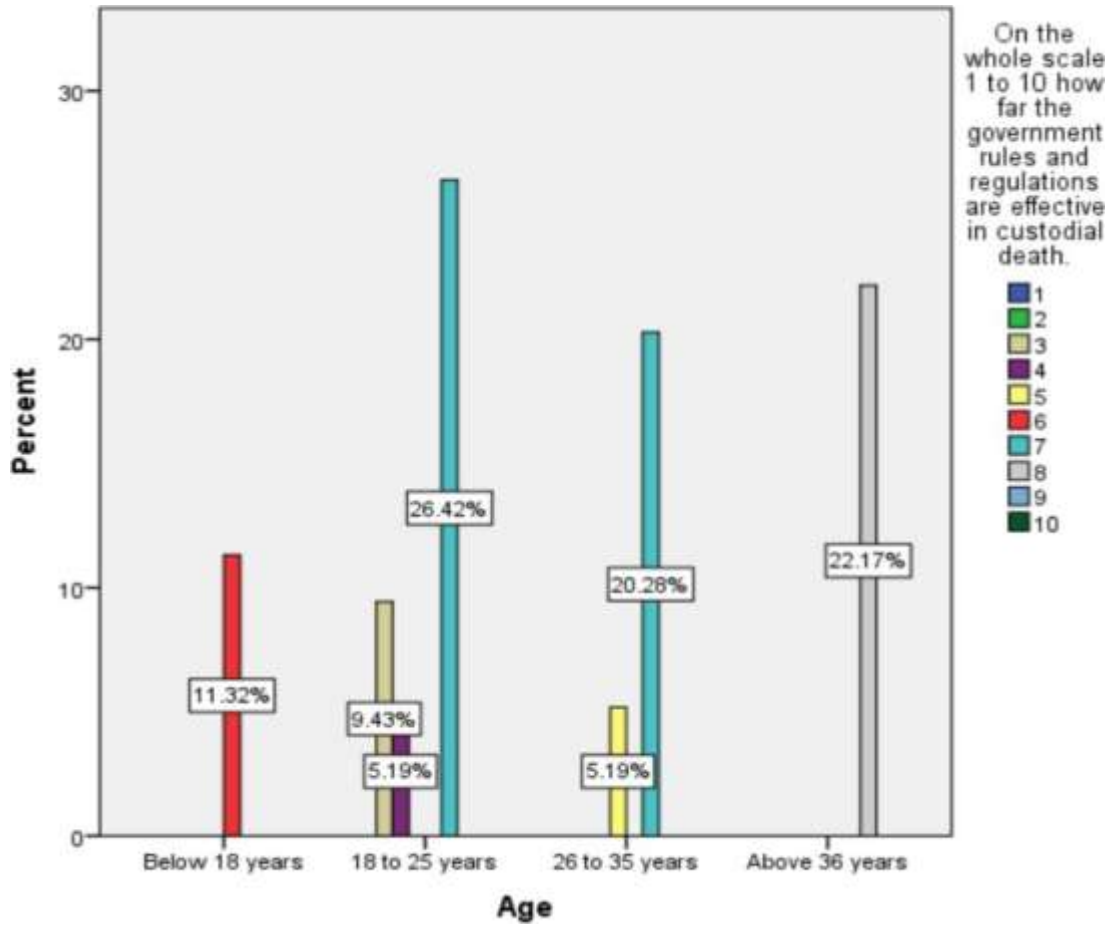
FIGURE 7



Legend:

Figure 7 = Represents the occupation of respondents and the opinion towards the on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death.

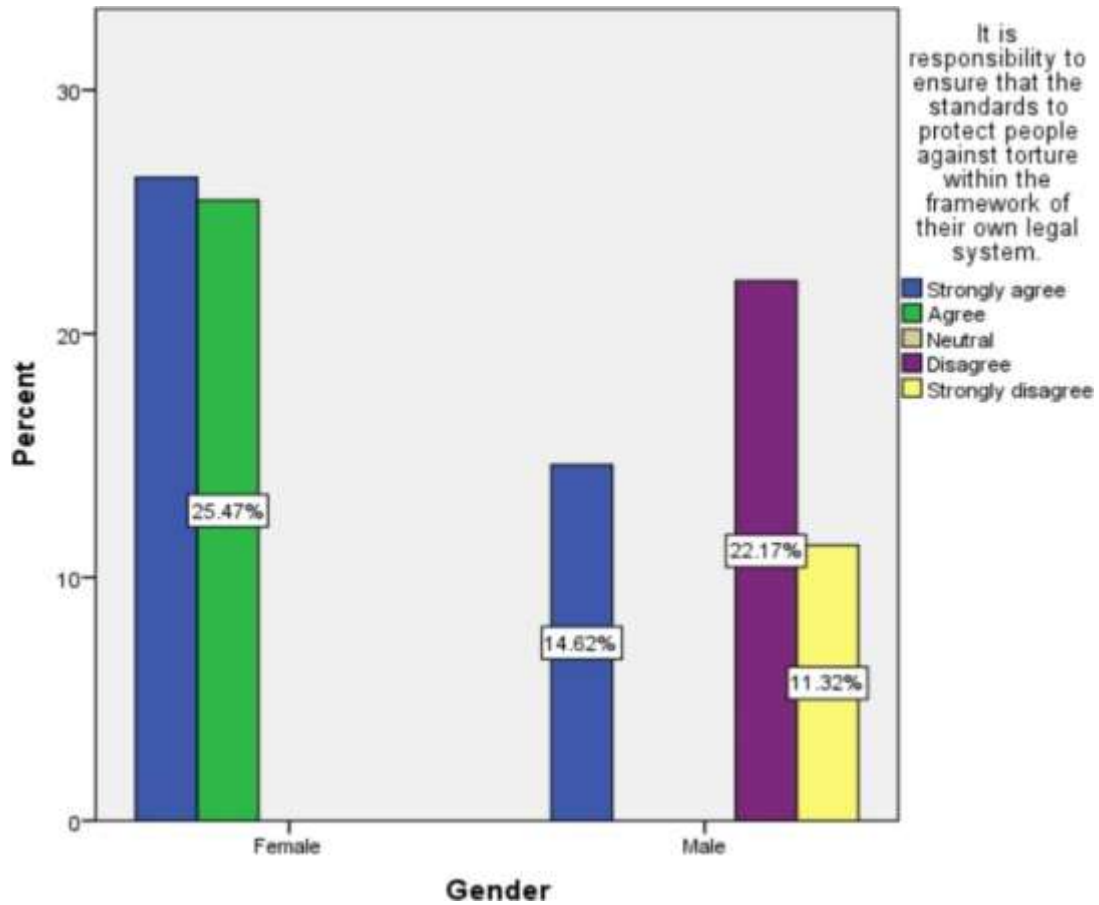
FIGURE 8



Legend:

Figure 8 = Represents the age - wise distribution and the opinion towards the on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death.

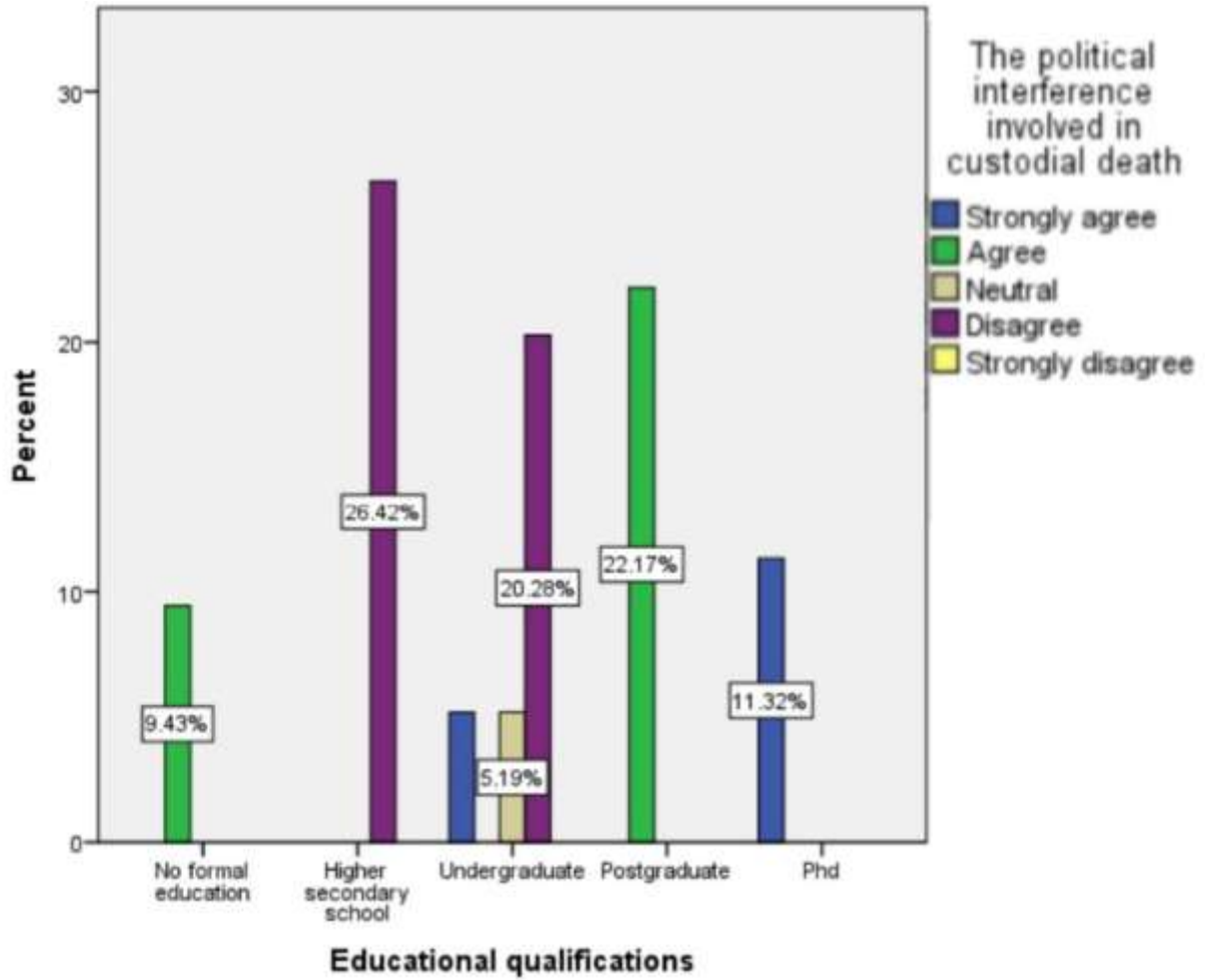
FIGURE 9



Legend:

Figure 9 = Represents the gender of distribution and the opinion towards it is responsibility to ensure that the standards to protect people against torture within the framework of their own legal system.

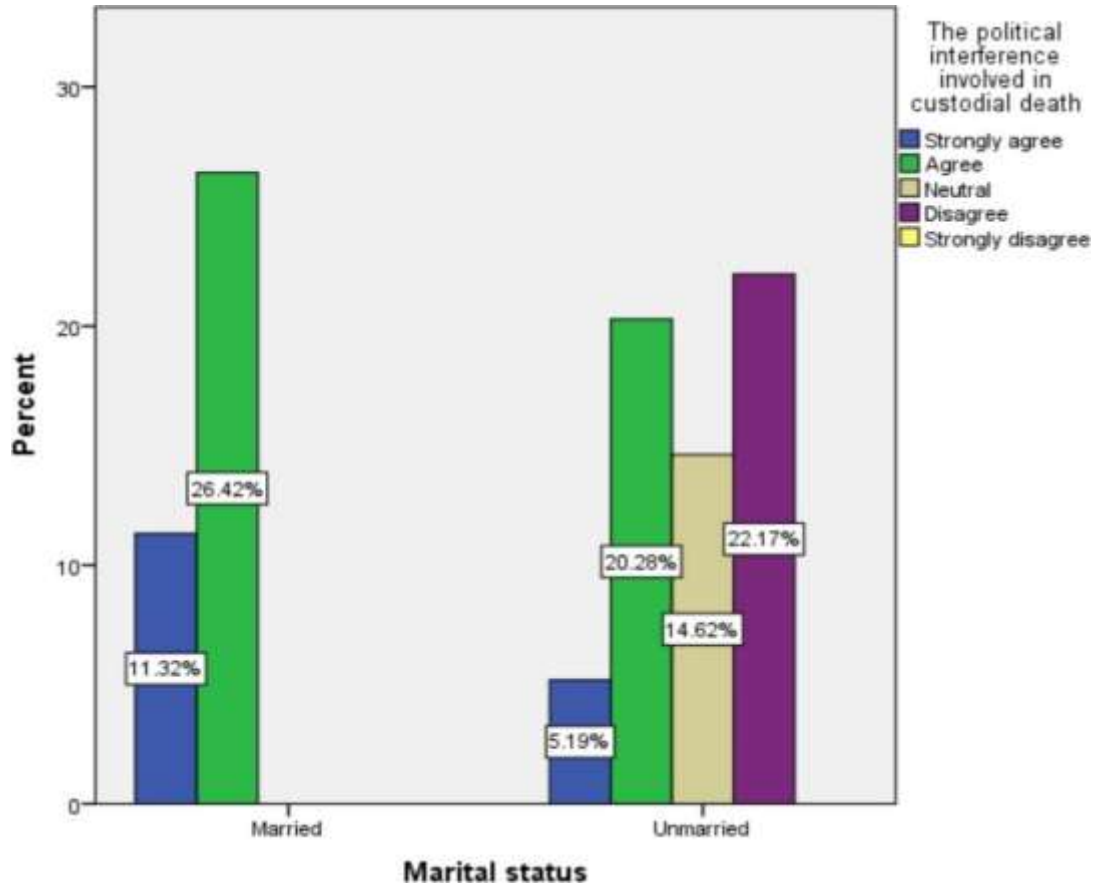
FIGURE 10



Legend:

Figure 10 = Represents the educational qualifications and the opinion towards the political interference involved in the custodial death.

FIGURE 11



Legend :

Figure 11 = Represents the marital status and the opinion towards the political interference involved in custodial death .

CHI SQUARE

TABLE - 1

Age * The political interference involved in custodial death Crosstabulation

Count

		The political interference involved in custodial death				Total
		Strongly agree	Agree	Neutral	Disagree	
Age	Below 18 years	24	0	0	0	24
	18 to 25 years	11	56	20	0	87
	26 to 35 years	0	43	11	0	54
	Above 36 years	0	0	0	47	47
Total		35	99	31	47	212

Case Processing Summary

	Cases					
	Valid		Missing		Total	
	N	Percent	N	Percent	N	Percent
Age * The political interference involved in custodial death	212	99.5%	1	0.5%	213	100.0%

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	2.413 ^a	4	.660
Likelihood Ratio	2.390	4	.664
N of Valid Cases	220		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 5.73.

Legend:

Table 1 represents the age wise distribution and the opinion towards the political interference involved in custodial death the p value is greater than 0.01.

RESULT

The respondents belonging to the age of distribution the age group below 18 years have shown the higher preference of 41.67% of respondents and the age group 18 to 25 years have shown the 32.84% of the sample population (**fig 1**). The respondents belonging to the gender distribution the male have a higher preference of 61.27% of opinion and the female have shown 38.73% of opinion towards the sample population (**fig 2**). Respondents belonging to the age group 18 - 25 years have shown the higher preference of 41.04% on Yes, and the above 36 years have shown 22.17% on Yes towards the do you think that custodial death is an abuse of human rights (**fig 3**). Respondents belonging to the gender distribution the females have shown the higher preference of 46.70% of agree respondents towards the political interference involved in custodial death (**fig 4**). The respondents belonging to the educational qualifications the higher secondary school have shown the higher preference of 26.42% on right to know the grounds of arrest towards the according to you, under the legislative rules and regulations which rights is more effective and helpful to the public (**fig 5**). The respondents belonging to the marital status the married people have shown 26.42% on strongly agree towards it is responsibility to ensure that the standards to protect people against torture within the framework of their own legal system (**fig 6**). Respondents belonging to the occupation of distribution in the public sector have shown 26.47% of higher preference on the ratings scale on 2 towards on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death (**fig 7**). The respondents belonging to the age group, 18 to 25 years, have shown the 26.42% on scale ratings 7 towards the on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death (**fig 8**). Respondents belonging to the gender of distribution the female have shown higher preference of 25.47% on strongly agree (**fig 9**). The respondents belonging to the educational qualifications the higher secondary school have shown the 26.47% on disagree and the postgraduate have shown 22.17% on agree towards the political interference involved in the custodial death (**fig10**). Respondents belonging to marital status the married people have shown the higher preference 26.42% on agree respondents and the unmarried people have shown the 20.28% on agree towards the political interference involved in custodial death (**fig 11**). Table 1 represents the age wise distribution and the opinion towards the political interference involved in custodial death the p value is greater than 0.01 thus the null hypothesis gets rejected (**table 1**).

DISCUSSION

Majority of respondents belonging to the age of distribution the age group below 18 years have shown the higher preference of respondents and the age group 18 to 25 years have shown the of the sample population (**fig 1**). The majority of respondents are male higher preference of 61.27% of opinion and the female have shown an opinion towards the sample population (**fig 2**). Respondents belonging to the age group 18 - 25 years have shown the higher preference of on Yes, and the above 36 years have shown on yes Custodial death is considered to be the cruelest form of human right violation. It is forbidden by the Constitution of India, the Supreme Court, the National Human Rights Commission (NHRC), and the United Nations. But police keep on defying them., towards the do you think that custodial death is an abuse of human rights (**fig 3**). Respondents belonging to the gender distribution the females have shown the higher preference on agree respondents when compared to male respondents the male have shown that strongly agree, the political interference is also the major reason of the custodial death were happening in the society towards the political interference involved in custodial death (**fig 4**). The respondents belonging to the educational qualifications the higher secondary school have shown the higher preference and the undergraduate students have stated on same rights on right to know the grounds of arrest , the rights is mandatory to all the people towards the according to you, under the legislative rules and regulations which rights is more effective and helpful to the public (**fig 5**). The respondents belonging to the marital status the married people have shown on strongly agree and the few of the respondents agreed, the government have to take more steps to protect the people against the torture towards it is responsibility to ensure that the standards to protect people against torture within the framework of their own legal system (**fig 6**). Respondents belonging to the occupation of distribution in the public sector have shown of higher preference on the ratings scale on 2 and the self-employment have shown on the ratings of same 2 and the others of common public were stated on the scale ratings 8 towards on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death (**fig 7**). The respondents belonging to the age group, 18 to 25 years have shown the on scale ratings 7, and the 26 to 35 years have shown the on the ratings scale of the same 7 and their responses are given by age category.

The above 36 years have shown that on 8 they are feeling that rules and regulations must to be effective the government laws towards on the whole scale 1 to 10 how far the government rules and regulations are effective in custodial death (**fig 8**). Respondents belonging to the gender of

distribution the female have shown higher preference of on strongly agree and agree respondents and the male have shown the on disagree and few respondents strongly agree, the government has the responsibility to protect against the torture towards the it is responsibility to ensure that the standards to protect people against torture within the framework of their own legal system (**fig 9**). The respondents belonging to the educational qualifications the higher secondary school have shown on disagree and the postgraduate have shown on agree , some of them are disagree but some of them are agreed the statement in the not all the cases the political interference involved but there is an cases also towards the political interference involved in the custodial death (**fig 10**). Respondents belonging to marital status the married people have shown the higher preference on agree respondents and few respondents strongly agree and the unmarried people have shown the on agree into the most of the cases that political interference involved more explosion in the custodial death in the police station towards the political interference involved in custodial death (**fig 11**).

CONCLUSION

The solution to the problem of custodial deaths as such lies in measures to prevent custodial torture, in fact, such violence itself, and reduce the number of custodial deaths to the extent possible in other circumstances by evolving efficient systems and procedure for prompt and adequate medical aid, where required, and reasonable preventive measures against accidents and suicide. It would also be necessary to put such deaths in proper perspective to change the current public perspective. The various suggestions can be made to prevent deaths or violence in the custody- The solution to the problem of custodial deaths as such lies in measures to prevent custodial torture, in fact, such violence itself, and reduce the number of custodial deaths to the extent possible in other circumstances by evolving efficient systems and procedure for prompt and adequate medical aid, where required, and reasonable preventive measures against accidents and suicide. A separate offense provision should be made by amending Section 302 of the Indian Penal Code regarding treatment of custodial death as murder. The medical facilities should be provided in jails so that in case of emergency proper and timely medical help could be provided to the persons in the jail custody. The counsel should be allowed to be present during interrogation to check the custodial violence by the investigating officer. The compensation in case of custodial deaths should be a State responsibility. The State Government in turn can recover the amount of compensation from the offenders. For implementing this, a separate Tribunal/Board should be set up at the District level.

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