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A Critical Study on the Rights of the Convicted Persons and the Problem Faced by them with Reference to Chennai

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Abstract: This research paper delves into the rights of convicts and explores the ethical and legal considerations surrounding their treatment within the criminal justice system. It examines the fundamental rights that convicts are entitled to, including the right to due process, fair treatment, access to healthcare, rehabilitation, and social reintegration. The paper analyzes the international and national legal frameworks governing the protection of convicts' rights and evaluates the challenges faced in upholding these rights. Additionally, the paper discusses innovative approaches and best practices that promote the rights of convicts, with a focus on restorative justice principles. These rights serve as a cornerstone of any just and equitable society, reflecting the belief that even those found guilty of wrongdoing must be treated with fairness, dignity, and respect. Overcrowded prisons, limited resources, societal stigma, and the potential for abuse within correctional institutions pose significant hurdles in ensuring the effective protection of convict rights. Moreover, upholding the rights of convicted persons contributes to the legitimacy and credibility of the criminal justice system as a whole. Throughout history, legal systems have evolved to establish rights for individuals facing conviction. By emphasizing the importance of respecting the rights of convicts, this research paper aims to contribute to the development of a more just and rehabilitative criminal justice system.

Keywords: Rights of prisoners, Human rights, Prison reform, Rehabilitation

I. INTRODUCTION

The rights of convicted individuals have long been a subject of debate and contention within the realm of criminal justice systems worldwide. As societies strive to balance punishment with the principles of fairness and human dignity, it is imperative to address the fundamental rights that must be upheld even in the face of criminal conviction. Article 11(1) of the Universal Declaration of Human Rights 1948, also provides that any person charged with penal offenses has a right to be presumed innocent until proven guilty according to law in public trial in which he/she has all the guarantees necessary for hi/her defence. The purpose of this research is to explore and analyze the rights of convicted persons, examining the legal frameworks and moral considerations that underpin these rights. When an individual is convicted of a crime, society often tends to focus primarily on punishment as a means of retribution and deterrence. However, it is crucial to remember that a person's conviction does not strip them of their inherent humanity or their entitlement to certain basic rights. These rights serve as a cornerstone of any just and equitable society, reflecting the belief that even those found guilty of wrongdoing must be treated with fairness, dignity, and respect. The recognition and protection of the rights of convicted persons are essential for several reasons. Firstly, it upholds the principle of proportionality, ensuring that the punishment imposed upon a convict is not unduly harsh or inhumane. Secondly, it promotes rehabilitation and reintegration, recognizing that individuals have the potential for change and that the ultimate goal of the criminal justice system should be to enable their successful reintegration into society. Moreover, upholding the rights of convicted persons contributes to the legitimacy and credibility of the criminal justice system as a

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whole. Throughout history, legal systems have evolved to establish rights for individuals facing conviction. These rights encompass various aspects, including due process, access to legal representation, protection against cruel and unusual punishment, healthcare, education, and opportunities for post-release support. International and regional human rights instruments, as well as national laws, form the foundation for the protection of these rights, reflecting the global consensus on the importance of maintaining the dignity and well-being of convicted individuals.

However, the realization of these rights in practice is often fraught with challenges., such as due process, legal representation, protection from cruel and unusual punishment, healthcare, education, and post-release support. Overcrowded prisons, limited resources, societal stigma, and the potential for abuse within correctional institutions pose significant hurdles in ensuring the effective protection of convict rights. Addressing these challenges requires a comprehensive approach that combines legal reforms, improved prison conditions, rehabilitation programs, and community support networks.

OBJECTIVES

- To find about the international and national legal frameworks that govern the rights of convicted persons
- To identify the specific rights that convicted persons are entitled to
- To examine the impact of convicts right on rehabilitation and reintegration
- To analyze the risks faced by the convicts who are put inside the prison

II. LITERATURE REVIEW

Jawale S M, Bhise S S and Wagh R R [2019] In this research paper made a study of 43 cases of rights of prisoners. It also states that preventing torture in custody is one of the agendas on NHRC's list. This study was carried out in Sir JJ Hospital in Mumbai region. In this study, the majority of deaths are due to improper medical facilities and the common cause of death is Pulmonary Tuberculosis. Y S Bansal, Murali G and Dalbir Singh [2010] have made a study in which they have analyzed the pattern of custodial death that had been brought to the mortuary at PGIMER, Chandigarh for medico legal autopsy and have also suggested a few preventive measures to reduce the morbidity as well as mortality among prisoners. 90 custodial deaths were analyzed. Vipul Pathak and Khushbu Sangwan [2020] wrote a research paper which explains the proliferating "social evil - custodial death" with analysis of data and latest unfortunate instances across India and the world. The ultimate aim of their study is to explain promising ways by which custodial deaths can be stamped out from society. Mittal D R, Jasbir S, Rai G, Kumar K and Sharma R K [2019] made a two year prospective study of custodial deaths from Punjab region of India. It also says that not always such deaths are due to unnatural or violent causes; indeed most of them are due to natural causes. Pulmonary tuberculosis was the most common natural cause among prison custodial deaths. Dr. Jaiendra Kumar and Dr. Pankaj Kumar [2021] made a two year prospective study of the pattern of custodial death in the Department of Forensic Medicine at PMCH Patna Bihar. The study observed 56 judicial cases out of which 93% were male and 7% were females. The main aim of the study was to study the pattern of custodial death in Patna region. It was a prospective analytic company. Shifan Wu, Luo Zhuo, Xingang Qiu, Zijiao Ding, Mingzhen Yang, Meichen Pan, Qian Liu [2018] made a rare case autopsy report on a 44 year old male who died in custody due to acute epiglottitis. It also states that the statistics of custodial death in China are limited. The research paper states that the prisoner who died unexpectedly appeared to be healthy while in custody. Acute epiglottitis is an infection caused by H. influenzae and other bacteria as well as fungi and virus was also stated in the research paper. Verma R S, and I B S Thockchom [2000] published a book with the title of Laws relating to custodial death and human rights. The book includes all prisoners' legal rights and their legal status. It also includes all the verdicts passed by the Supreme Court of India and all the High Courts on the matters of human rights and custodial deaths 1917 - 1998. It also includes various acts which also speak about human rights violations. Shifan Wu, Liang Ren, Meichen Pan, Xingang Qiu, Zijiao Ding, Yunyun Wang, Liang liu and Qian Liu [2020] made a retrospective analysis of 172 cases of custodial deaths in China between 1999 and 2016 at Tongji Medico Legal Expertise Center in Hubei (TMECH). The research aper states that majority of the custodial deaths were natural [70.93%] followed by suicides and homicides. It states that the most common cause of custodial death was due









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to cardiovascular disease. The major observation was that the custodial deaths occurred more frequently in prisons and detention houses than in police cells.C C Nwafor, N N Nwafor, U B Ezeagu and C I Owobu [2021] made a retrospective post mortem study of custodial deaths in Uyo, Nigeria. It states that the medicolegal auditing of the pattern of death among detainees in custody is a useful tool in planning for quality care to be given to detainees, who do not have access to stable health care as seen in the free world. The research paper's major aim was to do a retrospective study on the peculiarities of custodial deaths among the individuals detained in custody in Uyo, Nigeria and to suggest preventive measures. The result observed was that natural death was the most common among detainees in custody. Dogra T D, D N Bhardwaj, G A Sunilkumar Sharma and Sanjeev Lalwani [2008] In their research paper discusses Death in custody which is one of the most embarrassing situations for the law enforcement agencies and medico legal experts. It also says that The doctors who conduct post mortem examination in custodial death cases have to follow the guidelines given by the NHRC. The cases of custodial deaths for which autopsy was conducted at AIIMS has also been discussed in this research paper by the researchers. They also feel that sometimes the doctors get blamed for giving conclusions which seem biased to protect the interest of the police and the officials. Okove M, E H Kimmerle and K Reinhard [1999] made a review on deaths which occurred in custody in Lincoln, Nebraska USA, between 1991 and 1996. A total of 51 cases were reviewed by the researchers. The research concluded that The leading causes of death, natural 45.1% (23/51), suicide 33.3% (17/51), homicide 11.8% (6/51), accident 7.8% (4/51), and undetermined 2% (1/51). The variables which were used to conclude are the cause of death, age, sex, and race of the decedents. Vohra, Vijay Kumar, Harish Kumar S Agarwal, Dildar Singh and Shamsher Malik [2016] has made a prospective study on custodial death for a span of two years. The prospective study was conducted in the Department of Forensic Medicine and Toxicology, Govt. Medical College, Amritsar. A total of 70 cases were reviewed. Most of the custodial cases were found to be natural. The duration of study was from May 5th 2008 to April 30th 2010. The major reason for custodial death was due to pulmonary tuberculosis. Godbole Hemant Vasant and Sanjay Khandekar [2011] made a case study on two different custodial death where two prisoners committed suicide by hanging in the Government hospital where they were admitted for the treatment of cancer. The researchers made sure to highlight that both the prisoners used cotton bandage available in the hospital ward which is a ligature material and both were found hanging in the toilet of the ward. It is noted that both the prisoners has committed suicide due to the agonising pain of cancer. Raj Pracheen [2021] made a critical analysis on custodial death. In the research paper, the author differentiated police custody from judicial custody and convicted person from person in custody. The research paper concludes that India should sign the UN convention against torture and should formulates laws to deal with this issue. It also says that an Unnatural death should be investigated properly and stringent action should be taken as this idea is put forward by the leading case DK Basu. Devraj N A, K M Chaudhari, A G Pathak and R. K. Gadhari [2016] made a retrospective study of the duration of four years on analysis of custodial death. The research paper made an analysis of 56 cases of custody related death that occurred over a period of 4 years. The research paper was analyzed from the Department of Forensic Medicine & Toxicology at SBH Government medical college & General (civil) Hospital, Dhule. The study concluded that it shows urgent implication of routine medical checkup from time to time of all prisoners. Mahamad Arif AND, S S Syed Alwee Al Aidrus, M S Shafee and F Mohd Nor [2021] made a 15-year study of death in custody in Tuanku Ja'afar Hospital Seremban. The research was carried out for a period of 24 months. A total of 172 deaths-in-custody were analyzed which concluded that the majority of the deaths were due to natural causes. Sovemi, Sunday S, Adedayo F Faduvile, Ayodele D Sanni et al,...[2021] made a research paper on custodial deaths which was observed in the Office of the Chief Medical Examiner, Lagos, Nigeria. It was an 11 year autopsy study. The duration of the study was from June 2008 to June 2019. It was observed that Out of 9894 autopsies over the study period, 45 custodial deaths were identified. The research concluded that death in custodies needs to be properly investigated and attention needs to be paid to unlawful deaths in custody. Jan wouters et al., (2008) The Working Paper examines the effectiveness of international criminal tribunals, in particular the ICTR, ICTY and ICC. In order to be effective, these courts and tribunals have to do justice, which implies the respect of the rights of the suspect and accused. Hence, a better understanding of the effectiveness of international criminal tribunals can be obtained by looking into how these courts protect the rights of suspects and accused and which remedies it offers in case of violation of these rights. Karolina kremens (2011) The presented paper discusses the influence of international human

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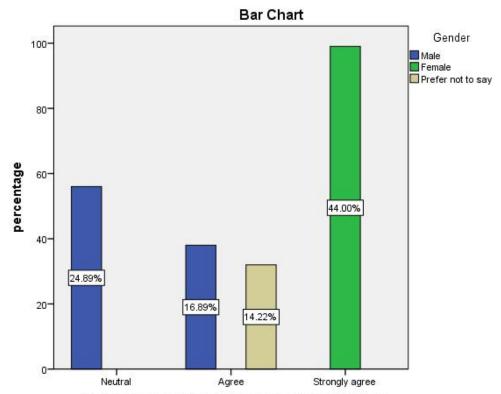
rights law on international criminal law. It tries to give an answer to the question of whether rules protecting the accused in international criminal proceedings meet the human rights law standard provided by international declarations and covenants. Anurag Tripathi (2014) The very essence of the criminal justice system is to protect the interest of the accused and provide for a fair trial as he is pitted against the might of the state. Some of the rights of the accused with time have got diluted and some are recommended to be done away with as proposed by the Malimath Committee Report. The reasoning given is the lower rate of criminalization. But, the very core of the existence of the criminal justice system is not to convict but provide a platform for proper representation.

III. METHODOLOGY

The research method adopted for the paper is such an empirical research. The methodology used by the researcher is a Simple random sampling method to collect samples. The sources used are primary sources such as questionnaires, surveys and secondary sources such as books and journals. The total sample size collected through questions is 200. The independent variables used were age, occupation, gender, qualification, income. Statistics tools used by the researcher are bar graphs, complex graphs.

IV. ANALYSIS

FIGURE 1



State your agreeability about Police interrogation becoming a violence in this society.

LEGEND

The above figure shows the comparison made between gender of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part.

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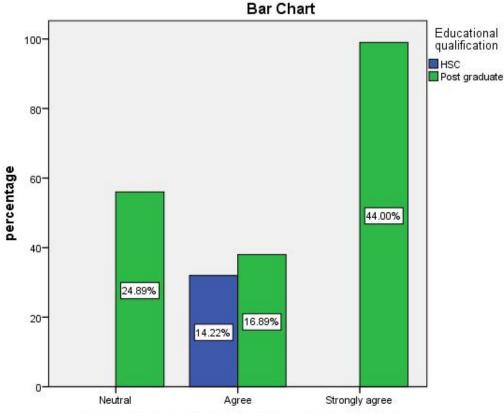
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FIGURE 2



State your agreeability about Police interrogation becoming a violence in this society.

LEGEND

The above figure shows the comparison made between educational qualification of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part.











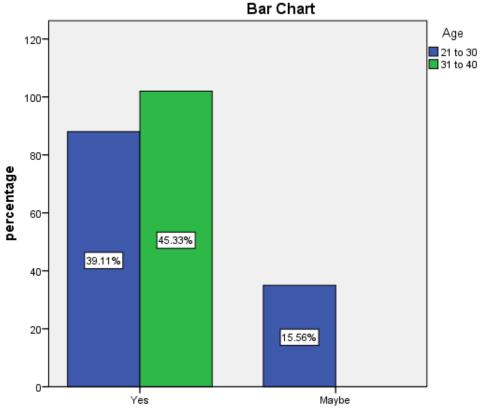
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FIGURE 3



A major part of police interrogation has become physical.

LEGEND

The above figure shows the comparison made between age of the respondents to that of the question a major part of police interrogation has become physical and most of the respondents have responded to the option yes on a major part.











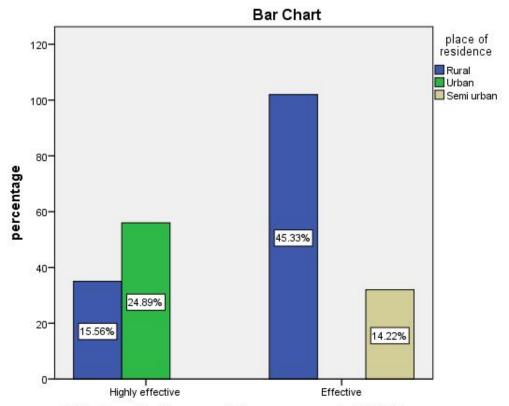
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FIGURE 4



State the effectiveness of the governmental initiatives taken for the benefits of the accused person.

LEGEND

The above figure shows the comparison made between place of residence of the respondents to that of the question state the effectiveness of the governmental initiatives taken for the benefits of the accused person and most of the respondents have responded to the option highly effective to this part.











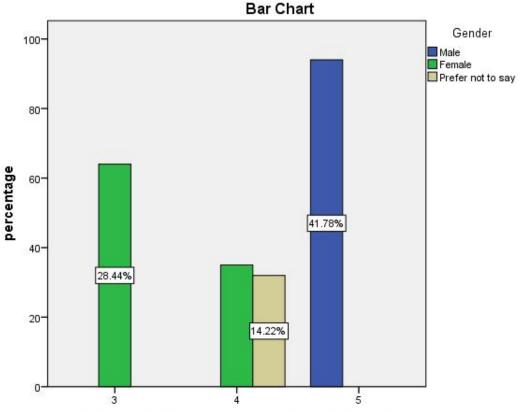
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FIGURE 5



Rate the scale about the police interrogation being violative of human rights of the accused.

LEGEND

The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the police interrogation being violative of human rights of the accused and most of the respondents have responded to the option to 4 to 5 to this part.









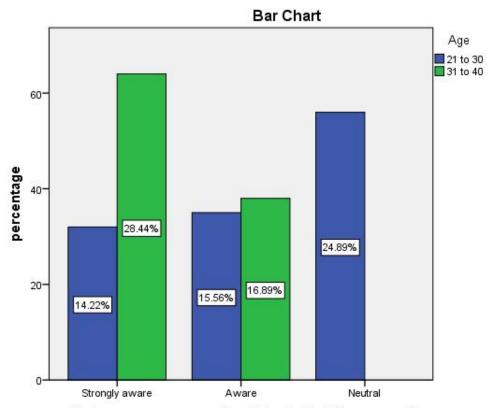
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FIGURE 6



State your awareness about the right of the accused person to know about the information related to the ground of their arrest.

LEGEND

The above figure shows the comparison made between age of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part.











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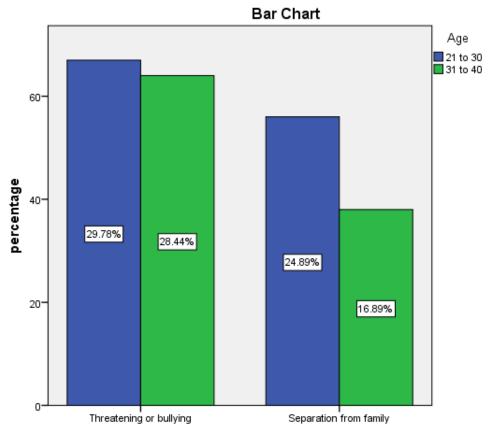


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FIGURE 7



The different methods of police interrogation

LEGEND

The above figure shows the comparison made between age of the respondents to that of the question the different methods of police interrogation and most of the respondents have responded to the option threatening or bullying and separation from family to this part.











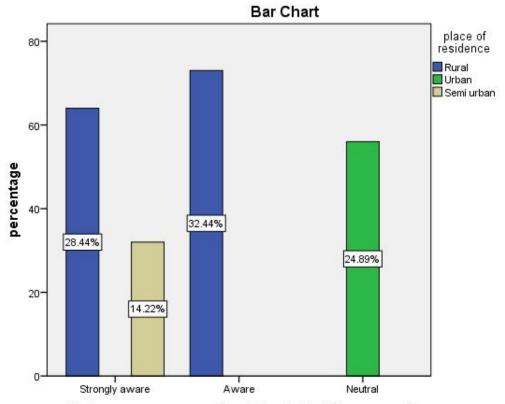
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FIGURE 8



State your awareness about the right of the accused person to know about the information related to the ground of their arrest.

LEGEND

The above figure shows the comparison made between place of residence of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part.







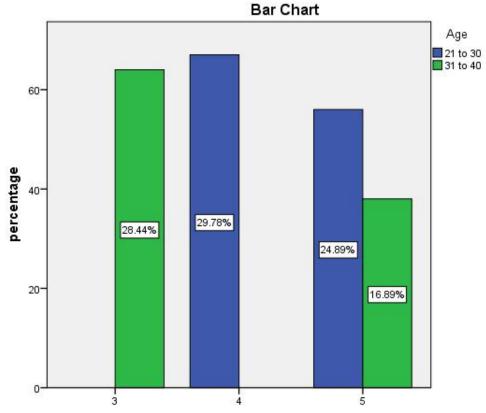
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FIGURE 9



Rate the scale about the police interrogation being violative of human rights of the accused.

LEGEND

The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the police interrogation being violative of human rights of the accused and most of the respondents have responded to the option to 4 to 5 to this part.











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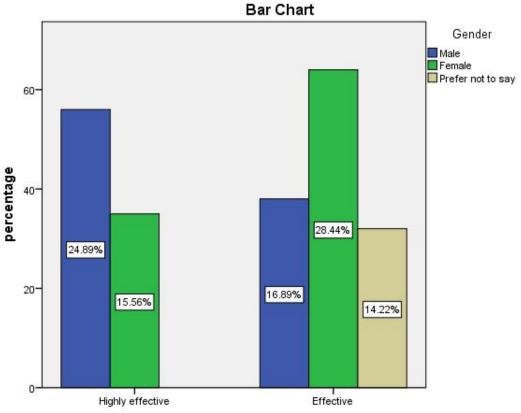
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FIGURE 10



State the effectiveness of the governmental initiatives taken for the benefits of the accused person.

LEGEND

The above figure shows the comparison made between gender of the respondents to that of the question 'state the effectiveness of the governmental initiatives taken for the benefits of the accused person' and most of the respondents have responded to the option highly effective and effective to this part.

V. RESULT

FIGURE 1 The above figure shows the comparison made between gender of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part. FIGURE 2 The above figure shows the comparison made between educational qualification of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part. FIGURE 3 The above figure shows the comparison made between age of the respondents to that of the question a major part of police interrogation has become physical and most of the respondents have responded to the option yes on a major part. FIGURE 4 The above figure shows the comparison made between place of residence of the respondents to that of the question state the effectiveness of the governmental initiatives taken for the benefits of the accused person and most of the respondents have responded to the option highly effective to this part. FIGURE 5 The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the police interrogation being violative of human rights of the accused and most of the respondents have responded to the option to 4 to 5 to this part. FIGURE 6

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The above figure shows the comparison made between age of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part. **FIGURE 7** The above figure shows the comparison made between age of the respondents to that of the question the different methods of police interrogation and most of the respondents have responded to the option threatening or bullying and separation from family to this part. **FIGURE 8** The above figure shows the comparison made between place of residence of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part. **FIGURE 9** The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the option to 4 to 5 to this part. **FIGURE 10** The above figure shows the comparison made between gender of the respondents to that of the question 'state the effectiveness of the governmental initiatives taken for the benefits of the accused person' and most of the respondents have responded to the option highly effective and effective to this part.

VI. DISCUSSION

FIGURE 1 The above figure shows the comparison made between gender of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part. FIGURE 2 The above figure shows the comparison made between educational qualification of the respondents to that of the question 'state your agreeability about police interrogation becoming a violence in this society' and most of the respondents have strongly agreed to this part. FIGURE 3 The above figure shows the comparison made between age of the respondents to that of the question a major part of police interrogation has become physical and most of the respondents have responded to the option yes on a major part. FIGURE 4 The above figure shows the comparison made between place of residence of the respondents to that of the question state the effectiveness of the governmental initiatives taken for the benefits of the accused person and most of the respondents have responded to the option highly effective to this part. FIGURE 5 The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the police interrogation being violative of human rights of the accused and most of the respondents have responded to the option to 4 to 5 to this part. FIGURE 6 The above figure shows the comparison made between age of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part. FIGURE 7 The above figure shows the comparison made between age of the respondents to that of the question the different methods of police interrogation and most of the respondents have responded to the option threatening or bullying and separation from family to this part. FIGURE 8 The above figure shows the comparison made between place of residence of the respondents to that of the question state your awareness about the rights of the accused person to know about the information related to the ground of their arrest and most of the respondents are strongly aware and aware of this particular part. FIGURE 9 The above figure shows the comparison made between gender of the respondents to that of the question rate the scale about the police interrogation being violative of human rights of the accused and most of the respondents have responded to the option to 4 to 5 to this part. FIGURE 10 The above figure shows the comparison made between gender of the respondents to that of the question 'state the effectiveness of the governmental initiatives taken for the benefits of the accused person' and most of the respondents have responded to the option highly effective and effective to this part.

VII. LIMITATION

Basically, the limitations of a study are its flaws or shortcoming which could be the result of unavailability of resources, sample size etc. No research paper or study is flawless and perfect. Every study has its own flaws and drawbacks. The major drawback is the collection of samples. There was not enough time frame for the collection of samples. The sample frame is limited which is a major drawback.







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VIII. SUGGESTIONS

Focus on rehabilitation: Prioritize rehabilitation programs that address the underlying causes of criminal behavior, such as substance abuse, mental health issues, and lack of education or job skills.

Address prison conditions: Improve prison infrastructure, sanitation, and living conditions to ensure a safe and humane environment for convicted individuals.

Ensure access to healthcare: Guarantee access to adequate healthcare services, including physical and mental health support, for convicted individuals throughout their incarceration.

IX. CONCLUSION

In conclusion, the rights of convicted individuals represent a crucial aspect of any fair and just criminal justice system. Recognizing and upholding these rights not only aligns with principles of human dignity and equality but also contributes to the ultimate goals of punishment, rehabilitation, and successful reintegration. By exploring the legal frameworks, challenges, and potential solutions related to the rights of convicted persons, this essay aims to shed light on the importance of maintaining a balanced and compassionate approach to criminal justice. This research paper provides a comprehensive analysis of the rights of convicts, recognizing their inherent dignity and the importance of safeguarding their rights within the criminal justice system. By examining the ethical and legal perspectives, international legal frameworks, specific rights of convicts, challenges faced, and restorative justice approaches, this paper aims to generate a deeper understanding of the rights of convicts and contribute to the ongoing efforts to promote a fair, humane, and rehabilitative approach to the treatment of convicts.

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