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## **A STUDY ON RIGHTS OF ACCUSED IN POLICE CUSTODY AND PUBLIC AWARENESS IN CHENNAI**

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### **ABSTRACT:**

The rights of an accused person is that the accused persons have where the rights include the right to remain silent: A person has the right not to make oral statements to the police. The right to an attorney: A person has the right to have an attorney present during questioning. The right to be informed of Miranda rights: When a person is taken into custody, they need to be made fully aware of their Miranda Rights. These rights include the right to remain silent, the right to an attorney, and the warning that anything they say can be used against them in court. When the accused is kept under police, the right not to be treated badly. The government initiative is Indian constitution 1950, Article 22 of the constitution. The research methodology used is Empirical research, the convenient sampling method is used to collect samples, there are totally 200 samples collected. The trends in the rights of accused is Restricting the right to bail: The trend in restricting the right to bail in non-capital cases. This has led to appeals based on the long history of denying bail only in capital cases, The Supreme Court has made several decisions involving Miranda Rights, which include the right to remain silent, the right to an attorney, and the warning that anything they say can be used against them in court. The outcome of the research is to spread an awareness about the rights of the accused and the impacts in it.

**Keywords:** Rights of Accused Meaning, Rights of Accused Under Article 22, Violation of Accused Rights in Various Grounds.

**INTRODUCTION:**

The rights of accused people refer to the legal protections and constitutional rights that are guaranteed to a person accused of a crime. These rights are designed to ensure that the accused is treated fairly and that their rights are not violated. The history of these rights can be traced back to the 18th century when they were primarily confined to the actual trial itself. However, in the second half of the 20th century, many countries began to extend these rights to the periods before and after the trial. The rights of accused people are fundamental to any fair and just legal system. When a person is taken into police custody, they are entitled to certain rights and protections. These rights are designed to ensure that the accused is treated fairly and that their rights are not violated. The rights of accused people include the right to silence, the right to information, the right to a fair trial, and the right to legal representation. These rights are enshrined in international law and are recognized by many countries around the world. In this research, we will examine the rights of accused people in police custody and how they are protected by law. The right to a speedy trial: The accused person must not be allowed to languish indefinitely in jail but must be given a speedy trial. The right to legal representation: The most important right has been the right to be represented by counsel. The accused person has the right to be present during their trial and have testimony presented in front of them. The accused person has the right to cross-examine the witnesses presented against them. The accused person has the right to receive copies of all the documents filed against them by the prosecutor. The right to a fair and impartial trial. The accused person has the right to a fair and impartial trial. The right to silence encompasses only oral representations made by a person and refers to a person's right not to make oral statements to the police or any other authority. The rights of accused people in police custody vary from country to country. In India, the Constitution provides that no arrested person shall be denied the right to consult a legal practitioner of his choice. Additional rights available to an arrested person in India include the right to health and safety and compensation to persons who got arrested groundlessly. In contrast, the United States has made the most far-reaching changes in this area and has set a pattern that other nations have begun to emulate. The U. S. system stipulates that the accused has the right to counsel from the time that he is taken into custody until all appeal is exhausted.

**OBJECTIVES:**

- To know about the Rights of accused

- To know about the violations done by police towards Accused.
- To analyze about the accused legislations safeguarding accused rights and the various accused rights.

**REVIEW OF LITERATURE:**

(Cape, E, 2014) explains the European Convention of Human Rights. These reforms are to be welcomed, but their implementation poses a range of challenges for Member States. Drawing on recent empirical research, this article focuses on one measure, the right to legal assistance during police custody. It discusses the range of complex and often inter-related factors that operate to help or to hinder the process of ensuring that the right is 'practical and effective' and not merely 'theoretical and illusory'. Member States do not share a common procedural tradition and alongside ensuring sufficient financial and human resources, effective implementation will require shifts in the legal and occupational cultures of police, prosecutors and the criminal bar.

(Dorange, A, 2012) elaborates about the law regulating the police custody phase (*la garde à vue*) was adopted by the French Parliament and implemented in June 2011. The new legislation confirms the right of immediate access to a lawyer in police custody and establishes a right to have that lawyer present during interrogation. This follows a series of decisions in 2010 by the European Court of Human Rights, the French Constitutional 'Court' (*Conseil constitutionnel*) and the final appeal court with jurisdiction over criminal matters (*la Chambre criminelle de la Cour de cassation*). These decisions declared existing limits to defence rights in the French police custody phase to be contrary to the European Convention on Human Rights, unconstitutional and unlawful. These developments have been much discussed in France (both positively and negatively) because they seem to signal a further shift away from France's inquisitorial tradition in the criminal process.

(Pemberton, S, 2008) explains the processes which occur after a death in police custody in England and Wales. The analytical focus falls upon the identities which are attributed to the victim by state actors. It will be argued that these identities are part of a discursive formation 'state talk' which seeks to inflate the dangers faced by state actors in order to legitimate their often oppressive interventions in the lives of marginalized groups. A death in police custody poses serious questions about these interventions. Consequently, considerable ideological attention is required to ensure hegemonic support for coercive state apparatus. This article seeks to challenge the discourses of

danger and disorder that state talk preaches in order to maintain authoritarian populism's hold over the historical bloc.

(Hodgson, J, 2004) explains about the regulation of the detention and interrogation of suspects held in police custody in France - the ways in which the rights and interests of the suspect are protected and the reliability of evidence guaranteed. After considering the legal framework and the impact of the European Convention on Human Rights, the article describes the actual practices and roles of key legal personnel and the relationships between them; the nature of judicial supervision; the role of the defence; and the conduct of police interrogations. The article concludes that neither judicial supervision by the public prosecutor as actually exercised nor the recently expanded rights of the defence provide sufficient guarantees to safeguard either the interests of the suspect or the reliability of evidence. Although the outcome of the investigation is reviewed, the process is not. Despite the centrality of confession evidence in practice and the obvious vulnerability of those detained, the police detention of suspects continues to be regarded in procedural terms as a preliminary (and, therefore, less important) investigation, with the result that the suspect is afforded fewer safeguards when interrogated by the police than when questioned by a judge.

(Erfani-Ghattani R, 2015) explains about the death of a black person in custody, information on the circumstances in which it occurred is hard to come by. The police force, as of nature, closes ranks, releasing statements to the press, which can misinform about the victim. The UK's press colluded with this, failing to properly investigate the role of the authorities in a suspect's death. The author focuses on the case of Joy Gardner, who died following a deportation raid in 1993. Following her death, the press presented her as a violent, aggressive 'illegal immigrant'. Gardner's case shows how the press constructs a Black folk devil, and in so doing can serve to justify police brutality.

(Arthur, C. C. , 2023) explains that in 2008, Sean Rigg, a 40-year-old Black British man, died in England and Wales police custody. It was not until 4 years later at the inquest that one of the police officers involved, the custody sergeant, PS Paul White gave false information. White had claimed he saw Rigg in the van upon his arrival however CCTV footage demonstrated this did not happen. Following a deconstructive approach this paper examined the inquest transcripts to explore how belief and the possibility of being mistaken was integral to the account White provided. It is the

ambiguity of truth/fiction that is significant in legal investigations for it comes to produce the justifications for the deaths of Black people in England and Wales.

(Forde, L2023) explains about the Rights of the Child, children in conflict with the law are entitled to dignity and respect for their rights within a youth justice system adapted to their age and circumstances. The United Nations Convention on the Rights of the Child recognises the necessity of ensuring that children's rights are protected during the criminal process, emphasising the importance of legal advice, information and support to enable their participation in the process. Police questioning can be a particularly difficult experience for children, given their vulnerability and immaturity and yet it can have very serious consequences for children. This article examines the rights of the child during police questioning, from the perspective of children themselves. Presenting the findings of a study of children's experiences of their rights when being questioned by the police (An Garda Síochána) in Ireland, the article highlights the need to adapt police questioning processes to the needs and circumstances of the child, while emphasising the powerful case for greater involvement of children in research about criminal justice and policing so that their experiences of their rights can be better understood.

(Martynowicz, A,2011)explains the mechanisms currently available in Ireland for the oversight of prison conditions and investigation of deaths in custody. It further analyses those against international human rights standards. The establishment of appropriate oversight and investigative mechanisms is increasingly important in the context of the deteriorating conditions in Irish prisons that have been regularly criticized by international bodies such as the European Committee for the Prevention of Torture. This article concludes that some significant reforms are needed in Ireland to ensure effective protection of prisoners' rights.

(Harding, R. W, 1999)explains the background to the establishment in 1987 of the Royal Commission into Aboriginal Deaths in Custody was a belief that the defining risk characteristic of persons dying in custody was their Aboriginality. Australia's long history of violence and injustice towards its Indigenous population underpinned the expectation that continuing racism in custodial situations was the principal driver of high Aboriginal mortality rates. On that basis, analysis and proposed solutions would focus upon the specifics of Aboriginal custodial experience as well as broader issues of criminal justice system administration. This paper suggests that, in the context of prison custody, equal or greater emphasis should have been placed on the nature of prison

regimes and prisoner management generally, as they impact upon all prisoners. Rates of prison deaths have remained unacceptably high since the RCIADIC, in contrast to police custodial death rates which have improved markedly. A great deal was generally known about the epidemiology of prison custodial deaths before the work of the RCIADIC.

(Pérez, A. R. ,2019)elaborates about the Female offenders' experiences with the police in Ecuador have been very diverse but also have been largely overlooked. This article attempts to provide a more nuanced understanding of the relationship between minority female offenders and the police, by examining how the intersected identities of Black and Colombian female offenders shaped their experiences during the arrest process and while in police custody. It also looks at the police's views and perceptions of the aforementioned groups of women. The study is based on 51 oral testimonies from female inmates and 50 in-depth interviews with police officers.

(Griffin, S2010)explains the potential impact of the Corporate Manslaughter and Corporate Homicide Act 2007 (CMCHA) in the context of the Act's application to a police force for deaths caused by a gross negligent act or omission of a police officer(s). The article will consider the accountability of a police force as an organisational body, prior and subsequent to the CMCHA. Although legislative innovation is, in part, welcomed in relation to a police force's accountability for deaths in police custody, the focus of the article argues that, all in all, the accountability of a police force is not extended significantly by the CMCHA.

(Daly, Y. M,2021) explains that the right to silence is recognised as being protected in Ireland under both the Irish Constitution and the European Convention on Human Rights (ECHR), many legislative incursions on the right now exist. These primarily take the form of provisions allowing for inferences to be drawn at trial from the failure or refusal of an accused person to answer certain questions during the pre-trial investigative stage of the criminal process. This article begins with an introduction to the Irish criminal justice system in general terms before going on to examine the history of the right to silence in Ireland. It then outlines the many legislative interferences with this important right, considering their varying threshold requirements and the safeguards which attach thereto. Related issues such as the consequences of lies in the criminal process, the rules relating to the production of documents, and the taking of forensic samples are then discussed, before moving on to outline the Irish law and practice on the right of access to legal assistance in garda (police) custody, which is, of course, of significant relevance to the right to silence also. The

article concludes with a look to the future: a future most likely containing continued reliance on pre-trial silence as evidence in criminal cases in Ireland, and ongoing failure to opt in to Directive 2016/343/EU on the strengthening of certain aspects of the presumption of innocence.

(Salihi, H. A, 2021) elaborates this study undertook a qualitative investigation into police crackdowns as a form of operational control mechanism employed to suppress sex workers and sex work industry in Ilorin Emirate, Kwara State, Nigeria. The study employed a qualitative research method. One hundred and six female commercial sex workers (41 at street hot spots and 65 in brothels) participated. They were aged between 19 and 47 and selected through a variety of sampling methods including purposive, referral, and venue-based sampling methods. In-depth interview was the instrument used in data collection, and thematic data analysis was employed in analyzing the data. Results indicate that police crackdown is usually experienced by sex workers at street hot spots and in brothels and are often associated with brutality, human rights abuses, and extortion, which have negative impacts on the livelihoods and general well-being of sex workers.

(Gooch, K. , 2019) explains about the way in which children give evidence in the criminal justice system in England and Wales has been radically transformed. These reforms have, however, neglected child suspects in the police station. Recent piecemeal reforms to the statutory regime for children in police detention have overlooked a critical stage of the criminal justice process: the police interview. This article critically analyses the policy, practice and law surrounding police questioning of child suspects. It demonstrates that the absence of child-specific guidance when interviewing child suspects is not only out of step with wider reforms, but carries real risks regarding the effective communication and participation of child suspects.

(Rosen, L. N, 2009) explains about the information from fathers' rights Web sites with demographic, historical, and other information to provide an empirically based analysis of fathers' rights advocacy in the United States. Content analysis discerns three factors that are central to the groups' rhetoric: representing domestic violence allegations as false, promoting presumptive joint custody and decreasing child support, and portraying women as perpetrators of domestic abuse. Fathers' rights organizations and themes are examined in relation to state-level demographics and custody policy. The implications of fathers' rights activism for battered women and their children are explored.

(San, S. ,2022) explains about the rights and freedoms of individuals targeted by non-democratic regimes. Through an in depth examination of the cases of Turkish and Russian police, this article seeks to explain the possible motives of the law enforcement institutions of democratic states in executing the questionable Interpol Red Notice requests by authoritarian regimes based on the existing theoretical debates in the literature on international policing. It explores three factors that foster policing cooperation between democratic and authoritarian states: 1) an aspired depoliticization of international policing that facilitates cooperation among states with different national and ideological outlooks; 2) an occupational culture that encourages professional support and solidarity among policing agents that transcends national rivalries; and 3) state cooperation against threats posed by the planning and conduct of international crime.

(Uildriks, N. ,2001) elaborates in this article about the functioning of the police complaints proceedings in Romania, Bulgaria and Poland is assessed from a human rights perspective. The relevant national laws are assessed in terms of the international legal standards and the complaints procedures are measured specifically against yardsticks of the systems' effectiveness and independence. With the longest recent democratic tradition, Poland turns out to have by far the most effective system of dealing with complaints against the police. This is likely to have had a considerable impact on shaping how much the new democratic Polish police act within the rule of law. A comparison of the three countries indicates that it is the practical operational independence, rather than the formal structure of the police investigative bodies, that is of significance in determining whether complaints are dealt with adequately. In the Polish system, the police investigators have an adequate capacity to carry out their work, coupled with the will to instigate both criminal and disciplinary proceedings against police officers committing such offences.

(Gauthier, S. ,2009) explains about the results of a study conducted in Montreal (Canada) on how police use their power to release an accused on bail with conditions in incidents of domestic violence, which was granted to them in 1995. Interviews conducted in 2000 with police investigators and lieutenant-detectives revealed that police view this measure favourably. It allows them to release the accused on bail before his first appearance by monitoring him with conditions. According to police, this both reassures and protects the victim and avoids the need to detain the accused just to have conditions imposed by the court. While investigators found the decision to detain or release to be difficult at times, they also felt they were as capable as judicial officials in



making the decision to release on bail. The police respondents explained why and how they are prudent in their assessment of the risks associated with release. Future research should evaluate to what degree the conditions they impose are adequate.

(Kennedy KM, 2022) explains about the nature and frequency of complaints against health care professionals working in police custodial health care services could provide opportunities to improve patient safety. To explore this freedom of information requests were sent to police services in England, not being held in an easily retrievable format, being provided as reasons. The nature and frequency of complaints were similar to a previous 2017 study, suggesting a failure to learn lessons from the investigation of complaints and implement change in clinical practice. No evidence of an accessible complaints handling and recording procedure was provided across the police services surveyed. Regulatory bodies provided some information on the nature of complaints made against doctors and nurses working in police custodial settings, but that for paramedics was unable to do so. It is recommended that the communication loop between police services, those bodies providing health care and forensic medical services and regulatory bodies needs to be closed.

(Uildriks, N., 1999) explains the judgement of the European Court of Human Rights in the case of *Selmouni v. France* is analysed and its possible legal implications discussed. In particular attention is paid to its possible impact on French police malpractice and the kind of response given by the authorities towards such allegations. In addition to the strictly legal implications of the case, reference will be made to a number of authoritative recent reports on police malpractice in France. This facilitates an assessment of the extent to which the *Selmouni Case* is indicative of police human rights violations in France as well as the possible impact of the case on curbing such violations.

## **RESEARCH METHODOLOGY:**

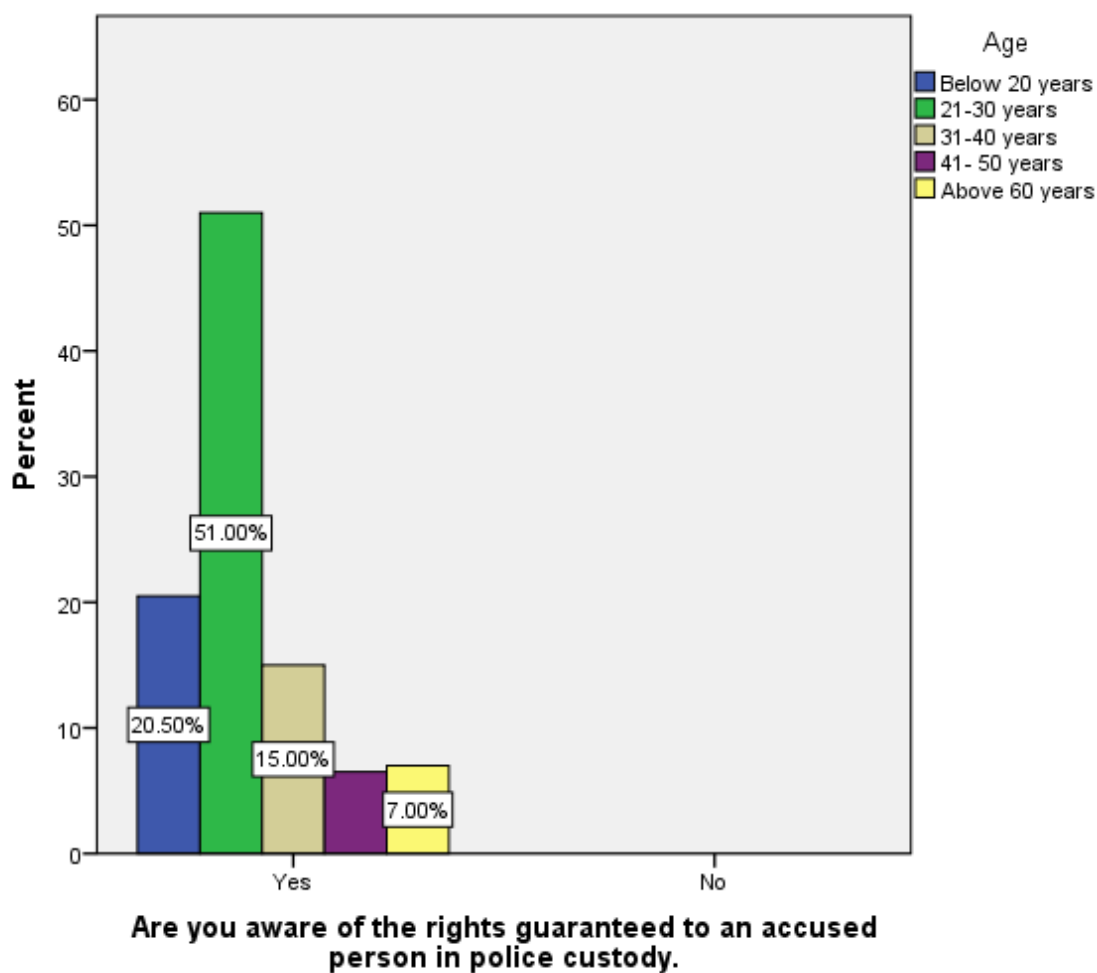
The present paper was analyzed through the non-doctrinal and empirical study descriptive method of research used for the study. The present analysis was made through a convenient sampling where the survey was taken from common public, professionals, etc. The sample size in the present analysis is 200 samples. Research tools used in the present paper such as cross tabulation, chi-square and case summary and graphical representation was also used to analyze the study.

Independent variables:-

- Age
- Gender
- Marital status
- Educational qualification
- Occupation

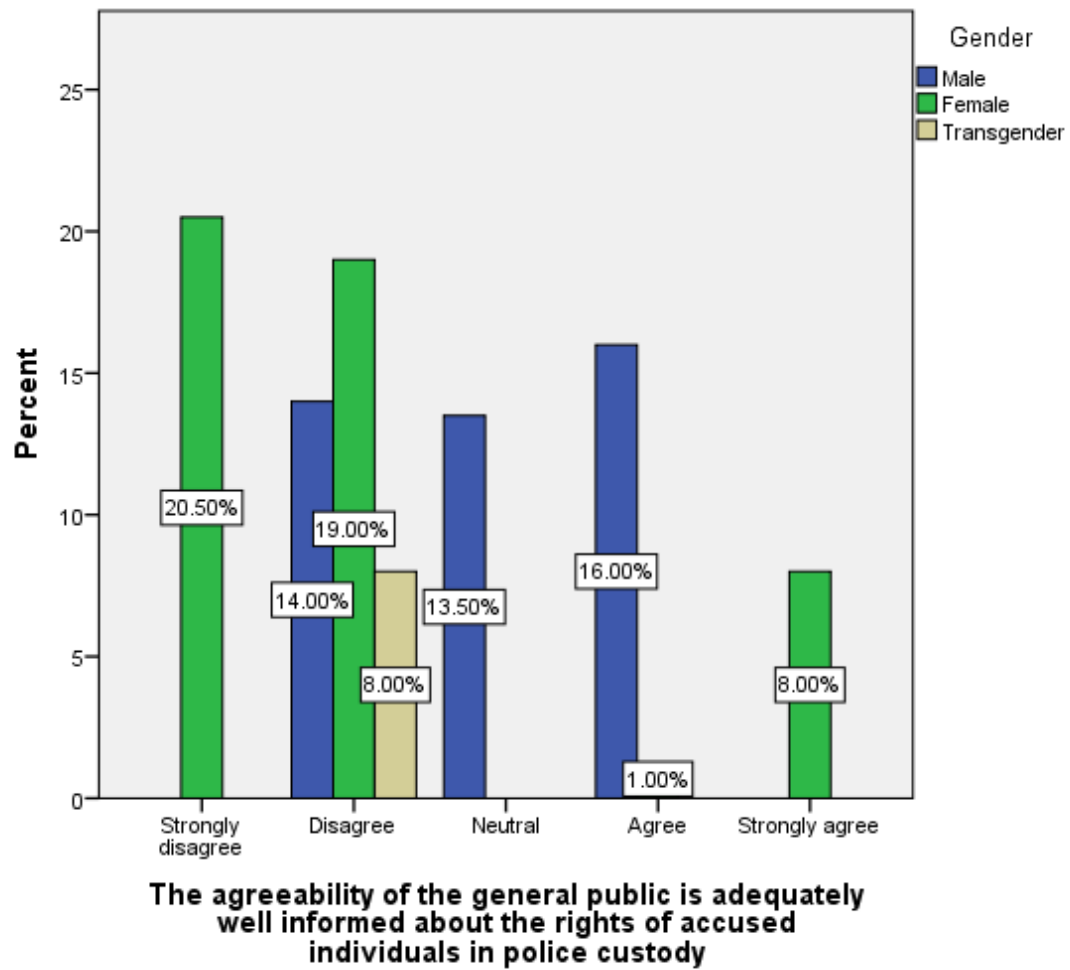
Dependent variables:-

- Are you aware of the rights guaranteed to an accused person in police custody.
- The agreeability of the general public is adequately well informed about the rights of accused individuals in police custody
- In your opinion, The major causes responsible for the violations of human rights by the police in India?
- Are you aware of this provision that Article 22(1) states that "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest. "
- On a rating scale of 1 to 10, Rate the public awareness about the rights of accused persons.

**ANALYSIS AND INTERPRETATION:****GRAPH 1:-**

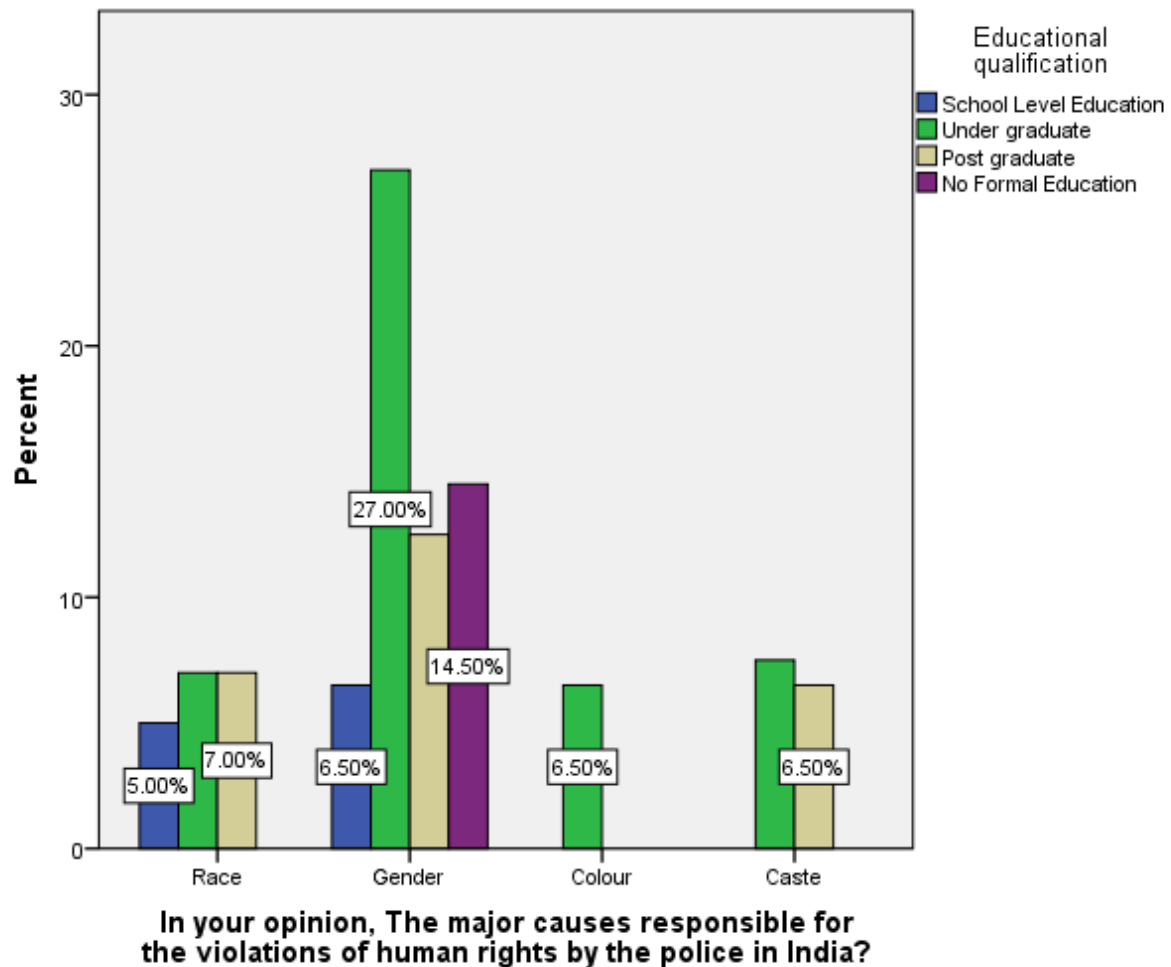
**LEGEND:** The graph 1 represents the relationship between the age and the rights guaranteed to an accused person in police custody.

GRAPH 2:-



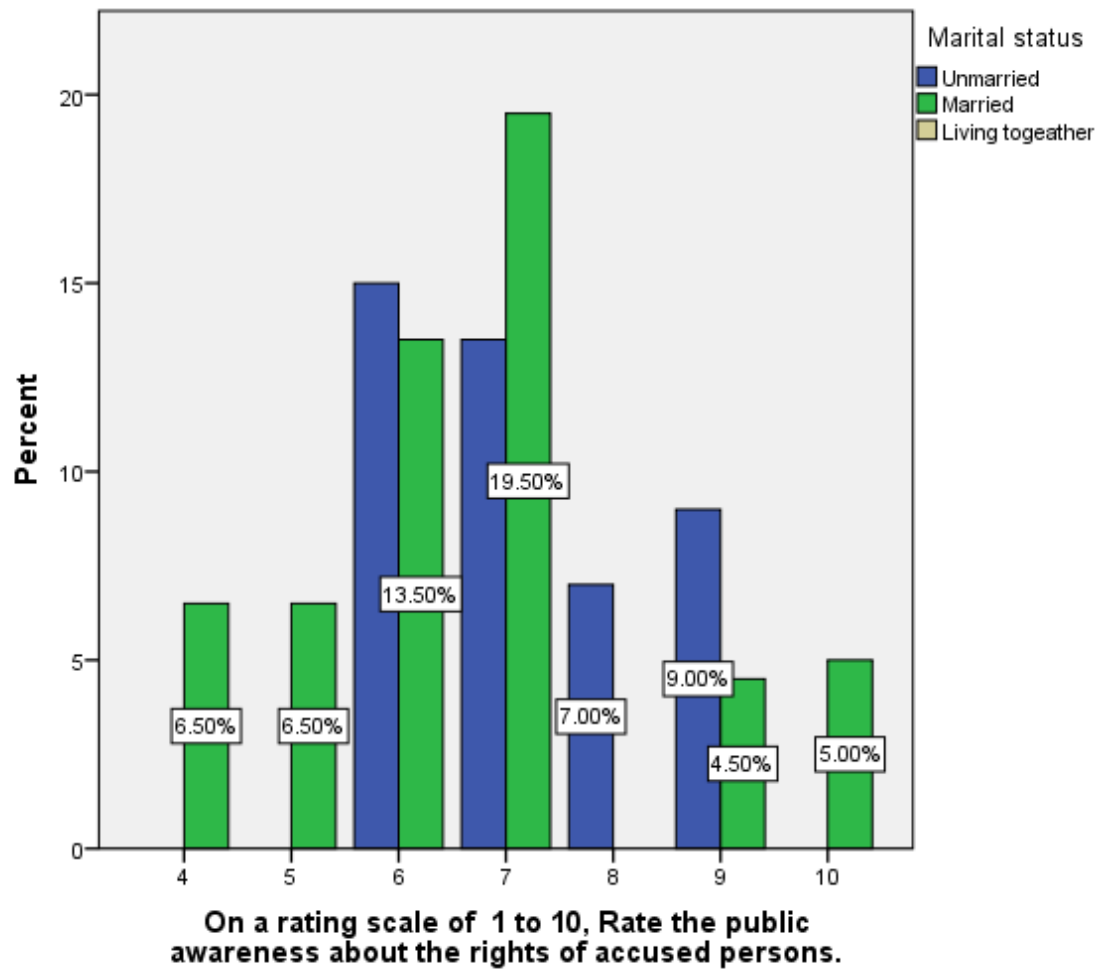
**LEGEND:** The graph 2 represents the relationship between the gender and the agreeability of the general public is adequately well informed about the rights of accused individuals in police custody.

GRAPH 3:-

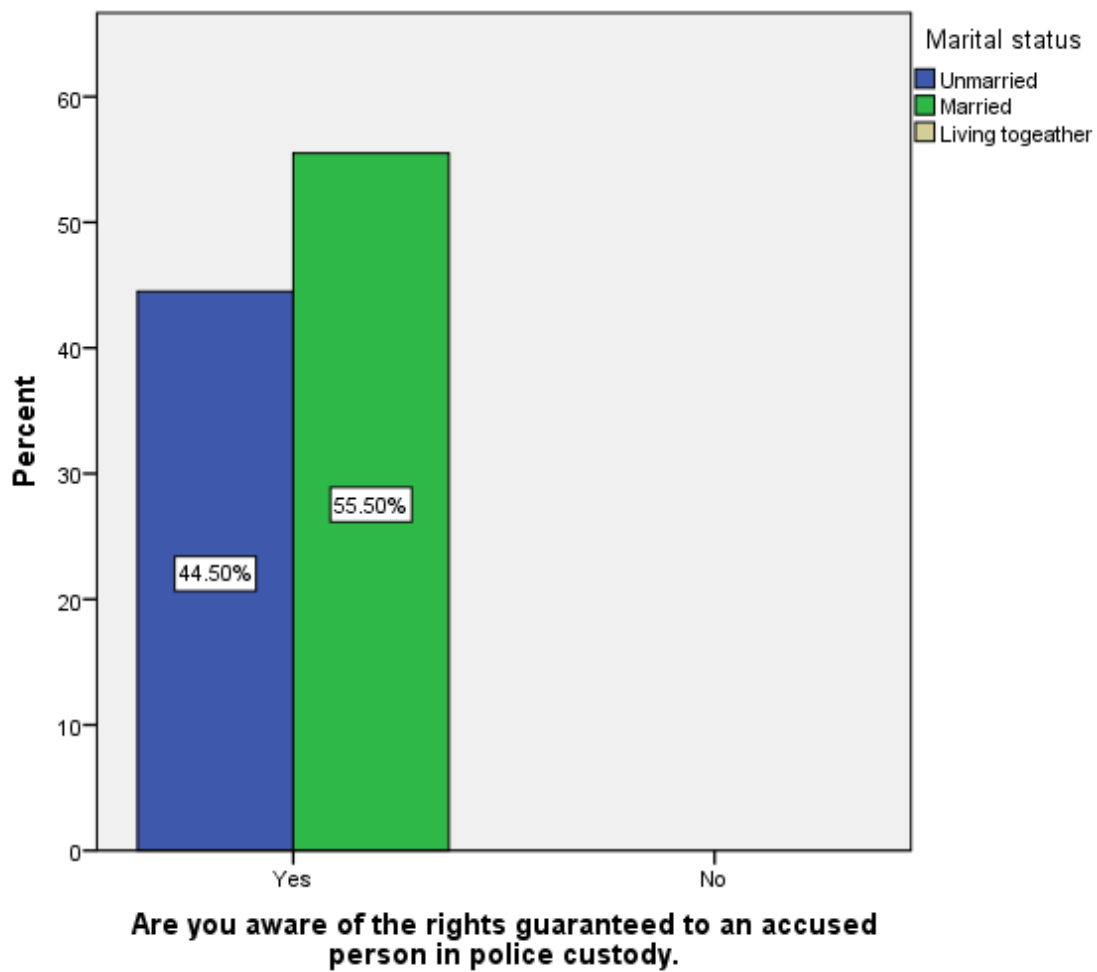


LEGEND: The graph 3 represents the relationship between the Educational qualification and major causes responsible for the violations of human rights by the police in India.

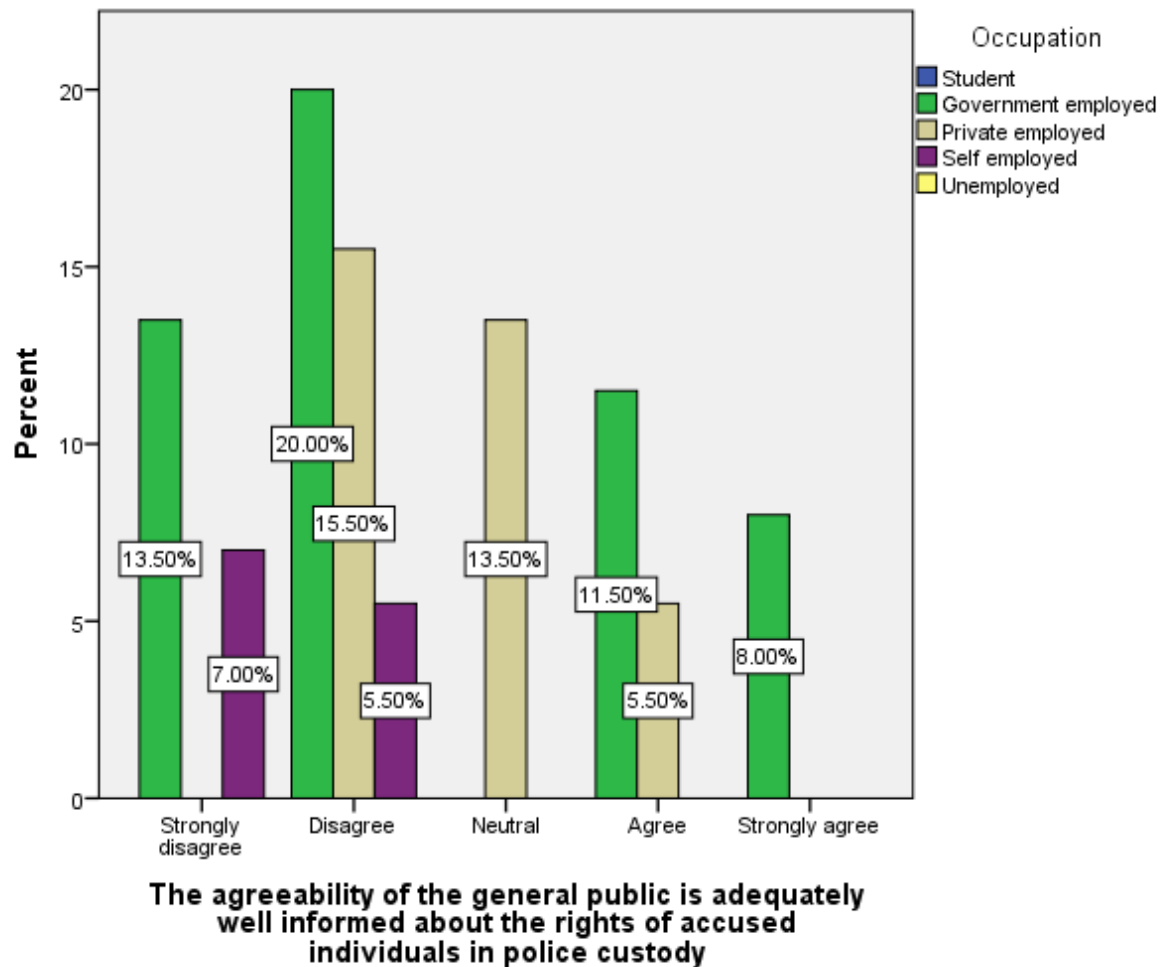
GRAPH 4:-



**LEGEND:** The graph 4 represents the relationship between the marital status and rating scale of 1-10 rate the public awareness about the rights of the accused persons.

**GRAPH 5:**

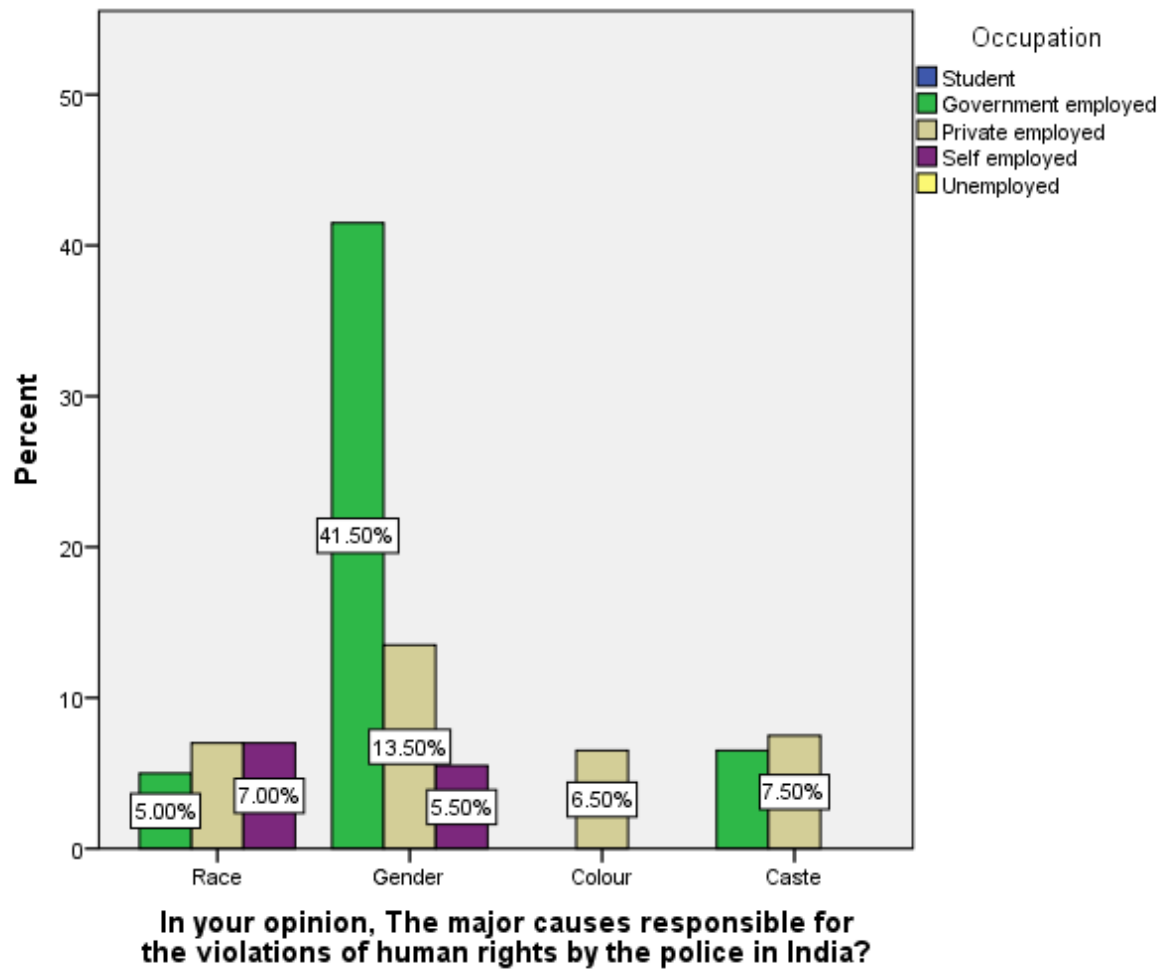
**LEGEND:** The graph 5 represents the relationship between the marital status and are you aware of rights guaranteed to an accused person in custody.

**GRAPH 6:**

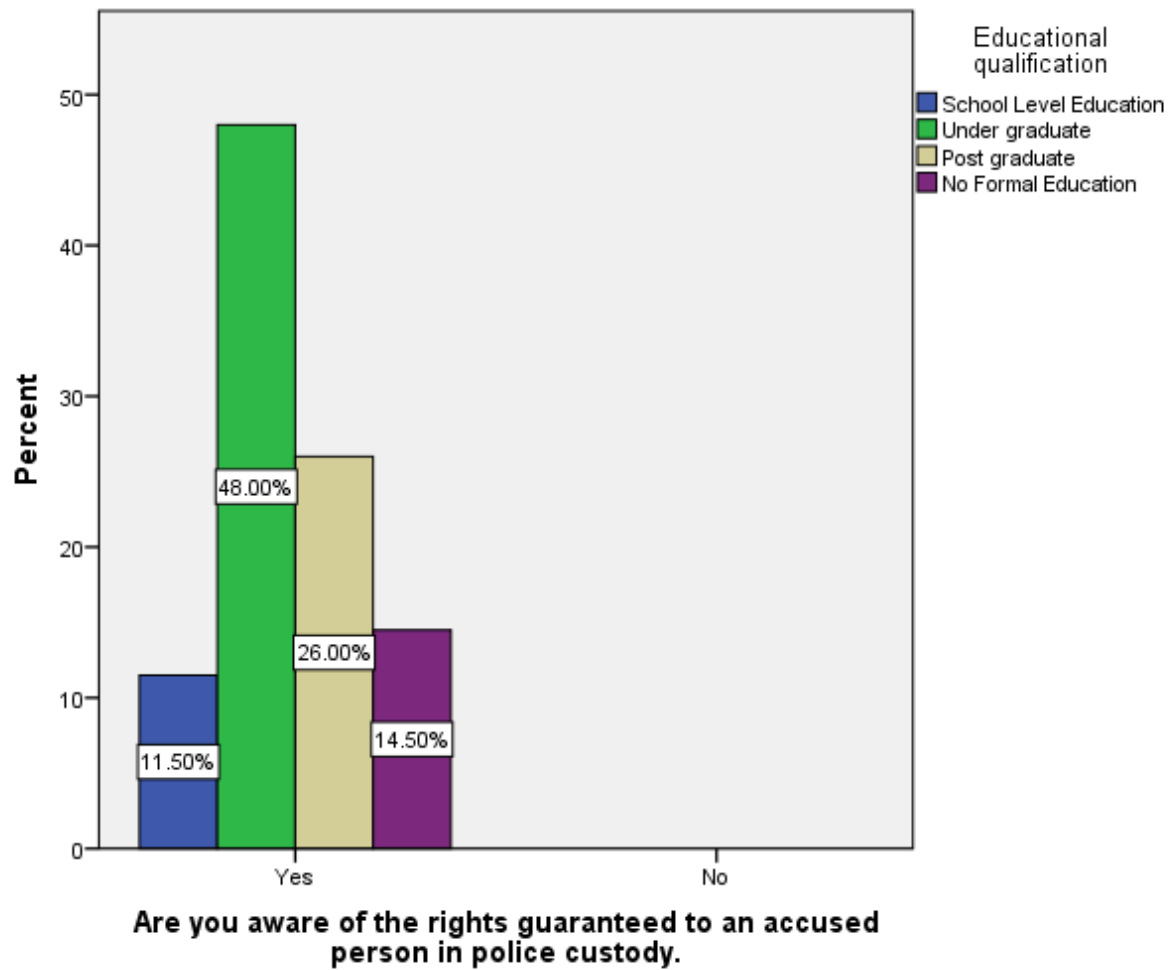
**LEGEND:** The graph 6 represents the relationship between the occupation and the agreeability of the general public is adequately well informed about the rights of accused individuals in police custody.



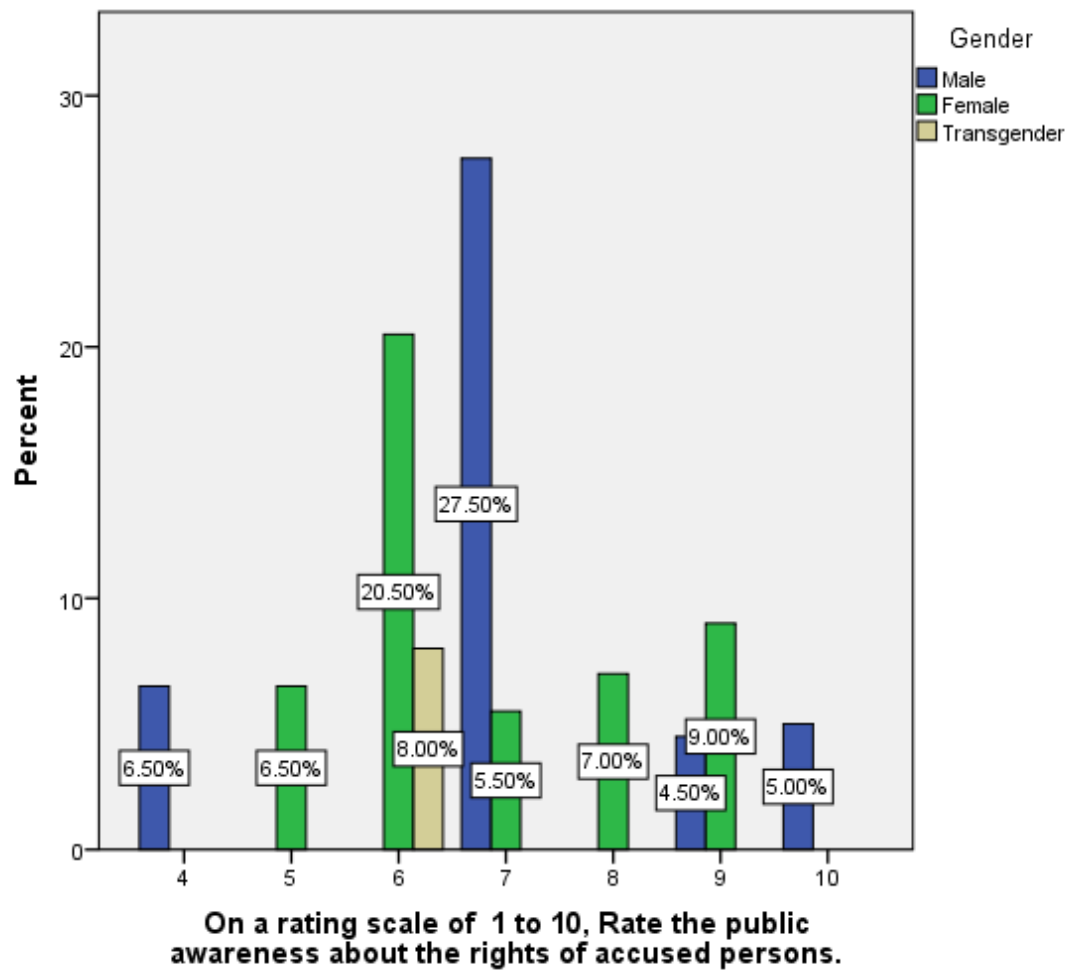
GRAPH 7:



**LEGEND:** The graph 7 represents the relationship between the Occupation and major causes responsible for the violations of human rights by the police in India.

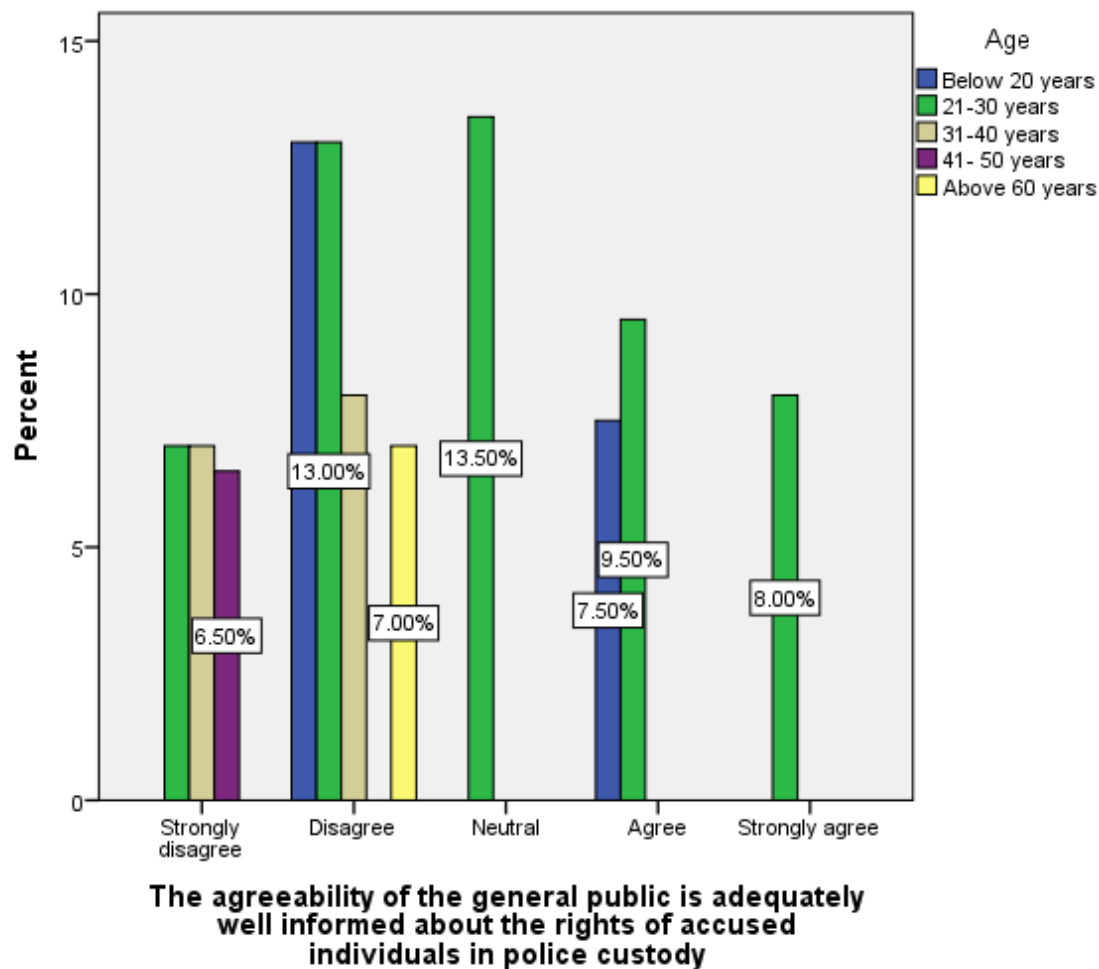
**GRAPH 8:**

**LEGEND:** The graph 8 represents the relationship between the Educational qualification and are aware of the rights guaranteed to an accused person in police custody.

**GRAPH 9:**

**LEGEND:** The graph 9 represents the relationship between the Gender and rating scale of 1-10 rate the public awareness about the rights of the accused persons.

GRAPH 10:



**LEGEND:** The graph 10 represents the relationship between the Age and the agreeability of the general public is adequately well informed about the rights of accused individuals in police custody.

**RESULT:**

Graph 1: The majority of 21-30 years age group say (51%) yes that the people are aware of the rights of the accused in police custody. Graph 2: The majority of Female gender say (20. 50%) strongly disagree that the general public is adequately well informed about the rights of accused in police custody. Graph 3: The majority of UG educational qualification people say (27%) gender for the major cause responsible for the violations of human rights by police in India. Graph 4: The majority of married people say (19. 50%) 7 rating the awareness about the rights of the accused. Graph 5: The majority of married people say (55%) yes that the people are aware about the rights guaranteed for the accused person under the Indian constitution. Graph 6: The majority of government employed occupation people say (20%) disagree that the general public is adequately informed about the rights of the accused individuals in the police custody Graph 7: The majority of government employed occupation people say (41. 5-%) that gender is the major cause for the violation of human rights by the police in India. Graph 8: The majority of UG educational qualification people say (48%) yes that the rights of the accused are person in police custody Graph 9: The majority of male gender say (27. 50%) 7 ratings that the public awareness about the rights of the accused. Graph 10: The majority of 21-30 year old people say (13. 50%) neutral that the general public are adequately informed about the rights of the accused individuals in police custody.

**DISCUSSION:**

Graph 1: The majority of 21-30 years age group say yes that the people are aware of the rights of the accused in police custody, it may be true because the general public are aware of the general laws of an accused while arresting. Graph 2: The majority of Female gender say strongly disagree that the general public is adequately well informed about the rights of accused in police custody, it may be true because the public are aware about the rights of the accused. Graph 3: The majority of UG educational qualification people say gender for the major cause responsible for the violations of human rights by police in India, it may be false because the gender cannot be made to determined about the human rights where it may be due to non treating properly by the police towards the accused. Graph 4: The majority of married people say 7 rating the awareness about the rights of the accused, it may be true because the some of the accused are aware of the rights of accused while in custody. Graph 5: The majority of married people say yes that the people are

aware about the rights guaranteed for the accused person under the Indian constitution, it may be false because many of the people are not aware of the fundamental rights of the constitution. Graph 6: The majority of government employed occupation people say disagree that the general public is adequately informed about the rights of the accused individuals in the police custody, it may be false that the people are not being informed about their rights under the police custody Graph 7: The majority of government employed occupation people say that gender is the major cause for the violation of human rights by the police in India, it may be false because the human right violation are done by the police towards the accused by misusing the power. Graph 8: The majority of UG educational qualification people say yes that the rights of the accused are person in police custody, it may be false because the people who are not having formal education are not aware of the accused rights under police custody. Graph 9: The majority of male gender say 7 ratings that the public awareness about the rights of the accused, it may be true because the people who are having formal education about it are known about he some of the rights of the accused in custody. Graph 10: The majority of 21-30 year old people say neutral that the general public are adequately informed about the rights of the accused individuals in police custody, it may be false because the police are not informing about the rights of the accused.

## **CONCLUSION:**

The rights of accused people in police custody are fundamental to any fair and just legal system. These rights have a long history and have evolved over time to include protections before and after the trial. The most important right of the accused has been the right to be represented by counsel. However, there are still challenges in ensuring that these rights are respected and upheld. To improve the rights of accused people in police custody, governments can take several steps, including increasing awareness, strengthening legal protections, monitoring police conduct, improving conditions in police custody, and addressing systemic issues. By taking these steps, governments can ensure that accused people are treated fairly and that their rights are protected.

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