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A Study on Prison Reforms and Prisoners' Rights

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Abstract

Prisoners are also human beings and thus, must be treated with dignity and respect. They are also guaranteed certain fundamental rights by the Indian Constitution. However, there has been an increase in the number of incidents relating to the violation of the rights of the prisoners like right to privacy, health, education, legal aid, right against inhumane treatment, etc. The major objective of the study is to determine the most violated right of prisoners and to determine the most effective reform measure to protect the rights of prisoners. The study has been conducted using the empirical research method. The samples have been collected using the convenient sampling method. A total of 205 samples have been collected for the study. The sample frame taken here is of public areas in and around Chennai. The independent variables are gender, age, educational qualification, occupation, monthly income and marital status. The dependent variables are fundamental rights of prisoners, causes of violation of prisoners' rights, most violated rights of prisoners, major drawbacks of the Indian prison system and the most effective prison reform measures. Graphical representation and correlation are the statistical tools used for the study. The major findings of the study are that right to privacy and right against inhumane treatment are the most violated rights of the prisoners, overcrowding and torture and ill-treatment are the major drawbacks of the Indian prison system and that police brutality and lack of legislation for prisoners' rights are the major reasons for the violation of prisoners' rights. It is recommended that the Government must introduce a new legislation exclusively to provide for prisoners' rights and to construct rehabilitation centres for the purpose of transforming the offenders into law-abiding citizens of the country.

Keywords

Prison Reforms, Overcrowding, Prisoners' Rights, Detention, Undertrial Prisoners

INTRODUCTION

Prisoner is a person who is kept in prison as a punishment. It is an inmate, who, against their will, is deprived of their liberty. The evolution of the concept of rights of prisoners was much impressed by the Anglo-American penal reforms which brought the change within the custodial functioning. The post-independence period saw a major change in the prison system. Around 1951, experts were invited from the United Nations to study prison administration to suggest the development of prisoners' rights.

In the case of *T.V. Vatheeswaran v. State of Tamil Nadu*, the court held that Articles 14, 19 and 21 guarantee the right to life to prisoners just as free men. The rights of prisoners which are guaranteed by the Indian Constitution include the right to free legal aid, right to speedy trial, right against cruel and unusual punishment, right to fair trial, right to live with human dignity, and right to meet and consult lawyer. Some prisoners' rights are also available under the Prisons Act, 1894 like sanitary conditions, safe custody, treatment of under-trials, etc.

Some of the factors affecting the rights of prisoners include delay in trial, overcrowding, insensitive attitude of jail authorities, increased imprisonment of under trials, harsh mental and physical torture, lack of proper legal aid, lack of proper medical aid to prisoners, unsatisfactory living conditions, lack of treatment programs, corruption and other malpractices.

Currently, India has 371, 848 prisoners in pre-trial detention known locally as under trials. Seventy six percent, three in four, of all prisoners in Indian jails are awaiting trial. It compares unfavourably with the global average, which is 34%. The main reason behind this abnormally large number is the indiscriminate arrests by the police without the due application of mind.

According to the Commonwealth Human Rights Initiative, India is ranked 18th for the high level of under-trial population in jails. The latest prison statistics shows that 67.2% out of 4.19 lakh prisoners in India are under trials. Sri Lanka and Nepal do much better than India in holding down the numbers in pre-trial detention with 52.8% and 58.9% respectively. Pakistan and Bangladesh are marginally worse with 69.1% and 73.8% respectively

Objectives:

- To determine the public opinion on the fundamental rights of prisoners as compared to the others.
- To find out the most violated rights of the prisoners in India.
- To analyse the main reasons for the violation of the prisoners' rights in India.
- To determine the drawbacks of the Indian prison system.
- To find out the most effective prison reform measures to protect the rights of prisoners.

Literature Review:

The researchers have conducted a critical analysis on the rights of prisoners and their abuse in India. The main aim of the paper was to analyse the deployment of certain standards upon the prisoners notwithstanding the substances of confinement. It also draws on interviews with individuals held in Indian detainment facilities to distinguish the key privileges of significance to detainees and the rights which should be most meticulously secured. **(Ojha, et al., 2018)** The author has conducted a study on the causes of violating a prisoner's right to a decent life in Romains in the European context. The major findings of the study was that the main causes of the violation of their right to a decent life in penitentiary were identified to be overcrowding, disinterest on the part of the state and old infrastructure of penitentiaries. **(Mihaiu. S, 2018)**

The author has conducted research on the exploration of prison social life as a determinant of health. The author has reported on the findings of an ethnography conducted in an adult male training prison in England which used participant observation, group interviewing and one-to-one semi-structured interviews with prisoners and prison officers. He found that the social world of prison and a prisoner's dislocation from society constitutes deprivation which has important health impacts. **(Viggiani, 2006)**

The authors have researched the protection of prisoner's human rights in prisons through the guidelines of rule of law. In order to protect the human rights of the prisoners, the rule of law has provided a set of guidelines which are provided in some legal instruments. The aim of the study was to investigate these guidelines and in respect of their human rights aspects related to the environment, education, healthcare, personnel, etc. **(Rouhi, et al., 2017)** The researchers have delved into the sociology of

prison life. Prison life attracts the interests of both academics and the general public. The paper also explores the experiences of the women and that of black and minority ethnic prisoners in the UK. The study also sets out the theoretical perspectives of prison administration and sociology in the UK and beyond. **(Darke, et al., 2015)**

The authors have conducted a study on the need for prison reforms and the socio-legal challenges in these reforms. The author has mentioned that prisons adversely affect the prisoners as well as their families who are forced to live in poverty. The author has concluded that it is necessary to evaluate the existing method of imprisonment by the judiciary, prison administration, the police and NGO and the community's synergetic interface. **(Jai Mala, et al., 2020)**

The author has conducted a critical study on prison reforms and prisoners' rights in India. . The author has critically examined it in the light of reformative schemes and issues prevailing in India's prison management system. The author has concluded with the suggestions drawn along with the recommendations of various governmental and non-governmental organizations. **(Ashiya, 2021)** The author has critically analysed the prison reforms in India. The author has researched the history of prisons in India and the integrative theory of Penology. The researcher has defined the concept of prison. It has been recommended by the author that steps must be taken to reduce prison populations by establishing local custodial facilities for unconvicted offenders. **(Bhargava, 2018)**

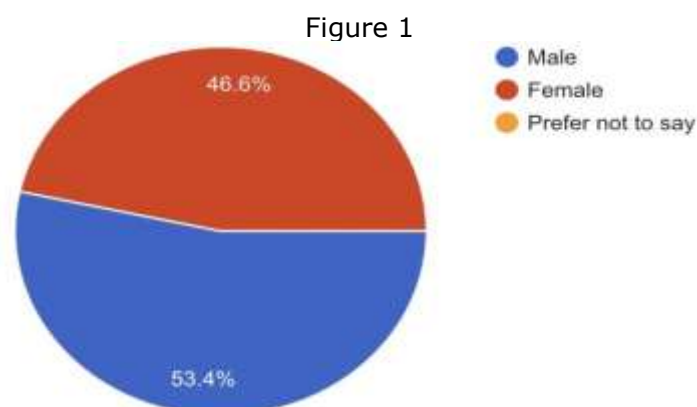
The author has made a thorough research into prison and prison reforms in India. The author has listed out the rights of the prisoners and the core features of a modern prison organization. The gradual transition from simple deterrence to discouragement and rehabilitation has also been mentioned by the author. The author has also dealt with the abolition of heinous punishments. **(Adhikari, 2021)**

The author has researched the legal framework of prisoners' rights in India. The author has focused on the importance of Article 21 of the Indian Constitution which guarantees the right to life and personal liberty to all. The author has concluded that the human rights of the prisoners must be protected at all costs. **(Yadav, 2015)**

METHODOLOGY

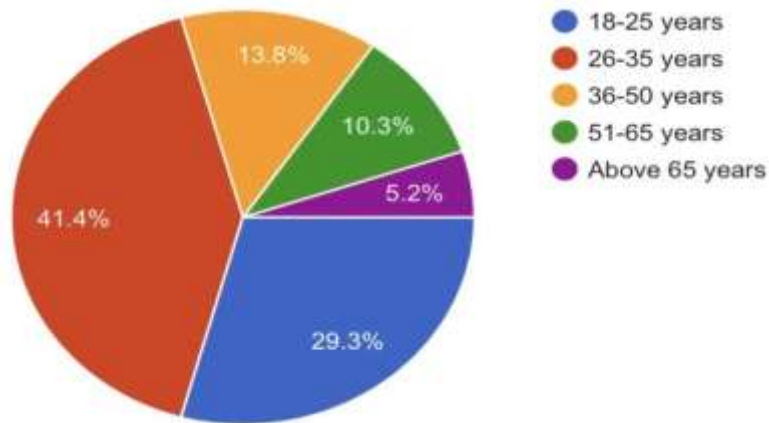
The study has been conducted using the empirical research method. The samples have been collected using the convenient sampling method. A total of 205 samples have been collected for the study. The sample frame taken here is of public areas in and around Chennai. The independent variables are gender, age, educational qualification, occupation, monthly income and marital status. The dependent variables are fundamental rights of prisoners, causes of violation of prisoners' rights, most violated rights of prisoners, major drawbacks of the Indian prison system and the most effective prison reform measures. Graphical representation and correlation are the statistical tools used for the study.

Analysis:



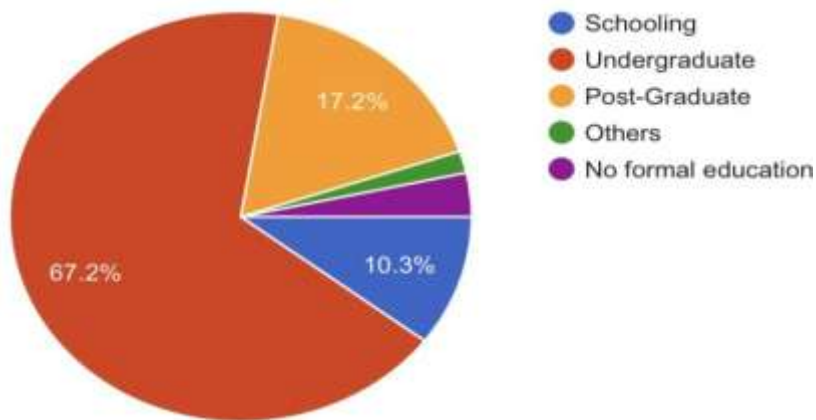
Legend: Figure 1 represents the gender distribution of the sample population.

Figure 2



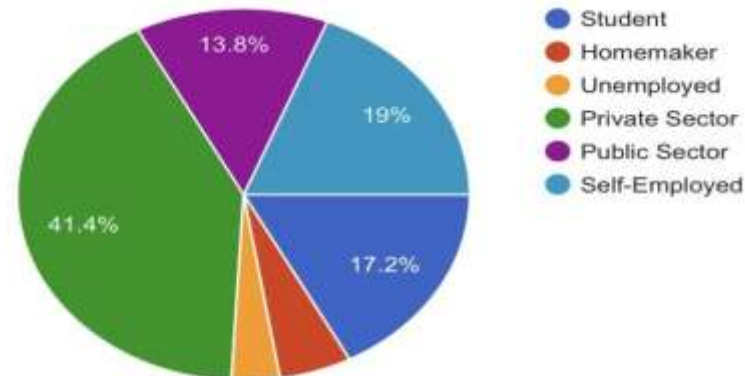
Legend: Figure 2 represents the age distribution of the sample population.

Figure 3



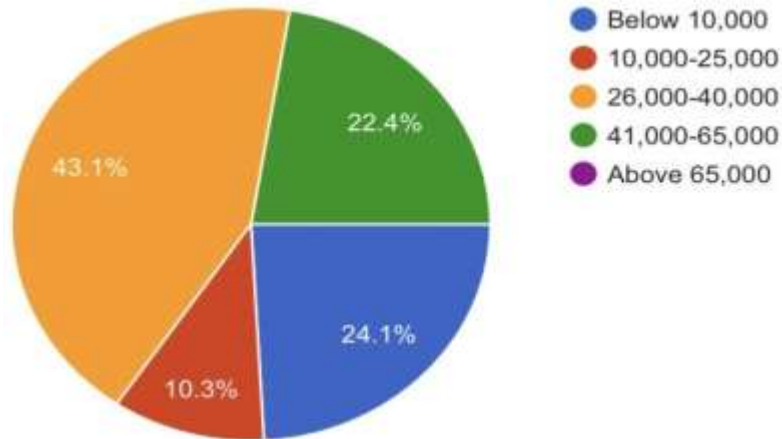
Legend: Figure 3 represents the educational qualification distribution of the sample population.

Figure 4



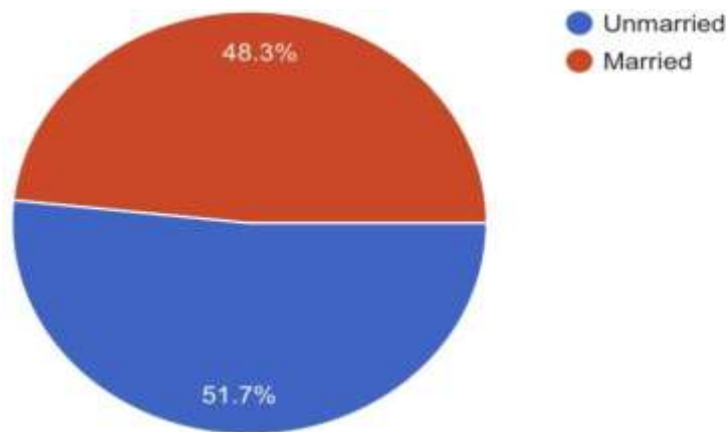
Legend: Figure 4 represents the occupation distribution of the sample population.

Figure 5



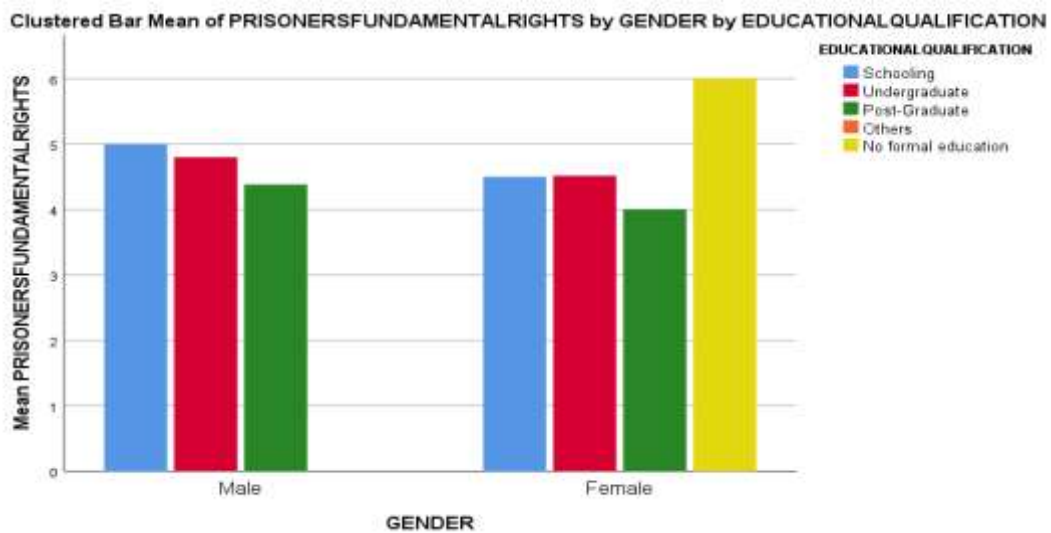
Legend: Figure 5 represents the occupation distribution of the sample population.

Figure 6



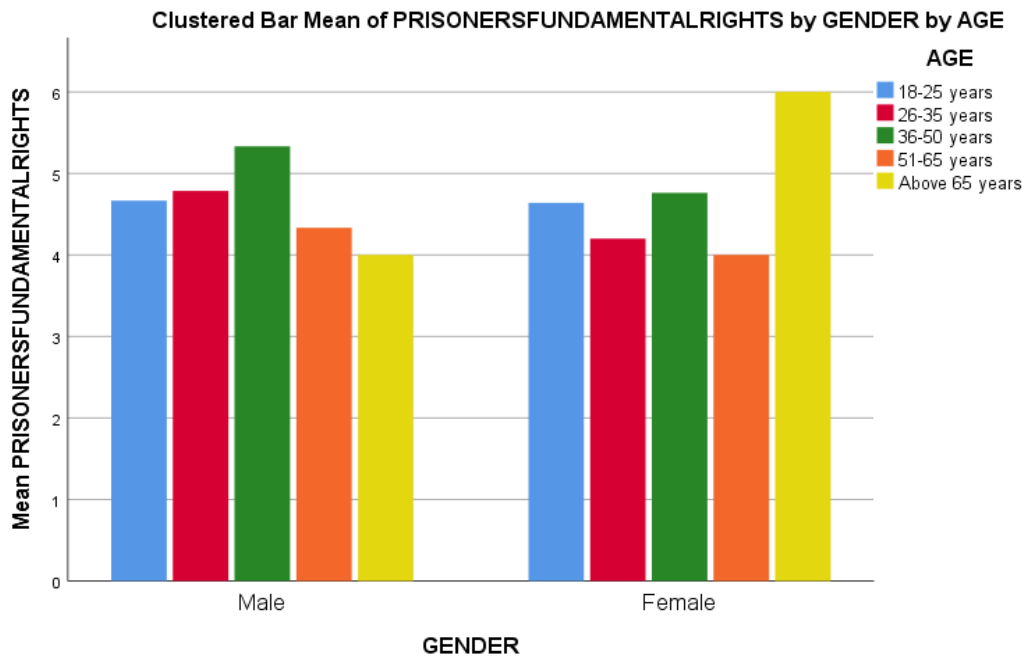
Legend: Figure 6 represents the marital status distribution of the sample population.

Figure 7



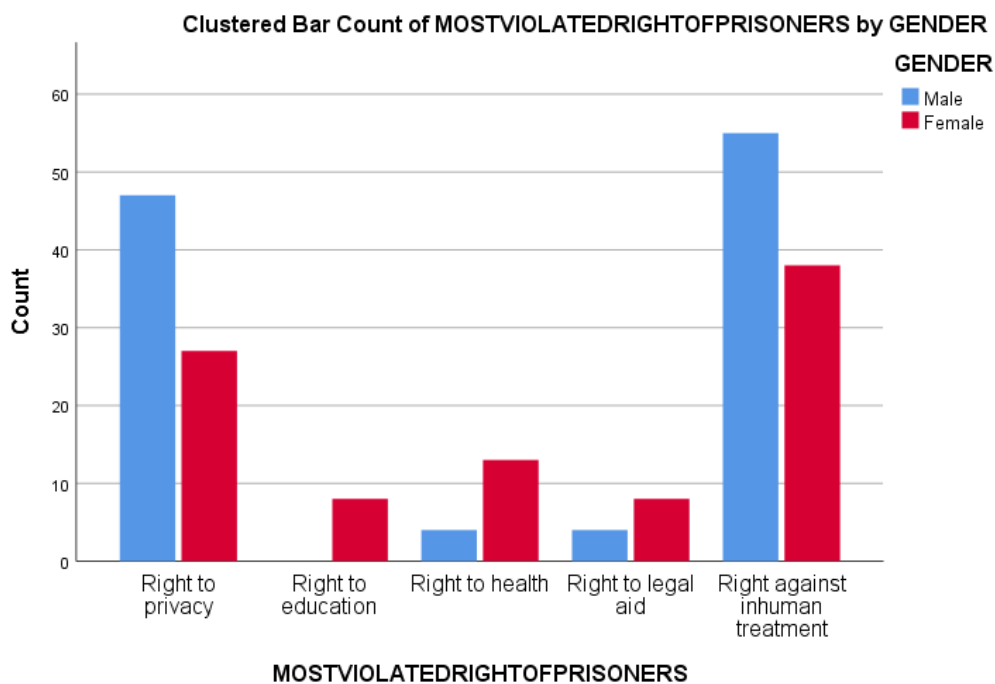
Legend: Figure 7 represents the gender and educational qualification distribution of the sample population and their opinion on the extent of fundamental rights of prisoners.

Figure 8



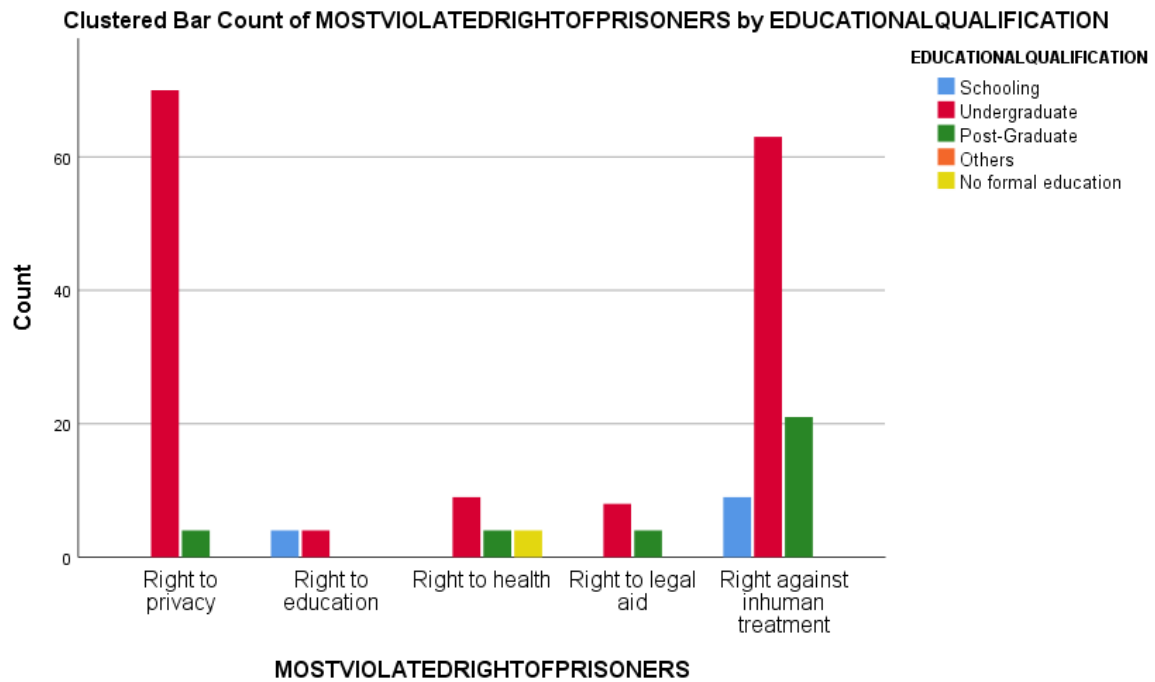
Legend: Figure 8 represents the gender and age distribution of the sample population and their opinion on the extent of fundamental rights of prisoners.

Figure 9

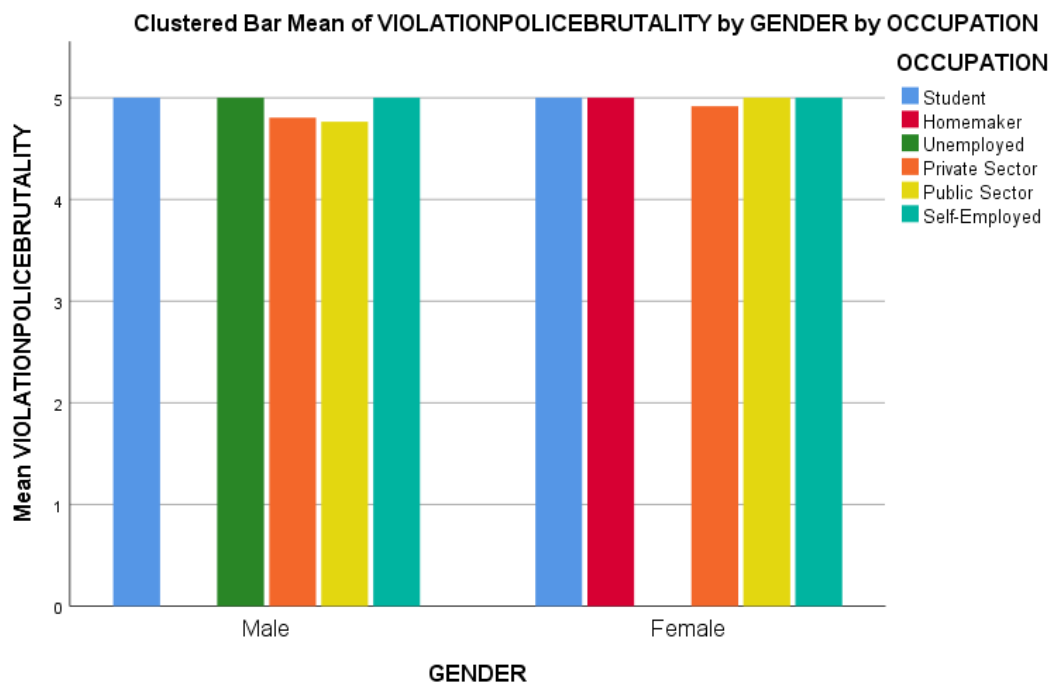


Legend: Figure 9 represents the gender distribution of the sample population and their opinion on the most violated right of prisoners.

Figure 10

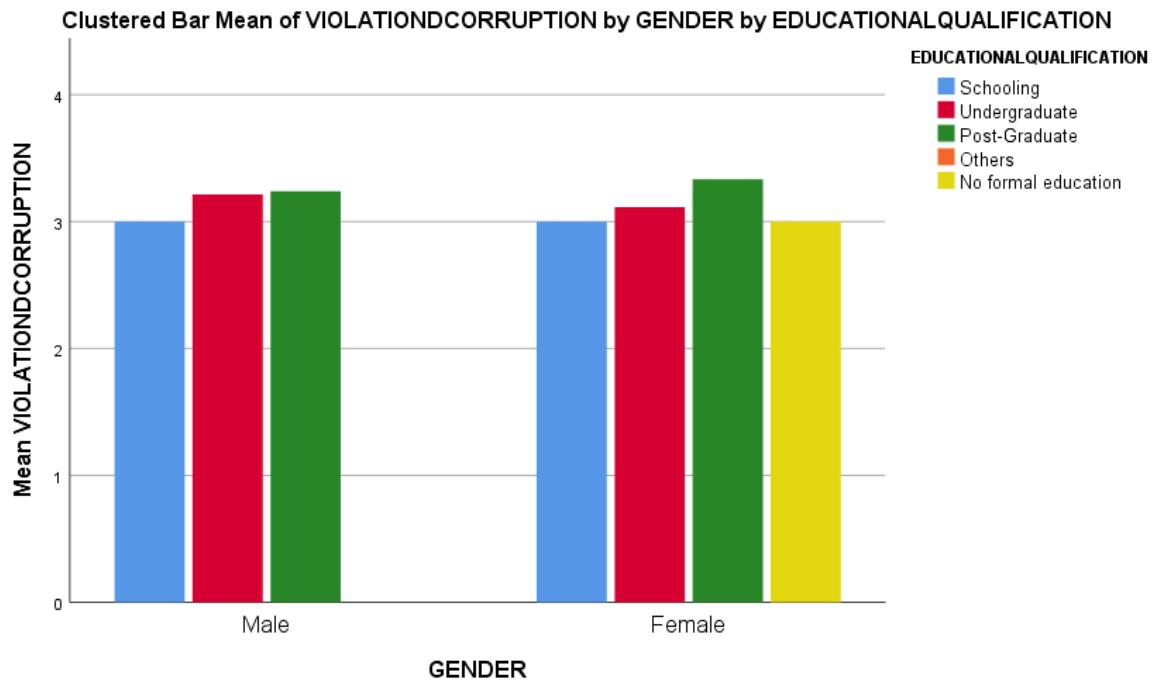


Legend: Figure 10 represents the educational qualification distribution of the sample population and their opinion on the most violated right of prisoners
 Figure 11



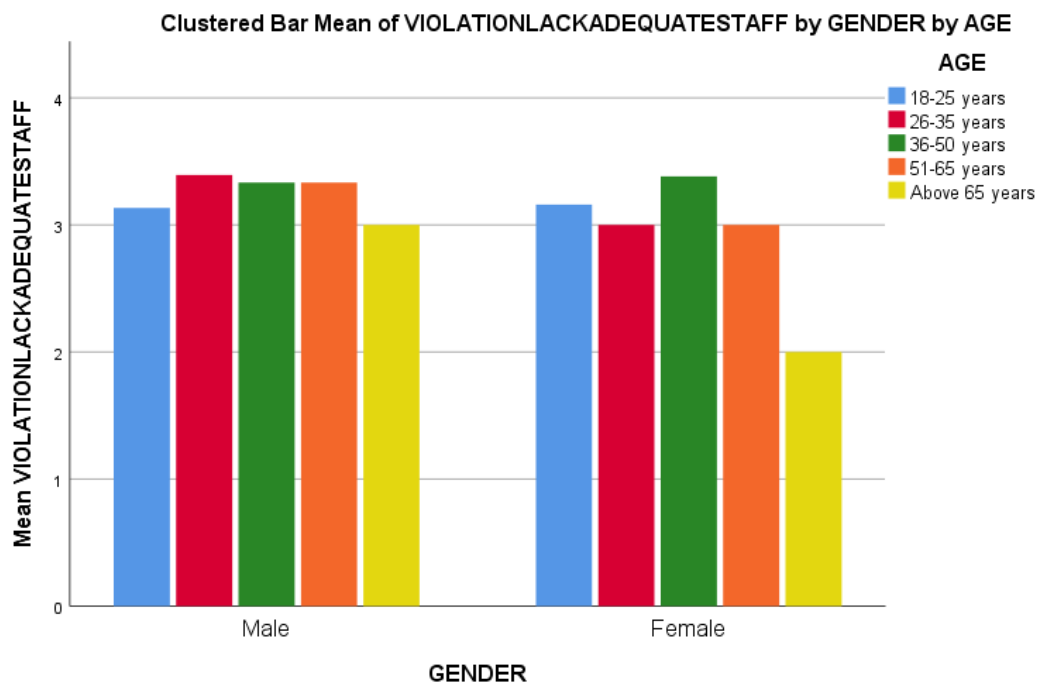
Legend: Figure 11 represents the gender and occupation distribution of the sample population and their opinion on police brutality as a reason for the violation of prisoners' rights.

Figure 12



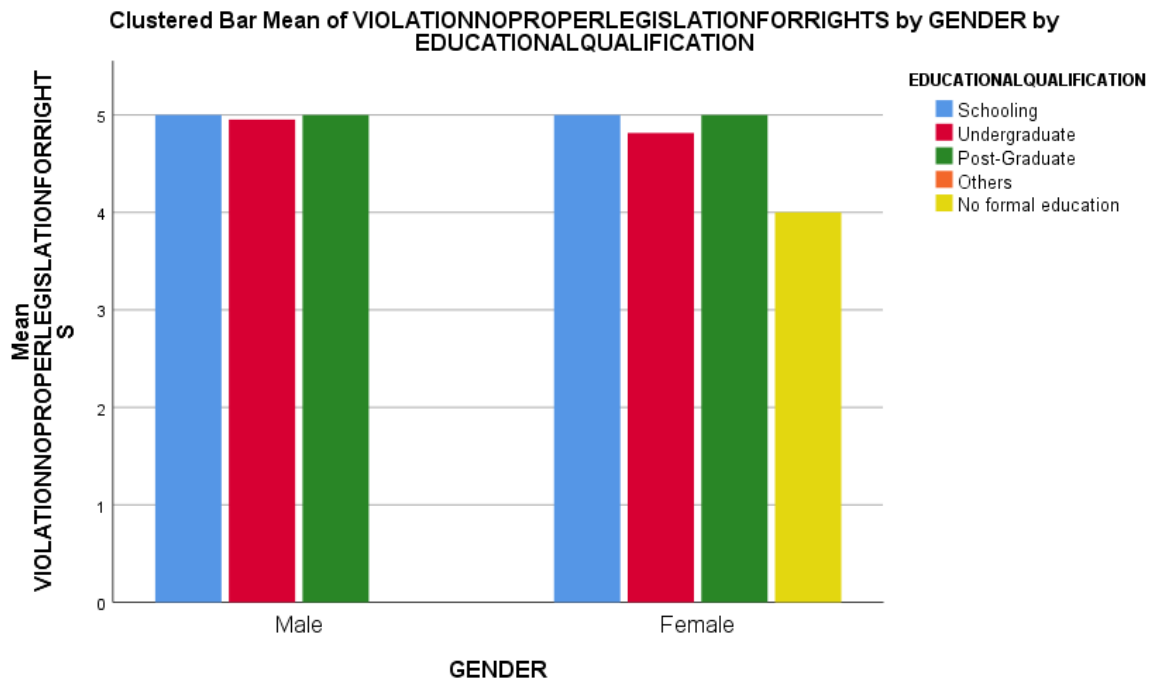
Legend: Figure 12 represents the gender and educational qualification distribution of the sample population and their opinion on corruption as a reason for the violation of prisoners’ rights.

Figure 13



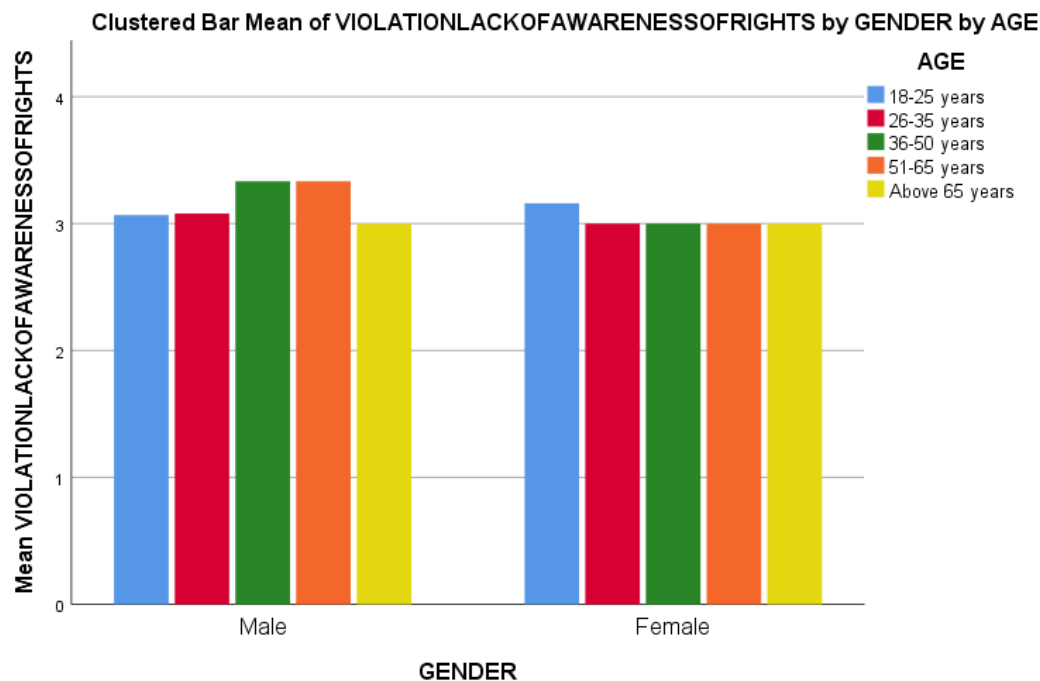
Legend: Figure 13 represents the gender and age distribution of the sample population and their opinion on lack of adequate staff as a reason for the violation of prisoners’ rights.

Figure 14



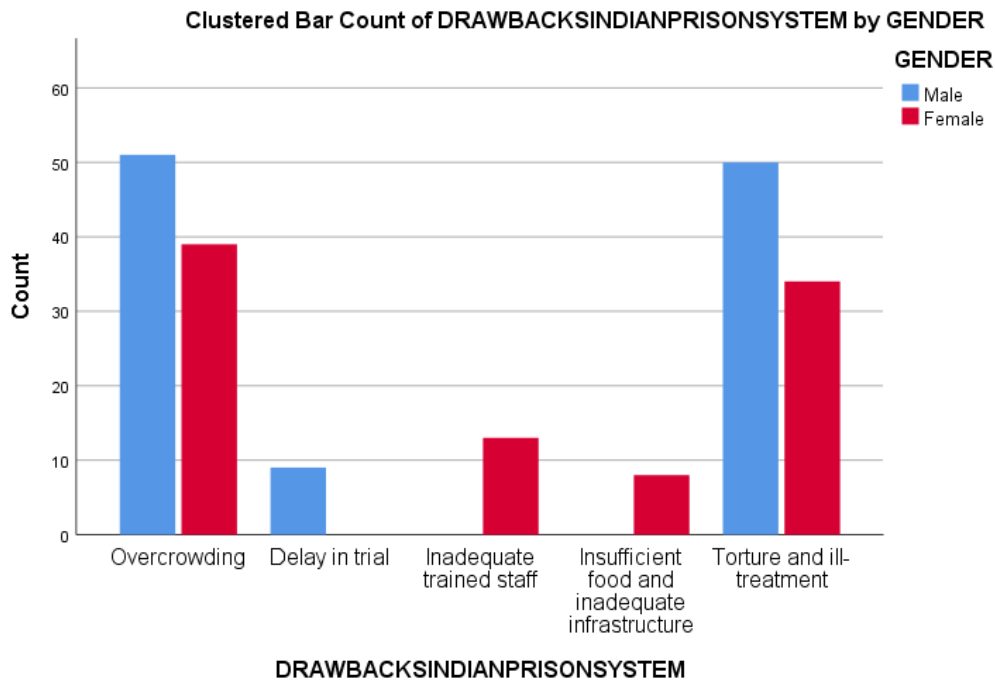
Legend: Figure 14 represents the gender and educational qualification distribution of the sample population and their opinion on absence of proper legislations for prisoners' rights as a reason for the violation of prisoners' rights

Figure 15



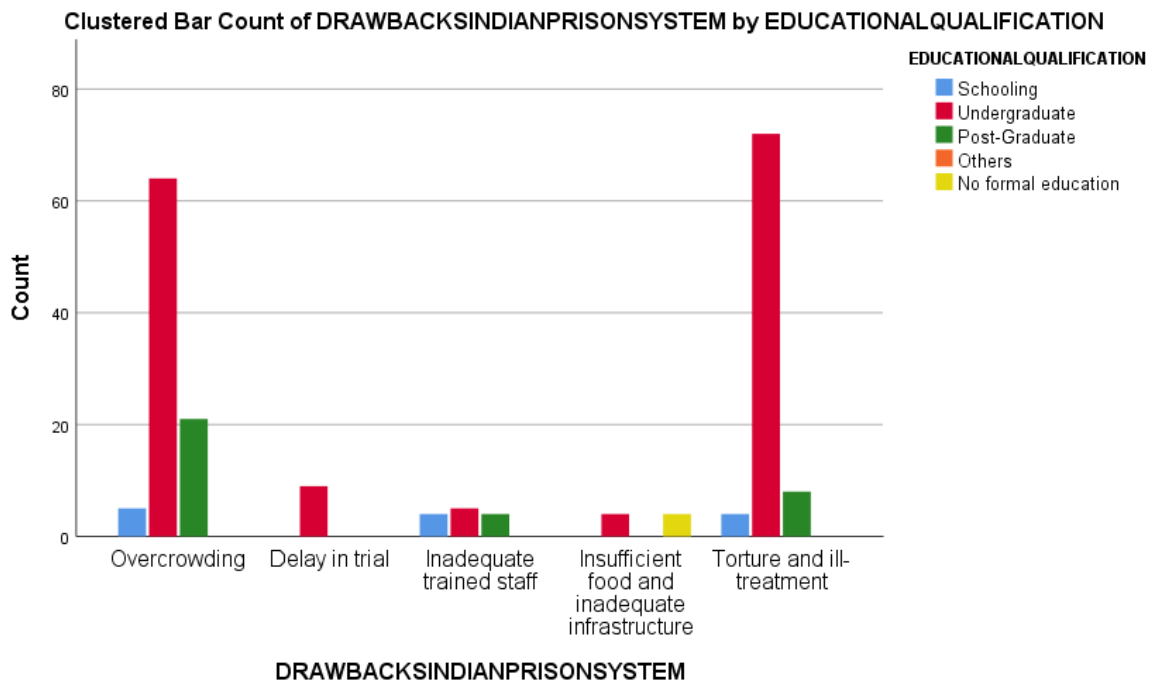
Legend: Figure 15 represents the gender and age distribution of the sample population and their opinion on lack of awareness of prisoners' rights as a reason for the violation of prisoners' rights.

Figure 16

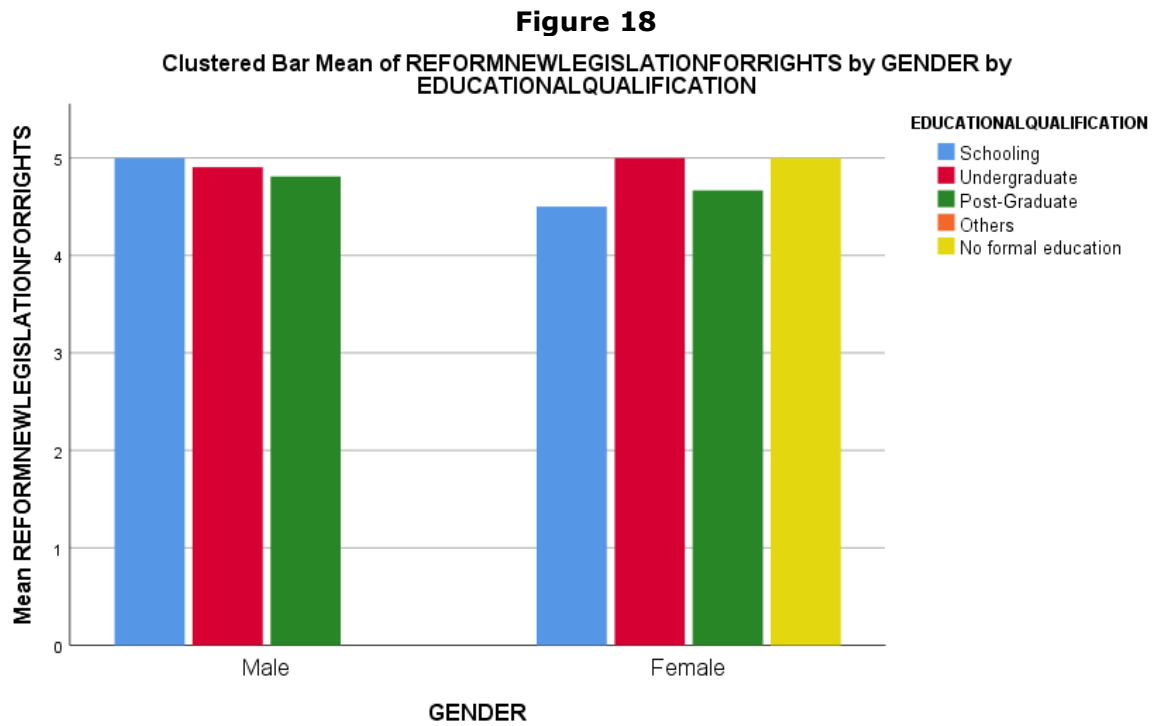


Legend: Figure 16 represents the gender distribution of the sample population and their opinion on the drawbacks of the Indian prison system.

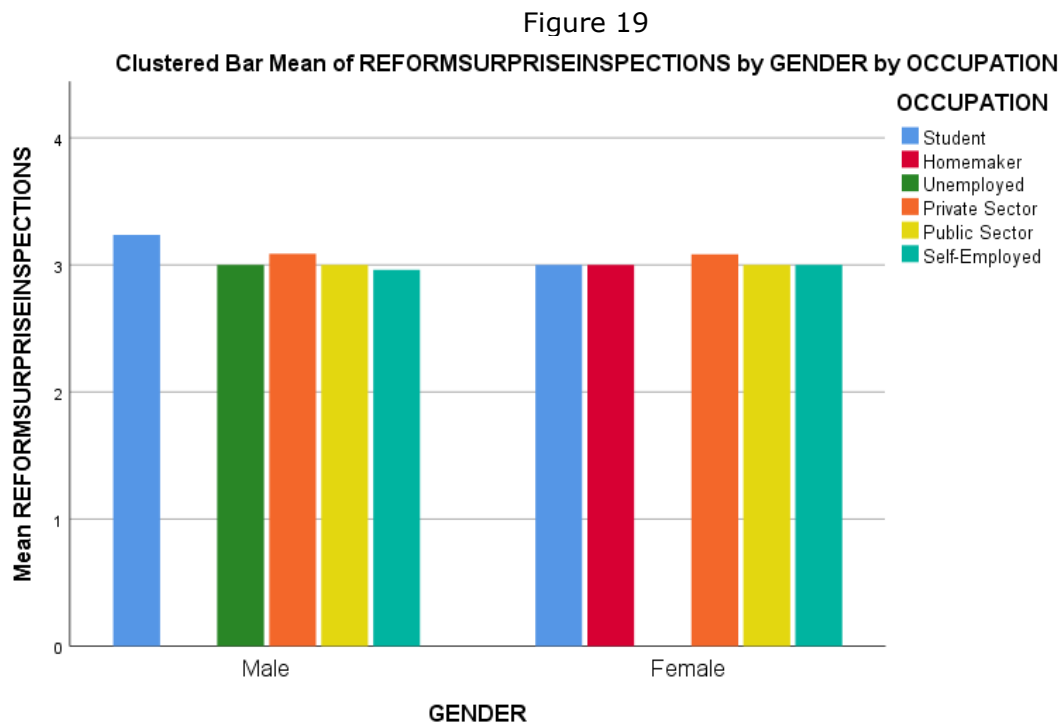
Figure 17



Legend: Figure 17 represents the education qualification distribution of the sample population and their opinion on the drawbacks of the Indian prison system.

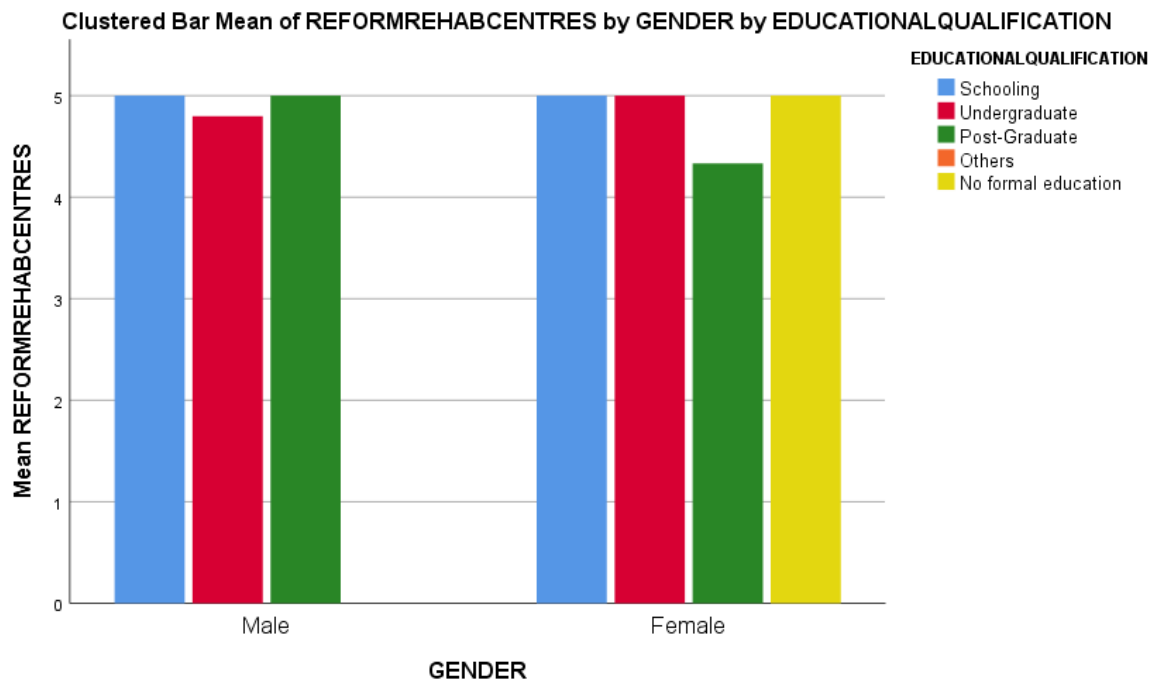


Legend: Figure 18 represents the gender and educational qualification distribution of the sample population and their opinion on introduction of new legislation for prisoners' rights as a reformative measure.



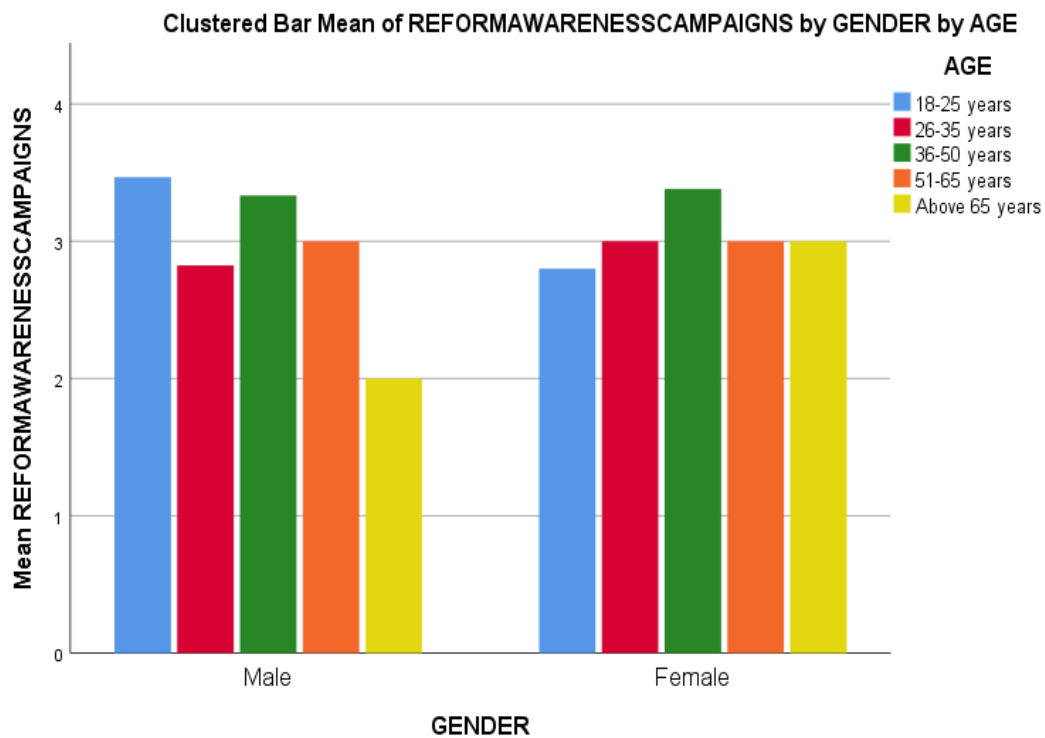
Legend: Figure 19 represents the gender and occupation distribution of the sample population and their opinion on surprise inspections at prisons as a reformative measure.

Figure 20



Legend: Figure 20 represents the gender and educational qualification distribution of the sample population and their opinion on rehabilitation centres for prisoners as a reformatory measure.

Figure 21



Legend: Figure 21 represents the gender and age distribution of the sample population and their opinion on awareness campaigns for prisoners' rights as a reformatory measure.

Table 1
Correlations

			PRISONERS FUNDAMENT ALRIGHTS	VIOLATIONP OLICEBRUTA LITY	VIOLATIOND CORRUPTIO N
Spearman's rho	PRISONERSFUNDAMEN TALRIGHTS	Correlation Coefficient	1.000	-.063	-.070
		Sig. (2-tailed)	.	.372	.323
		N	204	204	204
	VIOLATIONPOLICEBRUT ALITY	Correlation Coefficient	-.063	1.000	.080
		Sig. (2-tailed)	.372	.	.258
		N	204	204	204
	VIOLATIONDCORRUPTI ON	Correlation Coefficient	-.070	.080	1.000
		Sig. (2-tailed)	.323	.258	.
		N	204	204	204

H0: There is no association between the extent of prisoner’s fundamental rights and police brutality and corruption as reasons for the violation of prisoners’ right.

H1: There is an association between the extent of prisoners' fundamental rights and police brutality and corruption as reasons for the violation of prisoners’ right.

RESULT

A majority of the male and female undergraduate and postgraduate respondents feel that prisoners do not have the same fundamental rights as other human beings. However, those respondents with no formal education have given a high rating for the same meaning that prisoners have the same fundamental rights as others. **(Fig.7)** A majority of the male and female respondents belonging to all age groups feel that prisoners do not have the same fundamental rights as others. **(Fig.8)**.A majority of both male and female respondents feel that right to privacy and right against inhuman treatment are the most violated rights of prisoners. **(Fig.9)** A majority of both the male and female undergraduate and postgraduate respondents also feel that right to privacy and right against inhuman treatment are the most violated rights of prisoners. **(Fig. 10)**.A majority of the student respondents as well as those working in the public sector strongly feel that police brutality is a major reason for the violation of prisoners’ rights. **(Fig. 11)** A majority of the respondents have given a moderate rating for corruption as a major reason for the violation of prisoners’ rights. **(Fig. 12)** A majority of the respondents belonging to the age group of 26-35 years and 36-50 years have given a moderate rating for lack of adequate staff as the reason for the violation of prisoners’ rights. **(Fig. 13)** A majority of both the male and female respondents belonging to all educational qualification gorups believe that no proper legislation for prisomers’ rights is the main cause for the violation of prisoners’ rights. **(Fig. 14)** A majority of the male and female respondentsn belonging to the age group of 18-25 years have give an low rating for lack of awareness of prisoners’s rights as a major cause for the violation of prisoners’ rights. **(Fig. 15)** A majority of both the male and female respondents believe that overcrowding and torture and ill-treatment are the main drawbacks of the Indian prison system. **(Fig. 16)** A majority of the undergraduate respondents believe that overcrowding and torture and ill-treatment are the main drawbacks of the Indian prison system. **(Fig. 17)**.A majority of both the male and female undergraduate respondents strongly believe that introduction of a new legislation for prisoners’ rights is the most effective prison reform measure to protect the prisoners’ rights. **(Fig. 18)** A majority of both the male and female respondents belonging to all the occupational groups have

given a moderate rating for surprise inspections at prisons as an effective prison reform measure. **(Fig. 19)** .A majority of both the male and female undergraduate and postgraduate respondents strongly believe that rehabilitation centres for prisoners is the most effective prison reform measure to protect the prisoners' rights. **(Fig. 20)** A majority of both the male and female respondents have given a moderate rating for awareness campaigns for prisoners' rights as an effective prison reform measure. **(Fig. 21)** Both the r values are negative and clearly indicates a negative association between the variables. **(Table 1)**

DISCUSSION

The educated respondents believe that prisoners are not being given the same fundamental rights as the other citizens. This could be because of the recent rise in the number of police brutality and prisoner torture incidents brought to light. However, the respondents with no formal education believe the opposite. This could be because since they are not well educated they are not aware of such incidents happening in the society. **(Fig. 7)** A majority of both the male and female respondents believe the same. This could be because of the changing mentality of the society to be aware of all the problems and to take responsibility for the same, irrespective of their age, gender, caste, religion, etc. **(Fig. 8)**.A majority of both the male and the female respondents as well as the undergraduate and postgraduate respondents believe that right to privacy and right against inhuman treatment are the most violated rights of the prisoners. This could be because the prisoners' privacy is often not respected by the prison authorities which strips them of their basic sense of dignity. They are also subjected to harsh and cruel mental and physical torture by the authorities. **(Fig. 9 & 10)** .A majority of the student respondents strongly believe that police brutality is a major reason for the violation of human rights. This could be because currently it is the students who have taken up the role of social activists and are protesting against the rising number of police brutality cases especially in Tamil Nadu. **(Fig. 11)** A majority of the respondents have given a moderate rating for corruption as it does not directly contribute to the violation of prisoners' rights when compared to the other reasons. **(Fig. 12)** A majority of the respondents have given a moderate rating for lack of adequate staff. This could be because it does not directly contribute to the violation of prisoners' rights and in fact only reduces the quality of the prison system in India. **(Fig. 13)** A majority of the male and female respondents belonging to all educational groups strongly believe that no proper legislation for prisoners' rights is one of the major causes of violation of prisoners' rights. This could be because of the absence of legislation exclusively for the purpose of protecting the prisoners' rights which is why the prisoners are being mistreated. **(Fig. 14)** A majority of the male and female respondents have given a low rating for lack of awareness of prisoners' rights. This could be because the lack of awareness cannot directly contribute to the violation of prisoners' rights and can only act as a secondary factor. **(Fig. 15)** A majority of both the male and female undergraduate respondents believe that overcrowding and torture and ill-treatment are the major drawbacks of the Indian prison system. This could be because of the unusual number of undertrial prisoners in all prisons which not only adversely affects the conditions of the prison but also leads to the violation of the fundamental rights of the under trial prisoners. The prisoners are also illegally tortured and ill treated by the police due to the unchecked power of the authorities. **(Fig. 16 & 17)**.A majority of both the male and female undergraduate respondents strongly believe that introduction of a new legislation for prisoners' rights is the most effective prison reform measure. This could be because this would ensure the stricter implementation of the laws and would directly protect the prisoners' rights. **(Fig. 18)** The respondents have only given a moderate rating for surprise inspections at prisons as this would not ensure that the prisoners' rights are protected and upheld at all times. **(Fig. 19)**

A majority of the educated male and female respondents strongly believe that rehabilitation centres would be an effective reform measure as these centres would help the offenders in reforming themselves into a better citizen and would also teach them

skills which can help them find suitable employment in the society after incarceration. **(Fig. 20)** A majority of the respondents have only given a moderate rating for awareness campaigns as an effective measure as this could be because these campaigns would only educate the prisoners on their rights but cannot transform them into better citizens. **(Fig. 21)**. Both the r values are negative which means that the null hypothesis is accepted and there is a negative association between the variables. **(Table 1)**

CONCLUSION

Prisoners are also human beings and thus, must be treated with dignity and respect. They are also guaranteed certain fundamental rights by the Indian Constitution. However, there has been an increase in the number of incidents relating to the violation of the rights of the prisoners like right to privacy, health, education, legal aid, right against inhumane treatment, etc. The Indian prisons are also facing several problems like overcrowding, delay in trial, lack of adequate staff, lack of proper infrastructure, insensitive attitude of prison authorities. Thus certain prison reform measures need to be taken to resolve this major issue. The major objective of this study is to determine the most violated rights of the prisoners and to determine the most effective prison reform measures to be taken to protect the rights of the prisoners. The major findings of the study are that right to privacy and right against inhumane treatment are the most violated rights of the prisoners, overcrowding and torture and ill-treatment are the major drawbacks of the Indian prison system and that police brutality and lack of legislation for prisoners' rights are the major reasons for the violation of prisoners' rights. It is recommended that the Government must introduce a new legislation exclusively to provide for prisoners' rights and to construct rehabilitation centres for the purpose of transforming the offenders into law-abiding citizens of the country. The entire Indian prison administration system needs a transformation to ensure that it caters to the current requirements of the society.

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