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A STUDY ON POLICE BRUTALITY AND IMPLEMENTATION OF PERMANENT INDEPENDENT PCA BOARD IN EVERY STATE

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ABSTRACT:

In this research we are going to see on the topic of police brutality in india, it not only tells what is police brutality but also tells about why its happening and its effects on people in india. The utilization of excessive power by the police might be named as police ruthlessness or police brutality. Although an exact definition of this atrocious act is yet to be given. The phenomenon of police brutality has existed since the commencement of power to executive officials in India, and with the outbreak of Covid-19, there has been a lofty ascent in such instances of police fierceness. So it turns out to be important to investigate the laws and resolutions that administer the police and why the judiciary has ended up being incapable of curbing this unlawful policing culture. This research mainly focuses on the laws and precedents related to police brutality and some of the instance of police brutality which still remains unsolved or unresolved. There are some of the provisions related to police and the reason why the judiciary proved to be ineffective to the common man in providing justice. With the help of this research we have discovered that the Indian laws and statutes governing the police provide sovereign immunity to them which narrows the scope of the victims in getting justice. Even the judgments by the courts only provided pecuniary damages to the victims not only in cases of public liability but even in criminal acts done by the police. This situation of scant police accountability can be tackled if the lower courts are given jurisdiction to try the police brutality cases apart from the Supreme Court and High Courts. Separate acts or provisions should be framed defining the extent and liability of the criminal acts by the police. So that an unerring rule of law can be established. Due to this police brutality many of the common people who live below the poverty line are affected maximally due to this act by the police, many of the people are complaining on harassment, torture, beatings and some even told that many of them have died in the custody during their arrest. By this research we can find some solutions and lawful provisions relating to prevention or liability for police brutality in india.

KEYWORDS: brutality, constitution, government officials, discrimination, violence.

INTRODUCTION:

The English word police is devised from the Middle French word 'police', which is taken from the Latin term 'politia', which itself originates from Ancient Greek.ⁱⁱ Broadly, the term Police might be characterized as the public official or the law implementing body whose primary goal is to keep up the lawfulness of the general public. The Police Act of 1861 likewise defines the

term police in Section 1 it reads that "the word police" will incorporate all people who will be selected under this Act".ⁱⁱⁱ India, in past years, has seen the police force getting involved in various types of corrupt practices and misconduct. Now one must not get confused between the two terms corrupt practices and misconduct. Corrupt practices are acts by the police officials for their gains, but misconduct refers to the use of excessive physical force by

the police which is deadly. These misconducts generally include brutally beating innocent people or even killing them without any order from the higher police authorities or judicial order. These misconducts are termed as police brutality.

Few kinds of police brutality are:

- False arrest and wrong imprisonment
- Sexual Harassment
- Racial discrimination
- Wrongful search and seizure

In this research we will be discussing about in what ways police brutality happens in india and how to make our society a brutality free zone.

HISTORY AND EVOLUTION OF POLICE IN INDIA:

The evolution of police in India is not a new concept. The reference of police can be found in every age. In ancient India, the study of Vedas shows the reference of the officials named Jivagribhs in the Rig Ved and Ugras in the Upanishads who appear to have been police officers. In the reign of the British Rule, civil and criminal courts were formulated. In 1775 Foujdari Thanas, and Chowkies were established by the Britishers. In 1861 The Police Act was passed by the British which was a substantive law governing the police. In 1866 the Railway Police was constituted. The Delhi Special Police Establishment Act was the last act enacted by the Britishers in 1946 for investigating offenses of bribery and corruption.

After Independence also, numerous acts were passed. Like The CRPF Act, 1949^{vi}, The Kerala Police Act 1960^{vii}, The Mysore Police Act, 1963^{viii} and The Police Forces (Restriction of Rights) Act, 1966^{ix} were promulgated.

In 1951 the All India Services Act (LXI of 1951) was enacted constituting an All India Service known as the IAS and IPS.

LAWS ON POLICE BRUTALITY IN INDIA:

The Constitution declares the police organization as a quasi-federal body

mentioned under Article 246 and enshrined in the State List of the 7th Schedule.

In India, The Indian Police Act 1861 is the statute governing the police of India. All other states and UTs either have adopted this act or have their statutes modelled on this act. Still there existed a lot of discrepancies in the functioning of the Indian police even after the Act being amended innumerable times before and after independence. To remove these discrepancies, 8 reports with recommendations were submitted by the National Commission of Police in the years 1978 to 1981 but none were implemented.

In the case of Vineet Narian v. Union of India^x The Supreme Court for the 1st time noticed the urgency for implementation of the earlier reports submitted in 1978 to 1981 by the National Commission of Police. Based on this urgency various committees were formulated for studying the accountability and efficiency of police.

Based on the study and analysis the Ribeiro Committee submitted its report in 1998 and 1999, the Padmanabhaiah Committee submitted its report in 2000, and the Malimath Committee submitted its report in 2002. All these submitted reports were deeply studied by the Supreme Court in the Prakash Singh v. Union of India^{xi} case. In this landmark judgment, the efficiency and accountability of police organizations were also broadly considered by the Apex Court. Based on the study The Supreme Court gave detailed directions to the Central and State Legislature to implement until legislations in this regard are enacted but till date, no effective changes can be noticed.

There are generally three types of laws under which a case can be filed against the police: 1. Public Law

- Criminal Law
- Private Law

In this article, we will be dealing with 2 laws i.e. Public and Criminal law because most cases are filed under these two laws.

CASE LAWS RELATING TO POLICE BRUTALITY IN INDIA:

This is especially ironic because India doesn't have to reference a case of police brutality from the US. The nation has its own inheritance of shameful acts. As per data presented by the Home Ministry, five custodial deaths happen daily. Let's see some of the cases:

21. The Bhagalpur blindings incident from 1979 to 1980 when police blinded 31 under-trials by pouring acid into their eyes.xxi

22. In 1982 The Bombay Police without giving a proper chance to defend or surrender killed Manya Surve a gangster in an encounter. The John Abraham's movie Shootout at Wadala is plotted in this case.xxii

4) In 2009 an unarmed youth namely Ch Sanjit Meitei was allegedly killed by the Manipur Police in Imphal's Khwairamband Market and later the police reported to recover a pistol from Sanjit. The police also killed a pregnant lady named Thokchom Rabina Devi and held that she was killed in the crossfire.xxiii

5) In 2015 the Andhra Pradesh police allegedly killed 20 woodcutters in Seshachalam forest.

AIM:

The aim of this research is to stop police from misusing their powers in India

OBJECTIVES:

- To determine whether police brutality is happening in India
- To analyse the reasons for police brutality occurring in India
- To determine the laws in favour of people to stop police brutality
- To establish a permanent independent PCA body to control police brutality over alleged.
- To mandate the police department personnel to hold body camera and update the recordings to its respective

state or central police department portal on a daily basis to control police brutality on alleged

REVIEW OF LITERATURE :

"Delayed Justice is an Injustice". The abuse of power and justice for such incidents of brutality by the police are condemned across the world for the past century and due to the current incidents in west (George Floyd case) and east (Jayaraj and Benick) have raised an outburst among world against the police brutality and need for police complaint authority to be established to protect the weaker sections of the community from being exploited and tortured, as a result the issue of custodial death in India and its rate of death have been exposed to the lime in recent times of 2020, where India is said to have an average of 1771 judicial custody and lock up death per year which results in 5 deaths per day, this significantly shows how the humanitarian laws are directly violated and no proper investigation committee is in force to monitor or make police accountable for its brutal actions and nothing has been done so far to implement a permanent independent police complaining authority though there is an order after 2006 to states to set up a PCA board it lacks in defining the powers and functions of the board and considered to be a lame duck legislation the information regarding custodial death rates are obscured from THE HINDU. And the police brutality against George Floyd incident are obscured from ECONOMIST. Where American Civil Liberties Union has demanded, along with a coalition of 600 other human rights groups, that the United Nations Human Rights Council (UNHRC) hold a special meeting to address US police brutality was obscured from ACLU OFFICIAL WEBSITE. as we can witness the Chinese police brutality only when the media exposes as it is said to be a communist country any material information against the government institutions will not be published or broadcasted in the official media but as we can speculate Hong Kong issue we can directly see how the Chinese police uses their force against their

protesters and also from independent reporters states in online platforms that “there is no medium to oppose the government when something is brutally held against an individual or community as there will be severe punishments and extended to capital punishment”, this was obscured from Chinese Journalist: Reclaim.net. Followed by Russians claim against police brutality as it is also considered to be a communist country where the people’s voice against the government is suppressed where the international forum UNHRC is requested to convene a covenant in regard to police brutality in terms of establishment of police complaining authority all over the world as part of a human right against police brutality but as of India the Prakash Singh and Ors. v. Union of India and Ors. AIR 2006 SCC 1 have paved way for the initial establishment of PCA board but as it lacks its powers and functions of the body, India is in need of a permanent independent PCA body as like New Zealand’s IPCA (“Independent Police Conduct Authority Act 1988 No 2 (as at 28 September 2017), Public Act Contents – New Zealand Legislation” 2017) where the Independent Police Conduct Authority of New Zealand is independent of government and police directly reportable to the parliament and mandating the police body camera is an utmost urgency where the countries like U.S, U.K, FRANCE, AUSTRALIA have stated that after mandating the police personnel to hold body camera on their daily duty it is easy to record the incidents and avoid any provocation of public against the police and vice versa and it also protects both police and public interest at large simultaneously it acts as a primary evidence in the court of law in regard to police brutality thereby it is mandatory to provide such body camera to prohibit and also to hold

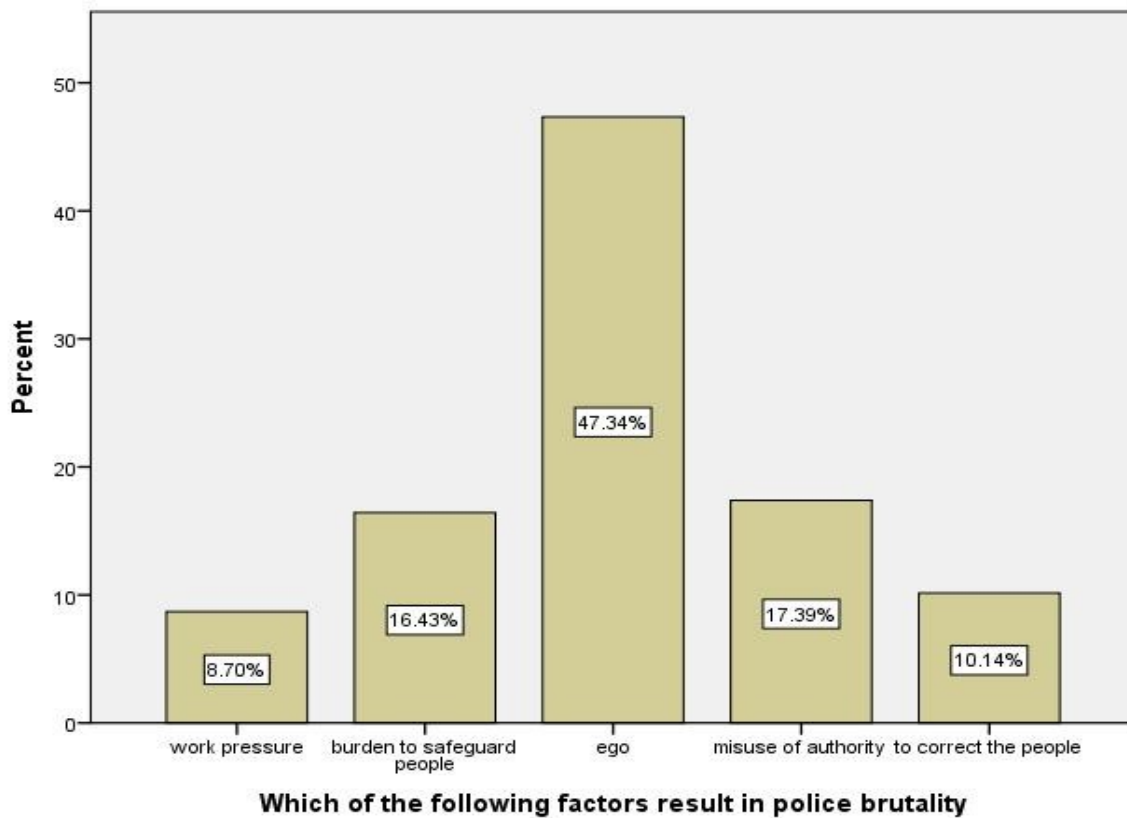
police accountable for their actions, as recently in 2018 Chennai traffic police are said to operate with body camera (“The New Indian Express” n.d.), so it is possible to implement such protocol in India through a definite structure of legislation therefore after the George Floyd case the U.S government have decided to take up the matter and initiated a bill for Independent Police Conduct Authority Act as it was passed as a bill and it’s currently being discussed in the parliament for its enforcement (“r/ModelUSGov – H.R. 1047: Independent Police Conduct Authority Act” n.d.) thereby India shall adapt the legislation for police complaining authority from NEW ZEALAND, U.K, U.S. to protect the interest of the public over police brutality and to prevent custodial deaths or torture in near future.

RESEARCH METHODOLOGY:

This paper used both primary and secondary information collected from the general public through random sampling, descriptive and analytical methods. Research paper is in both non-doctrinal method. The method of the research paper is an empirical method of paper and the sampling made by the method of random sampling method. The sample number is 207. The survey was taken to both the gender male and female. The dependable variables are the age and gender and the questions of the survey and the independent variable are the age and gender of the respondents. The primary sources of information are taken from the books and the secondary sources of information are taken from the articles of journals, working papers, thesis, and presentation papers. The statistics used in this paper is percentage analysis of SPSS, percentage analysis, etc.

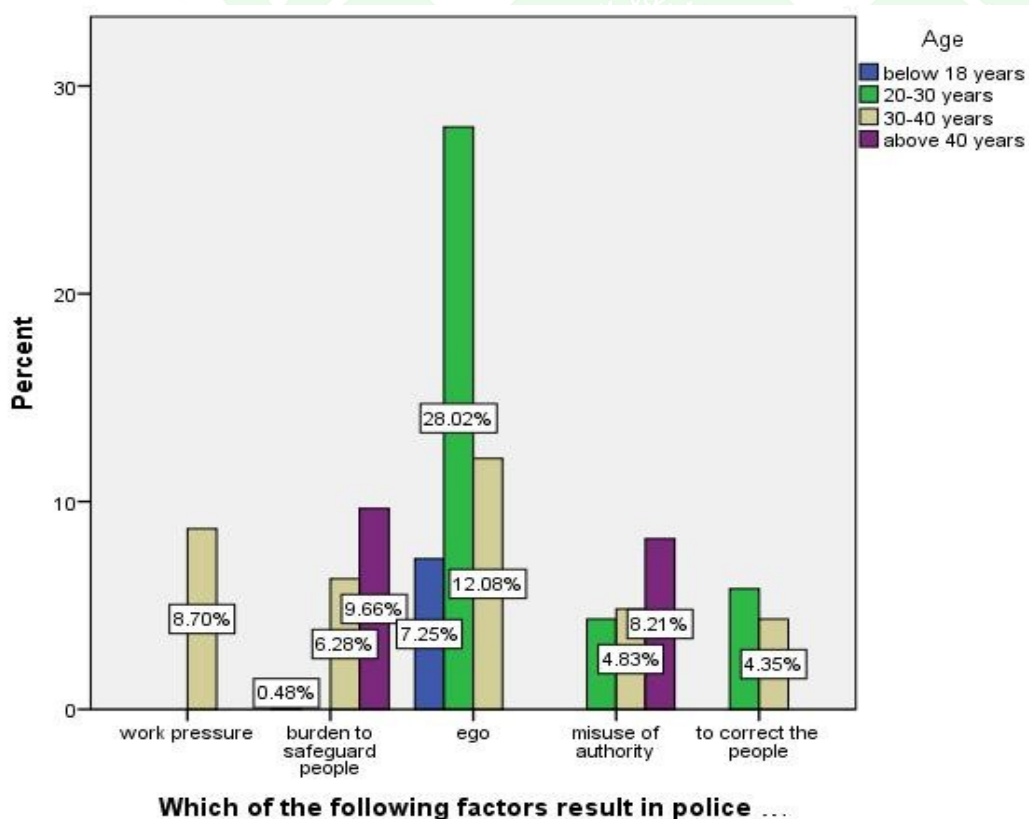
DATA ANALYSIS:

FIGURE : 1



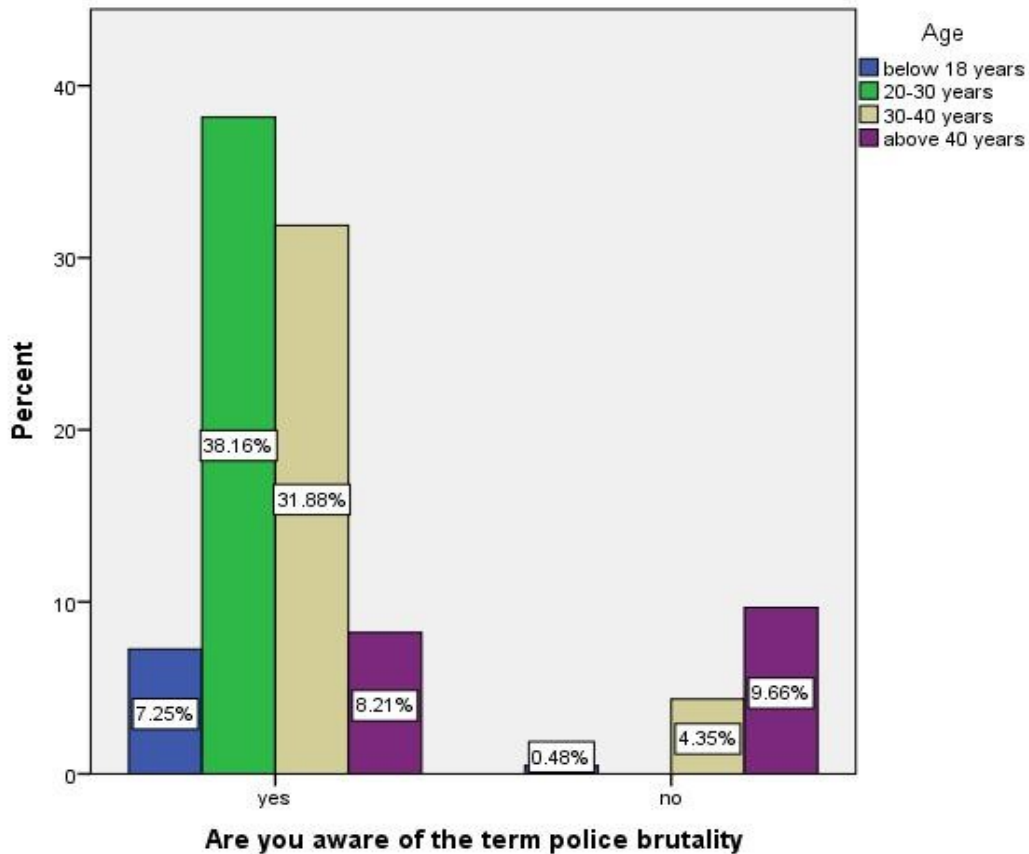
Legend : Figure 1 states which of the following result in police brutality.

FIGURE : 2



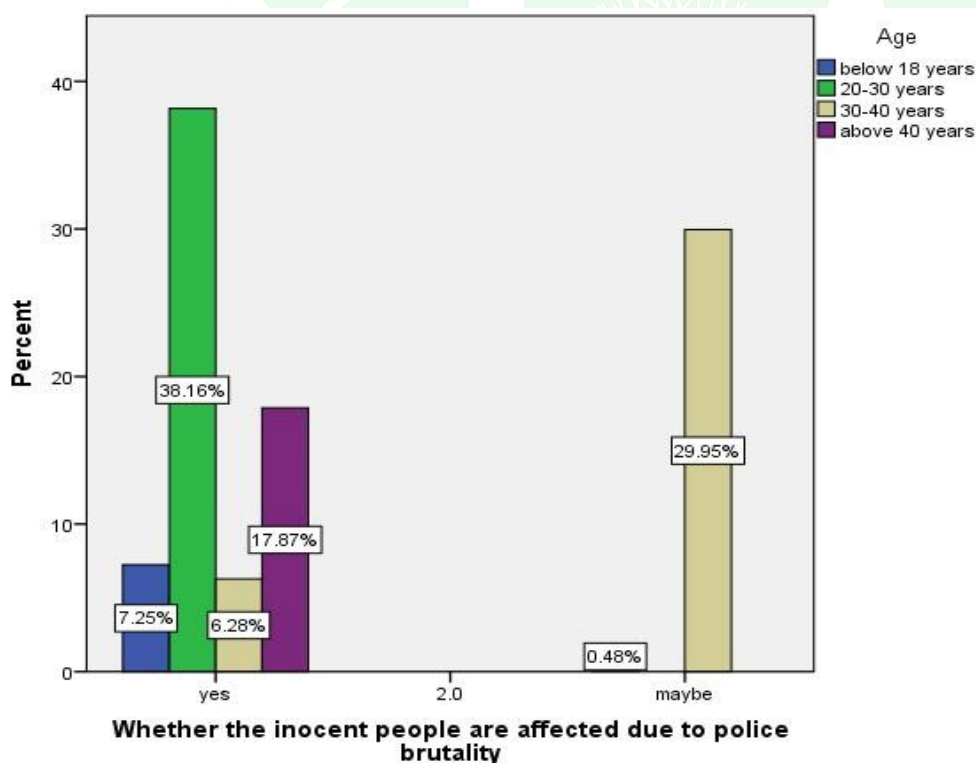
Legend : Figure 2 states that which of the following result in police brutality on age differentiation.

FIGURE : 3



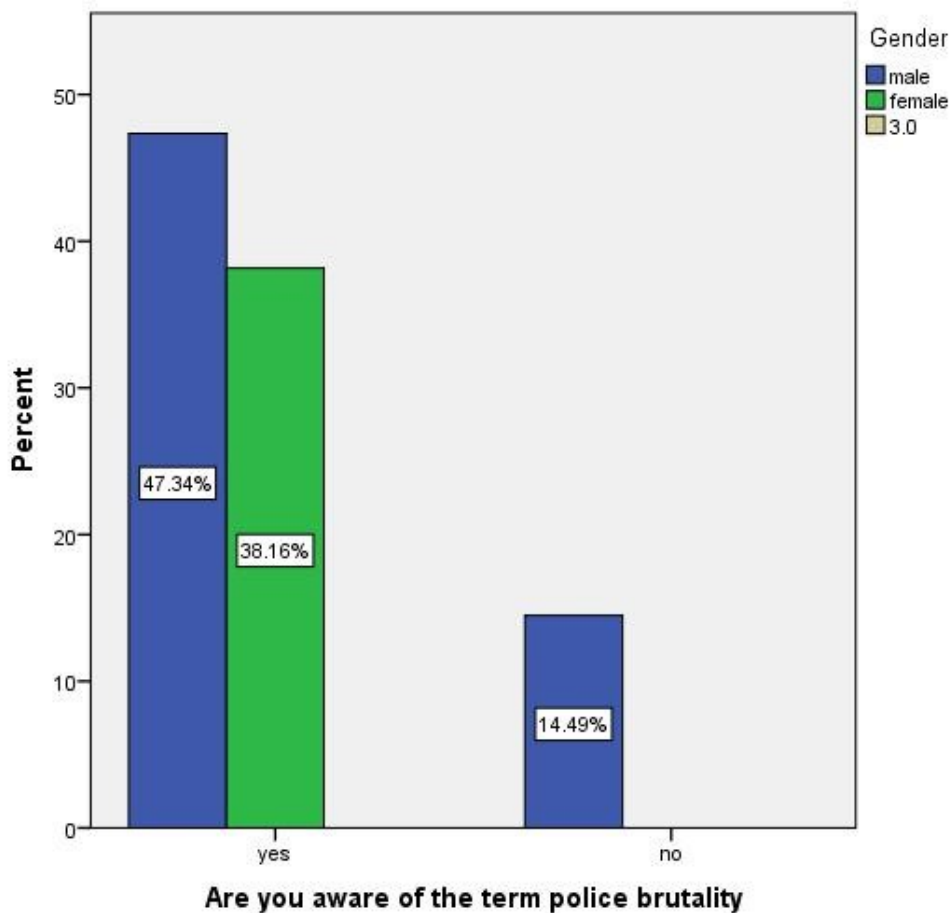
Legend : Figure 3 states that wheather people are aware of police brutality on age differwntation.

FIGURE : 4



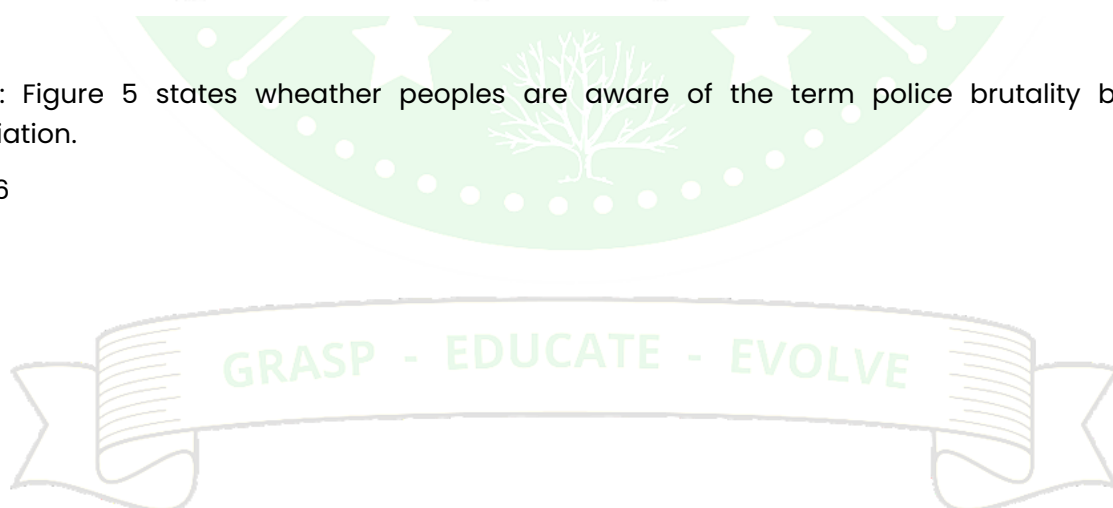
Legend : Figure 4 states peoples opinion on whether the innocent people are affected due to police brutality.

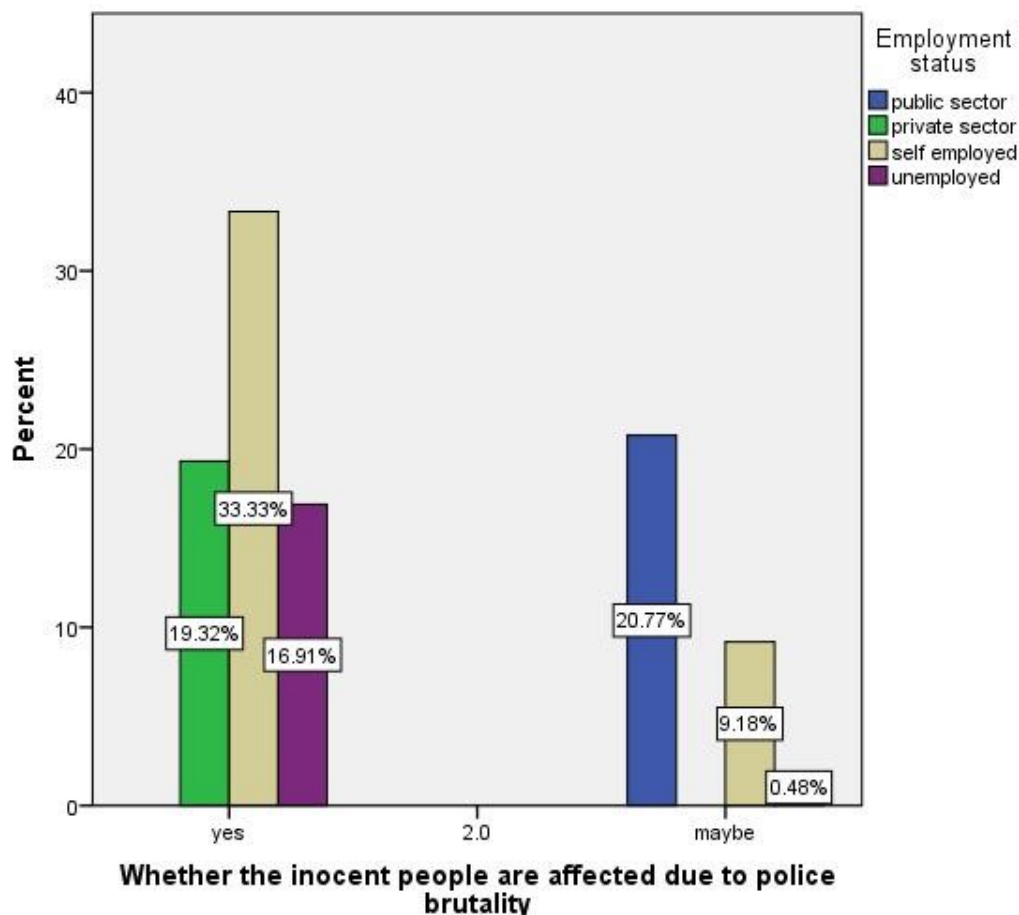
FIGURE : 5



Legend : Figure 5 states wheather peoples are aware of the term police brutality by gender differentiation.

FIGURE : 6





Legend : Figure 6 states whether the innocents are affected due to police brutality by employment status.

RESULT:

In figure 1, (47.34%) of the people think that police brutality is occurring due to egoistic problems of police and the people think the least as work pressure on a scale of (8.7%). In figure 2, most of the people are aware of the term police brutality and most of the people in the age group of 20-30 years and 30-40 years have knowledge on the term of police brutality and some people above the age of 40 years are not aware of the term police brutality. In figure 3, most of the people in the age group of 20-30 years think that innocent people are affected due to police brutality (38.16%), and people of the age group of 30-40 years of age think that innocent people maybe affected due to police brutality (29.95%). In figure 4, most of the men (47.34%) of the people and female (38.16%) of the female are aware of the term police brutality. In figure 5, most of the people who are self employed believe that innocent people are affected due to police brutality (33.33%) and the other people either accept or disagree that innocent people are affected due to police brutality.

DISCUSSION:

Most of the people from whom the responses were collected are mainly from male people between the age category upto 20 to 40 years and mainly self employed truly believe that police brutality is still happening in India at various instances because these people are the working class people who see the everyday life or an normal middle class of people and mainly people who are self employed

are the ones who are affected from police brutality as the run businesses in local streets and areas who are tortured by the police officials to give money and if refused to give money, they are being subject to police brutality.

Gender * 1. Is there a need for enactment of a permanent independent PCA body? Cross Tabulation Count

	1. Is there a need for enactment of a permanent independent PCA body to control police brutality over the alleged ?					Total
	strongly agree	disagree	neutral	agree	strongly agree	
Gender Female	24	45	82	140	157	448
Male	10	37	113	187	131	478
Total	34	82	195	327	288	926

The above table explains the representation of valid gender percentage who have responded to the question with a total of nine hundred and twenty six

NULL HYPOTHESIS(0.01): There is no significant relation between gender and mandating the police personnel to hold a body camera on their duties to control police brutality on alleged **ALTERNATIVE HYPOTHESIS:** There is significant relation between gender and mandating the police personnel to hold a body camera on their duties to control police brutality on allege.

ANOVA

2. Do you agree that mandating the police personnel to hold a body camera on their duties will control police brutality?

	Sum	of				
	Squares	df	Mean Square	F		Sig.
Between						
Groups	11.660	4	2.915	4.964		.001
Within Groups	540.794	921	.587			

SUGGESTIONS:

- Creation of a fund to compensate victims who turn hostile from the pressure of culprits.
- Setting up separate authority at the national level to deal with crimes threatening the country's security.
- A complete revamp of the entire criminal procedure system.

CONCLUSION:

In this article out of the 3 mechanisms of external police accountability that is the Judiciary, Police Complaints Authority, and National and State Human Rights Commissions. The scholar has elaborately discussed the Judiciary, in which out of the 3 laws i.e. Public law, Private law, and criminal law he has mainly focused on public law and criminal law.

The two main reasons which the scholar finds for the lack of police accountability are:

1. Our laws and the statutes governing the police provide sovereign immunity to them. This immunity narrows the scope of the victims because it immunizes the police officials from almost all kinds of liabilities or misconducts and saves them from imprisonment. This is the reason why mostly the punishments for the offending police officers are pecuniary in nature.
2. The judgments by the courts are another reason for lack of police accountability because the only High Courts and Supreme Court are entitled to look into the matter of the police officials as most cases are related to the violation of human rights and fundamental rights. Till date, the judiciary has only provided pecuniary damages to the victims even in criminal acts, and in public laws, the judiciary mostly held the state vicariously liable for the acts of the police instead of the police himself.

Thus, the researcher would like to recommend the following suggestions based on the research findings which may help in forming an opinion in doing away with the discrepancies of the above law.

1. The cases of police brutality should not only be restricted to the High Court or the Supreme Court, but even lower courts should be given jurisdiction to try these matters and grant compensation. This will indeed remove the burden of the High Court and Supreme Court.

2. The compensation to the victims of police brutality should be awarded in all cases and not only on the violation of the fundamental rights.

3. In cases of police brutality, the state should not be held vicariously liable for the acts of the police officials when the police go beyond the orders given by the state.

197 Under criminal law, the procedural safeguards given to the police must be relaxed as section and 132 of CrPC are often misused to prevent a common man from registering an FIR.

5. Separate Act or special provisions under IPC should be framed thereby defining the extent and liability of the criminal acts by the police.

Thus, fundamental re-evaluation of the policing culture in India is the need of the hour. Now the time has come to shift the policing culture from policing that creates fear in public to policing whose main focus is public service. Justice should not only be done but also seems to be done. So, the legislature should now focus on making laws that maintain justice and are also compassionate towards human rights. There ought to be the extended focus on rights-regarding policing and guaranteeing instant prosecution of errant police officials, without any exception. So that this barbarous policing can be done away with because there's no book to figure out how not to become a victim of police brutality.

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