

CHAPTER 5
EMPIRICAL SURVEY OF RIGHT TO
EXPUNGEMENT OF CRIMINAL
RECORDS IN INDIA

CHAPTER-5

EMPIRICAL SURVEY OF RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS IN INDIA

5.1- INTRODUCTION

In the earlier, the incidental harm of having a racist record of ex-offenders and exonerees was referred to as "invisible punishment" due to its significant influence on those with a record seeking work. By branding ex-offenders as "felons," community acts counterproductively to their recovery. In this age of modernization, the emergence of a modern felony record system and the extensive accessibility of employment-related prior offenses details presents issues for ex-offenders. The Constitution of India eliminates double jeopardy⁵²⁰, yet the system of maintaining a permanent criminal record ironically creates & fosters "multiple social jeopardies". What incentive is there for the individual who has been convicted to "go straight" if he knows he will never again share the opportunities of his fellow citizens? The majority of Indian programmes and efforts to restore ex-offenders are ineffective. As these laws and services fail to address the underlying challenges of financial stability in the recovery process, they are ineffective. Work of formerly incarcerated individuals has been consistently acknowledged as a crucial component in reintegration and recidivism from crime. It gives the prestige, wealth, and personal contacts that promote to a constitution lifestyle. Some evidence indicates that work decreases the probability of recidivism by one-third to one-half.⁵²¹

Does this former felon have the ability to erase their prison background and start over? After serving the sentencing period? Can they demand justice when they are outlawed by society itself? Whether an accused can demand the Expungement of

⁵²⁰ Article 20(2) of India's Constitution states: "No person shall be prosecuted and punished for the same offence more than once." Also see, The Fifth Amendment of the Constitution of the United States, which relates to criminal and civil legal proceedings, contains a similar clause.

⁵²¹ Uggen, C. (2000) Work as a Turning Point in the Life Course of Criminals: a duration model of age, employment and recidivism, *American Sociological Review*, 67: 529-546.

his criminal records in case of his “honourable acquittal” /“fully exonerated” from a court of law?

Keeping this view in mind the present study has been undertaken to identify the need to incorporate the Right to Expungement in Indian criminal jurisprudence as it can act as a catalyst in the rehabilitation of ex-offenders. The Absence of these laws has helped further strengthen the criminals and offenders toward recidivism. The need to study this concept arises as, very recently honourable Supreme Court pointed out that The authorities doesn't really issue instructions regarding the challenges of pro recovery, with a focus on their requirement for public administration.

Corpus Juris describes Expungement as "a term expressive of cancellation or deletion, implying not a legal act, but a physical annihilation". In its elaboration, the words “rub out” “destroy”, and “obliterate” are used.⁵²² The elimination of a felony from a person's prison background, as defined by Black's Law Dictionary. Deferred prosecution is a type of civil case in which the applicant (the individual who has been convicted or has completed his sentence) seeks the judge to eradicate his previous convictions from court system files.⁵²³ In definition, erasure is the act of eliminating a case's evidence from public view. In many countries, however, records may remain accessible to police departments, punishment magistrates for further charges, and correctional institutions to which the subject may be committed upon an effective solution. The Act of expungement of criminal records, in its basic form, entails initiating a law suit to have arrest histories wiped. Deferred prosecution looks to be a relatively easy notion at first view.⁵²⁴ On closer inspection, however, it'll become clear that, beyond being easy, this subject is a labyrinth of intricate legal obstacles and challenging value judgments.

⁵²² Bernard Kogon, Donald L. Jr. Loughery, Sealing and Expungement of Criminal Records--The Big Lie, 61 J. Crim. L. Criminology & Police Sci. 378 (1970)

⁵²³ Black's Law Dictionary, Thomson Reuters,P.702 (10TH ed. 2014)

⁵²⁴ <http://en.wikipedia.org/wiki/Expungement> , (Oct. 1, 2020)

The issue like whether to erase a felony conviction is further difficult when the offender has been guilty of a major crime or when expunging the history would contribute to assaults or child abuse that could have been otherwise avoided.⁵²⁵ Consequently, clearance difficulties may be seen favorably when a defendant with an erased record is admitted to the bar and commits crimes against honest individuals again. When awarding Illegal eviction, the level of motivation must be considered: -Amount of period since the accusation or conviction; Severity and type of the occurrence about which erasure is sought; Applicant's felony charge.

- **AMOUNT OF TIME THAT HAS PASSED SINCE THE ARREST OR CONVICTION**

This aspect is considered while granting the right to eradication. To prevent corporate fraud, violent activity must be regulated. There must be a fixed timeframe during which a particular personality and exercises can be digitized, which might also impact the effectiveness for Right of Resentencing even though it is feasible that an individual who strives and is awarded Right of Disbarment will proceed his criminality by exploiting of his expunged felony conviction, thereby affecting the community. In order to avoid this, several cleansing regulations in the United States compel respondents to wait a particular period of time before filing for erasure. In certain places, a charge received throughout this hold time or an ongoing accusation at the filing excludes a person from cleansing eligibility. Occasionally, these waiting lists might be rather lengthy.

- **SEVERITY AND NATURE OF THE EVENT FOR WHICH EXPUNGEMENT IS SOUGHT**

The person requesting erasure of his arrest histories must not have been convicted of those serious offences that severely harm the general welfare. In all correctional institutions, offenses are typically divided into two categories based on their seriousness: felonies and felonies (Minor offences). Misdemeanors are "lower" crimes that are also referred to as Overview crimes. Serious offences are crimes

⁵²⁵ Black's Law Dictionary, Thomson Reuters,P.702 (10TH ed. 2014)

that include a greater degree of criminality. Consideration must be given to the gravity and design of the offence. The archives to be erased and the extensiveness of disbarment shall be decided correspondingly, implying that the Correct of Disbarment is extremely easy to assert in the scenario of felony crimes than in the instance at least of felony convictions, due to the fact that some felony charges involve malfeasance, which symbolizes the moral bankruptcy as well as jail sentence of the offender.

- **CRIMINAL RECORD OF THE APPLICANT**

As implied by the name, this section consists mostly of the criminal past or activities of the applicant for erasure of records. This group comprises first-time offenders, those who are acquitted or voided by a court, those who are awarded a pardon, released on a court's reprimand, and those who have completed their sentence. In this context, a person with a criminal record is one who has repeatedly engaged in criminal behaviour. Such individuals will have difficulty exercising their Right to Expungement. Those without such records, i.e., first-time offenders, will be able to seek expungement without difficulty.

Expungement of criminal records is not a *res Integra* notion in India. Both Expungement and the prohibition on disclosing a person's name in circumstances involving minors are simultaneously provided in Indian law. In addition, the Indian judiciary has indicated a preference for discharge from employment without conviction in a number of situations. Offenders are given several opportunities to reintegrate back into society thanks to the provisions of the Probation Offenders Act of 1958 and the Juvenile Justice (Care and Protection of Children) Act of 2015. It is stipulated in S.12 (probation) of the Probation of Offenders Act, 1958, as follows:

Removal of disqualification attaching to conviction – “A person convicted of an offence under section 3 or section 4 shall not be disqualified, if any, as a result of such a conviction under any other law: If a person who was released under

section 4 is later condemned for the initial offence, nothing in this section shall apply to him.⁵²⁶ However, the interpretation of this Section has fluctuated, but many times it is understood to suggest that the disqualification attached to the offenders due to their convictions should be eliminated. According to the court's findings in the case of **Prem Kumar v. Union of India**,⁵²⁷ "We have heard the learned Counsel at some length, but we find ourselves unable to agree with the above contention. The relevant words of the section are 'shall not suffer disqualification, if any, attaching to a conviction of an offence under such law'. The words can only be read to remove the disqualification which under some law may attach to a person on account of his conviction. For instance, if a person is convicted of an offence, he is disqualified from standing for election to the Central or State Legislatures. But if such a person is given benefit under the Probation of Offenders Act, then by virtue of Section 12 of that Act the disqualification for that purpose (standing for election) will stand removed."⁵²⁸ In **Rajbir v. State of Haryana**, the Supreme Court decided as follows: "There is no material on the record to indicate that the appellant had any previous conviction. In the absence of such evidence, we treat the appellant as a first offender. He is entitled to be admitted to the benefits of probation under Section 3 of the Probation of Offenders Act, 1958, taking into consideration the circumstances of the case, the nature of the offence and the character of the appellant. While maintaining his conviction we direct that he shall be released on probation of good conduct under Section 4 of the Act. The Chief Judicial Magistrate, Bhiwani, before whom the appellant is directed to appear within four weeks from today shall release him after due admonition. We do not consider it necessary to direct him to enter into a bond in the facts of the case. We are of the view that in the peculiar facts of the case, the conviction should not affect his service."⁵²⁹ Eventually, in **Government of India & ors. V. Bakshi Ram**, the Supreme Court

⁵²⁶ The Probation of Offenders Act, sec- 12 (1958)

⁵²⁷ ILR 1969 Delhi 1214

⁵²⁸ 1971 MPLJ 483

⁵²⁹ AIR 1985 SC 1278

decided, "Section 12 is clearly plain, and it merely specifies that the criminal "Must not incur disqualification, if any, attaching to a conviction of an offence under such law," afterwards. Disqualification due to a criminal conviction is an example of such a law in this situation. "For example, if a law disqualifies a person from being appointed to any position or from seeking election to any authority or body in view of his conviction, the disqualification by virtue of Section 12 remains eliminated," ⁵³⁰That's not all: There are also several Expungement-friendly clauses in the Juvenile Justice (Care and Protection of Children) Act, 2015. In accordance with S.24 of this Act:

Elimination of the bar imposed by a felony conviction. - (1) A child who has performed an offense and been punished in conformity with the appropriate of this Act must not be subject to any prohibition related to a conviction for an offense under such regulations, despite of what is declared in other laws. (2) The Committee will pass an order mandating the destruction of all significant data related to this sentence follows the expiration of the appeal term or a reasonable period as stipulated by regulations, as applicable.⁵³¹

In addition, every youngster has the *confidentiality and anonymity* safeguards whatsoever periods and even during the court procedure, according to the *privacy & confidentiality concept*. The concept of *principle of repatriation and restoration* provides that each and every youngster in the Juvenile justice system has the entitlement to be bound by a common with his parents as soon as possible and to be recovered to almost the same political and social and ethnic standing he held long before it came under the jurisdiction of this Conduct, except where such rehabilitation and family reunification is not really in his better interests.⁵³² During a child's time in a Children's Home, the S.39 *Rehabilitation and Reintegration* procedure begins. Probation officers' and social workers' reports are

⁵³⁰ AIR 1990 SC 987

⁵³¹ The Justice (Care and Protection of Children Act, §24 (2015)

⁵³² The Justice (Care and Protection of Children Act, §3(13) (2015)

to be treated as confidential, according to S.99. As a result, it is clear that the right to expungement exists in India, as evidenced by these regulations.

The researchers study looked at a number of different aspects of the Right to Expungement of criminal records. India does not have a Statutory right to Expungement of criminal record, but the right is not *res Integra* in India. Due to its Adversarial Legal System, India has particular requirements. Cross-jurisdictional research can help explain why India needs a law that allows criminal records to be expunged. Those statutes of India that allow for the erasing of criminal records and the removal of disqualifications are also mentioned in the above and further study also has been taken. A unique component of the present research is that it discusses the benefits of the Right of In contrast to eradication of arrest histories, the difficulties that may arise from such debate and possible solutions to such difficulties.

There is a pressing need for the right to expungement of criminal records in India. When awarded, this right allows the holder to reintegrate into society and begin anew. However, he or she is entitled to an employment, subject to certain conditions. In addition, he must be identified as someone who has never been arrested. As a result of this right, the idea that *"once a thief always a thief"* is dispelled. As a result to assure that everyone has fair treatment Indians, the post-convict population must be granted this privilege of right to expungement of criminal records.⁵³³

5.2- STATEMENT OF PROBLEM

A people's violent past is documented in their felony conviction or criminal conviction. The details provided in a felony conviction and the presence of a prison background vary from nation to nation as well as from region to region within a country. In most instances, it includes a list of all non-expunged criminal offences, as well as traffic violations such as exceeding the speed limit and drunk

⁵³³ The Justice (Care and Protection of Children Act, §3(13) (2015)

driving. In some nations, the record is restricted to criminal charges (where the subject has pleaded no contest or been convicted by a competent court), whereas in others, it also contains investigations, charges are dropped, legal recourses, and accusations the person has indeed been convicted of. A criminal record—or “rap sheet”—is a record of a person's criminal history.

Typically, an arrest conviction consists of a combination of regional, national, and federal civil rights facts. In addition to police record details, the system records the individual's: Name and identified acronyms. The birthdate Location. Image. Trace evidence. Based on the region and the security agency or other political body accountable for the history, an arrest conviction may provide more than only misdemeanors and felonies. A prison background may also contain multiple convictions, arrests, ongoing accusations, abandoned fees, and convicted charges. However, erased convictions are normally not included in felony convictions.⁵³⁴

In particular, the arrest conviction may contain the individual's personal dimensions, strength, skin and complexion, distinguishing markings, multiple identities utilized, various birth certificates, account numbers had been using, biometric categorization, ethnicity, and provincial and national personally identifiable information.⁵³⁵

A large number of fed and provincial limitations or impairments relating to governmental, financial, cultural, and daily life are placed on someone who has been accused of a felony or, in some situations, just accused with one. The researcher tries to focus on every civil and criminal disabilities which is attached to having a criminal record. Some of the disability are the same as in Indian jurisprudence but some are different. To understand the effect of criminal records

⁵³⁴ Criminal Records & Arrest Records, DMV.ORG (2010), <https://www.dmv.org/criminal-records.php> (last visited Feb 3, 2019).

⁵³⁵ Backgroundchecks.com, Learning Centre backgroundchecks.com (2012), <https://www.backgroundchecks.com/learningcenter/crimesandcriminalrecords> (last visited Feb 3, 2019).

a working classification has to make. The researcher here proposes to classify the broad effects of criminal records into four categories i.e. (A) Legal Consequences (B) Social, Physical, Civic and Economical Effects (C) Impact on Communities and Democracy and Miscellaneous Consequences.⁵³⁶

In the previous, the incidental harm of having a previous history for ex-offenders and exonerees was termed to as "hidden imprisonment or invisible punishment" due to its significant implications on those seeking jobs with a conviction. By branding ex-offenders as "criminals," community acts counterproductively to their recovery.

The majority of Indian programmes and efforts to rehabilitating former criminals are unsuccessful. Since these polices do not address the fundamental challenges of financial stability in recovery, they are ineffective. Rehabilitation of formerly incarcerated individuals has been consistently acknowledged as a crucial component in reintegration and recidivism from violence. *Does this former felon have the ability to erase their felony conviction and start over after serving the sentencing period? Can they demand justice when they are outlawed by society itself?* Whether an accused can demand expungement of his criminal records in case of his "honourable acquittal" / "fully exonerated" from a court of law? Keeping this view in mind the present study has been undertaken to identify the need to incorporate the Right to expungement in Indian criminal jurisprudence as it can act as a catalyst in the rehabilitation of ex-offenders.

In India, the notion of the Right of Expunction is not res Integra. Indian legislation simultaneously make provision Disbarment through the eradication of limitation related to guilt and the ban of name exposure in circumstances involving minors. In a multitude of situations, the Indian Judiciary has also demonstrated a preference for not using convictions for employment termination. The Probation of Offenders Act, 1958 and The Juvenile Justice (Care and

⁵³⁶ Chapter 3 of this research is designated for disabilities which arises due to previous criminal convictions

Protection of Children) Act, 2015 contain a number of measures aimed at facilitating the reintegration of violators into community.

But the real question to be asked is whether while we are marching toward the progressive laws for better democratic regime don't we ought to include progressive laws in our criminal legal jurisprudence (Ex. Right to expungement of criminal records) for better realization of justice with respect to offenders perspective. Conviction would suit the wrongdoing, not the offender, in the same vein, consequentialists say that punished of crime helps to exclude a bigger ill and increase the society's total pleasure. One of the pivotal phenomena which come across through these arguments and writing are that what are the different consequences of possessing a felony conviction in Indian jurisprudence. *The present research seeks some of the problems to be focused through this research. Could Right to expungement help in removing the social stigma of a past criminal? What is the effectiveness of the law of probation vis-a- vies Right to expungement? Does the availability of the Right to expungement to Ex-offender and Exonerees facilitates the process of rehabilitation? Can the process of rehabilitation of criminals be catalyzed through the right to expungement?*

5.3- SAMPLING

Sampling performs an important role in the case of empirical research. Sampling depends on the population of the research. In this study, the researcher targeted the population from six groups within the law field. The main focus of all six sets of samples is to seek opinions about the incubation and feasibility of the Right to expungement in Indian jurisprudence.

The population is defined as an assemblage of all elements pertaining to a given characteristic. It refers to the whole that includes all possible observations or measurements of a given characteristic. The population is also called the universe.⁵³⁷ On the contrary, a sample is a limited number of individuals selected

⁵³⁷ C. K. Sharma & M.K. Jain, Research Methodology, 89, 90 (Shree Publication 2004).

to obtain information about the same characteristic of the population from which it is drawn. A sample can be called a subset of the set of elements belonging to the population. The samples are divided into six broad categories of respondents who are related to law.

JUDGES -The first target group belongs to serving judges which includes from judicial magistrate first class to district judges. The judges belong to state of Rajasthan, Gujarat, Delhi and some other states. The researcher here seeks good opinion from judges as they are very well versed with the concept of the Right to expungement.

LAW STUDENTS-In this section of the samples the researcher asked questions only to 4th and 5th-year law students in five-year law integrated courses and 2nd and 3rd-year students in three-year law courses. The same question was also asked LLM students whose branches were criminal law or Criminology. The researcher slightly presumes that criminal law is a subject mainly thought in higher classes and also the good quality of responses can be obtained from this target group only. The question was sent to GNLU GUJARAT, UNIVERSITY LAW COLLEGE RAJASTHAN UNIVERSITY, UPYLC RAJASTHAN UNIVERSITY, AMBEDKAR LAW UNIVERSITY RAJASTHAN, NLUD and some state universities and colleges.

POLICE OFFICERS-The first institution to encounter with ex-offenders and specifically with convicts, accused and criminals are police officers. During this research, the researcher observed first-hand information from police persons. The researcher during his research was associated with some police institutions where police training was provided and due to that, the data, which was gathered here belongs to almost all states of India. The question was sent to CENTRAL DETECTIVE TRAINING INSTITUTION JAIPUR, POLICE TRAINING ACADEMY JAIPUR and different police persons. The respondent was generally belonging to police constables, sub-inspectors and Deputy Superintendents of Police.

NGO -With respect to this category a comprehensive list was downloaded from the internet. A total of 52 NGOs who are actually working on Rehabilitation and Reintegration of offenders were questioned. This category also served a very important role as they closely worked with the subjects.

LAW PROFESSORS- The knowledge of the law could be best served by academicians. This category serves as a deep insight into the literature on the Right to Expungement. The researcher through his questionnaire found some good quality responses. All academicians belong to the law field and most have taught or have basic knowledge of criminal law of criminology. The range varies from Assistant professors to Professors of law. The question was asked to different institutions namely Rajasthan University, GNLU, DELHI UNIVERSITY, Teaching professors at the Police academy and some of the state colleges.

CONVICTS OR ACCUSED- Initially at the starting of the PhD the researcher formulated questions to be asked to exonerees or ex-offenders. It is humble submission at this stage by the researcher that due to COVID situations the researcher could not ask questions the same and that's one of the research works gaps which the researcher humbly admitted.

There are two types of sampling methods; one is probability sampling⁵³⁸ and other is non-probability sampling. For this study, six categories of samples were collected from judges, police officers, NGOs, law students and professors and convicts.

- Judges and advocates - A total number of 105 respondents (category name - A)
- police officers - A total number of 70 respondents (category name - B)
- Law students- A total number of 250 respondents (category name - C)
- NGOs - A total number of 52 respondents (category name - D)

⁵³⁸ Probability sampling involved randomized selection in which all members of population have an equal chance of being selected. Matt Henn, Mark Weinstein & Nick Foard, *A Critical Introduction to Social Research* 154 (Sage Publication 2006) (2d ed. 2009). See also Probability Sampling available at <http://www.socialresearchmethods.net/kb/samprob.php>.

- Law Professors- A total number of 82 respondents (category name – E)
- Convicts- A total number of 121 respondents (category name – F)

Based on this classification, the researcher contacted all the stakeholders within the law and was contacted through initial informants by using snowball sampling. The objective of snowball sampling is to identify the respondents who have particular knowledge and skills. Further, it has an objective to identify and recommend another respondent having a specific range and skills which will be equivalent to research.

A form of non-probability is known as survey method sampling method where the researcher will build up a network of respondents through an initial group of informants. The initial informant introduces the researcher to the other members of a similar group population.⁵³⁹ According to Matt et. al. “snowball sampling is a form of purposive (or judgment) sampling, where the intention is to obtain a pool of respondents that is appropriate for the study, and which is largely determined by the judgment of the researcher.”⁵⁴⁰

Further, Neuman discusses snowball sampling as a method for sampling or selecting cases in a network. Selection by bucket is also based on the network systematic sampling testing or attitudinal sampling. It is a multiple stage strategy that begins with one or a minority of the population and expands based on linkages to the original instances.

For the present research snowball sampling was selected to collect data For this study, six categories of samples were collected from judges, police officers, NGOs, law students and professors and convicts. The researcher approached these stakeholders and asked them to refer their colleagues and friends working in different places. Thus persons in the sample were directly and indirectly tied to

⁵³⁹ W. Lawrence Neuman, *Social Research Methods* 223 (2007).

⁵⁴⁰ Goodman, L.A. (1961). "Snowball sampling". *Annals of Mathematical Statistics*. 32 (1): 148–170. doi:10.1214/atoms/1177705148

each other. The researcher stopped when the target of collection of data was achieved.

5.4- DATA COLLECTION AND RESEARCH QUESTIONS

The questionnaire had been the chief instrument for data collection. However, before administering the questionnaire, the researcher did some research in both urban and rural regions with the targeted audience, such as surveys or surveillance work. This made it difficult for the person to gauge the pattern's mood and how they responded to the surveys. This exercise's main goal was to gather accurate and trustworthy data to facilitate a flawless inquiry and the testing of the assumption. To ensure that this project would acquire the desired and investigated replies, care was given when choosing the queries and parameters for the survey.

The question mainly focused on Knowledge of law, the rehabilitation process, the Right to expungement, employability of ex-offenders, rehabilitative justice, Criminal records and some other issues related to the problem at hand. The researcher prepared the questionnaire with a set the scientist was expected to design of the questionnaire relevant to the subject under investigation, while taking into consideration the goal of this study and the demographic in order to elicit the essential data. The subjects were provided explicit guidance for giving the survey.

The questionnaire contained open-ended questions with provided enough liberty for the respondents to answer according to their interpretation. It also had close-ended questions which were easier and quicker for the respondents to answer as well as for the researcher to interpret. The closed-ended questions were provided with the list of acceptable multiple 4-5 options. The respondent had to choose one option best suited to them. As in the present study, a mixed research methodology (quantitative plus qualitative) research has been adopted, and the following instruments/techniques were used for data collection:

In order to analyze the responses collected through questionnaires, different tools like frequency Analysis, ANOVA and correlation have been used. Frequency analysis is a descriptive statistical method that shows the number of occurrences of each response chosen by the respondents. When using Frequency Analysis, SPSS Statistics can also calculate the mean, median and mode to help users analyze the results and draw a conclusion. Analysis of variance (ANOVA) is a statistical method used to test differences between two or more means. Correlation is a statistical technique that can show whether and how strongly pairs of variables are related. The questions are given below;

1. Which side of the law do you practice? Or which side of the subject do you teach? Or did you study criminal law?
2. Are you aware of the right to expungement of criminal records?
3. Do you think ex-offenders (convicts) suffer in the ways of?

Or

Which kind of offences you are charged/ convicted of?

4. According to your view which theory of justice is supportive in the case of the right to expungement?
5. Do you believe (a person convicted up to 3 years) can be fully rehabilitated?
6. Which factor acts as a hindrance in the rehabilitation of ex-offenders the most?
7. Do you know that there is no provision of rehabilitation made for convicted persons who have been sent to jail up to 5 years?
8. Do you know that the criminal records of juveniles could be expunged under the jj act -2015 based on the principle of privacy and confidentiality?
9. Do you think that the (in case of right to expungement) ex-offenders should be given benefits of the right to privacy (where punishment is not more than 3 years) and not to disclose previous criminal records?
10. Do you think that by not providing the right to expungement is an form of invisible punishment as they already served their real sentence?

11. Do you think that a law should be made on the right to expungement of criminal records for the rehabilitation of ex-offenders?
12. Do you think employability (financial independence) could strongly decrease the chance of committing a crime again?
13. Do you think that there should be record maintenance even for the petty offenders (where punishment is below 3 years)?
14. Rehabilitation of ex-offenders by preparing them to fight for government jobs & examinations.

And

If, not then why

15. Do the ex-offenders want to remove the tag of "criminals" if some act or law passes?
16. Do you think if ex-offenders are given the chance to join govt. Jobs according, to their qualification, they won't commit further crime?

And

17. Do you think if the right to expungement is enacted in India by any law, are they willing to follow the condition of law i.e. not to commit any crime during the cooling-off period of 3 years from the date of jail release?
18. Do you think that ex-offenders are considered to be second-hand citizens?

And

19. Do you think people will call you a criminal even after serving a jail term and don't want to be in your relationship?
20. Do you provide a certificate of good character (conduct) after the release of the convict, if they are eligible?
21. How many applied for the jobs in govt. Sector and selected
22. What was your age at the time of conviction or arrest?
23. Have you ever been employed?
24. Will you have a stable income after jail release

And

If not then why?

25. Are you married?

&

What is the status of your marriage after jail terms?

The present research has been divided into five parts which have their own significance. With each question asked to the respondents a small finding in the form of suggestions has been made which is the outcome of this research. The parts are divided as follows-

- KNOWLEDGE OF TOPIC FROM STAKEHOLDERS
- CRIMINAL AND SOCIAL STIGMA OF HAVING A PAST CRIMINAL RECORDS
- REHABILITATION THROUGH THE RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS
- MISCELLANEOUS
- HYPOTHESIS TESTING

PART -1
KNOWLEDGE OF TOPIC FROM STAKEHOLDERS

The knowledge of the law and the Right to expungement of arrest histories is the central consideration of the whole research. In brief, the expungement denotes *Corpus Juris* and describes Illegal eviction as "a term expressive of cancellation or deletion, implying not a legal act, but a physical annihilation". In its development, the terms were elaborated. "Rub out" "destroy", and "obliterate" are used.⁵⁴¹ Black's Law Dictionary defines Expungement as "the removal of the conviction from a person's criminal record".⁵⁴² Deferred prosecution (expungement) is a type of civil case wherein the applicant (the individual who has been convicted or completed his sentence) requests the government to remove his criminal background from police and court archives. Indian jurisprudence in law holds some of the similar beneficial concepts like the Probation of Offenders Act-1958⁵⁴³, Probation under section 360 CrPC-1974⁵⁴⁴, Expungement of adverse remarks made in parliament⁵⁴⁵, states civil and criminal rules about the destruction of records within the certain limitation period, non-applicability of retrospective effects in repealing or deletion of any law protected under article 20 (1) constitution of India by Ex Post Facto Law⁵⁴⁶, Juvenile Justice Act -2015⁵⁴⁷ etc.

⁵⁴¹ Bernard Kogon, Donald L. Jr. Loughery, Sealing and Expungement of Criminal Records--The Big Lie, 61 J. Crim. L. Criminology & Police Sci. 378 (1970)

⁵⁴² Black's Law Dictionary, Thomson Reuters,P.702 (10TH ed. 2014)

⁵⁴³ Section 4 and 12 of The probation of offenders act- 1958

⁵⁴⁴ "When any person not under twenty- one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, or when any person under twenty- one years of age or any woman is- convicted of an offence not punishable with death or imprisonment for life, and no previous conviction is proved against the offender, if it appears to the Court before which he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties, to appear"

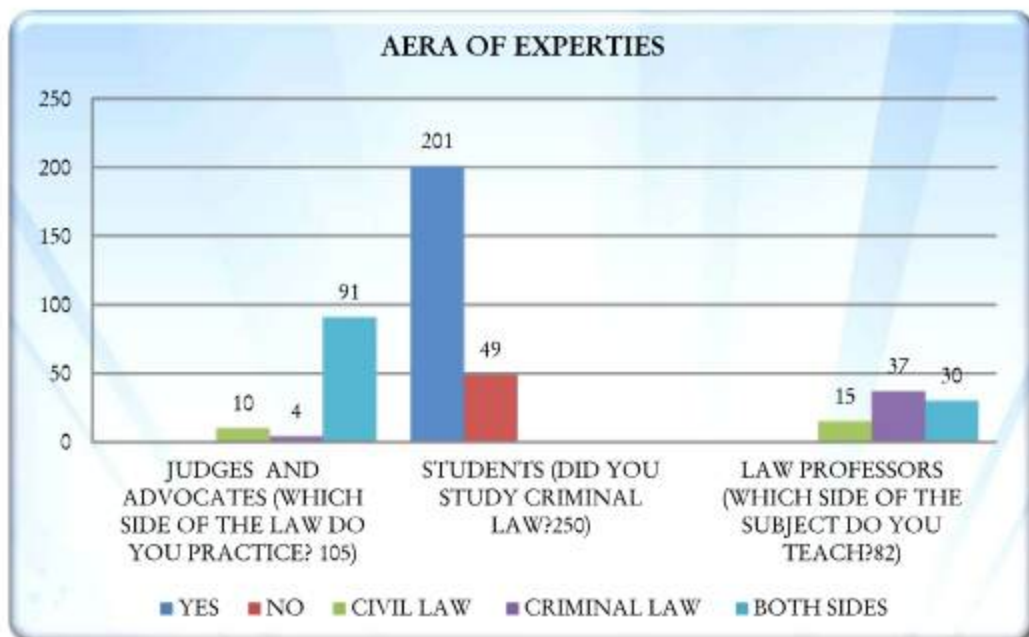
⁵⁴⁵ Daljit Singh Grewal vs State Of Punjab & Ors on 21 August, 2015

⁵⁴⁶ "No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, nor be subjected to a penalty greater than that which might have been inflicted under the law in force at the time of the commission of the offence"

⁵⁴⁷ Section 24,27,29,39,99 of The Justice (Care and Protection of Children Act- (2015)

As mentioned several times that the Right to expungement of criminal records is alien to Indian jurisprudence but the honourable On occasion, the Supreme Court of India in a catena of cases alarm the need for incubation of the same right⁵⁴⁸. The researcher before initiating the questionnaire put forward the basic concept of expungement of criminal records to know from the stakeholders the knowledge of the concept.

QUESTION 1- WHICH SIDE OF THE LAW DO YOU PRACTICE? OR WHICH SIDE OF THE SUBJECT DO YOU TEACH? OR DID YOU STUDY CRIMINAL LAW?



1.1 (THE GRAPH SHOWS STAKEHOLDERS FROM GROUP A, C & E)

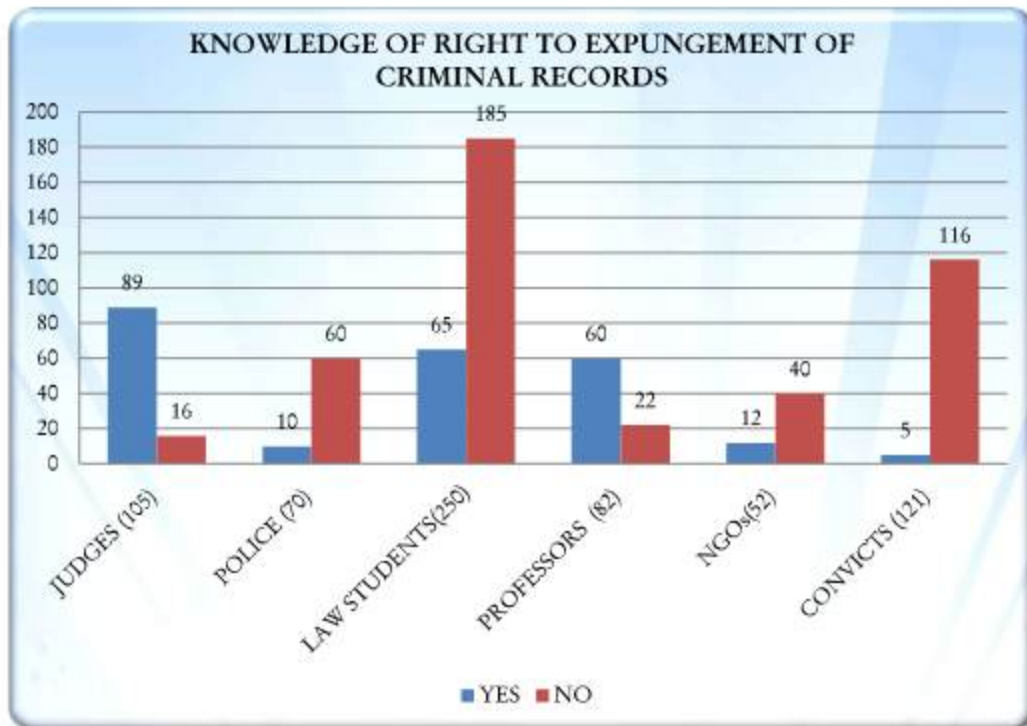
The initial questions were asked by the researcher to different stakeholders of the research. The targeted group belongs to law-related persons who have knowledge of the law. From judges and Advocates, the area of expertise was asked in which out of total 105 respondents 10.5% (10/105) practice civil laws, 3.80% (4/105) practice criminal laws and the rest 86.66% practice both sides of the law.

⁵⁴⁸ RBI v. Bhopal Singh Panchal (1994) 1 SCC 541, Union territory, Chandigarh, administration and others V. Pradeep Kumar and others (2018) SLP(C) No.23855 of 2016, Ms. Nidhi Kaushik vs Union of India & Ors. on 26 May, 2014, Delhi H.C.

The targeted group belongs to law-related persons who have knowledge of the law. From Law professors, out of a total of 82 respondents, 45.12% (37/82) teach criminal laws, and 36.58% (30/82) teach both sides of the laws.

Law students were also asked similar questions who are studying in their 4th and 5th years and also LLM students. The researcher humbly did not expect that the present topic of research is known by students because it's not in the study courses. Some concepts akin to expungement may be known by them like probation, admonition and JJ act -2015. Basic knowledge of criminal law is required as other concepts are also related to this research. Out of the 250, law student respondents in this research 80.4% (201/250) are aware of and studied criminal law and have a basic knowledge of criminal law.

QUESTION 2- ARE YOU AWARE OF THE RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS?



2.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS)

The researcher initiates its second question to know the knowledge of the present topic from all the stakeholders. At the time of dissemination of the questionnaire sending through the emails, a brief introduction was also sent to all stakeholders about the topic. While asking the question, whether do you know the right to expungement of criminal records? The responses could be summarized below.

From judges and advocate groups out of 105 respondents, 84.7 % (89/105) knows about the expungement while 15.6% dissented about the same.

From the police officers group out of 70 respondents, only 14.3% (10/70) know about the Right to expungement of criminal records rest 85.7% (60/70) dissented about the same.

From the Law students who studied criminal law in their courses, out of 250 respondents, only 26% (65/250) knows about the Right to expungement of criminal records rest 74% (185/250) dissented about the same.

From the NGOs group who actually works in the reintegration and rehabilitation of offenders, out of 52 respondents, only 23.07% (12/52) know about the Right to expungement of criminal records rest 77% (40/52) dissented about the same.

From the Law professors group who teach either civil or criminal law, out of 82 respondents, 73.17% (60/82) know about the Right to expungement of criminal records rest 26.83% (22/82) dissented about the same.

From the convict's group who are serving their jail term currently, out of 121 respondents, only 7.43% (9/121) know about the Right to expungement of criminal records rest of 92.57% (112/121) dissented about the same.

FINDINGS-

The topic of research i.e. Right to expungement of criminal records is alien to Indian criminal jurisprudence and the researcher humbly doesn't expect all the stakeholders to know about the same. In this regard, the judges, advocates and law

professors who are constantly in a touch with the law have good knowledge of the present topic as results show 84.7 and 73.17 per cent.

Law students and convicts group respondents have very low knowledge about the topic as presumably it is either not taught or not available in the courses. The convicts in the jails are least aware of this as it is very obvious.

From the police officers' stakeholders, out of 70 respondents, only 14.3% (10/70) know about the Right to expungement of criminal records rest of 85.7% (60/70) dissented about the same.⁵⁴⁹

NGOs who are actively working in the area of rehabilitation and re-integration of the convicts barely know about this concept of expungement.⁵⁵⁰

⁵⁴⁹ The researcher while visiting police officers training academies came to know that neither this concept is present in the law nor it has been taught in the academy.

⁵⁵⁰ The researcher through telephonic conversation with different NGOs who are actively working in the area of rehabilitation of past criminals came to know that most of the NGOs do not know about the expungement as they focuses mostly rehabilitation through developing soft and hard skills of the ex-convicts. It was also suggested that the criminal stigma is one of the pivotal reason which acts as a hindrance in rehabilitation.

PART -2
CRIMINAL AND SOCIAL STIGMA OF HAVING A PAST
CRIMINAL RECORDS

The toughest part of prison is the stigmatization and identification of offenders upon their parole is a feature of the correctional system. This stigmatization of minority takes reconciliation and restoration into community extremely challenging, particularly in the labour force.

This has a severe effect on the sustainability of households because the majority of prisoners are male. Stigmatization is among the most prevalent challenges ex-offenders (face today. Another of the main reasons people might contribute to the betterment mostly because of the labels that have been assigned to them. In all other words, the ex-convicts' unwillingness to make a positive difference is hindered by the negative perception others have of them as well the belief that they would not help the less fortunate positively.

These situations are likely to lead in social marginalization. The process of release from jail will not be simple for ex-offenders. By just holding the title "ex-offender," they will be excluded from society.⁵⁵¹ In our culture, it is common to consider an ex-offender as violent or dangerous upon first meeting. However, individuals should consider the core of incarceration. It is believed that a detention center rehabilitates offenders to participate actively and be a contributing member of society upon completion of their terms.⁵⁵² With this knowledge, individuals may alter their perspective and behavior toward a former offender. Since their parole, a large number of ex-convicts claim to have been continuously excluded.

⁵⁵¹ Christy Visher and Jeremy Travis, "The Characteristics of Prisoners Returning Home and Effective Re-entry Programs and Policies", in the Oxford Handbook of Sentencing and Corrections Oxford University Press, 2011.

⁵⁵² Lynch, J. P., & Sabol, W. (2001). Prisoner re-entry in perspective. Washington, DC: The Urban Institute.

There seem to be obstacles, from reuniting with their families to finding employment. In furthermore, the lengthier the term, the greater the likelihood that an ex-convict will not be recognized and will not be accepted in the community toward which they formerly belonged. In plenty of other words, they deteriorate and become ineffective.⁵⁵³

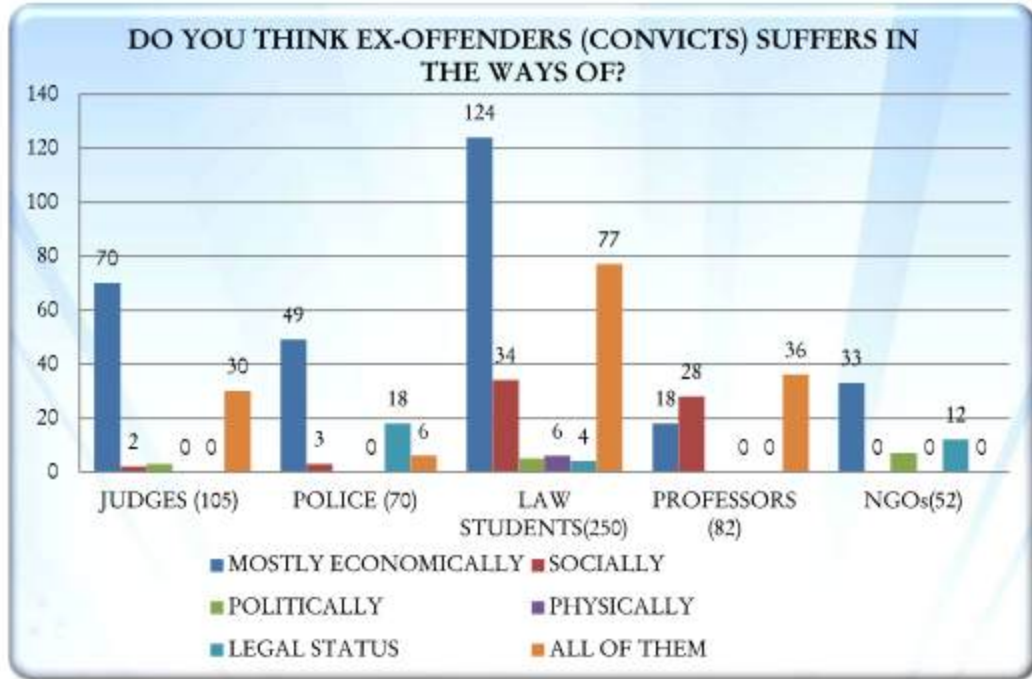
Reoffending (Recidivism) would be another heated topic among ex-offenders. Due to the excessive restrictions and shortage of acceptability of an ex-experience offender's in community, the likelihood that they would break laws again increases great. They are subjected to inequitable treatment in the domains of study and training, and they may even experience estrangement from their own families and harsh judgments from the general populace. Ex-convicts are frustrated and find life tough regarding social rejection. In economic profit implications, felony prosecutions have had far social impacts. Interpersonal connections, parental situations, and human activities are the contexts in which these effects are perceived most strongly. In recent years, the availability of internet arrest histories to the common person has substantially increased the societal consequences of felony offenses.

⁵⁵³ Pager & manza, Social Acceptance of Ex-Convicts and Finding Meaning in Their Life Essay - 8976 Words study mode (2012), <https://www.studymode.com/essays/Social-Acceptance-Of-Ex-Convicts-And-Finding-1134514.html> (last visited Mar 20, 2019).

QUESTION 3- DO YOU THINK EX-OFFENDERS (CONVICTS) SUFFERS IN THE WAYS OF?

OR

WHAT KIND OF OFFENCES YOU ARE CHARGED/ CONVICTED OF?



3.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	MOSTLY ECONOMICALLY	294	43.2	52.6	52.6
	SOCIALLY	60	8.8	10.7	63.3
	POLITICALLY	15	2.2	2.7	66.0
	PHYSICALLY	6	.9	1.1	67.1
	LEGAL STATUS	39	5.7	7.0	74.1
	ALL THE ABOVE	145	21.3	25.9	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

3.2 (THE TABLE SHOWS CUMULATIVE STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

This question was asked to know under what circumstances and for what reasons most people commit crimes generally. The disabilities attached to criminal records are numerous in number and magnitude which was portrayed in this research. A large number of government and state limitations pertaining to governmental, financial, cultural, and agricultural operations are enforced on those who are being accused of a felony, or in certain circumstances, just detained or accused. The researcher tries to focus on every civil and criminal disability which is attached to having a criminal record. Some of the disabilities are the same as Indian jurisprudence but some are different. To understand the effect of criminal records a working classification has to make. The researcher here proposes to classify the broad effects of criminal records into four categories i.e. (A) Legal Consequences (B) Social, Physical, Civic and Economical Effects (C) Impact on Communities and Democracy and Miscellaneous Consequences.⁵⁵⁴

The responses to the questionnaire suggest that it is the economic reasons which cumulatively cause a person to commit a crime. It could be changing in benefits, restricted access to credit (payday loans), jobless or precarious work, and bad workforce market circumstances or financial constraints. The responses suggest that 52.6 % (294/559) committed crimes due to economic reasons.

Another factor which causes crime under the study was found to be social factors such Regarding discrimination, not consolidating resources, lack of assistance for family environments, actual or potential lack of availability to resources, and lack of direction in neighborhoods, poor regard for youngsters and personal fellow human, and oversensitivity to programming as a form of pleasure. The variable count in the research was 10.7% (60/559). Political, physical and legal-related factors count for 2.7 % (15/559), 1.1% (6/559) and 7% (39/559) respectively. All these factors combined together count for 26% (145/559).

⁵⁵⁴ Chapter – 2 Eternal Criminal Records And There Cosquequences

The question was asked to the convicted persons who were in the jails. The researcher personally went for this quest. Out of all 121 convicts who are stakeholders in this research responded that it is the economic reasons or most crimes were related to the capital. Out of total 121 respondents, 79.6% (96/121) says they have committed the crime due to money problem.

WHAT KIND OF OFFENCE YOU ARE CHARGED/ CONVICTED					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	ECONOMIC OFFENCE	96	76.8	79.3	79.3
	OFFENCE AGAINST PUBLIC	4	3.2	3.3	82.6
	OFFENCE AGAINST STATE	3	2.4	2.5	85.1
	OFFENCE AGAINST WOMEN'S BODY	8	6.4	6.6	91.7
	CRIMINAL CONSPIRACY	10	8.0	8.3	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

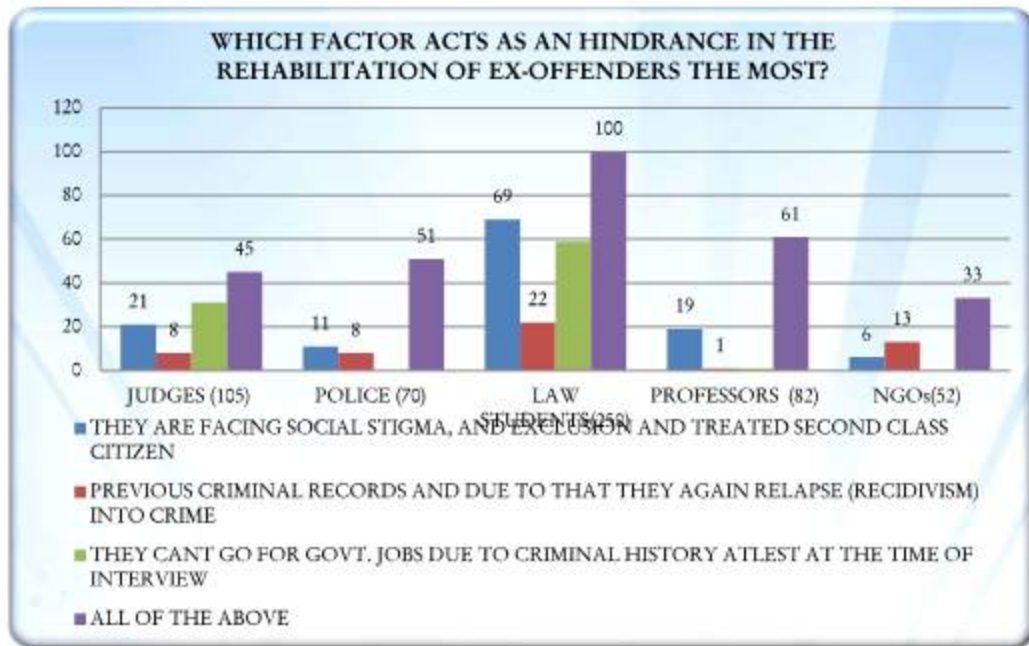
3.3 (THE TABLE SHOWS STAKEHOLDERS FROM CONVICTS GROUP)

FINDINGS-

In criminology, there is a popular belief that a crime is generally committed due to economic reasons in a country like India According to the NCRB's Violence in India - 2020 study, there were 1.45 million financial crimes in Indian in 2020. This represents approximately 3.4% of all IPC-reportable offences for the year. The range of financial crimes has decreased since 2019, whenever it reached 1.65 million.⁵⁵⁵ As is the situation with the majority of other severe offences, there seems to be an uptick in the population of outstanding legal and judicial cases. The 2020 COVID-19 epidemic aggravated the once precarious position in courts dealing with a huge backlog of cases.

⁵⁵⁵ "There are various development indicators that have an effect on crime, most researched being poverty, income inequality, and unemployment. It is well documented that poverty stricken regions are more likely to have higher crime rates. This relation is widely supported in empirical studies conducted in developing as well as developed countries" (Iyer and Topalova, 2014; Boukhatem, 2016; Scorzafave and Soares, 2009, Kelly, 2000; Fajnzylber, Lederman and Loayza, 2002; Lin, 2007; Krohn, 1976)

QUESTION 4- WHICH FACTOR ACTS AS A HINDRANCE IN THE REHABILITATION OF EX-OFFENDERS THE MOST?



4.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	THEY ARE FACING SOCIAL STIGMA, AND EXCLUSION AND TREATED SECOND CLASS CITIZEN	126	18.5	22.5	22.5
	PREVIOUS CRIMINAL RECORDS AND DUE TO THAT THEY AGAIN RELAPSE (RECIDIVISM) INTO CRIME	52	7.6	9.3	31.8
	THEY CANT GO FOR GOVT. JOBS DUE TO CRIMINAL HISTORY ATLEST AT THE TIME OF INTERVIEW	91	13.4	16.3	48.1
	ALL OF THE ABOVE	290	42.6	51.9	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

4.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was related that what could be the socio-economic reasons behind the failure of the rehabilitation process after serving the jail terms. These innocent or rehabilitated persons remain among the condemned of our society. Wherever they go and whatever they do, they are held, both formally and informally, too repetitious and humiliating accountings for their "criminal records".

Although the law does not permit double jeopardy for a single crime, it ironically fosters multiple social jeopardies by allowing a permanent criminal record. Persons with an undeserved or irrelevant record are forgotten in our society and are being bypassed by every liberal and progressive movement in the realm of criminal law.

This factor of social exclusion, un-expectance, stigmatization by society, labelling of a criminal and recidivism due to no going forward-path may be the prime cause of crime as well as the failure of the rehabilitative regimes. This factor cumulatively counts for 22.5% (126/559) in total.

Reoffending (recidivism) is the continuation of illegal activity following punishment or treatment for a prior offence.⁵⁵⁶ Incarceration is assessed by illicit enterprises that culminated in re-arrests, reconvictions, or face jail time, even without a fresh term, within three years after an inmate's discharge. Having a criminal record acts as a strong deterrence in rehabilitation but Recidivism and employment have a strong correlating factor between them because when an offender managed to get into a labour market it ultimately decreased the risk factor of recidivism. The criminal records make the process of rehabilitation very difficult i.e. either he relapses into crime as he may find no alternative to survival or the govt. officials hesitate very much to incubate past criminals into govt. office. A total of 9.3% (52/559) say that recidivism is one of the main causes of crime. The phenomena of recidivism could be triggered by numerous factors like family, non-availability of resources and other social reasons.

⁵⁵⁶ National Institute of Justice, 2010.

In the same line of thought, it is very pertinent that a person if released from jail who is educated and searching for government jobs it is almost impossible for him to get into. Any engagement with the criminal justice system, even a solitary conviction, can have lasting effects on a person's financial future.⁵⁵⁷ An arrest conviction imposes legal and unofficial obstacles that constrain or inhibit cultural and academic prospects, ban some types of economic support, and substantially diminish take home pay.⁵⁵⁸ A total of 16.3% (91/559) respondents consented that previous criminal records make a person virtual impotent to incubate himself in the jobs sector.

FINDINGS-

The factors associated with weakening the rehabilitation process are numerous in nature but major factors could be counted. During this research, the researcher found and proposes to classify the broad effects into four categories i.e. (A) Legal Consequences (B) Social, Physical, Civic and Economical Effects (C) Impact on Communities and Democracy and Miscellaneous Consequences of criminal records.

It was found that among these factors the social reasons seem to be strongest. The social exclusion, stigmatization by society, labelling of a criminal, recidivism, Non-incubation of these persons into jobs, and prima-facie disqualification due to criminal records are the very strong factors. A total of 52% (229/559) respondents say that all the factors cumulatively make the rehabilitation process very rigid and exclusionary.

⁵⁵⁷ Christopher Uggen, Mike Vuolo, Sarah Lageson, Ebony Ruhland & Hilary K. Whitham, *The Edge of Stigma: An Experimental Audit of the Effects of Low-Level Criminal Records on Employment*, 52 *CRIMINOLOGY* 627, 628 (2014).

⁵⁵⁸ Wakefield & Christopher Uggen, *Incarceration and Stratification*, 36 *ANN. REV. Soc.* 387, 393-96 (2010);

QUESTION-5 DO THE EX-OFFENDERS WANT TO REMOVE THE TAG OF "CRIMINALS" IF SOME ACT OR LAW PASSES?

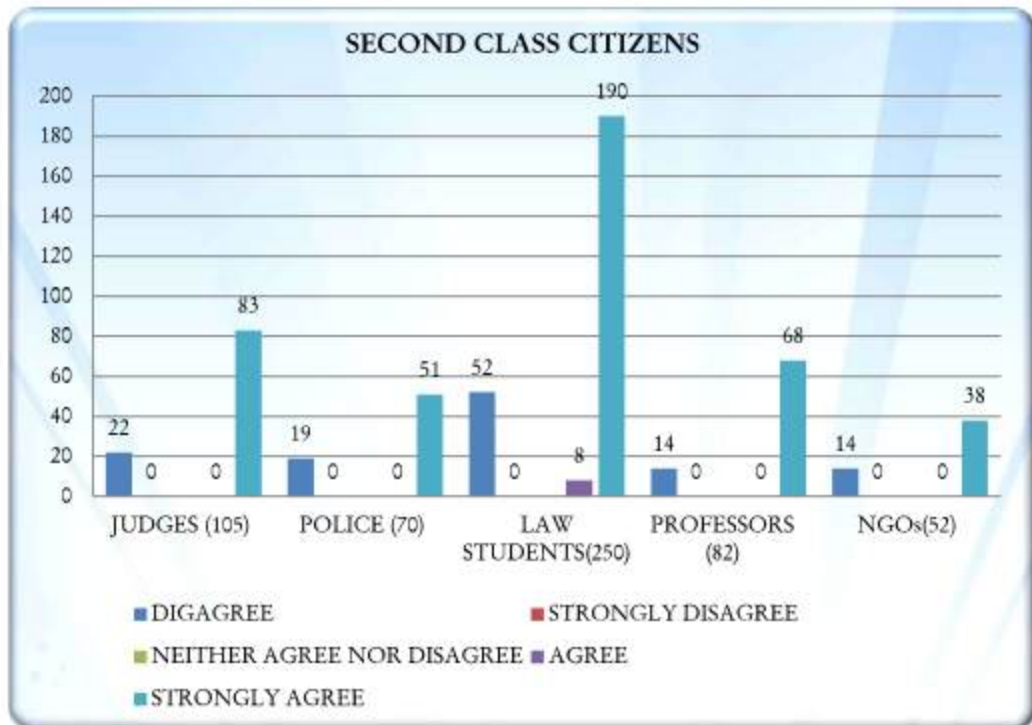
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	STRONGLY DISAGREE	8	1.2	2.3	2.3
	DISAGREE	15	2.2	4.3	6.6
	NEUTRAL	3	.4	.9	7.5
	AGREE	111	16.3	31.9	39.4
	STRONGLY AGREE	211	31.0	60.6	100.0
	Total	348	51.2	100.0	
Missing	System	332	48.8		
Total		680	100.0		

5.1 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT PROFESSORS AND STUDENTS)

The path to removing a tag of a criminal is not as easy as we think. Sometimes it remains throughout life, especially in some conservative societies like ours. The criminal records stay in the care of the monarch and state as a useful document. The Indian law does not provide a mechanism which could wipe off completely criminal records. It only provides the non-disability arising out of any conviction. Those who deserve a second chance and want to be fully rehabilitated in a true sense must have the mechanism of removing criminal tags through the right to the elimination of felony convictions.

The question was asked to know the perspective of all stakeholders. The same question was formulated on five points Likert scale. A Likert scale is a rating scale often used in series of questions investigation. It will be the most common method of problems and providing in research design, and the phrase is frequently used alternatively with rating scale, despite the fact that there's other sorts of assessment scale. Out of the 348 respondents, 31.9% (111/348) and 60.6% (211/338) point agree and strongly agree to remove criminal tags.

QUESTION 6 - DO YOU THINK THAT EX-OFFENDERS ARE CONSIDERED TO BE SECOND-CLASS CITIZENS?



6.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

DO YOU THINK THAT EX-OFFENDERS ARE CONSIDERED TO BE SECOND-CLASS CITIZENS?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	STRONGLY AGREE	438	64.4	78.4	78.4
	DISAGREE	121	17.8	21.6	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

6.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was asked to know the perspective of all stakeholders. The same question was formulated on five points Likert scale. A Likert scale is a rating scale often used in series of questions investigation. It will be the most common method of problems and providing in research design, and the phrase is frequently used alternatively with rating scale, despite the fact that there's other sorts of assessment scale.

Out of the 559 respondents, 78% (438/559) strongly support that after even serving in jails and coming into the society they are treated as second class citizens and huge discrimination is bound to happen. While only 21.6% (121/559) don't think that they are treated categorical citizenship classification. A client of second-class citizenship is an individual who is systemically and intentionally prejudiced towards inside a country or other government power, notwithstanding their notional position as a member or lawful residence abroad. Although second-class individuals are not always slaves, felons, illegal immigrants, or criminals, they have considerably limited constitutional protections, human liberties, and political and social possibilities, and are frequently mistreated and exploited by their supposed higher. Widespread opinion holds that governments with unofficial second-class citizens harm people.⁵⁹⁹

QUESTION 7 -

DO YOU THINK PEOPLE WILL CALL YOU A CRIMINAL EVEN AFTER SERVING A JAIL TERM AND DON'T WANT TO BE IN YOUR RELATIONSHIP?

DO YOU THINK PEOPLE WILL CALL YOU A CRIMINAL EVEN AFTER SERVING A JAIL TERM AND DON'T WANT TO BE IN YOUR RELATIONSHIP?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	102	81.6	84.3	84.3
	NO	19	15.2	15.7	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

7.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICTS GROUPS ONLY)

⁵⁹⁹ "The definition of second-class citizen" Dictionary.com. Retrieved 2017-05-12.

This question is an extension of previous question. Both are related as the stigma which a person carry virtually restricted to cause numerous disabilities. It could be designated as discriminatory treatment in the form of second class citizens. Out of all 121 convicts respondents, 85% consented that societal acceptance will be a very crucial factor after release from jail.

QUESTION 8- WILL YOU HAVE STABLE INCOME AFTER JAIL RELEASE? AND IF NO THEN WHY?

WILL YOU HAVE STABLE INCOME AFTER JAIL RELEASE					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	NO	100	80.0	82.6	82.6
	YES	21	16.8	17.4	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

8.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICTS GROUPS ONLY)

IF NO THEN WHY?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	PEOPLE TREAT ME AS A CRIMINAL AND DO NOT OFFER JOB DUE TO MY PREVIOUS CONVICTION	52	41.6	43.0	43.0
	I AM CONSIDERED LESS TRUSTWORTHY	39	31.2	32.2	75.2
	LESS EDUCATION QUALIFICATION	17	13.6	14.0	89.3
	FAMILY BUSINESS INCOME ONLY WHICH IS VERY LESS	13	10.4	10.7	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

8.2 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICTS GROUPS ONLY)

This part of the questionnaire was asked to convict and accused groups. It contains 121 respondents from different parts of the State of Rajasthan. This question was asked to know the suitability of the Right to Expungement and the possible future status of employability after jail release. Here the employability of offenders means and includes any work through which he will earn livelihood based on a regular income. Out of the 121 majority of respondents, 82.6 % (121/72) said that they will not have employment due to various reasons.

Employment & recidivism have a strong correlating factor between them because when an offender managed to get into a labour market which ultimately decreased the risk factor of recidivism. One of the major reasons pointed out by convicts about employability is that people (employer) will still consider him as a criminal and the previous criminal charges is a huge impediment. Out of the 121 majorities of respondents, 43 % (121/52) supported the same.

The concept of trustworthiness and suitability for a job is a major factor to be taken into consideration. A criminal record makes a candidate's credentials less trustworthy. Out of the 121 majorities of respondents i.e., 32.2 % (121/39) supported the same.

The convicts who are having fewer educational qualifications and minimum means of income will also suffer drastically. Generally, they come from poor backgrounds and that is one of the reasons labour markets after release from jail do not welcome such offenders. Out of the 121 respondents i.e., 24.7 % (121/30) supported the same.

QUESTION 9- ARE YOU MARRIED? &WHAT IS THE STATUS OF YOUR MARRIAGE AFTER JAIL TERMS?

ARE YOU MARRIED?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	82	65.6	67.8	67.8
	NO	39	31.2	32.2	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

9.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICTS GROUPS ONLY)

WHAT IS THE STATUS OF YOUR MARRIAGE AFTER JAIL TERMS?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	EXTREMELY BAD	9	7.2	7.4	7.4
	BAD	92	73.6	76.0	83.5
	NEUTRAL	20	16.0	16.5	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

9.2 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICTS GROUPS ONLY)

This part of the questionnaire was asked to convict and accused group. It contains 121 respondents from different part of State of Rajasthan. Out of 121 respondents, 67.8% were married. This question was asked to know about the relation between arraignment of criminal charges and conviction vis-à-vis the status of marriage. One of the pivotal social implications of felony charges on convicts comes in the form of disruption of marriages. The incarceration effects of convicts lead to discontinuation of the conjugal rights irrespective of the gravity of the offences.

The verity of research a client of second-class citizenship is an individual who is systemically and intentionally prejudiced towards inside a country or other

government power, notwithstanding their notional position as a member or lawful residence abroad. Although second-class individuals are not always slaves, felons, illegal immigrants, or criminals, they have considerably limited constitutional protections, human liberties, and political and social possibilities, and are frequently mistreated and exploited by their supposed higher. Widespread opinion holds that governments with unofficial second-class citizens harm people.⁵⁶⁰

The institution of marriage could be saved or chances of recidivism could be reduced significantly through the relation of marriage. The institution of marriage proves to be having inhibition effects on subsequent criminality.

FINDINGS-

What the researcher humbly suggests is that prima facie the relation of marriage in petty offences could be saved by the “law of probation” which is an institution of rehabilitation. Subsequently, if the right to expungement could be given to these eligible convicts it will provide better opportunities for rehabilitation.

Here the law of probation and right to expungement could provide “extended rehabilitation” which a beneficial law supposes to do. The data suggest that even the convicted persons of petty offences do fail in the relation to marriage due to their conviction. Out of the 121 convicts, 67.8% were married and out of these respondents, 92.5% think that their marriage is drastically affected.

⁵⁶⁰ Andersen, Signe & Andersen, Lars & Skov, Peer. (2015). Effect of Marriage and Spousal Criminality on Recidivism. *Journal of Marriage and Family*. 77. 10.1111/jomf.12176.

PART - 3

REHABILITATION THROUGH THE RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS

Rehabilitative justice is a State, regional, and worldwide socialist revolution that strives to empower communities engaged in terms of bringing communities together to confront the damage created by criminality.⁵⁶¹ This important societal change has developed with expanding social issues, rising imprisonment rates, and overwhelming evidence that prison sentence approaches are ineffective.⁵⁶²

Aggression, societal degradation, and afraid reactions are viewed as signals of marital conflict by rehabilitation. It proposes an alternative approach, such as the employment of rehabilitative remedies to restore the damage caused, crime, and victimization. In a short period of time, forgiveness has evolved from a nascent philosophy into a force that influences how we comprehend and react to violence and dispute in varied societies all through the globe.⁵⁶³ Rehabilitation is also receiving the greater interest of researchers worldwide.⁵⁶⁴ It has created a fast increasing library of research abroad that examine the processes and outcomes of restorative justice policies and practices.⁵⁶⁵

However, Rehabilitative is a decentralized paradigm. Integrating interpersonal justice, participatory or collaborative fairness, and transformative or reform fairness, rehabilitation has evolved into an all-encompassing notion with that for anyone.⁵⁶⁶ Rehabilitative permits criminals to embrace meaningful personal responsibility and accountability which resulted in lesser victimization of victims.

⁵⁶¹ Pete Wallis and Barbara Tudor (2008), *The Pocket Guide To Restorative Justice*, London: Jessica Kingsley Publishers, p8

⁵⁶² James Dignan (2004), *Understanding Victims and Restorative Justice*, London: Open University Press, p-38.

⁵⁶³ Pete Wallis and Barbara Tudor (2008), *The Pocket Guide To Restorative Justice*, London: Jessica Kingsley Publishers, p8

⁵⁶⁴ Pete Wallis and Barbara Tudor (2008), *The Pocket Guide To Restorative Justice*, London: Jessica Kingsley Publishers, p8

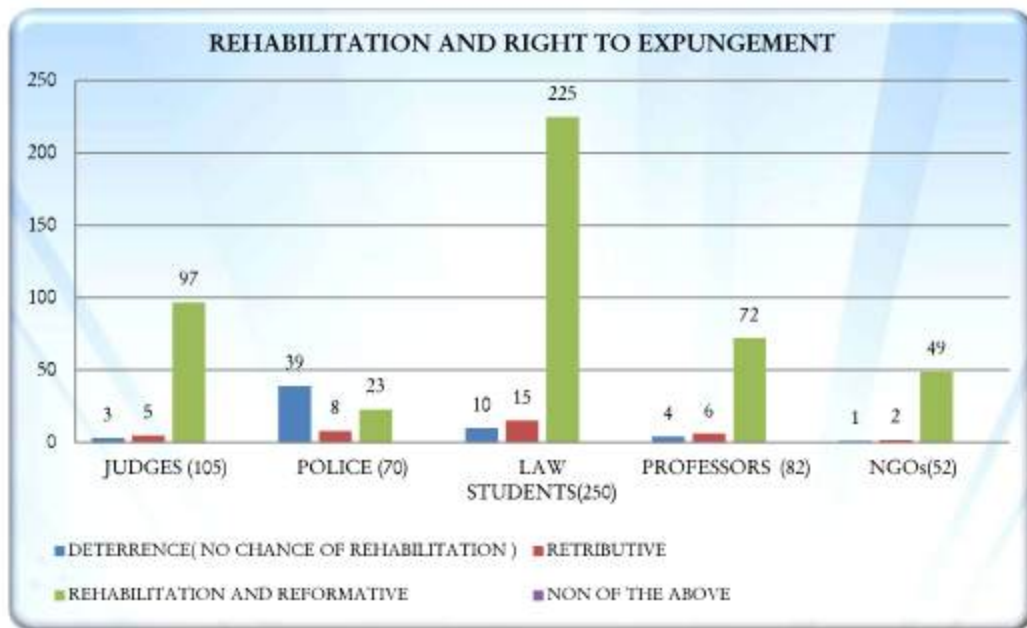
⁵⁶⁵ Loren Walker and Katherine Van Wormer (2012), *Restorative Justice Today: Practical Applications*, (edition 1st), London: Sage Publications, p-7.

⁵⁶⁶ Daly, Kathleen and Russ Immarigeon, (1998), "The Past, Present and Future of Restorative Justice: Some Critical Reflections" *Contemporary Justice Review*, Vol.1 (1): pp. 21-45.

A focus on harm also implies an emphasis on offender accountability and obligation - in actual rather than conceptual ways. Too frequently, we have viewed responsibility as a method of torture — suffering inflicted to criminals in proportion to the harm they have committed.⁵⁶⁷

Restorative Justice focuses on “crime” as essentially about harm, accountability means being encouraged to understand that harm, to begin to comprehend the consequences of one's behaviour. Moreover, it means taking responsibility to make things right insofar as possible, both concretely and symbolically. As our fore-parents knew well, wrong creates obligations; taking responsibility for those obligations is the beginning of genuine accountability. This part of the research tries to gain an understanding and the relationship if any, between rehabilitative justice and the Right to expungement of criminal records. The researcher further substantiates its research through the questionnaire prepared.

QUESTION 10 - ACCORDING TO YOUR VIEW WHICH THEORY OF JUSTICE IS SUPPORTIVE IN THE CASE OF THE RIGHT TO EXPUNGEMENT?



10.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

⁵⁶⁷ Mueller, G.O.W. (1965) "Compensation for Victims of Crime: Thought before Action" Minnesota Law Review, USA: Vol.50, p.221.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	DETERRENCE(NO CHANCE OF REHABILITATION)	57	8.4	10.2	10.2
	RETRIBUTIVE	36	5.3	6.4	16.6
	REHABILITATION AND REFORMATIVE	466	68.5	83.4	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

10.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was related to the most suitable theory which could be applicable on the right to expungement in the process of rehabilitation. The applicability of any punishment or justice theory are in debatable in nature. The researcher intends to find out the causal relationship between the process of rehabilitation of convicts or released offenders and the concept of the right to expungement of criminal records.

Out of the 559 respondents, 10.2% (57/559) advocated that deterrence effects are best suited to these types of criminals. The possibility of rehabilitation for these offenders is zero and that is why they must be incarcerated. It is noteworthy here that most of the respondents who supported the deterrence theory of justice belong to Police officers. While visiting the police academy and other police institutions and through telephonic interviews, the researcher got to know that there is an inherent strict attitude developed by police officers against criminals and the responses are the result of the same.⁵⁶⁸ The stake of the supporters of the retributive theory of justice was only 6% (36/559) and it could be presumed that the concept has becoming obsolete in the current environment of civilization.

⁵⁶⁸ The view of researcher is based on the data collected and through different interviews. Other persons or researches are also available which might be contradictory to present research.

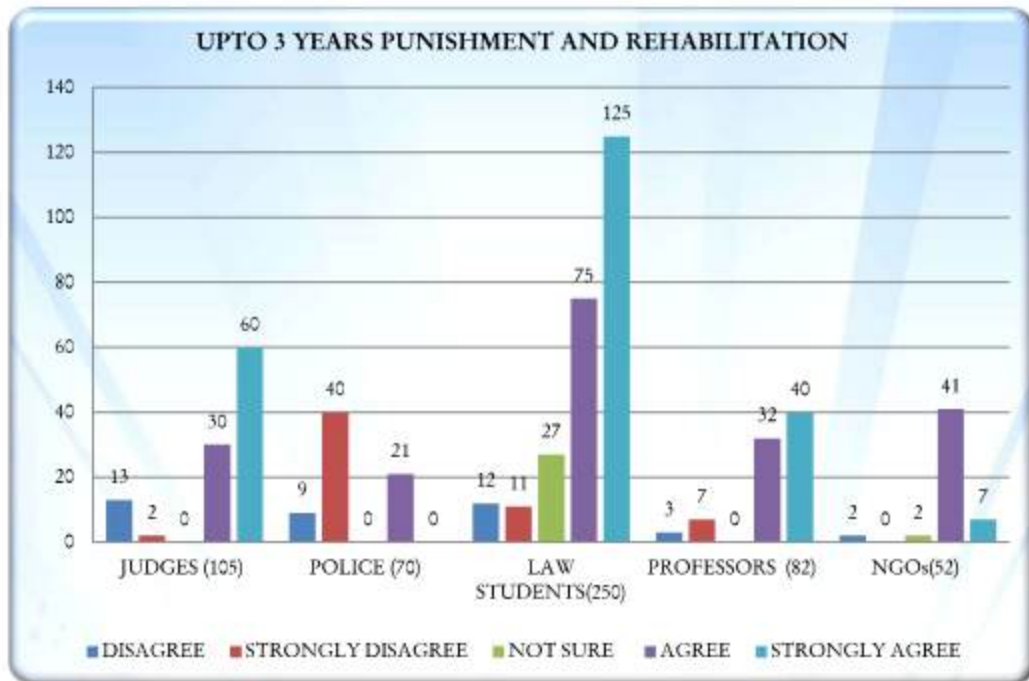
FINDINGS-

The process of rehabilitation is very complex and not ascertained in nature. A prison or rehabilitative institution cannot guarantee that an offender released from jail will rehabilitate. In the case of hard-core criminals or jailbirds, the concept of rehabilitation is futile. Nevertheless, rehabilitation of criminals is surely possible in the cases of petty or first-time offenders.

The researcher here wants to signify significance of the right to expungement relating to felony convictions in the current context. A welfare nation needs to adopt a sentencing policy which focuses on social utilitarianism and which embraces a rehabilitation approach. Thus the sentencing policy in a welfare state must embed the methods through which individuals cease committing offences and are "allowed to settle," "assimilated," "renovated," and "renewed."

The right to expungement provides reinstatement of different rights namely socio-economic and political rights. It also helps in eradicating social exclusion, stigma and other barriers in society. The removal of criminal records may also improve the incubation of ex-criminals and offenders in private as well as govt. sector which is the core issue of the present research. In cases of petty offences, a second chance must be given to these categories of persons. Rehabilitation of offenders could be done through expungement and it's the best-suited theory which was supported by respondents as well i.e. out of a total of 559 a majority of 83.5% supported the same.

QUESTION 11- DO YOU BELIVE (A PERSON CONVICTED UPTO 3 YEARS) CAN BE FULLY REHABILITATED?



11.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS

DO YOU BELIVE (A PERSON CONVICTED FOR UP TO 3 YEARS) CAN BE FULLY REHABILITATED?					
		Frequency	Per cent	Valid Percent	Cumulative Percent
Valid	DISAGREE	39	5.7	7.0	7.0
	STRONGLY DISAGREE	60	8.8	10.7	17.7
	NOT SURE	29	4.3	5.2	22.9
	AGREE	199	29.3	35.6	58.5
	STRONGLY AGREE	232	34.1	41.5	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

11.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was asked to know the perspective of all stakeholders whether a person who is convicted and sent to jail for up to 3 years, could it be possible that they can be rehabilitated through some rehabilitative mechanism. The same question was formulated on five points Likert scale. A Multiple Likert scale often used in questionnaire-based assessment. It would be the most common method for issues associated in research study, and the phrase is frequently employed alternately with grading system, despite the fact that there are many other forms of measurement tools.

Out of the 559 respondents, which includes all the stakeholders except the convict group responses that 7 % and 10.7% hold the opinion of disagreeing and strongly disagree that even petty offenders cannot be fully rehabilitated. Again the researcher humbly submits that most of the disagreeing respondents belong to the police officer group.⁵⁶⁹

Most of the respondents in this research point toward that a person who has been convicted for up to 3 years or accused of a petty offence could be rehabilitated. Out of the 559 total respondents, 35.6% and 41.5 % (199 and 232 respectively) agree or strongly agree and are in the favor of rehabilitation. A total of 77.1 % of respondents support the same.

The person requesting erasure of his felony convictions must not have been convicted of those egregious crimes that severely harm the general welfare. In all correctional institutions, offenses are generally divided into two types depending on their seriousness: felonies and misdemeanours (Minor offences). Felony charges are considered "lower" crimes and are sometimes known as Basic charges. Criminal convictions are crimes that include a greater degree of guilt. Consideration must be given to the gravity and nature of the offence.

⁵⁶⁹ The reason for disagreement of police officers is unknown by researcher. One presumption which could be made by researcher here is that during police training or any other training the attitude toward criminals in India turn somewhat proactive against criminals. One point the researcher get to know while visiting police academies that the soft attitude toward criminals won't work and strict attitude is required toward criminals.

The data to be erased and the extensiveness of expunction largely determined correspondingly, implying that the Entitlement of Exoneration is extremely easy to work out in the case of misdemeanours than those in the particular instance of felony charges, due to the fact that some felony convictions involve gross misconduct, which symbolizes the moral bankruptcy or reasonable suspicion of the offender. Death, misdemeanors, and burglaries of the first category whereby the decedent was less than 18 years of age are often ineligible for clearance. Violent firearm accusations, assault, attempted rape, corrupt practices of a juvenile, psychological interference, immorality or pornographic engaging a minimal, and abuse and exploitation of a slight.

FINDINGS-

Generally, if we see it from a law point of view a person is sent for up to 3 years of punishment the offence might be non-cognizable or bailable or it might come into the category of petty offence which is liable for summary trial as well.

The remedy for the same offence may be admitting him in the law of probation or admonition or other beneficial laws in which he is set free with or without security from the law of courts because of the fact and circumstances of the case so warrant.

The researcher most humbly wants to submit a proposition in the line with the present research. Indian jurisprudence does not include expungement rights and is largely based on probation in this matter. Sec- 12 of Probation of offenders Act – 1958⁵⁷⁰ provides disqualification attached to any conviction. The effect of the same

⁵⁷⁰ “The words attaching to a conviction of an offence under such law refer to two contingencies: (i) that there must be a disqualification resulting from a conviction; and (ii) that such disqualification must be provided by some law other than the Probation of Offenders Act. For instance, if a law provides for disqualification of a person for being appointed in any office or for seeking election to any authority or body in view of his conviction, that qualification by virtue of Section 12 stands removed. The meaning of the word ‘qualification’ is the possession of some merit or quality which makes the possessors eligible to apply for or to get some benefit and the word ‘disqualification’ has the opposite meaning and it means a disability on the person to whom the disqualification is attached in applying for or getting such benefit. Section 12 of the Probation of Offenders Act would apply only in respect of a

section is different in letters, it might sound good but in spirit, it does not support employability. Even after getting the benefit of the probation law a convict if want to move forward to get himself employable in govt. labour market he must disclose the same and has to attach the certificate of section 12 benefit. This is the time when the researcher presumes that there is a high likelihood that the candidate might be discriminated against based on his past conviction even after getting the benefit of section 12.

SUGGESTIONS-

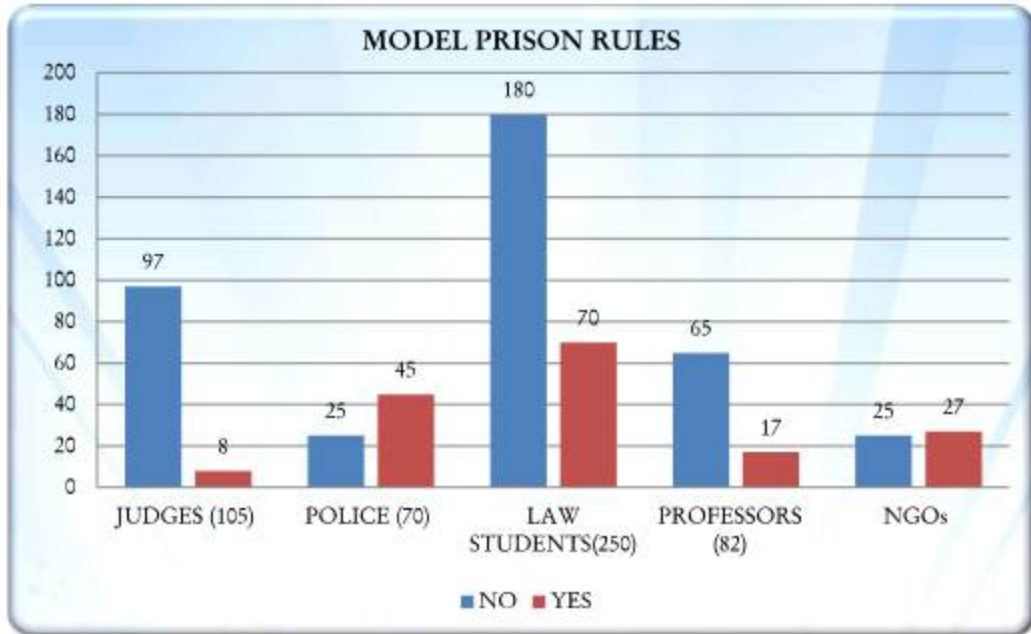
Recidivism and employment have a strong correlating factor between them because when an offender managed to get into a labour market it ultimately decreased the risk factor of recidivism. The law of probation was meant to be a subset of rehabilitative justice.

“What the researcher here wants to suggest is that the Right to expungement of criminal records if coupled with the law of probation, both could act as a panacea and move forward from just rehabilitation to real rehabilitation. Law of probation would extend the benefit of section 12 in the form of a disqualification after it could be coupled with the right to expungement of criminal records to delete criminal records which might help in to get a job as the candidates would have the ‘right to legally lie’ during the interview or at the time of form submission.”

The researcher again humbly submits that if the financial independency of ex-criminals could be increased by giving the benefit of probation and expungement it will be not just simple rehabilitation but it could turn ex-offenders toward fully or real rehabilitation which law required in true senses.

disqualification that goes with a conviction under the law which provides for the offence and its punishment. That is the plain meaning of the words “disqualification, if any, attaching to a conviction of an offence under such law.”

QUESTION 12- DO YOU KNOW THAT THERE IS NO PROVISION OF REHABILITATION MADE FOR CONVICTED PERSONS WHO HAS BEEN SENT JAIL UP TO 5 YEARS?



12.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

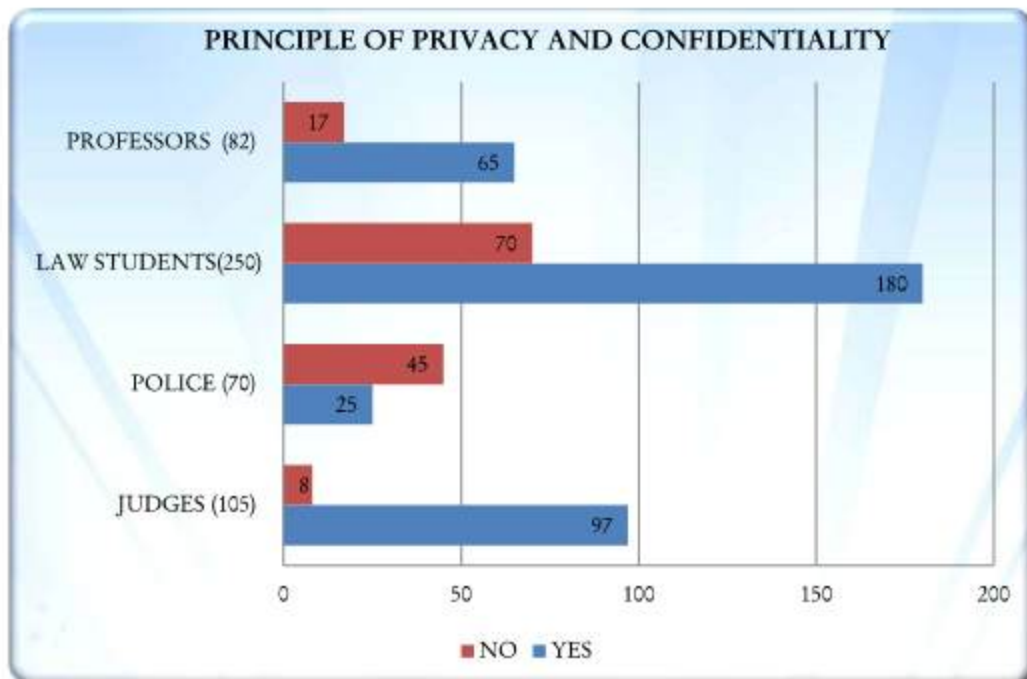
DO YOU KNOW THAT THERE IS NO PROVISION OF REHABILITATION MADE FOR CONVICTED PERSONS WHO HAVE BEEN SENT TO JAIL FOR UP TO 5 YEARS?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	167	24.6	29.9	29.9
	NO	392	57.6	70.1	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

12.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

Out of the total respondents from all the stakeholders except the convict's group 70.1% (392/559) dissented and do not know about this kind of rule⁵⁷¹. This rule makes it mandates that a person convicted for less than 5 years is not eligible for after-care services from the prison system.

The researcher here humbly suggests that even this category of convicts is not eligible for after-care services if he /she is an educated person who is serious about his future and wants to join govt. Or private services then the Right to expungement of criminal records could be used as a most important tool for real rehabilitation.

QUESTION - 13 DO YOU KNOW THAT THE CRIMINAL RECORDS OF JUVENILES COULD BE EXPUNGED UNDER JJ ACT -2015 BASED ON THE PRINCIPLE OF PRIVACY AND CONFIDENTIALITY?



13.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS AND NGOs)

⁵⁷¹ 20.05 of MODEL PRISON MANUAL refers that After-care services should be extended to all needy persons released from prisons, conditionally or unconditionally or on license. A minimum of five years of imprisonment should be necessary to enable a prisoner to avail after-care services.

DO YOU KNOW THAT THE CRIMINAL RECORDS OF JUVENILES COULD BE EXPUNGED UNDER THE JJ ACT -2015 BASED ON THE PRINCIPLE OF PRIVACY AND CONFIDENTIALITY?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	367	54.0	72.4	72.4
	NO	140	20.6	27.6	100.0
	Total	507	74.6	100.0	
Missing	System	173	25.4		
Total		680	100.0		

13.1 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS AND NGOs)

The question was asked to know the perspective of all stakeholders and whether they are aware of the JJ ACT- 2015 in which a small portion of the right to expungement has been made indirectly for the benefit of juveniles. A total of 507 respondents apart from the convicts and NGOs category responded. Out of all responded 72.4% knows about the principle of privacy and confidentiality.

Further, the *Principle of the right to privacy and confidentiality* provides that every child shall have a right to protection of his privacy and confidentiality, by all means, and throughout the judicial process.⁵⁷² This principle certainly followed post-trial also and the records can be expunged in the interest of the juvenile.⁵⁷³

The principle of repatriation and restoration provides that every child in the juvenile justice system shall have the right to be reunited with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.⁵⁷⁴

⁵⁷² The Justice (Care and Protection of Children Act, §3(11) (2015)

⁵⁷³ The Delhi rape case (2013) minor convict has been resettled and his record were expunged.

⁵⁷⁴ The Justice (Care and Protection of Children Act, §3(13) (2015)

Also, S.39 says that the process of *Rehabilitation and Reintegration* of a child shall begin during his stay in the Children's Home. S.99 says that the report of the probation officer or social worker considered by the competent authority shall be treated as confidential. Thus, from this, it is evident that there are certain provisions which indicate the existence of the Right of Expungement in India.

FINDINGS-

The researcher wants to propose a simple beneficial analogy of the law. The concept of expungement is not applicable in the Indian context but somehow indirectly it has its importance with respect to juvenile justice. It appears that the criminal records of a juvenile could be expunged based on the *Principle of the right to privacy and confidentiality, the principle of repatriation and restoration, Rehabilitation and Reintegration and welfare consideration of the juvenile.*

The researcher here proposes that if the records of the juvenile could be expunged why not it could be applicable to adults as well. The jurisprudence of expungement of criminal records is focused on *first time petty offenders* who have already served their jail term and now want to be law-abiding citizens, they want to go for jobs which will ultimately provide financial independency and subsequently it may highly reduce the risks of recidivism. According to the researcher, these offenders should not have less weightage than juvenile considerations.

QUESTION 14- DO YOU THINK THAT (IN THE CASE OF THE RIGHT TO EXPUNGEMENT) EX-OFFENDERS SHOULD BE GIVEN BENEFITS OF THE RIGHT TO PRIVACY (WHERE PUNISHMENT IS NOT GREATER THAN 3 YEARS) AND NOT TO DISCLOSE PREVIOUS CRIMINAL RECORDS?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES, AS THEY ARE NO THREAT TO THE SOVEREIGNTY AND SECURITY OF THE STATE	259	38.1	46.3	46.3
	YES, BECAUSE THEY CAN BE FULLY REHABILITATED	119	17.5	21.3	67.6
	NO, IT COULD BE USED FOR CRIMINAL DATA AND PAST HISTORY	181	26.6	32.4	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

14.1 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was asked to know the perspective of all stakeholders whether those convicts who have been sent to jail for up to 3 years for their crimes, should have the right to expungement of criminal records or not. The base of expungement rights is founded upon the severity of his crimes. Are these crimes so severe in nature that they may be a threat to the sovereignty as well as nation protection? Or they could be fully rehabilitated by the criminal justice system?⁵⁷⁵

Out of all 559 stakeholders, i.e. 46.3% (259/559) say that the right to expungement of criminal records should be provided as they are not a challenge to statehood as well as nation protection Out of all 559 stakeholders, i.e. 21.3% (119/559) say that

⁵⁷⁵ See question 11

the right to expungement of criminal records should be provided because these ex-offenders could be fully rehabilitated and can act as good citizens of India if govt. suffice them with a second chance.⁵⁷⁶

Out of all 559 stakeholders, i.e. 32% (181/559) say that the right to expungement of criminal records should not be provided because these ex-offenders may be a threat to states and they can't be fully rehabilitated in nature.

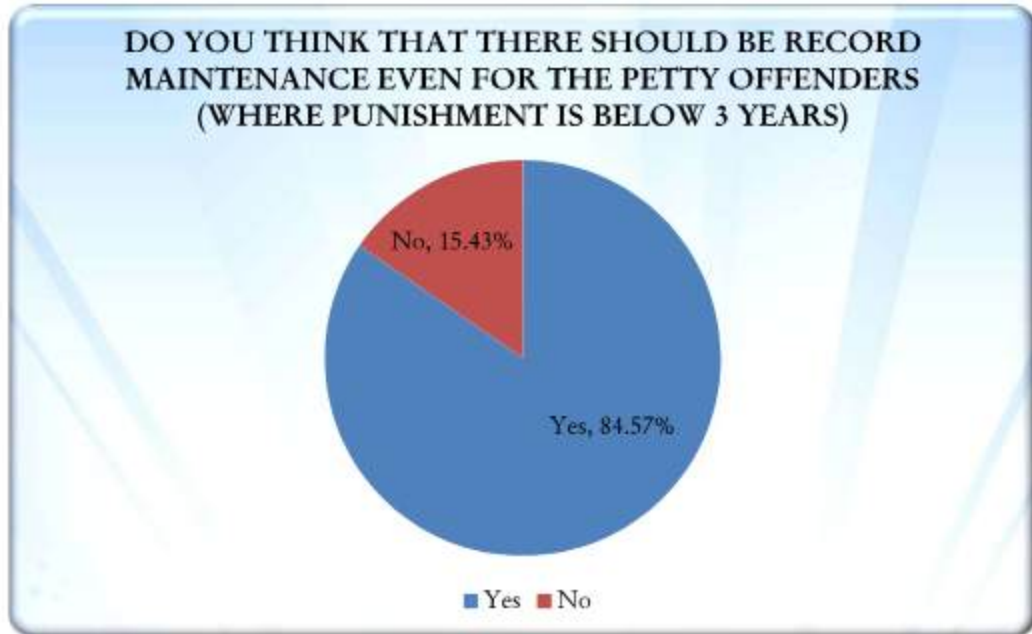
FINDINGS-

The majority of the question and their responses from stakeholders made it clear that at least these kinds of ex-offenders could be fully rehabilitated and not a threat to the state in future if some additional right could be given in the form of the right to expungement of criminal records.

This question is the outcome of two contrasting prepositions i.e. i.e. *the right to expungement based on rehabilitative justice visa-a-vies the possible future threat to the sovereignty and security of the state by these class of ex-criminals*. According to the researcher's points of view, the first paramount consideration outweighed the second counterargument of the security of the state. Moreover, these ex-criminals are the by-products of societal conditions and forced poverty.

⁵⁷⁶ Supra

QUESTION 15- DO YOU THINK THAT THERE SHOULD BE RECORD MAINTENANCE EVEN FOR THE PETTY OFFENDERS (WHERE PUNISHMENT IS BELOW 3 YEARS)



15.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL POLICE AND JUDGES & ADVOCATE)

IF YES, THEN WHY					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	MANDATORY UNDER SECTION 75 IPC DUE TO ENHANCEMENT OF PUNISHMENT	88	12.9	50.3	50.3
	TO PREVENT FUTURE OFFENDING	62	9.1	35.4	85.7
	ONCE A CRIMINAL IS ALWAYS A CRIMINAL	25	3.7	14.3	100.0
	Total	175	25.7	100.0	
Missing	System	505	74.3		
Total		680	100.0		

15.2 (THE TABLE SHOWS STAKEHOLDERS FROM ALL POLICE AND JUDGES & ADVOCATE GROUP)

The question was asked to two targeted groups i.e., Police and judges & advocate group. The total number of respondents was 175 of which 84.57 % of respondents think that recording is in the greatest interests of the nation all offending even those related to petty crime. While 15.43% (175/27) of respondents think that these offenders are no threat to the state and no records maintenance is required.

The majority of respondents favor criminal record maintenance. The different reasons were also bifurcated subsequently. A total of 50.3 % (175/88) respondents think that it is mandatory under section 75 of IPC-1860 and enhancement of punishment in subsequent offending is a good reason for that. Indirectly to reduce future offending by these offenders' criminal records are mandatory and it is supported by 35.5% (175/62) of respondents. Lastly, 14.3% (175/25) respondents think that once a criminal is always a criminal and so to protect society maintenance of criminal records is necessary.

FINDING-

With respect to court documents, the destruction of the records is governed by The Destruction of Records Act, 1917 under section 3.⁵⁷⁷ But still this law does not have any effect as the criminal records does not come in this category. Simultaneously a criminal record is mandatory to be preserved by police department in perpetuity irrespective of the time duration. The Indian laws

⁵⁷⁷ "Power to certain authorities to make rules for disposal of documents. — (1) The authorities hereinafter specified may, from time to time, make rules for the disposal, by destruction or otherwise, of such documents as are, in the opinion of the authority making the rules, not of sufficient public value to justify their preservation. (2) The authorities shall be— (a) in the case of documents in the possession or custody of a High Court or of the Courts of civil or criminal jurisdiction subordinate thereto,—the High Court; (b) in the case of documents in the possession or custody of Revenue Courts and officers,—the Chief Controlling Revenue-authority⁵; and (c) in the case of documents in the possession or custody of any other public officer,— 6 [(i) if the documents relate to purposes of a State, the State Government or any officer specially authorized in that behalf by that Government; (ii) In any other case, the Central Government or an officer specially authorized in that behalf by that Government.] [(3) Rules made under this section by any High Court or by a Chief Controlling Revenue-authority or by an officer specially authorized in that behalf by any State Government shall be subject to the previous approval of the State Government; and rules made by an officer specially authorized in that behalf by the Central Government shall be subject to the previous approval of the Central Government"

mandates and advocates for preservation on the ground (A) security and sovereignty of state (B) To track the past and possible future offending of a criminal (C) Enhancement of punishment in subsequent offending u/ section 75 of IPC.

Data suggests a total number of respondents were 175 of which 84.57 % of respondents think that recording is in the greatest interests of the nation to record all offending even related to petty crime and that's why maintenance of criminal records is necessary.

The criminal convictions involving a minor in unlawful activities could be destroyed or the data could be erased lawfully if the juvenile is charged with a petty offence (which is punishable by up to 3 years). The law provides other immunities and benefits to juveniles simultaneously. If this benefit could be extended to offenders who are not minors and ready to observe 3 years additional cooling-off period, The right to expungement could prove a real means of rehabilitation for the first-time offender who is not minors.

QUESTION 16- DO YOU THINK THAT BY NOT PROVIDING THE RIGHT TO EXPUNGEMENT IS AN FORM OF INVISIBLE PUNISHMENT AS THEY ALREADY SERVED THEIR REAL SENTENCE?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	DISAGREE	41	6.0	10.1	10.1
	STRONGLY DISAGREE	35	5.1	8.6	18.7
	AGREE	112	16.5	27.5	46.2
	STRONGLY AGREE	219	32.2	53.8	100.0
	Total	407	59.9	100.0	
Missing	System	273	40.1		
Total		680	100.0		

16.1 (THE TABLE SHOWS STAKEHOLDERS FROM JUDGES, STUDENTS AND NGOs)

The question was asked to know the supplementary effect of the right to expungement of criminal records which we don't have in our criminal jurisprudence. The criminal records have long future consequences and if the law presumes that if a criminal served their sentence for his crime he is no more evil to the society and a new life could be lived for him. In the same line of thought and considering the topic at hand, the rehabilitation of such offenders could be effectively accelerated only by providing financial opportunities.

The same question was formulated on five points Likert scale A Likert scales measure that is often used in questionnaire-based assessment. It would be the most commonly used way to provide accurate in collecting data, and the terms are frequently used indiscriminately with standardized measures, despite the fact that there are other sorts of measurement tools. Out of a total of 407 respondents, the disagree and strongly disagree responses consist of only 6 and 5.1 per cent while most of the respondents support the prepositions that the right to expungement if not provided can as act invisible punishment. Out of a total of 407 respondents, 27.5% and 53.8% respectively support the same.

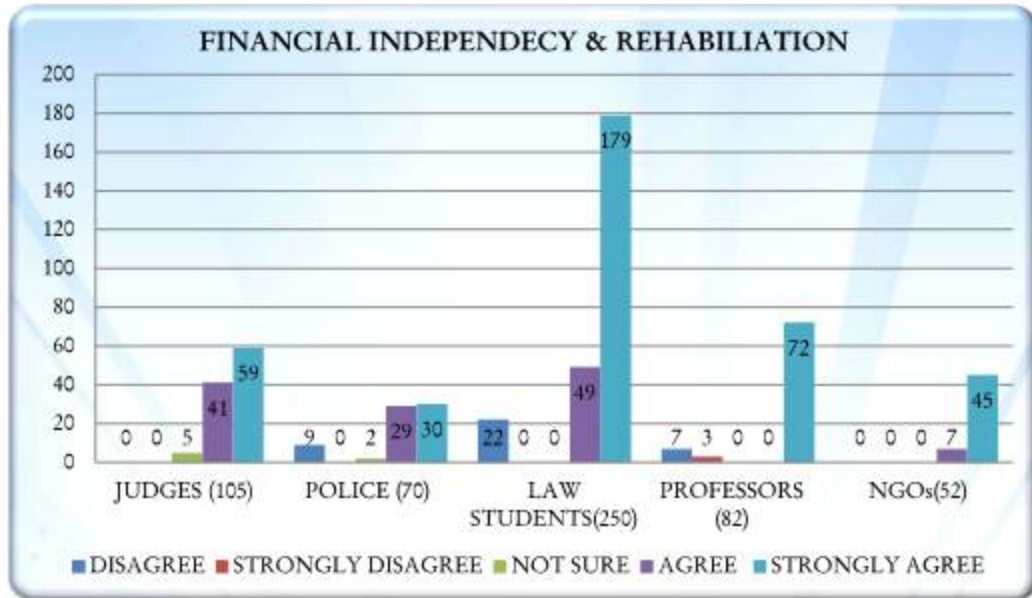
FINDINGS-

Such "invisible punishments"⁵⁷⁸ take place beyond the typical sentence delivered by a court in relevant to a particular offense, but they are infrequently referenced in criminal prosecutions. They just become apparent to the criminal after it prosecutor's prescribed term has been fulfilled and he/she seeks to create a normative, decent life in the society. Such "hidden sanctions" are included in a number of legislation enacted by national and provincial governments. Defendants may be prohibited apartment complexes, welfare programs, and the movement necessary to acquire occupations that involve moving under certain regulations. The researcher here proposes that ex-offenders if provided with the

⁵⁷⁸ Invisible Punishment: An Instrument of Social Exclusion (From Invisible Punishment: The Collateral Consequences of Mass Imprisonment, P 15-36, 2002, Marc Mauer and Meda Chesney-Lind, eds.)

right to expungement of criminal records, ex-offenders could be supported with respect to financial disabilities which is the big reason for relapsing into crime again.

QUESTION 17- DO YOU THINK THAT EMPLOYABILITY (FINANCIAL INDEPENDENCE) COULD STRONGLY DECREASE THE CHANCE OF COMMITTING A CRIME AGAIN?



17.1 (THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

DO YOU THINK THAT EMPLOYABILITY (FINANCIAL INDEPENDENCE) COULD STRONGLY DECREASE THE CHANCE OF COMMITTING A CRIME AGAIN?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	DISAGREE	38	5.6	6.8	6.8
	STRONGLY DISAGREE	3	.4	.5	7.3
	NOT SURE	7	1.0	1.3	8.6
	AGREE	126	18.5	22.5	31.1
	STRONGLY AGREE	385	56.6	68.9	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

17.1 (THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

The question was asked to all stakeholders in this research to know their perspectives that whether post-release of offenders and employability has any connection. It is well researched in many countries⁵⁷⁹ as well as in universities that suitable and good employable conditions if provided to ex-offenders may reduce the chance of relapsing (recidivism) into crime again.

The same question was formulated on five points Likert scale. A Multiple Likert scale often used in questionnaire-based studies. It is the most common method for problems and providing in collecting data, and the phrase is frequently used synonymous with grading system, despite the fact there are other forms of measurement tools.

Out of a total of 559 respondents, the disagree and strongly disagree responses consist of only 6.8 and 0.5 per cent while most of the respondents support the propositions that employability (financial independence) could strongly decrease the chance of committing a crime again. Out of a total of 559 respondents, 22.5% (126/559) and 68.9 % (385/559) respectively support the same.

FINDINGS-

- Those with restricted employment possibilities are more prone to crime. A prison background reduces the amount and level of work chances, hence perpetuating of despair, violence, and imprisonment.⁵⁸⁰
- Current research suggests that salary increases for minimal employees and the expansion of industries with higher earnings for reduced employees can significantly lower recidivism. Upcoming re-entry assessments must therefore concentrate on policy and laws that enhance post-prison income

⁵⁷⁹ Berg, M. T., & Huebner, B. M. (2011). Reentry and the ties that bind: An examination of social ties, employment, and recidivism. *Justice Quarterly*, 28(2), 382-410. doi:10.1080/07418825.2010.498383

⁵⁸⁰ Raphael, S., and D. F. Weiman. "The impact of local labor market conditions on the likelihood that parolees are returned to custody." In: Bushway, S. D., M. A. Stoll, and D. F. Weiman, (eds). *Barriers to Reentry? The Labor Market for Released Prisoners in Post-Industrial America*. New York: The Russell Sage Foundation, 2007; pp. 304-332.

⁵⁸⁰ Bhuller, M., G. B. Dahl, K. V. Løken, and M. Mogstad. *Incarceration, Recidivism and Employment*. NBER Working Paper No. 22648, 2016.

and steady employment possibilities, as well as measures that promote more companies to rethink reformed ex-offenders as job seekers.⁵⁸¹

- The overwhelming of formerly incarcerated persons have limited career prospects and are unable to properly rejoin society. The difficulty to obtain permanent employment is frequently recognized as a major factor in unsuccessful re-entry (“recidivism”).⁵⁸²
- The researcher humbly submits that the rate of recidivism in govt. books are roughly 6 to 7 % but it is more as most other cases are not registered. The prison system of India focused mainly on the rehabilitation of offenders through vocational training and soft skills developments. Right to expungement of criminal records here could be used as a catalyst if an educated ex-offender provided to join jobs as a means of financial freedom. Most of the ex-offenders don’t even think to join govt. jobs as they somehow know that previous criminal records will act as a huge hindrance. In this situation the right to expungement of criminal records can be a panacea for this problem.

⁵⁸¹ Bhuller, M., G. B. Dahl, K. V. Løken, and M. Mogstad. Incarceration, Recidivism and Employment. NBER Working Paper No. 22648, 2016.

⁵⁸² Mustard, D. B. How Do Labour Markets Affect Crime? New Evidence on an Old Puzzle. IZA Discussion Paper No. 4856, March 2010.

PART - 4
MISCELLANEOUS

This part of the research contains some of the questions which were asked to police officers and convicts personally by visiting the police academies and sub jails of the districts. Initially at the start of the PhD the researcher formulated questions to be asked to exonerees or ex-offenders. It is humble submission at this stage by the researcher that due to COVID situations the researcher could not ask questions and that's one of the research project gaps which the researcher humbly admitted.

To compensate for the same, the researcher again formulated new questions to be asked to those persons who are presently accused of some crime or serving jail. The researcher also took into consideration that the Right to expungement is mostly suited to the age group between 20 to 35 years and the same researcher personally went to sub-jails of the different districts. The researcher founds most respondents to the targeted area i.e., the age which is mentioned for quality of responses.

QUESTION 18- REHABILITATION OF EX-OFFENDERS BY PREPARING THEM TO FIGHT FOR GOVERNMENT JOBS & EXAMINATIONS.

AND
IF, NOT THEN WHY

REHABILITATION OF EX-OFFENDERS BY PREPARING THEM TO FIGHT GOVERNMENT JOBS EXAMINATIONS					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	19	2.8	15.6	15.6
	NO	103	15.1	84.4	100.0
	Total	122	17.9	100.0	
Missing	System	558	82.1		
Total		680	100.0		

18.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE POLICE AND CONVICTS GROUP)

IF NOT, THEN WHY					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	I CAN'T PREPARE DUE TO MY PREVIOUS CRIMINAL RECORD	55	8.1	45.1	45.1
	CRIMINAL STIGMA IS ATTACHED TO THEM AND THEY ARE CALLED CRIMINALS	35	5.1	28.7	73.8
	THEY ARE LESS EDUCATED	10	1.5	8.2	82.0
	THEY JUST WANT VOCATIONAL TRAINING AND PRIVATE JOBS	14	2.1	11.5	93.4
	THEY CAN'T GO INTO GOVERNMENT JOBS DUE TO FILLING OF FORMS RESTRICTIONS	8	1.2	6.6	100.0
	Total	122	17.9	100.0	
Missing	System	558	82.1		
Total		680	100.0		

18.2 (THE TABLE SHOWS STAKEHOLDERS FROM THE POLICE AND CONVICTS GROUP)

The present question was asked to two stakeholders who have first-hand information about the concept i.e., police officers and NGOs. A total of 122 respondents responded. The researcher simply tries to find that is that anyway through which ex-offenders are rehabilitated by encouraged to join government jobs. A total of 84.4 % of the respondent denied and only 15.6% of respondents favored it. The reasons are bifurcated into five categories due to why ex-offenders do not choose to join government jobs. These reasons act as a hindrance.

FINDING-

As mentioned earlier the relationship between employment and recidivism is very important. Recidivism and employment have a strong correlating factor between

them because when an offender managed to get into a labour market it ultimately decreased the risk factor of recidivism.

Financial independence could be achieved through private jobs, skills development, business and family work. The re-entering into society disabled most of the above mention ways and ultimately due to the non-availability of resources, greater chances of relapsing into crime increase even for first time educated offenders.

With respect to educated & first-time offenders who want to serve the nation honestly the “previous criminal records⁵⁸³” and “government restriction of filling form during the interview” became a huge impediment and discouragement. Out of 122 respondents cumulatively 51.7 % (122/63) supported the same it is because a single encounter with the criminal machinery and arraignment of petty charges could act counterproductively in the latter stages of employment.

More fatal consequences are attached with criminal charges i.e., social or criminal stigma attached to an ex-offender. Shame is also a tag that describes a particular with a collection of undesirable qualities that constitute a reputation. Out of the 122 respondents, 28.7% (122/35) point out that criminal stigma is one of the major hindrances in government employability.

It is also a notable point that most of the criminals come from the less literate group and so they became the victim of criminal machinery. Education is necessary to secure a position in govt. jobs. Out of the 122 respondents, 8.2% (122/10) supported the same.

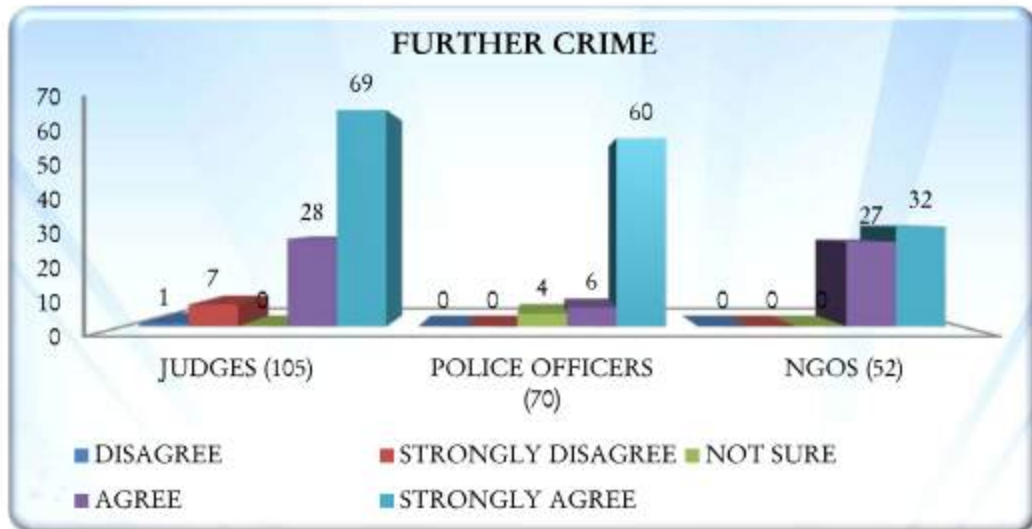
For those who are not educated, the other means of financial stability may be achieved by ex-offenders through vocational training, and soft skill development Out of the 122 respondents 11.5 % (122/14) supported the same.

⁵⁸³ Avtar Singh vs Union Of India & Ors on 21 July, 2016

QUESTION 19- DO YOU THINK IF EX OFFENDERS GIVEN THE CHANCE TO JOIN GOVT JOBS ACCORDING, TO THEIR QUALIFICATION, THEY won't COMMIT FURTHER CRIME?

AND

DO YOU THINK IF THE RIGHT TO EXPUNGEMENT IS ENACTED IN INDIA BY ANY LAW, ARE THEY WILLING TO FOLLOW THE CONDITION OF LAW I.E. NOT TO COMMIT ANY CRIME DURING THE COLLING OFF PERIOD OF 3 YEARS FROM THE DATE OF JAIL RELEASE?



19.1 (THE GRAPH SHOWS STAKEHOLDERS FROM THE JUDGES, POLICE AND NGOs)

DO YOU THINK IF EX OFFENDERS GIVEN THE CHANCE TO JOIN GOVT JOBS ACCORDING, TO THEIR QUALIFICATION, THEY won't COMMIT FURTHER CRIME?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	STRONGLY DISAGREE	7	1.0	3.1	3.1
	DISAGREE	1	.1	.4	3.5
	NEUTRAL	4	.6	1.8	5.3
	AGREE	61	9.0	26.9	32.2
	STRONGLY AGREE	154	22.6	67.8	100.0
	Total	227	33.4	100.0	
Missing	System	453	66.6		
Total		680	100.0		

19.2 (THE TABLE SHOWS STAKEHOLDERS FROM THE JUDGES, POLICE AND NGOs)

A total of 227 respondents from the judges, NGOs, and police officers responses above question. The question was to seek an opinion from the respondents about the effect of providing the right to expungement and inhibition effect on future offending. The question is based on a 5-point scale. It is a form of psychological scale format in which respondents generally indicate their degree of agreeability on a 5 scale. Totally, out of the 227 stakeholders, 0.4 and 3.1% of respondent disagree and strongly disagree and considers that these kinds of criminals suffice with the right to expungement of criminal records they are prone to commit crime again. While 1.8 % responded are not sure about that. The percentage of agreeing and strongly agreeing was the highest count more than 94.6% in total. That comes with a strong finding that the Right to expungement of criminal records has an inhibition effect on future offending and it can act as a catalyst in the smooth functioning of rehabilitations.

OBSERVANCE OF COLLING OFF PERIOD OF 3 YEARS					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	STRONGLY DISAGREE	6	.9	2.6	2.6
	DISAGREE	16	2.4	7.0	9.7
	NEUTRAL	16	2.4	7.0	16.7
	AGREE	67	9.9	29.5	46.3
	STRONGLY AGREE	122	17.9	53.7	100.0
	Total	227	33.4	100.0	
Missing	System	453	66.6		
Total		680	100.0		

19.3 (THE TABLE SHOWS STAKEHOLDERS FROM THE JUDGES, POLICE AND NGOs)

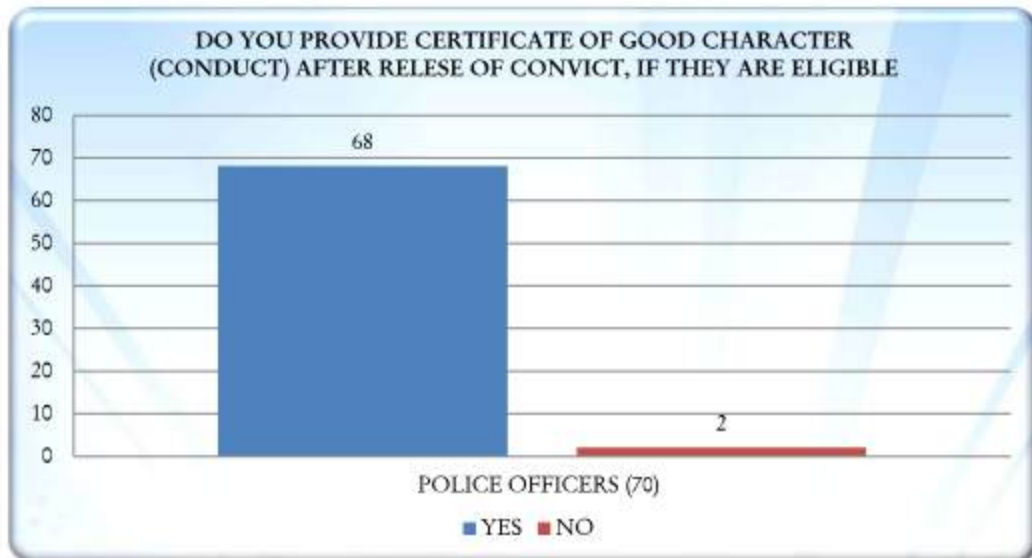
A total of 227 respondents from the judges, NGOs, and police officers responses above question. The question was to seek opinions from the respondents about the effect of providing the right to expungement and Observance of cooling effects for 3 years. The question is based on a 5-point scale. It is a form of

psychological scale format in which respondents generally indicate their degree of agreeability on a 5 scale. Totally, out of the 227 stakeholders, 7% and 2.6% of respondent disagree and strongly disagree and considers that these kinds of criminals are even provided with the right to expungement of criminal records they won't follow the 3 years cooling-off periods. While 7 % responded are not sure about that. The percentage of agreeing and strongly agreeing was the highest count more than 83.2% in total. That comes with a strong finding that the Right to expungement of criminal records has an inhibition effect which comes in the form of cooling-off periods of 3 years.

This aspect is factored while granting the privilege to erasure. To prevent corruptions, violent activity must be regulated. There must be a repaired timeline during which a particular personality and operations can be digitized, which may impact the effectiveness for Right of Garnishment because it is feasible that an individual may be allowed Right of Exoneration, but then proceed his illegal acts by able to take advantage of his expunged felony conviction, affecting the general populace. In effort to stop this, several restoration laws in the United States compel applicants to wait a particular span of years before filing for erasure. In certain places, a felony received throughout this grace period or a current prosecution at the date of submitting excludes a person from restoration eligibility. Occasionally, these lags might be rather lengthy.⁵⁸⁴

⁵⁸⁴ Shlosberg, A. Evan J. Mandery, Valerie West, and Bennett Callaghan, Expungement And Post-Exoneration Offending, 104 J. Criminal Law & Criminology 353 (357-358). [Http://Scholarlycommons.Law.Northwestern.Edu/Jclc/Vol104/Iss2/3](http://Scholarlycommons.Law.Northwestern.Edu/Jclc/Vol104/Iss2/3) (Sept. 30, 2015)

QUESTION 20- DO YOU PROVIDE A CERTIFICATE OF GOOD CHARACTER (CONDUCT) AFTER THE RELEASE OF THE CONVICT, IF THEY ARE ELIGIBLE?



20.1 (THE GRAPH SHOWS STAKEHOLDERS FROM THE POLICE OFFICERS)

The question was asked only to police officers to know whether the authority provide a certificate of good conduct. Out of the total police officers, 97% responded positively (70/68). The certificate is just a requirement to be done by police and jail authorities but it nowhere helps them. As it is not the certificate of rehabilitation.

QUESTION 21- WHAT WAS YOUR AGE AT THE TIME OF CONVICTION OR ARREST?

AGE OF YOUR CONVICTION OR ARREST					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	15 TO 20	1	.8	.8	.8
	20 TO 25	36	28.8	29.8	30.6
	25 TO 30	64	51.2	52.9	83.5
	30 TO 35	6	4.8	5.0	88.4
	35 TO 40	14	11.2	11.6	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

21.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE JUDGES, POLICE AND NGOs)

This part of the questionnaire was asked to convict and accused group. It contains 121 respondents from different part of State of Rajasthan. This question was asked to know the suitability of Right to Expungement to the age group of convicts.

Out of 121 respondents, 88.4% (121/107) belong to the suitable group. Broadly the right to expungement is not a right which is relevant exclusively to a variety of ages, although research at hand with respect to government jobs suitability, the age group of 20-35 is most suited.

QUESTION 22- HAVE YOU EVER BEEN EMPLOYED?

HAVE YOU EVER BEEN EMPLOYED?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES, BEFORE THE CONVICTION OR CHARGED OR TRIAL	72	57.6	59.5	59.5
	NO	49	39.2	40.5	100.0
	Total	121	96.8	100.0	
Missing	System	4	3.2		
Total		125	100.0		

22.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE CONVICT GROUP)

This part of the question was asked to convict and accused group. It contains 121 respondents from different part of State of Rajasthan. This question was asked to know the suitability of Right to Expungement and status of employability before the jail. Here the employability of offenders means and includes any work through which he was earning regular income or govt. jobs also. Out of the 121 respondents, 59.5% (121/72) said that they were employed.

QUESTION 23- HOW MANY APPLIED FOR THE JOBS IN GOVT SECTOR?

HOW MANY APPLIED FOR THE JOBS IN GOVT SECTOR?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	LESS THEN 5	52	100	100	100
	10 TO 15	0	0	0	0
	15 TO 20	0	0	0	0
	20 TO 25	0	0	0	0
	GREATER THAN 25	0	0	0	0
	Total	52		100.0	
Missing	System				
Total		52	100.0		

23.1 (THE TABLE SHOWS STAKEHOLDERS FROM THE NGOs GROUP)

This question was asked specifically to those NGOs who are actually working in the rehabilitation of ex-criminal space. The desired outcome was to know that a large chunk of ex-offenders are educated and some have college or universities degree but certain circumstances lend them to crime and jails.

Those ex-offenders who are released and now sent to rehabilitation NGOs may find work through vocational training but what about those who are literate and educated? Whether they want to join govt. jobs? What are the difficulties faced by them?

Out of a total of 52 NGO responses, it was found that only less than 5 ex-offenders applied for govt. jobs despite their criminal records. This ratio of applying in govt. jobs seemingly very less. Unfortunately, the researcher could not able to gather data that how many persons got selected. The different reasons for the same could be found in the above part.⁵⁸⁵

⁵⁸⁵ Part 2 question 4

PART - 5

HYPOTHESIS TESTING

In facts and figures, premise verification is the practice by which a prediction and diagnosis a community factor estimate. The expert's technique relies on the type of the data utilized and the purpose of the study. Using data sets, scientific method evaluates the feasibility of a theory. These data may originate from a larger number of people or a mechanism that generates data.⁵⁸⁶

Before discussing hypothesis testing and its tools the researcher humbly submits some of the impediments and problems that arose during this research. The researcher at the initial point of PhD research planned to seek information related to ex-offenders and ex-exonerees who applied for employment & recruited successfully in the last 10 years from the public service commission across India through Right to information.

The idea was to know that, what is the incubation rate of the ex-offenders in the govt. jobs considering their criminal past. Accordingly, the researcher formulated some of the questions to be asked to PSCs of different states. Unfortunately, the researcher here faces a huge impediment as the answer could not be gathered due to denial by different govt. institutions based on RTI. Due to this impediment, as the data could not be collected the researcher proposes alternative ways.

The researcher again formulate the questionnaire with a researcher-posed statements pertinent to the topic under investigation is required to answer and taking in mind the objectives of the research study and also the target population to elicit the required information. Proper instructions were offered to responders in order to complete the survey.

The main focus of all six sets of questionnaires is to seek opinions on the right to expungement. The questionnaire is divided into six broad categories of

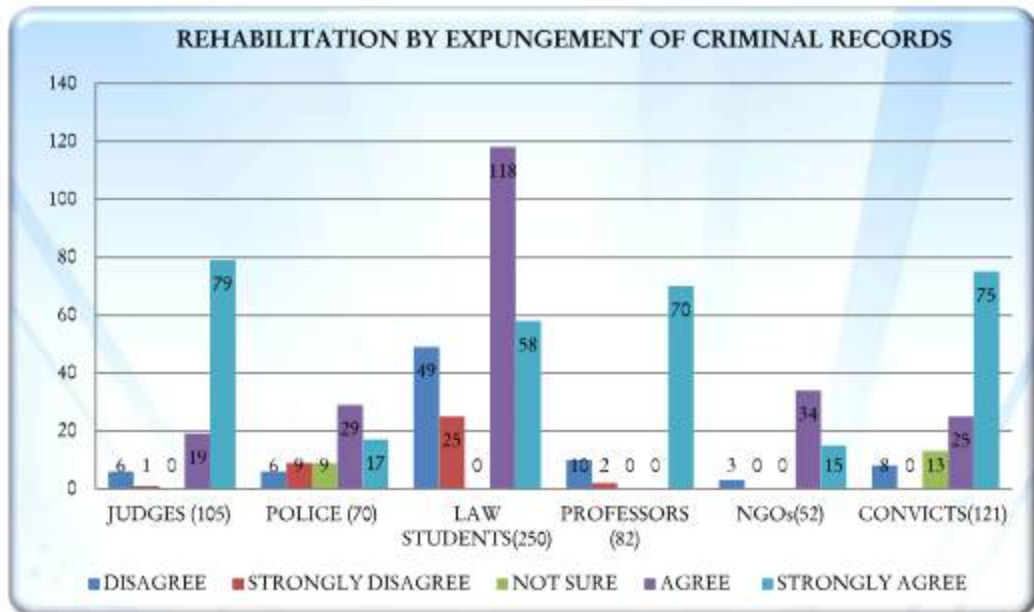
⁵⁸⁶ Roger B. Davis and Kenneth J. Mukamal Originally published Sep-5 2006 <https://doi.org/10.1161/CIRCULATIONAHA.105.586461> Circulation. 2006;114:1078-1082

respondents who are related to law. *The opinions of all the stakeholders namely judges & advocates, police officers, law students and professors, Rehabilitation NGOs and convicts were included.*

“Present hypothesis the researcher touches only one issue which is the Right to expungement of criminal records vis-à-vis the employability of ex-offenders in govt. sectors, as this issue is essential in the process of rehabilitation”.

This hypothesis correlates that if the right to expungement of criminal records is included in the Indian criminal jurisprudence then there is a high likelihood that it will function smoothly to rehabilitate the ex-offenders by providing jobs in govt. sector and thereby it may reduce the recidivism rate as well. Before moving toward hypothesis testing through some tools of SPSS software the researcher provided some of the useful and beneficial effects of the right to expungement of criminal records. A brief introduction and benefits may again be presented here which limelight the nature of the right to expungement of criminal records and what could be possible benefits of the same.

HYPOTHESIS-“Availability of the Right to expungement of criminal records to Ex-offender and Exonerees facilitates the process of rehabilitation”



(THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS INCLUDING CONVICTS)

DO YOU THINK THAT AVAILABILITY OF THE RIGHT TO EXPUNGEMENT TO EX-OFFENDERS AND EXONEREEES COULD FACILITATE THE PROCESS OF REHABILITATION?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	DISAGREE	82	12.1	12.1	12.1
	STRONGLY DISAGREE	37	5.4	5.4	17.5
	NOT SURE	21	3.1	3.1	20.6
	AGREE	225	33.1	33.1	53.7
	STRONGLY AGREE	315	46.3	46.3	100.0
	Total	680	100.0	100.0	

(THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS INCLUDING CONVICTS)

The Present question was asked to all stakeholders including the convict's group. This question is a preposition and extension of the present hypothesis too. The researcher submits that asking this question to convict groups may be an act of biasness by them still according to the researcher their opinion holds some water.

Out of the 680 respondents, which includes all the stakeholders including the convict group responded that 12.1% and 5.4% hold the opinion of disagreeing and strongly disagree that the right to expungement of criminal records is not such a law which could effectively help to rehabilitate the ex-offenders and there is no need to enact such law and rehabilitation could not be favored by such law.

Every group responded positively and consented that the right to expungement of criminal records could further facilitate the process of rehabilitation and in India, a law should be enacted which should have expungement characteristics because it can act as an extended form of rehabilitation. Out of the 680 total respondents, 33.1% and 46.3% (225 and 315 respectively) agree and strongly agree and are in the favor of the enactment of expungement law. A total of 79.4 % of respondents support the same.

FINDINGS- REHABILITATION BY EXPUNGEMENT OF CRIMINAL RECORDS

The disabilities attached to criminal records are numerous in number and magnitude which was portrayed in this research. Numerous government and state limitations (The restrictions in India are less but some are similar in nature) relevant to political, Economic, political, and personal obligations are enforced on individuals who have been accused of a felony, or in certain instances, detained or prosecuted. The proper to expungement of criminal records is such a tool which may remove these restrictions.⁵⁸⁷

The right to expungement of criminal records is associated with criminal and social stigma faced by ex-offenders and which could be successfully removed by the same. This factor of social exclusion, un-expectance, stigmatization by society, labelling of a criminal and recidivism due to no going forward-path may be the prime cause of crime as well as the failure of the rehabilitative regimes. By removing the criminal past of any ex-offenders he/she can be rehabilitated.⁵⁸⁸

The path to removing a tag of a criminal is not as easy as we think. Sometimes it remains throughout life, especially in some conservative societies like ours. The criminal records remains in the care of the monarch and state as a useful document. The Indian law does not provide a mechanism which could wipe off completely criminal records. It only provides the non-disability arising out of any conviction. Those who deserve a second chance and want to be fully rehabilitated in a true sense must have the mechanism of removing criminal tags through the right to expungement of criminal records.⁵⁸⁹ Society considers ex-offers second class citizens because of the labelling of criminal tags and these Tags could be removed by the expungement right.⁵⁹⁰

What the researcher humbly suggests is that prima facie the relation of marriage in petty offences could be saved by the “law of Probation” which is an institution

⁵⁸⁷ Chapter - 2 Eternal Criminal Records And There Cosquequences

⁵⁸⁸ Question -4 of part 2 chapter 5

⁵⁸⁹ Question -5 of part 2 chapter 5

⁵⁹⁰ Question -6 of part 2 chapter 5

of rehabilitation. Subsequently, if the right to expungement could be given to these eligible convicts that will provide better opportunities for rehabilitation. Here the law of probation and right to expungement could provide “extended rehabilitation” which a beneficial law supposes to do.⁵⁹¹

Thus according academics, the right to have arrest histories expunged is an external manifestation of rehabilitative justice and Indian criminal jurisprudence focuses on rehabilitation the most.⁵⁹² A person who has been sent to jail by the courts for up to 3 years could seek the benefit of the law of probation in India but What the researcher here wants to suggest is that the Right to expungement of criminal records if coupled with the law of probation, both could act as a panacea and move forward from just rehabilitation to real rehabilitation. Law of probation would extend the benefit of section 12 in the form of a disqualification after it could be coupled with the right to expungement of criminal records to delete criminal records which might help in to get a job as the candidates would have the ‘Right To Legally Lie’ during the interview or at the time of form submission.⁵⁹³

The researcher here humbly suggests that even this category of convicts (That person who has been sent to jail up to for 5 years) is not eligible for after-care services if he /she is an educated person who is serious about his future and wants to join govt. Or private services then the Right to expungement of criminal records could be used as a most important tool for real rehabilitation.⁵⁹⁴

It appears that the criminal records of a juvenile could be expunged based vested with the Principle of the right to privacy and confidentiality, the principle of repatriation and restoration, Rehabilitation and Reintegration and welfare consideration of the juvenile. The same principles could be applicable to adult criminals if they are first-time petty offenders and it can be made the basis of the right to expungement of criminal records.⁵⁹⁵

⁵⁹¹ Question -9 of part 2 chapter 5

⁵⁹² Question -11 of part 3 chapter 5

⁵⁹³ Question -11 of part 3 chapter 5

⁵⁹⁴ Question -12 of part 3 chapter 5

⁵⁹⁵ Question -13 of part 3 chapter 5

Those with restricted employment possibilities are more prone to crime. A felony conviction reduces the amount and quality of work chances, hence perpetuating the cycle of poverty, violence, and imprisonment. Researchers have noted that salary increases for limited employees and the expansion of companies with higher earnings for limited employees can significantly lower recurrence. Future re-entry assessments should thus concentrate on policies and legislation that enhance post-prison income and steady employment possibilities, as well as measures that promote more companies to rethink reformed ex-offenders as job seekers. The above comparison implies that the right to delete felony convictions can reoffending rates and create chances of getting a job.⁵⁹⁶

This aspect is considered while granting the privilege to erasure. To prevent corruptions, violent activity must be regulated. There must be a stationary time period during which a particular personality and pursuits can be digitized, that might impact the effectiveness for Right of expungement even though it is feasible that even an individual may be allowed Right of expungement, but then proceed his illegal acts by reaping the benefits of his expunged felony conviction, affecting the general public.

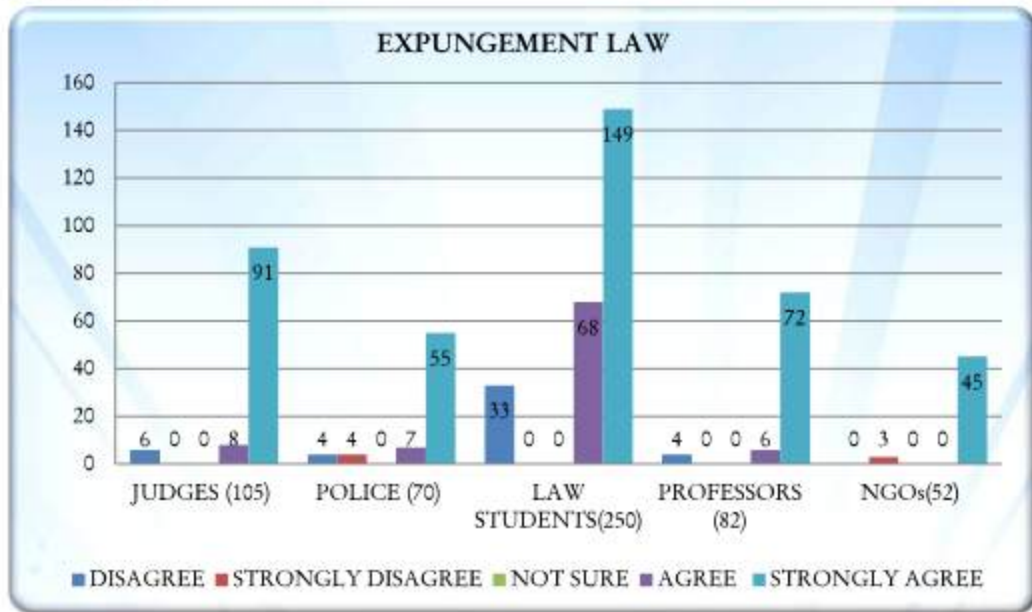
An arrest conviction is a recording of a people's criminal background, which is typically utilized by future clients to determine the person's reliability. The material present in a felony conviction differs between nations including between tribunals within the same nation. In most instances, it includes a list of all non-expunged major crimes, as well as misdemeanours such as exceeding the speed limit and drunk driving.

In some nations, the evidence is restricted to prior crimes (in which the person has admitted guilt or been found guilty by a superior court), but in others, it also contains investigations, police involved, outstanding warrants, and even acquittals. The latter strategy is frequently held to be a breach of human rights since it

⁵⁹⁶ Question -17 of part 3 chapter 5

undermines the protection of the law by calling attention to individuals based on unverified charges.⁵⁹⁷

DO YOU THINK THAT A LAW SHOULD BE MADE ON THE RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS FOR THE REHABILITATION OF EX-OFFENDERS



(THE GRAPH SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

DO YOU THINK THAT A LAW SHOULD BE MADE ON THE RIGHT TO EXPUNGEMENT OF CRIMINAL RECORDS FOR THE REHABILITATION OF EX-OFFENDERS

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	DISAGREE	47	6.9	8.4	8.4
	STRONGLY DISAGREE	8	1.2	1.4	9.8
	AGREE	89	13.1	15.9	25.8
	STRONGLY AGREE	415	61.0	74.2	100.0
	Total	559	82.2	100.0	
Missing	System	121	17.8		
Total		680	100.0		

(THE TABLE SHOWS STAKEHOLDERS FROM ALL THE GROUPS EXCEPT CONVICTS)

⁵⁹⁷ Ms. Nidhi Kaushik vs Union Of India & Ors. on 26 May, 2014

Indian jurisprudence in law holds some of the similar beneficial concepts like the Probation of offenders Act-1958, Probation under section 360 CrPC-1974, Expungement of adverse remarks made in parliament⁵⁹⁸, states civil and criminal rules about the destruction of records within the certain limitation period, non-applicability of retrospective effects in repealing or deletion of any law protected under article 20 (1) constitution of India by Ex Post Facto Law, Juvenile Justice Act -2015 etc. As mentioned several times that the Right to expungement of criminal records is alien to Indian jurisprudence but the prestigious Hon'ble Supreme court on occasion in a catena of cases alarm the need for incubation of the same right⁵⁹⁹

The Present question was asked to all stakeholders except the convict's group. Out of the 559 respondents, which includes all the stakeholders except the convict group responses that 8.4% and 1.4% hold the opinion of disagreeing and strongly disagree that there is no need to enact such law and rehabilitation could not be favored by such law.

Every group responded positively and consented that in India a law should be enacted which should have expungement characteristics because it can acts as an extended form of rehabilitation Out of the 559 total respondents, 15.9% and 74.2 % (89 and 415 respectively) agree or strongly agree and are in the favor of the enactment of expungement law. A total of 90.1 % of respondents support the same.

⁵⁹⁸ Daljit Singh Grewal vs State Of Punjab & Ors on 21 August, 2015

⁵⁹⁹ RBI v. Bhopal Singh Panchal (1994) 1 SCC 541, Union territory, Chandigarh, administration and others V. Pradeep Kumar and others (2018) SLP(C) No.23855 of 2016, Ms. Nidhi Kaushik vs Union of India & Ors. on 26 May, 2014, Delhi H.C.