CHAPTER I

EVOLUTION OF CRIME, CRIMINAL LAW AND CRIMINOLOGY
Crime:

A crime means any act or omission, which under the law for the time being in force in the country concerned is made punishable - what may be a sin - a wrongful act may not be morally sin or wrong - Criminal behavior is behaviour in violation of the criminal law. No matter what the degree of immorality reprehensibility - or indecency of an act, it is not a crime unless it is prohibited by the criminal law\(^1\).

A crime or offence is an illegal act, omission of or event, whether or not it is also a tort, a breach of contract or breach of trust, the principle consequence of which is that the offender, if he is detected and the police decide to prosecute, is prosecuted by or in the name of the state and if he is found guilty is liable to be punished whether or not he is also ordered to compensate his victim\(^2\).

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1. Sutherland, Creassey's : Principles of Criminology P.4
   - Winfield Province of Law of Tort Ch.8.
   - Seton Pollock 'Th distinguishing Mark of crime (1959) 22 MLR 495.
The definition of crime has always been regarded as a matter of great difficulty, no satisfactory definition has yet been achieved and that it is, indeed not possible to discover a legal definition of crime which can be of value for English law.¹

It is an offence committed by an individual in society. Criminal science is therefore a social study, and its aim are to discover the causes of criminality, to devise the most effective methods of reducing its amount, and to perfect the machinery for dealing with those who have committed crimes, it has three main branches, criminology, criminal policy and criminal law.²

The great difference between the legal and popular meanings of the word "Crime" is, that whereas the only clear and crisp meaning which a Lawyer can attach to the word is that of an act or omission punishable by law, the popular or moral conception adds to this the notion of moral guilt of a specially deep and degrading kind.³

3. Aiyer's Law terms and phrases P.216.
The use of violence against one's person or the abduction of one's females were probably the two earliest known crimes. The one led to incessant conflicts with many of them being unrecorded by history whereas the other led to the battle of Troy. As society progressed, the moral sense grew and the minds of men became more united on peaceful pursuits, the futility of such conflicts became more and more evident. There grew up by degree a sense of social responsibility which wanted to substitute indiscriminate revenge by the concepts of sanction and punishment. It is this which accounts for the great disparity between the punishments meted out to an offender seized flagrante delicto and one apprehended after the deed had been done.  

Manu's view of Crime:

Manu has classified crimes into various categories (1) Assault and Battery (2) Defamation (3) Theft and Robbery (4) Adultery (5) Gambling. These obviously constitute all the principle offences against the person and property which form the ground work of the Penal Code. After recounting the main

1. Gour's Indian Penal Code P.5.
heads of his juris-prudence, he enjoins the king either to dispense justice himself with the assistance of counsellors or to appoint a Court of a Judge and three assessors\(^1\). He exhorts the judges to see of man by external signs, the rights of men by their voice, colour, countenance, limbs, eyes and action; from the limbs the look, the motion of the body, the gesticulation, the speech, the changes of the eye and the face are discovered the internal workings of the mind\(^2\).

Manu made a very wise discrimination between causal offenders and hardened convicts. He would let the Culprit to punish by gently admonition; then by harsh reproof; afterwards by deprivation of property, after lastly by corporal pain. But even when by corporal punishment he cannot restrain such offenders, he advised to let apply to them all the four modes with vigour.\(^3\)

But actually it may be stated that there is no absolute test for criterion for determining whether a particular act amounts to a crime. It

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1. S.10(Gour's Penal law of India, P.8
2. Ibid S.31,
3. Ibid, V.V.129, -130.
varies with age, with locality and also with circumstances. Indeed what is crime, but a prohibited act and prohibited by whom, but by the society and public opinion of which the legislature is but a spokesman and an external embodiment? Such prohibitions have varied from time to time, but there are certain prohibitions which the intuition of man has condemned at all times and at all places. These form the backbone of criminal law. They constitute offences which by the consensus of mankind are regarded as evils of the highest degree, to this class belong offences such as treason, murder, rape, robbery etc. Next to them come all other offences which law reproves as grave and heinous and which the moralists condemn as wicked manifestations of an evil nature. Such, are the offences of hurt, adultery, defamation and acts involving fraud. Next to them come offences which endanger the security and integrity of the state or affect its revenues. It is not an easy task to classify offences according to their gravity but the maximum punishment provided in each case is an indication of the place the code intends to assign to each offence in the cadre of criminality.
Another element is determining the nature and extent of criminal responsibility, and to which the code has justly devoted considerable space is the question of 'MENS REA' considered from the stand point of Chapter IV of I.P.C. which deals with the subject of exceptions to criminal liability. This chapter controls the whole code. The cardinal principle underlying the chapter is that an act does not amount to a crime unless it is accompanied by a guilty mind. Semantical history of the word "Crime" offers but little help in determining its present meaning. 'Crimen' first referred to a judicial decision or verdict, then came to be used more loosely to include a charge, accusation, or reproach, especially, interestingly enough, if the accusation was unfounded still, later, dating particularly from the region of the Emperiorce Augustus (27 B.C. 14, A.D.).

The classical poet Ovid, exiled from Rome by Augustus for reasons that still remain unknown, illustrates this verbal flexibility by using inter-changeably the words "Crimen" and "error"(Mistake) to describe his offence.²

The inexactness of the definition of the word 'crime' and the ineptness of its ability to characterize homogenous units of behaviour has proved to be a formidable barrier against sophisticated interpretations of criminal behaviour. It is one of the major tenets of the work that investigations of causes or co-relates of crime per se, using crime to describe a gross behavioural entity, are inevitably doomed to degree of wasteness and vagueness that will vitiate whatever probabtive value they may seem to contain. Many scholars have insisted that crime is a product of a large number and great variety of factors and that these factors cannot now and perhaps cannot ever be organised into general propositions which have no exceptions. Persons who study individual cases by means of this approach are convinced, that one crime is caused by one combination of circumstances or "Factors" whereas, another crime is caused by another combination of circumstances or "Factors". Thus one factor is not always considered powerful enough to produce crime in individual cases. Several factors must conspire to

1. Gilbert Cesis, "Sociology and crime", P.311
2. Souther land, Cressey's Principles of criminology, P.59
do so. As Burt has said, "It takes many coats of pitch to paint a thing thoroughly black". Crime is a conduct which society at any given time considers sufficiently dangerous to its welfare so as to be deemed punishable by criminal, civil or mosotic laws. It is in the code of Hammurabi, fl. 2100 B.C. that we first encounter 'Lex talionis' i.e., the principle of punishment which demands retaliation for the crime committed and is expressed in the old words, "An eye for eye, a tooth for tooth." This principle later appeared in the Mos sic law and has influenced christianity and civil and criminal Law upto our time.

'Crime' according to Sellin involves deviation from, or breach of a conduct norm. This deviation or breach is punished by the society by means of its sanctions. But punishment is not the only criterion of value. Religion, Art, education and other sociological agencies also reveal value.

2. David Abrahamsen, M.D., 'The psychology of crime', P. 136.
3. Sellin, T., 'Culture conflict and crime', P. 4, 1 Hale, P. C. 27
Criminal:

Who can be regarded as 'Criminal'? As per the laws of the land any person who has completed seven years of age could, under certain circumstances, be a criminal. Section 82 of the Indian Penal Code clearly states: 'Nothing is an offence which is done by a child under seven years of age'. Under the laws of the England" Under seven years of age, indeed— an infant cannot be guilty of felony". As regards a rape English law presumes that a boy under 14 is incapable of committing that offence, but under the code, while a boy under seven is held totally immune from liability in respect of any offence. The exemption made here in favour of infants below 7 years of age does not extent to offences under special or local Laws. For instance, an infant below 12 may be convicted of an offence under the special provisions to the contrary in the Indian Railways Act. Similarly an infant may be punished under the other Acts which are enacted to preserve public health order or sanitation, and in fact in respect of any offence of which mens rea is not an essential ingradient. An infant below 7 is absolutely 'doli incapax'. An infant under 7 years can do no wrong.
He can commits no crime. He is incapable of understanding the consequences of his acts. Therefore, the immunity of infants under 7 years of age from liability extends in some case even to offences under special laws.\(^1\)

Section 83 of the Indian Penal Code states — Nothing is an offence which is done by child above 7 years of age and under 12 years of age who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion. Maturity of understanding can be proved by the nature of his act, his subsequent conduct and his demeanour and appearance. Jurists have given various reasons for the exemption of lunatics from criminal responsibility. It has been said that a man is best punished by his own madness "Furiosis nulla voluntas est" i.e. a madman has no will, and "Furiosus — absentis loco est", i.e. a madman is like one who is absent. There is a distinction between 'medical insanity' and 'legal insanity. According to medical science insanity is another name for mental abnormality brought about by various causes and existing in various degrees. The most elaborate and authoritative exposition

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\(^1\) 1938 Rang 400"40" cr.L., 80"1936" Sindh 185, 38 Cr.L., 83", 1945 Lah 238(F.B.).
of the English common law of insanity was embodied in the answers of 15 judges given in June, 1843, to the questions put to them by the lords in consequence of the popular alarm provided by the acquittal of Daniel M.C. Naughten. In the second of their answers the learned judges laid down that "to establish a defence on the ground of insanity it must be clearly proved that at the time of committing the act the accused was labouring under such a disease of the mind as not to know the nature and quality of the act he was doing, or if did know it, that he did not know if he was doing what was wrong." According to section 105'A' of the Indian evidence Act the onus of establishing the plea under section 84 rests on the accused. The law stigmatises as 'criminal' any one who commits a breach of it when the court which tries the person concerned is satisfied that a breach of the law is committed so as to make the offender liable for the penalty prescribed. There was a time, when, strangely but truly, the criminal was worshipped by the uneducated superstitious. The Roman gave”, the name of 'Herculas' to great criminals after death and dedicated a distinct cult to them.

1. -Daniel McNaughten's case(1843) Cl.Fin200:8 F.E.718.
2. -Sethna,"Society and the Criminal" P.68
3. -Ellis,H.,"The criminal "P.350."
Society must reform its attitude towards the criminal. Great credit goes to Lombroso, who emphasised the study of the criminals as opposed to the exclusive study of crime. The personal history of many criminals often shows some sort of faulty training or childhood disturbance. Criminal means a person charged with an offence and found to be guilty\(^1\). When we examine youngers who have been traitors or who have been in trouble with the police for thefts or disorderly conduct, we frequently find an intimate relationship between their antisocial or criminal manifestation and their emotional and mental conflicts. The criminal in such cases most often turns his aggressions against society. The offender tires to satisfy his criminal inclinations, even if only symbolically, and will usually not denounce them, in contrast to the neurotic person, who frequently feels guilty. The neurotic person, suffers from his inner conflicts inflicted - upon him mainly by himself. The criminal apparently does not suffer from an inner conflict since he convinces himself that all his difficulties with the law stem from his environment\(^2\). The neuratic person

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1. Aiyer's 'Law Terms and Phrases, P.216
2. David Abrahamsen, M.D. "The psychology of crime, P.109-110."
satisfies his desires mainly through his fantasies, while the offender discharges his anxiety-tinged desires through criminal actions. Research studies have shown that criminal behaviour is associated with in greater or lesser degree with the social and personal pathologies, such as poverty, bad housing, slum residence, lack of re-creational facility, inadequate and demoralised families, feeble mindedness, emotional instability and other traits and conditions\(^1\). Its specific task should be to differentiate criminal from non-criminal behaviour.

we may thus regard human nature and personality as "products of social experience and interaction"\(^2\).

Dr. William Mc Dangall regards character as something built up in the course of life. It is the sum of acquired tendencies built up on the native basis of disposition and temperament with the physical and social environment under the guidance of intelligence\(^3\), are primarily directed against society (Manifest criminals, such as gangsters), and those who commit crimes which primarily express their inner conflicts i.e. symptomatic or re-active criminal such as kleptomaniacs, pyromaniacs.

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1. Southerland and Creassey, "Principles of Criminology" p.75,
2. Ibid, p.5
3. Mc Dangall, W., "Social Psychology" p.120.
sex offenders and certain types of murders - on the whole, individuals suffering from a neurotic or psychotic conditions or from a character disturbance. In trying to arrive at a system of classification in the field of Criminology, we are faced with two problems - Classifying the crimes and classifying the criminals. The first classification is a legal one, having its origin in criminal law. The law differentiates between crimes committed against the persons (that is, crimes of violence, such as assault, murder, or sexual attacks), those committed against property (burglary or Robbery) and crimes against the State. The law thus attempts to classify the criminal according to his act. This legally and sociologically coloured method of classification is imperfect and unrealistic in a great majority of cases because an offender may very easily fit into two or three of the categories. For example he may kill and commit a burglary, thus committing crimes both against person and property. Theories of classification have been many. Lombroso divided criminals into -

(1) The born criminal
(2) The epileptic criminal.

(3) The criminal of irresistible passion.
(4) The insane and the feeble minded criminal.
(5) The occasional criminal.

The last group was sub-divided into the pseudocriminal, the criminaloid, and the persistent offender or the non-abnormal type.

Enrico Ferri divided criminals into occasional offenders and habitual offenders. To the first group belonged those whose criminal acts were due to external circumstances and who were driven to commit crimes because of a special passion. To the second group belonged those who were obviously insane or mentally defective i.e. the mental deviates with inborn criminal tendencies (the so called Psychopaths) and persistent early offenders whose criminal behaviour was caused by environment elements. In order to avoid such a pit fall. Charles Gorina classified criminals into physical, mental and moral types. Burt, Healy, and Alexander and Staub have tried to classify offenders according to etiological factors.

1. Ferri, "Criminal Sociology" pp. 23-43.
3. Burt "Young Delinquent"
4. Healy "The Individual Delinquent" P.61
5. Alexander and Staub, The criminal, the judge and the Public, P.21.
Most of the criminals we find in our jails and prisons are of the traditional variety. Traditional criminals may operate - singly or in groups, may be of low or high intelligence, may be occasional, habitual, or compulsive; their crimes may be petty or highly dangerous; may involve violence or not. A criminal gang is not new in our culture. The notorious Brinks robbery of January 1950 in Boston was accomplished by a criminal gang, and all the participants may well be labeled traditional criminals. In 1873 Mandsley published his work on mental responsibility where in he maintained that a criminal by instinct is a 'Morally insane' person. He declares that the criminal is morally inbecile. About 1876, Lombroso examined the skull of one Vilella, a brignand, and from such examination he got his theory of 'the delinquent type'. Beginning with a small pamphlet, which grew ultimately into three volumes, he considered the problem of the personality of the criminal in the light of anthropology, biology, psychiatry and jurisprudence. To his credit go the following among other books:


(1) The Female offender,
(2) Political crimes,
(3) Crime, its causes and remedies,
(4) Legal Psychiatric expertism, Methods of procedure, Penal casuistry.

According to the Lombroso school, criminals have the following characteristics namely, they have dark and thick hair, some times woolly in texture, skull which may vary in five directions (A) it may be rounded like a dome or (B) depressed like a roof that is glat or low or (C) its vault may be keel shaped or (D) it may be bulging with a protuberance on one side, or both sides, or in front or behind or (E) it may have a sugar loaf appearance; eye-brows that are heady or scanty a nose that is defective and is frequently without a bony skeleton, ears that are long and thick, skin that is pale and wrinkled, lips that are cleft, teeth with the molars undeveloped, wisdom teeth absent, the canine teeth over-developed etc.¹ In 1890 Dr. Havelock Ellis emphasised that an average criminal is rather a congenitally abnormal person, and that he usually has illadjusted organism. In 1901 Dr. Griffiths Deputy

¹ Symonds, P.M. 'Diagnosing Personality and conduct', P.515.
Medical Officer at Parkhurst prison, got the idea of having a physical examination of a large number of prisoners who were convicted of certain similar offences in order to find out whether they show any deviation or variation from the normal non-criminal type. His work having been seen by Sir B. Donkin, the visiting Director and by Sir Smalley, the Medical Inspector of Prisons, they advised that such examination by measurements should be extended to the general body of criminals in the prisons in England and Wales, so far as male prisoners were concerned. The criminal, according to Lombroso is a "Specific Product of anomalous biological conditions." Observers of the Lombrosian school, like Marrow, Salsotto Boer and Attoleghi found the hair of the criminal to be anomalous in many ways. The Head of the criminal is supposed by the Lambrosians, to be anomalous in shape and dimensions. The skin of the criminal was supposed to be pale and wrinkled, the lips deft, and the eye brows characteristically bushy or scanty, and the nose after to be without bony skeleton and defective in shape also. The chin is either receding or projecting and the appearance is brazen, shameless and brutal or, on the other hand, timid and suppliant. A deficiency in the frontal curve with a

1. Ellis, H., The Criminal"P.XVI
2. Coring C.,'The English Convict,'p.111
3. Ibid., p.12
4. Ibid., P.13.
projecting occiput and receding forehead with eyes 'glassy and cold, fixed' were regarded as the characteristics of potential murderer. Enlarged orbital capacity, rectilinear nose and bulging forehead revealed thieves, bright eyes, swollen eyelids and lips. Rough-voices and over developed jaws revealed the sexual offender etc. According to Lombroso, the term 'Criminal' is not confined in its meaning to the fact of a legally convicted criminal but it includes any person who is potentially a criminal and who possesses the characteristics of the 'Criminal type'. He is concerned not only with criminals (in law) but also with 'Anthropological' criminals. The Anthropometrical system was given up, and substituted by the anatomico-pathological investigation. Lombroso classified criminals into (1) Born criminals, (2) Criminals by passion, (3) Insane criminals, (4) Occasional criminals, As regards the class of criminals known as the occasional type, Lombroso gives three sub-types, viz. (A) The Pseudo criminals, (B) The criminaloids, (C) The Habitual criminals.

1. Ibid, P.17.
The Pseudo-criminal is one who is not really a criminal by nature or by choice, but due to force of circumstances, e.g. a person, who, to feed a starving child, steals a piece of loaf or an apple from a street waggon. A person who commits a breach of an unjust law is also a 'Pseudo-criminal. The criminaloid has "only a touch of degeneracy", while in the born criminal, according to Lombroso, the determining factor of crime is to be found in his nature. Though the tendency to do wrong is organic in a criminoloid it is not so intense as in the born criminal. So to put that organic tendency into operation he requires the force of some external circumstance. The habitual criminal, according to Lombroso, does not suffer from abnormal heredity. He is normal from birth. However, several environmental factors e.g. faulty childhood habits, defective training at School or at home, misery at home, destitution, desertion by parents, bad company or emotional disorder caused in childhood by some unhappy or unfavourable circumstances, may be the cause of his criminality. Dr. Ellis gives the classification of criminals as (1) Political criminal, (2) the criminal by passion, (3) The insane criminal (4) occasion criminal,
professional criminal, (6) The habitual criminal, 
(7) The criminal by instinct or the 'morally insane, 
as he was called'. Professor Custav Aschaffenburg 
classifies criminals as: (1) Criminals by chance, 
(2) criminals by passion, (3) deliberate criminals, 
(4) habitual criminals, and (5) Professional 
criminals.

Dr. Henderson classifies accused persons as 
(a) offenders who are not criminal in character, 
(b) offenders whose criminality is superficial and 
(c) offenders whose anti-social disposition is deep 
in nature and habit. Offenders may also be classified on the basis of age viz. adults and the juvenile 
delinquents. Offenders may be classified according to 
crimes. The religious, scientific or political 
offenders may be 'criminal' only by reason of legal 
technicality. As per Dr. Sethna the criminals may 
be classified as under: -

(1) Real, political or religious criminals 
with a false conflict, fanatical and 
violent.
(2) Insane criminals.

(3) Criminals by passion or grave provocation.
(4) Casual offenders.
(5) Habitual offenders.
(6) Professional criminals.
(7) Morally maladjusted, disorganised or deprived criminals.

From a legal standpoint crime is, according to 'Taft and England', an act made punishable by law. A criminal is one who has committed a legally forbidden act. Yet there are other criteria which determine whether a person may be dealt with as a criminal.

(1) Apart from his unlawful act, he must be of 'competent Age. (2) Criminal act must also be 'Voluntary' and engaged in without compulsion, (3) Especially in cases of serious crimes, the criminal must be shown to have had 'Criminal Intent'. Without 'means rea' there is no crime. (4) Our criminal law also recognizes, 'degrees of intent' as necessary to constitute particular crimes. And act committed 'maliciously' and 'wantonly' or a person's injury to have resulted from negligences. (5) Finally to constitute a crime, 'an Act must be classed legally as an injury to the state and not merely as a private injury.

2. Taft and England, "Criminology", p.6
The theory of Dr. Cesare Lombroso is that the criminal is identified by certain stigmata of body-built. Dr. Lombroso tried to co-relate these characteristics with psychological attitudes. His classification of criminals into various types and sub-types was responsible for the origin of the Italian or positive school of criminology, (a scientific attempt at understanding crime). His theories are now only of historical importance, chiefly due to the work of Dr. Charles Goring of England, who disproved his findings.\(^1\)

There is only one country in the world, which thousands of years ago, made "evil thoughts" also punishable. That country is India.\(^2\) From the social viewpoint the purpose of punishment is not to balance accounts or to take vengeance upon a criminal but to assure that he will not repeat his crimes. Punishment will be used when it is the only way to prevent repetition or when it will deter others from committing crimes.\(^3\) A criminal is one who has in the past committed, generally with evil intentions, an act made punishable by law. Another type of dangerous person is an

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accomplice. At law an accomplice is one who takes part along with other person/persons in the commission of a particular criminal act. He may have planned a crime he did not commit himself. Following is the process by which a particular person comes to engage himself in criminal behaviour:

1) Criminal is not born but is made this means that criminal behaviour is not inherited, unless he has training in mechanics.

2) Criminal behaviour is learned in interaction with other persons in a process of communication.

3) Criminal behaviour learn through or via-media of personnel groups such as Movies, Newspapers etc.

Criminal Gangs:

The criminal gang is not new in our culture. In gang criminality, violence is the most conspicuous characteristic. In recent times those thus engaged have been equipped with machine-guns. Sawed-off shotguns, bullet - Proof vests, tear gas, and high powered cars (mostly stolen) in quick gateways. In some cases the armament of these gangs is stolen from armories. The usual operations of criminal gangs in
the modern era are bank robberies, pilfering of trucks and warehouses (Hijacking) and during the 1930's Kidnapping. The exploits of criminal gangs often thrill the public.\(^1\)

The Criminality of Women

Professor Otto Pollak has shown that statistics are most unreliable in giving an adequate index of female crime. He contends that most crimes committed by women are concealed by their 'Indirection and deceit' and that women engage in a wide variety of crimes incidental to the roles they play as wife, mother, nurse, and rearer of children. Among these are murder, most frequently by poisoning, adultery, abortion, infanticide, blackmail, larceny, shoplifting and forgery - crimes that, by and large, do not call for any dering or physical strength\(^2\). It has been argued that poverty is the basis of most crime, but it might be contended as well that sex also happens to be at the root of many crimes. Men steal for women, women kill to rid themselves of unwanted mates, both men and women kill each other because of sexual jealousy. While it is

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1. Barnes and Teeters, "New Horison in criminology", P.52
dangerous to generalize, it is almost proverbial that offenses committed by women involve men, directly or indirectly. There are and there were many women dacoites in Chambal valley in Madhya Pradesh. In the famous Manwat (Dist. Parbhani) Murder case even the sessions Court Parbhani had convicted a few female accussed who were involved in murder of infants residing in the District. More sinister crimes, such as murder and kidnapping, can be committed in cold blood by women. Murder is more frequent among female crimes than among those committed by males. Many women do, however, make a career of crime. Shoplifting can be lucrative, both for the women themselves and for their 'fences' who wholesale the stolen goods on a percentagebasis. Educated women resort to forgery and other activities involving skill. With these bold exceptions, however, female crimes follows the dull pattern of dreenkness, vargrancy, prostitution, disorderly conduct, drug addiction and the like^1.

The Youthful offender:

Under Section 82 of the Indian Penal Code, which is applicable to all the States of the Indian Union,

^1. Barnes and Teeters, "New Horizons in Criminology", P.64.
Children under 7 years of age are not held criminally responsible for their acts. Section 83 of the said code relaxes this age up to 12 years in case of children who at the time of committing a breach of law have not attained sufficient maturity of understanding to judge for themselves the nature and consequences of their conduct. In almost all the States, children above the age of immunity are afforded protection in varying degrees against heavy punishments as capital punishment, transportation in life, rigorous imprisonments etc. to which they would be otherwise liable for their criminal acts. In most states the protection is extended to persons up to 21 years of age but in Uttar Pradesh, the age prescribed is 15, in Assam, Maharashtra and Delhi, 16 and in Bihar 20 and in the Andamans and Nicobar Islands it is 22.1

There are many reasons why so many young people are prone to crime. Our socio-economic structure is potent for disorganization and frustration. Old fashioned family discipline has broken down and many parents themselves are bewildered by the changing mores. Divorce and desertion are on the increase, leaving as an aftermath many disoriented children. Complexity of our civilization, the increased contacts and stimulation of urban life, new 1. Paripurnanand Varma, "Crime, Criminal and convict", P.76
concepts of eduction that develop a premature spirit of sophistication without a philosophy of self discipline— all must be reckoned with. Each generation is convinced that its young people are arrougan, selfish, undisci- ned and irresponsible. The newspapers and Magazines seem to affirm this. A father bittery rebuckes his adolescent son for making him 'sick unto death with his fears and inhuman behaviour'. He 'is deeply dis- appointed at the sons' ingratitude'.

A number of interesting angles have been taken in the sustained attack on the problem of youthful criminals. We have had statistical studies of the symptoms, or typical expressions, of juvenile delin- quency. Efforts has been made to provide intensive individual study or cause histories of typical juvenile delinquents. Professor Frederic M. Thrasher's study, the gang, was one of the first to consider this prevalent and challenging trend in the behaviour of juvenile delinquents out of wealth of experience in studying the activities of some 1,300 gangs, he thus summarises the conditions that make for group delinquency in our modern confused life —

1. Barnes and Teeters, "New horizons in criminology"? P.65
2. Samuel Noof Kramer, "A father and his perverse son".
(1) Those conditions in family life that make for neglect of children such as poverty, immigrant, maladjustments, disintegration and ignorant unsympathetic, immoral or greedy adults.

(2) The failure of present day religion to penetrate in any real way the experience of the gang boy.

(3) Inadequate schooling that fails to interest the boy of this age.

(4) The lack of proper guidance.

Juvenile delinquency in France:

Children have always been given a special place in criminal law; they were never, even under ancient Roman-Law, fully punished the same way as an adult. It was however only during the nineteenth century that the problem of juvenile delinquents appeared in a new form, under the twofold influence of the increase in juvenile delinquency and the evolution of Public opinion. Special courts were set up and methods of re-education were developed, without however, doing away with penal sanctions in exceptional cases. The number of juvenile delinquents:

1. - Barnes and Teeters, "New Horizons in criminology, p. 69."
delinquents at present oscillates around 30,000 a year. If this number is increased by the number of maladjusted children who come before the juvenile courts for educative assistance, the total number of children for whom society has to take responsibility each year amounts to 75,000. This figure must be expected to increase rapidly and a figure of 1,00,000 a year must be assumed, when it is borne in mind that educative action should continue for an average of three years. The central Probation of offenders out come of a Long-self need.

Bombay children Act, 1948:

It is essential to know the important operational factors involved in the Bombay Children Act. The act is progressive piece of Legislation which attempts to ensure treatment and to protect the well being of every destitute victimised and delinquent child. The Bombay Children Act provides for the establishment of juvenile courts. All matters relating to juveniles and their offences are to be tried only by the juvenile courts, wherever, they exist. Section 8 empowers certain other courts to act as

1. Ambassade De France EN Inds, "Service de Presser et d'information" P.2.
juvenile courts in parts of the state where juvenile courts are not established. There are in all 23 juvenile courts in Maharashtra. Youthful offenders means any child who has been founded to have committed an offence. When the child under 16 years is charged in the juvenile court, by the police, in committing an offence, the court orders the probation officers attached to make necessary enquiries and submit a report. The Bombay children Act is the main spring from which the entire correctional frame work takes life and shape. In order to guage the effectiveness of institutional treatment frame work of the

Institutional treatment viz.

(1) Apprehension,
(2) Detention,
(3) Observation Homes or Remand Homes,
(4) Juvenile Courts- enquiries and investigation.
(5) Nature of order repatriation/Restoration Board or commitment to an institution,
(6) Institutions,
(7) Types of release and types of supervision
(8) Aftercare programme and followup.

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1. Impact of institutions on juvenile Delinquents,
The Maharashtra State Probation and After-care Association is supposed to follow up each case for 1½ years after final date of release.¹

**Primitive Law of Crimes:**

"तत्स्य व भएकांचे पैदाकाढानावर लपवायलय. /- न्यूयॉर्क पुराण देयांतित धार्मिकाधिकार उद्धमनौये रीवांकडा ध्रुमाणांि कक्षवृकानक परजुपाल कुलीपिकाखँ: रचे रचे केः"

The administration of justice shall be regulated by the Veda - the institutes of the sacred Law, the Angas and the Purana. The Laws, of countries - castes, and families which are not opposed to the sacred records, have also on authority over the cultivators, traders, such groond inthe society viz. heromen, Money Lenders and Artizans to lay down rules for their respective classes.² In the same way

"केःवाणम् बायित धर्मंतनु धार्मिकाधि ध्रुवभावाद "

¹. 'Impact of Institutions on Juvenile delinquents"P.17
⁴. Vashistha-I.
Manu has declared that the peculiar laws of countries-castes, creeds and families may be followed in the absence of the rules of the Sruti. There was no criminal Law as such in primitive society. It was the law of 'jungle that prevailed in the primitive society. Every man was liable to be attacked his person or property at any time by any one. A tooth for tooth, an eye for eye, life for life was the forerunner of criminal justice.

It is essential to have first an insight into some of the more important social and religious customs in this country. It is not an exaggeration to say that the average Indian 'lives and moves and has his being' in an atmosphere pregnant with religious beliefs and superstitions. From early infancy his mind is trained in strictly religious channels. On every hand he sees manifestation of the divine. He is steeped in the complicated mythology of his race and learns early to attribute every event of his social and domestic life to religious influences. Ignorant and deeply religious he is prone to accept, unquestioned, the superstitions and fable-tales of the most grotesque kind. His religious susceptibilities make him an easy

1. Augustus Somerville, "Crime and Religious belief in India".
victim for wandering mendicants. Yogis, Fakirs and the like prey on his good nature, his dread of the unknown and on the characteristic hospitality of his race. In perfect good faith, and of its incongruity, he pray devotedly in the morning to some tutelary deity. For the success of his crops, and that very evening will ask for a divine blessings on the dacoity he is about to commit.

Law of the Jungles :-

The earlier men constituted a hunting society and to hunt a neighbouring tribe, kill the males, loot the villages and possess the females, was the most profitable, as well as the most exciting, way of living. Thus amongst the more martial tribes pure fungnacity and love of glory came to mingle with the more fundamental appetite for plunder and destruction. Fear of god or fear of nature as it was understood in the primitive times played a major role in keeping the primitive people on a path towards the evolution of basic criminal jurisprudence. The basis of the political and social organisation of the Rigvedic people was a patriarchal family. It can be safely asserted that the Rigvedi people were necessarily rural

1. Ibid P. 520
2. Ibid P. 385
people. The regular word for law or custom in the Rigveda is Dharma. It can be only inferred from the later practices of the King administering justice with the assistance of legal advisers including the Purohit i.e. the preceptor. The Sutras and Sastras taken together are known as Smriti (Remembered) as distinct from the earlier vedic literature which is Sruti (heard) and which was believed to have been directly revealed to its authors, and therefore, of greater sanctity than the later texts. Thus the Manava Dharma Sastra or Law book of Manu is often known as the "Manu Smriti". The epics and puranas were also looked on as Smriti, and contained much legal lore. In fact hundreds of verses of Manu are also to be found in the Mahabharata, and were probably not plagiarized, but from a common sour.

The Crimes recorded in Rigveda :-

The crimes recorded in the Rigveda are those of theft, burglary, highway robbery and cheating (chiefly by gambling), cattle lifting at night etc. The crimes were measured in terms of cows as the cattle was the token

1. Rigveda VIII 6-48,
2. Rigveda,
3. "The History and culture of the Indian People (Vedic Period) 1952, P.357."
of wealth in that period. This period saw the importance of witnesses for evidence: eye-witnesses were held to be more important than mere informers. Ordeals were also probably looked upon as a valid tests of innocence or guilt. The main topics under criminal Law discussed in Dharma Sutras are Assault, theft, adultery etc. The Nirukta gives a list of seven sins among which the slaying of a bhruna of Poetus is mentioned. Bhruna is generally interpreted as 'embryo' but later tradition takes it to mean 'Brahmana' also. In criminal law only Apastamba recognises the application of orders. They merely consisted of the application of fire and water.

The Smriti period saw the beginning of the systematic treatment of Hindu Law, as well as its full development. The Manu Smriti gives us the regular exposition of the legal system which was followed in the later Dharma Sastras of 'Yajnavalka', Narada and Brihaspati. They were all compiled during the period between 600 B.C.

1. Rigveda,
2. Chhandogya Upanishada (VI)
3. Nirukta Dharma Sutra (VI)
4. Apastamba Dharma Sutra (II)
5. Max Muller, India, what can it teach us? P. 366
and 320 A.D. or within a century after that.\(^1\)
In order to understand the historical development of the legal system of Hindus, it is necessary to go through the different Dharma Shastras, Artha Shastra of Keutilya also deals with legal topics.

Sources of Law -

Manu enumerates three sources of Law, viz. the Sruti or Vedas, the Smriti, and the Customs of holy men. In case of conflict Sruti prevails over the Smriti. Manus Smriti also lays down a procedure for trial\(^2\). The Arthasastra advises that the honesty of judges should be periodically tested.

Vishnu Smriti prescribes banishment and forfeiture of all property of a judge found guilty of corruption, or injustice. Vakparsushya means defamation. Danda-Parushya means Assault by beating. Mahapatakas include five real sins (1) slaying of a priest, (2) associating oneself with High sineers, Vajnavalkya Smriti classifies Courts of justice as under: -

(1) Officers appointed by the King,
(2) Pugas (Assembly of the same village),
(3) Srenis (Assembly of Merchants and Craftsmen),
(4) Kulas (Families).

\(^1\) Maxmullar 'Indian, what can it Teach us? P.366
\(^2\) Manu Smriti (VIII),
\(^3\) Taft, Donald, R. "Criminology" P.6.
Criminal Law:—

Crime has been defined by Donald R. Tost, as 'An act made punishable by law' and 'Criminal' is one who has committed such legally punishable Act.¹ To-day God is not at all the concern of criminal Law.² In the Indian Penal Code the word 'offence' denotes a thing made punishable by the code. An act committed or omitted in violation of a Public Law forbidding or commanding it². Crimes are wrongs sanction for which is punitive and in no way remissible by any private person if remissible at all³. In Halsbury, 'Laws of England' Vol.IX the Crime has been defined as an act, 'unlawful Act or default which is an offence against the Public and renders the person guilty of Act or default liable to legal punishment. History has recorded the achievements of man. Law is one of the most important achievements of man. A great many theories have been put forth concerning the Political and Social organisation of the Indus Valley people but all remains theories⁴. Most but not all, crime is an expression of conflict relationship. Considered most immediately, the conflict is between law the criminal and his victim.⁵ Behind the immediate conflict relationship between criminal and victim lies the conflict between law breakers and

1. 'Ancient Law' Chapter-X
2. Blackstone 'Commentaries,'P.5.
3. Kenny 'Outline of Criminal Law'
legislators, the Police, and other agencies which make, enforce or administer the criminal Law.¹ To understand the problem of crime we must try to understand both the processes through which laws and other parts of the enforcement machinery come to exist and those through which laws are broken. These two processes are not independent of each other. Laws are and criminals are punished because criminals injure the society. In less obvious ways crimes are committed partly because of the conflict situation which criminal laws express. Punishment itself may produce anger and stimulate further conflict. Both criminal law and crimes in the modern states express social values, even though not all specific laws are implementations of the mores of the people generally. Sometimes two sets of values are in conflict. Sometimes crime and non-crime are different expressions of the same values². The property owner wishes to keep his property, the thief tries to take it away, but both of them value the property and presumably the prestige which comes from the possession of property, both crave status in their immediate groups. In a society where material success is a major pre-requisite

to social status, there will always be more crimes against property and more laws will be put on the statute-book the protection of property. Every society has its characteristic laws and crimes. Regional differences in the living and culture of people in the same or similar jurisdictions within one country also affect the influence of culture on law and crime. A frontier or rural society has values, law, crimes, and reactions to crime that are somewhat different those found in a highly industrialised urban society. The values of modern industrialism are everywhere different from the values of a feudal or peasant or frontier society.\(^1\) Laws and attitudes towards laws are often taken for granted but are actually the reflective of the developmental stage of a particular society from a cultural, social and economic angle. In England the accumulated body of judicial decisions along with long-standing customs came to be known as the 'Common Law'. i.e., the law applying commonly to all the persons throughout the territory. The eight felonies broadly spelled out by common law include, murder, manslaughter, sodomy, rape, robbery, larceny, arson and burglary. Along with the ancient common law there also

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exists 'Statute Law' established by legislative bodies as distinguished from judges. Since judicial decisions themselves usually have the force of Law (the so called 'Law of precedent') it is sometimes said that judges are the real law makers in Anglo-American Cultures. At any rate a citizen seeking to learn where legal boundaries of criminal conduct lie must do more than merely read the Statutes. He must also know what decisions have been given concerning them. Any system of criminal law must bow in some degree, to the doctrine that individuals are more or less responsible for their own actions. Earliest codes took no cognizance of insanity as reducing blame. Only until emergence of the Mahammedan Law in the Seventh Century A.D. do we find what appears to be the first clear distinction between crime (in this case, homicide) by the mentally sound and by deranged persons 1.

The M'naughten Rule :-

In 1843 a Scotsman named Daniel M'Naghten tried to assassinate Sir Robert Peel, the then Prime-Minister, but through-mistaken identity, killed one of Peel's secretaries, Edward Drummond. The testimony of

nine medical men convinced a jury that M' Naghten was insane (he apparently suffered from some from of Paranoia). His acquittal on this ground alarmed and angered Queen Victoria and her advisors, moving them to request the judiciary for a clear principle to be applied for in future criminal cases of such types. The so-called 'M' Naghten Rule' was the result. To establish a defence on the ground of insanity, it must be clearly proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to known the nature and quality of the act he was doing; or if he did know it, that he did not know that he was doing what was wrong.

The application of these rules is known as the "Knowledge Test". The Psychiatrists have not attained the level of competence and scientific reliability and validity necessary to make their testimony eligible for serious consideration by the Courts.

Trends in Criminal Law :-

For decades criminal law has been basically neoclassical but with a gradual trend towards implementation of positive principles. Changes in the law have also shown some willingness to delegate discretion

1. 10 Clerks and Finnelly 208, 'Eight English Reports' P.10!
to administrative authorities, to study the individual criminal and to deal with him in terms of his own personal characteristics and situation. This outlook has led to fears that criminals may be deprived of the right of due process of law. Today's trend is to alter the law in the light of the findings of psychological and social science. Writing in 1951, and concerned with the events spread over a century rather than solely with these recent trends, Dean Albert J. Harno, broadly summarised the new trends in the evolution of criminal law: less concern with 'menscrea' changes in the law of insanity; greater recognition of the criminal responsibility of corporations, expansion of the doctrine of conspiracy with possible threat to individual liberty; and substantive reforms, seen in indeterminate sentence laws, and habitual criminal acts. Probation and Parole, the juvenile court movement, and the federal and the state youth correction acts, together with procedural reforms looking towards less use of the grand jury. The law's capacity to protect from crime depends upon the operation of all these other agencies. The operation of the law itself is more immediately dependent upon the efficiency of its enforcement by Police, Prosecutors, Courts and Penal systems.
The criminal law is not merely a collection of written prescriptions. The agency of enforcement of law is the Court, and thus it is the Court rather than the legislature which determines what the law is. Many Statues are never enforced; some are enforced only on rare occasions, others are enforced with striking disregard for uniformity. These enforcement and administrative agencies, also are affected by public opinion, and Pound has concluded that law in action is determined chiefly by public opinion. Many theories of the origin of the criminal law as an agency of social control have been developed. First is the classical theory according to which the criminal law regarded as originating in torts, or wrongs to individuals. A second theory is that the criminal law originated in the rational processes of a unified society which, when wrongs occurred, the society took action and made a regulation to prevent a repetition of such wrongs. A third theory is that the criminal law originated in and is a crystallization of the existing social mores. Thus Customs developed with little or no rational analysis achieve after existence for a long time an ethical and legal foundation. A fourth theory is that the criminal law originated in the conflict of interests of different groups.

Reforms in the criminal Law -

Beccaria's contribution to penal law is of special interest to us here. His best published work is known by the title "Crimes and Punishment". The essential principles that Beccaria recommended and which ultimately led to the formation of the 'Classical' school of criminology is as follows -

1. Greatest happiness for the greatest number,
2. Crime must be considered an injury to society,
3. Prevention of crime is more important than its cure,
4. In criminal procedure secret accusations and torture should be abolished and there should be speedy trials. (5) Purpose of punishment is to defer persons from the commission of crime and not to provide social revenge; there should be no capital punishment,
5. Provision of better quarters and other amenities to prisoners and separating them on the basis of age, sex, and degree of criminality. The greatest leader in the reforms of criminal law in England at that time was the utilitarian, Jeremy Bentham (1948-1832). His interest in the reforms was a product of his humanitarianism and his desire to provide more scientific Legislation. According to him Pain should not be

1. Marcello T. Meestro, 'Voltaire and Beccaria as reformers of criminal Law 'P.54.'
inflicted unnecessarily, but should 'fit the crime'. Bentham's theories were implemented by four leaders, (1) Romilly, (2) Mackintosh, (3) Peel, (4) Buxton. Inter-disciplinary study and research in law and the social sciences have also been taking place in general law schools, including those of Yale and Chicago. Ford foundation fellowships for sociologists at the latter school may likely produce a new group of criminologists with more abiding interest in criminal law and its concerns, a necessary item for the future growth of criminology.

The Multiplicity of Laws:—

There is no real solution to crime. No doubt much of it can be eliminated especially by erradicating the economic cause that arise from the gross inequalities inherent in our social system. But the extent of petty crime depends to a large degree on the number and tyranny of our laws. Each year thousands of new laws and ordinances being added to our statute books which are unnecessary laws. Much of the time of Police officers is absorbed by snooping into matters that should be left to the control of Public opinion and common decency. Jails


and Prisons are clogged with men who are in no serious way a menace to society. It would not be an exaggeration to state that 50 to 75 percent of those actually convicted and sent to prisons are either ignorant violators of the law or those who have no financial resources to fight their cases.

Instead of dealing with crime as such as we have done alone in the past there must be brought to each trial knowledge of the criminal including his background, his potentialities, his habits, and his modes of social thinking. The disposal of his case must be determined in the light of these data and not his crime.

Crime and criminology in England:

Though East's working definition of crime 'as an act or omission forbidden by law under train of punishment'. Mann Reim has followed sellin's and sutherland's lead in regarding as proper material for criminology many actions clearly antisocial which are not illegal in English legal code, such as its attitude to suicide, tax avoidance, and strikes. Some observations on another aspect, the Sociology of the criminal law, are made by Wooten, who has indicated the social class bias evinced,

1. American Magazine now discontinued.
2. Barnes and teeters, New Horizons in criminology'P.74.
4. Mannheim K, "Criminal justice and social reconstruction'.
5. Wooton Lady of Abinger 'Social Science and social pathology'.
for instance, in the relative toleration towards serious motoring offences, causing personal injury and death. The incidence of crime is also clearly affected by age, associated as it is with physiological and psychological maturity\(^1\). Theories about objectives of punishment have been modified by experience of different methods and by knowledge of factors associated with criminal behaviour. Post-treatment carers were little recorded in England until recently, though several follow-up studies had been made. Rose first analysed factors correlating to success after Borstal treatment on the lines of the Glucks study of "Five hundred criminal carers". The major advance in method, however, was made by Mannheim of Wilkins with their male Borstal sample, in which they classified cases into groups with stated "decision riske"\(^2\). This line of research promises advance towards improving criminal policy, at present, provided equal success can be achieved with regard to predicting the results of other forms of punishment, and even of the prospects of first offenders.

\(^1\) East, Sir W Norwood, "The Adolescent criminal" P.236
\(^2\) Mannheim and Wilkins - Joreph S. Roucek 'Sociology of crime' P.392.
Criminology and Corrections in Western Europe:

Criminology and correctional procedures in Western Europe have been influenced more readily than elsewhere by the development of the major theories of human behaviour. Western Europe was contributing to the study of group behaviour and society. Concepts of good Penal practice in Western Europe in the late eighteenth century, can be traced from the writings of John Howard in reporting his visits to European prisons. In the 18th Century, there was a general movement towards the concept, that the punishment should fit the offender. Beccaria in Italy and Blackstone and Bentham in England influenced the field of criminology and corrections to concentrate on the offense, rather than on the community. The most recent development in Western Europe is the concept of social defence. Social defence has emerged as a social movement to combine the philosophy of Law enforcement and corrections into single discipline. Social defence embodies (1) Criminology and the study of the Individual personality for the purpose of rehabilitation, (2) Penal Law and finding the optimum balance between the mental health of the individual personality and the welfare of the total group and lastly (3) the science and art of manipulation of the environment for the greatest benefit of all.
Special characteristics of soviet criminal Law:

The first principles of Soviet criminal code was issued on December 12, 1919, as Stuchka's Guiding principles of criminal Law R.S.F.S.R. It was a proclamation of general ideas influenced by Marxism. In conformity with Lenin's doctrine of the withering away of the State and Law, the first Soviet constitution (1918) promised the abolition of State authority. The criminal Law Proclamation of December 12, 1919, aimed at bringing stability into the administration of criminal law. Social danger thus became the leading principle of criminal justice. The long discussed revision of the Soviet Criminal law and judicial procedure was enacted into a Law at the December 22-25, 1958 session of the U.S.S.R. Supreme Soviet. All indications are that the party stresses extra legal activities as an effective method of dealing with crime.

Criminal laws of Moscow's European Satellites:

Although there are certain differences in theory at least among the 'People's Democracies, behind the Iron curtain, in their constitutional and governmental structures, the fact remains that all these satellite states have tried to model their institutional frame work
closely on the pattern of the soviet union, especially in regard to criminal, police and military institutions, the organization of propaganda and education and the economic institutions\(^1\).

**Albania** - The New Albanion Penal code of September 1, 1952, was based on the principles of 'Class warfare and revolutionary justice\(^2\).

**Bulgaria** - The Bulgarian Criminal Code was promulgated in 1951 and has been amended since then, replacing the code enacted in 1896.\(^3\)

**Czechoslovakia** - The peoples' judges are appointed by the cabinet or the peoples' Committee, and only citizens 'Loyal' to the Government and to the Principles of the Peoples' Democratic order may be appointed. Of all the satellite States, the Czechoslovak communist regime has been most successful in warding off the favour of liberalization that had begun to grow in Eastern Europe in the turbulent year of 1956.

**Hungary** - The Hungarian criminal Code was promulgated in 1950 and has been amended since then; replacing the enactment in 1896. Suppression of any criticism of the government is provided for by numerous measures. The

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1. Szirmai Z. (Ed.) "Law in Eastern Europe".
2. Skendi, Opp. Cit. 143,
3. Sipkov, Ivan, "Legal sources and Bibliography of Bulgaria".
series of protective laws provides for the death penalty or life imprisonment for governing, joining, or even supporting any organization that aims— even by peaceful means—to change the form of the existing government. Heavy sentences are inflicted upon those who incite against the State, its institutions or individuals representing it, while a number of acts and omissions amount to crime against public economy.\(^1\)

**Poland**— The imposition of the Pro-communist system in Poland in 1947 was not accompanied by such deep and sudden changes in the legal system as in the USSR. The situation is viewed differently by Western critics of the communist regime, who stress that the communist region "found it necessary to make far-reaching adaptations in the criminal Law and procedure.\(^2\) A man accused of an 'economic crime' can read in his newspaper that the highest government body in the land is openly denouncing judges who hand down "Lenient Sentences'.

**Rumania**— 'The Peoples' judges carry on a much greater functions than those specified in the constitution. The minister of justice may assign them from one Court to another. Thus there are special teams of peoples' judges

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1. Stolz - George, 'Forced Labour in the Soviet Orbit'.
2. Glabiecz, Kazimiere, 'the armed Forces and National Security'.
which the ministry of justice can use wherever and whenever the Political interests of the Party heed them. Propaganda and agitation against the social order is punishable by 3 to 10 years of imprisonment, and conspiracy against the social order by 15 to 25 years imprisonment and in exceptionally grave circumstances, by death.

Yugoslavia: 'Revolutionary legality was stressed as one of the instruments of the revolution, and the 'Peoples' Courts' had sprung up in to existence during the war. Yugoslavia's new Penal Law, which went into effect in January 1960, had been under discussion for more than three years. In general, penalties for various types of crimes have been reduced. Generally speaking maximum penalties of 20 years have been cut to 15 years and those of 5 to 8 while the number of acts punishable by fines instead of prison terms has been increased. Capital punishment is, in effect, virtually dropped altogether. In future, it is stated, it will be limited to treason and 'particularly grave crimes against people and the state against the armed forces. Capital punishment of persons under 21 has already been discarded.
Crime in the Western World: The western world is typified by advanced technology which is continually changing man's methods of making a living, and by a political ideology which makes man a participant in the governing forces of the society. The distinguished sociologist, Marshall Clinard, in summarizing the third United Nations Congress of the Prevention of Crime (1965) stated that economic explanations of crime are not fully satisfactory in all countries. It has been generally agreed that the incidence of crime and delinquency appear to have been more extensive in countries which are economically most developed. The classical example is Japan which has been noted for considerable increase in youth crime. Scotland's criminal activity is also concentrated in the urban areas, the greatest problem being crime against property. There is a difference between British and American society regarding freedom and controls. The British have accepted the idea of controls in public life, and individual freedom is more circumscribed than that in America. Crime is not as severe a problem in Britain as in the United States, perhaps, because the class structure in Britain has been more traditionalist. There are

stronger social controls and the whole system is less dynamic and more stable. Crimes against property have been mainstay of the rising crime rate in all industrialized nations of the world. Korean crime is closely related to industrialization and urbanization. 72.7 Percent of the total crime is classified under property crime. Immigration is an important facet in the etiology of crime, especially in the United States. The modern world has been characterized as the migratory society. There is some indication that immigrants from eastern southern Europe have higher crime rates than those from Western and Northern Europe. Computations of various offenses by foreign-born groups showed the highest rate in homicide and rape among the Mexicans, the next highest rate being among the Italians. The lowest rates were among the Scandinavians and the Irish. The Japanese, Chinese, and Jews have traditionally maintained a low crime rate in America.

Crime in the Non-Western World:

Non-Western Society includes the great population of Asia, the middle east, Africa, and Latin America. As in the West, however, crime

1. David Abrahamsen, 'The psychology of crime pp.14-21
2. Dae H. Chang 'Criminology', p.21
problems are also an integral part of non-western cultures. India's Crime rate is one of the lowest in the world owing to religion and caste.

Crime Problems in the Inter-National Scene :

The problem of criminality on the Inter-National level has become more pronounced as a result of modern advances in technology. More and more people have been travelling from one country to another. More advanced means of communication and transportation have made the world seem smaller. These technological advances have also made Inter National crime more inviting and more rewarding. Some scholars maintain that crime both within and between Nations is unavoidable because of the uneven distribution of wealth. Some form of smuggling is the characteristic of every nation as it is highly lucrative business. Smuggling is defined as importing or exporting goods without paying legal duties. Contraf and goods such as Cigarettes, Liquor, Gold, Jewels, and Industrial diamonds are regarded as less serious than fire arms, drugs and Narcotics. Traffic in narcotics is probably the most serious Inter National crime. Opium,

1. Dae H Chang, 'Criminology' P.35.
Cocaine, and Marijuana are in constant demand throughout the world and particularly in the United States. The British trading companies spread opium throughout the world. It is now supplied by many countries, including China, Burma, Laos, Thailand, India, Turkey, Bulgaria, Yugoslavia, Iran, Syria and France. Some of the broad international offences may be stated to be: (1) Genocide (2) Conspiracy, (3) Counterfeiting and Forgery (4) Prostitution, (5) Abortion, (6) Piracy, (7) Theft.

(1) Genocide -

Designed to destroy in whole or in part, a national, ethnic or religious group like (a) Killing members of the group, (2) Conspiracy - Plotting treason, (3) Counterfeiting and Forgery - Forging of cheques passports, Traveller's cheque, (4) Prostitution - Immoral tacking girls and women.

(5) Piracy - Consists in seiling the seas in private ends, without authorization from the Government of any station.

Criminology - It was natural that quasi-scientific assumptions would arise from the new discipline of biology. Perhaps the most interesting was phrenology,
started as 'Craniology' the name being given to it by its founder Dr. Franz Joseph Gall (1758 - 1828), a Viennese physician. This concept, according to Bernaldgo quiros, grew out of the doctrine that considers the face as the noblest part of the body\textsuperscript{1}. The science of criminology equires into the persons and/or social aspect, which determines criminal misconduct, giving rise to the whole problem of crime. In order to study comprehensively the subject of criminology, it is necessary to draw material from history, sociology, Psychology, Anthropology and Ethics\textsuperscript{2}. Thus we find that in modern criminology, anthropology is not of so much help. Old Italian criminologists were wrong in evolving the theory of the physical criminal type. As far back as in 1913 Dr. Charles Coering has emply demonstrated the allacy of the this assumption. Analysis of the process of crime by leading jurists and sociologists like Beccaria, Romilly, Bentham, Frank Joseph Gall and Lombroso have given birth to a science which is now known as the science of criminology\textsuperscript{3}. The putative father of the physical approach to criminal causation was cesare Lombroso (1836-1909), the Italian Physician

\textsuperscript{1} C. Bernaldo de Quiros, Modern theories of criminology, P. 3.
\textsuperscript{2} Pariipurnand Verma 'Crime, Criminal and Convict', P. 191.
\textsuperscript{3} Pariipurnand Verma, 'Crime, Criminal and Convict', P. 105.
He might have been wrong in insisting on his congenital factor theory in the causation of crime but his contribution to the science of criminology can never be forgotten. From his studies there arose a science of criminal anthropology which and had a very popular reception during the latter part of the nineteenth century. Lombroso's thesis was that the typical criminal can be identified by certain definite physical characteristics or stigma, such as a slanting forehead, long earlobes or none at all; a large jaw with no chin, heavy supraorbital ridges, either excessiveness or an abnormal absence of hair, and an extreme sensitivity or nonsensitivity to pain. Criminology as a recognised academic field is almost as old as most of the other social sciences and almost distinct and separable from others. Starting, empirically at least, as an offshoot of physical anthropology it has gradually enlarged to include within itself the conclusion drawn from the entire range of the discipline of sociology. The criminology, like all modern other social sciences, therefore, has to combine theoretical approach with empirical methods.

Criminology is a science:

Criminology is the body of knowledge regarding crime as a social phenomenon. Criminology consists of three principal divisions namely (A) Sociology of Law, which is an attempt at scientific analysis of the conditions under which criminal Laws develop. This is seldom included in general books on criminology. (B) Criminal aetiology which is an attempt at scientific analysis of the causes of crime, and (C) Penology, which is concerned with the control of crime. Criminology thus is a study of the causes of and the remedies for crime. It studies the personality of the criminal and provides for methods of diving deep into the sub-conscious mind of the criminal. It also studies the ideal methods of dealing with the prevention of crime, and thus necessarily, deals with the problems which penology deals with. Penology deals with the principles and methods of punishment. Criminology, Penology and criminal Law are the species and criminal science is the efenus. Robinson states, 'Science is too bold a word in defining Penology. The use of this term

1. Sutherland cregsey, "Principles of criminology, P.3
2. J.M.J. Sethna, 'Society and the criminal, p.15.'
presupposes a knowledge of the facts, a rigidity of analysis and a soundness which does not exist as yet in this field of study. But in criticism of this statement, it may be said that in sciences, such as criminology, Penology, Sociology, etc. which deal with human affairs, there can not be mathematical exactness. The study of criminology, being mainly a subjective study, cannot have such exactness as in mathematics. As Parmeelee has said "Criminology is not one of the fundamental sciences, but a hybrid product of several sciences." And Professor Cault says that the term 'Criminology' suggests studies that have relation to crime and criminals.

Criminology is a science involving the study of criminal behaviour, it is a science of the root causes of crime. The claim of criminology to rank as a science was recognised when the positive school of criminology was inaugurated. Mischael and Adler regard criminology as, 'the study of criminal behaviour'.

1. Robinson, L.N., "Penology in the United States" P.11
3. Gault R.S., "Criminology", P.17
4. Professor Karl Pearson's introduction to the abridged edition of Dr. Charles Gorings 'The English convict' P. XIV.
The term 'Criminology' is used in a general and special sense. In its broadest sense 'criminology' is the study (not yet the complete science) which includes all the subject matter necessary to the understanding and prevention of crime and to the development of Law, together with the punishment or treatment of delinquents and criminals. Interest in the study of criminology is, of course, partly due to recognition of the costliness of crime already mentioned. The study of criminology is also a back-ground for a Profession and an opportunity for social scruice.

Sociology and Crime :-

It is semantically significant that both 'Sociology and Crime' present curious etymological histories. The term sociology coined by Augusts Comte, represents a deliberate combination of Greek and Roman roots, undertaken to vivigy linguistically the omniscient role of the new science of society. The life history of the word 'crime' offers but little help in resolving its meaning so that it might be of greater value in the catalogue of scientific terminology. The Roman, who passed the word along, were wayward and erratic about defining it.

1. Taft and England "Criminology" P.11
The word 'Crimen' first referred to a judicial decision or verdict, then came to be used more loosely to include a charge, accusation, or reproach, especially, interestingly enough, if the accusation was unfounded. Still later dating particularly from the reign of the Emperor Augustus (27 B.C. 14 A.D.), the word crimen was expanded further to include the item complained of by the accuser, whether or not the complaint was accurate. The classical poet Ovid exiled from Rome by Augustus for reason that still remain unknown, illustrates this verbal flexibility by using interchangeably the words "Crimen", and 'error' (Mistake) to describe his offence. In popular usage today both 'Sociology' and 'Crime' are employed with looseness of definition that has represented a stumbling block in attempts to delineate clearly the province of the Sociology of crime. Sociology itself is often equated with social welfare, a vocational field with an explicit value-orientation, and even occasionally with the economic doctrines of Socialism. It is in fact this later misconception, it is some times alleged, which has brought forth the term 'behavioural science' a designation innocuous enough to convince. No negative connotations to the fund-granting foundations.

1. Ovidius Naso Publius 'Tristia'.