CHAPTER ONE

INTRODUCTION

1. General Background on Crime

Crime has never been free from any human society since their emergence on this earth. From the available evidences, it has understood that early men of Palaeolithic age used to kill their prey which may be of human or non-human by using crude weapons (Adelson, 1974). Right from then, there has been aggressive instincts and endless ambitions in the mind of men to conquer over others. Although, the type of crime most common during the remote past of human history is not known, it may very well be assumed that any crime during those days must have had connections with the so called three basic drive of needs of men viz., food, shelter and sex. Traces of five big wounds and lack of basal regions of all the Sinanthropus skull by Professor Weidenreich has laid the suggestion of cannibalism habit of the Sinanthropus people (Hooton, 1946). Development of tools manufactured from stone during Palaeolithic period to metallic ones of more advanced type in later period, must have facilitated men to commit crimes in more easier manner.
Struggle for existence has always been a constant phenomenon for men throughout his history. Use of sharp edged rocks and splint-tipped arrows and spears by the Palaeolithic men, was formed to be inevitable for them, in order to protect themselves from the constant encounters of animals or enemies. It is said that though there was crime in primitive societies too, but therein, it was not a major social problem as the mores were strong enough. On the other hand, some were of the opinion that crime had no place in primitive societies when community life was simple. It was only when individuals began to live in more and organized communities that they formed rules for the preservation of life and property.

Since very early days, laws relating to crimes and its medico-legal legislations have propounded in many countries. One of the probably the earliest written code of laws regarding practice of medicine, the civil and criminal responsibility and liability of the medicine men etc. was that of Hammurabi Code, enunciated by Hammurabi, king of Babylon reigned during the period of 1000-4000 B.C. (Mukherjee, 1981).

Modern societies are generally composed of heterogeneous populations having different ethnic affiliations, religious backgrounds and even class strata. These different groups usually have their own norms of conduct which often clash with those of others. Even, it is not that there are no limitations in the norms of a homogeneous group to control over the
behaviour of their own members. Comparatively, there was little crime among the primitive tribes and simple folk societies which are normally governed by one single code of beliefs and customs with more static cultures. People of modern societies, along with varied advantages of their civilization, has to pay the price of crime like many other social problems (Sachdeva, 1985).

There are set of norms which regulate the behaviour of individual members of a society. Some individuals obviously fail to conform to these norms and they are known as having deviant behaviour. As the norms are different from society to society, what is considered to be deviant behaviour in one society may be considered as approved behaviour in another society. Generally, a deviant behaviour is usually related to specific situations. A person who is deviant in certain ways may be conformist in others. Sometimes a deviant person, under the circumstances, may become anti-social or a criminal. Crime, therefore, may be regarded as behaviour of individuals which the group vehemently disapproves. However, there are opinions that a changing society needs deviant behaviour for the emergence of new norms which it must develop if it is to function efficiently. Crime often reflects the change of culture and calls attention to the structural and associational problems inherent in social change.
The concept of crime seems to have rooted in man's rudimentary attempts to distinguish between right and wrong in his interaction with fellow human (Rao, 1981). Sharing of man with animals in many instincts and feelings such as anger, sympathy, sexual passion and parental love etc. are the basic sources of crimes. Possessing of higher knowledge and performing his duties in the society, are the characteristics which distinguish man from other animals. In the absence of these qualities, man is like any other mammalian subgroups. Human societies, have therefore, developed more and institutions which regulate the social life of its members. So, the bad sentiments, selfishness and vengeful emotions of man are eradicated by the set of 'Conduct Norms' of the society.

1.1 Defining Crime

The essential characteristic of crime is that it is the behaviour which is prohibited by the state as an injury to the State and against which the State may react, at least as a last resort, by punishment (Sutherland, 1949). Therefore, crime has been defined as a failure to live upto the standard of conduct deemed binding by the rest of the community or an unsocial act. Darrow (1934) defines it as an act forbidden by the law of the land and for which penalty is prescribed. Crime has been defined in many ways. According to Websters' Encyclopedia (1978) - "Crime is an act or ommission specially
one of a grave nature, punishable by law as forbidden by statute or injurious to the public welfare; as steeped in crime; more generally, any offence, specially one of a grave character; hence serious wrongdoing; sin".

Since societies do not have uniform standards of right and wrong and since these standards change in a society from time to time, criminal behaviour is relative and not absolute. Because, act or omission regarded as trivial in one age or society may be condemned as crime in another. For example, the use of liquor and other intoxicating drugs in some of the states is considered as normal, while in others it is strictly prohibited. We may, thus, adopt the definition of crime as "an act or omission forbidden by law under pain of punishment".

The popular dictionary definition which states that "Crime is an act punishable by law, as being forbidden by statute" is often described as inadequate since it covers various degrees of crimes such as serious offences, minor transgressions of law, petty violations and some aspects of deviant and nonconformist behaviour. The fact that ignorance of the mentioning of the degree of seriousness of the offence has been the main reason for such inadequacies in the definitions.

An example of legal definition of crime is: A crime or public offence is an intentional act committed or omitted
in violation of a law forbidding or commanding to which a series of punishments are annexed. Or simply, it is defined as an act of human behaviour banned by criminal act. However, it is also generally accepted to refer to adult (18 years and above) behaviour.

As per Section 82 I.P.C., a child under the age of 7 years is presumed to be incapable of committing any crime, hence cannot be convicted for any offence. The Indian Penal Code, it is said (Rao, 1981), does not define crime per se, but contents itself with defining an offence as a thing made punishable by the Code.

According to Websters' Encyclopaedia (1978), criminal can be classified as follows:

1. An occasional offender (who does not have a conception of himself as a criminal, does not play a criminal role).

2. A habitual petty offender (who has a long criminal career, but is generally not very sophisticated in his activities and tends to be more caught).

3. A conventional criminal offender (who plays a steady progression from juvenile gang, delinquency to adult behaviour of a more serious type).

4. A professional offender (who has most highly developed career and level of sophistication).
1.2 Causes of Crime

Crime is a social problem and social problems have no single or simple cause. Lombroso (1836-1909), who is considered to be the father of modern criminology, was of the view that criminal behaviour is inborn and is primarily a biological phenomenon (Gibbons, 1973). Human behaviour, thus, is viewed as the product of combined influence of culture and current situation (Upadhyaya, 1978). Some of the chief factors for crime are, the social environment, economic basis, heredity psychological etc. In case of juvenile delinquency, some of the root causes are: broken home, alcoholic parents, poverty of the family, education of the children etc. (Upadhyaya, 1978).

Sin and Crime: In the Indian context (Das, 1977), crime and sin are so much interwoven. In the early scriptures, sin has been described as opposition of (to) truth, duty, obligation and violation of the ordain of supreme God etc. It is built on the believe that the sinner has evil ends.

Smrti writers noted five sins and means of liberation from those social evils and malefactions. The sins as referred to are (1) Murder of Brahmin, (2) Drinking of Wine, (3) Theft, (4) Intercourse with Teacher's Wife, (5) Association of wicked. But the sins during Mahabharata were said (Upadhyaya, 1978) to be (1) Adultery, (2) Violation of State Laws, (3) Murder of Brahmin, (4) Theft, (5) Treason,
(6) Drinking of wine, (7) Intercourse with teacher's wife and (8) Treachery with friends.

According to Sutherland, persons learn criminal attitudes and behaviour through a process of differential association or interaction with carriers of criminal culture (Quinney, 1964). In recent years, a radical version of criminological theory asserts that crime, racism, sexism, and international exploitation of underdeveloped nations are all manifestations of the inherent contradictions of the political-economic organization of monopoly capitalism. Of course, this new brand of theorizing is highly controversial.

Ethiological (or casual) analysis in criminology involves explanation of differentials in crime rate and also exploration of the processes by which specific individuals acquire criminal attitudes and/or behaviour patterns. Behaviour pattern has been identified as a psychological issue by Cohen (1959). Gibbons (1973) preferred to use the term social-psychology of criminal acts and careers, in that social-psychology is a discipline, concerned with socialization - the processes through which individuals learn to behave in human fashion. In a epidemiological study of lawbreaking patterns within a particular city may show that certain forms of juvenile gang delinquency and certain
kinds of adult property crime are heavily concentrated in slum areas and uncommon elsewhere in the city. Analysis of this situation may explain the difference between social-psychology of criminal acts and careers and the sociology of crime.

Western criminologists have regarded crime as disease and studied it scientifically. The crime is the expression of natural emotion and rearrangement of mental function. Criminal behaviour increases due to nervous tension which includes psychic disorder, unbalanced mind and unstable personality.

**Heredity:** Criminal tendencies are often thought of as the only influence of pathological social conditions. When it is true to a maximum extent, yet it is also true that this trait may also be influenced at times by heredity. Studies on twins have revealed that there is a much greater likelihood of criminal careers among both members of a pair of identical twins than among both members of a pair of fraternal twins of the same sex (Winchester, 1966). It should suggest that there are inherited differences which would lead one person into a life of crime under certain social conditions, while another person under the same circumstances would not be so influenced.
Kretschmer (1921) discussed relation of normal and abnormal types of mind to, according to him, three morphologic constitutional types, the pyknic, athletic, and asthenic. He established an association of manic-depressive psychoses predominantly with pyknic body build, and schizophrenia with asthenic build. Hooton (1945), however, pointed out that the Kretschmerian body type classification was inadequate for a proper investigation of these relations.

There is an ancient belief that biological factors determine human behaviour generally, and criminal behaviour specifically (Gibbons, 1973). The explanations rest on the basic logic that structure determines function.

Lombroso (1836-1909), a pioneer in criminology, was considered as the originator of the theory of atavism and of the criminal as a biological type. He maintained to say that the degenerated and atavistic criminal type could be identified by a number of stigmata, including facial asymmetry, eye defects and peculiarities, ears of unusual size, excessively long arms, and other physical peculiarities (Gibbons, 1973).

Later on, geneticists have reported that the males with an extra Y-chromosome (XYY) are well recognised for their anti-social, aggressive and criminal tendencies (Winchester, 1966). Unusually large number of XYYY and
XYY men have been detected among the hard-to-manage patients and also criminally insane individuals in Sweden and Scotland. Lejuene sums up that there are no born criminals but persons with the XYY defect have considerably higher chances. Although, this theory of a possible correlation of a man with genetic abnormality and his anti-social behaviour, has not universally been accepted, it seems still appropriate to take account of this phenomena while dealing with legal aspects.

1.3 Crime and Forensic Medicine

At instances, forensic medicine has found indispensable in the administration of law both civil and criminal, though mainly criminal. Forensic medicine denotes medical aspect of law and it helps the court of laws to correlate and apply the medical knowledge to solve disputed medical-legal problems relating to injuries, asphyxial deaths, sex offences etc., for the cause of justice (Mukherjee, 1981). Medical evidence is of two types, documentary and oral. Documentary evidence may be either: (a) primary material and writing such as medical certificates and reports made by doctors, or (b) statements and depositions made directly in anticipation of legal proceedings (Knight, 1987).

Forensic medicine is claimed normally as to have been originated between the period of 1000-4000 B.C. by
Hammurai, King of Babylon, and accordingly called it as Hammurabi Code. It is said to have referred to the legislation on the practice of medicine, the civil and criminal responsibility and liability of the medical men in professional fields, medical malpractice etc. In early Greece, Hippocrates (460-353 B.C.) on population control by inducing abortion before the animation of the foetus. In India, even during Vedic period, references are made about the anti-social behaviour among the members of Indian society.

Certain Smrtis and Puranas have sporadically mentioned about some aspects of medical jurisprudence. Around the ninth century A.D., the Matsya and agni Puranas laid out special provision for the unfortunate women due to assaults, ravished or overpowered to provide rehabilitation through readmitting to her previous position. Huien-tsang a well known Chinese pilgrimage, who visited India during 629-645 A.D., accounted the crimes prevalent during those days and the methods of punishment and various ordeals practised in Indian societies. It is mentioned that Huien-tsang himself was attacked by the robbers on more than one occasion. Theft, robbery, burglary, forgery, adulteration, adultery, gambling and assaults were some common crimes committed in ancient India.
It was during 1845 that a chair of medical jurisprudence was instituted at Calcutta Medical College, at the instance of the English East Indian Company (Mukherjee, 1981). Now, the term Medical Jurisprudence has been changed its nomenclature into Forensic Medicine since India attained Independence. The later term is more widely accepted in most parts of the world, except in Europe and United States where the term legal medicine is often preferred (Knight, 1987).

A profile on the background information on the types of crime and punishment in early Manipur and also a brief historical development of medical jurisprudence in the State is given in the next Chapter-II.