CRIMES IN ANCIENT AND DEVELOPING WORLD

DISSERTATION

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LIST OF ABBREVIATIONS

A C	Law Reports, Appeal Cases
A.D.M	Additional District Magistrate
A.F. of L -	American Federation of Labour
A.G. -	Attorney General
AIR -	All India Reporter
AIR D -	All India Reporter, Delhi Series
AJ –	Alberta Judgments
ALJ -	Allahabad Law Journal
All E.R. -	All England Law Reports
ALJR - Allahabad Law Journal Reporter, Australian Law Journal Reports	
AR -	Alberta Reports
Art. -	Article
Aust L.J -	Australian Law Journal
AWAG -	Ahmedabad Women's Action Group
BLD -	Bangladesh Legal Decisions
BNA -	British North America Act
Bom HCR -	Bombay High Court Reports
CBI -	Central Board of Investigation
CC -	Constitutional Council of France
Cf. -	Compare/ consult
C.J.I -	Chief Justice of India
COFEPOSA -	Conservation of Foreign Exchange and Prevention of Smuggling Activities Act
CP -	Common Pleas
Cr. -	Criminal
CRI, L.J -	Criminal Law Journal of India
Cr L Rev -	Criminal Law Review
Cr. P C -	Criminal Procedure Code

DLR -	Dominion Law Reports
EPW -	Economic and Political Weekly
ed. -	Edition
Ed -	Editor
Eds -	Editors
Eng Rep -	English Reporter
ER -	English Reports (Eng)
Fed -	Federal
Ibid -	Latin, short for ibidem, meaning “the same place”
IBR -	Indian Bar Review
ICCPR -	International Covenant on Civil and Political Rights
I.C.J. -	International Court of Justice
Inc., -	Incorporation
IPC -	Indian Penal Code
IR -	Irish Reports
IRC -	Internal Revenue Code
S. Ct. -	Supreme Court Reporter (Supreme Court of the United States)
SC –	Supreme Court
SCC –	Supreme Court Cases
SCC (Jour) –	Supreme Court Cases (Journal)
SCJ –	Supreme Court Journal
SCR –	Supreme Court Reports
S.C.R. -	Supreme Court Reports (Supreme Court of Canada)
SAL -	Social Action Litigation
TLR -	Times Law Reports
U.K. –	United Kingdom
UNDP -	United Nations Development Programme
U.S. -	United States Supreme Court Reports
Vol. -	Volume
v.	Versus

LIST OF CASES

- DPP v. Stonehouse 1977 2 All ER 909
- Haughton v Smith1973 3 All ER 1109
- R v. Percy Dalton(London), Ltd. and Others(1949) 65 T.L.R. 326: 33 Cr.Ap.R. 102
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- State of Washington v. Harold Gluckesberg 521 US 702 (1997)
- People v. Rojas 55 Cal 2d 252, 358 p. 2d 921, 10 Cal. Rptr. 465 (1961)
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- R. v. Sarrazin, [2010] O.J. No. 3748 (C.A.),
- R. v. Deutsch 1986 Can LII 21 (SCC)
- R. v. Root 2008 ONCA 869
- Perka v. The Queen [1984] 2 S.C.R. 232
- R. v. Miskell [1954] 1 W. L. R. 438; [1954] 1 All E.R 137
- R v. Page [1933] ALR 374
- R v. Wange [1909] VLR 379; (1909) 15 ALR 366
- R v. Donnelly [1970] NZLR 980
- R v. White [1910] 2 KB 124; [1908-10] All ER Rep 340
- People v. Jaffe (1906)185 NY 497
- R v. Smith [1973] 3 All ER 1109
- Stephens v. Abrahams (1902) 27 VLR 753; (1902) 8 ALR 112
- R v. Thomas (1937) 59 CLR 279; [1937]ALR
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CHAPTER – I

INTRODUCTION

1.1. Meaning of Crime

Crime is the violation of the rules and regulations enforced by the society from time to time for which definite punishment is prescribed by law. Members in every society are expected to act according to its established norms and laws. But when an individual finds it difficult or impossible to satisfy his wants and desires in a direct and socially accepted manner, he encounters the alternative of renouncing his motive or attempting to find a substitute satisfaction. When good solutions are not available, he engages himself in antisocial behaviour of criminal nature. The term crime does not, in modern times, have any simple and universally accepted definition[1], but one definition is that a crime, also called an offence or a criminal offence, is an act harmful not only to some individual, but also to the community or the state (a public wrong). Such acts are forbidden and punishable by law[2].

1.2. Conceptualization of Crime

According to Paul Tappan, “crime is an intentional act or omission in violation of criminal law (statutory and case law) committed without defense or justification, and sanctioned by the state as a felony or misdemeanor”. “Crime is an act of violation of law, and criminal is a person who does an act in violation of law”. The concept of crime is an unusually difficult one, since it is difficult to find any definition of crime that does not have a large element of circularity. In general, crimes are committed as events and actions that are prescribed by the criminal law of a particular country.

It is not easy define crime particularly because of its implicit roots in the concept of crime. Crime is considered as a deviant behaviour, because it is an act of human against prevailing norms of the society. A crime is further viewed by different parts of the world,

[1] Farmer, Lindsay, "Crime, definitions of". In Cane and Conoghan (editors), The New Oxford Companion to Law, Oxford University Press. 2008

[2] "Crime", Oxford English Dictionary Second Edition on CD-ROM. Oxford: Oxford University Press. 2009

even by different sections of the same people differently. Crime by a particular society at a particular period of time may not be so at a different time and for different people. Generally speaking, in India bigamy is illegal; in a Muslim society, a man can have as many as four wives. In some communist countries, free enterprise is illegal; the free enterprise system is a social tradition in the United States and many American laws reinforce them.

In different countries and societies, there are different conceptions of crime. Social conception varies according to the conventions of the particular society. The definition of crime becomes too wide. A law enacted today may find it against the interest of society after experience. The law will be changed and thus what is criminal today may not be criminal tomorrow. There are so many acts, which are treated as "crime" in the actual sense of the law, but in practice, the criminals are not punished for such acts, because they could interest others. To quote an example, it is said that in France, about one million people flourished in post-war black-marketing. Although black-marketing is a crime in France, according to an eminent French statesman, it was due to black-marketers that the French nation did not starve in those bleak days[3].

Men are by nature prone to commit crimes. Emile Durkheim one of the eminent social scientist made an outstanding contribution to the study of crime. He says that a society without crime is impossibility, for the every organization of complex societies prevents total conformity to all social rules by all and proper. It serves to contrast the unacceptable with the acceptable. The solidarity of the social group is enhanced when conformers unite against law violators and reaffirm members. Moreover, crime may even have positive consequences for a social system. The existence of crime strengthens collective sentiments as to what is right their own commitment to the law. Durkheim believes that those who engage in criminal behaviour play a definite role in normal social life, and this role can even be a positive one.

[3] Paripuranand Varma, Crime, Criminal and Convict (Agra: Ram Prasad & Sons, 1963)

1.3. Crimes in the World

Crime is everywhere. Even though countries define crime differently in their criminal codes, no country is without crime. An increasing number of countries now reports statistics concerning traditional crimes (murder, robbery, rape, theft, burglary, fraud and assault) to the United Nations surveys. Crimes rates computed from surveys of victims are universally higher than those of official records. While there are many known shortcomings of official crime statistics collected at the international level, the use of UNCJS data, for the purpose of making general inferences about groups of countries and trends over time, is reasonably reliable. Problems arise only when making comparisons between individual countries.

There is remarkable agreement around the world concerning the comparative seriousness of crimes. No matter what part of the world, over a five year period, two out of three inhabitants of big cities are victimized by crime at least once. The risks of being victimized are highest in Latin America and sub-Saharan Africa. Violence against women is most prevalent in Latin America, Africa, North America, Australia and New Zealand. Where women are more emancipated, the rates of violence against women are lower. Less than one in three female victims of violence report their victimization to the police. Reporting is particularly low in the countries of Latin America. Two-thirds of victims of serious crimes who had reported their victimization to the police indicated an unmet need for help. Levels of demand for help among victims were highest in Central and Eastern Europe, Asia, Africa and Latin America.

Globally, less than half of the victims who reported their cases to the police were satisfied with the response. Levels of satisfaction with the police are the lowest among victims in Latin America, Central and Eastern Europe and Africa.

The overall impression from this analysis is that although governments are responding to transnational criminal organizations and transnational criminal activities, they are doing too little too late. Efforts need to be expanded especially in the area of reliable and uniform data collection. More sophisticated methodologies need to be devised and greater use made of the information available in the private sector. As a matter of urgency

a central clearing house needs to be established with a focus on illicit market activities of all kinds and recognition of the cross-linkages and synergies that are being developed.

1.4.Crimes in India

Crime is a major source of social concern today in India. All daily newspapers devote a significant proportion of column inches to reports of murder and theft and accounts of sensational trials. Increases in crime rates will often be treated as headline news. According to the National Crime Record Bureau, in an hour, about 187 cognizable crimes under the IPC and 443 crimes under the local and special laws are committed. In one day, the police grapples with 832 thefts, 258 riots, 66 robberies and 333 burglaries and 2,991 other criminal offences[4].

In order to control the criminal activities, there are three institutions that play a role in the enforcement of criminal justice system in India – the Police, the Courts, and the Prisons.

Law enforcement and management of law and order, security, crime prevention and crime detection are essentially enforced and performed by the police authorities. Three major laws, apart from the Police Act, 1861, that govern the role and performance of police are The Indian Penal Code, 1860, The Indian Evidence Act, 1872, and The Code of Criminal Procedure, 1973.

The Indian Penal Code (IPC) identifies the acts of omissions and commissions that constitute the offences, and makes them punishable under this Act. It divides offences into several categories and embodies the substantial criminal law of the country. The Evidence Act is a major law relating to evidence and applies to all judicial court or court martial. Criminal Procedure Code (CrPC) is the major procedural law relating to conduct of investigation, trial, and appeal. It provides the mechanism for the punishment of offence against the substantial criminal law. The code also formulates police duties.

Apart from these, to cater to various specific needs, several new laws have been enacted from time to time to meet the growing crime prevention needs. They are broadly

[4] National Crime Record Bureau, Crime in India, New Delhi, 1994

categorized as (i) special law (vide section 41 of IPC) which is applicable to a particular subject and (ii) local law (vide section 42 of IPC) which is applicable to particular part of India. Collectively they are known as "Special and Local Laws" (SLL).

The criminal procedure code divides all crimes into two categories – cognizable crimes and non-cognizable crimes. The police deal with the cognizable crimes reported in the country. In such crimes, the police have a direct responsibility to take immediate action on receipt of a complaint or of credible information, visit the scene of the crime, investigate the facts, apprehend the offender, and produce him before a court of law having jurisdiction over the matter. Cognizable crimes are listed both under the IPC as well as under SLL.

Non-cognizable crimes are those where the police cannot arrest a person without a warrant, and so are generally left to be pursued by the affected parties themselves in the courts. Police do not initiate investigation in non-cognizable crimes except with magisterial permission[5].

1.5. Patterns of Crime

Though the Institutions of police, courts, and prisons of the criminal justice system play a vital role in defending criminal activities, India still faces the patterned criminal activities that would include violations ranging from adultery to abduction and from alcohols to skyjacking. Criminal offences and the characteristics of lawbreakers are almost as varied as non-criminal offences and law abiders. Hence, the law-violating behaviors reflect patterned interaction or a purposeful social organization centered on criminal activities. These patterns of crime include organized crime, professional crime, white-collar crime, juvenile crime, gender offence, homicide, and assault.

1.5.1. Organized Crime

Organized crimes are illegal activities carried out as a part of well-designed plan developed by a large organization seeking to maximize its overall profit. The structure of organized crime, outlined by the President's Commission on Law Enforcement and

[5] Arnabkumar Hazra, "Police Reforms and the Enforcement of Criminal Justice in India", Civil Society, International Seminar on State and the Police in India & France, (Feb. 2004

Administration of Justice in 1967, reflects both the extended family of traditional societies and military organizations. A major characteristic of organized crime is that many of its activities are not predatory (such as robbery which takes from its victims). Instead, organized crime generally seeks to provide the public desired goods and services that cannot be obtained legally (drugs, gambling, prostitution, etc.,) For its success, organized crime relies on public demand for illegal services.

The evils caused to society and to the economy by organized crimes are enormous. Through gambling and drug traffic, the lives of many individuals and their families are traumatized. Labour racketeering and infiltration of legitimate business lead to higher price of goods, lower-quality products, forced closing of some businesses, establishment of monopolies, and unemployment of workers, misuse of pension and welfare benefit, and higher taxes. Through corruption of public officials, organized crime leads to public cynicism about the honesty of politicians and the democratic process. It also leads to higher taxes and mismanagement of public funds. Organized crime is developing new market place scams, including counterfeiting, consumer credit cards and airline tickets.

1.5.2. Professional Crime

Sutherland describes that the attitudes and behaviour of professional criminals distinguish them from others involved in crime. These people make their careers in larceny, forgery, robbery, confidence games or some other illegal activities. They approach their work with the same sort of professional standards as doctors and lawyers. They are usually skillful enough to make crime an economic livelihood and are seldom apprehended because nothing illegal is attempted before either the police or the courts, or both have been paid off to ensure safety[6]. Even in the more hazardous occupation of robbery, professional criminals are considerably more prudent than amateurs and are less likely to be caught. Professional criminals take great pains to protect themselves; their social visibility is low, but their total contribution to commit crime remains uncertain.

1.5.3. White-Collar Crime

[6] Edwin 10 H. Sutherland, The Professional Thief (Chicago: University of Chicago Press, 1937)

The most costly and perhaps most frequently occurring white-collar crimes are committed by "respectable" middle-class and upper-class citizens. White-collar crimes are work-related offences committed by people of high status. White-collar crimes are invariably committed by those who are ingenious, clever, shrewd, rich and greedy persons who have developed political clouts. White-collar offences against customers include false advertising, stock manipulation, violations of food and drug laws, release of industrial waste products into public waterways, illegal emissions from industrial smoke stacks and pricefixing agreements. Embezzlement is also a white-collar offence in which an employee fraudulently converts some of the employees' funds for personal use through altering company records.

This new type of "White-collar crime" adversely affects the health and material welfare of community as a whole and also threatens the entire economic fabric of the country. These criminals, due to their political and financial influence, are able to capture the administrative machine of the state and escape from the clutches of prosecution. So they are sometimes not even traced in the police records. The U.N. Congress on prevention of crime and treatment of offenders predicted in 1970, that the third world would see burgeoning of white-collar crimes in the years to come as a part of developing process[7]. They rightly predicted that, white-collar crime might be expected to increase both in size and complexity due to the development of industrialization and economic structure. Further, the evil of the punishment must be made to exceed the advantage of the offence. But in these white-collar crimes, as the existing legal system fails to punish the accused, the criminals are further encouraged to repeat the crime. Hence, in contemporary society, the white-collar crimes show rising trend and widespread corruption.

1.5.4. Juvenile Delinquency

Juvenile crime is usually termed delinquency. The maximum age today for juvenile delinquents according to the Juvenile Justice Act of 1986 is 16 years for boys and 18 years for girls. Different rules apply to offences committed by juveniles and those offences are 12 Report of the 4th U.N. Congress on Prevention of Crime and Treatment of Offenders, 1970 handled by separate juvenile courts. The violations for which minors can be arrested

[7] Report of the 4th U.N. Congress on Prevention of Crime and Treatment of Offenders, 1970

include not only the ones applicable to adults in the same jurisdiction but also a series of vague categories such as habitual vagrancy, sexual promiscuity, truancy, incorrigibility and endangering morals, health or general welfare of the minor. Judges in the juvenile cases are expected to be flexible in judging young people and devising ways of rescuing them from lives of crime. Some judges consistently sentence girls, who are accused of sexual promiscuity, to reform-schools while dismissing cases of boys similarly accused. Others tend to release middle class youngsters to the custody of their families, while sentencing lower class minority young charged with the same offences to correctional institutions.

Armando Morales has classified youth gangs into four types: Criminal, Conflict, Retreatist, and Cult/Occult gangs.

Criminal Gangs: Criminal gangs have a primary goal, that is, material gain through criminal activities such as theft of property from people or premises, extortion, fencing, and drug trafficking.

Conflict Gangs: They engage in violent conflict with individuals of rival groups that invade their neighborhood or commit acts that they consider degrading or insulting.

Retreatist Gangs: Retreatist gangs focus on getting "high" or "leaded" alcohol, cocaine, marijuana, heroin or other drugs. Individuals tend to join this type of gang to secure continued access to drugs.

Cult/Occult Gangs: They engage in devil or evil worship cult which refers to systematic worshipping of evil or the devil; occult implies keeping something secret or hidden or a belief in supernatural or mysterious powers.

In a very real sense, a delinquent gang is created because the needs of youths are not being met by the family, neighborhood or traditional community institutions (such as the schools, police, recreational and religious institutions). Factors, in the home environments, like poverty, ill-treatment by step parents, alcoholic parents, broken family life, may drive the juvenile to the streets to commit delinquencies. Family attitudes, like

overprotection, rejection, lack of love, lack of response from parents, lack of suitable ideal and lack of discipline may also drive a child to criminal activities. Constant quarrels between parents make the home environment intolerable for the child and may lead to delinquent behaviour. Outside home, unhealthy companionship, too much of leisure and the temptations that city life presents may contribute to delinquency, particularly when the home environment is far from desirable.

1.5.5. Sex Offence

Sex offences include rape, prostitution, dowry death/harassment, molestation, and abduction. It is a highly underreported crime because victims believe that they have nothing to gain and more to lose by making a report. The victims are afraid of social embarrassment, interrogation by sometimes unsympathetic law enforcement officials, and humiliating public testimony in court about the offence. A danger to society of underreporting rape is that the rapist is less likely to fear apprehension and thus more likely to seek out his victims. Women who were respected and worshipped as incarnation of "Sakti" are today the targets of crimes such as rape. Unfortunately, less attention is given to help the victims cope with their exploitation or to rehabilitating the offenders.

1.5.6. Homicide and Assault

Criminal homicide involves the unlawful killing of one person by another. Criminal assault is the unlawful application of physical force on another person. Most homicides are unintended outcomes of physical assaults. People get into physical fights because they are incensed at others' actions, and decide to retaliate. Fighting is often an attempt by one or both to save face when challenged or degraded. Homicides frequently are "Crime of Passion", which occurs during a violent argument or other highly charged emotional situation.

Yet, some homicides are carefully planned and premeditated, including most gangland killings, killings to obtain an inheritance, and mercy killings. Homicides are also associated with robberies during which the victim, the robber or a law enforcement official

may be shot. Contrary to public stereotypes, the majority of murders occur between relatives, friends, and acquaintances. Because of the overt physical damage from assault and homicide, these crimes generate the greatest alarm among people.

1.6. Factors of Crime

Man is not inherently guilty. Nobody is born criminal from the womb of his or her mother. The circumstances and the environments or the economic conditions may force any one to commit an anti-social act. The problem of crime is not uniform or caused by the same factors. It is true that lack of stable background, faster change, and greater need of adaptability are the social characteristics, and they are the general background against which criminals must be viewed[8].

1.6.1. Social Factors and Crime

Family structures and relationships, peer-group relations, education, and occupational status are related to social factors of crime. There may be institutional arrangements that facilitate the increase of the probability or even cause of crime. Cloward and Ohlin argued that societal structures, as they now exist, block the opportunity of many individuals to achieve "success". Some individuals, who are identifiable by their socioeconomic characteristics, cannot achieve success by means generally accepted by society: they are blocked from legal success and reach for success by criminal means. Judith A. Wilks states that most people who commit the ordinary or index crimes come from low socio-economic background. This is particularly true for younger offenders. Many studies on juvenile offenders have concluded that a vast majority of the subjects live in low-income areas. There is also another view according to Sutherland that lower class people are simply more likely to be arrested and convicted, whereas middle and upper class often manage to avoid arrest and particularly conviction.

Institutional arrangements may also have effects on groups of people and thus on

[8] 14Paripuranand Varma, Op. Cit.

individuals within groups. Turk has argued that the political structure of society divides people into competitive groups and that crime is a product of this competition. Crime becomes a symptom of a struggle between the people in power and those not in powers.

1.6.2. Geographical Factors and Crime

Early observers had noted the geographic factors for the crime occurrence. Breckeridge and Abbott published a study showing the geographical distribution of juvenile delinquency cases in the city of Chicago. They relied upon statistics gathered by the juvenile court for the year 1899 – 1909[9].

For a variety of reasons, Robert H. Gordon observes that cities seem to produce and nurture considerably more crime than rural areas. Suburban crime rates are higher than rural rates but still considerably below urban rates. One reason for the high urban rate is the presence of slum or ghetto areas with their poverty, unemployment and overcrowding results with crime. Urbanity was supposed to destroy rigid primordial identities and lead to the emergence of a new, open accommodative and pluralistic culture. It was also believed that urban centres would represent scientific rationality, techno-industrial progress and a vibrant civil society filled with an active public sphere and life-affirming cultural institutions. But now urban centres are becoming increasingly insecure, tension ridden, and pathological. Urban-rural differences are the most significant factors in the geographic distribution of crime. For obvious reasons, states with large urban centres usually have higher crime rates than rural states.

1.6.3. Demographic Factors and Crime

Demography is about the population growth and change. It includes age structure of population, fertility and mortality patterns, migration and mobility patterns, and the ethnic composition of society. The relative proportion of males to females in the population,

[9] Sophonsiba Breckenridge and Edith Abbott, the Delinquent Child and Home (New York: Sage –Foundation, 1912)

race, age or sex is also linked to actual crime rates. Hasenpunsch has found that the percentage of young males is a good predictor of crime rates in Canada. Similarly the influence of the age composition of a population on crime rates has generally shown relationship. Fox conducted a more sophisticated study using temporal data in the United States in an attempt to predict crime rates. He found that the proportion of the population (non white) between the age group of eighteen and twenty-one years was significantly related to the violent crime rate, and that the proportion of the population (non-white) between the age group of fourteen and seventeen years was significantly related to the property crime rate. Thus his results support the idea that demographic structure does help to explain temporal changes in crime.

1.6.4. Economic Factors and Crime[10]

The economic determinist, Karl Marx, advocates that private ownership of property results in poverty which distinguishes those who own the means of production from those whom they exploit for economic benefit. The latter, it turns to criminals as a result of this poverty. Crime is, at least in part, the result of economic conditions. At an individual level, lack of income creates an inability to maintain an adequate standard of living, and consequently triggers crime as a means to gain income. Lack of income is often the result of unemployment. Unemployment also creates excess leisure. This excess leisure is often spent in socializing with others in similar circumstances or in committing deviant behaviour. As might be expected, most persons who commit the ordinary or index crimes, come from low socio-economic backgrounds. This is particularly true for younger offenders.

1.6.5. Opportunity Factors and Crime

Crime is not caused by a single factor. Traditionally crime is related to socio economic or socio demographic variables. For a crime to occur there must be both an individual who wants to commit an offence and an opportunity to commit that offence.

[10] J.A. Fox, Forecasting Crime Data (Lexington Mass: Lexington Books, 1979)

Mayhew, et al. describes “opportunities that attach to the properties of objects involved in crime” and present four characteristics that help to show how opportunity and crime are related.

The abundance of goods: As more goods enter into circulation, more goods are available to be stolen. The physical security of goods: As objects are made more secure, they are more difficult to be stolen; conversely, insecure goods may be stolen easily. The level of surveillance: Opportunities for crime are mediated by surveillance; high levels of supervision provide some protection.

The occasion and temptation for crime: For a crime to occur there must be a moment in time and space when the crime can happen. Insecure cars, even with the keys left in the lock will not create a crime. A person who wants to steal a car must come across the insecure car. Therefore crime can be considered in a cultural or social content as well as in a legal content.

1.7. Other IPC Crimes

The core organized crime activity is the supply of illegal goods and services to countless numbers of citizen customers. It is also deeply involved in legitimate business and in labour unions. It employs illegitimate methods monopolization, terrorism, extortion and tax-evasion to drive out or control lawful ownership and leadership, and to extract illegal profits from the public. Organized crime also corrupts public officials to avert governmental interference and is becoming increasingly sophisticated.

There are eight types of organized crimes. They are Drug Abuse and Drug Trafficking; Smuggling; Money Laundering and Hawala; Terrorism; Contract Killings; Kidnapping for Ransom; Illegal Immigration; and Prostitution.

Drug Abuse and Drug Trafficking is perhaps the most serious organized crime affecting the country and is truly transnational in character. India is geographically situated

between the countries of Golden Triangle and Golden Crescent and is a transit point for narcotic drugs produced in these regions to the West. India also produces a considerable amount of licit opium, part of which also finds place in the illicit market in different forms. Illicit drug trade in India centres around five major substances, namely, heroin, hashish, opium, cannabis and methaqualone. Seizures of cocaine, amphetamine, and LSD are not unknown but are insignificant and rare. Smuggling, which consists of clandestine operations leading to unrecorded trade, is another major economic offence. The volume of smuggling depends on the nature of fiscal policies pursued by the Government. The natural of smuggled items and the quantum thereof is also determined by the prevailing fiscal policies.

Money Laundering means conversion of illegal and ill-gotten money into seemingly legal money so that it can be integrated into the legitimate economy Proceeds of drug related crimes are an important source of money laundering world over. Besides, tax evasion and violation of exchange regulations play an important role in merging this illgotten money with tax evaded income so as to obscure its origin. This aim is generally achieved via the intricate steps of placement, layering and integration so that the money so integrated in the legitimate economy can be freely used by the offenders without any fear of detection.

Terrorism is a serious problem which India is facing. Conceptually, terrorism does not fall in the category of organized crime, as the dominant motive behind terrorism is political and/or ideological and not the acquisition of money-power. The Indian experience, however, shows that the criminals are perpetrating all kinds of crimes, such as killings, rapes, kidnappings, gun-running and drug trafficking, under the umbrella of terrorist organizations. The existing criminal networks are being utilized by the terrorist leaders.

Contract Killing is an offence of murder punishable under Section 302 IPC by life imprisonment or death sentence. Conviction rate in murder cases is about 38%. The chance of detection in contract killings is quite low. The method adopted in contract killings is by engaging a professional gang for a monetary consideration. Part of the prefixed amount will be paid in advance which is called ‘supari’. The rest of the payment will be made after the

commission of the crime.

Kidnapping for Ransom is a highly organized crime in urban conglomerates. There are several local as well as inter-State gangs involved in it at the financial rewards are immense vis-à-vis the labour and risk involved. Generally, no injury is caused to the kidnappee if the Kidnappers' conditions are met. Terrorist gangs have also been occasionally involved in kidnappings for quick money to finance their operations. In one recent case, the kidnapee was killed even after his family paid a huge ransom amount to a U.P. gang. The leader of the gang was known to the victim and he feared the victim would disclose the gang's identity if released. Several arrests have been made in this case. Incidentally, the leader of the gang is a Member of the Legislative Assembly of the State of North India.

Illegal Immigration is a method used by Indians to get employment in foreign countries. A large number of Indians are working abroad, particularly in the Gulf region. Young people want to move to foreign countries for lucrative jobs. Large scale migration is fostered by the high rate of unemployment in the country and higher wage levels in foreign lands. As it is not easy for the aspirants to obtain valid travel documents and jobs abroad, they fall into the trap of unscrupulous travel agents and employment agencies. These agencies promise to give them valid travel documents and employment abroad on the payment of huge amounts. Often the travel documents are not valid, and sometimes they are simply dumped into foreign lands without giving them the promised employment.

Prostitution is a very profitable business in which the under-world plays an important part. Flesh trade has been flourishing in India in various places and in different forms. The underworld is closely connected with brothels and call girl rackets, making plenty of money through this activity. They supply young girls to brothels in different parts of the country, shuttling them to and from the city to minimize the risk of their being rescued.

Economic offences form a separate category of crimes under Criminal offences. Often they are referred as White Collar crimes. The indulgences by Technocrats, highly

qualified persons, well to do businessmen, corporate persons, etc. in various scams and frauds facilitated by the technological advancements, are also referred as Blue Collared crimes. In Economic Offences, not only individuals get victimized with pecuniary loss but also, such offences often damage the economy and even the national defence. The offences, for example, Smuggling of Narcotic substances, Counterfeiting of currency, Financial Scams, Frauds, etc. are some of the crimes which evoke serious concern and impact the Nation's Security and Governance.

Cyber crimes are new to India that is expanding rapidly on use of Internet spreads. The Information Technology (IT) Act, 2000, specifies the criminal acts. However, as the primary objective of the Act is to create enabling environment for commercial use of IT certain omissions and commissions for criminals with use of computers have not been included. With the legal recognition of Electronic Records and the amendments made in the several sections of the IPC vide the IT Act, 2000, several offences having bearing on cyber arena are also registered under the appropriate sections of the IPC. Till now, data on cyber crimes was not available. Concerned with the seriousness of these crimes, NCRB has recently endeavored to collect statistical information on Cyber Crimes under offences registered under the Information Technology Act 2000; and offences under the IPC (with use of Computers).

Let us examine the acts wherein the computer is a tool for an unlawful act. This kind of activity usually involves a modification of a conventional crime by using computers. Some examples are Financial Crimes, Cyber Pornography, Sale of Illegal Articles, Online Gambling, Intellectual Property Crimes, Email Spoofing, Forgery, Cyber Defamation, Cyber Stalking, Frequently Used Cyber Crimes, Theft of Information Contained in Electronic Form, Email Bombing, Data Diddling, Salami Attacks, Denial of Service Attack, Virus/Worm Attacks, Logic Bombs, Trojan Attacks, Internet Time Thefts, Web Jacking, Theft of Computer System and Physically Damaging a Computer System.

1.8. Special and Local laws Crimes

The Cases Registered under the Special and Local Laws include Arms Act. Narcotic Drugs and Psychotropic, Gambling Act, Excise Act, Prohibition Act, Explosives and Explosive Substances Act, Immoral Traffic (Prevention) Act, Indian Railways Act, Dowry Prohibition Act, Copyright Act, SC/ST (Prevention of Atrocities) Act, Protection of Civil Rights Act for STs, Protection of Civil Rights Act for SCs, Indian Passport Act, Essential Commodities Act, Terrorist and Disruptive Activities Act, Antiquity and Art Treasure Act, Child Marriage Restraint Act, Indecent Representation of Women (Prevention) Act, Sati Prevention Act, Registration of Foreigners Act and Forest Act[11].

1.9. Ecology and Crime

Ecology is concerned with systems. The ecological approach describes and analyses the system of interdependence among different elements in the common setting. Human ecology is the inter-relationship of man and his spatial setting. It is concerned not only with the spatial distribution of people and institutions, but also with interactive relationships between individuals and groups and the way these relationships influence or are influenced by, particular spatial patterns and processes. It is concerned with cultural, racial, economic, and other differences in so far as preferences and prejudices associated with these differences serve to bring people socially or spatially together or keep them apart.

McKenzie defines human ecology as the study of the spatial and temporal relations of human beings as affected by the selective, distributive, and accommodative forces of the environment. Human ecology is concerned with the effect of position in physical and social space and in time on human institutions and human behaviour. Spatial relations are seen as critical and were assumed to be the product of competition between individual and groups for advantageous position. It is concerned with social organization in so far as the organization of human activities influences or is influenced by, the spatial distribution of people or of institutions. Above all, it is concerned with the dynamics of the social order in so far as change, either in the structure and functions of institutions or in the patterns of human relationships, brings about ecological changes and vice versa. While human

[11] Indian Constitution at Work. NCERT, Class XII

ecology is concerned with the interrelationships among men in their spatial setting, Noel describes that urban ecology is specifically concerned with these interrelationships as they manifest themselves in the city. Urban ecology includes the study of such external expressions of ecological interrelationships as the distribution of cities or their internal structure and composition.

The ecological school refers to a group of professors associated with the Department of Political Science at the University of Chicago from 1920 to 1932, hence their other name, Chicago School of Political Science. The professors included: Small, Thomas, Mead, Park, Burgess, Faris, Qqburn, and Wirth. In addition, Sutherland and Thrasher worked there for a while, and some of the more well-known students were Shaw and Mckay, Everett and Helen, Hughes and Saul Alinsky.

The ecological system has been described as having five elements: population, organization, environment, technology, and social-psychological factors. Ecology is concerned with the distribution and relationship of man to their environment. And the phenomena, human crime, are due to the relationship between man and his physical, social, and cultural environment. Today nobody can deny that knowledge of every individual criminal is necessary to determine the causes of crime. Human nature is immensely complex. Environmental conditions are also immensely complex. Between these two complexities, man's individuality develops or deteriorates. If an individual is unable to adjust himself to society, he is deemed to failure, and a failure of life may turn out to be anything insane, criminal, pervert, introvert, etc.

Social Scientists have employed the ecological method to investigate the association of social position and criminal activity by comparing area of a country or zones within a city. Such studies have been conducted since the second half of the twentieth century.

Shaw and McKay's ideas on social disorganization have developed into Cultural Transmission Theory, which states that traditions of delinquency are transmitted through successive generations of the same zone in the same way language, roles and attitudes are transmitted. They define social disorganization as the inability of local communities to

realize the common values of their residents or solve commonly experienced problems[12]. They are concerned about the three D's of poverty: Disease, Deterioration and Demoralization. They have never said that poverty causes crime; instead "poverty areas" tend to have high rates of residential mobility and racial heterogeneity that make it difficult for communities in those areas to avoid becoming socially disorganized. These two population variables (mobility or turnover which impedes informal structure of social control, and heterogeneity which obstructs the quest to work together on common problems) have become the primary causal variables for social disorganization theories.

The disorganization theorists have left an enormous legacy in criminology; spawning cultural deviance theories, strain theories, learning theories, and control theories. It could be said that all modern criminological theories can be traced back to social disorganization theory.

Modern theories in this tradition include Newman's defensible space theory. He writes that flaws in the physical environment serve as attractors or facilitators for crime. He writes mainly about housing projects, and how they seem to be designed to provide easy access with common entrances and exits for criminals, and also with hiding places and poorly placed windows, which allow easy surveillance by would be criminals. Cohen and Felson have developed routine activities theory, a theory of victimization, which is to say that it predicts a high rate of potential victims becoming actual victims whenever three things occur in space and time together absence of capable guardians, abundance of motivated offenders, and suitable targets. Wilson and Kelling's broken windows theory, in circles, has become a classical foundational document for community policing, and has referred to physical signs – an area uncared for, abandoned buildings and automobiles, the accumulation of trash and litter, broken windows and lights, and graffiti (signs of crime or incivilities) – that invite criminal behaviour.

The dominant theme in twentieth century thinking about the origins of criminal motivation for the different crimes assumes that, forces external to the individual shape criminal behaviour. Social scientists explore crime at three levels within a social cone of

[12] C. Shaw and H. McKay, Juvenile Delinquency and Urban Areas (Chicago: University Press, 1942)

resolution. The term “cone of resolution” is used more in sorting through the many different levels at which crime is studied. The possible levels within a cone of resolution are infinite, but they are usually divided into three levels: Micro, Meso, and Macro.

At the macro level, social scientists have been concerned about analyzing, describing, and accounting for large-scale patterns in the social, temporal, and spatial distributions of crime rates among very large aggregates of people, such as a nation, a province, or a city. At the meso level, social scientists have tried to account for criminal motivation and the patterns of criminal organization within small groups. At the micro level, social scientists have tried to explain the development of individual criminal motivation through the mechanisms of socialization.

The analyses of crime have ranged up and down the levels of resolution in constructing theories of the origins of criminal motivation. A large number of distinctive schools of thought remain vigorous, each marshalling some supportive evidence and each suffering from the problem of firmly established counter evidence at most levels within the social cone of resolution. Many research works and theories are framed, but until now, there is no clear agreement about the origins of criminal motivation. However, with the support of the theories of crime, the present research on “Crime Trends with reference to Madurai City” focuses on the variation in the incidence of crime on the basis of City and its territorial areas.

1.10 Definition of crime:

The concept of crime involves the idea of a public as opposed to a private wrong with the consequent intervention between the criminal and injured party by an agency representing the community as whole. Crime is thus the international commission of an act deemed socially harmful; or dangerous and the reason for making any given act a crime is the public injury that would result from its frequent participation. The society therefore takes steps for its preventation by prescribing specific punishments for each crime.

1. The word ‘crime’ is of origin viz; ‘Crimean’ which means ‘charge’ or ‘offence’ Crime is a social fact.

2. The Waverly Encyclopedia defines it as, “An act forbidden by law and for performing which the perpetrator is liable to punishment”.

3. James Anthony Froude (1818-94) wrote, “Crime is not punished as offence against God, but as prejudicial to society”.

4. Sir John Hare (1844 - 1921) Explains, “Crimes sometimes shock us too much: Vices always too little”.

5. Dr. Gillian J.L. points out, “More important is the feeling of danger to ourselves and our property than the criminal–induces”. (Gillian, J.L Criminology and penology (1945)

6. Mr. Justin Millar contends that the crime is the commission or omission of act which the law forbids or commands under pain of punishment to be imposed by the State.

7. Watermark Says that customs and laws are based on moral ideas and that ‘crimes’ are such modes of behavior as are regarded by society as crimes.

8. According to Adler, ‘Crime’ is merely, “an instance of behavior prohibited by criminal law”.

9. According to the Italian school of criminologists, crime is abnormal in so for as it is atavistic or pathological in its nature.

10. Halsbury defines crime as, “an unlawful act or default, which is an offence

against the public and which renders the perpetrator of the atc or default liable to legal punishment".

11. Sellin, T. regards crime as a deviation from or breach of, a conduct norm. This deviation or breach is punished by society by means of its sanction. But punishment is not only the criterion of value. Religion, art, education and other sociological agencies also reveal value (Sellin T. culture conflict and crime. According to this definition, crime is an act in violation of the law an the criminal is a person who does an act in violation of the law.

12. The concise Encyclopedia of crime and criminals, has defined 'crime' thus: "A crime is an act or default which prejudices the interests of the community and is forbidden by law under pain of punishment. It is an offence against the State, as contrasted with loot or a civil wrong, which is a violation of a right of an individual and which does not lead to punishment. (Edited by Sir Harold Scott, Pub. Andre Deutsch Ltd. 105, Great Russel Street, London, 1961)

13. Crime in international context-"crime is complex, multidimensional event that occurs when 0the law, offender on target (refers to a persom in personal crime and or object in property) converge in time and place (such as a street, corner, address, building or street segment)".

14. Crime in Indian context-"Crime is a activity that involves breaking the law and enforcements.

15. Meaning of crime in oxford dictionary-"an offence against an individual or the state which is punishable by law.

16. Crime-"An act committed or omitted in violation of law for bidding or commanding."

17. Gwyenn Nettle: - Clearly remarks “Crime is work not added”. To fully appreciate the import of this remark it is necessary to recognize that the term crime is also part of the scheme of classification. It constitutes a category of events that contains within it numerous subcategories. At the same time the category of crime is itself a subcategory of a larger set of events.

18. Crime is phenomenon in human societies, according to Sociologist- Pris and Durkheim, “Criminality proceeds from the very nature of humanity itself, it is not transcendent but immanent.” Durkheim emphasized the point further when he says “Crime is normal in human societies because the fundamental condition of social organization logically imply it”.” A society exempt from crime would require a standardization of the moral concepts of all individuals, which is neither possible nor desirable”.

19. Garofalo’s (1914) “natural” definition : crime is an immoral and harmful act that is regarded as criminal by public opinion because it is an “injury to so much of the moral sense as is represented by one or the other of the elementary altruistic sentiments of probity and pity. Moreover, the injury must wound these sentiments not in their superior and finer degrees, but in the average measure in which they are possessed by a community – a measure which is indispensable for the application of the individual to society”.

20. Crime: activities that involve breaking the law. (Oxford Dictionary).

21. Crime, the intentional commission of an act usually deemed socially harmfully of dangerous and specifically defined, prohibited, and punishable under the criminal law.

22. Conceptions of crime very so widely from culture to culture and change with time to such an extent that it is extremely difficult to name any specific act universally regarded as criminal –(The New Encyclopedia Britannica Volume 1985)

Crime

i) Law An act that subjects the doer to legal punishment; the commission or omission of an act specifically forbidden or enjoined by public law.

ii) Any grave offense against morality or social older wickedness iniquity, see synonyms under ABOMINATION, offense. (The New International Webster's comprehensive Dictionary–Trident Press International 2003.)

We would give our own definition of crime. So as to bring all the essential features of what we call 'crime'. A crime may be defined as an act or omission, sinful or non-sinful, which a society or a study has of thought fit to punish or otherwise deal with under its laws for the time being in force. The different acts and or omissions so punishable under the law are known as "Crimes".

In this modern age, sociologists have expanded that crime happens in the social structure only. They don't agree that a human being happens to be a criminal by birth. They also analytically put forth many social factors which induce human beings towards criminality by going against the system of social control. Criminologists have proved these reasons leading to crime. Hence, while studying, the reasons for crime, the following factors should be considered.

Ordinary factors which lead to crime:

1.11 Ordinary Factors:

These factors affect the whole of the society. Further these ordinary factors are divided into four secondary factors. Those are 1) Geographical. 2) Sociological. 3) Physiological. 4) Atmospheric.

1.11.1 Geographical Factors:

In the evolution of society the geographical elements play an important role. This has been accepted by historian's torsions and sociologists. A supporter of the school of geographical thinker's tradition, Mr. Huntington states that a child born in winter usually becomes less intelligent. Some of such children become criminals. The geographical elements affect the emotions and behavior of an individual. Many of the French, Italian and German criminologists have tried to show the relation between the features of geographical elements and the proportion of crimes. Mr. Lombroso has also prepared a calendar showing the occurrence of crimes in specific months of the year. According to him, child murders are proportionally more in the period from January to April. In July, murders and total attacks are found to increase. Human needs change according to the changes in seasons. e.g. in winter in the European countries, the primary (basic) needs increase and if there are obstacles in satisfying their needs, the individuals have a tendency to criminal acts.

"By geographical factors, we mean those factors which are connected with physical environment. The geographical setting governs the form of society. Due to geographical differences we find different types of culture and civilization in different geographical regions. The composition of population is closely connected withgeographical conditions. Similarly deit, habbits and social organization always develop in accordance to geographical conditions. Therefore whenever there is any change in the geographical setting there is also change in society." K.Singh (1964).

1.11.2 Sociological Factors:

The number of crimes increases or decreases depending upon how far a society or a community is organized or divided. In a social group where migration, cultural differences, changes in the population and political instability prevail; there a conflict arises regarding the abatement of social rules.

1.11.3 Physiological Factors:

As a living being, man's physique, heredity and the functions of body glands are taken into consideration. In the opinion of Lombroso (a crime specialist) there is abnormality in the body and mind of a criminal right from his birth. Hence he becomes a criminallator in his life. A man of oppressive and bad tempered mentality becomes a criminal. Broadly speaking, an individual inherits some of the organic properties from the parents. We call these as hereditary qualities. This inherited behavioral property is mainly responsible for the criminal attitude. Hereditary weakness and criminal attitude convert a man into a criminal. Mr. Dugdale, an American criminologist says that the life style of every human being is affected largely by the hereditary qualities. Hence, the consequent circumstances of hereditary qualities cause the future generations to be criminal minded continuously.

Some psychologists say that criminal behavior has its roots in the psychological set up of an individual. During the gradual psychological development of an individual some mental weaknesses take shape. These weaknesses become the causes of criminal behavior. Mental instability and criminality are closely related. Some psychiatrists have tried to correlate criminality with the abnormality in the nerves. Disappointment, conflict, feeling of criminality, mental shocks etc. one related with the human mental activities and they become responsible for the criminal behavior. Sociologists, Psychologists and Psychiatrists have deeply studied of human behavior. These stimuli are created from eternal circumstances.

1.12 Circumstantial Elements:

These are related with the criminality of human beings. The following circumstantial elements may be considered.

a) Family Circumstances:

The family is looked upon as a powerful cause of forming good or bad personality developments. The very important task of a family is to socialize an individual and to impart social rules and to develop the individual culturally, so that the individual becomes a responsible citizen. But, under certain circumstance this family

responsibility fails and the members of the family tend to become criminals.

b) A Ruined Family:

If in a family, the father and the mother are divorced, or dead, or living separately then such a family is in the ruins. The children of a such a family turn towards criminality. This has been proved from various researches conducted so far.

c) The Size of the Family:

A big or a small family is respectively denoted by the number of members in the family. More members make a big family and fewer members make a small family. Usually in a big family there will be difficulties regarding food and management. In such large families, generally children are neglected and such neglected children tend to become criminals. In these matters there have not been researcher showing a definite relation of criminality with the size of the family. Still, in the urban areas, children in the big families generally turn to criminal behavior.

d) Serial Placement among Brothers in a Family:

Research has been conducted to show the probability of criminality of a brother by his servility among his brothers. Some criminologists of New York have conducted research in 1930 to give the aforesaid conclusions. Generally the brother in the 2nd place of servility tends to become a criminal. The last but one child does not generally have a criminal behavior. The youngest child may turn to criminal behavior as compare with the elder brothers.

e) Discontentedness in the Family:

If the inter-relation between parents and children are not complacent, or instead of love, binding, sympathy, loyalty, c-operation belief, dedication there are conflict, alienation, disbelief, selfishness, unreasonable behavior, rivalry in the family then the members of the family especially the children behave in a dissatisfactory manner. From this, the criminal attitude arises.

f) Fallen Family:

If the responsible person or persons of a family are involved in drinking, extramarital relations, polygamy and criminality, the atmosphere in the family is not moralistic and such a family is known as a fallen family. In such a family, criminality of individuals or specially children is very probable. Such a family is unable to impart civilized life or behavior.

g) Absence of Orderliness in the Family:

The most important duty of the family guardians is to be attentive towards the socially acceptable behavior of individuals and children in the family. They don't find time as they are involved in their own duties. Further, they don't have desire or they are ignorant and they have undue or over belief in their children. Whatever be the case, if the guardians don't care for the proper behavior of the children, then they will certainly turn towards criminal behavior.

h) There is a proverb that "A man is recognized by the company he keeps".

This companionship and crime may be inter-related and that can be studied as under:

1. Two or more people in company commit crime
2. Innocent people may probably fall into the company of criminals.
3. During the period of imprisonment, a criminal comes in contact with senior criminals from whom the tricks to commit criminal acts are learnt.

In the beginning stage of criminal behavior, the criminal company lays the foundation of criminal behavior. As a result, an individual develops criminal behavior as his profession. Seeking for the techniques of crime and growth of mental attitude are the fruits of bad company.

i) Living in disorganized company, in congestion and having immoral behavior in a heterogeneous community develop due to cinema. Disorganization breeds crime. Further, in the fast growing cities the increasing population is taken to be one of the prime factors in criminal activities.

j) Disorganized living under congested conditions, having immoral behavior with the movies to affect the behavior, the causes arise to result in criminal acts. That is to say, that the disorganized communities breed crime. Secondly, the increasing population in the urban areas is supposed to cause criminal behavior. Crimes occur more in thickly populated areas than in thinner populations of cities. Parents can't control the children who have to wander on roads. Such children take to criminal acts. Even, homes of too much congestion are sending to be the causes of crime. In the congested homes it is hard to keep up morality and orderly behavior. Those children, who spend their time on roads in playing, become victims of neglect by the elders and such children turn to criminal behavior. Such pockets of immoral behavior in communities are said to be responsible for the criminal act. The best examples are houses of cheaper and lower level entertainment and centers of betting games. These convert under age children into immoral acts. The established criminals frequently visit such centers of immoral behavior and here only the companions are naturally selected or here only the criminal professions are started. The society doesn't accept these centers which breed immorality in the individuals.

k) The Movies:

The cinema houses have become the centers of breeding criminal behavior in children of smaller age. The movies instigate sexual behavior, and getting the advantage of darkness in the theater/theatre the ignorant children are drawn towards sexual acts. Many children commit theft to visit the cinema.

l) Financial Conditions:

Difference in social status due to monitory conditions cause criminal acts and the extent of such effect can be studied. Besides, the effects of various professions on criminal behavior can also be studied. Mr. Bonger, a Dutch criminologist says that the atmospheric elements are more responsible for criminal activity. He further says that the criminal activity is abundant in a disorganized society. In societies in which the important regulations are broken, the criminal activity forms a firm background. However in many disorganized societies, individuals are found to stay free from criminal activities. And in well organized societies, some individuals may turn to

criminal behavior. It is but obvious that the criminality is more probable in the disorganized societies, than the organized societies.

m) Regional Variance:

The proportionate frequency of criminality and the types of crime change depending upon the region or division of place. The main causal factor of criminal behavior is the structural variety in community. e.g. the judicial and social definitions are different from state to state. The view point of the public towards crime or criminal behavior is different. There are different laws in different areas and they are implemented to control the behavior going against lawful life of a community. The traditional life of communities too tries to curb the criminal behavior. The queer minded persons are of various types depending upon the territorial difference. Even the types of crime are different in different communities of different areas. To illustrate, the border areas of a country may be considered. If groups of advanced class of people have entered the border area, the tendency to breach of law is upper most. The only reason is that there is no established administration of social or political community. Along the political border area there are frequent smuggling crimes. Normally the defense forces on both sides of the border are insufficient and this factor helps criminal's activities. Always there will be people who take advantage of insufficient military forces on the border and they conduct criminal activities.
In cities we find more crimes and child criminals also occur abundantly.
Because of the unstable management of communities, the expected moralistic behavior is not extant everywhere. In the deep inner parts of a corporation however

the proportion of crime per head decreases. Hence, regional difference shows variant proportion of crime. It is interesting to note that in areas where there is abundance of finance, facilities and conveniences, we find more criminal behavior. Where as in areas affected by natural calamities, scarcity and epidemics, we do find crime but in lesser proportion.

Class, age, sex, race etc. affect the criminal behavior. For example, the difference of status in a community initiates criminal behavior, and such people come

under legal procedures. As these people grow in age, their attitude towards criminality recedes. The criminal attitude is found more in men then in women. Again the reason is that different communities have different views towards women. Generally, the disciplinary control over women is stricter. Further, women have limitations by nature over there physical conditions. They need protection; they are generally called as the weaker sex. Racial or national influence is found on criminality. Especially, in a heterogeneous society these qualities become. In a Nation, the outsiders are given the status of minority and they are looked upon differently regarding criminality.

These minority people have different problems to face. Thus, class, age, sex and race have their own impact over criminality and they are important in view of study.

1.13 Types of Crimes/Classification of Crimes:

All crimes are not similar. There are many types of different crimes .
In some crimes, only one individual is involved and in some other crimes there are many persons who are organized for the purpose of crime. There are such bands of criminals working at the national level and even there are bands of criminals whose field of crime is international. It is not only the males to be criminals but there are females and children also in criminal acts. So, in order to classify crime we have to consider the personality of the criminal, his purpose and the type of his crime. Mr. Sutherland, a criminologist, considers the seriousness of crimes and divides broadly into two types of crimes.

1) Ordinary types of crime,
2) Serious types of crime

Mr. Bojore, another expert, classifies crimes into four main types depending upon their purpose or objective.

1) Monetary crimes: Crimes done to get money. E.g. Theft, decoity, fraud, forgery, contraband currency, etc.

2) Sexual crimes: Rapes, homosexualities.

3) Political crimes: Espionage (international), treachery, treason etc.

4) Miscellaneous crimes: Crimes other than the above three types e.g. quarrels, fights, kidnapping or addiction to narcotics etc.

Also the crimes are classified on the base of their antisocial or anti personal aspects as under:

1) Murderous crimes:

It is the prime need of an individual or community to be safe. Any behavior bringing this safety into danger may be called as murderous crime e.g. thrashing, enforcing starvation, causing physical, injuries, inducing some to suicide, victimizing, attempting to murder.

2) Crimes against moveable or immoveable possessions:

Whether an individual or a community, the property or possessions are important. The basic human needs are food, shelter and clothing on which human welfare, establishment and safety depend. Naturally every community approves the legal ownership of possessions by individuals. Hence, theft, looting, fraud, forgery are crimes regarding possessions. Every human being has the right to protect the possessions. So, getting back the possessions from the criminals and punishing them were considered as personal issues. This tradition is even now found to exist among savage natives. But, this system is not practicable for all the persons and hence not effective always. On the other hand, vengeance and conflict arise and the peace and administration of the community are endangered. Therefore, crime against possessions is considered as logically coming under criminality.

Individual or social welfare depends upon the peaceful running of family. Therefore, any behavior brining the family in danger is positively considered as crime e.g. Negligence of the parents regarding the care taking of their wards, breaking the traditional social concepts of marriages, having many husbands or many wives, extramarital relations, neglecting the helpless old.

Crimes against moral values:

The every organization of each community is based on certain morals and breach of this moral faith by misbehavior is considered as crime. In various communities there are family relations, marital relations are governed by certain moral rules. Going against these rules is condemned. Publicly displaying the nudity and showing openly the love or body, attractions are definitely moral crimes. Lying, tempting for extramarital relation, Dee it, inducing for drug addiction or betting etc are also moral crimes.

Crimes against public peace and order:-

For the welfare and peaceful life, safety of the people in community is essential. Almost all the communities are alert in keeping their constituent institutes active and therefore they are attentive regarding safety and order within the community. Any behavior against there is considered as crime. Any political party's government basically considers safety and order in the community and any anti-communistic behavior is treated as political crime.

Crimes against Public Health:

These crimes include the activities of interference or hindrance in

1) irradiation of the epidemics
2) vaccination of immunizing
3) selling of adulterated food
4) selling of unauthorized medicines.

Crimes regarding Natural Resources:-

Just as the personal belongings and property are valuable, the natural resources are

also very valuable to the community. The resources like, rivers, oceans, forests, mines, birds, cattle and other beasts and also human population are considered as the national property. Any behavior engaged in destroying the above items is considered as crime against national resources.

Considering the criminals in their social status, Mr. Sutherland gives two kinds of criminals.

1. Criminals of low status:
2. White collared criminals.

Individuals of low status in society may involve themselves in criminal activities. The reasons are obvious. Financial scarcity, the favourable crime provoking surroundings, ignorance, illiteracy, uncultured life etc. induce criminality.

White collared people have better financial conditions. They are well-bred and welleducated having good company. Such persons take the disadvantage of their position and commit crimes. Such people are called as white collared criminals. During their professional life these respectable and high class people do commit crimes. Unnecessary, but the increasing unnatural needs and greediness make these people to manhandle the powers vested in them and thus they become white collared criminals. Officers, clerks, professors, teachers, judges, doctors, M.P.S., M.L.A's, ministers, public workers, police, advocates etc are relatively enjoying social status and are respectable. Their duties carry responsibility. In order to carry out their duties they are vested with some authority. But many such people misuse their authoritative powers for their selfish motives. Consequently, the work carried out by such people is not properly done. That means, they commit the crime of not carrying out property their duties. Further more, they convert illegal acts into legal acts. So such people commit double crime at a time. E.g. Loans to be sanctioned to the needy are not sanctioned. There might be a person applying for loan for his selfish purposes, and to get the loan sanctioned, he may bribe the loan sanctioning officer. Such examples are experienced more and more in the present days. The persons involved in such crimes are highly educated and managing higher positions. Therefore, they are looked upon with faith

because these persons are generally well versed with the legal aspects. They know the loopholes and they have an established relation with higher authorities and politicians. Hence the crimes do not come up or they are suppressed and the involved persons are ready to escape from the crime accusation. Such criminals of the white collared class get a lot of easy money which is in turn utilized for more luxury like drinking, betting, buying costly furniture and gold ornaments and spending their time in super hotels. These persons involve their money in anonymous investments to get more money. And this surplus money is used again to capture higher positions by bribing. The main aim is to earn more money by corruption. The persons concerned in higher promotions are kept pleased by bribing. The white collared people convert illegal operations into legal affairs by bribing and committing fraud. In addition, such criminal minded people support and help smuggling, corruption, misusing the authority, distributing false licenses or certificates and avoiding income tax or any legal tax. In this way the white collared criminals amass enormous amount of money which is utilized for their luxurious living. Such person doesn't have the social conscience, and there is no effective law to stop these persons, who always keep abusing the powers made available to them. These may be taken as the main reasons of white collared crimes.

1.14 List of Criminality Types in India:

The following list explains the different criminal behavior patterns

1.14.1 Hooliganism:

Under Indian Penal Code, Rule No. 146, the hooliganism is mentioned. It is considered as a crime of the disturbance of public peace, when an illegal or unlawful mob is formed and force is used, then the hooliganism crime is committed. Generally, the common objective of the mob is attained either individually or jointly by using force. In such an incident, every person in the mob is considered as a criminal.

1.14.2 Kidnapping:

This crime includes the corporal torturing of human beings. There are two types of kidnapping.

1) Kidnapping of minors:
When any person kidnaps a try under 16 years and a girl under 18 years of age without the consent of parents or a person who induces elopement by some temptation, then this crime is said to be committed.

2) Kidnapping by using force:
When a person kidnaps another person by using force, by compelling, by deceit or by tempting then this crime is said to be committed.

1.14.3 Murdering:
Killing somebody intentionally comes under the crime of murdering. If the person committing the act knows that it so imminently dangerous that it must, in all probability cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

1.14.4 Deception:
When a person causes another person to part with or hand over anything or article to a third person, or if a person induces by compulsion another person to consent for the possession of a thing or article by a third person, then the act of deception occurs.

1.14.5 Imitation:
Contriving to imitate and prepare a similar from an original thing or copying out the original the crime of imitation takes place. Using false currency, coins or forged documents come under this crime. The main intention is to deceive.

1.14.6 Theft by house breaking:
If there is illegal trespassing in a house for the purpose of theft, this crime occurs.

1.14.7 Theft:

If some article or possession of a person is stolen without the knowledge or permission of the owner, then this crime is committed.

1.14.8 Looting with the employment of force or beating:

When there is an effort to steal and if during the actual operation of theft is a person is injured in the fight or expires, or if a person is intimidated illegally of death or refection and if then the theft is done, this act comes under looting. Thus, looting is stealing or using violence.

1.14.9 Dacoity:

When five or more men come together and try to steal or to loot, this activity comes under decoity.

1.14.10 Dowry death:

Where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her mairrage and it is shown that soon before her death she was subjected to currently or harrashment by her husband or any relative of her husband for , or in connection with, any demand of dowry, such death shall be called “dowry death”.

1.14.11 Rape:

Man is said to commit “Rape” who except in the case hereinafter excepted has sexual intercourse with a women under circumstances.

1.14.12 Hurt:

Whoever causes bodily pain, disease or infermilty to any person is said to cause hurt.

1.15 Causes of Crime:

The common factors in causing crimes are physical ailments which may be organic and functional. Mental ailments coupled with an environment which is favourable may cause an outburst of anti-social crime.

We know that conduct is an expression of mental activity. A delinquent act may be the result of neurosis or psychosis. It may be also due to the susceptibility to crime as a consequence of a mental defect coupled with some environmental factors. Perhaps, the mind may be in some condition, but the crime is committed due to an emotional disability of childhood, or it may happen because of the impact of psychopathic.

If the delinquency is to be diagnosed, the crime person mental traits, peculiarities and disabilities play a very important part. It is quite plain that it is the mind that control criminal behavior. If the mind itself is deranged, defective or feeble we have no other go but to turn for cure or removal of the mental defect or fortification of the mental faculty.

1.16 Correlation of crime with various agencies:

1.16.1. The cinema and the prevention of crime:

The easily susceplical week minds are criminally aroused by seeing the criminal scenes which easily impress the week minds. Sex appeals, adventurous inclinations may be stimulated or created. The viewer may be inspired to initiate what he or she saw on the screen. The remedy however lies in efficient censorship of films and their shows. The parents are also equally responsible in keeping vigilance over such shows and keep away their wards. The sexy erotic dance programmes and criminal pictures should be carefully and tactfully avoided.

1.16.2. Child employment and crime:

The employment of children is looked upon as a cheaper labor, but it deprives the child from the ever necessary socializing influence and the loving company of their own family group and the schooling. Such child employment robs the child of its healthy growth in an environment congenial to it formation. The child may have to spend his childhood in contact with mal adjustment and dissatisfaction which is drudgery for him. The child is denied his rights to healthy growth and education. By curbing the child's physical growth and maintenance of good health and making him

to work monotonously without proper education definitely make the child desire less for progress and he becomes a misfit in life.

1.16.3. Poverty, a cause of crime:

None can deny that for want of money and crime may be committed.
Economic depressions along with poverty have tremendous influence in causation and commission of crime. The crime may be committed to achieve dishonest possession. In the process of acquisition, crime is the least thought off. If there is scope to make compensation to the aggrieved party while dealing with offender, the cases of dishonest acquisition may decrease to a great extent.

However, economic depression is lead to criminality every where and the percentage is more if the persons involved are of infirm character or weak will power. Of course, poverty it self is not necessarily a crime causing factor but there are other factors that commute to criminality. Hundreds of poor persons are there in many lauds and they are not at all crime minded; on the other hand there can be hundreds of wealthy persons who are acutely avaricious and therefore do not hesitate in indulging with criminal dealings where money is concerned. Among the educated white-collared people, there are offenders who have high positions and status in society and the multiple factor theory can apply to determine the true factors in the causation of crimes.

As a side issue of unemployment, poverty plays a major role. Both unemployment and poverty are major social problems which cause sickness, either individually or communally and therefore there can be family and community disorganization. The poor have such a low income that it is very difficult foot them to manage hand to mouth. Further they have responsibilities of education, clothing, medical care and much more responsibilities. Due to the negative way of life, they are discouraged and may take recourse to improper functioning leading to delinquency and criminal behavior. In the undeveloped, backward countries where people are suffering from hunger and other wants have no other go than to tread criminal attitude of life. However, we can not say that all the, percent population is criminal, though poverty

prevails in majority.

The depression in the economy of society gives rise to criminal acts and we find that unemployment also is a factor in the criminality of the people. In a capitalistic organization there can be crimes of property management and purchase. What we need to know is the correct interpretation of criminal factors. Do men steal because they are hungry? Similarly, do girls enter prostitution because they need? It is true that some men steal because they ot their families are in need. Similarly, some girls take recourse to prostitution because of utter necessity. Unemployment and consequently distress doubtlessly put an individual under strain which is impossible for them to bear. Of course some people are there who in their deepest distress do not .commit crime and virtuous girls do not fall a prey to prostitution though they are under heavy strain. So in most cases, economic factor affect indirectly rather than directly. Need becomes a circumstances under which certain people respond by antisocial conduct and act.

1.16.4 Social Factors:

Conduct in life of a person is practically determined by the society in which be lives. Therefore, social conditions affect. The conduct of a person, just as the economic conditions affect it is evident that personality develops in the social environment. If these environments are of such a nature as to bring out the person inherent qualities which are already adapted to the present social life. A person begins to inhibit the present social characteristics by his antisocial conduct when we are under the impression that the person is behaving as per norms of the society. Thus we face two faced questions:

1.16.5 Pro Social Conduct

Anti-social conduct and we must know that such changes are due to the stimulation of circumstance in the society in which the person lives.

The social factors which surround an individual can be classified broadly as under:

- The home
- The recreational agencies
- The school
- The community
- Traditions, customs and beliefs

1.16.6 Class And Religion

Frequently, social conditions within these areas are inimical to the development of a socially desirable personality's conduct. The mutual relations between parents and their children are extremely significant. Very strict or too lenient treatment parental discord in handling the children or favoritism over one or the other of the children have been closely observed by scholars to find they play a very important part in creating a criminal of a child. It is in the home that most of the behavior patterns are effectively set and therefore, better or worse children tern the values and attitudes which find expression in meeting the tests of later life by which they may be branded as virtuous or criminal.

1.16.7 Population and Crime:

The population of the world is becoming double every thirty five years, adding 70 million people every year. As a corollary cities are getting over crowded and ugly. Naturally this causes breeding of crime and disease. Unrestricted increase of industrial population is leading the breakdown the barrios of society. Hence the population explosion is a dilemma. We can compare the crime rate along with the growing population. Overcrowding definitely causes social, moral and mental problems. Modern scientific investigations have revealed how even rats and cats degenerate in a crowded living condition. Thus, the population increase and urbanization have together caused serious problems in establishing healthy urban units and there is now a challenge to healthy human existence because of prostitution, hurting rioting, thefts looting decoity etc.

1.17 History of Crime:

Crime is as old as the civilization on this Earth. According to Hindu mythology even in the age when the Devi and Devtas were present on the Earth the crimes were committed by the Asuras who were the traditional opponents of the Devtas used to obtain power from Tridevas i.e. Lord Brahma, Lord Vishnu and Lord Shiva by doing Tapsya (Hard Worship) and after obtaining the power the Asuras used to misuse that power and harming the Devtas, Human beings and other creatures on the Earth. In that age also there was system of Tridevas to punish the wrong doers and do justice with the entire nature. Thereafter, since the ancient time of the existence of civilization on the Earth there has been occurrences of crimes and for the prevention of crimes there used to system of punishment to the criminals and do justice with victims in every age on this Earth. The reality is that the crime takes birth with the human life and remains constantly in existence everywhere and all the times, but sometimes, somewhere the volume of crime increases when the law and order is weak and the rate of crime decreases when law and order is strong. It has been a perpetual process prevailing along with human life in the society at every place and all the times since the birth of life in this Universe. Even today the crime is everywhere in our surroundings, adjoining states and neighbouring countries. Whenever we open our eyes, we find criminals and whenever we open our ears we hear about the occurrence of crime. Either you open the news channel on the television or see the news paper there would be innumerable news of crime and criminals. This has become the part of everybody's life and sometimes we feel that the people have accustomed to hear, watch and feel the crime in the society, but still we just cannot let the society drawn into the darkness of the crime. Eliminating the crimes and criminals is our duty. Every wrong doer must be punished and justice to be done with everyone.

Neither any criminal have born as a criminals nor criminality an hereditary problem on this Earth. It is the circumstances or social environment of person who makes him/ her criminal and crimes take place in the society. It is the society which provides circumstances and living environment to the people who lives there and due to those circumstances good and bad personalities of the people develop and according those personalities some of them

become good citizens of the country and those who develops in adverse circumstances unfortunately become criminals and commit crimes against the society. There have been

chances when the people have not been properly be exposed to develop their intellect, aesthetics, emotions, spirituality and common social life, they have turned into criminals. There have also been the chances when the society provided a congenial atmosphere to the criminals, they turned into responsible citizens of the society and the nation as well.

In some communities the commission and omission of certain acts is considered as "sin" and the every "sin" is considered as a crime and in other way round some are taking the "crime' as a "sin". This is also learnt that in the early ages according to old traditions as well as religious acceptances that any act which is coming under the category of crime will be counted as "sin" on the part of their person who commits or committed that act. One group of the society who commits a crime may become a cause to give birth to war or conflict. However, the olden civilization had also the laws for punishing the criminals or sinners and that to both kinds of laws such as civil and these rules formulated for punishing the criminals have been clubbed together but no record was maintained for them. The oldest written rules to punish the criminals had been created by the Sumerians, Urukagine reigned short chronology of the codes long ago which did not survive and later king known as Urnammu left the olden law system in written form as code of Urnammu, which prescribed a formal system about the punishment or penalties of specific matters.

Afterward the Sumerians had again issued another codes which had also included the "codes of Lipit-Ishtar" which had formed the 20th century in which there were around 50 articles and scholars have re-created the same through many sources. The Sumerian was very much seriously conscious about his rights provided to him in person and he had opposed any interference and violation into those by anyone irrespective of his level either his King, his superior, or his equal level wonder that those were the Sumerians who were the first to compile laws and rules regulations.

The rules of Babylon succeeded the rules made by the Sumerians. The rules of

Babylon has included the "code of Hammurabi which reflected Mesopotamian society which believed that the law has been taken from the will of God or whatever is the law followed by them is the only will of God and the people are following the will of God as well the every law is the God's directions to the people which have to be inevitably adhered. During that period several countries had been functioning under theocracy with the specific laws which were originated from the religious acceptances and traditions at large. Sir Henry Maine in the year 1861 studied that at that time available laws or rules during the ancient period and he found that there was any criminal law in the "modern" sense of the word while the modern system of law offences committed against the state are different from the offences committed against the society and the individuals, hence the prevailing criminal law or the community's penal law in force at that time did not deal with "crimes" which was known as *criminal in Latin.*.

The assault and violent robbery including trespass and breach of such laws was regarded as *vinculum juris* which means an obligation of law that only the compensating the victim through money for damages caused to him/ her even in the matters of rape with slaves and slaves used to be treated as property and raping a slave was regarded as trespass to the property which could be compensated by providing monetary compensation. Similarly, in the matters of Tribes of Germanic had a complex system of

compensation through payment of money to the victims in those matters which are in the modern age considered as criminal offence against the person.

About 400 AD Rome abandoned the provinces of Britania and Hired Soldiers (who could be known as professional soldiers who have been hired to serve the foreign army) of Germanic who had been playing a significant role in implementation of Roman laws in Britania which had acquired there the ownership of land and implemented mixture of Roman and Teutonic Law in the form of written laws under the early Anglo Saxon Kings. The centralized Kingdom of English emerged as result of invasion of Norman and then the English Emperor approved the authority to take decision about the land and its people and developed the prevailing concept that anything wrong which has

been committed against an individual will be considered as an offence against the state. This idea has been taken from the common law and the criminal laws of the old age has been enforced in the case of such important and major events and the state had to take by force illegally the daily activities of the civil tribunals and issued directions for a making a special laws in order to provide special privileges to the people of England against the offenders. In all the trails against those offenders who were nationals of England who used to be tried by the courts exceptionally and in the way they wanted without following law which have been established by the legislature and other side in the civil matters the law operated highly developed and consistent way. The practice of the "State" dispenses justice in the court has developed simultaneously or after trends of providing liberty under the principles of sovereignty.

The Roman jurisprudence was modified in order to meet the requirements of justice and needs of emerging political climate at that time. Before that in the parts of Europe which were situated on the different continents where the Roman Law was in force but under a heavy pressure of Churches which had been coupled with more defused political system and structure which was fully constituted according to feudalism in smaller units, various prevailing legal procedures which born at that time and established with strongly rooted in. In the Scandinavia upto 17th century the Roman Law was not prominent and the courts could be developed unusually with gatherings of people. The people used to decide the matters but these practices gradually took the shape of a system that a Royal Judge will nominate the names of such persons who are influential in the society as well having high esteem according to their status who were from the Parish. It was a practice in the Greece and Scandinavia that if a person who has been accused of some offence could be able to arrange the sufficient number of people who could take oath for him as not guilty.

Punishment:-

The punishment basically is the name of an 'evil' which is given or implemented upon a person who has committed something wrong in the course of dealing with any matter. The legal system of every our country or State lays down punishments for all kinds of wrongs committed by the people against the society or the State violating the

provisions provided under various laws constituted by the State. The working system of the legal system which implement the punishment is run by different branches of law in different situations.

The Legislature is one of the main pillars of democracy in the country like India, the laws and rule about the punishment can be explained by referring to the various

authorities of the legislature to punish a person under a legal process which is known as impeachment. The complete details of commencement of an offence committed by a person are examined. In certain matters a committee of the legislature called the Privileges Committee can also punish persons or persons committing wrongs against the House by committing a wrongful act.

The next important branch of State Administration is the Executive branch which has a vital role in executing any punishment to the wrong doers. The hierarchical system of superior and subordinate of this Administrative Branch can exercise their penal powers to punish the offenders who commit any such acts which falls under the category of misconduct of their subordinates. The offences committed by the officers which amount to punishable under this system are the Misconduct of the officials which are in contravention of established and amended from time to time the Service Laws and Rules or the laws relating to the discipline of the officials. In such matters often, an enquiry committee or a disciplinary committee is constituted and appointed to enquire into the matter in order to find the facts and after enquiring into the conduct of a person punishment is inflicted on the delinquent officer.

The third branch of State Administration which is the main branch which exclusively performs the functions awarding punishment in a big way is the Judicial Branch. The Courts of law established under the Constitution and the Statutes deal with criminal cases and exercise their power of inflicting the punishment to the offenders. This is a power is exercised by the Judiciary under two kinds of law, namely, the General Law and the Special Law. By general law is meant the Indian Penal Code 1860 which is the

main Statute according to which the system of punishment is working. This Code contains the provisions regarding award of punishments as well as the principles for the ways of punishing and it also provides the principles for the system of Criminal Justice. The Code also explains about the principles for the resolution of conflict between various rules and procedures provided in the penal laws of India and the other laws. The penal laws of India have also the provisions regarding principles to be followed with regard to commutation of punishment. The prosecution procedure of the offenders for commission of any such act which is punishable under the law has been laid down in the laws related to criminal procedure as well as laws related to evidence system. There are provisions in the special law beside the provisions provided in the general law of crimes there are provisions provided in the special law of crimes which establishes a certain system of punishments. The special laws provide the provisions and the rules regarding punishments for a specific subject, place or thing and these are very large in number. Whereas the procedure for the prosecution of persons under the penal laws are in according to with the procedures, rules and methods mentioned in the Act related to evidences in Indian Legal System and the rules and procedures related to criminal proceedings. The procedure for the prosecution and punishment of perpetrator under the special laws may be according to the provisions provided in both laws such as under the special law itself as well as under the provisions of the laws related to evidences and the rules and procedures related to criminal proceedings. In order to have an exhaustive study of the System of Punishments in India and to know about the need for reform of its provisions it is inevitable to study the rules and procedures mentioned in the Penal Laws of 1860 which is the basic law supported by a references to wherever necessary to the provisions of the special law of crimes.

Punishment is not only the remedy to stop crimes and finish criminals, because every criminal is also a human being sometimes creating an atmosphere which favours or suits to the personality of an individual that may also convert a criminal into a good human being. The objectives of the punishment are also not to punish the criminals, but the punishment are imposed to the criminals in order to prevent the crimes in future that is why one slogan is often seen in every Prison “HATE THE CRIME NOT THE

CRIMINAL". It means that crimes are imposed to the wrong doers to prevent them from repeating the same offence for which one has been punished as well as to send a message to the society by setting example of punishment of committing offence that others should also take a lesson from the punished one and refrain from committing the same offence. According to Salmond the chief ends of the criminal justice are fourfold;

Deterrent Theory:

According to this theory, the objective of criminal justice in punishing is to deter/ keep away the people from committing crime. The dint of punishment is to serve a check on the person/ persons who would commit the crime. The penalty is imposed to deviate a person/ persons from going that path of rectitude. However, this theory of punishment failed to accomplish the objective as it was desired. A hardened criminal becomes accustomed to the severity of the punishment and no amount of deterrence prevent him from committing the crime. It has been observed that most of the crimes are committed in a moment of excitement and this theory has also failed to account for them.

Preventive Theory:

As per this theory the punishment is imposed to the person convicted of a crime in order to prevent him from repeat the same crime again in future. If an offender is a habitual thief, his hands are chopped off just to prevent him from steeling again and the repetition of the offence by the same person is just stopped. The punishment in this sense is preventive or disabling. According to modern socialists, the death sentence should be abolished. A large number of the murders committed by the accused are not pre-planned but those are committed due to impulsiveness in grave and sudden provocation or in a moment of excitement due to anger or fear. The torrent of anger and provocation deadens his (criminal's) intellect, finishes his senses, debases his soul but such state of mind of that person is only temporary and after he gets over the temporary insanity, the murderer becomes not only a normal human being but he also repent on what he has committed.

Retributive Theory:

Formerly this theory was based on principles of revenge such as Eye for Eye, Hand for Hand, Blood for Blood so it was known as Revenge Theory. The doctrine that

offender should be made to suffer the same pain which he has given to other in same proportion to the injury caused to the victim. This has been the source of the enactment of several penal laws. This theory which justifies that *"if someone has taken anyone's life in that case the punishment will be equal i.e. by taking the life of that person or death punishment, if anybody has broken anyone's hand so the punishment for the that offender will be that his hand also shall be broken and if anybody has damaged someone's eye in that case punishment shall be completed by damaging the eye of offender who has damaged anybody's eye."*. It has been regarded by modern thinkers as relic of barbarism. It is cruel form of punishment and dupe the extreme ignorance of the cause of crime. It is the superficial method of dealing with criminality instead of curing the disease

scientifically. Today the Retributive Theory has been constituted on the basis of idea that punishment is necessary alkali to neutralize the acid of evil effect of the crime. The purpose behind the retributive punishment is that the moral order of the criminal could be restored and appease the disturbed conscience of the society itself and the maintenance of concerning power of the State which is an aggrieved when crime is committed against the society and inflicts punishment to set the matters right.

Reformative Theory:

This theory considers the crime as a disease which must de diagnosed and cured through scientific treatment like all other diseases of the body or mind of the people. The punishment must not be considered as the ultimate end of the crime but it is only a mean to remove the crime from the society. The objective of the punishment according to this theory must not be wreck vengeance (retaliation/ revenge) but to reform the criminal by changing his mindset and prevent his committing further crime. Crime is a malady and the aim of the every punishment should be the reclamation or improvement of offender by prescribing and inducing and imparting proper treatment. The perfect system of criminal justice is based neither the deterrent nor the reformative principle exclusively but it is the result of compromising between them. In this compromise predominant influence is possessed by the principle of deterrent theory. The reformative elements must not be ignored as well as should not be given undue importance also.

It is not the duty of State only to punish the offenders for committing crimes but it is also expected from the society to bring the offenders to the justice and every member of the society to discharge the duty of true citizen of the country by getting such people punished who have infringed the rules and norms of the society as well as from mischievous elements by deterring potential offenders from committing further offences to rededicate evils and to reform criminal and turn them into law abiding citizens.

It is the affection of people towards each other living in similar type of life at the same neighbouring places and collectively adopt the shape of society which has been developed on the basis of love, affection, respect to each other and care for all. Every religion in this world talks of these ethics and moral values of behaviour in connection with their behaviour or interaction with each other as part of the same society but the modern law, policies, judicial system and punishment ignore these values instead of bank on the negative emotions of lust, greed, jealousy and fear coupled with emphasis on these negative emotions is the brutal but highly popular culture of "toughness" that derives lot of demands for "hard" justice and maximum punishment. There are no signs of "culture of forget and forgive"

1.18 LITERATURE REVIEW:

Crime is closely related to time and place. A brief historical review is vital to a proper understanding of its modern manifestations. In this chapter, an attempt has been made to review the selected literature, which concentrates on different patterns and trends of crime, studied by various social scientists and criminologists all over the world. The main purpose

of this review is to give a proper orientation and perspective to the present work. The various literatures reviewed on the Police and Criminal behaviour by the researcher are reported briefly in the following pages.

Adwani H. Nirmala, (1978) in her work points out that with an understanding of the culture and behavioural patterns of the people around, the Police will enable them to maintain law and order situation more efficiently. This is according to the political theory, which maintains that crime is the result of various social elements operating in the social environment. These elements are culture, social control, primary and secondary groups, social process, socialization, social change, social disorganization, status, role and personality of the individual.

Ahmad S.U., (1957) in his work opines that the prevention and control of crime is the basic duty of the police. They are designed and established for this purpose. Hence police, in the most common meaning of the term, is a body of trained men who are organized to maintain public order, preserve liberty and make life and property of the citizen secure against assault, burglary, theft and the depredations. Here it is highly important to note the observation made by Joseph Lehmen about the Police officer as the symbol of the impartial authority of society while Ahmad, former DIG of Police of UP, has concluded his study on Police in a welfare state that the only way to control crime is to secure public co-operation. Thus, for the Police it is an art and a fine art to handle a Criminal sympathetically and properly. But in many cases the causes are unsympathetic and cruel treatment to a man by the police, economic distress and lack of facility to find healthy employment and peaceful vocation.

Amarjit Mahajan (1982) in his book offers a profile of Indian women who venture into a new role of Police force, once a male sanctuary. It explores the factors, which motivate women to seek employment in a non-feminine occupation and the consequences that follow. The author finds that women employed at lower levels of Police service are required to act as ‘dummies’. The Policewomen are put on certain types of duties to ward off Community criticism of male Police force. The training and working experience have made the Police women realize that they were required to play a feminine role within a masculine occupational framework. The study also reveals the existence of “informal work group” arrangements. The marginal position of women in male dominated Police force is attributed by the author to organizational apathy, opposition from male incumbents, lack of

a congenial setting for role performance, absence of opportunities for women to occupy positions of authority and the negative reaction of society towards women's employment in such occupations. The author opines that the prevailing ambiguity, status contradiction and dilemmas can only be resolved if Policewomen's role is redefined. The redefinition of a new role for women in policing has to be somewhere in between the 'purely masculine' and the purely effeminate positions. As the study pertains to the field of the political science of occupations, it would be of general interest to sociologists. Since its subject matter pertains to the Police force, it has relevance for the students of Police science as well for the Police Administration. The main thrust of the book is on a typical sex role of women; as such it would also appeal to those who would like to see women entering into fields dominated by men.

An important milestone in the administration of law and order was the report of the Indian Police Commission of 1902-1903. This is a very valuable document in as much as it consolidated and improved upon the process, which had been initiated by the First Police Commission. The Second Commission's findings, based upon exhaustive enquiries, have relevance to-day because of the distressing fact that the current sense of dissatisfaction with the maintenance of order and the poor image of the Police has much in common with the state of affairs which prevailed seventy years ago in an entirely different socio-political context. Clashes between District Magistrates and Superintendents of Police had already been frequent, but since it was necessary to retain the control of the former over the latter, the Commission rejected also the suggestions that were made to them for the amalgamation of the Indian Police with the Indian Civil Service for the purposes of the recruitment examination.

Barnes, Harry Lemer and Teeters K. Negley (1966) in their work said that the Criminal justice system recognizes that the efficiency of the legal machinery depends basically on the quality of the initial work done by the police.

Bent, Alan E. and Rossum, Ralph A., (1976) in their work point out that the Police roles are primarily determined by three factors; societal norms; mores and influences; the individual policeman's discretion; and the level of urbanization of society. Society's norms

and mores are consequential for Police roles because a particular society or culture will incorporate into its legal structure what it views as proper Police jurisdiction. With regard to the extent of commitment of the Police to the community, the breadth of Police roles includes among Police responsibilities such things as the creation and maintenance of a failing of security in the community, the resolution of conflict, the protection of constitutional guarantees and the helping of those who cannot care for themselves.

Brocoy, Dorothy.H., (1976) in her work assigns eight explicit functions to the phenomenon of Police corruption. Three of these are intimately connected with the preservation of a Police sub-culture that is quite distinct from others in a society. The existence of a Police sub-culture is well documented. Its principal characteristics are usually described as intense peer-group feelings of solidarity, a cynical attitude towards many of the laws which the members of the subculture are required to uphold and towards many of the people they are obliged to protect, and a feeling of alienation from the rest of the community. The sub-culture and the values and behaviour of its members are usually described in terms of the nature of the Police role in society and the defensive attitude of the Police towards the outside world. Bracey again analyses the functionality of corruption in order to explain how it helps to maintain those features of the sub-culture.

Charles D. Hale (1977) in his book constitutes a basic text on Police Administration. He rightly mentions that "few Police administrators have attempted to apply the principles developed in the social sciences to the problems of Police Administration, even in the face of ample proof of relevance and applicability. It explains the crucial issue of Police Administration and the democratic process and also the general principles of organization and the management function with particular relevance to the Police have been examined. The author identifies the principal weakness of the traditional Police organizational structure and talks of humanism in the Police organization. He examines the scope and nature of training in their wider perspective to ensure proficiency and community rapport. His suggestions include planning, research programme evaluation, productivity improvement and management by objectives. It certainly makes a significant contribution to the study of Police Administration in a scientific manner, based on theory and rooted in experience, which the author has successfully conceptualized.

Coffey R.Alan, (1975) in his work opines that the increasing trend of urbanization, a characteristic of every modern society, has great influence on the conditions and on policecommunity relations. Not only do the congestion and the poor living conditions found in some urban areas tend to breed crime, but the anonymity fostered by large cities often leads to citizen apathy. An indifferent public that fails to support law enforcement dooms the efforts of the Police successfully to prevent and control crime. Police-community relations have a direct bearing on the character of life in the cities and on the ability of the community to maintain stability and solve its problems. At the same time the ability of the Police department to deal with crime depends in large part on its relation with the citizenry. The basic functions of the Police according to Alan R. Coffey are prevention of crime, detection of crimes that have been committed, identification of the person or persons responsible for crimes, apprehension of person or persons responsible for crimes, detection of the suspected offender or offenders for processing by the judiciary and presentation of evidence to the prosecutor.

George B. Vold (1958) in his book has referred to group behaviour theories, which centre on crime as an aspect of group phenomena in which the particular characteristics of specific individuals may be quite incidental.

Lombrose, C.F. (1911) in his book has explained Criminal behaviour in terms of physical characteristics of offenders and concluded that criminals were born.

Radelet, Louis. A., (1977) in his work states that the Police officer to be natural in his behaviour towards criminals or suspects or even to the public. Many factors outside his profession influence him in his actions than his own individual differences. The political setup of the state, influences from higher sources of bureaucracy, etc. have a definite role in this scene. In a period of rapid social change, it is important to ask how an officer can steer a course of neutrality if he cannot rely upon the principles of full enforcement of the law against all citizens regardless of social status or racial status. The police-community relations have to be maintained with the attitude of the Police towards themselves and segments of the community, and the attitude of segments of the community towards

themselves and the police. Generally, police-community relations in the present context include dealings with problems created by the changing relations between social change and social control. It also depends on what the Police expect from the community and what the community expects from the police. What the Police do, then, and how they do it, are vitally important considerations in the status of the relationship. Police work and Police officers are authorized by the community they serve to exercise extraordinary power under certain circumstances. It is essential that the Police executive must be skilful in maintaining relationship within the community power structure whereby the resource needs of his agency are made known to decision-makers, resource allocations are obtained and Police problems can be communicated in a style conducive to obtaining community support. The relationships within the Criminal justice system—between Police and prosecutor, between Police and courts, between prosecutor and courts, between Police and corrections, between courts and corrections—are highly important.

Rammohan (1973) from his study has concluded that the situation is more critical especially when the historical hangovers and the stereotype image of Police organization in India are such that any enthusiasm for the implementation of law or public policy leaves an abuse of tools and an adverse impact upon the people who tend to view the Police as an old enemy rather than a new friend.

Reckless, C.Walter, (1943) in his work points out that crime is not a genetic behavioural phenomenon but can be explained only as a different order of behaviour. He emphasized what he called social vulnerabilities of the individual and categoric risks for official action. The former are the weaknesses of the individual when confronted with a situation, which may precipitate Criminal beahviour.

Report of the Bihar Police Commission (1961), Report of the Punjab Police Commission (1962), Report of the West Bengal Police Commission (1964), Report of the Assam Police Commission (1971), Report of the Uttar Pradesh Police Commission (1962) and Report of the National Police Commission (1980) have evaluated Police administration and have made suitable suggestions to revamp the Police organization in India.

Sharma.P.D., (1981) in his work opines that the general complaint against the Police force is the excessive use of force on suspects and others. Policemen also often confess to the use of third-degree methods against suspects in Police custody but their argument is that any method that deals with hard criminals cannot be first degree. This image and reality of Police behaviour makes the common man shudder when one talks of the use of third-degree methods in Police work. There is no first-degree method of dealing with hardened criminals. Conversely it is more than true that no civilized society, and still less a democratic society, can tolerate the use of third-degree methods of torture, abuse and violence on suspects in the process of sorting out real criminals. It violates the dignity of the individual. Police-citizen relationship in all societies is essentially a situation dependent upon two major variables obtaining at a given period of history in a particular society. These are the ideological values of the political system, which the rulers of the country profess or prefer to practice in relation to the bulk of the citizenry; and the operating socio-cultural norms, which tend to condition the bureaucratic ethos of the administrative structures, more so in a developing society. Police are considered as the leading edge of government regulation. What they do is part and parcel of Government's activity. Police and government could no more so in a developing society.

K.D. Singh, (1967) in his study states that indifferent treatment and way of behaviour affect the real duties and ends desired from the Police officials. The absence of trained Police staff and popular co-operation in Criminal investigation makes the prosecution stories weak in cases involving the weaker sections of society. Whether it is weak vs. weak or weak vs. weaker, corrupt practices and political pressures in investigation can easily cause indifference in the administration of Criminal justice.

Sir Edmund C. Cox, (1976) in his work deals with the system of Police under the Hindu and the Muslim rulers and the efforts made by the British to bring in changes in the first flush of their rule. It also deals with the statutory changes made in the legal system, which brought in the famous Indian Penal Code and the Code of Criminal Procedure of the Police Act. The remaining chapters of the book deal with the crux of the Police task like tackling of bad characters, Criminal tribes, the role played by village watchmen in assisting the Police, the crime detection and control functions of the Indian Police. An element of

racial prejudice, however, is evident in the author's admiration, verging on hyperbole of the British whom he saw as saviours of the declining Indian local and legal systems in relation to crime and justice. This bias runs through the entire texture of the book.

Sir Robert Mark (1977) in his book poses the fundamental dilemma not only of the Police as an instrument of stability but also of the society caught in a process of perpetual flux. Referring to the basic mission of the Police, he suggests that the Police "must provide a stabilizing and reassuring influence in a changing and often perplexed society".

Srivastava Saraswati (1972) in her work opines that the functional image of the Police in India is quite bad and people of all strata hold it in low esteem also. As regards the role performance of police, only a very small section of the community accepts that the Police are helpful. A large section of the Indian society feels that the Police functions with partiality, favoritism and injustice. In their judgment the Police are professionally incompetent, cruel and corrupt.

Sutherlend, Edwin H., & Donald H. Cressey, (1965) in their work consider that the role of the Police in modern society in preserving law and order in the community around which it functions, is extremely important. Their efficiency, behaviour, discipline, etc. affect a lot in the fulfilling of their duties, which are assigned to them by society. The term Police thus refers primarily to agents of the state, whose function is the maintenance of law and order and especially the enforcement of the regular Criminal code. From the view point of the community, it has been noted that nowadays the Police have found the public to be indifferent to Police problems. One of the reactions which the criticism and indifference have produced is organized effort to develop friendly understanding with the public. In this effort the Police department has established a public reaction division and had attempted to develop methods, which will reduce the amount of irritation provoked by existing procedures.

Shaw and Mckay, researchers at the Chicago school, specialized in using official data to make pin maps, spot maps, rate maps, and zone maps. They studied and noticed that the

same neighborhoods in Chicago seemed to have about the same delinquency rates regardless of which ethnic group moved in. They said that "poverty areas" tended to have high rates of residential mobility and racial heterogeneity that made it difficult for communities in those areas to avoid becoming socially disorganized. These two variables declined the effectiveness of neighborhood that led to higher and higher rates of delinquency.

Statistics on reported crime over a period of time provides largest source of information about crime and criminals. It provides a large quantity of useful information about the trends of crime. The researcher reviews some of the literatures that show the trends of crime. In addition to that, various literatures on incidence of crime influenced by social, economic, demographic, spatial, geographic factors, etc. have been reviewed by the researcher.

Federal Bureau of Investigation (FBI), reports that the trend in reported crime in the United States since World War II has been upward. The rates for both violent and property offences have been rising rapidly. In the year 1960, there were approximately 161 violent crimes per 100,000 people. In the year 1980, the violent crime rate increased to 581 crimes per 100,000 people. Property crimes also have increased at a similar large rate. Thus the trend in crimes shows that, with increase in population, crime rate has increased.

In analyzing the criminal statistics from Boston, Ferdinand argued that changes in both socio-economic structure and police behavior brought about the gradual, but steady, decline in major crime. He argued that the gradually rising standard of living experienced by people in Boston during the entire period reduced crime associated with economic distress and social disorganization. He observed that a decline in the wave of immigration from Europe to Boston corresponded with the decline in criminal arrests, and he attributed this correspondence to the social assimilation of immigrants. He also argued that the police began to ignore common assault thereby greatly reducing known crimes recorded through arrest.

OBJECTIVE :

There are two objectives to this review:

1. The first objective is to review the evidence on the effectiveness of government interventions in reducing interpersonal crime in developing countries, and whether effectiveness differs according to intervention type and across different population.
2. The second objective is to assess the regions that government interventions addressing interpersonal crime may fail or succeed in developing countries.

1.19 HYPOTHESIS:

The developing theory of crime is based on the hypothesis that there is a correlation between crime and development. To explore this correlation several hypothesis are given:

- There is positive relationship between life expectancy and crime.
- There is positive relationship between urbanization and crime.
- There is positive relationship between industrialization and crime.

Though the variables used here do not tell everything about the extent and nature of development or crime in any societies. The crimes discussed are not the only types of crime in any of the socities but are assumed to reflect the extent and nature of criminal activity with which the society is concerned.

1.20 RESEARCH METHODOLOGY:

For the completion of this work the help of primary and secondary sources have been taken for the utilization and correction of data. Theother sources of information shall include slandered reference books, law reports (AIR, SCC, (Cri)), commission reports journal, magazines and newspaper.

The method used for this study is analytical, critical and comparative in nature.

CHAPTER-II

ORIGIN, NATURE AND SCOPE OF CRIME-INTERNATIONAL AND NATIONAL LEVEL

2.1 Prelude

Crime is the breaking of rules or laws for which some governing authority can ultimately prescribe a conviction. Crimes may also result in cautions, rehabilitation or be unenforced. Individual human societies may each define crime and crimes differently, in different localities at different time stages of the so-called "crime", from planning, disclosure, supposedly intended, supposedly prepared, incomplete, complete or future proclaimed after the “crime”. While every crime violates the law, not every violation of the law counts as a crime; for example: breaches of contract and of other civil law may rank as “offences” or as “infractions”. Modern societies generally regard crimes as offences against the public or the state, as distinguished from torts. Crime in the social and legal framework is the set of facts or assumptions that are part of a case in which they were committed acts punishable under criminal law, and the application of which depends on the agent of a sentence or security measure criminal. Usually includes a felony violation of a criminal rule or act against law, in particular at the expense of people or moral. A crime may be illegal or perfectly legal. Illegal and punishable crime is the violation of any rule of administrative, fiscal or criminal liability on the part of agents of the state or practice of any wrongdoing and notoriously harmful to self or against third parties, provided for in criminal law, since they practiced with guilt. Legal and not punishable crime is all acts in self-defense or otherwise determined by the illegal or criminal conduct of others that happened in the first place.

When informal relationships and sanctions prove insufficient to establish and maintain a desired social order, a government or a state may impose more formalized or stricter systems of social control. With institutional and legal machinery at their disposal, agents of the State can compel populations to conform to codes and can opt to punish or attempt to reform those who do not conform. Authorities employ various mechanisms to regulate certain behaviors in general. Governing or administering agencies may for example codify rules into laws, police citizens and visitors to ensure that they comply with those laws, and implement other policies and practices that legislators or administrators have prescribed with the aim of discouraging or preventing crime. In addition, authorities provide remedies

and sanctions, and collectively these constitute a criminal justice system. Legal sanctions vary widely in their severity; they may include incarceration of temporary character aimed at reforming the convict. Some jurisdictions have penal codes written to inflict permanent harsh punishments: legal mutilation, capital punishment or life without parole. The sociologist Richard Quinney has written about the relationship between society and crime. Quinney states "crime is a social phenomenon" envisages both how individuals conceive crime and how populations perceive it, based on societal norms[13].

2.2 What is Crime?

The word crime is derived from the latin root cernō, meaning "I decide, I give judgment". Originally the Latin word crīmen meant “charge” or “cry of distress[14]”. The Ancient Greek word krima, from which the Latin cognate derives, typically referred to an intellectual mistake or an offense against the community, rather than a private or moral wrong. In 13th century English crime meant “sinfulness”, according to etymonline.com. The glossing was probably brought to England as Old French crimne (12th century form of Modern French crime), from Latin crimen (in the genitive case: criminis). In Latin, crimen could have signified any one of the following: “charge, indictment, accusation; crime, fault, offense”.

2.2.1 Definition of Crime

Over the years, a number of criticisms of the approach have been written. The most important criticism was that the definition of crime was too narrow. It only incorporated harms defined as so by the State. Furthermore, it reduced the development of theories of crime to only looking at those “legally” guilty. Thus “factually guilty” did not become phenomena that the criminologist could deal with in constructing theories of crime. An alternative was needed. The crime has been defined different parts of the world differently and same has been discussed as here under:

[13] Quinney, Richard, Structural Characteristics, Population Areas, and Crime Rates in the United States, The Journal of Criminal Law, Criminology and Police Science

[14] Ernest Klein, A Comprehensive Etymological Dictionary of the English Language

2.2.2 England and Wales

Whether a given act or omission constitutes a crime does not depend on the nature of that act or omission. It depends on the nature of the legal consequences that may follow it. An act or omission is a crime if it is capable of being followed by what are called criminal proceedings[15].

2.2.3 Sociological definition

A normative definition views crime as deviant behavior that violates prevailing norms - cultural standards prescribing how humans ought to behave normally. This approach considers the complex realities surrounding the concept of crime and seeks to understand how changing social, political, psychological, and economic conditions may affect changing definitions of crime and the form of the legal, law-enforcement, and penal responses made by society. These structural realities remain fluid and often contentious. For example: as cultures change and the political environment shifts, societies may criminalize or decriminalize certain behaviours, which directly affects the statistical crime rates, influence the allocation of resources for the enforcement of laws, and (re-)influence the general public opinion.

2.2.4 Other definitions

Legislatures can pass laws (called mala prohibita) that define crimes against social norms. These laws vary from time to time and from place to place: note variations in gambling laws, for example, and the prohibition or encouragement of duelling in history. Other crimes, called mala in se, count as outlawed in almost all societies. English criminal law and the related criminal law of Commonwealth countries can define offences that the courts alone have developed over the years, without any actual legislation: common law offences. The courts used the concept of malum in se to develop various common law offences.

[15] Glanville Williams, Learning the Law, Eleventh Edition, Stevens, 1982

2.3 Origin of the Crime at International Level

The hate of crime is defined as any wrong doing perpetrated against a particular group of people. A form of prejudice, it could be directed at a group of individuals based on their ethnicity, age, sexual orientation, gender, religious preference or any other defining characteristic. Anytime two different groups of people come in contact with each other, there is the possibility of tension or conflict developing, which often leads to violence. Whether the crime in question is assault, theft, verbal abuse or even murder, the motivation behind it is based on hatred for a people who are perceived as being different in some way.

The origin of hate crimes dates back to ancient civilizations. One of the earliest examples is from the Roman Empire, which was well known for persecuting various religious groups. According to several historical documents, Christianity was largely tolerated by then Emperor Nero until the year 64 AD, when a tremendous fire destroyed a great portion of Rome. The Emperor felt he was being blamed for the damage, so he shifted the guilt to Christians and called for anyone who followed the religion to be punished. This led to years of hate crimes against anyone who followed the beliefs of Christianity as well as several other religious groups. Some examples of hate crime have been so tremendous that they have affected the entire world. One of the most notable is the Nazi's persecution of the Jewish people. Hitler's "Final Solution" called for the total annihilation of the Jews and led to building full scale death camps. This dark period in world history is better known as The Holocaust, and resulted in the mass murder of millions of people. In more recent years, the act of genocide, or attempting to obliterate an entire ethnic, racial or religious group, has occurred in both Bosnia and Rwanda. Hate crimes occur on a smaller scale all over the world. They often result from prejudices based on race or sexual orientation. In the United States the majority of hate crimes are committed against people because of racial motivations. These crimes primarily consist of intimidation, vandalism and assault. Statistics provided by the Federal Bureau of Investigation have shown that hate crimes are on the rise in America. In 2006 the number of crimes increased by 8% from the year before. These sad facts show that despite how far we have advanced in many ways, hate crimes are far from being nothing more than ancient history.

2.4 Nature of the Crime at International Level

"When does humanitarian law begin to apply in that conflict? At which point in time did the violence escalate to such a point where one would say that we are going from a peace-time regime to a war-time regime?" asked Payam Akhavan, a professor at McGill University and Fernand Braudel Fellow, during a seminar about crimes against humanity and genocide on 31st January, 2013. The conflict in Syria - which the UN states has left over 60,000 dead and more than 600,000 registered as refugees - last month led 57 states to call on the UN Security Council to refer the situation to the International Criminal Court (ICC). The request was rejected by Russia, a permanent member of the Security Council, yet calls into question the role of international law in a conflict which has lasted nearly two years.

Even if increased pressure leads the ICC to take on the case in the future, Akhavan said there is no legal rule to determine precisely at which point a series of civilian protests tips over into full-scale war or when individual crimes became crimes against humanity. "The defining feature of a crime against humanity is whatever characterizes an elusive factor of scale or gravity. If you de-link crimes against humanity from armed conflict, then what you have are simple ordinary crimes such as rape and murder which are only crimes against humanity by virtue of the context in which they are committed. So one begins to see how significant that context requirement is, not just as a matter of criminal liability, but because we're not just holding someone responsible for an ordinary crime but a crime against humanity; there's an added element of moral opprobrium," he said.

The international community has to tread carefully to ensure it is not dealing with ordinary crimes and therefore encroaching on the domestic jurisdiction of states, Akhavan said. He added however that the death toll and scale of destruction in Syria has reached the threshold for crimes against humanity. "Scaling gravity becomes crucial, but as we know there is no neat mathematical formula for deciding what constitutes widespread or systematic. In some respects one could argue that it requires an arbitrary decision that this is now of a scale of gravity that justifies the label of 'crimes against humanity". In addition to the numbers of people affected, the tactics employed in Syria also affect whether acts can be classed as international crimes: "If you are lawfully targeting military objectives, even if the bombardment terrifies civilians, makes them flee and some are victims of incidental deaths; that would probably not qualify as a constituent act of crimes against

humanity. But where you have indiscriminate, disproportionate attacks then the case can be made that this is part of a widespread or systematic attack."

2.5 Scope of the Crime at International Level

Only in recent history has international law evolved to define and punish mass violence against civilians. Now well-established as the legal foundation for civilian protection against mass atrocities, two categories of international law that seek to criminalize genocide and crimes against humanity were developed in response to World War II and the Holocaust. Below you will find a series of approachable articles and resources, including podcasts and eyewitness testimonies that describe the evolving international framework for preventing and punishing genocide and crimes against humanity. At the International Military Tribunal (IMT) in Nuremberg (1945- 1946), legal teams from Allied nations prosecuted Nazi German leaders for attacks on civilians under the rubric of crimes against humanity, a formerly undefined general principle that became codified into enforceable law for the very first time. The IMT limited it in scope, however, to crimes committed in the context of international armed conflict. Due in large parts to the efforts of Holocaust survivor Raphael Lemkin, the United Nations Convention on the Prevention and Punishment of the Crime of Genocide was unanimously adopted on December 9, 1948. The Convention established genocide as an international crime in times of both war and peace. The Convention's definition of genocide is, however, strictly limited by the perpetrator's "intent to destroy in whole or in part;" the characterization of the victim group; and the acts committed.

Although mass atrocities occurred in the decades following ratification, the Genocide Convention went unused and therefore untested. Not until the 1990s did the obligations of the Convention gain potency, spurred on by several international developments: the growth of professional human rights organizations with experience utilizing international legal tools to combat human rights abuses; the end of the Cold War, 1919 which enabled greater consensus in UN Security Council; and the persistence of extreme violence targeted against entire civilian groups, most notably in the cases of Bosnia-Herzegovina and Rwanda. In response, new mechanisms were created to hold individuals criminally responsible for violations of international laws of war, crimes against humanity, and genocide. The United Nations created the International Criminal Tribunal for the Former Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda (ICTR) in

1994. On July 17, 1998, the International Criminal Court (ICC) was permanently established through treaty, which no longer limited crimes against humanity to the context of armed conflict. And, for the first time, an established forum for disputes between states, the International Court of Justice (ICJ), addressed countries' obligations to prevent genocide.

In 1948, the United Nations General Assembly voted unanimously to create the UN Convention on the Prevention and Punishment of the Crime of Genocide. But how has the definition of genocide crafted through diplomatic negotiation become meaningful against real threats to civilian groups? Diane Orentlicher, Deputy in the Office of War Crimes Issues in the U.S. Department of State: Orentlicher discusses how the Obama Administration is reengaging with the International Criminal Court. International law expert William Schabas: Schabas discusses the decision of the prosecutor for the International Criminal Court to request an arrest warrant for President Bashir of Sudan.

2.6 Concept of Crime

Crime, the intentional commission of an act usually deemed socially harmful or dangerous and specifically defined, prohibited, and punishable under criminal law. Most countries have enacted a criminal code in which all of the criminal law can be found, though English law the source of many other criminal-law systems remain uncodified. The definitions of particular crimes contained in a code must be interpreted in the light of many principles, some of which may not actually be expressed in the code itself. For example, many legal systems take into account the mental state of the accused person at the time the alleged crime was committed. Most legal systems also classify crimes for the purpose of assigning cases to different types of court. Social changes often result in the adoption of new criminal laws and the obsolescence of older ones. This article focuses on the definition and classification of crime, how it is measured and detected, the characteristics of offenders, and the various stages of criminal proceedings. The material draws principally from common, or Anglo-American, law, with supplementary treatment of civil-law and other systems, including Islamic, African, and Chinese law. For full treatment of particular legal aspects of crime, see criminal law; civil law; common law; court; police; and procedural law. Particular legal systems are treated in Roman law; Germanic law;

Chinese law; Indian law; Shariah (Islamic law); and Soviet law. Aspects related to crime are also addressed in criminal justice; criminology; juvenile justice; parole; prison; and punishment.

2.6.1 Legal Definition of Crime

The legal definition of crime is that it is behaviour or an activity in violation of the legal code. Paul Tappan (1960: 10) has defined crime as "an intentional act or omission in violation of criminal law committed without defence or justification and sanctioned by the state for punishment as a felony or a misdemeanor". Six elements as under are important in this definition:

1. The act should be actually committed or it should be an omission of a legal duty (as different from moral duty), i.e., a person cannot be punished for his/ her thoughts.

2. The act must be voluntary and committed when the actor has control over his actions. Suppose a person has a dog and he always keeps it chained. A neighbor's child approaches the dog, teases it and throws stones at it.

3. The act should be intentional, whether the intent is general or specific. A person may not have specific intent to shoot another person and kill him, but he is expected to know that his action might result in injury or death of others. Thus, if he shoots a person even when having no specific intent to kill him, he commits a crime because he knows well that his action might injure or cause the death of a person.

4. The act should be a violation of a criminal law, as distinct from a non-criminal law or civil and administrative law. This is necessary so that the state can take action against the accused. Non-criminal laws refer to laws which regulate the rights between individuals and organisations; for example, divorce laws, contract laws, laws regulating property rights, etc. We can differentiate between criminal wrongs and non-criminal or civil wrongs.

5. The act should be committed without defence or justification. Thus, if the act is proved to be in self-defence or to have been committed in insanity, it will not be considered a crime even if it causes harm or injury to others. Ignorance of law is usually no defence.

6. The act should be sanctioned by the state as a felony or a misdemeanor. Persons can be punished only for those acts that may be considered to be socially harmful and for which society has provided punishment. A child of four who has killed his mother cannot be convicted for crime because the state has provided no penalty for a child of this age, even if the act is socially harmful.

To fulfill the legal definition of crime, all elements of a crime must be proven: the criminal act and the criminal intent

Actus Reus - 1. the criminal act itself; the action must be voluntary for an act to be considered illegal; 2. a person must act when there is a legal obligation to do so; failure to act is a criminal offense.

a) The central issue is the voluntary action and whether the individual has control over his or her actions.

b) The duty to act is a legal duty, not just a moral duty

c) The relationship of parties based on status (parent/child; spouses)

d) Imposition by statute

e) Contractual relationship

Mens Rea – for an act to constitute a crime, it must be done with criminal intent (carrying out an act intentionally, knowingly, and willingly

a) Most crimes require general intent, or intent to commit the crime.

b) Specific intent is an intent to accomplish a specific purpose as an element of the crime

c) Transferred intent occurs when the original intent is transferred to the unintended

victim.

d) Negligence involves a person's acting unreasonably under the circumstances resulting in harm.

e) Constructive intent occurs when the intent that underlies an unintentional act results in harm to another with the finding of criminal liability

f) Strict-liability crimes occur when the person accused is guilty simply by doing what the statute prohibits; intent does not enter the picture.

2.6.2 Types of Crime

It can be difficult to deal with criminal laws, since there are so many different types of crimes in the U.S criminal justice system. One way to make sense of criminal laws is to categorize the different types of crimes into broad categories. In general, the different types of crimes may be divided into two major categories, Personal Crimes and Property Crimes:

a) Personal Crimes- "Offenses against the Person": These are crimes that result in physical or mental harm to another person. Personal crimes include:

- Assault
- Battery
- False Imprisonment
- Kidnapping
- Homicide crimes such as first and second degree, murder, and involuntary manslaughter, and vehicular homicide
- Rape, statutory rape, sexual assault and other offenses of a sexual nature

b) Property Crimes- "Offenses against Property": These are crimes that do not necessarily involve harm to another person. Instead, they involve an interference with another person's right to use or enjoy property. Property crimes:

- Larceny (theft)
- Robbery (theft by force)
- Burglary
- Arson
- Embezzlement
- Forgery
- False Pretenses
- Receipt of stolen goods.

Most of the different types of crimes are covered in this list; however, some states may have individual laws that deal with variations of these criminal offenses. Also, some crimes may involve both types of harm. For example, robbery involves the theft of property that is obtained through physical force against the owner.

2.6.3 Sub-Categories for the Different Types of Crimes

The different categorizes of crimes are as follows:

a) **Inchoate Crimes:** The word "Inchoate" roughly translates into "incomplete". Thus, inchoate crimes are crimes that were begun, but not completed by the suspect. The most common form of inchoate crime is an attempted crime, such as attempted robbery or attempted battery. In order to be found guilty of attempting a crime, the defendant must

have taken substantial steps toward the completion of the crime. A mere intention to commit a crime is not enough to find a person guilty.

b) Forms of Crime: Crime can involve violence, sex or drugs but also discrimination, road rage, undeclared work and burglary. Crime is any behaviour and any act, activity or event that is punishable by law.There are many examples of criminal activities against women in the present globalization and modernization, but the crimes are increasing in cyber and youth related activities.

Cyber Crime: Anyone using the internet can be a victim of cybercrime. Examples include identity theft and child pornography. One way the government is combating this crime is through the Cyber Crime Reporting Website.

Youth Crime: To increase public safety, the government is combating youth crime and antisocial behaviour by young people through swift intervention, rapid sentencing and appropriate aftercare.

c) Human smuggling and human trafficking: The government has taken a number of measures to combat human trafficking, including a higher maximum prison sentence for perpetrators. The government is drafting a new Act to combat forced sex and exploitation in prostitution.

d) Illegal possession of firearms: Substantial fines and prison sentences may be imposed for the illegal possession of firearms and illegal trade in firearms. Possession and sale of stilettos, flick knives and butterfly knives are also prohibited.

e) Cannabis cultivation: Cannabis cultivation is prohibited in the Netherlands. Cannabis growers often have ties with organised crime. Cultivation is a source of nuisance and a risk to neighbours. There is a risk, for example, of fire and antisocial behaviour by criminals visiting the premises. The government will take action against people who supply equipment to grow cannabis. An Act prohibiting organised cannabis cultivation (in Dutch) is being drafted. It will increase the powers of the police and the Public Prosecution Service to nip cannabis cultivation in the bud.

f) Fraud: Fraud includes benefit fraud, tax fraud and money laundering from criminal activities. The government will fight fraud by:

- Confiscating laundered money and criminal assets: every year, the authorities seize tens of millions of euros and luxury goods such as boats and cars from criminals;
- Creating more capacity for financial investigations by the Fiscal Information and Investigation Service-Economic Investigation Service (FIOD-ECD);
- Paying more attention to financial investigations in basic police training.

g) Real estate: Organised criminals often buy expensive properties with the proceeds of crime. Through its national real estate steering group (in Dutch), the government can use property as a basis for uncovering and dismantling criminal practices. The government is studying ways to identify and combat property crime more effectively.

2.7. Theories of Crime

Criminology is the scientific study of the nature, extent, causes, and control of criminal behavior in both the individual and in society. Criminology is an interdisciplinary field in the behavioral sciences, drawing especially upon the research of sociologists (particularly in the sociology of deviance), psychologists and psychiatrists, social anthropologists as well as on writings in law. Areas of research in criminology include the incidence, forms, causes and consequences of crime, as well as social and governmental regulations and reaction to crime. For studying the distribution and causes of crime, criminology mainly relies upon quantitative methods. The term criminology was coined in 1885 by Italian law professor Raffaele Garofalo as criminologia. Later, French anthropologist Paul Topinard used the analogous French term criminology[16].

2.7.1 Schools of thought

In the mid-18th century criminology arose as social philosophers gave thought to crime and concepts of law. Over time, several schools of thought have developed. There were three main schools of thought in early criminological theory spanning the period from the mid-18th century to the mid-twentieth century: Classical, Positive, and Chicago. These

[16] Deflem, Mathieu (2006). Sociological Theory and Criminological Research: Views from Europe and the United States. Elsevier

schools of thought were superseded by several contemporary paradigms of criminology, such as the sub-culture, control, strain, labeling, critical criminology, cultural criminology, postmodern criminology, feminist criminology and others discussed below.

2.7.1.1 Classical School

The Classical School, which developed in the mid 18th century, was based on utilitarian philosophy. Cesare Beccaria, author of On Crimes and Punishments (1763–64), Jeremy Bentham, inventor of the panopticon, and other classical school philosophers argued that:

a) People have free will to choose how to act.

b) Deterrence is based upon the notion of the human being as a 'hedonist' who seeks pleasure and avoids pain, and a ‘rational calculator’ weighing up the costs and benefits of the consequences of each action. Thus, it ignores the possibility of irrationality and unconscious drives as motivational factors.

c) Punishment (of sufficient severity) can deter people from crime, as the costs (penalties) outweigh benefits, and that severity of punishment should be proportionate to the crime.

d) The more swift and certain the punishment, the more effective it is in deterring criminal behavior.

The Classical school of thought came about at a time when major reform in penology occurred, with prisons developed as a form of punishment. Also, this time period saw many legal reforms, the French Revolution, and the development of the legal system in the United States.

2.7.1.2 Positivist School

The Positivist school presumes that criminal behavior is caused by internal and external factors outside of the individual's control. The scientific method was introduced and applied to study human behavior. Positivism can be broken up into three segments which include biological, psychological and social positivism.

2.7.1.3 Italian School

Cesare Lombroso was an Italian Sociologist working in the late 19th century who is sometimes regarded as the father of criminology. He was one of the largest contributors to biological positivism and was founder of the Italian school of criminology. Lombroso took a scientific approach, insisting on empirical evidence, for studying crime. Considered as the founder of criminal anthropology he suggested that physiological traits such as the measurements of one's cheek bones or hairline, or a cleft palate, considered to be throwbacks to Neanderthal man, were indicative of "atavistic" criminal tendencies. This approach, influenced by the earlier

theory of phrenology and by Charles Darwin and his theory of evolution, has been superseded. Enrico Ferri, a student of Lombroso, believed that social as well as biological factors played a role, and held the view that criminals should not be held responsible when factors causing their criminality were beyond their control. Criminologists have since rejected Lombroso's biological theories, with control groups not used in his studies[17].

2.7.1.4 Sociological positivism

Sociological positivism suggests that societal factors such as poverty, membership of subcultures, or low levels of education can predispose people to crime. Adolphe Quetelet made use of data and statistical analysis to gain insight into relationship between crime and sociological factors. He found that age, gender, poverty, education, and alcohol consumption were important factors related to crime. Rawson W. Rawson utilized crime statistics to suggest a link between population density and crime rates, with crowded cities creating an environment conducive for crime. Joseph Fletcher and John Glyde also presented papers to the Statistical Society of London on their studies of crime and its distribution. Henry Mayhew used empirical methods and an ethnographic approach to address social questions and poverty, and presented his studies in London Labour and the London Poor. Emile Durkheim viewed crime as an inevitable aspect of society, with uneven distribution of wealth and other differences among people.

[17] Beccaria, Cesare (1764). In Richard Davies, translator. On Crimes and Punishments, and Other Writings. Cambridge University Press

2.7.1.5 Differential Association (Subcultural)

Crime is learned through association. The criminal acts learned might be generally condoning criminal conduct or be justifying crime only under specific circumstances. Interacting with antisocial peers is a major cause of crime. Criminal behavior will be repeated and become chronic if reinforced. When criminal subcultures exist, many individuals can learn associatively to commit crime and crime rates may increase in those specific locations.

2.7.1.6 Chicago School

The Chicago school arose in the early twentieth century, through the work of Robert E. Park, Ernest Burgess, and other urban sociologists at the University of Chicago. In the 1920s, Park and Burgess identified five concentric zones that often

exist as cities grow, including the "zone in transition" which was identified as most volatile and subject to disorder. In the 1940s, Henry McKay and Clifford R. Shaw focused on juvenile delinquents, finding that they were concentrated in the zone of transition. Chicago School sociologists adopted a social ecology approach to studying cities, and postulated that urban neighborhoods with high levels of poverty often experience breakdown in the social structure and institutions such as family and schools. This results in social disorganization, which reduces the ability of these institutions to control behavior and creates an environment ripe for deviant behavior.
Other researchers suggested an added social-psychological link. Edwin Sutherland suggested that people learn criminal behavior from older, more experienced criminals that they may associate with. Theoretical perspectives used in criminology include psychoanalysis, functionalism, interactionism, Marxism, econometrics, systems theory, postmodernism, genetics, neuropsychology, evolutionary psychology, etc.

2.7.1.7 Strain theory (social class)

Strain theory, (also known as Mertonian Anomie), advanced by American sociologist Robert Merton, suggests that mainstream culture, especially in the United States, is saturated with dreams of opportunity, freedom and prosperity; as Merton put it, the American Dream. Most people buy into this dream and it becomes a powerful cultural and psychological motivation. Merton also used the term anomie, but it meant something slightly different for him than it did for Durkheim. Merton saw the term as meaning a dichotomy between what society expected of its citizens, and what those citizens could actually achieve. Therefore, if the social structure of opportunities is unequal and prevents the majority from realizing the dream, some of them will turn to illegitimate means (crime) in order to realize it. Others will retreat or drop out into deviant subcultures (gang members, “hobos”: urban homeless drunks and drug abusers).

2.7.1.8 Subcultural theory

Following on from the Chicago school and Strain Theory, and also drawing on Edwin Sutherland's idea of differential association, subcultural theorists focused on small cultural groups fragmenting away from the mainstream to form their own values and meanings about life. Albert K. Cohen tied anomie theory with Freud's reaction formation idea, suggesting that delinquency among lower class youths is a reaction against the social norms of the middle class. Some youth, especially from poorer areas where opportunities are scarce, might adopt social norms specific to those places which may include “toughness” and disrespect for authority. Criminal acts may result when youths conform to norms of the deviant subculture. Richard Cloward and Lloyd Ohlin suggested that delinquency can result from differential opportunity for lower class youth. Such youths may be tempted to take up criminal activities, choosing an illegitimate path that provides them more lucrative economic benefits than conventional, over legal options such as minimum wage-paying jobs available to them.

British subcultural theorists focused more heavily on the issue of class, where some criminal activities were seen as 'imaginary solutions' to the problem of belonging to a subordinate class. A further study by the Chicago school looked at gangs and the influence of the interaction of gang leaders under the observation of adults. Sociologists such as Raymond D. Gastil, have explored the impact of a Southern culture of honor on violent crime rates.

2.7.1.9 Symbolic interactionism

Symbolic interactionism draws on the phenomenology of Edmund Husserl and George Herbert Mead, as well as sub cultural theory and conflict theory. This school of thought focused on the relationship between the powerful state, media and conservative ruling elite on the one hand, and the less powerful groups on the other. The powerful groups had the ability to become the 'significant other' in the less powerful groups' processes of generating meaning. The former could to some extent impose their meanings on the latter, and therefore they were able to 'label' minor delinquent youngsters as criminal. These youngsters would often take on board the label, indulge in crime more readily and become actors in the 'self-fulfilling prophecy' of the powerful groups. Later developments in this set of theories were by Howard Becker and Edwin Lemert, in the mid-20th century. Stanley Cohen who developed the concept of “moral panic” (describing societal reaction to spectacular, alarming

social phenomena such as post-World War Two youth cultures (e.g. the Mods and Rockers in the UK in 1964, AIDS and football hooliganism).

2.7.1.10 Labeling Theory

Labeling theory refers to an individual being labeled in a particular way and was studied in great detail by Howard Becker. It arrives originally from sociology but is regularly used in criminological studies. It is said that when someone is given the label of a criminal, they may reject it or accept it and go on to commit crime. Even those that initially reject the label can eventually accept it as the label becomes more well known particularly amongst their peers. This can become even more profound when the labels are about deviancy and it is said they can lead to deviancy amplification. Klein (1986) conducted a test which showed that labeling theory affected some youth offenders but not others.

2.8 Role of International Institutions

Organized transnational crime is one of the main threats to public safety and represents an obstacle for the social, political and economic development of societies worldwide. It is a

multi-faceted phenomenon that manifests itself through different types of crime, such as drug trafficking, trafficking in persons, migrants smuggling, arms trafficking and money laundering, among others. Organized crime has been influenced by globalization, which has caused deep transformations in the lives of people, societies and States. The borders between countries today are more flexible and transit of people, merchandises, services and resources is increasingly agile. This process, which facilitates commerce and integration between peoples, also brings radical changes in the dynamics of crime and violence. After all, the technologies that enable substantial improvements in people's lives are also used by those who circumvent laws, commit crimes and defy justice.
Therefore, the importance of international cooperation and experience interchange on criminal justice and crime prevention increases. A coordinated performance is fundamental to face, with more efficiency, criminal groups dispersed around the world, that many times possess high communication and organization capacity. Seeking coherent and efficient responses to these problems, the United

Nations Office on Drugs and Crime (UNODC) has worked in close cooperation with governments and international and civil society organizations towards fortifying institutional structures and the rule of law for an effective control over organized crime and drug trafficking. Based on the United Nations Convention against Transnational Organized Crime, UNODC has assisted governments in the implementation of the Convention's articles and the establishment as criminal offences, in their national legislations, of conducts related to organized crime. With the same motivation, UNODC has also supported the adoption of measures for mutual legal assistance, in order to facilitate extradition proceedings, police cooperation, technical assistance between countries and training for members of criminal justice systems.

2.9 Criminal Justice System Reform

The respect for human rights requires the construction of fair and efficient criminal justice systems, capable of controlling crime within the limits established by the rule of law. UNODC supports governments in developing strategies for the reform of all aspects of the criminal justice system, with special emphasis on assistance to the most vulnerable groups, especially women, young people and children. UNODC also promotes projects on juvenile

justice, criminal reform and support to victims and witnesses of crimes. These actions resulted in a wide range of manuals and evaluation instruments, compiled in the Criminal Justice Assessment Toolkit, that cover all areas of the criminal justice system, based on international norms and standards defined by the United Nations.

UNODC develops projects and provides technical assistance on the following subjects:

a. Juvenile justice

b. Criminal reform

c. Criminal justice reform

d. Restorative justice

e. Alternatives to imprisonment

f. Victims support

g. Gender-based violence

h. Following criminal justice system's performance

The projects' activities in different countries include a series of interventions, such as:

a. Training

b. Consulting

c. Legislative reform

d. Supplying resources to non-governmental organizations

e. Producing reports and manuals on best practices

2.10 Commission on Crime Prevention and Criminal Justice

The Commission on Crime Prevention and Criminal Justice is the main agency of the United Nations system for the formulation of policies and international recommendations on criminal justice questions, including trafficking in persons, transnational crimes and terrorism prevention aspects. It monitors the use and application of the United Nations norms concerning these matters and guides the formulation of policies to answer these new questions.

The Core International Human Rights Instruments (Treaties) and the Treaty Bodies

i. International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
ii. International Covenant on Civil and Political Rights (ICCPR)
iii. International Covenant on Economic, Social and Cultural Rights (ICESCR)
iv. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
v. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
vi. Convention on the Rights of the Child (CRC)
vii. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW)
viii. International Convention for the Protection of All Persons from Enforced Disappearance (not yet into force)
ix. Convention on the Rights of Persons with Disabilities (CRPD)

2.11 Causes of Crime

There is no single cause to any disorder, including crime. While clearly we are all ultimately responsible for our own actions, it is wrong to hold an individual wholly responsible for his unlawful act. There are certain factors in our societies, cultures (family

values), system (educational, political, law-enforcement...), economy, and so on that endorse the potential of criminal activities of an individual. An organization as a whole should take a part of the blame in order to transform the conditions in which criminal-minds breed. If we want to know the exact top ten causes of crime, it would be necessary to narrow it down to a specific geographic location or region. Since our readership is not limited to one particular region, we made a general list that was concocted after an extensive research and it doesn't represent authors narrow view. The list of 10 causes of crime was taken from a variety of scientific reports, written by scholars; we just re-cloaked it using arts to make the topic more appealing to the non- scientific minds.

a) **Weakness:** People are not bad by nature, but sometimes simply too timid to resist the vicious demons that play on their weaknesses and cut their bond with the source of their Power. Humans are good by default, but not everyone is made of steel so as to defend themselves against the demonic forces - destructive emotions and detrimental attitudes: fear, ignorance, hatred, worry, revenge, envy, attachment, greed, lust, selfishness, doubt, prejudice, pride, vanity, impatience, sloth, discrimination, arrogance, ambition, addiction, gluttony, criticism, blame, anxiety, frustration and so on. We all get attacked by those faulty ethereal goblins of our minds and hearts, but most of us succeed to resist them. It's easy to act on anger, greed, revenge or any of

highlighted above, but it takes courage and strength to determine that there is something more important than that.
There are two core reasons why weakness prevails with some:

1. Lack of faith: not believing enough in the power of one's own internal weapons (against inner demons), such as: courage, tolerance, understanding, forgiveness, mercy, honesty, sincerity, integrity, honor, modesty, humbleness, generosity, love, compassion, kindness, detachment, patience, self-discipline, temperance, etc. As a result of not trusting inner resources, there is no enough motivation to develop them and use them. Art Solutions - get the free crime cure; watch inspirational films and read inspirational stories of good qualities conquering the bad ones.

2. Imbalance: most criminals are simply too strong physically, pumping up the body muscles, but not enough the mental and emotional muscles. The reason why their strength becomes weakness is because they are not balanced. Art Therapy Solutions - get the free artistic crime cure; watch the movie trilogy ‘Samurai’ by legendary Japanese director Hiroshi Inagaki. It tells the story of the greatest Samurai warrior in Japan - Musashi Miyamoto, his journey from being just a tough warrior to a true hero, equally strong on all three accounts: physical skills, mental calmness and emotional state. Underneath all the weaknesses is a genuine human desire to do well. When we delink ourselves from our source (Higher Power), we find ourselves either in a wrong relationship or in a wrong job, or simply in a wrong place at wrong time, but also in a wrong state of mind - causing us to do the wrong things, on the wrong side of tracks.

b) Lack of love: Being raised in a dysfunctional family, or coming from a disadvantaged background, or feeling discriminated, none of it alone can cause crime. There are so many others in the world with such conditions, but nevertheless don't turn to crime. However they cause the lack of love and respect for others. That, endorsed with some other factors, can be a major issue related to crime.

c) Poverty: Poverty is often blamed for leading to crime, however underneath is something more vital - society bombards us with commercial values, making us want more and more material things, to the point when some would do anything (including criminal acts) to get them. Unemployment is another factor in this category that contributes to crime through looking ways to earn money by any means possible. Art Therapy Solutions - get the free crime cure; - find the best powerbroker (presented also here in the top of the right column) to help you out of poverty into wealth

d) Deprived neighborhoods: economically impoverished neighborhoods breed criminal minds. Solution: If moving out is out of the question, then keep away from the guys in the hood by making yourself busy with putting your new show on the road. Do you have the strength to distance yourself from the harmful influences of your neighboors? If not, find the strength from the power behind your new thing, which you can discover in the Poor parenting skills erratic or harsh discipline, lack of parental control, supervision and monitoring, parental conflict, family dysfunction/breakdown, criminal, anti-social and/or alcoholic parent/s Read more about it from BBC and/or t.

e) Ecological: It has long been known by police officers that cold winter nights keep criminals off the streets and crime levels down. Crime scientists speculate that one of the hidden consequences of global warming will be an increase in street crime during mild winters. Studies have suggested that warmer temperatures boost aggression hormones such as epinephrine and testosterone.

2.12 New Trends & change in Criminal behaviour

Over the past 30 years, crime has become a major issue of public concern, of political discussion and action often intemperate and not likely to reduce crime and of major public expenditure. Despite its salience in the public arena, very little is known about the factors driving the crime trends, and the knowledge base is too limited to support intelligent forecasts of the direction in which crime rates are moving, especially when changing direction. Developing such a knowledge base is important for enhancing the rationality of public policies and public expenditures related to crime, particularly because many such commitments have to be made well in advance of their actual use. These include, for example, recruiting and training police forces, building prisons, and developing other interventions outside the criminal justice system. In this chapter we summarize the crime trend history over the past 35 years, examine the factors that appear to have been particularly influential in driving those trends, consider whether change in those factors could have been known in advance, and use that information to indicate some of the potential directions for enhancing the knowledge needed for better explanations and forecasts.

2.13 NATURE, SCOPE OF CRIME AT NATIONAL LEVEL

Crime is present in various forms in India. It includes illegal drug trade, crime against women, money laundering, extortion, murder for hire, fraud, human trafficking, poaching and prostitution. Many criminal operations engage in black marketing, political violence, religiously motivated violence, terrorism, and abduction. Other crimes are homicide, robbery, assault etc. Property crimes include burglary, theft, motor vehicle theft, and arson. Corruption is a significant problem.

2.13.1 Arms Trafficking

According to a joint report published by According to a joint report published by Oxfam, Amnesty International and the International Action Network on Small Arms (IANSA) in 2006, there are around 40 million illegal small arms in India out of approximately 75 million in worldwide circulation. Majority of the illegal small arms make its way into the states of Bihar, Chhattisgarh, Uttar Pradesh, Jharkhand, Orissa and Madhya Pradesh. In UP, a used AK-47 costs $3,800 in black market. Large amount of illegal small arms are manufactured in various illegal arms factories in Uttar Pradesh and Bihar and sold on the black market for as little as $5.08.

2.13.2 Illegal Drug Trade

India is located between two major illicit opium producing centres in Asia – the Golden Crescent comprising Pakistan, Afghanistan and Iran and the Golden Triangle comprising Burma, Thailand and Laos. Because of such geographical location, India experiences large amount of drug trafficking through the borders. India is the world's largest producer of licit opium for the pharmaceutical trade. But an undetermined quantity of opium is diverted to illicit international drug markets.

India is a transshipment point for heroin from Southwest Asian countries like Afghanistan and Pakistan and from Southeast Asian countries like Burma, Laos, and Thailand. Heroin is smuggled from Pakistan and Burma, with some quantities transshipped through Nepal. Most heroin shipped from India are destined for Europe. There have been reports of heroin smuggled from Mumbai to Nigeria for further export.

In Maharashtra, Mumbai is an important centre for distribution of drug. The most commonly used drug in Mumbai is Indian heroin. Both public transportation (road and rail transportation) and private transportation are used for this drug trade.

Drug trafficking affects the country in many ways.

- Drug abuse: Cultivation of illicit narcotic substances and drug trafficking affects the health of the individuals and destroy the economic structure of the family and society.
- Organised crime: Drug trafficking results in growth of organised crime which affects social security. Organised crime connects drug trafficking with corruption and money laundering.
- Political instability: Drug trafficking also aggravates the political instability in

North-West and North-East India.

2.13.3 Crimes against women

Police records show high incidence of crimes against women in India. The National Crime Records Bureau reported in 1998 that the growth rate of crimes against women would be higher than the population growth rate by 2010. Earlier, many cases were not registered with the police due to the social stigma attached to rape and molestation cases. Official statistics show that there has been a dramatic increase in the number of reported crimes against women.Crime against women are of various types:

- **Rape**

Rape in India has been described by Radha Kumar as one of India's most common crimes against women. Official sources show that rape cases in India has doubled between 1990 and 200835 In late December, 2012, international attention was called to a case of a 23 year old Indian woman was assaulted and gang raped on a bus, resulting in her eventual death in a hospital days later. Mass protests stemming from the case called into question the cultural violence towards women and the failure of the government to solve the problem.[18]

- **Sexual Harassment**

Half of the total number of crimes against women reported in 1990 related to molestation and harassment at the workplace. Eve teasing is a euphemism used for sexual harassment or molestation of women by men. Many activists blame the rising incidents of sexual harassment against women on the influence of "Western culture". In 1987, The Indecent Representation of Women (Prohibition) Act was passed to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.

In 1997, in a landmark judgement, the Supreme Court of India took a strong stand against sexual harassment of women in the workplace. The Court also laid down detailed guidelines for prevention and redressal of grievances. The National Commission for Women subsequently elaborated these guidelines into a Code of Conduct for employers.

[18] India gang rape: New Year celebrations scaled back. BBC News. 31 December 2012.

❖ Dowry

In 1961, the Government of India passed the Dowry Prohibition Act, making the dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported. However, recent reports show that the number of these crimes has reduced drastically. In 1985, the Dowry Prohibition (maintenance of lists of presents to the bride and bridegroom) rules were framed. According to these rules, a signed list of presents given at the time of the marriage to the bride and the bridegroom should be maintained. The list should contain a brief description of each present, its approximate value, the name of whoever has given the present and his/her relationship to the person. A 1997 report claimed that at least 5,000 women die each year because of dowry deaths, and at least a dozen die each day in 'kitchen fires' thought to be intentional. The term for this is "bride burning" and is criticised within India itself. Amongst the urban educated, such dowry abuse has reduced dramatically.

❖ Child Marriage

Child marriage has been traditionally prevalent in India and continues to this day. Young girls live with their parents until they reach puberty. In the past, the child widows were condemned to a life of great agony, shaving heads, living in isolation, and shunned by the society[19]. Although child marriage was outlawed in 1860, it is still a common practice[20]. According to UNICEF's "State of the World's Children-2009" report, 47% of India's women aged 20-24 were married before the legal age of 18, with 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India.

❖ Female infanticides and sex selective abortions

India has a highly masculine sex ratio, the chief reason being that many women die before reaching adulthood. Tribal societies in India have a less masculine sex ratio than all other caste groups. This, in spite of the fact that tribal communities have far lower levels of income, literacy and health facilities. It is therefore suggested by many experts, that the

[19] Jyotsna Kamat (19 December 2006). Gandhi and Status of Women.
[20] Child marriages targeted in India. BBC News. 24 October 2001

highly masculine sex ratio in India can be attributed to female infanticides and sex-selective abortions. All medical tests that can be used to determine the sex of the child have been banned in India, due to incidents of these tests being used to get rid of unwanted female children before birth. Female infanticide (killing of girl infants) is still prevalent in some rural areas. The abuse of the dowry tradition has been one of the main reasons for sex-selective abortions and female infanticides in India.

- **Domestic violence**

The incidents of domestive violence are higher among the lower Socio- Economic Classes (SECs). There are various instances of an inebriated husband beating up the wife often leading to severe injuries. Domestic violence is also seen in the form of physical abuse. The Protection of Women from Domestic Violence Act, 2005 came into force on 26 October 2006.

2.14 Crimes against foreigners in India

There are some instances of violent crime against foreigners in India. Scams involving export of jewels occur in India, which target foreign citizens. Traveling alone in remote areas after dark is of particular risk to foreigners. Because the American, Canadian and British citizens purchasing power is relatively large compared to the general Indian population, they are the preferred target for robbery and other serious crime. In April 1999, Swaraj Damree, a tourist from Mauritius was befriended by a group of Indians who later held him in 25 days of captivity. They robbed him of cash amounting to US $1,500, took his travellers' cheques, wrist watch, gold chain, bracelet, two bags and suitcase.[21]

2.15 Growth of Crime in India

FREEDOM FROM VIOLENCE, as an aspect of the quality of life, is a neglected issue in development studies. Most people would rather avoid being mugged, beaten, wounded,

[21] Foreign tourist drugged, robbed, tortured, released after 25 days

or tortured, and it is also nice to live without fear of these traumatic experiences. Thus, protection from violence may be thought of as one of the "capabilities" that contribute to the quality of life (Sen, 1985). Violence also affects human wellbeing in indirect ways, as when armed conflicts undermine economic growth or the functioning of public services. If development is concerned with improving the quality of life, the issue of violence should be a major interest of the discipline. There is another reason why protection from violence is a "capability" of much interest: it does not necessarily improve as income levels rise. Many other basic capabilities, such as nutrition, longevity, and literacy, are positively related to per capita income and tend to improve with economic growth even in the absence of direct intervention. Protection from violence, however, is not a convenient byproduct of economic growth, and indeed there are spectacular cases of violence rising against a background of rapid improvement in per capita income and other development indicators. Dealing with violence in a society is, therefore, intrinsically a matter of public action. The growth of the crime in India is divided into 3 periods as: (a) growth of crime in Ancient India (b) growth of crime in Medieval Period (c) growth of crime in modern period and the same is discussed in detail:

(a) Growth of Crime-Ancient India

India's Culture is one of the oldest of the world. In ancient India danda was considered to be a crucial constituent of legal and social system. It was signified punishment meant for violating various laws of Society. These laws were framed and established by the ruling classes and on many points followed the principal of Varna or class legislation. The ultimate sanction behind the exercise of the State Authority lay in the power of the sword which depended on the power of Kind. Various Dharmashastras, material, demonstrate the judiciary was not only an important arm of Government, but also indispensable to the power structure known as the State. Let us consider first the position of crime and punishment in smrti India on ancient India. The smrtis prescribe various rules relating to punishments to be awarded fro different crimes. Abuse and defamation constituted an important Crime, and may have original frequently from prejudices based on castes for the smrtis lay down punishments for offenders according to his caste. Naradas' definition of Vakparusya also points to such a conclusion. He defines it as abusive speech couched in offensive and violent terms regarding the native country, caste, family of man, etc.“The Gaudas are quarrelsome”, “Brahmans are extremely greedy”, “Persons of Visvamitra gotra

commit cruel deeds", are a few examples of abuse of country, caste and family respectively. The nature of punishment as well as its degree prescribed in the smrtis appear to have the objective of preventing acrimony based on caste and the other prejudices and to maintain the social position of castes as laid down in Vadas and smrtis. Gautama states that a sudra who intentionally reviles by criminal abuse or assault a member of the twice born caste, is to be deprived of the limb with which he offends and through punishment the sudras are sought to be excluded from learning the vedas. If he listens to recitations of the vedas intentionally, his ears are to be filled with mal ten tin or lac. If he dares to recite the vedic texts his body is to be split. For assuming equal position with members of the upper castes, corporal punishment is prescribed.

When a Brahmana defames a Ksatriya he is to pay a fine of fifty panas, but in the case of defaming a vaisya and sudra a fine of only twenty five and twelve panas respectively.The fact that Manu makes abusing a sudra punishable with a fine of twelve panas whereas Gautama prescribes nothing. (Gautam Dh.S., XII. 13-14). It shows that during the time of Manu Sudra's a position imporved somewhat in this respect. Visnu also prescribes a fine of the first amercement for insulting a sudra. At the same time Manu appears to be very stem and hard in dealing with the offences in which a twice-born man is insulted by a sudra; he prescribes cutting out of to tongue athursting into his mouth of red hot iron nail.According to Manu it the sudra has the arrogance to each brahmansa their duties the King should see that hot oil is poured into his mouth and into his ears. The same is prescribed by visnu when a low born man mentions the name or caste of a superiorrevilingly. The underlying principle behind the above discriminatory rule appears to be that men of high social position must be protected against low persons and such low persons insulting a breahmana must be awarded severe punishment. Brahaspati states that persons begotten in the inverse order of caste and members of the lowest caste are called the refuse of society; if they insult abrahmana they must be corporally punished and must never be amerced in a fine. It is obvious that the nature and degree of punishment prescribed in the smrtis is discriminatory, and the discrimination itself is frankly justified. It has two dimensions. First, it is based on the caste of the person who commits the offence, secondly, it is based on the caste of the victim of such an offence. The combined objective of the whole provision is to preserve and enforce the system and caste inequalities with the help of the coercive powers and machinery of the state.

(b) Growth of Crime-Medieval Period

A major threat to the first Indo-Muslim state with its center at Delhi was the continual threat from the Mongols, who openly used terror as an instrument of war. In 1221 CE the notorious Mongol, Genghis Khan, had reached the Indus River, but the Turkish state at Delhi was yet to witness his full wrath. In fact, Balban (1246284 CE) and Alauddin Khilji (1296314 CE) effectively held back later Mongol attacks. Many Mongols accepted Islam and were admitted to the nobility or secured royal service. They came to be known as New Muslims but were often a discontented and turbulent lot and a continual source of trouble to the state. A considerable amount of court intrigue thus developed and one major offshoot of this rivalry was seen when Alauddin Khilji's generals invaded Gujarat. On their return from the invasion, the soldiers rebelled over the share of booty that they were required to turn over to the state. A contemporary chronicle relates the punishments and torture meted out to those who tried to use underhand means to claim their share of booty. In reaction to the inhuman treatment, a large faction of the army, mostly New Muslims, revolted. The chief members of the rebellion escaped, but Alauddin Khilji ordered the rebels' wives and children be imprisoned. In another version, the king dismissed the whole community of New Muslims from his service, believing that the malcontents had hatched a plot to assassinate him. With the discovery of the plot, the king is said to have ordered the massacre of all New Muslims, and all those who killed a New Muslim were promised the right to claim everything their victims had owned. Between twenty and thirty thousand were slaughtered, and the murderers seized their wives, children, and property. A Gujarat campaign veteran, Nusrat Khan, used the decree to avenge the death of his brother, who had died at the hands of the rebels. He is reputed to have thrown the wives of his rebel victims to the scavengers of Delhi, and to have had their children cut into pieces in the presence of their mothers.

Further atrocities occurred as part of the larger Turkish conquest of eastern India during the early thirteenth century. For example, Ikhtiyar-Du-Din conducted raids on the famous Buddhist monasteries of Otandapuri and Vikramshila in Bihar, en route to Bengal, during which he ordered the extensive destruction of human and other resources. The monks there were all killed, and estimates set the death toll for these massacres in the thousands. Writers accompanying this invader are reported to have seen the total destruction of these Buddhist centers of learning. However, Minaju-s-Siraj (1243 CE) informed that they had mistaken them to be fortresses and wrote: Most of the inhabitants of the place were

Brahmans with shaven heads. They were put to death. Large numbers of books were found there, and when the Muhammadans saw them, they called for some person to explain their contents, but all the men had been killed. It was discovered that the whole fort and city was a place of study.[22]

These crimes have to be seen in the larger milieu of intrigue and the need to maintain authoritative control and access to resources during the early days of the Turkish state in India. The relations among the Turkish rulers during times of succession were never peaceful. Controlling the massive local population of Hindus was equally difficult. The Sultan wanted to lower the prestige and economic power of this population and thus he invoked a Quranic injunction to support his claims: Hindus should be forced to pay their revenue in abject humility and extreme submissiveness; for the Prophet Muhammad had ordained that Hindus must either follow the true faith or else be slain or imprisoned and their wealth and property confiscated (Rizvi, 1998, p. 164).
Thus, according to Rizvi, other schools of jurisprudence of the time, except for the law school of Abu Hanifa, ordered for them "either death or Islam." Timur justified his conquest of India by invoking what he perceived as a willingness of the Muslim rulers of the time to tolerate idolatry practice condemned by Islam. He ordered a vicious attack that was unparalleled in the history of the subcontinent. At every stage of his advance beyond the Indus River and especially at places like Talamba and Bhatnair, he massacred people. Subsequently, the cities were plundered and people who failed to escape were enslaved. The most vivid descriptions are those of his crossing the Jamuna River on December 10, 1398. No one was spared. At Loni the Hindu inhabitants were also wiped out. Near Delhi, the local people greeted the news of nearby resistance fighters with joy, but they paid for their indiscretion with their lives. The resisting army, led by Mallu and Mahmed, soon had to retreat, and the city was left to the ruthless invader. Timur initially granted amnesty to the population of Delhi, but an uprising of the people infuriated him. The city was then ransacked for several days, and many thousands of its inhabitants were killed. On January 1, 1399, Timur returned home via Meerut, and on this march, too, great numbers of Hindus were slaughtered.

Raids on peninsular India began around 1295 and continued to the early decades of the fourteenth century, making inroads from Aurangabad as far south as Madurai. After 1323,

[22] (madrasas) (Elliot, 1964, p. 306). 64 Bhattacharya, P.C. 2002. Urbanisation in Developing Countries. Economic and Political Weekly,October 2002

the Tughluqs sought permanent dominion in the Deccan Peninsula. The first account of the atrocities against the local population and the ruling elites was narrated in the Vilasa Grant of Prolaya Nakaya (1330). Despite the early success of the Kakatiya rulers of Warangal against the Delhi sultans, the invaders were able to overpower the ruling dynasty. The chronicles of Ferishta tell of subsequent and equally ferocious battles between the two. Haji Mull, a maternal relation of the Vijayanagar king, commanded the Brahmins to daily lecture the troops on the merits of slaughtering Mohamedans. During the actual battle, on July 23, 1366, large numbers of people were killed on both sides. Mohammad Shah then ordered a fresh massacre of the unbelievers, during which even pregnant women and children were not spared. According to Ferishta, Mohammad Shah slaughtered 500,000 Hindus, and "so wasted the districts of Carnatic, that for several decades, they did not recover their natural population." The sources that have come down to us chronicling these crimes against humanity were framed within ideological and political concerns. They should be read as selective representations and thus treated as only partial constructions of the historical reality rooted in the concerns of either the colonial state or the modern nation. The historian must therefore interpret both the primary source and all subsequent interpretations in order to more accurately understand the events that occurred so far in the past.

(c) Growth of Crime-Modern Period

For semi-urban and rural India, cities have gradually come to signify prosperity, better quality of life, and higher income underlined by a modern lifestyle and facilities. Of all the parameters that are perceived to qualify a successful life in the present context, living in a city is perhaps one of the most significant and sought after. In their quest for the seemingly ideal life, people are increasingly migrating to cities causing an imbalance in the supply and demand scenario of basic resources due to overpopulation. According to United Nations (1999), long term projections estimate that the world's population would probably stabilise at 9.3 and 10 billion between 2150 and 2200. This increase will occur mostly in urban areas, which will grow from 2.5 billion to more than 6 billion, with nearly all of this increase occurring in the developing world. In the shorter term, it is estimated that by 2020 the world's population will reach a 57 per cent urbanisation level.

The imbalance of available resources is marked by the dearth of space, shelter, food and basic amenities for the rising population leading to competition, rivalry and in turn insecurity. The most appalling and stark manifestation of this insecurity is the rise in crime in cities. The biggest irony of the present times is that, cities that attract economic power and foster growth are now the hub of crime and violence which drastically debilitate development. The rising crime in Indian cities may be attributed to widening inequality, poverty, improper urban planning, ever-increasing burden on urban infrastructure, proliferation of slums and poor neighbourhoods, and the not-so- perfect judiciary and legal system of the country. Available statistics on crimes in India depict an extremely disturbing picture of the law and order situation of the country.

2.16 Crimes against Women-Its Issues

Centuries have come, and centuries have gone, but the plight of women is not likely to change. Time has helplessly watched women suffering in the form of discrimination, oppression, exploitation, degradation, aggression, humiliation. In Indian society, woman occupies a vital position and venerable place. The Vedas glorified women as the mother, the creator, one who gives life and worshipped her as a 'Devi' or Goddess. But their glorification was rather mythical for at the same time, in India women found herself totally suppressed and subjugated in a patriarchal society. Indian women through the countries remained subjugated and oppressed because society believed in clinging on to orthodox beliefs for the brunt of violence domestic as well as public, Physical, emotional and mental . Male violence against women are worldwide phenomenon. Fear of violence is an important factor in the lives of most women. Fear of violence is the cause of lack of participation in every sphere of life. There are various forms of crime against women. Sometimes it is even before birth, some times in the adulthood and other phrases of life. In the Indian society, position of women is always perceived in relation to the man. This perception has given birth to various customs and practices. Violence against women both inside and outside of their home has been a crucial issue in the contemporary Indian society. Women in India constitute near about half of its population and most of them are grinding under the socio-cultural and religious structures. One gender has been controlling the space of the India's social economic, political and religious fabric since time immemorial. The present study felt the need that in the era of globalization and modernization the present trends of crimes against women is on increase. Recently the

brutal gang rape against 23 year student in Delhi again sparked the debate on Indian mental set up and existing law and order in the Country.

2.17 Various legislation for safeguarding the women

There are various legislation has been incorporated regarding the safeguarding of the women. Various Legislation for safeguarding crime against women, classified under two categories:

(a) The Crime under Indian Penal Code (IPC)

i. Rape (Section 376 IPC)

ii. Kidnapping and abduction for specified purpose (Section 363-373 IPC)

iii. Homicide for dowry, Dowry death or their attempts. (Sec. 302/304-B IPC)

iv. Torture both mental and physical (Sec.498-A –IPC)

v. Sexual Harassment (Sec. 509 IPC)

vi. Importation of girls (Up to 21 years of age) (Sec. 366-B IPC)

(b) The Crimes under the Special and local Laws (SLL)- Gender specific laws

i. Immoral Traffic (Prevention) Act, 1956.

ii. Dowry Prohibition Act, 1961

iii. Indecent Representation of Women (Prohibition) Act, 1986.

iv. Commission of Sati (Prevention) Act, 1987.

2.18 State and Prevention of Crime

Crime prevention has traditionally been regarded as the poor sister of the other elements of law enforcement and the criminal justice system. Although its importance might be less recognised, its effectiveness is no less great if it can be implemented

successfully. What is increasingly being recognised internationally is that situational and social crime prevention require commitment and an understanding of the complex dynamics that operate within society. It is also necessary to acknowledge that different types of crime have different causes and occur in different circumstances. It is thus essential to gain a better understanding of the nature and circumstances of the crime in order to begin to tackle it more effectively.

2.18.1 Legislations in Prevention of Crime

The Legislative Department is mainly concerned with drafting of all principal legislation for the Central Government viz, Bills to be introduced in Parliament, Ordinances to be promulgated by the President, measures to be enacted as President`s Acts for States under the President`s rule and Regulations to be made by the President for Union territories. It is also concerned with election Laws namely the Representation of the People Act 1950 and the Representation of the People Act 1951. The responsibility of maintaining up to date the statutes enacted by Parliament is also with this Department.

- The Indian Penal Code, 1860: The objective of this Act is to provide a general Penal Code for India. Though this Code consolidates the whole of the law on the subject and is exhaustive on the matters in respect of which it declares the law, many more penal statutes governing various offences have been created in addition to this code. The Indian security system has been one that has gone through a lot of tests and examinations throughout the time. This is due to the political as well as the social situation of the country. India is a land of diverse cultures and traditions and it is a place where people from various religions as well as ethnic backgrounds live together.

- The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 is the only beneficial legislation for the children in India, but there are various aspects of it in

terms of its implementation; such as the machineries, the professionals involved in it, which play an important role in its implementation. There are various grey areas which are not spelt out in the legislation and the same is left with the competent authorities for interpretation. This interpretation is further governed by the Principles of Best Interest of the Child.

- The Probation of Offender Act, 1958: The Probation of Offenders Act, passed in India in 1958, outlines probation objectives for individuals who will likely be successful probation candidates. The purpose of the Act is to encourage rehabilitative efforts for all ages of offenders in India.

- The Criminal Law (Amendment) Act, 2005: Chapter II Amendment to the Indian Peal Code Insertion of new section 195A.-After section 195 of the Indian Penal Code (45 of 1860), the following section shall be inserted, namely:- ”195A. Threatening or inducing any person to give false evidence. Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.

2.18.2 Judiciary and Prevention of Crime

Indian Judiciary is an integrated and unified system. Indian judiciary system is formed on the basis of the British Legal System, which was prevalent in the country during pre-independence era. Very few amendments have been made in the judicial system of India. Part-V, Chapter-IV of the Constitution of India deals with the Indian judicial system. The Indian Judiciary is organised in a hierarchical form. At the bottom there are numerous Nyaya Panchayats and at the apex there is the Supreme Court. In between the two there are district courts and the High Courts. The Indian courts of adjudication are divided into two groups - Civil courts and Criminal Courts. The courts that deal in general disputes

regarding land, property and other such things are called Civil Courts. Criminal Courts are those that deal with murder, riot as well as looting. The Supreme Court, the High Courts and the lower Courts constitute a single Judiciary. Broadly there is a three - tier division.

Supreme Court and High Courts: In the Indian Judiciary, the Supreme Court is the Apex court in the country. According to the Constitution of India, the role of the Supreme Court of India is that of a centralised court, protector of the Constitution and the highest court of appeal. The High Court stands at the head of the state`s judicial administration. Each state is divided into judicial districts, which is controlled over by a district, and session`s judge, who is the highest judicial power in a district. Below him, there are courts of Civil Jurisdiction, known in different states as Munsifs, Sub- Judges, and Civil Judges etc. Similarly, Criminal Judiciary comprises Chief Judicial Magistrate and Judicial Magistrates of First and Second Class. The High Courts are the principal courts of original jurisdiction in the state, and can try all offences including those punishable with death. The Indian judiciary is famous for being independent and non-partisan. Liberty and equality are the corner stones of a democracy and the preservation of these two conditions is indispensable to the development and is an essential function of a democratic government. The judiciary in India has two fold functions, the preservation of the Constitutional and Legal Rights of all citizens against all encroachments whether by Government or by other individuals. The judiciary is to apply law equally to all irrespective of status, wealth, religion and gender. Thus, judiciary as an organ of the government presents striking difference from the legislature and the executive. This is why the judiciary should be neutral in politics.

2.19. Present Trends and remedial measures for prevention of crimes against women

Crimes rates are much higher in big cities than in either small cities or rural areas. “There is a litany of theory about the connection between cities and crime. Indeed some of the most important of the ideas on crime and cities has been discussed at early stages of modern Sociology by Emile Durkheim, George Simmel and Max weber. Wirth (1938) claims that urban crime reflects the more anonymous and unstable nature of urban life. Jacob (1961) focuses on the emptiness of urban streets, and argue that cities only abet crimes when urban neighborhood lose (as they often do) their traditional social structure.

A study conducted by NAVTEQ in 2011(global provider of navigation enabled maps) regarding safety of women in Delhi reveals that, 51 percentages of the women surveyed in Delhi, Kolkata, and Chennai felt unsafe while travelling on roads while 73 % said that they were scared of travelling at night. TNS Market Research claims 87 per cent women regarded Delhi as most unsafe city while Mumbai was touted as the safest city by 74 per cent women.

CHAPTER III

THE LAW OF CRIMINAL ATTEMPT OF FEW MAJOR COUNTRIES OF THE WORLD

The concept of crime derives from the enactments of a particular legal system. It is changing as a regular feature not only with change of time; it also differs from society to society. It is connected with a particular set of procedures and with special courts and special rules of evidence. The body of law is called criminal law or penal law. The criminal law is ancient in origin but the liability for attempt is comparatively recent. Obviously, the type of conduct that a particular society considers as sufficiently worthy of condemnation to prohibit it by criminal sanction is deeply influenced by the values governing that society. It therefore varies greatly from one country to another and from one period of history to another[23].

This chapter unfolds the provision of criminal attempt in some other countries of the world. There are two different systems of law, namely accusatorial and inquisitorial. The characteristic of accusatorial and inquisitorial system of justice show that prove beyond reasonable doubt is the basic requirement to provide justice. Accusatorial system of justice is applicable basically to the common law countries. In India basically accusatorial justice system prevails and presumption of innocence is one of the safeguards to the accused and burden of proof is on the prosecution to prove the guilt of the accused but in inquisitorial system an accused is presumed to be guilty until he is proved innocent.

The essence of accusatorial system is that let ten guilty persons go unpunished than an innocent person is being punished. It is just reverse in the inquisitorial system. It is endeavored to take a few representative samples of both the systems for a study on criminal attempt. Representative samples have been taken thus from commonwealth countries, non-commonwealth countries and also from both the hemispheres- north and south. Since the Indian system is generally based on accusatorial one with its main

[23] W. Friedmann, Law in a Changing Society, 2nd edition, 1996

source as British origin, greater member of countries are selected from commonwealth countries comprising England, Canada and Australia as major commonwealth countries which includes countries from both the hemispheres. The United States of America is a major democratic country with its strong legal system and as such this is included in the selected representative country. Germany has been considered as a separate major entity with its strong basic foundation of law. France is a major country of the world which follows the inquisitorial system of law and as such this is included in the present study. Moreover, both Germany and France are two major non-commonwealth countries.

An attempt is made to make a study of the law relating to criminal attempt of these major countries of the world to get a clear picture of the law of criminal attempt from different perspectives.

3.1 British Law

Under the British Law an act amounts to an attempt only when it reaches a stage when it must end in the commission of the offence if not interrupted i.e. when it has reached the penultimate stage of the commission of the offence.

The law on attempt is to be found in the Criminal Attempt Act, 1981 having until then been ruled by the common law. The 1981 Act is a codifying statute. It amends and sets out completely the law relating to attempt and conspiracies.

In English Law there are three elements of liability in an attempt –

(a) There must be evidence of some overt act,

(b) The evidence of mens rea.

(c) An interruption to the series of acts or omissions which but for the interruption would have culminated in the completion of the offence.

The burden is on the prosecution to show the actus reus, that the accused had done something which in point of marked the commission of the offence and the mental element or mens rea , that in taking this step he was inspired by the intention to go on to reach a definite objective which would amount to a specific felony or misdemeanor[24].

However, it is pertinent to note here that the Criminal Attempts Act, 1981, which substituted the common law offence of attempt, has codified, inter alia, the law relating to impossible acts with a view to overcoming the difficulties associated with, and uncertainties relating to, attempts to commit acts that are impossible to commit. Section 1 codifies "attempt" including impossible attempt. It reads:

(1) If, with intent to commit an offence, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.

(2) A person may be guilty of attempting to commit an offence, even though the facts are such that the commission of the offence is impossible.

In any case where – (a) apart from this sub-Section a person‟s intention would not be regarded as having amounted to an intent to commit the offence, but (b) if the facts of the case had been as he believed them to be, his intention would be so regarded, then for the purpose of Sub-Section (1) above, he shall be regarded as having had an intent to commit the offence.

So, a person may be guilty of an attempt to commit an offence, if he does an act which is more than merely preparatory to the commission of the offence and a person may be guilty or attempt to commit an offence even though the facts are such that the commission the offence is impossible. Whether the actus reus of an attempt has occurred is a question of fact for the jury to decide after having hard the judge's instructions regarding the law. The common law precedent is used to distinguish between acts which are merely preparatory

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and those sufficiently proximate or connected to the crime. Who is going to commit a crime will have to go through a series of steps to arrive at the intended conclusion. Some aspects of execution of the act will be too remote or removed from the full offence. For example, watching the intended victim over a period of time to establish the routines and wandering to a store to buy necessary tools and utensils. But the closure to the reality of committing the offence the potential wrong doer moves, the greater social danger they become. This is a critical issue for police who need to know when they can intervene to avert the threatened harm by arresting the person.

The reason for what at present day is the mistake of describing attempts as inchoate is to be found of the history of English Law of crime. In the exercise of its arbitrary jurisdiction the Star Chamber took vigorous action to repress the practice of dueling which, as a manifestation of as individualistic attitude towards the administration of justice, was inimical to the royal monopoly of control. That the common law treated as felonious homicide the killing of an adversary at a duel, and the felony, was found not to be enough. The Star Chamber accordingly proceeded to punish with fine or imprisonment any person proved to have participated in the preliminary arrangements for a duel even if the contest never took place.

The test of proximity was observed by Lord Diplock in DPP v. Stonehouse[25] that the defendant must have “crossed the Rubicon, burnt his boat” which means he has to reach a point of no return". So the defendant has reached that part of the series of acts, which if not interrupted, frustrated, or abandoned, would certainly result in the commission of the intended offence. But section 1(1) of the Criminal Attempts Act, 1981 defines the actus reus as that is "...more than merely preparatory to the commission of the offence," that allowed liability to attach slightly earlier in the sequence of acts. Subsequent ratio decidendi have abandoned the more formal common law last step test, and it is the jury who will decide. A defendant, who changes his mind after the act is sufficiently proximate, is still guilty of an attempt although the change of heart could be reflected in the sentencing.

Whether the actus reus of an attempt has occurred is a question of fact for the jury to decide after having heard the judge's instructions regarding the law. The common law

[25] 1977 2 All ER 909

precedent is used to distinguish between acts that were merely preparatory and those sufficiently proximate or connected to the crime. However, sometimes it is hard to draw the line between those acts which were merely preparatory, and those that went and executing a plan, will always go through a series of steps to arrive at the intended conclusion. Some aspects of the execution of the act will be too remote or removed from the full offense. Examples are watching the intended victim over a period of time to establish the routines and traveling to a store to buy necessary tools and equipment.

But the closer to the reality of committing the offense the potential wrongdoer moves, the greater the social danger they become. This is a critical issue for the police who need to know when they can intervene to avert the threatened harm by arresting the person. This is a difficult policy area. On the one hand, the state wishes to be able to protect its citizens from harm. This requires an arrest at the earliest possible time. But, most states recognize a principle of individual liberty that only those people who actually choose to break the law should be arrested. Since the potential wrongdoer could change their mind at any point before the crime is committed, the state should wait until the last possible minute to ensure that the intention is going to be realized.

Thus, impossibility to do the offence cannot be a defense in India and in England and a person‟s subjective belief to commit a particular crime is sufficient to convict him. However, law in India, compared to that of U.K. is improvised and needs to be read in the illustrations rather than in substantive provisions[26].

Section 1(2) of the Criminal Attempts Act, 1981 applies the Act even though the facts are such that the commission of the offence is impossible so long as, under section 1(3), the defendant believes that he is about to break the law and intends to commit the pertinent full offence. This reverses the House of Lords' decision in Haughton v Smith[27] , which had held that it is to be a good defense if the intended crime was factually or legally impossible of fulfillment. This change in the law avoids any problem in an early arrest because, once in police custody, it is extraordinarily difficult to commit the full offence. Further, both the incompetent criminal who fails because the means adopted are inadequate (e.g. intends to poison a victim but the amount administered is harmless, or makes a false statement that

[26] KI Vibhute, PSA Pillai‟s Criminal Law, 10th edition, 2008, 5th reprint, 2011
[27] 1973 3 All ER 1109

does not deceive the intended victim) and the unlucky thief who finds the pocket or purse empty, can now be convicted.

Intent is the essence of attempt and a direct and specific intent will support a conviction. Recklessness is not a sufficient mens rea under English Law. That means that the defendant must have decided to bring about, so far as lay within their powers, the commission of the full offense. However, transferred intent applies so that if A intends to murder B with a gun, but the shot accidentally misses and kills C, then A is guilty of the murder of C and the attempted murder of B. Alternatively, if A intends merely to frighten B, and that same shot intentionally misses B but accidentally kills C, A may be guilty of assaulting B (among other things), but not attempted murder, unless A intended that such fright would kill B. Whether A would be guilty of murdering C would depend on the specific circumstances and what A foresaw. The punishment for an attempt is often fixed to that of the intended offense (e.g., half the fine, or half the prison time).

In R v. Percy Dalton(London), Ltd. and Others[28] where the appellants has been convicted of attempting to sell pears, and of attempting to buy pears at a price in excess of the permitted maximum. The jury acquitted the appellant company of selling the pears in excess of the permitted maximum but convicted them of attempting to sell the pears at that price. The jury also acquitted the appellants Dalton and Strong of buying the pears at a price in excess of the maximum, but convicted them of attempting to buy them at such a price. Birkett J., in delivering judgment, said, „We confine ourselves to the facts of this case, which are that the appellant company have been acquitted by the jury of the offence charged in the indictment of selling pears above the maximum price permitted by the order.

All the acts of the company have been considered by the jury in coming to that conclusion; and we feel it impossible to say on the same facts that the company can be convicted of the attempt to sell above the maximum price when the completed transaction was no offence. Steps on the way to the commission of what would be a crime, if the acts were completed, may amount to attempts to commit the crime, to which, unless interrupted, they would have led; but steps on the way to the doing of something, which is thereafter done, and which is no crime, cannot be regarded as attempts to commit a crime.

[28] (1949) 65 T.L.R. 326: 33 Cr.Ap.R. 102

"It is difficult to see what evidence there was of any attempt on the part of these two appellants. They either bought in excess of the maximum price or they did not, and the juries have found that they did not. How it can be said in those circumstances that they attempted to buy, it is difficult to see, and we feel it impossible to support their conviction for attempting to buy pears in excess of the maximum price permitted by the order. With regard to the count which charged them with failing to keep accurate records, there was evidence before the jury relating to both of those appellants."

The conviction of the company was quashed, and the appeal of Dalton and Strong in respect of the counts on which they were convicted of attempting to buy, was also allowed.

It can thus be seen from above that the English law gives more importance on mens rea which indicates that the actor"s own perception is given due importance. Because of this subjectivity prevails and many cases, including certain impossible attempt cases, cab be solved. However, the English law examiners thoroughly the demarcation line between preparation and attempt and because of this rigorous scrutiny Robinson[29] was acquitted. He should have been convicted as the demarcation line between preparation and attempt in this case was very thin.

Another aspect of the English law on attempt is that it gives much importance on the offence being specific fir its attempt clearly showing the design and purpose. Specificity of offence is a basic criterion for criminal attempt in England. It must be coupled with immediate proximate act and not remotely connected act to book the actor on criminal attempt[30]. Perhaps this is because of the fact that English law wants to offer a chance for repentance so that the actor can abandon his idea even at the last moment before doing immediate or sufficiently proximate act so as to absolve him of the criminal attempt.

3.2 The Law of United States of America

The American criminal law society has examined in detail the full variety of offences and their interrelation. Model Penal Codes define and arrange all offences according to a single

[29] *R v. Robinson* [1915] 2 KB 3421
[30] *Corner v. Bloomfield* (1970) 55 Cr Ap Rep 305

definition scheme based on the central elements of the offence: the nature of interest injured the extent of injury, and the culpability of the offender. The rules governing the formulation of offences may be stated as follows:

1. An offence has been committed where an actor has satisfied all elements contained in the definition of the offence. The elements of an offence are of two sorts: objective requirements (actus reus element) and culpability requirements (including primarily mens rea elements).

2. The objective elements of an offence may include the conduct of the actor (or other persons), the circumstances under which the conduct take place, and the results stemming from the conduct.

3. Every offence must contain at least one objective element consisting of conduct of the actor.

4. The mental or culpability elements of an offence may be purpose (or intention), knowledge, recklessness, negligence, or lack of culpability, with regard to engaging in the conduct, causing the result, or being aware of the circumstances specified as the objective elements.

5. Every objective element must have a corresponding culpability element and that level of culpability may be different for each of the objective elements of the same offence. A sixth rule, though not explicitly stated by the Model Penal Code, may be added:

6. A culpability element may be required without a corresponding objective element. This is often termed a “specific intent,” although it might better be called an “ulterior intent”. For example, assault with intent to rape has the mental element of “intent to rape” but no corresponding objective element of rape.

Under Section 5.01(1) (c) of the Model Penal Code, for a defendant to be convicted of attempt requires that they perform a "substantial step in a course of conduct planned to culminate in the defendant's commission of the crime"

The Common Law tests for distinguishing non-criminal preparation from criminal attempt do not simply draw a different line from the Model Penal Code; they ask a different question. The Common Law tests ask: How close has the actor come? The Model Penal Code asks: How far has the actor gone? Model Penal Code has defined the term „attempt": A person is guilty of an attempt to commit a crime if acting with the kind of culpability otherwise required for commission of the crime, he:

(a) Purposely engages in conduct which would constitute the crime if the attendant circumstances were as he believes them to be; or

(b) When causing a particular result is an element of the crime, does or omits to do anything with the purpose of causing or with the belief that it will cause such result without further conduct on his part; or

(c) Purposely does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in his commission of the crime. A whole new area of criminal law has developed out of the steadily increasing responsibilities of the modern state for the maintenance of certain crucial standards demanded by the proper functioning of a modern industrialized and urbanized society. The law of criminal attempt varies from time to time, country to country within a short period and it will be tried to make a clear picture of similarity or dissimilarity regarding the law of attempt of different countries of the World. At the same time it was tried to reach a precise conclusion of the same.

Under Section 5.01(1) of the Model Penal Code, a defendant is generally guilty of attempt in one of two situations: (1) when it was their purpose (i.e., conscious object) to engage in the conduct, or to cause the result, which constitutes the target offense, or (2) when they believe the result implicated in the target offense will occur, even if not their conscious object to cause that result.

The "purpose" or "belief" required for an attempt do not necessarily encompass the attendant circumstances of the crime. Instead, the defendant must possess as to the attendant circumstances the degree of culpability required to commit the target offense, as specified in the elements of that offense.

Conduct shall not be held to constitute a substantial step under Model Penal Code, unless it is strongly corroborative of the actors criminal purpose without negativing the sufficiency of other conduct. Substantial step list the following category of acts that, if strongly corroborative of the actor‟s criminal purpose, shall not be held insufficient as a matter of law:

(a) Lying in wait, searching for or following the contemplated victim of the crime

(b) Enticing or seeking to entice contemplated victim of the crime to go to the place contemplated for its commission,

(c) Reconnoitering the place contemplated for the commission of the crime,

(d) Unlawful entry of a structure, vehicle or enclosure in which it is contemplated that crimes will be committed,

(e) Possession of materials to be employed in the commission of the crime, which are specially designed for such unlawful use or which can serve no lawful purpose of the actor under the circumstances,

(f) Possession, collection or fabrication of materials to be employed in the commission of the crime, at or near the place contemplated for its commission, where such possession, collection or fabrication serves no lawful purpose of the actor under the circumstances,

(g) Soliciting an innocent agent in conduct constituting an element of the crime.

The Model Penal Code borrows from the concepts of proximity and equivocality but treats both in rather flexible fashion. Less suspicious of confessions and other direct evidence of intent, the Code relaxes the traditional insistence on very substantial preparation. Under the Code, an attempt must include "an act or omission constituting a substantial step in a

course of conduct planned to culminate in . . . commission of the crime" (1962, § 5.01(1)(c)). The substantial-step requirement reflects proximity notions, but shifts the emphasis from the significance of the acts still required to the significance of what the defendant has already done. The Code also specifies that an act cannot be deemed a "substantial step" "unless it is strongly corroborative of the actor's criminal purpose" (§ 5.01(2)). The Code thus incorporates the concerns underlying the equivocality test, without being burdened by the impractical rigidity of that approach.

Section 5.01(4) of the Model Penal Code, lays down that the defendant is not guilty of an attempt if they abandon the effort to commit the crime or prevent the crime from being committed, and their behavior manifests a complete and voluntary renunciation of the criminal purpose However, the renunciation is not applicable if motivated in whole or part by one of the following[31]:

1) They postpone the criminal conduct to a more advantageous time, or to transfer the criminal effort to another but similar objective or victim.

2) They are merely reaching to circumstances that increase the probability of detection or apprehension.

3) They are reacting to a change in circumstances that makes the crime harder to commit.

The primary culpability requirements of the Model Penal Code attempt provision is that the defendant has acted “with the kind of culpability otherwise required for commission of the crime.” In addition to the culpability requirements of the substantive offense, the Model Penal Code attempt provision expressly provides a purpose requirement. The general effect of this purpose requirement is to increase the level of culpability required by the substantive offence.

In United States v. Coplon[32] the court held that accused‟s procurement of the instruments for the commission of offence will not constitute to commit the offence in the absence of some further overt act. But it has been suggested that if preparation comes very near the accomplishment of the act, the intent to complete it renders the crime so probable that the

[31] Supra note 3

[32] (CA2 NY) 185 F 2 d 629: 28 ALR 2 nd 1041,Cert den 342 US 920, 96 L ed 688: 72 s Ct 362

act will be a misdemeanor, though there is still a locus penitentiae in the need of a further exertion of the will to complete the crime.

In People v. Dlugash Jasen, J. observed that the criminal law is of ancient origin, but criminal liability for attempt to commit a crime is comparatively recent. At the root of the concept of attempt liability are the very aims and purposes of penal law. The ultimate issue is whether an individual‟s intentions and actions, though failing to achieve a manifest and malevolent criminal purpose, constitute a danger to organized society of sufficient magnitude to warrant the imposition of criminal sanctions.
Difficulties in theoretical analysis and concomitants debate over very pragmatic questions of blameworthiness appear dramatically in reference to situations where the criminal attempt failed to achieve its purpose solely because the factual or legal context in which the individual acted was not as the actor supposed them to be. Phrased somewhat differently, the concern centers on whether an individual should be liable for an attempt to commit a crime when, unknown to him, it was impossible to successfully complete the crime attempted….The 1967 revision of the Penal Law approached the impossibility defense to the inchoate crime of attempt in a novel fashion.

The statute provides that, if a person engages in conduct would otherwise constitute an attempt to commit a crime, “it is no defense to a prosecution for such attempt that the crime to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendant circumstances been as such person believed them to be.”

The court held that this appeal presents for the first time, a case involving the application of the modern statute. The court held that, under the proof presented by the People at trial, defendant Melvin Dlugash may have already been slain, by the hand of another, when Dlugash made his felonious attempt.

In this case one Geller went out drinking with the defendant one Bush. Geller and Bush argued over a debt, and Bush drew his .38 caliber pistol and shot Gellar 3 times twice in the chest. The defendant admitted that between two and five minutes after the shooting, he pulled his .25 caliber pistol and fired five shot in Geller‟s face and head. The defendant explained that it looks like Gellar was already dead when he fired the shots. He later added

that when he fired the shots Gellar was not moving and his eyes were closed; he did not check for a pulse but he contended that when he fired hid shots Gellar was dead.

Medical evidence reveals the fact that Gellar was shot seven times in the face and head. Four small caliber bullets were removed from Geller‟s skull. According to the People‟s evidence, the victim also received chest wounds that were of the sort that would have caused death without prompt medical attention but only after the chest cavity filled with blood, which would have taken between 5 and 10 minutes. A defense expert disagreed who believed the chest wounds were of the sort that were "rapidly fatal."

The court submitted two theories to the jury: that defendant had either intentionally murdered Geller or had attempted to murder Geller and the jury found the defendant guilty of murder. On appeal, the court reserved the judgment of conviction on the law and dismissed the indictment. The court ruled that "the People failed to prove beyond reasonable doubt that Geller had been alive at the time he was shot by defendant; defendant‟s conviction of murder thus cannot stand."…

Since the legal impossibility is a defense but factual impossibility is not. Thus a person is guilty of an attempt when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime. It is no defense that, under the attended circumstance, the crime was factually or legally impossible of commission, "if such crime could have been committed had the attended circumstances been as such person believe them to be." Thus, if defendant believed the victim to be alive at the time of the shooting, it is no defense the charge of attempted murder that the victim may have been dead. After considering all the facts and circumstances the jury concluded that the defendant believed Geller to be alive at the time defendant fired shots into Geller‟s head.

Accordingly the jury convicted the defendant of murder. Necessarily, they found that defendant intended to kill a live human being. Subsumed within this finding is the conclusion that defendant acted in the belief that Geller was alive. Thus, there was no need for additional fact findings by a jury. Although it was not established beyond a reasonable doubt that Geller was, in fact, alive, such is no defense to attempted murder since a murder would have been committed "had the attended circumstances been as defendant‟s believed them to be."

The Appellate Division erred in not modifying the judgment to reflect a conviction for the lesser included offence of attempted murder. Accordingly, the order of the Appellate Division should be modified as so modified, the order the Appellate Division should be affirmed.

Regarding attempt to commit suicide in Curzon v. Missouri[33] the US Supreme Court has observed that "the choice between life and death is a deeply personal decision of obvious and overwhelming finality." After State of Washington v. Harold Gluckesberg[34] the law in the US has certainly moved towards non culpability of attempt to commit suicide.

It has been seen that more importance is given on the actor‟s own perception as he sees the things to be and liability is attached accordingly. In this view, subjective consideration prevails over objective consideration which is reflected on Rojas and Sire. In the first case the actor was convicted for attempting to receive stolen goods which were not, in fact, stolen. In the latter case the actor was convicted for attempt to purchase heroin when, in fact, the substance was white powder. Another feature of the American law is emphasis being given on substantial step instead of immediate proximate step and because of this more number of culprits can be booked thereby decreasing the number of future potential offenders.

However, a very disquieting feature is that some action are considered as attempt as enumerated above which may be considered as preparation only in some other countries including India. For example, an attempt includes "lying in wait, searching for or following the contemplated victim of the crime" considering it to be a substantial step which is considered to be strongly corroborative of the actor‟s criminal purpose. One important features of Model Penal Code is that it attaches great importance on the subject of the character of dangerousness of the actor. Therefore, although his act may not reflect dangerousness he might be considered as a dangerous actor and as such he will be in a receiving end.

[33] 497 US 261, 281 (1990)
[34] 521 US 702 (1997)

3.3 Canadian Law

The criminal law of Canada is under the exclusive legislative jurisdiction of the federal government, unlike in Australia or the United States of America. The power to enact criminal law is derived from section 91(27) of the Constitution Act, 1867. Most criminal laws have been codified in the Criminal Code of Canada, as well as the Controlled Drugs and Substances Act, Youth Criminal Justice Act, and several other tangential Acts.

Criminal offences require the prosecuting crown to prove that there was criminal conduct which is known as the actus reus or "guilty act" accompanied by a criminal state of mind which is known as the mens rea or "guilty mind" on a standard of "beyond a reasonable doubt". Exceptions to the mens rea requirement exist for strict and absolute liability offences.

General Principles of Canadian Criminal Law says that a person attempting to commit an offence can be criminally liable for the attempt. For any attempt to be made out, the person's actions must be more than "mere preparation"

Section 24 (1) of Everyone who, having intent to commit an offence, does or omits to do anything for the purpose of carrying out the intention is guilty of an attempt to commit the offence whether or not it was possible under the circumstances to commit the..offence.

(2) The question whether an act or omission by a person who has intent to commit an offence is or is not mere preparation to commit the offence, and too remote to constitute an attempt to commit the offence, is a question of law.

Section 239 (1) Every person who attempts by any means to commit murder is guilty of an indictable offence and liable:

(a) if a restricted firearm or prohibited firearm is used in the commission of the offence or if any firearm is used in the commission of the offence and the offence is committed for the benefit of, at the direction of, or in association with, a criminal organization, to imprisonment for life and to a minimum punishment of imprisonment for a term of

(i) in the case of a first offence, five years, and

(ii) in the case of a second or subsequent offence, seven years;

(a.) in any other case where a firearm is used in the commission of the offence, to imprisonment for life and to a minimum punishment of imprisonment for a term of four years; and

(b) in any other case, to imprisonment for life.

There is no general criterion to distinguish between mere preparation and actual attempt. But authorities have yet to develop a satisfactory general criterion to assist trial judges in making the crucial distinction between mere preparation and a criminal attempt. In R. v. Deutsch[35], the court observed that the application of this distinction to the facts of a particular case must be left to common sense judgment. In this case the court further observed that there is however a "qualitative" distinction that can be made[36]:

"...the distinction between preparation and attempt is essentially a qualitative one, involving the relationship between the nature and quality of the act in question and the nature of the complete offence, although consideration must necessarily be given, in making that qualitative distinction, to the relative proximity of the act in question to what would have been the completed offence, in terms of time, location and acts under the control of the accused remaining to be accomplished. I find that view to be compatible with what has been said about the actus reus of attempt in this Court and in other Canadian decisions that should be treated as authoritative on this question."

The trial judge should consider the "relative proximity of that conduct to the conduct required to amount to the completed substantive offence. Relevant factors would include time, location and acts under the control of the accused yet to be accomplished."

In Perka v. The Queen , following the seizure of their cannabis cargo by the police in Canadian waters, appellant was charged with importing cannabis into Canada and with possession for the purpose of trafficking. At trial, the accused advanced the defence of

[35] 1986 Can LII 21 (SCC)
[36] *Ibid*, at 27

necessity claiming that they did not plan to import into Canada as their destination was Alaska but that, following a series of mechanical problems aggravated by deteriorating weather, they had decided for the safety of ship and crew to seek refuge on the Canadian shoreline to repair the vessel. The vessel found a sheltered cove but grounded amidships on a rock.

The defence tendered evidence that the captain, fearing he was going to capsize, ordered the men to offload the cargo. When the police arrived on the scene most of the marihuana was onshore. The accused also relied upon a "botanical defence" arguing that the Crown had failed to prove that the ship‟s cargo was "Cannabis sativ L." as provided for in the schedule to the Narcotic Control Act. The trial judge, however, withdrew the botanical defence from the jury.

The appellants were acquitted. The Court of Appeal set aside the acquittal and ordered a new trial holding that the trial judge erred in refusing to grant the Crown‟sapplication to call rebuttal evidence with respect to the condition of the vessel. The Court also held that the trial judge was correct in withdrawing the botanical defence from the jury.

Accordingly the appeals were dismissed.

It has been seen that more importance is given on the actor‟s criminal conduct other than his own perception. In this view, objective consideration prevails over subjective consideration. Another feature of the Canadian law is emphasis being given on substantial step and because of this more number of culprits can be booked thereby lessening the number of future budding offenders.

3.4 German Law

The German Code of 1871 included Section 46 in the Code to provide for the defense of abandonment and later on a slight alteration is made to this provision under the 1975 Code. The German law provides that if a thief would desist because the prize of an article is not large enough, he is guilty of an attempt to theft. This will not be regarded as abandonment. This might make sense in the case in which the thief expects a costly art object and finds a cheap one.

In a case[37] in which the actor is persuaded by the victim‟s promise to desist it was held that this abandonment is voluntary and that no criminal liability is attached for attempted rape. In this case the accused accosted a girl whom he had not previously known, threw her on the ground and tried to kiss her. His intent to coerce intercourse seemed apparent but the girl did not offer resistance. Instead she induced the defendant to desist with the promise that she would later submit her voluntarily they both stood up and the moment the girl saw two strollers to whom she called for help. In this case he was convicted for attempted rape, but decision was reversed.

In German criminal liability also extends to impossible attempts. Attempts are not inchoate offences in their own right as under English law, because an offender can withdraw from the attempt, with some exceptions, with the consequence of a full acquittal unless in the course of the attempt he already completed another, possibly lesser offence (causing bodily harm in the course of abandoning murder attempt)

Under German law an attempt can also be committed by omission. It is advocated in German that every criminal attempt endanger the social interest. The attempter has hostile attitude towards the law, so it should be punished.

The existing view in German Law is that the exemption from punishment is not a reward for good behavior. Quality of attempts as uncompleted crimes is revealed by the possibility of the offender‟s voluntary abandoning of the criminal plan before anyone gets hurt. All systems recognize exemption from liability for the change of heart, which would not be granted to offenders who steal and then change their mind and which to return the object.

The High Court of the newly unified German states signaled the modern trend by convicting in all cases, harmless) action or not, in which the defendant intended to commit an offence and acted on the basis of intent, subjective theory of attempts remained dominant. The act of attempting must be judged by the actor‟s conception.

In 1967 the German Supreme Court recognized the defense of abandonment in a case in which the defendant‟s partner in an attempted burglary talked him out of going through

[37] Judgment of April 14 1955, 7 BGHST 296

with it. In German they hold that the moral quality of the actor‟s motives should be irrelevant to his coming under the protection of defense.

In R. v. Miskell[38] the court held that the law does not punished a person for guilty intention only but for the overt act done as part of the carrying out that intention.
Objective consideration got prominence in the German Code of 1871, and the standard of dangerousness was given preference. Because of this reason greatness of harm and degree of apprehension were considered as prime factor in convicting for criminal attempt. As such, killing by poison got harsher treatment than deed of fraud. But gradually German law gave way to subjective approach and considered the actor‟s perception for his liability. So, in 1880‟s an actor was found liable even though he used sugar instead of arsenic. As per the new Code of 1975 there has been a modified subjective standard and it defines criminal act as:

“A criminal act is attempted by an actor, who, according to his conception of the act, directly initiates the commission of the offence.” Thus, both objective and subjective consideration are given due importance. As such, the German law wants to demarcate clearly between acts which are simply preparatory and acts which can be considered as attempts unlike the Model Penal Code. An attempt is still punishable even in a lesser degree where inaptness is due to the actor‟s gross misunderstanding. German courts recognize abandonment not because encouraging actors to desist but because of infirm criminal intent required for execution of the act.

3.5 France Law

Section 2 of the French Penal Code, 1810 held that there is liability for attempted crime only if the effort is interrupted or fails to produce result independent of the actors will. The definition of the French Code lays down a valid defense of abandonment when the attempt fails to come off for reason attributable solely to the actor‟s will. Although the idea of an abandonment defense to attempt apparently originated in medieval Italy, its modem influence dates from the attempt provision in the French Penal Code of 1810. That provision, widely copied in nineteenth-century penal codes, prohibits conduct that fails

[38] [1954] 1 W. L. R. 438; [1954] 1 All E.R 137

"only because of circumstances independent of the perpetrator's will," thus excluding abandonment cases from attempt liability.

In the language of the definition of attempt in France Penal Code, the court says that the issue is whether "the execution of the crime is interrupted by factor that is independent of the actor‟s will. The actor can still be master of his decision even if he considers the victim‟s entreaties and promise. The law does not require that the motive of the abandonment be commendable or even of merit. The exemption from punishment in case of abandonment is granted not as a reward for good behavior, but because the cases of criminal project did not reach a harmful stage.

Like German law, objective consideration of criminal attempt also got prominence in the French Penal Code of 1810. But, it was a difficult task to judge as to what was the exact point of execution that hints out the threshold of criminal attempt.

For example: whether it is burning down a house to defraud the insurance company or sending a claim letter? Whether climbing a ladder to commit burglary or entering the dwelling house? However, the actor‟s own perception only could not suffice. Thus, on the basis of objective liability, the actor was found guilty of attempting murder when he fired at an empty bed[39]. Similarly, trying to pick an empty pocket was declared by the court as attempted larceny[40].This case was predecessor to the English case of Ring on attempting to steal from empty pocket which is now considered as good law on empty pocket cases.

However, there was an ascendency of subjective consideration from the early part of the 20th century. Thus, it was considered attempted larceny for even lying in wait for a collection agent. It was a great switchover from objective to subjective consideration making a remote connection an attempt. This, is at best, may be considered as preparation in many countries including our own without involvement of criminal attempt. The Model Penal Code of USA introduced such types of liability in criminal attempt only in the latter part of the 20th century.

Thus, the French Penal Code can be considered as pioneer in introducing greater liability of criminal attempt basing on subjective consideration. The French Penal Code also

[39] Judgment of April 12, 1877, Recueil Sirey 1877. I. 329
[40] Judgment of November 4, 1876, Recueil Sirey 1877. I. 48

provides valid defense for abandonment. However, the abandonment must be the result of the actor‟s own voluntary act and the effort is interrupted or fails in its purpose to achieve because of the actor‟s own volitional act. Any other conditional desistence or circumstances independent of the actor‟s will, shall not be considered as a valid defense which will call for liability for attempted crime.

3.6 Australian Law

Like the British law, in Australia also mere intention in criminal attempt is not proscribe. Thus, a difference is always maintained between acts which are mere preparation and others which may considered as attempts. Only attempts are punishable and not mere preparation which signifies that over and above intention to do certain thing, there must be an overt act as well which should not be remotely connected. The overt act must be sufficiently proximate to the intended offence. However, it is difficult to answer as to what specifically distinguishes attempt from preparation. Here now lies the societal as well as legal reaction. When there is a notion of endangering one community due to certain activities, then those activities are required to be prescribed by law and that is how a relation is drawn between laws and societal reaction against certain activities. So, there might be a common-sense answer as below:

“When a jury would be sure that the accused would not be likely to desist on his own free-will from his activity until he has effected the harm which the law labels a crime”.

From the above statement certain things are now clear: (1) Principle of legality must be adhered to, that means law must proscribe certain act or omission as harm to society; (2) there is no voluntary abandonment on the part of the actor and (3) the actor has proceeded in his purpose to the intended offence which is sufficiently proximate.

The question of attempt and repentance and hence abandonment was considered in a leading case[41] in Australia. The fact of the case in short is that the accused induced a young person Partridge by name to join him in a house breaking. Accordingly, while the accused was keeping watch in a lane, Partridge after mounting a well reached a window and was about to open it with a leaver. Suddenly, instead of using any force he decided not to

[41] *R v. Page* [1933] ALR 374

proceed with the job and descended. Both of them, however, were apprehended and arrested.

The accused confessed about the happening. The question was whether the overt act done by Partridge was sufficient to constitute an attempt to break into the shop. The trial judge answered it in affirmative. The accused appealed to the full court of the Supreme Court of Victoria. The question was whether behavior of Partridge can be considered as abandonment making the whole act as preparation only thereby absolving both of them of attempt for housebreaking.

Russel‟s definition was sidetracked after thorough discussion and scrutiny after considering a definition on attempt as given in Archbold‟s Criminal Pleading (27th edition, 1927) prepared by Lord Blackburn and Barry, Lush and Stephen JJ which goes as follows:

“An attempt to commit an offence is an act done or omitted with intent to commit that offence, forming part of a series of acts or omissions which would have constituted the offence if such series of acts or omissions had not been interrupted either by the voluntary determination of the offender not to complete the offence or by some other cause.”

Basing on the above definition and distinguishing Russel it was decided that the voluntary desistence of the confederate of the accused was no answer to the charge of attempt as the upper limit of preparation had already been crossed and they were in the arena of attempt and accordingly both of them were convicted of attempting housebreaking and the appeal was dismissed. This more limited definition on attempt was approved earlier in the case of Wangh also. It is worth to be quoted Turner J here in this case of Donnelly which is generally considered as law in almost all the countries and Australia is no exception in case of attempt and abandonment. The full quote goes as below:

“He who sets out to commit a crime may in the event fall short of the complete commission of that crime for any one of a number of reasons. First, he may, of course, simply change his mind before committing any act sufficiently overt to amount to an attempt. Second, he may change his mind, but too late to deny that he had got so far as an attempt. Third, he may be prevented by some outside agency from doing some act necessary to complete commission of the crime- as when a police officer interrupts him

while he is endeavoring to force the window open, but before he had broken into the premises. Fourth, he may suffer no such outside interference but may fail to complete the commission of the crime through ineptitude, inefficiency or insufficient means. The jimmy which he has brought with him may not be strong enough to tore the window open. Fifth, he may find that what he is proposing to do is after all impossible, not because of insufficiency of means, but because it is for some reason physically not possible, whatever means he adopted. He, who walks into a room intending to steal, is no longer there but has been removed by owner to the bank, is thus prevented from committing the crime which he intended and which, but for the supervening physical impossibility imposed by events he would have committed. Sixth, he may without interruption efficiently do every act which he set out to do, but may be saved from criminal liability by the fact that what he has done, contrary to his own belief at the time, does not after all amount in law to a crime."

After analyzing of the above, it can be found that the first case is not an attempt as it is at best a preparatory act with only mens rea. The second case involves both mens rea and actus reus immediately connected with the end result and the desistance at this stage will not help and the act will be considered as attempt. The Page case[42] is included in this category. The third one is an attempt provided proximity test is passed. The fourth case also is included in the category of attempt as the act could not be performed for outside reasons and not because of voluntary desistance of the actor before passing the stage of preparation. The fifth case, though complicated, can however, be included in the category of attempt as per only factual impossibility. Example can be cited as of White[43] where the lady died not died for taking wine mixed with little quantity of cyanide. Here, the crime was manifest, the actor did whatever he was to do to complete the crime and there was no abandonment. The sixth case is a more complicated one. Although it is a case of legal impossibility and it can be considered as a mistake of law, it can be considered as non-attempt shown in Jaffe and Smith, still on the basis of subjectivity it may be included in the category of attempt. An Australian case acquitted the accused to defraud the revenue on the goods were not dutiable although the presents a false invoice. This case was based on the sixth criterion as discussed above.

[42] Supra note 34
[43] *R v. White* [1910] 2 KB 124; [1908-10] All ER Rep 340

Thus, Crimes Act, 1958 of Victoria (now repealed) did not consider an act of giving innocuous abortifacient to a woman who was not pregnant. However, it was an attempt if she was not pregnant. Although distinction between felony and misdemeanor was abolished in England by the Criminal Law Act, 1967 it persisted including in Australia before this time and certain peculiar case decisions were experienced on this and a leading case may be cited here. The accused, with the intention of housebreaking, somehow was successful in opening the window and was about to enter when he was apprehended and was convicted on attempted housebreaking as there had been breaking and not entry.

On appeal, Full court (Lowe, Adam and Sholl, JJ) Considered merger of both attempt (a misdemeanor) and housebreaking (a felony) under Section 135 of the Crimes Act, 1958 of Victoria (now repealed) and convicted him of housebreaking, unlike some other cases . There was a dilemma. A new trial court not be ordered as he was acquitted of housebreaking- although the acquittal in the trial court arose due to judicial error. On the other hand, in Victoria, the Full court had no power to substitute a conviction for an acquittal on an appeal by the defendant.

It was thus a departure from English law also. In view of all these, it can now be seen that there has been a mixed bag of character on the part of the Australian law on attempt vis-a-vis English law. However, as a commonwealth country, there is an indelible thrust of English law over that of Australia with occasional departure to suit the occasion.

3.7 Observation

It is seen absolute impossibility would be a successful defense in every legal system, as inherently impossible attempts pose no danger of causing harm, though they are not readily accepted. In the moderate objectivist theory of attempt, much depends on the act that is carried out in furtherance of the intention, Test: “whether to its outward manifestation the offender‟s behavior can be considered to be aimed at completion of the offence”. For example, a man took his wife out for a drive, taking along some petrol cans,

when arrived, he closed the doors and windows and emptied the petrol over his wife and the car; he was stopped by bystanders before more could happen. It is a clear case of attempted murder. On the other hand, a cafeteria was burned down, but no conclusive evidence was found that the petrol stored in a rabbit butch had been emptied earlier or if it just was spontaneous explosion. It is not attempted arson.

There is no precise line for distinguishing between non-punishable preparation and punishable attempt. All legal systems seem to agree that impossible attempts are punishable if the behavior itself produces apprehension or generates apprehension in the mind of an ideal observe. Recklessness is not a sufficient mens rea under English Law. If the problem is physical difficulty, the US and German law is clear that there is no abandonment. German case holds that dissuasion for an unattractive bounty fails to negate liability for attempted robbery.

American thinking tends to demand a total renunciation of the criminal purpose which German law is content with the standard that stresses whether the attempter is the master of his decision. Legal impossibility doctrine is not accepted by the law of United States of America. All systems recognize exemption from liability for the change of heart, which would not be granted to the offenders who steal and then change their mind and which to return the object. Model Penal Code requires a complete and voluntary renunciation of criminal purpose and then goes on to list certain circumstances that imply that the renunciation is no voluntary.

In a German case where of woman who tried to induced the a guy trying to kiss her forcefully to stop by promising sex, the she shouted for help to by-passers; at the German trial he was convicted for attempted rape, but decision was reversed, key question to the German court is whether in considering the victim‟s promise the potential rapist remained master of his decision, if so, the abandonment was voluntary. In theft cases, would-be offender is often dissuaded by physical difficulty or unexpectedly unappealing quality of the intended loot. If the problem is physical difficulty, the US and German law is clear: no abandonment. German case holds that dissuasion for an unattractive bounty fails to negate liability for attempted robbery. American thinking tends to demand a total renunciation of the criminal purpose which German law is content with the standard that stresses whether

the attempter is the master of his decision. Factors influencing contours of abandonment represent a mixture of conceptual and political considerations.

Attempts are not inchoate offences in their own right as under English law, because an offender can withdraw from the attempt, with some exceptions, with the consequence of a full acquittal unless in the course of the attempt he already completed another, possibly lesser offence (causing bodily harm in the course of abandoning murder attempt) the intention of the offender decides whether she has begun with the execution of the offence or is about to do so because an attempt by definition requires absence of full actus reus. For example, if P intends to rib a handbag from Q, she will be attempting robbery, if she intends to wait for a moment of carelessness to take away the bad, it will be attempted theft. Until the moment she actually does something, we only have her intention to tell us about the attempted offence.

CHAPTER IV

CRIME AND PUNISHMENT IN ANCIENT WORLD & ITS CHANGING NATURE

4.1 EGYPT

THE TOMBS IN THE VALLEY OF THE KINGS: SEALS BROKEN AND CONTENTS PLUNDERED?

'Crime and Punishment in the Ancient World': the burial place of the ancient Egyptian kings of the New Kingdom (c. 1550-1069 BCE), the Valley of the Kings on the West Bank of the Nile at Luxor in Upper Egypt, 800 km south of modern-day Cairo.

In the New Kingdom, the royal funerary complexes consisted of the funerary temple for the cult of the deceased king located in the Nile Valley at the foot of the chain of mountains and the royal tomb itself on the western side of these mountains in the Valley of the Kings. It has often been speculated that the shape of the highest peak in the area, the Qurn (ancient name: Meretseger – 'She who loves silence'), towering over both valleys, resembles that of a pyramid, albeit a natural one, and that the choice of this location for the royal burials was
deliberate.

In total there are now 64 numbered tombs in the Valley of the Kings – of which 28 are tombs of kings of the New Kingdom, others belonged to royal family members (e.g. princes, queens, the sons of Ramesses II, Amenhotep III's father-and mother-in-law, and even a few high officials). The Valley of the Kings has been known to the Europeans from the very first expeditions to Egypt (Napoleon, the 1828-9 Franco-Tuscan expedition, Lepsius and the 1842-6 Prussian expedition etc).

Systematic archaeological exploration began in the early 20th century with Theodore Davis and culminated in 1921 with Howard Carter's discovery of the intact tomb of

Tutankhamun (K[ing's] V[alley] 62). Archaeological work in the Valley is ongoing but since then only two further tombs have been added: in 2005 (Otto Schaden and his team), KV 63 which turned out to be an embalming cache, and in early 2012 a team from the University of
Basle (Switzerland) excavated KV 64, a small reused and undecorated shaft tomb containing the inscribed anthropoid wooden coffin of a female, a Songstress of Amun datable to the 22nd Dynasty.

The tombs designed for the New Kingdom kings are enormous subterranean structures, with steep sloping passages into the depths of the mountain, with huge sarcophagus chambers, brightly painted walls decorated with the various mythological compositions concerning the journey of the sungod through day and night.

Surprisingly, the archaeology of the Valley hasuncovered extremely little in terms of material finds of the original contents of these tombs. The exceptions to this are well-known sensational finds like KV 62, Tutankhamun (1921), and the earlier (1905,) discovery of the tomb of Yuya and Thuya, mother and father-in-law of King Amenhotep III, or the gold hoard in the tomb of Queen Tawosret (KV56) in 1908. In historical terms, these persons are
minor figures, but the wealth of their tomb contents only reinforces the poignancy of the bigger question regarding the whereabouts of the funerary equipment of the tombs of history's greats such as Tuthmosis III, Amenhotep III and Ramesses II. It is clear that only a tiny fraction of their original contents has been uncovered by archaeologists. It is generally thought today that the tombs were empty by the time modern exploration started.

4.1.1 CRIME AND PUNISHMENT IN ANCIENT EGYPT

Pharaoh the fount of law

In ancient Egypt law is intimately tied up with the king, whose god-given task it was to uphold 'maat', divine order, which also embraced justice; the gods 'lived on maat' , thus the king had to ensure that maat abounded. The promulgation and the enforcement of the law were intended to ensure this, since this activity of the king kept the forces of chaos that were opposed to maat in check. The Egyptian word for law is hep; it is also occasionally

used with the sense of "rule" or "custom". The word is not attested until the Middle Kingdom, which has led some to suggest that it was in the Middle Kingdom that laws began to be fixed in writing rather than being anchored in custom.

Texts refer to the law of pharaoh: "'Give the property to the one who buries', says the law of pharaoh, our good lord". In one document there are two statements that indicate that the king (the person or office) determined law: 'Pharaoh has said, may every man do as he wishes with his property'; 'Pharaoh has said, give the dowry(?) of every woman to her'. Like the god of writing and wisdom Thoth, the king is 'lord of laws', he is also the one who 'makes firm the laws'. A hymn to Ramesses VII states: 'Praise to you, benevolent one, making good laws'. The king is also 'the one who makes the laws'.

However, the king was certainly not above the law. In the New Kingdom it was believed that, like all Egyptians, he would have to account for his behaviour in the court of Osiris and face the judgement of the dead. In the tomb of Ramesses IV we find the text of the declaration of innocence, part of chapter 125 of the Book of the Dead, in which the deceased denies having committed 42 crimes. And in the tomb of Ramesses VI there is the complete text of chapter 125, which deals with the judgement.

Penalties Imposed

A wide range of penalties can be found in the legal texts. Not all of these were imposed by the local courts, such as that of Deir el Medina, and some sentences could only by passed by the king. The following are some of the penalties we read about:

- **The Death Penalty**

This was imposed for crimes that are referred to as being a '(serious) offence (worthy) of death', e.g. 'It will be found to be an offence worthy of death'; 'a very grave matter deserving of death'. The death penalty was most frequently carried out by impaling, to judge by the number of times it is referred to. In a tomb robbery papyrus it is said of the desecration of the tombs 'they are great crimes (worthy) of execution and of placing on the

stake or the severest penalties'. Or they are 'serious charges involving mutilations or impaling or the severest penalties'.

Often, death by impaling is mentioned in oaths in which the defendant says the penalty should be applied in the event that it should be proven that he had lied, and death by impaling is preceded by the person first being mutilated:

In the tomb robbery trials, the defendant 'swore the oath of the lord, LPH, on pain that he would be beaten, his nose and his ears (cut off), and being
placed upon the top of a stake'.

Other forms of execution are referred to, but these appear infrequently and do not seem to have been part of regular judicial procedure: death by burning, drowning, or beheading. Being thrown to wild animals may have been more frequent, if we take at face value the text of an oath attested in the reign of Sethnakhte (beginning of the 20th Dynasty): 'Now it was the inspector of the house of the carrying-chair of King UserkhaCrei-Setepne, Penherwer, who again gave him a hundred blows of the palm-rib, and again made him pronounce an oath, saying: 'If I go back again on what I have said, I will be thrown to the crocodile'. Highly placed persons were allowed to commit suicide, so for example, the persons who were implicated in the Harem Conspiracy against Ramesses III

- **Corporal punishment**

The next most severe punishment was maiming. Corporal punishment also included maiming by cutting off the hand, tongue, nose and/or ears. Very common is punishment by beatings. This is a punishment we find meted out to tax evaders already in the Old Kingdom. In the texts of the New Kingdom, it is frequently reported in the form of 100 or 200 blows, for example in the Nauri decree of Sety I. 100 beatings and a fine of 100 times the value of what was stolen is imposed for stealing any temple property. 200 beatings are mentioned in the Nauri Decree.

In a dispute about stolen chisels the accused says , 'We will not tell a lie. If we lie, then let us be [beaten] with 100 blows'. Sometimes the part of the body which was to be beaten is specified, e.g. the soles of the feet (bastinado).

In the last example we have a reference to being condemned to the quarries and this sort of thing is encountered as an additional punishment. Exile is also encountered, e.g. to Kush (Nubia), or, in the decree of Horemheb, to Sile, the frontier post on the eastern border. Imprisonment as we know it is not reported.

Finally, the imposition of fines is also attested. For crimes against personal property, the perpetrator was required to pay compensation to the victim and so restore the situation to what it had been previously. A penalty was also imposed, called TAwt, which was levied as a multiple of the value of the property stolen. Stealing temple property was particularly heavily punished. In the Nauri decree of Sety I we read: 'Now, as for anyone who shall be found stealing any property belonging to the temple of Menmare in Abydos, against him shall the law be executed by beating him with 100 blows, along with exacting from him the goods belonging to the temple of Menmare in Abydos at a penalty of 100 to 1'. Failure to pay a debt on time was punished by having to pay double what was owed.

4.2 ATHENS

CRIME IN ANCIENT ATHENS

There is something paradoxical about crime. The causes of crime are universal, but the manifestations of crime are particular to each society. For example, theft will occur wherever we find high value goods, someone who wants to steal them, and the absence of anyone to prevent them. However, the nature of those high-value goods, their location, the profile of the robber, and the nature of the guard will vary from society to society. Tomb robbery in ancient Egypt, temple theft in Greece, and muggings on the New York subway may look like totally different crimes, but in essence they boil down to the same factors.

For the student of crime, the trick is to focus on what is similar and what is different in each society and work out how this affects the criminal landscape. Take, for example, a crime like 'serial homicide' or, as it is more popularly known, 'serial killing'.

One question the student of crime might ask is 'Why are there no serial killers in the ancient

Athens?' Or indeed, 'why are there none in the ancient world more generally?' This terrifying figure that has stalked the cities and imaginations of the West ever since the mid-nineteenth century is entirely absent from the ancient city. It has become almost a cliché of social and economic history that Rome at its height was a city of the same size as Victorian London, yet we never see a figure like Jack the Ripper. Death by anonymous, compulsive killers is not something that its citizens ever seem to worry about.

In Rome and Athens, you always know who is killing you and they always have a good reason. People move around the city in fear, but it is fear from gangs of political enemies, not from unknown killers driven by a personal pathology. Indeed, death by unknown figures is extremely unusual in the ancient world. When it occurs, it is a matter of great concern or discussion.

Is this a just a by-product of our imperfect historical record? Namely, that for various reasons relating to the fragmentary nature of our evidence, the conventions of genre or, perhaps even, the ingenuity of the perpetrators, our records have failed to preserve any account of serial killing. Perhaps it happened, but we just don't have any record of it.

This seems highly unlikely. It would be truly remarkable if a crime such as 'serial homicide', a crime where the killer often demands that he be noticed, would have escaped mention in our sources. Moreover, it is striking that Athenian law doesn't even envisage the possibility of someone like a serial killer. In Athens, homicide could only be prosecuted by immediate kin. So unless the serial killer happened to anonymously over time bump off members of the same family, there would technically be no way of bringing them to justice except through a series of independent court cases. It is telling that Athens never imagined that it would ever be required to pursue joint actions for murder.

Athens was not the type of society to produce such individuals. No one was ever alone. Familial and civic networks ensured that no one was ever isolated from systems of exchange and reciprocity. Every individual was bound tightly into networks of friends, family and neighbours. It was impossible to function in this ancient city without these networks. Citizens were locked into groups such as demes, tribes as well as numerous other

religious and social clubs. Whether it was dealing with death, marriage, the birth and care of children, one was always surrounded by people. People never moved through the city alone. They shopped in groups, attended theatres and assemblies in groups, and acted co-operatively economically whether it was faming land, organising trading ventures, obtaining credit or loans, leasing mines, or establishing businesses.

We can make a similar point about the issue of status. Athens was a city where status was constantly being asserted and determined. Whether this was through theatre, religious ritual,
familial practice, Athens was constantly and importantly drawing distinctions between who was in and who was out. Status determined what you wore in the gymnasium, which sacrifices you could attend, how and when you participated in civic rituals. There was never the indeterminacy associated with serial homicide.

So if serial homicide wasn't a feature of the Athenian criminal landscape what crimes did occur. A survey of the predictive factors for crime suggest that Athens was a city in which chances of interpersonal violence were high and incidents of property theft were low.

The key predictive factors for occasions of interpersonal violence are a susceptibility to insult, the presence of an audience, and the consumption of alcohol. This is practically a perfect description of life in Athens where a strong sense of honour and shame combined with (as we have already seen) the tendency to move in groups, and a culture of festive consumption of wine. The city would seem to be an ideal breeding ground for assaults and wounding. Anecdotally, this conclusion is supported by numerous stories of fights in the Agora and festivals that descend into drunken brawls.

In contrast, factors that exacerbate property theft are a lack of surveillance, the presence of highvalue, non-identifiable goods, and the ability to dispose of goods with ease. Such a model would seem to suggest that theft, especially nonmonetary theft, would be comparatively less of a problem in Athens. For example, settlement patterns show a high presence of dwellings within either urban or regional communities in Athens and within those communities there is a high-level of domestic surveillance. (All our evidence seems to suggest that slaves, neighbours, and family ensure that one’s self and one’s property is constantly supervised.) Similarly, the pre-industrial and craft nature of much

manufacturing ensures that goods are readily identifiable. People never seem to have any problem identifying their goods in disputes whether its cups or shoes. And both these features seem to complicate the ability to effectively dispose of stolen property.

It is worth stressing here just how usual the treatment of purse-cutting is. It was one of just a handful of crimes for which the criminal could be arrested and kept in prison to await trial. If he was caught red-handed and confessed his crime, he could he summarily executed. Such actions are really quite extraordinary and noticeable in a legal system obsessed about legal procedure, restraint of the exercise of the power of magistrates, and the supreme importance of jury trials.

The severity of the law seems to reflect a problem. However, it is hard to work out the scale of the problem. It would be useful to have a clearer idea of the degree of monetization of the Athenian economy. All the recent evidence does seems to suggest that small-denomination use is certainly much more common and widespread than we perhaps thought a decade ago.

For modern criminologists, ancient Athens provides an interesting case study for testing the
limits of our intellectual models. Much work has been done on how Athens taught its citizens to be good. But there is an equally interesting story to tell about the way that it encouraged its inhabitants not to be bad.

DEMOSTHENES, AESCHINES AND THE CROWN TRIAL OF 330 BC

In midsummer (June?) in Athens, in the year 330 BC, large crowds of both Athenian citizens and isitors from cities all over Greece had gathered at the law-courts to hear and see the great contest that was about to take place. The issue before the court, with its possibly 1,501 judges, was the public life and policies of Demosthenes, the arch opponent of the now dead King Philip II of Macedonia and his imperialistic conduct. The case shows clearly how in Athens the law-courts were often the battle-ground between political enemies and the policies they espoused. The person who was technically the defendant was a supporter of Demosthenes named Ctesiphon, but the real defendant was Demosthenes himself, who appeared as supporting speaker (synegoros) of Ctesiphon, but

whose own public life over the last 20 years was on trial. The prosecutor was Aeschines, a long-standing and bitter enemy of Demosthenes. In the background there lurk all the time the figures of Philip and his son, Alexander, now King of Macedonia and at the peak of his triumphant campaign of conquest of Persia.

To understand how this situation came about, we must go back almost 30 years to the rise of Macedonia to 'super-power' status under Philip from the time of his accession in 359 BC. Right from the start, Philip and Athens came into military conflict over Philip's expansion in northern Greece at the expense of Athens' hegemony there. Then, as his power grew, Philip's influence expanded southwards into Central Greece, with a further deterioration of Athens' position. Peace was made in 346 BC – the notorious Peace of Philocrates – but this was regarded by Demosthenes and his supporters (who considered that a final 'showdown' with Philip was inevitable) merely as an opportunity to gather strength and to win over hesitant Greek states. The major triumph of Demosthenes' foreign policy was a military alliance with Athens' old enemy and rival, Thebes, soon after war had once again broken out in 340 BC. In 338 BC the forces of Philip defeated the combined
forces of Athens and Thebes at the fatal battle of Chaeronea, leaving Philip the master of the destiny of the Greek city-states. Significantly, Demosthenes was asked by his fellow-citizens to deliver the eulogy over the Athenians who had fallen at Chaeronea.

Two years later, in 336 BC, two significant events occurred: King Philip was assassinated in Macedonia; and Ctesiphon proposed in the Council at Athens that Demosthenes should be honoured with a gold crown at the Theatre on the occasion of the dramatic festival because he had always spoken and acted in the best interests of Athens. The decree was passed by the Council but immediately indicted by Aeschines as illegal (paranomon) on the following grounds:
(i) it was illegal to crown an official while in office and before he had submitted to audit and Demosthenes was holding public office at that
time
(ii) it was illegal to crown a citizen in the Theatre rather than the Assembly; and
(iii) it was illegal to insert false statements in the public records and what Ctesiphon said about Demosthenes' public actions and policies was manifestly false.

For unknown reasons, Aeschines let the case lie for six years, until 330 BC, when he obviously believed that circumstances were favourable to resume the case. The ensuing Crown Trial has been described by a modern scholar as 'the most important in Greek history; and Aeschines himself said that 'it had aroused greater interest throughout the Greek world than any public trial in living memory'. The trial opened with Aeschines' speech against Ctesiphon, the nominal defendant. He tried to show that Demosthenes' policies, especially the Theban alliance, had been to the detriment of Athens and were disastrous in their outcome for Athens. Ctesiphon then spoke briefly in his defence before handing over the main defence to Demosthenes, who argued that right from the outset of his public career he had seen the danger that Philip was proving not only to Athens but to all the Greek cities; and that he had worked tirelessly and single-mindedly to unite the Greeks to join with Athens in thwarting Philip's ambition and advance, a task made all the harder

because of the actions of Philip's hired traitors in each city, including Athens. The policies he had advocated, he argued, were not only the best and most likely to succeed, but were in accordance with the traditional policy of Athens to defend its own freedom and that of the other Greeks, regardless of the cost and danger.

There can be no doubt that Demosthenes's speech, filled with passion, indignation and contempt for his opponent, deserves the opinion of modern scholars of being the greatest piece of political oratory to come out of antiquity, before which Aeschines' prosecution speech stood little chance of winning. It comes as no surprise that Aeschines failed to secure one fifth of the judges' votes and thus was fined and barred from bringing a similar prosecution (i.e. for proposing an illegal measure) again. Realising that he had no future in Athens, he retired to Rhodes, where he taught rhetoric and allegedly conceded to his Rhodian pupils the superiority of Demosthenes' speech over his own.

4.3 ROME

CRIME AND PUNISHMENT IN ROMAN EMPIRE

History, Facts and Information about Roman Punishment:

What were the greatest crimes in Ancient Rome and what were the punishments?

Criminal law was in many instances more severe for the Romans than it is at the present day. Thus adultery, which now only subjects the offender to a civil suit, was by the Romans, as well as the ancient Jews, punished corporally. The content of this article provides interesting history, facts and information about life in Ancient Rome including Roman Punishment.

Roman Punishment - Punishments given to Roman Slaves:

In Ancient Rome the slaves had no rights at all. They were thought of, treated like, merchandise. However, slaves did cost money to buy so many of the punishments did not inflict lasting damage. The lash was the most common punishment. When slaves were beaten, they were suspended with a weight tied to their feet, that they might not move them. Another punishment was to be branded in the forehead. An alternative punishment included the slave being forced to carry a piece of wood round their necks wherever they went. This was called furca; and whichever slave had been subjected to the punishment was ever afterwards called furcifer. Slaves were also, by way of punishment, often confined in a work-house, or house of correction, where they were obliged to turn a mill for grinding corn. When punished for any capital offence, they were commonly crucified; but this was eventually prohibited under the rule of the Emperor Constantine.

Roman Punishment – Forgery:

Forgery was not punished with death, unless the culprit was a slave; but freemen guilty of that crime were subject to banishment, which deprived them of their property and privileges; and false testimony, coining, and those offences which we term misdemeanours, exposed them to an interdiction from fire and water, or in fact an excommunication from society, which necessarily drove them into banishment.

Roman Punishment by Death:

The Roman methods of inflicting death were various, in the time of Nero, the punishment for treason was, to be stripped stark naked, and with the head held up by a fork to be whipped to death. You could also get the death penalty for rape, murder and stealing large amounts. The most common punishment were as follows:

- Beheading
- Strangling in prison
- Throwing a criminal from that part of the prison called Robur
- Throwing a criminal from the Tarpeian rock
- Crucifixion
- Burying a person alive
- Throwing a criminal into the river
- Crime and Punishment in the Roman Empire

Roman Punishment for Patricide

The last-mentioned punishment (throwing a criminal into the river was inflicted for patricide or killing your father. As soon as any one was convicted of patricide he was immediately blindfolded as unworthy of the light, and in the next place the person were taken outside Rome, stripped of everything then whipped with rods. He was then sewed up in a sack, and thrown into the sea. Later in time, to add to the punishment for patricide, a serpent was put in the sack; and still later, an ape and a dog. The sack which held the criminal was called Culeus, on which account the punishment itself is often signified by the same name.

Types of crimes

There has been a large amount of continuity in the types of crimes committed during the years. For instance, the most common crimes in Roman Britain were small-scale thefts or more serious forms of robbery, such as burglary and street-robberies. This would appear to have still been the case in the Middle Ages.

Types of punishments

There has also been a considerable degree of continuity in the types of punishments imposed on those deemed guilty. However, there have also been some important changes - often associated with changing attitudes to both crime and punishment. For instance, one important factor was the growing influence of the Christian Church. This had begun to

affect punishments in Anglo-Saxon times, when the Church began to argue that an important purpose of punishment should be to reform the criminal. This factor was also seen in the increasing use of trial by ordeal as a way of determining the innocence or guilt of an accused person. This was supposed to reveal the judgement of God. However, as events after 1066 showed, it was also possible for attitudes to revert to those of earlier periods. For instance, under the Normans, there was an increase in the number of capital and corporal punishments. One explanation for this was that the Normans were trying to impose their authority on the newly-conquered Anglo- Saxons - so more harsh physical punishments were one way to frighten the population into submission to their new rulers.

It was not until later into the Middle Ages that the Church was once again able to influence a decline in harsh physical punishments.

Law enforcement

Methods of law enforcement also show a mixture of continuity and change. One example of continuity was that, from the time of the Romans to about 1350, there was no professional police force for arresting suspected criminals or for preventing crime. As a result, victims were mostly responsible for collecting evidence - and even for taking a suspect to court. This continued into Anglo-Saxon and medieval times. However, under the Anglo Saxons, the idea of collective responsibility was developed, in the form of tithings and hue and cry.

This continued under the Normans, but began to decline gradually as the authority and role of kings began to grow. An example of change concerning law enforcement was that, under the Romans, there had been a centralised system of law and order which was imposed over all Roman Britain. However, after the Romans had left, there was no centralised or common system. For some time, England reverted to different areas having their own systems of laws and law enforcement - similar to the situation before the Romans had conquered Britain. However, once England had become a united country again in 954, a centralised system was once more developed.

4.4 NEW AND EMERGING FORMS OF CRIME AND ITS CHANGING NATURE

The speed of technological advancement, increasing globalization, and the exponential growth of global markets have created opportunities for criminal activities, often with a low risk of detection and using new forms of anonymity. Preventing and combating new and emerging crimes is a challenging task.

Crime is continually evolving and adapting. While organized crime, illicit drug trafficking and terrorism have been of major concern for the past two decades, other forms of criminal activity are now coming to the fore, such as cybercrime, sexual exploitation of children, environmental crime and trafficking in cultural property along with piracy, an old form of crime which has re-emerged.

These crimes may not necessarily affect all countries at the same rate or with equal severity. What they have in common, however, is that by the time they are recognized as a transnational threat, they may already be too extensive to tackle.

Factors in the emergence of these crimes include globalization, the proximity of poverty, conflict and weak rule of law to high value markets, and the rapid appearance of new forms of modern technology and global connectivity.

Today, local problems can easily become global. The free movement of people, goods and finance around the world has progressed faster than the abilities of States to keep track and regulate such movements.

Criminals have exploited fragmented regulatory regimes and the reduction of trade barriers. In some regions, the high demand for basic medicines combined with struggling health-care systems and national control mechanisms contributes to the significant transnational market for fraudulent medicines.

The proximity of high-value shipping routes to areas of conflict with weak governance has been a major factor behind the modern-day piracy off the Horn of Africa. The large illicit financial flows foster other kinds of organized crime and contribute to destabilization, with funds diverted to groups engaged in internal armed conflict. Efforts have been successful in
curbing the piracy business model in that region, but there has been a recent increase in piracy attacks in the Gulf of Guinea off West Africa.

Modern vs. traditional

Almost one billion people use the Internet; it allows connections between individuals across a wide geographic area, bringing many socioeconomic benefits. However, that global reach is also being used effectively for criminal activities.

New criminal trends have emerged, with people committing crimes in cyberspace that they would not otherwise commit: the anonymity of the Internet and the possibility of adopting flexible identities can be incentives for criminal behaviour.

Criminals can gain access to large numbers of targets through online services such as banking, shopping and social networking. Global connectivity also means criminals can learn from each other, even if they never meet. Online criminal "social networking" can provide forms of criminal "outreach" and links between criminal groups. A false impression of social acceptability of criminal acts such as child sexual exploitation can be created by online communities. There are many ways information and communication technologies are driving new and emerging crimes. Consumer financial fraud has become transnational
with the now-commonplace use of online payments. Global incitement to violence and terrorism through social media has widened the reach and influence of previously localized radical and terrorist groups. Illicit drugs and other products can be bought online, paid
for with anonymous virtual currencies.

Criminal groups operate in new ways, hiring specialists to perform tasks not covered by their existing knowledge and skills. This trend of a more transient and less structured organization may be how serious
crime will be perpetrated in the future.

Use of modern technology in criminal activity is doubtless increasing, but established methods such as bribery and corruption continue to be important in the way these new crimes are carried out, particularly for illicit cross-border trafficking and movement.

Turning the tables: using technology for law enforcement

Technological advances can help investigators too. For example, there is a wealth of information available publicly from social networking sites and chat forums as well as stored on electronic devices such as smartphones, which can be seized during law enforcement operations. This information is often a crucial starting point for criminal investigations.

Prevention

Raising awareness among potential victims is a vital part of preventing these emerging crimes. For example, the United Nations Office on Drugs and Crime, the United Nations World Tourism Organization and the United Nations Educational, Scientific and Cultural Organization are warning international travellers to recognize possible trafficking in people, wildlife, cultural artefacts, illicit drugs and counterfeit goods, and urging them to make responsible consumer choices.

Equally important is the need to address the vulnerabilities of people at risk of becoming involved in new forms of crime. In Somalia, for example, prevention initiatives have reached out to youth to dissuade them from becoming involved in piracy, with the support of community leaders, politicians and religious leaders, alongside efforts to develop sustainable alternative livelihoods.

The next generation of emerging crimes

The level of sophistication of emerging crimes challenges well-equipped States, let alone developing countries with limited resources. Globally harmonizing legislation will help to prevent and combat emerging crimes and there may be a need to devise innovative ways of increasing global electronic connectivity for investigative purposes.

Globalization and new technological developments will drive criminal innovation forward. Meeting this challenge will require consistent efforts to prevent and reduce corruption, to provide sustainable livelihoods, and to address poverty and inequality.

4.4.1 CHANGING NATURE OF CRIME

"Technology and social media have opened up a new variety of potential ways for criminals to get tasks accomplished."

— Arlington County, VA Police Department Deputy Chief Charles Penn

Computers, communications platforms, and other types of new technology are changing crime in two important ways.

First, the variety of computer-related crimes continues to grow. In addition to cyber-crimes that already have become familiar to most people, such as identity theft and credit card fraud, newer types of offenses have emerged, including "sextortion" (sexual exploitation, in some cases by blackmailing victims with the threat of disseminating sexual images of them) and synthetic identity theft (creating an entirely new fictitious identity).

Second, technology is changing how some long-established types of crimes are committed today. For example, drug dealers are discovering they can move larger quantities of illegal drugs more easily and with less risk via "dark web" internet marketplaces and the U.S. mail than they can by selling drugs on the streets.

These changes have significant implications for police agencies throughout the country. Technology is changing the policies, procedures, and organizational structures that police must adopt to fight crime, as well as the resources police must obtain.

This chapter explores how crime is changing. Subsequent chapters examine how police agencies are responding to these changes.

The Evolution of Computer-Related Crime:

"**The shift from street crimes to cyber-crime is not specific to any one group or crime. We are seeing a large-scale change affecting everything from child exploitation to distribution of narcotics. I believe this large shift is occurring because of the anonymity the internet provides."**

— Captain Paul Kammerer, Volusia County (FL) Sheriff's Office

Computer-related crime—"cyber-crime"—is not new. Since the advent of the public internet in the early to mid-1990s, criminals have tried to exploit the technology for financial gain through a variety of schemes. In recent years, the variety of these crimes has grown, with new offenses such as ransomware, revenge porn, and sextortion becoming more prevalent.

Ransomware: In just a few years, for example, ransomware (a type of online attack that blocks a user's access to his or her computer system until a ransom is paid) has become a billion-dollar-a-year criminal enterprise. Even law enforcement agencies have been victims of ransomware.

Synthetic identity theft: As technology becomes more sophisticated, so have computer crime schemes. One example is a twist on identity theft, called "synthetic identity theft." Typically, identity theft involves stealing personally identifiable information, such as a Social Security Number or credit card number, from a single individual, and using that information to make purchases, apply for credit, file fraudulent tax returns in the name of that individual in order to receive a tax refund, or otherwise benefit financially.

Synthetic identity theft involves taking pieces of information from multiple people to create an entirely new, fictional identity that can often be exploited for long periods of

time. Synthetic identity theft is more complex, often more difficult to detect, and designed to provide a much larger, long-term yield.

"In synthetic identity theft, the criminal obtains a social security number, usually a child's, and will then attach a fake name/address to it and piggy-back on another person's credit to establish credit. The criminals build up credit, secure mortgages, take out loans, and then cash them all out. It is a long-term scam. It takes time, but the profits are high."

— Chicago Police Department Detective Patricia Dalton

Children are especially vulnerable to synthetic identity theft because their credit profiles are blank slates. Since credit reports are not typically run on children, many victims do not discover that their identity has been compromised until they are in their late teens or early 20s and are applying for a student loan or their first credit card.

Why computer-related crime is attractive to criminals: Experts cite at least four reasons why computer-related crime is so attractive to today's offenders:

1. Anonymity. The internet provides a high degree of anonymity and cover. This is particularly true in the heavily encrypted part of the internet known as the "dark web."

2. Potential for large financial gains, with reduced risk. With only a modest, up-front investment in computer equipment and basic technical skills, cybercriminals can steal significantly more money with a few clicks of the mouse than what a robber can get from the cash register at a convenience store — and without the risk of directly encountering their victims or the police. The monetary losses associated with the 298,728 internet-related
crimes reported to IC3 in 2016 totaled approximately $1.45 billion, or $4,857 per crime on average.

Considering that most of the internet-based crimes did not require the offenders to ever face their victims, witnesses, or the police, it becomes clear why internet crimes are so common: The risk of being apprehended is small, and the "take" is large.

3. Investigation and prosecution are more difficult. Many computer-enabled crimes cross multiple jurisdictional boundaries. The offender may be in one jurisdiction, the victim in another, and the offenses (such as fraudulent online purchases) in yet another location.

Participants at PERF's Critical Issues meeting noted that the multi-jurisdictional nature of computer-related crime is one of the biggest challenges in identifying and prosecuting cyber criminals, because it is difficult for an investigation to begin when there is no clarity about who "owns" the crime. How can a police department assign an investigator to interview a victim and make other inquiries if the department doesn't know whether it has jurisdiction over the crime?
"The national and international nature of internet crime makes it much harder for us to track down,"

4. The lag between technology and the law. Because it takes time for legislators to recognize and write laws that address complex, technical matters, some cyber-crimes can go on for years before they become illegal. Sergeant Sylvan Altieri, with the Metropolitan Police Department of Washington, D.C., cited the example of revenge porn. "Revenge porn has been a phenomenon ever since the internet came into existence, but it took years and years for 'unlawful publication' legislation to become law."

And even when laws against specific cyber-crimes are enacted, the criminal penalties are often low, relative to the amount of damage inflicted by the crime. As a result, the threat of criminal penalties may not be a significant deterrent.

Internet-related crime is often more lucrative; it is harder to detect and quantify; and it results in fewer criminal penalties than many long – established street crime. Together, these factor have created a rich environment for crime fueled by technology to grow.

Sextortion: A New Type of Computer-Related Crime That Is Having a Dramatic Impact

"Sextortion" is an emerging type of online sexual exploitation in which offenders coerce or blackmail victims into providing sexually explicit images or videos of themselves.

These demands often come from the offender's threat to publicly post sexual images or to send them to the victim's friends and family. Experts, calling sextortion a kind of "remote sexual assault," have noted that it is a vicious crime that causes severe psychological harm to victims. Sextortion cases often involve victims and offenders who are in different, even faraway jurisdictions, and there are often multiple victims for each offender.

A sextortion case often begins with a computer hacker gaining access to a person's email account, which contains nude photographs of the victim. Using social engineering, the hacker is able to gain access to the victim's social media accounts, including their contacts. The hacker then contacts the victim on several different platforms, demanding that the victim send additional sexually explicit photos or video. If the victim does not comply, the hacker threatens to send the content to all of the victim's friends on Facebook, or to the victim's family or employer. The victim sends the hacker the material according to his demand. The hacker then increases the requests until the victim is constantly bombarded with demands to make even more graphic material. This is a classic example of sextortion.

Researchers and activists say that sextortion has increased dramatically in recent years. In 2016, the Brookings Institute released the first comprehensive study to attempt to quantify sextortion in the United States. Researchers discovered 80 reported cases of sextortion through court documents and news articles. The cases involved what the researchers conservatively estimated to be 3,000 victims. This figure may be severely underreported as well. For example, a survey of sextortion victims conducted in 2016 discovered that one in three victims never tells anyone (let alone the police) about the crime, due to embarrassment, shame, or self-blame.

The true extent of sextortion is particularly difficult to quantify because of the lack of government data and the slow pace of legislation to prohibit it. Very few states have codified sextortion as a distinct crime, leading many prosecutors to charge these cases under a wide variety of statutes. For example, if the victim is a minor, prosecutors can attempt to charge the case under child exploitation statutes.

Devastating impacts, including suicide risks: The impact on victims can be devastating. Researchers estimate that one in eight victims move out of their homes out of fear of further victimization. An FBI analysis of sextortion cases involving child victims found

that “at least two victims committed suicide, and at least 10 more attempted suicide.” Sextortion disproportionately impacts women and minors. The Department of Justice reports that “sextortion cases tend to have more minor victims per offender than all other child sexual exploitation offenses.” Offenders have created online forums accessible on the dark web, to discuss tips and techniques to perpetrate these crimes.

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“Online financial crimes are exploding right now, because there is a lot less risk for perpetrators. They do not have to be face-to-face with their victims, and they can commit crimes across jurisdictions, complicating matters for law enforcement.”

— Captain Michael Ward, Montgomery County (MD) Police Department

New Ways to Commit Old Crimes:

“Our criminal perpetrators have moved from committing traditional crimes with traditional methods to simply doing them through a different method.”

— Prince George’s County (MD) Sheriff Melvin High

In addition to committing new types of computer-related crimes, offenders are increasingly using technology to commit offenses that have been unlawful for many decades, including drug trafficking, motor vehicle theft, harassment, and crimes against children. “Nobody robs a bank with a note anymore,” said Daniel Mahoney, Deputy Director of the Northern California Regional Intelligence Center. “There is a technological component to every crime.”

Technology has always played a role in the crimes of theft and fraud. In the past, these schemes may have involved the telephone or U.S. mail. Offenders usually targeted one victim at a time, and the monetary gains were typically limited. Modern technology—the internet, email, social media, and computer hardware devices such as “skimmers” that criminals attach to ATM machines to steal victims’ debit card information—have dramatically reshaped these crimes.

Technology has made it easier for even modestly intelligent or competent criminals to target large numbers of victims and steal larger sums of money.

Credit card "skimmers": One example cited by participants at PERF's Critical Issues conference was the growing use of skimming devices to steal credit card and ATM card information from large numbers of unsuspecting victims. There is a great deal of credit card fraud through skimmers at gas pumps, ATMs, and grocery stores.

Skimmers are small, surreptitious card readers that are attached to credit or debit card payment devices and ATM machines. Without interfering with the functionality of the host machine, the skimmer captures data from the card's magnetic stripe every time customers use their cards. The thief later returns to the compromised machine to retrieve the device that now contains the stolen data. With that information in hand, the offender can create cloned cards to make purchases or withdrawals, sell the information to others, or open additional accounts in the victim's name.

Even as consumers and police become more alert at spotting skimmers, the technology continues to become more sophisticated. "New devices that are smaller and more difficult to detect—known as "shimmers" or "slimmers"—are also starting to pop up," "These are difficult cases, because the computer chips are encrypted and are hard to trace back to the suspect." Shimmers allow thieves to intercept the radio-frequency identification (RFID) information stored on the chips of modern credit, debit, and ATM cards, and then use Bluetooth technology to transmit the information wirelessly.

Harassment, stalking, and child exploitation: Technology—in particular, the internet—is also changing the crimes of harassment, stalking, and child exploitation. In the past, these offenses involved face-to-face contacts between the offender and the victim. Now, through social media apps, emails, and text messaging, offenders can make initial contact with their victims electronically, before engaging in in-person criminal behavior.

The U.S. Department of Justice noted this alarming trend in its National Child Exploitation Threat Assessment of 2016. It found that technology is contributing to three disturbing trends:

• **New and evolving threats.** New methods of child sex abuse continue to emerge in the online environment.

• **Evolving means of exploitation.** Mobile devices have fundamentally changed the way offenders can target and abuse children. Mobile apps, in particular, can be used to target, recruit, groom, and coerce children to engage in sexual activity.

• **Large number of victims,** easily targeted. Offenders are adept at tricking and/or coercing children who are online, and offenders typically target many children.

How Technology Is Changing Vehicle Thefts and Break-Ins

From 1997 to 2016, the motor vehicle theft rate in the United States decreased by 53 percent. This dramatic decline has been attributed largely to the growing use and sophistication of anti-theft technology. For example, engine immobilizers, which prevent a car from starting unless the key needed to start the engine is recognized electronically by the vehicle's on-board computer, have become standard in most new vehicles sold over the last decade.

Thwarting car-locking key fobs: As anti-theft measures have become more sophisticated, criminals have adopted new technologies to circumvent them. Some car burglars have begun using key fob jamming devices. As a victim walks away from his or her car and attempts to lock it with a key fob, the thief uses the jamming device to disrupt the signal, preventing the car from locking. After the owner walks away, the criminal can enter the car and steal any valuables that were left inside.

Stealing vehicle registration cards, rather than radios: Technology is also changing what criminals are seeking when they break into vehicles. In the past, thieves targeted vehicles with items of high cash value, such as sound systems and GPS mapping devices. Today, many thieves are targeting items that can yield a greater, long-term return: vehicle registration and insurance cards. Personally identifiable information obtained from the documents can then be used to commit identity theft and fraud. Frank Fernandez, Director of Public Safety for the City of Coral Gables, Florida, said that criminal organizations in south Florida are increasingly recruiting children to break into cars and obtain documents with identifying information. (The groups use juveniles because they are less likely to face

serious consequences if they are caught.) The organizations then use the personal information to commit identity theft and related offenses. Director Fernandez said that often, criminals involved in these schemes target low-income neighborhoods, because their victims are less likely to be protected by subscription-based credit monitoring services.

The Dark Web:

The New Marketplace for Criminal Activity

Perhaps the most significant technology that is facilitating criminal activity in the United States today is the so-called "dark web"—a largely hidden part of the nternet that is encrypted, allowing users to remain anonymous and untraceable. The dark web has legitimate purposes, such as allowing journalists and political dissidents in repressive nations to communicate with each other and with the world, with less fear of exposure and reprisals. In recent years, however, the dark web has also emerged as a major platform for trafficking in drugs, weapons, sex workers, hacking tools, and even violent crime. The dark
web is fundamentally changing how and where many of these types of crimes are committed, moving them from street corners to the internet and, often, the U.S. mail.

What does the dark web provide? Anonymity and ease of use. Several factors make the dark web an attractive platform for individuals engaged in criminal activities. First, with users' online identities effectively masked, the dark web is largely anonymous. It is also vast and multi-faceted, offering a variety of marketplaces for buying and selling an array of illegal goods. And, with a computer, an internet connection, and special (but readily available) browsing software, the dark net is easy to access and use. Some commentators have used the term "Amazon Effect" to describe the dark web, because individuals can make purchases online and have the product delivered directly to them, eliminating the need for in-person transactions.

Online drug trafficking: Experts say the dark web is having a marked impact on illegal drug trafficking, with sales transitioning from street corners to dark markets. "Over the last five to 10 years, we have seen an increase of narcotics cases involving the dark web," said

Fred Smith, Deputy Assistant Administrator of the DEA's Office of Investigative Technology. "Many drug dealers feel safer on the dark web, so they are using this approach more frequently."

While it is difficult to quantify the extent of illegal drug activity taking place on the dark web, a 2016 study by the RAND Corporation estimated that across eight major dark web marketplaces, revenue from illegal drug sales could be as high as $25 million per month. Experts also note that while the dark web still accounts for a relatively small share of total drug sales, especially regarding cocaine and marijuana, it has emerged as a major source for sales of highly lethal synthetic opioids.

Online gun trafficking: Illegal gun sales on the dark web also have become a growing concern. While it is generally legal for individuals to buy guns online in the United States, the Bureau of Alcohol, Tobacco, Firearms, and Explosives has increased its focus on large-scale illegal gun-running operations, including many investigations that target customers in Europe and other parts of the world. Over the last two years, the ATF has dismantled dark web gun-running operations led by individuals using nothing more than a computer to start their illegal busineses.

In Manhattan, Kansas, for example, Michael Ryan used Tor software to conceal his identity as he shipped dozens of semi-automatic rifles, handguns, and hundreds of rounds of ammunition to customers around the world, under the name "Gunrunner," according to his plea agreement. He was sentenced to more than four years in federal prison.

The Surface Web, the Deep Web, and the Dark Web, Explained

The "surface web" is what most people are familiar with: Many people's interactions with the internet are limited to what is known as the "surface web," which is defined as all websites and web pages that are indexed and searchable by Google, Yahoo, and other search engines. This includes news media sites, social media such as Facebook and Twitter, online stores and business websites, government agencies and private-sector websites, special-interest websites and blogs, and other web pages that are publicly

available. The indexed, searchable surface web consists of billions of pages, but it is a relatively small
portion of the entire internet, by some estimates less than 1 percent.

The "deep web" includes private networks of organizations that may not be public: A much larger portion of the internet is called the "deep web," which includes large databases maintained by government agencies and private organizations, some of which are publicly available, either free or for a charge, and others of which are private to the organizations that operate them. Private networks operated by government and private organizations are also part of the deep web.

The "dark web" is accessible only with software that masks users' identities: By contrast, the "dark web" is a layer of the World Wide Web that is not searchable, and is accessible only through special software that masks the user's Internet Protocol (or IP) address. An IP address is a numerical label assigned to each computer or other device connected to the internet. The IP address is a ready way to identify an internet-connected device, and often its user. The dark web has an interface to the surface web, allowing users to access websites and browse services, but the dark web interface effectively masks the user's identity.

To access the dark web, users need special software to mask their IP address and, therefore, their identity. A common method used to access the dark web is The Onion Router (or TOR) software. TOR conceals users' identities and online activity through multiple layers of encrypted connections. Most dark web activity is anonymized, making detection and identification challenging for law enforcement.

The dark web is home to a number of "darknet markets," where individuals can buy and sell illicit goods and services, such as drugs, firearms, and professional hacking services. Transactions on these markets occur through the exchange of crypto-currencies, a form of digital currency. Although many variations of crypto-currencies exist, Bitcoin is the most popular.

Federal authorities, in conjunction with international partners, have aggressively targeted darknet markets in recent years. In 2013, federal agents seized Silk Road, an online

marketplace for narcotics, murderers, and other illegal goods and services. Authorities arrested Ross Ulbricht, a 29-year-old American physicist, who owned and operated the site since 2011. Ulbricht was sentenced to life in prison without parole after being convicted of drug distribution and other charges. In its 30 months of operation, the FBI estimated that Silk Road generated $1.2 billion in sales.

Following the takedown of Silk Road, two other sites, Alphabay and Hansa, emerged as large markets on the dark web. In the summer of 2017, however, an international investigation led by the FBI and Dutch authorities seized and shut down both Alphabay and Hansa. Servicing more than 200,000 users and 40,000 vendors, Alphabay had transactions exceeding $1 billion in digital currencies in its two years of operation. The site facilitated the exchange of stolen identities, hacking tools, and other illegal goods and services. The darknet market was also a major source of heroin and fentanyl and has been linked to multiple overdose deaths.

Authorities acknowledge that even as major dark net markets such as Silk Road and AlphaBay are shut down, new ones tend to emerge quickly and fill the void.

ATF recently created an Internet Investigations Center (IIC). Staffed by federal agents and intelligence and operations specialists, the IIC "conducts and coordinates multi-jurisdictional operations and provides investigative direction to disrupt and dismantle online criminal activity within the enforcement and regulatory jurisdiction of ATF."

The dark web has also created a market for a broader range of individuals to engage in a variety of white-collar crimes. "The increase of dark marketplaces is enabling non-technical criminals to utilize online means to conduct fraud, whether through money laundering and usage of digital currency, or actually using malware."

"Considering the difference in purity, we are seizing more fentanyl in the mail than we are at the Southwest Border."

— Chief Customs and Border Protection Officer Stephen McConachie

Just a few years ago, many of the illegal drugs entering the United States came across the Southwest border. Today, with the emergence of the dark web as a major trafficking portal, drugs—especially fentanyl and other synthetic opioids—are increasingly entering the country through the mail.

Traffickers are using the U.S. Postal Service (USPS) both to import drugs from overseas and to repackage and ship them domestically. For example, an individual from the United States can purchase fentanyl from China, advertise the product on the dark web, and redistribute the drug through parcels sent to domestic buyers. (For an example of how these types of distribution networks operate, see the sidebar on the "Peter the Great".)

The Surface Web and Crime

The dark web is not the only online technology that is impacting crime. The so-called "surface web"—the part of the internet that is visible to everyday users—is also changing how some crimes are being committed. Experts at the Critical Issues conference discussed how social media, mobile apps, and other web-based systems are changing the nature of crime.

Social media like Facebook can help criminals find victims: As the popularity of social networking sites such as Facebook, Twitter, Instagram, and Snapchat has exploded over the past several years, criminals are turning to social media to identify and exploit victims. For crimes such as prostitution and human trafficking, social media provides an extensive population of potential victims who can be easily identified through their personal profiles and the content about themselves that they share online (pictures, videos, friends, activities, locations where they can be found, and other personal information).

Again, the anonymity of the internet provides cover for offenders who, in the past, had to identify and solicit potential victims face-to-face. Instead, human traffickers and pimps are using sites such as Instagram, Kik, and Snapchat to recruit vulnerable social media users, who are often lured with the promise of a job or are fooled into believing they are in an online relationship.

The Fayetteville, NC Police Department recently investigated a case in which a woman was using social media to recruit teenage girls to participate in prostitution. “We determined that three girls, ages 15, 16, and 17, were pimped out by a 21-year-old female who recruited them via Facebook and took them to other cities,” said Analyst Rachael Songalewski. To lure customers, the woman took provocative pictures of the girls and posted them on the Backpage.com website in order to advertise them for prostitution.

Mobile apps also can facilitate crime: Some criminals are using applications downloaded on smartphones and other mobile devices to lure victims to a variety of crimes, including robberies and assaults. For example, when the Pokémon Go app became popular in the summer of 2016, criminals exploited the game’s geolocation features to lure unsuspecting players to secluded areas, whether they were robbed and assaulted. Several dozen of these crimes were reported. Criminals are also using ads on app-based platforms to find victims.

Offenders post fake advertisements on the sites, or respond to legitimate ads, then set up meetings with victims. During a homicide investigation, the DeKalb County, Georgia Police Department discovered that a group was posting fake ads on the app, OfferUp. “The suspects were luring people in and robbing them,” said Lieutenant Timothy Donahue. “In one case, they murdered the person.” Similarly, the Suffolk County, NY Police Department arrested a man who allegedly responded to ads on the app, Letgo, and robbed sellers on
three separate occasions.

Police also are seeing criminals increasingly use dating apps to arrange meeting with victims. In Dallas, at least seven men have been arrested for committing sexual assaults against victims they found through dating apps or social media. In Daytona Beach, Florida, an 18-year-old woman received a 20-year prison sentence for using the app, Meet Me, to set up a robbery that ended with a victim being shot.

Encrypted messaging thwarts investigations: Email and other messaging platforms allow users to communicate with each another across the country and around the globe. Criminal offenders are turning to encrypted communications services to discuss their illegal activities.

Justin Larson Case Study: How a 30-Year-Old Computer Scientist Used Encrypted Communications to Distribute Drugs

In June 2017, a U.S. district judge in Maryland sentenced Justin Larson to life in prison for distributing acetyl fentanyl, resulting in death. Larson hardly fit the profile of an international narcotics distributor. The 30-year-old Gaithersburg, Maryland man held a computer science degree from the University of Maryland. "The defendant was highly intelligent and had conducted extensive internet research to learn his trade craft, to study the classification of drugs, and to learn the techniques of other criminals distributing drugs through the internet," said Sergeant Michael Yu of the Montgomery County, Maryland Police Department's Electronic Crimes Unit.

Investigators first came into contact with Larson over a domestic call, and received a tip about his alleged drug activity. An FBI task force that included the Montgomery County Police Department and Immigration and Customs Enforcement/Homeland Security Investigations pursued the case for almost three years before making an arrest. An important part of the investigation was uncovering how Larson communicated with his supplier.

That supplier was a fentanyl dealer in China, with whom Larson connected over the dark web. All communications between Larson and his supplier went through multiple layers of encryption. Larson would type out all messages in an encrypted platform that would generate a self-destructing link and then send the link through an encrypted web-based email. When the supplier or Larson read messages from each other, they were destroyed forever. In order to unravel these communications, investigators had to perform detailed forensic digital examinations on Larson's mobile devices and work with webbased email providers to find people connected to Larson.

Larson's case demonstrates how the internet has fueled changes in drug trafficking and how suppliers and distributors communicate. "Traditionally, people needed a large network for that kind of drug trafficking operation," Sergeant Yu said. "But in this case, the defendant was simply importing fentanyl from overseas using encrypted

communications. Nowadays with technology, you don't need a gang or a special connection to get involved in drug trafficking. You can just do it from your computer."

How Technology Is Changing Gang Activity

"Street gangs thrive off anonymity, so the dark web provides a very lucrative environment for them to operate."

— Deputy Chief Steve Caluris, Chicago Police Department

In cities across the country, criminal activity among street gangs is evolving. Several participants at the Critical Issues meeting noted that gangs in their jurisdictions are moving away from street crimes and are engaging in more sophisticated criminal enterprises that include fraud, identity theft, and other computer-enabled crimes. These crimes are often less dangerous, have lower criminal penalties, and can be more profitable than crimes such as street-level drug dealing.

This shift does not mean that gangs are abandoning intimidation and violence against rivals. But some gangs are searching for a steadier, more reliable source of funding for their ongoing operations.

Gangs Are Committing Financial Fraud

"We used to say, 'If there's drugs, there's guns.' Now, wherever there's money, you'll find guns."

— Chief of Detectives Robert Boyce, New York City Police Department

Historically, most young gang members got their start in the low-level drug trade. Recently, however, police report seeing more gang members, especially young ones, getting involved in a variety of financial schemes. NYPD Deputy Chief Michael Baldassano noted, "We're seeing less sophisticated gangs and crews move away from drug sales and use the dark web to get involved in grand larceny."

One common fraud involves gang members obtaining credit card information from darknet markets and using the proceeds to facilitate other, sometimes violent crimes. "Individuals

can purchase a credit card number for $20 on the dark web, put it on to a counterfeit credit card, create a fake ID, and recruit people to go shopping for them," said NYPD Deputy Inspector Christopher Flanagan. In some cases, the fraudulent credit cards are used to rent vehicles to be used in drive-by shootings or other crimes.

Check fraud is another financial scheme increasingly employed by street gangs. Gang members steal checks or money orders or create counterfeits. Then they recruit individuals, often college students or transients, and pay them to open a legitimate bank account. The account holder deposits the fraudulent checks into the account and quickly makes cash withdrawals. "Over a weekend, gangs will set up a person's account, put bad checks in, and start withdrawing the money.

Gangs are becoming far more sophisticated about developing expertise: Enticed by the large financial returns from financial crimes, gangs are recruiting educated and financially sophisticated individuals into their ranks to help commit offenses such as mortgage fraud, tax fraud, and other intricate schemes. "Street gangs are financially supporting their members in obtaining law degrees and other specialized education," said Deputy Chief Steve Caluris of the Chicago Police Department. He added that gangs are willing to make
these investments because financial crimes yield high returns.

Gang members are also using the internet to recruit and train others on how to commit various fraud offenses. Experts note that this type of recruitment, investment, and training is an indicator of some gangs' commitment to a more sophisticated, long-term focus for financing their operations.

Identity Theft Can Be a Short-Term Tactic

Some gangs are also relying on short-term schemes, such as identity theft, to fund their operations. These tend to be less sophisticated and produce a more immediate return. In some cases, gangs form specifically for the purpose of committing financial crimes such as identity theft.

Gangs Are Becoming More Subtle about Money Laundering

Gangs have long relied on money laundering to hide the illegal profits from drug trafficking and other crimes. Recently, gangs are becoming more sophisticated in creating elaborate money laundering operations to conceal their criminal activity.

Gangs Are Hiring Contract Workers

Experts also note that gangs and other criminal organizations are increasingly modeling their operations on those of legitimate businesses. One example cited by participants at the Critical Issues meeting was the use of "contract workers." Some gangs are now contracting out some of their criminal activities to nongang members, many of whom have only a loose affiliation with the gang.

Gangs often target transients and young females for these types of assignments. If they are arrested and prosecuted, these contract workers are likely to face lower criminal penalties than the gang members themselves, who often have a criminal history.

Gangs remain violent: Experts note that although technology has driven many gangs to diversify their criminal repertoires, gang members remain engaged in violence, narcotics offenses, and other street crimes, just as they have done for decades. In many cases, the computer-related crimes are a means to raise money to purchase weapons, vehicles, and other items used in violent crimes.

"People who were involved in traditional crimes and are now transitioning into fraud-related crimes still have their old ways of violence in them. We find credit card mills, and we'll find guns too. Gangs can transition into different crimes, but there will still be violence. There's always a gun."

— NYPD Deputy Chief Joseph DowlingCommanding Officer, Grand Larceny Division

Why Is the Shift in Gang Activity Occurring?

"Why would gang members stand on the corner and sell drugs when they can make thousands of dollars every month with a credit card factory? Gangs can make proceeds just as high as they did with the narcotics trade, but they know they won't

receive a lengthy prison sentence or get shot. So why not commit identity theft and rake in a couple thousand dollars?"

— Chicago Police Detective Patricia Dalton

Less danger, higher profits, lower penalties: Why are gangs becoming increasingly engaged in fraud, identity theft, money laundering, and other financial crimes? Participants at the Critical Issues meeting gave three primary reasons:
White-collar crimes are

(1) less dangerous
(2) they often yield higher profits
(3) they typically carry lower criminal penalties than street crimes.

Although statutes for financial crimes vary from state to state, participants at PERF's conference agreed that relatively lax criminal penalties for most computer-related crimes make them an attractive alternative to many drug and violent offenses, which carry substantial penalties.

For example, penalties for grand larceny often mandate only probation for an offender with no prior criminal history. Criminals charged with financial crimes often face no jail time and are mandated only to pay restitution. Most violent crimes and narcotics violations, on the other hand, carry much harsher sentences. Several participants at the Critical Issues meeting noted that laws and penalties for white-collar crimes have not kept pace with the changing nature of crime and criminal activity, especially as it relates to gang involvement in these crimes.

Captain Ferrara described a recent series of fraud cases his agency investigated in which victims were sent a letter on IRS letterhead instructing them to send money in order to release their tax refund. Even though the offenders were posing as federal tax officials, the offense did not carry an enhanced penalty.

Others meeting participants said that judges and other criminal justice officials should be educated about how gang crime is changing, and how it is impacting victims and larger communities. "Judges need to be educated on how gangs are moving into these types

of crimes, and they must work with the legislature to increase penalties."

4.2.2 The basic principles underlying the Guidelines for the Prevention of Crime

The Guidelines for the Prevention of Crime set out eight basic principles underlying the development of crime prevention strategies in chapter IV, as follows:

Government leadership: . All levels of government should play a leadership role in developing effective and humane crime prevention strategies and in creating and maintaining institutional frameworks for their implementation and review.

Socio-economic development and inclusion: Crime prevention considerations should be integrated into all relevant social and economic policies and programmes, including those addressing employment, educa- tion, health, housing and urban planning, poverty, social marginalization and exclu- sion. Particular emphasis should be placed on communities, families, children and youth at risk.

Cooperation/partnerships : Cooperation/partnerships should be an integral part of effective crime prevention, given the wide-ranging nature of the causes of crime and the skills and responsibilties required to address them. This includes partnerships working across ministries and between authorities, community organizations, non-governmental organizations, the business sector and private citizens.

Sustainability/accountability : Crime prevention requires adequate resources, including funding for structures and activities, in order to be sustained. There should be clear accountability for funding, implementation and evaluation and for the achievement of planned results.

Knowledge base : Crime prevention strategies, policies, programmes and actions should be based on a broad, multidisciplinary foundation of knowledge about crime problems, their multiple causes and promising and proven practices.

Human rights/rule of law/culture of lawfulness : The rule of law and those human rights which are recognized in international instruments to which Member States are parties must be respected in all aspects of crime prevention. A culture of lawfulness should be actively promoted in crime prevention.

Interdependency:

National crime prevention diagnoses and strategies should, where appropriate, take account of links between local criminal problems and international organized crime.

Differentiation:

Crime prevention strategies should, when appropriate, pay due regard to the different needs of men and women and consider the special needs of vulnerable members of society. In essence, the principles laid out in the Guidelines for the Prevention of Crime and the Guidelines for Cooperation and Technical Assistance in the Field of Urban Crime Prevention establish the normative basis, stressing the importance of the rule of law and respect for human rights, of the social and economic inclusion of populations, whatever their status and background, and the importance of ensuring that the particular needs of vulnerable minorities, as well as gender differences, are taken into account

4.2.3 International support for the guidelines on crime prevention adopted by the United Nations

The guidelines on crime prevention are supported by and grounded in a number of other international standards and norms adopted by the United Nations. These include resolutions relating to children's rights, women's rights and the rights of victims. For example:

- The Convention on the Rights of the Child
- The United Nations Guidelines for the Prevention of Juvenile

Delinquency (the Riyadh Guidelines)

- The Declaration on the Elimination of Violence against Women
- The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

In terms of transnational crime, the United Nations Convention against Corruption, the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime similarly provide an important context supporting the implementation of the guidelines on crime prevention at the national and local levels.

Migrant women workers, another group particularly vulnerable to victimization, are the subject of general recommendation No. 26 adopted by the Committee on the Elimination of Discrimination against Women at its forty-second session, in 2008. In addition, the Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice have recently been revised and updated.

Preventing crime and victimization is also closely linked to the achievement of the Millennium Development Goals. Adopted in 2000, the Goals are, by 2015:

- To eradicate extreme poverty and hunger.
- To achieve universal primary education.
- To promote gender equality and empower women.
- To reduce child mortality.
- To improve maternal health.
- To combat HIV/AIDS and other diseases.
- To ensure environmental sustainability.
- To develop a global partnership for development.

While crime prevention is not referred to explicitly in the Goals, their achievement can help to reduce future crime and victimization. More importantly, the Goals are unlikely to be achieved unless safety and security are established in a region or country.

In Africa, for example, the impact of crime on development has been clearly outlined. Everyday crime destroys confidence among citizens as well as businesses, affects quality of life, adversely affects employment and productivity, destroys human and social capital, discourages investment and undermines the relationship between citizens and their Governments. According to Crime and Development in Africa, published by UNODC in 2005:

- **Crime destroys Africa's social and human capital:** Crime degrades quality of life and can force skilled workers overseas; victimization, as well as fear of crime, interferes with the development of those who remain. Crime impedes access to possible employment and educational opportunities, and it discourages the accumulation of assets.
- **Crime drives business away from Africa:** Investors see crime in Africa as a sign of social instability, driving up the cost of doing business. Corruption is even more damaging, perhaps the single greatest obstacle to development. Further, tourism, of large and growing importance to Africa, is an industry especially sensitive to crime.
- **Crime undermines the State**: Crime and corruption destroy the trust relationship between people and the State, undermining democracy. Aside from direct losses of national funds due to corruption, crime can corrode the tax base as the rich bribe tax officials and the poor recede into the shadow economy. Corruption diverts resources into graft-rich public works projects, at a cost to education and health services.

One of the fundamental principles of the Guidelines for the Prevention of Crime is the importance of the rule of law and respect for human rights. An international working definition of the rule of law was issued by the Secretary-General in a report on the rule of law and transitional justice in conflict and post-conflict societies:

A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.

4.2.3 Crime – Change and Continuity 1000 – 2018

Period	Date	Crime	Explanation
MEDIEVAL	Anglo-Saxon (400-1066)	Murder Assault Public disorder Rape	People tended to live in small communities and crime was fairly difficult to get away with which limited the range of crimes that were committed. Crimes tended to be against the person, against authority or against property. All of these things have been regarded as crimes throughout British history and continue to be regarded as crimes today. This is evidence of ***continuity.***
		Arson Theft (such as stealing crops) Counterfeiting coins	
		Treason Rebellion	
		Murder, assault, public disorder, rape, arson, theft, counterfeiting, treason and rebellion all continue to be crimes	Continuity with Anglo-Saxons (see above)
	Norman (1066-1154)	New Crimes were created Forest Law (creates crime of poaching)	King created royal forests as his personal hunting playground and cleared away villages to create them. Only those who paid the King to do so could hunt in the forests. Most poor English people could not and were severely punished if found hunting or grazing their animals or gathering firewood in the forest. This created the crime of poaching. Punishments included mutilation or even death. Most people did not regard this as a crime so it is often described as a social crime.
		Murdrum Fine	This was a new law and used to help establish control over the conquered population. If an Anglo-Saxon murdered a Norman and the culprit was not caught, then the whole hundred where the body was found would be punished with a large fine. This punishment was only for the murder of Normans, so murdering a Norman had become more serious than murdering an Anglo-Saxon.
	Later Middle Ages (1154-1500)	Statute of Labourers	With far fewer workers around after the Black Death, peasants could demand higher wages for their work. The ruling classes became worried about the Peasants becoming wealthier and more powerful and did not want to pay higher wages, so they passed this law which made it a crime to ask for higher wages
		New heresy laws	These made disagreeing with the teachings of the Church a crime. A small number of reformers, called Lollards, had been pushing for changes to the church including translating the Bible into English, The clergy felt undermined by this and medieval kings wanted to be seen to uphold church teachings. Punishments were severe including burning at the stake.
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Period	Date	Crime	Explanation
EARLY MODERN	1500-1700	Crimes against the person increased; there was an increase in street criminals and petty thieves.	This was because an increase in the population and the decline of feudalism meant there was higher unemployment which meant more people moved to urban areas in search of work. This meant towns and cities grew.
		Crimes against property increased, for example poaching, as more landowners restricted those who could hunt on their land.	The end of Feudalism and new farming methods led to enclosure of land (fencing it off for the exclusive use of the landowner).
		More people were found guilty of heresy and high treason	This is because of the frequent changes of religion that happened in this period.
	Mainly 1500-1600	**New Crimes - Vagabondage:** a vagabond or vagrant = an unemployed/ homeless person. They often resorted to begging/ thieving/ charity when they could not find work; resented by local population. Viewed as lazy and responsible for their own situation. Late 15th and 16th centuries saw a large increase in the number of vagabonds due to falling wages, increased population, rising food prices and no system to help needy.	Laws were passed to make vagrancy a crime which is an example of how the general population can put pressure on the government to make laws on what they class as a crime. ***1494 Vagabonds and Beggars Act -*** *vagabonds to be put in stocks for 3 days and then sent back to where they came from.* ***1547 Vagrancy Act -*** Able-bodied man without work for 3 days to be branded and sold as slave for 2 years. ***1597 Act for the Relief of the Poor -*** Split vagrants into 2 categories (deserving- elderly, sick and disabled) and undeserving (those fit for work). ***1601 Poor Laws -*** The deserving could be given poor relief by the local parish; the undeserving could be branded, whipped or sent to a correction house.
	1600-1700	**Smuggling:** This is when people bring goods into the country secretly to avoid paying import taxes and then sell them on.	When import taxes on certain goods, including brandy and tea were introduced in the 17th century, the crime of smuggling increased dramatically. Like poaching, it is an example of a social crime; many people didn't see it as a threat, not least because they were benefitting from the cheaper goods that resulted, this made laws against it hard to enforce.
	1542-1700	**Witchcraft:** This had been a minor crime in medieval times that was dealt with by the church courts	It became viewed as a more serious crime in this period. This was because of a change in the definition of witchcraft. In medieval England, witches were seen as people who went against the rules of the church by dabbling in ancient superstitions and magic. However, after the reformation, witches were viewed as being in league with the devil and actively working to destroy the church and to take people's souls to Hell. A number of laws were therefore passed against witchcraft **1542**: Henry VIII made witchcraft punishable by death. **1563**: Charges of witchcraft had to be tried in a common court, not in a church court **1604**: James I instructed the death penalty to be given to people who summoned evil spirits.
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Period	Date	Crime	Explanation
1700 to 1900	1700-1850	There was an increase in crimes such as street theft and burglary, drunk and disorderly behaviour, prostitution and public disorder.	With the rise of factories in towns during the industrial revolution, more and more people travelled to towns looking for work. This meant towns grew bigger and that communities were less tightly knit. Larger towns meant it was easier to escape being caught and some groups of criminals took advantage of this to set up professional gangs of thieves. At the other end of the extreme, low wages for unskilled workers in factories meant extreme poverty for some, and, therefore a rise in survival crimes such as stealing food.
	1700-1830	Highway Robbery	This increased in the 18th century because • *Improved roads led to more people travelling* • *Increased trade between towns meant more goods and money were transported by road.* • Many roads were isolated making it easy to get away with. However, it was a short-lived problem and had disappeared by 1830. This was because: • *As part of the Bloody Code, it became a capital crime to be armed and in disguise on a high road.* • *Mounted patrols on major roads and the growth of the railways helped reduce opportunities for highway robbery.* • *The growth of the banking system meant there was less need for people to carry their valuables on journeys.*
	1700-1823	Changes in Poaching	Poaching increased in the 18th century with poaching gangs that worked on a large scale. This led to the 1723 Waltham Black Act which made poaching a capital crime and also made it illegal to carry snares or own hunting dogs in a poaching area. This was part of the Bloody Code. Many viewed this as unfair and many poaching laws were repealed in 1823.
	1740-1850	Changes in Smuggling: Smuggling increased from 1740-1850 because the tax on imported goods increased dramatically. Smugglers began to make huge profits by bringing these goods into the country secretly, without paying tax, and selling them on. Smuggling finally decreased as a crime when import taxes were cut in the 1840s.	As a result, smuggling became big business and the result was the creation of large gangs of organised smugglers, like the Hawkhurst gang, which smuggled huge volumes of goods. • Mounted customs officers tried to prosecute smugglers, but found it difficult because of the large areas of coast they had to patrol. • Another thing that made it hard for customs officers to catch the smugglers was the fact that many people viewed the smugglers as heroes who brought them cheap goods • Moreover lots of people were involved in smuggling: - the smugglers themselves. - those who traded with the smugglers. - those who bought smuggled goods. - those who gave smugglers alibis.

Period	Date	Crime	Explanation
1700 to 1900	1736	**Witchcraft**: An Act of 1736 decriminalised witchcraft as most people no longer believed in it. People could still be prosecuted for trying to take advantage of others by claiming to be able to perform magic. However, such people were being prosecuted as confidence tricksters, not witches.	Witchcraft stopped being a crime because: • Economic and social changes led to more prosperity and political stability. • The Royal Society, set up by Charles II, led to the development of Science in Britain. As more and more scientific experiments were carried out, science was able to explain things that were previously thought to be the work of witches. This meant that while many poor people might still believe in witches, the educated classes who were responsible for making new laws did not.
	1834-36	**The Tolpuddle Martyrs:** • In 1834, a group of farmworkers in Tolpuddle in Dorset formed a Friendly Society (a type of early Trade Union) to protest at their low wages. • However, the farm owners and the government feared a revolution and had them arrested for taking secret oaths under an old law designed to stop naval mutinies. • At their trial, they were found guilty and transported to Australia for 7 years, a severe punishment, no doubt designed to deter others. • Although there were protests and a petition of 200,000 signatures was collected the six men were transported to Australia. • However, protests continued and in 1836, the Tolpuddle Martyrs were pardoned and returned home.	• The incident highlights how the authorities could use the law to criminalise those they viewed as a threat. Comparisons could be made with the Statute of labourers in the Later Middle Ages. • It also shows how the government would protect the interests of employers at the expense of workers.
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Period	Date	Crime	Explanation
1900 to 2018	1990-2018	**Change and Continuity in Modern Crime.** The modern world sometimes seems to contain a lot of new types of crime. However, although new methods might be used, the crimes committed are often the same crimes as those of past ages.	For example, theft has always been a common crime. However, computers and modern transport have created new ways to steal. Most 'cybercrimes' are new versions of old crimes such as online theft, fraud (deceiving someone to get money out of them) or extortion (using threats to get money from someone). What is new, however, is the scale, as thousands of people can be targeted at once. Moreover, the perpetrators of cybercrime can be overseas which it makes it difficult for the authorities to deal with them. Violent crimes are nothing new either, but the weapons used have changed. Other crimes which are sometimes seen as new are often simply new versions of older crimes, such as drink driving (driving a horse-drawn carriage while drunk was made illegal in 1872).
	1900-2018	**Smuggling**: Smuggling legal and illegal items without paying tax has happened for centuries.	In modern Britain, goods such as cigarettes, alcohol and illegal drugs are smuggled into the country. There has also been a growth in people trafficking. As in the past, some types of smuggling (e.g. smuggling cigarettes and alcohol) are seen as less serious 'social crimes.'
	1900-2018	**Terrorism** is not new - the gunpowder plotters could be described as terrorists.	However, modern weapons, transport and communications mean that more ordinary people are at risk from terrorism.
	1967-2018	**Changing Society and Crime:** Since WW2 Britain has become more multicultural, principally because of the large numbers of Commonwealth citizens who were encouraged to immigrate to help rebuild the country after the war. It has also become more equal, as the position of women has changed, and more tolerant of differences in sexual behaviour and orientation. As a result, some activities which were previously regarded as illegal were decriminalised.	To help protect racial minorities from discrimination and race hatred in the new multicultural society, the following laws were passed: • **1968 Race Relations Act** which made it illegal to discriminate against someone on grounds of their race or ethnicity • **2006 Racial and Religious Hatred Act** - this made the spreading of racial or religious hatred a crime. As society became more tolerant, homosexuality was decriminalised: • **1967 Sexual offences Act** decriminalised homosexuality for men over the age of 21. Homosexuals were given protection from hate crimes in 2005: • **2005 criminal Justice Act** - More severe sentences could now be given for hate crimes against gay people (and indeed for hate crimes based on race or religious hatred. As women were given more equality, society's attitude to abortion changed • **1967 Abortion Act** Decriminalised abortion in certain situations
	1971-2018	**Drug Crimes:** Taking or supplying some substances has been illegal in the UK since the **Misuse of Drugs Act 1971**.	Drugs are classified as to how dangerous they are thought to be. The criminalisation of drugs is controversial. Some think it is important for drugs to be illegal in order to clarify that taking them is wrong, while others consider it a personal choice.
	1900-2018	**Driving Offences**: Self-evidently, these have arisen due to the huge number of motor vehicles now on our roads.	Driving offences include driving while under the influence of drugs or alcohol, speeding, driving without insurance, an MOT certificate, or a valid driving licence, ignoring traffic lights or road signs, driving whilst using a mobile phone.

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LAW ENFORCEMENT 1000-2018

Period	Date	Law Enforcement	Explanation
MEDIEVAL	Anglo-Saxons (1000-1066)	Around the year 1000, most people lives in small hamlets or on farms or on villages or in small towns, known as burhs. In these small, tight-knit communities, everyone knew everyone else and most people had a strong sense of duty towards their community. This was an important reason why the crime rate was low and had an important impact on how the law was enforced.	**Tithings -** shires were split into areas called hundreds and each hundred was split into 10 tithings. All men (over the age of 12) in a tithing were responsible for each other. If one was accused of a crime, the others made sure that he went to court, since they knew they would be fined if he did not. A Shire Reeve (later known as the Sheriff) was a local man, appointed by the community, to take criminals to court and make sure any punishment was carried out. He also met regularly with one man from each tithing. **Hue and Cry -** The victim or a witness to a crime would raise the hue and cry by shouting to alert others. Anyone who heard the hue and cry was expected to join the chase and help catch the suspected criminal **Courts -** If the suspect did not admit to the crime or was not caught in the act, the guilt or innocence of the suspect had to be decided by a court. The most serious crimes were dealt with by the royal court which was a national court. Moderately serious crimes were dealt with by the Shire Court and petty crimes were dealt with by the hundred Court. Court hearings usually took place in public at a prominent point in the landscape. **Oaths -** Swearing oaths before God was a major part of Anglo-Saxon justice. The accused would swear their innocence under oath and others would support them as oath helpers. The numbers of oath helpers required to prove innocence would depend on the seriousness of the accusation. It might seem like this was open to abuse. However, it must be remembered that swearing a false oath was regarded as a grievous sin which could result in the swearer being sent to Hell when they died. If the person's guilt could not be decided the accused would be handed over to the church for a trial by ordeal.
		Trial by Ordeal; this was first used in Anglo-Saxon times, but was still being used at the start of the 13th century. People were sent for a trial by ordeal if a person's guilt could not be decided by a court. Various methods were used, but they all had one thing in common: the outcome of every ordeal was seen as God's judgement on the guilt or innocence of the person accused. (NB: The trial by ordeal was part of the law enforcement system, designed to establish guilt/ innocence; it was not a punishment).	• **Trial by hot water or by hot iron -** if the scald/ burn healed well, the person was innocent. If not, they were guilty. • **Trial by water -** if the person sank they were innocent (the pure water had accepted them). If they floated they were guilty (the pure water had rejected them). • **Trial by Consecrated Bread** (for priests only): If they choked on the consecrated bread they were guilty!

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Period	Date	Law Enforcement	Explanation
MEDIEVAL	Norman (1066-1154)	After 1066, the Normans kept much of the Anglo-Saxon system of law enforcement.	**Continuity -** The Anglo-Saxon system of tithings, the hue and cry and the court system continued. Law enforcement, in most cases, remained the responsibility of the community. **Change -** The Normans introduced trial by combat (showing the more military nature of Norman society) as another way of establishing guilt and settling disputes. The two people would fight until one was killed or surrendered (and he would then be put to death anyway). **Another change** was the introduction of foresters who were used to police the forests and enforce the forest laws. They dealt with suspects harshly and were feared by local communities.
	Later Middle Ages (1154-1500)	As towns grew through the 13th and 14th centuries, so did crime. Although communities were still involved in law enforcement, the authorities became more involved appointing officials to oversee law enforcement	**Community Involvement in Law Enforcement:** • **Continuity -** Tithings and the hue and cry remained part of the system. • **Continuity -** Trials by ordeal continued until 1215. • **Change -** Trial by ordeal and combat were abolished in 1215 because the Pope decided they had nothing to do with religion and were just superstition; he told priests to end their involvement. • **Change -** communities began to appoint parish constables to oversee law enforcement in the community. The constable would be appointed for a year. This was an unpaid job, but they usually did their jobs well because of the status it gave them in their community. From 1250, the constables would lead the chase after the hue and cry was raised and arrest the suspects when captured. • **Change -** Some towns also had a night watch, in which volunteers patrolled the streets. Any suspected criminals caught were handed over to the constable. **Role of Government appointed officials** • **Change -** From 1195, Knights were appointed by Richard I as keepers of the peace in some unruly areas. In 1327, Edward II extended this to all areas. • **Change -** Following the justices of the Peace Act (13610, the role of keeper of the peace evolved to become justice of the peace (often known simply as JP). JPs had the power to hear minor crimes in small courts (called quarter sessions) 4 times a year. They were still appointed by the monarch and were mostly local lords. • **Change -** The role of the sheriff expanded; he was expected to track down criminals if the hue and cry had not worked. From 1285, he was able to form a posse of local men to help chase and catch criminals.

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Period	Date	Law Enforcement	Explanation
EARLY MODERN	1500-1700	The increasing size of town populations was an important factor for changes in law enforcement. Traditional methods became less effective and a more organised system was put inplace where both the town authorities and local communities played a part. The role of the church in law enforcement decreased.	• **Continuity** - The expectation that people would join the hue and cry if raised remained an important part of law enforcement. • **Continuity** - There was still no national police force, so there were regional variations in the way the law was enforced. • Change - There were, however, changes to the roles of town constables and watchmen to try to deal with the increase in urban crime: **Town Constables:** • They were now employed by the town authorities (previously the job had been unpaid). • They had the power to arrest suspects and take them to the JP. • They were in charge of the members of the watchmen. • They also, now, helped with town administration. **Watchmen** • They carried a lamp to light their way. • They rang a bell to alert people to observe the curfew and remain indoors. • All male householders were expected to volunteer and the role was unpaid. • They patrolled the streets between 10a.m and dawn. • They were overseen by the town constable.

Period	Date	Law Enforcement	Explanation
1700 to 1900	1700-1800	Industrialisation and urbanisation were major factors which increased the crime rate after 1700 and created the need for better law enforcement. As a result, this period saw the development of more official forms of policing.	Continuity: in most towns, watchmen continued to patrol the streets on foot at night, whilst parish constables dealt with petty crime. Soldiers were used to put down riots and large protests across the country. **Changes:** There were some changes in London, brought in by the Fielding brothers. • In 1749, Henry Fielding established the **Bow Street Runners** to try to tackle the huge crime wave. Henry's brother, John, took over from Henry in 1754. • The Bow Street Runners introduced new methods of finding evidence and bringing criminals to justice - they were the first modern detectives • They also branched out into patrolling major roads on both foot and on horseback. Their mounted patrols played a major role in reducing the activities of highwaymen in the London area. • At first, the Bow street Runners charged fees and collected reward money. However, from 1785, they were paid by the government • The Fielding brothers also introduced a newspaper called 'Hue and Cry' which enabled those interested in law enforcement to share information about crime and criminals with others all over the country. This was the beginning of a crime intelligence network. ***The Bow Street Runners were not a police force, but they were significant because they did show the politicians how a police force, if established might work.***
	1800-1900	**The Metropolitan Police** In 1822, Robert Peel, the Home Secretary, set up a parliamentary committee to look into the issue of policing London. The committee recommended that Peel should look into setting up a centrally controlled police force for the whole city. Parliament was not sure whether this was a good idea at first, but when the city was hit by a huge crime wave in 1826, they changed their minds and finally agreed to the setting up of the Metropolitan Police in 1829.	• The police were focused on preventing crime and disorder. They therefore patrolled areas where crime was high. By doing this, they successfully reduced street crime and disorder. • They were to be impartial and objective • Recruits were carefully selected and trained.; being a police constable was a paid role. • Members had a uniform so they could be identified, but care was taken to make sure that they did not look like soldiers. Peel did not want to feel that he was using the army to keep order. • Members were unarmed and were trained to use the minimum of physical force (and then only as a last resort).
		The 1856 Police Act: This meant that professional police forces, based on the model of the 'Met' had to be set up in every county.	• All forces were funded by the government and were regularly inspected by government officials. • As well as preventing crime by patrolling the streets, police forces were now also given the job of detecting criminals after crimes had been committed, but their main role remained one of deterring crime.

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Period	Date	Law Enforcement	Explanation
1900 to 2018		Although communities continue to play a role in modern policing, the main role is now taken by the police. The role of the police has changed since 1900,	Changes to the Police since 1900. • Motorised transport means that police can reach crimes faster. However, it does also mean fewer police officers on the street, which some people don't like. • Some police officers are now armed and look like soldiers which not everyone supports. • The police force has evolved with the times and its officers now include women and members of ethnic groups. • Changes in technology and in the challenges the police face have resulted in specialisation to tackle specific types of crime. For example, some officers specialise in dealing with certain crimes, such as rape. Specialist units have also been set up including - The National Crime Agency (NCA) which seeks to detect and prevent serious organised crime, including large scale drug trafficking. - The Economic Crime Unit: this investigates large scale fraud; officers joining this unit need specialist understanding of financial systems. - Police Central e-crime Unit (PCeU): This tackles the most serious types of cybercrime and raises awareness on e-safety. - Special Branch: Each local force has a Special Branch which aims to prevent all forms of terrorism.
		Role of the Community - Neighbourhood Watch	From 1982, Neighbourhood Watch groups have used volunteers to help prevent and detect crime in the neighbourhood. The idea was to increase vigilance and education to prevent crime, as well as to reduce the fear of crime. It has met with varying degrees of success.
		Crime prevention: Much of modern policing is about preventing crime as well as catching criminals	• Police Community Support Officers (PCSOs) were introduced in 2002 to try to prevent crime in their communities. • The police also work with schools and community groups, such as the Neighbourhood Watch, to educate people to help protect themselves and their property. • The police also play a major role in the government's Prevent Programme which aims to challenge extremism and radicalisation.
		Use of Science and Technology	• Rapid advances in technology have had a big impact on preventing, prosecuting and discovering crime since 1900. e.g. radios, finger printing, DNA evidence, CCTV, computers (especially crime databases), cars, motorbikes and helicopters.

CHAPTER 5

5.1 Conclusion

Crime rate in World has been considerably increasing from ancient to modern and the convictions rate hard become very low and that too the courts have been awarding very megre punishments by using their vide discretionary powers. There are more chances to get lenient punishment by the proved offenders due to loose frame work of the legislature in fixing the punishment for several offences in the Code. There is more probability to apply the personally favored brain and individual opinion of the judicial officers while conforming the sentence to the offenders, due to wide discretion available in the present sentencing jurisprudence. So that, there are more chances to escape for the accused from the clutches of the law. Already Indian Criminal Justice System is working on the motto of "hundred criminals can be escaped, but one innocent should not be punished". In these circumstances, if the minimum punishment is conformed in the penal statutes in general and in Indian Penal Code in particular as it is covering substantial portion of the offences in India by the legislature through amendments ,the trial court judge will be curtailed by the Statute and he is forced to give punishment within the limit stipulated by the legislature. Crime is age-old phenomenon, a deep rooted evil, born and developed along with the development of man and gradually became universal malady afflicting each and every society. There are various reformative steps which can be taken to curb different crimes which are increasing rampantly. It became growing societal menace and it is a constant threat to everyday is peaceful existence. It is endemic in all governments and there is hardly any society which is totally free from the menace of crime or totally controlled the crime rate, but it has become rampart in India and reached disconcerting levels particularly after Independence. Actually the crime rate of any country decides the safety and security of the people along with the developmental aspects of that country. Crimes can be found in all walks of life and has effected every sector of the society. The present age old colonial punishment system is not suitable to control the offences it should undergo a radical change. The only one way to control the crimes and to diminish its allied bad effects on the society is imposing proper punishment to the responsible persons and implementing them without any delay.

The historical background of punishment and its implementation shows that the punishments in those days very barbaric, inhuman, fearful and uncivilized and their implementations were also very peculiar. The ancient forms of punishments which are more uncivilized and inhuman such as felting stones until death, parodying nakedly on the Ass in the main streets of the village, cutting of ear, nose, fingers, legs and hands for different offences, branding different kinds of figures on the body of the convicted person etc. changed to acceptable forms of punishments in view of the changing tendencies of the people.

According to the ancient Hindu System even from the days of Gautama that in default of the king or his officers in recovering the stolen properties from the thief, he should compensate the owner from his own treasury. Thus the system of compensation to the victims has deep roots in our ancient Hindu Jurisprudence. It has been continuing even in modern Jurisprudence also .There are no substantial provisions to award compensation to the victims of crime. Only Section 357 of Cr P C has empowered the court to award compensation to the victims of crime. The society appreciates that law should not sit simply while those who defy it go free and those who seek its protection lose hope. It is now felt that as Prof. Friedman has observed,. "What kind of conduct an organized community considers at a given time, sufficiently condemnable to impose official sanctions, impairing the life, liberty or property of the offender is a barometer of the moral and social thinking of a community? Hence the criminal law is peculiarly sensitive to changes in social structures and social thinking. Social changes affect criminal law in many ways through development in science; specially in biology and medicine through changes in the moral and social philosophy through changes in the structure of the society specially in its transition from a rural self-contained and relatively sparsely populated to a highly urbanized and industrialized pattern."

Punishment was defined by several jurists in several ways. The consolidated meaning of all the definitions is to subject the offender to fear of pain and loss of purse. The change which will bring in the mind set of offender due to punishment and his restricted life style will deter other like offenders not to commit any offence.

The purpose of the penal law is to express a formal social condemnation of forbidden conduct buttressed by sanction calculated to prevent it. There was a close relationship

between religion and criminal law in Mohammedan political practice in the eighteenth century. When The views held by one Government and its successor differ fundamentally and corresponding change can be expected in the law of crimes and in the administration of criminal laws. Such a fundamental change took place between 1773 and 1861 in India.

The nineteenth century witnessed the introduction of English Law in India. The Indian Penal Code drafted by Lord Macaulay was introduced in India. In 1833 Lord Macaulay persuaded the House of Commons that the ideal moment had come for codification of Indian Laws. The Indian Penal Code which is the first code prepared by the English authors is praised all over the World in there days due to its greatness in arranging the provisions, defining the offences, division of offences into chapters, simple words used in provisions. It became a model code to some of the adjacent countries. The Code has been in implementation since about *VA* centuries without undergoing to any comprehensive amendment so far. The punishments fixed to the most of the offences defined in I.P.C. are aged about 149 years and offences which are less grievious in those days became more grievious today.

The scale used by the framers of Indian Penal Code who were the English Commissioners to measure the gravity, seriousness of offence was social, economic, religious and political set up prevailed on those days. So the punishments which are really fixed between the years 1834-37 and subjected to alteration by additions and omissions in the hands of eminent English people about 27 years could not be continued as such in the light of present changing scenario.

The United States of America, France, United Kingdom and Canada are the some of the countries whose Penal Laws are more strengthened by keeping the social change in view for effective control of Law and Order. Every citizen should, with a reasonable degree of certainty must know the potential penal consequence of any act he/she commits. Law and order can be maintained through sociological jurisprudence that is social engineering, as opined by Rosco Pound. The objective and philosophy of the penal law is the same as that of sociological jurisprudence. This is unfortunate, for the absence of a distinct sentencing phase and the attention to sentencing process which enables and impedes the growth of a mature jurisprudence. By maintaining law and order social welfare can be attained in any society very easily.

Many acts amounting to offence under local usage of Mughal rule and Hindu Law were not considered as offences in 1860 Code as those offences were defined afresh in the Code as was suitable to the then prevailed system of the society. So also now after about one and half century it is necessary to re determine punishments as is suitable to 21st centaury. As the time and tide wait for none ,so also the penal law must change in line with the time and punishments should be re-determined by keeping in view the present social scenario. As N.R.Madhava Menon stated the object and function of law is the creation of a just society. The problem is that law is constructed in different periods of history and carries with it past interpretations that served different purpose in different periods and the countries continued to follow the legal systems of their former colonial powers have a problem in adjusting their constitutional aspirations with the inherited legal ideas and institutions.

With the development of science and technology so many new kinds of things are taking birth which could not be foreseen or even dreamt of in 1860. the computer or its value was not so much known to people about 25 years ago. One could not think of this speedy development of cyber law. It is, therefore, necessary for the law makers, lawyers and judges in particular and people in general to give a fresh thinking on the subject and change the old laws and bring the new laws as required for today and tomorrow. The notions of criminal jurisprudence as contained in the Indian Penal Code originally drafted are not the same as the notions of today. So that, the Indian Penal Code which is the first Code of the Land and the punishments in which are not changed as suitable to the present circumstances either through central amendments or State amendments considerably except very minute changes.

The 35th report of the Law Commission of India states that India cannot risk the experiment of abolition of capital punishment as the paramount need is for maintaining law and order in the country. The Supreme Court observed that death penalty has a deterrent effect and it does serve a social purpose and that the law relating to death sentence need not be re-considered. The primary duty of the society is to protect innocent and law abiding citizens rather than take the spacious plea on behalf of persons who are not civilized and in human. Reformation of a hardened criminal like a person who commits deliberate murder after pre-meditation may be a good idea, but the possibility of his not being reformed after undergoing the sentence should be taken into account. It is

common knowledge that death sentence serves as a deterrent and will act as a deterrent for prospective murderers, excepting in cases where the murder committed on the spur of the moment. Planned murders, murders for money as in the case of professional criminals, dacoit accompanied by murder, murders of several persons, causing death of victims of rape are some of the examples in which death sentence would certainly act as a deterrent.

The aim of criminal justice system of a country is to protect the society. The society and individual must amicably respond to the system simultaneously.

The Penal law and criminal procedure are two insuperable wings to protect the society. Law is administered through Courts. Social welfare can be achieved through the modernization of punishment system in India.

The concern for the mother and the child and social issues like female infanticide domestic violence, organs transplantation, development of science and technology, rapid industrial growth abnormal development of communication system, growth of literacy, globalization, enhanced earning capacity of an individual such other are emphasizing the need of total new approach in the matter of punishment. The amount of fine fixed for several offences prior to 1860 has not at all till today revised. Now people are living in an age of galloping inflation. Money value has gone down. Incomes have increased and crime has become low risk and high return adventure particularly in matters relating to economic offences and offences like criminal misappropriation, criminal breach of trust and cheating. It is essential that those crimes which are more serious and heinous must be tackled urgently through legislative and other measures. Sunset provisions should not be continued in statutes keeping in view the continuing changes in economy and technology. Such provisions should not be allowed to become out-date which can be ensured by comprehensive drafting of those statutes to cover future exigencies.

Law Commission of India the then Chairman Justice A.R.Laxman has directed Chief Ministers of 20 States to set up State Law Commissions to review outdated laws and to update the Legal system, in his letter to them, Justice Laxmanan stated “In the fast - changing social, economic and political scenario in the country and to meet the ever increasing aspirations of the common man, the legal system needs to be continuously reviewed and updated, otherwise it would be proven to become absolate, losing its

epicasy and adequacy and consequently seized to be an instrument of dynamic social order and development. He emphasized the need of change in the laws"

The Revision of Laws was a continuous process in a developing country and the role of Law Commission is to make recommendations to the government for effecting changes in the existing statute and to enact new Laws from time to time in the larger public interest. Enormous damage has been done to India by the maintenance of largely unreformed colonial institutions.

There are lot of new forms of crimes that have manifested in the twentieth and twenty first centuries. False advertisements, destruction of public property, preparation for rioting, disfigurement of monuments and building, false certificates by the government officials, police atrocities, knowingly engaging unsafe vehicles as public carriage, defaming a person involving character assassination, kidnapping for ransom, fraudulent financial transaction by blade mafia, extracting higher rates of interest for loans, etc should be criminalized with appropriate punishment. Companies could also be subjected to punishments under criminal law. Recidivism is rampant in the country. The Penal Code should include a provision enabling the courts to go for a harsher punishment for these repeat offenders.

There are two developments in India which require special attention. One is the alarming growth of population and the other is the rapidly increasing industrialization of the country. Hence the laws of the nation has to be changed in resonance with the changing circumstances, situations .changing aspirations and attitudes of the people in that particular nation. Thus the law should not be static.

Penal Code required amendment almost immediately after it became law and the first set of amendments came in the year 1870. In other cases amendments became necessary for administrative reasons. In some other cases the Code had to be amended to bring the law in accord with international requirements, and conventions But, all that the State wants cannot be put into one piece of legislation by modifications and amendments, hence a large number of additional penal laws have been enacted since 1862. Some of them are special laws relating to particular matters but having all India application.

The time has come to thoroughly examine the substantive criminal laws and to streamline them. Obsolete provisions should be dropped and Indian Penal code which is most important and prominent substantive law in India contains some obsolete provisions which became powerless due to old age and completely changed conditions when compared with the present time with the time when they were born. Within the last one hundred and fifty years, there have been piecemeal amendments to the Indian Penal Code in more than seventy five occasions, but these have been served mostly patch work job. The present age old colonial legal system regarding punishments should undergo a radical change.

Law and order situation is worsening every day. The Indian people are passing through difficult times. Therefore the Criminal Justice system has to be re-strengthened by giving more sharpness to the teeth of Penal statues in general and to India Penal Code in particular.

Today's way of life has become more complicated and complex. Apart from scientific developments and inventions, the concept of globalization, liberalization, and modern technology has given rise to many challenges and problems. Our society has covered a long distance and all man-made progress is due to man's innovative character, imagination and inquisitive. Man is distinct from other animals because it has the faculty of brain and thereby he is empowered to think and analyse anything rationally. Man has developed certain resources or measures to meet new merging problems.

The authors of the Penal Code state that the punishment of fine is for offences to which men are prompted by cupidity and it is punishment which operates directly on the very feeling which impels men to such offences. The sentence of fine is allied to forfeiture of the property. It is forfeiture of money by way of penalty. It has been justified by the Law Commission on the ground of its universality.

As per Justice R.V.Raveendran of the Supreme Court. The real power of the judiciary is in the trust, faith and confidence of the common people in the system. A justice system that was fair, swift and affordable was also a tool for growth and development. More than six decades after biddding farewell to the British, the imperial jurisprudence is die hard and the Indian courts are even today copying the British precedents as Indian Law.

The Bar and the Bench have borrowed even their costume including the collar and bands from the British India is in dress and forms of address in precedents and in parliamentary privileges a foster child of British.

There is still no bar for trying the corporate perpertrators of the Bopal tragedy including Warren Anderson Justice V.R. Krishna Iyer stated " The Bhopal mega-crime trial is over, the barbarity has ended in a light sentence, although the victims are countless. Eight officials of the erstwhile Union Carbide India Limited have been convicted and sentenced to two years rigorous imprisonment. The judge has given the maximum possible punishment Under Section 304A of IPC which has been in force in 1870. Which is inserted by Section 12 of IPC amendment Act, 1870 (27 of 1870).

A colonially-designed administration cannot serve the citizens of a contemporary republic, and so institutional reform is more important to ensure transparency and genuine public accountability. A cruel irony lies in the fact that India's former colonial ruler, the United Kingdom, has radically transformed its own systems of civil and criminal justice over the last two decades. The Union Law Minister Mr. Moily recently expressed his opinion on the age old colonial laws by saying Judicial reforms cannot be done in a partial or fragmented way. There has to be a holistic approach.

There is need to identify and judge the magnitude of social evils and to take necessary steps to remove them. The inadequate punishment to the offences and continuing with them since colonial period is one of the significant evil prevailed in our society. By maintaining law and order social welfare can be attained. So it is essential for the Parliament to consider the imperative need to amend the punishments in Indian Penal Code which contains bulky of colonial style punishments conformed by the then English Commissioners which are not altered so far.

A brief survey of the trend of legislative endeavours by analyzing various amendments done to Indian Penal Code may also serve to indicate whether the people's consciousness has been projected towards narrowing or widening the scope for infliction of death penalty and punishments to other offences. Current criminological theories, the march of the abolitionist movement across the continents, the national heritage and voice

of the makers of modern India and parliamentary rethinking on reform of the Penal Code may also be indicators.

Punishments which are need to be changed through amendments to made them more apt and justifiable to the present day Indian society is important requirement. Although there has been some changes made to some of the punishments of offences defined in Indian penal code, yet there were no significant, comprehensive and substantiated reforms brought about. The Government of India has taken several steps to revitalize the criminal justice system of India which is flavored, colored, molded with colonial brains. Constitution of several committees like Santanam, Malimath is some of the recent initiations taken by the Government to strengthen the Indian Criminal Justice system. But the recommendations of these committees are kept aside so they could not see the light of the day. Money and mind power become waste as those recommendations were in vain without implementation. As said by the eminent jurist Fali Nariman while expressing his opinion regarding the constitution of the Malimath Committee that, "it is last bus to go". Thus it is high time to India being emerging power in all fields of the world and more often called by other nations as knowledge hub must become able to bring comprehensive changes in the punishments mentioned in Indian Penal Code which are confirmed in the 1st quarter of 19th century basing on the social, economical and religious, political conditions prevailed on those days, at least in the 1st quarter of 21st century to made them more adequate, reasonable and justifiable to the present situations prevailed in India for maintaining the orderly society and to give more strength to the rule of Law as enshrined by the founding fathers of the Constitution.

In the last it is observed that the punishment system in world is not perfect. It has to be changed as early as possible through the comprehensive amendment to the Penal Code to protect the Crime system which is already in peril. The default sentences in case of offences punishable with fine only is presently very meaningless due to highly enhanced earning capacity in the society. Any prudent person can say that there is vast variation in economic position between the people in the periods of 19th century and 21st century. In between these two periods unexpected abnormal changes took place in the society. The offences punishable with 3 years, 2 years, 1 year, 6 months, 3 months and 1 month contains fine as additional punishment in some sections and to other sections fine is given as option of the trial court is very progressively developing in all fields with

supersonic speed and competing with the most developed Nations and has been waiting to become member of the U.N.O continuing with Statutes having obsolete provisions is very bad and shame on part of our legislatures. In our country 10 States out of 23 amended the Code several times as for exigencies, re substituted the section 182, 292, 293, 294, 375, 376, 484, 485, 486, 487, 488,489 and 505 in places of original sections so far.

SUGGESTIONS:

After thorough study the researcher made the following suggestions for the better functioning of Penal Code in crime and punishments area if carried out effectively:

- All the Sections of Penal Code which mention punishment with fine only should be amended by enhancing the fine amount keeping in view of the country's present economic position.
- Punishment must be specifically fixed to the recidivists by enhancing the punishment proportionally to each time.
- The petty offence must be punished by ordering them to do the public service or community service in a selected institutions instead of imposing fine or sending them to jail to under go short term sentences.
- Amendments should be made to all the offences in the Penal Code which are punishable more than one year imprisonment either with fine or without fine by fixing minimum punishment.
- The offences in which imprisonment or fine or both is fixed as a punishment by giving wide discretion to the court should made uniform in the entire Code through proper amendment.
- The punishments for offences which are not touched by the legislature since 149 years should be re-strengthened by bringing changes to them, basing on the changed circumstances in the society.

- The permanent Statutory Committees should be established at both national and international levels to monitor the sentencing process.

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