# CHAPTER ONE

## INTRODUCTION

The aim of this study is to outline the difficulties confronting the court when fitness to plead and insanity defence are contested.

The relationship between fitness to plead, insanity and crime has been of interest to man from time. This is particularly so when crimes like homicide (murder) have been committed.

Prior to the trial (Pre-trial phase), fitness to plead is usually contested. It is not unusual for a person appearing before the court to be unfit to plead. The jury, by resorting to the trial of facts, determines whether the accused committed the act or not. With regards to the Soham Killings, Huntley's "fitness to plead" was questioned. As a result of this he had to be remanded under section 35 of the Mental Health Act 1983, for a medical report at Rampton Special Hospital. The issue here is to ascertain that the individual has got sufficient intellect to be able to plead to the indictment and also understand the proceedings sufficiently to challenge jurors, take in the evidence, and make a proper defence. The test for this purpose is that set out in R V Pritchard.

The fact that a criminal is insane, can affect the normal processes of the law at the trial phase. The legal position would be to divert as many mentally disordered offenders as possible from prosecution or penal disposal towards the health and social services.

Defendants who are insane and cannot stand trial are often entitled to the special verdict when they are found not guilty by reason of insanity. The most celebrated case in this regard is that of William McNaughten who in 1843, shot dead the then British Prime Minister's Secretary but was acquitted on grounds of insanity (MacRac, 1973).

In this study the difficulties encountered at the pre-trial and trial phases of the court process in the context of unfitness to plead and the insanity defence will be examined.

(1) R v Pritchard [1836] 7 C & P 303