Report

Panel Discussion

On


Symbiosis Law School, NOIDA

April 06, 2013
Introduction

Symbiosis Law School, NOIDA, Constituent of Symbiosis International University, strives towards supplementing reforms in the field of law; to groom students to become the unified face of our legal fraternity, to produce knowledge disseminators and to produce individuals who are the torchbearers of the legal system of the country. Our effort is aimed at producing an intellect that believes in reforming rather than punishing and has the potential of hoisting the flag of truth and justice in an unfailing manner.

As a part of this strive, learners including Dr. Madhuker Sharma, Assistant Professor, Symbiosis Law School, NOIDA, Ms. Manpreet Kaur, Mr. Harshit Manaktala and Mr. Aditya Bakshi, Second Year Learners worked on a Research Project (Empirical) with an academic stint titled - “A Study on Efficacy of Enhanced/Increased Age Prescription for Male Child under Juvenile Justice (Care & Protection of Children) Act, 2000” during April 2012-February 2013. The relevant data was collected after interview of officials of ‘Juvenile Justice Board, Delhi’, officials of ‘Juvenile Homes, Delhi’, ‘Juvenile Welfare Officers of Delhi Police’, and ‘juveniles’ currently in Juvenile Homes.

It was the result of the hard work put in by these diligent researchers that dawned on the glorious day of April 06, 2013 where the findings of the report on “Panel discussion on defining juvenile in conflict with law: limits of ‘Objective definition’ under Juvenile Justice (care and protection of children) Act 2000” was put up in front of a panel consisting of legal luminaries like Hon’ble Justice Dr. Arijit Pasayat (Retd.) Judge Supreme Court of India and Chairman, Competition Appellate Tribunal; Dr. B.B. Pande, Professor of Law, Campus Law Centre, Faculty of Law, University of Delhi, India (Retd.); and Advocate R. R. Kishore, Senior Advocate, Supreme Court of India and others.

Dr. C J Rawandale, Director, Symbiosis Law School, NOIDA while delivering the Welcome Address emphasized on the fact that the research project was initiated in February 2012 with academic stint rather than moved by any incidence.
Report “A Study on Efficacy of Enhanced/Increased Age Prescription for Male Child under Juvenile Justice (Care & Protection of Children) Act, 2000” was released by Hon’ble Justice Dr. Arijit Pasayat (Retd.) Judge Supreme Court of India and Chairman, Competition Appellate Tribunal. He personally felicitated all the members of the research team.

Dr. Madhuker Sharma shared his experiences including the difficulties faced by him and his team, while gathering this report with the august gathering. Dr. Madhuker followed up by stating and giving a brief presentation of the report, which was followed by the three remaining researchers sharing little nuances, and other such little humorous anecdotes experienced by them whilst gathering data and carrying out the research.

The Panel and Discussion

This paved the way for the panel discussion to begin with Dr. Grijesh Shukla, Assistant Professor, Symbiosis Law School, NOIDA introducing the theme elucidating on how a topic which was considered to be completely irrelevant when the research was undertaken became of extreme relevance in the light of the Delhi Gang Rape Case. According to him, age and social background are two important factors that are to be considered
while drafting a law regarding juvenile delinquency.

Following this, **Hon’ble Justice Dr. Arijit Pasayat** gave his commentaries on the current juvenile delinquency laws by stressing on the fact that today the emphasis is on an early disposal of cases and this is a huge problem with juvenile cases due to the complexity of the situation. He pointed out that a minor who has committed an offence should be called ‘a juvenile in conflict with law’ and not a ‘juvenile delinquent’ as the term ‘delinquent’ carries a stigma and that the ultimate purpose of law should not be defining the age limits of a juvenile offender but instead should be a medium that figures out what urges them to commit such delinquency. He ended his commentary by stating- “One should start with children who can be molded and that the purpose of this act should be to obliterate delinquency and not stigmatize it.”

**Professor B.B. Pandey** according to whom maturity cannot be defined by contour carried the discussion further on. It’s a term constituted by various mental factors as researchers have shown that the age of sexual maturity is lower than the age of cognitivity. The age of maturity varies between the age of 16-18 and is also affected by various factors that include gender, income, etc. according to him, India is a country where women and children have faced a raw deal. Women and children are often used as a singular term due to gender and tender discrimination. He commented that ours is a country where infanticide is rampant and often clouded by superstition. While quoting from the 9th jail committee report that stated that there should be a separate retention, capture and trial of children. Therefore it is a question of ideology whether juvenile offenders should be treated same as adults or different from adults. While suggesting reforms he stated that juvenile homes should be ideal places where offenders should not be scared of going, but instead be a place that allows them to have a better chance at life.

**Adv. R.R. Kishore** started off his discussion by stating that two fundamental questions arise when juvenile justice is given a thought:

1. Who is a juvenile?
2. Quantum of immunity to be given to a juvenile offender.

He defined a juvenile by taking into consideration scientific studies which state that the mental and intellectual developments continue till the age of 25. Thus the age of 18 is the legal age of 18 is only the legal age of maturity and not the scientific age. He raised another basic question- whether factors such as severity of crime
should also be considered as a factor while determining the punishment or is age the only criteria.

He went on to compare various other legislations from countries like Canada, England, with the juvenile act that is implemented in India. According to him the juvenile act has failed to harmonies the rights of the public and those who are a minority. The children need to be protected but the protection given needs to be balanced to ensure that the offenders who are mature enough to understand the repercussion of their crimes are brought to justice.

Dr. Madhuker Sharma gave the final comments where he defended his report as against the comments made by the panelists. He gave his thoughts on why a juvenile delinquent should be called as a juvenile in conflict with law, and why a juvenile home should be instead called an observation center. According to him the offenders must be given the right to representation and participation to defend themselves. He quoted from the Beijing rules that specifically give a country freedom to define a juvenile between the years of 7-18 years, where the minimum age is to be selected by the state. The conclusion of his comments was followed by a question and answer session, where the various questions posed by the audience were answered by the panel.

The discussion came to an end with Hon’ble Justice Dr. Arjit Pasayat’s comment - “why not give repentance a chance as rehabilitation is the ultimate purpose of law”.

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