

## MEASURES AND PROVISIONS TO CURB RAGGING: A LEGAL PERSPECTIVE

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Received: 20.10.2009,

Accepted 30.12.2009

### Abstract

The forms and traditions of ragging may vary from one place to another, but the greatest common factor in ragging in any educational institution is the creation of an environment of constant fear and intimidation of freshers, wherein even the air they breathe becomes suffocated. If education, and particularly Higher Education, is to serve as the lever to the great surge forward of the Indian nation, the scourge of ragging which corrodes the vitals of our campuses needs to be curbed. There is a dire need to make a Central legislation on it. IPC should be amended to include Ragging as an offence. Severe punishment should be prescribed in case of ragging with women or weaker section. Delay in taking action with ragging cases will destroy the academic carrier of a student especially in sub judge matters so there is an urgent need to establish fast track courts by amending Criminal Procedure Code to make speedy dismissal of cases possible. Institution should also take disciplinary action within specific time-frame. Student charged with any errant act, should be given an opportunity to have his say leaving the cases of 'res ipsa loquitur'. There should be complete ban in cinemas and TV serials on those scenes in which heroes out of youngsters indulged in ragging.

**Key-words:-** *Ragging, IPC, Legislations, Judiciary, Prohibition, Prevention, Punishment*

Ragging is not a new phenomenon. It existed even in older times<sup>1</sup>. It was the part of civilised societies, where it was used as a means to tease or play practical jokes on someone, especially fresh entrants in the schools, colleges, universities or any other educational institutions. Gradually, it has turned into, not only a serious problem but also

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<sup>1</sup>Regarding the origin or initiative steps of the ragging, it can be traced back to the Seventh or Eighth Century A.D. In the period 1828-1845, several student organizations called fraternities popped up in United States Universities. Freshers to these fraternities were known as pledge. During this time, ragging called as hazing existed in its rudimentary form and was merely a ritual to test the courage of the pledge. In ancient Greece, freshers to the sporting communities were subjected to humiliation and teasing to inculcate team spirit in them. At that time, ragging was a harmless practice rather permissible in the society but it had taken the shape of brutality, humiliation and harassment after the First World War. The soldiers returning from the War when re-entered in the colleges, brought with them the technique, style or forms which they had learnt and faced in army atmosphere. Actually, these forms were devised to highlight the importance of the team. Gradually, these techniques and forms passed on those persons who did not know the real meaning of the technical word 'hazing' or 'ragging'. The University of Kerala vs The Council of Principals of College in Kerala & Ors 2009 SCCL.COM 435, (2006) 8 SCC 304. Now, Ragging has different names in different parts of the world like hazing, fagging, pledging, horse-playing, bullying etc. each signifying the practice of welcoming the fresher in a barbaric manner. In India, It was started during the British Empire mainly in the Army and English public schools but it became noticeable only after independence. Then, ragging was meant only that seniors mocking and jesting at juniors. Here, ragging was never a serious problem till before 1960-70. From 1980 onwards cinema and western culture played a vital role in influencing ragging in its brutal and violent forms in India Ragging became more rampant and severe due to rapid mushrooming of private engineering and medical colleges during the 90's mainly in South India. It is generally observed that engineering, medical colleges are more prone to ragging incidents and the worst forms of ragging are mostly reported from there. <http://www.noragging.com/index.php/Research/Reports/Ragging-History-and-Evolution.html>

a social stigma. It has become synonym of teasing, terror, harassment, cruelty, fear and physical and mental torture. Every year, lakhs of students are physically tortured and psychologically terrorized. They are being forced to go through shocking, extremely vulgar, most inhuman, barbaric, indecent, immoral, heinous and unprintable forms of ragging. Several students, victim of ragging viz. physical injuries, sexual abuse and violence like forcing to smoke a cigarette, taking drugs, etc. left the educational institutions, while some have attempted to commit suicide and even some have committed it. The act of ragging is a 'fist of steel against ice' and it shattered the ambition, aim and object of freshers, they become aloof in this practical world<sup>2</sup>. However, ragging is rationalised and justified as a way of introduction or getting familiar with the freshers at the starting of an academic session of any educational institution. Further, it is argued that otherwise freshers would not respect the seniors but seniors under the garb of 'Introduction' have started ragging the freshers simply to bring them down to earth, to make them under their control.

### **Ragging : A Human Right Abuse**

Reported incidents of ragging may be considered as a major obstacle in realization of Right to Education and Freedom of Thinking and Feeling<sup>3</sup>. It is a 'Human Rights Abuse in Essence' as embodied under the Constitution of India as well as other Constitutions of the World. All human being should be free to claim life of dignity in the society in which they live. But when it is intentionally or recklessly damaged or departed then the person's human right is abused. Katarina Tomaševski, the Special Rapporteur with Commission on Human Rights, Economic and Social Council, United Nations, in her Annual Report in 2001 advocated that whereas government has recognized its obligation to make education available, accessible, acceptable and adaptable to all, the education with ragging can hardly be acceptable to anyone. Thus, the need of the hour is to approach the problem of ragging with social, psychological, legal, and human rights perspective.

### **Indian Penal Code and Ragging**

Provisions of the Indian Penal Code can be used by a fresher who is being ragged to register an FIR (First Information Report) in the police station under whose jurisdiction-area the crime has taken place. There is thirteen such provisions viz. IPC S. 339. Wrongful restraint, S. 340. Wrongful confinement, S.341. Punishment for wrongful

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<sup>2</sup>University of Kerala v. Council of Principals of Colleges Kerala and others [2009] INSC 284 <http://www.worldlii.org>

<sup>3</sup>Every limb or faculty through which life is enjoyed is protected by Article 21 and a fortiori; this would include the faculties of thinking and feeling'. Sunil Batra (I) v. Delhi Administration, (1979) 1SCR 392. 'whether the right to life is limited only to protection of limb or faculty or does it go further and embrace something more. We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings.... Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608 p. 618.

restraint, S.342 Punishment for wrongful confinement S. 294. Obscene acts and songs, S. 506 Punishment for criminal intimidation. In cases of extreme ragging that includes violence, S.323. Punishment for voluntarily causing hurt, S.324. Voluntarily causing hurt by dangerous weapons or means, S. 325 & S. 326. Voluntarily causing grievous hurt by dangerous weapons or means, can be applied. While in case of ragging, victim has lost his/her life, Section 304. Punishment for culpable homicide not amounting to murder, S.306. Abetment of suicides, S. 307. Attempt to murder, are applicable.

### **Anti Ragging Legislations**

The 'Prevention of Ragging in Colleges and Institutions Bill'<sup>4</sup> was introduced in the Rajya Sabha on 6th may 2005 but it could not take any shape. However, some States have enacted specific anti-ragging laws<sup>5</sup>. Tamil Nadu, one of the worst affected State by ragging, was the first State to bring a legislation against ragging in 1997 (Tamil Nadu Prohibition of Ragging Act, 1997). The Andhra Pradesh Prohibition of Ragging Act, 1997; The Kerala Prohibition of Ragging Act, 1998; The Maharashtra Prohibition of Ragging Act, 1999; The Prohibition of Ragging in Educational Institutes Act, 2000 (applicable in the state of West Bengal); The Chhattisgarh Shaikshanik Sansthaon Me Pratarna Ka Pratishted Adhiniyam, 2001, are other State legislations that mainly provide definition of ragging, punishment and responsibilities of the Institution. In other States and Union Territories ragging is being curbed through circulars and administrative orders though realities regarding ragging are still the same.

### **Approach of Judiciary against Ragging**

In 2001, the Supreme Court of India took cognizance of the ragging phenomenon in a PIL case, Vishwa Jagriti Mission<sup>6</sup> and banned ragging throughout the country. It issued certain illustrative<sup>7</sup> but very relevant guidelines, to be brought to the notice of educational institutions through the University Grants Commission (UGC). In University of Kerala v. Council of Principals of Colleges Kerala and others<sup>8</sup> Supreme Court endorsed all the major recommendations of the Raghavan Committee<sup>9</sup> report and advised regulatory bodies to modify their anti-ragging regulations in accordance with the directions of the Supreme Court so as to eliminate ragging from the educational institutions. The major recommendations of the Raghavan Committee report are- (i) Central Regulatory bodies to take ragging as an important factor in accreditation of educational institution, (ii) Set up anti-ragging cells at Central, State, college levels, (iii)

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<sup>4</sup>It recommended 3 years rigorous imprisonment plus a fine of Rs 25000 for anyone indulging in ragging.

<sup>5</sup>Tamil Nadu, Kerala, Maharashtra, Andhra Pradesh and West Bengal, have enacted legislations to deal with it.

<sup>6</sup>Vishwa Jagriti Mission through President v. Central Govt. through Cabinet Secretary & Ors AIR 2001 SC 2793.

<sup>7</sup>Guidelines were not intended to come in the way of the educational institutions and authorities devising their own ways and mean to curb ragging.

<sup>8</sup>(2006) 8 SCC 304.

<sup>9</sup>Raghavan Committee constituted pursuant to Supreme Court's order to suggest remedial measures to tackle with the problem of ragging in educational institutions.

Set up toll-free helpline, (iv) Strong law against ragging, (v) NCERT, SCERT schoolbooks to include chapter on ragging, (vi) Psychological counselling on anti-ragging at senior secondary level, (vii) Staggered entry of freshers and seniors in colleges.

#### **UGC Efforts in dealing Ragging in Higher Educational Institution:**

In compliance of the Supreme Court's judgement, and recommendations of the Raghavan Committee's report on ragging and on its own input, UGC has given three pronged guidelines (PPS system- Prohibition, Prevention, Punishment) to curb the menace of ragging to be followed by the Institutions. It has issued 'UGC Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009'. It totally prohibits, prevents and eliminates the curse of ragging. In accordance of the provisions of these Regulations but not limited to it, all institutions shall take necessary and required measures to achieve the objective of eliminating ragging within or outside the institution. In case of finding guilty of ragging and/or abetting ragging, actively or passively, or being part of a conspiracy to promote ragging, action shall be taken against those in accordance with these Regulations. The main cause of indulging in ragging can be with or without an intent to derive a sadistic pleasure or showing off power, authority or superiority by the seniors over their juniors or freshers. UGC by its regulation, has defined act of Ragging as-

- a. Ragging is any disorderly conduct by any student or students by spoken or written words or by an act having the effect of teasing, treating or handling with rudeness a fresher<sup>10</sup> or any other student;
- b. indulging in rowdy or indisciplined activities which causes or is likely to cause annoyance, hardship physical or psychological harm or to raise fear or apprehension thereof in any fresher or any other student;
- c. asking any student to do any act which such student will not in the ordinary course do and which has the effect of causing or generating a sense of shame, or torment or embarrassment, so as to adversely affect the physique or psyche of such fresher or any other student;
- d. any act by a senior student that prevents, interrupt or disturbs the regular academic activity of any other student or a fresher;
- e. exploiting the services of a fresher or any other student for completing their academic tasks assigned to an individual or a group of students;
- f. any act of financial extortion or forceful expenditure, putting burden on a fresher or any other student;
- g. causing physical abuse including all variants of it: sexual abuse, homosexual

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<sup>10</sup>(h) 'A student who has been admitted to an institution and who is undergoing his/her first year of study in such institution'

assaults, stripping, forcing obscene and lewd acts, gestures, causing bodily harm or causing any other danger to health or person;

- h. any act or abuse by spoken words, emails, post, public insults including deriving distorted pleasure, shocking or sadistic thrill from actively or inactively participating in the embarrassment to fresher or any other student ;
- i. any act that affects the mental health and self-confidence of a fresher.

**PPS system (Prohibition, Prevention and Punishment) illustrated by UGC**

**Prohibition (Places where Ragging is prohibited)**

Any reported incident of ragging in any form shall not be permitted or overlooked in institution<sup>11</sup> or any part of it thereof, including its elements, including, but not limited to, the departments, constituent units, colleges, centres of studies and all its premises, whether academic, residential, playgrounds, or canteen, whether located within the campus or outside, and in all means of transportation of students, whether public or private, accessed by students for the pursuit of studies in such institutions.

**Preventive measures**

Anti -Ragging Movements are to be initiated by all colleges and educational institutes right from the time of advertisement for admissions-

(i) The institution in its every public declaration in any form - electronic, audiovisual or print or any other media, for admission of students to any course of study must clearly mention that ragging is totally prohibited in the institution and any one anyone found guilty of ragging and/or abetting ragging, whether actively or passively, or being a part of a conspiracy to promote ragging, is liable to be punished in accordance with these Regulations as well as under the provisions of any penal law for the time being in force.

(ii) In the brochure of admission/instruction booklet or the prospectus, whether in print or electronic format, these Regulations shall be prominently printed in full and attention will be drawn to any law concerning ragging and its consequences. Provided further that the telephone numbers of the Anti-Ragging Helpline<sup>12</sup> and all the important functionaries in the institution, including but not limited to the Head of the institution<sup>13</sup>, faculty members, members of the Anti-Ragging Committees and Anti-Ragging Squads, District and Sub-Divisional authorities, Wardens of hostels, and other functionaries or authorities where relevant, shall be published in it. The affiliating university shall ensure that its affiliated institution if publishes a brochure of admission/instruction booklet or the

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<sup>11</sup>All institutions coming within the definition of an University under Section 2 (f) of the UGC Act,1956, and all institutions deemed to be a university under S- 3 of the UGC Act, 1956,

<sup>12</sup>The Commission (University Grants Commission) shall establish, fund and operate, a toll-free Anti- Ragging Helpline, operational round the clock, which could be accessed by students in distress owing to ragging related incidents.

<sup>13</sup>(4.1) g) Vice-Chancellor in case of a university or a deemed to be university, the Principal or the Director or such other designation as the executive head of the institution or the college is referred.

prospectus, shall comply with the similar provisions.

(iii) The regulations made it 'mandatory' for institutions to take written undertakings (Affidavits) , each from students and parents mandatorily in English and in Hindi or in one of the regional languages known to them along with application form for admission, enrolment or registration stating that one has read and understood the provisions of these Regulations as well as the provisions of any other law for the time being in force, and is aware of the prohibition of ragging and the punishments prescribed, both under penal laws as well as under these Regulations and also affirm to the effect that one has not been expelled and/or debarred by any institution and further aver that one would not indulge, actively or passively, in the act or abet the act of ragging and if found guilty of ragging and/or abetting ragging, is liable to be proceeded against under these Regulations or under any penal law or any other law for the time being in force and such action would include but is not limited to debarment or expulsion of such student. And that a Character Certificate by the school or institution last attended by the applicant reporting on the inter-personal/social behavioural pattern of the applicant's behavioural pattern should also be part of the admission application so that the institution can thereafter keep watch on the applicant, if admitted, whose behaviour has been commented in such document.

(iv) A student seeking admission to a hostel forming part of the institution, or seeking to reside in any temporary premises not forming part of the institution, including a private commercially managed lodge or hostel shall have to submit additional affidavits<sup>15</sup> countersigned by his/her parents/guardians along with his/her application.

(v) The institution shall make the community at large and the students in particular aware of the dehumanizing effect of ragging and the approach of the institution towards those indulging in ragging. Notice boards of all departments, hostels and other buildings as well as at places, where students normally gather and at places, known to be vulnerable to occurrences of ragging incidents shall prominently display, depicting the provisions of penal law applicable to incidents of ragging, and the provisions of these Regulations and also any other law for the time being in force, and the punishments thereof.

(vi) A printed leaflet shall be given to freshers at the time of admissions detailing addresses and telephone numbers of such persons to whom he/she has to turn to for help and guidance for various purposes, so as the student can contact the concerned person at any time, if and when required of<sup>16</sup>.

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<sup>14</sup>As provided in the English language in Annexure I to these Regulations.

<sup>15</sup>Form is prescribed in Annexure I and Annexure II to these Regulations.

<sup>16</sup>Anti-Ragging Helpline referred to in these Regulations, Wardens, Head of the institution, all members of the anti-ragging squads and committees, relevant district and police authorities

(vii) Anti-Ragging Committee<sup>17</sup> and Anti-Ragging Squads and Monitoring Cell on Ragging shall be constituted by the institution. Every Institution shall also appoint full-time Warden.

(viii) To organize a large scale of cultural, sports and other activities, to provide a platform for the freshers and seniors, to interact in the presence of faculty members.

### **Punishment**

#### **(i) Action of Head of Institute**

The Head of institution on receiving - the recommendation of Anti Ragging Squad or any information concerning any reported incident of ragging, shall immediately determine, either on his own or through a member of the Anti-Ragging Committee (authorised by him in this behalf) whether case comes under the penal laws and if so, will proceed to file a FIR, with the police within twenty four hours of receipt of such information or on local authorities recommendation, under the appropriate penal provisions viz. i. Abetment to ragging; ii. Criminal conspiracy to rag; iii. Unlawful assembly and rioting while ragging; iv. Public nuisance created during ragging; v. Violation of decency and morals through ragging; vi. Injury to body, causing hurt or grievous hurt; vii. Wrongful restraint; viii. Wrongful confinement; ix. Use of criminal force; x. Assault as well as sexual offences or unnatural offences; xi. Extortion; xii. Criminal trespass; xiii. Offences against property; xiv. Criminal intimidation; xv. Attempts to commit any or all of the above mentioned offences against the victim; xvi. Threat to commit any or all of the above mentioned offences against the victim; xvii. Physical or psychological humiliation; xviii. All other offences following from the definition of "Ragging". Incident of ragging shall also be reported without delay to the District Level Anti-Ragging Committee and in case of affiliating University to the Nodal officer.

#### **(ii) Administrative Action**

Besides this the Anti-Ragging Committee of the institution shall also continue with its own enquiry and shall take an appropriate decision, in regard to punish those found guilty on the basis of facts, nature and gravity of each incident of ragging established in the recommendations of the Anti-Ragging Squad. Punishment can be in nature of i. Suspension from attending classes and academic privileges. ii. Withholding/ withdrawing scholarship/ fellowship and other benefits. iii. Debarring from appearing in any test/ examination or other evaluation process. iv. Withholding results. v. Debarring from representing the institution in any regional, national or international meet, tournament, youth festival, etc. vi. Suspension or expulsion from the hostel. vii. Cancellation of admission. viii. Rustication from the institution for period ranging from

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<sup>17</sup>6.3 a) It shall be nominated and headed by the Head of the institution, and shall consist representatives of civil and police administration, local media, Non Government Organizations involved in youth activities, representatives of faculty members, representatives of parents, representatives of students belonging to the freshers' category as well as senior students, non-teaching staff; and shall have a diverse mix of membership in terms of levels as well as gender.

one to four semesters. ix. Expulsion from the institution and consequent debarring from admission to any other institution for a specified period. In case, the persons committing or abetting the act of ragging are not identified, the institution shall resort to collective punishment. And such remedial action shall be completed immediately not later than a period of seven days of the reported occurrence of the incident of ragging.

National call centres have also being set up by UGC to enable ragging victims from across the country to register their complaints by dialling a toll free number. (Toll Free No. : 1800 - 180 - 5522) It will pass on the message to the Heads of Educational Institutions within 15 minutes to help the administration swing into action to rescue the victim students. By June 15 2009, it is operational.

**(iii) Remedy for Aggrieved Party: Appeal**

An appeal shall lie against the order of punishment by the Anti-Ragging Committee,

- i. to the Vice-Chancellor of the University against the order of an affiliated institution or constituent part of a University
- ii. to its Chancellor if order is of a University
- iii. to the Chairman or Chancellor of the institution as the case may be, if the institution is of national importance created by an Act of Parliament.

**(iv) Actions against Institution**

If an institution (constituent, affiliated or recognized by a University), fails to act in accordance with any of the provisions of these Regulations or fails to control ragging effectively, then University may even withdraw affiliation/recognition or grants allocated to it by the university. And if any institution fails to take adequate steps to prevent ragging, UGC may also withhold any grant allocated, declare the institution ineligible for consideration for any assistance under any of the general or special assistance programmes of the Commission etc. after sharing with all Councils<sup>18</sup>.

**Conclusion and suggestion**

The forms and traditions of ragging may vary from one place to another, but the greatest common factor in ragging in any educational institution is the creation of an environment of constant fear and intimidation of freshers, wherein even the air they breathe becomes suffocated. If education, and particularly Higher Education, is to serve as the lever to the great surge forward of the Indian nation, the scourge of ragging which corrodes the vitals of our campuses needs to be curbed. There is a dire need to make

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<sup>18</sup>(4. 1) e) "Council" means a body so constituted by an Act of Parliament or an Act of any State Legislature for setting, or co-ordinating or maintaining standards in the relevant areas of higher education, such as the All India Council for Technical Education (AICTE), the Bar Council of India (BCI), the Dental Council of India (DCI), the Distance Education Council (DEC), the Indian Council of Agricultural Research (ICAR), the Indian Nursing Council (INC), the Medical Council of India (MCI), the National Council for Teacher Education (NCTE), the Pharmacy Council of India (PCI), etc. and the State Higher Education Councils.

a Central legislation on it. IPC should be amended to include Ragging as an offence. Severe punishment should be prescribed in case of ragging with women or weaker section. Delay in taking action with ragging cases will destroy the academic carrier of a student especially in sub judice matters so there is an urgent need to establish fast track courts by amending Criminal Procedure Code to make speedy dismissal of cases possible. Institution should also take disciplinary action within specific time-frame. Student charged with any errant act, should be given an opportunity to have his say leaving the cases of 'res ipsa loquitur'. There should be complete ban in cinemas and TV serials on those scenes in which heroes out of youngsters indulged in ragging. However, it is clear from UGC Regulations,2009 that educational institutions have to incorporate in their admission notices/advertisements appropriate messages regarding 'zero tolerance' towards ragging. Students going to educational institutions for learning should not remain under constant fear of being dealt with by police and sent to jail and face the courts. They should be made aware about its inhuman consequences and that it is a reprehensible act.