



The Menace of Ragging and the Judicial Discourse around it

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ABSTRACT

The act of ragging has been practiced in the educational institutes for a long time, in the garb of ice breaking, some abysmal nature of crimes have been perpetrated, sad part is that such acts for a very long time were considered as normal and got institutionalised in the institutions. A student under a perpetual threat of mental and physical violence can not really unfurl her potential. The continuous influx of violence in the form of ragging unsettled that regimented notion that ragging is a friendly act and led both the legislature and judiciary of India to take some strong steps to contain this menace. This particular paper examines the legislative and judicial attitude to curtail this invisible sort of crime. It also highlights the shortcomings in the law and the way forward to act upon those shortcomings.

Key Words- Ragging, Educational Institutions, Human Right, Violence.

Introduction

Education polishes good natures, and corrects bad ones, the importance of education is known to everyone. Every parent wants his child to get quality education and knows that how important is it to get into an educational institute. In ancient India there was the concept of 'gurukul', where young students used to spent a considerable time of their life in the 'ashrams' of their erudite 'gurus' and the aim was not just to make them proficient in academics, but also to mould the character of the student, nurture the talent latent in him and to extract that spark that spunk which grows more and more in the ambience of a cordial educational atmosphere. It is, therefore, the educational institutions are called as alma mater or just like matron, who looks after a child in the absence of mother. The great Indian universities of India, like 'Takshashila' and 'Nalanda' were residential in nature, students across the length and breadth of India and from world used to live and learn there, it infused a rare camaraderie among the students and also used to foster mutual respect and brotherhood among them.



But with the passage of time, the poison of ragging started plaguing the educational institutions. If we refer to the dictionary then the term ‘ragging’ can be defined as ‘a boisterous practical joke, especially one on a fellow student’.¹

Its other synonyms are , tease, provoke, needle (informal), mock, bait, rib (informal), wind up (British) (slang), torment, ridicule, taunt, goad, take the mickey (out of) (informal), take the piss (out of) (taboo) (slang), gibe, pull someone's leg (informal), jerk or yank someone's chain (informal).²

“The equivalent term for ragging is ‘hazing’. It is the practice of rituals and other activities involving harassment, abuse or humiliation used as a way of initiating a person into a group. Hazing is seen in many different types of social groups, including gangs, sports teams, schools, military units, and fraternities and sororities. The initiation rites can range from relatively benign pranks, to protracted patterns of behaviour that rise to the level of abuse or criminal misconduct. Hazing is often prohibited by law and may comprise either physical or psychological abuse. It may also include nudity and/or sexually based offences”.³

Under the garb of ‘ice breaking’ and ‘introduction’, ragging become more cruel , it metamorphosed into a nefarious beast , devouring over the lives of students and instilling fear into the psyche of many others. For years this practice wasn’t taken seriously , the law makers were all deaf towards the silent cry of students , many *AmanKachrus*⁴ had to loose there precious lives and it was then when the incidents of ragging *had crossed the rubicon*, the Supreme Court had to interfere in the famous *VishwaJagriti Mission v Central Government*.⁵

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¹ Collins Online Dictionary , *available at*: <http://www.collinsdictionary.com>_(visited on November 6th, 2021).

²*Ibid.*

³Laishom Indira Devi and K.Devi, “Ragging In Educational Institutions: A Fashion Or An Abuse”8(2) *JETIR* 1077 (2021).

⁴ On 7th March , 2009 Aman Kachru , 19 , a first year student of Dr. Rajendra Prasad Medical College , Tanda, Kangra , HP,India, had repeatedly complained to his parents about the brutal ragging that took place on the Medical College campus – often by completely drunk third year students. The boy was beaten so badly that he died of brain haemorrhage.

⁵ Writ Petition (civil) 656 of 1998



This present project basically deals with the contribution of the Supreme court in the development of law against ragging, I will also be discussing about the history related to it and the unfolding of the legal development and the lacunae which are there in present laws.

History of ragging

Though much debate started regarding the menace of ragging in the recent years, ragging is not entirely a recent phenomenon. Roots of ragging stretches back to 7th or 8th century B.C, during the Greece Olympics the new entrants were usually subjected to all kind of humiliations and teasing, reason being, that it inculcates team spirit and brotherhood among the sports persons.⁶ Also there are proofs that even in Plato's Academy , during 387 B.C , the practice analogous to hazing was present , it was called as 'pennalism', this practice was even vehemently criticized by Plato , as a practice which is not only derogatory in nature but also affects disturbingly the psyche of the student.⁷

This phenomenon is primarily influenced by historical events, which includes wars and changes in the role of media which has impacted the ways in which ragging is conducted and discussed. The underlying idea being that a new comer is untutored, uncivilized and is in a dire need to be polished and that it is necessary to subject him to hardships so as to bring out the character dormant in him, these hardships could have been of any type which ranged from inflicting humiliating course jokes to the extent of physical abuse and forcing to wear inappropriate clothes. This tirade of suppression would used to continue for a considerable period of time which came to an end with a fresher's party which was thrown by the seniors to the new comers.

Even early Egyptians, Romans knew ragging. The Duke of Exeter is supposed to be responsible for beginning of ragging in practice in England. Racking is also presumed a parallel to ragging with a special instrument of torture known as 'rack', but later it got mixed up into ragging.⁸

In England , where ragging was prevalent in the great universities of Cambridge and Oxford and was known as 'fagging' in which younger students were made to do things by the older

⁶NamanMahnot , *Law Relating to Ragging I*(Universal Law Publishing Co.Pvt. Ltd,2014)

⁷<https://ruthsterner.files.wordpress.com/2008/05/histpdf.pdf> (visited on November 6th, 2015)

⁸*Supra* note 7.



students which the younger students didn't like in the name of instilling humility and etiquette in them .

In America, we can see that hazing or ragging was prevalent at the Harvard University back in 1657.⁹ Interestingly the faculty members were themselves involved in hazing, college laws required that 'freshmen run errands for all upper class men, never be saucy and obey every class man's order. First quarter of the nineteenth century saw the advent of student organizations, which were primarily formed with the object of giving fillip to extracurricular activities, which included discussion on philosophy, literature and several other issues, but sadly it veered in the wrong direction and often such organisations ended up in becoming a platform for making silly stunts and pranks along with discussion. With the passage of time there rose to existence more such fraternities which lead to more competition for student loyalty and thus increased the violence against the newcomers as they were 'taught' respect for fraternity policies, rules and leaders. Unfortunately, since its inception in the educational arena, ragging has undergone several modifications before morphing itself into an organized form of campus violence. Subsequently the first ragging related death occurred in 1873 when fresher from Cornell University (U.S) fell into a gorge as a consequence of ragging.¹⁰

"Ragging underwent a massive transformation after World – War I. It was World-War I that injected cruelty into ragging .The main reason was that soon after World-War I, many war brigades were dislocated and soldiers had returned to the civilian life. Young soldiers who returned from war, re-entered the colleges and ere grimly determined to use the newly learnt methods of torture in the campuses. These methods were used to make individual fail as an isolated entity and succeed as a team. This philosophy of team development continued to be used in different fraternities. Gradually these techniques and forms were passes on to those persons who didn't know the real meaning of the word 'hazing' or 'ragging' and ragging became a brutal and hazardous exercise.¹¹

Gradually, in the early 20th century ragging related violence started to escalate in the western universities and soon became a tool to take revenge between the blacks and the whites. In army

⁹*Id* at 4.

¹⁰Harsh Agarwal , Evolution of Ragging , CURE Report CR2005/07-27, *available at*:

<http://noragging.com/index.php/Research /ragging-The Phenomenon/Evolution-of-Ragging.html>, (last visited on 7th November, 2021).

¹¹*Supra* note6 at 2.



schools of England, ragging existed as a tradition but later on this tradition took its root in medical and engineering colleges also.¹²

India's Experience with Ragging and role of Judiciary in checking the menace

Cogent proofs of ragging are not available in the annals of ancient India, as already discussed that there was *gurukul* system in India, neither there are proofs of ragging in the medieval India. Ragging is a British phenomenon, which got rooted in the Indian educational system. It reached its height during 80's and 90's, with mushrooming of engineering and medical colleges and thus the cases of ragging getting stepped up.

*State of Himachal Pradesh v A parent of a student of Medical College, Simla*¹³, The Chief Justice of the High Court received a letter from the guardian of a student of the Medical College in Simla, that particular letter contained a complaint that the particular student has been subjected to ragging by the seniors of the college, not just inside the hostel but also outside the precincts of the college. The letter was registered as a writ petition and a notice was issued to the state government and also to the Principal of that impugned medical college. The court also directed the state to constitute a committee to address the menace in question and to put a bulwark towards this wretched practice which was expanding like hell fire, the state instead of taking into consideration the direction of the High court, instead preferred an appeal against it before Supreme court. The Supreme court dodged the important problem of ragging in the institution and instead chose to walk on the road more travelled, the road of convenience, whereby, the courts systematically chose to ignore the important question in hand on the basis of separation of power and conveniently place the matter on the backburner.

The Tripura Educational Institutions (Prevention of Ragging) Act, 1990 was first among itself which aimed at preventing and eradicating the menace of ragging from the educational institutes situated in the state of Tripura. This act covered both the Government and Private college, however, the definition of ragging was not exclusive.

The extremely tragic death of PonNavarasu because of ragging was a watershed moment in the history of legislation to curb the menace of ragging, PonNavarasu was a student at Annamalai University, on November 6th, 1996 he met his excruciating fate owing to the

¹²*Id* at 4.

¹³A.I.R 1985 SC 910



reason of ragging. Navrasu's death was an eye opener and paved the way for the 'Tamil Nadu Prohibition of Ragging Act, 1997', one of the most important aspect of this legislation was the inclusion of 'deemed abetment', according to which if the head of the educational institution or the person who has been made incumbent with the responsibility with respect to the management of the institution and that person /head has been under a neglect so as to taking action when the complaint is received or has been responsible for an apparent dereliction of duty, then there will be a deemed responsibility over such person/head to have been abetted the offence of ragging. This was an important provision as it imposed liability over the concerned authorities.

The case of VishwaJagriti Mission and the development thereafter

*VishwaJagriti Mission v Central Government*¹⁴ is the most important case in this regard which in really led to some concrete steps in framing of guidelines in order to curb the devil of ragging. This case is important in this regard, that court attempted to give an exhaustive definition of the term 'ragging', which is:

“Any disorderly conduct whether by words spoken or written or by an act which has the effect of teasing, treating or handling with rudeness any other student, indulging in rowdy or in disciplined activities which causes or is likely to cause annoyance, hardship or psychological harm or to raise fear or apprehension thereof in a fresher or a junior student or asking the students to do any act or perform something which such student will not do in the ordinary course and which has the effect of causing or generating a sense of shame or embarrassment so as to adversely affect the physique or psyche or a fresher or a junior student The cause of indulging in ragging is deriving sadistic pleasure or showing off power, authority or superiority by the seniors over their juniors or freshers”.

This definition attempted to analyze the psychology associated with ragging, the underneath idea behind the notion of ragging is to impress superiority by the senior over junior. The court also issued exhaustive guidelines, accordingly all the educational institutions were instructed to initiate anti ragging drives, mandatory undertakings not just by the students but also the

¹⁴Supra note 5 at 3.



parents that their wards will not be involved in any activity pertaining to ragging. It was also ordered that proctorial boards will function in every such educational institution. Furthermore, there won't be lack of communication, the management, the teachers, the students will engage in discussions, there will be interactions primarily aimed to comfort the freshers. The court issued strict guideline whereby the institution found in dereliction of observance of the guideline will be punished by withdrawal of the financial assistance.

In response of this PIL, in the year 1999, the UGC set up a four – member committee, chaired by K.P.S.Unni of JNU for framing the course of action to fight the threat of ragging in Universities/ Educational Institutions. The important aspects of the report were:¹⁵

- That there should be laws not just at the centre level but also at the state level aimed at identification of the different forms of ragging and making those acts a cognizable offence.
- It was also suggested that fines should be imposed, ranging from suspension of the offender to a pecuniary fine of Rs. 25000, if the offence is of serious nature then the offender could be condemned to rigorous imprisonment for the duration of upto three years.
- **The University of Kerela Case**

The Hon'ble Apex Court was concerned with the shortcomings in the implementation of its judgement in the *VishwaJagrati Mission* case and felt that the time is ripe to issue fresh directives and thus in *University of Kerela v Council of Principals colleges*¹⁶, the court directed that a committee to be notified to give suggestion on the means of prevention of ragging in educational institutions. The Apex court expected from this proposed committee to make recommendations as to how ragging can be eliminated effectively.

In pursuance to the order passed by the Supreme Court, Ministry of Human Resource Development (MHRD), Government of India constituted a committee on 5th December, 2006 in the stewardship of former CBI director R.K.Raghavan. It submitted its report

¹⁵University Grants Commission, "Report of the Committee to Curb the Menace of Ragging in Universities / Educational Institutions" (1999).

¹⁶SLP No (s) 24295 of 2006 along with SLP(C) No.24296-99/2004 and W.P. (Crl) No. 173/2006 and SLP(C) No.14356/2005.



to the Hon'ble Supreme Court in May, 2007. The committee pointed out that forms of ragging listed in the report of UGC Committee (Unni Committee) have become outmoded or outdated because extremely vulgar, most inhuman and unprintable forms of ragging are being resorted to these days. It noted that ragging has now assumed perverse forms like physical assaults , wrongful confinement , use of criminal force, threats, intimidation and denial of basic human rights, also college administration is not keen to indulge in this issue and thus punishments or preventive measures have not been implemented. It also recommended insertion of a special section under IPC by drawing analogy from section 498A of IPC.

In its order dated May 16th, 2007, the Apex Court issued directives to all the educational institutions after accepting the report made under the chairmanship of Dr.Raghavan , following directions were given:

- Counsellors to be appointed, as a measure to build confidence, orientation programme for juniors, faculty members should be made to dine with the new comers.
- There should be a registration of the hostels with the police authorities. There must be anti ragging squad and anti ragging committee in every institution and a monitoring cell, there should be cooperation and co ordination between the squad and the cell.
- If the parent or the guardian of the student are not satisfied with the kind of the response undertaken by the institution in the wake of any complaint pertaining to act of ragging then consequently the parent or the guardian can take resort to the help of police and FIR must be filed against the people running the institutions.
- The final order in the case¹⁷, was landmark, as most of the recommendations by the Raghavan Committee were accepted, the court also gave additional directions that there is a need to introduce the topic of ragging at the school level to sensitise the students with the issue , that this topic could be included under human rights , NCERT and the state boards were directed to include this issue as a part if curriculum at the school level.

¹⁷*University of Kerela v. Council of Principals of Colleges* , AIR 2009SC 2223



- One of the important part of the judgement was regarding establishment a hotline number aimed at addressing the problem of ragging at all India level, where students can directly lodge their grievances without getting their identity disclosed.
- It was also emphasized that help should be taken from even non employed contract labourers who are employed in canteens etc that if a matter of ragging comes into their knowledge, then same should be reported to the concerned authorities.
- The role of NGO's to curb the menace can not be ignored in stepping up the movement against ragging was well acknowledged by the Hon'ble Court, the court also sought assistance from Dr.RajendraKachroo father of late AmanKachroo to provide a linkage between the non governmental anti-ragging movement and committee's efforts.

In 2009, in the wake of AmanKachroo's death, University Grants Commission (UGC) passed 'UGC Regulations on curbing the menace of Ragging in Higher Educational Institutions, 2009' which have the force of law.

All India Council of Technical Education (AICTE) and Medical Council of India (MCI) have issued separate guidelines to check the incidents of ragging in educational institutes. These guidelines are more or less analogous to the guidelines issued by the Apex Court.

Common Essential Features Associated With the Laws Made by State Legislature to Counter Ragging

If we meticulously analyze the laws made by different state legislations , then we will come to an observation that , more or less, the definition of ragging is similar, however, some of the state legislature have not incorporated a wide definition of ragging , if we see the law that prevails in Tamil Nadu, Andhra Pradesh or Chattisgarh , then only talk in terms of physical abuse , the definition doesn't talks about the psychological and sociological detriments that is caused by the scourge of ragging .



Ragging is generally declared to be a cognizable and non-bailable offence. Only Assam has made it a bailable offence. The quantum of punishment also varies to a great extent, Andhra Pradesh provides imprisonment only upto 6 months, whereas J&K provides imprisonment upto 10 years. On the other hand Goa's State Legislature is silent on the provision of imprisonment.

The general scheme of the existing state laws casts a duty on the Head of the Institution to prohibit ragging. The head is not to be a mute spectator and has to conduct an enquiry on the receipt of any complaint and has to take action thereon.

Shortcomings in the Laws

On looking on the language of the law made by the state legislatures, we find that the states merely try to 'prohibit' ragging, only Tripura, Chattisgarh and Himachal Pradesh have made provisions to 'prevent' the menace as well. "Prohibition and prevention may appear to be intended to achieve the same purpose but there is a subtle difference between both. While prevention must lead to prohibition, the reverse need not be true. Prevention implies anticipating the problem of ragging, forestalling the occurrence of it, taking precautionary measures to make it difficult if not impossible to take place. Prohibition is just intended to authoritatively forbid or restrain the act of ragging. The subtle difference lies in the fact that while prohibition of ragging is more participative with a bottom-up approach, laying down the detailed mechanism of preventive measures and instrumentalities. A law which is prohibitive emphasizes on the consequences of violating the prohibition and therefore builds on the procedures and instrumentalities of punishment, while a law which is preventive in comparison would provide for the procedures and instrumentalities of strengthening the prevention of the offence. For our broad purposes of weeding out the menace of ragging, any law must contain elements of both prevention and prohibition and it can be said that in the absence of any statutory provision in this regard it is easy to imagine that there is hardly any compulsion on authorities or institutions to take preventive measure".¹⁸

A report funded by UGC gives a rather sombre and grim picture, a report titled "Psychosocial Study of Ragging in Selected Educational Institutions in India" highlights the problem.¹⁹As per

¹⁸*Supra* note 6 at 4.

¹⁹Centre of Social Medicine & Community Health School of Social Sciences, Jawahar Lal Nehru University, "Psychosocial Study of Ragging in Selected Educational Institutions in India" (University Grants Commission, 2015).



the report out of the students surveyed , around forty percent students faced ragging in some way or another, it is also a matter of concern that a major chunk (around eight percent) of the cases were based on caste lines, around twenty five percent of the case were incidents based on linguistic lines.²⁰ The report also points out that few incidents of ragging were sexual in nature. The report also suggests that the victims of ragging had somewhat a lasting impact which was detrimental to their self confidence (Sixty five percent of the students who were surveyed). These numbers reflects that the practice of ragging is just not an old age practice to break ice but somehow exposes the dark underbelly of the social dynamics that function in the society at large, if we uncover the neat paper arrangement of this ‘institutional custom’ then we can uncover and unpack the entrenched power configurations that participates and act upon. There is an institutionalized practice which is regimented in the psyche of a student in the name of ‘initiation’. It is a kind of learned helplessness, whereby, a victim later on start to support it later and becomes an aggressor. A student at the college level is at a very delicate stage , a stage of transition whereby he is not an adult nor even a child, dependent upon the their families for guidance and grapples under the continuous pressure of adapting to adulthood or lest might be termed a ‘snowflake’ or ‘sissy’.

There is a need of effective implementation of present anti-ragging legislations, for this, it is necessary that educational institutions and police should act in tandem. However, it is necessary that the intervention of the police should be at the last resort.

Conclusion

Raghavan committee suggested that a separate provision should be included in the Indian Penal Code dealing with the punishment regarding ragging, however, I believe that it is not a good idea , practically it has come to the notice that special legislation makes the investigation and the procedure quite intricate and which leads to the case being stretched and consequently a delay in justice , therefore, I believe that relevant provisions of IPC should be used as per the gravity of the case , special provision only leads to tautology of similar kinds of charges being levelled on the accused , thus making the job for both the police and the court very difficult. But it is expedient that a uniform legislation governing whole of the India should be made, with a clear definition of ‘ragging’, because different legislatures have different definitions and are

²⁰*Ibid.*



infested with perceptible lacunas, which have already been mentioned. However, instead of deterrent approach, a reformatory approach should be adopted, yes there are cases where one can say that doing mercy is not possible, but there are many such cases as well, which are not very serious and sending the accused to the jail, even though for few days will be highly disastrous for his carrier, after all the accused is a student himself, sending a person recklessly to jail creates a social stigmatization for the student, it severs him from the society and make pushes him into the filth of delinquent subculture. It is, therefore, the court observed in *VishwaJagriti Mission v Central Government*, “We feel that the acts of indiscipline and misbehaviour on the part of the students must primarily be dealt with within the institution and by exercise of the disciplinary authority of the teachers over the students and of the management of the institutions over the teachers and students. Students ought to not ordinarily be subjected to police action unless it be unavoidable. The 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. The faith in the teachers for the purpose of maintaining discipline should be restored and the responsibility fixed by emphasising the same”.²¹

It should be remembered that a person inflicting violence is, to a large extent affected by violence himself, a self inflicted violence generated by a supposed superiority, supposed grandeur.

Also at this point it is necessary to look into the barging cases of bullying in the schools, steps should be taken to create a cordial environment at schools, most of the obnoxious raggers take birth at the level of kinder garden, therefore, families need to create seasoned environment in their families. Ragging is a menace that can't be controlled by a single authority, active co-operation, therefore, is needed among the Government, NGO's and citizens.

²¹*Supra* note 5 at 3.