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Eradication of Ragging: Realities and Recommendations *A legal Perspective*

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1) INTRODUCTION

Ragging in India's education is widespread. Media has been reporting various instances of suicides, violence, physical injuries, sexual abuse and psychological disorders, resulting because of ragging. Beyond media's reach and authorities' attention, lakhs of students, every year are being forced to go through this inhuman and barbaric experience.

Issue has been attended by Judiciary. Legislatures have debated over ragging. Executive has been issuing circulars against ragging and media has been sensitive enough towards this evil. But the realities regarding ragging are still the same. Reported cases of ragging are only the tip of the iceberg of what is actually happening in numerous educational institutions across India. In reality, the number of unreported cases of ragging is much more than the cases reported by the media.

It is often argued that measures to eliminate ragging should go beyond law, but it is equally reasonable to believe and argue that through Law's intervention, ragging can be effectively curbed and uprooted, as has been the case in countries like Canada and Japan.

The problem of ragging needs to be approached with a human rights perspective and the question of ragging should be addressed as a concern of Education Law, as recommended by the United Nation Special Rapporteur's in her third annual report.

Social and psychological contexts are equally important for approaching the issue of ragging, but for the purpose of this report, which seeks to deal the issue in legal context only, such other contexts have been excluded.

Though this report was already in process, the announcement of R.K. Raghvan Panel by the Central Government has accelerated the pace of this work. This report which was originally conceived as a part of a comprehensive report project of CURE has been undertaken by the Aligarh Muslim University Chapter of CURE. All the panel members of this report are law students from Faculty of Law, Aligarh Muslim University. This report attempts to study the issue in length and concludes with some recommendations.

Coalition to Uproot Ragging from Education (CURE) is a voluntary association of concerned individuals, who have been engaged with Anti-Ragging awareness and

advocacy initiatives since past few years. Primary investigation and research, used in this report has been undertaken by CURE.

2. RAGGING : A REALITY CHECK

25 deaths because of ragging have been reported in last 7 years, while several cases of sexual abuse, mental torture and continuous harassment are going unnoticed and unreported. Unconcerned attitude of majority of educational institutions in India is main cause of continuance of ragging. Being fearful of loss of reputation, educational institutions keep on denying prevalence of ragging, while the prime responsibility for elimination of ragging rests on these educational institutions and most of the guidelines issues by hon'ble Supreme Court are addressed to the educational institutions.

Laws enacted in black and white hardly come to rescue of a fresher. Till now Government has no data pertaining to the incidents of ragging and action taken in those cases. Every time, any death occurs because of ragging and in case it is highlighted in media, concerned educational institute shows some concern for elimination for ragging but as soon as the episode is over, all enthusiasm is also gone.

Over two dozen deaths in last seven years have taken place due to ragging and there is still no end to these incidents in educational institutions, instead ragging has taken the shape of a serious human rights violation with even the most respected and disciplined educational institutes falling prey to it.

(3) 2001 SUPREME COURT JUDGEMENT and ITS EFFECT

The Hon'ble Supreme Court of India in *Vishwa Jagriti Mission through President vs. Central Government through Cabinet Secretary* has laid down detailed guidelines for colleges and educational institutes to prevent ragging. However such guidelines are only illustrative and are not intended to come in the way of the educational institutions and authorities devising their own ways and mean to curb ragging. These guidelines are:

(Reproduced from Judgment)

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

2. The prospectus, the forms for admission and/or any other literature issued to aspirants for admission must clearly mention that ragging is banned in the institution and any one indulging in ragging is likely to be punished appropriately with punishment which may include expulsion or suspension from the institution or class for a limited period or fine with a public apology. The punishment may also take the shape of:

(i) withholding scholarships or other benefits

(ii) debarring from representation in events

(iii) withholding results

(iv) suspension or expulsion from hostel or mess, and the like.

3. If there be any legislation governing ragging or any provisions in the Statutes/Ordinances they should be brought to the notice of the students/parents seeking admissions.

4. The application for admission / enrolment shall have a printed undertaking to be filled up and signed by the applicant to the effect that he/she is aware of the institution's approach towards ragging and the punishment to which he or she shall be liable if found guilty of ragging. A similar undertaking shall be obtained from the parent/guardian of the applicant. The institutions which are introducing such a system for the first time shall ensure undertakings being obtained from the students and their parents/guardians already studying in the institutions before the commencement of the next educational year/session.

5. A printed leaflet detailing when and to whom one has to turn for information, help and guidance for various purposes, keeping in view the needs of new entrants in the institution, along with the addresses and telephone numbers of such persons, should be given to freshers at the time of admissions so that the freshers need not look up to the seniors for help in such matters and feel indebted to or obliged by them.

6. The Management, the Principal, the Teaching Staff should interact with the freshmen and take them in confidence by apprising them of their right as well as obligation to fight against ragging and to generate confidence in their mind that any instance of ragging to which they are subjected or which comes in their knowledge should forthwith be brought to their knowledge and shall be promptly dealt with. It would be better if the head of the institution or a person high in authority addresses meetings of teachers, parents and students collectively or in groups in this behalf.

7. At the commencement of the academic session, the institution should constitute a practional committee consisting of senior faculty members and hostel authorities like wardens and a few responsible senior students:

A) to keep a continuous watch and vigil over ragging so as to prevent its occurrence and recurrence,

B) to promptly deal with the incidents of ragging brought to its notice and summarily punish the guilty either by itself or by putting forth its findings/recommendations/suggestions before the authority competent to take decision.

8. All vulnerable locations in the college such as the canteen, the playground, etc. shall be identified and specially watched. The hostels/accommodations where freshers are accommodated shall be carefully guarded, if necessary by posting security personnel and placed in charge of a warden/superintendent who should himself/herself reside there, and

wherein the entry of seniors and outsiders shall be prohibited before and after a specified hour of night except under the permission of the person in-charge. Entry at other times may also be regulated.

9. The local community and the students in particular must be aware of the dehumanizing effect of ragging inherent in its perversity. Posters, notice boards and signboards wherever necessary, may be used for the purpose.

10. Failure to prevent ragging to be constructed as an act of negligence in maintaining discipline in the institution on the part of the management, the principal and the persons in authority of the institution. Similar responsibility shall be liable to be fixed on hostel wardens/superintendents.

11. Migration Certificates issued by every institution should have an entry apart from that of general conduct and behaviour whether the student had participated in, and in particular, was punished for ragging.

12. If an institution fails to curb ragging, the University Grants Commission/Funding Agency may consider withdrawal of financial assistance to such an institution till such time as it achieves the same. A university may consider disaffiliating a college or institution failing to curb ragging.

13. In case of any incident of ragging, the students must approach the Disciplinary Committee of their respective colleges first, and only if the said Committee does not take cognizance of the matter or if they feel dissatisfied with its decision that they should approach the police. The objective behind this is to restore the faith in the ability of educational institutions to maintain discipline and protect the interests of their students.

(4) ANTI- RAGGING LEGISLATIONS

Despite incidents of Ragging being reported from almost all states in India, only few states, namely, Tamil Nadu, Kerala, Maharashtra, Andhra Pradesh and West Bengal, have enacted legislations to deal with it.

1. The Prohibition of Ragging Act, 1996. (Applicable in the State of Tamil Nadu).
2. The Andhra Pradesh Prohibition of Ragging Act, 1997
3. The Kerala Prohibition of Ragging Act, 1998.
4. The Maharashtra Prohibition of Ragging Act, 1999.
5. The Prohibition of Ragging in Educational Institutes Act, 2000 (Applicable in the State of West Bengal).

As for other states and union territories in India, Ragging is banned but only through circulars and administrative orders.

All these state legislations provide:

- (1) definition of ragging,
- (2) Punishment
- (3) Responsibilities of Institutions

Director of Ambedkar Law University, while talking to IANS has made a very accurate remark. He says:

“Very few cases of ragging actually go to court .In fact no case goes to court until there is severe injury or death .We have excellent anti-ragging laws in country,the question is of implementation”

Hardly cases are registered under these laws. Educational Institutions and police should be reoriented to use these legislations. However, the Supreme Court of India has warned against undue intervention of police in educational institutions. Only in grave and extra ordinary situations (sexual abuse and death etc) police should intervene. Otherwise for general cases, these laws must make provisions for internal settlement, without allowing any role to police.

However, it will do a great help if all these state legislations and Circulars are replaced by a Central Law, applicable to whole of India. In fact, on 6th may 2005 “The Prevention of Ragging in Colleges and Institutions Bill” was introduced in the Rajya Sabha. Instead of expecting much from police, responsibilities pertaining to introduction of a ragging elimination mechanism, monitoring and publication of Annual report on Ragging should be ascribed to University Grant commission. UGC must be made a central agency to take all the initiatives, suggested by the Supreme Court for creating awareness about ragging.

(5) QUESTION OF HUMAN RIGHTS IN EDUCATION

Ragging is a traditional and systematic human right abuse in Education and such human right violations in education have not been given proper attention in India, which they otherwise deserve. However,with in United Nations, ragging has been considered as an issue of “Human Rights in education”. Education law in India should take note of practice of ragging in educational system as a major obstacle in realization of the “Right to Education”.

Katarina Tomaševski, the Special Rapporteur with Commission on Human Rights ,Economic and Social Council , United Nations ,in her Annual Report in 2001 advocates 4-A scheme, whereby governmental human rights obligations to make education available, accessible, *acceptable* and adaptable have been recognized. Education with ragging can hardly be acceptable to anyone and by this way this is well with in governmental obligations to make education free from ragging.

The Commission on Human Rights had asked the Special Rapporteur to focus on overcoming obstacles and difficulties in the realization of the right to education worldwide and keeping in view this direction, the Special Rapportuer made specific mention of “Ragging” in Chapter V “*STREAMLINING THE HUMAN RIGHTS FRAMEWORK FOR EDUCATION*”

75...The Supreme Court of Sri Lanka decided in April 1998 on the constitutionality of a law that aimed to outlaw and suppress, inter alia , verbal abuse (called ragging, bullying and/or harassment) within educational institutions. The victimization of students, especially newcomers, through verbal abuse should be outlawed, the Court has affirmed, adding that "ragging has far too long been cruel, inhuman and degrading. Our society has been unable to deal with the root causes of ragging, and the anxieties, fears and frustrations of youth on which ragging has fed and flourished."

Appreciating domestic courts' increasing recognition of human rights in education, the Special Rapporteur has expressed her satisfaction over entry of human rights in education law. Report in its recommendation part says:

“81. the international and domestic human rights law protecting the right to education and guaranteeing human rights in education should be used as a corrective for all education strategies.”The Special Rapporteur recommends to all international actors involved in promoting education to review their approach using human rights as the yardstick.”

Making a particular reference to India , the report says :

“24...While fully aware of the allocations of responsibility within education between central and State governments, the special rapporteur emphasized the responsibility of the State in ensuring the full implementation of international human rights law binding upon it...”

This mean that State needs to take up the task of making education acceptable to all and elimination of ragging should be construed to be a necessary step in this direction.

The Special Rapportuer's report calls for:

(1) Mainstreaming of human rights in educational strategies

(2)The full mobilization of the existing human rights standards for education in order to enable the human rights community to provide a timely contribution to developments which were, until recently, deemed to lie beyond the reach of human rights safeguards.

Ragging is hardly perceived as a serious human rights issue in India and it is high time that human rights community in India (including Governmental and non governmental players) should consider crafting adequate human rights safeguards against ragging.

6. Recommendations

After discussing the issue of ragging,in its full scope we think it prudent to conclude with some suggestions and recommendations:

- 1. Implementation of Anti-Ragging legislations is major challenge.**
- 2. All state legislations and circulars should be replaced by a Central Legislation on ragging, whereby UGC should be made the main agency to devise ways of proper implementation of Supreme Court guidelines and provisions of such legislation. UGC should be given wide powers in this regard.**
- 3. University Grant Commission should be asked to prepare and publish an annual report on ragging. Such report will serve as a database on Ragging related issues. UGC should be asked to conduct awareness programmes in various educational institutions.**
- 4. Intervention of police must be defined. Only in extra-ordinary cases of ragging, where sexual abuse, death or grave injury or violence is involved, police should be allowed to intervene.**
- 5. Proctor office, with in educational institution, should be primary agency to work for elimination and prevention of ragging. In residential hostels, proactive-monitoring must be done by wardens.**

6. Tough action must be ensured against institutions which fail to put a curb on ragging. Accountability of management or concerned authority in the institution must be defined by law.
7. Issue of ragging should be received as an issue of human rights in education and Human right activists and NGOs should introduce appropriate initiatives in this regard.
8. Government should ensure its support for building Anti-ragging activism in India. Activism, advocacy and research in this regard must be extended financial and institutional support by Government.
9. Complaint registration system within institution must be made very smooth, friendly and safe.
10. A comprehensive definition of ragging must be developed. The definition of ragging as provided in Aligarh Muslim University Students' Conduct and Discipline Rule 1985 may be a suitable option. It says:

4.(V) (i) "The word 'ragging' means the action of teasing, playing a practical joke upon someone or holding comic parades and other activities during certain period of a college term to raise money for charity" Ragging includes Display of noisy , disorderly conduct, teasing excitement by rough or rude treatment or handling, including in rowdy indisplined activities which cause or likely to cause annoyance undue hardship, physical or psychological harm or raise apprehension or fear in a fresher or asking the students to do any act or perform something which causes him/her shame or embarrassment or danger to his/her life. Forms of ragging to address seniors as 'Sir' perform mass drills; copy class note for the seniors; serve various errands; do menial jobs for the seniors; ask/answer vulgar questions; force to look at pornographic picture to freshers out of their innocence; force to drink alcohol, scalding tea etc. to do acts which can lead to physical injury, mental torture or death; strip kiss or do other obscenities.

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