

# A CRITICAL REVIEW OF LEGAL INTERVENTIONS FOR COMBATING RAGGING IN SRI LANKAN UNIVERSITIES: A CASE STUDY OF SOUTH EASTERN UNIVERSITY OF SRI LANKA

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## ABSTRACT

Ragging is a form of Sexual and Gender Based Violence (SGBV). Sri Lanka has taken legislative, administrative and institutional measures to prevent ragging and to protect victims of ragging. Adversely, ragging continues to be a systematic abuse and grave human rights violation. This study critically evaluated the extent to which legal interventions succeeded to combat ragging in Sri Lankan Universities with an objective of identifying potential areas to be proposed as a way forward. Qualitative research method was adopted to develop this paper. Primary data was collected from the selected students, staff members of South Eastern University of Sri Lanka and officers of Akkaraipaththu police station. An open-ended questionnaire and face to face interview methods were used. Secondary data of this study was based on a desk study. The findings of the study disclosed that ragging has been made a criminal offence with rigid punishments by the Prohibition of Ragging and Other Forms of Violence in Educational Institutions Act No. 20 of 1998 and University Grants Commission (UGC) Circular No. 946 dated 10.02.2011. A hotline and a special office have been set up to aid students who have been victims of ragging in universities. UGC has established a complaint portal to report ragging threat or harassment. Ministry of Higher Education has launched an application (App) for mobile devices for State university students to instantly inform the authorities of ragging incidents. Problem lays with the implementation of the legal interventions. There is an urgent need to educate students, staff members and police officers on available legal interventions to curb ragging in universities.

**Keywords:** Menace of Ragging, SGBV, Sri Lankan Universities, Legal Interventions

## 1. Introduction

Ragging in Sri Lankan Universities is a menace of intense discussion. It has many aspects, including psychological, social, political, economic and cultural; and that it adversely effects the standards of higher education.<sup>1</sup> The standard of education, at Sri Lanka Universities, is declining rapidly. Instead of quality of education, Sri Lankan Universities are now focused on violence, extremist student policies, strikes, low productivity and moral decay.<sup>2</sup> Ragging is a form of systematic abuse and grave human rights violation and encourages sexual and gender-based violence. Ragging is a violation of right to education and right to be free from torture, cruel, inhumane and degrading treatments

enshrined in the fundamental rights chapter of the Sri Lanka Constitution.

Regrettably, ragging has evolved into a socially, culturally, and perhaps legally unacceptable practice in various campuses.<sup>3</sup> Many students had been caught red handed by the University authorities and are reported of remanded after being arrested over torturing of freshers by the senior students. This has become an annual ritual by the University maniacs.<sup>4</sup> It has caused fatalities over the years and has also increased suicide risks among the student population. Ragging at Universities continue to make news at regular

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<sup>1</sup> Wijesiri Lionel, (2018) '*Ragging: Is it a crime?*' Sunday Observer dated 2 September 2018 <<http://www.sundayobserver.lk/2018/09/04/thoughts/ragging-it-crime>> accessed 10 September 2019

<sup>2</sup> Wimalasuriya Darshani, (2019) '*Sri Lanka Universities In Dire Straits*' <<https://www.colombotelegraph.com/index.php/sri-lankan-universities-in-dire-straits/>> accessed 12 September 2019

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<sup>3</sup> Hiran, (2019), '*Ragging in Sri Lankan Universities*',

<<https://studentlanka.com/2019/07/02/ragging-in-sri-lankan-universities/>> accessed 12 September 2019

<sup>4</sup> Sri Lanka Brief, '*Ragging in Sri Lanka Universities: Academic Institutions Turn Torture Camps*' <<http://SriLankabrief.org/Author/Srilankabrief>> accessed 10 October 2019

intervals in Sri Lanka. We have heard about brutal ragging incidents in Universities and other Higher Educational Institutions (HEIs) and stories about students leaving Universities, but nobody expected such a large number of students to give up University education just because of the barbaric mindset of another group of students. We can imagine with these stories as to what a disgraceful situation we have in our Universities.<sup>5</sup>

It is appropriate to mention a few emblematic barbaric cases such as Rupa Ratnaseeli who was paralyzed in a ragging related incident at the Peradeniya University in 1975 and committed suicide in 2002. Chaminda Punchihewa, who died as a result of ragging at the Ruhunu University in 1993, Prasanga Niroshana, who died as a result of ragging at Schools of Agriculture, Angunakolapalessa, S. Varapragash had lost his life due to a kidney failure following severe ragging at Peradeniya University in 1997, Kelum Thushara Wijetunge died in the same way in the same year as Varapragash at the Hardy Technical institute in Ampara.<sup>6</sup> Wijeyadasa Rajapaksa, who was the Higher Education Minister had said in the year 2018 that for the previous two years nearly 2000 students who had entered Universities had left them due to inhuman ragging by senior students. Further, the former Higher Education Minister Rauf Hakeem also without specifying the duration said in Parliament in March 2019, that 1987 students had left Universities due to inhuman ragging in the year 2019. This situation continues very year. 12 second year students of University of Colombo were arrested by Cinnamon Garden Police over an incident of inhumanly ragging the 1<sup>st</sup> year students on 08<sup>th</sup> January 2020. a freshman student at the Shri Jayawardhanapura University was admitted to the Colombo National hospital in March 2020 with a serious head injury allegedly suffered during ragging

Sri Lanka as a welfare State has taken legislative, administrative and institutional measures to prevent ragging in educational institutions and to protect victims of ragging. Ragging has been made a criminal offence by the enactment of Prohibition of Ragging and Other Forms of Violence in Educational Institutions Act No. 20 of 1998 (The

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<sup>5</sup> Sri Lanka Brief, *Ragging in Sri Lanka Universities: Academical Institutions Turn Torture Camps* <<http://SriLankabrief.org/Author/Srilankabrief>> accessed 10 October 2019Ibid

<sup>6</sup> ibid

Anti-Ragging Act). Certain activities related to ragging have been prohibited and punishments have been specified in University Grants Commission (UGC) Circular Nos. 919 dated 15.01.2010 and 946 dated 10.02.2011 (Common Guidelines on Student Discipline). The UGC has established a special office, Center for Gender Equity and Equality with powers to deal with ragging related complaints and to aid students who have been victims of ragging in Universities and other HEIs. The UGC operates a hotline and established a complaint portal at UGC to report ragging threat or harassment. Ministry of Higher Education has launched an application (App) for mobile devices for State University students to instantly inform the authorities of ragging incidents as a step to eradicate ragging from Universities. Students and Staff members can report incidents to authorities through this mobile App. Moreover, ragging became a national cost. In 2017 budget allocation, the Government of Sri Lanka allocated 10 million rupees for the elimination of ragging in Sri Lankan Universities.

Adversely, ragging is still perceived by many senior students as a way of 'familiarization' and an 'initiation into the real world' for young University students. The cruel forms of ragging incidents have far exceeded the 'familiarization' or any other claims whatsoever put forward by the promoters of ragging. Despite the government's ban on ragging, and imposing rigid punishments, it is still found that a significant number of senior students continue to rag freshers and also justify it.<sup>7</sup> After hundreds of unfortunate incidents including murders and suicides by the students over the ragging, a selection of the University students who are considered to be the cream of student community have not realized yet the temptation for ragging is nothing other than a psychopathic condition.<sup>8</sup> In this backdrop, it is significant to critically evaluate the effectiveness of legal interventions for combatting ragging in Sri Lankan Universities.

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<sup>7</sup> Lionel Wijesiri, *Ragging: is it a crime?* Sunday Observer dated 2 September 2018 <<http://www.sundayobserver.lk/2018/09/04/thoughts/ragging-it-crime>> accessed 10 October 2019

<sup>8</sup> Sri Lanka Brief, *Ragging in Sri Lanka Universities: Academical Institutions Turn Torture Camps* <<http://SriLankabrief.org/Author/Srilankabrief>> accessed 10 October 2019

## 2. Key Objectives

The key objectives of this research are (i) to highlight and analyze the legal interventions existing to curb ragging in Universities in Sri Lanka (ii) to critically evaluate the extent to which the existing legal interventions have succeeded in its objectives and (iii) to identify potential areas to be proposed as a way forward.

## 3. Research Question

Are legal interventions effective to combat ragging in State Universities in Sri Lanka?

## 4. Hypothesis

When legal interventions are adequately effective, the tendency of occurrence of incidents of ragging in Universities will be less.

## 5. Methodology

Qualitative research method was adopted to develop this paper. Students and staff members of Universities were used as research population to gain their balanced viewpoints in different perspectives on the effectiveness of the legal intervention to combat ragging in Sri Lankan Universities. Primary data was collected from the selected individuals as samples of the research population. Purposive sampling technique was used to create nonprobability sampling method.

South Eastern University of Sri Lanka (SEUSL) was selected for the case study as it comprises students and staff of both gender from all three communities where the researcher works as an executive administrative staff member in charge for legal and documentation matters of the SEUSL. There are six faculties in the University namely Faculty of Engineering, Faculty of Applied Sciences, Faculty of Technology, Faculty of Management and Commerce, Faculty of Arts and Culture and Faculty of Arabic Language and Islamic Studies. 06 samples (02 fresher students, 02 senior students and 02 staff members) were selected from each faculties of the University. Gender balance also taken into consideration when samples were selected. Each category of the sample comprised one male and one female. Samples were selected from all six faculties of the University. There were totally 36 samples selected from 06 faculties of the university. An open-ended questionnaire was disseminated among the samples to collect primary data and they treated as confidential.

Further, structured interviews based on predetermined questions were conducted individually with 04 police officers (02 male and 02 female) who were handling complaints related to criminal matters in Akkaraipaththu police station with the purpose of assessing their knowledge on legal interventions to combat ragging in Universities. Interviews were recorded with the informed consent of the samples.

Faculties	Samples						Total
	Freshers		Seniors		Staffs		
	M	F	M	F	M	Fe	
1. Faculty of Engineering	01	01	01	01	01	01	06
2. Faculty of Applied Sciences	01	01	01	01	01	01	06
3. Faculty of Technology	01	01	01	01	01	01	06
4. Faculty of Management and Commerce	01	01	01	01	01	01	06
5. Faculty of Arts and Culture	01	01	01	01	01	01	06
6. Faculty of Arabic Language and Islamic Studies	01	01	01	01	01	01	06
<b>Total</b>	06	06	06	06	06	06	36

Table No. 01 Distribution of Samples

Secondary data of this research was based on a desk research evaluating salient features of the following legislative enactments. UGC Circulars were analyzed for the development of this paper.

1. Prohibition of Ragging and Other Forms of Violence in Educational Institutions Act No. 20 of 1998;
2. The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994;
3. Universities Act, No. 12 of 1978;
4. The UGC Circular Nos. 919 dated 15.01.2010 and 946 dated 10.02.2011 of Sri Lanka, UGC guidelines on students' disciplines; and
5. UGC's mechanisms to maintain student discipline in State owned HEIs in Sri Lanka.

## 6. Legal Interventions

### 6.1 The Anti-Ragging Act

The Anti-Ragging Act was enacted exclusively for the purpose of eliminating ragging and other forms of violence, cruel, inhuman and degrading treatment, from educational institutions as its long title stipulated. This law recognizes ragging as a distinct offence. The term ‘ragging’ has been defined by anti-ragging act as follows;

*‘any act which causes or is likely to cause physical or psychological injury or mental pain or fear to a student or a member of the staff of an educational institution.’<sup>9</sup>*

This definition includes physical, psychological injury or mental pain or fear caused to a student or a member of the staff of an educational institution. This act does not provide definition for cruel, inhuman and degrading treatment. For this purpose, definition given in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994 could be referred. This act recognizes certain offences such as ragging, criminal intimidation, hostage taking, wrongful restraint, unlawful confinement as cognizable offences.<sup>10</sup>

According to section 2 of the Act, any person who commits, or participates in, ragging even outside an educational institution shall be guilty of an offence under this Act. Although the definition of ragging does not include sexual harassment or sexual related ragging activities, section 2 of the Act further makes a person who, whilst committing ragging causes sexual harassment or grievous hurt to any student or a member of the staff, of an educational institution shall be guilty of an offence under this Act. This Act imposes rigid punishments;

1. Rigorous imprisonment not exceeding two years for any person who commits, or participates in, ragging within or out an educational institution and convicted after summary trail before a Magistrate;<sup>11</sup>
2. Rigorous imprisonment for a term not exceeding ten years for a person who, while committing ragging causes sexual harassment or grievous hurt to any student or a member of the staff and convicted after summary trail before a Magistrate;<sup>12</sup>

<sup>9</sup> Section 17 of the Anti-Ragging Act.

<sup>10</sup> Section 11 of the Anti-Ragging Act.

<sup>11</sup> Section 2 of the Anti-Ragging Act.

<sup>12</sup> Ibid

In the above both cases it may also be ordered to pay compensation for to the person in respect of whom the offence was committed for the injuries caused to such person. However, this Act does not require to pay compensation for mental and/or psychological damages caused to the victim of ragging;

3. Rigorous imprisonment for a term not exceeding five years for conviction of an offence of criminal intimidation;<sup>13</sup>
4. Rigorous imprisonment for a term not exceeding seven years for conviction of an offence of hostage taking or of wrongful restraint or of unlawful confinement;<sup>14</sup>
5. Rigorous imprisonment of not exceeding ten years or to a fine not exceeding ten thousand rupees or to both such imprisonment and fine for an offence of forcible occupation and damage to property of an educational institution;<sup>15</sup>
6. This Act imposes imprisonment for a term of maximum twenty years and a fine of five thousand rupees or three times the amount of the loss or damage caused in respect of any property of, or under the management or control of, an educational institutions if such person is convicted after summary trail before a Magistrate.<sup>16</sup>

This Act empowers the Magistrate Court to order expulsion of a student or to order of dismissal of a member of the staff in any case where such person is convicted.<sup>17</sup>

A person suspected of committing sexual harassment or grievous hurt during ragging or a suspected of hostage taking shall not be released on bail except by the judge of a High Court established by Article 154P of the Constitution.<sup>18</sup>

Section 10 of the Act states that the provisions of Section 303 of the Code of Criminal Procedure Act, No. 15 of 1979 shall not apply in the case of any person who is convicted. Section 303 of the Code of Criminal Procedure Act, No. 15 of 1979 gives

<sup>13</sup> Section 3 of the Anti-Ragging Act.

<sup>14</sup> Section 4,5, and 6 of the Anti-Ragging Act.

<sup>15</sup> Section 7 (1) of the Anti-Ragging Act.

<sup>16</sup> Section 7 (2) of the Anti-Ragging Act.

<sup>17</sup> Section 8 of the Anti-Ragging Act

<sup>18</sup> Section 9 of the Anti-Ragging Act.

powers to impose suspended sentence of imprisonment on an offence for a term not exceeding two years. Section 306 shall not apply in the case of any person who pleads or is found guilty. Section 306 of the Code of Criminal Procedure Act, No. 15 of 1979 gives power of Court to permit conditional release of offenders.

### **6.2 Anti-Torture Act**

One of the crucial forms of ragging is torture and other cruel inhuman or degrading treatment or punishment. Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994 makes torture punishable by imprisonment for a term not less than seven years and not exceeding ten years and a fine.

### **6.3 Universities Act**

Universities Act, No. 16 of 1978 gives powers to the Vice Chancellor of a HEI, where the presence of any person in the precincts of a HEI is undesirable, after giving such person an opportunity of being heard, may by writing under his hand served on such person, prohibit such person from entering or remaining within such precincts or within such part thereof as may be specified in such writing. Such prohibition shall be and remain in force until revoked by such Vice Chancellor with the consent of such governing authority. This Act criminalized disobeying prohibition as an offence and on conviction by a Magistrate, be liable to a fine of one hundred rupees in respect of each day or part thereof on which he has entered or during which he has remained within such precincts or part thereof. This amount of fine is very low when comparing to the damages caused to the victim if the person involves in severe form of ragging.<sup>19</sup>

### **6.4 UGC Circulars**

UGC Circular 919 dated 15.01.2010 on the title of guidelines to be introduced to curb the menace of ragging in the Universities or Higher Educational Institutes provides a comprehensive list of preventive measures and procedures to be followed in the event of ragging. It compels students to sign a declaration countersigned by the parent/guardian stating that they shall not related to ragging and it suggests to appoint an Anti-Ragging committee and insist to meet at least twice a month during the preparatory and peak period and regularly report to the Council. Universities/HEIs are also encouraged to establish Faculty level Anti Ragging Committees depending on the needs of the individual Universities/HEIs.

UGC having observed that Universities/HEIs have adopted different procedures with regard to student disciplinary matters issued a set of common guidelines on students' disciplinary procedures by its circular number 946 dated 10.02.2011. Schedule I of this circular provides a detailed step by step procedures regarding any charge of misconduct/indiscipline against a student. This circular empowered the Vice Chancellor of a University to impose an Out of Bounds Declaration on students with immediate effect in cases where the Vice Chancellor deems it necessary in the context of the seriousness of the infringement of discipline when the fact finding mission revealed that the student has committed an offence amounting to misconduct/indiscipline. Schedule II of this circular provides a table of recommended punishments for violation of student discipline. It also gives appeal procedure against a decision to punish a student.

### **6.5 UGC Institutional Measures**

The UGC has established a Center for Gender Equity and Equality with the vision of ensuring that the HEIs under the purview of the UGC have the institutional capability to ensure a conducive, gender-just working and learning environment to all its members and are recognized for their excellent practice. This center also handle complaints of ragging incidents from Universities and HEIs

Students at Universities and other HEIs can now complain against ragging via a hotline and a separate unit set up for such complaints. The hot line 011-2123700 functions round the clock for the purpose. The UGC also asks the students to lodge a complaint with the local police station after informing their university authorities.

Online complaints portal has also been set up as a means for any member of the University community to lodge a complaint regarding incidents of ragging, harassment, intimidation, and bullying. All complaints that are lodged are investigated and victims of such incidents are offered support and redress. Once the complaint is lodged, the relevant authorities such as the Vice Chancellor, Student Counsellors, etc. are notified and immediately initiate an investigation regarding the complaint.

Recently, Mobile App to end ragging in Universities is launched for State University students to instantly inform the authorities of ragging incidents as a step to eradicating ragging menace from Universities in Sri Lanka. This application is available 24 hours of the day and the

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<sup>19</sup> Sec. 131 of the Universities Act No. 16 of 1978

UGC would be monitoring it and could identify the students' current location at all times. The local police in the relevant area would be alerted as soon as any student sends a distress call about an ongoing ragging incident and are expected to respond immediately.

## 7. Conclusion

Analysis of the questionnaires indicates that most of the victims of ragging are female fresher students from rural areas of the Country. Most thus 80 percent of the University students and staff have very poor knowledge on the legislative and institutional measures available to prevent and report ragging. None of the student nor the staff member memorizes the UGC hotline number which has been set up specially for the purpose of ragging complaints. No one has downloaded the WhatsApp on their mobile phone which helps to immediately report ragging incidents. Ad-hoc measures to prevent ragging based on individual cases have failed to create a positive and sustained strategies to prevent ragging.

The structured interviews with Police officers illustrate that they have not charged the perpetrators of ragging under the Anti-Ragging Act. The police officers are unaware of the existence of a special legislation enacted to curb ragging and other form of cruel and inhuman treatment in HEIs.

The approach of treating students involving in ragging as criminals needs to be reviewed. The behavioural patterns of students, particularly, potential ragers, need to be identified. There is an urgent need to educate students, staff members and police officers on available legal interventions to curb ragging in Universities. Orientation programmes in Universities must take up the issue of ragging to change the mind-sets of students from within the University system. Guidelines prescribed in UGC circular 919 should be strictly followed at all times.

It is clear that ragging is not merely a disciplinary or a law and order problem that can be solved by punishment alone. It has complex social and psychological dimensions. Apart from its complex nature, another significant reason why ragging is difficult to control is that it is a 'soft' problem – one that is subjective and dependent on how it is perceived by the victims and perpetrators as well as other stakeholders. Therefore, it becomes difficult to formulate efficient means to control or end it.<sup>20</sup>

## References

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<sup>20</sup> Wijesiri Lionel, (2018) '*Ragging: is it a crime?*' Sunday Observer dated 2 September 2018 <<http://www.sundayobserver.lk/2018/09/04/thoughts/ragging-it-crime>>