

**PROTECTING LEGAL RIGHTS OF WOMEN UNDER THE SHADOW OF  
DEVADASI SYSTEM**

-Blitz Kumar Sudhanshu<sup>1</sup>

**ABSTRACT**

*The government of India has several provisions to improve the status of women still social stigma like 'Devadasi system' is prevalent in many parts of India. Despite The Universal Declaration of Human Rights, The Maharashtra Devadasi Practice (Eradication) Act, 2008, The Bombay Devadasis Protection Act, 1934, The Tamil Nadu Devadasis (Prevention of Dedication) Act, 1947, The Prohibition of Dedication Act 1982 of Karnataka, The Andhra Pradesh Devadasis (Prohibition of dedication) Act, 1988, Immoral Traffic Prevention Act, 1956, National Commission for Women have played an immense role in the abolition of this system the government rehabilitation programs are very slowly progressing because legislative measure are poorly implemented.*

*Though illiteracy, superstition and poverty prevails these communities, Government should spread head this effort by allocating trained personnel. Radio, Television, Mass Media should not accept such belief for propaganda in the name of part of culture but should work with anti- superstition drive. Government should facilitate them by providing Education, State Transport Buses, Drinking Water Supplies, Security, Medicines, Protection and skill development to get employment. Female Devadasis in marriageable age-group may be appropriately helped to marry and settle down. This work will, however, be effective only if the whole society wakes up to the problem and augments the ongoing effort.*

**Introduction**

Indian constitution has safeguard regulations for the protection rights of women, but human rights of Devadasi<sup>2</sup> women are not protected. This is manifested in high levels of violence in the sex industry, child sex workers, lack of access to health care, and high levels of HIV infection.<sup>3</sup> Policies that revolve around rescue and rehabilitation, or are based on the premise that sex work is immoral, are unlikely to effectively

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<sup>1</sup> Research Scholar, Central University of South Bihar, Gaya

<sup>2</sup><https://www.wikigender.org/wiki/devadasi/> (Last visited on March 08, 2020).

<sup>3</sup><https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2014/04/7-Misra.pdf> (Last visited on March 06, 2020).

promote the well-being of sex workers.<sup>4</sup>The reality is just opposite i.e. in almost all walks of life their rights are frequently curtailed. Especially, when it comes to 'Devadasi System', an ongoing ancient system where females, especially children, beautiful ladies and even widows were offered to temple to serve the deity, tied in the wed-lock with the deity and with the change of time they were exploited and used as sex-slaves for the rest of their lives by the priests, leading a life of prostitute and played a part in the degradation of societal moral values. It is not definitely known when the institution of Devadasi commenced in India. According to some scholars, the earliest mention of Devadasi is found in an inscription, dating back to Ashoka's times (273-323 B.C), where the painter, Devadatta, is stated to have been in love with the Devadasi Sutanuka. The inscription was discovered in the Jogimara Cave of Ramgarh, about 160 miles South of Varanasi. The first clear literary reference to Devadasi occurs in the *Arthasastra* of Kautilya. Huin Tsang (India visit 630-643) writes that dancing women used regularly to sing and dance in the Sun-Temple of Multan. From the *Rajatarangini* of Kalhana, refers that a Kashmirian king made a gift of 100 women of his harem to a Shiva temple. All this was started in the shadow of religious pious activity, but resulted in the downfall of our female children from Tamil Nadu, Andhra Pradesh, Karnataka, Odisha, Maharashtra, West Bengal and widows in Mathura etc. This is nothing but cannibalism, illiteracy, backwardness and superstitious thought of our society. It could also be termed as 'ritualised prostitution' backed by the then monarchs and male dominating society and today by our corrupt politicians, despite various acts to abolish female trafficking, prostitution and Devadasi system.

### **Myth About Devadasi**

It is said that Renuka, a devoted wife of a sage Jamadagni, once attracted to a *Gandharva*<sup>5</sup>couple bathing in the river. Thereafter, the truth was known to sage Jamadagni, by his yogic powers, so he ordered his sons to behead Renuka and which was followed by his youngest son Parshuram. Later, Parshuram was given boon by his father for acting truthfully and demonstrating dharma. Renuka was now given life

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<sup>4</sup><https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2469/2014/04/7-Misra.pdf> (Last visited on March 06, 2020).

<sup>5</sup>Gandharva signifies angelic beings from Heaven.

and she was to be worshipped as Goddess whereby young girls would marry her and would fulfill all sexual demand by her son Parshuram without any bonding or return. Leprosy patients, too, if asks for sexual favour would, in no case, be denied, such was the pathetic conditions of these Devadasi. Their source of livelihood would come from begging for alms from door to door on the Friday of every week in the name of *Yellamma*.<sup>6</sup>

### **Human Rights Aspects**

UDHR by UN General Assembly in 1948 recognizes every human being's right to life, liberty, and security. Since then more than 20 International Human Rights Agreements like ICCPR, ICESCR and CEDAW have fought for the dignity and human rights of women etc. The Preamble of the 1950 Constitution of India promises to the citizens of India justice, liberty, equality, and "the dignity of the individual."<sup>7</sup> Fundamental Rights(Art. 12-32) are modeled on the Bill of Rights in the U.S. Constitution. Art. 15 provide nondiscriminatory treatment of all individuals irrespective of sex, religion, and other characteristics, Art. 23 prohibit traffic in human beings and slavery, and Art. 24 prohibit the employment of children in hazardous employment. The FRs within Indian Constitution are positive rights and legally enforceable. The Constitution also lists a set of desirable objectives for the state. Although not legally enforceable, these objectives include the right to an adequate means of livelihood for all citizens; a clean environment; protection of citizens, including children, against abuse; the right to work; and just and humane conditions for work.<sup>8</sup>

"Who will give us jobs? We are all illiterate."<sup>9</sup> Forced to ritual prostitution, with no legal father, and biological father taking responsibility, they face many social problems. In many cases a patron kept many girls and the number of girls used to be a

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<sup>6</sup> Renuka is re-named Yellamma, who is female though she is a Goddess.

<sup>7</sup>Constitution of India, Preamble available at [https://indiacode.nic.in/handle/123456789/8305?view\\_type=browse&sam\\_handle=123456789/2492](https://indiacode.nic.in/handle/123456789/8305?view_type=browse&sam_handle=123456789/2492) (Last visited on March 06, 2020)

<sup>8</sup> Ibid. Articles 36-51.

<sup>9</sup>WILLIAM DALRYMPLE, "Serving the Goddess: The dangerous life of a sacred sex worker". available at <https://www.newyorker.com/magazine/2008/08/04/serving-the-goddess> (Last visited on March 06, 2020)

yard stick of the status of that man. This system of patronage has given way to commercial prostitution in the populated big cities.<sup>10</sup>

They assumed status in society, to serve men sexually, makes it more difficult to approach Law for help: “When a Devadasi is raped, it is not considered rape. She can be had by any man at any time”<sup>11</sup> Earlier they were from many sects but now exclusively Dalits. Because of this they are extremely vulnerable to exploitation and abuse and will find it even harder to access their legal rights.<sup>12</sup> Like other forms of violence against women, ritualized prostitution, activists believe, is a system “designed to kill whatever vestiges of self-respect the untouchable castes have in order to subjugate them and keep them underprivileged”.<sup>13</sup>

As per, a Canada-based NGO, Ambedkar Centre for Justice and Peace: 1000s of untouchable female kids aged 6-8 yrs. are forced to become Devadasi. After being separated from their families they are raped by temple priests, sold to brothels and finally die of AIDS and other diseases. It is estimated by NGOs that 5,000 to 15,000 girls are auctioned secretly every year.<sup>14</sup> Devadasis with diverse cultural and geographical variations are known by various names such as *Bhogam and Sanisin* Andhra Pradesh, *KoyilPinakkal, Patiyilar, Cottikal, Manikkattar, TevanarMakal, Atikalmar, EmperumanatiyarTevaratiyar, Patiyilar, Kanikaiyar, Tevataci, TalicceriPendukalin* TamilNadu, *Nangaimar, Attakkari, Muraikkari, Kudikkari, Tevidicchi, Koothichi, Kootachiin* Kerala, *Jogtis, Sule or Suleyar, Basavi, Potiin* Karnataka, *Mahaaris, Darikaas and Patras* in Orissa, *Kudipus, Kurmapusin* Assam, *Kalavant and Bhavin* Konkani and Marathi.

### **Reasons for Dedication of Girls**

The main reason for the dedication is that they are daughters and their family is unable to pay the dowry for their marriage. Besides ‘Dowry’, they feel that their poor

<sup>10</sup> Human Rights Watch, Broken People: Caste Violence Against India's Untouchables, p.150 available at <https://www.hrw.org/reports/1999/india/India994.htm> (Last visited on March 06, 2020)

<sup>11</sup> Ibid., p.15.

<sup>12</sup> MEGAN ROWLAND, “A Light in the Darkness: Fighting ritual prostitution in south India” available at [www.hartuk.org/.013/07.a-light-in-the-darkness.pdf](http://www.hartuk.org/.013/07.a-light-in-the-darkness.pdf) (Last visited on March 06, 2020)

<sup>13</sup> Human Rights Watch, Broken People: Caste Violence Against India's Untouchables p.151 available at <https://www.hrw.org/reports/1999/india/India994.html> (Last visited on March 06, 2020)

<sup>14</sup> Yogesh Varhade., “International Advocacy and the Role of the United Nations and Civil Society”, Ambedkar Centre for Justice and Peace, p.3. available at <https://www.hrw.org/reports/1999/india/India994-09.htm> (Last visited on March 06, 2020)

illiterate daughters would earn from this ritual prostitution and simultaneously religious obligation to serve temple will be done. As Action Aid's report *Disappearing Daughters* states:

*'Whilst boys are expected to bring wealth into a family, girls are seen by many as 'expenditure'. In many states, dowries and expensive marriages are inevitable outgoings for families with daughters. As daughters traditionally become part of another family after marriage, it is sons who are expected to provide for parents in their old age.'*<sup>15</sup>

In Andhra Pradesh 20% of Devadasi are dedicated because there is no son in the family<sup>16</sup>. In Karnataka, tradition and social pressure plays a key role, with 31% of Devadasi being dedicated because it is seen as a hereditary duty<sup>17</sup>.

### History

History of Devadasi is unclear. Some mention it to Ashoka's times (273-323 B.C), where the painter, Devadatta, is said to be in love with the Devadasi Sutanuka. About 160 miles South of Varanasi, the inscription in the Jogimara Cave of Ramgarh, was discovered. Devadasi first referred in Kautilya's *Arthashastra* appointed for specified time and later engaged in making threads. Huin Tsang during his India visit in 630-643 writes that they sang and danced in Sun-Temple of Multan. From the *Rajatarangini* of Kalhana, refers that a Kashmirian king made a gift of one hundred women of his harem to a Siva temple.<sup>18</sup> 300 dancers, an Arab account tells us, danced at the gate of the Somanatha temple<sup>19</sup> Bilhana of Kashmir states, in his *ikramankadevacarita*, that the Devadasis used to perform exciting dance in the dancing hall of the temple of Ksemagaurisvara. In Orissa, Devadasis belong to Svapneswar, Megheswar and Brahmeswar at Bhuvaneswar. Maharis, had the monopoly of Odishi dance. At Jagannatha Puri, during Car Festival, 120 Devadasis

<sup>15</sup>Disappearing Daughters, Action Aid (Action Aid, 2008) p.12, available at <https://www.hart-uk.org/wp-content/uploads/2013/07/A-Light-in-the-Darkness.pdf>(Last visited on March 06, 2020)

<sup>16</sup>Women in ritual slavery, Maggie Black (Anti-Slavery International, 2007) p.14, available at <https://digitalcommons.ilr.cornell.edu/globaldocs/2946/>(Last visited on March 06, 2020)

<sup>17</sup> Ibid.

<sup>18</sup>BANERJI, SURES CHANDRA & BANERJI, RAMALA., The Castaway of Indian Society, PunthiPustak Calcutta, 1989 available at <https://studydriver.com/devadasis-the-shift-from-temple-servants-to-prostitution/>(Last visited on March 07, 2020)

<sup>19</sup>JHA, D.N., Early India: A Concise History, p.200, Manohar Publishers & Distributors, New Delhi (2016).

used to dance. Earliest reference of Devadasi is related to some Tamil inscriptions of Rajaraja, a Chola King. Previously priests and later affluent people used them as sex slaves, where even famous Temples became brothels where they were paid a fixed salary for these mean jobs. With the change of time they started to live separately in villages, and today even though they approach a Police gets nothing but ridiculed. Devadasi were more in south India than north India and as per Jogan Shankar, this may be due to aliens attacks on India. Aurangzeb was successful to some extent in removing this traditional wrong practice.

### **Statistics**

After National Commission of Women initiative to stop Devadasi system, Maharashtra govt. provided no information, Orissa govt. mentioned that there is only one *Devadasis* in Orissa, in a Puri temple, Tamil Nadu govt. stated that this system has been eradicated with no *Devadasis* in the state whereas 16,624 and 22,941 in Andhra Pradesh and Karnataka identified respectively. In Andhra Pradesh, *Devadasi* practice is prevalent in Rangareddy, Adilabad, Nalgonda, Hyderabad, Mahaboobnagar, Medak, Nizamabad, Karimnagar, Kumool, Chittoor, Srikakulam, Warangal, Nellore and Ananthapur, in Karnataka in Gulbarga, Raichur, Belgaum, Dharwad, Bijapur, Bellari and in Maharashtra in Mumbai, Sholapur, Sangli, Lathur, Nanded. Satara, Pune, Kolhapur, Usmanabad and Sindhudurg.

### **Welfare of Devadasis past and present**

The Devadasi welfare could be visualized as acting on three planes, namely,

- (1) Devadasi Rehabilitation: making present Devadasi / Jogatas leave the tradition and facilitate their resettlement in social mainstream through economically gainful activities.
- (2) Devadasi Prevention: preventing new boys and girls from entering the tradition; and
- (3) Devadasi Traditions: totally eliminating the Devadasi tradition from the socio-religious culture.

A Christian lady Missionary Amy Carmichael on 1<sup>st</sup> march 1901 rescued a young devadasi girl and later saved and rehabilitated many and today this year is recognized as the foundation day of a planned effort for the rehabilitation of the Devadasi Tamil

Nadu. In Maharashtra, social reformer Vithal Ramji Shinde carried out a census of 'Muralis' and 'Devadasis' and in 1907, published an essay on the Devadasi exploitation. Later, he organized a public meeting and was supported by Maharaja Sarjajirao Gaikwad (King of Badodra) of the erstwhile Princely state of Baroda. In 1934, the British Government of India enacted a Devadasi Prevention Act and made it applicable first to the Bombay Province and later to Mysore state. Later, WilliumWallness and Mrs. Mary Wallness, Mr. Haward and Mrs. Haward of Miraj and Kadoli Central Maharashtra worked for their help and eradication of this tradition. During 1940 - 1950, Dr. B. R. Ambedkar tried to eradicate the tradition and improve their status by his articles.

#### **Laws against Devadasi Cult and Government's Efforts for Rehabilitation**

***Indian Penal Code, 1860:*** After amendment of IPC in 1924 Ss. 362, 373 declared prostitution as illegal and prescribed that whoever disposes off any person under the age of 18 years (or attained the possession of any person) with the intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or with the knowledge that the person is likely to be employed or used for any such purpose at any age, is liable to be prosecuted.

***Bombay Devadasi Protection Act, 1934:***In 1934, Bombay Devadasi Protection Act was passed which declared dedication of a woman as an illegal act, irrespective of the fact, the dedication was made with or without her consent. According to this Act, marriage by a Devadasi was to be considered lawful and valid, and the children from such wedlock were to be treated as legitimate. The Act also laid down grounds for punitive action that could be taken against any person or persons, who were found to be involved in dedications, except the woman who was being dedicated. Those found guilty of such acts could face a year's imprisonment or fine or both.

***Madras Devadasi (Prevention of Dedication) Act, 1947:***It was also in operation in the then Mysore state which was renamed as Karnataka in 1972. The two Acts then existing were replaced by the Karnataka Devadasis (Prohibition of Dedication) Act which was adopted by the State Legislature in 1982 and was notified by the Government through its Gazette in 1984.

***Karnataka Devadasis (Prohibition of Dedication) Act 1982:***The 1982 Act strengthens the penal provisions that were previously available under the 1934 Act. As per this Act, dedication of women or girls to any deity/temple or object of worship is prohibited and any person who directly or indirectly supports dedication of women as devadasis is punished with a penalty of Rs.12000 to 50000 and/or imprisonment.

***Devadasi Abolition Bill December 20, 1947:***Its object was that such dedication of Hindu girls and women generally leads them to an immoral life. In 1913, Government introduced a bill for the protection of women and girls. Later in 1923, Sec 372 & 373 of Indian Penal Code Amended.

Karnataka's Social Welfare Department ran programmes as:<sup>20</sup>

- i. Establishment of exclusive 'State-Home for the victims of Devadasi cult.
- ii. Establishment of special Residential School for children of devadasis as they are more prone to be the victims of this cult.
- iii. Moral education, vocational training like tailoring, embroidery, and knitting are taught by trained teachers to devadasis in State-Homes.
- iv. A Devadasis of marriageable age are encouraged to get married and settle in life. For this, an incentive of Rs. 3,000/- is sanctioned by Karnataka State Government.
- v. They are also provided subsidised loans through nationalised banks to start self-employment or business under the assistance of Social Welfare Department.
- vi. Top priority is given to devadasis in case of various benefits provided through developmental programmes for weaker sections of the society such as Janata Housing Scheme, Bhagya Jyoti, Grahakalyan, Old-age pensions and TRYSEM (Training of Rural Youth for Self Employment).
- vii. A special cell is created, with an officer whose duty is the rehabilitation of devadasis. He is also entrusted with publicity of various rehabilitative programmes for devadasis and curbing the spread of this evil practice.
- viii. Voluntary organisations which are interested in rehabilitation of devadasis and their children are liberally supported with Government funds.

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<sup>20</sup>SINGH, NAGENDRA KUMAR, Divine Prostitution, A.P.H. Publishing Corporation, New Delhi, 1997, p. 180 available at <https://sw.kar.nic.in/index.aspx>(Last visited on March 07, 2020)

**Problems**

- i. Lack of legal husband, all the costs of child-raising fall on the mother.
- ii. Failure of the authorities to implement laws and policies on their behalf.  
Sexual abuse from men.
- iii. Discrimination in the home, at work and in the community.
- iv. Lack of education (themselves and their children)
- v. Children of Devadasi suffers discrimination because they have no legal father.  
Due to this school managements are denied admission.
- vi. Dalit women she suffers from triple oppression resulting by gender, caste and class. But in the case of Dalit Devadasi, she suffers a lot.

**Suggestions**

- i. Awareness Camps should be conducted in those areas.
- ii. Government should establish Adult Education Schools at their locality to educate Devadasis.
- iii. Education will bring awareness regarding this evil system.
- iv. Government has to conduct skill training programmes and also provide financial assistance to establish small scale and cottage industries to stand on their own with self- respect.
- v. Government and NGOs should adopt their children and take them away from such unhealthy environment at an early age and provide residential education.
- vi. Employment should be provided by establishing industries. Government must provide governmental jobs to their children.
- vii. Vigilance committees should be formed in villages in relevant areas.
- viii. Housing construction or grants for home improvements.
- ix. Scholarships to mainstream schools or provision of special educational facilities (Bridge Courses) for children of Devadasi.
- x. Provide free health cards.
- xi. Establishing and Strengthening of Devadasi groups and federations.
- xii. Government pensions for Ex-Devadasis.

**Conclusions**

Since ancient times, women have been exploited at various levels and their rights are violated more or less with day-by-day deteriorating conditions, and Devadasi tradition is one of them. Earlier Kings, affluent people, priests and others have, initially given them good position even in courts, and on the other hand sexual exploitation in the name of religious tradition was in practice. This tradition being religious, got social strength to continue, and became a stigma of our society. Especially, young men and women from low caste, poor families, illiterate and superstitious people etc. became victim to these wrong practices, and the exploitation continued. With the lapse of time many social reformers tried to eradicate the problem.

Recently, in *Vishal Jeet v. Union of India*<sup>21</sup>, the Supreme Court, while dealing with Public Interest Litigation against forced prostitution of girls, Devadasis and Joginis and for their rehabilitation, observed that despite stringent and rehabilitative provisions under the various Acts, results were not as desired and, therefore, called for evaluation of the measures by the Central and State Governments to ensure their implementation. The Court called for severe and speedy legal action against exploiters, such as, pimps, brokers and brothel keepers and several directives were issued by the Court, which inter alia, included setting up of separate Zonal Advisory Committees for providing rehabilitative Homes effectively dealing with the Devadasi system, Jogin tradition, etc. Similar views have been cited in *The Director v. State Of Tamil Nadu Rep.*<sup>22</sup>,

Strict measures required to curb the problem. To end this system, Supreme Court has fined Rs. 25,000 to government for acting not seriously to stop this tradition.<sup>23</sup> Indian government has several provisions to improve women's status, stop prostitution, educate SC/ST women and various criminal and civil laws have been made and amendment, too, are being done to avoid any violation. Various tribunals and special courts and policing methodology are implemented to control and prevent any future violation of women rights, abolish 'Devadasi system' and strengthening them so as to bring them into their main stream of our society. The UDHR have also provisions for

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<sup>21</sup> Vishal Jeet v. Union of India (1990) 3 SCC 318

<sup>22</sup> The Director v. State Of Tamil Nadu Rep. W. P. No. 36807 of 2006 Mad HC

<sup>23</sup> <https://economictimes.indiatimes.com/news/politics-and-nation/end-to-devadasi-system-sc-slaps-rs-25000-on-government-for-no-reply/articleshow/49968188.cms?from=mdr> (Last visited on March 07, 2020)

the same. Various acts and NCW have played an immense role in the abolition of this system and the government rehabilitation programs are slowly but steadily in progress. While India has adopted measures to abolish forced prostitution and “rehabilitate” Devadasis, these efforts have been largely unsuccessful. Legislative initiatives are poorly implemented. The Devadasi system violates several clauses of The Universal Declaration of Human Rights, including Article 4 which states that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. The United Nations Supplementary Convention on the Abolition of Slavery, the Slave trade, and Institutions and Practices Similar to Slavery, 1956, which India is a signatory to prohibit any practice where a child is handed over for exploitative purposes. Most of the Devadasis are from Dalit community with poor economical background give no importance to education. This wrong practices give them a regular income for the family, as long as they are young and useful after which they are discarded by their own, too, and left with the choice of begging for a living. Social changes cannot be brought about through law alone. Social education is needed in India which is based on rationality. Society, NGO, Govt. and other bodies need to work on grass root level to control this mal-tradition. After pressure from various national and International bodies, government has tried some but the task is still unaccomplished.