

INDIAN JOURNAL OF LEGAL REVIEW



VOLUME 3 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



Indian Journal of Legal Review [ISSN - 2583-2344]

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 3 and Issue 1 of 2022 (Access Full Issue on – <https://ijlr.iledu.in/volume-3-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 - info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

DEVADASI SYSTEM IN INDIA- HISTORICAL BACKGROUND & SUPREME COURT STANCES ON IT.

Authors: Tanaya Wageshwari, Assistant Professor at RNB Global University, Bikaner

Best Citation - Tanaya Wageshwari, DEVADASI SYSTEM IN INDIA- HISTORICAL BACKGROUND & SUPREME COURT STANCES ON IT, Indian Journal of Legal Review (IJLR), 3 (1) of 2023, Pg. 385-391, ISSN - 2583-2344.

ABSTRACT

Calling them devadasis we insult God himself in the name of religion- Mahatma Gandhi

In India, a system of ritualized prostitution, known as Devdasi system which is a social stigma to a great extent adopted in India. The word Devadasi has its origin from two Sanskrit words; Devand Dasi which means female servant of God.

In this system, a girl is dedicated to a temple usually before reaching the age of puberty. The researcher would like to throw the light on the history of this system. In this research; the researcher would like to contextualize the historical and cultural underpinnings of this system and also the evolution of this practice to the modern day.

This paper explains what our judicial system and its authority can do to truly combat this practice. The researcher dealt with all the stances taken by the Supreme Court on this ritualized prostitution system. This research aims to understand the exclusion experienced by the women where they have been victims of this practice.

Since, the topic is yet to be discussed in detail in the society, I through this paper have tried to replicate the scenario and have thought of

showing its various implications. Leaving you with the question to ponder about this practice and its various dimensions?

Key words: Devadasi system, prostitution, Social exclusion, victims, Social stigma.

I. INTRODUCTION

India is a nation for unity in diversity and this country is always known for its temples. The goddess and god were always worshipped with any form of dance and in these temples nobody came forward to regularly dance. So, in these temples to find and get regularly girls for dancing a system called "devadasi system" has been introduced. This term 'devadasi' originally describes a Hindu religious custom or practice in which girls were married and dedicated to the deity. It also means a maid servant of god trained in dance, music, literature and playing of musical instruments. Mostly young girls are Devdasis, dedicated by their parents and relatives to the temple. This practice is an institutionalized exploitation of women or girls and also a religious sanction given to prostitution of helpless socially and economically deprived women. At present, this practice is mainly prevail in Karnataka, Andhra Pradesh and Maharashtra. There is a saying in Marathi 'devadasidevachi, bay kosaaryagavachi'; the meaning of which is God's servant but the wife of the entire town. A license for prostitution with a religious sanction by the Devdasi union. In many villages, numerous Dalit women are forced to become God's maiden. In the name of religion Dalit women are introduced into prostitution in this practice. In this practice of ritualized prostitution, pre-puberty the young girls were forced to marry the god or the dieties who were local and present in any of the temples, and this way the girls used to become priest's property or of the other inmates of the temple and also of the local landlords and zamindars. The god's wives lived nearby or within the temples and use to perform some duties at temples also, they use to participate in the religious functions. They were an essential and important part of

many large Hindu temples. They were-: community of artists, developed & preserved classical dance of India, contributed to the music, and also developed distinct customs, practices & traditions.

The present study is an attempt to understand the origin and growth of this ritualized prostitution and highlighting the status, historical background and Supreme Court's stances on devadasis in Indian society with the following objectives-:

- To find fatal reasons behind this system.
- To highlight the historical underpinnings of this ritualized prostitution.
- To come out with some suggestions to get rid of this illegal or unlawful religious system.

II. DEVADASI: - WHO THEY ARE?

The word devadasi has been its origin from two Sanskrit word, i.e. Dev (god) and Dasi (servant) which means female servant of god. There is no any specific definition of this term but many of the activists has attempted to define it. Literal meaning of this term is 'female slave to god'. According to the dictionary definition, it means hereditary female dancer in a Hindu temple. Women and girls who are dedicated to this system most of them belongs to the Dalit community. Because of various social evils in reference to economic pressure, they used to surrender themselves in control of deities or priests. When girls attains the age of pre-puberty family or parents of that girls used or we may say they believe that offering their girls to deities will be blessings for our family and due to same our status in society will increase and also we will always blessed with the happiness and economically strong. All states have their own different term to call devadasi, like in Maharashtra, 'marali' & 'bhavin'. In Karnataka, they are called as 'devadasi', 'rajadasi', 'alankaradasi', 'rudradasi', 'sule', 'devasule', 'jogathi', 'basavi', 'nityasumangali', etc. InTamilnadu, they are known as 'devaradhiyar', 'chennaveedu', kannigeyar', 'nithyakalyani', 'manikattas', etc. In Andhra

Pradesh, 'bhogan', 'basavi', 'sani', 'devali', 'kalavanthala', etc. In Kerala, 'chakyar' & 'kudikyar'. In Orissa, they are called as 'mahasis'. In Madhya Pradesh, devdasis are known as 'kulavanthin' and 'bhavin'.¹⁰⁰⁶Devadasis have their own features by which they can easily identified: - stiff hair, white & red glass beads necklace, small bamboo basket in hand, chord musical instrument, etc.

"The devadasis have a multilayered story, a story in which poverty, deprivation and injustice against women is central- but what has happened to them is absolutely an outcome of imperialism and the impact of British Rule in India".¹⁰⁰⁷

III. HISTORICAL BACKGROUND

It is not definitely known to any of the socialists that when the institution of devadasi commenced in India. In ancient India, this practice of devadasis was treated as holy practice with greater aim to serve deities by unmarried and young women. They have had very important place in the history of mankind and this system was a popular institution in the history of earlier India. In the past era, devadasis came from several distinctive social groups. Some of them became courtesans to princess, priests and other high class men. Origin of this tradition goes as back as 6th century where the young girls, even also from rich and prosperous family backgrounds, were served or dedicated to the local temples. They would be married to the deity after they would have gone through the dedication ceremony. Then after they would act as care-takers of temples and performed rituals, dancing & music in the honor of deity. With reference to Meghadoot wrote by Kaalidas, dancing girls were found in temples. It has said that at the time of worship of Mahakal at Ujjain, dancing girls were present. In the 6th century in Hinduism, dedicating girls to temples became quite common who used to dance at the time of worship. In the past, the original role of

¹⁰⁰⁶Desai, Pratibha(2007): Exploitation of scheduled caste women: A devadasi cult. Volume 3

¹⁰⁰⁷BeebanKidron, Director, English Nationality.

devadasis was to serve as the maid of the god offering daily prayers and worships. During those days, devadasis enjoyed great and special respect as they were married to deities. At that time main duties of devadasis were to take care of the temple and learn classical Indian dances especially Bharatnatyam, which they used to perform during rituals of temple.

During the medieval sultanate, Mughal and British period, this practice started deteriorating. With the establishment of great number of temples and loss of patronage, their status degraded in the society leading to their exploitation. Many of them became mistress of the local royal or noblemen. The children born out of them would also be dedicated to temples. The daughters born from them would be dedicated to the temple while sons born from them would be trained as musicians. The attaching of prostitutes to a place of worship or to the temple is of ancient origin or background which is the devdasi system.

• ANCIENT INDIA

The Vedas, in India are the oldest known Indian literature, exist in large amount in allusion to ritualized prostitution as an established and organized institution. So many allusions of high-class ritualized prostitution are there in Indian mythology. This devadasi practice can be found back in archaeological findings of the Indus valley. In the Vedic era, texts like Rig Veda explain and refer to the women who were not married for sale. This system was also followed in the rule of Aryans in India as celestial court and also evolved the system of guest prostitution. During the reign of Pandavas and Kauravas (in Mahabharata); this practice was very common. Famous text 'Arthashastra' written by Kautilya also quotes rules for devadasis and their activities and also gives a brief of how their behavior should be & how they were directed to live. The 1st clear literary reference to this practice is found in Kautilya's Arthashastra. According to which they were appointed for a specific time and after that they were engaged in making threads. Apart from these;

'Ramayana', an epic by Valmiki, gives a remarkable version of birth of Apsaras (divine prostitutes).

• MUGHAL ERA

This system of devadasi was also witnessed under the Mughal Empire. 'tawaiif' and 'mujra' were commonly used words of that period. This system of ritualized prostitution had a great link with performing arts during this period of Mughals. There was misconception in the mind of Mughal rulers about this practice of devadasi system because they were not at all aware about the ritual of this offering of girls to god. According to the idea of Mughals, dancing and singing of girls in temple was only for the entertainment of rich people and that girls were not better than that prostitutes.

Over the passing of time, devadasis were in habit of exploited by rich, strong and upper class of society side by side their economic conditions also forced them to these kind of works and not allowed to get rid from this custom of ritualized prostitution. In the period of Mughals there were many social evils present among the Hindus. Devadasi practice was one of them. Unmarried beautiful young girls were offered to god in temples where they live their life as maid servants of god or deities or priests. This was not only grave injustice with their life but also brought and contributed to corruption in temples.

• DEVADASIS IN MODERN INDIA

In the modern India, devadasis are nothing more than sex slaves or child prostitutes who are fully dedicated to temples when they attain the age of four or five years. Devadasis are largely concentrated at this period mainly in parts of Karnataka, Andhra Pradesh and Maharashtra. In Maharashtra they are called as Mathangi, Jogini or Mathamma in Andhra Pradesh & Telangana and Devadasi in Karnataka.

The beginning of this custom in India could be mapped out in the inclusion found in temples. This practice is an old one and probably pre-

Aryan. It has not been anywhere directly mentioned in any Sanskrit literature, but Tamil Sangam literature depicts a category of dancing women called as Parattaiyar. Later in the post Vedic and post Buddhist age, the system seems to have spread throughout India though it remained strongest in the Southern part of India.

This practice or system is prevalent only in few states; however the problem behind this system is considered to be a national one. There is two main reason behind this;

- (i) Firstly, the trafficking of girls or women from other parts of India to make them devadasis makes it a bigger problem, even though the geographic concentration of this custom is limited.
- (ii) Secondly, many of the devadasis are taken to Mumbai or Kolkata or other cities to work at a place where people engage in sexual activities with prostitutes.

▪ **REASON BEHIND STILL PRACTICING THIS SYSTEM**

This custom continues to survive for a devadasi because of a complex stuff of religious beliefs, economic necessity and social pressures.

- Religious Beliefs: - Still there are many people who believe that when they will dedicate or give young girls to deity, the deity will be very happy and bless their family.
- Social Pressures: - Through many studies on this system, it has been observed that most of the devadasis belong to lower classes and communities of society. Most of the families believe that offering of their daughters to the deity or priest will improve their social status which will be a way to rise in the rigid caste system.
- Economic Necessity: - for the purpose of economically being strong many of the family of Dalit community adopt this custom to give their girls or women to the temples or to the deity or priest.

- Poor Enforcement of Law: - It has been observed that state governments are not strictly and properly enforcing the laws to get rid of this system. Even though funds are allotted for the same, but they have not been properly used.

IV. LEGAL FRAMEWORKS OR INITIATIVES

Before and after independence, the government of India enacted various laws for the prohibition of this dedicated system in India. More than 20 years has been passed since this practice of devadasis was banned. In 2013, according to the report of National Human Rights Commission, in India there were 450000 devadasis. There were another report of a commission led by Justice Raghunath Rao, revealed that just in Andhra Pradesh and Karnataka there were about 80000 devadasi women and girls. In many parts of India various laws has been enacted to stop the possible danger created throughout this ritualized prostitution. These enactment procedure has been firstly started in 1924 in the period of British rulers and after that various other enactment has been done, such as:-

- Bombay Devadasi Protection Act, 1934.
- Madras Devadasi (Prevention of Dedication) Act, 1947.
- Karnataka Devadasi (Prevention of Dedication) Act, 1982.
- Andhra Pradesh (Prohibition of Dedication) Act, 1988.
- Maharashtra Devadasi (Abolition of Dedication) Act, 2006.

Apart from these above noted enactments or legal measures, section 372 of Indian Penal code, 1860, prohibits selling minors for the purpose of prostitution. This system of prostitution has also declared as an offence in or the vicinity of public places under the Immoral Trafficking (Prevention) Act, 1956.

Under the Act of Bombay Protection, this practice was declared illegal. All devadasis were allowed to marry. Any person who were found taking the services of a devadasi was considered guilty and could face one year

imprisonment or fine or both. It has been also aimed to protect the interest of devadasis.

In 1947, the Madras Devadasi Act has abolished this custom of offering the girls to temples in the Southern Madras Presidency. In 1988, this system of ritualized prostitution was completely abolished from all over India. The Karnataka Devadasis (prohibition of Dedication) Act, 1982 & the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 specifically relate to prevention and prosecution of this system of dedication. Most legislation have been passed or amended to comply with the mandate under the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory country.

Protection of Children from Sexual Offences Act, 2012 (POCSO), Juvenile Justice (Care & Protection) Act, 2015, Rights of Persons with Disabilities Act, 2016 and Trafficking of Persons (Prevention, Protection & Rehabilitation) Bill, 2018¹⁰⁰⁸ are applicable depending on the circumstances and consequences of dedication.

Performing or promoting dedication of a 'schedule caste or schedule tribe' women to a deity, idol, object of worship, temple or other religious institution as a devadasi is an offence under the Act.¹⁰⁰⁹

Provisions relating to kidnapping¹⁰¹⁰, wrongful restraint¹⁰¹¹, wrongful confinement¹⁰¹² may also apply in a dedication case.

Not only the governments, even various NGO's, local volunteers and social workers have come forward to help the victims. Some of the efforts have been successful in helping the devadasis to get rid of the clutches of this religious practice and lead their own independent lives. But most of the unfortunate victims have not

been that lucky. Such a heinous practice in the name of god has no place in a modern and civilized society.

V.COMPLICATION AND VARIOUS CHALLENGES BEFORE DEVADASIS

There are various challenges in life of devadasis some of them are as follows:-

- i. Acceptance by society: - Devadasis have to face many of the social rigid customs. Society does not accept them as a normal human being due to once their dedication to the deities.
- ii. Ineffective awareness Programme: - The Devdasis are not very much aware regarding their rights. The admission in early age in such an institution has no room for the proper education and learning.
- iii. Lack of police action: - Since it is a much practiced scenario and is virtually a custom, there is seen a lack of action taken by the executives and has in such a case left nothing to be saved for the Devdasis.
- iv. Inadequate preventive measures: - The lack of proper action among the authorities has no preventive measures in action for the Devdasis. They are thus not able to have a remedy as proper as they require for themselves to lead on a proper standardized life.
- v. Poor implementation of legislations: - Despite having various legislations for the remedy and well-being of the Devdasis but no such heed is paid towards the same. Being it a custom the people are ignorant towards the fact and are not ready to give the old practice away.

Also there is lack of education to them and their children. Even children of devadasis has to suffer discrimination because they have no legal father, due to which managements of any schools denied to take admission. Devadasis

¹⁰⁰⁸Bill is approved in the Lok Sabha on July 26th 2018 and is likely to come into force in the near future.

¹⁰⁰⁹SC ST Act, 1989, Section 4(k), dedication was included in the list of offences through the Amendment Act, 2015.

¹⁰¹⁰IPC, 1860, Section 366 A.

¹⁰¹¹IPC, 1860, Section 341.

¹⁰¹²IPC, 1860, Section 342.

have to face discrimination in the home, at the work place and also in their community. There is lack of their legal husband, due to which all the costs of child-raising fall on the mother.

VI. SUPREME COURT'S STANCES ON DEVADASI SYSTEM

The Apex Court of India, i.e. Supreme Court of India has taken stern decision regarding protection from this heinous ritualized prostitution. In February, 2016, Supreme Court has taken a stern stance in condemning this unlawful practice of ritualized prostitution by offering the girls to the temples as devadasis. This practice has been described by the court as a social evil done to women by subjecting them to sexual exploitation and prostitution.

This issue regarding ritualized prostitution was brought before the Supreme Court's attention by S. L. Foundation (NGO in Kerala). The NGO had blamed the laid back approach of the State authorities and the police forces of Karnataka, Andhra Pradesh, Maharashtra and Tamilnadu to the problem.

Further the Supreme Court has given such directions to all the states and union territories, especially to Karnataka, Maharashtra, Andhra Pradesh and Tamilnadu, to strictly enforce the directives to check such an unethical practice of ritualized prostitution.

Supreme Court also directed earlier in February, 2014, the chief secretary of Karnataka to prevent the girls being forced to become devadasis in any temple function at Uttarang Mala Durga temple in Karnataka. The Supreme Court was told that the activity was also against the Karnataka Devadasis Prohibition of Dedication Act, 1982, and conflicts with the rights of juveniles. The Supreme Court has slapped a fine of Rs 25,000 on the Centre for failing to file on time an affidavit on women being forced to become 'devadasis' and the possibility of abolition of the age-old tradition.¹⁰¹³

Previous verdicts of the Apex Court In a case¹⁰¹⁴, the Supreme Court echoed the same sentiments above written and had observed that desired results have not been in checking the devadasi system in spite of the stringent and rehabilitative provisions of law under various Acts.

VII. CONCLUSION & SUGGESTIONS

The Devdasi system in India has a very long history and is something not to be very proud of. The system is a method of exploitation of young girls and the beginning of the doom for them. Their whole life is dedicated in order to serve the Gods and Goddess at the tender age when they are not able to understand the basic notion of the same. The women and girls are not given proper education and are subjected to the hands of those whom they know nothing about.

Various NGO's have been working in the light of the same but the change is slow and gradual. To perceive with the same requires a large amount of effort not just regarding the behavioral aspect but also the thinking of the people. The Apex Court of India has taken various steps to overcome the situation and bring it under control, but the same is not possible without the change of minds of the people.

Not just education among the people but also the mindset needs to be changed which still considers the girls as being the property of someone else. It is needed to be accepted that they are not mere properties but are in ways much better if given a chance.

SUGGESTIONS

- Awareness camps should be conducted in all areas where this practice is still prevail.
- Government should establish adult education schools at their locality to educate devadasis and their children, which will bring awareness regarding this evil system.

¹⁰¹³NipunSaxena v. Union of India &Ors., AIR 2012

¹⁰¹⁴Vishal Jeet v. Union of India, AIR 1990

- Government has to conduct skill training programs and also provide financial assistance to establish small scale & cottage industries to stand on their own with self-respect and dignity.
- Government and NGO's should adopt their children and take them away from such unhealthy environment at a very early age & also provide them residential education.
- Possible employment should be also provided by establishing industries. Also the government must provide governmental jobs to their children.
- In relevant cases, some vigilance committees should be formed in villages.
- For home improvement, there must be housing construction or such grants for the same.
- For children of devadasis, there must be some provisions of special educational facilities and scholarship in schools.
- The government should provide them free health cards for checkups.
- There must be provisions related to establishment of devadasi union or federation.

Because you are a woman, people will force their thinking on you, their boundaries on you. They will tell you how to dress, how to behave, who can you meet and where you can go. Don't live in the shadows of people's judgment. Make your own choices in the light of your own wisdom - AMITABH BACHCHAN

VIII. REFERENCES

- Desai, Pratibha (2007): Exploitation of scheduled caste women: A devadasi cult. Volume 3.
- Shreya Seth and Jatin Kumar, Patriarchy: an Evil Against Empowerment of Women in India; Human Rights International Research Journal :ISSN 2320-6942 Volume 1 Issue 1 (2013),
- Shwetha T.S, Manjula.M.Y, Devadasi System And Social Exclusion- A

Qualitative Study, Human Rights International Research Journal : Volume 3 Issue 1 (2015) ISSN 2320-6942.

- Indian Penal Code, 1860.
- Bombay Devadasi Protection Act, 1934.
- Madras Devadasi (Prevention of Dedication) Act, 1947.
- Karnataka Devadasi (Prevention of Dedication) Act, 1982.
- Andhra Pradesh (Prohibition of Dedication) Act, 1988.
- Maharashtra Devadasi (Abolition of Dedication) Act, 2006.