

DECODING THE DEVADASI SYSTEM: AN ARTICLE ON RELIGIOUSLY SANCTIONED PROSTITUTION IN INDIA

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ABSTRACT

This research paper aims to understand the control that informal institutions such as religion have over societal practices. All the laws that have been passed to prevent the exploitation of women, have not been able to hamper the power that religion has over the collective majority. Although a substantial amount of research has been done on the Devadasi system and the exploitation of the young girls that are party to it, not a lot of research has been done on the religious aspect of the same. Specifically, the brahminical hegemony that exploits young girls of the “lower castes” into becoming religious prostitutes. Many researchers and social workers have come up with several measures to curb the Devadasi system. These measures have been futile in stopping it. The reason being, that they are focused on the implementation of the law without taking into account the difficulty faced by the law in combating religious belief. In order to stop the Devadasi system, one would first have to understand the reason it still exists.

This article will compare the Devadasi system to various other examples of discrimination against women in other religions. It will also analyze how the Varna shrama system contributes to the Devadasi system. It will focus on the rigidity of religion and the status of a woman under it. This paper helps understand the theoretical background of the Devadasi system. It is also invaluable to understand why it continues to exist rampantly in a culturally evolving society. In order to stop this religiously sanctioned prostitution, one must first demystify the religious texts themselves, and that is precisely what this paper intends to do.

Keywords: Devadasi, Jogini, Jogappa, Yellamma. Karnataka

INTRODUCTION

Bird's Eye View of the Varna Shrama System and the Exploitation of Women under it:

Prior to popular opinion, the exploitation of women under the caste system is not confined to the women of the lower castes. Every strata of society has its own uniquely devised system to keep women in their 'place'. Whether it is the traditional Brahminical custom of restricting women from entering the kitchen while menstruating, or the rape of the Dalit woman by the Shudra man, each caste has its own method of ensuring the complete sub-ordination of the woman. In India, caste transcends religion, especially because almost every religion in India has its own caste system. Even Buddhism is not spared from the tyrannical hold of the caste system. When Dr. B.R Ambedkar decided to take a stand against the rampant discrimination meted out to the Dalit community he converted to Buddhism with some of his followers. He too was still unable to escape the cruel identification that has for generations plagued the lives of so many unfortunate people. Instead, the newly converted Buddhists were termed "Dalit Buddhists". Buddhism is known to be a religion that has, for centuries, practiced principles of equality, and tolerance. Gautama Buddha was, in fact, known to allow women into the sacred Buddhist Sanghas. The canonical texts confirm this. However, the cruel role that caste plays in Indian society, could not and cannot be diminished, even by conversion. Article 1 of the United Nations Declaration of Human Rights states that: "*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*"¹ In reality, life is far from the idealistic portrayal that the UDHR has given the world. Life is a struggle for those who are born into a system that discriminates against them on the basis of their birth. Life is far worse for a Dalit woman; discriminated on the basis of both her gender and her caste. To understand the discrimination faced by women under the caste system, one must first have an in-depth knowledge of the caste system itself.

The Varna shrama system initially emerged in the Early Vedic Period (1500-1200 BCE) and was based on the respective occupations of people in society. As the occupation of a person changed his caste also changed. Hence, the Varna Shrama System was a system of fluidity. Hindu society was divided into four primary groups:

¹ UN General Assembly, "Universal Declaration of Human Rights", 217 (III) A (Paris, 1948),

- (i) The Brahmins- Priestly class; The Brahmins were the intellectual and spiritual heads of society who interpreted the religious texts and conducted religious ceremonies.
- (ii) The Kshatriyas- Warrior class; The Kshatriyas were the military conquerors and were normally members of royalty. The Brahmins played a large role in advising the Kshatriyas on various administrative manners
- (iii) The Vaishyas- Merchant class; The Vaishyas were the people in charge of trade and commerce.
- (iv) The Shudras- Working class; The Shudras were in charge of menial labour and physical work.

During the later Vedic Period, (1100-500 BCE), the Varna Shrama system devolved to become a system that was hereditary in nature. There was an oppression of the lower castes by the Brahmins and Kshatriyas, and caste could not be changed because it was based on birth. There emerged a new sub-caste amongst the Shudras known as the "Dalits". This caste also came to be known as the "untouchable" caste. They were ostracized in society and denied basic human rights.

According to Chapter 31 of "Indian Political Thought" by Urmila Sharma and S.K Sharma, the caste system awards greater moral depravity to the non-Brahmin member. A Brahmin who has had an extra marital affair with the wife of a Shudra is not punished as severely as a Shudra having had an affair with the wife of a Brahmin.² Thus, if a lower caste woman is violated it is not considered that big of an issue. This can be drawn to an exact parallel with the Devadasi system. Hindu theory about piety and morality are at the root of the caste system. Women are often the victims of these traditional views. The laws of Manu play a large role in governing the do's and don't's for each of the varnas including what to eat, living quarters and inter-caste interaction. The honour of the caste is largely tied to the piety of the woman. Scandal was the root cause of shame and dishonour. Women were often subjected to being stripped naked in public or even being gang raped. All women irrespective of caste were subject to the control of their husbands and placed under the sole guardianship of the male. One of the verses in the Manu Smriti clearly highlights the position of lower caste women. "*Love making to a shudra*

² URMILA SHARMA & S.K SHARMA, INDIAN POLITICAL THOUGHT 31, (ATLANTIC PUBLICATION, INDIA, 2001)

woman incurs pollution of breath which is damaging to life and the progeny born of such union is damned without redemption. The honour lost cannot be regained.”³ The same text mentions how although sleeping with a Shudra woman is banned, it is only banned if it is out of wedlock. The caste system therefore justifies the exploitation of the lower caste women by the upper caste men and exempts them from the humiliation mentioned above if they have intercourse with a man from a higher caste. On the other extreme, if a Brahmin man married a Shudra woman the child born out of their wedlock would be called “Parshav” or “Shudra” because his social existence is like a dead body. Brahmin men were given the right to sexually exploit a lower caste woman, but were forbidden to marry her. This is a religious justification of the Devadasi system. Smita Narula, expands on the rule of law vs. the rule of caste and the constant battle between the two. Often, the rule of law is defeated in the war against caste, owing to the deep rooted nature of the same.⁴

A brief history about the Devadasi system and the laws related to it:

According to certain humanitarian organizations, between 5000 to 15,000 girls are dedicated as Devadasi’s every year.⁵ The initial position of the Devadasi was one of relatively high social stature. Also known as courtesans, they were the traditional dancers known to bring pleasure to the kings. The origin of the Devadasi has been assigned to the Tantric Cult of the 8th Century A.D. and also to the age of the Puranas. Other theories suggest that the Devadasi system emerged during the time of Kautilya. The development of Mithuna sculpture across India has contributed towards the sexual influence in religious rituals. During the primary stages of the Devadasi system, women were drawn to the cultural elements of the temple such as the dance and drama. Their position was similar to that of the Japanese “Geisha”. The original Geisha were very different from the Geisha that emerged during the allied occupation of Japan. They

³ Dr. R.G CHATURVEDI, MANUSMRITI: THE CONSTITUION OF THE VEDIC SOCIETY, 119 (UNIVERSAL LAW PUBLISHING, NEW DELHI, 2010)

⁴ Smita Narula, *Equal by Law, Unequal by Caste: the “Untouchable” Condition in Critical Race Perspective*, WISCONSIN INTERNATIONAL LAW JOURNAL 9, 20 (2008)

⁵ Dean Owen, *India: Girls Sacrificed to Tradition, Former Religious Prostitutes Help Those Still Trapped*, WORLD VISION, May 16, 2006, <http://www.worldvision.org/aboutus.nsf/child/eNewsindia051606>; HUMAN RIGHTS WATCH, *BROKEN PEOPLE: CASTE VIOLENCE AGAINST INDIA'S "UNTOUCHABLES"* (1999), available at <http://www.hrw.org/reports/1999/india/India994-09.htm#P1695354939> [hereinafter *BROKEN PEOPLE*].

were trained in odiroko and shamisen.⁶ This is very similar to the earlier temple dancer. Although sexual activity was a primary part of their profession, it also included a variety of different socio-cultural qualities such as dance, and traditional Hindustani music. Over a period of time, the position of the Devadasi declined to only include women from the lower classes who were forced, due to a variety of reasons (mainly economic) to dedicate themselves to the Goddess Yellamma. An article in the UCLA womens journal further supplements this argument. The author, Ankur Shingal remarks upon how “*the modern iteration of the Devadasi system is significantly different from the historical institution in terms of both its physical manifestation and underlying goals.*”⁷ According to a Times of India Report in 1987 the Devadasi system was formed because of a conspiracy between the feudal class and the priests.⁸ Women were hence forced to be married to the temple deity.

The Devadasi system was officially outlawed in 1920 under the British. Various laws have been passed to prevent the Devadasi system in the southern and western parts of India such as the Bombay Devadasi Protection Act of 1934, the Madras Devadasi (Prevention of Dedication) Act of 1947 etc. The Indian Penal Code prohibits selling minors for the purpose of prostitution. The Supreme Court has taken a firm stance in prohibiting the selling of young girls as Devadasi's. It has directed the States and Union Territories to issue directives prohibiting the practice. In February 2014, the Court directed the Chief Secretary of Karnataka to prevent girls from being forced into prostitution in a temple function at Uttarang Mala Durga Temple.⁹ Young girls, less than the age of 12 and 13 are still being dedicated to the Goddess Yellamma and being forced to live their lives fulfilling the sexual desires of priests, rich landlords and zamindaris. Human trafficking in itself, is an issue of grave importance. Young girls are forced into prostitution without an iota of consent, and barely ever receive an ounce of their earnings which is swallowed by the sharks of the business; the pimps. This, of course stems from the predominantly Indian belief that the girl child is an investment that will inevitably lead to bankruptcy. Prostitution should not be considered a profession that is against public morality, especially given the fact that morality is a constantly evolving and abstract concept. To say that

⁶ Toki, *The History of Geisha in Japanese culture* ARTS AND CRAFTS, HISTORY (Aug. 4, 2016) available at www.toki.tokyo/blog/2016/8/2/the-history-of-geisha-in-japanese-culture (last visited on Feb. 7 2018)

⁷ Ankur Shingal, *The Devadasi System: Temple Prostitution in India*, UCLA WOMEN'S LAW JOURNAL 2 (2006)

⁸ Samantha Chatteraj, *Genesis and Growth* THE TIMES OF INDIA, 1987

⁹ GK Today, *Devadasi System: Historical Background and Supreme Court Stance*, (May 3, 2016) available at <https://academy.gktoday.in/article/devadasi-system-historical-background-and-supreme-court-stance/> (last visited on Feb. 7, 2018)

prostitution is immoral one would first have to define immorality. Morality is as morality does, and what someone thinks is moral may not apply to someone else. It serves the purpose, to amend the previous statement to the following: "Prostitution without consent, is immoral." It may sound self contradictory to say something is immoral having already asserted that morality is subjective. However, morality is normally read in conjunction with the general rules of justice, and justice is based on the principles of equality. Is it therefore, moral to permit the bonded sexual labour of a woman without her consent, even when it is sanctioned by her parents? The answer is, no. It is not and will not ever be moral to force an individual into doing something that they do not want to do. Questions of whether something is moral or not can only be applied to situations where there is opinion involved. Some people may think that prostitution should be made illegal, and some may beg to disagree. However, it is without a doubt immoral to force a person into doing something without consulting their opinion on the same

The original Jogini was not coerced into taking up the position. She chose the profession, consensually to seek her perceived benefits of the position. Later, as the position declined, parents of young girls sought to improve their economic status by forcing their daughters into becoming Devadasi's. There is no differentiating factor between a Devadasi and a common prostitute except the fact that religion has made the Devadasi System seem more acceptable. This is an even bigger atrocity because it is the misuse of religious power to put the disadvantaged section at an even bigger disadvantage. The very same religion has dominated the law, making it impossible for any man-made legislation to touch it.

BODY

Exploitation of the Dalit Woman by other castes:

The Dalit woman has a history of exploitation under Indian culture. The situation is relatively unchanged despite all legislation passed by both the Central and the State governments. A document submitted to the Office of the United Nations High Commissioner for Human Rights by Navsarjan Trust, FEDO (Nepal) and the International Dalit Solidarity Network in September 2013 states that in India, Dalits constitute one-sixth of the total population. Dalit women suffer a myriad of different kinds of discrimination. Most of them are landless wage labourers with

improper access to even the most basic resources. They are subject to heinous and humiliating crimes by upper caste members including being paraded naked around their villages, being gang-raped and being sexually assaulted. All these measures are taken to ensure that they are unable to improve their situation.

The UN Special Rapporteur on violence against women has noted that “*Dalit women face targeted violence, even rape and murder, by the state actors and powerful members of the dominant castes used to inflict political lessons and crush dissent within the community.*”

Dalit women are not allowed to own private property, both by the members of their own community and by members of the upper caste. It is a popular tradition to chase a Dalit woman who owns property off her own land under the suspicion that she is a witch. This ‘witch-hunting’ is a measure to exploit the Dalit woman. Most Dalit women work as bonded labourers to rich upper caste members, land owners or zamindaris. This puts them at risk of constant physical and sexual abuse. They have no recourse to this abuse because the law enforcement does not function efficiently in the rural or semi-rural areas where the Dalits reside. Through the liberalism of literature several Dalit women including Swaroopa Rani, the Telegu Dalit writer from Andhra Pradesh have been courageous enough to speak about the atrocities they have suffered. In her poem *Prohibited History* she paints an accurate picture on the institutionalized form of sexual exploitation:

“I get unveiled as a woman,

On sale in flesh market

But the credit for being labelled a prostitute

Even before I took birth

In this Karma bhoomi

belongs to me...”¹⁰

On the 26th of October 2017, Huffington Post narrated a story in which an eight-month pregnant Dalit woman was beaten up with such brutality that her unborn child and her died six days

¹⁰ Rani, Challapalli S. “*Prohibited History*”. Trans. K. Damodar Rao. *Indian Literature* 44.6 (2000): 2. Print.

later.¹¹ The woman, Savitri Devi, worked as a garbage collector outside the homes of five upper-caste members. She barely made 100 Rupees a month. One day while she was working, she lost her balance and touched the bucket of another residents house, which was a house she did not work at. The resident, infuriated by this, ran out of her house and started punching the pregnant stomach of Savitri Devi and banged her head against a wall. Savitri's nine year old daughter watched in horror as the events unfolded and rushed to the Dalit settlement to get help. The police refused to register the complaint because there were no visible external injuries.

This same institutionalized discrimination that we have come to know as the caste system has also played a huge role in the Devadasi System. Local temple priests play an important role in this forced prostitution. They are members of higher castes, and they force young girls of lower castes to join the Devadasi system to fulfil their own sick sexual desires. Thus, the exploitation of Dalit women by the higher castes can undoubtedly be traced to religious authorities.

The Goddess Yellamma: Dedication or Destruction?

The Goddess Yellamma or Renuka is the patron goddess of many South Indian states including Andhra Pradesh, Tamil Nadu and Karnataka. Her devotees revere her as “The mother of the universe”. There is some amount of confusion as to whether the Goddess Renuka and Yellamma are one and the same. Some devotees believe that Yellamma is an incarnation of Renuka that specifically caters to the needs of the lower caste women. The central myth surrounding Yellamma was that she was the wife of a sage known as Jamadagni and they had five sons together. Every morning Renuka would venture into the Malapraha river and fetch water for the sages rituals. She would meditate so deeply that she had the ability to conjure a pot made of sand every day to carry the water. One day while she was collecting water from the river she was distracted from her meditation by a group of Gandharvas who were engaging in some kind of love-play. She was unable to conjure a pot made of sand, and returned back to Jamadagni empty handed. Enraged, he ordered his sons to kill her. Four out of five refused to do it, but the youngest son, Parshurama, finally agreed to behead his mother.¹² Another version of the myth states that Parshurama begged his father to bring his mother and four brothers back

¹¹ Huffington Post Staff, *Upper Caste Villagers Thrash and Kill 8- Month Pregnant Dalit Woman for Touching and Defiling bucket* HUFFINGTON POST (26 Oct., 2017)

¹² Phil Hine, *Yellamma*, TANTRA WIKI, (2008) available at <http://enfolding.org/wikis-4/tantra-wikiwikis-4tantra-wiki/deities/yellamma/> (last visited on Feb. 7, 2018)

to life. Since Renuka's head had vanished, he cut the head of the woman from a lower caste and the Rishi revived Renuka using her head. In a third version of the story, Renuka became an angry demoness after she was slain and became the companion of Durga. Yellamma is seen as an icon to women from lower castes. She is worshipped in several temples in South and West India including the Yellamma Temple near Saundatti, Renukambe Temple and the Jamdagni Temple at Thaan village.

Female devotees of the Goddess Yellamma are known as Joginis and the male devotees are called Jogappas. Jogappas are gender fluid people who marry the deity to become eunuchs. The annual celebration for Jogappas is known as the Yellamma jatre festival. Many joginis dedicate themselves to the Goddess Yellamma in the hope of a blessed life, however, the majority of these women just end up in a brothel or with a sexually transmitted disease. The Devadasi system is deeply rooted in religious texts and traditional mythology, however logic proves that it does no good to the women who are prey to it. Most women join the Devadasi system because they believe that dedication to this Goddess will bring benefits to them. However not only does this dedication bring no benefits to the women who are party to it, but it leads to abject poverty, filthy living conditions and sexual abuse. The young girls born to Devadasi's are forced to enter into the same profession and are not allowed to go to school. Although the Goddess is supposed to protect the women, by the time they become old and do not have as many customers they are forced to beg on the streets. People blindly follow these superstitious practices such as walking naked on the street barring a string on neem leaves hung on the waist, and succumb to the manipulation of religious authorities under the pretext of traditional mythology. It does no good to these women, and it does no good to their children who are denied from their education and forced into becoming sexual slaves. Therefore it is logical to note that the dedication towards the Goddess Yellamma has led to no cognizable benefits, rather, it has led to the destruction of an entire community.

The position of women under Islam and Christianity

It would be unfair for this research paper to focus only on the sexual exploitation of women under Hinduism, when, in reality, every single modern religion discriminates against women

in some way or the other. Two of the most widely followed world religions are Islam and Christianity, and both of them discriminate against women in some form or the other. Very few verses of the Quran and the Bible are discriminatory in nature, but the manner of their interpretation is. The historical and social context of these religious texts was very different from the modern context in which they are used. This leads to the erroneous application of these archaic principles to the modern world. Religious leaders are seen as the representative heads of religion. They are given the absolute liberty to interpret religious texts in whatever way they deem fit. This has many dire consequences. People are brainwashed by their propaganda and forced into believing that what they say are accurate. People don't realize that the very religious texts themselves may not be accurate and have been subject to many adaptations and editing along the rugged course of history.

1. Islam- the Quran is a compiled book of teachings by Prophet Muhammad who is considered a representative of Allah, the creator of the Universe. Women since as early as the Rashidun period have not been allowed to participate in public activities.¹³ Women are portrayed to be dependent on men and submissive to their husbands. Muslim women are also not allowed to dress in a revealing fashion or wear any type of clothes where their body or face is revealed. It is considered immodest for a Muslim woman to do so. This is based on the assumption that a woman's body is not her own, rather it is a temple of God. Therefore, she has no right to make her own decisions as to what she can wear and not wear. If a man follows Islam, his body too should be treated as a temple of God. Why then is he not forced to cloak his entire body and cover his face? This is merely one of the very apparent examples of differential treatment between men and women under Islam. Women are not allowed to enter a mosque after having sexual activity because they are considered unclean, however, men are allowed to do so. Women are not allowed to be clerics or imams, since that position is reserved only to men. Recently, an Indian woman, Jamida Beevi stirred up a lot of controversy by leading the Friday prayers in Kerala. Jamida Beevi believes that the Quran does in fact preach equality between both the genders, and that discrimination against women has been imposed by the male clerics. Since then, she has received death threats. Muslim men are allowed to take four wives, however women are not allowed to have

¹³ Iyad Alharafesheh, *Discrimination against Islamic Women*, 4(8) GLOBAL JOURNAL OF ARTS, HUMANITIES AND SOCIAL SCIENCES 43, 46 (2016)

more than one husband. Many women are forced to eat their meals only after their husbands have finished doing so. These are just a few examples of discrimination aimed towards women under Islam.

Quran (4:24) and (33:50)- *“And also prohibited to you are all married women except those your tight hands possess, [This is] the decree of Allah upon you. And lawful to you are [all others] beyond these, [provided] you seek them [in marriage] with [gifts from] your property, desiring chastity, not unlawful sexual intercourse. So for whatever you enjoy [of marriage] from them, give them their due compensation as an obligation. And there is no blame upon you for what you mutually agree to beyond the obligation. Indeed, Allah is ever knowing and Wise.”*

2. Christianity- Although Christianity is not as blatant about discrimination against women there are a lot of subtle implications. Similar to Islam, it is very rare for women to be able to become a priest or pastor since they are not considered worthy of the position. During the early years of Christianity there was obvious inequality between the sexes. The adulterous activities of men were assumed whereas adultery of women was punishable by death.¹⁴ The potential equality that was so evident in the teachings of Jesus failed to follow through in the religious texts. Both men and women are created in God’s image and likeness, yet there is still differential treatment awarded to them. There is a lot of classical conditioning involved when a baby is born a girl. She is told that she should sit with her legs together and talk in a quiet fashion. Just because Adam was born before Eve does not necessarily mean that Adam was more important than Eve. The story of how Eve was deceived by the serpent (temptation) paints a very sorry picture of womankind. Eve is portrayed to be easily swayed by temptation, and she is seen to be the cause of Adam’s downfall as well. There seems to be some discrepancy between the religious texts and the documented attitude that Christ had towards women. For example, Eve is portrayed to be an easy prey to sin, and the cause of Adams sin as well. This shows women to be easily swayed, ignorant and manipulative. However, Jesus had a very egalitarian mindset. Women were often a part of his audience when he was preaching the Word, and were of primary importance to him. Women like Priscilla

¹⁴ Linda Hartz Rump, *Is Christianity Oppressive to Women*, MIDDLE AGES, (Aug. 8, 2008) available at <http://www.christianitytoday.com/history/2008/august/is-christianity-oppressive-to-women.html> (last visited on Feb. 7 2018)

even served as teachers. If women had the intellectual ability to serve as teachers, why then are they portrayed as ignorant in Biblical stories such as 'Adam and Eve'. This is a clear loophole. Jesus openly addressed women in public which was revolutionary for his time. He spoke publically to widows, women who had committed adultery and even a woman with a bleeding disorder. He broke all the social barriers that existed during his era. It is a well known fact that both the Old Testament and the New Testament were not written by Jesus himself, but by his disciples. There are no original manuscripts of the Bible, and there are high possibilities of its corruption. For the first one hundred to two hundred years, the copies of the Bible were compiled by hand which could have subjected it to many changes. Therefore, there is an obvious inconsistency in the beliefs of Jesus and some of the verses in the Bible. The Bible also makes references to concubines and sexual intercourse with concubines.

1 Timothy 2:11-12

"A woman shall learn in quietness and full submission. I do not permit a woman to teach or to have authority over a man; she must be silent"

The above response is completely and blatantly self contradictory to the beliefs of Jesus. Some of Jesus's greatest followers were women and played a major role in spreading the word of God. More importantly, if Christianity is indeed based on beliefs such as love, equality and respect, the above excerpt would make absolutely no sense.

Whether people believe in the existence of God or not is not the point of this discourse. However, if they do believe in a fair and just God it simply does not make sense that religious texts would venture to justify the sub-ordination or exploitation of women in any way, manner or form. Whether religious texts have been altered through the course of history, or misinterpreted, the point remains the same. No religion should be allowed to justify the subjugation of a woman and subsequently preach equality. It is hypocritical to preach principles of equality and respect, when there is clear evidence to show discrimination. If there truly is a God, one must have hope to believe that it is a God who would not want innocent young girls to be forced into having sex with men much older than them, without their consent. And, if religion does indeed provide for such principles whereby men can use women for their own perverse satisfaction, religion is not just; religion is evil. If so, it would be far better to follow the religion of

respect. Religion acts as a major tool in the oppression of women as it suppresses free speech and free thought.¹⁵

Analysis of the Laws and their inefficiency

1. Legislation passed on the Devadasi system

There are two types of laws that combat the Devadasi system. The laws which were made to directly outlaw it and the laws which indirectly prevent it. The Devadasi system is still prevalent in the following states: Karnataka, Tamil Nadu, Maharashtra, Andhra Pradesh and Himachal Pradesh. The British were the first to outlaw the Devadasi System in 1920. After that, there have been many bills passed by the mentioned states to stop the existence of the Devadasi System including but not restricted to: The Bombay Devadasi Protection Act 1934, The Madras (Prevention of Dedication Act) of 1947, The Karnataka Devadasi (Prohibition of Dedication) Act of 1982 etc. The indirect laws that combat the Devadasi system are the Immoral Traffic (Prevention) Act of 1956 and section 372 of the Indian Penal Code. For the purpose of this research study, the Karnataka Devadasi (Prohibition of Dedication) Act of 1982 will be analyzed owing to the extent of the problem in the state of Karnataka. Section 372 of the Indian Penal Code and the Immoral Traffick (Prevention) Act of 1956 will also be scrutinized from the same standpoint.

- Karnataka Devadasi (Prohibition of Dedication) Act, 1982- Section 4 of the Act states verbatim that “*Notwithstanding any custom or rule of any law to the contrary no marriage contracted by a woman shall be invalid and no issue of such marriage shall be considered as illegitimate by reasons only of such woman being a Devadasi*”¹⁶ Section 5 of the Act talks about the penalty for aiding the dedication of a woman as a Devadasi. The penalty is imprisonment which may extend up to three years and a fine which may extend up to two thousand rupees. If it is a parent or guardian who has dedicated their daughter, the imprisonment can extend up to five years and the fine can extend up to five thousand rupees. The main flaw with this Act is the fact that the penalty imposed is higher on the parents or guardians who sell their daughters into the system, when in fact most of the initiations are caused due to the coercion of religious

¹⁵ Gila Stopler, “A rank usurpation of power” *The Role of Patriarchal Religion and Culture in the Subordination of Women*, 15 DUKE JOURNAL OF GENDER LAW AND POLICY 9, (2008)

¹⁶ The Karnataka Devadasis (Prohibition of Dedication) Act, 1982

authorities. Since the religious authorities and priests are the ones who conduct the initiation of the Devadasi's, they should be fined much more heavily than the parents. Fines should be increased from 5000 rupees to upwards of 10,000 rupees. By fining the parents of the Devadasi's the law is enforcing an even worse economic condition on them than the one they were in initially. Most parents do not willingly dedicate their daughters to the Goddess unless situations of abject poverty force them too. To impose a larger fine on the parents is imposing an already bigger burden on an already bad situation.

- Section 372 of the IPC: Section 372 of the Indian Penal Code prevents the sale of minors for the purpose of prostitution. Anybody guilty of this offence can be imprisoned for up to a term of 10 years. Although the Devadasi system is a form of prostitution, it does not come directly under the ambit of prostitution considering the fact that there are a lot more technicalities involved in the Devadasi System.
- Immoral Trafficking (Prevention) Act- Section 3 states the punishment for owning a brothel. Many Devadasi's are forced to work in brothels however they cannot be helped. Section 9 talks about soliciting in public places, which is illegal. Most Devadasi's do not conduct their activities in public places and their initiation is done in secret. Therefore, it is difficult to apply this act to them since they are remote from the access of the law.

Since, there is a large level of inefficiency in the legal system insofar as combating the system, there are certain measures that must be taken to educate and aid women that are a party to it.

Case Law

*Vishal Jeet vs. Union of India, 1990*¹⁷

This writ petition was filed to look into issues of Red light areas and forced prostitution among minors. The case brought up several health care and other important issues faced by Devadasi's in North and Western India. The Public Interest Litigation sought to inquire as to why prostitution amongst minors was still flourishing in red light areas and requested the Central Bureau of Investigation to conduct a probe into the police officers who were not upholding the

¹⁷ Vishal Jeet v. Union of India & Ors., AIR 1990 SCR (2) 861

law. It also requested stringent action against pimps and brothel owners, and the rehabilitation of rescued girls. The Supreme Court upheld that child trafficking, prostitution and the Devadasi System were all in violation of Article 23 of the constitution. It stated that the both the Central and the State Governments have an obligation to safeguard the welfare of the children and girls in the country. It relied on two case laws, *Lakshmi Kant Pandey vs. Union of India*¹⁸ and *Gaurav Jain vs. Union of India and Ors.*¹⁹ The Supreme Court decided that there was no need to conduct a nation-wide CBI probe, however it recommended the setting up of Advisory committees in the respective states to look into the matter. Due to the absence of a systematic probe looking into the issues faced by the Devadasi's and the inefficiency of legislation in curbing the problem, these Advisory Committees have not been able to make a significant dent in stopping it. Unfortunately, the corruption of police in the red light areas still remains a major issue, and young children continue to be forced into sex slavery more than 27 years after this case.

CONCLUSION

All the above points have led the researcher to the conclusion that the current laws have not done much to prevent the Devadasi system from devouring more victims. This is partly due to the reason that the current legislation imposes fines that are too meagre to deter the system, and also because religion gives the temple prostitute no recourse. Police are given unwarranted authority, and do nothing to stop prostitution since in all likelihood they are paid off by the brothel owners. In a country that is so diverse, maintaining the principles of secularism is of primary importance. This is probably one of the reasons why the Devadasi System still exists. The primary focus of the government seems to be on post-factum action which is further supplemented by the fact that a considerable portion of resources are spent on the rehabilitation of the victim rather than the prevention of the system. The system of justice is more reactionary than precautionary.²⁰ There is also a lot of hesitation to interfere in the age old customs and beliefs of people because it could lead to separatist forces. In a country with growing waves of communal dissent the government is not keen to interfere with the religious sentiments of the

¹⁸ *Lakshmi Kant Pandey v. Union of India*, [1984] 2 SCC 244

¹⁹ *Gaurav Jain v. Union of India & Ors*, AIR 1990 S.C. 292

²⁰ Hyun Jin Lee, *Temple Prostitutes: Devadasi Practice and Human Trafficking in Indi*, 8(1) REGENT JOURNAL OF INTERNATIONAL LAW 9, (2011)

people. Surprisingly, the government has no problem dictating what food the people of the country must eat (as made apparent by the recent attempt to ban the slaughter of cows across the country). However, when it comes to issues of real importance such as the violation of child rights, the government refuses to take any decisive action. The British were actually the first to take a stand against the oppressive practices that were being faced by Indian women. Under British rule, sati was made a criminal offence, and the widow re-marriage act was passed in 1856 following the campaign of Ishwar Chandra Vidya Sagar. The Devadasi system was initially abolished by the British in 1924 subsequent to appeals made to both the Viceroy and Governor General of India in 1892. All these decisions taken by the British led to growing dissatisfaction amongst the Indians because they did not appreciate the interference in their traditional religious customs. Nevertheless, after the criminalization of Sati under the British rule in 1829 the number of women being forced to jump into the fire pyre of their dead husbands significantly decreased. The Sati Prevention Act of 1988 further deterred the propagation or glorification of Sati. All these measures were possible because of the authoritative power held by the British and the stringent measures taken by them to prevent the violation of human rights. Of course, this is not a strong argument considering the fact that the British also contributed to some of the worst violations of human rights in the country. Nevertheless, there is a strong need for governments to protect the human rights of their citizens even if it is harmful to the religious sentiments of certain people. This, however, does not justify the absolute interference in the religious beliefs of a democratic country. Religion has been the cause of most of the worlds conflicts be it the crusades or the annihilation of the Jews during World War II. It is a vital part of social conditioning and this leads to the inherent belief that one religion is better than the other. Since religious beliefs play such an important role in the formation of the character traits of an individual, it also leads to some amount of defensiveness. People are always uneasy while discussing matters related to religion at dinner parties, for the simple reason that they are “sensitive” in nature. One controversial statement and you could have a butter knife flung at you. Politicians are also uneasy about legislation that relates to religious issues because it is shark-infested territory. Interference can often lead to disastrous consequences, or in cases such as that of late Prime-Minister Indira Gandhi, even death. The main requirement to stop the Devadasi system is education. Most Devadasi’s have been denied of an education and are completely illiterate, not knowing how to write their own names. Sadly, even the daughters of Devadasi’s are forced into the same profession as their mothers. The only

way to stop this is to ensure that there are special schools set up in these areas, to ensure that these girls get an education. Another primary cause for unwarranted sexual advances amongst priests is the enforcement of “celibacy”. In most sects of Christianity, barring a few, abstinence from sexual intercourse is one of the primary requirements to become a priest. This leads to the suppression of the natural instincts of the ‘id’. If priests, gurus and Imams were allowed to marry, this would substantially reduce the sexual exploitation of unsuspecting victims because it would eliminate the root cause of the problem. Religion has the stupefying effect of brainwashing people into believing that whatever is being shoved down their throats is right and moreover, non-compliance will be faced with dire consequences in both their current lives and in the after-life as well. It justifies the exploitation of women to be something ordinary and acceptable. The only way to stop this exploitation is education. A poem by Bijay Kant Dubey eloquently summarizes the Devadasi issue and is, therefore the perfect way to conclude.

*“And how long can a young woman dance
In the temple courtyard,
Keeping the company of mute gods and goddesses
As a yogan, a sadhvi
O, how long,
Oh where have we come to sinfully!”²¹*

²¹ Bijay Kant Dubey, *Devadasi* available at <https://www.poemhunter.com/poem/devadasi/> (last visited on 7 Feb. 2018)