

PIERCING THE RELIGIOUS VEIL: HUMAN RIGHTS OF DEVADASIS IN INDIA

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PRZESZYWAJĄCA RELIGIJNA ZASŁONA: PRAWA CZŁOWIEKA DEVADASIS W INDIACH

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W artykule przeprowadzono analizę prawa człowieka Devadasis w Indiach. Często jest to postrzegane w hinduskim mainstreamu, że religia i czynności seksualne, zwłaszcza kobiety niezamężne, nie idą w parze. Jednak pogłębiona eksploracja religii hinduistycznej ujawnia, że nawet religie mogą promować seksualność; w formie prostej prostytucji. Devadasi jest połączonym słowem, składającym się z Devi, bogini i Dasi, oznaczającego żeńską służbę lub niewolnika. Devadasis jest grupą w społeczeństwie indyjskim, która w bardzo młodym wieku została oddana i poślubiona bogu, bogini Yelammie, a zatem Yelamma staje się ich mężem. Ich dziewictwo jest następnie sprzedawane na aukcję do najwyższej oferentki. Raz poświęcony nie są w stanie wyjść za mąż, zmusić się do prostytutek dla członków wyższych kastów i ostatecznie sprzedać je w miejskiej burdelu.

Rytuał poświęcenia, który przed ogłoszeniem w 1947 r. Przez Madagę Devadasi (Prewencja Devadasi) ustawy promował szanowane formy sztuki klasycznej, takie jak Bharatnatyam, dziś stał się zepsuciem społecznym, które nawet prawo nie może się pozbyć. Praktyka ta przeważa głównie w południowych Indiach, gdzie Devadasis są teraz niczym więcej niż prostytutkami żyjącymi w nieludzkich warunkach w szantach, cierpiącymi na wiele infekcji przenoszonych drogą płciową, żyjąc z pieniędzy, które mogą zarabiać od mężczyzn płacących za seks. Niniejszy artykuł ma na celu wyjaśnić sytuację kobiet w Davadasis, a także próbuje ustalić przyczyny niepowodzenia prawodawstwa w celu całkowitego zniesienia tej praktyki.

Słowa kluczowe: osoba, prawo, prostytucja, rytuał poświęcenia, nieludzkie warunki.

Introduction

It is often perceived in Hindu mainstream thought that religion and sexual activities, especially those of an unmarried woman, do not go hand in hand. However, in-depth exploration of the Hindu religion reveals that even religions can promote sexuality; in the form of prostitution to be precise. The Devadasi is a compound word, made up of Devi, a goddess, and Dasi meaning a female servant or slave. Devadasis is a group in Indian society who, at a very young age, were dedicated and "married off" to a deity, goddess Yelamma, and thus Yelamma becomes their husband. Their virginity is then auctioned to the highest bidder. Once dedicated, they are unable to marry, forced to become prostitutes for upper-caste community members, and eventually auctioned into an urban brothel.

The ritual of dedication which, before being declared illegal in 1947 by the Madras Devadasi (Prevention of Devadasi) Act, promoted revered classical art forms such as Bharatnatyam¹, has today turned into a social evil that even the law cannot get rid of. The practice is prevalent mostly in the South India, where the Devadasis are now nothing more than prostitutes living in inhuman conditions in shanties, suffering from a number of sexually transmitted infections (STIs), living on the money they may make from men paying them for sex. This paper aims to shed light on the plight of Davadasis women's plight and also tries to determine the causes of the failure of the laws to abolish this practice completely.

Devadasis

Religion in India is a mass industry. It is bound up in financial as well as political gains. However, one industry in India which is carried on in the name of religion is rarely acknowledged, much less talked about. The Devadasis in India have their existence dangling between the fettered hands of an incompetent legislation and a crippled judiciary. Devadasis, simply put, are wives of the goddess Yelamma. Devadasis in the ancient times were respected highly and were known as

¹ A classical dance form originating in South India dating back to 3rd century BC.

patrons of a refined culture of music and dance. In the sixth century it was a socially honorable position. The respect they gained was mostly because they had a status in the society which the women did not have at that time. While women were supposed to remain inside their respective homes and observe certain social practices which restrained them from carrying out normal activities or even engage in occupations, the Devadasis had a prestigious status as dancers and musicians in temples, and had a sense of independence that the other women did not.

The Devadasi system is said to have primarily originated as a part of tantric beliefs and methods of worship in some Indian temples to provide regular female attendants to the deities. It might not be conclusive to say that Hinduism favours or supports the Devadasi system, but it exists nonetheless. Hinduism is a religion of individuals and has many layers to it. Prostitution has been a part of India's social milieu since ancient times. Kings, warriors, feudal lords and rich merchants, all indulged in it. Women from poor social backgrounds resorted to it to please their masters or gain freedom from the bondage to which they were subjected. On the other hand, there were some women who willingly participated in the profession. This group included girls sold by their families into slavery on account of their inability to marry them or women who were captured during battles or wars and sold for a profit by their captors. Some served in the courts of kings as spies, guards, courtesans and dancer girls. They often accompanied the kings to war either to entertain or protect them. Such women at that time were both despised and admired: despised because they seduced men and emptied their wealth, admired because their professional skills, beauty and artistry kept men engaged.

History of prostitution in India

Prostitution as a profession can be traced back to the Brahminical period of 1500 BC when prostitution was an integral part of Indian society. In the early 1850s, thinking regarding the morality of prostitution transformed, leading to an augmented proscription of the practice. When the British arrived in India¹, they were shocked by India's tolerance toward prostitution and the way in which the practice was treated like any other occupation (Gangoli 2007). At the same time, the British perceived prostitution as an evil required to assuage the "natural sexual desire" of their troops but wanted to regulate the practice (Bhandari, 2010). They ordered that Indian women be accessible in the cantonments for fighters, consequently giving birth to the brothel system and red-light districts that exist in urban India today.

In order to safeguard soldiers, the British administration monitored the health of prostitutes with medical inspections backed up by arrest and confinement for those who were found to be infested with ailments. Latterly, under the Cantonment Act 1864, prostitutes were required to register with the Superintendent of Police, obliged to undertake weekly health checkups and carry identity cards. It also ensured that 12-15 prostitutes were accessible to each regiment of British soldiers. These measures, approved under the pretext of public health necessities, were motivated not by a concern for maintaining the health and welfare of prostitutes, but rather were intended to protect clients (Gangoli 2007: 208). Such pronouncements laid the groundwork for the prostitution system that continues in India today and sheds light on the incongruities that lie beneath current legislation.

Religious Prostitution in India

Religious prostitutes in India can be divided in two categories: the Devadasis and the Tawaifs. The Tawaifs were ancient women who were in the profession of prostitution as well as entertainment, although not mutually exclusive. The Tawaifs were, at this time, graded into three levels of prostitutes: Kumbhadasi, Rupajiva, and Ganika. The Kumbhadasi were the lowest class, customarily a servant who gave sexual amenities to the head of household. The Rupajivas were usually very aesthetically attractive and trained in dance and the arts. While some Rupajivas were born into prostitution, many took it up willingly to pursue riches or escape calamitous marital life. The most extremely respected were the Ganikas for whom prostitution was a profession and whose practice was controlled by state law. Ganikas were very gifted and skilled, and were thought to be a source of good luck, at times providing sanctifications over brides at weddings. Their rates were fixed by the government and received government incomes. They reserved the right to consolidate and voice concerns and were taken care of when sick. Prostitutes in this group eventually formed associations, held meetings, and claimed civic and domestic rights.

¹ The East India Company was established in 1757 and India came under the direct control of the British in 1858.

Devadasis: Today

Once a socially honorable position in the sixth century, this system today has devolved to pure prostitution due to crooked temple administration and more androcentric customs of worship that laid down male dominance and supremacy over these women (Srinivasan 1985). Colonial imposition of Christian ethics fundamentally influenced notions of sexuality and principles within civic and political discourse in India. Representations of women through matrimonial family units as wife and mother gave rise to explorations of sexuality being restricted to the familial and reproductive territory. Any sexual activity not focused on reproductive purposes was perceived as divergent and was consequently socially stigmatised. This was echoed in the abolitionist campaigns which originated in the 1930s to eradicate the Devadasi system; 1947 a law outlawing dedication of women to temples was approved. Both sides of the discourse seeking an end to the Devadasi system based their reasoning on the system but did not openly address the Devadasis themselves. Hence, women served simply as a mode of dialogue without participating in debates and were therefore denied their own awareness. This shares common ground with a huge number of human rights and feminist publicity that either tolerates or censures prostitution whilst disregarding the benefits of those directly affected by such movements and crusades¹. Such treatise not only buttresses social structures and gender hierarchies that ostracise those convoluted in the profession, but moreover form definitions that are caught up in laws promoting the individuality of a prostitute or a sex worker as a prey to societal tyranny. It undertakes that a woman's sexuality is browbeaten when brought out in the public sphere and so targets to eliminate the tradition. Yet again, these claims are grounded on prevalent moral assumptions that bind female sexual manifestation to the private sphere of a wife for the purpose of becoming a mother. A number of laws were enacted to prohibit the system. All legislations had different perceptions of the system and prohibited different aspects. Girls, at a very young age, often between 10-12 years, are dedicated to the goddess Yellamma, by a ritualistic process which is very similar to the rituals performed in a typical Hindu marriage ceremony: A string of red and white beads are tied around their neck and they irrevocably become Devadasi: maidservants of the deity (Rowland, 2013:1). It is predominantly practiced in the states of Karnataka and Andhra Pradesh. A Devadasi dedicates her entire life in service to her husband, the goddess Yellamma, who is said to be a protector of the fertility of lands. The girls are mostly from a low-income family and are archetypally Dalits, a lower caste in India. These women are, as a result, ostracised not only because of their gender but also because of their caste and class connotations thus instituting the lowest rung of the societal hierarchy.

Today, Devadasis are often traded into urban brothels. This practice was banned in India in 1947 by the Madras Devadasi (Prevention of Devadasi) Act, but due to the financial incentive involved, cases still transpire of young girls being forcibly married away to serve as Devadasi². This system is no longer restricted to the religious tradition even if it still finds its origin in custom. The practice in the present day is simply downgraded to sex work where young girls, upon reaching puberty, ceremonially get their first buyer and continue the practice as sex workers. The Devadasi system is heritable in that women either adopt young girls or bestow their own daughters. A historical reason for this ritual is that Devadasis were obliged to perpetuate the system with the intention of maintaining the material and economic privileges they received from the temples (Anandhi 1991: 740). Humanitarian organisations estimate that up to 5000 girls become Devadasi every year with ritual "weddings" taking place in private homes in the middle of the night to fend off detection (Dean 2006).

The table below gives an idea of the Devadasis and their mode of entry into prostitution (Sahani and Shankar 2013).

Constitutional Protection to Devadasis

The Indian Constitution adopted in 1950 focused on achieving a qualified equality for all people by way of the elimination of systematic pyramids, including gender-based hierarchies:

¹ Such campaigns were carried out first in 1882, and then again in the 1930s and 1940s. They were spearheaded by social activists and philosophers like Raja Ram Mohan Roy, Muthulakshmi Reddy, S. Muthiah Mudaliar, Sir C. P. Ramaswami Iyer, M. Krishnan Nair, C. N. Annadurai and Ishwar Chandra Vidyasagar

² See for example Minor Forced to Become Devadasi, Times of India, (Dec. 18, 2006) http://timesofindia.indiatimes.com/NEWS/Cities/Bangalore/Minor_forced_to_become_Devadasi/articleshow/843185.cms. (Accessed 31 December, 2015)

- Article 14 states that it is a fundamental right for all women have to equality. In practice, this right is challenging to enforce and merely arranges for a foundation on which prospective legislation may depend (Seervai, 1983: 282).
- Article 15(1) prohibition in contradiction of discrimination based on sex.
- Article 16 requires equality of opportunity for all where people are in public employment and prohibits discrimination based on sex.
- Article 23 is particularly pertinent to the sex trade and prohibits traffic in human beings and all type of forced labour.
- Article 39 is particularly relevant as it obliges the State to secure a suitable means of livelihood for both men and women, guarantee equal pay for equal work, encourage health for workers, and limit citizens from being forced, through economic compulsion, to take on vocations unsuitable to age and strength.
- Article 42 requires the State to protect just and humane working situations and to provide maternity aids

These fundamental rights are bolstered by Article 15(3), which posits that the State is authorised to take positive action to make “special provision[s] for women.” Beyond its basic articulation of rights, the Constitution encompasses Directive Principles of State Policy that levy obligations on the State to protect equality and eliminate discrimination (Articles 36-51). These Principles are not enforceable in court but offer direction for state policy. Lastly, the

Constitution states that every citizen of India has a fundamental obligation to renounce practices deprecating to the dignity of women (Article 51A). These provisions promote an emphasis on human rights and gender equality, and should lead future national laws. Apart from Constitutional provisions, the practice of Devadasis in any form is in complete infringement of the provisions of Section 370 and 370A, as amended through Criminal Law (Amendment) Act, 2013 as well as Section 372 of Indian Penal Code. It is also against the provisions of the Immoral Traffic (Prevention) Act, 1986.

Devadasis: A Human Rights Perspective

Current human rights treatises on the matter encompass various feminist viewpoints on prostitution. Nonetheless, the practice today presents itself as an undeviating abuse and mistreatment of women’s rights and freedoms irrespective of the inherent social pyramids and gender disparities. We cannot minimise the gender, class and caste obstacles in identifying the radical feminist perspective that wishes to prohibit prostitution by virtue of its misogynistic worth.

It is, nevertheless, vital to recognize and acknowledge the abuse experienced by the Devadasis in order to identify the practice as a violation of human rights before critiquing its gradations to formulate feminist debates about the issue.

Even though a law passed in Colonial India (Bombay Prevention of the Dedication of Devadasis Bill, 1934) barred the practice of bestowing young girls to temples, the tradition still carries on because of its ancient and religious implications as well as the consequential lack of choice for girls belonging to Devadasi families. Often young girls are involuntarily given into sex work by their families because of financial need and also because there is no way for their daughters to get married and be assimilated back into society. This profession today can be said to be born out of extreme poverty and blossoms on deception, force, and simple cruelty to women.

Another major issue related with the Devadasi tradition that is caught up in current human rights discourse is the trafficking of women. A ‘trafficking belt’ has developed near to the districts adjoining

Maharashtra and Karnataka from where Devadasis are ‘obtained’ for the red-light districts of Mumbai, Delhi or other large Indian cities (Tarachand 1992). Devadasis, because of their pecuniary and social status and lots of children, often turn to pimps who assist as “guardians” making them susceptible to trafficking (Torri 2009). Although trafficking tracks are not developed exclusively on the foundation of the Devadasi practice, the tradition plays a large role in their continuation and dissemination into conventional society.

Another issue entangled with trafficking is the health threat that sex work and trafficking pose. With restricted contact to healthcare resources and dearth of awareness, AIDs and other STIs among Devadasi sex workers. This threat is exacerbated when women are in larger cities, due to lack resources and issues of disclosure in possibly unfamiliar areas. Even amidst the Devadasi communities, frequent pregnancies and abortions from an early age serve as health dangers (see Nair 2004). Therefore, the lack of available resources and schooling also mark the

decent of the Devadasi practice as a human rights matter. However, I think, the gravest violation of human rights against the Devadasis occurs in the name of rehabilitation of the Devadasis as sex workers under the Immoral Traffic (Prevention) Act 1986. Many women have reported cases of sexual and physical harassment in the rehabilitation centres¹. Here the women are kept in confinement and are continuously harassed. They are not even given a choice to stay or walk away. This harassment renders them psychologically damaged for a long period of time, not to mention being physically hurt and wounded (Ibid: 363).

Failure of Legislation

India has tried to use legislation to put an end to the Devadasi system, but have failed to end this practice. The problem with these laws can be found in their application as well as the drafting. First of all, prostitution in India has not been banned completely and explicitly. This loophole leaves a hole big enough for corruption by the politicians and the police (see for example Ansari 2016). Also, the institution of Devadasis and prostitution have been confused with each other so constantly that Devadasis have now become a synonym for prostitutes. This idea of Devadasis as prostitutes has been stated by none other than the government itself (see Rajgopal 2016). Indeed, the failure to recognise the Devadasis as the promoting arts but as prostitutes has rendered the whole institution worthless.

Money supports the continuation, even after it has been banned. Devadasis as virgins are sold for quite a lot of money, but when they reach their 30s or 40s, they do not earn enough to sustain themselves and are often forced to sell their own daughters to urban brothels. Others earn money by trafficking young girls from villages to the urban brothels (See Gowda 2016). This constitutes a vicious cycle of poverty and a life of indignity for such women.

Even though the Devadasis think of themselves as higher as and holier than the non-religious prostitutes, their clients see no difference in the two and treat them just the same (Gangoli, 2001:115). They face violence by the hands of their clients and are susceptible to unwanted pregnancies and STIs.

There is no scope for a proper rehabilitation utilising the rehabilitation centres as they are problematic (as discussed previously) and even NGOs cannot work effectively without the support of the executive or the police. Harassment within the rehabilitation centres is ironic proof of the laws being an inappropriate response to the issues in hand. Indeed, the police themselves treat the Devadasis as simply sex workers and harass them sexually and physically. The following table gives an account of all the sex workers, including Devadasis, who have faced violence by hands of the police (Sahani and Shankar 2011):

Can Devadasis see the light of the day?

Even after hundreds of years of their existence and the numerous contributions by Devadasis to the culture of India, their existence continues to be denied. Many people in India may not even have knowledge of such a custom existing in India. As a result, many Devadasis have converted to other religions to liberate themselves from the system and 'their curse'.

Perceptions of Devadasis are extremely vigorous and entrenched in their religious status in society. Although they are marginalised and socially condemned for their work based on popular morals, their social status is not commensurate with their religious status. Even today, Devadasis are thought to bring good luck at marriage ceremonies within upper caste Hindus and so their presence is vital on certain occasions. Not only that, Devadasis, as followers of Yellamma, revel in a semi-holy status for the duration of five days of a festival in festivity of the goddess (Ibid.). They are worshipped and held in esteem thus construing very different view of the Devadasi system.

The Indian government has been trying to eliminate this system completely and do justice to the women who have suffered such grave human rights violation. The Andhra Pradesh government has finally begun to frame rules for the Devadasi Prohibition Act that was implemented 28 years ago². The Central Government, in December 2015, had requested States to invoke

¹ Women who are rescued from their respective prostitution houses by the Police are usually kept in rehabilitation centres. The purpose of such centres is to keep the rescued women from going back to their previous profession. They are given vocational trainings in many of these centres to provide them with alternate source of income.

² The News Minute, *Andhra to Frame Rules to Rehabilitate Devadasis*, December 10, 2015 <http://www.thequint.com/india/2015/12/10/andhra-to-frame-rules-to-rehabilitate-devadasis> (Accessed on 7 January, 2016).

rigorous penal provisions and bear special drives to prevent such practices under any semblance, labeling the system as one of the most monstrous practices against women¹.

The 800-year old tradition came to an end formally, with the country's last practicing Devadasi, in the Jagannath Temple, Orissa, dying at the age of 92². However, the practice still continues by way of sex work. The tradition may eventually come to an end if the legislation is made sturdier and rigorous provisions are given for violating the provisions. Central government also needs to facilitate justice for the Devadasis by breaking the vicious cycle of poverty and trafficking and provide the Devadasis with adequate means to live and an easier entry in the labour market. Only after such sturdy steps can the Devadasis be finally liberated from the curse of being exploited in the hands of the public or the police.

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¹ Deccan Herald, Centre asks states to stop Maria-Costanza Torri, Abuse of Lower Castes in South India: The Institution of Devadasi, Journal of International Women's Studies Vol.11 Issue No.2, 48 (2009). Devadasi system, December 28, 2015 <http://www.deccanherald.com/content/519925/centre-asks-states-stop-devadasi.html> (Accessed on 6 January, 2016).

² Mohapatra Debabrata, *Puri's Last Practicing Devadasi Dies at 9*, Times of India, Mar 20, 2015, <http://timesofindia.indiatimes.com/india/Purislasptractising-devadasi-dies-at92/articleshow/46629322.cms> (Accessed on 6 January, 2016).

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