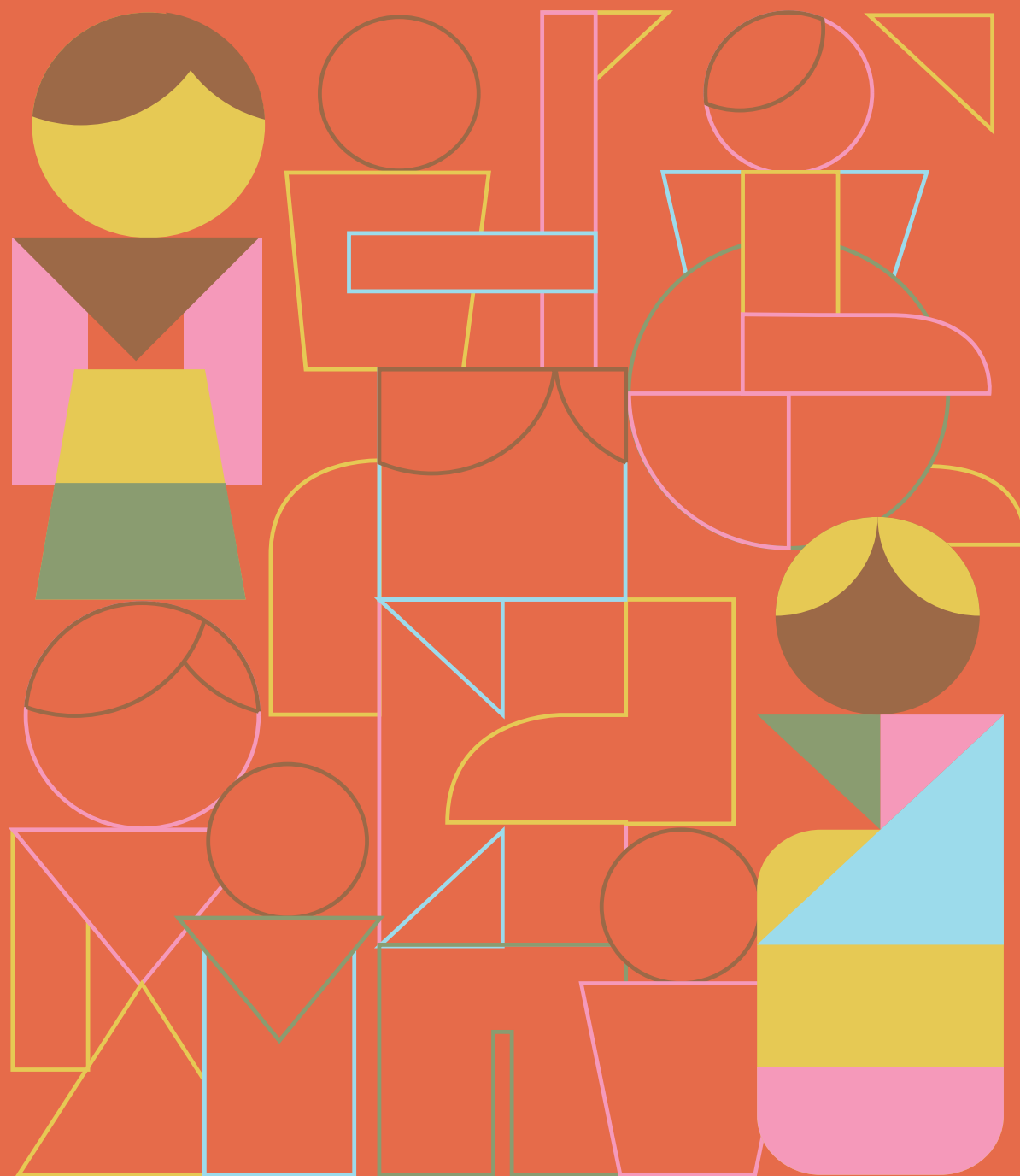


# INTERSECTIONS OF CASTE AND GENDER: Implementation of Devadasi Prohibition Laws



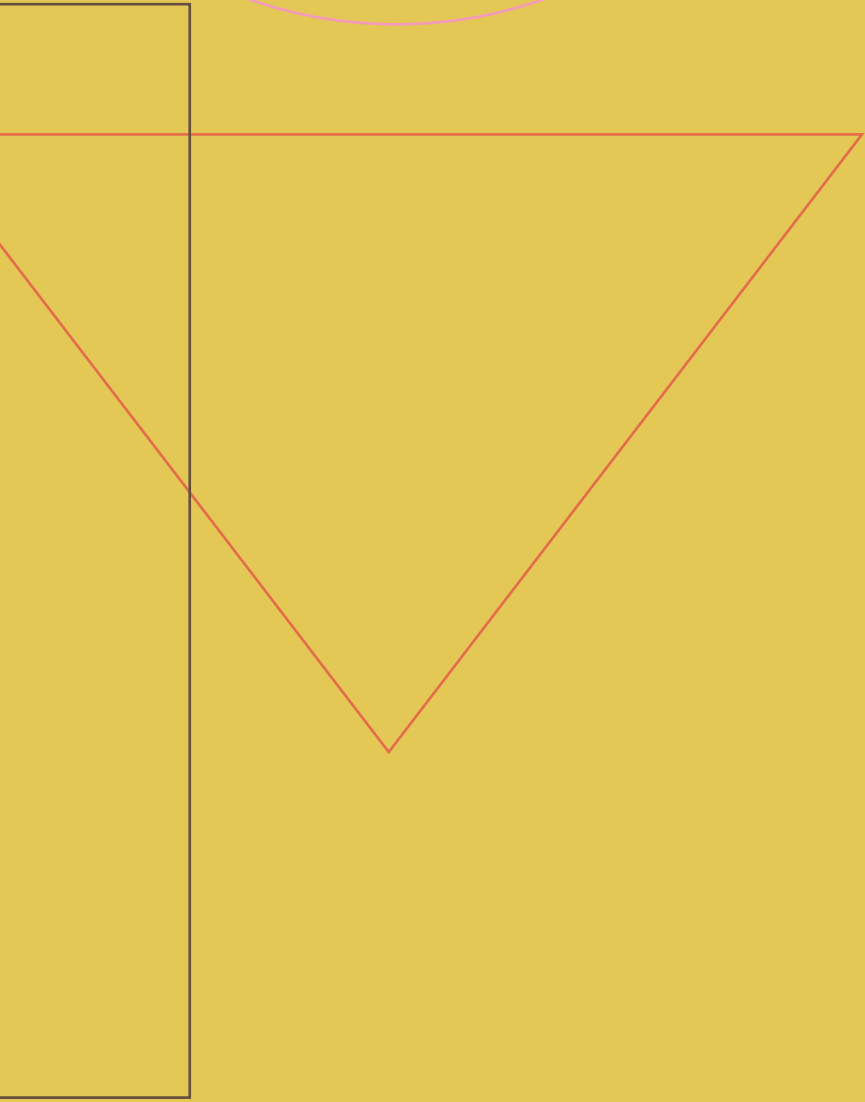
**POLICY BRIEF**



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# ACKNOWLEDGEMENTS

## AUTHORS:

Jayna Kothari, Executive Director, Centre for Law and Policy Research, is the lead author.

Deekshitha Ganesan, I. R. Jayalakshmi, Rohit Sharma and Aadhirai S., Research Associates at CLPR conducted extensive background research and wrote several portions of the brief.

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D6, Dona Cynthia Apartments,  
35 Primrose Road  
Bangalore - 560025, India  
[www.clpr.org.in](http://www.clpr.org.in)

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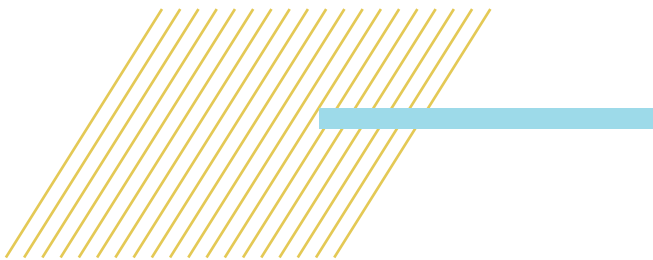
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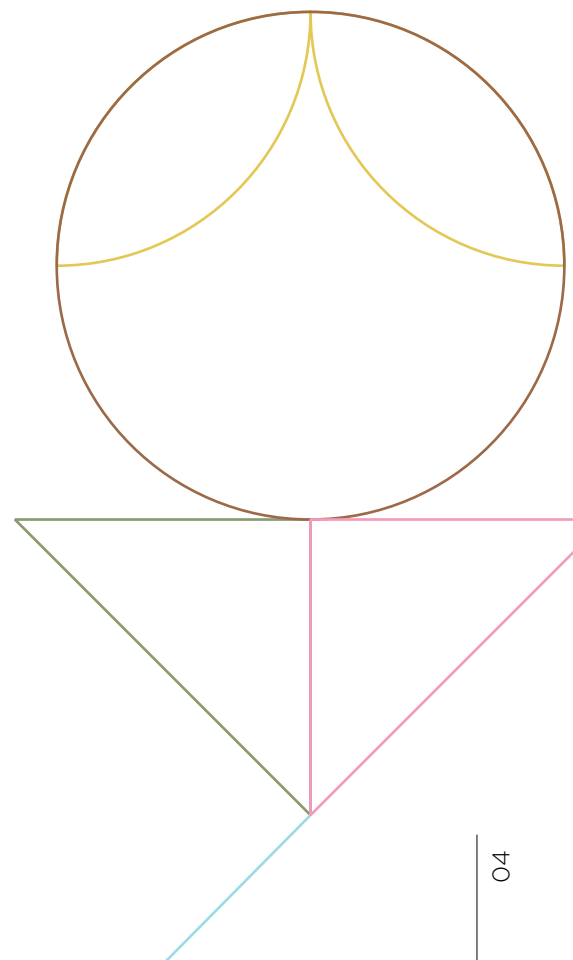
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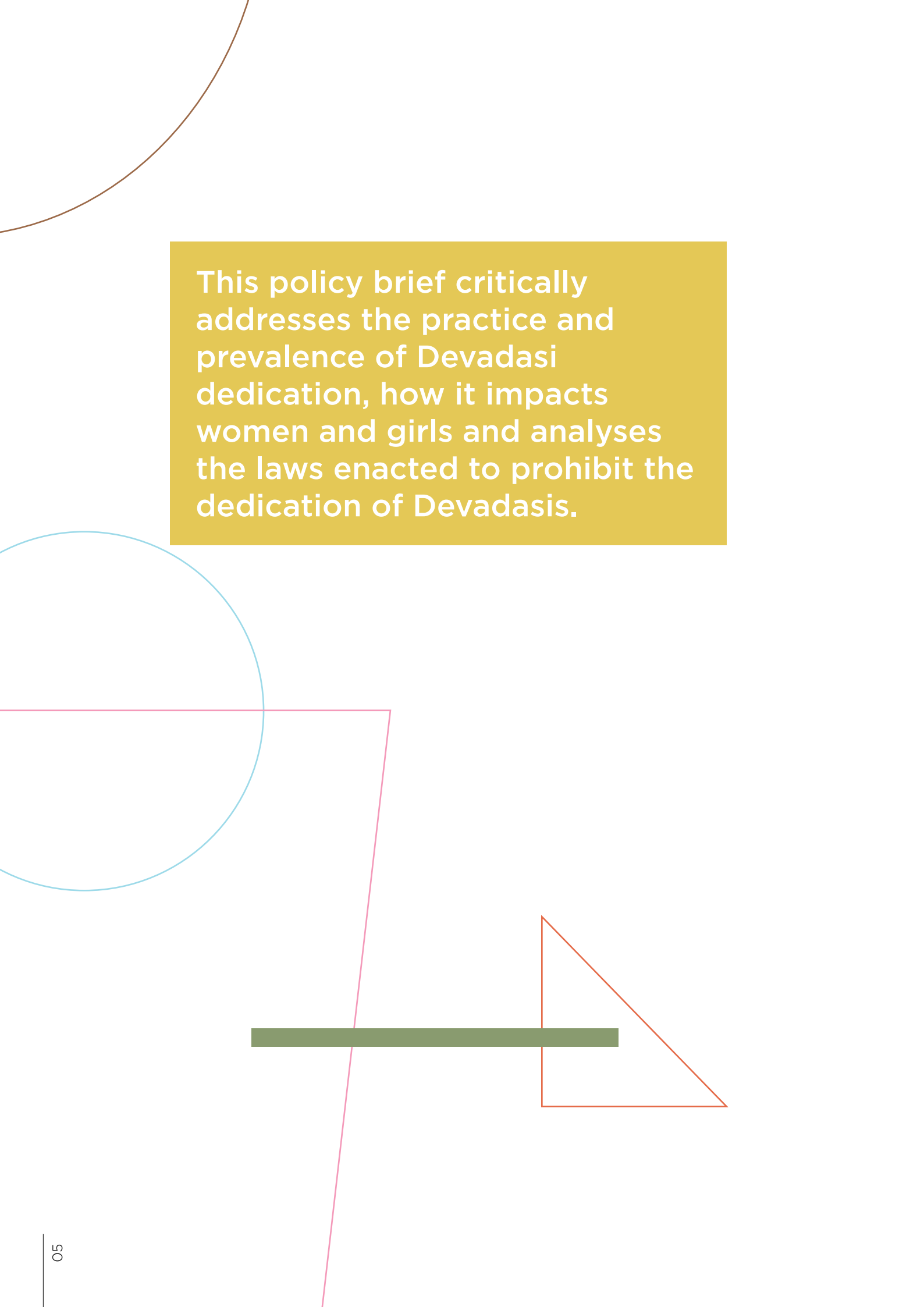
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**This policy brief critically addresses the practice and prevalence of Devadasi dedication, how it impacts women and girls and analyses the laws enacted to prohibit the dedication of Devadasis.**

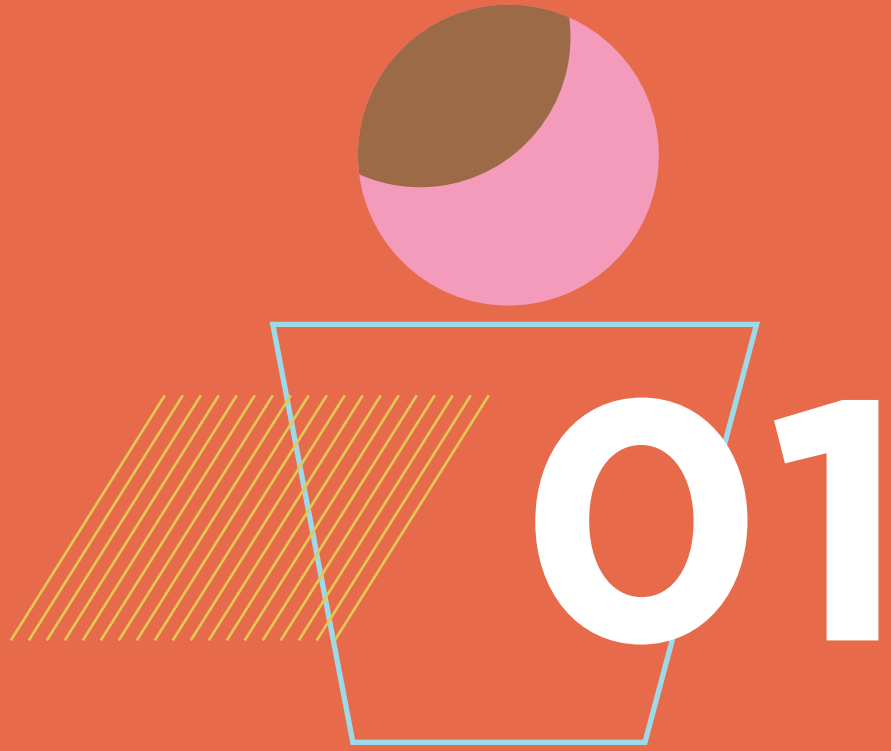
# INTRODUCTION

The dedication of young girls to temples as Devadasis is a practice that is deeply embedded in the socio-cultural mores of certain States in India such as Tamil Nadu, Andhra Pradesh, Karnataka, and Maharashtra. Young girls from economically disadvantaged Scheduled Caste or Scheduled Tribe communities in these States are dedicated as Devadasis and thereafter forced into sex work. Caste, class and gender identities intersect resulting in distinctive and aggravated experiences of discrimination and violence that take various forms, including physical, sexual and economic violence.

These States have enacted legislations to abolish the practice by declaring the dedication of girls as unlawful and a criminal offence. Despite having specific laws to prevent dedication, the Devadasi practice still prevails. The intersectional nature of this practice is also recognised by the inclusion of Devadasi dedication in the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which recognises this as an atrocity and penalises the performance or promotion of the dedication of a woman as a Devadasi.

This Policy Brief critically addresses the practice and prevalence of Devadasi dedication, how it impacts women and girls and analyses the laws enacted to prohibit the dedication of Devadasis. In doing so, this Brief identifies the issues affecting the implementation of the existing legislations and makes recommendations for better implementation.

This Policy Brief is divided into three broad chapters. The first chapter describes the Devadasi system and its prevalence. It also reviews three recent studies done by NLSIU, TISS and Sampark, which show the prevalence of the Devadasi practice. In the second chapter, we review the laws specifically enacted for the abolition of the Devadasi system in the States of Maharashtra, Andhra Pradesh, Tamil Nadu, and Karnataka, their implementation, and the Supreme Court directions passed for better implementation. Finally, in the third chapter we provide recommendations for better working of the legislations.







# The Devadasi Practice: Intersectionality of Caste and Gender



The term 'Devadasi' translates into 'slave of the god' or 'servant of the god'. Traditionally, it involved the offering of young girls to Hindu temples to perform as dancers to appease the Gods.<sup>1</sup> It is predominantly practiced in Karnataka, Maharashtra, Andhra Pradesh, and Tamil Nadu.

Young girls who are yet to attain puberty are offered to the temples through an act of marriage to the local deity conducted by the local priest. Upon attaining puberty, another ceremony is conducted under the patronage of the temple trustees and wealthy landlords. The Devadasi woman is patronised by temple priests and upper caste men including local Zamindars for their personal entertainment. The woman's marriage to the local deity precludes her right to marry a mortal man while simultaneously devoid-ing her of the status of a wife. Consequently, she and her children do not enjoy any property or inheritance rights.

The Devadasi system in its present form differs from its historical

practice. With the exception of the initiation process which has largely continued to maintain a veneer of tradition, the current iteration of the Devadasi system finds no similarities to its previous form.<sup>2</sup> The practice of Devadasi dedication shows that the girls who are dedicated are almost always from Scheduled Caste and Scheduled Tribe communities. The devotees of Yellamma who dedicate young girls as Devadasis to the goddess are mostly Dalits and Bahujans, from the Madiga and Valmiki castes and sometimes other Dalits as well.<sup>3</sup> While the 'marriage' takes place before puberty, the girls are later forced into sex work. Devadasis are known by different names in different areas including by the name of Joginis or Mathammas in Andhra Pradesh, Mathangi / Murali in Maharashtra, and Devaradiar or Dasis in Tamil Nadu. Devadasis were expected to have sexual partnerships with men who could support them and their families, camouflaged as a long term socially sanctioned partnership akin to marriage.<sup>4</sup>

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Religion, caste domination, patriarchy and poverty are the main causes for the Devadasi system to still flourish.<sup>5</sup>

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<sup>1</sup>Lucinda Ramberg, 'When the Devi Is Your Husband: Sacred Marriage and Sexual Economy in South India' (2011) 37 *Feminist Studies* 28, 29.

<sup>2</sup>'Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India' (Sampark 2015) 97 <<http://sampark.org/wp-content/uploads/2016/03/Sampark-ILO-Devadasi-study-report-August-2015-.pdf>>. accessed on 23 Oct 2019.

<sup>3</sup>ibid 24.

<sup>4</sup>ibid 15.

<sup>5</sup>Kalpana Kannabiran, 'Judiciary, Social Reform and Debate on "Religious Prostitution" in Colonial India' (1995) 30 *Economic and Political Weekly* WS59.

Maria Costanza Torri argues that the Devadasi system in its modern iteration has become synonymous with sex work to produce an order of sex workers who can be exploited under the guise of religion and caste.<sup>6</sup> Uma Chakravarti explains this power relation as a by-product of the power that the members of certain castes possess over the individuals from marginalised caste groups and the sexual access that men possess over women from marginalised caste groups is an illustration of this.<sup>7</sup>

Dalit women are viewed as 'easy women' because of their caste and the Devadasi system is a specific form of exploitation faced due to caste but which is constructed within religio-cultural practices.<sup>8</sup> Therefore, the discrimination faced by Devadasi women is on account of a multiplicity of factors including sex, caste and class. These identities intersect and compound one another in a manner whereby the whole is greater than the sum of its parts.<sup>9</sup>

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## The most pertinent issue with regard to the Devadasi system is the complicity of the family and other relatives' in propagating the practice.

---

The reasons for the same indicate how the practice largely prevails among socio-economically marginalized caste groups as a result of years of upper caste domination. Families who are strongly influenced by relevant caste and class factors believe that

dedicating the girl is essential in performing their duties. This makes the eradication of the Devadasi practice, like the practice of child marriage, extremely difficult because the family and the entire community is involved in the dedication.

---

<sup>6</sup>Maria Torri, 'Abuse of Lower Castes in South India: The Institution of Devadasi' (2013) 11 *Journal of International Women's Studies* 31, 40.

<sup>7</sup>Uma Chakravarti, 'Conceptualising Brahmanical Patriarchy in Early India: Gender, Caste, Class and State' (1993) 28 *Economic and Political Weekly* 579, 580.

<sup>8</sup>Shewli Kumar, 'Dalit Women at the Intersections: Voices from the Margins' (2008) 69 *The Indian Journal of Social Work* 159, 164.

<sup>9</sup>*ibid.*

DATA ON PREVALENCE OF THE

# Devadasi Practice

One of the biggest hurdles in understanding why the Devadasi practice is not diminishing is the lack of accurate data on its prevalence. In 2011, the National Commission for Women estimated that there were 48,358 Devadasis in India.<sup>10</sup> However, a 2015 Report by Sampark submitted to the International Labour Organisation (“Sampark Report”) estimates that the number of Devadasis all over India would be close to 4,50,000.<sup>11</sup>

<sup>10</sup>Nash Colundalur, “Devadasis Are a Cursed Community” *The Guardian* (21 January 2011) <<https://www.theguardian.com/lifeandstyle/2011/jan/21/Devadasi-india-sex-work-religion>> accessed 19 August 2019.

<sup>11</sup>‘Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India’ (n 2) 12.

Therefore the numbers are hugely contradictory. A brief overview of the numbers in each of the 4 States is as follows:

## Karnataka:

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- In North Karnataka and in the areas bordering Karnataka and Maharashtra,<sup>12</sup> such as in Belgaum district, young women are offered to Goddess Yellamma.<sup>13</sup>
- According to an evaluation of the rehabilitation schemes initiated for Devadasi Women,

the Karnataka State Women's Development Corporation (KSWDC) survey in 1993-94 identified **22,873 Devadasis** in 10 districts in Karnataka<sup>14</sup> and a 2007-08 survey identified **23,787 more Devadasi women**, totalling to **46,660 Devadasis** in Karnataka.<sup>15</sup>

- The Chairperson of the KSWDC noted that Bellary district alone is estimated to have around 9000 Devadasi women, the highest of 14 Districts surveyed in Karnataka.<sup>16</sup>

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<sup>12</sup>Prakash Kamat, '36 Years after Law, Girls Still Forced into Devadasi Custom' *The Hindu* (Panaji, 15 January 2019) <<https://www.thehindu.com/news/national/other-states/36-years-after-law-girls-still-forced-into-Devadasi-custom/article25995956.ece>> accessed 19 August 2019; Indrani Nayar-Gall, 'How 10,000 Devadasis Live Their Lives in Karnataka | Bengaluru News - Times of India' *The Times of India* (Karnataka, 7 April 2018) <<https://timesofindia.indiatimes.com/city/bengaluru/sexual-servitude-to-the-gods/articleshow/63660465.cms>> accessed 19 August 2019.

<sup>13</sup>Anitha Pailoor, 'For "Servants of God", No End to Their Misery' *Deccan Herald* (Bengaluru, 25 November 2018) <<https://www.deccanherald.com/servants-god-no-end-their-704825.html>> accessed 19 August 2019.

<sup>14</sup>Hyderabad Karnataka Centre for Advanced Learning, Gulbarga, 'Evaluation of Rehabilitation of Devadasi Programme, Implemented by the Karnataka State Women's Development Corporation, Bengaluru' (Karnataka Evaluation Authority 2017) 26,27 <<http://kea.karnataka.gov.in/sites/default/files/Devadasi%20Eng.pdf>>. accessed on 23 Oct 2019.

<sup>15</sup>*ibid*, 26, 27.

<sup>16</sup>'Plan to Eradicate System of Devadasis in 14 Districts' *The Hindu* (Ballari, 7 January 2016) <<https://www.thehindu.com/news/national/karnataka/Plan-to-eradicate-system-of-Devadasis-in-14-districts/article13985297.ece>> accessed 22 October 2019.

# Andhra Pradesh:

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- According to news reports, the Andhra Pradesh Scheduled Castes Cooperative Finance Corporation Limited, Hyderabad undertook a survey in

1987-88 and identified **24,273 Devadasis** in the State.<sup>17</sup>

- In 2007, an Anti-Slavery International Report cited figures provided by a programme of the State Government of Andhra Pradesh called 'Velugu' which counted only

**17,000 Devadasis** in key districts of the State,

although it did not name the districts.<sup>18</sup>

- The Justice Raghunath Rao Commission which was set up by the State Government to look into the conditions faced by Devadasis and to suggest recommendations, estimated that there could be around **80,000 Devadasis** in Andhra Pradesh as of 2013.<sup>19</sup>

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<sup>17</sup>Sribala Vadlapatla, 'Devadasi System Still Exists in Telangana, AP, Says Report' *The Times of India* (Hyderabad, 23 February 2015) <<https://timesofindia.indiatimes.com/india/Devadasi-system-still-exists-in-Telangana-AP-says-report/articleshow/46337859.cms>> accessed 20 August 2019. The district wise break-up of Devadasi women who have been identified in Andhra Pradesh is Karimnagar - 5,861, Nizamabad - 5,666, Mahbubnagar - 2,879, Warangal - 1,059, Anantapur - 2,686, Kurnool - 2,197, Medak - 1,145, Adilabad - 906, Hyderabad - 740, Chittoor - 544, Nellore - 284, Rangareddy - 231, Nalgonda - 40, Prakasam - 26, Visakhapatnam - 7, East Godavari - 1 and Kadapa - 1).

<sup>18</sup>Maggie Black, 'Women in Ritual Slavery: Devadasi, Jogini and Mathamma in Karnataka and Andhra Pradesh, Southern India' (Anti-Slavery International 2007) <[http://idsn.org/wp-content/uploads/user\\_folder/pdf/New\\_files/Key\\_Issues/Dalit\\_Women/WomeninRitualSlavery.pdf](http://idsn.org/wp-content/uploads/user_folder/pdf/New_files/Key_Issues/Dalit_Women/WomeninRitualSlavery.pdf)> accessed on 23 Oct 2019.

<sup>19</sup>'Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India' (n 2) 26, 27.

# Tamil Nadu and Maharashtra:

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Data on the prevalence of the Devadasi system is entirely missing for the State of Tamil Nadu and no comprehensive state-wide or even district-wide surveys in vulnerable parts of Tamil Nadu have been conducted. Mainstream media has routinely reported rituals where young girls from Scheduled Caste communities were dedicated to Goddess Mathamma as recently as 2017<sup>20</sup> and the National Human Rights Commission also has taken notice of this practice.<sup>21</sup> In Maharashtra as well the State Government has not conducted any comprehensive study to identify Devadasis. The estimate provided by the National Commission for Women is that there are

**2,500 Devadasis** in the Karnataka Maharashtra border area.<sup>22</sup>

The 2015 Sampark Report cited data from a 2010 survey conducted by the Department of Commissionerate of Women and Child Development, Pune which recorded only 3,907 Devadasis in Maharashtra but estimates that the actual number of

**Devadasi women in Maharashtra** may be around **30,000**.<sup>23</sup>

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<sup>20</sup>Vinita Govindarajan, 'Is the Devadasi System Still Being Followed in Southern India?' *Scroll* <<https://scroll.in/article/852319/is-the-Devadasi-system-still-followed-in-southern-india>> accessed 7 October 2019.

<sup>21</sup>National Human Rights Commission, 'Important Interventions | National Human Rights Commission India' <<http://nhrc.nic.in/press-release/important-interventions-6>> accessed 7 October 2019.

<sup>22</sup>Bharathi V Harishankar and M Priyamvada, 'Exploitation of Women as Devadasis and Its Associated Evils, Volume II' (National Commission for Women 2016) 15 <[http://ncwapps.nic.in/pdfReports/Exploitation\\_of\\_Women\\_as\\_Devadasis\\_and\\_its\\_Associated\\_Evils\\_Report.pdf](http://ncwapps.nic.in/pdfReports/Exploitation_of_Women_as_Devadasis_and_its_Associated_Evils_Report.pdf)> accessed 7 October 2019.

<sup>23</sup>'Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India' (n 2) 28.

# Recent Studies



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Recent studies which have attempted to understand the lives of Devadasi women have brought to light the persistence of this practice. These studies show that the current form of the Devadasi system is more exploitative than the past as it has evolved into a means for commercial sexual exploitation and discrimination.

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The recent reports prepared by the National Law School of India University, Bangalore (NLSIU)<sup>24</sup> the Tata Institute of Social Sciences, Mumbai (TISS)<sup>25</sup> and a 2015 Report by Sampark commissioned by the International Labour Organisation (ILO), have highlighted the present conditions of Devadasis. Drawing on in-depth surveys and interviews, these reports elaborate on the present predicament of Devadasi women. All these studies suggest that despite the existence of a legal framework to prohibit the practice of Devadasi, it has devolved into an institutionalized form of sexual exploitation of women and girls which targets the poorest sections of society.

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<sup>24</sup>Bincy Wilson, Shruthi Raman and Giliyal Anuroopa, 'A Qualitative Study of the Legal Dimensions of "Devadasi" Dedication Phenomenon' (Centre for Child and the Law, National Law School of India University 2018) <<https://www.nls.ac.in/resources/year2019/Devadasidedication2019.pdf>> accessed 7 October 2019.

<sup>25</sup>'The Devadasi System: Social Context, Responses and Resistance' (Centre for Criminology and Justice, School of Social Work, Tata Institute of Social Sciences 2018) <<https://www.weworld.it/wp-content/uploads/2019/01/Devadasi-Research-Paper.pdf>> accessed 7 October 2019.



## NLSIU study:

A study conducted by the National Law School of India University, Bangalore in 2018 in two taluks of Bellary district in Karnataka had the following findings:

**All 62 Devadasis who participated in the study were from Scheduled Castes.<sup>26</sup>**

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**92% of the Devadasi women who participated in the study were dedicated when they were minors.<sup>27</sup>**

---

**74% of these women had their first sexual contact before the age of 18 years and 50% were sexually abused as minors even after the enactment of the Protection of Children from Sexual Offences Act, 2012.<sup>28</sup>**

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**Out of the 62 women who participated in the study, 41 were from families where at least one woman had been dedicated and 20 of them were daughters of Devadasi women.<sup>29</sup>**

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**Out of the 62 Devadasis, only 2 approached the police although as many as 87% of the women faced sexual exploitation and 95% were trafficked.<sup>30</sup>**

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<sup>26</sup>Wilson, Raman and Anuroopa (n 24) 23.

<sup>27</sup>ibid 24.

<sup>28</sup>ibid 30.

<sup>29</sup>ibid 25.

<sup>30</sup>ibid 37.

## TISS Study

A study conducted by the Tata Institute of Social Sciences, Mumbai in Bellary and Siruguppa in 2018, found as follows:<sup>31</sup>

**All 30 dedicated girls who participated in the study were from Scheduled Caste communities.**

---

**Out of the 30 Devadasis, 29 were dedicated when they were minors.**

---

**Over 80% were forced into sexual relationships when they were minor.**

---

**Relatives of 25 out of the 30 women had been dedicated as Devadasis in the past and 6 of them were daughters of Devadasi women.**

---

**Often the practice of dedication is not obvious and the Gram Panchayats only get to know about its existence when the Devadasi woman gets pregnant.**

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<sup>31</sup>'The Devadasi System: Social Context, Responses and Resistance' (n 25).

# Sampark Study 2015

In 2015, Sampark conducted a study commissioned by the ILO, on the situation of Devadasis. This study highlighted the following:

**85% of the respondents who were dedicated were from Dalit communities.**

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**80% of the respondents were dedicated by close family members. 3% of the respondents from Belagavi and Mehboobnagar stated that local leaders were responsible which shows that political leaders and non-Dalits also played a role in the sexual exploitation of Dalit women.**

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**76% of Devadasis lived in kutcha houses (houses made from mud, thatch or other low quality materials).**

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**Only 8% of them had access to a toilet.**

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**95% of the Devadasi participants of the study were unable to register the name of their partners as parents of their children in the school admission records.<sup>32</sup>**

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<sup>32</sup>'Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India' (n 2) 38.

# Discrimination faced by Devadasi Women and Girls

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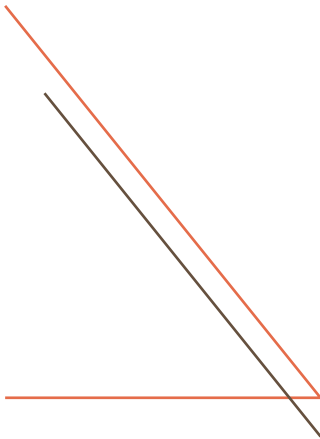
The system of Devadasis or Joginis results in exploitation of girls and women from Scheduled Castes, who are highly disadvantaged.<sup>33</sup>

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Hence the intersectional discrimination faced by Devadasi women and girls due to the practice of dedication is extremely high and extends to many areas beyond what is seen from the surface. The Devadasi system continues to be a socially accepted practice in parts of Karnataka, Tamil Nadu, Andhra Pradesh, and Maharashtra due to limited awareness of the harmful physical and psychological effects it can have on the women being dedicated. Further, through a combination of religious sanction and socio-economic disadvantage, the practice has become entrenched in certain parts of the country.

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<sup>33</sup> Yanamala Ramakrishnudu, 'Scheduled Caste Sub Plan (SCSP) 2015-16' <<https://www.apfinance.gov.in/uploads/budget-2015-16-books/Volume-VII-3.pdf>>. accessed 22 October 2019.



Young girls who are dedicated when they are minor are forced out of school and are deprived of their right to education. Devadasi women have no other option for income except sex work and begging.<sup>34</sup> They are denied their reproductive rights<sup>35</sup> and are often subjected to sexual violence. The bodily integrity of minor girls and the reproductive choices available to them are important as they cannot be treated as a commodity having no say over their bodies or as having no right to deny sexual intercourse.<sup>36</sup>

Devadasis are restricted from participating in public events, face social stigma and are not allowed to marry even though the law holds that there is no bar to Devadasis having a valid marriage. The plight of the Devadasi worsens with age as they are unable to secure work and live in extreme poverty in their old age.<sup>37</sup>

The stigma and discrimination also extend to their children. Children of Devadasi women face discrimination in schools for being 'illegitimate'<sup>38</sup> and are denied rights and privileges that accompany the status of legitimate children, including the right to inheritance. The social stigma attached to illegitimate children puts the health, education and development of the children at considerable risk.<sup>39</sup> In particular, the daughters of Devadasis are deprived of opportunities in education and employment<sup>40</sup> and are also expected to be dedicated as Devadasis.<sup>41</sup> Due to this stigma, the KSWDC has even included the daughters of Devadasi women in the gamut of the Devadasi Rehabilitation Project that was set up in 1991.<sup>42</sup>

The present situation of Devadasi women and girls is despite the existence of legislations prohibiting the practice and efforts to rehabilitate the dedicated women. Have these legislations adopted the right approach in tackling the Devadasi practice? This is the central question that we will address in the next section on the legal framework addressing the Devadasi system.

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<sup>34</sup>Harishankar and Priyamvadha (n 22) 214.

<sup>35</sup>Wilson, Raman and Anuroopa (n 24) 47.

<sup>36</sup>*Independent Thought v. Union of India* [2017] 10 SCC 800

<sup>37</sup>Wilson, Raman and Anuroopa (n 24) 20.

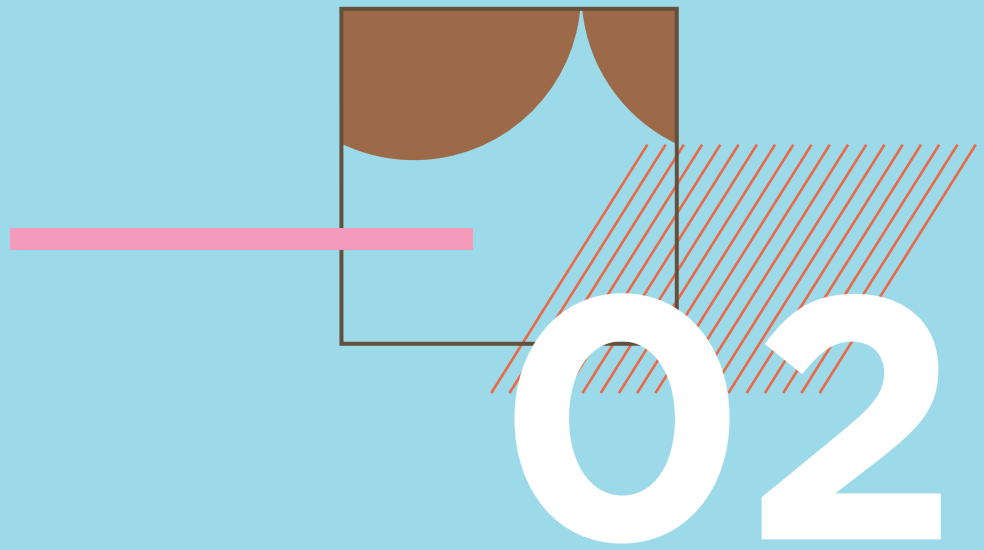
<sup>38</sup>Harishankar and Priyamvadha (n 34) 215.

<sup>39</sup>'Gender Based Violence on Scheduled Caste Girls: A Rapid Assessment of the Devadasi Practice In India' (n 2) 83.

<sup>40</sup>*ibid* 84.

<sup>41</sup>'The Devadasi System: Social Context, Responses and Resistance' (n 25) 2.

<sup>42</sup>*ibid* 45.



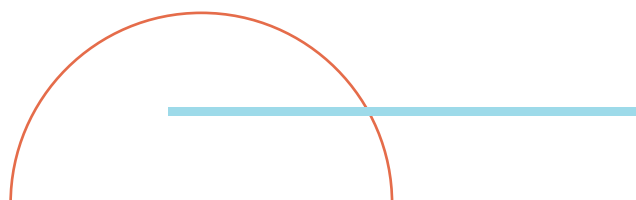


# The Legal Framework



The States in which the Devadasi practice is predominant – Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra – have enacted special legislations to tackle the practice.

Some of these legislations were enacted pre-independence and have not been reviewed or amended since. While the legislations across these States are largely similar, some States have enacted rules to implement the main statute. In this section, we review the status of implementation of these legislations and other statutes that would be applicable to Devadasi women and their children as well as decisions of the higher courts in India, to identify key areas for intervention.





# 1 The Karnataka Devadasis (Prohibition of Dedication) Act 1982

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The Karnataka Devadasis (Prohibition of Dedication) Act 1982 was adopted by the State Legislature in 1982 and was notified by the Government through its Gazette in 1984. The Act declares the practice of dedication of any woman as a Devadasi as unlawful and prohibited.

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The Karnataka Act criminalizes those involved in dedicating the girl. A person who *“performs, permits, takes part in or abets the performance of any ceremony or act for dedication”* may be punished with imprisonment of three years and a fine up to two thousand rupees.<sup>43</sup> The Act has made involvement of guardians, family members and relatives as a more serious offence and prescribed higher punishment of a minimum of two years’ imprisonment along with two thousand rupees fine, and a maximum of five years imprisonment along with five thousand rupees fine.<sup>44</sup>

In 2010, the Government amended the Act by empowering the District and Executive Magistrates to take action for the enforcement of the law including by issuing a prohibitory injunction against any person, restraining dedication.<sup>45</sup> The District or Executive Magistrates are empowered to issue prohibitory injunctions either following complaints or on a suo moto basis, against any person to stop the practice of dedication. Further, under Section 3A(5), the concerned officers have been permitted to use force to enforce injunctions.

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<sup>43</sup>The Karnataka Devadasis (Prohibition of Dedication) Act, 1982, s 5.

<sup>44</sup>The Karnataka Devadasis (Prohibition of Dedication) Act 1982, s 5.

<sup>45</sup>The Karnataka Devadasis (Prohibition of Dedication) Act 1982, s 3A.

The Karnataka Act also provides for the appointment of a Devadasi Dedication Prohibition Officer (DDPO) under Section 3D of the Act, who is empowered to enforce the Act in addition to conducting awareness and sensitisation campaigns. Under Section 3D(5), the Act bolsters the powers of the DDPOs by according them with the same powers as the police.

On rescue and rehabilitation, under Section 3B, the State Government is directed to take *“all necessary steps to rehabilitate the women rescued from dedication...by providing counselling and awareness and shall be economically empowered by involving the said women in income generating activities, if necessary by providing protection or shelter in remand home up to six months and see that the said woman shall become self-sustained by availing subsidy and loans through banks.”*<sup>46</sup>

The Act mandates that Rules should be framed to provide for the custody, protection, welfare and rehabilitation of the Devadasis.<sup>47</sup> However, the State Government is yet to draft Rules, despite three decades of the Act being in existence.

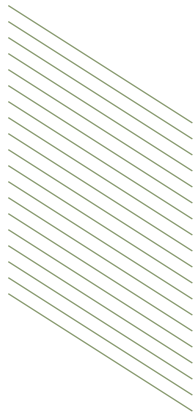
In addition to the law, there are welfare schemes made by the government. Under the “Devadasi Rehabilitation Programme” the government shall provide counseling services, involve the Devadasi women in income generating activities, provide shelter homes, and subsidy and loans through banks. Further, Government has also announced financial assistance to those who marry Devadasis and as per an order issued by the Higher Education Department, all State run universities in Karnataka will have to provide 1% reservation to girl children of Devadasis or victims of sexual assault.<sup>48</sup>

<sup>46</sup>The Karnataka Devadasis (Prohibition of Dedication) Act 1982, s 3B.

<sup>47</sup>The Karnataka Devadasis (Prohibition of Dedication) Act 1982.

<sup>48</sup>Staff Reporter, ‘1% Reservation for Girl Children of Devadasis, Sexual Assault Victims’ *The Hindu* (8 July 2019) <<https://www.thehindu.com/news/cities/bangalore/1-reservation-for-girl-children-of-Devadasis-sexual-assault-victims/article28321677.ece>> accessed 22 October 2019.

## 2 The Tamil Nadu Devadasis (Prevention of Dedication) Act 1947



The Tamil Nadu Act was enacted pre-independence and has not been reviewed or amended since. Under this law, the dedication of a woman as a Devadasi, whether she has consented or not, is declared as unlawful and void.

It also holds any custom prevailing in any Hindu community such as Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi and Kurmapulu whereby a woman who takes part in any melam / nautch

is considered as having adopted a prostitution and becomes incapable of entering into a valid marriage is also unlawful. The Act goes to such an extent that it even prohibits dancing by any woman in the precincts of a temple or any religious institution, or during any processions of a Hindu deity or idol or at any festival or ceremony, whether with or without the kumbhaharathy practice of dedication, and declares it as unlawful.<sup>49</sup>

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Under this law as well, even the woman who is dedicated as a Devadasi if she is sixteen years of age, can be punished for the offence along with anyone else who performs, permits, takes part in or abets the performance of such dedication ceremony.

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The Act prescribes simple imprisonment which may extend to 6 months or fine which may extend to Rs. 500 or both. It also imposes a punishment on anyone who dances in contravention of the prohibition, including the woman herself, if she is above 16 years of age.

It also does not make any provision for rehabilitative measures nor does it identify any specific institution or officer for implementation. Since the enactment of the statute in 1947, no rules have been framed for its implementation.

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<sup>49</sup>The Tamil Nadu Devadasis (Prevention of Dedication) Act, 1947, s 3(3)

# 3 The Andhra Pradesh Devadasis (Prohibition of Dedication) Act 1988

In 1988, the Andhra Pradesh Devadasi Prohibition of Dedication Act (“AP Act”) was enacted. The Act defines the practice of dedication to include any tying of tali with jakini or tying a woman by a garland to a Garnda Khambham, dhaarana and deeksha and declared such practice as unlawful and void.

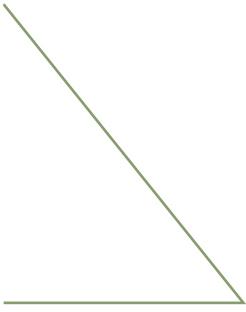
Devadasis are also referred by the names of Basavi, Jogini, Parvathi, Mathamma and Thyamma.

Like the Tamil Nadu Act, not only is the practice of dedication declared to be unlawful and a criminal offence, even any custom or ceremony whereby a woman from the communities of Bogum, Kalavanthula, Sani, Nagavasulu, Devadasi, Kurmapulu, Basavi, Jogini and Parvathi who performs melam / nautch and is considered to have adopted a life of prostitution and incapable of entering into a valid marriage has been declared unlawful and void.

With respect to the penalties, any person who performs, promotes, takes part in or abets a dedication is punishable with an imprisonment that is not less than 2 years and which may extend to 3 years and

fine that may extend to Rs. 3000 and not less than Rs. 2000. If the accused is a parent or guardian or relative of the woman, they are punishable with imprisonment, which may extend to 5 years and not less than 2 years and fine that may extend to Rs. 5000 and not less than Rs. 3000. It also makes the propagation of the practice of dedication as an offence punishable with imprisonment of upto 3 years. The woman who is subjected to dedication is excluded from the offence and is not punishable.

The Act confers powers on the Collector or any officer not below the rank of Mandal Revenue Officer to implement the Act within the local limits and to take action to put an end to such practice. AP is the only State which has framed Rules being the Andhra Pradesh Devadasis (Prohibition



of Dedication) Rules, 2015. The AP Rules propose a Vigilance and Monitoring Committee to implement the Act.<sup>50</sup> Rule 7 includes a comprehensive rehabilitation scheme which includes the provision of a house of not less

than 250 sq. ft. to all Devadasis, economic assistance for gainful employment, free education for the children of Devadasis in schools, extinguishment of any debt, and the incentivisation of inter-caste marriage.<sup>51</sup>

## 4 The Maharashtra Devdasi System (Abolition) Act, 2005

The first legal initiative taken for abolishing the Devadasi system dates back to 1934 when the Bombay Devadasi Protection Act was passed.

The Bombay Act declared that the practice was illegal, irrespective of whether the girl was dedicated with or without her consent. According

to this Act, marriage by a Devadasi was to be considered lawful and valid, and the children from such wedlock were to be treated as legitimate.

Thereafter recently the Maharashtra Devdasi System (Abolition) Act 2005 (“Maharashtra Act”) was passed. It prohibits any dedication of a woman as a Devadasi.


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It holds that no marriage by a Devadasi shall be invalid and co-habitation by any man with a Devadasi as husband for a reasonably long period of time shall raise the presumption of marriage and any offspring shall be deemed to be legitimate with all property rights.

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<sup>50</sup>The Andhra Pradesh Devadasi Prohibition of Dedication Act 1988.

<sup>51</sup>The Andhra Pradesh Devadasis (Prohibition of Dedication) Rules 2015, s 7.



The Act makes dedication and abetment of the same a criminal offence. Any person who performs, permits, takes part in or abets, or allows in the premises under his control the dedication of a woman as a Devadasi shall be punishable with imprisonment between two to three years and fine. If the offence is by a family member, the imprisonment may extend up to 5 years. There is no limitation for taking cognizance of offences.

The District Devdasi Practice Control Committee constituted under Section 8 of the Act, headed by the Chief Judicial Magistrate or Additional Collector or Chief Executive Officer of the Zilla Parishad or the Superintendent of Police of a district, has been tasked with various functions to fulfill the objectives of the Act. Under Section 9, the Committee can carry out searches of premises where it suspects that a Devadasi woman has been confined for being dedicated or preparation for committing other offences under the Act are underway. The Committee is also empowered to pass orders regarding the custody, rehabilitation and maintenance of Devadasi

women. In order to effectively carry out these functions, the Committee has the powers of a civil court under the Code of Civil Procedure, 1908 with respect to issuing summons, discovery and production, receiving evidence on affidavits and issuing Commissions to examine witnesses and documents.

The Maharashtra Act provides for the constitution of a Devdasi Practice Control and Eradication Board in districts where the government deems fit. Under Section 9, this Board is allowed to pass orders regarding the custody of Devadasi women, provide maintenance, and pass any order required for the enforcement of the Act.<sup>52</sup> The Act also allows for the appointment of a Devdasi Prevention Officer under Section 10 whose is required to detect and prevent contraventions of the Act, collect evidence, and discharge any function assigned by the State Government.<sup>53</sup> Additionally, the State Government may, under Section 21, do *“anything not inconsistent with the provisions of this Act, which appears to it necessary or expedient...”*.<sup>54</sup>

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<sup>52</sup>The Maharashtra Devdasi System (Abolition) Act 2005, s 9.

<sup>53</sup>The Maharashtra Devdasi System (Abolition) Act 2005, s 10.

<sup>54</sup>The Maharashtra Devdasi System (Abolition) Act 2005, s 21.

# 5 Other Legislations

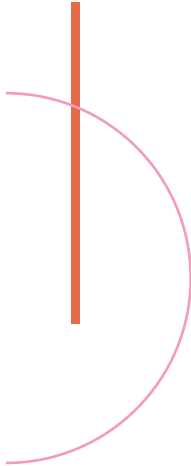
While the four State specific Devadasi prohibition legislations are enacted to directly address and prohibit Devadasi dedication and provide rehabilitation, there are other general legislations that also address the Devadasi practice and the rights of Devadasi women and girls. These are as follows:

## a. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

The unique experiences of Devadasi women as a result of the intersection of caste and sex has been recognised through Section 3(k) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 which states that:

*“Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe performs, or promotes*

*dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a Devadasi or any other similar practice or permits aforementioned acts, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.”*<sup>55</sup>



This provision therefore only prosecutes persons who are not a member of a Scheduled Caste or Scheduled Tribe for the act of dedication. Therefore, the Act would exclude from its ambit a large number of instances where an act of dedication of an SC/ST woman or minor girl as a Devadasi, since mostly dedication is done by the family members who would also be members of Scheduled Castes or Scheduled Tribes.

<sup>55</sup>The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, s 3(k).

This amendment in the SC/ST Act is in effect meaningless since the focus of this law is to prevent atrocities by non-SC/ST persons against members of SC/ST communities. In this context,

one can say that criminalisation of the practice would not lead to any solutions, and remedies should be looked for in the form of rehabilitation, compensation and civil measures.

## b. Indian Penal Code, 1860 (“IPC”):

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The IPC under Section 370 also criminalises the trafficking of persons when the trafficking is for the purpose of exploitation.<sup>56</sup> The general punishment for such a crime includes a minimum seven years imprisonment which may extend to 10 years and upto life if minors are

involved. The IPC also criminalises the buying and selling of minors for the purpose of sex work. Any such act can be met with imprisonment which may extend to ten years as per Section 373 of the IPC.<sup>57</sup> These provisions also ought to be applicable to Devadasi women and minor girls.

## c. The Immoral Traffic Prevention Act 1956 (“ITPA”):

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The ITPA criminalises the keeping of brothels, engaging in prostitution knowingly by persons above the age of 18, and procuring, inducing or taking of persons for the sake of prostitution and prescribes 7 years of imprisonment for first sentence and life imprisonment on second conviction for persons who are guilty of engaging in trafficking for the purpose of prostitution. Further, any person who aids or abets the act of trafficking is also accorded the same punishment.<sup>58</sup>

This punishment is increased in the case of the trafficking of children with a minimum punishment of 7 years rigorous imprisonment and a maximum of imprisonment for life. Though these provisions ought to apply to Devadasi women and minor girls, it is hardly used in the Devadasi context. While a majority of Devadasis are subject to commercial sexual exploitation, and the ITPA would be applicable, it is never used.

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<sup>56</sup>The Indian Penal Code 1860, s 370.

<sup>57</sup>The Indian Penal Code 1860, s 373.

<sup>58</sup>The Immoral Traffic (Prevention) Act 1956, s 5.



## d. The Juvenile Justice Act 2015 (“JJ Act”):

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The JJ Act, 2015 is also relevant to the protection of Devadasi women because most of girls are dedicated when they are minor and would fall under the category of a “*child in need of care and protection*”.<sup>59</sup> The Child Welfare Committee established under the JJ Act has

the powers of the Metropolitan Magistrate or Judicial Magistrate of First class to deal with children in need of care and protection. However, they can intervene only when cases are referred to them and so far, no case of dedication has been referred to them.

## e. Protection of Children Against Sexual Offences Act (“POCSO Act”):

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The POCSO Act would apply if the Devadasi girl was a minor at the time of the commission of offences under the Act, which is usually the case. It penalises ‘penetrative sexual assault’ under Section 4 and ‘aggravated

penetrative sexual assault’ under Section 6 with punishment which may extend to life imprisonment. Despite the POCSO Act in place, there have been no cases where the POCSO is used in the Devadasi context.

## f. The Protection of Women from Domestic Violence Act, 2005 (“PWDVA”):

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The PWDVA was enacted to protect the rights of women who face violence within the shared household. The definition of domestic violence under the Act is broad and includes causing harm or injury or endangering the health and safety of person and causing physical, sexual, verbal, emotional or economic abuse. A Devadasi woman, whether or not she has attained the age of majority, can use the PWDVA and should be entitled to seek relief and remedies against domestic violence.

The failure to implement the laws can be attributed to the attitude of enforcement agencies such as the police who are reluctant to take up *suo moto* action.<sup>60</sup> This problem is enhanced by the fact that the enforcement agencies often fail to establish the link between the Devadasi system and child sexual abuse and exploitation, and consequently fail to invoke other general legislations such as the ITPA, POCSO Act, the IPC and legislations outlined above.

<sup>59</sup>The Juvenile Justice (Care and Protection of Children) Act 2015, s 2(14).

<sup>60</sup>Wilson, Raman and Anuroopa (n 24) 58.

# 6 Non-implementation of the laws and Supreme Court Directions

The Devadasi prevention laws are plagued by weak enforcement. The Tamil Nadu Act identifies no specific institution for its enforcement thus leading to no implementation at all.

Under the Andhra Pradesh, Karnataka and Maharashtra legislations, specific bodies are tasked with responsibilities, but there is still no implementation.

Rules are not framed under these laws to give effect to these legislations. Even in AP where Rules were framed in 2015, there is no effective implementation.

In 2015, the Central Government issued an advisory to State Governments and Union Territories to implement the Devadasi prohibition legislations strictly to initiate special drives to identify

Devadasi women and rehabilitate them with counselling, medical treatment, guidance, support and motivation, along with the assistance of NGOs.<sup>61</sup> Despite this, there has been no improvement in the implementation.

## VISHAL JEET V. UNION OF INDIA

There have been a few public interest litigations filed in the Supreme Court for addressing the practice of Devadasi dedications. In *Vishal Jeet v. Union of India*<sup>62</sup> the Petitioner challenged the inefficiency of the police and sought for directions for implementation of the Devadasi legislations and to direct the CBI to institute an enquiry against those police officers under whose jurisdiction Devadasi and Jogin traditions are flourishing, and to take necessary actions against such officers. While recognising the evil of the Devadasi system, the Supreme Court noted that the Devadasi practice is not only a social but also a socio-economic problem and issued the following directions:

<sup>61</sup>Abolition of Devadasi system, Advisory No. 24013/16/2015-SC/ST-W dated 22 December 2015, Ministry of Home Affairs, Government of India, <[https://mha.gov.in/sites/default/files/DevdasiSystem\\_231215\\_0.PDF](https://mha.gov.in/sites/default/files/DevdasiSystem_231215_0.PDF)>. accessed on 23 Oct 2019

<sup>62</sup>*Vishal Jeet v. Union of India* [1990] 3 SCC 318.

- (i) All State Governments and the Governments of Union Territories should direct the law enforcing authorities to take appropriate and speedy action under the existing laws in eradicating child prostitution.
- (ii) The State Governments and the Governments of Union Territories should set up separate Advisory Committees within their respective zones consisting of the Secretary of the Social Welfare Department or Board, the Secretary of the Law Department, sociologists, criminologists, members of women's organisations, as well as the members of various voluntary social organisations to make suggestions towards measures to be taken in eradicating child prostitution and the social welfare programmes to be implemented for the care, protection, treatment, development and rehabilitation of the young fallen victims
  - namely the children and girls rescued either from the brothel houses or from the vices of prostitution.
- (iii) All State Governments and Union Territories to provide rehabilitative homes manned by well-qualified trained social workers, psychiatrists and doctors for Devadasis.
- (iv) Union Government to set up a committee to evolve welfare programmes to be implemented at the national level for the care, protection, rehabilitation of children and girls and to make suggestions of amendments to the existing laws.
- (v) The Central Government and the Governments of States and Union Territories should devise machinery for ensuring proper implementation of the suggestions that would be made by the respective committees.

## GAURAV JAIN V. UNION OF INDIA

In a manner similar to *Vishal Jeet*, the Supreme Court was petitioned through a Public Interest Litigation in *Gaurav Jain v. Union of India*.<sup>63</sup> This PIL pertained to the rights of the children of Devadasi women and minor girls. The Court, while investigating the matter, first directed a Committee to submit a report on the condition of such children and the means of improving their livelihood. Based on this report, the Court provided a detailed analysis of the nature of the practice of Devadasi dedication and the plight of the victims thereof. The Court held that despite the existence of the laws, no action has been taken to curb the practice of dedication and issued expansive directions as follows:

<sup>63</sup>*Gaurav Jain v. Union of India* [1997] AIR SC 3021

- (i) Rehabilitation programmes should be launched and the implementation machinery should be put in place to assist Devadasi women and bring them out of prostitution.
  - (ii) Rescue and rehabilitation of child sex workers should be under the Department of Women and Child Development, which should frame suitable schemes such as self employment programmes and provide institutional care for their effective rehabilitation.
  - (iii) Juvenile homes should be used only for short stay and children forced into sex work need to be rehabilitated meaningfully
- in homes maintained by trained and qualified social workers and NGOs, with the aid of the State Governments or the Government of India.
  - (iv) The Ministry of Welfare is to constitute a Committee headed by the Secretary, Department of Women and Child Development to study the challenges and frame suitable schemes for the rehabilitation of women who have been pushed into prostitution (including Devadasi women).
  - (v) A permanent committee of Secretaries should be constituted to track and review the implementation of these schemes.

## S.L. FOUNDATION V. UNION OF INDIA

More recently, in *S.L. Foundation v. Union of India*,<sup>64</sup> the Supreme Court held that the dedication of Dalit girls in a temple in the Harappanahalli Taluk of Ballari District of Karnataka, was unconstitutional and in violation of Articles 23(1), 39 (e) &(f), 14, 21 of the Constitution. The Court disposed of the matter in 2016 and passed the following directions:

- (i) The petitioners were permitted to file complaints in specific instances of violation of the provisions of the Acts which have been brought into force in the States of Karnataka, Tamil Nadu, Andhra Pradesh, Telangana, Maharashtra as well as in any other States by preferring necessary complaints before the police authorities or by bringing it to the notice of the concerned Secretary of the State who is in charge of Women Development and it will be incumbent upon them to invoke the statutory provisions prevailing in the respective States and proceed against the culprits in accordance with law.

<sup>64</sup>*S.L. Foundation v. Union of India* [2014] W.P.(Civil) 127/2014.

(ii) The Union of India was at liberty to approach the Court if its Advisory dated 22nd December, 2015 to all the States as well as Union Territories to stop the Devadasi practice was not implemented.

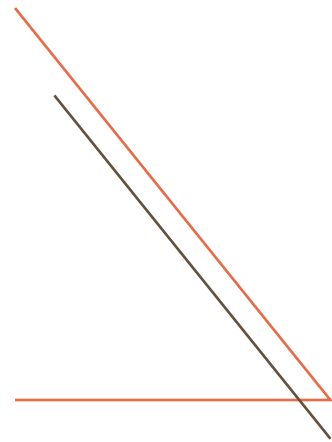
(iii) The Petitioners will be at liberty to move the concerned State Government for extending the

rehabilitation measures to such victims in the event of any such instances being brought to the notice of the respective States Governments/Union Territories with specific details and State Governments to take appropriate steps for their rehabilitation by providing all supportive rehabilitation measures.

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Even these various directions of the Hon'ble Supreme Court are not being implemented.

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03





# Conclusions & Recommendations





Thus, we see that despite legislations being enacted, Devadasi practice still persists and is rampant in the concerned States. In light of the above analysis of the legislations, the following recommendations are proposed to ensure that the prevalence of the practice is reduced and that the rights of girls and women dedicated as Devadasis are protected:

#### LAW REFORM:

- 01** The Karnataka, Tamil Nadu and Maharashtra legislations need to be amended by including a proviso, as done in the AP Act, declaring that woman and girls dedicated as Devadasis shall not be prosecuted for the act of dedication and related practices. Unless these amendments are carried out, no woman or girl who is being dedicated will ever complain about the practice, as she will also be criminalised and prosecuted.

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- 02** The Tamil Nadu Act criminalises even the practice of dancing in the temple precincts. This needs to be decriminalised so as to ensure that the women and girls involved are not prosecuted. Further, mere dancing within the temple precincts cannot be a crime nor can it be prohibited.

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- 03** Recognition of live-in relationships as marriage: Despite the law recognising the rights of Devadasi women to enter into valid marriages, in reality, they are not allowed to marry and usually are in long term relationships and have children in these marriage-like relationships. The law on succession and inheritance should recognise the substantially long term live-in relationships of Devadasis as marriage, so that they get the right to inheritance of the properties of their partners, and not just have their children get these rights. The Maharashtra Act recognises these long term relationships as marriage, and this should be extended to inheritance rights in property for the Devadasis themselves as wives.



## IMPLEMENTATION OF THE LAW:

- 01** Framing of Rules: One reason why the State legislations are not being implemented is that apart from AP, none of the other 3 States have framed Rules. State Governments of Karnataka, Tamil Nadu and Maharashtra should frame rules to strengthen the implementation of the Act with specific provisions on rehabilitation of the Devadasi woman and to monitor the implementation of the statutes.

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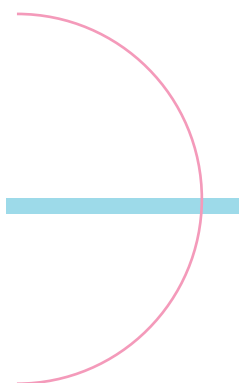
- 02** State laws are not at all implemented. Even in AP where Rules are framed the legislation is not implemented and there are a negligible number of cases registered in the States under the Devadasi prohibition legislations. The implementation bodies set up under each of the statutes have to be formed and be made functional. Awareness on these laws need to be created within the community, civil society groups and lawyers so that the law is used effectively.

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- 03** The directions given by the Supreme Court in *Vishal Jeet v. Union of India* to establish committees to evolve welfare programmes and set up Advisory Committees at the state level to make suggestions on social welfare programmes to protect and rehabilitate children and young girls who have been pushed into prostitution, must be complied with.

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- 04** Legal Aid: At present, under the National Legal Services Authority Act, 1987, a member of a Scheduled Caste or Scheduled Tribe, women and children are entitled to legal services under the Act. However, Devadasi women and children are not provided access to legal aid, which is evident from the fact that there are no complaints filed under these laws. The State legal services authorities should work with the Ministries of Social Welfare as well as Women and Child Development to pro-actively identify Devadasi women and girls and provide them with legal assistance as needed.



## REHABILITATION:

- 01** The rehabilitation schemes are not availed of and even when they are availed of, they are highly insufficient.<sup>65</sup> There are no organised schemes for healthcare, education or any other benefits provided to the Devadasi women. Even the measures provided under the AP Act are limited and basic and do not cover healthcare or provide any details on how economic assistance will be provided. Comprehensive rehabilitation schemes ought to be introduced which empower the Devadasi to get employment. In addition to merely equipping the Devadasi with the required skills, measures should be introduced whereby the Devadasi is given an avenue to put her skills to use and to provide healthcare, housing, education and access to employment.

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- 02** In States where rehabilitation and welfare schemes for Devadasis are already there such as Karnataka and AP, they are not being implemented properly. There have to be emphasis on ensuring that the benefits reach the women and girls.

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- 03** Housing: Provisions to be made to provide some form of housing to Devadasis, either through allotment of sites or houses at concessional rates.

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- 04** Right to Education: Measures should be introduced to promote the education of Devadasi women and girls. Compulsory education under the RTE Act should be implemented specifically in the case of girls dedicated as Devadasis and they must be brought back to school.

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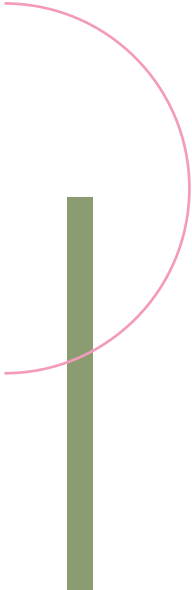
- 05** The 1% reservation of seats for daughters of Devadasi women in State-run universities in Karnataka needs to be implemented effectively.

## INCREASING SOCIAL AWARENESS

- 01** Awareness programs ought to be introduced in order to ensure that the nature of the exploitation of Devadasis is understood and reportage of the violation of the rights of Devadasis increases. The awareness should be on the violation of girls' rights to health, education, sexual and reproductive rights, the right to choose and autonomy, and the right to be free from exploitation. There must be recognition that the Devadasi practice amounts to a form of slavery and labour.

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<sup>65</sup>'The Devadasi System: Social Context, Responses and Resistance' (n 25).

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- 02** The Karnataka Act empowers the DDPO to ‘create awareness of the evil which results from dedication’ and to ‘sensitize the community on the issue of dedication’. Despite the existence of the need for spreading awareness on paper, in actuality awareness programmes are rare. Further, the three other states involved in this study have no such provisions in their respective legislation. As the NLS report notes, among the Devadasis interviewed for the study, only about 48% know about the existence of laws prohibiting the practice of dedication.<sup>66</sup> The same is true for the community in general. They are also unaware of the institutions responsible for protecting the rights of Devadasi women.

## EMPIRICAL RESEARCH

Large scale empirical studies ought to be conducted that help establish the prevalence of the Devadasi system. The AP Rules 2015 require that the District level Vigilance and Mentoring Committee conduct surveys to identify Devadasis from time to time. This needs to be done in all States to get an accurate number of Devadasis so that implementation of the law and rehabilitation is made effective.

## TRAINING

- 01** Training of police personnel, Welfare Officers, Executive Directors, Law Officers, and Magistrates must be provided in order to make them aware of the nature of intersectional discrimination faced by Devadasi women. The AP Rules require the Committee to conduct training workshops to ensure the same.
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- 02** The Devadasi prohibition legislations and schemes should be included in the training curriculum for the police and judicial officers.
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- 03** Police must be encouraged to take *suo moto* action in the cases involving the practice and dedication of Devadasi women.
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- 04** Police must use the general laws such as the IPC, ITPA, SC/ST Act, JJ Act, and POCSO Act in the complaints on Devadasi dedication as already noted by the Supreme Court in *Vishal Jeet v. Union of India*.<sup>67</sup>

<sup>66</sup>Wilson, Raman and Anuroopa (n 24) 48.

<sup>67</sup>*Vishal Jeet v. Union of India* [1990] 3 SCC 318.



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LAW & POLICY  
RESEARCH**

**CENTRE FOR LAW & POLICY RESEARCH**

D6, Dona Cynthia Apartments  
35 Primrose Road  
Bangalore - 560025, India  
[www.clpr.org.in](http://www.clpr.org.in)