

The Devadasi As An Archaic Historical Artefact: Culture And Nation In A Transitional Moment

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Abstract

This article focuses on the ancient Indian tradition system of Devadasi and attempts to highlight some law cases which enhanced their status and condition. Since women are enjoying certain rights and benefits given by the Indian constitution still today some evil practices are performing in the society. One could notice that by using the power of religion society and other supporting functionaries' agencies try to suppress women. Devdasi's life has been associated with premises of the temples, through this paper I am trying to write on some untouched untold aspects.

Key Words - Devdasi, Law Cases, Temple,

Introduction

Devdasi practice has been connected with ancient India. devdasi is Sanskrit word and literally means female slave of God or who offers their whole life in service of deity in a temple. Under this practice young girls get married to the temple God/Goddess and can neither marry to anyone else nor lead a normal life. In the earlier time, when social conditions were not good or some evil practice prevailed in Hindu society. This pratha (practice) was famous among low caste, downtrodden people and sexually exploited by the temple patrons and elite class.

One needs to know with the historical glance it provides for an interesting and deep link between the existence of devadasis, dance forms and nation-in-making. How and what has transformed among the post devadasi generation of dancers, it has reminded me of a few case laws that I had gone through a few years back. Those case laws emphasize upon the role the colonial judiciary played in this transition.

As put forward by scholars like Janaki Nair, Kunal M. Parker, Kay K. Jordan, Kalpana Kannabiran who have focused on the legal juridical framework that played an important role in bringing alterations among devadasis. Devadasis of South India had close association among themselves, and had their own specific customary laws governing their civil matters. The early encounter between the devadasis and colonial government occurred when devadasis filed court cases that rested on their customary laws of property ownership, adoption and inheritance. An analysis of case laws relating to devadasis indicates a shift in the attitude of judiciary during the last quarter of

the 19th century. The cases relating to devadasis are a proof of the fact that how judiciary through actually brought alteration in devadasis lives. The initial reluctance of judiciary to sanction the immoral custom, later transformed into criminalization of the practices essential for perpetuation of devadasis, within the colonial administration.

Devadasis had their own customary rights of independent ownership of property, adoption of one or more daughters, inheritance by daughters in preference to sons; and inheritance by relative in preference to other than devadasis.¹ During its initial period of adjudication, the British courts recognized devadasi's customary laws to a certain extent, though the courts tended to disapprove the immoral activities associated with them. In *Chalakonda Alasani v. Chalakonda Ratnachalam*, (1864)², Madras High Court reluctantly adjudicated the claims of dancing girls, but assumption of immorality was there. In that case court observed:

'It must not be forgotten that such prostitution is strictly in accordance with Hindu law and customs; and these women compose a distinct caste, numerous and seldom possessed of wealth....Our courts, are, therefore, bound to administer to them that law, uninfluenced by any fastidiousness founded upon Western views of morality'.³

One notices reluctance in the attitude of the judiciary in granting devadasis their customary rights, but they made no efforts to replace them. Custom and usage had a legal sanction which the British were reluctant to undermine till the mid-nineteenth century. The cases reveal that construction of immorality was woven around their right to choice of free sex. The criminality was shifted to women due to the immoral nature of their conduct. The colonial intervention viewed men's conduct and sexuality as promiscuous, whereas the notion of chastity was associated close to women. On the basis of unchastity and immorality of their conduct, the traditional rights of these women were infringed.

The following observation made by Justice West in one of the cases, relating to the right of devadasi to adopt, reflects the non- acceptance and non-approval of colonial judiciary to the customary practices of these women.

¹ Kay K. Jordan, op.cit, p.42.

² 2 Madras High Court Reports, 57 cf. Kay K. Jordan p.43.

³ Ibid., p.43.

Although at one time in India the existence of companies of temple women may have been thought not so repugnant to the essential principles of the Vedic Code as to prevent their recognition as a source of law for themselves, it is not so at present. The popular sentiment would now no longer give validity to a usage of adoption among prostitutes, which devotes children, while still, infants, to a life of infamy. The whole constitution of the class of courtesans would, it is certain, be now regarded by the great mass of the Hindu community as essentially vicious. The laws or rules by which such an association endeavours to make itself and its mischievous influence perpetual, would be deemed directly opposed to “the laws of God”, and the usage itself, therefore, not as valid and coercive like a law, but as essentially invalid on account of its contradiction of the law. A contrary opinion, if shown to have been held and acted on in a time gone by, would unhesitatingly be referred to error, and a practice founded on error and misconception does not by repetition become a customary law⁴.



⁴ See the reference of App.V, A.5, A.10, p545