

**A QUALITATIVE STUDY OF THE LEGAL DIMENSIONS OF
'DEVADASI' DEDICATION PHENOMENON**



**CENTRE FOR CHILD AND THE LAW
NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
NAGARBHAVI
BENGALURU**



The Centre for Child and the Law, National Law School of India University (CCL NLSIU) is a specialized multi-disciplinary research centre of NLSIU, established in 1996. Over the years, the centre has played a strategic role in the arena of law, policy and social change, to effectively protect marginalized children and their families. The centre integrates quality research, direct field action and teaching on child rights law; and uses law and socio-legal strategies as tools for transformative social change to enable children to live with dignity.



This study was supported by We World, an Italian organization working on women and child rights. The views expressed herein are solely those of the authors. The support from the donor does not constitute endorsement of the opinions expressed.

2018

Research led by: Dr. Bincy Wilson

Researched and Authored by: Dr. Bincy Wilson, Ms. Shruthi Raman and Ms. Anuroopa Giliyal

CONTENTS

PREFACE	i
ACKNOWLEDGMENTS	ii
ABBREVIATIONS	iii
EXECUTIVE SUMMARY	iv
INTRODUCTION	1
Research Objectives	2
Literature Review	2
<i>Background</i>	2
<i>Prevalence, legislations and schemes</i>	4
Methodology	7
<i>Design & sample</i>	7
<i>Method of data collection</i>	8
<i>Analysis</i>	9
<i>Ethical consideration</i>	10
<i>Limitation</i>	10
FINDINGS	11
Legal Framework	11
<i>Dedication as Devadasi</i>	11
<i>Dedication legislations from other states in relation to Karnataka</i>	12
<i>Trafficking and Sexual Offences</i>	17
<i>Rights of Women and Children</i>	19
Offences	21
Demographics	21
<i>Dedication</i>	24
<i>Child Sexual Abuse</i>	30
<i>Trafficking for Commercial Sexual Exploitation</i>	35
<i>Violations of Other Rights</i>	42
Awareness	48
<i>Legislations</i>	48
<i>Rehabilitation Schemes</i>	55
ISSUES AND CHALLENGES	57
RECOMMENDATIONS AND CONCLUSION	63

PREFACE

The *Devadasi* system which has its origins in southern India in the early medieval period was a system in which the women who were dedicated enjoyed some prestige and autonomy, acquiring property in land among other types of property, being able to adopt daughters, following a matrilineal system of inheritance and managing their affairs by themselves. During the colonial period, particularly after 1860 the British administration took away these rights in their effort to acquire the lands of the *Devadasis* and reduced them to the status of prostitutes, calling them dancing girls in the many judicial decisions of that period and treating them as no more than common prostitutes who had no rights and were exploited by many men particularly the British soldiers. Since then the *Devadasis* have been considered to be no more than prostitutes and though the practice has been abolished it continues because it has become a means to procure young girls for trafficking in prostitution.

This opportunity to analyse the law/s relating to this practice and examine the extent of the prevalence of this practice in Karnataka was a welcome one. We thank We World for this and the various stakeholders who were willing to interact with us. This study carried out by my colleagues in the Centre for Child and the Law, Dr. Bincy Wilson, Ms Anuroopa Giliyal and Ms Shruthi Raman is particularly useful as they have been able to interact with the girls and women who have been dedicated and therefore share the brutal experiences that they have been subject to and the failure of the state to safeguard their fundamental right to equality, life and liberty and freedom. That these girls and women have been denied their right to a happy childhood and freedom from exploitation is a sad commentary on post- independence India.

We hope that this study will open up the eyes of the government, the police and other state functionaries to this very real problem of girls and women who face triple discrimination due to their caste, their class and their gender and some of them in addition due to their disabilities. As the most vulnerable sections of our society they need the best protection of their rights and being enabled to access the legal remedies that are available under our Constitution and the various legislations.

I congratulate my colleagues for the work that they have carried out and wish that the report would result in change in the lives of the girls and women from these marginalized communities so that they may be able to live with dignity in the future.

V.S. Elizabeth
Professor & Coordinator
Centre for Child and the Law
National Law School of India University.

ACKNOWLEDGMENTS

The authors express their deepest appreciation for all those without whose support and contributions this study would not have been possible. Our special gratitude is in place for:

- The *Devadasis* who expressed themselves and shared their views without hesitation.
- The youth groups, adolescent girls' groups and women's groups who provided an insight to the practice.
- The Police, empaneled lawyer, Legal Services Authority, Anganwadi workers, school teachers and the CWC for sharing their views on the issue.
- The DRP and the CDPO for explaining the functioning of the departmental mechanisms.
- Mr. Kunal Ambasta (Asst. Professor, NLSIU), Ms. Geeta Ramaseshan (Advocate, Chennai), SNEHA, ARZ, TISS and We World for their support and inputs.
- Mr. Shaluf Sunil Mohammed (II Year B.B.A. LL.B, Jindal Global Law School) and Ms. Ananya. H. S (II Year B.A. LL.B (Hons.) NLSIU) for the research support they provided.
- Ms. Ananya. H. S (II Year B.A. LL.B (Hons.) NLSIU), Mr. M. L. Pattabhi Raman, Mr. Nagaraju. H. N and Ms. Megha. M. H for helping with the transcription and translation of interviews.
- Prof. (Dr.) VS. Elizabeth, coordinator of CCL and the entire CCL Team for their continued support and encouragement.

ABBREVIATIONS

AP	Andhra Pradesh
CDPO	Child Development Programme Officer
Cr.P.C	Code of Criminal Procedure, 1973
CSA	Child Sexual Abuse
CSE	Commercial Sexual Exploitation
CSEC	Commercial Sexual Exploitation of Children
CSO	Civil Society Organizations
CWC	Child Welfare Committee
DC	Deputy Commissioner
DCPO	District Child Protection Officer
DRP	Devadasi Rehabilitation Project
DWCD	Department of Women and Child Development
FIR	First Information Report
GCA	Goa Children's Act, 2003
HAMA	Hindu Adoptions and Maintenance Act, 1956
	Human Immunodeficiency virus/ Acquired immune deficiency syndrome
HIV/AIDS	
ID Proof	Identity Proof
ILO	International Labour Organization
IPC	Indian Penal Code, 1860
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2015
KDPD Act	Karnataka Devadasis (Prohibition of Dedication) Act, 1982
NGO	Non-Governmental Organization
POCSO Act	Protection of Children from Sexual Offences Act, 2012
RPD Act	Rights of Persons with Disabilities Act, 2016
Rs.	Indian Rupees
RTI	Right to Information
SC/ST	Scheduled Caste and Scheduled Tribes
SDMC	School Development and Monitoring Committee
SHG	Self-Help group
TN	Tamil Nadu
UNCRC	United Nations Convention on the Rights of Children, 1989

EXECUTIVE SUMMARY

Girls from socioeconomically marginalized communities are still falling prey to *Devadasi* practice, a longstanding tradition of dedicating prepubescent/pubescent girls as *Devadasis* (slaves of god), who are thereafter commercially sexually exploited for the rest of their lives. The Supreme Court passed an order strictly condemning dedication and has directed the States and Union territories to strictly enforce the directives, and to check for such unethical practice. In Karnataka there is a specific legislations that make it illegal for anyone to dedicate girls and women to God in the State [Karnataka Devadasi (Prohibition of Dedication) Act, 1982 and the amendment Act, 2010 – KDPD Act]. However, there is a dearth of research conducted on ascertaining the reasons for the failure of implementation of the KDPD Act in preventing dedication, and the application of the Protection of Children from Sexual Offences (POCSO) Act, 2012, to cases of dedication, and covering aspect of commercial sexual exploitation of *Devadasis* under various legislations. The state government surveys suggests there are only 46,660 women dedicated as *Devadasis* as of 2008, but these surveys have not considered women below 45 years of age and the girls who are still being dedicated today, denying them access to schemes. The current study attempted to identify the gaps in the current legislations prohibiting dedication, examine the application of these legislations and schemes, examine the types of violations and offences committed through the dedication of girls and women and assess the level of understanding of the stakeholders on the legal provisions, procedures and schemes to take action in cases related to dedication, CSA and CSE of children.

Key Findings

Legal framework

- Karnataka is yet to draft State Rules for the KDPD Act, despite three decades of the Act being in existence.
- Dedicated children are not explicitly recognised as children in need of care and protection under JJ Act 2015, despite the involvement of family and relatives in their sexual exploitation.
- A comparison of KDPD with dedication legislation in other States revealed certain progressive features in the later that could be co-opted, such as - presuming cohabitation of man and woman as husband and wife for a reasonably long period of time as legal and

valid marriage, and the children born out of such cohabitation as legitimate and having right to inheritance; constituting a Vigilance and Monitoring Committee to identify areas where dedication continues and take measures to end the practice; propagation of dedication recognized as an offence; higher fine for punishment; rehabilitation to include providing a house, education to children, economic support and incentives for inter-caste marriage; police or Women Protection Cell has the responsibility to inform District Committee or work with NGO on receiving information about dedication.

- ITPA and Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018 does not recognize dedicated girls as victims of trafficking for sexual purposes.

Offences

- Girls dedicated and sexually exploited post enactment of POCSO (POCSO groups) had significantly higher years of schooling (3.58 years) compared to those dedicated and sexually exploited prior (1.90 years) to the Act (non-POCSO group).
- Ninety-two per cent of the respondents were dedicated when they were minors (4-12 years - 53%; 13-18 years – 39%).
- Sixty-six per cent of the *Devadasis* dedicated came from *Devadasi* families (Harijan and Madar) and thirty-four per cent of them from non- *Devadasi* families (Harijan and Chalwadi).
- Dedications still take place very discreetly on the premises (near temple pond) of temples and there are very few instances where the dedication took place at home.
- Involvement of relatives (6%) and community (10%) was observed in the dedication of POCSO group, with no family members present.
- Girls are being dedicated for a combination of reasons like to take care of family, coming from *Devadasi* family, superstitious beliefs, community pressure, disability, tradition, and continuation of lineage among others.
- Very low reporting of cases of *Devadasi* dedication was found, only four cases filed under the KDPD Act (between 2011-2017) and none from Ballari. In two cases from the sample, although the matter went to the Police Station, FIR was not lodged and the perpetrators were let off with a warning.
- Seventy-four per cent of the respondents had their first sexual experience before the age of 18 years. Fifty per cent of the respondents were sexually abused as minors after the enactment of POCSO Act in 2012. Those who were sexually abused as minors had their

first sexual experience between the ages 12 and 17. *Devadasis* in POCSO group were initiated into sexual activity sooner (within 2 years) compared to those in the non POCSO group.

- Eighty-nine per cent of the respondents were in shock when they were initiated into sex. The experience was traumatizing as they did not have an understanding on what sex was and they were left feeling ashamed and disgusted. Their consent did not matter and their efforts of resistance were brushed aside.
- The family members typically make the decision regarding who would initiate the *Devadasi* into sexual activity. It is customary for the man to pay some money to the family and get some clothes for the girl before the first sexual contact.
- The community plays a crucial role in the practice of dedication and initiation of the girl into sex. The men who seek sex from girls who are dedicated are sent to the families of the girls by the community. These men are typically older than the girls, married and have children.
- Twenty per cent of the *Devadasis* were deflowered by their relatives reflecting acceptance of the community and family for such inter-familial relationships and abuse.
- Twenty four of the *Devadasis* in the POCSO group described their first sexual experience as being aggravated penetrative sexual assault as per the definition in Section 5 of POCSO Act. Majority endured repeated sexual assault and recollect getting pregnant immediately.
- *Devadasis* are sexually objectified and is accosted for sex by men of all castes. The men do not view *Devadasis* as their wives and do not feel obliged or liable to pay for their or the children's maintenance.
- Fifty-nine women recounted men paying them some money (ranging from Rs. 100 to Rs. 3000) or buying minimal ration, whenever they visit them to have sex. Few women had to provide for the men and their families. There were instances of men forcing the women to prostitute themselves and took the earnings for themselves.
- *Devadasis* concede to men who might be interested in them to the extent possible, in order to take care of their families and children. They are neither educated nor skilled and this is the only way they see to earn for their family.
- Once dedicated, the women are treated as slaves and violence is used by their families to ensure she engages in sex. She has no say while choosing the partner, when she should be in a relationship and for how long it should continue. She is forced to have children and

she is not given the agency to decide if she is able to care for those many children and the spacing between children.

- Ninety-two per cent of the *Devadasis* were engaged in labour as children and 48 per cent have never been to school. They were pushed into hard labour at a young age as there was no one at home who could work and care for the family.
- The KDPD Act validates the marriage of the *Devadasi* but it is not accepted in the community and there is a fear of the repercussions among the *Devadasis* also to get married.
- Disabled children (11% of the sample was physically disabled and 8% mentally challenged) are highly vulnerable to be dedicated as *Devadasis* for lack of other options.
- Violence is an accepted norm of life for the *Devadasis*. They are abused by their families, relatives and partners.
- Majority of the men coming to *Devadasis* as partners were from scheduled caste and scheduled tribe background (67%), followed by Muslims (10%) and other backward caste (7%). This change in trend, from the popular belief of upper caste men exploiting *Devadasis*, shows the position of SC/ST women in the society and that dedication plainly reflects violence against women and no longer subjugation of caste.

Awareness

- Forty-eight per cent of the *Devadasis* and the community knew of the legislation banning dedication. They only knew that the perpetrators would be arrested and had no knowledge of the other provisions of the Act. The community felt that if the girl concedes to be dedicated then there is no violation. They do not know that they can approach the District Magistrate instead of the police to report dedication.
- The *Devadasis* and the community were not aware of the POCSO Act and as a community it was felt that if a girl is 15 years old then she is ready to enter into a sexual relationship.
- NGOs have no understanding of the provisions under KDPD Act or the knowledge of how to use POCSO Act, JJ Act or IPC in cases of dedication.
- The law enforcement agencies either denied that dedication took place or were unaware that dedication was still taking place. They were not familiar with the provisions of KDPD Act. They failed to make a connection between dedication and CSA and CSE.

- Among the functionaries, only school teachers and anganawadi workers accepted that the practice still took place but they failed to take steps to stop dedication from taking place. The functionaries, including child protection officials and those directly responsible for prohibition of dedication, clearly had no knowledge of the KDPD Act and its provisions, and also the interlink between dedication and CSA/CSE.
- Only 35.5 per cent of the *Devadasis* were aware of all the schemes available like pension, housing and loan. Of the *Devadasis* interviewed, although 80.5 per cent were aware of one or the other scheme, only 4 per cent were availing benefits. The community is aware of the schemes available for *Devadasis* and knows of the list of documents required for availing these schemes. The law enforcement agencies have made a connection that the women below 45 years can avail benefits of the schemes only if FIR is filed and the case is registered.

Issues and Challenges

- *Society's acceptance*: *Devadasi* dedication and the resulting sexual abuse of these girl children is accepted and celebrated by the society. Those willing to report also fear the backlash of the society and community and refrain from reporting.
- *Ineffective awareness programmes*: Awareness generation about the provisions of the legislation, in communities where the prevalence of dedication is high, is absent. Even those awareness programmes conducted fail to bring any behavioral change within the community.
- *Lack of Police Action*: The police are failing to take suo motu action in cases of dedication and are not registering cases coming to them due to pressure from the community.
- *Non-cooperative victims*: Unwillingness of the victims to report against their parents or relatives becomes a big challenge. Even if the case is registered, there is a high probability of the victim turning hostile.
- *Apathy of functionaries*: The functionaries are unaware of their roles and responsibilities and do not report the cases of dedication due to fear. They are comfortable providing information to the community but hesitate to take any action. They view *Devadasi* as a women's issue and do not consider this to be a violation of child rights.

- *Inadequate preventive measures:* The functionaries and the law enforcement agencies are not taking any measures to prevent dedication from taking place and focus only on schemes to be given to the older *Devadasis*.
- *Lack of coordination:* There is a lack of coordination between the various departments, agencies and functionaries which is leading to ineffective efforts to stop the practice of *Devadasi* dedication.
- *Benefits are not reaching:* The benefits are not being made available to women below the age of 45 years, as it is assumed that no dedication has taken place since the enactment of the KDPD Act in 1982. Even those availing the benefits do not receive it regularly and on time. The documentation required and the procedure to obtain benefits is very cumbersome and *Devadasis* who are mostly illiterates are unable to go through with it.
- *Discreet nature of offence:* It is difficult to ascertain instances of dedication as it is happening very discreetly and there is no ceremony or celebration taking place like in the past.
- *Poor implementation of legislations:* There are several provisions under different laws (POCSO, ITPA, JJ Act, IPC) that would be relevant in a case of dedication of a girl. However, there is a lack of application of all these legislations.
- *Access to justice:* The community finds it difficult to access police stations due to the distance and lack of transport facilities. Even though there are beat police available, there is no information among the community about this. The Special Juvenile Police Unit is dysfunctional.

Recommendations

Police

- Police can take *suo motu* action against a person when there is a complaint or reliable information. The police have to proactively engage with vulnerable communities and act on the information at hand.
- Prosecution of perpetrators in dedication cases is a must to send a strong message to the community. Filing FIRs and registering the cases under KDPD Act 1982, POCSO Act 2012 and ITPA 1956 become imperative.

- Dedication cases must come under the purview of IPC and ITPA even after the girl/woman is dedicated and initiated into sex, to acknowledge the continuous sexual violence, and provide rescue and rehabilitation services.
- Trainings to police to comprehend the interlinkage between various child rights violations in *Devadasi* dedication.

Department of Women and Child Development

- The department must engage in periodical survey, to better understand the prevalence and trend in this form of exploitation of women, and provide rehabilitation to those affected.
- Programmes must be initiated to raise the status of girls and women in these societies, especially from poor socioeconomic and cultural background.
- Gainful employment options must be made available for younger *Devadasis* women through vocational training programmes.
- Anganwadi workers must be trained to identify, monitor and empower vulnerable girls and school dropouts who are likely to be dedicated, and to report incidence of dedication within the community.
- Girl children of *Devadasi* women must be identified and provided scholarships until they turn 18 years of age.
- *Devadasi* Dedication Prohibition Officer must map the locations within the district that are prone to *Devadasi* dedication, and provide targeted behavior modification awareness programmes along with keeping a close vigil to identify cases of dedication.
- *Devadasi* Rehabilitation Project offices in the vulnerable districts must proactively rescue the dedicated child, register the case, ensure compensation is provided and follow up mechanisms are in place to prevent dedication.
- Child protection officials such as CWC, DCPO, DCPO, and community leaders groups such as youth groups, School Development and Monitoring Committees (SDMCs), mother's groups, Village Child Protection Committees, Panchayat members, and Zilla Committees, must be capacitated to see the interlinkage between various child rights violations (dedication and CSA/CSE), better understand their roles, functions, and power, and reporting mechanisms.
- Training must be given to Childline and the other reporting agencies/functionaries to proactively handle cases of dedication and understand the interlinkage between dedication and CSA/CSE.

Legal Services Authority

- District legal services authority must prioritize legal awareness programmes on *Devadasi* dedication Act, especially in areas vulnerable to this practice (Scheduled Caste and Scheduled Tribes localities). Paralegal volunteers could assist with conducting these programmes and identifying at risk population or victims.
- Awareness programmes must be aimed at targeted behavior modification to acknowledge dedication as an offence, repercussions on the girls, report offences, and understand the linkage between CSA and dedication.
- Community must be made aware of multiple reporting mechanisms, such as approaching the Childline, District Magistrate, police, and District Legal Services Authority.
- The legal services authority must ensure victims of *Devadasi* dedication get compensation under the Karnataka Victim Compensation Scheme, as they are eligible to get compensation of Rs. 3 lakhs and Rs.1.5 lakhs under the Rape of Minor and Minor respectively.

Department of Education

- Enrolment drives should be conducted to ensure all children are in school, and to prevent children from being pushed into child labour, child marriage, or dedicated as *Devadasis*.
- Empower and train government schoolteachers to identify cases of dedication, CSA, CSE, child marriage, child labour, and report these to appropriate authorities.
- Stress should be laid on adult education. This is a way to ensure communities do not give in to superstitious beliefs.

District Magistrates

- Map the vulnerable locations within the districts that are prone to dedication, CSA, CSE, child labour and child marriage.
- Proactively engage with communities that are at risk to these child rights issues with assistance from civil society organizations, issue prohibitory injunctions in locations where dedication is prevalent, identify cases that needs to be rescued, and recommend for rehabilitation and compensation to those who are already dedicated.

Law Reform

KDPD Act, 1982

The State of Karnataka should draft the state rules and make the following amendments to the KDPD Act, following the legislations from other states.

- Definition of dedication must be broadened to include specific situations as aggravated situations and prescribe higher punishments.
- Propagation or celebration of *Devadasi* dedication should also be recognised as an offence.
- Repeal explanation to section 5 that incriminates the victim as an offender and instead explicitly exempt dedicated woman from punishment.
- Introduce provisions for mandatory reporting of cases of *Devadasi* dedication.
- Introduce provisions for mandatory recording of cases by police. Failure to record information regarding a likelihood of dedication or a case of dedication must be made punishable.
- Responsibility must be placed on the police to increase registration of cases of dedication by giving them powers to take suo motu action.
- Government officials must take specific action to identify specific places of dedication and target prevention measures.
- The powers to issue prohibitory injunction should also be given to Judicial Magistrate of First Class. NGOs, Self Help Groups, Anganwadi Staff and paralegal volunteers should be specifically trained to identify potential cases of dedication to take it before the Magistrates for injunction.
- Recognise cohabitation of man and woman as husband and wife for a reasonable period of time as a legal and valid marriage and ensure that rights emanating from a marriage are available to *Devadasis*.
- Recognise right to inheritance and maintenance of dedicated women and their children to the father's property.
- Recognise education to children of *Devadasi* women, economic support to the dedicated women, and allow inter-caste marriages.
- The Karnataka *Devadasi* Act must provide protection of identity for the victims, describe how rescue, compensation or rehabilitation must be provided, and increase the punishment for the perpetrators.
- The Karnataka *Devadasi* Act must mention about the purposes for which a *Devadasi* is used and recognize the impact of the same on the girl dedicated. The KDPD Act

should recognize situations where girls are trafficked or involved in sexual acts to be an aggravated case under the Act.

Indian Penal Code, 1860

- Dedication should be part of the Explanation I of Section 370 of IPC.
- Dedication with a purpose to exploit an individual must be interpreted as an act of recruitment under trafficking.

Juvenile Justice Act 2015

- A dedicated child should be explicitly included in the definition of child in need of care and protection under Section 2(14).

Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018

- Dedication of persons for the purpose of commercial sexual exploitation should be considered as an offence under trafficking of persons, similar to the Palermo Protocol where movement/transfer of the individual is not mandatory for the act to fall in the definition of trafficking.

Multi Agency Approach

- Multi-agency intervention is imperative to prevent and address the prevalence of *Devadasi* dedication.
- All the key stakeholders from different departments must have a platform to come together in a systematic manner to take action, and stop the dedication of *Devadasis*.

Community Vigilante

- The SDMCs in each government school must proactively monitor the situation of children dropping out of school and ensure they are brought back to school.
- Youth groups, Panchayat members, Kishori group and women's self help groups must be vigilant about the continuance of *Devadasi* dedication practice. They should adopt a zero tolerance approach to child rights violations and immediately report occurrence of *Devadasi* dedication.
- There has to be close coordination between the community members, especially youth and adolescent girls groups and police officials, to ensure information reaches the authority immediately and there is support for the police from within the community to take action against perpetrators.

- Young girls who have been dedicated as *Devadasis* should be identified and their groups should be formed. They should be given trainings and encouraged to stop dedication from taking place in their villages.
- Unless every person in the community decides not to be a bystander, but proactively engage in stopping this form of exploitation, the practice would continue to exist.

INTRODUCTION

The *Devadasi* practice, a longstanding tradition of dedicating prepubescent/pubescent girls as *Devadasis* (slaves of god), who are thereafter commercially sexually exploited for the rest of their lives, is an appalling practice that prevails to this day in different parts of modern India¹. Although there is denial from the State governments about the sustenance of this practice, NGOs working with this population and research reports suggests the ongoing presence of *Devadasi* dedication². In the recent past, a Kerala based NGO sought Supreme Court intervention on the laid back attitude of the state governments in Karnataka, Tamil Nadu and Maharashtra towards the continued practice of *Devadasi* system in these states. The Supreme Court passed an order strictly condemning the illegal practice and has directed the States and Union territories to strictly enforce the directives, and to check for such unethical practice³.

Researchers and academicians have tried to understand the practice of *Devadasi* dedication, the drive behind family's act of dedicating their own daughters to goddess and a life of degradation. These studies examine the reasons contributing to the prevalence of the practice from a sociocultural perspective and have analysed the implementation of the schemes available for *Devadasis* from the perspective of organizations working with them.⁴ But there are no studies that look into *Devadasi* dedication from a legal perspective. There is a dearth of research conducted on ascertaining the reasons for the failure of implementation of the Karnataka Devadasi (Prohibition of Dedication) (KDPD) Act, 1982 and application of the Protection of Children from Sexual Offences (POCSO) Act, 2012, to cases of dedication, and covering aspect of commercial sexual exploitation of *Devadasis* under the legislations. The

¹ The Hindu. (September 26th, 2017). National Human Rights Commission notice to Tamil Nadu and Andhra Pradesh over Devadasi practice. Retrieved in October 2017 <http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/nhrc-notice-to-tn-ap-over-devadasi-practice/article19754767.ece>

² Department of Women Studies of Karnataka State Women's University - Bijapur (KSWU) and SNEHA (2016); Sampark (2015). Gender based violence on Scheduled Caste Girls: A rapid assessment of the Devadasi Practice in India. (Pg. 12) Retrieved in October 2017 from <http://sampark.org/wp-content/uploads/2016/03/Sampark-ILO-Devadasi-study-report-August-2015-.pdf>

³ S. L. Foundation Th. Its President & Anr.Vs. Respondent: U. O. I & Ors Decided on 12.02.2016 in Writ Petition Civil No. 127/2014

⁴ Chidambaranathan, Mani and Paul, Nishta. (2009). From Auspicious Dancing Girl to Fallen Angel: The Changing Livelihood Status of Devadasis Over Time. *The Indian journal of social work*. 70 (3). 429-453; Harishankar, B.V., & M. Priyamvada. (2016). Exploitation of Women as Devadasis and its associated evils. *National Commission for Women*. Retrieved from http://ncw.nic.in/pdfReports/Exploitation_of_Women_as_Devadasis_and_its_Associated_Evils_Report.pdf; Singhal, A (2015). The Devadasi system: Temple prostitution in India. *UCLA Women's Law Journal*. <https://escholarship.org/content/qt37z853br/qt37z853br.pdf>; Evaluation of rehabilitation of devadasi programme, implemented by the Karnataka State Women's Development Corporation (2017) conducted by M/S Hyderabad Karnataka Centre for advanced learning and Evaluation of housing scheme for devadasis under devadasi rehabilitation programme (2011) conducted by ISEC

prevalent studies do not factor in other violations experienced by *Devadasis* under various other existing legislations, and fails to view the *Devadasi* dedication as a violation of human rights.

Research Objectives

- Review the current legislations prohibiting the *Devadasi* dedication, as well as addressing child sexual abuse (CSA) and commercial sexual exploitation (CSE), and examine the application of these for victim compensation and rehabilitation.
- Examine the type of violation and offence committed through *Devadasi* dedication from a legal perspective.
- Assess the level of understanding among stakeholders about legal provisions, procedures and schemes to enforce legal action in cases related to dedication, CSA & CSE.

Literature Review

Background

‘*Devadasi*’ is a Sanskrit word that literally means ‘female servant of God’. The Oxford Dictionary defines *Devadasi* as “A hereditary female dancer in a Hindu temple”⁵. The system of *Devadasi* dates back to the Harappa and Mohenjodaro civilizations from where figurines of dancing girls were found.⁶ It refers to the practice where young girls are drawn into prostitution in the name of religious practices.⁷ This is a peculiar system that affects the lives and livelihoods of numerous girls and women and prevails to this day in different parts of modern India.⁸ This system has garnered societal and cultural acceptance due to the religious sanction it has and is seen to be still prevalent in the southern states of India and Maharashtra.

A combination of factors has led to the continuity of the *Devadasi* system, such as the religious endorsements of the institution, economic necessity of the families, and societal

⁵ <https://en.oxforddictionaries.com/definition/devadasi>, retrieved in June 2018.

⁶ Goswami K P (2000), *Devadasi, Dancing damsel*. APH Publishing Corporation, New Delhi, 47

⁷ Joseph, Dipty and Thomas, Bino (2017), Life Skills Development Training for Adolescent girls at risk-rescued Devadasi Girls in Karnataka. *Artha-Journal of Social Sciences* (Vol. 16, No. 1, 1–16), 2

⁸ Harishankar, B.V., & M. Priyamvada. (2016). Exploitation of Women as Devadasis and its associated evils. *National Commission for Women*. Retrieved from http://ncw.nic.in/pdfReports/Exploitation_of_Women_as_Devadasis_and_its_Associated_Evils_Report.pdf

pressures.⁹ There are various reasons for dedication: the ‘unwritten’ rule that at least one girl from a *Devadasi* family must be dedicated, poverty, absence of male heirs to provide for the family, to appease deities during sickness or drought, or as a boon to a god/ goddess for a specific prayer.¹⁰ The studies exploring the socio-economic profile of *Devadasis* reveal that most entered the sex industry when they were 13–15 years old, belong to the lowest caste in the society, have low social status, lack education and are often primary breadwinners in the family.¹¹ It has been pointed that the upper caste men are the ones who sexually exploit Dalit girls after they are dedicated by their parents.¹² Studies exploring the intergenerational pattern of *Devadasi* dedication indicate that only a small percentage of women are from *Devadasi* families, which is a cause of concern, as this means that there is a rise in the dedications from families where this tradition is not entrenched.¹³

Girls who are dedicated are at high risk of contracting HIV/AIDS and other sexually transmitted diseases, as the men they have sexual interactions with do not prefer to use condoms.¹⁴ One qualitative study conducted in Karnataka¹⁵ suggests that *Devadasis* are forced to conceive at an early age when their bodies are not ready to bear children. They do not have control on the number of children they have. The *Devadasis* do not opt for family planning, as most of them are not allowed to do so by their mothers. The *Devadasis* feel having children is the only benefit they have from their relationships even though they do not have the means of taking care of the children. The women and her children face social stigma, economic backwardness and lack educational opportunities on account of being dedicated.

⁹ Singhal, A (2015). The Devadasi system: Temple prostitution in India. UCLA Women’s Law Journal. <https://escholarship.org/content/qt37z853br/qt37z853br.pdf>

¹⁰ Orchard, T. (2007). Girl, woman, lover, mother: Towards a new understanding of child prostitution among young Devadasis in rural Karnataka, India. *Social Science & Medicine*. 64(12), 2379-2390.

¹¹ *iBid.*

¹² Kumar, Shewli (2008), Dalit women at the intersections: Voices from the margins, *Indian Journal of Social Work*. 69 (2), 159-177. Retrieved in May 2018 from https://www.researchgate.net/publication/298949570_Dalit_Women_at_the_Intersections_Voices_from_the_Margins

¹³ Orchard, T. (2007). Girl, woman, lover, mother: Towards a new understanding of child prostitution among young Devadasis in rural Karnataka, India. *Social Science & Medicine*. 64(12), 2379-2390.

¹⁴ *iBid.*

¹⁵ Chidambaranathan, Mani and Paul, Nishta. (2009). From Auspicious Dancing Girl to Fallen Angel: The Changing Livelihood Status of Devadasis Over Time. *The Indian journal of social work*. 70 (3). 429-453.

Prevalence, legislations and schemes

The only available figures about the prevalence of this malaise, in the public domain, are the National Human Rights Commission survey suggesting around 4.5 lakh *Devadasis* spread across the country, and the National Commission for Women survey suggesting over 2.5 lakh girls belonging to Dalit communities, dedicated to temples as *Devadasis* in the Maharashtra-Karnataka border alone. Although these figures are from the early 2000s, with the State denying the continued existence of *Devadasis* dedication, it is difficult to get a correct estimate of the current number of women and girls dedicated as *Devadasis* across the country. The Department of Women and Child Development conducted two surveys in the state of Karnataka and identified 22,873 *Devadasis* in 1993-94 and 23,783 *Devadasis* in 2007-08.¹⁶ However, the CSOs working with this population contest the figures declared by the government surveys, as undermining the extent of the problem.

There are specific legislations which make it illegal for anyone to dedicate girls and women to God in the States of Karnataka, [Karnataka Devadasi (Prohibition of Dedication) Act, 1982 and the amendment Act, 2010] Andhra Pradesh, [The Andhra Pradesh Devadasis (Prohibition of dedicated) Act, 1988] Tamil Nadu, [Madras Devadasi (Prevention of Dedication) Act, 1947] Maharashtra [Maharashtra Devadasi (Abolition of Dedication) Act, 2006] and Goa [Goa Children's Act of 2003 contains a chapter on *Devadasis*]. Apart from the specific legislations, The Indian Penal Code (1860), The Protection of Children from Sexual Offences Act (2012), The Immoral Traffic (Prevention) Act (1956) and The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (1989) are also relevant and applicable to aid in the abolition of the *Devadasi* System. Despite the existence of these legislations, continuation of the practice of dedication of girls makes it imperative to understand the reason for poor implementation of the *Devadasi* dedication acts.

The International Labour Organization (ILO) Committee of experts on the application of conventions and recommendations noted that, “the ‘*Devadasi*’ system constituted forced labour within the meaning of the [Forced Labour] Convention, since girls were dedicated as ‘*Devadasi*’ without their consent and were subsequently compelled to provide sexual services

¹⁶ Sampark (2015). Gender based violence on Scheduled Caste Girls: A rapid assessment of the Devadasi Practice in India. (Pg. 12) Retrieved in October 2017 from <http://sampark.org/wp-content/uploads/2016/03/Sampark-ILO-Devadasi-study-report-August-2015-.pdf>

to the community under duress”¹⁷. Studies assessing presence of gender based violence in the *Devadasi* practice only makes a mention of select Acts to be applied in cases of dedication, like the Code of Criminal Procedure, 1973; Indian Penal Code, 1860 and Prohibition of Child Marriage Act, 2006, but it doesn’t make a mention of the POCSO Act, 2012, when it is evident that most cases of dedication are also cases of CSA.¹⁸ A mention is made of other violations like child labour and child marriage but it steers away from CSA. The studies are also focused on the lives of *Devadasis* as women, but not as children, where there are even more violations in terms of the Right of Children to Free and Compulsory Education Act, The Child and Adolescent Labour (Prohibition and Regulation) Act among others.

The Government of Karnataka through the Women’s Development Corporation has initiated schemes for the rehabilitation of ex-*Devadasis*. The titles of these schemes suggest dedication of girls as *Devadasis* to be an outmoded practice, and thus the schemes focus on women aged 45 years and above. The Rehabilitation of Devadasi Women Programme¹⁹ commenced in 1991 focusing on the women in Belgaum district. This scheme is aimed at mainstreaming ex-*Devadasis* into the society and to help them lead a dignified and decent life. This scheme was later extended to 14 districts in the State. Under this scheme, Rs 20,000 is given directly to *Devadasis* to take up economic empowerment activities, health camps are conducted to improve health status, and ex-*Devadasis* are encouraged to form Self-Help Groups (SHGs). The Pension to Ex-Devadasis Scheme²⁰ started in 2007-08 by paying a nominal amount of Rs 400 to ex-*Devadasis*, who had crossed 45 years of age. This amount has been gradually increased to reach Rs 1,500 in February 2017. In 2009, the housing scheme to ex-*Devadasis*²¹ started providing financial support of Rs 40,000 per unit to ex-*Devadasis* who owned land and did not have a house to construct a house. In 2015, the government of Karnataka passed an order increasing the amount per unit to Rs 1.5 lakhs. The construction of houses is undertaken through the Rajiv Gandhi Housing Corporation. Studies suggest that *Devadasis*

¹⁷ Application of International Labour Standards 2016 (I), International Labour Conference, 105th Session, 2016; Report of the Committee of experts on the application of Conventions and Recommendations; Report III (Part 1A), 191. [http://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2016-105-1A\).pdf](http://www.ilo.org/public/libdoc/ilo/P/09661/09661(2016-105-1A).pdf)

¹⁸ Sampark (2015). Gender based violence on Scheduled Caste Girls: A rapid assessment of the Devadasi Practice in India. (Pg. 96) Retrieved in October 2017 from <http://sampark.org/wp-content/uploads/2016/03/Sampark-ILO-Devadasi-study-report-August-2015-.pdf>

¹⁹ <http://kswdc.in/scheme/rehabilitation-of-devadasi-women/> retrieved in June 2018

²⁰ <http://kswdc.in/scheme/pension-to-ex-devadasis/> accessed in June 2018

²¹ <http://kswdc.in/scheme/housing-schemes-to-ex-devadasis/> retrieved in June 2018

are aware of these schemes that are meant to benefit them²², but how many actually avail these benefits is negligible²³. Karnataka has evaluated its schemes twice, in 2011 and 2017. The 2011 evaluation looked only at the housing scheme whereas the 2017 study looked at the pension, self-employment and housing schemes. But this study failed to factor in the needs of girls dedicated after the 2007-08 survey and it focused on the 46,660 *Devadasis* covered under the 1993-94 and 2007-08 surveys. This study only makes a long-term recommendation that another final survey needs to be conducted to include the *Devadasis* who were left out in the previous surveys due to age criteria.²⁴

Although a handful research studies have explored the implementation of legislations and schemes related to *Devadasi* dedication, the scope of the same is limited to the extent of only looking at awareness among stakeholder about Dedication specific legislation in the concerned States²⁵, but have failed to explore the provisions under these legislation and other related legislations concerned with violations in dedication cases such as CSA, CSE, child labour among others. Also, the reasons for non-reporting by community and non-filing of case by police are not explored. The research study conducted by the Centre for Child and the Law, National Law School of India University is predominantly exploring these aspects. There is a need to understand how often the State specific legislations as well as national legal provisions such as ITPA and POCSO are utilised, to take legal action against dedication of *Devadasis* and the perpetrators of this crime. This would help us understand the utility of these legal provisions in curbing the menace that has existed for centuries. This study intends to address these gaps and aims at reviewing the current legislations prohibiting dedication, examine the application of these legislations and schemes, examine the types of violations and offences committed through the dedication of girls and women and assess the level of understanding of the stakeholders on the provisions, procedures and schemes to enforce legal action in cases related to dedication, CSA and CSE of children.

²² Harishankar, B.V., & M. Priyamvadha. (2016). Exploitation of Women as Devadasis and its associated evils. *National Commission for Women*. Retrieved from

http://ncw.nic.in/pdfReports/Exploitation_of_Women_as_Devadasis_and_its_Associated_Evils_Report.pdf

²³ Department of Women Studies of Karnataka State Women's University - Bijapur (KSWU) and SNEHA (2016)

²⁴ Evaluation of rehabilitation of devadasi programme, implemented by the Karnataka State Women's Development Corporation (2017) conducted by M/S Hyderabad Karnataka Centre for advanced learning

²⁵ *iBid.* & Harishankar, B.V., & M. Priyamvadha. (2016). Exploitation of Women as Devadasis and its associated evils. *National Commission for Women*. Retrieved from

http://ncw.nic.in/pdfReports/Exploitation_of_Women_as_Devadasis_and_its_Associated_Evils_Report.pdf

Methodology

Design & sample

The study adopted a qualitative and exploratory research design, to examine the process *Devadasi* dedication from a legal perspective, by gathering primary and secondary data. Primary data was gathered from various stakeholders post approval from the Centre's Ethics Advisory Committee. Ballari district was selected to conduct this study, given the prevalence of the phenomenon in the district²⁶ and the access to the population through an NGO (part of the project that aimed at addressing *Devadasi* dedication), which facilitated the research team's interactions with *Devadasis* and community members. The NGO had experience of working on this issue in Karnataka for the past 20 years. However, the sample was collected from 2 Taluks, Ballari and Siruguppa, where the organization had started work only 2 months prior to data collection. A purposive sampling method was adopted to specifically gather information from women aged 23 years and below²⁷, to better understand how recent legislations like POCSO Act 2012 has been utilised to punish perpetrators of *Devadasi* dedication. The organization was requested to specifically identify *Devadasis*, 23 years and below, in their project area. The total *Devadasis* (N=62) who participated in the study included both women 23 years and below (n=31), as well as those above 23 years (n=31). The research team interviewed participants in a sequential manner, where *Devadasi* women were interviewed first and thereafter the community members and enforcement officials and government functionaries.

The community members in the study (N=44) included Kishori groups (n=16), youth groups (n=18) and women's self help groups (n=9), who were identified based on the interaction with the *Devadasi* women. The villages where the practice was still prevalent, where there was a recent dedication or where the youth managed to stop dedication were identified and the organisation was requested to arrange for meetings with community members. However, it is very difficult to determine how many *Devadasis* and community members would not have participated in the study, since only those who expressed interest were brought before the research team for interaction by the organization.

²⁶ Studies conducted by Department of Women Studies of Karnataka State Women's University - Bijapur (KSWU) and SNEHA in 2016

²⁷ Etikan, I., Musa, S.A., & Alkassim, R.S. (2016). Comparison of convenience sampling and purposive sampling. *American journal of theoretical and applied statistics*. 5(1), 1-4.

The representatives from enforcement agencies and functionaries such as Police officers (including Special Juvenile Police Units), District Child Protection Officers, Child Welfare Committee members, Devadasi Dedication Prohibition Officer, District Collector, District Social Welfare Officer, District legal services authority, Devadasi Rehabilitation Project Officer, Taluk Legal Services Committee, Anganwadi Workers, School Teachers, and Child helpline staff, NGO staff, panchayat members, public prosecutors and lawyers who have represented *Devadasi* cases, for the district of Ballari were identified and effort was made to reach out to them. A total of 25 of them participated in the study, some of the functionaries and enforcement officers either refused or avoided to participate in the study despite multiple attempts.

Secondary data was gathered through review of the existing legislations and schemes related to dedication and sexual exploitation of *Devadasis*; RTI applications made to Karnataka State Women's Development Corporation, Superintendent of Police in Ballari, Director General of Police in Karnataka, and Sub Registrar of the High Court in Bangalore; and judgement analysis to explore the application of these legislations within the State of Karnataka and across the country.

Method of data collection

For primary data, in-depth interviews were conducted with the *Devadasis*, enforcement officers, government functionaries and social service agencies. For the community (youth, Kishori and women's group) and school teachers, focus group discussions were conducted. Interview schedules were used to elicit specific information from each category of participants. The interviews lasted about 30-60 minutes and focus group discussion about 1-1.5 hours on average. The questions included exploration of the dedication process, persons involved, profile of victims, violations experienced, reporting of offence and challenges involved, access to and challenges in availing rehabilitation schemes. In addition, the enforcement officers and functionaries were asked about their response to dedication cases (which was drawn from real cases through interviews with *Devadasis*), action taken or challenges faced in acting on a case, along with assessing their knowledge of legislations and schemes. The researchers obtained informed consent from all the participants in the study, and conducted the interviews or focus group discussions in a secure location where the participants felt comfortable. Most of the interviews and focus group discussions were audio recorded, to ensure no information provided is missed or misrepresented. However, some of

the interviews with functionaries and enforcement officers were not recorded, since they did not provide approval for the same. Representatives from the organization were present with the research team during interaction with the *Devadasis* and community members, due to their familiarity with the population and to facilitate ease of data collection. The researchers did not have any prior interaction with the participants, and thus the possibility of influencing the participant response was minimal.

For secondary research, a desk review of all the legislations around dedication of women and girls as *Devadasi* – those relevant to the State of Karnataka and the neighboring States was done. Also, the national legislations were reviewed to examine the relevance in taking legal action against dedication, and child sexual abuse and exploitation within this context. RTI applications were filled for information regarding number of cases of dedication reported in the last 5 years in the state of Karnataka. Select judgements related to *Devadasi* dedication were analyzed to understand how legislations were applied and action taken by the enforcement agencies.

Analysis

The data from the *Devadasi* interviews were coded into a framework, to analyze the demographics, details of dedication, the type of violations experienced and knowledge of legislations and schemes. Apart from this the interviews were transcribed and translated into English, to identify the patterns and phrases that emerged under certain specific themes, such as dedication, child sexual abuse, commercial sexual exploitation, violations of other rights, reporting, challenges, recommendations. An exploratory thematic analysis was conducted based on these major themes. The major categories were derived through coding, categorizing, writing memos and identifying the patterns. Preliminary descriptive data analysis such as means, standard deviations, frequencies, and percentages as well as bivariate analysis was obtained by entering the data into PSPP (statistical software). A similar approach was adopted for the data obtained through other stakeholders, such as communities, NGOs, enforcement officials and functionaries, where the framework focused on capturing their knowledge of KDPD Act 1982, JJ Act 2015, POCSO Act 2012, and other relevant Acts for violations experienced by *Devadasis*, along with their knowledge of the schemes for *Devadasi* rehabilitation. The data received through secondary sources was synthesized to address the objectives. Triangulation of data obtained through primary and secondary data

was done to identify the strengths and limitations of the existing legislations and schemes, and its effective implementation in addressing *Devadasi* dedication.

Ethical consideration

Informed consent or verbal assent was obtained from all the participants of the study. The participants were informed that if they feel upset at any point, they are free to cease involvement in the study. The Ethics Advisory Committee at the National Law School of India University reviewed the study design and instruments. The research team engaged in primary data collection process only after the approval from the Committee. All information collected from the participants was treated confidentially and de-identified in the presentation of results. Although there was no direct benefit to the *Devadasis* participating in the study, they expressed that this study provided them an opportunity to share their experiences of exploitation by their family, for many this was the first time they could narrate their experience without fear and felt a sense of relief. The *Devadasis* hope for stricter enactment of the legislation and reform in the way rehabilitation benefits are provided.

Limitation

Research studies conducted with vulnerable and stigmatized populations, such as *Devadasi* women generally face certain methodological challenges, and these challenges were encountered in the current study as well. First, accessing these women was nearly impossible, especially since the study was focused on interacting with women 23 years or below. The study had to completely rely on the assistance of the organization that facilitated this process. Therefore, the generalizability of the findings may need to be done keeping this limitation in mind. Second, the data was collected during peak season for agricultural labour, therefore gathering *Devadasi* women below the age of 23 years was a difficult task, since they are the primary bread winners and could not afford to loose a day's wage to participate in this study. Third, the study was conducted only in one district, limited to the project location of one organization working on the issue of *Devadasi* dedication. The study may have benefited from engaging more samples from other districts, to assess similar patterns in other regions of *Devadasi* belt in Karnataka. Fourth, the sample size used for comparison between groups of women aged 23 years and below and above were small (n=31 each), the study would have benefited from having larger sample sizes, to arrive at more statistically significant conclusions.

FINDINGS

Legal Framework

The first objective of the research study was to examine the current legislations that are relevant to the issue of *Devadasi* system, which are a combination of central and state legislations on care and protection, trafficking for sexual purposes, sexual offences against children and dedication of girl children. Indian Penal Code, 1860 (IPC), The Immoral Traffic (Prevention) Act, 1956 (ITPA), Protection of Children from Sexual Offences Act, 2012 (POCSO Act), Juvenile Justice (Care and protection) Act, 2015 (JJ Act), Rights of Persons with Disabilities Act, 2016 (RPD Act), and Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2018²⁸ are applicable depending on the circumstances and consequences of dedication. The Karnataka Devadasis (Prohibition of Dedication) Act, 1982 (Karnataka Act) and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Atrocities Act) specifically relate to prevention and prosecution of the practice of dedication. Most legislation have been passed or amended to comply with the mandate under the United Nations Convention on the Rights of the Child (UNCRC), to which India is a signatory.

Dedication as Devadasi

Majority of the dedications are performed within the scheduled castes and tribes. Recognising this practice as caste related, the Atrocities Act has included dedication as an offence. This Act was passed to prevent atrocities on the members of the community. Any act of atrocity listed under the Act committed by a person not belonging to either of the communities, is an offence. Performing or promoting dedication of a 'schedule caste or schedule tribe' woman to a deity, idol, object of worship, temple or other religious institution as a *Devadasi* is an offence under the Act.²⁹ Any person involved in the process as mentioned above shall be punished with minimum imprisonment of six months and may extend to five years with fine. A priest or any person from another community who prompted the family to dedicate the girl can be brought under the scope of this Act. As the objective of this Act is to prevent atrocities from non-members of the community, family members who are mostly instrumental in continuation of the practice cannot be punished.

²⁸ Bill is approved in the Lok Sabha on July 26th 2018 and is likely to come into force in the near future.

²⁹ SC ST Act, 1989, Section 4(k). Dedication was included in the list of offences through the Amendment Act, 2015

On the other hand, legislations relating to prohibition or abolition of dedication have specific focus. The Karnataka Devadasi (Prohibition of Dedication) Act, 1982 replaced the Bombay Devadasi Protection Act, 1934 and the Madras Devadasi (Prevention of Dedication) Act, 1947 that were in force in Karnataka. The Act also recognises that continuation of practice is harmful and that dedicated women are pushed to a life of prostitution. The KDPD Act makes dedication with or without the consent of the *Devadasi* to be unlawful and void. Therefore dedication cannot prevent the woman from entering into a valid marriage.

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 upto two thousand rupees.³⁰ As dedication process is more of a family affair, the Act has made involvement of guardians, family members and relatives as a more serious offence and prescribed higher punishment. 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.³¹

Further, through an amendment, few provisions were added. Prevention measures are strengthened by vesting powers to issue prohibitory injunction order, on the District Magistrate and the Executive Magistrate, on receipt of information regarding dedication.³² Through this amendment, the need to provide for the rescue, care, protection, welfare and rehabilitation of dedicated woman, and appointment of Devadasi Dedication Prohibition Officer (DDPO) was recognised.

Dedication legislations from other states in relation to Karnataka

As *Devadasi* system is a regional problem, only a few states in South India and the Western region have legislations regarding dedication. In Goa, dedication of a child is made an offence under the Goa Children’s Act, 2003 (GCA), which covers all rights of children and offences against children. Hence, the dedication issue in the state is focused on minor girls and not on women in general. All offences and violations of rights mentioned under the Act are heard by the Children’s Court established under the Act. In states of Andhra Pradesh, Maharashtra and Tamil Nadu, there are legislations dealing with the dedication, as it is in

³⁰ KDPD Act, Section 5

³¹ Id

³² This legislation was amended in 2010 providing powers to District Magistrate and the Executive Magistrate to issue an order of injunction to prevent dedications.

Karnataka. However, Andhra Pradesh is the only State that has proactively notified the rules in 2015, and the other States are yet to draft one.

Objectives

As evidenced in the title and the preamble of the legislations, their objective is largely to prevent³³ or prohibit dedication³⁴ or abolish³⁵ the *Devadasi* system in their respective states. Some of the legislations recognise the consequences of dedication and propose prevention, rescue and rehabilitation measures. Most legislation acknowledges that dedication can lead to exploitation of women. The Maharashtra Act states that *Devadasi* system was a derogatory practice that led to exploitation and in order to enable a woman to live in dignity, the Act was passed.³⁶ The AP, TN and the Karnataka Acts refer to this practice as leading to degradation,³⁷ and that *Devadasis* live in a pitiable condition³⁸ and are pushed into prostitution.³⁹ The State Acts also have the objective of putting an end to the practice of dedication⁴⁰, minimize the social evil and to propose rehabilitation measures⁴¹ and to abolish *Devadasi* system to enable them to live in dignity and to make stringent punishments.⁴²

Status of Dedication

Barring minor changes, all state legislations make dedication unlawful. The terms used include ‘unlawful’⁴³ ‘unlawful and of no effect’,⁴⁴ ‘unlawful and void’,⁴⁵ and ‘unlawful, void and to be of no effect.’⁴⁶ The consent is immaterial in this case.⁴⁷

Status of a Marriage and children born out of marriage

³³ TN Act

³⁴ AP Act and KDPD Act

³⁵ Maharashtra Act

³⁶ Maharashtra Act, Preamble

³⁷ AP Act, Preamble

³⁸ Karnataka Act, Preamble

³⁹ TN Act, AP Act and Karnataka Act Preamble

⁴⁰ AP Act, TN Act

⁴¹ Karnataka Act

⁴² Id

⁴³ GCA, 2003, Section 9(7).

⁴⁴ Maharashtra Act, Section 3(1); TN Act, Section 3(1)

⁴⁵ AP Act, 1988, Section 3(1);

⁴⁶ Karnataka Act, Section 3

⁴⁷ AP Act, 1988, Section 3(1); Karnataka Act, Section 3; TN Act, Section 3(1)

The dedication of a woman as *Devadasi* does not bar her from entering into a valid marriage and a marriage contracted by a *Devadasi* is valid.⁴⁸ Similar provision is in GCA and applicable to children in Goa.⁴⁹ The Maharashtra legislation appears to have most progressive provisions in comparison with others. It presumes cohabitation of man and woman as husband and wife for a reasonable long period of time as legal and valid marriage, and the children born out of such cohabitation as legitimate and having right to inheritance.⁵⁰ Some states such as the TN and AP have identified situations where *Devadasi* are considered incapable of entering into valid marriages.⁵¹ As the validity of the marriage of *Devadasi* is clear, the status of the child born of such marriage also becomes clear. Legislations of Karnataka, Andhra Pradesh & Maharashtra have explicitly mentioned that the children born of a marriage with *Devadasi* are legitimate,⁵² however, this provision is not included in the Tamil Nadu legislation.

Prevention measures

States have adopted different strategies and constituted different bodies to deal with the problem of dedication. Maharashtra has constituted a Devadasi Practice Control and Eradication Board (Control Board), District Devadasi Practice Control Committees (District Committees) and appointed Devadasi Prevention Officers, which are required to work in coordination with each other for achieving the objectives and full implementation of the Act. Under the AP Act, collector or any officer may be vested with the responsibility of implementing the Act. These officers have the duty to enquire whether the *Devadasi* system is practiced in certain areas and if it still exists, to take measures to end the practice. As a preventive measure, the state of AP has proposed a Vigilance and Monitoring Committee. The purpose is to ensure implementation of the Act and to identify potential areas of dedication, identify cases and to initiate prosecution of the case.⁵³ The TN Act does not have any reference to prevention measures.

In Karnataka, through amendment in 2010, the Act included measures for prevention. The District and Executive Magistrates have been given the power to pass injunction orders to

⁴⁸ AP, Karnataka, Maharashtra and TN Acts

⁴⁹ GCA, 2003,

⁵⁰ Maharashtra Act, Section 4(2)

⁵¹ AP Act, Section 3(2); TN Act, Section 3(2)

⁵² AP Act, Section 4; Karnataka Act, Section 4; Maharashtra Act, Section 4(2),

⁵³ AP Rules, 2015, Rule 6

prohibit dedication. In addition to this, Devadasi Dedication Prohibition Officers are appointed. The Prohibition Officer has the duty to prevent dedication by making an application to the District Magistrate for injunction. These officers also have the responsibility of creating awareness and sensitizing the community about the consequences of dedication.

Penalties

Several acts such as performing, partaking, abetting, propagating, allowing dedication in the premises all constitute offence under different legislations. The penalties are not uniform in all states. Within the legislations, penalties vary depending on the relationship of the child with the person involved in dedication. Acts done by family members or relatives attract higher punishment. For instance, if the mother of the girl is involved in dedication, her punishment will be more than that is given to the priest who performs it.

With minor variations, all states prescribe punishment for performing or abetment of dedication. The Goa Act makes abetment for performance of act or ceremony for dedication punishable with maximum punishment of three years and two thousand rupees fine. There is no minimum punishment when it is an offence by a person who is not related to the child. However, there is a minimum punishment of two years and a fine of two thousand rupees if a parent, guardian or a relative is involved and the maximum punishment is five years and five thousand rupees fine.

Under the AP Act any person who performs, promotes, takes part or abets in any ceremony or act for dedicating a woman as *Devadasi* shall be punished with minimum of two years imprisonment and two thousand rupees fine and a maximum of three years imprisonment and three thousand rupees fine. Similarly, when it is a parent or guardian or relative, the punishment will be a minimum of two years and three thousand rupees fine and maximum punishment will be upto five years and five thousand rupees fine. This Act also exempts the woman who was dedicated from punishment, which is a unique feature present only in this legislation. However, KDPD Act incriminates the woman⁵⁴ in respect of whom such ceremony or act is performed, which is gross injustice perpetrated against the victim and in violation of the objective of the Act.

⁵⁴ KDPD Act, Explanation to Section 5

The Maharashtra legislation, in addition to the offences recognised in the AP legislation, makes allowing in the premises under his control, the performance of dedication punishable. The minimum and maximum punishment is similar but the fine is much higher in Maharashtra with a minimum of ten thousand rupees and maximum of fifty thousand rupees. Similarly, the punishment for offences involving families is same as AP but the fine is higher as is the case with offences by non-family members. Maharashtra and Andhra Pradesh also recognise propagation of the practice as a separate offence. In Maharashtra propagation attracts a minimum of one-year imprisonment with ten thousand rupees fine and maximum of three years punishment with fifty thousand rupees fine. In AP, although the years of imprisonment are same, the fine is higher. The act of propagation is not recognised as an offence in other legislations.

Unlike the KDPD Act, Maharashtra also prescribes minimum punishment for an offence of performing, permitting or abetting an offence of dedication. The fine is also much higher with maximum fine upto fifty thousand rupees and minimum of ten thousand rupees as opposed to five thousand rupees maximum and two thousand rupees minimum in Karnataka. When a family member is involved, a minimum punishment is prescribed. A relative or a family member will be punished with minimum of two years imprisonment and two thousand rupees fine but may go upto five thousand rupees fine and five years of imprisonment.

The TN Act also recognises performing, permitting, taking part or abetting dedication an offence. The punishment is six months simple imprisonment and/or meager fine of maximum five hundred rupees. This Act also makes dancing as specified under the provisions of the Act or abetment of such dancing punishable with similar punishment as above. For any person to be an offender due to the above acts must have completed sixteen years of age. This Act does not make reference to involvement of family and hence there is no difference in the punishments.

Rescue and Rehabilitation measures

The KDPD Act through amendment in 2010 has introduced provisions relating to rescue, care, protection and rehabilitation of *Devadasi* women. The State Government has the responsibility to rehabilitate rescued women under the ‘Devadasi Rehabilitation

Programme',⁵⁵ providing counseling, creating awareness and empowering her economically to lead an independent life is the purpose of this programme. The relief and rehabilitation measures under the AP Act include providing a house, education to children, economic support and incentives for inter-caste marriage.⁵⁶

Concerted efforts

Some of the legislations refer to coordination amongst government bodies and some others, on working with NGOs for implementation of the Act. In Maharashtra, when a police receives a complaint regarding dedication, he has the responsibility of forwarding the complaint to the District Committee. The District Committee needs to work with Devadasi Prevention Officer to prosecute the case. The Courts also have the responsibility of forwarding a copy of judgment in convicted cases to the District Committee. The Committee with the Prevention Officer must take measures to ensure that the order of the court is complied with. In AP Rules, the responsibility is on the Women Protection Cell to work with NGOs to find out cases and potential areas where dedication is likely to take place. The Cell also should take help from NGOs to conduct awareness programmes.

Trafficking and Sexual Offences

Several of the major legislations deal with trafficking for sex and sexual offences against children. The Immoral Traffic (Prevention) Act is one such legislation. The ITPA was passed with an objective to prevent any form of trafficking of human beings specifically for the purpose of sex. This law is also applicable to situations of child trafficking for sexual purposes. Any person who procures, induces or takes a person (woman or girl) for prostitution shall be punished with rigorous imprisonment of minimum three years and maximum seven years and fine.⁵⁷ However, if such an offence is committed on an adult without consent, the minimum punishment will be seven years and can extend to fourteen years.⁵⁸ Any person who has trafficked a person shall be punished with minimum of seven years rigorous imprisonment on first conviction and sentenced to life imprisonment on second conviction⁵⁹. Any person who has aided or abetted or attempted trafficking shall also

⁵⁵ Karnataka Act, Section 3B

⁵⁶ AP Rules, Rule 7

⁵⁷ ITPA 1956, Section 5

⁵⁸ ITPA 1956, Section 5

⁵⁹ ITPA, 1956, Section 5A(1)

be punished as described above⁶⁰. Hence, any person who has been part of the dedication process of the girl who is later trafficked can be brought under this provision for aiding trafficking of the *Devadasi* girl. Acknowledging the higher degree of vulnerability of children, legislations prescribe higher punishment for offences involving children. Under the ITPA, when a child is procured, induced or taken for prostitution, the person will be punished with minimum of seven years rigorous imprisonment and may extend to life imprisonment⁶¹.

The Indian Penal Code, 1860 prescribes punishment to a wide range of offences. Provisions relating to sexual offences and trafficking of children are applicable to a case of dedication depending on the circumstances and the consequences of dedication. The consent of any person under the age of eighteen years for sexual act is immaterial under the criminal law thereby attracting provisions regarding rape for engaging in sex or a sexual act with a child. Rape on children has specific provisions. A rape of a girl under the age of sixteen years is considered as a serious offence and currently has a minimum punishment of twenty years and may extend to imprisonment for remainder of the natural life of the accused.⁶² A rape, when committed on a girl under the age of twelve years attracts a minimum of twenty years rigorous imprisonment or may extend to remainder of his natural life or the offender can also be sentenced to death.⁶³ Section 370 defines trafficking for purpose of exploitation. Exploitation includes physical and sexual exploitation, slavery or similar practices or forced removal of organs⁶⁴. While Section 370 is general and applicable to trafficking in all circumstances, Section 370A is specific to engaging a trafficked child for sexual exploitation. Any person knowingly engages such child for sexual exploitation shall be punished with minimum of five years imprisonment and may extend to seven years.⁶⁵ When a minor is trafficked, the minimum punishment with rigorous imprisonment of ten years and may extend to life⁶⁶, when the offence involves trafficking of more than one minor the minimum punishment is fourteen years rigorous imprisonment and may extend to life imprisonment⁶⁷,

⁶⁰ ITPA, 1956, Section 5A (2).

⁶¹ ITPA, 1956, Section 5

⁶² Indian Penal Code, 1860, Section 376(3). This sub clause was introduced in the Criminal Law (Amendment) Ordinance, 2018 promulgated on 21st April, 2018 by the President of India.

⁶³ Indian Penal Code, 1860, Section 376 AB. This sub clause was introduced in the Criminal Law (Amendment) Ordinance, 2018

⁶⁴ IPC, 1860, Section 370, Explanation I

⁶⁵ IPC, 1860, Section 370-A(1)

⁶⁶ IPC, 1860, Section 370(4)

⁶⁷ IPC, 1860, Section 370(5)

when a person is involved in trafficking of a minor on more than one occasion, such person shall be punished with imprisonment for remainder of his life⁶⁸.

Selling and buying of minor for purposes of prostitution is also an offence under the IPC. Selling⁶⁹ and buying⁷⁰ of a minor with knowledge that the person may be employed or used for prostitution or illicit intercourse shall be punished with imprisonment which may extend to ten years imprisonment and fine. Any person involved in dedication can be brought under these provisions for abetment of these offences. Provisions relating to kidnapping⁷¹, wrongful restraint⁷², wrongful confinement⁷³ may also apply in a dedication case.

The POCSO Act was passed with an objective to protect children from offences of sexual assault, sexual harassment and pornography and for prosecuting person engaging in sexual acts with children. The legislation also makes provision for establishment of a Special Court to hear offences under the Act. It also prescribes child friendly measures to be followed by the Magistrate, police and the Special Courts. As this law covers a broad range of offences, any sexual act with a dedicated girl will also come under this Act. To get the benefit of child friendly measures and for the case to be heard by the Special Court, it has to be filed under the POCSO Act. Only a case where sexual offence has been committed against the child or when there is apprehension of likelihood of commission of a sexual offence, the POCSO Act will apply. Certain acts may also constitute as abetment or attempt to commit an offence under the POCSO Act.

Rights of Women and Children

Another component of the legal framework that is relevant is the rights of the *Devadasi* women and children vis-a-vis the men they are involved with. In most cases, women after dedication are initiated into sex and may have a constant partner, multiple partners or even marry a man. As discussed earlier, a marriage of a *Devadasi* woman is valid and some states mention that children born out of marriage or long period of cohabitation have inheritance rights.

⁶⁸ IPC, 1860, Section 370(6)

⁶⁹ IPC, 1860, Section 372

⁷⁰ IPC, 1860, Section 373

⁷¹ IPC 1860, Section 366 A

⁷² IPC, 1860, Section 341

⁷³ IPC, 1860, Section 342

Inheritance rights of children

The issue of inheritance was not considered in any legislation till recently. The Maharashtra Act that is comparatively recent has recognised the inheritance rights of children born of a marriage with *Devadasi* woman.⁷⁴ Andhra Pradesh Rules has included the inheritance rights of a child, although it was not part of the Act.⁷⁵ Both the Maharashtra and AP Acts give the inheritance rights to children born out of a reasonable period of cohabitation irrespective of a valid marriage. While a marriage of a *Devadasi* is considered valid and children born out of such marriage as legitimate under the KDPD Act, it does not mention about the inheritance rights of children. The TN Act is silent on this point.

Maintenance of women and children

Most women in the system live in a pitiable condition⁷⁶, have not been educated, discontinued their studies before completing elementary education, do not get proper medical care during maternity, medical care for illness and there is nobody to take care of them in need and oldage⁷⁷. The issue of maintenance needs to be examined in two different ways- one is maintenance of the dedicated woman and the other is of the children. The whole question of maintenance is covered under the personal laws and the Criminal Procedure Code. It is clear in relevant laws that a woman only in the capacity of a wife, daughter or mother can claim maintenance.⁷⁸ The most relevant context here is for a woman to claim maintenance as a wife, as no law permits maintenance for a person who does not have a relationship with the person she claims maintenance from. Some of the state legislations recognise long period of cohabitation with a man as valid marriage.⁷⁹ A *Devadasi* woman who has been with the same man for a long time as man and wife under the same roof are entitled to maintenance. The essential element is that they should be living under the same roof thereby leaving out situations where man is only a visitor to the house even if he is the only man with whom the *Devadasi* woman has relationship in her lifetime. If proved otherwise, for the man to have lived with the woman for atleast sometime and is still visiting would make him liable to pay maintenance.

⁷⁴ Maharashtra Act, Section 4(2)

⁷⁵ AP Rules, 2015, Rule 3

⁷⁶ Karnataka Act, Preamble

⁷⁷ Orchard, T. (2007). Girl, woman, lover, mother: Towards a new understanding of child prostitution among young Devadasis in rural Karnataka, India. *Social Science & Medicine*. 64(12), 2379-2390.

⁷⁸ Cr P. C and Hindu Law

⁷⁹ AP and Maharashtra Act

Maintenance for children would mean provision for basic necessities such as education, medical care, food and clothing of the child. Under law, both the parents have the duty to provide these to the child. However, when one parent fails to do so, the other having custody of the child can make a petition for the same under the personal law and the Cr P C. A father for instance has the duty to maintain all his children under the personal law. Under the Hindu law, relevant here, he has a duty to maintain both his legitimate and illegitimate minor children.⁸⁰ The child has the right to claim maintenance under the Cr. P. C as well.⁸¹ The only requirement for the person from whom maintenance is claimed is that he should have sufficient means to provide it. Further, if the child is a major but due to any form of disability is unable to maintain him/herself, can also claim maintenance under this provision.⁸²

Offences

The second objective of the research study was to examine the types of violations and offences experienced by *Devadasis*, for which the data from the interviews with the women was analysed. The offences are classified under four main categories - dedication, child sexual abuse, trafficking for commercial sexual exploitation, and violation of other rights. The demographic details of the *Devadasis* participated in the study are presented prior to examining the offences.

Demographics

Effort was made to gather data from women who have experienced child sexual abuse post the enactment of POCSO Act 2012, to understand the application of POCSO Act 2012 within the context of *Devadasi* dedication. Thus, there were two distinct groups of women that participated in the study, those who experienced child sexual abuse post enactment of POCSO (herein after POCSO group) – age group of 23 years and below, and those who may have experienced child sexual abuse prior to enactment of POCSO and were no longer minors when the Act was enforced (herein after non POCSO group) – age group above 23 years. Bivariate analysis conducted on all the variables, to examine if there was any difference between these two groups revealed that there was no significant difference between the groups for most variables, except for four variables (current age, years of

⁸⁰ HAMA, 1956, Section 20(2)

⁸¹ Cr. P. C, Section 125(b)

⁸² Cr. P. C, Section 125(c)

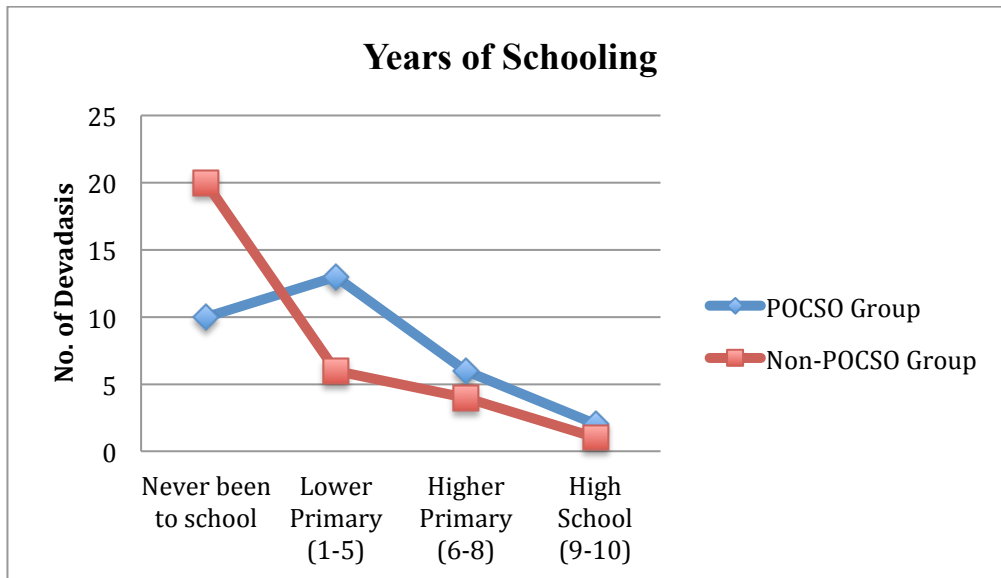
schooling, persons involved in dedication, initiation into sexual activity) that will be presented in the respective sections.

Age. Out of the total 62 *Devadasis* interviewed, most were unable to ascertain their age based on a birth or school certificate or provide their year of birth. Age was determined based on a combination of factors such as *Devadasis*' children's age, age at puberty, years of schooling and years of work. A bivariate analysis on the age thus ascertain revealed a statistically significant difference [$t(50)=10.46$, $p<.001$, 95% CI (7.12, 10.50)] in the average age of the participants in the POCSO group ($M=20.16$, $SD=2.48$), and non POCSO group ($M=28.97$, $SD=3.98$). Cohen's d of 2.66, reflecting a large effect size. The women in the POCSO group were younger than the non POCSO group, evidently due to the upper limit set on the POCSO groups to include women in the age group of 23 years or below. Seven of these were minors (less than 18 years of age) at the time of interview.

Years of schooling. Similarly, there was a statistically significant difference [$t(60)=2.24$, $p<.05$, 95% CI(0.18, 3.17)] in the mean years of schooling between the POCSO group ($M=3.58$, $SD=2.96$) and non POCSO group ($M=1.90$, $SD=2.93$), with Cohen's d of 0.57, reflecting a medium effect size. Figure 2.1 clearly displays that most of the women in the POCSO group had atleast acquired lower primary education, compared to women in non POCSO group who had mostly never been to school.

Figure 2.1

Years of Schooling



Caste. All the *Devadasis* in the sample belonged to Scheduled Caste (Harijan, Chavadi, Madar, Byagar). This might also be the result of the manner of recruitment adopted by the research team, where the organization that assisted with data collection worked only in such communities due to the wide prevalence of *Devadasi* dedication phenomenon among such communities.

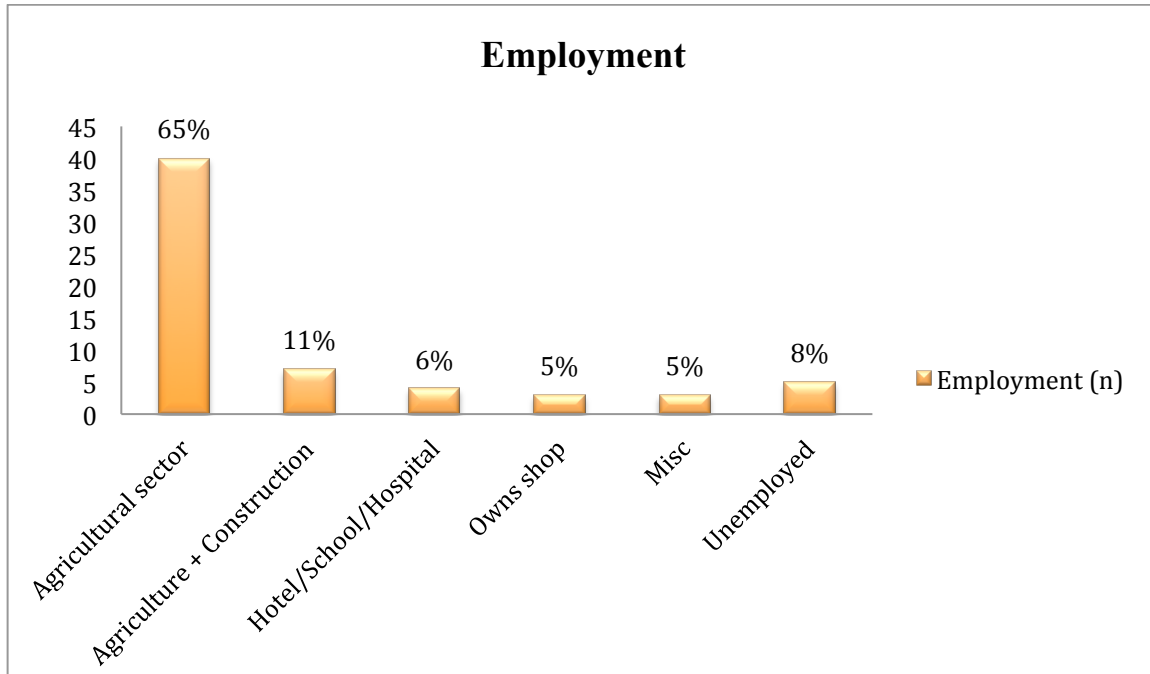
Marital status. Almost all the *Devadasis* in the study were never married (n=61, 98%), except for one young woman, which was a case of child marriage that resulted in separation and was thereafter dedicated.

Residential status. A vast majority (n=50, 81%) of the *Devadasis* interviewed lived with their family (which includes parents, siblings and/or children), followed by those who lived only with their children (n=10, 16%), lived with relatives (n=1, 1.5%) and living alone (has no relatives or children, n=1, 1.5%).

Employment status. Majority (n=57, 92%) of the women were employed and were major contributors to sustaining the family. They supported not just themselves and their children, but also their families (parents and siblings). The women being illiterate leaves them with little option other than to work in the agriculture sector (in the paddy fields, cotton plucking, chilly plucking) and in construction sites, if they are located in towns. The income earned ranges from Rs.100 to Rs.500 per day, depending on the type of work and the season. (See figure 2.2)

Figure 2.2

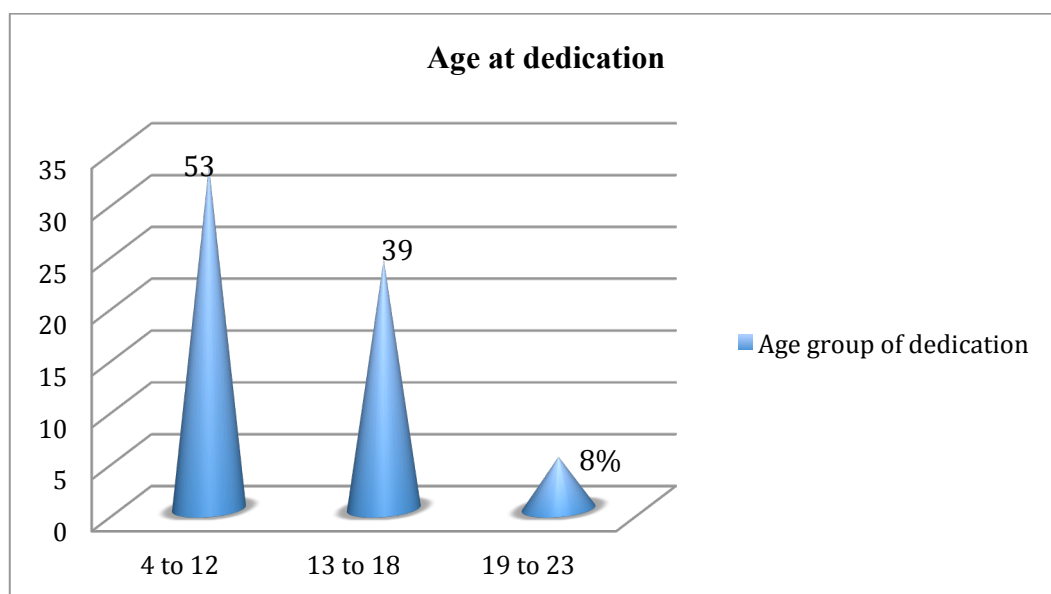
Employment

**Dedication**

Age at dedication. Mean age of dedication was 12.81 years (SD=4.08), with age ranging from 4 to 23 years, where 92 per cent of them were dedicated as minors (See Figure 2.3). This emphasized the need to make reporting of *Devadasi* dedication mandatory, as those affected are largely minors.

Figure 2.3

Age at dedication



Devadasi family. Sixty six per cent (n=41) of the *Devadasis* interviewed came from *Devadasi* families (Harijan n=28 and Madar n=8), and 34 per cent (n=21) were from families with no prior history of dedication (Harijan n=14, Chalwadi n=6). Table 2.1 displays that out of the 41 respondents who were from *Devadasi* families; majority of them (62 %) had only one *Devadasi* in the family prior to them. From an intervention standpoint it is important to strictly monitor girl children from Harijan, Madar and Chalwadi communities, due to their vulnerability to dedication.

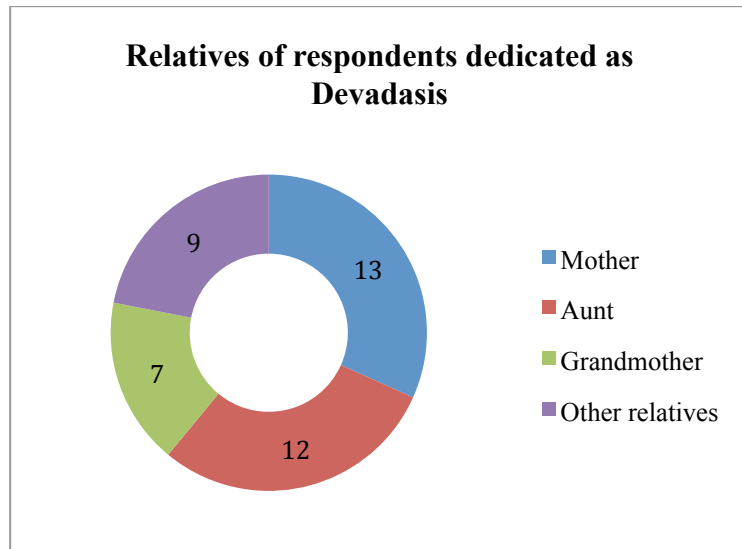
Table 2.1
Number of *Devadasis* in the family (excluding the interviewee)

No. of <i>Devadasis</i> in the family	Frequency % (n)
One	62 (25)
Two	29 (12)
Four	2 (1)
More/ Don't Know who	7 (3)

The probability for daughters of *Devadasis* to be dedicated is higher, with 31 per cent of the respondents having mothers dedicated as *Devadasis*. For 29 per cent of them, although their mother was not a *Devadasi*, having an aunt who was a *Devadasi* increased their vulnerability to this practice. The remaining had their grandmother, a cousin or a distant relative in the family who was dedicated as *Devadasi*. Girl children from *Devadasi* families must be

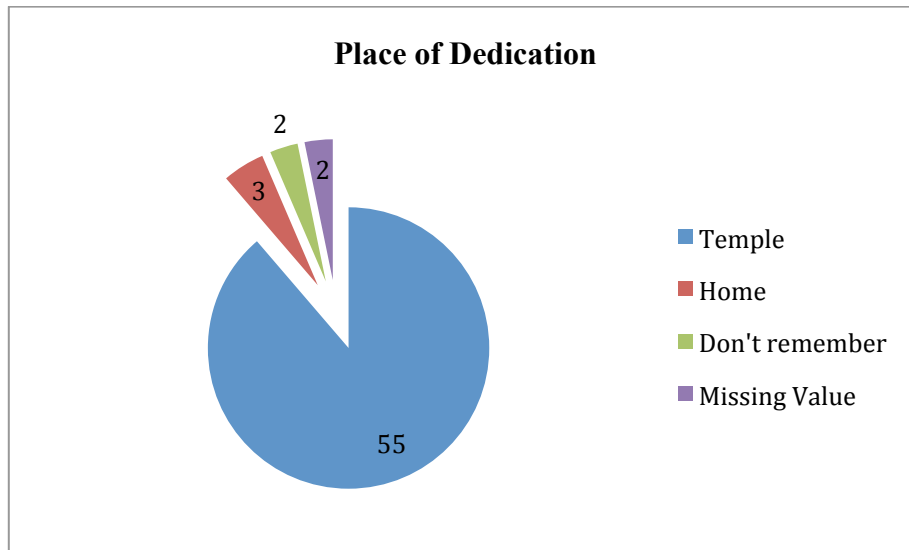
provided special welfare schemes to ensure they continue their education, provided vocational training, are employed and earn a decent living.

Figure 2.4
Relatives of respondents dedicated as *Devadasis*



Place of dedication. The place where dedication takes place is crucial, as it aids the enforcement agencies in stopping the practice. It was interesting to observe that majority of the dedication still took place in temples (88.7%), like the Huligamma temple, Eeranna temple, and Hanumantharaya temple among others. The dedication ceremony takes place very discreetly outside the temple, within its premises (near the pond, rooms rented within the neighbourhood). A very negligible proportion of the respondents (4.8%) were dedicated in their homes.

Figure 2.5
Place of Dedication



Persons involved in dedication. A Chi-square test of independence was performed to examine relation between the two variables, persons involved in dedication and POCSO groups. The relation between these variables was statistically significant, [LR (3)=8.47, $p < .05$]. A closer look at the data revealed that the persons involved in dedication in the non POCSO group was mostly family, which includes mothers or both parents. On the other hand for the POCSO group apart from family, relatives and community were also involved in their dedication. These being recent cases of dedication, it is important to note the involvement and role of community and relatives in dedicating girls as *Devadasis*. From an intervention standpoint, this finding is important to increase awareness about legislations in the community, make reporting of dedication mandatory as well as enforcement of punishment for abetting dedication.

Table 2.2
Persons involved in dedication vs. POCSO groups

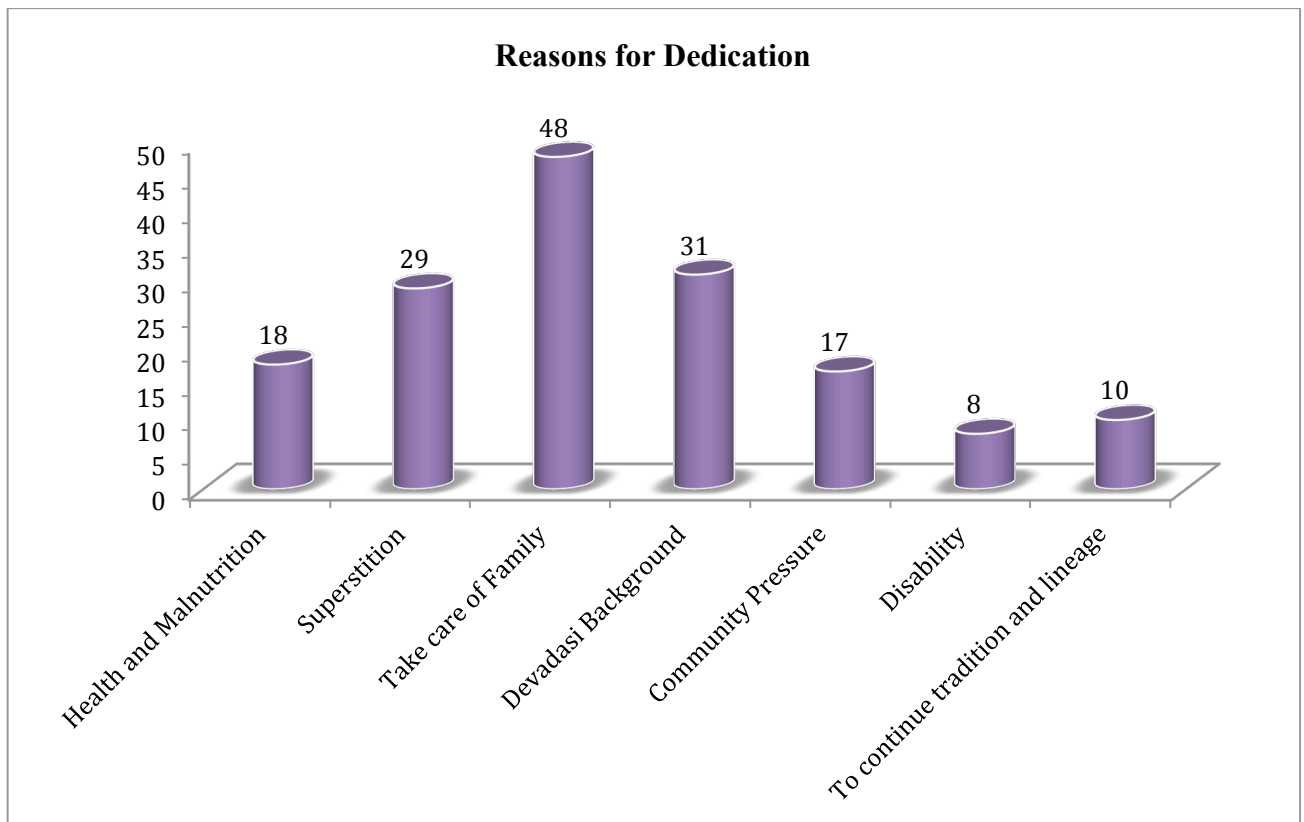
Persons involved in Dedication	POCSO Group	Non-POCSO Group
	n (%)	n (%)
Family – Mother, or both parents	26 (84)	29 (97)
Relatives – parents not involved	2 (6)	0 (0)

Community – No family or relatives	3 (10)	0 (0)
Don't remember	0 (0)	1 (3)
Total	31	30

Reasons for dedication

The data revealed that the girls being dedicated are being pushed into this practice for a combination of reasons like superstitious beliefs, community pressure, to take care of family, disability, tradition, and continuation of lineage among others. These reasons are presented in the *graph 2.6* and coded based on what was shared by the *Devadasis*, however they are not mutually exclusive and confirm the findings of other research studies.

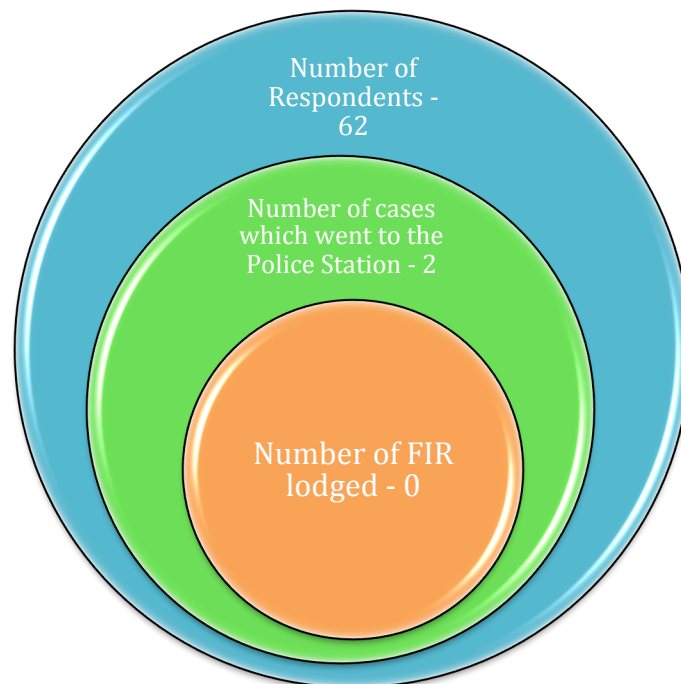
Figure 2.6
Reasons for dedication



Reporting

Data collected through RTI shows that from January 2011 to December 2017, only four cases of dedication have been filed in the State of Karnataka (one each in Kalaburgi and Raichur and two in Koppal) under the KDPD Act, 1982, and not even a single case has been filed in Ballari district. Of the sixty-two *Devadasis* interviewed, only two of them shared that their case went to the Police Station and yet no FIR was lodged. The perpetrators were let off with a warning to get the girls married, and yet they have not been married but continue to live a life of a *Devadasi*. This is a clear failure of the law enforcement machinery in the State, with respect to dedication and shows the lack of will on their part to put an end to this practice. The law must make provisions to punish officers failing to perform their duties of registering the case and rescuing *Devadasis* from engaging in sexual activities, and in the case of minors producing them before CWC for care and protection.

Figure 2.7
Reporting



People in my neighbourhood complained to the police of my dedication. I was taken to the Police station along with my mother. A higher officer asked if I was dedicated but I was very scared so I told 'no'. Then my elder sister brought a member from my village panchayat and he told the police, 'there are no male children in their house, that's why they have dedicated her. This practice is accepted in their culture. Please release them.' The police strictly told 'No. Dedication is in contravention to the law.

They were not supposed to dedicate. They would have to pay a fine of Rs. 5,000/- and be in jail for 3 years.' I got so scared when I heard this and I started crying very badly. The police then let me go saying 'we'll let you go, but you should not do this again. Today you'll cry and we'll let you go, but some other girl might get dedicated tomorrow. This is not good for you. The men who come to you may not be good, they might have HIV/ AIDS, TB or other illnesses. Children of Devadasi women are stigmatized and your name cannot be inserted in the list [to claim benefits].' I got so scared because I felt like I had something wrong. ~ Devadasi, 20 years old.

Child Sexual Abuse

The World Health Organization *Report on the Consultation on Child Abuse Prevention* (1999) defines child sexual abuse as follows:

Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to:

- the inducement or coercion of a child to engage in any unlawful sexual activity;
- the exploitative use of a child in prostitution or other unlawful sexual practices;
- the exploitative use of children in pornographic performance and materials.”⁸³

Within Indian context although there is no legal definition for child sexual abuse, existence of a special law, POCSO Act 2012 ensures protection of children from all kinds of sexual offences. As per Sec 2 (1) (d) of POCSO Act 2012, a child is any person below the age of 18 years. On the whole, the study revealed that a vast majority of *Devadasis* (n=46, 74%) had their first sexual contact before the age of 18 years. However, 50% (n=31) of the *Devadasis* interviewed were sexually abused as minors after the enactment of the POCSO Act in 2012.

⁸³ World Health Organization. (1999). *Report of the Consultation on Child Abuse Prevention*. Geneva, 29–31 March. Document WHO/HSC/PVI/99.1, p.62.

Yet, not a single case of dedication has been registered under POCSO Act so far, which calls for law enforcement to book cases of dedication under POCSO going forth.

Figure 2.8 Child Sexual Abuse

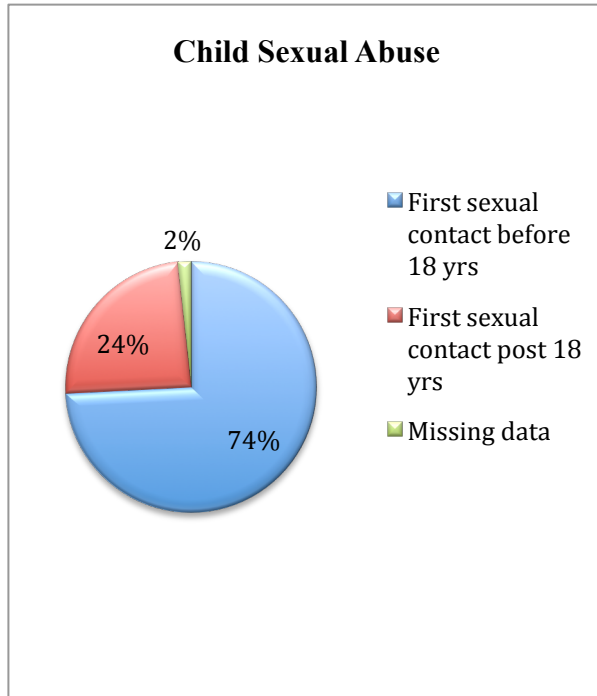
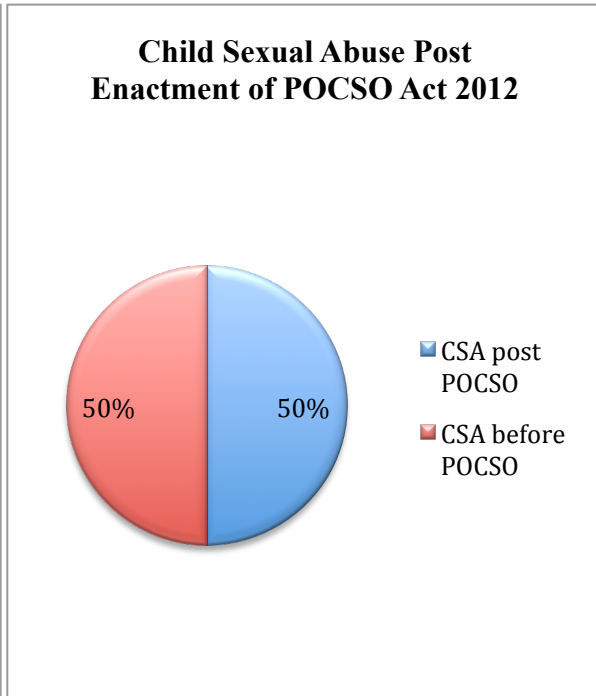


Figure 2.9: CSA post POCSO 2012



Age of dedication and age of child sexual abuse. There is a significant negative correlation ($r=.60$, $p=.000$) between age of dedication of the *Devadasis* and age of child sexual abuse. When the age of dedication increases the occurrence of child sexual abuse is lower, and when the age of dedication decreases, the occurrence of child sexual abuse is high. The data of *Devadasis* who had experienced child sexual abuse ($n=46$, 74%) revealed that on average the *Devadasis* experienced child sexual abuse at around 14.5 years ($SD=1.6$), with age ranging from 12 to 17.25 years. As per the recent ordinance to the Criminal Law⁸⁴, men having sexual contact with *Devadasis* under the age of sixteen years are committing a serious offence, and will get a minimum punishment of twenty years, which may extend to imprisonment for the remainder of his natural life.

Initiation into sexual activity. An examination of the time between the dedication of girls as *Devadasis* and their formal initiation into sex, revealed a statistically significant difference [$t(33)=2.90$, $p<.01$, 95% CI 9(.79, 4.48)] in the two groups (POCSO vs. non POCSO) of women, with Cohen's d of 0.86, reflecting a large effect size. The mean time lapse for the

⁸⁴ Indian Penal Code, 1860, Section 376(3). This sub clause was introduced in the Criminal Law (Amendment) Ordinance, 2018 promulgated on 21st April, 2018 by the President of India.

POCSO groups was $M=1.95$, $SD=2.14$, and for the non POCSO group was $M=4.58$, $SD=3.73$. The *Devadasis* in POCSO group were initiated into sexual activity sooner (within 2 years) compared to those in the non POCSO group. From an intervention standpoint this suggests that in the recent past, *Devadasis* are initiated into sexual activities immediately after dedication, thus making it imperative for us to bring in *Devadasi* dedication under the gamut of mandatory reporting, similar to child sexual abuse under POCSO Act 2012, in order to prevent child sexual abuse through practices like *Devadasi* dedication. Also, the persons involved in initiating minors into sex through *Devadasi* dedication, and those abetting in the process must be prescribed to stringent punishment similar to cases under POCSO.

First sexual experience

Force/Coercion. The *Devadasis* recollected their first sexual experience as a child, as very traumatizing, feeling afraid, ashamed or even disgusted. Most of them ($n=41$, 89%) expressed an element of shock as they did not have an understanding of what was sex, did not know they were going to be deflowered, or did not know anything about the man who was selected by their family to have sex with them. The girls were forced or persuaded into conceding to have sex with the men who came. Some even tried to resist but their efforts were in vain.

He was a 45 year old man (she was studying in class 9 then)! I told on his face, "You are old, I don't like you". I ran around the room. He came only that one night. I don't know his name, his caste, education, where did he come from or what he did for a living, nothing! ~ Devadasi, 23 years old, dedicated at 12 and initiated into sexual activity at 14 years of age.

Five of them (11%) expressed that they liked the person, out of which two were involved in consensual sex prior to dedication and the remaining three approved the men who came to initiate them into sexual activity. Even though two girls were engaged in consensual sex prior to dedication that did not result in continuation of their relationship. Also, it is important to note here, that both these girls were daughters of *Devadasi* women, and their mothers were dead when they engaged in consensual sex and thereafter were dedicated by community members. This makes it imperative to make provisions to include involvement/abetment of Scheduled Caste and Scheduled Tribe community members in dedication as an offence.

Decision by family. The family members typically make the decision regarding who would initiate the *Devadasi* into sexual activity. On learning that there is a girl dedicated as *Devadasi* in a family, the men would either approach the family directly or through neighbours, in order to have sex with the girl. There is not much of choice left for the girl, if the family approves. Although it is customary for the men who come to deflower to provide cash or items such as Saree, jewellery, gold ornaments, and mobile (in more recent dedications) in return for the first sexual contact with the girl, sometimes the family is even willing to waive that requirement with the hope of getting offspring through the man.

My grandmother started telling that I need to be deflowered, so that I will have children (particularly sons) and continue the lineage. She brought home a Muslim guy. They asked me get ready and see him. I resisted saying I am not marrying him, so what is the use of dressing up? But they insisted on me going and seeing him. I kept saying, "No, I will take care of myself". But my grandmother didn't listen to me, and then I had to give in. My mother herself listened to my grandmother always. ~ Devadasi, 28 years old, dedicated at 4 and initiated into sexual activity at 17 years of age.

Acceptance of community. The practice of dedication, and initiation into sexual activity thereafter, cannot persist without the support of the community. When a girl is dedicated, the men not just in her neighbourhood or village, but also from other villages come to prey on these girls for sexual purposes. There is wide acceptance of men who enquire about dedicated girls for sexual purposes, and the community refers these men to such families in the community where they know girls are dedicated. Typically these are older men, who are often married and have children. The urge for incessant sex drives them to seek *Devadasis*, when their wives are unable to meet their needs (for instance post delivery or sterilization).

People in the village used to bring men to show me. I used to get scared of those men. They (family) used to ask me to consent to [having sex with] them. I said "No, no", but they forcefully made me concede. People in the neighbourhood keep waiting to see which girl is dedicated. They pounce on the opportunity to deflower her, and make promises like "I will look after you, I will give you gold, I will give you money", but they don't give anything at all. ~ Devadasi, 36 years old, dedicated at 11 and initiated into sexual activity at 14 years of age.

In some cases the community has taken proactive steps to ensure initiation into sexual activity takes place, on the pretext of ensuring care and protection for the girls who are dedicated as well as their families. For them initiation into sex is the way men can start approaching *Devadasis* and ensure she bears children who would look after her, and the continuity of her familial lineage.

I was deflowered a month after dedication. My family thought that if they left me like that [without initiating into sexual activity] then I would fall in love with some guy and runaway. My neighbours would fight with my mother saying, "Now your daughter is a Devadasi, she will seduce my son. You better control your daughter". My mother did not want to take risk, so they got a Gowda to deflower me. I did not know what that [initiation] meant. They draped me in a Saree and sent me in a vehicle with him. ~ Devadasi, 23 years old, dedicated at 12 years and immediately initiated into sexual activity.

Some of these girls (20%) were deflowered by their relatives, which confirm the general literature around child sexual abuse, where the child knows the perpetrator. In addition, in this scenario there is acceptance of the community and family for such inter-familial relationships and abuse. However, these relationships do not lead to marriage, even if the man is not married at the time of initiation into sexual activity, rather the family of the man would get him married to another woman but not the *Devadasi*. It is an accepted norm that offspring born to the *Devadasi* would belong to her family and not the man.

*My cousin sister came and requested my grandmother to allow her husband to have sexual relationship with me. He was threatening to leave her, saying he would get married to someone else, since she was unable to conceive a child. Now that she has a child, she wants him to leave me. They think Basavi (*Devadasis*) are like this, they would move from one man to another. ~ Devadasi, 23 years old, dedicated at 16 years and immediately initiated into sexual activity.*

Penetrative sexual assault. Twenty-four of the *Devadasis* in the POCSO group clearly expressed their first sexual experience as being penetrative sexual assault, as per the definition of POCSO Act 2012⁸⁵. All of them (100%) also described enduring aggravated

⁸⁵ POCSO Act 2012, Sec 3

penetrative sexual assault⁸⁶, which included characteristics such as getting pregnant immediately, enduring repeated assault (21 of 24), perpetrator was related to the *Devadasi*, disability of the girl, inflicted with HIV/ AIDS and enduring hurt during sex or as a result of having sex. Having a child is mandatory for the *Devadasis*, to ensure continuity of family's lineage. If a male child is born immediately following the initiation into sexual activity, then even if the man leaves her, there is no pressure from the family to have another man. But if the child born is a female or there are no children resulting from the sexual contact then there is pressure from the family to have another man.

There was no question of liking the person or not, I had to have children. If there are no children, people would despise you saying "she's a barren", somehow god has given me a child, that's all matters. He left me after 4-5 years. Now I have to take care of myself and my son. ~ Devadasi, 28 years old, dedicated at 11 and initiated into sexual activity at 13 years of age.

Trafficking for Commercial Sexual Exploitation

Commercial sexual exploitation (CSE) in general could be understood as

“a practice by which a person(s) achieves sexual gratification, financial gain or advancement through the abuse or exploitation of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy and physical and mental well-being” (Barry, 1996, p. 326⁸⁷).

However, prostitution is defined as “the sexual exploitation or abuse of persons for commercial purposes”⁸⁸.

Commercial sexual exploitation of children, has been defined in the Goa Children's Act 2003 to include “all forms of sexual exploitation of a child including visual depiction of a child, engaged in explicit sexual conduct, real or stimulated, or the lewd exhibition of the genitals intended for sexual gratification of the user, done with a commercial purpose, whether for money or kind. It includes implying, allowing, using, inducing or coercing any child to engage in sexual conduct, it also includes the use of the child in assisting with other persons

⁸⁶ POCSO Act 2012, Sec 5

⁸⁷ Barry, K.L. (1996). *The Prostitution of sexuality*. NYU Press.

⁸⁸ Immoral Traffic Prevention Act, 1956, Sec 2 (f)

to engage in explicit sex.” In the World Congress against Commercial Sexual Exploitation of Children (CSEC), held in Stockholm in 1996, CSEC was defined as:

'sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children and amounts to forced labour and a contemporary form of slavery⁸⁹.'

For the definition of trafficking, we have a clear understanding in the Indian legal system, as defined under Section 370 Indian Penal Code,

Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

1. using threats, or
2. using force, or any other form of coercion, or
3. by abduction, or
4. by practising fraud, or deception, or
5. by abuse of power, or
6. by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

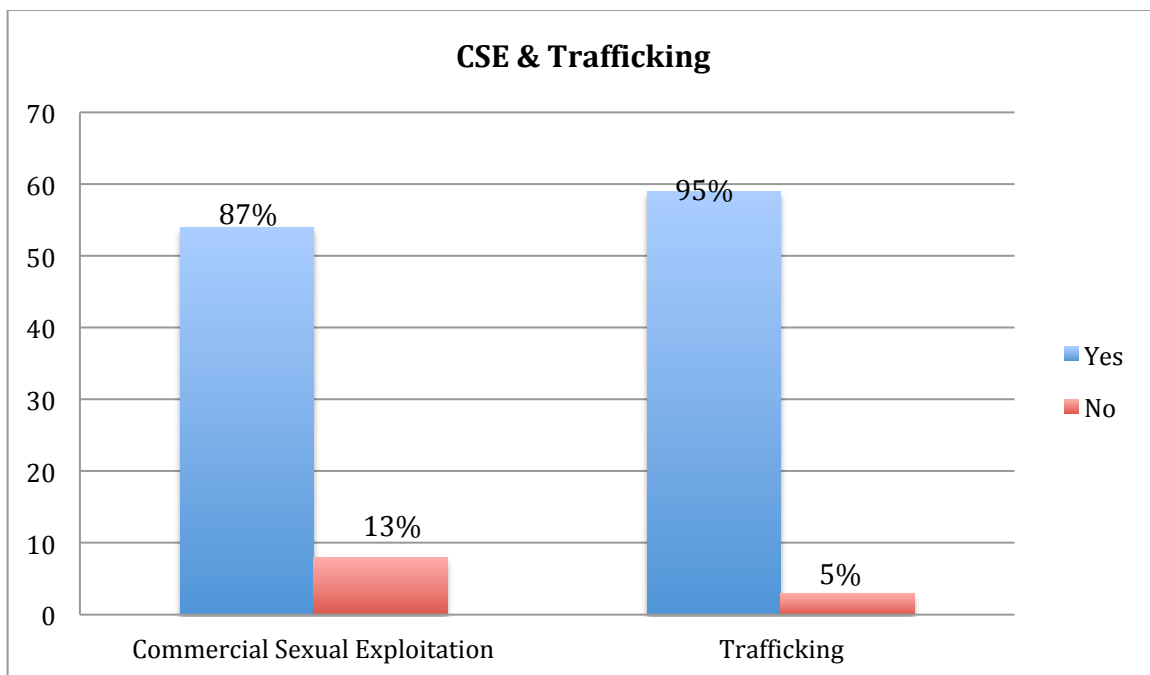
Explanations:

1. The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.
2. The consent of the victim is immaterial in determination of the offence of trafficking.

⁸⁹ http://www.kinderrechte.gv.at/wp-content/uploads/2013/10/The-Stockholm-Declaration-and-Agenda-for-Action_1996.pdf

Thus referring to these definitions for the understanding of CSE and trafficking, the data was examined to find evidence of these forms of violations among the *Devadasis*. The narratives suggested that 87% of the *Devadasis* experienced CSE and 95% were trafficked. Yet, no cases against perpetrators have been registered under IPC, nor are these women treated as victims of trafficking and provided compensation or rehabilitation. Even the latest trafficking bill⁹⁰ does not include dedication as an offence under trafficking of persons. Here dedication with a purpose to exploit an individual is interpreted to be an act of recruitment⁹¹. Thus, police can take action even after dedication, initiation into sex, and continued involvement in CSE. The themes identified in the narratives also reflect the characteristics of CSE and trafficking as prescribed in the definitions mentioned above, which are discussed in detail.

Figure 2.10
Commercial Sexual Exploitation and Trafficking



Sexual Objectification

Once a girl is dedicated as a *Devadasi*, the community views them as being available for sex, to the extent that the information about her dedication, whether she is initiated into sexual activity or not, and whether she is currently with a partner or not are information that is

⁹⁰ Bill is approved in the Lok Sabha on July 26th 2018 and is likely to come into force in the near future.

⁹¹ IPC 1860, Sec 370

commonly known and discussed in the community. The men feel entitled to ask for sex from a *Devadasi*.

One guy was interested in me and enquired about me with my sister's husband, who informed him that I was a Devadasi and that no one had deflowered me yet... I was not interested in having [sexual] relationship with anyone. But he kept on trying to get to know me; he got my number, came home, and spoke to my mother. ~ Devadasi, 20 years old.

Devadasis are constantly accosted for sex by the men in their village (from upper caste, other backward caste and their own caste), irrespective of whether they are with a man or not, and have children or not. “*When I go for work men approach me, and ask me to come [have sex] with them, and that they would pay me*”. Majority of the women shared that even the men in their lives come to them for their own sexual gratification, whenever they wish. These women are aware that the men coming to them are often married, and have children, and purely seek sexual pleasure from the *Devadasis*, without any commitment to provide for them. Some of these men approach *Devadasis* when their wives have gone for delivery of their child or have undergone sterilisation operation and are unable to provide sex to their husbands. For most of the *Devadasis* there is no emotional connect between them and these men. The *Devadasis* seldom think about their own pleasure while engaging with these men.

He did not want a kid, since it would be a hinderance between us... When my daughter was 3 months old, I didn't have money to give her milk, so I went to this guy hoping he will give me money. Instead, he had sex with me and gave me Rs. 100 for milk... He says “you wanted it [the child], now you pay for it and suffer”. He calls me whenever he feels like having sex with me. ~ Devadasi, 23 years old, dedicated at age 16 years.

This guy started forcing me to go with him. He was my father's age, very rich, had two wives and did not have children. He tried persuading me, saying he will write a piece of land in my name and buy me lot of jewels, but he did not do anything of that sort. Every time I went to him, I would go and come back crying. He would always be drunk. ~ Devadasi, 28 years old, dedicated at age 4 and initiated into sex at 17 years.

No Rights as a Wife

Even among the few men who have come to *Devadasis* prior to their marriage or are related to them, do not wish to get into any marital relationship with the women. Most of these men engage with *Devadasis* in a sexual relationship discreetly, sometimes without the information being known to their wives and children, for a long period. However, they consider their prime responsibility to be towards their legally wedded wife and children born to her, and not towards the *Devadasi* or the children born of her. And yet there is a constant fear among men that the women are engaged in sexual relationship with other men in the community behind their back.

He never gives us money. I have to go for work and take care of my children. His earnings are spent in looking after his own wife and children. He cares about his own children, not these children [born to Devadasi]. Even if I am loyal to him, he says "You are a Devadasi, you would have kept multiple men in your life, who knows to whom these children are born?" ~ Devadasi, 23 years old, dedicated at 12 and initiated into sex at 14 years.

Commercial Transaction

The relationships that *Devadasi* women engages in do have a commercial aspect to it, where fifty-nine women recounted men paying them some money (ranging from Rs. 100 to Rs. 3000) or buy minimal ration, whenever they visit them to have sex. Although many of these women have had multiple partners in their life, most engaged with one partner at a time. The men approach *Devadasis* with false promises to provide for them and meet their needs for the rest of their life, sometimes even give them hope of marriage, all of which fades away as the weeks go by.

He gives Rs.500 to Rs. 1000 whenever he comes. He doesn't ask me about my happiness or sorrow, nor do I talk much to him. He comes once a month [to have sex with me]. I don't like it [having sex with him]. He doesn't take me out anywhere. He doesn't talk much to me. ~ Devadasi, 26 years old, and dedicated at age 16.

In some cases, women also shared that they were in fact required to provide for the men, after long period of cohabitation. Where the women and their status of being a *Devadasi* was used by these men, to get money for their personal use, as they viewed *Devadasis* as being adept at enticing money from the men in the community.

The guy I am with is useless, if I have money, he snatches it and goes away, if I don't have, he beats me up.... Now, his water pump is not functioning and he is asking me to give him Rs.2000 to buy that. I have to loan from someone and give it to him. He says, "if a girl asks, people [men] will give money immediately". I've told him that people would then ask me to come with them [to have sex], if I ask them for money, and he asks me to do whatever it takes to get the money. ~ Devadasi, 23 years old, dedicated at age 16 and immediately initiated into sex.

Exploitation by family

A vast majority of the women have been dedicated to take care of their family, where despite neither being educated nor having any skills, *Devadasis* are expected to provide for their parents and siblings, along with bearing children in the process and supporting their expenses too. Most of them also remember the commercial transactions for the initiation into sex and the visits later for sexual activity to be between their family and the men. These unreasonable expectations pushes the women into conceding to men, who might be interested in them and willing to support them, to whatever limited extent possible.

After the first sexual act, he gave Rs. 1000 to my grandmother to buy some pooja items and Rs. 100 to me, that's it. ~ Devadasi, 23 years old, dedicated at 16 years and immediately initiated into sex.

The women are in fact dedicated to ensure not just the wellbeing of parents in their old age but also care for other siblings in the family, not just while they are in their parental home but also provide for during their marriage, and delivery, as it is customary practice for the women to return to her parental home for the delivery of child. Many of these men the *Devadasis* have as partners, do not provide substantial support, especially after the women bear children, as the frequency of visits reduces. The family disapproves continuance of such relationships and reprimands the women to leave such men. However, the women themselves do not expect much from these relationships with men.

He used to look after us [mother and myself] before children, as the number of children increased; he stopped taking care of us due to the increased expenditure. The reason for us separating was due to him not supporting my family, and my mother was upset about it, and used to shout. Once when my daughter was in the hospital, he

did not come to see her nor bear the expenses, then my mother decided to separate us, since there was no benefit to us. ~ Devadasi, 28 years old, dedicated at 11 and initiated into sex at 13 years.

Inducing for prostitution

Once the girls are dedicated, eventually they have to engage in sexual relationship, either with one person or multiple, without any legal relationship such as marriage. For those living in red light areas (where prostitution activities are carried out), there is continued pressure from the brothel keepers who view them as potential targets, a new entry into the market that would have many takers due to the novelty. This is no different for those in the rural communities, where instead of brothel keepers the men in the village provide this information to those interested in having sexual relationship with a *Devadasi*.

After the guy who deflowered me left, somebody in the neighbourhood told another guy about me, and asked me to have relationship with him. The pretext provided was so that people don't talk ill about me, if there is no man in my life, else men would keep approaching me. But if there is someone, then others will not harass. ~ Devadasi, 35 years old, dedicated at age 14 and immediately initiated into sex.

There are also instances of girls being dedicated as *Devadasi* due to the pressure created by a relative in the family, who then deflowers the girl. These are cases of the perpetrators abusing their position and power in the family, with the intention of seeking sexual favours from a vulnerable girl without giving her the status of wife and getting married.

Servitude

Once dedicated the lives of these women reflect that of a slave, where they are left with no choice when to engage in sexual relationship, with whom, or for how long. If some experienced emotional blackmail by family to engage in relationships, others have been beaten up to ensure they submit to family's desires.

People started coming to me saying they will deflower me, I would fight them off. I used to scratch their face off and chase them away. Then my family threw me out of the house, until I agreed to them [to get deflowered]. ~ Devadasi, 28 years old, dedicated at age 8 and initiated into sex at 16 years.

He used to give my father alcohol, so he was happy. I was forced to be with him. He used to come home and have sex with me, but never gave any money. ~ Devadasi, 21 years old, dedicated at age 16 and immediately initiated into sex.

The family insists on bearing children, for the continuation of their lineage, leaving not much choice to the women themselves to determine, if they have the capacity to bear and care for the children. For those without a child, the family and community insists on getting into a relationship, to ensure they could bear children by engaging in a relationship. For the family, a child along with financial support is considered a good partner, if not monetary benefits the relationship is expected to yield atleast a child, else it is considered futile. Despite all the violations experienced by *Devadasis*, being commoditised as a sexual object, induced into prostitution, used for financial gain, and exploited by family, they do not perceive the violation and accept their situation as part of life. Although most of them have not received substantial support from the men in their life, they feel they have made the choice of selecting inappropriate men and that the men are not obliged to look after them as they would care for their wives and children. All the themes depict characteristics of CSE and trafficking experienced by *Devadasis*, and yet the KDPD Act, ITPA, or IPC does not come to their rescue or provide rehabilitation to live a life with dignity, rather the sexual violence against this population is completely overlooked as tradition and cultural practice.

Violations of Other Rights

It is important to understand that apart from dedication, CSA and CSE, *Devadasis* endure violation of other rights as well, which are identified and discussed below. Police must take cognizance of these offences and violations as well.

Child Labour

Of the *Devadasis* interviewed, 92 per cent (n=56) were engaged in labour as a child, with 48 per cent (n=30) having never been to school and 13 per cent had studied till 5th standard. The women shared having worked in different sectors like cotton plucking, rice mills, construction work, and hotels among others. The children mostly engaged in cotton plucking, due to the need for tiny hands to pluck cotton efficiently. Construction was also another sector that actively engaged child labourers. Some of these work conditions have a negative impact on their health, especially for sexually active girls.

I had a miscarriage a year ago (at age 15 years), it might have happened due to the work I do. I used to work in construction sector, carry things on my head and go to the top floor. ~ Devadasi, 16 years old, and dedicated at age 15.

One of the most common reasons for them to start working early is that there was no one else left to work in the house. Child labour has been disallowed by the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and education has been provided as a Fundamental Right to children aged between 6 and 14 by Article 21A of the Constitution, and the Right of Children to Free and Compulsory Education Act, 2009. By forcing children to drop out and work, these rights are being violated. Some of the respondents were keen in pursuing studies, but could not do so because they were forced to dropout. It is almost impossible for them to continue their education or pursue employment in other sectors due to lack of means and added responsibilities.

They (mother who works as an ayya in Anganwadi) made me dropout from school after 4th, since there was no one to work in the house and take care of family. There are no male children in the house. My father became mentally disturbed, when I was around 5 months old. We are just two girls in the house and my sister's health was not good. So I had to work. ~ Devadasi, 23 years old, dedicated at age 14 and immediately initiated into sex.

Begging

It is a mandatory practice for the *Devadasis* to go around asking for alms in the name of god. The younger *Devadasis* go begging under the instructions of the older ones because the latter say that “*it will bring bad luck to the family*” if they do not go begging at least once a year. Though some *Devadasis* do not want to go, they are forced into doing it. They carry the idol with them while they are begging, and go from one house to the other.

I go around asking for alms in the name of goddess every Tuesday and Friday, every week. Nobody would refuse to give something, to someone holding the goddess (Padligi) and going around asking for alms. ~ Devadasi, 23 years old, dedicated at age 16.

They receive staples, and rarely money, when they ask for alms. Sometimes this is a necessity and could act as a substitute for work. It is problematic to go begging for some *Devadasis* because that will make them miss work, and their daily wages. However, some *Devadasis* do not believe in going around begging and do not follow it.

Not allowed to Marry

It is customary for dedicated women to shun marriage, with 98 per cent of the study sample never been married. They are afraid to get married, because they fear incurring the wrath of goddess. However, this is in direct opposition to the law in force, which makes it completely legal for dedicated women to get married. Some of them are also misled to believe that getting married would lead to them losing the benefits they may receive as a *Devadasi*, which again is contradictory to KDPD Act. Usually, family members prohibit dedicated women from getting married, due to fear of losing control over the women. However, some *Devadasis* find partners who stay with them permanently, and are in stable relationships, without marriage. There was only one instance of child marriage found in the study sample, which ended in separation, and then to dedication. *Devadasis* face a lot of difficulties, even if they do decide to get married, due to community's non-acceptance of such derelictions.

My parents would have dedicated me hoping for me to serve our house goddess and continue this family name, how can I then get married to someone else and prosper their lineage? ~ Devadasi, 26 years old, dedicated at age 7 and initiated into sex at 15 years.

Disability

Out of the 62 respondents, 11 per cent (n=7) were physically disabled and 8 per cent (n=5) seemed to be mental challenged, while the rest had no disability. Disability is not the only criterion for dedication, but disabled children are highly vulnerable to being pushed into this practice for lack of alternatives in the community. It is believed that disability has a considerable effect on a woman's quality of life and it affects marriage prospects, where it becomes difficult for disabled women to find mates, thus such girls become easy targets for dedication.

For women like me, [who are disabled] it's good to get dedicated, otherwise no one else will come to marry. However, this happens only among Harijans and Chalwadis, other caste people don't tie beads, they get some guy to come and marry the girl by giving money and gold. ~ Devadasi, 35 years old, dedicated and initiated into sex at age 14.

Domestic Violence

The Protection of Women from Domestic Violence Act, 2005 defines domestic violence as any act or conduct that results in abuse of a person, which may include physical, sexual, verbal and emotional⁹². The IPC also considers intentional use of force against another individual in order to cause some harm as an offence⁹³. It was found that 11 of the *Devadasis* in the study have experienced domestic violence, which is usually caused by their family, relatives or partners. The violence perpetrated by family is due to disobedience towards them, in order to induce obedience in the woman, or alcoholism of the relative. Some of the *Devadasis* have also experienced violence by their partners, where the men feel like they own the *Devadasi*, as if a slave to them, and are constantly suspicious of the woman, that she might be having another man in her life without his knowledge. As a result the women are constantly humiliated and beaten up. One of the case also seemed like the man was getting sexual pleasure out of beating up the woman.

Even if I am loyal to him, he says, I am not! He says, "you are a Devadasi, so you would keep having multiple men in your life, who knows who these children are born to? He speaks like this and fights with me. He used to beat me up. ~ Devadasi, 23 years old, dedicated at age 12 and initiated into sex at 14 years.

I thought of leaving him multiple times, since I don't benefit from having him in my life. But he beats me up. Even last week he beat me up, when I had gone to my relative's house. He was angry that I didn't tell him where I was going. He says I am a Basavi [prostitute], that's why I don't inform him and go. He says "you are like a dog, you would stay loyal to me, even if I beat you, you are a prostitute". He beats me with whatever comes to his hand. I have to always take his permission before going

⁹² Protection of Women from Domestic Violence Act, 2005, Section 3

⁹³ Indian Penal Code, 1860, Section 350

somewhere, if he allows I can go, else no. ~ Devadasi, 23 years old, dedicated at 16 years and immediately initiated into sex.

All the *Devadasis*, except one woman, have endured the violence and surrendered to the perpetrator considering it their fate. Only one young *Devadasi*, who was orphaned at a very young age and lived in a red light area had sought help from the police to get rid of the man who constantly beat her up. Her courage to approach the police for help may also be due to the exposure she had, by having stayed in a town.

Reproductive and Sexual Rights

Every woman has the right to choose whether or not she wants to have children⁹⁴, and whether or not she wants to engage in sexual intercourse with a man. Consent is extremely essential for sexual relations, the absence of which will make the act criminal⁹⁵. *Devadasis* have very limited freedom with respect to reproductive and sexual rights, where their consent is immaterial to entering into sexual relations. All that their partners care about is having sex and not the implications of the same on the woman's health in the absence of precautions. In addition, they are often pressurized by their families to have children and continue to bear children till they have sons. Sometimes, this is at the cost of their health, where the women are expected to bear children despite the multiple miscarriages she has had consecutively.

My older sister's husband has deflowered me and has been with me for the past 3 years. I have had 4 miscarriages in the past 3 years. ~ Translator of a Devadasi who couldn't speak or hear, 26 years old and dedicated at age 23.

They have no knowledge of contraceptive measures or birth control mechanisms, like using pills and condoms, rather think of sterilization as the only way to control birth. Also, they lack the authority to ask their partners to use a condom, even to protect themselves from getting sexually transmitted illness. *Devadasis* rarely have a say in matters like who their partner should be, at what age will they engage in sex, will they have sex every time the partner visits, how many children will they have, or the spacing between each child.

⁹⁴ Medical Termination of Pregnancy Act 1971 would apply, if a pregnant woman chooses to terminate the pregnancy, within the stipulated time.

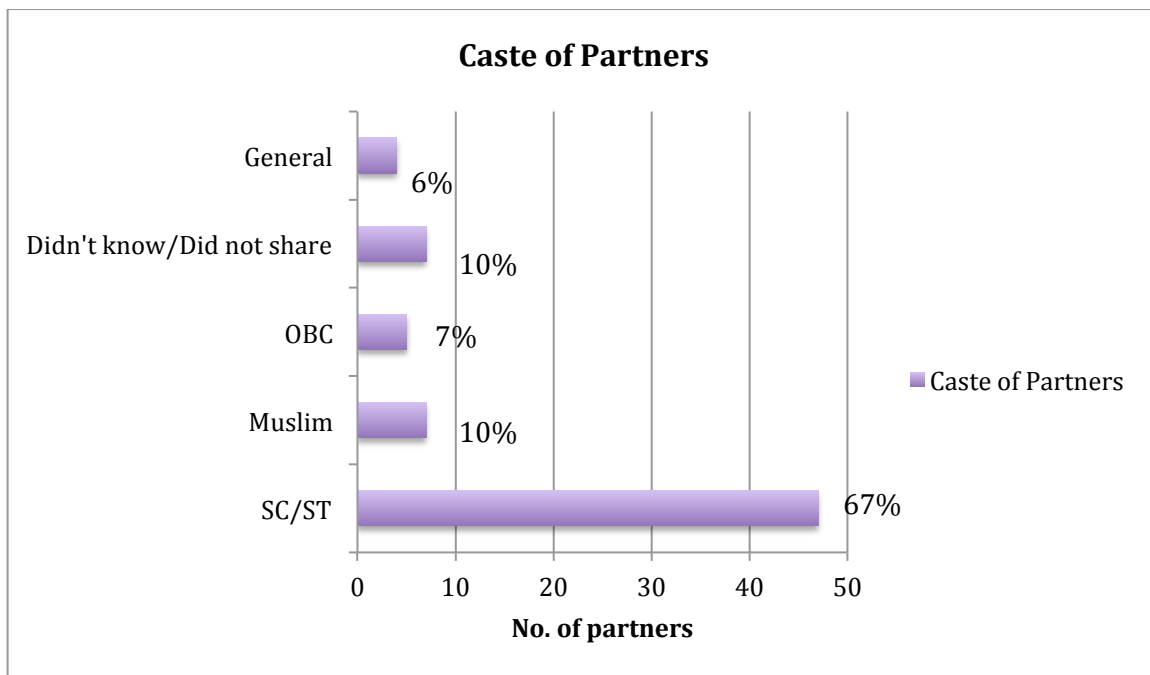
⁹⁵ Herein both POCSO Act 2012, Section 4 and Section 6 and IPC 1860, Section 375 would apply, given majority of *Devadasis* engage in sexual relationships as a child.

I have not got sterilised, if I do that there is no one to care for me. I have to go work. So I refused to get it done. However, I don't want another child. ~ Devadasi, 23 years old, dedicated at age 12 and initiated into sex at 14 years.

Atrocities against Scheduled Caste

The study sample revealed that majority of the men coming to *Devadasis* as partners were from scheduled caste and scheduled tribe background (67%, n=47), and not from the 'upper caste'⁹⁶ (See Figure 2.11). However, the studies conducted a decade ago suggested predominantly involvement of men from 'upper caste' in sexually exploiting *Devadasi* women⁹⁷, which is not observed in this study. This reflects a change in the trend of customers, which may be attributed to the higher earning power and position gained by men from the Scheduled Caste and Scheduled Tribe community, however the position of women remains the same.

Figure 2.11
Caste of Partners



⁹⁶ Implies a non-member of SC/ST community. However the common parlance is to use the term 'upper caste', although it is considered derogatory towards the SC/ST community, implying them to be of lower caste.

⁹⁷ Kumar, Shewli (2008), Dalit women at the intersections: Voices from the margins, *Indian Journal of Social Work*. 69 (2), 159-177. Retrieved in May 2018 from https://www.researchgate.net/publication/298949570_Dalit_Women_at_the_Intersections_Voices_from_the_Margins

The data also reveals that 23 per cent of these men (partners) were either from Muslim, other backward caste or general category, which could be considered as a violation committed by a person not being a member of a Scheduled Caste or Scheduled Tribe community, under Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989⁹⁸. In addition, the women also shared constantly being accosted for sex by men from other caste, which could be booked under the Act as atrocities against Scheduled Caste and Scheduled Tribe community.

Recently I went to borrow money from a man (belonging to Other Backward Caste), he said, "Why Rs. 2000? I will give you Rs.5000, come with me". Even now when I was traveling for this meeting, one man from another caste said, "Looks like Basavis are going somewhere, please give me your number ladies!" ~ Devadasi, 23 years old, dedicated at 16 years and immediately initiated into sex.

Awareness

This section examines the third objective of the study which is to assess the level of understanding among *Devadasis*, communities, social service agencies, law enforcement and functionaries, with regard to legislations and schemes related to dedication, CSA and CSE. Also, it examines if any of the legislations and schemes were applied to benefit the *Devadasis*.

Legislations

Devadasis

Of the 62 *Devadasis* interviewed, only 30 of them (48%) knew of the legislation banning dedication, and the rest had no knowledge. However, they did not know the details about the provisions in the Act, and only knew that it was wrong to dedicate girls as *Devadasi* and that Police would arrest them. The women did not view themselves as victims, nor were they aware that they would not be penalized. They did not know that they could marry, where their marriages would be considered valid as per the KDPD Act. Fifty per cent of those who knew about the legislations learnt about it by attending *Devadasi* meetings and awareness programmes conducted in their villages by Civil Society Organizations. The knowledge of

⁹⁸ Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 3 (k) and (w)

the existence of legislation however, did not result in stopping dedication, as they had never seen the KDPD Act being implemented.

I know that there is a law, which tells dedication is wrong. But I have not seen anyone being jailed for dedicating their daughter. No case has been filed till now. That's why I don't know much about it. ~ Devadasi, 21 years old, dedicated and initiated into sex at 15 years.

The law has come into existence now, and people are scared that they'll be jailed, if they dedicate their daughters. But there are a few people who are doing it [dedicating] very secretly. These people don't care about the law and are very stubborn. ~ Devadasi, 35 years old, dedicated and initiated into sex at 12 years.

All the *Devadasis* interviewed were not aware of the POCSO Act and as a community, they felt if the girl is above 15, she is ready to have children of her own and it is not wrong for her to indulge in sexual relations with men. But they felt that the correct age to get married is 18. There was a clear conflict within them on the right age to get into consensual sexual relations. Also, a vast majority of the *Devadasis* (n=56, 92%) interviewed were employed as children to work in farms, and yet did not know that children are legally not allowed to work, and rather have a right to education. The community would benefit from targeted behaviour change awareness programmes on legislations related to children like on the issues of child sexual abuse, child labour, child marriage, and right to education among others.

Community

In the community, there is a varying degree of awareness about legislations, ranging from knowledge about the existence to complete ignorance, in the sense of not being concerned with the intricacies of the law. The older *Devadasis* denied the existence of this practice. According to them, the last dedication happened five years back and none dedicated their daughters anymore. But the younger generation (adolescent girls and youth groups) accepted that dedication took place even as recent as a year ago. This difference in opinion may be the result of fear among the older *Devadasis* about the legal consequences on them or withdrawal of benefits, in case of continuation of dedication practice in their village. As during the awareness programmes by the DWCD, responsibility is laid on the older *Devadasis* to ensure no further dedication takes place. A positive development was observed with one youth

group, who was successful in putting an end to this practice in their village. It has been nearly twenty years since the last attempt to dedicate a girl was made in the village. They were successful by filing a complaint to the police and a timely intervention of the police aided in stopping the practice. However, it is important to note that a case was not filed by the Police even here, but a mere warning was given to the perpetrators and ensured that the girl was married.

The community is aware that there is a legislation, which criminalizes the act of dedication. They have no further knowledge or information about the provisions of the legislation. They are not aware that the consent of the girl for the dedication is immaterial and opine that it is alright to dedicate a girl, if she concedes. It was understood that the community accepts the practice and in a way perpetuates it.

It is wrong to dedicate daughters, if there are male children in the family. But it is alright, if there is only one girl child in the house or there are only girl children in the family. There has to be someone to take care of the mother, right? Who will take care of her otherwise? ~ Women's group

The community has no knowledge that the act of dedication is a cognizable and non-bailable offence. They do not know that they can approach the District Magistrate instead of the police. A few groups opined that it is sufficient if the information is conveyed to their Panchayat or Councilor (local authorities), and that they have the power to put an end to this practice. The Devadasi Rehabilitation Programme officers of the taluk and district who are also the Devadasi Dedication prohibition officers under the Act are not accessible to the community. They view him only as the person in-charge of the schemes under which the older *Devadasis* avail benefits.

The Community has no knowledge about the POCSO Act. But they feel that eighteen is the right age for youngsters to have sexual relationships. This has been influenced by the awareness created on child marriage, where it is stressed that the girl is to be eighteen and the boy twenty-one to enter into marriage. Most of them stated this to be the correct age to have sexual relationships too. However, they seemed conflicted when they conceded to the ill-effects of sex and pregnancy on girls, prior to 18 years of age.

Social Service Agencies

The NGO staffs were aware of the KDPD Act but not all the provisions under it. They claim that the practice is continuing today and takes place in houses rather than in temples, unlike in the past. It is being done very secretly and no one gets an inkling of this till the girl gets pregnant. The *Devadasi* girls even refrain from wearing the beads till they conceive. According to them, the system of *Devadasi* dedication is seeing a shift today. The reasons for girls getting dedicated today are because girls are having sexual relations with boys and men before they turn 18, resulting in pregnancy and are forced to tie the pearl by their parents and relatives to avoid being shamed by the community. These relationships are not approved by the families as the boys and men are of a different caste. In the study sample, two such cases were identified, were minor daughters of *Devadasis* engaged in consensual sexual relationships and the community thereafter forced their dedication. The other shift in this practice is that girls tie the pearl to enter into prostitution and eke out a living. It is a means of livelihood for them and nothing more. They do not adhere to the ritualistic practices and follow them strictly. They felt that the NGOs have no support as they do not get any aid from the authorities responsible or the community when they try to stop dedication from taking place. They feel that the authorities responsible for eradicating this practice are focusing only on the schemes available for *Devadasis* and are not creating awareness in the community to stop this practice. However, their narratives suggest that they clearly have no understanding of the provisions under KDPD Act or the knowledge of how to use POCSO Act in cases of dedication.

People approach us telling, a dedication is scheduled to take place. They tell that everyone knows about it, such as the local teacher or Taluk official. But they all keep quiet. We don't get proof or even proper information. If everyone knew and no one does anything to stop it, then there is not much we can do... If we try to question, the people become aggressive and accuse us of lying. Then it becomes difficult for us to defend ourselves... All the family members [of the dedicated girl] come together and challenge us. So it is impossible to prevent the dedication, we can only try. We can take support from the police only if the dedication has not happened. If it [dedication] is already done, then the police also interrogate us, instead of talking to the community. ~ NGO staff.

The research team found that an NGO, which is the nodal in-charge of childline, had neither the knowledge of the occurrence of dedication nor experience handling cases of dedication.

The NGOs in general are also not aware of approaching the District Magistrate and getting an injunction to stop the dedication from taking place. They do not approach the police, DDPO or the DWCD, rather take the responsibility on themselves to stop dedication from taking place. Further, they are not able to make the connection that cases of dedication are also cases of child sexual abuse, trafficking and commercial sexual exploitation, which could be covered under the POCSO Act, Juvenile Justice Act and IPC and must look at these cases as child sexual abuse or exploitation.

Law Enforcement Agencies

Majority of the law enforcement personnel were unaware of the continuance of *Devadasi* dedication practice within their jurisdiction, except for one. The response was completely based on the number of cases registered in the past, which was none. Even though on a rare occasion a case has been brought to their attention, the case was not pursued, as no First Information Report (FIR) was registered. They view dedication as a cognizable offence under the KDPD Act, 1982, however not aware of the details about the provisions of the Act. “*I know dedication is still happening within our station limits, in a ward right behind the police station. But no cases have been registered, as the victims are party to it.*” Section 3 of the KDPD Act, 1982 clearly declares *Devadasi* dedication as unlawful irrespective of whether “she has consented to such dedication or not”. Yet, not a single case has been registered in the entire district of Ballari in the past 7 years as per the information received through Right to Information (RTI) Act. Although Section 3B of KDPD Act mandates the State Government to rescue and provide care, protection and rehabilitation to the *Devadasis*, the police insists on receiving a complaint to take action in such cases. The interaction with the police officials at all level (ranging from woman police officer to Superintendent of Police) reflected that they took no suo motu action or any preventive measures to stop dedication. Section 5 of KDPD Act provides for punishment to those performing, permitting, taking part in or abetting in dedication, and yet the law enforcement personnel comes down softly on the family and community, who are often the key perpetrators of this crime.

It was appalling to observe that none of the law enforcement personnel saw an inter linkage between *Devadasi* dedication and child sexual abuse/exploitation⁹⁹. All of them only referred to the KDPD Act 1982 and the Indian Penal Code (IPC), 1860, but not the POCSO Act 2012

⁹⁹ Given the data in our study (Offences – CSA and Trafficking for sexual purposes) as well as previous studies (literature review) have established that a vast majority of dedication of girls occurs as a child, before 18 years.

or ITPA 1956. Sec 19 of POCSO Act 2012 provides for reporting of sexual offences even when there is an “apprehension that an offence under the Act is likely to be committed, or has knowledge that such an offence has been committed”. Thus dedication with the knowledge that the girl will be soon initiated into sex could be considered as an act towards commission of penetrative sexual assault.¹⁰⁰ Any person who is part of the dedication shall be punished with half of the punishment prescribed for the offence.¹⁰¹ The common practice for the dedicated person is to have sexual relationship following the dedication, which may not be limited to one person, the POCSO Act and ITPA also needs to be applied.

Functionaries

The State has adopted denial of existence of *Devadasi* dedication as a strategy to deal with this problem. All the functionaries categorically denied prevalence of dedication within their jurisdiction, except for School Teachers and Anganwadi Workers who conceded to the continuance of the practice on probing further.

We get to know about the dedication within 2 to 3 days of tying the pearl. In the past, we used to get the information before dedication, but these days we do not get to know.... Also, even though the disabled girls are enrolled for the disability scheme, they [family] still tie the pearl and dedicate their disabled daughters. ~ Anganwadi Worker

The KDPD Act enables anyone with information about dedication to approach the District Magistrate, to issue a prohibitory injunction against the persons to restrain from dedication¹⁰², and yet the Teachers and Anganwadi Workers have failed to use this mechanism to stop the practice within their communities. They express feeling helpless, since their advice to the family, and community falls on deaf ears, with some of them even experiencing backlash for having informed the police. “*The police revealed to the family that I (school teacher) was the one to complaint, and the girl’s relatives came to my house to berate me.*” It was very evident that the knowledge about the provisions of KDPD Act 1982 is completely lacking among all the functionaries interviewed, including those concerned with child protection or directly working on prohibition of *Devadasi* dedication.

¹⁰⁰ POCSO Act, 2012, Section 18

¹⁰¹ Punishment for penetrative sexual assault is minimum of seven years imprisonment and extend upto life imprisonment and fine.

¹⁰² KDPD Act, 1982, Section 3A (1) & (2).

One of the child protection official said, “*I will try my level best to counsel the parents*”, when asked how would they handle a case of dedicated child, if it was brought before them in future, which is a clear violation of the KDPD Act¹⁰³. A child residing with a person who has injured, exploited, abused or neglected the child or has violated any law meant for protection of child is a child in need of care and protection¹⁰⁴. In this situation, a child who was in the custody of a parent, guardian or any person who has aided in the dedication process by active involvement or by not taking steps to prevent it will fall in this category. In addition, the dedicated child having sexual contact with any person or is trafficked for sexual purposes, will be a child in need of care and protection¹⁰⁵ and the parent should be booked under abetment of offence under POCSO Act and ITPA¹⁰⁶. The Child Welfare Committee (CWC) is the authority to decide on the care, protection and rehabilitation of such children. A dedicated child should therefore be produced before a CWC for appropriate action, and yet none of these children have ever been produced before the CWC nor are they equipped to deal with children dedicated as *Devadasis*, as children in need of care and protection.

POCSO has not been applied to Devadasi dedication till now. It has been applied only for child marriage cases. ~ Child Protection Official

It will be highly impossible [to view Devadasi dedication as POCSO cases], because if the case is related to POCSO, there is lot of evidence to be gathered related to the case. I cannot connect it to the Devadasi dedication. ~ Child Protection Official

Officials directly responsible for prohibition of dedication are only aware of their role in facilitating access to schemes, that too among older *Devadasis*, and creating awareness in the community not to indulge in dedication. However, Section 3D (4) of KDPD Act clearly states the duties of the Devadasi Dedication Prohibition Officer, which includes preventing dedication, collecting evidence for prosecution, taking action to write Panchanama report at the place of incident and furnish these reports periodically to the State Government, which again was not acknowledged as a duty among officials responsible for prohibition of dedication.

¹⁰³ KDPD Act, 1982, Section 5.

¹⁰⁴ JJ Act, 2015, Section 2(14)(iii)(a)

¹⁰⁵ JJ Act, 2015, Section 2(14)

¹⁰⁶ POCSO Act, 2012, Sec 16 and ITPA, 1956, Sec 4 & 9

Rehabilitation Schemes

The Karnataka State Women's Development Corporation is responsible to provide rehabilitation and pension schemes to *Devadasis*. However, information sought under RTI from the department regarding the number of *Devadasis* availing benefits under the schemes in the last five years yielded no response. The interviews with *Devadasis* in the field revealed that they had knowledge of the schemes available for their benefit - 35.5 per cent (n= 22) of them knew about all the schemes available like Pension, Housing and Loan, 45 per cent (n=28) had knowledge of pension only and 13 per cent (n=8) of them had no knowledge of the schemes at all, with 6.5 per cent (n=4) of them choosing not to respond. Even though 80.5 per cent (n=50) of them knew of one or the other scheme available for them, only 4 per cent (n=2) of them were availing benefits. Both the women were getting the *Devadasi* Pension and one of them had gotten a loan once. This goes on to show the lack of implementation of the schemes even though the knowledge is there among the *Devadasis*. A lot of the women who are aware of the schemes have tried to get their name included in the survey list in order to avail pension. They have even bribed the middle-men in the hope of getting the benefits. But most of them have not followed up on the status and a few of them were dissuaded from following up by instilling fear in them that they were too young to be getting pension and if they pushed through, they would be jailed as they were dedicated recently. The two women who were getting pension shared that the amount they receive is very irregular and insufficient.

The community is also aware of the schemes available for *Devadasis*. They are aware of the documents required to avail the schemes like requirement of age-proof, ID proof etc. They are mostly aware of the pension scheme and the presence of middlemen to facilitate this process. They know that *Devadasi* women below the age of 35 are not availing pension and most of them feel that they need pension as they have to take care of their children without support from their partners. Even though the community is aware of the schemes available to the *Devadasis*, they do not help them to avail the benefit under the schemes, due to fear of being identified as a locality where *Devadasi* dedication persists and repercussion from the law enforcement agencies for permitting dedication within their village.

For the law enforcement personnel, availing of schemes that benefit *Devadasis* is often tied to registration of FIR, especially for those dedicated recently and not above 45 years of age. They feel the District Collector's office can provide immediate relief to these women but

subject to FIR, which is not mentioned anywhere in the Act. They acknowledge that many women are not getting these rehabilitation benefits but feel helpless, since they cannot give out schemes being the “*watch dogs between the government and public*”.

As for the functionaries they are aware of the fact that many women are neither benefiting from the scheme nor enrolled in the survey list, due to the age factor. There is a clear understanding among all that the benefits are only for women above 45 years of age.

The Act [KDPD] came into effect in 1983. When a survey was conducted by the government in 2007 [to assess the number of Devadasis in Karnataka], only those above 45 years were identified as Devadasis. Any dedication after 1983 is considered illegal and no compensation should be given to them. ~ Child Protection Official

Although Section 3B of KDPD Act qualifies every *Devadasi* to receive rehabilitation, the officials working on prohibition of dedication says, “*We rehabilitate only those who are in the survey list.*” A clear dereliction of their duty in providing rehabilitation or access to schemes is observed in their response. Those who have been dedicated as *Devadasis* are not obtaining any compensation from Karnataka State Legal Services Authority¹⁰⁷ under the Karnataka Victim Compensation Scheme. *Devadasis* are eligible to obtain compensation of Rs. 3 lakhs or Rs. 1.5 lakhs under the heads Rape of minor and minor respectively as specified in the schedule to the Karnataka Victim Compensation Scheme, which was revised in 2013. Non-reporting of cases lead to *Devadasis* not being able to avail compensation, as it is necessary for the case to be in trial or the victim to be identified.

¹⁰⁷ Through RTI dated February 24, 2018

ISSUES AND CHALLENGES

Some of the issues and challenges identified by different key stakeholders, as well as from the analysis of the limited judgments available on the issue, are presented below. These are the reasons for the continuance of the offence and non-reporting of cases.

Society's acceptance – The communities participated in the study are very protective about their girl children and do not want them to engage in sex or be sexually abused, but *Devadasi* dedication and the resulting sexual abuse of girl children is accepted and celebrated. Even the older *Devadasis* Sangha, consisting of women aged over 50 years and benefiting from Devadasi Rehabilitation Programmes, do not proactively report these cases and stop dedication from perpetuating among the next generation. The number of dedication cases being reported is almost none, due to fear among people to face backlash from the community, and the lack of knowledge or awareness on law. When people have attempted to report, they have had to face negative reactions from the community. The major challenge for the youth and adolescent girls groups is the support they lack from their families and community when they express willingness to report dedication.

Our families don't let us report telling we are being nosy and interfering in the personal matters of others. The girl's family also asks us questions like, 'will you earn instead of my daughter'. It becomes difficult for us to convince them. ~ Kishori Group

We don't report because we are scared our identity will be revealed. The girl's family will attack us if we report. ~ Youth group

The community does not support us and the officials also don't interfere because it is a matter of the temple. Both of them work with each other. There is no use of us approaching the officials. To whom do we report when the officials are not listening and how do we report when the community stands against us strongly? There have been instances of the community turning violent with us in front of the officials only and still they did nothing to defend us. These are small communities. Informants to the police are worried about the threats they have for their lives. If not their life then their family will be at risk. That is the reason most of them do not report cases to the police. ~ NGO

Ineffective awareness programmes - The awareness programmes are not accounting for the problem specific to the geographical area, although prevalence of dedication is high among Scheduled caste, the departments (both legal services authority and women and child development) are not prioritizing raising awareness on the same in those localities. Moreover, these awareness programmes are failing to bring any behavioral change in the community, as well as creating knowledge about the legislations that considers dedication as a cognizable and non-bailable offence, like child marriage. When a dedication occurs the society is accepting of the act, and justifies it as lack of option on the part of the family that dedicated their daughter, rather than reporting these incidence. Also, very little work has been done in the area of creating awareness on the rights of *Devadasis* and children born to them. Most *Devadasis* are unaware of the fact that the father of the child has a duty to provide maintenance for the child, and struggle to raise children without any support.

Lack of police action – Initiation of prosecution is always a problem in cases of offences that receive social sanctity from the community, and external agencies such as law enforcement officials will always find it difficult to address it. The police have a duty to investigate into matters that can be prevented through legislations and also to record any information that is received by them. However, the study reveals that police are not taking suo motu action in cases of *Devadasi* dedication, and also not registering the cases that have come to them, due to pressure from the community. “*One case went to the police station, but no action was taken*”. The rise in dedication among families where the practice is not common (34%) makes it a good reason to strengthen prosecution. Also, they are unable to make the link between cases of dedication and child sexual abuse and exploitation, and view them as different problems, apart from not knowing the relevant legislations to be applied. In addition, people are afraid of engaging with police, due to fear of being dragged into criminal cases indefinitely. This may be resulting from the challenge in gathering evidence in such cases, along with not receiving prompt support from hospitals, and forensic labs during investigation process.

Non-cooperative victims – The biggest challenge identified by law enforcement officials in dedication cases is the involvement of family in the exploitation, and the non-willingness of the victims to report against their parents or relatives. Even on rare occasions when police have conducted investigation based on anonymous information received from community, when the ‘dedicated’ girl denies of any such occurrence fearing maligning family name/

illiteracy/ poverty, they feel inept to register a case and conduct investigation. They also fear that even if they proceed with registering the case, it will yield no results in the trial, as the likelihood of victim turning hostile is high.

Apathy of functionaries – The functionaries are unaware of their roles, responsibilities and powers to address cases of dedication, and sometimes even unwilling due to fear. For instance, Anganwadi workers are responsible for empowering adolescent girls under Kishori Shakti Yojana, yet they do not see the need to report cases of adolescent girls getting dedicated or pregnant, nor equipping them with the skills to fight against such practices. Officials are comfortable with providing awareness, but not taking prompt actions. *“If I am told that Devadasi practice exists in a locality, I do not have the right to tell the people to discontinue it [being a Devadasi] or stop proceeding with it”*. Functionaries’ callous approach towards dedication practice, and misrepresentation of records, reflecting all children to be in school while they are engaged in child labour, encourages the community to continue such evils despite strong legislations meant to protect children from abuses. The child protection officials view *Devadasi* dedication as women’s issue, instead of child rights concern. Also, similar to law enforcement, they are unable to make the link between dedication and child sexual abuse. Even the officials working specifically on *Devadasi* rehabilitation, wish to engage themselves only with providing benefits from schemes for the older women, rather than addressing why young girls are still being dedicated and taking action against the perpetrators.

Inadequate preventive measures – There are no special privileges provided for girl children of *Devadasis*, in terms of scholarships for education or assistance with employment. Also, the police in areas prone to dedicate girl children as *Devadasis*, are not taking any preventive measures to address the phenomenon, especially given 66 per cent of the girls in the sample came from *Devadasi* families.

Lack of coordination – The issue of dedication is a long-standing social problem that needs different stakeholders to come together, but currently it is only the *Devadasi* Rehabilitation programme that works on the issue, that too partially. Although the district legal services authority are engaged in providing regular legal awareness to communities, they do not involve the police, DRP, CWC, and CDPO to address dedication in areas vulnerable to this practice. Similarly, the police needs to involve CWC and NGOs working on *Devadasi* issues

to strengthen prosecution, instead of dealing with the community on their own, which has resulted in lack of cases filed.

Benefits not reaching – Although KDPD Act provides for rehabilitation benefits to all *Devadasis*, the scheme per say is limited only to women above 45 years of age, assuming no dedication has happened since the promulgation of the Act in 1982. The women have to take care of their families, which include parents, siblings and sometimes even relatives, along with their children, with little or no economic support from anyone. Managing to run the house and ensuring food itself is a challenge, where meeting health care expenses becomes an additional burden to handle. In such situations not receiving benefits due to age factor, having to bribe authorities to get their name enrolled in the Survey list, to avail benefits is a hardship. The need for support is pivotal for young *Devadasi* women, especially with old and incapable parents, young children to care for, and siblings to marry off, and no education nor skill to find a decent job. In addition, they do not have proper documentation to prove they have been dedicated or the ID proof required to obtain benefits available for those belonging to economic weaker sections or backward communities.

We have asked the councillor and other officials to help us with the benefits and they say they will do and go away but nothing happens. Nobody [anganawadi workers who are supposed to enrol names in the list] has assisted us. They eat all the money (around 15000 to 20000) and do not give anything to poor people like us. We have gone to the municipality office multiple times. No one told us anything there. ~ Devadasi, 20 years old, dedicated at age 5 and initiated into sex at 12 years.

I have gone to meet the DRP Taluk Officer and had given my name. But when I went to the DC's office, they told my name is not there in the list. They chased me away telling I am young and that I should not be doing all this [dedicating]. I don't have proof to show that I am a Devadasi. ~ Devadasi, 23 years old, dedicated at age 14 and immediately initiated into sex.

I tried getting a salaried job and searched everywhere. But I didn't get a job anywhere. ~ Devadasi, 22 years old, dedicated at age 12 and initiated into sex at 14 years.

Discreet nature of offence – Although everyone agrees that the preponderance of girls getting dedicated is not as much as it used to be a decade ago, the phenomenon has not completely stopped, which is reflected in the number of cases of dedication and sexual abuse identified post POCSO Act in the study sample. The discreet nature of the phenomenon being practiced in the current times, with the absence of ceremonies and celebrations in the community, along with the absence of the role of temple priests in dedication, leaves the community itself in for a surprise until post the event, when the girl gets pregnant. So this information reaching the civil society organizations, functionaries or law enforcement is difficult, unless they consciously make an attempt to identify.

Misconceptions – There exists certain myths among the functionaries about *Devadasi* dedication persisting due to the benefits provided by government, that girls are pretending to be *Devadasis* for the sake of availing benefits, and that regular survey to examine the number of *Devadasis* will only lead to continuation of dedication for the sake of facilities. These beliefs among the officials who are meant to assist the *Devadasis*, will only result in them reflecting negative attitude and behaviour towards all who genuinely need their assistance.

Poor implementation of legislations – There are several provisions under different laws that would be relevant in a case of dedication of a girl. However, examination of the few judgments show that the police either register the cases as POCSO cases or ITPA cases and conveniently avoid including the fact that the girl is a *Devadasi*. Although certain castes are more vulnerable to dedication, the KDPD Act does not specifically mention about the targeted intervention that could be made to prevent dedication in this population. Marriage of *Devadasi* is legitimised in law but totally absent in the study sample. The nature of this offence being sexual assault of children must have mandatory reporting provisions, similar to POCSO Act, where the general public must be mandated to approach the law enforcement and support them.

Access to justice - It is very difficult for the community to access police stations and authorities, even when they wish to report dedication. The villages are far away from the taluk and district headquarters where the police stations are situated. There are no means of transport for them to get to these places. The Police who spoke to us gave information on the availability of beat police who are responsible to visit all villages but this information is not made available within the community. It is not known if they are visiting the villages regularly because if they were then it could be inferred that they knew of the prevalence of

the practice but they blatantly deny that dedication takes place. The Special Juvenile Police Unit which is meant to exclusively engage with children, in crimes against children is not functional.

Failure to recognize at the national level - Although a regional problem, it is widely prevalent in North Karnataka, as it receives social and cultural sanction, carefully protected and done under wraps, despite the legal mandate to prevent. The active practice of dedication is done only in few Southern states but consequences contribute to national problem of sexual exploitation of children. The JJ Act fails to recognize these children rescued as a category that needs full attention. Several children are unable to find a way to get out of the vicious cycle and seek protection from the State.

RECOMMENDATIONS AND CONCLUSION

Although the Indian legal framework appears to be robust, a close examination would show that it is not. Despite having sufficient evidence of prevalence of the practice of dedication and its link to sexual exploitation, recent legislations such as POCSO Act 2012, and JJ Act 2015 have not made any reference to dedication, as a form of sexual exploitation of children. Unless they are explicitly mentioned, police or the Judiciary does not take note of the fact. It is important to recognise that a combination of several of these legislations make *Devadasi* dedication a far more serious offence and the punishment would also be severe, to ensure a holistic response to the dedicated child from the legal system.

Police

- Police can take *suo motu* action against a person when there is a complaint or reliable information. However, when an offence such as dedication is propagated by the community and closely guarded, the information may not come out in the open. Thus, the police have to proactively engage with vulnerable communities and act on the information at hand.
- Prosecution of perpetrators in dedication cases is a must to send a strong message to the community, especially against persons who initiate dedication such as men from SC/ST and non SC/SCT community and local leaders, men who have sexual relations with *Devadasi* girls, and also the families. Strict enforcement of the law is a must. Thus, filling FIRs and registering the cases under KDPD Act 1982, POCSO Act 2012 and ITPA 1956 become imperative.
- Dedication cases must come under the purview of IPC and ITPA even after the girl/woman is dedicated and initiated into sex, to acknowledge the continuous sexual violence perpetrated against this population and provide rescue and rehabilitation services entitled to victims of trafficking.
- Children dedicated as *Devadasis* must be immediately rescued and moved to a safe space, due to the involvement of family as perpetrators of this crime, and provided counseling, care, and protection, and special assistance for children with disabilities.
- Trainings to police to comprehend the interlinkage between various child rights violations in *Devadasi* dedication. For instance, when a girl has eloped with a boy to avoid dedication by her *Devadasi* mother, booking a case not only under POCSO

(registered case in Ballari) but also under KDPD Act. Similarly, when a dedication case is registered under KDPD Act, applying relevant sections under POCSO and ITPA is warranted.

Department of Women and Child Development

- Denial of the existence of *Devadasi* dedication practice is not a solution to this menace. The department must engage in periodical survey, to better understand the prevalence and trend in this form of exploitation of women, and provide rehabilitation to those affected. The staff concerned with *Devadasi* prohibition/rehabilitation and Child Protection must be sensitised to the realities of *Devadasi* dedication, the causal factors, the laws available to prevent and protect the victims, and the schemes for rehabilitation.
- The change in trend, of men initiating *Devadasis* into sex or those who continue to be their customers or partners belonging to SC/ST community indicates that this is no longer subjugation of a particular caste rather violence against women, irrespective of the caste. Programmes must be initiated to raise the status of girls and women in these societies, especially from poor socioeconomic and cultural background.
- Gainful employment options must be made available for younger *Devadasis* women through vocational training programmes, as this is viewed as better than providing pension scheme, which is not a substantial amount for them to support their child care expenses.
- Anganwadi workers who are engaging with adolescent girls through Kishori Shakti Yojana must be trained to identify, monitor and empower vulnerable girls and school dropouts who are likely to be dedicated in communities where dedication is prevalent. Also, in case of occurrence of dedication, they must be empowered to report such incidences.
- Girl children of *Devadasi* women must be identified and provided scholarships until they turn 18 years of age through Integrated Child Protection Scheme, to prevent their entry into *Devadasi* system. These scholarship programmes must include monitoring the children through periodic home investigations, ensuring they are not married or sent to work or abused, and the amount must be used towards education and development of the child.

- Devadasi Dedication Prohibition Officer must map the locations within the district that are prone to various child rights violations, such as *Devadasi* dedication, child marriage, and child labour among others, and provide targeted behavior modification awareness programmes to such communities and keep a close vigil to identify cases of dedication.
- Devadasi Rehabilitation Project offices in the vulnerable districts must proactively rescue the dedicated child, register the case, ensure compensation is provided and follow up mechanisms are in place to prevent dedication in *Devadasi* families, and take action against perpetrators on receiving information about potential or already dedicated cases. Also, advocate and ensure rehabilitation and pension schemes are provided to *Devadasis* below 45 years.
- Child protection officials such as CWC, DCPO, DCPO, and community leaders groups such as youth groups, School Development and Monitoring Committees (SDMCs), mother's groups, Village Child Protection Committees, Panchayat members, and Zilla Committees, must be capacitated to see the interlinkage between various child rights violations (dedication and CSA/CSE). They should be oriented to the prevailing child rights issues specific to their geographic location. They should be provided trainings to better understand their roles, functions, and power, and reporting mechanisms within the context of *Devadasi* dedication cases.
- Training must be given to Childline and the other reporting agencies/functionaries on how to handle cases of dedication, so that they can take up such cases proactively, and understand the interlinkage between cases of dedication and CSA/CSEC.

Legal Services Authority

- District legal services authority must prioritize legal awareness programmes on *Devadasi* dedication Act, apart from child labour and child marriage, especially in areas vulnerable to this practice (Scheduled Caste and Scheduled Tribes localities). Paralegal volunteers could assist with conducting these programmes in communities and identifying at risk population or victims.
- These awareness programmes must be aimed at targeted behavior modification (to acknowledge dedication as an offence, repercussions on the girls, report offences, understand the linkage between CSA and dedication) among the community, especially youth groups, women's self help groups, Kishori group, and Panchayat

members, and civil society organizations, and assess the impact of these programmes in a systematic manner. These programmes must be conducted when the community is in the village, during evenings, or festive occasions, to ensure maximum reach of information to the population.

- Community must be made aware of multiple reporting mechanisms, such as approaching the Childline, or District Magistrate, when police do not take up the case. Also, the District Legal Services Authority could be approached, where the empanelled lawyers could assist with registering the case.
- The legal services authority must ensure victims of *Devadasi* dedication get compensation under the Karnataka Victim Compensation Scheme, as they are eligible to get compensation of Rs. 3 lakhs and Rs.1.5 lakhs under the Rape of Minor and Minor respectively.

Department of Education

- Enrolment drives should be conducted to ensure all children are in school, and to prevent children from being pushed into child labour, child marriage, or dedicated as *Devadasis*.
- Empower and train government schoolteachers to identify cases of child rights violations, such as dedication, CSA, CSE, child marriage, child labour, and report these to appropriate authorities, thus activating the system to take action.
- Stress should be laid on adult education. It should be facilitated at a time and place convenient to them. This is a way to ensure communities do not give in to superstitious beliefs. This will also open up their minds to the options children have and realise that dedicating girls is not the only option to ensure girl children remain in their maternal families.

District Magistrates

- Map the vulnerable locations within the districts that are prone to child rights violations such as dedication, CSA, CSE, child labour and child marriage.
- Proactively engage with communities that are at risk to these child rights issues with assistance from civil society organizations, issue prohibitory injunctions in locations where dedication is prevalent, identify cases that needs to be rescued, and recommend for rehabilitation and compensation to those who are already dedicated.

Law Reform

KDPD Act, 1982

The State of Karnataka should draft the state rules and make the following amendments to the KDPD Act, following the legislations from other states.

- Definition of dedication must be broadened to include specific situations as aggravated situations and prescribe higher punishments. Dedicated for the purpose of initiation into sex and dedication based on request of a person or pressure from community should be identified as aggravated situations. Similarly those engaging or abetting in initiation of dedicated minor girls into sex must be treated as the perpetrators of sexual crimes would be under the POCSO Act.
- In addition to the existing offences, propagation or celebration of *Devadasi* dedication should also be recognised as an offence, like in the Commission of Sati (Prevention) Act 1987.
- Repeal explanation to Section 5, which states that the person includes “the woman in respect of whom such ceremony or act is performed”. Instead, explicitly exempt dedicated woman from any punishment, similar to AP legislation.
- Introduce provisions for mandatory reporting of cases of *Devadasi* dedication.
- Introduce provisions for mandatory recording of cases by police. Failure to record information regarding a likelihood of dedication or a case of dedication must be made punishable.
- Responsibility must be placed on the police to increase registration of cases of dedication by giving them powers to take suo motu action.
- Dedications have been happening in specific temples (Huligamma temple, Eeranna temple and Hanumantharaya temple in Hospete, Yellamma in Saundatti) near the pond, within rooms around the temple, as seen in the data acquired from the interviews. Government officials must take specific action to identify such places and target prevention measures.
- The powers to issue prohibitory injunction should also be given to Judicial Magistrate of First Class in addition to District and Executive Magistrates. NGOs, Self Help Groups, Anganwadi Staff and paralegal volunteers should be specifically trained to identify potential cases of dedication to take it before the Magistrates for injunction.

- Recognise cohabitation of man and woman as husband and wife for a reasonable period of time as a legal and valid marriage and ensure that rights emanating from a marriage are available to *Devadasis*.
- Recognise right to inheritance and maintenance of dedicated women and their children to the father's property.
- Recognise education to children of *Devadasi* women, economic support to the dedicated women, and allow inter-caste marriages.
- The Karnataka Devadasi Act must provide protection of identity for the victims, describe how rescue, compensation or rehabilitation must be provided, and increase the punishment for the perpetrators. Separate reference could be made to cover sections under JJ Act or POCSO, when cases of children dedicated as *Devadasi* comes to light.
- The Karnataka Devadasi Act must mention about the purposes for which a *Devadasi* is used and recognize the impact of the same on the girl dedicated. The KDPD Act should recognize situations where girls are trafficked or involved in sexual acts to be an aggravated case under the Act.

Indian Penal Code, 1860

- Dedication should be part of the Explanation I of Section 370 of IPC. Explanation of exploitation should also include dedication as a form of exploitation in order to ensure applicability of the provision to dedication cases.
- Dedication with a purpose to exploit an individual must be interpreted as an act of recruitment under trafficking.

Juvenile Justice Act 2015

- A dedicated child should be explicitly included in the definition of child in need of care and protection under Section 2(14), similar to Goa Children's Act 2003 under Section 2 (i) (iv).

Immoral Traffic Prevention Act 1956

- The ITPA is the most important legislation at present in this area. This Act is limited to trafficking for sex only and yet does not delve into reasons that may lead to dedication.

Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018

- Dedication of persons for the purpose of commercial sexual exploitation should be considered as an offence under trafficking of persons, similar to the Palermo Protocol

where movement/transfer of the individual is not mandatory for the act to fall in the definition of trafficking.

Multi Agency Approach

- Multi-agency intervention is imperative to prevent and address the prevalence of *Devadasi* dedication. Key stakeholders such as police, DWCD, NGOs, Panchayat, and victims must work together to ensure smooth and child friendly access to justice for these children.
- All the key stakeholders from different departments must have a platform to come together in a systematic manner to take action, and stop the dedication of *Devadasis*.

Community Vigilante

- The SDMCs in each government school must proactively monitor the situation of children dropping out of school and ensure they are brought back to school and not put to work in fields or other sectors, dedicated as *Devadasis*, or given away in marriage.
- Youth groups, Panchayat members, Kishori group and women's self help groups must be vigilant about the continuance of *Devadasi* dedication practice. They should adopt a zero tolerance approach to child rights violations and immediately report occurrence of *Devadasi* dedication, child marriage or child sexual abuse. These groups must be provided necessary support and a sense of assurance and security by enforcement officials and functionaries to approach them directly.
- There has to be close coordination between the community members, especially youth and adolescent girls groups and police officials, to ensure information reaches the authority immediately and there is support for the police from within the community to take action against perpetrators.
- Young girls who have been dedicated as *Devadasis* should be identified and their groups should be formed. They should be given trainings and encouraged to stop dedication from taking place in their villages.
- Unless every person in the community decides not to be a bystander, but proactively engage in stopping this form of exploitation, the practice would continue to exist.