



# REVIEW OF LAWS PROVIDING FOR **CHEMICAL CASTRATION** IN CRIMINAL JUSTICE

## **Review of Laws Providing for Chemical Castration in Criminal Justice**

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## Introduction

Ministries and State Institutions in Jokowi government proposed a draft of Government Regulation in lieu of Law (PERPPU) to adopt chemical castration for perpetrators of child sexual crime. This proposal creates pros and cons among stakeholders including those legal experts, medics and human rights activists.

The Government seems to have in-agreement attitude to provide additional sanction for criminals of child sexual crime through chemical castration. If heavier penal is being executed, then there will be contradictory to prevailing principles of penal judgments to the perpetrators, and also in contradiction to types of criminal sanctions in Indonesian Penal Code (KUHP). KUHP only acknowledges primary sanction and additional sanction which is no mention of providing chemical castration, a corporal punishment or punishment to the body, in these two-type sanctions.

To Institute for Criminal Justice Reform (ICJR), particularly to Alliance 99, a network of hundreds of civil society non-government organizations in Indonesia who concern to child victims of child sexual abuse, the government proposal on chemical castration definitely would be strictly declined. The discourse of PERPPU on chemical castration for perpetrators of child sexual crime is a step which is no longer loyal to the idea of democratic criminal law and human rights oriented in criminal law reform.

This government effort is deemed to be “revenge” effort in the name of victim interest which provides heavier burden in criminal sanctions to perpetrators rather than thinks of criminal prevention to sexual crimes and right-to-remedy to victims.

Providing chemical castration is not a fair way-out to victims and there are no significant relations between chemical castration and the reduced numbers of child sexual offences, there is no science effect, that victims will be recovered by providing additional sanction of chemical castration to the perpetrators. Government has been lulled by chemical castration, that it could be a “magic” solution to provide criminal sanction to perpetrators of sexual offences in the future.

For that reason, therefore, ICJR take initiative to conduct research on comparison in some countries that have prevailing national laws on chemical castration. It is significant to be conducted so that Indonesia will not take wrongfully acts in creating and implementing such policy.

## Institute for Criminal Justice Reform (ICJR)

### 99 Alliance

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## A. Executive Summary

1. This research note provides an overview of the *laws* that regulate the use of “chemical castration” by institutions that form part of the criminal justice system in response to convictions for certain types of (sex) offences. Chemical castration (“CC”) in this research note means the use, in that context, of any drug or type of drug that has an “anti-libidinal” or “anti-androgen” effect.
2. Such laws exist in a not insignificant number of jurisdictions. In some jurisdictions, notably California and Florida, CC is a distinct sentencing option that may, and in some circumstances must, be imposed by the court. When CC is formulated in a law as a distinct sentencing option, it tends to be viewed as a form of punishment and as punitive in nature, as well as serving to protect the community. In other jurisdictions, notably Australia, CC is not a distinct sentencing option. Instead, the law is formulated such that CC may be included, implicitly or explicitly, in a sentencing order made by the court. For example, the court may make CC a *condition* of a supervision order. Alternatively, the court may allow the corrective services department or agency to determine whether CC should be considered and administered. When CC is included in the law in this manner, it tends to be viewed as a form of treatment and rehabilitation, as well as serving to protect the community.
3. The precise structure or formulation of laws that provide for CC differ in important ways in each jurisdiction. The following three alternatives are of some use in categorising these laws. First, the administration of CC as a form of treatment may be “voluntary” in the sense that CC will only be considered, and is only lawful, if a person is convicted of certain types of offences and *consents* to such treatment. This is reportedly the case in a number of jurisdictions, including England and Denmark. Secondly, a law relating to CC may be “discretionary”. Chemical castration may be a sentencing option that a court *may* impose if a person has been convicted of a certain offence, along with any other sentence (such as imprisonment). But the court does not have to impose it. If the Court does impose it as a sentence, then the sentenced person is required to undergo the treatment. Thirdly and finally, a law may be “mandatory”. If a person is convicted of certain types of offences, then the court *must* impose the sentence of CC (as well as any other sentence, such as imprisonment). Typically, laws that provide that a sentence involving CC is *mandatory* are applicable when an offender *re-offends*.
4. In US jurisdictions, the CC process is usually required to be commenced shortly before release from prison. Chemical castration treatment may continue after release for the period nominated by the court. If a person’s consent is required for CC, but early release or parole depends on that treatment, then this raises doubt about whether consent may properly be described as voluntary.
5. Most laws that provide that CC may or must be imposed for serious sex offences do so for offences committed against children. However, some jurisdictions have enacted laws that allow or require a sentence of CC in relation to serious sex offences that are not committed against children. Care must be taken in considering whether the *types* of offences for which CC may be imposed – for example, rape – are equal, analogous or at least comparable in substance across jurisdictions.

6. Some jurisdictions, notably California, prescribe the drug that is to be used in the CC process in the law itself. California's laws prescribe the drug medroxyprogesterone acetate (MPA), commonly known by the brand name Depo-Provera. Other drugs that are used in the CC process include Cyproterone acetate (CPA), commonly known as Androcur; and selective serotonin reuptake inhibitors (SSRIs). Chemical castration using these drugs is usually described as being "reversible" (once treatment is ceased).
7. The researcher focused on the *laws* relating to CC. A particularly significant avenue of enquiry was the question why certain jurisdictions introduced new laws providing for CC in the period of the last twenty years. Many legislators claimed that CC would significantly reduce rates of recidivism. Thus, the reason for such laws, according to these legislators, is the (better) protection of the community. Sometimes, CC laws are considered or introduced in response to a particular crime; and in response to public pressure (whether real or perceived) related to that crime. Some legislators also seem to feel that, if such laws exist in another jurisdiction, then such laws are also needed in that legislator's jurisdiction. Some experts point to other factors, such as a general public outrage and sense of vulnerability about the prevalence of offences committed against children; and the fact that prisons are overcrowded and that CC may be an effective and cheaper alternative.
8. There are controversies and ongoing debates about the use of chemical castration in criminal justice. One such controversy is whether CC is "effective". Those who are in favour often argue that CC *reduces recidivism* (works to prevent people from re-offending). Those who are opposed argue that this is not the case. Alternatively, they argue that there is conflicting evidence or not enough evidence to be sure whether and how recidivism is reduced; and whether and how CC may act as a *deterrent* (stops *others* from offending). Some experts suggest that CC *may* reduce recidivism but only when:
  - Used in relation to a small and specific subset of sex offenders (which must be identified); and
  - Used in certain specific circumstances (relevant factors may include the willingness or consent of the person being treated); and
  - The use is "appropriate"; or it is used for "appropriate" persons (relevant factors to determine appropriateness are not always clear and will vary, but a critical factor is the health of the person being treated and the likely health implications of treatment); and
  - Used in conjunction with other measures; and
  - The treatment can be properly administered and monitored.
9. Ultimately, the questions whether CC is "effective" is *not* within the scope of this research note and the researcher is not in a position to express a conclusion or final opinion about "effectiveness" (however defined).
10. Other controversies include: ethical considerations for the legal profession and the medical profession; human rights issues and constitutional rights implications; how to determine whether a person is an "appropriate" person to receive treatment; and practical considerations such as the proper administration of the drugs by properly qualified health professionals and ongoing monitoring. In relation to many of these issues there does not appear to be a consensus; and little or

no systematic research, data or evidence. In the limited public debate about this issue, reference is only very rarely made to current or recent studies and scientific literature regarding CC.

11. Anecdotal evidence indicates that setting up and maintaining a properly administered CC treatment system is resource intensive and expensive. There are also some indications that, even in jurisdictions which provide for mandatory CC sentences in some circumstances, the *enforcement* of such sentences is not systematic and may be problematic.
12. The overview of laws in this research note is not exhaustive. However, it is sufficiently comprehensive to allow for tentative observations about trends in the law and policy relating to CC. Over the last twenty years, it appears that an increasing number of jurisdictions have either introduced or strengthened laws that provide for CC. This development seems to have been driven mainly by two, sometimes interrelated, factors. The first factor is that one jurisdiction has introduced such laws, and then jurisdictions nearby have decided also to introduce such laws. This appears to have been the case in the US. California introduced CC as a distinct sentence in the mid-1990s; and in the following years a number of other states adopted very similar laws. The second factor is real or perceived public pressure, felt by a government, often in response to a particular crime or series of crimes, to introduce “tougher” laws, such as a sentence involving CC. Laws introduced in Poland around 2010 are an example of this.
13. Laws that were introduced in this manner tend to provide for CC as a “mandatory” or “discretionary” sentence. Still, only a few jurisdictions currently provide for mandatory CC sentences. Similarly, only a few jurisdictions provide that CC is a discretionary sentencing option, which, once made, must be complied with by the person that is sentenced. It is in relation to such sentencing regimes that the greatest controversy exists.
14. On the other hand, it is not uncommon that the law is formulated such that a sentencing order made by the court may include, implicitly or explicitly, an order relating to chemical castration. Currently in Australia, such a sentencing order appears to be made exclusively (or almost exclusively) on the basis that the person to be treated consents to the treatment. Voluntary treatment programs which may involve some form of CC treatment are relatively common in Europe and elsewhere. In such programs, a person participates voluntarily and is subject to an assessment to determine the appropriateness of CC treatment.

## B. Introduction

15. This research note reviews the laws that provide for the use of chemical castration (also referred to by the abbreviation “CC”) by institutions that form part of the criminal justice system in response to a conviction for particular types of crimes in different jurisdictions. Its aim is to provide an overview of such laws. It is not exhaustive.
16. The content of the research note is set out in the following table of contents.

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### Scope of this research note: the research brief

17. The research note considers the following questions.
- Which jurisdictions make provision for forms of chemical castration (CC) of convicted persons (criminal offenders) in their criminal laws or in their criminal justice system?
  - How are these laws formulated?
  - Why have such laws been adopted? (Or why have certain jurisdictions considered but decided not to adopt such laws.)
18. Particular emphasis is placed on the last point: what are the reasons or justifications for, or policy goals of, the introduction of such laws?

### Focus on the law

19. This paper focuses on the *law* relating to CC in criminal justice. The paper does not directly address whether and how CC is “effective” in the scientific, clinical or criminological sense. The researcher is not in a position to properly consider this issue. Of course, various sources that were reviewed in the compilation of this report refer to literature and studies of psychiatrists, psychologists, criminologists and other experts about the “effectiveness” of CC. These are referred to in this research note to the extent that they are used by others to justify or explain the law.

### Literature about the “effectiveness” and “appropriateness” of the use of CC

20. Those who are in favour of laws allowing CC or making CC mandatory in certain circumstances typically argue that it is effective in the sense that it reduces recidivism. Those opposed to CC typically argue there is insufficient evidence to be sure of its effectiveness; and that it is not



effective for some offenders and when not used properly. These arguments are set out in Gimino's article (in favour of California's laws making CC mandatory in some cases);<sup>1</sup> and in Spalding's article (opposed to Florida's laws, which are quite similar to those of California).<sup>2</sup> The relevant entry in *International Handbook of Penology and Criminal Justice*<sup>3</sup> summarised the point as follows:

"The evidence supporting the effectiveness of chemical castration is as mixed as the public support for the sanction. Basically it has been found to be less effective than surgical castration, but more effective than nonpharmacological methods to treat sex offenders ... but the evidence is far from overwhelming and there are multiple controversies surrounding the use of castration."

21. Other issues that are critical in considering the appropriateness of CC, apart from whether and how it is effective, include:

- Ethical considerations (for the legal profession and the medical profession);
- human rights implications;
- How to determine whether a person is an "appropriate" person to receive treatment (considering factors such as age and health); and
- Practical considerations such as the proper administration of the drugs and ongoing monitoring.

22. In relation to most of these issues there is no consensus. Further, more systematic research, data and evidence is required that could provide the basis for informed policy debate.

#### What does chemical castration mean?

23. The formulation of the scope of this report refers to "chemical castration". This includes the use of any drug or type of drug that has an "anti-libidinal" or "anti-androgen" effect and is used for that purpose in the criminal justice system (that is, it is used in response to a criminal conviction). Chemical castration may be temporary or permanent.

24. In some contexts, terms such as "anti-libidinal" or "chemical treatment" are used rather than the term "chemical castration". The two terms may both refer to the prescription of the same drugs or types of drugs. But the difference in language appears to be of significance, at least sometimes. In contexts where drugs with an anti-libidinal effect tend to be used as part of a program of *rehabilitation or treatment*, the term "anti-libidinal" is used. In contexts where drugs with an anti-libidinal effect are used as a *punishment or deterrent*, the term "chemical castration" tends to be used.

<sup>1</sup>Peter J. Giminoll, "Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California's Lead", 25 *Pepp. L. Rev.* 1 (1998), available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>.

<sup>2</sup>Larry Helm Spalding, "Florida's 1997 Chemical Castration Law: A Return to the Dark Ages", *Florida State University Law Review* 25 (1998), 117, 118; 138. See also Raymond A. Lombardo, "California's Unconstitutional Punishment for Heinous Crimes: Chemical Castration of Sexual Offenders", 65 *Fordham L. Rev.* 2611 (1997), available at: <http://ir.lawnet.fordham.edu/flr/vol65/iss6/8>

<sup>3</sup>Shanna Van Slyke, Gordon P Waldo, and William Bales "Hit 'Em Where it Hurts: Monetary and Nontraditional Punitive Sanctions", in *International Handbook of Penology and Criminal Justice*, eds. Shlomo Giora Shoham, Ori Beck, and Martin Kett, 2008, pp 141-142.

25. Drugs used for this purpose include:

- Cyproterone acetate (CPA), commonly branded as Androcur.
- Medroxyprogesterone acetate (MPA), commonly branded as Depo-Provera.
- Selective serotonin reuptake inhibitors (SSRIs).

26. The researcher is not in a position to properly report on technical issues relating to the various drugs. The researcher has attempted to be as precise as possible in referring to these drugs. If a particular jurisdiction adopts a particular phrase or refers to a specific drug, that language is utilised in the discussion of that jurisdiction.

#### The debate about CC in the media; and sources of information

27. In the process of justifying their draft law proposal, many governments allude to the fact that other jurisdictions have laws that provide for CC. But often spokespersons and the media are not very accurate or specific in describing the asserted equivalent or precedent laws in other jurisdictions. For example, a CNN article published in 2012 about CC contains the following: “The process of chemical castration has been used in various forms, either forcibly as a sentence or as a way for offenders to reduce their jail time in several countries including Argentina, Australia, Estonia, Israel, Moldova, New Zealand, Poland and Russia.”<sup>4</sup> As the discussion below regarding Australia’s laws will show, this description of Australia’s laws is not completely accurate. The laws (and practice) in each jurisdiction differ in important ways.

28. This report identifies some of these differences. Precisely because of the inaccuracy of reports, the researcher has attempted, as much as possible, to rely on primary material (that is, the laws themselves). The researcher indicates when reliance is placed on secondary sources, in particular press coverage.

#### Further research

29. There are a number of avenues of further research. Each has its own challenges. One is the use of CC in Asian jurisdictions. South Korea was reportedly the first Asian jurisdiction to legislate with respect to CC. Finding sources and materials that indicate the policy position regarding CC of other governments in Asia has proved to be difficult.

30. A further avenue of enquiry is to attempt to assess the “effectiveness” of CC treatment. The researcher has not been able to locate the original publications containing data and analysis of the few studies that have been performed in this respect. Also, more detailed research could be done in relation to the nature of voluntary programs involving CC.

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<sup>4</sup> CNN, “Using chemical castration to punish child sex crimes”, 5 September 2012, available at <http://edition.cnn.com/2012/09/05/health/chemical-castration-science/index.html>, accessed 29 February 2016.

### C. Approach to The Comparative Analysis

31. The report considers why laws making provision for CC have been (or have not been) adopted in different jurisdictions. It is comparative in the sense that it seeks to understand different legal frameworks that provide for the use of CC in the criminal justice system. The analysis may be structured in the following way.
32. The first question is whether a particular jurisdiction makes provision for any form of CC in any criminal law or criminal justice process. Two alternatives are identifiable. The first is that a form of CC is explicitly contained in the criminal law as a distinct sentencing option. The second is that a form of CC may be implicitly or explicitly included in, or encompassed by, a sentencing order or legal mechanism that may become operational upon conviction.
33. The next question is “for which offences may CC be imposed?”. The offences for which CC may be imposed are typically sex offences deemed to be particularly serious. Very often, but not always, such offences involve offending against children. There is need for caution in this respect. Offences of a particular type in one jurisdiction may be broadly equated with offences of the same type in another jurisdiction. However, they may differ in significant ways. The researcher has attempted to briefly summarise the relevant offences and elements thereof in relation to the jurisdictions discussed. It is worth noting in this regard that this research note does not consider a type of criminal offence. Rather, it considers a potential type of *response* to certain types of criminal offences. Sometimes, but not always, this response is located in a jurisdiction’s sentencing laws. As alluded to above, there is great divergence in this respect. Chemical castration may be a distinct type of sentence and therefore form part of a punishment; or it may be formulated as a type of treatment.
34. The next question is: how are laws that may or do make provision for CC structured? There are three typical structures or patterns. The first may be referred to as “voluntary”. Chemical castration treatment is made available to a convicted person if that person consents. It is seen as part of treatment or rehabilitation. The second is “discretionary”. Chemical castration is a sentencing option open to the sentencing judge. If the order is made, then the administration of CC is compulsory. The third may be referred to as “mandatory”. This is where CC is a sentencing order that must be made if certain triggers occur. Typically, the trigger is re-offending: committing an offence of the requisite type again.
35. The next question is whether any issues have arisen in relation to the laws that provide for CC. These may be legal issues. But they may also be practical issues, such as whether there are sufficient medical experts to determine the appropriateness of CC for a convicted person and properly administer the drug and monitor the person receiving the treatment.
36. The final question is why these laws were adopted. What is their stated purpose? To allow for a broad range of options in the provision of rehabilitation and treatment? To decrease the risk of re-offending and thereby protect the community? Or is it to punish an offender? Or perhaps to deter others from committing such an offence given the possible penalty upon conviction? And in what

context were the laws made? Is there a specific incident that caused a government to introduce such laws? Does it seem to be a response to popular pressure; or a law apparently designed to increase the popularity of a government?

## D. Summary of The Structure Of The Analysis

37. The discussion of the various laws thus initially follows the following pattern in order to allow for comprehensive and logical analysis.

- i. **Does the criminal law provide for a form of chemical castration (CC)?** The first part of the enquiry is whether the criminal laws in a particular jurisdiction provide for a form of chemical castration (CC) explicitly or as a separate sentencing option for a convicted person?

Alternatively, may and do judges or corrective services consider CC for certain offenders, for example by way of sentencing orders?

- ii. **To which offences may CC apply?** If yes to 1, for which offences may CC be considered or imposed?
- iii. **How is the law relating to CC structured?** If yes to 1, how does the criminal law impose CC? Three different structures or approaches to the way laws relating to CC are structured may be identified: voluntary; discretionary; and mandatory. Even within and among these, there are significant variations.

A voluntary structure is a structure in which the offender must consent to treatment; or in which it may be made available to a convicted person if that person requests it. The form of CC is typically seen as part of treatment or rehabilitation in this context.

A discretionary structure is a structure in which a form of CC is a sentencing option open to the sentencing judge. If the order is made, then the treatment is compulsory.

A mandatory structure is a structure in which a form of CC is a sentence that must be imposed if certain triggers occur.

- iv. **Practice and implementation issues.** If yes to 1, how is CC put into practice and what issues have arisen in its implementation?

- v. **Why were these laws introduced or why is a sentence involving CC imposed?** If yes to 1, why?

If no to 1, why? Is there a policy debate about this issue?

## E. Australia

38. In Australia, it appears that currently no jurisdiction has a law that explicitly provides for CC as a sentencing option for a convicted person. However, in late 2015, the Government of NSW announced that it was considering introducing laws that allow for the use of CC as a sentencing option. It also appears that in at least some jurisdictions, judges may and do make orders relating to forms of CC in their sentencing orders.

### Western Australia (WA)

39. **Does the criminal law provide for a form of chemical castration (CC)?**The *Dangerous Sexual Offenders Act 2006* (WA) ("DSO Act") allows the Director of Public Prosecutions (DPP) to make an application to the Supreme Court of WA for a Continuing Detention Order or a Supervision Order. The Court, if satisfied of certain things (based on evidence including two psychiatrist's reports), may make such an order. That order may include a condition that the offender take anti-libidinal medication. An offender may start being administered the drug just before release from prison; and upon release while the order is in force.<sup>5</sup>

40. **To which offences may CC apply?**A sentencing order containing a condition that relates to anti-libidinal medication may be made in relation to an offence of a sexual nature that is punishable by 7 years or more. The DSO Act states that an application for such an order may be made by the DPP if a person is under sentence for a "serious sexual offence" (s 8). Section 3 provides that "serious sexual offence" has the meaning given to that term in the *Evidence Act 1906*(WA) section 106A. Section 106A essentially provides that serious sexual offence means an offence of a sexual nature that is punishable by 7 years or more (see Part B of Schedule 7 of the DSO Act; and the *Criminal Code* (WA)).

41. **How is the law relating to CC structured?**The Court may make an order that simply includes a condition that the offender take part in interventions prescribed by the Department of Corrective Services. These may, in turn, include anti-libidinal drugs. But the Court may require the offender to take anti-libidinal drugs, such that the Department has no discretion. If the drugs are then not administered or taken, for whatever reason, the offender may be in breach of the order, which may have negative consequences for the offender (for example, return to prison).

42. **Practice and implementation issues.**The drugs administered were either cyproterone acetate ("CPA"), commonly known as Androcur, or selective serotonin reuptake inhibitors (SSRIs).

43. The Submission made by the Western Australian Department of Correctional Services also discusses a number of issues in implementation. The WA Submission also sets out practical problems

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<sup>5</sup> This information is summarised in a document prepared by the *Western Australian* Department of Correctional Services for a *NSW Enquiry into sentencing for child sexual assault offenders*, which is reviewed below. The citation for the document is: "Submission from the Department of Corrective Services", Parliament of NSW Joint Select Committee, Inquiry into Sentencing Child Sexual Assault Offenders, February 2014, available at: [https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/dd0b16fc79b4bad4ca257ca8000df79b/\\$FILE/Submission%20No.%208%20-%20Department%20of%20Corrective%20Services.pdf](https://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/dd0b16fc79b4bad4ca257ca8000df79b/$FILE/Submission%20No.%208%20-%20Department%20of%20Corrective%20Services.pdf).

experienced in administering such orders. In sum, they are: properly assessing an offender's suitability to be administered the drug; sourcing (finding) a medical doctor with requisite expertise to prescribe the medication on an ongoing basis; properly monitoring administration of the drug (through blood tests); properly monitoring side effects and health; funding and employing appropriately trained medical doctors by the government if the government were to administer the entire system itself; and ethical considerations (for example, an offender may be motivated to take the drug because it means earlier release from prison).

44. **Why were these laws introduced or why is a sentence involving CC imposed?** According to the Submission, The main factor for the Court in making an order relating to anti-libidinal drugs is to reduce the risk of re-offending. The Court should also consider any implementation issues. The psychiatrists, in making their recommendations, should consider medical risks to the offender and any implementation issues. Typically, the main reason why a judge imposes an order that involves anti-libidinal drugs is to reduce the risk of re-offending. The Act, and practice, suggest that CC may be *part of* an appropriate management plan for an offender. It is administered in conjunction with other things such as psychological treatment.

New South Wales (NSW)

45. **Does the criminal law provide for a form of chemical castration (CC)?** In August 2015, the NSW Government's Justice Minister Troy Grant announced that a NSW Government Taskforce would be established to consider "the use of anti-libido drugs to chemically castrate child sex offenders".<sup>6</sup> The taskforce terms of reference include reviewing the use of anti-libidinal drugs in the NSW correctional system; whether that use can be expanded; and also "whether chemical castration could be a sentencing option for judges in the state's courts." A reason the Justice Minister gave for this was that around 17 per cent of offenders are likely to reoffend within two years and the Government must do everything to reduce that figure. The Taskforce was due to report by the end of 2015. As far as this researcher is aware, that report is either not yet finished or has not yet been published (as of early 2016).
46. At the time the Taskforce was announced, the practice of the use of some form of CC in NSW may be best described as fitting within the "voluntary" category.
47. **To which offences may CC apply?** A NSW Parliament Committee considered the use of anti-libidinal drugs in a report it produced in October 2014.<sup>7</sup> It will be referred to as "the NSW report". Dr Hamer,

<sup>6</sup>ABC News, "NSW Government taskforce to examine chemical castration of child sex offenders", 26 Aug 2015, available at <http://www.abc.net.au/news/2015-08-26/nsw-govt-considers-chemical-castration-of-sex-offenders/6725220>, accessed 19 Feb 2016.

<sup>7</sup>NSW Joint Select Committee on Sentencing of Child Sexual Assault Offenders, *Every Sentence Tells a Story – Report on Sentencing of Child Sexual Assault Offenders*, Report no. 1/55, October 2014, available at [https://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/d25cd5db3b384061ca257d7100011126/\\$FILE/Final%20Report%20of%20the%20Joint%20Select%20Committee%20on%20Sentencing%20of%20Child%20Sexual%20Assault%20Offenders.PDF](https://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/d25cd5db3b384061ca257d7100011126/$FILE/Final%20Report%20of%20the%20Joint%20Select%20Committee%20on%20Sentencing%20of%20Child%20Sexual%20Assault%20Offenders.PDF), accessed 19 February 2016.

The Committee was chaired by Troy Grant, MP. In Chapter 6 of the NSW Report, entitled "Treatment and Management of Offenders", and under the heading "Pharmacological Treatment", the Committee considers the

a member of the NSW Bar Association who made a submission to the Committee for the NSW report, stated that anti-androgen treatments were being used under the *Crimes (High Risk Offenders Act) 2006* (NSW) “with the consent of the offender as a condition of release from detention under a supervision order.”<sup>8</sup> Section 51 of the *Crimes (High Risk Offenders Act) 2006* (NSW) provides that an application for a high risk sex offender extended supervision order may be made in relation to a person serving a sentence of imprisonment for a serious sex offence or for an offence of a sexual nature (section 51(2(a))). Those two terms are defined in section 5 of and include an extensive number of offences of sexual nature.

48. **How is the law relating to CC structured?** According to section 11, an order made under section 51 may “direct an offender to comply with such conditions as the Supreme Court considers appropriate ...”. These condition may include participating in treatment and rehabilitation programs. According to the NSW Report, in practice anti-libidinal treatment is available but on the basis of informed consent, typically commencing either just before or at the time of release. Its administration may be coordinated by Correctional Services.
49. **Practice and implementation issues.** Dr Hamer of the NSW Bar Association further stated that if such treatment should be used, that is how it should be done. The law should not be changed so that treatment can be imposed without consent. A reason for that is that the treatment involves serious medical intervention. Further, it would be inappropriate to view such treatment as retribution or general deterrence. Rather, it may be justified on the basis of protecting the community and rehabilitation. The Report summarised arguments and submission made in relation to CC as follows. At page 119, it said that “Arguments in favour of the use of these drugs rest on the assumption that the reduction of testosterone levels will increase the effectiveness of associated psychological treatment and that their effects are reversible once the treatment has ceased.” At page 120, it summarised arguments as follow: “There are concerns regarding the side-effects of the medication. Furthermore, anti-libidinal medication does not affect cognitive distortions and maladaptive thinking patterns, and as a result, pharmacological treatment cannot replace psychological therapy. As motivation from the offender is critical for treatment to work effectively, the weight of opinion is that chemical treatment should be administered only on a voluntary basis.” In other words, these drugs only address one of the risk factors and therefore should only be one part of a holistic treatment program. It is also in part due to this reason that CC treatment is only appropriate for a small number of offenders.
50. The report noted that the referral of persons for assessment for drug treatment by Correctional Services lacked a uniform State policy or procedure; and funding and continued assessment were also problematic issues (page 122).
51. **Why were these laws introduced or why is a sentence involving CC imposed?** The Committee concluded that (page 123):

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use of anti-libidinal (or “anti-androgenic”) drugs as a treatment approach for high risk sexual assault offending. The drugs used are either SSRIs or hormonal agents.

<sup>8</sup>The NSW Report, p 120.

- Anti-libidinal drugs have a role to play in the treatment regimen of high-risk offenders and other offenders who are assessed as suitable.
- The Committee supports the current position that drug treatment may be a part of an (extended) supervision order or a factor in parole.
- “treatment with anti-libidinal medication should not become an alternative sentencing option in lieu of a custodial sentence. Rather, anti-libidinal medication treatment should be offered on an informed voluntary basis in addition to any sentence imposed by the court and used in combination with other appropriate treatment options.”

52. The Committee made the following recommendations (page 123):

- “Recommendation 25  
The Committee recommends the development of a standard policy in NSW for referring offenders for assessment for suitability for anti-libidinal treatment. This should prioritise assessment of high risk offenders.
- Recommendation 26  
The Committee recommends that the NSW Government allocates increased resources to assessing child sexual assault offenders for anti-libidinal medication so that all offenders who may benefit from such voluntary treatment have been assessed, and treatment commenced with appropriate monitoring in place, prior to being released from custody.”

53. On page 124, the Committee considers arguments about whether psychological or biological treatment is more effective (based on reviewing clinical medical meta-studies). The Committee appears to conclude that “it appears sensible to include the option of anti-libidinal prescribing in strategies relating to the treatment and management of high risk sex offenders, particularly for the highest risk sexual offenders who pose an immediate risk.” It further states on page 125 that “the most successful approaches to treatment will involve a range of complementary approaches to optimise outcomes and reduce recidivism.”

#### Other jurisdictions in Australia

54. In other states in Australia, the position is similar to the position in WA and NSW. In Queensland, a Government review regarding high risk offenders conducted in 2008 recommended that the use of “medical intervention (Chemical Castration) be endorsed where it is recommended by the offender’s treating psychiatrist and agreed to by the offender.”<sup>9</sup> The report further noted that in 2008 “[t]he policy position in relation to this medication is that it can be useful as an adjunct to intervention programs,” and that “this treatment should only be considered when recommended by clinicians and consented to by offenders,” (at page 20).

55. In Tasmania, a 2008 report by the Tasmanian Institute for Law Reform said the following about CC:

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<sup>9</sup>Queensland Government, *A New Public Protection Model for the Management of High Risk Sexual and Violent Offenders*, June 2008, p 22, available at [http://www.correctiveservices.qld.gov.au/Publications/Corporate\\_Publications/Reviews\\_and\\_Reports/HighRiskoffendersReportJune08.pdf](http://www.correctiveservices.qld.gov.au/Publications/Corporate_Publications/Reviews_and_Reports/HighRiskoffendersReportJune08.pdf), accessed 19 February 2016.



The Institute does not support making chemical castration compulsory – either as a mandatory order if the trigger conditions are satisfied or giving courts a discretion to make a sentencing order which compels the offender to submit to drug treatment. Coercive treatment of this nature infringes ethical and human rights principles and is contrary to the general right to refuse medical treatment and to submit to a number of known possible side effects of the drugs. Instrumental arguments about the effectiveness of such treatment as a means of reducing sexual recidivism are reasons for offering such treatment to sex offenders but do not justify compelling offenders to undergo such treatment as part of a sentencing order.<sup>10</sup>

56. The report notes that: drugs such as Medroxyprogesterone acetate (MPA) are sometimes used in the treatment of sex offenders; where drugs are used for volunteers this is not particularly controversial; but that chemical castration “is not a sentencing option in any Australian jurisdiction” (see paragraph 6.4.33).

## F. United States of America (US)

57. Several US states have adopted laws since the mid-1990s that provide for CC. Variations of the discretionary and mandatory CC sentencing regimes exist or existed in at least the following other US jurisdictions: Montana; Iowa; Wisconsin; Georgia (repealed); and Oregon (repealed).<sup>11</sup>
58. Specific reasons for the introduction of these laws provided by legislators are discussed below in relation to the CC sentencing regimes of three particular states: California; Florida; and Louisiana. The following are more general factors that have been cited as potentially explaining the introduction of such laws. One such factor is the perception in the US that prisons were overcrowded, coupled with the realisation that most offenders will eventually be released from prison.<sup>12</sup> CC may be cheaper than imprisonment. And CC laws may be part of a “tough on crime” policy; or be a (politically motivated) response to public pressure or outrage about particularly terrible offences or series of offences.

### California

59. **Does the criminal law provide for a form of chemical castration (CC)?** California Penal Code section 645<sup>13</sup> provides that a person convicted of certain types of offences may or must be sentenced to undergo medroxyprogesterone acetate (MPA) treatment. This law passed through the California

<sup>10</sup>Tasmanian Law Reform Institute, *Sentencing: Final Report*, No 11, June 2008, available at <http://www.utas.edu.au/law-reform/publications/completed-law-reform-projects>.

<sup>11</sup>Zachary E. Oswald, “Off with His \_\_\_”: Analyzing the Sex Disparity in Chemical Castration Sentences”, *Mich. J. Gender & L.* 19 (2013) 471, 483. Available at: <http://repository.law.umich.edu/mjgl/vol19/iss2/5483>.

<sup>12</sup>Zachary E. Oswald, “Off with His \_\_\_”: Analyzing the Sex Disparity in Chemical Castration Sentences”, *Mich. J. Gender & L.* 19 (2013) 471, 480. Available at: <http://repository.law.umich.edu/mjgl/vol19/iss2/5483>.

<sup>13</sup>CA Penal Code § 645 (through 2012 Leg Sess). The law may be viewed at Justia, <http://law.justia.com/codes/california/2011/pen/part-1/639-653.2/645>, accessed on 24 February 2016. It may also be accessed at FindLaw, <http://codes.findlaw.com/ca/penal-code/pen-sect-645.html>, accessed 24 February 2016. See also the California Government website. The relevant amending law was Assembly Bill 3339 (1996). See: Peter J. Giminolli, “Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California's Lead”, 25 *Pepp. L. Rev.* 1 (1998), available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>.

legislative process in May, August and September 1996 and commenced operation on 1 January 1997. The sentencing regime specifies the use of the drug MPA. It appears to have been used as a model for similar laws in other jurisdictions in the US, notably Florida and Louisiana, which are reviewed below.

60. **To which offences may CC apply?** MPA treatment may or must be ordered if an offender has committed the offence of rape or other offences of a sexual nature *and* the victim of the offence is not yet 13 years of age.
61. **How is the law relating to CC structured?** According to section 645(a), the court *may* order that a person, upon parole, undergo MPA treatment if convicted of a first specified offence. Thus, for the first offence, the sentence is discretionary. According to section 645(b), a person guilty of a second offence *shall* undergo MPA treatment. Thus, if there is a second conviction for a specified offence, MPA treatment is mandatory. Alternatively, a person may undergo voluntary and permanent surgical treatment.
62. Section 645(d) provides that treatment shall begin one week prior to release; and shall continue “until the Department of Corrections demonstrates to the Board of Prison Terms that this treatment is no longer necessary.”
63. Finally, Section 645(f) provides that the Department of Correction shall “administer this section and implement the protocols required by this section.” Paragraph (f) further provides that nothing in those protocols shall require a physician or surgeon to participate against his or her will in the administration of the provisions of section 645. Paragraph (f) also provides that the protocols shall include, but not be limited to, a requirement to inform the person about the effects and side-effects of treatment.
64. **Practice and implementation issues.** In 2010, there were media reports that, despite the mandatory nature of the sentencing regime, the regime was not being implemented on a widespread basis.<sup>14</sup>
65. **Why were these laws introduced or why is a sentence involving CC imposed?** It has been difficult to locate primary materials (such as official documents discussing the proposed legislation) concerning the reasons why the law was made. The primary motivating factor expressed by the California Governor’s office appears to have been the promise that CC will reduce rates of recidivism.<sup>15</sup>

<sup>14</sup> CBS8, “California Law Mandates Chemical Castration of Certain Offenders”, 7 May 2010, <http://www.cbs8.com/story/12443091/california-law-mandates-chemical-castration-of-certain-offenders>, accessed on 26 February 2016.

<sup>15</sup> Peter J. Giminolli, “Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California’s Lead”, 25 *Pepp. L. Rev.* 1 (1998), available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>. Gimino quotes an Agence France Press article: “California Governor Signs Castration Legislation”, 18 September 1996.

66. A Los Angeles times article points out that the law passed through both chambers of the legislature very quickly (and legal scholars have pointed out that there were very few votes that opposed the passing of the legislation).<sup>16</sup> The Los Angeles Times quoted the Governor, Pete Wilson, as follows:

"We do not pretend that any law is a panacea... This is one more valuable tool for law enforcement. But as long as it protects one girl or one boy, then keeping it on the books is worth enduring all of the criticism the opponents can muster."

67. Assemblyman Hoge, who was closely involved in the lawmaking process, is quoted by the New York Times as stating the following:

"There is no crime out there more heinous than child molestation. 'These are our most helpless citizens. California and Californians are fed up with those who prey on kids, and we're going to jail them and make it so that when they return to society as a whole, they don't have the desire to do what they used to do.'"<sup>17</sup>

68. This California law appears to have been a causative factor for a number of other states in the US to pass similar legislation. Two of those – Florida and Louisiana – are discussed in detail below. Indeed, the Los Angeles Times quotes Assemblyman Hoge as follows at the time of the signing of the law:

"We have now set the stage for America--and we hope you are listening America ... We can do this all over the country. This is going to have the biggest impact on this horrible, horrible crime of any legislation ever seen."<sup>18</sup>

### Florida

69. **Does the criminal law provide for a form of chemical castration (CC)?** In Florida, a law<sup>19</sup> that commenced (came into effect) in October 1997 makes provision for CC as a distinct sentence that the Court may, and in some cases must, impose. The codified reference for the law is Florida Statutes 794.0235 and its title is "Administration of medroxyprogesterone acetate (MPA) to persons convicted of sexual battery."<sup>20</sup> As is the case with the California law, it specifies the type of drug to be used. Indeed, the law is very similar in its structure to the law in California (and also Louisiana).

<sup>16</sup> Los Angeles Times, "Molester Castration Measure Signed", 18 September 1996, [http://articles.latimes.com/1996-09-18/news/mn-45100\\_1\\_child-molestation](http://articles.latimes.com/1996-09-18/news/mn-45100_1_child-molestation), accessed 26 February 2016.

<sup>17</sup> New York Times, "California Child Molesters Face 'Chemical Castration'", 27 August 1996, <http://www.nytimes.com/1996/08/27/us/california-child-molesters-face-chemical-castration.html>, accessed 26 February 2016.

<sup>18</sup> Los Angeles Times, "Molester Castration Measure Signed", 18 September 1996, [http://articles.latimes.com/1996-09-18/news/mn-45100\\_1\\_child-molestation](http://articles.latimes.com/1996-09-18/news/mn-45100_1_child-molestation), accessed 26 February 2016.

<sup>19</sup> Ch. 97-184, § 1, 1997 Fla. Laws 3455 (codified at FLA. STAT. § 794.0235 (1997)).

<sup>20</sup> The law may be viewed at: Official Internet Site of the Florida Legislature, Statutes, FLA. STAT. § 794.0235, [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0700-0799/0794/Sections/0794.0235.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0794/Sections/0794.0235.html), accessed 22 February 2016.

70. **To which offences may CC apply?** A Court may sentence a defendant to be treated with MPA if the person is convicted of sexual battery under s 794.011. Sexual battery essentially includes any form of sexual penetration of a child; or without consent.
71. **How is the law relating to CC structured?** Section 794.0235(1) provides that “the court ... *[m]ay* sentence a defendant to be treated with medroxyprogesterone acetate (MPA) ... if the defendant is convicted of sexual battery ...” (emphasis added). Thus, upon a first conviction, MPA is a discretionary sentence. Subsection (2) provides that the court *shall* sentence a person to be treated with MPA upon a second conviction for sexual battery. Thus, for a second offence of sexual battery, the sentence is mandatory.
72. If a person is sentenced to be treated with MPA, that sentence may not be imposed instead of or reduce any other sentence. Physical castration may be ordered with consent of the defendant. If a person fails to submit to treatment, this constitutes a separate offence.
73. Subsection (2)(a) provides that such a sentence “shall be contingent upon a determination by a court appointed medical expert, that the defendant is an appropriate candidate for treatment.” The law does not define the term “appropriate” nor specify which factors may be relevant in the determination whether the defendant is an appropriate candidate. Subsection (3) provides that “[n]othing contained in this section shall be construed to require the continued administration of medroxyprogesterone acetate (MPA) treatment when it is not medically appropriate.”
74. The sentence must specify the duration of treatment “for a specific term of years, or in the discretion of the court, up to the life of the defendant.” Treatment commences no later than a week prior to release.
75. **Practice and implementation issues.** Subsection (3) provides that “The Department of Corrections shall provide the services necessary to administer medroxyprogesterone acetate (MPA) treatment.”
76. In the case of *Tran v State of Florida*,<sup>21</sup> the District Court of Appeal of Florida considered a mandatory sentence of MPA treatment. The appellant challenged the constitutional validity of the MPA sentence regime. The Court, however, did not consider this argument because it found the sentence was not lawfully imposed on other grounds.
77. The Court relevantly stated the following in relation to the MPA sentencing regime:
- “We reject the state's contention that the MPA statute is for remedial treatment purposes, as opposed to punishment. The language of the entire statute speaks of MPA in terms of a sentence and a penalty. ... As a matter of statutory construction, it would appear that a sentence to administration of MPA does constitute punishment. Pursuant to the statutory scheme, the administration of MPA is imposed as part of a criminal sentence. Indeed, section 794.0235 is placed within Florida's criminal code, rather than under Florida's public health code. ... Since the

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<sup>21</sup> 965 So.2d 226 (Fla. Dist. Ct. App. 2007), Warner J, Klein and Hazouri JJ concurring. The case may be viewed at: Case text, <https://casetext.com/case/tran-v-state-13>, accessed 22 February 2016.

legislature has deemed MPA treatment a penalty, we conclude that it is part of the defendant's punishment and sentence."

78. Apparently even the various states that have mandatory laws, such as Florida, only rarely actually go ahead with mandatory treatment (if the offender does not also consent).<sup>22</sup>
79. **Why were these laws introduced or why is a sentence involving CC imposed?** The researcher has so far had great difficulty in finding primary source material that explains or justifies the MPA sentencing regime.
80. As the discussion of the MPA sentencing regime by the Florida appeals court in Tran makes clear, the MPA sentencing regime is a penalty and part of the defendant's punishment and sentence. It is therefore punitive in nature.
81. Spalding points to motivating factors of Florida legislators for the MPA sentencing regime which included the following:<sup>23</sup> the MPA sentencing regime is necessary to alleviate the increasing sexual offence rate in the US; and that the MPA sentencing regime will reduce the number of repeat sex offenders. Spalding summarises this as follows: "The reasoning advanced for the enactment of Florida's chemicalcastration statute is that rehabilitation of sex offenders and the safety of Florida's citizens are sufficient justifications for establishing chemical castration as a condition of release for convicted sex offenders."<sup>24</sup>

#### Louisiana

82. **Does the criminal law provide for a form of chemical castration (CC)?** In June 2008, Louisiana Revised Statutes LA Rev Stat 14:43.6, entitled "Administration of medroxyprogesterone acetate (mpa) to certain sex offenders", commenced (came into effect).<sup>25</sup> The law not only explicitly specifies a form of castration as a sentencing option, but also specifies which drug is to be administered.
83. **To which offences may CC apply?** The offences for which it is imposed are specified in LA Rev Stat 14:43.6 and include aggravated forms of rape and incest.
84. **How is the law relating to CC structured?** Upon a first conviction for a specified offence, the Court may sentence the offender to be treated "according to a schedule of administration monitored by

<sup>22</sup>Shanna Van Slyke, Gordon P Waldo, and William Bales "Hit 'Em Where it Hurts: Monetary and Nontraditional Punitive Sanctions", in *International Handbook of Penology and Criminal Justice*, eds. Shlomo Giora Shoham, Ori Beck, and Martin Kett, 2008, p 141.

<sup>23</sup>Larry Helm Spalding, "Florida's 1997 Chemical Castration Law: A Return to the Dark Ages", *Florida State University Law Review* 25 (1998) 117, 118; 138.

<sup>24</sup>Larry Helm Spalding, "Florida's 1997 Chemical Castration Law: A Return to the Dark Ages", *Florida State University Law Review* 25 (1998) 117, 138. Spalding's article is strongly critical of the MPA sentencing regime. He points to several constitutional issues; legal, ethical and practical issues relating to the administration of the drug; and also questions the effectiveness of the treatment for certain types of sex offenders.

<sup>25</sup>Justia, <http://law.justia.com/codes/louisiana/2011/rs/title14/rs14-43-6>, 21 Feb 2016.

the Department of Public Safety and Corrections.” (RS 14:43.6 A) Thus, the sentence is discretionary for a first offence.

85. If a person is convicted of a second specified offence, the Court *shall* sentence the offender to be treated. Thus, the sentence is mandatory. (RS 14:43.6 B(1)).
86. The law further provides that the treatment may not be imposed in lieu of or reduce any other penalty. The Court may order physical castration if the defendant consents. (RS 14:43.6 2). A court appointed medical expert must determine the suitability of the treatment. Also, the treatment shall commence not later than one week prior to the release of the defendant. If the defendant refuses to undergo treatment, this is an offence and upon conviction the offender shall (again, mandatory) be imprisoned for not less than three but not more than five years.
87. **Practice and implementation issues.** Medroxyprogesterone acetate is administered through injection. As of 2011, three years after the law commenced, it appears that this sentencing option was not commonly used by judges in Louisiana, even where it may be lawfully imposed.<sup>26</sup>
88. The law was considered by the Louisiana Supreme Court in *State Ex Rel. Herbert Nicholson Versus State of Louisiana*.<sup>27</sup> Relevantly for this research tasks, the Court held that: “...the chemical castration requirements of the new statute are expressly part of the punishment that a court may impose for the sex crimes enumerated in La.R.S. 14:43.6.” The Court further stated that therefore, and because the “Ex Post Facto Clause prohibits retroactive application of new laws that increase the penalty for which the crime is punishable ... and because we find no clearly expressed legislative intent to apply this substantive change in the law retroactively,” the law does not apply retroactively.
89. **Why were these laws introduced or why is a sentence involving CC imposed?** The Governor of Louisiana at the time, Bobby Jindal, made a statement at the time the law came into effect. According to one press source, Governor Bobby Jindal said that he wanted to create a deterrent to “heinous and disgusting crimes. We think it’s critical to give the judicial system and our law enforcement officials every tool possible to punish these monsters and keep them away from our children.”<sup>28</sup>

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<sup>26</sup>Sentencing Law and Policy Blog, “Louisiana judges not using authority to order chemical castration for sex offenders”, January 10, 2011, [http://sentencing.typepad.com/sentencing\\_law\\_and\\_policy/2011/01/louisiana-judges-not-using-authority-to-order-chemical-castration-for-sex-offenders.html](http://sentencing.typepad.com/sentencing_law_and_policy/2011/01/louisiana-judges-not-using-authority-to-order-chemical-castration-for-sex-offenders.html), accessed 20 February 2016. See also The Advocate, “No Chemical Castration for Convicted”, 5 May 2015, <http://theadvocate.com/news/neworleans/neworleansnews/12292887-123/no-chemical-castration-for-convicted>, accessed 20 February 2016.

<sup>27</sup> Case No. 2013-KH-0072.

<sup>28</sup> Huffington Post, “Louisiana Gov. Jindal Authorizes Chemical Castration Of Sex Offenders,” 25 May 2011, [http://www.huffingtonpost.com/2008/06/26/louisiana-gov-jindal-auth\\_n\\_109342.html](http://www.huffingtonpost.com/2008/06/26/louisiana-gov-jindal-auth_n_109342.html), accessed 20 February 2016.

90. A copy of the press release may be viewed at the Vote Smart website.<sup>29</sup> That press release contains the following quotes from Governor Bobby Jindal:

"The Sex Offender Chemical Castration Bill is a good bill, and I am especially glad to sign it into Louisiana law today, on the same day the Supreme Court has made an atrocious ruling against our state's ability to sentence those who sexually assault our children to the fullest extent. Those who prey on our children are among the very worst criminals imaginable.

Not only as the Governor of this great state, but as a father of three children, I believe that sexually assaulting a child is one of the very worst crimes and I am glad we have taken such strong measures in Louisiana to put a stop to these monsters' brutal acts. I want to send the message loud and clear - to the Supreme Court of the United States and beyond - make no mistake about it, if anyone wants to molest children and commit sexual assaults on kids they should not do so here in Louisiana. Here, we will do everything in our power to protect our children and we will not rest until justice is won and we have fully punished those who harm them."

91. The language of the law is punitive in nature. Its primary purpose appears to be to punish those convicted of the offences to which it applies. The Louisiana Supreme Court made this point in the case of *State Ex Rel. Herbert Nicholson*, quoted above.
92. Further, the language used by the Governor in the press release indicates several further purposes of the law. The first is that it should have a *general deterrent* effect – that is, it aims to stop persons from committing the offences to which it applies. It also seeks to protect the community. Finally, it is also intended to serve the purpose of denunciation. Finally, the Governor repeatedly referred to offences against children.

## G. Jurisdictions in Europe

### a) Poland

93. In July 2010, The Economist blog Eastern Approaches reported that "Poland has become the first country in Europe to make chemical castration compulsory for certain sex offenders."<sup>30</sup> The legislation is a result of debate after a case of incest and rape that received significant media attention. A government statement explained the legislation as follows: "The purpose of this action is to improve the mental health of the convict, to lowered his libido and thereby reduce the risk of

<sup>29</sup>Vote Smart, Press Release, "Governor Signs Chemical Castration Bill, Authorizing the Castration of Sex Offenders in Louisiana", 25 June 2008, [https://votesmart.org/public-statement/353973/governor-signs-chemical-castration-bill-authorizing-the-castration-of-sex-offenders-in-louisiana#.Vsk65\\_9unIU](https://votesmart.org/public-statement/353973/governor-signs-chemical-castration-bill-authorizing-the-castration-of-sex-offenders-in-louisiana#.Vsk65_9unIU), accessed 20 February 2016. The search of the website of the Office of the Governor of Louisiana for the press statement mentioned above returns results (so the press statement definitely existed). However the links have expired.

<sup>30</sup>The Economist, Eastern approaches: Ex-communist Europe, "Chemical Castration in Poland: No Sympathy", 10 June 2010, [http://www.economist.com/blogs/easternapproaches/2010/06/chemical\\_castration\\_poland](http://www.economist.com/blogs/easternapproaches/2010/06/chemical_castration_poland), accessed 25 February 2016.



another crime being committed by the same person.” The Polish Prime Minister at the time, Donald Tusk, commented in relation to the law that “I do not believe that we can call these individuals – these creatures – human beings. So in this case, we don't need to discuss human rights.” The law potentially applies to offences of child rape and rape of immediate family. It requires the opinion of a psychiatrist;<sup>31</sup> and “According to Polish politicians, the country now has the toughest legislation towards paedophiles in Europe.” Poland was already a member of the EU at the time and various other member states, as well as the EU itself, voiced criticisms about the law when it was first proposed in 2008.<sup>32</sup>

## b) Russia

94. Various academic journal articles state that Russia has laws that provide for CC. The researcher has reviewed press articles and other sources that confirm a law that more specifically provided for CC was passed in early 2012. It appears that a law proposed in 2011 was eventually passed by the Russian legislature (Duma) in 2012 that makes provision for CC. The articles reviewed by the researcher leave some doubt about whether CC is voluntary;<sup>33</sup> a requirement for eligibility for parole;<sup>34</sup> or mandatory in some circumstances.<sup>35</sup> The lack of certainty in the position of the law is increased by the content of an article dated 20 October 2015 stating that a bill had been introduced to the Duma proposing mandatory chemical castration.<sup>36</sup> As these articles make clear, the laws are aimed at persons who have committed sexual offences against children. The legislators cited a spike in the cases of sexual offences committed against children in the years around 2010 as the motivating factor. Legislators also noted that such sexual offenders often re-offend; and referred to statistics that convicted persons are much less likely to re-offend if they receive CC treatment. Finally, legislators also noted that such laws existed in Europe and the US.

<sup>31</sup>BBC, “Poland Castration Law Takes Effect”, 8 June 2010, <http://www.bbc.com/news/10269055>, accessed 25 February 2016.

<sup>32</sup>Der Spiegel, “‘An Unsuitable Instrument’ for Sex Offenders: EU Politicians Angered by Polish Chemical Castration Plan”, 25 September 2008, <http://www.spiegel.de/international/europe/an-unsuitable-instrument-for-sex-offenders-eu-politicians-angered-by-polish-chemical-castration-plan-a-580284.html>, accessed 25 February 2016.

<sup>33</sup>RT, “Lawmakers consider chemical castration for pedophiles”, 28 April 2011, <https://www.rt.com/news/law-chemical-castration-russia/>, accessed 25 February 2016.

<sup>34</sup>Library of Congress Global Legal Monitor, “Russia: Harsher Punishment for Crimes Against Children”, 14 June 2011, <http://www.loc.gov/law/foreign-news/article/russia-harsher-punishment-for-crimes-against-children/>, accessed 25 February 2016.

<sup>35</sup>Epress, Chemical Castration, “Life Sentences: Russia’s Duma Toughens Law Against Child Sex Offenders”, 8 February 2012, <http://www.epress.am/en/2012/02/08/chemical-castration-life-sentences-russias-duma-toughens-law-against-child-sex-offenders.html>, accessed 25 February 2016. See also Eurasia Review, “Russia: Parliament Approves Pedophile Castration”, 27 January 2012, <http://www.eurasiareview.com/27012012-russia-parliament-approves-pedophile-castration/>, accessed 25 February 2016.

<sup>36</sup>Moscow Times, “Russian State Duma to Consider Introducing Chemical Castration for Pedophiles”, 20 October 2015, <http://www.themoscowtimes.com/news/news/article/russian-state-duma-to-consider-introducing-chemical-castration-for-pedophiles/539817.html>, accessed 25 February 2016.



95. The researcher has located a translated version of the Russian Penal Code which claims to include amendments made up until 1 March 2012.<sup>37</sup> In article 97, the Penal Code provides that: “Compulsory measures of a medical nature may be imposed by a court of law on the following persons: ... e) those who have made at the age of eighteen plus an offence against sexual integrity of minors under fourteen years old and who suffer from sexual preference disorder (pedophilia) that does not qualify as insanity.” The law further provides that such compulsory measures may only be used if the convicted person’s “mental derangement threatens the possible infliction on these persons of further damage, or danger to themselves or other persons.” Also, procedures for implementation shall “be determined by the criminal and executive laws of the Russian Federation, and by other federal laws.” The researcher cannot be certain whether this law is current. Nonetheless, the researcher is in a position to observe that this law appears to create a discretionary regime, where a court *may* sentence an offender to CC. The law does not specify the type of drug to be used.

### c) Moldova

96. In 2012, Moldova amended its Criminal Code such that CC is mandatory for violent sexual crimes committed against children under 15. Further, legislators said that the law was introduced “in response to the fact that 15 people were prosecuted in Moldova during the last five years for repeatedly committing sexual crimes against minors.”<sup>38</sup>

### d) Germany

97. At least up until 2014, Germany maintained laws that allowed physical (surgical) castration of certain offenders. The Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has urged Germany to cease this practice. German authorities indicated that the use of surgical castration has dropped significantly in recent years, and that therefore “it is clear that surgical castration – also certainly due to the continued development of anti-androgen medications – by now is practically meaningless,” (emphasis added).<sup>39</sup>

98. A German law passed in 1969 (“Law on Voluntary Castration) allows for castration (both chemical and surgical) but only with the consent of the offender (that is, on a voluntary basis).<sup>40</sup> The law may

<sup>37</sup>Legislation Online, Criminal Codes, Criminal Code of the Russian Federation The Criminal Code of the Russian Federation, No. 63-Fz of June 13 1996, (1996, amended 2012) (English version), <http://legislationline.org/documents/section/criminal-codes/country/7>, accessed 25 February 2016.

<sup>38</sup>Library of Congress Global Legal Monitor, “Moldova: Pedophiles to be Punished with Chemical Castration”, 2 April 2012, <http://www.loc.gov/law/foreign-news/article/moldova-pedophiles-to-be-punished-with-chemical-castration/>, accessed 25 February 2016.

<sup>39</sup> Council of Europe, “Germany: Anti-torture monitors want “definitive end” to surgical castration of sex-offenders”, 25 July 2014, <http://www.humanrightseurope.org/2014/07/germany-anti-torture-monitors-want-definitive-end-to-surgical-castration-of-sex-offenders/>, accessed 26 February 2016. See also Council of Europe CPT, *Report to the German Government on the visit to Germany carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 25 November to 2 December 2013*, <http://www.cpt.coe.int/en/states/deu.htm>, accessed 26 February 2016.

<sup>40</sup> Der Spiegel, “ZwangswaisechemischeKastration”, 25 October 2009, <http://www.tagesspiegel.de/weltspiegel/sexualstraftaeter-zwangswaise-chemische-kastration/1621122.html>, accessed 26 February 2016.

be viewed at the German website “Gesetzeim Internet”.<sup>41</sup> It appears that there is no legal provision for mandatory castration. Laws passed in 1998 that reformed (and strengthened) provisions relating to serious crimes, including sexual crimes, reportedly did not amend the legal position in Germany relating to castration.<sup>42</sup>

## e) Switzerland

99. In Switzerland in September 2013, an enquiry considered chemical castration for reoffending of paedophiles and rapists (in the German language, “ChemischeKastrationfürrückfälliggewordenePädophile und Vergewaltiger”<sup>43</sup>). The justification of the proposal noted that:

- Pharmacological therapy using anti-testosterone drugs, often referred to as chemical castration, has been used for years in many Western countries, for example Germany, Sweden, Denmark, Spain, Poland and a number of US states for paedophiles and rapists that have reoffended;
- In some cases the measure is voluntary and in other cases mandatory;
- Statistics from Scandinavian states show such treatment reduces the rate of reoffending against children from 40% to 5%.
- Sanctions in Switzerland were too weak and there was too little protection of victims (women and children).

100. By December 2013, the proposal had been rejected. The relevant body observed that voluntary treatment has been in use in Switzerland for many years.<sup>44</sup> Further, a civil law in Switzerland (Article 434 of the Civil Code (in the German language, “Zivilgesetzbuches (SR 210)”) already theoretically allows chemical castration *without consent* in very limited specified circumstances. It was further observed that chemical castration may be important in certain individual cases, but in many other cases it will have no effect or may be counter-productive. For that reason it should not be a mandatory sentence; nor should it be a condition of release (for example, release on parole).

<sup>41</sup>Gesetzeim Internet, “Gesetz über die freiwilligeKastration und andereBehandlungsmethoden”, <https://www.gesetze-im-internet.de/kastrg/BJNR011430969.html>; and <https://www.gesetze-im-internet.de/kastrg/index.html#BJNR011430969BJNE000301309>, accessed 26 February 2016.

<sup>42</sup>JournaScience.Org, “Sexualstrafrecht, Entwicklungen des Sexualstrafrechts und der Sexualdelinquenzsowie delinquenterKarrieren von Sexualstraftätern in Deutschland, Hintergründe der Reformgesetzgebung von 1998 und Überblick über die Neuregelungen des Gesetzes zur Bekämpfung von Sexualdelikten und anderen gefährlichen Straftaten sowie nachfolgende Reformgesetze (1998-2003)”, [http://www.journascience.org/de/gewaltkrimi/spezial/duenkel/duenkel\\_entw-sex-st-recht\\_02.shtml](http://www.journascience.org/de/gewaltkrimi/spezial/duenkel/duenkel_entw-sex-st-recht_02.shtml), accessed 26 February 2016. See generally JournaScience, <http://www.journascience.org/de/gewaltkrimi/spezial/index.shtml#sex-strafrecht>. See also StGB.de - Alles zum Strafgesetzbuch (StGB), <http://www.stgb.de/>.

<sup>43</sup>Parliament of Switzerland, “ChemischeKastrationfürrückfälliggewordenePädophile und Vergewaltiger”, 26 September 2013, <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20133870>, accessed 26 February 2016.

<sup>44</sup>Parliament of Switzerland, “ChemischeKastrationfürrückfälliggewordenePädophile und Vergewaltiger”, 26 September 2013, <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=20133870>, accessed 26 February 2016. And see also Parliament of Switzerland, “Chemisch-medizinische Massnahmen gegen Sexualtäter”, 26 September 1996, <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaefte?AffairId=19961084>, accessed 26 February 2016.

## f) England

101. In England, it appears that the use of CC is entirely voluntary. A pilot scheme is currently being run; and referrals to, and treatment of offenders as part of, the scheme are apparently increasing.<sup>45</sup>

## H. Jurisdictions in Scandinavia

102. In the various sources the researcher has reviewed regarding the use of CC, Denmark is often mentioned for two related reasons:

- Various journal articles note that Denmark was one of the earliest jurisdictions to use castration or CC.<sup>46</sup>
- Various sources (in particular, newspaper articles and statements by politicians) refer to a study or studies done in Denmark regarding recidivism according to which the use of castration (although not necessarily *chemical* castration) reduced the rate of recidivism drastically.<sup>47</sup>

103. It appears that the use of CC (that is, treatment by anti-androgen drugs) commenced in Denmark in the 1970s and 1980s.<sup>48</sup> The use of CC appears to be done entirely, or almost entirely done, on a voluntary basis (that is, the person being treated must consent).<sup>49</sup> Sweden apparently also provides CC treatment on a voluntary basis.

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<sup>45</sup> International Business Times, "Chemical castration used to treat record number of sex offenders", 8 March 2015, <http://www.ibtimes.co.uk/chemical-castration-used-treat-record-number-uk-sex-offenders-1491015>. See also The Guardian, <http://www.theguardian.com/politics/reality-check-with-polly-curtis/2012/mar/13/prisons-and-probation-criminal-justice#A>.

<sup>46</sup> See, for example, Peter J. Giminio III, "Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California's Lead", 25 *Pepp. L. Rev.* 1 (1998), 76-77, available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>

<sup>47</sup> SEA Globe, "Should Indonesia introduce chemical castration for child sex offenders?", 3 February 2016, <http://sea-globe.com/extreme-measures-chemical-castration-indonesia/>, accessed 29 February 2016. Giminio III, "Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California's Lead", 25 *Pepp. L. Rev.* 1 (1998), 99-100, available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>. Larry Helm Spalding, "Florida's 1997 Chemical Castration Law: A Return to the Dark Ages", *Florida State University Law Review* 25 (1998) 117, 123-125. New York Times, "Europeans Debate Castration of Sex Offenders", 10 March 2009, [http://www.nytimes.com/2009/03/11/world/europe/11castrate.html?\\_r=0](http://www.nytimes.com/2009/03/11/world/europe/11castrate.html?_r=0), accessed 29 February 2016.

<sup>48</sup> Lisa Aasgard, "Chemical Castration of Danish Sex Offenders", *Bioethical Inquiry* (2014) 11:117-118, available at: [https://www.researchgate.net/publication/262024449\\_Chemical\\_Castration\\_of\\_Danish\\_Sex\\_Offenders](https://www.researchgate.net/publication/262024449_Chemical_Castration_of_Danish_Sex_Offenders), accessed 29 February 2016.

<sup>49</sup> Lisa Aasgard, "Chemical Castration of Danish Sex Offenders", *Bioethical Inquiry* (2014) 11:117-118, available at: [https://www.researchgate.net/publication/262024449\\_Chemical\\_Castration\\_of\\_Danish\\_Sex\\_Offenders](https://www.researchgate.net/publication/262024449_Chemical_Castration_of_Danish_Sex_Offenders), accessed 29 February 2016. Giminio III, "Mandatory Chemical Castration for Perpetrators of Sex Offenses Against Children: Following California's Lead", 25 *Pepp. L. Rev.* 1 (1998), 77, available at: <http://digitalcommons.pepperdine.edu/plr/vol25/iss1/3>.

104. The researcher has not been able to locate the study or studies done in Denmark. The New York Times article of 2010 entitled “Europeans Debate Castration of Sex Offenders”<sup>50</sup> refers to a study in Denmark done in the 1960s. This is extraordinary dated research, a point not lost on contributors to the Sentencing Law and Policy Blog in their discussion of European laws relating to CC.<sup>51</sup>

## I. Jurisdictions in Asia: South Korea and India

105. South Korea reportedly was the first jurisdiction in Asia to introduce laws providing for CC in 2010 and 2011 by passing the Act on the Medication against Sexual Impulses of Sexual Assault Offenders.<sup>52</sup> The law allows judges to order a person under CC. The researcher has not viewed the law. On the basis of other sources (cited in the footnotes), this law appears to be discretionary in nature (although the researcher cannot be certain): the judge may order CC in certain circumstances, and the sentenced person must then undergo treatment.<sup>53</sup> (According to a World Post article published in 2012, a “Justice Ministry Panel” may also order such treatment.<sup>54</sup>) These laws were passed in response to an increase in the reported number of sex offences over a period of around five years and consequent public pressure to toughen laws in relation to crimes committed against children.<sup>55</sup>
106. Park published a “Legislative Update” regarding amendments to South Korea’s laws regarding sexual offences in 2013.<sup>56</sup> Park noted that he was “unaware” of “a court yet issuing such an order”. Yet there were media reports at the time that the first CC order was made in 2012, which is also noted by the US State Department.<sup>57</sup> South Korea “strengthened” laws relating to offences against children in 2013 but Park does not indicate that the laws relating to CC were amended as part of these changes. However, the US State Department noted that new rules enacted in March 2013

<sup>50</sup>New York Times, “Europeans Debate Castration of Sex Offenders”, 10 March 2009, [http://www.nytimes.com/2009/03/11/world/europe/11castrate.html?\\_r=0](http://www.nytimes.com/2009/03/11/world/europe/11castrate.html?_r=0), accessed 29 February 2016.

<sup>51</sup>Sentencing Law and Policy Blog, “Europeans Debate Castration of Sex Offenders”, 11 March 2009, [http://sentencing.typepad.com/sentencing\\_law\\_and\\_policy/2009/03/europeans-debate-castration-of-sex-offenders.html](http://sentencing.typepad.com/sentencing_law_and_policy/2009/03/europeans-debate-castration-of-sex-offenders.html), accessed 29 February 2016.

<sup>52</sup>Hyungsoon Park, Recent Amendments to South Korean Criminal Law: Confronting Child Sexual Abuse - Legislative Update, Australian Journal of Asian Law, 2013, Vol 14 No 2, Article 6: 1-5, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2369117](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2369117), accessed 22 March 2016. See also M Hirayama, “Child Protection in Asia”, in *Handbook of Asian Criminology*, eds Jianhong Liu, Bill Heberton, and SusyanJou, p 365.

<sup>53</sup>M Hirayama, “Child Protection in Asia”, in *Handbook of Asian Criminology*, eds by Jianhong Liu, Bill Heberton, and SusyanJou, p 365.

<sup>54</sup>The World Post, “South Korea Chemical Castration: Repeat Sex Offender To Be Chemically Castrated”, 24 May 2012, [http://www.huffingtonpost.com/2012/05/24/south-korea-chemical-castration\\_n\\_1541888.html](http://www.huffingtonpost.com/2012/05/24/south-korea-chemical-castration_n_1541888.html), accessed 29 February 2016.

<sup>55</sup>Deutsche Welle, “Seoul puts castration to the test”, 11 January 2013, <http://www.dw.com/en/seoul-puts-castration-to-the-test/a-16513280>, accessed 29 February 2016.

<sup>56</sup>Hyungsoon Park, Recent Amendments to South Korean Criminal Law: Confronting Child Sexual Abuse - Legislative Update, Australian Journal of Asian Law, 2013, Vol 14 No 2, Article 6: 1-5, [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2369117](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2369117), accessed 22 March 2016.

<sup>57</sup>US Department of State, Country Reports on Human Rights Practices for 2013, *Republic of Korea 2013 Human Rights Report*, p 2, available at: [www.state.gov/documents/organization/220416.pdf](http://www.state.gov/documents/organization/220416.pdf), accessed 29 February 2016.

meant that a court could potentially order a person to undergo chemical castration if that person commits an act of sexual violence; and that previously such an order could only be made in relation to an offence against a child.<sup>58</sup>

107. Chemical castration was the subject of a constitutional challenge (relating to a sentence passed in 2013); and in late 2015 the court ruled the law was constitutional.<sup>59</sup>

108. India is reportedly considering new laws that provide for CC. These laws are being considered in response to series of sexual offences committed against children in India.<sup>60</sup>

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<sup>58</sup> US Department of State, Country Reports on Human Rights Practices for 2013, *Republic of Korea 2013 Human Rights Report*, pp 2; 18, available at: [www.state.gov/documents/organization/220416.pdf](http://www.state.gov/documents/organization/220416.pdf), accessed 29 February 2016.

<sup>59</sup> The Korea Times, "Court rules chemical 'castration' constitutional", 23 December 2015, <http://www.koreatimesus.com/court-rules-chemical-castration-constitutional/>, accessed 29 February 2016.

<sup>60</sup> The Economic Times, The India Times, "Why Chemical Castration of Child Rapists & Molesters is a Solution that Ignores Realities", 1 November 2015, <http://economictimes.indiatimes.com/news/politics-and-nation/why-chemical-castration-of-child-rapists-molesters-is-a-solution-that-ignores-realities/articleshow/49610231.cms>, accessed on 29 February 2016.

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## Institute for Criminal Justice Reform

**Institute for Criminal Justice Reform (ICJR)** is an independent research institute that focuses on the reform of criminal law, criminal justice system, and law in general in Indonesia.

One of crucial challenges that Indonesia has to encounter during this transition era is to reform law and criminal justice system toward more democratic directions. In the past, criminal law and criminal justice had been the supporting tools of authoritarian rule, and also for the interest of social engineering. Now, it is the time to change the orientation and instrument of criminal law as power tools into supporting tools for democratic political system work and human rights respect.

Therefore, to respond the abovementioned recent challenges, Indonesia needs well-planned and systematic efforts. A grand design of reform in criminal justice and law in general should be initiated. Criminal justice system has been a strategic key point in establishing the Rule of Law framework and human rights respect. Furthermore, to have the right function of democracy, there should be institutionalized concept of the Rule of Law. Thus, the reform of criminal justice system that oriented to human rights protection is the “*conditio sine quo non*” along with the process of institutionalized democracy of transition era.

Lately, there have been many efforts in conducting transformation in law and criminal justice in order to be more effective. However, there should be more extensive support. For that reason, ICJR tries to take initiative in supporting those efforts by providing support in the context of establishing respect to the Rule of Law and at the same time establishing human rights culture in criminal justice system.

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## 99 Alliance Decline Laws on Chemical Castration

ICJR, ELSAM, ECPAT INDONESIA, LBH Apik Jakarta, Forum Pengada Layanan, LBH Jakarta, Koalisi Perempuan Indonesia, LBH Masyarakat, PBHI, SAPA Indonesia, LBH Pers, PKBI, WALHI, KePPaK Perempuan, Institut Perempuan, HRWG, CEDAW Working Group Initiative (CWGI), ASOSIASI LBH APIK, Perempuan Mahardika, Positive Hope Indonesia, KONTRAS, Perkumpulan Pendidikan Pendampingan untuk Perempuan dan Masyarakat (PP3M) – Jakarta, OPSI, Lentera Anak Pelangi, PSHK, LDD, SAMIN, Gugah Nurani Indonesia, Sahabat Anak, Perkumpulan Magenta, Syair.org, Tegak Tegar, Simponi Band, YPHA, Budaya Mandiri, IMPARSIAL, Yayasan Pulih, Kriminologi UI, Aliansi Pelangi Antar Bangsa, KPKB, Institut KAPAL Perempuan, ANSIPOL, Lembaga Partisipasi Perempuan, Kalyanamitra, Gerakan Pemberdayaan Suara Perempuan, Women Research Institute, PD Politik, Indonesia untuk Kemanusiaan, Institute Pemberdayaan Perempuan dan Anak Indonesia (IPPAI), Aman Indonesia, Indonesia Beragam, Yayasan Cahaya Guru, Himpunan Wanita Disabilitas Indonesia (HWDI), PEKKA, Migrant Care, Asosiasi Pengajar dan Peminat Hukum Berperspektif Gender seluruh Indonesia (APPHGI), INFID, Rahima, Association for Community Empowerment (ACE), Perkumpulan Rumpun, Sejiwa, LPBHP Sarasvati, Sapainstitut – Bandung, YLBHI, MaPPI FH UI, LeIP, TURC, Masyarakat Akar Rumput (MAKAR), Afy Indonesia, Rifka Annisa – Yogyakarta, IPPI (Ikatan Perempuan Positif Indonesia), SCN CREST (Semarak Cerlang Nusa), Aliansi Remaja Independen, Fahmina Institute, MITRA IMADEI, Yayasan Bakti Makassar, Yayasan Kesehatan Perempuan, Asosiasi PPSW, Jala PRT, Cahaya Perempuan WCC, Rumah KITAB, SEPERLIMA, PKWG UI, PRG UI, Kajian Gender UI, Flower Aceh, Perkumpulan Harmonia, Yayasan Nanda Dian Nusantara, ILRC, Mitra Perempuan Women's Crisis Center, PUSKA PA UI, Yayasan Jurnal Perempuan, Solidaritas Perempuan, Yayasan KAKAK Solo, Indonesian Conference on Religion and Peace (ICRP), PGI, YSSN Pontianak, Yayasan Setara Semarang, and PKPA Medan.