

**A Gender Based Evaluation of Chemical  
Castration as a punishment for Rape of the  
Girl Child in Nepal**

**Daayitwa  
Summer Fellowship 2015  
Bhumika Regmi**

## About Fellow

Bhumika Regmi completed her M.S. in Professional Communications in May 2015 and B.A. in International Development and Social Change in May 2014 from Clark University in Worcester, Massachusetts. While she worked at the YWCA, whose slogan is “eliminating racism, empowering women,” She also interned at Jeremiah’s Inn, which is a residential program for men transitioning from substance abuse. With a few other Nepali students at Clark University, Bhumika lead a fund (Clark Nepal Relief Fund) that has collected around \$15,000 for immediate relief and rehabilitative support for Nepal in light of the tragic earthquake. She works as a fundraiser and outreach coordinator and is on the steering committee of the fund.

## Project Experience

Working at Daayitwa and with government officials came with its challenges. I faced several technical challenges such as access to Singha Durbar, as well adaptive challenges such showing myself as a capable professional and not just a young girl to the people who I came across in the project. However, facing the several challenges that I did have only made me stronger. I respect Hon. Ranju Jha for her gender sensitivity and have enjoyed writing a report for her as an acting consultant. More so, the lessons I learnt working in Daayitwa have been extremely valuable.

## Acknowledgements

I would like to sincerely thank Pukar *Dai* (Dr. Pukar Malla, Founder of Daayitwa) for teaching the leadership course, which made the trip back to Nepal more worthwhile than it already was. I thank Daayitwa Summer Fellows for the opportunity to peer-learn. I thank Hon. Ranju Jha for the time she was able to give me. And finally, I thank my parents for giving their blessings for me to come to Nepal this summer. It was hard for them as I had a full-time job waiting for me. To be able to share my experiences and prove to them that Nepal has immense opportunity and need for young and motivated thinkers was fulfilling. I especially want to thank my father for never telling me what to or not to do.

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## Article I. Executive Summary

As part of the Daayitwa Summer Fellowship 2015, this project was conducted for a 3-month span. The Fellowship aimed to provide youths a bridge to insert their expertise in socio-political sector in Nepal by working with members of ministries, members of parliament, as well as other partner agencies like NARC. This specific project connected a youth with Hon. Ranju Jha, a Member of Parliament and Chair of the Women, Children, Senior Citizen, and Social Welfare Committee to work towards designing a need based project that regulates gender sensitive analysis of policies in Nepal. Introducing Chemical Castration as a sanction for rape of the girl child has been in discussion in the WCSSW committee since suggested by Hon. Jha. Following through with the MP's solicitation, this report provides a gender-based analysis of the implications of such a sanction.

**Goals/Vision:** To influence Hon. Ranju Jha and other parliamentarians towards policy making that is gender sensitive.

**Objective:** Support the Women, Children, Senior Citizen, and Social Welfare committee, of which Hon. MP is the chair by following through with her solicitation.

1. A critical analysis of Chemical Castration as a punishment for Rape of the girl child.
2. Provide recommendations of other laws and provisions that can tackle the issue.

**Finding:** While practiced in several countries, Chemical Castration is a highly controversial topic. Scholars have both critiqued and provided support for the policy. Arguments for and against the policy range from issues regarding violation of human rights, the reliability of the drug, to the counter productivity of a non-permanent solution.

**Summary of Recommendations:** Because of the unreliability of the drug, the controversies surrounding it, and the high-costs, as discussed in literature, Hon. is suggested to channel funding towards preventative methods of the rape of women and children.

## Article II. Overview

As part of the Daayitwa Summer Fellowship 2015 run by Daayitwa, my project was outlined as a gender based policy analysis project, where I needed to work with Hon. Ranju Jha, Member of Parliament and Committee Chair of the Women, Children, Senior Citizen, and Social Welfare Committee, to identify the needs and gaps in policy analysis through a gender lens.

### Section 2.01 Fellowship Context

#### Summary of TOR as outlined by Daayitwa Fellowship Team

Daayitwa believes that for Nepal to achieve a fair and inclusive development, empowerment of women across the country is a must. However, there are many legal barriers that prevent women from realizing their potential; it is necessary to review the existing bills on women's rights through a gender sensitive lens. These bills need to reflect the dynamic nature of society.

#### Suggested Actions:

1. Develop specific-research questions
2. Produce concrete research outputs in close collaboration with Daayitwa team and parliamentary committee
3. Critically analyze bills, issues, and policies for gender equality reforms.
4. Work directly with MP on implementing action initiatives as deemed necessary.

#### Parliamentarian, Hon. Ranju Jha's Profile:

Title: Chairperson of the women, children, senior citizen & social welfare committee (Mahila, Balbalika, Jesth Nagarik, Samaj Kalyan Samiti)

Party: CPN UML- Communist Party of Nepal (Unified Marxist-Leninist)

Place of Origin: Madhes

Educational Background: Law

Activities:

- Previously involved with: Nepal Mahila Sang, 7 years.
- Published author of articles on gender and empowerment.

#### Initial Phase of the Fellowship

In the initial phase of the fellowship, I identified the needs in the field, the needs of the MP, and that of other stakeholders. In order to do so, it was important to identify the various gender-related policies in Nepal, literature on the issues, the gaps in studies, and who the stakeholders are. I followed general guiding questions found in Appendix I, in doing the foundation work that was necessary to formulate a project design.

### Section 2.02 Collaboration with Hon.

#### Purpose

To influence Hon. Ranju Jha and other parliamentarians, towards policy making that is gender sensitive.

## Objectives

1. Support the Women, Children, Senior Citizen, and Social Welfare committee, of which Hon. MP is the chair by completing tasks assigned by Hon. that require a gender sensitive lens and further research.
2. Review existing laws and provisions for Women's empowerment
3. Identify gaps in law and provisions
4. Make recommendations of other laws and provisions.
5. Solicit learning experiences.
6. Write a concise report that is conducive to Hon.'s time and relevant as well as useful for Hon. and committee members.

## Section 2.03 Research Conducted on Chemical Castration as a punishment for Rape of Girl Children

The Ministry of Women, Children, and Senior Citizens, provides policy recommendations regarding women to the parliament through the parliamentary committee Women, Children, Senior Citizen, and Social Welfare Committee, of which Hon. Ranju Jha is a chair. However, on occasion, the Hon., herself and the committee members suggest policy ideas that the Ministry can explore and put through for approval. Likewise, Hon. has recently been exploring the possibility of introducing Chemical Castration as a sanction enforced by law for men who have raped girl children. Following through with the fellowship's recommendation, I decided to meet the needs of the parliamentarian and explore the idea of Chemical Castration as a punishment through a gender sensitive lens.

## Article III. Introduction

As solicited by Hon. Ranju Jha, Member of Parliament and Committee Chair of the Women, Children, Senior Citizen, and Social Welfare Committee, this report presents a summary of evaluation of the implications of Chemical Castration as a punishment for rape of the girl child. Chemical Castration as a sanction has been in discussion in the committee for a year. Hon. has also written articles discussing the importance of, what she considers, a harsher punishment for offenders of the heinous crime. This report is not written based on an analysis of the legal system in Nepal; it is rather a sociological and gender based perspective on the implications of introducing such a law. The report also includes a recommendations section for the MP and committee members. The information presented in this report should be used as a starting point to understand the implications; further research is dissecting the implications is necessary.

### Section 3.01 Approach

#### Desk Research

- a. Conducted desk research on the practice of Chemical castration in other countries
- b. Looked at Girl-Child rape cases in Nepal
- c. Provided arguments for and against Chemical Castration in the form of punishment, as seen in literature and public opinion presented online.

#### Quantitative Data Collection

- a. Conducted research to collect quantitative data on rape of children in Nepal.

#### Qualitative Data Collection

- a. Collected opinions of two women's rights activists, Sapana Malla and Lily Thapa.
- b. Conducted interviews with members of Children's *Sakha* under MoWCSW as well as a member of the Domestic Violence section of MoWCSW who choose to remain anonymous.

#### Contextualization

- a. Researched current policies and practices that apply to the girl child and/or rape in Nepal.
- b. Analyzed the debate over Chemical Castration in the context of Nepal.

#### Recommendation

- a. Used my research as a foundation to provide recommendations for Hon. and the parliamentary committee.

### Section 3.02 Project Outcome

This report will be useful to Hon. and the Women, Children, Senior Citizen, and Social Welfare parliamentary committee members in evaluating the implications of

Chemical Castration. It will also provide an example of general gender based framework to look at recommended policies in the future.

### **Section 3.03 Key Terms**

GoN- Government of Nepal

CEDAW- Convention on the Elimination of All Forms of Discrimination against Women

CRC- Convention on the Rights of the Child

CWIN- Child Workers in Nepal

CIB- Central Investigation Bureau

FWLD- Forum for Women, Law, and Development

## Article IV. Background

### Section 4.01 Situation of the Girl Child

The girl child population in Nepal constitutes half of the total child population, marking up to about 50%; most of these girls live in rural areas<sup>1</sup>. The Interim Constitution of Nepal, 2007 and international human rights instruments, which Nepal has provided formal consent to, including the CEDAW and Convention on the Rights of the Child (CRC), provides equal rights to all girls, irrespective of caste, religion and gender. According to the leading child rights organization CWIN, The GoN has set up the Central Children Welfare Board and District Child Welfare Boards in all districts of Nepal; however, their implementation is still a challenge for the government<sup>2</sup>. Nepal has signed two optional protocols of UN CRC, 1989, first on the rights of children in armed conflict and another on rights of children to be protected from prostitution and pornography<sup>3</sup>.

### Limitations of Research

1. Lack of updated data.
2. Books published on violence against children have minimal information on Child rape.
3. Data on child rape is not separated by sex of victim.
4. Data on Women and Children are clumped into one category in publications released by Nepal Police.
5. There is no data available on offenders or repeat offenders.

### Data on Rape of the Girl Child

According to CWIN, in 2014 there were 437 cases (83 cases reported in CWIN Helplines) of rape recorded compared to 465 cases last year 261 of these cases were children under the age of 18 and 110 of the total cases were children under the age of 10 of which 41 cases (under 18) and 13 cases (under 10) have been reported in CWIN Helpline. Out of 21 of 437 reported rape cases, 59.73 % were of children under 18 and 25.18% were of minors below 10 years with the youngest being 2 Years old. 3.21 % were murdered after rape. 12.13 % cases were of gang rape. 57.21% cases were of individual rape. 11.14 % cases were of incest rape. Culprits were arrested in only 280 cases. 50 cases had been reported as incest (sexual abuse and rape done by the member of the victim's family and relatives). Of the 78 cases of child sex abuse of which 65 were girls and 13 were boys, 30 cases has been reported in CWIN Helpline<sup>4</sup>. According to UNFPA 41 per cent of Nepalese women aged 20-24

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<sup>1</sup> "Fact Sheets." *CWIN Nepal*. N.p., 2013. Web.

<sup>2</sup> "CWIN Annual Reports." *CWIN Nepal*. N.p., 2007. Web.

<sup>3</sup> "Child Rights in Nepal." *By Dinesh Prasad Gajurel*. N.p., 18 Mar. 2008. Web.

<sup>4</sup> "State of Rights of Child in Nepal." *CWIN Nepal*. CWIN NEPAL, 2014. Web.

years were married before they turned 18<sup>5</sup>. And some 7% of child marriages take place with children below 10 years<sup>6</sup>.

As reported by the Women & Children’s Directorate of the Nepal Police and Ministry of Women, Children and Social Welfare (MoWCSW), there were a total of 84 boy child rape cases filed and 0 girl child rape cases between 2070 and 2071 (according to the Nepali Calendar, which fell in the months between 2013 and 2014). In total, there were 62 child rape cases filed between 2069 and 2070 (around 2012 and 2013)<sup>7</sup>. In the book published in English by SAARC Development Fund and MoWCSW, *Situation of Violence Against Children in Nepal 2015*, data from 2012 on girl victims of sexual violence is presented by development region. There is no published data on 2015. In total, 300 girl children were raped in 2012.

Development Region	Number of Rape of Girl Child in 2012
Eastern	61
Central	138
Western	50
Mid Western	34
Far Western	13
Total	300

#### Section 4.02 Recent/Popular Girl Child Rape Cases 2015 Puja Sah Rape Case <sup>8</sup>

Seven-year-old Puja Sah, a resident of Kalaiya, died as a result of rape on 8th March, 2015. Puja, who was missing 20th February and found unconscious the following day. Police reported that Puja was raped and beaten. She died during her treatment at Kanti Children’s Hospital in Kathmandu. Due to the brutality on the girl child and the tragedy’s coinciding with International Women’s Day, an outrage sparked on social media, with Women’s rights activists, locals of Kalaiya, and civil society members asking for the highest of punishments and legal action to be taken against the perpetrator.

<sup>5</sup> *Marrying Too Young End Child Marriage*. New York: United Nations Fund for Population Activities (UNFPA), 2012. Web.

<sup>6</sup> "Early Marriage in South Asia: A Discussion Paper." UNICEF, 2008. Web.

<sup>7</sup> *The State of Children in Nepal 2014*. Lalitpur: Ministry of Women, Children, Social Welfare, Gov't of Nepal, 2014. Print.

<sup>8</sup> "Nepali Times | The Brief » Blog Archive » Kalaiya Protest Rape." *Nepali Times The Brief RSS*. N.p., 11 Mar. 2015. Web.

The local residents of Kalaiya named their protest 'Beti Bachao Andolan' (save our daughters campaign) and carried her body across streets. Puja's father as well as the former lawmaker Pramod Sah, a leading person of the protests, demanded authorities to promise death sentence to the guilty. However, Nepal does not have death sentence laws. A student union submitted a memorandum to Prime Minister Sushil Koirala asking to amend the existing law and allow death sentence to those found guilty in heinous cases.

Accused perpetrator, 28-year-old Kanhai Gupta was arrested on charges of rape. Police chief SP Lokendra Bahadur Malla of Bara claimed that the perpetrator was under the influence of alcohol. A death sentence was not granted but the Bara District Administration Office (DAO) and representatives of Beti Bachao Andolan came to a deal asked for commitment to investigate all recent rape and murder cases, acceptance of recommendations for compensation for the victim's family, maximum punishment for the guilty, and installation of CCTV cameras in Kalaiya

### 2014 Bal Mandir's Child Molestation Case<sup>9</sup>

Hope, a girl child residing in the capital's popular orphanage, Bal Mandir was found to be raped by Rabin Shrestha, person in charge of adoptions at Bal Mandir. When discovered, the 35-day statute of limitation on rape had already passed. Rabin Shrestha and Rabin Chalise, an ex-student and person running a youth club at Bal Mandir were arrested by CIB on 16th June for repeated rape and abuse of other girls and boys at the orphanage. As told in testimony by three girls from the orphanage, the two men would "introduce themselves to the children as Bollywood film stars Amitabh and Abhishek Bachchan and would lure them into drinking alcohol and watching pornography before abusing them, the latest incident occurred three days before their arrest". Children from the orphanage also accused the two perpetrators of taking the children to a bar in Thamel for prostitution.

Lawyer and ex-parliamentary member, Sapana Malla fought the case for Hope. She appealed the court for amendment to the 35-day statute of limitation on rape cases, to teach children about sexual abuse, and to set up a child-abuse monitoring system at Bal Mandir. The perpetrators denied the allegations but were given 16.5 years jail term in December 2014.

## Section 4.03 Existing Sanctions for Child Rape and Relevant policies

### Imprisonment

1. Pedophilia provides for an additional year's punishment over the sentence imposed for rape and appropriate compensation for the victim<sup>10</sup>.
2. Nepali court does not practice death penalty for any crimes. Since, Article 12 in the 1990 Constitution stated that "No law shall be made which provides for capital punishment," the restraint from the law has remained<sup>11</sup>.

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<sup>9</sup> "Child Predators | Nation | Nepali Times." *Child Predators | Nation | Nepali Times*. N.p., 10 July 2014. Web.

<sup>10</sup> "Country Code (Eleventh Amendment) and Women's Rights." (n.d.): n. pag. OHCHR Nepal. Web. <<http://nepal.ohchr.org/en/resources/Documents/English/other/2009/March%2009/1.Country%20Code%20amendment.pdf>>.

3. The Interim Constitution of Nepal, 2007 states equal rights to all citizens and also provides protection to women from discrimination. The Constitution of Nepal places educational and health rights as fundamental rights<sup>12</sup>.
4. The GoN has set up the Central Children Welfare Board and District Child Welfare Boards in all districts of Nepal<sup>13</sup>.
5. Nepal has ratified protocols of UN CRC, 1989, on the rights of children to be protected from prostitution and pornography<sup>13</sup>.
6. The Supreme Court in 2006 has declared that sex without the wife's consent is rape and punishable by law. The law is an amendment following a petition filed in July 2001 by the FWLD. However, while many women suffer sexual violence at the hands of their husbands, only a few women have dared to seek legal remedy because of the stigma around talking about sex<sup>14</sup>. Many people are still unaware of the legal provision as well. Nepal is one of the few countries that have identified marital rape as a crime<sup>14</sup>. However, 41% of children in Nepal were married before the age of 18 in 2013<sup>15</sup>, and are likely not vocalizing marital rape because they do not understand the concept.

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<sup>11</sup> "HANDS OFF CAIN against Death Penalty in the World." *HANDS OFF CAIN against Death Penalty in the World*. N.p., 2015. Web.

<sup>12</sup> "World Intellectual Property Organization." *Nepal: The Interim Constitution of Nepal 2063 (2007)*. Government of Nepal, n.d. Web. <file:///Users/user/Downloads/Constitution\_of\_Nepal-Final.pdf>.

<sup>13</sup> Aryal, Kapil, Ad. "Comparative Analysis of the Convention on the Rights of the Child and Nepalese Legislations Concerning Child Rights." *Child Nepal* (n.d.): n. pag. Web. <<http://childnepal.org/reports/recent%20publication/Comparative%20Analysis%20of%20convention%20on%20the%20rights%20of%20the%20child.pdf>>.

<sup>14</sup> "Marital Rape in Nepal." *Her Turn Educated Empowered Equal RSS*. N.p., 27 Mar. 2013. Web.

<sup>15</sup> "Child Marriage Facts and Figures." *RSS*. N.p., n.d. Web.

## Article V. Chemical Castration

### Section 5.01 What it is

“Chemical castration is a procedure wherein medications are administered to reduce testosterone levels.”<sup>16</sup> It does not remove organs. Because of the growing calls for tougher punishment against sexual offenders and stronger preventive measures in the aftermath of a series of violent crimes victimizing women and children around the world, Chemical Castration has become a potential policy alternative that several governments have sought out as an alternative to incarceration. While conducting chemical castration, medical practitioners use antiandrogen drugs, such as *cyproterone acetate* or the birth-control drug Depo-Provera, as an injection on a regular basis<sup>16</sup>.

### Section 5.02 Effects

When used on men, the drugs used for chemical castration reduce sex drive, compulsive sexual fantasies, and capacity for sexual arousal. Throughout the history of the procedure, life-threatening side effects have been rare; however, some users show increases in body fat and reduced bone density, which can increase long-term risk of cardiovascular disease<sup>17</sup>.

### Section 5.03 History

The first reported attempt of Chemical Castration was in 1944 when the drug, *diethylstilbestrol* was prescribed to lower testosterone levels<sup>18</sup>. Similar drugs, Medroxyprogesterone acetate and cyproterone acetate have been used throughout the United States, Canada, and some European countries to suppress sexual fantasies and sexual impulses in sexual offenders<sup>19</sup>. In 1996, California became the first state in the United States to authorize the use of either chemical or surgical castration for certain sexual offenders who were being released from prison into the community. This legislation was extremely controversial<sup>19</sup>; however, eight additional states have subsequently passed laws that provide some form of castration for sexual offenders under consideration for parole or probation. Similarly, some European, Australian, and Asian nations have also employed the punishment at some points in their history. Currently, similar debates on the legislation and expansion of chemical castration have taken place in Korea.

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<sup>16</sup> "Chemical Castration - Medicine - Pros and Cons - Reference." *Medindia*. N.p., n.d. Web.

<sup>17</sup> "Chemical Castration." *Psychology Wiki*. N.p., n.d. Web.

<sup>18</sup> Lee, Joo Yong, and Kang Su Cho. "Chemical Castration for Sexual Offenders: Physicians' Views." *Journal of Korean Medical Science*. The Korean Academy of Medical Sciences, n.d. Web.

### Section 5.04 Prevalence

The chart below shows the prevalence of Chemical Castration as a punishment for sex offenders around the world. The list only refers to prominent countries and excludes countries where the punishment was an anomaly.

<b>Prominent Use of Chemical Castration Around the World</b>				
<b>Continent</b>	<b>Country</b>	<b>Date</b>	<b>Details</b>	<b>Public Opinion</b>
<b>North America</b>	U.S.A <sup>19</sup>	Varies by State	<ol style="list-style-type: none"> <li>1. California (1996- Current)               <ol style="list-style-type: none"> <li>a. Mandatory after second offence</li> <li>b. Anyone convicted of child molestation with a minor under 13 years of age</li> </ol> </li> <li>2. Florida (1997- Current)</li> <li>3. Georgia</li> <li>4. Iowa</li> <li>5. Louisiana</li> <li>6. Montana</li> <li>7. Oregon</li> <li>8. Texas</li> <li>9. Wisconsin</li> </ol>	Highly Controversial
	Canada <sup>20</sup>	Not part of Law	<ol style="list-style-type: none"> <li>1. Forcible in certain cases</li> </ol>	Controversial
	Poland <sup>21</sup>	2009- Current	<ol style="list-style-type: none"> <li>1. Provided the law as an option for courts</li> <li>2. Forcible chemical castration of child molesters.</li> <li>3. Anyone convicted of raping a child under the age of 15 can be subject to chemical castration</li> <li>4. Stated purpose: To</li> </ol>	

<sup>19</sup> ABC News. ABC News Network, n.d. Web.

<sup>20</sup> "Chemical Castration of Pedophile Upheld by Federal Court." *Chemical Castration of Pedophile Upheld by Federal Court*. N.p., 6 Aug. 2006. Web.

<sup>21</sup> "Poland Castration Law Takes Effect - BBC News." *BBC News*. N.p., n.d. Web.

<b>Europe</b>			decrease repeat offence	
	Moldova <small>22 23 24 25</small>	2012- Current	<ol style="list-style-type: none"> <li>1. Provided law as an option for courts</li> <li>2. Punishment for child molesters</li> </ol>	
	Estonia <small>26</small>	2012- Current	<ol style="list-style-type: none"> <li>1. Provided law as an option for courts</li> <li>2. Punishment for sexual offenders</li> </ol>	
	Russia <sup>27</sup> <small>28</small>	2011- Current	<ol style="list-style-type: none"> <li>1. Allowed the option for chemical castration on convicted sex offenders who attacked children under 14 years of age.</li> </ol>	
	Germany <small>27</small>	1969- Current	<ol style="list-style-type: none"> <li>1. Voluntary Castration; a person over the age of 25 may be subjected to surgical castration if he "displays an abnormal sex drive, which gives reason to suspect that he will commit one or more criminal offenses."</li> <li>2. Not mandatory</li> </ol>	Controversial/Re-evaluating the law

<sup>22</sup> "Moldova Introduces Chemical Castration for Paedophiles - BBC News." *BBC News*. N.p., n.d. Web.

<sup>23</sup> "Moldovan Court Bans Forced Castrations." *RadioFreeEurope/RadioLiberty*. N.p., n.d. Web.

<sup>24</sup> Gordts, Eline. "Moldova Chemical Castration For Convicted Pedophiles Legalized." *The Huffington Post*. TheHuffingtonPost.com, n.d. Web.

<sup>25</sup> "Moldova Legalizes Chemical Castration for Pedophiles." *Moldova Legalizes Chemical Castration for Pedophiles*. N.p., n.d. Web.

<sup>26</sup> "Using Chemical Castration to Punish Child Sex Crimes - CNN.com." *CNN*. Cable News Network, 5 Sept. 2012. Web.

<sup>27</sup> "The Law and Pedophiles." : *Around the World – Should Castration Be Used Against Sex Offenders?* N.p., 26 June 2013. Web.

<sup>28</sup> Dicker, Ron. "Russia's Chemical Castration Program May Get Bold Finance Plan." *The Huffington Post*. TheHuffingtonPost.com, n.d. Web.

			3. Offender can only have the operation after being informed of all the implications of the decision and after medical approval has been obtained.	
	Czech Republic <sup>27</sup>		<ol style="list-style-type: none"> <li>1. Prisoners have to request castration under Czech law.</li> <li>2. Voluntary; offenders can choose the process as an alternative to incarceration</li> <li>3. Operation has to be approved by a committee of experts.</li> </ol>	Controversial Pressure from other International Human Rights groups to change the policy.
	Romania <sup>27</sup>	2009	1. Officials who drafted the Romanian law, told Romanian media that the legislation was designed to “stop lunatics”	Controversial
Asia	South Korea <sup>27</sup> <sup>29</sup>	2011-Current	<ol style="list-style-type: none"> <li>1. Gave judges the power to sentence sex offenders with chemical castration in cases where they attacked a child under the age of 16</li> <li>2. Ministry of Justice committee can ask for the punishment. <ol style="list-style-type: none"> <li>a. On May 23, 2012, a repeat sexual</li> </ol> </li> </ol>	Controversial

<sup>27</sup> "The Law and Pedophiles." : *Around the World – Should Castration Be Used Against Sex Offenders?* N.p., 26 June 2013. Web.

<sup>29</sup> "Using Chemical Castration to Punish Child Sex Crimes - CNN.com." *CNN*. Cable News Network, n.d. Web.

			<p>offender was ordered by the committee to undergo this treatment after his most recent attempted offense.</p> <p>3. On January 3, 2013, a South Korean court sentenced a 31-year-old man to 15 years in jail and chemical castration, the country's first ever chemical castration sentence.</p>	
	Indonesia <sup>30 31</sup>	Pending	1. Law in dialogue for pedophilia	-
	India <sup>32 33</sup>	Pending	<p>1. After the public outrage followed by the “Nirbhaya” gang rape case, the Government has submitted a draft proposing chemical castration along with an imprisonment of up to 30 years for rape convicts as part of the anti-rape law in India.</p> <p>2. The ministry is preparing a detailed bill and the recommended changes are under review.</p>	Controversial

<sup>30</sup> "Indonesia Mulls Chemical Castration after String of Pedophile Cases." *Reuters India*. N.p., 16 May 2014. Web.

<sup>31</sup> "Indonesia Considers Chemical Castration to Punish Pedophiles." *Fox News*. FOX News Network, 16 May 2014. Web.

<sup>32</sup> "India Considers Chemical Castration for Rapists | Asia | DW.COM | 01.01.2013." *DW.COM*. N.p., n.d. Web.

<sup>33</sup> "Chemical Castration - Medicine - Pros and Cons - Reference." *Medindia*. N.p., n.d. Web.

	Israel <sup>34</sup>	Practiced for the first time in 2009	1. Not a punishment law. Phedophiles can volunteer for the castration	-
<b>South America</b>	Argentina <sup>35 36 37</sup>	2010	1. Only Mendoza, a province in Argentina, approved a new law which allows rapists to voluntarily undergo chemical castration therapy in return for reduced sentences.	-
<b>Australia</b>	Australia <sup>38</sup>	Not punishable by law	1. Doctors can prescribe chemical castration drugs 2. In 2010 a repeat child sex offender who was prescribed chemical castration by a doctor was accused of inappropriately touching and kissing a young girl.	Controversial
	New Zealand <sup>39</sup>	Not punishable by law	1. Doctors can prescribe chemical castration drugs. 2. In November 2000 a convicted pedophile attacked a victim while on the drug.	Controversial

<sup>34</sup> Park, Madison. "Using Chemical Castration to Punish Child Sex Crimes - CNN.com." *CNN*. Cable News Network, 5 Sept. 2012. Web.

<sup>35</sup> Fontana, Guillermo. *CNN*. Cable News Network, 20 Mar. 2010. Web.

<sup>36</sup> "Chemical Castration in Argentina." *Feministe*. N.p., 19 Mar. 2010. Web.

<sup>37</sup> "Argentina Violators Apply Chemical Castration." *Terra*. N.p., n.d. Web.

<sup>38</sup> Millward, David. "Australia Considers Compulsory Chemical Castration for Paedophiles." *The Telegraph*. Telegraph Media Group, n.d. Web.

<sup>39</sup> Park, Madison. "Using Chemical Castration to Punish Child Sex Crimes - CNN.com." *CNN*. Cable News Network, 5 Sept. 2012. Web.

## Section 5.05 Arguments For and Against Chemical Castration as a Punishment

While the procedure has been accepted in several nations, it has also been highly controversial on the grounds that it is against the human rights of the offender. Below is an outline that provides summaries of arguments found in literature, blogs, and news articles for and against the use of Chemical Castration as a punishment for sexual harassment crimes.

### For

#### Reduction of Repeat Sexual Offence

It is argued in literature that using Chemical Castration can reduce repeat sexual offence because it reduces sex drive in recipients.

1. Scientists have observed the link between testosterone and aggression and concluded that high levels of testosterone correspond with increased violent and aggressive behavior in men<sup>40</sup>. Chemical Castration reduces testosterone levels which can ultimately reduce aggression. The assumption here is that the abuse was based off of aggression.
2. "Chemical castration reduces the ability of a person to get sexually stimulated and thereby reduces the chances of repeat sexual offences."<sup>41</sup>
3. Research from Scandinavia has reported a drop in reoffending rates from 40% to between zero and 5% after the use of chemical castration<sup>42</sup>.
4. "The idea of giving sexual offenders a pill to destroy their ability to have intercourse always provokes fierce objections on the grounds of civil liberties. But a child's right to protection is far more morally important than the freedoms of pedophiles".<sup>43</sup>

#### Controlling Pedophilia

Sexual offence can be a result of pedophilic tendencies, which is a form of sexual orientation. Allowing castration allows those pedophilic offenders who wish not to act upon their attraction to children to control their urges and keep children safe.

1. "Both surgical and chemical castrations undoubtedly reduce sexual interest, sexual performance, and sexual reoffending"<sup>44</sup>
2. Surgical castration reportedly produces definitive results, even in repeat pedophilic offenders, by reducing recidivism rates to 2% to 5% compared with expected rates of 50%.<sup>23</sup> Chemical castration using LHRH agonists reduces circulating testosterone to very low levels, and also results in very

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<sup>40</sup> Mazur, Allan. "TESTOSTERONE AND DOMINANCE IN MEN." *TESTOSTERONE AND DOMINANCE IN MEN*. Behavioural and Brain Sciences, n.d. Web.

<sup>41</sup> "Chemical Castration - Medicine - Pros and Cons - Reference." *Medindia*. N.p., n.d. Web.

<sup>42</sup> Aitkenhead, Decca. *The Guardian*. The Guardian, 18 Jan. 2013. Web.

<sup>43</sup> "Paedophiles Chemically Castrated in British Jail." *The Telegraph*. Telegraph Media Group, 13 Mar. 2012. Web.

<sup>44</sup> Lee, Joo Yong, and Kang Su Cho. "Chemical Castration for Sexual Offenders: Physicians' Views." *Journal of Korean Medical Science*. The Korean Academy of Medical Sciences, n.d. Web.

low levels of recidivism despite the strong psychological factors that contribute to sexual offending.

### More effective than incarceration

Imprisonment is often criticized as a solution to decrease crime in general. It simply puts away offenders for a time being but does not deal with the underlying issues that lead to the crime. Chemical Castration may be a better solution to decreasing sexual crimes than incarceration.

1. "Utilizing prison as a punishment for child molestation creates only a Band-Aid solution for the issue of sexual assault and other resolutions need to be investigated."<sup>45</sup>
2. "[Prison] serves no rehabilitative purpose for sexual offenders. Pedophiles who spend time festering in a prison cell are given extensive downtime to concoct new sordid sexual fantasies involving children. These horrific visions are translated into terrifying realities once the criminal comes back into contact with children following his inevitable release from prison."<sup>46</sup>

### Impermanency

Chemical castration is no longer effective after it is discontinued.<sup>47</sup>

1. If the effects of the drug can be discontinued, a person should be able to have children; it does not violate the right to procreate.

### Against

#### Ineffective Treatment

1. Testosterone is the major hormone associated with sexual function. However, a clear cause-and-effect relationship between testosterone levels and sexual offending is uncertain.<sup>26</sup>
2. There are studies that show that preventing the production of testosterone in offenders reduces their sexual drive; however, the Royal Australian and New Zealand College of Psychiatrists (RANZCP) conducted another study, which shows that studies of sex offender treatment have many methodological problems. These studies that show that lowering the level of testosterone in an offender reduces their sex drive are flawed<sup>48</sup>.

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<sup>45</sup> Mack, Marquita. "Chemical Castration: The Benefits And Disadvantages Intrinsic To Injecting Male Pedophiliacs With Depo-Provera - College Essays." *Chemical Castration: The Benefits And Disadvantages Intrinsic To Injecting Male Pedophiliacs With Depo-Provera - College Essays*. N.p., 19 Dec. 2009. Web.

<sup>46</sup> Amlin, Katherine. "Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera." *Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera*. Bryn Mawr College, 01 Sept. 2008. Web.

<sup>47</sup> Lee, Joo Yong, and Kang Su Cho. "Chemical Castration for Sexual Offenders: Physicians' Views." *Journal of Korean Medical Science*. The Korean Academy of Medical Sciences, n.d. Web.

<sup>48</sup> Aarons, Derrick. "Chemical Castration to Control Crime? - News." *Jamaica Observer News*. N.p., n.d. Web.

3. A British Medical Journal article states that there is “weak evidence for interventions aimed at reducing re-offending in identified sexual abusers of children.”<sup>49</sup>
4. Chemical Castration is more effective with those who voluntarily request treatment.
5. And the men who choose treatment to avoid pedophilia may well be less inclined to reoffend anyway.<sup>50</sup>
6. In addition, androgen-suppressing medication may only be effective in those comparatively rare individuals with off-beat sexual orientation. Many sex offenders commit a crime because they are opportunistic and may be motivated more by aggression and dominance than sexual desire<sup>28</sup>.
7. Contrary to public opinion, child molesters have among the lowest rates of recidivism on a worldwide context<sup>51</sup>. Whether this is because of low rates of reporting, prosecution or conviction, the fact remains that drastic measures applied to a group whose re-offence rates are already low may not be logical.
8. Forced castration can have the adverse effect of angering a criminal, increasing his violent tendencies and lead to additional sexual abuse<sup>52</sup>.
9. Research also suggests that forced chemical castration can increase violence in general if medication is not properly monitored<sup>53</sup>.

### Impermanency

1. Depo-Provera, the drug generally used for Chemical Castration, is reversible<sup>31</sup>. Therefore, unless injections are mandatory and monitored, pedophiles will not be cured by the drug therapy. The child molester will have renewed sexual fantasies and high levels of testosterone if the injections are discontinued<sup>31</sup>.
2. Since the effects of the medications are temporary, they require repeated administration. Thus, the treatment could be very costly. The sexual abusers will have to regularly follow up with the doctors for repeat medication, which may not always be feasible.

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<sup>49</sup> "Treatment or Punishment? Chemical Castration of Child Sex Offenders." *The Conversation*. The Conversation, 22 Apr. 2014. Web.

<sup>50</sup> Amlin, Katherine. "Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera." *Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera*. Bryn Mawr College, 01 Sept. 2008. Web.

<sup>51</sup> "Recidivism: How Often Do Child Molesters Go on to Reoffend?" *Recidivism and Child Molesters*. The Leadership Council, n.d. Web.

<sup>52</sup> Amlin, Katherine. "Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera." *Chemical Castration: The Benefits and Disadvantages Intrinsic to Injecting Male Pedophiliacs with Depo-Provera*. Bryn Mawr College, 01 Sept. 2008. Web.

<sup>53</sup> Lee, Joo Yong, and Kang Su Cho. "Chemical Castration for Sexual Offenders: Physicians' Views." *Journal of Korean Medical Science*. The Korean Academy of Medical Sciences, n.d. Web.

## Unethical

1. The practice of forced chemical castration has been called "inhuman treatment" by Amnesty International. They released a statement after Moldova legalized the practice, stating: "any crime shall be punished in a way that abides by the Universal Declaration of Human Rights."<sup>54</sup>
2. Chemical castration is associated with side effects, which include <sup>55 56</sup>:
  - a. Hot Flashes
  - b. Impotence
  - c. Thinning of bone
  - d. A decrease impulse mass
  - e. Increase in breast size
  - f. Anemia
  - g. Weight Gain
  - h. Mood changes
  - i. Osteoporosis
  - j. Cardiovascular disease
  - k. Impaired glucose
  - l. Lipid metabolism
  - m. Depression
  - n. Hot flashes
  - o. Infertility
  - p. Anemia
  - q. High blood pressure

Thus, it may not be ethical to introduce these side effects in an individual.

3. Because the treatment can cause infertility as a side effect, it interferes with the right to procreate. Although the treatment may be a good way for sex offenders to reenter society without extreme violent and sexual tendencies, the treatment is not ethical. In many peoples' opinion, despite its potential benefits, chemical castration, by exerting control over the mind of sex offenders, is a form of cruel and unusual punishment.
4. Primum non nocere or "first, do no harm" is a fundamental tenet of medical ethics. Chemical Castration is a medical treatment; therefore, it conflicts with medical ethics as well because of the various side effects that hamper health.

## Another "band-aid solution"

1. Castration isn't the answer to keeping children safe from sexual offenders.

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<sup>54</sup> Park, Madison. "Using Chemical Castration to Punish Child Sex Crimes - CNN.com." *CNN*. Cable News Network, 5 Sept. 2012. Web.

<sup>55</sup> Lee, Joo Yong, and Kang Su Cho. "Chemical Castration for Sexual Offenders: Physicians' Views." *Journal of Korean Medical Science*. The Korean Academy of Medical Sciences, n.d. Web.

<sup>56</sup> "Chemical Castration - Medicine - Pros and Cons - Reference." *Medindia*. N.p., n.d. Web.

2. Frances Cook, of the Howard League for Penal Reform, said: "Sex offending is often not about sex at all, but about violence and domination. The drugs used will not affect those attitudes."<sup>57</sup>
3. The question of duration of treatment is also problematic. If it's life-long, there is little difference between chemical and physical castration. If not, there's an expectation of "cure" which is not supported by research.
4. The focus on medical solutions to child sex offending promotes the idea that pedophilic strangers mostly perpetrate child sexual abuse. Given that worldwide up to 90% of sexual abusers of children are known to the victim<sup>58</sup>, representing all child sex abusers as recidivist pedophiles risks further distortion of public discourse around child sexual abuse.

### Section 5.06 In Context of Nepal

#### Opinion: Women's Rights Activists

In gathering the opinions of women's rights activists in Nepal, I contacted popular women's rights activist, advocate, and former Member of Parliament, Sapana Malla. She said that she believes in restorative justice but with corrective punishment not deterrent punishment. She indicated that Chemical Castration is not a form of restorative justice. While Lily Thapa, also a women's rights activist and the founder and chairperson of Women for Human Rights (WHR) said that she is unsure of how she feels about Chemical Castration; however, she believes that there can be other punishment options that do not violate human rights.

#### Human and Constitutional Rights

Both the interim constitution of 2007 and the recently released preliminary draft of the new constitution recognize the right against torture. Number 26, in the interim constitution states<sup>59</sup>:

*(1) No person who is detained during investigation, or for trial or for any other reason shall be subjected to physical or mental torture, nor shall be given any cruel, inhuman or degrading treatment.*

Number 27 in the preliminary constitution states:

*(1) No person who is detained during investigation or for trial or for any other reason shall be subjected to physical or mental torture or to cruel, inhuman or degrading treatment.*

Techniques outside the scope of traditional penalties, such as fines and incarceration, can be constitutionally suspect. A punishment like Chemical

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<sup>57</sup> "Paedophiles Chemically Castrated in British Jail." *The Telegraph*. Telegraph Media Group, 13 Mar. 2012. Web.

<sup>58</sup> "11 Facts About Child Abuse." *11 Facts About Child Abuse*. N.p., n.d. Web.

<sup>59</sup> "World Intellectual Property Organization." *Nepal: The Interim Constitution of Nepal 2063 (2007)*. Government of Nepal, n.d. Web. <file:///Users/user/Downloads/Constitution\_of\_Nepal-Final.pdf>.

Castration, which has very little research and may cause several health risks is too experimental to be required as law and is a form of torture. On the other hand, unlike in many countries, the right to procreate is not a constitutional right in Nepal, making the argument that the procedure violates the civil right of humanity invalid.

### **Child Marriage**

To focus on medical solutions to child sex offending is to promote that such crimes are committed by pedophilic strangers only when, as stated before in this report, many child abuses happen at home, in educational institutions, and work-places in Nepal. Representing all child sex abusers as recidivist pedophiles risks further distortion of public discourse around child sexual abuse. Out of the total marriages in Nepal in 2008, 34% were with girls below 16 years. And some 7% of child marriages take place with children below 10 years<sup>60</sup>. Taking away the sex drive of a husband married to a child is an ironic punishment for abuse when the focus could be channeled on how to prevent the abuse and prevent child marriages.

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<sup>60</sup> "Early Marriage in South Asia: A Discussion Paper." UNICEF, 2008. Web.

## Article VI. Recommendations

1. While the human rights of a criminal who commits a heinous crime may seem trivial next to the violation that a child suffers, we must consider that two wrongs do not make a right. In Nepal, regulating Chemical Castration as mandatory punishment for girl child rape violate rights of the citizen. I recommend Hon. to explore other options for sanctions that do not severely violate human rights of citizens and is less controversial worldwide.
2. If the reason to promote Chemical Castration is because it is considered a harsher punishment and therefore a better solution than imprisonment, it is important to consider whether harsher punishment is what is necessary. In the same manner that incarceration does not necessarily prevent rape from happening neither does chemical castration. Additionally, because chemical castration does not have a permanent effect; it can be reversed if medication is discontinued. In that case, it may not be a harsher punishment than imprisonment as it is.
3. Because to be effective, Chemical Castration medication must be continued and not temporary, I recommend Hon. to conduct an analysis of whether the costs are feasible for the Nepali government.
4. As stated earlier in this report, recidivism rates of child molesters are very low. Chances are that they would not commit the crime again without the treatment. I recommend Hon. to solicit data on recidivism rates of child rapists in Nepal. The data is not currently available.
5. I recommend Hon. to reflect on whether the punishment will be a supplement or a substitute to prison if applied. There are different implications to the two options.
6. Hon. wanted to apply the law for rape of girl child. However, the concept ignores that boys are subjected to rape as well. In fact, a higher number of boys in the latest data have been raped than girls in Nepal as presented in the data section earlier in this report. I recommend Hon. to assess the punishment as a possibility for both girl and boy child rape.
7. If the law is to be asserted, it is important to acknowledge that rape happens for various reasons. I recommend that a mechanism is set in place to assess what led to the assault and apply sanctions accordingly.
  - a. The assault may have been a result of pedophilic tendencies
  - b. It could be out of sexual deprivation that leads the offender to get sex from a child.
  - c. It could also be an act of aggression and vengeance
    - i. It was reported in the Nirbhaya gang rape case in Delhi that the men raped because they wanted to punish the young woman for being out late with a boy.
8. I recommend Hon. to consider various frameworks that look at sexual violence. Eliminating the sex drive of an offender implies that the framework used to explain the crime is sexual desire; however, another framework explains that violence against women and girls is also about power and control. There is a deep mentality of misogyny rooted in violence, which

cannot be eliminated by reduction of sexual desire. The government can explore and utilize their budget on prevention of violence rather than intervention.

## Article VII. Appendices

### Section 7.01 Appendix I. Guiding Questions for Initial Phase of the Fellowship

#### Stage 1

1. How does a committee like that of Hon. Ranju Jha work?
  - a. What indicators are followed when passing and amending laws sent to them by ministries.
  - b. How much influence do they have?
2. Who are the committee members?
3. What are gender and human rights treaties signed by Nepal?
4. What is the existing literature? What are the gaps?
5. What objectives does the MP have?

#### Stage 2

##### Context

1. What is the history of gender sensitivity in Nepal?
2. Who are the stakeholders?

#### Stage 3

##### Policy Level (Document collection and analysis)

1. What are areas in which women face barriers in Nepal?
2. What are the legal barriers that prevent women from realizing their potential?
3. What laws exist to support gender equality in Nepal?
  - a. Are there specific laws supporting third genders and non-binary genders?

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