

**The Pawi - Lakher Autonomous Region
(Administration of Justice) Rules, 1954,
*(as adapted for the Chakma Autonomous District)***

The 1st March, 1954

No. RCE. 11/54/9/351 - In pursuance of paragraph 11 of the Sixth Schedule to the Constitution of India, the following Rules made by the Pawi-Lakher Regional Council with the previous approval of the Government of Assam under sub-paragraph (4) of paragraph 4 of the said Sixth Schedule are hereby published.

**THE PAWI-LAKHER AUTONOMOUS REGION
(ADMINISTRATION OF JUSTICE) RULES, 1954.**

NOTES

A. VALIDITY

The Pawi Lakher Autonomous Region gave birth to three Autonomous Districts one of which is the Chakma Autonomous District, as a result of the reorganization of the North Eastern Areas in 1971. Part III of Paragraph 20 of the Sixth Schedule to the Constitution was accordingly amended by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972 to pave the way for creation of three new Autonomous Districts including the Chakma Autonomous District as a Tribal Area. Suitable transitional and other provisions were made in the said Order of 1972 to fill the vacuum and also to enable further continuance of the laws including these Rules as promulgated by the erstwhile Pawi-Lakher Autonomous Regional Council, even after formation of the three successor District Councils. The validating provision is contained in paragraph 5 of the Mizoram District Councils (Miscellaneous Provisions) Order, 1972, which may be reproduced below :

- “5. Transitional provisions in regard to administration of justice:- Until rules are made under sub-paragraph (4) of paragraph 4 of the Sixth Schedule to the Constitution, the Pawi Lakher Autonomous Region (Administration of Justice) Rules 1961, as adapted and modified by the Central Government by the North Eastern Areas (Reorganisation) (Mizoram) Adaptation of Laws Order, 1972 and in force immediately before the prescribed date in the areas within the jurisdiction of and existing Regional Council shall, subject to this Order, continue to apply in relation to the areas within the jurisdiction of the successor District Councils and for this purpose the provisions of paragraph 11 of this order shall apply as they apply in relation to any other law made by a Regional Council”.

By virtue of the above provisions, the Pawi-Lakher Autonomous Region (Administration of Justice) Rules, 1954 continued to apply to the newly formed Chakma Autonomous District, subject to the modifications mentioned, and to the construction of references to the expressions used therein, as per paragraph 11 of the said Order. It still continues to remain in force in the Chakma Autonomous District in the absence of any separate Administration of Justice Rules made by the Chakma District Council.

B. CONSTRUCTION OF REFERENCES :

Paragraph 11 of the Mizoram District Councils (Miscellaneous Provisions) Order, 1972 provides for the befitting construction of references contained in these Rules, in case these are adapted to continue in any of the successor

autonomous district of Pawis (now Lai), Lakher (now Mara) and Chakmas. Paragraph 11 of the said Order is reproduced below :

“11. Continuance of laws and interpretation thereof -

- (1) All laws made in pursuance of any of the provisions of the Sixth Schedule to the Constitution and in force immediately before the prescribed date in the areas within the jurisdiction of an existing Regional Council shall, in so far as they are not inconsistent with the provisions of this Order and subject to any modifications and adaptations made in that behalf, continue to be in force in those areas until they are altered, repealed or amended by a competent legislature or other competent authority and anything done or any action taken (including any notification, order, scheme, form, notice or bye-law made or issued, any licence or permission granted) under any such law shall continue in force until it is modified or superseded by anything done or any action taken in accordance with law :

Provided that for the purpose of facilitating the application of any such law (except in the short title or preamble of such law or in the references to the short title of such law in any other law, or where the context otherwise requires)

- (a) references to the Pawi-Lakher Autonomous Region or to the Autonomous Lushai Hills District, by whatever form or words, shall be construed as references to any of the autonomous district as the context may require;
- (b) references to the Pawi-Lakher Autonomous Region or to the Autonomous Lushai Hills District, by whatever form or words, shall be construed as references to the successor District Council;
- (c) references to the Executive Committee of the Pawi Lakher Autonomous Region, by whatever form or words, shall be construed as references to the Executive Committee of the successor District Council;
- (d) references to the Deputy Commissioner, with or without mention of his headquarter station, shall be construed as references to the Deputy Commissioner having jurisdiction in the autonomous district concerned.

- (e) references to sub-divisional officer, with or without mention of his headquarter station, shall be construed as references to the sub-divisional officer having jurisdiction in the autonomous district concerned;
- (f) references to Regional Council Fund, by whatever form or words, shall be construed as references to the District Fund of the Successor District Council;
- (g) references to the Regional Council Court, by whatever form or words, shall be construed as references to the District Council Court of the successor District Council;
- (h) references to the Scheduled-tribe or tribes of the Autonomous District of Assam, by whatever form or words, shall be construed as references to the tribe or tribes specified in Part II-Mizoram, of the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Order, 1951;
- (i) references to the Assam Gazette, by whatever form or words, shall be construed as references to the Mizoram Gazette;
- (j) any requirement of obtaining the approval or sanction of or authorisation by the "Governor" or "Governor of Assam" or "Government of Assam" for the exercise of power by a competent authority under any such law shall be construed as being the requirement of obtaining the approval or sanction of or authorisation by the Administrator.

Provided further that if no provisions or insufficient provision has been made for the adaptation of any such law, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to an autonomous district, construe the law in such manner, without affecting the substance, as may be necessary or proper in regard to the matter before the court, tribunal or authority.

- (2) For the purpose of this paragraph, law means an Act, Regulation or Rule made under the Sixth Schedule to the Constitution and also the rules made under any such Act or Regulation, but not an Act, Regulation or Rules made by the Mizo District Council".

CHAPTER - I

1. (1) These Rules may be called the Pawi-Lakher Autonomous Region (Administration of Justice) Rules, 1954.
- [(2) These rules shall apply to the autonomous district in the areas included in the Pawi-Lakher Region of the Mizo District immediately before the 2nd April, 1972]¹.
- (3) These rules shall come into force at once, but the courts constituted under these Rules, shall commence functioning on such date as the Executive Committee may, by notification in the Gazette, appoint in this behalf, hereinafter to as "the appointed day".
2. (1) In Rules, unless there is anything repugnant or the context otherwise requires :
 - [(a) "Government" means the State Government of Mizoram]².
 - (aa)³ "Constitution" means the Constitution of India.
 - (b) "Deputy Commissioner" includes subdivisional Officer, Lungleh.
 - [(c) "District Council" means the District Council of the Chakma District or the District Council of the Lakher District or the District Council of the Pawi District as the case may be, constituted under the Sixth Schedule to the Constitutions]¹.
 - (d) "Executive Committee" means the Executive Committee of the Regional Council, appointed under the Pawi-Lakher Regional Council (Procedure and Conduct of Business) Rules, 1952, as amended by the Pawi Lakher Regional Council (Procedure and Conduct of Business) (Amendment) Act, 1954 and the term "Chief Executive Member" shall be construed accordingly.
 - [(e) "Gazette" means the Mizoram Gazette]².
 - (f) (Omitted)⁴.

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1. *Substituted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.*
 2. *Amended by the North Eastern Areas (Reorganisation) (Mizoram) Adaptation of Laws order, 1972. And then by the State of Mizoram Adaptation of Laws Order (No. 2), 1987.*
 3. *Renumbered by the North-Eastern Areas (Reorganisation) (Mizoram) Adaptation of Laws Order, 72.*

- (g) "High Court" means the Gauhati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura, Mizoram and Arunachal Pradesh)¹.
- (h) "Recognised" means recognised by the Regional Council;
- (i) (Omitted)²
- (j) (Omitted)².
- (k) "Scheduled tribe or tribes" means such tribe or tribes specified in [Part II-Mizoram of the Schedule to the Constitution (Scheduled Tribes) (Union Territories) Orders, 1951], as modified by law made by the Parliament from time to time in so far as the specification pertains to the Autonomous District of Assam;
- (l) "Village" means an area declared as such by the Regional Council;
- (m) "Village Council" means a Village Council constituted for a village under Rule 4.

Note : Any expressions not defined in these Rules but occurring therein, shall be deemed to have the same meanings in which they are used in the Constitution, or in the Indian Penal Code, 1860, as the case may be, in so far as they are consistent with the circumstances of the particular case or cases.

3. Except where the context otherwise requires, the General Clauses Act, 1897 and the Assam General Clause Act, 1915, shall apply for the interpretation of these Rules, as they apply for the interpretation of an Act of Parliament or of the Legislature of the State of Assam, as the case may be.

NOTES

The General Clauses Act, 1897 and the Assam General Clauses Act, 1915, though not specifically extended, were applied by these Rules by way of referential incorporation. It is a well accepted legislative practice to incorporate and apply other Acts by reference. - *RAJPUTANA MINING AGENCIES & LTD. VS. UNION OF INDIA, AIR 1961 SC 56 (58); AGRAWAL TRADING CORPORATION VS. ASST. COLLECTOR OF CUSTOMS, CALCUTTA, AIR 1972 SC 648 (654).*

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4. Omitted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.
 1. Amended by the North-Eastern Areas (Reorganisation) (Mizoram) Adaptation of Laws Order, 1972 and then by the State of Mizoram Act, 1986.
 2. Omitted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.

CHAPTER II

CONSTITUTION OF VILLAGE COUNCILS

4. (1) There shall be a Village Council for each village within the jurisdiction of the Regional Council to be composed in the manner hereinafter provided in sub rule (2) of this Rule-
- (2) Each Village Council shall be composed of three to nine members of whom one-third or the nearest shall be nominated by the Regional Council and the rest elected by the adult members of the village, provided that a member of the District Council (*****) shall not be a member of the Village Council or Court.
- (3) The Regional Council shall decide as to how many members shall constitute the Village Council in respect of each village subject to the provisions of sub-rule (2).
- (4) There shall be a President in each Village Council. The President shall be elected from amongst themselves by a majority of votes.
- (5) There shall be a Vice President in each Village Council. The Vice-president shall be elected from amongst themselves by majority of votes.
- (6) If the office of a President of a Village Council has fallen vacant owing to death or resignation or otherwise, the Regional Council shall appoint a new President as soon as possible.
- (7) Every Village Council or Court shall have life of three years from the date of first meeting unless dissolved earlier by the Regional Council.
- (8) For the purpose of this rule, the Regional Council shall publish in the Gazette a list of villages within its jurisdiction.

NOTES

A Village Council cannot impose on the individual voters to vote for a particular candidate or in a particular manner in exercise of his franchise. This power has not been invested in a Village Council or Court either by custom or under the Administration of Justice Rules or under any other provision of law for the time being enforced. - ***TSUKJEM JAMIR VS. STATE OF NAGALAND AND OTHERS***, (1994) 1 GLR 409.

1. Omitted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1992

CHAPTER III CONSTITUTION OF COURTS

5. (1) There shall be two classes of courts, as specified below, in the areas within the Pawi-Lakher Autonomous Region, to be constituted by the Regional Council for the trial of suits and cases between the parties all of whom belong to a Scheduled Tribe or Tribes within such areas other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the Constitution apply :
- (i) Village Courts,
 - (ii) (District)¹ Council Court

I. VILLAGE COURTS

6. (1) The Village Council for each Village, shall sit as the Village Court. Sittings of the Village Court shall be called by the President whenever necessary.
- (2) The quorum to constitute a court, shall be half or the nearest half of the total number of members of such court, subject to the minimum of two.

II. (DISTRICT COUNCIL COURT)¹

7. [(1) There shall be a district Council Court for each of the Chakma Districts, the Lakher District and the Pawi District which shall be called respectively the Chakma District Council Court, the Lakher District Council Court and the Pawi District Council court and each such court shall have the jurisdiction over the territory within the district for which it is constituted)]¹
- (2) The Court shall be presided over by one Judicial Officer and [(a Magistrate whom the (State Government)³ may appoint in this behalf), shall be the honorary judicial officer and Recorder of the Court]².
- [(3) Notwithstanding anything contained in sub-rule (2) of this rule, the Regional Council may, with the prior approval of the Governor, appoint any person other than the Magistrate of the State Government posted at Saiha, as the Judicial Officer and Recorder of the Court;

1. Substituted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.
 2. Amended by the notification No. RCE/17/56-57/157 Dt. 5.1.1957.
 3. Substituted by para 8 of the State of Mizoram Adaptation of Laws Order (No. 2), 1987.

Provided that no member of the Regional Council shall be eligible to be appointed as a Judicial Officer]¹.

8. The Regional Council Court shall ordinarily sit (at the place where the office of the District Council concerned is located)². The Court may sit at such other place or places as may be directed by general or special order by the Regional Council for the disposal of particular case or cases or class or classes of cases specified in the order.
9. (Omitted)³.

NOTES

The Village Courts etc. constituted under such Rules. Read with paragraph 4 of the VIth Schedule to the Constitution, are the courts established by the District Council concerned, and not by the authority of the Central Government Procedure etc. of such courts can be regulated only by the District Council under para 4(4) of the VIth Schedule, and not by any other authority. - ***U. LYNKGHOI VS. KA RIPNER*** AIR 1971 A. & N. 89. These courts as constituted under the like Rules read with paragraph 4 of the VIth Schedule to the Constitution or the courts on which powers may be conferred under sub-paragraph (1) of paragraph 5 of the same Schedule for trial of offence, are not the courts constituted under the Code of Criminal Procedure. - ***THE STATE OF MEGHALAYA VS. THE JUDGE, DISTRICT COUNCIL COURT, SHILLONG AND OTHERS***, (1993) 2 GLR 99.

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1. Inserted by the Pawi-Lakher Autonomous Region (Administration of Justice) Rules (Amendment) Act, 1958.
 2. Substituted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.
 3. Omitted by the Notification No. RCE/17/56-57/157 dt. 5.1.1957.

CHAPTER IV POWERS OF COURTS

1. Village Courts

10. A Village Court shall try suits and cases of the following nature in which both the parties belong to a Scheduled Tribe or Tribes resident within its jurisdiction :
 - (a) Cases of civil and miscellaneous nature falling within the purview of village or tribal laws and customs where both the parties reside within the jurisdiction of the same village.
 - (b) Criminal cases falling within the purview of tribal laws and customs and offences of petty nature, such as petty theft and pilfering, mischief and trespass of petty nature simple assault and hurt, affront and affray of whatever kind, drunken or disorderly brawling, public nuisance and simple case of wrognful restraint, occurring within the jurisdiction of the village.

Provided that the Village Court shall not be competent to try offences in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.
11. (1) A Village Court shall not be competent to try upto a limit of [Rs. 60/- (Rupees sixty only)]¹. It may award payment in **restitution**, or compensation to the aggrieved or injured party in accordance with the customary law.
- (2) In a civil case, a Village Court shall have power to award all costs as also compensation to those against whom unfounded or vexatious suits and cases have been instituted before the Court :
- (3) The fine and payment imposed and ordered under sub-rules (1) and (2), may be enforced by distraint of the property of the offender.
12. A Village Court shall have power to order attendance of the accused and the witnesses to be examined in the case, and to impose a fine not exceeding Rs. 25/- (Rupees twenty five) only on any person witfully failing to attend when so ordered.
13. If any person on whom a fine or any payment has been imposed by a Village Court, fails to deposit the amount at once or within such time as the Village Court, may allow, the Court shall report the matter to the Chief Executive

1. Substituted by the Pawi-Lakher Autonomous Region (Administration of Justice) Rules (Second Amendment) Act, 1959.

Member for necessary action to realize the fine or dues in such a manner as it may deem fit unless the accused person gives notice to appeal against such order or decision, in time.

14. Where a Village Court is of opinion that the sentence it is competent to pass, if insufficient in the circumstances of the case, it shall, without delay, refer the case to the Regional Council Court and the Court shall dispose of the case in accordance with these Rules.
15. An appeal against conviction, shall lie to the Regional Council Court, from any order or sentence passed by a Village Court in a criminal case or from the decision of a Village Court in any other case, if the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court, the Regional Council Court while hearing the appeal, may decide the appeal after perusal of the records of the case or may try the case *de novo*.

II. [DISTRICT COUNCIL COURT]¹.

16. Save as otherwise provided in the Constitution and in these Rules, a Regional Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898 as it may be invested with by Regional Council with the approval of the Governor.
17. (a) The Regional Council Court shall have original jurisdiction in all civil suits in which both the parties do not reside within the local jurisdiction of the same Village Court, but do so within the areas under the jurisdiction of Regional Council Court and also in cases and suits referred to it by a Village Court under rule 14.
- (b) The Regional Council Court shall also have original jurisdiction to try under paragraph 4 (3) of the Sixth Schedule to the Constitution and which are not triable by a Village Court.
18. Subject to the provisions of rule 17, the Regional Council Court shall be competent to try all suits and cases in which both the parties belong to Scheduled Tribe or Tribes resident within the jurisdiction of the Regional Council Court other than suits and cases referred to in rule 19.
19. (1) The Regional Council Court shall not be competent to try suits and cases -
 - (a) to which the provisions or sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the Constitution apply, unless the

1. Amended by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.

Court has been authorised by the Governor to exercise such powers for the trial of particular class or classes of cases and suits specified in that behalf by the Governor as required under the said sub-paragraph (1) of paragraph 5 of the Sixth Schedule,

- (b) in which one of the parties is a person not belonging to a Scheduled Tribe,
 - (c) in respect of offences
 - (i) under section 124A, 147 and 154 of the Indian Penal Code.
 - (ii) under Chapter X of the same Code in so far as they relate to the contempt of a lawful authority constituted by the Regional Council.
 - (iii) of giving or fabricating false evidence as specified in section 193 of the same Code in any case triable by a Court other than a Court constituted by the Regional Council under these rules.
- (2) Unless specially empowered by the Governor by notification in the Gazette, the Regional Council Court shall not be competent to exercise powers in
- (a) cases relating to the security for keeping the peace and good behaviour similar to those contemplated under section 107 of the Code of Criminal Procedure, 1898.
 - (b) cases relating to the security for good behavior from persons disseminating seditious matter similar to those contemplated under section 100 of the same Code.
 - (c) cases relating to the security for good behaviour from vagrants and suspected persons similar to those contemplated under section 109 of the same Code;
 - (d) cases relating to the security for good behaviour from habitual offenders similar to those contemplated under section 110 of the same Code;
 - (e) urgent cases of nuisance or apprehended danger similar to those contemplated under section 144 of the same Code;
 - (f) disputes as to immovable property of the nature similar to that contemplated under section 145 of the same code;

- (g) cases in which a public servant who is not removable from his office save by or with the sanction of the Government of Assam or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.
20. (1) Suits and cases referred to in rule 19, shall continue to be tried and dealt with by the existing courts until such time as the Governor deems fit to invest the Regional Council Court with such powers by notification in the Gazette.
- (2) For the purpose of this rule, the existing court means the Court of the Deputy Commissioner and his Assistants.
21. Whenever there is any likelihood of breach of peace or of abetting the same or any person accused of committing criminal intimidation, is convicted of such offence by the Regional Council Court and such Court of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.
22. Whenever the Regional Council Court is informed that -
- (a) any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility.
 - (b) there is within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in any way abets the dissemination of -
 - (i) any seditious matters, that is to say, any matter the publication of which is punishable under section 124-A or section 153-A of the Indian Penal Code.
 - (ii) any matter concerning a judge which amounts to criminal intimidation or defamation under the Indian Penal Code.
 - (c) any person is taking precautions to conceal his presence within the local limits of such court's jurisdiction and there is reason to believe that such person is taking such precautions with a view to committing any offence

or

there is any person within such limits who has no ostensible means or subsistence or who cannot give a satisfactory account of himself,

- (d) any person within the local limits of the court's jurisdiction
 - (i) is by habit a robber, house-breaker, thief or forger or -
 - (ii) is by habit a receiver of a stolen property knowing the same to have been stolen, or
 - (iii) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or
 - (iv) habitually commits or attempts to commit or abets the commission of the offence of kidnaping, abducting, extortion, cheating or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under section 489A, section 489B, section 489C, or section 489D of that Code;
 - (v) habitually commits or attempts to commit or abets the commission of offences involving a breach of the peace; or
 - (vi) is so desperate and dangerous as to render his being at large without security hazards to the community; the court shall refer the matter to the Chief Executive Member for reference to the Deputy Commissioner who shall, on such reference being made to him, deal with the case in accordance with law.

- 23. In case where, in the opinion of the Regional Council Court, there is sufficient ground for proceedings under section 144 of the Code of Criminal Procedure, 1898, and immediate preventive or speedy remedy is desirable, such Court shall refer the matter to the Chief Executive Member for making a reference to the Deputy Commissioner who shall, on such reference being made to him, take such action as he considers necessary under the said section.
- 24. Whenever the Regional Council Court is satisfied that the dispute likely to cause a breach of the peace, exists concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such court shall refer the matter to the Deputy Commissioner through the Chief Executive

Member and the Deputy Commissioner whenever such a reference is made to him, shall take action as he considers necessary under law.

25. In criminal cases, the Regional Council Court may, subject to the provisions of the Constitution and of these rules, pass any sentence authorized by any law for the time being in force.
26. (1) Subject to the provisions of rules 17 and 28, the Regional Council Court shall be a court of appeal in respect of all suits and cases triable by Village Courts.
 - (2) The Regional Council Court may, subject to the provisions of these rules, pass any order on appeal authorized by any law for the time being in force.
 - (3) The Regional Council Court may call for and examine the records of any proceedings of a Village Court and may enhance, reduce, cancel or modify any sentence or finding passed by such court or remand the case for retrial.
27. (1) If it appears to the Regional Council Court-
 - (a) that a fair and impartial inquiry or trial can not be had in any Village Court;
 - (b) that some questions of law, triable or otherwise or unusual difficulty is likely to arise, it may order
 - (i) that any offence be inquired into or tried by another Village Court;
 - (ii) that any particular case or class of cases be transferred from one village Court to another Village Court;
 - (iii) that any particular case be transferred to and tried by itself.
 - (2) When the Regional Council Court withdraws for trial before itself any case from any court other than the court of origin, it shall observe in such trial the same procedure which that Court would have observed, if the case had not been withdrawn.
 - (3) The Regional Council Court may act either on the report of the lower court or on the application of a party interested or on its own initiative.
28. (1) When any person is convicted of an offence which the Regional

Council Court is competent to try under these rules, and no previous conviction is proved against the offender, if it appears to that court, regard being had to the age, character, or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the court may instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the court may direct and in the mean time to keep the peace and be of good behaviour.

- (2) In any case in which a person is convicted of theft in a building, dishonest misappropriation, cheating of any offence under the Indian Penal Code punishable with not more than two years' imprisonment and no previous conviction is proved against him, the Regional Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment, release him after due admonition.
 - (3) The provisions of sections 122, 126A and 406A of the Code of Criminal Procedure, shall apply mutatis mutandis in the case of sureties offered in pursuance of the provisions of this rule.
29. (1) If the Regional Council Court is satisfied that an offender convicted and released under rule 28, has failed to observe any of the conditions of his recognisance, it may issue a warrant for his apprehension.
- (2) An offender when apprehended on any such warrant, shall be brought to the Regional Council Court as soon as may be within a period of twenty four hours of apprehension excluding the time necessary for the journey from the place of apprehension to the Court, may either be remanded in custody until the case is heard or be admitted to bail with a sufficient surety conditioned on his appearing for sentence. The Court may, after hearing the case, pass sentence.
 - (3) A warrant for the apprehension of an offender under sub-rule (1), shall ordinarily be directed to the Sub-divisional Officer, Lungleh through the Chief Executive Member, but the Court may, if its immediate execution is necessary, direct it to any other person or persons and such person or persons shall execute the same.

30. The court directing the release of an offender under sub-rule (1) of rule 28, shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place of which the court acts or in which the offender is likely to live during the period named for the observance of the conditions.
31. (1) In a criminal case, the Regional Council or the Governor may direct an appeal including all appeals against acquittal to be presented to the Regional Council Court from any order passed by a Village Court.
- (2) An appeal under sub-rule (1), shall be presented within sixty days from the date of order appealed against, excluding the time needed for obtaining a copy of the order.

NOTES

The expression "time needed" or "time requisite" means only the interval between the time when the copy is applied for and the time when it becomes ready for delivery, excluding the time taken by the applicant to file requisites after notice. When the judgment and the decree have been made on different dates and the party has applied for copies of judgment and of decree at different times, the aggregate of the periods may be deducted under sub-section (2) of section 12 of the Limitation Act. - ***SHRI MEDENKABA AND OTHERS VS. R. TEKATEMJEN AO AND ANOTHER***, (1987) 1 GLR 156.

CHAPTER V

PROCEDURE

1. Village Courts

32. A Village Court shall try all suits and cases in accordance with the customary laws of the village or villages.
33. A Village Court shall try all cases in open Darbar in the presence of the complainant and the accused and their witnesses, if any. After hearing both the parties and their witnesses, if any, it shall decide the issue by a simple majority of votes and pronounce the decision as soon as possible.
34. Except where a Village Court otherwise decides, only verbal notice is required to be given by the Village Court to the parties to a suit and their witnesses for a fixed day not exceeding eight days from the day it is given. If a case is postponed, it shall be fixed for a day not exceeding 15 days from the date of the order of postponement and the case may be subsequently adjourned for a period of not exceeding 7 days at a time on good cause shown. The order shall be made known to the person concerned or to some adult member of his family and failing this, shall be openly proclaimed at the place where he is or was known to be or shall be communicated to him or any member of his family by a written notice, giving sufficient time to allow him to appear.
35. (1) The full proceedings of a Village Court need not be recorded in writing but the Regional Court may require a Village Court or courts to report its or their proceedings in any way which appears to it suitable.
 (2) Registers of all suits and cases disposed of by Village Court, shall be kept by the respective courts in the forms as provided in Appendix - I.
36. A Village Court may carry out its decision or may, subject to the provisions of rule 49, order attachment of property as soon as judgment is pronounced but in no case, the property so attached to be sold, if the party concerned claims to appeal within 60 days without the orders of the Regional Council.

II. (DISTRICT COUNCIL COURT)¹

37. (1) In criminal cases, the Regional Council Court shall, subject to the provisions of this rule, follow in spirit of the procedure laid down in

1. Amended by the Mizoram District Councils (Miscellaneous Provision) Order, 1972

the Code of Criminal Procedure, 1898, as practicable and in so far as it is not inconsistent with these rules. The Chief exceptions are as hereafter specified in these rules.

- (2) Wherever the Regional Council Court requires, in courts of the discharge of its functions, the services of the regular police which is at the disposal of the Deputy Commissioner and his Assistants, the Regional Court may send a requisition for such services to the Sub-divisional Officer or his Assistant who is working on behalf of the Deputy Commissioner in the Lungleh sub-division. The Sub-divisional Officer or his Assistants will generally comply with such requisition unless he considers the compliance to be not possible for any special reasons.
- (3) Summons on any person residing outside the jurisdiction of the Pawi-Lakher Autonomous Region (****)¹ shall be issued by the Regional Council Court through the Sub-divisional Officer of the Subdivision or the Deputy Commissioner of the District respectively.
- (4) The Regional Council Court shall keep a note of the substance of the proceedings in cases tried by it in the form prescribed in Appendix - II.

In cases in which a sentence of imprisonment of not less than three months is imposed, full note of the evidence and proceedings must be kept.
- (5) There shall be no preliminary inquiries by the regular police or village police unless the Regional Council Court sees fit to direct so.
- (6) Recognizance to appear need not be taken unless it seems necessary to the Regional Council Court.
- (7) Examination and proceedings in the Regional Council Court shall be in English or in any of the recognized languages of the Region.
- (8) It shall not be necessary to examine witness upon oath or affirmation unless the accused so desires. It shall suffice if the Regional Council Court at the commencement of any trial, inform the accused that, if he so requires, the witnesses will put an oath. It is at all times optional with the court to put witnesses on oath or affirmation but witnesses, whether on oath or affirmation or not, shall be punishable for giving false evidence.

1. Omitted by the said Order of 1972

38. The Regional Council Court shall keep registers in the forms prescribed in Appendix - III and in addition such other registers as may be directed by the High Court.
39. (1) In all civil cases, the Regional Council Court shall adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case.
 (2) It shall be discretionary to examine witnesses on oath or affirmation in any form or to warn them that they are liable to punishment for perjury if they state that which they know to be false.
40. The Regional Council Court, when an appeal in a civil suit is filed before it, may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses likely in its opinion to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses and if the appellant be a judgment- debtor, may also order security to be given for part of the whole or the decretal amount.
41. In civil cases, the procedure of the Regional Council Court shall be guided by the spirit, but not bound by the letter, of the Code of Civil Procedure, 1908 in all matters, not covered by recognized customary laws or usages of the Region.
42. The decree of the appellate court in a civil case, shall be transferred to the court passing the original order for execution as a decree of its own.
43. There shall be no imprisonment for debt except in case where the Regional Council Court is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.
44. Any legal practitioner may appear in any case before the Regional Council Court;
 Provided that in cases where an accused is not arrested, the legal practitioner shall have previous permission of the Regional Council.
45. Whenever in the course of an inquiry, trial or other proceedings under these rules before the Regional Council Court it appears that a Commissioner ought to be issued for examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness can not be procured without an amount of delay, expense or inconvenience which under the circumstance of the case, would be unreasonable, the Court shall apply to the Deputy Commissioner stating the reasons for the application and the Deputy Commissioner may either issue a commission or reject the

NOTES

Rule 44 of these Rules is identical to rule 51 of the Lushai Hills Autonomous District (Administration of Justice) Rules, 1953. All these identical rules make it clear that any legal practitioner can appear in any case before the courts specified in the Rules Viz. District Council Court, Sub-ordinate District Council Court and Additional Sub-ordinate District Council Court. The Proviso to the rule carves out an exception to the rule. The exception relates only to the cases where the accused is not arrested. In the very nature of things, the exception can apply only to criminal cases. In criminal cases where accused has not been arrested or till the stage of arrest, a legal practitioner cannot appear without previous permission of the government or the District Council Court, as the case may be. In all criminal cases where accused is on bail or not, and in all civil cases, legal practitioner has the right to represent a party. - **SMT. C. LALMALSWAMI VS. STATE OF MIZORAM AND OTHERS**, in the Civil Rule No. 2512/92 of the Gauhati High Court, decided on 23/11/1992.

CHAPTER IV

EXECUTION OF SENTENCES, DECREES AND ORDERS

Execution

46. (1) Whenever a Village Court has sentenced an offender to pay a fine in a criminal case or has passed an order for the payment of any money by person in a civil suit, the Court may, subject to the provisions of rule 31,
- (a) issue a parwana for the payment of the amount by the offender or the person concerned;
 - (b) may apply in writing to the Chief Executive Member of the REgional Council to realise the amount by execution according to civil process against the movable or immovable property, or both of the defaulter.
- (2) Where an application is made, under clause (6) of sub-rule (1) to the Chief Executive Member, the application shall be deemed to be a decree executed according to the spirit of the Civil Procedure Code.
- (3) In the event of non-recovery of the amount of execution, the Executive Committee may, by an application, move the Regional Council Court for the arrest and detention of the offender or the person concerned in execution of the decree,
- (4) Whenever an application is made under sub-rule (3), the Regional Council Court may order for the arrest and detention of the offender or the person concerned in execution of the decree according to the spirit of the Criminal Procedure Code.
47. (1) Subject to the provisions of rules 38 and 41, the Regional Council Court shall cause a sentence, order, decree passed by it, to be carried into effect in accordance with the procedure prescribed by the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be, references therein to the Collector of the District being construed as referring to the "Chief Executive Member of the Regional Council".
- (2) Every warrant for the execution of a sentence of imprisonment, shall be directed to the officer-in-charge of the jail maintained by the State

Government, in which the prisoner is, or is to be confined, through the Sub-divisional Officer and the Deputy Commissioner.

- (3) Subject to sub-rule (2) above, when a prisoner is to be confined in a jail, the warrant shall be lodged with the jailor through the Deputy Commissioner.
48. Whenever parwana (warrant) is issued by a court against a person who is absconding or is concealing himself in connection with any criminal proceedings, any property, moveable or immoveable, belonging to him, is liable to attachment according to the civil process prescribed in rule 49 of these rules.

ATTACHMENT

49. (1) Property, moveable or immoveable, belonging to the judgment-debtor over which or the provits of which he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgment-debtor or by another person in trust for him or in his behalf, is liable to attachment and sale in execution of a decree.

Provided that only those moveable and immoveable properties should be attached as are permitted by tribal custom.

- (2) Nothing in this rule, shall be deemed to exempt except houses and other buildings (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land, if themselves be subject of the suit.
- (3) Subject to the provision of rule 41 and 46, the procedure for the attachment of the property, shall be in the spirit of the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be.

MISCELLANEOUS

50. Whenever the Regional Council Court passes any order for the detention of a lunatic accused, the Regional Council shall refer the matter to the Deputy Commissioner through the Sub-divisional Officer who shall deal with the case following the spirit of the Code of Criminal Procedure 1898 and in accordance with rules made (****)¹ under the Indian Lunacy Act, 1912.

1. Omitted by the Mizoram District Councils (Miscellaneous Provisions) Order, 1972.

51. No judicial Officer shall, except with the permission of the Court to which an appeal lies from his court, try or commit for trial, any case to or in which he is a party, or personally interested, and no Judicial Officer shall hear an appeal from any judgment or order passed or made by himself.

Explanation :- A Judicial Officer shall not be deemed to be a party or personally interested within the meaning of this rule to or in any case by reason only that he is a member of any Town Committee (or a Municipal Board) or otherwise concerned therewith in a public capacity, or by reason only that he has viewed the place in which an offence alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

REPEAL AND SAVINGS.

52. (1) The provisions of the Rules for the Regulation of the Procedure of Officers appointed to Administrate Justice in the Lushai Hills published in the Government of Assam's Notification No. 2530 (a) A.P. dated the 25th March, 1937, as adapted and modified by the Assam Autonomous District (Administration of Justice) Regulation, 1952, are hereby repealed in so far as they relate to the matter dealt with in these Rules, with effect from the appointed day.
- (2) Notwithstanding such repeal every suit, appeal, application for revision, proceedings, and other business relating to both civil and criminal justice, pending on the appointed day before the court of the Deputy Commissioner or his Assistants, shall be transferred or deemed to have been transferred for disposal to the court which would have been competent to entertain and dispose of such suit, appeal, application for revision, proceeding or business, had these Rules been in force on the date of institution or commencement of the same and the latter court should deal with and dispose of the same in accordance with law.

APPENDIX - I

Vide Rule 35 (2)

I REGISTRATION OF PETITION.

1. Date
2. Name of Petitioners
3. Subject of petition
4. Name of defendant
5. Date of hearing
6. Date of disposal and how disposed of, viz-
Decree for plaintiff or decree for defendant, or withdrawn, as the case may be.

II REGISTER OF CASES.

1. Names of parties
2. Subject of claim
3. Before what court tried.
4. In case proceeded with ex parte-Whether notice on defendant is proved, or where both or all parties are present or represented, that they are so present or represented.
5. Statements of plaintiff
6. Statement of defendant
7. Evidence of plaintiff
8. Evidence of defendant
9. Judgment and finding of the Court
10. Order as to costs.

III REGISTER OF EXECUTIONS

1. Date
2. Name of decree-holder
3. Name of Judgment-debtor
4. Name of property to be attached
5. Date of Issue of attachment
6. Date fixed for sale (and date to which sale may be postponed)
7. Date of satisfaction of property or payment of amount due and receipt of decree-holders.

APPENDIX - II*[Vide Rule 37 (4)]***CRIMINAL CASE :**

Sl. No.	Date of commission of the offence	Date of report or complaint	Name of complainant, if any	Name, parentage and residence of the accused
1	2	3	4	5
Offence complained		Finding and in case of conviction, reasons therefor	Sentence or other final order	Date on which the proceedings terminated
6	7	8	9	

CIVIL SUITS

Sl. No.	Date of filing the suits		Name and address of plaintiff (s)	Name and address of defendant (s)
1	2	3	4	
CLAIM		Findings of the Court	Date on which the proceedings terminated	
Particulars	Amount of value			
5	6	7	8	

APPENDIX - III*[Vide Rule 44]***I. REGISTER OF PETITIONS ETC.**

Date	Sl. No.	No. of case if say to which petition relates	Nature of DOCU- MENTS if a petition, what for	Name of petitioner	Address of petitioner	Remarks
1	2	3	4	5	6	7

(See Rule 44)

II. REGISTER OF CRIMES

Serial Number date and section of First Information Report Name (and if necessary) address of complaint	Date and time of occurrence with phase of moon and day of week	Offence modus operational cause or object of crime, nature of weapons and implements used	Value of property	Recovered	Name with aliases, percentage, castes and residence of persons accused or suspected with full grounds for suspicious and cross reference, if any	Full name and rank of Investigating Officer, result of case with name of Judicial Officer and date of disposal
1	2	3	4	5	6	7

III : REGISTER OF CRIMINAL CASES DISPOSED OF

Serial no. of case in the	1	Serial number of record	
	2	Name of Judicial Officer	
	3	Register of Complaints of Offences of Judicial officers	
	4	General Register of Cases Cognisable by the Police	
	5	Register of Unimportant case-cognizable by the Police in which the First information Report is not used	
	6	Register of Miscellaneous Cases	
	7	Name of Complainants	
	8	Name of Accused	
	9	Nature of the case with the section of the Penal Code or other Act applicable	
	10	Final order passed and details of sentence	
	11	Result of appeal or revision	
	12	Date of decision	
	13	Name of proclaimed offenders not arrested	
	14	Date when disposed of and shelved in the record-room	
	15	Number of shelf and rack in the record room	
	16	Date of destruction of files, and initials of Officers superintending destruction	
	17	Remarks	

N.B. : This List is to be written in English

Date of despatch.

Signature of the officer of despatching court

Date of receipt.

Signature of Record-Keeper

IV - REGISTER OF FINES

1	Consecutive number in month		
2	Number of case		
3	Name of Officer Imposing		
4	Name and place of residence of offender		
5	Offence and date of sentence		
6	Amount of fines		
7	*Imprisonment	Substantive	
		In default of fine	
8	Amount remitted or written off		
9	Date of issue of warrant		
10	Thana to which issued		
11	Date of return of warrant		
12	Amount realized and date of realization		
13	Balance		
14	Amount paid District Fund and date of payment		
15	Signature of cashier		
16	Signature of clerk in charge of the Fine-Register		
17	Signature of Fine Muharir of Court to which the entry relates		
18	Signature of Judicial Officer		
19	Date on which the notice of realization of fine is sent to Jail		
20	Date on which the notice is received back from Jail after amendment of warrant		
21	Remarks		

MIZORAM COMPENDIUM OF LAWS

(With uptodate texts and commentaries)

VOLUME - II

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1995



TITAGARH