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## **EXTRA ORDINARY**

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#### **NOTIFICATION**

#### **THE CHAKMA CUSTOMARY LAWS CODE, 1997**

#### **PRELIMINARY**

**Preamble :-** Whereas the Chakma Customary Law is yet a lex non-scripts and whereas it is expedient to collect the same and to provide for Administration of the said Law.

Be it enacted in the Twenty fifth year of the Chakma Autonomous District in exercise of the power conferred under the paragraph 3 of the Sixth Schedule to the Constitution of India as under :

1. **SHORT TITLE :-** This shall be called the Chakma Customary Laws Code, 1997, hereinafter referred to as the Law or the Customary Law.
2. **COMMENCEMENT :-** This will come into force from the date of notification in the Mizoram Gazette.
3. **EXTENT AND APPLICATION :-** This shall extent to the whole of the Chakma Autonomous District and shall apply to any person whoever may be, involed in any social or Customary case or matter arising or occuring within the said District area in particular, and shall also be applicable to all Mizoram Chakma in General.
4. **SCOPE FOR AMENDMENT :-** This may be amended from time to time by the District Council with Gazette notification.
5. **SAVINGS :-**
  - (i) If any difficulty in regulating any provision or any question as to the interpretation of any rule or provision of this law arises, the matter shall be referred to the Court President.



Recorder or the Chief of the District Council Judicial Officers for interpretation in a full Bench of 3 (three) Judicial Officers including himself at the head, and the interpretation made by this Bench shall be the final.

- (ii) If anything not contained and not repealed anywhere in this Customary Law occurs in regard to any matter or subject relevant to social and Customary practices or usage of the Chakma and other tribes of the District. This will be disposed of by a competent Court in accordance with the Lex-non-scripts of the social and Customary practices of the concerned tribe.
- (iii) In the event of any provision of any part of this Customary Law Code being repugnant to any provision of any other rules or regulation or Law made by the District Council or other authorities relating to any subject embodied in this Customary Law Code such paragraph of this Law shall, unless revoked, prevail.
- (iv) All masculine terms appearing in this Law shall similarly mean the respective feminine genders.

6. DEFINITIONS :— For the purpose of this Customary Law Code unless the context otherwise expressly requires.

- 1) "Governor" means the Governor of Mizoram.
- 2) "Chakma" means the Chakma Community and includes the Tongchangya, which is a group or section of the Chakma Community.
- 3) "Constitution" means the constitution of India.
- 4) "Chief Executive Member" means the Chief Executive Member of the District Council of the Chakma Autonomous District and the terms "Executive Member" shall be construed accordingly.
- 5) "District" means the Chakma Autonomous District constituted under Sub-paragraph (1) of the paragraph 4 read with Sub-paragraph (1) of para 20 of the Sixth Schedule.
- 6) "District Council" means the District Council of the Chakma Autonomous District.
- 7) "Executive Committee" means the Executive Committee of the District Council.
- 8) "Gazette" means the Mizoram Gazette.
- 9) "Government" means the Government of Mizoram.
- 10) "Murubi" means an elder or a leading person.



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- 11) "Samaj" means the Chakma Society.
- 12) "Schedule" means the Sixth Schedule to the Constitution of India.
- 13) "Schedule-Tribe" means a tribe declared as by such by the President of India as amended from time to time.
- 14) "Tongchangya" means a section of the Chakma Tribes.
- 15) "Offence" means a wrong in commission or omission of an act in contravence of any rules or regulation and includes morale offence effecting the norm of a social custom or a custom yet unwritten, but does not include a mistake committed in good faith or by accident.
- 16) "Punishment" includes a corporal or pecuniary, or mental or reputationary or humiliating punishment.
- 17) "Damage" includes a physical or financial, or mental or reputationary damage.
- 18) "Compensation" includes a cost, a solatium, a requital or anything payable in kind or cash to make good a damage or loss.
- 19) "Section" means a section or rule of this Law.
- 20) "Custom" means the social customs of the Chakma Samaj and includes a social customor practice or usage in prevalence but yet left unwritten.

**EXPLANATION :-**

- 1) The expression defined in this part shall also apply to other parts, of this Law, and vice versa. 2) Any expression not defined in this Section or

in any other part of this Law, but occurring anywhere in any part of this law, shall be deemed to have the same meaning which they are used in the constitution of India, or the Indian Penal Code, or the Code of Civil Procedure 1908, or the Code of Criminal procedure 1973, as amended from time to time, or customarily or socially or linguistically meant by the Samaj, as may be the case, in so far as they consistent with the particular case or matters.

## **PART-2**

### **BIRTH RITES**

7. DEFINATION:- For the purpose of this unless the context otherwise expressly requires.

1) "Bhatmaja" means a rich meal given to a woman after child delivery in token of greeting and to help her take her nourishing food.

2) "Kojoiyani" means a purifying performance by a woman after a child.

3) "Padhu-Ajha" means a female village mid-wife.

8. A WOMAN CARRYING A QUICK CHILD NOT TO BE TORTURED:- A woman carrying a quick child shall not be engaged in hard physical labour or subject to physical torture to such extent that is likely to cause a miscarriage.

9. CHILD DELIVERY :-

1) A child delivery shall, except with the permission of the house holder, not take place in any house other than that of the husband or guardians of the woman giving birth.

2) During the delivery of a child the neighbours are bound to render necessary assistance to the woman giving birth or to house holder or family in respect of the delivery affairs.

3) After the delivery of a child the neighbours and close relatives should give a "Bhatmaja" to the mother as a token of greeting and co-operative assistance or nourishing of the mother.

4) After each child delivery "Kojoiyani" must be taken by the mother and before taking this "Kojoiyani" the mother shall not be allowed to visit any other dwelling house without the permission of the house holder.

5) During performance of "Kojoiyani" the "Padhu-Ajha" shall be given a cock, one piece of new cloth a cash not exceeding Rs. 100/- plus the value of 1 bottle of wine.

Provided that an additional cash equal to the materials may be given in lieu of the materials.

Provided further that the "Padhu-Ajha" may exempt the woman



from giving any of the aforesaid materials or the cash.

A woman after child delivery shall not be engaged in heavy physical or labourious works till she recovers her lost energy.

#### 10. OFFENCES AND PENALTIES:-

- 1) Any body who: violates rule no. 3 shall be punished (a) If the miscarriage does not takes place, with a fine ranging from Rs. 100/- to Rs. 250/- and (b) If the miscarriage takes place with a fine which may extend to Rs. 1,000/- or imprisonment which may extend to 3 months, or both.
- 2) Violates the rule No. 9(1) shall be punished with a fine ranging from Rs. 10/- to 25/- apart from payment of a compensation to the house holder concerned ranging from Rs. 50/- to Rs.100/- plus the expenditure required by him to perform a "BUR".
- 3) Violates the rule No. 9(5) shall be punished with fine which may extend to Rs. 50/-
- 4) Creates trouble during a delivery of a child or obstructs to rendering aid to delivering mother, shall be punished with a fine from Rs. 200/- to Rs. 500/-

### PART-3 MARRIAGE CHAPTER-I GENERAL PROVISION

11. DEFINITIONS:- In the meaning and for the purpose of this part unless the context otherwise requires:

- I) "Chumulong" means the main ritual performance required in a marriage.
- II) "Chumulong Pani" means a Jarful of fresh water personally fetched by the bride for use in the Chumulong.
- III) "Garba" means an uneven relation i.e not in the brother-sister line and includes one that can be not be married though in the even line.
- IV) "Jara Andik" means the pair of rings used by the groom & bride during their marriage but it does not include the pair of rings may be exchanged by the couple before their marriage.
- v) "Garba Kudum" mjeans a relation that can not be married and includes all such relations in the status of parents offspring or uncle/niece relation i.e. the parent like or cfhild like relation and in all matrimonial lines and generations and also a step-brother, or step-sister, a Jegot, Bhonjamej, Bhijur, Bheibao in all lines though they are in even relation.



VI) "Mukbala Kudum" means a so called relation paractically having no blood relation in any lines by such relation in course of association or living together may develop.

VII) "Mukbala Garba Kudam" means a Garba Kudum out of the Muk. bala Kudum.

VIII) "Khelya Kudam" relation in even line or sept or agnate i.e. a person paternally related predicessers or successors.

IX) "Gotti" means a sept or agnate i.e a person paternally related predecession or succession.

X) "Purus" or "Polla" means a generation of the same Gatti.

XI) "Sadanga" means a step or adopted relation.

XII) "Byani" means the mother-in-law of a son or daughter or nephew and neice.

XIII) "Bhuji" means the wife of an elder brother.

XIV) "Mod" (Mawd) means a wine and includes all types of alchholic liquors or drinks, country or foreign.

XV) Mad Pillang means the offering mawd in a pair of bamboo vessels or bottles by the groom's party to the bride's party during negotiation of a marriage.

XVI) "Sangu Duar Bandha Kara" means closing the door for negotia- tion of a marriage by other party.

XVII) "Dabah" means bridges price payable by the groom's party to the brides party in cash or kind as an assistance for the expenditure required to be incured on the marriage the occasion.

XVIII) "Ajha" means a village priest who conducts marriage in accor- dance with customary system.

XIX) "Vikkhu" means a Buddhist Monk, and includes a Shraman or Chamini.

XX) "Jadan" or "Jora" means the system of tying the couple with new cloth before the perfor mance of the chumblong as a token of approval to the marriage.

XXI) "Biyasud Bhanga" means the first visit, immediately after mar- riage by the couple to the bridge's house and vice-versa if the marriage takes place in the bridges' house.

XXII) "Biju" means the Chakma Social festival falling on the last day of the month of Choitra (Bengal month).

XXIII) "Biju Beran" means the visit by the newly married couple to the bride parents or guardinas during the Biju of the same year in which the marriage takes place.



- XXIII) "Biju Beran" means the visit by the newly married couple to the bride's parents or guardians during the Biju of the same year in which the marriage takes place.
- XXIV) "Chhep" means taking Asirbad or blessing by the newly married couple during the marriage from the invitee guests.
- XXV) "Bur" means a purifying performance.
- XXVI) "Bya Bur" means a purifying performance after a marriage takes place by the newly married couple.
- XXVII) "Gotti Bur" means a Bur by the family members alongwith the bride to make her a Gotti member.
- XXVIII) "Khana Sirani" "Khana" means a feast and "Sirani" means completion, and this "Khana Sirani" means completion of the feast in relation to the marriage and observed as a token of witness to marriage.
- XXIX) "Aproval marriage" means a marriage formally performed with a chumulong and approved by the samaj.
- XXX) "Ghar Jamei" means a groom who undertakes his marriage in Service system in lieu of giving a Dabah by rendering free labour to the bride's parents for a certain period and moves to the house of the bride.
- XXXI) "Court marriage" includes a marriage performed before a marriage registrar.
- XXXII) "Lajabhar" or "Lajaban" means a compensation for lowering the face of or putting to shame another person or for breach of a contract.
- XXXIII) "Dabha" means the payment received by the parents/gurdian of the bride from the groom side either in cash or in kind as a token of nursing the girl. But it does not includes the ornament and cloths claimed for the bride by her parents/gurdians.
- XXXIV) "Dudhali Tenga" means payment made from the groom side to the bride's mother as a token of gratitudes.

## 12. JARA ANDHIK :—

- 1) The Jara Andhiks are considered to be sacred for the wedded couple and cannot be parted with during their conjugal life.
- 2) These rings shall be used in the Jadan and chumulong.
- 3) Wilful damage of any of the Jara Andhiks by any body is a punishable offence.

## 13. CONSENTS REQUIRED IN FIXING UP A MARRIAGE :—

- 1) No marriage shall be performed in absence of the consent of both the bride's and groom's parties.



Provided that an approvable marriage may take place without the consent of either or both parties in which case the disgruntled party shall have the right to abandon the relation with such married couple.

2) Similarly the practice of exercising absolute discretion by the by the parents or guardians of the brides or grooms in fixing up a marriage without the consent or even against the will of the bride or the groom, is irregular and the consent of both the bride and the groom shall be required in fixing up their marriage.

#### 14. CHILD MARRIAGE :—

The minimum age for marriage is 16 years for a girl and 20 years for a boy and a marriage of any one below such age is deemed to be a child marriage which is prohibited.

#### 15. AN APPROVABLE MARRIAGE NOT TO BE OBSTRUCTED :—

- 1) Permissible marriage can not be obstructed to by any body except that the opposition, if any to such marriage, shall be brought verbally or in writing before the guardians of the bride or the groom as may may be the case, before the marriage is fixed up.
- 2) The opposition if brought before the village Council, shall be treated as a plain or suit and dealt with accordingly.
- 3) Such a genuine marriage shall not ordinarily be postponed, but when the village council is satisfied that there is reason to believe that a great disturbance or breach of peace and order out of the dispute is likely to exist, the marriage may be postponed, if the sub-section (1) & (2) are satisfied.

#### 16. CONCUBINANCE DOES NOT ESTABLISH A MARRIAGE :—

A concubine in the meaning of a female co-habi-ting with a male not her husband, shall not be deemed to be a wife of the said male and such concubinage is prohibited.

#### 17. MARRIAGE IN CONTRAVENTION OF A RULE TO BE VOID :—

Any marriage including a Court or intercaste marriage not fulfilling any of the provisions laid down in chapter I & II, or is contradictory to any other rule prescribing an approvable marriage, shall be void.

#### 18. NO RESTRICTION TO A MARRIAGE ON ANY DAY :—

A marriage may be performed on any day of the week or during any period except on the religious ground.

Provided that no body shall be compelled to perform a marriage on a day or during a period believed to be inauspicious for the marriage occasion.



### 19. DOWRY PROHIBITED :-

Receiving and giving a dowry as defined in clause XVIII of section 11, is prohibited and punishable offence.

20. DABAH :- (1) Dabah may be received in a marriage but there shall remain no compulsory payment or receipt of a Dabah.

(2) The dabah amount shall in no case exceed Rs.2500/- in cash and kind;

Provided when a woman marriage a person who is considered unsuitable or anywise undesirable by her guardians, or against the will of her guardians, the guntled guardians may claim a heavier amount of Dabah not exceeding Rs. 5000/- in cash and kind.

Provided further that when the claim for double payment of Dabah under the first proviso is found not proper, the first proviso shall not operate in such a case.

(3) Realisation of a Dabah bigger than Rs.5,000/- shall be deemed to be a human trafficking and shall be punishable under the human trafficking (Prohibition) Act, or I.P.C. or other relavent rules.

(4) Dudhali Tenga shall be paid to the mother of the bride. But it should not exceed Rs.25/-.

Provided that the groom side may give more than Rs.25/- if they so wishes.

### 21. POLYANDRY AND POLYGAMY :-

(1) Polyandry is prohibited.

(2) Polygamy may allowed on the following conditions, Viz.

I. The number of the living wives must not exceed two at a time.

II. Prior consultation with the existing wife shall be required.

Provided in absence of any child, the objection of the wife, if any, to the second marriage of the husband shall be lisible to be rejected.

III. The grounds for the polygamy shall be:-

(a) Want of child, or

(b) Physical or mental handicappedness of the existing wife.

(3) In all cases the polygamy the husband must take care of both the wives equally in all respects, and neither of the wives shall be deprived of any



legitimate right or facility as a house wife, and the children born of both the wives, if any shall enjoy the equal facility in regard to inheritance or Bhoranposan or all other matters.

## CHAPTER - II

### RELATIONSHIP FOR APPROVABLE MARRIAGE

#### 22. RELATIONSHIP FOR APPROVABLE MARRIAGE :-

The approvable marriages are as follows,

- (1) A couple in even line i.e. in the brother sister relation except those prohibited under section 23, can marry each other.
- (2) A divorced couple may get remarried together except where the marriage was disapproved or cancelled for the reason of the marriage being not approvable under any rule or otherwise expressly debbarred by a competent Court.
- (3) A Rana (widower) or a Rani (widow) can re-marry.
- (4) A marriage in Ghar jamai system is permissible.

#### 23. RESTRICTION TO CERTAIN MARRIAGE :

A marriage between the following relations is strictly prohibited. Viz.

- (1) A Garbakudum.  
Provided that a Mukbala Garbakudum i.e. such a person having no blood relation in the paternal or maternal lines, or who is in other way related as a Khelya-Kudum, may be married.
- (2) A member of own Gotti.  
Provided that a Khelyakudum of own Gotti may be married after seven purus or generations have elapsed.
- (3) Sadanga i.e. Step relation or adopted relation.
- (4) A minor girl i.e. a girl below 16 years of age.

## CHAPTER - III

### NEGOTIATION FOR MARRIAGE.

#### 24. Several visits with a marriage proposal not necessary :-

The system of running up to Tinpur ( 3rd visit ) by the groom's party with the marriage proposal to the bride's pans is not compulsory and the final action in fixing up the marriage or refusal thereof may take place in a single trip.



## 25. SANGUDUAR BONOHAHAKARA AND MARRIAGE CONTRACT :

(1) If the marriage proposal is not turned down by the bride's party at the first visit, the groom's party shall acquire the right to claim a Sanguduar Bondhakara and the bride's party shall not be at liberty to accept any other marriage proposal of the said bride unless the Sanguduar Bondakara is revoked.

Provided that the bride's party shall have the right to turn down the marriage proposal at any subsequent time before it is finally settled in positive and thereby the right to claim Sanguduar Bondhakara shall lapse.

(2) Unless the proposal of a marriage is settled in positive, the bride's party shall not bind itself to marry the girl to the groom under proposal though invited for further negotiation, and when it is so settled, the bride shall be betrothed and neither of the parties can refuse the marriage unless the marriage contract is in anywise dissolved.

## 26. MODPILANG TO BE REPLACED :-

Offering a Mawd(Mod) pilang as a token of agreement to the marriage proposal by the groom's party may be replaced with offering an ornament or other material suiting the occasion to the bride or to the parents or guardians of the bride.

## CHAPTER - IV

### MARRIAGE SUDAM (SYSTEM)

## 27. MANNER OF MARRIAGE PERFORMANCE :-

A marriage may be performed as follows :

- (a) Generally, the bride shall be fetched to the groom's house for performance of the marriage.
- (b) The groom will go to the bride's house only for the purpose of performing the marriage if so desired and settled by both the parties, and
- (c) In Gharjamai system i.e. by servicing by the groom to the father or guardians of the bride for a certain period instead of giving Dabah or for other reason.

## 28. JADAN OR JORA :-

(1) The Jadan shall be performed before the chumulong as token of approval to the marriage in presence of some village elders as witness to the same and before binding the Jadan permission for the Jadan from audience shall be required without which the Jadan can not be conducted, and if so conducted, it shall be void.

(2) The audience shall not simply keep silent and shall either give permission or shall raise objection to the Jadan on the ground that the marriage is not



approvable under any provision of the customary or other law, and the person raising the objection shall have to prove at once that the marriage is not approvable failing which he shall be liable to summary punishment.

(3) The Jara Andhik shall be worn during the Jadan.

#### 29. CHUMULONG :—

(1) The chumulong is the only required performance or puja to complete a marriage but it can not be conducted in absence of a valid Jadan.

(2) The chumulong may be performed immediately after the Jadan or later according to convenience either in accordance with the customary practice or in the Buddhist manner.

(3) The required chumulong pani shall be fetched by the bride herself if the chumulong is conducted by an Ojha in the customary manner.

#### 30. BYASUD BHANGA :—

As soon as possible after the performance of the marriage, the Byasud Bhangha shall be performed in the house of the bride's father or guardians if the marriage takes place in the house of the groom, and vice-versa in the event of the marriage being performed in the house of the bride's father or guardians, or in absence of the above opportunities, or for other reason, under a tree having a green foliage.

Provided that this shall not compulsorily apply to the marriage of a widow or a girl who is evidently not a virgin.

#### 31. BIJU BERAN :—

The newly married couple shall visit the house of the bride's father or guardians during the first Biju succeeding their marriage to perform the Biju Beran, that is to say that the bride shall be given the opportunity to enjoy said Biju in her father's or guardians home.

Provided that this is not necessary in the case of widow marriage.

### EXOLOGY AND COURT MARRIAGE

#### CHAPTER—V

#### 32 EXOLOGY :—

A Chakma woman may marry a Non-Chakma and such marriage shall be Governed as provided hereinafter.

(1) Chakma woman whoever marries a Non-Chakma shall cease from the date of her such marriage to be a Chakma and a tribal if her such husband is a non-tribal, and a resident if said husband is not resident of the District, and resultant upon her such marriage she shall also be entitled from the same date to make or acquire by any means any property except a cash through service or



business, within the District area, or to inheritance of ancestral property or to enjoyment of any other facility as a Chakma or a tribal, or a resident of the District.

(2) All properties already made or acquired by or in the name of such woman before her such marriage within the District area by any means or source, shall devolve to the parents or relatives of the woman from the date of her such marriage in the manner as if she were not a member of her father's family, or as if she were dead from the date of her such marriage.

(3) If any immovable property is made or acquired or in the name of such woman her non-Chakma husband or her children after her such marriage within the District in violation of sub-section (1), such property shall be liable the confiscation to the District Council.

Provided that the woman may enjoy the benefit of such property during her life time or with prior approval of the Executive Committee she may dispose of the property in way of sale or otherwise among the resident tribal of the District.

(4) Subject to the sub-section (5), (6) F (10) the provisions of sub-section (1), (2) & (3) shall equally apply to a marriage of Chakma woman and Non-Chakma which took place before this law coming into force.

(5) Notwithstanding anything contained in sub-section (1), (2) or (3) the Non-Chakma husband of a Chakma woman who married before this law coming into effect may, by an affidavit in the form set up in Annexure-II before a magistrate or a Judicial Officer, renounce his parent caste or tribe as may be the case, and embrace the Chakma Scheduled tribe, and may apply with the affidavit Annexure to the District Council Court praying for approval to his embracing the Chakma Community, and may also renounce his parent religion and take to the Buddhism at his own accord.

(6) On a petition being received by it, under sub-section (5), the District Council Court may approve the prayer on the following conditions, viz.

(a) That the Executive Committee shall have absolute right to revoke such approval at any time when found necessary in the interest of social integrity and communal harmony, or in the event of breach of any condition of the affidavit annexure write the petition, and

(b) That the applicant must observe the conditions of his affidavit.

(c) Any other condition that may be found necessary to be imposed on a particular case.

(7) On the non-Chakma husband being officially declared to have been a Chakma, his Chakma wife shall resume to be a Chakma, or a resident and her rights lost for her marriage, shall be deemed to have been restored, and the ancestral line-age of the family shall transmute into a new one with a new Goja called Nua Goja and the Gotli name shall follow that of the Chakma wife.



(8) A Chakma may also marry Non-Chakma woman and his such wife shall automatically become a member of the Goja and Gotti of her such Chakma husband from the date of her such marriage, and she also shall, unless otherwise presettled before their marriage, follow the religion of her such husband.

(9) The provision of sub-section (1), (2), (3), (4), (5), (6), (7), and (10) shall mutatis mutandis apply to an exogamy between a tribal woman or man of the District with one other than such tribals.

(10) Nothing contained in sub-section (1), (2), (3), (4), (5), (6) and (7) shall preclude the District Council from exercising discretion.

(a) to allow the Chakma woman in the event of either absence of or her Judicial separation with her Non-Chakma husband, to come back to Chakma Community, or

(b) to allow the children of such couple in the event of absence of both of their parents coupled with the condition that they are minor and rendered to be destituted, or

(c) to allow in an exceptionally deserving case a non-tribal husband married before this law coming into force, to become a Chakma in the manner prescribed for a tribal husband in sub-section (5) & (6).

Provided that in exercise of any of such discretion the social integrity or communal harmony or peace and order should not be jeopardised and the objection if any, of the parents or guardians should not be neglected.

### 33. COURT MARRIAGE :

(1) A Court marriage of whom either or both partners are Chakma, may be allowed by a Court not below a Subordinate District Council Court or a Govt. recognised marriage Registrar, and such marriage shall be subject to the regulation hereinafter prescribed.

(2) On receipt of the petition accompanied by an affidavit to the effect that their marriage is approvable but guardians of any party are not allowing it, and praying for Court marriage, the Court or the Registrar as may be the case, shall issue a notice calling a objection to the proposed marriage within a reasonable time, and when no objection is received within the time schedule, the Court or Registrar, as may be the case, shall warn the couple praying for the marriage about the consequence of the section 34, before granting the marriage.

(3) If any objection to the marriage as indicated in sub-section (2) is received, this shall be considered in the light of the nature of the objection and the necessary or grounds for proposed marriage is approvable.



### 34. COURT MARRIAGE FOUND NOT APPROVABLE TO BE VOID;—

A Court marriage subsequently found not approvable under any provision of the Customary Law, or found to have been granted through false identification or personation, shall be void, and the couple shall be liable to punishment for the Sinali, or falsification of identity if it is proved to have been so done.

## CHAPTER—VI

### MISCELLANEOUS.

### 35. REGULATION OF GHARJAMEI MARRIAGE :—

(1) The term of the service of the groom to the family of his bride shall not exceed 12 months.

Provided the groom may stay with his bride's family shall more than this Period at his own accord

(2) During the separation of the couple from the family, the parents or the guardians of the shall give a reasonable share of food grains or other earnings made during the service period of the Gharjamei and shall also render reasonable assistance in construction of a separate dwelling house of the couple.

### 35. MARRIAGE REGISTER :—

All marriages including the Court marriages, shall be recorded in a register to be maintained by each Village Council in the form set up in Annexure-III, and a Certificate of a marriage shall be issued by the Village Council presidents in the form prescribed in Annexure-IV.

Provided this Section shall not apply to those already taking place before this laws coming into force.

### 37. ACTS NOT COMPULSORY :—

The following Acts may be done but not compulsory, Viz,

- (1) Performance of Bya-Bur or Gottj-Bur.
- (2) Taking chep on a marriage occasion from the invitees.

### 38. REPEAL :—

The following Acts are abrogated :—

- (1) Khanasirani for a marriage.
- (2) The Bhuji marriage i.e. the practice of marrying a Bhuji.



- (3) The marriage of the girl or woman with the person by or for whom she is abducted (Dharinejana).
- (4) The compulsory payment of a Dabahi.
- (9) The child or Juvenile marriage.
- (6) Realisation of Sigoli on a Mela (marriage occasion).
- (7) Exchange marriage.

### 39. OFFENCE AND PENALTIES :—

The commission of following Acts shall constitute an offence punishable as noted against each of them :—

- (I) Violation of any provision of section 13 :—

The parents or other person responsible shall be punishable with a fine which may extend to Rs. 500 - and the marriage shall be liable to annulment.

- (II) Violation of Section 14 shall be punishable with :—

(a) A fine of the guardians upto Rs. 500/-.

b) Annulment of the marriage.

c) The husband shall be deemed to have committed Balatkar when the girl was married against her will, or she is copulated by force or against her will, and shall be punishable under Section 117 (5) except that there shall be no giving Sukar in such case.

- (III) Violation of Section 15(I) shall be punishable with :—

a) A fine for the ring leader which may extend to Rs. 500/- and

b) A fine for other offenders which may extend to Rs. 200/- each.

- (IV) Violation of Section 16 shall be punishable with a fine which may extend to Rs. 500/- for each, or an imprisonment for a term which may extend to 1 month, or both.

- (V) Violation of Section :—

a) The disgruntled wife or wives shall be entitled to a Surkagaj or a Bho-ranposan in a separate establishment at the cost of the husband under Section 125 of the Code of the Criminal procedure, 1973 or otherwise, and

d) The husband shall lose the claim over the children.



(VI) Violation of Section 19 :— The amount of the Dowry shall be liable to confiscation to the District Council apart from a fine which may extend to Rs. 1,000/- for the receiver.

(VII) Violation of Section 20(2) :— The amount realised as Dabah in excess of of the prescribed amount shall be liable to refund and a fine which may extend to Rs. 1,000/- or an imprisonment which may extend to 3 months, or both.

(VIII) Violation of Section 22 :—

- a) The marriage shall be annulled.
- b) The offenders or their guardians shall be liable to a fine which may extend to Rs. 500/- each according to the nature of the prohibition to relations of the couple.

(IX) Entertaining marriage proposal in violation of Section 25 (1) :— Payment of Lajobhar to the aggrieved party amounting to Rs. 200/- to Rs. 500/-.

(X) Marrying the betrothed girl to another in violation of Section 25 (2) : -

- a) Payment of Lajabhar upto Rs. 500/-.
- b) A compensation for the cost incurred in connection with the marriage by the other party.

(XI) Failure to tie the Jadan as required in Section 28(1):  
The marriage shall be disapproved.

(XII) Unnecessary objection to the Jodan. A fine which may extend to Rs. 200/- for each person raising invalid objection.

(XIII) Failure to conduct the chumulong as required under Section 29 (1) :-  
The marriage shall be disapproved.

(XIV) Spreading or giving false information or bad name against a marriage party to the other with intent to dissolve a settled marriage or being the cause thereof:-

Punishable with a fine which may extend to Rs. 500/ plus payment of compensation equivalent to the expenditure incurred in connection with the marriage or negotiation thereof, if the marriage is dissolved.

(XV) Obstruction to a bridal party and demand of  
"DOSTORI" :-

Punishable with a fine ranging from Rs.200/ to Rs.500/- plus refund of the cost incurred by the bridal party to get rid of the obstruction for the time being.

(XVI) Compelling a person to perform or to agree to a marriage against his will, or to abandon a settled marriage : Punishable with (a) a fine which may extend to Rs.500/-and (b) payment of compensation to the aggrieved party.



## (XVII) Eloping a bethroated Bride :-

Punishable with a fine which may extend to Rs. 1000/- plus a compensation for the expenditure incurred in connection with the settled marriage and other punishment for the small offence.

(XVIII) Force marriage i.e. marrying a woman against her will or by means of any coercion or compulsion on her or her guardians in any manner shall be an offence punishable. (a) If said woman is adult with fine which may extend to Rs.2000/- or an imprisonment may extend to 6 (six) months, or both, and the marriage shall be liable to be annulled, and

(b) If she is a minor with a fine which may extend (X) to Rs.5000/- or imprisonment for a term which may extend to 2 years, or both, or under the I.P.C. for the offence of rape, and the marriage shall be annulled in all such events.

P A R T — 4 (FOUR)  
CHHARACHHARI (DIVORCE)  
CHAPTER—I  
GENERAL

40. DEFINITION :-- For the purpose of this part and unless the context otherwise requires.

I. "Chharachhari" means divorce and includes a judicial separation of married couple.

II. "Surkagaj" means a document in support of a divorce to be given by the husband or both.

III. "Rissua" means suspicious on the chastity or jealous of association of the conjugal partner with another person on no reasonable ground.

41. A Chharachhari is permitted in the Chakma samaj. and

(1) If (a) the husband is found guilty of being rissua, or breach of trust, or negligence in earning and maintenance of the wife and children, or habitual gambling, or habitual heavy drinking and brawling, or conversion to other religion, or being impotent or any otherwise failure to satisfy natural sexual desire of his wife, or commission of crime, for having a venereal or other contagious disease, and

(b) The husband or any other family member is Guilty of cruelty and mercilessness towards the wife or unnecessary harassment or physical or mental torture, or berating the wife, or denial or lowering personal fame and honour of the wife, or unnecessary humiliating or such behaviours before others or denial or deprivation of any legitimate right of the wife, or anywise endangering the safety of life of the wife, or compelling her to close relationship or communication with her parents family, or compelling her to take to any un-social or illegal act, or to give or to bring any type of Dowry, the wife shall have the right to divorce her husband.



(2) If the wife is found guilty of breach of trust, or disobedience, or negligence to household affairs, or damage of personal or family prestige and fame of the husband or being a rissua, or commission of crime, or drinking, or gambling, or failure to perform his natural Sexual active as or failure to produce a child, or anywise unfaithful or endangering the safety or life, or unnecessary humiliating or such behaviour before others, the husband shall have the right to divorce.

#### 42. INTERPRETATION OF SUB-SECTION (1)& (2) OF SECTION 41 :—

In the meaning and for the purpose of Sub-Section (1) & (2), of Section 41.

(a) A contagious or stinking disease, or a physical abnormal development giving a horifying appearance likely to arouse a natural feeling of distest or eversion or a panic in having bodily close contact with such effected person shall be a competent cause of failure to perform the natural sexual activities, and

(b) A failure to work due to physical handicappedness on account of an accident or a disease other than one specified in cause (a), shall not amount to be a negligence in earning or maintenance, or household affairs, and

(c) A false incrimination shall not constitute a crime.

#### 43. SURKAGAJ IN A DIVORCE :—

A divorce shall be supported by a Surkagaj to be given by the husband.

Provided in a Judicial Separation, no Surkagaj shall be required.

#### 44. NO DIVORCE WITHOUT FAULT :—

No divorce shall be allowed without any fault of the other party.

Provided that where there is sufficient reason to believe that an apprehension of a fatal damage is, likely to exist should the wedlock continue, a competent Court may allow a persistent divorce in absence of any fault of the other party in which case the said other party shall be entitled to a reasonable compensation or other cost.

#### 45. FAILURE TO SATISFY SEXUAL DESIRE :—

In the event of the husband being important, or, either of the couple failing to satisfy natural sexual desire of the other party, there shall remain no leniency in granting the divorce.

#### 46. ABSENTEE DIVORCE :—

If the husband : (a) leaves his and his whereabouts is not known or no money is sent to his wife for a consecutive period exceeding twelve, or



(b) is confined under law for a period not less than 30 months when the wife has no means of her support and for a period not less than 5 years when she has source of income for her support, the wife shall have the right to divorce him in his absence.

## CHAPTER--II

### 47. REGULATIONS OF CHILDREN AND PROPERTY ON SEPARATION :-

In case of divorce the following shall be followed in regard to the children of the separated couple :-

(1) In all cases except under the Sub-Sections (2) & (3).

(a) The children of above 3 years will choose either of their parents in presence of the authority deciding the matter.

Provided that no inviting or temptation with signal or showing materials to the children by (d) any of the parents or other will be allowed.

Provided further that the children shall be given to understand clearly that their parents going to be separated and their choice or option shall be the final, and

(b) The right over the children of below 3 years of age will be given to the mother.

Provided that if the mother agrees to part with any one of them the father may have that particular child or children at once or if so settled, after, attaining the age of survival without the mother, in which case the father shall have to bear the Bharaṇposan of the said child or children till they remain with the mother, else he will lose the future claim over them.

(2) When the husband is divorced or he is compelled to divorce the wife for no reasonable fault of the husband but simply because She is totally unwilling to stay as his wife, She will not be entitled to any children.

(3) In a mutual separation, the children also shall be mutually shared by the husband and the wife.

(4) In all cases of divorce, the mother of inheritance by the children shall be regulated under the inheritance rules provided in parts 7 & 8 of this Law.

48. In the event of divorce the wife shall be entitled to share of properties made or acquired during the period of their married life as follows :-

(1) In the event of a divorce of the husband by the wife for his fault, all the Buali goods and other personal property, the landed property inheritable by her children, who goes with her.

(2) In the event of divorce of his wife for no reasonable fault of her own, she shall be entitled to the Buali ornaments also.



(3) In the event of divorce of the wife for her fault, her personal properties only, specified in Sub-Section (5) of Section 74.

(4) In the event of a mutual divorce, 25% or as may be settled mutually plus the Buali goods and her other personal properties, and landed property inheritable by the children getting possession of by the mother, or a cash in lump sum amounting to the extent of requirement for at the least twelve months.

Provided that the wife or husband may relax this provision at her or his own accord.

### CHAPTER—III MISCELLANEOUS

#### 49. NO PERSON TO CREATE A SEPARATION :—

No person shall create or shall create or shall be the cause of the separation of a married couple with intent to satisfy own interest or personal grudge on any of the couple.

Provided that where it is deemed to be no other alternative except the separation of the couple for the sake of saving fatal damage or trouble, an open advice to any of the couple to seek for divorce, or an open demand for the separation of the couple before a competent court shall not be deemed as creation or being the cause of the separation.

#### 50. OFFENCES AND PUNISHMENT :—

Any body who :—

(1) Creates or be the cause of the separation of a married couple except as provided in the provision to the section No. 49, shall be punishable as prescribed for Grihali Shantibhanga under Section 123.

(2) Abandones his wife without a divorce or refuses or prolongs to give the Surkagaj after a divorce, shall be punishable with a fine which may extent to Rs. 200/- in addition to the giving the Surkagaj.

(3) Divorces his wife but does not comply with the provisions consistant to such particular divorce, shall be liable to a fine rending from Rs 100/-to Rs.200/- in addition to compliance with the provisions to the divorce.

### PART - 5 DEATH - RITES

51. DEFINITION :— In the meaning of this part unless the context otherwise requires :—

I "Satdinnya" means the obsequie (Shradh) of deceased performed on the seventh day after the funeral.



- II. "Harbhaja" means death ritual of immersion (bisarjan) of the remnants of the burnt substances of the death body as offering to the Ganga.
- III. "Garitana" means a sacred death ritual performed in honour of a demised and in wish of Uddhara of his soul and obtaining the sarra (heaven).
- IV. "Tanggon" means a holy white cloth streamer of not less than 5 qubics in length flown on the occasion of a funeral or Satdinnya or other religious occasions.
- V. "Marah" means the observation of profanity after a death of a family member or a Gotti member.
- VI. "Uddhara" means a salvation adeceased's soul.
- VII. "Ruba Kur" means a heap of fire billets for burning a corpse.
- VIII. "Chabasal" means a grave yard or a cremation ground.
- IX. "Gonga" is derived from the word Gonga i.e. the Ganges and means the water deity.
- X. "Kanjaba Bhat" means a rice meal specially cooked in the late evening of the day of the funeral (Kastakarma) of the deceased and preserved for the deceased's soul to come and eat it.
- XI. "Fanusbatti" means a paper balloon fill with gas with a flaming material hung from the centre of the balloon for constant gas and light flown on religious or death occasion.
- XII. "Hazarbatti" means thousand candles offered and lit in a religious occasion.
- XIII. "Bhat Poi" means a meal plate containing cooked rice and all components offered to the soul of a deceased.

## 52. NO AMUSEMENTAL PERFORMANCE IN A DESEASED'S HOUSE :-

No amusemental or musical performance, beating Dhole (Drum) or playing a amounmental instrument except as required in kirton (Carol) or other religious prayers, in the premises of the house of the deceased shall be allowed till the Satdinnya is over.

Provided that with the permission of the householder playing cards, pasha or chess or other indoor games may be allowed during the period from the death to disposal of the corpse to enable the persons attending the death occasion to kill time.

Provided further that no sort of gambling shall be allowed.



**53. NO BELIEF OF THE HOUSE TO BE DISHONoured :-**

Any restriction, customary or out of sheer blind belief observed by the house holders after a death taking place, must not be dishonoured by any body and under no circumstances.

**54. ASSISTANCE ON A DEATH :-**

After a death takes place, the neighbours and the relative shall render to the family of the deceased all necessary assistances in giving company in guarding the corpse, arranging funeral, or arranging food for the family member till the disposal of the corpse.

**55. DISPOSAL OF THE CORPSE :-**

- 1) The death body shall be disposed of as soon as possible and there shall be no restriction to the removal of the corpse on any day of the week from the house;

Provided that if under any unavoidable circumstance the disposal of the corpse is not possible, or it is so needed for absence of somebody whose presence on the occasion is needed must, the body may be preserved in such away or at such a place that this shall not arouse a question of insanitation or a public nuisance.

- 2) The death body may either be burnt or engraved according to convenience at an approved Chabasal (Graveyard).
- 3) When the death body is burnt, the Rubakur shall be prepared :-
  - a) In 5 layers in the case of the death body being a male and
  - b) In 7 layers in the case of a female.
- 4) Setting fire on the face of the death or the Rubakur shall not be done by others before it is first done by the family members of the deceased, and the first setting fire shall be done as per sequence.
  - a) When the deceased is a husband or a wife i.e. when there is no competent son available, by the wife and the husband, as may be the case.
  - b) When the deceased is a son or daughter, by the father or the mother.
  - c) When the deceased is brother or sister i.e. when no son or father of the deceased is available, by brother.
  - d) In absence of any of the father, mother, husband, wife, brother or sister, by a paternal uncle or a son of such uncle.
  - e) In absence of any of the persons specified in clause (a),(b),(c),(d) & (e) by a Gotti member.



Provided that a deviation from the sequence by the family members shall not amount to be an offence and anti-ritual.

- 5) In the event of engraving the corpse, fire on the face may be set by a person as per as sequence shown in Sub-Section (4) before covering the body with earth.
  - 6) In all cases, the death bodies shall burnt or engraved at an approved Chabasal.
56. KANJABA BHAT :- In the later part of the evening takes place, Kanjaba Bhat shall be prepared and preserved the soul of deceased to come and eat.
57. HARBHAJA TO BE PERFORMED :- If the death body is burnt, Harbhaja shall be performed on the morning next to the date of the burning by the sons or in their absence, by brother or in their absence, also, by the sons of a peternal uncle or close Gotti member.
58. SATDINNYA AND HOW TO PERFORM IT :-
- 1) On the seventh day after the disposal of corpse, the satdinnya shall be performed for the Uddhara (salvation) of the deceased's soul.
  - 2) On the Satdinnya occasion, the following principles shall be observed ; Viz :
    - (a) No Killing and drinking on the occasion of a Satdinnya shall be followed.
    - (b) Dharmadeshana by Bikku Sanga.
    - (c) Tanggon Hoisting for the deceased.
    - (d) Offering Syong (food offered to Lord Buddha and Monks).
    - (e) Offering Dana (offers of various materials suiting the use by Monks).
    - (f) Offering Bhatpoi to the soul of the deceased.
    - (g) No seductive show or music shall be displayed.
  - 3) Also the followings may be performed on a Satdinnya; Viz :-
    - (a) Illumination with Hazarbatti.
    - (b) Offering Dana to the poor in cash or kind.
    - (c) Sankirton (Carol) or dhapkirtan (religious drama) in the evening or night may be allowed.
  - 4) If the soul of the deceased is believed to have failed to obtain Uddhara the Satdinnya shall report.
  - 5) A death anniversary may be performed in similar way of the Satdinnya.



59. **MUBAH :-** The family members of the deceased shall observe Mubah from the date of disposal of the corpse to the date of Satdinnya, and the close Gotti relatives also shall observe the same for at least 3 days if not up to the Satdinnya.

Provided that if the death body is preserved as provided in the provision to Section 55, the observation of Mubah may cease after seven days of the removal of the corpse from the house.

60. **SHAVING HEAD BY SONS AFTER DEATH OF PARENTS :-**

In the event of death of any of the parents, the sons shall completely shave their heads immediately after the disposal or removal of the corpse and may become Chamini after the Satdinnya is over.

61. **GARITANA :-** Whether or not Garitana was performed on the death of any progenitor or husband, there shall be no restriction to such performance on the death of any progeny or wife, nor there shall be any compulsion to do it on the occasion of death of a progeny to follow a previous one performed on the death of a progenitor, that is to say that Garitana can be performed on the death or in the honour of any deceased and at the same time there is no compulsion to do it on any occasion.

62. **DEATH BODY OR TOMBS NOT TO BE DISHONOURED :-**

No human death body or a funeral site i. e. a grave or burning place or any tomb constructed thereon in honour of the deceased shall be dishonoured or defiled in any manner by anybody.

63. **OFFENCE AND PENALTIES :-** Any body who :-

- 1) Violates Section 52 & 53 shall be liable to a fine which may extend to Rs. 500/-
- 2) Resorts to any killing or drinking in violation of sub-section (2) of Section 58 shall be liable to a fine which may extend to Rs. 500/-.
- 3) Violates Section 62 shall be deemed to have committed a Fojdari of defilement and sacrileges, and shall be punishable with a fine which may extend to Rs. 500/-, or imprisonment for a term which may extend to one month, or both, and if the tomb is deliberately damaged, with a fine which may extend to Rs. 1,000/- or imprisonment for a term which may extend to 3 months or both.



## CHAPTER—I

## PART—6

## RELIGIOUS RITES.

64. DEFINITION :- For the purpose of this part :-

- 1) "Vikku" means a Buddhist Monk and includes a Chamini or Sharamana i. e. a Monk at the very begining stage of his such life.
- 2) "Pitaka" means a Buddhist Mythology and Tripitaka means the 3 pitakas Viz. Binaya, Sutra and Abhidhamma.
- 3) "Sile" means a precept or a mair Buddhist Principles.
- 4) "Panchasila" means 5 precept or Principles to be observed by all Buddhists.
- 5) "Vikku" Sangha" means the whole clergy in general and a group or bench or gattering of not less than 4 such clergy in particular.
- 6) "Dharmakam" means a religious function to such a festival and includes a Satdinnya (Obsequie) or a funeral.
- 7) "GhyGhyang" means a sacred shrine made mainly for the initiation or ordination of Vikkus.
- 8) "Chamini" means a Buddhist Shramana at the very begining stage of such life.

65. FREEDOM IN RELIGION :— Everybody shall have the right to enjoy the freedom in taking to religion of his choice and nobody can be persecuted in this regard in any manner.

Provided discourging a superstitious belief shall not amount to persecution.

66. RIGHT TO TAKE ACTION FOR ANTIRELIGIOUS ACT :— The Vikku Sangha or the samaj shall have the right and competence to take action on any antireligious act.

67. OBSERVATION OF SILA :— As a Buddhist every body shall observe Panchasila and anybody may choose to take Asthasila occasionally.

68. DHARMA KAM :—

- 1) In all Dharma Kam everybody should co-operate and render all possible assistance except where unable under any unavoidable circumstances.



- 2) Within the vicinity of any Dharmakam, drinking alcoholic liquor, gambling, displaying a seductive show or playing on such music shall be a punishable offence.
- 3) Causing a disturbance or disruption to a Dharmakam shall be deemed to be a Fojdari of desecration or sacrilege and hurt to religious feeling.
- 4) In a Dharmakam the observation of the principles shall be as specified in Sub Section (2) & (3) of Section 58.
- 5) Notwithstanding the Sub-Sections (2) or (4), Sangkirtan (Coral) or Dhap-kirtan (religious dharma showing and singing the greatness and glorious achievements, or life history of Lord Buddha), and other religious show may be allowed at a place away from the Kyong.

#### 69. ICON OR SHRINE NOT TO BE POLLUTED OR DISHONoured :—

- 1) Dishonouring or polluting in any manner an icon or a sacred shrine or other element believed to be sacred, shall be a Fojdari offence.
- 2) An icon once installed for worship can not be negligently handled or left without the daily Puja (worship).

Provided such Puja may be offered by anybody in place of the person installing or worshipping the same.

#### 70. VIKKU NOT TO BE HUMILIATED :—

- 1) Under no circumstances a Vikku can be dishonoured or behaved in any disparaging or humiliating manner violation of which shall be deemed to be sacrilege and humiliation of the Buddhism and shall be punishable accordingly, and addressing or behaving with a Vikku in dishonouring or disgracing manner shall be deemed to be a disparaging and humiliating act.
- 2) Similarly if a Vikku breaks his Sila or any provision of the Binaya Tri-pitaka or others, it shall be no business of any person not a member of the Bikku Sangha, to take any direct action except reporting to the Vikku Sangha if the circumstances so required, and the Vikku Sangha shall be the competent authority to take any action against a Vikku relating to a religious affairs.

#### 71. THE BIJU AND FIRST BAISAKHA FESTIVAL :— The Biju festival being the Chakma Social cum-religious festival, it may be observed and enjoyed in two aspects as under :—

- 1) In view of the religious side, killing drinking alcoholic liquor, gambling or any other act affecting the religious norms or principles, shall not be allowed on the Biju day and the first Baisakha as well, except as provided in sub-section (2).



- 2) In view of the social side, drinking may be allowed in the afternoon of the Biju day but never in the premises or vicinity of a Kyong.

Provided that nobody can be compelled to offer any type of alcoholic drink on the Biju day nor anybody can resent any other person for failure to offer drink.

### CHAPTER - III

#### MISCELLANEOUS

72. OFFENCES AND PUNISHMENT :— The following acts shall be punishable as indicated against them below :—

- 1) Violation of Section 65 : A fine which may extend to Rs. 500/- or under I.P.C.
- 2) Violation of Section (2), (3) or (4) of Section 68; Punishable with fine which may extend to Rs. 1,000/- or an imprisonment which may extend to 6 months, or both.
- 3) Violation of Sub-Section (1) of Section 69; Punishable with a fine which may extend to Rs. 1,000/- or Jail which may extend to 6 months, or both.
- 4) Violation of Sub-Section (1) of Section 70; shall be punishable with a fine which may extend to Rs. 500/- or an imprisonment for a term which may extend to 6 months, or both.
- 5) Violation of any provision of Section 71 ; shall be punishment with a fine which may extend to Rs. 500/- or a humiliating corporal punishment.

### PART-7 PROPERTY CHAPTER - I GENERAL

73. DEFINITION :— For the purpose of this part :—

- I) Property includes cash or savings. Insurance, Jewellery, Business Centres, Land and assets thereon, other dead stock; and live stock of all kinds and heirlooms of all types and all other matters having financial bearing.
- II) "Ismali" means a joint property accumulated in a common pool and the share thereof is vested in a group of members or families who may be separated or in a joint family.
- III) "Share" means a propersonate share of a property.
- IV) "Chhaga" means a token mark put on a place or thing to show or notify the occupation of the said land or things.



V) "Kabala" means a written deal executed in connection with a property affairs like gift, sale or otherwise transfer of the ownership of a property.

VI) "Registrar" means a registrar or a Judicial Officer or Magistrate authorised by the Executive Committee to function as such.

VII) "Benami Sampatti" is a property made or registered in the name of another person other than the maker or actual owner of the property but does not include a gift or a property specially made for or by such a person or acquired by inheritance.

VIII) "Buali Goods" means the ornaments and other materials given to the bride during the marriage for her adornment.

#### 74. CLASSIFICATION OF PROPERTY :—

1) Properties are classified as :— (a) Ismali or joint and (b) Individual or personal.

2) The Ismali properties are those which are inherited or acquired jointly by the family members and accumulated in a common pool.

3) The individual properties are those which are made or acquired by an individual member of the family or expressly made for or gifted to such member, and it includes the personal property of a bride or wife as defined in sub-section (5).

4) For the purpose of sub-section (3) a property made or acquired at any cost of the joint family shall be deemed to be a joint property and a free labour of any other family member or the cost of feeding the member while making the property at the cost of the joint family, shall be deemed to be a cost of the joint family in the meaning of this sub-section.

5) Whatever may be contained any where in this section or anywhere else in this law, the Buali goods exclusive of the Gold or Silver ornaments, given as Buali by the husband or his guardians to the bride or otherwise given subsequently by the husband, and all properties given in cash or kind to the bride or wife by her parents or relatives or others as a gift or presentation or any else expressly made for or gifted to her, shall be her personal properties.

6) Subject to Sub-section (2) of section 48, the Gold or Silver ornaments given as Buali or otherwise by the husband or his parents to the bride or wife shall be joint property of the couple and in absence of the wife by disease or judicial separation, the husband, and in absence of the husband, the wife shall acquire the full rights over the same unless she leaves the family of her deceased husband, in which case her such right shall lapse.



**75. RIGHT OF THE FATHER OVER THE JOINT PROPERTY :—**

- 1) The father shall be the owner of the ancestral properties inherited by him and shall have the right to dispose of such property in way of, gift or distribution among the progeny during his life time and unless it is so done, the property shall accumulate in the common pool of the family after his death.

Provided a property can not be gifted to any person other than a progeny except with prior express consent of the heirs entitled to inheritance of the same.

- 2) During his life time the father shall be custodian of an Ismaili property and without his consent, the share holders of the property shall not be competent to dispose of any property.
- 3) A share holder or his legal heir or proportionate legal heir shall be entitled to enjoyment of the benefit of the Ismaili property but he can not dispose of his share without the consensus of all the share holder or their legal proportionate heirs, and if any such share is disposed of in contravention of the provision, the other partners of the property shall have the right to claim the restoration of the property so disposed of.
- 4) On separation of share a holder of an Ismaili property, his share shall be divided to him.

Provided that the separating share holder may retain his share as Ismaili in which case he will be entitled to enjoyment of the benefit of the property proportionately.

- 5) An Ismaili property shall be accumulated in the common pool of the family.

Provided that the father or the head of the family may exercise his discretion to gift to and register such a property in the name of an individual family member who is considered deserving under reasonable criteria.

**76. REGULATION OF IMMOVABLE PROPERTIES :—** Though the owner of a property has the full right over his property, yet he can not mis-handle or dispose of the same at his whims, and the following regulations shall govern the management and control of the immovable properties.

- 1) No landed property can be disposed of by the owner in way of sale or otherwise except with the prior approval in writing from the Executive Committee on the specific grounds of either supporting the family members or saving a family member from dangerous and devastating clutch of misfortune, or bearing the educational expenses of a promising student of the family, and disposal on any other vague grounds shall be void.



Provided that the Executive Committee may allow the disposal of such property when it is satisfied that the owner of the property is unable to utilise it due to reasonable adversity and there is no change of his getting rid of the same within a reasonable period.

2) If a person dies leaving behind some landed property, this shall be regulated as follows :—

- (a) The widow or in the case of of widow, the first i.e. the elder in respect of their marrying the same husband if both of them have sons or their legal heirs, or the one who has sons or legal heir but the other has sons, shall be custodian of the property till her remarriage or attainment of adult age by the minor, which ever is earlier.
- (b) If the widow who took possession of the property as the custodian as provided in sub-section (1) dies or re-marriage or otherwise leaves the family, the other widow, if any, shall replace her and the provision of the said sub-section shall apply to her also.
- (c) In absence of any widow or if the Executive committee or the Village Council is satisfied that a property is likely to be the damaged in the hand of widow, the Executive Committee or the Village Council may entrust the responsibility of the property to a close relative of the minor till he attains his adult ages.
- (d) The guardian of a minor or the custodian of a property shall not be authorised to disposed of the property.
- (e) No provision of sub-section (1), (2) shall apply if a "Will" is left by the deceased in respect of a property.

3) The consent of a minor on disposal of a property in way of sale or otherwise is legally not acceptable and such consent, if taken or given, shall unless the Executive Committee expressly accepts such a consent to be valid, be void.

4) An immovable property shall not be so used as to cause harm to an abutter, and in the case of sale of an immovable property, the abutter shall get the first preference to purchase it provided the terms of sale are fulfilled.

Provided that if the necessity of the sale of the property occurs due to the bad behaviour or harmful or undesirable activities of the abutter and it is desired to keep him of by disposing of the property, the abutter's claim shall lapse.

77. CHHAGE :- A Chhage indicates that there is some one who took possession of the material on which it is put and the same material shall not be occupied or taken possession of by any other nor the Chhage shall be damaged removed or until the matter, if disputed, is finalised.



78. **BENAMI SAMPATTI:-** (1) A Benami Sampatti shall be the joint property of the benami holder and the actual maker of the property and neither of them can dispose of without the consent of the other so long both are alive or not separate when they are in a family.

(2) In the event of separation of the Benami holder and the maker of the Benami Sampatti, the party who is guilty of, or responsible for the separation, shall lose his right over his share of such property and the right of the whole of the same shall inherently develop to the other party if not already divided before the separation.

(3) If the Benami holder is a minor, the sole authority over such property shall remain vested in the maker of the said property till such minor attains 18 years of age.

79. **INHERITANCE OF PROPERTY :-** Properties shall be inherited under the inheritance rules provided in part 8.

## PART - 8

### SAMPATTI UTTARADHIKAR (INHERITANCE)

#### CHAPTER - I

#### GENERAL.

80. **DEFINITIONS :-** For this purpose of the part :-

I) "Sampatti Kabala" means a will in the meaning of a testamentary document.

II) "Testator/Testatri" means a person who makes or leaves a valid sampatti Labala at his/her death.

III) "Executor/Executress" means a person who is authorised in a sampatti Kabala to carry the function as authorised by the said Kabala.

IV) "Estate" means a landed property whereupon some assets are standing or established and includes firm, business centres and land and the assets thereof.

V) "Provate" means the copy a sampatti Kabala certified under the seal and hand of a competent Court with grant of administration or ownership of the Estate or property of a testator/testatress.

VI) "Court" means a Court Constituted by district Council except the village courts and includes a Court of Law having jurisdiction.



## 81. MODEL OF INHERITANCE :-

1) The Chakma community belonging to the patriarchal family, the patrimonies are inherited by the sons who are the legal heirs or legal proportionate heirs, but since the Dabha system is in practice, the daughters also shall be entitled to a portion of the patrimonies.

2) In absence of a Sampatti Kabala (Will) and unless otherwise expressly prescribed in any provision of this Law the properties shall be inherited as prescribed hereinafter.

In all cases 10% and in the event of there being only one son, 25% of the total properties shall be reserved for the eldest son respectively, and the rest shall be divided among all sons including the eldest one and the daughters and the widow in the ratio 50:50 i.e. a son 50 units and a daughter or widow having no issue of her own 50 units each.

Provided that the father may in exercise of his discretion divide the properties equally among all children.

Provided further that if a son or daughter is abandoned by the father such son or daughter shall not be entitled to any share of property.

3) The right of the land inherited by a widow having no son or daughter of her own for her own support as provided in clause (b) of Sub-Section (2) shall cease from the date of her entering into re-marriage or otherwise leaving the family of her deceased husband.

Provided that the widow may give the land in question to any or all the sons of her deceased husband before her leaving but can not claim the value thereof.

4) In absence of any son or legal heir of a son of the deceased, the property will be inherited by the daughters and surviving widow equally will be inherited by the daughters and surviving widow equally and the widow's such share shall not be affected in the event of her re-marriage or otherwise leaving the family.

5) In absence of any daughters also the widow or the widows shall acquire right to inheritance of the property.

## 82. SPECIAL PROVISIONS FOR INHERITANCE :-

1) Whatever may contain anywhere in part 7&8, the parents shall have the right to reserve a portion of the property, or whole if it is a small one, for their support, and the person who supports them in their simile condition shall inherit the same.

2) Notwithstanding anything contained in this part or on part 7, the widow of a deceased husband who left behind no son or daughter, shall inherit the



properties made or acquired individually by her such husband, and her right over such properties is absolute.

3) If a daughter married any body against the will of her parents or any otherwise goes against them, she shall be disentitled to any inheritance.

4) The sons shall have the right to predeempt the landed properties inherited by the daughter wishes on payment or value, if the daughter wishes to part with it.

5) Regulation of the properties of a Chakma woman marrying a non-Chakma shall be regulated under section-32.

## CHAPTER—II

### SAMPATTI KABALA (WILL)

#### 83. INHERITANCE BY MEANS OF A WILL :—

Inheritance by means of a Sampatti Kabala (will) shall be regulated by the rules provided hereinafter.

Provided that when there is no will, the property shall devolve in accordance with the rules provided in the chapter-I of this part.

Provided further that in absence of a written will, an orally expressed one on the eve of the death of a testator or testatrix in presence of not less than 3 witnesses, shall be deemed to be a Will (Sampatti Kabala).

#### 84. COMPETENCE OF A TESTATOR :—

1) A person of sound mind not below the age of 25 years may by means of a Will dispose of his property which he could alienate during his life.

2) The testator may revoke or amend a Will made by him at any time when he is competent to dispose of a property by means of will.

#### 85. PROCEDURES AND CONDITION :—

1) A Will shall be prepared quite legible and without any cutting or correction or over writing or erassing specially in writing the names of the legatee or legatees, executor or executress, the amount or quantity of the legacy and area or boundary description of the Estate provided in the legacy.

2) The Will shall contain the devolotional transitional or managerial conditions of the property meant for a minor or otherwise invalid legatee.

3) If more than one will is left by a same person, the one bearing the latest date or time shall prevail and the rest shall be void.



4) The testator may or not disclose the contents of the will to the witness or the legatee.

5) A will shall take effect only after the death of the testator.

6) The writer of the will, if written by some one other than the testator oneself, shall sign as writer at the left hand bottom of the Will.

#### 86. WITNESS :—

1) A witness to will shall be of a sound mind and not below the age of 21 years and a person not fulfilling any of the conditions prescribed in this section shall not be competent to be a witness to Will.

2) The Executions of a will shall be done in presence of not less than 3 witnesses.

#### 87. ATTESTATION :—

1) The testator of will must give his signature or the thumb impression if he is unable to write his signature, in presence of the witness.

2) The witnesses to the will also must give their signatures or thumb impressions, if they are illiterate or otherwise unable to write their names, in presence of the witnesses and the testator as will.

#### 88. INVALIDITY :—

1) Any will not fulfilling any of the conditions laid down in section 84, 85, 86, 87 shall be void.

2) Any will or part thereof, the making of which has been caused by fraud or correction, or by such importunity as takes away the free agency of the testator, shall be void.

3) Any thing not the property of the testator, testatrix but included in the will, shall not be a part of the legacy, and the inclusion shall be void.

#### 89. PROBATE :—

1) A probate shall be granted only to the Executor/Executress if appointed by the will or to the legatees if there be no executor/executress.

2) Probate on a will when granted, shall establish the will from the death of the testator, and render valid all intermediate acts of the Executor or the legatee, as may be the case.

3) Probate shall have effect over the legacy which may be the property, movable or immovable, or Estate of the deceased person i. e. the testator through out the District or area in which this is granted, and shall be conclusive as to the representative title in the case of an Executor, and



ownership title in the case of the legatee, against all belonged to the deceased, and shall afford full indemnity to all debtors paying their debts, and all persons delivering up such property to the person whom such probate has granted.

90. APPLICATION FOR A PROBATE :- Application for a probate with the will annexed, shall be made by a petition distinctly written in the language generally used in the proceedings before the Court having competence and jurisdiction stating :-

- a) The time of the testator's/testatrix's death.
- b) That the testament annexed is the last will of the testator/testatrix.
- c) That it was duly executed.
- d) The amount of assets which are likely to come to petitioner's hand.
- e) That the petitioner is the Executor or the legatee named in the will, and.
- f) That the deceased at the time of his death had a fixed place of abode or had some property situated within the jurisdiction of the court concerned.

91. WHEN A PROBATE MAY BE GRANTED :- Probate of a will may be granted by a Court having jurisdiction under seal of the Court and duly certified by the Court president or judicial Officer or Magistrate of such Courts if it appears by a petition of the person applying for the same that testator at the time of his decease has fixed place of abode or any property movable or immovable, situated within the jurisdiction of the Court.

92. RESTRICTION TO CERTAIN ACTS :-

- 1) The Executor or the care taker of the Estate or properties, as may be the case, as appointed by the will shall not dispose of any permanent or immovable property or precious jewellery by way of sale or otherwise except with prior sanction of a competent Court having jurisdiction.
- 2) Disposal of property specified in the sub-section (1) may be allowed only when it is deemed unavoidable for the purpose of maintenance of or bearing the educational expenditures of the legatee or his dependent family members, and the reason thereof shall be recorded in writing.
- 3) Disposal of any other material may be made only in the interest of the legatee or the estate, and all such returns or out turns received, shall be the accounted.

93. JURISDICTION OF COURTS TO THE HEARING THE INHERITANCE MATTERS :-

- 1) The District Council Court or a subordinate District Council Court, or a Judicial Court constituted by the District Council, or a Civil Court shall have the competence and jurisdiction over all matters relating to a will or



otherwise inheritance and the persons holding the charge of or presiding over these Courts shall be competent to deal with the affairs relating to inheritance by means of a will or otherwise.

(2) As regard receiving and disposal of any suit or appeal relating to inheritance, the procedures laid down in the Administration of justice Rule made by the District Council shall be followed except where expressly otherwise prescribed in customary Law.

#### 94. JURISDICTION OF COURTS IN GRANTING AND REGULATING A PROBATE :—

(1) All Courts specified in section 93 shall have jurisdiction in granting and revoking probates in all cases within respective jurisdiction.

(2) All such Courts shall have like powers and authority in relation to the granting and revoking probates and matters connected therewith as by Law vested in them relating to any Civil Court or proceeding pending herein.

#### 95. POWER TO ORDER PRODUCTION OF TESTAMENTARY PAPERS :—

(1) A Court having jurisdiction may order any person to produce and bring in the Court any paper or writing or instrument being or purporting to be testamentary, which be shown to be in the possession or under custody or control of such person.

(2) If it is shown or not believed that any such paper or writing or instrument is in the possession of or under custody or control of such person but there is reason to believe that he has the knowledge of any such paper or writing or instrument, the Court may direct such person to attend the Court for the purpose of being examined respecting the same.

(3) A person being directed under Sub-Section (1) & (2) shall be bound to attend the Court to answer truly such questions as may be asked by the Court, and if so ordered, to bring in and produce such paper or instrument, and shall be subject to the like punishment under the I.P.C. in case of default in not attending the Court or is not answering such question or not bringing or producing such papers or writing or instrument as he would have been subject to in case he had been a party to a suit or case and had made such default.

(4) The costs of the proceeding shall be decided in the discretion of the Court.

#### 96. WHEN AND HOW A COURT TO INTERFERE FOR PROTECTION OF PROPERTY :—

Until a probate of will of a deceased is granted, a Court having jurisdiction is authorised and required to interfere for the protection of such property at the instances of any person claiming to be interested therein and in all other cases



where the Court considers that the property incurs any loss or damages and for that purpose, if it thinks fit, to appoint an officer or a caretaker to take and keep possession of the property.

**97. POWER OF THE COURT TO EXAMINE PETITION ETC. :-**

In all cases receipt of petition specified in rule 95 the Court may, if it thinks proper.

- a) Examine the petitioner in person upon oath or affirmation.
- b) Require further evidence of due execution of the Will.
- c) Issue citations calling upon all persons claiming to have any interest in the estate or property of the deceased or any objection to the grant of the probate to come and see the proceeding before the grant of the probate is made.

**98. TIME FOR GRANT OF PROBATE :-**

No probate of a Will shall be granted until after the expiration of clear seven days from the day of the testator or testatrix's death.

**99. FILLING OF THE WILL :-**

- 1) The Court shall file and preserve the original Will of which probates with the Will annexed have been granted by it among the records of the Court.
- 2) A legal practitioner or agent on behalf of either of the parties in connection with any dispute respecting to the properties related to a Will, may with prior sanction of the Executive Committee or the Court trying such dispute, inspect the original Will so filed and take note of the points required, but no copy of the Will can allowed.
- 3) The legatee or the Executor may be granted a probate for a subsequent time if he can satisfy the Court concerned that the one already granted has been missing or not traceable or otherwise damaged.

**100. APPEAL FROM THE ORDERS OF A SUBORDINATE DISTRICT COUNCIL COURT :-** An order made or a decision taken by a subordinate District Council Court by virtue of the powers conferred upon it by any provisions of these rules, shall be subject to appeal to the District Council Court in accordance with the provisions of the Administration of Justice Rules made by the District Council.

**101. SURRENDER OF REVOKED PROBATE :-**

- 1) A probate granted to an executor or legatee when revoked, shall for with be surrendered and delivered by the person to whom it was granted to the Court granting the same.



2) If such person wilfully or without reasonable ground omits so to deliver up the probate, he shall be punishable with a fine which may extend up to Rs.500/- or with an imprisonment for term which may extend upto one month, or both.

102. PAYMENT BEFORE REVOCATION OF THE PROBATE :- When the grant of a probate is revoked, all payments bonafide made by or to the executor under such grant before the revocation of the probate, shall notwithstanding such revocation or legal discharge to the person making the same and the executor who acted any such revoked grants, retain and re-imburse to himself in respect of any payment made by him which the person to whom the probate may afterwards be granted, might have lawfully made.

103. OFFENCE AND PENALTIES :- False testification by a witness to a Will or personation as a witness, shall be punishable offence.

PART-9  
SINALI (COQUETRY)  
CHAPTER — I  
GENERAL

104. DEFINITIONS :- In this part unless there is anything repugnant to the context;

- I) "BALATKAR" means forceful intercourse and includes a sexual intercourse against the will of the victim.
- II) "BHIJUR" means the elder brother of the husband.
- III) "BHEI-BO" means the wife of younger brother.
- IV) "EBHONJAMEI" means the husband of younger sister.
- V) "BESHYA" means a prostitute and includes a woman having sexual connection with a man not her husband.
- VI) "DHURINEJANA" means a forcible kidnapping and abduction of a woman.
- VII) "EKK-GORONI" "PAGALGORONI" both are spritual methods or exorcism of sub-dueing and having full control over a person by making him madly fall for the person for whom any of these is exercised.
- VIII) "FARAK GORONI" means creation of separation between some person in general and a married couple in particular by spritual methods or drugs (Daru).
- IX) "JEGAT" means an elder sister of the wife.
- X) "JHENDERAFIRA" means a corporal and humiliating punishment inflicted for serious type of Sinali Offence or for breach of social norm or custom.



- XI) "PURUS" BOLLA" both means a generation of a Gotti.
- XII) "RADAKURA" means a cock given by a female offender of a sinali as a punishment.
- XIII) "DHEINEJANA" DHEIJANA" both means an elopement on mutual agreement.
- XIV) "SEXUAL CONNECTION" Includes Sexual intercourse, wilful touching or pressing or playing with the sexual organs or sexual parts in the way or other activity that may awake the concupiscence or may breed sexual opportunity or encourage sexual intercourse.
- XV) "SINALI" means a coquetry and includes all sexual crime and any act of illegal sexual connection and such sexual intercourse, concubinage in the meaning of a woman co-habiting with a man not her husband type of elopement, Dharinejana Dheijana arousing concupiscence EK!Coroni, Parak Goroni, unrestricted association and movements of young girls and boys obscence or want only and ineligent behavior in respect of sexual offence.
- XVI) "SINALI KHATIPURAN" means a compensation payable in cash for Sinali in lieu of the sukar or Radakura.
- XVII) "SUKAR" means a pig given by the offended of a Sinali as a punishment.
- XVIII) "MHUT" means a clinched first use in measuring a pig.

#### 105. JURISDICTION OVER SINALI CASES :-

The samaj has and reserves the rights in Sinali affairs as under :-

- 1) It is competent to try any offence defined as Sinali that may be committed within the territorial limits of the concerned court or area with a chakma by any body whoever or whensoever that any body may be.
- 2) It is also competent to award two folds punishments in the social sides according to the custom for the social offence of sinali apart from the punishment for offence of Fojdari in the criminal side.

#### 106. RIGHT TO RESTORATION OF ELOPED GIRL :-

- 1) In all cases Dheinejana or Dheijane (Elopement) the parents or the guardians of the girls shall have the right to her restriction except after consecutive 3 such elopements by or with the same person in which case the said right shall cease and subject to sub-section (2) the couple shall acquire the right to get married

Provided that above claim or right to restitution of the girl may be disallowed when she is sufficiently grown up to be able to decide her own future and (b) there is sufficient reason to believe that couple is really in deep love.



2) Notwithstanding anything contained in sub-section (1) the couple cannot be allowed to get married where the marriage is prohibited under any provision of these rules or by a competent Court.

#### 107. MARRIAGE OF SINALI ACCUSED NOT PERMITTED :--

Under no circumstances the couple accused of a Sinali offence can get married together until the case is finalised by a competent court.

#### 108. ADULTRANT FATHER RESPONSIBLE FOR THE CHILD AND MOTHER :--

The person impregnating a woman in a sinali shall be responsible for the Bharanposan of the adultrant child till it attains the age of 18 years whenever may the said child remain during this period or to marry the woman, so impregnated if such marriage is allowed and in all cases the right over the child shall be vested in the mother.

109. GIVING SUKAR REPLACED WITH PRICE :-- The present practice of giving a Sukar or Radakura shall be replaced by the Sinali Katipuran and fine or punishment in lieu of the Sukar or Radakura shall be replaced by payment of the Sinali Katipuran in lieu of the Sukar or Radakura as may be the case, in cash the extend depending on the nature of the Sinali.

110. REPEAL :- The Act of giving Sukar and Radakura is abrogated.

111. FAILURE TO IDENTIFY THE SINALI OFFENDER :- In the event of failure to identify the male Sinali culprit by the female offender, she shall inflictible to her and the male offender as well.

112. JUVEENNEI SINALI OFFENCES :- Sexual copulation of a premature girl by anybody, whoever and of whatsoever age may he be, shall be deemed to be a rape as defined in the Indian penal Code and shall be punishable accordingly under the I.P.C. or the Customary Law as may appear fit.

Provided that where such premature girl is duly married, such an event shall be treated as a child marriage as provided in Section 14, and punishable accordingly.

113. UNNATURAL SEXUAL INTERCOURSE :- Any body who commits a Sexual intercourse with any person against the nature or with an animal, is said to commit an unnatural Sexual intercourse, and shall be punishable under this Law or the Indian Penal Code, as may appear fit.

114. BESHYAGIRI OR PROSTITUTION :- Prostitution or Beshyagiri is prohibited and a woman who co-habits with a man not her husband shall be deemed to be a Beshya (Prostitute) and shall be punishable accordingly.

115. OFFERING OR SUPPLYING WOMAN FOR SEXUAL INTERCOURSE: Any body who offers or compel family woman or girl or compels her to offer herself to any other person, or procures any other woman or girl for



other families or place and offers her to such person for sexual intercourse, shall be deemed to take to human trafficking and shall be punishable accordingly under the Indian Penal Code or this Customary Law, as may appear fit.

## CHAPTER-11

### 116. CLASSIFICATION OF SINALI OFFENCES & PENALTIES.

Sinali offences are classified as Group A,B & C as under :-

- 1) Group : 'A' :-
  - I. Dharinejana in the meaning of forceful abduction or kidnapping.
  - II. Sexual intercourse with a Garbakudum or a close agnate or a current own pupil.
  - III. Sexual, copulation of premature girl.
  - IV. Sexual copulation of a mentally handicapped woman.
  - V. Balatkar.
  - VI. Juveline Sinali.
  - VII. Unnatural Sexual intercourse.
  - VIII. Besyagiri i.e. prostitution.
  - IX. Offering or supplying woman for illegal sexual intercourse.
  - X. Sexual intercourse with a woman having her husband alive.
  - XI. Elopement of a betrothed bride.
- 2) Group 'B' :-
  - I. Sexual intercourse between a man and a woman not husband and wife except those falling under 'A'.
  - II. Elopement i.e. Dhejjana or Dheinejana.
  - III. Ek Goroni.
  - IV. Parak Goroni.
- 3) Group 'C' :-
  - I. Kissing or touching the breasts or a Sexual organs.
  - II. Be-Adobi i.e. Ineligent and wantonly behaviours indicating sex or arousing sexual desire.
  - III. Unrestricted association or movements of Young woman and Men.



**117. PUNISHMENT FOR THE GROUP 'A' SINALI OFFENCES :-** Sinali offences of group 'A' shall be punishable as under :-

**1) Dharinejana i.e. forcible abduction :-**

**(a) The culprits shall be punishable with :-**

- I. a fine which may extend to Rs. 10,000/- or a term of imprisonment which may extend to 5 years or both.
- II. a Sinali Khatipuran which may extend to Rs. 1000/-.
- III. a compensation to the affected woman which may extend to Rs. 1,000/-.

**(b) Each of the accomplices shall be punishable with —**

- I. a fine which may extend to Rs. 1,000/- or a term of imprisonment which may extend to 6 months, or both.
- II. a compensation to the affected woman which may extend to Rs. 200/-.

**(c) The affected woman shall not be subjected to any punishment.**

**EXPLANATION :-** (a) The word "Culprits" appearing in Sub-Section (1) means the person by or for whom the woman is abducted and includes the leader of the Gang on behalf of the person aforesaid.

(b) The compensation to the effected girl shall not be exempt even if the offenders are imprisoned.

**2) Sexual intercourse between Garbakudum or a close agnate, or a current own pupil :-**

**(a) The male offender shall liable to be punished with :-**

- I. a fine which may extend to Rs. 7,000/-
- II. a humiliating punishment of Jhenderafira for a period which may extend to half hour to one hour.
- III. atonement before a Vikku.

**(b) The female offender shall be punished with :-**

- I. a fine which may extend to Rs. 500/-.
- II. watering a benion tree with 2 to 30 jarsful of water to be fetched by herself in public or mud plastering or



thorough washing a Kyong with all materials required in the works to be fetched or collected by herself in public.

### III. Atonement before a Vikku.

- (c) If the sexual intercourse takes place by force, this shall be treated as a Balatkar and dealt with accordingly.

#### 3) Sexual copulation with a premature girl :—

##### I. The offender shall be punishable with —

- (a) giving Sinali Khatipuran which may extend to Rs. 2,000/-.
- (b) a fine which may extend to Rs. 5,000/- or a Jail for a term which may extend to 5 years, or both.
- (c) a compensation to the affected girl which may extend to Rs. 1,000/-.

##### II. The affected girl shall not be subjected to any punishment.

#### 4) Sexual copulation of a mentally handicapped woman or Girl :—

##### I. The culprit shall be punishable with ;—

- (a) a fine which may extend to Rs. 2,000/- or an imprisonment for a term which may extend to 2 years, or both.
- (b) a compensation to the affected girl or woman which may extend to Rs.500/-.
- (c) a Sinali Khatipuran which amount to Rs. 500/-
- (d) giving Bharanposan of the mother and the adulterant child, if any born of such copulation, till it attains the adult age.

##### II. If female shall not be subjected to any punishment.

#### 5) Balatkar :—

##### I. The culprit shall be liable to be punished with :—

- (a) a Sinali Khalipuran which may range upto Rs. 2,000/-.
- (b) a fine which may extend to Rs. 10,000/-, or a Jail for a term which may extend to 5 years or both and if the victim is premature, with an imprisonment for a term which extend to 10 years or both.



- (e) a compensation to the affected girl which may extend to Rs. 1,000/-.

II. Each of the associates or helpers in the offence shall be punishable with :-

- (a) a fine which may range upto Rs. 1,000/- or an imprisonment for a term which may extend to 6 months or both.

- (b) compensation which may extend to Rs. 200/-

III. The female shall not be punishable.

6) JUVELINE SINALI :— A juveline Sinali shall be punishable as under:-

I. The offender shall be treated as to have committed a rape as defined in the Indian Penal Code, and shall punishable with :-

- (a) a fine which may extend to Rs. 5,000/-, or an imprisonment for a term which may extend to 2 years, or both.

- (b) giving Sinali Khatipuran which may extend to Rs. 2,000/-.

Provided that if the girl copulated is his married wife he shall not be required to give Sinali Khatipuran.

II. The female shall be punishable with :-

- (a) a fine which may extend to Rs. 2,000/- or a corporal punishment of 5 to 10 whips, or both.

- (b) giving Sinali Khatipuran which may extend to Rs. 300/-.

Provided that if the girl is married wife of the male culprit she shall not be required to give the Sinali Khatipuran.

Provided further that if the girl is sufficiently immature to understand the consequence of a Sinali, or when she is compelled by force to agree to the sexual intercourse, she shall not be liable to any punishment, but shall be entitled to a compensation which may range upto Rs. 1,000/-.

III. The parents or guardians of the girl shall be responsible for the maintainance of the adultrant child, if any born of such Sinali, till it attains the adult age.

7) UNNATURAL SEXUAL INTERCOURSE :— Any unnatural sexual intercourse shall be punishable with a fine which may extend to Rs.10,000/- or an imprisonment for a term which may extend to 5 years, or both.

8) BESYAGIRI OR PROSTITUTION :— A woman offering herself for sexual intercourse in exchange of money or other gain shall be deemed to be a Beshya (Prostitute) and shall be punishable with :-



I. a fine which may extend to Rs. 500/-

II. a Sinali Khatipuran which may extend to Rs. 500/-  
or a corporal punishment of 5 to 10 whips or both.

9) OFFERING OR SUPPLYING WOMAN OR GIRL FOR SEXUAL INTERCOURSE :— Any body who offers any of his family woman or procures any other woman and supplies her to any other person for sexual intercourse shall be punishable with a fine which may extend to Rs. 5,000/- or a term of imprisonment which may extend to 2 years or both.

10) ADULTERY :Sexual intercourse with a woman having her husband alive shall be an adultery in the meaning of the Indian Penal Code or the Code of criminal procedure and shall be punishable accordingly or with :—

I. a fine which may extend to Rs. 1,000/- or a term of imprisonment which may extend to 6 months or both.

II. a Sinali Khatipuran which may extend to Rs. 1,000/-

III. another fine for causing Grihali Shanti Bhanga which may extend to Rs 500/-

11) ELOPEMENT OF A BETROTHED BRIDE :— Elopement of a betrothed bride or a wife shall be treated as a criminal offence (Fojdhari) and shall be regulated as under :—

(a) The male shall be punishable with :—

I. a Sinali Khatipuran who may extend to Rs. 2,000/-

II. a fine which may extend to Rs. 1,000/- or an imprisonment for a term which may extend to 3 months, or both.

III. compensation to make good the expenditures incurred in connection with the settle marriage in the event of elopement of a betrothed bride.

(b) The female shall punishable with :

(a) a Sinali Khatipuran which may extend to Rs.3000/-

(b) a Sinali Khatipuran which may extend to Rs.200/-

118. PUNISHMENT FOR GROUP 'B' SINALI OFFENCES SHALL BE AS UNDER :—

1) Sexual intercourse between a male and female not husband and wife excepting those of Group 'A' :—

(a) The male offender shall be liable to punishment with,

(i) giving a Sinali Khatipuran which may extend to Rs. 1,000/-,

(ii) a fine which may extend to Rs 500/-



(b) The female shall be punishable with :—

(i) giving Sinali Khatipuran which may extend to Rs. 100/-

(ii) a fine which may extend to Rs. 200/- or Rs. 500/- when the female is proved to have taken to initiative in the Sinali.

(c) If the female is proved to be pregnant of such Sexual intercourse, the male offender shall be liable to punishment with :—

(i) a fine which may extend to Rs. 2000/-

(ii) to marry the girl if he is proved guilty in the Sinali

Provided that the willingness of the girl shall be sought.

or

A compensation or Sinali Kathipuran to relief the girl which may extend to Rs. 5,000/- and the expenditure for the maintenance of the adulterated child till he/she attains maturity i. e. 18 years.

2) In the event of Ek-goroni, each of the person whom such Ek-goroi is applied and the Ojha or Boidya (Village Physician) or exorcist shall be punishable with :—

(a) fine may extend to Rs. 500/-

(b) compensation for the expenditure required for removing the effect of such Ek-goroni

Provided that application of Ek-goroni to one of the married couple by the other for the purpose of maintaining the wedlock, shall not amount to a punishable offence.

3) Farak-Goroni :— As provided for Ek-Goroni provided the application of the Farak-Goroni to either of the married couple to avail him rid of other person who is believed to be responsible for family trouble likely to lead to a separation, shall not amount to punishment.

11. SINALI OF GROUP 'C' :— In these case the male and female offenders shall be punishable with a fine of Rs. 50/- to Rs 200/- and Rs 25/- to Rs. 100/- respectively or corporal punishment, according to the nature of offence.

120. PUNISHMENT FOR ABEDMENT :— An abetor in a Sinali case shall be punishable to the extend not less than the one-fourth inflictible to the main offender except in the case where the punishment is expressly prescribed for the abetor or associate.

Provided that the trial Court may mitigate this extent of punishment.



## PART — 10

## MAINTENANCE, FOSTERING AND ADOPTION

## CHAPTER — I

## MAINTENANCE

121. DEFINITION :— Maintenance (Bharanposan) includes :— Clothes, Shelter Education, Medical treatments in illness and protection from other elements.

122. ENTITLEMENT TO MAINTENANCE :— The parents in their old age, the handicappeds, the minors, the orphans, the widow are entitled to enjoyment of Bharanposan as a fundamental right, and this shall be regulated as provided in the following rules :—

- (1) The sons are equally responsible to support the parents unless otherwise expressly settled either by mutual agreement among the sons or as desired by the parents.

Provided that the parents may exercise their option to live with certain son in case of separation of the sons during their life time, in which case the said sons shall be responsible for the maintenance of the parents.

Provided further that the other sons cannot escape the responsibility of maintenance of the parents in the event of failure by the son with whom the parents like to live to provide adequate maintenance to the parents.

- (2) If the parents do not like to live with any of the sons but like to live in a separate establishment of their own, they shall bear the living costs of the parents in equal share or as arranged according to their respective capacity.
- (3) A physically or mentally handicapped or any orphan shall be entitled to maintenance by the family members and the father or the head of the family shall be responsible for the same.
- (4) A widow shall be entitled to maintenance of self and her minor children, if any, unless she leaves the family of her deceased husband, and this will be the common responsibility of the family members to support the widows and her minor children till they attain adult age.
- (5) In absence of any son, the daughters shall be responsible to maintain the parents in their old age.

123. RESPONSIBILITY FOR MAINTENANCE OF CHILDREN :—

- (1) The maintenance of minor children is the responsibility of the parents, but the other members of the family also cannot escape this responsibility.



- (2) The orphans shall have the right to maintenance under the common responsibility of all family members with equal treatment in all respects with these having parents, as a fundamental right to maintenance and support.
- (3) Negligence of supporting a minor or orphan shall be a Fojdari offence and punishable accordingly.

**124. POWER TO COMPEL A PERSON TO GIVE BHARANPOSAN :—**

The village council and the Executive Committee or a Court having jurisdiction shall be competent to compel a person to give the Bharanposan as prescribed in these rules, and to take measure to recover the same.

**125. NO BODY TO BE RENDERED TO FACE DEATH WITHOUT FOOD:—**

No body shall be rendered to a condition of facing a death without food and if on any unavoidable or reasonable ground an orphan or motherless child cannot be supported by the guardian or family, such child must be given for fostering adoption as to save the life of such child, and violation of this rule shall be a punishable offence.

**126. Notwithstanding any provision laid down in this chapter or elsewhere, a wife and her dependent children shall be entitled to maintenance on monthly basis not exceeding Rs. 500/- for each from the husband or father, as may be the case, when the following conditions are satisfied :—**

- (a) The wife is divorced or otherwise deserted without her capable fault or she is unwilling to stay with her husband on reasonable ground.
- (b) She is unable to earn the livelihood of self or her children.
- (c) The husband or the father, as may be the case, has responsible source of income or a sound physique to be able to earn.
- (d) Any otherwise tracts the section 125 of the Code of Criminal procedure, 1973.

**127. OFFENCE AND PENALTIES :— Any body who :—**

- (1) Violates any of the provision of section 122, 123 and neglects to support his parents in their senile condition or other dependents, shall be punishable with a fine ranging from Rs. 100/- to Rs. 500/- in addition to taking up their support.
- (2) Violates section 125 shall be punishable under the Indian Penal Code or the Customary Law as may appear fit.



## CHAPTER—II

## (FOSTERING) (PALEIDENA)

128. FOSTERING OBSOLUTE :— An orphan or motherless child ought to be fostered till it attains the capacity of living on solid food and the father or head of the family shall be the person responsible to arrange the fostering of such child.

129. WHO AND HOW TO FOSTER A CHILD :—

- (1) Any of the family woman shall have the right to foster a child and in absence of such willing woman the child may be fostered by any of relative woman of the mother of the child or any other woman who stops forward voluntarily or in exchange of payment of foster the Child.
- (2) A fostered child is returnable to its father or family after it attains the capacity of living on solid food and the fosterer shall not be entitled to any cost for the fostering unless so settled during the time of giving the child to fostering.
- (3) Feeding by own breast by the fostering woman, whoever may she/he, is permissible.

130. FOSTERED CHILD NOT TO BE A MEMBER OF THE FOSTERER'S FAMILY :— The fostered child shall not be a member of the fosterer's family nor shall it be a Palak (Adopted) of the fosterer unless it is duly adopted as provided in chapter-III.

## CHAPTER—III

## PALAKLANA (ADOPTION)

131. WHAT IS AN ADOPTION AND PURPOSE THEREOF :—

- (1) Palaklana (Adoption) is a social grafting of child of another family and it is open to all subject to serve requirement and availability of adoptes for either maintenance of the continuity of the family line in absence of any issue of adopter or adding to the adopter's status in the Society.
- (2) In an adoption the socialisation precase in the family of the Palak (Adopter) is transferred to that of the adopter in order to fit in with the traditions and norms of adoptive family and Gotti as well of the adopter.

132. ENTITLEMENT AND RESPONSIBILITY OF THE PALAK :—

- (1) The Palak shall be entitled to inheritance of property and all other rights as a member of the family of the adopter unless he leaves this family or otherwise he is abandoned by the adopter.



- (2) The Palak shall at the same time be responsible for maintenance and support of the Palak Bap and Palak Ma (Adopted father and mother) and other family members as if he is natural born member of the family.

133. **SELECTION OF PALAK** :— In selecting a Palak there is no restriction to take a Palak from a community other than the own, and there is also no age limit of the child to be adopted.

134. **REQUIRED CONDITION FOR ADOPTION** :—

- (1) An unqualified approval of both parties i.e. adoptee's family and adopter's family is required to take to an adoption.
- (2) The parents or the guardians or family of the Palak shall cease to claim any right ever such Palak father virtually made ever to the adopter.
- (3) If the Palak fails to satisfy the adopter or otherwise it is desired and with the consent of the other party, the Palak may be sent back to his parent family.

135. **COMMON PROCEDURES IN ADOPTION** :— The following procedures shall be followed in adopting a Child :—

(i) After the final settlement of the adoption, both the parties i.e. the parents or the legal guardians of the child to be adopted and the adopter, shall accompany with the said child before a Vikkhu and will respectively promise before the Vikkhu that the child shall not be claimed back from the adopter and shall be treated and maintained like his own child.

(ii) After the promise mentioned in sub-section(i) the Vikkhu shall recite Mangalsutra or other necessary sutra and shall bless for the welfare of the child and a happy domestic life of the adopter with the child.

(iii) The adopter may arrange a gathering of the village elders or murrub-  
bee to publicise the adoption who may give ashirbada(Blessing) to the child.

(iv) A "Gotti Bur" may be performed by the family of the adopter in which the child shall be the indispensable member but without any such performance the adoptee shall automatically become a family member and Gotti of the adopter.

## PART - II MISCELLANEOUS SOCIAL CUSTOMS AND PRACTICES

136. **DEFINITION** :— For the purpose of this part :—

- (i) "Khuma" means a strict restriction to certain act, the breach of which is believed to cause a deadly harm to such violator or to his Gotti Member.
- (ii) "Pijore" means the inner portion of a dwelling house.
- (iii) "Mulugaber" means the partition or fencing raised in between the "Pijore" and "Singaba" of a dwelling house.



- (iv) "Singaba" means the outer portion of a dwelling house meant for the guest i.e. where the guests are to sit and rest.
- (v) "Gudhi" means a private sleeping chamber of the family members specially the wedded couple.
- (vi) "Jadu" | are different types of witch crea-
- (vii) "Tema" | ting believed to be deadly.
- (viii) "Chalan" |
- (ix) "Banmara" |
- (x) "Resident" means a person who made his permanent abode or has acquired the right to do so within the District or area concerned.
- (xi) "Shigoli" means a cash realisation from the invitees in a Mela or Maisban and reciprocable on such occasions.
- (xii) "Mela" means a Wedding ceremony.
- (xiii) "Maisban" means a feast on a social occasion or other pleasure performance and includes a birth occasion.
- (xiv) "Grihali shanti bhanga" means breach of conjugal and family peace.

### 137. INHERENT RIGHTS AND POWERS IN RESPECT OF ALL SOCIAL CUSTOMS AND PRACTICES :-

(1) The Samaj has inherent right and powers to deal with all the social customs and practices and usages and to decide all such matters in Court or out of Court, and the samaj is the guardian and administrator of the Social customs, practices and usages, and the Customary law.

(2) The Samaj reserves the rights to :-

(a) Award two folds punishments for the socially Fojdari (Social-cum-Criminal) offence in the social side and the criminal side in one same offence, and to claim the social punishment for such an offence like Sinali a part from that inflictible or inflicted in the criminal side.

(b) Try a Sinali and other social cases where both or either of the parties is a Chakma irrespective of his or their place of residence if such offence is committed within the territorial limits of such trial Court.

(c) To compromise a case or dispute of any nature before it is brought before a competent Court or legal authority where both the parties are willing to compromise it without any coercion or undue influence.

(d) To compel an offender to honour or obey a judgement or order passed by a competent Court or other such authority.

(f) To award a punishment as in (d) for failure or deliberate defiance to obey or honour a judgement or order passed by a competent Court or other such authority on a social case.



(g) To direct a party to a case or a witness to answer or depose on an adjuration in accordance with the Chakma practice in absence of a decisive evidence when there is reason to believe that some material information or evidence is being produced before the Court or authority.

(h) To compel any body to protect and safeguard the important social customs, which is an obligatory and fundamental duty of every body of the Samaj.

(i) To ostracize a social offender for serious social offence.

(3) The rights and powers exercisable by the samaj envisaged in sub-section (1) & (2) are automatically vested in the administrators of all such matters and the Customary Law, or other lox-locio, and are competent to exercise the said powers.

(4) The administrative and Judicial authorities of the Samaj shall act on behalf of the Samaj and shall be competent to act according to the provision of this Law, or to take resort to any provision of the Indian Penal Code or the Code of criminal procedure, 1973 or the Code of Civil procedure, 1908, whenever it is necessary in administrative or Judicial interest, provided this shall not mean that the Samaj adopted any of these Codes.

#### 138. NOBODY TO BE COMPELLED TO BREAK A KHUMA :—

No body shall compel any person to break his khuma nor shall be the cause thereof.

#### 139. EXORCISM PROHIBITED :—

Witchcrafting in the meaning of application of Jadu, Thona, Chalan, Ban-mara is prohibited.

#### 140. REGULATION OF BREWING AND DRINKING :—

(1) Except with prior permission of the Village Council or the Executive Committee, on brewing and selling wine shall be allowed.

Provided that Village Council or the Executive Committee shall not refuse a permission for brewing for purpose of either use of wine (Mad) in Puja or Burpara or medical purpose.

(2) Commission of any offence in drunken condition or under the influence of alcoholic drinking shall not establish any extenuating condition for such offence, nor shall it be condonable and such act shall be punishable apart from the punishment for the offence so committed.

(3) Commission of any offence of public nuisance or any unnecessary trouble or harassment to any body, or cruelty to any family member or other under the influence of alcoholic drinking shall be a Fojdari offence, and punishable accordingly.



(4) No body shall attend his bread earning or professional duties in drunken condition, nor shall be drink during such duties.

(5) Unauthorised browers or sellers of wine shall be liable to punihsmnt and their immovable properties shall be liable to seizure.

(6) A habitual heavy drunker shall be deemed to be undesirable person and liable to action as such.

**141. GAMBLING PROHIBITED :-** Gambling is prohibited and any body, whoever and whencesoever may he be found guilty of violation of this prohibition shall be liable to punishment under these rules or the I.P.C.

**EXPLANATION :-** For the purpose of this section gambling includes any type of playing cards or other games playing with or on a bet of money.

**142. ACTS OF TRESPASS INTO DWELLING HOUSE :-** The following acts are considered as trespass and polluting the sanctity of a Chakma dwelling house:

- (a) Steping into the Pijor without permission.
- (b) Entrance into a Godi except that meant for guests without permission or invitation.
- (c) Entrance into the house with shoes on except in the event of the floor being mud.

**143. PHYSICAL HURT ON PARENTS :-** Physical hurt of any of the parents or parents-in-law is one of the crimes of the serious nature which may lead to exturnment of the offender or to a fine, both.

**144. GRIHALI SHANTI BHANGA :-**

(1) Creation of or being the cause of Grihali Shanti Bhanga is a Fojdari offence.

(2) The following acts shall be deemed to be a cause of Grihali Shanti Bhanga :-

- (a) Sexual connection with either of a married couple.
- (b) Conspiracy with or inspiring either of a married couple to divorce the other conjugal partner.
- (c) Spreading false bad name against any married person likely to cause the separation of the couple.
- (d) Application of Parak Goroni on either of a married couple to get them separated.
- (e) Any other act that may create or may be the cause of the separation of the married couple.



#### 145. CRUELTY AND WIFE BEATING :-

(1) Cruelty and merciless wife beating shall be Fojdari (Criminal) offence, and the husband or any other family member found guilty thereof shall be punishable according to nature and extent of such cruelty or merciless beating.

(2) In the meaning of this section cruelty or merciless beating shall not necessarily require a criminal grievous hurt as defined in section 498-A of the Indian Penal Code, but a physical hurt or wound with a pointed or sharp or blunt instrument causing a serious external or internal pain, or application of or putting into unnatural or excessive heat or cold of any nature, shall amount to be a cruelty and mercilessness.

(3) The offence of cruelty to and merciless wife beating shall be punishable under the Indian Penal Code or this Customary Law under section 154.

#### 146. EXCEPTION FROM DISTRRAINT :- The following shall be exempted from distraint :-

- 1) The food grains required for the family members.
- 2) The diets and medicines of the family members.
- 3) The last stock of cooking utensils.
- 4) The School materials of a student of the family.
- 5) Buali goods or other personal property of a bride or house wife.
- 6) The Jara Andik.
- 7) A material not the property of any of the family members.
- 8) Any religious materials.
- 9) A model or prize secured by a student.
- 10) An award received for special social or national works.
- 11) Residential house and landed property.
- 12) Any type of document.
- 13) Agriculture and working tools.
- 14) A personal property of an individual of the family.

Provided that where the bride or the house wife is the judgement debtor, her personal property may be distrained.



## 147. EVICTION :-

1) An unauthorised resident or occupant of a plot of land or property shall be liable to eviction and the Executive Committee or a competent Court may order eviction of an unauthorised person or person or a family or a group of families from a site or locality by legal process provided in the rules to be made by the District Council in regard to regulation of such eviction.

Provided that in absence of such rules of the District Council of its own, the general procedure of evictions shall be followed :-

2) In any way the said unauthorised person or persons or families shall be given at least 3 notice before order his or their eviction to show their reasons or to give his or them opportunity to defend against the proposed eviction.

3) The Executive Committee may authorise in writing any of its officers to execute the eviction order under the guidance and supervision of a Judicial Officer or Magistrate of the District Council who shall be appointed as such by notification in the Gazette by the Executive Committee.

4) The Judicial Officer conducting an eviction may order :-

(a) Demolition of house or building of the evictee.

(b) Seizure of standing crops or plants and disposal thereof by auction or otherwise.

(c) Arrest of the persons obstructing the eviction.

5) In eviction the assistance of the Mizoram Police or Mizoram Armed Police may be requisitioned for protection of the eviction party by the Executive Member or the Judicial Officer conducting the eviction.

148. EXTURNTMENT :- (1) An undesirable person shall be liable to exturnment from a village or the District and the Executive Committee or a competent Court may order exturnment of an undesirable person from a village or the District area for his undesirable activities specified in sub-section (2).

Provided that in issuing such order concrete proof of such undesirable activities of the person shall be required, and the extermination shall be considered in public interest and in the interest of administration of justice or social custom.

Provided further that unless unavoidable in the public interest or in doing justice the order for extermination of a resident from the District should not be issued.

(2) In the meaning and for the purpose of this rule public undesirable activity include dacoity, habitual kidnaping, cheating and forgery, habitual gambling habitual heavy drinking and brawling habitual disobedience to authorities, physical assault to parents, habitual creation of public nuisance, habitual commission of other social crimes of grave nature and otherwise being so desperate and dangerous as to render his being at large without security hazardous to the society or locality.



(3) In an externment no other family member if any of the said undesirable person shall unless they are also involved in such activities, be effected.

(4) The externment may before a certain period if the said person is a resident of the area, or sine die if the said person is an outsider of the area.

#### 149. PUNISHMENT PRESCRIBED IN THIS CUSTOMARY LAW TO PREVAIL :-

In the event of any punishment prescribed in this Customary Law being repugnant to any punishment prescribed in the Administration of Justice rules made or adopted by the District Council the one prescribed in this Customary Law shall prevail.

150. RESIDUARY POWERS :- Notwithstanding anything contained in any part of this Customary Law, the Samaj may relax the application of any provision of this Customary Law which is deemed to cause a very hardship in a particular case and when it is beyond any doubt that such relaxation shall not cause any harm or inconvenience to any other person or body nor shall it render any important social custom to be a mere force or a paper instrument, and the Executive Committee or a Court shall be competent to exercise this discretion on behalf of the Samaj.

151. REPEAL :- Receiving or giving sigali or a presentation on a Maisban is repealed and prohibited.

### CHAPTER—II

#### CLASSIFICATION OF OFFENCE

152. CLASSIFICATION OF OFFENCE :- The offences triable by the Samaj are classified as social, Civil and Criminal that is to say that the Samaj has jurisdiction to the dealing with and disposal of social, Civil and criminal offences.

Provided in no case of criminal or Civil nature, the Sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the constitution of India shall be over ridden unless such power is delegated to the District Council by the Governor.

Provided further that the first provision shall not apply to dealing with the social and Customary offences codified in this Customary Law.

153. CLASSIFICATION OF SOCIAL OFFENCE :- The social offences are further classified as simple and Fojdari i.e. social-cum-criminal, and the following offences are the Fojdari ones punishable accordingly under the respective captions.

Birth offences :- Commission of miscarriage of a quick child.



**MARRIAGE OFFENCES :—**

1. Obstruction to legal marriage.
2. Receiving Dabab in excess of the prescription in Section 20 (2).
3. Receiving Dowry.
4. Marrying the abducted girl to or by the abductor.
5. Taking to or allowing a marriage restricted under Section 17.
6. Marrying a girl to any body against her will.
7. Other forced marriage.

**DEATH OFFENCE :—**

1. Dishonouring a human dead body or anywise defiling a funeral site or tomb constructed in honour of a deceased.

**RELIGIOUS OFFENCE :—**

1. Compelling a person to or not to take to a religion against his will.
2. Hating or denouncing other religions.
3. Creation of disruption or disturbance to a Dharmakam.
4. Dishonouring or polluting an icon or a Temple or a shrine, or an element believed to be sacred.
5. Behaving in disparaging or dishonourly or humaliating manner with a Vikkhu.
6. Taking direct action against a Vikkhu by person not a member of Vikkhu Sanga.
7. Physical Hurt, assault or attack on a Vikkhu.

**PROPERTY OFFENCE :—**

1. Forcible taking possession of a property.
2. Illigal damage of property.
3. Use of property in such manner as to cause a criminal nuisance or other harm to the abutter or general public.

**SINALI OFFENCE :—**

1. All offence of Group 'A' Sinali offences as defined in Section 125.



**MAINTENANCE OFFENCE :—**

1. Failure or negligence to support the parents in their old age without just cause, or a child or orphans.

**FOSTERING OFFENCE :—**

1. Failure or negligence to arrange a fostering for an orphan or a baby who has no mother or who can be fed and nursed by the mother though alive.

**OTHER OFFENCES :—**

1. Physical hurt of the parents or parents-in-law.
2. Gambling in public.
3. Failure to obey the orders or direction of a competent Court or other such authority.
4. Cruelty and wife beating.
5. Ek-Goroni.
6. Parak-Goroni.
7. Witch crafting or application of Judu, Tona, Chalan, Ek-Goroni, Parak Goroni and other deadly nature or exorcism.
8. Grihali Shanti Bhanga.

154. **PENALTIES :—** Any body violating the following Sections shall be punishable as indicated against each.

1. Section - 138 :—
  - (a) Fine which may extend to Rs. 500/-
  - (b) Compensation to meet the expenditures for the Puja to rectify the damage caused.
2. Section - 139 :—
  - (a) Fine which may extend to Rs. 5,000/- or an imprisonment which may extend to 2 years.
  - (b) Compensation for the damage caused upto the extend of expenditure required in such process.
3. Sub-Section-(I) of Section-140 :—
  - (a) Fine which may extend to Rs. 250/- or a corporal punishment, or banishment.



## 4. Sub-Section-(2) &amp; (3) of Section-140 :—

- (a) Fine which may extend to Rs. 200/- plus punishment for the offence committed in drunken condition.

## 5. Sub-Section-(4) of Section-140 :—

Fine which may extend to Rs. 100/-

## 6. Section-141 :—

- (a) Fine which may extend to Rs. 200/- or an imprisonment which may extend to 15 days or punishment.

## 7. Section-143 :—

- (a) Fine which may extend to Rs. 500/- or punishment.

## 8. Section-144 :—

- (a) Fine which may extend to Rs. 500/- or an imprisonment for adultery with a woman having her husband alive for a term which may extend to 2 months.

## 9. Section-145 :—

- (a) Fine which may extend to Rs.2000/- or an imprisonment which may extend to 2 years or both.

- (b) The wife shall have the right to a divorce or a separate Bharaṇ Posaṇ in a separate establishment at the cost of the husband or the family who is found guilty of the offence.

## ANNEXURE - I

## COMPILATION NOTE

## ON

## THE DRAFT CHAKMA CUSTOMARY LAW

1. I took up the collection of the lex nonscripts of the Chakma Customary Law since long and a Draft Bill was brought out and was passed by the District Council on 20/10/89 and submitted to the Government for approval with no avail till date.
2. Subsequently at the behest of Shri R. M. Chakma, Executive Member, incharge Judicial, the said Bill was re-examined and put before general public meeting on 21/3/94 and 22/3/94 for elaborate discussion in which some resurrections and expurgations took place in the Bill and it was reshaped accordingly.



3. Further at the behest of Shri P. Chakma, Executive Member, incharge Judicial, a screening Committee headed by him re-examined the Bill on 16/12/94 with no major amendment.
4. The Bill contains 12 subjects viz : (1) Birth rites, (2) Marriage rites, (3) Divorce, (4) Death rites, (5) Religious rites, (6) Property, (7) Inheritance, (8) Coquetry (Sinali), (9) Maintenance, (10) Fostering, (11) Adoption and (12) Miscellaneous. Other Social Customs to put all important social customs in one set of Law.
5. The Bill has been prepared in simple language as far as feasible, but there is reason to believe that the purpose of some provision of the Bill may appear unintelligible or some rules may look to be draconian to some body. Hence, it is found necessary to furnish the purposes and reasons of such provisions or rules and it is so done as under :—

PART-1 = Nothing needs to be clarified.

PART-2 = Nothing needs to be clarified.

PART-3 = MARRIAGE : Section 14 - Child marriage :— In this section a marriage of a premature girl or boy has been treated as a child marriage and such marriage has been restricted.

In the yore, a marriage of a girl before binding the Khadi, i/c, her attaining full adulthood was beyond dream of the Society and similarly a 'Boy' was never allowed to marry. But nowadays the girls of much below 18 years, and boys much below 21 years of ages get married before they can understand nothing but their sexual games resulting in

- firstly :— a reasonable check on their physical growth,
- secondly :— Failure to satisfy her parents-in-law by the bride due to her lack of house hold knowledge.
- thirdly :— failure by the couple to fuel the management engine of the family and thereby resulting in their separation (Juda) from the family.
- fourthly :— a gradual increase of a family members by the children of the married couple without any scope of better income to refund the loans incurred during their mela (marriage) and, gradual degradation of the family's financial position,
- fifthly :— frequent family disputes and divorce suits.

Hence, this social evil of minor marriage should be stopped.



Section—19 :— Dowry : This is alarmingly seen that the Dowry system is indirectly making root in the educated Chakma families.

Hence this should be nipped in the bud.

Section—20 :— Dabah : Dabah system is one of the main factors responsible for the family disputes and divorces, now a days the Dabah become a source of greedy peoples income who at times realise a big amount which can safely be deemed to be a human trafficking punishable under the India Penal Code. On the other hand the bride snatching away from her parents-in-law a good amount of Dabah for her parents, starts from the very beginning of her new family because she is considered to be a purchased slave.

Hence, this social evil should have been abolished for which I suggested in the public meeting on 21/3/94 with the result that it has been minimised, and limited in the Bill. This social evil should be abolished.

Section 32 : Heterogeneous marriage :— In the yore, an exogamy was beyond the imagination in the society though since some decades back this conservation was broken with a murmuring of the society. But it is alarmingly noticed that the non Chakma and nontribals are paving their path of acquiring right to settlement in the Chakma areas by marrying Chakma and other tribal girls within the said areas. This section is in attempt to minimise this line.

#### PART — 4 (CHHARACHHARY) (DIVORCE)

CHAPTER — II :— In most cases of divorce the divorced wives and their minor children are deprived of their fundamental and legal rights. The purpose of this chapter is to provide of reasonable protection of the separated wives and the minor children.

#### PART — 5 DEATH RITES

SECTION 52 :— The original purpose of beating a 'Magada Dhul' (A Dhole) (a drum beaten to announce a death) was to announce a death so that the distant residents could come for help. But now this has been replaced by playing on musical or other amusemental instruments accompanied by card gambling in the name of playing cards. Such a situation is certainly not acceptable by the mental condition of the bereaved family. On the other hand it ought to be that some religious sutra or felling the gospels will certainly be a pleasant hearing to all present, grief stricken or theirs, and shall as such suit the occasion.

Hence the amusemental functions have been prohibited in this Section.



PART -6 : RELIGIOUS RITES : Nothing unintelligible here.

PART-7 : PROPERTY : Nothing deemed to be unintelligible here.

PART-8 : INHERITANCE : — Section—81(I) :—The main aim of giving a share of the ancestral property to the daughters is abolishing of the Dabah system.

PART-9 : SINALI (COQUETRY) :— In the public meeting held on 21/3/94 I suggested for letting lease this subject, but in a voice my suggestion was set aside, and it was decided that hard rules as practiced before by the forefathers should be adopted for the administration and control of the Sinali and other social Customs in the interest of social integrity of the Samaj.

SECTION—104 :—What a pity is to see that an innocent girl is lured to marriage or otherwise induced by a lustful man and after impregnating the girl, the culprit escapes scot free, or with a mere fine or other nominal punishment, and the girl and her child become the social hazard

Hence the adulterant father has been held responsible in this Section.

SECTION—109 :— REGULATION OF GIVING SUKAR OR RADA KURA :—  
The main purpose of those two rules is to minimise the Sinali offences.

The original purpose of punishment for Sinali offences has been mentioned in the section 110, the practice or purpose of which has by now turned to be that as soon as a verdict of guilty is announced the culprits are left free to meet somewhere else. Further, it is not at all nice to see that an innocent Sukar has to sacrifice its life for the offence of a lustful human being.

Hence these two provisions have been codified here in attempt to minimise the Sinali offence.

SECTION—112 :— JUVENILE SINALI :— The main purpose of this rule is to prevent a premature or minor girl from being victim of a sexual intercourse and thereby being compelled to marry prematurely for her getting pregnant in a Sinali.

SECTION—113 :— UNNATURAL SEXUAL INTERCOURSE :— This type of Sexual intercourse is a serious type of criminal offence for which the punishment may extend to life imprisonment.

Hence this should be codified in this Law to make the persons alert on the matter.

SECTION—117 : PUNISHMENT FOR GROUP 'A' SINALI OFFENCE :—

All the group 'A' coquetries are of criminal nature, but on the other hand the Samaj reserves the right to dealing with all social cases by itself in the social side apart from the criminal side of each such offences.



Hence the punishments for the offences have been prescribed practically in two folds, fine and imprisonment in the criminal side and sinali khatipuran (in lieu of giving Sukar) and other compensations and physical or mental punishments. In this section some obsolete rules like whipping had to be given place for protection of the important social customs which the general public desire to preserve.

**SECTION-117(6) :— JUVELING SINALI :—** The prescription for the whipping for this offence has been provided because most of the girls or their guardians shall not be able to pay a fine or compensation in cash and as such the offending minor girls shall escape free and there remaining no other apprehension of other punishment the Juveline Sinali or child marriage can not be expected to be minimised.

Hence, to put such girls in fear, there could be found no other alternative but the whips

**PART-10 : MAINTENANCE : SECTION-126 :—RIGHT TO MAINTENANCE OF WIFE AND CHILDREN :—** Bitter past experience has it that some body exercises his maximum possible cruelty on his wife due to which she is bound to seek for divorce or in the some cases the husband himself being guilty of other culpable offence or for no fault of the wife simply deserts on whimsically divorces his wife and leaves the little children without any arrangement for their living. To stop this devil practice, the provision in this section has to be provided for the protection of the innocent wives and children.

**CHAPTER-III : ADOPTION :—** Adoption in the society is not a new thing but in absence of a rule governing the adoption in most cases of adoptions the purpose of adoption fails.

Hence, this chapter has been added in this law, as a new chapter.

**Part-II : OTHER MISCELLANEOUS SOCIAL CUSTOM :—** In this part attempt has been made to minimise, if not eradicate some devilish acts like alcohol drinking, gambling, cruelty & mercilessness to wives and some hard rules had to be codified to prevent these evils.

**SECTION-137 :** The powers provided in this section are inherent powers of the Samaj.

The provision of clause (d) is very much and invariable needed for the safeguard of the important social customs, and such need had been found but of experience that some people do not care for the social customs and they often deliberately defy the judgement or other passed by the competent courts or other such authority which are surely jeopardising to the social customs and the Samaj can not and should not allow them to live a piggish life or to draw the Samaj to such a life.

Hence these provision ought to be codified.

**SECTION-145 : CRUELTY AND WIFE BEATING :** The main purpose of this section is to keep of the wicked from their so called right to 'Mook Kan-



jabakure thook "jyan manekoi syantarea gorok" (since she is the wife, she must be available all the time and whatever is liked can be done to or with her) and the reason thereof is that some rogue husbands are so desperate that there is nothing that they cannot do and under with their wives resulting in frequent public nuisance and failure of the courts to award suitable punishment in absence of written rules as prescribed in this section.

I wish all the superstitions and blind beliefs prevailing in the society could be got rite of and rules made accordingly, but since the majority of the Mizoram Chakma for whom these rules are to be made, yet living under the influence of the past, it was not feasible so to do all of a sudden, and hence some draconian looking hard provisions had to be given place in these rules.

However, let us look forward to seeing these to be amended, and the law so nicely shaped as to suit the modern world in near future.

Dated Kamalanagar,  
the 31st March '94.

B.L. DEWAN  
Court President & Recorder,  
Chakma Autonomous District Council,  
Kamalanagar.

#### ANNEXURE -- II

AFFIDAVIT : Vide Section 32 (5) :

I Shri.....S/O..... of .....(Full home address).....  
solemnly affirm and declare as follows :-

1. That I at present belong to..... caste/tribe. This is true to the best of my knowledge and belief.
2. That I have married/ I wish to marry Smt .....D/O..... of.....  
(Full home address) no ...../during ..... This is true to the best of my knowledge and belief.
3. That I hereby renounce my parent caste/tribe and embrace the Chakma Scheduled tribe with immediate effect in my own interest and at my own accord. This is to the best of my knowledge and belief.
4. That I hereby renounce/do not renounce my parent religion and embrace/do not embrace Buddhism as my religion from now on. This is true to the best of my knowledge and belief.
5. That I shall be bound to abide by the Chakma Customary Law as may be amended from time to time. This is true to the best of my knowledge and belief.



6. That I shall remain faithful and allegiant to the Chakma District Council and shall do my best possible to maintain its integrity.  
This is true to the best of my knowledge and belief.
7. That should I leave the Chakma community I shall cease be a Chakma and thereby shall cease to claim any right as such.  
This is true to the best of my knowledge and belief.

Signature.....  
(Name in Block letter)  
Date.....

Solemnly declared and affirmed before me this ..... day of..... month.....

Judicial Officer/Magistrate  
Court President & Recorder

ANNEXURE — III  
(VIDE SECTION 37)  
REGISTRATION OF MARRIAGE

Name of the Village Council.....

Registration No.	Date of marriage	Name/Father Name of the groom	Address of the bride	Name of the Chhumulong Ojha.
(1)	(2)	(3)	(4)	(5)
Signature of the informer		Signature of the Village Council President.		Remarks
(7)		(8)		(9)



ANNEXURE--IV  
(VIDE SECTION 36)

FORM OF MARRIAGE CERTIFICATE :

Certified that Shri.....S/O.....of..... and Smt. ;.....  
.....D/O ..... of .....were duly married on .....at.....

Village Council President.  
.....

Certified that the above Bill was unanimously passed in the 3rd Sitting of the Winter Session' 96 of the 5th Chakma Autonomous District Council held on 31st Dec.'96 and In authentication signed on this day of Eighth September one thousand nine hundred ninety seven Anno domini.

R.M. Chakma  
Chairman,  
Chakma Autonomous District Council,  
Kamalanagar.