Dear Madam,

I am Sanita Rai, PhD Research Scholar, Dept. of Peace and Conflict Studies and Management, Sikkim University. I am doing research on PhD thesis on “Property Inheritance Laws of Women in Tribal Societies: A Case Study of Sikkim’. In this regard, I am conducting a field work to collect data from women of tribal societies in Sikkim to understand their perceptions on Property Inheritance Laws. The information provided by you will be used only for research purpose.

Thanking You,

Yours Sincerely,

Sanita Rai

Questionnaires for Tribal Women

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<td>Bhutia</td>
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<td>Limbo</td>
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<tr>
<td>1</td>
<td>Do you own property?</td>
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<td>2</td>
<td>Have you received property from your parents? If yes then which method</td>
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<td>3</td>
<td>Do you think property inheritance rights are denied to woman?</td>
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<td>4</td>
<td>Whether such custom and practices become the hindrances in getting property rights?</td>
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<td>5</td>
<td>How much land do you own?</td>
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<td>6</td>
<td>Do you have authority to sell or mortgage the property which you owned?</td>
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<td>7</td>
<td>Are you facing any problem in family due to lack of property? If yes then</td>
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<td>8</td>
<td>Do you think property ownership would make/ is making any change in your status in the family and society?</td>
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|   | If yes then which way   | society,  
|   |   | 2. respect  
|   |   | decision making role  
|   |   | economic benefits  
|   |   | social development  
|   |   | political development  
| 9 | Who make major decisions in your family?   | 1. father /father-in law  
|   |   | 2. mother/ mother-in-law  
|   |   | 3. husband  
|   |   | 4. you  
|   |   | 5. brother  
|   |   | 6. jointly in family  
| 10 | Does patriarchal system pose hindrances in getting property rights?   | Yes ____________1  
|   | If yes, please tell us about   | No ____________2  
|   |   | ___________________________  
|   |   | ___________________________  
| 11 | Do you think there is a need to bring changes in the property inheritance system?   | 1. strongly agree  
|   |   | 2. agree  
|   |   | 3. neither  
|   |   | 4. strongly disagree  
|   |   | 5. disagree  
| 12 | Do you think women should not demand share of property? Do you agree   | Yes ____________1  
|   |   | No ____________2  
| 13 | Do you make any decision regarding landed property matter?   | 1. Selling  
|   |   | 2. Buying  
|   |   | 3. Mortgaging  
|   |   | 4. Others  
| 14 | Do you think that property inheritance right is necessary for women?   | Yes ____________1  
|   |   | No ____________2  
| 15 | How women need to improve their capacity and skill in society?   | 1. education facilities  
|   |   | 2. Scheme provided by government —self help group, ASHA etc.  
|   |   | 3. leadership programme  
|   |   | 4. counselling and awareness programme  
|   |   | 5. Other. Specify  
| 16 | Property right would empower in which way?   | 1. Life security  
|   |   | 2. Bargaining power  
|   |   | 3. Economic security  
|   |   | 4. Others  

| 17 | Do you think you are capable to handle immovable property equally with your husband/brothers, etc., If yes why (give details of reason) | Yes ____________1  
No ____________2  
__________________________  
__________________________  
__________________________ |
| 18 | Do you think that property inheritance rights would secure your life and future generation? If yes please tell us about it | Yes ____________1  
No ____________2  
__________________________ |
| 19 | Legal property ownership may provide overall development of women. | 1. strongly agree  
2. agree  
3. neither  
4. strongly disagree  
5. disagree |
| 20 | Is it property inheritance laws empowers women economically, socially, politically? | Yes ____________1  
No ____________2 |

**QUESTIONNAIRE FOR PIPON AND GYAPON**

Personal information:
Name:  
Place:  
Education qualification:  
Age:  
Gender:  
Community:  
Position- pipon/gyapon

1. Do you have self-governing property inheritance system? Yes/no.
   If yes please tell us about it
   .................................................................................................................................

2. Do you have customary property inheritance laws for women in your community? Yes/no.
   If yes, could you please elaborate in details:

3. Do you have a customs of giving property rights to women in your own community?
   Yes/no. if yes. How
   1. As a gift  
   2. as legally  
   3. as illegally  
   4. Others
4. Are you aware that the Sikkim Government passed property inheritance laws for women in Sikkim? Yes/ no.

Is it property inheritance laws empowers women economically, politically culturally and socially? Your opinion:

QUESTIONNAIRE FOR NGOS & ADVOCATES AND OTHERS EMINENT SCHOLARS WHO ARE WORKING UPON EMPOWERMENT OF WOMEN

Name;
Address;
Aim of the NGOS and Civil society:
1. What are the various activities that your organisation undertakes to empower the women?

2. How does it help in empowering women about their rights?
1. Campaigning about awareness programme
2. Giving counselling
3. Educating them about their different rights particularly in rural women.
4. Others

3. Is it property inheritance rights enhance women’s overall development? Yes/no.

4. Are you aware that property rights have been passed by government of Sikkim? Yes/ no.

5. Do various customs and practices become hindrances in getting property rights for women? Yes? No
Appendix II  Revenue Order No. 1

With reference to the Order dated 2nd January 1897, it is hereby again notified to all Kazis, Thikadars and Mandals in Sikkim that no Bhutias and Lepchas are to be allowed to sell, mortgage or sub-let any of their land to any person other than a Bhutia or a Lepcha without the express sanction of the Darbar or Officers empowered by the Darbar on their behalf, whose order will be obtained by the landlord concerned. If anyone disobeys he will be severely punished. In this order the term ‘mortgage’ means mortgaging the whole or part of holding on the Biyaz or Masikata system and the term sub-let means sub-letting the whole or part of holding on the Pakhuira system.

Definition:
1. ‘Biyaz” means mortgaging land to another person who enjoys the produce of the land as interest so long at the principal loan remains unpaid.
2. ‘Masikata’ means mortgaging the fields to a creditor who enjoys the produce of the field as an annual instalment towards the loan.
3. ‘pakhuria’ means sub-letting, where a rayot allows another new rayot to settle upon a portion of his own holding, generally receiving from him some rent in cash and some assistance in cultivating his own fields.

Gangtok                                                                     C.A Bell
17th May 1917                                                           Superintendent, Sikkim State (Human
development Report)
Appendix III  Land Revenue Department, O.O.No. 103/L.R. Government of Sikkim, Gangtok, February, 1961

It is hereby informed for the general guidance of all the Darbar Officers dealing typically with registration of documents in Sikkim, that the following procedures should be strictly followed and observed in cases of transaction relating to transfer of immovable properties.

That it has come to the notice of the Darbar of late, that Nepalese who are marry-Bhutia-Lepcha girls or Non-Sikkimese marrying-Sikkimese women are acquiring immovable properties of Bhutia-Lepcha cannot be alienated in favour of non-Bhutia-Lepcha women that Non-Sikkimese are not entitled to acquire any immovable properties in Sikkim.

It is therefore, to be observed that whenever a transfer of a landed property in Sikkim happens to be women, the registering officer before allowing the registration of the document relating to such transfer, should make an enquiry as to from what source the money for the purchase of the property, where the transfer is by sale, is being obtained by her. It is also to be ascertained whether the purchase money forms her actual property, or it is to be provided by her husband if she is married, in which case such other particulars of her husband including the community to which he belongs, his home address, what landed property he holds already in Sikkim etc., should be enquired into first. In the case of transfer otherwise than by sale also such as gift etc., similar particulars of the husband of the woman if she is married are to be furnished/ the Registering Officer is to undertake and complete all the preliminary enquiries as intended above, and should then refer the case to the Dewan of Sikkim with his forwarding report for a decision. Pending specific decision for the coming from authority concerned, the registration of such transfer documents should on no account be finalised.

By Order,
D. Dhadul
Chief Secretary
Appendix IV    Sikkim Subjects Regulation 1961.
HOME DEP DEPARTMENT
Notification No. 156/S-61
Dated Gangtok, the 3rd July 1961

(Published in the Sikkim Darbar Gazette, Extraordinary, dated the 3rd July 1961).
The following Proclamation of the Chogyal of Sikkim is hereby notified:
WHEREAS it is expedient to define clearly the status of Sikkim subjects and to make provision for acquisition and loss of such aforesaid status:
NOW, THEREFORE, The Chogyal of Sikkim has been pleased to make and promulgate the following Regulation.
1. Short title and extent-
   (i) This Regulation may be called the SIKKIM SUBJECTS REGULATION, 1961.
   (ii) It shall extend throughout the territory of Sikkim.
2. Commencement-
   This Regulation shall come into force on such date as may be appointed for the purpose by the Chogyal of Sikkim.
3. Certain persons domiciled in Sikkim Territory at the commencement of the Regulation to be Sikkim subjects-
   1. Every person who has his domicile in the territory of Sikkim immediately before the commencement of this Regulation shall be a Sikkim subject if he:
      (a) Was born in the territory of Sikkim and is resident therein, or
      (b) Has been ordinarily resident in the territory of Sikkim period not less than fifteen years immediately preceding such commencement; provided that in the said period of fifteen years any absence from the said territory on account of service under the Government of India shall be disregarded; or
      (c) Is the wife or minor child of a person mentioned in clause (a) or clause (b):
         Provided that a person shall not be a Sikkim subject under this section unless he makes a declaration to the effect that he is not a citizen of any other country at the time of inclusion of his name in the register of Sikkim subjects to be maintained under this Regulation: Provided further that in the case of a minor or a person of unsound mind, such declaration may be made by his guardian.
   Explanation: no person shall be deemed to have his domicile in the territory of Sikkim unless:
      (i) He is a person who has made Sikkim his permanent home and has served his connections with the country of his origin such as by parting with his property in that country or acquiring immovable property in Sikkim. Provided that a person shall not be deemed to have a permanent home in Sikkim if he indicates an intention of returning to his country of origin, by keeping a live interest therein even though he might have parted with his property in his country of origin and the mere parting of such property will not be regarded as proof of a person’s having acquired a permanent home in Sikkim.
(ii) The wife and minor children of a person having his domicile in Sikkim shall also be
deemed to have domicile in Sikkim for the purpose of this section.

(ii) In any case of doubt as to whether a person has his domicile within the territory of
Sikkim under this section, the matter shall be decided by the Chogyal with the assistance
of a Board consisting of persons to be appointed in accordance with the rules made under
this Regulation.

4. Certain persons, though not domiciled in Sikkim, to be Sikkim Subject. Any person,
who has not voluntarily acquired the citizenship of any other country, though not
domiciled m Sikkim, may, on an application made to the authority prescribed by the rules
made under this Regulation by registered s a Sikkim subject if he is a person whose
ancestors were deemed to he Sikkim subject prior to the year 1850.

5. Sikkim Subject by Descent:
Every person born after the commencement of this Regulation shall be a Sikkim Subject
if at-the time of his birth his father is a Sikkim subject under this Regulation, whether or
not the birth takes place in the territory of Sikkim.

6. Status of women married to Sikkim subjects:
A woman of foreign nationality who is married to a Sikkim subject after the
commencement of this
Regulation shall ordinarily be eligible to be registered as a Sikkim subject, on making
application therefore to the Government of the Chogyal in the manner provided by rules
under this Regulation, and after announcing her former nationality and on taking oath of
allegiance. Provided that the Government of the Chogyal after giving a reasonable
opportunity to the person of making a representation may refuse such application.

7. Certain persons not to be Sikkim subjects:
(a) Any person who renounces his status as a Sikkim subject, or voluntarily acquires   the
citizenship of any other country, or takes an oath of allegiance to a foreign country or
Ruler thereof without the consent of the Chogyal’s Government; or
(b) Any Sikkimese woman who marries a person who is not a Sikkim subject; or
(c) Any person, other than a person referred to in section 4, who severs his connection
with Sikkim such as by parting with his property in Sikkim and migrates to a place
outside Sikkim and India after the commencement of this Regulation, or has not been
ordinarily resident in Sikkim for a continuous period of seven years, shall thereupon
cease to be a Sikkim subject.

8. Naturalised subjects:
(i) The Government of the Chogyal may, if application is made to them in the manner
provided by rules under this Regulation by any person of full age and capacity who at the
date of the commencement of this Regulation is a national of another state but
otherwise fulfills the requirements of section 3 of this Regulation to be a Sikkim subject,
grant to him a certificate of naturalization if he renounces his former nationality.; and the
person to whom such certificate is grand shall on taking oath of allegiance, and on his
name being entered in the Register to be maintained under this regulation, be a Sikkim
subject by naturalization from the date on which the certificate is grand

(ii) If a certificate is granted to any person under the fast forgoing sub-section his wife
after renouncing her former nationality and taking oath of allegiance be granted
certificate of naturalization.
(iii) The Government to the Chogyal shall also have the power to naturalise a person upon application made therefore in the manner prescribed by the rules, provided that the Government of the Chogyal are satisfied that;
(a) He has been in the service of the Government of Sikkim for a period of not less than ten years immediately preceding the date of his application, or
(b) He has rendered meritorious service to the state; and the person to whom such a certificate is granted shall, on taking oath of allegiance, and upon his name being entered in the Register of Subjects, be a naturalized Sikkim subject from the date on which the certificate was granted;
(iv) The Government of the Chogyal may at the same time naturalise the wife and minor children of a person who is granted a certificate of naturalization if application thereof is made.

9. Loss and deprivation of Nationality - Loss of status of Naturalised Subjects:
A naturalized subject shall lose his status as a Sikkim subject if he ceases to reside ordinarily in the territory of Sikkim or fails to comply with any of the conditions subject to which the certificate of naturalization may have been granted to him and thereupon his name shall be removed from the Register of Sikkim Subjects.

10. Deprivation of status of Subjects:
Subject to the provisions of this section, the Government of the Chogyal may by order deprive any Sikkim subject who is such by registration under section 4 or by naturalization under section 8 of this Regulation of his status if the Government are satisfied that such a subject:
(i) During any war in which the Chogyal or the government of India are engaged, unlawfully traded or communicated with an enemy or communicated with an enemy or has been engaged in or associated with business that was to his knowledge carried on in such a manner as to assist an enemy in that war; or
(ii) Shown himself by act or speech to be guilty of disaffection or disloyalty towards the Chogyal or
(iii) Obtained the certificate of naturalization by fraud, raise representation or concealment of material facts;
(iv) Within five years of naturalization has been convicted of any offence in any country and has been sentenced to imprisonment for a term of not less than twelve months; and such a person shall cease to be a Sikkim subject with effect from the date on which such order of deprivation is passed; Provided that a person shall be afforded a reasonable opportunity of making a representation before an order of deprivation is made.

MISCELLANEOUS
11. Offence and Punishment: Any person who for the purpose of procuring anything to be done or not to be done under this Regulation makes any statement which he knows to be false in material particulars or recklessly makes any statement which is false in material particulars, shall be liable in summary conviction to imprisonment for a term not exceeding two years.
12. Evidence of Status as Sikkim Subject: The Government of the Chogyal shall prepare and maintain a Register of Sikkim Subjects in accordance with rules to be framed under this Act and the entry of a person’s name in such a register shall be prima facie evidence of the person’s status as a Sikkim Subject.
Provide that a person’s name may be removed from the aforesaid Register of Sikkim Subjects and any certificate of status as a Sikkim Subject granted to him may be cancelled with effect from the date of the original grant when the Bard constituted under section 3(3) of Sikkim Subject Regulation is satisfied that the said person's name had been wrongly entered in the Register at any time and submits a finding to that effect to the Government of Sikkim. Provided further that an appeal shall lie to the Chogyal against any such finding by the aforesaid Board.

13. Power to make Rules: The Government of the Chogyal may make and promulgate such rules as may be necessary for carrying out the provisions of this Regulations.

14. Repeal: All rules, regulations, orders and instructions hitherto in force in Sikkim territory in relation to the definition, acquisition and loss or deprivation of the status of Sikkim subjects are hereby repealed.

TASHI NAMGYAL,
MAHARAJA OF SIKKIM
By Order
Sd .D. DAHDUL Chief Secretary,
Government of Sikkim
The following Proclamation of His Highness the Maharaja of Sikkim is hereby notified; Whereas it is expedient to provide for the rights of Sikkimese women married to persons other than Sikkim Subjects to acquire, hold and dispose of immoveable property in Sikkim and to provide for rules of succession to property held by such Sikkimese women.

NOW, THEREFORE, His Highness the Maharaja of Sikkim has been pleased to make and promulgate the following Regulation;

1. **Short title and extent**

   (i) This Regulation may be called Married Women's Property Regulation, 1962.
   (ii) It shall extend throughout the territory of Sikkim.

2. This Regulation shall come into force on such date as may be appointed for the purpose by His Highness the Maharaja of Sikkim.

3. In this Regulation the term

   (a) "Sikkimese" means a person who is a Sikkim Subject at the time or her marriage.
   (b) "Law" means Statutes, regulations, rules and includes customary law.

4. A Sikkimese woman who holds immoveable property in Sikkim at the time of her marriage shall continue to hold such property notwithstanding her marriage with a person who is not a Sikkim Subject and shall have the power to dispose of such property either by sale, mortgage or otherwise to a Sikkim Subject during her life-time.

5. A Sikkimese woman married to a person who is not a Sikkim Subject shall have no right to acquire any immoveable property or any interest in such property in the territory of Sikkim subsequent to her marriage.

6. If a Sikkimese woman marries a person who is not a Sikkim Subject the husband and any offspring born of that marriage shall acquire no interest in any immoveable property which she may hold in Sikkim by virtue of Section 4 of this Regulation.

7. Notwithstanding the provisions of any other law to the contrary any immoveable property in Sikkim which may be held by a Sikkimese woman at the time of her marriage shall not on her death devolve on her husband if she held been married to a non-Sikkim Subject nor shall it be inherited by Any offspring of such marriage.

8. Any immoveable, property held by a Sikkimese woman married to a person who is not a Sikkim Subject is contemplated in Section 4 of this Regulation shall devolve on her death and be inherited by such person or persons who would have been regarded but for her marriage -as her next of kin under the rules for intestate succession, provided always that such next of kin in order to succeed to such property is a Sikkim Subject.

This Regulation was published in Sikkim Durbar Gazette dated 12.10.1962-Ed.
Appendix: VI

Land Revenue Department, Notification No. 28/L.R.,
Government of Sikkim, 21st April, 1969.

There has been some doubts about the right of a woman to purchase or sell land after her marriage to a person of other community due to restrictions imposed by Revenue Order. I of 1917 and in order to clarify the position in this regard. It is hereby notified as follows:

a. Women follows the nationality and community of her husband.
b. Bhutia-Lepcha women marrying a person of community other than her own community only if such land was acquired by her prior to her marriage.
c. Land acquired by her marriage to a non Bhutia-Lepcha may be sold to any community.
d. Sikkimeses of Tibetan and Bhutanese origin enjoy all rights and privileges of Bhutia/Lepcha except that they may not by land from the latter community.

By Order,
M.P. Pradhan
Secretary
Land Revenue Department
Appendix VII The Constitution (Thirty-Sixth Amendment) Act, 1975

AN ACT (16.5.75) further to amend the Constitution of India. Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows.

1. (I) This Act may be called the Constitution Amendment (Thirty Sixth) Act1975
   (2) It shall be deemed to have come into force on the date on which the Bill for this Act (introduced in the House of the People as the: Constitution Amendment Bill, (Thirty eighth 1975), as passed by the House of the People, is passed by the Council of States.

2. In the First Schedule to the Constitution, under the heading "I. The STATES", after entry 2. I. The following entry shall be inserted namely: "22 Sikkim the territories which immediately before the commencement of the Constitution (Thirty-sixth Amendment) Act, 1975, were comprised in Sikkim".

3. After article 371 F of the Constitution, the following article shall be inserted, namely:
   (a) The Legislative Assembly of the State of Sikkim shall consist of not less than thirty members.
   (b) As from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)
      (i) The Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said election (hereinafter referred to as the sitting members) shall be deemed ,to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution.
      (ii) The sitting members shall be deemed to be the member of the Legislative Assembly of the State of Sikkim duly elected under this Constitution and;
      (iii) The said Legislative Assembly of the State of Sikkim shall exercise the power and perform the functions of the Legislative Assembly of a State under this Constitution.
   (c) In the case of the Assembly deemed to be Legislative Assembly of ‘the State of Sikkim under clause (b) the reference to the period of five years. In: clause (1) of article 172 shall be constituted as reference to period of four years and the said, period' of four years. Shall be deemed to commence from the appointed day;
   (d) Until other provisions are made by Parliament 'by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim
   (e) The representative of the State of Sikkim in the House of the People in existence on the appointed day. Shall be elected by the members of the Legislative Assembly of the State of Sikkim;
   (f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim. Make provision for the number of seats in the Legislative, Assembly, of the State of Sikkim which may be filled. by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates ‘belonging to such section alone may stand for election to the Legislative Assembly of the State of Sikkim’
   (g) The Governor of Sikkim shall have- special responsibility for peace and for an elaborate arrangement for ensuring the social and economic advancement of all sections of the population of Sikkim and in the discharge of his special responsibility, under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his discretion.
(h) All property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any person for the purposes of the Government of Sikkim shall as from the appointed day, vest in the Government of the State of Sikkim;
(i) The High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall on, and from the appointed day, be deemed to be the High Court for the State of Sikkim,
(j) All courts of civil, criminal and revenue jurisdiction all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;
(k) All laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.
(l) For the purpose of facilitating the application of, such law as referred to in clause.
(k) In relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution on, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the additions and modifications as may be necessary and any such adaptation or modification shall not be questioned in any Court of law;
(m) Neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement; engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143.
(n) The President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a state in India at the date of the notification,
(o) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order; do anything (including any adaptation; or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty: Provided that no such order shall be made after the expiry of two years from the appointed day;
(p) All things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of the Constitution as amended. by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so:
4. In the Fourth Schedule to the Constitution, in the Table,
(a) After entry 2 I, the following entry shall be inserted, namely 22. Sikkim
(b) Existing entries 22 to 25 shall be renumbered as entries 23 to 26 respectively;
(c) For the figures, '2 31 the 'figures" 2 3 2 "shall be substituted
(c) In article 81', in cause (1) the words and figures and paragraph.4 of the Tenth Schedule shall be’ omitted.
(d) The Tenth Schedule shall be omitted.
Appendix VIII Gazette No.198, Government of Sikkim

Sikkim

GOVERNMENT

Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Gangtok Friday, 8th December, 1995

No. 198

GOVERNMENT OF SIKKIM

HOME DEPARTMENT

No. 66/Home/95.


NOTIFICATION

In supersession of the Memorandum No. 5 (2), 229/GEN/EST, dated 25th September, 1976, Notification No. 285/GEN/EST, dated 28th January, 1980, Memorandum No. 5 (92) 7/GEN/EST, dated 9th April, 1981 and Circular No. 339/HIS/87, dated 17th March, 1987, the State Government is hereby pleased to authorise the District Collectors, Sub-Divisional Officers and Revenue Officers within their respective jurisdiction to issue Certificate of Identification to the persons falling in the different categories as indicated below on the recommendations of the Gram Panchayat and being duly satisfied with such recommendations.

1. A person whose name is found recorded in the Old Sikkim Subject Register of

2. A person whose name is not found registered in the Old Sikkim Subject Register, but who has established beyond doubt that the name of his/her father/husband/paternal grandfather/brother from the same father has been recorded in the Old Sikkim Subject Register or

3. A person who has or had agricultural land in rural areas and has been ordinarily residing in the State of Sikkim or

4. A person who is holder of Indian Citizenship Certificate issued by the District Collector, Government of Sikkim under the Sikkim (Citizenship) Order, 1975 as amended vide the Sikkim (Citizenship) Amendment order, 1989 or

5. A person whose father/husband has/had been in Sikkim Government Service on or before 31.12.1969. Certificate or Identification obtained by such persons shall be for the purpose of employment only.

The Form prescribed for submission by Gram Panchayats to District Collectors/Sub-Divisional Officers/Revenue Officers for issue of Certificate of Identification is as Appendix 1. Certificate of Identification henceforth shall be issued on the basis of verification report and recommendations of Gram Panchayats. Gram Panchayats have to be very careful in respect of verification and recommending such cases. In case Certificate of Identification is issued to wrong person on the recommendations of Gram Panchayats, such Gram Panchayats shall be liable for punishment under appropriate Acts or Rules.

For issue of Certificate of Identification to the applicants of notified areas necessary verification shall be done by the concerned Police Station and Sub-Divisional Officers on the basis of guidelines indicated above.

Certificate of Identification shall be issued to the applicant by the issuing authority.

By order and in the name of the Governor,

K. A. VARADAN
Chief Secretary

PRINTED AT THE SIKKIM GOVT. PRESS, GANGTOK.
The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 28th day of June, 2008 is hereby published for general information:

THE SIKKIM SUCCESSION ACT, 2008
(Act No. 22 of 2008)
AN ACT

to provide for law relating to succession to movable and immovable properties of Sikkimese people.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows:-

PRELIMINARY

1. (1) This Act may be called The Sikkim Succession Act, 2008.

2. The Act shall apply to:-
   a) any person who possesses Sikkim Subject Certificate/Certificate of Identification (COI);
   b) descendants of Sikkim Subject Certificate holder identified through COI.

   Note:- A woman who has married a non-Sikkimese or has acquired foreign citizenship shall not be eligible to deny the rights of descendants and heirs held as descendants under this Act.
Note: Descendants include sons or daughters and their lineal descendants and include those as specified in Schedule I.

Definitions.3
In this Act, unless the context otherwise requires,- (a) “Act” means The Sikkim Succession Act, 2008;
(b) “Administrator” means a person appointed by competent authority to administer the estate of a deceased person’
(a) “Government” means government of Sikkim;
(b) “heir” means any person male or female is entitled to succeed to the property of an intestate under this Act;
(c) “intestate” means a person is deemed to die intestate in respect of property of which he or she has not made testamentary; disposition capable of taking effect;
(d) “minor” means a person who (has not or attained majority) or has not completed the age of eighteen years.
(e) “ probate” means copy of a will certified under the seal of court of competent jurisdiction with a grant of administration to the estate of the testators;
(f) “Sikkimese” means persons belonging to Bhutia, Lepcha or Bepali Community of Sikkimese origin identified through Sikkim Subject or Certificate of Identification;
(g) “Will” means the legal declaration of the intention o a testator with respect to his property which he desires to be carried out after his death.

Act not to in apply to apply to certain applicability of person/class or community 4. (1) The State Government may by notification the official gazette exempt the this Act to the members of community or tribe or sect or such other category etc as ay be specified if it is considered expedient to do so.
(2) The State Government may by notification withdraw or revoke such exemption prospectively.

Part I
Intestate Succession
Intestate property 5.
(1) A person to deemed to die intestate in respect of all property of which e has not made a testamentary disposition.
(2) where the intestate has left no widow his property shall go to his lineal descendants or to those not being lineal descendants according to rules of succession contained herein after and if he has left none who are of his descendants and shall to the next of descendants from his brother or to sister if unmarried or abandoned by husband.
(3) A husband surviving his wife shall have the same right in respect of her property if she dies intestate as a widow has in respect of her husband’s property if he dies intestate.
Devolution of property 6.
(1) When a male Sikkimese dies dies after the commencement of property of this Act having at the time of his death an interest in the property or has a self-acquired property, the property shall devolve to the extent of his interest by survivorship upon the surviving members of his family which includes his wife, sons and daughters if unmarried in equal proportion:
Provided that if the deceased gas left behind him a surviving female relative who claims interest in such property in such case the property shall devolve to the extent she is entitled.

(2) If two or more heirs succeed together to the property of an intestate they shall take property per capita and as inheriting respective shares in equal proportion.

(3) The property of an intestate devolves upon the wife or the husband or upon those who are of the kindred of the deceased as per the Schedule.

(4) Where an intestate has left a widow but not lineal descendants, the property will devolve to the next of the descendent of the brother of the deceased husband in the manner as specified in the Schedule.

(5) Where a female heir or descendant marries a person who does not possess Sikkim Subject Certificate/COI or has acquired foreign citizenship, such female heir/ descendant shall follow the personal law of her husband and as such shall not acquire any interest in the property.

(6) Where the parents of a minor die intestate such property shall be looked after by administrator of none of the relatives of the deceased within the eligible category of heir comes forward to look after the property.

(7) Where a person has no son the property will devolve on the daughter subject to sub-section (5) of section 6.

(8) An abandoned or divorced woman having the liability to take care of the children and has no source of income, shall have the right to a share in equal proportion along with other heirs to the property of the husband:

Provided that where woman has deserted her husband with or without children and has remarried shall forfeit her right to her share in the husband’s property. However, the children shall be eligible to their share of property as per the law.

(9) The property of an intestate shall devolve in equal shares among all the heirs.

Right of child in womb 7

Notwithstanding anything contained in sub-section (1) of Section 6.a child who was in the womb at the time of the death of an intestate and who is subsequently born alive shall have the same right to succeed to the intestate as if he or she had been born before the death of the intestate.

Preferences of heir 8

Heir related to an intestate by full blood shall be preferred to heirs related by half blood, if the nature of relationship is the same in other respect.

Disqualification of heirs 9

(1) A person who commits murder or abets the commission of murder or abets the commission of murder shall be disqualified from inheriting the property of the person murdered.

(2) If any person is disqualified from inheriting any property under this Act, it shall devolve as if such person had died before the intestate.

Escheat. 10

If an intestate has left no heir to succeed to his or her property in accordance with the provisions of this Act, such property shall devolve on the Government and the Government shall take the property subjects to all the obligations and liabilities to which an heir would have been subjects.
Power to make Rules 11
The state government may, by Notification, make rules for carrying out the purposes of this Act.

Part II
Testamentary succession
Testamentary succession 12
Every person of sound mind not being a minor may dispose of his property by will.
Will obtained by fraud etc. 13
A will or bay part of a Will, the making of which has been caused by fraud or coercion or importunity is void.
Will may be revoked or altered. 14
A Will may be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.
Execution of Will 15
A will shall be executed according to the following rules:
(a) The testator shall sign or shall affix his mark to the will or it shall be signed by some other person in his presence by his direction.
(b) The signature or the mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended to give effect to the Will.
(c) The will shall be attested by two or more witnesses.

Schedule
Heirs in Class I
1. Son, daughter, widow, mother, son of predeceased son, daughter of a predeceased son, widow of a predeceased son.

Heirs in Class II
1. Son’s daughter’s son
2. Son’s daughter’s daughter
3. Daughter’s son’s son
4. Daughter’s son’s daughter
5. Brother’s sons
6. Sister’s sons
7. Brother’s daughter
8. Sister’s daughter
Class II heirs shall come into play only in the event of Class I heir not being available.

By order
R.K Purkayastha
LR-cum-Secretary Law Department File No. 16 (82) LD/P/2008
Appendix –X Gazette No.591, Government of Sikkim

Gangtok
Monday 1st November, 2010
No. 591

GOVERNMENT OF SIKKIM
HOME DEPARTMENT
GANGTOK

Dated: 26/10/2010

NOTIFICATION

The State Government is hereby pleased to authorize the District Collectors and the Additional District Collectors within their respective jurisdiction to issue Residential Certificates to persons falling in the different categories as indicated below on the recommendations of the Gram Panchayat or the Nagar Panchayat/Municipality and being duly satisfied with such recommendation after proper police verification:

1. A person who has established beyond all reasonable doubt that he/she was a resident of the State of Sikkim as on 26th April, 1975 and has been residing therein since then, or

2. A person who has established beyond all reasonable doubt that he/she is the natural legal descendant of the person referred to in category 1 above and has been a resident of the State since birth, or

3. A person who has established beyond all reasonable doubt that he/she is the natural legal descendant of a Sikkimese woman holding/eligible for a Certificate of Identification in terms of the State Government Notification on the subject and is a resident of the State since birth, or

4. A person who has established beyond all reasonable doubt that he/she is/was a regular employee under the Government of Sikkim and is settled therein, or

5. A person who has established beyond all reasonable doubt that he/she is the natural legal descendant of the person referred to in category 4 above and is a resident of the State since birth.

6. A person whose spouse is eligible for grant of a Residential Certificate under any of the above mentioned categories and is a citizen of India and a resident of the State.

Application for a Residential Certificate shall be submitted in the form prescribed to the respective District Collectors along with relevant documents. The District Collector may issue the Residential Certificate after due verification from the Gram panchayat/Nagar Panchayat/Municipality and the police.

The issuing authority is also authorised to cancel the Residential Certificate of a person if it is reasonably established that the Certificate has been obtained by him/her or on his/her behalf by misrepresentation or suppression of any material fact.

Any person aggrieved by the refusal to grant or cancellation of his/her Residential Certificate by the Issuing Authority may apply within one month of such refusal or cancellation to the Secretary, Land Revenue & Disaster Management Department for redress.

BY ORDER AND IN THE NAME OF THE GOVERNOR.

TT Dorji, IAS
Chief Secretary

File No. Home/Confdl./158/1994/2/Part

S.G.P.G. - 591/ Gazette /100 Nos./Dt- 1.11.2010.