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MARRIAGE ACT OF BHUTAN, 1980

# **MARRIAGE ACT OF BHUTAN**

## **CHAPTER - ONE**

### **PROCEDURE FOR CONTRACTING MARRIAGES APPLICABILITY OF MARRIAGE ACT.**

Kha 1-1.

It is hereby enacted as follows that with the exception of His Majesty the King of Bhutan, all Bhutanese nationals and other persons residing in Bhutan, irrespective of their status, shall have to abide with the provisions laid down in this Marriage Act in matters relating to marriages.

### **RIGHT TO MARRY EACH OTHER.**

Kha 1-2.

Except for the restrictions defined hereinafter in Sections Kha 1-10 and Kha 1-11 wherein marriages are not permitted or are debarred from being contracted, a person has the right to marry any other person, irrespective of status, caste, wealth or appearance, provided the persons contracting the marriage thereof have expressly consented to their marriage.

### **RULES GOVERNING ACQUIRING OF A MARRIAGE CERTIFICATE BY A COUPLE.**

Kha 1-3

Whenever a marriage is contracted according to the customary rites and rituals or following an engagement or a love marriage, a Marriage Certificate (Nyentham) shall have to be acquired from a local Court of law to make such a marriage valid. And excepting those couples married prior to the year 1963, who are exempted from acquiring a Marriage Certificate as defined hereinafter in Section Kha 1-9, all other couples married subsequently to that year shall only be entitled to lay claims over properties on their divorce if they have acquired a marriage Certificate on payment of the prescribed fines as laid down hereinafter in Section Kha 9-1. (Addendum to Section Kha 1-9 of THRIMSHUNG 1957).

### **PROCEDURE FOR ACQUIRING A MARRIAGE CERTIFICATE FROM A COURT.**

Kha 1-4

Any couple approaching a Court of law for acquiring a Marriage Certificate shall have to present before the Court as sureties a male person for the bridegroom and a female person for the bride; and the Court shall obtain a document from the said sureties in the form and manner prescribed in Section Kha 1-5.

Thereafter, the Court shall fully satisfy itself as to whether or not that couple are eligible to marry each other and whether or not any provisions of the Marriage Act will be contravened

by contracting such a marriage. If no provisions are contravened, then that couple shall be recognised as a man and wife and the Court shall grant them a Marriage Certificate as prescribed in the form and manner "Ka" set forth in the Schedule.

#### **RESPONSIBILITIES ON PERSONS STANDING AS SURETIES FOR A COUPLE INTENDING TO MARRY.**

Kha 1-5.

It shall be incumbent upon the persons standing as sureties to thoroughly enquire whether or not the intending bride or bridegroom has contracted any prior marriage and whether or not any provisions laid down in the Marriage Act will be contravened by contracting such a marriage.

Thereafter, a declaration as prescribed in the form and manner "Kha" set forth in the Schedule affixed with their signatures or thumb impressions shall have to be completed and submitted before the Court. But if later on after submitting such a declaration any provisions laid down in the Marriage Act are found to have been contravened, then they shall be punished with the penalties and fines as prescribed in the relative Sections of this Act.

#### **PROCEDURE FOR OBTAINING A MARRIAGE CERTIFICATE WHEN PHYSICALLY UNABLE TO ATTEND A COURT.**

Kha 1-6.

If either of the parties to the marriage under unavoidable circumstances is physically unable to attend a Court for obtaining a Marriage Certificate, then such a couple may obtain a Marriage Certificate through the local village headman (GUP).

Accordingly, that village headman shall thoroughly conduct an enquiry in the form and manner as prescribed in the aforesaid Section Kha 1-5 and thereafter execute an agreement from the bride and bridegroom together with the sureties as prescribed in the form and manner "Ga" set forth in the Schedule and submit the same to the Court with a forwarding letter. (Addendum to the resolution passed under agenda 2 of the 21st National Assembly held on the 11th month of the Wood Dragon Year.).

#### **OBJECTIONS ON MARRIAGES CONTRACTED ACCORDING TO PRESCRIBED RULES INADMISSIBLE.**

Kha 1-7.

If a couple along with their sureties have presented themselves before a Court of law, and if the Court has after an enquiry fully satisfied itself that the said couple are not contravening any provisions laid down in the Marriage Act, then a Marriage Certificate shall be issued to them; and in such a case, objections from any other persons against such valid marriages shall not be admissible. But the stipulated fees for the Marriage Certificate shall have to be

deposited with the Court separately by both the said bride and bridegroom.

#### **RECOGNITION OF COUPLES AS LEGALLY MARRIED.**

Kha 1-8.

Notwithstanding the number of years that have elapsed since a marriage has been contracted, a couple shall only be recognised as a legally married couple from the date of acquiring a Marriage Certificate from a Court of law. (Amendment to Section Kha 1-5 of THRIMSHUNG 1957)

#### **RECOGNITION OF COUPLES AS LEGALLY MARRIED EVEN WITHOUT HAVING A MARRIAGE CERTIFICATE.**

Kha 1-9.

Couples contracting marriages subsequent to RABJUNG 16th of the Water Hare Year corresponding to the English calendar year 1963 shall have to comply with the provisions laid down in the aforesaid Section Kha 1-3 of this Act.

But couples who have contracted marriages prior to that aforesaid year without acquiring a Marriage Certificate shall also be recognised as legally married couples (Addendum to resolution 2 of the 21st National Assembly held in the Bhutanese Wood Dragon Year).

#### **INVALIDITY OF TRADITIONAL MARRIAGES CONTRACTED BETWEEN BLOOD RELATIONS.**

Kha 1-10.

The traditional marriages between persons of the permitted degree of consanguinity and affinity performed according to the local customs varying from village to village shall also cease to be contracted with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with provisions laid down hereinafter in Section Kha 9-10 of this Act.

#### **RESTRICTION ON PERFORMING MARRIAGES OF MINORS**

Kha 1-11.

The traditional performance of marriages between minors as mentioned hereafter in Section Kha 1-14 shall also cease with the enactment of this Act. In contravention of which, the case shall be dealt with in accordance with the provisions laid down hereinafter in Section Kha 8-20.

#### **RULES GOVERNING ISSUE OF MARRIAGE CERTIFICATE TO WIFE OR HUSBAND OF A PERSON ABSCONDING FROM THE COUNTRY.**

Kha 1-12.

If the wife or husband of the person who has absconded from the country seeks to acquire a

Marriage Certificate to contract another marriage, then the Court shall have the power to issue the said Certificate. But if that person absconding has not left the country, then the issue of such a Marriage Certificate shall be kept in abeyance till the expiry of one year from the date that person had so absconded.

**RESTRICTION ON GRANT OF MARRIAGE CERTIFICATE FOR MARRIAGES PERFORMED BETWEEN BLOOD RELATIONS.(ONGCHE PHOKPA).**

Kha 1-13.

A Marriage Certificate shall not be granted by a court of law for traditional marriages between persons of the permitted degree of consanguinity and affinity performed in the villages as mentioned in the aforesaid Section Kha 1-10 (Refer Section 1-3 of THRIMSHUNG 1957).

**RESTRICTION ON GRANT OF MARRIAGE CERTIFICATE FOR MARRIAGES OF MINORS.**

Kha 1-14.

Consequent to the restrictions on the marriages of minors as stipulated in the aforesaid Section Kha 1-11, no Marriage Certificates shall be granted for marriages performed between a male person not attaining the age of eighteen years and a female not attaining sixteen years as they are considered not to have attained full age. (Amendment to Section Kha 1-2 of THRIMSHUNG 1957).

**RESTRICTION ON GRANT OF FOURTH MARRIAGE CERTIFICATE TO A PERSON THRICE DIVORCED FOR MISCONDUCT.**

Kha 1-15.

If any man or woman who subsequent to acquiring a Marriage Certificate on three separate occasions from a Court because of being divorced on all the three occasions by his or her successive partners on account of his or her repeated misconduct, then in such a case, the said defaulting man or woman shall not be granted a Marriage Certificate if he or she marries for the fourth time. (Refer Section Kha 1-4 of THRIMSHUNG 1957).

**RESTRICTION ON GRANT OF A MARRIAGE CERTIFICATE TO A PERSON TAKING DAMAGES THRICE.**

Kha 1-16.

If either of the parties to a marriage because of his or her repeated misconduct has been paid damages (GAO) on three separate occasions, then in such a case, that defaulting partner shall not be granted a Marriage Certificate when contracting a fourth marriage.

**LIMITATION TO GRANT OF ONLY ONE MARRIAGE CERTIFICATE TO A WOMAN HAVING SEVERAL HUSBANDS.\*\*\***

Kha 1-17.

Whereas a woman may legally be married to only one husband, Marriage Certificates for contracting marriages with more than one husband shall not be granted. (Refer Section Kha 1-12 of THRIMSHUNG 1957).

**RESTRICTION ON GRANT OF MARRIAGE CERTIFICATE ON FAILURE TO PRODUCE DEED OF DIVORCE.**

Kha 1-18.

Any husband or wife seeking to acquire a Marriage Certificate from a Court of law for intending to contract another marriage shall not be granted a Marriage Certificate if the deed of divorce (YIKTHI) executed with the former wife or husband is not produced before the Court.(Amendment to Section Kha 1-7 of THRIMSHUNG 1957).

**RESTRICTION ON CONTRACTING ANOTHER MARRIAGE WITHOUT CONSENT OF FORMER WIFE.**

Kha 1-19.

Any husband seeking to acquire a Marriage Certificate from a Court of law for contracting another marriage shall have to present his former wife in person before the Court for confirmation of her express consent to the subsequent marriage; and if the former wife is not able to present herself in Court, then a written agreement in her own handwriting giving her express consent to the subsequent marriage shall have to be produced by that husband before the court; and if such a consent from the former wife is not available, then the Court shall not grant a Marriage Certificate for the subsequent marriage. (Refer Section Kha 1-9 of THRIMSHUNG 1957).

**RESTRICTION ON GRANT OF A MARRIAGE CERTIFICATE UNTIL ONE YEAR FROM DEATH OF HUSBAND OR WIFE.**

Kha 1-20.

If an husband or wife expires and the surviving wife or husband intends to contract another marriage, then the Court shall keep in abeyance the grant of the Marriage Certificate till the expiry of one year from the date of the death of the deceased husband or wife. (Refer

Section Kha 1-8 of THRIMSHUNG 1957).

**GROUND ON WHICH COUPLES NOT RECOGNISED AS LEGALLY MARRIED.**

Kha 1-21.

Except for the reasons prescribed from Sections Kha 1-12 to Kha 1-20, if for any other reasons a couple in spite of not being able to acquire a Marriage Certificate from a Court marries, then in such a case, that couple shall not be recognised to be a legally married couple.

**CLAIMS OVER PROPERTIES ON DIVORCE BETWEEN A COUPLE NOT LEGALLY MARRIED.**

Kha 1-22.

Except for the claims for any expenditure incurred on behalf of each other which shall be dealt with under the provisions laid down in Section Kha 6-8, if a couple who are not recognised as legally married divorce, then they shall not be entitled to lay claims on the properties in accordance with the rights and privileges provided on a divorce between a legally married husband and wife.

**RIGHTS OF GRANT OF FOURTH MARRIAGE CERTIFICATE TO A PERSON DIVORCED THRICE UNDER EXTENUATING CIRCUMSTANCES.**

Kha 1-23.

If any husband or wife because of the reasons defined hereinafter from Sections Kha 6-7 to Kha 6-15 of this Act has been compelled to seek deeds of divorce (YIKTHI) from a Court of law on numerous occasions, and even if that husband or wife has been granted Marriage Certificates on three or more occasions, then in such a case, the court shall have the power to grant to either of such parties to a marriage a further Marriage Certificate if required, and a marriage contracted thereafter by that husband or wife shall be recognised as a marriage of a legally married couple.

**RIGHTS TO GRANT ANOTHER MARRIAGE CERTIFICATE TO A COUPLE FORCIBLY DIVORCED BY PARENTS.**

Kha 1-24.

If any husband or wife has been compelled to acquire a Marriage Certificate in their names on three separate occasions because of coercion on the part of their parents and not because of any unreasonable behaviour on the part of either of the parties to the marriage, then in

such a case, notwithstanding that husband or wife having had to seek divorce on three or more occasions, the court shall have the power to grant to either of them a Marriage Certificate for a subsequent marriage and such a marriage shall be recognised by the Court.

#### **RESTRICTION ON MAKING CLAIMS ON BASIS OF A MARRIAGE CERTIFICATE.**

Kha 1-25.

Whereas the grant of a Marriage Certificate by a Court of law is a document to proof the legality of a marriage only, no claims on its basis for shares, properties etc. shall, therefore, be admissible.

### **C H A P T E R - T W O**

#### **MARRIAGES WITH NON-BHUTANESE**

Kha 2-1.

If any Bhutanese citizen intending to contract a marriage with a non-Bhutanese residing within or without the Kingdom of Bhutan approaches a Court of law for acquiring a Marriage Certificate, than the two persons who are standing sureties for the couple shall have to present themselves before the Court, one out of which shall have to be a Bhutanese citizen and acceptable by the Court; but both the sureties shall have to be well acquainted with the couple. Thereafter, the case shall be processed in accordance with the provisions laid down in Section Kha 1-5. (Refer Section Kha 2-2 of THRIMSHUNG 1957).

#### **ADOPTION OF SOCIAL TRADITIONS AND CUSTOMS AND ABIDING WITH CITIZEN ACT BY ONE MARRYING BHUTANESE CITIZEN.**

Kha 2-2.

A non-Bhutanese wife or husband of a Bhutanese citizen intending to acquire a Bhutanese citizenship or to take up domicile in the Kingdom of Bhutan shall have to adopt the traditional customs and rituals of the country as laid down in the Citizenship Act of under the rules promulgated by the Government from time to time.

#### **RULES TO BE COMPLIED WITH BY ONE MARRYING A BHUTANESE.**

Kha 2-3.

A non-Bhutanese person having a Bhutanese wife or husband, irrespective of whether or not he or she acquires a Bhutanese citizenship, shall have to comply with the provisions laid down in the following Sections.

#### **RESTRICTION ON PROMOTIONS FOR GOVERNMENT EMPLOYEE MARRYING A NON-BHUTANESE.**



Kha 2-4.

Any Bhutanese national in Government service marrying a non-Bhutanese shall remain in the same rank as on the 11th June, 1977 or on the day of the marriage with a non-Bhutanese held by him or her and shall not be entitled to any further promotions. And such a person shall be restricted from holding any appointment above the rank of a Junior Rabjam(Ramjam Woma ).

**RESTRICTION ON BEING MADE A PERSON OF HIGHER POSITION IF MARRYING A NON-BHUTANESE.**

Kha 2-5.

Any Bhutanese national marrying a non-Bhutanese shall remain in the same position in society as on 11th June, 1977 or prior to his or her marriage with a non-Bhutanese; and from the date of the marriage with a non-Bhutanese or after 11th June, 1977, such a person shall not be given a higher position of more importance

**RESTRICTION ON EMPLOYMENT IN FOREIGN AND DEFENCE SERVICES OF A PERSON MARRIED TO A NON-BHUTANESE.**

Kha 2-6.

If any Bhutanese national employed in the defence or foreign department of the Government of Bhutan marries a non-Bhutanese, then that Bhutanese national shall be discharged from the said departments. And any Bhutanese national married to a non-Bhutanese, shall not be offered employment in any of the two said departments.

**RESTRICTION ON ONE MARRYING A NON-BHUTANESE FROM ENJOYING PRIVILEGES AS GIVEN TO OTHER CITIZENS.**

Kha 2-7.

A Bhutanese citizen, irrespective of his or her status, shall be restricted from enjoying the privileges and other benefits as mentioned herein below subsequent to a marriage with a non-Bhutanese:

- (ka) Allotment of land (KIDU)
- (kha) Cash Loans.
- (ga) Seeds for fields and lands and ploughing bulls.
- (nga) Cattle and livestock from the Department of Animal Husbandry.
- (cha) Medical treatment in foreign countries.
- (chha) Capital for workshops, trade and industries.

**RESTRICTION ON A PERSON MARRYING A NON-BHUTANESE FROM ENJOYING PRIVILEGES OF STUDIES AND TRAINING.**

Kha 2-8.

Any Bhutanese citizen receiving training or education under Government sponsorship if married to a non-Bhutanese shall be restricted from enjoying the privileges and benefits as mentioned herein below:

- (Ka) Restriction from receiving any aid from the government to pursue or undergo training in foreign countries.
- (kha) From the date of contracting such a marriage, the Government aided expenses given for studies and training shall be withdrawn forthwith.
- (ga) The expenditure given by the government for pursuing studies or undergoing training up till date of such a marriage shall have to be refunded.
- (nga) The Government of Bhutan shall send an intimation to the country sponsoring the student to withdraw all the expenses provided for studies or training to a Bhutanese national who is marriage is contracted with a non-Bhutanese.

#### **RELIGION OF A NON-BHUTANESE MARRYING A BHUTANESE.**

Kha 2-9.

A non-Bhutanese married to a Bhutanese citizen if domiciled in the Kingdom of Bhutan shall, except for following the state religion of Bhutan, be strictly prohibited from propagating any other religion or introducing any new religion.

#### **ADOPTION OF CUSTOMS AND COMPLYING WITH LAWS OF THE GOVERNMENT BY A NON-BHUTANESE MARRIED TO A BHUTANESE IF DOMICILED IN BHUTAN.**

Kha 2-10.

A non-Bhutanese married to a Bhutanese citizen, who intends to take up domicile within the Kingdom of Bhutan and whether or not that person acquires a Bhutanese citizenship shall have to adopt the existing traditions and customs, and comply with the laws of the Government and other laws promulgated by the government.

#### **A NON-BHUTANESE MARRIED TO A BHUTANESE TO ABIDE WITH MARRIAGE ACT.**

Kha 2-11.

A non-Bhutanese married to a Bhutanese citizen and whether or not that person has acquired a Bhutanese citizenship shall in processing any matters relating to marriage comply with the rules and regulations laid down in this Marriage Act.

### **C H A P T E R - T H R E E**

#### **PAYMENT OF COMPENSATION(GAWO) BECAUSE OF HUSBAND OR WIFE BEING INVOLVED IN ADULTERY.**

##### **RULES GOVERNING CLAIMS OF COMPENSATIONS.**

Kha 3-1.

If any third person commits adultery with a married woman, then whether or not that woman has children, and whatever be the relationship existing between that woman and her husband, and whether or not that adulterer entices her away with him, that adulterer committing the said offence shall have to pay compensation to the said husband of that woman in accordance with the duration of that woman's marriage with her husband in the amounts stipulated herein below :

##### **AMOUNTS OF COMPENSATIONS PAYABLE ACCORDING TO DURATION OF MARRIAGES.**

(ka). A sum of Ngultrums nine hundred and ninety-nine if the duration of marriage does not exceed three years.

(Kha). A sum of Ngultrums one thousand nine hundred and ninety-nine if the duration of marriage exceeds three years but not seven years.

(ga). A sum of Ngultrums two thousand nine hundred and ninety-nine if the duration of marriage exceeds seven years.

(Refer Section Kha 2-1 of THRIMSHUNG 1957).

##### **RULES GOVERNING COMPENSATION PAYABLE TO WIFE.**

Kha 3-2.

If any other woman elopes with a married man, then that woman shall have to pay the compensation stipulated in the aforesaid Section to the wife of that man. But if that woman does not marry that man and is guilty of committing adultery only with him, then in such

case, the proceedings shall be dealt with in accordance with provision laid down hereinafter in Section Kha 3-9.

**Rules governing compensations payable when there are several wives.**

Kha 3-3.

If any other woman marries and elopes with a man having two or more wives, then that woman shall have to pay compensation to each of that man's former wives possessing a Marriage Certificate in accordance with the duration of their individual marriages with that man.

In like manner, if any married man marries two or more wives simultaneously, then those subsequent wives shall have to pay compensation to each of that man's former divorced wives in accordance with the duration of their individual marriages with that man.

**COMPENSATION PAYABLE ON RETURN OF PERSON ENTICING A MARRIED WOMAN.**

Kha 3-4.

On the return of that person enticing away a married woman, then whether or not that married woman returns, that person who has committed the offence shall have to pay compensation as prescribed by law to the husband of the eloped woman, whether or not the said husband has re-married in the meantime, provided the said husband is alive.

And where the said husband has expired but a prior submission had been made to a Court of law regarding the elopement of that woman in the form and manner "Nga" set forth in the Schedule, then the Court shall realize the compensation from the offender and had it over to the relatives of that deceased person.

In like manner, if any woman elopes with a married man, then whenever that woman committing the offence returns, the case shall be processed in a manner as mentioned above. (Amendment to Section Kha 1-14 of THRIMSHUNG 1957).

**COMPENSATION AND FINES PAYABLE ON CONCEALING FACT OF MARRIAGE.**

Kha 3-5.

If any married woman conceals the fact of her marriage and commits adultery with a third person, then that person shall have to pay compensation to the husband of that woman as prescribed by law. But if proof is furnished that the adultery was committed because of enticement on the part of that woman, then that woman shall be punished with fine extending from Ngultrums one hundred to Ngultrums three hundred.

**COMPENSATION AND OTHER COSTS PAYABLE WHEN COUPLE CONNIVES ANOTHER PERSON TO COMMIT ADULTERY.**

Kha 3-6.

If claims for compensation are made by a couple after collusion or connivance between them to obtain monetary gain by enticing a third person to commit adultery with the wife by concealing the fact of their marriage, then the husband of that wife shall be entitled to the compensation as prescribed by law, but from the day the compensation has been so realized, that couple shall be prohibited from remaining as a man and wife. And in such a divorce, apart from the normal costs, that couple shall not be entitled to claims of any separation costs from each other as laid down in the provisions hereinafter in Section Kha 5-1.

**PROCESSING OF CASE OF ADULTERY IN ABSENCE OF WITNESSES BUT ON CONFESSION OF WIFE ONLY.**

Kha 3-7.

In the absence of an eyewitness or a witness to confirm an act of adultery of a wife with another man, and where only an oral confession of the guilt has been made by the wife, then in such a case, compensation shall have to be paid to the husband of that wife. But from the day the compensation has been so realized, that woman shall have to give a letter of divorce and separate from the husband. And in such a divorce, the costs for separation shall be processed in accordance with the provisions laid down hereinafter in Section Kha 5-7. (Refer Section Kha 2-16 of THRIMSHUNG 1957).

**NON-ADMISSIBLE OF AN OFFENCE AS ADULTERY WITHOUT EVIDENCE.**

Kha 3-8.

An offence shall only be admitted as an act of adultery if the person committing adultery with a woman accepts the guilt or if there is a witness to furnish evidence of the place, time etc. of the offence. Any other suspicious instances, such as, a man and a woman conversing together or caressing each other or eating together etc. shall not amount to an act of adultery.

**RULES GOVERNING COMPENSATION PAYABLE TO WIFE.**

Kha 3-9.

If a married man without contracting a marriage with another woman only keeps her as his paramour (ARO-GARO), then in such a case, the wife of that man shall not be entitled to claim any compensation. In contravention of which, the case shall be processed under the provisions laid down hereinafter in Section Kha 8-16 and Kha 8-17 of this Act.

**RESTRICTION ON CLAIMS FOR COMPENSATIONS.**

Kha 3-10.

An husband or a wife of a couple without a Marriage Certificate or not married in accordance with the provisions laid down hereinafter in Section Kha 9-1 or a couple not recognised as a legally married couple or a wife or husband who has exchanged letters of divorce shall not be entitled to lay claims on any compensations whatsoever. (Refer Section Kha 2-5 of THRIMSHUNG 1957).

**RESTRICTION ON CLAIMING COMPENSATION IF SPOUSE REMAINING AT HOME COMMITS ADULTERY IN ABSENCE OF PARTNER FROM HOME FOR MORE THAN A YEAR.**

Kha 3-11.

Excepting for an husband or a wife in Government service, if any husband or wife leaving the house for personal work has lived apart for more than one year without looking after the welfare of the spouse at home, then if the spouse staying at home commits adultery or contracts another marriage, then notwithstanding that husband or wife away from home remaining faithful to the said spouse at home, that husband and wife away from home shall not be entitled to claim any compensation. (Amendment to Section Kha 2-6 of THRIMSHUNG 1957).

**COMPENSATION PAYABLE TO HUSBAND OR WIFE AT HOME IF SPOUSE AWAY FROM HOME COMMITS ADULTERY.**

Kha 3-12.

But if either the husband or wife who has left home on some personal work, other than on Government duty, has stayed away from home for more than years and commits adultery with third person, then the spouse staying at home shall be entitled to claim compensation thereof, provided the said spouse has remained faithful to that husband or wife absent from home.

**RULES GOVERNING CLAIM OF COMPENSATION BY HUSBAND OR WIFE LEAVING THE COUNTRY.**

Kha 3-13.

If either the husband or wife staying at home of a person who has absconded from the country on being involved in an act of treason against the country or having committed or attempted a crime is guilty of adultery or contracts another marriage, then if that absconder returns subsequently, that absconder shall not be entitled to claim any compensation. But in a case where such an absconder has not left the country, then the matter shall be processed under the provision laid down in the aforesaid Section Kha 3-11 and Kha 3-12. (Refer

Section Kha 2-8 of THRIMSHUNG 1957).

**NON-ENTITLEMENT TO COMPENSATION ON TAKING UP A LIFE OF A RELIGIOUS CELIBATE.**

Kha 3-14.

An husband shall not be entitled to receive any compensation from the day he takes up a life of a religious celibate on renouncing his married life.

**REALIZATION OF COMPENSATION FOR ADULTERY ADMISSIBLE ONLY IF OFFENDER HAS CONFESSED TO GUILT WHILE WIFE WAS STILL ALIVE.**

Kha 3-15.

If a case of adultery involving a married woman with a third person is instituted subsequent to that woman having absconded or expired, then compensation may only be realized if that adulterer had accepted the guilt when that woman was present or alive, otherwise no compensations may be realized.

**NON-REALIZATION OF COMPENSATION BY RELATIVES IF ACTUAL PERSON ENTITLED TO COMPENSATION NOT PRESENT.**

Kha 3-16.

If the husband or wife entitled to realize the compensation has expired or absconded or is absent from home, then the relatives or family members of the house of such a person shall not be entitled to realize the compensation. (Refer Section Kha 2-10 of THRIMSHUNG 1957)

**NON-REALIZATION OF COMPENSATION FROM RELATIVES IN ABSENCE OF THE OFFENDER.**

Kha 3-17.

Except for waiting till the return of an adulterer committing the offence with a married woman, compensation shall not be realized from the relatives or household members of that adulterer.

In like manner, notwithstanding a case of adultery having been instituted in a Court of law prior to the death of the adulterer or where the adulterer had confessed to his guilt, if that adulterer expires, compensation shall not be realized from his relatives or household members. (Refer Section Kha 2-9 of THRIMSHUNG 1957).

**COMPENSATION PAYABLE TO RELATIVES IF SUIT FILED IN COURT OF WIFE'S ADULTERY OR ELOPEMENT IF HUSBAND EXPIRES.**

Kha 3-18.

If an husband submits before a Court of law a petition in a case of a third person committing adultery with his wife or of eloping with her in the form and manner "Nga" set forth in the schedule, and even if that husband expires subsequently, the court shall realize the compensation from the offender and hand it over to the household members and relatives of that deceased husband.

#### **NON-REALIZATION OF COMPENSATION AFTER THIRD OFFENCE OF ADULTERY.**

Kha 3-19.

If a wife without leaving her husband commits adulteries, then in such cases, the husband is entitled to claim compensation for three such offences, but from the fourth such offence, no compensation may be realized.

But where compensation are permissible to be realized in a case of forcible rape as defined hereinafter in Section Kha 8-13, then this Section shall not be applicable. (Addendum to Section Kha 2-17 of THRIMSHUNG 1957 ).

#### **NON-REALIZATION OF COMPENSATION BY FOURTH HUSBAND.**

Kha 3-20.

If any woman contracts successive marriages after leaving her former husbands, then from among the several such former husbands, compensations may be realized by the first three of her former husbands only. And since the realization of compensations are limited to three offences of adultery of a woman throughout her life, no compensation may be claimed for any further acts of adultery, excepting an act of forcible rape as defined hereinafter in Section Kha 8-13 where compensations are permissible to be realized, in which case this Section shall not be applicable.

#### **NON-REALIZATION OF COMPENSATION BY FOURTH WIFE.**

Kha 3-21

If any husband contracts a marriage with a second wife after leaving his first wife, then in such a case, that first wife may realize compensation.

And, if that husband leaves his second wife and marries a third wife and then leaves her and marries a fourth wife, then compensations may be realized only by the second wife from the third wife and the third wife from the fourth wife, but if that husband contracts further marriages after the realization of three such compensations, no further compensations may be realized.

#### **NON-REALIZATION OF COMPENSATION FOR ADULTERY DISCOVERED AFTER**



### **DIVORCE HAS BEEN GRANTED.**

Kha 3-22.

If the husband of a married couple only discovers his wife's adulterous behaviour during their stay together subsequent to their divorce, then no compensation may be admissible for such acts of adultery. (Refer Section kha 2-18 of THRIMSHUNG 1957).

### **NON-REALIZATION OF COMPENSATION FOR ADULTERY BY COUPLES MARRIED CONTRAVENING PRESCRIBED LAWS.**

Kha 3-23.

If a couple has contracted a marriage notwithstanding the provisions debarring them from contracting a marriage as defined hereinbefore in Sections Kha 1-10 and Kha 1-11 or under the provisions laid down hereinbefore in Section Kha 2-21 where a couple is not recognised as a married couple, then subsequently no claims for compensations for any acts of adultery committed by either of such couples shall be admissible.

### **NON-REALIZATION OF COMPENSATION AFTER THIRD OFFENCE OF ADULTERY EVEN IF ONE OF THE CLAIMS HAVE BEEN FORGONE.**

Kha 3-24.

In a case involving a wife in three offences of adultery with three separate persons, then notwithstanding the husband having forgone claims to realize compensation for any one of such offences, from the fourth such offences by the wife with another person, no compensation may be realized.

### **RESTRICTION ON CLAIMING COMPENSATION BY PERSON IN PRISON FOR ACT OF TREASON AGAINST COUNTRY.**

Kha 3-25.

Any husband from the day he is sentenced to serve a term of imprisonment for an act of treason against the country shall not be entitled to realize any compensation if his wife is involved in adultery with another person.

### **REALIZATION OF COMPENSATION IF WIFE COMMITS ADULTERY OR ELOPES WITHIN THREE YEARS OF HUSBAND BEING IN PRISON.**

Kha 3-26.

Any husband serving a term of imprisonment for any other offence other than an act of treason against the country may realize compensation from an offender if his wife staying at home commits adultery or elopes with that offender, provided such an incident occurs within three years from the date of his serving a term of imprisonment. But where the said husband has been serving a term of imprisonment for more than three years, then if his wife

commits adultery or elopes with any other third person, the said husband may not realize any compensation from the offender.

#### **COMPENSATION PAYABLE FOR ATTEMPTED ADULTERY.**

Kha 3-27.

In a case where a third person has attempted to commit adultery with a married woman, then notwithstanding the absence of any proof of the actual act of adultery, that person shall have to pay half the amount of the compensation for attempting to commit adultery.

#### **RULES GOVERNING COMPENSATION PAYABLE FOR ADULTERY INVOLVING A RELIGIOUS CELIBATE.**

Kha 3-28.

Except for settling a case of adultery involving a religious celibate with a married woman in a Court of law, such a case may not be settled by any other person. In contravention of which, that religious celibate shall be punished with a fine to be deposited with the Government amounting to twice the amount of compensation stipulated under the prescribed laws. And in addition, the husband of that adulterous wife shall not be entitled to realize any compensation. (Refer Section Kha 2-4 of THRIMSHUNG 1957).

#### **RULES GOVERNING COMPENSATION FOR ADULTERY INVOLVING A RELIGIOUS CELIBATE.**

Kha 3-29.

If any religious celibate commits adultery with a married woman, then the Court shall realize the stipulated compensation and hand it over to the husband of that woman. Thereafter, the court shall inform the monastic community under which that religious celibate is a member about the adultery, and both that religious celibate and that woman shall be punished with a term of imprisonment as given in Section Kha 3-30.

#### **PUNISHMENT FOR ADULTERY COMMITTED BY A RELIGIOUS CELIBATE.**

Kha 3-30.

In a case involving a married woman and a religious celibate in adultery, a submission in the form and manner "Cha" set forth in the Schedule shall have to be forwarded by the local village headman and his assistant after due consultation to the nearest Court of law. Thereafter, the Court shall sentence both the offenders to six months rigorous imprisonment; and such a sentence shall not be remitted by payment of a fine or by any other compromises. But if the village headman and his assistant fail to submit a report of such an adultery, then they shall be punished with a term of imprisonment extending to

three months each or in lieu a fine stipulated by the Court.

**IMPOSITION OF PENALTY ON THOSE DEBARRED FROM CLAIMING COMPENSATIONS REALIZING SAME.**

Kha 3-31.

If any person who is debarred from claiming compensation under the provisions laid down hereinbefore in Sections Kha 3-10 and Kha 3-11 and from Sections Kha 3-19 to Kha 3-26 realizes compensations, then that person shall be punished with the penalties stipulated hereinafter in Section kha 8-16.

**CHAPTER - FOUR**

**DAMAGES (LOG JYEL) PAYABLE TO HUSBAND BY A CO-RESPONDENT COMMITTING ADULTERY WITH WIFE AND MARRYING HER.**

**RULES GOVERNING REALIZATION OF DAMAGES.**

Kha 4-1.

If any third person commits adultery with a wife of another person and subsequently marries her, then whether or not the respondent has children from her former marriage, and notwithstanding the duration of her marriage with her former husband, the co-respondent in adultery marrying her shall have to pay the said husband the damages (LOGJYEL) prescribed herein under. But where that co-respondent commits adultery only and does not marry her, the no such damages may be realized from that co-respondent.

Similarly, if a married man commits adultery with any other woman and subsequently marries her, then the realization of the damages thereof by his former wife shall be processed in like manner. (Refer Section Kha 2-13 of THRIMSHUNG 1957):

**AMOUNT OF DAMAGES PAYABLE ACCORDING TO DURATION OF MARRIAGES.**

- (Ka) If within three year's duration of couple's marriage, the offender shall have to pay a sum of Ngultrums four hundred as damages; or
- (kha) If within seven year's duration of a couple's marriage, the offender shall have to pay a sum of Ngultrums eight hundred as damages; or
- (ga) If a couple's duration of marriage exceeds seven years, the offender shall have to pay a sum of Ngultrums one thousand two hundred as damages.

**RULES GOVERNING DAMAGES IF THERE ARE TWO OR MORE WIVES.**

Kha 4-2.

If a married man who has two or more wives commits adultery with some other woman and then marries her, then that wife shall have to pay damages to each of that man's former wives as prescribed by law. But if any one wife from among such wives does not have a Marriage Certificate, then she shall not be entitled to realize any damages.

**PAYMENT OF DAMAGES ON RETURN OF A PERSON ENTICING ANOTHER'S WIFE.**

Kha 4-3.

Any person who returns subsequent to his enticing the wife of another man shall have to pay the stipulated amount of damages prescribed by law to the said husband of that woman. Similarly, any other woman who returns subsequent eloping with a married man, and whether or not that man returns, shall have to pay the stipulated amount of damages to the former wife of that man in like manner. (Amendment to Section kha 2-14 of THRIMSHUNG 1957).

**PAYMENT OF DAMAGES ON RETURN OF DAMAGES ON RETURN OF ENTICER EVEN IF HUSBAND OF THE WOMAN REMARRIES.**

Kha 4-4.

Any person who returns subsequent to his enticing away the wife of another man shall still have to pay the amount of damages to the husband of returns and notwithstanding the said husband having contracted another marriage.

**PAYMENT OF DAMAGES ON RETURN OF WOMAN ELOPING WITH ANOTHER'S HUSBAND EVEN IF FORMER WIFE REMARRIES.**

Kha 4-5.

Any woman who returns subsequent to her elopement with a married man, and whether or not that man returns, shall have to pay the amount of damages to the former wife of that man, notwithstanding the former wife having contracted another marriage.

**PAYMENT OF DAMAGES TO RELATIVES OF DECEASED IF A SUIT OF ELOPEMENT OF HIS WIFE FILED IN COURT PRIOR TO HIS DEATH.**

Kha 4-6.

If the husband prior to his death has forwarded a submission to a Court of law in the form and manner "Nga" set forth in the Schedule to file an elopement suit of his wife with a third person, then even if that husband expires, the damages so realized shall be paid to his joint family members.

Similarly, if a wife had forwarded a submission to a Court of law in the aforesaid form and manner in a case of enticement of her husband by another woman, then on the return of that woman enticing the husband, the payment of the damages shall be settled in like manner even if the said wife has expired.

**RULES GOVERNING DAMAGES IF SUIT FILED IN COURT PRIOR TO DEATH OF HUSBAND OR WIFE IF THERE ARE NO RELATIVES.**

Kha 4-7.

In cases of elopement, if either the husband or wife staying at home expires without filing a suit in a Court of law, then even if the person who has enticed the said spouse of the deceased husband or wife returns, no person may realize any damages from that person.

But if a suit has been filed in a Court and the husband or wife staying at home expires and if there are no joint family members also, then the amount of damages so realized shall be given to the person who performed the last rites for the deceased husband or wife.

**RESTRICTION ON CLAIMING ANY DAMAGES UNTIL RETURN OF THE PERSON ENTICING WIFE OR HUSBAND.**

Kha 4-8.

Except for waiting until the return of the person enticing the wife of another man, nothing of any value shall be realized in the form of damages from the household members of that person, In like manner, in a case of elopement of a woman with another's husband, the same ruling thereof shall be applicable.

**RESTRICTION ON REALIZING ANY DAMAGES FROM FAMILY OR RELATIVES OF DECEASED WHO HAD ENTICED THE WIFE OR HUSBAND.**

Kha 4-9.

Notwithstanding a suit having been filed in a Court of law prior to the death of a person who had enticed the wife or husband, the realization of any damages from the household members and relatives of that deceased person shall be strictly prohibited.

**NON-REALIZATION OF DAMAGES BY A PERSON ABSENT FROM HOME FOR OVER A YEAR IF HIS SPOUSE AT HOME REMARRIES.**

Kha 4-10.

If a person has been absent from home for over a year on some personal work, apart from being on Government duty, and neglects his or her spouse at home, then in the event of that spouse at home, contracting another marriage, that person shall not be entitled to realize any

damages whatsoever, even if that person had remained faithful to his or her spouse at home.

**REALIZATION OF DAMAGES BY SPOUSE AT HOME IF PERSON ABSENT FROM HOME FOR OVER A YEAR CONTRACTS ANOTHER MARRIAGE.**

Kha 4-11.

However, if a person, apart from being on Government duty, has been absent from home for over a year and if that person contracts another marriage, then his or her spouse staying at home shall be entitled to realize damages, provided the said spouse has remained faithful to that person absent from home.

**NON-REALIZATION OF DAMAGES IF ALREADY REALIZED THRICE FOR A WOMAN'S FAULT.**

Kha 4-12.

In a case where a woman after leaving her successive husbands contracts marriages with several successive husbands, then her former successive husbands shall be entitled to realize damages once only to the limit of three such damages on account of that one woman, subsequent to which no further damages may be claimed.

**NON-REALIZATION OF DAMAGES IF REALIZED THRICE FOR A MAN'S FAULT.**

Kha 4-13.

Similarly, in a case where a man after leaving his successive wives contracts marriages with several other successive woman, then his former wives shall be entitled to realize damages once only to the limit of three such damages from that one man, subsequent to which no further damages may be claimed.

**NON-REALIZATION OF DAMAGES AFTER THE THIRD TIME EVEN IF ONE OF THE CLAIMS ARE FORGONE.**

Kha 4-14.

If a woman because of her depraved character has contracted several marriages and if three amounts of damages have been realized for three such incidents because of that woman's depravity, including the forgoing of claims on any one of such damages by the husband for such marriages, then no further damages may be claimed.

**RULES GOVERNING REALIZATION OF DAMAGES BY A PERSON SERVING PRISON TERM.**

Kha 4-15.

Where a person is serving a term of imprisonment and has been in prison for over three

years for committing a crime, and if that person's spouse at home contracts another marriage after acquiring a deed of divorce (YIKTHI) from a Court of law, then that person still in prison shall not be entitled to realize any damages.

But where that person's spouse at home contracts another marriage within three years of that person being sentenced to a term of imprisonment, then on the release of that person from prison, he or she may realize the damages, provided that he or she had not been involved in any act of treason against the country.

#### **RULES GOVERNING REALIZATION OF DAMAGES IF SPOUSE OF AN ABSCONDER REMARRIES.**

Kha 4-16.

In a case where the spouse of an absconder fleeing away after committing an act of treason against the country or violating the law contracts another marriage, then no amount of damages shall be realized. But where that absconder has not left the country, then in such a case, the realization of damages shall be processed with under the provisions laid down in the aforesaid Sections Kha 4-10 and Kha 4-11.

## **C H A P T E R - F I V E .**

### **SEPARATION COSTS (DOAG JINPHEY SHENTHUI) ON DIVORCE OF A COUPLE.**

#### **RULES GOVERNING SETTLEMENT OF SEPARATION COSTS.**

Kha 5-1.

In any proceedings under this Act on a petition for dissolution of marriage by a decree of divorce, then whether or not the said couple have children and whether the husband or the wife is guilty of committing any misdemeanour with a third person, and irrespective of the benefits derived from each other during their stay together, that party to the marriage seeking the divorce thereof shall have to pay the separation costs (DOAG SHENTHUI) according to the duration of their marriage as prescribed herein under :

#### **AMOUNTS OF SEPARATION COSTS PAYABLE ACCORDING TO DURATION OF MARRIAGES.**

- (Ka). If within three year's duration of their marriage, the party seeking divorce shall have to pay Ngultrums five hundred;
- (Kha). If within seven year's duration of their marriage, the party seeking divorce shall have to pay Ngultrums one thousand; or
- (ga). If the duration of their marriage exceeds seven years, the party seeking divorce shall have to pay Ngultrums one thousand five hundred.

#### **Rules governing settlement of separation costs on wife's or husband's elopement to partner remaining at home.**

Kha 5-2.

If any wife who has eloped returns, then whether or not that third person enticing her returns, that wife shall have to pay the separation costs to her former husband in the amounts prescribed by law, notwithstanding her former husband having contracted another marriage in the meantime, provided the said husband is still alive.

But where a wife has eloped with a third person and a suit has been filed in a Court of law in the form and manner "Nga" set forth in the Schedule, then even if the said husband expires, the stipulated separation costs prescribed by law shall be realized by the Court and made over to the household members of the deceased; and if there are no such persons, then the said amount shall be paid to the person who had performed the last rites of the said deceased husband.

Similarly, if any husband who has eloped with some other woman returns, then whether or



not that woman returns, the realization of the separation costs shall be processed in like manner as defined in the aforesaid paragraph.

**Rules governing realization of separation costs from parents.**

Kha 5-3.

In a case where a dissolution of a marriage has been granted by a decree of divorce on the grounds of either the husband's or wife's parents and guardians being not reconciled to the couple's marriage, then the separation costs payable as prescribed by law shall have to be paid by either the said parents or guardians whoever has caused the divorce.

**Separation costs payable on divorce of a person taking up a life of a religious celibate.**

Kha 5-4.

No husband or wife shall realize any separation costs from a spouse who has sought divorce on taking up a life of a religious celibate.

But if subsequent to such a divorce, that spouse either fails to attain a life of a religious celibate or prior to the expiry of three years from taking up a religious life, he or she instead establishes another family or house, then whether or not his or her former divorced wife or husband has contracted another marriage, he or she who had sought the divorce on taking up a life of a religious celibate shall have to pay separation costs as prescribed by law; and in addition shall be punished with a term of imprisonment extending from three months to six months.

**Rules governing realization of separation costs by a wife acquiring a deed of divorce from a Court on her husband contracting another marriage.**

Kha 5-5.

In the event of a man having one or more wives contracting another marriage his former wives seeking divorce acquire deeds of divorce (YIKTHI) from a Court of law, then that man shall have to pay the separation costs as prescribed by law to each of his former wives.

But if any wife from among his former wives is guilty of committing a misdemeanour with a third person, then such a wife shall not be entitled to any separation costs whatsoever.

**Non-realization of separation costs by a person absent from home for over a year if deed of divorce acquired by spouse at home.**

Kha 5-6.

If any person, except for being on Government duty, has been living apart from his or her household family members for more than a year because of some personal work, and if his

or her spouse staying at home seeking divorce acquires a deed of divorce from a Court of law, then on the return of that person away from home, the realization of the separation costs from the said spouse who had sought the divorce shall not be admissible.

But where a deed of divorce has been acquired by that person living apart from his or her household family members, notwithstanding that person being restricted from acquiring such a deed, then that person shall only be exempted from paying the separation costs if evidence can be furnished of the perfidious behaviour on the part of his or her spouse at home towards him or her; but where no such evidence is forthcoming, the separation costs shall have to be paid.

#### **Separation costs payable by person admitting guilt.**

Kha 5-7.

Except for the confession of the guilt by the wife in the absence of a witness to furnish evidence or an eye witness to an act of a misdemeanour committed by that wife with a third person, then when a divorce is granted to the husband from that wife, the said wife who had admitted the guilt shall have to pay the separation costs.

#### **Separation costs payable to individual wives if husband contracts another marriage.**

Kha 5-8.

If a man having more than one wife contracts another marriage and wilfully neglects his former wives, then that man shall have to pay the separation costs to each of his former wives in accordance with the duration of their individual marriages with him.

#### **Separation costs payable by person committing misdemeanour with an-other's wife.**

Kha 5-9.

If any man has more than one wife and if one of the wives has to be divorced because of her committing a misdemeanour with a third person, then the co-respondent involved in that act shall have to pay the separation costs to the said husband of that woman.

#### **Separation costs and fines payable for divorce by fraud.**

Kha 5-10.

If any husband intending to leave his wife connives in collusion with his friends and makes them commit adultery with his wife to divorce her or if proof is furnished of such fraudulent collusion, then that husband shall have to pay the separation costs. In addition, he shall be punished with a fine extending from Ngultrums three hundred to six hundred for committing the fraud.

**Separation costs payable by party seeking divorce on grounds of sterility etc.**

Kha 5-11.

Where a divorce has been granted on the grounds of either the husband or the wife being sterile or of the husband being impotent or because of either of the parties to the marriage being unable to consummate their marriage to each other's satisfaction, then the said party acquiring a deed of divorce from a Court of law shall have to pay the separation costs.

**Separation costs payable to a person serving a prison sentence.**

Kha 5-12.

Any person who is undergoing imprisonment and has served a term of prison sentence for over three years shall not be entitled to claim any separation costs if his or her spouse at home contracts another marriage.

But if such a marriage is contracted while what person was still serving a term of imprisonment which had not exceeded three years or if that person had been sentenced to prison for an act of treason against the country, then in such a case, the realization of separation costs shall be kept in abeyance until that person is released from prison after completing the full term of imprisonment for an offence other than an act of treason against the country, and on his or her release from prison the realization of the separation costs shall be processed in accordance with the prescribed rules.

**Separation costs payable by party desiring divorce on grounds of incompatibility.**

Kha 5-13.

If either the husband or wife neither of whom is guilty of unreasonable behaviour seeks a divorce on grounds of incompatibility, then the party to the marriage who had desired the divorce shall have to pay the separation costs.

**Separation costs payable by person beating wife or husband.**

Kha 5-14.

If a deed of divorce has been granted by a Court of law because of the husband's cruelty in beating his wife or her relatives, then in such a case, that husband who has beaten his wife shall himself be liable to pay the separation costs.

Similarly if a divorce has been granted because of the wife's cruelty in beating her husband and his relatives, the case shall be processed in like manner.

**Separation costs payable by party seeking divorce on grounds of negligence.**

Kha 5-15.

If a couple seek a divorce on the grounds of wilful negligence by either of the parties to a

marriage, then that party seeking divorce from a Court of law shall be liable to pay the separation costs thereof.

**Rules governing separation costs if wife or husband of an absconder marries.**

Kha 5-16.

If either the wife or husband of an absconder leaving the country contracts another marriage, then in such a case, no claims for separation costs shall be admissible.

But if that absconder had not left the country, then the claims for the separation costs shall be processed under the provisions laid down in the aforesaid Section Kha 5-6.

**CHAPTER SIX**

**DEED OF DIVORCE (YIKTHI) ON OBTAINING DIVORCE.**

**Rules governing exchange of deed of divorce.**

Kha 6-1.

In any proceedings under this Act where a dissolution of marriage is sought by a decree of divorce, the husband and wife shall have to exchange deeds of divorce (YIKTHI) in the form and manner "Jhha" set forth in the Schedule. (Refer Section Kha 3-1 of THRIMSHUNG 1957).

**Amount payable when exchanging deed of divorce.**

Kha 6-2.

Any couple whether or not they have children, and whether or not they have looked after each other, and notwithstanding the duration of their marriage, shall on divorcing exchange between them deeds of divorce; and the party to the marriage through whose default the divorce has had to be sought shall have to pay a sum (YOKTHEN) for the deed of divorce amounting to Ngultrums fifty. (Amendment to Sections Kha 4-1, Kha 4-2 and Kha 4-3 of THRIMSHUNG 1957).

**Restriction on exchanging deed of divorce by a person without authority.**

Kha 6-3.

Where the husband or the wife is unable to be personally present for exchanging a deed of divorce, and in consequence any third person or any member of the joint family is duly authorised and deputed thereof, then that person shall be permitted to execute the exchange of the deed of divorce on behalf of that absent husband or wife, provided a submission is presented to a Court of law in the form and manner "Cha" set forth in the Schedule. And

except for this procedure, no person shall under any circumstances be entitled to exchange deeds of divorce. (Refer Section Kha 3-2 of THRIMSHUNG 1957).

**Penalty on exchanging deed of divorce contravening the law.**

Kha 6-4.

It shall be incumbent upon any couple who have been divorced to abide with the conditions laid down herein under subsequent to their executing a deed of divorce. In contravention of which, the offender shall be punished with a fine extending from Ngultrums one hundred and fifty to Ngultrums none hundred or a term of imprisonment extending from one to six months or with both.

And if there is any scribe who has written out such an agreement contravening the law or any witnesses thereto, then they shall each be punished with a term of imprisonment extending to half the term imposed on that offender or with a fine equivalent to half the amount imposed on that offender:

**Conditions prescribed for executing a deed of divorce.**

- Ka). Subsequent to the grant of the divorce, if either of the parties to the marriage wishes to contract another marriage, no disputes shall be raised by the other divorced party.
- (kha). The sharing of any properties, livestock etc. shall be processed in accordance with the Inheritance Act; and if any property is not at hand during the sharing, then after a proper declaration, the preparation in which such a property is to be shared between the parties involved thereof shall be written down.
- (ga). If a divorce is sought on the grounds of suspicion on either the husband or wife having an affair with a third person with an intention to marry that person, then such a third person shall be clearly named in the agreement and a condition laid down to strictly prohibit a marriage from taking place between such a person and the husband or wife under suspicion. But apart from naming such a third person, the naming of other persons in the agreement to restrain them from holding talks, making friends or meeting etc. with the party under suspicion shall not be permitted. (Refer Section Kha 3-9 of THRIMSHUNG 1957).
- (nga). A condition shall not be laid down that on failure to produce any property to be shared on a specified date, double its value shall be given or a condition made contrary to the prescribed law in order to raise a dispute subsequently. (Refer Section Kha 3-9 of THRIMSHUNG 1957).

(cha). If the husband forgoes the realization of separation costs and damages from the co-respondent involved with his wife in a misdemeanour causing the divorce on the condition that the said co-respondent himself shall take the wife and live with her together for a specified period, then such a period shall be laid down for a maximum period of upto seven years and not more. In contravention of which, the amount payable to that husband by the co-respondent shall have to be paid to the Government and that husband shall have to deposit with the Government the amount of indemnity (BA) declared in the agreement for contravening the law.

(chha). Subsequent to the drawing up of the deeds of divorce, judicial stamps shall have to be affixed by the wife on the deed to be given to the husband and by the husband on the deed to be given to the wife. In addition, the deeds shall have to bear the signatures of the witnesses to the divorce.

#### **Rules governing sharing of properties after exchange of deed of divorce.**

Kha 6-5.

Subsequent to the exchange of the deeds of divorce, the sharing of the properties shall be undertaken in accordance with the conditions laid down in the deed of divorce. And if any particulars of a property have been omitted at the time of sharing in this manner, then that property shall not be shared out but shall be retained by the party having its possession. And in such a case, no person shall be entitled to raise any objections. (Amendment to Section Kha 3-4 of THRIMSHUNG 1957).

#### **Punishment for contravening conditions laid down in deed of divorce and written agreement.**

Kha 6-6.

If subsequent to the exchange of the deeds of divorce and the written agreement any person contravenes the conditions laid down therein by violation the laws, then the offender shall have to bear all the punishments declared under an indemnity given in the agreement thereof.

#### **Rules governing grant of deed of divorce to spouse of a person absent from home for over a year.**

Kha 6-9.

If any person, apart from being on Government duty, has been living away from home for some personal work for more than a year, then if his or her spouse at home approaches a Court of law for a grant of a deed of divorce, then the Court shall grant the deed of divorce. And the separation costs liable in such a case shall be processed under the provisions laid down hereinbefore in Section Kha 5-6. (Refer Section Kha 3-7 of THRIMSHUNG 1957).

**Rules governing grant of deed of divorce to spouse of an absconder.**

Kha 6-10.

From the day an absconder flees the country and if his or her spouse approaches a Court of law for a grant to a deed of divorce, then the Court shall grant the deed of divorce. And if that absconder returns to the country, then the realization of the separation costs shall be processed under the provisions laid down hereinbefore in Section Kha 5-13.

But if that absconder had not left the country, then the realization of the separation costs shall be processed under the provisions laid down hereinbefore in Section Kha 6-9. (Amendment to Section Kha 6-8 of THRIMSHUNG 1957).

**Rules governing grant of deed of divorce on grounds of sterility, impotence or in consummation of a marriage.**

Kha 6-11.

In any proceedings under this Act if a petition for a divorce is sought on the grounds of either the husband's or wife's sterility or impotency of the husband or a marriage being unconsummated to each other's satisfaction, then in such a case, if the Court on enquiry finds that the grounds submitted thereof are true, a deed of divorce shall be granted by the Court. And the liability of the separation costs shall be processed under the provisions laid down hereinbefore in Section Kha 5-11.

**Rules governing grant of deed of divorce to a spouse of a person who has served imprisonment for three or more years.**

Kha 6-12.

If because of a person having served a term of imprisonment for three or more years his or her spouse at home approaches a Court of law for a grant of a deed of divorce, then the Court shall grant the deed of divorce. In such a case, the liability for the separation costs shall be processed in accordance with the provisions laid down hereinbefore in Section Kha 5-12.

**Rules governing grant of deed of divorce if couple neglects each other.**

Kha 6-13.

In any proceedings under this Act if a petition for divorce is submitted to a Court of law on the grounds of wilful negligence by one of the party to the marriage or where because of the incompatibility of their marriage in which no mutual benefit is derived, than the Court shall grant a deed of divorce. And in such a case, the liability for the separation costs shall be processed in accordance with the provisions laid down hereinbefore in Section Kha 5-15.

**Declaration of divorced from day absconder flees the country on committing an act to treason against the country even if deed of divorce not acquired.**

Kha 6-14.

If any man or woman being involved in an act of treason against the country flees the country, then from the date that absconder has so fled away, his or her spouse at home shall be deemed to have been divorced, whether or not a deed of divorce has been acquired from a Court of law. And in such a case, the realization of the separation costs shall be processed in accordance with the provisions laid down hereinbefore in Section Kha 5-16.

**Declaration of divorce from day a spouse takes up a life of a religious celibate.**

Kha 6-15.

From the day a married man or woman takes up a life of a religious celibate, his or her spouse at home shall be deemed to have been divorced, whether or not a deed of divorce has been acquired. In such a case, the realization of the separation costs shall be processed in accordance with the provisions laid down hereinbefore in section Kha 5-4.

**Restriction on taking out a deed of divorce without having a Marriage Certificate.**

Kha 6-16.

A couple having no Marriage Certificate (NYENTHAM) shall be debarred from a grant of a deed of divorce (YIKTHI) from a Court of Law.



## **CHAPTER SEVEN**

### **CUSTODY (THOB-LAM) OF CHILDREN AND THEIR MAINTENANCE AND SETTLEMENT OF JOINT EXPENSES (SEY-CHI) ON DIVORCING.**

#### **Rights of custody of children on divorce.**

Kha 7-1.

In any proceedings under this Act where a couple having children have been granted a divorce, then whether or not they have looked after each other during their stay together, and irrespective of either of the parties to the marriage having committed a misdemeanour, their children aged nine years and upwards, subsequent to their divorce, shall have the rights to choose whether they wish to live with the father or the mother. (Amendment to Section Kha 5-12 of THRIMSHUNHG 1957).

#### **Rights of mother over custody of children below nine years.**

Kha 7-2.

In any proceedings under this Act where a couple having children have been granted a divorce, the custody of the children not attaining the age of nine years shall be given to the mother. (Amendment to Section Kha 5-13 of THRIMSHUNG 1957).

#### **Rules governing maintenance and expenditure for children's up bringing.**

Kha 7-3.

(1) If because of a misdemeanour by a husband, a couple has been granted a divorce, then the custody of the children not attaining the age of nine years shall be given to the mother and their maintenance shall be done according to any mutual agreement between that couple. But in the absence of any such agreement, where a suit has been filed in a Court of law, then if that mother has not contracted another marriage, the father shall have to pay a sum in cash amounting to Ngultrums thirty a month to each of his children once a year or at one time, depending on his convenience, through a Court of law in lieu of giving them cereals, meat, butter, clothing etc.

(2) Where the children have chosen to live with the father, then they shall not be entitled to any allowances from the mother

And

(3) Where the mother expires prior to the children attaining nine years, the father shall have to take over the custody of such children. And if he refuses to do so, then their monthly allowances shall have to be paid to the person who will look after them.

#### **Restriction on verifying expenditure for maintenance.**

Kha 7-4.

Subsequent to a divorce, it shall be prohibited to ask for accounts of the maintenance allowance given by the father to verify if such allowances have been properly expended.

**Non-entitlement of maintenance if divorce due to wife's default.**

Kha 7-5.

Subsequent to a divorce being granted on the grounds of a misdemeanour having been committed by a wife, no maintenance allowance shall be admissible to that wife for the children. But where a couple had been living apart prior to their divorce, then the maintenance allowance for the children shall have to be processed in accordance with the provisions laid down in the Inheritance Act.

**Rules governing settlement of expenses for marriages.**

Kha 7-6.

- (1). If a couple has to seek a divorce within three years of their marriage because of a misdemeanour committed by one of the parties to the marriage, then the costs incurred for their marriage shall, after accounting, have to be borne by the party guilty of the misdemeanour. But where a divorce is granted after more than three years of marriage, then neither parties to the marriage shall be liable to pay such costs.
- (2). For finding out the costs incurred for a marriage, the amount determined by the village headman or member of the Assembly (CHIMI) or by a minimum of three impartial witnesses not related to either of the parties to the marriage shall be accepted.
- (3). However, in any case the limitation for claims of such costs shall not exceed three thousand Ngultrums.

**Rules governing realization of expenses on each other on divorcing.**

Kha 7-7.

In any proceedings under this Act where a couple with or without children are granted a divorce, then notwithstanding the duration of their marriage, the settlement of the expenses incurred for their individual benefits when living together or the amounts jointly expended or the amounts given to each other or to their respective relatives on their own express consent or the amount expended for their individual personal work or the partitioning of the properties shall all be processed under the provisions laid down in the Inheritance Act. (Refer Section Kha 5-4, Kha 5-5 and Kha 5-7 of THRIMSHUNG 1957).

**Settlement of costs to be made according to prescribed law.**

Kha 7-8.

In any proceedings under this Act where a married couple living together have been granted a divorce, then notwithstanding them having no Marriage Certificate (NYENTHAM) or not being recognized as a legally married couple as prescribed by law, the settlement of any costs, in such a case, shall be processed in accordance with the provisions laid down from the aforesaid Section Kha 7-1 to Kha 7-7 of this Chapter of this Act.

## **CHAPTER EIGHT**

### **LEGAL PROCEEDINGS FOR ADULTERY BY FRAUD OR ENTICEMENT (LOTIT GOKOR), RAPE OF MINOR (MAMIMPER CHOEPA), FORCIBLE RAPE (WANGTSEKHI CHOEPA) AND CONTRAVENTION OF MARRIAGE LAWS.**

#### **Compensation for mother of an illegitimate child.**

Kha 8-1.

In any proceedings under this Act where a suit has been filed in a Court of law on the grounds of an unmarried woman having been made pregnant, and if the person committing the offence is presented before the Court with supporting evidence, then the Court shall realize a compensation of Ngultrums five hundred from that offender and give it to that woman for her medical treatment and maintenance of that illegitimate child.

#### **Liability of expenses on death of an illegitimate child's mother.**

Kha 8-2.

If such a woman expires while giving birth to that child, then whatever fines have been prescribed by law in a case of accidental death under the provisions laid down in the Penal Code (THRIMGYEL THRIMYIG) shall be realized from the offender by a Court of law and given to either the parents or the household members of that deceased woman for her funeral rites. And where no such persons exist, the amount shall be given to the villagers of that deceased and the said villagers shall together have the last rites performed for that deceased woman.

#### **Responsibility for the upbringing of the child.**

Kha 8-3.

If the mother expires in this manner and where there are no relatives of the deceased to bring up that child, then it shall be incumbent upon the person who had committed the misdemeanour with that deceased woman to bring up the said child.

#### **Punishment on breach of trust to marry a woman.**

Kha 8-4.

If any man cohabits with a woman on the promise of marrying her but subsequently divorces her without having acquired a Marriage Certificate, then that woman shall be entitled to acquire a Marriage Certificate after paying the stipulated fine, and following the divorce, she shall be given all such properties as are entitled to her by law. In addition, that man who had deceived her shall be punished in accordance with the penalties laid down in the Section of fraud under the Penal Code.

**Imposition of punishment for procuring a married woman with intent to commit adultery.**

Kha 8-5.

If any person causes a married woman to be procured and commits adultery with her, then that person shall have to pay the damages prescribed by law to the husband of that woman; and the person who had procured her shall also be punished with a fine amounting to half the damages imposed on that offender. But if the said procurer himself had also committed adultery with that woman, then he shall have to pay the full amount of the damages and in addition a fine amounting to half the amount of the damages so imposed.

And if the said procurer had forcibly abducted that woman, then in addition to the imposition of the damages and fines mentioned in the aforesaid paragraph, he shall be punished with the penalties as laid down hereinafter in Section Kha 8-12.

And where an unmarried woman has been so procured, then the person sending for that woman and the procurer shall both be punished with the damages and fines prescribed hereinafter in Section Kha 8-11 and shall have to undergo a term of imprisonment as prescribed by law.

**Imposition of punishment for causing rift between a married couple by making false allegations.**

Kha 8-6.

If any person causes a dispute between a couple who are innocent of committing any misdemeanours or brings a false allegation of a misdemeanour on the part of either of the parties to cause a divorce between them, then such a person shall be punished with a term of imprisonment extending from one month to six months or with a fine amounting from Ngultrums one hundred and fifty to Ngultrums nine hundred or with both, depending upon the gravity of the offence.

**Imposition of punishment if woman having illicit relations with several men falls sick.**

Kha 8-7.

(1). If a woman who had consented to have illicit relations with one or two men is injured because of several other men also having enjoyed her, then in such a case, a

report shall have to be submitted to the local Court of law or village elders within twenty-four hours of the incident, excluding the time taken for making the journey to submit the report

And

- (2). If that woman who had been used for immoral purpose is not of a loose, immoral character, then that person who had procured her and each of those men involved in an immoral act with that woman shall have to pay Ngultrums fifty to Ngultrums two hundred to that woman, depending upon the gravity of each of their individual faults; in addition each of those men involved in the act, excepting that procurer, shall have to deposit with the Court in the form of a fine a sum equal to double the amount paid as damages to that woman, but that procurer shall have to pay a sum equal to double the amount paid by the other offenders as damages and fines.

But

- (3). If that woman is of a loose and immoral character then the offenders shall be exempted from paying any damages to that woman but shall have to pay the fines to the Government.

#### **Imposition of punishment if woman expires in an incident as mentioned in Section Kha 8-7.**

Kha 8-8.

- (1) If such a woman succumbs to her injuries when committing such an act, then that person who had procured her and those persons involved in the act shall have to each pay the stipulated amount as prescribed in the section of culpable homicide under the Penal Code as contribution towards the expenses for the last rites for that woman

And

- (2) Because of the death of that woman resulting from the carelessness on the part of those offenders, the person who had procured her and the other offenders shall each be punished as prescribed by law

And

- (3) In addition that procurer shall have to pay an amount determined by a Court of law as damages to the household members of that deceased woman.

#### **Imposition of punishment for rape of minors. (amended)**

Kha 8-9.

Whereas a girl who has not attained the age of sixteen years is deemed to be a minor, a report of a forcible rape committed on such a minor girls shall have to be submitted by her relatives to the nearest Court of law or to the village elders who on receiving such a report shall have it forwarded to a Court of law. Thereafter, the Court, after making an enquiry, shall realize an amount for damages amounting from Ngultrums five hundred to Ngultrums one thousand from the offender, depending upon the gravity of the harm caused to that minor girl; and in addition, the offender shall be punished with a term of imprisonment extending from one to three years. (Amendment to Section Kha 6-2 of THRIMSHUNG 1957).

**Imposition of punishment if a minor expires in an incident as mentioned in Section Kha 8-9.**

Kha 8-10.

If by the commitment of such an act, the minor girl expires, then that offender shall have to pay the maximum amount of the stipulated damages prescribed in the aforesaid Section. In addition, that offender shall be punished with a term of imprisonment of seven years, and such a term of imprisonment shall not be remitted by paying any amount of fine in lieu thereof.

**Imposition of punishment for forcible rape of a woman. (amended)**

Kha 8-11.

In a case of forcible rape committed on any woman, a report of the offence shall have to be submitted to the nearest Court of law or to the village elders who on receiving such a report shall forward it to a Court of law. And such a report shall have to be submitted within twenty-four hours of the occurrence, excluding the time taken for the journey to make such a report.

Thereafter, the offender shall be punished with a fine of Ngultrums six hundred and a term of imprisonment of three months. And in addition, that offender shall have to pay as damages to that woman an amount equal to half the amount of fine paid to the Court. But if that woman does not submit a report of such an incident, then the offence shall not be deemed to be an act of forcible rape. And if any couple has filed a suit in a Court of law for grant of divorce on the grounds of forcible rape by the husband of the wife and if that husband and wife has engaged in sexual intercourse but against the wishes of either of the parties whilst the case was pending in the Court, then such a case shall not be deemed to be a case of forcible rape. (Addendum to Section Kha 6-1 of THRIMSHUNG 1957).

**Imposition of fine on forcible rape of a married woman. (amended)**

Kha 8-12.

(1) If any person has illicit relations with a married woman against her wishes, then a report shall have to be submitted as mentioned in the aforesaid Section Kha 8-11.

Thereafter, the Court shall determine whether or not that woman is of a loose, immoral character; and where that woman is found to be of a good, moral character, then the offender shall have to pay the stipulated amounts of fines and damages prescribed in the aforesaid Section. And in addition, the said offender shall have to pay the compensation to the husband of that woman as prescribed by law.

- (2). If the report of such a forcible/rape is not submitted within the stipulated period, and if subsequently some other third person reports the incident, then such an offence shall not be deemed to have amounted to an offence of forcible rape, and in consequence that offender shall not be liable to pay the fines and damages for forcible rape, excepting the payment of compensation to the husband of that woman

And

- (3). where evidence is furnished that the said woman is a person of loose, immoral character, then the offender shall be exempted from paying any fines or damages but shall have to pay the compensation to the husband of that woman. (Addendum to Section Kha 2-3 of THRIMSHUNG 1957).

**Imposition of punishment for forcible rape of a married woman by several persons.**  
(amended)

Kha 8-13.

In a case where two or more men forcibly rape a married woman, and if that woman herself submits a report of the incident within the stipulated time as laid down in the aforesaid Section Kha 8-11, and if the Court is satisfied that the said woman bears a good, moral character, then each of the offenders shall have to pay the compensation and a sum of Ngultrums six hundred as damages to the said woman. And in addition, each of the offenders shall be imposed with the punishment as laid down in the aforesaid Section Kha 8-11 for forcible rape.

But if evidence is furnished that the said woman is of a loose, immoral character, then the offenders shall be exempted from paying any damages to that woman but shall be liable only to pay the fines imposed by the Government and compensation thereof to the husband of that woman. But if a report of such a forcible rape is not submitted by the said woman herself, then excepting compensations that shall have to be paid to that woman's husband by the offenders, no damages or fines shall be imposed on them.

**Imposition of punishment for realizing an amount in excess to that prescribed by law.**

Kha 8-14.

If a case has been settled by a compromise by realizing a sum less than that stipulated under this Marriage Act, then such a compromise shall be valid. But realization of an amount exceeding the stipulated amount prescribed by law shall be strictly prohibited. In

contravention of which, the amount so realized in excess shall have to be returned and the balance amount which was permissible for realization shall be confiscated by the Government. (Refer Section Kha 2-1 and Kha 2-2 of THRIMSHUNG 1957).

**Imposition of fines when a written agreement or an oral settlement is executed for realizing excess amounts than prescribed by law.**

Kha 8-15.

If any scribe executes a written agreement or makes an oral settlement for realization of an amount in excess of the prescribed sum, then that scribe executing the written agreement or making the oral settlement and witnesses thereto and the sureties shall be punished with fines equal to half the excess amount of the stipulated sum so realized.

**Imposition of punishments for contravening provisions of Marriage Act.**

Kha 8-16.

If any scribe executes a written agreement or makes an oral settlement in contravention of the provisions laid down in this Marriage Act for realization of the prescribed amounts, then whatever amounts have been so realized shall have to be returned to the said person from whom such realizations were made, and the said person who had realized such an amount shall have to pay a fine to the Government equal in amount to the sum so realized. In contravention of which, the said person shall be punished with a term of imprisonment of six months; and the scribe executing the written agreement or making the oral settlement and witnesses thereto shall all be punished with a fine equal to half the amount imposed on the said person who had realized the amount and in addition shall have to undergo half the term of imprisonment imposed on the said person.

But if the scribe of the written agreement and the person making the oral settlement is one and the same person, then the said scribe shall not be liable to the punishments imposed on separate counts, but shall be liable to one punishment only. (Addendum to Section Kha 2-12 of THRIMSHUNG 1957).

**Imposition of punishment if wife provokes mistress of her husband.**

Kha 8-17.

If any man without deserting his wife keeps another woman as his mistress, and if his wife either attempts to or seizes the properties of that mistress or does any act to provoke her or assaults her or injure her or files a suit in a Court of law or does any act to cause harm to that mistress, then whatever properties had been so seized shall have to be returned. And for stealing the properties of that mistress and for assaulting her, the said wife shall be liable to the punishments and fines on each of the separate counts as prescribed by law. And where any of the incidents are not covered specifically by law, the said wife shall be punished with a fine extending from Ngultrums one hundred to Ngultrums three hundred.



**Restriction on causing harm to an offender involved in an act of misdemeanour.**

Kha 8-18.

An husband and a wife shall refrain from committing any act that may cause harm to the third person involved in adultery with the wife or to the other woman involved in adultery with the husband. And excepting for realizing the stipulated compensations or damages prescribed by law, no harmful acts as mentioned in the aforesaid Section Kha 8-17 shall be committed against the said offender. And where such acts have been committed, then that husband or wife shall be punished with the fines as prescribed in the aforesaid Section.

**Imposition of punishment for incest.**

Kha 8-19.

Where a marriage is contracted between a couple debarred from being married to each other in accordance with the prevalent customs in the different villages or marriages of couples of restricted consanguinity and affinity or of such couples having illicit relations, then in such cases, both the woman and man shall be punished with a term of imprisonment extending to three months each. And whatever be the amount the said offenders are willing to pay in lieu of such imprisonment, no remission of the prison sentence shall be permitted.

But the man or woman who had reported such an incident shall not be liable for any punishment.

**Imposition of fine for performing child marriages.**

Kha 8-20.

Whereas the performance of child marriages in villages are seemed to be against the laws, the realization of expenses so incurred for performing such marriages shall not be permitted. And where there have been exchanges of any lands, houses, properties, livestock etc. in such marriages, then the person who has given such properties shall have to take them back, and the persons performing such child marriages in contravention of the prescribed law shall be punished with a fine extending from Ngultrums three hundred to Ngultrums one thousand.

**Imposition of fines on performing successive child marriages by fraud.**

Kha 8-21.

If evidence is furnished of the performance of successive child marriages by resorting to fraudulent means and of the expenses realized thereof, then the offender shall be punished with the fine prescribed in the aforesaid Section Kha 8-20. In addition, the offender by performing successive child marriages by concealing the fact of the child's prior marriages shall be punished with a separate amount of fine.

**Imposition of fine on outraging the modesty of a woman while asleep.**

Kha 8-22.

If the modesty of a woman is outraged when she is in deep slumber, then in such a case, the offender shall be punished with a fine extending from Ngultrums one hundred to three hundred and an equivalent amount shall have to be paid to that woman as damages. And if the modesty of a married woman is outraged in this manner, then in addition the compensation prescribed by law shall have to be paid to the husband of that woman.

**Punishment for outraging a modesty of a woman by drugging her.**

Kha 8-23.

If any person outraged the modesty of his wife or of some other woman by making her unconscious with medicines or drugs, then the offender shall be punished with a term of imprisonment extending from three months to one year for giving the drugs depending upon the gravity of the case. In addition, that offender shall have to pay an amount extending from Ngultrums five hundred to Ngultrums one thousand as damages to that woman.

**Imposition of fines and damages for abduction by use of medicines or drugs.**

Kha 8-24.

- (1) If as mentioned in the aforesaid Section, a person abducts a woman after making her unconscious or by influencing her mind by the use of medicines or drugs, and if that woman is subsequently traced out, then that offender shall be punished with a term of imprisonment extending from one month to five months and shall have to bear all the costs incurred in the search of that woman. In addition, that offender shall have to pay the said woman and amount of Ngultrums five hundred to Ngultrums one thousand as damages.
- (2). And if in such a search, the abductor only is caught and the woman who had been abducted is not found, then that offender shall have to restore all the properties taken by that woman who had been abducted, and shall be punished also with a term of imprisonment extending from one year to seven years. But in the event of that woman returning whilst that offender is serving the term of imprisonment, then that offender shall have to pay the estimated value of the properties that have been utilised by the said woman and after serving three years of the prison term, the remaining prison sentence shall be remitted.

**Imposition of fine for committing an obscene act in a place open to view.**

Kha 8-25.

If any person witnesses an obscene act being committed by a married couple or any other

man and woman during broad daylight and in a place of public thoroughfare or in a place nearby or in a place open to view, then that man who had witnessed such an act shall have to be paid a sum of Ngultrums two hundred by that man and woman involved for restoring his dignity

**Punishment for committing an unnatural offence.**

Kha 8-26.

Whereas the commitment of a carnal knowledge with any cattle, horses, goats and other animals is prohibited by law, then if any person witnesses such an act, the offender shall have to pay a sum of Ngultrums two hundred to the said witness who had seen the commitment of such an offence.

And where by such an offence, the animal dies, a replacement shall have to be provided or where that animal falls sick, then costs for its treatment. In addition that offender shall be punished with a term of imprisonment extending from one month to six months for committing that unnatural act.

**Restriction on claims on expenses incurred when couple stayed together.**

Kha 8-27.

If any person has outraged the modesty of a married woman or has illicit relations with her against her consent or had enticed her away, then the husband of that woman shall only be entitled to realize the stipulated compensation and damages from the offender as prescribed by law, but that woman shall not be entitled to include the claims for expenses incurred while they stayed together. In contravention of which, the case shall be processed in accordance with the provisions laid down in the proceeding Section Kha 8-16. (Refer Section Kha 2-15 of THIRIMSHUNG 1957).

**Realization of fines and damages prescribed by law even in absence of a Marriage Certificate.**

Kha 8-28.

In any proceedings of divorce under this Act, if a couple without a Marriage Certificate approaches a Court of law, then until the completion of the conditions provided hereinafter in Section Kha 9-1, no realizations shall be admissible. But in a case where fines and damages have to be paid, then the case shall be processed under the rules prescribed hereinbefore in Chapter Six and Seven of this Act.

**Imposition of fine on causing a rift between a couple by spreading a malicious slander or false allegation.**

Kha 8-29.

If any person being unable to furnish proof of incest or other misdemeanours resorts to false allegations or causes a rift between any husband and wife by making such false allegations

of their committing misdemeanours or in like manner spread malicious slander about them, then that offender shall be punished with a term of imprisonment extending from one month to three months. And in addition for spreading the malicious slander, that offender shall pay a sum amounting from Ngultrums three hundred to Ngultrums one thousand as damages to the person defamed for harming his or her reputation.

## CHAPTER NINE

### MISCELLANEOUS RULES CONCERNING MARRIAGES.

#### **Legal procedures for persons without marriage certificate.**

Kha 9-1.

If a couple who do not possess a Marriage Certificate intend to seek a divorce, then they shall have to submit an application to the Court in the form and manner "Ta" set forth in the Schedule. And, the partition of the properties and other settlements between them shall only be undertaken after paying the fines stipulated in the sub-sections here below :

#### **Fines to be deposited in Court by persons seeking divorce but possessing no marriage certificates.**

- (ka) If a divorce takes place within three years after a marriage has been contracted without a Marriage Certificate, a fine of Ngultrums two hundred shall have to be deposited in the Court by both the parties together.
- (kha) If a divorce takes place within seven years after a marriage has been contracted without a Marriage Certificate, a fine of Ngultrums four hundred shall have to be deposited in the Court by both the parties together.
- (ga) If a divorce takes place where the duration of a marriage contracted without a Marriage Certificate exceeds seven years, a fine of Ngultrums Six hundred shall have to be deposited in the Court by both the parties together.

#### **Liability of fines on persons not possessing marriage certificates.**

Kha 9-2.

A couple who do not possess a Marriage Certificate but have acquired one from the Court for the purpose of their divorce shall have to pay the stipulated fines jointly. And if proof is furnished that either the husband or the wife had refused to acquire a Marriage Certificate or if any other third person had given advice against acquiring a Marriage Certificate, then the stipulated fine for acquiring the Marriage Certificate shall have to be paid by the person who had refused or had given advice against acquiring such a certificate.

#### **Imposition of fine if divorce settled in any other place excepting Court between couples not possessing marriage certificates.**

Kha 9-3.

Apart from a divorce between a couple not possessing a Marriage Certificate being settled in a Court of law in accordance with the provisions laid down in the aforesaid Section Kha

9-1, no person may cause a settlement to be made between such couples by offering his or her advice. In contravention of which, the properties so settled shall be confiscated by the Government and a fine equivalent to the value of such properties shall have to be paid equally by both that husband and wife. In addition, the person causing such a settlement or any person who has acted as the mediator or witnesses in such settlements, whatever the case may be, shall be punished with a fine equal in amount to that paid by that husband and wife.

**Determination of period of stay together of a couple without marriage certificate.**

Kha 9-4.

In order to determine the period of their stay together, a couple who do not possess a Marriage Certificate shall have to present before a Court of law either the village headman or a member of the Assembly or three witnesses who are not related to them and the period so determined by such persons shall be accepted thereof.

**Restriction on transactions of settlement by persons divorced who are debarred from acquiring a marriage certificate.**

Kha 9-4.

If a divorce takes place subsequently between a couple who have been debarred from contracting a marriage under certain provisions of this Marriage Act or who had married although being debarred from acquiring a Marriage Certificate, then notwithstanding.

**Permission to pay compensation, fines etc, on divorce in kind.**

Kha 9-9.

Where it is not possible to pay in cash the compensation, fine, maintenance etc. in accordance with the laws laid down, then payments may be made in kind.

**Percentage to be deposited in Court for transactions made through Court.**

Kha 9-10.

If the partition for the properties have to be does through a Court of law in matters relating to marriages, then ten per cent of the total value of such properties shall have to be deposited in the Court as Sales Tax. (Refer Sections Kha 2-1 and Kha 2-13 of THRIMSHUNG 1957).

## **CHAPTER TEN**

### **DEFINITIONS OF EXPRESSIONS AND TERMS**

#### **Chapter One**

##### **NYEN-THAM**

A certificate granted by the Government to a man and a woman recognising them as a married couple.

##### **ONGCHA-PHOKPA**

Blood relations; persons of close consanguinity and affinity, who are restricted from marrying one another.

##### **GAWO**

Compensation payable by an offender when eloping or committing adultery with another's wife.

#### **Chapter Two**

##### **RAMJAM WOMA**

Sub Divisional Officer.

##### **KIDU**

Benefit granted by the Government to any Bhutanese citizen.

#### **Chapter Three**

##### **ARO-GARO**

**Mistress; any woman kept by a man but without marrying her.**

##### **BA**

**Conditions laid down in an agreement; bond.**

#### **Chapter Four**

##### **LOGJYEL**

Damages payable by an offender eloping with another's wife.

##### **JOINT FAMILY**

Family members living in one house and having one common kitchen.

##### **OFFENDER**

Defaulter; sinner; criminal; guilty person.

## **Chapter Five**

### **DOAN JINPHEY SHENTHUI**

Separation costs payable when husband and wife divorce.

## **Chapter Six.**

### **YIK-THI**

Deed of divorce.

### **YIK-TEN**

Amount payable with deed of divorce.

## **Chapter Seven**

### **THOB-LAM**

Properties entitled by rights.

### **SOCHINGHEE THUI**

Allowances given to children for their maintenance.

### **SEY-CHI**

Expenses incurred either by wife or husband for each other when living together.

### **CHIMI**

Member of the National Assembly of Bhutan.

## **Chapter Eight**

### **THRIMGYEL THRIM YIK**

Penal code; laws made for penal offences.

### **LOTIT GOKOR**

Fraud.

### **MAMIN PER CHOEPA**

Rape of minors.

### **WANGTSEKI CHOEPA**

Forcible illicit relations; rape.

## **Chapter Nine**

### **NA-TSHOG**

Various; miscellaneous.



**REG THOG MIT**

impartial, unrelated witnesses.

**NANGKHA NANGLAP**

Settlement of cases by compromise without informing Court.

**CHA-TREL**

Ten per cent amount of compensation, damages, separation costs etc. payable when amounts are realized from Court.

**NOCHHA-SIKPA**

False allegation of inset.