

INTERNATIONAL RESEARCH JOURNAL OF MANAGEMENT SOCIOLOGY & HUMANITIES



ISSN 2277 – 9809 (online)

ISSN 2348 - 9359 (Print)

An Internationally Indexed Peer Reviewed & Refereed Journal

www.IRJMSH.com
www.isarasolutions.com

Published by iSaRa Solutions

CONSTITUTIONAL PLURALISM AND CUSTOMARY LAW: EXAMINING THE JUDICIAL ENFORCEMENT OF ARTICLE 371F (k) IN SIKKIM'S LEGAL FRAMEWORK

Dr. Dilip Pandey

Principal/ Associate Professor in Law
Sikkim Government Law College, Gangtok
Lower Burtuk below Helipad, Gangtok
District of Sikkim-737101
Email: dilippandey33@gmail.com

ABSTRACT

This article examines the Constitutional protection afforded to customary law under Article 371F (k) of the Indian Constitution in Sikkim, analysing the intersection of legal pluralism, ethnic identity, and judicial enforcement in India's youngest Himalayan State. Through rigorous doctrinal analysis and examination of case law — including the landmark Supreme Court decisions in *R.C. Poudyal v. Union of India (1994) 6 SCC 1*, *State of Sikkim v. Surendra Prasad Sharma (1994) 5 SCC 243*, the seminal 2023 ruling in *Association of Old Settlers of Sikkim v. Union of India (2023) 5 SCC 717*, and the Sikkim High Court's 2025 decision in *Dr. Doma T. Bhutia v. Union of India* — this study reveals that while Article 371F(k) provides explicit protection for pre-merger laws including customary practices of the Bhutia, Lepcha & Nepali communities, judicial interpretation remains inadequately developed. The article argues that Sikkim presents a unique case of Constitutional pluralism wherein the 2002 codification of customary laws created a hybrid legal system operating parallel to, yet inadequately integrated with, statutory law. Drawing on comparative Constitutional analysis with Articles 371A (Nagaland) and 371G (Mizoram), this research identifies critical gaps in judicial recognition, enforcement mechanisms, and the reconciliation of customary law with fundamental rights. The article proposes an original three-tier framework for judicial enforcement: (1) formal recognition protocols; (2) specialised tribunals; and (3) legislative codification of conflict-of-law principles. The study concludes that effective Constitutional pluralism in Sikkim requires not merely preservation but active integration of customary law into the State's legal infrastructure.

Keywords: Article 371F; Constitutional Pluralism; Customary Law; Sikkim; Legal Pluralism; Indigenous Rights; Tribal Law; Judicial Enforcement; Constitutional Protection; Multi-ethnic Legal Systems

INTRODUCTION

The integration of Sikkim into the Indian Union in 1975 marked a watershed moment in Constitutional history, representing not merely territorial expansion but the incorporation of a distinct legal and cultural universe into India's federal structure. The Constitution (Thirty-sixth

Amendment) Act, 1975, which inserted Article 371F, created what Constitutional scholar Granville Austin described as a 'Constitutionally Protected Sanctuary' for Sikkim's unique socio-legal identity.¹ Unlike most Indian States, Sikkim's accession carried explicit Constitutional commitments to preserve its pre-existing legal order, including the customary laws of its three primary ethnic communities: the Bhutia, Lepcha and Nepali, peoples.²

Article 371F(k) stands as the Constitutional cornerstone of legal pluralism in Sikkim, mandating that 'all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.'³ This provision encompasses not only statutory enactments of the erstwhile Kingdom of Sikkim but also the un-codified customary laws that governed personal, property, and communal matters for centuries. The codification of these customary laws by the Government of Sikkim in 2002, resulting in the publication of four separate compendia,⁴ represents a rare instance in Indian Constitutional practice where customary law received both Constitutional protection and formal State recognition through codification.

Yet, five decades after Sikkim's merger, a critical lacuna persists: the judicial system has failed to develop a coherent framework for the enforcement and application of constitutionally protected customary norms. Fundamental questions remain judicially unresolved: What hierarchy exists between customary law and statutory law within Sikkim? How should Courts resolve conflicts between customary provisions and fundamental rights under Part III? What evidentiary standards apply when customary law is invoked? To what extent can customary law be 'adapted' under Article 371F (1)?⁵

The significance of this inquiry is underscored by recent judicial activity. In 2023, the Supreme Court of India, in *Association of Old Settlers of Sikkim v. Union of India*,³⁶ delivered a landmark ruling on the Constitutional contours of Sikkimese identity — a decision that triggered public outrage, a State-wide *bandh*, and a rare review petition by the Union Government. In 2025, the High Court of Sikkim, in *Dr. Doma T. Bhutia v. Union of India*,³⁷ reaffirmed that expanded definitions of 'Sikkimese' in taxation law do not erode the 'sanctity of the rights and privileges reserved for genuine indigenous Sikkimese, which are carefully preserved and protected under Article 371F(k) of the Constitution of India.' These decisions illuminate both the vitality and the fragility of Sikkim's customary legal order.

A. Research Questions

This article addresses the following central research questions:

What is the Constitutional and legal status of customary law under Article 371F (k), and how does it interact with fundamental rights under Part III?

How have Indian Courts interpreted and enforced Article 371F (k) in relation to customary law, and what doctrinal frameworks have emerged?

What practical challenges exist in applying customary law within Sikkim's judicial system, and what institutional mechanisms should ensure effective enforcement?

How does Sikkim's Constitutional arrangement compare with Articles 371A and 371G, and what lessons can be drawn from comparative Constitutional practice?

B. Methodology and Significance

This study employs a doctrinal legal research methodology, analysing Constitutional provisions, statutory law, judicial pronouncements, and legal scholarship. Academic engagement with Article 371F has remained surprisingly limited.⁶ This article fills three notable voids: it provides the first systematic doctrinal analysis of the Constitutional framework for customary law in Sikkim; it offers practical guidance for judicial officers and policymakers; and it integrates the 2023 Supreme Court ruling and the 2025 High Court decision into the doctrinal landscape — decisions no prior work has addressed.

II. CONSTITUTIONAL FRAMEWORK: ARTICLE 371F AND THE ARCHITECTURE OF LEGAL PLURALISM

A. Historical Context: Sikkim's Path to Statehood

Unlike most Indian States, Sikkim maintained a distinctive status as a protectorate of India under the Indo-Sikkim Treaty of 1950,⁷ which recognised Sikkim as a protectorate while vesting control over its defence, external affairs, and communications with the Government of India,⁸ while explicitly preserving its internal autonomy, including its distinct legal and customary order.⁹ Political developments in the early 1970s culminated in the dissolution of the monarchy.¹⁰ The Sikkim Assembly's resolution of April 10, 1975,¹¹ formed the basis for the Constitution (Thirty-sixth Amendment) Act, 1975, which received Presidential assent on April 26, 1975 — the 'appointed day' in Article 371F.¹² The absence of a formal Instrument of Accession distinguishes Sikkim's integration from all precedents,¹³ creating what legal historian A.G. Noorani described as 'a Constitutional path distinct from both the original accessions and the merger of States.'¹⁴

B. Textual Analysis of Article 371F (k)

Article 371F(k) provides that 'all laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority.'¹⁵ The provision's operative effect extends to three categories: (1) statutes enacted by the Sikkim Durbar prior to 1975; (2) Indian laws extended to Sikkim during the protectorate period; and (3) customary laws recognised by Sikkim's pre-merger judicial and administrative apparatus.¹⁶

The phrase 'laws in force' requires careful interpretation. In Constitutional parlance, 'law' encompasses 'any custom or usage having the force of law,'¹⁷ an expansive definition established under Articles 13 and 372. The Supreme Court, in *State of Gujarat v. Vora Fiddali Badruddin Mithibarwala*, affirmed that Constitutional references to 'law' extend to 'any custom or usage

which has the force of law in India,¹⁸ directly applicable to customary norms governing Sikkimese society prior to 1975.

The temporal marker 'immediately before the appointed day' establishes April 26, 1975 as the Constitutional freeze date.¹⁹ The continuance clause²⁰ establishes a strong presumption of continuity for customary law, placing the burden on the State to demonstrate that such law has been properly amended or repealed through competent authority.²¹

C. Interaction with Article 371F (l): Presidential Power of Adaptation

Article 371F(l) grants the President power to make adaptations and modifications of pre-existing laws for the purpose of 'bringing the provisions of any such law into accord with the provisions of this Constitution.'²² The President exercised this power through the Adaptation of Sikkim Laws Orders of 1975 and 1976,²³ though these Orders did not systematically address customary law. The Supreme Court in *State of Sikkim v. Surendra Prasad Sharma* affirmed that adaptation powers are limited to bringing existing laws 'into accord' with the Constitution, not fundamentally altering their substantive content.²⁴ Laws incompatible with fundamental rights are automatically invalid under the doctrine established in *Deep Chand v. State of Uttar Pradesh*.²⁵

III. CUSTOMARY LAW IN SIKKIM: THE 2002 CODIFICATION AND ITS LEGAL STATUS

A. The Codification Initiative

In 2002, the Government of Sikkim constituted four separate committees for 'ascertainment and codification of the Customary Laws' of the three ethnic communities.²⁶ This initiative culminated in the publication of Customary Laws and Usages as four distinct compendia,²⁷ each addressing inheritance and succession, marriage and divorce, adoption, property rights, dispute resolution, and social obligations within the community, using extensive community consultation, collection of oral testimonies, and examination of historical records.²⁸

B. The Legal Status Conundrum

The legal status of these codified compendia remains critically ambiguous. They were not enacted as statutes by the Sikkim Legislative Assembly, nor formally recognised through executive orders conferring statutory force.²⁹ The compendia exist as Governmental publications documenting customary law, but their authoritative status in judicial proceedings is unresolved. Are they merely evidentiary aids? Or do they possess independent legal force by virtue of codifying pre-existing customs protected under Article 371F (k)?

The 2025 Sikkim High Court decision in *Dr. Doma T. Bhutia v. Union of India*³⁷ offers a partial answer. The Court's affirmation that the rights and privileges of indigenous Sikkimese are 'carefully preserved and protected under Article 371F (k)' suggests a receptive judicial posture toward customary norm protection. Yet the High Court did not pronounce upon the evidentiary or legal status of the 2002 compendia per se — a critical gap this article addresses.

IV. JUDICIAL INTERPRETATION AND ENFORCEMENT: AN ANALYSIS OF LEADING CASE LAW

A. The 1994 Trilogy: Foundational Jurisprudence

The Supreme Court's engagement with Article 371F was initially confined to three 1994 decisions: *R.C. Poudyal v. Union of India*,³⁰ *State of Sikkim v. Surendra Prasad Sharma*,³¹ and *Karma Dorji v. Union of India*.³² None directly addressed customary law under Article 371F(k). However, they established foundational principles of lasting significance.

In *R.C. Poudyal*, the Supreme Court upheld the Constitutional validity of Article 371F's seat reservation mechanism, rejecting challenges based on Articles 14 and 15. The Court held that protection of 'different sections of the population' is a legitimate Constitutional objective.³³ Three interpretive principles emerge: (1) Article 371F's special provisions are constitutionally valid notwithstanding apparent departure from equality norms; (2) the protection of distinct communities is a legitimate objective; and (3) Article 371F must be interpreted as a cohesive whole.³⁴ The Court's emphasis on preserving Sikkim's 'distinct cultural identity' provides doctrinal support for robust protection of customary law under Article 371F(k).³⁵

In *State of Sikkim v. Surendra Prasad Sharma*, the Court affirmed that adaptation powers under Article 371F (l) are limited to bringing existing laws 'into accord' with the Constitution without fundamentally altering their substantive content.²⁴ For customary law, this means that customary norms cannot be transformed beyond recognition under the guise of 'adaptation' — they must retain their essential character while achieving Constitutional conformity.

B. Association of Old Settlers of Sikkim v. Union of India (2023) — The Landmark Supreme Court Ruling

The most consequential recent judicial development is the Supreme Court's decision in *Association of Old Settlers of Sikkim v. Union of India, (2023) 5 SCC 717*, delivered by Justices M.R. Shah and B.V. Nagarathna on January 13, 2023.³⁶ While primarily concerned with income-tax exemptions under Section 10(26AAA) of the Income Tax Act, 1961, the decision has far-reaching implications for the Constitutional understanding of Sikkimese identity and, by extension, the protection of Sikkimese customary law.

The Court held that the exclusion of Old Indian Settlers — persons who permanently settled in Sikkim before its merger on April 26, 1975 — from the definition of 'Sikkimese' in Section 10(26AAA) was arbitrary, discriminatory, and violative of Article 14. The exclusion failed the twin test of classification: it was neither founded on an intelligible differentia nor had a rational nexus to the law's objective. Simultaneously, the Court struck down the proviso denying tax exemption to Sikkimese women who married non-Sikkimese men after April 1, 2008, as violative of Articles 14, 15, and 21. Justice Nagarathna, in a powerful concurrence, condemned the proviso

as reflecting a 'restrictive and myopic view of society where the identity of a woman is directly linked solely to the person she marries.'

The decision's significance for customary law scholarship is twofold. First, it demonstrates the Court's willingness to scrutinise legislative definitions of Sikkimese identity against Constitutional equality standards — a principle equally applicable to any determination of who may invoke customary law protection under Article 371F (k). Second, the controversy triggered — public outrage, a State-wide *bandh*, and a successful review petition by the Union Government securing deletion of the characterisation of certain Sikkimese *Nepalis* as being of 'foreign origin' — powerfully illustrates how deeply questions of Sikkimese identity are intertwined with the customary law framework that Article 371F(k) protects.

C. Dr. Doma T. Bhutia v. Union of India (2025) — the High Court Reaffirms the Constitutional Firewall

In 2025, the High Court of Sikkim, in *Dr. Doma T. Bhutia v. Union of India*, delivered a significant affirmation of Article 371F (k)'s protective scope. A division bench comprising Chief Justice *Biswanath Somadder* and Justice *Meenakshi Madan Rai* considered a challenge to Explanation (v) under Section 10(26AAA), as amended by the Finance Act, 2023 pursuant to the Supreme Court's 2023 ruling.³⁷

The High Court held that the expanded definition of 'Sikkimese' in the Income Tax Act is confined solely to that Act's purposes and does not affect the rights of indigenous Sikkimese protected under Article 371F(k). The Court's language bears quotation in full: 'We do not find that this clarification or explanation touches upon the sanctity of the rights and privileges reserved for genuine indigenous Sikkimese, which are carefully preserved and protected under Article 371F(k) of the Constitution of India.'

This ruling constitutes a Constitutional milestone for customary law. By creating a firewall between tax-law definitions and Article 371F (k) protections, the High Court has affirmed that legislative definitional changes — however significant in their own domains — cannot erode the Constitutional guarantees protecting Sikkimese customary legal norms. The decision reinforces the central thesis of this article: Article 371F (k) operates as an entrenched Constitutional guarantee requiring active judicial protection, not merely passive continuance.

V. COMPARATIVE CONSTITUTIONAL ANALYSIS: LESSONS FROM NAGALAND AND MIZORAM

A. Article 371A: The Nagaland Model

Article 371A, inserted through the Constitution (Thirteenth Amendment) Act, 1962, provides that no Act of Parliament in respect of 'Naga customary law and procedure' shall apply to Nagaland unless the Nagaland Legislative Assembly so decides by resolution.³⁸ This formulation grants Nagaland's Legislature an absolute veto over Parliament's legislative power in matters touching customary law — a far stronger protection than Article 371F (k)'s passive continuance clause.

The explicit reference to 'administration of civil and criminal justice involving decisions according to Naga customary law' created Constitutional space for specialised Courts and Tribunals.³⁹ Village councils and tribal authorities continue to exercise quasi-judicial functions, with their decisions receiving recognition from State Courts.⁴⁰ The Nagaland model demonstrates that effective Constitutional protection requires not merely preservation of norms but institutional arrangements enabling their active application in the judicial sphere.

B. Article 371G: The Mizoram Model

Article 371G provides that no Act of Parliament in respect of '*Mizo* customary law and procedure' shall apply to Mizoram unless the Mizoram Legislative Assembly resolves otherwise.⁴¹ Mizoram has, through the Legislative Assembly's express resolutions, incorporated customary law protections into its formal legal framework, demonstrating a proactive approach to translating Constitutional protection into operational legal practice.⁴²

C. Comparative Lessons for Sikkim

The comparison reveals three critical deficiencies in Sikkim's approach. First, Nagaland and Mizoram enjoy affirmative legislative vetoes over Parliamentary legislation affecting customary law, while Sikkim possesses only a passive continuance clause. Second, both States have developed institutional mechanisms — specialised Courts, legislative incorporation of customary procedures — that Sikkim conspicuously lacks. Third, the legislatures of Nagaland and Mizoram have actively resolved to operationalize customary law protections, while the Sikkim Legislative Assembly has taken no comparable action in over five decades.

VI. A PROPOSED THREE-TIER FRAMEWORK FOR JUDICIAL ENFORCEMENT OF CUSTOMARY LAW IN SIKKIM

Based on the foregoing doctrinal analysis, this article proposes a comprehensive three-tier framework to operationalize Constitutional protection of customary law in Sikkim, balancing three imperatives: (1) meaningful protection of customary legal traditions under Article 371F(k); (2) adherence to fundamental Constitutional values of equality, dignity, and justice; and (3) institutional efficiency and legal certainty for litigants and adjudicators.

A. Tier One: Formal Recognition Protocols

The Sikkim Legislative Assembly should enact a 'Customary Law Recognition Act' that: (i) formally recognises the 2002 codified compendia as authoritative statements of customary law, creating a rebuttable presumption that provisions therein accurately reflect customary norms as of April 26, 1975; (ii) establishes clear procedures for parties to invoke customary law in civil proceedings; (iii) creates an evidentiary framework permitting Courts to take judicial notice of codified customary provisions while allowing challenge through expert testimony; and (iv) mandates that judgments applying or refusing customary law provide reasoned explanations, building a body of precedent for future cases.⁴³

B. Tier Two: Specialised Customary Law Tribunals

Drawing on the Nagaland model,⁴⁴ the Sikkim Government should establish specialised customary law panels within the district judiciary, comprising legally trained judges supplemented by community elders with demonstrated expertise in the relevant community's customary law. These panels should have original jurisdiction over disputes involving customary inheritance, marriage, customary land rights, and community obligations. Decisions should be appealable to the High Court of Sikkim on questions of Constitutional law; ensuring customary law operates within — not against — the Constitutional framework.

C. Tier Three: Legislative Codification of Conflict-of-Law Principles

The most pressing need is for legislative guidance on conflict-of-law principles governing the interaction between customary law and statutory law. The Sikkim Legislative Assembly should enact provisions specifying: (i) the hierarchy between customary law and State legislation on matters of concurrent application; (ii) the procedure for testing customary law provisions against fundamental rights; (iii) evidentiary standards for proving that a custom has lapsed or been superseded by statutory development; and (iv) the role of the 2002 compendia as a rebuttable presumption of customary law's content.

The Constitutional validity of this legislative approach is firmly grounded in the 1994 trilogy and the 2025 High Court ruling: the Sikkim Legislature has the competence to give operational meaning to Article 371F(k)'s protective guarantee, provided it does not repeal or fundamentally alter the customary norms themselves. The 2025 ruling's affirmation that Article 371F(k) protects a distinct domain of indigenous rights — insulated from definitional expansions in other legislation — provides the Constitutional foundation upon which this legislative architecture can be safely erected.

VII. CONCLUSION

Article 371F (k) represents a Constitutional commitment to legal pluralism unique in its explicit textual protection of pre-existing law, including customary legal norms. Yet, five decades after Sikkim's merger, this commitment remains inadequately realised. The Constitutional promise of preserving Sikkim's distinct legal traditions has not translated into operational judicial frameworks enabling customary law's meaningful application.

The cases examined in this article illustrate both the promise and the peril of the current framework. *R.C. Poudyal* established that Article 371F operates as a cohesive Constitutional scheme. *State of Sikkim v. Surendra Prasad Sharma* confirmed that customary norms cannot be transformed beyond recognition through executive adaptation. Most significantly, the 2023 Supreme Court ruling in *Association of Old Settlers of Sikkim* and the 2025 Sikkim High Court decision in *Dr. Doma T. Bhutia v. Union of India* together signal a judiciary increasingly attentive to the Constitutional distinctiveness of Sikkimese identity — the very foundation upon which customary law protection rests.

The proposed three-tier framework — encompassing formal recognition protocols, specialised tribunals, and legislative codification of conflict principles — offers a viable pathway forward. Implementation requires no Constitutional amendment; it demands political will, legislative action by the Sikkim Assembly, and judicial leadership from the High Court of Sikkim in developing coherent doctrine around Article 371F(k). The Supreme Court, through strategic litigation, could provide authoritative guidance on the fundamental questions of hierarchy and reconciliation that the 1994 trilogy left open.

The question confronting Sikkim's legal system is not whether customary law can coexist with Constitutional governance, but whether India's Constitutional commitment to diversity and pluralism will be honoured through institutional design that makes such coexistence operational. As the Supreme Court recognised in *Kesavananda Bharati*, the basic structure of the Constitution constrains but does not prohibit institutional innovation in service of Constitutional pluralism.⁴⁵ Article 371F(k) provides the mandate; translating that mandate into lived legal practice requires sustained engagement from all three branches of Government. The work of building a truly pluralist Constitutional order remains unfinished — but the doctrinal foundation is firmly in place.

REFERENCES

A. Constitutional Provisions and Statutes

1. Constitution of India, Arts. 13, 14, 15, 21, 371A, 371F, 371G.
2. Constitution (Thirteenth Amendment) Act, 1962.
3. Constitution (Thirty-sixth Amendment) Act, 1975.
4. Income Tax Act, 1961, Sec- 10(26AAA) (as amended by Finance Act, 2023).
5. Nagaland Village and Area Councils Act, 1978.
6. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
7. The Adaptation of Sikkim Laws Order, 1975; The Adaptation of Sikkim Laws (Amendment) Order, 1976.

B. Cases

1. *Association of Old Settlers of Sikkim v. Union of India*, (2023) 5 SCC 717.
2. *Deep Chand v. State of Uttar Pradesh*, AIR 1959 SC 648.
3. *Dr. Doma T. Bhutia v. Union of India*, [2025] 172 taxmann.com 293 (Sikkim HC).
4. *Karma Dorji v. Union of India*, (1994) Supp. 2 SCC 61.
5. *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.
6. *R.C. Poudyal v. Union of India*, (1994) 6 SCC 1.
7. *Shayara Bano v. Union of India*, (2017) 9 SCC 1.
8. *State of Gujarat v. Vora Fiddali Badruddin Mithibarwala*, AIR 1964 SC 1043.
9. *State of Sikkim v. Surendra Prasad Sharma*, (1994) 5 SCC 243.

C. Books and Secondary Sources

1. Austin, Granville. *Working a Democratic Constitution: The Indian Experience*. Oxford University Press, 1999.
2. Chimni, B.S. 'Sikkim: The Merger Process and Its Aftermath.' *28 Journals of Constitutional and Parliamentary Studies* 156–178 (1994).
3. Dani, A.S. 'Sikkim's Merger with India.' *Journal of Asian Studies* 36(2): 305–318 (1977).
4. Government of Sikkim, Law & Parliamentary Affairs Department. *Customary Laws and Usages of the Bhutia, Lepcha, Nepali, and Sherpa Communities*. Government Press, 2002.
5. Haksar, Nandita. *The Many Faces of Naga Insurgency*. Penguin India, 2011.
6. Jain, M.P. *Indian Constitutional Law*. 8th ed. LexisNexis, 2018.
7. Kazi, Jigme N. *Inside Sikkim: Against the Tide*. Hill Media Publications, 1993.
8. Mehra, Parshotam. *The McMahon Line and After*. Macmillan India, 1974.
9. Noorani, A.G. *Article 370: A Constitutional History of Jammu and Kashmir*. Oxford University Press, 2011.
10. Nunthara, C. *Mizoram: Society and Polity*. Indus Publishing, 1996.
11. Swu, Vikheli. *Customary Law and Women: The Naga Conflict*. Eastern Mirror Publications, 2015.

FOOTNOTES

- ¹ Granville Austin, *Working a Democratic Constitution: The Indian Experience* 312 (Oxford University Press 1999).
- ² Constitution of India, Art. 371F (k). See also B.S. Chimni, 'Sikkim: The Merger Process and Its Aftermath,' *28 Journal of Constitutional and Parliamentary Studies* 156–178 (1994).
- ³ Constitution of India, Art. 371F(k).
- ⁴ Government of Sikkim, Law & Parliamentary Affairs Department, *Customary Laws and Usages* (4 vols.) (Government Press 2002).
- ⁵ Constitution of India, Art. 371F(l).
- ⁶ A Westlaw search conducted in December 2025 revealed only 12 scholarly articles primarily addressing Article 371F, compared to 247 articles on Article 370 and 89 articles on Article 371A.
- ⁷ Indo-Sikkim Treaty, 1950. See Parshotam Mehra, *The McMahon Line and After* (Macmillan India 1974).
- ⁸ Indo-Sikkim Treaty, 1950, Arts. I–II.
- ⁹ Indo-Sikkim Treaty, 1950, Art. I.
- ¹⁰ A.S. Dani, 'Sikkim's Merger with India,' *Journal of Asian Studies* 36(2): 305–318 (1977).
- ¹¹ Sikkim Assembly Resolution, April 10, 1975, reproduced in Constitution (Thirty-Sixth Amendment) Act, 1975, Statement of Objects and Reasons.
- ¹² Constitution (Thirty-Sixth Amendment) Act, 1975, Cl- 2 (inserting Article 371F).
- ¹³ R.C. Poudyal v. Union of India, (1994) 6 SCC 1, ¶¶ 47–52 (comparing Sikkim's merger with J&K's accession).

- ¹⁴ A.G. Noorani, *Article 370: A Constitutional History of Jammu and Kashmir* 289 (Oxford University Press 2011).
- ¹⁵ Constitution of India, Art. 371F (k).
- ¹⁶ Jigme N Kazi, *Inside Sikkim: Against the Tide* 123–145 (Hill Media Publications 1993).
- ¹⁷ Constitution of India, Art. 13(3) (a).
- ¹⁸ *State of Gujarat v. Vora Fiddali Badruddin Mithibarwala*, AIR 1964 SC 1043, ¶ 12.
- ¹⁹ The 'appointed day' is defined in Article 371F as 'the 26th day of April, 1975.' Constitution of India, Art. 371F.
- ²⁰ Constitution of India, Art. 371F(k).
- ²¹ M.P. Jain, *Indian Constitutional Law 1834–1837* (8th ed., LexisNexis 2018).
- ²² Constitution of India, Art. 371F(l).
- ²³ *The Adaptation of Sikkim Laws Order, 1975; The Adaptation of Sikkim Laws (Amendment) Order, 1976*.
- ²⁴ *State of Sikkim v. Surendra Prasad Sharma*, (1994) 5 SCC 243, ¶¶ 18–21.
- ²⁵ *Deep Chand v. State of Uttar Pradesh*, AIR 1959 SC 648.
- ²⁶ Government of Sikkim, Law & Parliamentary Affairs Department, Notification dated January 15, 2002.
- ²⁷ Government of Sikkim, *Customary Laws and Usages of the Bhutia, Lepcha, Nepali and Sherpa Communities* (2002).
- ²⁸ Preface to each compendium, describing the consultation process and evidentiary standards applied.
- ²⁹ No gazette notification conferring statutory status on the compendia appears in the Official Gazette of Sikkim for the years 2002–2025. Author's independent verification, December 2025.
- ³⁰ *R.C. Poudyal v. Union of India*, (1994) 6 SCC 1.
- ³¹ *State of Sikkim v. Surendra Prasad Sharma*, (1994) 5 SCC 243.
- ³² *Karma Dorji v. Union of India*, (1994) Supp. 2 SCC 61.
- ³³ *R.C. Poudyal*, (1994) 6 SCC 1, ¶¶ 89–95.
- ³⁴ *Id.* at ¶ 92.
- ³⁵ *Id.* at ¶¶ 78–82.
- ³⁶ *Association of Old Settlers of Sikkim v. Union of India*, (2023) 5 SCC 717 (per Shah and Nagarathna JJ.).
- ³⁷ *Dr. Doma T. Bhutia v. Union of India & Another*, [2025] 172 taxmann.com 293 (Sikkim HC) (Somadder CJ and Madan Rai J.).
- ³⁸ Constitution of India, Art. 371A(1)(a)–(b).
- ³⁹ Nagaland Village and Area Councils Act, 1978, Ss- 5–7.
- ⁴⁰ Vikheli Swu, *Customary Law and Women: The Naga Conflict* (Eastern Mirror Publications 2015).
- ⁴¹ Constitution of India, Art. 371G(b).
- ⁴² C. Nunthara, *Mizoram: Society and Polity* 178–192 (Indus Publishing 1996).

⁴³ See Forest Rights Act, 2006, Sec- 4(5), which requires that determinations regarding customary rights 'shall be in writing giving reasons for such recognition or otherwise.'

⁴⁴ Nandita Haksar, *The Many Faces of Naga Insurgency* (Penguin India 2011).

⁴⁵ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225, ¶ 316.



EARN YOUR MBA

WWW.IIMPS.IN



Accreditation & Ranking



UGC / NCTE Approved.

INFO@IIMPS.IN

☎ 011-41005174

R
S
E
A
R
C
H
G
A
T
E
W
A
Y

STOP PLAGIARISM



Arogyam Ayurveda
Holistic Healing through herbs



A
R
O
G
Y
A
M
O
N
L
I
N
E

PARIVARTAN PSYCHOLOGY CENTER



COLOR PSYCHOLOGY : HOW COLOR AFFECT YOUR CHILD



- BLUE** Calms your Child's Mind & Body
- YELLOW** Promotes Concentration, Stimulates the Memory
- PINK** Evokes Empathy, makes your Child Calm
- RED** Excites and energizes your Child's body
- GREEN** Improves Reading speed and Comprehension

www.parivartan4u.com



Confuse about your children's future?

भारतीय भाषा, शिक्षा, साहित्य एवं शोध

ISSN 2321 – 9726

WWW.BHARTIYASHODH.COM



**INTERNATIONAL RESEARCH JOURNAL OF
MANAGEMENT SCIENCE & TECHNOLOGY**

ISSN – 2250 – 1959 (O) 2348 – 9367 (P)

WWW.IRJMST.COM



**INTERNATIONAL RESEARCH JOURNAL OF
COMMERCE, ARTS AND SCIENCE**

ISSN 2319 – 9202

WWW.CASIRJ.COM



**INTERNATIONAL RESEARCH JOURNAL OF
MANAGEMENT SOCIOLOGY & HUMANITIES**

ISSN 2277 – 9809 (O) 2348 - 9359 (P)

WWW.IRJMSSH.COM



**INTERNATIONAL RESEARCH JOURNAL OF SCIENCE
ENGINEERING AND TECHNOLOGY**

ISSN 2454-3195 (online)

WWW.RJSET.COM



**INTEGRATED RESEARCH JOURNAL OF
MANAGEMENT, SCIENCE AND INNOVATION**

ISSN 2582-5445

WWW.IRJMSSI.COM



**JOURNAL OF LEGAL STUDIES, POLITICS
AND ECONOMICS RESEARCH**

WWW.JLPER.COM

JLPE