

APPENDIX - I**NOTIFICATION NO.35/SC****Dated Gangtok, the 6th July, 1974**

Having received the assent of The Chogyal of Sikkim on 4th July, 1974 the Government of Sikkim Bill 1974 which was passed by the Sikkim assembly on 3rd July, 1974 has now become the Government of Sikkim Act 1974 and it is hereby notified for general information as follows :

THE GOVERNMENT OF SIKKIM ACT, 1974**AN
ACT**

To provide, in pursuance of the historic agreement of the 8th of May, 1973, between the Chogyal, the leaders of the political parties representing the people of Sikkim and the Government of India and of the unanimous desire of the members of the Sikkim Assembly expressed in the meeting of the Assembly held on the 11th May, 1974, for the progressive realization of a fully responsible Government in Sikkim and for further strengthening its close relationship with India.

CHAPTER - I**PRELIMINARY****Short title and commencement**

1. This Act may be called the Government of Sikkim Act, 1974 (2) It shall come into force on the 4th day of July, 1974.

Definitions

2. In this Act, unless the context otherwise requires;
 - a. "Assembly" means the Sikkim Assembly;
 - b. "Chief Executive" means the Chief Executive referred to in section 28;
 - c. "Chogyal" means The Chogyal of Sikkim;

- d. "Member" means a member of the Assembly;

CHAPTER- II

THE CHOGYAL OF SIKKIM

The Chogyal and his Privileges

3. The Chogyal shall take precedence over all other persons in Sikkim and shall continue to enjoy the honour, position and other personal privileges hitherto enjoyed by him.

Chogyal to Exercise Powers and perform functions in accordance with this Act.

1. The Chogyal shall exercise his powers and perform his functions in accordance with the provisions of this Act, and nothing contained in Section 3 shall affect the provisions of this section.

Executive action in Sikkim how to be expressed

2. All executive action of the Government of Sikkim taken in accordance with the provisions of the Act shall be expressed to be taken in the name of The Chogyal.

CHAPTER - III

SIKKIM ASSEMBLY

Assembly for Sikkim

6. (i) There shall be an Assembly for Sikkim
- (ii) The total number of seats in the Assembly to be filled by persons chosen by direct election shall be such as may be determined by law.

Election to the Sikkim Assembly

7. (i) For the purpose of elections to the Sikkim Assembly, Sikkim shall be divided into constituencies in such manner as may be determined by law.
- (ii) The Government of Sikkim may make rules for the purpose of providing that the Assembly adequately represents the various sections of the

population, that is to say, while fully protecting the legitimate rights and interests of Sikkimese of Lepcha or Bhutia origin and of Sikkimese of Nepali origin and other Sikkimese, including Tsong and Scheduled Castes and no single section of the population is allowed to acquire a dominating position in the affairs of Sikkim mainly by reason of its ethnic origin.

Election Commission of India may conduct Elections

8. For ensuring free and fair elections in Sikkim, the Chogyal shall appoint a representative of the Election Commission of India nominated by the Government of India in this behalf and the elections shall be conducted under the supervision of such representative, and for this purpose the representative shall have all the powers necessary for the effective discharge of his functions.

Qualifications for Membership of Assembly

9. A person shall not be qualified to be chosen to fill a seat in the Assembly unless he:-
 - (i) is an elector for any constituency and makes and subscribes before some person authorized by the authority conducting the election an oath or affirmation according to the form set out in the Schedule;
 - (ii) 'is not' less than 25 years of age;
 - (iii) possesses such other qualifications as may be specified in any law for the time being in force.

Elections on the Basis of Adult suffrage

10.

- (i) The election to the Sikkim Assembly shall be on the basis of one man one vote, that is to say every person who on the prescribed date is a subject of Sikkim is not less than twenty one years of age and is not otherwise disqualified under this Act or under any other law on the ground of residence, unsoundness of mind crime or corrupt or illegal practice shall be entitled to be registered as a voter at any such election.

- (ii) Every person whose name is for the time being entered in the electoral roll of any constituency shall be entitled to vote at the election of a member from that constituency.

Duration of Assembly

11. The Assembly shall, unless sooner dissolved, continue for four years from the date appointed for its first meeting and no longer, and the expiration of the said period of four years shall operate as dissolution of the assembly.

Summoning of Assembly

12. The Chogyal shall, on the advice of the President of the Assembly, summon the Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

Speaker and deputy Speaker of Assembly

13.

- (i) The Chief Executive shall be ex-officio president of the assembly and as such shall perform the function of the Speaker thereof.
- (ii) The Assembly shall, as soon as may be, choose a member to be Deputy Speaker thereof who shall act as Speaker during the absence of the President of the Assembly from any sitting of the Assembly.

Right of Chogyal to attend and address meetings of Assembly

14. The Chogyal may address the Assembly after intimating to the President of the Assembly his intention to do so.

Oath or Affirmation by Members

15. Every member of the Assembly shall, before taking his seat, make and subscribe before The Chogyal or some person appointed in that behalf by him an oath or affirmation according to the form set out for the purpose in the Schedule.

Vacation of seats

16. If a member of the Assembly

- (i) Becomes subject to any disqualification mentioned in section 17 for membership of the Assembly, or
- (ii) Resigns his seat by writing under his hand addressed to the President of the Assembly. His seat shall thereupon become vacant.

Disqualification for Membership

17.

- a. A person shall be disqualified for being chosen as, and for being a member of the Assembly :-
 - (i) if he holds any office of profit under the Government of Sikkim other than an office declared by law not to disqualify its holder;
 - (ii) if he is unsound mind and stand so declared by a competent court;
 - (iii) if he is so disqualified by or under any law
- b. For the purpose of this section, a person shall not be deemed to hold an office of profit under the Government of Sikkim by reason only that he is a Minister.
 - (i) If any question arises as to whether a member of the Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the Chogyal and his decision shall be final.
 - (ii) Before giving any decision on any such question, The Chogyal shall obtain the opinion of the Election Commission of India or such other election authority as may be specified by the Government of India for the purpose, and shall act according to such opinion.

Penalty for sitting and voting before taking oath etc., or when disqualified etc.

- 18. If a person sits or votes as a member of the Assembly before he has complied with the requirements of section 15 or when he knows that he is not qualified or that he is disqualified for membership thereof; he

shall be liable in respect of each day on which he so sits or votes to a penalty of one hundred rupees to be recovered as a debt due to the Government of Sikkim.

Powers, Privileges of Members

19.

- a. Subject to the provisions of this Act, and to the rules and standing orders regulating the procedure of the Assembly, there shall be freedom of speech in the Assembly.
- b. No member shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the assembly or in any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of the Assembly of any report, paper, votes or other proceedings.

Powers and Functions of the Assembly

20.

- a. Subject to the provisions of this Act, the Assembly may discuss, make recommendations or make laws for the whole or any part of Sikkim with respect to any of the following matters namely :-
 - (i) Education;
 - (ii) Public Health;
 - (iii) Excise;
 - (iv) Press and Publicity;
 - (v) Transport;
 - (vi) Bazars;
 - (vii) Forests;
 - (viii) Public Works;
 - (ix) Agriculture;
 - (x) Food Supplies;
 - (xi) Economic and Social Planning including State enterprises;
 - (xii) Land Revenue

- b. Subject to the provisions of this Act, the Assembly shall also have the right to discuss and make recommendations with respect to any matter not enumerated in sub-section (1) which may from time to time be referred to it by the Chief Executive.
- c. "The Chogyal shall, on the recommendation of the Government of India, by notification in the Sikkim Darbar Gazette and any other matter to the matters enumerated in sub-section (1)", and thereupon the matter so added shall be deemed to have been included in that sub-section for the purposes of this Act.

Assent to Bills

21. When a Bill has been passed by the Assembly, it shall be presented to the Chogyal and The Chogyal shall declare either that he assents to the Bill or that he with holds assent there from.

Provided that the Chogyal may, as soon as possible after the presentation to him of a bill for assent, return the Bill to the Assembly with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when the Assembly shall reconsider it accordingly within a period of three months from the date of receipt of such message and if it is again passed by the Assembly with or without amendment and presented to The Chogyal for assent, the Chogyal shall not withhold assent therefrom.

Provided further that The Chogyal shall reserve for the consideration of the Government of India any Bill which would, if it became law, affect any of the responsibilities of the Government of India or any of the special responsibilities of the Chief Executive referred to in Section 28 and shall act according to the decision of the Government of India.

Courts not to inquire into proceedings of Assembly

22.

- a. The validity of any proceedings in the Assembly shall not be called in question on the ground of any alleged irregularity in procedure.
- b. No officer or member of the Assembly in whom powers are vested by or under this Act for regulating the procedure or the conduct of

business or for maintaining order in the Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of these powers.

Rules of Procedure

23.

- a. The Assembly may make rules for regulating subject to the provisions of this Act, its procedure and the conduct of its business.
- b. Notwithstanding anything contained in sub-section (1) or in any other provision of this act, the Assembly shall not discuss or ask questions on any of the following, namely :
 - The Chogyal and members of the ruling family;
 - Any matter pending before a court of law
 - The appointment of the Chief Executive or members of the judiciary;
 - Any matter which is exclusively the responsibility of the Government of India, whether under this Act or under any agreement or otherwise.

CHAPTER - IV

COUNCIL OF MINISTERS

Council of Ministers to aid and Advice the Chogyal

24.

- a. There shall be an Executive Council (in this Act referred to as the Council of Ministers) with one of the members thereof as the head who shall be designated as the Chief Minister and the others as Ministers.
- b. The Council of Ministers shall be in charge of the administrative departments allotted to them and shall advise The Chogyal in respect of all matters within their jurisdiction.
- c. Every advice tendered by the Council of Ministers shall be communicated to the Chogyal through the Chief Executive who

may, if he is of opinion that the advice affects or its likely to affect any of his special responsibilities or the responsibilities of the Government of India referred to in Section 28, require the Council of Ministers to modify the advice accordingly.

- d. The question whether any, if so what, advice was tendered by Ministers to The Chogyal shall not be inquired into by any Court.

Appointment and removal of Ministers

25.

- a. The Chief Minister and the other Ministers shall be appointed by The Chogyal on the advice of the Chief Executive.
- b. The Council of Ministers shall be responsible to the Assembly.
- c. Before a Minister enters upon his office, The Chogyal or such other person as may be authorized in this behalf, shall administer to him the oaths of office and of secrecy according to the form set out for the purpose in the Schedule.

Extent of Executive Power of the Council of Ministers

- 26. The Executive power of the Council of Ministers shall extend to the matters referred to in Section 20.

Conduct of Business

- 27. The Chogyal shall, on the recommendation of the Chief Executive taken in consultation with the Chief Minister, make rules for the allocation of business to the Ministers and for the more convenient transaction of business.

CHAPTER - V

THE CHIEF EXECUTIVE

Chief Executive and his functions

28.

- a. As the head of the Administration in Sikkim, there shall be a Chief Executive, who shall be a person nominated by the Government of India and appointed to that post by The Chogyal.

- b. The functions of the Chief executive shall be to ensure that
- (i) The responsibilities of the Government of India in or in relation to Sikkim as respects all or any of the matters referred to in the Agreement of the 7th of May, 1973, between The Chogyal, the Government of India and the leaders of the political parties representing the people of Sikkim or in any other agreement entered into between The Chogyal and the Government of India, whether before or after the commencement of this Act;
 - (ii) the special responsibilities of the Chief Executive referred to in the agreement of the 8th May, 1973, aforesaid; are duly discharged.
- c. The Chief Executive shall have all the powers necessary from the discharge of his functions and responsibilities and the executive power in Sikkim shall be so exercised as to ensure compliance with any decisions taken or orders or directions issued by the Government of India in the due discharge of its responsibilities.

Performance of functions by the Chief Executive

29.

- a. The Chief Executive shall
- (i) where any action taken in the performance of this functions concerns a matter the administrative functions relating to which have been allocated to a minister, act in consultation with the Minister in respect thereof.
 - b. Submit all-important matters to The Chogyal for his information and for his approval of the action proposed to be taken;

Provided that where immediate action is required the Chief Executive may take such action as he thinks fit and shall obtain The Chogyal's approval as soon as after the action has been taken as possible.

- (iii) Advise the Chogyal in respect of all other matters

- b. Where a difference of opinion arises between the Chief Executive and The Chogyal in respect of any matter, it shall be referred to the Government of India for decision and the decision of the Government of India shall be final.

CHAPTER-VI

GENERAL

Association with Government of India

30. For the speedy development of Sikkim in the social, economic and political fields, the Government of Sikkim may :
- a. request the Government of India to include the planned development of Sikkim within the ambit of the Planning Commission of India while that Commission is preparing plans for the economic and social development of India and to appropriately associate officials from Sikkim in such work;
 - b. request the Government of India to provide facilities for students from Sikkim in institutions for higher learning and for the employment of people from Sikkim in the public services of India (including All India Services), at par with those available to citizens of India;
 - c. seek participation and representation for the people of Sikkim in the political institutions of India.

Independence of Judiciary

31. All judges shall be independent in the exercise of their judicial function and subject only to this Act and the laws.

Basic Human Rights and fundamental of Freedom

32.

- a. All sections of the people in Sikkim shall enjoy basic human rights and fundamental freedoms without discrimination.

- b. The Government of Sikkim shall make every endeavour to secure for the people of Sikkim the enjoyment of the aforesaid rights and to maintain and promote communal harmony.
- c. Notwithstanding anything contained in the aforesaid provisions, special provision shall be made for the advancement or the protection of the aboriginal inhabitants of Sikkim and other minorities.

Existing Assembly to be the first Sikkim Assembly under this Act

33. The Assembly, which has been formed as a result of the elections, held in Sikkim in April 1974, shall be deemed to be the first Assembly duly constituted under this Act, and shall be entitled to exercise the power and perform the functions conferred on the Assembly by this Act.

Power to remove difficulties

34. If any difficulty arises in giving effect to the provisions of this Act, the Chogyal may in consultation with the Chief Executive, by order, do anything not inconsistent with the provisions of this Act, which appear to be expedient or necessary for the purpose of removing the difficulty.

By order,

J.T. Densapa
Secretary to the Chogyal

THE SCHEDULE

Form of oaths or affirmations

I

(See section 9-a)

1. Form of oath or affirmation to be made by a candidate for election to the Assembly.

“I.A.B. having been nominated as a candidate to fill a seat in the assembly do swear in the name of God/Solemnly affirm that I will bear true faith and allegiance to the Constitution of Sikkim as by law establish”.

II

(See section 15)

2. Form of oath or affirmation to be made by a Member of the Assembly.

“I.A.B. having been elected as a member of the Assembly do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of Sikkim as by the law established and that I will faithfully discharge the duty on which I am about to enter.

III

(See section 25)

3. Form of oath of office for a member of the Council of Minister

“I A.B. do swear in the name of God/ solemnly affirm that I will bear true faith and allegiance to the Constitution of Sikkim as by law established and that will faithfully and conscientiously discharge my duties as a Minister and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.”

IV

(See section 25)

4. Form of oath of secrecy for a member of the Council of Ministers

“I A.B. do swear in the name of God/solemnly affirm that I will not direct or indirectly communicate or reveal to any person or persons any matter

which shall be brought under my consideration or shall become known to me as minister except as may be required for the due discharge of my duties as such a Minister.”

APPENDIX - II**TEXT OF CONSTITUTION (THIRTY-FIFTH AMENDMENT) BILL,
1974
THE CONSTITUTION (THIRTY-FIFTH AMENDMENT) BILL, 1974****A****BILL**

Further to amend the Constitution of India to give effect to the wishes of the people of Sikkim for strengthening Indo-Sikkim co-operation and inter-relationship.

Be it enacted by Parliament in the Twenty-fifth year of the Republic of India as follows:

SHORT TITLE AND COMMENCEMENT

1.

- a. This act may be called the Constitution (Thirty-fifth Amendment) Act, 1974.
- b. It shall come into force on such date as the Central Government may, by notification in the Official Gazettee, appoint.

INSERTION OF NEW ARTICLE 2A

2. After article 2 of the Constitution, the following article shall be inserted, namely:

SIKKIM TO BE ASSOCIATED WITH THE UNION

“2A. Sikkim, which comprises the territories specified in the Tenth Schedule, shall be associated with the Union on the terms and conditions set out in that Schedule.”

AMENDMENT OF ARTICLE 80

3. In article 80 of the Constitution, in clause (1) for the words “The Council of States”, the words and figure “Subject to the provisions of paragraph 4 of the Tenth Schedule, the Council of States” shall be substituted.

AMENDMENT OF ARTICLE 81

4. In article 81 of the Constitution, in clause (1), for the words and figures “Subject to the provisions of article 331”, the words and figures “Subject to the provisions of article 331 and paragraph 4 of the Tenth Schedule” shall be substituted.

ADDITION OF TENTH SCHEDULE

5. After the Ninth Schedule to the Constitution, the following Schedule shall be added, namely :

APPENDIX - III**TENTH SCHEDULE****article 2A, 80(1) and 81(1)****PART-A****TERRITORIES OF SIKKIM**

1. Sikkim - Sikkim comprises the following territories, namely the territories which immediately before the coming into force of the Government of Sikkim Act, 1974, were comprised in Sikkim.

PART-B**TERMS AND CONDITIONS OF ASSOCIATION OF SIKKIM
WITH
THE UNION**

2. Responsibilities of the Government of India –
 - a. The Government of India :
 - (i) shall be solely responsible for the defences and territorial integrity of Sikkim and for the conduct and regulation of the external relations of Sikkim, whether political, economic or financial;
 - (ii) shall have the exclusive right of constructing maintaining and regulating the use of railways, aerodromes, landing grounds and air navigation facilities, posts, telegraphs, telephones and wireless installations in Sikkim;
 - (iii) shall be responsible for securing the economic and social development of Sikkim and for ensuring good administration and for the maintenance of communal harmony therein;
 - (iv) shall be responsible for providing facilities for students from Sikkim in institutions for higher learning in India and for the employment of people from Sikkim in the public services of India (including the All-India Services), at par with those available to citizens of India;

- (v) shall be responsible for providing facilities for the participation and representation of the people of Sikkim in the political institutions of India;
 - b. The provisions contained in this paragraph shall not be enforceable by any court.
3. Exercise of certain powers by the President. The President may, by general or special order, provide :
- a. for the inclusion of the planned development of Sikkim within the ambit of the planning authority of India while that authority is preparing plans for the economic and social development of India, and for appropriately associating officials from Sikkim in such work;
 - b. for the exercise of all or any of the powers vested or sought to be vested in the Government of India in or in relation to Sikkim under the Government of Sikkim Act, 1974.
4. Representation in Parliament. Notwithstanding anything in this Constitution :
- a. there shall be allotted to Sikkim one seat in the Council of States and one seat in the House of the people;
 - b. the representative of Sikkim in the Council of States shall be elected by the members of the Sikkim Assembly;
 - c. the representative of Sikkim in the House of the People shall be chosen by direct election, and for this purpose, the whole of Sikkim shall form one Parliamentary constituency to be called the Parliamentary Constituency for Sikkim; Provided that the representative of Sikkim in the House of the people in existence at the commencement of the Constitution (Thirty-fifth Amendment) Act, 1974, shall be elected by the members of the Sikkim Assembly;
 - d. there shall be one general electoral roll for the Parliamentary constituency for Sikkim and every person whose name is for the time being entered in the electoral roll of any constituency under the Government of Sikkim Act, 1974, shall be entitled to be registered in the general electoral roll for the parliamentary constituency for Sikkim;

- e. a person shall not be qualified to be the representative of Sikkim in the Council of States or the House of the People unless he is also qualified to be chosen to fill a seat in the Sikkim Assembly and the case of any such representative:
- (i) clause (a) of Article 84 shall apply as if the words 'is a citizen of India, and' had been omitted therefrom;
 - (ii) clause (3) of article 101 shall apply as if sub-clause (a) had been omitted therefrom;
 - (iii) sub-clause (d) of clause (1) of article 102 shall apply as if the words 'is not a citizen of India, or' had been omitted therefrom;
 - (iv) article 103 shall not apply;
- f. every representative of Sikkim in the Council of States or in the House of the people shall be deemed to be a member of the Council of States or the House of the People, as the case may be, for all the purposes of this constitution except as respects the election of the President or the Vice-President; Provided that in the case of any such representative, clause (2) of article 101 shall apply as if for the words 'a House of the legislature of a State', in both the places where they occur and for the words 'the Legislature of the State', the words 'the Sikkim Assembly' had been substituted;
- g. if a representative of Sikkim, being a member of the Council of States or the House of the People, becomes subject to any of the disqualifications for being a member of the Sikkim Assembly or for being the representative of Sikkim in the Council of State or the House of people, his seat as a member of the Council of States or the House of the People, as the case may be shall thereupon become vacant.
- h. if any question arises as to whether a representative of Sikkim, being a member of the Council of States or the House of the People, has become subject to any of the disqualifications mentioned in clause (g) of this paragraph, the question shall be referred for the decision of the President and his decision shall be final. Provided that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion;

- i. The superintendence, direction and control of the preparation of the electoral rolls for and the conduct of elections to Parliament under this paragraph of the representatives of Sikkim shall be vested in the Election Commission and the provisions of clauses (2), (3), (4) and (6) of article 324 shall, so far as may be, apply to and in relation to all such elections;
- j. Parliament may, subject to the provisions of this paragraph, from time to time by law make provision with respect to all matters relating to, or in connection with such elections to either House of Parliament;
- k. No such election to either House of Parliament shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by Parliament.

Explanation - In this paragraph, the expression "the Sikkim Assembly" shall mean the Assembly for Sikkim constituted under the Government of Sikkim Act, 1974.

- 5. Schedule not to derogate from agreements, etc. The provisions of this Schedule shall be in addition to and not in derogation of, any other power, jurisdiction, rights and authority which the Government of India has or may have in relation to Sikkim under any agreement, grant, usage, sufferance or other lawful arrangement.

APPENDIX – IV

SIKKIM'S POLITICAL INTEGRATION WITH INDIA

THE TEXT OF THE CONSTITUTION
(THIRTY-EIGHTH AMENDMENT) BILL, 1975

Be it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows :

1.
 - a. This Act may be called the Constitution (Thirty-eighth Amendment) Act, 1975.
 - b. It shall be deemed to have come into force on the date on which the Bill for this Act (Introduced in the House of People as the Constitution (Thirty eighth Amendment Bill, 1975), as passed by the House of the People, is passed by the Council of States.
2. In the first Schedule to the Constitution, under the heading "1. THE States", after entry 21, the following entry shall be inserted, namely:-

"22. SIKKIM: The Territories which immediately before the commencement of the Constitution (Thirty-eight Amendment) Act, 1975, were comprised in Sikkim."
3. After article 371F of the Constitution, the following article shall be inserted, namely:-

"371F, Notwithstanding anything in this Constitution,"

 - a. the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;
 - b. as from the date of commencement of the Constitution (Thirty eighth Amendment) Act, 1975 (hereafter in this article referred to as the appointed by):
 - (i) the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty two members elected in the said elections (hereinafter referred to as the sitting members) shall be

- deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this constitution;
- (ii) the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and
 - (iii) the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this constitution;
- c. the period of five years referred to in clause (1) of article 172 shall, in the case of the Legislative Assembly of the State of Sikkim referred to in clause (b), be deemed to have commenced on the appointed day;
 - d. until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of the People and the State of Sikkim shall form one parliamentary constituency to be called the parliamentary constituency for Sikkim;
 - e. the representative of the State of Sikkim in the House of the People in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;
 - f. Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;
 - g. The Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time deem fit to issue, act in his discretion;
 - h. All property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the

appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;

- i. The High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall on and from the appointed day, be deemed to be the High Court for the State of Sikkim;
- j. All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provisions of this Constitution;
- k. All laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;
- l. For the purpose of facilitating the application of any such law as in referred to in clause (xi) in relation to the administration of the State of Sikkim and for the purpose bringing the provisions of any such law into accord with the provisions of this Constitution the President may, within two years from the appointed day, by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law;
- m. Neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;

- n. The President may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification.
 - o. If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order, do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing that difficulty; Provided that no such order shall be made after the expiry of two years from the appointed day;
 - p. All things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-eighth Amendment) Act 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty eighth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.”
4. In the Fourth Schedule to the Constitution, in the Table:
- a. after entry 21, the following entry shall be inserted, namely: “22. SIKKIM-1”
 - b. existing entries 22 to 25 shall be renumbered as entries 23 to 26 respectively;
 - c. for the figures “231”, the figures “232” shall be substituted.
5. The following consequential amendments shall be made in the Constitution, namely:
- a. article 2A shall be omitted;
 - b. in article 80, in clause (1), the words and figure “Subject to the provisions of paragraph 4 of the Tenth Schedule”, shall be omitted;
 - c. in article 81, in clause (1), the words and figure and paragraph 4 of the Tenth Schedule” shall be omitted;

d. the Tenth Schedule shall be omitted.

No sooner Sikkim became a part of India the entire provisions of the Constitution of India are applicable from date of appointed by. Besides these article 371F of the Constitution of India extends a special constitutional status and secures the identity of the people of Sikkim as a whole. Here an attempt is being made to reproduce Article 371F of the Constitution of India and analyze the significance of the same.

APPENDIX - V

Article 371F of the Constitution of India: It stipulates the nature of constitutional protection extended to Sikkim after merger and it runs thus.

371F Special provisions with respect to the State of Sikkim¹. – Notwithstanding anything in this Constitution,-

- (a) the Legislative Assembly of the State of Sikkim shall consist of not less than thirty members;
- (b) as from the date of commencement of the Constitution (Thirty-sixth Amendment) Act, 1975 (hereafter in this article referred to as the appointed day)-
 - i. the Assembly for Sikkim formed as a result of the elections held in Sikkim in April, 1974 with thirty-two members elected in the said elections) hereinafter referred to as the sitting members) shall be deemed to be the Legislative Assembly of the State of Sikkim duly constituted under this Constitution;
 - ii. the sitting members shall be deemed to be the members of the Legislative Assembly of the State of Sikkim duly elected under this Constitution; and
 - iii. the said Legislative Assembly of the State of Sikkim shall exercise the powers and perform the functions of the Legislative Assembly of a State under this Constitution;
- (c) in the case of the Assembly deemed to be the Legislative Assembly of the State of Sikkim under clause (b), the references to the period of ² (five years) in clause (1) of article 172 shall be construed as references to a period of ²(four years) and the said period of ³ (four years) shall be deemed to commence from the appointed day;
- (d) until other provisions are made by Parliament by law, there shall be allotted to the State of Sikkim one seat in the House of People and the State of Sikkim shall form one Parliamentary constituency to be called the Parliamentary constituency for Sikkim;

- (e) the representative of the State of Sikkim in the House of the people in existence on the appointed day shall be elected by the members of the Legislative Assembly of the State of Sikkim;
- (f) Parliament may, for the purpose of protecting the rights and interests of the different sections of the population of Sikkim make provision for the number of seats in the Legislative Assembly of the State of Sikkim which may be filled by candidates belonging to such sections and for the delimitation of the Assembly constituencies from which candidates belonging to such sections alone may stand for election to the Legislative Assembly of the State of Sikkim;
- (g) The Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of his special responsibility under this clause, the Governor of Sikkim shall, subject to such directions as the President may, from time to time, deem fit to issue, act in his direction;
- (h) All property and assets (whether within or outside the territories comprised in the State of Sikkim) which immediately before the appointed day were vested in the Government of Sikkim or in any other authority or in any person for the purposes of the Government of Sikkim shall, as from the appointed day, vest in the Government of the State of Sikkim;
- (i) The High Court functioning as such immediately before the appointed day in the territories comprised in the State of Sikkim shall, on and from the appointed day, be deemed to be the High Court for the State of Sikkim;
- (j) All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of the State of Sikkim shall continue on and from the appointed day to exercise their respective functions subject to the provision of this Constitution;

- (k) All laws in force immediately before the appointed day in the territories comprised in the State of Sikkim or any part thereof shall continue to be in force therein until amended or repealed by a competent Legislature or other competent authority;
- (l) For the purpose of facilitating the application of any such law as if referred to in clause (k) in relation to the administration of the State of Sikkim and for the purpose of bringing the provisions of any such law into accord with the provisions of this Constitution, the President may, within two years from the appointed day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon, every such law shall have effect subject to the adaptations and modifications so made, and any such adaptation or modification so made, and any such adaptation or modification shall not be questioned in any court of law;
- (m) Neither the Supreme Court nor any other court shall have jurisdiction in respect of any dispute or other matter arising out of any treaty, agreement, engagement or other similar instrument relating to Sikkim which was entered into or executed before the appointed day and to which the Government of India or any of its predecessor Governments was a party, but nothing in this clause shall be construed to derogate from the provisions of article 143;
- (n) The president may, by public notification, extend with such restrictions or modifications as he thinks fit to the State of Sikkim any enactment which is in force in a State in India at the date of the notification;
- (o) If any difficulty arises in giving effect to any of the foregoing provisions of this article, the President may, by order⁴ do anything (including any adaptation or modification of any other article) which appears to him to be necessary for the purpose of removing the difficulty;
Provided that no such order shall be made after the expiry of two years from the appointed day;
- (p) All things done and all actions taken in or in relation to the State of Sikkim or the territories comprised therein during the period

commencing on the appointed day and ending immediately before the date on which the Constitution (Thirty-sixth Amendment) Act, 1975, receives the assent of the President shall, in so far as they are in conformity with the provisions of this Constitution as amended by the Constitution (Thirty-sixth Amendment) Act, 1975, be deemed for all purposes to have been validly done or taken under this Constitution as so amended.

1. Ins. By the Constitution (Thirty-sixth Amendment) Act, 1975, sec. 3 (w.e.f. 26-4-1975).
2. Subs. By the Constitution (Forty-fourth Amendment) Act, 1978, sec. 43, for "six years" (w.e.f. 6-9-1979). The words "six years" were substituted for the original words "five years" by the Constitution (Forty-second Amendment) Act, 1976, sec. 56 (w.e.f. 3-1-1977).
3. Subs. By the Constitution (Forty-fourth Amendment) Act, 1978, sec. 43, for "five years" (w.e.f. 6-9-1979). The words "five years" were substituted for the original words "four years" by the Constitution (Forty-second Amendment) Act, 1976, sec. 56 (w.e.f. 3-1-1977).
4. See the Constitution (Removal of difficulties) Order XI (C.O. 99).

Source : Bakshi, P.M. The Constitution of India, Delhi, Universal Pub. Co. Ltd. Pp. 318-320.