

PENAL CODE OF BHUTAN

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PENAL CODE OF BHUTAN

In keeping with His Majesty's vision for enlightened laws to protect the society, "perpetuate good and chaste actions, correct those who have gone wrong", guilty not to escape and innocent not to suffer and to secure justice to ourselves and our posterity, do hereby ordain and establish this Penal Code for the Kingdom of Bhutan.

PART ONE GENERAL PROVISIONS

CHAPTER 1 PRELIMINARY

Short title, commencement and extent

1. This Code shall:
 - (a) Be called the PENAL CODE OF BHUTAN;
 - (b) Come into force in the year of the Male Wood Monkey, Sixth Month, the Third Day, corresponding to the Eleventh Day of August, 2004; and
 - (c) Extend to whole of the Kingdom of Bhutan or otherwise within the jurisdiction of Bhutan.

Repeal

2. This Penal Code hereby repeals:
 - (a) Sections *Chha 1.1,1.2,1.3 &1.4, Tha 1.9, 1.10,1.11,1.12,1.13 & 1.14, Da 3-14, Na, Pa, Pha, Ba 1-1 to Ba 1-18, 1-20,1-21 & 1-22* and *Ma*, of the *Thrimzung Chhenmo*, 1959;
 - (b) The Rape Act;
 - (c) The Narcotic Drugs & Psychotropic Substances Notification, 1988;
 - (d) Sections 3(b) (c) & 4(a) of the Firearms and Ammunition Act, 1990; and
 - (e) The penal provisions of any laws, byelaws, rules & regulations and circulars that is inconsistent with this Penal Code.

CHAPTER 2 CLASSIFICATION OF CRIMES

Classes of crime

3. For the purpose of this Penal Code, the classes of crimes shall be as follows:
 - (a) A crime shall be a felony, if it is so designated in this Penal Code or other laws and provides for a minimum term of imprisonment of three years for the convicted defendant.
 - (b) A crime shall be a misdemeanour, if it is so designated in this Penal Code or other laws and provides for a maximum term of imprisonment of less than three years and a minimum term of one year for the convicted defendant.

- (c) A crime shall be a petty misdemeanour, if it is so designated in this Penal Code or other laws and provides for a maximum term of imprisonment of less than one year and a minimum term of one month for the convicted defendant.
- (d) A crime shall be a violation, if it is so designated in this Penal Code or other laws and provides that the convicted defendant shall not be imprisoned but shall be fined the daily minimum national wage rate up to a maximum of ninety days.

Degrees of felonies

- 4. A felony shall be classified into the following four degrees:
 - (a) Felony of the first degree;
 - (b) Felony of the second degree;
 - (c) Felony of the third degree; and
 - (d) Felony of the fourth degree.
- 5. An offence defined under other laws of Bhutan and that are not graded under those laws shall be graded accordingly by the Court with the gravity of the crime.

**CHAPTER 3
SENTENCING**

- 6. A defendant convicted of a criminal offence shall not be sentenced otherwise than in accordance with this Penal Code.
- 7. Life imprisonment shall be awarded to the defendant:
 - (a) In case of a felony of the first degree comprising of murder, treason or terrorism;
 - (b) For the offence against the *Ku, Sung, Thuk-ten* and *Zung*; or
 - (c) For the offence of illegal manufacturing of weapons of mass destruction.
- 8. A defendant convicted of a felony of the first degree shall be sentenced to a term of imprisonment, a minimum of which shall be fifteen years and a maximum of which shall be life imprisonment.
- 9. A defendant convicted of a felony of the second degree shall be sentenced to a term of imprisonment, a minimum of which shall be nine years and a maximum of which shall be less than fifteen years.
- 10. A defendant convicted of a felony of the third degree shall be sentenced to a term of imprisonment, a minimum of which shall be five years and a maximum of which shall be less than nine years.
- 11. A defendant convicted of a felony of the fourth degree shall be sentenced to a term of imprisonment, a minimum of which shall be three years and a maximum of which shall be less than five years.

12. A defendant convicted of a misdemeanour shall be sentenced to a term of imprisonment, a minimum of which shall be one year and a maximum of which shall be less than three years.
13. A defendant convicted of a petty misdemeanour shall be sentenced to a term of imprisonment, a minimum of which shall be one month and a maximum of which shall be less than one year.
14. A defendant convicted of a violation shall be fined the daily minimum national wage rate for a maximum of ninety days.
15. A defendant, who is found guilty of the same or similar offence, shall on the next conviction be liable to enhanced punishment as follows:
 - (a) A violation shall be enhanced to petty misdemeanour.
 - (b) A petty misdemeanour shall be enhanced to misdemeanour.
 - (c) A misdemeanour shall be enhanced to felony of the fourth degree.
 - (d) A felony of the fourth degree shall be enhanced to felony of the third degree.
 - (e) A felony of the third degree shall be enhanced to felony of the second degree.
 - (f) A felony of the second degree shall be enhanced to felony of the first degree.
 - (g) A felony of the first degree shall be enhanced to life imprisonment.
16. A convicted defendant, who commits a further offence while undergoing or serving the term of imprisonment or sentence, shall be liable to be tried for that offence and if convicted of the offence, the defendant shall be sentenced accordingly in addition to the original sentence.
17. In determining a convicted defendant's sentence within the appropriate sentencing range as set forth above, the Court shall consider mitigating and aggravating factors as are enumerated in this Penal Code.

Value-based sentencing

18. The offence graded as value-based under this Code shall be:
 - (a) A felony of the third degree, if the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period of thirty years or more;
 - (b) A felony of the fourth degree, if the item of the crime is not of a type described in Section 18(a) and the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period less than thirty years and for period of fifteen years or more;
 - (c) A misdemeanour, if the item of the crime is not of a type described in Section 18 (a) & (b) above and the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period less than fifteen years and for a period of seven years or more; or

- (d) A petty misdemeanour, if the item of the crime is not of a type described in Section 18(a) (b) and (c) above and the value or the amounts are less than the total amount of the daily minimum national wage rate at the time of the crime for a period less than seven years.
- 19. The value of the property or other items in an offence committed, following one scheme or course of conduct, whether from the same person or several persons, shall be aggregated in determining the grade of the offence.
- 20. Without prejudice to the generality of the preceding provisions, a Court may also order forfeiture of property, suspend or cancel a license or a transaction, impound the documents, or remove a person from an official position.
- 21. The Court may, in addition to the sentence awarded under the provisions of this Penal Code, order restitution, recovery, confiscation, of any property or article or may order the payment of any appropriate damages or compensatory damages for the injury, loss, damage or the value of what the victim had been parted or deprived of being possessed.
- 22. The Court may award reasonable sentence within the sentencing parameter enumerated in this Penal Code, if the offence committed by the defendant is not stated in the Code. The Court shall specify its reason in awarding such sentences.

Mitigating circumstances

- 23. Mitigating circumstances for sentencing shall include:
 - (a) The defendant has no record of a prior criminal conviction;
 - (b) The crime is committed while the defendant was under the affliction of extreme mental or emotional distress;
 - (c) The crime is committed accidentally;
 - (d) The victim is a participant in the defendant's criminal conduct or consented to the criminal act;
 - (e) The crime is committed under circumstances that the defendant believed of having a reasonable justification or extenuation for the conduct;
 - (f) The defendant is an accomplice in a crime committed by another person and the defendant's participation in the crime is minor;
 - (g) The defendant acted under duress or under the domination of another person; or
 - (h) At the time of the crime, the capacity of the defendant to appreciate the wrongfulness of the conduct or to conform the conduct to the requirements of law was impaired on account of mental disability or intoxication.

Aggravating circumstances

- 24. Aggravating circumstances for sentencing shall include:
 - (a) The crime is committed by a defendant, who has previously been convicted of a crime that was punishable by imprisonment or a crime of the same or similar nature;

- (b) At the time of the commission of the crime, the defendant also committed another crime;
- (c) The defendant knowingly created a grave risk of death or serious bodily injury to another person;
- (d) The defendant negligently caused bodily injury to another person with a deadly weapon; or
- (e) The crime is especially heinous, atrocious, or cruel thus manifesting exceptional depravity on behalf of the defendant.

CHAPTER 4 ALTERNATIVES TO SENTENCING

Civil commitment in lieu of imprisonment or sentence

- 25. If a defendant is found to be clinically insane or suffering from a mental abnormality or chronic condition that significantly impairs the defendant's capacity to make sagacious judgments, a Court shall, in lieu of imprisonment, order the civil commitment of the defendant to a hospital or other institution for psychiatric or other rehabilitative treatment.
- 26. If the Court makes an order of civil commitment under Section 25, the Court may also order the defendant to pay compensatory damages as provided for in this Penal Code.
- 27. The Court shall not make an order of civil commitment unless it is of the opinion that the commitment will further reform or rehabilitate the defendant and will not jeopardize the public safety.

Thrimthue

- 28. Except for the recidivist and accustomed or habitual offender, the Court may make an order to pay fine in lieu of imprisonment, if the offence is not a felony.

Commutation of sentences or conditional discharge

- 29. If the community is responsible for damaging the property of another community, or if the criminal act of the defendant affects the public property, the Court may order the community or defendant to restore the property damaged by rendering community service to the affected group.
- 30. The Court may order community service in lieu of the imprisonment, if the defendant is convicted of the offence liable for a petty misdemeanour or misdemeanour, provided that the defendant convicted does not pose potential threat to the society, the victim or there exists no likelihood of flight.
- 31. A defendant conditionally released on probation or when his sentence is suspended shall be required to:
 - (a) Make oneself available to the Court as and when required;
 - (b) Remain within the limits of any particular area as prescribed in the order; and

- (c) Abstain from doing any act, which violates the conditions of the release.
32. His Majesty the *Druk Gyalpo*, in exercise of His Royal Prerogatives may grant amnesty and reduction of sentences.

Infraction of conditions of conditional release

33. A convicted defendant conditionally released on probation on the ground of exemplary conduct or behaviour shall be reincarcerated to serve the remainder of the original term of the sentence, if the convict is found to have violated the conditions of the release.
34. A probationer, who commits a further offence while on probation shall be liable to be tried for that offence and if convicted of the offence, shall be given a maximum sentence for the commission of that crime in addition to completing the remainder of the original sentence.

Restriction

35. The Court may give a restriction order to any person accused of a crime to remain within the limits of any particular area as prescribed in the order.

**CHAPTER 5
DAMAGES, RESTITUTION, CONFISCATION AND RECOVERY**

Damages in general

36. A Court may order a defendant to pay appropriate damages or reparation for any loss, injury, or deterioration caused to a victim.
37. In ordering a convicted defendant to pay damages of any type in addition to serving a sentence of imprisonment or probation, the Court shall consider whether:
- (a) The defendant has derived a pecuniary gain from the crime;
 - (b) The damage awarded will deter the commission of a subsequent crime of the same or similar nature;
 - (c) Compensation to the victim or the victim's survivors is sanctioned by customs or laws or the severity of the offence warrants such recompense; or
 - (d) The defendant has the ability to pay the damages.

Compensatory damages

38. A Court may order a defendant sentenced for a crime to pay appropriate compensatory damages in addition to the sentence. However, no such order shall be made if the victim is responsible for his own victimization or have contributed to such victimization in any manner.

39. If the Court determines that compensatory damages are appropriate, then a defendant convicted of a crime shall pay appropriate compensatory damages at the rate of the daily minimum national wage rate at the time of the crime for:
- (a) Maximum ten years to the victim or surviving spouse or next of kin of the victim and the cost for forty-nine days for seven people towards the expenses incurred in the funeral rites of the deceased victim, when the crime has resulted in the death of the victim;
 - (b) Maximum of ten years, if the crime causes permanent disability to the victim;
 - (c) Maximum of seven years, if the crime causes partial disability to the victim;
 - (d) Maximum of five years, if the crime endangers the victim's life or causes serious bodily injury to the victim; or
 - (e) The wages lost to the victim, when the crime has resulted in temporary lost of wages.
40. Compensatory damages if determined by the Court shall be paid in lump sum.
41. A convicted person who is unable to pay in cash, any damages, compensatory damages, reparation or any payment ordered by the Court, may pay in kind or possessions.
42. In addition to compensatory damages, the Court may order a defendant to pay expenses of the victim's medical treatment or other ancillary and incidental expenses incurred on account of the offence committed by the defendant.

Default on compensatory damages or fine

43. When the Court has ordered a convicted defendant to pay compensatory damages or a fine or make any other monetary payment as a result of the defendant's criminal conduct and the defendant defaults on such payment, the defendant shall be in contempt of court and may be imprisoned until the fine is either paid or recovered and the Court may also attach the property of the defendant.

Repayment of debt in the case of homicide

44. If the crime at issue causes death and the convicted defendant owes a debt or share to the deceased victim, then the Court shall order the convicted defendant to repay the same to the surviving spouse or next of kin.
45. A convicted defendant, who causes the death of a victim, shall not be entitled to enforce any legal right against the deceased victim's spouse or next of kin.

Restitution

46. The Court may order the defendant sentenced for the crime to restore or furbish any property or repay any loss, damage or the value of what the victim had been parted or deprived of being possessed.

Confiscation and recovery

47. When the defendant is convicted of an offence, any property constituting the criminal proceeds, any weapon or article used or any benefit derived from such offence shall be subjected to confiscation or recovery.
48. The Court may order confiscation of any property or assets acquired by the defendant by commission of a crime or by dishonest or fraudulent means such as intimidation, extortion, cheating or corruption.

**CHAPTER 6
GENERAL PRINCIPLES OF LIABILITY**

An act must be voluntary

49. A defendant is not guilty of an offence unless the defendant commits the offence voluntarily or omits an act that the defendant legally is bound to perform.
50. Acts that are not voluntary are as follows:
 - (a) A reflex or convulsion; or
 - (b) A bodily movement during unconsciousness or sleep.

An omission must be voluntary

51. Liability for the commission of an offence of omission is not accompanied by a voluntary action unless:
 - (a) The omission is expressly made actionable by the law defining the offence;
 - (b) The duty to perform the omitted act is otherwise imposed by law;
 - (c) The omission is accompanied by an intention to cause a result that would be an offence under the law; or
 - (d) The defendant knew that the omission would result in the offence and with that knowledge omitted the duty.

Presumption of voluntary possession

52. Possession is a voluntary act, if the possessor knowingly procured or received the thing possessed or is aware of his control thereof for a sufficient period of time to have been able to dispose the possession but did not do so.

General requirements of culpability

53. A defendant shall not be guilty of an offence unless the defendant acted purposely, knowingly, recklessly, or negligently as the laws may require with respect to each quintessential element of the offence.

Purposely

54. A defendant acts purposely with respect to a material element of an offence, when the element involves the nature of the defendant's conduct or a result thereof and it is the defendant's conscious objective to engage in a conduct of that nature or to cause the result of the conduct.

Knowingly

55. A defendant acts knowingly with respect to a material element of an offence, when the element involves:
- (a) The nature of the defendant's conduct or circumstances and the defendant is aware that his conduct is of that nature or that the circumstances exist; or
 - (b) A result of the defendant's conduct and the defendant is aware that it is practically certain that his conduct will cause that result.

Recklessly

56. A defendant acts recklessly with respect to a material element of an offence, when the defendant consciously disregards a substantial and unjustifiable risk that the material element exists or would result from the defendant's conduct. The risk must be of the nature and degree that, considering the nature and purpose of the defendant's conduct and the circumstances known to the defendant, his disregard for the risk constitutes a gross deviation from the standard of conduct of a reasonable person in the defendant's situation.

Negligently

57. A defendant acts negligently with respect to a material element of an offence, when the defendant should have been aware that there was a substantial and unjustifiable risk that the material element exists or would result from the defendant's conduct. The risk must be of the nature and degree that the defendant's failure to perceive it, considering the nature and purpose of the conduct and the circumstances known to the defendant, constitutes a deviation from the standard of care of a reasonable person in the defendant's situation.

Culpability

58. When this Penal Code or other laws do not prescribe the culpability sufficient to establish a material element of an offence, the element is established, if a defendant acts purposely, knowingly, or recklessly with respect thereto.
59. When this Penal Code or other laws provide that wilfulness suffices to establish an element of an offence, the element also is established, if a defendant acts purposely or knowingly.
60. When this Penal Code or other laws provide that knowingly suffices to establish an element of an offence, the element also is established, if a defendant acts purposely or knowingly.

61. When this Penal Code or other laws provide that recklessness suffices to establish an element of an offence, the element also is established, if a defendant acts knowingly or recklessly.
62. When this Penal Code or other laws provide that negligence suffices to establish an element of an offence, the element also is established, if a defendant acts purposely, knowingly or recklessly.

Causal relationship between conduct and result

63. A conduct is the cause of a result under the circumstances, when:
 - (a) For the conduct, the result in question would not have occurred; or
 - (b) The relationship between the conduct and result satisfies the causal requirements prescribed in this Penal Code or by other laws defining the offence.

Accomplice liability

64. A defendant is an accomplice of another person in the commission of an offence, if the defendant purposely or knowingly engages in a conduct that helps a person to commit a crime and shall be liable to:
 - (a) A sentence of one degree lower than the degree awarded to the person, who had committed the crime; or
 - (b) Half the penalty awarded to the person, who had committed the crime, if the offence is of a petty misdemeanour.
65. A defendant is not an accomplice to an offence committed by another person, if the defendant:
 - (a) Is a victim of that offence; or
 - (b) Terminates the accomplice relationship prior to the commission of the offence and gives timely warning to a public authority or otherwise makes a reasonable effort to prevent the commission of the offence.

Approver

66. A Court in order to obtain evidence and testimony against another suspect for the same or a different crime, which is of serious nature may:
 - (a) Tender pardon to the defendant incriminated in the same or a different offence;
 - (b) Allow the defendant to be sentenced for a lesser crime; or
 - (c) Award the defendant a lesser punishment for the offence charged.
67. If the defendant fails to make true and full disclosure of all the facts and circumstances relating to the offence, which the defendant is aware, the approver evidence shall be vacated and the trial of the defendant shall be commenced *de novo*.

Consolidated trials and double jeopardy

68. If the conduct of a defendant leads to the commission of more than one offence, the defendant shall be prosecuted for each offence in a single trial and shall not be subject to a later trial for an offence arising out of the same criminal conduct.
69. A defendant shall not be convicted of more than one offence, if one offence:
- (a) Is included in the other (“compoundable offence”) as defined in this Penal Code; or
 - (b) Consists of a conspiracy or other form of preparation to commit the other offence.

Non-compoundable and compoundable offences

70. The offences of first, second, third and fourth degree felonies shall be non-compoundable offences.
71. Except for the recidivist or habitual offenders, the Court may compound any other offence not otherwise prohibited by this Penal Code.
72. The Court shall allow cases to be compounded only upon being satisfied that the substantial or at least a certain part of the wrongful loss or damage or injury to the victim is restored or paid, as the nature of the case requires.
73. In making the determination of whether to compound or pay *Thrimthue* for the offence or not, the Court shall consider:
- (a) Severity of the charges;
 - (b) Defendant’s past criminal record;
 - (c) Potential threat posed to society; and
 - (d) Defendant’s age and physical or mental health condition.

Bailable offences

74. The defendant shall be admitted to bail subjected to the provisions of the Civil and Criminal Procedure Code, 2001.

**CHAPTER 7
AFFIRMATIVE DEFENCES TO LIABILITY**

Ignorance or mistake

75. Ignorance or mistake as to a matter of fact shall be a defence, if:
- (a) The ignorance or mistake negates the purpose, knowledge, recklessness, or negligence required to establish a material element of the offence; or
 - (b) The laws provide that the state of mind established by the ignorance or mistake constitutes a defence.

76. The defence of ignorance or mistake may reduce the sentence of which the defendant may be convicted.
77. A defendant's belief that one's conduct does not legally constitute an offence shall be a defence to a prosecution for that offence based upon the conduct, when:
- (a) The law defining the offence is not known to the defendant and has not been published or disseminated or otherwise reasonably made available prior to the conduct alleged; or
 - (b) The defendant acts in good faith with reasonable reliance upon an official statement of the law after having declared invalid or erroneous.

Intoxication

78. Intoxication shall not constitute a defence unless it:
- (a) Negates an element of the offence; and
 - (b) Is administered to the defendant without the defendant's knowledge or against the defendant's will.
79. When recklessness establishes an element of the offence, if a defendant due to self-induced intoxication is deluded of a risk of which the defendant would have been aware had the defendant been sober, then the defendant's unawareness of the risk shall not be a defence.

Duress, compulsion, or coercion

80. It shall be a defence to a criminal charge, if the defendant indulges in the offence under duress, compulsion, or coercion whether by actual use of force or a threat to use unlawful force against the defendant or another person in a situation where a reasonable person in the defendant's situation would have been unable to resist.
81. The defence of duress, compulsion, or coercion shall be unavailable, if a defendant:
- (a) Recklessly places oneself in a situation in which it is probable that the defendant would be subjected to duress, compulsion, or coercion; or
 - (b) Negligently places oneself in a situation in which it is foreseeable that the defendant would be subjected to duress, compulsion, or coercion.
82. It is not a defence that a spouse acted at the order of the other spouse unless either spouse acted under duress, compulsion, or coercion as would establish a defence under the above Sections.

Consent of the victim

83. The consent of the victim to the conduct charged to constitute an offence or to the result thereof may be a defence.

Conditions for valid consent

84. A victim's consent shall be valid only, if:
- (a) The victim is capable of giving consent;
 - (b) The consent is not obtained by fraud, duress, compulsion, or coercion; or
 - (c) The victim giving consent has authority to do so.

Consent to bodily injury

85. Consent to a conduct that causes or threatens bodily injury shall be a defence, if:
- (a) The bodily injury consented or threatened by the conduct consented to is not serious; or
 - (b) The conduct and the bodily injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport.

Entrapment defence

86. A defendant shall have the defence of entrapment, if any person or law enforcement official induces the defendant to commit a crime.

Defence of alibi

87. A defendant shall have the defence of alibi, if the defendant was in another place at the time the crime was committed.

**CHAPTER 8
JUSTIFICATION AS AN AFFIRMATIVE DEFENCE**

Justification in general

88. Justification may be a defence as provided in this Penal Code.

Prevention of greater harm or crime

89. Subject to the provisions of this chapter, a defendant shall have the defence of justification, when the defendant in good faith engages in a conduct that the defendant reasonably believed was necessary to prevent a harm or crime to oneself or to another person and the harm or crime sought to be prevented by the conduct is greater than that sought to be prevented by the law defining the offence charged.
90. When a defendant is reckless or negligent in encompassing the situation requiring a choice of whether to engage in a conduct that will result in a lesser harm or crime or in appraising the necessity for such conduct, the justifications afforded by this Penal Code are unavailable as a defence.

Execution of public duty

91. A defendant shall have the defence of justification, when the conduct is required or authorized by:
- (a) The law defining the duty or function of a public officer or the assistance to be rendered to the public officer in the performance of the duty;
 - (b) The law governing the execution of legal process;
 - (c) An order, decision, or judgment of a Court notwithstanding lack of jurisdiction of the Court or defect in the legal process;
 - (d) The law governing the armed forces of Bhutan for the lawful conduct of war; or
 - (e) Other provisions of law imposing a public duty.
92. When a defendant abuses the power in execution of public duty then the defence of justification shall not be available.

Error in the execution of a superior's order

93. A defendant shall have the defence of justification, when the defendant is a subordinate and engages in a conduct that constitutes an offence as a result of executing an order of a superior provided that the subordinate did not know the order to be unlawful.

Officially induced error

94. A defendant shall have the defence of justification, when a public official charged with responsibility led the defendant to believe that the defendant's conduct was lawful.

Use of force

95. A defendant shall have the defence of justification, when the defendant uses force upon or towards another person to protect the defendant or a third person if:
- (a) The defendant uses the same or a lesser degree of force to protect oneself or the third person;
 - (b) The defendant believes that the force is necessary for the protection of oneself or the third person; or
 - (c) The force used is no greater than that which is necessary.

When use of force is not a defence

96. The use of force shall not constitute the defence of justification, when the defendant is arrested by an identified police officer or other identified authorized public official notwithstanding the illegality of the arrest.
97. The use of force shall not constitute the defence of justification, when force is used by or on behalf of the occupier or possessor of property or by another person, if the defendant knows that the person using the force is doing so under a claim of right to protect the property except that this limitation shall not apply, if the defendant:
- (a) Is a public official acting in the performance of an official duty, a person lawfully assisting a public official therein, or a person making or assisting a lawful arrest;

- (b) Has been unlawfully dispossessed of the property and is making a re-ingress justified by law; or
- (c) Believes that the force is necessary to protect oneself or a third person against death or serious bodily injury.

Use of deadly force

98. A defendant shall not have the defence of justification, if the defendant uses deadly force unless the defendant believes that the use of deadly force was necessary to protect the defendant or a third person from death, serious bodily injury, kidnapping, or rape except, if the defendant:
- (a) With the purpose of causing death or serious bodily injury, provoked the use of deadly force against the person; or
 - (b) Knew how to or could avoid the necessity of using deadly force by retreating or by surrendering possession of a item or by complying with a demand that the defendant abstain from an action which is not a duty the defendant is bound to perform by law.

Use of confinement as protective force

99. A defendant shall have the defence of justification, when confinement is used as protective force only and if the defendant takes all reasonable measures to terminate the confinement as soon as it is safe to do so.

Use of force to protect property

100. A defendant shall have the defence of justification, when the defendant uses force to protect property and believes that the force is immediately necessary to prevent or terminate a trespass or from unlawful carrying away of the property, provided that the property is, or is believed to be, in the defendant's possession or in the possession of another person for whose protection the defendant acts and the force used is no greater than that which is necessary.
101. A defendant shall have the defence of justification, if the defendant first requests the person against whom the force will be used to desist from interference with the property, unless the defendant believes that:
- (a) It would be dangerous to the defendant or another person to make the request; or
 - (b) There is a risk of substantial harm to the physical condition of the property sought to be protected before the request can be made.
102. A defendant is not obliged to retreat from an abode or place of work except:
- (a) When the defendant is the initial trespasser; or
 - (b) The defendant is attacked in the defendant's place of work by another person.

Use of force to a wrongful obstructer

103. A defendant shall have the defence of justification, when the defendant uses force upon a person whom the defendant believes to be unjustifiably obstructing the defendant from going to a place to which the defendant lawfully may go provided that:
- (a) The defendant believes that the person against whom the defendant uses force has no claim of right to obstruct the defendant;
 - (b) The defendant is being obstructed from entry or movement on property which the defendant knows to be in the possession or custody of the person obstructing the defendant or in the possession or custody of another person by whose authority the obstructer acts and the defendant believes not to be reasonable to postpone the entry or movement on the property until a Court order is obtained; or
 - (c) The force used is no greater than that which is necessary.

Use of force by a private person assisting an arrest

104. A private person, who is summoned by a police officer or other authorized official to assist in effecting an arrest shall have the defence of justification, if the person uses force to assist a lawful arrest or reasonably believes the arrest to be lawful and the force used is no greater than that which is necessary.
105. A private person assisting another private person in effecting an arrest shall have the defence of justification, if the person, giving assistance:
- (a) Reasonably believes the arrest is lawful;
 - (b) Believes that force is immediately necessary to effect a lawful arrest; and
 - (c) The force used is no greater than that which is necessary.

Use of force to prevent escape from custody

106. A defendant shall have the defence of justification, if the defendant uses reasonable force to prevent the escape of an arrested person from custody.
107. A prison guard or other authorized person shall have the defence of justification, if uses force, including deadly force, when the person believes such force to be immediately necessary to prevent the escape of a person charged with or convicted of a crime or under a civil commitment order, provided the force used is no greater than that which is necessary.

Use of force to prevent suicide or the commission of a crime

108. A defendant shall have the defence of justification, if the defendant uses force upon a person and believes that the force is immediately necessary to prevent from committing suicide, inflicting serious bodily injury, or committing or consummating the commission of a crime involving or threatening bodily injury or damage to or loss of property.

Use of force for care, discipline, or safety of another

109. A defendant shall have the defence of justification, if the defendant uses force on an incompetent or incapable person and the defendant is the parent or guardian or other person responsible for the general care and supervision of such person and the force:
- (a) Is used with the purpose of safeguarding or promoting the welfare of the incompetent or incapable person, including the prevention of serious misconduct;
 - (b) Used is not designed to cause or known to create a substantial risk of causing death or serious bodily injury; and
 - (c) Used is no greater than that which is necessary.
110. A defendant shall have the defence of justification, if the defendant uses force on a patient and the defendant is a doctor, medical personnel, or person assisting a doctor or medical personnel and:
- (a) The force used is for the purpose of administering a recognized form of treatment which the defendant believes is being used to promote the physical or mental health of the patient; and
 - (b) The treatment is administered with the consent of the patient or, if the patient is a child or an incompetent person, with the consent of the parent, guardian, or other legally competent person, or the treatment is administered in an emergency, when the defendant believes that no competent person can be consulted and a reasonable person wishing to safeguard the welfare of the patient would have consented.
111. A defendant, who is an authorized official of a prison or other correctional institution shall have the defence of justification, if the defendant uses force and:
- (a) The defendant believes that the force used is necessary to enforce the lawful rules or procedures of the institution;
 - (b) The nature and degree of the force used is not otherwise forbidden by this Penal Code;
 - (c) If deadly force used is justified under this Penal Code; or
 - (d) The force used is no greater than that which is necessary.
112. A defendant, who is responsible for the safety of a commercial land transport vehicle or an aircraft or a person acting under that defendant's direction shall have the defence of justification, if the defendant uses force and:
- (a) The defendant believes that the force used was necessary to prevent interference with the operation of the commercial vehicle or aircraft; or
 - (b) The force used is no greater than that which is necessary.

Reckless or negligent use of otherwise justifiable force

113. Wherein a defendant is justified under this Penal Code in using force upon a person but the defendant recklessly or negligently injures or creates a risk of injury to a third person, the justifications afforded by this Penal Code are unavailable.

**CHAPTER 9
JUVENILE DELINQUENCY AND MENTAL DISABILITY**

Juvenile

114. If the defendant is a child of ten years and below, he shall not be held liable for any offence committed by him.
115. If the defendant is a child of above ten years, the Court may sentence the juvenile to a minimum of half of the sentence prescribed for the offence.
116. If a juvenile is found guilty of an offence for which imprisonment is prescribed, the Court may in lieu of imprisonment consider the availability of other appropriate facilities and correctional institutions.
117. If a juvenile is found guilty of an offence for which damages are appropriate, the Court may order the parents or legal guardian of the juvenile to pay the damages.

Mentally disabled persons

118. A defendant is not responsible for the criminal conduct, if the defendant is of permanent mental disability, who lacks substantial capacity either to appreciate the criminality of the defendant's conduct or to conform the conduct to the requirement of the law.
119. A defendant shall have the defence of mental disability if, at the time of the conduct, on account of a mental disability, the defendant lacked substantial capacity either to appreciate the criminality of the defendant's conduct or to conform the conduct to the requirement of the law.

**CHAPTER 10
ATTEMPT, AIDING AND ABETTING, SOLICITATION, AND CRIMINAL
CONSPIRACY**

Criminal attempt

120. A defendant shall be guilty of the offence of an attempt to commit a crime, if the defendant:
- (a) Acts with the culpability required for commission of a crime; and
 - (b) Engages in a conduct or an omission, which constitutes the commission of the crime.

121. Conduct shall not constitute a substantial step towards the commission of a crime unless the conduct strongly suggests that the defendant acted with a criminal intention or the conduct falls under one of the descriptions listed below:
- (a) Laying an ambush, searching or following the victim of the attempted crime in contemplation of committing the crime;
 - (b) Enticing or seeking to entice the victim of the attempted crime to a place in contemplation of committing the crime;
 - (c) Reconnoitring a place in contemplation of committing a crime;
 - (d) Unlawful entry into a structure, vehicle, or enclosure in which it is contemplated that a crime will be committed;
 - (e) Possession of material to employ in the commission of a crime, which material is specially designed for the unlawful use or which serves no lawful purpose for the defendant to possess under the circumstances;
 - (f) Possession, collection, or fabrication of material to employ in the commission of a crime at or near the place in contemplation for its commission, if the possession, collection, or fabrication serves no lawful purpose for the defendant under the circumstances; or
 - (g) Soliciting an innocent agent to engage in a conduct, which constitutes an element of a crime.
122. When a defendant's conduct otherwise constitutes an attempt to commit a crime under Sections 120 and 121, the defendant shall have a defence, if:
- (a) The defendant abandoned the attempt to commit the crime; or
 - (b) Otherwise prevented the commission of the crime under circumstances that manifest an absolute and voluntary renunciation of the defendant's criminal purpose.
123. Renunciation of a criminal attempt is not voluntary, if it is motivated in whole or in part, by a change in circumstances during the attempt that increases the probability of detection or apprehension for the attempted crime or which makes it more difficult the accomplishment of the attempted crime.
124. Renunciation is not a defence to the attempted crime, if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to direct the criminal conduct to another person with similar object.

Aiding and abetting

125. A defendant shall be guilty of the offence of aiding and abetting a crime, if the defendant engages in a conduct designed to accommodate or help another person in the commission of a crime.

Solicitation

126. A defendant shall be guilty of the offence of solicitation to commit a crime, if the defendant purposely or knowingly solicits, requests, commands, or causes another person to commit a crime.

Criminal conspiracy

127. A defendant shall be guilty of the offence of criminal conspiracy to commit a crime, if the defendant agrees with another person or persons that they or one or more of them will engage in a conduct that constitutes a crime.

Scope of conspiratorial relationship

128. If a defendant knows that another person with whom the defendant conspired to commit a crime has conspired with a third person to commit the same crime, the defendant is guilty of conspiring with that third person whether or not the defendant knew the identity of the third person.

Conspiracy to commit multiple crimes

129. If a defendant conspires to commit more than one crime through the same conduct, then the defendant is guilty of only one charge of conspiracy so long as the multiple crimes are the object of the same agreement or continuous conspiratorial relationship.

Joinder in conspiracy prosecution

130. Two or more defendants charged with a criminal conspiracy may be prosecuted jointly, if:

- (a) They are charged with conspiring with each other; and
- (b) Neither defendant will be unfairly prejudiced by a joint trial.

Defence to conspiracy

131. It shall be a defence to a prosecution for the offence of conspiracy that the defendant, after conspiring to commit a crime, thwarted the success of the crime under circumstances that manifest an absolute and voluntary renunciation of the defendant's criminal intent.

Cessation of a conspiracy

132. A conspiracy shall be terminated under the circumstances:

- (a) When the defendant advises the co-conspirators if the defendant is abandoning the conspiracy; and
- (b) The defendant or co-conspirator informs a law enforcement agency of the existence of the conspiracy and one's participation therein before the commission or attempted commission of the crime.

Conspiracy as a continuing offence

133. For the purposes of this chapter a conspiracy:

- (a) Is a continuing offence which terminates when the crime or crimes which are its object are committed or attempted to be committed or the agreement to commit the crime is abandoned by the conspirator or the co-conspirator; or
- (b) Terminates by abandonment, if neither the defendant nor a co-conspirator engages in an overt act in pursuance of the conspiracy during the applicable period of time limitations that applies to the crime that is the object of the conspiracy.

Grading of criminal attempt, solicitation and criminal conspiracy

134. Unless otherwise indicated in this Penal Code, the defendant who is guilty of the offence of criminal attempt, solicitation, or criminal conspiracy shall be liable to:

- (a) Third degree felony, if the offence is of first and second degree felony; or
- (b) Half the penalty awarded to the person, who had committed the crime, if the offence is of third degree felony, fourth degree felony, misdemeanour or petty misdemeanour.

Grading of aiding and abetting

135. Unless otherwise indicated in this Penal Code, the defendant who is guilty of the offence of aiding and abetting shall be liable to:

- (a) Fourth degree felony, if the offence is of first, second and third degree felony; or
- (b) Half the penalty awarded to the person, who had committed the crime, if the offence is of fourth degree felony, misdemeanour or petty misdemeanour.

136. If the particular conduct charged to constitute a criminal attempt, aiding and abetting, solicitation, or criminal conspiracy is so inherently unlikely to result or culminate in the commission of the crime that is the object of the attempt, aiding and abetting, solicitation, or criminal conspiracy that neither the conduct nor the defendant presents a public danger, the Court may impose a sentence for a crime of lower degree or, in a trivial case, may dismiss the charges against the defendant.

**PART TWO
OFFENCES AGAINST THE PERSON**

**CHAPTER 11
HOMICIDE**

Homicide

137. Homicide means a conduct that causes the death of a person and includes murder, voluntary manslaughter, involuntary manslaughter, and negligent homicide.

Murder

138. A defendant shall be guilty of the offence of murder, if the defendant commits a homicide knowingly and deliberately:

- (a) With premeditated malice; or
- (b) While in the commission or attempted commission of another felony (“felony murder”).

Grading of murder

139. The offence of murder shall be a felony of the first degree.

Voluntary manslaughter

140. A defendant shall be guilty of the offence of voluntary manslaughter, if the defendant:

- (a) Possess the intention to kill but without premeditated malice, acts under the violence of sudden passion occasioned by some great provocation such that a reasonable person would be induced to cause the death of other person; or
- (b) With vicious intent to cause serious bodily injury to a person causes the death of that person.

Grading of voluntary manslaughter

141. The offence of voluntary manslaughter shall be a felony of the second degree.

Involuntary manslaughter

142. A defendant shall be guilty of the offence of involuntary manslaughter, if:

- (a) The conduct that leads to the death of the victim is committed during the defendant’s commission of a reckless act;
- (b) The conduct that leads to the death of the victim is committed during the commission of another unlawful act other than a felony; or
- (c) A homicide that would otherwise be murder is committed under the immediate influence of extreme mental or emotional distress for which there is reasonable explanation or excuse.

Grading of involuntary manslaughter

143. The offence of involuntary manslaughter shall be a felony of the fourth degree.

Negligent homicide

144. A defendant shall be guilty of the offence of negligent homicide, if the death is a result of the defendant’s negligence.

Grading of negligent homicide

145. The offence of negligent homicide shall be a felony of the fourth degree.

Illegal abortion

146. A defendant shall be guilty of the offence of illegal abortion, if the defendant unlawfully aborts or induces expulsion of an embryo or foetus or prevents a child from being born alive, except the act is caused in good faith for the purpose of saving the life of the mother or when the pregnancy is a result of rape or incest, or when the mother is of unsound mental condition.

Grading of illegal abortion

147. The offence of illegal abortion shall be a misdemeanour.

Custodial death

148. A defendant shall be guilty of the offence of custodial death, if the death of a person, who is under the custody of the defendant, occurs due to the negligence, carelessness or recklessness of the defendant.

Grading of custodial death

149. The offence of custodial death shall be a felony of the third degree.

Complicity in suicide

150. A defendant shall be guilty of the offence of complicity in suicide, if the defendant aids, abets, counsels or procures the suicide of another person.

Grading of complicity in suicide

151. The offence of complicity in suicide shall be a misdemeanour.

Illegal selling or buying of human organs

152. A defendant shall be guilty of the offence of the selling or buying of human organ, if the defendant sells or buys any human body organ for money or profit.

Grading of illegal selling or buying of human organs

153. The offence of illegal selling or buying of human organ shall be a misdemeanour.

Trafficking a person

154. A defendant shall be guilty of the offence of trafficking a person, if the defendant transports, sells or buys a person within, into or outside of Bhutan for any purpose.

Grading of trafficking a person

155. The offence of trafficking a person shall be a felony of the fourth degree.

**CHAPTER 12
ASSAULT, BATTERY AND RELATED OFFENCES**

Assault

156. A defendant shall be guilty of the offence of assault, if the defendant purposely, knowingly, recklessly, or negligently causes apprehension of bodily injury to another person.

Grading of assault

157. The offence of assault shall be a violation.

Battery

158. A defendant shall be guilty of the offence of battery, if the defendant purposely uses physical force of an adverse nature on another person.

Grading of battery

159. The offence of battery shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if aggravated circumstances is present.

Reckless endangerment

160. A defendant shall be guilty of the offence of reckless endangerment, if the defendant's reckless conduct including laying of *sangda* places another person in danger of death or serious bodily injury.

Grading of reckless endangerment

161. The offence of reckless endangerment shall be a petty misdemeanour.

**CHAPTER 13
KIDNAPPING AND RELATED OFFENCES**

Kidnapping

162. A defendant shall be guilty of the offence of kidnapping, if the defendant unlawfully removes another person from a place of abode or business or from a place where the person was present and unlawfully takes the person to another place or country.

163. The removal or confinement is unlawful, if:

- (a) It is accomplished by force, threat, or deception; or
- (b) In the case of a child or incompetent person, without the consent of the parent, guardian, or other person responsible for general supervision of the person's welfare.

Grading of kidnapping

164. The offence of kidnapping shall be a felony of the:

- (a) Second degree; or
- (b) Third degree, if the defendant voluntarily releases the victim alive and in a safe place prior to the victim's rescue by police or other persons.

Abduction

165. A defendant shall be guilty of the offence of abduction, if the defendant removes another person from a place of abode or business or from a place where the person was present and unlawfully confines the person or takes the person to another place.
166. A defendant shall be guilty of the offence of abduction, if the defendant unlawfully takes or entices a child or incompetent person from the custody of the person's parent, guardian, or other lawful custodian.
167. Confinement, transportation, taking away, or enticing of a child or incompetent person from lawful custody does not constitute the offence of abduction, if it is done with a judicious belief that it is necessary to protect the child or incompetent person from imminent danger.

Grading of abduction

168. The offence of abduction shall be a felony of the fourth degree.

Criminal elopement

169. A defendant shall be guilty of the offence of criminal elopement, if the defendant takes or entices away any person whether married or otherwise from a place with intent that the person may have illicit intercourse with the defendant or any other person.

Grading of criminal elopement

170. The offence of criminal elopement shall be a misdemeanour.

Escape from lawful custody

171. A defendant shall be guilty of the offence of escape from lawful custody, if the defendant escapes from a prison, correctional institution, rehabilitation center, or other lawful custody.

Grading of escape from lawful custody

172. The offence of escape from lawful custody shall be a misdemeanour in addition to the remaining sentences of which the defendant is undergoing.

Felonious restraint

173. A defendant shall be guilty of the offence of felonious restraint, if the defendant knowingly:
- (a) Restrains another person unlawfully in circumstances that exposes the person to a risk of serious bodily injury; or
 - (b) Holds another person in a condition of involuntary servitude.

Grading of felonious restraint

174. The offence of felonious restraint shall be a misdemeanour.

Infringement of movement

175. A defendant shall be guilty of the offence of infringement of movement, if the defendant knowingly or unlawfully restrains another person so as to interfere substantially with that person's movement.

Grading of infringement of movement

176. The offence of infringement of movement shall be a misdemeanour.

**CHAPTER 14
SEXUAL OFFENCES**

Rape

177. A defendant shall be guilty of the offence of rape, if the defendant has sexual intercourse with another person:

- (a) Without the person's consent or with consent, when consent is obtained by putting the person or a third person in fear of death or of grievous hurt;
- (b) Compels the other person to submit to sexual intercourse by force, or by threat of imminent death, bodily injury or serious bodily injury or the commission of a felony to that person or a third person;
- (c) Substantially impairs the other persons ability to appraise or control the conduct by administering drugs, intoxicants, or other substances without consent for the purpose of preventing the person's resistance to the sexual intercourse; or
- (d) Renders the other person unconscious for the purpose of committing sexual intercourse.

Grading of rape

178. The offence of rape shall be a felony of the fourth degree.

Rape of a married person

179. A defendant shall be guilty of the offence of rape of a married person, if the defendant rapes a married person.

Grading of rape of a married person

180. The offence of rape of a married person shall be a felony of the fourth degree and shall also be liable to pay "GAO" in accordance with the other laws.

Statutory rape

181. A defendant shall be guilty of the offence of statutory rape, if the defendant engages in sexual intercourse with a child below twelve years, or an incompetent person, either with or without knowledge of the other person being a child or incompetent person.

Grading of statutory rape

182. The offence of statutory rape shall be a felony of the second degree.

Rape of a child above twelve years of age

183. A defendant shall be guilty of the offence of rape of a child above the age of twelve years, if the defendant has sexual intercourse with a child between the ages of twelve to eighteen years.

Grading of rape of a child above twelve years of age

184. The offence of rape of a child above the age of twelve years shall be a felony of the third degree.

Rape of a pregnant woman

185. A defendant shall be guilty of the offence of rape of a pregnant woman, if the defendant rapes a pregnant woman.

Grading of rape of a pregnant woman

186. The offence of rape of pregnant woman shall be a felony of the fourth degree and shall also be liable to pay “GAO” in accordance with other laws wherever applicable.

Gang rape

187. A defendant shall be guilty of the offence of gang rape where two or more persons engage in raping another person.

Grading of gang rape.

188. The offence of gang rape shall be a felony of the third degree.

Gang rape of a married person

189. A defendant shall be guilty of the offence of gang rape of a married person, when two or more person engages in raping a married person.

Grading of gang rape of a married person

190. The offence of gang rape of a married person shall be a felony of the third degree and shall also be liable to pay “GAO” by each defendant in accordance with the other laws.

Gang rape of a child below twelve years of age

191. A defendant shall be guilty of the offence of gang rape of a child below the age of twelve years, when two or more persons engage in a sexual intercourse with a child below the age of twelve years.

Grading of gang rape of a child below twelve years of age

192. The offence of gang rape of a child below twelve years of age shall be a felony of the first degree.

Gang rape of a child above twelve years of age

193. A defendant shall be guilty of the offence of gang rape of a child above the age of twelve years, when two or more persons engages in raping or indulging into a sexual intercourse with a child between the age of twelve and eighteen years.

Grading of gang rape of a child above twelve years of age

194. The offence of gang rape of a child above twelve years of age shall be a felony of the second degree.

Gang rape of a pregnant woman

195. A defendant shall be guilty of the offence of gang rape of a pregnant woman, when two or more persons engage in raping a pregnant woman.

Grading of gang rape of a pregnant woman

196. The offence of gang rape of pregnant woman shall be a felony of the third degree and shall also be liable to pay “GAO” by each defendant in accordance with the other laws wherever applicable.

Custodial rape

197. A defendant shall be guilty of the offence of custodial rape, if the defendant who has custody of a person, or being a legal guardian takes advantage of one’s official position and engages in sexual intercourse with such person.

Grading of custodial rape

198. The offence of custodial rape shall be a felony of the third degree.

Marital rape

199. A defendant shall be guilty of marital rape, if the defendant engages in sexual intercourse with one’s own spouse without consent or against the will of the other spouse.

Grading of marital rape

200. The offence of marital rape shall be a petty misdemeanour.

Injury

201. Where injury is the result of the commission of rape of any description, the victim is entitled to compensation as provided by this Penal Code.

Compensation to victim

202. The victim of rape shall be entitled to compensation as per the provision of this Penal Code. Each defendant or defendants shall be liable to pay individually.

Child molestation

203. A defendant shall be guilty of the offence of child molestation, if the defendant molests a child.

Grading of child molestation

204. The offence of child molestation shall be a felony of the fourth degree.

Sexual harassment

205. A defendant shall be guilty of sexual harassment, if the defendant makes unwelcome physical, verbal or non-verbal abuse of sexual nature.

Grading of sexual harassment

206. The offence of sexual harassment shall be a petty misdemeanour.

Incest

207. A defendant shall be guilty of the offence of incest, if the defendant engages in sexual intercourse or any other sexual conduct with a person to whom the defendant is related by consanguinity or affinity in such a way that they cannot legally marry except otherwise provided in other laws.

Grading of incest

208. The offence of incest shall be a misdemeanour.

Indecent exposure

209. A defendant shall be guilty of the offence of indecent exposure, if the defendant exposes one's private parts to another person or does any obscene act in a public place under circumstances, which the defendant knows or should know that it is likely to cause affront or alarm.

Grading of indecent exposure

210. The offence of indecent exposure shall be a petty misdemeanour.

Bestiality

211. A defendant shall be guilty of the offence of bestiality, if the defendant engages in sexual intercourse or other sexual contact with an animal.

Grading of bestiality

212. The offence of bestiality shall be a petty misdemeanour.

Unnatural sex

213. A defendant shall be guilty of the offence of unnatural sex, if the defendant engages in sodomy or any other sexual conduct that is against the order of nature.

Grading of unnatural sex

214. The offence of unnatural sex shall be a petty misdemeanour.

**CHAPTER 15
OFFENCES AGAINST INFANT, CHILD, MENTALLY DISABLED AND
INCOMPETENT PERSON**

Abandonment of an infant or a child

215. A defendant shall be guilty of the offence of abandonment of an infant or a child, if a defendant is a parent, guardian, or other person legally charged with the care or custody of an infant or a child and the defendant leaves the infant or child in any place with the intent to abandon the infant or child.

216. A defendant shall be guilty of the offence of homicide, if the abandonment of an infant or a child by the defendant results in death.

217. A defendant shall have a defence to the offence of abandonment of an infant or a child, if the defendant leaves the infant or a child in a place or with a person where the infant or a child will be cared for appropriately.

Grading of abandonment of an infant or a child

218. The offence of abandonment of an infant or a child shall be a misdemeanour.

Abandonment of a dead infant

219. A defendant shall be guilty of the offence of abandonment of a dead infant, if the defendant leaves a dead corpse of an infant in any place or manner other than required by practice of disposal of such corpse.

Grading of abandonment of a dead infant

220. The offence of abandonment of a dead infant shall be a petty misdemeanour.

Child abuse

221. A defendant shall be guilty of the offence of a child abuse, if the defendant subjects a child to an economic exploitation or any work that is likely to be hazardous.

Grading of a child abuse

222. The offence of a child abuse shall be a misdemeanour.

Endangerment of a child

223. A defendant shall be guilty of the offence of endangerment of a child, if the defendant engages in a conduct that would injure the physical or mental condition of a child.

Grading of endangerment of a child

224. The offence of endangerment of a child shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if aggravated circumstance is present.

Pedophilia

225. A defendant shall be guilty of the offence of pedophilia, if the defendant:

- (a) Photographs or videotapes a child in a sexual act;
- (b) Sells, manufactures, distributes, or otherwise deals in material that contains any depiction of a child engaged in sexual contact; or
- (c) Solicits directly or indirectly the services of a child for sex.

Grading of pedophilia

226. The offence of pedophilia shall be:

- (a) A misdemeanour; or
- (b) A felony of the third degree, if the defendant solicits directly or indirectly the services of a child for sex.

Trafficking of a child

227. A defendant shall be guilty of the offence of trafficking of a child, if the defendant, sells, buys or transports a child for any illegal purpose.

Grading of trafficking of a child

228. The offence of trafficking of a child shall be a felony of the third degree.

Endangerment of a mentally disabled or an incompetent person

229. A defendant shall be guilty of the offence of endangerment of a mentally disabled or an incompetent person, if the defendant intentionally engages in a conduct that injures the physical or mental condition of a mentally disabled or an incompetent person.

Grading of endangerment of a mentally disabled or an incompetent person.

230. The offence of endangerment of a mentally disabled or incompetent person shall be a misdemeanour.

**PART THREE
OFFENCES AGAINST PROPERTY**

**CHAPTER 16
ARSON AND RELATED OFFENCES**

Arson

231. A defendant shall be guilty of the offence of arson, if the defendant starts a fire or causes an explosion, thereby destroying or damaging the property of another, which does not belong to the defendant.

Grading of arson

232. The offence of arson shall be a felony of the fourth degree.

Negligent burning or exploding

233. A defendant shall be guilty of the offence of negligent burning, if the defendant negligently starts a fire or causes an explosion, thereby causing fire on the property of another.

Grading of negligent burning or exploding

234. The offence of negligent burning or exploding shall be a petty misdemeanour.

CHAPTER 17
BURGLARY, TRESPASS AND RELATED OFFENCES

Burglary

235. A defendant shall be guilty of the offence of burglary, if the defendant unlawfully enters or remains in a building, an occupied structure, or a separately secured or occupied portion of a building or structure used as an abode, industry, or business, with or without force, with the intent to commit a crime therein, unless the building, occupied structure, or separately secured or occupied portion of the building or structure is at the time open to the public or the defendant is licensed or privileged to enter or remain.

Grading of burglary

236. The offence of burglary shall be a felony of the:

- (a) Fourth degree; or
- (b) Third degree, if in the course of committing the burglary the defendant purposely, knowingly, or recklessly inflicts or attempts to inflict bodily injury on another person, who is not a participant in the crime; or is armed with explosives or a deadly weapon.

Trespass

237. A defendant is guilty of the offence of trespass, if the defendant intentionally enters or remains on others property or in a building, occupied structure, or separately secured or occupied portion of a building or structure with the knowledge that the defendant is not or no longer licensed or privileged to enter or remain thereto.

Exception to trespass

238. The entry or remaining in a building, occupied structure, separately secured or occupied portion of a building or structure, or on any property is not a trespass, if:

- (a) The property involved in the trespass has been abandoned;
- (b) The property involved in the trespass was at the time of the trespass open to members of the public and the defendant complied with all lawful conditions imposed for accessing or remaining on the property; or
- (c) The defendant reasonably believed that the owner of the property or other person empowered to license access thereto gave the defendant license to enter or remain.

Grading of trespass

239. The offence of trespass shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if in the course of committing the trespass, the defendant purposely, knowingly, or recklessly inflicts or attempts to inflict bodily injury on another person, who is not a participant in the crime or is armed with explosives or a deadly weapon.

CHAPTER 18
LARCENY, ROBBERY, ARMED ROBBERY AND RELATED OFFENCES

Larceny

240. A defendant shall be guilty of the offence of larceny, if the defendant takes or moves the property of another person without the owner's consent and with the intent to deprive the owner of the property or to appropriate the same to the defendant or a third person.

Larceny by deception

241. A defendant, who obtains property of another by deception or cheating, is guilty of larceny. A defendant deceives or cheats another person, if the defendant:

- (a) Creates or reinforces a false impression of property, including false impressions as to the law relating to the property, the value of the property, or the use of the property;
- (b) Prevents another from acquiring information which would affect that person's judgment of a property transaction;
- (c) Fails to correct a false impression that the defendant previously created or reinforced; or
- (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment or ownership of the property whether the impediment is or is not valid or is or is not a matter of official record.

242. The term "deceive or cheat" as used does not include falsities about matters that have no pecuniary significance or other false statements that are unlikely to deceive or influence a reasonable person.

Defence to larceny

243. A defendant shall have a defence to a prosecution for the offence of larceny, if the defendant:

- (a) Acted with a reasonable belief that the defendant had a right to the property involved in the larceny; or
- (b) Took property that was for sale intending to purchase and pay for it promptly.

Grading of larceny

244. The offence of larceny shall be a value-based sentencing.

Robbery

245. A defendant shall be guilty of the offence of robbery, if in the course of committing a larceny, the defendant uses or threatens to use force against another person.

Grading of robbery

246. The offence of robbery shall be a felony of the:

- (a) Fourth degree; or
- (b) Third degree, if an aggravated circumstance is present.

Armed robbery

247. A defendant shall be guilty of the offence of armed robbery, if in the course of committing a robbery there exists three or more persons.

Grading of armed robbery

248. The offence of armed robbery shall be a felony of the:

- (a) Third degree; or
- (b) Second degree, if an aggravated circumstance is present.

Extortion

249. A defendant shall be guilty of the offence of extortion, if the defendant unlawfully obtains or collects or attempts to obtain or collect something of value from a person by compelling the person to deliver it.

Grading of extortion

250. The offence of extortion shall be a felony of the third degree.

Illegal transfer of immovable property

251. A defendant is guilty of the offence of the illegal transfer of immovable property, if the defendant unlawfully transfers title or ownership of immovable property of another person or a public property or any interest therein to a third person.

Grading of illegal transfer of immovable property

252. The offence of illegal transfer of immovable property shall be a value-based sentencing.

Larceny of property lost, mislaid, or delivered by mistake

253. A defendant shall be guilty of larceny of property lost, mislaid, or delivered by mistake, if the defendant comes into control of property known to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient and with the purpose of depriving the owner thereof, the defendant fails to take reasonable measures to restore the property to the person entitled to it.

Grading of larceny of property lost, mislaid, or delivered by mistake

254. The offence of larceny of property lost, mislaid, or delivered by mistake shall be a petty misdemeanour.

Possession of stolen property

255. A defendant is guilty of the offence of possession of stolen property, if the defendant purposely receives, retains, or disposes off the property of another person knowing that it has been stolen, or believing that it has been stolen, with the intent to benefit oneself or a third person other than the owner of the property or to impede the recovery of the property by the owner.

Grading of possession of stolen property

256. The offence of possession of stolen property shall be half the penalty awarded to a person who had committed the offence of larceny.

Theft of services

257. A defendant shall be guilty of the offence of theft of services, if the defendant intentionally does not pay for a service rendered to the defendant or another person for whom the defendant is legally responsible upon receipt of a bill for the service.

258. A defendant shall be guilty of the offence of theft of services, if the defendant by deception, threat, or other means obtains a service without paying for it knowing it to be available only for compensation.

259. A defendant shall be guilty of the offence of theft of services, if having control over the disposition of a service of another to which the defendant is not entitled, the defendant knowingly diverts the service to the defendant's own benefit or to the benefit of third person not entitled to the service.

260. In this Penal Code, the term "service" shall include labour, professional services, transportation services, telecommunication services, including cable television, gas, electricity, water, or other public service, accommodations in a hotel, and restaurant service.

Grading of theft of services

261. The offence of theft of services shall be a value-based sentencing.

Unauthorized use of property

262. A defendant is guilty of the offence of unauthorized use of property, if the defendant operates or uses another person's property without consent of the owner.

263. A defendant shall have a defence to a prosecution for the offence of unauthorized use of property, if the defendant reasonably believed that the owner would have consented to the operation of the property by the defendant, if the owner had known of it.

Grading of unauthorized use of property

264. The offence of unauthorized use of property shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if the property is damaged during the unauthorized use except for trivial damage.

Breach of trust

265. The defendant shall be guilty of the offence of breach of trust, if the defendant being entrusted with property or dominion over property does any act contrary to the terms of his trust and dishonestly misappropriates or converts the property to ones own use.

Grading of breach of trust

266. The offence of the breach of trust shall be a value-based sentencing.

Criminal misappropriation of property

267. The defendant shall be guilty of the offence of criminal misappropriation of property, if the defendant dishonestly misappropriates or converts the property of others to his own use.

Grading of criminal misappropriation of property

268. The offence of the criminal misappropriation of property shall be a value-based sentencing.

Reckless endangerment of property

269. A defendant shall be guilty of the offence of reckless endangerment of property, if the defendant engages in a conduct that creates a substantial risk of damage to the property of another person.

Grading of reckless endangerment of property

270. The offence of reckless endangerment of property shall be a value-based sentencing.

Unlawful posting of advertisements

271. A defendant shall be guilty of the offence of unlawful posting of advertisements, if the defendant without any right or reasonable ground posts, paints, or otherwise affixes to the property of another person any advertisement, poster, notice, or other document.

Grading of unlawful posting of advertisements

272. The offence of unlawful posting of advertisements shall be a petty misdemeanour.

Auto stripping

273. A defendant shall be guilty of the offence of auto stripping, if the defendant removes, destroys, or defaces any part of a motor vehicle.

Grading of auto stripping

274. The offence of auto stripping shall be a value-based sentencing.

Pick pocketing

275. A defendant shall be guilty of the offence of pick pocketing, if the defendant unnecessarily places one's hands in a person's pocket or handbag in a public place.

Grading of pick pocketing

276. The offence of pick pocketing shall be a value-based sentencing.

PART FOUR
COMMERCIAL CRIME, FRAUD, CORRUPTION AND RELATED OFFENCES
CHAPTER 19
MONEY LAUNDERING AND SMUGGLING

Money laundering

277. A defendant shall be guilty of the offence of money laundering, if the defendant knowingly:

- (a) Acquires, owns, possesses or transfers any proceeds of crime;
- (b) Enters into any financial transaction which is related to the proceeds of crime either directly or indirectly; or
- (c) Conceals or aids in the concealment of the proceeds of crime.

Grading of money laundering

278. The offence of money laundering shall be a value-based sentencing.

Smuggling

279. A defendant shall be guilty of the offence of smuggling, if the defendant secretly and illegally imports or exports the restricted and prohibited goods or substances including animal parts.

Grading of smuggling

280. The offence of smuggling shall be a value-based sentencing.

Receiving of smuggled goods or substances

281. A defendant shall be guilty of receiving smuggled goods or substances, if the defendant receives, retains or dispose of any smuggled goods knowing or believing that the goods or substances are smuggled.

Grading of receiving of smuggled goods or substances

282. The offence of receiving of smuggled goods or substances shall be half the penalty awarded to a person who had committed the offence of smuggling.

Tax evasion

283. A defendant shall be guilty of the offence of tax evasion, if the defendant refrains from paying taxes which he is supposed to pay or illegally pays less tax than the law permits or commits fraud in filing or paying taxes.

Grading of tax evasion

284. The offence of tax evasion shall be a value-based sentencing.

Breach of contract

285. A defendant shall be guilty of the offence of breach of contract, if the defendant fails without any legal excuse, to perform any promise that forms the whole or part of a contract or any agreement.

Grading of breach of contract

286. The offence of breach of contract shall be a petty misdemeanour.

**CHAPTER 20
EMBEZZLEMENT AND BRIBERY**

Embezzlement

287. A defendant shall be guilty of the offence of embezzlement, if the defendant:

- (a) Misuses or misappropriates government funds or property;
- (b) Misuses or misappropriates private business's funds or property;
- (c) Does not remit or deposit a collection of money into the place to which the collection is intended to be remitted or deposited;
- (d) Makes an illegal expenditure; or
- (e) Fails to produce or render an accounting of the use of government funds or property upon demand by a proper governmental authority.

Grading of embezzlement

288. The offence of embezzlement shall be:

- (a) A felony of the second degree, if the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period of thirty five years or more;
- (b) A felony of the third degree, if the item of the crime is not of a type described in Section 288(a) and the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period less than thirty five years and for a period of twenty one years or more;
- (c) A felony of the fourth degree, if the item of the crime is not of a type described in Section 288(a) & (b) above and the value or the amounts involved in the crime exceed the total amount of the daily minimum national wage rate at the time of the crime for a period less than twenty one years and for a period of fifteen years or more;
- (d) A misdemeanour, if the item of the crime is not of a type described in Section 288(a) (b) and (c) above and the value or the amounts are less than the total amount of the daily minimum national wage rate at the time of the crime for a period less than fifteen years and for a period of seven years or more; and
- (e) A petty misdemeanour, if the item of the crime is not of a type described in Section 288(a) (b), (c) and (d) above and the value or the amounts are less than the total amount of the daily minimum national wage rate at the time of the crime for a period less than seven years.

Bribery

289. A defendant shall be guilty of the offence of bribery, if the defendant is a public official and accepts money, property, or other gratification for oneself or another person in exchange for doing an act or omitting to do an act that is related to the defendant's public duties.

290. A defendant shall be guilty of the offence of bribery, if the defendant offers money, property, or other gratification to a public official in exchange for the public official doing an act or omitting to do an act that is related to the public official's duties.

Grading of bribery

291. The offence of public bribery shall be a value-based sentencing.

Commercial bribery

292. A defendant shall be guilty of the offence of commercial bribery, if the defendant solicits, accepts, or agrees to accept any money, property, or other gratification as consideration for knowingly violating or agreeing to violate a fiduciary duty to which the defendant is subjected to as a:

- (a) Partner, agent, or employee of another;
- (b) Officer, director, manager, or high managerial agent involved in the direction of the affairs of an incorporated or unincorporated association or corporation;
- (c) Trustee, guardian, or other person in a fiduciary position;
- (d) *Jabmi*, physician, accountant, appraiser, or other professional adviser;
- (e) Court appointed agent, mediator, or receiver; or
- (f) Arbitrator or other purportedly disinterested adjudicator or referee.

Grading of commercial bribery

293. The offence of commercial bribery shall be a value-based sentencing.

Official misconduct

294. A defendant shall be guilty of the offence of official misconduct, if the defendant knowingly:

- (a) Commits an act relating to the office constituting an unauthorized exercise of the official functions or unauthorized divulging of restricted official information or secrecy; or
- (b) Refrains from performing a duty, which is imposed upon the defendant by law.

Grading of official misconduct

295. The offence of official misconduct shall be a misdemeanour.

**CHAPTER 21
FORGERY AND RELATED OFFENCES**

Forgery

296. A defendant shall be guilty of the offence of forgery, if with the purpose to defraud, deceive, or prejudice the rights of another person, the defendant:

- (a) Makes or alters a writing or document of another which has legal efficacy without authority;

- (b) Makes, completes, executes, authenticates, issues, or transfers a writing or document using the authority of another, who did not authorize the defendant to use the authority;
- (c) Signs another person's name, writes something in or on another person's existing signature that materially alters the originality or authenticity of the signature, or obtains someone else's genuine signature by deceitful means; or
- (d) Causes any circumstance to exist or make any false entry in any book or record, or makes any document containing false statement, intending that such circumstances may appear in evidence in a judicial proceeding, or in any other proceeding taken by lawful authority.

Grading of forgery

297. The offence of forgery shall be:

- (a) A felony of the second degree, if the writing or document forged is a part of a *kasho* of His Majesty;
- (b) A felony of the third degree, if the writing or document forged is a part that involves the issue of money, securities, postage or revenue stamps, or other valuable instrument issued by the government, or part of an issue of stock, bonds, or other instrument representing interests in or claims against any property or enterprise;
- (c) A felony of the fourth degree, if the writing or document forged is a will, deed, contract, mortgage, release, commercial instrument, or other writing or document evidencing, creating, transferring, altering, terminating, or otherwise affecting a legal relationship; or
- (d) A misdemeanour for all other forgeries.

Tampering with public records

298. A defendant shall be guilty of the offence of tampering with public records, if after knowing that the defendant does not have the authority to do so, removes, mutilates, destroys, conceals, makes a false entry in, or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office.

Grading of tampering with public records

299. The offence of tampering with public records shall be a felony of the fourth degree.

Tampering with documents

300. A defendant shall be guilty of the offence of tampering with documents, if the defendant, with the intent to defraud, deceive, or injure another person or to conceal a wrongdoing, removes, mutilates, destroys, conceals, or falsifies a written instrument of the following type:

- (a) A record or document pertaining to a legal proceeding that has not been filed in Court;
- (b) A will, deed, contract, mortgage, release, or commercial instrument that has not been registered or any other document affecting a legal relationship; or

- (c) An accounting record or financial statement.

Grading of tampering with documents

301. The offence of tampering with documents shall be a misdemeanour.

Execution of a document by deception

302. A defendant shall be guilty of the offence of execution of a document by deception, if the defendant causes a person to execute a document effecting, purporting to effect, or likely to affect a pecuniary interest of that person or another person, when the defendant knows that the document will not have such an effect.

Grading of execution of a document by deception

303. The offence of execution of a document by deception shall be a misdemeanour.

Fraudulent cheque writing

304. A defendant shall be guilty of the offence of fraudulent cheque writing, if the defendant issues or passes a cheque knowing that the drawer will not honour it.

305. For the purpose of this Penal Code an issuer is presumed to know that the cheque will not be honoured by the drawer, if the issuer:

- (a) Has no account with the drawer at the time the cheque is issued; or
- (b) Knows that the fund with the drawer is insufficient to cover the cheque and payment is refused by the drawer for lack of funds upon presentation within thirty days after issue and the issuer fails to make good within sixty days after receiving notice of that refusal.

Grading of fraudulent cheque writing

306. The offence of fraudulent cheque writing shall be a value-based sentencing.

Counterfeiting

307. A defendant shall be guilty of the offence of counterfeiting, if the defendant knowingly manufactures, distributes, or sells counterfeit medicinal products, false currency, coin or bank notes.

Grading of counterfeiting

308. The offence of counterfeiting shall be a felony of the fourth degree.

Deceptive practice

309. A defendant shall be guilty of the offence of deceptive practice, if the defendant knowingly:

- (a) Possesses, uses, or sells a false weight, measure or other device for false determination or recording of quality or quantity of a good;
- (b) Sells, offers, exposes for sale, or delivers less than the represented quantity of a good;

- (c) Makes a false or misleading written statement for the purpose of obtaining property or credit;
- (d) Files or gives a false affidavit or information;
- (e) Makes a false or misleading written statement for the purpose of promoting the sale of a security or omits information required by law to be disclosed in written document relating to a security;
- (f) Defrauds another person or the defendant in facilitating a fraud to be perpetrated on another person, makes or alters an object or an item, so that it appears to be original and genuine; or
- (g) Cheats any person to deliver any property to any person or intentionally induces the person so cheated or deceived to do or omit to do anything, which the person would not do or omit, if the person was not so cheated or deceived.

Grading of deceptive practice

310. The offence of deceptive practice shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if the deceptive practice involves the manufacturing, selling, offering, or exposing for sale of any food or beverage that is potentially perilous to the public health.

Fraudulent obtaining of insurance

311. A defendant shall be guilty of the offence of fraudulent obtaining of insurance, if the defendant presents a false statement as part of an application for commercial or personal insurance or as part of claim for payment on a commercial or personal insurance policy.

Grading of fraudulent obtaining of insurance

312. The offence of fraudulent obtaining of insurance shall be a value-based sentencing.

Fraudulent insolvency

313. A defendant shall be guilty of offence of fraudulent insolvency, if the defendant is a debtor and acting with the intent to defraud one's creditors and knowingly conveys, transfers, removes, conceals, destroys, encumbers, or otherwise disposes of any part or interest in the debtor's property, obtains any substantial part of or interest in the debtor's property, or fails or refuses to disclose about the property, or other relevant information bound by law to any creditor.

Grading of fraudulent insolvency

314. The offence of fraudulent insolvency shall be a value-based sentencing.

Fraud involving a security interest

315. A defendant shall be guilty of the offence of fraud involving a security interest, if the defendant engages in fraudulent conduct designed to defeat a security interest.

Grading of fraud involving a security interest

316. The offence of fraud involving a security interest shall be a value-based sentencing.

**CHAPTER 22
DEFAMATION AND RELATED OFFENCES**

Defamation

317. A defendant shall be guilty of the offence of defamation, if the defendant intentionally causes damage to the reputation of another person or a legal person by communicating false or distorted information about that person's action, motive, character, or reputation.

Exceptions to defamation

318. The following acts shall not be construed as defamation:

- (a) A bonafide expression made in the public interest;
- (b) A criticism of a literary work or product;
- (c) An appeal through lawful means or in good faith for redressing a grievance;
- (d) A bonafide complaint by the defendant against one's own superior officer or about an employee serving under the officer;
- (e) A bonafide complaint by or to an agency or authority of Bhutan to redress a grievance;
- (f) A formal report of a supervisor or superior officer concerning the work or performance of an employee; or
- (g) Instances where the Court, based on relevant facts and circumstances, considers the statement made to be reasonable.

Grading of defamation

319. The offence of defamation shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of three years to the aggrieved party calculated in accordance with the daily minimum national wage rate, if the defamation includes murder, armed robbery, terrorism or treason; or
- (b) A petty misdemeanour and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the daily minimum national wage rate, if the defamation includes any matter other than murder, armed robbery, terrorism or treason.

Libel

320. A defendant shall be guilty of the offence of libel, if the defendant defames another person through the means of writing, drawing, or photographing.

Grading of libel

321. The offence of libel shall be:

- (a) A felony of the fourth degree and pay compensation for a minimum of one month and a maximum of three years to the aggrieved party calculated in accordance with the daily minimum national wage rate, if the libel includes murder, armed robbery, terrorism or treason; or

- (b) A petty misdemeanour and pay compensation to the aggrieved party for a minimum of one month and maximum of three years calculated in accordance with the daily minimum national wage rate, if the libel includes any matter other than murder, armed robbery, terrorism or treason.

Blackmail

322. A defendant shall be guilty of the offence of blackmail, if the defendant threatens to expose a true or allegedly true fact about a person that would cause harm to that person's reputation unless the person gives the defendant money, property, or other gratification.

Grading of blackmail

323. The offence of blackmail shall be a misdemeanour.

False advertising

324. A defendant shall be guilty of the offence of false advertising, if the defendant with the intent to promote the sale or to increase the consumption of a property or service makes or causes to be made a false or misleading statement in any advertisement addressed to the public or to substantial number of persons.

Grading of false advertising

325. The offence of false advertising shall be a misdemeanour.

**PART FIVE
OFFENCES AGAINST STATE AND PUBLIC ORDER**

**CHAPTER 23
TREASON, TERRORISM AND RELATED OFFENCES**

Treason

326. A defendant shall be guilty of the offence of treason, if the defendant commits a subversive act against the state within or outside the realm of Bhutan.

327. Treason shall include the following acts:

- (a) Waging war against Bhutan;
- (b) Engages with the known enemy of Bhutan;
- (c) Supplying or engaging in the collection of weapons to be used against Bhutan; or
- (d) Causing or attempting to cause any physical injury on *the Druk Gyalpo*.

Grading of treason

328. The offence of treason shall be a felony of the first degree.

Terrorism

329. A defendant shall be guilty of the offence of terrorism, if the defendant:

- (a) With intent to subvert the state, uses, assists, recruits, or trains another person to use a bomb, dynamite, firearm, or other lethal weapons for terrorists activities;
- (b) Participate in financing, planning, or preparation of terrorists acts or in supporting terrorist acts directly; or
- (c) Engages in a violent act or insurrection against Bhutan that is designed primarily to generate fear in a community or a substantial section of the society.

Grading of terrorism

330. The offence of terrorism shall be a felony of the first degree.

Sedition

331. A defendant shall be guilty of the offence of sedition, if the defendant:

- (a) Undermines the security, unity, integrity, or sovereignty of Bhutan by creating animosity and disaffection among the people;
- (b) Creates animosity between Bhutan and its people or Bhutan and the government of a foreign country with which Bhutan has peaceful and friendly relations;
- (c) Writes and distributes seditious pamphlet, poster or literature;
- (d) Conducts meeting of a seditious nature; or
- (e) Issues a scurrilous and malignant statement against His Majesty or the Royal Government with the intent to defame, disrupt, encourage contempt, or incite hatred of the people against Bhutan.

Grading of sedition

332. The offence of sedition shall be a felony of the third degree.

Espionage

333. A defendant shall be guilty of the offence of espionage, if the defendant:

- (a) Without having the written permission of a competent government authority to do so, enters into a government office, military establishment, or another restricted area in order to obtain information of a confidential nature relating to Bhutan's national security;
- (b) Is in possession of an article, data, or other information relating to Bhutan's national security and purposely, knowingly, or recklessly discloses the contents to another person not legally authorized by the Royal Government to know it; or
- (c) Reveals confidential information relating to Bhutan's national security to a person not legally authorized by the Royal Government to know it.

Grading of espionage

334. The offence of espionage shall be a felony of the third degree.

Hijacking

335. A defendant shall be guilty of the offence of hijacking, if the defendant commandeers an airplane or other mode of transport.

Grading of hijacking

336. The offence of hijacking shall be a felony of the:

- (a) First degree; or
- (b) Second degree, if it involves a mode of transportation other than an aircraft.

Abettor of mutiny

337. A defendant shall be guilty of the offence of abettor of mutiny, if the defendant abets the committing of mutiny by an officer or soldier of the armed forces of Bhutan.

Grading of abettor of mutiny

338. The offence of abettor of mutiny shall be a felony of the third degree.

Harbouring of deserter

339. A defendant shall be guilty of the offence of harbouring of deserter, if the defendant harbours an officer or soldier of the armed forces of Bhutan, who had deserted the armed forces without authorization to do so.

Grading of harbouring of deserter

340. The offence of harbouring of deserter shall be a misdemeanour.

Impersonation of uniformed personnel

341. A defendant shall be guilty of the offence of impersonation of uniformed personnel, if the defendant is not in the armed forces of Bhutan but wears a uniform, carries a token of, or other attire similar to that of the armed forces of Bhutan with the purpose to impersonate uniformed personnel.

Grading of impersonation of uniformed personnel

342. The offence of impersonation of uniformed personnel shall be a felony of the fourth degree.

Impersonation of an official

343. A defendant shall be guilty of the offence of impersonation of an official, if the defendant falsely represents to be that official.

Grading of impersonation of an official

344. The offence of impersonation of an official shall be a misdemeanour.

CHAPTER 24
OFFENCES AGAINST CULTURAL AND NATIONAL HERITAGE

Illegal sale of cultural and national heritage property

345. A defendant shall be guilty of the offence of illegal sale of cultural and national heritage property, if the defendant knowingly sells or exports an item of cultural and national heritage property without prior permission from the relevant government authority.

Grading of illegal sale of cultural and national heritage property

346. The offence of illegal sale of cultural and national heritage property shall be a felony of the fourth degree.

Damage to cultural or national heritage property and national monuments

347. A defendant shall be guilty of the offence of damage to cultural or national heritage property and national monuments, if the defendant damages, destroys, or excavates a cultural or national heritage property and national monument.

Grading of damage to cultural or national heritage property and national monuments

348. The offence of damage to cultural or national heritage property and national monuments shall be a felony of the fourth degree.

Damage to religious objects

349. A defendant shall be guilty of the offence of damage to religious objects, if the defendant unlawfully damages, destroys, or excavates any religious object.

Grading of damage to religious objects

350. The offence of damage to religious objects shall be a misdemeanour.

Offence against the *Ku, Sung, Thuk-Ten, or Zung*

351. A defendant shall be guilty of the offence against the *Ku, Sung, Thuk-Ten, or Zung*, if the defendant:

- (a) Removes a *Zung* from a *Chorten* or religious statue;
- (b) Commits a larceny of *Ku, Sung, Thuk-Ten, or Zung* of antique value from a *Lhakhang, Dzong, Chorten*, museum, or dwelling places; or
- (c) Vandalising any *Ten Suum*.

Grading of offence against the *Ku, Sung, Thuk-Ten, or Zung*

352. The offence against the *Ku, Sung, Thuk-Ten, or Zung* shall be a felony of the first degree.

Illegal purchase or sale of *Ku, Sung, Thuk-Ten, or Zung*

353. A defendant shall be guilty of the offence of illegal purchase or sale of *Ku, Sung, Thuk-Ten, or Zung*, if the defendant unlawfully purchases, sells, or otherwise procures *Ku, Sung, Thuk-Ten, or Zung* of antique value knowing or believing it to have been obtained through commission of an offence.

Grading of illegal purchase or sale of *Ku, Sung, Thuk-Ten, or Zung*

354. The offence of illegal purchase or sale of *Ku, Sung, Thuk-Ten, or Zung* shall be a felony of the fourth degree.

Illegal gift of *Ku, Sung, Thuk-Ten, or Zung*

355. A defendant shall be guilty of the offence of illegal gift of *Ku, Sung, Thuk-Ten, or Zung*, if the defendant presents as gift a *Ku, Sung, Thuk-Ten, or Zung* of antique value to a foreigner.

Grading of illegal gift of *Ku, Sung, Thuk-Ten, or Zung*

356. The offence of illegal gift of *Ku, Sung, Thuk-Ten, or Zung* shall be a felony of the third degree.

Caretaker's negligence causing loss or larceny of *Ku, Sung, Thuk-Ten, Zung* or antique

357. A defendant shall be guilty of causing loss or larceny of *Ku, Sung, Thuk-Ten, Zung, or antique*, if the defendant is a caretaker and one's negligence resulted in the loss or larceny of an antique *Ku, Sung, Thuk-Ten, Zung* or antique from a *Lhakhang, Dzong, Chorten, or museum*.

Grading of caretaker's negligence causing loss or larceny of *Ku, Sung, Thuk-Ten, Zung* or antique

358. The offence of causing loss or larceny of *Ku, Sung, Thuk-Ten, Zung* or antique shall be a petty misdemeanour.

Larceny of antique

359. A defendant shall be guilty of the offence of larceny of antique, if the defendant takes or moves the antique property of another person without the owner's consent and with the intent to deprive the owner of the property or to appropriate the same to the defendant or a third person.

Grading of larceny of antique

360. The offence of larceny of antique shall be a value-based sentencing.

Illegal purchase or sale of an antique

361. A defendant shall be guilty of the offence of illegal purchase or sale of antique, if the defendant unlawfully purchases, sells, or otherwise procures any antique knowing or believing it to have been obtained through commission of an offence.

Grading of illegal purchase or sale of an antique

362. The offence of illegal purchase or sale of antique shall be a felony of the fourth degree.

Illegal gift of antique

363. A defendant shall be guilty of the offence of illegal gift of antique, if the defendant presents as gift a prohibited antique to a foreigner.

Grading of illegal gift of antique

364. The offence of illegal gift of antique shall be a felony of the fourth degree.

**CHAPTER 25
OFFENCES AGAINST JUDICIAL AUTHORITY**

Unauthorized hearing

365. A defendant shall be guilty of the offence of unauthorized hearing, if the defendant is not lawfully authorized to hear a case but hears a case and orders a sentence and/or an award of damages or fine or other punishment.

Grading of unauthorized hearing

366. The offence of unauthorized hearing shall be a misdemeanour.

Contempt of court

367. A defendant shall be guilty of the offence of contempt of court, if the defendant:

- (a) Has been served with a Court order and fails to comply without any reasonable cause;
- (c) Purposely interferes with or interrupts a legal proceeding including a failure to respond to a Court directed inquiry, makes a public outburst, an antagonistic comment or directs a threat at a judicial official or person present in the courtroom, or engages in acts demonstrating a lack of *driglam namsha* befitting the Court; or
- (c) Refuses to abide or obey a direction rendered by the Court.

Grading of contempt of court

368. The offence of contempt of court shall be a petty misdemeanour except that the Court may extend the period of imprisonment until the defendant complies with the Court order that is the subject of the contempt.

Perjury

369. A defendant shall be guilty of the offence of perjury, if in a judicial or quasi-judicial proceeding conducted by lawful judicial authority, if the defendant knowingly makes a false declaration or gives false evidence with regard to the issue or point in question.

Grading of perjury

370. The offence of perjury shall be a misdemeanour.

Cantankerous litigation

371. A defendant shall be guilty of the offence of cantankerous litigation, if the defendant launches a malicious or malafide prosecution with perverse intent to embarrass or harass another person without having a reasonable basis for the prosecution or knowing that the prosecution does not involve a concrete controversy or case.

Grading of cantankerous litigation

372. The offence of cantankerous litigation shall be a petty misdemeanour.

**CHAPTER 26
PROSTITUTION AND RELATED OFFENCES**

Prostitution

373. A defendant shall be guilty of the offence of prostitution, if the defendant offers, agrees to engage, or engages in sexual conduct with another person for money or property.

Grading of prostitution

374. The offence of prostitution shall be a misdemeanour.

Promotion of prostitution

375. A defendant shall be guilty of the offence of promotion of prostitution, if the defendant:

- (a) Owns, leases, controls, manages, supervises a brothel or otherwise keeps a prostitution business;
- (b) Procures a person for a house of prostitution;
- (c) Encourages, induces, or otherwise purposely causes another to become or remain as a prostitute;
- (d) Solicits a person to patronize a prostitute;
- (e) Procures a prostitute for a patron; or
- (f) Requires a prostitute to give a part or all of the money or property received as a result of the prostitution.

Grading of promotion of prostitution

376. The offence of promotion of prostitution shall be:

- (a) A misdemeanour;
- (b) A felony of the fourth degree, if the person used for prostitution is a child of above twelve years and below eighteen years; or
- (c) A felony of the third degree, if the person used for prostitution is a child of twelve years and below.

Patronizing a prostitute

377. A defendant shall be guilty of the offence of patronizing a prostitute, if the defendant gives money, property, or other gratification to engage in sexual act.

Grading of patronizing a prostitute

378. The offence of patronizing a prostitute shall be:

- (a) A misdemeanour;
- (b) A felony of the fourth degree, if the person used for prostitution is a child of above twelve years and below eighteen years; or

- (c) A felony of the third degree, if the person used for prosecution is a child of twelve years and below.

Trafficking a person for prostitution

379. A defendant shall be guilty of the offence of trafficking a person for prostitution, if the defendant transports, sells or buys a person into or outside of Bhutan with the purpose of engaging that person in prostitution.

Grading of trafficking a person for prostitution

380. The offence of trafficking a person for prostitution shall be a felony of the:

- (a) Third degree;
- (b) Second degree, if the person is a child of above twelve years and below eighteen years; or
- (c) First degree, if the person is a child of twelve years and below.

Lewd and lascivious conduct

381. A defendant shall be guilty of the offence of lewd and lascivious conduct, if the defendant:

- (a) Performs a sexual act in a public place under circumstances where the defendant knows it may be observed by the public and that causes the public affront or alarm; or
- (b) Sells, manufactures, issues, distributes, displays or otherwise deals in obscene material.

Grading of lewd and lascivious conduct

382. The offence of lewd and lascivious conduct shall be a petty misdemeanour.

**CHAPTER 27
OFFENCES AGAINST THE PUBLIC WELFARE**

Public intoxication

383. A defendant shall be guilty of the offence of public intoxication, if the defendant is in public place and under the influence of alcohol, narcotics, or a drug not administered under the medical supervision endangers oneself, another person, or property.

Grading of public intoxication

384. The offence of public intoxication shall be a violation.

Use of tobacco or other health hazard substances

385. A defendant shall be guilty of the offence of use of tobacco or other health hazard substances, if the defendant uses tobacco or other health hazard substances in the prohibited places.

Grading of use of tobacco or other health hazard substances

386. The offence of use of tobacco or other health hazard substances shall be a violation.

Illegal sale of tobacco or other health hazard substances

387. A defendant shall be guilty of the offence of illegal sale of tobacco or other health hazard substances, if the defendant illegally sells any tobacco or other health hazard substances.

Grading of illegal sale of tobacco or other health hazard substances

388. The offence of illegal sale of tobacco or other health hazard substances shall be a violation.

389. A Court may also order the suspension or revocation of the business license.

Illegal sale of alcohol

390. A defendant shall be guilty of the offence of illegal sale of alcohol, if the defendant illegally sells or serves an alcoholic beverage to a child or on prohibited days and places.

Grading of illegal sale of alcohol

391. The offence of illegal sale of alcohol shall be a violation.

392. A Court may order the suspension or revocation of the license of a bar, hotel, or shop found to have violated the above Sections.

Gambling

393. A defendant shall be guilty of the offence of gambling, if the defendant stakes or wagers something of value upon the outcome of a contest of chance or a future contingent event not under the defendant's control or influence upon an agreement or understanding that the defendant will receive something of value in the event of a certain outcome.

Grading of gambling

394. The offence of gambling shall be a petty misdemeanour.

395. For the purposes of the above Sections, an authorized lottery is not considered to be gambling.

Malicious mischief

396. A defendant shall be guilty of the offence of malicious mischief, if the defendant without right or any reasonable ground to believe that the defendant has the right to do so:

- (a) Tamper with public property or private property of another person with intent to cause substantial inconvenience to the owner or to a third person;
- (b) Tamper with the property of public utility with the intent to cause substantial interruption or impairment of service rendered to the public by the public utility whether or not the tampering causes such substantial interruption or impairment of service;
- (c) Intentionally or recklessly causes damage to public property or private property of another person;

- (d) Causes serious bodily injury to an animal;
- (e) Intentionally or recklessly causes destruction of a road, bridge, runway, river-work, channel, embankment, irrigation canal, public water supplies or other place of transport of goods or natural substances;
- (f) Obstructs public drainage; or
- (g) Destroys, moves, or renders useless landmarks or official signs fixed by public authority.

Grading of malicious mischief

397. The offence of malicious mischief shall be a misdemeanour.

Usury

398. A defendant shall be guilty of the offence of usury, if the defendant is not authorized or permitted by law to do so and charges, takes, or receives any money or other property as interest on a loan or forbearance of any money or property at an interest rate that exceeds the rate offered under the law.

Grading of usury

399. The offence of usury shall be a petty misdemeanour.

Tampering with a consumer product

400. A defendant shall be guilty of the offence of tampering with a consumer product, if the defendant without any right or reasonable ground to believe that the defendant has the right to do so, alters, adulterates, poisons or otherwise contaminates a consumer product and, thereby creates a substantial risk to public health.

Grading of tampering with a consumer product

401. The offence of tampering with a consumer product shall be a misdemeanour.

Black-marketing

402. A defendant shall be guilty of the offence of black-marketing, if the defendant buys and sells any of the controlled goods including contraband goods.

Grading of black-marketing

403. The offence of black-marketing shall be a petty misdemeanour.

Antitrust

404. A defendant shall be guilty of the offence of antitrust, if the defendant unlawfully restraints trade and commerce by interfering with free competition in business and commercial transactions.

Grading of antitrust

405. The offence of antitrust shall be a value-based sentencing.

Endangerment of a public water source

406. A defendant shall be guilty of the offence of endangerment of a public water source, if the defendant intentionally or recklessly contaminates a public water source.

Grading of endangerment of a public water source

407. The offence of endangerment of a public water source shall be:

- (a) A misdemeanour;
- (b) A felony of the third degree, if it creates a substantial risk of serious physical injury to the public; or
- (c) A felony of the first degree, if the contamination results in an epidemic, death or serious public hazard.

Environment pollution

408. A defendant shall be guilty of the offence of environment pollution, if the defendant knowingly or recklessly pollutes or contaminates the environment including air, water and land and makes it noxious to the public health and safety.

Grading of environment pollution

409. The offence of environment pollution shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if it creates a substantial risk of serious physical injury to the public.

Criminal nuisance

410. A defendant shall be guilty of the offence of criminal nuisance, if the defendant knowingly or recklessly creates or maintains a condition including spreading of dangerous disease that injures or endangers the safety or health of the public.

Grading of criminal nuisance

411. The offence of criminal nuisance shall be a misdemeanour.

**CHAPTER 28
OFFENCES RELATED TO PUBLIC AND CIVIC DUTIES**

Entrapment

412. A defendant shall be guilty of the offence of entrapment, if the defendant being a law enforcement official or a person acting in cooperation with law enforcement officials or any other person for the purpose of obtaining evidence of the commission of an offence induces or encourages another person to commit a crime by making a false representation designed to induce the belief that the conduct is not prohibited by law.

Grading of entrapment

413. The offence of entrapment shall be a misdemeanour.

Torture

414. A defendant shall be guilty of the offence of torture, if the defendant extorts confession or information from a person through the use of cruel, inhuman, or other degrading treatment.

Grading of torture

415. The offence of torture shall be a felony of the:

- (a) Fourth degree; or
- (b) Third degree, if it causes permanent physical disability.

Illegal arrest

416. A defendant shall be guilty of the offence of illegal arrest, if the defendant being a police officer or other authorized government official arrests and detains a person without probable cause.

Grading of illegal arrest

417. The offence of illegal arrest shall be a violation.

Hindering prosecution

418. A defendant shall be guilty of the offence of hindering prosecution, if the defendant avoids the service of process or absconds from arrest or prosecution or knows that a person has committed a crime or is being sought by law enforcement officials for the commission of crime and the defendant:

- (a) Harbours or conceals the person;
- (b) Warns the person of impending discovery or apprehension;
- (c) Provides the person with money, transportation, weapon, or other means of avoiding discovery or apprehension;
- (d) Prevents or obstructs a third person from performing an act that might aid in the discovery or apprehension of the person;
- (e) Conceals or destroys any evidence that might aid in discovery or apprehension of the person;
- (f) Intimidates or threatens the witnesses; or
- (g) Provides false or misleading information to a public official encompassing the person that might delay or hinder the discovery or apprehension of the person.

419. A defendant, who is a public official shall be guilty of the offence of hindering prosecution, if the defendant fails to report a design, plan, or information relating to the commission, attempted commission, or conspiracy to commit a criminal offence.

420. A defendant whose duty is to apprehend a criminal suspect or convicted person shall be guilty of the offence of hindering prosecution, if the defendant deliberately and intentionally fails to apprehend the suspect or convicted person.

Grading of hindering prosecution

421. The offence of hindering prosecution shall be a petty misdemeanour.

Obstruction of lawful authority

422. A defendant shall be guilty of obstruction of lawful authority, if the defendant knowingly and without any reasonable cause obstructs lawful authority in execution of lawful duties.

Grading of obstruction of lawful authority

423. The offence of obstruction of lawful authority shall be a petty misdemeanour.

Obstruction of public service

424. A defendant shall be guilty of obstruction of public service, if the defendant without any reasonable cause interrupts, hinders or obstructs any execution of public services.

Grading of obstruction of public service

425. The offence of obstruction of public service shall be a petty misdemeanour.

Reporting of false information

426. A defendant shall be guilty of the offence of reporting of false information, if the defendant knowingly reports false information to a lawful authority with the intent to deceive that authority.

Grading of reporting of false information

427. The offence of reporting of false information shall be a petty misdemeanour.

Failure to assist lawful authority

428. A defendant shall be guilty of the offence of failure to assist lawful authority, if the defendant could aid the lawful authority without risk of bodily injury or property to the defendant and fails to aid the lawful authority in the following acts:

- (a) Execution of a warrant;
- (b) Capture or prevention of escape of any person whom the lawful authority is authorized to arrest;
- (c) Arrest of a person;
- (d) In the prevention or suppression of a breach of peace; or
- (e) Service of a Court order.

Grading of failure to assist lawful authority

429. The offence of failure to assist lawful authority shall be a petty misdemeanour.

Failure to report a crime

430. The defendant shall be guilty of the offence of failure to report a crime, if the defendant, who witnesses any person committing a crime, does not report it to the lawful authority.

Grading of failure to report a crime

431. The offence of failure to report a crime shall be a violation.

Tampering with a dead body

432. A defendant shall be guilty of the offence of tampering with a dead body, if the defendant:

- (a) Touches or disturbs a corpse that died unnaturally or touches or disturbs any article found on or near the corpse unless a circumstance requires moving of the body or removal of an article; or
- (b) Conducts any kind of scientific research on the body parts without prior consent of the person, when alive or without the consent of legal heir or representative.

Grading of tampering with a dead body

433. The offence of tampering with a dead body shall be a petty misdemeanour.

Abandonment of a person in danger

434. A defendant shall be guilty of the offence of abandonment of a person in danger, if the defendant fails to render assistance to a person, who is found wounded or in danger of dying and the assistance could be rendered without risk of bodily injury to the defendant.

Grading of abandonment of a person in danger

435. The offence of abandonment of a person in danger shall be a petty misdemeanour.

Malpractice

436. A defendant shall be guilty of the offence of malpractice, if the defendant's negligence or gross carelessness causes injury, loss, or damage to a patient or client while rendering professional service.

Grading of malpractice

437. The offence of malpractice shall be a misdemeanour.

Crime against public election

438. A defendant shall be guilty of the offence of crime against public election, if the defendant:

- (a) Offers or pays a bribe or otherwise uses undue influence in an election;
- (b) Receives or gives an illegal payment or other gratification in connection with an election;
- (c) Fails to keep an infallible election account;
- (d) Defects to the other party before the expiry of term or the next general election;
- (e) Does any act which is prohibited under the Election Act; or
- (f) Impersonates a person in voting.

Grading of crime against public election

439. The offence of crime against public election shall be a felony of the fourth degree.

Illegal immigration

440. A defendant shall be guilty of the offence of illegal immigration, if the defendant enters or obtains entry or stays in Bhutan by false or misleading representation or by the concealment of a material fact or without a valid immigration documents.

Grading of illegal immigration

441. The offence of illegal immigration shall be a petty misdemeanour and the defendant shall be deported.

Illegal issue of immigration documents

442. A defendant shall be guilty of the offence of illegal issue of immigration documents, if the defendant provides fake or forged immigration documents such as passports, visas or other immigration documents.

Grading of illegal issue of immigration documents

443. The offence of unlawful issue of immigration documents shall be a felony of the third degree and such passports, visas or other immigration documents shall be impounded.

Illegal transportation of immigrant

444. A defendant shall be guilty of the offence of illegal transportation of immigrant, if the defendant aids or provides a means for the immigrants to illegally enter into Bhutan.

Grading of illegal transportation of immigrant

445. The offence of illegal transportation of immigrant shall be a felony of the fourth degree.

Drawing of an illegal document

446. A defendant shall be guilty of the offence of drawing an illegal document, if the defendant is a party to the document, which is drawn to conceal an illegal act.

Grading of drawing an illegal document

447. The offence of drawing an illegal document shall be:

- (a) A petty misdemeanour, if the commission of an illegal act is of a misdemeanour or a petty misdemeanour; or
- (b) A misdemeanour, if the commission of an illegal act is of the first, second, third or fourth degree felony.

CHAPTER 29

OFFENCES RELATED TO PUBLIC ORDER AND TRANQUILLITY

Breach of public order and tranquillity

448. A defendant shall be guilty of the offence of breach of public order and tranquillity, if the defendant purposely fails to abide by the orders of the Royal Government issued in the interest of public safety, public order (*ordre public*) and tranquillity.

In pursuit of public order, general social welfare and to avoid breach of the peace, the Royal Government may, if deemed necessary:

- (a) In emergency circumstance, declare curfew or take other action as may be required; or
- (b) Prohibit an assembly in designated area (Government building, military installation, border area, etc.).

Grading of breach of public order and tranquillity

449. The offence of breach of public order and tranquillity shall be a petty misdemeanour.

Unlawful assembly

450. A defendant shall be guilty of the offence of unlawful assembly, if the defendant is with four or more persons for the purpose of engaging or preparing to engage in violent conduct deleterious to the public order and tranquillity.

Grading of unlawful assembly

451. The offence of unlawful assembly shall be a misdemeanour.

Disruption of a lawful meeting or gathering

452. A defendant shall be guilty of the offence of disruption of a lawful meeting or gathering, if the defendant with the purpose to prevent or disrupt a lawful meeting or gathering, engages in conduct that obstructs or interferes with the meeting or gathering or makes an utterance, gesture, or display designed to outrage the sensibility of the group attending the meeting or gathering.

Grading of disruption of a lawful meeting or gathering

453. The offence of disruption of a lawful meeting or gathering shall be a petty misdemeanour.

Failure to disperse

454. A defendant shall be guilty of the offence of failure to disperse, if the defendant refuses or knowingly fails to obey an order of lawful authority to disperse.

Grading of failure to disperse

455. The offence of failure to disperse shall be a petty misdemeanour.

Rioting

456. A defendant shall be guilty of the offence of rioting, if the defendant participates with four or more persons in a course of disorderly and violent conduct or demonstration that creates a grave risk of public harm or causes damage to the private or public properties.

Grading of rioting

457. The offence of rioting shall be a felony of the fourth degree.

Promotion of civil unrest

458. A defendant shall be guilty of the offence of promotion of civil unrest, if the defendant:

- (a) Advocates national, racial, ethnic, linguistic, caste-based, or religious abhorrence constituting an incitement of violence; or
- (b) Commits an act that is prejudicial to the maintenance of harmony between different nationalities, racial groups, castes, or religious groups and that disturbs the public tranquillity.

Grading of promotion of civil unrest

459. The offence of promotion of civil unrest shall be a felony of the third degree.

Disorderly conduct

460. A defendant shall be guilty of the offence of disorderly conduct, if with the purpose to cause public inconvenience, annoyance, or alarm, or recklessly creating a risk thereof, the defendant engages in the following acts in public:

- (a) Makes unreasonable noise or an offensively coarse utterance, gesture, or display;
- (b) Creates a hazardous or physically offensive condition by an act which serves no legitimate purpose; or
- (c) Engages in affray or fighting, eve-teasing, threatening, violent or tumultuous behaviour.

Grading of disorderly conduct

461. The offence of disorderly conduct shall be a violation.

Harassment

462. A defendant shall be guilty of the offence of harassment, if the defendant engages in a course of conduct that places a person in reasonable fear of emotional or mental distress.

Grading of harassment

463. The offence of harassment shall be a petty misdemeanour.

Prowling

464. A defendant shall be guilty of the offence of prowling, if the defendant loiters or prowls at a place and in a manner not usual for a law-abiding individual under circumstances that cause alarm for the safety of another person or property in the vicinity.

Grading of prowling

465. The offence of prowling shall be a violation.

Obstruction of thoroughfare

466. A defendant shall be guilty of the offence of obstruction of thoroughfare, if the defendant has no legal privilege to do so and purposely or recklessly obstructs a roadway, bridge, trail, or other public passage.

Grading of obstruction of thoroughfare

467. The offence of obstruction of thoroughfare shall be a petty misdemeanour.

**PART SIX
MISCELLANEOUS OFFENCES**

**CHAPTER 30
OFFENCES AGAINST PRIVACY**

Eavesdropping

468. A defendant shall be guilty of the offence of eavesdropping, if the defendant unlawfully engages in wiretapping, mechanical overhearing of conversation, or intercepting or accessing of an electronic communication.

Grading of eavesdropping

469. The offence of eavesdropping shall be a misdemeanour.

Unauthorized opening of mail or parcel

470. A defendant shall be guilty of the offence of an unauthorized opening of mail or parcel, if the defendant without lawful warrant intercepts and opens any mail or parcel not addressed to the defendant.

Grading of unauthorized opening of mail or parcel

471. The offence of the unauthorized opening of mail or parcel shall be a felony of the fourth degree.

**CHAPTER 31
COMPUTER OFFENCES**

Tampering with computer materials

472. A defendant shall be guilty of the offence of tampering with computer materials, if the defendant interferes, alters, or destroys any data or hacks in a computer system or computer program of another person or plants a virus in a computer without the right to do so.

Grading of tampering with computer materials

473. The offence of tampering with computer materials shall be a felony of the fourth degree.

Unlawful possession of computer materials

474. A defendant shall be guilty of the offence of unlawful possession of computer materials, if the defendant knowingly possesses in any form any copy, reproduction, or duplicate of any computer data procured by someone else with intent to benefit the defendant or a person other than the owner thereof.

Grading of unlawful possession of computer materials

475. The offence of unlawful possession of computer materials shall be a petty misdemeanour.

Computer pornography

476. A defendant shall be guilty of the offence of computer pornography, if the defendant:

- (a) Publishes and distributes an obscene photograph or picture on the computer or over the internet; or
- (b) Is an internet service provider, who knowingly acts as a host for pornographic material or acts as a channel for the image to be transmitted to an individual user.

Grading of computer pornography

477. The offence of computer pornography shall be a misdemeanour.

**CHAPTER 32
OFFENCES RELATED TO FIREARMS AND WEAPONS**

Illegal manufacturing of a firearm, ammunition, explosive, or other lethal weapons

478. A defendant shall be guilty of the offence of illegal manufacturing of a firearm, ammunition, explosive, or other lethal weapons, if the defendant manufactures any type of firearm, ammunition, explosive, or other lethal weapons without the proper license to do so.

Grading of illegal manufacturing of a firearm, ammunition, explosive, or other lethal weapons

479. The offence of illegal manufacturing of a firearm, ammunition, explosive, or other lethal weapons shall be:

- (a) A felony of the fourth degree; or
- (b) Life imprisonment, if the offence consists of manufacturing weapons of mass destruction.

Illegal possession of a firearm, ammunition, explosive, or other lethal weapons

480. A defendant shall be guilty of the offence of illegal possession of a firearm, ammunition, explosive, or other lethal weapons if the defendant possesses a firearm, ammunition, explosive, or other lethal weapons on oneself or has a firearm, ammunition, explosive, or other lethal weapons otherwise readily available for the defendant's use unless:

- (a) The defendant is licensed or otherwise authorized by law to possess the firearm, ammunition, explosive, or other lethal weapons; or
- (b) The firearm is of a type commonly used in a lawful sport.

Grading of illegal possession of a firearm, ammunition, explosive, or other lethal weapons

481. The offence of illegal possession of a firearm, ammunition, explosive, or other lethal weapons shall be a felony of the fourth degree.

Illegal sale or purchase of a firearm, ammunition, explosive, or other lethal weapons

482. A defendant shall be guilty of the offence of illegal sale or purchase of a firearm, ammunition, explosive, or other lethal weapons, if the defendant sells, purchases, exports or imports or otherwise procures firearm, ammunition, explosive, or other lethal weapons without the proper license to do so.

Grading of illegal sale or purchase of a firearm, ammunition, explosive, or other lethal weapons

483. The offence of illegal sale or purchase of a firearm, ammunition, explosive, or other lethal weapons shall be a felony of the fourth degree.

Illegal pointing of a firearm

484. A defendant shall be guilty of the offence of illegal pointing of a firearm, if the defendant knowingly or recklessly points a firearm at or in the direction of another person, whether or not the firearm is loaded.

Grading of illegal pointing of a firearm

485. The offence of illegal pointing of a firearm shall be a felony of the fourth degree.

Display of a weapon

486. A defendant shall be guilty of the offence of display of a weapon, if the defendant purposely threatens or intimidates another person by displaying a weapon.

Grading of display of a weapon

487. The offence of display of a weapon shall be a felony of the fourth degree.

False alarm

488. A defendant shall be guilty of the offence of false alarm, if the defendant circulates a report or warning of an impending bombing or other catastrophe knowing that the report or warning is false or baseless and that it is likely to cause public inconvenience or alarm.

Grading of false alarm

489. The offence of false alarm shall be a petty misdemeanour.

CHAPTER 33

OFFENCES RELATED TO PROTECTED SPECIES, CONTROLLED & OTHER HARMFUL SUBSTANCES

Risking the protected species

490. A defendant shall be guilty of the offence of risking the protected species, if the defendant unlawfully hunts, destroys, captures, collects, transacts, or deals in the sale of any animal or plant species or its parts or other conducts which shall be harmful or risky to the survival of such species recognized as protected under the law.

Grading of risking the protected species

491. The offence of the risking of the protected species shall be a misdemeanour.

Illegal hunting or fishing

492. A defendant shall be guilty of the offence of illegal hunting or fishing if the defendant kills, injures, destroys, captures, collects or otherwise takes any wild animals or fishes except in accordance with law.

Grading of illegal hunting or fishing

493. The offence of illegal hunting or fishing shall be a petty misdemeanour.

Genetic interference

494. A defendant shall be guilty of the offence of genetic interference, if the defendant unlawfully and without any authorization interferes, or exploits with the genetic resource of any plant or animal species.

Grading of genetic interference

495. The offence of genetic interference shall be a felony of the fourth degree.

Illegal cultivation, production or manufacturing

496. A defendant shall be guilty of the offence of illegal cultivation, production or manufacturing of controlled substances, if the defendant unlawfully cultivates, produces, or manufactures:

- (a) Coca plant or any of its derivatives including cocaine;
- (b) Opium, poppy or any of its derivatives;
- (c) Any narcotic drug or psychotropic substance; or
- (d) Any controlled medicinal products and precursor chemicals.

Grading of illegal cultivation, production, or manufacturing

497. The offence of illegal cultivation, production, or manufacturing of controlled substances shall be a felony of the fourth degree.

Illegal transaction of controlled substances

498. A defendant shall be guilty of the offence of illegal transaction of controlled substances, if the defendant unlawfully imports, exports, sells, purchases, hoards and stores or transports any psychotropic substance or narcotic drug.

Grading of illegal transaction of controlled substances

499. The offence of illegal transaction of controlled substances shall be a felony of the second degree.

Possession of a controlled substance

500. A defendant shall be guilty of the offence of possession of a controlled substance, if the defendant possesses or uses any psychotropic substance or narcotic drug without the prescription of a registered doctor.

Grading of possession of a controlled substance

501. The offence of possession of a controlled substance shall be:

- (a) A petty misdemeanour; or
- (b) A misdemeanour, if the amount possessed is of a quantity such that the Court is of the opinion that the defendant intended to sell.

Adulteration of drugs

502. A defendant shall be guilty of the offence of adulteration of drugs, if the defendant alters, adulterates, or otherwise make impure by adding a foreign or inferior substance, thereby creating a substantial risk to the public.

Grading of adulteration of drugs

503. The offence of adulteration of drugs shall be a felony of the third degree.

Sale of a prescription for a controlled substance

504. A defendant shall be guilty of sale of a prescription for a controlled substance, if the defendant knowingly sells a controlled substance or prescription drug to a person other than the person to whom the controlled substance or drug was prescribed or sells the prescription itself to a person other than the person to whom the controlled substance or drug was prescribed or sells or distributes an adulterated drug.

Grading of sale of a prescription for a controlled substance

505. The offence of sale of a prescription for a controlled substance shall be a misdemeanour.

Illegal sale and use of harmful chemical substance

506. A defendant shall be guilty of the offence of illegal sale and use of harmful chemical substance, if the defendant except for the household purpose unlawfully sells, imports, exports or uses any harmful chemical substances including pesticides without any licence or authorization.

Grading of illegal sale and use of harmful chemical substance

507. The offence of the illegal sale and use of harmful chemical substance shall be a misdemeanour.

CHAPTER 34

CORPORATE OR OTHER BUSINESS ASSOCIATION'S CRIMINAL LIABILITY

Conviction of a corporation or other business association

508. A corporation or other business association may be convicted of the commission of an offence, if the offence:

- (a) Consists of an omission to discharge a specific duty of affirmative performance imposed on a corporation or other business associations by law;
- (b) Is when the corporation or other business associations failed to create and maintain a corporate culture that required compliance with the relevant law; or

- (c) Is committed by the Board of Directors or by a high managerial agent acting on behalf of the corporation or other business association and within the scope of their office or employment.
509. Whenever a duty to act is imposed by law upon a corporation or other business association, an agent of the corporation or other business association, who has primary responsibility for the discharge of the duty is legally accountable for a reckless omission to perform the duty to the same extent as, if the duty were imposed by law directly upon the corporation, other business association, or the agent.
510. A person convicted of an offence by reason of the legal accountability for the conduct of a corporation or other business association shall be subjected to the sentence authorized by law that can be imposed, when a natural person is convicted of that offence.

Damages for a corporation's or other business association's criminal liability

511. In addition to damages available under this Penal Code, a Court may order a corporation's or business association's charter, certificate or license to be forfeited, revoked, or dissolved upon a finding that:
- (a) The Board of Directors or a high managerial agent has in conducting the corporation's or other business association's affairs purposely engaged in a persistent course of criminal conduct; and
 - (b) The public interest requires forfeiture, revocation, or dissolution of the corporation or other business association in order to prevent future criminal conduct of the same or similar nature.
512. In addition to the prosecution of the corporation or other business association, members of the Board of Directors and high managerial agents also may be prosecuted and imposed fines and/or sentenced to imprisonment for the same criminal conduct.

**CHAPTER 35
AMENDMENT & AUTHORITATIVE TEXT**

Amendment

513. The addition, variation or repeal of this Code shall be made by the Parliament.

Authoritative text

514. The *Dzongkha* text shall be the authoritative text, if there exist any difference in meaning between the *Dzongkha* and the English text.