CHAPTER-VII
CONCLUSION

In this study, I have examined the ways in which law, religion and gender intersect with each other. I have studied the ways in which different gender roles are perpetuated by legal and religious institutions which in turn create inequalities between men and women in Mizo society. I also discussed how legal processes and customary laws in Mizoram are influenced by religious ideology. The study also looks at the relationship between “state laws” and “non-state laws” with regards to women’s rights; both “state laws” and “non-state laws” are guided by patriarchal ideology and are complimentary to each other. The study clearly highlights the influence of religion in transmitting cultural and traditional practices in the social sphere, and the domination of “church laws” in regulating matters such as family, marriage and divorce.

In the first chapter of the thesis, I have made an attempt to point out the intersections of law, religion and gender. I have also discussed how legal and religious institutions discriminate women. I discussed “intersectionality” as a means to address relationships within social categories, and the importance of acknowledging how each category can result in distinct experiences is examined. I discussed concept of law, legal tradition and the approach of legal pluralism. I further explained how feminist legal studies exposed the absence of women and women’s issues from the agenda of legal studies, and also highlight the discrimination of laws based on gender. I have described the methods along with a self-reflexive account of my experiences as a researcher.

The second chapter provides the geo-political and historical background of Mizoram. The Mizo society in pre-independent India and the transition from colonial to post colonial period is discussed. The chapter highlights legal changes and development during this period. The chapter also discusses development of political forces and shows how political developments have contributed to the changes within the legal system. The issue of political autonomy in North East India, and the Sixth Schedule of the Indian Constitution is also analyzed. The construction of the written form of Mizo customary law is discussed. The study clearly delineates that Mizo Customary law is the handiwork of the Colonial “masters” and which in turn is the culmination of the exigencies of enforcing modern administration in
what was otherwise considered “tribal” and “uncivilised” territory. The moot point here is: can a design enacted to tackle administrative demands be sufficient to shoulder socio-cultural problems?

The third chapter discusses the question of women’s rights and Mizo customary laws. The study examined the formation of The Committee on Mizo Customary Laws (CMCL) in 1980, and how MHIP demanded the reformation of Mizo customary laws. The study clearly highlights the double standards of male members of the Mizo Customary Law Board Committee, how women are seen as the locus of custom and tradition, and how Mizo women’s rights get lost within the minority rights and tribal identity discourse. The study shows the active role of the state and church in upholding Mizo customary laws.

The fourth chapter discusses the concept, meanings and sociological perspectives on marriage and family. The chapter highlights that the functionalist perspective on marriage and family is still relevant in Mizo society. The chapter also shows how women’s subjugated role is crucial for the smooth functioning of social institutions like family and religion. The church laws and teaching legitimizes gender inequality within family. Women continue to be seen as “homemakers”, “care givers” and “supporter” of their husbands. The gender roles and relations within the community, the ways in which members of the Christian church understand gender roles and relations are determined by patriarchal ideology.

The fifth chapter examines the system of divorce, and how divorce has different implications on men and women. The study has shown the double standards in the legal system and also church laws. The study also reveals restrictions on Mizo women’s right to divorce, and the failure of Mizo customary law with regard to maintenance. The study helps in understanding the relations between state law and customary law, how these laws intersect, compliment and conflict with each other.

In the sixth chapter, the issue of property and inheritance rights of Mizo women is discussed. The study highlights how economic subordination further perpetuates gender inequality, and how Mizo women are denied basic rights. The chapter looks at how widows are seen as merely “legal guardians” and not the owners of property. The complete absence of daughters inheriting father’s property is seen. The chapter exposed the culture of patriarchy in the legal system and how often legal processes are guided by misogyny.
Legal and Religious Restrictions on Women

The study has shown that Mizo customary laws are largely disadvantageous for women, and it is these laws which governed family matters such as marriage, divorce and property rights. Article 371 (G) of the Indian constitution as well as the Sixth Schedule gave special provision to Mizoram, and reaffirm that customary laws will continue to govern the people. There has been an attempt to reform Mizo customary laws, but there is a deep rooted sense of Mizo identity associated with these laws among the people. Many respondents stated that Mizo customary laws should not be reformed or changed. However, the state is held responsible for women’s empowerment while at the same time justifying the discriminatory nature of the customary law.

The MHIP argued that Mizo women are subjugated and being denied their rights by customary laws and seeks state intervention for protection of women. MHIP demanded that the Mizoram state government provide special provisions for women by adopting certain laws (e.g Indian Christian Marriage Act, 1872). This was opposed by the leaders of the Mizoram Church Association. The Mizoram state government rejected women’s demands on the ground that they cannot go against the church leaders. Therefore, the Mizoram church plays a role in upholding customary laws and legitimizing gender inequality within society.

The Church, being one of the most important religious organizations, played an important role in maintaining community, shaping and moulding the members towards Christian ideology while preserving Mizo customs and traditions. Christianity is considered “good”, “understanding” and “better” when compared with other cultures. Religious identity plays major role in the development of the Mizo psyche. Christian doctrine is often referred to in the court room, and some lawyers’ even quote the Bible while arguing cases. Lok Adalat is considered positively, because many people feel it has characteristics similar to Christian teaching. One of the members of Lok Adalat pointed out,

*Lok Adalat is very Christian, because we tried to bring both the parties to settle their disputes with mutual agreement and understanding, we don’t want to punish anyone, we tried to forgive or overlook each other’s faults so that peace can be restored, just like Christian ideology is teaching us.*
According to the study, the Church laws and Mizo customary laws control women’s rights. The church also plays active role in reinforcing patriarchal ideology about women’s chastity, fidelity, purity and motherhood.

**Church Laws vs Customary Law vs State Laws**

With regard to domestic violence or any act of cruelty towards spouse, unlike the Mizo customary law, the church extends the same punishment to men and women (i.e. adultery RC/RL). With regards to widow remarriage, Mizo customary law is more liberal towards widows, whereas, the Church propagates women’s chastity, fidelity and purity. Both the state and the church are influential in upholding customary laws.

Although Mizo women are governed by Mizo customary laws, the only constitutional law that is available is the Maintenance Act under Cr.Pc, Section 125. The Maintenance Act is quite complimentary to Mizo customary laws as far as the discrimination of women is concerned. While claiming maintenance the male bread winner status is emphasized along with the wife’s dependant status. The concept of maintenance is linked to sexual control and economic subordination of women. Therefore, only a chaste woman is entitled to maintenance. Remarriage or having sexual relations with another person results in the denial of maintenance. The underlying notion throughout CrPc Section 125 is that the male is the bread winner and the female is dependent on the bread winner. This assumption in the Cr.Pc echoes the Mizo customary law.

With regard to the property rights of women, Mizo customary laws are the governing laws. The High Court usually takes a decision in accordance with the Mizo Customary Laws. The court’s decision to uphold the customary laws is interpreted as the State’s respect for minority customs and practices. However, the state is also responsible for individual well being. The intersection of state, community and religious ideology reinforces the subjugated status of women. Women’s right to property is also linked to sexual control. The court cases show that women’s chastity and fidelity are important factors in determining whether a woman can inherit or acquire property.

Institutionalization of patriarchy in legal, family and religious spheres, and legal spheres is apparent. The idea that the state offers an arena for emancipation of women is problematic as the state itself is guided by patriarchal ideology. Gender stereotypes within the
legal institution are clearly visible. For instance, what the lawyers called ‘the real battle’ that is ‘actually arguing’, or ‘fighting cases’ in the court room is considered difficult and tough for women. Majority of the cases are handled by male lawyers. The area of law, especially legal practice is somewhat seen as more suitable for men. There are only very few active women lawyer and absence of women is considered natural.

Customary law is often used as a cultural artefact, and since state-enacted laws are different from the customary laws of traditional societies, it is often seen as imposed from outside. The close connection between law and religion, and the relationship of women to the state and legal machinery is complex. A historical analysis, starting with creation of the nation state and acknowledging question of gender, is important in recognizing complex issues of inequality and the representation of women.

The study also shows that both men and women play an active role in transmitting patriarchal ideology. For instance, majority feel that women’s position is lower to men but consider it “natural”. Even the women’s association like MHIP avoided the issue of ‘equality’ while demanding for reform of Mizo Customary Law. In fact, majority of the MHIP leaders are of the opinion that, women’s empowerment should take place only as long as they do not question male authority. With regard to women’s property rights, it is generally accepted by MHIP leaders and male members of the Committee on Mizo Customary Laws that only women who ‘deserved’ and who have been “victimized” should get the property. This shows how men and women play an important role in fulfilling the dominant patriarchal ideologies and essentializing gender.

**Generalizations about North East Women**

Because of the geographical location, different ethnic and cultural practices, mainstream Indian women’s movement issues had little impact on North Eastern states. It is usually argued and generally believed that Northeast women (e.g Mizo) enjoy relatively high freedom, and have better status when compared with women from other society. This view has been critiqued and questioned by a few but is still endorsed by majority including that of feminist scholars from mainstream Indian society.

A systematic critique of the universalization of all women from the North East as a single monolithic entity is attempted. There are seven states in the North East and each of
them have their own customary laws. There is little camaraderie or a sense of a single Northeast women’s movement. However, in mainstream India, the North East is often seen as a single entity. There is very little comparative work between North Eastern states among scholars. My study argues that perceptions of women from North East as “free” and “liberated” as compared with women from Hindu or Muslim community is often exaggerated. The so-called “better” position is based on the right to divorce, a widow’s right to remarry, and absence of religious taboos concerning menstruation and absence of physical seclusion (Haksar 2008: 283). The general perception even within the tribal society is that women have better status than women from caste society, so they do not require further empowerment. This assumption is based in comparison with Hindu/Muslim women, the practices of dowry and purdah system. Even these comparisons are based on stereotypes rather than systematic argument. Women’s rights are not seen in comparison with men but with women from other societies.

Perhaps, it is important to look at it closely and try to understand the lived experiences of women from North East. I would like to argue that, the tribal customary practice which allows widow remarriage may also be looked at from a different angle. For instance, EJ Thomas (1993) in his study among the Mizo makes an interesting point, that is, even in traditional Mizo society women were free in the matters of marriage, sex and divorce. Very few restrictions were imposed on them. However, he is of the opinion that, the freedom in sex was ‘more advantageous to men for their free-lance sexual activities rather than respecting the freedom of women.

Based on the study, though both men and women are permitted to divorce, because of the social circumstances, men divorcing women is more common. And also, though both can re-marry there are conditions imposed upon women. Unless she fulfilled customary codes she cannot re-marry. The ceremony can be performed within three months. At present, with the influence of Church, widow remarriage is not encouraged, rather Christian women are encouraged to show fidelity and living a chaste life to honour her dead husband- and be an example of a good Christian woman. Remarriage takes away the right to property from the woman.

I agree to some extent with Haksar and several others who have had the idea that tribal woman especially from the northeast might enjoy certain freedom. However, tribal
women may have greater “autonomy” rather than “equality” with man. Equality refers to women’s access to opportunities and resources, as compared with men’s. Autonomy focuses on the individual woman’s freedom within personal relationship (Lovenduski and Randall, 1993:23). Women seem to be able to maintain agency as far as decision-making goes, however, their roles as primary homemakers and caregivers seem to be more important than their careers or jobs. Also, I want to highlight that those tribal women and Mizos in particular have freedom in certain areas but are restricted in others. For instance, Mizo women seem to have “greater freedom” or “better status”, however, till today, in spite of women’s organizations’ constant demands to the state government, not a single act has been passed in favour of women. On the other hand, women of caste society, who are looked upon as “less free” or “worse status” have championed several Bills and Act (the implementations is not an issue here). The fact that women’s movement has achieved something is an indicator of women attaining certain voices in political administration. On the contrary, in states like Nagaland and Mizoram women’s representation in Legislative Assembly is almost negligible.

Therefore, I find it difficult to make a conclusive statement on the “status of women” of tribal women especially of Mizoram. One might speak of the liberated women; it is also possible to speak of the oppressed women in Mizoram. One has to question the “status of women” and also has to problematise the very category “women,” as many feminist historians and thinkers like Joan Scott, Denise Riley and Judith Butler have done. Re-reading history, one observes that the diversity of language, ethnicity, geographical location and tribal identity dominates gender identity. These contradictions are reflected in different realms such as cultural, religious and social where women are both visible and invisible.

**Uniform Civil Code and Tribal Women**

Tension between minority rights and women’s rights have long been debated and discussed even in mainstream Indian society. Till today, there is no adequate answer as to dissolve this tension. The demand of UCC in India by some women’s organizations receives mixed views. Some who advocate UCC are saying that the Uniform Civil Code will put an end to women’s discrimination. However, it was a failed project as various minority and religious groups are against this, and consider the demand of UCC as the ideology of Hindu majority.
As I have argued before (see Chapter-III), rather than blindly advocating UCC, it would be more applicable if women’s rights groups advance a movement which looks at the diverse and marginalized positions and examine “intersectional experience” of women. For instance, Mizo society, being a minority within India also shapes the members to be more loyal and very protective of their cultural identity. In the process of this ideology of keeping the Mizo tradition alive, men and women play active role. There have been a lot of debates on the way Mizo women dress, behave and even the way they conduct themselves especially with outsiders. A Mizo woman’s identity as a member of the marginalized group, and her experience as a “woman” member within that community, brought different experiences which may not be of the same as women from mainstream India. Therefore, the allegiance to tribal identity might take precedence over her gender identity.

**Challenges/Suggestions**

There is a need to look at gender relations within the larger context of Mizo society, especially in the social, religious and legal spheres. At present, Mizo women continue to be governed by Mizo customary laws, and it is considered that it should remain that way. The concept of Uniform Civil Code and adopting central laws are not welcome. The women’s movement in India has failed to effectively address the issue of “personal laws” and to see intersections of identities that personal laws represent. This in fact is reflected in the reluctance of minority women to join mainstream women’s movement. Minority women fear that the majority would not understand their problems.

We need to develop a strategy which will look at the relationships within socio-categories, intersections of identities and addressing diversity within groups such as “poor” and “marginalized” groups. I feel that “intersectionality analysis” could be useful to address those issues. This would help in understanding the experiences of different women belonging to different social strata. It is well generally known that women are marginalized within minority groups regardless of their contribution to the society. This study cannot make broad generalizations about Mizo women and in particular North East women. As mentioned, tribal society is hardly culturally homogenous, even within Mizoram there are different Mizo tribes with different cultural practices. Therefore, the study cannot speak for all the tribal women from the North East but provides a microcosm into the relations between law, religion and gender.
I argue that instead of a “change of convenience”, a “change for progress” is required. Considering the “peculiarity” of the tribal communities, perhaps, reform within their indigenous laws is what will actually benefit women. Therefore, it might be helpful to point out the discriminatory nature of customary law and address concerns which need to be addressed. It is important to examine how patriarchal system is seen as a value system, where women’s rights are denied and disposed by social mechanism and institutions. More discussions at public forum are also necessary. Instead of using culture as the so-called explanation and justification for all social behaviours, we should be asking whose interests are being served by the traditions and customs, and who benefits from those traditions? Why some ‘reform’ took place and some remain unchanged and some customs are even resurrected? Who are the agents of these traditions and customs? Which and whose rights are more fundamental than the others? If customary laws are the law that is to govern the people, should it be better if we reform in accordance with the modern society? These kinds of questions and more discussions might produce new perception and create new thinking among the community members.

**Relevance and Implications of the Study**

Scholars conducting research on their own communities or places which are closely related to them are often suspected to be biased in their judgment. I have conducted the research work among my own community. The study was mostly conducted in Aizawl, capital of Mizoram. During the fieldwork the research was conducted using mainly Lusei (Mizo) and English. Being an insider and also a Christian member makes it easier for my study though there were great chances of being blind to many aspects, but on the other hand it is easier to build good rapport with the respondents. I found it extremely useful my being close to the people I studied during this fieldwork.

It is admirable to see how a large number of Mizo women struggle every day, and their economic contribution in the society. The Aizawl bazaar is dominated by women, some of them earn more than men and support their family (whether they have a say in what they earn is another thing/not my point at present). I realised that Mizo society is so different from the mainstream Indian society therefore; the yardstick to which we measure women’s freedom or rights could not be the same. One thing I realised ‘again’ from this field work is that ‘economic independence’ is really important for Mizo women. I feel women who are economically independent or secure could have more freedom, at least at the personal level.
I realised only a few sections of Mizo women claim maintenance and a larger number remains helpless. I wonder how interesting it must be if one can conduct research at the grass root level, interacting and meeting particularly women from rural areas, understanding their day to day struggles. I feel that kind of study or research could help Mizo women in many ways.

There is very little work done on gender and law. There are few writings which talk about Mizo customary law, but, most of these writings deal with the Mizo customary laws in general and not particularly focus on gender relation. Therefore, it is important to try to understand the legal system in Mizoram, the customary laws of the people and how law, religion and gender intersect, conflict or compliment with each other. My thesis is a contribution to the lack of sociological research on women’s issues in Mizoram. My wish is that my research work would at least make a small contribution in the study and understanding of law and women’s rights in Mizoram.