CHAPTER - V

CONCLUSIONS

This chapter presents the summary and findings of study. The study is conducted in Papum Pare district of Arunachal Pradesh. Study covered Ten (10) administrative circles of the Papum Pare district that is Doimukh, Sagalee, Leporiang, Mangio, Toru, Balijan, Kimin, Bandardewa, Itanagar and Naharlagun. In this study both primary and secondary sources have been used for data collection. Data was collected through field study and survey of ten (10) administrative circles of Papum pare district. The official Acts, Reports and records from Judicial and Magistrate’s offices, both published and unpublished works have been used as secondary sources of data. Information was also collected from prominent persons of the community who are skilled and experts in customs, tradition and customary laws of the Nyishi community. Local intellectuals and knowledgeable persons opinion were taken into account through interviews and informal discussions.

The methodology adopted for study is participatory observations as well as non participatory observation. It is also empirical and partly reflective. Survey has been carried out by visiting judicial Magistrate and administrative offices for necessary documents and discussions. Persons expert in traditions, customs, myths and legends etc have been interviewed. The researcher interviewed eight (08) political interpreters (PI), one hundred eleven (111), Goan Burahs and Buris (GB), eight (08) Nyub (Priest) and three hundred sixty two (362) respondents of ten (10) administrative circles of Papum pare district. Also minimum of thirty (30) persons from biggest village of each administrative circles of Papum pare district of Arunachal Pradesh have been selected randomly and interviewed. The biggest villages are Ganga village of Itanagar circle, Model village of Naharlagun circle, Tobung villages of Balijan circle, Hawa camp village of Kimin circle, Cheeputa village of Doimukh circle, Banderdewa village of Bandardewa circle, Karoi village of Sagalee circle, Peeche village of Toru circle, Rachee village of Leporiang circle and Phila village of Mangio circle. Local intellectuals and knowledgeable persons among Nyishi were also interviewed. The combinations of
documentary and interview methods were adopted for clear understanding of the problem.

The main tools used in the study were a set of structured and partially structured questionnaire cum-interview schedule. Also an extensive field note of the discussion with local intellectuals and knowledgeable persons have been maintained by the researcher. The interview schedule was designed in English for the sake of convenience and has been translated into local language wherever necessary. The data collected through questionnaire cum-interview schedule has been tabulated in a coding sheet to have a clear view of the replies of the respondents. Figures have been converted into percentage by simple method of calculations for purpose of analysis. This data have been supplemented by the field notes maintained by the researcher.

Nyishi beliefs that the universe was created out of nothingness by the supernatural power called Chen Rolum or Jingbu Paabhu Aabhu (unseen supernatural forces). The Chen/Jingbu Paabhu Aabhu created celestial body like, Saching (Earth), Nyodo (sky), Donyi (sun), Pollu (moon), Domar Takar (star), Hai/Iss (water), Auz/Doree (wind), subsequently all other objects and living creatures were created including Aabhu Thayni. The Nyishi customs and practices are said to have originated from their legendary ancestor Aabhu Thayni. There were many Thayni and Nyishi are the offspring of Nyia Thayni (real human Thayni). It is also believed that Aabhu Thayni was omnipotent, omnipresent and had self transformed ability, which resulted into conflict between Aabhu Thayni and the Uyus (malevolent spirit).

Every deed of Thayni and Uyus and intervention by Anne Donyi to protect human race became the genesis of the Nyishi customs. These customs and practices are transmitted to younger generation through myth, legend, folklore, folktales, songs and dances, rituals and beliefs. There are various kinds of customs. They are Legal Customs, General customs, and conventional customs. There is also essential condition of a valid Customs, which has to be ancient, continuous, reasonable, not immoral, not contrary to justice, equity or good conscience or not opposed to public policy and not contravene to any express law.
Customs of Nyishi are classified to affecting human body, marriage and divorce custom, Customs relating to Breach of Contracts, Custom relating to nuisance, Customs relating to guardianship, Custom relating to inheritance/succession, Custom of Adoptions, Exception, Social capital, Custom related to rituals, Rituals related to agricultural, Rituals for immediate healing, Rituals for treatment and medication, Rituals for inflecting opponent, Rituals for purification and reconciliation.

Nyishi have traditional concept of authority. Family is the first unit of the society. In an *Emme* (one hearth) family husband or oldest male member of the family is the final authority on any matters. Next come the wife or oldest lady of the family. One family may consist of one to twenty members or more. But some time even the single person can also be a unit. The next important unit of the Nyishi is *Nambung/Nyamda* (long traditional house, inhabited by many families). *Nambung Aabhu* or *Nambung Aanee* is the head of the long house.

The next unit is village, at village there is symbolic authority which is called *Gorra Aabhu* and *Gorra Aane* or *Gorra Dneh* or *Tungpe*. He/she represents the village-state within and outside the village. Accordingly they also receive honor and dignity within and outside village.

Another symbolic term used among Nyishi is *Nyegum Aabhu* and *Nyub Aabhu*. *Nyegam Aabhu* (means who is expert in customary laws, good orator and expert in handling and settling any disputes). *Nyegam Aabhu* is considered as good pleader, good arbitrator and also custodian of Nyishi Jurisprudence and thesaurus. *Nyegam Aabhu* plays versatile role because of his reputation.

There are many types of *Nyub* in the Nyishi society. But, very few *Nyub* are really powerful and accepted universally and who can perform the thing in a remarkable if not miracle. There is Nyishi Maxim "*Nygam, yuname, Nyub yuname, meji yuname akinegatek*" (The person or things of renowned is one or very limited). But their name is known every where and people from all corners recognize them.

The other symbolic authorities are *Namchang Aathu* (The ancestral owner of territory). *Seethe Sokam Aathu* (owner of water sources used as drinking purpose).
Nyoku Aathau -Ishe Aya or Nyokuge Tatunge-Ischige Keoyunge (Person/things who have first used the land and water is considered as owner). Rango pawo (The plot of land once used as agriculture purpose by individual or family) “Dedek tyinge Ngaym Kala chobhe” (a person who first to learn which Mushroom is eatable and which is not eatable) and “Donyi Popumengs Kacho buhe”, (the person who has first seen the light of rising sun). These are basis of Nyishi customary law.

The most important privileges granted by the constitution of India to the Nyishi are the safeguarding the customs and customary practices and allow them to function as per their ages old practices in the administration of justice and limiting the role of existing enacted law of the nation. The customary laws and practices play a dominant role in the administration of justice, but the application of customary laws are not absolute at all times and places. The modern court follows the spirit of the enacted laws while dispensing justice. Specially, at the time of extraordinary situation, the customary laws and practices shall have modest role to play specifically in matter related to national security and integrity. In this situation, the enacted laws play dominant role.

Nyishi people believe that there cannot be life and systems without customs, customary laws and social norms. The Customs are so interwoven in their social practice behavior and belief that any violation is amounted to a violation of their supernatural or spiritual belief. Such violation or offence is considered as a violation against an individual as well as violation against the whole of the community laws and laws of nature. Customs and the customary practices are by and large in the form of rituals which include the punishment in the form of compensation and wergild. These traditional manners of transaction involve more public control and binding force. Any dispute which may be of individual difference, property, inter-village or matter pertaining to the whole Nyishi community is tried by the Nyelee. The Nyishi customary laws are interwoven with faiths and rituals. The oaths and ordeal is the important ingredients of the Nyelee. The priest plays a vital role in the process. They invoke supernatural forces as the ultimate justice giver. Therefore, highest stage of collection of evidence is oaths and ordeals. There is no pecuniary or territorial jurisdiction limit for Nyelee. No quorum is required
for Nyeele and trial proceedings can be held at house or open place. There is no restriction on the basis of gender and age; rather it is open to all section of the people.

The traditional village council of the Nyishi is known as Nyeele, (gathering of the people to settle disputes). There are different types of Nyeele as per the requirements and nature of Yallung (disputes). They are Nyodo Nyoku Nyeele (dispute with outsider) which is the highest form of Nyeele. The second important Nyeele is Nampam Nyeele (inter villages dispute). The third type of Nyeele is called Nubuh Nyete Nyeele (between the two or more clan). The fourth Nyeele is called Nampam or Gutang Gorra Barck or Gorra Nyeele, (within village). The fifth Nyeele is called Nambung Nyeele or Nambung Barik that is the Nyeele or matter within the same house. The sixth type of Nyeele is called Emme Barik or Emme Nyeele (within the family, may be between husband and wife or parent and children and brothers and sisters etc). Nyishi always try to resolve their disputes within their family or village on the basis of popular Maxim “Emme Barik Kam Koda Ligmumab” (family matter should not allow to go to public) and Nambung Barik Kam Dela Lingmumab (matter within house should not allow to go out of house). The purpose of punishment is to compensates the victims, and to deterrent, Reformatory purpose and Retributive purpose. There are different types of crime in the Nyishi society. they are, Nye mingdum nam/Reedumnam, (Intentional killing of a person), Reeprelapnam (Accidental killing of persons), Mingtanam (Attempt to murder), Ungne Megenam (Injury/ Hurt), Doduyallung Domab daktumnam (Wrong full restraint), Dodu Yallung Domab Natung Tumanim (Kidnap or wrongful confinement), Mading Marebnam (Force/criminal force), Reejap Rerap nam (assault), Natung Bonam/Bosenam (Kidnapping/capture forcefully), Nye Puknam/Nye Rehnam (Human selling/Buying), Yogio/Yose Yallung (Sexual offence), Nyeme Nananam and Nyeme Yupa nam (Marriage and Divorce), Mengang Hengang/BentgeeNam Sasunam (Breach of Trust or contract), Hur massab Dunam Kayanam (Nuisance), Humnam paanam (Custom related rituals), Kuubangnam and Nyee Seenam (Customs related to birth and death). If the injury is caused intentionally, the nature of proceeding and actions is different and compensation is also higher accordingly.
It is found that major chunk of people still think that the modern legal system has adversely affected the customary laws. Out of total six hundreds seven (607) persons interviewed, four hundreds ninety six (496) that is (81.7) percent opined that modern laws has affected the customary laws, ninety four (94) that is (15.49) percent viewed that modern law do not affect customary laws, and seventeen (17) that is (2.80) percent respondents are not able to decide. They opine that the customary law should be codified and need state role and sanction to prevent misinterpretations and deviation. Out of six hundreds seven (607) respondents, five hundreds twenty one (521) that is (85.83) percent feels that customary law should be codified, seventy five (75) that is (12.36) percent say no need of codification, present form is just sufficient and eleven (11) that is (1.81) percent are found undecided.

After careful scrutiny of the customary practices among the Nyishi society, it is revealed that the system of administration is a synthesis of two different legal systems that is customary and modern laws. But the custom and customary practices play a leading role in every sphere. The legacy of customary justice has its source in their very community set up and subsequently has the sanction of modern laws in the later stage through Regulations, Acts, and Notification. The Constitution of India also accommodates these provisions thereby giving endorsement and sanction. The ideological perception of the Nyishi have also undergone tremendous changes like instead of wearing traditional dresses and ornaments they have adopted modern life style. Owing to such changes the Nyishi institutions like Nyelee is being degenerated and they approach the magistrate, police and the regular courts for various cases. The people have come to know that the verdict of the Nyelee is not final and binding which can be dragged to the higher court and challenged in the form of appeal. As a result fear and respect towards the Nyelee is being slowly but surely vanishing. The inclusion of the magistrate, police and court in the deliberation of the Nyelee procedure has definitely marked the turning point and a departure from their age old traditions. Probably presence of the interpreter and the Gaon Burahs, big businessmen, elected leader has narrowed the position of the Nyegam Aabhus and the Nyub Aabhus and the charm and customary nature of Nyelee is being affected. As a result egalitarian, cohesiveness and social
harmony is decreasing. The element of heterogeneity and class base on economic, social, religion and politics has come into being.

But some of them argue that backwardness of their society is due to the strict loyalty of their age old customs which are decayed and falling sort of the ability to accommodate the changed circumstance of the society. But the traditionalist believe is that the legacy of the customary practices and restrictions on the imposition and function of any other law of the state has productively protected their culture, religion and ethnic beliefs and also protected them from the exploitation by the outsiders and greater civilization. The very interesting finding is that out of total six hundreds and seven (607) respondents, four hundreds fifty four (454) that is (86.98) percent respondents are Christian and seventy nine (79) that is (13.0483) percent respondents are indigenous believers. Though majority of the interviewed are Christian but still they prefer settlement of disputes through customary law. Out of total six hundreds and seven (607) respondents, four hundreds fifty four (454) that is (74.79) percent respondents prefer customary law, one hundreds fifty one (152) that is (25.041) percent respondents prefer modern laws and only one (1) respondent that is (0.16) percent respondents preferred both the laws.

Majority of respondents also have the opinion that political appointment of Gaon Burahs and Buris and political interpreters is affecting the aged old customs and traditions. The village head politically appointed on the party line and they acted as party agent in the time of election, people always have the reasons to doubt. The roles of parties based leaders are also affecting the customs and customary laws. The majority of respondents also preferred compensation based justice instead of state based punishment. The opinions of respondents are supplemented by the case laws cited in chapter three of the thesis. There are cases where administrations have settled the disputes as per modern laws. There are also cases where disputes reported to modern laws but referred back to Nyelee for settle as per customary laws. There are also cases settled as per customary laws and appeal went to court challenging the verdict. Thus, study shows that homogenous Nyishi society is now turning into heterogeneous society.
Thus, study is a humble attempt to bring forth the necessary information regarding the Nyishi Customs and customary laws and its changes and continuity. However, the study is limited to small pocket of the Nyishi areas. There are further scopes open for other researchers on the subject.