The institution of marriage is as old as the dawn of civilization. The general concept of marriage requires the subsistence of relationship between man and woman constituting the center of the social unit of family, which is the foundation of every society. It is an association of a man and woman formed for mutual satisfaction of value demands which may be biological, psychological, social and economic. It is a process by which the legal relationship of husband and wife is established.

The Hindu Marriage Act, 1955 insists that every marriage must be performed through a ceremony. As regards the question “what ceremony” it gives an option to the parties to follow “customary rites and ceremonies of either party thereto”. The customary rites and ceremonies relating to marriage are so varied in India that it is not possible to state with any degree of certainty what formalities are required to be observed for the creation of the status of husband and wife. It is indeed a question of fact to be ascertained from the social practices of the community to which the parties belong.

During my career as a teacher of Family Law in the L.M.S. Law College, Imphal, I have come across numerous legal literatures and judicial pronouncements on customary marriage ceremonies of several Hindu communities and found that many legal luminaries, scholars and academic lawyers have already evinced adequate interest on the subject. Unfortunately there are very literatures which deal with a systematic study about the customary rites and ceremonies of marriage and divorce among the Meiteis. I find that such legal literatures would not be able to avoid
variations of judicial pronouncements with respect to Meiteis' customary rites and ceremonies of marriage and divorce, because, these literatures have never attempted to testify the legal validity of the custom. It led to cherish a strong desire to make an attempt, after comprehensive and systematic study, to find out what are the Meiteis' customary rites and ceremonies of marriage and divorce practices and how far they are legally recognizable. It explains how the present work has been an outcome of my keen interest in the subject.

Eventually, the present topic was officially approved for being undertaken as a research project leading to the Ph.D. degree of the University of Gauhati and I had the privilege to work under the kind supervision of Dr. B.K. Chakravarty, B.Sc.(Hons.), LL.M.,Ph.D., Principal, University Law College, Gauhati University.

This research work is undertaken to study the intergeneration gradual change in the customary rites and ceremonies of Meitei marriage. It aims at knowing the marriage practices of the Meiteis with special reference to the rites and ceremonies of Meitei marriage. At present the rules of the rites and ceremonies of Meitei marriage are in vogue. After the advent of Hinduism in Manipur, Meiteis are expected to follow the general framework of Hindus regarding marriage. There is, however, Meitei customary rites and ceremonies of marriage which would be different from that of Hindus to maintain its individuality and separateness.

The present study is also an examination of the Meitei customary marriage ceremony and its juristic importance in the light of the Hindu Marriage Act, 1955. In a research project involving the philosophy of Meitei socio-legal culture one should necessarily study the original works left by Meitei saints and scholars who are known as “Meitei Maichous”. The work being a “Jurisprudential study” naturally
includes an investigation into the origin, nature and principles of Meitei customary law specially marriage institution as well as enquiry into the fundamental concepts of Meitei social philosophy. The Meiteis can claim a vast body of knowledge in the sphere of religion and socio-legal concepts. The Meiteis a Mongoloid race, have original religion, called “Sanamahism” which is the backbone of the present study.

Any person who resided permanently in Manipur would be a Manipuri. The term “Meitei” is just synonym of the word “Manipuri” as recorded in the Government documents such as Census Reports and Linguistic Survey of India. A Meitei may be a Manipuri but all Manipuris are not Meiteis, because there are the Hindus of Indian origin (or non-Meitei Hindus originated from outside Manipur like Sikhs, Buddhists and Jains). Sikhs, Buddhists, Jains, Christians and Muslims are all Manipuris if they had settled in Manipur (otherwise a Manipuri citizen). No doubts, the Meiteis are one of the few Indo – Mongoloids who possess a written scripts and a fairly rich literature from an early age.

It may be mentioned that the reference in this study to Hindu law is with the avowed object of projecting the Meitei legal institution and concept, so as to articulate the institution of Meitei customary law such as marriage and formulate its principles more positively. Only those Meitei customary marriage rites and ceremonies which are studied in this work have been existing since antiquity and continuing till today in practice. The mere fact that a custom is found in the ancient books of a particular time does not necessarily imply that the law was actually in existence at that time. Laws and institutions of ancient times have often a habit of lingering in the books, long after they have ceased to have any practical value. For instance, in Hindu law books, one finds the eight forms of marriage and thirteen
kinds of sons. The texts do not give the slightest suggestion that they were obsolete. But it is now known that some of these textual injunctions had no relation to reality.

It may also be mentioned that the Meiteis (Manipuri Hindus) are governed by the Dayabhaga school of Hindu law. So, the judicial analysis of the validity of the rites and ceremonies of Meitei marriage would be done on the basis of section 7 of the Hindu Marriage Act, 1955. Section 7(1) of the Act merely reiterates the old Hindu law on the subject and declares that a Hindu marriage may be solemnized in accordance with customary rites and ceremonies of either party thereto. Sub-section (2) merely defines Saptapadi and the completion of the marriage on the taking of the seventh step. Section 7 does not lay down anything more than what has just been stated. In fact, section 7 is a mandatory provision but it does not prescribe any special ceremony to be gone through. If there are customary rites and ceremonies which are necessary for the solemnization of marriage, the observance of such ceremonies can be overlooked by the application of the doctrine of factum valet.

It is really surprising to note that no scholar has attempted to throw light on the analysis of the legal validity of marriage rites and ceremonies followed by the Meiteis in a precise manner. Whatever literatures are available, that are only religious in nature. In these literatures very cursory references have been made to the criteria of the rites and ceremonies of marriage. In the present study an attempt has been made to find out the extent to which Meitei marriage practices pertaining to the rites and ceremonies conform or deviate from their religious dictates, and how far these will be valid from the legal point of view. It also highlights the customary divorce practices among the Meiteis.
The study seeks to know and analyse the marriage practices of the Meiteis with special reference to the rites and ceremonies of marriage inspired by Sanamahi philosophy and also the gradual changes brought about by the advent of Hinduism in Manipur. Therefore, this work aims also to find out the customary rites and ceremonies of Meitei marriage from two angles i.e. before and after the conversion to Hinduism and to see how far such changes affect to the traditional Meitei custom and to the application of law. This finding may prove of some practical value in the matter of proving a valid marriage among the Meiteis.

This thesis consists of nine chapters. The first chapter deals with an introduction to the customs and importance given by the Hindu Marriage Act, 1955 to them. It also attempts to highlight the originality of Meiteis and how the words “rites and ceremonies” will be interpreted in the context of the present scenario of Hindu society.

Custom is the oldest form of law making. In primitive societies, human conduct was regulated by practices which grew up spontaneously and were later adopted by the people. In this way custom played the role of law in the early stages of society. Law in this sense was nothing else but the general customs of the community. At present custom cannot be a living and operative source of law. Modern society is changing at a very rapid pace. What was ten years ago is not the same today. Custom as a source of law has lost its former position and importance. Modern man looks to legislatures for enacting laws at a speed which is demanded by the atomic age. But, at the same time the legislatures try to save customs and usages, particularly in case of personal laws.
The “Meiteis” are one of the few Indo-Mongoloids who possess a written script and a fairly rich literature from an early age. From time immemorial the central valley of Manipur had been the home of Meiteis while the surrounding hilly regions of the state are inhabitants by the tribal communities.

In the present scenario of the Hindu society in India, the meaning of “rites and ceremonies” should be followed in its wider meaning in case of personal laws. It should not be in strict sense of its literal or dictionary meaning only. At the same time, the words “rite” and “ceremony” cannot be understood separately. It will be difficult to differentiate between these two words. Rite may be the constituent performance to constitute a complete performance of ceremony of any kind.

The second chapter is attempting to highlight the importance of custom in personal laws and the constitutional validity of some provisions of the Hindu Marriage Act, 1955. It also gives the essentials of valid custom and several modes of proving of a custom in courts.

India is a country which abounds in personal laws; each community has its own personal law. The Hindus, the majority community, have their separate family law. Custom either supplements or modifies the personal law of some communities, and some communities are either partly or wholly governed by customs. The infringement of the provisions of Part III of the Indian Constitution relating to Fundamental Rights, renders any law in force void (Article 13). The expression “law in force” would include Hindu law as contained in the texts as well as Hindu law based on custom. The purpose of law is to promote justice, keeping pace with the changing social, economic, political and other needs of the people. Reaffirming
those ideas, the preamble of our Constitution speaks of four objectives, viz. justice, equality, liberty and fraternity, and rules out any kind of discrimination on the basis of sex, race and religion. Hindu law is no exception.

In modern law, before a custom can be enforced by a court it is necessary to prove the existence of custom. For a custom to receive legal recognition it is necessary that it should possess all the important requirements or essentials of a valid custom. Custom is not law in the sense that the court is bound to take notice of it. In modern law, custom is treated as a question of fact and the burden of proof is on the party who relies on the custom.

The third chapter deals with the persons to whom the Hindu Marriage Act, 1955 applies and also some salient features of the Act with special reference to the protection of customs by the Act. It is difficult to define the term “Hindu” in reference to religion since Hindu religion is so diverse that the definition of the term “Hindu” in terms of Hindu religion is almost an impossible task. From the point of view of the application of the Hindu Marriage Act, 1955, the term “Hindu” is of a very wide connotation. Under section 2 of the Act the persons to whom this Act applies may be put in the following three categories:

(a) All those persons who are born of Hindu, Sikh, Jain or Budhist by religion. In this category are also included converts and reconverts to Hinduism, Sikhism, Jainism or Budhism.

(b) All those persons who are born of Hindu, Sikh, Jain or Budhist parents.

(in case only one parent is a Hindu, then the child must be brought up as Hindu).
(c) All those persons who are not Muslims, Christians, Parsis, or Jews, who are domiciled in India and to whom no other law is applicable.

The fourth chapter seeks to describe the origin, nature and scope of Meitei personal law and also how the forcible Hinduization of the Meiteis affects on the original Meitei personal law. In this chapter it is tried to show the Meitei mythology and philosophy of their original religion, "Sanamahism". No doubt, though the Meiteis have been forcibly converted to Hinduism, they never neglect their own religious customs based on Sanamahism, the original religion of Meiteis.

The fifth chapter deals with the concept of Meitei marriage prior as well as subsequent to conversion to Hinduism. It may be said that the Meiteis’ concept of marriage before their conversion to Hinduism and subsequent to conversion to Hinduism are almost similar because both Meitei law and Hindu are originated from their respective religions, Sanamahism and Brahmanism. Both the legal systems derive their strength from the identical or similar source, the classical "science of righteousness".

The sixth chapter of the thesis while dealing with kinds of Meitei marriage and customary rites and ceremonies of Meitei marriage before and after conversion to Hinduism seeks to explore the social as well as legal necessity of rites and ceremonies of marriage. It also tries to highlight the customary divorce practices among the Meiteis. Depending upon the modes of union of a man and a woman in marriage, Meitei marriage before their conversion to Hinduism may be of five kinds, viz. Hainaba (Engagement), Chenba (Elopement), Lanpha (Capture), Namduna Louba (Ravishing marriage) and Munduna Louba or Tuman Louba (Marriage with one's
spouse). After conversion to Hinduism, *Munduna Louba* or *Tuman Louba* (Marriage with one’s spouse) has become obsolete and *Lanpha* (Capture) marriage is known as *Chingba* or *Phaba* (Capture) marriage in the later period. The Meiteis’ customary marriage ceremony after conversion to Hinduism has raised to three kinds, viz. *Leichaiba* or *Leikoiba* (Casting flowers on the head of the bridegroom), *Loukhatpa* (Approval or Recognition) and *Keinya Katpa* (Giving the bride). *Leichaiba* or *Leikoiba* ceremony is the most popular ceremony of Meitei marriage. *Loukhatpa* ceremony is the ceremony showing the fact that the parents and the relatives of both the bridegroom and the bride have approved or recognized their union as husband and wife. *Keinya Katpa* ceremony is commonly performed amongst the poor families who cannot afford the huge expenditure of the formal marriage. It is considered as the lowest level as well as the simplest form of marriage ceremony.

The seventh chapter lists out the prohibited degrees of Meitei marriage and also the legal affects of their non-performance. Sections 5(iv) and 5(v) of the Hindu Marriage Act, 1955 are not mandatory in the sense that they will not be strictly applied in case where the custom or usage of a community permits such a marriage even if the parties are within the degrees of prohibited degrees of relationship or are sapindas to each other. In combined analysis of sections 5(iv), 5(v), 7 and 11 of the Hindu Marriage Act, 1955, it is revealed that by performing only even the actual customary ceremony of marriage it will not validate the marriage if it contravenes section 11 of the Act.

The eight chapter seeks to apply jurisprudential test on the customary rites and ceremonies of Meitei marriage, and also the judicial trend in safeguarding the validity of Meitei customary rites and ceremonies of marriage. In this chapter we
discuss the judicial pronouncements of Supreme Court, several High Courts in India and the Family Court, Manipur. The jurisprudential test is done as (i) Antiquity test (ii) Reasonability test (iii) Continuity test (iv) Certainty test (v) Compulsion test (vi) Morality test (vii) Test of compliance with general principles of law.

The ninth chapter deals with conclusion. In this chapter a brief survey has been made of the findings in the previous chapters to show the customary rites and ceremonies of marriage and divorce (in nutshell) among the Meiteis and how far legal recognition may be given to them in order to maintain the certainty of law. No doubt, Meiteis have been performing their customary marriage ceremony continuously from very ancient time but with some foreign additions as a consequence of change of society in Manipur. However, the Meiteis’ customary divorce practice has been hardly performed in the modern Meitei society.