African Customary Law in Modern Society: A study of the Midzi-Chenda people of Coastal Kenya

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Abstract

Western Law in Kenya was introduced and established by Colonial British. Before then, Kenyan indigenous communities had their own judiciary systems of addressing crucial issues in society but these systems were gradually replaced by Western Law. Despite the long stay and practice of Western Law in Kenya and Africa in general, evidence of research by Malindi District Cultural Association (MADCA, 2013) shows that Kenyan community prefer their issues addressed by African Customary Law (ACL), a propensity that parts ways with modern law. The heart of this research is to undertake, a critical study among the Midzi-Chenda people of Coastal Kenya; to seek to establish those primary causes that inspire them be comfortable at this modern age with customary law in the processes of employing justice for conflicting parties, rather than wholly appreciating modern law. The research shall use ethnographic methodology for data acquisition, supplemented by a workshop that shall reflect and validate the obtained information. The tools for acquiring primary information shall include; Key Informers (KI), participant observation, interviews, the use of questionnaires and focus groups. This study is hoped to offer a new interpretation of customary law in resolving disputes particularly in the implementation of the devolved governance and the 2010 new constitution dispensation in Kenya. The output shall be used for seminars and conferences and serve as written records for local community; hopefully to add input to African traditional courts, add value to the academic domain for literature referral, enrich and guide society to seek for further constitutional reforms by probing for ACL inclusion into state law.