

Though regarded as primitive and backward, precolonial societies had established traditional mechanisms of administering law and order. The establishment of colonial law and order transformed precolonial justice mechanisms but it did not phase it away. Worst, the hybrid legal system which the colonial rule established in Kenya has proven to be inadequate in addressing lawlessness and disorder. It is against this background that advocacy has been generated around the need to reconcile traditional and modern legal landscapes. This study interrogated the evolution of law and order among the Gusii of Kisii County (1902-1963). It explored pre-colonial nature of law and order, British colonial rule and establishment of law and order, as well as, examined the consolidation and transformation of colonial law and order among the Gusii. The study sought to establish the contribution of colonial law and order on the Gusii socio-economic and political life. Marxist theory of class struggles guided the study. According to this theory, law is necessary in mediating class differences in society. Law in colonial Gusiiland favoured the ruling and capitalist class which played a leading role in enacting and enforcing laws. The study benefited from both primary and secondary data which were accessed at Kenya National Archives, various university libraries and oral interviews. An explorative research design, through a purposive sampling procedure using a temporary list of prospective informants, was applied. To achieve validity, the researcher used 'bracketing' to suspend his experience judgments and belief. Content analysis for both secondary and primary data was used to arrive at the findings as per the study objectives. This study established that the Gusii had an elaborate system of governing themselves that occasioned peaceful co-existence of clan and family members. However, this system of law and order failed to cultivate harmonious relations between the different Gusii clans and their neighbouring ethnic communities. A mixture of both precolonial Gusii customs and English law was instituted to enable the locals to govern themselves according to their tribal customs while observing new laws that were enacted by the colonial government to mediate relations between other races and Africans. It was established that African laws were gradually watered down over time and the English laws took precedence. The transformation and consolidation of colonial law and order from 1918-1945 by the colonial administration in Gusiiland involved the separation of perceived and actual troublemakers from the rest of the population through imprisonment and deportation. In some cases, the colonial government gave in to Gusii demands in order to avoid confrontation. They enacted new laws or amended existing laws to increase the powers of colonial administrators over the Gusii people. The socio-economic and political contribution of colonial law and order on the Gusii people not only resulted to the founding of the Gusii nation but also, enabled the Gusii to flourish as they responded to colonial laws especially after World War I. However, Gusii precolonial political systems were gradually eroded as the colonial law and order entrenched itself deeply into Gusiiland. In conclusion, the study noted that neither traditional legal system of the Gusii people nor the modern English law is sufficient, hence, it guarantees law and order in society and recommends a reconciliation of both systems in order to maximize the benefits which contribute to the maintenance of law and order in the society.

ABSTRACT