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Kenya: Widow inheritance amongst the Kisa sub-tribe of the Luhya tribe, including who is chosen to inherit the widow, the process by which he is chosen and repercussions if he refuses to inherit the widow; availability of state protection

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

The following information was provided by the Deputy Executive Director of the Federation of Women Lawyers Kenya (FIDA Kenya) in correspondence to the Research Directorate dated 7 February 2008:

Widow inheritance is a practice that exists among many communities in Kenya but has been abandoned to a large extent over time. Indeed the Kisa community practices widow inheritance but with the consent of the widow. Sometimes repercussions for refusal might include disinheriting the widow or throwing her out of her matrimonial home but there are succession laws to protect such a widow. (FIDA Kenya 7 Feb. 2008a)

In a further telephone interview with the Research Directorate, the Deputy Executive Director of FIDA Kenya explained that the deceased husband's younger brother is usually the one to inherit the widow; however, where there is no younger brother, the husband's older brother or one of the husband's cousins could also inherit the widow (FIDA Kenya 7 Feb. 2008b). The Deputy Executive Director added that there are some Kisa communities where when there is more than one man interested in inheriting the widow, the widow is given the option to choose which man she will marry (ibid.).

With regards to consequences for an individual who refuses to inherit a widow, the Deputy Executive Director stated that widow inheritance only happens when a prospective inheritor demonstrates his interest and that "if there are no takers, a widow cannot demand to be inherited" (ibid. 8 Feb. 2008). Corroborating information could not be found among the sources consulted by the Research Directorate.

No reports of repercussions for men who refuse to inherit a widow could be found among the sources consulted by the Research Directorate.

Widows can refuse to marry the deceased husband's younger brother (or cousin) and can choose to live alone or to marry someone else; however, in those cases, the widow often moves out or is kicked out of the matrimonial home even though she has a right to stay (ibid. 7 Feb. 2008b). The *Law of Succession Act* gives widows the right to inherit their husband's property (ibid.). The Deputy Executive Director explained that women who are forced out of the matrimonial home or whose inheritance rights are violated could seek recourse under this Act and through the criminal justice system (e.g., for offences of assault, harassment, breaking and entering, injunctions, etc.) in cases where the deceased husband's family resorts to criminal behaviour in order to evict the widow from the house (ibid.). However, the Deputy Executive Director explained that, even though awareness is starting to spread in Kenya, many women are not aware of their rights and will simply leave the matrimonial home believing that they do not have any right to it once their husband dies (ibid.).

Country Reports on Human Rights Practices for 2006 partially corroborates this information, indicating that "[w]ife inheritance, in which a man inherits the widow of his brother or other close relative, was commonly practiced in certain communities" and notes that the *Law of Succession Act* indicates that widows' right to inheritance is terminated if they remarry (US 6 Mar. 2007, Sec. 5).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

Federation of Women Lawyers Kenya (FIDA Kenya). 8 February 2008. Correspondence from the Deputy Executive Director.

_____. 7 February 2008a. Correspondence from the Deputy Executive Director.

_____. 7 February 2008b. Telephone interview with the Deputy Executive Director.

United States (US). 6 March 2007. Department of State. "Kenya." *Country Reports on Human Rights Practices for 2006*. <<http://www.state.gov/g/drl/rls/hrrpt/2006/78740.htm>> [Accessed 11 Feb. 2008]

Additional Sources Consulted

Oral sources: Representatives from the Coalition on Violence Against Women (COVAW) - Kenya, the Kenya Human Rights Commission (KHRC), Womankind and Widows' Rights International (WRI) did not provide information within the time constraints of this Response.

Attempts to contact Human Rights House in Nairobi were unsuccessful.

WidowSpeak did not have information on the subject.

Internet sites, including: AllAfrica.com, Amnesty International (AI), British Broadcasting Corporation (BBC), Factiva, Freedom House, Human Rights Watch (HRW), Integrated Regional Information Networks (IRIN), Jeuneafrique.com, *The Nation* [Nairobi], Office of the United Nations High Commissioner for Human Rights (OHCHR), *The Standard* [Nairobi], WidowSpeak, Widows' Rights International (WRI).

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