

Kafaalah Discussion Guide



VIDEO SUMMARY

Kafaalah, an Islamic form of alternative care, offers a family-based solution for children deprived of parental care. While it does not confer full legal adoption rights, it enables a family or individual to assume responsibility for a child's care, protection, and upbringing. Kafaalah can offer a culturally acceptable and religiously endorsed pathway to family care in many Muslim-majority contexts where adoption is not practised or accepted.

In this video, practitioners, faith leaders, and a Kafaalah caregiver share experiences in promoting and strengthening Kafaalah as an important part of family-based alternative care in Kenya. They highlight the benefits and challenges—including legal, cultural, and administrative barriers—and share lessons on supporting families, ensuring child-centred placements, and safeguarding children's best interests within the Kafaalah system.

The video outlines the government's efforts to strengthen Kafaalah and standardize its implementation. It emphasizes the importance of integrating Kafaalah into the country's legal and child protection frameworks. This integration is informed by Shari'ah law, involving the participation of Muslim legal practitioners from the Kadhi Court, as well as Muslim leaders and communities. Their involvement has contributed to a broader discourse that supports care reform efforts, promoting family-based care for all children in Kenya. It highlights examples of the legal framework that recognizes Kafaalah formally, including the Children Act, regulations, and the national implementation framework.

The video also underscores the importance of preparing children and families, providing ongoing support and supervision, and collaborating with religious and community leaders to ensure Kafaalah placements are safe, nurturing, and aligned with child protection principles.

To watch this video, please go to: <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/the-formalization-of-kafaalah-in-kenya>

For more practitioner learning, watch our *Kenya*, *Cambodia* and *Uganda* video series



DISCUSSION TOPIC 1:

Understanding the context of Kafaalah

The video provides an overview of Kafaalah practice in Islam, and how Islam promotes and protects the rights of children even before birth, and that protection is extended throughout as they grow into adulthood. It narrates how the Qur'an asks those entrusted with orphans to protect and care for their wealth and use it favourably for the benefit of the orphans and emphasizes the protection of orphans and encourages care for them within home settings. Further, it explains how Kafaalah is based on Islamic Law, which does not recognize the adoption of children as adoption changes the lineage of a child. Therefore, Kafaalah becomes a solution of choice for children without parental care and those at risk of separation.

The video also explains that Kafaalah serves as a child protection measure in countries where legal systems are based on or influenced by Islamic law (Shari'a). The concept originates from Sharia, which consists of rules governing the lives of Muslims based on the Qur'an and the Sunna (teachings from the Prophet's life).

In your context:

- ① How widely is Kafaalah practised? How is it understood by practitioners, the public, and religious leaders?
- ② Are there any prevailing myths or misconceptions about Kafaalah that may influence its use as a family-based care option?
- ③ Are there groups of children for whom Kafaalah is particularly promoted or particularly challenging (e.g. children with disabilities, older children, children with known family of origin)?



DISCUSSION TOPIC 2: Addressing legal and policy gaps

The video emphasizes that the process of recognizing and strengthening Kafaalah as a formal care option within the national legal framework involved a series of consultative meetings that included various sectors and agencies. These meetings featured workshops focused on building consensus and conducting reviews. Participants included representatives from the National Council on the Administration of Justice (NCAJ), Kadhi Courts, Muslim leaders, partners, scholars, representatives from Muslim-affiliated child care institutions (CCIs), individuals with lived experiences in the Muslim community, as well as representatives from the Department of Children Services (DCS), the National Council for Children Services (NCCS), the Child Welfare Society of Kenya (CTWWC), and UNICEF, among others. The process also included a comprehensive desk review.

Furthermore, the video discusses the advantages of having Kafaalah recognized within the national legal framework.

In your context:

- ① How is the legal or administrative framework being strengthened to support Kafaalah?
- ② Are children's rights—including identity, inheritance, and access to services—protected in Kafaalah arrangements?
- ③ How can practitioners, advocates, and faith leaders work together to strengthen these frameworks and encourage best practice?



DISCUSSION TOPIC 3: Supporting children and families in Kafaalah

Ensuring that Kafaalah is recognized within the national legal framework of the state will guarantee that children and families involved in Kafaalah receive appropriate government support, such as social safety nets, particularly for the elderly and vulnerable individuals. Additionally, this recognition will ensure that children placed in Kafaalah are always prioritized in terms of their best interests. It will also protect these children from any form of violence, including stigma, discrimination, abuse, neglect, and exploitation, especially in informal arrangements. Furthermore, it will enhance monitoring by legal authorities to review the progress of Kafaalah care.

In your context:

- ① What processes are in place to assess the suitability of Kafaalah families and to match children with families?
- ② How are children prepared for Kafaalah placements? How are families prepared and supported to meet children's needs? What are ways this might be strengthened?
- ③ What kind of monitoring is provided to families and children in Kafaalah arrangements? Who does this?
- ④ What are some examples of good practice in supporting families and children highlighted in the video? What are some examples from your community?



DISCUSSION TOPIC 4:

Building community and faith leader engagement

Lastly, the video emphasizes the need to involve Muslim communities and local authorities, including Imams and Kafaalah subcommittees, in the identification and placement processes within the Kafaalah system, highlighting their role as gatekeepers.

In your context:



What role do religious leaders and faith-based organisations play in promoting Kafaalah? What role could they play?



What community-based awareness-raising or advocacy strategies have been effective in promoting positive understanding of Kafaalah? Would these efforts work in your community? Why or why not?



How can stigma or discrimination be addressed to ensure that children in Kafaalah placements are fully accepted and supported within their communities?