



REPUBLIC OF KENYA

MINISTRY OF GENDER, CULTURE  
AND CHILDREN SERVICES

STATE DEPARTMENT FOR CHILDREN  
SERVICES



# THE NATIONAL FRAMEWORK FOR THE IMPLEMENTATION OF KAFAALAH CARE FOR CHILDREN IN KENYA 2025

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## FOREWORD

The Constitution of Kenya recognizes the family as a fundamental unit of society. The significance of the family in the care, nurturing, growth and development of children is established by the United Nations Convention on the Rights of the Child (UNCRC). The Constitution of Kenya recognizes the family as a fundamental unit of society upon whom the responsibility of child care is bestowed.

The National Care Reform Strategy for Children in Kenya (2022) is a response to the demands of the UNCRC. The strategy provides national guidance based on three key pillars: prevention and family strengthening; enhanced alternative family care services for all children in need of protection and care; and the tracing, reintegration and transition of children from residential care to family- and community-based care. Kafaalah is a child protection measure practised by Muslims and is based on Islamic law, which does not recognize adoption due to its impact on a child's lineage. Consequently, Kafaalah serves as an alternative solution for children without parental care or at risk of separation. The UNCRC acknowledges Kafaalah as a legitimate alternative care option for children. To facilitate this, the National Framework for the Implementation of Kafaalah Care for Children in Kenya (2025) will provide guidelines on how to care for children needing protection and care within the Muslim community.

The Directorate of Children's Services, along with stakeholders in the child welfare sector, recognized the need to develop this framework. It aims to offer harmonious national guidelines for childcare practitioners to enhance the quality of family support and alternative care services across Kenya. The Ministry urges all partners and stakeholders in the childcare sector to collaborate in supporting the government's efforts to transform the childcare system from institution-based care to family- and community-based care. Successful implementation of this framework will enable children within the Muslim community in Kenya to enjoy their right to grow up in a family environment and receive appropriate care for their overall growth and development.



CPA Carren Ageng'o  
**Principal Secretary**  
**State Department for Children Services**

## PREFACE

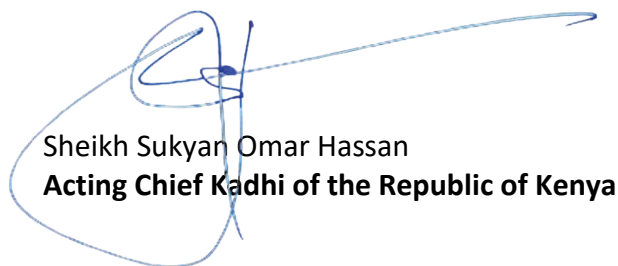
The Muslim population in Kenya constitutes 11% of the total population, with the majority residing in the Coastal and North-Eastern regions of the country and a significant number living in major urban centers. In these areas, Charitable Children's Institutions have developed over the years to address the increasing number of orphaned children in urban settings. The Muslim community traditionally cares for orphaned, abandoned and neglected children, typically focusing on children who are relatives.

Islam emphasizes the protection of children's rights even before birth, extending this protection as they grow into adulthood. The Qur'an mandates that parents provide their children with food and clothing according to their means. It instructs those entrusted with the care of orphans to safeguard their wealth and use it wisely for the benefit of the orphans. Additionally, the Qur'an stresses the importance of returning wealth to orphans upon reaching maturity. Caring for orphans is regarded as a charitable act that brings rewards from God. It is also a humane responsibility that Islam encourages among believers to help alleviate the suffering of vulnerable individuals.

Kafaalah, a child protection measure based on Islamic Law, is a significant alternative to adoption as it preserves the lineage of a child. This makes Kafaalah an essential solution for children without parental care and those at risk of separation.

The National Framework for the Implementation of Kafaalah Care for Children in Kenya (2025) has been established to guide practitioners in childcare, protection, and the justice system. The framework will also ensure that decisions are made in the best interest of the child.

This framework is a significant and historic document for Muslims in Kenya, as there has been limited focus on Kafaalah as an alternative to adoption and other forms of alternative childcare. This framework will also assist key stakeholders in childcare and protection, as well as those in the justice system, in making decisions that are in the best interest of the child.



Sheikh Sukyan Omar Hassan  
**Acting Chief Kadhi of the Republic of Kenya**

## ACKNOWLEDGMENTS

The National Framework for the Implementation of Kafaalah Care for Children in Kenya (2025) was developed through a series of consultative, inter-sectoral and multi-agency meetings involving key stakeholders.

The Directorate of Children's Services collaborated with a Kafaalah Technical Working Team to create this framework. This technical team was made up of a multidisciplinary group of both state and non-state professionals working in areas related to care reform. Their task was to conduct a comprehensive literature review and engage in in-depth consultations to finalize the draft framework.

We express our heartfelt gratitude for the invaluable support from the National Council on the Administration of Justice, representatives from the Kadhi Court, the National Council for Children Services, civil society organisations, representatives from Muslim-affiliated Charitable Children Institutions, the Supreme Council of Kenya Muslim, the Council of Imams and Preachers of Kenya and the Council of Muslim Teachers and Preachers Association.

In addition, we are thankful to the Muslim Imams, Sheikhs and Ustadhas from the various communities that were involved in the process for their commitment to this noble task.

Further, we appreciate Changing the Way We Care and UNICEF for their financial and technical support.



Shem Nyakutu  
**Secretary Children's Services**



## ABBREVIATIONS

<b>ACRWC</b>	<b>African Charter on the Rights and Welfare of the Child</b>
<b>AFC</b>	Alternative Family-Based Care
<b>CCI</b>	Charitable Children’s Institutions
<b>CIPK</b>	Council of Imams and Preachers of Kenya
<b>CHP</b>	Community Health Promoters
<b>CMTPA</b>	Council of Muslim Teachers and Preachers Association
<b>CPV</b>	Child Protection Volunteers
<b>CTWWC</b>	Changing the Way We Care
<b>CPIMS</b>	Child Protection Information Management System
<b>CSO</b>	Civil Society Organization
<b>DCS</b>	Directorate of Children’s Services
<b>INGO</b>	International Non-Governmental Organization
<b>MOH</b>	Ministry of Health
<b>NCAJ</b>	National Council on the Administration of Justice
<b>NCCS</b>	National Council for Children's Service
<b>NGAO</b>	National Government Administration Officers
<b>PBUH</b>	Peace Be Upon Him
<b>SOP</b>	Standard Operating Procedure
<b>SUPKEM</b>	Supreme Council of Kenya Muslim
<b>UNCRC</b>	United Nations Convention on the Rights of the Child
<b>UNICEF</b>	United Nations Children’s Fund

## DEFINITION OF KEY TERMS

**Alternative care:** A formal or informal arrangement whereby a child is looked after, at least overnight, outside their parental home, either by decision of a judicial or administrative authority or duly accredited body, or at the initiative of the child, his or her parent(s) or primary caregivers, or spontaneously by a care provider in the absence of parents.<sup>1</sup>

**Biological parents:** The birth family into which a child is born. It can mean both parents if they are together, the mother, or the father.

**Case management:** This is the process of ensuring that an identified child has his or her needs catered to, is cared for, is protected and has his or her support needs met. This is usually the responsibility of an allocated social worker who meets with the child, family, other caregivers and professionals involved with the child to assess, plan, deliver or refer the child and/or family for services. Case management also involves monitoring and reviewing progress.<sup>2</sup>

**Child:** An individual who has not attained the age of 18 years.<sup>3</sup>

**Child placement:** A social work term for the arranged, out-of-home accommodation provided to a child or young person on a short- or long-term basis.

**Continuum of care:** The range of care options for children who have been separated or are at risk of being separated from parental care. It reflects the contents of the United Nations Convention on the Rights of the Child (UNCRC) and the Guidelines for the Alternative Care of Children and includes family strengthening, alternative family-based and community-based care options as well as residential care options.<sup>4</sup>

**Imam:** A person leading prayer in a mosque.

**Kadhi:** A judicial officer (magistrate/judge) presiding over a Kadhi's court.

**Kafaalah:** An alternative care option whereby a person professing the Islamic faith, who is capable of looking after a child as per the Children's Act,<sup>5</sup> takes in a child who is deprived of parental and family care and protection.

**Kafiil:** Any person (male or female) taking in a child under Kafaalah.<sup>6</sup>

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<sup>1</sup>UNICEF and the Government of Kenya (2014). Guidelines for Alternative Family Care for Children in Kenya. Retrieved from [www.bettercarenetwork.org/sites/default/files/Guidelines%20for%20the%20Alternative%20Family%20Care%20of%20Children%20in%20Kenya.pdf](http://www.bettercarenetwork.org/sites/default/files/Guidelines%20for%20the%20Alternative%20Family%20Care%20of%20Children%20in%20Kenya.pdf)

<sup>2</sup>Caseworker's Guidebook: Case Management for Reintegration of Children into Family or Community Based Care. Retrieved from <https://bettercarenetwork.org/library/principles-of-good-care-practices/leaving-alternative-care-and-reintegration/caseworker%E2%80%99s-guidebook-case-management-for-reintegration-of-children-into-family-or-community-based>.

<sup>3</sup>Article 260 of the Constitution.

<sup>4</sup>Faith To Action (2019). Continuum of Care and Child Placements. Accessed at <http://www.faithtoaction.org/family-care-toolkit/continuum-of-care/>

<sup>5</sup>UNICEF and the Government of Kenya (2014). Op cit..

<sup>6</sup>In this document, the term refers to both male and female persons who take in a child under Kafaalah care.



**Makfuul:** Any child (male or female) who is deprived of parental care for diverse reasons and placed in Kafaalah.<sup>7</sup>

**Reintegration:** The process of a separated child making what is anticipated to be a permanent transition back to his/her immediate or extended family and community (usually of origin) in order to receive protection and care and to find a sense of belonging and purpose in all spheres of life.

**Reunification:** The physical reuniting of a child and his/her family or previous caregiver with the objective of the placement becoming permanent.<sup>8</sup>

**Ustadha:** A female religious teacher in Islam.

**Wasiyah:** A will.<sup>9</sup>

**Yatim:** A child whose father is dead.<sup>10</sup>

**Young persons:** In the context of this framework, young people are defined as persons aged 18 years and above who are transitioning into adulthood and still require an extension of parental support and guidance. They include young people in institutions, those who have left care and those who are at risk of separation.

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<sup>7</sup> In this document, the term refers to both male and female children who have been placed in Kafaalah care.

<sup>8</sup> Caseworker's Guidebook: Case Management for Reintegration of Children into Family or Community-Based Care. Retrieved from <https://bettercarenetwork.org/library/principles-of-good-care-practices/leaving-alternative-care-and-reintegration/caseworker%E2%80%99s-guidebook-case-management-for-reintegration-of-children-into-family-or-community-based>.

<sup>9</sup> In this context, it refers to an oral statement or document in which the creator of the will appoints a guardian to care for his/her child(ren).

<sup>10</sup> A pupil or a child who has not reached or completed puberty. *Mausu'a Al fiq al kuwaitiyah* vol 45 pg. 254.

# CHAPTER ONE: INTRODUCTION AND BACKGROUND TO THE FRAMEWORK

## 1.1 Content Overview

The framework includes:

- Definition of key terms.
- Introduction to the framework.
- Objectives of the framework and guiding principles.
- Background information on Kafaalah.
- Key roles and functions of actors implementing Kafaalah.
- Coordination of the implementation of Kafaalah.
- Monitoring and evaluation of this framework.
- Annexes.

## 1.2 Intended Users

This framework has been created to assist state and non-state child care organisations in delivering systematic, safe and standardized Kafaalah care for children who need protection and support.<sup>11</sup> It is also designed for use by various structures and actors involved in child welfare, among others.

*Table 1: Other intended users of the framework*

▪ Children Advisory Committees <sup>12</sup>	▪ Children Officers
▪ Care Reform Committees	▪ Kafaalah Committees
▪ Child Protection Volunteers	▪ Mosque Committees
▪ National Police Service (NPS)	▪ Children's Institutions
▪ National Government Administration Officers (NGAO)	▪ Community Health Promoters
▪ Kadhi	▪ Social Workers
▪ County Governments	▪ Caseworkers
▪ Magistrates	▪ Civil Society Organisations (CSO)
▪ Children Court Users Committee (CCUC)	▪ Community Members
▪ Ministry of Health Officers	▪ Kafiil
▪ Civil Registry	▪ Makfuul
▪ Social Development Officers	
▪ Education Officers	

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<sup>11</sup> Case workers or social workers, Kafiils, case managers, Imams and Ustadhas, and other stakeholders.

<sup>12</sup> Members of the Children Advisory Committee as per the Children Act, Section 54 (2).

### 1.3 Effective Use of the Kafaalah Framework

Any decision to place a child in Kafaalah depends on the case management process. Therefore, each placement must go through this process to assess the necessity of care and determine whether Kafaalah is the most suitable option for meeting the child's unique needs. This framework should be used alongside the Case Management Guidebook (2019)<sup>13</sup> and the Alternative Family Care Standard Operating Procedures (SOP)<sup>14</sup> related to Kafaalah, which provide clear, step-by-step guidance on placing and supporting children in Kafaalah care.

### 1.4 Justification

Kafaalah has been an informal practice of caring for children in need of protection for generations. However, many Muslim children still find themselves in residential care facilities, often funded by well-meaning Muslim donors. However, a robust evidence base illustrates that children in residential care often miss out on the chance to grow and develop within a family and community setting, resulting in challenges to development, wellbeing and life after leaving care. Kenya is part of a global movement that is shifting away from reliance on residential care models for children, focusing instead on supporting family- and community-based care options. This is Kenya's vision for all children.

This framework aims to formalize and strengthen Kafaalah as a recognized alternative care option amongst a range of family- and community-based alternative care. The primary goal of Kafaalah is to provide family-based care for children who are unable to remain with their biological parents in a manner that is sustainable, is consistent with Islamic law and contributes to Kenya's efforts to ensure family care over residential care.

#### Framework Development Process

A Kafaalah Technical Working Group was established to assist the Directorate of Children's Services (DCS) and the National Council for Children's Services (NCCS) in developing this framework. This technical team consisted of a diverse group of both state and non-state professionals who work in areas related to care reform.<sup>15</sup> The technical team reviewed relevant literature and conducted consultations to finalize the draft framework.

The framework was created through a series of consultative, inter-sectoral and multi-agency meetings as well as consensus-building workshops and reviews. Input came from various stakeholders, including the National Council on the Administration of Justice (NCAJ),

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<sup>13</sup> Government of Kenya (2019). Caseworker's Guidebook: Case Management for Reintegration of Children into Family or Community Based Care. Retrieved from <https://bettercarenetwork.org/library/principles-of-good-care-practices/leaving-alternative-care-and-reintegration/caseworker%E2%80%99s-guidebook-case-management-for-reintegration-of-children-into-family-or-community-based>.

<sup>14</sup> Government of Kenya (2023). The Standard Operating Procedures for the Alternative Family-based and Community-based Care of Children in Kenya. Retrieved from [https://bettercarenetwork.org/search?search\\_api\\_fulltext=AFC+SOP](https://bettercarenetwork.org/search?search_api_fulltext=AFC+SOP).

<sup>15</sup> The technical working group consisted of 10 members: three from the DCS, two from CTWWC, one Technical Advisor (a former DCS director), two Kadhi court representatives and two Muslim clerics (Council of Muslim Teachers and Preachers Association [CMTPA] Malindi and Supreme Council of Kenya Muslim [SUPKEM] Garissa).

representatives from Kadhi Courts, Muslim leaders and organizations, the DCS, the NCCS, Changing the Way We Care (CTWWC) and UNICEF.

## CHAPTER TWO: OBJECTIVES AND GUIDING PRINCIPLES FOR KAFAALAH

### 2.1 Overall Objective

This framework has been developed to guide stakeholders in implementing Kafaalah as a family-based alternative care option for children in Kenya.

### 2.2 Specific Objectives

The specific objectives of this framework include:

- Provide an elaborate understanding of Kafaalah and promote the practice within the Kenyan legal framework.
- Provide for effective coordination in the implementation and reporting of Kafaalah.
- Define the roles and functions of stakeholders in Kafaalah.

### 2.3 Guiding Principles

In all cases involving children who are without parental care and are subsequently in need of alternative care, two primary principles must always be considered: necessity and suitability. The "necessity" principle evaluates whether a formal placement is genuinely needed, while the "suitability" principle determines the most appropriate type of care that will meet the child's needs. Decisions regarding the best care option are made based on these two principles.

As the child grows and develops, and as circumstances change, both principles should be continually reassessed to ensure that the care option for the child is needed and reflective of the unique strengths, needs and context of the child (i.e., is suitable).






The [UN Guidelines for the Alternative Care of Children](https://bettercarenetwork.org/library/social-welfare-systems/standards-of-care/guidelines-for-the-alternative-care-of-children-english)<sup>16</sup> (henceforth referred to as the Guidelines) highlight that the family is the fundamental unit of society and the natural environment for children's growth, well-being and protection. The Guidelines emphasize that efforts should primarily focus on enabling children to remain in or return to the care of their parents or, when appropriate, other close family members. A key component of the process designed to help prevent the separation of children from their families is referred to as gatekeeping. Gatekeeping ensures that any solutions identified are in the child's best interest and that unnecessary placements into alternative care are avoided whenever possible. It is during this process that the principles of necessity and suitability are especially critical.

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<sup>16</sup>UNGA (2010). Guidelines for the Alternative Care of Children. Retrieved from <https://bettercarenetwork.org/library/social-welfare-systems/standards-of-care/guidelines-for-the-alternative-care-of-children-english>.

By anchoring care decisions in these guiding principles, Kafaalah offers a unique opportunity to offer a specific group of children<sup>17</sup> placements that are suitable to their circumstances, including reflecting the children’s cultural and religious practices.

Alternative care in Kenya is grounded in a set of operational principles that reflect best practices, values and ethical standards, including the key principles explained below.

	<p><b>Family-based care:</b> The primacy of family-based care should be upheld throughout all decisions related to a child’s care, ensuring that the biological family is prioritized, followed by family-based alternative care options before community-based care options are considered. Residential care should only be used as a last resort. Key child rights instruments, including the United Nations Convention on the Rights of the Child (UNCRC) <sup>17</sup> and the African Charter on the Rights and Welfare of the Child,<sup>18</sup> recognize the primacy of family, prioritise the prevention of family separation, promote reintegration and obligate the State, as a duty bearer, to provide alternative care when needed.</p>
	<p><b>The best interest of the child:</b> Article 3 of the UNCRC recognizes that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.<sup>19</sup> The best interest of the child should be continually assessed as it is a dynamic concept comprised of various elements that are continuously evolving.</p>
	<p><b>Child-centered approach:</b> A child-centered approach ensures that the best interest of the child is paramount. This approach requires the child to remain at the forefront of all deliberations and holds that the wellbeing and welfare of the child be held as a paramount consideration in decision-making.</p>
	<p><b>Permanency:</b> Temporary forms of family-based alternative care are necessary and suitable in many situations; however, permanency should always be the goal for all children in Kafaalah. Permanency should be considered during case planning and should be the end goal whenever possible. Permanency in this instance would be to ensure that children in Kafaalah are prioritised to be placed with their family of origin or with kin.</p>
	<p><b>Child participation:</b> Participation is a core child right. A child should be engaged in any decision-making process regarding his or her care, according to the age and evolving capacities of the child. Participation increases the likelihood that decisions will be based on a holistic and accurate analysis of the child’s and family’s conditions and that any placements will be in the child’s best interest.<sup>20</sup> To facilitate participation,</p>

<sup>17</sup> Children can be placed in Kafaalah regardless of their religion. According to Islam, all children are born Muslim.

	children must be supported to understand information and matters that affect them, including their care. As such, the child should be presented with care options determined to be suitable for them, and have information explained to them in a child-friendly manner that appropriately reflects their age and developmental stage.
	<b>Subsidiarity</b> (within the appropriate social-cultural context): The placement of a child with a relative should be prioritised over a non-relative. If no relative is ready to take in the child, then a non-relative within the child's place of origin should be considered. The relatives should be involved in decision-making.

These additional principles underpin the practice of Kafaalah and are anchored in both the UN Guidelines regarding Kafaalah placement<sup>18</sup> and Islamic law.<sup>19</sup>

- Caring for orphans and vulnerable children through Kafaalah is a fundamental principle in Islam. It aims to provide these children with the safety and security that a family environment offers.<sup>20</sup>
- Every child has the right to grow up in a family setting. The family serves as a protective shield against violation of a child's rights and is essential for the holistic development of a child.
- If a child cannot be cared for by their biological parents, temporary or permanent care within the child's extended family shall be explored prior to considering any other forms of alternative care.
- Placing a child in Kafaalah does not erase the child's identity, nor does it establish paternal or maternal relations between the child and the Kafiil.
- The appropriate authorities will ensure that siblings are placed together in a single home. If this is not possible, they will be placed in close geographical proximity with arrangements for frequent visitations.
- All procedures for placing a child in Kafaalah must be completed promptly, and decisions should be made without unnecessary delay.
- As a priority, children should be placed in Kafaalah within Kenya.



Photo 1: Kisumu Kafaalah Steering Committee Members. Photo by Clara Mwanthi, CRS.

<sup>18</sup> Kadhi Ishaq (2019): Unpublished write up on Kafaalah Procedure and Practice Guidelines.

<sup>19</sup> Hadith related by Sahl Ibn Sa'd (ra), the Prophet stated: "I and the person who looks after an orphan and provides for him, will be in paradise like this" (putting his index and middle figures together) in another narration; "Do you like your heart to be tender, and your wishes fulfilled? Be merciful to the orphans. Touch softly his head and feed him from your food. Your heart will be tender, and you will attain your wishes."

<sup>20</sup> Ibid.

- The child, biological parent(s), Kafiil and their families have the right to privacy. Access to any recorded personal information by any party will be strictly regulated in accordance with relevant laws.
- In all procedures related to Kafaalah, it is crucial to uphold the highest standards of practice in achieving the higher objectives of the law (Maqasid Sharia).<sup>21</sup>

## CHAPTER THREE: BACKGROUND OF KAF AALAH

### 3.1. Kafaalah from the Islamic perspective

**In pre-Islamic history**, adoption was acknowledged and practised in Arab societies, where an adopted son was treated as if he were born to his adoptive parents. As a result, the rules regarding familial relationships apply, prohibiting marriage between an adopted child and any member of the adoptive family. The story of the Prophet Muhammad (Peace Be Upon Him [PBUH]) and Zayd Bin Harith ultimately led to the abolition of the adoption practice in accordance with the Holy Qur'an Chapter 33(4–6).<sup>22</sup>

The prohibition of adoption in Islam was reinforced because adoption in pre-Islamic Arabia was associated with practices that were considered legal fictions in the Islamic context. For instance, a family could disown a member, and an individual could renounce their biological family.

**In current Islamic practice**, Kafaalah is regarded as a beneficial practice by Muslims and is widely recognized within Islamic communities. It is a voluntary, family-based alternative child care practice that serves as a social norm, drawing the caregiver closer to Allah.<sup>23</sup> Kafaalah is now established as a child protection measure in legal frameworks, including State and Islamic law.



*Photo 2: Omar Ibrahim, Kafaalah Committee Member, Kilifi.*

Protecting life, which includes all children, is a moral duty prescribed by the Qur'an. Many verses in the Qur'an address the issue of orphans and vulnerable individuals, generally encompassing all children who are deprived of parental care, and outline the responsibilities and proper conduct of believers towards these specific groups.

<sup>21</sup> The higher objective of law revolves around the question of how to understand the eternal message in light of the challenges posed by the changing social, economic and political environment of the modern world. The usefulness of the principle of philosophic-legal cum hermeneutical tool is meant to protect life, wealth, intellect, religion and lineage.

<sup>22</sup> According to the Holy Qur'an: 30 "... nor hath He made those whom ye claim [to be your sons] your sons. This is but a saying of your mouths. But Allah sayeth the truth and he showeth the way. Proclaim their real parentage. That will be more equitable in the sight of Allah. And if ye know not their fathers, then [they are] your brethren in the faith and your clients."

<sup>23</sup> There are three features which distinguish Kafaalah from adoption: non-severance of biological ties; non-transference of inheritance rights; and no change in the child's family name.



According to these texts, orphans should not be mistreated or cheated, but treated fairly, kindly and generously.<sup>24</sup> The Qur'an encourages the charitable upbringing of orphans and describes Allah as their ultimate caregiver. According to Islamic tradition, the Prophet Muhammad (PBUH), who had lost his father, asked believers to provide for vulnerable children irrespective of whether they were related to them or not.

In Islamic *Fiqh*,<sup>25</sup> a foundling<sup>26</sup> is recognized as a fellow Muslim and therefore, possesses the same rights and responsibilities as others. Classical Fiqh literature extensively discusses the rights of foundlings along with the duties and proper conduct of those who find such children. According to these texts, if a person discovers an abandoned child, they have an individual obligation to care for that child if the child is at risk of dying or if they voluntarily take custody of the child. Otherwise, caring for a foundling is a communal responsibility (*Fard Kifayah*<sup>27</sup>), and failing to fulfil this religious duty is considered a communal sin.<sup>28</sup>

Traditional records indicate that Prophet Muhammad (PBUH) once asked, "Do you wish for a tender heart and fulfilled desires? Show mercy to orphans; gently touch their heads and share your food with them. By doing so, your heart will become tender, and your wishes will be granted."<sup>29</sup> Additionally, another hadith emphasizes the importance of treating orphans and abandoned children with kindness, mercy and dignity. Prophet Muhammad (PBUH) stated:

"Whoever caresses the head of an orphan (in affection), solely for the sake of Allah, a good deed will be written to his account for every hair over which he passed his hand."<sup>30</sup>

"Whoever treats kindly a female or male orphan who is under his sponsorship (Kafaalah), I shall be his companion in Paradise."<sup>31</sup>

"I and the person who looks after an orphan and provides for him, will be in Paradise like this (while putting his index and middle fingers together)."<sup>32</sup>

For good deeds to be acceptable, they must stem from the correct intention (*niyyah*), which means performing them with sincerity and no ulterior motives.

### 3.1.1. Kafaalah in international and national legal frameworks

Globally, Kafaalah is recognized as a family-based alternative care option for children deprived of their natural family environment. It serves as a care option designed to contribute to the

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<sup>24</sup> Holy Qur'an, Chap 93 v 9: "Therefore, treat not the orphan with harshness." The early life of the Prophet, having himself been left a destitute orphan, also greatly influenced the emphasis on caring for orphaned/abandoned children.

<sup>25</sup> Theory or philosophy of Islamic law.

<sup>26</sup> JJ Nasir, *The Islamic law of personal status* (2002) 155. "A foundling is a newborn baby, abandoned by its parents on grounds of poverty or shame [or young child found in the street and who does not know his family] and so unable to fend for itself. Care of a foundling is a religious duty, if there is any risk that the baby might otherwise die."

<sup>27</sup> Retrieved from <https://yaqeeninstitute.org/read/paper/fard-kifayah-the-principle-of-communal-responsibility-in-islam>.

<sup>28</sup> *Mausu'a al fiqh alkuwaitiyyah* vol. 35 pg. 310-311.

<sup>29</sup> Related by Abu-Al-Darda, al Tabarani.

<sup>30</sup> Musnad Imaam Ahmad, Hadith 22215, V8.

<sup>31</sup> Al-Tabarani in *Al-Mu'jam al-Kabir* 8/239 Hadith 7821.

<sup>32</sup> *Sahih al Bukhari*, Hadith 6005.

continuum of alternative care measures offered by child protection systems. Kafaalah is specifically mentioned in Article 20 of the UNCRC (see below). The concept is also reflected in the African Charter on the Rights and Welfare of the Child. The Guidelines on the Alternative Care of Children further detail Article 20 by providing guidance on the approved types of alternative care and how to provide them to ensure children's rights and good practice.

In Kenya, the process and procedures involved in Kafaalah care are guided by specific legal instruments.

The Children Act recognizes Kafaalah as a form of alternative care whereby a person professing the Islamic faith, who is capable of looking after a child,<sup>33</sup> takes in a child who has been deprived of parental and family care and the protection that care offers.

### Domestic Law

Kafaalah is formally recognized under Kenyan law, particularly through statutory laws.<sup>34</sup> Article 2(6) of the Constitution allows for the ratification of international treaties or conventions (i.e., they become part of Kenyan law and are legally binding without the need for additional legislation). The inclusion of Kafaalah in the UNCRC represents the first formal acknowledgment of Kafaalah within the Kenyan legal framework.<sup>35</sup>

Additionally, the Children Act recognizes Kafaalah as a legal alternative care practice for children in need of care and protection. This recognition enables families practising Kafaalah to access social services as outlined in Section 12 of the Act.

Kafaalah is further mentioned in important strategies and guidance documents, including the National Care Reform Strategy for Kenyan Children, the Alternative Family Care Guidelines 2014,<sup>36</sup> and the SOPs for the Alternative Family-Based and Community-Based Care of Children in Kenya.

Figure 1: Article 20 of the UN Convention on the Rights of the Child

#### Convention on the Rights of the Child, 1989, Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in the environment, shall be entitled to special protection and assistance provided by the State.
2. State Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care should include, inter alia, foster placement, Kafaalah of Islamic law, adoption, or if necessary, placement in suitable institutions for the care of children. When considering solutions, due regard should be given to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

<sup>33</sup> <https://www.nccs.go.ke/resources>.

<sup>34</sup> Children Act 2022 gives legal recognition of Kafaalah.

<sup>35</sup> The Monist approach in the application of international law essentially entails the direct observance of international law as part of the laws of the state without the necessity of domesticating the enabling treaty or convention. Treaties and conventions therefore apply as a source of law of the party state upon the signing thereof and ratification. Article 2(5) and 2(6) of the Constitution of Kenya provides: "(5) The general rules of international law shall form part of the law of Kenya; (b) Any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution."

<sup>36</sup> Guidelines for the Alternative Family Care of Children in Kenya <https://bettercarenetwork.org/sites/default/files/Guidelines%20for%20the%20Alternative%20Family%20Care%20of%20Children%20in%20Kenya.pdf>.

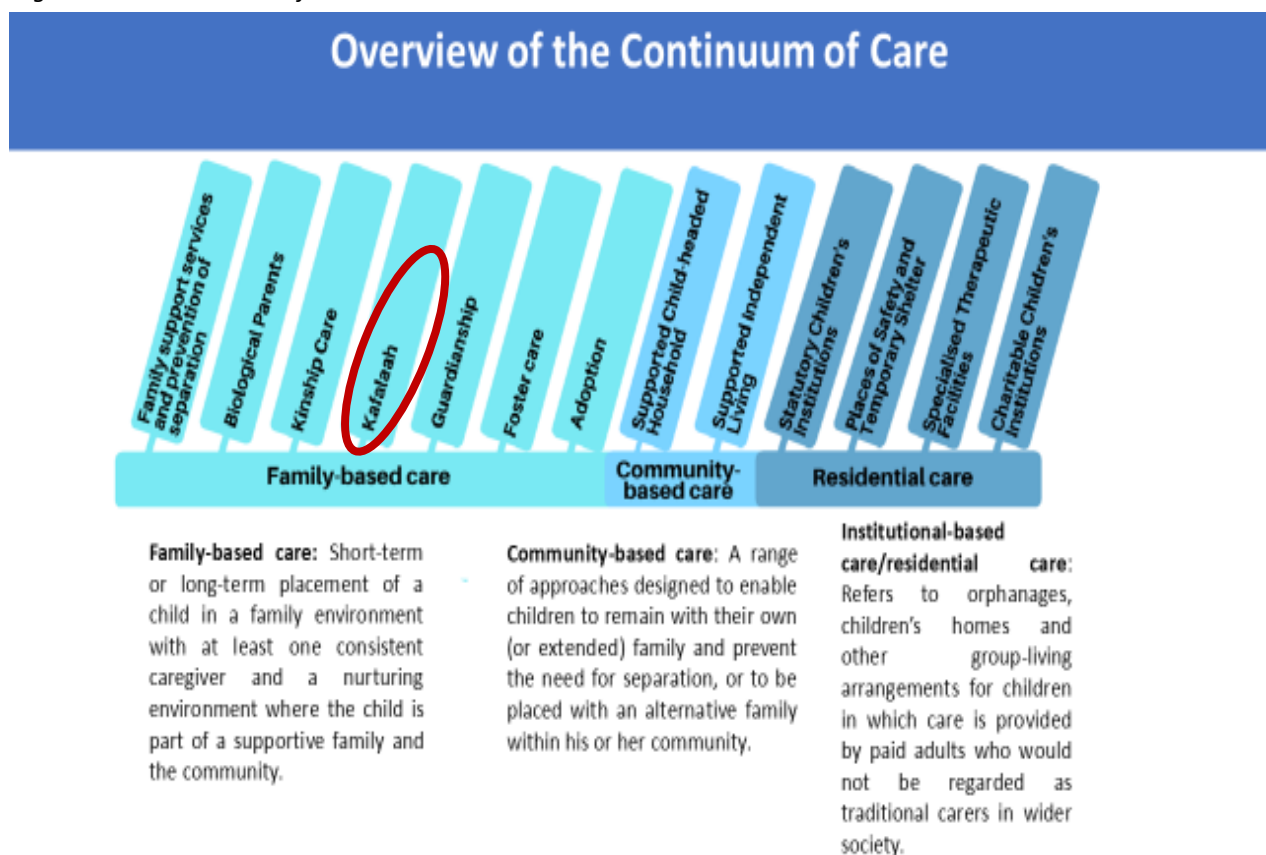
## CHAPTER FOUR: IMPLEMENTATION OF KAFAALAH

### 4.1 The Place of Kafaalah within the Continuum of Care

The continuum of care encompasses a variety of care options for children who have been separated from their parents or are at risk of such separation. This continuum includes biological family, family-based alternative care, community-based alternative care and residential care options. These approaches align with the provisions of the UNCRC and the UN Guidelines for Alternative Care of Children.

When alternative care is deemed necessary through case management processes, the continuum of care outlined in the Children Act 2022, the National Care Reform Strategy for Kenyan Children (2022) and the Guidelines for the Alternative Family Care of Children in Kenya (2014) should be followed. These frameworks prioritise alternative care options that are based within the family and community. Kafaalah falls into this group of care options. All efforts should be made to ensure children are placed in care that is determined to be most suitable to their unique background, strengths, needs and context. Residential care should only be considered as a last resort, only after all family and community-based options have been exhausted and deemed not suitable.

Figure 1: The Continuum of Care



#### 4.1.1. Types of Kafaalah

The practical implementation of Kafaalah, including its various modalities and procedures, varies significantly across Muslim communities, reflecting local customs and interpretations. The table below outlines the diverse ways in which Kafaalah is practised in different contexts globally.

Table 2: Various ways in which Kafaalah is practised

<b>Formal:</b> Subject to a formal process involving public authorities and is a formal care placement.	<b>Informal:</b> No involvement of public competent authorities. Subject to a private arrangement between individuals or family members where the child is looked after on an ongoing or indefinite basis. For example, a child is entrusted to female members of the maternal family and then the paternal family offers financial support with tacit agreement.
<b>Judicial:</b> Granted following a legal procedure that establishes the relationship between the Kafiil and Makfuul.	<b>Notarial:</b> Takes place when a private contract or arrangement is established between the biological parent(s) and the Kafiil parent(s) and then validated through a notarial deed drafted by an accredited professional.
<b>Intrafamily:</b> A child is cared for by a member of their (nuclear or extended) family.	<b>Extra family:</b> A child is placed with a person or people outside of their family.
<b>Financial:</b> Financial support can either be placed with the biological parent(s) or in an institution.	<b>Non-financial:</b> Involves the child's integration into the Kafiil family's home.

#### 3.1.2. Kafaalah in relation to other forms of alternative care<sup>37</sup>

**Kafaalah and kinship care:** Kinship care refers to family-based care within the child's extended family or with close friends of the family known to the child, whether formal or informal. Kinship care is also based on the assumption that blood relationships are central to the definition of family. Kafaalah is similar to kinship care to the extent that they both generally promote continuity in upbringing that aligns with children's cultural and religious backgrounds. This is primarily because in both cases, the closest relatives available usually take responsibility for the children (on an informal, largely spontaneous and unregulated basis).

**Kafaalah and guardianship:** Legal guardianship refers to a temporary legal relationship where an adult who isn't the child's parent provides care for the child. A parent who **consents to guardianship** hasn't necessarily relinquished all parental rights. Like Kafaalah, the guardian appointed over the child is responsible for ensuring that the child gets adequate food, shelter and clothing; moral guidance; education; medical care; emotional support and all other rights that a child is entitled to. If the child has property, the guardian is entrusted to ensure that the property is managed responsibly and that the property is utilized solely for the child's benefit.

**Kafaalah and foster care:** Foster care is a system of care whereby children deprived of parental or family care are placed in the care of individuals to whom they are unrelated for some time. Kafaalah is similar to (long-term) foster care in that it assigns some (not full) parental rights and responsibilities for a child's upbringing to both the person and property of the child. Further, fostering is recognized and permitted under Islam (unlike adoption) as an alternative care form

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<sup>37</sup> For detailed definitions of these forms of care, refer to Government of Kenya (2014). Op cit.

that is distinct from Kafaalah. However, foster children are not permitted to marry anyone with whom they were fostered, but those taken in under Kafaalah may marry anyone from that family unless he was brought up and breastfed by a Kafiil. Children under Kafaalah care have no automatic inheritance rights unless through a will or *hiba* (gift).

**Kafaalah and adoption:** Adoption refers to the creation of a legal and permanent parent-child relationship through a child's acquisition of new family ties which are equivalent to biological ties and extinguish (completely or partially) a pre-existing (biological) parent-child relationship. Kafaalah, on the other hand, represents the Islamic alternative to adoption. Two features of adoption can be observed in Kafaalah: permanence and elements of a simple and/or open adoption.

#### 4.1.2. Qualifications to be a Kafiil

Any person who meets the following criteria may qualify to be a Kafiil according to Kafaalah regulations:<sup>38</sup>

- Must profess the Islamic faith.
- Be a citizen of Kenya or a resident of Kenya for not less than 12 months.
- Preferably, an extended family member of the child.
- Be a married couple or, where the person is not married, be above the age of 25 years.
- If a person is providing sponsorship Kafaalah without the actual custody of the child, any person above 18 years can offer support.
- Must have full legal capacity, as well as the social and moral capability to take care of the child.
- Must be willing and able to support a child.
- The person must be of sound mind.

#### 4.1.3. Conditions for a Kafiil

The following are criteria for an adult to be considered as a Kafiil as defined in the Kafaalah regulations:<sup>39</sup>

- A single man shall not qualify to take in a female child, and a single woman shall not qualify to take in a male child under Kafaalah, except when they are members of the nuclear family of the child or are fit to take care of the child. Special considerations will be made for the application of an intersex child, depending on their circumstances and needs.
- No person shall be appointed to be a Kafiil where there is a legal dispute between him/her and the next friend of a child and/or the child's family.
- No person shall be appointed Kafiil unless the person is a citizen of the Republic of Kenya or is a resident of the Republic of Kenya for not less than 12 months.

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<sup>38</sup> <https://www.nccs.go.ke/resources>.

<sup>39</sup> *Ibid*.

- A Kafiil shall not remove a child from the jurisdiction of the Republic of Kenya without the leave of the court and such leave shall only be granted upon exceptional circumstances being shown.
- Where such leave is granted, the court shall impose such conditions and restrictions as it deems appropriate having regard to the best interests of the child.
- The Kafiil should not have committed any offense that will have an impact on the child as provided for in the third schedule of the Children Act.

**Note:** Charitable organisations engaged in child welfare programs can play a vital role in supporting children under Kafaalah by mobilizing financial and material resources. In cases where the organization provides sponsorship-based Kafaalah—offering support without assuming physical custody of the child—the standard requirements and conditions for custodial care may not apply. However, such organisations must be legally registered and operate in compliance with national regulations governing child and community welfare programs.

#### 4.1.5 Requirements to be a Kafiil

The following are required for the process of becoming officially recognized as a Kafiil according to the Kafaalah regulations:<sup>40</sup>

- National Identification Card or Kenyan passport for Kenyan citizens and residence permit for non-residents.
- Certificate of good conduct.
- Proof of marriage according to Islamic law.
- Recommendation letter from the area Imam.
- Contact address including telephone details.
- Medical report as may be deemed necessary during an assessment.
- For a sole applicant who is married, consent from the spouse.

#### 4.1.6 Categories of children who qualify for Kafaalah

Any child in need of care and protection, regardless of their religion as provided for in Section 144 of the Children Act, qualifies to be placed in the Kafaalah care option.

#### 3.1.3. Placement of a Child in Kafaalah

Priority should be given to placing a child with a Kafiil who is a relative, rather than a non-relative. Prior to placement, the DCS, in collaboration with the local Imam or mosque committee, will assess both the child and the prospective Kafiil to determine their suitability for a Kafaalah arrangement. In emergency situations, the DCS is empowered to place the child in accordance with the provisions of the Children Act, ensuring that the best interests of the child are upheld. Once the assessment is complete and the immediate objectives of the Kafaalah arrangement are clearly defined, preparations for the child's placement with the Kafiil can proceed.

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<sup>40</sup> *Ibid.*

**The assessment of the child** is a critical part of determining if Kafaalah is the most suitable care option for the child. The assessment is designed to:

- Establish the immediate and long-term needs of the child.
- Where applicable, establish whether separation of the child from the family is necessary or if there are possibilities of supporting the family through sponsorship to remain with the child.
- If separation is necessary, determine the circumstance for the child separating from the family and the likelihood of his returning home.
- Indicate the status of the child—whether the child was abandoned or needs care and protection.
- Gather additional background information about the child and the family to support successful placement.
- Any other information that the DCS deems necessary.

**The assessment of the potential Kafiil** and his or her family is designed to determine if they are a suitable family-based care option. The assessment is designed to:

- Determine the ability and willingness of the Kafiil and the family to take care of the Makfuul.
- Identify the Kafiil's strengths, capacity and needs to offer parental care.
- Assess the family and community environment, the Kafiil's family access to concrete services in the community and their willingness to accept the child.
- Explore the family's willingness to nurture the child's linguistic, religious and cultural identity and heritage.
- Assess the willingness of the Kafiil to maintain contact with the child's family and build positive relationships in the community that provide emotional, informational and spiritual support.

**The placement of a child into Kafaalah** will occur when:

- The Kafiil is approved and registered in line with Kafaalah regulations.
- The DCS has determined and is satisfied that the Kafiil is the most suitable person to take in and care for the child.
- Kafiil has disclosed all information known to the DCS that relates to the child.
- The Kafiil is of the same religious and cultural heritage as the child, and if of a different culture and religion, the Kafiil is respectful of the religious beliefs of the Makfuul and commits to facilitating the participation of the child in their respective religious events.

**The monitoring of a child in Kafaalah**

- The DCS, in collaboration with the Imams, will conduct regular home visits and monitoring to assess the progress of the placement process.
- The Imams, child protection volunteers (CPV) and caseworkers will provide a monthly report to DCS and the Kafaalah subcommittee on the progress of the placement.
- The Kafaalah subcommittee and DCS will sign off on all Kafaalah case closures through either sustainable reintegration or revocation.



#### 4.1.7 Benefits of Kafaalah to Children

Placement into a Kafaalah should be designed to provide family care for a child and provide the following benefits:

- Early family integration for babies and in some cases, breastfeeding of the infant.
- The child is provided with an opportunity to live and grow in a family setting.
- The right to education, healthcare, social services and a family.
- The Makfuul can be gifted properties by Kafiil.
- The Makfuul can benefit from wasiyah (i.e., a will) as they cannot inherit intestate automatically.<sup>41</sup>

#### 4.1.9 Suspension of Kafaalah Care Placements

The DCS may suspend a Kafaalah arrangement and withdraw the Makfuul from the family of the Kafiil based on one or more of the following reasons:

- Allegations of abuse against the child and family.
- Where the family expresses their inability to provide for the child, or if the Kafiil has been proven to be incapable of providing for the needs of the child.
- Family break-up of the Kafiil, including displacement due to emergencies.
- Where the biological parents are able and willing to take back and care for their child.
- Temporary relocation of the Kafiil family out of the country.
- Where the Kafiil or Makfuul expresses disinterest in the Kafaalah arrangement.
- Any other reason that may warrant the provision of care and protection to the child that is brought to the attention of the DCS.

The DCS will initiate the suspension process upon assessment of the conditions stipulated above and:

- In case of emergency, recommend immediate removal of the child from the family to a place of safety.
- Notify the Kafaalah committee in the respective sub-county.
- Recommend investigation of the situation and intervene appropriately. The DCS, based on the findings of the investigation, will either return the child to the Kafiil family or terminate the Kafaalah arrangement.

#### 4.1.10 Closure/Termination of Kafaalah Care Placement

Termination or closure of a Kafaalah arrangement will occur when:

- A child attains the age of legal maturity unless a decree of extension is granted by the court.
- There is a death of either the child or the Kafiil.
- There is legal incapacitation of Kafiil.
- Kafiil has left the country permanently.

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<sup>41</sup> They are provided for from the required one-third portion of an individual personal estate (testamentary), as indicated in the Book of Bukhari 51:7: The power of testator is limited in two ways, firstly he can't bequest more than one third of his net estate. Secondly, he cannot make a will in favor of a legal heir or provide court's discretion where no will was left behind as an obligatory will (wasiyah wajibah is a form of wealth transition by inheritance from the deceased to an heir who was not otherwise entitled to obtain it. It is done by a judge without the approval of the deceased or legal heirs).

- The child or family is not willing to remain in the care arrangement.
- The Kafiil is unable to assert parental responsibility.
- There is a request for the biological parents to reclaim their child if the reasons for separation cease to exist.

#### 4.1.11 Key components that foster successful implementation of Kafaalah

Kafaalah doesn't operate in isolation. To ensure consistent, good practice of Kafaalah, different components of the child protection system and the environment surrounding the child must be in place. The following are the different components and ways in which they can contribute to successful Kafaalah placements.

#### **Laws and coordination**

National government will:

- Ensure there are adequate legal, regulatory and policy provisions to allow for the appropriate use of Kafaalah as a form of family-based care through the development and review of relevant policies.
- Strengthen and support laws and policies for Kafaalah implementation monitoring.
- Ensure that legal, regulatory and policy provisions reflect how the term "Kafaalah" is used in practice and are in line with policy provisions using appropriate approaches.
- Establish and operationalise Kafaalah implementation and coordination structures.
- Develop the implementation matrix for Kafaalah.

#### **Skilled workforce**

The national and county governments and non-state actors will:

- Enhance the knowledge and capacity of the workforce to effectively and efficiently implement Kafaalah as a form of family-based alternative care.
- Develop training manuals and a handbook for Kafaalah.
- Advocate for an adequate workforce to implement Kafaalah.
- Train and build the capacity of Kafaalah stakeholders.
- Provide supportive supervision of the workforce on the implementation of Kafaalah.

#### **Financing and redirection of resources**

The national and county governments and non-state actors will:

- Increase funding and redirection of resources towards supporting Kafaalah as a form of alternative family care.
- Advocate for more funding to support Kafaalah.
- Invest in awareness-raising for private and public funders to help them redirect funding from institutions to Kafaalah as a family-based alternative care practice.
- Ensure funding is directed towards supporting families practicing Kafaalah with social support services.

#### **Services**

The national and county governments and non-state actors will:

- Enhance services for children, families and communities.

- Ensure there are available social support services for families practising Kafaalah.
- Establish support groups for families and caregivers practising Kafaalah.
- Strengthen referrals and linkages for essential services for families practising Kafaalah.

### **Data, evidence and knowledge**

The national and county governments and non-state actors will:

- Ensure relevant data on Kafaalah is collected, analysed and used to inform policy and practice.
- Support the social workforce to produce reliable disaggregated data of children and families in Kafaalah for policy and planning purposes.
- Develop a database for prepared and certified prospective Kafiils.
- Develop and share evidence of best practices around the implementation of Kafaalah.
- Train the workforce on data collection and management skills and techniques.
- Development and use of appropriate data collection and management tools.
- Link data on Kafaalah to Child Protection Information Management System (CPIMS).
- Strengthen the existing reporting tools in CPIMS.

### **Social norms and behaviours**

The national and county governments and non-state actors will:

- Promote social norms and behaviours that support Kafaalah by:
  - Increasing awareness, understanding and support for Kafaalah as a family-based care option.
  - Sensitising the public and communities to change beliefs, social norms, attitudes and behaviours that contribute to child institutionalisation and family separation.
  - Promoting the utilisation of Kafaalah as an alternative family care practice.
  - Recognising and leveraging available community knowledge about and positive practice of Kafaalah.

## **CHAPTER FIVE – COORDINATION OF IMPLEMENTATION OF KAFAALAH**

The framework outlines two key modalities of Kafaalah: 1) the physical placement of a child or young person with a Kafiil and 2) sponsorship-based support where the child remains with his or her family or in another setting. The framework emphasizes the importance of coordination and alignment with existing alternative care procedures to ensure that Kafaalah is effectively implemented as a recognized form of care.

### **5.1 Coordination Mechanism**

The effective implementation of Kafaalah requires a multi-sectoral and multi-agency approach. This involves continuous engagement, collaboration and coordination among all stakeholders,

including both State and non-State actors, who serve as key drivers of change. Strengthening stakeholder coordination will ensure:

- Kafaalah care is delivered in a consistent, child-centered and sustainable manner.
- An enhanced sense of ownership of the practice by stakeholders.
- Improved communication for efficient use of resources.
- Transparency during the entire case management process.

**Coordination of the implementation of Kafaalah care will be at four levels.**

1. *National*: Led by the NCCS.
2. *County*: The County Kafaalah Committee is a subcommittee of the County Children Advisory Committee.
3. *Sub-County*: The Sub-County Kafaalah Committee is a subcommittee of the Sub-County Children's Advisory Committee (SCCAC).
4. *Locational*: The locational Kafaalah Committee is a subcommittee of the Locational Children's Advisory Committee.

Beyond this structure, SCCACs can form other decentralized structures as necessary for effective coordination and implementation of Kafaalah.

**Composition of the Kafaalah Committee**

The Kafaalah committee at the county level will be comprised of:

- The County Commissioner or representative—Chairperson.
- The Kadhi Court representative—Co-Chairperson.
- The County Coordinator for Children's Services.
- The County Coordinator for Social Development.
- The County Civil Registrar.
- The County Executive Committee member responsible for matters relating to children.
- Male and female Muslim organization representatives (Council of Imams and Preachers of Kenya [CIPK], Supreme Council of Kenya Muslims [SUPKEM], Coast Interfaith Council of Clerics [CICC], Council of Muslim Teachers and Preachers Association [CMTPA], National Muslim Leaders Forum [NAMLEF]).
- Charitable Children's Institution representatives (2).
- Civil society partner/s (2).

The 12-member committee shall co-opt additional members with skills, interests and knowledge on children's matters, Islamic law and Kafaalah.

## 5.2 Key Roles and Functions of Stakeholders in Kafaalah

Table 3: Stakeholder Roles and Responsibilities

Key Stakeholders	Responsibility within the provision of Kafaalah
<b>National-Level Stakeholders</b>	
National Council of Children Services	<p>The NCCS will provide supervision, oversight and coordination of the implementation of Kafaalah in line with the Children Act and the Kafaalah Regulations. The NCCS will:</p> <ul style="list-style-type: none"> <li>▪ Monitor and evaluate the implementation of Kafaalah in line with the principles of the Children Act and relevant international laws and treaties.</li> <li>▪ Prescribe training needs and requirements for authorized officers and relevant workforce to implement Kafaalah.</li> <li>▪ Develop, approve, evaluate and monitor public awareness programs to support the implementation of Kafaalah.</li> <li>▪ Approve, evaluate and monitor child welfare programs to support the implementation of Kafaalah.</li> <li>▪ Carry out and disseminate research on children and families practising Kafaalah.</li> </ul>
Directorate of Children Services	<p>The State Department for Children Welfare Services, the government body mandated with overseeing children's issues will:</p> <ul style="list-style-type: none"> <li>▪ Establish the Kafaalah Committee, which shall be a subcommittee of the Sub County Children Advisory Committee (SCCAC).</li> <li>▪ Provide leadership and direction on the implementation of Kafaalah care arrangements.</li> <li>▪ Mobilise and allocate resources to support the implementation of Kafaalah.</li> <li>▪ Facilitate assessments of the Kafiil and the family.</li> <li>▪ Ensure proper placement of the Makfuul with the Kafiil.</li> <li>▪ Facilitate child tracing and rescue.</li> <li>▪ Assess, monitor and ensure the supervision of the Kafaalah arrangement.</li> <li>▪ Provide technical support to the Kafaalah subcommittee.</li> <li>▪ Ensure stakeholder coordination in Kafaalah implementation.</li> <li>▪ Link the Kafiil family and the Makfuul to essential support services.</li> <li>▪ Maintain up-to-date records and data of children in Kafaalah arrangements.</li> <li>▪ Maintain a register of prospective Kafiils.</li> <li>▪ Maintain a register of approved and certified Kafiils.</li> <li>▪ Promote support networks among Kafiils.</li> <li>▪ Link families practicing Kafaalah to available social protection programs.</li> <li>▪ Build the capacity of stakeholders on Kafaalah implementation.</li> </ul>
Kafaalah Committee	<ul style="list-style-type: none"> <li>▪ Sensitise the community on Kafaalah, child protection and safeguarding.</li> <li>▪ Mobilise and allocate resources to support the implementation of Kafaalah.</li> <li>▪ Identify, assess and recommend potential Kafiils.</li> <li>▪ Collect a list of prospective Kafiils and share it with the DCS.</li> <li>▪ In collaboration with the DCS, identify, assess and recommend children to be placed in Kafaalah.</li> </ul>

	<ul style="list-style-type: none"> <li>▪ In partnership with the DCS, conduct assessments to determine the appropriateness and capacity of Kafiil to receive a child.</li> <li>▪ Participate in case conferences to match a child with the most suitable Kafiil.</li> <li>▪ Identify and refer support services to the Kafiil and the family.</li> <li>▪ Document and report on the progress of placement to the SCCAC.</li> <li>▪ Supervise Kafaalah placements in the family and community.</li> <li>▪ Strengthen the capacity of Kafaalah families.</li> <li>▪ Link families practising Kafaalah to essential support services.</li> </ul>
Directorate Social Development	<ul style="list-style-type: none"> <li>▪ Link Kafaalah families to available social protection programs.</li> <li>▪ Provide technical support to networks of Kafiils to form registered groups.</li> <li>▪ Link Kafiils to appropriate family-strengthening services.</li> </ul>
Judiciary (Khadhi's Court)	<ul style="list-style-type: none"> <li>▪ Provide legal oversight to the Kafaalah Committee and ensure that the proper procedures are adhered to applicable laws and regulations.</li> <li>▪ Adjudicate disputes concerning Kafaalah.</li> <li>▪ Issue appropriate orders (i.e., placement, revocation, extension orders, etc.), for Kafaalah arrangements.</li> <li>▪ Maintain registers of Kafaalah cases at the Kadhi's court.</li> <li>▪ Perform any other duties as detailed in the Kafaalah court rules and procedures.</li> </ul>
<b>Key Stakeholder</b>	<b>Responsibility within the provision of Kafaalah</b>
<b>County-Level Stakeholders</b>	
The County Government (specifically, the departments in charge of the welfare of children)	<ul style="list-style-type: none"> <li>▪ Provide child and family welfare schemes to families.</li> <li>▪ Facilitate programs for children and families, including children and caregivers with disabilities in Kafaalah care.</li> <li>▪ Participate in Kafaalah Committee meetings.</li> <li>▪ Provide or facilitate the provision of pre-primary education and child day-care facilities to children in Kafaalah.</li> </ul>
The National Government Administration Office	<ul style="list-style-type: none"> <li>▪ Coordinate and mobilise national and county government agencies' service delivery for children and families practising Kafaalah.</li> <li>▪ Register births and deaths occurring at home for both Kafiils and Makfuuls.</li> <li>▪ Support the identification and vetting of potential Kafiils.</li> <li>▪ Liaise and collaborate with the DCS and community to identify children in need of Kafaalah care.</li> <li>▪ Facilitate property succession processes.</li> <li>▪ Facilitate community awareness creation on Kafaalah care.</li> </ul>
The Civil Registry	<ul style="list-style-type: none"> <li>▪ Issue identification documents, including birth and death certificates, and identity cards, to establish the Makfuul's identity and citizenship.</li> <li>▪ Increase awareness among the public on registration of children in Kafaalah placements.</li> <li>▪ Collaborate with registration assistants (i.e., National Government Advisory Officers (NGAO)) and health workers) to facilitate registration of children.</li> </ul>

Frontline Workers	<p>For example, Imams, Child Protection Volunteers, Community Health Promoters, etc.</p> <ul style="list-style-type: none"> <li>▪ Sensitise the community on child protection and safeguarding.</li> <li>▪ Identify and assess Kafiils/Makfuuls, and monitor care placements.</li> <li>▪ Form support networks of Kafiils.</li> <li>▪ Document and report on the progress of placements to the committees.</li> <li>▪ Provide referrals and linkages to services.</li> <li>▪ Provide necessary family strengthening services to the Makfuul, biological family and the Kafiil family.</li> <li>▪ Membership in relevant community child protection structures.</li> </ul>
Non-governmental organisations and Civil Society Organizations (CSOs)	<ul style="list-style-type: none"> <li>▪ Mobilise resources to provide services to families.</li> <li>▪ Conduct community awareness on Kafaalah.</li> <li>▪ Advocate and lobby for Kafaalah implementation.</li> <li>▪ Monitor and evaluate the implementation of Kafaalah as a care option.</li> <li>▪ Support the establishment and formation of Kafiil networks.</li> <li>▪ Provide family strengthening services.</li> </ul>
Key Stakeholder	Responsibility within the provision of Kafaalah
<b>Community-, Family- and Child-Level Stakeholders</b>	
The Community	<ul style="list-style-type: none"> <li>▪ Identify children at risk of separation from family or children in need of Kafaalah care.</li> <li>▪ Identify and vet Kafiils.</li> <li>▪ Monitor and report on care placements.</li> <li>▪ Provide protection, care and support for any child at risk.</li> <li>▪ Support Kafiils in caring for the Makfuul.</li> <li>▪ Support the implementation of Kafaalah.</li> <li>▪ Advocate for the utilization of Kafaalah as a family-based care option.</li> <li>▪ Refer the biological family or the Kafiil for services.</li> <li>▪ Mobilise resources to support and meet the needs of the child and the family.</li> </ul>
The Kafiil	<ul style="list-style-type: none"> <li>▪ Provide the best care and protection to the Makfuul.</li> <li>▪ Prioritise the well-being and best interests of the child.</li> <li>▪ Report significant protection incidents of the Makfuul to the DCS.</li> <li>▪ Safeguard the estate of the Makfuul.</li> <li>▪ Meet the physical, emotional, developmental and educational needs of the Makfuul.</li> <li>▪ Provide guidance that is appropriate to a child's age and developmental capacity.</li> <li>▪ Maintain ties between the biological family and the child.</li> <li>▪ Facilitate the child in the acquisition of statutory documents.</li> </ul>



	<ul style="list-style-type: none"> <li>▪ Cooperate in the monitoring of the child and the family.</li> <li>▪ Manage the estate of the Makfuul.</li> </ul>
The Makfuul	<ul style="list-style-type: none"> <li>▪ Respect the Kafiil.</li> <li>▪ Engage in activities that support personal development, such as attending school, participating in extracurricular activities, and pursuing hobbies and interests.</li> <li>▪ Develop positive relationships with the Kafiil and other members of the Kafiil family.</li> <li>▪ Maintain connections with the biological family, cultural heritage and community.</li> <li>▪ Express needs, preferences and feelings concerning placement and care.</li> <li>▪ Depending on their age and evolving capacity, participate in decisions affecting their lives.</li> </ul>
The Biological Parents	<ul style="list-style-type: none"> <li>▪ Provide the best care and protection for the child.</li> <li>▪ Prioritise the well-being and best interests of the child.</li> <li>▪ Actively work towards meeting reunification goals by addressing the drivers of separation.</li> <li>▪ Maintain family ties and connection with the Makfuul.</li> <li>▪ Seek to understand the progress of the child from the Kafiil.</li> <li>▪ In cases of financial Kafaalah, provide updates on the progress of the child to the Kafiil.</li> <li>▪ Provide consent to place the child with the identified Kafiil.</li> <li>▪ Give consent for medical attention to the child.</li> <li>▪ Give informed consent for temporary traveling of the child outside the country, where applicable.</li> <li>▪ Facilitate the acquisition of the child's statutory documents, such as a birth certificate.</li> <li>▪ Protect the property of the child.</li> </ul>

## CHAPTER SIX: MONITORING AND EVALUATION OF THE FRAMEWORK

Effective implementation of Kafaalah care requires robust information management systems to support evidence-based decision-making at both national and county levels. Duty-bearers are therefore obligated to report Kafaalah-related data through the CPIMS, ensuring compliance with safety, confidentiality and established information policies, regulations and standards.

The implementation of this framework will be tracked using the Kafaalah care indicators as stipulated in the National Care Reform Strategy Monitoring & Evaluation Framework and the Case Management for Reintegration Package.

The implementation of this framework will be monitored using Kafaalah care indicators outlined in the National Care Reform Strategy Monitoring & Evaluation Framework and the Case Management for Reintegration Package. Progress will be reviewed regularly to ensure timely implementation, monitoring and reporting.

Quarterly and annual reflection meetings, supportive supervision visits and learning forums will be organized to assess progress, identify challenges and document lessons learnt. Supportive supervision will serve as a key mechanism for providing ongoing guidance and mentorship to the DCS workforce involved in Kafaalah care. This approach aims to build a strong, well-supported workforce capable of delivering high-quality support to Kafaalah families.



*Photo 3: Kisumu Kafaalah Steering Committee Members during the Kafaalah Flipbook training.*

**Regular Reporting:** The DCS, with support from frontline workers, will generate monthly reports from the CPIMS. These reports will detail progress and challenges in the implementation of Kafaalah care. Reports will be reviewed by the Kafaalah Committee and subsequently shared with the County Children Advisory Committee, which is mandated to provide oversight for care reform implementation. The County Children Advisory Committee will assess the work of the Kafaalah

Committee to ensure compliance with the Children Act, this framework and relevant Kafaalah regulations, while also identifying areas for improvement. Finalized reports will be submitted to the National Council for Children Services for national-level review and action.

**Feedback Mechanisms:** A structured feedback mechanism will be established to gather input from children, caregivers and families involved in Kafaalah care. This feedback will be essential

for identifying gaps, informing improvements and ensuring that the care provided remains responsive to the needs and rights of children.

## ANNEXES

### Annex 1: Kafaalah Tools

Note: These tools will be used with other existing DCS tools (e.g., case record sheet).

#### Form No. CK1: Kafil Application Form

##### Details of the Applicants

Name of the Applicant.....  
Date of Birth..... Age.....  
Sex ..... National ID/Passport Number.....  
Marital Status ..... Number of Children (if any) .....  
Physical Address ..... Mobile/Telephone Number .....  
Email Address .....  
Postal Address.....  
Postal Code ..... Village..... Sub-Location .....  
  
Location..... City/Town..... Sub-County.....  
County..... Occupation of Applicant.....

##### Applicant's Next of Kin:

Name..... Sex .....  
Mobile Telephone Number ..... Relationship to Applicants.....

##### Details of Spouse

Name of Spouse .....  
Date of Birth..... Age..... Sex .....  
  
National ID/Passport Number (attach a copy) .....  
Mobile/Telephone Number ..... Email Address .....  
Occupation of Spouse (if applicable) .....

Other family sources of income (e.g., farming) .....  
Have you ever received a child/children under a Kafaalah arrangement before? (If so, give particulars.) .....  
Reason for Kafaalah application.....  
Name of Mosque..... Name of Imam.....  
Telephone Number of Imam.....  
Names of two references and their telephone contact information (one of them must be a local or religious leader)  
1. ....  
2. ....  
Applicant's Signature.....Date.....

Attach the following:

- (a) Recommendation letter from religious/local leader.
- (b) Copy of National Identity Card or passport.
- (c) Police clearance certificate from Directorate of Criminal Investigations (DCI).
- (d) Applicant's medical status.
- (e) Consent from the spouse.
- (f) Document for proof of marriage.

**Form No. CK2: Kafiil Assessment Form**

Instruction for use: This form is to be used by the secretary or case worker to assess Kafiil suitability for Kafaalah care placement.

Name of Kafiil..... Date of Birth.....

Age..... Sex .....

Physical Address ..... Telephone Number .....

Email Address ..... Postal Address.....

Postal Code.....

City/Town..... County ..... Sub-County .....

Location..... Sub-location.....

Village..... Occupation.....

Name of Mosque.....

Name of Imam.....

Telephone Number of Imam.....

Marital Status of Kafiil.....

Is the relationship monogamous or polygamous? .....

**Particulars of Others Living in the Kafiil Home**

Name/Relationship to Kafiil/School/Grade or Occupation

.....

Is there or has there been any chronic illness/infection in the household? (If so, give details.)

.....

Sources of household income (give description) .....

**Home Environment**

Type of house..... Number of rooms in the house.....

Type of toilet.....

Main source of water supply .....

Will the family/person need any support to take in the Makfuul? If the answer is yes, specify support needed ..... and why .....

Are household members willing to take in the Makfuul? Yes/No.....

Does the person understand the nature of Kafaalah placement? Yes/No.....

Has the person/any member of the family had a criminal conviction? (If yes, give details and dates and state whether, in your opinion, it is of such seriousness as to prevent the family/Kafiil from taking on a Kafaalah placement.) .....

What type of Makfuul would benefit from this person/family? (Indicate suitable age brackets.)

.....

**Details of Makfuul(s) Already Placed with the Kafiil**

Name/Sex/Date of Placement

.....

Age at Placement .....

Placement status (on-going or terminated). If terminated give reasons.....

**Details of Parents and Siblings of Makfuul (if known)**

Names of Parents/Ages/Religion/Physical Address

.....

Names of Brothers/Sisters/Ages/Physical Address

.....

Do you find the Kafiil and household suitable to undertake Kafaalah placement?

(Yes\No) Explain for  
either.....

Recommendation .....

Name of case worker.....


Signature.....

Address.....

Date .....



Form No. CK3: Register of Prospective Kafail

 <p>REGISTER OF PROSPECTIVE KAFIILS</p>																
<b>Instructions:</b> The register contains data on persons approved as Kafail and is administered by the Directorate of Children's Services.																
<b>A. The County and Sub-County Children's Office</b>																
Sub-County:																
County:																
<b>B. KAFIIL INFORMATION</b>																
Serial No.	Date of Entry	Name of Kafail	Nationality	ID No./ Passport	Age	Physical Address/ Residence	Tel No.	Occupation	Marital Status	Name of Spouse	Tel Contact	Date Approved as Kafail	Serial No. of Approval Certificate	No. and names of Makfuul/s placed	Disability status of Kafail	Remarks/ Comments

Form No. CK4: Caregiver Consent

<b>CAREGIVER CONSENT FORM</b> This form should be read to the child's primary caregiver for the child to be placed or reunified and completed. It should be clearly explained to the child's primary caregiver that she/he can choose any or none of the options listed. If the caregiver has difficulties hearing, the form should be made available in writing or provided via interpreter.	
I, (caregiver name).....on behalf of (child's name) _____, give my permission for _____ (caseworker organization) to securely store my personal details in their case management system (paper and electronic). I also give _____ (caseworker organization) permission to share information about my background, as explained below:	
1. I understand that in giving my authorization below, I am giving _____ (caseworker organization) permission to share specific information regarding my background with the relevant service providers so that I can receive services to help me.	
2. I understand that at any point, I have the right to change my mind about sharing information.	
3. I understand that in giving the information of the child authorization below, I am also giving _____ (caseworker organization) permission to share specific information regarding my background with the service provider(s) I have indicated below, so that I can receive help with reintegration with my family, education, safety and health services, psychosocial, and/or any legal needs.	
4. I understand that information will be shared only as necessary to provide the help I request or need, and that at any point, I have the right to change my mind about sharing my information.	
Education/school services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Legal & protective services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Disability-specific services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Psychosocial services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Community services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Health/medical services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Livelihood services: Yes <input type="checkbox"/> No <input type="checkbox"/>	
Family members: Yes <input type="checkbox"/> No <input type="checkbox"/>	
I have been informed and understand that information may also be shared for purposes of reporting actual or suspected abuse, neglect or exploitation to child protection authorities to protect my safety and wellbeing or those of other children in my household.	
I understand that shared information will be treated with confidentiality and respect.	
Signature/Thumbprint of Caregiver:	
Caseworker name:	Date:

### Form No. CK5: Child Assent

This form should be read to the child and completed. If the child has difficulties hearing, the form should be made available in writing or provided via interpreter. It should be clearly explained to the child, in a manner appropriate to her or his capacity, that she/he can choose any or none of the options listed.

*(Per Kenyan law, children aged 14 years or over must assent and their assent must be accompanied by parent/guardian consent. Recommended good practice is that all children in households aged 14 years or older sign the assent form)*

I, (child's name) \_\_\_\_\_, give my permission for \_\_\_\_\_ (caseworker organization) to securely store my personal details in their case management system (paper and electronic). I also give \_\_\_\_\_ (caseworker organization) permission to share information about my background, as explained below:

1. I understand that in giving my authorization below, I am giving \_\_\_\_\_ (caseworker organization) permission to share specific information regarding my background with the relevant service providers so that I can receive services to help me.
2. I understand that at any point, I have the right to change my mind about sharing information.
3. I understand that in giving my authorization below, I am also giving (caseworker organization) permission to share specific information regarding my background with the service provider(s) I have indicated below, so that I can receive help with reintegration with my family, education, safety and health services, psychosocial, and/or any legal needs.
4. I understand that information will be shared only as necessary to provide the help I request or need, and that at any point, I have the right to change my mind about sharing my information.

Education/school services: Yes ☐ No ☐

Legal & protective services: Yes ☐ No ☐

Disability-specific services: Yes ☐ No ☐

Psychosocial services: Yes ☐ No ☐

Community services: Yes ☐ No ☐

Health/medical services: Yes ☐ No ☐

Livelihood services: Yes ☐ No ☐

Family members: Yes ☐ No ☐

I have been informed and understand that information may also be shared for purposes of reporting actual or suspected abuse, neglect or exploitation to child protection authorities to protect my safety and wellbeing or those of other children in my household.

I understand that shared information will be treated with confidentiality and respect.

Signature/Thumbprint of Caregiver:

Caseworker name:

Date:

Form No. CK6: Kafiil Consent

This form should be read to the Kafiil and completed. It should be clearly explained to the Kafiil that she/he can choose to respond to any or none of the options listed.

I, (Kafiil name) \_\_\_\_\_, give my permission to share information about my background, as explained below:

1. I understand that in giving my authorization below, I am giving permission to share specific information regarding my background with the relevant service providers.
2. I understand that at any point, I have the right to change my mind about sharing information.
3. I have been informed and understand that information will also be shared for purposes of reporting and feedbacking to child protection authorities to protect my safety and wellbeing or those of other children in my household.
4. I understand that shared information will be treated with confidentiality and respect.

Signature/Thumbprint of Kafiil:

Imam/Caseworker name:

Date:

Form No. CK7: Form of Undertaking

(To be completed in Triplicate)

I/We (name of Kafiil)....., ID Number.....  
hereby take in (name of Makfuul) ..... into  
my/our home on (date) ..... from (name of the secretary).....  
..... undertake that I will care for him/her as  
my/our own child, safeguard and promote his/her welfare and rights in accordance  
with the Children Act 2022. I will allow the secretary and any other authorized officer  
to visit my/our home, to exercise their responsibility, and I will inform the secretary of  
any occurrences that may affect this placement and require their intervention from  
time to time.

Signature of Kafiil .....

Name..... Date .....

Signature of Kafiil Spouse .....

Name..... Date.....

Witnessed by Imam.....Name..... Date.....

Witnessed by Secretary.....Name..... Date.....

Kafaalah Placement form		
Name of Makfuul:	Sex:	Date of Birth:
Siblings of the Makfuul#1:	Sex:	Date of Birth:
#2:	Sex:	Date of Birth:
Attach any additional details of siblings		
Current type of care		
Kafiil Name	ID Number	Telephone Contacts
Place (where the placement is conducted):	Authorizing Person Name & Signature:	
Placement Date:	Next Review Date:	
<b><i>Reasons for placing Makfuul under Kafaalah: Tick one or more of the following circumstances.</i></b>		
<input type="checkbox"/> A parent is unable to provide care due to the death of the other parent.		
<input type="checkbox"/> A serious illness or terminal illness of a parent.		
<input type="checkbox"/> The physical or mental condition of the parent or the child is such that proper care and supervision of the child cannot be provided by the parent.		
<input type="checkbox"/> Incarceration of a parent.		
<input type="checkbox"/> The loss or uninhabitability of the child's home as the result of a natural disaster.		
<input type="checkbox"/> Unable to locate a parent/s currently to notify them of the intended reintegration because (list reasons):		
<input type="checkbox"/> Other reasons:		
Kafiil name:	Signature:	Date:

Form No. CK9: Kafaalah Care Placement Certificate

This is to certify that ..... (child/Makfuul) ..... (sex) .....

(age) has today, .....(date) been placed

with..... (caregiver/Kafiil[s])

..... (ID no.) ..... (telephone no.) for.....

(residence area) in ..... (sub-county) in

..... (county) as provided for under Children (Kafaalah)  
Regulation 2023.

Signed.....

Name..... Designation.....

(Secretary) DCS

Date .....



Form No. CK10: Kafiil Certificate of Registration

This is to certify that .....has been vetted and approved as Kafiil as provided for under regulation 7(2) of the Kafaalah Regulations 2023.


Signed .....Name.....

Sub-County Children Officer

Date.....

Official Stamp

Form No. CK11: Kafaalah Register

													
<b>Instructions:</b> The register contains data regarding children/Makfuul and caregivers/Kafiil under a Kafaalah care arrangement.													
<b>A. The County and Sub-County Children's Office</b>													
Sub-County:.....													
County:.....													
<b>B. KAFIL INFORMATION</b>													
No.	Date of Entry	Name of Kafiil	ID No. /Passport	Age	Physical Address/ Residence	Contact	Child/Makfuul Name.	Age	Sex	Nature of arrangement (actual or support within family)	Date of placement	Cert placement No.	Remarks/ Comments

## Annex 2: Kafaalah Resources

1. <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/kafaalah-data-collection-report>
2. <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/promoting-kafaalah-as-an-alternative-family-care-system-within-the-muslim-community>
3. <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/kenya-learning-brief-approaches-for-replication-of-kafaalah-as-an-alternative-family-based-care>
4. <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/promoting-kafaalah-as-an-alternative-family-care-system-within-the-muslim-community-0>
5. <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/kafaalah-community-engagement-illustrations-kisumu-and-kilifi-counties>

## Annex 3: Kafaalah Care Model Case Study

An example of Kafaalah at the community level highlighting the role of Mosque Committees in the Kafaalah Placement Process for Children in need of protection and care in Malindi Subcounty.

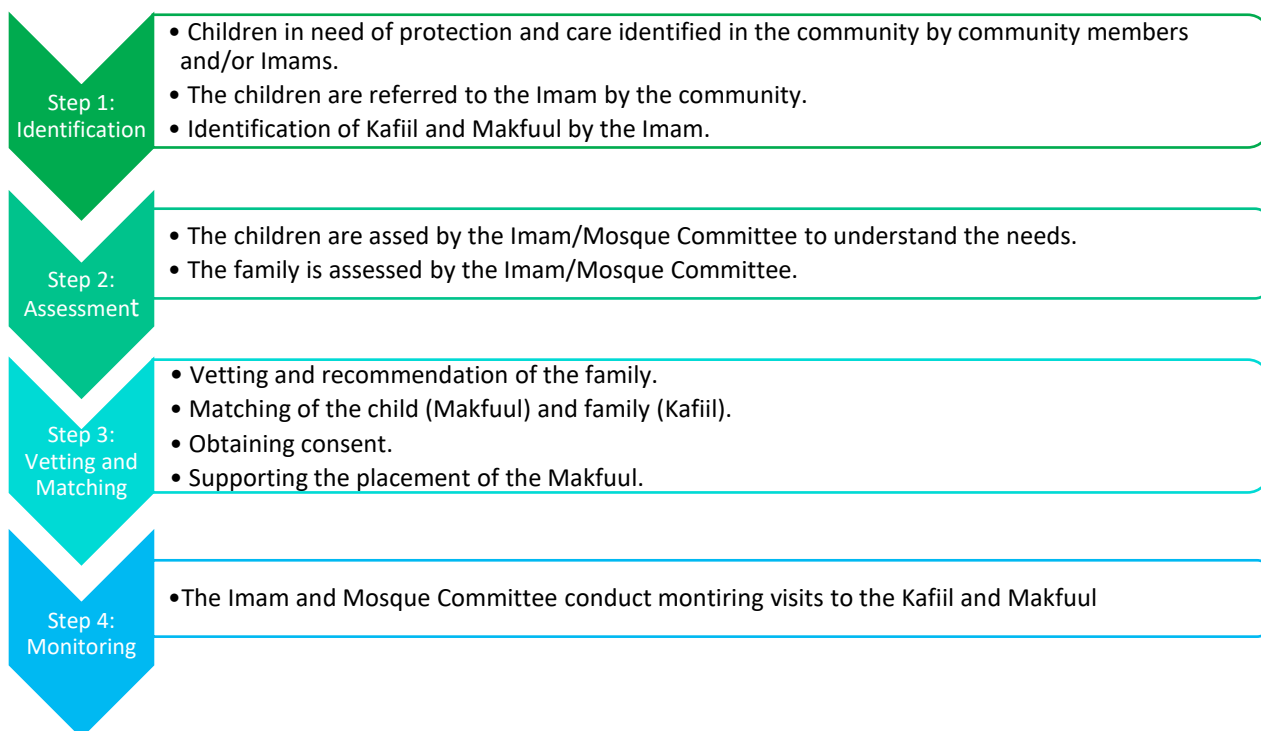
The *Islamic Centre for Orphans*, located in Malindi town in Kenya's Kilifi County, was founded in 1994 during the holy month of Ramadhan. It was established in response to the growing needs of Muslim orphans in the community. From its earliest days, the Centre has relied on the generosity of local Muslims to sustain its work, raising funds through collections during Friday prayers and organising community fundraising events throughout Ramadhan. To further support its operations, the Centre also runs a private school that generates additional income to help maintain its orphan support programme.

Today, the Centre provides care and support for 180 orphans, all of whom remain within their family environments. This approach reflects the principles of the Kafaalah community-based care model, which aims to keep children connected to their families and communities, rather than placing them in institutional care.

The Centre's work is rooted in a strong partnership with 22 affiliated mosques. Members of these mosques play a vital role in identifying children in need within their communities. When a child is identified as potentially eligible for support, mosque members conduct an initial assessment and recommend the child to the Centre. The Mosque Management Committee then reviews each recommendation, and those children who meet the criteria are registered through a standard enrolment process managed by the Centre's secretariat.

Once enrolled, children and their families receive a comprehensive package of support. This includes free integrated early childhood development (ECD) and primary education, bursaries for continued education at the primary, secondary and tertiary levels, food assistance, school uniforms and clothing, medical coverage, home visits, psychosocial support and participation in celebrations during the Muslim festivals of Idd ul-Fitr and Idd ul-Adha.

To ensure that each child and family receives the appropriate support and that the programme remains responsive to their evolving needs, Centre staff work closely with mosque committees to conduct regular monitoring visits. Through these visits, they maintain strong relationships with the families and provide ongoing guidance and encouragement.



## Annex 4: The Standard Kafaalah Care Placement Process <sup>42</sup>

Step 1: Identification of the child  
 Step 2: Assessment of the child  
 Step 3: Tracing the child's extended family  
 Step 4: Identification of prospective Kafiil  
 Step 5: Assessment of prospective caregiver  
 Step 6: Registration of Kafiil  
 Step 7: Matching

Step 8: Preparation/training of prospective Kafiil  
 Step 9: Placement approval  
 Step 10: Case planning  
 Step 11: Placement  
 Step 12: Exit planning  
 Step 13: Monitoring  
 Step 14: Case review  
 Step 15: Case closure

<sup>42</sup> Note: For further information on these steps, refer to the Alternative Family and Community-Based Care (AFCB) SOPs 2021.

## Annex 5: Recognition and Enforcement of Kafaalah by Other States <sup>43,44</sup>

Spain	A domestic Kafaalah resolution declared in a foreign country will have to undergo a process of “incidental recognition” in Spain. This involves verifying that proper procedural requirements were met when the Kafaalah was declared. If the foreign Kafaalah was granted by way of non-contentious proceedings, in order to take effect in Spain, a Spanish authority will need to be engaged for the Kafaalah to comply with incidental recognition, depending on the effect sought (functional qualification).
USA	A cross-border Kafaalah placement seems often to be dealt with through intercountry adoption proceedings.
Norway	According to Norwegian legislation, a Kafaalah is dealt with as a foster care placement. The only way a Kafaalah placement can be made in Norway in co-operation with Norwegian authorities is if it fulfils the requirements for a cross-border placement set out in Article 33 of the 1996 Hague Convention and Section 4-4a in the Child Welfare Act.
New Zealand	According to New Zealand law, Kafaalah cases would need to be dealt with as an adoption through the Family Court as fall they outside the 1993 Hague Convention. An adoption order would either need to be pronounced in the child’s country of habitual residence or it would need to be a placement for the purpose of adoption in New Zealand. For such placements, it would need to comply with Section 17 of the Adoption Act 1955.
Germany	According to the International Family Law Procedure Act - IFLPA, a cross-border Kafaalah is dealt with as a cross-border placement. As per a working document prepared by the working group composed of different regional child and youth authorities in 2016, German law considers Kafaalah placements as akin to a long-term foster care placement combined with the guardianship of the child. In some cases, Kafaalah can also be comparable to kinship care (Section 33 Child Services Law VIII Kinder–und Jugendhilfe) if there is a kinship relationship between the persons involved. Possibility of national adoption: After two years of taking care of the child, there is a possibility for Kafiil parents to file a request for a national adoption to the German Court. In such cases, the Court will take into account the opinion of the local Child and Youth Services.
Algeria	Kafaalah exists in conjunction with foster care (remunerated foster care families) and institutional care and is primarily regulated by Articles 116 through 125 of Chapter VII of the Family Code.
Saudi Arabia	The care of children deprived of family is governed by the 2014 Child Protection Act as well as the Protection from Abuse Act and its regulations. Questions relating to children in need of alternative care and placed under State guardianship are provided for in Article 7 of Part II of the 2014 Child Protection Act where Kafaalah is an alternative solution in cases where the nuclear or extended family cannot take care of the child
Nigeria	Child’s Rights Act 2003 under Section 143 recognizes other forms of adoption under any law enforced in any part of Nigeria or under the law of any country other than Nigeria.
Ethiopia	Alternative Child Care Guidelines, 2009, recognizes Kafaalah as alternative care for an orphaned or vulnerable child.
Somalia	Articles 2 and 3 of the Constitution of the Federal Republic of Somalia recognize Kafaalah.

<sup>43</sup> Kafaalah preliminary analysis of national and cross-border practices, page 7, retrieved from <https://bettercarenetwork.org/library/the-continuum-of-care/adoption-and-kafala/kafalah-preliminary-analysis-of-national-and-cross-border-practices>.

<sup>44</sup> Kafaalah may be considered as a cross-border placement when the child’s habitual residence is different from that of the Kafiil.

## Annex 7: List of Participants

No.	Name	Organization
1	Sheikh Athman Abdul-Halim Hussein	Judiciary - Chief Kadhi
2	Sheikh Sukyan Omar Hassan	Judiciary - Deputy Chief Kadhi
3	Abdinoor S. Muhammad	NCCS
4	Carren Ogoti	DCS
5	George Migosi	DCS
6	Isadia Hoyd	DCS
7	Alfred Murigi	DCS
8	Hudson Imbayi	DCS
9	Jane Munuhe	DCS
10	Lilian Osero	DCS
11	Muhammad A. Hussein	DCS
12	David Range	DCS
13	Humprey Wandeo	DCS
14	Samwel Masese	DCS
15	Guyo Golicha	DCS
16	Alice Wanyonyi	DCS
17	Everlyne Annam	DCS
18	Naomi Kazungu	DCS
18	Sebastian Muteti	DCS
20	Joyce Vidzo	DCS
21	Boniface Kisembi	DCS
22	Winifred Kaluku	DCS
23	Judith Muyuku	DCS
24	Maina Kennedy Kuria	DCS
25	Dorah M. Chovu	DSD
26	Kennedy Owino	NCCS
27	Stanley Hari	NCCS
28	Maureen Nyabate	NCCS
29	Ishaq Hussein	Judiciary
30	Tito Kunyuk	Judiciary
31	Thulkif Karanja	Judiciary
32	Suleiman Mwambele	Judiciary
33	Fahad Ismael	Judiciary
34	Ahmed Hussein	Technical Advisor
35	Khadija Karama	CTWWC-CRS
36	Alividzah Kituku	CTWWC-CRS
37	Diane Rop	CTWWC-CRS
38	Fredrick Mutinda	CTWWC-CRS
39	Mercy Ndirangu	CTWWC-CRS
40	Kelley Bunkers	CTWWC-CRS

41	Abdullahi Salat	SUPKEM
42	Fatuma J. Hussein	SUPKEM
43	Rashid Muhammad	SUPKEM
44	Dr. Ibrahim Bulushi	CEO WAFK Commission
45	Mahmud Hambal	SUPKEM
47	Khamis Kassim	SUPKEM
48	Harun Musa	SUPKEM
49	Abud Salim Mbarak	SUPKEM
50	Athman Ali Said	CMTPA
51	Omar Shushe	CIPK
52	Masoud Ali Said	CIPK/CICC
53	Abdinasir Ali Abdi	CIPK
54	Isaac Korir	Civil Registrar
55	Masoud Ali Said	CIPK
56	Mahamud Abdillah	CIPK
57	Mohamed Ali	CIPK
58	Farhan .A. Mohamed	CIPK
59	Zeinudin Ali	CIPK
60	Mohamed .M. Malumbo	SUPKEM
61	Hassan Athman	SUPKEM
62	Omar Ibrahim	CICC
63	Ali Tawane Muhammad	Al-Mustaqbal University
64	Halima Nur	Ustadha
65	Muhammad Khalif	Chairman CSO Garissa
66	Richard Mutisya	CICC
67	Nadia Mnyazi	CICC
68	Moses Abwao	Kesho Kenya
69	Felister Ngugi	Kesho Kenya
70	Richard Mutisya	CICC
71	Charles Otieno	UNICEF
72	Catherine Kimotho	UNICEF
73	Zeinab Ahmed	UNICEF
74	Roselyne Kabata	NCAJ/UNICEF
74	Jackson Onyando	UNICEF
76	Naomi Kyule	DCS
77	Dr. Ibrahim Bulushi	CEO, WAKF Commission of Kenya
79	Said Abdallah	Jamia Mosque Nairobi
80	Abusufian Ahmed	Jamia Mosque Nairobi
81	Ali Khalid	Al Ameen Masjid Nairobi
82	Sh. Hassan Alamin	Chair CIPK Nairobi
83	Sh. Ibrahim Njuguna	Admins Group
84	Sh. Rashid Mohamed (Abu Najma)	Writer/Narrator/Educator



