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The Institution of *Kafālah* in Islamic Law: A Comparative Legal Analysis of Foster Care for Children in Pakistan, Malaysia, Egypt, Morocco and the United Arab Emirates

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ABSTRACT

This article examines the institution of foster care (*kafālah*) in Shariah, with particular emphasis on its role in providing care and protection for children deprived of parental support. Islamic law recognises *kafālah* as a form of social and legal responsibility through which a child lacking parental care may be placed under the protection and support of another family while preserving the child's biological lineage. The study analyses the foundations of *kafālah* through the Holy Qur'an, Hadith, and classical Islamic juristic opinions, highlighting its significance within the broader objectives of Shariah in safeguarding vulnerable children. Using a doctrinal and comparative legal methodology, the article further examines the legal frameworks regulating foster care for children in selected Muslim jurisdictions, including Pakistan, Malaysia, Egypt, Morocco, and the United Arab Emirates. The analysis identifies similarities and differences in the recognition and implementation of *kafālah* within these legal systems. The study concludes that although Islamic law provides a strong ethical and legal foundation for the care of children deprived of parental support, many contemporary Muslim states still lack comprehensive legislative frameworks regulating foster care, highlighting the need for clearer legal structures to strengthen the protection and care of children under the institution of *kafālah*.

Keywords: *Kafālah*, Foster Care, Child Nutrition, Breastfeeding (*Rada'ah*), Shariah Law, Foster Mother-Child Relationship, Milk Kinship, Islamic Jurisprudence, Child Protection, Guardianship in Islam

Introduction

Children represent one of the most vulnerable groups in society and require special

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care, protection, and nourishment for their physical and emotional development. Islamic law places significant emphasis on the protection of children, particularly those who are orphaned or deprived of parental care. One of the mechanisms developed within the Shariah to safeguard such children is the institution of *kafālah*, commonly referred to as foster care. Unlike adoption systems in many modern legal frameworks, Islamic law preserves the lineage (*nasab*) of the child while permitting families to assume responsibility for their care and upbringing. In addition to legal guardianship, Islamic teachings emphasize the importance of breastfeeding (*rada'ah*) as a means of providing proper nutrition and establishing social and legal relationships within the family structure. This article explores the concept of foster care and child nutrition within the framework of Islamic law. It examines the Qur'anic verses, Prophetic traditions, and the opinions of classical jurists, while also highlighting the importance of breastfeeding in ensuring the physical well-being and emotional development of children.

The system of foster care is well recognised under Islamic law, and it has a great emphasis in the Holy Qur'an and Hadith. The term "*kafālah*" originates from the Arabic root *kafala*, which means to guarantee, protect, or assume responsibility for another person. Islamic law recognises foster care as *kafālah*. Foster care generally refers to the placement of a child under the care and protection of individuals other than the biological parents, either temporarily or permanently. In dictionary meaning it is a "situation in which, for a period of time, a child lives with and is cared for by people who are not the child's parents"¹. It is a way to protect the children who have no lineage system or have problems in their kindred life. Protection of offspring in cosset relationships can be achieved by abandoning children without a lineage system, for any reason, including environmental factors that foster the vitality of a child with lineage problems. Under Islamic law, *kafālah* is conceded to afford an aid skill and support to the children in indigence of safety and patronymic, without piercing the biological state of an offspring.

Kafālah, in general words, refers to giving an infant of someone for the opportunity to be cared for by someone else. It is a form of protection for a foster child who lacks ancestors or has difficulties with their ancestors' lives. The health of a child in the *kafālah* may be achieved by placing the offspring in healthy surroundings without a sociable coagulation, or providing a safe dwelling for the existence of child. Islamic rulings also lay stress to provide the breast feeding (*rada'ah*) to the offspring in need of caution, necessity, without affecting an infant's biological parental status. Islamic ruling approves Breastfeeding (*rada'ah*) of non-biological offspring, and the foster mother is also permitted to breastfeed the foster infant.

This breastfeeding (*rada'ah*) not only enhances the postnatal healthy evolution of the foster toddler but also creates a strong nexus between the foster infant and foster

¹ <https://www.merriam-webster.com/dictionary/foster%20care> last accessed on 16/09/2025.

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mother, which gives (rada'ah) to that foster child. This proposition aims to provide quality nourishment through breastfeeding, which (rada'ah) encourages the offspring's safety, which also provides healthy nutrition to the child and establishes the nexus relationship between the foster mother who breastfeeds the foster child and the foster mother. Islam emphasises its believers to support each other in uprightness and sanctity. Lending a serving act on bringing up others' offspring is a way to support a Muslim brother.

The Holy Qur'an stated that:

"Help one another in Al-Birr and At-Taqwa (virtue, righteousness and piety) but do not help one another in sin and transgression"²

The above verse purely refers to the fact that if we don't know the natural father of any child, we can call him or her our 'brother' or our 'sister' if they are Muslims.³

The Holy Prophet (PBUH) said:

"He who helped in alleviating suffering of a believer from the distress of the world, Allah would relief him from distress of the day of Resurrection. He who makes things easy for one who is hard pressed, Allah will make things easy for him in both in this world and the hereafter, and he covers (the failing of) a Muslim, Allah would provide him covering in this world and in the hereafter".⁴

The legality of the foster care can be also traced by Hadith as it is reported:

He who helped in alleviating suffering of a believer from the distress of the world, Allah would relief him from distress of the day of Resurrection. He who makes things easy for one who is hard pressed, Allah will make things easy for him in both in this world and the hereafter, and he covers (the failing of) a Muslim, Allah would provide him covering in this world and in the hereafter. Allah would come to help of a servant as the servant had been coming to help his brother.⁵

The above verses and hadith refer to aiding and supporting the orphans and children who are in need of care and protection. The idea of kafalah was established for the above stated verse. The kafalah is required and applicable when any person takes the guardianship of any child, without affecting the child's original biological state as a toddler. The Shariah rulings acknowledge kafalah in words that complete the

²Al-Qur'an5: 2

³ Al-Zuhayli, 1998

⁴ Abdullah Yusuf Ali, The Holy Qur'an: Text, Translation and Commentary, New Revised Edition, Amana Corporation, Maryland, 1409/1989, p. 95

⁵ Muslim Ibn-e-al-ḥajj, Shahih Muslim, The merit of an assembly for the recitation of the Qur'an or for the Dhikr (remembrance of Allah) (Translator: Abd-al-Hamid Siddiqu): Hadith:6518.

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responsibility of mankind of the society, towards other mankind, those who need extreme support. The reasons behind this proposition are due to foundling parents, offspring of needy kindred. "Islamic law does not recognise legal adoption. To take a child into care is a pious deed and is recommended. The restriction in the case of adoption is that the adoptive family cannot give the child their name".⁶ The main motive of Islamic law behind the kafalah is to provide and support the offspring, such as for childless couples or to serve needy kindred who have many offspring. Children are vulnerable human beings who always need attention, protection, care and safety. In order to outlive, they must depend on other relations, particularly the parents. From birth, they should cater with parental solicitude as well as affection and kindness, and kafalah is a constant charity.⁷ Furthermore, it is the foremost responsibility of parents, De jure or De facto guardians, to look after their offspring's needs and provide all basic needs of lives such as shelter, food, clothing, provide them quality education, maintain them as per need of society and guide them in a better way till they become self-reliant. In bringing up the offspring, parents are responsible for all basic necessities of their offspring, and improving them with proper caution and by providing a secure environment so that their fundamental rights and welfare are preserved. Moreover, every Muslim should be responsible for the proper caution, protection, and safety of the offspring who are their biological or non-biological children.

The Holy Prophet (PBUH) said:

"Every one of you is a guardian and every one of you is responsible (for his wards). A ruler is a guardian and is responsible (for his subjects); a man is a guardian of his family and responsible (for them); a wife is a guardian of her husband's house and she is responsible (for it); a slave is a guardian of his master's property and is responsible (for that). Beware! All of you are guardians and are responsible (for your wards)"⁸

The Holy Prophet (PBUH) said:

"The one who cares for an orphan will be in Paradise like these two," and he gestured with his two fingers, meaning the forefinger and the middle

⁶MudasraSabreen, SamiaMaqboolNiazi, "Adoption of a Child in Islamic and Pakistani Law: Problems of Implementation", *Pakistan Journal of Islamic Research* 18, no 2 (2013):49.

⁷ Karen Smith Rotabi, Nicole F. Bromfield, Justin Lee, Taghreed Abu Sarhan, "The Care of Orphaned and Vulnerable Children in Islam: Exploring Kafala with Muslim Social Work Practice with Unaccompanied Refugee Minors in the United States", *J. Hum. Rights Soc. Work*, online published on 28/04/2017.

⁸Bukhari, Muhammad ibn Isma'il, *The Translation of the Meanings of Sahih Al-Bukhari*, Arabic - English, Vol. 7, translated by MuhammadMuhsin Khan, Dar al-Fikr, at 82.

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finger”⁹

Looking towards the pre-Arab historical background regarding kafālah we derive that kafālah was the system that is only narrated to lactation. It covers a position whereby the biological parents hire a parent to breastfeed their newborn baby, up to a limited duration of time. It was the custom of the Arab community before the advent of Islam, and this rule was not adopted after the advent of Islam.¹⁰

The Holy Qur’an stated that:

“And the mother shall give suck to their offspring for two whole years, if the father desires to complete the term”¹¹

The practice was recognised in Islamic tradition and was also followed in the early life of the Holy Prophet Muhammad (PBUH). During his infancy, the Holy Prophet Muhammad (PBUH) was also placed under kafālah (guardianship and foster care). His mother, Hazrat Aminah (RA), breastfed him for only seven days. After that period, the Holy Prophet (PBUH) was first breastfed by Hazrat Thuwaibah (RA), who was a servant (londi) of Abu Lahab. She breastfed the Holy Prophet (PBUH) along with her own son Masrūḥ for several days. Later, the maternal grandfather of the Holy Prophet (PBUH), Hazrat Abdul-Muttalib (RA), entrusted the infant to Hazrat Halimah al-Sa’diyyah (RA), a woman from the tribe of Banu Sa’d, to breastfeed and raise him. The Holy Prophet (PBUH) remained with Hazrat Halimah (RA) during his early childhood. He was breastfed by her for approximately two years, and thereafter continued to live with her family for another two years as her foster child.

The decision of Hazrat Abdul-Muttalib (RA) to send the Holy Prophet (PBUH) to be raised by Hazrat Halimah al-Sa’diyyah (RA) was based on several important reasons, including the customary Arab practice of sending infants to the desert for healthier upbringing and linguistic purity. The reasons behind this practice are as follows:

- i. After the demise of her beloved husband, Hazrat Aminah (RA) observed immense grief and missing, causing her milk to be inadequate to feed her son. Though her loss is shared among the Quraish, particularly his father and siblings, and they proved to abate her load, still the grief is yet to fleet.¹²
- ii. The doctrine and usage among Arabs community, particularly from the noble exuberant, they will find Bedouin females to feed their child instead of wives.
- iii. The surroundings where the Bedouin community is living are a compatible spot for offspring growth, particularly during the early stages of growth, since they are living in a rustic region where the air is pure and fresh with a safe

⁹ Ibid

¹⁰ <http://www.saflii.org/za/journals/AHRLJ/2014/18.html> last accessed on 17/09/2025.

¹¹ Al-Qur’ān, 2: 233

¹² Ibid

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surrounding.

Islamic Law Meaning of Foster Care (*kafālah*) and Child Nutrition:

- i. The word *kafālah* also referred to the perpetual commitment to take care, support, an education and the defence of an infant, in the same way as a father would do it for his offspring.¹³
- ii. The expression *kafālah* is root to the Islamic legal system, which permits a mankind to enter into a contract and refer himself to fixed undertakings in favour of another person, provided that the body has a material or virtuous interest in such guarantee.¹⁴
- iii. Under the rulings of the Islamic legal system, *kafālah* is the method of alternative caution which cannot alter or amend the offspring's primary relationship state. According to the perspective of Islam, the close nexus between a foster offspring and his biological parents must stay continuous even if the child is foster care of others.

General Meaning of Foster Care and Child Nutrition:

- i. Foster care and child Nutrition in general means that a system in which an infant has been referred to a certified caregiver who is called "foster parents" they are responsible for the upliftment of the ward, particularly in all walks of life of the offspring.
- ii. By means of foster care, a lineage/family engages in an offspring, a child whose legitimate parents or kindred are disqualified from raising him or her or who is otherwise deprived of a lineage surrounding, without the offspring being qualified to the family name or an automatic right of inheritance from the lineage.

Definition of Foster Care and Child Nutrition in Shariah:

- i. In the terms of Gale Encyclopedia, the word Foster Care is defined as, foster care applies to full-time duplicate care of offspring without their own house by a community other than their biological or adoptive parents or legitimate guardians. Children who are removed from their biological or adoptive parents or other authorized guardians are placed in foster care in a variety of settings.¹⁵
- ii. In the terms of Columbia Encyclopedia, the word Foster Care is defined as to caution of offspring on a full-time or temporal base by persons other than their own parents. It is also understood as a boarding-house concern. Fostering concern is extended to undertake supportive kinship surrounding to offspring whose legitimate parents cannot raise them because of the parents' external or intellectual badness, the offspring's behavioural difficulties, or problems within

¹³Abidin 2/402-408, Kashshaf al-Qana' 3/444-445, Badai' as-Sanai' 4/8

¹⁴ *ibid*

¹⁵ Franz, Janie; Woodward, A, 2006. "Foster Care." Gale Encyclopedia of Children's Health: Infancy through Adolescence". Retrieved May 19, 2010

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the kinship surrounding, e.g., child abuse, alcoholism, utmost need, or sin.¹⁶

Definition of Breast-Feeding (Rada'ah) under Islamic Law:

Breastfeeding is an Arabic word that traces its roots to rada'ah. Under Islamic law, the word rada'ah refers to sucking the breast and drinking its milk. Ordinary it means the sucking of milk from the breast. According to Ibn Abidin, it is an act of sucking milk from women breast. "The Islamic tradition, whether related to jurisprudence, Qur'anic exegesis, or spiritual discipline, is self-evident in the emphasis Muslim jurists, exegetes, and educationists continue to place on the moral and highly rewarding spiritual merits of breastfeeding. Muslim scholars have unanimously addressed the topic of breastfeeding and, through their extensive contributions, have helped in positioning breastfeeding as a central spiritual and religious and, to a large extent, cultural element in the conception of family and children"¹⁷

Object of Foster Care and Child Nutrition under Islamic Law:

The Ummah of the Holy Prophet (PBUH) are entitled to help one another in time of need and necessity. The Muslims are also authorised to take care of foster offspring under kafalah who are not their own children. The offspring taken under kafalah must have their own rights and duties. Islam emphasises taking care of foster offspring in all walks of their lives until they become self-reliant. Most of the offspring under kafalah do not have correspondence with their biological parents and do not perceive who they actually are.

The main aim of Islam behind the concept of kafalah is that the child who needs care, protection and support must be given to them, hence by this means the foster offspring may be close to a safe and sound surrounding. Islam solves all the problems faced by the offspring who have no identified biological parents. Islam solves this problem by providing a settled principle that offspring will give to those non-biological parents who are childless or have no child due to any other reason.

The Holy Qur'an stated that:

"Help you one another in Al-Birr and At-Taqla (virtue, righteousness and piety); but do not help one another in sin and transgression."¹⁸

In other verse The Holy Qur'an stated that:

"But if you know not their father's (names, call them) you brothers in faith

¹⁶ Ibid

¹⁷ Benaouda Bensaid, "Breastfeeding as a Fundamental Islamic Human Right," *Journal of Religion and Health*, May 15, 2019, 6, <https://doi.org/10.1007/s10943-019-00835-5>.

¹⁸ Al-Qur'an, 5: 2

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and Mawalikum (your freed slaves)”¹⁹

The Holy Qur’an stated that:

“Prohibited to you (for marriage) are: your mothers, daughters, sisters; father's sisters, Mother's sisters; brother's daughters, sister's daughters; foster-mothers (Who gave you suck), foster-sisters”²⁰

The Holy Prophet (PBUH) said:

“What is unlawful by reason of consanguinity is unlawful by reason of fosterage”²¹

The above verses and hadith purely referred to the main object of foster care, that is, if we don’t know the natural father of any child, we can call him or her our ‘brother’ or our ‘sister’ if they are Muslims. Here are some conditions that should be taken into consideration when choosing a foster mother to breastfeed the child. The following are as follows:

Perspective of Classical Muslim Jurists on the Relationship of Breast-Feeding, Foster Mother, and Foster Child:

The Status of “Wedlock” between Foster Mother and Foster Child:

As per the opinion of Muslim jurists, the wedlock prohibition only takes place if the foster mother is female.²²

According to Hanafi’s and Shafi’s School Thought:

The Foster mother who will rada’ah the foster child must have reached the age of puberty; the least of which is nine years old.

According to Maliki’s School of Thought:

As per the opinion of the Maliki School of thought, there must be no restriction on the age of puberty on the foster mother who will rada’ah the child. In the opinion of the Maliki School, if a female minor can perform her role as a wife in marriage, then the milk she bears will affect the marriage prohibition with a foster child.²³

Review of Relevant Literature:

A considerable body of academic scholarship has addressed the concept of kafālah (foster care) in Islamic law and the broader framework of child protection and

¹⁹Al-Qur’ān, 33: 4-5

²⁰Al-Qur’ān: An-Nisa: 23

²¹Ibid 3399

²²Rawdah 1986, al-Qalyubi 1976, Nihayah 1987, Ibn ‘Abidin 1993 and Hashiyah 2001

²³Nihayah 1987, Ibn ‘Abidin 1993 and Hashiyah 2001

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welfare within Shariah principles. Classical Islamic jurists and contemporary legal scholars have examined the legal and social implications of kafālah as an alternative care system for children deprived of parental care. The literature highlights that while Islam strictly preserves lineage (nasab) and does not permit legal adoption in the Western sense, it strongly encourages the protection and upbringing of orphaned and vulnerable children through mechanisms such as kafālah.

Early classical jurists discussed the principles of guardianship, fosterage, and breastfeeding (rada'ah) in detail within Islamic jurisprudence. Works of scholars such as Ibn 'Abidin, Al-Kasani, and Ash-Shawkani elaborated the legal implications of milk kinship (rada'ah), particularly its effect on marriage prohibitions and social relations within the family structure. These juristic discussions laid the foundation for understanding the relationship between foster care and breastfeeding within Islamic legal thought. The concept of rada'ah was treated not merely as a biological act but as a legal mechanism that establishes familial ties and moral obligations between the foster mother and the child.

Contemporary scholarship has further explored the institution of kafālah within modern legal systems. Andrea Büchler (2018) provides an important comparative analysis of fostering and adoption in Islamic law, particularly examining the legal frameworks of Morocco, Egypt, and the United Arab Emirates. Büchler argues that kafālah serves as a functional alternative to adoption in Muslim societies by allowing children to be raised in supportive family environments while preserving their biological lineage. Her work highlights that many Muslim-majority countries have incorporated kafālah into their legal systems through statutory frameworks or administrative practices.

Similarly, Karen Smith Rotabi, Nicole Bromfield, and Justin Lee (2017) analyze the role of kafālah in social welfare practices, particularly in relation to Muslim communities and refugee minors. Their research emphasizes that kafālah represents a culturally and religiously appropriate system of alternative care that aligns with Islamic ethical principles of compassion, charity, and communal responsibility. They also note that modern social work practices increasingly recognize kafālah as an effective model for child welfare in Muslim societies.

Another important contribution is provided by Benaouda Bensaid (2019), who examines breastfeeding in Islam as a fundamental human right for children. Bensaid argues that Islamic teachings place strong emphasis on breastfeeding not only for its nutritional benefits but also for its moral and spiritual significance. The author highlights that breastfeeding is closely linked with the concept of milk kinship (rada'ah), which creates legally recognised familial relationships and establishes clear boundaries for marriage and social interaction.

In the context of Pakistan, scholarly discussion on foster care remains relatively limited. Studies such as those by Mudrasa Sabreen and Samia Maqbool Niazi (2013)

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explore the legal challenges surrounding adoption and guardianship in Pakistani law. Their research notes that while the Guardian and Wards Act 1890 provide a legal mechanism for guardianship, Pakistan lacks a comprehensive statutory framework specifically addressing kafālah or foster care. As a result, many child welfare arrangements rely on customary practices and informal caregiving structures rather than a codified legal system.

Comparative legal studies also highlight how different Muslim countries have incorporated kafālah into their child protection policies. In Malaysia, legislation such as the Child Act, 2001 emphasizes child welfare and alternative care systems, while in Egypt, the Child Law of 1996 (amended in 2008) provides formal recognition to family-based foster care arrangements. Similarly, Morocco and the United Arab Emirates have developed regulatory frameworks that allow families to assume responsibility for abandoned or orphaned children under the system of kafālah while ensuring that the child's lineage remains legally preserved.

Despite the growing body of literature on Islamic foster care and child protection, several gaps remain in the existing scholarship. Many studies focus primarily on the legal prohibition of adoption in Islam rather than exploring how kafālah can function as a comprehensive child welfare system. Moreover, limited research has been conducted on the intersection between kafālah, child nutrition, and breastfeeding, particularly within the comparative legal context of Muslim countries.

This study seeks to address these gaps by examining the institution of kafālah in Islamic law alongside the role of breastfeeding (rada'ah) in establishing foster relationships. Through a comparative analysis of legal frameworks in Pakistan, Malaysia, Egypt, Morocco, and the United Arab Emirates, the study aims to highlight the legal foundations, practical implementation, and contemporary relevance of kafālah as a mechanism for protecting vulnerable children in Muslim societies.

Research Methodology:

This study adopts a doctrinal and analytical research methodology. Primary sources of Islamic law, including the Qur'an and Hadith, are examined to identify the legal foundations of kafālah and breastfeeding relationships. In addition, classical juristic opinions from various Islamic schools of thought are analyzed to understand the legal implications of foster care and milk kinship. Secondary sources such as academic articles, legal commentaries, and contemporary research on child welfare and nutrition are also consulted to provide a broader perspective on the subject.

Laws on Foster Care in Pakistan:

Pakistan is a Muslim state, and its laws are based on Islamic Principles but there are no codified rules of foster care in Pakistan: it lacks laws for adoption, but it recognize kafālah in general practice and custom. On the other hand, Pakistan is also signatory to the UN Convention on Right of the Child, which recognize adoption as a means of

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foster care.

Article 20 of the convention clearly states that:

“A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State”²⁴

Secondly, the Guardian and Wards Act section 7 gives authority to the judge for the appointment of a guardian for a child. Giving a child into the custody and guardianship of any person whom the court deems fit makes it easy for the child to enjoy family life and protection. This indicates that the concept of kafalah is backed by this law, and also the UN convention is supporting the same, but changing the child's name is not an Islamic concept, and the child who has been given in foster care to any person would not inherit from the foster parents.²⁵

Foster care includes the nutrition of a child because taking care of a child can be in many ways, such as providing for shelter, clothing and nutrition. Pakistan has, unlike for foster care, rules and regulations regarding nutrition and breastfeeding. Breastfeeding can be said to be the initial stage of nutrition. The practice of breastfeeding is essential for the growth and survival of newborns and infants, which is why the President of Pakistan promulgated an ordinance in 2002 for ensuring the protection of breastfeeding and nutrition.²⁶

This ordinance provides rules and regulations for the protection of breastfeeding and the nutrition of children through designated products. To ensure the quality of designated products, a board has also been constituted whose work is to look after the manufacturers and companies that are assigned with or making these products. In addition to the quality assurance, this ordinance also encourages mothers to breastfeed their children, as it is mentioned in the ordinance that every container of the designated product must contain these lines: "mother's milk is best for your baby and helps in preventing diarrhoea and other illnesses"²⁷

This legislation, although provided guidelines for nutrition and breastfeeding of newborn but there is nothing mentioned regarding foster care in this Act. Pakistan, even

²⁴ Convention on the Rights of the Child Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 entry into force 2 September 1990, in accordance with article 49.

²⁵ <https://courtingthelaw.com/2017/07/29/commentary/adoption-in-pakistan/> last accessed on 06/03/2025 .

²⁶ Protection of Breast-Feeding And Child Nutrition Ordinance, 2002 (Xciii Of 2002).

²⁷ Ibid.

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though through the Guardian and Wards Act, has talked about the need for custody and guardianship of a child, but there is no proper legislation on the subject of foster care. Foster care does not only mean to adopt a child, but foster care is taking good care of a child through kafālah. But this is a sad reality that even though there is no proper legislation for kafālah in this Islamic state.

FOSTER CARE AND CHILD NUTRITION IN MUSLIM COUNTRIES:

Kafālah is an Islamic way of fostering a child who is deprived of parental care and family environment. Muslim countries do not accept the concept of Western adoption, but rather the concept of kafālah is popular. This article also throws light upon the legislation of kafālah and nutrition in different Islamic countries, especially in Malaysia and Egypt. Along with that, other legislation for foster care in Morocco and the UAE has also been highlighted.

Foster Care and Child Nutrition in Malaysia:

Malaysia is a developing country, and like other developing countries and also struggling for the betterment of its citizens, especially children who are deprived of parental care. The question that arises here is, according to Malaysian law, who is a child? There are a number of laws where a child in that country is considered an Islamic country, which follows Islamic law, and a child under Islamic law is defined differently from that of common law or customary practices.²⁸

Under Islamic law, a person is said to be an adult when he/she attains puberty, and the age of puberty ranges from 9 to 12 according to some jurists. But in Malaysia, the age of an adult is set at 18 according to child protection Act, 2001, which states that:

*“Child means a person under the age of eighteen years.”*²⁹

Relevant Legislation on Foster Care and Child Nutrition in Malaysia:

“Malaysia ratified the Convention on the Rights of the Child on 17th September 1995. This convention focuses on children’s safety, welfare, survival, protection, development and participation. As part of its commitment to the Convention on the Rights of the Child, Malaysia is committed to executing its responsibility in ensuring the safety and well-being of children.”³⁰ After rectification of the convention, Malaysia also made its own Act for the protection of children in 2001, but this act does not define foster care; rather, foster parents have been defined in this.

Malaysian law considers the family as an integral part of the society and wellbeing of

²⁸Habibie Bte Hj Ibrahim and Norhamidah Jarimal, “Child Welfare and Social Work: The Legal, Political and Social Contexts of Malaysia”*Malaysian Journal of Social Sciences and Humanities (MJ-SSH)* 3, no. 3 (2018): 2.

²⁹ Act 611, Children Protection Act 2001.

³⁰Bte Hj Ibrahim and Jarimal, “Child Welfare and Social Work: The Legal, Political and Social Contexts of Malaysia” 2-3.

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a child because the family provides a natural environment to a child, which is essential for his growth and nourishment. In Act 611 Child Act, 2001, it is stated that:

*“Acknowledging the family as the fundamental group in society which provides the natural environment for the growth, support and well-being of all its members, particularly children, so that they may develop in an environment of peace, happiness, love and understanding in order to attain the full confidence, dignity and worth of the human person”.*³¹

No discrimination has been made between child for their protection and safety with regard to sex, creed, cast or religion. Every child has an equal right to protection and social security under the law.³² The law also supports child welfare teams and makes mention of such teams in the Act. The main responsibility of these teams is to protect locally unprotected children who are in need of protection and rehabilitation.³³ The team members are required to be skilled, who are an educationist or police officer, in such matters and these are appointed by the minister.

The Act provides that if a child is abandoned, then the child will be given in custody of foster parents, and these foster parents should be appointed by the director general, who will order foster care for the child for 2 years or until the child attains the age of 18, whichever is earlier. The children, after attaining the age of 18 or completion of 2 years, would be given back to their biological parents, or if their biological parents are not found or not alive, then the children will be given in foster homes built by the government under a gazetted order.³⁴ A permanent adoption is also present in Malaysian law, which is a form of an act named the Registration of Adoption Act, 1952. Under this act, a child can be adopted by a person, but there are certain limitations on the same, such as the child must be below the age of 18 and have never been married. This act is not only applicable to non-Muslims of Malaysia, but also to Muslims of Malaysia, who are also treated under the same legislation.³⁵

Registration of a child as adopted does not make any difference regarding his biological parentage, as his biological parents will remain the same, and these adoptive children do not hold any title which makes them eligible for inheritance by their adoptive parents. The purpose of this adoption is only to provide the child with a family environment so that the child will not feel neglected. The welfare of the child after adoption depends totally on the adoptive parents, and they are responsible for the child's

³¹ Act 611 Child Act 2001.

³² Ibid.

³³ Ibid.

³⁴ Azizah Mohd, “Protection of Children In Malaysia Through Foster Care Legislation and Policy” International Journal of Social Sciences and Humanity Studies 4, no 1 (2012): 64

³⁵ Ibid 27.

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upbringing.³⁶

Another legislation, which is also a milestone towards the foster care of children in Malaysia, is the Childcare Centre Act, 1984. Malaysia, unlike many other countries have a ministry of social welfare, which in 1982 conducted research in collaboration with UNICEF regarding how to improve the quality of childcare in Malaysia, which resulted in the formation of this Act of 1984.³⁷ This Act is made in relation to the registration and inspection of childcare centres. A better life for children can only be ensured if the centres of childcare are controlled by some higher authority that can ensure checks and balances.

The Act has certain requirements which a childcare centre must fulfil to maintain a certain standard of living. These standards include activities to engage the children in healthy undertakings. To ensure healthy nutrition for the children under their care so that every child will have the required portion of protein, carbohydrates, vitamins and other minerals. This is the work of the childcare centre to make a nutrition plan for the children. The health of the children must not be compromised in the event of their stay at the childcare centre. For the purpose of ensuring better health for the children, the Act provides that a doctor or medical practitioner must be informed in case of any disease if suspected to have attacked either the children or the workers.³⁸

The Act, in its section 5, provides that there should be two categories of childcare centres. **Section 5 states that:**

“There shall be two categories of child care centres as follows:

- (a) Home-based child care center which is a child care center which receives fewer than ten children into the homes of the person registered under section 7;
- (b) Institution-based child care center which is a child care center which receives ten or more children.³⁹

Workforce has also been described by this Act, on average, how many workers should be engaged with 5-10 children and how many workers should be engaged with differently-abled children. The Act also provides for penalties if the requirements specified in the Act are not fulfilled.⁴⁰ Overall, the Act mentions many aspects of childcare and fostering of children, but the Act lacks good legislation on the nutrition of the children who are living in the childcare centre. The drawback of the Act is that it does not cover those children who are above the age of 4 years, as the child care centre

³⁶ Ibid 27.

³⁷ http://studymalaysia.com/education/art_ecce.php.

³⁸ <https://www.thestar.com.my/news/community/2011/09/28/basic-rules-that-daycare-centres-have-to-follow-under-the-child-care-centre-act-1984>.

³⁹ Child Care Centre Act 1984 [Act 308].

⁴⁰ Ibid.

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has been defined as: "child care centre" means any premises at which four or more children under the age of four years from more than one household are received to be looked after for reward.⁴¹

In Malaysia, although there is certain legislation on the topic of child care and fostering, almost all these legislations are silent on what happens to a child after leaving the foster home. The only legislation which is taking about this matter is the Child Care Act, 2001, which says that the order of the court is required for such children to stay in these homes.⁴² Malaysia has a very high rate of malnutrition in children, but still, there is no proper nutrition plan for children in Malaysia except for that of the National Plan of Action for Nutrition of Malaysia. This plan of action talks about how to make strategies for the nutrition of mothers and children.

The Role of Government in Foster Care and Child Nutrition in Malaysia:

The government of Malaysia, after the ratification of the Convention on the Rights of children has made an Act to provide for the betterment of children in Malaysia.⁴³ This act describes how a family is an important part of society, and this indicates that the need of family for children is also essential. The government of Malaysia, through this act and a few others has given recognition to social welfare organisations and made it mandatory to register such organisations so that every child would remain protected. On the other hand, government of Malaysia has not made any proper legislation on the issue of nutrition, although it is the most needed one because Malaysia is among the developing countries that are struggling to make the life standard of its people better. It is reported that the children in Malaysia are suffering from malnutrition, but there is no proper data for the same.⁴⁴

Malaysia, although it has no proper legislation on the nutrition of children either inside or outside welfare homes, has made a national plan of action 2006-2015. This plan puts emphasizes on the fact the infant and young children should be fed properly along with that a healthy eating and a healthy life style should be promoted in the country becomes the motto of the action plan.⁴⁵

"In response to the call of the NPAN, a 3-year Healthy Children, Healthier Nation

⁴¹**Ibid.**

⁴² **Child Care Act 2001.**

⁴³**Ibrahim and Jarimal, "Child Welfare and Social Work: The Legal, Political and Social Contexts of Malaysia" 2-3.**

⁴⁴ **Nur Nabilla A Rahim, Yit Siew Chin and Norhasmah Sulaiman, "Socio-Demographic Factors and Body Image Perception Are Associated with BMI-For-Age among Children Living in Welfare Homes in Selangor, Malaysia", *Nutrients* 11, no 142(2019): 2.**

⁴⁵ **presentation made in the ILSI Seminar on Young Child Nutrition: Improving nutrition and health status of young children in Indonesia, 12 November 2009, Jakarta**

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programme was carried out under the Nutrition Month Malaysia (NMM) initiative. NMM is a nationwide nutrition promotion programme spearheaded by the Nutrition Society of Malaysia, commencing in 2002. In the first year of this child nutrition programme in 2009, the focus was on young children 1-6 years old. In all educational materials, the emphasis has been that parents should nourish and nurture their children, especially when they are in the crucial formative years. Nutrient needs of young children are high, higher than for adolescents and adults in terms of energy or nutrients per kg body weight.”⁴⁶

FOSTER CARE AND CHILD NUTRITION IN EGYPT:

In Egypt, the concept of foster care was somehow developed after the formation of the Egyptian family foster care system in 1959. Before this period, the system of foster care was not as developed as it is now.⁴⁷ For the purpose of fostering the most famous form of care is residential care for the children who are deprived of families or whose biological parents are unable to properly care for them. In Egypt, there is a difference between legal guardianship and foster care. Like in legal guardianship, the guardian is the person who is in blood relation with the child, while foster care does not require any blood relation. The residential care is further divided into two forms: one where the child is living in the residential care and the foster parent is only supporting financially, while the second form is where the foster parents make a contract with the residential care that they will take the child with them to their home and properly care for him/her.

Although there are many children in foster care in Egypt, the main focus of the authorities is to give foster care to those children who are newborn and are abandoned.⁴⁸ Egypt, like many countries, ratified the United Nations Convention on Right of Children in 1989 and soon after the rectification this country made its own law on the protection of children. The law is known as law no. 12 of 1996 promulgating the child law, which was amended by law no. 126 of 2008. Family foster care of 1968 is another legislation in Egypt which regulates the foster care system.⁴⁹ In both these acts alternative care system has been recognised as fostering children who are from underprivileged families. Both laws provide for the psychological and physical health care of offspring living in an alternative care scheme.

“The uniqueness of the Egyptian family foster care system is that it includes health care services and social care services”.⁵⁰

⁴⁶ Ibid.

⁴⁷ Hamido A. Megahead, “Family Foster Care for Abandoned Children in Egypt”, *Journal of Sociology & Social Welfare* 35, no 2 (2008): 30.

⁴⁸ Samar Mohamed Ali, *Foster Care in Egypt: A Study of Policies, Laws, and Practice*, thesis submitted for the fulfilment of degree in The American University in Cairo School of Global Affairs and Public Policy.

⁴⁹ Ibid.

⁵⁰ Megahead, “Family Foster Care for Abandoned Children in Egypt”, 30-31

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In Egyptian law, adoption is prohibited as mentioned in the 2008 law that adoption is prohibited but children who are deprived of family will be given alternative care. According to the law, it is the right of every child to live in a good family environment and the right to fair treatment has also been mentioned in the same law.⁵¹ The law states that:

“The child shall have the right to kinship with his legitimate parents and to be cared for by them. The child shall have the right to establish his legitimate paternal and maternal lineage, using all lawful scientific means to establish such lineage. Parents shall provide the child with necessary care and protection. The State shall provide the child deprived of family care with alternative care. Adoption is prohibited”.⁵²

Kafālah is also recognised in Egypt, and this allows the parents who are fostering to take care of the child by all means, which includes health, education and food. In this regard, the parents who are taking a child in kafālah cannot remove the name of their biological parents from their surname; rather, if they want their name to be attached to the child's name, then it can be added.⁵³ “kafālah covers a voluntary pledge to support and care for an orphaned child until he or she reaches majority. It is a verbal commitment by the individual caregiver who takes on responsibility for an orphaned minor, including a promise to feed, educate and protect the child in the way that a parent would do”.⁵⁴

The alternative care system is operative for those children who are above the age of 2 and who, due to any reason, cannot live with their biological parents. The responsibility of the alternative care unit is to provide care and love and to help them in living a sound life. The Ministry of Health Care is responsible for the upbringing of children who are below the age of 2 years, as they cannot be given in kafālah due to their tender age and their health care.⁵⁵

“The system of alternative care aims at providing social, psychological, health and professional care to children of more than two (2) years of age, whose circumstances prevented them from being brought up within their natural families, and provide them with a sound upbringing, making up for lost care and affection. The By-laws shall determine the rules and regulations governing the alternative care system and

⁵¹ Law no. 12 of 1996 Promulgating the Child Law (amended by law no. 126 of 2008)

⁵² Ibid.

⁵³ Adoption (Kafala) in Egypt Handbook in collaboration with FACE, <https://uploads-ssl.webflow.com>.

⁵⁴ Hamido A Megahead, “Non-kinship family foster care in Egypt”, *Adoption & Fostering* 41, no 4(2017):392.

⁵⁵ Samar Mohamed Ali, Foster Care in Egypt: A Study of Policies, Laws, and Practice, thesis submitted for the fulfilment of degree in The American University in Cairo School of Global Affairs and Public Policy.

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beneficiaries”.⁵⁶

The other issue is the nutrition of children who are either living in foster care homes or not. The children who are below 2, as mentioned, are living with the Ministry of Health because of their need for breastfeeding. The ministry provides them with nannies so that they can be taken care of properly, while on the other hand, other children’s nutrition is governed by the 2008 Act. Each meal which is made or produced for children must be toxic-free and no unnatural colors or other harmful things to be added to the food.

Article 30 of the Act states that:

“No colored substances, preservatives, or food additives shall be introduced to the meals and products designated for feeding infants and children, unless they comply with the regulations and provisions as stated in the By-laws”.⁵⁷

The Role of Government in Egypt in Regulating Foster Care:

As Egypt, being a signatory to the Convention on the Rights of child has also made its own laws for the alternative care of children. Along with that, Egypt has also adopted the guideline provided by the UN on alternative care of children where the demands states that “States should develop and implement comprehensive child welfare and protection policies within the framework of their overall social and human development policy, with attention to the improvement of existing alternative care provision, reflecting the principles contained in the present Guidelines”.⁵⁸

The government of Egypt, in compliance with the guidelines, has made many alternative care homes for children where children under the age of 2 years are kept in different care centres. The Ministry of Social Solidarity is in charge of all welfare homes, and it is the duty of this ministry to look after the matters of such homes and children. The supervision of the centres for children under two years is in the hands of the Ministry of Health. The government officials monitor these homes and ensure the safety of children; if there are any complaints from these homes, then the investigation and monitoring can be done by the central government officials.⁵⁹

The government has made two types of alternative care systems in Egypt. One is that of institutional nurseries, which are responsible for the fostering of children aged between 2 and 6 years, and the second is institutional care homes. The second form of alternative care unit is further divided into two forms, which are first, where such

⁵⁶ Law no. 12 of 1996 Promulgating the Child Law (amended by law no. 126 of 2008)

⁵⁷ Ibid.

⁵⁸ 64th Session of the UN General Assembly held on 24th February 2010 on Guideline on Alternative Care of Children.

⁵⁹ Amira Abdel-Aziz, “Assessment of the Alternative Families System in Egypt”, *Scottish Journal of Residential Child Care* 18, no 3(2019): 4.

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children are taken in whose parents are not known or sometimes known. The other type is where the parents are known, but the children are abandoned or who had willingly left their homes out of poverty or abuse.

FOSTER CARE IN OTHER MUSLIM COUNTRIES:

Countries like Pakistan, Malaysia and Egypt have developed many rules and regulations for foster care and nutrition of children. But these legislations are not sufficient to cope with the existing issues of nutrition and the care of children. Like other countries, the Kingdom of Morocco has established a rule for the fostering of abandoned children, which includes the registration of abandoned children. When such children are found, they are taken to the royal prosecutor, where they are given fictitious first and surname. In Morocco, when a child is given in foster care to the foster parents, the first thing which needs to be established is that the child is actually abandoned. This is the duty of the royal prosecutor to establish the same.

After the establishment of abandonment, the willing party, who can either be a Muslim couple or a single Muslim woman who has the capacity of guardianship, should apply before the competent judge for *kafālah*. In this state *kafālah* can also be terminated when the child reaches the age of majority and the age of majority is 18 years.⁶⁰ The parent who is asking for *kafālah* of a child must be an innocent person and must not have any criminal record. The parent also has the right to making physical examination of the child before taking him/her into *kafālah*.⁶¹

“Moroccan legislation is now largely in line with the Convention on the Rights of the Child, weak implementation leaves children, particularly the most vulnerable, still exposed to various abuses and violations of their rights”.⁶² This leads to several homeless children who are abandoned by their parents due to poverty and hunger. The main reason behind such vulnerability is a lack of monitoring and support structure.⁶³

FOSTER CARE AND CHILD NUTRITION IN UAE:

The United Arab Emirates (UAE) is considered the most populous region in the Arab and African World. The majority of its inhabitants follow the Sunni school of thought, whereas the minority is Christians. The legal system of the United Arab Emirates is

⁶⁰Andrea Büchler and Eveline Schneider Kayasseh, “Fostering and Adoption in Islamic Law”, *Electronic Journal of Islamic and Middle Eastern Law* 6, no 1(2018):46.

⁶¹<https://www.newstarkafala.org/morocco/>.

⁶² Morocco Country Programme Document 2012-2016. The draft country programme document for Morocco (E/ICEF/2011/P/L.10) was presented to the Executive Board for discussion and comments at its 2011 annual session (20-23 June 2011). The document was subsequently revised, and this final version was approved at the 2011 second regular session of the Executive Board on 15 September 2011.

⁶³ Ibid.

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based on codified laws and Shariah Laws. The constitution of the United Arab Emirates (UAE) is the supreme law of the land. According to the provisions of the Constitution, all laws will be constituted in accordance with the injunctions of Islam.

“The Federation of the United Arab Emirates came into existence in 1971. The United Arab Emirates is in the area previously known as the Trucial Coast in the Persian Gulf, consisting of seven Emirates, namely Abu Dhabi, Dubai, Sharjah, Ras Al Khaimah, Umm Al Quwain, Ajman and Fujairah.”⁶⁴

Family Law and Ancestry in the United Arab Emirates:

Before the establishment of the UAE, the UAE had passed many major laws regarding the family and lineage system. But currently, there is a lack of formulation of family laws in the UAE. The family laws currently in regulation and in exercise are based on the doctrine of the Maliki School of thought, and the concepts which deal with family laws in the UAE are regulated in accordance with the doctrine of the Maliki school of thought. The first family law, the family and lineage system, was passed in the year 2005, which is known as “The Federal Law on Personal Status”.

This law covers a wide range of family issues and extends the ambit of the law to several areas, including marriage, divorce, maintenance, post-maintenance, dower, parentage, legitimacy of a child, succession, inheritance, waqf, will, and gift. These laws are applicable to all nationals irrespective of whether they are Muslims or non-Muslims. The non-Muslims do not have their own personal laws, and even the Hindu community does not have the liberty to follow their law if they are citizens. It is pertinent to mention that the non-citizens of this country has right to follow these laws.

As per the family law regulated in the UAE “Personal Status Law”, there is a definite quantum required for the mother to prove the legitimate relation with her child and the same series of quantum required for the father to prove the legitimate status of the child. Under the Personal Status Law of the United Arab Emirates, to prove the legitimate status of a parent and child, there must be a proportionate number required to establish the legitimacy of the child. Under the personal status law of the UAE, the law requires that the child must be born under a valid marriage, within the minimum term of pregnancy, and is a legitimate child and considered a legitimate child after the conclusion of the marriage contract.”⁶⁵

Essential Requirements for taking the fosterage of children in the UAE:

If any person wishes to take foster care of any child, he must fulfil the following essential requirements, which are under alia:

- I. He or she must be Muslim

⁶⁴ The World Fact book, CIA, United Arab Emirates 01 June 2018

⁶⁵ Art. 60 No. 2, 90 f. UAE Federal Law on Personal Status. The minimum and maximum terms of pregnancy are 180 and 365 days respectively, “unless a medical committee established for this purpose decides otherwise”.

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- II. He or she must be married
- III. He or she must be at least 25 years of age.
- IV. According to the relevant law, single men are not eligible, and single women (unwed, widowed or divorced) must be at least 30 years of age.
- V. If the host is a single mother should be free from infectious diseases
- VI. He or she should not suffer from psychological and mental disorders.
- VII. The hosting family or single mother must be financially capable of providing a decent living to the foster child as well as the members of their own families, and they must not have a criminal record.

Moreover, in the Emirate of Dubai, the Community Development Authority is the responsible authority for the care of abandoned children. The person or persons wishing to foster a child have to apply to the CDA by submitting a form accompanied by a number of documents (e.g., certificate of clearance of infectious diseases, salary certificate). A social worker assesses the family and their living circumstances through interviews and home visits. The Commission then decides on the eligibility of the family or single person and informs them accordingly. After placement, social workers monitor the well-being of foster children by visiting the foster families and conducting an annual health check.

Effects of the Decision:

The child is referred to the family for a trial period of six months, after which the foster care becomes permanent. Foster parents have to sign an undertaking that they will treat the child well, provide him or her with secure living conditions and that he or she may grow up in an Islamic and social environment. The law specifies that the foster parents are to take care of the child's needs, such as giving it a home, clothing, and sustenance, and cater to the health and social life of the child according to his or her age. In addition, they must allow her or him to interact with other children and provide for her or his education. The law further stipulates that fostering is a gift of care and that the foster parents are not entitled to any remuneration. Since the foster parents are to take care of the child in the same way as if the child were their biological offspring, they must care for and bring him or her up according to the rules laid down in the Personal Status Law. In the case of a girl, maintenance continues until her marriage, and in the case of a boy until he is able to finance his own livelihood or he finishes his studies. If the male child is disabled or the female is widowed or divorced, the maintenance obligation of the father continues or reverts to him. However, no inheritance rights are established for the foster parents. Indeed, according to Islamic law, they may bequeath a maximum of one-third of their estate to an unrelated person⁶⁶

Recommendations:

In light of the above discussion, it is recommended that Pakistan should develop a comprehensive statutory framework regulating the institution of kafālah in accordance with Islamic legal principles and international child protection standards. Such

⁶⁶ Cf. Art. 8, 12, 13, 14 UAE Federal Abandoned Child Law.

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legislation would provide clarity regarding the rights and responsibilities of foster parents and the legal status of children placed under foster care. In addition, state child welfare institutions and social welfare departments should establish formal mechanisms for monitoring foster care placements to ensure the protection and well-being of children deprived of parental care. Public awareness programs should also be initiated to encourage families to support orphaned and abandoned children through the institution of *kafālah*. Furthermore, legislative reforms should integrate child nutrition policies with foster care frameworks so that children placed in alternative care receive adequate health care, nutrition, and psychological support necessary for their physical and emotional development.

Conclusion:

The institution of foster care (*kafālah*) occupies a significant and compassionate place in Islamic law as a mechanism for the protection, upbringing, and welfare of children who are deprived of parental care. Islamic teachings emphasise the moral and social responsibility of society toward vulnerable individuals, particularly orphaned, abandoned, or neglected children. Through the concept of *kafālah*, Islamic law provides a balanced system that enables families to care for such children while preserving their biological lineage (*nasab*) and social identity. This distinctive feature differentiates *kafālah* from the concept of adoption found in many modern legal systems, where the identity and lineage of the child may be altered. The Qur'ān and the Sunnah of the Holy Prophet (PBUH) clearly emphasise compassion, protection, and support for orphans and vulnerable children. Islamic teachings encourage believers to provide shelter, care, and nourishment for children who lack parental support. In this regard, *kafālah* serves as an ethical and legal framework through which individuals and families may undertake the responsibility of raising children who are deprived of family environments while ensuring that their biological identity remains intact. The emphasis placed by Islamic law on maintaining lineage demonstrates the importance of preserving family structure and social order within Muslim societies. Another significant dimension of child welfare discussed in this study is the concept of breastfeeding (*rada'ah*), which plays an essential role in ensuring proper nutrition and emotional bonding during infancy. Islamic law gives great importance to breastfeeding as a means of promoting the physical and psychological well-being of children. The Qur'ānic injunction recommending breastfeeding for two complete years reflects a deep concern for the health and development of infants. In addition to providing essential nutrition, breastfeeding also establishes a legally recognized relationship known as milk kinship between the foster mother and the child. This relationship carries certain legal consequences, particularly the prohibition of marriage between individuals who share such a milk relationship. These provisions illustrate how Islamic law integrates biological, social, and legal dimensions in regulating family relationships.

The analysis of classical juristic opinions further demonstrates that Islamic scholars developed detailed legal principles governing breastfeeding and foster relationships. These include rules regarding the age of the infant during breastfeeding, the number of milk feedings that establish milk kinship, and the duration within which breastfeeding

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creates legal consequences. Such juristic interpretations highlight the comprehensive nature of Islamic jurisprudence in addressing matters related to child welfare, family relationships, and social stability. The article also examined the legal frameworks governing foster care and child nutrition in several Muslim-majority countries, including Pakistan, Malaysia, Egypt, Morocco, and the United Arab Emirates. The comparative analysis reveals that although these countries generally follow Islamic principles regarding the prohibition of adoption that alters lineage, they have developed different legislative approaches to regulate foster care and child protection. In many of these jurisdictions, kafālah serves as the principal mechanism through which children deprived of parental care are provided with family environments and social protection. In Pakistan, the legal framework relating to foster care is largely derived from the Guardian and Wards Act, which empowers courts to appoint guardians for children who require protection and care. Although Pakistan has enacted legislation concerning breastfeeding and child nutrition, such as the Protection of Breastfeeding and Child Nutrition Ordinance, there remains a lack of comprehensive legislation specifically addressing the concept of kafālah or foster care within the legal system. This indicates the need for clearer legal frameworks to ensure the protection and welfare of vulnerable children.

Similarly, Malaysia and Egypt have adopted various legislative measures aimed at protecting children who are deprived of parental care. Malaysia has introduced laws such as the Child Act 2001 and the Child Care Centre Act 1984 to regulate childcare institutions and ensure the safety and well-being of children. Egypt, on the other hand, has developed a foster care system that provides alternative family environments for children while maintaining the prohibition of adoption that changes lineage. These laws demonstrate the recognition of the importance of family-based care systems for the development and protection of children. In Morocco and the United Arab Emirates, the concept of kafālah is also recognised within the legal framework governing child welfare. These countries have established regulatory mechanisms to ensure that abandoned or orphaned children are placed in suitable foster families capable of providing care, protection, and support. Such legal measures illustrate the broader recognition within Muslim societies of the importance of safeguarding children through structured foster care systems. Despite these developments, the comparative study reveals that many Muslim countries still face significant challenges in implementing comprehensive foster care and child welfare policies. Issues such as insufficient legislation, lack of monitoring mechanisms, and limited institutional support continue to affect the effectiveness of foster care systems. Addressing these challenges requires stronger legal frameworks, effective policy implementation, and greater social awareness regarding the importance of child protection and welfare.

In conclusion, the concept of kafālah represents a humane and ethically grounded approach within Islamic law for addressing the needs of children deprived of parental care. By encouraging individuals and families to assume responsibility for vulnerable children while preserving their lineage and identity, Islamic law promotes a system that combines compassion with legal structure. The integration of breastfeeding as a means

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of providing nutrition and establishing family relationships further reflects the comprehensive nature of Shariah in safeguarding the physical, emotional, and social well-being of children. In contemporary societies, where issues such as child abandonment, poverty, and family breakdown continue to affect the lives of many children, the principles underlying kafālah remain highly relevant. Strengthening foster care systems through improved legislation, social welfare programs, and community support can play a crucial role in ensuring that children deprived of family care are provided with the protection, dignity, and opportunities necessary for their healthy development. The implementation of these principles in modern legal systems can contribute significantly to the realization of the fundamental objective of Islamic law: the protection of human welfare and the preservation of social justice.

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