

# KINSHIP CARE

A new concept under the Child Care and Protection Act



Susanna, you cannot drop out of school. If you want a better life for Ada, you need to continue with your education. But maybe there is another way. Isn't there anyone in your family who could care for Ada?

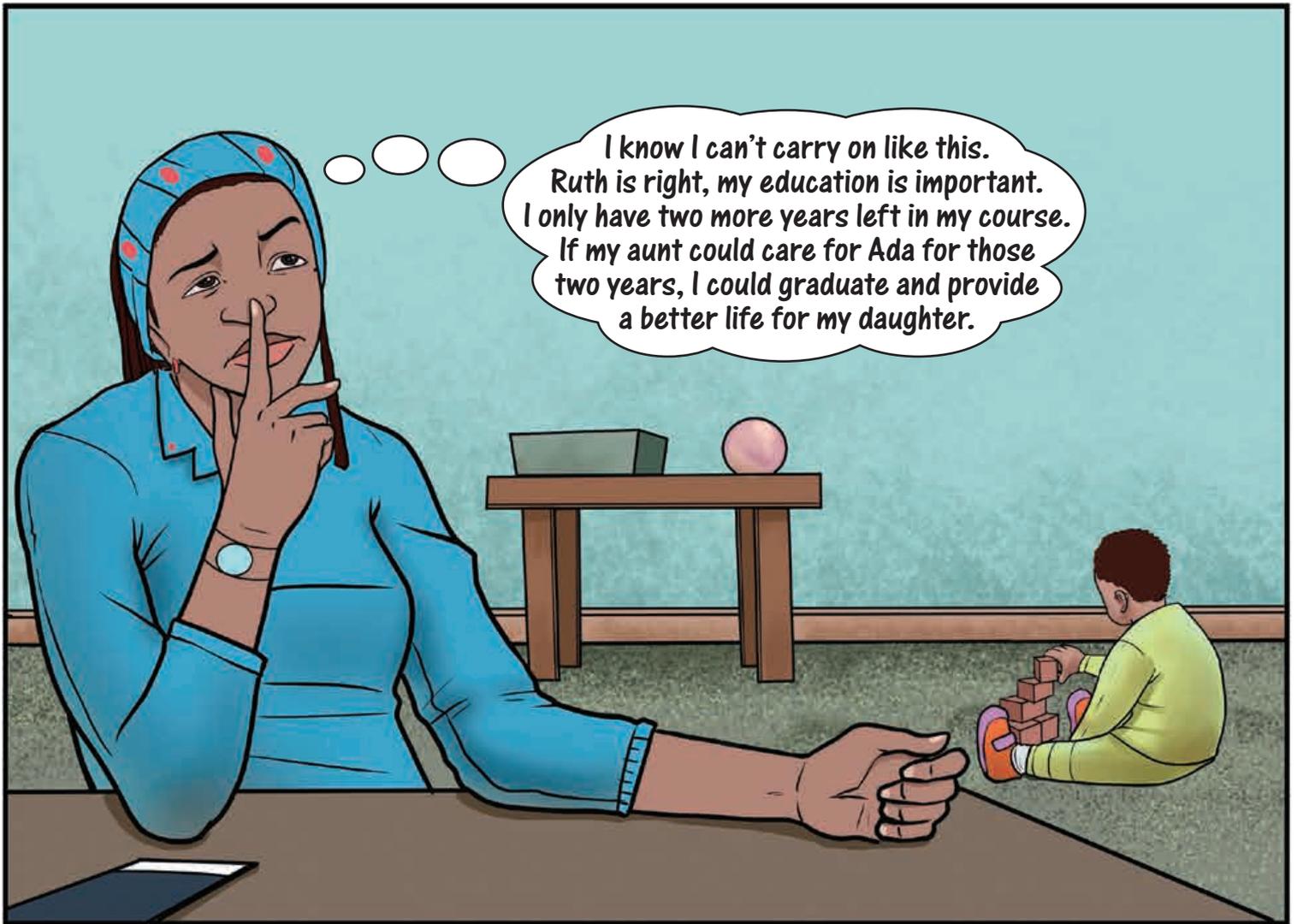
I could ask my aunt. She is Ada's godmother. But how Ada is raised is important to me. I don't want to give up my role as her mother. I want to make the key decisions on her care and upbringing.



You and your aunt could make a kinship care agreement. Kinship care is a new concept introduced by the Child Care and Protection Act. It covers situations where families make their own arrangements for children to live with someone other than their parents, such as extended family members. It provides for written agreements to cover those situations. You won't be giving up your parental rights and responsibilities, just delegating some of them temporarily on the terms you agree with your aunt.



This is something I need to think about.





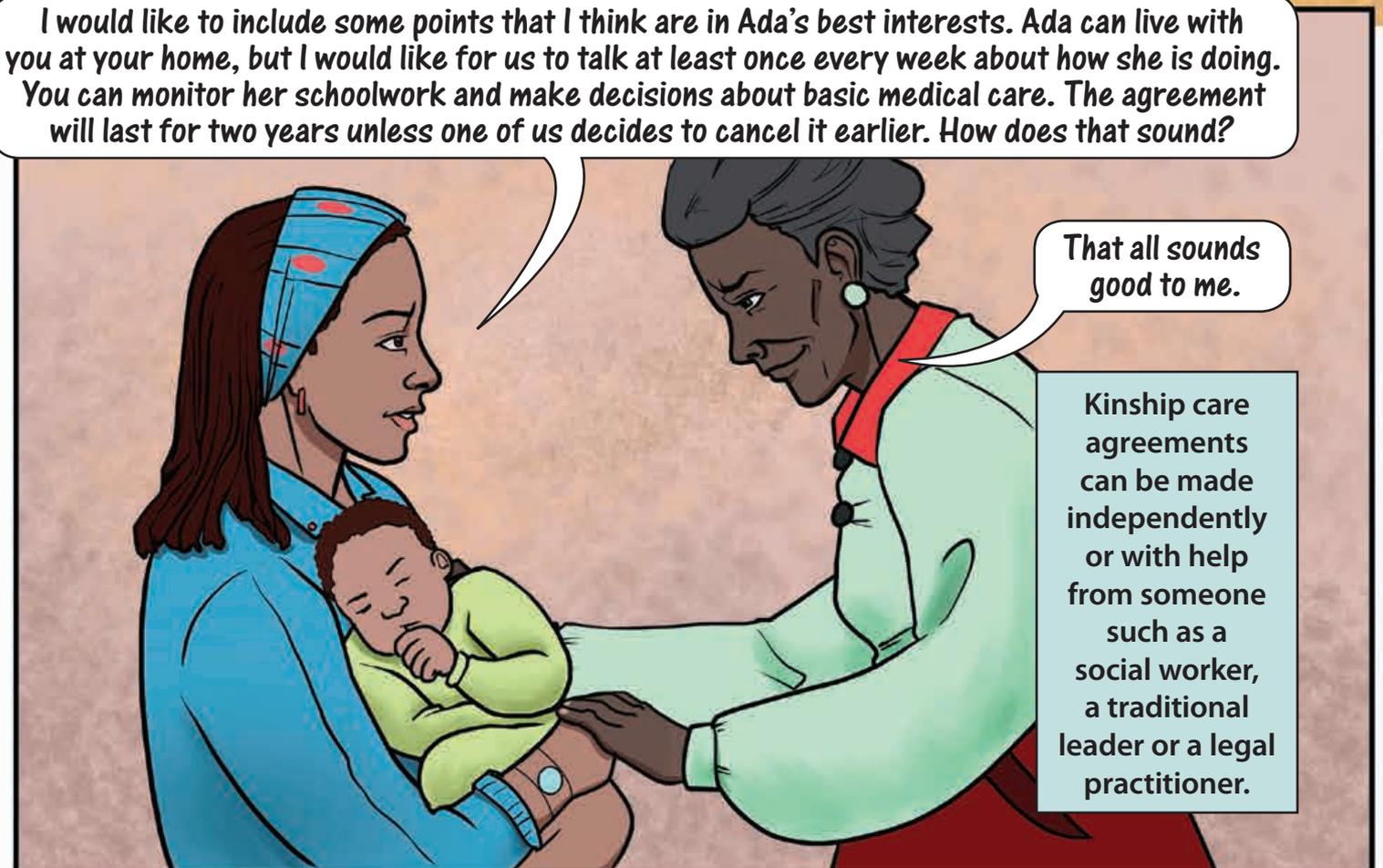
I would be happy for Ada to live with me while you finish school, but you know I don't have money to pay for her expenses.

I understand, Aunt Mary. If we write up a kinship care agreement and register it at the children's court, you can receive a State maintenance grant for Ada's care.



That would help a lot. What should we write in the kinship care agreement?

I would like to include some points that I think are in Ada's best interests. Ada can live with you at your home, but I would like for us to talk at least once every week about how she is doing. You can monitor her schoolwork and make decisions about basic medical care. The agreement will last for two years unless one of us decides to cancel it earlier. How does that sound?



That all sounds good to me.

Kinship care agreements can be made independently or with help from someone such as a social worker, a traditional leader or a legal practitioner.

There are two different ways to finalise kinship care agreements:

- Kinship care agreements can be **kept private** within the family.
- Kinship care agreements **must be registered** at the children's court if the kinship care-giver wants to receive a State grant.

## Children's Court

I am here to register a kinship care agreement with the children's court.

Yes, I can help you with that.

Is your agreement in writing on the proper form and signed by two witnesses?

Yes. It is witnessed by my aunt's neighbours.



Good, I see that you have attached the child's full birth certificate. Do you also have a sworn statement confirming that you are the parent with custody rights?

Yes, I have an affidavit sworn by a Commissioner of Oaths at the police station. It explains that there is no written agreement with the father about custody and no court order - so I am Ada's custodian.



Once the kinship care agreement is registered, can my Aunt receive a State maintenance grant for the child?

If neither you nor the child's father have enough income to be required to pay income tax, the child is eligible for a State maintenance grant. Once the agreement is registered, your Aunt can apply for and collect a grant for Ada in the same way that you could as her mother.

One year later ...

I want to talk about Ada's relationship with her grandparents. I think it is important for her to get to know her father's parents, and they really want to reconnect with you and your daughter.



Aunt Mary, you know I am not on good terms with them. We haven't talked in years! They weren't there when I needed help. I am not convinced that they have Ada's best interests at heart. I won't let them visit her!

You can't make that decision on your own, we have an agreement.

I am Ada's mother! I will cancel the kinship agreement if I have to.

Don't do that! Let us meet with a social worker to get help to resolve this disagreement.

That is a good idea. I do understand that it is important for Ada to get to know her extended family on both sides. I am open to suggestions on this issue.

Grandparents do not have an automatic right of access to their grandchildren. They can get a court order giving them a right of access, if they can show that this is in the child's best interests. Otherwise, the decision on whether they can contact their grandchild rests with the parent who has custody.



I understand that you two are having a dispute about whether Ada's grandparents should be able to visit her. I am a social worker and I am going to help you reach a solution. Why don't you each explain your position?



I hardly know John's parents, but when I met them in the past, they were always criticising my life choices. I am afraid that they might turn Ada against me. They might have a plan to try to get legal custody of her eventually.



I think it would be good for Ada to get to know her father's parents. Susanna's parents are both deceased, and John's parents are part of Ada's family even if John is not sharing the responsibility for her. I believe that the grandparents are acting in good faith.



Ada is my daughter. If we cannot agree, I have a right to cancel the kinship care agreement without your consent.

I know that you have a right to take Ada back, but then who will care for her while you finish your studies? Ada seems very happy here, and we are very close. I don't want to lose contact with her!

Mary, if Susanna cancels the kinship care agreement, you can apply to the children's court for access to Ada because you have been taking care of her for more than a year. But the best thing for Ada would be for you two to reach an agreement.



Susanna, what if you met with John's parents on your own before introducing Ada to them? Mary, you could be present to make sure that Susanna is comfortable. We could also agree on some limits about how often they can visit, and on whether Ada is allowed to visit them at their house.

That might work. Ada will probably want to know her father's family as she gets older.

I am prepared to respect the limits that Susanna sets regarding contact between Ada and her grandparents. She is Ada's mother and she is responsible for Ada's well-being.

If you both agree, I will write out an amendment to the kinship care agreement to allow limited visits with the grandparents after Susanna has met with them to discuss their involvement with Ada.



You will then need to notify the clerk of the court about the change within 7 days. I think this is a very good solution that is in Ada's best interests. Well done!

For more information about kinship care, contact the Legal Assistance Centre:

SMS: 081 600 0098

We would like to hear your **FEEDBACK** about this comic.

An electronic version (PDF) of this publication is available on the LAC website: [www.lac.org.na](http://www.lac.org.na)



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