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From Laws to Last Names: Examining Popular Opinions of Adoption in Morocco

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From Laws to Last Names:
Examining Popular Opinions of Adoption in Morocco

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Abstract

As international adoption is becoming a much more common reality for many orphans and abandoned children worldwide, it is an important time to consider the implications of attitudes regarding adoption in Morocco—an Islamic state which defines adoption in a very specific but different way from the Western world. Despite the abundance of literature analyzing the historical and legal aspects of adoption in Morocco, there is a notable absence of research that examines the opinions of Moroccans removed from the adoption process on the institution itself. This study seeks to highlight potential trends in attitudes regarding adoption by examining the views of university students in Rabat, Morocco. Through the distribution and collection of 332 written surveys to students at Mohammed V University in Rabat, Morocco, supplemented with the results from a small focus group of five English language students, we are now able to begin to draw conclusions on issues specific to adoption in Morocco such as openness to adoption, gender preference, and the role of Islam and identity on the practice of kafala. The relatively young population may also give insight on the direction of developments in adoption in the future.

Key words: Individual and Family Studies, Religion, Gender Studies, Sociology

Mots clés : Les études de l'individu et la famille, La religion, Les études de genre, La sociologie

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Introduction

The legality of adoption in Morocco is comprised of many interwoven, albeit complex, factors. Legal codes, secret practices, social norms, as well as religious texts and traditions all impact the various realities for orphans and abandoned children in Morocco. As international adoption is becoming a much more common reality for many orphans and abandoned children worldwide, it is an important time to consider the implications of attitudes regarding adoption in Morocco—an Islamic state which defines adoption in a very specific but different way from the Western world. Numerous scholars have examined the historical contexts of these laws and practices, but none have assessed the current opinions of Moroccans regarding adoption legislation and stigmas. This study explores the intersection between personal beliefs and concepts expressed in legislation regarding adoption in Morocco by asking the question: "To what extent do popular opinions of adoption in Morocco align with current legal practices?"

Through the distribution and collection of 332 written surveys to university students in Rabat, Morocco and the results from a small discussion group of five English language students, we are now able to begin to draw conclusions on issues specific to adoption in Morocco such as openness to adoption, gender preference, and the role of Islam and identity on the practice of kafala. After a close reading of related literature in the field, the fieldwork results were analyzed and conclusions were drawn that could give insight to potential trends in the future.

In regards to terminology and translations, I have chosen to refer to the legal adoptive practices in Morocco as "kafala adoption" because of the difference in the Moroccan concept of adoption and that of the Western world, as well as the absence of a direct translation that crosses linguistic and cultural borders. It is for that reason that I mention the term "kafala" in every question related to adoption in my questionnaire in order to avoid any confusion.

Related Literature

The Moroccan Context

Approximately 99% of Moroccans are Muslim.[1] It is, therefore, of little surprise that Moroccan law is inherently intertwined with the religion of Islam. In the governmental sphere, Islam serves as a source of political legitimization for the monarchy in Morocco, which has historically blended traditional and modern concepts of governance.[2] The king himself has enormous power and serves as a figure of faith, nation, and political sovereignty, illustrated by the Kingdom's motto: "God, the fatherland, the King."[3] When attempting to understand the conceptions behind legislation concerning adoption in Morocco, it is first important to examine the influence Islam has on adoption and how that authority has been translated into law.

Adoption and the Introduction of Islam

Although Islamic law prohibits adoption in the form of a fictive relationship of descent between the adoptive parent and child,[4] the Western notion of adoption is not completely foreign to the Middle Eastern region. The practice of adoption was widespread before the introduction of Islam.[5] During the Jahiliya, or pre-Islamic, period, social institutions such as marriage, divorce, inheritance and adoption had a more loosely defined structure.[6] Society, during this epoch, was largely tribal-based, with clans associating for economic and defense purposes.[7] Adoption took place in various forms: one man could adopt another man's son, who would take the name of the

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[1] Driss Maghraoui and Saloua Zerhouni, "Morocco," in *The Middle East*, ed. Ellen Lust. (Washington

[2] Maghraoui and Zerhouni, "Morocco," 660.

[3] Malika Zeghal. *Islamism in Morocco: Religion, Authoritarianism, and Electoral Politics.* (Princeton, NJ: Markus Wiener Publishers, 2008), xiv.

[4] Daniel Pollack, Moshe Bleich, Charles J. Reid & Mohammad H. Fadel, "Classical Perspectives on Adoption in Religion," *Notre Dame Law Review* 79, no. 2 (2004): 155.

[5] Jamila Bargach, *Orphans of Islam: family, abandonment, and secret adoption in Morocco.* (New York: Rowman & Littlefield Publishers, 2002)

[6] Sonbol, "Adoption in Islamic Society," 46.

[7] Ibid.

adoptive father despite a known paternal lineage, or a slave could be taken in by a clan or owner after gaining freedom.[8] The outsider was immersed in the new community and bonded to a new family, a new tribe, and a new identity.[9] This practice, however, was forever redefined with the introduction of Islam.

Laws regarding adoption and the treatment of orphans in Islamic society are grounded in principles established by the Prophet Muhammad.[10] The story of Zayd b Haritha is consistently cited when explaining the Islamic view on adoption, with very little variation.[11] The story goes that Zayd, a member of the Qud'a tribe, was captured and was sold into slavery in Mecca, where he eventually came to live with and work for the Prophet Muhammad, a member of the Qur'aysh tribe.[12] Years later, members of his family came back for him and offered to buy his freedom, but Zayd chose instead to stay with the Prophet, foregoing his prospective freedom. The Prophet Muhammad then formally adopted him, declaring, "Zayd is my son, he will inherit from me and I shall inherit from him," clearly defining the adoptive relationship.[13]

Zayd later married a woman named Zaynab, and from that marriage came a controversy that would forever define adoption in the Muslim world. According to some sources Zayd and Zaynab had marriage troubles and decided to divorce,[14] while others attest that Zayd divorced Zaynab so that the Prophet could marry her.[15] Regardless, after Zayd divorced his wife the Prophet effectively married his ex-daughter in law, an act that was previously forbidden by the

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[8] Ibid.

[9] Moussa Rezig. "Les Aspirations Conflictuelles du Droit de L'Adoption: Étude Comparative," *Arab Law Quarterly* 19, no. 1 (2004)

[10] Sonbol, "Adoption in Islamic Society," 45

[11] Ella Landau-Tasseron. "Adoption, acknowledgement of paternity and false genealogical claims in Arabian and Islamic societies," *Bulletin of the School of Oriental and African Studies* 66, no. 2 (2003): 169.

[12] Landau-Tasseron, "Adoption, acknowledgement," 169.

[13] Ibid.

[14] Rezig, "Les Aspirations Conflictuelles"

[15] Landau-Tasseron, "Adoption, acknowledgement," 169.

Qur'an and therefore criticized by the community. In response to this problem, the Qur'anic verses were revealed to the Prophet Muhammad that proclaimed that adopted sons are not real sons.[16] The Medinese surat 33 verses 5 and 6 reads:

> Allah has not assigned unto any man two hearts within his body, nor hath he made your wives whom ye declare (to be your mothers) your mothers, 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. And there is no sin for you in the mistakes that ye make unintentionally, but what your hearts purpose (that will be a sin for you). Allah is Forgiving, Merciful.[17]

Whether this Qur'anic verse was one way of establishing a precedent for the newly forming Muslim community through the example of the Prophet Muhammad, as is the general interpretation given by Muslims, or whether this specific incident of adoption was "due entirely to self-interest," as is the position held by critics, continues to be a controversial issue.[18] The two aforementioned verses do not explicitly abolish adoption, but numerous *hadiths*, or stories about the Prophet's life, in which the Prophet himself is reported to have said, "anyone who knowingly claims as his father someone other than his biological father, or claims as his son someone other than his biological son, is an infidel who will be denied entrance to paradise"—another piece of evidence clearly forbidding adoption as a fictive biological relationship.[19]

Moroccan Legislation on Adoption

In Shar'ia, or Islamic, law, regulations pertaining to adoption are commonly tied to issues of inheritance and property.[20] This complex relationship between the many factors involved

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[16] Ibid.
[17] Bargach, *Orphans of Islam,* 48.
[18] Sonbol, "Adoption in Islamic Society," 52.
[19] David S. Powers, *Muhammad is Not the Father of Any of Your Men: The Making of the Last Prophet.* (Philadelphia: University of Pennsylvania Press, 2009): 28.
[20] Amira al-Azhary Sonbol. "Adoption in Islamic Society: A Historical Survey," in *Children in the Muslim Middle East*, ed. Elizabeth Warnock Fernea. (Austin : University of Texas Press, 1995). 45

renders adoption in Morocco a very nuanced subject. The most common form of 'adoption' in Morocco is called kafala and is the equivalent of a wardship, tutelage or the gift of care.[21] Kafala means to "guarantee" and to "take care of," in which the first translation is applied to mainly business transactions.[22] There are two types of kafala in regards to adoption: judiciary kafala, that is invoked in the case of abandoned children when filiation is unknown, and notarial kafala, that is utilized when one or two parents give their biological child to another family per a legal contract.[23]

Family law in Morocco, called *Al-Moudawana* has been in effect since 1957; however, kafala is not mentioned in the original text.[24] Legislation was introduced in Morocco in 1993, resulting from a new understanding of the abandonment of children, a problem that had intensified dramatically since 1980.[25] The law, passed by the Moroccan Parliament, systemized the process of kafala for abandoned children. Moroccan law on child abandonment was reformed in June 2002, adding specifications regarding naming and clarifying previous questions.[26] One of the most important aspects of kafala, especially regarding international adoptions, is that being Muslim is a fundamental condition for adopting a Moroccan child.[27]

In 2012, the Minister of Justice, Mustapha Ramid, issued a circular that forbade all foreigners from adopting Moroccan children.[28] Intercountry adoption had previously been permitted if the adoptive parents were Muslim. This action taken by the newly elected Islamist

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[21] Bargach, *Orphans of Islam,* 28.
[22] Bargach, *Orphans of Islam,* 29.
[23] Émilie Barraud, "L'adoption au prisme du genre: l'exemple du Maghreb," *Clio* 2 (2011): 156.
[24] Émilie Barraud, "Kafâla transnationale : Modalités de formation des familles kafilates de France," *Autrepart* 1 (2011): 248.
[25] Barraud, "Kafâla transnationale," 248.
[26] Barraud, "L'adoption au prisme," 155.
[27] Barraud, "Kafâla transnationale," 250.
[28] Soeren Kern, "The Islamitzation of Spanish Jurisprudence: Spain Submits to 'Adoption Jihad.'" *Gatestone Institute* (2013)

government was largely seen as a protection of Moroccan children's cultural and religious identities. [29]

Openness to intercountry adoption in Islamic society has also been empirically tested. Researchers, utilizing a quantitative method, tested the role of Islam (quantified by the proportion of the population that professes Islam) as a variable in their study. [30] The findings highlighted a marginally statistically significant relationship to the level of restrictiveness of adoption. [31]

Social Stigmas and Adoption in Morocco

As in other parts of the world, there exist couples in Morocco that have trouble conceiving and could potentially consider adoption as an option to start a family. However, in Moroccan culture, there is a double shame that exists in this case: the shame that stems from being sterile and the shame of taking in a child perceived to be "the fruit of sin."[32] In this way, social stigmas play a huge role in the general perception of adoption. Given the social importance of the patriarchal lineage and genealogical account, there is no greater shame than taking the name of a mother in the absence of a patriarchal name.[33] This leaves many orphans left in a social environment that rejects them and leaves them little chance to improve their circumstances.

Laws regarding adoption are intended to protect the child, but because of the many legal implications that adoption in Morocco brings, some couples turn to a more secretive practice. In some cases the adoptive parents never mention the adoption and leave the child in the dark about

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[29] Kern, "Islamitization Spanish Jurisprudence"

[30] Marijke Breuning and John Ishiyama, "The politics of intercountry adoption: Explaining variation in the legal requirements of sub-Saharan African countries," *Perspectives on Politics* 7, no. 1 (2009)

[31] Breuning and Ishiyama, "Politics of intercountry adoption"

[32] Barraud, "L'adoption au prisme," 155.

[33] Corinne Fortier, "Le droit musulman en pratique: genre, filiation et bioéthique," *Actualités du droit musulman: genre, filiation et bioéthique* (2010): 59.

their own situation throughout their entire life.[34] The legality of some work practices involving adopted children has also been called into question. In some case, the adopted child serves the adopter while inheriting nothing, or takes a job without a salary; under these conditions, the adoption becomes synonymous with slavery.[35] This form of abuse is an unfortunate reality for children taken in for the sole purpose of labor.

A Preference for Girls

Testimonies by the heads of adoption institutions reveal "*les filles ne restent pas*" "*il n'y a pas de fille*" "*les seules filles présentes ne sont pas adoptables*" "*on doit attendre pour adopter une fille*" (my translation: "the girls do not stay," "there are no girls," "the only girls present are not adoptable," and "we have to wait to adopt a girl").[36] Orphanages are filled with young boys, with girls consistently favored by adoptive parents. When attempting to understand the preference for girls in Moroccan society, it is often said in justification that girls are "soft," "calm" and "close to their parents."[37] However, despite the positive nature of the aforementioned sentiments, in Morocco tens of thousands of children, particularly girls, are employed as maids through the act of kafala.[38] Under these circumstances, an adopted child is seen first and foremost as a source of revenue.

Another possible explanation for this preference lies in the actual stigma of not having a father's last name. In a society where males are tasked with passing on their lineage through their name, orphaned girls are less stigmatized because they are not the ones who pass on the family

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[34] Omar Mounir, *La Moudawana: le nouveau droit de la famille au Maroc: préstentation et analyse.* (Marsam, 2005) 112.
[35] Mounir, *La Moudawana,* 113-114.
[36] Barraud, "L'adoption au prisme," 157.
[37] Barraud, "L'adoption au prisme," 160.
[38] Barraud, "L'adoption au prisme," 158.

name.[39] There is no choice between taking the name of the mother and the name of the father in Morocco; the mother's name simply does not hold the same legal status.[40] A young girl without a name has the potential to marry and obtain an identity, but a young boy without a name has no hope for a better future. It is therefore less problematic for a family to take in a young girl without patriarchal ties than a young boy.

Examining Popular Opinions

In North America, where the concept of adoption is understood in an entirely different context from the practice of kafala in Morocco, scholars have noted that the understanding of cultural attitudes toward adoptive kinship has, until recently, been limited by the lack of comprehensive studies of community attitudes.[41] In 1964, the first study to address the issues of adoption and social stigmas revealed the existence of disapproving community attitudes toward adoptive kinship.[42] In 1997, the first large-scale study of community attitudes toward adoption in the United States found that although an overwhelming majority responded that adoption "serves a useful purpose in society," 25 to 30% of the respondents questioned the mental health of adoptees and only 32% of the respondents expressed complete support for adoption.[43] In addition, researchers in 1994 found that 30% of adoptees believed "people expect adopted kids to have problems," and twenty one percent of the adoptive parents in the study claimed, "society in general does not understand adoptive families."[44]

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[39] Barraud, "L'adoption au prisme," 160.

[40] Mounir, *La Moudawana*, 103.

[41] Katarina Wegar, "Adoption, family ideology, and social stigma: Bias in community attitudes, adoption research, and practice," *Family Relations* 49, no. 4 (2000): 363.

[42] H. D Kirk, "Shared Fate: A Theory of Adoption and Mental Health." (New York: Free Press, 1964).

[43] The Evan B. Donaldson Adoption Institute, "Benchmark Adoption Survey: Report on the Findings." Princeton: Princeton Survey Associates. (1997).

[44] P.L. Benson ,A. Sharma and E.C. Roehlkepartain, "Growing Up Adopted: Portrait of Adolescents and Their Families," (Minneapolis: The Search Institute, 1994).

In a qualitative study focusing on adoptees searching for their biological mothers, over two-thirds of the adoptees interviewed thought that adoptive families are largely viewed as different and inferior to biological families, even though they personally made no such distinction.[45] Another study characterized young adoptees as susceptible to feeling "different" or "bad" due to the remarks and actions of others.[46]

The aforementioned findings give insight into the North American, or Western, outlook on adoption; however, it is clear that these results cannot be generalized to the entire world, especially considering the varying definitions and understandings of adoption that exist between cultures. When considering adoption in a traditional and Islamic society such as Morocco, there is an apparent lack of research examining the popular opinions of social stigmas associated with various adoptive practices.

Methodology

My research took place over a one-month period of time as a part of an independent study project through the School for International Training. Over the course of a semester, I took courses at the Center for Cross-Cultural Learning in Rabat, Morocco where I focused on the thematic issues of Multiculturalism and Human Rights. As my research in Morocco is a part of a larger undergraduate research thesis at my home institution of Elon University, my literature review, proposal, and sample questionnaires were submitted prior to my arrival in Rabat, in December of 2014. In this way, upon the start of my program in Morocco I was able to present my ideas to my on-site Advisor and start my fieldwork in a timely matter—a key fact that had a positive impact on my research experience.

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[45] K. March, "Perception of adoption as social stigma: Motivation for search and reunion," *Journal of Marriage and the Family*, 57, no. 656 (1995).
[46] E. B. Rosenberg, and T M. Homer, "Birthparent romances and identity formation in adopted children," *American Journal of Orthopsychiatry*, 6, no. 1 (1991). 70-77.

My research was conducted in Rabat, Morocco at Mohammed V University. I chose a mixed qualitative-quantitative approach to my research question that utilized data collection from surveys as well as interviews in order to achieve a fairly randomized research sample with the ability to elaborate on certain trends and responses. My mixed method allowed me to gather rather large amounts of data, while still allowing for elaboration from self-selected students.

For the quantitative side of my study, I authored a survey with the help of my On-Site Advisor and Program Director as well as my research advisor at Elon University designed to examine the popular opinions of university students regarding kafala adoption. I chose university students as my population in the hopes of being able to examine trends that could provide an insight into the future, as this generation of students will one day be making decisions for themselves and their own families. I also chose university students because of their probable receptiveness to undergraduate research surveys, and their ability to read and write—ensuring that they could complete my written questionnaire without very much difficulty.

I then translated the survey to French, with the translation verified and edited by a French professor at Elon University. My on-site Advisor then translated the survey into Arabic, which I then verified with my Program Director. All three surveys are attached below in my appendices. The surveys in French, English and Arabic were distributed to university students in sociology and English classes, determined by my advisor's connections at the university and the individual professors' willingness to have me distribute the surveys before or after class time. Each survey included an introductory paragraph that presented my topic and explained the voluntary nature of the survey. Because the surveys were anonymous, students gave consent by handing back their survey to me after they had read the introductory paragraph and completed the questionnaire. In total, I received 332 responses. The individual answers were coded in Microsoft Excel and the

free response answers were collected and recorded. My on-site advisor aided me in the translation of the Arabic free response questions, which were then recorded in English.

I attempted to randomize my results as much as possible by surveying entire classes at a time instead of individuals, but of course my access to students was limited by my advisor's connections and my time constraints. I also was only able to survey sociology and English students, leaving out many other majors that could have yielded different results. Despite the anonymous nature of my questionnaires, my identity as an American student research could have also affected my results, as each of the classes were introduced to me and my research topic before the surveys were distributed.

I then conducted a small voluntary focus group of English language students to discuss my findings. The group consisted of 5 students: 2 female students and 3 male students. The group discussion lasted approximately one hour and the results were recorded completely anonymously. No names were taken down and no recording device was used; I relied strictly on my notes from the session. Before beginning the discussion, I explained the voluntary nature of the discussion group and read the consent form out loud, receiving verbal consent from each subject. Interviewees were not identified in my notes or subsequently in this study, as the purpose of the focus group was to examine general phenomena rather than personalized opinions. The focus group allowed me to obtain more insight on my findings and elaborate on some trends that emerged after the distribution of my questionnaire.

My findings presented below are broken down by subject matter, as I found it useful to compare my survey results alongside my focus group responses. Responses from the focus group together with questions from the survey that are related. Charts were also generated using Microsoft Excel to serve as visual aids alongside the statistics I present.

Findings

Conception of Kafala

In the focus group I conducted, I asked students what their first impressions of kafala were and if they had any key words that came to mind. The overwhelming first response was "financial support," which was explained by the fact that kafala is first and foremost a legal term.[47] One student made the differentiation between "Western" adoption in which the child has an emotional tie into the family and is the equivalent of a biological son or daughter, and kafala, which does not give the child the family name and only lasts until the child becomes an adult and can provide for him or herself.[48] For this student, kafala represented a legal responsibility and "adoption" in the Western sense represented an emotional connection. Other students disagreed with this conception and argued that even with kafala the adopter and adoptee may have an emotional connection, equivalent to that of a parent and biological child.[49] Highlighting the diversity of opinion in the group, another student stated that "the only difference is that with kafala you do not give your name" to the child.[50] For this student, there was no other difference between Western adoption and kafala. A different student explained the helpful nature of *fatwas*, or opinions that are written by Muslim legal scholars, that explain the difference between kafala and other forms of adoption.[51] This was viewed as an improvement in kafala to help the general public better understand the practices and their relation to religion.

Another student, when comparing the two kinds of adoption (kafala vs. the Western conception of adoption) noted that Western adoption is a good thing when looking at it from a human rights perspective, but in religion (Islam) it is not favored as you do not have the right to

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[47] University students, group discussion with author, April 29, 2015.
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.

name the child as your biological son or daughter.[52] When explaining the reasoning behind why Islam forbids adoption in the Western sense one student mentioned inheritance law, commenting that adopted children should not receive the same inheritance rights that biological children do.[53] Another explanation for the prohibition of adoption in Islam that was given by a student in the focus group was that it avoids potential conflicts that arise from mixing different families and cultures together.[54]

One student made a differentiation between urban and rural adoptive practices. This student explained that in the South tribes take care of their own; if there was an orphaned child he would be taken in by a member of the extended family.[55] There was an agreement that cities are more individualistic than rural areas, resulting in different types of adoptive practices.[56]

The reward for adopting an orphan child was also touched upon. One student commented, if "you help a child you are contributing to his future. God will reward you in the afterlife [for] this act of generosity."[57]

Openness to Adoption

Openness to adoption was measured by the following question: "In the future, would you consider adopting a Moroccan orphan (through kafala)?" Respondents had the choice between "Yes," "No" and "No opinion." 36.6% responded "Yes," 56.2% responded "Maybe,"

In the future, would you consider adopting a Moroccan orphan (through kafala)?

- Yes
- No
- Maybe
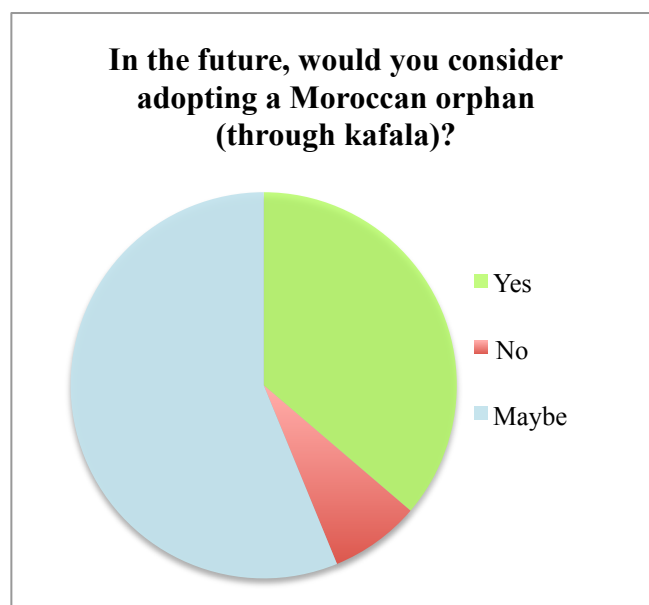

[52] Ibid.
[53] Ibid.
[54] Ibid.
[55] Ibid.
[56] Ibid.
[57] Ibid.

and 7.6% responded "No." A combined 92.4% answered either "Yes" or "Maybe," indicating an

openness to adoption in the future.

The answers were further broken down with follow-up questions that examined the

reasons why the respondents were or were not favorable to considering adoption in the future.

The follow-up question to respondents that answered yes or maybe was: "If yes or maybe, in
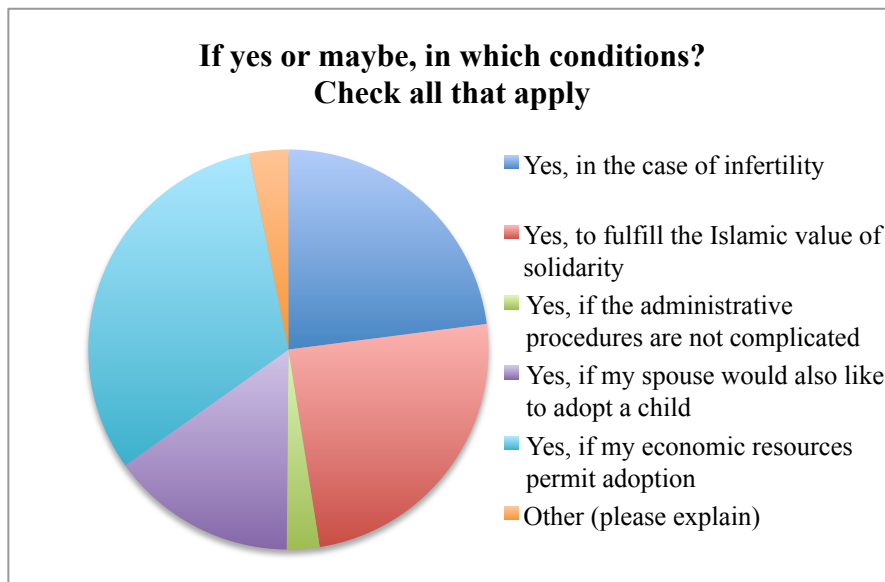
which conditions? Check all that apply." Respondents had the choice between "Yes, in the case of infertility," "Yes, to fulfill the Islamic value of solidarity," "Yes, if the administrative procedures are not too

complicated," "Yes, if my spouse would also like to adopt a child," "Yes, if my economic

resources permit adoption," and "Other" with an open space to explain their reasoning.

23% responded "Yes, in the case of infertility," 24.5% responded "Yes, to fulfill the

Islamic value of solidarity," 2.6% responded "Yes, if the administrative procedures are not too

complicated," 15% responded "Yes, if my spouse would also like to adopt a child," 31.7%

responded "Yes, if my economic resources permit adoption," and 3.2% responded "Other" with

their own original responses. These open-ended responses included, "it will make a child's life

better," "when I love a specific child," "if I don't marry," and "if I am ready and capable." A few

respondents also referenced Islam and one respondent mentioned a *hadith* (a story about the

Prophet's life) that said if a man or woman adopts an orphan child, God will build a house in paradise for them.

The follow-up question for respondents who answered no was: "If no, why? Check all that apply." Respondents had the choice between the responses "I prefer to have my own children," "I refuse the idea of adoption," "The adoption administrative procedures

If no, why? Check all that apply

- I prefer to have my own children
- I refuse the idea of adoption
- The adoption administrative procedures are too complicated
- It is economically too costly to adopt a child
- Other (please explain)

are too complicated," "It is economically too costly to adopt a child," and "Other" with an open space to explain their reasoning.
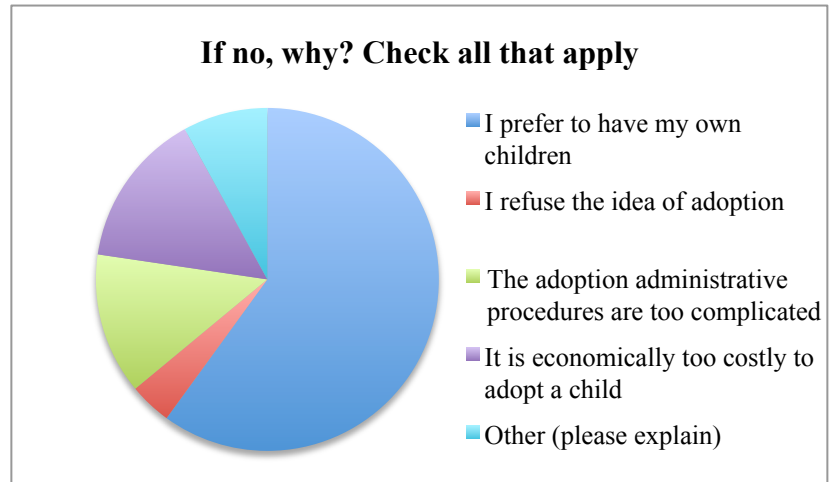
60% responded "I prefer to have my own children," 4% responded "I refuse the idea of adoption," 13.3% responded "The adoption administrative procedures are too complicated," 14.7% responded "It is economically too costly to adopt a child," and 8% responded "Other" with their own original responses. These open-ended responses included "I already have children," "an orphan child might not get along with my own kids," and "if I can't have a child I will accept God's destiny."

Gender Preference

Gender preference was measured by asking the following question: "If you had a choice, would you be more likely to adopt boy or a girl (through kafala)?" Respondents had


If you had a choice, would you be more likely to adopt a boy or a girl (through kafala)?

- Boy
- Girl
- Gender does not matter to me
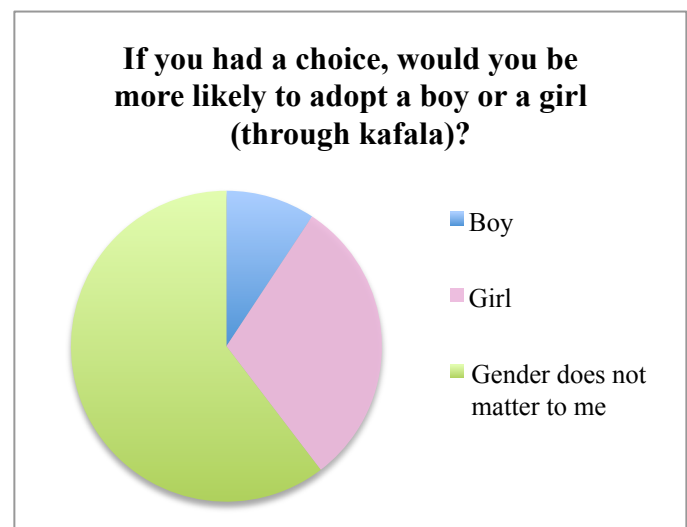
the choice between the options "Boy," "Girl" or "Gender does not matter to me." 9.3% responded "Boy," 30.3% responded "Girl," and 60.4% responded "Gender does not matter to me." A combined 69.7 responded either "Boy" or "Gender does not matter to me," indicating an openness to adopting a boy.

In the focus group, when asked about gender preference one student responded, "If I had a choice, I would choose a girl. A boy would be responsible for himself; girls would be exposed to dangers."[58] The group also touched on the gender preference of individuals, stating that women are much more likely to want to adopt a girl, and men are much more likely to want to adopt a boy.[59] Another possible motive for choosing a girl over a boy was "because they are easier to raise."[60] Another student offered that boys are vey enthusiastic while girls are calm and passive, another possible reason for favoring the adoption of a young girl.[61] Lastly, one student differentiated between girls and boys in the future commenting, "Girls would emotionally support you when you get older. Boys could financially support you."[62]

Islam and Adoption

The importance of Islam on adoption practices was measured by the following question: "How important is Islam to adoption (kafala) in Morocco?" Respondents had the choice between "Very important," "Important," "Not important" or "No opinion." 47.5%

How important is Islam to adoption (kafala) in Morocco?

- Very Important
- Important
- Not Important
- No opinion
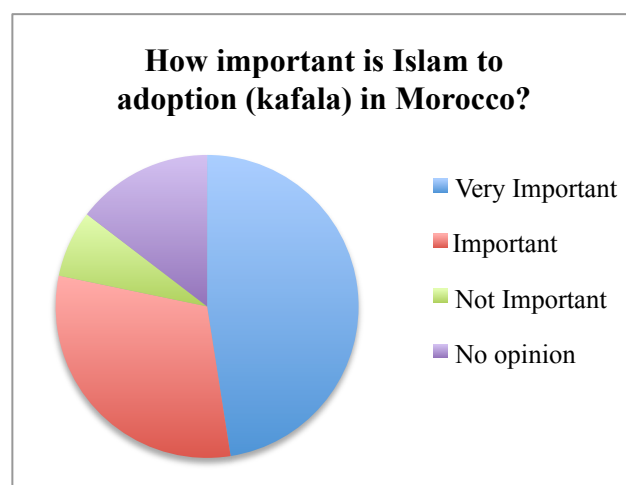
[58] University students1, group discussion with author, April 29, 2015
[59] Ibid.
[60] Ibid.
[61] Ibid.
[62] Ibid.

responded "Very important," 30.7% responded "Important," 7.1% responded "Not important" and 14.6% responded "No opinion." A combined 78.3% selected either "Important" or "Very important", indicating the significance of Islam in regards to kafala adoption.

Regarding adoption (kafala), do you think Islam is well applied in Morocco?

- Yes
- No
- No Opinion
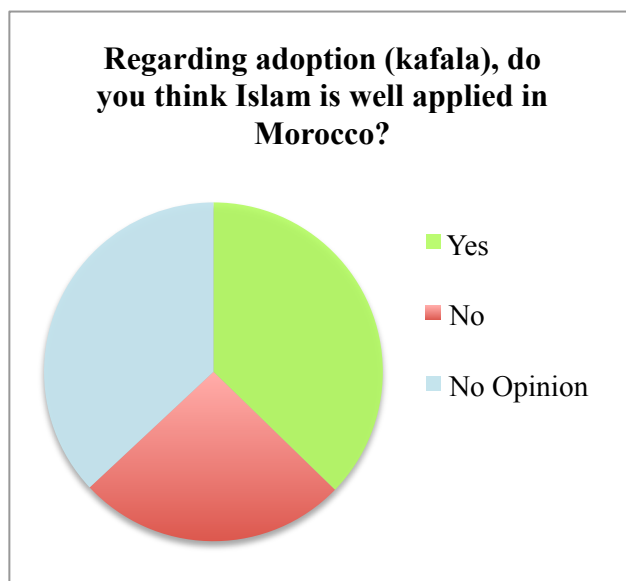
The function and effectiveness of Islam on adoption in Morocco was measured by the following question: "Regarding adoption (kafala), do you think Islam is well applied in Morocco?" Respondents had the choice between "Yes," "No" and "No opinion." 37.3% responded "Yes," 25.8% responded "No," and 37% responded "No opinion."

Identity and Adoption

The importance of identity, in different forms, on adoption was measured by several different questions. The first question addresses place of residence and reads: "*Should Moroccans living abroad* be allowed to adopt Moroccan orphans (through kafala)?" Respondents had the choice of "Yes," "No" or "No opinion." 81.3% of respondents answered "Yes," 4% of respondents answered, "No" and 14.7% of respondents answered "No opinion."
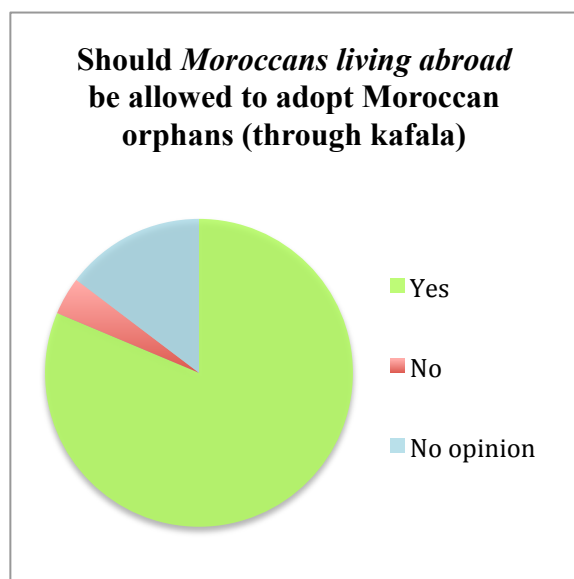
Should *Moroccans living abroad* be allowed to adopt Moroccan orphans (through kafala)

- Yes
- No
- No opinion

Should *Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?

- Yes
- No
- No opinion
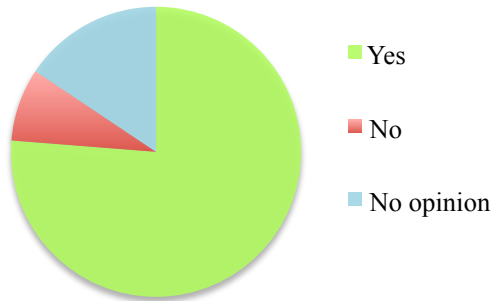
The second question addresses nationality and reads: "Should *Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?" Respondents had the choice of "Yes," "No" or "No opinion." 76.3% responded "Yes," 8.1% responded "No," and 15.6% responded, "No opinion."

The third question addresses religion as well as nationality and reads: "Should *non-Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?" Respondents had the choice of "Yes," "No" or "No opinion." 26.9% responded "Yes," 46.9% responded "No," and 26.2% responded "No opinion."

Should *non-Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?
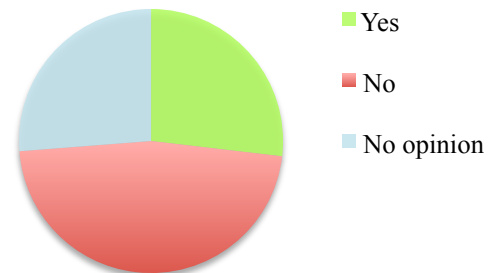
- Yes
- No
- No opinion
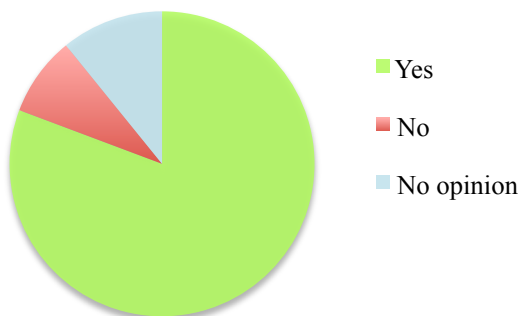
Of the respondents that answered "yes" to the previous question, a follow-up question was asked that read: "If yes, should non-Muslim adoptive parents keep the child's religious identity?" Respondents had the choice between "Yes," "No" or "No opinion." 80.7% responded "Yes," 8.4% responded "No," and 10.8% responded "No opinion."

If yes, should non-Muslim adoptive parents keep the child's religious identity?

- Yes
- No
- No opinion

The students in the focus group seemed to concur that keeping the religious identity of the child was an important aspect of kafala. The students agreed that as young children, an orphan is not old enough to "choose his own path." However, a number of students expressed a wish that the adopting family allow the child to choose their own religion as they grow older—especially if the family was not Muslim. However, there was a general consensus that is preferable for the orphaned children to be adopted by Muslims. One student mentioned the principle of "inviting more people to Islam" which is widely accepted and in fact promoted, whilst apostasy or converting people to religions other than Islam in Morocco is not tolerated.[63]

Social Stigmas and Stories of Adoption

The focus group also touched upon some social stigmas regarding kafala in Morocco. One student thought that children who are adopted are teased by their peers and might hide the fact that they are adopted to avoid this stigma.[64] In addition to their peers, the students in the focus group also talked about the potential stigmatization of adopted children by their adoptive parents, who may favor their own biological kids over adopted children if they have children of their own either before or after they adopt through kafala.[65] One student told the story of a women she knew who adopted a son who is now sixteen and still does not know that he isn't her real son.[66] This woman gave the boy her last name as well, complicating the issue in terms of adoptive matters in Morocco.[67]

Another student recounted a documentary they had just watched that depicted female performers, singers and dancers, who are stigmatized in Moroccan society because of the "scandalous" nature of their work and consequently often cannot find husbands. However, many

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[63] University student, group discussion with author, April 29, 2015
[64] Ibid.
[65] Ibid.
[66] Ibid.
[67] Ibid.

of these women choose to adopt children through kafala in order to form families of their own. The students thought that in this case kafala served a very positive purpose in these women's lives.

On the other hand, the students in the group also told stories that highlighted the dark underside of kafala in Morocco. One student remembered a woman, his childhood neighbor, that adopted a boy who she aggressively abused on a daily basis.[68] The same woman went on to adopt a girl who she used mainly as a maid in her own house.[69] The children did not go to school and kafala, in this situation, put them in harm's way. Another student explained that in some rare cases, girls who are adopted are sexually abused by their adoptive fathers.[70] And finally, the group touched upon another phenomenon that is impacted by orphaned children: beggars in the street. One student acknowledged that many women who beg with young kids or infants on the street actually borrow the children from orphanages to help their chances at getting money from passersby.[71]

Analysis

I thought the results of my interviews and questionnaires were both surprising and expected, in different ways. It was fascinating to hear the focus group students talk through their own conceptions of adoption, which varied from person to person. Although kafala is a legal term that brings with it a connotation of financial responsibility, it is clear that kafala also represents to many a chance to help a child in need and give them a chance at a successful future. Interestingly, not one of the students cited the story of Zayd when explaining why Islam forbids adoption in the Western sense, which is referred to in almost all academic literature on adoption

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[68] University students, group discussion with author, April 29, 2015..
[69] Ibid.
[70] Ibid.
[71] Ibid.

in Islam. However, one student did mention the problem of inheritance—remarking that adopted sons or daughters should not inherit in the same way that biological children. Therefore, it seems that the rationalization behind the prohibition of adoption in Islam has been explained in other ways aside from the traditional historical context.

As far as openness to adoption goes, I was pleasantly surprised by the number of students surveyed who responded favorably to considering kafala adoption in their future. 36.6% of students responded "Yes," indicating a strong consideration for adoption and 56.2% responded "Maybe," indicating a possibility of consideration. A combined 92.4% answered either "Yes" or "Maybe," indicating an openness to adoption in the future—an overwhelming majority of the survey respondents. Only 7.6% responded "No"—mostly based on their own preference for biological children, something that is personal and independent of any outside forces. These responses look promising for the future of adoptive parents through kafala in Morocco. However, it is important to remember that this question only measured openness and not action. Therefore, someone could easily be open to adoption, but chose not to for various reasons.

It is also important to consider the reasons why respondents answered "Yes" or "Maybe" as well as the conditions needed for kafala adoption to take place for each individual. Economic resources were the most popular condition with 31.7% of respondents acknowledging that financials are a factor. This statistic makes sense considering the fact that "kafala" was largely associated with financial assistance in the focus group of university students—so financial stability makes up a large factor of the decision to adopt through kafala. The case of infertility received nearly a quarter of the responses (23%). In that case, the desire to create a family (despite infertility) would fuel kafala adoption, which would take a child into the family in lieu of a biological child—perhaps highlighting the emotional nature of kafala that some students in

the focus group recognized, such as the student who felt the only difference between kafala and Western adoption was the lack of inheriting the same last name.

Fulfilling the value of Islamic solidarity received nearly another quarter (24.5%). This highlights the positive role of Islam on adoption, as was referenced in many free response answers as well that highlighted the importance of caring for orphans mentioned in the Qur'an and the hadith. In that case, kafala adoption may be in addition to biological children (if one is motivated by strong feelings of solidarity). Spousal approval also received 15%, indicating that adoption would be a joint decision. The administrative procedures did not seem to be a hindrance to many who showed an openness towards adoption as only 2.6% responded "Yes, if the administrative procedures are not too complicated."

These findings suggest that a large majority of students would consider adoption in the future for a variety of different motivations. Specifically, the factors of financial stability, ability (or rather lack thereof) to have children, and a desire to fulfill the value of solidarity seemed to be the most common reasons given for potentially adopting a child through kafala in the future.

Interestingly enough, the reasoning why students would not want to adopt in the future were slightly different. The majority (60%) preferred to have their own children. Both administrative procedures and economic resources received small amounts of consideration from the students surveyed (13.3% and 14.7% respectively). Only 4% refused the idea of adoption completely, illustrating the general acceptance of kafala as an institution.

Just as in the prior literature in the field indicated, there indeed was a preference for girls that emerged from the survey results—however the degree to which this preference existed was not as great as one could have thought. Although 30.3% responded that they would prefer to adopt a girl, 9.3% actually responded that they would prefer to adopt a boy and 60.4% responded

"Gender does not matter to me." A combined 69.7 responded either "Boy" or "Gender does not matter to me," indicating an openness to adopting a boy. This may point to an over exaggeration of the degree to which girls are preferred in Moroccan kafala adoptions. However, it may also point to a new outlook on kafala adoption from a younger generation. Perhaps this new wave of young adults will not carry the same stigmas with them that the generations before may have.

In any case, the overwhelming gender neutrality regarding kafala may be a potential gain for adoption agencies and orphanages. If indeed there is a large proportion of society that would be open to adopting young boys, there may be an opportunity for an outreach or advertising campaign that seeks to educate Moroccans about the problem of young boys growing up without adoptive families through kafala. If the population is educated about the issue, perhaps these young boys would have the opportunity to grow up in a Moroccan family instead of an orphanage.

Yet, although the questionnaire results point to a potential shift away from an overwhelming preference for girls, the focus group of English students had opposite results. There was an overwhelming focus on why families would prefer to adopt girls instead of boys, with a few students themselves admitting that they would prefer girls, and that they do not see Moroccan society changing in the foreseeable future as kafala is an individual decision that cannot be influenced by outside factors.[72] These results from the discussion, that contradict somewhat the results of the questionnaire, illustrate that sometimes further discussion is needed to fully understand the issue (in addition to one multiple choice question). It is my opinion that further research on the issue, along with a dialogue with adoptive institutions, could be a beneficial project in the future.

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[72] University student, group discussion with author, April 29, 2015

The importance of Islam on adoption practices was confirmed in this study. 47.5% of respondents indicated that Islam was "very important," and 30.7% responded it was "important." That adds up to a combined 78.3% who indicated an importance of Islam in regards to kafala adoption. Only 7.1% responded that Islam was "not important" in regards to kafala adoption.

However, the application of Islam on kafala adoption in Morocco had much more of a divide. 37.3% indicated that Islam was applied well to adoption practices, 25.8% indicated that it was not, and 37% responded "No opinion." Based on these responses it is hard to draw any firm conclusions because of the lack of a strong majority opinion. However, it is interesting to note that only 37.3% of students surveyed thought that Islam was well applied in the case of kafala—a much smaller number than those who thought Islam was important. On the other hand, it is not necessarily being carried out in practice as it should be in the eyes of 25% of students surveyed. This indicates there might be a disconnect between the conception and the reality of kafala. All of this being said, it is important to keep in mind that 37% had no opinion on the matter, indicating perhaps a lack of understanding of the issue as it pertains to religion.

Regarding identity, respondents had overwhelmingly clear opinions as there were many large majorities that emerged. 81.3% of respondents thought that Moroccans living abroad should be able to adopt Moroccan orphans through kafala, with only 4% of respondents answering unfavorably—highlighting a very clear majority opinion on the matter. These statistics show that, as far as identity goes, place of residence is not an important determining factor, as both Moroccans abroad and within the country should be allowed to adopt through kafala.

Similarly, 76.3% of students surveyed thought that Muslim foreigners should be able to adopt Moroccan orphans with only 8.1% answering unfavorably. This data shows that the

religion of an adoptive parent matters more than nationality for most students surveyed, as overwhelming majorities favored Moroccans as well as Muslims of other nationalities. Therefore, to adopt a Moroccan child it is not necessary to be Moroccan, but to have an Islamic identity. These findings interestingly do not support the circular issued in 2012 by Minister of Justice Mustapha Ramid, which forbade all foreigners from adopting Moroccan orphans. If the surveyed students are any indication of the general population's attitudes towards adoption, an overwhelming majority supports Muslim foreigners adopting Moroccan orphans. Therefore, the actions of the government in 2012 that negatively impacted orphans at the time would not seem to represent the views of the Moroccan population—an important aspect to consider when examining the political motives of legal decisions on adoption. Why was the circular published and who was it designed to help?

Conversely, in regards to the question of non-Muslim foreigners adopting Moroccan orphans, only 26.9% responded favorably, indicating again the importance of religion in the process of kafala. 46.9% indicated that they thought non-Muslims should not be able to adopt Moroccan orphans, almost half of the sampled population. Of the respondents who answered "yes" to allowing non-Muslims to adopt Moroccan orphans, 80.7% responded that the adoptive parents should keep the religious identity of the child. Therefore, even in the case of an adopted parent being a non-Muslim, the child would not lose their Islamic identity. With an understanding of the Moroccan context, where as stated earlier 99% of the population is Muslim, these statistics are not very surprising. Only 8.4% responded "No," indicating a freedom for the parents to choose the child's religion (other than Islam).

The focus groups' stories about the stigmatization of orphans sadly confirmed many of the painful realities that appeared in prior literature. The use of maids that the students brought

up on their own without any prodding confirmed the existence of such practices that invoke kafala to obtain free labor. Although some of the stories were hard to hear, it reminded me how complex kafala is in Morocco, and how it is sometimes misused by adoptive parents (in the case of domestic or sexual abuse). Interestingly, the students said they enjoyed talking about the issue because it is something that is not addressed by the media or in public discourse. The focus group allowed students to share stories they had heard or witnessed themselves and reflect upon them with other students who had similar tales to tell.

Conclusion

From these qualitative and quantitative results, we are now able to analyze a few trends that emerge. Kafala, as a conception, did not have a unified definition or representation to all students in the focus group. It seems as though it is fair to say that kafala, though a legal and financial term, also represents for many the welcoming of a child into a family in order to improve the child's life.

From the data collected from the questionnaires, there appears to be an overwhelming openness to adoption that could signal a potential increase in kafala adoptions in the future. The factors of financial stability, ability (or rather lack thereof) to have children, and a desire to fulfill the value of solidarity seemed to be the most common reasons given for potentially adopting a child through kafala in the future.

As was previously stated in the literature in the field, there does exist a slight preference for adopting girls. However, the majority of students surveyed did not have a gender preference. This piece of evidence could impact adoption agencies and orphanages outreach efforts, as perhaps there is (or will be) an untapped network of potential adoptive families who would

welcome orphaned boys in their homes. The role of Islam was also confirmed in this study, as a large majority highlighted the importance of religion (Islam) on kafala adoption. Both Moroccans abroad and Muslim foreigners received overwhelming support as potential adoptive parents. Even as a small minority indicated that non-Muslims should be allowed to adopt Moroccan orphans, an overwhelming majority of that group indicated that they thought the parents should keep the Islamic religious identity of the child.

Social stigmas were unfortunately confirmed in the focus group discussion. The stories that were told highlight the dark side of kafala in Morocco—encompassing abuse, neglect, exploitation and stigmatization. However, despite the horrors that due exist, the results from the focus group and questionnaires indicated many positive attitudes regarding kafala adoption in Morocco. It is my hope that kafala will continue to evolve in a positive way in the future, and that the results from this study and others of its kind will continue to inform the continuous discussion on adoptive practices in Morocco and around the world.

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SURVEY ON ADOPTION PRACTICES IN MOROCCO

This survey is a part of a university study that examines popular opinions on Moroccan adoption practices, specifically kafala or the "gift of care" that originates from the Qur'an. Kafala adoption in Morocco gives the child a legal guardian, but does not replace a biological parent or change inheritance in any way.

Participation in this survey is completely voluntary. You may stop at any time or skip any questions. Thank you so much for your participation!

1) In the future, would you consider adopting a Moroccan orphan (through kafala)?

- ☐ Yes
- ☐ No
- ☐ Maybe

2) If yes or maybe, in which conditions? Check all that apply

- ☐ Yes, in the case of infertility
- ☐ Yes, to fulfill the Islamic value of solidarity
- ☐ Yes, if the administrative procedures are not complicated
- ☐ Yes, if my spouse would also like to adopt a child
- ☐ Yes, if my economic resources permit adoption
- ☐ Other (please explain) _____
  _____

3) If no, why? Check all that apply

- ☐ I prefer to have my own children
- ☐ I refuse the idea of adoption
- ☐ The adoption administrative procedures are too complicated
- ☐ It is economically too costly to adopt a child
- ☐ Other (please explain) _____
  _____

4) If you had a choice, would you be more likely to adopt a boy or a girl (through kafala)?

- ☐ Boy
- ☐ Girl
- ☐ Gender does not matter to me

5) How important is Islam to adoption (kafala) in Morocco?

- ☐ Very important
- ☐ Important
- ☐ Not important
- ☐ No opinion

6) Regarding adoption (kafala), do you think Islam is well applied in Morocco?

- ☐ Yes
- ☐ No
- ☐ No opinion

7) Should *Moroccans living abroad* be allowed to adopt Moroccan orphans (through kafala)?

- ☐ Yes
- ☐ No
- ☐ No opinion

8) Should *Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?

- ☐ Yes
- ☐ No
- ☐ No opinion

9) Should *non-Muslim foreigners* be allowed to adopt Moroccan orphans (through kafala)?

- ☐ Yes
- ☐ No
- ☐ No opinion

10) If yes, should *non-Muslim* adoptive parents keep the child's religious identity?

- ☐ Yes
- ☐ No
- ☐ No opinion

11) Gender:

- ☐ Male
- ☐ Female

12) Age: _____

13) University department _____

ENQUÊTE SUR LES PRATIQUES D'ADOPTION AU MAROC

Cette enquête fait partie d'une étude universitaire qui examine les opinions populaires sur les pratiques d'adoption au Maroc, spécifiquement la « kafala » qui trouve ses racines dans le Coran. La kafala au Maroc ne remplace pas le parent biologique et ne change pas l'héritage, mais donne un tuteur ou gardien légal à l'enfant.

La participation à cette enquête est complètement facultative. Vous pouvez vous arrêter à n'importe quel point ou sauter n'importe quelle question. Merci beaucoup de votre participation !

1) Dans l'avenir, considéreriez-vous adopter un orphelin marocain (par kafala) ?

☐ Oui
☐ Non
☐ Peut-être

2) Si oui ou peut-être, dans quelles conditions ?
Cochez toutes les cases applicables

☐ Oui, dans le cas de l'infertilité
☐ Oui, pour satisfaire à la valeur islamique de la solidarité
☐ Oui, si les procédures administratives ne sont pas trop compliquées
☐ Oui, si mon époux/épouse veut aussi adopter un enfant
☐ Oui, si mes ressources économiques permettent l'adoption
☐ Autre réponse (expliquez) _____
_____

3) Si non, pourquoi ?
Cochez toutes les cases applicables

☐ Je préfère avoir mes propres enfants
☐ Je refuse l'idée de l'adoption
☐ Les procédures administratives de l'adoption sont trop compliquées
☐ Il est économiquement trop coûteux d'adopter un enfant
☐ Autre réponse (expliquez) _____
_____

4) Si vous aviez le choix, préféreriez-vous adopter un garçon ou une fille (par kafala) ?

☐ Garçon
☐ Fille
☐ Le sexe n'a pas d'importance

5) À quel point l'Islam est-il important à l'adoption (kafala) au Maroc ?

☐ Très important
☐ Important
☐ Pas important
☐ Pas d'opinion

6) Par rapport à l'adoption (kafala), pensez-vous que l'Islam est bien appliqué au Maroc ?

☐ Oui
☐ Non
☐ Pas d'opinion

7) Est-ce que les *marocains résidents à l'étranger* devraient avoir le droit d'adopter des orphelins marocains (par kafala) ?

☐ Oui
☐ Non
☐ Pas d'opinion

8) Est-ce que les *étrangers musulmans* devraient avoir le droit d'adopter des orphelins marocains (par kafala) ?

☐ Oui
☐ Non
☐ Pas d'opinion

9) Est-ce que les *étrangers non-musulmans* devraient avoir le droit d'adopter des orphelins marocains (par kafala)?

☐ Oui
☐ Non
☐ Pas d'opinion

10) Si oui, est-ce que les parents adoptifs *non-musulmans* devraient garder l'identité religieuse de l'enfant ?

☐ Oui
☐ Non
☐ Pas d'opinion

11) Sexe:

☐ Homme
☐ Femme

12) Âge: _____

13) Département d'étude _____

(ARABIC TRANSLATION)

بحث حول الكفالة بالمغرب

تندرج هذه الاستمارة في إطار بحث جامعي يفحص آراء الشباب حول ممارسات الكفالة في المغرب، وخصوصا بالمعنى الذي وردت به في القرآن الكريم. والكفالة في المغرب لا تعوض الوالدين البيولوجيين، ولا تغير الإرث، وإنما تمنح وصيا شرعيا للطفل.

1. هل تفكر أن تتكفل بطفل يتيم في المستقبل؟

1. نعم   2. لا   3. ربما

2. إذا كان الجواب بنعم أو ربما، ضمن أي شروط يمكنك التكفل بطفل يتيم مستقبلا؟ (جواب واحد)

1. نعم، في حالة العقم
2. نعم، عملا بقيمة التضامن الإسلامية
3. نعم، إذا كانت الإجراءات الإدارية غير معقدة
4. نعم، إذا كان زوجي/ زوجتي يريد التكفل بطفل يتيم
5. نعم إذا كانت مواردي الاقتصادية تسمح بالكفالة
6. آخر (حدد...)

3 إذا كان الجواب بلا، لماذا؟ (جواب واحد)

1. أفضل أن يكون لدي أطفال مني
2. أرفض فكرة التكفل بطفل
3. الإجراءات الإدارية للكفالة جد معقدة
4. التكفل بطفل جد مكلف اقتصاديا
5. آخر (حدد...)

4. لو كان لديك الاختيار، هل ستفضل التكفل بولد أو ببنت؟
1. ولد   2. بنت   3. الجنس لا يهم

5 ما مدى أهمية الإسلام في الكفالة بالمغرب؟

1. مهم جدا   2. مهم   3. غير مهم   4. بدون رأي

6 في ما يخص الكفالة، هل تعتقد بأن الإسلام مطبق جيدا؟
1. نعم   2. لا   3. بدون رأي

7 هل يتوجب أن يكون للمغاربة المقيمين بالخارج الحق في التكفل بيتامى مغاربة؟
1. نعم   2. لا   3. بدون رأي

8 هل يتوجب أن يكون للأجانب المسلمين الحق في التكفل بيتامى مغاربة؟
1. نعم   2. لا   3. بدون رأي

9 هل يتوجب أن يكون للأجانب من غير المسلمين الحق في التكفل بيتامى مغاربة؟
1. نعم   2. لا   3. بدون رأي

10 إذا كان الجواب بنعم، هل يتوجب على الآباء المتكفلين من غير المسلمين الحفاظ على الهوية الدينية للطفل؟

11 الجنس
1. ذكر   2. أنثى

12 السن: ....
13 الشعبة: ....