

## Profit, care and kinship: the de-kinning of birthmothers<sup>1</sup>

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### Resumen

Centrándose en el contexto brasileño, la autora describe cómo nociones relativas al lucro, al cuidado, y al parentesco inspiran leyes que determinan la relación entre padres de nacimiento y sus hijos adoptados por otras familias. A partir de un método multilocal, focalizado en descripciones etnográficas, el análisis pone de relieve las historias de madres de nacimiento y madres adoptivas que, a pesar de los obstáculos judiciales, mantuvieron algún tipo de contacto. Al tomar en consideración el temor a la influencia de la contaminación del dinero entre los diferentes tipos de padres, la autora trata de desplazar el debate y situarlo sobre una nueva base, una en la que la preocupación por el dinero se entrelaza con preocupaciones acerca de las relaciones. En el proceso surgen preguntas acerca de las nociones de moralidad materna incluidas en las políticas públicas.

### Abstract

Focusing on the Brazilian context, this chapter discusses how notions pertaining to profit, care, and kinship underwrite laws that terminate the relationship between birthparents and their children who have been adopted by other families. Within a multi-sited framework, the analysis highlights ethnographic fieldwork in which certain Brazilian birth and adoptive mothers -- despite the legal injunctions -- have had some sort of contact. By examining how the fear of the contaminating influence of money resonates among the different parents involved, I hope to shift the debate to a new footing: one in which worries about money are interwoven with worries about relationships. In the process, questions emerge about notions of maternal morality embedded in public policies.

In this chapter, focusing on the Brazilian context, I propose to discuss how notions pertaining to profit, care, and kinship underwrite laws that terminate the

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relationship between birthparents and their children who have been adopted by other families. Inspired in discussions on biopolitics, I see laws and legislation as part of the so-called new reproductive technologies (Rabinow and Rose, 2000; Dolgin, 1997; see also Melhuus, this volume). The emphasis on technology leads inevitably to an appreciation of globalized currents which take specific and often unsuspected forms within local settings (Ong and Collier, 2005). The adoption of children—as a topic of political and academic concern—has come to the fore exactly because of the tremendous flow of transnational adoptees in recent decades (Briggs and Marre, 2009; Yngvesson, 2009). In this respect, adoption is enmeshed in a vast field of people on the move -- from sex workers and football players to tourists and immigrant workers (Constable, 2009; Coutin, Maurer and Yngvesson, 2002).

However, I focus here on another sort of global-local dynamics: the way in which certain ideologies of family, fixed in international law and childcare policy, “travel” to various parts of the globe. Recognizing that this sort of process is never automatic, I have inquired elsewhere (Fonseca, 2009) into the mediating situations that “transform, translate, distort, and modify the meaning” of the international directives bearing on childcare (Latour, 2005: 39). In this chapter, I propose to consider how the legal technologies that surround adoption feed into the intimate feelings, as well as the practices, of certain birth and adoptive mothers in Brazil.

As Diana Marre and Laura Briggs (2009) have demonstrated, the adoption of children almost inevitably involves issues of tremendous social, economic and political inequality. In what analysts have come to describe as “stratified reproduction” (Colen, 1995), we encounter adoptive children coming from situations of violence (war zones, dictatorships, poverty) to be raised by families that are “better off”. Hence, the dynamics involved in this sort of child transfer present a privileged access to what one might term the political economy of kinship (Ginsburg and Rapp, 1995).

It is also relevant to consider how the so-called “Euro-American kinship” system weaves in and out of adoption practices. From Schneider (1978, 1984) and Strathern (1992) on, anthropologists have reminded us that this system involves a particular mix of values emphasizing, on the one hand, a belief in a “natural” component—shared substances such as blood and semen—and, on the other hand, a “cultural” component that underlines individual choice, affection and caring. This latter component has been highlighted in adoptive families, often dubbed “families of choice”, in which certain “kinning” processes have become paradigmatic of the way we create kinship ties (Howell, 2006).

Anthropologists who focus on adoptive practices frequently contrast legal plenary adoption, predicated on the erasure of the birth family, with the practices of informal child circulation found in many "traditional" settings in which children accumulate a series of parental figures (see Yngvesson, 2010; Briggs and Marre, 2009; Fonseca, 2004; Grau, this volume). They suggest that, in the former, legal setting, adoptive parents' objection to "sharing parenthood" with their child's original family is typical of the Euro-American system (Ouellette, 1996). While Anglo-Saxons insist that "blood is thicker than water", Latin speakers give voice to this perspective through the frequently cited adage: "*Madre no hay más que una*". However, as specialists have pointed out, one should not be lured by convenient "handles" into rigid modes of analysis. The growing acceptance of divorce and remarriage, and the proliferation of domestic units that include step-relatives have rendered pluripaternity banal in many settings (Cadoret, 1995; Le Gall e Bettahar, 2001). As researchers have repeatedly stated, Euro-American kinship is characterized—no less than kinship in other settings—by its ability to bend, relocate and adjust to new situations (Thompson, 2005). In a word, it is characterized by its "plasticity".

Nonetheless, researchers do well to remind us that, in practice, we find a "partisan use" of this plasticity<sup>2</sup>. There are some situations in which straying from hegemonic models of family is accepted, perhaps even celebrated. In others, there appears to be a policy of zero tolerance. Thinking through which situations are accorded these different treatments gives us an opening into the political economy of kinship. Let us consider, for example, behavior that deviates from the belief that biological parenthood is inseparable from the care that goes into raising children. Whereas adoptive mothers (women who don't give birth but do care for the child) are frequently set out as an example of the hard work that goes into *creating* kinship relations and identities, little has been said about the "de-kinning" process to which birth mothers (women who do give birth, but don't care for the child) are submitted. Anthropological analysis that has so brilliantly "denaturalized" the work of relatedness (Carsten, 2000) has been more timid in examining common-sense understandings on "abandoning mothers" and the seemingly obvious elimination of their parental status.

Drawing on a multi-sited ethnography centered in Brazil that has taken me from the shanty towns of Porto Alegre to the observation of proceedings

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2. Jeanette Edwards inspired this reflection in her dialogue with the audience following her talk at the 'Simposio Internacional: Procreación, Crianza y Género. Aproximaciones antropológicas a la parentalidad', GETP/GRAFO, Universitat Autònoma de Barcelona, May, 2010.

at the local juvenile court, as well as interviews with adoptive parents, I introduce the theme of money into the analysis to better understand the arguments commonly used to justify plenary adoption. As will become clear in the final considerations of this chapter, much of my analysis is inspired in the work of V. Zelizer (1994) on the "hostile worlds" consensus. This author holds that prevailing morality has relegated money and sentiment to two entirely separate ("nothing-but") domains that should not mix: sentiment complicates business matters, money corrupts affection. Hence we witness the uneasiness (ranging from distaste to outrage) that people concerned with adoption feel upon seeing children—the embodiment of family affection—mixed in with money matters. Observing, however, that these supposedly separate domains in fact meld together in most of our daily affairs, Zelizer prods us to think how this moral consensus is variably activated. Following this lead, I interrogate the extreme fear of "commercializing" adopted children (largely inspired in international legislation as well as media hype on scandals abroad), asking how it serves to justify a particular form of *national* adoption, putting a politically correct spin on the "clean break" principle that declares total rupture between an adopted child and its pre-adoptive relations.

I will begin by briefly outlining how, in international and national law, the no-contact principle that dictates a radical separation between birth and adoptive parents (rendering any sort of shared parenthood virtually impossible) has advanced hand in hand with the fear of a "baby market". However, through ethnographic fieldwork (my own and others), I mean to give voice to certain Brazilian birth and adoptive mothers who—despite the legal injunctions—*have* had some sort of contact. By examining how the fear of the contaminating influence of money resonates among the different parents involved, I hope to shift the debate to a new footing: one in which worries about money are interwoven with worries about relationships. In the process, I raise questions about notions of maternal morality embedded in public policies (see also Mummert, this volume).

### **International legislation: Fear of traffic, policies of control**

Adriana Piscitelli (2009) in a recent article on "the traffic of women", raises issues that are pertinent to our reflection. With the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Palermo, 2000),

"traffic" gained a precise definition. Article 3 of this document includes not only illicit means of recruitment (fraud, coercion, or payment) but also exploitative intentions as the *sine qua non* of "traffic": "Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (United Nations 2000<sup>3</sup>, art. 3). However, whereas the Palermo Protocol implicitly concedes that some sex workers may freely choose to cross national borders and so do not fall under the category of "traffic", the Brazilian Penal Code explicitly links all prostitution to "traffic". Disregarding the question of coercion, Brazilian law criminalizes anyone who "facilitates" a woman's crossing of national borders in order to work in the sex industry<sup>3</sup>.

Piscitelli's research suggests that, although the definition of traffic varies, different countries' policies converge in similar practices of repression. Working on the basis of ethnographic research among Brazilian women living in Spain and Italy—some who alternate prostitution with other jobs, others who are full-time professionals, and still others who have married a client—Piscitelli underscores ambiguities linked to the legal prohibitions surrounding her informants' dislocations. Although, in Europe, she encountered commercial intermediaries—who might finance a Brazilian woman's trip to the continent to work in some night club, she also discovered a number of informal social networks, based on long-time relationships, in which a better-off woman might help finance a friend's trip to Europe, eventually expecting a good return on the loan. Nowhere in her network of Brazilian female prostitutes (and ex-prostitutes) living in Europe did the researcher encounter anyone who had been coerced into traveling or forced to remain in prostitution against her will. The women (who had an above-average level of education) spoke of their transnational moves as a way of better channeling their professional resources toward projects of socio-economic ascension. Yet, a good number of these women had been submitted in Europe to humiliating police interrogations, incarceration and deportation in the name of combat against the "traffic" of women. Piscitelli's study reminds us that it is a fine line that exists between protection and persecution of the people involved.

Notwithstanding obvious differences, there are a number of provocative parallels we may draw between Piscitelli's observations on the "traffic" of women and her analysis on the "traffic" of children. A first similarity is that these are both spher-

<sup>3</sup> Recent changes in national legislation have broadened the criteria defining traffic to include "facilitation" of sex workers' geographic moves within the country.

res of activity that lend themselves to abuse and so require a certain government regulation. Throughout the first "boom" in international adoption (during the 1970s and 1980s), innumerable news scandals pointed to a lucrative "baby trade" that appeared to flourish in Latin American, African and Asian countries where legal control was at a minimum. The scandals conveyed implicit recognition that adoption had become a multi-million-dollar industry. They caused alarm in international forums, fueling the conviction that adoption should be strictly regulated lest children be turned into commercial commodities. In response to this sort of alarm, national and international legislation focused increasingly on regulating details associated with child circulation, culminating in the *Hague Conference on the Protection of Children and Co-operation in Respect of Inter-country Adoption* (1993). Interestingly enough, regulation appears to have stimulated transnational adoption, and, presently, the annual figures climb to record-high levels (Selman, 2009). However, in the decades since the Hague Convention, scandals involving the "traffic in orphans" have diminished or, at least, become more episodic.

A second similarity is that when scandals do come to the fore – such as the Darfur incident (Fonseca, 2009a) or, more recently, the supposed abduction of children from Haiti – there seems to be a certain confusion about exactly what constitutes "traffic". Notwithstanding media headlines on the "traffic in children", scandals such as those in Darfur or Haiti would not technically fall under this rubric. Although there may have been some fleeting accusations of wanting the youngsters for pedophilia or extraction of organs, it was clear to most concerned that the children in question were being "kidnapped" not to be commercially exploited, but rather to be raised as sons and daughters in European and North American households. The irregularities in such cases would not involve the Palermo Protocol, but rather other international legislation such as the Hague Convention or the *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (United Nations, 2000b). Although the bulk of this latter document is centered on sex-related abuse, it sets a broad definition for the sale of children – "any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration" (art. 2). Yet, in the recommendations for the definition of criminal acts (art. 3), "remuneration" loses ground to "Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption". The Brazilian Children's Code (1990) wraps up the two elements – profit and illegality – in the same article (239), defining as crime liable to fine and four to six years in prison: "The promo-

tion or help in the realization of practices aimed at sending a child or adolescent abroad in *disrespect of legal formalities or with profit in mind*<sup>4</sup>.

This conflation of profit with legal irregularity is a third similarity we find in the legal measures formulated to control the “traffic” in persons. It is significant that the 2000 protocol on the “Sale of Children” defines criminal acts in terms not of profit, but of violation of international law. In the field of adoption, certain forms of profit are acceptable. Let us consider, for example, the recommendations laid out in a follow-up evaluation of the Hague Convention, requested by the Hague Conference’s Permanent Bureau and carried out by the International Social Service (ISS, 2005). The ISS’s report recognizes the importance of accredited adoption agencies for a variety of services –preparing and supporting children, counseling birth families and accompanying adoptive families, etc.– that the central authorities in both sending and receiving countries would have difficulty in providing. Evidently, to assure high quality services, these agencies –almost always seated in “receiving countries” in the Northern hemisphere– must stipulate professional fees charged to the prospective adoptive parents. In North America, where critics have questioned the “non-profit” standing of some organizations, more reputable agencies have published their standardized fees on the internet in a bid for transparency, a “modest” estimate running to tens of thousands of dollars<sup>5</sup>. And even subsidized European agencies that may dispense with a good part of the service fees imply that intercountry adoption is a costly undertaking for prospective parents. On the other hand, Brazil, just as certain other “sending countries”, has tried to insulate adoption from commercial connotations by concentrating procedures within juvenile courts where services (from counseling to home studies) are provided free-of-charge. The interesting point is that, by law, Brazilian juvenile courts require that potential adopters of foreign nationality go through “a specialized accredited agency in their home country”. And, in so doing, they create an association that places face-to-face different philosophies on the legitimate use of money in the field of adoption.

The ISS (International Social Service) document provides an interesting lead into why money should be avoided in adoption transactions when it warns against:

4. In the original: “Promover ou auxiliar a efetivação de ato destinado ao envio de criança ou adolescente para o exterior com inobservância das formalidades legais ou com o fito de obter lucro”.

5. For example, the home page of Holt International states its 2006 fee: Application \$200, Adoption Study \$2,500-\$2,900, Adoption Study Update \$300, Dossier Fee \$2,795, Adoption Program \$5,324-\$17,215, Travel for an escorted child \$2,900-\$3,410, Postplacement \$1,200-\$1,400, Document Processing Service \$500 (optional-for China).

(...) pressure from foreign prospective adoptive parents, adoption accredited bodies and authorities of receiving countries in favour of the adoption of young children without serious health problems [that] runs the risk of encouraging abuse of inter-country adoption and thus disregarding the best interest of the child. (ISS 2005: 3)

High among vectors of potential abuse, the document singles out "independent" or "direct adoptions"—those arrangements made "directly (...) between the child's birth parents or carers and prospective adoptive parents without the intervention of a professional third party in the matching process" (ISS, 2005: item 6). Consistent with this perspective, the report underlines the importance of the Hague Convention's "no-contact" principle, expanding on its application. Article 29 of the Hague Convention stipulates a chronological specification to its recommendation: there should be no contact between birth and prospective adoptive parents *before* accredited intermediaries do the matching and go through all the necessary preliminary procedures. The ISS document suggests that even *after* the fulfillment of legal requirements, any contact would be "non compatible with the spirit" of the Hague Convention. Citing the Conference's original *Explanatory Report to the Hague Convention*, it stipulates a radical and permanent ban on any sort of communication between birth and adoptive parents:

(...) article 29 sanctions, as a rule, the prohibition of contacts in general terms, therefore including not only 'direct, unsupervised' contacts, but also 'indirect' or 'supervised' contacts (... visits, postal mail, phone calls, faxes, emailing). (ISS, 2005: 6)

In this document, "no-profit" is conflated with the notion of "no-contact", which—in a particular chain of associations—is seen as more in keeping with the rights of the child. The ban on pre-adoption contact (which might indeed be justified to stifle commercial impulses) blurs into a ban on post-adoption contact, calling on the all-prevailing fear of commodification to justify measures that extend well beyond the major risks.

This use of "risk" to expand measures of control presents a final possible similarity with the "traffic" of women. On the basis of this comparison, we raise the hypothesis that, just as in the case of sex workers described by Piscitelli, so in the case of child adoption, legislative concerns apparently inspired in the need to ensure protection (of birth families) are being channeled toward measures that are experienced by the "victims" as more punitive than protective.



## National policies: Banning profit, enforcing legal formalities

It is noteworthy that whereas the juxtaposition of money and affection appears to be accepted as inevitable in proceedings that involve accredited adoption agencies, this acceptance dwindles to zero in situations at the other end of the class spectrum – i.e., those involving birth parents. We may exemplify this lack of tolerance with a story that broke into the headlines of Porto Alegre papers in March 2009 – the details of which are reminiscent of other such scandals that have appeared in the media. A certain couple had supposedly “sold” their baby girl<sup>6</sup>. The parents had “confessed” to their crime, explaining they were poor and had three other children to think of. Thus, during this fourth pregnancy, they located a set of adoptive parents through a neighbor’s employer. The adopting couple agreed to pay all hospital expenses as well as a small monthly stipend during the pregnancy of R\$100 (about \$50 Euros) a month. All went well until the child’s birth when hospital administrators, finding it strange that an evidently poor, dark-skinned woman had her own private room, alerted the legal authorities. A post-partum visit to the woman’s home confirmed the suspicion that she had not kept her baby. Threatened with jail, the mother was able to summon her child back within the hour. However, a surprise visit by authorities on the following day proved that the child was once again living elsewhere with its adoptive parents. Now, no doubt in growing fear of police procedures, the birth mother changed her story to insist that she had never taken money, and that she had been pressured by the adoptive parents to give up her child. In the meanwhile, court officials interviewed by local journalists took the opportunity to repeatedly alert the population that the only legitimate way of adopting a child was to address a demand directly to the court adoption services.

This episode announces a basic ambiguity in Brazil’s system of legal adoption. Article 166 of the country’s 1990 Children’s Code allows for what is known as “direct adoption”, the possibility of birth parents handing over their child to another family, on the condition that the courts examine and approve the transaction. In Brazil today, estimates are that between 50 and 75% of legal adoptions take place in this fashion, restricting court interference to the final step of accepting or rejecting the arrangement agreed upon by the birth and adoptive families (Ayes, 2008). Yet, despite the technical legality of the process, one finds with increasing frequency authorities from hospitals, youth councils and the state attorney’s office

6. “Polícia encontra bebê de 5 dias vendido pela mãe no RS”, March 5, 2009.

denouncing just this kind of "direct adoption" as a sort of commercialization of babies.

The "internal contradiction" to the system is largely due to the judiciary's efforts, inspired in the Hague Convention, to create a national Registry of Adoptable Children, putting adoption, from beginning to end, completely under the control of a central (in the Brazilian case, court) authority. Proceeding according to the sort of plenary adoption stipulated by the Hague Convention, children are not "given" by their parents to another family. They are declared "abandoned" by state authorities and "given away" as anonymous wards of the court to their new adoptive parents<sup>7</sup>. Since the early 1990s, court professionals in Brazil have invested considerable energy in the quality of their adoption services and may well find it frustrating that many people prefer other forms of mediation. It is, then, no coincidence that, in much of the media scandal, the problem is not so much whether birthmothers are being paid or otherwise pressured to give up their babies, but whether or not the process has somehow sidestepped or otherwise minimized court expertise.

The ambivalence Brazilians experience in relation to court authorities can be seen in Brazil's new Adoption Law (Law n. 12.010) passed on August 3, 2009. Although there is repeated mention of the Central Registry of Adopted Children (created at long last in 2009), a clause that criminalized direct adoption, making out-of-court arrangements liable to a punishment of prison or fines, was removed from the bill a few weeks before it was approved in Congress (Couto, 2009). Interestingly enough, instead of criminalizing direct adoption, the law's final version attempts to better regulate the process, adding six new sub-paragraphs to the existing article (166) of the Children's Code.

The persistence of direct adoption is no doubt due to potential adopters who lose patience with the long delays (generally, from two to five years) they face as they move up in line on the Central Registry. In this official procedure, there is less than one child for every five prospective adopters<sup>8</sup>, and many of the available children (being older, darker or in fragile health) do not correspond to the profile most adopters are looking for. Nonetheless, ethnographic research suggests that birth mothers may have an even greater stake in direct adoption. The following

7. See Yngvesson (2002) on the distinction between "giving" and "giving away" in the adoption process.

8. In May of 2010, newspapers reported that the Central Registry contained a list of 5,000 adoptable children, and a waiting list of 27,000 candidates to adoptive parenthood (see Folha de São Paulo 9/5/2010).

two stories, the first drawn from my own field experience, the second from that of a fellow researcher, were chosen to illustrate this hypothesis.

1) *Lucia – help, contact and care*

Lucia is an adoptive mother in her early forties whom I got to know in 2007<sup>9</sup>. At the time, she had recently realized her dream of adopting a second child. Her first child, now well into his teens, had been adopted through the juvenile authorities and she and her husband had intended to repeat the process, going through official channels. They had received a positive evaluation from the juvenile court in recognition of their parental skills. However, the court's team of specialists had considered their one-bedroom apartment inadequate for a two-child family, thus classifying their new request as "non-priority". Although Lucia worked as secretary in a small firm owned by her parents, and her husband held a lower-echelon civil-service job, their joint incomes did not allow for the purchase of a larger abode. Through improvised divisions, they had been able to create a second bedroom, but the juvenile authorities insisted: there should be a separate bedroom for each child. Informed of the long list of candidates to adoptive parenthood registered at the Court, they could see their chances were slim.

It was during a period when she had nearly given up hope that Lucia received a phone call from an ex-neighbor announcing that her cleaning lady was pregnant. A woman with "drinking problems", and episodic "mental confusion", Simone –the mother-to-be– had manifested her desire to give the child in adoption, just as she had done with two of her previous three. As in so many other cases, the pregnant woman evidently had felt more comfortable confiding in the mediation of her employer than resorting to the impersonal court adoption services.

Advised by her friend to avoid direct contact with the pregnant woman ("I know Simone, she's liable to try and take advantage of you"), Lucia managed initially to keep her distance. But five months into the pregnancy, the woman received a shot-gun wound that put her pregnancy at risk; she stopped working and moved into the house of her some-time employer (Lucia's ex-neighbor). From that moment on, the two mothers –Lucia and Simone– began to talk daily on the telephone, establishing a sort of respectful friendship in which the two women shared non-identifying information about their respective families as well as up-dates on the baby's fetal development. Lucia admits that twice during those

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9. Data established during a series of interviews in Porto Alegre, as part of a research project centering on adult adoptees (Fonseca, 2009b).

last months of pregnancy she and her husband had provided groceries for the expectant mother's household, "because she herself was unable to work". But, she insists, no money ever exchanged hands.

The two women had still never had a face-to-face meeting when Simone finally went into labor. Lucia and her husband, who had immediately gone to the hospital and were among the baby girl's first admirers in the hospital's nursery, carefully avoided the birth mother's room. "Everyone" (Lucia's ex-neighbor, her own parents, etc.) had cautioned that—to prevent subsequent complications caused by the birth mother (demanding either money or the return of the child), there should be no direct contact, no revealing of identifying information. The neighbor would serve as anonymous relay for the child's transference to the waiting arms of its adoptive parents.

Things, however, did not go as planned. The child had a mild form of jaundice, and the hospital insisted on keeping it for a couple of days. The birth mother, who had up to now had all expenses covered by public health, would be permitted to stay on to care for the baby, but, after the first 24-hours, she would be expected to furnish her own meals. Throwing caution to the wind, Lucia began to take food to Simone ("I said that if she was going to try and shake me down, she would have done so by now."), being identified by hospital staff as the baby's grandmother, and cementing her relationship with the child's birth mother.

The final and most serious complication occurred the day the child was allowed to go home. Lucia and her husband were waiting for Simone and her baby at the hospital door, but the woman came out empty-handed and in tears. An anonymous phone call to the hospital had denounced their situation as a "sale" of babies, and now they had to face accusations of the hospital's professional staff together with the possibility of criminal prosecution. A number of informal hearings ensued at the hospital, during which Simone repeatedly stated that she had not received payment for her child. Furthermore, she insisted that she would give her child in adoption to none other than Lucia. Barring this alternative, she would reluctantly take the baby back to live in her own highly precarious conditions. As a result of investigations, Lucia and her husband—who had by now been obliged to hire a lawyer to mediate negotiations with the court—were authorized to initiate official adoption procedures, taking their baby girl home two days later.

Lucia maintained episodic contact with the birth mother over the next couple of months until she learned of the woman's death (from another gunshot wound). Although saddened by the loss, she expresses her satisfaction at having personally known Simone and at being able to furnish her adopted daughter with biographi-

cal details as well as, if the need arises, possible leads to other blood relatives. There is no doubt in Lucia's mind that she did not "buy" her baby or unduly pressure the birth mother. She *helped* the birthmother during her pregnancy, and, in the end, she was forced to *pay* a lawyer to complete the adoption. However, above all, she emphasizes the relationship of mutual respect she formed with her child's birth mother. Furthermore, it is her firm conviction that this relationship will benefit her own relationship to her adopted child. A poignant *postscript* to this story is that Lucia herself was adopted. Her adoptive parents denied her any information on her birth family, and only in recent years had she been able to experience a highly gratifying contact with siblings from her original family.

## 2) *Adriana – mediated contact, broken contracts*

It would be misleading, however, to pretend that all child transfers occur on so harmonious a basis. We can perhaps learn more about people's basic ambivalences by observing a case that reveals nagging suspicions and questionable demands on both sides of the transaction. The following story is drawn from the work of Fernanda Mariano (2008), a court psychologist and university researcher in the state of São Paulo, who visited Adriana, a certain birth mother, at intermittent intervals throughout her unwanted pregnancy. The birth mother was raising only one of her previously-born children; the others had been distributed among the youngster's paternal relatives. Motivated by the firm resolve that during this tenth pregnancy she would finally have someone looking out for her—someone who would be with her at the hospital and who would pay her hospital expenses, including the cost of a Cesarean operation and a tubal ligation—she went in search of adoptive parents for her baby<sup>10</sup>.

The elected couple, friends of Adriana's ex-employer, was careful to avoid direct contact with the woman who had been labeled by more than one observer "negligent" and "unbalanced". All contact took place through the mediation of a lawyer who was to provide modest forms of help during the pregnancy: groceries, medicine when needed, and milk for Adriana's one-year-old daughter. At first, Adriana appeared satisfied—pleased with the idea that she was helping a childless woman to experience the joys of a family. The lawyer would go with her for the prenatal medical consultations and, for the first time, she saw her baby on the

10. There are free public services for child birth as well as for sterilization. Adriana, however, shows little skill in gaining access to these basic services. She also claims to have had difficulty accessing government subsidies for poverty-stricken mothers.

ultrasound machine. On the suggestion of the lawyer, she wrote a letter to be kept for future reference by the child, receiving in turn promises of photos and other ongoing souvenirs.

Yet, half way through the pregnancy, Adriana's resolution began to waver. What would the child think of her—an "abandoning mother"—when it grew up? Was there not some way she and the adoptive parents could share parenthood? Furthermore, she was not receiving the treatment she had expected. The lawyer was always demanding receipts in return for the reimbursement of her expenses—receipts she claimed to have lost or forgotten. Classified by her doctor as a "pregnancy at risk", she was cautioned against taking on new jobs as cleaning woman, yet, the lawyer refused to compensate her for lost wages. Adriana was deeply disappointed that she'd been unable to meet her child's future adopted parents and suspected the lawyer of somehow corrupting what might otherwise have been a mutual understanding between the two families. On top of it all, Adriana's neighbors were exerting pressures, insisting that they would help care for the baby. They insinuated that she was being cheated, that the adopting parents were not upholding their side of the bargain. It was at this point that Adriana began to object that she felt "like a birch who gives her puppies away". Faced with the expectant mother's hesitations, the lawyer countered with threats: his clients had already invested a lot of money and if she went back on her decision, they would press charges asking for reimbursement, and she would run the risk of being put in jail.

The researcher's final contact took place shortly after the baby's birth. As Adriana tells the story, right after the child's birth, a woman friend of the adopting couple came together with the lawyer and hospital staff to take her baby away. "What was I to do?" Although she was barely able to walk, she was made to visit all the bureaucratic offices, to establish the child's birth certificate and sign other documents. Following instructions, she declared the child "of unknown paternity" although she was living with its father at the time, and afterwards she was left in her house, to fend as she might during the recuperation period. Complaining that she had been unduly pressured, that she did not receive the treatment she had hoped for, and that she wasn't even sure the doctors had tied her trumps as she was expecting, Adriana confessed that she was "thinking seriously" about going to the courts and demanding her child back.

In this worst-case scenario, it would be convenient to chalk conflicts off to the problems of Adriana's "unbalanced" mind. However, knowledge of other similar cases leads us to suggest that Adriana is giving voice—albeit in a rather crude way—

to ambivalences that many other birthmothers feel. Such ambivalences do not often come to the fore in public debate – thanks to the comforting image, promoted by adoptive parents and their intermediaries, of birthmothers as passive victims. Birth parents correspond to the image of “noble” and “self-sacrificing” when they show the proper attitude of contrition, shame, submission and (eventually) gratitude to the adoptive parents. Above all, the “good” birth mother is one that accepts to be completely forgotten. The above cases – and Adriana’s in particular – are provocative exactly because they show things are not so simple.

### Who is being protected?

It has been stated with great insistence that the objection to direct adoption – or, for that matter, any contact between birth and adoptive family – is that it renders birth families vulnerable to the pressures of adopters wanting their babies. This view implicitly recognizes the inequality that pervades the adoption process – putting the accent on the “buying power” of relatively well-off adopters who may take advantage of poverty-stricken families. Indeed, Adriana’s story contains elements to support this fear. However, as anthropologist Villalta has pointed out in the nearby Argentine context, “The protection of women who give their children in adoption (...) also excludes them from the possibility of choosing the adoptive family, since direct adoption is seen to be a covert form of “traffic in babies” (forthcoming). And, interestingly enough, the idea of *protecting* birthmothers often goes with the idea that these women are either incompetent or unworthy. As a certain judge comments, “It is highly debatable whether or not the court should pay heed to a woman who has opted to abandon her child” (Villalta, forthcoming).

Ironically, this judicial authority’s attitude is not entirely foreign to that expressed by people I met during research in lower-income neighborhoods of Porto Alegre (Brazil). Ever since the first days of my fieldwork (the early 1980s), I have studied the practice of the “circulation of children” in which youngsters are transferred from one family to another – sometimes for months, sometimes for years, sometimes on a permanent basis – completely outside any legal supervision (Fonseca 2004). I have consistently pointed out that, although this practice is firmly embedded in traditional networks of mutual aid, it is not void of conflict. In some cases, the birth mother may reappear after years, claiming her life has improved and she’s ready to assume her child. Such cases provoke a great deal of debate between the different mother figures about who has priority rights. I

have often heard the indignant objections aimed at the birthmothers: "All those women want is for someone to care for their children free-of-charge". Caretakers may even take the birthmother's renewed interest as a form of emotional blackmail: "She doesn't really want the child back; she's just saying that to get us to give her some sort of a hand-out." These accusations go beyond allegations of incompetence, depicting birthmothers as women who are not morally worthy of being called mothers.

There is, however, another side to this story that, thanks to field research, emerges with equal intensity—that of birthmothers who tend to evoke a different set of meanings to justify their attitudes. Most such women I interviewed denied any connotation of having "abandoned" an offspring, arguing that, on the contrary, they had sacrificed their own emotions in order to guarantee their child a better life. They had acted as responsible, loving mothers by choosing a good adoptive family. Descriptions of the child's privileged existence in the new (relatively) well-off family would inevitably follow. The relation of respect they had with the adoptive parents would underline the virtue of their own reasoned consent. When possible, they emphasized the delicate patience shown by the potential adoptive mother (often chosen from the child's extended family) when faced with the birthmother's original ambivalences (Fonseca *et al.*, 1994; Fonseca, 2004). It seemed to be important for these women to state in their narratives that, a) knowing where their child had been placed, they were able to attest from afar to their youngster's well-being, and b) they had been treated by the adoptive parents as worthy partners in the decisions that would affect their child. In other words, they had established a sort of relationship (even though brief or extremely episodic) with the adoptive parents, in which they felt their dignity as caring mothers had been preserved.

Of course, it is unlikely that birthparents would ever admit during interviews that they had attempted to draw personal benefit from their child's placement. However, as we saw in the newspaper scandal cited above, if any such benefits come to public attention, birthparents will justify their acceptance of aid by evoking the needs of their other children—the adopted child's siblings. The idea is that, more than a question of personal enrichment, money may be a tool for family solidarity. This hypothesis puts an interesting spin on accusations we heard from a certain woman, that her neighbor had given her child in adoption "as though it were a bunch of bananas". This expression may simply be underlining the predictable moral condemnation of any woman who chooses not to keep her baby. It may also be implying that the mother acted irresponsibly, cheapening



her baby's worth and neglecting the needs of other members of the family, by not exacting an appropriate gift in exchange.

M. Strathern (1992) provides insight into the various possible ways of interpreting the child transfer. Underlining contrasts between Melanesian and European perspectives, the anthropologist suggests that Western consumer logic is defined not so much by money as by the image of an *impersonal* market, with the independent *individual* exercising *free choice* at its center. According to this perspective, even charitable altruism follows the directives of Western consumer logic, prizing the notion of an individual's *anonymous* donations to a *faceless* recipient. The idea of 'no strings attached' which accompanies charitable acts would be foreign to the Melanesian gift economy she describes in which relationships and mutual obligations are the central issue. Indeed the very idea that it is possible to 'give away' objects—be they children or bracelets—as though they were detachable from the original relations which engendered them—carries particularly Western connotations of property and ownership (see also Yngvesson, 2002).

Strathern's analysis operates an interesting shift in the usual accusations against the commercialization of children. According to the perspective she sets out, legal adoption—which presents children as "detachable" goods in the anonymous circuit of altruistic donations—would be more aptly associated with commodity logic, while the small payments in species and kind made by adoptive parents to the birth family—signifying relationship and mutual obligation—are more in keeping with the logic of the gift. It is significant that it is adoptive parents who link the contaminating influence of money to the need to cut all contacts with the birth family, and it is they who value the clear contractual relationship established by the courts. As one intermediating lawyer cautions her clients: "You'd best not help too much during the woman's pregnancy; you can never be sure she won't change her mind". The same lawyer explains that it's unwise for the adopting couple to receive the child before they have the judge's authorization: "It's the judge who guarantees the rights of the adoptive parents". Not surprisingly, research in other parts of Brazil suggests that one of the major reasons potential adopters submit to a court-conducted process is that they have suffered bad experiences with previous attempts at direct adoption (Oliveira e Abreu, 2009). The anonymity provided by the courts pre-empts the possibility of relationships, reducing the birthmother's bargaining power to zero.

Birthparents, for their part, appear to place a high value on relationships; they therefore shun court services that deny them this possibility. A woman lawyer I interviewed relates a scene she witnessed that illustrates the sort of disarray bir-

birthmothers may feel when confronted with the no-contact principle of plenary adoption. The episode occurred during an audience in which the judge was officializing a direct adoption that the birthmother had, herself, planned and arranged. Following the usual protocol, the judge meant to explain the legal terms of adoption as clearly as possible. Underlining the fact that, after signing the child's relinquishment, the birthmother would have no further contact or information relating to the child, he concluded: "You will never see your child again. It will be as though your baby had died. Do you accept these conditions?" To the dismay of all present, the woman, visibly troubled by the judge's words, said no. Evidently, the process described by the judge was not the process she had imagined when making arrangements with the child's adoptive parents. The audience was immediately suspended and court authorities had all withdrawn when the birthmother, attempting to hand her child over to the adoptive parents she had chosen, realized that she had unwittingly rendered her child's transfer unviable. At this point, discovering she had no other alternative, the birthmother asked to call everyone back and reconvene the session. Episodes such as this lead us to think that it is not money, but relationships, not money that the birthmother is "bargaining" for.

## Final considerations

V. Zelizer (1994) furnishes a suggestive background to this debate in her analysis of child placement policies in the United States of the late nineteenth and early twentieth centuries. The study of institutional archives suggests that, during most of the nineteenth century, children were tolerated, appreciated or sought after according to the work they were able to furnish. Able-bodied boys were in demand than girls, and babies were seen as a burden. Parents unable to care for their new-born might give it to a "baby farm" or advertise in the paper for another family. In any case, they would be expected to supply a sort of dowry—a cash payment to the new child-keepers—in order to compensate their efforts until the child was old enough to earn his own keep. During the early decades of the twentieth century, the notion of the sentimentalized child—who would be emphatically spared from paid labor, taking his place in the family as an element of emotional investment—inverted this logic. Citing observers of the time on the existence of a "baby market", the author comments: "Ironically, while the economical 'less' nineteenth-century baby had to be protected because it was unwanted, the priceless twentieth-century baby, 'needs protection as never before... [because]

many hands are snatching it" (1994: 193). With the new mood came a change in profile of the receiving families (reasonably affluent professionals rather than craftsmen or farmers) and of the desired child ("blue-eyed babies and golden-haired little girls" rather than strong-armed boys). And, depending on the child, gleeful intermediaries found a way of doubling their profits, demanding good payment from the adoptive parents as well as the pittance they traditionally exacted from the birth mother or parents.

A rising class of childcare professionals (social workers, psychologists, etc.) assumed the task of protecting the now sacred child against the pollution of a commercial market, but they also faced a certain dilemma. Wanting to distance themselves from venal intermediaries who dared to make a profit from "coldly and calculatingly selling another human being"<sup>11</sup>, how were they to charge fees? Until the 1940s, many adoption institutions (orphanages, etc.) refused to stipulate service fees, relying exclusively on voluntary donations, considered more in keeping with the altruistic attitudes expected from all those concerned:

The shift from donations to fees was therefore, a sensitive matter. After all, as late as 1939, prospective adopters were warned, "Never pay anybody any money for a child—reliable agencies never ask fees". (Zelizer, 1994: 204)

New strategies were necessary to justify asking for any payment. In many adoption services, fees were presented as a way of satisfying certain symbolic needs of the adoptive parents rather than material needs of the agency (1994: 205). Yet, the reframing of money's legitimacy in the field of child placement allowed for certain exceptions, and not others. For example, the money-shy logic was used to avoid or minimize subsidies to foster families who, no longer entitled to expect compensation through the child's labor, were now made to feel mercenary for requesting financial support to meet the child's needs. The payment of a birth mother's medical and hospital fees, a common practice in non-profit independent adoptions, fell under suspicion. In other words, money might legitimately flow from well-off adoptive parents to a rising class of professionals. When spread to the lower echelons—birth families or even foster families—, money represented a dangerous violation to what was considered the cornerstone of successful childcare: the principle of altruism.

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11. Citation from proceedings of a Congressional Subcommittee on Child and Youth, 1975 (Zelizer, 1994: 202).

Court-enforced anonymity in adoption procedures followed on the heels of the sentimentalized child and the desire to ward off an increasingly tempting baby market. By the 1960s, adoption policies throughout the world were dictating the “clean-break” principle in which birth mothers would be rendered anonymous, completely removed from their child’s life. The policy was justified by alleging that it was the birthmothers themselves—unwed mothers seeking to hide the shame of an illegitimate child—who wanted anonymity. However, historians point out that court confidentiality—that guards court proceedings against the indiscreet intrusion of “third parties”—would have been sufficient to satisfy the vast majority of women (Samuels 2001). On the basis of my research, I would suggest that anonymity—a process that cut birth families off from the hope of every receiving any information on their child given in adoption—seems to have been closer to the adoptive parents’ likings. It was only with the guarantee of complete anonymity, rendering any contact with the birth family impossible, that they would feel safe from the birthmother’s ambivalences and eventual demands.

Of course, the dilemmas presented by transnational and inter-class child transfers afford no easy solution. Legal regulation and professional surveillance are undoubtedly necessary. The people involved cannot be sorted into facile categories of “good guys” and “bad guys”. Birthparents are not always innocent victims; adoptive parents may well merit a certain “protection”. Nonetheless, it would be advisable to guard against naturalizing any particular adoption policy as though it were a consensual issue. To present anonymity as being in the best interests of all concerned—as though most birth mothers sought this measure or welcomed analogous forms of protection—only adds insult to injury. And, to reduce the idea of exchange, inherent in any social relationship, to commercial payment motivated by individual avarice is to ignore alternative historically-shaped modes of reasoning, glossing over uncomfortable paradoxes inherent in the present workings of plenary adoption.

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