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vibrant.aba@gmail.com

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Fonseca, Claudia

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The De-Kinning of Birthmothers

Reflections on Maternity and Being Human

Claudia Fonseca, UFRGS, UNSAM

Resumo

Lançando mão de diferentes linhas de análise – da violência e subjetividade, da antropologia legal e das práticas de parentesco –, proponho nesse artigo considerar a entrega de uma criança em adoção como uma forma de sofrimento social. Em vez de enfocar o fenômeno espetacular de “tráfico” ou o “rapto” de crianças, examino a “violência cotidiana” na prática rotineira de adoção legal. Em particular, visio demonstrar como a adoção plena emerge como uma forma de violência burocrática estatal que arrisca aumentar o sofrimento que pesa sobre a experiência. Conforme essa linha de raciocínio, investigo o “de-kinning” de mães de nascimento, i.é., o esforço institucional investido em desfazer a categoria naturalizada da maternidade biológica. Contudo, minha questão principal, elaborada na segunda parte desse texto, é como esse processo é experimentado pelas pessoas mais envolvidas. Ao todo, meu propósito é olhar de perto situações nas quais a análise de discursos e práticas revela as ambivalências da experiência social, introduzindo assim novos elementos nos debates sobre políticas sociais, e ampliando as possibilidades criativas da “plasticidade” do parentesco.

Palavras-chave: violência e subjetividade, antropologia legal, práticas de parentesco, sofrimento social

Abstract

Bringing together different strands of social analysis – the work on violence and subjectivity, legal anthropology and studies on kinship practices –, I propose in this article to treat a woman’s giving away her child as a form of social suffering. Rather than focusing on the more spectacular phenomenon of “traffic” and “abduction” of children, I approach the “everyday violence” in adoption practices. In particular, I propose to demonstrate how legal plenary adoption emerges as a form of state-organized bureaucratic violence that “further burdens experience”. Following this line of reasoning, I investigate the “de-kinning” of birthmothers, i.e., the institutionalized effort that goes

into undoing the naturalized category of biological motherhood. However, my major question, treated in the second half of this text, will be: how is this process experienced by those most involved? Altogether, my purpose here is to follow through on situations in which the analysis of discourse and practice reveal the ambivalences of social experience, introducing new elements into policy debates, and enlarging on the creative possibilities of kinship's "plasticity".

Keywords: violence and subjectivity, legal anthropology, kinship practices, social suffering

The de-kinning of birthmothers – reflections on maternity and being human

Claudia Fonseca, UFRGS, UNSAM

A woman lawyer I was interviewing (in the course of my research on adoption practices in Brazilian courts) related a curious scene she had recently witnessed. The episode occurred during an audience in which the judge was officializing a direct adoption that the birthmother herself had 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 woman asked to call everyone back and reconvene the session¹.

Social suffering and everyday violence

In this article, with empirical research centered in Brazil, I propose to question the amazing lack of discomfort that, in contrast to the scene just described, seems to pervade normal court proceedings for the "de-kinning" of birth mothers. In particular, my interest here lies in the mechanisms that so readily permit birth parents to be written *out* of their children's lives. Inspired in the work of Veena Das and S.Cavell, I concentrate on the way the

¹ Interview from October, 2008.

words people use to describe the experience of “giving away”² a child are enmeshed in notions not only of rights, entitlement, victimhood... but also of the very definition of the “human”.

Most readers will be familiar with Das’ moving descriptions of the terrible consequences of the 1947 Partition of India for Muslim and Hindu women alike (2007). Stories include cases such as: a beloved sister or daughter put to death by her male relative to prevent her falling into the hands of the enemy; a woman pregnant by, bearing and eventually rearing the child of her rapist; a woman repatriated by the government to a home environment grown more hostile to her than the enemy’s... As the author describes the terrible ordeals her informants have been through, she builds our awareness of an ultimate indignity: these women are unable to give voice to their suffering because there are no words to describe it. Language – the language that can be invested with voice and emotion – has, so to speak, “gone on holiday”³. Experience has been sequestered, fixed in “frozen slides” that speak of tragedy (or even of heroism), but that capture nothing of the subtle complexity involved in the day-to-day experience of living through the ordeal into the following years.

In order to “give life” to the words she is hearing, to convey the subtlety of emotions as they are “worked on” through time, Das recommends a “descent into the ordinary”. Countering theoretical impulses that would seek agency only in extraordinary actions, Das insists on an alternative route: “a repeated attention to the most ordinary of objects and events” (2007: 6-7).

Cavell (2007), in his foreword to Das’ book, uses her material to illustrate a particularly disquieting rejection of otherness: a skeptical process that “results not in the realization of my ignorance of the existence of the other, but in my denial of that existence, my refusal to acknowledge it, my psychic annihilation of the other”. Here, the ultimate violence is a “wish for the other’s nonexistence” (2007: XIII). Das answers to the anxieties etched out by Cavell in a move that combines the ethical and methodological dimensions needed to find a language capable of describing even extreme instances of human

2 See Yngvesson (2002) on the distinction between «giving» and «giving away» in the adoption process.

3 The “voice” we refer to here (according to the work of S. Cavell, paraphrased by Das) is not “that of speech or utterance [but rather] that which might animate words, give them life, so to say...[...]... Words, when they lead lives outside the ordinary, become emptied of experience, lose touch with life—in Wittgenstein, it is the scene of language having gone on a holiday.” (Das 2007: 6) This remark was aimed particularly at the register of the philosophical, but we might say that it applies with equal relevance to the spheres of law and politics.

experience: “the question is not about knowing [...], but of acknowledging” . Again, just as in her methodological insistence on a “repeated” attention, she evokes the temporal dimension in her notion of “recognition”: “My acknowledgment of the other is not something that I can do once and then be done with it.” (ibid, p.6)

Das, of course, is dealing with critical events that involve collective violence and the consequences, shared by nearly everyone in the particular societies she studied, for notions of self, family and nationhood. However, Das, in collaboration with colleagues, has sought to extend the idea of “everyday violence” to include more subtle forms of suffering such as those produced and managed by the state. Arthur Kleinman (2000), for example, aiming to build a theoretical framework for comparing everyday violence in local worlds, repeatedly returns to the idea of *social suffering* (suffering that social orders – local, national, or global – bring to bear on people). Here, the notion of “infrapolitical emotions” points to the connections between collective experience and individual subjectivity, locating violence in everyday (and fundamental) elements of social structure such as hierarchy and inequality. Furthermore, despite recognizing differences in scale, Kleinman suggests that a radical distinction between the mass destruction caused by war and the routine inroads of *civil violence* may be analytically counterproductive as it appears to gloss over the possibility of contractual forms of violence defined and legitimated by the state. This latter sort of violence may be written into the very bureaucratic structures of government:

Policies and programs participate in the very violence they seek to respond to and control. Bureaucratic indifference, for example, can deepen and intensify human misery by applying legal, medical, and other technical categories that further burden social and individual experience (Kleinman 2000: 239).

In this article, rather than focusing on the more spectacular phenomenon of “traffic” and “abduction” of children (typically connected with transnational adoption and war-torn regions)(see Marre and Briggs 2009), I have chosen to approach the “everyday violence” in adoption practices by addressing the more humdrum processes that concern in-country adoptions during times of peace. In particular, I propose to demonstrate how legal plenary adoption emerges as a form of bureaucratic violence that “further burdens experience” and how birthmothers seldom encounter a vocabulary to express

the subtle complexities of what they feel.

The partisan plasticity of kinship

Elsewhere, I have described the international and national legislation that has established plenary adoption as the hegemonic global form of adoptive family formation (Fonseca 2002). Together with other scholars, I have questioned the way certain elements were widely incorporated into different legislations, naturalizing notions such as the “clean-break” principle (in which the adoptive family does not complement, but rather, *supplants* the child’s pre-existing relations) and the “no-contact” rule (in which official adoption procedures frown on or prohibit any direct relations between birth and adoptive families) (Volkman 2005, Bowie 2004, Yngvesson 2010). Relying on ethnographic research in Brazilian working-class neighborhoods, I have illustrated the miscommunication that often occurs when poverty-stricken parents, accustomed to various sorts of “child circulation” that do not signify a rupture in ties, are requested to consent to their child’s legal adoption. I have pointed out how, in this setting, it is not uncommon for children to be allocated (and to allocate themselves) to a number of successive households, or for such youngsters, grown to adulthood, to spontaneously speak of two, three or more women as “my mother” (Fonseca 2002, 2003). In such circumstances, as this article’s opening anecdote aptly illustrates, the principles embedded in modern plenary adoption may well be difficult to grasp. Thus, just as many other researchers, I highlight the discrepancies between legal plenary adoption, predicated on the erasure of the birth family, and the practices of informal child circulation found in many “traditional” settings in which children accumulate a series of parental figures (see Cadoret 1995, Yngvesson 2010).

As various scholars have reminded us, it is not unusual that people’s understandings, in actual practice, “sit uncomfortably” with legal categories (Strathern 2005, Collard 2009, Yngvesson 2010). However, upon examining the relation between practice and legal norms more carefully, one becomes aware that there is a good deal of give and take between the two. For example, observers have frequently attributed the clean break principle of plenary adoption to a generalized aversion to “shared parenthood”, typical of the “Euro-American kinship system”. Yet, in some situations, this aversion appears to have dwindled to the point of being irrelevant. The growing

acceptance of divorce and remarriage, with the concomitant proliferation of domestic units that include step-relatives, have rendered pluripaternity banal in many settings of the “West” (Cadoret 1995; Le Gall e Bettahar 2001). Similar such observations lead scholars to conclude that the kinship system in modern, urbanized settings 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 a certain “plasticity”.

Yet, in written law and other forms of hegemonic social representation, there appears to exist a “partisan use” of kinship’s plasticity. There are some situations in which straying from hegemonic models of family is accepted, perhaps even celebrated. In others, “straying” is met with a policy of zero tolerance. Let us consider, for example, behavior that deviates from the belief that biological parenthood is inseparable from motherhood. Whereas adoptive mothers (women who don’t give birth but do care for the child) are frequently set out as an example to be admired for the hard work that goes into *creating* kinship relations and identities (Howell 2006), 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. Might not the *unmaking* of a relational category such as motherhood (which, in other circumstances, appears so imperative,) teach us as much about underlying principles as the making of it? 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.

Bringing together the different strands of social analysis discussed up to now – the work on violence and subjectivity, legal anthropology and studies on kinship practices –, I propose in this article to treat a woman’s giving away her child as a form of *social suffering*. I work on the hypothesis that Euro-American social representations of human maternity present birthing and raising a child as inseparable issues. There is something so abhorrent in the idea of a mother’s “separating from [her] children” (Sanger 1996) that the woman who chooses to do so is practically ejected from the human category. I hold that, under the justification that the mother has consented to certain contractual conditions, it is this sort of nonexistence that appears to be endorsed by national legislation on adoption.

Following this line of reasoning, I investigate, in the first part of this

article, the work that goes into undoing the so-called naturalized category of motherhood. However, my major question, treated in the second half of this text, will be: how is this process experienced by those most involved? In particular, how do birth mothers, who are so regularly seen as void of human sentiment, deal in their day-to-day lives with their status of mothers/not-mothers? Altogether, my purpose here is to follow through on situations in which the analysis of discourse and practice reveal the ambivalences of social experience, introducing new elements into policy debates, and enlarging on the creative possibilities of kinship's "plasticity".

Narrative fragments, law, and lived experience

To carry through with this research agenda, I resort to a number of techniques – interviews with courthouse professionals (psychologists, social workers, judges), intermediaries of "direct adoption" (lawyers, housewives) and child-rights activists, the analysis of written documents (legislation and the like), and various ethnographic experiences with the major actors of the "adoption triad" (birthparents, adoptive parents and adoptees) spread out over a 15-year period (1994-2008). As the analysis draws closer to practices of intervention – and the notions of rights and justice that both produce and are produced by them – one becomes aware of how, among all the different "voices" involved in adoption, that of the birthparents remains the most difficult to make out. Exactly because this category has been constructed by others under the judgments of "unnatural", "irresponsible", or "shameful", it is not easy to encounter people who volunteer information⁴. Anthropologists are used to working with fragmentary evidence, but the emotions and values of people whose children have been given in adoption seem even more elusive, the fragments more fleeting, than usual.

There is a danger of working with fragments drawn together from different times (and, therefore, different contexts) – that of endorsing a vision out-of-time and out-of-place of the "eternal birthmother". Countering such a vision, I take it as axiomatic that, depending on the historical context, women in this category can be quite different, and that there are any number

4 See the work of Modell (1994), Motta (2005), Kendall (2005), Mariano (2008), and Högbäck (2010) for studies in different parts of the world that attempt to reconstitute the narratives of birthmothers.

of reasons that might bring a woman to give her child in adoption. Even were one to limit observations to working-class neighborhoods of southern Brazil, the influence of different government policies over the past twenty years would make it risky to hazard overly general conclusions. Yet, in dialogue with something as slow to change as national and international law, such fragments can be useful in opening up debate to lived experience.

The fact that the overwhelming majority of adopted children throughout the world come from situations of war or poverty points to the structural violence that underwrites the social suffering involved in “relinquishing” a child for adoption (see, for example, Marre and Briggs 2009). I suggest that this suffering has been understated in hegemonic representations because of a political economy in which the “negotiation” of meanings between the different partners in dialogue is marked by extreme inequality. Compared with birthparents, adoptive families tend to enjoy a relatively solid social and economic status that guarantees them superior political influence both among law-makers and in court audience. By piecing together narratives about as well as by birthparents, my aim is to evoke certain real-life experiences that provide a face to abstract categories and, eventually, trouble set axioms of adoption policy.

The institutional production of “abandonment” – circumscribing the historical moment

Volumes have been written demonstrating how, as the twentieth century advanced, beginning in the northern hemisphere but spreading to most countries of the “Western world”, the transfer of children from one family to another became institutionalized in law (Carp 1998, Samuels 2001, Solinger 2001, Modell 1994). As the professionals of specialized agencies and court bureaucracies moved to mediate the transfer, direct relations between giving and receiving families were minimized, “sanitizing” the transaction (Ouellette 1996, see also Zelizer 1985). Information that birth and adoptive parents might glean from one another as a result of direct contact and oral exchange gave way to written records controlled by the mediators.

The historian E. Wayne Carp (1998: 107), furnishes a striking example of this historically-situated “closing of the archives” during the mid-twentieth century. His evidence comes from the files of one of the principle North

American organizations responsible for arranging adoptions at the time: the Children's Home Society of Washington (CHSW). In 1955, a birthmother sought the organization to request a photo of the child she had surrendered to adoption some years before. Her request was immediately granted. Less than ten years later, in 1964, another woman presenting an identical request was met with caution: her case would first be submitted to a psychiatrist for evaluation. The psychiatrist recommended against passing any information (or photos) to the birth mother. In 1969, once again, a woman arrived at the CHSW to plead for a photo of the child she had given away in adoption. She met with a resounding "no", with no room for possible exceptions. Whatever the causes – whether new family sensitivities, a greater demand for adoptable children caused by a rising middle class, a "shortage" of adoptable children caused by birth control technologies and the "social revolution", or economic conditions that provoked a widening gap between the country's rich and poor – the mood had changed. From Europe to the Americas, the door had snapped shut on adoption records – both in written law and professional practice.

Researchers suggest that adoptive parents may have found official court secrecy to their liking (Lefaucher 2004, Carp 2004). Caught in the paradox of two widespread beliefs – that blood is thicker than water and that adoptive families should "imitate nature" (i.e., supplant the birthparents) – they lived in fear of losing their child's affections to its "real" blood relatives. One strategy for resolving this tension was to avoid any allusion to their child's pre-adoptive existence, or even to hide the fact of the adoption. In this sense, the "enfant trouvé", supposedly found by a casual passer-by on the public road, or deposited by an anonymous person at the "wheel" of some convent or hospital would be the ideal child to adopt (Ouellette 1996). If, for some reason, the adoption story came to light, parents might resort to other means of eliminating their child's first family – for instance, by recounting details to show the birthmother's behavior had been so reprehensible she didn't deserve to be called a "mother". In other words, the secret of a child's origins, as informally promoted in the adoptive family, was frequently justified by allusions to a shameful past involving an unworthy mother (Fonseca 2009b).

By the 1960s, adoption policies throughout the Western hemisphere were officializing secrecy, writing the "clean-break" principle into the law and thus guaranteeing that curious adoptees and concerned birthmothers would find

it difficult if not impossible to identify one another. In the post-war climate of modern democracy, official discourse shied away from the class-biased overtones of the moral condemnation of birthmothers. A new argument emerged in which anonymity was presented as the result of a demand made by birthmothers themselves. Historians examining the North American context suggest there is sparse evidence to support this allegation (Samuels 2001, Carp 1998, 2004). Even before the social revolution of the 1960s, unwed mothers seeking to hide the shame of an illegitimate child might well seek court confidentiality – i.e, a safeguard that would prevent the indiscreet intrusion of “third parties” into the register of court proceedings. But few if any expressed the desire to permanently seal off the possibility of information or contact with the child.

The number of associations birthmothers have organized during past decades to rehabilitate their image and facilitate information about or contact with their children is a good indication that laws imposing total secrecy were never to their liking. The North Americans – with organizations such as CUB (Concerned United Birthmothers) dating back to the 1960s, and, more recently, “Bastard Nation” – appear to be particularly articulate in their criticisms. They have campaigned with variable success (depending on the state) to change laws so as to “unlock” adoption archives, liberate information and permit more open relations between families who give and receive children than those urged by the official services (Modell 1994, Carp 2004, Solinger 2001).

In the U.S., much of the controversy surrounding open/closed records revolves around the contractual nature of the birthmother’s consent. Opponents to open registers insist that birthmothers, in signing the consent form, made a conscious choice, voluntarily agreeing to the “clean break” terms of the adoption. Leaders of the birthmothers’ movement cast serious doubt on the “conscious” and “voluntary” character of this consent by stressing the confusion and helplessness these women often feel when facing an unplanned or out-of-wedlock pregnancy. Some mothers say they signed the relinquishment form right after the child’s birth while they were still groggy from anesthesia. Many allege they did not really understand the finality of the contract. Some of the mothers (especially those who gave birth in the 1960s) come from middle-class backgrounds. However, they insist, along with activists of more humble origin, that, at the time of the relinquishment, they had been too dependent on others (because of their youth or

other circumstances) to make any sort of “autonomous” decision. Presenting themselves as victims of a conservative sexual morality and lacking support from their families, they speak of untoward pressures to give their babies up (Modell 1994, Carp 1998, 2004).

In France, where – since the Vichy government under Nazi rule, *accouchement sous-x*⁵ has been a way for women to bear children in conditions of complete anonymity – one finds a long record of individual law suits opened by adult adoptees and birthparents wanting “open access” to their records (Lefaucheur 2004). However, more organized resistance came only at the end of the 1990s in the form of the *Association des Mères de L’Ombre* (followed soon after by an adoptees’ association, dubbed “*Les X en colère*”)⁶. Much as in the U.S., these women claimed that they had not been informed as to possible alternatives to the anonymous procedure. They had understood that “accouchement sous x” was the only way to give a child up in adoption (Lefaucheur 2004, Sageot 1999).

Following on the heels of these social movements, the French government commissioned different researchers and organizations to analyze the subject. One study that included all the women who, in the previous five years, had chosen “accouchement sous-x” showed that the subjects were in general young (half were under 23 years old), financially dependent, and highly vulnerable to family and community influences. Referring to the various problems these women described – poverty, the lack of help networks for single mothers, the precarious status of immigrants, the pressures of conservative religious communities, domestic violence and others – the report concluded that the situation of mothers who solicit anonymity is characterized, above all, by a generalized lack of autonomy (Lefaucheur, 2000: 6, *apud* O’Donavan, 2002).

On the basis of such research results, the French juridical scholar, P. Murat (1999), ponders whether or not it is possible for a person – at a certain moment in his or her life – to, by contract, permanently renounce a fundamental human right. In the case of a birthmother’s maternal status, his answer is no:

5 In contrast to the medieval “wheel” – a sort of gyratory infant-sized mail box on the outside wall of the maternity ward –, *accouchement sous-x* allows for a woman to check into the hospital and give birth without leaving any record of her name.

6 *Mères dans l’Ombre* translates as “Mothers in the shadows”, and *Les X en Colère* as “The angry Xs”.

It is aberrant that, years after her request for anonymity, when the birthmother and her own child ...[both]... look for information that concerns them, the law adheres to the frozen effects of past circumstances that no longer exist (1999:68, translation by CF).

On both sides of the Atlantic, these “childless mothers”, as some of the American activists have titled themselves, insist: they are, in general not against adoption, and they have no intention of taking back their child or of denying the adoptive family’s authority. What they demand is the right to information – to have some idea of how their children are faring, how they are growing up, and, eventually, the possibility of some contact. As they see it, this (ongoing) information bears with it a recognition of their (ongoing) maternal status.

The long experience of anthropologist Judith Modell (1994) among North American birthmothers who participate in CUB reveals sentiments that are rarely voiced in public debates. As her informants tell their stories, one of “the most terrible aspects” of giving up a child was the advice they received from friends, family and professionals alike: that they should “erase the incident from memory” as though they had never been pregnant or felt the birth pangs, as though they were not and had never been mothers. As one birthmother explains: “ [I told my social worker]...she is still my daughter biologically, she still has my blood running through her. [...] I don’t care how much by law she’s theirs. [...] I say I have two kids and she’s one. I say, ‘well, one is just not here with me, that’s all’” (Modell 1994: 90). Here, we find a “voice” – repeated in innumerable other fragments concerning birthmothers’ experience – that clearly diverges from the established, legal view of adoption. Integrated into the “ordinary” of everyday life (pregnancy, “blood”, new offspring raised in the household), the “surrender” of a child in adoption emerges in memories and demands intertwined with fundamental questions of identity, recognition, and the access to information.

Brazilian birthmothers

What Brazilian birthmothers want and feel is rather more nebulous, considering that, although Brazil has witnessed in past decades an impressive proliferation of support groups for adoptive parents, the country holds to date no collective movement uniting birth families. However, by looking at

practices (in the absence of organized discourse), one finds evidence that birthparents have their own particular strategies for expressing preferences and exerting “agency”.

As background to this discussion, let us point out that the adoption scene in Brazil has changed a great deal since the largely unsupervised procedures of the 1970s and early 1980s⁷. Inspired in documents such as the 1990 national Children’s Code⁸ and the 1993 *Hague Conference on the Protection of Children and Co-operation in Respect of Inter-country Adoption*, the Brazilian government has worked hard to bring all national and intercountry adoptions completely under the control of a central (in the Brazilian case, court) authority. Ideally, in accordance with the sort of plenary adoption stipulated by the Hague Convention, children are not given *by their parents* to another family. They are declared legally “abandoned” and given *by state authorities*, as anonymous wards of the court, to their new adoptive parents. The irony is that, despite advances in the legal apparatus of government, many (and, perhaps, most) birthmothers manage to avoid the anonymity decreed by official court procedures.

Negotiating the limits between crime and legality, protection and control

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 a family they themselves have selected, 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 (Ayres 2008). Yet, despite the technical legality of the process, one finds in the daily press repeated mention of authorities from hospitals, youth councils and the state attorney’s office bent on denouncing just this kind of “direct adoption” as though it were illegal⁹.

7 The as yet tenuous penetration at the time of state bureaucracy into everyday affairs facilitated “clandestine” adoption (in which the office of public registry would issue the child’s birth certificate as though it had been born to its adoptive parents) as well as intercountry adoption (Fonseca 2007).

8 In Portuguese, *Estatuto da Criança e do Adolescente*, known as ECA.

9 The ambivalence Brazilians experience in relation to adoption procedures can be seen in Brazil’s

In Brazil, a mother's (or father's) separating from her child is *not* a criminal act. The penal code condemns anyone who "exposes" a child, that is, leaves it unassisted in circumstances that might be harmful or life-threatening (article 134)¹⁰. Also, at least since the 1990 Children's Code, Brazilian law expressly prohibits the "sale" of children. To transfer or even propose to transfer a child from one family to another "for money or any other sort of compensation" is a crime subject to fine and one to four years imprisonment (CC, art. 238). Punishment is potentially equal for buyers and sellers. As long as the parents avoid these classifications of illegality ("exposure" or "sale"), they are technically free to give their child into the care of any responsible adult – whether a court-appointed caretaker or an adoptive parent they themselves have chosen. The question in this latter form of transaction (direct adoption) is where to draw the line between the legal giving and the criminal selling of a child.

We may better appreciate the intricacies of this predicament by considering an incident that broke into the headlines of national papers in March 2010: "Police encounter 5-day-old baby sold by her mother"¹¹. The parents (it appears, *both* mother and father) 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 US\$70) 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

most recent amendment to the Children's Code, known as the "Adoption Law" (n. 12.010) passed on August 3, 2009. A clause that criminalized direct adoption, making out-of-court arrangements liable to a punishment of prison and fine, 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.

10 See Pedro (2003) and Rohden (2003) for historical data on the rather erratic judicial condemnation of women who have thus "exposed" their children.

11 Agência Estado: "Polícia encontra bebê de 5 dias vendido pela mãe no RS", March 4, 2010.

that the child was once again living elsewhere with its adoptive parents. Now, the birth mother, no doubt in growing fear of police procedures, 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. One may assume that, required to choose between the alternative classifications of “criminal” or “victim”, the couple opted, not unsurprisingly, for the latter.

It is noteworthy that the arguments here turn around the question of payment to the birthparents. Much as in the discussions on secrecy, legal injunctions against the presence of money are presented as being in the birthparents’ benefit. They are to protect economically vulnerable families against pressures from better-off individuals (couples or singles) seeking to use their financial clout to solve a problem of infertility. Indeed, the persistence of direct adoption is no doubt due, in part, to potential adopters who lose patience with the long delays (generally, from two to five years) they face as they move up in line of potential adopters on the courthouse list.¹²

Thus, in most policy debates on adoption, the need to protect poverty-stricken families is invoked as prime reason for barring any contact with would-be adopters. Yet such a move establishes a *de facto* monopoly of court services. And it is precisely at the court services where birthmothers will have no say in the choice of their child’s adoptive family and no information as to his or her development – in short, where they will have no option but to accept the terms laid out by the judge at the beginning of this article: that it will be as though their child had died. In this case, as in many others, “protection” implies a loss of autonomy to “pastoral powers” that claim to understand, better than the subjects themselves, what is best for them (Vianna 2005)¹³.

Aside from this protective intent, there are other explanations equally plausible as to why direct adoptions are so consistently condemned. One possible motive involves the competition of different authorities – state and private – over the circulation of children. Since the early 1990s, court professionals in Brazil have invested considerable energy in the quality of their

12 In May of 2010, newspapers reported that the Central Registry contained a list of 5000 adoptable children, and a waiting list of 27,000 candidates to adoptive parenthood (see *Folha de São Paulo* 9/5/2010). Adoption specialists generally add that many of the available children (being older, darker or in fragile health) do not correspond to the profile most adopters are looking for.

13 Piscitelli (2009), in her study of professional prostitutes, makes a similar provocation about sex workers who are prevented by “protective” legislation against traffic of persons from freely exercising their prerogative to cross national borders.

adoption services and may well find it frustrating that many people prefer other forms of mediation. The 2009 “Adoption Law” creates a National Registry of Adoptable Children that theoretically unifies the different state services, permitting better supervision of the adoption procedures and rationalizing channels of offer and demand. 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. Nor is it strange that court officials, seizing upon the opportunity afforded by the media, repeatedly alert the population that the only “legitimate” way of adopting a child is to address a demand directly to the court adoption services.

Negotiating the definition of human conditions

A second, perhaps more pervasive, motive for isolating birth families from participation in the adoption process may be found in moral attitudes, unopposed in Brazil by any birthmothers’ social movement, that condemn the lack of humanity of any woman who voluntarily gives her child away. Just as in other Western (and non-Western) countries, in Brazil as well there has been much discussion of late about “safe haven” laws (Fonseca 2009c). Seizing upon a few spectacular episodes of newborn children found (sometimes dead, sometimes alive) in a “dump heap”, legislators have moved to offer “an alternative” to desperate women, “decriminalizing abandonment” in safe circumstances, and allowing reluctant mothers to give up their babies in complete anonymity. The mood has given rise to public campaigns, such as that in Rio de Janeiro (2011), in which pamphlets, stamped with the cartoon image of a baby dropping into a trash can (framed by a red traffic sign symbolizing an imperative “no”), were to be distributed whole-sale in public maternity wards. The idea announced in the title of the pamphlet and explained in the text that follows is to persuade women, rather than to carelessly abandon an unwanted child (exposing it to harm or death), to give it up in adoption. One may well wonder at the efficacy of this message. (The studies of women and girls who actually do somehow put an end to their newborn child’s life depict them as so isolated in their disorientation that they are not likely to seek or take in information on alternatives – O’Donovan 2002). But what really stands

out in such a campaign is the impression that people consider giving a child in adoption only one step removed from throwing it in the garbage. In fact, they seem to find it hard to conceive a mother's relinquishment of her child as anything but a criminal act. One wonders at the persistence of such attitudes despite legal dispositions to the contrary.

Das, inspired in the work of Cavell, addresses a similar question in the comprehension of reactions to events she studied in India. Invoking the Wittgensteinian notion of "forms of life", she highlights the social nature of both language and human conduct. But, taking this line of analysis a step further than usual, she calls attention to the danger that "a conventionalized sense of form of life will support a conventionalized or contractual sense of agreement" – one that "emphasizes form *at the expense of life*" (Das 2007:15, emphasis mine). In this potential joust between "forms of life" and "life", the former acquire tremendous moral weight exactly because they implicitly define the limits of what or who should be considered "human". As stated by Cavell:

[...] we take what we have fixed or constructed to be discoveries about the world, and take this fixation to reveal the human condition rather than our escape or denial of this condition through the *rejection of the human conditions* [...].
Cavell, S. (1979: 216, emphasis mine).

This discussion is highly pertinent to the language normally used to describe women who have relinquished a child in adoption. True, in the new adoption culture, actors are primed to speak of a birthmother's "noble" gest – the sacrifice she has accepted to make in order to guarantee her child's welfare. One might suspect, however, that such "frozen slides" (to, once again, evoke Das' work) of maternal nobility do little to convey how women themselves signify the experience. On the other hand, the accusations (and self-justifications) I heard during field work in working class neighborhoods portray another vastly more negative way of perceiving "abandoning" mothers: "Only a dog gives her puppies away"¹⁴. Extending this logic further, people may insinuate that the mother has treated her child as an un-human object: "That woman gave her baby away as though it were a clump of bananas".

14 This expression has been documented in ethnographies in other parts of Brazil (Mariano 2008) and Latin America (Drouilleau 2011).

Backed by such pronouncements, it is not surprising that policymakers and practitioners assume that it is “highly debatable” whether or not one should pay heed to the opinion of a woman who has opted to abandon her child (Villalta 2011). As we see here, the thrust of the legal “thought style” may not be so far from common-sense categories, both sharing forms of language that imply the ejection of birthmothers (whether as saints or animals) beyond the pale of the “human”. Plenary adoption, it might be argued, has seized upon this strain of thought – the birthmother’s non-humanity – in order to justify her legal non-existence.

A descent into the ordinary

To lend weight to arguments that might “animate words”, “giving them life”, and thereby counteract the violence of bureaucratic categories, we propose now a “descent into the ordinary”, through fragments drawn from the lived experience of different Brazilian subjects involved in the adoption process.

The birthmother’s entourage

A first step toward the comprehension of the birthmother’s experience is to set the scene by looking at how neighbors and other members of the woman’s social network see and react to her situation. We saw above how, on the level of hegemonic social representations, birthparents – especially birthmothers – are severely stigmatized, with accusations that paint them as incapable of normal human sentiment. In such circumstances, it would not be surprising to learn that women preferred to shun any mention of the experience. Confirming this perspective, officials at the court services stress how certain birthmothers have “made new lives” for themselves, marrying and raising a subsequent family without anyone knowing about the child they gave away. In my encounters with intermediaries and adoptive parents, I also heard occasional mention of an adolescent or young woman, recently arrived from a rural area to work as a live-in maid, who, in order to avoid the moral condemnation of her family’s conservative small-town milieu, sought not only to rid herself of the baby, but also to hide the very fact of pregnancy.

However, fieldwork among the urban poor suggests that such attitudes

are more the exception than the rule. In most situations, women could not hide their condition even if they wanted to. (The lay-out of urban, working-class habitats – often with several generations as well as visiting relatives crowded into a few rooms or living in consecutive shacks bordering a common patio – afford little room for privacy.) Furthermore, the attitudes of close friends and relatives appear to be considerably more nuanced than pat phrases of stereotypic stigma would lead one to believe. Altogether, there is much to suggest that most women, far from shrouding their past in secrecy, make an effort to keep alive the memory of the child that is no longer with them.

From the outstart of my ethnographic research in the 1980s, my attention was caught by the way children, when asked to list their family members, would systematically include mention of all their siblings – whether or not they had ever lived together. I remember one particularly articulate 10-year who volunteered information on how the third of her four brothers had disappeared into the state orphanage. Although her mother had been to the institution a couple of times to make inquiries, the family had received no clue as to the child's whereabouts – only that he was “living with a new family”. Nonetheless, my young informant continued to name this little brother and include him in the family count, up-dating his age and musing about how things would be when (and not if) they once again got together. Similar attitudes are to found on the various internet sites that now exist to propitiate the reunion of relatives separated by adoption. Many of the people writing in are brothers and sisters of adoptees seeking to put a concrete face on the person they have only heard about in stories told by their mother and other relatives.

Laura – an adoptee well into adulthood who, through internet, had been able to reconnect with her birthfamily – provides us with further understanding of how memory of the adopted-out child is kept alive¹⁵. By the time she made contact, Laura's birthmother had already died, and so it was from her older sister that she learned how much her family had suffered from the separation. Laura's mother, single and already with a first daughter to raise, had tried for several months to keep her new-born child, but it soon became evident that, with no nearby kinship network and no public daycare, she could not at the same time work to support the family and assure her baby's

15 Information gathered during a series of ethnographic encounters involved in a 2007-2008 research project on a Brazilian association of adult adoptees.

well-being. At first, her sister, who had taken care of Laura during the baby's first months of life, would telephone the adoptive family asking for news, but after a short time, her calls were banned by the new parents. Eventually, Laura's birthmother found a stable companion and had two more children, but – significantly – the first of these children was named “*Laura Graziela*”. The woman had tried once or twice throughout the years to make direct contact with her daughter, but the child, prepped by her adoptive parents, had refused to meet with her unworthy genitor... Shortly before her death, the mother had managed to get her hands on a picture of Laura on the girl's 15th birthday which she placed on the living-room wall, alongside the photos of her other offspring. It was this sort of conduct that kept the little girl alive in the memory of her siblings and other family members. Significantly, it was a cousin of Laura's who, during a late-night surf on the internet, discovered her note pleading for information on her birth family. And it was this cousin who, in a long-distance phone call, established the first link in this new family connection. Evidently, the birthmother's entire extended family was not only aware of her drama, they played a solidary role in it.

A birthmother's narrative

The high probability that their behavior will be the object of public commentary has an inevitable effect on the way women narrate their story. It is thus not surprising to hear birthmothers resorting to stereotypes, either to refute them (“I never abandoned my child”), or to endorse them (with tales of maternal “sacrifice” made to ensure their child's welfare). However, differing somewhat from third party observations, the birthmother's tale of sacrifice tends to dwell more on the details of socioeconomic differences: “There [with the adoptive family], he has everything; I don't have even half as much”; “She was well brought up – good education, comfortable house [...] Was I going to take her back just to leave her knocking about this slum?”¹⁶ At the same time, by emphasizing the adoptive parents' great attachment to the child, the narrators convey the idea that not only have they rendered a service to the new parents, they have also guaranteed fulfillment of the child's emotional needs:

¹⁶ In this sub-section, I deal with birthmothers interviewed in their homes during fieldwork in working class neighborhoods of Porto Alegre, 1993-1994.

“They were crazy about the baby...I felt sorry for them, that’s why I left her there”. It would seem that the birthmother’s knowledgeable enumeration of the new parents’ qualities serves as proof that she has acted as a responsible loving mother.

The story of Eliane, interviewed in her home on the outskirts of Porto Alegre, reveals the different layers of emotion a birthmother might feel when making the decisions that will determine her child’s future. Living at the time in a comfortable two-bedroom house with her companion (a cart-owner who does odd jobs) and four of her five children, Eliane remembers a period when life was not so simple. Six years before, her extended kin group had been able to absorb her first two unplanned children, but still unmarried and living with her mother when she got pregnant a third time, the young woman had reached the limits of her family’s endurance. Searching among relatives and acquaintances, she found, shortly before giving birth, a solution to her dilemma. The baby’s paternal aunt, a woman who – after years of trying for a pregnancy – had recently lost a stillborn child, was on the look-out for a baby to adopt. Eliane, between whispers, tears, and laughter, recounts in amazing detail how she passed her newborn child onto her ex-boyfriend’s sister.

[She went to my house] and asked, “Did you decide?” I said, “Yes I did. You’re going to get him.” “Are you sure?” she asked. “Yes, take her right now before I change my mind”. So she took the baby and I stayed behind. I didn’t last an hour. I went running to get the baby back. And she said, “Look, Eliane. You have to be sure about this. We don’t want to pressure you”. She gave me a week to make up my mind... One week later, I went to her house. We just sat there crying – the baby there in the crib and the two of us crying. Finally I said, “No, you keep him”.

By emphasizing the respect her child’s adoptive mother showed her, Eliane appears to highlight the virtue of her own reasoned consent. The other woman’s delicate patience is offered as proof that this birthmother has been recognized as worthy partner in the decisions that will affect her child’s future.

Coming back to her present-day circumstances, Eliane lets us know that, despite all, she has no ambivalence about her motherhood. She claims to have carefully guarded the child’s umbilical cord as a remembrance. And, to this day, she keeps up on her child’s well-being, making episodic visits to his

home. Her son has no idea, however, who she is: “He couldn’t care less about me — a person he hardly knows, certainly he doesn’t know me as his mother. When I go there he calls me Auntie”.

Her position – which others might see as threatening – wields, in Eliane’s eyes, a certain power and, with it, an opportunity to underline her own generosity:

“I always say, even if I won at the lottery and could pay them back, I wouldn’t do that. Sure I could if I wanted to. After all, he’s my son. Just think of it! Imagine if I could reunite all my children! But I wouldn’t want to hurt them [the adopted parents]. It would be an awful thing. Just think! After six years caring for him. Of course they love the child. And him? All he wants is to be with his parents.”

In her telling of the story, it would appear that the issue is not so much Eliane’s personal relation with her son. It is, rather, the relationship she has established with the adoptive parents – one that has preserved her dignity as a caring mother.

An adoptive mother’s view

The fact that the overwhelming majority of adopted children throughout the world come from situations of war or poverty points to the structural violence that underwrites the social suffering involved in “relinquishing” a child for adoption. I suggest that this suffering has been understated in hegemonic representations because of a political economy in which the “negotiation” of meanings between the different partners in dialogue is marked by extreme inequality (see, for example, Marre and Briggs 2009). Thus, it is not surprising that the “clear contractual terms” of adoption provided by court-conducted procedures appear more in keeping with adoptive parents’ sensitivities than with those of birthparents.

Mediators I interviewed consistently assured me that potential adopters are after “a child of their own”, unburdened by other family connections. In most situations, they have no particular desire to establish a relationship with their adopted child’s mother – most likely a person of different origin and class. They are (understandably) reluctant to deal with the birthparents’ ambivalences. And they are leery about entering into a transaction of great

emotional and, eventually, financial investment in which the outcome depends entirely on what they might see as the birthmother's whim. 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 or form any attachment 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 court-conducted procedures – despite what they see as long waits and endless bureaucracy – is that they have suffered a bad experience in a previous attempt 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.

Yet, as Modell (2002) has pointed out, the practice of even adoptive families often goes far beyond the rigid norms suggested by official policy. The story of Lucia, a woman in her early forties, reveals the subtlety of sentiment as well as the creativity of practice that can exist among certain adoptive parents (see also Modell 2002, Rinaldi 2010). At the time of our interview, Lucia 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. 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 her baby in adoption, just as she had done with two of her previous three. As in many other such 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 pregnancy, Simone received a shot-gun wound that put her health at serious 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 they shared non-identifying information about their respective families as well as up-dates on the baby’s development. Lucia admits that twice during those 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 met face-to-face 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, and other friends.) 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 her 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 biographical 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 the emotional connection with her adopted child. A poignant *postscript* to Lucia's story is that she herself was adopted.

From the "child"'s point of view

Much of what goes into adoption law and policy – whether on the local, national or international level – is governed by the principle of a "child's best interest". Yet, the exact content of this principle – what exactly constitutes a child's best interest – is far from self-evident. During the first decades of the Post-World-War-II era, adoptees were often rebuffed as neurotics or the result of a "bad adoption" if they went in search of their origins. Today most professionals working in the area consider it normal, if not imperative, for adopted youngsters to seek information on or contact with their birthfamilies. Of course not all adoptees are interested in having a second set of parents (Howell 2006, Yngvesson 2010), and some reject outright the idea of meeting their birthparents. However, among those adoptees I have interviewed or

otherwise had contact with (through associations, internet sites, and meetings of specialized NGOs in Brazil and in Spain), there is a consensus that adopted persons have the right to know the details of their biography – including names, circumstances and addresses surrounding their adoption.

This consensus – thanks to influences including the growth of intercountry adoption and pressures exerted by the Argentine *Madres de la Plaza de Mayo* – found expression in article 8 of the United Nations Convention on the Rights of the Child (1989): “States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations...”. When dealing with situations of extreme violence – war-torn regions or those under political dictatorship – the concern with children’s rights has advanced in tandem with birthparents’ rights, drawing public attention to the potential abuse of authority against poor, minority, or otherwise powerless sectors of the population (see Briggs, in press). Even in more banal settings, where children’s rights appear to be the unchallenged moving force, the opening up of adoption archives may bring positive repercussions for birthparents. For example, in 1976, Great Britain passed a law giving adoptees 18 years of age and older the right to unrestricted access to their adoption records. At the same time, administrative measures were put in place to help birthmothers – at least those expressing the desire – to locate their grown children¹⁷.

My interviews with Brazilian adoptees (2007-8) suggest that there are still other ways the treatment of birthparents is intertwined with the adoptee’s welfare. Whether or not they had any information on the matter, my interviewees came back in their narratives time and again to speculations about the circumstances in which they were handed over from one family to another. One woman expressed violent indignity upon hearing from her adoptive relatives that she had been “stolen” from her birthmother (a single woman who worked as cleaning lady), yanked from the woman’s arms soon after she had given birth. This “kidnapping”, as the narrator termed it, now seemed to color all memory of her (deceased) adoptive mother. Laura, whose story we

17 On the other hand, in many American states, legal measures approved to permit the “unsealing” of adoption records were accompanied by clauses designed to ensure against any spill-over effect that might amplify the rights of birthparents (Carp 2004). In other words, the adoptee and only the adoptee was to have free access to information. In Argentina, an amendment to the law regulating the centrally-run adoption registry was recently introduced to strike any mention of concluded adoptions, thus avoiding the possibility of birthparents tracing down the whereabouts of their offspring (Tarducci 2011).

have seen above, does not claim she was “stolen”, but she shows considerable resentment toward her adoptive parents and the way they would refer to her birthmother: “[They told me]: ‘Your mother is a *vagabunda*, she’s a whore’. [They] told me in a way I don’t think is right. At least I wouldn’t deal with my own children that way!” The animated pleasure with which she tells of reencountering her birth family (and discovering that the allegations about her birthmother were far from accurate) turns to a delicate frown when she speaks of her own adoptive parents.

On the other extreme, a certain adoptee who seems to still hold her deceased (adoptive) parents in high esteem, narrates how the details of her story, gleaned from her adoptive relatives, convince her of her parents’ generosity toward the birthmother. Trying to explain the fact, for example, that during the first two or three years of her life, her birthmother visited periodically, perhaps even breastfeeding her, she ponders: “Knowing my (adoptive) parents, I think they would have tried to diminish the suffering on both sides: mine and my (birth) mother’s”. Altogether, among my interviewees, there seemed to exist a consistent correlation between the adoptee’s affection for his or her adopted parents and the amount of respect (whether real or imagined) these parents had shown toward their child’s birthmother.

Similar sentiments appeared to surface in an entirely different setting – a 2010 congress on international adoption I attended in Barcelona¹⁸. Many of the adult adoptees present – born in Korea, India, Ethiopia – had no idea how their adoption had taken place. But it was precisely this lack of information that appeared to feed the anxiety that their birthmothers might have been coerced into giving their children up. The adoptive mothers present at the meeting, some of whom had come in support of their activist children, showed similar concerns. There appeared to be a tacit understanding that a good relationship with their children depended on demonstrating that they had in no way been complicit with violations of the birthmother’s rights or sentiments. And, in some cases, this demonstration depended on more than a passive insistence on the “legality” of the adoption. It signified sharing in the adoptee’s curiosity about the birthmother’s identity and the concrete circumstances that led up to her child’s “relinquishment”.

18 “La ‘integración’ de la adopción internacional” organized by AFIN (Adopciones, familias, infancias), Universitat Autònoma de Barcelona, May 7-8, 2010.

Final Considerations

It is evident that all the different actors in the adoption triad are subject to suffering. And, certainly, there is a “social” dimension to this suffering on all sides. Prevalent attitudes on the “tragedy” of infertility, the “childless family”, and the second-rate nature of adoptive parenthood weigh heavy on adoptive parents (see Nascimento, this volume). Similarly, the adoptee must deal with the pity or suspicion of others for being a “rejected” child, deprived of his “real parents”, and, for that reason, perhaps even liable to personality disorders. Such social representations are the motor force of violence in everyday life. Yet, one might argue, the birthparents’ suffering is compounded by a number of factors. First, in most situations, they have been subject to severe structural violence in the form of poverty and discrimination. It is significant that the parents (often steeped in poverty, illness and drug dependency) who have been unilaterally stripped of their parental authority seldom present any formal opposition¹⁹. One might suppose they are used to being treated as non-persons, and may even see themselves in that way. Birth parents who have “voluntarily” relinquished a child to a family they have chosen may be slightly better off, but the stigma of having thus “abandoned” a child makes it difficult for them to form associations or otherwise bring their experience – attitudes, interests, demands – to public debate.

It is precisely the complex relationship between recognition of suffering *in the public sphere* and suffering experienced in people’s everyday lives that concerns us. The episode that opened this article is symptomatic of how a birthmother, caught in the bureaucratic machinery of the legal system, is coerced into forgoing the publically-mediated recognition of her maternal status. Here, one might well consider how state intervention is designed to operate, playing on the partisan plasticity of norms that alleviate “the human misery” of some sufferers while ignoring or even intensifying that of others.

There is an interesting parallel to be drawn with the contribution Margaret Lock (2000, 2002) brings to the discussion of violence in everyday life. In her studies on donors and receivers of transplanted organs, she concentrates on the variegated mediation of specialists who decide crucial issues such as the moment of death that renders a person’s organs available for transplants and the criteria for ordering the list of patients waiting for

19 Cardarelo (forthcoming) describes an exception to this rule.

a donation. The parallel with steps of the adoption process – including the “termination of parental rights” that renders children available for adoption and the criteria for establishing priorities on the waiting list of potential adopters – is more than evident. Furthermore, we find similar rhetorical strategies that present the “shortage” [of organs/adoptable children] as an objective fact, and that gloss over disturbing inequalities by glorifying the “gift” of anonymous, altruistic donors.

Finally, and perhaps most to the point, – while emphatically stating that there is no easy out, that certain tensions are inherent to the processes she describes -- Lock challenges set attitudes about the obligatory anonymity of organ donors. Just as in the case of adoption, policy-makers in Canada and North America advance a number of reasons to explain the “need” for anonymity – the dangers of exploiting vulnerable populations through the commercialization of human organs, foremost among them. Contrasting such attitudes with the dynamics of organ donations in Japan, Lock makes the provoking challenge: “I question why those who make “gifts” of their organs, and their families, should receive neither recompense nor recognition of any kind” (2002: 48).

Suggesting that, in the case of organ transplants, the “rhetoric of progress” may be masking the “violence of zeal”, Lock (2000) evokes the tension between the benefits of medical advancements and the “slippery-slope” risks of medical experimentation. In the field of adoption, I would suggest that the “rhetoric of progress” concerns the at-times exalted and un-nuanced invocation of the “child’s best interests” – a slogan wielded by experts as an arm to justify surgical measures such as the “cut-off” of any contact with the birthfamily.

Although, assuredly, there are no “magic bullet” solutions to the dilemmas involved in the transplant of organs or of children, looking into the lived experience of real-life subjects means facing these dilemmas square-on, rather than glossing them over with the “frozen slides” of “conventional forms of life”. It means confronting deeply disturbing processes that speak of living together with others or, on the contrary, of relegating these others to the realm of the non-human. Finally, it means rethinking the often routinized forms of state regulation and the ways they might be reformulated in order to provide a more egalitarian distribution of “social suffering”.

References

- AYRES, L. S. M. 2008. *Adoção: de menor a criança, de criança a filho*. Curitiba: Juruá Editora.
- BOWIE, Fiona (editor). 2004. *Cross-Cultural Approaches to Adoption*. New York: Routledge.
- BRIGGS, Laura. Forthcoming. The Political Economy of Adoption: The Neoliberalization of Child Welfare. *Scripta Nova*.
- CADORET, A. 1995. *Parenté plurielle: anthropologie du placement familial*. Paris: Harmattan.
- CARDARELLO, Andrea. Forthcoming. O interesse da criança e o interesse das elites: “Escândalos de tráfico de crianças”, adoção e paternidade no Brasil. *Scripta Nova* (revista on-line).
- CARP, Wayne. 1998. *Family matters: Secrecy and disclosure in the history of adoption*. Cambridge: Harvard University Press.
- CARP, E. W. 2004. *Adoption Politics: Bastard Nation & Ballot Initiative 58*. Kansas: University Press of Kansas.
- CARSTEN, J. 2000. Introduction: Cultures of relatedness. In CARSTEN, Janet (editor.), *Cultures of relatedness*. Cambridge: Cambridge University Press.
- CAVELL, S. 1979. *The Claim of Reason*. Oxford: University Press.
- CAVELL, Stanley. 2007. Foreword, in *Life and words: Violence and the descent into the ordinary* by Veena Das) . Berkeley: U. Of Calif. Press.
- COLLARD, Chantal 2009. The Transnational Adoption of a Related Child in Québec, Canada. In: MARRE, Diana and BRIGGS, Laura (editors). *International Adoption: Global Inequalities and the Circulation of Children*. New York: New York University Press.
- COUTO, Rodrigo. 2009. Na mídia: Os filhos de uma nova lei. *Correio Braziliense*, 15/07/2009. <http://mercadante.com.br/noticias/ultimas/na-midia-os-filhos-de-uma-nova-lei/> .
- DAS, Veena. 1999. Fronteiras, violência e o trabalho do tempo: alguns temas wittgensteinianos. *Revista brasileira de ciências sociais* 14(40).
- DAS, Veena et al. (orgs.) 2000. *Violence and subjectivity*. Berkeley: U. Of Cal. Press.
- DAS, Veena. 2007. *Life and words: Violence and the descent into the ordinary*. Berkeley: U. Of Calif. Press.
- DROUILLEAU, Félicie. 2011. *Parenté et Domesticité à Bogotá*. Doctoral thesis in Ethnology. University of Toulouse (France).

- FONSECA, C. 2002 Inequality near and far: adoption as seen from the Brazilian favelas. *Law & Society Review* 36(2): 101-134.
- FONSECA, C. 2003. Patterns of shared parenthood among the Brazilian poor. *Social Text* 74, vol. 21(1): 111-127. (special edition, *Transnational adoption*, org. by Toby Alice Volkman & Cindi Katz).
- FONSECA, C. 2007. An unexpected reversal: the “demise” of international adoption in Brazil. *Dados* (versão em inglês) vol.3 no.se Rio de Janeiro 2007, on-line.
- FONSECA, C. 2009A. Transnational negotiations of the mechanisms of governance: regularizing child adoption. *Vibrant*, Volume 6. Número 1. Janeiro a Julho de 2009a.
- FONSECA, C. 2009b. Family belonging and class hierarchy: Secrecy, rupture and inequality as seen through the narratives of Brazilian. *The Journal of Latin American and Caribbean Anthropology*, Vol. 14, No. 1, pp. 92-114.
- FONSECA, C. 2009c. Abandono, adoção e anonimato: Questões de moralidade materna suscitadas pelas propostas legais de ‘parto anônimo’. *Sexualidade, Saúde, Sociedade – Revista Latino-americana* (da CLAM, on-line), n.1: pp.30-62
- FONSECA, C. 2010. Profit, care and kinship: The de-kinning of birthmothers. In FONS, Virginia, PIELLA, Anna y VALDES, María, orgs., *Procreación, crianza y género: Aproximaciones antropológicas a la parentalidad*. Barcelona: PPU (Promociones y publicaciones universitarias).
- HÖGBACKA, Ritta. 2010. Transnational adoption and the exclusivity and inclusivity of families. In *Families and kinship in contemporary Europe: Rules and practices of relatedness*, edited by Riitta Jallinoja and Erik D. Widmer. New York: Palgrave Macmillan.
- HOWELL, S. 2006. *The Kinning of Foreigners. Traditional Adoption in a Global Perspective*. New York: Oxford, Berghahn Books.
- KLEINMAN, Arthur. 2000. The violence of everyday life: the multiple forms and dynamics of social violence. In *Violence and subjectivity* (Veen Das, Arthur Kleinman, Mamphela Ramphele and Pamela Reynolds, eds.). Berkeley: University of California Press.
- LEFAUCHEUR, Nadine. 2004. The French ‘Tradition’ of Anonymous birth: the lines of argument. *International Journal of Law, Policy and the Family*, Vol.18, n. 3, p. 319-342.
- LE GALL, D. e Y. Bettahar (orgs.) 2001 *La pluriparentalité*, Paris, PUF.

- LOCK, Margaret 2000. The quest for human organs and the violence of zeal. In *Violence and subjectivity* (Veen Das, Arthur Kleinman, Mamphela Ramphele and Pamela Reynolds, eds.). Berkeley: University of California Press.
- LOCK, Margaret. 2002. *Twice Dead: Organ transplants and the reinvention of death*. Berkeley: University of Berkeley Press.
- KENDALL, Laurel. 2005. Birth Mothers and Imaginary Lives. In: VOLKMAN, Toby Alice (editor). *Cultures of transnational adoption*. Durham and London: Duke University Press.
- MARIANO, Fernanda Neisa. 2008. *Adoções “prontas” ou diretas: buscando conhecer seus caminhos e percalços*. Doutorado na USP, FFCLRP, Departamento de Psicologia e Educação, PPG em Psicologia.
- MARRE, Diana and BRIGGS, Laura (editors). 2009. *International Adoption: Global Inequalities and the Circulation of Children*. New York: New York University Press.
- MODELL, Judith. 1994. *Kinship with strangers: adoption and interpretations of kinship in American culture*. Berkeley: University of California Press.
- MODELL, J. S. 2002. *A Sealed and Secret Kinship: the culture of policies and practices in American adoption*. New York: Berghahn Books.
- MOTTA, Maria Antonieta Pis.no. 2005. *Mães abandonadas: a entrega de um filho em adoção*. São Paulo: Editora Cortez.
- MURAT, Pierre. 1999, “L’accouchement dans l’anonymat et ses incidences juridiques » (on-line). Grenoble : Université Pierre Mendes-França www.cieci.org/Etudes/ColloqueCIEC/CIEColloqueMuratFr.pdf.
- O’DONAVAN, Katherine. 2002. “Real” mothers for abandoned children. *Law & Society Review*, vol.36, no.2, p. 347-378.
- OLIVEIRA, Juliana Alves De and Domingos ABREU. 2009. Fugindo da regra, entrando na Lei: famílias que adotam no Juizado da Infância da cidade de Fortaleza. Paper presented as the Workshop The circulation of children: a reexamination of a child’s best interests, Rio de Janeiro, 11-13 June, 2009.
- OUELLETTE, Françoise-Romaine. 1996. Status et identité de l’enfant dans le discours de l’adoption. *Gradhiva: Revue d’histoire et d’archives de l’anthropologie*. n°19: 63-76.
- PEDRO, Joana Maria (org). *Práticas proibidas: práticas costumeiras de aborto e infanticídio no século XX*. Florianópolis: Cidade Futura, 2003.
- PISCITELLI, Adriana. 2009. Tránsitos: circulación de brasileñas en el ámbito de la transnacionalización de los mercados sexual y matrimonial.

- Horizontes Antropológicos* vol.15, n.31, pp. 101-136.
- RINALDI, Alessandra de Andrade. 2010. A nova cultura da adoção : o papel pedagógico dos Grupos de Apoio à Adoção no município do Rio de Janeiro. *Jurispoiesis* (Rio de Janeiro), v. 13, p. 13-37, 2010.
- ROHDEN, Fabíola. 2003. *A arte de enganar a natureza: contracepção, aborto e infanticídio no início do século XX*. Rio de Janeiro: Editora FIOCRUZ.
- SAGEOT, Claude. 1999. *L'accouchement sous X: symbole ou faits?* (on-line). Paris , D.P.E.A.O. Association pour le droit aux origines des pupilles de l'Etat et des adoptés. http://www.ancic.asso.fr/textes/ressources/ethique_acouchement_sous_x.html
- SAMUELS, E. 2001. The idea of adoption: an inquiry into the history of adult adoptee access to birth records. *Rutgers Law Review*. Vol. 53, 367-437.
- SANGER, C. 1996. Separating from children. *Columbia Law Review*. Vol. 96.
- SOLINGER, R. 2001. *Beggars and choosers: How the politics of choice shapes Adoption, Abortion, and Welfare in the United States*. New York: Hill and Wang.
- STRATHERN, Marilyn. 2005. *Kinship, Law and the Unexpected: Relatives are Always a Surprise*. New York: Cambridge University Press.
- TARDUCCI, Monica. 2011. *La adopción: una aproximación desde la antropología del parentesco*. Buenos Aires: Librería de Mujeres Editoras.
- THOMPSON, Charis. 2005. *Making parents: the ontological choreography of reproductive technologies*. London: MIT Press.
- VIANNA, Adriana de R. 2005. Direitos, moralidades e desigualdades: considerações a partir de processos de guarda de crianças. In *Antropologia e Direitos Humanos* 3. Niterói: Editora da UFF. 13-67.
- VILLALTA, Carla. 2011. Entregas, adopciones y dilemas en el campo de organismos destinados a la infancia. *Rev. Estud. Fem.*, Abr 2011, vol.19, no.1, p.103-123.
- VOLKMAN, Toby Alice (editor). 2005. *Cultures of transnational adoption*. Durham and London: Duke University Press.
- YNGVESSON, Barbara . 2002. Placing the "Gift Child" in Transnational Adoption. *Law & Society Review*, Vol. 36, No. 2, Special Issue on Nonbiological Parenting, pp. 227-256.
- YNGVESSON, B. 2010. *Belonging in an Adopted World: Race, Identity, and Transnational Adoption*. Chicago: University of Chicago Press, 2010,
- ZELIZER, V. 1985. *Pricing the priceless child: the changing social values of children*. New York: Basic Books.

About the author

Claudia Fonseca is full professor at the Programa of Post-Graduate Studies in Social Anthropology at the Universidade Federal do Rio Grande do Sul (Brasil) and in the Doctoral Program in Anthropology at the Universidad Nacional de San Martín (Argentina). She has done extensive research among working-class families in Brazil and published a number of books and articles in the area of gender studies, family organization, child circulation and legal anthropology.