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The Movement of the Mothers of the Courthouse Square: "Legal Child Trafficking," Adoption and Poverty in Brazil

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En 1998, en San Pablo, Brasil, un movimiento de familias pobres exigió la revisión de los procedimientos legales que condujeron a la adopción de sus niños por parte de familias brasileras y extranjeras. El análisis de los fallos de pérdida de la patria potestad reveló que las autoridades judiciales permitieron que se llevaran a cabo adopciones "irregulares," sin el consentimiento de las familias de origen y sin que éstas hayan podido defenderse legalmente de acusaciones de malos tratos y abandono. El estudio de este movimiento puso en evidencia la existencia de representaciones particulares sobre parentesco al interior de las clases populares, así como la percepción de la pobreza que prevalece en las élites del país. En este artículo planteo que los niños pobres son vistos por un sector de estas élites tanto como una amenaza para la sociedad, como un medio para satisfacer los deseos de eventuales padres adoptivos, especialmente si se trata de recién nacidos "blancos" o de piel clara.

In 1998, in São Paolo, Brazil, a movement of poor families demanded a revision of the legal procedures that led to their children being put up for national and international adoption. The examination of judicial records revealed that "irregular" adoptions were allowed by the legal authorities without obtaining the families' consent and bypassing their rights to defend themselves against accusations that included child abuse and abandonment. The study of this movement brought out particular kinship representations among the country's poorer classes as well as the perception of poverty held by the country's elite. In this article, I argue that one sector of the elite views poor children both as potential threats to society and as a means of fulfilling the desires of prospective adoptive parents, especially when the child is a "white" or light-skinned newborn.

THIS ARTICLE FOCUSES ON one of the "child-trafficking scandals" that occurred in Brazil in the 1990s. In 1998, a movement of poor families demanded a revision of the legal procedures that led to their children being put up for national and international adoption. The study of this movement reveals representations of kinship among Brazil's popular classes as well as the perception of poverty among the country's elite. Through this case study, I examine the process that transforms a child from the popular classes into an "abandoned child" and therefore susceptible to being adopted. First, I present the notion of "legal child trafficking" and the stances of judges favoring international adoption in Brazil. Next, I describe why this movement of poor families was formed, with a consideration of family dynamics in confrontation, in the context of differentiated social classes. The study shows that a poor child is viewed by a sector of the elite not only as a potential threat to society (a future criminal or prostitute), but also as a means of fulfilling the desires of prospective adoptive parents—especially if the child is a white or light-skinned newborn. In conclusion, I explore how the Brazilian case can lead to a better understanding of adoption in other Latin American countries, highlighting the concept of *appropriation* brought forward by the movement of the Grandmothers of the Plaza de Mayo in Argentina.

Legal Child Trafficking

In an article on adoption published in a national magazine in 1995, the Federal Police acknowledge the existence of "legal child trafficking" in Brazil, explaining that they could not intervene once a court adoption decree was produced "except when the decree was shown to be manifestly illegal."[1] This official use of the term "legal child trafficking" confirms the findings of Abreu (2002:47–48) that illegality in the adoption process in Brazil is practised in the courts with the support, complicity, and even active participation of judges and other agents of the judicial system.[2] These "irregularities," however, although they are common in cases of domestic adoption, only become unacceptable to Brazilian society when they benefit foreigners. Thus, while the term "irregular adoption" is used when Brazilians adopt children within an illegal but sometimes legitimized framework, that of "trafficking" is used when children are adopted by foreigners.

International adoptions began in Brazil in the 1970s, but were not immediately denounced as "child trafficking." Especially in the late 1980s, Brazilians started talking about the "commerce and sale of babies" when referring to cases of international adoption (Abreu 2002:83, 54). The fact that attorneys acting in foreign adoptions received up to $10,000 per child at that time reinforced the idea of the commercialization of children (Abreu 2002:159 and Jaffe 1991). Moreover, rumours of "organ trafficking" tended to support criticism of international adoption.

The "child-trafficking scandals" heavily covered by the media and the series of subsequent regional investigations led to a steep drop in international adoption from Brazil in recent years.[3] During the 1980s, Brazil was fourth among the countries providing children for adoption on a worldwide level, having placed approximately 7,500 children (Kane 1993:329). From 1994 onward, the number of international adoptions gradually decreased on the national level: from a high of about 1,850 international adoptions annually in 1993, the number dropped to under 400 in 2000 (Fonseca 2002:29).

According to Abreu, the subject of international adoption is at the root of an inflammatory discourse on the question of the "Brazilian nation." On one hand, certain people in the judicial milieu and the elite were ashamed of the country's poverty and saw international adoption as a solution, as it allowed poor children to be raised by people living in rich countries, where they would benefit from "every comfort" and the best available health care (for parallels in Peru, see Leinaweaver, this issue). On the other hand, judicial "nationalists" and a number of journalists took a stand against international adoption, emphasizing that it was shameful that Brazil did not have the means to raise its children and had to give them up to foreign couples. Through this discourse, international adoption became associated with "trafficking" and "child exporting." The Child and Adolescent Act of 1990 (*Estatuto da Criança e do Adolescente*) gave rise to a discourse that advocated the child's right to remain within the family, in the community of origin (and, therefore, in the birth country), strengthening arguments against international adoption (Abreu 2002:153, 54).[4]

Barely mentioned in the nationalistic debate surrounding international adoption are the rights of poor families to keep their children, and the conditions under which these children are taken from their families and placed not only in foreign families, but also in wealthy Brazilian families. Hence, class remains a powerful but implicit variable shaping adoption practices (Fig. 1).

The Child-Saving Discourse of Judges Favoring International Adoption

Article 23 of the Child and Adolescent Act of 1990 made important changes to previous legislation with respect to the relationship between adoption and poverty.

Figure 1 *View of a favela in São Paulo*

Under this article, "the lack of material resources does not constitute a sufficient motive for the loss or suspension of parental rights," and, if this is the only motive, "... the child or adolescent will remain in the family of origin, which must be referred to official aid programs."

Since this law was adopted, several legal practitioners in favour of international adoption have protested against this article (Abreu 2002:29). They evoke the "nationalization of poverty," arguing that parents who are too poor to meet their children's basic needs should lose their parental rights. In this way, the discourse of "salvation" (*salvacionista*) arose, with its promoters speaking of international adoption as "an act of generosity." By promoting international adoption, many judges still think they are giving an "abandoned" Brazilian child—that is, a child from a home "lacking the structure or conditions necessary to raise a child"—the opportunity to be brought up like "a prince" (Abreu 2002:97, 53).[5] These judges tend to close their eyes to irregularities in the adoption process (when they are not committing them themselves). Ginzburg (1990:91) quotes a statement by one Brazilian judge who encourages international adoption: "Of course, in the adoption of a child, one must proceed with great caution, respecting the laws of both the country of origin and the country where the child will live. Nevertheless, put yourselves in our place: the future for these children is often the street, miserable poverty, and in the best-case scenario, prison." This judge then spoke of children murdered by death squads, adding: "Even if the adoptions are not totally

legal, even if some people have turned them into an industry, a judge cannot deny an innocent child the opportunity to grow up without experiencing hunger."

The Itaguaí Case

Between 1992 and 1998, approximately 480 children were adopted in Itaguaí, a town in the State of São Paulo.[6] About 200 of them were adopted internationally. A single judge and a single State prosecutor had authorized all these adoptions. In 1998, on the initiative of a lawyer, about twenty lower-class families formed a movement demanding a review of the judicial procedures that resulted in their children's adoptions.

My field work was carried out in São Paulo from October 2000 to April 2001 among the families who participated in this movement. I obtained information on 80 children (belonging to 48 different families) who had been removed from their families by the town's judicial authorities. I gathered this information from conversations with thirty members of 20 of the families, two reports by legislative bodies, over one hundred articles published in the press, nine files of cases of termination of parental rights, printed interviews and other written testimony, and interviews with some 15 lawyers and social workers.

At the end of the 1990s, the Human Rights Commission of the Legislative Assembly of São Paulo and a commission of parliamentary inquiry of the Federal Senate produced two reports denouncing irregularities in the adoption procedures of the children of the families concerned.[7] According to these reports, in more than one case, allegations of child abuse and abandonment—the basis for the process of the termination of parental rights—had never been proved. Moreover, after the children had been taken from their families, several family members went to the court to search for them or to obtain information. Although the courts thus had personal contact information for these families, they did not have a bailiff summon the families to court to defend themselves, but instead published a public notice summons (*edital*), as if the families' addresses were unknown. These summonses were issued in a legal gazette, the *Diário oficial*, to which the families did not have access.[8] Thus, in several cases, the process of the termination of parental rights began and ended without the families even being aware of it.[9] In addition, the court refused to provide the families with any information whatsoever; they were simply advised to find a lawyer. The cost of a private lawyer is prohibitive for these poor families, and no one at the court informed the parents that they were eligible for legal aid.

During my research, I learned that some of the families had signed documents without knowing their content. Either they were functionally illiterate (i.e., they could sign their names but not read) or they did not understand the legal terms used in the document.[10] They were also frequently coerced to sign by the com-

missioners for minors and the social workers. Some said they had been tricked: they had signed declarations without reading them (saying they had "put their faith in the legal system"), under the impression they were signing a document authorizing visiting rights or the return of their children. Only later were they informed that they had signed a renunciation of their parental rights. When the families protested against the removal of their children, the commissioners for minors often threatened to put them in prison.[11] Irregularities observed in other cases of child-trafficking scandals in Brazil have been corroborated (Abreu 2002): adoptions processed within very short time periods; suspected collusion between judges and attorneys; nonexistent files and suspicious dates and signatures in certain files.

An analysis of the files and interviews with the families reveals that the families in these cases were accused of "lacking the means" (*falta de condições*) to bring up their children. In court, they were told they had to fulfill certain conditions such as getting a job or moving to a dwelling with more than one room, and were sometimes mislead into believing that if they complied, their children would be returned to them. In addition, unrealistic deadlines (a few days, in some cases) to meet these conditions were set. Moreover, according to the testimony in the report by the Legislative Assembly, some better off members of these families went to the Court to declare their willingness to look after the children, but this fact was never recorded and is absent from the case files.

The Legislative Assembly's report reveals investigators' surprised reaction—in light of Article 23 of the Child and Adolescent Act of 1990—to the birth families' feelings that the removal of the children for reasons of poverty was justified:

> What is surprising, however, is the conviction that this procedure is "correct." It is only after a number of witnesses testify that the mothers begin to question the legality of the (adoption) procedure. During these years, the idea has been reinforced in the local population that the courts are authorized to remove children from their homes because of the lack of the material conditions necessary to meet their needs (...). The testimony reveals that the judicial agents themselves promote this idea. The lack of material conditions cannot be attributed to the mothers or to the family as a personal responsibility. Subjected to reprobation and without the resources to obtain the necessary assistance, their resistance against the removal of their children is undermined and is increasingly restricted to the small local community (p. 2–3).

Between Abandonment and the Child Circulation

Child abandonment was frequently cited to justify the removal of children from their families in court orders. Indeed, a historical survey of the legislation regarding

children in the country shows how important the concept of *abandonment* is in the Brazilian context (see, among others, Alvim and Valladares 1988; Rizzini 1993; Pilotti and Rizzini 1995) and helps us to understand the process that transforms a child of the lower classes in Brazil into an "abandoned child" and therefore a child likely to be placed for adoption.

In Brazil, the history of state intervention among poor families began in the early 20th century with the country's first Code of Minors, passed in 1927. The manner in which the "abandoned child" concept was first defined in this law determined the subsequent intervention of the State in the lives of families of the lower classes. The concept brought under a single heading several different situations, including children who are simply poor, mistreated children, and children anonymously left in the care of institutions.

As in the early legislation on children in Brazil, abandonment is not clearly defined in the Itaguaí case files. It can be applied as much to physical and emotional abandonment as to a lack of attention from the parents or the lack of support, care, and education.[12] In addition, the child-rearing practice of "child circulation" or fosterage is equated with child abandonment by the legal authorities. This point reveals the deep cultural and economic cleavage between two classes situated at opposing poles on the social scale.

Kinship studies carried out among the lower classes of Brazil (Cardoso 1984; Fonseca et al. 1993; Fonseca 2004) have brought out the importance of the *familias de criação*, a kinship system that corresponds to fosterage in the anthropological literature (Goody 1971; Lallemand 1993). It is not uncommon for children to circulate between different family milieus (the homes of grandmothers, other relatives, close friends, or neighbors), a practice that makes several adults responsible for the child's socialization. These children may speak of having two or more mothers, even when their biological mothers have maintained a relationship with them. Some of the Itaguai children placed for adoption by the judicial system had been living with grandparents or other extended family members, while others were living with *familias de criação* who were not biologically related to them.

According to the legal authorities, however, a child "in circulation" qualifies as an abandoned child—leaving a child in the care of "an unauthorized third person" indicates immoral behavior on the part of the parent(s). Hence, only the father or the mother has the right to the custody of the child; *criação* parents "are not family members"—as family implies blood relationship. In the arguments presented in these cases, formal adoption is seen as the only way to guarantee a life of "stability and dignity" for the child, and the fact that the child is staying with different people at different times implies an inability to establish a relation of affinity and security, or to recognize parental figures.

The fact that the termination of parental rights in Brazil concerns only the biological parents reveals the gap that exists between the law and widespread kinship dynamics in the lower classes of Brazilian society. For the subjects of this study, among whom extended rather than nuclear families prevail and a multiparental dynamic is common, legal adoption not only breaks the link between children and their biological parents, but also with their parents, grandparents, brothers and sisters, aunts and uncles, that is, an extended family network composed of both *de criação* and biological members (Fig. 2).

The Movement of the Mothers of the Courthouse Square

At the end of 1998, the print media reported the presence of a group of about one hundred families who gathered regularly in the square in front of Itaguaí's courthouse. Two years later, each vigil was attended in its entirety by only seven people, on average. Despite the small number of core participants remaining, extended family continued to appear at the gatherings, if only to catch up on the latest news.

The group's name, "The Movement of the Mothers of the Courthouse Square," alludes to the *Madres de Plaza de Mayo* (The Mothers of the Plaza de Mayo) movement in Argentina and was inspired by the tried-and-true formulas adopted by those Argentinean protesters, as well as the powerful symbol of motherhood. This name does not accurately reflect the composition of this Brazilian association, however. Although the majority of the participants were the children's biological mothers, the presence of other relatives and of *famílias de criação* showed that the movement was composed above all by extended families of lower-class origin rather than simply biological mothers.

In fact, the Brazilian movement bore a closer resemblance to the grandmothers (*Abuelas*) of the de Plaza de Mayo (see Gandsman, this issue) than to the better-known Mothers of the Plaza de Mayo.[13] There are, however, important differences between the two movements, especially due to particularities in Brazilian lower-class families.

When I began my field work, I expected to hear arguments opposing biological and adoptive parents, like those used by biological parents' and grandparents' movements like the *Abuelas* and Concerned United Birthparents (CUB), who couch their arguments in terms of the significance of blood lines, and the knowledge of one's ancestry or genealogy (Modell 1986:648). Studies carried out among the poorer classes of Brazil have likewise underlined the value attributed to the biological link (Fonseca 2004). The concepts of the perpetual, irrefutable nature of the blood relationship and a family identity which is not acquired but is permanently established by birth can be identified within these groups. However, despite the dominant discourse prioritizing blood ties, *criação* families have a firmly rooted
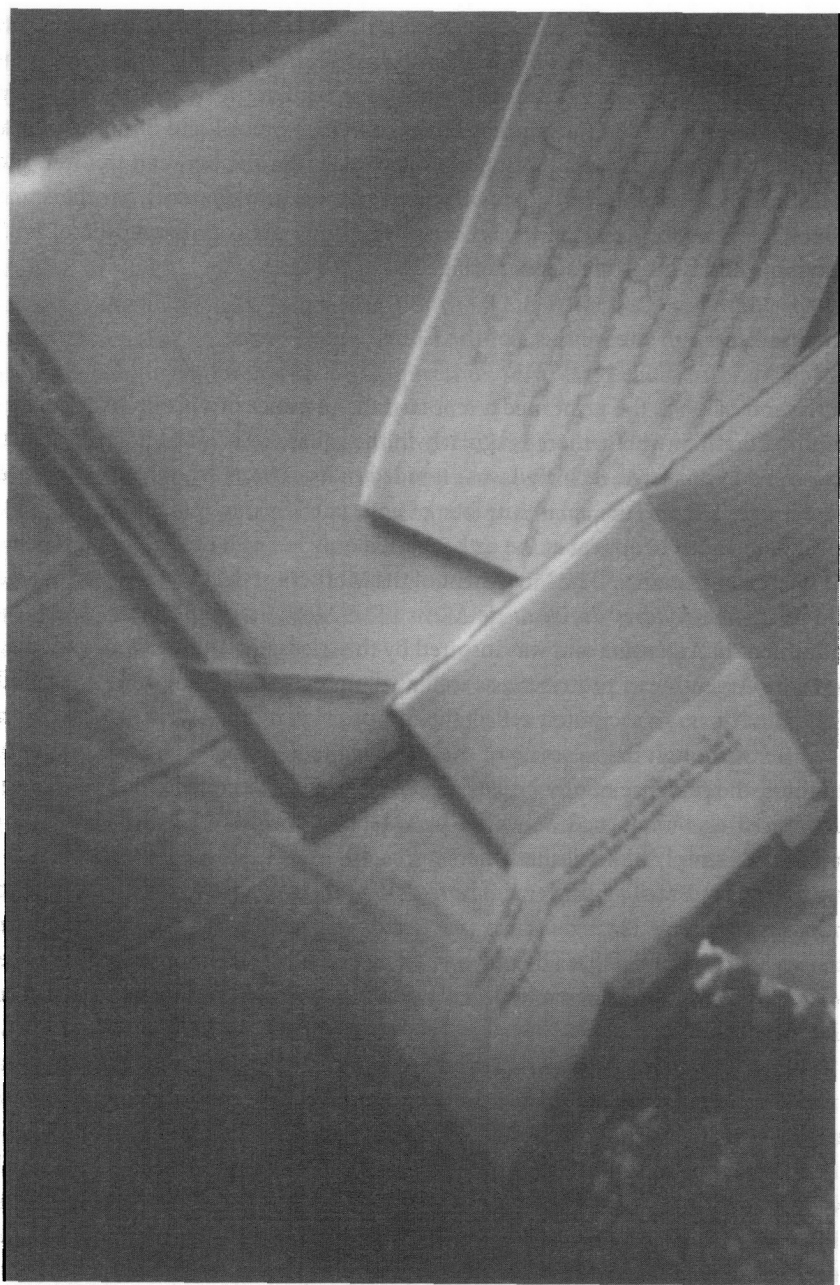
Figure 2 *School notebooks belonging to a boy who was removed from his family of origin at age 7. Three years after he was adopted, his sister* de criação *(who is also his biological aunt) still refuses to allow the family to give away her brother's personal effects*

place within the system, which, in my view, prevented the formulation of a discourse clearly opposing biological and adoptive kinship in this case. In the Brazilian Movement, which brought together biological families and *familias de criação*, no one contested the latter's right to declare themselves the parents of children who had been removed and placed in adoption, whether they had been raising the children for a few months or for 6 or 7 years.

The family dynamics revealed by the study of the Movement of the Mothers of the Courthouse Square bring greater complexity to the binomial opposition between the adoptive relationship and the biological one current in the legal model of plenary adoption. Beyond the classical triad used in adoption studies (biological parents/adoptive parents/adopted children), it introduces a variant of the extended family: a "family of origin" which includes the lower-class *familia de criação*, whose members may or may not be biologically related to the child.[14]

The place given to the *criação* families is well-illustrated by the ambivalent position occupied by the Movement's first president, a *mãe de criação* with no biological relationship to her child. This woman told me that in television interviews she preferred to stand aside to give greater prominence to the other (i.e., biological) mothers. Notwithstanding, her involvement in the Movement was unquestioned by the other families.

However, the absence of an explicit discourse within the Movement prioritizing the biological over the *criação* relationship does not imply a lack of tension between the two poles.[15] Because of the privileged status that biological mothers occupy in the kinship representations of the lower classes, the position of the *mãe de criação* is continually threatened by that of the biological mother. Moreover, the preponderant value given to biological motherhood is not exclusive to the lower classes, but can be observed in the Brazilian society as a whole. As a case in point, the two family members asked to testify at the Senate hearings were both biological mothers.[16]

Profit

The judge and the State prosecutor in the Itaguaí case founded an NGO that claimed to protect children and poor families. Journalists' and politicians' suspicions of child trafficking were aroused when it was discovered that the NGO received donations from an Italian association that promoted international adoption.[17] The Senate inquiry revealed no irregularities in the judge's bank accounts, but a number of cheques made out to the State prosecutor by the Italian association were uncovered.[18]

Research has shown that adoption, and especially international adoption, can be a means of enriching individuals of the middle class and the elite in the countries of origin, as well as adoption agencies (Hoelgaard 1998; Abreu 2002; Collard 2004;

Leifsen, Seligmann, and Leinaweaver, this issue). With the justification of helping poor children, local intermediaries such as attorneys, translators, and owners of adoption agencies, foster homes, and orphanages all profit from this enterprise (Hoelgaard 1998:217–218). Under the pretext of expenses incurred in caring for the children, these intermediaries extract money from unsuspecting foreigners. In a context of more or less "legal" or "legitimate" practices, government bureaucrats and judicial agents may also be bribed to speed up the adoption procedure. The profits for individuals, the financial contributions from foreign agencies, and the "donations" from the adoptive parents expected by the private institutions and the NGOs in the country of origin all help perpetuate a system of interest and reciprocity that encourages the increase in the supply of children for adoption by foreign families.

In the case study discussed here, in spite of the inquiries that were carried out, the creation of the Movement by the families of origin and the media attention that ensued, the judge responsible was acquitted of all accusations of irregularities by the Court of Justice of São Paulo at the end of 2001.[19] How was this judge acquitted when the Legislative Assembly, the Federal Senate, and the Prosecutor's Office of São Paulo State all acknowledge these "irregularities"? Why is the removal of children against the wishes of poor families who cannot legally defend themselves still allowed in Brazil? The answer lies in the perception of poverty among the country's elite.

The Poor Child as Threat

In an interview following the founding of the Movement, the judge in question denied accusations of "child-trafficking." However, his statements demonstrated his bias in favour of the ideology of "salvation": "I'm an unconditional fan of international adoption. It's the way to get rid of prostitutes and drug dealers." The association between poverty and criminality with respect to poor children and the attitude that placing a child from a poor family in a wealthy family is naturally beneficial to the child are also brought out in the following comments by the same judge:

> Journalist: Why is it that most of the children who are removed from their families come from the disadvantaged classes? Does it mean that a proper upbringing depends on the financial status of the parents?
>
> Judge: It's precisely because most of the malicious acts that violate children's rights are committed by this social stratum. And it's clear that a family's favorable economic condition is directly related to the respect for the rights of minors— because the higher a person's intellectual condition, the more likely that he or she will have a better developed awareness and a better education, and, in consequence, a greater respect for the law. Have you ever heard what the crime rate is in Sweden?

Itaguaí's inhabitants, the conservative and the progressive wings of the Catholic Church, and members of the press were divided on the matter.[20] However, articles supporting the Court decisions (written not only by journalists but also by attorneys and other authorities) showed the approval of a sector of Brazilian society. One journalist said: "In the opinion of the judge and most of the people of Itaguaí, these children were lucky enough to exchange an uncertain, doubtful future, with high probability of even becoming criminals, for a morally and financially stable home in the First World." In the media's support of the judge's position, terms like "dirty," "irresponsible," and "scatter-brained" were used to describe the families in the Movement.

The discourse promoting the view that international adoption is a solution to poverty-related problems is a contemporary version of the old elite fear of poor children and the threats they represent, whether in the present (street children), or the future (poor children will become "criminal" youths and adults, or "prostitutes"). Since the beginning of the 20th century, when the question of childhood and childhood criminality first emerged in Brazilian society, there has been a continual shifting back and forth between protecting the child and protecting the society that is potentially threatened by that child.[21] Recent studies carried out among the elite show that its members continue to view poverty and inequality, with their racial/regional components, as a threat (Reis 2000).[22] The urge to combat poverty is largely a reaction to the insecurity and violence characterizing Brazil's largest cities.

According to the Court of Justice of São Paulo, the international adoptions that the judge had authorized were justified, as they involved children whom "no one wanted to adopt in Brazil": children who were "black," older, or handicapped. However, according to nonofficial information obtained by lawyers and journalists with access to municipal court documents and adoption files, healthy babies considered "white" in Brazil were adopted by Swiss and German families. In addition, some families in the Movement were fighting precisely for the return of children in the category viewed by the Court as unwanted for adoption in Brazil, that is, "black" children older than three years of age.[23]

Indeed, far from being "abandoned," these children are the object of struggles in Brazil. At the heart of these struggles, race is an important factor that must be taken into account. If poverty "causes fear" in members of the elite, for whom it is synonymous with delinquency and criminality, there is, also, an "excess" of poor children in whom they are particularly interested: "white" or light-skinned infants.

Good-Looking White Children for Adoption; Black Children for Organ-Trafficking

Among the children removed from their families by the judicial authorities, there was a wide range of skin colors. Nevertheless, the racial concepts held by the families

in the Movement were generally similar to those of the wealthier classes, that is, "good-looking" children were those with light skin, blue or green eyes, and fewer African features. Thus, some of the families were convinced that the Court had taken their children because they were "good-looking" and lighter-skinned, to "sell" them to foreigners. In the words of a woman to a participant in the Movement who had lost her four daughters aged approximately 7, 5, 4, and 1, two of whom had blue or green eyes: "My children are ugly; they're not good-looking like yours were. That's why they didn't take mine."

Although many investigations have been undertaken, an actual connection between organ trafficking in Brazil and international adoption has never been proven (Abreu 2002:163–168; Fonseca 2002:36–37). However, for the families in the Movement, rumours of organ trafficking were frightening. Some parents believed that rich foreign couples were capable of coming to Brazil to procure poor children's organs for their own sick children. The shared belief among these families that their "white" children had been placed for adoption and that their "black" children had been targeted for organ trafficking reveals the higher value given to lighter-skinned children within Brazilian society.

Studies carried out in the 1980s show that for the national prospective adoptive parents, the ideal adopted child was "blond, with blue eyes," or "light-skinned" (Costa 1991). This preference for "light-skinned" children reveals that the goal in these adoptions was to bring about the least possible racial mixing (*misturar*). The importance attributed to the "European" biotype shows the dominant tendency of the adoptive couples to view themselves as "white," as well as their racist orientation in the adoption process (Costa 1991:111).[24]

Scholars and adoption professionals agree that Brazilians prefer to adopt lighter-skinned, newborn, and nonhandicapped children. On the other hand, foreigners tend to adopt children of African or mixed descent, older children and children with special needs, as well as siblings (Abreu 2002:122; Cardarello 1998).[25]

While some foreign couples would adopt darker-skinned children that middle and upper class Brazilians rarely would, it is also the case that the choices of many foreigners are limited by the adoption market (Zelizer 1992, 1994). In his research among French adoptive parents, Abreu noted that, in spite of the frequently held idea among Brazilian attorneys, judges and social workers that foreigners show a greater "openness of mind" and are willing to make more "unselfish" and "generous" adoptions, the expectations of foreign couples were not very different from those of Brazilian.[26] The French parents also preferred newborns; adoption of children older than 3 years of age was the exception.[27] All in all, they sought a child who resembled them and who was in good health, and asked for children of European descent as their first choice. They decision to adopt from a Latin American country was based on the availability of children, the relative simplicity and the

waiting period involved in the adoption process.[28] Once in Brazil, however, they often have less opportunity to select among the available children than Brazilians do, as domestic adoptions are given priority. Hence foreigners, while they might prefer "white" children, are more limited in the children available to them.

Conclusion

International law demands that adoption shall take place only when the competent authorities of the State of origin have ensured that those whose consent is necessary have been counseled and have given their written consent freely, in the required legal form.[29] However, the mechanisms controlling adoption seem to prioritize the formalities that the prospective adopters must complete, without taking into account the measures that make adoption possible—that is, the procedures of termination of parental authority or parental consent. Notwithstanding, national legislations may allow parental consent to be waived in certain cases.

Article 45 of the Brazilian Child and Adolescent Act states that "adoption is dependent upon the consent of the parents or the legal representative of the adopted child," while the following paragraph specifies that "consent may be waived in the case of a child or adolescent whose parents are not known, or who have been stripped of their parental rights." But which criteria establish this termination of rights?

To a significant portion of Brazilian society, poverty is a moral failure. The terms used in the files of the termination of parental rights that I analyzed, describing the lower-classes families "lack of dignified and honest work," "lack of family structure" and "precarious sanitary conditions," convey in legal or bureau-cratic language what some journalists, among others, have expressed in a simpler way, specifically: "these parents do not have jobs"; "these mothers do not have husbands"; and "these families are dirty."

In Brazil, poor children continue to be removed without their families' consent because their existence raises fears among many legal agents and other members of the Brazilian elite. In the view of this group, "legal child trafficking" is tolerated because these families have no right to reproduce due to their immorality, laziness, uncleanliness and irresponsibility, characteristics considered endemic to their social class.

In First World countries, tribal Indian or First Nations status potentially shields these groups from having their children taken from them. In the United States, for example, the Indian Child Welfare Act of 1978 made the adoption of First Nations children by "whites" almost impossible. Altstein and Simon (1991:183) underline the shift away from former "racist" child protection policies to policies that discourage the removal of the child from his cultural milieu and place an emphasis

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on assistance to these communities.[30] Similarly, at the beginning of 2008, the Prime Minister of Australia officially asked for forgiveness for the irreparable consequences of the policies which, beginning in the middle of the 19th century, led to the forcible removal of Aboriginal children from their families.[31] These same policies were practised in Canada until the beginning of the 1980s (Bagley 1991), ending with the creation of an official compensation fund. Of course, as Leinaweaver, Leifsen, Seligmann, and Van Vleet (all this issue) show, this tendency is less prevalent in Latin American countries, where the recognition of indigenous peoples' rights is weaker, since these groups are often categorized with "mestizos" and others at the bottom of the social scale. On the contrary: the "exotic" aspect of Amerindian children—an aspect not attributed to "black" children or to children who are simply poor—makes Amerindian families of the Third World more susceptible to losing their children to international adoption. In Brazil, at least on the level of discourse, the status of the Amerindian population appears to have been differentiated from that of "poor people" when *indianidade* was integrated into the national self-image at the beginning of the 20th century (Fonseca and Cardarello 2005). This was not the case of the lower-classes.

With the decrease in international adoptions and the lack of interest on the part of Brazilians in adopting "black" children, we can surmise that families of origin with darker-skinned children are somewhat protected against the removal of their children. However, we cannot say the same for families of children considered "white" in Brazil.

As long as social workers and other practitioners in the field of child protection do not change their concepts regarding poor families, "irregularities" in adoptions will likely continue. Moreover, as stated in the Legislative Assembly report mentioned above, these practices will not stop until the neediest members of society acquire full awareness of their legal rights and of their recourse to appeal—in other words, until access to legal aid and to justice becomes more than just a constitutional guarantee in Brazil.

One reason that a higher number of children from the Third World, and more specifically from Latin American countries, are available for adoption is that the rights of their families of origin are not respected. In countries where the economic and cultural gap between the classes is less accentuated, such flagrant violations of the parents' rights do not occur.

In the Grandmothers of the Plaza de Mayo movement, a difference has been drawn between *adoption* and *appropriation* (Arditti 2000; Gandsman, this issue). In adoption, the parents or other relatives freely and consciously give up their parental rights. However, the Argentinian mothers or fathers of children who disappeared or were born in captivity were in no position to exercise their rights as parents. The children's other relatives, unaware of these "adoption proceedings," of the

children's whereabouts, or indeed, of their very existence, were no more able to participate in the process than the children's parents (Arditti 2000:205, 225). The grandmothers state that the parents did not abandon their children; neither did the grandparents abandon their grandchildren, nor the aunts, their nieces or nephews.[32] On the contrary, they have continued searching since the children disappeared. Therefore, these children have not been abandoned, but stolen, victims of an illegal appropriation. Although significant differences can be found between the Argentinian and the Brazilian movements, particularly in the relative importance given to biological relationship in the respective kinship systems, the distinctions between the concepts of *appropriation, adoption,* and *abandonment* established by the Argentinian grandmothers gives rise to reflection about their application in the context of adoption as it is carried out by tribunals in several Latin American countries.

Acknowledgments

Notes

[1] *Isto É*, No. 1325, February 22, 1995, p. 80.

[2] Abreu is interested in what Brazilian society considers illegitimate (but legal) or legitimate (but illegal). As he points out, in the world of Brazilian adoption, illegality is the rule. The general acceptance in Brazil, irrespective of social class, of "Brazilian-style adoption" (*adoção à brasileira*) is just one example among others (see Fonseca this issue). This practice consists of having a notary register a child as one's biological child (see Collard 2004:255 on the same phenomenon in Haiti, known as "Haitian-style adoption" and Villalta 2008 for Argentina).

[3] For other countries in which the "child trafficking scandals" caused a drop in the number of international adoptions, see Selman (2000:24).

[4] As in other countries, the Act of 1990 was influenced by the 1989 United Nations International Convention on the Rights of the Child. According to Londoño (1991), already by the end of the 1880s, the concern shown for minors by the judicial milieu in Brazil was partly based on a desire to copy models from Europe and the United States to identify with Western progress. This attitude on the part of former colonies in Latin America does not seem to have changed. As in Brazil, the UN Convention had an influence on changing national laws regarding children in Peru and Ecuador (see Leinaweaver, this issue, and Leifsen 2003). Curiously, the elites of Brazil, Peru, and Ecuador, having always made a point of underlining the incorporation of the Convention's principles into their respective countries' legislation protecting children (1990 in Ecuador, 1992 in Peru), describe these laws in terms such as "one of the most advanced laws in the world" (see Rizzini 1995:103, for Brazil), "avant-garde" (see Leifsen 2003), or

"the best in the Americas, even including Europe" (Leinaweaver for Peru, this issue). In this sense, the case of Argentina is unique: through the mediation of the Abuelas de Plaza de Mayo, this Latin American country played a crucial role in bringing about the ratification of Articles 7 and 8 of the Convention, which sanction the child's right to maintain his identity (see Arditti 2000, and Gandsman, this issue).

[5]For details on how the discourse of rescue or "salvation," traditionally used to refer to poor children and families, was appropriated by the partisans of the military dictatorship in Argentina and applied to the families of "subversives," see Villalta 2008 and Gandsman, this issue.

[6]Itaguaí is a fictious name.

[7]For a more detailed description of these "irregularities," see Cardarello, in press.

[8]When I first met the Movement's lawyer, he indignantly criticized the use of public notice summons: "They put them down there, under the stairs, beside the telephone booth. Not even the lawyers can find them. Naturally, the parents, who don't know what it's all about, will never read them. This procedure should be carried out when nothing else can be done, when the family can't be found anywhere."

[9]For a similar use of public notice summons to search for parents in some Argentinean courts nowadays, see Villalta (2008).

[10]This point is underlined in the two legislative reports as well.

[11]Because they refused to sign, some parents were actually taken to the police station for several hours. One mother even told me that a commissioner for minors, who was also a policeman, pointed a gun at her head when four of her five children were removed.

[12]For similar legislation and applications in Peru that affect not only poor families but indigenous families in particular, see Leinaweaver this issue and 2008.

[13]While the Argentinean mothers have demanded, since 1977, information on their children killed by the country's military junta (1976–1983), the Grandmothers are seeking the murdered young people's children, who were subjected to adoptions up until the end of the 1970s.

[14]As the term "birth family" does not adequately describe these families, I will henceforth use the term "family of origin." Moreover, this is the term used in Article 23 of the 1990 Brazilian Child and Adolescent Act.

[15]See Chapter 10 of my doctoral thesis (Cardarello 2007).

[16]Studies carried out in different regions of the country attest to, as has my own study, the high value given to maternity among the Brazilian lower classes (see, e.g., Fonseca 1985; Sarti 2003; Leite 2004). The interpretation of Scheper-Hughes (1992:20, 22, 356–357), in which poor Brazilian mothers lack "compassion" or show "indifference" with respect to the deaths of their children is not supported in this literature. Giberti et al. (1997:153) note the same high value given to motherhood by the Argentinean lower classes, for whom, as in the Brazil case, a woman is a "real" woman only when she becomes a mother.

[17]I have estimated that between 1994 and 1998, families from Italy adopted about 40 percent of the Brazilian children placed for international adoption (*Commissione per le Adozioni Internazionali*, Electronic document http://www.commissioneadozioni.it/stat/1.htm; and Fonseca 2002). In the case of the "Itaguaí scandal," the press also reported adoptions by German, Dutch, Swiss, American, and Danish families.

[18]Most Brazilians aware of what goes on in their society would evoke the likelihood of the use of an "orange" (*laranja*) in this judge's case. As a prosecutor suggested to me, the judge could have deposited the money into a friend's account. The same prosecutor said he had even privately mentioned the likely name of this friend to the Federal Police. The Police replied that they had pursued their investigations as far as they could.

[19]Based on the decision of the Court of Justice, the judge sued the following people and entities for "moral damages": the journalists, newspapers, and television stations that had featured the case; the parliamentary representative who had edited the report of the Legislative Assembly on the affair; and the lawyer representing the families.

[20]One of the two local newspapers supported the judge. Even the journalists who sympathize with the families of the Movement embellish their social status when writing about them in the newspapers. For example, a semi-literate *pai de criação* who, like many others, had occupied menial jobs such as farm hand, truck driver, and security guard, was described as a "retired metal worker."

[21]See in particular Chapter 3 of my doctoral thesis (Cardarello 2007).

[22]Poverty also affects Brazil's black population more than its white population (Guimarães 2002).

[23]I know three children who were adopted between the ages of 8 and 10 without the consent of their families. Of a total of 46 children removed from their families of origin whose ages at the time of adoption I was able to obtain, 24 were adopted when they were between 3 and 10 years old.

[24]The preference of better-off Brazilians for newborns and "white" or lighter-skinned children has been confirmed in more recent research (see Vieira 2004). Until today, the "lighter" skin colour of the population of European descent in the southern States of Brazil attracts Brazilian and foreign prospective adoptive parents to this region of the country. From 1560 to 1850, the Brazilian colonial government imported between four and a half and six million Africans to work as slaves (Guimarães 2002:118). After Abolition in 1888, the country turned to European immigration to meet its manpower needs. Between 1850 and 1932, four million European immigrants, mainly from Italy, Germany, Spain, and Portugal, settled in the south eastern part of the country (also see Fausto 1993). The policy of importing people from Europe was aimed, among other things, at gradually "whitening" the population, as it was thought that the superiority and strength of "white blood" would progressively eliminate Afro-Brazilian physical and cultural traits (see Fry 2000:87). This foreign workforce dominated the manpower supply in the industrial and artisanal sectors, edging out the black and mixed-descent population.

[25]Exact figures are not available for these categories. However, the different perceptions about "white" and "African descent" in Brazil and abroad make this comparison more complex. Skin color is not perceived in the same way by Brazilians as by foreigners. Many children who are considered "white" in Brazil (and registered by caseworkers as such) are in fact of mixed racial descent, with a phenotype that comprises few non European (i.e., Amerindian or African) traits (Abreu 2002:134). To Europeans, in contrast, a person of mixed racial descent, even if he or she has light skin, is unequivocally categorized as nonwhite.

[26]For similar perceptions in Peru, see Leinaweaver, this issue, and for Colombia, see Hoelgaard (1998:219).

[27]Hoelgaard (1998) came to a similar conclusion for Colombia.

[28]See Seligmann this issue for an analogous analysis concerning American adoptive parents.

[29]See Article 4 of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) (Duncan 2000:43).

[30]Especially after the ratification of the Hague Convention by the United States in April 2008, various studies have noted the very different federal approaches about race and adoption with regard to international adoption, adoption of Native American children and African American children adopted from foster care. Only the latter are subject to the Multiethnic Placement Act, amended in 1996 by the Removal of Barriers to Interethnic Adoption Provisions (Evan 2008). Thus, for some children (internationally adopted and Native American), the law holds that race and culture matter, and it protects their racial and cultural interests; for African American children in foster care, however, the law minimizes the importance of race and culture.

[31]"To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry" (excerpt from the February 13, 2008 speech by the Australian Prime Minister, *The Gazette*, Montreal, February 16, 2008, p. B4).

[32]It is revealing that the American translation of this quotation does not mention grandparents, aunts, nephews or nieces, but only parents (Arditti 1999).

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