Annales de Démographie Historique. Dossier Histoire de l'adoption, vol. 1, núm. 141, 2021, pp. 161-180.

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Gentili, Agostina.

Secrétariat de la rédaction des ADH
Centre Roland Mousnier
Sorbonne Université
1, rue Victor-Cousin – 75230 Paris cedex 05
Tél. : + 33 1 40 46 25 13
Fax : + 33 1 40 46 31 92
Sites web :
www.societededemographiehistorique.fr
www.cairn.info/revue-annales-de-demographie-historique.html

Revue soutenue par l'Institut des sciences humaines et sociales du CNRS.

En couverture : annonce parue dans le « Siècle médical au journal *Le matin* », 1932, Archives de Paris, Fonds de la Ligue pour la protection des mères abandonnées, cote D84Z.214.

 978-2-410-02262-9

Histoire de l'adoption
I. Formes adoptives (XVI^e^-XX^e^ siècles)

Dossier préparé
par Fábio Macedo,
Jean-François Mignot
et Isabelle Robin

ANNALES DE DÉMOGRAPHIE HISTORIQUE, 2021 (1), 157-180

ADOPTION AND FAMILY ORIGINS IN ARGENTINA IN THE SIXTIES

by Agostina Gentili

The phenomenon of adoption in Argentina in the sixties presents a series of features that render it of utmost interest in examining the relationship between formal and informal adoption practices. By then, a long tradition of informal adoption practices had coexisted in the country with a simple adoption law that had been sanctioned very recently – in 1948 – and was scarcely used. Simultaneously, in this period the necessary consensus to sanction a new law was reached, and, in 1971, said law incorporated full adoption to make the legal procedure of forming a family, in this way, more appealing.

Research on the history of adoption in Argentina reveals that the proposals for incorporating adoption to the legal system had been present since the Civil Code, which did not recognise adoption as a legal bond of filiation, was sanctioned in 1869. These legislative proposals were presented by legislators of diverse political stances (Guy, unpublished) and dealt with the need of legalising socially extended practices in which institutions and public authorities also participated (Villalta, 2010). Nevertheless, these proposals did not prosper due to the Catholic defence of the "legitimate family," based on the presence of biological bonds within an indissoluble marital union (Cosse, 2006).

In the absence of an adoption law, people resorted to counterfeit registrations in the Civil Registry, and the philanthropic organisations in charge of child foster homes organised private agreements of placement and legal procedures to add the adopters' last names to the children handed to them. These informal ways of adoption coexisted with practices of child circulation that had been pervasive since colonial times (Ghirardi, 2004; Cicerccia, 1990 and 1994; Seoane, 1990), and were common in several Latin American countries (Fonseca, 1998; Milanich, 2009; Fávero Arend, 2005; Premo, 2008). Child circulation consisted of children's temporary placement with relatives or biologically unrelated people, for their upbringing and education, as part of agreements that might have encompassed said children working in their guardians' homes. These types of practices were associated with more flexible and open patterns than the nuclear pattern of family formation and were usually linked to situations of economic precarity and moments of crisis in life, such as widowhood (Nari,

2004; Leo, 2015).

Taking these situations into account, the first adoption law was passed in 1948 (law no. 13.252), in which adoption was understood as a filiation bond that only the state, through its judges, could create. This new legally recognised bond established a tie of kinship only between the adopters and the adopted child – it did not include the family's vertical or horizontal bonds – and did not cut legal bonds between the adopted child and their biological parents, who no longer had parental rights but would withhold their rights by descent, under the understanding that men could not disassemble what nature had created. This type of adoption, known as *simple* adoption, was chosen as a compromise between family realities and the Catholic parameters of the national norms. To prevent the practice of adoption from violating the "legitimate family," it was not allowed for adopters to have biological children.

This first law of adoption was scarcely used. People still preferred to register children as their own in the Civil Registry, an illegal but socially legitimate way of creating a complete filiation bond that the existing adoption possibilities had not established. Towards the sixties, an increasing number of the lawyers specialising in family law and the institutions devoted to children's rights stated that simple adoption was a fragile type of adoption that, given the fact that it did not extinguish the bonds derived from blood and it was revocable, did not give the adopters many warranties (Villalta, 2010 & 2012). Under these considerations, in 1971 *full* adoption was incorporated under law no. 19.134; it was a type of non-revocable bond that substituted the biological one, suppressed all legal bonds with the biological family, and incorporated the child to the total parental network of their adoptive parents.

Based on this knowledge, I aim to study an aspect that, as previously stated, is crucial in understanding the relationship between formal and informal adoption practices in Argentina. I am referring to the mechanisms instituted by the legal system throughout the sixties, an early stage of legal adoption but at the same time a period of legislative innovation. Considering the judicial system as a place of negotiations, disputes, and tensions between subjects and the state,[1] I focus on the interaction between those who gave up children for adoption and those who adopted them and the institutions involved in the process – the judicial system, hospitals, foster homes – with their agents – judges and social workers. I am interested in observing the processes of adoption that took place within not only complementary but also asymmetrical relationships between subjects and the state, as well as how the biological origin of children was assessed. I believe that this will enable me to analyse the interplay between customary practices and legal innovations.

This article examines the situation in Córdoba, a major city in the centre of the country. By the given period, due to the establishment of international automobile factories, Córdoba had transitioned from being a small commercial and bu-

reaucratic city into becoming a large industrial hub. This "industry boom" reached its peak between 1957 and 1962, and transformed the "tranquil provincial city into an industrial metropolis," given that 75% of its population was employed in the automobile industry (Brennan, 2015, 61). The process involved a demographic transformation which was unprecedented for the city, whose population doubled from 386.000 inhabitants in 1947 to over 800.000 in 1970. About 53% of this population growth was due to migration from other towns or provinces (Mignon, 2014, 18). During this period, the growth of the urban population was consolidated: it went from 52.6% in 1947 to 74.3% in 1970 (Celton, 1994, 38). According to available census data, 54% of the urban population and 47% of the rural population were women in 1960 (Censo Nacional de Población, 1960, 3).

In Córdoba, one of the most valuable national archives on these matters is at our disposal: the Minors' Archive Group from the Centre of Historical Documents from the Judicial Power of Córdoba.[2] This archive group was established from files belonging to the first eighteen years of legal proceedings of the juvenile courts of the city: 1957-1974. The archive group comprises files that, having exceeded the legal conservation term of 10 years, were rescued from elimination.[3]

I resort to 82 records on the pre-adoptive custody of 85 children, issued in the period between the establishment of juvenile courts and the first three years after the second adoption law in Argentina came into force. The selected time frame is analytically linked to what Argentinian historiography recognises as the sixties, an era characterised by its sociocultural modernisation and its political radicalisation, in the face of the advance of authoritarianism (Terán, 2013; Cosse, 2010; Gilman, 2003). The corpus of 82 records was selected by saturation after examining more than 1000 files, and it comprises all the records of adoption related child custody that were found. All the cases detailed in these records pertain to Córdoba city or neighbouring towns. The rest of the files displayed varied circumstances of admission to children's foster homes and requests for custody in the context of diverse situations regarding children and their families, namely custody and upbringing agreements of children and adolescents, work agreements, and family feuds, such as the separation of the couple or conflicts between adolescents and their parents.

A collection of these records of custody without adoption purposes will be included in this analysis. Child custody records were a judicial procedure by which authorities used to transfer – and still transfer – the responsibilities of child-rearing and care to those who did not have parental authority. This procedure was employed in different situations, and it was a previous requirement to adoption, understood by jurists as a sort of trial period, so as to guarantee that the decision to adopt was not "a mere impulse" but "a well-thought-out and serious decision" taken after "devel-

oping deep feelings" towards the child and after having measured "justly the responsibilities [they were undertaking]" and the "advantages and inconveniences of such a tight and permanent bond" (Borda, 1962, 145). Furthermore, custody records are documents that contain more information than adoption records about the circumstances in which children were given up for adoption.

The analysed records underwent operations of quantification, exemplification, and contextualisation based on the analysis of an array of wider sources.[4] On one hand, I consider 294 files containing 349 requests for custody due to different circumstances: 188 for upbringing and custody agreements of children and adolescents, 102 regarding family conflicts, and 59 work agreements. On the other hand, I also resort to legislation, law manuals, resolutions issued by the General Office of Children's Services[5] – responsible for the technical teams involved in adoption processes and state foster homes –, and acts issued by the Technical Team of Custody and Adoption.[6]

I hypothesise that the state had to constantly negotiate and redirect dynamics that had been socially established, including by the state itself. In this initial moment of institutionalisation, informal and formal systems of adoption coexisted and were implicated in a process of mutual feedback. In this way, the process of institutionalisation of adoption originates in the legalisation – not institution – of previously existing practices; this is a process which assimilated informal practices of adoption.

The legal processes of adoption

In 1972, one year after the sanction of the second adoption law, the Technical Team of Adoption and Custody of the Office of Children's Services was established. This office had been created in 1945 to administer the province's institutions in charge of fostering and secluding children. In 1957, the office started functioning as a body that assisted and collaborated with juvenile courts: the social workers that collected information and elaborated environmental and family reports for judicial processes belonged to this office.[7]

The team was "interdisciplinary," as it included social workers, doctors, lawyers, psychologists, and educational psychologists. Its responsibilities were to conduct the assessment of institutionalised children to determine if they were apt to return to the family environment – be it their own or another – and to unify criteria of placement and guidelines for the registry and selection of guardians. The team saw the need to unify these criteria with all the other dependencies of the public body it was a part of, as well as with other institutions that participated in handing children over for adoption, such as public maternity hospitals. In this way, meetings were held in which it was stated, among other things, that there was a need for a "complete study of couples" under "uniform criteria" of reports elaboration and the existence of "only one place" to receive custody requests, to which each social service would derive

the documentation of the case.[8]

The work and concerns of this team speak volumes about the forms taken by legal adoption in its early period of institutionalisation. It was the first time that a division, devised decades ago, to supervise children's admission to foster homes started to count on an area specifically dedicated to the return of children to family life, be it with their parents, relatives, or biologically unrelated people, under some upbringing agreement or with adoption purposes. Furthermore, this was the first attempt of a public body to unify the criteria of adoption placements. This attempt unveiled two issues that are central to our analysis: there was not a centralised circuit of adoption, and the ways in which the placements took place was characterised by a high degree of informality and discretion. This is central because in the given period the judicial authorities had the power to *create* the adoptive bond, but they did not choose the adopters nor supervise the placement conditions; their task was to legalise agreements made by other institutions or in a private form.

As shown in table 1, 45% of children were handed over by their biological family – mothers, fathers, relatives – to their guardians; 39% of them were in health institutions, primarily public maternities and in few cases in the Children's Hospital; and 16% of children were in welfare institutions: children's foster homes that depended on the Office of Children's Services and the "Casa Cuna," a children's hospital and home that was created and administered by the Society of Beneficence from the end of the 19th century until it then started depending on the health services of the provincial state in the middle of the 20th century.

The social services of health and welfare institutions had their list of adopters, but they did not always resort to these records. This reveals that the existence of specific procedures of institutional placement coexisted with informal arrangements and that both practices were legalised by judicial authorities. In 1973, for instance, a baby girl, found on the street by a police officer who took her to one of the maternity hospitals, was placed in the custody of another police officer and his wife, who were undoubtedly not part of the list of adopters. Days before the placement, the chief of the social service had to appear before the court to explain "the reasons that led her to not submit the child, with no intentions of disrespecting the court's ruling."[9] There is no trace of those reasons now, but the presence of the chief of the social service in the judicial offices was unusual, and all evidence points towards the fact that the choice of those adopters was in the hands of the police, who skipped the procedures followed by the institution.

The typical scene of an adoption officiated by public maternity hospitals was very different. Its social services carried out a family-environment survey to those with a desire to adopt, and they were asked to present certificates of good health, infertility, good conduct, and work, which attested to their "material and moral solvency." When a woman expressed "her desire" of giving her child

Tab. 1. Age and sex of children when received by their guardians according to placement setting, Córdoba, 1957-1974

Sex and placement	Public maternity hospitals and other health institutions		Children's foster homes and "Casa Cuna"		Family		Subtotal	%
Age	Female	Male	Female	Male	Female	Male		
Days	8	9			3		20	24
Months	7	8			11	8	34	40
1 to 4 years old	1		3	5	6	5	20	24
5 to 9 years old			4	1	1	4	10	11
No references				1			1	1
Total of children	16	17	7	7	21	17	85	100
Subtotal and %	33 / 39%		14 / 16%		38 / 45%			

Source: My elaboration, based on 82 files of my entire corpus of pre-adoptive custodies, General Archive of Córdoba's Court (Archivo General de los Tribunales de Córdoba: AGTC), Centre of Historical Documentation (Centro de Documentación Histórica: CDH), Children's Archive Group (Fondo Menores: FM).

up for adoption, she was required to sign a piece of paper that served as an act of renouncing her parental rights "for economic and family reasons." Subsequently, a couple from the adopters' registry was called and, if they liked the baby, the social service produced a note communicating the situation to the court. The couple appeared in court with that note, their certificates, and the document signed by the biological mother. At that same moment, they were awarded custody and they returned to the maternity hospital to initiate a new family life.

People's preference for babies made public maternity hospitals the main institutional setting of adoption placement and it marginalised children's homes that fostered older children, even though these institutions had insisted, more than other, on adoption as a solution to the problem of the "abandoned" and possibly "perilous" childhood. The return to family life after living in a foster home was more likely to happen under diverse upbringing or work agreements, particularly young girls that left foster homes to work as housemaids. Work agreements were prohibited by the legislation, but they continued to be made, especially by some state institutions that were handled by the Catholic religious order of the *Buen Pastor*. The judicial authorities legalised these agreements, forbidden by law, under the argument that leaving the foster home to work was what these young women "wished for."[10]

Children's foster homes were associated with populations of children with learning and adaptation "issues" that few people were willing to face. This is highlighted by the adoption of a 3-year-old child that had been admitted to several institutions from his birth, originally at the Home for Teen Mothers[11] with his mother and then without her, as she ran away and never returned for him. The woman who required the child's custody told the social worker that she had "experienced difficulties at the beginning due to the child's behaviour" and his "improper manners," but that "his attitude started changing […] thanks to the limits that she set him, which sometimes included punishment." In this way, the child "began to obey her." After some time, the woman was interviewed by a psychologist from the foster home and stated that she observed "some defects in the child's intelligence […] for example, lack of fantasy and creation." The psychologist from the child's former foster home explained to the woman that they could be "faults derived from lack of affective stimulation" during his stay; the professional offered to conduct some tests, but the woman "preferred not to take him" to the institute anymore "because the child suffered considerable distress" when returning to the home.[12]

The adoption of a child that had lived in a foster home carried with it the experience of adapting to a new family life. There, children would count on exclusive care and affection, but they would also face the adopters' expectations regarding their behaviour and their emotional and intellectual resourcefulness. Children may not have spent a long time institutionalised, but if they were older than five years old, it was likely that their adaptation and that of the adoptive family did not have a good outcome. Such was the case with three of the children involved in the 85 requests for custody: they were 5, 8, and 9 years old and left the foster home a few months after their institutionalisation, but their guardians desisted shortly after.[13]

In those cases, the initiatives of the Technical Team of Custody and Adoption were directed towards unifying criteria and centralising institutional placement, but nothing was done regarding placements overseeing families. The following placement decisions were the most common: 38 cases, as opposed to 28 of public maternity hospitals, 5 from hospitals, 6 from the "Casa Cuna," and 8 from foster homes. In terms of informal family arrangements, legal adoption evidences the most features of coexistence with customary adoption traditions.

Those arrangements were informal and unwritten, verbal, between the people who received the child and the person who gave the child to them. In almost 7 out of 10 occasions, those arrangements became legal shortly after having taken place, as revealed by the assessment of the time passed between the reception of the child and the formal request for custody (table 2). In the remaining requests, the lapse of time was between 1 and 11 years. In this way, adoption had already been consummated through informal placement and the consolidation of affective

Tab. 2. Age of children when they were received by their guardians and time passed between the placement and its legal legitimisation, Córdoba, 1957-1974

Age / time passed	Days or months	1-2 yrs	3-6 yrs	10-11 yrs	Subtotal	%
Days	1	1	1		3	8
Months	14	1	1	2	18	47
1-4 years	8	3	1		12	32
5-8 years	2		3		5	13
Total of children	25	5	6	2	38	100
%	66	13	16	5	100	

Source: My elaboration, based on 38 files of pre-adoptive custodies after informal family agreements, AGTC, CDH, FM.

bonds between adults and children.

It was not a rule, but it was frequent that those requests for custody with adoption purposes after several years of living with the children were motivated by the start of formal education or the return of their biological mother or father, who wanted to reclaim the child. In December 1967, a couple appeared in court requesting the custody of a 5-year-old girl. They explained that her father had handed the girl to them when she was one year old, telling them the arrangement would be "for life" because he "could not take care of her due to lack of employment and parental vocation." They had received her, they claimed, "by giving her all the elements of love, care, affection and dedication proper to a legitimate child and presenting her as such in their inner circle," and she was "another sister" to the couple's biological children. That year the girl would start kindergarten, so they needed to comply with "the requirement of legal representation."[14]

Months later, the social worker was informed that the couple was not married but they had been living together for over thirty-five years. The man was 59 years old and worked at a blacksmith's shop, the woman was 50 years old and was dedicated to "housework;" both of them could "read and write." They had eight children, all of whom carried the woman's last name; the oldest was 35 and the youngest was 11. Except for the youngest ones, who attended school, all of them worked: the boys worked at the railway station, a construction company, a furniture shop, and a mechanic's shop, and the girls were domestic workers. During a home visit, the oldest son and daughter greeted the social worker because their parents were not home. They told her that the girl had been with them "from a very young age, to the point that they taught her to speak and walk," stressing the fact that her biological father had handed the girl to them, "disregarding her upbringing completely." This time, they claimed that he had returned "on three occasions to visit her, and on the last occasion he

desired to take her with him," something they opposed, because "he was apparently an irresponsible man whose life was not to be trusted, and in addition, they had taken to the girl and feared she would suffer in his hands." They were having this conversation when other siblings arrived, and, "showing pictures" and "plenty of clothing items," they stated how they had "become fond of" the girl. "If it were possible," reported the social worker, the couple desired to adopt the child. The professional added that the family seemed to lead "a comfortable life with no economic constraints" due to the incomes of the head of household and the six older siblings, adding that "despite this, they lived tightly in two rooms and they had only five beds available, having consequently to sleep in pairs." To the eyes of the social worker, the fact that the couple was not married and that the house was too small were "the only factors unfavourable for the permanence of the child in the home." Apart from that, the child was "in optimal conditions" because "not only" had she been "provided with the elements necessary for her sustenance, but also she was loved and educated."

Months later, the couple attended a hearing in court with the girl's baptism certificate, a document that displayed that the oldest daughter of the couple was the child's godmother. In that opportunity, the couple expressed that "for the purposes of complying with the moral representation to sustain an upcoming request for full custody […] they were initiating the legal process of a marital union, given the fact that they had lived for forty years without complying with this requirement, which was postponed day after day due to reasons of personal indolence, which they confessed with woe." They were granted custody after a few days.

If it had not been necessary to possess a document to enrol her in kindergarten or if the father had not returned with a desire to take her with him, maybe this couple would not have legalised this already consummated bond of upbringing and affection. They received her when she was a baby, they had pictures that proved it, they taught her to talk and walk, they enrolled her in school, they loved her. They treated her "as a legitimate daughter" both privately and publicly. This testimony reveals that customary practices of child circulation coexisted and nurtured the legal circuit of adoption. In these years, this ancient practice was still in force and courts witnessed it habitually. As we have seen, a third of the requests for custody with adoption purposes were filed years after the children had arrived in these families. On the other hand, those requests coexisted with many others that evidenced the existence of different arrangements of child-rearing and custody orchestrated by the family world: 188 processes, more than a half of the 349 granted custody records contained in the bigger sample in the study. Both to the social worker and the judicial authorities, what mattered the most was the bond of rearing and affection that joined that girl with that couple, ratifying the couple's main

argument: they had been taking care of her for years, they loved her and the girl was in good condition.

The story of this child does not only reveal that affective bonds consummated informal bonds of adoption between adults and children and that those bonds were the main argument of legal authorities to legalise those family arrangements. It also makes evident that, by sheltering in those affective bonds that had already created an informal bond of adoption, authorities were flexible in their analysis of family realities in the face of normative pretensions. This flexibility when analysing family realities speaks volumes, to my understanding, of the forms taken by the coexistence and mutual feedback of customary practices and legal practices in this early context of the institutionalisation of adoption.

None of the adoption laws of this period inhibited the possibility of adopting according to marital status, but the law manuals stated that a domestic partnership that had not been legalised was a sign of moral insolvency, comparable to committing a crime or engaging in prostitution: "Certainly, adoption cannot be granted if the adopter is being processed or if s/he has been convicting on an infamous crime, such as attempting against a public building, engaging in prostitution, living in concubinage, etc. (Borda, 1962, 143 and 1977, 152)." That 9 out of 10 custody requests granted involved married couples confirms that the marital union, which was not a legal requirement for adoption, was a fundamental symbolic resource in the interactions with the state. Hence, if that girl's destiny was to be her legal incorporation into the family, as an adoptive daughter, the authorities attended to generating the "moral" conditions that would enable a request for adoption. That outcome would legalise an affective bond formed over time and it would legitimate the court's decision that the girl remained with the couple.

However, authorities demanded a marital union without it being a formal requirement, but they ignored the fact that the couple had children of their own, which impeded adoption according to the first legislation on the matter. This was not the first time it occurred. As illustrated by table 3 – which collects the 70 requests previous to the second adoption law that eliminated that impediment in 1971 –, a quarter of the people that requested pre-adoptive custody had children of their own, which occurred in both family agreements and institutional placement agreements.

As stated in law manuals, adoption was founded on the principle that those who did not have children could form a family, by directing "their frustrated desire for parenthood into a child that is not their own" (Borda, 1962, 125). Behind this empathy towards those who had not been allowed by "Nature" to become parents, the defence of the "legitimate family" appeared: the prohibition of adopting when having children of their own was "absolutely justified" because it had to be "prevented that adoption, which is carried out with a generous spirit, may later become a grave inter-

Tab. 3. Offspring of who requested custody with adoption purposes before 1971, according to setting, Córdoba, 1957-1970

Placement setting / offspring	No children	With children	No references	Subtotal	
					%
Family	15	12	3	30	43
Health system	19	3	4	26	37
Welfare system	10	2	2	14	20
Total and %	44 / 63%	17 / 24%	9 / 13%	70	100

Source: My elaboration, based on 67 files processed before the second adoption law, AGTC, CDH, FM.

ference with the blood family" (Borda, 1977, 143). Nevertheless, the legislation had left one door open which handed the family the final decision regarding the incorporation of a "stranger:" the presence of children of one's own meant only relative invalidity of the process, which implied that initiating action of nullity depended on the will of the offspring (Borda, 1962, 141).

In the sixties, the will to adopt when one had descent had been accompanied by favourable jurisprudence and the petition of specialists and state agents, who pleaded for the loosening of adoption requirements (Villalta, 2010, 97). With those two factors mediating, that requirement was eliminated in the second adoption law – no. 19.134 –, which now recognised the forms that the institution had been assuming in concrete practices of those who desired to adopt.

By taking into account affective bonds between adults and children, authorities could even tolerate illegal adoptions, made possible through counterfeit registrations in the Civil Registry. The experiences of those who registered as their own the children they had received through informal arrangements – which could count on intermediates such as doctors and midwives or involve an exchange of money –[15] were frequent and they were socially accepted and legally tolerated despite being one of the causes for the annulment of the marital state. One instance of this was a process initiated in 1964 in which authorities decided that a boy should stay with the couple that had registered him as their own and not with the biological mother who claimed him because they considered that the couple "cared" for him "as if he were a 'son' and they had made a mistake by registering him as such in order to protect him." Authorities recognised that those people were "alleged authors of an act punishable by law," but they understood that "from the humane point of view" they had provided the child with "their best intentions and, above all, with 'affection' only comparable to those given to their biological children."[16]

Let us return to the story of the girl, there is further aspect worthy of our attention. When the couple appeared before the court for the second time, they presented the child's baptism certifi-

cate, which evidenced that their oldest daughter was the godmother. By then, authorities had already received the social worker's report and they knew that it was that young woman whom the girl "called mother." This information had even been underlined by the person who read the report. It was noted, but it was not included between the reasons that the court gave when granting custody to the couple. The family undoubtedly made a strategic reading of the possibilities it had of earning the judicial authorities' acceptance: it was not the young girl, who was single and earned humbly as a domestic worker, who asked for custody, but her parents, who could get married and who lived a "comfortable" life. Knowingly, judicial authorities granted custody with adoption purposes to whom, in the child's real life, would not be her adoptive parents.

The policies of recognition of family origin

Judicial authorities were flexible to the modalities assumed by the placement of children in adoption, but they had a monolithic position regarding the recognition of the family origins of these children in their legal adoption processes, anchored in maintaining socially prevailing hierarchies of class and gender.

In 1967, a 19-year-old girl whom I will call Mariana, presented herself to the courthouse saying that it was "her will to give her daughter […] for she was alone and unable to cope with the upbringing and education of the girl, agreeing with her adoption and renouncing claims hereafter." The 2-year-old girl had been with a married couple for more than a year, who was at that time asking to be her guardians. The couple lived in the vicinity of the president of the Ladies' Commission of the Home for Teenage Mothers. Mariana had been institutionalised there at the birth of her daughter in January 1965, and in March 1966 the president of the commission had asked to become the child's guardian so the girl could "help her with the housework."[17]

It was not the first time that Mariana was institutionalised, nor was it the first or last time that she was given, under custody, to different people who used her for domestic service. From the age of 2, like her daughter, Mariana had been taken care of by her grandmother. At the age of 5, after the death of her grandmother, she was admitted into foster care and since then she wandered between seven different religious foster homes and juvenile foster care institutions, from which she left and to which she re-entered after being employed in domestic service in different family homes. One Sunday, at the age of 16, Mariana left the home of one of her employers to take a walk in the park, here she met a young man of around 20 years old. That day, they agreed to see each other again on the next holiday and in that second meeting she fell pregnant. She was unable to see the young man again because her employer took him to court and she was admitted to the Home for Teenage Mothers.

Her daughter was born in January 1965. Three months later, a woman

appeared in court to request Mariana's custody so she could "help her with the housework." Faced with that request, Mariana confirmed "it was her wish to work in a family home, […] but wherever she went they would have to accept her with her little daughter since she has nowhere to leave her because she lacks parents or relatives." After seven months, her guardian took her back to court arguing she "observed bad behaviour" and Mariana returned to the Home for Teenage Mothers, where she would leave once more to work as a housekeeper, this time with the president of the Ladies' Commission of the institution.

Two months after this, a social worker from the Office of Children's Services conducted a family environment survey in the house where Mariana was staying. Here her employer said that the young woman "planned to give her little daughter up for adoption" to a married lady "who resides right in front," which in her opinion seemed to be "a wise decision, given that the Ms. lacks children of her own, in addition to constituting with her husband a very respectable and admired family in town, so she is sure they will know how to take good care of the young girl's child." The social worker said that Mariana "ratified what was expressed by her guardian, fully agreeing to continue residing in that house," but a month later the guardian left her once again in charge of the court and Mariana once again went to stay with another woman who used her for domestic service. Mariana's daughter stayed with the neighbours of that woman. A year later Mariana renounced her parental rights in front of the judicial authorities and that couple filed for custody with adoption purposes.

When analysing the family origins of girls and boys given up for adoption in those years, Mariana's story is both typical and atypical and will serve as a guiding thread to recall other experiences from the same period. It is typical because we are faced with a single mother, a figure of a young and poor woman who was not in a relationship with or married to the father of the child she brought into the world. The "illegitimacy" of these births weighed heavily due to the difficulties of parenting in the situations of economic precariousness experienced in solitude and the social condemnation that fell on those experiences. As table 4 shows, the aforementioned filiation was maternal, followed by the presence of both parents, a single occasion where only the father was recognised, and 6 occasions on which filiation could not be determined because the children were found on the street or because nothing was said about it.

Tab. 4. Relationship status of parents in custody with adoption purposes by displayed filiation, Córdoba, 1957-1974

filiation	Maternal		Paternal		Maternal and paternal		Unknown or not explicit			
Relationship status	Qty.	%	Qty.	%	Qty.	%	Qty.	%	Subtotal	%
Single	48	87			10	43	1	17	59	69
Married	2	4	1	100	6	26			9	11
Widows					2	9			2	2
Separated					2	9			2	2
Domestic partnership	2	4			1	4			3	4
Without references	3	5			2	9	5	83	10	12
Total and % by displayed filiation	55	65	1	1	23	27	6	7	85	100

Source: My elaboration, based on 82 files of my entire corpus of pre-adoptive custodies, AGTC, CDH, FM.

Hence the particular feminine configuration of the family origins of those who gave their children up for adoption. This gender condition went hand in hand with a high proportion of single mothers, present on almost seven out of ten occasions. Widowhood was even more remote than a marital union. The few times when mothers and/or married fathers appear, we find again that the decision was a feminine affair: three children were "abandoned" in the public maternity hospital,[18] two were orphaned[19] and only two experiences involved both parents, who gave the child up for foster care or "abandoned" the child there.[20] The general picture of these scenarios of origin ends up being completed with placement experiences that involved children born from consensual unions, children of separated mothers or fathers, or from an extramarital relationship on the part of the father.[21]

Thus, we are faced with a judicial narrative in which family origins were predominantly associated with the legal and social mandates of the time, signified by the heterosexual marriage union, legally constituted and indissoluble. Given the profuse number of mothers involved in giving up their children and the remote possibility that they were decisions of both parents, it proves that non-marital procreation had fewer consequences for men, thus reinforcing gender inequalities of the double-bind in sexual morality that proclaimed female premarital virginity but accepted and encouraged males' previous experience.[22]

In the files, it is common to find explicit or implicit references to the prejudices that fell on single motherhood. A woman who asked for the custody of a 2-year-old girl explained that the mother had given her the baby when she was 15 days old "because she was single and did not want her family to know that she had had a daughter,"[23] and the grandparents of a month-old baby said that they wanted to adopt her because their daughter "was very young and if one day she wanted to form a family, her daughter was going to be a problem with her future spouse, etc."[24]

Mariana's story is also typical of a judicial adoption story because she was a young woman employed in domestic service. That was one of the few occupations mentioned in 12 of the 15 opportunities in which this information was noted,[25] 3 of which involved young people who, like Mariana, came from different foster homes;[26] another was working in a shoe factory before she became a domestic employee in the house of her foster family and another was a woman who did temporary work for a living.[27]

When Mariana went to court to give up her daughter in favour of the married couple to whom she had given her over a year earlier, nothing was said about the reasons that led her to make that decision. The judicial account of her story suggests that, as other women who gave their children for adoption also argued, Mariana considered herself "unable to raise her."[28] However, the episodes surrounding the yielding of her daughter allow us to perceive other reasons which are close to certainty, when in the pro-

ceedings of the Adoption and Custody Technical Team that, according to the director of one public maternity hospital, "domestic service employees influenced by their 'employers' and the work problem that is presented to them," was one of the most frequent circumstances of resorting to adoption.[29] Domestic service was a double-edged sword for those mothers who were trying to raise their children alone: it meant solving their housing and income needs in a single movement, but in those settings, they were at the mercy of the "influence" of employers who encouraged them to give up their children under the argument that a family in a better situation could give them a more promising future.

Files such as Mariana's, which left traces of the personal story of the mother that gave her daughter up for adoption, are an exception. In most narratives, the social, personal, and family circumstances in which those placements occurred were not present nor even outlined, for the judicial narrative was frequently elusive when depicting who gave a child for adoption and why. In the files, the mothers of the children do not speak in the first person. As it was not essential for parents to partake in the judicial process, their experiences are told to us through other voices: guardians who narrate the meeting with the child and the virtues of the home that fosters him or her, social workers communicating "abandonment" and presenting suitable couples, or institutional staff informing of the mother's behaviour during her institutional stay.

The parents' participation was one of the most debated issues when sanctioning adoption laws. Following Villalta (2012) we know that the institutions maintained it not to be necessary that the parents who had entrusted them with their children were summoned to the trial because they understood that the custody the legislation conferred on them was equivalent to them being the representatives of the kid; others considered that such custody did not entail the loss of parental rights, that it should be defined judicially and the parents should be cited. In those areas, this participation was considered a discouragement for those who wished to adopt and a favourable occasion for the parents to "take advantage" of the situation, having the opportunity to reclaim the children or profit from the placement, which ended up leading to people falsely registering these children as their own in the Civil Registry.

Villalta states that the second adoption law not only "handed the judge the decision to summon the parents to the adoption trial – this summoning depending on the existence of *reasonable motives* –," but it also intended to "be comprehensive regarding the circumstances under which the biological parents' appearance *should not be allowed*" (Villalta, 2012, 202). Biological parents were not to be called nor admitted if they appeared spontaneously; if they had lost their parental rights; when they had given the child "to a beneficence or children protection institution […] and had not been involved in the affective and family aspect

of the child for a year without justification;" when they had expressed their will that the child be adopted under the auspices of a competent state institution, judicial authority or publicly; and when "the moral or material abandonment of the child [was] evident, or for having been abandoned on the streets or similar places and said abandonment [was] proven by judicial authorities" (Art. 11º, Law 19.134/71, in Villalta, 2012, 203).

The practices of juvenile courts reveal that these opinions were fully valid even before their normative formulation in 1971. Table 5 shows that only 4 out of 10 processes had consent, that a similar amount of consent was waived, and that in only 1 out of 10 opportunities actions were aimed at the participation of parents. When the health system was in charge of the placements, social workers prepared the certificates in maternity hospitals and made the arrangements, not always explicitly, to find the whereabouts of the mothers who had left without their children; the judicial authorities did not undertake efforts to do so. When the placement setting was a welfare institution, the participation of parents was required to prevent children from being institutionalised, but not to assess their willingness to give their children up for adoption. When the children were already with those who requested their custody, it was common for the parents to participate, but their presence could also be dispensed, especially when the placement had occurred years before they went to court. All this occurred without magistrates and officials explaining their criteria to summon parents or not, in processes in which they rarely argued about the matter they were resolving and they merely settled orders that made the process move forward: "to give intervention to the consultancy of minors," "to order environmental survey," "to grant custody."

Tab. 5. Parental consent in custody with adoption purposes by placement setting, Córdoba, 1957-1974

Placement setting	Health system		Welfare system		Family arrangements			
Participation and consent	Qty.	%	Qty.	%	Qty.	%	Subtotal	%
Parental consent before maternity hospitals	9	27					9	11
Consent before judicial authorities	5	15	2	14	20	53	27	32
With deeds aimed at their participation	4	12	5	36	2	5	11	13
Without deeds aimed at their participation	13	40	5	36	13	34	31	36
Without consent	2	6	1	7	2	5	5	6
Without consent due to orphanage			1	7	1	3	2	2
Total requests	33		14		38		85	100

Source: My elaboration, based on 82 files of my entire corpus of pre-adoptive custodies, AGTC, CDH, FM.

Judicial recognition of the family origins of children given up for adoption is plagued with information that was taken for granted. What appears clear is that pregnancy, the child, and the yielding of the child were feminine matters. It was mainly the mothers who faced fears for the future of themselves and their child. It was them who bore the arrival of that child and his or her upbringing in the hands of someone else, with or without the intention of their child being adopted. As these experiences could be heartbreaking or shameful, it is understandable that little was said about them and that the judicial narrative did not offer more information. Now, if we only take into account what was explained in the processes, everything seems to indicate that only poor women gave their children up for adoption. The occasions in which only a name was left and no reference was made to the circumstances and conditions in which these mothers gave their children leave a void that can be filled with the words of the director of the Provincial Maternity that, once again, supports our conjectures: together with domestic workers instigated by their employers, one of the most common causes of yielding was that of "pregnant university students rejected by their families."[30] If these family origins were recognised in other areas of the institutional framework of deliveries for adoption, the judicial setting offered the better-positioned sectors the discretion necessary for these family origins to be protected.

This policy of recognition of adopted children's family origin, evidenced by the content and the omissions of the judicial narrative, may be understood as part of the gestures displayed by the judicial sphere, which was earning a space in the matrix of pre-existing relationships that made up the customary practices of adoption. The authority to legitimise acts performed beyond their offices – placement of children that occurred informally, in maternity and children's hospitals, and foster homes and institutions – was vested in them. Achieving the effective exercise of the power of legitimising the adoptive bond, that the legislation had granted them, entailed achieving the channelling of the families and the rest of the state institutions towards the judicial sphere for the ratification of what they consummated in their practices. This is why judicial authorities negotiated, among other issues, what would be said and what would be omitted about the children's family origins.

Conclusion

In the sixties, legal adoption was a recent legal figure in Argentina. The legislation had vested in judicial authorities the jurisdiction to create the adoptive filiation bond, but the judicial sphere was a stage of ratification of placement arrangements decided in other institutional or family settings. In institutional settings, the existence of specific procedures coincided with informal arrangements, and both of them were equally legalised by judicial authorities. Family placement arrangements were the most frequent

form, and their judicial legitimisation did not always occur at the same time. On occasions, adoption had already been consummated by customary practices of incorporation of children into family life through affection and rearing. Judicial authorities had the opportunity to legalise these bonds when families needed a custody certificate to enrol children in schools or avoid conflicts that arose from the return of the biological parents.

Both families and judicial authorities placed central importance on the existence of affective bonds to justify their requests and decisions. By resorting to these affective bonds, authorities could make a flexible reading of family realities, thus granting custody to those who already had children of their own or to families whose economic conditions were not those deemed desirable. The importance given to these bonds was such that it could even justify illegal modes of adoption such as false registrations in the Civil Registry.

By stating these facts, it is not my desire to transmit a romanticised vision of adoption. What I am interested in highlighting is that, in a society in which long-rooted customary practices of adoption existed, when adoption was incorporated into the legal order authorities had the need to legitimate themselves as spaces that were socially necessary to construct bonds that families and state institutions already mediated. Additionally, they also resorted to a policy of recognition of family origins strongly marked by class differences. By revealing little and only doing it explicitly when working-class women were involved, judicial authorities offered the better-positioned sectors of society the discretion to not disclose these origins, thus protecting the prevailing class and gender hierarchies.

Studying the phenomenon of adoption in other areas allows us to draw a contrast between them and the situation in Argentina. In Europe, the history of adoption, and especially of international adoption, was characterised by the huge war conflicts and the totalitarian governments of the 20th century. In that sense, for instance, Marre & Briggs (2009), argue that the campaigns to feed refugees were an antecedent to adoption, and Cadoret (2004) states that the first adoption law in France, in 1923, was a response to the high number of children orphaned during World War I.

On the other hand, international adoption was not included in the Argentinian legal panorama, and political conflicts did not play a crucial role in the regulation of adoption until the 1980s. By that time, accusations of child abduction during the last dictatorial government (1976-1983) generated the consensus needed to introduce reforms to the adoption law, recognising children's rights to know their origins and seeking to avoid child abduction through a centralised system of adoption at the national level. This experience consolidated a social common sense that associates adoption to strong involvement on the part of the government, and this association contributed to forgetting the importance upbringing agreements had in family dynamics in general and in

adoption in particular. As I have tried to show in this paper, in its early stage of institutionalisation, adoption was signed by the coexistence and mutual feedback with informal adoption and upbringing practices. Having a tolerant attitude in the face of the concrete dynamics of adoption was both a resource and a need on the part of the authorities, who had to procure the exercise of a power that, in practice, was not in their hands.

Agostina Gentili
Universidad Nacional de Córdoba, Argentina
agosgentili@gmail.com

Notes

1. This perspective is inspired by some approaches to the interactions between families and the State in different socio-historic and geographical contexts, namely Stern (1998) for colonial Mexico, Cicerchia (1990 and 1990) for 19th century Argentina and Vianna (2010) for Brazil at the end of the 20th century.

2. Fondo Menores del Centro de Documentación Histórica del Poder Judicial de Córdoba is the original name in Spanish.

3. For an analysis of this recovery and the establishment of the collection see Lugones & Rufer (2004).

4. This methodological strategy is inspired by Ann Twinam's study on illegitimacy in colonial Spanish-speaking America (2009).

5. Dirección General de Menores is the original name in Spanish.

6. Equipo Técnico de Adopción y Guarda is the original name in Spanish.

7. For an analysis of the composition of the Children's Charter in the frame of children's policies in the first half of the 20th century, see Gentili (2015).

8. Provincial Archive of Memory (Archivo Provincial de la Memoria: APM), Collection of the State Office of Women, Children, Adolescence and Family (Fondo Secretaría de Estado de la Mujer, Niñez, Adolescencia y Familia: FSEMNAF), box 5, Minutes book, meetings dated 25/6/73, p. 48 and 49; 13/7/73, p. 52-54; 27/9/73, p. 68-70; 5/12/73, p. 78 and 79; 31/1/74, p. 86-88; 20/2/74, p. 88-89; 22/5/74, p. 95-96 and 28/5/74, p. 97-98.

9. AGTC, CDH, FM, box 10, file 7.

10. On this topic, see Gentili (2018).

11. Hogar de Menores Madres.

12. AGTC, CDH, FM, B23, F18.

13. AGTC, CDH, Children's Collection, B9, F22 and B22, F24 and 29.

14. AGTC, CDH, FM, B25, F50.

15. For a thorough analysis of the forms of this mode of adoption and its social and emotional consequences, see Gesteira (2013).

16. AGTC, CDH, FM, B15, F20.

17. AGTC, CDH, FM, B22, F28.

18. AGTC, CDH, FM, B10, F12, F16, F2 and F19, F69.

19. AGTC, CDH, FM, B21, F64 and B22, F29.

20. AGTC, CDH, FM, B5, F2 and B22, F8.

21. AGTC, CDH, FM, B16, F26 and B22, F37 ("concubine" mothers); B15, F20 (separated mother); B25, F50 (separated parents) and F15, F16 (extramarital child of the father).

22. On the double-bind sexual morality in Argentina, see Barrancos (2007), Cosse (2006 and 2010) and Felitti (2012).

23. AGTC, CDH, FM, B18, F50.

24. AGTC, CDH, FM, B21, F9.

25. AGTC, CDH, FM, B3, F7; B5, F12; B16, F4; B18, F26; B21, F66; B22, F3, 5, 26 and 37; and B25, F13.

26. AGTC, CDH, FM, B15, F18 and B23, F18 and 28.

27. AGTC, CDH, FM, B25, F14 and B15, F20 respectively.

28. AGTC, CDH, FM, B3, F7 and B5, F12.

29. APM, FSEMNAF, box 5, Minutes book, 13/7/73, p. 52-54.

30. APM, FSEMNAF, box 5, Minutes book, 13/7/73, p. 52-54.

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Abstract

This article analyses an early stage of legal adoption in Argentina: the sixties. It aims to understand the relationship between formal and informal adoption practices in a country where customary practices of adoption had existed since colonial times. Through the privileged analysis of legal files, I inquire into the mechanisms instituted by the legal system and the ways in which the family origins of the adopted children were assessed. I argue that the process of institutionalisation of adoption has its basis in the legalisation of existing practices, in a context in which formal and informal adoption systems coexisted and were implicated in a process of mutual feedback.

Résumé

Cet article analyse les débuts de l'adoption légale en Argentine, dans les années 1960. Il vise à appréhender les rapports entre les pratiques formelles et informelles de l'adoption d'enfants, dans un pays où les pratiques coutumières en la matière existaient depuis la période coloniale. À travers une analyse des dossiers judiciaires de la ville de Córdoba, il s'agit d'étudier les mécanismes mis en place par la justice pour traiter les demandes d'adoption, ainsi que la manière dont les origines familiales des enfants adoptés étaient évaluées par les acteurs. Il en ressort que les systèmes formels et informels d'adoption cohabitaient et s'influençaient mutuellement.