



MIAMILAW  
UNIVERSITY OF MIAMI SCHOOL OF LAW

## RACE & SOCIAL JUSTICE LAW REVIEW

# Are You a Foster Care Abolitionist Yet? The Children and their Mothers Sure Hope So.

By: Megan Schmidt

In the age of George Floyd and the Black Lives Matter movement, Black and Brown peoples are mobilizing to effectuate systematic change in the United States. As anti-Black violence permanently separate families, the impacted communities are looking for new ways to lower police interference and redirect funds to more appropriate responders in emergency situations. For example, we see this occurring in places like Minneapolis, where the city council created a plan to eventually dismantle the police department.<sup>[1]</sup> While defunding the police is rising in popularity, prison abolition is on the lips of revolutionaries seeking racial justice. The criminal justice system is clearly Anti-Black in its practices and its beginnings.<sup>[2]</sup> Even so, the criminal justice system is misnamed because it rarely provides justice. It is a system designed to regulate and punish marginalized people.<sup>[3]</sup> However, there is another abolitionist movement rising as an effort to protect Black children from the state. Currently, Black mothers are on the forefront of the child welfare abolition movement and it is time people start listening.<sup>[4]</sup>

The child welfare system is consistently responsible for 400,000 plus children each year with relatively little changes, despite a one percent decrease in 2020.<sup>[5]</sup> Every year, state agencies separate more than 250,000 children from their parents and place them in formal foster care.<sup>[6]</sup> This system is costly as state child welfare agencies spent roughly \$30 billion dollars on services in the fiscal year of 2016.<sup>[7]</sup> In an effort to keep families together, legislation like the Family First Prevention Act shows a current trend to prevent children from interacting in foster care., Unfortunately, not all states have approved plans to receive the funding for prevention services.<sup>[8]</sup> The child welfare system is designed to intervene, investigate, and treat any type of child abuse or neglect so that the family can heal.

However, this expensive system does not complete such a function. The majority of investigations and removals involve allegations of neglect that are often related to poverty, and poverty is often confused with neglect.<sup>[9]</sup> Removals are often inappropriate and racially biased. For example, thirty percent of removals could be avoided if parents had access to affordable housing.<sup>[10]</sup> It is common knowledge that the child welfare system is extremely traumatic for children. Children in foster care are at risk of low educational attainment, homelessness, unemployment, economic hardship, teen births, developmental delays, mental health disorders, substance use disorders, and juvenile and criminal legal system involvement.<sup>[11]</sup> Children who leave foster care as adults lack permanent connection, diminished prospects for their futures and silenced by the state coercion they grew up in.<sup>[12]</sup>

Similar to the fear of police harassment, underrepresented communities live in fear of state agents taking their children<sup>[13]</sup> as Black and Native children are disproportionately represented in foster care.<sup>[14]</sup> Black families are 6.3 times more likely than white families to be investigated by child welfare authorities and Black children are 2.4 time more likely than white families to have their parents' rights terminated.<sup>[15]</sup> The families involved in this system have worse outcomes than those in the general populations. For example, they suffer from higher incarceration rates, poorer health, more instability, and greater incidence of behavioral issues.<sup>[16]</sup> Black families, particularly Black mothers, face stereotypes and harmful narratives about being poor caregivers that are greatly unfounded.<sup>[17]</sup>

First and foremost, the child welfare system is extremely mislabeled. An advocate for children, Dorothy Roberts maintains that a more appropriate name for this system would be the family regulation system, and I am inclined to agree.<sup>[18]</sup> Rogers argues that this system, like the criminal justice system, is one created to further control Black communities by the state.<sup>[19]</sup> The foster care system does not properly care for children or their welfare. It is often a site of government-funded abuse and violence on the children and their families.<sup>[20]</sup> The family regulation system has the ability to remove children from harm and neglect, but lacks the ability to assist families in meaningful ways. The system responds punitively to families who face severe pressures like racism, poverty, ableism, and incarceration rather than providing restorative and less restrictive methods. The foster care system disproportionately fractures Black families every day.

Black mothers actively denounce the family regulation system. From the birth of this system, experts believe that this system is more about adhering to the white social norms of family than it is about protecting the children.<sup>[21]</sup> It is designed to regulate Black and non-white populations from practicing cultures that white people viewed as troublesome. Currently, it reinforces and perpetuates racial stereotypes in an effort to justify the surveillance, supervision, and control of Black families.<sup>[22]</sup> Furthermore, the label of “neglectfulness” and “unfitness” of Black mothers in the family regulation system can be more related to poverty than to mistreatment.<sup>[23]</sup> In the shadow of the family regulation system, Black mothers take care of their children while they survive police violence, sexism, racism, and classism.<sup>[24]</sup> Rather than blaming their mothers for their struggles with systematic oppression, it is time to liberate them from the overreaching arms of the state and provide meaningful support.

Ultimately, with the divesting of policing funds, it is important that we do not take these funds and invest them in the family regulation system because it will only reinforce the state’s punishment regime on Black and Brown families. If the family regulation system continues, Black mothers will continue to battle with the state to keep their children in their homes.<sup>[25]</sup> Rather, experts state that families need community based support to address the significant and often economic needs.<sup>[26]</sup> Many advocates who hope to limit the reach of the family regulation system organized informal community-leg arrangements to assist parents struggling with poverty and addiction.<sup>[27]</sup> Experts and community members view kinship arrangements, an arrangement where the child lives with a relative, as an alternative to the family regulation system that keeps children healthy, safe, and with their communities.<sup>[28]</sup> Foster care abolition mirrors the demands of defunding the police movement that includes reallocating the billions of dollars spent on punishing Black families to health care, affordable housing, cash assistance without the coercive ties to state regulation.<sup>[29]</sup> With former foster youth, mothers, and social justice activists calling for change, now is the time to pay attention to the foster industrial complex and to abolish it as it stands.<sup>[30]</sup>

<sup>[1]</sup> Dionne Searcey, *What Would Efforts to Defund or Disband Police Departments Really Mean?*, (June 8, 2020).

<sup>[2]</sup> Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, (June 16, 2020 at 5:26 AM).

<sup>[3]</sup> *Id.*

<sup>[4]</sup> *Id.*

<sup>[5]</sup> The Imprint, *Youth In Care 2010-2020*, (2020).<https://www.fostercarecapacity.com/data/youth-in-care>

<sup>[6]</sup> Josh Gupta Kagan, *America’s Hidden Foster Care System*, 72 *Stan. L. Rev.* 841(2020) at 847.

<sup>[7]</sup> Shannon Firth and Elizabeth Hlavinka, *What Has COVID-19 Done to Child Welfare?*, *MedPage Today*, ( December 23, 2020).

<sup>[8]</sup> Shannon Firth and Elizabeth Hlavinka, *What Has COVID-19 Done to Child Welfare?*, *MedPage Today*, ( December 23, 2020).

<sup>[9]</sup> Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, (June 16, 2020 at 5:26 AM).

<sup>[10]</sup> Erin Miles Cloud, *Toward the Abolition of the Foster System*, *S&F Online*, Issue 15.3, (2019).

<sup>[11]</sup> Alan J. Dettlaff, Kristen Weber, Maya Pendleton, Reiko Boyd, Bill Bettencourt & Leonard Burton (2020), It is not a broken system, it is a system that needs to be broken: the upEND movement to abolish the child welfare system, *Journal of Public Child Welfare*, 14:5, 500-517, DOI: 10.1080/15548732.2020.1814542.

<sup>[12]</sup> Alan J. Dettlaff, Kristen Weber, Maya Pendleton, Reiko Boyd, Bill Bettencourt & Leonard Burton., *What It Means to Abolish Child Welfare As We Know It*, *The Imprint*, (October 10, 2020 at 11:45pm).

<sup>[13]</sup> *Id.*

<sup>[14]</sup> Roxanna Asgarian, *Hidden Foster Care: All of The Responsibility, None of the Resources*, *The Appeal* (Dec. 21, 2020), <https://theappeal.org/hidden-foster-care/>.

<sup>[15]</sup> Erin Miles Cloud, *Toward the Abolition of the Foster System*, *S&F Online*, Issue 15.3, (2019).

<sup>[16]</sup> *Id.*

<sup>[17]</sup> *Id.* (While the foster care system normalizes the ideas that its practices are necessary to remove children from “bad mothers” and “violent criminals,” Black women are not mistreating their children at higher rates nor do Black people commit crimes at higher rates than white people.)

<sup>[18]</sup> Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, (June 16, 2020 at 5:26 AM).

[19] *Id.*

[20] Erin Miles Cloud, *Toward the Abolition of the Foster System*, S&F Online, Issue 15.3, (2019).

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] *Id.*

[25] Shannon Firth and Elizabeth Hlavinka, *What Has COVID-19 Done to Child Welfare?*, MedPage Today, ( December 23, 2020).

[26] *Id.*

[27] Roxanna Asgarian, *Hidden Foster Care: All of The Responsibility, None of the Resources*, The Appeal (Dec. 21, 2020), <https://theappeal.org/hidden-foster-care/>.

[28] *Id.*

[29] Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, (June 16, 2020 at 5:26 AM).

[30] *Id.*

This entry was posted in RACE & SOCIAL JUSTICE POSTS on APRIL 6, 2021 [[HTTPS://RACE-AND-SOCIAL-JUSTICE-REVIEW.LAW.MIAMI.EDU/FOSTER-CARE-ABOLITIONIST-YET-CHILDREN-MOTHERS-HOPE-SO/](https://race-and-social-justice-review.law.miami.edu/foster-care-abolitionist-yet-children-mothers-hope-so/)] by KNR54. LEAVE A RESPONSE

---