

**Brief Bio**

Angel Gilbert is a current first-year student at Columbia University majoring in Political Science and African-American studies. Given how both her parents were in and out of jail, fighting against mass incarceration is an injustice that is very close to her heart. Oftentimes, she felt like she served her parents' sentences right along with them. As a product of the foster care system, she navigated a corrupt world of social workers, lawyers, and judges. While she helped to protect and raise her younger sisters as best as she could, Angel knew she had to do more for her larger community. She's had the honor of calling various child welfare, feminist, and racial non-profits her family. As an aspiring lawyer, Angel is excited to continue giving voice to an underrepresented facet of American identity. One publication, one poem, one narrative at a time.

## Families Behind Bars

**Introduction**

“I am a foster child.” Currently 424,000 American youths can utter these words (*Children’s Rights* 2022). However foster children are not mere statistics, they are real people with real stories. Like me. While the media tends to villainize the parents, oftentimes they are simply victims of a child welfare system that targets the marginalized. 47% of families who lose their children to foster care have incomes below the federal poverty guidelines (Nieto 2019). Despite making up only 14% of the population, black children represent 20% of the foster care system (Annie E. Casey Foundation, 2022). Approximately 1 in 3 single black moms have their child removed from their homes (Roberts 2019). The data reflects how the child welfare system targets poor people, racial minorities, and single moms. I will argue that the three discrepancies function in a manner that is most consistent with institutional discrimination.

Throughout this paper I will analyze several examples of institutional classism, racism, and sexism at work within foster care. The definition of institutional classism is when organizational structures, policies, and procedures discriminate against lower social classes (Langhout et al 2007). In this context, social class is utilized across multiple dimensions to encompass an individual’s education, income, and occupation (Cole 2019). The second definition that this paper will focus on is institutional racism which takes place when a minority racial group is oppressed by the white race. The dominant group derives their authority from societal structures that favor them such as laws, policies, and embedded practices (Billingsley et al 1972, Lim et al 2021). The last definition that I will explore is institutional sexism which refers to the discrimination women face by the government, the workplace, the academic sphere, and financial institutions. Women are treated as second class citizens in the organizational policies

and practices that make up these establishments (Davies 2018). Overall, the child welfare system is a strong example of intersectionality since all three institutional discriminations take place at once.

Though foster care does not function under a police department, it is still a policing issue. The child welfare system is part of the carceral state that surveilles, criminalizes, and controls various marginalized groups (French et al 2020). Poor people, racial minorities, and single moms have to deal with home inspections, familial interrogations, and the strip searching of their kids (Roberts 2021). Even the children are treated like delinquents: they receive police escorts to new foster homes and cope with foster parents who stigmatize them. When hundreds of thousands of families are criminalized by foster care, they are sentenced to devastation.

### Institutional Classism

I will begin our discussion with a background concerning the causes of child removal. The four forms of child maltreatment are physical abuse, sexual abuse, emotional abuse, and neglect. Physical abuse is when a child undergoes an intentional physical injury by their caretaker and can include punching, beating, and choking for example. Sexual abuse is when a child is sexually exploited through practices such as rape, molestation, or prostitution. Emotional abuse is when a child's self worth is diminished through a lack of love, support, or guidance. Lastly, neglect takes place when a caretaker does not meet the basic needs of their children. Instances of neglect include a lack of food, medical treatment, and housing (U.S. Department of Health and Human Services Children's Bureau 2019).

74.9% of children are removed from their homes due to neglect (Children's Rights 2019). Neglect is the most widely reported form of maltreatment because there is a great deal of discretion in its measurement. Under this ambiguity, caseworkers use their freedom to associate

conditions of poverty with this form of maltreatment. A study by The U.S. Department of Health and Human Services found that children whose parents made less than \$15,000 annually, failed to complete high school, and relied on poverty programs, were 7 times more likely to be neglected (Sedlak et al 2010). Due to their low social class, parents lose their children for reasons such as not being able to afford a babysitter or not having the health insurance to take their child to the doctor. Though caseworkers define this as neglect, these examples are simply indicators of poverty. By removing children from poor homes, this means that parents have to donate their limited financial resources toward getting their child back. Given how problematic the misuse of neglect is, I will now trace its origins back to the federal government.

The Child Abuse Prevention Act, or CAPTA, is a federal law that incentivizes the foster care system to institutionally discriminate against the poor. CAPTA provides state funding and requires social service providers to report potential instances of maltreatment (U.S. Department of Health and Human Services Children's Bureau 2019). The National Commission on Children concluded that CAPTA financially motivates states to unnecessarily surveil low-income families. The more children that are placed in foster care, the more funding states receive. Therefore caseworkers institutionally investigate poor populations when they review mandated reports since they can easily label their living conditions as neglectful. Not only are children being ripped apart due to greedy state governments, but the root causes of neglect are still not being addressed. Parents continue to struggle with poverty, only now they must also struggle with the loss of their kids as well.

Though wealthy families engage in the same parenting practices as lower social classes, they are not accused of neglecting their children. An example of income privilege is clear in the non-profit, Let Grow, which encourages parents to utilize less direct supervision with their

children. Let Grow's President Lenore Skenazy published a popular article in *The Washington Post* entitled "Why I Let My 9-Year -Old Ride The Subway Alone" (Skenazy 2008). While Skenazy asserts that she is simply engaging in a free range parent style, her affluent advantages cannot be ignored. Her child is taking the subway from a previous Bloomingdale's shopping spree, a high end clothing store where dresses on sale can cost up to almost \$3,000 (Bloomingdale's 2022). Not only does Skenazy shop at decadent stores, she also attended Yale and Columbia University. Yale's annual cost of attendance is \$84,525 and Columbia's annual cost of attendance is \$85,967 (Yale and Columbia 2022).

A well-educated, wealthy white woman, Skenazy fails to be labeled a neglectful parent when she leaves her child unsupervised in a dangerous, big city. Instead she is framed as an innovative parent who wants others to follow her revolutionary methods. Skenazy clearly highlights how institutional classism is at work within the child welfare system because affluent families are not held to the same strict standards as the poor. If a poor, black mom proudly proclaimed that she did the same thing as Skenazy, she would likely be arrested for child endangerment and have her child removed from her care. However caseworkers look the other way when moms like Skenazy leave their child unsupervised because foster care is not designed to apprehend wealthy families. While Skenazy's child is unsupervised at this moment, it was an intentional decision made by the parent. Considering her wealthy background, Skenazy could have easily afforded to hire a babysitter if she wanted to. Unlike the poor, Skenazy *chooses* when she wants to engage in potentially neglectful actions. Even on the rare chance that Skenazy was investigated by Child Protective Services, she would still have the means to symbolically bail her child out.

Once children from lower class families are placed in foster homes, poverty continues to prevent reunification due to Title IV-E of the Social Security Act. This legislation bills parents for their child's cost of foster care and in 2021 alone the government confiscated \$96 million (Shapiro 2022). Title IV-E is a policy that institutionally rips poor families apart because parents cannot address the root causes of neglect, such as inadequate housing, in tandem with paying child support. Even the motivations of Title IV-E are backward: it was enacted to address the government's concern that impoverished parents are financially lazy (Shapiro 2021). Similar to how prison rehabilitation is meant to produce law-abiding citizens, in theory, child support is meant to produce responsible parents. The reality is that most of these parents care deeply for their children but cannot afford to buy their love. When the government confiscates child support from wages, tax refunds, and stimulus checks, struggling parents struggle even more. The togetherness of families should not be based on parental wealth but yet it is.

Another threat to the intactness of families is the hiring of child custody lawyers. Under the 1981 *Lassiter v Department of Social Services* decision, the Supreme Court ruled that parents do not have an absolute constitutional right to counsel (Sankaran 2017). Currently only 7 states have guaranteed legal representation for parents accused of abuse, neglect, or dependency (National Coalition For A Civil Right To Counsel). For parents who live in the other 43 states, the national average cost for a child custody lawyer is an expensive \$250 an hour (Thumbtack 2017). *Lassiter v Department of Social Services* is an example of institutional classism because legal terminology is inaccessible to most non-lawyers let alone low income-parents who rarely pursue higher education. Without counsel, parents do not know how to apply for benefits, comply with court mandated orders, and file petitions. As a result, impoverished parents face harsher sentences than wealthy parents since their children remain in foster care longer.

Another classist practice of children's court includes its usage of mandated rehabilitation. 38.9% of children are placed in foster care because their parents struggle with addiction so judges often require parents to undergo treatment (National Center on Substance Abuse and Child Welfare). This court mandated order is often easier said than done for low income parents. In-patient rehabilitation costs between \$12,000 to \$60,000 on average (Addiction Center 2022). Since most impoverished parents simply do not have this money, their children continue to be kidnapped by the child welfare system. Even if the parents manage to save up, they still have to spend 30 to 90 days receiving in-patient treatment. This means that they cannot visit their children placed in foster care or begin tackling other court requirements for reunification such as employment. In contrast to the poor, wealthy parents who struggle with substance abuse have the financial means to figure it out on their own without losing their children (Roberts 2022). For example, these parents can attend rehabilitation and leave their child with a babysitter.

### **Institutional Racism**

Now that I have analyzed the institutional classism infiltrating foster care, I will consider the role of institutional racism. This second mechanism can be contextualized through the slave trade market. When slaves were shackled to auction blocks, approximately half were purchased separately from their families (*Equal Justice Initiative* 2022). In a scene of tears and wails, mothers were separated from children, children were separated from fathers, and fathers were separated from spouses. Though slavery was abolished in 1865, its legacy as a "benevolent terror" persists (Roberts 2022). Similar to how plantation owners viewed themselves as white saviors, caseworkers also pride themselves in saving children from so called dangerous situations. While some households definitely require governmental intervention, most children are taken away due to neglect. Relying on free and reduced school lunches is not an indicator of

child endangerment for white parents but for black parents it is. The child welfare system judges racial minorities not for being bad parents but for being *black* parents.

From the very beginning, the founding of the welfare state was designed to institutionally prey on black parents. The development of the welfare state goes back to the New Deal policies of the 1930s and 1940s. Originally the government provided white families with direct funds to care for their children (Floyd et al 2021). When black families started demanding help, the government changed their welfare policies. They now “helped” black parents by using funds to take their children away (Roberts et al 2022). This was based upon the belief that black parents were criminals incapable of raising children. The changed welfare policies placed black parents in a tough position. If they struggled with poverty, one of their limited options was to turn to the child welfare system. However if they did so, they risked having their children taken away for neglect. The New Deal prided itself on providing economic relief but it did the exact opposite for black families.

Another institutionally racist New Deal Policy was the development of redlining. The Home Owners Loan Corporation and the Federal Housing Administration color coded black neighborhoods red so that these prospective homebuyers would be denied mortgages and loans (Flournoy 2021). Essentially the government was segregating neighborhoods in an unofficial manner. Highways were the symbolic prison walls that fortified black neighborhoods. The legacy of redlining continues to harm black families today due to “racial geography” (Roberts 2020). This concept refers to how Child Protective Services associate black zip codes with danger and concentrate their efforts in these areas. As a result of redlining, black neighborhoods suffer more from healthcare problems, homelessness, and disadvantaged schools, all factors that can trigger an investigation of neglect (Best et al 2022).



Following the New Deal, the War on Drugs was spearheaded in the 1970s. This was an effort enacted by the federal government to crack down on the illegal drug trade. In actuality the War on Drugs was a justification to institutionally imprison black people for low level crimes. For example, black individuals are 3.7 times more likely to be arrested for marijuana compared to their white counterparts (ACLU 2010). This is due to the fact that black people are victims of wiretapping, undercover police operations, and random drug tests. Though black and white people use drugs at similar rates, the police are only out to get racial minorities (The Hamilton Project 2016). By arresting black parents and declaring them a danger to society, the police work hand in hand with the child welfare system. Given that 1 in 9 black children have an incarcerated parent, these children often wind up in foster care (Murphey et al 2015). Thus children symbolically join their parents who are sentenced behind bars.

The judges that are sending black parents to prison function under a larger judicial system that places black children in foster care. An astonishing 73% of judges are white yet this group is in charge of making familial decisions for mainly people of color (Federal Judicial Center 2021). These judges will never know what it means to struggle while black or parent while black. However it is these very judges who schedule future court visits, order foster home placements for children, and terminate parental rights. The rulings of children's court reflect the system's institutional racism since black children spend an extra 9 months in foster care compared to white children (U.S. Commission On Civil Rights 2010). Though potentially charged with the same maltreatment of neglect, white parents are not subject to the stereotype of criminalization. With less to prove to white judges, white parents are deemed suitable caretakers more quickly. Not only are black children kept from their parents longer, they are denied the chance to live with black foster parents. Nearly 66% of foster parents are white because state requirements

favor them. This is the race that tends to be employed, can pass a background check, and has access to housing (Office Of Children And Family Services).

I will now shift toward examining how the child welfare system is institutionally racist toward indigenous children. This racial minority group rarely receives as much attention as black foster youths, so I hope to start the journey toward correcting this injustice. Starting in the 1860s, the US government sent thousands of indigenous children to boarding schools (Vox 2019). The federal government claimed that they wanted to save children from their “primitive” parents and teach them how to be “proper” Americans. The boarding school system is yet another mark on this nation’s history of mass cultural genocide that cannot be erased. Indigenous parents had no choice but to comply because if they refused then they were denied food rations or sent to prison (Vox 2019). In institutions like the Carlisle Indian School, their children had to abide by English names, attire, and culture (Little 2018). Unfortunately the second class treatment of indigenous families did not end with the destruction of the boarding school system.

Compared to the national child population, indigenous children are currently twice as likely to be placed in foster care (Hill 2007). This perpetuates the rhetoric that indigenous children are better off being raised by white families instead of their own biological parents. In an effort to prevent the destruction of non-white families, the Indian Child Welfare Act, or ICWA, was passed in 1978. This legislation is supposed to preserve indigenous families but the courts have challenged its basis several times (Beardal et al 2021). *Adoptive Couple v Baby Girl* delved into a custody dispute between an indigenous father who was unaware of his ex-partner’s decision to place their child up for adoption. He did not find out until he was about to be deployed to Iraq and was given adoption papers which he quickly contested. The Supreme Court ultimately ruled that the father could not maintain his parental rights because ICWA only applies

to indigenous parents who have had legal or physical custody prior to the case (Cornell Law). As a result, ICWA has the potential to protect less indigenous families all because of a majority decision made by a handful of 9 Supreme Court Justices. The ICWA provision these Justices made further maintains the traditional white American nuclear family. When 108 of the 115 Supreme Court Justices have been white, familial issues become racial issues (Campisi et al 2022).

### Institutional Sexism

I will now transition into the third and final institutional discrimination at work: institutional sexism. This mechanism was intentionally analyzed last because single mothers are at the intersection of institutional classism, racism, and sexism (Crenshaw 2017). One concept that is useful to this discussion is the “Jane Crow” system (Clifford et al 2017). Jane Crow is built upon the belief that impoverished women of color are incapable of raising children on their own. The police play a pivotal role in this system because they arrest moms of color so that their children can be taken away. Just 13% of the general population, black women make up 30% of the female prison population (LeFlouria 2021). Since most of this population is moms, their parental rights are behind bars as well. One example of the Jane Crow system at work includes Maisha Joefield, a black single mom from Brooklyn. Joefield’s “crime” was allowing her 5 year old daughter to walk a few steps across the street to visit her grandmother. Ultimately the police got involved, charged Joefield with child abuse, and sent her daughter to foster care.

In addition to the police targeting single mothers, so do landlords. During the COVID pandemic when 10 million families were at risk for eviction, women of color with children were the first to go (Covert 2021). Landlords found these tenants undesirable because they could potentially engage in property damage or cause noise complaints. While there are some

protections against housing discrimination, evictions still go on the tenant's records and it is arduous to sue without the proper legal resources. Further on, sometimes landlords give moms of color an ultimatum: willingly vacate or risk having their children taken away (Clifford et al 2017). This took place with Bernadette Charles who complained about her home that was infested by rats, unsanitary water, and mold. After Charles filed a complaint behind her landlord's back, he called Child Protective Services. Though she was reunited with her children, they were still unnecessarily placed in foster care for three days. Three days too long. Since landlords are aware that the child welfare system institutionally targets single moms, they use this bias to their advantage. When making calls to Child Protective Services, most of the time there is not a real crime being committed. These parents just happen to be poor, black, and a woman.

On top of housing discrimination, single moms are also victims of institutional sexism in the workplace. Similar to how corporations take advantage of prisoners when they use them as a cheap labor source, employers do the same with moms. Women are 79% less likely to be hired and 50% less likely to be promoted if they are moms (Williams et al 2012). The women of color that are able to secure employment still face a significant wage gap. Black women only earn 69.5% of what their white male counterparts make and black single moms earn even less (Kerby 2012). Women are hired less and paid less because of the maternal wall bias, or the belief that moms are less competent and committed to their profession (Ogden 2019). Dating back to the cult of domesticity in the 1820s, women were expected to remain at home while the men earned income. Although there are now more working moms, the data exposes how employers continue to favor men.

Unfortunately since single moms are discriminated against in hiring practices, the child welfare system takes advantage of this. A one percent increase in the unemployment rate leads to a twenty percent increase in reported neglect (Brown et al 2018). If mothers are without a job then this means that they are less capable of providing healthcare, clothing, housing, and food to their children: all causes of neglect.

### Conclusion

In closing, the foster care system is not broken, instead it is a well-oiled machine designed to systematically oppress historically marginalized identities (Roberts 2022). The targeting of the poor, racial minorities, and single moms all point to the fact that the child welfare system functions on the intersections of institutional classism, racism, and sexism. The government defines safety as being wealthy, white, and a man which punishes loving minority parents in the process. Parents who lose their children rarely put them in danger but once taken away, these youths are often victims of molestation or physical abuse at the hands of strangers (Matanick 2014). Since the foster care system attacks the most vulnerable population, the children, it needs significant reform.

Though the average foster child is separated from their parents for 13 months, child welfare is a lifelong phantom (Texas Family Initiative 2018). Moving foster home to foster home, school to school, caseworker to caseworker, truly takes a toll on foster children, even in adulthood. Former foster children suffer from mental health illnesses, educational inaccessibility, homelessness, and unemployment just to name a few issues (American Society For The Positive Care Of Children 2021). With the odds stacked against them, many foster youths turn to crime to simply survive. This is conveyed as 90% of foster children who undergo over 5 placements are involved with the criminal justice system (Juvenile Law Center 2018). Though the government

claims that they “save” children by placing them in foster care, the reality is that these children continue to be poor, to be black, to come from a single parent household. The child welfare system is a band aid solution that needs to address the underlying issues of families in need. Until then, parents and children will continue to struggle in silence. However instead of having each other, the intervention of the child welfare system means that they now struggle alone.

This research paper was more than just another assignment for me. The data and primary accounts that I drew from are all hardships that I’ve witnessed first hand. Growing up, I always felt like a criminal. My shackles were solidified when I waited for the plaintiff to call my name at children’s court. My prison bars were reinforced when I greeted my caseworker accompanied by the cops at my home in PJs. Similar to how foster children tend to look like me, so do the incarcerated. Now as a more informed 18 year old, I realize that caseworkers violated the 4th Amendment when they barged into my parent’s home with no warrant. Child Protective Services would randomly show up at my school to interrogate witnesses, or my teachers. Court approved monitors would surveille my parents when I visited them because we weren’t allowed to meet alone. This is a shared experience that unfortunately others like me can relate to as well. In the process of the child welfare system policing our parents, we are policed too. I wonder when we’ll be free.

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