



**Human Rights Watch Submission to the UN Working Group of Experts on People
of African Descent for Consideration During the 30th Public Session on
“Children of African Descent”
May 2022**

Human Rights Watch is pleased to offer this submission to the Working Group of Experts on People of African Descent for consideration during the 30th public session on Children of African Descent.

**The US child welfare system’s disproportionate and disparate racial impact in
Oklahoma**

Human Rights Watch has previously documented how racial discrimination in policing and child welfare in the United States are interlinked.

In our report on the impact of maternal incarceration on children in Oklahoma, we documented that the disproportionate rise in women’s incarceration and the disparities in incarceration rates resulted in an overrepresentation of Black and Indigenous women in the US prison population.¹

In a section on incarcerated parents in state prison and their minor children, the report states:

A 2015 study found that children living in rural areas and children of color in the US are disproportionately impacted by parental incarceration, with one in 9 Black children having had an incarcerated parent compared to one in 16 Latino children, one in 14 children from other races, and one in 17 white children.

¹ Human Rights Watch, “You Miss So Much When You’re Gone”: The Lasting Harm of Jailing Mothers Before Trial in Oklahoma.” <https://www.hrw.org/report/2018/09/26/you-miss-so-much-when-youre-gone/lasting-harm-jailing-mothers-trial-oklahoma#6782>

Indigenous and Black children are also overrepresented in the foster care system. Indigenous children make up 1 percent of the US population under 18 but accounted for 2 percent of children in foster care in 2016. The foster care system's proportion of Black children has radically declined in the past two decades, from 43 percent in 1998 to 23 percent in 2016, but remains disproportionate, as Black children are just 14 percent of the US population under 18.²

We also documented the barriers to parent-child contact and parental rights in jails and prisons, reporting that:

Despite all the benefits of facilitating family relationships during incarceration, the visitation and communication policies and practices in Oklahoma's jails create almost insurmountable roadblocks to meaningful parent-child interactions.

Visitation and communication may be severely limited in jails because jails are meant to house people for shorter periods of time—but the reality is that many people spend substantial periods of time incarcerated in jails. Some jailed mothers we spoke with did not see their children at all or only spoke with them once or twice over the telephone during long periods of pretrial incarceration. Even if jailed mothers manage to have regular contact with their children, it is not a replacement for being physically present. One jailed mother of five, who had been incarcerated for 16 months awaiting trial, said of her absence: “you miss so much when you're gone, ... from first teeth to first words.”

Jailed mothers in Oklahoma may be unable to actively participate in or even be informed of custody decisions regarding their children. Once released from jail, they face significant barriers to reuniting with their children and risk having their custodial rights altered or their parental rights terminated.”³

² See Human Rights Watch, “You Miss So Much When You Are Gone,” pp. 30-31.

³ See Human Rights Watch, “You Miss So Much When You Are Gone,” pp. 49-50, 64.

For more information, please see:

[“You Miss So Much When You’re Gone’: The Lasting Harm of Jailing Mothers Before Trial in Oklahoma”](#) – In this report we document how jailing mothers before trial in Oklahoma, even for short periods of time, can result in overwhelming debt and loss of child custody.

The US child welfare system’s disproportionate and disparate racial impact in New York State

Human Rights Watch recently joined a group of impacted parents and advocates who spoke to the New York Advisory Committee to the US Commission on Civil Rights and described how Black, Indigenous, and other people of color, especially those living in poverty, are disproportionately investigated for allegations of maltreatment by the state’s child welfare system, causing serious harm, including at times the forcible separation of children from their families.

Human Rights Watch submitted a public comment in support of the proposal to investigate racial disparities in the state’s child welfare system, which could help document troubling and persistent inequities and recommend measures to remedy them.

We described our research over the last eight months on the child welfare system, both nationally and in New York:

Our research has involved interviews with dozens of directly impacted caregivers, along with advocates and other experts. It also includes extensive data analysis and reviews of secondary sources. We identified serious human rights concerns in the child welfare system.

Nearly every three minutes, a child in New York State experiences a child welfare investigation. Our research shows investigations can be highly stressful and even traumatic for children, involving disruptions from school, intrusive questioning, and even strip searches to check for signs of abuse. Seventy percent of those investigated are found not to have experienced maltreatment at home.

Removing a child from their parents' care, even for a short period of time, is a drastic measure that can cause profound harm. The New York State Bar Association recently found the state's child welfare system to be "replete with systemic racism." In 2019, Black children made up 15 percent of New York's child population but more than 40 percent of children in the state's foster system, which places children separated from their families in temporary homes.⁴

Human Rights Watch will be investigating and reporting on this issue in more detail in the coming year.

Recommendation

The Working Group of Experts on People of African Descent should consider conducting a follow-up country visit to the United States, paying special attention to the US child welfare system's arbitrary interference with family integrity, troubling and persistent inequities, and disproportionate and disparate racial and socioeconomic impact.

⁴ Human Rights Watch, "New York Committee to Investigate State's Child Welfare System," <https://www.hrw.org/news/2022/05/20/new-york-committee-investigate-states-child-welfare-system> (accessed May 24, 2022)