

## The Foster Care Paradox

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What happens when a system designed to protect children prioritizes ideology over finding them safe, loving homes? It brings forth a controversy over where our priorities lie within the disorder of the foster care system, well known for its lack of sufficient provision to children needs and its failure to acquire real parental offenders who abuse this inattentive system. Globally defined, the foster care system is a temporary, court-monitored service provided by states to promote the safety, permanency, and well-being of children and youth. In this process, states evaluate applicants based on the fact that at least each member of the prospective foster family household must be in good physical and mental health and free from communicable diseases. As well as qualifying to have patient, caring, respectful, and committed attributes[1]. Yet, constantly, this system fails to do the very thing it promotes; the Gabriel Fernandez Case, The Hart Family Tragedy, The Grace P. Case, The Turpin Children, The Massachusetts DCF Failures (ongoing), The Native American Foster Care Crisis, and so many more. All these instances have various commonalities ranging from their abuse to sheer ignorance, but the one we focus on is the contradiction through social services and foster care neglect. Further promoted by legal blindness, and possibly willful ignorance, which drives forward this issue of complicity, the foster care system simply goes against their standards through continuous instances. One would believe when offered a virtually perfect applicant, they would take it, considering their record, yet states allow child welfare services to refuse to LGBTQ+ services on a religious standard. The foster care system undermines its own mission by allowing religious-based discrimination against LGBTQ+ foster applicants, despite its ongoing failures and the overwhelming need for qualified parents. Rather than prioritizing the best

interests of children—ensuring they are placed in safe, loving homes—states enable agencies to reject capable applicants based on religious criteria. This legal complicity not only contradicts child welfare standards but also exposes the hypocrisy of a system that claims to act in children's best interests while actively limiting their chances of finding stable families. This is the Foster Care Paradox.

The discriminatory approach to LGBTQ+ foster parents has been a century-old problem, and ironically, progress in this area has remained frustratingly stagnant. Despite advancements in LGBTQ+ rights and increasing societal acceptance, many states continue to allow religious exemptions that enable agencies to turn away qualified same-sex couples and individuals on the singular basis of sexual orientation. This outdated mindset not only disregards modern legal and ethical standards but also directly harms children in need of stable homes. What the child welfare system cannot comprehend is that they do not have the privilege nor can they afford to turn away qualified prospective parents. As of 2017, around 443,000 children were in foster care across the United States. Each year, over 50,000 children are adopted through the child welfare system, yet approximately 20,000 age out without ever securing a permanent family [2]. The system is proved to be exhausted, yet they continue to stress out an already stressed out process by turning away these applicants. LGBTQ+ people represent an important, and large, portion of prospective parents due to maternal issues and to fulfill their desire for parenthood, often driven to provide a good home and cultivate acceptance within their adoptive children based on shared personal experiences, such as enduring discrimination. Not to mention a staggering 69% of 2,008 non-LGBTQ+ adults surveyed believe that gay people should be eligible to adopt [3]. For example, in Massachusetts, same-sex parents have accounted for between 15% -28% of foster care adoptions annually over the past decade. Same-sex couples are seven times more likely than

different-sex couples to be raising a foster or adopted child. They are also more likely to adopt older children and those with special needs—groups that typically face lower adoption rates—possibly because LGBTQ+ parents can relate to the societal stigmatization these children often endure.

Yet, despite the listless number of benefits, several State laws cannot look past a singular piece of identity to provide these children the proper homes they desperately deserve.

Furthermore, the hypocrisy is glaring: child welfare agencies scrutinize prospective foster parents for stability, financial security, and emotional well-being, yet they allow baseless religious criteria to overrule these qualifications. If a home is safe, supportive, and capable of providing love and care, why should an applicant's sexual orientation be a deciding factor?

Nearly 118,000 children in the United States are waiting to be adopted, yet some religious conservatives insist that their right to prioritize their beliefs hold greater importance over the well-being of children in state care, such as Catholic State Services. In *Rogers v. Health and Human Services*, the case challenged the federal government's approval of religious-based discrimination in foster care. The plaintiffs, a same-sex couple, were denied the opportunity to foster children solely because they did not meet the agency's religious criteria. Ignoring the fundamental mission of the child welfare system, a clear paradoxical operation. While defenders may argue that faith-based agencies should have the right to operate in accordance with their beliefs, it's important to note that legally taxpayer-funded services must be held to non-discriminatory standards and by allowing personal religious convictions to take precedence over a child's right to a stable home, it is actively denying the liberty this law grants [4].

When Philadelphia discovered that Catholic Social Services violated its nondiscrimination policy, the city revoked the agency's role in child placements. In response, the Catholic Social Services sued, claiming a constitutional right to reject families based on religious beliefs. Judge Tucker ruled against the agency, emphasizing that Philadelphia has a duty to license all qualified parents. The court also noted that allowing government-funded agencies to discriminate would likely violate the Equal Protection and Establishment Clauses. Citing a direct quote from the 1964 Supreme Court ruling; "discrimination is not simply dollars and cents, hamburgers and movies; it is the humiliation, frustration, and embarrassment that a person must surely feel when he is told that he is unacceptable as a member of the public because of his race or color" [5]. So while some may argue that this issue is minor and that religious freedom should have some flexibility, let's make it clear that this isn't about religious liberty—it's about securing the best possible homes for children in need at the end of the day. When the state removes children from their families, placement decisions must prioritize the child's best interests above all else. State-funded agencies should not have the power to impose religious beliefs that override what is best for the children they serve.

In conclusion, too few states have statutory or even regulatory nondiscrimination protections for LGBTQ prospective parents and/or youth interacting with the child welfare system. A system that is flawed, undoubtedly, yet exacerbates their inadequacy by not prioritizing what truly matters on a large-scale. Petty debate over personal belief in a discussion which is barely personal to the agency at all, instead, from start to finish, it has always been about the children. The children which they swore by federal statute to protect and commit into loving, caring and deserving homes. The Foster Care Paradox will continue to exist,

unpurposefully so, as long as justice courts continue to rule in favor of personal bias and not in favor in which the welfare system is meant to serve.

## Works Cited

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