

UNINTENDED CONSEQUENCES: FIVE WAYS *FULTON* COULD UNDERMINE PUBLIC LAWS AND INTERESTS



In November, the U.S. Supreme Court will hear arguments in the case *Fulton v. City of Philadelphia*. The case is specifically about a city-contracted child welfare agency's refusal to license same-sex couples, which violates the city's contract provisions barring discrimination. But the case has the potential to permit much broader discrimination—including against people from different faith traditions, same-sex couples, unmarried couples, single parents, LGBTQ people, and others. Its impact could go far beyond the City of Philadelphia and child welfare agencies.

1

QUALIFIED PROSPECTIVE FOSTER AND ADOPTIVE FAMILIES COULD BE TURNED AWAY, LEAVING MORE KIDS IN GROUP HOMES

If agencies that are responsible for caring for children in state care can turn away otherwise qualified foster and adoptive families, it means that fewer families are available to provide stable, temporary homes for foster children and adoptive homes for those who cannot return to their families of origin. With far too many children placed in group homes, needlessly rejecting qualified parents harms these vulnerable children.

2

TAXPAYER-FUNDED CHILD WELFARE AGENCIES COULD SKIRT REGULATIONS DESIGNED TO KEEP KIDS SAFE

Agencies could claim a right to be exempt from a wide variety of requirements they view as a burden on their religious beliefs, including standards and regulations designed to protect the well-being of children in their care. For example, agencies may argue corporal punishment or conversion therapy are a core part of their religious teaching and could permit staff and foster families to use conduct that would be otherwise prohibited for children in their care.

3

ALL SORTS OF PUBLIC SERVICE AGENCIES COULD DISCRIMINATE AGAINST MILLIONS OF PEOPLE

If taxpayer-funded social service agencies are permitted to discriminate while continuing to receive contracts, millions of people across the country could find themselves unable to access vital services during times of need.

4

CITIES, COUNTIES, STATES, AND EVEN THE FEDERAL GOVERNMENT COULD BE UNABLE TO ENFORCE CONTRACT TERMS

The same set of contract terms should apply to all agencies seeking government funding to provide public services. If an entity can claim a religious objection to a contract term, a government wouldn't be able to use that as disqualifying for receiving a contract. For example, a road construction firm could refuse to do work on the Sabbath, resulting in a slower project and work happening during more disruptive times.

5

VIRTUALLY ANY LAW OR REGULATION COULD BE UNDERMINED IF AN INDIVIDUAL OR ENTITY RAISES A RELIGIOUS OBJECTION

The Court could rule that when any individual or entity raises a religious objection to a law or regulation, the government would have a very high bar to meet or else they would be entitled to an exemption. This could lead to what U.S. Supreme Court Justice Antonin Scalia referred to as a situation in which any person could claim to be exempt from any law because of religious belief resulting in "every citizen to become a law unto himself." The courts could then be asked to adjudicate endless lawsuits, as the burden would be on the government to defend each and every law and regulation when someone claimed a religious objection.