

Justice in Migration: A Case for the Right of Reunification

By Eric Gagnon

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Abstract

Historically, philosophers who have written on the ethics of global migration have defended the state's broad discretionary powers over its immigration policy. This thesis challenges the conventional view on immigration by highlighting the normative value of intimate associations like the family, romantic relationships, friendships, and caregiver-dependent relationships, and the manner by which borders can prevent one from being with their loved ones. This thesis begins by establishing the notion that individuals have fundamental interests in being able to form and maintain close affective ties with those whom they love – interests so vital that it is plausible to confer onto them the protection of a right. The rights to form and maintain intimate associations with others entails a derivative right of reunification, which as matter of justice places corresponding duties on states to grant entry to those who stand in a morally significant relationship with its citizens. The right to be reunited with those whom one shares close affective ties is not an unfettered right, and therefore it may justifiably be curtailed if and only if there are sound reasons against its unqualified provision and only to the extent that is required to address the reasons for its curtailment. If restrictions are justifiably placed on the amount of reunification and other migratory claims the state can accept, I will suggest that states should prioritize the reunification of caregiver-dependent relationships and relationships between adults of the most intimate kind over other reunification claims, and perhaps over some other migratory claims.

Introduction
Migration, Reunification, and Justice

Immigration in the World and in Normative Theory

As I have been writing this thesis, the world has been in the midst of the COVID-19 pandemic. In order to slow the spread of the virus, reduce the number of people who need urgent treatment at once and avoid overloading the capacities of healthcare systems around the globe, preventative measures have been put in place by governments to limit social and physical interactions. Here in the Canadian province of Manitoba, most of these preventative measures have come in the form of strong urges from the provincial and federal governments to practice social distancing, and to self-isolate when one is sick with the virus, or suspects that they might be. Elsewhere, people have been forced to remain at home, being allowed to leave only to obtain essential goods and services. Borders have been closed, effectively limiting the way that individuals can maintain communication with those whom they share affective ties to online or distanced means, like FaceTime, Skype, Zoom, or email.

That being said, it did not take a pandemic for states to begin enacting restrictive border policies. Even before the borders were fully closed, liberal democratic and non-liberal democratic nations did not (and still do not) recognize any rights of entry among would-be immigrants into their territory.¹ Instead, the presumption has been that sovereign states have a right to decide who can and cannot enter their territory – a right which many have used to justify highly restrictive immigration policies. States have the discretion to decide whether they will accept those who are seeking asylum from persecution into their territory, or those who seek economic opportunities, but special eligibility is usually offered by these states to would-be

¹ Caleb Young, “Caring Relationships and Family Migration Schemes,” in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 61.

migrants who are related by family ties to current citizens. Sometimes, this special eligibility is extended to the family members of non-citizens who reside in the country as a permanent resident.² Still, there is considerable divergence from country to country regarding the kinds of relationships that attract preferential immigration eligibility, as well as the overall importance of reunification within each of their migration schemes.

For example, the USA and Australia have adopted a more expansive scheme of family migration, extending preferential eligibility to spouses, children, parents, and siblings of citizens and permanent residents. In Australia, nieces and nephews of citizens and lawful permanent residents are even extended preferential eligibility. In comparison, a more limited scheme of family migration and reunification is offered in France and Germany, where special eligibility is offered only to spouses and dependent children of current citizens and some long-term permanent residents.³ In Canada, preferential immigration eligibility is offered to spouses, dependent children, and parents of current citizens and permanent residents.⁴ Nevertheless, the bulk of immigration in Canada is driven by economic policy and to a lesser extent by reunification.⁵

It is during such a time, and in such a world, that I am writing a thesis concerning the importance of intimate associations like the family, romantic relationships, friendships, and caregiver-dependent relationships, and the barriers that prevent one from being with their loved

² Ibid.

³ Ibid. See also James P. Lynch and Rita J. Simon, *Immigration the World Over: Statutes, Policies, and Practices* (Lanham, MD: Rowman & Littlefield, 2003).

⁴ Young, "Caring Relationships and Family Migration Schemes", 61

⁵ James Hollifield, Philip Martin, and Pia Orrenius, *Controlling Immigration: A Global Perspective* (Stanford: Stanford University Press, 2014), 11; Roderic P. Beaujot and Donald W. Kerr, *The Changing Face of Canada: Essential Readings in Population* (Toronto: Canadian Scholars' Press, 2007), 178; Robert J. Brym, Lance W. Roberts, John Lie, and Steven Rytina, "Race and Ethnicity", in *Sociology: Your Compass for a New World* (The United States: Nelson Education Ltd., 2013), 245.

ones. At its core, this thesis seeks to establish the notion that individuals have fundamental interests in being able to form and maintain close affective ties with those whom they love – interests so vital that it is plausible to confer onto them the protection of a right. In turn, the rights to form and maintain intimate associations with others will have normative implications for the kinds of border and immigration policies states may justifiably adopt. Within the context of global migration, the rights to form and maintain intimate associations with others entails a derivative right of reunification,⁶ which as matter of justice, places corresponding duties on states to grant entry to those who stand in a morally significant relationship with its citizens, and who wish to be with their loved one(s). The right to be reunited with those whom one shares close affective ties is not an unfettered right, and therefore it may justifiably be curtailed if and only if there are sound reasons outweighing its unqualified provision and only to the extent that is required to address the reasons for its curtailment.⁷ If restrictions are justifiably placed on the amount of reunification claims a state can accept, I will suggest that states should prioritize the unification of caregiver-dependent relationships and relationships between adults of the most intimate kind over other reunification claims, and perhaps over some other migratory claims. In order to advance this account for the right of reunification, this thesis will be structured as follows.

Chapter One: The Debate on Global Migration

To begin, the first chapter of this thesis provides an overview of the debate on the ethics of global migration within the philosophical literature to better situate and develop the overarching normative project of this thesis. At its core, this debate concerns whether the state

⁶ Matthew Lindauer, “In Defense of a Category-Based System for Unification Admissions” in *Journal of Moral Philosophy* 15, no. 5 (2018), 1. As pointed out by Matthew Lindauer, a more apt term to describe these kinds of policies may be *unification*, as there are some immigrants who stand to be united with a loved whom they have never met in person. While I agree with his point, for the purposes of this thesis I will simply use the more typical term *reunification* to refer to this particular kind of immigration.

⁷ Joseph Carens, “Aliens and Citizens: The Case for Open Borders,” in *The Review of Politics* 49, no. 2 (1987), 259.

has unacknowledged moral duties to admit foreigners into their territory. Historically, most philosophers have defended a conventional position that endorses the state's broad discretion over their immigration admissions policy.⁸ Of those who have defended this conventional stance, two of the most important accounts are provided by Christopher Wellman⁹ and Michael Walzer.¹⁰ Since the case for the right of reunification that I advance challenges the conventional views of both philosophers, chapter one begins with an overview of their accounts. Both Wellman and Walzer share the general conviction that legitimate states, broadly speaking, should be granted the freedom to distribute membership into their political community, and both implement similar argumentative strategies in order to convey the plausibility of their stances. Nevertheless, there are some notable differences between the two. Wellman, for his part, presents a fairly hardline account that defends a legitimate state's unequivocal right to completely control immigration into its territory that is grounded in both the normative value of freedom itself, and the necessity of freedom of association for political self-determination.¹¹ Walzer, on the other hand, advances a broadly conventionalist account grounded in the social value of political membership that does consider some migratory obligations the state may have towards asylum seekers and ethnic relatives of current citizens.¹²

Within the last 40 years, some philosophers have begun to challenge this conventional position on global migration. To better situate my account for the right of reunification amongst those challenges levied against the conventional view, I summarize the accounts advanced by

⁸ Shelley Wilcox, "The Open Borders Debate on Immigration," in *Philosophy Compass* 4, no. 5 (2009), 813.

⁹ Christopher Wellman, "Immigration and Freedom of Association," in *Ethics* 119, no. 1 (2008), 109-141.

¹⁰ Michael Walzer, "Membership," in *Spheres of Justice: A Defense of Pluralism* (New York: Basic Books, 1982), 31-63.

¹¹ Wellman, "Immigration and Freedom of Association," 109; USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," filmed (March 16th, 2017), YouTube video, posted December 5th, 2017. https://www.youtube.com/watch?v=Sv2_3iewehY

¹² Walzer, "Membership," 33, 35, 41-42.

(arguably) the most notable of these challengers: Joseph Carens.¹³ In stark opposition to the conventionalist position, Carens argues that the state has a *prima facie* duty to maintain relatively open borders, and he presents two main accounts to defend his stance. In *Aliens and Citizens: The Case for Open Borders*,¹⁴ Carens spends most of the article developing a Rawlsian liberal egalitarian case for open borders. Through a cosmopolitan application of the Rawlsian original position, Carens argues that parties behind the global veil of ignorance would recognize free international movement as a basic liberty that would be derivative of the first Rawlsian (and now, global) principle of equal liberty. Since the parties in the global original position are effectively forced to take the perspective of the least well off in the world, they would be particularly sensitive to the plights of those who would find themselves most disadvantaged by restrictions to international mobility once the global veil of ignorance were lifted, and thus would include the right to free migration in the system of basic liberties that would be chosen, for it may prove crucial to one's life plan.¹⁵

In *Migration and Morality*,¹⁶ Carens departs from a strictly Rawlsian account, and develops an account for open borders founded on general liberal egalitarian values. From these general liberal egalitarian values, Carens advances the following claims: 1) a basic right to free international mobility is derivative from liberal egalitarianism's commitment to the value of liberty itself, and; 2) liberal egalitarianism's commitment to moral equality and equal opportunity require them to do away with morally arbitrary characteristics (such as citizenship) when determining the criteria for distributing rights and social positions to fellow human beings.

¹³ Joseph Carens, "Aliens and Citizens," 251-273; Joseph Carens, "Migration and Morality: A Liberal Egalitarian Perspective", in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, eds. Brian Barry and Robert E. Goodin (University Park, PA: The Pennsylvania State Press, 1992), 25-47.

¹⁴ Carens, "Aliens and Citizens," 251-273.

¹⁵ *Ibid.*, 255-262.

¹⁶ Carens, "Migration and Morality," 25-47.

By moving away from the strictly Rawlsian account, Carens intends to establish a strong link between liberal egalitarianism more generally and the presumptive case for open borders and free international movement, as this would shift the burden of proof onto those liberal egalitarians who endorse the conventional account on global migration.¹⁷

As a subset of challengers to the conventional view, non-ideal theorists like Shelley Wilcox and Frederick Whelan focus their attention on non-ideal factors and conditions, and the normative implications these have for any plausible account of global migration.¹⁸ According to Wilcox, any viable normative theory of global migration must be able to provide plausible answers to two questions: whether political societies have unacknowledged normative obligations to admit immigrants, and; if justifiable migratory restrictions are implemented, how political societies should prioritize certain prospective immigrants over others.¹⁹ All challengers to the conventional position on global migration will agree that political societies do have unacknowledged normative obligations to admit immigrants. However, it is by addressing the second question of prioritization that non-ideal approaches make their most significant contributions to the ethics of global migration.

The two most prominent non-ideal approaches to global migration are: global poverty arguments, which hold that wealthy and affluent states have obligations to maintain a more relaxed border policy insofar as it is an effective way of fulfilling duties to alleviate global

¹⁷ Ibid., 25; Wilcox, “The Open Borders Debate on Immigration,” 815-816.

¹⁸ Wilcox, “The Open Borders Debate on Immigration,” 813-821; Shelley Wilcox, “Immigrant Admission and Global Reduction of Harm,” in *Journal of Social Philosophy* 38, no. 2 (2007), 274-291; Frederick Whelan, “Citizenship and Freedom of Movement: An Open Admission Policy?” in *Open Borders? Closed Societies?*, ed. Mark Gibney (New York: Greenwood Press 1992), 3-39.

¹⁹ Wilcox, “Immigrant Admission and Global Relations of Harm,” 276.

poverty,²⁰ and; harm reduction arguments, which hold that political states have duties to admit migrants who otherwise would stand to be seriously harmed if entry is denied.²¹ Chapter one provides a more detailed sketch of these two prominent non-ideal approaches, and makes note of the fact that many of the arguments presented by non-ideal theorists can be used to supplement ideal theories of free international mobility, or soften conventional theories of global migration.

Chapter one's second section ends with a review of some of the existing philosophical literature on reunification advanced by other philosophers in the field of global migration. These include the normative theories of reunification proposed by Caleb Young,²² Matthew Lindauer,²³ Luara Ferracioli,²⁴ and Matthew Lister.²⁵ All ground their accounts predominantly in the liberal tradition, while most implement elements of Rawlsian theory to varying degrees.²⁶ The section concludes by highlighting some of the similarities and difference between these accounts and the case for the right of reunification presented in this thesis.

The first chapter ends with an overview of some prominent replies that conventional theorists have advanced against their challengers. The first reply considered is one presented by David Miller addressed to Carens, whereby he criticizes the significance Carens prescribes to free international mobility. According to Miller, the moral value of international freedom of

²⁰ Whelan, "Citizenship and Freedom of Movement," 3-39; Wilcox, "The Open Borders Debate on Immigration," 818.

²¹ Wilcox, "The Open Borders Debate on Immigration," 818; Wilcox, "Immigrant Admission and Global Relations of Harm," 274-291.

²² Young, "Caring Relationships and Family Migration Schemes," 61-84.

²³ Lindauer, "In Defense of a Category-Based System for Unification Admissions," 1-29; Matthew Lindauer, "Entry by Birth Alone?: Rawlsian Egalitarianism and the Basic Right to Invite," Forthcoming in *Social Theory and Practice*, 1-29.

²⁴ Luara Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," in *Journal of Moral Philosophy* 13, no.5 (2016), 553-575.

²⁵ Matthew Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," in *University of Memphis Law Review* 37, no. 4 (2007), 745-780.

²⁶ Lindauer, "Entry by Birth Alone?" 1-29; Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," 745-780; Young, "Caring Relationships and Family Migration Schemes," 77.

movement is not as valuable as Carens claims, nor is it weighty enough to justify the kind of right to free international movement that Carens' accounts defend.²⁷ The second reply is directed towards those accounts that justify relatively open borders insofar as such a policy would be effective in discharging state duties of global justice. The reply essentially claims that the need for the state to admit migrants in order discharge duties of global justice is overstated, as the state may discharge its redistributive, reparative, and compensatory duties of global justice through a variety of other viable means.²⁸ I summarize these replies insofar as my own account for the right of reunification considers the overemphasized value Carens assigns to free international movement, and the viability of alternative means for meeting the interests of immigrants besides literally granting them entry.

Chapter Two: The Right to Form and Maintain Intimate Associations

The second chapter of this thesis is dedicated towards the establishment of an account for the rights to form and maintain close interpersonal relationships, from which the derivative right of reunification can be entailed. Chapter two begins with a discussion of the framework for these rights, which will be grounded in a Razian interest theory of rights.²⁹ The interest theory of rights, in short, holds that in order for someone to have a right to something, their interest in having or doing that thing must be a sufficiently weighty enough reason to place a corresponding duty on some other to let them either have the thing, or do the thing.³⁰ Next, I compare the interest framework with the will theory of rights (its main theoretical rival), and I make note of some salient features of the interest theory of rights. When compared with will theory, the

²⁷ David Miller, "Immigration: the Case for Limits," in *Contemporary Debates in Applied Ethics*, eds. Andrew I. Cohen and Christopher Heath Wellman (Wiley-Blackwell, 2005), 194.

²⁸ USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," https://www.youtube.com/watch?v=Sv2_3iewehY; Miller, "Immigration," 202-203; Thomas Pogge, "Migration and Poverty," in *Contemporary Political Philosophy: An Anthology*, eds. Robert Goodin and Philip Pettit (Oxford: Blackwell, 2006), 710-720.

²⁹ Joseph Raz, *The Morality of Freedom*, (Oxford: Oxford University Press, 1986), 166.

³⁰ Ibid.

interest theory of rights: is more capacious regarding the kinds of creatures that can be rights holders;³¹ does not discount a corresponding duty on the part of some other entity being directed to someone or something other than the right holder, nor that the right holder and the entity whose interest grounds the right necessarily be the same thing,³² and; more readily allows for the possibility that other morally relevant considerations may outweigh or undermine a case for the acceptance of a particular right and corresponding duty.³³

Using this theoretical framework, I begin the development of an account for the rights to form and maintain close affective ties with others. Through the use of a relational understanding of autonomy,³⁴ I ground the basic interests one has in forming and maintaining intimate associations with others by way of recognizing the extent to which one's autonomy is developed, maintained, and fundamentally dependent on one's relationships and close associations. People need relationships of all kinds if they are to be autonomous, and the intimate associations they form with others more often than not serve a crucial function in this regard. I propose three grounds for this interconnection between our close interpersonal relationships and one's autonomy: first, intimate associations are a wellspring from which we draw conceptions of good and worthwhile lives; second, our loved ones and the relationships we share with them are an essential part of the circumstances that foster our sense of self-worth, and; third, caregiver-dependent relationships animated by love and affection play a crucial role in the development and subsistence of the dependent party's autonomy. Without intimate associations, one has

³¹ Ibid., 166, 177; Leif Wenar, "Rights," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2020), <https://plato.stanford.edu/entries/rights/>.

³² Wenar, "Rights", <https://plato.stanford.edu/entries/rights/>.

³³ Raz, "The Morality of Freedom," 172, 180-183.

³⁴ Susan Sherwin and Meghan Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," in *Health Expectations* 14, no. 2 (2010), 184.

difficulty composing a conception of what makes one's life meaningful, the development of one's sense of self-worth is hindered, and one's autonomy is compromised.

In order to develop the former claim, I adopt elements from Hegelian thought and argue that our loved ones are uniquely positioned to provide us fully with an important social good: recognition. When our loved ones recognize us, we are fully appreciated for the authentic, unique, and valuable person that we are, and they respond to us accordingly by appreciating that which we find meaningful.³⁵ Recognition is also something one offers reciprocally to their loved one, and it is through this process of mutual recognition that we engage in the shared creative process by which the content of our lives (and the lives of our loved ones) are continuously formed and re-formed.³⁶ This process forces one to look beyond one's egocentricism, and in turn gives us an insight about the kind of person we are, and what we value.³⁷ Without our loved ones, this process is disrupted, and we are hindered in our efforts to compose conceptions of ourselves and what will bring meaning to our lives.³⁸

Drawing on aspects of Rawlsian theory, I also defend the interconnection between intimate associations and the development of one's autonomy insofar as the close affective ties we share with others play an important role in the maintenance of our sense of self-worth.³⁹ A capacity for one to hold a sense of one's own worth as a person is crucial for the development of one's autonomy, for without it, one struggles to possess secure convictions about what will make

³⁵ Christopher Bennett, "Liberalism, Autonomy and Conjugal Love," in *Res Publica* 9, no. 3 (2003), 289; Robert R. Williams, *Hegel's Ethics of Recognition* (London: University of California Press, 1997), 212.

³⁶ Ibid.

³⁷ Robert Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online", in *Ethics and Information Technology* 14, no.3 (2012), 235.

³⁸ Dean Cocking and Jeanette Kennett, "Friendship and the Self," in *Ethics* 108, no. 3 (1998), 502-527; Nancy Sherman, "Aristotle on Friendship and the Shared Life," in *Philosophy and Phenomenological Research* 47, no. 4 (1987), 589-613; Bennett Helm, "Friendship," *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2017), <https://plato.stanford.edu/entries/friendship/>.

³⁹ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999), 386-387.

one's life meaningful, and obtain the necessary confidence in one's abilities to pursue their chosen conception of a good and worthwhile life.⁴⁰ Thankfully, our intimate others are able to provide us with a form of caring founded on the detailed attention they give to the way one's life is going, and are able to recognize the content of our lives as something special. Since one cares about what their intimate other thinks of them, being valued helps lead one to believe in themselves, their projects, and their ability to pursue said projects.⁴¹

Chapter two ends with a discussion of the corresponding duties the rights to form and maintain close interpersonal relationships would entail for others, particularly the state. As the purpose of this thesis is to assess the normative implications such rights would have in the context of global migration, I am primarily concerned with the corresponding duties states have (if any) towards individuals if the rights exists, and more specifically the immigration policy entailed by these obligations. I will not be attempting to describe the *content* of this set of corresponding duties in its entirety; however, I will demonstrate that, *at the very least*, there is good reason to think: 1) the set of corresponding duties that can be derived from the right to form and maintain close interpersonal relationships is more comprehensive and complex than what I refer to as the standard liberal set; 2) the duty to foster the minimal circumstances required for the provision of adequate opportunities to form and maintain close interpersonal relationships would be a part of this more comprehensive set of duties, and; 3) the state should play a significant role in meeting the requirements of these duties, which would include duties not to wrongfully prevent or disrupt the formation and maintenance of its citizens' intimate associations.

⁴⁰ Ibid.

⁴¹ Bennett, "Liberalism, Autonomy, and Conjugal Love," 288; Rawls, *A Theory of Justice*, 386-387

A charitable understanding of the standard liberal account of associational freedom maintains that one possesses a general right to freedom of association that is constrained by certain moral considerations (such as the presence of consent between parties), and an irrefutable right of disassociation.⁴² This would imply corresponding duties of non-interference on the part of others (including states) regarding relationships that meet the requirements of moral permissibility, as it would imply correlative obligations of non-compulsion (i.e. not forcing another to do X) for those who enact their right of associational refusal. Through a number of hypothetical and real-life examples,⁴³ I demonstrate that the set of corresponding duties that is entailed from the rights to form and maintain close interpersonal relationships is more complex and comprehensive than what the standard liberal view proposes, and that individuals can even have obligations to form and maintain associations.

Regarding the content of this set of corresponding duties, I posit that rights to form and maintain close interpersonal relationships entails duties on others, but the state in particular, to provide adequate opportunities for persons to form and maintain these kinds as associations, and ensure that others are not being rendered wrongfully dependant on others through instances of coercive or incidental social deprivation.⁴⁴ To see the force of this claim, one need only imagine a world where everyone chose not to associate with some particular person X, and consider the mental, physical, and emotional toll this form of social deprivation would have on X's well-

⁴² Kimberley Brownlee, "Freedom of Association: It's Not What You Think", in *Oxford Journal of Legal Studies* 35, no. 2 (2015), 271-273; John Stuart Mill, *On Liberty* (Kitchener: Batoche Books, 2001), 69-85.

⁴³ Brownlee, "Freedom of Association", 271-273; CNN, "2010 Chilean Mine Rescue Fast Facts", Updated 2:11pm ET, Wednesday February 26 2020, <https://www.cnn.com/2013/07/13/world/americas/chilean-mine-rescue/index.html>

⁴⁴ Kimberley Brownlee, "A Human Right Against Social Deprivation", in *The Philosophical Quarterly* 63, no.251 (2013), 199-222.

being.⁴⁵ This duty would be partially met by individuals by way of the associational obligations that individuals often have towards others; however, the state should play a significant role in meeting the requirements of these corresponding duties.

As a political entity, I understand states as being justice-oriented, meaning that their moral legitimacy is grounded in their fulfilling the demands of justice. I also hold that, as a matter of justice, states have obligations to respect the fundamental rights and interests of individuals.⁴⁶ Since individuals have basic interests in forming and maintaining close interpersonal relationships, the protection of these basic interests will be a matter of justice, and would place corresponding duties on the state to, *at the very least*, refrain from wrongfully disrupting or unduly undermining intimate caring relationships. I end the chapter by providing some clarifications on the duties associated with the right to form intimate associations and the right to maintain intimate associations, and by considering some objections and worries that may be advanced against duties to foster the environment needed to provide adequate opportunities for all to form and maintain close interpersonal relationships with others.

Chapter Three: The Right of Reunification

The third and final chapter of this thesis details the implications the rights to form and maintain intimate associations has for the debate on global migration. I advance the notion that, in the context of global migration, these rights entail a derivative right of reunification with those whom one shares close affective ties, but not citizenship in the same country. I begin this chapter with some preliminary remarks regarding the scope of the state's duty to grant special

⁴⁵ Ibid. See also John T Cacioppo and William Patrick, *Loneliness: Human Nature and the Need for Social Connection* (New York: W.W. Norton and Company, 2008).

⁴⁶ Jennifer Kling, *War Refugees: Risk, Justice, and Moral Responsibility* (New York: Lexington Books, 2019); Jennifer Kling, "Concerned Philosophers for Peace, co-sponsored with the Gandhi, King, Chavez, Addams Society", Panel, American Philosophical Association Central Conference, Chicago IL, February 28th 2020. The panel was a discussion on Kling's book, *War Refugees: Risk, Justice, and Moral Responsibility*.

immigration eligibility to foreigners whom their current citizens share close affective ties. The account for the right of reunification that I advance in this chapter is, *for the most part*, member-centric. By this, it is meant that the account is one that predominantly, but not always or entirely, understands the state's duties of reunification as ones that are grounded in the rights and interests of its own citizens, and not in the rights and interests of foreigners. There will be times that, as a matter of global justice, states should also take into consideration the rights and interests of dependent non-members who wish enter their territory in order to be with their citizen caregivers.⁴⁷ Nevertheless, the purpose of adopting a mostly member-centric approach for my account is twofold: 1) to remain consistent with how other philosophers of immigration have construed their normative accounts of justice in global migration,⁴⁸ and; 2) to demonstrate that even if one holds this more restrictive (and perhaps less contentious) view about the scope of the state's obligations, the state would still have a duty to adopt a relatively open reunification policy.

This preliminary section ends via a brief discussion surrounding the assumption of granting citizenship to foreigners who enter the country for a significant period of time for the reason of being united with their loved one(s). For the purposes of this thesis, I justify my assumption that full-membership should be granted to foreigners who choose to migrate to another country in order to live with their loved one(s) on two grounds. First, in the philosophical literature on reunification, it is thought that close interpersonal relationships of the most intimate kind can only be maintained and fully enjoyed when all participants share a stable sense of membership in their shared political society. The intuition behind this claim is that it is difficult

⁴⁷ Young, "Caring Relationships and Family Migration Schemes," 71-76

⁴⁸ Ferracioli, "Family Migration Schemes and Liberal Neutrality," 556; Lindauer, "Entry by Birth Alone?" 1-29; Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," 771.

(perhaps even impossible) to enjoy and maintain one's relationship with one's romantic partner or close friend, or care for one's child, when said other is only admitted into the country for a short period of time, or on the precarious grounds that anything short of full citizenship provides.⁴⁹ Secondly, the assumption of citizenship is granted because, quite simply, there is something of a consensus between conventional philosophers and their challengers that the practice of not extending full membership to immigrants is unjust.⁵⁰ To delve deeper into the assumption of citizenship would thus be unproductive, unnecessary, and risk drawing us into a lengthy philosophical inquiry into the concept of citizenship, which is fundamentally not the focus of this thesis.

In order to elucidate why the right to reunification entails a corresponding duty on the part of the state to adopt a relatively open border policy regarding reunification, I hone in on a disanalogy in both Wellman and Walzer's Cantilever Arguments. The disanalogy concerns the ability of private association members to associate with non-members when juxtaposed with the ability of citizens to form associations with foreigners. In the former case, private associations rarely prevent their members from exercising their freedom to form other kinds of associations with non-members; state associations, on the other hand, have the capacity to severely restrict the ability of their citizens to interact and associate with foreigners.⁵¹ Thus, where states have the freedom to choose who they will allow into the country, the overall pool of potential people with whom citizens can form associations is diminished, as is their ability in maintaining their

⁴⁹ Lindauer, "In Defense of a Category-Based System for Unification Admissions," 1-27. See pages 8-9 from the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

⁵⁰ Joseph Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013), 19-61; Lindauer, "In Defense of a Category-Based System for Unification Admissions," see page 8 from the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; Miller, "Immigration: the Case for Limits," 204-205; Walzer, "Membership," 60-61; Wellman, "Immigration and Freedom of Association," 125.

⁵¹ Kieran Oberman, "Immigration and Equal Ownership of the Earth," in *Ratio Juris* 30, no. 2 (2017), 149-150

relationships with those whom they already share close affective ties, but who reside outside of the state's territory.

This disanalogy is relevant for the project of this thesis for two reasons. First, it focuses our attention on the irony in grounding the state's right to enact restrictive immigration policies in the associational freedom of smaller and more comprehensible private associations. The conventionalist accounts of Wellman and Walzer are ironic because the state's freedom to choose its own membership and prevent immigration would also limit the very thing which their normative accounts of state freedom of association were built upon via analogy: the freedom of individuals and private associations to choose their own membership and associate as they please.⁵² Secondly, and most importantly, restrictive immigration policies hinder the capacity for individuals to form and maintain close interpersonal relationships with foreigners. This will have implications for the nature of the state's duties of reunification, and the means via which states can adequately discharge their obligations towards those who share close affective ties, but not citizenship or residency in the same country.

The state may only discharge its duties of reunification via a presumptive policy of granting entry to those who wish to enter the state's territory and live with their loved one(s), and the reason for this relates to the nature of intimate association. First, intimate associations are non-fungible. By this, it is meant that our most intimate relationships are in some way invaluable, or irreplaceable to both ourselves and those with whom we share such close affective ties.⁵³ It follows that if these kinds of close interpersonal relationships are invaluable, one would

⁵² Ibid.

⁵³ D.O Brink, "Eudaimonism, Love and Friendship, and Political Community," in *Social Philosophy and Policy* 16, no. 1 (1999), 252-289; Ferriacioli, "Family Migration Schemes and Liberal Neutrality," 566; Sherman, "Aristotle on Friendship and the Shared Life," 589-613; J.E. Whiting, "Impersonal Friends," in *Monist* 74, no. 1 (1991), 3-29; Young, "Caring Relationships and Family Migration Schemes," 78.

not “trade up” and replace their loved one for another with all of the similarly relevant properties (or perhaps, to even a greater degree!), nor would one accept a bribe as satisfactory compensation if one were separated from their loved one. Second, if intimate associations are to be sufficiently maintained and enjoyed, physical proximity between its members is required. Physical proximity between the members of an intimate association is required if the members of the relationship are to receive the kind of feedback, affection, and caregiving that can only be obtained via close and frequent face-to-face interactions.⁵⁴ Therefore, due to the non-fungible nature of intimate associations and the need for physical proximity between its members, states are barred from discharging the duties entailed by the right of reunification through the use of exportable means, like financial compensation or the assignment of “replacement” loved ones. Only via the adoption of a non-exportable and presumptive policy of relaxed borders for those migrants who wish to be reunited with their loved ones can states adequately discharge their corresponding duties of reunification.

Next, I consider two objections against my account for the right of reunification that I dub the “Why Us?” and the Sufficient National Pool objections. Beginning with the former, the “Why Us?” objection points out that restrictive border policies do not necessarily disrupt the intimate associations of their citizens, since the members of the relationship could move elsewhere to be together. A state policy of closed borders would, at most, only prevent the members of the relationship from living together in the state’s territory. Therefore, the critic may wonder why it must be the obligation of the receiving country to grant entry and citizenship to

⁵⁴ Sara Ruddick, “Care a Labor and Relationship”, in *Norms and Values: Essays on the Work of Virginia Held*, ed. Joram G.Haber and Mark S. Halfon (Lanham, MD: Rowman and Littlefield Publishers, 1998), 3-25; Anca Gheaus, “Personal Relationship Goods,” in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2018), <https://plato.stanford.edu/entries/personal-relationship-goods/>; Sharp, “The Obstacles Against Reaching the Highest Level of Aristotelian Friendship,” 233-237.

foreigners who share close affective ties with current citizens.⁵⁵ I provide three replies to this objection: first, since all habitable land is already claimed by sovereign states, the “Why Us?” objection simply pushes the argument back until the members of an intimate association must be granted entry and citizenship *somewhere*; second, it is the obligation of the receiving state to grant entry and citizenship to immigrants who share close affective ties with current citizens because it is something all members of a state are collectively tasked by justice to do⁵⁶, and; third, to deny entry to those foreigners who wish to come and live with those citizens whom they share close affective ties would effectively force those citizens to move elsewhere if they wish to be reunited with their loved one(s), and would thereby violate their right to security of residence.⁵⁷

The second objection considered is the Sufficient National Pool (SNP) objection. At its core, the objection recognizes the rights of citizens to form and maintain close affective ties with others and the corresponding duty of the state to ensure that social circumstances are such that citizens have opportunities to form and maintain intimate associations. The objection could even recognize that the state will have a duty to grant entry to those foreigners whom their citizens share close affective ties, though the citizen never actively chose to form those close affective ties.⁵⁸ However, regarding those relationships citizens actively choose to form with others, what is entailed by the state’s duty is *not* to grant entry to the foreign loved ones of its citizens, but instead to ensure that the social environment necessary for the maintenance of a sufficient national pool of people from which citizens can seek each other out to form romantic

⁵⁵ Young, “Caring Relationships and Family Migration Schemes,” 78

⁵⁶ John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 187-190; Young, “Caring Relationships and Family Migration Schemes,” 78.

⁵⁷ Carens, *The Ethics of Immigration*, 100-106; Young, “Caring Relationships and Family Migration Schemes,” 79

⁵⁸ For example, children do not actively choose to form relationships with their parents - at least not in any meaningful sense.

relationships or friendships is itself maintained. Therefore, if a citizen chooses to form an intimate association outside of this national pool, the state is under no obligation to grant entry to that foreigner, since the citizen could have met their basic interest in forming intimate associations by reaching out to a fellow citizen.

I provide three replies to this objection. The first reply concerns those situations whereby one forms a relationship with another, immigrates to another country, and then seeks to sponsor their loved one's immigration into the country for the purpose of being reunited. This reply provides reasons to believe that such a national policy as the one advanced by the proponent of the SNP objection would be unreasonable, unfair, and even cruel to immigrant citizens. The second reply concerns a scenario whereby some person forms a relationship with someone from another country, and simply seeks to sponsor their immigration into their country without having necessarily migrated anywhere else themselves. In response, I posit that since we live in a globalized and interconnected world whereby a larger proportion of our interactions with others are with foreigners than they ever were in the past, a policy informed by the SNP objection limits the ability of its citizens to form intimate associations with others more than it would have in a less globalized and interconnected past. Therefore, it is unclear whether the "sufficient" national pool is truly sufficient anymore. Finally, the third reply addresses the SNP objection's assumption that those intimate associations we "actively choose" to form with others are truly *chosen*, in the full sense of the term. Given the spontaneous processes whereby one falls in love, or forms a friendship, it would be unfair for the state to deny entry to those foreigners with whom their citizens formed intimate associations.

As previously mentioned, the right to reunification is not an unfettered right, meaning states can justifiably place limits on the amount of immigration they allow into their territory.⁵⁹ Specifically, if restrictive migratory policies are to be enacted, the onus is on the state to provide a sufficiently weighty reasons that would justify the adoption of the restrictions on immigration, and only to the extent that is required by the sufficiently weighty reason.⁶⁰ Nevertheless, this concession still leaves unanswered the non-idealist worry:⁶¹ if the state can provide sufficient reason for the enactment of justifiable limits on immigration, by what criterion or criteria should the state base their prioritization of certain prospective migrants over others? Furthermore, where justifiable restrictions on the movement of those who wish to permanently reunite with their loved one(s) exist, by what criterion or criteria should the state prioritize certain reunification claims over others?

The final section of chapter 3 deals with addressing these two non-idealist worries. Regarding the latter question, I argue that amongst the pool of reunification claims, the kinds of relationships that should be prioritized are very likely going to be the ones that we already hold by intuition to be of utmost importance: parent/caregiver-child relationships, romantic/spousal relationships, caregiver-adult dependent relationships, and close friendships. In order to justify this prioritization, I refer back to the account for the right to form and maintain close affective ties with others that I develop in chapter 2, which grounds the value of our intimate associations

⁵⁹ Joseph Carens, "Aliens and Citizens: The Case for Open Borders," 259; Lindauer, "In Defense of a Category-Based System for Unification Admissions," see pages 9-16 from the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; Wilcox, "The Open Borders Debate on Immigration," 816; Young, "Caring Relationships and Family Migration Schemes," 78.

⁶⁰ Lindauer, "In Defense of a Category-Based System for Unification Admissions," see pages 9-16 from the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; Wilcox, "Immigrant Admission and Global Reduction of Harm," 274.

⁶¹ Wilcox, "Immigrant Admissions and Global Relations of Harm," 274.

in the development and maintenance of our autonomy. I also detail some initial thoughts concerning how priority should be given amongst equally weighty migratory claims.

As for the former question, I posit that reunification claims may be prioritized over other kinds of immigration claims. The reason for this is not because reunification claims necessarily carry more normative weight than the claims of other migrants, but simply because of the lack of means that are available to the state if it is to meet the interests of those who wish to be reunited with their non-citizen loved one(s), besides literally granting entry to the immigrant who stands to be reunited with a citizen. However, if the relevant non-exportable interests of all other migrants were fully considered in a comprehensive normative assessment, it is not evident how reunification claims are to be prioritized when stacked against other migratory claims.

Conclusion

The final section will begin with a succinct summary of the main arguments made in this thesis. I will briefly remind the reader of my principal argumentative moves, and how they are tied together in the overarching account for the right of reunification that I develop. Following this, I will make note of a fairly significant limitation to my account for the right of reunification: the liberal philosophical grounds from which the normative project of this thesis is developed, and the autonomy account upon which the basic interest in forming and maintaining close affective ties with others is based. The reason for grounding the account in this way is twofold: for one, and quite simply, I find the liberal/autonomy case for the right of reunification that I develop to be plausible, and; two, since many philosophers who write on the ethics of global migration⁶² and reunification⁶³ are liberals themselves, there is a strategic reason for developing

⁶² See Carens, "Aliens and Citizens: The Case for Open Borders," 251-273; Wellman, "Immigration and Freedom of Association," 109-141; Walzer, "Membership," 31-63.

my arguments from the same philosophical grounds. By addressing these limitations I fully concede that the scope of this thesis' appeal is limited beyond the boundaries of those who endorse liberalism and the autonomy account to some extent. Despite this limitation, I suggest that future research could explore the compatibility between a positive case for reunification and other non-liberal/autonomy philosophical traditions – this includes those traditions that may *prima facie* seem partial to some version of the conventional view. In order to provide some potentially plausible starting points for future philosophical work, I will briefly consider both conservatism and communitarianism as two philosophical traditions from which alternative accounts for the normative value of reunification may ground themselves.

⁶³ See Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," 553-575; Lindauer, "Entry by Birth Alone?," 1-29; Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," 745-780; . Young, "Caring Relationships and Family Migration Schemes," 61-84.

Chapter One

The Debate on Global Migration

Introduction

Whether the state has unacknowledged moral obligations to admit outsiders is a question that has received relatively little attention from contemporary philosophers. Of those who have written on the ethics of global migration, most have defended a conventional position, which holds that the state should by and large have broad discretion over their border policies. Notable conventional writers include Christopher Wellman⁶⁴ and Michael Walzer.⁶⁵ However, within the last 40 years, some liberal egalitarian thinkers have begun to challenge the conventional liberal position on migration.⁶⁶ Joseph Carens, for example, argues that the state has a *prima facie* duty to maintain open borders, while Frederick Whelan and Shelley Wilcox hold that states have much broader duties towards needy immigrants and rectifying global injustices than previously described, and that these duties imply a more relaxed border policy without advocating for fully open borders *per se*.⁶⁷

As I am primarily concerned with advancing a case for the right of reunification, and detailing the implications this right will have for justice in migration, I will be summarizing the following accounts from the philosophical literature on global migration in order to better situate and develop the overarching normative project of this thesis. Since my account for the right of reunification challenges the tenets of the conventional view on global migration, the first section

⁶⁴ Christopher Wellman, "Immigration and Freedom of Association," in *Ethics* 119, no. 1 (2008), 109-141.

⁶⁵ Michael Walzer, "Membership," in *Spheres of Justice: A Defense of Pluralism* (New York: Basic Books, 1982): 31-63.

⁶⁶ Joseph Carens, "Aliens and Citizens: The Case for Open Borders," in *The Review of Politics* 49, no. 2 (1987), 251-273; Shelley Wilcox, "Immigrant Admission and Global Reduction of Harm," in *Journal of Social Philosophy* 38, no. 2 (2007), 274-291; Frederick Whelan, "Citizenship and Freedom of Movement: An Open Admission Policy?," in *Open Borders? Closed Societies?*, ed. Mark Gibney (New York: Greenwood Press 1992), 3-39.

⁶⁷ Shelley Wilcox, "The Open Borders Debate on Immigration," in *Philosophy Compass* 4, no. 5 (2009), 813-821.

of this chapter will be an overview of its two most prominent defenders: Christopher Wellman and Michael Walzer. Whereas Wellman presents a view that understands a state's discretion over their own border policy as an extension of legitimate state's right to freedom of association (and disassociation), Walzer grounds his principled account for a state's right to regulate migration in the right of members of political communities to distribute the good of political membership to non-members.

To provide the philosophical context from which the case for the right of reunification is situated, the second section will summarize some notable liberal egalitarian challenges that have been presented by open borders advocates like Joseph Carens, and non-ideal theorists like Shelley Wilcox and Frederick Whelan. Carens' account for open borders is fundamentally grounded in the right to freedom of movement, which he argues can be derived from both Rawlsian and general liberal egalitarian principles.⁶⁸ Non-ideal theorists justify the adoption of relatively open borders insofar as it would be an effective strategy for discharging remedial and distributive duties of global justice.⁶⁹ This section ends with a review of a few prominent accounts of reunification advanced by other philosophers on the ethics of global migration, and will highlight some of the similarities and difference between these accounts and the one presented in this thesis.

The third and final section of this chapter will present some prominent objections that defenders of the conventional view have offered in reply to their liberal egalitarian challengers.

⁶⁸ Carens, "Aliens and Citizens," 251-273; Joseph Carens, "Migration and Morality: A Liberal Egalitarian Perspective," in *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, eds. Brian Barry and Robert E. Goodin (University Park, PA: The Pennsylvania State Press, 1992), 25-47.

⁶⁹ Wilcox, "The Open Borders Debate on Immigration," 817-819.

The first reply I consider is one offered by David Miller,⁷⁰ who criticizes Carens' characterization of free international mobility as an interest weighty enough to grant it the status of a basic right. The second reply, as it is presented by Wellman⁷¹ and Miller,⁷² points out that many of the global injustices liberal egalitarian challengers highlight in order to justify the use of relaxed borders as a remedial tool can be sufficiently addressed through means other than relaxed borders. Thus, the practical case for open borders is overstated. I summarize these replies insofar as my later formulation of the right of reunification will consider the overemphasised interest in free international movement and the effectiveness of exportable means (i.e. means other than granting entry) for discharging state duties of migratory justice.

1.1 The Conventional View

1.1.1 Christopher Wellman

Of those who prescribe to the conventional view on immigration, one of the most hardline accounts is presented by Christopher Wellman. In his piece *Immigration and Freedom of Association*,⁷³ Wellman appeals to a moral principle of freedom of association in order to defend a legitimate state's unequivocal right to control immigration into its territory.⁷⁴ While he concedes that wealthy nations likely have extremely demanding duties of redistributive and reparative justice, Wellman holds that legitimate states have an inalienable right close their borders and deny entry to all potential immigrants and asylum seekers. The argument for a

⁷⁰ David Miller, "Immigration: the Case for Limits," in *Contemporary Debates in Applied Ethics*, eds. Andrew I. Cohen and Christopher Heath Wellman (Wiley-Blackwell, 2005), 193-206.

⁷¹ USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," filmed (March 16th, 2017), YouTube video, posted December 5th, 2017. https://www.youtube.com/watch?v=Sv2_3iewehY.

⁷² David Miller, "Immigration," 202-203.

⁷³ Wellman, "Immigration and Freedom of Association," 109-141.

⁷⁴ *Ibid.*, 109.

legitimate state's right to set and enforce its own immigration policies is in essence a rather simple one that takes the following form:

P1: Legitimate states are entitled to political self-determination.

P2: Freedom of association is [an integral] component of [political] self-determination. [Thus], if you do not have freedom of association, you do not have [political] self-determination.

*P3: Freedom of association includes the right not to associate with others.*⁷⁵

C: Legitimate states have the right to set and enforce their own migration policy, even if this means a policy of closed borders.

In order to draw out the plausibility of his premises, Wellman makes note of two things. First, it is noted that freedom of association is highly morally valuable. He does not think this claim should come as a surprise, as the value of freedom of association is taken to be self-evident when it comes to our views on other matters, such as religion. For example, while it was historically viewed as appropriate for the state to determine the religious practices of its citizens, it is generally agreed upon (at least, amongst contemporary liberal thinkers) that all are entitled to religious freedom of association. In other words, it is taken for granted that we all have the right to choose which religion we wish to associate ourselves with.⁷⁶ Second, Wellman provides some justification for the fourth premise; namely, that freedom of association implies a freedom to reject potential associations, or a moral permission to disassociate. Being entitled to this freedom to disassociate is seen as crucial for freedom of association to have any real substance,

⁷⁵ USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," https://www.youtube.com/watch?v=Sv2_3iewehY.

⁷⁶ Wellman, "Immigration and Freedom of Association," 109-110.

for groups of people frequently wish to exclude others from joining their associations. Interestingly, this freedom to reject potential associations may be considered necessary for associations to have any real sense of identity, for what makes an association *theirs* for some group of people is their ability to exclude others and create this member/non-member binary distinction.⁷⁷

A notable strategy that Wellman implements in his piece is a Cantilever Argument to further elucidate the moral appeal of his account for a state's freedom of association. A Cantilever Argument may be described as a form of normative reasoning whereby certain moral commitments are taken for granted at some particular level of analysis, only to be followed by attempts to demonstrate how these moral commitments hold for some other more contentious but similar issue, either on the same or on some different level of analysis. Essentially, it is a type of argument whose soundness relies on the use of analogy and being able to plausibly convey what is morally analogous between two or more scenarios.⁷⁸ Wellman implements two thought experiments to further his Cantilever Argument for a legitimate state's freedom of association that take place on the individual and the group levels of analysis: the former involves an individual and her marital rights to choose her partner, while the latter involves the Augusta National Golf Club and the moral grounds upon which the club may exclude women from becoming members.⁷⁹

Beginning at the individual level, Wellman notes that it is morally wrong for one not to have the right to choose one's marital partner. This seems fairly self-evident to him: forcible marriage would be a violation of one's marital freedom to choose one's partner, or as Wellman

⁷⁷ Ibid., 110.

⁷⁸ Carens, "Aliens and Citizens," 237-238.

⁷⁹ Wellman, "Immigration and Freedom of Association," 110-111.

puts it, our “*firmly settled convictions... that each of us enjoys a morally privileged position of dominion over our self-regarding affairs, a position which entitles us to freedom of association in the marital [realm]*.”⁸⁰ Moving to the group level of analysis, Wellman notes that even the opponents of the Augusta National Golf Club’s policy of excluding women from becoming members concede that there are weighty reasons as to why the golf club’s self-determination should be respected. While the opponents of this policy ultimately conclude that this right is outweighed by other considerations, the acknowledgement of a group’s initial right to choose its own members by the opponents of the golf club’s policy is presented by Wellman to further strengthen the moral appeal of a group’s right to freedom of association.⁸¹ Once this moral appeal for the freedom of association has been reasonably presumed at the individual and group level, Wellman’s next step in his Cantilever Argument is to simply highlight that if we believe that the right to self-determination is present in these two examples, then we ought to believe that this right is equally present at the state level.

Wellman does immediately make note of one disanalogy: unlike the golf club, states cannot claim that their membership is derived from the autonomous decisions of their citizens, which in turn may change the moral dimensions of freedom of association at the state level. In order to reply to this worry and present an argument for why a legitimate state’s right to freedom of association cannot be outweighed by other considerations, Wellman introduces a *reductio ad absurdum* argument that is meant to highlight the seriously detrimental implications that he believes would logically follow if one were to deny a legitimate state’s right to freedom of association (and disassociation). According to him, if we were to deny states this right, then the very moral dynamics of regional associations like the European Union (EU) and the North

⁸⁰ Ibid., 110.

⁸¹ Ibid., 111.

American Free Trade Agreement (NAFTA) would be called into question. For example, if legitimate states are not entitled to the right to freely associate with whomever they choose, then the state members of these international associations (such as NAFTA or the EU) are in no position to either accept or decline the terms of membership. Without this state right to freedom of association, the moral ground upon which a state may accept or reject membership into international associations is lost. Further implications include the moral permissibility of forcible annexation, and whether or not a state can reject an attempt of forced annexation on principled grounds without a right to disassociate. All of this is designed to illustrate the rather unappealing implications that Wellman claims would follow from denying a legitimate state's right to freedom of association.⁸²⁸³

1.1.2 Michael Walzer

Perhaps the best known philosophical defence of the conventional view on immigration, Michael Walzer shares with Wellman the general conviction that citizens should largely be granted the freedom to distribute membership into their political community.⁸⁴ Both accept that the state ought to be given broad discretion over its ability to control its border policy, and that it is within their moral jurisdiction to limit immigration into their country. Interestingly, Walzer also makes use of an argumentative strategy similar to Wellman; namely, the use of a Cantilever Argument to convey the plausibility of his position. Through the use of analogies between the

⁸² Ibid., 112.

⁸³ I will note here that this reply does not directly address the disanalogy that Wellman notes between the golf club and the state. For while it may in fact be true that there would be serious detrimental implications if a state's right to freedom of association were denied, the *reductio ad absurdum* argument still fails to explain why the involuntary nature of state membership is morally unproblematic in his case for a legitimate state's right to close its borders. In other words, by simply highlighting the kind of negative implications that he believes would follow if one were to deny a state's entitlement to freedom of association, his reply does not specifically explain why the involuntary nature of citizenship is still not a problem when providing justification for the moral permissibility of state systems.

⁸⁴ Walzer, "Membership," 31-63; Wilcox, "The Open Borders Debate on Immigration", 814.

state and associations like families, clubs, and neighbourhoods,⁸⁵ Walzer argues that certain constitutive features identified amongst these smaller forms of association hold for larger political communities, and have implications for the kinds of border policy political communities should be allowed to adopt.

There are, however, some noteworthy differences between the two. Drawing on elements of communitarianism,⁸⁶ Walzer understands membership in a political community as a kind of social good, whose nature and value is derived from a shared understanding of the political community, and fixed by the work and conversation of its members⁸⁷. This understanding of membership is both reflective and prospective; it consists of members' shared understanding of the present nature of their community and the kind of community they would like to have. This justifies liberal democratic societies' freedom to choose their own migration policy and ensure that the kind of border policy adopted is in accordance with members' shared understanding of their political community.⁸⁸ This is contrasted with Wellman, who simply grounds a legitimate state's entitlement to freedom of association in the normative value of freedom of choice itself, and as a essential component of political self-determination.⁸⁹

This understanding of political membership as a social good informs Walzer's use of analogies between the state and smaller associations in order to help elucidate the nature of liberal democratic societies and the kind of migration policy that is appropriate for them to adopt. It is difficult to grasp the nature of political communities the size of contemporary political

⁸⁵ Ibid, 35-42.

⁸⁶ Wilcox, "The Open Borders Debate on Immigration," 814.

⁸⁷ Wellman, "Membership," 31-32.

⁸⁸ Ibid., 32.

⁸⁹ Wellman, "Immigration and Freedom of Association," 109-110.

societies, since they are so large and abstract.⁹⁰ Walzer notes that few will have any direct experience or knowledge about the nature of larger political communities, nor what it means to be a member of said community, since political communities are, in a sense, invisible. The only things that most members see are particular characteristics of the community, like its symbols, offices, representatives, and so on.⁹¹ Thus, Walzer suggests that liberal democratic societies and the border policies they should adopt can be more easily grasped by comparing them to other associations that are more readily understandable, like families, clubs, and neighbourhoods.⁹²

Walzer begins by comparing political communities with neighbourhoods, which he describes as an association of people living in close proximity to one another without any legally enforceable admissions policy. People who choose to move into the neighbourhood for reasons of their own may be welcomed or unwelcomed by the other members, but they cannot be admitted or excluded; the state remains impartial by refusing to enact restrictive policy that would prevent people from settling into the neighbourhoods of their choosing.⁹³ Walzer considers whether political communities should adopt the more open admission policies that are analogous to neighbourhoods before ultimately concluding that they should not. He notes that while people do in fact move about a great deal, he does not attribute most of this movement to their love of movement from place to place. Human beings, he claims, are inclined to settle down and stay where they are unless other factors (market, political, etc.) drive them to move elsewhere. Some will leave their homes to become foreigners in other lands; others will “*stay where they are and resent the foreigners in their own land.*”⁹⁴

⁹⁰ Wilcox, “The Open Borders Debate on Immigration,” 814.

⁹¹ Walzer, “Membership,” 35.

⁹² Ibid.; Wilcox, “The Open Borders Debate on Immigration,” 814

⁹³ Walzer, “Membership,” 35-36.

⁹⁴ Ibid., 38.

Given this characterization of peoples' intentions when they choose to move elsewhere, or their feelings towards foreigners settling in their homeland, Walzer concludes that citizens of political communities should be given permission to regulate their countries' border policies in order to protect their societies' freedom, culture, and welfare.⁹⁵ For if political communities did not regulate immigration at the national level, neighbourhoods would take up this task, thereby becoming "*a thousand petty fortresses.*"⁹⁶ Since this kind of local closure is undesirable, especially in liberal democratic societies, the state ought to have discretion over their migration policy.⁹⁷ While this general freedom to admit foreigners entails a corresponding right to prevent foreigners from entering the country as well, it does not grant the state a right to regulate emigration. Barring national emergencies, Walzer's account holds that members of political communities should have the freedom to leave their country if they so choose.⁹⁸ However, this freedom to leave does not generate a right of entry into another country, nor does it place on the country of their choosing a corresponding duty to grant them entry.⁹⁹

Walzer suggests the general freedom to decide their own admission policy and the lack of a right to regulate withdrawals makes political communities analogous to clubs; both are free to choose their own membership, and neither may bar members from withdrawing.¹⁰⁰ That being said, Walzer's conventional account on migration is not as hardline as Wellman's, as he recognizes two key moral features he believes the state possess that clubs do not. The first moral feature is recognition of moral obligations towards ethnic and national relatives. This principle of kinship affinity between members of the state and foreigners fosters a sense in which political

⁹⁵ Ibid., 38-39; Wilcox, "The Open Borders Debate on Immigration," 814.

⁹⁶ Walzer, "Membership," 39.

⁹⁷ Wilcox, "The Open Borders Debate on Immigration," 814.

⁹⁸ Ibid.

⁹⁹ Walzer, "Membership," 40.

¹⁰⁰ Ibid.

communities, and especially liberal democratic societies, are also like families. Walzer notes how it is a fundamental feature of families that members are morally connected to others with whom they have not chosen and live outside of their household.¹⁰¹ This commits political communities to “give priority” in their admissions scheme to relatives of citizens who live outside of the country.¹⁰²

The second important moral feature of the state highlighted by Walzer is an adherence to the principle of mutual aid.¹⁰³ This position is likely grounded in the general idea that any defensible account of political morality must have at its base a recognition that what happens to everyone on this earth (and not just our fellow citizens) is of moral importance. Hardly anyone doubts that we have moral obligations towards foreigners, and within the field of contemporary political theory we have reached a point where any defensible account of political morality must have at its base recognition of the moral obligations and duties that we have towards each other *qua* human, or *qua* beings with moral status – a point we might call the *Cosmopolitan Plateau*.¹⁰⁴

The principle of mutual aid builds on this plateau, maintaining that all contemporary political societies have duties to provide positive aid to non-members when “1) [*the aid*] is needed or urgently needed by one of the parties; and 2) if the risks and costs of giving it are relatively low for the other party.”¹⁰⁵ This adherence to the principle of mutual aid commits the state to provide positive general assistance to foreigners in dire need of help when the cost of providing this aid is comparably insignificant or negligible. Normally, the state can meet the requirements of these duties by exporting transferable aid (such as wealth or military manpower)

¹⁰¹ Ibid., 41.

¹⁰² Ibid.

¹⁰³ Ibid., 41-42; Wilcox, “The Open Borders Debate on Immigration,” 814-815.

¹⁰⁴ Steven Lecce, “Iterative Contractualism? Global Justice and the Social Contract,” in *Journal of International Political Theory* 9, no. 1 (2013), 63-64.

¹⁰⁵ Wellman, “Membership,” 33; Wilcox, “The Open Borders Debate on Immigration,” 815.

to poorer and needier countries.¹⁰⁶ However, Walzer notes that refugees are a unique case, as their needs often cannot be met through transferable aid. Instead, the object of their needs is something non-transferable: namely, membership itself.¹⁰⁷ As a group of vulnerable people who are fleeing their countries of origin for fear of persecution, Walzer claims that the state's duties of mutual aid towards refugees are often only capable of being met through a scheme of territorial admission.

This moderate version of the conventional view, which holds that political communities have broad discretion over the distribution of membership to foreigners in accordance with certain moral principles (such as the principles kinship affinity and mutual aid), is seconded by other political philosophers like David Miller.¹⁰⁸ For his part, Miller agrees with Walzer that the state can have obligations to admit refugees in dire need. However, he does not believe that the duty of assistance towards refugees requires the state to always admit them. Miller argues that states have duties to offer sanctuary to refugees when required, but they can also meet their duties of mutual aid towards refugees through a number of exportable means.¹⁰⁹ For example, he proposes that it is possible for the state to protect refugees by establishing safety zones either close to or within their home country, or by dealing with the source of the persecution itself through foreign aid or military intervention.¹¹⁰

¹⁰⁶ Wilcox, "The Open Borders Debate on Immigration," 815.

¹⁰⁷ Walzer, "Membership," 48.

¹⁰⁸ David Miller, "Immigration," 193-206.

¹⁰⁹ Ibid., 202-203.

¹¹⁰ Ibid., 202-203.

1.2 Challenges to the Conventional View

1.2.1 Joseph Carens

During the past few decades, some liberal egalitarian philosophers have objected to the conventional view on migration, arguing that states *should not* have such broad discretion over their migration policy. Arguably the most prominent accounts of this kind are presented by Joseph Carens, who holds that an adherence to liberal egalitarian principles of justice implies not a state right to regulate migration, but instead a *prima facie* duty to maintain relatively open borders.¹¹¹ In his earlier work,¹¹² Carens defends a state duty to maintain relatively open borders by arguing that, according to their own logic, three of the most prominent theoretical approaches to liberalism – utilitarianism,¹¹³ Rawlsian liberal egalitarianism,¹¹⁴ and Nozickean libertarianism¹¹⁵ – all imply more open borders. However, the approach Carens devotes most of his time developing is the Rawlsian liberal egalitarian case for open borders.¹¹⁶

In *Aliens and Citizens: The Case for Open Borders*, Carens notes that his cosmopolitan application of the Rawlsian original position is relevant for theories of global justice insofar as many of the reasons that make the original position useful at the domestic level hold when considering justice between and across different political societies.¹¹⁷ Social phenomena like migration and trade, whereby individuals interact across state boundaries against a backdrop of rules and norms, raise questions concerning whether these background conditions are fair. When thinking about global justice, it is important that all people are considered free and equal moral

¹¹¹ Carens, “Aliens and Citizens,” 251-273; Carens, “Migration and Morality,” 25-47.

¹¹² Carens, “Aliens and Citizens,” 251-273; Wilcox, “The Open Borders Debate on Immigration,” 815.

¹¹³ Carens, “Aliens and Citizens,” 263-264.

¹¹⁴ Ibid., 255-262.

¹¹⁵ Ibid., 252-254.

¹¹⁶ Carens, “Aliens and Citizens,” 255-262

¹¹⁷ Ibid., 255.

agents, regardless of their national membership. Nor should common biases like self-interest or partisanship warp our reflections on global justice. As the purpose of the original position (and the “veil of ignorance”) is to nullify morally arbitrary natural and social contingencies that hinder the development of a fair procedure for choosing principles of justice, Carens believes that a cosmopolitan application of the original position is useful when thinking about matters of global justice as well.¹¹⁸

Moving forward with this global application of the original position, parties behind the global veil of ignorance would be ignorant of particular knowledge that is arbitrary when reflecting on the principles of global justice, such as their national membership or their place of birth. Carens presumes that behind this global veil of ignorance, the same two principles of justice that are chosen in Rawls’ *A Theory of Justice* – namely, the principle of equal liberties and the difference principle – would also be adopted by the parties in the global original position. In turn, the global principle of equal liberties and the global difference principle would dictate the kinds of global institutions that are to be implemented. Regarding the system of basic liberties that would be derived from the global principle of equal liberties, Carens believes that freedom to move across state boundaries would be recognized by the parties in the global original position as a basic liberty.¹¹⁹ Even if one presumes an ideal world without injustice, Carens notes – contra Walzer – that individuals would have many powerful reasons to want to move across state boundaries. They may wish to work in another country; they might fall in love and wish to live with someone who resides halfway across the world from them; they may seek the kinds of cultural opportunities that are only available outside of their country of origin, and;

¹¹⁸ Ibid., 255-256.

¹¹⁹ In his Rawlsian account for relatively open borders, Carens presumes that parties in the global original position would also endorse a decentralization of power that would justify the existence of entities comparable to modern political states.

so on. Since the parties in the global original position would be forced to take the perspective of those who would be the most disadvantaged by restrictions to free movement, a right to free migration would be included among the system of basic liberties for it may prove crucial to one's life plan.¹²⁰

In his later works, Carens departs from a strictly Rawlsian account, drawing instead on general liberal egalitarian values in order to build his case for open borders. From these general liberal egalitarian grounds, Carens argues that 1) a basic human right to free movement across international lines is derivative of liberalism's commitment to freedom, and; 2) liberal egalitarian commitments to moral equality and equal opportunity require that liberals do away with morally arbitrary characteristics like citizenship when determining the criteria for distributing rights and social positions. These arguments are meant to establish a strong link between liberal egalitarianism and a presumptive case for relatively open borders and freedom of movement - a position which would shift the burden of proof on those liberal egalitarians who would defend restrictions to migration.¹²¹

Similar to Wellman's argument for a legitimate state's right to close its borders, Carens' first argument for freedom of movement is grounded on the value of freedom in liberal egalitarian thought. It is valuable that people have the freedom to pursue projects that will make their lives good and worthwhile, as it is valuable for individuals to make their own choices, provided their choices do not wrongfully interfere in the legitimate claims of others. The freedom of movement is thought to be closely connected with liberal egalitarianism's commitment to freedom in general, as the right to go where one wants to go is, quite simply, an

¹²⁰ Ibid., 257-258.

¹²¹ Carens, "Migration and Morality," 25; Wilcox, "The Open Borders Debate on Immigration," 815-816.

important freedom.¹²² In order to clarify this point, Carens presents an analogy between free mobility within a country, and free mobility across state boundaries.

Carens recognizes that all freedoms, such as the freedom of movement, are not unlimited, and that restrictions can be justified. In fact, some restrictions to freedom of movement are rather intuitive, like traffic regulations or rights to exclude others from entering one's home without one's consent. Nevertheless, Carens holds that a presumptive right of cities, counties, or provinces to place restrictions on the flow of national citizens within its boundaries would unjustly curtail individual freedom to internal movement. Free internal mobility is a widely recognized basic right of (liberal) citizenship, and as such the boundaries that delineate between cities, counties, and provinces are ones that should not be wrongfully or unduly used to keep out fellow national citizens against their will. Yet, as the very same reasons an individual may wish to move within a country hold for international movement, Carens contends that freedom of movement across state boundaries is equally as important as free internal mobility - for example, individuals may wish to pursue economic opportunities, or they may fall in love with someone from another part of the world and wish to live with them, and so on. It follows from this that liberal egalitarians should regard free international mobility the same as free internal mobility: as a basic right.¹²³

Carens' second liberal egalitarian argument for relatively open borders is founded on liberal egalitarianism's commitments to moral equality and equal opportunity.¹²⁴ It is important for liberal egalitarians that access to social positions is limited not by morally arbitrary characteristics like race, class or sex, but determined by the actual talents and capacities of

¹²² Carens, "Migration and Morality," 26.

¹²³ Ibid., 27.

¹²⁴ Ibid., 26.

individuals. For Carens, citizenship is a morally arbitrary characteristic for distributing social positions, as one no more chooses the country into which they are born as they do their sex, class, or race. Additionally, it is important to keep social, economic, and political inequalities as small as possible insofar as to do so would be: 1) conducive towards promoting equal freedom and opportunity, and; 2) a desirable end in itself.¹²⁵ As such, a right to freedom of movement would play a role in addressing liberal egalitarian concerns regarding moral equality and equality of opportunity. For one, freedom of movement is closely connected with these concerns because it is required for equality of opportunity; after all, one must have the freedom to move to where the opportunities are if equal opportunity is to have any real meaning. Allowing people the freedom to move to where the opportunities are would also be an effective means of reducing existing political, social, and economic inequalities, as it would require that political societies remove the kinds of barriers that wrongfully prevent the least well-off from having access to important economic, social, and political opportunities.¹²⁶

The connection between freedom of movement and the fostering of moral equality and equal opportunity has implications for global migration. In order to elucidate the moral appeal of his case, Carens compares the distribution of citizenship in the contemporary international order to the distribution of feudal status in medieval times. Carens notes that the assignment of citizenship in the modern world is similar to how one's status was assigned in medieval feudal societies: both are assigned to one at birth; both are not subject to much change, despite individual efforts to the contrary, and; both have a significant impact upon a person's social, political, and economic opportunities.¹²⁷ Thus, given the environment of rights and opportunities

¹²⁵ Ibid.

¹²⁶ Ibid.

¹²⁷ Ibid.

that are available in affluent countries when compared to developing nations, to be born into an affluent country is similar to being born into the feudal nobility, whereas to be born into a poorer country is similar to being born into the medieval peasantry. Since liberals would object to the way feudalism restricts freedom of movement, moral equality, and equality of opportunity, liberals should also take issue with the way modern immigration policies also restrict foreigners from accessing important rights and social positions on the basis of their citizenship.¹²⁸

This does not mean that Carens is an advocate for unqualified open borders. Following Rawls, Carens accepts that, as he puts it, “*liberty may be restricted for the sake of liberty.*”¹²⁹ All functional liberties are dependent on the existence of a system of public order and security, meaning that their provision depends on the existence of public order and security. For example, suppose that it was empirically the case that a completely unrestricted migration policy would result in the breakdown of public order and security. If so, then a policy of unrestricted international movement would make all people worse off in terms of their basic liberties, including the least-advantaged. Thus, liberal egalitarians would endorse some restrictions on immigration in these extreme cases - even if, say, it was one’s own right to migrate which was curtailed once the global veil of ignorance was lifted. Public order arguments of this kind are not to be used in any kind of expansive way; merely hypothetical or speculative threats to public order are not sufficient to curtail the freedom to migrate. Restrictions to the freedom of international movement would be justified only if there were “*reasonable expectations*” based on “*evidence and ways of reasoning acceptable to all*”¹³⁰ that unrestricted migration would result in constitutive damage to public order and security, and only to the extent that would be

¹²⁸ Ibid., 26-27.

¹²⁹ Carens, “Aliens and Citizens,” 259; Wilcox, “The Open Borders Debate on Immigration,” 816.

¹³⁰ Carens, “Aliens and Citizens,” 259.

required for the preservation of public order and security.¹³¹ Recognition of this important qualification to free migration is what is meant when Carens is presented as a proponent of *relatively* open borders.

1.2.2 Non-Idealist Approaches to Global Migration

The world in which we find ourselves in is by no means the most ideal one to live – this should come as no surprise to anyone. Our world is replete with unjust states, unfair international institutions, and vast economic inequality. In turn, these non-ideal circumstances have implications for the ethics of global migration. According to Shelley Wilcox, any viable normative theory of global migration that considers non-ideal conditions must provide plausible answers to two questions: 1) whether political societies have unacknowledged normative obligations to admit immigrants, and; 2) if some restrictions on migration can be justified, by what criterion or criteria should political societies base their prioritization of certain prospective immigrants over others? The freedom of movement position presented by Joseph Carens provides an affirmative answer to the first question: namely, that states do in fact have unacknowledged moral duties to respect individual freedom of movement and enact open borders. At the level of ideal theory, this account is sufficient. However, it has difficulties providing an equally robust answer to the second question, which has more to do with the non-ideal factors of global migration.¹³² While Carens admits that overriding an individual's basic right to freedom of movement can be justified only by the weightiest of considerations, his account fails to provide a principled means by which political societies may assign priority to

¹³¹ Ibid.

¹³² It is debatable to what extent these issues can only be considered at the level of non-ideal theory, but I will not explore this consideration any further. Thank you to Sarah Hannan for bringing this to my attention.

certain prospective immigrants over others when not all can be admitted.¹³³ In other words, if the right to freedom of movement is a basic and universal right that all possess, then Carens' account fails to provide the grounds "*for prioritizing one prospective immigrant's right to admission over another prospective immigrant's equally stringent right to admission.*"¹³⁴

By addressing this second question, non-ideal approaches to global migration may be used to supplement ideal theories of global migration, such as Carens' account for freedom of movement, or even some of the conventional views on immigration. In her overview of the debate on global migration, Wilcox notes that there are two main non-ideal approaches to global migration. The first non-ideal approach, which she calls the global poverty argument, holds that wealthy and affluent states have obligations to maintain a more open and relaxed border policy insofar as it is an effective way of fulfilling their duties to alleviate global poverty.¹³⁵ Depending on the theoretical bends of the philosophers presenting these kinds of global poverty arguments, the grounds for this duty may rest on two different moral foundations. The first foundation understands the duty to combat global poverty as a general humanitarian moral obligation to alleviate suffering.¹³⁶ Drawing on the work of Peter Singer,¹³⁷ it is argued that if suffering is bad, and if it is in one's power to prevent bad things from happening without incurring a comparable degree of suffering to oneself, then one has a duty to prevent bad things from happening, regardless of proximity or distance. When applied to the context of global poverty, it is argued that states have obligations to mitigate the suffering that is caused from global poverty no matter the nationality or geographical location of those who are affected, provided that the costs for

¹³³ Wilcox, "Immigrant Admission and Global Relations of Harm," 276.

¹³⁴ Ibid.

¹³⁵ Wilcox, "The Open Borders Debate on Immigration", 817.

¹³⁶ Ibid.

¹³⁷ Peter Singer, "Famine, Affluence, and Morality," in *Philosophy and Public Affairs* 1, no. 3 (1972), 231-232.

doing so are negligible.¹³⁸ The second kind of moral foundation upon which global poverty arguments may rest understands the obligation to alleviate global poverty not simply as a general humanitarian obligation to reduce suffering and prevent bad things from happening, but instead as a reparative or compensatory duty of global justice. As an advocate of this view, Thomas Pogge argues that since severe poverty is an ongoing harm that affluent societies inflict on less affluent societies through varied means, affluent societies owe reparative or compensatory duties to victims of global poverty.¹³⁹

Wilcox notes that numerous different methods for meeting these obligations have been offered, which include but are not limited to direct transfers of foreign aid, the creation of an international taxation scheme or a global resource dividend. Notably, one of the strategies that have been offered is the adoption of more open borders. According to Frederick Whelan, a relaxed border policy is often a more effective strategy for fulfilling duties of global poverty alleviation when compared to other methods, such as the transfer of traditional aid. For one, while foreign aid is often squandered by inefficient, corrupt, and bloated state administrations, open borders offer opportunities to those individuals who would directly take advantage of them. Also, as a duty for all states to adopt a policy of open borders would be a collective response towards mitigating global poverty, there would be no unfair burden placed on some affluent actors.¹⁴⁰

It is to be noted that some contest the notion that an adoption of a more relaxed border policy is an appropriate strategy for mitigating global poverty. Interestingly, one of these skeptics is Thomas Pogge. According to Pogge, it is unclear if open borders would help alleviate

¹³⁸ Wilcox, "The Open Borders Debate on Immigration," 817-818.

¹³⁹ Thomas Pogge, "World Poverty and Human Rights," in *Ethics and International Affairs* 19, no. 1 (2005), 1-2.

¹⁴⁰ Whelan, "Citizenship and Freedom of Movement," 3-39; Wilcox, "The Open Borders Debate on Immigration," 818.

global poverty since 1) the number of people to whom corrective duties of global justice are owed far exceeds the number of migrants affluent nations would realistically be able to admit, and 2) increased migration would not actually help the global least well-off, since affluent nations would have to place limits on the number of immigrants they can admit, and as such are likely to prefer those prospective immigrants who are already endowed with skills and talents that will be beneficial to their national interest, and are already endowed with the means to move elsewhere (something that many of the least-well off cannot claim to possess).¹⁴¹ Therefore, affluent societies should turn to other strategies in order to more effectively fulfill their reparative duties of poverty alleviation, like focusing on ways to promote the living conditions of poorer countries themselves.¹⁴²

A second non-ideal approach to global migration argues that political states have a duty to admit immigrants who otherwise would stand to be seriously harmed by the policies of the admitter state.¹⁴³ As a defender of this approach, Wilcox grounds her argument on a global extension of the Harm Principle, which she calls the Global Harm Principle, or GHP. The Harm Principle entails a duty on the part of all agents to refrain from causing harm and suffering to others, which in turn creates two derivative duties: 1) to cease harming others if one is in the process of harming another, and; 2) to compensate those whom one has harmed. Extended to a global level, Wilcox understands the GHP to entail a duty on political societies to not harm foreigners. If a political society violates this duty, they are morally obligated under the GHP to:

¹⁴¹ Thomas Pogge, "Migration and Poverty," in *Contemporary Political Philosophy: An Anthology*, eds. Robert Goodin and Philip Pettit (Oxford: Blackwell, 2006), 710-720.

¹⁴² Pogge, "Migration and Poverty," 710-720.

¹⁴³ Wilcox, "The Open Borders Debate on Immigration," 818; Wilcox, "Immigrant Admission and Global Relations of Harm," 274-291.

1) immediately stop harming the foreigners they are harming, and; 2) provide compensation to their victims for the harm they have caused them.¹⁴⁴

Wilcox defines the notion of ‘harm’ under the GHP to mean a “*setback to a person’s basic welfare interests*.”¹⁴⁵ Such basic welfare interests include our interests in physical integrity, adequate food and drink, shelter, healthcare, education, sufficient political and civil rights, security, and so on. Since this understanding of basic welfare interests is fairly consistent with the discourse concerning human rights, whereby it is accepted that individuals’ basic welfare interests are so crucial that all persons have a human right to their protection, Wilcox also understands ‘harm’ under the GHP as consisting in a setback, or deficit, of one’s human rights.¹⁴⁶ As for her understanding of compensation, Wilcox notes that fair compensation places a duty on the responsible party to make the injured party at least as well off as before the harm occurred. Under the GHP, this places compensatory duties on rights-violating states to do what they can to make those they injured as well off as they were before the rights violations occurred.¹⁴⁷

The state’s duty to refrain from harming foreigners, or to stop harming foreigners and compensate them for the harm done where breaches in the duty occur, has implications for justice in migration. The methods via which states will discharge these duties will vary according to context: ideally, in a way that allows victims to remain in their communities. Unfortunately, this is not always the case, as the human rights-violating conditions that one society creates in another are matters that, more often than not, cannot be quickly or easily remedied. In such scenarios, resettling victims and allowing them to migrate will be the only way for responsible

¹⁴⁴ Wilcox, “Immigrant Admission and Global Relations of Harm,” 277.

¹⁴⁵ Ibid., 279.

¹⁴⁶ Ibid.

¹⁴⁷ Wilcox, “The Open Borders Debate on Immigration,” 819.

states to fulfill their GHP duties before additional human rights violations can occur. For example, say the policies of advanced country A cause citizens in the developing country of B to suffer severe injuries or illnesses that can only be treated if they can relocate to country A and have access to proper medical treatment (suppose that A's advanced medical aid cannot be transferred to country B, and is only accessible if one is actually in the country of A). If country A does not admit the injured parties from B, further rights violations will occur – some of the injured parties in B will become even more ill, and some may die. Under such circumstances, rights-violating societies must grant admission to those foreigners they have harmed and compensate them if they are to discharge their GHP duties.¹⁴⁸

1.2.3 Family Migration and Reunification

If philosophers have historically paid little attention to whether the state has any unacknowledged duties to admit immigrants, whether these obligations include duties to admit outsiders who stand to be reunited with their loved one(s) has received even less attention. Of those who have written dedicated pieces on family migration and reunification, these include: Caleb Young,¹⁴⁹ Matthew Lindauer,¹⁵⁰ Luara Ferracioli,¹⁵¹ and Matthew Lister.¹⁵² All ground

¹⁴⁸ Ibid.

¹⁴⁹ Caleb Young, "Caring Relationships and Family Migration Schemes," in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 61-84.

¹⁵⁰ Matthew Lindauer, "In Defense of a Category-Based System for Unification Admissions" *Journal of Moral Philosophy* 15, no. 5 (2018), 1-27 Matthew Lindauer, "Entry by Birth Alone?: Rawlsian Egalitarianism and the Basic Right to Invite," Forthcoming in *Social Theory and Practice*, 1-29.

¹⁵¹ Luara Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," in *Journal of Moral Philosophy* 13, no.5 (2016), 553-575.

¹⁵² Matthew Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," in *University of Memphis Law Review* 37, no. 4 (2007), 745-780.

their accounts predominantly in the liberal tradition, while most implement elements of Rawlsian theory to varying degrees.¹⁵³

For example, in *A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples*,¹⁵⁴ Lister argues that Rawls' theory of domestic justice has deep normative implications for justice in migration, particularly for reunification schemes involving same-sex couples. Lister claims that parties in the original position would choose to endorse a basic right to form close intimate relationships with others, as this would be an essential part of most citizens' conception of a good life. This right would include same-sex relationships within its scope, and parties in the original position would recognize that in a world where movement between states is both frequent and possible, citizens will often form intimate relationships with outsiders. Thus, the extended right to form close intimate relationships with others (which would include same-sex relationships) would entail a derivative right to be with foreign-born partners in perpetuity, no matter their sexual orientation.¹⁵⁵ In *Entry by Birth Alone?: Rawlsian Egalitarianism and the Basic Right to Invite*,¹⁵⁶ Lindauer concurs with Lister's notion that rights of reunification should be recognized on the basis of Rawlsian liberal commitments. For his part, Lindauer argues that if the Closedness Assumption in Rawls' Justice as Fairness is tweaked to be understood not as a Physical Closedness (whereby all persons live and die in the same polity, and have no contact or relations with any outsiders), but understood solely as a Normative Closedness (whereby all and only the members of a particular society are represented in that society's agreement on the public conception of justice), then a right to invite non-citizens with

¹⁵³ Lindauer, "Entry by Birth Alone?" 1-29; Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," 745-780; Young, "Caring Relationships and Family Migration Schemes," 77.

¹⁵⁴ Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," 745-780.

¹⁵⁵ Ibid. 763-772.

¹⁵⁶ Lindauer, "Entry by Birth Alone?" 1-29.

whom citizens share close affective ties would be included in an account of Rawlsian domestic justice.¹⁵⁷

Beginning from a framework of liberal neutrality, Luara Ferracioli¹⁵⁸ points out in *Family Migration Schemes and Liberal Neutrality: A Dilemma* that many of the reasons why the state has unacknowledged moral obligations to admit immigrants who share familial and romantic ties with its citizens also count in favour of many other types of ties, such as those between friends, or even creative collaborators. Specifically, it is argued that since familial/romantic relationships and friendships, collaborative relationships, and other kinds of relationships can be a crucial aspect of one's conception of the good, a state committed to the principle of neutrality cannot prioritize reunification claims grounded in the former kinds of relationships over the latter without betraying its commitment to refrain from privileging certain conceptions of the good over others in the public domain.¹⁵⁹ In *Caring Relationships and Family Migration Schemes*, Caleb Young¹⁶⁰ holds that in order for their basic interests to be met, free and equal citizens must be able to form and maintain intimate caring relationships with others, for such relationships are essential for the development and exercise of their personal autonomy and a sense of justice. As these kinds of associations are vital for the development of these two moral powers, and can be shared with non-citizens, this places a strong prerogative on the state to grant entry to those non-citizens who stand to be reunited with a citizen whom they share an intimate caring relationship.¹⁶¹

¹⁵⁷ Ibid., 2-4.

¹⁵⁸ Ferracioli, "Family Migration Schemes and Liberal Neutrality," 553-575.

¹⁵⁹ Ibid., 554.

¹⁶⁰ Young, "Caring Relationships and Family Migration Schemes," 61-84.

¹⁶¹ Ibid. 77-78.

The account of reunification developed in this thesis builds upon all of these writings, but is most similar to the work of Caleb Young and Luara Ferracioli. It is similar to Ferracioli insofar as the scope of relationships considered goes beyond the traditional familial and romantic associations, and includes friendships, relationships between caregivers and their dependents, and potentially others. Yet, the case for the right of reunification advanced in the ensuing chapters is most similar to the work of Caleb Young. For one, the case developed will ground the basic interests in forming and maintaining intimate associations with others in relation to the development and exercise of personal autonomy. Similarly, it will justify this connection partially in reference to the manner by which one's intimate caring relationships are a site for the formation of their conceptions of the good, and needed for the fostering of one's sense of self-worth.¹⁶² However, by focusing specifically on the intricate link between intimate relationships and personal autonomy, this thesis attempts to provide a more substantive account of this link. Additionally, the ensuing case for the right of reunification attempts to move somewhat away from Rawlsian grounds, and establish more general liberal justifications for the right of reunification founded in the value of autonomy itself.

1.3 Conventional Replies to Challenging Views on Global Migration

While both Carens' case for open borders and the non-idealist approaches to global migration have been influential in the literature, they are subject to a number of objections and criticisms. In this section, I will summarize two notable replies that have been presented by defenders of the conventional view on migration. The first is directed specifically towards Carens' account for open borders. At its core, this reply claims that the moral importance of

¹⁶² Ibid., 77.

international freedom of movement is not as crucial as Carens holds, nor is it weighty enough to justify the kind of right that Carens' account purports to establish. To support this critique, David Miller presents an argument of this sort that is founded on the distinction between basic and bare interests.¹⁶³

According to Miller, a basic interest is one that is so crucial or weighty that it entails the protection guaranteed via a right to the interest, whereas a bare interest is an interest that is still valid, but simply not important enough to earn the same kind of protection that a right merits.¹⁶⁴ Borrowing from the Razian interest framework that will be introduced in the second chapter of this thesis,¹⁶⁵ a basic interest could also be understood as an interest that that an individual has in something (or, in doing something) that is weighty enough to place corresponding duties on others to let them have it (or, do it). Similarly, a bare interest would be an interest that an individual has in something (or, in doing something) that is not weighty enough to entail the same kind of corresponding duties.

Whereas Carens suggests that the freedom to move *across* national boundaries is a basic interest that is equal in importance to the basic interest individuals have in the freedom to move *within* national boundaries, Miller counters that this analogy between the two kinds of freedom of movement does not hold in general. Miller accepts that individuals have a basic interest in being able to move freely within the boundaries of their nation-state. Miller also accepts that individuals may have a basic interest in free international mobility under certain circumstances: for example, say that the ability to move freely across international boundaries is the only way for some individuals to avoid extreme suffering from political persecution, or starvation. Under

¹⁶³ Ibid., 816; Miller, "Immigration," 194.

¹⁶⁴ Miller, "Immigration," 194.

¹⁶⁵ Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), 166.

such conditions, Miller believes it is plausible to concede that such individuals have a right to move to some other state – though not necessarily the state of their choosing - that would be able to guarantee their basic interests are met. That being said, Miller thinks that most would not have a basic interest in international mobility; at most, Miller believes this interest in free international mobility to be a bare interest that is not weighty enough to prescribe to it the status of a basic right. So long as their basic rights and interests are being secured by the government in their countries of origin, and a sufficient range of social and economic opportunities is being provided, the interest individuals may have in free international movement is not one that is weighty enough to warrant protection as a right. At best, the right to free international mobility can be a remedial or reparative right, but it is not a basic right as Carens believes it to be.¹⁶⁶

The second reply is directed not towards those accounts of global migration that ground their challenge to the conventional view in the inherent value of free international movement itself, but instead to those accounts that justify relatively open borders as effective methods or strategies for states to discharge their duties of global justice. This includes liberal egalitarian commitments regarding moral equality and equality of opportunity,¹⁶⁷ as well as duties to mitigate global poverty,¹⁶⁸ reduce harm, and compensate victims.¹⁶⁹ Articulated by conventional defenders like Wellman and Miller (and, to some extent, supported by writers on global poverty like Thomas Pogge), this reply claims that the need to admit immigrants in order to meet liberal egalitarian commitments to moral equality and equality of opportunity, or discharge reparative

¹⁶⁶ Miller, "Immigration," 193-206.

¹⁶⁷ Carens, "Migration and Morality," 25-47.

¹⁶⁸ Pogge, "World Poverty and Human Rights," 1-2; Whelan, "Citizenship and Freedom of Movement," 3-39.

¹⁶⁹ Wilcox, "Immigrant Admission and Global Relations of Harm," 274-291.

and compensatory duties of global poverty and harm reduction, is overstated.¹⁷⁰ There may be some instances where admitting migrants is the only way to meet these requirements of global justice; however, states can discharge many of their redistributive, reparative, and compensatory duties of global justice through means other than open borders - for example, by increasing the amount of foreign aid affluent nations send to developing countries, or establishing safe zones in war-torn countries for refugees.¹⁷¹

¹⁷⁰ USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," https://www.youtube.com/watch?v=Sv2_3iewehY; Miller, "Immigration," 202-203; Pogge, "Migration and Poverty," 710-720.

¹⁷¹ USD Center for Ethics, Economics, and Public Policy, "Christopher Wellman: Immigration and the Right to National Self-Determination," https://www.youtube.com/watch?v=Sv2_3iewehY.

Chapter Two

The Right to Form and Maintain Intimate Associations

Introduction

This chapter focuses on some of our closest and most endearing relationships, and their importance in normative theory. Close interpersonal relationships are crucial for individuals to fare well and are included across various accounts of what makes an individual life a good one.¹⁷² They are enduring, substantive, and mutually reaffirming,¹⁷³ and the kind of recognition our friends, family, and romantic partners are able to provide is crucial towards the development of one's autonomy, one's sense of self-worth, and one's dignity.¹⁷⁴ Human life is filled with all kinds of social interactions, and the intimate associations we form with others stand apart as constituting a core part (or, even *the most important* part) of our lives.¹⁷⁵

Given this context, the main purpose of this chapter is to explore the notion that individuals have rights to form and maintain close interpersonal relationships. This will be important for the normative project of this thesis, as the right of reunification will be grounded in the account developed here. The first section of this chapter will provide the framework for the right, which will be grounded in the "interest theory" of rights. In short, the interest theory of rights holds that in order for someone or something to have a right, their interest in having that thing (or, doing that thing) must be a weighty enough reason to place corresponding duties on others to let them have it (or, do it).¹⁷⁶ I explore the implications this theory will have for the

¹⁷² Kimberley Brownlee, "A Human Right Against Social Deprivation," in *The Philosophical Quarterly* 63, no.251 (2013), 199-222; Anca Gheaus, "How Much of What Matters Can We Redistribute? Love, Justice, and Luck", in *Hypatia* 24, no.4 (2009), 68-90; Anca Gheaus, "Personal Relationship Goods", in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2018), <https://plato.stanford.edu/entries/personal-relationship-goods/>; Matthew Liao, "The Right of Children to be Loved," in *Journal of Political Philosophy* 14, no. 4 (2006), 420-440.

¹⁷³ Jonathan Seglow, *Defending Associative Duties* (New York and London: Routledge, 2013), 28 .

¹⁷⁴ *Ibid.*, 32-33; Christopher Bennett, "Liberalism, Autonomy and Conjugal Love," in *Res Publica* 9, no. 3 (2003), 285-301.

¹⁷⁵ Gheaus, "Personal Relationship Goods," <https://plato.stanford.edu/entries/rights/>.

¹⁷⁶ Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), 166.

project of this chapter, and make note of its differences contra will theory, its main theoretical rival. The second section will present an account for the weighty interest individuals have in having close interpersonal relationships that justifies them on the grounds that they are essential for the development of personal autonomy. Close interpersonal relationships provide a wellspring from which we draw our conceptions of what makes our lives meaningful, are necessary for fostering a sense of our own self-worth, and are crucial if children and adult with physical and cognitive disabilities are to develop and exercise their capacity to live autonomously. Without them, one's personal autonomy would be seriously compromised. Finally, in the third and final section of this chapter I set out to explore the set of corresponding duties that would be derivative of this right. Without delving too much into the matter, I set out to demonstrate that, *at the very least*, there is good reason to think: 1) this set of corresponding duties is more comprehensive than what I call the standard unreflective liberal set; 2) some duties that would be a part of this more comprehensive set of duties are duties to do one's part to foster the circumstances required for the provision of adequate opportunities to form and maintain close interpersonal relationships, and; 3) the state should play a role in meeting the requirements of these duties.

2.1 The Framework for a Right to Form and Maintain Close Interpersonal Relationships

I have invoked the term “rights”, and suggested that individuals have “rights” to form and maintain intimate kinds of associations with friends, family, and loved ones. Many contemporary political and normative discussions are framed in the language of rights, and thus it may seem obsolete to add yet another right to the ever-growing fray. One may say we are in an “*age of near*

rights-exhaustion,¹⁷⁷ which could make the introduction of the rights to form and maintain intimate relationships seem imprudent or impolitic. Nevertheless, I will argue that the rights in question are ones that should be taken seriously. Arguably, without close interpersonal relationships individuals would have difficulty developing into thriving social beings,¹⁷⁸ accessing the kinds of personal relationship goods that play a vital role in human flourishing,¹⁷⁹ and developing and exercising their personal autonomy (which will be the focus of the account advanced in this chapter).¹⁸⁰

To begin, I take it that individuals have a right to something (or, to do something) when their interest in having that thing (or, doing that thing), is a weighty enough reason to place corresponding duties on others to let them have it (or, do it).¹⁸¹ In more specific terms:

*X has a right (R) if and only if X can have rights (C) and, other things being equal, an aspect of X's well-being (i.e. X's interest) (W) is a sufficient reason for holding some other person(s) to be under a duty (D).*¹⁸²

The framework I have presented above is characteristic of an interest of theory rights, one of two main theories – the other being will theory - that presents itself as capturing a sound understanding of what it means to have a “right”. Will theorists hold that the function of rights is to protect the choices of rights holders by vesting in them the power to control the moral permissibility and impermissibility of another person’s conduct.¹⁸³ Or, more specifically, “that

¹⁷⁷ Brownlee, “A Right Against Social Deprivation,” 199.

¹⁷⁸ See Sara Ruddick, *Maternal Thinking: Toward a Politics of Peace* (Boston, MA: Beacon Press, 1989).

¹⁷⁹ Seglow, *Defending Associative Duties*, 31.

¹⁸⁰ See Virginia Held, *Feminist Morality: Transforming Culture, Society and Politics* (Chicago: University of Chicago Press, 1993) and Marilyn Friedman, *What are Friends For? Feminist Perspectives on Personal Relationships and Moral Theory* (Ithaca, NY: Cornell University Press, 1993).

¹⁸¹ Raz, “The Morality of Freedom,” 166.

¹⁸² Ibid.

¹⁸³ Hillel Steiner, “Directed Duties and Inalienable Rights,” in *Ethics* 123, no.2 (2013), 231.

being vested with the powers both to demand and enforce, and alternatively waive, performance of a duty is a necessary and sufficient condition of being a rights-holder."¹⁸⁴ The significance of the right holders' agency is deeply intertwined within the will theorist structure, thereby making right holders "*small scale sovereigns*"¹⁸⁵ over their moral domain. Now, a fully-fledged normative assessment of the merits and drawbacks of each theory would be beyond the scope of this chapter; however, I will note some of the particularly salient features of the interest framework that I have adopted.

The first point relates to the capacity for being a right holder. From the interest account I have presented above, creatures are capable of having rights if either their well-being is of ultimate value (i.e. their moral status is such that their value as a being is non-derivative, or intrinsic)¹⁸⁶, or they are an artificial person.¹⁸⁷ Fundamentally, this means their capacity for being a right holder is rooted in their having a well-being, and having interests that will further their well-being, or make them better off. Thus, it remains open whether animals, groups (such as corporations, states, etc.) and/or other entities (such as natural resources) can have rights. Notably, this definition of capacity allows for children to have rights,¹⁸⁸ which will be important in exploring the notion that children possess a right to form and maintain close interpersonal relationships with their caregivers. This differs from will theorists, who maintain that a capacity to hold rights is intimately intertwined with the ability to exercise full agency, thereby making it

¹⁸⁴ Ibid

¹⁸⁵ H.L.A. Hart, *Essays on Bentham: Studies in Jurisprudence and Political Theory* (Oxford: Clarendon Press, 1982), 183.

¹⁸⁶ Raz, "The Morality of Freedom," 177

¹⁸⁷ Ibid., 166.

¹⁸⁸ Leif Wenar, "Rights," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2020), <https://plato.stanford.edu/entries/rights/>.

difficult to acknowledge that beings who are incompetent in this regards (such as animals, children, and adults living with cognitive/physical disabilities) are capable of having rights.¹⁸⁹

Secondly, as *an aspect of one's well-being* is necessary for grounding a corresponding duty, this does not discount the duty being directed to someone or something other than the right holder, nor that the right holder and the being whose interest grounds the right be the same entity. For example, while the interests of children may be sufficient to ground a corresponding duty in the state to provide child benefit payments, these duties may be directed towards their caregivers. Depending how one understands this account, it may be that it is children who hold this right, or that it is caregivers who hold this right to receive child benefit payments from the state while the interest which grounds the right is that of their children¹⁹⁰. However, the general idea is distinct from will theorists' insistence that the object of the duty and the right holder be the same entity.¹⁹¹

Finally, the interest theory I have adopted for this project allows for other morally relevant considerations to outweigh, or simply undermine, a case for the acceptance of a particular right/duty.¹⁹² According to Joseph Raz, "*rights are a part of the justification of many duties. They justify the view that people have those duties. But... they justify such a view only to the extent that there are no conflicting interests of greater weight.*"¹⁹³ Interests are sufficiently weighty to ground a corresponding duty (and a subsequent right) if and only if 1) there is a sound

¹⁸⁹ Neil MacCormick, *Legal Right and Social Democracy* (Oxford: Oxford University Press, 1982), 154-66; Steiner, "Directed Duties and Inalienable Rights," 231.

¹⁹⁰ Wenar, "Rights," <https://plato.stanford.edu/entries/rights/>.

¹⁹¹ Ibid.

¹⁹² From my understanding of Raz's interest theory, other morally relevant interests have implications directly for the existence of a corresponding duty, and indirectly towards the existence of a right. For example, since morally relevant consideration O outweighs interest I, the claim that there is a corresponding duty D to meet the requirements for I's fulfillment is denied. In turn, since there is no corresponding duty D, there is no right R. Notably, this understanding would make the existence of rights context dependant.

¹⁹³ Raz, "The Morality of Freedom," 172.

argument (i.e. good reasons) for the weightiness of the interest such that it requires duties be placed on others to allow that interest to be met, and 2) there are no other relevant or conflicting moral commitments or considerations that would outweigh our evaluation.¹⁹⁴ The capaciousness interest theory offers is contrasted again with will theorists, whose insistence on the powerful (and intuitively appealing) link between rights and normative control creates difficulties within the theory for allowing for this kind of flexibility.¹⁹⁵

Evidently, individuals have interests in all kinds of trivial things: I have an interest in consuming five (or more) cups of coffee a day to fuel my insatiable addiction for caffeine. Yet, we would be hard-pressed to conclude that I have a special kind of right to such ludicrous (but necessary) amounts of coffee, nor that others have corresponding duties to allow or ensure that such an interest is met.¹⁹⁶ There are also certain fundamental interests that may indeed be integral to one's well-being, but would nonetheless create corresponding duties that place such unreasonable burdens on others as to make the rights claim unfeasible. Thus, it is important to determine what kinds of interests are important enough to sufficiently ground a corresponding duty in others, as it is to consider the content, limits, and feasibility of these duties.¹⁹⁷

¹⁹⁴ Ibid., 180-183.

¹⁹⁵ Wenar, "Rights," <https://plato.stanford.edu/entries/rights/>.

¹⁹⁶ At best, I may be able to use Raz's distinction between core and derivative rights in order to claim that I have a right to consume five cups of coffee insofar as it would be derivative from a core right I have that is rooted in the weighty interest I prescribe to my personal liberty. The corresponding duties of others would likely be to simply refrain from intervening in my coffee consumption habits.

¹⁹⁷ Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships* (Princeton, NJ: Princeton University Press, 2014), 53.

2.2 Interest in Close Interpersonal Relationships (W)

2.2.1 Preliminary Remarks

Before I present an account detailing the weighty interest individuals have in forming and maintaining close interpersonal relationships, I will make note of two underlying issues that arise when attempting to address *why* individuals have weighty interests in forming close interpersonal relationships. For one, to sketch out an account on the moral value of intimate associations is somewhat artificial. For example, some accounts claim that close interpersonal relationships are valuable due to the presence of certain “goods” that could not be enjoyed (or would be very difficult to obtain) outside of their context, such as intimacy, love, attachment, trust, friendship, empathy, companionship, self-respect, and so on.¹⁹⁸ Yet, it is difficult to think of intimate relationships as not also consisting of these very “goods” (i.e. constitutive qualities that *makes them what they are*), since we would be hard pressed to define an intimate association as such in the absence of love, friendship, intimacy, and so on. In fact, our language itself is reflective of this vagueness: for example, we use the terms “friendship” and “love” in order to refer to both the qualities and types of valuable relationships, as well as the things that individuals can “get out” of particular associations.¹⁹⁹

Secondly, I note that what I am presenting is simply *an* account, and by no means *the* account for an interest-based right to form and maintain intimate associations. There are many other plausible accounts that could be advanced, and not all are inherently in conflict with one another. Thus, the development and subsistence of one’s autonomy is only one of many basic interests that ground one’s derivative interest in forming intimate associations with others. In fact, the development and exercise of one’s personal autonomy may not even be the interest that

¹⁹⁸ Seglow, *Defending Associative Duties*, 30.

¹⁹⁹ Gheaus, “*Personal Relationship Goods*,” <https://plato.stanford.edu/entries/rights/>.

most would intuitively ground the normative value that is commonly prescribed to intimate relationships, nor would an account developed from such grounds adequately capture the harm caused by separation.²⁰⁰ For example, one may hold that their primary interest in forming and maintaining a relationship with their spouse, child or friend is not in relation to how crucial that relationship is for their autonomy, but instead to the extent that they are required if one is to receive the kind of care and love necessary to become a thriving social being,²⁰¹ or access the goods of intimate associations that play a vital role in human flourishing.²⁰² Thus, what more accurately describes the harms of separation is not the manner by which one's personal autonomy is stunted, but instead how separation severely compromises one's ability to flourish or otherwise live a fundamentally good life.

Nevertheless, there are a few reasons why I choose to ground my normative account for the rights to form and maintain intimate associations in relation to personal autonomy. For one, the moral and political significance of autonomy, and the ways in which close interpersonal relationships are crucial for its development and fulfillment, is consistently mentioned in the literature.²⁰³ To have the capacity to reflect on one's life, recognize that there are many ways that one can live one's life, consider what it means to live a good life, and otherwise be one's own person is plausibly conceived by many to be both morally and politically valuable. To be unwillingly separated from a loved one would be to risk compromising one's sense of self-worth, obstructing the development of one's agency, or otherwise undermining one's autonomy – all of

²⁰⁰ Thank you to Sarah Hannan for pointing this out.

²⁰¹ See Ruddick, *Maternal Thinking*

²⁰² Seglow, *Defending Associative Duties*, 31.

²⁰³ Bennett, "Liberalism, Autonomy and Conjugal Love," 285-301; Matthew Clayton, "Debate: The Case against the Comprehensive Enrolment of Children", in *The Journal of Political Philosophy* 20, no.3 (2012), 354; Friedman, *What are Friends For?*, 202; Held, *Feminist Morality*, 228; Brighouse and Swift, *Family Values*, 15; Kimberley Brownlee, "Freedom of Association: It's Not What You Think", in *Oxford Journal of Legal Studies* 35, no. 2 (2015), 275.

which are severely harmful. This goes for both those who are fully autonomous, as well as those whose autonomy is limited to a certain degree. Thus, a normative account which captures the intricate links between one's intimate associations and the development and subsistence of one's ability to be one's own person and live life as one sees fit should come across as being broadly appealing. One may hold that other interests more plausibly ground a normative account for the rights to form and maintain intimate associations with others, but this does not mean that an account grounded in the value of autonomy is implausible, nor that it is ill-equipped to draw out the implications that I highlight such an account would have for justice in migration.

It is also a worry of mine that the normative project of this thesis would lose its appeal amongst anti-perfectionist liberals were I to ground an account for the rights to form and maintain intimate associations in alternative interests (such as the ones mentioned above). By this, I mean that were I to present an account for the normative value of intimate associations that is grounded in a contentious view of the good and what it means to live a good life, then my account would lose traction amongst those who explicitly hold that the state should *not* be in the business of promoting or otherwise endorsing conceptions of the good that could be reasonably rejected by its citizens. This is *not* to say that an account grounded in the value of autonomy like the one presented in this thesis is the only account that a proponent of liberal neutrality would endorse; in fact, I purposefully leave it ambiguous whether or not autonomy is normatively valuable for perfectionist or purely political reasons. Nor is this to say that an anti-perfectionist would only endorse an account of the family, love, and friendship that is grounded in the political value of autonomy.²⁰⁴ However, since my objective is to present a normative account that captures some reasons in favour of the rights to form and maintain intimate associations with

²⁰⁴ Thank you to RJ Leland for pointing this out.

others that is both widely appealing from perfectionist and anti-perfectionist perspectives (or, at least, *prima facie* appealing from both perspectives) *and* grounded in the political and moral value of our autonomy, I will be presenting the account as follows.

2.2.2 Autonomy and Close Interpersonal Relationships

I take autonomy to mean a sense in which one is able to form a conception of what gives meaning to their lives and the world around them, and effectively pursue those projects that are derivative from these conceptions. It is a capacity one has to reflect on their lives and the choices they have made, recognize that there are many ways in which they can live good lives, and be able to live their lives in accordance with their judgement.²⁰⁵ To be able to be one's own person, to live one's life according to motivations and reasons that are understood to be one's own and not as the result of wrongfully coercive or manipulative external forces is thought to be a basic value that holds considerable weight in moral and political normative theories.²⁰⁶ In some sense, to have one's life course directed by one's freely chosen considerations and desires that make up one's authentic self might seem an almost irrefutable value, as the opposite of this – namely, to be guided by external forces that one does not embrace or accept – would be the epitome of oppression.²⁰⁷ Needless to say, individuals have a weighty interest in developing and exercising this capacity in order to live good and flourishing lives.

Close interpersonal relationships, whether they are romantic relationships, family relationships between parents and their children, or close friendships, are crucial and necessary components in the formation and exercise of an individual sense of autonomy in its fullest form. This relational understanding of autonomy is one that pays special attention to one's embodied

²⁰⁵ Brighouse and Swift, *Family Values*, 15.

²⁰⁶ Ibid.; John Christman, "Autonomy in Moral and Political Philosophy", in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2018) <https://plato.stanford.edu/entries/autonomy-moral/>.

²⁰⁷ Ibid.

social environment, the intricate and complex web of social relations individuals are embedded within, and the extent to which one's autonomy is developed, maintained, and fundamentally dependent on one's relationships and associations.²⁰⁸ Fundamentally, I rest this interconnection between autonomy and close interpersonal relationship on three grounds. First, intimate forms of association are an important source of the elements we use to compose our conceptions of a good and worthwhile life. This reason is informed by the manner in which the content of our lives is co-created dialectically with that of our intimate others. Second, close interpersonal relationships are an essential part of the circumstances that foster our sense of self-worth. Without a sense of self-worth, it is difficult for one to see value in their life's plan. One struggles to find joy in the execution of their projects, is hindered by self-doubt, and is sapped of the willpower to pursue the projects inspired by their conceptions of the good.²⁰⁹ Third, I note how critical these caring relationships are for children and adults living with physical or cognitive disabilities, whose limited autonomy would be seriously compromised if not for a relationship with their caregivers animated by genuine concern and affection.²¹⁰ Drawing on some elements from both the Hegelian tradition and Rawlsian theory, I will explore the connection between close interpersonal relationships and the development of one's personal autonomy.

When a close friend, romantic partner, parent, or child recognizes us, they regard us (or, should regard us) as being important and valuable, and respond to us accordingly.²¹¹ We are recognized fully for the authentic, unique, and particular person we are – unlike in other kinds of social contexts, our intimate associations allow those traits and characteristics that make us

²⁰⁸ Susan Sherwin and Meghan Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," in *Health Expectations* 14, no. 2 (2010), 184.

²⁰⁹ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1999), 386-387.

²¹⁰ Held, *Feminist Morality*, 228; Brighouse and Swift, *Family Values*, 15-17; Seglow, *Defending Associative Duties*, 52; Brownlee, "Freedom of Association", 275; Sherwin and Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," 184-186.

²¹¹ Bennett, "Liberalism, Autonomy, and Conjugal Love," 289.

distinct from other people to be given the kind of recognition they are due.²¹² Through recognition, our intimate other comes to value those things that make you the particular person that you are, and in turn, they come to see these things as important in themselves.²¹³ This kind of recognition is a crucial good that we obtain from our social relationships, and it is something that we offer (or, should offer) reciprocally to our intimate other.

It is thereby through mutual recognition that our intimate others play an important role in the everlasting creative process by which the content of our lives is continuously formed and re-formed.²¹⁴ One could think of this as a special kind of apperception, whereby our understanding of ourselves and what we value is developed through the ways we perceive and understand how others think of both themselves and ourselves.²¹⁵ For example, a friend may do something wrong, and since we tend to pay more attention to our intimate others than complete strangers, we may realize that we often commit similar moral infractions. Or, since some kind of activity is important to our intimate other, we are better situated to learn about it, and are more predisposed to value it than we otherwise would have been. We care about our intimate others and what they value, and it will matter to us what they think about ourselves and our values, thoughts, and actions. This process forces us outside of our egocentrism, and the recognition they provide gives us insight about the kind of person we are and what we value.²¹⁶ In some sense, our intimate others are a wellspring from which we draw in order to create our conception of a good,

²¹² Ibid.

²¹³ Ibid.

²¹⁴ Ibid.; Robert R. Williams, *Hegel's Ethics of Recognition* (London: University of California Press, 1997), 212.

²¹⁵ Robert Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online", in *Ethics and Information Technology* 14, no.3 (2012), 235; Bennett, "Liberalism, Autonomy, and Conjugal Love," 289-290.

²¹⁶ Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online," 235.

worthwhile, and meaningful life, thereby making the relationships we form with them crucial to our personal autonomy.²¹⁷²¹⁸

Drawing on an aspect of Rawlsian theory, our intimate others also play a role in the fostering of our sense of self-worth.²¹⁹ A capacity for one to hold a sense of one's own worth as a person, to possess secure convictions about what will make one's life meaningful, and obtain a kind of confidence in one's abilities to pursue their chosen conception of a good and worthwhile life are pivotal in the development of self-respect/self-esteem.²²⁰ Without self-respect, we struggle to exercise our autonomy effectively.²²¹ Thankfully, our intimate others are able to provide us with a form of caring founded on the detailed attention they give to the way one's life is going. They take us as the unique individuals we are, and they recognize the content of our lives as something special. This kind of caring from an intimate other is crucial for one's self-respect; since one cares about what their intimate other thinks of them, being valued helps lead one to believe in themselves, their projects, and their ability to pursue said projects.²²²

²¹⁷ Dean Cocking and Jeanette Kennett, "Friendship and the Self", in *Ethics* 108, no. 3 (1998), 502-527; Nancy Sherman, "Aristotle on Friendship and the Shared Life", in *Philosophy and Phenomenological Research* 47, no. 4 (1987), 589-613; Bennett Helm, "Friendship", in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2017), <https://plato.stanford.edu/entries/friendship/>.

²¹⁸ Within the philosophical literature on friendship, Dean Cocking and Jeanette Kennett (1998) provide an account of close friendship which focuses on the overall impacts of friendships on the self with regards to the ways friends change each other's evaluative outlook. In doing so, they argue that close friends are "*characteristically and distinctively receptive to being directed and interpreted*" (p.503), thereby allowing the interests and values of our close friend to shape our own. Presumably, this would also extend to romantic relationships. However, this can raise concerns regarding the ceding of one's autonomy to another, and why one would allow such direction and shaping. A potential reply to this worry can be found in Nancy Sherman's (1987) interpretation of Aristotle's classical account of friendship, whereby Sherman understands the shared singleness of mind that friends possess being the result of a shared process of deliberation. Therefore, it is not that friends direct another's evaluative outlook, but is instead developed and arrived at jointly by deliberating together. In other words, it is a shared and co-produced evaluative outlook that is fundamentally *theirs*.

²¹⁹ Rawls, *A Theory of Justice*, 386-387.

²²⁰ Ibid

²²¹ Ibid.; Bennett, "Liberalism, Autonomy, and Conjugal Love," 285-301.

²²² Bennett, "Liberalism, Autonomy, and Conjugal Love," 288; Rawls, *A Theory of Justice*, 386-387.

Some ways in which this kind of caring manifests itself can be discussed in relation to the struggles we all face at different points in our lives, and how our intimate others help us face these problems in our lives. These are hardly issues that are significant in a public sense, but are private problems that individuals face in their lives that can undermine their autonomy. One manner in which our intimate others care for us is by reassuring us of our value as persons, that what we wish to pursue is worth pursuing, and that one is capable of pursuing it. Unless one is incredibly self-confident or thick-skinned, we all need reassurance from others in all kinds of ways that help us make better something that can be made better. We all have bruising experiences that make us question our worth, the value of our conceptions of the good, and our ability to pursue said good. Thankfully, our intimate others are able to provide us with reassurance that we *are* valuable, that our understanding of what will make our lives meaningful *is* valid, that we *do* have the capacity to pursue such a conception, and that things *can* be made better.²²³

Yet, there are also times when we need comfort from our loved ones when faced with something that cannot be made better. Take the death of a loved one – when one loses someone they loved, it is not really answers or reassurance that is needed, for no such thing is available. Rather, what is needed is “*someone who understands this and is willing to listen, or sit with you, or just do whatever it is that you want to do. The important thing in these situations is the comfort that comes from a kind of sympathetic understanding.*”²²⁴ Our intimate others are willing to let such things become important in their lives, and they are willing to go through it with you. We need this kind of comfort and support from someone who values the content of our person to

²²³ Bennett, “Liberalism, Autonomy, and Conjugal Love,” 291.

²²⁴ Ibid., 292.

such a degree that they are willing to go so far for us, for without it we might lose the will to continue on with our chosen path, become seriously depressed, or worse.²²⁵

All of this is not to say that we fail to recognize as being their own particular person those with whom we do not share a close interpersonal relationship, and vice versa. When I interact with my local coffee barista, I can recognize them as their own person, with their own life, perspective, and individuality.²²⁶ I can respect their status as a moral agent, with the ability to decide for themselves what gives meaning to their lives and the world they live in, and how they wish to live their life in accordance with these conceptions free from wrongful interference.²²⁷ I can also recognize and appreciate people I know on a more personal level, like a colleague or a co-worker, for their achievements in the workplace or for their contributions to the environment or field we share.²²⁸

In these kinds of interactions, what we seem to be recognizing first is the kind of shared identity we have as fellow human beings, citizens, or colleagues. We can grant and recognize these people as *having* lives of their own, but we do not actually (or at least, not to a large extent)²²⁹ grant recognition to the *content* of that other person's life.²³⁰ This is partly what makes close interpersonal relationships special: we share (to a much larger extent) the content of our lives, which in turn is recognized by the other as being valuable and worthwhile.²³¹ This is a disposition that we cannot expect our local coffee barista or our co-worker to embrace. Nor is it

²²⁵ Ibid.

²²⁶ Ibid., 288-289.

²²⁷ Seglow, *Defending Associative Duties*, 323.

²²⁸ Ibid.

²²⁹ For example, during a conversation I have with my local coffee barista, I come to learn that we both share a love for the *Star Wars* franchise. Quoting dialogue from the films, sharing speculations about future releases in the franchise, and other such activities form important parts of what makes both of our lives go well. In a sense, I have recognized *some* of the contents of that person's life. However, this level of recognition would fall fairly low on our continuum, and would hardly consist of the degree of content sharing we would expect from our intimate others.

²³⁰ Bennett, "Liberalism, Autonomy, and Conjugal Love," 288-289.

²³¹ Ibid.

something we want from them, for detailed attention from someone with whom one does not wish to associate on an intimate level does not provide one with reassurance of their worth, or comfort when faced with something that cannot be made better. In fact, the effect is quite the opposite: unwilling detailed attention from another gives one a sense in which they feel violated or stalked.²³² Thus, we can think of relationships as falling along a continuum, with the degree to which one shares the content of their lives with another as the factor which determines where the relationship falls, from the completely impersonal to the fully interpersonal.²³³ For our purposes, this thesis is concerned with those relationships that fall at the furthest ends of the “fully interpersonal” side of the spectrum.

It is worth noting the additional interest children and adult dependents have in being able to form and maintain these kinds of associations with their caregivers. Numerous reasons could be provided for this interest: both need these kinds of loving and caring relationships, for they are unlikely to receive the basic necessities for survival otherwise; or perhaps they are required in order for children to have access to the particular goods of childhood that would make their lives go well qua children, and not necessarily qua developing agent.²³⁴ Without denying any of these other reasons, there is considerable weight placed on the interest children and adult dependents have in forming close interpersonal relationships with their caregivers because of its connection with the continuing development and exercise of their autonomy.²³⁵ Caregivers are tasked with ensuring that their children are able to develop into normally functioning persons, with the kind of social, emotional, and moral knowledge and skills required to be able to

²³² Ibid., 289-290.

²³³ Ibid.

²³⁴ Anca Gheaus, “The Intrinsic Goods of Childhood and the Just Society,” in *The Nature of Children’s Well-Being: Theory and Practice*, eds. Alexander Bagattini and Colin Macleods (Dordrecht: Springer, 2015), 35-52.

²³⁵ Brighouse and Swift, *Family Values*, 15-17; Brownlee, “Freedom of Association”, 275; Held, *Feminist Morality*, 228; Seglow, *Defending Associative Duties*, 52.

navigate through the world,²³⁶ and with the self-belief required to form and pursue their own conceptions of what will make their lives meaningful.²³⁷ Their caregivers are an important source from which children can draw conceptions of what will give their lives meaning. On this latter point, however, there are conflicting views surrounding the extent to which the values of caregiver can influence their children and/or dependant's conceptions of the good.²³⁸²³⁹

As for adults living with debilitating accessibility needs, many are limited in the degree to which they can exercise their personal autonomy.²⁴⁰ Caregivers are thus needed in order to help their loved ones with compromised capacities make important decisions, help foster what

²³⁶ Brighouse and Swift, *Family Values*, 15-17.

²³⁷ Seglow, *Defending Associative Duties*, 52.

²³⁸ Brighouse and Swift, *Family Values*, 89, 149-174; Clayton, "Debate: The Case against the Comprehensive Enrolment of Children," 353-364; John Rawls, *Political Liberalism* (New York: Columbia University Press, 1996), 137.

²³⁹ A form of association often held up as the epitome of affection and endearment, the intimate associations between children and their caregivers is also characterized by its non-voluntary and hierarchical/coercive nature, and the profoundness which it has on the lives of children. By noting the similarities between the parent-child relationship and the state-citizen relationship, this leads philosophers like Matthew Clayton (2012) to argue for limits on the extent to which parents may enroll their children into some kind of comprehensive conception of the good. Specifically, Clayton notes how these qualities subject the state to the requirements of liberal legitimacy, which holds that the "*exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal persons may reasonably be expected to endorse...*" (Rawls, *Political Liberalism*, 137) Presuming the parallels between the state-citizen and parent-child relationship are sound, this places limits on the extent to which parents can exercise power over their children. Children have a moral status that demands their views (or, later views as adults) be taken into consideration when determining the rules that will place constraints on their lives, or the extent to which parents attempt to enroll them in comprehensive conceptions of the good. As there is no way to know the kinds of convictions children will come to endorse, it is fairly likely that the set of comprehensive conceptions of the good introduced to them by their parents will be rejected by their future adult selves, thereby making such enrollment unjustified²³⁹. In their book *Family Values: the Ethics of Parent-Child Relationships* (2014), Harry Brighouse and Adam Swift acknowledge this concern in their discussion of the liberal objections to the parent-child relationship. One of these involves the extent to which children, who do not possess at the beginning of their relationship with their parents specific beliefs regarding what is good for them, develop their conceptions of the good in response to the kinds of environments that are largely structured by their parents. Thus, parents have considerable influence in shaping the kinds of values their children come to adopt. In their chapter dedicated to addressing this concern, Brighouse and Swift conclude that children are their own people, with their own rights and interests, and this prevents parents from using their children purely as vehicles for their own self-expression. However, they also hold that children have an interest in the kind of relationship with their caregivers that are characterized by spontaneous expressions of the caregiver's self with their child, and demonstrations of the caregiver's desire to further the well-being of their children by sharing their values with them. These elements, they claim, are characteristics of healthy and loving familial relationships, and are bound to result in the giving of some beliefs from parent to child

²⁴⁰ Sherwin and Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," 186.

degree of autonomy their loved one may still possess, and sincerely engage in the delicate balance between when it is right to act paternalistically in their loved one's best interest, and when it is right to defer to their loved one's expressed wishes.²⁴¹ Adults with limited autonomous capacities are especially vulnerable to wrongful manipulation, which bolsters the need for a caregiver whom they love, whom they can trust to have their best interests at heart, and whom they feel comfortable sharing the inner details of their lives. Finally, given their dependency on their caregivers, adults living with accessibility needs rely on their caregivers to provide them with the kind of care and recognition necessary for the development of their self-confidence.²⁴²

2.3 Corresponding Duties (D)

2.3.1 Preliminary Remarks

The final stage of this chapter is to discuss the set of corresponding duties that is derivative from the weighty interests individuals have in forming and maintaining close interpersonal relationships. This would include internal duties that the members have towards each other, as it does external duties on the part of non-members. Unsurprisingly, there is a considerable amount to be said about all of the particular duties and obligations that friends, romantic partners, family members, and even artificial persons (such as the state) have towards each other and towards those with whom they do not share an intimate association. To give a full and proper evaluation would be far too cumbersome a task to undertake here, and it would risk overcomplicating the normative account this chapter is attempting to set forth.

As the purpose of this thesis is to assess the implications a right to form and a right to maintain close interpersonal relationships would have in the context of global migration, I am not particularly interested in the duties that friends, romantic partners, or family members have

²⁴¹ Ibid., 186-187.

²⁴² Seglow, *Defending Associative Duties*, 52.

towards each other. What I am concerned with is the kinds of corresponding duties states have (if any) towards individuals if the rights to form and maintain intimate associations with others exist, and what these duties may or may not say about the kinds of border policies states can or cannot adopt. As some kind of basis will be needed in order to grapple with this issue later in the thesis, what I will do here is evaluate what I consider to be a rather intuitive and basic liberal understanding of the kinds of corresponding duties that could be derived from the right to form and maintain intimate associations. While I will not be describing in its entirety the *content* of this set of corresponding duties, what I will be demonstrating is that, *at the very least*, there is good reason to think: 1) the set of corresponding duties that can be derived from the right to form and maintain close interpersonal relationships is more comprehensive than the standard liberal set; 2) one duty that would be a part of this more comprehensive set of duties is the duty to foster the circumstances required for the provision of adequate opportunities to form and maintain close interpersonal relationships, and; 3) the state should play a role in meeting the requirements of this duty.

2.3.2 Assessing the Comprehensiveness and Content of the Set of Corresponding Duties

What Kimberley Brownlee terms the “unreflective liberal” take on the right to form and maintain intimate associations, but what I will refer to as the “standard liberal” take, may be partially summarized by claims made by John Stuart Mill. For instance, Mill can be understood as endorsing the view that individuals have a right to freely form and maintain close forms of association with others and not form and maintain close forms of association with others as we please.²⁴³ Correlative to this, individuals do not have a duty to associate with any person with whom they do not wish to associate, as they do not have a duty to refrain from forming an association with any person whom they find most acceptable to them.

²⁴³ John Stuart Mill, *On Liberty* (Kitchener: Batoche Books, 2001), 69-85.

Now, taken literally, the view is somewhat contradictory – on the one hand, the right to associational freedom means we have a general claim to associate with whomever we find most acceptable for us, which would imply that said acceptable person would possess a corresponding duty to associate with us. Yet, we also have a right not to associate with those whose person we do not find most acceptable, meaning that we would be immune from having a duty to associate with one whom we do not find acceptable assigned to us, regardless of whether they consider our person most acceptable to them. Thus, this would imply that the person with whom we wish to associate would have both a duty to associate with us, and immunity from being compelled to associate with us (especially if they did not wish to associate with us). A more generous take on this standard liberal account recognizes our claim to associate with whomever we find most acceptable to us being hostage to some constraints and qualifications (such as the presence of consent between parties), yet would maintain that one still possesses an irrefutable right to refuse to associate, which would take priority over any duty to have associates.²⁴⁴ This would imply rather basic correlative duties of non-interference on the part of others (including states) regarding relationships that meet the requirements of moral permissibility (such as the presence of consent between both parties), as it would imply correlative duties of non-compulsion (i.e. not forcing another to do X) for those who enact their right of associational refusal.²⁴⁵

²⁴⁴ Brownlee, “Freedom of Association,” 271-272.

²⁴⁵ Interestingly, it may be that in order to advance the case for the right of reunification, and the corresponding state duty to grant entry to those foreigners who share close affective ties with citizens, the unreflective liberal account of associational duties is all that is required. If the duty to grant entry to would-be migrants for reunificatory purposes is entailed by the general duty of non-interference in consensual intimate relationships, then the unreflective liberal account of associational duties may be sufficient for the purposes of this project. However, since 1) I later presuppose that states should also grant citizenship to those who immigrate into the country for the purpose of being reunited with a loved one, and 2) one may hold that the state duty to grant entry is better understood as a positive duty, it is still relevant to present an account of associational duties that is more expansive than the standard liberal set. Thank you to RJ Leland for pointing this out.

However, we have good reason to think that the set of correlative duties that would be derived from the rights to form and maintain close interpersonal relationships is more comprehensive than the one described above, and that some of the constraints on our associational rights mentioned above do not hold in all contexts. Specifically, there are times where, say, the presence of consent between parties is not required in order for the relationship to be morally permissible. In fact, there are some relationships that lack consent that are not only morally permissible, but morally obligatory. There is also good reason to think that the general right of associational refusal is not unfettered, and that it too is constrained by other considerations, such as the necessity of the relationship, the type of association in question, burdensomeness, pre-existing commitments, matters of collective responsibility, and so on.²⁴⁶

Take the requirement for mutual consent in our intimate associations. *Prima facie*, if X wishes to be Y's associate, but Y does not share the same sentiments, then X has no grounds for a moral claim to form or maintain any kind of association with Y, which in turn would place a corresponding duty on Y to associate with X. Without further knowledge, Y's consent is sufficient to deny the fulfillment of X's desire to associate with them. But, the presence of mutual consent is not always necessary for the moral permissibility of the association – as stated above, some relationships that lack mutual consent are not only permissible, but obligatory. Say that X is a child, and Y is their caregiver. For one, there is nothing wrong (at least, I presume there is not) in Y loving their child, despite X being unable to adequately consent to the relationship. Additionally, caregivers have a duty to maintain this kind of association with their child, for without it their child will face incredibly severe immediate and developmental

²⁴⁶ Ibid., 272.

consequences.²⁴⁷ Therefore, it would be morally impermissible for Y to break ties with X on the ground of their unfettered right to associational refusal, for this would violate the kinds of obligations caregivers have towards their children.

Under certain conditions, some associations are morally permissible, perhaps even obligatory (meaning both parties have duties to maintain the relationship), despite *neither* of the parties in the relationship providing their consent.²⁴⁸ For a real life example, take the 2010 Copiapo mining accident in Chile, which saw 33 miners trapped 2300 feet underground from August 5th to October 13th following the collapse of the main ramp into the San Jose mine.²⁴⁹ For 69 days, the 33 miners depended on each other for their survival, and in the process had to form intimate associations with each other, regardless of whether they actually wished to form these kinds of associations with the other men. In this case, the necessity of the situation placed a constraint on the right of associational refusal, thereby making the association amongst the 33 miners obligatory. However, this is not to say that necessity always makes non-consensual relationships obligatory. An underage girl A from tribe X would not have a duty to marry an older man of her parent's choosing, even if the survival of her tribe depended on the marriage (say there are no other women of childbearing age in the tribe, and there are no other tribes which her family can join). This is because an under-age forced marriage done for the preservation of tribe X would be overly burdensome for A, not to mention a gross violation of her rights to bodily autonomy and associational freedom regarding who she wishes to marry. If, say, the survival of tribe X was instead dependant on A being friends with an older man of her parents' choosing, then A may have a duty to be friends with the older man, since this kind of

²⁴⁷ Ibid., 272.

²⁴⁸ Ibid., 273.

²⁴⁹ CNN, "2010 Chilean Mine Rescue Fast Facts", Updated 2:11pm ET, Wednesday February 26 2020, <https://www.cnn.com/2013/07/13/world/americas/chilean-mine-rescue/index.html>.

relationship would not be overly burdensome, nor would it seriously violate any of her associational or other rights.²⁵⁰

It is also worth pointing out that some of the burdens of the association can fall on both participants and non-participants, which in turn can change the moral dynamics of the relationship itself. For example, when the president of some powerful country has an affair with their intern, this has an effect not only on the intern, but on non-participants as well, such as the president's spouse, children, constituents, and political allies. These considerations create a *duty* to *not* form this kind of association with the intern, which would be grounded not only in the coercive/hierarchical/unequal power dynamic of the association, but also on the kinds of duties the president has towards their other associates (such as not jeopardizing their association by having an affair with the intern).²⁵¹ Altogether, these examples are intended to show that, contra the standard liberal view, the right to form and maintain close interpersonal relationships does not imply a general moral claim to choose those whose society is most favourable to us (subject to certain constraints, such as the presence of consent), nor does it imply an absolute right of associational refusal. Whatever the set of corresponding associational duties to the right of forming and maintaining intimate association is, the picture is more complex, and its content will be more comprehensive than what the standard liberal view entails.

That being said, I do wish to discuss the content of the corresponding set of duties for a right to form and maintain close interpersonal relationships here. Without delving too much into all of the particular duties that would be a part of this set, I hold that one such duty in this set will be a duty to help foster or create the kind of environment or circumstances required for the

²⁵⁰ Brownlee, "Freedom of Association," 273.

²⁵¹ Ibid., 274-275.

adequate provision of opportunities to cultivate and maintain intimate associations. One way to see the force of this claim is to imagine a world where everyone chose not to associate with some particular person X. Evidently, if X was a child or an otherwise abjectly dependant person, the kind of isolation this would cause would be immediate and severe. But even if X were an adult, the kind of isolation that would result would have fairly serious repercussions. There is considerable empirical evidence that indicates social isolation results in mental, physical, and emotional deterioration,²⁵² which would undoubtedly undermine one's autonomy. I suggest the duty would entail, at the very least: the provision of adequate opportunities for persons to form and maintain these kinds as associations; refraining from unduly undermining existing intimate relationships, and; otherwise ensuring that others are not being rendered wrongfully dependant on others through instances of coercive or incidental social deprivation.²⁵³ What this would actually look like in practice will change depending on the particular circumstances.

I believe this duty would partially be met by individuals through the kinds of positive duties to associate that we have described in the first part of this section. However, another actor who would play a role (perhaps, the most significant role) in the provision of the requirements of this duty will be the state. As a political entity, states are justice-oriented. By this, I mean the moral permissibility of their existence or legitimacy over a particular group of people is grounded not on whether, in Weberian terms, they hold a monopoly over the use of force,²⁵⁴ but in their meeting the requirements that justice demands.²⁵⁵ What will be considered a matter of

²⁵² See John T Cacioppo and William Patrick, *Loneliness: Human Nature and the Need for Social Connection* (Norton 2008).

²⁵³ Brownlee, "A Human Right against Social Deprivation," 199-222.

²⁵⁴ Max Weber, *Weber's Rationalism and Modern Society*, translated and edited by Tony Waters and Dagmar Waters (New York: Palgrave Books, 2015), 132.

²⁵⁵ Jennifer Kling, *War Refugees: Risk, Justice, and Moral Responsibility* (New York: Lexington Books, 2019); Jennifer Kling, "Concerned Philosophers for Peace, co-sponsored with the Gandhi, King, Chavez, Addams Society",

justice will change depending on the theory of justice being proposed. However, one requirement that should be included in any plausible theory of justice is the requirement on the part of the state to fulfill the corresponding duties necessary for protecting and respecting the rights of individuals. Given the weighty interest individuals have in forming close interpersonal relationships, I suggest that ensuring the protection for these particular rights will be a matter of justice. For the state to disrupt or unduly undermine the intimate caring relationships that individuals form amongst one another, not ensure adequate opportunities for persons to form and maintain these kinds as associations, or otherwise render individuals wrongfully dependent on others through coercive or incidental social deprivation would thereby be seriously wrong and unjust.²⁵⁶ Using some of the language from the previous chapter, this is because the rights to form and maintain close affective ties with others are grounded not in a bare, but a basic interest. Therefore, the state has obligations not to disrupt or unduly undermine our close intimate associations with others by way of framing our interest in them as constituting a bare interest, or as one not sufficiently weighty to entail a corresponding duty on the state. Nor can they otherwise dismiss their duty to the adequate provision of opportunities to cultivate and maintain intimate associations. More will be said about the content and the scope of this duty to foster the circumstances required for the provision of adequate opportunities to form and retain intimate associations, specifically within the context of global migration.

It is worth noting here that when I speak of the rights to form and maintain close intimate associations with others, I am referring to two distinct but closely similar rights. As I have constructed the account, both rights can be grounded in the basic interest all have in sharing

Panel, American Philosophical Association Central Conference, Chicago IL, February 28th 2020. The panel was a discussion of Kling's book *War Refugees: Risk, Justice, and Moral Responsibility*.

²⁵⁶ Caleb Young, "Caring Relationships and Family Migration Schemes," in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 78.

close affective ties with others in relation to their autonomy. That is not to say that the content of the corresponding duties entailed by each right are exactly the same. For example, it may be the case that the state has a corresponding duty to respect someone's "right" to *maintain* a harmful, toxic, or otherwise adverse relationship. Or, it may be that the state has a duty to ensure that a very hateful person is able to *form* intimate associations with others.²⁵⁷ Depending on the answers one gives to these inquiries, the scope and nature of the state's corresponding duties both domestically and in regards to matters of reunification may or may not be expanded. For example, if the answer to the latter point is yes, that the state *does* have a duty to ensure that the hateful person is able to form intimate associations with others, then this could expand the scope of reunification claims the state has an obligation to consider.

However, since this thesis is concerned primarily with demonstrating that, contra the conventional view, the state *does* have unacknowledged duties to admit immigrants who stand to be united with their loved ones, all that this thesis seeks to establish is that, at minimum, the state has a duty *not* to: 1) prevent their citizens from forming intimate relationships that they permissibly form with others, and 2) disrupt permissible intimate associations that their citizens have already formed with others.²⁵⁸²⁵⁹ Perhaps it is true that the state has a duty to help the hateful person find friends; perhaps the state should intervene in someone's toxic relationship with another. If so, then the state would have associational duties beyond what I present here.

²⁵⁷ Thank you to Sarah Hannan and RJ Leland for bringing this to my attention.

²⁵⁸ As I will discuss in the following chapter, the state would also have a duty to grant citizenship to those immigrants who are granted entry into the country to live on a more permanent basis. Thus, this would require a positive associational duty on the part of the state.

²⁵⁹ I will not delve much further into what makes an association morally permissible in this thesis. Some of the discussion surrounding the flaws of the standard liberal view on associational duties highlights possible considerations that could factor into whether or not an association is morally permissible. However, for the purposes of this thesis, I will assume that those who stand to be united with a loved one share a permissible intimate association with one another. This does raise a concern about how the state would determine which kinds of intimate associations are permissible, and the extent to which the state should even be in the business of doing so. I raise this concern here to make note of it, but I will not be addressing it in this thesis.

Yet, this would not significantly change this thesis' stance that states *do* have unacknowledged duties to admit immigrants who stand to be united with their loved ones; these changes would merely alter the scope of these duties. Since the account I develop here is less of an attempt to provide a fully-fledged normative account of our intimate associational rights and the scope of the corresponding duties, and is instead employed to draw out ethical implications for justice in migration, I maintain that the account as it is presented here is sufficient for accomplishing the objectives of this project.

There may be an additional worry that the duty to do one's part to foster the kind of environment needed to provide adequate opportunities to form and maintain interpersonal relationships would wrongfully compel individuals to associate with others whom they do not wish to associate. For example, it may be stipulated that since the kind of costs that would come from person X having to associate with Y the loner are far outweighed by Y's social deprivation, X has to associate with Y, even if X would rather not associate with Y. In reply, I would like to bring up two points. First, by acknowledging the severity of social deprivation and isolation, I wonder if it is *that* implausible to claim that X has a duty to associate with Y even if X does not want to associate with Y. Social deprivation undermines the development and maintenance of many physical, emotional, cognitive, linguistic, and social abilities that are necessary for a minimally decent human life. One is also hindered in making other rights and domains of value meaningfully available if adequate opportunities to form and maintain supportive interpersonal relationships are not made available.²⁶⁰ Given how severely bad social isolation is, I do not think it is as implausible as it may initially seem to require that X associate with Y (even if X does not particularly want to associate with Y).

²⁶⁰ Brownlee, "A Human Right Against Social Deprivation," 2.

Secondly, the duty to do one's part in providing opportunities for others to form and maintain interpersonal relationships does not mean that one is essentially a slave to the whims of people with whom they do not wish to associate, and must *always* associate with socially deprived people against their wishes. As previously discussed in regards to the comprehensiveness of the set of freedoms and duties that would be derivative of a right to form and maintain close interpersonal relationships, there are other moral considerations that can influence the nature of the duty, such as how burdensome the relationship would be for X, or how this duty would impact other domains of value. We might think that X has a duty to associate with loner Y if the duty would only require X to be friendly with Y. But, to demand that X has to marry Y because Y is socially deprived and isolated would be far too burdensome for X, as it would also be a gross violation of many of X's other rights.

There is a concern that by constraining the scope of the duty in such a way would fail to provide one with the kind of relationship that would actually resolve one's social isolation or deprivation. It may be that what Y needs in order to not be socially deprived goes beyond X simply being friendly with them; perhaps what Y needs is the kind of intimate relationship that comes with the kinds of burdens that would make a corresponding duty to associate on X's part unfeasible. I concede that the duty to do one's part to foster an environment which provides adequate opportunities to form and maintain supportive interpersonal relationships is subject to a number of moral constraints, which would dilute the expansiveness of the duty. Yet, even if the duty would not guarantee that the social needs of others are always met, doing what one can to alleviate the crippling effects of social deprivation – say, by being a bit friendlier with one another - would at least make *some* difference. We may never be able to fully hit the target of the

duty; however, this should not stop us from doing what we can to reach out and be there for those who are not always able to reach out to us.²⁶¹

²⁶¹ I also like to think that our world would simply be a much better place if people were more inclined to be friendlier and kinder to one another – especially to those with whom we would not normally choose to associate with. Insofar as a duty to do one's part to foster an environment that would provide adequate opportunities for people to form and maintain interpersonal relationships would be conducive towards this kind of behaviour, I believe the duty would be one that, overall, would make the world a friendlier, kinder, and better place. Thank you to Lucas Johnston for bringing up the worry of being wrongfully compelled to associate with the loner, and helping me to formulate a reply.

Chapter Three

The Right of Reunification

Introduction

The first chapter of this thesis surveyed the general landscape on the ethics of global migration, covering the predominant arguments from conventionalists, their challengers, the contributions of non-ideal theorists, and some of the philosophical literature on reunification. In this chapter, I will detail the implications the rights to form and maintain close interpersonal relationships has for justice in migration. Specifically, I argue that if the state is to take seriously individual rights to form and maintain intimate associations with others, then in the context of global migration, this would imply a derivative right of reunification with those whom their citizens share close affective ties. As I will demonstrate, states can only discharge this duty by adopting a presumptive policy of relaxed borders for cases of reunification. Because of the non-fungible nature of close interpersonal relationships and the need for physical proximity between its members, the state is barred from employing exportable means to discharge their duties of reunification. Thus, the sole way for the state to sufficiently discharge its duty towards those who share close affective ties, but not citizenship in the same country, is by granting entry to those who stand to be reunited with their loved ones.

Finally, I will be considering the prioritization concerns raised by non-ideal theorists. As do others,²⁶² I endorse the view that if restrictive measures are to be placed,²⁶³ the onus is on the

²⁶² Joseph Carens, "Aliens and Citizens: The Case for Open Borders," in *The Review of Politics* 49, no. 2 (1987), 259; Matthew Lindauer, "In Defense of a Category-Based System for Unification Admissions" in *Journal of Moral Philosophy* 15, no. 5 (2018), 1-27 (see pages 9-16 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>); Shelley Wilcox, "The Open Borders Debate on Immigration" in *Philosophy Compass* 4, no. 5 (2009), 816; Caleb Young, "Caring Relationships and Family Migration Schemes," in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 78.

²⁶³ Lindauer, "In Defense of a Category-Based System for Unification Admissions," see pages 9-16 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; Shelley Wilcox, "Immigrant Admission and Global Reduction of Harm," in *Journal of Social Philosophy* 38, no. 2 (2007), 274.

state to demonstrate a sufficiently weighty consideration that would justify the adoption of restrictions on who they can take in, and only to the extent that is required. However, this still leaves unanswered the matter of prioritization amongst reunification and other migratory claims, if restrictions on immigration are justifiably adopted. To address this issue, I suggest that states should prioritize the unification of caregiver-dependant relationships and relationships between adults of the most intimate kind. These would likely take on the form of relationships between parents and their children,²⁶⁴ adults with cognitive/physical impairments and their caregivers, romantic partners,²⁶⁵ and close friends.²⁶⁶ I justify this prioritization to the extent that the normative account for the rights to form and maintain close affective ties with others that was developed in the preceding chapter assigns the most normative weight to these kinds of intimate associations when compared to other kinds of interpersonal relationships. Finally, I end this chapter by considering some reasons for thinking that reunification claims *may* be prioritized over *some* of the claims of economic migrants and asylum seekers, should justifiable limits be enacted. Ultimately, I suggest a practical reason for this prioritization: the lack of any viable alternative for satisfying reunification claims outside of granting entry to the one who stands in a morally significant relationship with a citizen.

Given the non-ideal concerns of feasibility and the need for the state to meet obligations towards other kinds of immigrants, like refugees or economic migrants, it seems likely that restrictive measures will have to be placed.

²⁶⁴ Lindauer, “In Defense of a Category-Based System for Unification Admissions,” 572-598; Caleb Young, “Caring Relationships and Family Migration Schemes,” in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 61-84.

²⁶⁵ Ibid.

²⁶⁶ Luara Ferracioli, “Family Migration Schemes and Liberal Neutrality: A Dilemma,” in *Journal of Moral Philosophy* 13, no.5 (2016), 553-575.

3.1 Scope and Citizenship

3.1.1 The Scope of the State Obligation

The account I am presenting for the state's duty to grant special immigration eligibility to non-members who share close affective ties with current members is, *for the most part*, member-centric. By this, I mean that my account will predominantly, but not entirely, understand the duty of the state to adopt a more relaxed border policy for cases of reunification as one that is grounded in the rights and interests of its own members, and not in the rights and interests of non-members. This is not to say that the state does not have duties of global justice towards non-members, nor is this to say that they do not have duties towards non-members to facilitate their reunification with their loved ones. The purpose of adopting a mostly member-centric approach for my account is twofold: 1) to remain consistent with how other philosophers have construed their accounts for reunification against a background assumption that there is no general right to freedom of movement (which if true, would make the right to reunification somewhat redundant),²⁶⁷ and; 2) to demonstrate that even if one holds a more restrictive view about the scope of state obligations, the state would still have a strong prerogative to adopt a more open reunification policy. In other words, to justify a scheme of migration that prioritizes reunification, it is sufficient to consider only the obligations that the state owes to its own members. Notably, this makes the duty of the state to admit non-members who share close affective ties with current citizens a matter of domestic justice.

This member-centric view is sufficient for considering cases where the reunification claim involves an intimate caring relationship between independent adults, whereby one of the

²⁶⁷ Ferracioli, "Family Migration Schemes and Liberal Neutrality," 556; Matthew Lindauer, "Entry by Birth Alone?: Rawlsian Egalitarianism and the Basic Right to Invite," Forthcoming in *Social Theory and Practice*, 1-29; Matthew Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," in *University of Memphis Law Review* 37, no. 4 (2007), 771.

parties in the relationship is a member of the receiving state. For example, if Julia is a citizen of Canada, and she wishes to reunite with her non-Canadian partner Cody, then according to my account, it is sufficient for Canada to consider only the duty it has towards respecting Julia's right to be with Cody. However, as I have characterized my account as being *predominantly* member-centric, I do believe that there are instances where the reunification claim can be reasonably grounded in the rights and interests of certain non-members. Following Caleb Young,²⁶⁸ I hold that in the case of reunification claims involving an intimate association between a caregiver and a dependant (such as those relationships between parents and their dependant non-adult children, or between a caregiver and an adult with cognitive/physical disabilities), if it is the caregiver who is a member of the receiving state and the dependent who is the non-member seeking entry, then it is plausible for the state to consider both the interests and rights of the member caregiver and the non-member dependant.

Young argues that receiving states have duties to reunite non-member dependants with their resident caregivers since all dependant individuals have fundamental human rights (which he understands as moral entitlements that all persons have *qua* human being, and not necessarily *qua* citizen or member of some particular political society) to join and be with their caregivers. This is because dependants have fundamental interests in: material caregiving, like feeding, clothing, and housing; altitudinal care, which includes an affective stance from the caregiver to seek and promote the well-being of the dependant, and (especially for children); developmental interests, such as the interests of dependants in cognitive, physical, emotional, and moral development. All of these interests are crucial for the development and sustainability of one's autonomy, one's sense of self-worth, and one's capacity to properly care for one's own well-

²⁶⁸ Young, "Caring Relationships and Family Migration Schemes," 71-76.

being. Thus, if dependants are to have these interests met, they must experience the kind of relationship that can only be provided by a caregiver with whom they share close affective ties.²⁶⁹

While the above explanation may be plausible enough for expanding the scope of state obligations to non-member dependants who share close affective ties with citizen caregivers, another reason I include this extension of the state's obligations to non-member dependants is because of a sense in which I believe my account for reunification would be "missing the mark" if it did not grant this extension. I do not think it is unreasonable to hold that caregivers have fundamental rights to be with one who is both dependent on their caregiving and with whom they share intimate ties,²⁷⁰ nor do I think it unreasonable to ground reunification claims between caregivers and dependents partly in the interests and rights of the caregiver. In fact, I believe the account for reunification that I present in this chapter would still succeed even if the rights and interests of non-members who are abjectly dependant on members of the receiving state are not considered within the scope of the receiving state's obligations of reunification, since the rights and interests of resident caregivers to be reunited with their non-member dependant loved ones are sufficient to ground a weighty reunification claim.

What informs this minimal expansion of the state's duty, I think, is that the rights and interests of those who are the most vulnerable are what should be pulling the most normative weight in these kinds of reunification cases. The reason for this intuition is fairly straightforward: those who are the most vulnerable are often abjectly dependant on their caregivers if they are to have their most basic and fundamental needs and interests met. To not ground a reunification

²⁶⁹ Ibid., 72-73; Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships* (Princeton, NJ: Princeton University Press, 2014), 58.

²⁷⁰ Brighouse and Swift, *Family Values*, 86-112.

claim in the rights and interests of the dependant, regardless of their membership, to me would mischaracterize the reason why we think these kinds of relationships are so valuable and important in the first place: namely, to meet the rights, interests, and needs of those who are the most vulnerable, like children, or adults with cognitive/physical disabilities.

There is the possibility that this extension of the state's obligations will make my account for reunification more contentious than originally presented. However, given the reasons I have presented above, I believe that this extension of the state's duties towards dependant non-members is warranted, not considerably more contentious than the purely member-centric account, and ultimately, not completely necessary, since – if I am correct – the account for reunification I present in this chapter would succeed even if this extension was not granted. It is also worth mentioning that by granting this extension of the state's duties, reunification between resident caregivers and non-member dependants would become a matter of both domestic and global justice.

3.1.2 The Assumption of Citizenship

Another point that I will briefly consider here is whether citizenship should be granted to foreigners upon entry into the country. For my purposes, I will simply be assuming that by allowing others to enter a country for a significant period of time for the reason of being united with their loved one(s), full membership (i.e. citizenship) should be extended to them. That being said, I believe this assumption is warranted. For one, it is thought that close interpersonal relationships of the most intimate kind, such as romantic partnerships, parent-child relationships, and close friendships, can only be maintained and fully enjoyed in perpetuity when all participants share a stable sense of membership in their shared political society. It is difficult to enjoy and maintain one's relationship with one's romantic partner or close friend, or care for

ones' child, when said other is only admitted into the country for a short period of time, or is only able to reside in the country on the precarious grounds that anything less than full citizenship provides. As articulated by Matthew Lindauer:

*"A member of society may have an elderly parent that they can only participate in and maintain their relationship with by bringing them into their society on the stable basis that membership makes possible... [or] a parent who is a member of society that has been separated from their children who do not currently have membership may need to bring their children into the society on the stable basis that membership affords them. Otherwise, this member may not be able to continue to provide a secure developmental environment and care for them in the ways required by their parental duties. Spouses who have been separated from one another may also need to unify in the society where one spouse is a member in order to continue to participate in and maintain their relationship with another."*²⁷¹

The assumption of extending citizenship to those who enter the country upon a successful reunification claim is further warranted because of the consensus between conventional philosophers and their challengers that the practice of not extending full membership to immigrants is unjust.²⁷² Unsurprisingly, Carens argues extensively in *The Ethics of Immigration* that the descendants of immigrants should automatically be granted full citizenship in the country in which they were born.²⁷³ He also argues that states have duties to respect prospective migrants' claims of belonging and living in a political community on a stable and ongoing basis,

²⁷¹ Lindauer, "In Defense of a Category-Based System for Unification Admissions," see pages 8-9 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

²⁷² Joseph Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013), 19-61; Lindauer, "In Defense of a Category-Based System for Unification Admissions" see page 8 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; David Miller, "Immigration: the Case for Limits," in *Contemporary Debates in Applied Ethics*, eds. Andrew I. Cohen and Christopher Heath Wellman (Wiley-Blackwell, 2005), 204-205; Michael Walzer, "Membership", in *Spheres of Justice: A Defense of Pluralism* (New York: Basic Books, 1982), 60-61; Christopher Wellman, "Immigration and Freedom of Association," in *Ethics* 119, no. 1 (2008), 125.

²⁷³ Carens, *The Ethics of Immigration*, 19-44.

which in turn would place an obligation on the state to make the processes of naturalization²⁷⁴ readily available to newcomers.²⁷⁵

Carens is not alone in his convictions. Both Christopher Wellman and Michael Walzer also share the view that full membership ought to be extended to newcomers upon their acceptance into a receiving country. In *Spheres of Justice*,²⁷⁶ Walzer argues that subject only to certain constraints like the time required to process individual naturalization claims, political justice bars permanent alienage, and instead requires that all members of a just democratic society be granted full membership in order to prevent non-citizens from being wrongfully excluded from the political process and subjected to the whims of the citizens. According to him, when full membership is not extended to newcomers: *“the political community collapses into a world of members and strangers, with no political boundaries between the two, where the strangers are subjects of the member... As soon as some residents are citizens in fact, all must be so. No democratic state can tolerate the establishment of a fixed status between citizen and foreigner.”*²⁷⁷ Wellman echoes this sentiment by endorsing an account of the value of relational equality between all members of a political society, which informs his stance on extending full citizenship to newcomers.²⁷⁸

Therefore, since 1) both conventionalist philosophers and their challengers share similar views on the provision of full membership to newcomers, and 2) full membership provides the stable bases and circumstances required for the sufficient maintenance of our most intimate kinds of associations, the assumption for extending full citizenship to those who are successful in

²⁷⁴ Naturalization refers to the acquisition of citizenship for newcomers after having migrated to the receiving country.

²⁷⁵ Ibid., 45-61.

²⁷⁶ Walzer, “Membership,” 60-61.

²⁷⁷ Ibid., 61.

²⁷⁸ Wellman, “Immigration and Freedom of Association,” 125

entering the country for the purpose of uniting with their loved one(s) is warranted. Even if this assumption is denied, the account I present in this chapter would still be successful in demonstrating that a hardline conventionalist position like Wellman's is mistaken, and that reunification is an instance when just states are morally obligated to, quite simply, *let others into the country*. That being said, the extension of full citizenship to newcomers does seem crucial for any account of reunification, for without the stable basis which full citizenship would provide the newcomer, it is questionable whether the newcomer's relationship with the member of the receiving state is able to be sufficiently maintained.

3.2 A Disanalogy in Wellman and Walzer's Cantilever Arguments and the Implications

In the context of global migration, the political commitment of the state to respect individual rights to form and maintain close interpersonal relationships entails a state duty to adopt a more open policy for instances of reunification. In order to demonstrate why this is the case, it is useful to point out a disanalogy in both Wellman and Walzer's Cantilever Arguments. As was discussed in the first chapter of this thesis, both Wellman and Walzer implement an argumentative strategy whereby they consider the freedom of association at the level of families, clubs, and neighbourhoods, and conclude by analogy that if these kinds of associations are justified in having the freedom to choose their own membership, then so should states. In other words, since the analogy holds from the former cases to the latter, states, like their smaller associational counterparts, are justified in having a freedom to establish their own membership and set their own border policy as they see fit.

Despite their efforts to demonstrate the soundness of this analogy, there is a rather serious disanalogy between the freedom of families, clubs, and neighbourhoods to choose their own members, and the freedom of the state to do the same. The disanalogy between the two cases concerns the ability of members of families, clubs, and neighbourhoods to form associations with non-members, juxtaposed with the ability of citizens to form associations with foreigners. Typically speaking, if one is a member of a family, club, or neighbourhood, there is nothing about those associations that prevents one from forming other kinds of associations with others outside of their families, clubs, or neighbourhoods. Private associations of these kinds rarely prevent their members from exercising their freedom to meet face-to-face and associate with non-members. If anything, private associations that prevent one from associating with non-members are a violation, and not an expression of, the freedom to associate.²⁷⁹ Of course, there may be instances where restrictive private relationships and associations are permissible if, say, all members of the association consent to such restrictive measures. However, the moral permissibility of highly restrictive yet consensual private associations is debatable.²⁸⁰

States, on the other hand, are the kind of association that have the ability to significantly restrict the ability of their members to associate with foreigners. Where a state chooses to adopt more restrictive border policies, the ability of their citizens to meet face-to-face and form associations with non-members of the polity will be seriously curtailed. In fact, if a state chooses to completely close their borders to outsiders, this could effectively deny their members the ability to form and maintain associations with foreigners²⁸¹ (except, perhaps, for online/distance relationships). Therefore, if states have the freedom to choose who they will allow into the

²⁷⁹ Kieran Oberman, "Immigration and Equal Ownership of the Earth" in *Ratio Juris* 30, no. 2 (2017), 149.

²⁸⁰ There may be some kinds of associational arrangements that are so morally reprehensible that they should never be permissible, even if there is consent from all the members of the association. For example, it is debatable whether a consensual arrangement between a slave and their master is ever morally acceptable.

²⁸¹ Oberman, "Immigration and Equal Ownership of the Earth," 149-150.

country, and if they use this freedom to adopt more restrictive border policies, this would not only diminish the overall pool of potential people with whom their members can form associations with, but would also severely hinder the ability of their members to meet face-to-face and maintain their relationships with those whom they already share personal ties, but who reside outside of the state's territory. Together, these points regarding the ability of members to form and maintain associations with non-members within the context of families, clubs, neighbourhoods, and states represent a significant distinction between the freedom to associate at the level of private associations and the freedom to associate at the level of the state.²⁸²

As the disanalogy demonstrates, there is an irony in grounding the state's right to enact restrictive border policies in the freedom of smaller private associations to choose with whom they wish to associate, for a state policy that would restrict (or, completely disallow) the migration of foreigners into its jurisdiction would also limit and restrict the very thing that was originally valued, and which the account for the state's freedom of association was subsequently built upon by analogy: namely, the freedom of private associations, like families, clubs, and neighbourhoods, to choose their own membership and associate as they please. It is ironic that an account of immigration which builds itself on the value of something as important as the freedom to marry whomever one loves ultimately endorses a position which allows for border policies that severely limit the freedom individuals have to be with their loved ones.²⁸³²⁸⁴ That

²⁸² Ibid.

²⁸³ Ibid.

²⁸⁴ It may be noted that the disanalogy is more relevant to a conventional account like Wellman's, and less so for Walzer's conventional account. This is because, unlike Wellman, Walzer's conventional account is grounded less in the value of freedom of association, and more so in the right to exclude, since a bounded and exclusive state with the right to exclude others is required to protect the valuable social good of membership in the country's political community. Nevertheless, there is another relevant disanalogy between intimate associations and state associations: the existence of intimacy and affection. Since Walzer's conventional account does not consider this disanalogy between associations at the personal and state levels, his account does not establish a clear obligation on the part of the state to allow reunificatory immigration, nor does the account adequately protect these uniquely valuable forms

being said, what is most important for the purposes of this thesis are the implications the disanalogy has for the nature of the duties states have towards respecting individual rights to form and maintain close affective ties with others.

3.3 The Right of Reunification and the Duty to Grant Entry

Many citizens of the world share close affective ties with citizens from other countries. Some relationships were formed prior to one migrating from one part of the world to another. Others form intimate associations with non-citizens through distance and online mediums. Regardless of the origins of the relationship, all have fundamental interests in maintaining these relationships and being able to invite their loved one(s) to live with them in their country of residence in order to enjoy and maintain the relationship through face-to-face interactions, and on the stable basis that only citizenship in the country can provide.²⁸⁵ As I have suggested in the preceding sections, this interest is sufficiently weighty to ground corresponding duties in the state to refrain from disrupting or undermining the intimate caring relationships of its members, and even a positive duty to grant immigrants who stand to be reunited with a loved one full citizenship. Yet, restrictive border policies necessarily hinder the ability of individuals to be with those whom they share close intimate ties, but not citizenship in the same country; at worse, they violate the rights of individuals to be able to maintain the close affective ties they share with their romantic partners, parents, children, close friends, and so on. As such, I want to suggest that it is not possible for the state to have a right to close their borders while sufficiently discharging their duties to respect individual rights of reunification.

of association against disruption from the state's border policy. Thank you to Steven Lecce for bringing this to my attention.

²⁸⁵ Lindauer, "Entry by Birth Alone," 12; Lindauer, "In Defense of a Category Based System for Unification Admission," see page 8 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

This is not to say that conventionalists do not recognize the importance which reunification should have in a normative account on global migration. Walzer, in *Spheres of Justice*,²⁸⁶ notes that political communities possess as a moral feature an obligation towards those who are ethnic and national relatives of their citizens. This principle of kinship affinity, which he believes makes political communities similar to families, commits the state to prioritize “ethnic and national” relatives of citizens who live outside of the country in their admissions scheme. What is unclear is whether Walzer holds that states have obligations or commitments to actually admit national and ethnic relatives into the country, or only that they should prioritize this kind of immigration in their admissions scheme *if* they as a sovereign state choose to allow immigration in the first place. Wellman, for his part, concedes that because the freedom of the state to choose its membership is ultimately grounded in the normative value of the individual’s freedom of association, reunification may be an exception to the state’s right to exclude, since some members will undoubtedly share close affective ties with non-members, and will have fundamental interests in maintaining these ties that can only be fulfilled by inviting their non-member loved ones into the country to live with them on a permanent basis.²⁸⁷ Nevertheless, since versions of Wellman and Walzer’s initial arguments continue to be advanced by contemporary proponents of the state’s right to enact restrictive border policies, the thrust of my thesis is still a relevant contribution to the debate on global migration.

One reason why receiving states have a duty to admit foreigners who are migrating for the purpose of being reunited with their loved ones relates to a morally relevant similarity they share with certain refugee cases. As a group of migrants, refugees differ from others insofar as

²⁸⁶ Walzer, “Membership,” 41-42.

²⁸⁷ Phillip Cole and Christopher Heath Wellman, *Debating the Ethics of Immigration: Is There a Right to Exclude?* (New York: Oxford University Press, 2011), 92.

their interests cannot always be met through exportable means.²⁸⁸ Granted, there are (perhaps) times when the claims of refugees can be met through the transfer of wealth via foreign aid, by establishing safety zones within their countries, or by dealing with the source of the persecution through military intervention.²⁸⁹ However, there are also times when states must grant refugees entry into their territory, for in some circumstances, to deny entry would be to condemn refugees to brutal oppression, persecution, and even death.²⁹⁰ Reunification is similar to these kinds of refugee cases insofar as states cannot employ exportable means (i.e. means other than granting entry) to sufficiently discharge their duties owed to those who wish to be united with their loved ones. For example, states cannot meet their obligations to friends, families, and romantic couples by financially compensating those separated from their loved ones because of the enactment of a closed border policy, nor through the provision of “replacement” friends, family members, or romantic partners.²⁹¹

While it may seem obvious that the state cannot properly discharge its duties to those separated from their loved ones by means of financial compensation or through the provision of a state-appointed replacement, it is worth exploring why these alternative approaches are insufficient. Why could the state not simply pay me off instead of allowing those with whom I share close affective ties into the country, or instead appoint a replacement friend, parent, or romantic partner in order to discharge its duties to those separated from their loved ones? Given

²⁸⁸ Walzer, “Membership,” 48-49; Wilcox, “The Open Borders Debate on Immigration,” 819.

²⁸⁹ Miller, “Immigration,” 202-203.

²⁹⁰ Walzer, “Membership,” 49.

²⁹¹ This idea seems more plausible when thinking of the relationship between caregivers and dependants, whereby a state appointed caregiver is assigned to a dependant separated from their original caregiver. More controversial would be the idea of a replacement friend, or even a replacement romantic partner provided by the state. Evidently, the notion of a state appointed replacement friend, lover, or caregiver is mired in controversy. Nevertheless, and barring all of the moral issues associated with the state providing a replacement for your friend, romantic partner, or caregiver in order to somehow compensate you for being separated from your loved one, I consider this kind of state response to test the extent to which reunification claims can only be met through the non-exportable method of actually letting people into the country to be with their loved ones.

the technological advancements of the current age, why does the state have a duty to admit those immigrants who stand to be reunited with a citizen when the citizen can maintain lines of communication with their foreign loved one via the internet, or telephone? The reason why these approaches are insufficient relates to the nature of our most intimate kinds of relationships: namely, it is because our most intimate associations are 1) irreplaceable/invaluable/non-fungible, and; 2) require physical proximity between its members if they are to be sufficiently maintained and enjoyed.

3.3.1 The Non-Fungible Nature of Close Intimate Associations

The notion that our intimate relationships with others are in some way invaluable, or irreplaceable, is informed by the philosophical literature on friendship and the problem of fungibility. The problem of fungibility may be described via the following hypothetical: if my loved one has certain characteristics which ground the close affective ties I share with them, then what prevents me from forming a similar kind of intimate association with anybody else who has relevantly similar characteristics? Granted, perhaps I am in a monogamous romantic relationship, and as such I have a duty not to cheat on my romantic partner. Or, I am a parent to a child, and therefore I have an obligation to care for the child, and not simply replace them with another. However, presuming these obligations did not exist, what reason would I have not to replace my romantic partner or my child for another with similar traits, or “trade up” for someone who has all the same kinds of qualities, but to a greater extent than my loved one?²⁹²

It seems wrong, or off the mark, to cite my duty of care, or my obligation not to cheat, as the sole reason why I would not trade up for the better child or romantic partner. The reason why

²⁹² Bennett Helm, “Friendship”, in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2017) <https://plato.stanford.edu/entries/friendship/>.

I should not want to trade up is because my relationship with my child and my romantic partner is because that relationship is uniquely valuable and irreplaceable to me. But, why is this so? In order to solve the problem of fungibility, some philosophers have focused on the historical-relational properties of the relationship. The irreplaceable or non-fungible nature of our closest interpersonal relationships, they claim, has something to do with the history of experiences we share with our loved ones. Even if someone came along who had all of the same qualities as my loved one, but to an equal or greater extent, this other person would not have the same kind of history of shared experiences that I currently share with my loved one. Or, to put it another way, even if some of the valued intrinsic qualities of my loved one diminished over time, I would not abandon nor give up on them because of how much I value the historical properties of the relationship that I share with this particular person.²⁹³ Alternative answers to the problem of fungibility appeal to the sharing of secrets with one another, or the seeing of one's self in another.²⁹⁴

Regardless of the account being provided, it is sufficient for our purposes to note the overlapping consensus amongst philosophers that our relationships with our intimate others are uniquely valuable, irreplaceable, and non-fungible.²⁹⁵ Even if someone came along who had all of the similarly relevant properties as our current lover/friend/parent/child, but to a greater degree, we should not simply “trade up” and replace them. Nor should we accept a bribe as

²⁹³ D.O Brink, “Eudaimonism, Love and Friendship, and Political Community” *Social Philosophy and Policy* 16, no. 1 (1999), 252-289; Ferriacioli, “Family Migration Schemes and Liberal Neutrality,” 566; Nancy Sherman, “Aristotle on Friendship and the Shared Life”, in *Philosophy and Phenomenological Research* 47, no. 4 (1987), 589-613; J.E. Whiting, “Impersonal Friends” in *Monist* 74, no. 1 (1991), 3-29; Young, “Caring Relationships and Family Migration Schemes,” 78.

²⁹⁴ Ferracioli, “Family Migration Schemes and Liberal Neutrality,” 568.

²⁹⁵ Brink, “Eudaimonism, Love and Friendship, and Political Community,” 252-289; Ferriacioli, “Family Migration Schemes and Liberal Neutrality,” 566; Sherman, “Aristotle on Friendship and the Shared Life,” 589-613; Whiting, “Impersonal Friends,” 3-29; Young, “Caring Relationships and Family Migration Schemes,” 78.

satisfactory compensation for being separated from our loved one. If one would accept the bribe, then the relationship was not truly of the sort that is the main concern of this thesis.²⁹⁶

When I say that these kinds of relationships are irreplaceable, or non-fungible, I do not mean that the members of the relationship are irreplaceable or that the relationships themselves last forever (or, as long as each member is alive). Instead, I propose that it is the type of relationship that is irreplaceable, and that certain people are essential for the existence of that relationship at different points of time, and for differing lengths of time. For example, from time A to time B, I may share an irreplaceable type of relationship with person X. From time A to B, X is essential for the relationship we share to exist and be enjoyed; in other words, X could not viably be replaced with anyone else from A to B without completely disrupting that particular non-fungible relationship. At some time between time B and time C, the relationship with X may end for a variety of non-problematic reasons: we may lose interest in each other; we may realize that our lives are too different to continue on together, and so on. Then, from time C and onwards, I form a similarly irreplaceable type of relationship with person Y as I did with person X.

What this example is meant to demonstrate is that intimate associations one may feel to be irreplaceable and invaluable in the moment may dissolve over the course of one's life and be reformed with others. Importantly, this does not take away from the relationship's value to its members in that particular period of time. What would be unjust is if the relationship was

²⁹⁶ There may be a scenario where one would accept the bribe if, say, they were in dire material circumstances. In such circumstances, one may accept the bribe because it would allow them to secure sufficient material needs, despite how much they love their partner, friend, and so on, and genuinely wish to live with them. This is because one has been put in the precarious position whereby they must make the decision whether to accept the bribe and live a minimally decent life, or live in squalor with their loved one. Given this range of options, I would hardly consider the decision made here to be one that was genuine and not extremely coerced. The circumstances I have in mind when I make this claim is a scenario whereby one already has the means to live a minimally decent life, and upon being offered the choice of whether to accept the bribe or be reunited with their "loved one", they chose the bribe. Thank you to Lucas Johnston and Nicole Covey for noticing this and bringing it to my attention.

abruptly and wrongfully ended by the state via its policies, instead of being dissolved organically by the members of the relationship itself.²⁹⁷

3.3.2 The Requirement of Physical Proximity

Intimate associations are distinguished from other kinds of associations by the nature of the interactions between members and the persistence of these interactions²⁹⁸. Interactions are a necessary prerequisite for the maintenance of any intimate relationship, since “*people are a family [or lovers, or friends] in name only if they never interact with each other.*”²⁹⁹ These interactions can and do happen between intimate others who are face-to-face with one another, and between those halfway across the world from each other through apps such as Skype, Facetime, or WhatsApp. As the COVID-19 pandemic has certainly taught us, the internet can be an incredibly useful means through which loved ones can stay in touch in ways that would have been highly inconvenient or impossible in the past. These technological means of communication can thus act as a supplemental tool to regular forms of in-person interactions, but not as a replacement.³⁰⁰

The need for physical proximity in regards to the formation and maintenance of close interpersonal relationships has been noted as far back as the time of Aristotle. In his *Nichomachean Ethics*, Aristotle notes that “*distance does not dissolve the friendship, but only its activity. But if the absence is long, it also seems to cause the friendship to be forgotten.*”³⁰¹ Following this, I will argue that an element of physical proximity is required for these kinds of

²⁹⁷ Thank you to Sarah Hannan and Lucas Johnston for bringing this to my attention.

²⁹⁸ Kimberley Brownlee, “Freedom of Association: It’s Not What You Think”, in *Oxford Journal of Legal Studies* 35, no. 2 (2015): 269.

²⁹⁹ Ibid.

³⁰⁰ Robert Sharp, “The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online”, in *Ethics and Information Technology* 14, no.3 (2012), 238.

³⁰¹ Aristotle, *Nichomachean Ethics*, trans. Terence Irwin (Indianapolis/Cambridge: Hackett Publishing Company Inc., 1999), 1157b-58a.

relationships to be sufficiently maintained and enjoyed, as a purely online kind of relationship, where the interactions between members take place solely through indirect means such as email, messenger, or video call, would be shallow in certain important regards.³⁰² Specifically, physical proximity between us and our loved ones is crucial for our proper moral development, as well as the fostering of our sense of self-worth and our autonomy. Children, for example, have fundamental interests in developing their emotional, cognitive, and moral abilities needed for their personal autonomy.³⁰³ Yet, children are severely (perhaps completely) impeded from doing this when their lives lack relationships marked by physical closeness and care (especially from their caregivers).³⁰⁴ Empirical evidence even supports this connection with in-person relationships and moral development in youth: in a meta-analysis of 72 samples of American post-secondary students, there was a decrease in Empathic Concern and Perspective Taking from 2000-2010, indicating that empathy among college students has declined,³⁰⁵ in part due to social media use and decreased interpersonal interactions.³⁰⁶

Relationships that lack physical proximity (such as a purely online relationship) are also lacking in the kind of feedback that we can receive from other persons in face-to-face interactions. One cannot experience the other online in the same way one can offline, and this is partly due to the way in which information about that other person is self-selected, edited, or

³⁰² Young, "Caring Relationships and Family Migration Schemes," 78.

³⁰³ Brighouse and Swift, *Family Values*, 64; Anca Gheaus, "Personal Relationship Goods", in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2018), <https://plato.stanford.edu/entries/personal-relationship-goods/>. See also Virginia Held, *Feminist Morality: Transforming Culture, Society and Politics* (Chicago: University of Chicago Press, 1993).

³⁰⁴ Sara Ruddick, "Care a Labor and Relationship", in *Norms and Values: Essays on the Work of Virginia Held*, ed. Joram G. Haber and Mark S. Halfon (Lanham, MD: Rowman and Littlefield Publishers, 1998), 3-25; Gheaus, "Personal Relationship Goods," <https://plato.stanford.edu/entries/personal-relationship-goods/>.

³⁰⁵ Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship," 237.

³⁰⁶ Ibid.

otherwise not as accessible as it is when individuals meet face to face. Robert Sharp³⁰⁷ notes how this problem occurs in two ways: through intentional non-disclosure and unintentional obfuscation. If individual X is only able to receive information about their friend through means such as Facebook status updates, WhatsApp messages, emails, and other forms of disclosure which can be heavily edited and modified by the other person Y, it is significantly more difficult for X to gain access to the thoughts and feelings of Y than would otherwise be in a face-to-face interaction. Moreover, since we all lack at least a bit of self-awareness, we may genuinely believe at times that all is well, and that nothing is amiss in our lives, when in fact something is indeed going wrong (sometimes very wrong!).

Thankfully, our loved ones can provide us with outside observation about our faults and virtues, can give us a perspective that we would otherwise sorely lack on our own, and can even provide physical forms of affection and assurance that, if offered by one with whom we did not share an intimate connection, we would be more inclined to reject.³⁰⁸ Thus, if an online platform hinders the ability of those with whom we share close affective ties to pick up on certain kinds of physical and emotional cues that are more easily accessible through face-to-face interactions, or even provide us with these important physical forms of affection and assurance (like a hug, a pat on the back, and so on), then this role of theirs becomes very difficult to follow.³⁰⁹ This does not mean that our loved ones are perfectly transparent offline, as similar perceptual difficulties can exist when face-to-face. However, physical proximity allows us to pick up on cues that otherwise would not be present online, thereby mitigating the opacity of online associations.³¹⁰

³⁰⁷ Ibid., 233.

³⁰⁸ Christopher Bennett, "Liberalism, Autonomy and Conjugal Love," in *Res Publica* 9, no. 3 (2003), 289-290.

³⁰⁹ Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online," 234.

³¹⁰ Ibid.

Nevertheless, I do not wish to disregard online relationships entirely from my account. Many close interpersonal relationships begin online, and if members of an online relationship were denied the opportunity to meet face-to-face and be in close physical proximity with one another, this could seriously undermine their interests in being together. Still, I am hesitant to expand the scope of the state's duty to grant entry and extend full citizenship to those who share a purely online relationship with one of their citizens. Not only would this expansion likely place further strains on the states' capacities to administer immigration claims, but given the lack of face-to-face interactions, it does not seem to me plausible to merit the same kind of consideration for the purely online relationship as we would those between parents and their children, romantic partners, close friendships, and so on. That being said, since purely online relationships *can* be valuable, and have the potential to become a close interpersonal relationship of the most intimate kind once its members are able to meet face-to-face, it is my inclination that just states should *at the very least* grant entry for visitation purposes (but not necessarily full citizenship) to those who stand in a morally significant online relationship with one of its citizens for prudential reasons.³¹¹

Together, the requirement for physical proximity and the non-fungible nature of our most intimate kinds of associations presents a dilemma for conventional writers on global migration. If the state does have a right to enact highly restrictive border policies, and if it were to act fully on this right and close its borders, then citizens would be effectively denied the ability to associate with foreigners, or maintain the associations they may have already formed with those who live outside of the country. If the border policy of the state denies their citizens the opportunity to form intimate associations with outsiders, or maintain the close interpersonal relationships they

³¹¹ Thank you to Lucas Johnston for bringing to my attention the potential exclusion of purely online relationships from my account and helping me formulate a reply.

already share with foreigners, this would infringe on the rights of citizens (and foreigners) to do just that, since as we have demonstrated, the rights to form and maintain close affective ties with others can only be met through the non-exportable means of allowing entry to others who are intimately connected to members of the receiving state. As I understand the interest we have in sharing close affective ties with others to be a basic one, justice-oriented states should be predisposed towards respecting the basic interests of individuals - especially those of their citizens - and should refrain from enacting border policies that would wrongfully disrupt or undermine the intimate caring relationships that individuals constantly form with one another.

3.4 Potential Objections

3.4.1 The “Why Us?” Objection

A critic of the case for the right of reunification that I have presented above may advance some version of the following, which I have dubbed the “Why Us?” objection. Suppose that Canada adopts a highly restrictive border policy that does not allow any immigration. Now, this would effectively deny Canadians the ability to invite their non-Canadian loved one(s) to come and live with them in Canada. However, this would not necessarily prevent Canadians themselves from moving to where their non-Canadian loved one(s) reside(s) in order to be with them, nor would it necessarily prevent both the Canadian and their non-Canadian loved one(s) from moving to some third state. Therefore, the restrictive border policies of Canada do not necessarily disrupt the intimate associations of their citizens (and certain non-citizen dependants), since the members of the intimate association could move elsewhere and be together. At most, highly restrictive border policies would only prevent Canadians from living with their non-Canadian loved ones *in the territory of Canada*. Thus, the critic may ask: why

must it be *us*, or *our country*, that has to take in foreigners who shares close affective ties with our co-citizens? Why is it *our* obligation, and not that of some other country, to grant them entry and membership into our polity?³¹²

There are essentially three replies to this objection. The first simply notes that, since we live in a world where all of the habitable land is already claimed by sovereign states with the ability to deny one entry into their jurisdiction, there will come a point where some state *will* have to allow members of an intimate association entry through their borders or risk violating their right to be together. Presuming that more than one country adopts a policy of closed borders, the “Why Us?” objection does not demonstrate that closing one’s borders avoids violating the rights of individuals to be with their loved ones. Instead, it simply pushes the argument back until the members of the intimate association must be allowed to live together *somewhere*.

Even then, since I have presupposed for my account that the state has obligations only to their citizens (and some non-citizens dependants), prospective receiving states may rightfully ask why it is *their* obligation to grant entry to non-citizens who share close affective ties with one another, and not the obligation of either one of the states from which the members of the intimate association reside. The second reply to the “Why Us?” objection expands on this point, noting that the objection mischaracterizes the direction of the responsibility to respect the rights of individuals to live with their loved ones. Specifically, the reason why it is *our* obligation to take in a foreigner who shares a close affective tie with one of our co-citizens is because it is something that we owe to our co-citizens as a matter of justice. Following Rawls:

³¹² Young, “Caring Relationships and Family Migration Schemes,” 78.

*“Those who share membership in a state are collectively tasked by justice to help each other secure the various social and political conditions for the development and exercise of their moral powers.”*³¹³

At the very least, the account developed in this thesis is committed to the view that co-citizens are collectively tasked by justice to help each other secure the necessary conditions for the development and exercise of their autonomy; one such condition is to refrain from adopting state policy that unduly or wrongfully disrupts the intimate associations our co-citizens form with others (whether they be with fellow citizens or outsiders). Therefore, the reason why it is *our* obligation is because it is something we owe our fellow co-citizens.

Originally advanced by Joseph Carens³¹⁴ and later endorsed by Young,³¹⁵ the final reply to the “Why Us?” objection notes quite simply that the reason why the state has an obligation to grant entry to the non-member loved ones of our co-citizens is because there are effectively two rights at play here: the right to form and maintain close interpersonal relationships with others, and the right to security of residence. Just states have an obligation to respect their members’ right to live within its territory if they so choose. Thus, if the state were to deny entry to those foreigners who share intimate ties with our co-citizens, they would effectively be forcing their members to move elsewhere if they wish to be reunited with their loved ones, thereby violating their right to remain in their country of residence. Together, the interplay of these two rights provides us with another reason to reject the implications of the “Why Us?” objection.

³¹³ Quote from Young, “Caring Relationships and Family Migration Schemes,” 78. Idea originally from John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 187-190.

³¹⁴ Carens, *The Ethics of Immigration*, 100-106.

³¹⁵ Young, “Caring Relationships and Family Migration Schemes,” 79.

3.4.2 The Sufficient National Pool Objection

The second objection I will consider is one that I will refer to as the Sufficient National Pool (SNP) objection.³¹⁶ A critic of the right of reunification could accept that individuals have rights to form and maintain close affective ties with one another, and that as a matter of justice, this places a corresponding duty on the state to ensure that the social circumstances needed for citizens to seek out others, form intimate associations, and maintain those close interpersonal relationships do in fact exist. The critic could also recognize that the formation of certain kinds of intimate associations, such as those between children and their parents or caregivers and their dependants, are not actively chosen by their members, and that this non-chosen nature of the relationship will have implications for justice in migration.

On the one hand, the non-chosen nature of these relationships are similar to those we actively choose to form with others insofar as there is only one particular person - specifically, the other with whom one shares a relationship - who can satisfy the fundamental interests we have in the relationship. This is what is meant when it is said that those with whom we share close affective ties are invaluable, or irreplaceable, to us. Yet unlike those close affective ties we actively choose to form and maintain with others, non-chosen intimate associations are just that: invaluable and irreplaceable close interpersonal relationships whose formation was never actively chosen by either member. Children are simply born to parents; dependants are often assigned caregivers. Unlike those intimate associations we actively choose to enter, the proponent of the SNP objection could hold that it would be unreasonable to hold those who share a non-chosen intimate association with another accountable for the consequences and implications of the relationship, for they were never in a situation whereby they could reflect

³¹⁶ Thank you to RJ Leland for bringing forward this objection as a potential challenge to my account for the right of reunification.

upon the consequences and implications of forming the association in question, and actively choose to form it nevertheless. Therefore, if a citizen were to share a non-chosen intimate relationship with a foreigner, the state would have a duty to grant entry to the foreigner in question.

On the other hand, intimate associations which one actively chooses to enter into, such as those between romantic partners and friends, are relationships whereby one is able to reflect upon the consequences that would result from the formation of the relationship, accept the implications, and move forward with its formation. As such, what the state has a duty to ensure is *not* that those with whom citizens actively choose to form intimate associations are also granted entry into the state's territory if they happen to be a foreigner, but instead to promote and facilitate social practices that foster the social conditions which allow its citizens to seek each other out and form these kinds of intimate associations within the national boundaries. In other words, the state does not have a duty to grant entry to one's foreign loved one; the state only has a duty to ensure that the social practices and circumstances necessary for the maintenance of a sufficient national pool of people from which one can seek out a romantic partner or friend are themselves maintained. Therefore, if one chooses to go outside of this national pool of people, and instead form an intimate association with someone from outside the national boundaries, then to grant entry to said foreigner would be beyond the scope of the state's duty to ensure that the rights of its citizens to form and maintain intimate associations is respected.³¹⁷

³¹⁷ This objection may be understood in a manner that places emphasis on the fact that this policy was *known* to the citizen who chose to form a relationship with someone from outside the national pool. From this perspective, it may be argued that since the state policy of only ensuring the existence of the national pool for its citizens was made public and known to all, and the citizen still chose to form a relationship with another outside of the pool, then that citizen must live with the consequences if their loved one is denied, for they *knew* that it was outside of the state's explicitly stated prerogative to grant their loved one entry into its territory. However, this understanding of the objection is unpersuasive, since it does not consider whether or not the limits being placed by the state are themselves *just*, and

If we are to take this objection seriously, there are two replies that can be advanced, each referring to different circumstances. The first reply to this objection is directed towards a situation whereby one forms a relationship with another, moves to another country and becomes a citizen, and then seeks to sponsor their loved one's migration into the country for the purpose of being reunited. The second reply concerns a scenario where some person forms a relationship with someone from another country, and simply seeks to sponsor their immigration into their country without having necessarily migrated anywhere else themselves. To clarify this distinction, I shall present the following thought experiments.

Suppose that there are two countries, Alpha and Omega. Persons A and B live in Omega, and they form an intimate association with one another. At some later point in time, A immigrates to the country of Alpha and becomes an Alphanian citizen. However, A deeply misses B, and decides to sponsor B's immigration into the territory of Alpha for the purposes of being reunited. When they hear about this, the state officials of Alpha send a letter to A informing them that the state of Alpha only has a duty to promote and facilitate social practices that foster the social conditions which allow its citizens to seek each other out and form intimate associations within the national boundaries. Since A chose to form a relationship with someone outside of the Alphanian national pool, and then chose to immigrate to Alpha knowing that the state of Alpha only has a duty to its citizens ensuring them that the social circumstances necessary for the maintenance of a sufficient national pool of people from which one can seek out a romantic partner or friend are themselves maintained, the state of Alpha is under no

only whether or not the limits are *known* to its citizens. For example, if it was explicitly *known* to all within some country that all LGBTQ+ relationships were not going to be allowed by the state, and an LGBTQ+ citizen chose to form a relationship with someone from outside the heterosexual pool of people from which they could seek out others and form intimate relationships, it is hardly permissible in any moral sense for the state to disallow or disrupt said relationship for the reason that the person *knew* that LGBTQ+ relationships were not condoned by the state. The reason why it is unjust is because it is (presumably) unjust for the state to enforce such restrictions on who their citizens may seek out to form intimate relationships. Thank you to Lucas Johnston for pointing this out.

obligation to admit B into its territory. Furthermore, since A knew they were planning on moving from Omega to Alpha, they should have either accepted that their intimate associations with their fellow Omegans could become severely compromised once they immigrated to Alpha, or simply refused to actively form intimate associations with any Omeganian, to avoid the possible heartbreak of separation once they went through with their plans to immigrate. Perhaps they could have even used the communicative means available in today's day and age to reach out and form intimate associations with Alphanians in order to have close interpersonal relationships that they both had actively chosen and could effectively maintain upon their arrival in Alpha. Nevertheless, the state of Alpha adamantly maintains that for these reasons, it is under no obligation to grant B entry into its territory.

Fortunately, the line of reasoning in the state of Alpha's reply to A is deficient. To place such expectations on A would be implausible for a number of reasons. For one, this would require an incredibly demanding amount of foresight on A's part about the kind of life that they want to live, and how this will impact their close affective ties with others – so demanding that it is likely impossible, or at least incredibly unreasonable, to expect from A. To expect this kind of foresight on A's part would be to expect them to know fairly early in their life if they desired to move elsewhere, and then form or not form relationships with their fellow Omegans or foreign Alphanians accordingly. In fact, if all that the state has a duty to do is promote and facilitate social practices that foster the kinds of circumstances which allow its *citizens* to seek each other out and form intimate associations within the national boundaries, then there is no guarantee that A would even have a real opportunity to form intimate associations with Alphanians prior to their arrival, since until they become a citizen of Alpha, no duty to ensure their access to the national pool of Alpha is owed. In such circumstances, A should have either

held off on forming intimate associations with fellow Omeganians, or accepted that their intimate associations with Omeganians could become severely complicated once they immigrate to Alpha.

By expecting a citizen like A to have either refrained from forming intimate associations during their life as a non-citizen of Alpha, or accept that their relationship with their spouse or close friend could be severely compromised, the state of Alpha is placing unreasonable, unfair, and even cruel expectations on their now-citizen. People come embedded with important social ties,³¹⁸ and the state cannot reasonably expect its immigrant citizens to cut those ties, or arrive without them. Because of these pre-existing ties, immigrant citizens can rightfully point out that their interests in actively forming and maintaining close interpersonal relationships with others cannot be met in the same way as those citizens who had the fortune of having their citizenship and the pool from which they were able to seek out and form intimate associations with others be tied to the same country for the entirety of their lives. A could say that it was not a matter of their choosing that they were born outside of Alpha, nor was it of their choosing that for part of their life the only national pool from which they could seek out others to form intimate relationships was not the national pool of Alpha. Nevertheless, as a current citizen of Alpha, A's interest in forming and maintaining these kinds of relationships with others is to be taken as seriously as the interests of their fellow non-immigrant citizens. Due to their particular circumstances, the "sufficient" national pool from which citizens can seek each other out and form intimate associations is not sufficient for immigrant citizens like A, who were only guaranteed access to Alpha's national pool for a part of their lives. Therefore, the state of Alpha does have an obligation to grant entry to B, if they are to take seriously A's right to form and maintain close

³¹⁸ Susan Sherwin and Meghan Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," in *Health Expectations* 14, no. 2 (2010), 184-186.

affective ties with others. To not grant entry to B would be to make A's immigration process unbearably costly from an emotional standpoint.

Now, suppose that A and B did not previously live together in the country of Omega before A's immigration to Alpha. Instead, let us assume that A was born in Alpha, and has lived within its boundaries their whole life. One day, while A is attending a philosophy seminar, they meet a classmate by the name of B. B is a charming and intelligent foreign exchange student from the country of Omega, and soon the two begin to talk and discover that they have much in common. Eventually, A works up the courage to ask B out on a first date (which goes swimmingly, by the way), and over time both A and B recognize that they are in love. They decide to marry, and A sponsors B's immigration so that they may live together for the rest of their lives. Unfortunately for them, when the state officials of Alpha catch wind of A and B's plans, they send a letter to A informing them that the state of Alpha is under no obligation to grant B entry into the country to live on a permanent basis, as the state is only required ensure that the social practices and circumstances necessary for the maintenance of a sufficient national pool of people from which citizens can seek each other out and form intimate associations are themselves maintained. Therefore, since A chose to go outside of this national pool of people, and instead form an intimate association with a foreigner, to grant entry to B would be beyond the scope Alpha's duty to ensure that the right of A to form and maintain intimate associations is respected.

In the past, this line of reasoning may have been more appealing. However, in the highly interconnected and globalized world we live in today, the state of Alpha's response to A is not immediately plausible. Given the kind of world we live in today – namely, one where we are constantly interacting with people from all over the world via the internet or in person – the

environment in which we form associations of all kinds with others has changed significantly from that of the past. More and more, this environment is one that is globalized, and thus a larger proportion of our interactions are with foreigners than they ever were in the past. For the state to be required only to support the social practices necessary for the subsistence of a sufficient national pool of people from which citizens can seek each other out and form close affective ties, the freedom of its citizens to form intimate associations with others is limited more significantly than those citizens of a less interconnected and globalized past, since such a state policy would effectively limit more of the interactions that modern citizens have with others which they can actively pursue to form more deeper connections. Therefore, it is unclear whether this national pool from which citizens can seek out others to form close affective ties is sufficient, as perhaps it was in the past.

All of this being said, there is an underlying issue with one of the assumptions built into the sufficient national pool objection: specifically, the claim that our most intimate relationships with our spouses and/or close friends are *chosen*. We obviously consent to form these kinds of relationships with our spouse or our friend, and actively choose to maintain the association through frequent interactions with one another. Yet, there is also a sense in which we do not fully *choose* who it is that we love. We are not fully in control of our desires, and neither can we fully control what we find attractive in another. Nor is the process of forming an intimate relationship with another one that is fully calculated and deliberative. Instead, the process of falling in love, or forming a close friendship, is one that is often spontaneous. We come to know one another bit by bit, whether it is via small informal conversations, seeing how one behaves in a shared setting or environment, hearing about who they are as a person through mutual acquaintances, and so on. Eventually, and perhaps even before either person fully recognizes it, each person is to the

other an irreplaceable and invaluable part of their life, without whom their well-being (and autonomy) would be severely compromised. Cheesy as it may be, perhaps there is wisdom in the words “*don’t look for love; let love find you.*”³¹⁹ Regardless, if the process of forming an intimate relationship with another is something in line with what I have described, it is no longer evident that those close interpersonal relationships we form ourselves are always truly *chosen*, in the full sense of the term. If so, then it is unclear that individuals should be fully responsible for the implications of the intimate relationships they form with others, in the sense that the proponent of the sufficient national pool objection advances, as it would be unfair for the state to deny entry to those foreigners with whom their citizens *chose* to form intimate ties.³²⁰

3.5 The Limits to the Right of Reunification

3.5.1 Addressing the Non-Idealist Worry

The right to form and maintain close affective ties with our parents, children, romantic partners, friends, family, and other loved ones is a fundamental right that all individuals possess. As I have argued in this thesis, the right is grounded in the basic interest individuals have in forming and maintaining these kinds of close interpersonal relationships, insofar as they are crucial towards the development and exercise of our autonomy. Nevertheless, as it is arguably the case with all rights, the rights to form and maintain close interpersonal relationships with others are not unfettered rights. I have argued that just states have a presumptive duty to adopt a more relaxed border policy for those wishing to enter the country in order to reunite with a loved

³¹⁹ Here’s an online article from which I took the quote: <https://www.theodysseyonline.com/dont-look-for-love-let-love-find-you>.

³²⁰ Thank you to Steven Lecce for helping me construct this reply.

one. Yet, as do other philosophers,³²¹ I concede that it is morally permissible for just states to enact restrictions on who they allow into their territory if those restrictions can be justified, and only to the extent that is required. This is distinct from the conventionalist position, since what is being proposed is not that states have a right to enact restrictive border policies, but instead that the onus is on the state to demonstrate a sufficiently weighty consideration that would justify the restrictions, and only to the extent that is required.³²² Ideally, all just states would adopt an open border policy towards those who live outside of their territory, but who share close affective ties with its citizens. Unfortunately, states often face legitimate constraints on the amount of foreigners they can take in.³²³ There may be times when restrictions must be enacted if states are to, say, curb the spread of a deadly disease, or prevent the complete overload of their migration system. There may even be justifiable limits placed on reunification claims because of the demands placed on the state to fulfill other potential duties of migration,³²⁴ such as admitting refugees or skilled workers.³²⁵

This concession also leaves unanswered the following non-idealist worry: if justifiable limits can be placed on immigration, by what criterion or criteria should political societies base their prioritization of certain prospective immigrants over others? And, if restrictions on the movement of those who wish to permanently reunite with their loved one(s) can be justified, by

³²¹ Carens, “Aliens and Citizens,” 259; Lindauer, “In Defense of a Category-Based System for Unification Admissions,” see pages 9-16 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>; Wilcox, “The Open Borders Debate on Immigration,” 816; Young, “Caring Relationships and Family Migration Schemes,” 78.

³²² I will note that this concession is in line with the interest theory of rights that I have adopted as the theoretical framework for the right to form and maintain close affective ties with others, and the right of reunification, since the interest framework allows for right claims to be justifiably outweighed by other sufficiently weighty moral considerations.

³²³ Lindauer, “In Defense of a Category-Based System for Unification Admissions,” see page 12 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

³²⁴ Ibid., see pages 9-16 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

³²⁵ Ibid., see page 13 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

what criterion or criteria should states prioritize certain reunification claims over others?³²⁶

Within the scope of the second question, the kinds of relationships that should be prioritized, as I will argue, are very likely the ones that we already hold by intuition to be of utmost importance: those between parents and their children, and those between romantic partners. In addition, I hold that other kinds of close interpersonal relationships, like those between caregivers and adult dependents and close friendships, can also ground a considerably weighty reunification claim. I will begin by placing my focus on exploring what kind of intimate associations ought to have priority over others should justified limits be placed on the amount of reunification claims a receiving state can accommodate. Afterwards, I will briefly consider how reunification claims stack up against other kinds of immigration claims.

3.5.2 Issues of Prioritization

Ultimately, what should ground the prioritization of one kind of intimate association over another is the extent to which the relationship is essential for the fostering of the members' autonomy. As the theoretical framework established in the previous chapter for the right to form and maintain close affective ties with others is grounded in a relational conception of autonomy, our method for prioritizing certain reunification claims over others is one that pays special attention to the embodied social environment of autonomous agents, the intricate and complex web of social relations individuals are embedded within, and the extent to which our autonomy is developed, maintained, and fundamentally dependent on our relationships with others.³²⁷ As such, if prioritization must take place, then I suggest that schemes of migration should prioritize those relationships which the development and maintenance of our autonomy are typically most dependent upon.

³²⁶ Wilcox, "Immigrant Admissions and Global Relations of Harm," 274.

³²⁷ Sherwin and Winsby, "A Relational Perspective on Autonomy for Older Adults Residing in Nursing Homes," 184.

This seems to make sense intuitively; surely, one's autonomy is more likely to be compromised if one is separated from their mother rather than their third cousin twice removed. However, this approach does not preclude any particular kind of intimate association from grounding a sufficiently weighty reunification claim. Given the way individuals currently form and have historically formed close affective ties, it is *very likely* that the intimate associations that will pack the most normative weight are: parent-child relationships; spousal relationships; caregiver-adult dependent relationships, and; close friendships. Yet, there are many other kinds of relationships that play a role in the development and maintenance of one's autonomy: for example, the relationship between siblings, cousins, uncles/aunts and their niece(s) and/or nephew(s), and so on. The account being proposed does not deny that some of our most intimate and fully interpersonal relationships are the ones we have with our siblings, uncles, aunts, nieces, nephews, third cousins twice removed, and so on. Nor does this account deny that some of these kinds of relationships ought to be prioritized over some of the relationships that are typically understood as being our most intimate. For example, one's reunification claim with their third cousin twice removed may take priority over their reunification claim with their mother, if one was considerably closer with their third cousin twice removed than they were with their mother.³²⁸ It is simply my understanding that the interpersonal relationships that will likely be the most crucial towards developing our sense of self-worth, constructing our conceptions of how we wish to live our lives, and fostering our abilities to actively pursue projects informed by

³²⁸ There is a worry here concerning whether the state should be in the business of determining the normative weightiness of relationships, and if so, to what extent they should be granted this power. This is a legitimate concern that would have implications for the account of reunification in this thesis. However, as the discussion surrounding this concern would take us away from the ethics of migration, and more into the role which the state should or should not play in the regulation of intimate associations, I will simply make note of this concern here.

said conceptions will be the ones we form with our parents, children, caregivers, dependents, spouses, and close friends. But, this will not always be the case.³²⁹³³⁰

There may be a concern about the inclusion of close friendships in the reunification scheme being proposed.³³¹ There are many kinds of people in our lives that we may call friends, such as our acquaintances, co-workers, teammates, and so on. While we may take enjoyment in their company, open ourselves up to them and reveal some of the content of our lives, many of these friendships eventually teeter off and come to an end as we move on with our lives and form new associations, with little to no hindrance to one's autonomy. In fact, moving on with one's life, forming new associations with new people, and letting old friendships fade away may very well be a part of what it means to live one's life autonomously. Thus, it may be advanced by a critic that my account over-idealizes friendship. I grant part of the objection: most friendships will not usually be sufficiently weighty enough to ground a reunification claim. However, when I speak of close friendships, I am referring to those we may call our 'best friends'. When we think about some of our deepest and most intimate friendships, there is nothing morally distinct about them when juxtaposed with many of our familial relationships. Both kinds of relationships are crucial for the development and maintenance of the members' autonomy; they are invaluable and irreplaceable to their members, and; their continuation is dependent on frequent interactions

³²⁹ As a matter of policy, it may be prudent or practical to simply give priority to these particular types of relationships.

³³⁰ It is also worth noting that reunification claims grounded in the maintenance of pre-existing relationships would likely be prioritized over those claims that are grounded in one's interest to form an intimate association, as a disruption of the former would likely have considerably larger detrimental implications when compared to disruptions of the latter. Thank you to Sarah Hannan for pointing this out.

³³¹ Ferracioli, "Family Migration Schemes and Liberal Neutrality," 568-570; Lindauer, "In Defense of a Category Based System for Unification Admissions," see pages 9-13 in the following document: <https://philpapers.org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

between members in physical proximity with one another. Thus, reunification claims grounded in close friendship should also be given the moral consideration they are due.³³²

There is an additional concern regarding how reunification claims should be prioritized if all relevantly important reunification claims have been filtered into a pool of equally weighty claims, and still priority must be given to certain claims over others. For example, if the state can only grant entry to one more immigrant who stood to be reunited with a loved one, and must decide between my claim to be with my mother versus your claim to be with your mother, how should the state decide between these two equally weighty claims? Or, say that person X is in a polyamorous relationship with two other people, and the state can only grant entry to one of X's partners. Again, how should the state prioritize amongst equally weighty moral claims of reunification? These are but a few examples of the kinds of complications that could potentially arise once priority must be given to certain reunification claims over others from amongst a pool of claims already deemed high priority.³³³ In such a scenario, I propose a lottery method be implemented to ensure a fair decision making process. Since all claims would receive equal chance of being prioritized under such a decision making scheme, a lottery would give equal consideration all equally weighty claims. Under circumstances where all other morally relevant considerations are held equal, a method which ensures fairness in the decision making process should be the deciding factor when prioritizing certain reunification claims over others.³³⁴

³³² For more on this debate, see Ferracioli, "Family Migration Schemes and Liberal Neutrality," 568-570; Lindauer, "In Defense of a Category Based System for Unification Admissions," see pages 9-13 in the following document: <https://philpapers-org.uml.idm.oclc.org/archive/LINIDO-5.pdf>.

³³³ Thank you to Chris Hunt, Sarah Hannan, and RJ Leland for bringing different versions of this issue to my attention.

³³⁴ There is a concern I have regarding how to grant priority between caregiver-dependent relationships and relationships between independent adults. For example, if we were to refer back to my claim to be with my mother contra your claim, how would the moral dynamic of this dilemma change if I was already an adult, but you were a child and therefore dependent on your caregiving relationship with your mother in a way that I was not? I am inclined to say that in such a scenario, priority should be given to those reunification claims whereby a caregiver

Finally, there may be feasibility concerns with expanding the scope of reunification to include all kinds of irreplaceable and meaningful relationships. Expanding the scope of reunification claims in the way advocated in this thesis would undoubtedly require changes in our bureaucracies to implement the procedures necessary to assess all of these different kinds of reunification claims. For one, civil servants would need to move away from relying solely on birth or marriage certificates, and would have to take new approaches in order to assess whether or not the reunification claims they were administering were genuine. Luckily, I do not believe that this shift would require a radical kind of institutional change. Instead, bureaucrats could implement some of the methods that are already used to determine the validity of contemporary reunification claims. For example, some civil servants tasked with administering reunification cases will ask for tokens from claimants (such as love letters, photos, text messages, or even slightly embarrassing emails), or they will conduct interviews and gather testimonies in order to determine whether or not the relationship is genuine. Many of these strategies could be thus be re-implemented to determine whether or not persons do in fact share the kind of relationship they claim to share.³³⁵

Before I conclude, I wish to briefly consider the first non-idealist worry: specifically, if justified limits are to be placed on immigration in general, how should we prioritize who we let in? Without delving into a full normative assessment comparing all of the different kinds of immigration (which would be far too cumbersome a task for this thesis), I do believe that there is *a* reason to think that reunification claims *may* be prioritized over other kinds of immigration. For one, this is because reunification claims are grounded in the basic interest we all have in

stands to be reunited with a dependent, since dependents likely stand to have their limited personal autonomy more severely disrupted should they be separated from their caregivers when compared those who share an intimate association as fellow independent adults.

³³⁵ Ferracioli, "Family Migration Schemes and Liberal Neutrality," 571-572.

being with our loved one(s), and as such it bears considerable moral weight in their own right. Yet, there is also the lack of any sufficient method for satisfying the interests of those who stand in morally significant relationships with non-citizens other than by granting entry to said loved ones that sets reunification apart from other kinds of immigration.

If some of the writers we have previously discussed are correct,³³⁶ many of the interests of asylum seekers or economic migrants can be sufficiently met through exportable means: for example, by sending foreign aid, establishing safe locations for refugees to flee, or engaging in other kinds of foreign intervention.³³⁷ Unfortunately, these exportable means are not available to states when they are tasked with discharging their duties towards citizens who stand to be reunited with their non-citizen loved one(s). Thus, such reasoning could be presented in favour of prioritizing reunification claims over other kinds of migratory claims; not because reunification claims necessarily carry more normative weight than the claims of refugees who wish to avoid persecution, or economic migrants who seek financial opportunities, but simply because of the lack of exportable means that are available to states to meet the interests of those who wish to be reunited with their loved one(s) who reside outside of the country. Be that as it may, if all of the relevant interests of other migrants were taken into consideration in a full normative assessment, it is unclear how much priority reunification claims would be given over other migratory claims that require a non-exportable response. For example, migrants who have been displaced from their homes have weighty interests in obtaining membership in a stable political community - an interest which can only be met via some state granting them entry into their territory, and membership in their society. Therefore, it is not evident how reunification

³³⁶ Miller, "Immigration," 202-203; Thomas Pogge, "Migration and Poverty," in *Contemporary Political Philosophy: An Anthology*, eds. Robert Goodin and Philip Pettit (Oxford: Blackwell, 2006), 710-720; Wellman, "Immigration and Freedom of Association," 128.

³³⁷ I will note here that, personally, I am very sceptical of this empirical claim.

claims are to be prioritized when all other migratory claims that cannot be met via exportable methods are fully considered.³³⁸

That being said, while the account of reunification I have presented in this thesis *could* be used to defend shifting migratory priorities towards reunification and away from other migratory claims, on its own it is not conclusive in this regard. In other words, this thesis says very little regarding the nature and the scope of duties the state has towards other kinds of immigrants. What the thesis does instead is provide reasons to believe that the state *does* have unacknowledged moral duties to admit immigrants who stand to be united with their loved one(s). Thus, keeping other migratory duties constant, it would seem that the account for reunification as presented in this thesis provides more immediate reasons for expanding immigration, and less for maintaining or further restricting the amount of immigrants states currently take in, and instead prioritizing reunification claims over other migratory claims.

³³⁸ Thank you to RJ Leland for bringing this to my attention.

Conclusion **Intimacy, Borders, and Beyond**

Justice and Reunification

Joseph Carens, at the very beginning of *Aliens and Citizens*, makes a rather blunt observation: “*borders have guards, and the guards have guns.*”³³⁹ Something that is an obvious fact of political life, the use of force to keep others out is also very easily hidden from view – or, at least the view of citizens from affluent nations. Nevertheless, as normative philosophers, it is important to consider what gives anyone the prerogative to point a gun at another in order to keep them from crossing a country’s border and entering the territory within its boundaries. To most people, the answer to this inquiry will be some version of the conventionalist position on global migration: sovereign states have the right (both moral and legal) to admit or exclude foreigners, plain and simple. Perhaps the state right to associate or exclude others as they see fit is granted for if it were not, the political self-determination of legitimate states would be compromised.³⁴⁰ Or, since the state’s ability to maintain, produce and sustain its distinctive communal relationships and associated benefits is undermined if they are not both exclusive and bounded, a state right to exclude others is required.³⁴¹ Regardless of the conventionalist account one endorses, the general conviction is that, broadly speaking, states have a right to keep unwanted foreigners out of their territory via the use of force, which gives them the prerogative to point guns at those unwanted foreigners who seek to cross their borders.

³³⁹ Joseph Carens, “Aliens and Citizens: The Case for Open Borders,” in *The Review of Politics* 49, no. 2 (1987), 251.

³⁴⁰ USD Center for Ethics, Economics, and Public Policy, “Christopher Wellman: Immigration and the Right to National Self-Determination,” filmed (March 16th, 2017), YouTube video, posted December 5th, 2017. https://www.youtube.com/watch?v=Sv2_3iewehY; Christopher Wellman, “Immigration and Freedom of Association,” in *Ethics* 119, no. 1 (2008), 109-141.

³⁴¹ Michael Walzer, “Membership,” in *Spheres of Justice: A Defense of Pluralism* (New York: Basic Books, 1982), 31-63.

My thesis challenges this view. By highlighting the normative value which our most intimate and closest associations hold and the ways in which restrictive immigration policy severely hinder our capacity to form and maintain these kinds of relationships with foreigners, I posit that the conventional position on global migration is mistaken. As I have argued, states have duties to refrain from unduly intervening, undermining, or otherwise disrupting our closest of relationships, for without them our autonomy would be severely compromised. In turn, the state's obligations towards ourselves in relation to our affective others place constraints on the immigration policy states may justifiably enact.

Close interpersonal relationships like the family, romantic relationships, caregiver-dependent relationships, and close friendships carry incredible normative weight. In fact, I hold that close interpersonal relationships of these sorts carry such normative weight that it is plausible to capture their value, and our interest in forming them with others, as a right that all individuals possess. All have basic interests in being able to form and maintain these kinds of relationships with others, and despite the plethora of possible reasons for why we all share this basic interest, I ground my account for the rights to form and maintain close affective ties with others in relation to the development and subsistence of our autonomy. The intimate associations we form with others are: crucial for the maintenance of our sense of self-worth and self-esteem; an important source from which we draw to construct our conceptions of the good and give meaning to our projects, and; essential for the development and exercise of both children and adult dependants' personal autonomy. Thus, all have a right to form, maintain, and enjoy their close interpersonal relationships with others.

When paired with a normative account of the family, romantic relationships, friendships, and so on, the state's obligation to grant entry to those seeking to reunite and live with a loved

one is further compounded for a very practical reason: namely, because there is no sufficient alternative for discharging its duty of non-disruption towards those citizens who wish to reunite with those foreigners whom they share close affective ties. Unlike private associations like the family, clubs, and neighbourhoods, states have the ability to significantly restrict the ability of its members to associate with non-members. Where a state chooses to adopt more restrictive border policies, the ability of their citizens to meet face-to-face and form associations with non-members of the polity will be seriously curtailed.³⁴² Therefore, if states have the freedom to choose who they will allow into the country, and if they use this freedom to adopt more restrictive border policies, this would not only significantly diminish the overall pool of potential people with whom their members can form associations, but would also severely hinder the ability of their members to meet face-to-face and maintain their relationships with those whom they already share personal ties, but who reside outside of the state's territory. Associations formed with our family, friends, and romantic partners are both invaluable³⁴³ and require frequent face-to-face interactions for their subsistence;³⁴⁴ in turn, these characteristics effectively bar the state from employing exportable means as sufficient measures for discharging its duties of reunification.

Non-ideal theorists rightfully highlight the limits of ideal theories of immigration, and the need to consider how the state *ought* to prioritize certain migratory claims over others when

³⁴² Kieran Oberman, "Immigration and Equal Ownership of the Earth" in *Ratio Juris* 30, no. 2 (2017), 149-150.

³⁴³ D.O Brink, "Eudaimonism, Love and Friendship, and Political Community," in *Social Philosophy and Policy* 16, no. 1 (1999), 252-289; Luara Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," in *Journal of Moral Philosophy* 13, no.5 (2016), 566; Nancy Sherman, "Aristotle on Friendship and the Shared Life," in *Philosophy and Phenomenological Research* 47, no. 4 (1987), 589-613; J.E. Whiting, "Impersonal Friends," in *Monist* 74, no. 1 (1991), 3-29; Caleb Young, "Caring Relationships and Family Migration Schemes," in *The Ethics and Politics of Immigration: Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 78.

³⁴⁴ Aristotle, *Nicomachean Ethics*, trans. Terence Irwin (Indianapolis/Cambridge: Hackett Publishing Company Inc, 1999), 1157b-58a; Robert Sharp, "The Obstacles Against Reaching the Highest Level of Aristotelian Friendship Online", in *Ethics and Information Technology* 14, no.3 (2012), 237.

justifiable limits on immigration are enacted. Following this, I also consider how the state should prioritize migratory claims from within the pool of those wishing to migrate in order to be with a loved one, as I will consider how reunification claims stack against other migratory claims in the order of prioritization. Given the normative account for the right to form and maintain close interpersonal relationships that I develop in the second chapter, I suggest that a non-ideal scheme of reunification should prioritize those relationships which the development and maintenance of our autonomy are typically most dependent upon. Finally, I suggest that reunification claims may be prioritized over other kinds of immigration not because they necessarily carry more normative weight, but instead due to the lack of exportable means available to states to meet the interests of those who wish to be reunited with their loved one(s) who live outside of the state's territory. However, if the interests of all other migrants were fully considered in a more comprehensive normative assessment, this prioritization is not evident.

Limitations and Further Research

For the final section of this thesis, I will make note of this project's most significant limitations, as well as suggest some promising routes for future normative writings in the area of reunification and global migration. One of the more obvious limitations for the account of reunification that I develop in this thesis is its predominantly liberal roots. As I have constructed it, a plausible conception of the normative value of close interpersonal relationships, and our interest in forming them with others, is one that captures this notion as a right that all individuals have insofar as they are pivotal in the development and subsistence of one's personal autonomy. By implementing elements from the liberal political and philosophical tradition, the normative appeal of the account for reunification is bolstered amongst those who endorse liberalism and the value of autonomy in some shape or form. Be that as it may, the scope of its appeal is limited

beyond the boundaries of liberalism and its sympathizers, as well as those who hold that an account of the family, love, and friendship grounded in the development and subsistence of our autonomy is unsound or otherwise suspect. In fact, a significant limitation of the autonomy account for reunification is its assumption that members of the relationship are themselves autonomous to some extent. Thus, while the autonomy account developed here may plausibly capture an aspect of *why* it is so important that spouses, friends, parents, children, caregivers, and dependents be reunited, it would have difficulty providing plausible grounds for the reunification between caregivers and dependants who have very little to no autonomy. Therefore, the autonomy account should be supplemented with an additional account if the relationships between caregivers and dependents with severely limited autonomy are to be more plausibly considered.³⁴⁵

The reason for specifically developing a predominantly *liberal* case for the right of reunification is twofold. Firstly, and unsurprisingly, I happen to find the account that I developed in this thesis to be fairly plausible. More specifically, I hold that a case for the right of reunification that recognizes how crucial one's intimate associations are for the development and subsistence of one's ability to be one's own person and live life as one sees fit is, plain and simple, sound. It is also an account that is compatible with similar approaches taken by those who have written on reunification,³⁴⁶ and is designed to be fairly appealing to fellow philosophical and political liberals. The second reason is a strategic one. Amongst those notable philosophers in the field of global migration that I address here, all present accounts on global

³⁴⁵ Thank you to Sarah Hannan for bringing up this point.

³⁴⁶ Ferracioli, "Family Migration Schemes and Liberal Neutrality: A Dilemma," 553-575; Matthew Lindauer, "Entry by Birth Alone?: Rawlsian Egalitarianism and the Basic Right to Invite," Forthcoming in *Social Theory and Practice*, 1-29; Matthew Lister, "A Rawlsian Argument for Extending Family-Based Immigration Benefits to Same-Sex Couples," in *University of Memphis Law Review* 37, no. 4 (2007), 745-780; Young, "Caring Relationships and Family Migration Schemes," 61-84.

migration that are compatible to some degree with liberal political and philosophical understandings.³⁴⁷ Since an objective of mine was to demonstrate the soundness of the right of reunification upon the very same philosophical grounds that others have developed accounts for the state's right to exclude unwanted foreigners, and highlight some of the theoretical and logical inconsistencies with the liberal conventional view on global migration, there is a further incentive to develop an account that challenges the conventional view of global migration on liberal grounds.

That being said, I do not believe that liberalism is the only political tradition that can ground a normative case for the value of reunification in the political sphere. In fact, and perhaps most interestingly, it is my suspicion that plausible accounts for the prioritization of reunificatory policies and a state obligation to grant entry to those foreigners who share morally significant relationships with citizens can be developed from political and philosophical traditions that, at least *prima facie*, would seem committed to some version of the conventional position on global migration. For example, a fundamentalist conservative may hold that tradition, religion, and the family are important ends in themselves, and that political institutions are justified insofar as they are conducive towards the promotion of tradition, religion, and the family.³⁴⁸ At the same time, the fundamentalist conservative may hold that order within a political society, or the advancement of a national sense of identity or allegiance,³⁴⁹ are also important political objective. In turn, restrictive migration policies may be justified if order or a sense of national

³⁴⁷ A possible exception here is Walzer, who draws on elements of communitarianism when developing his normative account for the state's right to exclude.

³⁴⁸ N. Ashford, "Michael Oakeshott and the Conservative Disposition," in *The Intercollegiate Review* 25 (1990), 40-41; Andy Hamilton, "Conservatism," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2020), <https://plato.stanford.edu/entries/conservatism/>.

³⁴⁹ Hamilton, "Conservatism," <https://plato.stanford.edu/entries/conservatism/>; Roger Scruton, *The Meaning of Conservatism* (Harmondsworth, Middlesex: Penguin, 1980), 27.

identity is to be protected. Yet, if the family is both an important end in itself and a crucial site of socialization from which traditional and religious practices are propagated from parents to their progeny, then it may be that migration policies which hinder reunification *undermine* rather than advance the conservative normative project.

A fully-fledged communitarian, and not just the Walzerian-lite type, may advance a similar position in support of the conventionalist view on global migration. Communitarians recognize that it is from one's community that one's identity is formed, and that individuals need to experience their lives as ones that are bound up with the goods of their communities if they are to live meaningful lives. Thus, a (if not the) primary political project of the communitarian is to identify those forms of community that are indeed valuable, and devise policies conducive towards their protection and promotion. One such community may be a kind of community of memory, one that is shared by a group of strangers who share a morally-significant national history. Communities of these sorts are imagined, going back several generations that tie its members to the past, provide meaning and hope to their lives, and embed their actions ones that contribute to the ideals and aspirations of past generations as well as the common good of all. Various kinds of nation-building exercises and policies may be designed to foster ties and bonds of national commonality amongst citizens; one such policy may be the endorsement of a restrictive border policy designed to protect the national ties and sense of identity shared by the members of the political community.³⁵⁰

However, another valued communal form is psychological face-to-face communities animated by sentiments of love, altruism, trust, immediate togetherness, and co-operation. In a

³⁵⁰ Daniel Bell, "Communitarianism," in *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, (Stanford: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University, 2020), <https://plato.stanford.edu/entries/communitarianism/>. See also Robert N. Bellah, Richard Madsen, William M. Sullivan, Ann Swidler, Steven M. Tipton, *Habits of the Heart* (Berkeley: University of California Press, 1985).

sense, psychological communities are more “real” than the imagined communities of memory, as the members are known to one another, share close affective ties, engage in constant face-to-face social interactions, and are comparatively quite restricted in size. As it turns out, the close interpersonal relationships that were the focus of this thesis, like the family, romantic relationships, and close friendships, are prototypical examples of psychological communities. Alongside the conservative, since communitarians tend to favour policies that are conducive towards the protection and advancement of such psychological communities, migration policies that would disrupt our deepest and most intimate forms of association may undermine rather than advance communitarian political objectives.³⁵¹ In fact, if it is the case that particular forms of communal life are mutually reinforcing rather than conflicting, communitarians should endorse schemes of immigration that advance and protect psychological communities like the family, romantic relationships, and close friendships if they are also to foster the sense of togetherness, meaning, and hope required for the promotion of other communities, like the national imagined community of memory.³⁵²

Evidently, this brief inquiry into the alternative shapes a positive account for reunification may take is hardly meant to be conclusive. Instead, I wish to highlight potential routes for future philosophical exploration into the compatibility of a case for reunification across the political and philosophical sphere. From what has been presented thus far, the prospects of developing positive accounts for reunification similar to the one developed and presented in this thesis, but from different (even contradictory) philosophical grounds than the liberal ones presupposed here, seem promising. Future projects of this kind may even prove to be

³⁵¹ Bell, “Communitarianism,” <https://plato.stanford.edu/entries/communitarianism/>. See also L. Waite, “Social Science Finds: ‘Marriage Matters,’” in *Twenty-First Century Series in Communitarian Studies* (Washington: Institute for Communitarian Policy Studies, 1996).

³⁵² Bell, “Communitarianism,” <https://plato.stanford.edu/entries/communitarianism/>. See also E. McKenzie, *Privatopia* (New Haven: Yale University Press, 1994).

highly influential in the realm of global migration, as it would help to establish a kind of philosophical and political consensus on the issue of reunification. Of course, it is possible that some (or all) of these non-liberal philosophical traditions are, upon reflection, incompatible with a positive account for reunification. Regardless, it is my hope that, *at the very least*, future research starting from these differing angles will push non-liberal proponents of the conventional view on immigration to seriously consider the compatibility of their stances on the ethics of global migration, the protection of our deepest and most intimate inter-human connections, and what justifies the use of force against one who desires simply to be with one whom they share an invaluable and irreplaceable bond. According to the account developed in this thesis, little but the most extraneous circumstances meets this justificatory threshold.

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