

A Human Right to Relationships?

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Introduction

Is there a human right to close personal relationships? This would be a right to the existence of people who value the right-bearer for the right-bearer's own sake, whose wellbeing is invested in the right-bearer's wellbeing, who are inclined to be partial to the right-bearer over others, who help the right-bearer build a coherent life narrative, and who more generally provide the right-bearer with familiarity, understanding, closeness, love, care, and concern. Call such people 'intimates,' and the interests these people particularly fulfil 'intimacy interests' (or just 'intimacy').¹

The *prima facie* argument is easy: as Section 1 explains, intimacy is an important, universal, and fundamental human interest. However, Section 2 outlines problems for the distribution, demandingness, and motivation of the correlative duties. These problems imply that it's false that every human is owed intimacy from some specifiable agent. Instead, I argue, each human has a right—which entails duties for all moral agents—to intimacy *consideration*: a right that each agent gives careful consideration to the sources and boundaries of that agent's intimacy inclinations. Unfortunately, the correlative duties do not always produce intimacy.

Fortunately, there is more to be said. Drawing on debates about so-called 'third generation' or 'cultural' human rights, Section 3 argues that intimacy is akin to what Jeremy Waldron (1987) called 'communal goods' and Denise Reaume (1988) called 'participatory goods': these are goods essentially held by a *group* of co-intimates. The group-level good has value that's distinct from, and additional to, the sum of the value of each member's interest in the group-level good. The group has a right that others respect, protect, and promote the group's intimacy. The correlative duties do not face the problems of distribution, demandingness, and motivation that plague the individually-held right to intimacy. Additionally, the high value that accrues at the group level implies that the group-held right to intimacy is more demanding than the individually-held right to intimacy consideration. For these reasons, I propose we think of intimacy-related human rights primarily as group-held rights.

1. The *Prima Facie* Argument

I'll assume there is a human right to some good if and only if each human is enforceably owed that good from some agent(s), where the agent(s) wrongs the human if the human lacks the good. Being 'enforceably' owed means the right-bearer (or their representative) is permitted to impose proportionate costs on the duty-bearer to extract the good and is entitled to demand compensation or redress if the good is not given. The agent(s) enforceably owes that good to that human simply in virtue of the human's being a human, meaning the agent(s) owe that good to that human independently of specific institutional

¹ Intimacy can arise between people regardless of their biological, sexual, or domestic relationships. I use the term 'intimates' to be neutral on these relationship-types.

arrangements.² This conception has the benefit that human rights exist across various social-political arrangements.

Furthermore, I assume an interest theory of rights: rights protect (or demand respect or promotion of) the interests or benefits of the right-bearer, rather than the will or choices of the right-bearer.³ Interest theory boosts the prospects for the human right to intimacy: the groups that (I'll argue) bear the human right to intimacy are not always organised groups, capable of making choices or having a will—so they cannot always be rights-bearers under the 'will' theory. That said, I'll assume humans' interest in intimacy is an interest in the *opportunity* for intimacy, which humans may not choose to take up. So choices play a role in the account.

To see intimacy's distinctiveness, consider four 'levels' of social interests. First, some people have no social contact, for example if they are in solitary confinement or medical quarantine. These people have unfulfilled *contact interests*. Second, some people have human contact but their 'principal forms of social contact are persistently hostile, degrading, or cruel' (Brownlee 2013: 200). These people are denied the fulfilment of their *associative interests*. Third, some people have human contact that is non-threatening, decent, and supportive—but lack involvement in civic, communal, political, or collegial relations. Such people are missing out on the fulfilment of their *community interests*. Fourth are those who lack the fulfilment of *intimacy interests*: they might have non-threatening, decent, and supportive human contact, including civic, communal, political, or collegial relations—but they lack opportunities for intimacy, as characterised in the Introduction.

This typology matters, because arguments cannot always be transferred between different types of social interests. For example, Brownlee (2013) argues for a human right to decent contact and the conditions necessary to satisfy associative interests, by drawing on empirical research into the harms of severe social isolation, such as is suffered in solitary confinement, quarantine, and extended illness. Such evidence doesn't speak to the intrinsic value of intimacy. Similarly, since the 1980s there has been lively debate regarding human rights to community interests—particularly culture, language, and national self-determination. However, community interests do not face the problems that Section 2 will raise for intimacy, so arguments about community interests cannot be neatly transferred to intimacy. Also, community groups are large, intergenerational, and retain their identity across membership changes, while intimacy groups are small, non-intergenerational, and do not retain their identity across membership changes. This makes intimacy substantially different from other social interests, requiring different arguments for its value.

To further see the distinctiveness of intimacy, consider that intimates target *us* as a non-fungible being. To have intimacy is to be seen in one's particularity. As Harry Frankfurt put it, the 'focus of love' is 'the specific particularity that makes [the] beloved nameable—something that is more mysterious than describability, and that is in any case manifestly impossible to define' (1988: 170). Through intimacy relations, we console, comfort, advise, and bear witness to one another's particular lives. This contrasts with the more homogenised, impersonal, and fungible relations we have with our community members, let alone associates or transient contacts.

² Roughly, this is a 'naturalistic' or 'practice-independent' conception, rather than a 'political' or 'practice-dependent' conception. But as Liao (2012) points out, that distinction can obscure more than it illuminates, and I take it that core aspects of the naturalistic conception (such as the idea of 'enforcement') matter because of political practice—so I resist the labels.

³ On this distinction, see Kramer, Simmonds, and Steiner (2000).

How, then, might we argue for intimacy-related human rights? I'll assume an interest is a human right only if it is sufficiently morally important, universal across humans, and of fundamental value.⁴ The *prima facie* argument is that intimacy has these features.

To demonstrate intimacy's moral importance, we might turn to the distinctive moral reasons it gives us—as discussed in the literature on whether we are permitted (or required) to be partial to our intimates. Lawrence Blum elaborates:

we feel that particular relationships are not simply generators of agent-neutral good, but are rather expressive of a good which is internal to those special relationships; and that the moral dimension of those relationships, as generators of reasons for action, is bound up with this particularity, at least the particularity of that *type* of relationship. (1986: 354)

Likewise, Samuel Scheffler has argued that parties to some intimate relationships have good reason to non-instrumentally value the relationship—and, when these reasons exist, the intimates have reason to favour one another over non-intimates (2001: ch. 6, esp. 103-4; 2010: 140–5). If the moral reasons intimacy gives us are weighty enough to outweigh impartial moral considerations, then intimacy must be morally important.

Others embed intimacy's moral value within a broader moral theory. For example, David Velleman embeds it within a Kantian theory, arguing that intimacy allows us to glimpse the intrinsic value of our intimates. Of course, non-intimates have intrinsic value too—but without intimacy, our perception of that value is stymied (Velleman 1999). Thus, on Velleman's view, intimacy has perceptual value. Perceiving others' intrinsic value is surely of high moral importance. Coming from Aristotelianism, Martha Nussbaum embeds intimacy within her account of basic human capabilities: for Nussbaum, one of the core human capabilities that should be supported by all democracies is the capability for *emotions*, which includes '[b]eing able to have attachments to things and people outside ourselves; to love those who love and care for us, to grieve at their absence; in general, to love, to grieve, to experience longing, gratitude, and justified anger' (2011: 33-4).

Intimacy's moral importance also appears throughout the history of philosophy. Two of the ten books in Aristotle's *Nicomachean Ethics* are devoted to friendship, which is touted as 'most necessary for our life. For no one would choose to live without friends even if he had all the other goods.' (*Nicomachean Ethics*, 1155a5-6) Friendship is extolled by Western thinkers as diverse as Adam Smith (Den Uyl and Griswold 1996), John Locke (Yeo 2009), and Baruch Spinoza (Lucash 2012). Confucius hints at the value of partiality amongst friends, writing that '[i]t is more shameful to distrust our friends than to be deceived by them.' In friendships, we find the Confucian values of *xin* (fidelity or faithfulness), *le* (joy), and *rendao* (benevolence) (Yuanguo 2007). Kwame Anthony Appiah (1998) and Thaddeus Metz (2012) have each argued that partiality—that is, favouring of oneself and intimates—is central to traditional sub-Saharan African thought. Across time, theories, and traditions, then, intimacy has been viewed as morally important.

Is intimacy of *universal* importance? Yes. As infants and children, we crave intimacy with guardians. Parents, too, crave intimacy with their children—for good evolutionary reason (Sober and Wilson 1999: ch. 10; Cacioppo and Patrick 2008: ch. 4). If children lack intimacy, they struggle to form valuable relationships later in life, lack self-esteem, and suffer from various physical and psychological disorders (Liao 2015: ch. 4). This suggests all human children have an interest in intimacy.⁵ Adults, too, have a universal interest in

⁴ Similar assumptions are made by, e.g., Brownlee (2013) and Liao (2015: ch. 3).

⁵ Liao therefore argues that children have a human right to be loved. But he suggests adults may not, because 'part of the point' of adult friendships and romance is 'that one obtains these goods by one's own autonomous

intimacy. In evolutionary times, intimacy between adults was necessary for securing food, shelter, and reproduction. Contemporary adults who are lonely (which is presumably strongly correlated with lacking intimacy) suffer from a range of physical and psychological problems and illnesses (Cacioppo and Patrick 2008), which suggests that the evolutionary importance of intimacy has rendered it a universal human interest.

Is intimacy a *fundamental* interest? In one sense of ‘fundamental,’ this requires that intimacy is valuable, at least in part, for its own sake (not as a means to something else): that intimacy is an intrinsic, basic, or final value (Korsgaard 1983). It’s difficult to argue that anything is fundamentally valuable in this sense: if one could provide arguments, then whatever is appealed to in those arguments would be revealed as the true fundamental value, to which the purported fundamental value is potentially reducible. Usually one can only point to fundamental values—as the authors above do. I suspect anyone properly familiar with intimacy will attribute it fundamental value in this sense.

Yet there is a different sense of fundamentality, on which A is fundamental *to B* if A is necessary or conducive to B. On this meaning, a ‘fundamental’ value is not an intrinsic, basic, or final value (Korsgaard 1983). It is instead the source of another value, where that other value has intrinsic, basic, or final value. Consequentialists have used this sense of fundamentality to demonstrate that they can justify partiality amongst intimates: intimates tend to know best what constitutes each other’s wellbeing, or be most motivated to improve each other’s wellbeing, so there are aspects of wellbeing that only our intimates can promote or that they can promote most efficiently. For example, if you come down with a sudden illness, you’re much better off if you have intimates: they’re more likely than non-intimates to know what you need and be motivated to give it to you. Thus intimacy is ‘fundamental’ to being cared for when ill. (Sidgwick 1907: 427-39; Railton 1984: esp. 164; Jackson 1991; Keller 2006; Ferracioli 2014: 6-7, 13-4; Christiano (2011) argues that, in general, there is a human right to X if X is the most reliable way of protecting a basic human interest under normal socio-political conditions.)

Importantly, intimacy is fundamental (in this second sense) to some interests that are human rights. Here I follow Henry Shue’s (1996) strategy, which is to argue that subsistence is fundamental to the exercise of basic liberties. We can adapt Shue’s strategy to intimacy (as Shue himself does for the developmental interest in social inclusion—a slightly different interest from intimacy (this volume)). As feminists and communitarians have long argued, humans become autonomous agents in and through close relations with others (MacKenzie and Stoljar 2000; MacIntyre 1981). Without intimates with whom we build and sustain a life narrative, our sense of our values, plans, and goals is threatened or cannot emerge to begin with. If we lack a sense of our values, plans, and goals, then there is little point in having the freedom to speak what we think or practice what religion we want. That is, freedom of speech and religion are valuable only if we have preferences about our speech and religion. These preferences arise through our conceptions and constructions of ourselves, which are built and maintained through our interactions with intimates. In this way, intimacy is a precondition for (the valuable exercise of) some of the most uncontentious human rights (freedom of speech and religion).

Thus, intimacy is important, universal, and fundamental—including fundamental to some human rights. This gives us a prima facie argument that each human deserves the opportunity for intimacy. Of course, some might choose not to take this opportunity—just as someone with access to food might choose to fast. Happy fasters do not undermine the human right to food, any more than happy loners undermine the human right to intimacy. In both

efforts.’ (2015: 99-100) Yet this doesn’t speak against adults’ human right to an *opportunity* for love, where the value of the opportunity resides partly in the autonomy exercised when it’s taken up. Unlike Liao’s, my argument extends beyond children.

cases, the interest is compelling enough to generate a claim to the *opportunity*. Or so this initial argument suggests.

2. The Human Right to Intimacy Consideration

There are three broad problems with the idea of an individual human right to intimacy. Each problem arises from the ‘correlativity thesis’: ‘[t]he content of a human right is also the content of the corresponding duty’ (Griffin 2008: 97). To (i) retain the correlativity thesis, and (ii) make the duties action-guiding, we must ensure rights and duties are highly specified. For example, consider the ‘right against torture.’ Following the correlativity thesis, the corresponding duty is a ‘duty against torture.’ What range of actions does this demand? To answer this, we need to specify the duty—and, therefore, the right. Perhaps I have a right not to be tortured by the duty-bearer—in which case, there might be billions of individual and collective agents that bear duties, where each bears a duty not to torture me. Or perhaps, as Shue (1996: 13) put it, I have a right to have my non-torture ‘socially guaranteed against standard threats.’ Then, the duty is on my society to protect me from standard threats of torture. This is a different duty from the duty not to torture me. Action-guidance requires specific duties. Given the correlativity thesis, then, action-guidance requires specific rights.

Some authors deny the correlativity thesis, because some intuitive specifications of human rights are such that (in some situations) no one can have duties with that content. Take the right to education. If we specify this as ‘a right to be provided with an education by one’s political community,’ then in failed or incompetent states with impoverished populations, no entity can perform the duty—so, by ‘ought’ implies ‘can’, no entity can have the duty. We can preserve the right by denying the correlativity thesis: there is a human right to be provided with an education, which correlates with duties not to *provide* an education but to *try to do what one can* to provide an education (or some such). Liao does this with children’s right to be loved, saying

a right to X can exist whether there is a duty to X or just a duty to try to X, since the right can be a reason for either duty. If so, there can be a right of children to be loved even if there were just a duty to try to love a child, since this right can be a reason for either a duty to love or a duty to try to love (2015: 113-4).

Thus, to retain the right’s demandability, enforceability, and action-guidance, we say the duty requires ‘trying’ to realise the content of the right. But in that case, trying is what the right-bearer has a demandable and enforceable claim to: nothing more, nothing less. That’s *just to say* that trying is the content of the right. If the duty is to try, then that’s all that can be demanded and enforced, and that’s what duty-bearers should be guided to perform. The right has become demandable, enforceable, and action-guiding, but only by specifying the right in a way that retains the correlativity thesis.

Given the correlativity thesis, there are three problems for the human right to intimacy. The problems respectively relate to the distribution, demandingness, and motivation of the duties. Specifically, these problems arise if we specify the right to say that each human has a claim upon at least one other human that the second human is willing to enter an intimate relationship with them. Call this specification the ‘human right to intimacy goods.’ (In discussing this formulation, I focus on individual duty-bearers, since I assume collective agents cannot be parties to intimate relationships. In Section 3, I will discuss states as duty-bearers.)

The first problem is how to distribute the correlative duties. Presumably, it’s false that *every human*—all 7.7 billion of them—has a duty to be willing to enter an intimate relationship with every other human. In this way, the right to intimacy goods is unlike the

right against murder. Intimacy requires particularised care, concern, and love that is psychologically and physically impossible to give to, and receive from, every human. Intimacy also requires partiality—favouring one’s intimates over others—that makes it conceptually impossible to give intimacy to all (conceptually, it’s impossible to favour everyone over everyone). So, we must ‘match up’ duty-bearers with right-bearers.⁶

To do the matching, we could leverage James Nickel’s approach to socioeconomic human rights: each human has an ordered list of duty-bearers (1992: 82-3; 2005).⁷ The agent at the top of the list bears the duty in the first instance. If that agent is unwilling, or unable at reasonable cost, to fulfil the duty, then the duty of the next agent is ‘triggered.’ If that agent is unwilling or unable, then the duty of the third agent becomes triggered, and so on. Thus it’s always clear which duties are held by which agents. For one’s human right to intimacy goods, we could perhaps put one’s immediate family at the top of the list, followed by one’s long-term friends, colleagues, neighbours, and others in the social network. This way of assigning the duties might be justified by the relative capacities of each party, without necessarily assuming that (say) family members antecedently have any special obligations towards one another.

However, any such list risks not being applicable to all humans: the concept of ‘colleague’ and ‘neighbour’ is not always culturally applicable, and the notion of ‘immediate family’ is culturally variable. To achieve universality, this approach will likely order duty-bearers based on more general features like ability, motivation, proximity, and the fact that they created others’ intimacy needs (the latter being relevant to parents).⁸ Yet not all humans have even one agent that *can* provide them with intimacy goods—as discussed below under the motivation problem. The ‘ordered list’ approach also faces a second problem: demandingness.

The demandingness problem arises for someone who (for want of a better term) no one else likes. It seems implausible that anyone could have a duty to be willing to enter an intimate relationship with this person (Valentini 2016). Philosophers writing about moral over-demandingness usually accept that duties are constrained by our important projects (Cullity 2004; Mulgan 2001: chs. 8 and 10), or motivational limitations (Hooker 2000: 165-6; Lichtenberg 2004; Swanton 2009), or the space and resources we need to retain our agency (Herman 2002; Thomas 2005; Thomas 2009), or our autonomy or liberty (Brock 1991; Hurley 1995). If someone has zero inclination to be intimates with me, then a duty to be willing to do arguably violates at least some such constraints. The ongoing work of intimacy consumes time and energy that a person cannot spend on their important projects. If the person does not endorse this work, then it inhibits the effectiveness of their agency and constrains central aspects of their autonomy—as well as being such that they’re not motivated to do it.

The third worry also concerns motivation. Intimacy must be given, at least partly, from inclination—on pain of no longer being intimacy. To use Michael Stocker’s example, our motive for visiting an intimate in hospital should be concern for them (1976: 462; similarly Blum 1980: 142-3). And even if our motivation becomes moralised, the focus should remain on our particular relationship with our particular intimate, which grounds

⁶ Collins (2013) argued that individuals sometimes have duties to try to form intimate relationships. But that argument has caveats that prevent the correlative rights from being held by all humans. So those duties don’t correlate to human rights, so cannot help us here.

⁷ Beetham (1995: 54) advocates a similar approach, but Nickel’s is more detailed.

⁸ Liao (2015: 135) suggests these four criteria for distributing the duty to love children. Regarding contact and associative interests, Brownlee emphasises ability (2013: 217). Brake (2010) argues that procreation is insufficient to ground a duty to parent, since parenting is highly costly—but the idea here is just that procreation gives *some* reason to place a person higher on the list than that person otherwise would be.

particular moral responsibilities that cannot be understood apart from that relational context (Held 2006: 80). If we discovered that our friend visited us due to non-particularised moral principles such as those at issue in a human right, then we would feel rejected, affronted, and—crucially—that they are not a real friend. Intimates *value a person* for the person’s own sake, are greatly *invested* in the person’s wellbeing, and are *inclined* to be partial to that person over others. This is definitional. The valuing, investment, and inclination are reflected in a *desire* for the hospital visit.

One might respond by separating the duty’s justification from the motivation agents should have when fulfilling it (Sidgwick 1907: 427-39; Railton 1984). Perhaps fulfilling others’ human right to intimacy goods is like falling asleep: the best way to fall asleep is not to think about falling asleep. Analogously, maybe the best way to fulfil others’ human rights to intimacy goods is not to think about human rights or their correlative duties. Our duty demands the motive of inclination; there’s no need to entertain that duty as a duty when we discharge it.

There are two problems with this move.⁹ First, it works if we are already in intimate relationships, or are cultivating intimate relationships with those we are inclined to like: for those people, we can provide intimacy from inclination, without entertaining duty. But consider again a person whom no one else likes. No one has inclination to care about this individual for their own sake. Inclination is not psychologically available. To foster inclination, inclination needs to be actively cultivated—with what motive? Not the motive that is, *ex hypothesi*, being cultivated. In at least some cases, the only available motive is duty.¹⁰

The second problem with motivation-justification separation is that it undermines human rights’ enforceability. Let’s suppose someone fulfils their duty for a while, then stops. Our conception of human rights says the right-bearer (or their representative) is permitted to impose costs on the duty-bearer, to get them back on-track. Such enforceability makes human rights morally and politically powerful. But imposing costs is no way to induce inclination. As Waldron put it: ‘To stand on one’s rights is to distance oneself from those to whom the claim is made; it is to announce, so to speak, an opening of hostilities; and it is to acknowledge that other warmer bonds of kinship, affection, and intimacy can no longer hold’ (1988: 628). To articulate the demand is to undermine the possibility for the fulfilment of the demand. The right becomes unenforceable.

Perhaps the right can be enforced subversively, by ‘nudging’ the duty-bearer towards re-kindling their inclination. But this is not enforceability as we know it. As Joel Feinberg put it, ‘[h]aving rights enables us to ‘stand up like men,’ to look others in the eye, and to feel in some fundamental way the equal of anyone’ (1970: 252). If enforcement must involve only careful prompting towards inclination, then claimants have lost the standing that enforceable rights gave them. To retain this standing, enforcement must be acknowledged as such. Yet to explicitly enforce the right to intimacy goods is to prevent its fulfilment.

How can we solve the problems of distribution, demandingness, and motivation? By specifying the right differently. I suggest the individual human right to intimacy should be tailored as a human right to intimacy *consideration*. Following a proposal about socioeconomic human rights more broadly (Collins 2016), the idea is that each human has a right that each agent (i) deliberates equitably about the agent’s intimacy inclinations and (ii) act as those deliberations demand. Each agent has a duty—owed to each human—to

⁹ Stocker (1976) argues for a third problem: this strategy requires agents to disturbingly separate their justification from their motivation. This objection isn’t as powerful: we regularly separate justification from motivation, as sleep demonstrates.

¹⁰ Thus Liao’s (2015: 126) response to the motivation objection—that one can be motivated by love *and* duty—also doesn’t work in these cases.

deliberate equitably and act accordingly. Each agent wrongs every human about whom they reason inequitably regarding their intimacy inclinations (where, importantly, ‘equitably’ is not the same as ‘equally’). If the agent deliberates inequitably, the agent wrongs every human towards whom she does not act as that deliberation demanded.

‘Deliberate equitably and act accordingly’ is incredibly abstract. What does this look like in practice? To illustrate, cAmia Srinivasan’s (2018) discussion of the ‘involuntary celibate’ movement. This movement consists of men who assert their right to sex and the permissibility of raping women who refuse to give it to them. As Srinivasan puts it, the thought of ‘a *right to sex*, a right that is being violated by those who refuse to have sex with them’ is ‘galling’—and we might say the same about a right to intimacy goods. Srinivasan argues that the question ‘is not whether there is a right to sex (there isn’t), but whether there is a duty to transfigure, as best we can, our desires. ... the fact is that our sexual preferences can and do alter, sometimes under the operation of our own wills – not automatically, but not impossibly either.’ Just as Srinivasan proposes a duty to probe our sexual desires (on which I’m neutral, since intimacy implies nothing about sex), my proposal is a duty to probe our intimacy inclinations and act accordingly. The idea is that we should (i) consider the grounds on which we prefer some intimacy relationships over others, and (ii) take steps to revise those grounds if they are found to leave without intimacy some people with whom we could be intimate. This is to deliberate equitably and act accordingly.

This proposal doesn’t touch the traditional conception of freedom of association, understood as ‘the right to choose the society most acceptable to us’ (Mill 1859: ch. IV). We have a duty to examine the *basis* for our intimacy choices, as a way of *shaping* what is ‘most acceptable’ to us in the realm of intimacy. Once we have shaped what we find most acceptable, we can choose that freely. This means we will also have the correct motivation once we do make a bid at intimacy, as outlined in the above discussion of the motivation. The duty is ‘upstream’ of what we are naturally inclined to want and how we act on that basis. Acting on the duty might require, for example, making efforts to get to know people who lack intimates, or reflecting on the potential positive value of intimacy with such people. Neither of these actions involves becoming—or even trying to become— intimates with those who aren’t ‘most acceptable’ to us. The duty is more exploratory, untargeted, and cognitive than that.¹¹ But neither is it a blank cheque to do whatever we want. It’s a requirement to consider and shape how we come to want what we want.

That said, there is a problem with the individual human right to intimacy consideration: it is potentially inefficacious. The duties can be fulfilled even if some—or many—humans lack intimacy. A duty to intimacy consideration correlates with a right to intimacy consideration—not a right to intimacy. We might expect more from the duties correlative to an important, universal, and fundamental human interest. In the next section, I suggest we can get more.

3. The Group Right to Intimacy

The distribution, demandingness, and motivation objections pitted intimates against one another. They challenged a person’s duty to give intimacy to another, where the second person is cast as a desperate, mewing nuisance. Sometimes, intimacy does indeed feel like a chore. Section 2’s characterisation is sometimes apt, and the three objections are real—if we construe the human right to intimacy as a claim a human makes against a would-be intimate.

Usually, though, intimacy is not something we give to another at the expense of our own interests. Unlike food, intimacy is (usually) not a zero-sum resource that is held by one person, then given to another, so the first person has none if they give it all away. Usually and

¹¹ Hence it differs from Liao’s proposal to ‘try’ to love.

at its best, the *very actions* that fulfil your intimacy interests also fulfil mine: when I share personal hopes with you, I both give you intimacy and receive it from you. I do not give intimacy ‘away’ to you. This holds even in asymmetric relations: parents, for example, can have their intimacy interests fulfilled through their emotional bond with even a day-old baby. In these cases, the demandingness and motivation objections are diffused. (Of course, some valuable intimate relationships take away one’s energy from other projects—but in many cases, the value of the relationship will outweigh this loss, such that the relationship is not overly demanding on one’s life as a whole.)

Moreover, intimacy usually has more value than I have described so far. Paradigmatically, intimacy is an emergent good, that is, a good distinct from and ‘greater than’ the sum of its interrelated parts. Because of this, I’ll now argue, intimacy is best construed as a *group interest*—an interest of the tight-knit group or partnership that the intimates together constitute. Any right to the fulfilment of the emergent group-level interest must be a right of the *group*, rather than a right of its members—after all, the interest itself resides at the group level. Once this group interest is firmly within our moral picture, we’ll see a newly-specified right to intimacy: a group-held right that group-level intimacy be protected, respected, and promoted by outsiders. This right makes different (and stronger) demands than Section 2’s individually-held right to intimacy consideration, which concerned the upstream causes of one’s own (potential) intimate relationships.

The first step is to understand distinctively group-held rights. As Peter Jones explains, ‘a right is a group right only if it is held by a group *qua* group rather than by its members severally’ (1999: 354). That is, group rights are different from individual rights ascribed in virtue of group membership (Jones 2008: 2-3). For example, in New Zealand, Māori people are entitled to vote for parliamentary seats reserved for Māori candidates. The entitlement to vote for these seats is held by an individual, in virtue of that individual’s being Māori. Contrast this with a Māori tribe’s right to self-government (which is currently not recognised, and is potentially not best understood as a *human* right). Unlike the right to vote in an election, a right to tribal self-government cannot be exercised by an individual. So this right must be held by the group itself, not by an individual in virtue of group membership.

There are (at least) two routes to justify group-held rights. The first—advocated by Joseph Raz (1986: 208)—relies on public goods and aggregated interests. My interest alone in having access to a bike path is insufficient to justify a duty for my state to install a bike path in my city. But if there are many cyclists in my city, we can *aggregate* the cyclists’ several interests in a bike path. These might *add up* to be weighty enough to generate a duty. Also, a bike path is a public good: it’s impractical to exclude any cyclist and its use by one cyclist doesn’t diminish the path for others. Thus Raz would justify a group-held right to a bike path. However, this conceptualisation doesn’t work for intimacy, for two reasons. First, intimacy isn’t public: it is exclusionary. Second, the distinctive group-level value of intimacy doesn’t derive from the mere ‘adding together’ of individuals’ interests in intimacy. There is something more going on, which is captured by the second route to group rights.

The second route concerns *group-level interests*. These are different from the aggregation of individuals’ interests. Jeremy Waldron discusses conviviality at a party: ‘individual experiences are unintelligible apart from the fact that they make reference to the enjoyments of others. ... And the enjoyment in them [i.e., others’ enjoyments] that it [i.e., my experience] looks towards is similarly not confined to their individuality, but refers back and forth to others, and so on’ (1987: 310). He continues: ‘the parts refer essentially in their felt character to their status as fragments of a whole. ... the account given by any of the individuals concerned of the value of the experience *to her* would make immediate reference to its value and importance for the others’ (1987: 311, emphasis original). This is unlike the enjoyment of a bike path, where my enjoyment does not depend upon interactions with others

who have similar enjoyment. Conviviality arises through complex interactions between us; two hours of bike path use arises from the mere addition of my hour plus your hour. Waldron uses the conviviality example to claim that community goods (as characterised in Section 1) sometimes give rise to group-held rights.

Waldron's example is highly suggestive. But we can do better than simply pointing to examples and intuitions. There are sound metaphysical arguments for emergent group-level interests—which have more weight than the sum of their constituent individual-level interests—and the rights (including human rights) to those interests as rights of the group. Drawing on concepts in metaphysics and philosophy of mind, there are four interconnected reasons to view group-level interests as more than the sum of their members' interests: multiple realisability, explanatory power, relationality, and emergent effects.

Multiple realisability exists when a type of higher-level phenomenon H can be realised by numerous different types of lower-level phenomena L (Bickle 2013). For example, suppose you and I lift a table. We might do this by you lifting the left end and me lifting the right end—call this State 1, or S1. Or, we might do it by you lifting the right end and me lifting the left end—call this S2. These are two lower-level types of realisers of the higher-level state 'you and I lifting to table'—call this S3. Notice that S1, S2, and S3 have different properties. In S1, you're standing on the left. In S2, you're standing on the right. In S3, it's indeterminate where you're standing. Via the indiscernibility of identicals, the three states must not be identical—because they are discernible, via these different properties. If so, then S3 isn't identical to either S1 or S2. It must be a different thing. By including S3 in our ontology, we can use our ontology to avoid pointlessly detailed descriptions of our world (in which we describe every minute detail of how we lifted the table), we can avoid giving long lists of disjuncts when stating the mechanisms by which something might happen, and we can generalise across our world and similar nearby worlds (worlds in which the same higher-level phenomenon, differently realised, exists).

If you and I are intimates, all this applies: intimacy can be realised by numerous types of actions, feelings, and attitudes between the members of our intimacy group, yet these different realisations each produce the distinctive good 'intimacy.' Now, 'bike path use' can also be realised in different types of ways: by commuters, leisure riders, triathlon trainers, and so on. But in the bike path case, it's false that *the very same good* is produced across these different types of realisation. If bike-path-use is realised via commuters using the path, that's good for commuters; if it's realised via leisure riders using the path, that's good for leisure riders; if it's realised via commuters and leisure riders, that's good for commuters and leisure riders. Contrast intimacy. If I care for you when you're ill, that realises *the very same intimacy good* as if you care for me when I'm ill. Of course, me-caring-for-you produces some goods that are realisation-specific, such as you getting better (as compared with me getting better, which is the good produced when you care for me). But *as concerns intimacy*, the very same good is produced whichever realisation we're in. Intimacy-producing actions can be variously distributed across us and still produce the very same good of group-level intimacy.

Explanatory power is a second reason for positing the group-level good. If someone asks why you are giving the eulogy at my funeral, it's most illuminating for you to reply that we were in a close friendship. This explanation refers to the relation between us—and, via that relation, to the unit that you and I composed: a friendship unit. An explanation that referred just to what I 'gave' you, or just to what you 'gave' me, would be radically incomplete. It matters that things were given, and taken, and created, in both directions, via complex (and multiply realisable) relations between us. By the same token, it would be inappropriate to answer the 'why' question with an exhaustive list of every friendly action

we'd ever performed towards each other. What matters is not that any particular actions were taken, but that a close friendship existed between us in some form or other.¹²

A third consideration is relationality. This is the 'glue' that makes us a unit. A bike path's value is the same regardless of how its users are related in time and space (as long as the path is wide enough). But intimacy's value arises only when our actions, feelings, and attitudes become *interactions*, *fellow* feelings, and *concordant* attitudes. It's not enough if you and I each act, feel, and think in intimacy-targeted ways. Instead, those actions, feelings, and thoughts must be synchronised, aligned, and mutually-referring. They must be aligned in the right way, for valuable intimacy to arise. Intimacy is not just our actions, feelings, and attitudes added together (like how bike path use is your use and my use added together); it's our actions, feelings, and attitudes related in the right way. When the relations between component parts matter for producing something out of those parts, we face pressure to view the parts as together constituting a whole (Elder-Vass 2007; Kincard 1986).

Fourth and building on relationality, consider emergent effects. In philosophy of mind, phenomenal consciousness—'what it is like' to have an experience—is often taken to be emergent; something additional to the firing of neurons that accompanies that experience (O'Connor and Wong 2015). The value of mutual intimacy is likewise, I suggest, emergent. It cannot be located at the individual level. It encompasses and includes individual interest-fulfilment, but the feedback loops between the fulfilment of individual interests bring a new value into existence. Additionally, the feedback loops are themselves valuable. The networked whole—the individuals' interests and the feedback between them—is more valuable than the sum of the individual interests. Through this emergent value, intimacy is what Denise Reaume called a 'participatory good,' that is, a good that requires 'activities that not only require many in order to produce the good but are valuable only because of the joint involvement of many' (1988: 10).

These four considerations give us strong reason to view intimacy as a group-level phenomenon, whose value inheres at the group level. The group is constituted by, but not reducible to, its human members. The group has a right to this value. Waldron comes close to endorsing this when he conjectures (in passing) that

Romeo and Juliet is not so much about the need for *individual* rights (though it can be expressed in those terms) as about the needs of *a couple*, needs that would of course be unintelligible apart from their involvement with one another (1988: 644, emphasis original).

The four considerations above give us good reason to believe Waldron's conjecture.

By construing intimacy rights as groups' rights held against outsiders (rather than against members¹³), we get around the demandingness and motivation problems. No demand is being made by one intimate against another: '*I* have a right to *your* intimacy!' Instead, the group—composed of the intimates—has a claim that its group-level interest in intimacy be respected, protected, and promoted by others.¹⁴ This duty doesn't face the demandingness problem, because love, care, and concern are not being demanded—respect, protection, and

¹² For similar arguments in philosophy of mind and metaphysics, see List and Menzies 2009; List and Spiekermann 2013. They align explanatory power with difference-making, which ties it to multiple realisability. I'm using a looser, more intuitive, and therefore more ecumenical, notion of explanatory power.

¹³ Adina Preda (2012: 259) rejects group rights to community goods because they imply groups' rights against members. My distribution of the duties—where all and only outsiders bear the duties—avoids this worry, while retaining the Introduction's requirement to be independent of specific institutional arrangements.

¹⁴ I say 'promoted' rather than the usual 'fulfilled,' because the group's interest cannot be fulfilled purely by the actions of outsiders.

promotion are. And it doesn't face the motivation problem, because the good that's being given—respect, protection, and promotion of *others'* intimate relationships—is not a good that must be given from inclination; it can just as well be given from duty. The distribution problem also dissolves, since the duty to respect, protect, and promote others' intimate relationships can be held by all non-members.

However, this duty—to respect, protect, and promote others' intimate relationships—avoids the demandingness problem only if 'protection' and 'promotion' are not 'protect from any possible threat' and 'promote at the expense of all else.' To avoid overdemandingness, the duty must be 'respect, protect, and promote within not-disproportionate cost.'

Unfortunately, this cost-sensitive specification is still somewhat loose. It requires different actions from different agents. Even relativised to one agent, the contours of 'disproportionate cost' are disputable. This makes demandability, enforceability, and action-guidance difficult.

But it does not make them impossible. Three distinct actions are listed—respecting (leaving alone), protecting (trying to make others leave alone), and promoting (creating). This offers some action-guidance. And the group's intimacy interest is significantly weightier than its members' several intimacy interests. So, even given the non-disproportionate cost constraint, we know that this duty is more demanding than Section 2's duty of intimacy consideration. It thus stands a better chance of avoiding the inefficacy problem, which is where we left the individually-held right to intimacy consideration. Finally, consider that some looseness is involved in the tailoring of all rights, since rights can conflict with one another. A group-held right that outsiders 'respect, protect and promote the group's intimacy goods' is far more finely-tailored than a mysterious 'right to intimacy.' I call this group-held right the 'group right to intimacy,' since respect, protection, and promotion are targeted at the group-level good.

The group right to intimacy implies duties for all outsiders—including, for example, states. It plausibly requires specific policies from states. For example, the right presses in favour of immigration schemes that give special consideration to family reunification (as advocated by Ferracioli 2016), state funding of programmes to enable those in aged care to more easily visit their relatives, and state funding for community groups (as characterised in Section 1) where those have demonstrable positive effects for the fostering of intimate groups.

There is a problem, however. Intimacy deprivation is most morally urgent when an individual does not have any intimates. In these cases, there is no group to bear the right to intimacy. Of course, such an individual has a right to intimacy consideration, from Section 2. But—one might object—this is relatively weak. It's perverse that an additional (and more demanding) right exists in the more fortuitous cases where intimacy is already underway.

There are two compatible responses to this problem. First, an intimacy-deprived individual has a right to intimacy consideration that might entail very demanding duties. Above, I said that the group's right to intimacy is stronger than (the sum of) *its members'* rights to intimacy consideration. But this is because those members are, *ex hypothesi*, already enjoying intimacy. This weakens the demands of their individually-held rights. By contrast, the right to intimacy consideration of an isolated person may well make weightier (and more cost-imposing) demands on others; weightier duties for others to consider whether and how they might come to desire an intimate relationship with such a person.

Second, while rights entail duties, duties do not entail rights. So, while an individual without intimacy is not part of a group that holds the right to intimacy, there may well be a duty on others to create such a group. This duty would not correlate with a right, but it would be held with a view to creating the value that *will* inhere in that right-bearing group, *once* the right-bearing group is created. For individuals, these duties might include participating in friendship-fostering community groups. For states, these duties might include funding such

community groups, as well as facilitating adoptions and other officially-recognised intimate relationships. These duties are not owed to the potential members of the group, because (ex hypothesi) the interest of each of those individuals is not strong enough to generate such a duty (as opposed to the duty of intimacy consideration). And the potential members' interests are not yet interlocked (with multiple realisability, explanatory power, relationality, and emergent effects), so as to produce a group-held right. Nonetheless, there can be a duty to create a group that will have rights once it exists, precisely because of the value that would undergird those rights—if we can be sufficiently sure that the value will come to exist through our efforts.¹⁵

A final question is whether group-held rights to intimacy are really *human* rights. Human rights belong to humans simply in virtue of being human. Groups are not humans. Calling a group a human is like calling me a cell. I am not a cell; cells constitute me. If I have a right, it doesn't follow that each of my cells has a right. Likewise, if a group has a right, it doesn't follow that each member has a right. But if not, then the right is not a human right, because human rights are right that all *humans* have (the universality condition). Moreover, the group's right does not exist simply in virtue of its members being human. As the previous objection noted, the group's right exists only once the members are already in an intimate relation—something that is not true of all humans simply in virtue of being human.

For these reasons, the group-held right to intimacy is not, strictly speaking, a human right. But three things make it a right that deserves the moral-political status of human rights. First, the interest humans have in being in intimate groups (that hold the group right to intimacy) is important, universal, and fundamental. Second, each group member contributes to, and stores some of, the value that inheres at the group level, so humans are crucial to the story of how that value comes about. Third, if the group's right is threatened, infringed, or violated, the members' intimacy interests are thwarted. This demonstrates the tight connection between the group right-bearer and the human members, who have a stake in the group's right.

Conclusion

This paper has proposed that the human right to intimacy is two-fold. First, each human has an individual right to intimacy consideration: each human has a right that each agent (i) deliberates equitably about their intimacy inclinations and (ii) acts accordingly, in the ways summarised in Section 2. Second, intimacy groups (including romantic, familial, and friendship groups) have rights that outsiders respect, protect, and promote the group's intimacy, as argued for in Section 3. By focusing on the second of these rights, we can avoid the problems of duty distribution, demandingness, and motivation—while also imposing relatively demanding duties and preserving the paradigmatic and most valuable forms of intimacy.

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¹⁵ This is analogous to some solutions to the non-identity problem (e.g., Parfit 1987).

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