

# The Right of Children to Be Loved\*

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## I. INTRODUCTION

A number of international declarations, bills and foundations have claimed that children have a right to be loved. Consider the following:

- Declaration of the Psychological Rights of the Child (1979)  
*Right 1: The right to love, affection, and understanding.*<sup>1</sup>
- Declaration of the Rights of the Child in Israel (1989)  
*[Principle] 2. Every child has the right to a family life – to nourishment, suitable housing, protection, love and understanding.*
- Declaration of the Rights of Mozambican Children (1979)  
*[Children] have the right to grow up in a climate of peace and security, surrounded by love and understanding.*
- The Bill of Rights of Children in Divorce Actions, USA (1966)  
*[Children have] III. The right to the day by day love, care, discipline and protection of the parent having custody of the children.*
- The LIFT Foundation (2003)  
*[The Foundation promotes the] basic human right of children to be loved.*

An esteemed legal philosopher, Neil MacCormick, has also made this assertion:

Let me start from what seems to me a simple and barely contestable assertion: at least from birth, every child has a right to be nurtured, cared for, and, if possible, loved, until such time as he or she is capable of caring for himself or herself. . . . I

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<sup>1</sup>Calvin Catterall, "Formulation of the Declaration of the Psychological Rights of the Child," *Viewpoints in Teaching and Learning*, 58 (1) (1982), 16–35.

should regard it as a plain case of moral blindness if anyone failed to recognize that every child has that right.<sup>2</sup>

Many people are, however, likely to be skeptical of this claim. In recent years, there has been a proliferation of rights language in our moral, legal and political practices. A number of writers are concerned that rights are often claimed without there being sufficient consideration as to whether these claims can be justified. As these writers correctly note, inappropriate use of the concept of rights can have the effect of diluting the important status of rights.<sup>3</sup>

Moreover, there are a number of questions that can cast doubt on whether children indeed have this right. For example, the right under consideration seems to be a claim right, which would mean that someone has a duty to love a child.<sup>4</sup> But, is it possible to require love as a matter of duty? There is a view that the idea of a duty to love is an absurdity because love is an emotion and therefore not commandable, while duties require that the action demanded by the duty be commandable.<sup>5</sup> But if there cannot be a duty to love, then there cannot conceptually be a right of children to be loved.

In addition, supposing it were possible to have this right, what justifies children's having this right? As far as I know, no one has provided any justification for this right. While MacCormick is confident that children have a right to be nurtured and cared for, he is less confident that children have a right to be loved. Thus, he only says, "every child has a right to be nurtured, cared for, and *if possible*, loved." Why is MacCormick less confident that there is a right of children to be loved? Is it because love is not an appropriate object of a duty?

Finally, even if this right could be justified, who has the duty to provide such love for children? Biological parents? Citizens of a state? Everyone? How does one decide?

In this paper, I aim to satisfy critics of rights who believe correctly that rights should not be claimed without consideration as to whether they can be justified. To restrict the scope of the paper, I assume that there are rights, in particular human rights; that children, even very young ones, can have rights; and that there

<sup>2</sup>Neil MacCormick, "Children's rights: a test-case for theories of right," *Archiv für Rechts- und Sozialphilosophie*, 67 (1976), 305–16 at p. 305.

<sup>3</sup>Carl Wellman, *The Proliferation of Rights* (Boulder, Colo.: Westview, 1999), p. 2; L. W. Sumner, *The Moral Foundation of Rights* (Oxford: Clarendon Press, 1987), pp. 1, 15; James Griffin, "First steps in an account of human rights," *European Journal of Philosophy*, 9 (2001), 306–27.

<sup>4</sup>Wesley Hohfeld, *Fundamental Legal Conceptions*, ed. W. W. Cook (New Haven, Conn.: Yale University Press, 1919).

<sup>5</sup>Kant, for example, expresses this objection as follows: "Love is a matter of feeling, not of willing, and I cannot love because I will to, still less because I ought to (I cannot be constrained to love); so a duty to love is an absurdity"; *The Metaphysics of Morals*, trans. M. Gregor (Cambridge: Cambridge University Press, 1996), p. 161. See also R. Taylor, *Good and Evil* (New York: Macmillan, 1970), pp. 252–3; Bernard Gert, *The Moral Rules* (New York: Harper and Row, 1970), pp. 144–5; Francis Schrag, "Children: Their rights and needs," *Whose Child?*, ed. W. Aiken and H. LaFollette (Totowa, N. J.: Littlefield, Adams, & Co., 1980), pp. 243–4.

are positive rights.<sup>6</sup> In other words, the audiences I have in mind are like MacCormick in that they are certain that children have the right to be nurtured and cared for, but uncertain that children have a right to be loved. I shall outline a way by which children's having a right to be loved can be justified by grounding this right in terms of human rights, by showing that love can be an appropriate object of a duty, and by proposing that biological parents should normally be made the primary bearers of this duty, while all other able persons in appropriate circumstances have associate duties to help biological parents discharge their duties. I do not claim that this is the only way to defend this right. My hope is to show that the claim that children have this right need not be merely empty rhetoric. Finally, I shall consider some policy implications of this right.

## II. CHILDREN'S RIGHT TO BE LOVED AS A HUMAN RIGHT

A way to ground the right of children to be loved may be the following: Human beings have rights to those conditions that are primary essential for a good life. As human beings, children therefore have rights to those conditions that are primary essential for a good life. Being loved is a condition that is primary essential for children to have a good life. Therefore, children have a right to be loved. To explicate this argument, let me begin by characterizing the kind of love at issue, namely, parental love,<sup>7</sup> which has the following characteristics:

To love a child is to seek a highly intense interaction with the child, where one values the child for the child's sake, where one seeks to bring about and to maintain physical and psychological proximity with the child, where one seeks to promote the child's well-being for the child's sake, and where one desires that the child reciprocate or, at least, is responsive to, one's love.

One important feature of parental love is valuing the child for the child's sake. As a child psychologist, Mia Pringle, argues:

The basic and all-pervasive feature of parental love is that the child is valued unconditionally and for his own sake, irrespective of his sex, appearance, abilities or personality; that this love is given without expectation of or demand for gratitude . . . Parents communicate this unconditional affection through all their relations with him: from physical care and handling to responding to his first smile and sounds; from protecting him from, and then gradually initiating him into, the social world; and from restraining to eventually punishing him for going beyond the limits they have set for acceptable behavior.<sup>8</sup>

In addition, the "highly intense" aspect of this definition is intended to capture the idea that parental love is not just behavioral or attitudinal but has emotional

<sup>6</sup>On the claim that even very young children can have rights, I defend it in S. Matthew Liao, "Virtually all human beings as rightholders: a non-speciesist approach," unpublished.

<sup>7</sup>By parental love, I do not mean that only biological parents can provide this kind of love. Other people such as step-parents, foster-parents, or nannies can also provide it.

<sup>8</sup>Mia Pringle, *The Needs of Children*, 3rd edn (London: Routledge, 1986), p. 35.

components that permeate through all of our actions with a child. Furthermore, if we love a child, then we would try to be close and maintain closeness to the child, both physically and psychologically, other things being equal. Physically, we would try to be with the child as much as it is appropriate and optimal. Psychologically, we would try to understand the child from the child's perspective and we would try to open up ourselves to the child, when the child is capable of such understanding. Moreover, we would try to increase the child's prospect of having a good life for the child's sake. Finally, very young children cannot reciprocate a parent's love. Nevertheless, a parent who loves his child typically would desire that a child would love him back if the child could do so.

The claim that children need to be loved in this way is an empirical claim. Many people would find this claim obvious, perhaps because of their own reflections on their childhood, their personal experience with child-rearing, or their observation of the practice of child-rearing. In recent decades, efforts have been made to demonstrate this claim through scientific research. One particular approach is to examine the negative consequences for a person if the person is not loved as a child.<sup>9</sup> As it would be unethical to conduct studies of this kind by performing controlled experiments on human beings, researchers have investigated this issue in other ways, ranging from studies of children in institutions,<sup>10</sup> to studies of monkeys in laboratories,<sup>11</sup> clinical studies of certain growth disorders of children in their own homes,<sup>12</sup> and recent neuroscientific studies.<sup>13</sup>

Studies of children in institutions found, for example, that children who did not receive love but only adequate care became ill more frequently; their learning capacities deteriorated significantly; they became decreasingly interested in their environment; they failed to thrive physically by failing to gain weight or height or both; they suffered insomnia; they were constantly depressed; and they eventually developed severe learning disabilities.<sup>14</sup> In one study, 37% of these infants had

<sup>9</sup>Another approach examines the positive consequences for a person if he is loved as a child. Owing to space, I do not present these studies here.

<sup>10</sup>For some classic studies of children in institutions, see René Spitz, "Hospitalism: an inquiry into the genesis of psychiatric conditions in early childhood," *The Psychoanalytic Study of the Child*, 1 (1945), 53-74; William Goldfarb, "Effects of psychological deprivation in infancy and subsequent stimulation," *American Journal of Psychiatry*, 102 (1945), 18-33.

<sup>11</sup>For some classic studies of research on monkeys, see Harry Harlow, R. O. Dodsworth and M. K. Harlow, "Total social isolation in monkeys," *Proceedings of The National Academy of Sciences*, 54 (1965), 90-6. Clearly, research on monkeys and other animals raise serious ethical questions.

<sup>12</sup>See, e.g., R. Coleman and S. Provence, "Environmental retardation (hospitalism) in infants living in families," *Pediatrics*, 19 (1957), 285-92; H. K. Silver and M. Finkelstein, "Deprivation dwarfism," *Journal of Pediatrics*, 70 (1967), 317-24.

<sup>13</sup>See, e.g., J. D. Higley, S. J. Suomi and M. Linnoila, "CSF monoamine metabolite concentrations vary according to age, rearing, and sex, and are influenced by the stressor of social separation in rhesus monkeys," *Psychopharmacology*, 103 (1991), 551-6; M. J. Meaney et al., "Early environmental regulation of forebrain glucocorticoid receptor gene expression: implications for adrenocortical responses to stress," *Developmental Neuroscience*, 18 (1996), 49-72.

<sup>14</sup>René Spitz and K. M. Wolf, "Anaclitic depression: an inquiry into the genesis of psychiatric conditions in early childhood," *The Psychoanalytic Study of the Child*, 2 (1946), 313-42.

died by two years of age, compared with none in the adequately mothered control group.<sup>15</sup> More recent studies continue to support these findings.<sup>16</sup>

In studies of monkeys in laboratories, infant monkeys raised in maternal privation settings had hampered social, cognitive and emotional development.<sup>17</sup> More recent neuroscientific studies conducted on various animals have found that lack of love can dysregulate the development of the brain biogenic amine neurotransmitter systems such as norepinephrine (NE), dopamine (DA), and serotonin (5HT), and the hypothalamic-pituitary-adrenal (HPA) axis;<sup>18</sup> cause the development of adrenal glucocorticoid responses to be modified in negative ways;<sup>19</sup> and affect the biochemical processes of growth hormone (GH) secretion leading to psychosocial dwarfism.<sup>20</sup> Together, these studies convincingly demonstrate that a child's psychological, social, cognitive and even physical developments can be seriously hampered if the child is not loved.

Human beings have rights to the primary essential conditions for a good life because having these conditions is of primary importance to human beings, and because rights are very powerful tools of protection. Whatever else they may want, most human beings would want to have a good life. If we attach a certain importance to an end, we must attach this importance to the (primary essential) means to this end. Needless to say, the notion of a good life is difficult to define. There are ongoing controversies about whether to define it in terms of an objective list<sup>21</sup> or in terms of informed desires.<sup>22</sup> Irrespective of how one

<sup>15</sup>Spitz and Wolf, "Anaclitic depression," p. 320.

<sup>16</sup>J. Hodges and B. Tizard, "Social and family relationships of ex-institutional adolescents," *Journal of Child Psychology and Psychiatry*, 30 (1989), 77–97; S. Kaler and B. Freeman, "Analysis of environmental deprivation: cognitive and social development in Romanian orphans," *Journal of Child Psychology and Psychiatry*, 35 (1994), 769–81.

<sup>17</sup>Harlow et al., "Total social isolation in monkeys."

<sup>18</sup>See, e.g., C. Shannon, M. Champoux, J. D. Higley, A. Dodson, S. B. Higley, S. J. Suomi and M. Linnoila, "Interindividual differences in neonatal serotonin functioning: stability of interindividual differences and behavioral correlates," *American Journal of Primatology*, 36 (1995), 155; J. D. Higley, S. J. Suomi and M. Linnoila, "A longitudinal assessment of CSF monoamine metabolite and plasma cortisol concentrations in young rhesus monkeys," *Biological Psychiatry*, 32 (1994), 127–45; A. Heinz et al., "In vivo association between alcohol intoxication, aggression, and serotonin transporter availability in nonhuman primates," *American Journal Psychiatry*, 155 (1988), 1023–8.

<sup>19</sup>J. D. Coplan et al., "Cerebrospinal fluid concentrations of somatostatin and biogenic amines in growth primates reared by mothers exposed to manipulated foraging conditions," *Archives of General Psychiatry*, 55 (1998), 473–7; M. Champoux et al., "Hormonal effects of early rearing conditions in the infant rhesus monkey," *American Journal of Primatology*, 19 (1989), 111–17.

<sup>20</sup>S. Wang, J. V. Bartolome and S. M. Schanberg, "Neonatal deprivation of maternal touch may suppress ornithine decarboxylase via down regulation of proto-oncogenes c-myc and max," *Journal of Neuroscience*, 16 (1996), 836–42; F. Scafidi, T. M. Field and S. M. Schanberg, "Massage stimulates growth in preterm infants: a replication," *Infant Behavior and Development*, 13 (1990), 167–88. See also S. Gerhardt, *Why Love Matters* (Hove: Brunner-Routledge, 2004).

<sup>21</sup>See, e.g., John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), pp. 85–90; James Griffin, *Value Judgement: Improving Our Ethical Beliefs* (Oxford: Clarendon Press, 1996), pp. 29–30.

<sup>22</sup>James Griffin, *Well-Being* (Oxford: Oxford University Press, 1986). For an interesting account of welfare, see Stephen Darwall, *Welfare and Rational Care* (Princeton, N.J.: Princeton University Press, 2002), who argues that someone's good is what one should want for that person insofar as one cares for her. See also Harry Frankfurt, *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988).

characterizes a good life, there are certain primary essential goods, capacities and options that all human beings need whatever else they might need in order to pursue the good life.<sup>23</sup> For example, human beings need certain basic goods such as food, water and air in order to sustain themselves corporeally. In order to be able to pursue the good life, they also need certain basic capacities such as the capacity to think, to be motivated by facts, to know, to choose an act freely (liberty), to appreciate the worth of something, to develop interpersonal relationships, and to have control of the direction of one's life (autonomy).<sup>24</sup> Finally, in order to exercise these capacities, they need to have some opportunities for social interaction, acquiring further knowledge, evaluating and appreciating things, and determining the direction of their lives.<sup>25</sup>

That rights are very powerful tools of protection is well known. By their nature, rights secure the interests of the rightholders by requiring others, the duty-bearers, to perform certain services for the rightholders or not to interfere with the rightholders' pursuit of their essential interests. In addition, at least on certain structural accounts of rights, rights typically prevent the rightholders' interests from being part of a first-order utilitarian calculus.<sup>26</sup> This means that if a rightholder has a right to something, then typically no non-right claims can override the rightholder's right to that thing. Finally, as some writers have pointed out, because rightholders are entitled to these services as a matter of right, they can simply expect the services without requesting them.<sup>27</sup>

Given the strong protection that rights offer for rightholders, and given the importance to human beings of having the primary essential conditions for the pursuit of a good life, it seems reasonable that human beings have rights to these primary essential conditions. If this is correct, it provides a justification for why human beings have rights to the primary essential conditions for a good life. For our purpose, it also provides a reason why children have a right to be loved, because being loved is, as we have said, a primary essential condition for children to have a good life.<sup>28</sup>

<sup>23</sup>For other similar lists, see, e.g., Raz's Basic-Capacities Principle in Joseph Raz, *Ethics in the Public Domain* (Oxford: Clarendon Press, 1994), pp. 16–17; or Rawls's list of primary goods, which are goods that all individuals are presumed to want, whatever else they may want, John Rawls, *A Theory of Justice* (Oxford: Oxford University Press, 1971). See also Alan Gewirth, *The Community of Rights* (Chicago: University of Chicago Press, 1996).

<sup>24</sup>See Amartya Sen, "Rights and capabilities," *Morality and Objectivity*, ed. T. Honderich (London: Routledge & Kegan Paul, 1985), pp. 130–48; Amartya Sen, *Inequality Reexamined* (Cambridge, Mass.: Harvard University Press, 1992).

<sup>25</sup>For an argument regarding the importance of having an adequate range of valuable options for well-being, see Joseph Raz, *Morality of Freedom* (Oxford: Clarendon Press, 1986), pp. 373–77.

<sup>26</sup>See, e.g. Ronald Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977) or Robert Nozick, *Anarchy, State and Utopia* (Oxford: Blackwell, 1974).

<sup>27</sup>Joel Feinberg, "The nature and value of rights," *Bioethics and Human Rights*, ed. E. L. Bandman and B. Bandman (Boston: Little, Brown, 1970), pp. 19–31.

<sup>28</sup>For a different kind of justification, one might be able to use Robert Goodin's vulnerability model in *Protecting the Vulnerable: A Reanalysis of Our Social Responsibilities* (Chicago: University of Chicago Press, 1985).

Before continuing, it might be worthwhile commenting on whether adult human beings also have a right to be loved. This is a difficult question to answer because typically the kinds of love in which adults are interested, namely, romantic love and friendship, are different from the kind of love we have been discussing, namely, parental love. Unlike parental love, part of the point of achieving romantic love and friendship is that one obtains these goods by one's own autonomous efforts. Given this, there may not be any general right of adults to be loved.

### III. THE COMMANDABILITY OF THE EMOTIONAL ASPECT OF PARENTAL LOVE

Some people worry about children's having a right to be loved because they do not believe that love can be an appropriate object of a duty. According to them, love is an emotion and emotions are not commandable. Duty requires however that the action required by the duty is commandable. If there cannot be a duty to love, then there cannot be a right of children to be loved. The objection is premised on the idea that emotions are never commandable. While I do not claim that emotions are always commandable, the claim that emotions are never commandable seems too strong. There are a number of ways by which we can bring about particular emotions such as the emotional aspect of parental love with success.<sup>29</sup>

For example, one can give oneself reasons to have particular emotions or one can reflect on the reasons why one tends to experience particular emotions in particular circumstances or towards particular persons.<sup>30</sup> Through reflecting on these reasons, one may then decide to continue or not to continue to have particular emotions, depending on whether they are supported by good reasons or not. These are some examples of internal control of emotions. As a way of external control, one can deliberately place oneself in situations in which one knows that one would probably experience particular emotions. Finally, one can cultivate one's emotional capacities by repeatedly practising the ways of external and internal control described, that is, by repeatedly reflecting on reasons why one tends to have certain emotions and by placing oneself in situations in which one is likely to experience the desired emotions, so that one would be more likely

<sup>29</sup>This section draws on S. Matthew Liao, "The idea of a duty to love," *Journal of Value Inquiry*, forthcoming.

<sup>30</sup>For some general discussions of emotions, see, e.g., Klaus R. Scherer, A. Schorr, and T. Johnstone, eds, *Appraisal Processes in Emotion* (Oxford: Oxford University Press, 2001); Martha Nussbaum, *Upheavals of Thought* (Cambridge: Cambridge University Press, 2001); Richard Wolheim, *On the Emotions* (New Haven, Conn.: Yale University Press, 1999); Justin Oakley, *Morality and the Emotions* (London: Routledge, 1992); Allan Gibbard, *Wise Choices, Apt Feelings* (Oxford: Oxford University Press, 1990); Patricia Greenspan, *Emotions and Reasons* (New York: Routledge, Chapman and Hall, 1988); and A. Rorty, ed., *Explaining Emotions* (Berkeley: University of California Press, 1980).

to have certain emotions in appropriate circumstances and to have the dispositions for these emotions over a longer period of time.

The emotional aspect of parental love can be brought about with success through these methods. No doubt the emotions of parental love are wide ranging. To simplify the discussion, let us take a strong sense of warmth and affection to be a crucial part of the emotional aspect of parental love at least sometimes during the course of loving a child. First, we can give ourselves reasons to have these emotions for a child. Many reasons are possible, but a good reason is that children need this emotional aspect of love in order to develop certain capacities necessary to pursue a good life. Or, suppose one realizes that one's antipathy toward a child is due to the facts that the child was unplanned. One may then recognize that this is not the fault of the child and that therefore this is not a good reason for disliking the child. If one begins to see the child without this initial prejudice, there is a chance that one will be able to bring about warmth and affection for the child.<sup>31</sup> As an example of external control, suppose one knows that getting enough sleep helps one to be more affectionate and warm towards the child. One might make sure that one has enough sleep each night so that one would be more loving toward the child. Finally, to cultivate one's capacity to love a particular child, one might try using the method of external and internal control discussed previously such as repeatedly reminding oneself of the importance of love for a child's healthy development and repeatedly placing oneself in situations in which one is likely to feel these emotions of love for the child. For example, one might make arrangements in one's daily schedule to allow one to spend some quality time with the child. Through engaging in these methods repeatedly over time, there is a good chance that one would increase one's capacity to feel affection and warmth for the child.<sup>32</sup>

It is worth noting that cultivating emotional capacities is not just a repetition of internal and external control over time. To be truly successful, one may be required to evaluate critically some of one's fundamental values.<sup>33</sup> Moreover, in all these methods, the objective is obviously not just to have the appearance of the emotions appropriate for the circumstance, but actually to have the genuine emotions appropriate for the circumstance.

Some might worry that I have only shown that emotions can be brought about with reasonable success, but an action is commandable if and only if one can bring it about with guaranteed success. As a result, they might insist that at best there is just a duty to try to love a child, but not a duty to love the child. First,

<sup>31</sup>See also Iris Murdoch, *The Sovereignty of Good* (London: Routledge and Kegan Paul, 1970), pp. 17–18; Peter Goldie, "Explaining expressions of emotion," *Mind*, 109 (2000), 25–37 at p. 33, for a similar point.

<sup>32</sup>Augustine observes that through enacting the behavior associated with religious rituals, one seems to increase one's capacity for religious feelings, see *De cura pro mortuis* 5.7, cited in Gareth Matthews, "Ritual and the religious feelings," *Explaining Emotions*, ed. A. Rorty, p. 339.

<sup>33</sup>See also L. Blum, *Friendship, Altruism and Morality* (New York: Routledge, 1980), pp. 192–207.

for the sake of argument, even if there were just a duty to try to love, this would not undermine the idea of a right of children to be loved, if one accepts that rights are grounds of duties; that is, rights are reasons for the duties to which they give rise (although rights are not the only things that can give rise to duties).<sup>34</sup> There are good, independent reasons to accept this understanding of rights. In particular, it means that we can know that someone has a right without knowing who has the corresponding duty, for example, the right to education, and it allows rights to give rise to new duties as circumstances change.<sup>35</sup> If this understanding of rights is correct, then a claim right to V can exist whether there is a duty to V or just a duty to try to V, since the right can be a reason for either duty. So, a right of children to be loved can be a reason for either a duty to love or a duty to try to love.

Secondly, it is not true that an action is commandable if and only if one can bring it about with guaranteed success. For one thing, physical actions such as walking and speaking would not be commandable, if guaranteed success were necessary, because it is a fact that we occasionally fail to succeed in these actions; for example, we might trip and fall and we might become tongue-tied. In fact, even simple physical actions such as raising one's arms or holding one's breath would not be commandable, because it is a fact that we sometimes fail to succeed in these actions.

Some might think that guaranteed success can be necessary for an action to be deemed commandable, if we include a clause "provided that certain reasonable background conditions exist." For instance, under ordinary circumstances, for example, if one's arm has not fallen asleep or if no one is holding one's arm down, then because these reasonable background conditions are met, one would be able to raise one's arm with guaranteed success. However, the clause "provided that certain reasonable background conditions exist" is too vague. Ordinarily, there is still a chance, however minute, that one's action can fail, even if reasonable background conditions obtain. For example, in the case where one tries to raise one's arm, even if certain ordinary background conditions obtain, it remains possible that one can fail to raise one's arms with guaranteed success.

On the other hand, suppose one understands the clause "provided that certain reasonable background conditions exist" to mean that all possible factors that could defeat an action are rendered impotent so that an action really is guaranteed to succeed. Why could one not speak of guaranteed success regarding emotions such as love? If *all* possible factors that could prevent a parent from loving a child are rendered impotent, what reasons would there be for thinking that the parent could still fail to love the child?

It should be acknowledged that there could be cases where a person's emotional capacities are so damaged that there is no possibility of the person's acquiring the

<sup>34</sup>See Raz, *Morality of Freedom*, p. 166, for example, for this idea.

<sup>35</sup>*ibid.*, pp. 185–6.

emotional aspect of love. In these cases, one would have to accept that this person does not have a duty to love a child, at least in an emotional way.<sup>36</sup> On the other hand, we should distinguish between the source of the duty and the capacities of the dutybearer. Given that the duty stems from the nature of the child, if a child still needs to be loved, the duty remains and other people in the society are required to help fulfill it, even if certain people lack the capacities to do so.<sup>37</sup>

The distinction between the source of the duty and the capacities of the dutybearer is particularly useful in the case of a parent who tries very hard to love a child, but nevertheless fails to have the appropriate emotions. One might say that the person has partially fulfilled the duty, and is not blameworthy, since the person has tried his or her best.<sup>38</sup> Nevertheless, if it remains the case that the child's need for love is not met, then one must conclude that the source of the duty remains. Indeed, suppose I borrowed a thousand dollars from you. I repaid part of it, tried my best to get a job, but through no fault of mine, for example, I had an accident and became disabled for life, I am simply unable to pay you back in full. From the perspective of the dutybearer, one may say that I have partially fulfilled my duty, and that given the circumstances, I am not blameworthy. However, from the perspective of the source of the duty, it remains the case that you are still owed some money.

It is worth considering what would happen if someone pretends to love a child, that is, if someone behaves as if he loves a child when in fact he does not. Would their pretense fulfill the duty to love a child? Most likely it would not, for the following reason. A child needs to be loved in order to develop certain primary essential capacities such as knowing how to love others and having a positive conception of himself. It is doubtful, however, that a child would be able to adequately develop these capacities from receiving pretended love alone. The reason is that one can typically pretend to love a child for only a short period of time. At some point, a child will realize that he is not receiving real love. Once this occurs, this realization would most likely impede rather than facilitate a child's development of the primary essential capacities.

Also, even if one could pretend to the extent that the child would not find out that one's love is fake, doing so might not fulfill one's duty. One reason is that the fulfillment of a duty might require that the object of the duty provided is real. For example, suppose someone owes you five dollars and gives you a fake five-dollar

<sup>36</sup>This person may still have a 'partial' duty to love a child through his or her behavior and/or attitudes, as I shall discuss later.

<sup>37</sup>Though not necessary for the argument, I would defend further that the duty remains even if no one has the capacities to fulfill the duty. This means, for example, that a child on a desert island with only one parent, who is incapable of love, would still have a right to be loved, even though that right will not be fulfilled. For a contrary view, see, e.g., Onora O'Neill, "Children's rights and children's lives," *Ethics*, 98 (1988), 445–63.

<sup>38</sup>In such a case, constitutive bad luck and other kinds of bad luck might play a role. See, e.g., Thomas Nagel, "Moral luck," *Proceedings of the Aristotelian Society*, suppl. 50 (1976), 137–52; reprinted (in a revised version) in Thomas Nagel, *Mortal Questions* (Cambridge: Cambridge University Press, 1979), pp. 24–38.

note. He might not have fulfilled his duty to you because if it were ever revealed that he has given you a fake bill, he might be required to give you a real one. Another reason is that pretended love will typically involve deception, and while deception might not always be morally wrong (for example, white lies), a systematic campaign of deception on a long-term basis might raise some serious moral concerns and undermine the idea that one has fulfilled a duty. Indeed, a person who gives you a fake bill as a means to fulfilling his duty might be doing something morally wrong, thereby undermining the idea that he has fulfilled his duty, even if no one ever finds out.

Lest it leads to misunderstanding, I am not claiming that the entire aspect of parental love is commandable if one just employs the methods of internal and external control and cultivation. The dimensions of parental love are complex and parental love is not just an emotion, but involves having appropriate attitudes and behavior over a long period of time. Therefore, what is involved in bringing about parental love in its entirety is a complex issue. My aim here is only to show that the claim that the emotional aspect of parent love is never commandable is too strong.

#### IV. THE DUTY TO LOVE: EVERYONE'S DUTY

Suppose I am right that there is such a right, who has the corresponding duty to love a child? A common response might be that this duty belongs only to the biological parents, as a result of the causal relation in which they stand to the child. Although no one has explicitly claimed that biological parents have the sole duty to care for and love their children, many do think that the fact that biological parents caused their children to come into existence is a reason for assigning at least some child-caring duties to them. For example, Kant writes in the *Metaphysics of Morals*, “[T]he act of procreation [is] one by which we have brought a person into the world without his consent and on our own initiative, for which deed the parents incur an obligation to make the child content with his condition so far as they can.”<sup>39</sup> Or, Frederick Olafson argues that parents are responsible for the predictable and avoidable consequences of their actions. Given this, if two adults (recognizing the possibility that a helpless child might be conceived) have sexual relations and a child is indeed born nine months later, then, according to Olafson, they are responsible for its existence and have to care for it.<sup>40</sup> Or, Sidgwick says that “the parent, being the cause of the child’s existing in a helpless condition, would be indirectly the cause of the suffering and death that would result to it if neglected.”<sup>41</sup>

<sup>39</sup>Kant, *The Metaphysics of Morals*, p. 64.

<sup>40</sup>F. Olafson, “Rights and duties in education,” *Educational Judgments*, ed. J. F. Doyle (London: Routledge & Kegan Paul, 1973), pp. 173–95.

<sup>41</sup>Henry Sidgwick, *The Methods of Ethics*, 7th edn (Chicago: University of Chicago Press, 1962), p. 249.

Biological parents do typically incur some responsibility as a result of their action. Indeed, I shall explain shortly the special role biological parents play in discharging this duty. Nevertheless, claiming that this duty belongs only to the biological parents seems incorrect. In particular, it implies that if the biological parents of a given child were dead, no one else would have the duty to love this child. However, it seems that someone still has the duty to love this child even when the biological parents become unavailable.

An alternative proposal might be that biological parents have the sole duty in the first instance and when they are dead or become unable to discharge their duty, then someone else is required to take up their duty.<sup>42</sup> This proposal is an advance over the previous one. However, it implies that other able persons do not have the duty to promote children's being loved except when the biological parents or primary dutybearers are not available. I believe that we can reach a stronger conclusion. As the right of children to be loved is a human right, on certain understandings of human rights, this means that all able human beings in appropriate circumstances have a duty to promote every child's being loved, even when the biological parents are available.<sup>43</sup> At the same time, because directly loving a child is best done if only a few individuals are assigned to do so for each child, I propose the following division of labor: Under normal circumstances, biological parents have the primary duty to love their children, while all other able persons have associate duties to help the primary duty-bearers successfully discharge their duties.

Biological parents should typically be the primary dutybearers for the following reason: Usually, when there is a general duty that everyone has, but where it would be impractical if everyone in fact tried to fulfill that duty at the same time, a primary dutybearer is assigned using such criteria as responsibility, proximity, ability and motivation. For example, consider the general duty to help someone who is drowning. In theory, every able person has this duty, although in practice, it would be impractical if everyone tried to fulfill this duty. In this case, the primary responsibility to discharge this duty could be assigned to someone using the criteria I mentioned above. For example, suppose it was I who caused this person to fall into the river. The fact that I am responsible for this act would make me a good candidate to be assigned the primary duty to help this person. Suppose instead that someone is drowning and I am the nearest person around. The fact that I am the nearest person would also make me a good candidate to be assigned the primary duty to help this person, as I would be more likely to succeed. But ability is also important. Suppose this drowning person is being carried towards the ocean, and I am not a good swimmer, but fairly nearby there is someone, Y, who is a much better swimmer. The fact that Y has the ability

<sup>42</sup>Robert Goodin, "What is so special about our fellow countrymen?" *Ethics*, 98 (1988), 663–86 at p. 681.

<sup>43</sup>M. Cranston, *What Are Human Rights?* (London: Bodley Head, 1973), p. 69. See also Gewirth, *The Community of Rights*, p. 63.

would make him a good candidate to be assigned the primary duty to rescue the drowning person. Finally, motivation is also important. Suppose X is drowning, and Y and Z are equal distance from X. Suppose Y and Z are fairly good swimmers, but suppose that Y cares very little whether X drowns or not, whereas Z cares a lot. In such a case, it seems that one would want to assign the primary duty to Z, because, given Z's motivation, Z would be likely to do a better job than Y. Of course, if Y were the only person present, then Y would have this duty despite his motivation. But all other things being equal, it seems that one would want to assign the primary duty to the persons whose motivation is strongest.

In the case of a duty to love children, biological parents seem good candidates for being primary dutybearers because they normally meet at least three of the four criteria mentioned. For example, they typically caused their children to come into existence, and so bear some responsibility for this action; they typically are physically most proximate to their children; and they typically are motivated to love their children. One cannot say, as a general rule, that biological parents also have the ability, since there are many cases where biological parents seem to lack the ability. But, there is always the possibility that biological parents can be assisted in this matter through some sort of parental education either informally or formally.<sup>44</sup>

To illustrate how everyone else has an “associate” duty to see to it that primary dutybearers can successfully discharge their duty to love their children, consider the drowning analogy again. Suppose there is a general duty to rescue someone when the cost to one is not great; and suppose someone, X, is drowning, and you and another person, Y, are present, and Y is a lifeguard. Since Y is a lifeguard, he may have the primary duty to save this person and may try to fulfill this duty by swimming towards X and trying to bring X out of the water. Although you are not the primary dutybearer, because of the general duty to rescue you would have the associate duty to try to assist the primary dutybearer in whatever way you can. For example, you may have to call for additional help depending on the circumstance or you may just have to be around to see if further help is needed. Suppose though you are not near the scene. Since there is a general duty to rescue, you may have to support certain tax policies that would allow states to pay for well-trained lifeguards and support governmental policies that require lifeguards to be stationed at every public beach.

One can apply this line of thinking to the case of a duty to love a child: discharging this duty successfully involves substantial time and resources. It may be the case that some biological parents can successfully discharge this duty using

<sup>44</sup>P. Hobson, “Some reflections on parents’ rights in the upbringing of their children,” *Journal of Philosophy of Education*, 18/1 (1984), 63–74 at p. 64; J. J. Rousseau, *Émile*, trans. B. Foxley (London: J. M. Dent and Sons, Ltd., 1974), p. 16. Some people might be inclined to think that in addition to coordination reasons, biological parents may have the duty just in virtue of being the biological parents. I am open to the suggestion that this could be a different, sufficient condition but as I explained earlier, this could not be a necessary condition for assigning the duty.

their own resources. However, for many others, this can be quite difficult, perhaps owing to the demands of employment and the demands of other family members. The fact that other able persons have associate duties towards the child means that they ought to help alleviate the burdens on the primary dutybearers. For example, the associate dutybearers could support better child-care programs and more flexible workplace policies that would make it easier for primary dutybearers to discharge their duty. Or, as citizens of a state, they may try to fulfill this duty through paying taxes and voting for policies that would help parents discharge their duties. Finally, some relatives of the parents may even actually try to love the child to some extent to make sure the child receives adequate love. I think it is a virtue of my argument that it has the implication that other able persons now have associate duties to help primary dutybearers discharge their duty to love a child.

Some people may ask, what if someone does not have all the resources to discharge this duty? Or, what if the society as a whole does not have enough resources to assist in the discharge of this duty fully? Can they still have a duty to love a child? Indeed, our society might not have the resources at the moment to ensure that every child is loved. Carl Wellman calls this the “problem of scarce resources,” and discusses how it undermines the idea of a human right to have one’s life sustained:

If the claim-right [to have one’s life sustained] is really a universal human right, then each potential duty-bearer finds himself or herself confronted with vast numbers of claimants, all of whose lives require sustenance. This raises the problem . . . of scarce resources. If the individual, organization or state lacks sufficient resources to sustain the lives of all the claimants, then the addressee of so many claims can have no duty to do the impossible. And since claim and duty are logical correlatives, there can be no genuine claims where there are no actual duties.<sup>45</sup>

In my view, the problem of scarce resources does not undermine the right at issue. The reason is that one can have “partial duties.” By a partial duty, I mean that if a person, X, cannot fulfill all that is required of a duty, but is able to fulfill part of what is required, then X has a duty to do as much as he can. For example, suppose that X owes Y \$5, and X has \$5, but X needs \$3 to survive. Because X is able to pay Y \$2, it seems reasonable to expect X to pay Y \$2, that is, X still has a partial duty to pay Y. The idea of partial duties is applicable to Wellman’s case of the human right to have one’s life sustained, and to our case of the duty to love a child. For example, although individuals, institutions and states may not have enough resources to sustain all lives, they may have some surplus resources that can be used to sustain some lives. If so, then they can be obliged to use these resources to help as many as possible, even if they are not able to help all. Similarly, in the case of the duty to love children, even if individuals, institutions and states do not have enough resources to make sure that this duty is fulfilled in

<sup>45</sup>Carl Wellman, *Welfare Rights* (Totowa, N. J.: Rowman & Littlefield, 1982), p. 159.

all cases, they may have some surplus resources that they can use to fulfill some duties at least partially. If so, they can also be obliged to do so, even if they do not have enough goods and resources to fulfill all the duties fully.

## V. POLICY CONSIDERATIONS

Suppose children do have a right to be loved, what priority should we give to this right vis-à-vis such rights as children's right to education, right to be cared for, right to food, and so on? Should the right to be loved be given more or less priority than these other rights? Also, other people have other rights that may conflict with children's right to be loved. For example, parents, as autonomous adults, may have a right to pursue their life plans. How should their rights be balanced against the right of their children to be loved? In general, what policy implications follow from this right?

One might think that, all things considered, the right of children to be loved is simply not as pressing as some of the other rights that children and others may have. To support this idea, one might appeal to Alan Gewirth's idea that one should promote first whatever is most needed for action.<sup>46</sup> On such a view, loving children will not be as pressing as, for example, feeding or supporting the poor, because the latter interventions are more urgently needed for the recipients' action. But while this is true, children's being loved is still very urgent, given that children, despite being well-fed, have died or have suffered serious physical, social and cognitive harms as a result of lack of love. So, even granting that being fed is more urgent than being loved, we still should give the right of children to be loved a very high priority. Indeed, being fed is also typically more urgent than receiving basic education. Few would question the importance of promoting children's right to basic education.

Indeed, governments and other public institutions recognize that they cannot give absolute priority to whatever is most needed for action. To see this, consider the value of life. As a precondition for action, life is obviously very important. Still, we do not always promote life before we promote other values. For example, governments build schools and museums when they could build more hospitals to ensure that more people survive illnesses. As this does not seem morally objectionable, it suggests that although life is very important, we do not give it an absolute priority over all other values. Hence, even if one grants that being loved is not as urgent as being fed, it does not follow that being fed has absolute priority over being loved, especially given that both are essential needs that children have.

Moreover, in order to develop institutional arrangements that would adequately provide for children's various essential needs, it is important to take

<sup>46</sup>Gewirth calls this the "criterion of degrees of needfulness for action"; *The Community of Rights*, p. 45.

into account all their essential needs, including their need for love. Otherwise, the kind of institutional arrangements that we develop for children may be inadequate. Consider the real-life example of trying to meet the needs of children orphaned as a result of HIV/AIDS in Africa. The US government is currently funding a \$15 billion global initiative, known as the President's Emergency Plan for AIDS Relief, or PEPFAR, to combat the HIV/AIDS epidemic.<sup>47</sup> If we focused solely on children's right to food and shelter, the kind of institutional arrangements we would recommend and develop under such an initiative could be very different from ones in which we also take into account children's right to be loved. The reason is that children can be fed and sheltered well in a large and efficiently run institution that pays no attention to their need for love. So, if we only focused on children's right to food and shelter, we may recommend a large institution with the effect that children's need for love is not met. By taking into account the fact that children need to be loved we would recognize from the very start that we need to develop smaller institutions that can provide not only food and shelter but also love for children. Indeed, a touted success story of PEPFAR involves a hospice in Nairobi, under the leadership of Father Angelo D'Agostino, which brought together 750 children who have lost their parents and 250 elders who have lost their children to create the Nyumbani Village, and which, according to the Office of the U.S. Global AIDS Coordinator, offers "what every child needs most – love."<sup>48</sup> Hence, to develop adequate institutional arrangements for children, it is crucial to take into account their need for love from the very beginning.

Supposing then that the promotion of children's right to be loved remains very important, what kind of policy should we support to promote this right? Previously, I mentioned some familiar possibilities such as better childcare programs and more flexible workplace policies for both men and women that would make it easier for primary dutybearers to discharge their duty to love their children. The general idea here is that children's right to be loved gives us further reasons to promote the primary dutybearers' welfare, health, psychological well-being, and so on, through generous welfare policies. Arguably, these policies are necessary in any case, but this right further underwrites their normativity. Another possibility may be to adopt Anne Alstott's proposal to give every family involved in raising children a Caretaker Account of \$5000 annually to be used for one of three purposes: childcare, retirement savings or education.<sup>49</sup> The grant would be paid to the caretaker parent or parents until the last child turned 13, but could not be used for consumer goods such as rent or groceries. Alstott's

<sup>47</sup>A government agency conducting an independent, expert-based study evaluating the effectiveness of PEPFAR had asked me to comment on their report pertaining to orphans and vulnerable children (OVC). One of my suggestions was that it is important that PEPFAR ensures that these children are not only cared for, but also loved, for reasons outlined below.

<sup>48</sup><http://www.state.gov/s/gac/rl/fs/46726.htm>

<sup>49</sup>Anne Alstott, *No Exit: What Parents Owe Their Children and What Society Owes Parents* (Oxford: Oxford University Press, 2004).

rationale for this proposal is that it would improve the long-term opportunities of caretaker parents, as paid childcare would help those parents who wish to preserve their skills and opportunities by holding paid jobs; education would help parents improve or refresh their marketable skills; and retirement savings would improve old-age financial security. Without debating the merits and disadvantages of Alstott's proposal, since her motivation is to ensure a continuity of care for children, and since a necessary but not sufficient condition for children's being loved is that there is a continuity of caretaker, the Caretaker Account could facilitate children's being loved.

Here I would like to explore two other possibilities in virtue of children's right to be loved. I present these possibilities as mere rough sketches, and therefore by no means does the following amount to a full defense of them. My first idea concerns the possibility of introducing mandatory basic parenting education for all children during middle- to high-school years.<sup>50</sup> Parenting education is about helping one to acquire the knowledge and skills to be able to carry out the task of helping a child to become an adequately functioning individual. Basic parenting education, as I envisage it, would focus on teaching basic scientific knowledge about childhood development; the nature of parenting; and how the society can influence the parent/child relationship. Such an education would seek to inform middle- to high-schoolers about the latest scientific research and theories on prenatal development; the role of proper nutrition during pregnancy; an infant's perceptual, motor, learning and social skills, sleeping patterns, eating habits, and temperament; the varying needs of children from birth to adolescence; and how to create a safe, healthy, stimulating and loving environment for children generally.

One reason for mandating basic parenting education in schools is that one of the aims of basic education is to help one acquire the necessary knowledge for developing into adequately functioning individuals, that is, individuals who have enough goods and capacities to pursue a good life. Since having a good life means for many people being good parents, having the necessary knowledge to be good parents will be important for many to be adequately functioning individuals. Indeed, for many, having basic parenting education will be as important as learning math and sciences. In addition, mandatory basic parenting education

<sup>50</sup>Some have suggested that middle schoolers may be too young and immature to absorb the kind of education I am proposing. On the other hand, middle schoolers do engage in sexual activities, and sex education is already offered at this age. Perhaps basic parenting education could be an ongoing module in classes tailored to different ages, much like language or history classes. Some studies regarding the effect of parenting education in schools have been conducted in the U.K. and elsewhere with positive results. See, e.g., E. Cutting and L. Tammi, *Understanding Parents, Understanding Parenthood: An Education for Parenthood Course Piloted at Monifeith High School*, Angus (Edinburgh: Save the Children Scotland, 1999); P. Hope and P. Sharland, *Tomorrow's Parents* (London: Calouste Gulbenkian Foundation, 1997). A good source for those in the U.S. who are advocating for mandatory parenting education is the Parenting Project. <http://www.parentingproject.org/> I shall shortly explain how the parenting education I have in mind differs from their proposal.

would complement sex education, because it would inform middle- to high-schoolers of the myriad duties involved in parenting, thereby giving them fuller information regarding the potential consequences of sex – a goal that both “abstinence only” and “abstinence-plus” advocates would share.<sup>51</sup> Indeed, basic parenting education could be taught in conjunction with sex education or other existing courses, for example, a general science or biology course, home economics, or psychology, so that it need not take up an entire course and overcrowd the existing curriculum. Moreover, providing basic parenting education in schools has the advantage of ensuring that everyone will receive some basic knowledge of the important task of parenting, irrespective of social-economic background and culture.<sup>52</sup> At the same time, because basic parenting education, as I envisage it, would restrict itself to teaching the scientific facts regarding childhood development and the like, it would not involve teaching “morals” to children – an objection some people have leveled against what might be called comprehensive parenting education, which seeks to teach not just basic scientific facts about childhood development but also more value-laden types of parenting skills such as empathy and caring.<sup>53</sup> Furthermore, court judges, social workers and educators who are part of the prison system have relied on parenting education as a remedial response to families who abuse or neglect their children.<sup>54</sup> Mandating basic parenting education in schools would provide such knowledge before abuse and neglect take place. Finally, for our purpose, such an education also would help every middle- to high-schooler to be fully aware of a child’s developmental process including a child’s need for love.

My second idea involves possibly rethinking our adoption scheme. At present, we subscribe to what might be called a Single-Family Adoption (SFA) scheme, which aims to place a child in a single family, typically consisting of a mother and a father. I suggest that we explore the possibility of supplementing the SFA scheme with what might be called a Multi-Family Adoption (MFA) scheme, which allows a child to be adopted by individuals from different families who are

<sup>51</sup>See, e.g., C. Collins, P. Alagiri et al., *Abstinence Only vs. Comprehensive Sex Education* (San Francisco: AIDS Policy Research Center & Center for AIDS Prevention Studies, University of California, 2002).

<sup>52</sup>See, e.g., R. Halpern, “Poverty and early childhood parenting: Toward a framework for intervention,” *American Journal of Orthopsychiatry*, 60 (1990), 6–18.

<sup>53</sup>For an example of “comprehensive parenting education,” see e.g., J. Schiffer, C. Cooper et al., *Preparing Tomorrow’s Parents Today* (The Parenting Project, 2002). The former Governor of California, Gray Davis, vetoed two bills (Senate Bill No. 305 and 1348) that sought to introduce this type of parenting education in schools on the ground that this kind of teaching should be left to parents in their own homes. While I am skeptical that any teaching can be completely value-neutral (even neutrality is arguably not a ‘neutral’ value), basic parenting education that focuses only on scientific facts of childhood development should avoid this particular problem.

<sup>54</sup>See, e.g., R. Chalk and P. A. King, eds, *Violence in Families* (Washington, D.C.: National Academy Press, 1998); N. D. Reppucci, P. A. Britner and J. L. Woolard, *Preventing Child Abuse and Neglect through Parent Education* (Baltimore, Md.: Paul H. Brookes Publishing Co, 1997).

not biologically related.<sup>55</sup> The co-adopters would all be parents of the child and would all share a significant portion of the childcare responsibility. By childcare responsibility, I mean providing love, housing, nurturance and care for the child; making sure the child has health insurance coverage and visits health care providers regularly; making sure the child receives education, and so on; in short, providing for the general welfare of the child. Some of the co-adopters would be designated as the primary parents and would have the primary responsibility of housing the child and providing for the general welfare of the child. The other co-adopters would be designated as the secondary parents and would supplement the child caring efforts of the primary parents. If the primary parents die, the secondary parents would take on their responsibilities.

Other details of the MFA scheme might depend on the particular circumstances of the parents and the legal arrangements of particular countries. For example, in the U.S., there is at present no universal health care coverage. So, the primary parents might typically be the ones responsible for insuring the children. However, one might also make it the case that the secondary parents could cover the adopted child through their health insurance plan. Indeed, presently in divorce cases, the Qualified Medical Child Support Order enables a custodial parent to obtain health insurance coverage for the children through the noncustodial parent's group health insurance plan.<sup>56</sup> One might be able to introduce a modified version of such an order to enable secondary parents to cover their adopted children. Also, typically the primary parents would claim the child for a dependant deduction on their tax forms. However, perhaps there could be a way to divide the deduction so that both sets of parents could claim some amount of the deduction.

The MFA scheme is inspired by the "extended family" model where grandparents or aunts and uncles sometimes share a significant portion of the childcare responsibility with the biological parents, including providing love for the children. The MFA scheme seeks to extend this model to adoption where children might also be able to thrive by being raised by non-biologically related individuals from different families, provided that these individuals are able to give children, among other things, the kind of love children need. Moreover, if all of us have associate duties to see to it that primary dutybearers can successfully discharge their duty to love their children, some might find the MFA scheme to be a preferred way of fulfilling these associate duties, because they have the ability and are willing to partake in such a scheme. The MFA scheme also has some affinity with "open adoption," which is an adoption plan that allows the

<sup>55</sup>See, e.g., Angela Kupenda, Angelia L. M. Wallace et al., "Aren't two parents better than none: Contractual and statutory basics for a 'new' African American coparenting joint adoption model," *Temple Political and Civil Rights Law Review*, 9 (1999), 59-64, for a similar idea applied to the African American context.

<sup>56</sup>See, e.g., Employee Retirement Income Security Act (ERISA) §§ 4(b), 609(a), and 607(1).

biological parents to have some contact with their child and the adoptive family.<sup>57</sup> Although some prospective adoptive parents worry that the biological parents might try to reclaim their child in an open adoption – a worry that need not apply to the MFA scheme assuming that only non-biologically related individuals are involved – many of the individuals who have participated in open adoption have found the experience to be satisfying.<sup>58</sup>

The MFA scheme could address an important deficiency in our current adoption system. Over 500,000 children in the U.S. currently reside in some form of foster care, and about 30% of these children have severe emotional, behavioral, or developmental problems, owing to the fact that a significant number of these children spend long periods of time in care awaiting adoption or other permanent arrangements.<sup>59</sup> At the same time, nearly four in ten Americans (39%), or about 81.5 million adults, have considered adopting at some time in their lives,<sup>60</sup> but no more than 2% of Americans have actually adopted.<sup>61</sup> There are a number of possible explanations for this, but in the Harris Survey of 1,416 Americans 18 and older with diverse ethnic backgrounds, it was found that a major concern for 49% of the individuals interviewed regarding adoption is having the time to raise the child.<sup>62</sup> In addition, the cost of adoption concerns 45% of the middle income individuals (those earning from \$25,000 to \$99,000), and 52% of the lower income individuals. Moreover, 50% of the individuals would like to see counseling services and support groups for the adoptive parents. By allowing more than one family to co-adopt, the MFA scheme could be especially attractive to those who are qualified to adopt a child, but who may not have the time and resources to do so, because the time and cost required to raise an adopted child would be shared. It would also allow the co-adopters to form their own support group, much like an extended family. The Harris survey has also found that the Americans who were most likely to have considered adopting

<sup>57</sup>See, e.g., H. D. Grotevant and R. G. McRoy, *Openness in Adoption* (Thousand Oaks, Calif.: Sage Publications, 1998).

<sup>58</sup>See, e.g., M. Berry, D. J. Cavazos Dylla, R. P. Barth and B. Needell, "The role of open adoption in the adjustment of adopted children and their families," *Children and Youth Services Review*, 20 (1998), 151–71; H. E. Gross, "Open adoption: a research-based literature review and new data," *Child Welfare*, 72 (1993), 269–84.

<sup>59</sup>"Facts for families: foster care," *American Academy of Child and Adolescent Psychiatry*, No. 64 (2002), <http://www.aacap.org/publications/factsfam/64.htm>. See also J. Selwyn and D. Quinton, "Stability, permanence and outcomes: Foster care and adoption compared," *Adoption and Fostering*, 28 (4) (2004), 6–16. For an interesting theory regarding the history of the rise of the foster care system in the U. S., see M. Crenson, *Building the Invisible Orphanage* (Cambridge, Mass.: Harvard University Press, 1998).

<sup>60</sup>Harris Interactive, Inc., *National Adoption Attitudes Survey* (The Evan B. Donaldson Adoption Institute, 2002), [http://www.adoptioninstitute.org/survey/Adoption\\_Attributes\\_Survey.pdf](http://www.adoptioninstitute.org/survey/Adoption_Attributes_Survey.pdf); Princeton Survey Research Associates, *Benchmark Adoption Survey: Report on the Findings* (Washington, D.C.: Evan B. Donaldson Adoption Institute, 1997), [http://www.adoptioninstitute.org/survey/Benchmark\\_Survey\\_1997.pdf](http://www.adoptioninstitute.org/survey/Benchmark_Survey_1997.pdf)

<sup>61</sup>W. D. Mosher and C. A. Bachrach, "Understanding U.S. fertility: continuity and change in the national survey of family growth, 1988–1995," *Family Planning Perspectives*, 28 (1996).

<sup>62</sup>Harris Interactive, *National Adoption Attitudes Survey*.

a child were those aged 35 to 54, married and female.<sup>63</sup> So, the MFA scheme could enable, for example, a working woman in her forties – who wants to adopt a child but may not have the time to do so – to adopt a child with, for example, some of her close friends. In general, by meeting the concerns of the large percentage of Americans who refrain from adoption because of time and monetary concerns, the MFA scheme could enable more children to be adopted into families where they are more likely to receive the love they need in order to develop adequately. No doubt, before implementing the MFA scheme, it will be important to investigate further such issues as whether children will in fact receive adequate love under such a scheme, how one should delineate and enforce responsibilities among primary and secondary parents, whether people in fact would be willing to participate in such a scheme, and how the likely confusion for a child owing to the diffusion of parental responsibility might affect a child's development. But if such a scheme could ensure that, on balance, more children are really loved, then it may be worth the effort to explore it further.

## VI. CONCLUSION

While many people intuitively believe that children have a right to be loved, and while many international declarations on children's rights have proclaimed that children have such a right, a number of people, philosophers especially, are concerned that rights such as the one considered here are often claimed today without sufficient consideration as to whether these claims can be justified.

In this paper, I argued that the claim that children have a right to be loved is not merely empty rhetoric by proposing that this right can be grounded as a human right and by showing that love can be an appropriate object of a duty. Furthermore, I challenged the common notion that the duty to love a child belongs only to the biological parents. If the right of children to be loved is indeed a human right grounded in the fact that children need to be loved in order to develop essential capacities needed for a good life, then we as a society also need to accept part of the duty to promote children's being loved as our responsibility. The idea of "associate dutybearers" encourages us to rethink where our responsibilities towards children begin and end. To facilitate children's right to be loved in practice, I also proposed that we explore such institutional arrangements as mandating basic parenting education and promoting the Multi-Family Adoption scheme.

<sup>63</sup>ibid.