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Global Perspectives on Freedom of Association: A Habitual Perspective on Freedom of Association

Judith Martens

Societās Exploring the Value of Freedom of Association

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Associating on Familiar Grounds: A Habitual Perspective on the Freedom of Association

Judith H. Martens[1]

In this chapter, I will introduce the idea of habits, familiarity, and proxy-reasons as important underpinnings of our associational life. I will use my analysis to examine the moot court scenario of *Cairde ar son Cairdre Soup Kitchen* (presented in the introduction of this book).[2] To gain insight into the framework, I will begin by outlining the results of applying my approach to the moot scenario. In this scenario, Cairde ar son Cairdre is an outdoor soup kitchen initiated by a group of friends. Over time, several shops become involved, and the outreach goes beyond offering a shared meal to those in need. The group views their activities as an expression of community support that transcends formal legal structure. The group of friends wants to maintain an unofficial status and informal character, partly because they aim for an atmosphere that is open and friendly to their guests. The volunteers at Cairde ar son Cairdre, led by Gráinne, formed an association through their shared values and collective actions. To its members, this association is not a legal or formal agreement, but an expression of shared identity and commitment to a social cause. This is even though they clearly commit to a structural way of organising regular activities and have clear role divisions. The Charity Regulators want the soup kitchen to register as a charity and act in accordance with the Charities Act. They ask the soup kitchen to conform to formal registration and financial oversight. The group objects to this formalisation based on their right to freedom of association. How can my conceptual work on habits, familiarity, and proxy-reasons help the legal and ethical discourse surrounding the freedom of expression and association? I will argue that my framework allows us to see how the proxy-reasons (a proxy or interim for reasons) offered by the sense of

[1] This publication is a contribution to the *Societās: Exploring the Value of Freedom of Association* project, led by Professor Maria Cahill at the School of Law, University College Cork, and funded by the Irish Research Council (now Research Ireland) under grant IRCLA/2022/3860. The chapter builds on ideas discussed during the workshop *Exploring Associational Life: From Social Ontology to Law and Back Again*, held at University College Cork on 25–26 April 2024.

[2] See Appendix 1 below.

familiarity gives meaning to the actions of the soup kitchen. Their informal familiarity-based structure is both meaningful and essential.

Initiatives such as Gráinne's soup kitchen are deeply rooted in a sense of familiarity, both for the volunteers who run the charity and for the guests who rely on their services. The operation of this group is guided by shared habits and practices that have developed over more than a decade. Habitual actions, such as sourcing food from local suppliers, providing personal items discreetly, and serving meals in a warm, communal atmosphere, are not merely functional. They constitute a form of associational life that reflects the group's values and their vision of what a supportive community should look like. The absence of formal structures, such as a registered charity status or financial bookkeeping, is not a result of neglect but a deliberate choice to preserve the informal and personal nature of the association, as the group is convinced that moving to a more formal and explicit structure might interrupt the way they operate, that is, it would interrupt the existing habits. The decision to avoid formalisation could be seen through the lens of a sense of familiarity; it could be tied to a deeply embedded understanding that the value of their work lies in these familiar, habitual practices, which would be undermined by the imposition of external legal requirements.

In cognitive science, association is often linked to the realm of the implicit, implied, unspoken, and automatic. Think of associations between black and white, salt and pepper, or Tom and Jerry. Association, in cognitive science, is a descriptive rather than a normative notion. So, how can we connect this conception of association to the ideas of rights and freedom of expression, which are associated with the freedom of association? Should we even attempt this connection? This chapter argues that the conception of association in cognitive science provides a foundational framework for understanding the dynamics of freedom of association. I examine recent research on habits as a form of associations in the cognitive sense and examine its implications for our normative understanding of ourselves, as individuals and as part of a collective. Through an analysis of habits and the sense of familiarity they generate, I conceptualise how we associate ourselves with groups and organisations and how this can give rise to reasons to act – placing us back in the normative domain of rights and freedoms. In doing so, I argue that the associations that cognitive scientists study are indeed essential and fundamental to associational life and freedom of association.

In psychology, the term "association" pertains to the relations or connections we lay between different objects, ideas, thoughts, emotions, and others. Further examples of association include (a) implicit biases: most of us hold associations between certain types of names and positive or negative ascriptions of people and (b) habits, understood as associations

between certain (kinds of) situations with particular (kinds of) actions. In particular, this latter form of association is foundational to my account. These relations are nonlogical. By that I do not mean to say that they are illogical, but rather that they are alogical. They are not in accordance with logical reasoning (eg deductive reasoning).

This notion of association seems far removed from the notion of association that we find in the discussion of freedom of association. Not in the last because on the surface these psychological kinds of associations seem implicit, automatic, and non-agentic. Those who argue for the importance of freedom of association will have associations in mind that involve memberships, registrations, an agenda, shared goals, and/or a shared ideology. Such associations are often formalised explicitly. Think of unions, members of a sports club, those working for charities, people engaged in protecting cultural heritage, and activists. Even associations, including the "informal" soup kitchen of Cairde ar son Cairde which I will discuss as a case study in section V.A, which do not wish for such formalisation and registration, typically have clear explicit goals and/or a shared ideology.

The aim of this chapter is not to argue that any or all associations in the psychological sense give rise to associations and freedom of association. Nor that any association necessarily relies on the kind of associations that I will conceptualise. However, I argue that associational life *can* be quite loosely constructed and that associations, as a sense of familiarity, underpin the way we shape and act in associations. Consider the following examples: groups of writers creating a certain genre, people objecting to the production process for palm oil that boycott a certain brand, or people in a certain neighbourhood that let their dog out and form some kind of community.[3] However, most accounts of collective intentionality are built on mentality, which is understood in terms of propositional attitudes. I argue that it is a mistake to think that association will be either explicit, structured, with goals, etc., or the opposite in all respects. Rather, following Martens and Roelofs, I suggest thinking about association and associational life as something that should be understood on a multidimensional scale defined by various characteristics such as rules, memberships, agendas, habits, and a sense of familiarity.

Consider a group that is working diligently to preserve its cultural heritage. Members of this group share a common objective – to protect a culture or specific practices and narratives associated with that culture – however, the culture itself is also their own, and they are intimately acquainted with it. There will be a multitude of associations (in the psychological

[3] For a discussion of these examples, see Judith H. Martens and Luke Roelofs, 'Implicit Coordination: Acting Quasi-Jointly on Implicit Shared Intentions' (2018) 4 *Journal of Social Ontology* 93.

sense) related to this culture which makes it theirs, which makes it familiar and valuable for them.

Habits and the sense of familiarity that comes with them are my means of connecting different notions of association.[4] Other philosophers have analysed habits in relation to familiarity and familiarisation.[5] I think this is useful for two reasons. First, habitual actions are important in daily life. They play a significant role in explaining our behaviour, both individually and collectively. Second, the work by Hornett has linked habits, through their sense of familiarity, to the space of reasons. In this paper, I explore the extent to which these reasons are of interest to us when considering the right of association within the realm of legal and judicial discourse. I will do so by arguing that the sense of familiarity can function as a proxy-reason that must stand in the right relation to further justifications.

The remainder of this chapter is organised as follows. In Part I, I will start by briefly giving my account of habits, allowing me to then explain how they can provide a sense of familiarity and proxy-reasons in Part II. From this, we can see how justifications at the individual and group level connect to individuals' habits in Part III. This will allow us to return with a deepened understanding of the relationship between habits and freedom of association in Part IV. Finally, in Part V, I will return the moot court scenario *Cairde ar son Cairdre Soup Kitchen* as a case study to illustrate the importance of association in terms of a sense of familiarity in more detail. Conceptually connecting the cognitive conception of association to the legal and ethical discourse surrounding freedom of expression and association provides a richer understanding of how groups such as Cairde ar son Cairdre operate and why their informal, familiarity-based structure is both meaningful and essential.

Habits as Acquired Automaticities

There are many different conceptions of habits and different authors assign varying degrees of importance to habits in understanding human behaviour. Some argue that habits are crucial for our reasoning abilities, while others view them as obstacles to our reasoning. Following research in cognitive science, as well as the pragmatic tradition, I consider habitual behaviour as the default mode in which we respond.[6] I further assume that habits also play a role in our

[4] It goes beyond this chapter to discuss to what extent we can also consider other associations as habits of mind/thought, but one could extend my argument in that direction too. In the pragmatist tradition, for example, many considers reasoning to be a habit too.

[5] Clare Carlisle, *On Habit* (New York, Routledge, 2014); William Hornett, 'The Force of Habit' (2023) 104 *Pacific Philosophical Quarterly* 1.

[6] Henk Aarts and Ap Dijksterhuis, 'Habits as Knowledge Structures: Automaticity in Goal-Directed Behavior' (2000) 78 *Journal of Personality and Social Psychology* 53; Nomy Arpaly, 'On Acting Rationally against One's

intelligent capacities rather than obstructing them. Although habits raise important questions concerning human rationality, relying on habitual responses is generally considered adaptive.[7] This holds true, even if habits sometimes obstruct rationality or reasoning. I will explore this idea further when discussing how habits and the sense of familiarity they give rise to can provide the agent with proxy-reasons. First, I will spell out my account of habits in more detail, including why I think they are important for our understanding of groups, collectives, and associations.

Habits have been described as our second nature, allowing us to understand the sociality of our nature.[8] This should be understood as a description of habits of individuals, but it also tells us something about shared habits. Of course, each person has their own peculiar, idiosyncratic habits, but many of the habits we have are shared, are socially learned, and in that sense, not only mine or yours, but ours as well.[9] It is not a coincidence that Hume used the terms 'habit' and 'custom' interchangeably. Habits are cultivated and part of our culture.

On the understanding of the underlying mechanism of habits on the individual level, I understand them as acquired automaticities[10].[11] Acquired automaticity refers to the phenomenon in which a behaviour that initially requires conscious effort and attention becomes automatic and can be performed with little or no conscious awareness after repeated practice. As repetition is involved, one of the results of acquiring automaticities is that they come with both a receptiveness and resistance to change. James famously argued that habits are highly

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Best Judgment' (2000) 110 *Ethics* 488; John A Bargh and Tanya L Chartrand, 'The Unbearable Automaticity of Being' (1999) 54 *American Psychologist* 462; Wendy Wood and others, 'Habits in Dual Process Models' in Jeffrey W Sherman, Bertram Gawronski and Yaacov Trope (eds), *Dual Process Theories of the Social Mind* (New York, Guilford Press, 2014).

[7] Leda Cosmides and John Tooby, 'Are Humans Good Intuitive Statisticians after All? Rethinking Some Conclusions from the Literature on Judgment under Uncertainty' (1996) 58 *Cognition* 1; Gerd Gigerenzer and Wolfgang Gaissmaier, 'Heuristic Decision Making' (2011) 62 *Annual review of psychology* 451; Gerd Gigerenzer and Peter M Todd, 'Fast and Frugal Heuristics: The Adaptive Toolbox' in Gerd Gigerenzer, Peter M. Todd and The ABC Research Group (eds), *Simple heuristics that make us smart* (New York, Oxford University Press, 1999); Mike Oaksford and Nick Chater, *Bayesian Rationality the Probabilistic Approach to Human Reasoning* (Oxford, Oxford University Press, 2007).

[8] Robert Bartlett C. and Susan Collins D (eds), *Aristotle's Nicomachean Ethics* (London, University of Chicago Press, 2011); Pierre Bourdieu, *Pascalian Meditations* (Stanford, Stanford University Press, 2000); John Dewey, *Human Nature and Conduct: An Introduction to Social Psychology* (New York, Henry Holt and Company, 1922); David Hume, *Enquiries Concerning Human Understanding and Concerning the Principles of Morals* (Oxford, Clarendon Press, 1975).

[9] See also Bill Pollard, 'Explaining Actions with Habits' (2006) 43 *American Philosophical Quarterly* 57.

[10] Automaticity is a complex notion that I will not spell out in full detail here. For this chapter it should suffice to say that I do not understand automaticity as the inverse of controlled or intentional. Automaticity has several characteristics, each of them not necessarily co-occurring and each coming on a spectrum, meaning that a process can be automatic to some extent. For a full discussion *cf* Judith H. Martens, *Doing Things Together: A Theory of Skillful Joint Action* (Berlin, De Gruyter, 2020).

[11] Ellen Fridland, 'Automatically Minded' (2017) 194 *Synthese* 4337; Judith H. Martens, 'Habit and Skill in the Domain of Joint Action' (2021) 40 *Topoi* 663; Victoria McGeer, 'Intelligent Capacities' (2018) 118 *Proceedings of the Aristotelian Society* 347.

receptive to formation through repetition and practice.[12] He likens the creation of habits to the engraving of a path in the brain, where each repetition of an action deepens the groove, making it easier for that behaviour to be repeated. These established habits make a difference to a being's constitution. The same process that makes the behaviour automatic also makes it difficult to alter it. Once a habit is formed, it becomes rather resistant to change. This emphasises the "tyranny" of habits that can explain their bad reputation; habits can dominate our daily life, making it challenging to change. Habits are powerful forces in human life; they are readily formed and are difficult to break. This duality, both receptive and resistant to change, underscores their importance in shaping our daily lives. This also holds for the habits that we share. Many of the acquired automaticities that each individual has will be socially acquired. Our parents, educators, and the wider environment will shape our acquired automaticities, which in turn will shape our constitution. For a large part, this happens long before a child can deliberately do so. While we each go about our daily lives, we rely on these common ways of doing things and these common ways will also be resistant to change. Together, these (shared) acquired automaticities give rise to familiarity.

Familiarity, Normalcy and Proxy-reasons

Through repetition we become familiar with doing a certain (kind of) thing in a certain (kind of) situation.[13] This altered constitution gives us a specific sensitivity and responsiveness to our environment. This responsiveness is based on what has worked in the past. Familiarity shapes relationships, habits, and the way we interpret our surroundings. Importantly, familiarity gives rise to a sense of familiarity. This provides us with a sense of belonging. Something which Carlisle has described as being 'insulated from the threat of the unknown'.[14]

Picking up the idea of shared habits, we can easily see how familiar ways of doing things also shape a normative domain. These habitual ways of going about are considered normal, as expected by others. That which is normal is often also seen as the norm. Therefore, we can also consider the sense of familiarity as a sense of normalcy when habits are shared. Our habitual ways coincide with what we perceive as normal and the norm, as that which we anticipate.

Although this sense of familiarity is helpful in many situations and motivates us to act, it is important to highlight that it is not necessarily or solely positively characterised. First, this

[12] William James, *Principles of Psychology* (New York, Holt, 1890).
[13] For extensive discussion see Clare Carlisle, 'Creatures of Habit: The Problem and the Practice of Liberation' (2005) 38 *Continental Philosophy Review* 19; Hornett, 'The Force of Habit'.
[14] Carlisle, 'Creatures of Habit', 23.

sense of familiarity can also lead to complacency, potentially stifling growth and new experiences. Second, a sense of familiarity can take away the thrill or positive affect that originally belonged to a certain event. It can dull the experience, making it more neutral or even negative. For example, cooking can be an adventure. Exploring new recipes or techniques can make cooking an exciting experiment. However, over time, the daily necessity of cooking can strip away the novelty, especially when you find yourself preparing the same dishes repeatedly due to convenience. Simultaneously, it may be exactly this routine that we look for after a long day at work. Hence, independent of the positive, neutral, or even negative affect, the sense of familiarity – as insulation from the threat of the unknown – is understood as motivating us to act.

The sense of familiarity will make it the case that some action feels like the right thing to do in a certain situation, and to that extent, it can function as a reason to do that thing. Therefore, the sense of familiarity is a response to the Anscombian why-question; it gives a justification for action, rather than merely a causal explanation. Anscombe argues that what distinguishes actions that are intentional from those that are not is that intentional actions are those 'to which a certain sense of the question "Why?" is given application'. This is the sense in which 'the answer, if positive, gives a reason for acting'.

Although this sense of familiarity can answer the Anscombian why-question, as justification, one might feel that it is lacking. The sense of familiarity is not as deeply embedded in a more consistent and coherent picture of reasons, desires, and intentions as other answers to the why-question. Thus, while a sense of familiarity can serve as a reason for action, it may be seen as lacking a comprehensive answer to this question.[15] A sense of familiarity primarily provides comfort and reduces the perceived risk associated with a situation or a decision. While this may explain why an action feels right, it does not necessarily engage with deeper rational or ethical considerations that justify an action. In that sense, the reason a sense of familiarity provides can also be understood as a surface-level justification. Taking this into consideration, I will understand them as *proxy*-reasons and discuss them as such when discussing deeper justifications in the rest of this text.[16]

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[15] Gertrude Elizabeth Margaret Anscombe, *Intention* (Oxford, Blackwell, 1957) 9. Anscombe's question "Why?" applies in the relevant sense even in cases where the answer to the question is 'no particular reason.' As she says, 'the question is not refused application because the answer to it says that there is no reason, any more than the question how much money I have in my pocket is refused application by the answer "None"' (Anscombe, *Intention*, 25).

[16] Note that as soon as we would critically engage with our habits, we move out of the domain of the sense of familiarity. Therefore, we cannot guarantee consistency with our broader goals while the sense of familiarity is our guiding principle. Decisions based solely on familiarity may not align with an individual's broader goals, values, or principles.

So why argue that these proxy-reasons are important? Philosophers have struggled to see how habitual actions can be understood as actions, even when agreeing that they are not mere bodily movements.[17] The sense of familiarity, understood as proxy-reason, gives us a way to understand how habits appear as justifying explanations. Especially if we accept that we are creatures of habits, such a link is important. I think we need to accept this understanding of ourselves, as we simply do not have the time or cognitive capacity to reflect on every decision, based on a comprehensive set of rational criteria. A sense of familiarity provides some level of justification. In cases where they do so in ways that are shared and normative or culturally endorsed, the sense of familiarity also provides a sense of normalcy and leads to contextually appropriate behaviour. Acting in accordance with what feels familiar often also means that the agent adheres to social norms or accepted practices. With these considerations already on the table, I will now explore the extent to which the sense of familiarity can be a proxy for more complex justifications and can be connected to a deeper level of justification.

A. Habit Development and Sources of Justification

To salvage the relation between the sense of familiarity and a deeper rationality, I think it is useful to make a distinction between the justifying reason, if any, why a certain habit is a part of someone's constitution and the sense of familiarity as a justifying reason. In other words, we can distinguish between the reasons for having a habit and reasons for acting on that habit. These reasons provide answers to different why-questions: (1) why a person has a habit, and (2) why a person acts on this habit. The first why-question does not always have a justificatory answer; it can also have a mere causal answer. However, we often develop our habits while trying to attain certain goals, and habitual behaviour can be intentional or goal-directed in at least this indirect sense.[18] The second why-question is answered through the sense of familiarity.

Exploring the distinction between the justifying reason for habit constitution and acting on that habit as a justifying reason reveals different layers of motivation and rationality. Why does someone develop the habits they have? Not every habit someone develops has been a deliberate choice. Many habits are formed in early childhood, making it the case that we all have habits we can only later engage with reflexively. Therefore, it seems safe to say that

[17] Annemarie Kalis and Dawa Ometto, 'An Anscombean Perspective on Habitual Action' (2019) 40 *Topoi* 637; Pollard, 'Explaining Actions with Habits'.
[18] John R Anderson, 'Acquisition of Cognitive Skill' (1982) 89 *Psychological Review* 369; Arpaly 'On Acting Rationally against One's Best Judgment'; Wendy Wood and David T Neal, 'A New Look at Habits and the Habit-Goal Interface' (2007) 114 *Psychological Review* 843.

minimally some habits are acquired inadvertently. But a person *can* develop or change their habits based on reflection. In such cases, I assume that this habit is connected to deeper justificatory reasons. These justifying reasons typically involve a reflective process in which the benefits, values, or needs of the habit are assessed.

By contrast, the sense of familiarity as a justifying reason operates at a more immediate level. Once a habit is formed, continued engagement in the behaviour is driven by the motivation flowing from its familiarity rather than a recall of the original justifying reason. This sense of familiarity does not require the individual to revisit the initial rationalisation; rather, it functions as a more immediate guide for action. In such cases, the sense of familiarity has become a proxy for justification, signalling to the individual that the habitual action is appropriate, safe, or preferable, without necessitating deeper reflection. This distinction is crucial because it highlights the potential divergence between the initial reasons for habit formation and the ongoing reasons for habit maintenance. While the original justifying reasons may align with broader goals, values, or rational considerations, the sense of familiarity as a justifying reason will not reflect these deeper motivations (or does so only indirectly).

Individual justifications are those that emerge from personal reflection and reasoning. When a person engages in developing a habit, they may have a clear, articulated reason for doing so – rooted in their own beliefs, values, or goals. These justifications are often grounded in a conscious understanding of why the habit is beneficial or necessary. For example, a person might regularly exercise because they value physical health and have internalised the benefits of staying fit, or adhere to a vegan lifestyle and exchange animal produce with alternatives as they deem this an important consequence of their moral considerations. Here, the habit is supported by a coherent rationale that aligns with the individual's broader life goals. The strength of individual justification lies in its personal relevance and alignment with a person's values, making the habit more resilient to change or challenge.

Relevant to collective cases and associations, I suggest that deeper justifications of our habits can originate from sources other than the individual. Besides an individual's own reasoning, the reasoning of a group can provide a connection between the sense of familiarity and deeper justifications. As many habits are instilled by others, it is worthwhile considering the responsibility of others and groups for the habits they instil in others. Educators, parents, and other caregivers can have justificatory reasons why they try to develop certain habits in others. But also on a collective level we have systems in place that create habits. School systems have been developed with a certain rationale for the education of children. These justifications are often absorbed implicitly through socialisation and may not be critically examined by the

individual (or caregiver). For instance, a person might adhere to certain traditions, customs, or routines not because they have personally reflected on their value but because these practices are deeply embedded in their cultural context or social environment. Examples include habits we learn while learning to play an instrument or table-manners. External justification can come from other individuals, or from a collective level, or a combination. Most likely, many of the habits our parents instil in us will be justified at the collective level. The power of the justifications of community-shared justifications for certain habits lies in their collective acceptance. At the same time, these actions justified by group norms or cultural practices can provide a sense of belonging and social validation – a sense of normalcy – reinforcing the habitual behaviour, even if the individual has not personally scrutinised the rationale behind it. These collective justifications often carry significant weight because they are tied to a sense of identity and community.

Group Justification

At both the individual and group level there can be explicit justifications underlying a habit. For this chapter, I am not so much interested in group-habits as in habits individuals have that are tied to group justification, which are explained by their membership of certain groups, associations, etc. A group might consciously endorse a certain norm and be fully aware of the reasons behind it. For example, a religious community may observe specific rituals with a clear understanding of their spiritual significance, or a professional group may adopt certain standards of conduct based on shared values of integrity and excellence. These habits are collectively justified, and the justification reinforces group identity and cohesion. However, groups can also adhere to norms or customs without a clear or shared justification. Such habits may emerge historically and gradually become entrenched without ongoing reflection on their relevance or purpose. In some cases, these group habits might originate from a context that is no longer applicable, yet the practices continue simply because of tradition or inertia. For instance, a workplace might maintain outdated protocols because "this is how it has always been done", even if no one can articulate a current, valid reason for doing so. In these cases, the group level can be explanatory for the individual's habits without a justification in terms of reasons. How responsible is an individual for knowing the reasoning behind habit-justification at the group level?

The sense of normalcy that comes with a group-endorsed habit may make it appear not only normal in a descriptive sense, but also in a normative, reason-providing sense. Furthermore, group members might adopt certain habits that are "of the group" out of a desire

for conformity or fear of social sanction, rather than because they find personal or rational justification. This can lead to the perpetuation of norms or customs that may no longer serve the group's best interests, align with its current values, or serve individuals adhering to these norms. In such cases, the habit's justification is unexamined and has become inadequate due to changes in the circumstances, yet it continues to shape behaviour and social interaction. This means that some reflection on the reasons behind habits, whether personal or collective, is crucial for ensuring that actions continue to serve meaningful purposes and align with evolving goals and contexts.

From a prescriptive standpoint, especially in contexts such as education where habits are instilled in the next generation or when officials are creating or adjusting policies that affect many, it seems very important to keep a keen eye on the relation between our deeper justifications and the proxy-reasons in terms of a sense of familiarity they create in individuals. Given ever-changing circumstances, it is crucial to actively reflect on and justify the habits and norms that we are promoting. This involves critically assessing whether habits are supported by still valid reasons that align with, for example, contemporary educational goals and societal values. By maintaining an active link between proxy-reasons and actual reasons, we can ensure that the habits we instil are not only familiar, but also meaningful and beneficial. This ongoing process of reflection and justification is essential for developing habits that are resilient, relevant, and capable of meeting the challenges of an ever-changing world. I take it that we cannot expect every aspect of this reflection and justification to happen at the individual level, which means they are the responsibility of a group, collective, association, etc. However, this does not mean that these justifications are not valuable to the individual. Each individual will need to weave together and find a balance between the individual and group level of justification, and ensure that we are not solely running on unjustified senses of familiarity.

Associational life, Proxy-reasons, and Reasons

Given the availability and applicability of group justifications to individuals belonging to or associating with certain groups, these justifications will cause similar or even identical habits in more than one individual. Hence, in some sense, we can speak of habits of the group. These shared habits – those cultivated within and across social groups – play a crucial role in shaping our collective lives. Shared habits contribute to a collective sense of familiarity, creating bonds that make us feel at home within a particular group, culture, or context, with particular ways of doing things together and particular ways of interacting. These habits form the backbone of

what I have referred to as proxy-reasons, which guide our actions in a way that feels intuitively correct even if not always fully articulated or consciously justified.

The notion of proxy-reasons becomes particularly significant when considering the functioning of associations, especially those with longer histories of large memberships. In these contexts, the shared habits and the resulting sense of familiarity are not merely byproducts of individual interactions but are also deeply embedded in the collective practices and traditions of the group. Shared habits provide a sense of continuity and belonging, anchoring individuals to the group's identity and purpose and are the normal way of doing things in that particular group. They allow members to navigate the complexities of social life with a sense of security and cohesion, as actions that align with these shared habits often feel inherently right and appropriate.

However, as I have argued in this chapter, the mere presence of proxy-reasons is insufficient for a fully normative account. For these proxy-reasons to be robust and meaningful, they must be connected to deeper justificatory reasons. These deeper reasons provide a more comprehensive foundation for why certain habits exist, ensuring that the actions they motivate are not just reflexive or customary but also grounded in rational, ethical, or cultural considerations. Importantly, these deeper reasons need not always originate from the individual. In the context of associations, especially those that are large or long-standing, the justificatory reasons often belong to the group as a whole.

Group-level justificatory reasons for our shared habits are valuable because they connect what feels right – those actions supported by proxy-reasons – with a broader framework of meaning and purpose. In many cases, these reasons have been developed and refined over time, shaped by the collective experiences, values, and goals of the group. For instance, a labour union may have a long history of advocating for workers' rights, and its members may feel a strong sense of solidarity and purpose rooted in the group's shared habits and traditions. The justificatory reasons behind the union's actions – such as the pursuit of fair wages, safe working conditions, and social justice – are not merely individual concerns, but are deeply embedded in the collective ethos of the group. These reasons provide a deeper layer of meaning to the proxy-reasons that guide the union's activities, ensuring that the group's actions are not just habitual, but also aligned with its broader mission.

This connection between proxy-reasons and deeper justificatory reasons is crucial for maintaining the integrity and coherence of an association. When proxy-reasons are grounded in the group's shared justificatory reasons, they help reinforce the group's identity and purpose, creating a strong sense of collective agency. Members are not just acting out of habit; they also

participate in a shared project supported by a well-articulated rationale. This gives their actions greater significance and helps ensure that the association remains relevant and responsive to its members' needs, changing circumstances, and the challenges it might face.

Moreover, the presence of group-level justificatory reasons can help prevent ossification of habits and practices within the association. As mentioned earlier, habits can be resistant to change, and this resistance can sometimes lead to complacency or a lack of critical engagement with established norms. The group can periodically reassess its practices and beliefs, ensuring that they continue to serve the association's goals and are responsive to changing circumstances. Thus, we avoid ossification while not overburdening the individual members.

In conclusion, while shared habits and the resulting proxy-reasons play a vital role in the functioning of associations, it is the connection to deeper justificatory reasons that give these habits their true strength. These deeper reasons, often rooted in the collective experiences and values of the group, provide a solid foundation for the association's activities and ensure that the actions motivated by proxy-reasons are not only familiar and comfortable, but also meaningful and purposeful. By maintaining this connection, associations can navigate the balance between tradition and innovation, thereby ensuring that they remain dynamic and relevant in an ever-changing world.

Applying the Conceptual Framework – Sustainable Political Communities

As outlined in the Introduction to this collection, Maria Cahill argues that associations deserve to be taken seriously for their increasingly critical role in promoting sustainable political communities, fostering genuine pluralism, and guarding against social alienation.[19] In an era in which individuals and groups face growing pressures from social, economic, and political forces that can lead to fragmentation and isolation, associations offer a powerful counterbalance. They provide a framework for individuals to connect, share values, and work together towards common goals, thereby strengthening the fabric of society.

In this context, the right to freedom of association emerges not just as a legal or formal entitlement but also as a fundamental psychological mechanism for building and sustaining connections between people. In this chapter, I focussed on shared habits and how associations are rooted in a shared sense of familiarity, which serve as a proxy-reason that guide our actions

[19] Maria Cahill, "Comparative and Interdisciplinary Interfaces of Associational Life and Freedom" in Maria Cahill & Giulia Lasagni (eds.) *Associational Life and Freedom* (Hart Publishing, 2025, forthcoming)

within these contexts. These shared habits create a sense of belonging and identity, helping individuals feel at home in their social environment. However, for associations to truly fulfil their potential in promoting sustainable communities and pluralism, I argued that these proxy-reasons must be connected to deeper justificatory reasons that resonate with the group's broader mission and values. I illustrate this using a case study can also be found in the introduction of this book.[20]

Case Study - Cairde ar son Cairdre

With the conceptual apparatus in place, we can return to the moot scenario *of Cairde ar son Cairdre Soup Kitchen*, the outdoor soup kitchen initiated by a group of friends. The group views their activities as an expression of community support that transcends formal legal structure. To its members, this association is not a legal or formal agreement, but an expression of shared identity and commitment to a social cause. Their informal familiarity-based structure is both meaningful and essential. The charities regulator wants the soup kitchen to conform to formal registration and financial oversight. The group objects to this formalisation based on their right to freedom of association.

I opened this chapter with the statement that initiatives such as Gráinne's soup kitchen are deeply rooted in a sense of familiarity, both for the volunteers who run the charity and for the guests who rely on their services. Shared habits and practices have been developed and altered for over a decade. Habitual actions, including sourcing food from local suppliers, providing personal items discreetly, and serving meals in a warm, communal atmosphere, are not merely functional. They constitute a form of associational life that embodies the group's principles and their idea of what a nurturing community ought to be. The choice to forgo formal structures, like obtaining registered charity status or maintaining financial records, is intentional rather than accidental. This decision is made to retain the group's informal and personal character. Adopting a more formal framework could disrupt their current operational habits. This avoidance of formalisation can be understood as stemming from a sense of familiarity, rooted in the belief that the true value of their work is found in these established, routine practices, which might be compromised by adhering to external legal obligations.

Now, one might wonder whether formalising some aspects of the organisation could be done in line with the sense of familiarity that is currently allowing the group to operate smoothly and, therefore, without disrupting the flow of work. As I have argued throughout this paper,

[20] See Appendix 1 below.

proxy-reasons and further reasons can reinforce one another. In order to see how external legal requirements might interrupt the sense of familiarity, it is important to not only look at the outward operation of the soup kitchen – the warm welcoming atmosphere they create, the way they support people in need with supplies – but also look at the familiar ways of running the soup kitchen – the informal arrangement the group has with the butcher, the way in which donating materials without registration might make people more inclined to do so, and the looser financial organisation that leads to a certain way of coordinating – all these elements feed into running the soup kitchen in a familiar way. It is especially on that level that many aspects would change when becoming an official association. This change may affect the motivation of those involved in organising the soup kitchen in ways that are detrimental to their cause.

We can connect this to normative implications that the right to freedom of association could bring. The soup kitchen's challenge to the Charities Regulator is based on the argument that enforcing formal registration and financial oversight would disproportionately violate their right to freedom of association. This argument rests on the idea that the right to freely associate includes the right to define the character and structure of the association. For this group, maintaining an informal structure is not simply a preference but an essential aspect of how they express their shared values and commitment to their community. Here, we see how the current habits and the sense of familiarity that accompanies these habits, connect to further justification of their current way of organising their association. These habitual aspects underscore a normative dimension in which freedom of association is exercised not just as a legal right but as an expression of communal bonds and moral responsibility towards the disadvantaged. The court's decision suggests that this must be weighed against the need for legal compliance and public trust in charitable organisations. If the prioritisation of financial accountability and transparency in charitable activities emphasised by the Charities Regulator leads to the dissolution of the soup kitchen, the regulatory intervention seems to run against other norms that the regulators will most certainly hold in high regard, such as helping those in need. Hence, it seems to me that the desire to preserve the informal nature of the group is rooted in a genuine concern for maintaining the social and supportive atmosphere that their habits and familiarity create.

Appendix 1: Moot Scenario 1: "Cairde ar son Cairdre" Soup Kitchen

Together with a few friends, Gráinne has been running an outdoor soup kitchen called Cairde ar son Cairdre (*phonetically: car-ja air son car-ja*) in her local area for more than ten years. She receives leftover food from local grocery shops and a local butcher's shop has an account that allows people to donate money indirectly. Whenever possible, they also provide sleeping bags, underwear, socks, toiletries and period products.

Gráinne founded the group and has always been involved at the helm of the initiative. Three of her neighbours and friends, Aisling, Bláithín, and Clodagh initially volunteered alongside her, but Aisling of these has since moved to another city and Bláithín has stepped back from Cairde to care for her three small children. Clodagh still helps out every week and is the head chef of the group. Deirdre and Eithne have joined the organisation in the last five years and are very dedicated to its work. Deirdre takes the lead on getting in food supplies and helps Gráinne with serving and hosting, while Eithne sources the personal provisions and discreetly makes them available to clients when needed.

Cairde ar son Cairde is not a registered charity. It does not have a bank account or a bookkeeper. It does not have a formal organisational structure or a constitution. None of the volunteers has formal training in finance, and they don't want to have to use their small funds to pay for a bookkeeper. In any case, Gráinne has always to keep a more informal feel to the organisation. The volunteers are all good friends, and she wants her guests to feel like they are being invited to a dinner with people they know, rather than receiving an impersonal hand-out from people who don't care. When provoked to say something, all of the group are very critical of the failures of local and national government to address problems of homelessness and cycles of deprivation, but most of the time they just focus on what they can do to help.

Cairde ar son Cairde is in violation of the Charities Acts, for not having proper accounts and for not registering as a charity. The Charities Regulator has made several attempts to encourage Gráinne to register, but she is determined not to. The Charities Regulator then approached the butcher and told him that what he is doing is illegal. Eventually, Gráinne may be prosecuted for failure to comply with the Charities Acts.

The Charities Regulator defends its actions on the grounds that all charities must be subject to the same legal standards, so that members of the public can be assured that charities are operating with financial integrity as they pursue their charitable purposes.

Gráinne challenges the actions of the Charities Regulator for being a disproportionate violation of her right to freedom of association. The Supreme Court of Bureaucratlandia finds in favour of the Regulator.

Maria Cahill