**How Gay is Your Cake?**

**Religious Accommodation, Integrity and Discrimination**

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This article examines the concept of integrity in scholarly debate on religious accommodation. There is a scholarly consensus on the value of integrity as manifesting one’s commitments (‘MM integrity’) as a way of approaching accommodation disputes, but the article argues that MM integrity is often at stake on both sides of a legal dispute. It defends a divergent view of integrity where it consists in a person’s responsible exercise of her moral and epistemic capacities in seeking to arrive at well-founded commitments (‘MR integrity’). It’s argued that MR integrity is in - sometimes productive – tension with MM integrity. These claims are illustrated by examining two recent Supreme Court cases, from the US and the UK, both of which involve bakeries accused of discriminating against gay customers

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**1. Introduction**

The puzzle of religious accommodation concerns when individuals with strong religious commitments should enjoy the liberty to practise those commitments when they come into conflict with uniform laws, rules and regulations (which nonetheless apply to the majority). For example, a Christian Sabbatarian reluctant to work on a Sunday could request that her employer reschedule her work days if she can show that otherwise she would be unable to honour her religious requirements as she understands them, though this may be outweighed by competing considerations.[[1]](#footnote-1) Among scholars sympathetic to accommodation, there’s emerged something of a consensus on the concept of integrity as the appropriate value to ground a normatively cogent account of accommodation where integrity involves, roughly speaking, living according to one’s values and convictions. As ordinary usage attests, integrity seems valuable, hence meriting protection, but also vulnerable, and hence in need of it. Importantly, integrity is a neutral, non-sectarian value, and thus able to command wide appeal, including from the non-religious.

However, matters are a little more complicated. Suppose our Christian Sabbatarian occupied a position of authority at work, which she exploited in intolerant evangelising such that her subordinates felt unable to express their own religious convictions.[[2]](#footnote-2) As a result, it seems, *their* integrity would be set back. Moreover, suppose she was dogmatically zealous about her convictions, refusing even to consider alternative (e.g. secular) viewpoints. Is this sort of wilful blindness to others’ views consistent with a life of moral integrity?

My aim, in what follows, is to explore the force behind this kind of example. Specifically, I shall maintain, first, that the concept of integrity employed in the accommodation debate is *circumstantially* divided because, in some accommodation cases, measures which protect a religious claimant’s integrity come at the cost of the integrity of parties affected by that claimant. It is not simply that costs lie on either side of an accommodation dispute, but that both sides are liable to costs in the currency of *integrity*. My second main claim is that the concept of integrity is also *constitutively* divided because there are two divergent conceptions of it both of which are relevant to the accommodation debate. Specifically, besides its conceptualisation as manifesting one’s convictions (what I call MM integrity for short), a cogent alternative view of integrity interprets it instead as an ideal of moral independence or responsibility (MR integrity). MR integrity involves reflecting upon the bases of one’s moral and religious commitments, especially when challenged by others’ convictions. The person with MR integrity recognises that, however strong her own outlook, there may be considerations which favour competing views too since she is only one individual in a world of sincere moral reasoners who reach diverse judgements. MR integrity suggests that there can be some integrity to be found in compromising on the expression of one’s convictions. Thus MM and MR integrity are not just divergent, but in tension. Realising MR integrity can put normative pressure on commitments which are the object of MM integrity, while conversely, the single-minded pursuit of MM integrity can erode the possibility of MR integrity.

I explore MM and MR integrity’s implications for the debate on accommodation by examining two recent legal cases both involving a bakery’s refusal to give gay customers a service they requested: the *Masterpiece* cakeshop case from the US and Lee v. *Ashers* from the UK. I maintain that there is a conflict between claimants’ and service providers’ MM integrity in both cases, thus substantiating my first claim above about MM integrity lying on both sides of a dispute. I also suggest how in both cases either party could reflect on their and their opponent’s first-order convictions, and doing so achieve MR integrity; and further that they could exemplify MR integrity by compromising on expressing those convictions, at the cost of their MM integrity. In discussing the two cases, I also pursue a third thesis, in addition to the two claims above. Taking an idea at the heart of Rawls’s conception of public reason - the ideal of a fair system of social co-operation between free and equal persons - as a normative baseline, I argue for a view of the correct judgement in both cases. My purpose in doing so is to show how the circumstantial division of MM integrity (my first claim), and the conceptual distinction between MM and MR integrity (the second claim), need not leave us at an impasse as far as the accommodation debate is concerned. However, this view is independent of my two claims about these types of integrity. Thus one could reject my conclusion about one or both judgements in the legal cases, while still accepting my claims about MM and MR integrity. Finally, towards the end of the article I note some affinities between the ideal of fair co-operation and the ideal of MR integrity itself.

Section 2 of this paper describes in more detail these two conceptions of integrity, while Section 3 presents the facts of the two legal cases. Sections 4 and 5 consider the cases philosophically to illustrate how MM integrity lies on both sides; how the cases might be determined, and how MR integrity is engaged in them. At the end of Section 5 I argue that there is a conceptual relationship between MR integrity and the ideal of fair system of social co-operation between equals. Section 6 concludes with some brief reflections on the wider accommodation debate.

**2. On Integrity**

Our intuitive view of integrity identifies it with a living a morally dedicated, steadfast life, but there are various ways that idea may be elaborated.[[3]](#footnote-3) However, those who have employed the concept of integrity in the accommodation debate have not engaged a great deal with the literature on integrity in moral philosophy.[[4]](#footnote-4) Instead they have focussed on one, albeit plausible, conception of integrity which identifies the concept with living by one’s religious or ethical convictions. Paul Bou-Habib (2006), the first to employ the term in this context I believe, defines integrity as the value of living in accordance with one’s felt duties (even if these are not well-founded), which is an important component of well-being. The value of integrity needs to be weighed against the rights and opportunities of others. Similarly, Charles Taylor and Jocelyn Maclure maintain that a person’s integrity “depends on the degree of correspondence between, on the one hand, what the person perceives to be his duties and preponderant axiological commitment, and, on the other, his actions” (2011: 76). “The more a belief is linked to an individual’s sense of moral integrity”, they continue, “the more it is a condition for his self-respect and the stronger must be the legal protections it enjoys” (76). Kevin Vallier (2016) invokes a conception of integrity as fidelity to the projects and principles that are constitutive of one’s identity to argue for religious exemptions. John Corvino agrees with Bou-Habib that integrity is a “basic good” (2017: 211). “[P]ersonal integrity”, Corvino says, “comes from trying to harmonise your choices, actions and expressions with your moral [including religious] convictions” (2017: 125). Patrick Lenta (2016) has defended the integrity argument for religious accommodation at some length, maintaining that integrity is valuable because autonomy, self-respect and identity all depend upon it. In her important recent book, Cécile Laborde too endorses a congruence view of integrity (2017: 203). She introduces the notion of Integrity Protecting Commitments which describe those commitments which, if manifested in practice, mean that a person is living as she thinks she ought to live (2017: 203-17; cf. Seglow 2019), whether that is a matter of obligation, or less stringently, an expression of her identity. Summarising the liberal approach to integrity which Laborde and others espouse, Nick Martin says that it involves “living up to the ethical commitments which shape one’s moral identity and conception of a life worth living” (2020: 261).

Clearly there are differences in emphasis among the accounts of integrity employed by these authors. I’ve also abstracted from the larger theories of accommodation in which those accounts are embedded. Nonetheless, they all broadly agree that integrity involves living by one’s core convictions, principles, values, beliefs, and so on. Because of this view’s emphasis on manifesting one’s moral commitments in practice, I call it integrity as moral manifestation (or MM integrity). However, there are two significant problems with interpreting integrity this way.

First, none of MM integrity’s advocates impose substantive constraints on the nature and value of those commitments which are the object of integrity, thus leaving it open for individuals to enjoy integrity despite pursuing commitments which deny others basic respect or are otherwise unjust (cf. Fornaroli 2018; Koppelman 2009; Martin 2019). Of course, grounding only a prima facie case for accommodation, they are all free to claim that others’ rights and interests will over-ride objectionable commitments, but the question is whether the person with objectionable commitments enjoys integrity at all. Laborde thinks that even the committed Nazi has integrity, though his integrity would fail her test of “thin acceptability” (Laborde 2017: 207-8). Corvino states that integrity lacks value when the beliefs involved are ‘badly wrong’ but does not explain why (2016: 211). However, to maintain that Nazis and their ilk realise integrity in their lives challenges our intuition that integrity is praiseworthy, admirable and worth promoting because of its value (cf. Halfon 1989: 85-102; Cox et al 2003: 62-8). One might argue that it’s the *autonomous choice* of commitments that really matters for MM integrity, but its adherents have not really argued for this revisionary view[[5]](#footnote-5), and doing so might threaten to collapse the distinction between integrity and autonomy.

Second, MM integrity, while regarded as valuable by its adherents, implicitly seems to support, or at least be consistent with, a range of vices which are intuitively antithetical to integrity as an ideal. These include dogmatism, over-conformity, closed-mindedness, arrogance, indifference to others, and self-deception (Halfon 1989: 40-50; Cox et al 2003: 15). While persons of integrity should not be capricious or weak willed, neither should they be rigid or inflexible, seeking to pursue their commitments come what may. MM integrity is consistent with a doctrinaire attitude towards one’s convictions, absent consideration of their wider moral context. The zealous Christian Sabbatarian I mentioned in Section 1 probably achieves MM integrity just because of that zeal, with its unwillingness to consider others’ perspectives. Indeed, in some situations at least, the more an individual is doctrinaire, the greater her chances of enjoying some accommodation, in contrast to the more reasonable person prepared to countenance others’ interests even at some personal cost. Yet these seems something distinctively admirable about being cognisant of others’ viewpoints from the perspective of integrity. To be sure, we admire individuals such as Martin Luther King who showed courage and resolve in pursuing his convictions in the face of injustice. But this is not quite the same as being doctrinaire. After all, the civil rights movement which King led demanded equal treatment for all, not special treatment for some; and equal treatment for parties with opposed convictions involves each side seeking to understand the other.

These criticisms do not imply we should abandon MM integrity. There is clearly something valuable in individuals living by their deep commitments, at least morally acceptable ones. But the criticisms suggest there is something more to what makes integrity a worthy ideal, one inconsistent with indifference to others’ interests and allied vices. An interpretation of integrity which appears to meet these criteria is what we might call a substantive moral view of integrity. The idea here is that persons of integrity pursue only morally admirable, or at least acceptable, commitments. This is certainly a standing challenge, involving steadfastness and dedication, and perhaps it is inconsistent with dogmatism and closed mindedness. Indeed, the substantive moral view has its adherents (e.g. Ashford 2000; Graham 2001; Koppelman 2009). But though it is cogent, the substantive view is a very demanding conception of integrity. Given persistent disagreement about the value of competing convictions, and the limits of individuals’ epistemic capacities it is difficult to discern for sure that our commitments are morally sound. What we can take from the substantive view, however, is the idea that the person of integrity strives to achieve morally sound commitments, even if she does not wholly succeed.

They key idea of what I shall integrity as moral responsibility (or MR integrity) is that the person of integrity takes the practice of being moral agent seriously; she is committed to reflecting on moral disagreement and reckoning with others’ contrary views. Possessing MR integrity means striving to acquire sound reasons for endorsing one’s commitments, so that they are acceptable on reflection. The person with MR integrity strives to cultivate good moral judgement, and is aware of her own fallibilism and partiality as an epistemic agent. That does not mean she is not prepared to defend her commitments in the face of others’ objections, nor that she seeks to evade personal accountability. Indeed, the person who enjoys MR integrity exhibits the Millian virtues of independent mindedness and thinking for herself. But she recognises too that, however divergent their convictions, other individuals are equally sincere reasoners who are ultimately partners in the enterprise of arriving at well-founded convictions (cf. Calhoun 1995: 254). Good moral judgement involves being responsive to the range of considerations which bear upon an issue, and in taking others’ views seriously. An individual with MR integrity demonstrates that she is an active, conscientious and trustworthy moral reasoner whose judgements merit others’ consideration.[[6]](#footnote-6) Hence a person of MR integrity would not be like the Christian proselytist from Section 1 who, from the perspective of her MM integrity, regards her workmates as little more than potential converts. MR integrity involves a degree of epistemic humility and a person’s recognition that she is only one reasoner in a world of others. Seeking to live by only morally acceptable commitments throughout one’s life is a standing burden, given the temptations we face in not thinking too hard or conversing only with adherents of the same views as our own. What makes MR integrity a conception of integrity is a person’s willingness to assume the burden of that difficult pursuit, and the respect she offers others in the enterprise of doing so (cf. Jones 2016).

MR integrity is exemplified in cases where a person demonstrates her appreciation that other individuals with contrary views are equally sincere moral reasoners by granting them some latitude to pursue those views where one has the power to do so (even at some personal cost). In doing so, an individual communicates that others are her equals as moral reasoners; she shows them respect by not elevating her own convictions above theirs merely because they are hers or because they stem from a source that she (but not they) regard as authoritative. She shows that others’ (MM) integrity matters to them as much as hers does to her. She shows too that she is a trustworthy individual in standing before them and permitting their convictions to be expressed at the cost of manifesting her own. Compromise is one way of demonstrating one’s preparedness to be held to account, as an agent who is prepared to assume the burdens which moral reasoning involves and who takes the practice of moral responsibility seriously. [[7]](#footnote-7)

Even where an individual does not give others latitude to pursue their commitments, she can still realise MR integrity by offering others respectful consideration of their commitments. She thereby shows that she has sought to understand others’ sincerely held commitments, even if they contradict her own, and that as a result she has concluded that these others are responsible reasoners like herself. One could deliberate on another person’s views and conclude that they are abhorrent, or not sincerely held, or not held consistently, or conversely held too dogmatically, but these conclusions are consistent with the process of achieving MR integrity if a person has discharged her responsibility respectful consideration at its core.

In order to make MR integrity more vivid, and to clarify the difference between it and MM integrity and the substantive moral view, I sketch an example of a person who lives by it. Let’s imagine Mr A, a devoutly religious man with conservative convictions. Though he lives in a liberal democratic state, Mr A has traditional views on marriage and the family. He sincerely believes that a woman’s role is to serve and obey her husband, and to raise their children. He thinks it is acceptable for boys to receive a better education than girls, and he does not think that women should do paid work outside the home. If he is consistent in his views, and seeks to live by them, then Mr A achieves MM integrity. He does not achieve substantive moral integrity insofar as his views are not morally sound. But now let’s imagine that Mr A’s wife and children, who might initially have agreed with him, come to adopt a different perspective. His wife wants to take a part-time job which would give her some financial independence. His elder daughter wants to choose the man she marries, contrary to the religious custom that marriages are arranged by fathers. His younger daughter objects that Mr A invests more energy and resources in his son’s education than her own. Mr A discusses the situation with his religious leader (priest, imam or rabbi) who advises him to keep his faith and reject more liberal perspectives. But suppose instead that Mr A began to reflect upon what his faith involves and discuss the issues his wife and daughters. Through doing so, he comes to an appreciation of their interests, and a new understanding of his own faith too. Before, he saw his faith as akin to a series of instructions where the challenge was applying them in practice. Now he recognises that religious and other values can conflict with one another, calling for deliberation in determining how best to live. He compromises, to some degree, on his original attitude. He allows his wife to do paid work outside the home, so long as she is also there to run the household. He allows his younger daughter further education. He gives his elder daughter her choice of marriage partner, but insists on a right of veto. Though doing so, Mr A exemplifies MR integrity by acknowledging that his own views are not the last word, and he demonstrates that acknowledgement in the new found latitude he extends to his family.

It might be objected that the intuitive sense in which Mr A enjoys integrity stems from the journey he makes towards a more enlightened, liberal view, and thus that MR integrity is really substantive moral integrity in disguise. But that is not correct. Had Mr A been a secular liberal who came to compromise with others’ strong religious view he could equally well have enjoyed MR integrity. Nor does the example show that MR integrity amounts to autonomy or toleration. Mr A does not value the life of choice and freedom which I take to be what personal autonomy involves. It involves engagement with and appreciation of others’ views, whereas the person who tolerates others regards them as wrong-minded at the least.

What exactly does MR integrity imply concretely for the accommodation debate? To that question I now turn, by outlining and then reflecting upon two cases in which it could have a role.

**3. Two Cases: Two Cakes**

Both cases involve gay customers requesting cakes from bakeries, and both of them need to be understood in the light of the campaigns for same sex marriage in the US and UK.

Same sex marriage became a legal right across the US after the Supreme Court decision in Obergefell and Hodges in 2015. Before then, some states permitted same sex marriage, while others did not. In July 2012 Charlie Craig and David Mullins asked *Masterpiece* cakeshop in Lakewood, Colorado to bake them a wedding cake to celebrate their marriage. At the time, same sex marriage was not legal in Colorado, but Craig and Mullins planned to get married in Massachusetts which did recognise it. The owner of *Masterpiece*, Jack Phillips, declined their request, as he had declined other requests for cakes for same sex marriages, citing his religious opposition to them as a Christian. According to Phillips, ‘to create a wedding cake for an event that celebrates something that directly goes against the teachings of the Bible, would have been a personal endorsement and participation in the ceremony and relationship that they were entering into’ (cited in US Supreme Court 2018: 4). Mr Phillips worked closely with customers in creative bespoke cakes for their weddings, thus providing a service not simply selling a good, and indeed he had offered to sell Craig and Mullins off the shelf items in his store. Craig and Mullins filed a complaint with theColorado Civil Rights Commission which found in their favour on the grounds that Phillips had violated Colorado’s anti-discrimination law that bars businesses from refusing service based on sexual orientation among other characteristics. Phillips appealed against the decision, but the Colorado Court of Appeals upheld the ruling of the Commission and distinguished its decision from three other cases brought to it, all involving a man, William Jack, who had faced refusal by three bakeries to create a cake for him with the message “Homosexuality is a detestable sin. Leviticus 18:22” (cited in US Supreme Court 2018: 3-4). The latter cases were upheld since storekeepers had some latitude to decline offensive messages.

In June 2018 the Supreme Court delivered its ruling on the case. By a majority of seven to two (Justices Ginsburg and Sotomayor dissenting), the Court determined that Phillips’s First Amendment rights had not been respected by the Colorado Commission, and that the Commission had shown ‘hostility’ towards Phillips’s religious beliefs. In the Court’s view, the Commission gave “every appearance” of adjudicating Phillips’ religious objection based on a negative normative “evaluation of the particular [i.e. religiously-based] justification” that he offered (US Supreme Court 2018: 17). This compromised ‘the neutral and respectful consideration to which Phillips was entitled’, and threatened the cardinal First Amendment principle of viewpoint neutrality (p.12: 18). The Court held that that free speech, as well as religious freedom, was at issue in the case and that “religious and philosophical objections to gay marriage are protected views and in some instances protected forms of expression” (US Supreme Court 2018: 1). This would not allow business owners to deny persons equal access to goods and services under a neutral and generally applicable public accommodations law’, else the latter could suffer “community-wide stigma” (10). Nonetheless, the issue of free speech was a consideration because the Court noted that, in upholding three bakeries’ refusals to provide Jack’s cake, with its offensive message, it was inconsistent to rule against Phillip’s objection to the message of Craig and Mullins’s one.

Lee v. *Ashers* is a case from Belfast in Northern Ireland. Laws enabling same sex marriage came into force in England, Wales, and Scotland in 2014, but not in the religiously conservative province of Northern Ireland (although same sex civil partnerships had been legal there since the 2005 law which applied to the whole of the UK). Only in 2019, in the context of the breakdown of its devolved government, did the UK Parliament require Northern Ireland to introduce same sex marriage in 2020. The plaintiff is Gareth Lee, a gay rights activist involved with QueerSpace, a volunteer organization for the LGBT community in that province. In May 2014, to mark the International Day Against Homophobia and Transphobia which Queerspace planned to celebrate with a party, Mr Lee ordered a cake from *Ashers* bakery which he asked to be emblazoned with the message ‘Support Gay Marriage’. Mr and Mrs McArthur who ran the bakery refused, citing their religious opposition to gay marriage. Lee took the bakery to the Northern Ireland County Court. In her statement to the court, Karen McArthur said

using our skills and creativity to produce a cake supporting gay marriage – which we consider to be contrary to God’s word – was something which would be on my conscience. If we provided the cake in these terms, I would feel that I was betraying my faith and failing to live in accordance with what God expects of me (cited in NI County Court, 2015: 4-5).

Nonetheless, the County Court found that *Ashers* had illegally discriminated against Lee on grounds of his sexual orientation, contrary to the Equality Act (Sexual Orientation) Regulations (NI) 2006 and on grounds of religious and political belief contrary to the Fair Employment and Treatment (FETO) (NI) Order 1998. The County Court did consider the extent to which the defendants’ Article 9 right to manifest their religious beliefs and their Article 10 rights to freedom of expression were set back by Lee, but it found that the limits imposed on those rights were fair. This ruling was upheld in the Northern Ireland Court of Appeal.

The case went to the UK Supreme Court which delivered its judgement in October 2018. It found against Lee, over-turning the verdicts of the Northern Irish courts. The judgement noted that to deny someone a service because they are gay is “deeply humiliating and an affront to human dignity” (UK Supreme Court 2018: para 35). However, in the Court’s view, the McArthurs’ objections were to the message on the cake, not to Lee. There was no discrimination on grounds of Lee’s political opinions involved, the Supreme Court held. As the judgement states “[t]he less favourable treatment was afforded to the message not to the man” (para 47). Lee’s sexual orientation, as a gay man, was “disassociable” from the message on the cake. Lots of people – gay, straight and bisexual – support gay marriage, and hence a message in favour of it was not a proxy for any particular sexual orientation. The Court did not consider at any length whether the McArthur’s freedom of religion was involved, perhaps because refusing to bake a cake with a particular message is not obviously a case of ‘manifesting’ one’s religion or belief which is the test for Article 9. The Supreme Court justices did, however, consider Article 10 of the ECHR on free speech, regarding the message ‘Support Gay Marriage’ to be a ‘political opinion’. Article 10, it noted, does not explicitly include the right not to express an opinion but it has long been held to do so. Moreover, Article 10 rights can apply to a corporate body such as a bakery (para 57). In the view of the Court, *Ashers* could have refused to bake a cake with any political message, ‘support for living in sin, support for a particular political party, support for a particular religious denomination. The fact that this particular message had to do with sexual orientation is irrelevant to the FETO claim’ (para 55). “It is more akin to a Christian printing business being required to print leaflets promoting an atheist message” (para 47). After the Supreme Court verdict, Lee repeated the view he’d expressed to the County Court that he felt he was treated as a second class citizen by *Ashers* refusal. Lee took his case to the European Court of Human Rights (ECtHR) in 2019. In a very brief judgement delivered in early 2022, the ECtHR held that Lee’s case was inadmissible as he had not invoked his European Convention rights before the UK Supreme Court (and hence was asking the ECtHR to usurp the role of domestic courts) (ECtHR 2022).

**4. Integrity Divided: Phillips v. Craig and Mullins**

To begin with, I want to consider the way that MM integrity is engaged in the first case. It seems clear that Mr Phillips’ MM integrity, as a Christian, was involved. His view was that working with Mr Craig and Mr Mullins to produce a cake for their marriage would involve endorsing same sex marriage, contrary to his view of his faith. What is less obvious is that Craig and Mullins’s MM integrity was involved too. After all, the desire to get married would not necessarily be seen as manifesting one’s moral convictions; it doesn’t seem to have much to do with opposite sex marriage for example. However, it is important to consider Craig and Mullins’s actions in the context of the debate over same sex marriage in the United States, especially before the Obergefell and Hodges Supreme Court judgement. Where a practice is novel, controversial, and indeed deeply opposed by many, anyone engaging in it is a moral pioneer, like the first children to attend desegregated schools for example. Thus it seems likely that, when Craig and Mullins did get married, the principle that same sex couples should be legally able to marry was much in their minds, and in the minds of their wedding guests too. In getting married, Craig and Mullins were manifesting that principle, and demonstrating their allegiance to it in the face of vociferous opposition which certainly makes it looks as if their MM integrity was involved. Phillips, in refusing their cake, was by contrast, honouring his principle that marriage was a union only for opposite sex individuals. On the latter’s side was (an interpretation of) Christian doctrine; but Craig and Mullins were also acting on, and indeed expressing, a moral position: the view that gay and lesbian citizens should be afforded the same rights and opportunities as heterosexual citizens. The fact that the latter was more abstract and general than Mr Phillips’s Christian opposition to gay marriage, and, if you support their view, the fact that it was matter of basic justice, does not make it ineligible as an object of MM integrity. Indeed, it would seem that particular ethical or religious doctrines, such as Mr Phillips’s, are apt to be objects of MM integrity insofar as they exhibit features which belong to ideals of rights and justice: they have a normative, deontic character; they impose duties and other requirements on their bearers; and they concern individuals’ basic interests, not simply their wants.

If Craig and Mullins’s, as well as Phillips’s MM integrity was engaged in the dispute, then we have a case where MM integrity is circumstantially divided between two opposed parties. This is the first of my main claims in this article. This shows that we cannot consider accommodation cases simply as ones where a claimant’s *integrity* must be weighed against *other* kinds of interests of third parties on whom the claimant would impose a cost. Phillips did not obstruct Craig and Mullins’s marriage, but he expressed his opposition to same sex marriage. In refusing them a wedding cake, he denied them an object of symbolic importance in wedding ceremonies, failing to respect Craig and Mullins’s view that gay citizens should enjoy same rights and entitlements as other citizens, and in consequence failing to respect their MM integrity.

In adjudicating on the dispute between Phillips, and Craig and Mullins, I draw upon the Rawlsian ideal of society as a fair system of co-operation between free and equal citizens; itself part of his conception of public reason (Rawls 2001; Hartley and Watson 2018). This ideal, I take it, is not just that each citizen is free and equal to others in her enjoyment of basic rights, but that as co-operative members of society, citizens reciprocally commit to honour the responsibilities which stem from those rights. Reciprocity on a footing of mutual respect is emphasised by Rawls (2001: 6, 28, 96, 115). Citizens reciprocally agree to limit their pursuit of their own conception of the good in ways that respects others’ rights, and enables them to meet their responsibilities; in so doing they act on their moral power of a sense of justice (2001: 18-19). Each citizen’s fundamental political standing, which is a matter of justice, is expressed in those rights and liberties which her follow citizens respect, on the reciprocal understanding that she meets her responsibilities to them. The notions of equal rights and equal standing ground a very strong presumption against various forms of discrimination, including in the provision of goods and services.

Still, the abstract ideal of a fair system of social co-operation might appear not to settle the matter in favour of Craig and Mullins and against Phillips. Why can’t Phillips claim that his right to religious liberty is not adequately respected by a law that requires him to support, as he perceives it, a practice – same sex marriage – with which he profoundly disagrees? From the perspective of the principle of fair co-operation between free and equal citizens, the answer is that equal marriage expresses gay and lesbian individuals’ standing as citizens, while the view that marriage should be an exclusively heterosexual phenomenon stems from a particular, and contestable, comprehensive doctrine, which as such cannot serve as the basis for fair terms of co-operation between equals (cf. Hartley and Watson 2018: 117-9). Thus it is Phillips, in his role as a service provider in a public accommodation, who must constrain his conception of the good to comply with justice, while it is Craig and Mullins whose status as equal citizens must be guaranteed. Further, same sex marriage extends a civil liberty to a group who have long been subject to discrimination and prejudice in numerous social spheres, while, by contrast Christians are not a disadvantaged group in the contemporary United States.

It is in line with this liberal conception of society as a system of fair co-operation between free and equal persons that we can consider how to resolve the dispute between Phillips and Craig and Mullins. Phillips wanted an accommodation from the Colorado law which required vendors to provide goods and services to all citizens on an equal basis; put simply, he wanted to discriminate in whom he offered his cake-making services to, and the issue is whether he wrongfully discriminated. Three factors seem important in the judgement that he did: first, that same sex marriages are associated with same sex couples; second, that the service Craig and Mullins were requesting – a bespoke wedding cake – was ordinarily part of *Masterpiece’s* business to provide; and third that vendors do not normally have legitimate rights over the use to which their products are put. The first factor may appear to be at odds with the UK Supreme Court’s point above about ‘disassociability’ but that was a point about *support* for same sex marriage, not the practice of same sex marriage itself. On the second point, Phillips might claim that a ‘gay’ wedding cake is different from a ‘standard’ one, but that claim seems hard to sustain not only literally, but also in view of the fact that wedding cakes have the same sort of function in same sex as in opposite sex marriages. I’ll return to the third point in a moment. Putting the three points together, we arrive at the conclusion that Phillips wrongfully discriminated against the two men because he did not provide them with a service resulting in a good on the grounds of his objection to the use that good would be put, though he standardly did offer that service to others. This is indirect discrimination as it disparately impacts gay customers, but discrimination nonetheless. As Phillips’s attitude flows from his MM integrity, it also substantiates my critique of MM integrity in Section 2, that it can be directed towards unjust ends.

One objection to this analysis is that Mr Phillips would equally well have refused to provide a wedding cake to a heterosexual customer who disclosed that it was for a same sex wedding, as indeed he testified. But this only shows that Phillips did not engage in direct discrimination; his refusal was an instance of indirect discrimination because his policy had a disparate impact on same sex couples. I reiterate the point that same sex weddings are associated with same sex couples. By analogy, a racist landlord who refuses to rent rooms to ethnic minorities would still wrongfully discriminate when he refused to rent a room to a white individual who was seeking to rent it on behalf of an ethnic minority friend. No doubt, Mr Phillips would have provided a cake to a gay customer attending a wedding between two people of the opposite sex.[[8]](#footnote-8) But this too shows only that Phillips’s discrimination against gay and lesbian customers was indirect and not wholesale: there were significant respects in which he treated gay and lesbian customers equally to heterosexual ones. By analogy, a business which paid its female employees the same as its male ones, but insisted that the former, but not the latter, wore smart clothes to work would still be guilty of sex discrimination.

A further defence of the charge of discrimination focuses on the fact that Phillips worked closely with customers in designing his bespoke cakes; he provided a *service* to them, not simply a good. Indeed, Phillips’s case needs to be understood in a context where individuals offering other wedding services, such as flowers or photographs, have similarly refused to provide them to same sex couples (Corvino 2017: 118-9). The law in Colorado, indeed many other places, puts goods and service in the same category, but is there a relevant difference? One difference is that providing a service involves interacting with customers in a more intimate way than selling them a good involves. But there is no right not to interact, even closely, with gay people: that would amount to direct discrimination. Another possibility is that as an artist of some description, Phillips was reluctance to invest his creative powers to produce something to which he had profound objections. Perhaps, as the Supreme Court maintained, freedom of expression is involved in the case, that is, requiring Phillips to produce the cake would be an instance of compelled speech? Clearly, Mr Phillips expressed himself through his cake artistry. But we frequently express ourselves through what we do: I have already suggested that Craig and Mullins expressed their commitment to same sex marriage through their wedding. For that reason I am sceptical that free speech – and hence compelled speech – is really at issue in this case. This is an important difference between the *Masterpiece* case and Lee v. *Ashers*, as we shall see shortly.

But let us consider the claim that, through working with his customers, and receiving their input on his cake designs, Phillips would regard himself as lending support for their wedding in a way he would not if he simply sold them a good. Accepting that claim would not relieve him of the charge of discrimination, nor of failing to respect their MM integrity, but it does offer potential grounds for exempting him from discrimination law on the grounds of his own MM integrity. At this point we can return to the claim I made earlier that businesses do not normally have rights over the use to which their products or services are put. A vegetarian waiter for example is still required to serve steaks; a teetotal one is still required to serve alcohol (and note that waiting is a service, not a good). True, this principle is not absolute. A bakery run by Jews might legitimately refuse to design or sell a cake which they knew would be used by a far right group intending to ‘celebrate’ Hitler’s birthday.[[9]](#footnote-9) But there is an important difference between Phillip’s case and the latter one. Same sex marriage is the subject of pervasive disagreement; as we noted, stating one’s opposition to it is a protected view. By contrast, no reasonable person – a person committed to the ideal of society as fair system of co-operation between free and equal persons - believes that Hitler was right. Or to put the point in reverse, a bakery run by far right sympathisers could not reasonably refuse to provide a cake to celebrate a bar mitzvah on the grounds that they had a sincere objection to the practice.

A further reason for thinking that, in producing a cake for Craig and Mullins’s wedding, an observer could not infer that Phillips endorsed their wedding, or same sex weddings in general, was that he was legally required to do so. Sometimes individuals do adhere to laws to which they have profound objections. If the Colorado ruling had stood and Phillips had, despite his views, provided a bespoke wedding cake for another same sex wedding, the guests there might reasonably infer that he was complying with a legal ruling, not that he had changed his mind. Another example: in 2007, the UK government ordered Catholic adoption agencies to place children with same sex as well as opposite sex couples which they all resisted. As a result some agencies closed down, but others continued. It seems more plausible to assume that the latter continued despite their opposition to this requirement rather than that they underwent a dramatic change of view.

I have laboured the point that Phillips wrongfully discriminated against Craig and Mullins in order to vindicate my claim that if MM integrity is circumstantially divided then this does not leave us at an impasse; and further that sometimes, as in this case, it is the accommodation claimant’s integrity which should yield. It is not open to Phillips to claim that his integrity counts more than Craig and Mullins because that would involve a substantive judgement about the superiority of certain kinds of commitment, unacceptable from a political liberal point of view. That said, one could object to my specific claim about wrongful discrimination in this case while still accepting my larger claim that MM integrity is divided between contending parties in this case.

There remains the two parties’ MR integrity to consider. Recall that MR integrity takes as its object MM integrity and is manifest in a person’s recognition that other persons, however divergent their views, are sincere reasoners, equal to her, whose views are owed some consideration. Like MM integrity, MR integrity needs to be manifested in action; it cannot consist merely in an internal process of ratiocination because an individual could not by that means show that she considers others to be equal reasoners, similarly engaged in a quest for moral soundness. That said, it is harder to assess from a distance whether a person achieves the virtue of MR integrity because the deliberative process it requires might only involve intimates or associates, as in the example I gave of Mr A in Section 2.

As reported in the Supreme Court’s judgement, the conversation between Mr Phillips and Mr Craig and Mr Mullins was very brief. Phillips, having heard Craig and Mullins’ request, replied that as a Christian he did not produce bespoke cakes for gay weddings, but that they were welcome to purchase off the shelf items from his store. Craig and Mullins responded by leaving the store. But let’s imagine an alternative. Perhaps Craig and Mullins demanded more of an explanation from Phillips, which he supplied, and they in turn explained the hurt and distress they experienced, including the sense in which they felt they were being treated as second class citizens. In this counterfactual scenario a conversation ensued in which Craig and Mullins explained the importance of marriage, as a legal and symbolic means of having their relationship recognised, and more broadly their view of equal civil rights for gay and lesbian citizens. In turn, Phillips explained the role and importance of Biblical teaching in his life, his interpretation of the Bible’s message on homosexuality, and how we tried to conduct his life according to Christian teaching. Suppose that each side respectfully listened to the other, sought to understand their point of view; and reflected on it after their conversation. Then, on my view, each could achieve a measure of MR integrity. Unlike its MM cousin, MR integrity is not zero-sum: all parties to a dispute could attain it. However, as the imaginary scenario shows, it may be harder to achieve MR integrity if one’s interlocutor doesn’t seek to do so too, but not necessarily. It looks like Mr A achieved MR integrity in Section 2 in the absence of knowing whether his family did too. In the case at hand, Mr Phillips might have demonstrated his MR integrity by acceding to Craig and Mullins’s wishes at some point on the legal journey, but Craig and Mullins could have done so too.

Both MR and MM integrity hinge upon the connection between outward practice and inner reflection on one’s beliefs and commitments. As a result, there are three (albeit related) mechanisms by which the two ideals are in practical tension, depending on whether MM integrity is achieved. First, if a person demonstrates MR integrity by acceding to others’ integrity-related contrary commitments in place of manifesting her own, as I’ve just suggested could have occurred in the *Masterpiece* case, then the price of thus realising MR integrity is her own MM integrity, at least in those particular circumstances with respect to the other party involved who in turn achieves MM integrity. If by contrast, a person demonstrates MR integrity by respectfully considering others’ contrary commitments, but not by giving them the latitude to express them, then she realises MM integrity, but in this case the cost is paid by the other party whose MM integrity (again in this particular instance) is thereby thwarted. That is the second mechanism of practical tension. The third is more subtle. Achieving MR integrity, because it involves serious consideration of others’ divergent commitments could over time (or, just conceivably, even in one instance) erode the beliefs and values which define the commitments relevant for an individual’s MM integrity. That is not, as in the first two cases, that a person’s MM integrity is thwarted or denied. It is more that the objects of her MM integrity – the commitments she seeks to manifest - dissipate through ongoing consideration of contrary kinds of commitments, those which inform others’ MM integrity, or transform themselves into new ones. Thus Mr Phillips’s opposition to same sex marriage *might* be weakened by conversations with gay and lesbian customers in his store. The same might occur with Craig and Mullins’s commitment to the principle that service providers treat same sex couples without discrimination. I shall say more about these sources of tension at the end of the next Section.

**5. Integrity Divided: Lee v. Ashers**

In defending the view that Phillips wrongfully discriminated against Craig and Mullins, I drew attention to the facts that (i) same sex marriages are associated with same sex couples; (ii) providing wedding cakes was part of his business; and (iii) vendors do not normally have rights over the uses to which their products are put. On the first point, Mr Lee approached *Ashers* bakers as a gay individual, not part of a couple, but clearly the cake he requested, with its message ‘Support Gay Marriage’ stemmed from his sexual orientation. I mentioned above the UK Supreme Court’s view that the cake’s message was “disassociable” from Mr Lee’s sexual orientation since many heterosexual people support same sex marriage. But while presumably virtually all gay and lesbian people support same sex marriage, some heterosexual people do not, so the former are all associated with it but some of the latter disassociated. Moreover, while support for the practice of same sex marriage does indeed enjoy a wide constituency, the practice *itself* is limited to gay and lesbian individuals. As I suggested with Craig and Mullins, Mr Lee’s commitment to the practice of same sex marriage is probably bound up with his MM integrity in a way that is less likely for heterosexual individuals. Same sex marriage was contentious in Northern Ireland at the time so Mr Lee, like Craig and Mullins, is a moral pioneer.

However, while Lee’s situation looks similar to Craig and Mullins’s on point (i), the case overall – on points (ii) and (iii) above - is more complex. I said above that, had he produced a wedding cake for Craig and Mullins, Phillips needn’t thereby have signalled his support for same sex marriage in part because he could claim he was simply complying with a law with which he profoundly disagreed. It is tempting to distinguish Mr Lee’s case from this through the claim that producing a cake with the message ‘Support Gay Marriage’ does indeed signal support for it. The Supreme Court disagreed with that, distinguishing between *Ashers* positive endorsement of the campaign for same sex marriage, and simply agreeing to a service requested by a customer (UK Supreme Court 2018: para 54). Nonetheless, there is a relevant distinction between the symbolic message of a wedding cake and the literal message on a cake which makes Lee v. *Ashers* relevantly different, in my view, from Phillips v. Craig and Mullins. The difference is not that a literal message signals support for gay marriage; I agree with the Supreme Court that *Ashers*’ counterfactual agreement to decorate a cake with that message need not have signalled their support for same sex marriage. (Similarly to what I suggested with Mr Phillips above, it might only have signalled that they were obeying the law). Contrary to Ms McArthur’s testimony, they could simply have been providing a customer with a product he requested, despite their profoundly disagreeing with the message on that product. The relevant difference is rather that a wedding cake’s status as a form of speech (as opposed to conduct) is contentious, while the message ‘Support Gay Marriage’ is unambiguously speech. Had they been legally obliged to produce such a cake, *Ashers* would have been subject to compelled speech, against which there is a very strong presumption in a liberal society. I defend the principle that compelled speech is presumptively wrong even when third parties cannot reasonably infer that the speaker in fact supports what she or he is compelled to say. It is presumptively wrong because foisting one’s speech on another agent is a failure to respect their autonomy. Suppose counterfactually the Colorado Court of Appeals had compelled a bakery to produce a cake with the message Mr Jack requested, ‘Homosexuality is a detestable sin’. Suppose further that everyone knew that the bakery staff involved did not hold that view, and so the (counterfactual) cake did not signal their support for it. The wrongness lies in Jack using the bakery as a means to express his own view, regardless of their view on the matter.

My reason for holding that Phillips wrongfully discriminated against Craig and Mullins hinges on the fact that he denied them a service he ordinarily extended to others. In *Ashers* case, by contrast, the request was to produce something - a cake with a literal message – which they did not normally supply, that is, something beyond the cluster of expectations and conventions associated with their business. Indeed, I suggest that a cake with the message ‘Support Gay Marriage’ is, from the producer’s, customer’s and third party’s perspectives, substantially a vehicle for the expression of a message, controversial in the Northern Irish context, and not standardly associated with birthday, wedding or other cakes. Hence such a cake has a particular normative valence not present in the *Masterpiece* case.

Given all this, I agree with the Supreme Court that *Ashers* didn’t (indirectly) discriminate against Lee, though not by relying on their ‘disassociability’ view. This conclusion would be eroded if cakes with controversial messages became more common than I’ve assumed they currently are; and certainly conventions can evolve over time. Further, David Lawrence has suggested that *Ashers* might have agreed to supply a ‘Support Gay Marriage’ cake to conservative Christian friends where it would have been “mockingly destroyed at an anti-gay marriage rally” (Lawrence 2019: 63). On Lawrence’s view, *Ashers* hypothetical willingness to supply the “ironic cake” indicates that they discriminated against Lee on the basis of his political views (64). But, notwithstanding the rally, perhaps *Ashers* wouldn’t have been willing to produce the ironic cake because they’d still be expressing a message with which they profoundly disagreed? Further, Lawrence’s position hinges, not on gay and lesbian individuals being potential targets for discrimination, but on the idea that supporters of the *view* that same sex marriage be legally available constitute a socially salient group which is apt to be discriminated against, even though that view has many heterosexual supporters. It’s not clear that the many supporters of same sex marriage constitute a salient group, nor that heterosexual supporter’s MM integrity is likely to be engaged.

Mr Lee’s commitment to same sex marriage, as part of an activist group, looks like a commitment of MM integrity, as I’ve mentioned, just as with Craig and Mullins’s. Karen McArthur’s testimony to the Tribunal that creating the cake would be betraying her faith equally looks like a report of MM integrity. Once again, therefore, a claim to MM integrity is located on each side of a dispute. Thus Lee v. *Ashers* also illustrates my first claim above about MM integrity’s division between contending parties. If one accepts my analysis of the case, it also illustrates my second claim that MM integrity’s division does not imply that we cannot make a judgement about wrongful discrimination in the case (once again, this second claim is independent of the first).

Is Mr Lee’s report that he was made to feel like a second class citizen warranted? Clearly, *Ashers* did discriminate against him in the sense that they would have produced a bespoke cake for a customer with the message ‘Support Christian Marriage’. I have maintained they did not wrongfully discriminate because Mr Lee’s request, unlike Craig and Mullins, was beyond the conventional expectations of bakeries. The claim that one is treated as second class citizen hinges on the substance of citizens’ rights in a liberal society. Mr Lee had the right to non-discrimination in the provision of goods and services, but ‘goods and services’ is a capacious term, one whose content is filled out by conventional expectations. To be sure, those conventions can, indeed often should, be the object of public discussion and social critique. But where at the time of the request, it excluded cakes with political messages, Mr Lee lacked the right to have his order fulfilled. Indeed, the reverse claim seems more credible: that had *Ashers* been legally compelled to produce a cake with that message, they could reasonably have regarded themselves as second class citizens since the right not to speak was denied to them in that instance.

Could Mr Lee defend himself from the charge of compelling another’s speech through drawing an analogy between *Ashers* and a media platform whose employees disseminate the views of the platform’s users, not their own? I think this analogy fails for three reasons (cf. Shiffrin 2005: 861-2). First, size matters: the McArthurs would have been intimately involved in producing the cake, unlike employees in a large media conglomerate. Second, media platforms are similar to the example of the printer where social convention detaches the message from the messenger; but no such convention applies to bakers producing an idiosyncratic good they are not normally requested to make. Third, notwithstanding the second point, it’s not difficult to imagine cases where the platform’s staff might well have powerful objections to disseminating views they find morally objectionable, for example in putting together a TV advert for a far-right party.

We can now turn to consider the place of MR integrity in this case. The first point to make is that the contending parties could each (or both) have achieved MR integrity in a way which parallels the *Masterpiece* case. Notwithstanding his commitment to equal rights for gay and lesbian citizens, Mr Lee could have reflected upon the sincerely held Christian commitments of the McArthur couple, especially through dialogue with them, and thus shown them respectful consideration. The discrimination (as Lee perceives it) shown by the McArthurs is still consistent with his realising MR integrity, especially if he was not treated by them as a second class citizen, as I have maintained. Further, Lee could have demonstrated that respect by not bringing a legal case against the McArthurs. As I noted at the end of the last Section, the latter would have come at the cost of his own MM integrity, at least in that particular case: clearly he remained free to campaign for equal civil rights in other spheres of his life. Conversely, the McArthurs could have realised MR integrity by respectfully engaging with Lee’s views on equal marriage, and re-examining their opposition to it. They could have exemplified MR integrity, at the cost of their own MM integrity, by agreeing to decorate a cake with the message ‘Support Gay Marriage’. As I suggested in Phillips’s case, third parties might only have concluded from this that the McArthurs were complying with the law, had at least the case stopped with the ruling in favour of Lee by the Northern Ireland Human Rights Commission. At a later stage, the McArthurs might have demonstrated their MR integrity by not fighting Lee in the Courts. In these various ways, either or both parties could have shown that they recognised that other individuals with divergent or contrary views were equally engaged in the quest for moral knowledge, and equal potential sources of reasons in support of any particular view.

I have used the Rawlsian ideal of society as a fair system of co-operation between free and equal persons as the basis to defend my claims about freedom of religion, freedom of speech and discrimination in this and the last Section, and to conclude this Section I want to note an affinity between that ideal and the ideal of MR integrity. In Section 2 I rejected a substantive view of integrity according to which persons only achieve integrity if the convictions and values they live by are morally correct. At the same time, though, the ideal of MR integrity contains within it a number of substantive moral theses: that other individuals are (presumptively) equally competent moral reasoners to oneself; that others’ convictions deserve our respect, and that on occasion we might even compromise with or defer to them; and that however much we disagree with other people, they are – at least if committed to MR integrity themselves – ultimately partners in the collective enterprise of arriving at well-founded convictions. Because these are theses about integrity itself, we might describe MR integrity as a meta-substantive view. The affinity between it and the Rawlsian ideal is that on both conceptions parties have obligations to others engaged in the same enterprise as themselves. On both conceptions persons enjoy an equal standing: on the Rawlsian ideal, this is expressed in citizens’ duties to respect each other’s rights and liberties; for MR integrity individuals recognise others’ standing by giving their views respectful consideration. Finally, on both conceptions, the participants engage with one another in a fair and co-operative manner; at a high-order, abstract level, there is a division of social responsibility. Thus if we accept the Rawlsian ideal as the foundation for our substantive reasoning about rights and justice, there is a sense in which MR integrity flows naturally from it.

In discussing the *Masterpiece* case in Section 4, I said that both Phillips and Craig and Mullins could have achieved MR integrity by actively considering each other’s views, entering into dialogue with one another, and even granting the other side the latitude to pursue their convictions. I also argued that, from the perspective of society as a fair system of co-operation between free and equal citizens, it was Phillips who discriminated against Craig and Mullins by failing to respect their equal standing as citizens; while in requesting a cake for their marriage, they did not wrong him. We can now see that there is a closer fit between Craig and Mullins’s MR integrity and the ideal of society as a fair system of co-operation than there is between that ideal and Phillips’s MR integrity. Because they did not discriminate or otherwise fail to respect Phillips, Craig and Mullins can more readily show their regard for him as an equal partner in the quest for morally sound convictions, even though they disagree with his convictions, than Phillips can: wrongful discrimination is not consistent with seeing another as an equal partner. Put another way, Phillips has a longer journey to make to achieve MR integrity, at the possible cost of his Christian convictions (as he interprets them). In accepting that Craig and Mullins’s views on equal marriage have some weight, he would also move in the direction of respecting their equal standing, and towards the ideal of society as a fair system of co-operation.

In the *Ashers* case, the same general observation holds, but I don’t think we can say that either party has a further journey to make towards the Rawlsian ideal. I have argued that, in insisting (through taking legal action) that the McArthurs complied with his request, Lee did not properly respect their free speech rights, but he did not discriminate against them. He could have achieved MR integrity by respectfully engaging with their views as Christians, including even dropping his legal case – at the cost of his MM integrity. I suggest that had Lee dropped the legal case, he would not only have demonstrated his appreciation of the McArthurs’ Christian commitments, but also recognised the case against compelled speech, or put another way recognised the proper bounds of the right to free speech. Doing the latter would take Lee in the direction of the ideal of society as a co-operative endeavour between individuals who are equally free; and individuals must enjoy freedom to entertain, discuss and consider alternative views in order to realise the ideal of MR integrity. But conversely, to the extent that the McArthurs could achieve MR integrity by respectfully considering Lee’s views and appreciating the case for same sex marriage, they also move closer to the ideal of a fair system of co-operation between free and equal persons. After all, same sex marriage gives gay and lesbian couples a legal freedom equal to heterosexual couples.

**6. Conclusion**

In this article I have advanced three theses. First, I’ve argued that while MM integrity is an appropriate ground for religious accommodation claims, its pursuit can come at the cost of the other side’s MM integrity and hence that many accommodation cases are more complicated to resolve than they may initially appear. Second, I have introduced a novel conception of integrity as moral responsibility, distinguished it from MM integrity, and shown how the two conceptions are in practical tension. One way a person can demonstrate MR integrity is by giving others the latitude to pursue their own commitments, but this comes at the cost of her own MM integrity. But even absent that latitude, the consideration which a person who realises MR integrity gives to contending parties’ commitments can loosen the grip of her own moral or religious commitments, so the bases of her MM integrity are eroded. My third thesis is that even where MM integrity lies on both sides of a dispute in way I’ve described, it may still be possible to resolve a dispute, normatively speaking (I am not making a claim about courts could operate). Using the Rawlsian ideal of society as fair system of co-operation between free and equals as a baseline, I’ve suggested that Phillips discriminated against Craig and Mullins in the *Masterpiece* case and that Lee attempted to compel the McArthur’s speech in the *Ashers* case. Finally, I have noted an affinity between the notion of fair co-operation and the ideal of MR integrity; briefly put that achieving the latter moves an individual towards endorsing the former. All of this shows the utility of MR integrity in the accommodation debate.

MR integrity is less individualistic than MM integrity because to the extent that we achieve it, we regard others, at least on reflection, as co-operative partners in the quest for moral or religious truth. MR integrity is more moralised too because the notion of co-operation is a moral one and (as I argued in Section 2) because MM integrity may consist in pursuing unjust commitments and is compatible with moral vices such as arrogance or indifference to others. Plainly, there is more we could say about MR integrity. I have not discussed whether it is local and particularised phenomenon, indexed just to one dispute, or an ideal a person might achieve in every area of her life. I think the latter is plausible, though clearly no person can reasonably engage with every contrary viewpoint she encounters. MR integrity is not an ideal for superhuman deliberators. Though I’ve described MR integrity as an ideal or virtue, I haven’t discussed whether it is a duty of some kind. I am tempted to say that the consideration of others’ views it involves is a moral duty we owe our fellow citizens – a civic but not legal duty – though this raises questions about how much consideration we owe them.

Though I’ve focused on just two cases in the above, I believe my conclusions about MM and MR integrity have wider implications as they are present in other accommodation cases too. This includes other instances of discrimination against gay and lesbian citizens, such as when hoteliers have on religious grounds refused to provide them with a double room[[10]](#footnote-10); cases involving race as in Palmer v. Thompson[[11]](#footnote-11) in the US where a town’s mayor shut down its public swimming baths rather than make them equally available to black citizens as well as white (here the MM integrity of racist whites interferes with the MM integrity of black citizens); and cases involving faith education such as where the expression of a school’s religious ethos (e.g. in the curriculum), cuts against children’s or at least their parents’, MM integrity.[[12]](#footnote-12) Further, a great many accommodation cases arise in an employment context – e.g. disputes involving time off for holy days, religious dress or proselytism at work – and here we can choose to hold fast to the commitments underlying our MM integrity or engage in dialogue with our colleagues, thereby instantiating MR integrity. Thus both theoretically and practically, the phenomenon of MR integrity is important for the debate on religious accommodation.

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1. As a matter of law, these kinds of claims have sometimes succeeded (Williams-Drabble v. Pathway Care Solutions (2004) ET 2601718, but other times failed (Copsey v. Devon Clays (2005) EWCA Civ 932; Mba v London Borough of Merton (2012) UKEAT 0332/12/1312. [↑](#footnote-ref-1)
2. See Larissis and others v. Greece 140/1996/759/958–960 (1998) which concerned subordinates forced to listen to their superior’s evangelism, violating their Art. 9 right to manifestation of belief. See also Mrs S Kuteh v Dartford and Gravesham NHS Trust (England and Wales: Unfair Dismissal) [(2017) UKET 2302764/2016](http://www.bailii.org/uk/cases/UKET/2017/2302764_2016.pdf). [↑](#footnote-ref-2)
3. For surveys, see Cox et al (2017) and Scherkoske (2013b). [↑](#footnote-ref-3)
4. Lenta (2016) is a partial exception insofar as he also discusses integrity as wholeheartedness. [↑](#footnote-ref-4)
5. Though see the brief discussion in Lenta (2016: 254). [↑](#footnote-ref-5)
6. A point emphasised, by Scherkoske (2013a) who calls it ‘assurance’ – see n. 3 above. [↑](#footnote-ref-6)
7. Breakey maintains that compromise can exemplify integrity insofar as a sensitivity to others’ interests shows that one is not over-concerned with one’s own (Breakey 2016: 619-20, 626-7). [↑](#footnote-ref-7)
8. I’m grateful to Paul Billingham for putting these objections. [↑](#footnote-ref-8)
9. I’m a grateful to a referee for this objection. [↑](#footnote-ref-9)
10. As in Bull v. Hall UKSC 73 (2013). [↑](#footnote-ref-10)
11. Palmer v. Thompson 403 US 217 (1971), and see Sangiovanni (2017: 120-1, 133-4). [↑](#footnote-ref-11)
12. Admittedly this raises the question of the age at which a child might reasonably achieve integrity of either kind. [↑](#footnote-ref-12)