

## Freedom of religion and belief in education in the Supreme Court

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After nearly a century, children's and parents' freedom of belief in education finally came before the highest UK court, in a significant case about religious education (RE) in Northern Ireland (NI) – though with implications for the other home nations of England, Scotland and Wales. The case, known simply as [Re. JR87](#), in order to protect the family's anonymity, was brought by parents against their local controlled, primary school, and against the Department of Education in NI. Controlled schools represent nearly half of NI's schools; state-funded, they seek to “provide for a more pluralist society through a diversity of schools with individual characteristics, but with Christian core values and principles” ([Controlled Schools Support Council undated](#)) The parents however thought that RE was too confessional, in lessons, assemblies and generally around the school, and although there was a right of withdrawal, this was too onerous for the child and parents.

RE in controlled schools in NI is essentially set by the Education and Libraries (Northern Ireland) Order 1986, which provided that RE “undenominational...that is to say, education based upon the Holy Scriptures according to some authoritative version or versions thereof but excluding education as to any tenet distinctive of any particular religious denomination and the collective worship required by paragraph in any such school shall not be distinctive of any particular religious denomination” (Article 21(2). This wording sought ecumenical agreement amongst various churches, though as Catholic education was separate, it was essentially serving different Protestant congregations. In 1986, other religions and non-religions did not feature, though in England and Wales other religions were recognised in 1988, in [section 8, Education Reform Act](#). The NI context was clearly different.

The family argued that this RE was a breach of Article 9 of the [European Convention on Human Rights](#) (Freedom of religion/belief), and Article 2 of Protocol 1, on right to education, which provides parents with the right to raise their children in their own beliefs, and not to have other beliefs imposed upon them by the authorities. These first appeared embryonically in UK law (England & Wales specifically) in 1830s and extended across the other nations ([Fancourt 2022](#)).

The Supreme Court decided in the family's favour – thereby agreeing with the initial judge and reversing the Court of Appeal's decision, which had rejected their case. It is significant for four reasons.

First, while it is not hugely surprising that RE from the 1980s is Christian in focus, the Court paid attention to other European cases on the burden that it would put on the family: no clear alternative provision, risk of bullying in schools, risk of social ostracism, having divulge their beliefs. Having a right of withdrawal was not enough here, and RE should really be “objective, critical and pluralistic” as another decision had found.

Second, the school's culture was also important here, and “in the absence of any religious exposure at home, [the] daughter now believes that God made the world, and she repeats and practices a prayer/grace that she was taught at school at snack-time”. RE was therefore given a wide interpretation, not simply

covering the lessons. This problem had emerged as needing a legal solution over a century ago, in the Endowed Schools Act 1869, which had prohibited teachers of other subjects raising religious issues with pupils who had opted out of RE ([Fancourt 2022](#)).

Third, more broadly across UK, the case forms part of a trio of cases on similar issues (with [Re. Fox, 2015](#), and [Re. Bowen 2024](#) - both in England), on provision for humanists in RE ([Fancourt 2024](#)). While clearly different laws apply across the four nations, and there are different provisions for RE in faith schools across them, they collectively illustrate how this has become a matter for the courts, termed 'juridification', so that policy-makers must pay attention to these decisions and the European Court's judgments on which they are based, but also any statutes or policies run the risk of being brought before a court in the future - litigation is part of the process of grievance and critique, e.g. on the NI's RAISE programme's funding allocation and religion in [Re. JR 338](#). Thus, new policies in NI, but also in Wales, Scotland, or England, e.g., putting RE in the national curriculum in England, as the Review has suggested ([Curriculum and Assessment Review 2025](#)), are potentially open to the scrutiny of judges.

Last, it sits within conflicting international trends. It echoes the European legal position that a technical right to withdrawal is insufficient, and more needs to be provided for those who opt out - typically non-religious families, e.g., in Norway ([Folgerø](#)), Poland ([Grzelak](#)) or Greece ([Papageorgiou](#)). Nonetheless, even such provision may be insufficient; in 2015, the Belgian Supreme Court decisions supported parents who opted out of Catholic RE, but objected to the opt-out provisions, and wanted to opt out of them too (see [Franken & Sagesser 2025](#)). By contrast, the US courts and states have started to support some forms of Christian religiosity in schools - prayers and Biblical texts ([Kennedy v Bremerton School District 2022](#)) . It will be interesting to see how these contrasting global developments unfold.