



Religious education and indoctrination in Northern Ireland and beyond after *JR87*

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ABSTRACT

The case of *JR87* concerned the provision of religious education within Northern Ireland's school system and, in particular, whether both the substance of that provision under the Religious Education and Collective Worship syllabus and the manner in which it was implemented were compatible with the European Convention on Human Rights (ECHR). The rights relied upon in the challenge were the right to education under Article 2 of Protocol 1 ECHR, read together with the right to freedom of thought, conscience and religion under Article 9 ECHR. At first instance, the Northern Ireland High Court granted a declaration that the relevant arrangements were in breach of the ECHR. Thereafter the Northern Ireland Court of Appeal overturned that decision and declared that there had been no breach. The United Kingdom Supreme Court, however, allowed the appeal against this decision and restored the High Court's declaration. This case note outlines the principal elements of the Supreme Court's reasoning and considers their implications not only in the instant case, but also more broadly, extending beyond the specific context of education in Northern Ireland.

Keywords: religious freedom; education; religious education; collective worship.

INTRODUCTION

On 19 November 2025, the United Kingdom Supreme Court (UKSC) handed down judgment in *Re JR87*.¹ The judgment was written by Lord Stephens, Northern Ireland’s judge on the Supreme Court, and the other judges sitting on the case (Lord Reed, Lord Lloyd Jones, Lord Hamblen and Lord Burrows) all agreed with it. This case concerned the provision of religious education in Northern Ireland’s school system and, in particular, Christian-based collective worship and the content of the Core Syllabus for Religious Education.² At primary-school level the content of this syllabus is exclusively Christian, if non-denominational, in orientation.³ The applicant primary school-aged child belonged to a family which was ‘humanist in their outlook’.⁴ They challenged the presentation of Christianity in the school context as an ‘absolute truth’.⁵ When these issues were raised before both the school and a Curriculum Complaints Tribunal, the complaint was dismissed on the basis that the school was acting in line with ‘the duties imposed on it by the statutory provisions relating to religious education and collective worship’.⁶

At issue in the subsequent judicial review was therefore whether the syllabus – and the way that the applicant’s school used assemblies to give effect to it, with an option of withdrawal for students on request⁷ – were compliant with the European Convention on Human Rights (ECHR). The particular rights invoked were the right to education (Article 2, Protocol 1 ECHR (A2P1 ECHR)) read with the right to freedom of thought, conscience and religion (Article 9 ECHR). The Northern Ireland High Court (Colton J, as he then was) granted a declaration that there was a breach of ECHR rights.⁸ The Court of Appeal, in a judgment delivered by Treacy LJ (with which Keegan LCJ and Horner LJ agreed) allowed the appeal and declared that the ECHR had not been breached.⁹ The Supreme Court allowed an appeal from

1 *Re JR87* [2025] UKSC 40.

2 *Core Syllabus for Religious Education* (Department of Education (Northern Ireland) 2007).

3 Education (NI) Order 1986, Art 21(1)–(2). See J Nelson and N Richardson, ‘Freedom of belief, the right to withdrawal and Christian religious education in Northern Ireland’ (2025) *British Journal of Religious Education* (Advanced Access).

4 *Re JR87* [2025] UKSC 40, para 20. For a more detailed account, see *Re JR87* [2022] NIQB 93, para 52.

5 *Re JR87* [2025] UKSC 40, para 32.

6 *Re JR87* [2022] NIQB 93, para 14.

7 Education (NI) Order 1986, Art 21(5).

8 *Re JR87* [2022] NIQB 93.

9 *Re JR87* [2024] NICA 34.

that decision and restored Colton J's declaration. This case note sets out the main aspects of the judgment and explores their implications beyond the parties and indeed beyond the provision of Religious Education and Collective Worship in Northern Ireland.

THE LEGISLATIVE FRAMEWORK AROUND SCHOOLING IN NORTHERN IRELAND

It is trite, but nonetheless necessary, to begin by noting that Northern Ireland operates a schooling system which remains to a large extent segregated on the basis of religion.¹⁰ As a consequence, the ruling does not apply in the same way to all schools in Northern Ireland. With many of its schools originally being founded and run by different churches, public funding of education in Northern Ireland changed radically after the partition of Ireland.¹¹ After that point, the Presbyterian, Anglican and Methodist churches (the 'transferor churches') transferred their capital assets to the erstwhile Northern Ireland Government in exchange for public funds and continued influence over schooling, in particular the Religious Education and Collective Worship. These are the 'controlled' schools. Under the Education (NI) Order 1986, as noted above, the school provides non-denominational Religious Education and Collective Worship directly, but local clergy are additionally enabled to provide denominational sessions, subject to parental opt-out.¹²

Schools run by the Catholic church retained independent control over governance and the provision of education. The judgment dryly notes that '[a]fter partition of Ireland in 1921, the Catholic Church did not wish to avail itself of the opportunity of transferring their schools' capital assets to the State'.¹³ These schools are today known

10 On the influence of the major churches in Northern Ireland over the development of its education arrangements, see L Lundy, *Education Law, Policy and Practice in Northern Ireland* (SLS Legal Publications 2000) 10.

11 An early attempt to 'secularise' education in Northern Ireland in the 1920s was the brainchild of the 7th Marquess of Londonderry. It was met with fierce resistance across all religious denominations, leading to Londonderry's resignation from the Northern Ireland Government. He would go on to attempt diplomatic overtures towards the Third Reich before and during the Second World War and retire from public life in disgrace. See Cecilia Biaggi, 'Reforming education in post-partition Northern Ireland: state control and churches' interference' (2020) 49(3) *Journal of the History of Education Society* 379–397; L P Barnes, 'Religion and education in Northern Ireland' in G Daniel and A Holmes (eds), *The Oxford Handbook of Religion in Modern Ireland* (Oxford University Press 2024) 268, 271.

12 Education (NI) Order 1986, Art 21(7).

13 *Re JR87* [2025] UKSC 40, para 51.

as ‘maintained’ schools. As a result of this historical separation, these schools remain able to teach religion and collective worship on an explicitly denominational basis, and the Catholic church was quick to assert that ‘this ruling applies to a controlled grant-aided primary school and does not apply to Catholic schools’.¹⁴ Notwithstanding this asymmetry, controlled and maintained schools are both types of state-funded educational provision.

Within Northern Ireland, there are also ‘integrated’ schools, which are non-denominational, but in spite of efforts to encourage integrated education from the 1970s onwards these remain numerically substantially outweighed by their controlled and maintained counterparts in terms of student numbers. Integrated schools are subject to the Religious Education and Collective Worship syllabus and thus the outcome of the case is directly applicable to these schools.¹⁵

It is important to emphasise that a school associated with a particular Christian denomination does not educate only pupils of its associated denomination. There are many students of diverse backgrounds at denominational schools across Northern Ireland, including, as in this case, students of a humanist background. The reality is that the rigidity of Northern Ireland’s Religious Education and Collective Worship syllabus in this context, and its obligations on ‘every granted-aided school’ to promote a Christian ethos in line with the syllabus, has long been at odds with the complexity of the society it serves.¹⁶ JR87 was a pupil at a controlled primary school but, as we shall explore below, the litigation has implications for Religious Education and Collective Worship across Northern Ireland’s complex educational arrangements.

THE RIGHT TO RELIGION AND BELIEF UNDER THE ECHR

The right to religion and belief found in Article 9 ECHR and the right to education in A2P1 ECHR obviously involve not only the right to hold a religion or belief, but also the right *not* to hold a religion or belief. As Christianity, taken broadly, is protected under the Convention, so must the right *not* to believe in the tenets of Christianity.¹⁷ But in this case the parents did not need to rely on a negative right *not* to believe

14 A McGuckian, ‘Pastoral statement from Bishop Alan McGuckian in response to the recent Supreme Court ruling on religious education provision in Northern Ireland’ (23 November 2025).

15 Barnes (n 11 above) 281.

16 Education (NI) Order 1986, Art 21(1).

17 See *Buscarini v San Marino*, App No 24645/94, Grand Chamber Judgment of 18 February 1999, at para 34; *Bayatyan v Armenia*, App No 23459/03, Grand Chamber Judgment of 7 July 2011, at para 118.

in something – they were able to positively identify secularism as a protected belief in and of itself.¹⁸

This is not a context in which there is a shortage of relevant decisions interpreting these rights, rather, as Lord Stephens recognised '[t]here is extensive Strasbourg jurisprudence on the application of A2P1 to religious education'.¹⁹ Much of what he then proceeded to consider was drawn directly from the case of *Folgerø v Norway*,²⁰ a landmark decision of Strasbourg's Grand Chamber concerning Norway's faith-based curriculum. In that case, the Court considered the applicant families' wishes to be exempt from certain components of the Norwegian curriculum's faith-related activity. In a critical passage, the Court ruled that:

the State, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is *conveyed in an objective, critical and pluralistic manner*. The State is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents' religious and philosophical convictions. That is the limit that must not be exceeded.²¹

In short, the *Folgerø* decision appears to indicate that for compulsory religious education within a state's schools to be rights-compliant, there must be both exposure of pupils to a plurality of belief systems within the syllabus and one faith cannot be prioritised over others.²²

Both the Northern Ireland High Court and Court of Appeal had previously considered that the education provided by the school, on its face, failed to meet the required standard of 'objective, critical and pluralistic' religious education. The question was whether the ability of parents to withdraw their child from religious education classes mitigated this problem, and, if so, to what extent.

It was undisputed that the parents could withdraw their child from the Religious Education classes. The key question for the purposes of the Convention was whether this could be done 'without placing an undue burden on her parents'.²³ The Court of Appeal, disagreeing

18 *Re JR87* [2025] UKSC 40, para 95. Secularism has also been recognised as a distinct belief recognised under Art 9 by the European Court of Human Rights: see *Lautsi and Others v Italy*, App No 30814/06, Grand Chamber Judgment of 18 March 2011, para 58.

19 *Re JR87* [2025] UKSC 40, para 96.

20 *Folgerø v Norway*, App No 15472/02, Grand Chamber Judgment of 29 June 2007.

21 *Ibid* para 84 (our emphasis).

22 See W Alberts, 'Religious education in Norway' in L Franken and P Loobuyck (eds), *Religious Education in a Plural, Secularised Society: A Paradigm Shift* (Waxmann 2011) 99, 111.

23 *Re JR87* [2025] UKSC 40, para 116.

with the High Court, ruled that the opt-out system was effective, partly because it was in practice unfettered, which provided the key reason as to why the religious curriculum did not, in practice, breach the rights of non-religious children and their parents.²⁴ This judgment very much sought to preserve the *status quo* with regard to provision of Religious Education in Northern Ireland schools. Crucially, the Court of Appeal tied itself in knots over the findings of fact that had been made by the High Court. It had been obliged to acknowledge that these were not ‘clearly erroneous’, but sought to substitute in its own findings of fact as to the risk of stigmatisation of a pupil being withdrawn from certain classes.²⁵

The Supreme Court in turn disagreed with the Court of Appeal, finding ‘ample evidence’ to support Colton J’s finding at first instance that excluding the child from the school would impose a significant burden in practice: the child would be ‘stigmatised’ by the exclusion via ‘peer pressure’ and deviation from ‘sensitive ... classroom norms’.²⁶ The child would be the only child withdrawn from Religious Education classes, within a small school environment.²⁷ Although there was no obligation to disclose any reasons for withdrawing children, in practice this would compel parents to signal their irreligiosity.²⁸ The Supreme Court judgment is a pointed rebuke to the Court of Appeal’s substitution of its own fact-finding to suit its conclusions: ‘the Court of Appeal was not justified in departing from the judge’s factual findings by holding ... that it was not satisfied that the filing of an exemption would result in stigmatisation’.²⁹

THE MEANING OF INDOCTRINATION

The Supreme Court also concluded that the Court of Appeal had also misinterpreted the relevant Strasbourg law, which it considered to have been concerned with only partial or qualified powers of parental withdrawal. The Court of Appeal reasoned that formally unfettered withdrawal rights would therefore either meet the standards of the Convention or marked an issue on which there was no explicit Strasbourg position to follow; ‘In light of the limits of Strasbourg jurisprudence, and applying the *Ullah* principle, we do not consider

24 *Re JR87* [2024] NICA 34, paras 93, 99 and 107.

25 *Ibid* paras 75, 92 and 101.

26 *Re JR87* [2025] UKSC 40, para 118.

27 *Ibid* para 118.

28 *Ibid* para 119.

29 *Ibid* para 128.

that we could reliably anticipate how the European Court might be expected to decide this case.’³⁰

The Supreme Court disagreed; the relevant Convention jurisprudence was not so limited, indeed, there was no suggestion of any relevant limitation.³¹ It is worth quoting Lord Stephens at this point at length because it demonstrates the lengths to which the Court of Appeal was going to find a loophole in the European Court of Human Rights’ case law that did not exist:

I agree with the Court of Appeal that there is no Strasbourg authority which has found that an automatic exemption was insufficient to bring an imbalance to an acceptable level under A2P1. However, that was because there has been no Strasbourg case, including *Folgerø*, in which the issue was raised. The issue in *Folgerø* was whether the partial exemption was sufficient to bring the imbalance to a level acceptable under A2P1. In determining that issue, the Strasbourg Court applied the core principle that the right of exemption must not be capable of placing an undue burden on parents.³²

At this point, for Lord Stephens, the often-maligned *Ullah* principle of the domestic application of the Convention rights mirroring the approach adopted by Strasbourg undoubtedly applied. There is a slight irony here. It is the UK Supreme Court under Lord Reed’s leadership which has adopted a notably conservative approach to the *Ullah* principle, encouraging other courts to follow suit in cases like this one.³³ Even more ironically, the Reed presidency has also seen the application of the *Ullah* principle *narrowed* in specific appeals from Northern Ireland.³⁴ Here, however, when the Strasbourg case law is so clear, even the Supreme Court can see no point in artificially generating uncertainty or forcing the case to be pursued to Strasbourg.

30 *Re JR87* [2024] NICA 34, para 108. The Court of Appeal is referring to Lord Bingham’s well-known dictum, taken from the case of *R (Ullah) v Special Adjudicator* [2004] UKHL 26, [2004] 2 AC 323, that ‘the duty of national courts is to keep pace with the Strasbourg jurisprudence as it evolves over time: no more, but certainly no less’, para 20.

31 *Re JR87* [2025] UKSC 40, paras 124–126.

32 *Ibid* para 125.

33 See *R (AB) v Secretary of State for Justice* [2021] UKSC 28, [2022] AC 487, para 54; *R (Elan-Cane) v Secretary of State for the Home Department* [2021] UKSC 56, [2023] AC 559, paras 80–85; *Jones v Birmingham City Council* [2023] UKSC 27; [2024] AC 168, para 38; more generally see Kacper Majewski, ‘Mirroring the margin’ [2022] Public Law 553.

34 *Re McQuillan and Others* [2021] UKSC 55, [2022] NI 34, paras 155–158 and 163–167; *Re Dalton* [2023] UKSC 36, [2024] NI 138, para 4; see, more generally, L Graham, ‘Has the UK Supreme Court become more restrained in public law cases?’ (2024) 87(5) *Modern Law Review* 1073–1110.

For Lord Stephens, then, the thrust of the Strasbourg authorities was clear, and so artificial distinctions should not be drawn just because Strasbourg has not decided a specific case on an issue arising at the domestic level. This is a welcome application of the so-called *mirror principle*,³⁵ although the Court's application of it in this case stands in contrast to its generally quite narrow and conservative approach to section 2 of the Human Rights Act 1998 that it has adopted in recent years. The Supreme Court ruled, cleaving tight to the position set by the European Court of Human Rights, that state education, with religious elements, must not amount to 'indoctrination'. It also rightly pointed out that 'indoctrination' is a term with specific legal significance, having been defined by the Strasbourg Court in the education context as religious information delivered without 'objective, critical, and pluralistic' character.³⁶

The Court of Appeal had fallen into error by creating, in effect, a category of rights-compliant indoctrination in its application of Strasbourg case law to the facts. It had accepted that within Northern Ireland's controlled schools education was not being delivered in an 'objective, critical and pluralistic' manner. This was set up as something distinct from indoctrination which would breach Article 9 ECHR, which the Court of Appeal asserted would require more visible manifestations. Only if this heightened level of 'indoctrination' was reached would it lead to a breach of the Convention.³⁷ This conclusion was quite simply wrong, and far out of step with Convention jurisprudence. The Court of Appeal created a situation where information could be conveyed in a manner which was not 'objective, critical and pluralistic', but did not count as 'indoctrination'. This was to separate two standards which had been set up by Strasbourg to be synonymous. As the Supreme Court put it, 'the two concepts are merely different sides of the same coin'.³⁸

COURTS, RIGHTS AND CONSOCIATIONAL POLITICS

For all that the Supreme Court's position is a welcome effort not to muddy clear Strasbourg case law, the panel pulls some of its punches. It finds that the provision made for JR87 did involve a breach of her rights and reinstates the Northern Ireland High Court's declaration to this effect. That declaration, however, did not specify that any legislative provision was incompatible with the Convention *per se*. In an

35 See L Graham, 'The modern mirror principle' [2021] Public Law 523–541.

36 *Re JR87* [2025] UKSC 40, para 105.

37 *Re JR87* [2024] NICA 34, paras 67, 87 and 103.

38 *Re JR87* [2025] UKSC 40, para 122.

addendum to his main judgment, Colton J found that the ‘outworkings’ of various legislative provisions – namely in the curriculum to which these provisions gave rise – was the source of the breach. The declaration asserts that it is the ‘teaching of religious education under the core syllabus’ which is unlawful under the Convention.

All of this might be thought to militate against the decision’s significance. Nonetheless, as Lord Stephens notes as an aside late in the judgment, this finding has potentially far-reaching ramifications for the provision of Religious Education and Collective Worship in Northern Ireland that reach beyond the immediate outcome:

For the purposes of this appeal and absent full argument on these points it is not necessary to decide whether: (a) the Department was also in breach of A2P1 by failing to monitor, inspect and report on the standard of religious education being provided in schools (see paras 28-30 and 108 above); (b) regulation 21(5) of the 1973 Regulations breaches article 9 ECHR by requiring the Board to reveal pupils’ beliefs concerning spiritual matters to the relevant minister on request ... (c) the safeguards in relation to the qualification to the right of access to pupils under article 21(7) of the 1986 Order that ‘the parents do not object’ is sufficient to protect the rights of parents and their children.³⁹

In all of these regards, the Supreme Court is at least heavily implying, but never quite expressly stating, that the Northern Ireland Assembly (NIA) will have to consider these issues in detail in light of the requirements of Article 9 and A2P1. The syllabus itself was at issue in the case, but it is not possible to disentangle its provisions from the underlying 1986 Order which mandates a Christian ethos, subject to a narrow parental opt-out.

The wider implications of the decision draw back the curtain on the underlying reason for the Court of Appeal’s reluctance to touch this issue – its acute awareness of how fraught these questions remain within Northern Ireland politics. When the Northern Ireland Court of Appeal issued its decision in April 2024, power-sharing devolved governance in Northern Ireland had only been restored some two months previously, having been rocked by political scandal and the impact of Brexit for much of the previous decade.⁴⁰ The Democratic Unionist Party (DUP) had upset many political calculations by choosing the Department of Education as its first choice under the D’Hondt mechanism. The party has (during periods in which power sharing has been functioning) controlled this portfolio since 2016, and during that period it has been determined to maintain the existing

39 Ibid para 130.

40 See C R G Murray, ‘Northern Ireland’s post-Brexit governance crisis: what to do when the post-1998 centre cannot hold’ (2024) 75 *Northern Ireland Legal Quarterly* 584–612, 586–590.

Religious Education and Collective Worship arrangements in the face of criticism, with academics noting the department's 'protracted, limited and sluggish response' to pressure for reform.⁴¹ Indeed, responding to the Supreme Court's judgment in the NIA, the Education Minister Paul Givan was quick to highlight that 'the underpinning legislation was not struck down' and to trumpet that 'it is a Minister from the Democratic Unionist Party who will respond to the judgement [*sic*] and ensure that our Christian ethos in our schools is maintained'.⁴²

The *JR87* decision calls attention to some of the most pressing challenges currently faced by Northern Ireland's courts as they confront an unstable and consociational governance order. This context poses distinct challenges for courts determining issues of public law. As Tom Daly notes, 'courts in the democratisation setting operate in an entirely different political context to a long-established, stable democracy'.⁴³ Courts operating in such a context must weigh the impact of their interventions on the stability of a governance order. Under Northern Ireland's constitutional governance order, departments operate as distinct legal entities; there is no collective policy beyond a belatedly agreed Programme for Government and ministers can thus take decisions without the input of their ministerial colleagues provided they are on issues within their own departmental remit.⁴⁴ The DUP has harnessed these arrangements to take a series of controversial decisions within the education portfolio, including blocking the integration of certain schools and adopting tests which favour schools in some areas over others in the provision of certain funding. In the resultant litigation, however, the courts in Belfast have sought to avoid being drawn into these controversies.⁴⁵ Formalistic approaches to equality provisions and broad accounts of ministerial discretion are not necessarily the hallmarks of a conservative conception of the judicial role, but an effort to circumvent new crises for power sharing.

The Northern Ireland Court of Appeal's *JR87* judgment took this cautious approach one stage further; departing from the mirror principle in what appears to be an effort to allow themselves additional leeway not to be drawn into such issues of educational policy. In doing

41 Nelson and Richardson (n 3 above).

42 NIA Debates, vol 185, page 44 (24 November 2025).

43 T Daly, *The Alchemists: Questioning our Faith in Courts as Democracy-Builders* (Cambridge University Press 2017) 147.

44 Northern Ireland Act 1998, s 20, as amended by the Executive Committee (Functions) Act (Northern Ireland) 2020. See A Deb, 'The Northern Ireland Executive: politics, law and a rethink of judicial intervention' (2024) 75 Northern Ireland Legal Quarterly 267–297, 272.

45 *Re JR335 and 336* [2025] NIKB 56 and *Re JR338 and 339* [2025] NIKB 67.

so, they recognised that ‘the setting of a curriculum is a social policy issue’ and explicitly drew on UK Supreme Court jurisprudence which they regarded as permitting ‘a less intense standard of review in such cases’.⁴⁶ The problem was that in this case the Supreme Court could find no basis for reading exceptions on indoctrination into Strasbourg jurisprudence like *Folgerø*. The inadequacies of the Court of Appeal’s decision in *JR87* demonstrate that, notwithstanding the importance of courts on the ground being alive to issues which might destabilise fragile consociational politics, there is the resultant danger that fixation upon such risks can stifle rights protections in certain cases.

THE IMPLICATIONS OF *JR87*

Northern Ireland’s institutions are therefore being dragged, unwillingly, toward reform of Religious Education and Collective Worship on the basis that its schools serve a pluralistic polity. The process initiated by the *JR87* judgment, moreover, is not happening in isolation. We must also remember that the core right in question in *JR87* was the right to hold religious or philosophical convictions (or not hold them, as the case may be). This itself goes beyond strictly religious matters. Another area where a parental opt-out is becoming similarly politically charged is Relationship and Sexuality Education (RSE). In January 2024, the Northern Ireland Department of Education released its proposals (in response to a public consultation) on parents wishing to have their children excused from ‘age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion’.⁴⁷ These proposals – to be reflected in secondary legislation – are themselves being advanced as a result of a legal requirement imposed on the Department of Education.⁴⁸ It remains to be seen how these proposals will be translated into law, particularly when RSE provisions have been challenged elsewhere in the UK under ECHR grounds.⁴⁹

46 *Re JR87* [2024] NICA 34, para 54, citing *R (SC) v Secretary of State for Work and Pensions* [2021] UKSC 26, [2022] AC 223 and *R (Elan-Cane) v Secretary of State for the Home Department* [2021] UKSC 56, [2023] AC 559.

47 Department of Education, ‘Report on the Outcome of Public Consultation: Consultation on legislation which provides for a parent to request to have their child excused from age-appropriate, comprehensive and scientifically accurate education on sexual and reproductive health and rights, covering prevention of early pregnancy and access to abortion’ (January 2024).

48 See the Relationships and Sexuality Education (Northern Ireland) (Amendment) Regulations 2023, reg 2(3).

49 See eg *R (Isherwood) v Welsh Ministers* [2022] EWHC 3331 (Admin), [2023] PTSR 901.

When it comes to reform of the primary school Religious Education and Collective Worship syllabus the significance of *Folgerø v Norway*, as the UK Supreme Court recognised, is that a minimalist intervention to increasing the range of perspectives is insufficient. If other religions and worldviews which are included in the syllabus are treated in a qualitatively different manner from Christianity, the syllabus will fail to meet human rights standards if it continues to be compulsory, notwithstanding parental opt-outs. It would be impossible to certify that any legislation introduced into the Assembly without meeting these requirements would be rights compatible, as required under the Northern Ireland Act 1998.⁵⁰

The consequences of the judgment, however, potentially extend beyond the immediate subject matter. Primary and secondary education in Northern Ireland has long existed on an asymmetrical basis. Where Religious Education is at issue, the Catholic ‘maintained’ sector has, as noted above, hitherto operated on a ‘faith-based and unapologetically confessional’ basis and the facts of the case before the Supreme Court in *JR87* did not allow the court to rule on the implications of its decision for this sector.⁵¹ The matter does not, however, end there. When it comes to new Assembly legislation, section 75 of the Northern Ireland Act places a statutory duty on public authorities, including the Department of Education, to operate with ‘due regard to the need to promote equality of opportunity ... between persons of different religious belief’.⁵² Assembly legislation, moreover, must not enable discrimination on grounds of religious belief.⁵³ It is difficult to see how the reform of the legislative arrangements underpinning Religious Education and Collective Worship which did not extend across primary and secondary provision in all schools, not simply controlled schools, would meet these requirements. Differentiated arrangements for this provision in schools was put in place before the operation of current equality obligations, but elements of these arrangements cannot be reworked without regard to them.

Indeed, the judgment might spur even more far-reaching debates. In Ireland, as Eoin Daly notes, ‘[t]he right to receive public education through a school which is not committed to imparting specifically Catholic beliefs is contingent on the presence of a countervailing group

50 Northern Ireland Act 1998, ss 6, 9, 10, 11 and 14. See J Kelly and C McCorkindale, ‘Legislating with rights in Northern Ireland: why Stormont’s exceptionalism is Stormont’s paradox’ (2025) *European Human Rights Law Review* 279–305, 283–284.

51 D Armstrong, ‘Religious education and the law in Northern Ireland’s controlled schools’ (2009) *28 Irish Educational Studies* 297–313, 298.

52 Northern Ireland Act 1998, s 75(1)(a).

53 *Ibid* s 6(2)(e).

or identity which may warrant recognition of alternative schools'.⁵⁴ The new judgment, and the resultant drive towards educational reform in Northern Ireland, is thus likely to influence debates over whether Religious Education in Ireland can be said to adhere to the requirements of *Folgerø*.⁵⁵ Any such influence will likely be slow to have effect. Paul Givan, in his role as Minister of Education, has instructed all controlled schools that, even after the judgment, under the 1986 Order 'controlled schools must provide undenominational Religious Education based on the holy scriptures'.⁵⁶ A redrafted syllabus might, given the minister's posturing over the decision, be a long time coming and would in isolation (given the strictures imposed by the 1986 Order) be insufficient to satisfy A2P1. In the meantime schools, as public bodies operating under the duties imposed by section 6 of the Human Rights Act, find themselves exposed to potential litigation if they do not modify their practice in light of the judgment.

CONCLUSION

In David Trimble's Nobel Prize acceptance speech he defined a political fanatic as being 'not someone who wants to perfect himself. No, he wants to perfect you.'⁵⁷ Trimble then singled out the imposition of religion as one of the manifestations of fanaticism which so concerned him. But within Northern Ireland's divided society, so alert after 1998 to one community being able to impose upon the wishes of the other, there was much less introspection from the major political parties of unionism and nationalism over how religious indoctrination has been maintained within schools associated with their particular bloc. The *JR87* decision recognises the inadequacy of these arrangements in rights terms. In doing so, it generates increasing pressure on the rule of law within Northern Ireland, for multiple actors will be able to see electoral advantage in delaying or stymying efforts to effect a legislative

54 E Daly, 'Religious freedom as a function of power relations: dubious claims on pluralism in the denominational schools debate' (2009) 28 *Irish Educational Studies* 235–251, 238.

55 Quite apart from the reach of the European Convention on Human Rights Act 2003 beyond Ireland's own constitutional provisions in this regard, the Belfast/Good Friday Agreement 1998 commits Ireland to maintaining equivalence in rights protections with Northern Ireland: see C Murray, A O'Donoghue and B Warwick, 'The implications of the Good Friday Agreement for UK Human-Rights Reform' (2016–2017) 11–12 *Irish Yearbook of International Law* 71–96, 81.

56 R Meredith, 'Schools told to continue providing RE based on "holy scriptures"' (*BBC News* 28 November 2025).

57 D Trimble, *To Raise up a New Northern Ireland: Articles and Speeches 1998–2000* (Belfast Press 2001) 57.

response to the judgment. If that comes to pass, it will ultimately fall to the UK Government, and Westminster, to (once again⁵⁸) make good a shortfall in rights protections in Northern Ireland.

58 With regard to Westminster's intervention over reproductive rights in Northern Ireland under the Northern Ireland (Executive Formation etc) Act 2019, see Murray (n 40 above) 606.