

## ***The law on collective school worship: The rationale then and now***

Alison Mawhinney



*The vast majority of schools in England, Northern Ireland and Wales are required by law to organise daily acts of collective worship. In England and Wales the act of worship in a school without a religious character must be 'wholly or mainly of a broadly Christian character.'*

***Should the State maintain a duty that compels non-religious schools to hold acts of worship on a daily basis?***

The answer lies in establishing whether a convincing rationale exists for the duty. Of course, it is entirely possible to oppose a law in spite of the existence of a strong rationale for that law. However, for a State, the existence of a satisfactory rationale is an essential requirement for continuing to impose a legal duty.

At the most basic level a need must be identified in order for a rationale to exist for a duty. Any appraisal of a law and its rationale should begin, therefore, with identifying the nature of the need that is sought to be fulfilled by the law. Only then can an examination be made to determine whether the means chosen to satisfy that need is appropriate and effective. If the need and the means to fulfil it correspond then a satisfacto-

ry rationale can be established for imposing the legal duty.

Within the specific context of collective worship the question becomes, can the need and the means to fulfil that need provide a convincing rationale for imposing the duty of daily collective worship in schools today? This question of rationale, of course, is equally applicable to any alternative activity that might be proposed or permitted to replace the current duty.

An examination of parliamentary debates show that the introduction of the original duty in 1944 was designed to meet two separate needs – the need of the State and the need of the main Christian churches. The State wished to instil standards and values in the population which would equip it to withstand foreign totalitarian forces during World War Two, while the churches wanted to restore the establish a religious foundation for the education of the nation's children. Accommodation of the need of the churches was considered legitimate given the wider compromise agreement that was being negotiated between the State and the churches during the passing of the Act.

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The religious demographic of society at the time meant that the distinct yet parallel needs of state and

church could reasonably be thought to be satisfied through a common means. Thus the imposition of a duty on all schools to hold daily acts of collective worship had a credible rationale and the 1944 law could be viewed as coherent.

In 1988 the Education Reform Act was passed. It amended and narrowed the 1944 duty to require the worship to be 'wholly or mainly of a broadly Christian character'. Its retention and increased Christian emphasis can best be explained as an attempt by the State to protect itself from what it saw as threats to its essential interests at a time of change. While debate exists about the nature of any such threats - increased immigration and an increasingly permissive society - the needs they produced are nevertheless a manifestation of how the State at the time perceived certain changes in society.

More controversial, however, was the means chosen by the State to meet its stated needs which as parliamentary debates show were to do with need to promote democratic values and to protect the country's Christian heritage. The decision by the State to continue to use daily acts of collective school worship as its chosen means was flawed and incapable of providing a convincing rationale for the duty for several reasons, most notably the changed religious composition of society.

The relationship between the needs (promotion of democratic values and protection of the country's Christian heritage) and the means designed to fulfil it (an act of mainly Christian worship) was illogical in a society where Christianity as a practised faith was no longer dominant. The result is a law where the needs and means do not correspond and where a convincing rationale for the duty is absent.

The duties imposed under the 1944 and 1988 Acts demonstrate an acceptance of the role of the State in using the education system as a tool of socialisation. Indeed, the argument can be made that this is a proper role for schools and that the educational system should be used more intensively in creating a strong democratic state.

A strengthening of the parental right to educational authority in recent decades has led some to suggest that there is a growing reluctance to utilise the educa-

tion system as an institution for cultivating mutual values, leading to a neglect of this democratic potential of schools.

Arguably an increased focus on the rights of parents and pupils may cause the State to act cautiously in this area, however, it does not reduce the legitimacy of the State in turning to the country's education system to fulfil any identified needs. Naturally any measures it takes to do so are not only susceptible to democratic scrutiny but will ultimately depend on the existence of a convincing underlying rationale to be effective.

Education is a devolved matter in the UK and it is for each country to determine whether it has a need that requires its schools to hold daily acts of worship.

A review of contemporary needs may conclude that the needs articulated at the time of the passing of the 1988 Act, namely, the promotion of democratic values and the preservation of the country's Christian heritage, continue to exist.

Alternatively, it may be decided that 'new' threats or circumstances give rise to additional or different needs on the part of the State, for example, a need for increased community cohesion or improved religious literacy.

The critical stage of any review is consideration of how the needs, old or new, should be met and this will drive the decision as to whether the current duty of collective school worship should be maintained, abolished or reformed.

If the call is for a reformed duty that requires a collective activity but not a collective act of worship, then this duty too would have to meet the rationale test.

The central question for policy-makers would then be: is there an identified need that requires to be met through a collective act that takes places during a short, distinct and designated period of the school day? Or, is there an alternative means to more effectively fulfil any need that has been identified?

For example, the State may well have a need to improve religious literacy or develop common values amongst its school population or improve community

cohesion. Arguably, however, these needs are more effectively met through amending existing activities and subjects within the curriculum rather than through a practice which although different from collective worship is similar in so far as it is a collective act that takes place during a brief, specific period of the school day.

Arguably school assemblies – understood as regular, non-religious collective school gatherings where news of activities and successes by pupils are shared and celebrated – offer a sufficient and inclusive opportunity to support needs such as developing positive attitudes and developing a community spirit within the school.

The CORAB recommendation aligns with the conclusion that there is no satisfactory rationale for the current duty to continue; it urges governments to ‘repeal the requirement for schools to hold acts of collective worship’. However, it continues with the recommendation to issue new guidelines building on current best practice for inclusive assemblies and times for reflection that draw upon a range of sources, that are appropriate for pupils and staff of all religions and beliefs, and that will contribute to their spiritual, moral, social and cultural development.

The rationale for this recommendation is unclear. If it is proposing that schools hold a collective activity that goes beyond what can be called a school assembly - as described above - it is doing so in the absence of setting out a clear presentation of the needs that are required to be met by such an activity.

The phrase ‘spiritual, moral, social and cultural development’ is insufficient as an articulation of needs and there is insufficient evidence presented to argue that a collective act during a short, distinct period of the school day is necessary in fulfilling any such needs, however they might be understood. Furthermore, it is unclear as to why any pupil development of this nature cannot be sufficiently carried out through (amending) existing activities and subjects within the curriculum. In short, the case for a collective act – beyond that of a regular school assembly - has not been made out.

A structured and open debate on the rationale for the present duty is needed before proposing alternative

activities that may only serve to continue the current unhappy and unsatisfactory ambiguity around this school activity. Importantly, such an approach may also have the additional benefit of encouraging politicians to engage more openly in discussions about the duty. To date they have shown a consistent unwillingness to participate in these conversations. Perhaps an opportunity to begin with the question of rationale rather than a demand to react to recommendations might prompt greater and more considered engagement.

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## Citation

To cite this article, please use the following: Mawhinney, Alison. (2017) ‘*The law on collective school worship: The rationale then and now*’, *Public Spirit* (January, 2017: <http://www.publicspirit.org.uk/?p=4614&preview=true>)