

The Journal of Law and Education

Volume 24 | Issue 4

Article 5

Fall 1995

Daily Collective Worship and Religious Education in British Schools

Anwar (Andy) N. Khan

Follow this and additional works at: <https://scholarcommons.sc.edu/jled>



Part of the [Law Commons](#)

Recommended Citation

Anwar N. Khan, Daily Collective Worship and Religious Education in British Schools, 24 J.L. & EDUC. 601 (1995).

This Article is brought to you by the Law Reviews and Journals at Scholar Commons. It has been accepted for inclusion in The Journal of Law and Education by an authorized editor of Scholar Commons. For more information, please contact digres@mailbox.sc.edu.

Daily Collective Worship and Religious Education in British Schools

ANWAR (ANDY) N. KHAN *

In Britain, every publicly-funded school, despite a widespread and increasing secularist and non-Christian population, is obliged by the law¹ to provide religious education (R.E.) and daily collective worship, "wholly or mainly of a broadly Christian character," for all its pupils, except those who are withdrawn by their parents.² The Education Reform Act 1988,³ as amended by the Education Act 1993, provides that the curriculum of every Local Education Authority's (L.E.A.) maintained or county school⁴ must comprise a basic course, including (a) provision for religious education and (b) the National Curriculum, for all of its registered pupils.⁵ Thus it can be seen that religious education is given equal importance and status with the national curriculum.⁶ However, the

* Chair and Professor, Centre for State and Legal Studies, Athabasca University, Canada; Visiting Professor of Law, Leeds Metropolitan University, England. The author is indebted to the Law School, Leeds Metropolitan University for the facilities provided for research.

1. Section 2(1) of the Education Act 1988. This has been the case for decades, especially since the far-reaching Education Act 1944 came into force. But the provisions were significantly rewritten and amalgamated in the Education Reform Act 1988, which has been amended by the Education Act 1993. See C. Hamilton, *Family Law and Religion* 241-309 (1995); N. HARRIS, *THE LAW RELATING TO SCHOOLS* 205-14 (1995).

2. Section 9 of the 1988 Act.

3. Some provisions of the Education Act 1944 have survived the changes introduced in 1988 and 1993.

4. The arrangements, including the character and content of collective worship, have to be made (a) in the case of a county school, by the head teacher after consultation with the governing body; (b) in the case of a voluntary school, by the governing body after consultation with the head teacher. Section 6(3) of the 1988 Act.

5. In *R. v. Secretary of State for Education ex p. R. & D.*, [1994] Educ. L.R. 495, the High Court accepted the Secretary of State's formulation of "worship": "To constitute worship as normally defined in common English parlance, the courts would be likely to judge that collective worship in school must in some sense reflect something special or separate from ordinary school activities; that is it should be concerned with reverence or veneration paid to a being or power regarded as supernatural or divine; and that the pupil, at his or her level, should be capable of perceiving this."

6. After prolonged negotiations, the government, on November 10, 1994, issued the contents of the national curriculum for all schools in Britain. See *THE TIMES* (London), Nov. 11, 1994; *THE TIMES* (London) (Education Supplement), Nov. 11, 1994. The Office for Standards in Education (OFSTED) has issued guidelines emphasizing quality rather than regularity of worship. The Bishop of Ripon has voiced misgivings about the current practice of worship in schools.

British government, through its Department for Education (D.F.E.) recently has shown "deep concern" because in many schools "these activities do not take place with the frequency required or to the standards which pupils deserve."⁷ Similarly, the National Curriculum Council has said that it is demonstrable that spiritual and moral development should be relevant to every area of the curriculum and to every facet of school life.⁸ In a similar vein, the government's 1993 White Paper on Education said that the set of shared values which a school promotes through the curriculum makes an important contribution to pupils' spiritual, moral, and cultural development and should be at the heart of every school's values to parents and the local community.⁹

This philosophy of compulsory religious education in state-funded schools is in contrast to the Canadian¹⁰ and American¹¹ constitutional protection of secular education,¹² and therefore should be of interest to North American readers. This article seeks to examine the statutory provisions dealing with daily collective worship and religious education in British schools.

Daily Collective Worship

According to the British government, the clear message of collective worship is "to worship God, to consider spiritual and moral issues to explore their own

7. D.F.E. Circular No. 1/1994. Many people maintain that the present arrangements are proving impractical and are in danger of bringing the law into disrespect. See THE GUARDIAN, Dec. 5, 1995.

8. NCC, SPIRITUAL AND MORAL DEVELOPMENT: A DISCUSSION PAPER. See also Chief Inspector of Schools Report: RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP 1992-93.

9. CHOICE AND DIVERSITY (1993). However, the Archbishop of York has questioned the need for daily worship because poor-quality assemblies are having an anti-religious effect.

10. Under section 2(a) of the Canadian Constitution, which provides for freedom of conscience and religion.

11. Under the First Amendment protection against the establishment of religion. See *Abington Township v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962); Elmore, *Education and Federalism: Doctrinal, Fundamental and Strategic Views*, in *SCHOOL DAYS, RULE DAYS: THE LEGALIZATION AND REGULATION OF EDUCATION* 166 (D. Kirp & D. Jensen eds.); RAINEY, *AMERICA'S SCHOOLS AND CHURCHES: PARTNERS IN CONFLICT*; Brown, *Quis Custodiet Ipsos Custodes?—The School Prayer Cases*, 1963 SUP. CT. REV. 1; Greenwalt, *Religion as a Concept in Constitutional Law*, 72 CAL. L. REV. 753 (1984); Michael W. LaMorte & Fred N. Dorminy, *Compliance with the Schempp Decision: A Decade Later*, 3 J.L. & EDUC. 399 (1974); Pollak, *Forward: Public Prayers in Public Schools*, 77 HARV. L. REV. 62 (1963); Schumb, *Church, State and the Public Schools*, 4 SANTA CLARA L. REV. 54 (1963); *Prayer, Public Schools and the Supreme Court*, 61 MICH. L. REV. 1031 (1963).

12. However, in *Board of Education of the Westside Community Schools v. Mergens*, 110 S. Ct. 2356 (1990), the U.S. Supreme Court upheld as constitutional the federal Equal Access Act 1984, signed into law by President Reagan, "which permits student-initiated religious and political groups to meet in public secondary schools during noninstructional time. It effectively provided the vehicle for the return of public prayer to public secondary schools." Charles J. Russo & David L. Gregory, *The Return of School Prayer: Reflections on the Libertarian-Conservative Dilemma*, 20 J. L. & EDUC. 167, 168. See Robert M.

beliefs; to encourage participation and response, whether through listening to or joining in the worship offered; and to develop community spirit, promote a common ethos and shared values, and reinforce positive attitudes.”¹³

All pupils, according to this thinking, are under a statutory duty to take part in daily collective worship.¹⁴ It is the head teacher’s duty to secure this. The responsibility for arranging daily collective worship rests, (a) at a voluntary and equivalent grant-maintained school, with the governing body after consultation with the head teacher, and, (b) at any other school, with the head teacher after consultation with the governing body.¹⁵

The timing and organization of daily collective worship is meant to be flexible so that it need not be held at the start of the school day.¹⁶ The compulsory collective worship can be either a solitary act or a group act. While collective worship normally should take place on the school premises, it can be organized elsewhere, if it is desirable that any act of worship in the school should, on a special occasion, take place elsewhere than on the school premises.¹⁷

The word “worship,” undefined in the legislation, can be given many definitions, wide or narrow. A wide definition might be “respect, admiration and devotion for an object of esteem and/or a sense of responsibility.” A narrow definition might be that given by the government and accepted by the High Court in *R. v. The Secretary of State for Education ex parte R. & D.*:¹⁸ “[the word] must in some sense reflect something special or separate from ordinary school activities and it should be concerned with reverence or veneration paid to a divine being or power. However, worship in schools will necessarily be of a different character from worship amongst a group with beliefs in common.”¹⁹

Gordon, *Freedom of Expression and Values Inculcation in the Public School Curriculum*, 13 J. L. & EDUC. 523 (1984); Robert L. Crewdson, *The Equal Access Act of 1984: Congressional and Free Speech Limits of the Establishment Clause in Public Schools*, 16 J.L. & EDUC. 167 (1987); James J. Knically, *Free Speech and Nonestablishment in the Public Schools*, 22 J. L. & EDUC. 73 (1993). It is interesting to note that President Clinton in July 1995 came out in favour of school prayers.

13. D.F.E. Circular 1/1994, para. 50.

14. The law before 1988 was contained in §§ 25-30 of the Education Act 1944.

15. Section 6(1) and (3) of the Education Reform Act 1988.

16. Section 6(2) of the 1988 Act.

17. Section 6(5) and (6) of the 1988 Act.

18. [1995] Educ. L. R. 495.

19. In *R. v. Secretary of State for Education, ex p. R. & D.*, [1995] Educ. L.R. 495, the defendant L.E.A. senior inspector’s opinion was accepted: “If the daily act of collective worship in a school could only use material which is explicitly and overtly distinctively Christian then there would be little to call on, e.g. even some famous Christian prayers do not mention Christ or the Trinity by name. . . .” The court added “the Act permitted some non-Christian elements in the collective worship so long as these did not deprive it of its broadly Christian character, and that this character would not be lost by the inclusion of elements common to Christianity and to one or more other religions.”

The legislation reflects this difference in referring to 'collective worship' rather than 'corporate worship.'"²⁰

Section 6(1) of the 1988 Act mentions "taking part" in collective worship. This would seem to imply more than simply passive attendance. Section 7(1) of the 1988 Act and section 13 of the Education Act 1993 stipulate that a collective worship organized at a county or grant-maintained school must be "wholly or mainly of a broadly Christian nature."²¹ This definition further describes worship as reflecting the broad traditions of Christian belief, without distinguishing any particular Christian denomination.²² However, elements drawn from other faiths can be introduced subject to certain considerations. These considerations are: (a) any circumstances relating to the family backgrounds of the pupils concerned which are relevant for determining the character of the collective worship which is appropriate in their case; and (b) the ages and aptitudes of the pupils.²³

The intention of the legislation is that non-Christian children be able to join in the daily act of collective worship, despite the general Christian character of the worship and subject to the right of parents to withdraw their children from such worship (see below). However, the requirement of broadly Christian collective worship is not written in stone. Because there may be circumstances where this requirement would be inappropriate, the legislation provides for it

20. See D.F.E. Circular No. 1/94, para. 57.

21. Section 7(1) of the 1988 Act. According to the government, "section 7(1) is regarded as permitting some non-Christian elements in the collective worship without this depriving it of its broadly Christian character. Nor would the inclusion of elements common to Christianity and one or more other religions be regarded as depriving it of that character," *R. v. Secretary of State for Educ. ex p. R. & D.*, [1995] Educ. L.R. 495.

22. Section 7(2) of the 1988 Act. When asked by the Parental Alliance for Choice in Education (PACE) to clarify "the identity of the being or power that was being revered or venerated in the act of worship," the Secretary of State for Education replied that he did not have to discern the identity of the object of worship, so long as it was reasonably satisfactory that there was one.

23. Section 7(3) of the 1988 Act. In a complaint by parents, the Secretary of State for Education determined that this subsection "provides that not every act of worship need comply with the broadly Christian requirement, provided that, taking any term as a whole, most of such acts which take place at the school do so. In all these matters, however, any departure from the broadly Christian requirement must be justified in terms of the family background, ages and aptitudes of the pupils concerned." This was restated by Mr. Justice McCullough in *R. v. Secretary of State for Education ex parte R. & D.*, [1995] Educ. L.R. 495: "It is necessary for most of the acts of Christian worship to 'contain some elements which can be related specifically to the traditions of Christian belief, and which accord some special status to the person of Jesus Christ.' " He concluded, "A pupil who has no belief in God could not meaningfully and sensitively revere or venerate any divine or supernatural being, but whether children from families with different traditions of monotheistic faith may be able to join together in a meaningful and sensitive way in some acts of worship is a matter of opinion. Much depends on the words 'meaningful' and 'sensitive.' How meaningfully? How sensitively? The more the adverbs are stressed, the more difficult

to be lifted or modified in certain circumstances in respect of a clearly defined group of pupils, or all of the pupils, in a school.²⁴ Similarly, an alternate non-Christian character and organization of the statutory collective worship can be worked out for some or all pupils in the school. In both situations, the head teacher,²⁵ after consulting the governing body of the school (which in turn may consult with parents), must apply to the Standing Advisory Council on Religious Education (S.A.C.R.E.) (see below),²⁶ which may make a "determination."²⁷ If the S.A.C.R.E. grants the determination,²⁸ it endures for five years, unless it is renewed.²⁹ The Secretary of State for Education has been empowered by the Education Act 1993³⁰ to direct the S.A.C.R.E. to revoke the determination, withdraw the proposed determination, or discharge its duty. The Secretary can so direct with or without having received a complaint if he or she is satisfied that any S.A.C.R.E. either has acted unreasonably in determining whether it is appropriate for the requirement for Christian collective worship to apply in the case of a school or group of pupils, or has failed to discharge its duty in this respect.³¹

Head teachers are advised by the D.F.E.³² that it is incumbent upon them to keep adequate records of all decisions so that they can give sufficient information—for example, if questioned by parents about the reasons for making or not making an application for a determination for a group of pupils.³³

it becomes to acknowledge that Christians of different denominations may join in a common act of worship. Yet section 7(2) contemplates that they will. The tenor of the legislation is against a doctrinal and divisive approach."

24. Section 148 of the 1993 Act and section 7 of the 1988 Act.

25. Before applying, the head teacher has to consider whether the non-Christian collective worship could conflict with religious backgrounds of some or all of the pupils.

26. Section 12 of the 1988 Act.

27. The form of the alternate worship must be worked out by the head teacher before he or she makes an application to the S.A.C.R.E. Where the S.A.C.R.E. makes a determination in respect of a class or description of pupils of a particular faith or religion, while the alternate collective worship can be distinctive of any particular faith or religion, it cannot be distinctive of any denomination of any faith or religion.

28. S.A.C.R.E. can only accept or reject the request of the head teacher. In making its determination, S.A.C.R.E. must ensure that the proposed determination is justified by any relevant circumstances relating to the family backgrounds of the pupils concerned.

29. The determination is communicated to the head teacher, with the date of the commencement of the determination.

30. Amending the Education Reform Act 1988.

31. Section 12A of the 1988 Act as inserted by the 1993 Act.

32. D.F.E. Circular No. 1/1994, para. 75.

33. Under the Education (School Curriculum and Related Information Regulations) 1989 (S.I. 1989/954, reg. 12), L.E.A.s must provide annual information about the number and type of determinations made by the S.A.C.R.E. in respect of collective worship.

Right of Withdrawal

The Education Act 1993 has not affected parents' right³⁴ to withdraw their children from collective worship because it cannot be a condition of attendance at any publicly-funded school that a pupil attends, or abstains from attending, any Sunday school or place of worship. Similarly, parents' requests that their children should be wholly or partly excused from attending any religious worship at the school, including the alternative worship provided by a S.A.-C.R.E.,³⁵ must be complied with. However, the school continues to remain responsible for the supervision of any child withdrawn by his or her parent from collective worship while the child is on the school premises.³⁶ The right of withdrawal is freely exercisable, so much so that parents are under no obligation to state their reasons for their request for such.³⁷ Parents may also have their children receive any form of religious education away from the school premises but during school hours.³⁸

Normally the right of withdrawal is exercised through the physical withdrawal of the child from the place of worship. However, if the parents and the school agree, the child may remain physically present during the collective worship without participating in it. According to the D.F.E.:

to avoid misunderstanding, a head teacher will find it helpful to establish with any parent wanting to exercise the right of withdrawal:

34. As originally established by the Education Act 1944, and re-enacted by the Education Reform Act 1988.

35. Section 9 of the 1988 Act.

36. D.F.E. Circular No. 1/1994, para. 84.

37. When the parents belong to two different religions, it is sometimes difficult to decide which religion their children should follow especially if there is a separation between their parents. In such a dispute, the court has to take into account the various matters stated in the checklist provided in section 1(3) of the Children Act 1989. These include

- i) the ascertainable wishes and feelings of the child concerned in the light of his age and understanding;
- ii) the physical, emotional and education needs of the child;
- iii) the likely effect of any change of circumstances on the child;
- iv) the age, sex, background, and any characteristic of the child which the court considers relevant;
- v) Any harm which the child has suffered or is at risk of suffering.

In a recent case, the mother and father, upon their separation, differed on the question whether their two children should or should not attend collective worship at school. The mother, a Muslim, withdrew the children; but the father, a Christian, caused the children to be returned to religious instruction. *Re T. M. (minors)*, [1995] Educ. L.R. 1. The matter ended up in court. The judge, after examining the checklist in the Children Act 1989, decided that it would not be in the interests of the children for the mother to remove them from their collective religious teaching at the school they were attending. However, the mother should be at liberty to take the children to the mosque and have them taught in the ways of Islam, if that was the wish of the mother and the children.

38. Section 9(3) and (4) of the 1988 Act. It may be noted here that very few parents opt for their right to withdraw their children from collective school worship. See CHIEF INSPECTOR OF SCHOOLS REPORT, RELIGIOUS EDUCATION AND COLLECTIVE WORSHIP 1992-93.

- * the elements of worship in which the parent would object to the child taking part;
- * the practical implications of withdrawal; and whether the parent will require any advanced notice of such worship, and, if so, how much.³⁹

A school may, upon request of parents who have withdrawn their child from statutory collective worship, allow the provision of religious worship to take place according to a particular faith or denomination. According to the D.F.E.:

Governing bodies and head teachers should seek to respond positively to such requests from parents:

- (1) unless the effect would be that denominational worship replace the statutory non-denominational collective worship;
- (2) provided that such arrangements can be made at no additional cost to the school; and
- (3) provided that the alternative provision would be consistent with the overall purposes of the school curriculum set out in section 1 of the 1988 Act.⁴⁰

Religious Education

Sections 26-29 of the Education Act 1944, as amended by the Education Reform Act 1988 and the Education Act 1993, contain detailed and thorough provisions concerning R.E. in public schools. Religious education, in accordance with an agreed syllabus⁴¹ for the school or pupils at the school,⁴² must be included in the school's basic curriculum.⁴³ According to section 26(2):

No such syllabus shall provide for religious education to be given to pupils . . . by means of any catechism or formulary which is distinctive of any particular religious denomination; but this provision is not to be taken as prohibiting provision in such a syllabus for the study of such catechisms or formularies.

39. D.F.E. Circular No. 1/1994, para. 87.

40. D.F.E. Circular No. 1/1994, para. 88.

41. Sch. 5 of the Education Act 1944, as amended by the Act of 1993, lays down how and when a conference on religious education is to be convened with respect to the preparation, adoption, and reconsideration of an agreed syllabus of religious education.

42. Two model syllabi were issued in 1994 by the Schools Curriculum and Assessment Authority: Religious Education-Model Syllabuses: Model 1-Living Faiths Today; and Model 2-Questions and Teachings.

43. The syllabus in county schools must be agreed upon by a local conference of representatives of the principal religious traditions in the area, the Church, teaching associations and the L.E.A.

As Neville Harris has pointed out:

Despite the range of statutory provisions regulating R.E., the content of R.E. has varied between one L.E.A. and another and between different schools in each area. Such diversity has always been accepted as necessary and desirable, not only because of religious diversity of schools and the diverse demands of the different religious traditions, but also, in part, because of the different ethnic and cultural make-up of the population in each locality. In many L.E.A. areas, the perceived importance of a truly multicultural approach to the school curriculum has led to attempts to secularize R.E. or to broaden it to embrace elements of all major religions.⁴⁴

S.A.C.R.E.

Every Local Education Authority is under a statutory duty to establish a Standing Advisory Council for Religious Education as a permanent body to advise the L.E.A. on matters concerned with the provision of religious education and collective worship.⁴⁵ The broad role of each S.A.C.R.E. is to support the effective provision of religious education and collective worship in schools. Each L.E.A. must work with its S.A.C.R.E. to

- * review the existing provision for R.E. and see whether any changes are required;

- * monitor the provision of daily collective worship in order to improve such provision.

According to the 1988 enactment, the main function of S.A.C.R.E. is "to advise the authority upon such matters connected with religious worship in County schools⁴⁶ and the religious education to be given in accordance with an agreed syllabus as the authority may refer to the council or the council may see fit."⁴⁷

Under the Education Act 1993,⁴⁸ The Secretary of State for Education is required to make regulations to require S.A.C.R.E. to meet in public, except

44. HARRIS, *supra* note 1, at 209.

45. Section 11 of the 1988 Act. The LEAs are also required to establish an Agreed Syllabus Conference as an occasional body which must be convened to produce and recommend an agreed syllabus for R.E. Sch. 5 of the 1944 Education Act.

46. While grant-maintained schools are treated like the county schools, R.E. in voluntary schools has to be either in accordance with the agreed syllabus or the school's trust deed or in accordance with the practice which was observed before the school became a voluntary school.

47. Section 11(1).

48. Section 258.

in certain circumstances where it may be more appropriate for the matters under discussion to be considered in private. The regulations also must deal with giving notice of meetings and making relevant documents, such as agendas and reports, available to the public.⁴⁹

Teachers⁵⁰

With certain specific exceptions, e.g., in voluntary aided or church/religious schools, teachers cannot be discriminated against in, or disqualified from, employment on the grounds of their religious opinions or practice in participating or not participating in acts of worship or religious education.⁵¹ While the contracts of public school teachers contain the duty of attending assemblies, this duty is subject to a teacher's freedom not to attend collective worship, unless that teacher is in one of the excepted categories, e.g., a religious school.⁵² The same principles apply to head teachers.⁵³

Whenever a school governing council plans staffing and staff development, it must take account of its duty to exercise its functions with a view to securing that all pupils take part in daily collective worship and ensuring that R.E. is taught.⁵⁴ The law "does not prevent the governing body from taking account of a candidate's willingness to teach R.E. or lead collective worship in drawing

49. This is in line with the provisions of accountability contained in the Citizen's Charter and the Parent's Charter.

50. The question of the role of teachers in religious education, and teachers' religious rights, in the U.S.A. raises emotional responses. According to one author, "[N]ot only is the role of religion in the public school controversial, it is a very emotionally charged topic. Usually when a community or school becomes involved in a dispute regarding the problem of religion and the schools, the basic issues are largely forgotten. Emotions warp reason until fundamental questions are submerged and unimportant issues stay at the surface. . . . To complicate matters the legal issues are often confused by people who do not understand them. When ignorance and emotion combine in a dispute chaos results. When fundamental issues are distorted by emotion, it is difficult to maintain objectivity." Burkholder, *Religious Rights of Teachers in Public Education*, 18 J.L. & EDUC. 335, 336 (1989).

51. Section 30 of the Education Act 1944; sections 143-145 of the 1993 Act. Article 9 of the European Convention on Human Rights (freedom of religion) also becomes relevant here. In *Ahmad v. Inner London Education Authority*, [1978] Q.B. 36, the Court of Appeal held that a Muslim teacher could not break his contract of employment by absenting himself for three quarters of an hour during school time on Fridays for weekly prayers at the mosque because he was aware of the school timetable and other school requirements when he accepted the job. He also had not disclosed his religious requirement to be absent every week during school time. The Court decided that neither section 30 of the 1944 Act nor the European Convention could justify his cause.

52. Section 30 of the 1944 Act.

53. *Id.*

54. Section 10(1) of the 1988 Act. In its Circular 14/93: The Initial Training of Primary School Teachers: Now Criteria for Courses, the D.F.E. lays down criteria and competencies expected of newly qualified teachers, including acquisition of "the necessary foundation to develop a readiness to promote the spiritual, moral, social and cultural development of pupils."

up job descriptions for particular posts, and in recommending and appointing teachers. Willingness to teach R.E. or lead collective worship should not, however, be a requirement of a post, although willingness to teach R.E. must obviously be a requirement when advertising for specialist R.E. teaching posts."⁵⁵

Conclusions

The government's circular 1/1994 says that religious education and collective worship:

make an important, although not exclusive contribution to spiritual, moral and cultural development. These activities are explicit opportunities for pupils to consider the response of religion to fundamental questions about the purpose of being, morality and ethical standards, and to develop their own response to such matters.⁵⁶

There being no written constitution in the United Kingdom, "indoctrination" by school prayers cannot be questioned in British courts.⁵⁷ Like the U.S. Constitution, the Canadian Constitution has been interpreted⁵⁸ by the Canadian courts in such a way as to strike down statutory provisions mandating school prayers as infringing on the constitutional "freedom of conscience and religion."⁵⁹ The Canadian courts have followed the American precedents in deciding that while education designed to teach religion and to foster moral values without indoctrination in a particular faith is permissible, state-authorized religious indoctrination conflicts with the constitutional freedom of conscience and religion in that it amounts to the imposition of majoritarian religious beliefs on those who do not share such beliefs. Similarly, it has been decided that the state is not obliged to fund religious-based independent schools, because freedom of conscience and religion does not entail state support for the exercise of one's religion.⁶⁰ However, there are no such constitutional constraints in the

55. D.F.E. Circular 1/1994.

56. D.F.E. Circular 1/1994.

57. Furthermore, the courts favor the narrow interpretation given by the responsible government minister to the word "worship." See, e.g., *R. v. Secretary of State for Educ.* Ex p. *R. & D.* [1995] Educ. L.R. 495.

58. See *Zylberberg v. Sudbury Bd. of Educ. (Director)*, 52 D.L.R. 4th 577 (1988) (Ontario Ct. App.); *Canadian Civil Liberties Ass'n v. Ontario Minister of Educ.*, 65 D.L.R. 4th 1 (1990) (Ontario Ct. App.). See also C.A. Stephenson, *Religious Exercises and Instruction in Ontario Schools*, 49 U. TORONTO FAC. L. REV. 82 (1991).

59. Section 2(a) of the Canadian Constitution, 1982.

60. *Adler v. Ontario*, 19 O.R.3d 1 (1994) (Ontario Ct. App.).

British educational system; therefore, the statutory provisions for compulsory religious education and the daily act of collective worship in state schools, as discussed above, cannot be challenged on constitutional grounds. To some people, the compulsory statutory collective worship, which must be wholly or mainly of a broadly Christian character, in a multi-cultural and multi-religion country, is anti-democratic and anti-pluralist. While the 1993 Education Act has tried to remove some of the drawbacks and take into account criticisms of the system⁶¹—for example, representation of various religious groups on S.A.C.R.E. and the review powers of S.A.C.R.E. by the Secretary of State—the basic philosophy and practice of state-directed religious instruction and worship remain intact,⁶² which may baffle North American readers, despite the recent demands, particularly in the U.S.A. to bring back state-sanctioned prayers in public schools.⁶³

In Britain itself, dissatisfaction with the existing system is growing, even in the higher echelons of the clergy. For example, one Archbishop and one Bishop have shown their unhappiness with the present arrangements.⁶⁴ In addition, on December 4, 1995, an alliance of Anglican, Roman Catholic, Methodist and Baptist churches pressed the Education Minister to change the Circular on Religious Education. It criticised the present requirement for daily acts of worship of a "broadly Christian Character." The result is that many secondary schools are not complying with the law. It is argued by the churches that while collective worship has an important part in schools, irrelevant or hypocritical acts of worship contribute to pupils' prejudice against the Christian and other faiths. They would like to see better quality worship and better training for teachers. Many principals and teachers appear to be of the same view. However,

61. See S. POULTER, *ENGLISH LAW AND ETHNIC MINORITY CUSTOMS*; S. MACLURE, *EDUCATION REFORMED*; N. HARRIS, *LAW & EDUCATION: REGULATION, CONSUMERISM AND THE EDUCATION SYSTEM*; S. Poulter, *The Religious Education Provisions of the Education Reform Act 1988*, *EDUC. & L.* 1 (1990).

62. A controversial issue presently debated within the (conservative) government is the option for church schools to opt out of local government control. The Prime Minister is reported to favor the "opt out without parental ballot," whereas the Education Minister opposes this. The Education Minister, Gillian Shepherd: "[A]dvises the politics of caution. Downing Street edges towards the politics of compulsion. But in education policy, as elsewhere—it is the politics of conviction that is needed." See *THE TIMES* (London), Editorial, November 18, 1995. Reportedly, Mr. Major was in favor of non-compulsory opt out, but has changed his mind—splitting the Cabinet. The above editorial adds: "Mr. Major seems now to be edging towards a foolish volte-face and a manifesto commitment to withdraw all schools from Council control compulsorily. Mrs. Shepherd, in contrast counsels caution." *Id.*

63. For a discussion of the controversy in the U.S. over school prayer, see Charles D. Russo & David L. Gregory, *The Return of School Prayer: Reflections on the Libertarian-Conservative Dilemma*, 20 *J.L. & EDUC.* 167 (1991).

64. See *supra*, notes 7 & 9.

one government member of the House of Commons Select Committee on Education has accused the dissatisfied churches and teachers of being "craven." She said that a lack of will and enforcement issues means that many schools are getting away without a daily act of worship.⁶⁵

Thus, the controversial subject of school worship remains high on the agenda of many people, including churches, schools, parents and government.⁶⁶ The encouraging thing is that the debate continues. This may not be the last word on the law and practice on this subject!

65. See D. MacLeod, *Church Fear Over School Worship*, THE GUARDIAN, Dec. 5, 1995.

66. The OFSTED also have shown interest on the subject. See *supra*, note 6.