

# Religion-based Scottish education system needs to adapt to social change, say academics

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A report into the influence of religion in Scottish law has said that Scotland's education system is out-of-step with society, despite progress in other areas in establishing rights for the non-religious.

The new [report](#), produced by three academics under the sponsorship of the Humanist Society Scotland, is described as a "snapshot" of the current position of religion within Scottish law. It has a particular focus on education, the exact position of the Church of Scotland, and marriage.

Of the law as a whole, the authors say that there is "relatively little evidence of current religious influence" despite significant "remnants of earlier systems where religion, generally, and Protestantism and the Church of Scotland more specifically, had much stronger and more clearly defined legal standing".

While these legal remnants were "few", they found that for a secular system "religion is surprisingly present in various aspects of law."

They noted examples of where these holdovers had a direct impact on people – particularly in the education system.

"While parents have the right, currently in terms of the 1980 Education Act, to withdraw their children from religious observance and religious instruction, there is no comparable right for the child to undertake this for her/ himself," they noted.

The authors also argue that there is a case for "scrutiny" of the separation between religious education and other subjects in the timetable. They suggest that the "separation of religious from secular subjects might be an area worth scrutiny for those concerned with the preservation of this longstanding principle."

Despite residual religious privilege in the law the authors argue that "there has been distinct movement to protect the position of those without a religion in a way that had formerly been inadequately considered in Scots law.

"As society and its values have changed, so new freedoms have been envisaged and enacted." But this has not been wholly reflected in the education system.

Given this social change, the report argues that much of the law governing the Scottish education system does not have sustainability. "The legal framework in Scotland is based around a structure of 'non-denominational' and 'denominational' public-funded schools; drawn up in an era (1872 and 1918) when that division matched a perceived social need.

"Since then, a newer social reality has now dawned, manifest in the results of the national censuses of 2001 and 2011 in which there is revealed a large bloc in Scottish society composed of people who have indicated that they do not adhere to any church or religion.

"This group is currently without a clear place in education law (with the exception of the longstanding conscience clause), where the assumption remains that religion is present in all state schools and the choice is simply between 'denominational' and 'nondenominational'."

Aside from education, in a "General Audit" of Scottish law, the authors note that blasphemy is still a common law offence in Scotland – though it has not been prosecuted for over one-hundred years.

Laws to tackle sectarianism and religious hatred were said to be controversial and potentially threatening to freedom of expression. "While the trend through much of Scots law is towards the disappearance of religion as a factor, this is one area where its presence is growing," the authors conclude.

*The full report can be read [here](#) and a summary [here](#).*

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