

Institution: Oxford Brookes University		
Unit of Assessment: 28, History		
Title of case study: Achieving Blasphemy Law Repeal in the Republic of Ireland		
Period when the underpinning research was undertaken: 2007–2017		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
David Nash	Professor of History	[text removed for publication]
Period when the claimed impact occurred: 01/08/2013–21/12/2019		
Is this case study continued from a case study submitted in 2014? N		
<p>1. Summary of the impact</p> <p>Extending work from an impact study submitted in 2014, this case study brought effective influence to bear upon the repeal of the blasphemy law in the Republic of Ireland in October 2018. Ireland's new 2009 blasphemy law, and the impact of its stipulations, became a pressing national and global issue when it became obvious that this new law in a European country would set a potentially worldwide precedent. From 2013, Professor David Nash was consulted for expert opinion by NGOs, the European Commission, the Irish Department of Justice and Equality, the Irish Constitutional Convention of November 2013 and broadcast media in Ireland, Germany, UK and Austria. His expertise arguing for repeal of the 2009 law:</p> <ul style="list-style-type: none"> • assisted in a Convention vote for repeal • shaped the wording of the 2018 Referendum question and • publicised arguments for repeal widely during the referendum campaign. <p>The final outcome was a 'yes' vote in the referendum, which resulted in repeal of the law and the final removal of the mention of blasphemy from the Irish Constitution where it had been since 1937.</p>		
<p>2. Underpinning research</p> <p>David Nash authored a monograph (R1), and published an article in the <i>Journal of Social History</i> (R2), as well as chapters (R3, R4, R5, R6) and a trade book for Reaktion Press (<i>Acts Against God: A Short History of Blasphemy</i>, 2020) on the subject of the blasphemy laws in Britain, Ireland and elsewhere. Collectively, these ground-breaking publications constitute the definitive study of blasphemy in Britain and the West, as acknowledged in a number of reviews.</p> <p>Blasphemy is a crime of some antiquity, yet it is the function of historians to uncover reasons for its longevity and continued importance within the contemporary world. Governments have to resolve the long running issue of providing freedom of expression and protection for those who seek to protect their beliefs. Nash's research involved producing a systematic legal history of blasphemy in Britain, followed by a comparative history. This examined the phenomenon from the ancient world up to contemporary society. The work resulted in a number of important insights and theoretical breakthroughs, which Nash communicated through research findings. These included issues related to the anomalous legal status of the crime and a model of how different societies conceptualise it. One major finding was the concept of 'passive' and 'active' blasphemy: this describes the two different historical situations in which individuals, societies and governments respectively find themselves in the pursuit of blasphemy and blasphemers. 'Passive blasphemy' involves individuals expecting governing authorities to take action on their behalf (as happened in the medieval and early modern world). 'Active blasphemy' (which characterised the period after the Enlightenment) involved the state assuming individuals would themselves use the legal apparatus to protect their religious feelings. These two 'types' of blasphemy are indicative of wider attitudes</p>		

within a society at a given moment in history.

Thus, three strands of Nash's research spoke directly to the contemporary issues surrounding blasphemy and he brought this to the attention of stakeholders (commentators, artists, writers, non-religious NGOs and government departments). Firstly, Nash's arguments about the present relearning the 'mistakes' of the past indicated that past precedents were misunderstood, ignored or had simply not been consulted for the lessons that could be learned. Secondly, the comparative perspective offered by his monograph *Blasphemy in the Christian World* (R1) showed how different societies in the West had tackled the issue of blasphemy over time, and how these various legal systems had arrived at a number of separate resolutions of the problem. The comparative research also indicated how legal systems deriving from a single point of origin (e.g. the English Common Law in the case of English-speaking countries) had henceforth evolved in different directions and offered different solutions to the same issues, generally from the same case law. The opportunity to provide evidence and accounts of these different solutions (specifically to the Irish Parliament and its civil servants) has been a valuable outcome from the research. Thirdly, Nash's conclusions highlighted the discovery that the older 'passive' model of blasphemy, which had been prevalent in the medieval world, was returning to the contemporary world. This, once again, placed states rather than individuals in control of the law and its use. Therefore, detailed knowledge and expertise around the past use of such laws was imperative in order to persuade the Irish Government to reconsider its existing blasphemy law and repeal this in the face of a changed situation. This would have a significant impact on censorship and free speech in Ireland, as well as removing a precedent for such laws, thereby preventing their adoption in other countries.

3. References to the research

Outputs are in known academic journals or books with academically recognised presses.

R1) Nash, D. (2007). *Blasphemy in the Christian World: A History*. Oxford University Press. ISBN 9780199570751

R2) Nash, D. (2007). 'Analyzing the History of Religious Crime: Models of "Passive" and "Active" Blasphemy since the Medieval Period'. *Journal of Social History*, 41(1), 5-29. <https://doi.org/10.1353/jsh.2007.0145>

R3) Nash, D. (2014). 'Blasphemy Beyond Modernism'. In: D. S. Nash, C. Grenda and C. Beneke (eds.), *Profane: Sacrilegious Expression in a Multicultural Age*. (pp. 315-334). University of California Press. ISBN 9780520277229

R4) Nash, D. (2015). 'Blasphemy and the Control of Spirituality; Censorship, and Secularisation in Britain and the West between the 16th and the 20th Centuries'. In: F. Cadilhon, E. Suire and P. Chassaigne (eds.), *Censure et autorites publiques: De l'epoque moderne a nos jours*. Peter Lange. ISBN 9782875742735

R5) Nash, D. (2014). 'From Scurrilous Periodical to the Public Platform. Policing Blasphemers and Anti-social Behaviour: Constructing the Public Peace Then and Now'. In: S. Pickard (ed.), *Anti-Social Behaviour in Britain. Victorian and Contemporary Perspectives*. (pp.53-64). Palgrave Publishing. ISBN 9781349485727

R6) Nash, D. (2017). 'Blasphemy and the Law: The Fall and Rise of a Legal Non Sequitur'. In: P. Cliteur and T. Herrenberg (eds.), *The Fall and Rise of Blasphemy Law*. (pp.27-48). Leiden University Press. ISBN 9789087282684

4. Details of the impact

Context and Previous Impact Submission

David Nash's research has led to significant developments in how blasphemy is understood and debated in the contemporary world. His longstanding involvement in campaigns for repeal has highlighted the need to consider the impact of blasphemy's history in Britain, the British Empire, Europe and America.

Since 2002, when giving evidence to the House of Lords Select Committee on Religious Offences,

he has argued the case for repeal and the Select Committee's final report recognised the deep-seated issues that repeal raised.

Since 2008/9, Nash has advised organisations critical of the Republic of Ireland's new blasphemy legislation, required by the wording of the 1937 Constitution. These included Atheist Ireland, Irish Pen and the Irish Council for Civil Liberties, the Irish Parliament as well as individual senators and TDs.

Repeal of the Republic of Ireland's Blasphemy Law

In November 2013, Professor Nash was invited by the Irish Constitutional Convention in Dublin to address its members on the arguments for repealing the law. The Convention brings together politicians, experts, interested parties and invited members of the public to discuss and recommend modes of action to the Irish Government. Nash assisted in the construction of Atheist Ireland's written submission to the Convention (E1), as well as supplying his own. The Convention subsequently voted by 61% in favour to recommend the removal of the reference to blasphemy from the Irish Constitution (E2).

In May 2015, Nash was commissioned by Milieu Limited, a Brussels-based law and policy consultancy, to be one of two senior academic advisors overseeing an EU project report on European blasphemy laws (E3). Milieu was contracted by the European Parliament under contract IP/C/LIBE/FWC/2013-003/LOT2/C3 'The European Legal Framework on hate speech, blasphemy and its interaction with freedom of expression'. During the course of this work, Nash was also approached to provide expertise for a Milieu's Legal Researcher, the author responsible for the section on Ireland, which enabled her to draft her contribution to the report. She asserted that: "... information and assistance you have provided me with has been extremely useful and has enabled me to complete the Irish study to a very satisfactory level" (E4).

This report was then published as *European Commission Report: The European legal framework on hate speech, blasphemy and its interaction with freedom of expression* (2015) (E5). Copies of the report were supplied on request to the Irish Department of Justice and Equality and the Irish Minister of Justice, following a meeting earlier in February 2015 with Atheist Ireland (at which different stakeholders were consulted on the preparation of the legislation providing for a referendum on the Constitutional provision regarding blasphemy). Nash was also invited after this meeting to submit an independent report and advice on all these issues to the Irish Department of Justice and Equality. The Principal Officer of the Civil Law Reform Division, Madeleine Reid, declared that the Department of Justice and Equality would "... happily take [Nash's submission] into account in our work on preparation of the legislation" (E6).

From this point onwards, Nash made regular media appearances arguing the clear need for Ireland to repeal the relevant sections of its defamation law. These included a Sky Television interview during the Stephen Fry affair in May 2017 (E7). This incident occurred when the celebrity became the subject of a formal complaint following an RTE television interview, in which the blasphemy law of 2009 and its provisions were cited. Later that year, the Irish Government announced its intention to stage a referendum on repeal of the relevant clauses of the blasphemy/defamation law.

In July 2018, David Nash, with Atheist Ireland, attended a meeting called by the Department of Justice and Equality to approve the wording of the referendum ballot paper (E8). At this meeting it was established that the wording of the ballot paper and its meaning would follow the advice of Professor Nash and Atheist Ireland – namely, the wording would seek removal of the relevant clauses, not simply from the Constitution, but also from the statute book entirely (E8). This would prevent the law's possible dangerous survival outwith the Constitution, and would also prevent a possible repeat of the ill-considered creation of the new law in 2009.

In the lead-up to the vote in October 2018, David Nash appeared extensively in the media (BBC Radio 4, Highland Radio, Newstalk Radio Dublin, BBC Radio Ulster, as well as on television in Germany and Austria) (E8). He published a piece on the history of Ireland's blasphemy law in *History Ireland* (circulation 30,000 readers) to coincide with the referendum campaign (E9). He also spoke at the campaign for repeal launch event and at a major public meeting arguing for repeal in October 2018 (E8, E10). During these meetings, Professor Nash highlighted that i) Ireland's blasphemy law was an anomaly creating bad precedent internationally and ii) it was not part of

Ireland's heritage but a recent piece of ill-judged legislation.

The referendum resulted in a majority vote in favour of repealing Ireland's blasphemy law and the Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Act 2018 on 27 November 2018. Over the Christmas period in 2019, President Michael D. Higgins signed the Blasphemy (Abolition of Offences and Related Matters) Bill 2019 into law (**E11**). After the successful conclusion of the campaign, Atheist Ireland contacted Nash, acknowledging the considerable assistance he had rendered and concluding thus: "Throughout we have been conscious that the power of your credentials, academic knowledge and expertise in the area of blasphemy in the past and present has been taken immensely seriously by the Irish Government. In no small measure has this contributed to our eventual success in achieving a victorious 'yes' vote in the blasphemy repeal referendum on 26th October 2018" (**E8**).

The impact of the removal of this law has enabled broadcasting, writing, artistic and religious/non-religious expression to proceed without legal intervention or fear of this. It has also hastened reconsideration and a proposed overhaul of Ireland's current legislation regarding incitement to religious hatred. Ireland's 2009 law had been cited as a precedent for other countries to reactivate or initiate laws against blasphemy that are universally condemned by the European Commission, the Venice Commission and the United Nations.

5. Sources to corroborate the impact

E1) Co-authored submission (David Nash and Atheist Ireland) providing written evidence to the Irish Constitutional Convention advising on repeal of the blasphemy laws in Ireland. July 2013.

E2) Citizens Information website, Constitutional Convention topics, recommendations and outcomes, see under 'Removal of the offence of blasphemy from the Constitution'. Available at https://www.citizensinformation.ie/en/government_in_ireland/irish_constitution_1/constitutional_convention.html#.

E3) Letter from Milieu Ltd - Law & Policy Consulting, outlining David Nash's role and advisor work done for the European Commission Report on blasphemy laws in all European member states (contract IP/C/LIBE/FWC/2013-003/LOT2/C3). October 2015.

E4) Email from Legal Researcher at Milieu Ltd - Law & Policy Consulting, outlining David Nash's role in providing guidance and expert advice enabling her to construct the entry on Ireland for the report outlined in **E3** above. May 2015.

E5) European Commission Final Report (2015). *The European legal framework on hate speech, blasphemy and its interaction with freedom of expression*. This demonstrates David Nash's status as an international expert appointed as a senior academic advisor on a major European Parliamentary Report. (See also direct references to Nash's work on pages 419 and 420.)

E6) Material on blasphemy prepared for the Department of Justice and Equality (Ireland) after February 2015 meeting, and email from Madeleine Reid, Principal Officer, Civil Law Reform Division, Ireland Department of Justice and Equality acknowledging Nash's submission, March 2015.

E7) Sky Television interview with David Nash and John Hamill. May 2017. Available at <https://www.youtube.com/watch?v=zQVj6h6tmpw>.

E8) Summative letter from the Committee of Atheist Ireland outlining all of David Nash's activities leading to repeal, covering the period 2010-2018. April 2019. This includes specific examples from 1 August 2013 onwards on:

- Speeches and briefings to Irish Government and Government Departments
- Work with Atheist Ireland
- Media Appearances in Ireland, Britain and beyond

Impact case study (REF3)

- Bringing external influence to bear upon the Irish Government
- Academic presentations

E9) Piece by David Nash in the *History Ireland* October 2018 edition, intended to outline the history of blasphemy in Ireland and influence the debate.

E10) Video by Atheist Ireland after the meeting where the wording of the blasphemy repeal referendum, as advised by David Nash and Atheist Ireland, was implemented by the Irish Ministry of Justice and Equality. July 2015. Available at <https://www.youtube.com/watch?v=pzymLwui0U>.

E11) House of the Oireachtas website, Bills & Acts, Thirty-seventh Amendment of the Constitution (Repeal of offence of publication or utterance of blasphemous matter) Act 2018 <https://www.oireachtas.ie/en/bills/bill/2018/87/> and Blasphemy (Abolition of Offences and Related Matters) Act 2019 <https://www.oireachtas.ie/en/bills/bill/2019/59/>.