

1.07 How do secularists think about decisions? (Part 2) – The Lemon test

BACKGROUND	This resource uses the example of the “Lemon test” (an American legal principle) to further explore the basics of secularist decision making. The stimulus provides the history and basic principles of the Lemon test, along with theoretical examples. The exercise invites discussion and reflection on these examples of secularist reasoning. The resource can be used alongside or instead of 1.06 to prime students to consider implications of secularist reasoning in 1.08.
SUBJECTS	Politics Religion & Belief Education Citizenship SMSC Philosophy
KEY QUESTIONS	<ul style="list-style-type: none"> • How do secularists think about decisions?
LEARNING OUTCOMES	<p>Basic</p> <p>Students should demonstrate they can:</p> <ul style="list-style-type: none"> • Understand how secularists think about decisions which affect the rights of others. • Reflect on how this process of thinking about decisions impacts on a range of simplistic examples involving religion and the rights of others. • Compare and contrast this approach to their own and others. <p>Advanced</p> <p>In addition to the basic learning outcomes, students should demonstrate they can:</p> <ul style="list-style-type: none"> • Extrapolate how this process of secularist thinking about decisions would impact views on a range of social issues involving religion and the rights of others.
LINKS	<p>Resource page: ExploringSecularism.org/107-how-do-secularists-think-abo</p> <p>Other links: Video exploring the Lemon v Kurtzman trial https://www.youtube.com/watch?v=ekoS74nZakg</p> <p>Wikipedia article on the trial https://en.wikipedia.org/wiki/Lemon_v._Kurtzman</p>
STIMULUS	<p>Stimulus #1 (The Lemon test)</p> <p>Secularists share the desire to balance freedom of and from religion with other rights when making decisions which affect the rights of others. Different secularist thinkers articulate this in different ways and take different approaches.</p> <p>One example of a secularist approach is known as the Lemon test. While secularists might not necessarily use such language (it after all comes from a specific example), it illustrates the sort of moral, political and legal philosophy which secularists use.</p> <p>The background to the Lemon test was a 1971 court case in the United States of America called Lemon v. Kurtzman. The USA is a legally secularist country – its constitution forbids the government from either establishing or prohibiting religion. You might be interested in the full background of the case, but in summary the Supreme Court considered two laws which allowed public money to be used to fund teaching at religious schools. Arguments were made on both sides.</p> <p>The lawyers for David Kurtzman argued that the law treated all private schools (religious or not) equally and not to allow this would violate his religious freedom.</p> <p>The lawyers for Alton Lemon argued that being forced as a taxpayer to fund religious teaching violated his religious freedom and violated the separation of church and state.</p> <p>The Court eventually decided that the laws were unconstitutional. They set out a test by which they and future courts would consider whether laws related to religion would be constitutional, i.e. whether they would be secularist by neither unfairly advantaging nor disadvantaging people based on religion.</p> <p>The test had three parts (or prongs) and a law or policy would have to pass all three to be allowed, or to be considered fair from a secularist viewpoint.</p>

	<ol style="list-style-type: none"> 1. The Purpose Prong: the law or policy decision must have a secular purpose, i.e. it might have purposes related to religion, but it must also have a purpose unrelated to religion/irreligion. 2. The Effect Prong: the law or policy decision must not have the principal or primary effect of advancing or inhibiting religion. 3. The Entanglement Prong: the law or policy decision must not result in an “excessive government entanglement” with religion.
EXERCISE	<ul style="list-style-type: none"> • You might wish to watch the linked YouTube video as a primer. • Review Stimulus #1 (The Lemon test), as a class or in groups discuss each of the three prongs of the Lemon test and address the first three questions: • Q1. <i>Is something like the Lemon test a fair test (or tests) for laws or policy decisions which affect all of us?</i> • Assign groups one of the three examples (Example 1: A requirement for all schools to teach evolution Example 2: A ban on blasphemy Example 3: government funding of a new religious temple). Ask the related question. • Q2. <i>Pick one of the examples of a proposed a new law or policy above; does it pass each stage of the Lemon test?</i>
TAKE IT FURTHER	<ul style="list-style-type: none"> • Create a poster explaining the Lemon test. • Hold a mock debate based on the proposed laws in question 2.
NOTES	<p>Notes on the potential laws for question 2</p> <p>Teaching evolution</p> <p>Purpose Prong: Teaching the scientific consensus theory on the diversity of life on earth has a clear educational purpose. While evolution is a contentious issue in some inter/irreligious debates, it is not scientifically controversial. One can debate whether specific scientific topics should be in the curriculum, but this debate can take place without any religious or irreligious claims.</p> <p>Effect Prong: Teaching evolution may have effects on people’s religious or irreligious views. It might undermine religious beliefs about creationism (though these can be promoted outside schools) and be favoured by irreligious groups. But both of these are distinctively secondary effects – the primary effect being education.</p> <p>Entanglement Prong: As the law applies to state institutions it does not create an excessive governmental entanglement. It would if it applied to teaching in religious institutions. There is some entanglement because some state institutions e.g. faith schools have a religious ethos.</p> <p>Banning blasphemy</p> <p>Purpose Prong: Blasphemy is fundamentally a religious concern and the purpose of blasphemy laws is to give religious ideas, institutions or identities privileged protections. This primary purpose is anti-secular. It might be dressed up in other secular purposes such as promoting tolerance or social cohesion.</p> <p>Effect Prong: There might be secondary effects, e.g. lessening insulting or offensive behaviour and restricting free expression unrelated to religion or irreligion. But the primary effect would be the restriction of speech about religion. This would inhibit alternative religious and irreligious views, while advancing the preferred view.</p> <p>Entanglement Prong: By judging what is and isn’t blasphemous the state would be intrinsically entangled with religious judgements.</p> <p>Government funding religious temple</p> <p>Purpose Prong: The primary purpose of this is to fund a religious institution which is not a secular endeavour. It might have other secular purposes such as supporting the secular functions of the building.</p> <p>Effect Prong: The primary effect of having your religious building state funded is to advance your religion. It might have secondary effects related to the non-religious functions of the building.</p> <p>Entanglement Prong: Entanglement is created by the state funding of the religious building, but how deep or long running this entanglement will be is unclear.</p>