



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

KEY QUESTIONS ??

- How do secularists think about decisions?

STIMULUS

The Lemon test

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.

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.

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.

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.

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.

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.

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.

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.

EXERCISES

Q1. Is something like the Lemon test a fair test (or tests) for laws or policy decisions which affect all of us?

Q2. Pick one of the examples of a proposed a new law or policy above; does it pass each stage of the Lemon test?

TAKE IT FURTHER 

- Create a poster explaining the Lemon test.
- Hold a mock debate based on the proposed laws in question 2.