**You Be The Judge: Free Exercise Clause**

For each court case below, use the three-question “Sherbert Test” to determine whether or not the government action was constitutional.

1. **In 1972, the state of Wisconsin refused to allow Amish families to withdraw their children from public school after eighth grade. Was this constitutional? *(Wisconsin v. Yoder)***
2. Has the religious freedom of a person been infringed upon or burdened by some government action? Explain.
3. If so, is there a “compelling state interest” that would nonetheless justify the government action? Explain.
4. Is there any other way the government can be satisfied without restricting religious liberty? Explain.
5. What makes this case easy or difficult to decide? Explain.
6. **To the Santeria Church in Hialeah, Florida, animal sacrifice is a significant part of their religion. In 1987, the city council prohibited animal sacrifice within the city limits. The laws allowed Jewish kosher slaughter, as well as butcher shop and restaurant slaughter. Were the city council laws constitutional? *(Church of the Lukumi Babalu Aye v. City of Hialeah*)**
7. Has the religious freedom of a person been infringed upon or burdened by some government action? Explain.
8. If so, is there a “compelling state interest” that would nonetheless justify the government action? Explain.
9. Is there any other way the government can be satisfied without restricting religious liberty? Explain.
10. What makes this case easy or difficult to decide? Explain.
11. **In 1990, two Native American counselors from Oregon, in a program for chemically dependent persons, agreed, as a condition of their employment, not to use any addictive substances. But as Native Americans and members of the Native American Church, they used peyote as part of their traditional worship service. Peyote is a mild hallucinogenic drug derived from mescaline cactus. The two counselors were fired from their jobs when their employer discovered that they took peyote for sacramental purposes and then later denied unemployment compensation because their dismissal was for work-related “misconduct”.** (*Employment Division v. Smith*)
12. Has the religious freedom of a person been infringed upon or burdened by some government action? Explain.
13. If so, is there a “compelling state interest” that would nonetheless justify the government action? Explain.
14. Is there any other way the government can be satisfied without restricting religious liberty? Explain.
15. What makes this case easy or difficult to decide? Explain.

**You Be The Judge: Establishment of Religion**

Imagine you are a Supreme Court Justice and the following questions come before you. Using the three-pronged Lemon Test for constitutionality under the First Amendment as your guide, decide whether or not the following laws are constitutional.

1. **In 1978, an Alabama law authorized schools to provide a minute of silence for “meditation”. The law was amended in 1981 and provided that the period of silence could be for “meditation or voluntary prayer.” In 1982, the law was further amended to allow teachers to lead “willing students” in a prayer to “Almighty God.” (*Wallace v. Jeffree*)**
2. First, does the law have a secular legislative purpose? (The answer must be yes, or the law is unconstitutional.) Explain.
3. Second, does the **principal or primary effect** of the law neither advance nor inhibit religion? (The answer must be yes, or the law is unconstitutional.) Explain.
4. Finally, does the law foster an **excessive government entanglement** with religion? (The answer must be no, or the law is unconstitutional.) Explain.
5. What makes this case easy or difficult to decide? Explain.
6. **The city of Pawtucket, Rhode Island, owned and annually erected a Christmas display in its downtown shopping district. The display included, among other things, a Santa’s house, a Christmas tree, cut-out animal figures, colored lights, and a life-sized nativity scene. The plaintiffs, residents of Pawtucket, alleged that the presence of the nativity scene, or “crèche,” in the display demonstrated official support for Christianity, violating the Establishment Clause. (Lunch v. Donnelly)**
7. First, does the law have a secular legislative purpose? (The answer must be yes, or the law is unconstitutional.) Explain.
8. Second, does the **principal or primary effect** of the law neither advance nor inhibit religion? (The answer must be yes, or the law is unconstitutional.) Explain.
9. Finally, does the law foster an **excessive government entanglement** with religion? (The answer must be no, or the law is unconstitutional.) Explain.
10. What makes this case easy or difficult to decide? Explain.
11. **On June 14, 1954, Congress unanimously ordered the inclusion of the words “Under God” into the nation’s Pledge of Allegiance. Michael Newdow challenged the inclusion of these words, and thus, on March 24, 2004, the Supreme Court heard the case of *Elk Grove Unified District v. Newdow.***
12. First, does the law have a secular legislative purpose? (The answer must be yes, or the law is unconstitutional.) Explain.
13. Second, does the **principal or primary effect** of the law neither advance nor inhibit religion? (The answer must be yes, or the law is unconstitutional.) Explain.
14. Finally, does the law foster an **excessive government entanglement** with religion? (The answer must be no, or the law is unconstitutional.) Explain.
15. What makes this case easy or difficult to decide? Explain.