**Teaching Notes**

**Should tribes legalize marijuana?**

**Learning Outcomes**

* Demonstrate an understanding of the history of marijuana
* Understand the basic facts around medical marijuana and recreational marijuana use and impacts
* Describe the changing legal policies about marijuana in the United States
* Explain why change is taking place about marijuana policies
* Understand the federal and state laws about marijuana and the federal requirements around state and tribal legalization
* Describe the pros and cons of tribes’ legalizing marijuana
* Describe the factors that tribes might need to consider when thinking about legalization
* Explain why some tribes are likely to legalize marijuana and others will not
* Understand the public health concerns about use of marijuana
* Be able to do a cost-benefit analysis on the issue of legalizing marijuana
* Understand Public Law 280 and its relevance to the issue of legalizing marijuana
* Explore the interface and issues about varying government policies at the federal, state and local level with regard to marijuana

**Intended Audience**: This case can be used in a variety of courses in multiple disciplines, including: political science, public administration, criminal justice, sociology, philosophy, law, history, medicine, Native American Studies, anthropology, business, economics, biology, and chemistry. It is suitable for students at all college levels.

**Additional Information:** In November 2015 the Squaxin Island Tribe in Washington State opened what is believed to be the first marijuana store on an Indian reservation. The decision came after long discussions with the State’s Liquor and Cannabis Control Board. The announcement stressed the excellent working relationships between the Tribe and law enforcement agencies. The Tribe adopted various laws and codes to ensure that it meets the federal “Cole factors.” The new revenue stream will be devoted to essential government services.

By June 2016 there were 371 marijuana shops in Washington and 737 producers. The 37% tax rate had produced $169 million in tax revenue for 2016. Three Washington tribes had entered into cannabis compacts with the State: Squaxin Island, Suquamish, and Puyallup. Unlike the Suquamish and Squaxin Island Tribes, the Puyallup Tribe will open a marijuana testing facility and later a retail operation. After a non-binding community referendum on the issue with a 1,044 vs 866 margin in favor, the Confederated Tribes of the Colville are moving ahead to legalize a small amount of possession of marijuana on the reservation and are exploring other options. By 2018 nearly one third of all the federally recognized tribes in Washington had signed compacts with the State to enter the marijuana market including the Samish, Muckleshoot, Tulalip. Jamestown S’Klallam, Port Gamble S’Klallam, Stillaguamish, and Spokane tribes. Many other tribes in Washington State and elsewhere are discussing the issue.

**Implementation and Use**

This case can be taught in many different ways through written essays, debate, cost-benefit analysis, small group discussion, a problem-based learning approach, or by assigning additional research. Approaches can also be combined. Three approaches are described below. A fourth approach could involve comparing the issues around legalizing marijuana with the decision to enter Indian gaming. If this approach is used students should read this case and our Indian gaming case.

**Teaching Approach 1: Small Discussion Groups around different themes**

Divide the class into groups of 4-6 people with each group assigned to the different questions below. The groups should discuss and record their answers to the questions and be prepared to report out after about 40 minutes.

**Group 1: The history of marijuana**

1. Develop a timeline of major events in the history of marijuana in the U.S.
2. What have been the impacts of criminalizing marijuana?
3. What are the reasons there is now support for legalizing marijuana?
4. Why have some states changed their policies while others have not?
5. Why are some states apparently ahead of the federal government in changing marijuana policies?

**Group 2: The law and legal considerations**

1. What is Public Law 280 and why is important in the discussion about tribes legalizing marijuana?
2. Make a timeline listing the major laws and legal decisions and memoranda about marijuana.
3. The U.S. government is based on federalism and checks and balances between the federal government and states and local governmental entities. How does this influence the debate about legalization of marijuana and the issues and concerns raised?

**Group 3: The economic and political considerations**

1. What are the major economic considerations—costs and benefits—for tribes legalizing marijuana?
2. What are the major political factors that need to be taken into account?
3. Some say legalizing marijuana is a civil rights issue? Do you agree? Explain your reasoning.
4. How is the decision to legalize marijuana being made? Through what process and with what arguments and evidence?

**Group 4: The social and cultural considerations**

1. What are the social and cultural considerations for a tribe(s) legalizing marijuana?
2. What social and cultural factors might argue for legalizing marijuana?
3. What form of legalization might make the most sense for specific tribes?
4. What local circumstances are most important in this decision?

**Group 5: The public health issues about marijuana**

1. Tribal leadership and community members have expressed that if you raise issues about Marijuana; alcohol too should be discussed in terms of the public health issues regarding youth access to harmful substances.
2. Are tribal leadership and enterprise engaged in conversations about the public health and safety concerns regarding the legalization of marijuana for recreational use?
3. Have policies, systems and/or environment norms been assessed to ensure public health education and safety protections are in place with an emphasis on youth, pregnant and nursing women and children?
4. What standards are in place to ensure advertising of marijuana contain appropriate warnings (with emphasis on protection of pregnant and nursing women, children and youth)?
5. What are the best methods and venues to share marijuana education about access and risks of harm for young children, adolescents, and pregnant and nursing women due to the new and evolving marijuana laws?
6. How can tribal leaders help promote culturally appropriate prevention strategies and protect youth and the next generations?
7. How can tribal communities become involved in promoting education about the consequences of marijuana use by Native youth, pregnant and nursing women and support public health messages?

**Group 6: Due diligence**

1. Describe in detail how you think tribes might discuss this issue within their own communities.
2. Imagine that you are the tribal chair of a tribe and the tribal council is about to discuss how to discuss the issue of legalizing marijuana. Develop a proposed process with very specific detail on how you will do due diligence on this issue. What information does the community need to know? What do you—the leaders—need to know?
3. How much consensus/agreement do you think is needed within a community to go ahead with legalization marijuana in one form or another?
4. How are national organizations and other “third parties” helping tribes become better informed about this issue?

**Teaching Approach 2: The scenario and research approach**:

Time: This approach requires several class sessions.

You have been appointed to a Marijuana Task Force for your tribe.  The Task Force is charged with researching the issue and coming up with the pros and cons of growing and selling marijuana (recreational and/or medical) and a recommendation to the tribe as well about what the task force thinks the tribe’s position should be in the next several years.

The problem statement (i.e. the case) begs the question of “What more info do we need to solve this problem and take an informed stand? All you know now about the marijuana sales by tribes comes from your general knowledge and from what you have just read (i.e. the case).

1. Discuss and make a list of what information your Task Force needs to make a well informed report.  Make your questions or your description of the information you need as precise and as detailed as you can.
2. Once the list has been generated, figure out a way to group your questions or items into logical groupings or clusters.
3. Then, create research teams around the groupings of questions to do additional research and bring back information and create poster reports or actual “white papers” to present to the whole group.
4. Final activity: each task force team makes a recommendation to the tribe(s).  This is done in a role play.

Take home final assignment: Each student should individually write an analytical or reflective paper,

either taking a personal stand and backing it up with information, or a more reflective paper on what

stood out with respect to the most important learning from this case.

**Teaching Approach 3: Cost-Benefit Analysis**

Time: This approach can be executed in a one hour class.

Break into small groups of 3-7 people. Each group will be given a brief profile of two tribes. Their task is to do a cost benefit analysis on their tribes on the issue of legalizing marijuana. First they should develop the categories that would go into a cost-benefitanalysis about legalizing marijuana for the two different tribes. Then they should develop metrics/values that seem reasonable to quantify/weigh the factors and reach a carefully considered judgement on the costs and benefits and a conclusion. If time is available, have students report out to the whole class, beginning with a brief description of “their” tribes. This approach could also be used as a research exercise culminating in a research paper.

**Evaluation**

Student understanding can be assessed in a variety of ways through position papers, tests, essays, research papers, in class performances, etc. We recommend that students write and hand in their answers to short reflection questions at the conclusion of doing the case where they also assess their group’s performance.

**Additional Resources**

In addition to the references listed in the case, the following additional resources are useful in exploring the history of marijuana.

Anderson, Patrick. *High in America: The True Story Behind NORML and the Politics of Marijuana*. Viking, 1981.

Baum, Dan. *Smoke and Mirrors: The War on Drugs and the Politics of Failure*. Little Brown, 1996.

Bonnie, Richard J. and Charles Whitebread. *The Marijuana Conviction: A History of Marijuana Prohibition in the United States*. Lindesmith Center, 1999.

Booth, Martin. *Cannabis: A History*. Doubleday, 2003

Caulkinds. J., B. Kilmer, and M. Kleiman. *Marijuana Legalization: What Everyone Needs to Know*. 2nd edition, Oxford Press. 2016.

Joy, Janet; Watson, Stanley; Benson, John. *Marijuana and Medicine: Assessing the Science Base*. National Academies Press, 1999.

Lee, Martin. *Smoke Signals: A Social History of Marijuana-Medical, Recreational, and Scientific*. Scribner. 2012

Martin, Alyson and Rashiodian, Nushin. *A New Leaf: The End of Cannabis Prohibition*. New York Press, 2014.

Mustro, David. *The American Disease: Origins of Narcotic Control*. Oxford University Press, 1999.