

1.5: Consensus View and Decriminalizing Laws

Another view of how laws become created is the **consensus view**, which as it states, implies consensus (agreement) among citizens on what should and should not be illegal. This idea implies that all groups come together, regardless of social class, race, age, gender, and more, to determine what should be illegal. This view also suggests that criminal law is a function of beliefs, morality, and rules that apply equally to all members of society. ^[1]

One Child per Family Policy in China

In modern society, we tend to have consensus in the United States that people cannot kill their baby at birth because they wanted the opposite gender. If a person killed their child, murder charges would occur. At certain points in history in other countries, such as China, this was occurring and was not as deviant as some Americans would like to think it should have been, but it was still illegal. However, when the Chinese Government introduced a One Child per Family Policy, there was a surge in female infanticide. There was immense pressure on families to have sons because of their higher earning potential and contributions to the family. Again, that line between deviance and criminality can often blur, especially when trying to gain consensus. Read the BBC article below for more information.

Read the BBC article below for further information.

http://www.bbc.co.uk/ethics/abortion/medical/infanticide_1.shtml

Let us take a consensus approach to create laws, but apply it to decriminalizing laws. An act becomes decriminalized when it is no longer criminal and becomes legalized, ultimately reducing or alleviating penalties altogether. Some have proposed a hybrid between decriminalization and criminalizing behaviors, such as prostitution to ensure rights to prostitutes and punish offenders who harm them. ^[2] An act can be decriminalized at the State level, but not necessarily the Federal level.

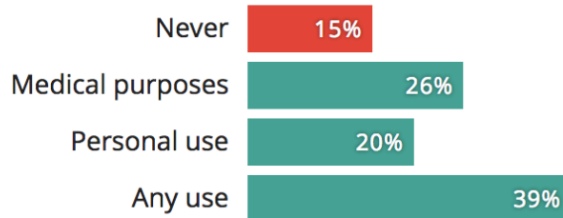
Marijuana Legalization

One example of decriminalization that came from a vote of consensus in states like Colorado, Washington, and Oregon was the legalization of recreational marijuana. Recently, Texas has shown signs of potentially decriminalizing marijuana and seeking reform laws. According to the latest University of Texas/Texas Tribune poll, more than half of the state's registered voters support marijuana legalization in the state (a consensus), and only 16 percent said possession of marijuana should remain illegal under any circumstances. Marijuana is certainly a great example of decriminalization, whether it is for recreational or medicinal purposes. University of Texas/Texas Tribune Poll, June 2018 — Summary

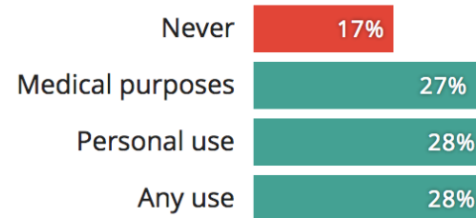
UT/TT POLL

Should marijuana be legal in Texas?

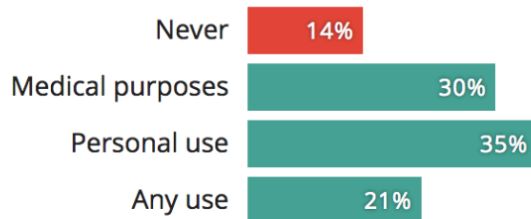
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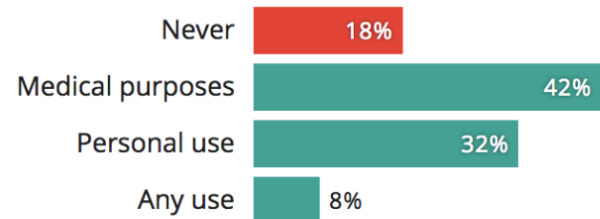
30-44



45-64



65+



Numbers may not add up to 100 due to rounding. Margin of error ± 2.83 percentage points.

Source: University of Texas/Texas Tribune Poll, June 2018

Credit: Ryan Murphy

University of Texas/Texas Tribune Poll, June 2018 — Summary

Read the article below for more information on Texas proposing changes:

<https://www.texastribune.org/2018/06/27/marijuana-democrats-young-adults-texas-poll/>

Adam Ruins Everything YouTube Link: The Sinister Reason Weed is Illegal www.trutv.com/shows/adam-ruins-everything/videos/the-sinister-reason-weed-is-illegal.html

1. Dawe, A. (1970). The two sociologies. *The British Journal of Sociology*, 21(2), 207-218. [↩](#)
2. Lutnick, A. & Cohan, D. (2009). Criminalization, legalization or decriminalization of sex work: what female sex workers say in San Francisco, USA. *Reproductive Health Matters*, 17(34), 38-46. [↩](#)

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