

PEYOTE

HISTORY, TRADITION, POLITICS,
AND CONSERVATION



Beatriz Caiuby Labate and Clancy Cavnar, Editors

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Foreword by James A. Bauml and Stacy B. Schaefer



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This book discusses treatments (including types of medication and mental health therapies), diagnostic tests for various symptoms and mental health disorders, and organizations. The authors have made every effort to present accurate and up-to-date information. However, the information in this book is not intended to recommend or endorse particular treatments or organizations, or substitute for the care or medical advice of a qualified health professional, or used to alter any medical therapy without a medical doctor's advice. Specific situations may require specific therapeutic approaches not included in this book. For those reasons, we recommend that readers follow the advice of qualified health care professionals directly involved in their care. Readers who suspect they may have specific medical problems should consult a physician about any suggestions made in this book.

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Foreword

James A. Bauml and Stacy B. Schaefer

Peyote is everything, it is the crossing of the souls; it is everything that is. Without peyote, nothing would exist.

—José Bautista, Huichol shaman and peyotero,
San José Temple (Schaefer, 1996, p. 138)

This edited volume is a welcome and timely addition to the extensive literature on the subject of peyote (*Lophophora williamsii*). It fills a void left since the publication of *Peyote: The Divine Cactus* (1st edition, 1981; 2nd edition, 1996) by the late botanist Edward Anderson. From the distant past to modern times, this reclusive cactus has held a special place in the human psyche. Some believe its power is derived from its diverse array of alkaloidal chemicals, including mescaline. Others see peyote as a divine gift and medicine from the Creator, a magical, mystical, living spirit. No one denies that it can have profound effects on the mind, body, and spirit.

Labate and Cavnar have brought together a diverse array of contemporary international scholars who are researching various facets of the natural history, ethnography, legal issues, and the future of this plant. Indigenous thought and practice are essential to our understanding of peyote, so we welcome the contributions in this volume that shed new light on the history and current practices of peyote traditions among the Huichol and Cora Indians and the Native American Church (NAC) religion in the United States and in Canada. We especially applaud the inclusion of a Native American voice, of which we find too few examples in the existing literature.

Among its cactus relatives, peyote stands out as one of the few spineless forms. Presumably, from an evolutionary perspective, this cactus took another tack. Its defense against predators is a suite of very bitter compounds to deter

even the hungriest animal from taking a second bite. How ironic, then, it is that human beings have stumbled on a plant with alkaloids that are able, perhaps as metabolites, to bind with receptors in our complex brains that light up circuits with such dramatic results. In 1898, Dr. Arthur Heffter identified mescaline as the primary source of the psychoactive effects in the cactus. Aldous Huxley brought peyote to a broader audience with his publication *The Doors of Perception* (with the essay “Heaven and Hell” added in 1956) following his consumption of mescaline (“mescalin”). The doors to personal experimentation with peyote and related substances closed when President Richard M. Nixon signed the Comprehensive Drug Abuse Prevention and Control Act of 1970. Exception was made then, and to the present, for bona fide religious practice by Native Americans.

The Huichol Indians of Mexico, with whom we have worked for many years, are the Indian tribe most commonly associated with the use of peyote. They maintain a deep knowledge of the plant that is intractably integrated into their culture and religious beliefs and practices (Schaefer, 1996). Some believe they can trace their lineage to the Chichimec people mentioned by the Spanish Friar Bernardino de Sahagún (1982), who had knowledge of peyote and roamed the peyote desert in present-day Mexican state of San Luis Potosí, where the Huichols still travel to ritually collect peyote for their ceremonies (Furst, 1996; Grady & Furst, 2011). Peyote was used by humans even earlier, as evidenced in archaeological sites in northern Mexico and along the border with Texas, as described in the writings of Terry, Steelman, Guilderson, Dering, and Rowe (2006); El-Seedi, De Smet, Beck, Possnert, and Bruhn (2005); Bruhn, De Smet, El-Seedi, and Beck (2002); and in the White Shaman rock art panel in the Lower Pecos River Canyon of West Texas as interpreted by Boyd (1996, 2012) and Boyd and Dering (1996). Peyote remains a much-desired plant today. The Texas Department of Public Safety, which regulates the harvesting and sale of peyote in the United States, reported the number of peyote buttons sold annually over the last 20 years between 1,563,000 and 2,317,000 (Jody Patterson, personal communication, October 2014). All these harvested peyote tops are ostensibly from the geographically small area in South Texas where peyote is found in the United States in commercially harvestable numbers.

On the surface, it might appear that all is well with peyote and its future existence; after all, since its discovery and use by humans, it has remained plentiful as appears to be documented above. However, this is not the case. Destruction of the natural habitat where peyote grows has impacted the peyote populations. Such impacts include “root-plowing” to eliminate “brush” and to encourage the growth of forage grasses, especially “buffelgrass” (*Cenchrus ciliaris*), oil exploration, and urbanization. The number of members

in the NAC has increased along with the amount of peyote they consume. Wirikuta, as the Huichol call their sacred peyote desert in San Luis Potosí, Mexico, has been increasingly inundated by people who are not Huichol or from a recognized Mexican Indian tribe; shamanistic tourism has brought more peyote seekers to this sacred land (Furst & Schaefer, 1996, pp. 507–512). The question, then, is whether or not these harvests can be sustained. And there remain legal issues to be resolved on both sides of the border. With demand for peyote for consumption rising on both sides of the Canada/U.S./Mexico border, the issues of sustainable harvesting and even cultivation need to be discussed and debated among interested parties. Another important matter regarding peyote sales to the NAC is the tenuous arrangement of federally recognized peyote dealers. Amada Cardenas, who, along with her husband, was among the first federally licensed dealers to sell peyote, was followed later by a large number of peyote dealers (Morgan, 1976, 1983; Schaefer, 2015). Currently, only two, sometimes three, individuals carry on the peyote trade as documented by registered sales of buttons reported to the Texas Department of Public Safety.

Now, more than ever, botanists, chemists, pharmacologists, psychologists, medical doctors, anthropologists, sociologists, social workers, historians, environmentalists, and lawyers, together with indigenous people in North America and beyond, have the power to protect peyote, its habitat, and the right to use it. We have seen this collaboration in the founding of the NAC in 1918, the establishment of the Canadian branch of the Native American Church in 1954, and the right granted for U.S. military servicemen and women who are members of the NAC to practice their religious rituals when off-duty in 1996 (Defense Equal, n.d.; U.S. Code 1996). Again, in 2012, we saw such a unification of individuals from all parts of the globe when Huichol people challenged the Mexican government for granting concessions to the Canadian First Majestic mining company (Barnett, 2012, 2014; Bernstein, 2011; Emergencia, 2012). Such operations would most certainly destroy the environment in areas of the sacred peyote desert. For the moment, mining operations there have been halted.

Allison Brysk (2000), in her book *From the Tribal Village to the Global Village*, discusses how indigenous people have used global symbolic appeals to transform their lives and create new forms of politics. Grassroots indigenous movements have now expanded and grown into global indigenous movements. Peyote is that special plant that can bring together such a synergy of people dedicated to its future existence and the welfare of those who are passionate about learning more from what it has to teach. This edited volume is a landmark contribution in that direction.

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Introduction—Peyote: Past, Present, and Future

*Beatriz Caiuby Labate, Clancy Cavnar, and
Alexander Dawson*

Peyote, a small hallucinogenic cactus that grows close to the ground in the deserts of northern Mexico and the southwestern United States, has long been the subject of controversy, curiosity, and hope. In part because of its psychoactive properties, and in part because of the way peyote seems to have found its way to the heart of a series of aspirations, it has been unlike almost any other plant native to the Americas for its persistent capacity to arouse passions and spur controversy. It has been a sacrament in the spiritual life of some indigenous communities in the western Sierra mountains of Mexico for centuries, played an iconic role in the 1960s counterculture, and lay at the heart of a series of battles over religious and indigenous self-determination in the United States, Canada, and Mexico during the past century. In the simplest terms, peyote has had the capacity to confound legal, scientific, and religious authorities for centuries because, in spite of all efforts to control and ultimately eliminate the cactus in the interest of religious purity, bodily health, and moral rectitude, small but persistent groups of indigenous and nonindigenous actors have never been willing to forsake a cactus that some think of as sacred, others think of as healing, and yet others simply think of as amazing.

Peyote has been studied by scientists endeavoring to understand its purported therapeutic effects, and discussed in the U.S. Supreme Court, where, in the 1990 case *Employment Division, Department of Human Resources of Oregon v. Smith*, the court found that two Native American addiction counselors from Oregon could be fired from their jobs for attending a peyote ritual without violating constitutional protections of religious freedom. That case in

turn prompted the U.S. Congress to pass the *Religious Freedom Restoration Act* (RFRA) in 1993, which in turn has reshaped the nature of religious rights in the United States in ways that continue to unfold. Originally envisioned as an effort to protect peyotists (as users of peyote are called) from persecution, RFRA today is regularly mobilized in defense of religious objections to the Affordable Care Act and in defense of businesses that seek to discriminate against gay couples based on religious objections, the principle of gay rights. It all comes back to peyote.

Employment Division v. Smith was hardly the first time peyote was fought over in the courts. In Mexico, those battles date to the 1620s, when the Spanish Inquisition banned peyote for nonindigenous subjects, and then proceeded, over the course of two centuries, to attempt to root this diabolic cactus out of colonial society. In the United States, peyotists were among the first Americans to gain religious exemptions for their use of an otherwise banned substance. Several groups banded together to create the Native American Church (NAC) during Prohibition, and fought successful legal battles in several states to defend their First Amendment religious right to consume peyote. Over time, the NAC's persistent demand that they should enjoy the right to consume this innocuous-looking cactus has had an outsized capacity to disrupt our systems of laws and prohibitions.

South of the U.S. border, individuals belonging to a series of indigenous groups in Mexico—notably the Wixaritari (also called Huichols¹), Náayeri (Cora), Tepehuánes, and Rarámuri (Tarahumara)—have also long fought to use peyote unmolested by the state and other authorities. For centuries they practiced their customs secretly, defending their communities from the incursions of the colonial and modern state. Lately, members of these groups have adopted the language of self-determination, insisting that peyotism is a religious practice that is integral to who they are, that allows them to live as their ancestors and gods contend they should.

In response to these claims, and in response to a growing demand for indigenous self-determination across the Americas, federal governments and courts in Canada, the United States, and Mexico have effectively made peyote legal for those who can demonstrate that they have ancestors who are indigenous, and who continue to live in clearly defined ethnic communities. In all three countries, the state has a history of attempting to limit the right to consume peyote to individuals of indigenous ancestry. Technically, nonindigenous users are subject to prosecution. However, in practical terms, sporadic prosecution of both indigenous and nonindigenous peyote consumers continues in different places even today, as can be seen in the chapters of this book.

There are many reasons to feel uncomfortable about this state of affairs. First, and most obviously, we must wonder whether or not it makes sense to

have our governments continue to police racial boundaries as they did in the past. More importantly, these prohibitions mask the rich and complex history of peyote in North America, where it has not simply been an indigenous sacrament, but also a healing medicine, a window into the soul, and a powerful tool for native and nonnative alike. This book represents an effort to capture some of those sentiments, examining peyote as the subject of historical inquiry, scientific research, and contemporary use by a variety of actors.

We also write at a time when natural populations of peyote are in decline, due both to improper harvesting techniques (by licensed and nonlicensed harvesters) and to environmentally damaging economic activities (mining, agriculture, raising cattle, oil developments, and construction of wind farms). In Mexico, peyote is considered a species requiring “special protection” due to environmental concerns; peyote is also protected under the Convention on the International Trade in Endangered Species (CITES) as a species liable to become endangered.

This collection of essays thus addresses the delicate relationship between “the needs of the plant” as a species and “the needs of man” to consume the species for spiritual and health-giving purposes. The chapters discuss the history of peyote regulation in the United States and the special “trust responsibility” relationship between Native Americans and the government. Under the argument of “equal protection,” different groups have attempted to obtain an exemption for peyote use. As is the case with conservation, multiple stakeholders’ interests are in conflict. The discussion and comparison of diverse legal cases touches upon concepts such as place, ethnicity, identity, and tradition. The expansion of the peyote traditions is used here as a foundation for examining issues of international human rights law and protections for religious freedom within the current prohibitionist system and global milieu of cultural transnationalism.

Collectively, this book offers a contribution by presenting a dense anthropological description of peyote use in different contexts, including indigenous and nonindigenous practices, and what might be described as spiritual or shamanic tourism, in Mexico, the United States, and Canada. Alongside an exploration of the histories and cultures associated with these practices, it addresses conservation and legal issues surrounding peyote. This holistic approach is unique in the literature in its attempt to bring a range of new voices together, from scholars to activists to policy and law practitioners from across North America. This interdisciplinary synthesis allows for a more comprehensive understanding of the phenomena of contemporary uses of peyote.²

Given the important role peyote has long played in religious and legal struggles in the United States, it has also been the subject of a great deal of scholarship over many decades. The first great ethnography of Mexico,

Unknown Mexico, by Carl Lumholtz, focused largely on Mexico's principal peyotists, the Wixaritari. James Mooney, Weston La Barre, James Slotkin, Vincent Petrullo, and others made extensive anthropological interventions in defense of an indigenous right to consume peyote in the United States in the first half of the twentieth century, in the process often describing the NAC as an almost therapeutic response to the ravages of U.S. expansionism. In the 1970s and 1980s, a number of scholars writing about Mexico, including Barbara Myerhoff, Peter Furst, Stacy Schaefer, and Salomón Nahmad Sitton, among others, offered poignant defenses of Wixaritari traditions, leading the way in the call for indigenous self-determination in Mexico. At the same time, countercultural figures like Carlos Castaneda made peyote a rallying cry for the desire to escape Western alienation.

And yet today we find ourselves at something of a crossroads. Castaneda and his ilk were savaged during the 1980s and 1990s for fabricating fictional accounts and appropriating indigenous cultures, and many of the doyens of the call to self-determination have also been critiqued for essentializing, even orientalizing indigenous cultures. Today, scholars and activists as varied as Joanne Rappaport, Ana Tsing, Michael Taussig, James Clifford, Tom Csordas, and Nestor Garcia Canclini are searching for ways to imagine native and nonnative cultures as dynamic and hybrid, engaged in a constant series of exchanges that shape both and make it difficult for us to clearly imagine where the self ends and the other begins. All of this is even more important given the era of rapid economic and environmental change in which we live. The essays in this book endeavor to offer some insight into how we might answer these challenges.

This book is composed of 12 chapters, including contributions coming from anthropology, sociology, history, political science, religious studies, law, ecology, and biology. The first chapter, by Keeper Trout and Martin Terry, explores the decline of the peyote in Texas. Using a multidisciplinary approach, they examine not just the peyote plant per se, but also its ecological niche. Exploring the factors involved in the creation of modern *Lophophora* habitat in Texas, they consider the potential impact of climate change, environmental shifts, and dynamic ecosystems on the future of peyote in this region. This chapter de-centers our view of conservation as the exclusive result of the pressures of human harvesting and habitat destruction, and points to a larger perspective and time scale, asking us to consider plant evolution as, in part, the product of the relationship between humans and plants.

Chapter 2, by Mariana Rojas-Aréchiga and Joel Flores, offers a general view of the family to which peyote belongs and gives biological and ethnobotanical information about this unique cactus. We learn that cacti are a group of plants of the cactus family or *Cactaceae*, which has around 1,450 species. They occur naturally from Canada to Argentina, including the Caribbean. Mexico

harbors the greatest richness of cacti in the world, with 660 species, of which, 517 are unique to Mexico. According to the authors, indigenous peoples use 118 cacti species, including peyote. They describe a fascinating range of uses of the parts of various cacti by both indigenous and nonindigenous populations in Mexico. Alongside medicinal and ornamental uses, they are used to prepare jams, beverages, and alcoholic drinks and as living fences, and forage for donkeys. This chapter aims to encourage further studies to assess peyote's current state of ecological vitality, as wild populations are decreasing in number and in size.

The following chapter, by Alexander Dawson, introduces a historical lens to our study of peyote, exploring the social, legal, and religious roles played by peyote in colonial Mexico. In 1620, the Holy Office of the Spanish Inquisition banned peyote. After a century in which Spaniards first expressed curiosity about and wonder at the power of the cactus, this edict seemed to consolidate the meanings of peyote within the colonial context. Peyote was dangerous, sinful, and illicit, largely because its users had a different kind of relationship to this plant than they did to other medicinal herbs. Peyote could produce visions of the future, knowledge about the past, and encounters with devils. And yet, this edict did relatively little to settle the meanings of peyote within colonial society. Peyote continued to circulate among indigenous and nonindigenous populations throughout the colonial period and was used toward a variety of spiritual and mundane ends.

Chapter 4, by Varun Soni, combines a legal and historical approach to understanding peyote. Soni explores how Christian morality has been used as justification for outlawing the cactus, arguing that the history of peyote law in the United States provides a remarkable example of the centrality of Christianity within American law. He focuses on different historical moments, from the institutionalization of peyote law by early Christian missionaries, continuing to the emergence of the peyote law and the NAC, to the U.S. judiciary's response to peyotism. Soni addresses the paradox by which Christian morality was utilized both as a means of persecution against peyotism and as a mechanism of resistance by peyotists. He demonstrates that Christianity ended up helping to foster an ideology of pan-Indianism and serving—inadvertently—as a catalyst for the spread of peyotism. Reading this chapter, one wonders about the persistence of ethnocentrism in the way our societies in general, and the legal system in particular, understands peyote. Rather than being evaluated within its own cultural contexts, peyotism continues to be treated as inferior to Christianity in ways that remind us of the colonial past.

Varun's legal analysis is complemented by John P. Forren's approach to these questions in Chapter 5. Forren draws a complex picture of the contemporary legal landscape for peyote use and commerce in the United States, at

both the state and federal levels. He explores how legal protections for religious use of peyote have expanded since the Supreme Court's landmark ruling in *Employment Division v. Smith* (1990), mentioned above. He argues, two decades on, that the more important legacy of that decision is the statutory and judicially crafted protections that the political backlash to *Smith* helped to create. Forren examines how the relationships between Native American leaders and their political allies yielded a new framework of legal protections. These protections, however, are limited only to those who can claim membership in a federally recognized Indian tribe; bona fide non-Indian peyotists remain subject to prosecution in most states. Peyote once again finds itself at the difficult intersection between questions of spirituality, identity, democratic theory, and religious freedom.

Chapter 6, by Kevin Feeney, explores the nexus between peyote, conservation, and indigenous rights in the United States. He argues that peyote religions currently face a much greater threat than criminal prohibition. Feeney draws from anecdotal reports of peyote's increasing scarcity to suggest that land and economic developments in southern Texas, harvesting pressures, and harmful harvesting practices employed by some pickers require consideration of the sustainability of these practices and their effects on the continued vitality of peyote populations in Texas. He maintains that the challenges of peyote conservation are comparable to other conservation dilemmas confronting indigenous peoples, such as access to eagle feathers. If peyote were ever added to the Endangered Species Act (ESA), access to peyote, much like access to eagle feathers, would be severely impaired for American Indian communities. He suggests that cultivation may be one avenue to maintain the viability of natural peyote populations in Texas while continuing to meet the supply needs of the NAC. Although Congress has tacitly approved cultivation, no federal regulations have been implemented and it is unclear whether federal permission to cultivate could be obtained.

In Chapter 7, Bob Prue (Sicangu Lakota, enrolled with the Rosebud Sioux Tribe of Indians of South Dakota) considers the pressing need to protect peyote use for future generations. He reminds us that, after surviving threats from Euro-American religious ideas and racism in the early twenty-first century, the NAC represents the largest indigenous spiritual movement in North America, an enormous success story that has paradoxically led to its own challenges. In line with other authors in this book, he observes that wild populations of peyote are declining, and considers a number of possible solutions to this problem. These include establishing environmental protections for peyote, creating a mechanism to allow legal importation from Mexico, wildcrafting, greenhouse cultivation, and farming. One of the great contributions of this chapter is to offer the perspectives of NAC leaders at regional and national levels. Competing views and divergences on the legitimacy of

cultivation among peyotists add another layer of complexity to the challenges associated with this small cactus.

In Chapter 8, Erika Dyck turns to a different aspect of peyote's history, exploring its link to psychedelic use on the Canadian prairies. Peyote is not native to the Canadian prairies, but was introduced to the region in the early twentieth century as part of the NAC rituals. Its appearance coincided with a growing local interest in the use of psychedelic substances in psychiatry, as well as changes in government attitudes toward indigenous practices. Psychedelic enthusiasts will enjoy learning that the term was coined in 1956 in the context of psychiatrist Humphry Osmond's contact with the Native American Church of Canada (NACC). Drawing from an extensive collection of unpublished papers from sympathetic peyote users in the region, the chapter explores how enthusiasts, scientists, and government officials in the 1950s engaged in a debate over the genuine value of peyote for Canadian Aboriginal people. One can see interesting parallels in the ways that Canadians debated peyote regulation here and the way that the Brazilian establishment dealt with ayahuasca religions, such as Santo Daime and União do Vegetal (UDV). The recent adoption of peyote by indigenous Canadian populations is an excellent example of cultural hybridity.

The next chapter, by María Benciolini and Arturo Gutiérrez del Ángel, explores the role that peyote plays in Náayeri and Wixaritari Holy Week celebrations in Mexico. While many researchers have studied the use of peyote by the Wixaritari, in the process raising the profile of Wixaritari peyotism nationally and internationally, the consumption of peyote by the other communities, such as among the Náayeri, is less known and often neglected. This chapter fills in this gap through a comparative framework. In both cultures, the power of Father Sun is celebrated during Holy Week. However, the cactus is used in different ways and reflects distinct interests and concerns within each community. In the Wixaritari context, the Sun and its light shape the rituals. The Náayeri, in contrast, focus their rituals on the transgressive aspect of aquatic forces. The chapter presents detailed ethnographic information about local classifications and understanding of peyote, introducing the reader to a rich world of meanings and practices.

Chapter 10, written by Vincent Basset, centers on contemporary peyote rituals in Mexico and focuses on New Age practices and tourism in the natural and sacred Wirikuta reserve, located in the state of San Luis Potosí. Based on original ethnographic fieldwork in the region, the chapter argues that neo-shamanism entails a re-appropriation of the local shamanic universe by European imagination. It is thus an attempt to relate to Amerindian otherness while reimagining the relationship of the tourist to indigenous peoples and their sacred plants. The author also reflects on how tourism has contributed to conflicts between indigenous groups, locals, and law enforcement agents.

Lastly, the chapter contemplates the impact of this new form of shamanism on local communities. This case study provides an excellent framework for comparison with the expansion of ayahuasca shamanism beyond the Amazon Basin. Notions such as origin, place, authenticity, commodification, and tradition are at stake in both contexts; however, the case of peyote perhaps presents greater difficulties, as it is a scarce natural resource, and until cultivation is legally allowed in Mexico, Canada, and the United States, we will continue to see significant disputes for the right to gain access to what is, for all intents and purposes, a dwindling resource.

In Chapter 11, Beatriz Caiuby Labate and Kevin Feeney consider the role that drug conventions and environmental laws have played in regulating peyote in Mexico. They explore the discourse that surrounded the establishment of the international drug conventions, with a particular emphasis on the 1971 UN Convention. In discussions leading up to this Convention, preservation of traditional use of peyote in North America was debated. In the Convention's final form, a mechanism to exempt traditional use of psychoactive plants was included, and Mexico, Canada, and the United States each took advantage of this exemption in order to preserve traditional use of peyote within their respective territories. In 1984, peyote was added to Mexico's national list of controlled substances, and in 2009, an exemption was introduced to protect traditional indigenous uses of peyote. Independent of criminal law, peyote is also subject to environmental regulations and protections. This chapter examines the national drug laws, environmental legislation, and the mechanisms through which exemptions to indigenous groups are given. It also provides a brief overview of legal cases involving peyote, and concludes by focusing on the overall challenges, paradoxes, and ambiguities present in the current regulatory framework addressing possession and use of peyote.

The book concludes with a chapter by Mauricio Genet Guzmán Chávez, who also addresses contemporary use of peyote among indigenous and nonindigenous people in Mexico. The author takes the provocative stance that peyote is a critical Mexican biocultural patrimony, and proposes that the Mexican State should declare peyote as national cultural heritage, as Peru did with the ayahuasca vine and the coca leaf. From his point of view, the *cactaceae* is both emblematic of semiarid ecosystems, in general, and of the Sacred Site of Natural Wirikuta, in particular. Peyote, he suggests, is a reservoir of knowledge and source of skills. The chapter also addresses illegal looting of *cactaceae* in the Chihuahuan Desert and points to the need to consider different models of conservation and cultural use of peyote in Mexico.

While his conclusions may be controversial (some would disagree entirely that such status is warranted and, rather, argue that further repression should be instituted), Guzmán's chapter represents a fitting end to this study.

Inasmuch as the book's goal is to situate peyote within a series of historical, cultural, ecological, political, and legal contexts, the concluding chapter also speaks to the urgency for action on a variety of fronts if we are to address the need to protect this plant and defend its varied cultural contexts of use. In sum, while there are diverging perspectives within this collection, which aims to give space to multiple voices, many authors echo Guzmán in insisting that both traditional and contemporary practices surrounding peyote ought to be treated as legitimate, and deserve legal and government actions and policies that can protect current and future use of the cactus. The solutions to the many challenges mentioned here, as this interdisciplinary volume aims to show, entail collaborative work. And yet, this book is not simply a call to action to defend this plant, its fragile ecosystems, and the communities that make it a part of their ritual lives. We also hope that, in the following pages, the reader will gain some sense of the oneiric visions peyotists experience through this cactus, their skill at using peyote for healing of the body and the soul, and the many stories they have to tell.

NOTES

1. These terms, *Wixaritari* and *Huichol*, are still in use within this community, and both are used in this book.
2. The growing lay interest in peyote consumption—that is, people engaged in recreational or psychonautic peyote consumption—is, however, an important omission in this book.

I

Decline of the Genus *Lophophora* in Texas

Keeper Trout and Martin Terry

INTRODUCTION

There is no question that the plant known, variously, as peyote and *Lophophora williamsii* (Lem. ex S.-D.) J. M. Coul., and by more than a hundred other names, has been associated with humans in South Texas and farther south and west into Mexico since ancient times (Bruhn, De Smet, El-Seedi, & Beck, 2002; Terry, Steelman, Guilderson, Dering, & Rowe, 2006). What constitutes “ancient” is an important definition since the term can mean many things. Obviously, how and where the first human came to ingest peyote left no record—other than oral peyote origin myths (as in Stewart, 1987, p. 36). Similarly, it is not within our ability to explore where peyote was distributed prior to humans discovering it. We can, however, explore what is known about peyotes diminishing habitat and its present occurrences in Texas to illuminate some interesting dynamics, even if the precise details about how the current state evolved remain elusive.

It is understandable how the changes in ecosystems, such as the South Texas “Peyote Gardens” that serve as the quintessential homeland for *Lophophora williamsii*, can stimulate interest in the preservation of a natural pristine state of that habitat. It is of value to explore what that means and to ponder the origin and future of peyote in Texas. To do this will require that we investigate the origins of the land referred to as the Peyote Gardens. It is unclear where the name Peyote Gardens originated, but it could be as pedestrian as a wordplay on the well-known South Texas agricultural territory moniker “The Winter Gardens.”

HABITAT IN SOUTH TEXAS

The Peyote Gardens are important for many peyote people, as they have been the primary source for peyote used by Native Americans in South

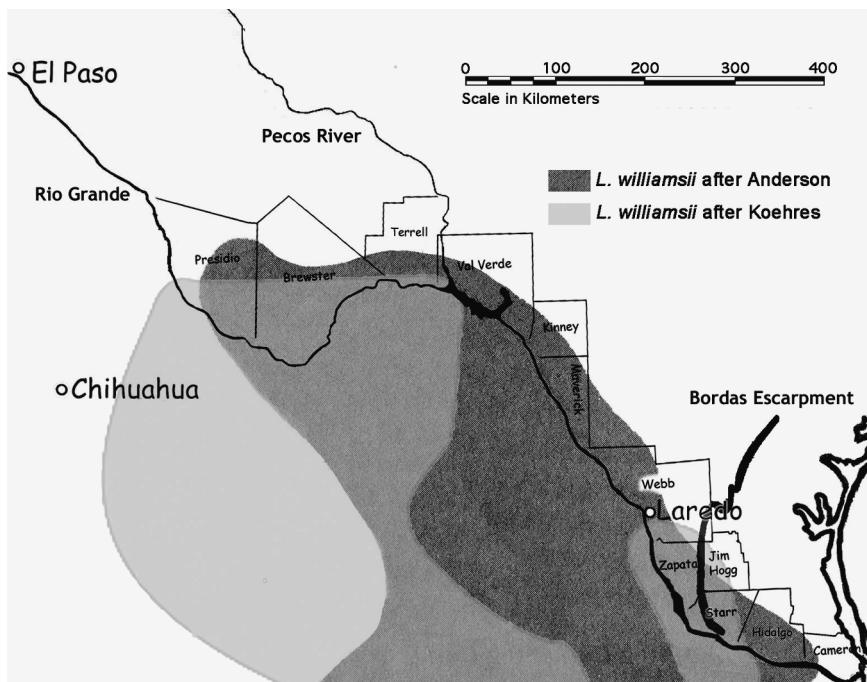
Texas and adjacent areas since long before history began to take notice in the 1800s. Some cultural traditions, such as the hunting of peyote as if they were deer, indicate an ancient link with peyote people in Mexico (Ted Herrera, personal communication, 2010). The Peyote Gardens have provided the entirety of the legally regulated peyote trade, furnishing the plants consumed by the Native American Church in the United States and Canada. According to the public, but unpublished, records that are maintained at the Texas Department of Public Safety headquarters in Austin, Texas, they presently still provide around 1.4 million peyote buttons annually that are reported sold to Native American Church members by the three licensed peyote distributors (Terry, Herrera, Trout, Williams, & Fowler, 2012).

The Peyote Gardens are a natural wonder rather than a cultivated endeavor. They once contained many areas with amazingly dense and numerous old-growth peyote populations. Some early accounts from ranchers described “walking on mattresses of peyote” and being unable to take a single step without treading on a peyote plant. Brush removal and root plowing have destroyed the majority of that habitat. The surviving populations of this landscape are now limited to a relatively few spots of undeveloped brush country. For the most part, intact peyote habitat no longer exists in South Texas due to land conversion for agriculture or pasturage.¹

The composite Map 1.1 can provide some orientation for the discussions that follow. We are not aware of any agreed-upon definition delineating exact borders of what is still considered to be the Peyote Gardens. It was within the region roughly following the Bordas Escarpment and the erosional margin of the Rio Grande, beginning in the north somewhere just north of Mirando City and Oilton, and ending around Rio Grande City in the south. (The geographic range of peyote continues across the Rio Grande, as does the Tamaulipan thornscrub ecological zone, where peyote thrives, but this discussion is limited to the peyote country of Texas.)

It is easy for people to assume that the land we are standing on has been here a long time. A careful look reveals that much of the Peyote Gardens is surprisingly recent on a geological timescale. An understanding of the landforms that comprise *Lophophora* habitat in South Texas may be helpful.

The rough erosional zone that lies 15–38 m (50–125 ft) above the river is often referred to as the “the Breaks of the Rio Grande” because the land is broken by arroyos. A belt of gently rolling land several miles in width called the Aguilares Plain lies between the Breaks and the Bordas Escarpment. The Bordas Escarpment is a conspicuous long cuesta (a long ridge with a gentle slope on one side and a steep slope or cliffs on the other side) rising 30–61 m (100–200 ft) above the Aguilares Plain in Webb County and most often 15–30 m (50–100 ft) above the Aguilares Plain in Starr County, with



Map 1.1 Distribution of *Lophophora* in Texas. (Cactus Conservation Institute.)

some higher hills in both counties. It is conspicuous only when viewed from the west, from which vantage point the drop-off is visible.

Its eastern margin is the higher and nearly featureless Hebbronville Plain, which gently slopes downward to the east and south. The western margin of the Bordas Escarpment is broken into a line of low flat hills. In some parts, it does not end in a single escarpment but continues as two or more lower cuestas that flank the highest ridge. The entire area is prone to both drought and heavy rainfall, commonly producing extreme local flooding (Lonsdale & Day, 1937; Sellards & Plummer, 1912; Thompson, Sanders, & Williams, 1972; Trowbridge, 1922, 1932).

The sediments are Holocene and Pleistocene and range from less than 5,000 years to more than 20,000 years in age. The Holocene alluvium, in which the Rio Grande soils formed, is the youngest parent material. The sediment was deposited as point bars, levee ridges, and elongated flood plains. By contrast, the older Pleistocene fluvial terrace deposits consist of prehistoric flood plains bordered by bluffs that are the remnants of an older course of the Rio Grande. The gravel was laid down as gravel beds by meandering rivers on an erosional surface. (Sanders & Gabriel, 1986)

It is largely those Holocene deposits that serve as peyote habitat in South Texas.

ECOSYSTEMS AND “ADAPTATION”

An underappreciated, and perhaps challenging, thought is both valuable and illuminating: A primordial original state of nature may be a popular ideation, but it is an imaginary concept. The reality is that somewhere between almost all and all of nature is a perpetual work in progress and has been subject to a series of changes over time. This is true not just in the distribution of organisms but also in the composition of the populations that combine to create the densely interwoven tapestry of life that constitutes a healthy ecosystem. This is not so obvious on the surface, due to the complexity of mutual interdependencies that have formed over time, but simple reflection and observation can easily confirm that life and living systems are in constant flux and subject to ongoing dynamic changes. Some of those shifts are slow and gradual, but periodic jumps or periods of relatively rapid, widespread change are also clearly part of the geological record.

An understated point is that the dynamic complexity of mutual interdependencies that we see developed over periods of time and did not always exist. Our relatively short life experience deprives us of an adequate perspective to readily grasp the progression of those changes over long periods of time. We interpret what we see as stability, despite it being stable only as a snapshot in time.

Every organism in an ecosystem originally entered its present living arrangement on its own or with help that it brought with it (such as the mitochondria or chloroplasts already symbiotic within some organisms). Life is often a harsh struggle for food, reproduction, and simple survival. Over time, mutualistic and opportunistic relationships developed seemingly anywhere the potential and circumstances permitted, and what we see is the present state of development after thousands of years. Although it can be more than thousands, it is, surprisingly, just a few thousand years that contain most of our interests in this particular story. As climates change, some species thrive and others die. New alliances are created along with new pressures, but the result is a perpetually ongoing transitory approximation of a balance point of relative stability.

Fruit flies can offer an illuminating window into the process. Isoquinolines present in the senita cactus (*Lophocereus schottii*) are toxic to the *Drosophila* species, but *Drosophila pachea* has acquired a resistance to senita alkaloids. It also lacks a crucial gene (known as the neverland gene) necessary for the production of a sterol that enables it to mature reproductively. Its association with senita provides it with a sterol precursor that it is able to use to attain sexual maturity and reproduce (Kopp, 2012; Lang et al., 2012).

A not-so-subtle point is that, in most cases, the appearance of this mutation would have ended the lineage developing it. Only the lucky placement of that progenitor Drosophila in the immediate environment of senita permitted it to propagate. Should the senita become extinct, it is likely that the particular Drosophila species will soon follow it (Fogleman & Danielson, 2001; Kircher & Heed, 1970; Kircher, Heed, Russell, & Grove, 1967).

A more subtle point exists: The successful offspring of the progenitor of *D. pachea* apparently developed their tolerance to the isoquinoline following phytochemical exposure stimulating gene expression, most likely because the exposure increased the rate of recombinant processes (Matzkin, 2014). The known existence of a high degree of selectivity of some fruit flies for specific host cacti is now being explored in more detail and is proving to be a common phenomenon (Cerda, Benado, & Fontdevila, 1996; Soto et al., 2014).

In addition to the role of phytochemical exposure, there also appears to be abundant evidence that stimulation by environmental stress challenges, such as heat and drought, also directly influences the frequency of recombinant events (Bono, Matzkin, Castrezana, & Markow, 2008).

Experimental evidence suggests that the cellular environment can potentially alter the strength of natural selection on enzymes and the control of metabolic pathways. . . . We can observe changes both at the molecular and functional levels, which can be associated to environment change. The fact that independent duplications of Adh are maintained throughout Drosophila hints at the evolutionarily multifaceted and variable role of this locus. (Matzkin, 2005)

It is noteworthy that, in recombinant processes, most parts of the DNA are greatly conserved, with the potential for rearrangement being highly concentrated in some regions, including some that code for metabolic enzymes (see Matzkin, 2014).

A slow but dynamic morphing from older ancestral species into newer derived species is probably steadily ongoing for most organisms, including Lophophora. This is almost invisible due to the slow speed of speciation. It is often an underappreciated factor in the fine-tuning of plants to their local environments, and “when correlated with reproductive isolation of host populations, the changes associated with host shifts could eventually lead to ecological speciation” (Matzkin, 2014).

There appears to be a direct relationship between catastrophic events leading to isolation of a species or population, an increased incidence of self-fertility, and an increased frequency of recombinant events (Korol, Preygel, & Preygel, 1994). What we see now is the outcome of long periods of organisms “working it out” into what we now perceive to be a “stable” ecosystem,

in some cases, fine-tuned by their individual lineages adapting to their environment through its impact on their recombinant events. Bonnicksen (2000) described this concept of ecosystems well when he observed:

Forests only exist in human minds. Groups of animals and plants that we call forests come together for a short time, then each species goes its separate way when conditions change. Constant warming and cooling of the climate, and the ebb and flow of glaciers, caused the disassembly of old forests and the reassembly of new forests.

The idea that there is a larger enduring stability to ecosystems similarly exists only in human minds as a comforting thought. It probably exists only due to our perceptions being those of creatures that, by comparison, are here for a comparatively few decades. Everything has a finite period of existence: individual organisms, the species of which they are members, and the ecosystem they call home. Some organisms, like *Lophophora williamsii*, have life spans that exceed ours, both as a species and as the potential for individual lifetimes.

Peyote is often an understory plant, and so is extremely tolerant of shade and periods of burial under eroded soil: a tolerance that provides it with many advantages over other arid-land plants (Trout & Norton, 2010). It inhabits a range of biotic zones characterized by aridity-loving plants and abundant calcium minerals. Patterns of rainfall and winter temperature extremes delineate the geographic limits of its northern and westernmost ranges. Soil, terrain, and climate that are unfavorable exist to the east and toward the coast.

Like the rest of the flora on the earth, the exact boundaries of Lophophoras occurrences have similarly ebbed and flowed along with the availability of suitable habitat. It should be obvious that as climates change, so do the ecosystems that are present. When changes in climate produce local die-offs, this leads to the creation of new ecosystems. It is a complex process. The disappearance of certain plant species also commonly reshapes the local landscape due to subsequent erosion (Bonnicksen, 2000).

CHANGES IN CLIMATE

Following the end of the last ice age, Lophophoras present home in South Texas appears to have been uninhabitable by peyote, due to colder temperatures and the fact that the Rio Grande was far larger. Opinions vary as to what the climate and vegetation cover in South Texas were at the glacial maximum, but all agree that the climate was at least a few degrees colder, perhaps by 5°C (11°F) or so (Baker, 1989). It seems certain that peyote existed in the central Mexican highlands during both the last ice age and the postglacial period, and it is probable that peyote was also more abundant and widespread

in portions of West Texas. The Gulf Coast would have extended 113–225 km (70–140 miles) farther into the Gulf of Mexico. It is believed that the arid regions of the Southwest were established by 5,000 years ago. However, during the height of glaciation, far West Texas experienced a relatively milder climate (Bonnicksen, 2000).

It is thought that the central parts of Mexico possessed an arid but variably moister climate that could have supported *Lophophora* populations during the last glacial maximum, turning colder and drier at the end of Pleistocene, and then warmer and drier in Holocene (Lounejeva et al., 2006).

Weather has several faces. One is the short-term weather change we experience. Another is longer-term change in weather patterns and peak extremes. A climate has to change by very few degrees to have adverse or positive impacts on plants and animals. It is not that changes in weather modify the animals directly, but rather that the animals and plants of an ecosystem are altered due to the disappearance of those unable to survive the climate change and their replacement with species that are benefited by the alteration.

The physical location and the composition of all ecosystems are in perpetual flux. Both elements are subject to dramatic shifts based on the response of the components to changes in climate. Extremes of temperature and the availability of moisture are the two important driving forces.

Changes in the environment and weather commonly happen slowly, often leaving us relatively unaware of their larger impact during the process. Sometimes we are fortunate enough to see pieces of the puzzle. A recent hard winter in West Texas produced one of those pieces when, during an unusually cold period of winter in February 2011, the temperatures reported in the area of peyotes occurrence in far West Texas dropped to -17°C (1°F) and did not rise above -5°C (23°F) for 3 days. Many plants from a wide range of species died, including many individuals of species considered to be rugged and hardy desert dwellers.

The balance between what can permit life and what enables death was clearly evident in our observations that even a relatively small bit of protection from direct northern wind enabled some plants to survive while others very close to them perished. In some cases, the plant that perished provided the shelter for the survivor. In one instance, this was one of two *Lophophora* crowns on a shared root.

SURVIVAL

Lophophora typically prepares for winter, like any hardy cacti, by losing water to the dry autumn air and shrinking into its base. It can sometimes actually become buried, but grows out as long as it is on a sloping surface. It is able to withstand both drought and cold by contraction into the earth.



Photo 1.1 After the 2011 freeze. (Martin Terry.)

The balance between being able to dig in and yet not become permanently buried causes peyote to be a specialist species that does not live above or below its preferred soils.

In some situations of exposure in rocky country, *Lophophora* also grows in cracks in limestone where there is very little soil. It is not so simple to retreat in that situation, and in the freeze we mentioned, the most exposed plants—including many large and apparently old individuals—died or were severely distressed.

Lophophora williamsii can successfully live in a surprisingly wide range of temperatures. It experiences summer temperatures throughout its range in Texas that commonly reach 38°C (100°F) or above, and temperatures of 43–47°C (110–116°F) have been reported as the peak recorded high temperatures in its South Texas habitat.

Winters in South Texas are normally mild, but occasional extreme low temperatures below –7°C (20°F) are known from both Webb and Jim Hogg Counties. In Webb County, Laredo's lowest temperature on record was –9°C (16°F). Freezes happen most years, but not every year, in Starr County. It is far more temperate in South Texas than in West Texas. Despite the mild norm, a record low of –12°C (10°F) was reported in 1961 in Rio Grande City. By contrast, every year sees hard freezes in West Texas, with recorded

minimum lows at Marfa of -19°C (-2°F) during January, with three other months reported to have -14°C (6°F) or lower (Historical weather data, 2011; Molina & Guerra, 2010; Sanders & Gabriel, 1986; Thompson et al., 1972).

Over long periods of time, freezes will recur, such as that witnessed in West Texas in 2011. It seems probable, but not measurable, that a high number of young seedlings perished there. How many of the adults died? We were not able to establish this for several reasons: One is the obvious fact that it would take meticulous field work—and considerable luck—to locate every living and dead plant in a given area of the rough terrain, and another is the less obvious fact that some plants that were assumed to be completely dead turned out to be capable of regenerating (see Terry, 2011). However, it is worth asking, how much cold would be required to kill every plant?

Loss of the largest plants is worth pondering, as their size and exposed locations suggest great age. If a freeze of this severity occurred only every hundred or few hundred years, it might imply that such massive die-offs occur periodically, and should rationally imply that an even worse freeze could further reduce the northern range of *Lophophora*. We know that a colder period of time existed between 1350 and 1850 (Mann, 2002).

We also know that a 1,000-year period of the most intense cold documented in the natural record engulfed the earth around 73,000 years ago and killed much of the life on the planet, including the vast majority of humans. Interestingly, similar to the outcome of catastrophic events faced by fruit flies and other organisms, recombinant genetic events following the resulting loss of life and subsequent lengthy reproductive isolation of surviving small populations in different environments are suggested to have produced what has been referred to as “races” of humans (Ambrose, 1998).

Those types of climate changes could impact not just *Lophophora* but any other plant that did not tolerate the cold, and their disappearance would create an open niche for another plant to occupy. Pollen in various contexts, such as in pack-rat middens, can reveal dynamic fluctuations in the composition of ecosystems. It is not possible to reconstruct an accurate picture of distribution, but it is hard not to be struck by the appearance, disappearance, and sometimes resurgence of members of the area flora. A nice look can be found in Hall (2005): An observable increase in the abundance of *Typha* corresponds well to wet periods, just as an increase in the abundance of *Ephedra* is correlated with dry periods, and the establishment of *Larrea* as a dominant species accompanied modern aridification.

THE MANY FACES OF WATER

Adequate moisture is the other important consideration for plant survival. Peyote’s habitat in South Texas typically receives between 46 and 66 cm

(18–26 inches) of rain in a year. Most often it arrives in the form of a few heavy thunderstorms following hurricanes in the Gulf of Mexico. Periods of drought lasting up to a year or more are also not uncommon, and drought periods of 6–9 months any year are normal. West Texas is similar, but with even less rain. Episodes of extreme and prolonged drought have occurred. It is also clear that the remaining populations in West Texas are growing in small spots, suggesting that they are remnants of a much larger portion of a landscape that no longer exists.

Unlike the deluges of Lake Missoula and other glacial megafloods, this is apparently not a well-studied issue with regard to the Rio Grande and the Pecos River. There is no question that prolonged massive flooding and catastrophic floodwater release occurred throughout the glaciated Rocky Mountains. Ancient floodwaters are widely accepted as the origin of the gravelly loam in the Peyote Gardens (Sanders & Gabriel, 1986; Sellards & Plummer, 1912; Wynd, 1944). This occurred in the melting phase of the most recent period of glaciation, and was no doubt repeated with every prior round of glaciation.

Some of those floodwaters scoured the surface of Trans-Pecos Texas and removed up to 150 feet of soil and rocks; turned meandering streams on an erosional surface into bluffs, buttes, and sculpted stream islands; and left harder volcanic and metamorphic rocks standing exposed in stark relief. Parts of that missing portion of the landscape are now incorporated as elements of the gravel in the Peyote Gardens. Obviously some, and perhaps most, of the progression of events in this picture can never be known with any accurate detail. Lets take a look at what is known.

The Rio Grande originates in Colorado and flows to Texas across New Mexico, following a natural rift. Long before the ice age, this rift had seen sectional collapse, a myriad of land shifts including uplifting, and a filling with layers of alluvium and lava flows (Keller & Cather, 1994). The exact event and timing is not clear, but what is clear is that during the melting of the glaciers in New Mexico's Sangre de Cristo Mountains, a large flood event or events occurred. It undoubtedly spilled over into low-lying areas of New Mexico and West Texas and sent a flood surge deep into Mexico. Evidence of this flooding is abundant along the Rio Grande in the form of a plenitude of "stream-sculpted islands," deeply incised canyons, and the distinct traces left by evaporating lakes.

It is commonly heard that the glaciers retreated at the end of the last ice age. The glaciers did not actually retreat; they simply melted. This seemingly simple action of melting ice is one of the most important factors in our story. Glacial masses contain enormous amounts of water. As one melts, a river of water issues from it. If, however, the melt water is forced to back up behind either a moraine that the glacier created or the glacial ice itself, the potential

for a future catastrophic release exists. The creation of eastern Oregon's rugged "scablands" is thought to have been caused by releases of a 1,000-foot deep lake with more water than Lake Superior (Lee, 2008).

Massive water releases create dramatic landscapes and characteristic large-scale erosion patterns that are amazingly common. The Rocky Mountains were glaciated as far south as New Mexico, with those melt waters needing to find their way to the Gulf of Mexico (Blagbrough, 1994; Siebenthal, 1907). It should not be surprising that water-sculpted terrains are present along the courses of both the Pecos River and the Rio Grande.

In terms of volume of flow, the Pecos appears to be the lucky benefactor of one or more such events. At one point, there was much more easterly flow of water based on the patterns left by ancient riverbeds. The Pecos was much smaller and farther south, but was still fed by melting glacier waters and has a broad drainage basin (Sellards & Plummer, 1912). Rivers that are swollen to overflowing with flooding can readily change their course if they are moving across an easily erodible surface.

Part of our story appears to have involved some ill-defined glacial flood-water release, but all that is certain is that it originated in the eastern glaciated side of the Sangre de Cristos range. Some unclear event happened, probably in western Mora or San Miguel County, New Mexico, that caused what was essentially drainage over a fairly flat area, fed by the melting of multiple glaciers, to be shifted southward. In doing so, it captured the headwaters of the Red River, Texas's Colorado River, and part of the Canadian River, and connected them with the Pecos River. The loss of east-flowing water also had a dramatic impact on the land east of there, as once the moisture had dried, it soon transformed the Midwest from a marshland into a prairie land, in many areas the annual rainfall approaching that of a desert. Looking farther west and north at the headwaters of the Rio Grande, one cannot help but be struck by the great potential for water to back up into reservoirs in the formerly glaciated area that generated both the modern versions of the Colorado River and the Rio Grande. The same is true on a smaller scale in the Sangre de Cristos.

The ability of water to move rocks and soil depends on several factors, including both the speed of the water and the turbulence created by water flowing across uneven surfaces. It can also be paradoxically impacted by the amount of materials being carried. Floodwater carrying large rocks and much debris becomes less capable of adding more load (Bogg, 1987).

Melting occurs everywhere it can, but as a glacier melts, literal rivers flood from the bottom carrying with them copious rock dust particles from beneath the glacier that dry into a dusty material called loess. This is simply rock that the passing of the weight of the glacier has ground into dust. Our interest is not in loess but rather in loam. Loam consists of slightly coarser particles,

but is still just rocks ground to minute size. Loam is the matrix of most peyote soil, accompanied by coarser gravels containing a mixture of silicates with varying amounts of limestone. Understanding the contribution of those melt waters in the creation of that soil holds the key to understanding the origin of the Peyote Gardens.

When something occurs to prevent drainage of a melting glacier, such as earth moved by the glacier or even the glacier itself, water can back up like a reservoir, flooding vast expanses, almost up to the height of the glacier itself. As soon as a trickle can get the right bit of erosion started, or if the water gets high enough to float the ice of the glacier, that water will be suddenly loosed downstream. Imagine the impact of water hundreds of feet deep and as broad as a valley, both on local ecosystems and on local erosion, if it was to be released suddenly down an erosional channel too small to carry it. Soil will be torn up, and even solid rock can be churned into rounded boulders, then into rocks, to pebbles, to sand, to silt, and to clay by the movement of water, depending on what force is present. This is an act of nature familiar to all of us on a smaller scale—a visit to any stream or river reveals that it happens constantly. Water itself is not abrasive, but as it moves rocks, they abrade each other into rounded shapes. The more force that the water possesses, the larger the rocks that can be included. The particle size ranges from the maximum of what the water could transport to particles smaller than fine sand. As they move downstream in their usual slow motion, they separate into layers based on differences in size and differences in densities, but typically remain as a mixed range of sizes unless adequate water movement is constantly present to keep them from moving differentially. This movement and reshaping of what has been eroded is how alluvium is formed. It can be produced in small ways by the normal action of precipitation-induced flooding and the activity of a stream or river, and end up as a gravel bar of a corresponding size. In this case, the alluvium formed a much larger gravel bar, which we now perceive as part of a low flattish hill in the Bordas Escarpment along the edge of what was then the banks of the Rio Grande. Loam is a variable mixture of alluvial gravels, sand, silt, and clay. It commonly forms the fertile layer of topsoil and incorporates decomposing organic matter. Those gravelly loam deposits along the Bordas Escarpment are the substrate for the Peyote Gardens.

PERTINENT HYDROLOGY

The faster water moves, the greater its carrying capacity. The speed might be due to the force generated by the volume of the water release, or it might result from the slope of the terrain. As a river slows down, water-carrying gravel deposits parts of its load (Bogg, 1987). This is what occurs as the Rio Grande finds its way to the Lower Rio Grande Valley, where its final

outpouring into the Gulf is via a landscape that is progressively shifting into a flattened lowland. Or, as Trowbridge (1932) put it, “As a rule, the relief and the roughness in this area decrease downstream with the decreasing altitude of the general surface.”

When floodwaters came out of Colorado and New Mexico across New Mexico along the course of the Rio Grande, it was a river that sometimes exceeded 80 km (50 miles) in width and was up to 30 m (100 ft) deep, based on the ancient river banks that one can still see in the Breaks of the Rio Grande and the Aguilares Plains. In the upper reaches of the Rio Grande, the elevation drops much more rapidly over its course, which is why so much alluvial material could be carried to South Texas. Normally, the Rio Grandes flow at Rio Grande City is less than 50 m³/s, with a peak flow rate reaching 900 m³/s (accompanied by widespread local and area flooding). In 2010, excessive hurricane-generated rainfall caused dam releases of 991 m³/s. The peak crest at Rio Grande City was 13 m (42.45 ft) above the normal level of water in the river (Buchanan & Tardy, 2010). The terrain is mildly hilly, so it was possible to be on dry land in Rio Grande City during that flood. What would the impact be of a glacial flood surge on a river that was already both substantially deeper and wider? To try to give that perspective, the Amazon is currently discharging around 119,000 m³/s into the Atlantic. However, it can carry nearly three times as much during the rainy season (McCoy, 2002).

If even the normal flow of the Amazon suddenly found its way “down” the Pecos River or the Rio Grande, it would recreate not just the landscape, but entire ecosystems. At least one of the Lake Missoula floods in Oregon is believed to have involved water hundreds of meters deep being released in a surge of floodwater, reaching a flow rate of 19 million m³/s (Lee, 2008).

If 1 million m³ of water were rushing down the Rio Grande per second, instead of a flood surge resulting from a release of merely a thousand cubic meters per second, the hills where Rio Grande City is now located would see a flood surge and water flow that would reshape significant portions of the topography. No human life in that part of Texas and a broad area beyond would survive it.

This is the type of water movement responsible for what is being referred to by geologists when they casually comment that those deep arroyos around Rio Grande City are reworked material left over from much older river terraces. That portion of *Lophophora* habitat immediately north of Rio Grande City was deposited much earlier than many of the adjacent hills. It has since then been rearranged by floodwaters and then deeply dissected by erosion. That gravel did not come from the Trans-Pecos, like the more recent gravels, but instead from the Edwards Plateau much earlier, when the river systems were completely different (Deussen, 1924; Lonsdale & Day, 1937; Wynd, 1944).

THE ORIGIN OF THE PEYOTE GARDENS

During those long periods when the Rio Grande was far larger and flooding much of South Texas, parts of what is now peyote habitat were actually being laid down, so it is hard to imagine that any peyote in South Texas would survive or recover from such floods, especially as that part of Texas is believed to have experienced a colder climate during that period. This suggests that peyote arrived in South Texas no earlier than the end of that period of massive glacial water releases.

The most recent glacial melt-off period impacting this region took around 2,000 years to create the modern version of the Rio Grande drainage area. The numerous water-carved features lining both the Rio Grande and the Pecos River provide clear evidence of vast amounts of water moving massive amounts of materials downstream and then reshaping those resulting surface deposits. Even so, it is not a simple thing to understand, even to the extent of determining with any certainty how many times it reoccurred. Alluvium is deposited, eroded away again, and rearranged. It is not known how many such events occurred in Texas even during the last glacial melting.

It also had a huge impact on the Pecos when carving out its present broad valley. Some of those stream-sculpted islands are so large as to be easily overlooked for what they are. In that process, a lot of limestone was removed and transported downstream.

The soils in South Texas supporting *Lophophora* tend to be gravelly loam with abundant calcium carbonate. These soil layers are typically shallow, often less than 30 cm (a foot), overlaying another layer of more gravelly loam or caliche. Other limestone gravel, similarly mixed with igneous rock, was brought via one or more of the glacial flooding events of the Rio Grande. The limestone gravels that were moved south also play an important role in peyote soil, as soluble calcium is an essential component for peyote to grow in good health. Limestone shows a complex behavior in that it is soft and fairly easily eroded. It is also readily dissolved out of wherever it is deposited in soils, and can then be reformed within the soils locally, out of solution.

The readily erodible nature of the limestone peyote soils in West Texas may also go far to explain how so much peyote habitat in West Texas could be removed by floodwaters. In the Trans-Pecos, *L. williamsii* habitat typically has a lot more fragments of limestone in the soil. In general, those pieces are broken and flaky rather than stream-worn. Considering that the movement of melt waters carved canyons through much more solid rock, it is not surprising that so much of the former limestone country along both rivers was reduced into stream-sculpted landscape a hundred or so feet in height.

SPECULATIONS AND CONCLUSIONS

As humans, we prefer to look at rivers dwarfed by their magnificent canyons and think of them slowly and steadily carving their way deeper. It is typically said that, over eons of time, the rivers slowly carved those great canyons. That is partly true, in that the erosional process goes on continuously, but the larger reality is that megaflood releases and far larger prehistoric rivers provided accelerated boosts to the process. Repeated glaciation and the subsequent melting periods readily obscure much of the evidence of the earlier floods.

Some of the evidence is unmistakable, as the phenomenon has been reproduced on a smaller scale during observed events. One of those events was the formation of Canyon Lake Gorge. In an emergency release of floodwater, estimated to be on the order of 380–550 m³/s, the water cut a channel down to bedrock. In those 3 days, up to 7 m of limestone was removed, leaving behind a new channel and stream-sculpted islands that were up to several meters tall.

One observation in particular stands out: “Canyon formation was so rapid that erosion might have been limited by the ability of the flow to transport sediment” (Lamb & Fonstad, 2010). Not just water releases, but melt-water-fed rivers existed during the Pleistocene and early in the Holocene that were from hundreds to thousands of times the size of what we know from historic times.

In the case of the two river systems in question, history has proved them to have a tendency to produce disastrous flash floods from hurricane-generated rains. This too would have been much greater during the glacial melting due to local weather being created. Prolonged and repeated flooding over a broad region can help create heavy rainstorms due to the large surface area of evaporating floodwater.

One inescapable fact is that *Lophophora* grows in a narrow niche, and that niche is steadily eroding away. As peyote does not grow above that zone or below it, what becomes of those populations once they run out of habitat? In the northern part of peyote’s range in Texas, most of those occurrences are tiny remnant islands of what once was likely a much larger population. When their soil is gone, there will be only rock, and those pockets will also disappear.

More habitat is being made, but the question remains: How do populations that are known to be as dense as was the case in South Texas as recently as a few decades ago come to exist there within what could have been no more than a relatively few thousand years? And how did they find their way into their present habitat to begin with?

Were West Texas and northern Mexico similar to South Texas in peyote population density prior to floodwaters removing much of the top layers of

ground? The elevated land where peyote presently occurs within a few miles of the Rio Grande in Val Verde, Terrell, and Brewster Counties was probably near ground level prior to that, resembling the much more open gently rolling country in which peyote commonly occurs in Mexico now.

If *Lophophora*'s arrival in South Texas occurred no earlier than that period of glacial floodwaters, it is a romantic ideation to think peyote might have been washed downstream as seeds, or even as intact plants. It is also hard to believe that the seeds, which are fairly fragile as cactus seeds go, could survive the turbulent waters that shaped West Texas agates and volcanic materials into rounded river gravel and dumped them into South Texas. Terrain that was more on a straight trajectory in Mexico received meter-sized boulders rounded much like those smaller pebbles.

If conditions in West Texas were suitable for peyote and more hospitable than at present, due to the increased moisture during the late Pleistocene and early Holocene, the populations there might have commonly contained multi-crowned individuals taking the form of the mattress-like carpets ("planchas") once present in South Texas (and still occurring in some parts of Mexico). If those were present and were swept away by the floodwaters, they would have amounted to an immense tonnage of live peyote plants. Those would seem as likely as seeds to be able to regenerate when deposited.

It is also likely that in floodwater laden with rock, much of the organic material would be carried above the layer of rock due to differential density, unless accompanied by a lot of turbulence. Perhaps seeds or plants might have been able to survive and be deposited in South Texas. It seems like a long speculative stretch, but not all floods are catastrophic in the sense of a megaflood capable of carving basalt into gravel.

When the flooding Rio Grande swept across the lower land adjacent to it, much of the surface was swept away. Those floodwaters would have had a widespread and devastating impact on the peyote in the flood zone, because the vast majority of the actual peyote populations would have been washed away along with the soil.

This is a curious conundrum for which it is doubtful that we can ever know any definite answer. We do know that by 5200 BP, people in what is now the northern portion of its range already had enough active interest in the plant and the sophistication to be manufacturing peyote effigies using noncactaceous C₃ plant fibers, incorporating mescaline-containing CAM plant materials² that are reasonably inferred to be derived from peyote (Terry et al., 2006). These artifacts were initially mistaken for peyote buttons and were reported by Bruhn to contain enough mescaline to be detectable in modern times (Bruhn et al., 2002; El-Seedi, De Smet, Beck, Possnert, & Bruhn, 2005).

The populations of peyote in West Texas have been slowly disappearing due to a variety of known factors: (a) The climate in West Texas has become

overall both drier and colder since the end of the Pleistocene; (b) the amplified adverse impact of human harvesting of small populations of plants has led to indigenous abandonment of at least one site in Presidio County, and also in Val Verde County; (c) the zone occupied by the peyote is one that is preferentially rocky soil but not solid rock—and not a terrain in which it can become permanently buried. Erosion of its present habitat in West Texas will inevitably reach solid limestone.

We also mentioned that, on first glance, the genetics work of Terry (2009) does not appear to support the co-identity of South Texas and Trans-Pecos Texas populations. However, if we follow our present line of conjecture, that flooding had a hugely adverse impact on the peyote populations in West Texas and northern Mexico, and the thoughts of Korol, Preygel, and Preygel (1994) concerning self-fertility and increased recombinant events following reductions in population sizes and extended reproductive isolation of the surviving populations following catastrophic events, it could easily contain the same data if the remnants of the northern populations adapted, via recombinant processes, to the climate slowly becoming colder and drier.

If the observable differences in the Texas populations (Hulsey, Kalam, Daley, Fowler, & Terry, 2011; Terry, 2009) can be attributed to isolation and adaptational divergence due to environmental changes over time, this would fit nicely with the data. If we make the reasonable assumption that the high desert of the central plateau of Mexico is the original homeland of *Lophophora*, that too would fit nicely with the data, as the presence of greater genetic diversity is something to be anticipated (Korol, Preygel, & Preygel, 1994), logically giving rise to phenotypic diversity involving morphology and quantitative differences in rates of alkaloid biosynthesis. None of these speculative musings can be evaluated based on the factual evidence. The relationship of the peyote in West Texas to those populations in the central Mexican high desert is similarly left unevaluated.

Some elements of this hypothetical thinking can be evaluated for feasibility in experimental models, such as whether an intact peyote plant could survive movement by floodwaters. However, as with peyotes long-term future, its past seems likely to remain largely an area of mystery and speculative wonder.

NOTES

1. If the impact of climatic change, glacial flooding, erosional processes, and modern land conversion on the decline of *Lophophora williamsii* in Texas is assessed, the impact of all human harvesting combined is trivial by relative comparison. However, harvesting has increased in importance, as it is the only one of those factors that anyone can possibly affect. This, though, is out of the scope of this chapter.

2. C3 plants are normal photosynthetic plants that use only the Calvin cycle for fixing carbon dioxide from the air. This incorporates carbon dioxide into a 3-carbon molecule 3-phosphoglyceric acid. This is highly efficient but requires that the stomata be opened during the day. CAM (crassulacean acid metabolism) plants are specialized for arid environments. They form maleate (with 4 carbons) from carbon dioxide at night and store it to serve as the carbon dioxide source for the Calvin cycle. This permits them to keep their stomata closed during the day in order to avoid transpirational water loss.

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2

An Overview of Cacti and the Controversial Peyote

Mariana Rojas-Aréchiga and Joel Flores

In this chapter, we offer a general view of the family to which peyote belongs and some biological, historical, and ethnobotanical information about this unique cactus. Cacti are a group of plants included in the cactus family, one of the most diversified plant groups. A number of physiological and anatomical adaptations of the stem and root systems enable most cacti to survive and flourish in water-limited environments. They naturally occur in the New World, and Mexico harbors the greatest richness of cacti in the world. The greatest concentrations of cacti species inhabit the arid and semiarid regions of the country. Ethnobotanical studies have documented more than 100 cacti species utilized by indigenous peoples; one of these is peyote, widely adopted for its therapeutic and visionary properties. Used since pre-Hispanic times, this species has always been controversial; to some it was considered the devil's plant and to others the gods' plant. Peyote has been the most important hallucinogenic plant used in North America and has fascinated not only scientists but also writers and enthusiasts. Unfortunately, due to overgrazing, seizures, and land use change, wild populations of this plant have decreased. This chapter charters the ecological studies on the plant and tries to highlight the need for more ecological studies to assess its current state of conservation.

GENERALITIES ABOUT THE CACTUS FAMILY

Cacti are a group of succulent plants belonging to the cactus family, or *Cactaceae*, one of the most diversified plant groups comprising approximately 1,450 species distributed in 127 genera (Anderson, 2001). They naturally occur, nearly exclusively, in the New World from Canada to Argentina, including the Caribbean. The regions with highest diversity of species and endemisms are (a) the Sonoran Desert and Sierra Madre Occidental; (b) the

Chihuahuan Desert; (c) Central Mexico; (d) the Antilles; (e) Central American and South American tropical areas; (f) the Andean region of Peru; (g) the Andean region of Chile and Argentina; (h) the Caatinga; (i) the Chaco area; and (j) the northern subantarctic region (Hernández-Hernández, Brown, Schlumpberger, Eguiarte, & Magallón, 2014). In Mexico, the Chihuahuan Desert, the Sonoran Desert, and the Tehuacán Valley have the greatest diversity of cacti species and several endemisms (Hernández & Gómez-Hinostrosa, 2011).

Mexico has the highest (660) and Canada the lowest (3) species richness. In Argentina, Bolivia, Brazil, Chile, Peru, and the United States, the total number of species range from 100 to 250. Mexico has also the highest number of endemic species (517), followed by Argentina (158), Brazil (176), Bolivia (153), and Peru (170) (Ortega-Baes & Godínez-Álvarez, 2006). The epiphytic genus *Rhipsalis* has spread naturally, undoubtedly by birds, to tropical Africa and Madagascar, and across to Sri Lanka and southern India (Barthlott, 1983; Thorne, 1973).

This family has unique characteristics, such as a great diversity of growth forms. We can find simple to branched plants, globose, cylindrical, or columnar; they can be climbing, prostrate, or clustering.



Photo 2.1 *Astrophytum myriostigma*, a globose cactus in the Chihuahuan Desert sometimes confused with peyote. (Joel Flores.)



Photo 2.2 *Ferocactus pilosus*, a cylindrical cactus in the Chihuahuan Desert. (Joel Flores.)

They also show a great variation in size, from about 9 mm (*Blossfeldia liliputiana*) to more than 20 m in height (*Pachycereus grandis*). They possess a structure called areole that is unique to cacti, which is a specialized bud from which spines or flowers are produced. The spines are among the most distinctive characteristics of most cacti and vary in size, number, color, and shape. Some cacti, such as those belonging to the genera *Lophophora* and *Ariocarpus*, have spines only at seedling stage (Anderson, 2001). Cacti have a great variety of colorful and juicy fruits, so the most common method of cactus seed dispersal is by animals, especially birds; some are also dispersed by ants and reptiles (Bregman, 1988).

In Mexico, different types of vegetation acquire their names depending on their physiognomic dominance (Rzedowski, 1978). Cacti are also used to define vegetation types. So, if the columnar cacti called “cardón” dominate the vegetation, this plant association is called “cardonal”; if plants of *Neobuxbaumia tetetzo* are dominant, they constitute the “tetechera,” and so on.

Cacti have evolved special morphological, physiological, and anatomical traits that enable them to survive and flourish in water-limited environments. Morphological traits include stem growth form (globose, columnar, barriliform, etc.), which are interpreted as adaptations from intercepting

photosynthetically active radiation (Nobel, 1980); spine properties, which assist in functions such as herbivory reduction, water absorption, reduction of the impact of extreme temperatures, reduction of the incident radiation on the stem surface, and dissemination of shoots and fruits (Gibson & Nobel, 1986); and root adaptations such as contractile roots, which pull some cactus species into the soil. Maintaining shoots level with the soil surface keeps plant temperatures below lethal high temperatures and improves survivorship in soil shaded by surface rocks (Garret, Huynh, & North, 2010). Physiological traits include succulence, or the presence of thickened tissues in plant organs for which the primary function is water storage and, consequently, drought avoidance (Bobich & North, 2009), and the crassulacean acid metabolism (CAM), the photosynthetic pathway used by succulent plants whose key feature is the nocturnal opening of stomata and the nocturnal uptake of CO₂ that leads to efficient use of limited soil water (Nobel, 2010). Anatomical traits include increases in water-storage tissue, especially in the cortex and wood, thickened cuticles, and the presence of a hypodermis. Further anatomical research is needed on structures like “wide-band tracheids” in the wood, which are the structures responsible for the expansion and contraction of the cactus stem in response to environmental changes (Mauseth, 2006).

Because of these characteristics, cacti can flourish in arid and semiarid environments, constituting important resources for both wildlife and humans. Ethnobotanical studies have documented a total of 118 cacti species utilized by indigenous people since ancient times (Casas & Barbera, 2002). Cacti are used mainly for their fruits, which can be consumed fresh or dried, and in many states of Mexico, they are used to prepare jams, beverages, and alcoholic drinks like the “licor de garambullo” and “colonche.”

Columnar cacti and those from the genus *Opuntia* are the main group of cacti producing edible fruits. The best known fruits are those of the *Opuntia* species named *tunas* (in Spanish), widely cultivated in many regions (Casas & Barbera, 2002). For example, in just the state of Guanajuato, Mexico, 16 *Opuntia* species are used for their fruits and stems, named “cladodes” to make “nopalitos” (Colunga García-Marín, Hernández-Xolocotzi, & Castillo, 1986). Also, the stems of approximately 60 species are used as fodder for domestic donkeys, cows, and goats, and the seeds of 17 species are consumed in several different ways. The wood of some columnar species is used in construction, and others are grown to be used as living fences. Also, cacti have medicinal uses, and some species are used to treat stomachaches, rheumatism, diabetes, heart disease, and gastric ulcers, and are used for their anti-inflammatory, analgesic, or diuretic properties (Casas & Barbera, 2002). Outside Mexico, the most common use of cacti is ornamental. Many species are taken from the wild to satisfy collectors’ demands, which may result in a drastic reduction in natural plant populations, though this needs further research. One single specimen

of a certain species can command very high prices in Europe or Asia in the collector's black market.

BIOLOGY OF PEYOTE

Lophophora williamsii (Lemaire ex Salm-Dyck) J. M. Coulter is distributed from South Texas to San Luis Potosí, Zacatecas, Tamaulipas, Nuevo León, Coahuila, and Chihuahua (Map 2.1). It has a latitudinal distribution of approximately 1,300 km, from 20°54' to 29°47' north latitude (Anderson, 1996). Its use in medicinal and religious practices has spread widely beyond its natural distribution. It can be confused with many other cacti species that are commonly named "peyote" or "peyotillo," but the real peyote is distinguished by its bluish-green color and its absence of spines. The generic name *Lophophora* means "bearing tufts," which refers to the woolly areoles, and the specific epithet *williamsii* is probably in honor of the Reverend Theodore Williams, who owned a cactus collection in England (Eggli & Newton, 2004; Glass, 1998).

Some common names for *Lophophora williamsii* are peyote, piote, jículi, híkuri, devil's root, challote, cactus pudding, raíz del diablo, mescal button, peote, tuna de tierra, and whiskey cactus.

Peyote has not always been named *Lophophora williamsii*. In 1845, the French botanist Charles Lemaire published a botanical name for peyote for the first time as *Echinocactus williamsii* in a catalog, but without a description. Later, the European botanist Prince Salm-Dyck validated the binomial proposed by Lemaire, but again without any illustration. The first picture of peyote appeared in *Curtis's Botanical Magazine* in 1847 (Anderson, 1996). After peyote was included in at least five different



Map 2.1 Geographical distribution of *Lophophora williamsii* (red circles). (Hernández, H. M. and Gómez-Hinostrosa, C. from Hernández, H. M. and Gómez-Hinostrosa, C. (2011). Mapping the Cacti of Mexico.)

genera of cacti (i.e., *Anhalonium*, *Ariocarpus*, *Echinocactus*, *Mammillaria*, and *Peyotl*), the American botanist John Coulter finally proposed a genus for peyote alone: *Lophophora* (Anderson, 1996).

Apart from *Lophophora williamsii*, the genus comprises another endemic species restricted to a high desert region in the state of Querétaro, *Lophophora diffusa* (Croizat) H. Bravo, which is also named “peyote” but differs morphologically and chemically from *L. williamsii*. In contrast, *L. diffusa* lacks the mind-altering alkaloid mescaline and occurs only in a valley near Vizarrón, Querétaro, at about 1,500 m elevation, where there are just a few populations (Anderson, Arias Montes, & Taylor, 1994). Populations of this species are quite vulnerable to habitat perturbation, and this species is severely harvested because many people confuse it with psychoactive peyote and think this cactus may produce similar hallucinogenic effects (Zúñiga, Malda, & Suzán, 2005).

Lophophora williamsii is a flattened geophytic globose cactus. The stems of *L. williamsii* are solitary or in clusters arising from the same root system, usually rounded at the top and depressed in the center; blue-green, yellow-green, and occasionally reddish green in appearance; 2–7 cm high; and 4–12 cm in diameter. Flowering periods are reported to be from March to September (Bravo-Hollis & Sánchez-Mejorada, 1991) and from June to September (Lumbreras, 1976). Flowers are white to pink colored, and sometimes yellowish. Fruits are fleshy and pink or yellowish-white in color, and they remain on the mother plant for a long period of time. Once they are completely dry and mature, they detach from the plant and the seeds fall on the surface of the plant or soil and can be carried away by water, wind, or animals to a safe site until germination occurs, if conditions are adequate (Trujillo-Hernández, 2002). Seeds are broadly oval, matte, black-brown, hat shaped, and medium sized (Barthlott & Hunt, 2000). They are almost identical to seeds of genera *Ariocarpus* and *Obregonia* (Anderson, 1996). Also, Trujillo-Hernández (2002) reported two distinct sizes (morphs) in peyote seeds: small seeds, which are less than or equal to 1.10 mm, and large seeds, which are larger than or equal to 1.20 mm.

The appearance of peyote can vary greatly. The plants may occur as individuals with a single head, while in some cases they become caespitose, forming dense clumps, which may be the result of injury caused by grazing animals or from harvesting. When the collectors cut the top of the plant off and leave the large buried root, the latter forms a callus that can produce many shoots replacing the cut-off top (Anderson, 1996; Terry & Mauseth, 2006).

Peyote has been used since ancient times to treat infections, arthritis, asthma, influenza, intestinal disorders, and diabetes, as well as snake and scorpion bites; it has been found that a methanol extract of peyote can not only potentiate immunity but also directly kill tumorous cells (Franco-

Molina et al., 2003). Peyote extracts have been also associated with stimulation of the central nervous system and regulation of blood pressure, sleep, hunger, and thirst (Shetty, Rana, & Preetham, 2012).

Lophophora williamsii has been widely adopted for its therapeutic and visionary properties since pre-Hispanic times and has been the most important hallucinogenic plant used in North America (Rojas-Aréchiga, 2008). Since the arrival of the first Europeans to the New World, peyote has been a controversial plant. It was condemned by the Spaniards and named “the devil’s plant,” as they related the rituals with peyote in native religions to activities linked with evil forces.

When did the peyote cult first start? It is unknown with any certainty, but, based on indigenous chronicles, Fray Bernardino de Sahagún estimated that the Toltecs and Chichimecas knew about the uses of peyote at least 1,890 years before the Europeans arrived in America (Schultes & Hofmann, 2000). It is not known if the Chichimecas were the first to discover the psychoactive properties of peyote; some researchers think that the Tarahumaras were the first and that they spread their knowledge to Coras, Huicholes, and other tribes. Also, due to the wide distribution of this plant, it is possible that each tribe separately discovered its medicinal and hallucinogenic properties (Schultes & Hofmann, 2000). The Kiowas and Comanches were the first tribes in the United States to know about the peyote, after they visited the northern tribes in Mexico. They then linked peyote rituals to religious activities, creating the legal religious group named the Native American Church, which had a total of 13,300 members in 1922. By the end of the 1990s, it is said that approximately 250,000 people had joined this church (Schultes & Hofmann, 2000).

PHARMACOLOGY OF PEYOTE

In 1888, the German pharmacologist Louis Lewin published the first paper with information on the chemistry of peyote. Peyote contains several alkaloids, the most important being mescaline, which produces effects similar to LSD and psilocybin. Mescaline was first identified as an hallucinogenic substance by the German pharmacologist Arthur Heffter (Anderson, 1996). Many other scientists became interested in the discovery of other compounds in peyote, and by the end of the nineteenth century, six alkaloids had been isolated from peyote (Anderson, 1996). Today, more than 55 alkaloids and related compounds have been identified, but their effects on animals or humans have rarely been studied. The alkaloids that have been studied and described for their physiological actions are mescaline, lophophorine, anhalodine, anhalonidine, anhalonine, hordenine, and pellotine (Anderson, 1996). Peyote compounds are considered to be psychedelic substances and may have potential uses in psychotherapy (Cruz-Ramírez, Valdez-Morales, Chacón-López,

Rosas-Cárdenas, & Cruz-Hernández, 2006). Mescaline acts directly on the central nervous system, causing visual hallucinations, although one can also experience tactile, olfactory, and auditory hallucinations. Mescaline was used extensively in some psychiatric research during the 1960s, mainly in two different kinds of therapy: small-dose therapy, where the effects of the mescaline were experienced through mainly visual alterations, and higher-dose techniques referred to as “psychedelic therapy,” which produced a powerful state of ecstasy. Medical opinions concerning the success of the use of peyote in therapeutic treatment vary widely and are often contradictory; for this reason, along with the fact that peyote has always been considered a controversial plant, it is no longer contemplated as a medical treatment (Anderson, 1996). Despite some important preliminary results, further study is necessary to understand and make use of *Lophophora williamsii*'s biomedical and biotechnological potentials (Cruz-Ramírez et al., 2006).

Aragane et al. (2011) found that there are peyote plants containing no mescaline. Peyote plants that do contain mescaline have small protuberances, and the stem color is bluish-green; the specimens containing no mescaline have large protuberances, and the stem color turns from yellowish-green to green tinged with gray. Kalam et al. (2013) conducted a phytochemical analytical study to address the question of whether the mescaline concentration in peyote is dependent on the maturity and/or size of the plant. These authors found that the small crowns that develop in response to harvesting contain a lower mescaline concentration—about half as much—compared to that of crowns of mature plants that are not harvested in the same population. The deficiency in the mescaline concentration of these regrowth buttons (new crowns) aggravates the problem of overharvesting, because the small size of the crowns increases the number of buttons that must be used to obtain an efficient dose.

THE ECOLOGY OF PEYOTE

Peyote primarily inhabits the Chihuahuan Desert, which comprises a warm-temperate desert biome (Anderson, 1996) that shows great variation in topography and vegetation. The soils of the Chihuahuan Desert are predominantly limestone, have a basic pH from 7.9 to 8.3, and are characterized as having more than 150 parts per million of calcium. Peyote occurs primarily in one vast region of xerophyllous scrubland (Rzedowski, 1965) that contains two vegetation subtypes called the “microphyllous desert scrub,” with shrubs having small leaves or leaflets such as *Larrea tridentata*, *Prosopis juliflora*, and *Flourensia cernua*, and the “rosettophyllous desert scrub,” with many plants bearing leaf rosettes such as *Agave lechuguilla* and *Yucca* spp.

The vegetation of arid and semiarid regions of the world is composed of a spatial mosaic of perennial plants, below which the establishment and growth

of many species occurs in a nonrandom manner (Cody, 1993). In xeric habitats, the establishment and growth period of seedlings of a great number of desert succulents occurs under unpredictable conditions of precipitation and in microhabitats provided by the canopy of other perennial plant species, a well-documented phenomenon known as “nurse-effect” or “nurse protégé” (Flores & Jurado, 2003; Jordan & Nobel, 1979; Turner, Alcorn, Olin, & Booth, 1966). The nurse systems create patch-structure communities with different dynamics where open spaces may be colonized by nurse plants and then become gradually colonized by cacti species (McAuliffe, 1998). The nurse plant creates a microclimate adequate for germination and provides protection from excessive sunlight and high temperatures, which can reach up to 70°C in the soil and which is lethal for survival. Also, the nurse plant provides protection from predators of seeds and seedlings, and it has been proven that higher nitrogen and nutrient levels under the nurse plant create what is called “fertility islands,” spaces more hospitable for germination and establishment in which the growth and survival rates of seedlings will be more likely to increase (Franco & Nobel, 1989; García-Moya & McKell, 1970). Many studies report a high percentage of cacti associated with a nurse plant (Turner et al., 1966; Valiente-Banuet et al., 1991; Zúñiga et al., 2005), and peyote plants are no exception. It has been demonstrated that peyote plants grow beneath the canopies of nurse plants, so as a consequence, they exhibit a clumped distribution pattern in association with shrubs and trees. Nurse plants provide peyote seeds an adequate microclimate for germination that, together with precipitation, allows for the establishment of new individuals (Turner et al., 1966). This commonly occurs in other globose cacti such as *Mammillaria mathildae* (Hernández-Oria et al., 2003) and *M. gaumeri* (Leirana-Alcocer & Parra-Tabla, 1999). Other studies have demonstrated that peyote plants are preferentially established below shrubs such as *Larrea tridentata*, the most common nurse shrub (García-Naranjo & Mandujano, 2010; Montero-Anaya & García-Rubio, 2010), possibly because *Larrea* is a dominating element in the Chihuahuan Desert. Also, Sánchez-Salas, Muro-Pérez, Estrada-Castillón, García-Aranda, and Alba-Avila (2011) report *Agave lechuguilla* as the main nurse plant of peyote in the state of Coahuila, and Islas-Huitrón (1999) and Montero-Anaya and García-Rubio (2010) found peyote plants under *Opuntia leptocaulis* in populations in the state of San Luis Potosí.

Peyote reproduces sexually or asexually. Peyote is easily propagated vegetatively. Vegetative propagation (asexual reproduction) promotes a caespitose growth, due to the development of adventitious shoots that arise from the stem base as a response to mechanical injury resulting from cutting done to the head of the plant, though the cutting must be done carefully to ensure the appearance of new shoots (Terry & Mauseth, 2006).

With respect to sexual reproduction by means of seeds, studies concerning germination are scarce and show varying results. Some studies show low germination percentages, while others show high germination percentages. Islas-Huitrón (1999) reports low germination percentages (4–16%) in seeds of different ages. In contrast, Trujillo-Hernández (2002) reports a germination percentage of 26.6% under light conditions, and Rojas-Aréchiga, Mandujano, and Golubov (2013) report a germination percentage of 60% under light conditions and nil germination under dark conditions, meaning that seeds cannot germinate if they remain buried in the soil, because seed size and the amount of seed reserves are insufficient to make the new seedling emerge successfully below the soil.

PEYOTE POPULATIONS

Human activities, such as habitat perturbation and agricultural practices, have diminished natural distribution of this cactus through time. Severe harvesting has led to populations with low densities and plants with smaller size, which reduces the possibilities of sexual reproduction and leads to a loss in genetic variability. As already mentioned, cacti species possess some biological characteristics that cause them to be more vulnerable to perturbation effects such as low growth rates and low levels of establishment, making population reestablishment a slow process after a perturbation event (Isla-Huitrón, 1999).

Despite their great importance, there are few ecological studies concerning the populations of *Lophophora williamsii*. Most studies have focused on the ethnobotany and pharmacology of this species. Although this species has a wide distribution, demographic studies basically rely on populations from San Luis Potosí and Coahuila.

Anderson (1996) said that peyote populations, besides being wide ranging geographically speaking, are highly variable in topography, appearance, and means of reproduction. As stated before, peyote plants are commonly found growing under shrubs; however, they are sometimes also found in open spaces. In the state of San Luis Potosí, peyote sometimes grows in silty mud flats that, during the rainy season, may become temporal shallow freshwater lakes. One can also find peyote growing on steep limestone cliffs in West Texas (Anderson, 1996).

The Wixarika or Huichol people consider the Área Natural Sagrada Protegida de Wirikuta (ANSPW), or the Natural Protected Area of Wirikuta, at Real de Catorce, San Luis Potosí, Mexico, to be the sacred site where the world was created, where the gods live, and where life cycles are renewed to perpetuate the world. Wirikuta is protected because it is a unique spot in terms of its natural richness and also as a spiritual education site in

support of an ancient indigenous culture (Secretaría de Ecología y Gestión Ambiental, 2008). Within this area, *Lophophora williamsii* has a clumped distribution, no matter its degree of disturbance (Isla-Huitrón, 1999). Montero-Anaya and García-Rubio (2010) worked in three different sites within this area to study peyote distribution patterns. In one area, no signs of plant cutting for ceremonial practices were detected; the second area is exposed to cattle and vehicle transit, though no signs of plant extraction were detected; and the third area, also exposed to vehicle transit, showed clear signs of an unknown number of collected specimens of peyote. Following a Spatial Analysis by Distance Indices (SADIE) in these three areas, it can be seen that the peyote populations are highly fragmented; therefore, the continuous extraction of adult plants can lead to a significant deterioration of the populations in a short period of time. In this study, it was demonstrated that within the patches of higher disturbance, there is a clear distinction between clearings and patches, which are both heterogeneously distributed; this suggests a fragmentation of peyote populations on a local scale that is more severe when the disturbance is caused mainly by plant harvesting. Studies on pattern distribution of species can allow us to understand the factors that determine the presence or absence of species in particular areas. Spatial distribution of a plant is determined by a great number of abiotic and biotic factors, such as dispersal, competition, temperature, light, and humidity, among others. These kinds of studies can be used together with demographic studies to detect changes in the ecosystem's functioning and are important elements to take into consideration when working in conservation planning.

In several areas of South Texas, the size and density of peyote populations have decreased significantly, due mainly to excessive harvest by the licensed peyote distributors for ceremonial use by the Native American Church. Also, a major problem in South Texas is the destruction of natural vegetation by root-plows to ensure the growth of grass for grazing (Anderson, 1996). Apart from the fact of habitat disturbance, another problem lies in the way harvesters cut the plants. If the cutting is made too low on the subterranean stem or taproot, it impedes the regeneration of new stems, resulting finally in the death of the decapitated plants (Terry & Mauseth, 2006). It is known that in several different areas of northern Mexico and Texas, peyote plants grow with many heads, due to their constant harvest, altering the growth forms and influencing clonal growth, leading to a reduction in genetic variability (Anderson, 1969). Monitoring these populations would allow for the determination of their dynamics, structure, and spatial interactions, with the objective to use this knowledge to better understand the reassembly of disturbed communities.

Mexican legislation situates *Lophophora williamsii* under special protection (Secretaría de Medio Ambiente y Recursos Naturales, 2010), meaning this

species could be threatened by factors that negatively influence its viability, so there is an urgent need to foster the recovery and conservation of this species. Also, like all the cactus family, this species is included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1990), although there is no information about the present status of most populations. CITES is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. This convention has three appendices consisting of lists of species afforded different levels or types of protection; the species listed in Appendix I are the most endangered.

CONSERVATION

Most cacti have restricted geographic distributions and long life cycles, from decades to even hundreds of years. Throughout their life cycles, the different stages, like the seed and seedling, juvenile, mature, and senile plants, are exposed to different factors that may cause mortality, and are mainly related to exposition to high irradiation levels, water stress, and biotic interactions like predation and competition (Valiente-Banuet & Godínez-Alvarez, 2002). These factors, together with some ecological traits such as low levels of establishment by seeds and slow rates of individual growth, make them vulnerable to environmental disturbance (Godínez-Alvarez, Valverde, & Ortega-Baes, 2003; Hernández & Godínez-Alvarez, 1994). Also, anthropogenic activities, such as illegal collection, international trade, and habitat perturbation due to ranching and agricultural practices (Boyle & Anderson, 2002; Hunt, 1999; Oldfield, 1997), are threatening factors. For many cacti, habitat perturbation is the main cause of depletion of populations, but for natural populations of peyote, one of the main threats is the overcollection of specimens for personal consumption and ceremonies. The effects of intensive harvesting of this plant have been noted in several studies (Anderson, 1969; Terry & Mauseth, 2006; Terry & Trout, 2013; Terry, Trout, Williams, Herrera, & Fowler, 2011, 2012).

Although Mexico and the United States have laws that prohibit the harvesting or possession of peyote, with the exception of licensed “peyoteros” from the United States (Anderson, 1996), illegal collection continues in both countries. Despite the great ethnobotanical and ecological importance of this species, there are few efforts committed to the protection of it. Today, there is a government program of environmental services conservation by the National Forest Commission (CONAFOR) that gives funding for biodiversity conservation in the Ejido Noria de los Cedros in Vanegas, San Luis Potosí. The protected area covers 1,537 ha and includes peyote and many other cacti. The economic support for this program started in 2012 and will continue for

5 years. A study done at Wirikuta in San Luis Potosí emphasized that overcollection, illegal extraction, changes in land use, absence of legal peyote regulation, and lack of population studies are the main threats within this area (Secretaría de Ecología y Gestión Ambiental, 2008).

Because of the mystic importance of Real de Catorce in the state of San Luis Potosí, the Huicholes collect their specimens only from this site, despite its distribution in many other locations. Here, plant harvesting has increased in the last 40 years, diminishing the number of individual peyote in natural populations. It is necessary and crucial for the perpetuation of the species to diminish illegal collection; consumption must be limited to medicinal, spiritual, and religious purposes, mainly by the ethnic groups whose consumption is part of their cultural and traditional customs, but also by those with a justified medicinal purpose for its healing properties for several illnesses. The Huicholes and Tarahumaras in Mexico have used peyote for many generations (Anderson, 2001). In light of the alarming rate of decimation of wild peyote populations, alternative sources of peyote for human use are urgently required. Cultivation is the most obvious and the most readily achievable means of alternative production of peyote (Terry & Trout, 2013). Unless the legal production of peyote in nurseries for medicinal, recreational, and ornamental purposes is allowed, the prohibited uses of this natural resource will remain penalized (Nájera-Quezada, Jaime-Hernández, López-Martínez, & Neri-Cardona, 2013). Unfortunately, many of the species now commercially available as artificially propagated plants in foreign markets are descendants of seeds or live plants that were illegally exported from Mexico by private collectors. Illegal trade continues to threaten many cactus species of limited distribution and conservation in the Chihuahuan Desert of Mexico, as is evident from the number of seizures involving several endemic taxa, including *Lophophora williamsii* (Bárcenas-Luna, 2003).

With respect to seizures, between 1996 and 2000, more than 8,000 cactus specimens (including peyote) were seized by the authorities in Mexico and the Netherlands, the latter country being a significant commercial producer and consumer of horticultural material. An additional 1,180 cactus specimens were seized at U.S. ports from travelers returning to or passing through the United States. Of those specimens, 321 (27%) were most likely species from the Chihuahuan Desert ecoregion. More than 900 live cactus plants of Mexican origin were reportedly seized in the Netherlands in 2000, surpassing the combined reported seizures in the Mexican states of San Luis Potosí, Guanajuato, Querétaro, Hidalgo, Oaxaca, Baja California Sur, Estado de México, Baja California, and Guerrero (Bárcenas-Luna, 2003).

Given the volume of plant material seized and the persistent pressure and demand on wild populations, *Lophophora williamsii* is a species for which conservation concerns are justified. Native Americans use peyote in religious

ceremonies in Mexico and the United States, where its collection, commerce, and consumption are strictly regulated. Peyote's reputation as a natural hallucinogen may contribute to the illegal collection of wild plants, as is evident from the seizure of 921 kg in Mexico between 1996 and 2000 (Bárcenas-Luna, 2003). There is no literature about cactus seized before 2000; however, we obtained information on the amount and number (more than 400 kg and almost 2,700 specimens) and location of peyote seizures within Mexico (mostly in San Luis Potosí) for more recent years, during the period 2009–2014 (see Table 2.1). The reported number of seized specimens (or kilograms of peyote) is based on reports of preliminary research from the Mexican Government as well as on newspapers on the Internet, and is probably lower than the real number of seizures made throughout Mexico.

As with ecological studies, propagation studies linked to conservation programs are lacking. We think conservation programs are urgently needed to diminish the factors that cause a decrease in the number of wild plants in the natural populations. A complete conservation program to protect peyote should take into account the implementation of several mechanisms. In situ mechanisms should provide for the implementation of natural protected areas within the most deteriorated populations. To decide which areas need to be protected, thorough demographic research has to be conducted to obtain information about population dynamics. Demographic studies on populations can allow us to determine if the population is growing, decreasing, or stable. This is very important when trying to identify factors that are negatively influencing the population structure, in determining the conservation status of a population, and defining conservation strategies. Presently, some populations in the state of San Luis Potosí are located inside the ANSPW, but a conservation strategy has not been developed for this protected area. Terry and Mauseth (2006), as stated before, demonstrated that the technique used in the harvest of peyote plants can have a substantial impact on the observed decline—or the potential recovery—of peyote populations in South Texas. By describing the morphological and anatomical differences between the subterranean stem and the root, these authors illustrate the correct method to cut off the peyote crowns. The proper technique consists of cutting the crown (i.e., the aerial portion of the stem) immediately below its base, leaving the subterranean portion of the plant in the ground to regenerate one or more new crowns.

Terry et al. (2011) found that the annual number of crowns being harvested has not drastically decreased, due to the increased number of crowns produced as regrowth in response to harvesting. However, the average size of the crowns on the regulated peyote market has decreased markedly due to harvesting of immature regrowth crowns. The conclusion of conservation management is that reducing the frequency of harvesting wild peyote would

TABLE 2.1 Peyote Seized by the Authorities in Mexico from September 2009 to May 2014

Date	Pieces	Amount (in kg)	Place	Reference
2009, Sep. 6	6	0.95	Unknown	Nájera-Quezada et al. (2013)
2010, no date	27	Unknown	Unknown	Nájera-Quezada et al. (2013)
2010, Feb. 3	520	48.00	Unknown	Nájera-Quezada et al. (2013)
2010, Jan. 1	900	28.00	Real de Catorce, SLP	Decomisan peyote a 5 turistas (2010)
2010, Nov. 27		2.10	Carretera Federal 2, km 250.8, Son.	Decomisan federales 2.1 kilos de peyote molido en Sonoyta (2010)
2011, Aug. 1		0.875	Unknown	Nájera-Quezada et al. (2013)
2011, Aug. 31		19.4	Unknown	Nájera-Quezada et al. (2013)
2011, Dec. 15	139		Guadalcázar, Santa María del Río, and San Luis Potosí, SLP	Incautan aves y 139 cabezas de peyote en SLP (2011)
2011, Oct. 13	225		Estación Catorce, SLP	Caen 8 por contrabando de peyote en San Luis Potosí (2011)
2012, Feb. 5	168	16.62	El Huizache, SLP	Decomisan 168 cabezas de peyote en SL (2012)
2013, Apr. 6		60.00	Matehuala, SLP	Detienen a civiles que transportaban 60 kg de peyote (2013)
2013, Apr. 7		198.00	Charcas, SLP	Aseguran 198 kilos de peyote en Charcas (2013)
2013, Apr. 7		70.00	Charcas, SLP	Decomisan en Charcas 70 kilos de Peyote (2013)
2014, Mar. 18	76	14.00	San Luis Potosí, SLP	Policía Federal decomisa pieles exóticas y peyote en TTP (2014)
2014, Mar. 30	14	1.24	Carretera Federal 40, Sin.	Detienen en operativo a tres que llevaban peyote (2014)
2014, May 12	543		San Luis Potosí, SLP	Detienen a sujetos que trafan peyote (2014)
Total	2637.4	439.785		

allow regrowth crowns to mature in size, thus reducing the number of crowns per dose required for sacramental consumption. It would also allow regrowth crowns to mature sexually, which would effectively enhance the production of seed for the next generation (Terry et al., 2011).

In these populations, it is urgent to develop a conservation program that takes into account restoration management and establishes a propagation program that includes the native populations. Information on seed propagation by each type of seed is important in restoration ecology and plant reintroduction programs. Such programs often depend on an initial propagation step in the laboratory, so knowledge about seed germination requirements is crucial.

Propagation by seed is a very slow process; it takes a lot of patience to grow peyote from seed, as it may take more than 5 years to obtain a plant of approximately 20 mm (Anderson, 1996). Propagation in this manner would not be enough to satisfy the international demand for plants, though it may still be necessary for genetic diversity. Under natural conditions, seeds are subject to many risk factors, such as low levels of moisture and predation by animals, so the survival percentage is commonly low. However, propagation by seed can be accomplished under laboratory conditions, or under a shadow house, both of which allow for a higher germination percentage and higher levels of establishment, because germination requirements such as temperature, light, and humidity can be artificially controlled. This makes seed propagation an easy and viable method for propagation of this species; although slow, it is the only way to preserve genetic diversity, a feature that is very important in coping with future environmental changes and plagues.

Once seeds are collected from mature fruits, from March to September, they can be kept in paper bags under ambient temperature; in that way, they can keep their viability for at least 2 years (Rojas-Aréchiga, 2012). Under natural conditions, germination occurs during spring and summer, when precipitation events may take place and when temperatures are above 25°C. Following results for some germination studies, *Lophophora williamsii* seeds are quiescent, which means they do not exhibit any dormancy mechanism and are able to germinate in adequate conditions of light, temperature, and humidity (Rojas-Aréchiga, Mandujano, & Golubov, 2013; Trujillo-Hernández, 2002). Another factor that plays a major role in peyote seed propagation is the soil condition. In order to facilitate their germination and growth, the seeds generally need to be placed in soil that is well aerated and that allows for good drainage. Furthermore, the soil usually needs a certain amount of moisture, and peyote plants grow better in limestone soils. (Propagation methods are beyond the scope of this chapter; for detailed instructions on propagation techniques for *Lophophora williamsii*, see Neocultivos, 2006, and Hernández Ortiz, 2008.)

Once germination has occurred, young plants (preferably at least 1 year old) can be reintroduced to their site of origin, preferably during spring or beginning of summer. The reintroduction of species to its natural habitat is a way to preserve threatened populations and allow the evolutionary processes to continue.

Another way of propagation is by means of in vitro culture. This technique has been used extensively for many cacti species. Although it is an expensive method that requires aseptic and controlled conditions in a laboratory, it represents another method that can be used in a conservation program. There is only one study about in vitro propagation of peyote, and it gave positive results (Ortiz-Montiel & Alcántara-García, 1997), though further research is needed on new and different culture media and plant hormones. Malda, Suzán, and Backhaus (1999) mentioned that in vitro culture conditions may stimulate growth rates in cacti by modifying their CO₂ fixation pattern; in this way, it will be possible to obtain plants twice as large as those obtained by seeds in the same time period.

CONCLUSIONS

Peyote has always been, and will continue to be, a controversial plant. It is one of the most extensively studied New World plants and has been subject to considerable ethnobotanical, medical, and pharmacological research. This cactus, like all members of Cactaceae family, shows slow growth rates and low levels of establishment that make it vulnerable to habitat perturbation. Ecological research on this cactus is scarce, although the number of individuals in wild populations has decreased significantly.

In agreement with some considerations exposed in a management plan for Huichol areas (Secretaría de Ecología y Gestión Ambiental, 2008) to solve the problem of decreasing peyote populations, ecological research, such as demographic studies, must first be conducted in all areas, prioritizing the most threatened populations. Then, it is necessary to determine the exploitation rate of peyote plants, according to the needs of indigenous tribes for their ceremonial practices, and to put into practice a program that considers sustainable use and management, with continuous monitoring and training, including a market study. Finally, it will be imperative to establish reforestation programs that take into account the sexual and asexual propagation techniques already mentioned.

Although *Lophophora williamsii* has a wide distribution, the future of many peyote populations is threatened by biological and human-related factors already mentioned and documented in several studies. It is urgent to stimulate efforts toward the conservation of this magical and remarkable cactus that represents an anthropological and biological treasure.

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3

Peyote in the Colonial Imagination

Alexander Dawson

It is like a Rorschach test. When I say “peyote,” my colleagues, interviewees, and friends immediately conjure up a limited set of images. “Indians,” they say, the more knowledgeable among them perhaps mentioning Mexico’s Huichols or the Native American Church. Some will add Carlos Castaneda, with the caveat that he was a wannabe Indian or a charlatan. (Did I know that Don Juan was a fiction of his imagination?) Others mention the movie *Altered States*, hippies, or Dennis Hopper and Peter Fonda, noting that all took peyote with Indian guides and embraced some form of indigeneity (generally presumed as racist) during their trips. Peyote, in these iterations, is inextricably linked to indigeneity and is a marker of a variety of things: of backwardness, of orientalist spirituality, or of holistic healing (alternative medicine) rooted in the indigenous experience.

So powerful is the link that one might be tempted to assume that it has always been this way, that peyote equals indigeneity because this connection is natural. The problem with this assumption is that it is based on a further assumption: that indigeneity is a natural condition, that indigenous peoples are somehow inherently different than others, and that peyote, like other markers of indigeneity, has had stable historical meanings, rather than meanings that have been contested and produced over time. This is not the case. When we explore peyote’s history, we do indeed see concerted efforts by a variety of authorities to impose and police the meanings that peyote has acquired over time, but we also see a great deal of contestation, a great deal of instability in the meanings attributed to this diminutive cactus. Just as colonial and modern states have endeavored, time and again, to mark the cactus with indigenous alterity, a host of other actors, from indigenous peoples themselves to members of the social elites, have undermined these designations. In this chapter, I will suggest that it is important to understand how

peyote could be embraced within a diversity of traditions in the colonial period, in part because each tradition was open to the idea of the magical and mystical qualities of the plant, even as the colonial state endeavored to use the cactus to police the boundaries between the Indian (illicit, diabolic, disorderly, irrational) and the *gente de razón* (literally, “people of reason”: orderly, Catholic, rational subjects).

I focus here on a series of texts from Mexico’s colonial period, chosen because they underscore processes whereby the state invested peyote with specific meanings over time. I divide the texts into roughly four categories. The first are informed by curiosity and some uncertainty about peyote. The second and third revolve around the definition, enforcement, and contestation of religious norms through the Spanish Inquisition. The fourth describes the forcible extension of colonial rule through campaigns to extirpate idolatry among the Huichols. Produced in different places and times, these texts reveal the gradual consolidation of a series of meanings surrounding peyote. They also, however, reveal the instability of those meanings and, in particular, the difficulties that a weak colonial state confronted in its efforts to police the boundaries between Indians, Castas,¹ and Spaniards.

DISCOVERY

We are presented with a series of significant challenges when we attempt to understand the ways that early Europeans in the Americas made sense of the wonders they encountered in the New World. The soldiers, early royal officials, and Catholic missionaries who arrived in the early decades of the sixteenth century needed to make sense of the things they encountered in this previously unknown region through their preconceived understandings of the world. Looking on these new lands, they found some wonders that they desired to possess, some sure signs of inferiority, and, almost everywhere, the presence of the Devil (Earle, 2010; Greenblatt, 1991; Gruzinski, 2001). And yet they also found a wealth of commodities; not just the gold and silver that they needed to fuel their trade with Asia but also a series of previously unknown comestibles like maize, potatoes, chocolate, and tobacco, substances that promised any number of things to the newly arrived Europeans. Powerful and, in some cases, intoxicating, these substances might be food, but might also be useful medicines within a pharmacopeia that was still very much medieval.

Peyote appears among the wonders that Europeans encountered in the sixteenth century, though its presence in the record is fragmentary and more than a little ambiguous. Fray Bernardino de Sahagún was probably the first to describe the cactus in his *Historia General de las cosas de Nueva España* (ca. 1540).

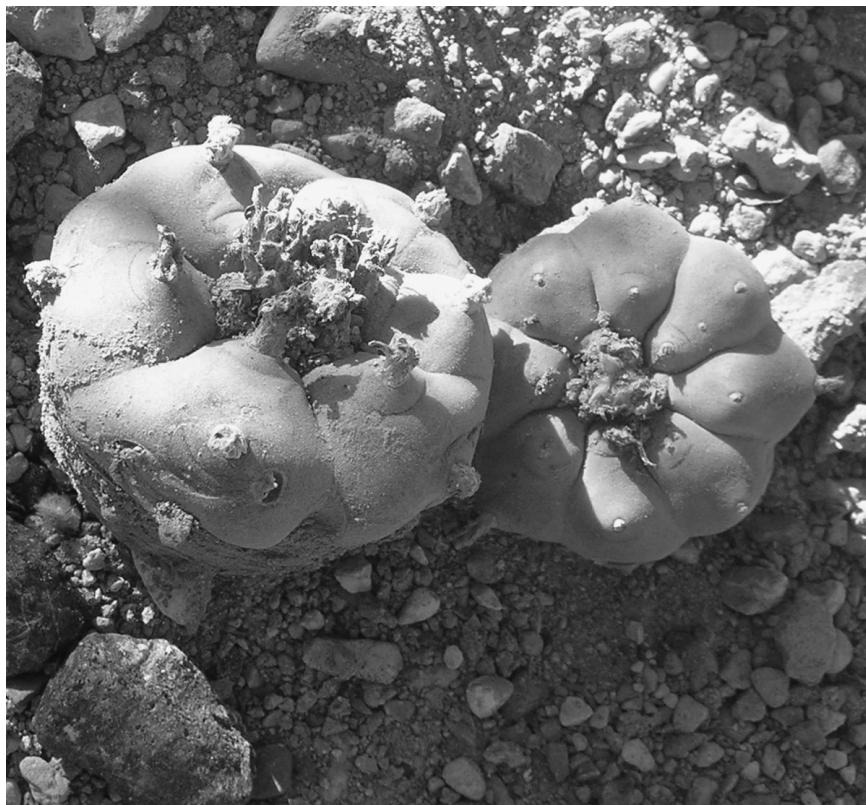


Photo 3.1 Peyote in San Luis Potosí, Mexico. (Beatriz Caiuby Labate.)

There is another herb, like tunas of the land, called peyotl; is white, it grows in the north. Those who eat or drink it see frightful visions, or laugh uncontrollably; their drunken binge lasts three days, and then is over. It's like a food of the Chichimeca, it provides and maintains the courage to fight and not be afraid. Neither do they suffer thirst or hunger (after taking it), and they say it protects them from danger. (Sahagún, 1969, p. 292)

Elsewhere, Sahagún compared peyote to wine, offering the possibility that peyote was either a sacramental object or another commodity, albeit a powerful one, that Europeans might possess and make their own (as they did with tobacco and chocolate, both of which also seemed magical).²

Though Sahagún's mention of peyote is impossibly brief, it is possible to read the absence of a reference to the Devil in this text as the suggestion that peyote might be useful and benign. Just a few years later, an indigenous doctor at Tlatelolco named Martín de la Cruz made this claim explicit in his book

Libellus de medicinalibus Indorum herbism quenduidam India Collegii Sancte Crusing medicus (1552), advocating the use of indigenous *yerbas* (“grasses” or “herbs,” a category that generally included peyote) as powerful healing tools. De la Cruz mixed European and indigenous medicine seamlessly, arguing that these *yerbas* contained both magical and, more specifically, therapeutic properties. They could counteract spells, but they also worked as purgatives, or as treatments for the humors (Aguirre Beltrán, 1963).

If de la Cruz offered one sort of hope, it also seems that peyote was always at risk of being swept up in the European search for the Devil in the New World. Mesoamericans had a complex view of good and evil, with many of their deities containing elements of both, but where indigenous Americans saw complexity and ambiguity, Europeans saw the Demon. Some believed the Devil was physically present in the New World, while others simply believed that the Devil exerted his influence indirectly, tricking Mesoamericans into believing they were consorting with the actual Devil when they were merely surrounded by the remnants of his evil deeds, left behind in the flora, fauna, and cultures of the New World. Given its capacity to produce visions and its long use in divination, peyote made an easy target for those who saw diabolism in the land.

Once a writer had concluded peyote was diabolic, it did not matter so much whether the Devil was actually present or if the cactus was something he had left in the New World to steer indigenous peoples away from God. Even most of those who believed it had powerful medicinal properties, including the sixteenth-century botanist Francisco Hernández (1943), feared that the plant was at heart the work of the Demon. In his *Historia de las Plantas de Nueva España* (ca. 1577), he offered the following description:

The root is of nearly medium size, sending forth no branches nor leaves above ground, but with a certain wooliness adhering to it on account of which it could not be aptly figured by me. Both men and women are said to be harmed by it. It appears to be of a sweetish taste and moderately hot. Ground up and applied to painful joints it is said to give relief. Wonderful properties are attributed to this root (if any faith can be given to what is commonly said among them at this point). It causes those devouring it to be able to foresee and to predict things; such, for instance, as whether on the following day the enemy will make an attack upon them; or whether the weather will continue favorable; or to discern who has stolen from them some utensils or anything else; and other things of like nature which the Chichimecas really believe they have found out. On which account this root scarcely issues forth but conceals itself in the ground, as if it did not wish to harm those who discover it and eat it. (Safford, 1916, p. 401)

Writing a little later (ca. 1591), Juan de Cárdenas listed peyote among several fantastic *yerbas* in his taxonomy of the New World. Cárdenas believed that the *yerbas* had real and substantial effects, some of which included treating problems with the four humors. They had the capacity to “purge ill humor, provoke urination, cause sweat, accelerate menstruation, heal wounds.” They could “give good color to the face, strengthen the senses, increase milk,” and reduce hunger (Cárdenas, 1945, p. 4). Nonetheless, Cárdenas also saw a deeply diabolic side to a series of substances, including peyote, and was particularly alarmed at their use among Indians, Blacks, and those he called “foolish and stupid people.” Peyote allowed those who took it to lose their inhibitions, caused them to see demons and to believe that they could speak with the Devil, and divine the future. Whether or not they actually could do these things, Cárdenas considered the simple fact that they believed that peyote allowed them to speak to the Devil or divine the future to be proof positive that it was the “work of the Devil” (Cárdenas, 1945, p. 246).

Though it is unwise to draw conclusions about shifting attitudes toward peyote from such a scattered series of references as we find among sixteenth-century writers, it seems significant that the real question that seemed to confront those at the end of the sixteenth and into the seventeenth century was not so much whether peyote was to be licit or illicit, but whether peyote was a sign that the Devil actually walked the earth of the New World. If it was a sign of the latter—that is, that the Devil was truly present in the visions—peyotism was a more serious crime (heresy) than if the Devil was simply working through peyote to produce false visions (in which case it would be better described as superstition). We see this concern in Hernando Ruiz de Alarcón’s *Tratado de las supersticiones y costumbres gentílicas que hoy viven entre los indios naturales de esta Nueva España* (1892[1629]), which noted that, while peyote was a cure for illness in Indian communities, it was more important as an object of veneration, often hidden, like the *huacas* in Peru (Ruiz de Alarcón, 1892). Ruiz de Alarcón focused particularly on the divinatory powers of peyote (and its analogue ololiuhqui, a species of morning glory, which also goes by the scientific name *Rivea corymbosa*), its power as a truth serum, and its use in summoning the Devil. As for the latter, while Ruiz de Alarcón did not think that peyote could be used to summon the Devil in the strictest sense (he believed it produced an illusion of speaking with the Devil rather than the Devil himself and was ultimately a sign of the susceptibility of the Indians to superstition rather than an indication that they were willful heretics), he nonetheless believed that the Devil had created the cactus to give Indians the illusion that he spoke to them directly (Ruiz de Alarcón, 1892). Moreover, because of the diabolical origins of the cactus, the information communicated through peyote could be said to have come from the

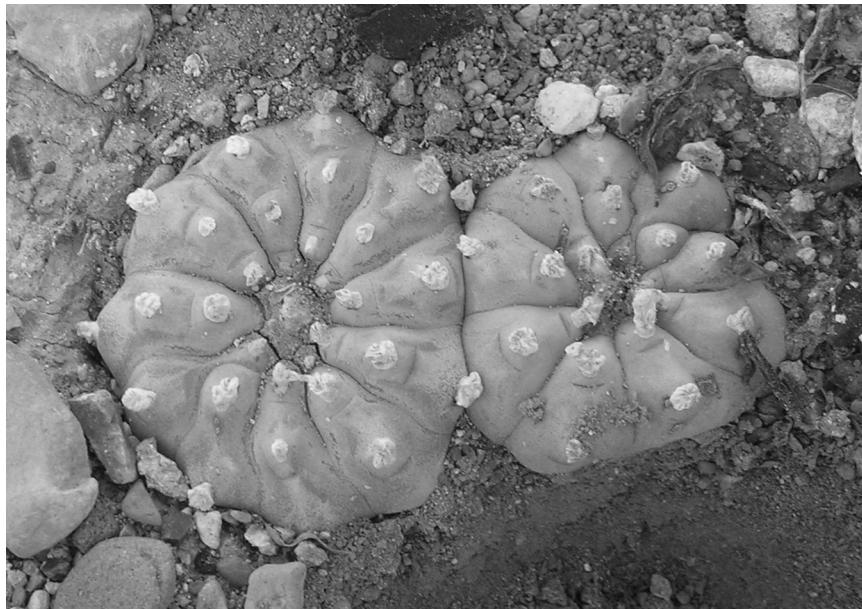


Photo 3.2 Peyote in San Luis Potosí, Mexico. (Beatriz Caiuby Labate.)

Devil, whether or not those who took peyote realized that the Devil was their interlocutor (Ruiz de Alarcón, 1984).

ENTER THE INQUISITION

Like Sahagún, Ruiz de Alarcón described a substance that, even if diabolic, principally spoke to the need for a more concerted effort at evangelization among the Indians. In Cárdenas, however, the “foolish and stupid people” represented a much larger category and were in particular a sign that peyote use had spread from an identifiably indigenous other into a much larger colonial underclass. Within a few decades of the conquest, Church and Inquisition officials began noting with some alarm the fact that erstwhile Christians in the colonies seemed to be summoning the Devil with peyote (some intentionally, and others by accident) (e.g., Archivo General de la Nación-Ramo Inquisición [hereafter AGN-I], Vol. 5, exp. 14, 1566; AGN-I, Vol. 39, exp. 4, 1570) and concluded that this slide into heresy had to be stopped. While the Inquisition lacked legal standing to go after indigenous peyotists because Indians occupied a distinct legal category in colonial Mexico that placed them beyond its authority (as potential Christians and legal “children,” they could not be held legally accountable for crimes like heresy, which required the capacity to knowingly violate religious law), it could

undertake significant steps to curb the use of peyote among the Blacks, Castas, and Europeans in the colony.

Though formally charged with ferreting out heresy, witchcraft, bigamy, simony, perjury, blasphemy, and other similar crimes, along with caring for the moral well-being of the community of Christians, the Inquisition played a critical role in constituting the caste and other categories that organized Spanish rule in the Americas (see Lewis, 2003; Silverblatt, 2004). A prime example of this practice came with its decision to ban peyote in 1620. The text of the edict reads:

Inasmuch as the use of the herb or root called Peyote has been introduced into these Provinces for the purpose of detecting thefts, of divining other happenings, and of foretelling future events, it is an act of superstition condemned as opposed to the purity and integrity of our Holy Catholic Faith. This is certain because neither the said herb or any other can possess the virtue or inherent quality of producing the effects claimed, nor can any cause the mental images, fantasies and hallucinations on which the above stated divinations are based. In these latter are plainly perceived the suggestion and intervention of the Devil, the real author of this vice, who first avails himself of the natural credulity of the Indians and their tendency to idolatry, and later strikes down many other persons too little disposed to fear God and of very little faith. Because of these efforts the said abuse has increased in strength and is indulged in with the frequency observed. As our duty imposes upon us the obligation to put a stop to this vice and to repair the harm and grave offense to God our Lord resulting from this practice, we, after consultation and conference with learned and right-minded persons, have decreed . . . that henceforth no person of whatever rank or social condition can or may make use of the said herb, Peyote, nor of any other kind under any name or appearance for the same or similar purposes, nor shall he make the Indians or any other person take them, with the further warning that disobedience to these decrees shall cause us, in addition to the penalties and condemnation above stated, to take action against such disobedient and recalcitrant persons as we would against those suspected of heresy to our Holy Catholic Faith.

Inasmuch as the said vice has been so widely introduced and practiced up to the present, as is well known, and as our intention is both to ban it, and to remedy this evil hence-forth and to ease the conscience of those who have been guilty, we . . . do hereby grant pardon and remission of all past sins in the said vice up to the day of the publication of this our edict and ban; and we confer upon any confessor whatsoever, whether of the secular or the regular clergy duly approved by his

Superior, the right and power to absolve from the said sin any person who may have committed it up to now, but with the proviso that this absolution shall not be extended to the future, nor [apply] to other misdeeds, abuses, sorcery and acts of superstition enumerated in the General Edict of the Faith. (Edict of the Holy Office, AGN-I, Vol. 333, exp. 35, 1630; Leonard, 1942, pp. 324–326)

The edict, along with the 80 or so trials that followed during the next 200 years, represents an ideal opportunity for us to consider the particular role that peyote played in the Inquisition’s “mania for order” (Lewis, 2003, p. 36). Henceforth, peyote use would represent a series of crimes, with varying degrees of seriousness. One could be punished for even mentioning the diabolic root (e.g., AGN-I, Vol. 366, exp. 27, 1629; AGN-I, Vol. 912, exp. 29, 1742).

The specific mention of Indians in the edict—“the Devil, the real author of this vice, who first avails himself of the natural credulity of the Indians and their tendency to idolatry, and later strikes down many other persons too little disposed to fear God and of very little faith”—spoke directly to the Inquisitors’ fear of contagion: the transmission of indigenous things into nonindigenous realms (Alberro, 1992). In this construction, peyote acted as the prototypical taboo. It was a signifier, as Freud (1989) suggests, of that which is simultaneously sacred and profane, an object that combined the Indian and the Devil in a terrifying manner. Like other taboos, peyote had to be avoided, because simple contact risks contagion and disaster (Douglas, 1966). This was a product of the very structure of the Inquisition, which reinscribed the connection between peyote and indigeneity in part by prosecuting only non-Indians, thereby maintaining a clear line between the licit realm of colonial subjects and the illicit realm where Indians resided and colonial subjects could not go.

And yet the prohibition also acted as a tacit acknowledgment of the syncretic quality of colonial life and of the fact that peyote held an attraction for individuals from across colonial society for myriad reasons. European and African arrivals in the Americas brought with them any number of beliefs that diverged from Catholic orthodoxy and found in peyote and its indigenous purveyors opportunities to adopt new forms of magical thinking that could be easily harnessed to their existing beliefs and practices (e.g., AGN-I, Vol. 1100, exp. 17, 1779). Indeed, the previously unknown substances that Europeans encountered in the New World found easy purchase within communities whose views of the magical power of certain comestibles were not entirely distinct from the magical thinking of Mesoamericans (Aguirre Beltrán, 1963; Alberro, 1992, 1999; Taylor, 2006).

One of the great values of the Inquisitional trials as historical documents lies in their capacity to reveal a series of popular practices taking place outside the law. Inasmuch as Inquisitors tied to fix peyote’s meanings with the 1620

edict, within colonial society peyote's meanings were profoundly slippery. Inquisitional records have the capacity to reveal many of the uses colonial actors found for the cactus as well as to provide insight into the ways that the accused defended themselves. As one might expect, claims of ignorance of the ban or outright denials were fairly common, but so too were detailed explanations that questioned the very logics employed by the Church to ban peyote.

Many uses of peyote were fairly mundane. Confessants before the Inquisition told of taking peyote to find lost or stolen property, to discover secrets, or perhaps to attract a lover. A significant number insisted that they did not know it was forbidden and that their intentions were Christian (e.g., AGN-I, Vol. 341, exp. 4, 1622; AGN-I, Vol. 342.10, March 1622; AGN-I, Vol. 363.13, 1629; AGN-I, Vol. 373, exp. 3, 1633; AGN-I, Vol. 376, exp. 31, 1637; AGN-I, Vol. 419 exp. 24, 1644). Typical was the case of the Mulatto Antonio de Rivera, who was charged in Puebla in 1716. In his testimony in the case, Antonio Mosqueda, a mill owner, sought to "unburden his conscience" by denouncing his 30-year-old servant, a Mestiza named Catarina, who, a year earlier, had taken part in a peyote ceremony with Rivera. Accused of taking peyote for "evil and illicit purposes," Catarina claimed she had not and would never take peyote, and neither would she counsel someone to take it (AGN-I, Vol. 1328, 1716). Nonetheless, she did reveal some knowledge about its use, explaining that it was used to heal illnesses and indicate whether or not the ill would recover, but that it was also used to speak with the Devil for "bad purposes" (AGN-I, Vol. 1328, 1716).

The mixing of the sacred and the profane was a serious crime, but many of those denounced seem to have been unaware that they were doing this when they explained that they were taking peyote to speak with Catholic saints. Petrona Rangel of Valladolid, for example, claimed that she spoke not with the Devil, but the Virgin Mary when she took peyote or gave it as a cure. Accused of being a witch and of *embustera supersticiosa* ("superstitious trickery," or "deceit"), she likely did herself no favors by also telling some of her patients that the Virgin Mary herself had taken peyote (AGN-I, Vol. 668.5, 1684; AGN-I, Vol. 668.6, n.d.; See also AGN-I, Vol. 811, exp. 15, 1725). But she was not alone in this, as Inquisitional records include multiple cases where someone denounced before the court insisted that they took peyote to see the Virgin Mary (AGN-I, Vol. 688. exp. 5, n.d.; AGN-I, Vol. 811, exp. 15, 1725). More broadly, her case speaks to the ways that peyote was articulated to folk Catholicism in the colony. Peyote easily found a place within popular Catholic practice, and over time, the orations and speech around peyote ceremonies in Indian languages gave way to Latin and Spanish, while the ceremonies themselves incorporated elements of the Christian liturgy. Tellingly, peyote took on names like *Santa Rosa*, *Rosa San Nicolas*, and *Santa*

Maria. At various points, peyote stood in for the baby Jesus, the holy Trinity, and the Virgin Mary (AGN-I, Vol. 811, exp. 15, 1725; AGN-I, Vol. 688, exp. 5, n.d.).

The syncretism seen here was similar to folk Catholic practices in many parts of the world, where extant beliefs, practices, and substances fused with the markers of Catholicism to produce unique local cosmologies (see Gruzinski, 1989). These rituals suggest that many peyote users, both fearful of the Inquisition and nominally Catholic, imagined their magical practices within a system of meanings that included the Catholic saints. While Inquisitors viewed this as heresy at worst, and superstition at best, these practices made perfect sense to those living in a world populated by an array of gods and demons (e.g., AGN-I, Vol. 1100, exp. 17, 1779).

Peyote was particularly attractive as a form of magical medicine. In both Europe and Mesoamerica, certain plants were understood in both practical (say, as purgatives, as hot or cold³) and supernatural terms. This view of the flora had a particularly important role in colonial medicine, which was occupied with two causes of illness: the natural and the preternatural. At least in the sixteenth and seventeenth centuries, most colonial doctors seem to have believed in the latter as a genuine cause of illness and often concluded that their ill patients were victims of witchcraft or pacts with the Devil. In fact, it seems that even Spaniards generally placed more faith in orations, saints, relics, and curanderos than in rational science to cure their ills and found some common ground in this regard with their indigenous subjects. Their belief in indigenous medicine was no doubt enhanced by the fact that the treatments provided by indigenous curanderos were often more effective than those proffered by their Spanish counterparts (Aguirre Beltrán, 1963; Alberro, 1992; Lewis, 2003).

We find claims that peyote was good medicine throughout the records of the Inquisition. Some are fairly straightforward, including Fray Martin Vergara's 1631 plea that Inquisition officials allow the medicinal use of the plant (AGN-I, Vol. 486 exp. 77, 31 March 1631). Others are much more complex, as in a 1799 case from Guadalajara, in which a 56-year-old widow named Maria de Frias (her ethnicity is not revealed) was denounced for giving peyote to a priest named Pedro de S. Buena Ventura. She admitted that she knew about peyote, and had possessed it, and that she gave it to Buena Ventura to help him overcome the bad omens that were ailing him. She also claimed that when she gave Ventura the peyote, she was unaware of the ban, and that she no longer possessed any peyote (AGN-I, Vol. 1327, exp. 2, 1799).

As the case drew on, it turned out that several others (a 60-year-old widow Maria de Ansiniéga, 50-year-old Angela, and 42-year-old Isabel Mascarenas) had given peyote both to Buena Ventura and to Manuel Pizarro, an official

at the Audiencia of Guadalajara. All four women claimed ignorance of the edict and threw themselves on the mercy of the court, even as they reminded the Inquisitors that they gave the peyote to Buena Ventura only because he was a priest. Just as important, they insisted that, in spite of the ban, it was nonetheless a valuable purgative, that it was an important “medicine for their ailments,” and that it had long been used in Guadalajara (AGN-I, Vol. 1327, exp. 2, 1799; AGN-I, Vol. 1328, 1716).

The 1769 case against Nicolás Candelaria del Vargas, a Black man from Michoacán, tells a similar story (AGN-I, Vol. 1168, exp. 7, n.d.). Candelaria’s case began in the mining town of Guadalcázar, when Pedro Fermín de León, who otherwise felt healthy, lost consciousness and later awoke to discover that he could not use his arms and legs. Pedro’s wife turned to a local Indian woman named María Magdalena, who offered to heal Pedro with a concoction that included a black chicken, copal incense, and a half measure of an herb called Rosa María. After the treatment, Pedro recovered somewhat, but María insisted that in order for him to recover fully, she needed to bring in Candelaria. Candelaria offered a series of massages and treatments, and brought in a third specialist, an Indian man with a guitar, who played music to which Pedro was expected to dance. Pedro was then massaged while Magdalena and Candelaria prayed to the Virgin of Guadalupe and San Antonio de Padua, and then given him a concoction to drink.

Pedro’s wife told the Inquisitors that he neither knew what the concoction was nor did he drink it, but did report that the curanderos rubbed him with a treatment of herbs, including Rosa María.⁴ Candelaria testified that all three of them ingested the drink, which was a mixture of peyote and Rosa María, and that it “cured him completely.” Pedro was less sanguine, reporting that the treatment caused him to return to his senses and regain his mental capacities, though he indicated that he was left with weakness in one arm.

Accused of being a *curandero supersticioso* (“superstitious curer”), Candelaria was one of a group of individuals (including some Indians) who dispensed cures using copal, peyote, tobacco, and several other substances. The fact that several of the patients treated by Candelaria claimed to have been cured and that Candelaria and the others claimed they were using peyote for purely medicinal purposes, and in the service of god, offered a series of avenues for his defense. First, Candelaria claimed that he never used any of these medicines maliciously, but only in the interest of his patient’s health (“all the medicines were used without malice, in search of good health”), and that his work was never undertaken as a “diabolic art, but only in the name of God and with his help.” He invariably instructed patients to make the sign of the cross and pray to the holy Trinity when taking peyote and other medicines, insisting that god gave special powers to the cactus in curing (the illness was often explained to be the result of a bewitching). These particular practices

clearly left Candelaria open to charges of superstition, though it is very interesting that the Inquisitor assigned to the case did not conclude that Candelaria's cures were either diabolic or ineffective. Indeed, he left open the possibility that peyote (in this case understood as a "cold substance"), when combined with certain other herbs, produced certain clearly medicinal results, including vomiting (AGN-I, Vol. 1168, exp. 7, n.d.).⁵

In a similarly complicated 1729 case from San Pedro Piedra, Michoacán, a 70-year-old Mulatto named Diego Barajas was denounced for being a *curandero supersticioso* and taking peyote (AGN-I, Vol. 826 exp. 8, 1729). In an instance in which medicine and witchcraft were inextricably linked, Barajas was accused of giving Pedro de Santa Cruz, who was sick, peyote as medicine, and of drinking peyote with a Mulatta named Geronimmar. His accusers claimed that he was famous as a *curandero de maleficios* and that his cures involved peyote, guitar playing, and dancing. He was also accused of other forms of witchcraft and identified as someone who could cure spells. Barajas admitted to some of the charges, confessing that in the company of Indians, he had, on many occasions, sung, danced, and used crosses and rosaries, and that at times when he had taken peyote, the Demon had appeared. He insisted, however, that in the incident for which he had been denounced, the Archangel St. Michael, and not the Devil, had appeared over his patient.

Barajas's confession actually earned him a certain amount of clemency, but he was nonetheless convicted of abusing the sacraments, curing, and other superstitious activities. He was given a punishment of 250 lashes, but, in an interesting twist, was also given permission to give spiritual medicines as long as he did not use sacramental objects. This was a clear sign that Inquisitors saw his acts as merely superstitious, not diabolic. In his case, peyote is just a banned substance tied up in a superstition, which, given his good confession, could be corrected and forgiven. Two hundred and fifty lashes may have in fact proved fatal for the 70-year-old man, though we cannot know that they were, and they were more lenient than the alternatives, which could have included a long stay in an Inquisitional prison or transport to the Philippines.

Barajas reveals to us the fine line between popular practices that might be deemed acceptable (is that not why he gets a license for spiritual medicine?) and what is not. Barajas was a candidate for absolution even though he had used peyote, because his own practices had been rooted in superstition and medicine, and even if the Devil occasionally appeared, he was not invited. This is reminiscent of the case from 1632 described by Michael Taussig, in which a Black sorceress was condemned by the Inquisition but then freed to be a healer, in part because she had among her patients an Inquisitor and a Bishop (Taussig, 1987).

Barajas's case also reminds us of the shifting tendencies in the Catholic Church over time. Under the influence of Spinoza (1632–1677), a growing

number of theologians came to see witchcraft and idolatry as mere superstition and error (Mills, 1997), signs of foolishness by defective, irrational peoples. Forgiveness was always possible for those who confessed and insisted that they did not intend to call the Devil, but what is remarkable in both Barajas's and Candelaria's cases is the slippage within the Inquisition itself, the creation of alternative spaces in which traditional medicine and even peyote might be seen as useful.

DEFIANCE

In other instances, the colonial state was not nearly so forgiving. Especially threatening were cases that involved slaves, such as the 1696 incident in which a slave named Juana seemed to become fearless after taking peyote (AGN-I, Vol. 697, exp. 13, 1696). One need not have much imagination to sense her master's terror in his letters to the Inquisition or to see why these transgressions would garner severe punishment (or, alternatively, see how the Inquisition might have provided a convenient means to jail a troublesome slave on a peyote charge). Similar was the case in 1736 of the Mulatto Juan Calderon, who used peyote to openly court the Devil for help in evil deeds and for the bravery he needed to carry them out (AGN-I, Vol. 1116, exp. 5, 1726).

Most of those who openly courted the Devil were Castas, some of them slaves, and it seems quite clear that their use of peyote was tied to a long history of making pacts with the enemy of the Christian God, along with an understanding of the “demon” that was somewhat pantheistic (AGN-I, Vol. 510.23, 1625; AGN-I, Vol. 1116, exp. 5, 1726). The antithesis of the Catholic Church, the Devil sometimes became the ally of those oppressed by the Spanish. Witchcraft, outlawed by the Inquisition, became a source of power for indigenous and Mulatta witches, who at times claimed the dark powers attributed to them by the church in order to pursue their own ends. Peyote, too, could become a source of great power to those who wished to disrupt colonial authority (Cervantes, 1994; Gruzinski, 1989; Lewis, 2003; Lipsett-Rivera, 2002).

One of the more telling incidents of defiance linked to peyote is the case of Guillén de Lampart (William Lamport, 1610–1659), the Irish exile in Mexico who planned, in 1642, to overthrow the Spanish Crown with the help of the much abused indigenous miners of Taxco. (He imagined their support, though there is no evidence that he had their support.) Lampart does not appear to have taken peyote himself, but insisted that an indigenous man named Don Ignacio from the village of San Martín Acamistlahuacan take the drug in an effort to find out whether or not his planned rebellion would succeed. (Ignacio met Lampart while in Mexico City to complain about abuses at the mines.)

Believing that the herbalists would sell the drug only to a Nahuatl speaker who knew the words and signs required to purchase it, Lampart instructed Don Ignacio to purchase the peyote from an herbalist in the central square of Mexico City. In a move that seems to be somewhat common among those working with indigenous interlocutors, he also instructed Ignacio to take the drug instead of himself, both because he believed that Don Ignacio would understand the visions better than he would and because he knew that the Inquisition could not charge Don Ignacio. (As was the case in other instances, this effort to distance himself from the prohibited cactus did not work.) Tellingly, Lampart undertook all these measures in spite of Don Ignacio's repeated insistence that he knew almost nothing about peyote and that he did not come from a place where it was commonly used. Lampart did not believe these protestations, as Don Ignacio was an Indian, and in his understanding, all Indians were familiar with peyote's power.

Don Ignacio claimed that he received no instructions from the peyote, but Lampart's neighbors insisted that the Devil had appeared and instructed Lampart to plan a rebellion. According to the neighbors, the drug told them that Lampart would lead a rebellion that would overthrow the government and that he would have the support of the miners in Taxco. Based in part on this testimony, he was jailed by the Inquisition and charged with heresy, as well as with selling peyote, practicing magic, and consulting astrologers. He spent the following 17 years in jail before being executed (Crewe, 2010; Meza González, 1997; Ruiz de Zepeda Martínez, 1660).

EXTIRPATION

One of the striking differences between indigenous peyotists and those charged by the Inquisition lies in the confession. Foucault (1995) long ago established the centrality of the confession to modernity. Confessions establish individual subjectivity, the coherence of the soul, and the individual essence as a marker of that subjectivity, and link that individuality to internalized rules that make one the subject to the laws of the modern state. The frequency with which confessants either came forward to confess of their own volition or willingly confessed the error of their ways during their trials reminds us of the mix of factors that went into the performance of individual culpability. Whether it was strategic or done out of an internalized sense of guilt is less significant than the fact that the Inquisition created a framework in which confession was critical, and those who were denounced actively performed their guilt, making them individuals with consciences before the Holy Office.

Indians are marginal figures in Inquisitional trials. They appeared frequently, but the role they played here was more like a peripheral object,

presumed to be the purveyors of peyote, sources of magical knowledge, but lacking in the subjectivity needed to be responsible for their actions. At some moments, they were children in need of protection and guidance, and their religions were the superstitious manifestations of that child-like state. At others, they were barbaric, uncivilized, and set apart because they could not be expected to understand or embrace the imperatives of civilization. And at still others, they were, collectively, Lucifer's minions, pawns in the Manichean struggle between the true religion and evil, a collectivity in need of saving rather than individuals in need of a good confession.

Kenneth Mills's work on the campaigns to extirpate idolatry in Peru is highly instructive here. In exploring the "interpretive grids" that the extirpators used to understand "Indian immorality and mental inferiority," Mills argues that even as theologians came increasingly under Spinoza's influence (and thus interpreted idolatry principally as superstition and error), they nonetheless continued to view Indians as fundamentally different from Spaniards, as inherently given to simplicity and rusticity, and naturally inclined to sin and idolatry (Mills, 1997). These views perhaps also help us to understand the way that Spanish officials responded to the peyotism they encountered during their efforts to conquer the Sierra of Nayarit in the eighteenth century. This region to the north and west of Guadalajara had remained stubbornly outside of Spanish control since the conquest, in part because of the rugged terrain and often inaccessible communities in the area, and in part because the indigenous communities of the region, and most notably the Huichols (now known as Wixárika), had proven to be too much for generations of Spanish invaders. The Huichols, along with the Coras and Tepehuanes, were skilled defenders of both their territory and their religions, in which peyotism played a central organizing role.

In stark contrast to the relatively contemporaneous trials of the curanderos Nicolás Candelaria and Diego Barajas—who were given a chance to confess, to explain that they had no intention to offend God, and to repent—colonial officials in Nayarit concluded, without even consulting the Huichols of the region, that the physical presence of Lucifer was palpable and that violent extirpation was the only option.

One might conclude that the difference between the Inquisitional approach and the extirpators was in part contextual; the difference between theologians influenced by esoteric debates about the Devil and missionaries and state officials who were forced to confront his terrifying presence in a remote and dangerous region. This is indeed possible, especially given the fact that Nayarit remained largely outside of the control of the colonial state (remaining this way into the twentieth century), and all representatives of the colonial project faced enormous risks by entering Huichol territory. And still, the differences between the descriptions of peyotism here and the

peyotism practiced by witches and curanderos in the colonial heartland are striking.

One sees this powerfully represented in Father José Ortega's account of peyotism in Nayarit written in 1754, where he describes a peyote ritual in detail. In his description, the "diabolic root" gives rise to a "barbarous" night of furious dancing, tears, and chanting, a drunken spectacle that can be explained only as a sign of the presence of the Devil in the region (Ortega, 1754). He concludes that the Church must increase its efforts to

shake free the heavy yoke with which Lucifer dominates them . . . as this is the only land in New Spain where he remains, where they still offer devotions to the demon, preserving their idols, their superstitious rites and otherworldly shrines, and where the truth is banished and lies venerated. (pp. 30–31)

Vicente Cañaveral expressed similar sentiments during a campaign to extirpate idolatry among the Huichols in 1768. Cañaveral described a region of "naturally timid" Indians who had been "completely infected" by idol worship and superstition. He describes "extravagant rites and abominable worship in tribute to the Demon, who until now, has held these people in the darkness of his lies." The result was a community riven with licentious behavior, completely given over to "adoration of the Devil." Cañaveral saw apostasy here, and not simply superstition, and recommended particularly severe punishments for the priests of this diabolic cult. Their followers should receive lesser punishments, but those who refused to repent were to be sentenced with 200 lashes as well as transportation to the prison at San Juan de Ulua. He also gave instructions that all idols be burnt in the most public manner possible (Cañaveral, 1768).

Working in the midst of a violent confrontation between Spanish colonialism and indigenous communities that defied conquest, Cañaveral and Ortega made sense of their struggles by explaining that it was the Devil, not the naturally timid Indian, who stood in their way. It was thus the Devil who needed to be conquered through the violent extirpation of peyotism, a process that would single out the most recalcitrant as apostates (namely, the priests) and offer lenience to those who were saved by repenting. It was clear that they saw this not as simple error or superstition, but as an existential struggle between good and evil.

They needed no testimony, no denunciation, no finding of fact. They needed not ask the Huichol peyotists about their intentions nor consider the possibility of error in assigning punishment. The meaning embedded in Huichol peyotism was plain to their view. And to both, the very idea of following something that resembled the Inquisitional process was unthinkable. They could diagnose these pawns of Lucifer simply by observing their

practices. And, as pawns of Lucifer, they were incapable of confession: They were Indians.

In some sense, this is unsurprising. Like the slave emboldened by peyote or the mestizo actively longing for a pact with the Devil, Huichol peyotism offered an unmistakable challenge to colonial rule. What is different here is the strategy of containment. With mestizos, Mulattos, and Whites—all presumed to be Christians—peyotism was treated as an individual sin, at times simply as an error or superstition and at other times more seriously. With Indians, it was a collective sign of alterity, of both the inherent timidity of the indigenous subject and the way that timidity made Indians vulnerable to the Devil. The response, then, was best done in a spectacular collective manner, as when the soldiers under Cañaveral's charge in the Presidio of Nayarit swept through Huichol communities, smashing idols and arresting Huichol priests, demonstrating the power of their God over the Devil, and (hopefully) leading those who remained to repent.

CONCLUSION

Alarcón and Cañaveral remind us of the uneven nature of the colonial state: As one branch increasingly moved away from linking peyote to an active Devil, others reinscribed the diabolic nature of peyotism. And yet, in a larger sense, their project was not entirely at odds with the Inquisition. Like the Inquisitors, they feared that peyote would contaminate colonial society. And, like the Inquisitors, they worked to link peyote as closely as possible to the Indians. Indians were weak and needed to be shown the strong hand of the colonial state in order to extirpate the influence of the Devil on the community as a whole. Non-Indians were attracted to peyote for different reasons (error, superstition, or bad intentions) and needed to be disciplined by the judicial process of the Inquisition.

On the whole, Castas and Blacks appear to have been more severely punished for using peyote than Europeans, and it would seem that their motives were sometimes treated with more suspicion than their European counterparts (a slave seeking bravery is more threatening than a European, for instance), but they nonetheless were subject to the same Inquisitional processes as their European brethren. They were therefore rendered as Christians who had committed an error, the severity of which needed to be determined. Their indigenous counterparts faced no such judgment.

It was through the repeated performance of these logics that peyote ultimately came to be something that many colonial subjects, and not just the agents of order, associated with indigeneity. We see that in part in the ways that some subjects reinforced peyote's indigenous essence even as they were drawn to it, for instance, in Lampart's decision to have an Indian take the

peyote, even though this Indian had no experience with the cactus. Peyote could stand in for indigenous conjuring, for magical cures and spells cast, and for the defiance of an indigenous subject to colonial authorities, with each of these gestures offering the pull of attraction to those who found themselves at odds with polite society. No doubt certain indigenous curers were also able to profit from this positioning, taking advantage of their place within the “unsanctioned” spheres of society to attract clients who could not find satisfaction within the “sanctioned” spheres (Lewis, 2003).

In attempting to eradicate peyote use among non-Indians, the Inquisition sought to eliminate some of the more threatening aspects of the folk cultures that were then emerging in Mexico and, while it seems that they did not succeed—Mexico’s folk cultures remain to this day a source of powerful oppositions to official power—the Inquisitors seem to have succeeded in linking peyote inextricably to a series of markers of indigeneity that would persist into the national period: diabolism, mysticism, backwardness, and the illicit. Peyote would also be forced underground and remain a commodity that circulated outside of sanctioned spaces. Many of those ultimately attracted to peyote would be drawn to it because of its links to indigeneity. This trend would be further reinforced by the evolution of European medicine in Mexico. As witchcraft, *mal de ojo* (evil eye), and the humors were gradually jettisoned by doctors increasingly interested in experimentation, science, and biology (this process remaining even into the twentieth century), the link between peyote and a retrograde indigenous subject only grew more powerful.

Still, even if the colonial state persistently worked to make peyote an Indian thing, and people like Lampart were drawn to peyote because of its indigenous taint, it is not entirely clear that everyone who was attracted to peyote during the colonial period associated the cactus with indigeneity. Peyote circulated widely in Mexico during the colonial period as an herbal medicine, as a truth serum, and as a tool for divination, curing, and enhancing courage, and its many meanings outside of the official sphere are impossible to discern. Indeed, it seems likely that peyote circulated like any other magical window into the unknown, like copal, tobacco, quetzal feathers, and even mirrors. The myriad uses of these substances reveal a society where the social divisions between Indian, Casta, and Spaniard were never quite so clean as the colonial state might have liked. It would take a series of modern interventions—nineteenth-century racism, medical science, drug control regimes, and, ultimately, postcolonial legal regimes that codified indigenous alterity—to make peyote fully Indian.

NOTES

1. Casta is a term that describes individuals of mixed heritage. Mestizos fit into this category, as did Mulattos.

2. This mention of Sahagún is quoted by Dr. Guillermo Calderón Narváez: "Consideraciones Generales en relación con el Problema de Farmacodependencia" (1972), Mexico, Archivo de la Secretaría de Salubridad y Asistencia (Now Secretaría de Salud): Secretaría Particular, Caja 244.2. On meaning-making practices, see Greenblatt (1991). On European views of indigenous foods more generally, see Earle (2010).

3. Medieval Spanish medicine held that the workings of the human body were governed by excesses or deficiencies of four distinct bodily fluids (the humors). They were made up of black bile, yellow bile, phlegm, and blood. The humors were also placed into categories governed by heat, cold, wetness, and dryness, which in turn produced qualities of temperament.

4. Rosa María was a name commonly used for peyote, but given the fact that peyote is mentioned in the case, it was likely something else. Bret Blosser (2002) suggests that it was *Cannabis sativa*.

5. Depending on whether it was more closely linked to black bile (cold and dry) or phlegm (cold and moist), a cold substance like peyote would either produce melancholy, despondence, and a tendency toward analysis or calm, thoughtful peacefulness.

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Peyote, Christianity, and Constitutional Law: Toward an Antisubordination Jurisprudence

Varun Soni

Legal scholars often distinguish tribal Indian law from American law, insisting that tribal law is inherently religious, whereas American law is completely secular (Berrigan, 2001). However, when looking at the history of peyote law in the United States, it becomes apparent that boundaries between religion and American jurisprudence are fluid. Indeed, the history of peyote law provides a striking example of the centrality of Christian doctrine within American law, thereby exposing the challenges of secular jurisprudence and legal objectivity (Crenshaw, 1995).

In the case of peyote law in the United States, Christian morality has been explicitly employed as justification for outlawing peyote. Through the long and complicated history of peyote law, antipeyote coalitions, legislatures, and activists have all deployed Christianity in attacking peyotism. Indeed, peyote law has been situated in a specifically Christian comparative framework, where peyotism is denounced because of its presupposed inferiority to Christianity, without ever being evaluated within its own cultural context.

Interestingly enough, in order to combat Christian arguments against peyotism and promote culture preservation, peyotists themselves strategically enlisted the aid of Christianity (Beeson, 1992). By synchronizing Christian elements with peyotism, peyotists attempted to legitimize their own religious practices to a Christian legislature and judiciary (Vecsey, 1988). Thus, Christian morality was utilized as both a means of persecution against peyotism as well as a mechanism of resistance by peyotists.

This chapter will examine how Christianity has been strategically utilized in the public discourse about peyote on both sides of the debate. Specifically, it will examine the role of Christianity in the development of peyote law by focusing on three historical moments: (1) the institutionalization of peyote

law by early Christian missionaries, (2) the establishment of the Native American Church, and (3) the U.S. judiciary's response to peyotism. These historical moments will be analyzed chronologically.

Using a framework pioneered by Critical Race Studies (Crenshaw, 1995), this chapter will further examine how the judiciary can formulate an antisubordination approach (Sherwin, 2005) to the Free Exercise Clause. An anti-subordination approach recognizes, preserves, and protects religious practices by carving out a constitutionally protected autonomous space for religious minorities (Sherwin, 2005). By analyzing the manner in which the judiciary has traditionally interpreted race in regard to the Equal Protection Clause of the Fourteenth Amendment, a more comprehensive understanding of how the judiciary interprets religion in regard to the Free Exercise Clause of the First Amendment emerges.

PEYOTE'S CONTACT WITH CHRISTIANITY

Peyote, known as *Lophophora williamsii*, is a small, spineless cactus indigenous to northern Mexico and southern Texas (Stewart, 1987). Scholars have long debated as to how long people have ingested peyote, but most recent studies suggest that peyote has been used for approximately 6,000 years. While archaeological evidence establishes peyote use as early as 1000 CE (Vecsey, 1988), many Native Americans claim that they have been using peyote since the beginning of human history (H. R. Rept. No. 103–675, 1994).

When ingested, peyote has powerful psychoactive properties caused by its active ingredient, mescaline (Stewart, 1987). The peyote user often experiences intense euphoria and psychedelic visions (Brecher & Consumers Union, 1972). For at least several centuries prior to European contact, the indigenous people of northern Mexico used peyote in a ritualized religious ceremony in order to induce mystical states (Slotkin, 1955). This peyote ceremony is still performed seasonally as an agricultural-hunting religious festival and includes a ritual pilgrimage for peyote as well as shamanic singing and dancing (La Barre, 1989). Recent scholarship points to the Carrizo tribe as the source of the first peyote ceremony, although the academic debate acknowledges six different possible tribal sources (Stewart, 1987).

Despite popular misconceptions, peyote was used for more than just the mystical states its ingestion inspired. Peyote was conceived of as a deity itself, as "God's flesh," meant to be protected and worshipped (Smith & Snake, 1996). Many Native Americans today refer to peyote not as a drug, but as "medicine" (Furst, 1976), and its historical medicinal uses are well documented. Peyote has been used medicinally by at least 15 different tribes for afflictions such as snakebites, rheumatism, cramps, hemorrhages, headaches,

diabetes, pulmonary diseases, skin diseases, and fevers (Furst, 1976). There is also a long history of peyote ingestion by women during childbirth (Mount, 1993). Furthermore, during times of war, shamans would ingest peyote to prophesize about the enemy's whereabouts and strategy, while the warriors would wear peyote buttons around their necks as protective amulets (La Barre, 1989).

When the Spanish first encountered peyote use in the Americas, they immediately looked upon it as an example of the "savagery" of a people desperately in need of "civilization" (Harvard Law Review, 1990). In order to "civilize" the indigenous people of the Americas, the Spanish sought to convert the "heathens" to Christianity (Perez, 1982). This conversion ideology, which situated Christianity as the superior religious culture, became the blueprint for the first peyote laws and the catalyst for all later peyote legislation (Chidester, 1996). Indeed, the Roman Catholic Church banned peyote use during the Inquisition in 1620 (Stewart, 1991), and the first written prohibition against peyote use was steeped in Catholic canonical law and read in part:

We, the Inquisitors against heretical perversity and apostasy in the City of Mexico. . . . by virtue of apostolic authority. . . . Inasmuch as the use of the herb or root called peyote has been introduced into these Provinces for the purpose of detecting thefts, or divining other happenings, and of foretelling future events, it is an act of superstition condemned as opposed to the purity and integrity of our Holy Catholic Faith. (Stewart, 1987, p. 20)

Although it was difficult for the Spanish to enforce this edict because of widespread native use, over the next 265 years, 90 peyote cases were documented in 45 different locations near peyote's natural growth area (Stewart, 1987). The edict also had far-reaching geographical jurisdiction, as it also prompted hearings in towns nowhere near peyote's natural growth area, such as Santa Fe, New Mexico; Antequero, Oaxaca; and Manila, Philippines (Stewart, 1987).

The Christian missionaries' conversion crusade in the Americas is well documented. In order to spread Christianity as far as possible, missionaries engaged in a zealous campaign directed at decimating native religions while extolling the virtues of Christianity (Darian-Smith, 2004). Undoubtedly, the missionaries did succeed in converting a critical mass of Native Americans to Christianity (Dargo, 1996). Paradoxically, however, their conversion project also had an antithetical effect and served as a catalyst for the spread of peyotism (La Barre, 1989).

There are a number of ways in which Christianity inadvertently propagated peyotism. In order to accelerate native assimilation and deculturalization,

Christian missionaries established boarding schools where Native American children were raised with the values of White Christian society instead of their own tribal heritage (La Barre, 1989). These boarding schools became a meeting ground for Native Americans from different tribes and localities, and many students, who would not otherwise have had the chance to meet, formed friendships (La Barre, 1989). By teaching Native Americans English, a common language through which to communicate, Christian missionaries enabled a cultural exchange amongst Native Americans that was unprecedented (Stewart, 1987). Accordingly, boarding schools became a location where peyote was discussed and ingested (Schaefer & Furst, 1996). Native American leaders from different tribes also met in the prisoner-of-war camps established after the Indian wars (Schaefer & Furst, 1996), which provided another intertribal zone where peyote was possibly exchanged.

By encouraging intertribal friendships and marriages, Christian missionaries inadvertently ensured the transport of peyote to tribes that had never before encountered it, leading to the rapid proliferation of peyotism throughout tribal lands across the United States. Indeed, a fusion of faiths between Christianity and peyotism developed, as evidenced by the emergence of new peyote narratives featuring Jesus Christ (Vecsey, 1988).

By classifying all Native Americans as “Indians,” and by opening up intertribal avenues of communication and trade, Christian missionaries helped foster an ideology of pan-Indianism (Slotkin, 1956). Christian missionaries diminished those factors that traditionally kept Native American tribes separate, such as location, language, and cultural norms. The development of pan-Indianism (Downs, 1966) became a response against the Christianization of native culture, a response directed toward Christian missionaries, and this response against Christianity manifested in two major pan-Indian nativistic movements during the mid-nineteenth century: the Ghost Dance and peyotism (Camurat, 1993).

The Ghost Dance emerged from a broader messianic movement that offered a supernatural solution to the subordination of Native Americans by White society (Slotkin, 1956). As a reaction to the loss of frontier land (McLoughlin, 1990), the Ghost Dance incorporated the Northern Paiute and Northwest Plateau belief that group dancing would result in the second coming of Jesus Christ, who would remove the White settlers from tribal land (Stewart, 1987). White society perceived the Ghost Dance as a militant threat against it and reacted accordingly. On December 29, 1890, a congregation of Lakota at Wounded Knee performed the Ghost Dance in defiance of army orders. This resulted in the cold-blooded massacre of almost 300 unarmed native men, women, and children by U.S. soldiers at Wounded Knee. This tragedy effectively marked the end of the short-lived Ghost Dance era (Stewart, 1987).

The brief but intense popularity of the Ghost Dance helped peyotism spread during the end of the nineteenth century (Slotkin, 1955). The eventual demise of the Ghost Dance brought even more attention to peyotism, which thrived in the absence of a pan-Indian alternative. During this time, pan-Indian peyotism was promoted throughout tribal America and took the form of a highly ritualized ceremony (Stewart, 1987).

Central to the ceremony were song, prayer, and introspective contemplation; peyote was both deified and ingested as a sacrament (Slotkin, 1955). Between 1850 and 1899, the spread of peyotism was documented in Arizona, Nebraska, New Mexico, Oklahoma, and Texas, with no fewer than 12 practicing tribes. By 1945, peyotism had rapidly spread to California, Colorado, Idaho, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, North Dakota, South Dakota, Utah, Wisconsin, Wyoming, and areas in Canada, with over 50 more practicing tribes (Slotkin, 1955).

THE NATIVE AMERICAN CHURCH

Peyotists realized that in order to have a say in their own future, they would have to present peyotism as a legitimate religion so that it would be afforded protection under the First and Fourteenth Amendments. In 1918, the eminent ethnologist James Mooney promoted the establishment of the Native American Church, which he envisioned as a bureaucratic institution that could both defend peyotism against its detractors and present peyotism as a legitimate, organized religion. By promoting peyotism as similar to Christianity, peyotists argued against the widespread belief that peyotism was not a legitimate religion (Vecsey, 1988). On October 10, 1918, the Native American Church signed and verified its charter in Oklahoma. The charter presented peyotism as a religion of Christian syncretism (Stewart, 1987). Article II read:

The purpose for which this corporation is formed is to foster and promote the religious belief of the several tribes of Indians in the State of Oklahoma, in the Christian religion with the practice of the Peyote Sacrament as commonly understood and used among the adherents of this religion in the several tribes of Indians in the State of Oklahoma, and to teach the Christian religion with morality, sobriety, industry, kindly charity and right living and to cultivate a spirit of self-respect and brotherly union among the members of the Native Race of Indians, including therein the various Indian tribes in the State of Oklahoma. (Stewart, 1987, p. 224)

Thus, the Native American Church proactively and strategically utilized elements of Christianity, in terms of both structure and content. The church's

most obvious structural similarity to Christianity was the name itself: the Native American Church. The idea of a “church” is a specifically Christian conception (Stewart, 1991), so that the name itself conjures up images of Christianity. Having established itself as a “church,” the Native American Church proclaimed peyote as its “sacrament,” which refers to a specifically Christian rite (Smith & Snake, 1996). The Native American Church went even further by calling peyote its “Eucharist” (University of Cumbria, 2014), thereby drawing an exact linguistic parallel to mainstream Christianity (Smith & Snake, 1996). By strategically employing definitively Christian vocabulary into its structure, the Native American Church presented an organized religion that was in many ways analogous to Christianity.

Other structural similarities were evidenced in the organization of the Native American Church’s peyote ceremonies. For example, the Native American Church’s services consisted of congregational singing, similar to Christian devotionalism (Smith & Snake, 1996). The peyote ceremony became further ritualized along Christian lines by incorporating crosses into its ceremonial aesthetic and by utilizing peyote buttons like a protective Christian amulet (Slotkin, 1955). The peyote ceremonies themselves occurred on Saturday, specifically to respect the Christian liturgy of Sunday ceremonies (Smith & Snake, 1996).

Not only did the Native American Church structurally adopt Christianity, it also substantively incorporated Christian beliefs and values. The Christian Bible became increasingly important in the peyote ceremony and even provided justification for the ceremony (Smith & Snake, 1996). Biblical passages such as Genesis 1:29 and Isaiah 29:4 were interpreted as upholding the sanctity of the peyote sacrament (Meeks & Bassler, 1993). Furthermore, as evidenced in the Native American Church’s Oklahoma charter, Christian ethics became the Native American Church’s moral foundation (Smith & Snake, 1996). The Native American Church wholeheartedly embraced and espoused fundamental Christian beliefs, such as prayer to Jesus Christ, fidelity, truthfulness, abstention from alcohol, family values, and nonviolence.

The Native American Church not only aided in legitimizing peyotism to mainstream Christianity, it also diffused tensions that were developing between Native American peyotists and nonpeyotists (Vecsey, 1988). The Native American Church used both peyotism and Christianity in order to codify the first pan-Indian religious institution, which appealed to Native Americans on both sides of the peyote debate (Smith & Snake, 1996). As a result, the Native American Church is now the largest Native American religious organization in the United States with as many as 650,000 adherents. To this day, it continues to promote peyote as its holy sacrament and to champion First Amendment protection of religious practice.

COURTS AND CHRISTIANITY

The issue of constitutionally protecting peyote for religious use has a complicated history in the United States. The two most important peyote cases, *People v. Woody* (1964) and *Employment Division v. Smith* (1990), represent the judicial extremes of peyote jurisprudence. Analyzing these two cases, it becomes clear that a *Christian baseline* is used to determine what constitutes a legitimate religion deserving of constitutional protection (Smith & Snake, 1996).

In 1964, the California Supreme Court heard *People v. Woody*. The defendants were Navajo members of the Native American Church and were charged with violating Section 1150 of California's Health and Safety Code, which prohibits the possession of peyote (*People v. Woody*, 1964). The defendants were arrested at a peyote ceremony, and they pleaded not guilty on First Amendment free exercise grounds. The attorney general argued that the defendants were not specifically targeted for their religious practice; they had violated general drug laws. The attorney general also reiterated the Christian missionary argument, claiming that peyote use "shackles the Indian to primitive conditions."

For this case, the California Supreme Court properly identified the relevant precedent, *Sherbert v. Verner*, a case decided by the U.S. Supreme Court the year before (*Sherbert v. Verner*, 1963). In *Sherbert*, the U.S. Supreme Court examined whether a woman who refused to work on Saturday because her Seventh-Day Adventist beliefs forbade her was still eligible for unemployment benefits under South Carolina law, even though South Carolina denied benefits to those who were offered work but did not accept it. Because this was a First Amendment issue, the U.S. Supreme Court utilized a heightened scrutiny test and asked whether South Carolina had a "compelling state interest" in denying the woman's unemployment benefits. The U.S. Supreme Court ruled that the woman's countervailing religious freedom was paramount, as established in the Free Exercise Clause of the First Amendment, and stated that by denying her unemployment benefits, South Carolina was interfering with her ability to freely exercise her religious beliefs.

The California Supreme Court analyzed *Woody* through *Sherbert*'s "compelling state interest" test. The court found that California's interest in enforcing antipeyote law was not compelling enough to deny peyote use to Native American Church members and that Section 1150 imposed an unconstitutional burden upon the free exercise of religion. Thus, the court validated peyote use as a legitimate religious practice that was protected under the Free Exercise Clause of the First Amendment.

In its analysis of peyote, the California Supreme Court's methodology was remarkably sympathetic to the peyotist perspective. Relying on information

from ethnographers and tribal leaders, the court's position mirrored that of the Native American Church (Smith & Snake, 1996). The court both recognized peyotism's similarities with Christianity and, at the same time, protected its cultural uniqueness. This is apparent in the court's discussion of peyote's centrality in Native American life:

Although peyote serves as a sacramental symbol similar to bread and wine in certain Christian churches, it is more than a sacrament. Peyote constitutes in itself an object of worship; prayers are directed to it much as prayers are devoted to the Holy Ghost. On the other hand, to use peyote for nonreligious purposes is sacrilegious. Members of the church regard peyote also as a "teacher" because it induces a feeling of brotherhood with other members; indeed it enables the participant to experience the Deity. Finally, devotees treat peyote as a "protector." Much as a Catholic carries his medallion, an Indian G.I. often wears around his neck a beautifully beaded pouch containing one large peyote button. (*People v. Woody*, 1964, p. 818)

The court found no basis for the prosecution's argument that peyote constitutes a serious health hazard for Native Americans. Relying on social scientific evidence, the court refuted the prosecution's claim that peyote is a harmful drug, holding:

Finally, as the Attorney General likewise admits, the opinion of scientists and other experts is "that peyote . . . works no permanent deleterious injury to the Indian. . ." Indeed, as we have noted, these experts regard the moral standards of members of the Native American Church as higher than those of Indians outside the church. (*People v. Woody*, 1964, p. 818)

The court also addressed the prosecution's contention that peyote is not central to Native American religion and that the judiciary has no place in trying to define what is central to religion. As to this point, the court developed a "good faith" test. The Native American Church fulfilled its burden of showing that it was sincere in pursuing its constitutional claim and was not just trying to trick its way through a legal loophole. In closing, the court affirmed the integrity of the First Amendment and religious diversity, writing:

On the other hand, the right to free religious expression embodies a precious heritage of our history. In a mass society, which presses at every point toward conformity, the protection of a self-expression, however unique, of the individual and the group becomes ever more important.

The varying currents of the subcultures that flow into the mainstream of our national life give it depth and beauty. We preserve a greater value than an ancient tradition when we protect the rights of the Indians who honestly practiced an old religion in using peyote one night at a meeting in a desert Hogan near Needles, California. (*People v. Woody*, 1964, pp. 821–822)

The *Woody* decision was a triumph not only for religious freedom in general but for the Native American Church in particular. Needless to say, were it not for the Native American Church, the *Woody* decision would have come out differently. This ringing judicial endorsement of peyotism was especially impressive given the fact that the defendants were Navajo, and Navajo tribal law prohibited peyote use at that time (*People v. Woody*, 1964). The fact that the defendants were part of an organized church with 200,000 members enabled the court to fully support peyotism's constitutional claim of religious freedom.

In 1990, the U.S. Supreme Court heard the landmark Oregon case *Employment Division v. Smith*. Members of the Native American Church were fired from their jobs after ingesting peyote during a Native American Church ceremony (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990). They were then denied unemployment benefits because, under Oregon law, benefits are withheld if an employee is discharged because of work-related “misconduct.” They argued that their religious use of peyote was not “misconduct” and should be constitutionally protected under the Free Exercise Clause of the First Amendment (U.S. Const. amend. I, 1791). Their employer claimed that the use of peyote violated Oregon’s criminal drug code, which makes no exception for the sacramental use of any prohibited drug (Or. Rev. Stat., 1987).

As in *Woody*, the Oregon Supreme Court accepted the *Sherbert* case as its relevant precedent (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990). Justice Antonin Scalia wrote the controversial majority opinion in *Smith*. Much to the surprise and dismay of many people, Scalia decided that *Sherbert* was not on-point, and accordingly *Smith* would not benefit from *Sherbert*’s “compelling state interest” heightened scrutiny test. Scalia’s distinction was that *Sherbert* dealt with civil law while *Smith* concerned criminal law. Scalia then analyzed Oregon’s criminal law prohibiting peyote use and maintained that Oregon’s drug laws were facially religion neutral with no intent of discriminating against Native American religious practices. He suggested that because discriminatory intent could not be proven, there was no basis for a religious discrimination claim.

In his decision, Scalia evaded the question of peyote’s centrality in the Native American Church, which the California Supreme Court addressed

with its “good faith” test in *Woody*. Instead, Scalia maintained that such an issue was not meant for the court to decide. He held, in part:

What principle of law or logic can be brought to bear to contradict a believer’s assertion that a particular act is “central” to his personal faith? . . . As we reaffirmed only last Term, it is not within the judicial ken to question the centrality of particular beliefs or practices to a faith, or the validity of particular litigants’ interpretations of those creeds. Repeatedly and in many different contexts, we have warned that courts must not presume to determine the place of a particular belief in a religion or the plausibility of a religious claim. (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990, p. 887)

Scalia’s decision denied the claim that peyote’s religious usage was not relevant because criminal prohibition was uniform and did not target peyotists. Thus, the Native American Church members could not collect unemployment benefits because their termination was due to “misconduct”—namely, violating Oregon’s general drug laws. In his decision, Scalia wrote that the United States could no longer afford the “luxury” of religious diversity, and it was an “unavoidable consequence” that a minority interest would be sacrificed for the benefit of the majority.

Scalia’s decision was met with disbelief within his own court. Justice Sandra Day O’Connor concurred with Scalia’s decision, but was troubled that he disregarded *Sherbert*’s “compelling state interest” test. Applying the “compelling state interest” balancing test, she reasoned that Oregon’s interest in enforcing a general drug law outweighed the Native American Church’s religious interest in using peyote. Nonetheless, she expressed her disappointment with Scalia’s decision, writing:

Although I agree with the result the Court reaches in this case, I cannot join its opinion. In my view, today’s holding dramatically departs from well-settled First Amendment jurisprudence, appears unnecessary to resolve the question presented, and is incompatible with our Nation’s fundamental commitment to individual liberty. (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990, p. 891)

Justice Harry Blackmun’s dissent was an affirmation of the *Woody* decision. Blackmun held that the First Amendment does protect religious peyote use and Oregon’s “compelling state interest” fails in this case. Furthermore, Blackmun added that peyote was central to the Native American Church and cited social scientific evidence to show that peyote was neither addictive nor harmful for its users. Blackmun also discussed the hypocrisy of the case by

citing the most historically analogous example: During alcohol prohibition, an exception was made for wine to be used as sacrament by Catholic churches. Why then, during drug prohibition, is an exception not made for peyote use? Distressed at the outcome of *Smith*, Blackmun chastised the majority opinion, writing:

The distorted view of our precedents leads the country to conclude that strict scrutiny of a state law burdening the free exercise of religion is a “luxury” that a well-ordered society cannot afford, and that the repression of minority religions is an “unavoidable consequence of democratic government.” I do not believe that the Founders thought their dearly bought freedom from religious persecution a “luxury,” but an essential element of liberty—and they could not have thought religious intolerance “unavoidable,” for they crafted the Religion Clauses precisely to avoid that intolerance. (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990, pp. 908–909)

Developing a Critical Religious Theory

Scalia’s *Smith* opinion was shocking for several reasons. First, he mischaracterized decades of case law in order to discard the traditional “compelling state interest” test and retracted the heightened scrutiny protection that religious freedom previously enjoyed. Then he took criminal law out of the First Amendment’s jurisdiction, so that no facially neutral criminal law could be declared unconstitutional for violating freedom of religious practice. Next, he conceptualized the Free Exercise Clause of the First Amendment as relevant only in hybrid cases. Finally, he accepted restricting the religious freedom of minority groups as constitutionally permissible (Epps, 2004).

Scalia held that drug laws did not discriminate against peyotists because the laws were facially neutral. He maintained that there is no discrimination without discriminatory intent, even if there is a disparate impact, and he took comfort in the facially neutral language used by the drug statutes because they were equally applied to everyone. What he did not mention, though, is the origin of the drug laws. By never looking at the peyotist perspective and instead only focusing on the facially neutral drug laws, Scalia essentially chose the Christian argument against peyote over the native argument for it, revealing his surreptitious reliance on a Christian baseline.¹ Accordingly, Scalia not only limited the First Amendment’s Free Exercise Clause, he may also have violated the First Amendment’s Establishment Clause (U.S. Const. amend. I) by implicitly establishing Christianity as the de facto state religion through which to interpret the First Amendment.

Toward Racial and Religious Antisubordination

By insisting that limiting the freedom of religious minorities is an “unavoidable consequence” of democracy, Scalia envisioned democracy as the rule of the majority, in this case Protestant Christianity, at the expense of the minority peyotists (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990). Such a view of democracy cannot accommodate an antisubordination methodology of constitutional interpretation. Unfortunately for racial and religious minorities throughout the United States, an antisubordination constitutional methodology has been discarded in favor of antidiscrimination doctrines of interpretation. Whereas antisubordination favors race- and religion-conscious remedies, antidiscrimination disallows race- and religion-conscious remedies, priding itself on its colorblind worldview.

An antidiscrimination methodology covertly reproduces and reiterates the Supreme Court’s rationale espoused in its famous case *Plessy v. Ferguson* (1896). In this persistent paradigm, equal protection means equal treatment, so the commission of a discriminatory law can still be considered constitutional as long as it is equally applicable (Harris, 2004; *Plessy v. Ferguson*, 1896). This equal treatment logic is embodied in antidiscrimination’s colorblind formalism, which stands for the proposition that if the judiciary does not address race, it will not endorse racism. By not allowing any facially racial or religious language, colorblindness seeks to create a society where no racial or religious classifications exist, and therefore no racial or religious discrimination exists (Harris, 2004).

Conversely, an antisubordination methodology embodies a functionalist spirit by recognizing that the political process often excludes minorities, and therefore it is the role of the judiciary to safeguard minority rights. Accordingly, race and religion must be taken account of in order to combat racial and religious subordination. Although such an approach has lost favor in contemporary Equal Protection and Free Exercise Clause jurisprudence, it nevertheless has case law precedent that can shape a new understanding of legal equality.

Brown v. Board of Education (1954) is widely lauded as the pinnacle of Equal Protection Clause jurisprudence as it declared segregation unconstitutional and created a new body of civil rights law and public policy (*Brown v. Board of Education of Topeka, Kansas*, 1954). Although *Brown v. Board of Education* is popularly considered to be the greatest moment in American constitutional history, it has been criticized by legal scholars for being undisciplined and unfocused in terms of its methodology (Bell Jr., 1995; Wechsler, 1959). Because the Supreme Court did not explicitly overturn *Plessy* or articulate a viable or coherent methodology, *Brown* remains a lost antisubordination opportunity, both in doctrine and in effect.

The Supreme Court case that best illustrates an antisubordination Equal Protection Clause methodology is *Yick Wo v. Hopkins* (1886), a case that has never been explicitly overturned. In *Yick Wo*, the Supreme Court recognized that the commission of a facially neutral statute that had a disparate impact upon Chinese laundry owners was unconstitutional (*Yick Wo v. Hopkins*, 1886). The court upheld an antisubordination interpretation of the Equal Protection Clause (U.S. Const. amend. XIV, 1868), going against popular opinion at the time by protecting a minority group that was blatantly discriminated against and considered inferior, even by the seemingly progressive Justice John Harlan in his later *Plessy* dissent (*Plessy v. Ferguson*, 1896). Furthermore, by recognizing the political powerlessness of the Chinese community in the United States, the court implicitly expanded Equal Protection Clause jurisdiction over both citizens and noncitizens alike (*Yick Wo v. Hopkins*, 1886). The court's antisubordination approach recognized that the consequence of the statute was economic disenfranchisement based on ethnicity and therefore declared the statute unconstitutional by looking at its discriminatory *effects* rather than its discriminatory *intent*.

Just as the Supreme Court outlined an antisubordination approach to the Equal Protection Clause in *Yick Wo*, it also offered an antisubordination precedent for the Free Exercise Clause in *Church of the Lukumi Babalu Aye v. City of Hialeah* (1993). In this case, the Supreme Court examined a city ordinance that banned animal sacrifice and slaughter but made exemptions for licensed slaughterhouses and Kosher killings (*Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 1993). Because it placed a heavy burden on the free exercise of religion, the court endorsed a strict scrutiny analysis and held that the ordinance was a violation of the Free Exercise Clause. The court recognized that even though the ordinance appeared neutral, it obviously targeted Santeria practitioners. Surprisingly, in a departure from his *Smith* majority opinion, Scalia approved an antisubordination approach insomuch as he endorsed an analysis of statutory *effects* rather than statutory *intent*. This is apparent in his concurring opinion, where he held:

The First Amendment does not refer to the purposes for which legislators enact laws, but to the effects of the laws enacted: “Congress shall make no law . . . prohibiting the free exercise [of religion]. . . .” This does not put us in the business of invalidating laws by reason of the evil motives of their authors. (*Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 1993, p. 558)

Accordingly, an antisubordination methodology can be applied to both race and religion cases and to both the Equal Protection and Free Exercise Clauses. Antisubordination demands that the judiciary be vigilant about

protecting minority interests and freedoms (*Yick Wo v. Hopkins*, 1886). Antisubordination acknowledges that facially neutral laws can result in disparate treatment, disparate enforcement, and disparate impact for both racial and religious minorities (*Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 1993). In order to determine whether a statute is unconstitutional, antisubordination provides a strict scrutiny framework and admits evidence of past discrimination. The focus of antisubordination's legal analysis is on statutory *effects* rather than *intent*, for this is the only way to substantiate disparate impact. Such an approach is chronicled and championed in *Yick Wo* and *Lukumi*. Had an antisubordination approach to the *Smith* case prevailed, the Supreme Court would have applied strict scrutiny to hold Oregon's facially neutral drug laws unconstitutional for violating the Free Exercise Clause of the First Amendment, insomuch as they directly and discriminatorily prohibit Native American Church practitioners from ingesting their sacrament.

Although antisubordination approaches to the Equal Protection and Free Exercise Clauses are analytically similar, they implicate different constitutional concerns. This is because the Free Exercise Clause must also satisfy the dictates of the Establishment Clause of the First Amendment, which prohibits the government from establishing a state religion. There is a historical tension between these two religion clauses, and sometimes one is violated while enforcing the other. By allowing a *facial exemption to general drug laws* for peyote use, as mandated by an antisubordination approach to the Free Exercise Clause, the Supreme Court could very well violate the Establishment Clause by endorsing a special exception for Native American Church practitioners. However, there are interpretive strategies that can be employed in order to ensure that both the Free Exercise and the Establishment Clause are satisfied within an antisubordination framework.

In the 1971 *Lemon v. Kurtzman* case, the Supreme Court outlined a tripartite analysis determining the parameters of Establishment Clause jurisdiction (*Lemon v. Kurtzman*, 1971). The *Lemon* test mandates that there is no violation of the Establishment Clause if (1) the statute has a secular legislative purpose, (2) the primary effect neither enhances nor inhibits religion, and (3) there is no excessive entanglement with religion. Although the *Lemon* test has never been overruled, it has lost favor with the Supreme Court ever since *Marsh v. Chambers* (1983). The court now seems to prefer the establishment test, which inquires as to whether the state has endorsed religion in some form or another (*Marsh v. Chambers*, 1983). Regardless of which test is used, a peyote exemption to general drug laws can be reconciled with the Establishment Clause, while still maintaining an antisubordination methodology.

The primary obstacle to an antisubordination approach to the Establishment Clause is the *Lemon* test's insistence on a secular legislative purpose (*Lemon v. Kurtzman*, 1971). Such a requirement creates a legal approach

similar to colorblindness, except instead of mandating that statutes must be facially *race* neutral, the *Lemon* test suggests that statutes must be facially *religion* neutral. This religion-blind approach to the First Amendment is referred to as the nonpreferential approach, and like the antidiscrimination approach to race, it is the antithesis of antisubordination (Hensley & Tudor, 1999). It would appear then that the *Lemon* test is fundamentally incompatible with antisubordination, as it is more concerned with statutory *intent* rather than statutory *effect*, and with its secular purpose mandate, it prohibits religion-conscious remedies (*Lemon v. Kurtzman*, 1971).

However, the judiciary has offered an interpretive methodology that allows for the *Lemon* test to be administered as an antisubordination approach to the Establishment Clause. In *Protos v. Volkswagen of America, Inc.* (1986), the Third Circuit held that Title VII's "reasonable accommodation" of religion prong does not violate the *Lemon* test because, even though it is not facially neutral, it has a secular purpose: "to relieve individuals of the burden of choosing between their jobs and their religious convictions" (*Protos v. Volkswagen of America, Inc.*, 1986). This legitimate secular purpose ensured that there was no excessive entanglement of religion, and therefore *Protos* passed the *Lemon* test. Using this reasoning, the judiciary could hold that a facial exemption of peyote from general drug laws also has a secular purpose, even though it is not facially neutral. Such a secular purpose could follow the *Protos* prototype, for a peyote exemption to general drug laws also relieves individuals from the burden of choosing between their jobs and their religious practice. This was especially true for the Native American Church practitioners in the *Smith* case, as they sacrificed employment benefits to engage in their religious practice (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990).

Supporters of the *Smith* decision contend that a peyote exemption to a generally applicable, facially neutral drug law would amount to the establishment and endorsement of religion, as it would facially grant special preference upon Native American Church practitioners (McConnell, 1990). However, the Supreme Court has already upheld facial exemptions to generally applicable employment discrimination laws without violating the Establishment Clause. In *Corporation of Presiding Bishop v. Amos* (1987), the court upheld a statutory exemption of religious institutions from Title VII (*Corporation of Presiding Bishop v. Amos*, 1987). Accordingly, religious institutions are legally allowed to discriminate against potential employees on the basis of religion without violating Title VII. The court unanimously held that this facial exemption to Title VII does not violate the Establishment Clause, thereby edifying the notion that the judiciary can protect religious freedom and accommodate religious practice without violating the Establishment Clause.

ON RACE, RELIGION, AND DRUG LAWS

The *Smith* decision is another historical example of how facially neutral drug laws disproportionately impact minority races and religions. This is painfully apparent through revealing statistical studies. For example, a 1992 U.S. Public Health Service report estimated that 76% of drug users in the United States were White, while 74% of drug convicts were Black (Cole, 1999).

The history of marijuana laws in the United States provides a potent example of drug racialization. The first laws prohibiting marijuana possession were local ordinances, passed in El Paso, Texas, in 1914 (Schlosser, 2004). At the time, the Texas government wanted legal avenues to control the immigrant Mexican population. Marijuana propaganda portrayed marijuana as a “killer weed” that transformed the user into a criminal. Accordingly, Mexicans were criminalized because of their alleged association with marijuana. In this manner, laws that were ostensibly implemented to *control marijuana* were actually wielded to *control Mexicans*. During the 1920s, the anti-marijuana lobby began to racialize marijuana as a Black drug. Immigrants from the Caribbean and jazz musicians from New Orleans became associated with marijuana, allowing the racial targeting of American Blacks. Not until the 1960s, when college-educated White liberals started openly using marijuana and questioning marijuana policy, did the marijuana laws in the United States become more lenient (Schlosser, 2004).

The same is true for racialized cocaine laws. The racially disparate impact of cocaine laws is evident in the disparity between crack cocaine and powder cocaine criminal sentencing (Rudovsky, 1994). Both crack cocaine and powder cocaine contain the same illegal, active substances, but crack cocaine defendants are predominately Black, while powder cocaine defendants are predominately White (Cole, 1999). Even though there is no substantive distinction between crack cocaine and powder cocaine, Congress mandated sentences for crack cocaine possession that are 100 times more severe than for powder cocaine possession (Cole, 1999). Such statistical evidence of racially discriminatory sentencing laws has been repeatedly denied and discarded by a judiciary legally bound by the Supreme Court decision in *McCleskey v. Kemp* (1987), which held that statistical racial disparities do not establish Congressional discriminatory intent.

Despite structural similarities, there are legal differences between the racialization of marijuana and cocaine laws and the discriminatory effect of peyote laws. Marijuana and cocaine laws are facially neutral but are executed in a racially discriminatory manner. Peyote laws are facially neutral but still explicitly target Native Americans. This is because the class of peyote users consists almost entirely of Native American Church practitioners, whereas the class of marijuana and cocaine users includes people of all races, religions, ethnicities,

and nationalities (Schlosser, 2004). Accordingly, the enforcement of any peyote law constitutes discrimination against a single group, namely Native American peyotists, and prohibits the free exercise of the peyotist religion. This is not the case with marijuana and cocaine laws, for these laws implicate a broad range of people. Blackmun recognized this distinction in his *Smith* dissent and warned about erroneously conflating peyote with other illicit drugs:

Some religious claims involve drugs such as marijuana and heroin, in which there is significant illegal traffic, with its attendant greed and violence, so that it would be difficult to grant a religious exemption without seriously compromising law enforcement efforts. That the State might grant an exemption for religious peyote use, but deny other religious claims arising in different circumstances, would not violate the Establishment Clause. Though the State must treat all religions equally, and not favor one over another, this obligation is fulfilled by the uniform application of the “compelling interest” test to all free exercise claims, not by reaching uniform results as to all claims. A showing that religious peyote use does not unduly interfere with the State’s interests is one that probably few other religious groups or sects could make. (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990, p. 918)

But despite the differences between peyote laws and other drug laws, they are structurally similar in that they form a canon of facially neutral drug laws that have disparately impacted minority communities throughout the United States. Together, they recount a racialized history of American criminal drug laws, enforcement, and policy.

CONCLUSION

The *Smith* decision threatened the liberty not only of Native American Church practitioners but also of all minority religious groups in the United States (*Employment Division, Department of Human Resources of Oregon v. Smith*, 1990). The Native American Church, in a movement spearheaded by Reuben Snake, formed an interfaith coalition, the Native American Religious Freedom Project, which was central in pushing Congress to enact legislation that would counteract *Smith* (Smith & Snake, 1996). In 1994, President Clinton signed Public Law 103-344, which was overwhelmingly approved in Congress (American Indian Religious Freedom Act Amendments of 1994, 1994). This law was an amendment to the vague 1978 American Indian Religious Freedom Act and legalized the religious use of peyote by Native Americans. It read, in part:

The Congress finds and declares that—(1) for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures; . . . (4) the Supreme Court of the United States, in the case of *Employment Division v. Smith* held that the First Amendment does not protect Indian practitioners who use peyote in Indian religious ceremonies, and also raises uncertainty whether this religious practice would be protected under the compelling State interest standard. . . . Not notwithstanding any other provision of law, the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States, or any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs. (Smith & Snake, 1996, p. 151)

This seemed to end a 373-year battle with peyote law that was authored by Christian missionaries and implemented by the Bureau of Indian Affairs, tribal councils, state legislatures, and the U.S. Supreme Court.² This struggle for sacrament occurred in different arenas, from reservations to administrative offices, from state legislatures to state courts, and finally, from the U.S. Supreme Court to the U.S. Congress. Throughout it all, Christianity provided the framework for both sides of the debate and was strategically employed by peyotists and nonpeyotists alike (Vecsey, 1988). The case of peyote, where Christianity was used to eradicate peyotism but ended up legitimizing and spreading it, provides a powerful model for other religious minority communities advocating for their First Amendment rights.

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NOTES

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1. I use the term *baseline* to refer to the paradigmatic model that the judiciary implicitly adopts in order to analyze particular issues. In this case, a Christian baseline supports my contention that Christianity shaped the discourse on both sides of the peyote debate, and therefore Christianity is implicitly adopted as a baseline through which all other religious traditions and religious freedom issues are understood.

2. Unfortunately, the Supreme Court declared unconstitutional Congress's Religious Freedom Restoration Act (RFRA) of 1993 (*City of Boerne v. Flores*, 1997). The RFRA was explicitly enacted to overturn the *Smith* decision and precluded the government from significantly burdening the free exercise of religion, even if unintentional through a law of general applicability, like the drug laws in *Smith*. The court held that Congress had overstepped its jurisdictional bounds. The court also held that because the RFRA substantially altered the meaning of the Free Exercise Clause, it was unconstitutional as applied to the states. The *Flores* decision may have technically been decided on the doctrine of separation of powers, but nonetheless, it remains another example of a judicially mandated obstacle in developing an antisubordination approach to the Free Exercise Clause.

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State and Federal Legal Protections for Peyote Use in the United States

John P. Forren

In a May 1990 policy statement, Native American Church (NAC) leaders warned ominously that recent legal developments in American courts had placed the “very existence” of peyotism under “clear and present threat” in the United States (Native American Church, 1990). Looking across the American legal landscape at that time, church leaders had ample reason to be worried. Having long faced both an expansive government War on Drugs and an American public largely unfamiliar with indigenous religious practices, most Native American leaders had come to view American courts as the primary institutional protectors of their core religious freedoms. Yet, in the spring of 1990, those cherished judicial safeguards for religious liberty appeared to lie in tatters. Lower federal and state courts—widely considered to be the front-line guardians of “discrete and insular minorities”—had long ago made clear to close observers that the First Amendment, in practice, was hardly an impregnable barrier against government restrictions of religious action.¹ What’s more, the U.S. Supreme Court, for its part, had gradually watered down the First Amendment’s guarantee of the free exercise of religion so much that, by the end of the 1980s, the controlling constitutional rules in the field had come to resemble doctrinal Swiss cheese. Still, neither of these long-term trends in First Amendment law, while disquieting, had foreshadowed the wholesale abandonment of judicial protections that the Supreme Court’s decision in *Employment Division v. Smith* (1990) seemed to announce. In ruling directly on the religious use of peyote for the first time, the court in *Smith* declared bluntly that the scope of legal safeguards for religious practices like peyotism should henceforth be determined in the ordinary political process rather than in the courts. The Free Exercise Clause, the *Smith* court explained, stood only to prevent government officials from discriminating

intentionally against unpopular or disfavored religious beliefs or sects. When it comes to the enforcement of generally applicable drug laws against religious objectors, on the other hand, the Constitution does not require any special government accommodation of Native American peyote use at all.

As Walter Echo-Hawk has observed, “The injustice of *Smith* slapped many Native Americans in the face” (Echo-Hawk, 2010, p. 317). And, specifically with regard to religious peyote use, *Smith* seemed to be an unmitigated disaster, opening the floodgates to unrestrained regulation and criminalization at the hands of unsympathetic or ignorant political majorities (see Kelley, 1990). Looking now with the benefit of a quarter-century of hindsight, though, it is clear such prognostications of doom were substantially off the mark in predicting how the rights of peyotists would actually be affected by the American judiciary’s withdrawal of significant First Amendment protections for religious practice. Early post-*Smith* assessments, it turns out, vastly overestimated the U.S. Supreme Court’s authority as a final voice on the scope of religious liberties. At the same time, they also vastly underestimated the ability of Native Americans and their political allies to secure meaningful protections for the free exercise of religion through administration and legislation, as well as litigation. Over the past 25 years, as we shall see below, the ordinary political process in the United States has actually performed quite well in safeguarding the basic rights of Native American peyotists in the law. Indeed, while *Smith* still remains “on the books” as the leading First Amendment precedent for free exercise rights today, religious users of peyote in the United States now enjoy greater levels of legal protection than ever before.

PEYOTISM AND U.S. LAW PRIOR TO SMITH

While the U.S. Supreme Court entered the legal fray over peyote use only quite recently, conflicts over the religious use of peyote stretch back hundreds of years in American history. Indeed, as early as the seventeenth century, European colonial authorities were already teaming with Catholic missionaries in an effort to eradicate Native American peyote use and other “heathen” religious rites and thereby facilitate conversion of native populations to Christianity (see Anderson, 1996; Stewart, 1987). Such official suppression efforts by government continued largely unabated for a long time after American independence; indeed, for over 150 years, federal officials in the United States carried out various antipeyote initiatives as part of a broader assimilation policy aimed at saving Indian souls and subjugating native peoples (see Botsford & Echo-Hawk, 1996; Carpenter, 2012). At times, government repression took on a particularly coercive cast. In 1888, for instance, federal administrative officials banned the ingestion of peyote on the Kiowa-Comanche Reservation (in present-day Oklahoma) for being harmful

to native populations and conducive to social disorder. Similar administrative orders applicable to other tribal areas soon followed (Feeney, 2014; Maroukis, 2010). Two years later, the U.S. Bureau of Indian Affairs (BIA) labeled peyote an intoxicant and launched a broad eradication effort that included confiscation, unannounced raids of Native American religious sites, and on occasion, incarceration of peyote users and suppliers (Botsford & Echo-Hawk, 1996; Maroukis, 2010). In 1899, the territorial legislature in Oklahoma, reflecting similar hostility toward Native American practices, enacted the first specific state or local peyote prohibition in the United States. Over the next three decades, 11 other western and southern states followed suit (Anderson, 1996; Botsford & Echo-Hawk, 1996).

Such targeted attempts to eradicate the use of peyote continued in Congress and in some states well into the mid-twentieth century—at times pitting Native American peyotists against other indigenous groups who opposed peyote use as a threat to their own political power and cultural traditions (Beeson, 1992; Stewart, 1987). Over time, however, as the nation's political and legal culture generally moved toward greater acceptance of social and religious diversity, U.S. public policy also shifted gradually away from suppression of peyotism and toward greater protections for Native American religious traditions. One key turning point was the 1933 appointment by President Franklin D. Roosevelt of John Collier, a Native American rights activist and former executive secretary of the American Indian Defense Association, as the new commissioner of the BIA. Under Collier's leadership—and with the active support of Roosevelt's Secretary of the Interior Harold Ickes—the BIA abandoned its long-standing emphasis on forced assimilation of Native Americans and began to actively encourage the preservation of indigenous cultural practices and the development of mechanisms for tribal self-government (Stewart, 1987). The BIA announced its newly accommodationist policy toward Native American religion in a January 1934 directive from Collier to all superintendents of American Indian reservations. Entitled *Indian Religious Freedom and Indian Culture*, the policy circular stated simply: "No interference with Indian religious life or ceremonial expression will hereafter be tolerated" (Maroukis, 2010, p. 126).

At least as important, and around the same time, the U.S. Supreme Court also expanded the protections of the First Amendment's Free Exercise Clause in a manner that opened the door to a much larger judicial role in protecting Native American religious practices. A major breakthrough came in *Cantwell v. Connecticut* (1940), when the court held for the first time that the Free Exercise Clause protected religious *conduct* as well as belief. What's more, *Cantwell* suggested, the First Amendment required federal and state officials to exempt religious objectors even from nondiscriminatory, generally applicable laws when the particular burdens on religious practice created by those

laws could not be justified by overriding governmental interests. “In every case,” Justice Owen Roberts wrote for a unanimous *Cantwell* court, “the power to regulate must be so exercised as not, in attaining a permissible end, unduly to infringe the protected freedom” (*Cantwell v. Connecticut*, 1940, p. 304).

Twenty-three years after *Cantwell*, the Supreme Court in *Sherbert v. Verner* (1963) formalized this newly protective reading of the Free Exercise Clause into a general legal standard that was to be applied by federal and state courts alike when adjudicating First Amendment claims of impermissible government burdens on religion. As Justice William Brennan explained in *Sherbert*, a religious actor seeking a First Amendment exemption from a government policy—even a facially neutral one—needed only to demonstrate that the policy in question created a substantial burden on their religious practices. Once that initial showing was made, then, the burden shifted to government to prove why the sought-after exemption could not be granted—a task that required officials to show both that the challenged policy furthered some “compelling state interest” and that “no alternative forms of regulation” would equally serve that interest (pp. 406–407). In *Sherbert* itself, this strict scrutiny analysis ultimately meant that South Carolina was required by the First Amendment to exempt a Seventh Day Adventist from its unemployment compensation rules. Nine years later, in *Wisconsin v. Yoder* (1972), it was used again by an effectively unanimous Supreme Court to exempt an Amish family from portions of that state’s compulsory education laws.

Until the court’s 1990 ruling in *Employment Division v. Smith*, the *Sherbert/Yoder* strict scrutiny test remained the general standard for determining First Amendment exemptions claims in the courts. Notably, none of the Supreme Court’s decisions granting First Amendment exemptions during the *Sherbert/Yoder* era dealt specifically with the religious use of peyote. Yet those high court decisions spoke loudly about how peyotists’ claims for free exercise exemptions from drug laws should be evaluated. Policymakers situated throughout the American political system took note. Within the judiciary itself, California’s state supreme court, in *People v. Woody* (1964), applied the U.S. Supreme Court’s new strict scrutiny standard just a year after *Sherbert* to overturn the drug possession convictions of three Navajo railroad workers who had taken part in an NAC religious ceremony outside of Needles, California. Rejecting the state’s argument that a First Amendment exemption would both harm Native Americans’ personal well-being and undermine the state’s ability to enforce the law, the California court noted that “peyote is the sine qua non of defendants’ faith” and “the sole means by which defendants are able to experience their religion” (p. 820). The *Woody* court further explained:

We have weighed the competing values represented in this case on the symbolic scale of constitutionality. On the one side we have placed the

weight of freedom of religion as protected by the First Amendment; on the other, the weight of the state's "compelling interest." Since the use of peyote incorporates the essence of the religious expression, the first weight is heavy. Yet the use of peyote presents only slight danger to the state and to the enforcement of its law; the second weight is relatively light. (*People v. Woody*, 1964, p. 821)

The First Amendment scale, the California court concluded, "tips in favor of the constitutional protection" (p. 821).

Courts in several other states followed the California Supreme Court's lead. In 1968, a trial judge in Laredo, Texas, cited *Woody* in dismissing state charges of peyote possession against NAC member David S. Clark, who had violated that state's ban intentionally in order to bring a test case to court. In light of *Woody*, state judge E. James Kazan wrote that the Texas ban, which had posed a particularly significant threat to peyotism because Texas is the only state in the United States where peyote grows naturally, "is unconstitutional as it applies to [Clark], who possessed and used peyote in good faith in the sincere and honest practice of Peyotism, a bona fide religion" (Anderson, 1996, pp. 196–197; see also Franklin & Patchen, 1994; Maroukis, 2010). Similarly in *State v. Whittingham* (1973), an Arizona appeals court relied heavily on *People v. Woody* and *Sherbert v. Verner* in barring the criminal prosecution of two people who had celebrated their recent marriage by taking part in an NAC peyote ceremony in neighboring California. "Peyotism is not a twentieth century cult nor a fad subject to extinction at whim," the Arizona state court observed, yet, without access to peyote, "the sacraments of the Native American Church are obliterated" (p. 952). Four years later, in *Whitehorn v. State* (1977), an Oklahoma criminal appeals court applied the same First Amendment principles in reversing the felony drug conviction of an Otoe and Ponca tribal member who had been charged with unlawfully carrying a string of sacred peyote buttons that he had inherited from his deceased uncle.

To be sure, not all lower courts took the opportunity to extend the U.S. Supreme Court's *Sherbert* analysis to religious peyote use before *Smith*. For instance, in *State v. Bullard* (1966), the Supreme Court of North Carolina ignored *Sherbert* altogether when rejecting a claim by a self-described member of the Neo-American Church that both peyote and marijuana were necessary for the practice of his religious beliefs. Noting skeptically that "the defendant made no mention of his religion" at the time of his arrest, the North Carolina court concluded simply that the First Amendment does not "authorize him in the exercise of his religion to commit acts which constitute threats to the public safety, morals, peace and order" (pp. 568–569). Similarly, in *State v. Soto* (1975), a panel of the Court of Appeals of Oregon applied a clearly watered-down version of strict scrutiny in upholding a sentence of 3 years' probation

for an NAC member who had been convicted of peyote possession. In that case, the Oregon panel noted the applicability of strict scrutiny in light of *Sherbert*, but then deferred to the state legislature's own finding of a compelling interest in protecting public health and safety.

Still, such antipeyote rulings were clearly the exception rather than the rule in the lower courts during the *Sherbert/Woody* era. Indeed, most judges and legal commentators across the nation opted rather quickly after the 1964 *Woody* decision to view the California Supreme Court's First Amendment analysis as authoritative on the question of Native American peyote use, at least in the absence of more specific guidance from the U.S. Supreme Court (Mountain & Frohnmayer, 1989). Just as important, this consensus view among legal elites about the First Amendment's restrictions on peyote regulation exerted a powerful constraining influence on policymakers *outside* of the judiciary as well. More specifically, in the 1960s, as federal and state lawmakers began to expand the nation's criminal restrictions on a range of "dangerous" drugs, those legislators—reflecting the prevailing First Amendment understanding—often incorporated into those new laws various mechanisms by which sacramental use of peyote would be exempted either by administrators or under the terms of the statutes themselves.

For instance, when the U.S. Congress enacted the Drug Abuse Control Amendments Act of 1965—a sweeping law that defined peyote as a nationally regulated controlled substance for the first time—it notably did not include an explicit statutory exemption for religious use in the final version of the legislation. Yet, in an extraordinary step, leaders in the U.S. House of Representatives made clear their expectation that the new law would not apply to NAC peyote use in light of the Constitution's protections for religious liberty. Indeed, shortly before the final House vote on the act, Representative Oren Harris, the primary floor manager for the bill, noted for the record that "prosecutions for the use of peyote in connection with religious ceremonies [would still be] a violation of the First Amendment" under the new federal law. Further underscoring the point, he added that the U.S. Food and Drug Administration (FDA)—which would be charged with writing most of the implementing regulations for the Act—had specifically "assured [him] that the bill . . . cannot forbid bona fide religious use of peyote" (Harris, 1965, p. 15977). Leaving no ambiguity on the question, Harris then inserted into the *Congressional Record* a letter that he had recently solicited from the commissioner of the FDA on the matter. In that letter, the agency explicitly bound itself to the position that "the constitutional guarantee of religious freedom fully safeguards the rights [of the NAC] and its communicants" (Lerrick, 1965, p. 15978).

Several years later, Congress again clearly expressed its will to conform national drug policy to the *Woody* framework when it enacted the Controlled

Substances Act of 1970. At a key hearing on that legislation, House members again demanded explicit assurances from administrative agency officials that the pending revisions to federal drug laws would not alter the long-standing exemptions for peyote use enjoyed by NAC members. “There is no question . . . that they regard peyote as a deity as it were,” a senior Nixon administration official responded when asked about the enforcement agency’s view. Consequently, the official confirmed, “[W]e will continue the exemption” from federal prosecution under the law (Babner, 1991–1992, p. 82). True to their word, federal drug policy administrators have adhered to that promise ever since; indeed, the promised exemption can still be found today in Title 21, §1307.31 of the *Code of Federal Regulations*, which states simply that “the listing of peyote as a controlled substance . . . does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church.”

Mirroring the actions of their federal counterparts, state-level policymakers similarly acted in the shadow of *Sherbert* and *Woody* to align their state drug laws with the prevailing view that the First Amendment required NAC exemptions. In Texas, for instance—where, as noted above, a trial court judge had cited *Woody* when ordering an exemption from that state’s general peyote possession law in 1968—NAC leaders led a coordinated lobbying effort in the state’s capitol aimed at persuading the governor and state legislative leaders to provide an explicit legislative exemption. With critical support from other religious and civil liberties groups, NAC leaders scored a quick political victory; in 1969, Texas amended its general narcotics law so as to explicitly exclude NAC members with at least “25 percent Indian blood” who used peyote “in bona fide religious ceremonies” (Maroukis, 2010; Texas Stat. Ann., 1969). A few years later, a similar story played out in Arizona, where the legislature responded to a state appeals court’s ruling (in the aforementioned *State v. Whittingham*) by enacting an explicit exemption for religious peyote use. Thus, even today, NAC members cannot be prosecuted in Arizona under state law for ingestion of peyote “in connection with the bona fide practice of a religious belief” (Ariz. Rev. Stat. Ann., 2005).

Native American rights advocates and their allies scored similar political victories in state after state during the *Sherbert/Woody* era of free exercise protections. Indeed, by the time that *Employment Division v. Smith* was decided, an extensive patchwork of legal protections for peyotists had already emerged at the state level—one that, taken as a whole, provided significant safeguards against drug prosecution for much of the nation’s Native American population. Altogether, 23 of the 50 states had established some form of legislative or administrative exemption for the bona fide religious use of peyote. Legislatures in 11 states—Arizona, Colorado, Iowa, Kansas, Minnesota, Nevada, New Mexico, South Dakota, Texas, and Wisconsin—had exempted the sacramental use of peyote from their criminal drug laws

with explicit statutory language to that effect.² An additional 12 states—Alaska, Mississippi, Montana, New Jersey, North Carolina, North Dakota, Rhode Island, Tennessee, Utah, Virginia, Washington, and West Virginia—had adopted religious peyote exemptions less directly, by reference to the NAC exemption found in federal drug law.³ At least seven states explicitly limited their legislative exemptions so as to apply only to recognized members of the NAC. Colorado, New Mexico, and Nevada, by contrast, went further to exempt the religious use of peyote by members of any bona fide religious organization (Mountain & Frohnmayer, 1989).

As noted earlier, the U.S. Supreme Court had not explicitly mandated any of these exemptions; indeed, the nation's highest court prior to *Smith* had never actually decided a case that focused squarely on the question of Native American peyote use. Yet the court's broader free exercise rulings had clearly played a critical role in framing the range of policy choices open to state and federal officials who had become active in regulating drug use throughout the country. In light of *Sherbert* and its progeny, legislative and administrative exemptions proliferated largely because most lawmakers and judges believed that the First Amendment required them. When the Supreme Court in *Employment Division v. Smith* (1990) then rejected that view of the Free Exercise Clause in direct and unambiguous terms, it seemingly set the stage for a wholesale overturning of settled practices in the policy field.

SMITH AND THE SUPREME COURT'S REPUDIATION OF CONSTITUTIONALLY COMPELLED EXEMPTIONS

The landmark ruling in *Employment Division v. Smith* began as a run-of-the-mill skirmish about unemployment benefits in the Pacific Northwest state of Oregon. On October 3, 1983, ADAPT, a privately operated drug and alcohol treatment center in Douglas County, fired staff counselor Galen Black for violating its ban on employee use of mind-altering drugs by ingesting a small amount of peyote at a NAC sweat lodge ceremony. Several months later, ADAPT supervisors terminated another of the agency's staff counselors, fellow NAC member Alfred Smith, for breaking the same workplace rule against peyote use. Following their terminations, both men applied to the Oregon Department of Human Resources for unemployment compensation benefits, only to be found ineligible since their firings had resulted from "work-related misconduct" as defined in the state's unemployment regulations. Notably, Oregon law at the time also made it a crime for anyone to possess peyote, and the statute in question, unlike those found in almost two dozen other states, did not include a religious-use exemption. Still, Oregon officials disavowed any interest in prosecution; indeed, state officials throughout the proceedings in *Smith* consistently denied any intent to enforce the state's peyote

ban against Native Americans. Thus, for both sides in the case, the question was simply whether the *Sherbert* strict scrutiny standard required a religious exemption from Oregon's generally applicable unemployment compensation rules. In their eyes, the mere existence in state law of an unenforced (and probably unenforceable) criminal prohibition on peyote was irrelevant to the First Amendment questions at hand.

In denying the two men's unemployment compensation claims, however, the U.S. Supreme Court in *Employment Division v. Smith* (1990) focused squarely on the state's criminal ban and, specifically, on the hypothetical question of whether the state could have prosecuted them for their religiously inspired use. Writing for the *Smith* majority, Justice Antonin Scalia answered that question by reaffirming the long-standing (and completely uncontested) rule that the Free Exercise Clause absolutely protects against governmental regulations of religious belief as well as intentional discrimination against religiously motivated conduct (*Employment Division v. Smith*, 1990). Nonetheless, Scalia continued, the First Amendment simply does not insulate a religiously inspired peyote user from prosecution under a generally applicable state criminal drug law. He wrote:

It would be true, we think . . . that a State would be “prohibiting the free exercise of religion” if it sought to ban . . . acts or abstentions only when they are engaged in for religious reasons. . . . [But the claimants] assert . . . that “prohibiting the free exercise (of religion)” includes requiring any individual to observe a generally applicable law that requires (or forbids) the performance of an act that his religious belief forbids (or requires) . . .

We have never held that an individual’s religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate. . . . [T]he right of free exercise does not relieve an individual of the obligation to comply with a “valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)” (*Employment Division v. Smith*, 1990, pp. 877–879).

The *Woody* view of constitutionally required peyote exemptions, in other words, had been wrong all along. Wrong, too, was its broader First Amendment premise—standing at the core of prevailing free exercise case law since *Cantwell v. Connecticut* (1940)—that the Free Exercise Clause generally required a careful weighing of competing governmental and religious interests whenever a religion-neutral policy had created an incidental burden on religious practice. To the contrary, the *Smith* court held, the Free Exercise Clause requires only that the government remain formally neutral toward

religion and restrain itself from regulating individuals' religious *beliefs*. In the realm of regulating *conduct*, meanwhile, government officials carried no general First Amendment obligation to accommodate religiously inspired action at all.

For those seeking exemptions for religious action, Justice Scalia counseled, legal protections are properly sought from legislators and politics rather than from judges and constitutional law. He wrote:

Values that are protected against government interference through enshrinement in the Bill of Rights are not thereby banished from the political process. Just as a society that believes in the negative protection accorded to the press by the First Amendment is likely to enact laws that affirmatively foster the dissemination of the printed word, so also a society that believes in the negative protection accorded to religious belief can be expected to be solicitous of that value in its legislation as well. . . . But to say that a nondiscriminatory religious-practice exemption is permitted, or even that it is desirable, is not to say that it is constitutionally required, and that the appropriate occasions for its creation can be discerned by the courts. (*Employment Division v. Smith*, 1990, p. 890)

Of course, Scalia acknowledged, such a reliance upon politics alone to produce religious accommodations might mean in practice that mainstream or widely practiced religions would likely succeed in securing legal exemptions for themselves, while leaving less well-understood or less popular religions to suffer under general laws enacted by ignorant or indifferent political majorities. Nonetheless, Scalia concluded, such differential practical impacts on minorities are an "unavoidable consequence of democratic government." Reliance upon the nation's ordinary political processes "must be preferred to a system in which each conscience is a law unto itself or in which judges weigh the social importance of all laws against the centrality of all religious beliefs" (*Employment Division v. Smith*, 1990, p. 890).

Justice Scalia's strident attack on a half-century of prevailing First Amendment doctrines in *Smith* surprised virtually everyone, including both parties in the case, who had simply asked the court to apply its long-settled *Sherbert* framework to settle the dispute. Caught off guard, critics from a number of quarters unleashed a firestorm of negative commentary. On the Supreme Court itself, Justice Harry Blackmun castigated the *Smith* majority for its "whole-sale overturning of settled law," "distorted view of . . . precedents" and "perfunctory dismissal" of "a settled and inviolate principle" of First Amendment law (*Employment Division v. Smith*, 1990, pp. 908–909). Justice Sandra Day O'Connor added that the ruling "dramatically departs from well-settled First Amendment jurisprudence . . . and is incompatible with our Nation's

fundamental commitment to individual religious liberty" (*Employment Division v. Smith*, 1990, p. 891). Outside the court, newspaper editorials and opinion pieces quickly decried the ruling as "strikingly cold" (Ball, 1990), a "repudiation of nearly a century of humane and enlightened legal precedent" and "an affront ... to our society's hard-won pluralism" (The necessity of religion, 1990) and a "sweeping exercise of judicial activism" (Hentoff, 1990). Prominent constitutional law scholars labeled the ruling "the most radical doctrinal change in years" and "a substantial repealer of the modern free exercise clause" (Reuben, 1990, p. 1). Religious liberty activists lamented that *Smith* had suddenly and callously "[left] religious minorities at the mercy of state legislatures and the federal government" (Americans United, 1990).

Concerns about *Smith* within the Native American community, meanwhile, were much more narrowly focused and concrete. As NAC leaders and others quickly grasped, the ruling in *Smith* had done more than make it essentially impossible for a Native American peyotist to prevail in court on a First Amendment exemption claim. Much more significantly, the ruling had abruptly demolished the Woody understanding of First Amendment requirements, shared for decades by most legal and political elites throughout the nation, which had yielded the array of statutory and administrative protections for religious use that were discussed above. Clearly, after *Smith*, government no longer had to exempt the religious use of peyote from its general drug laws. And, given the relatively small number of practicing peyotists in the United States by 1990, and their geographical dispersion across numerous states, NAC leaders worried openly about their practical ability in the future to maintain existing exemptions in the political process against popular majorities bent on pressing the nation's escalating War on Drugs. As one sympathetic observer pointed out a couple of months after *Smith*, "the general confusion in our society between the sacramental use of peyote and the abusive use of drugs" likely meant the erosion around the nation of hard-won accommodations for the religious traditions of Native Americans. "What, other than the goodwill of the majority," the observer wrote, "will prevent states from doing harm to Indian religion?" (Friends Committee on National Legislation, 1990, p. 5).

STATE-LEVEL EXEMPTIONS AFTER SMITH

At primary risk after *Smith*, it seemed, were the various religious exemptions found in criminal drug laws at the state level, especially those in states where large numbers of Native Americans either could not be found or were not politically active. Of course, NAC leaders recognized that the policy status quo was essentially on their side in these states; indeed, because none of the preexisting state exemptions were explicitly time limited, any effort at the

state level to eliminate them would necessarily have to overcome the forces of political inertia that tended to support policy continuity in such situations. NAC leaders also could reasonably hope to draw political support from the extraordinary depths of hostility expressed by political elites of all ideological stripes to the Supreme Court's unexpectedly broad *Smith* decision. Beyond that, the court's ruling had focused a bright light on the importance of peyote to the spiritual lives of many Native Americans: a lesson for the public that might be relied upon in future political battles over drug exemptions. Yet that public spotlight on peyotism, NAC leaders knew, might turn out to be a double-edged sword, because the same publicity about peyote exemptions that may serve to educate the public about the need for accommodation may also energize those who perhaps did not feel as sympathetically toward religious rites involving hallucinogenic substances.

Indeed, as noted above, NAC leaders had plenty to be worried about in the political arena. Yet in the end, *Smith* simply did not bring about the end of religious exemptions in state criminal drug laws, as some of the most pessimistic activists had feared. To the contrary, in state after state across the United States, lawmakers in the wake of *Smith* responded to their newly presented opportunity to "close a loophole" in drug laws by largely doing nothing at all (e.g., Garcia & Scott, 1990). Every one of the 23 states that had established statutory exemptions for religious use before *Smith* still maintained those exemptions in their laws years later. What's more, none changed the substantive meaning or scope of those preexisting exemptions in any significant way in response to *Smith*. Within these states, in short, *Smith* seems to have had little concrete impact at all on the laws regulating peyote use and possession.

Why did state peyote protections essentially remain in place? Given the wide publicity attracted by the ruling, it is unlikely that state policymakers simply remained unaware of the new policy window that the *Smith* court had opened up for them (e.g., Long, 2000, pp. 223–226). Rather, it seems that at least three basic factors weighed heavily in favor of the legislative status quo at the state level. First, the above-mentioned political inertia—reinforced with support, at times, from sympathetic state and local civil liberties organizations—clearly played an important role in some state capitols in preventing the enactment of changes in states' preexisting legislative accommodations. Simply put, it was likely harder at times amidst a crowded legislative agenda to change preexisting policy than it was to simply carry it forward. Second, in some states, the change in federal constitutional law announced in *Smith* did not actually change the law "on the ground," because, in those particular states, judges found that strict scrutiny for free exercise exemptions claims was still required due to the religious liberty clauses found in state constitutional law.⁴ Consequently, policymakers in those states continued, even after *Smith*, to operate within the same basic policy constraints found in *Sherbert*

and Woody. Finally, in numerous states, state legislators responded to *Smith* not by passing newly restrictive laws, but rather by passing new religion-protective statutes mandating specifically that judges apply the strict scrutiny test to free exercise exemptions claims regardless of the First Amendment's more lenient standard. Connecticut was the first state to enact such a state-level "strict scrutiny" statute in 1993. As of 2014, at least 17 other states have also adopted similar legislation (Eilperin, 2014).

State law, in short, remained quite friendly to peyotists' religious liberty interests after *Smith*. In fact, at least two states developed new specific protections for peyote use in the wake of the court's 1990 ruling. In Idaho, state legislators in 1991 loosened state restrictions on transport of peyote to sites within reservations; under state law, Native Americans intending to use peyote in religious ceremonies thus became exempt for the first time from state prosecution for trafficking in controlled substances (Idaho to let Indians, 1991). Likewise in Oregon—the state out of which *Smith* itself had come—with days of the Supreme Court's ruling, a state lawmaker from Eugene announced that he would pursue new legislation aimed at exempting Native Americans from the specific criminal law cited by Justice Scalia as dispositive (Mosley, 1990). With coordinated support from Oregon Legal Services (which had represented the two peyotists in *Smith*), the American Civil Liberties Union, and several other state civil liberties groups, Oregon's legislature amended its peyote law the following spring. Under the new statutory provision, Native Americans arrested for peyote possession could henceforth claim as an affirmative defense that they had used the substance "in connection with good faith practice of religious belief" (Or. Rev. Stat. Ann., 2014).

PEYOTE PROTECTIONS IN FEDERAL LAW SINCE SMITH

The administrative exemption for NAC members in federal drug laws had come to enjoy broad support both within Congress and among senior officials of the Drug Enforcement Administration by the time the underlying constitutional rationale of *Smith* was seemingly discarded. Consequently, it is hardly surprising that, after *Smith*, federal policymakers never made any serious effort to eliminate or change the exemption. Indeed, the response to *Smith* in Congress and by dozens of Washington-based interest groups was focused, from the beginning, not on any potential rollbacks to specific *Sherbert*-era policies protecting religious liberty, but rather on the opposite: the enactment of stronger statutory protections that would fill the gap in legal safeguards for religion that *Smith* had opened up. Within days of the court's ruling, an array of leading religious and civil liberties groups—including the American Jewish Congress, the Baptist Joint Committee on Public Affairs, the National Association of Evangelicals, the American Civil Liberties Union, and

People for the American Way—began to organize a broadly based legal and political response to the court’s abandonment of the *Sherbert* free exercise framework. Dozens of other interest groups arrayed across the ideological spectrum—setting aside differences on other issues to work on a common response to *Smith*—joined the expanding coalition effort in the months that followed. From the outset, the focus of this broad coalition’s work was on persuading Congress to adopt new legislation that would effectively supplant *Smith* as an operative free exercise standard by “restoring” the strict scrutiny test generally as a matter of federal law. As legal scholars advised coalition leaders, such a legislative remedy matched at least the spirit of Justice Scalia’s call in *Smith* for political rather than judicial accommodations for minority religions. Still, coalition lawyers worried about a range of potential constitutional problems with a broad legislative “restoration” of the *Sherbert* standard. For one, it was not clear that Congress actually had the constitutional authority to effectively “overturn” a Supreme Court interpretation of the First Amendment by simply passing a statute. Such congressional action, lawyers advised, might run afoul of the constitutional separation of powers and the Supreme Court’s long-established authority to “say what the law is” (see *Marbury v. Madison*, 1803). What’s more, coalition lawyers worried about the potential that a statutory remedy for *Smith* might be open to constitutional challenge on the grounds that it violated the norm of government neutrality toward religion found in another part of the First Amendment, the Establishment Clause.

NAC leaders, meanwhile, worried that amidst this broad coalition-based effort to legislatively restore the pre-1990 *Sherbert* standard in general, the specific interests of Native American peyote users might still be left behind. As NAC attorney James Botsford argued at a June 18, 1990, meeting of coalition leaders, a simple mandate of strict scrutiny would hardly guarantee that future courts would exempt peyote users from generally applicable drug laws. Indeed, he suggested, one could easily imagine a judge—or an administrative official weighing new policy ideas—concluding that the state’s “compelling” interest in regulating drugs outweighed the specific religious needs of NAC peyotists. And since peyote users had suffered the most direct harm in *Smith*, Botsford argued, “Every church, every religious tradition, and every lover of freedom should commit themselves and their organizations . . . to making the Native American Church whole.” Only a specific exemption for Native American peyote use, he pleaded, would ensure that “the church that got [most] wounded” is included “within the protective arms” of the proposed new law (Botsford, 1990).

Despite such impassioned pleas from the Native American community, anti-*Smith* coalition leaders decided quickly to pursue a general statutory remedy that, by design, omitted any mention of specific religious interests—including those of peyote users—that the new legislation was meant to

protect. Shortly thereafter, on July 26, 1990, Representative Stephen Solarz of New York introduced H. R. 5377, entitled the Religious Freedom Restoration Act, which stated simply that “a governmental authority may not restrict any person’s free exercise of religion” unless it demonstrates that doing so “is essential to furthering a compelling governmental interest” and “is the least restrictive means of furthering that compelling governmental interest” (Religious Freedom Restoration Act, 1990). Reflecting the enormous unpopularity of *Smith* among political elites, the Solarz bill had no major political opponents when it was introduced. Indeed, at the initial congressional hearing on the proposed legislation, a couple of months after its introduction, no one appeared to testify in opposition. Despite its broad popularity, however, the bill fell victim to election-year gridlock on Capitol Hill in 1990 and, after that, to tangential conflicts over abortion rights, prisoner litigation, and a range of other issues that kept the legislation bottled up for almost 3 more years. Finally, though, in November 1993, President Bill Clinton signed the long-stalled bill into law as the Religious Freedom Restoration Act (RFRA) of 1993. Under RFRA—a law that applies only to actions by the federal government today⁵—any incidental burdens on religious conduct, including those found in generally applicable federal drug laws, now have to be justified by showing a compelling governmental interest and least restrictive means.

Perhaps ironically, the broadly based effort to secure passage of RFRA in Congress had the effect for a time of sidelining a parallel effort by the NAC and several allied lobbying organizations to enact a bill specifically exempting religiously inspired peyote use from federal and state criminal drug laws. To that end, in May 1990, the Native American Religious Freedom (NARF) Project was formally launched, with renowned Native American rights activist Reuben Snake at its head. For 4 years, then, NARF pursued a multifaceted strategy of building political support over time for targeted congressional action. James Botsford and Walter Echo-Hawk have described the effort as follows:

Many of the religious groups in the initial Coalition . . . joined with Indian tribes, Native rights organizations, and movie stars to form a broadly based movement. . . . A documentary film, *The Peyote Road*, was produced to aid the effort; it portrayed the NAC with a clarity that the outside world had not hitherto seen. Dozens of conferences and symposia were convened to spread awareness of the problem. Summit level meetings among tribal leaders planned strategy, and congressmen were induced to hold hearings on the need for added legislation. Elected leaders and elders of the NAC organizations across the country started drafting a bill to present to Congress, one they hoped would ensure the religious liberties of Native Americans forever. (Botsford & Echo-Hawk, 1996, p. 140)

Just as RFRA was headed for final congressional passage in 1993, NARF and its allies finally began to see progress in moving their peyote-specific proposal forward in Congress as well. The House of Representatives held its first hearings in 1993 on a NARF-backed proposal, fashioned by now as a set of amendments to the 1978 American Indian Religious Freedom Act (AIRFA), which had earlier declared (without providing any specific enforcement provisions) that it was the policy of the federal government to protect Native American religious liberties. On the Senate side, the chairman of the Committee on Indian Affairs, Senator Daniel K. Inouye, convened a series of field hearings in areas with high Native American populations to draw attention to the issue and build support. Meanwhile, NARF leaders consulted closely with key congressional allies to draft specific legislative language that would extend legal protections to peyotists in state and federal law alike while avoiding constitutional problems under the Establishment Clause or with the separation of powers. Importantly, NARF also secured the full support of Clinton administration officials from the Department of Justice and the Drug Enforcement Administration, who testified in congressional hearings that an explicit statutory exemption for peyotists would better serve the public interest than the administrative exemption that dated to 1965 (Maroukis, 2010).

With the political wind now at supporters' backs, then Congressman Bill Richardson of New Mexico, chairman of the House Subcommittee on Native American Affairs, formally introduced H. R. 4230, the American Indian Religious Freedom Act (AIRFA) amendments, in the House of Representatives on April 14, 1994. Even in an election year, Congress moved quickly on the widely popular bill. Following a hearing and vote in Richardson's subcommittee in June, the bill cleared the House Committee on Natural Resources in late July. Just two weeks later, the full House of Representatives passed the bill by unanimous voice vote and sent it to the Senate for consideration, where it quickly passed by voice vote as well. On October 6, 1994, President Bill Clinton signed the 1994 AIRFA amendments into law as Public Law (P. L.) 103-344.

By enacting the new statute, Congress extended federal legal protections for peyote use far beyond where they had ever existed before. For one thing, the statute placed the existing federal exemption—found in administrative regulations—on the sturdier foundation of federal statutory law. Much more significantly, the new law also preempted, in one fell swoop, the incomplete patchwork of state-by-state exemptions that had developed in the decades before *Smith*. Observing that, in 1994, 22 states still maintained criminal peyote laws that had “created hardship for Indian people who participate in such religious ceremonies” (P.L. 103-344, §3[a][3]), the new law declared simply that “the use, possession, or transportation of peyote by an Indian for bona fide traditional ceremonial proposes in connection with the practice of a

traditional Indian religion is lawful, and shall not be prohibited by the United States or *any State* (P.L. 103-344, § 3[b][1]; italics added). Notably, the statute did not mention the NAC by name; nor did it require any minimum level of Native American “blood,” as Texas’s statutory exemption had required. Rather, its coverage extended broadly to any members of “Indian Tribes” recognized by the U.S. government who practice a religion “the origin and interpretation of which is from within a traditional Indian culture or community” (P.L. 103-344, §7).

CONCLUSION

The enactment of the 1994 AIRFA amendments closed a remarkable chapter in the history of peyote regulation in the United States. Only a few years earlier, the rights of peyotists had seemingly been placed at grave risk by a Supreme Court ruling that had essentially invited government policy-makers to regulate peyote use as they saw fit. After *Smith*, critics rightly observed, the future of peyotism in the United States was indeed in the hands of politicians and their constituents rather than judges. Yet, looking back a quarter-century later, it is clear that the result was hardly a wholesale abandonment of minority religious rights. Jolted into action by *Smith*, Native American and allied groups plunged vigorously into politics to protect their sacred practices, and in a remarkably short period of time, their efforts yielded a new framework of legal protections that surpassed anything that had been in place before.

To be sure, this post-*Smith* legal framework remains open to the criticism that it is at best incomplete. Indeed, AIRFA’s protections, by design, are limited only to those peyotists who can claim membership in a federally recognized Indian tribe; consequently, bona fide non-Indian peyotists remain subject to prosecution in many states merely for following the dictates of their religious consciences. What’s more, this post-*Smith* regime of legal protections—based as it is on legislative rather than constitutional foundations—is necessarily open to revision by less sympathetic political majorities in the future. Yet, as *Smith* itself demonstrated, constitutionally based rights can be altered as well, at times without any warning that the change is coming. And, precisely because of the political consensus that was painstakingly forged in the wake of *Smith*, Native American rights to use peyote in most circumstances now seem to be secure for at least the foreseeable future. Indeed, few disputes involving peyote use now make their way into American courts.⁶ What’s more, every presidential administration since the passage of the 1994 AIRFA amendments has taken affirmative steps to implement the statute’s mandate for accommodation.⁷ As a policy issue, the question of peyote use has clearly moved to the back burner in American law and politics. Majoritarian politics, at least in this instance, has

proved to be more than capable of protecting the fundamental liberties of marginalized groups when the judiciary has opted to abdicate that role.

NOTES

1. An analysis by James Ryan of federal Courts of Appeals decisions issued in the 1980s found a success rate for free exercise claims of 12.4% (see Ryan, 1992, p. 1417). Similarly, an unpublished 1990 study of nearly 100 pre-*Smith* state and federal decisions found only a 16% overall claim success rate (see Tushnet, 1990, pp. 121–122).

2. See *Employment Division v. Smith*, 763 P.2d at 148, n. 2. The relevant statutory provisions are: Colorado Rev. Stat. § 12-22-317(3); Iowa Code Ann. §204.204.8; Kansas Stat. Ann. §65-4116(c)(8); Minnesota Stat. Ann. §152.02 Sub. 2(4); Nevada Rev. Stat. §453.541; New Mexico Stat. Ann. § 30-31-6(D); South Dakota Codified Laws Ann. §34-20B-14(17); Wisconsin Stat. § 161.115; and Wyoming Stat. 35-7-1044.

It is worth noting here that state exemptions sometimes predicated the Supreme Court's decision in *Sherbert v. Verner*. For instance, New Mexico enacted its statutory exemption in 1959 (see Beeson, 1992, 1140).

3. See *Employment Division v. Smith*, 763 P.2d at 148, no. 2. The relevant statutory provisions are: Alaska Stat. §11.71.195; Mississippi Code Ann. §41-29-111(d); Montana Code Ann. §50-32-203; New Jersey Stat. Ann. §24:21-3(c); North Carolina Gen. Stat. §90-88(d); North Dakota Cent. Code §19-03.1-02.4; Rhode Island Gen. Laws §21-28-2.01(c); Tennessee Code Ann. §39-6-403(d); Utah Code Ann. §58-37-3(3); Virginia Code Ann. §54-524.84:1; Washington Rev. Code §69-50.201(d); and West Virginia Code 60A-2-202(d).

Alaska's statutory language found at §11.71.195 is typical, stating that, "a substance the manufacture, distribution, dispensing, or possession of which is explicitly exempt from criminal penalty under federal law is exempt from the application of this chapter."

4. In the 3 years after *Smith*, courts in eight states—Minnesota, Massachusetts, Florida, California, Oregon, Minnesota, Kansas, and New York—resolved claims for religious exemptions solely on the basis of state constitutional law, thereby asserting the continuity of strict scrutiny as an independent state legal standard even after *Smith* (see Forren, 2000, p. 234).

5. The Act initially applied to all levels of government, federal and state alike. In 1997, however, the U.S. Supreme Court invalidated the Act as applied to state and local governments in *City of Boerne v. Flores* (1997).

6. A LexisNexis search conducted by the author in August 2014 revealed fewer than a dozen reported court decisions from the federal and state courts since 1994 that dealt specifically with religious adherents' access to peyote.

7. See Carpenter (2012). For instance, President Clinton in 1994 issued an executive order that directed all federal departments and agencies to consult with tribal governments on policy issues that affected the tribes. This order was supplanted in 2001 by Executive Order 13,175, which similarly mandated consultation with tribal governments.

In another instance of post-AIRFA accommodation, the Department of Defense's Armed Services Chaplain's Board responded to the AIRFA amendments by issuing new rules that gave NAC members in the military the right to use peyote as a sacrament (see Maroukis, 2010, p. 209).

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6

Peyote, Conservation, and Indian Rights in the United States

Kevin Feeney

In 1995, due to increased difficulty in obtaining peyote, as well as the diminishing size of peyote buttons (cactus tops or crowns) available for purchase, the Native American Church of North America declared the “peyote crisis” a top Church priority (For Indian Church, 1995). In the 20 years since this crisis was declared, the problem has only worsened. Certain market indicators from the regulated peyote trade, including distributor attrition, rising prices, and diminished supply, as well as commercial infrastructure developments in southern Texas, where peyote is harvested, have created concern that supplies will continue to decline and that U.S. peyote populations may become endangered (Anderson, 1995; Powell & Weedin, 2004; Terry & Trout, 2013; Williams, 2012). If these trends continue, it is possible that peyote might someday be considered for listing under the Endangered Species Act (ESA), a move that could further curtail access to peyote for the Native American Church (NAC).¹

This chapter considers the potential consequences of an ESA listing of peyote on the religious practices of the NAC and explores how religious interests are likely to be balanced against preservation goals. Despite the prejudicial outcomes an ESA listing will have for NAC religious practices, which will be discussed below, the federal government has an obligation, known as the “trust responsibility,” to preserve Indian cultures and religions (see Feeney, 2007). This obligation may prove to be useful in opening doors for alternate methods of access, such as cultivation, which will be examined as a potential method for reducing harvesting stress on wild peyote populations while maintaining NAC access to peyote. Although cultivation is perhaps the most promising avenue for maintaining peyote access, and the method of primary focus in this chapter, other possibilities need to be considered.

The best path forward, in terms of both biological and cultural preservation, will require a diversified approach, one that might include salvage operations and tax incentives for land access in addition to cultivation. These, and other avenues, will also be briefly explored. Many of the options considered in this chapter will require regulatory changes and support from both the federal and various state governments, which may prove difficult to obtain. However, given the available evidence and the federal government's duty to preserve Indian cultures and religions under the trust responsibility, the NAC may be well positioned to press for change and government support.

PEYOTE TRADE

For decades, American Indians have traveled to Texas, the only U.S. state where peyote grows naturally, to purchase their sacrament from Hispanic peyote dealers, known as peyoteros (Morgan, 1976; Morgan & Stewart, 1984).² Although it has been surmised that the peyote market dates back to the beginning of the nineteenth century, the earliest written accounts of commerce appeared in the 1880s (Morgan, 1976; Morgan & Stewart, 1984), while one former peyotero could trace his family's involvement in the peyote trade back to the early 1870s (Morgan & Stewart, 1984). Despite this history, the federal government and the state of Texas have regulated the trade in peyote only since the 1960s, when peyote first became classified as a controlled substance (Drug Abuse Control Amendment, 1965). Texas has since maintained a system for the licensed harvest and sale of peyote, which essentially codifies the historical trade relationship between Hispanic peyote dealers and American Indians (Morgan & Stewart, 1984; Texas Administrative Code [TAC], 2001; Tunnell, 2000).

At the height of the peyote trade in the mid-1970s, 27 individuals were licensed by Texas to distribute peyote; now, only three individuals continue this tradition (Morgan, 1976; Texas Dept. of Public Safety [TDPS], 2013). The dramatic attrition in peyoteros, and a 35% decline in peyote sales (from 2.3 million buttons in 1997 to an average of 1.5 million over the last few years), combined with a twofold increase in price since 2000 (see Figure 6.1), appear to suggest resource scarcity. It is possible that actual demand has diminished and price increases reflect efforts by distributors to maintain a minimum level of income; however, demand for peyote has been estimated at between 5 and 10 million buttons a year.³ Changing conditions, including restricted access to land, overharvesting, and environmental degradation, are thought to be primary barriers for peyoteros trying to meet demand (Anderson, 1995; Moreno, 2005). These trends raise questions about the continuing viability of the peyote trade as currently regulated, and suggest that some regulatory changes may be necessary to sustain the waning market.

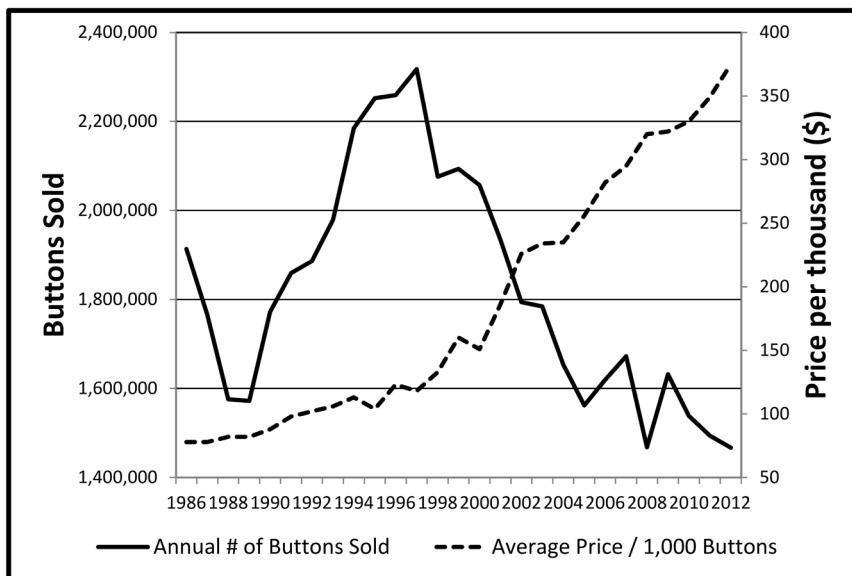


Figure 6.1 Annual sales figures from the licensed peyote trade in Texas, 1986–2012. (TDPS 2013.)

A considerable impediment for peyoteros is the limited ability to access healthy and plentiful peyote populations for harvest, owing largely to the fact that 90% of the land supporting peyote populations is privately owned (Anderson, 1995). Due to low rainfall, soil conditions, and challenging topography in peyote's growth range, landowners have purposed their land toward activities such as cattle ranching and hunting, while others have become rich from oil and gas royalties (Cobb, 2008; Moreno, 2005). Some ranchers lease portions of their property for peyote harvesting and may charge peyoteros by the hour, week, or month for access to their lands. Many, however, refuse to lease because of continued associations of peyote with drug use and with hippies who overran private ranches during the 1960s and 1970s to search for the psychedelic cactus (Anderson, 1995). Others simply cannot be bothered to work with the peyoteros, who generally can only afford to pay a small fee, and who may be seen as a liability risk on ranches that are large and inhospitable.

Although much of peyote's habitat in the United States is restricted to private ownership and not threatened by overharvesting, peyote on private land remains vulnerable for a variety of other reasons. The development of oil wells and wind farms, and the necessary access roads and storage facilities required for such projects, account for a significant amount of degradation of peyote habitat (Mount, 1993). Another damaging activity is root-plowing. Many landowners root-plow their lands using giant caterpillar tractors to pull



Photo 6.1 Harvested peyote buttons found for sale in Texas. Each is about 1 inch in diameter. (Kevin Feeney.)

that brush provides, is becoming restricted to an ever-decreasing habitat.

Of additional concern is the changing size of peyote buttons available on the market. Harvested buttons that once averaged two to three inches or more in diameter are now one to two inches or less, and buttons as small as U.S. pennies are reportedly being used in some ceremonies (Williams, 2012). There are a number of factors that contribute to the shrinking size of peyote, including poor harvesting practices, barriers to accessing uncut populations, and habitat loss due to economic development and growth in rural communities within peyote's natural growth range. Harvesting practices thought to contribute to the diminishing size of peyote buttons include: (a) premature harvesting of the slow-growing cactus, which can take 10–12 years to reach full size from seed (Peyote Way Church of God, n.d.; Terry, 2003); (b) harvesting from the same specimens too frequently, which can kill the cactus as a result of stress (Terry, Trout, Williams, Herrera, & Fowler, 2011, 2012); and (c) use of harvesting techniques that damage peyote's root or subterranean stem (Terry & Mauseth, 2006). Although peyote is resilient and often produces multiple heads when harvested correctly, which is done by cutting the crown horizontally at its base (commonly found at or near ground level), it requires a period greater than 4 years of regrowth for a plant to attain its pre-harvest level of crown biomass (Terry et al., 2012). It is also worth noting that concentrations of mescaline, the principal hallucinogenic compound in

20-foot-wide disc plows that dig up plants and roots to a depth of two feet. After plowing their land, the landowners replace the brush with buffel grass (*Cenchrus ciliaris*) for cattle grazing (Anderson, 1995; Mount, 1993). While rates of root-plowing have fallen in recent years, root rakes and discs are commonly used to similar effect. Other landowners are leasing their ranches to hunters and often clear their land of brush to protect hunters from snakes and scorpions.

As a consequence, peyote, which favors the filtered sunlight and bioavailable nitrogen and physical protection

peyote, tend to be significantly lower among previously harvested plants (Kalam et al., 2013). As a result, NAC members must either increase the amount of peyote consumed to compensate for declines in potency or maintain consumption levels with noticeably weaker peyote buttons. Increases in consumption, of course, will further exacerbate current harvesting pressures.

PEYOTE AND THE ENDANGERED SPECIES ACT

Peyote is not currently listed as an “endangered” or “threatened” species in the United States.⁴ To date, no official research or inquiries have been made by U.S. Fish and Wildlife Services, the agency that enforces the ESA, regarding the status of peyote or its habitat (Weyant, 2004). As a result, the following discussion is principally theoretical; however, given that peyote is already listed as a species requiring “special protection” in Mexico, and is also protected under the Convention on International Trade in Endangered Species (see Labate & Feeney, this volume), the possibility of an ESA listing must be considered. Unfortunately, much of the information available on peyote populations, as previously discussed, is limited to anecdotal reports from NAC members and peyote distributors. Part of the difficulty in conducting scientific studies is that peyote’s habitat is composed almost entirely of privately owned land, which makes it exceedingly difficult for interested parties to research the status of peyote and to make appropriate determinations about the current health and range of U.S. populations.⁵

Regulation of endangered species under the ESA, however, may not hold much promise for preserving plant species like peyote. Significantly, the protection afforded to plants under the Endangered Species Act of 1973 (1994) is limited to populations that grow on federal lands, unlike protections for animals, which are extended to private property. Texas also extends protection to plant species recognized by the ESA to state lands (Texas Parks & Wildlife, Code Ann, 2003); however, given the dearth of public lands in Texas, whether state or federal, protections for peyote under the ESA would be severely limited. Should peyote be listed under the ESA, there will be little to protect the species from root-plowing or oil and wind farm developments. The only likely conservation measure would be to further limit or end the legal peyote trade in Texas. In light of this possibility, it is necessary to understand what rights NAC members may call upon to protect and preserve their traditions if faced with federal environmental protections.

PROTECTIONS FOR THE FREE EXERCISE OF RELIGION

Current protections for the free exercise of religion are provided primarily by the Religious Freedom Restoration Act (RFRA) of 1993, an Act passed

by Congress in response to the Supreme Court's 1990 decision in *Employment Division v. Smith* that significantly reduced constitutional protections for religious freedom (Feeney, 2007; see also Forren, this volume). RFRA statutorily reinstates the legal standard applied in all religious freedom cases prior to *Smith*, a three-part balancing test known as the *Compelling Interest* test. Under this test, one has to show that the law in question places a substantial burden on the free exercise of one's religion. In response, the government needs to (a) establish that the challenged law serves a compelling government interest and (b) demonstrate that the government's interest cannot be advanced by any means less restrictive of the religious practices in question.

RFRA enjoyed several years of success after its passage before coming under the discriminating eye of the Supreme Court in *City of Boerne v. Flores* (1997). In *Boerne* (1997), the Supreme Court significantly curtailed the scope of RFRA, ruling that the Act unconstitutionally violated the principles of federalism and separation of powers by directing state governments to use the *Compelling Interest* test in free exercise cases. Despite this setback, RFRA remains constitutional as applied to the federal government, meaning that the *Compelling Interest* test stands in all federal cases where RFRA is raised as a defense.

BALANCING RELIGION AND CONSERVATION

The *Compelling Interest* test, required by RFRA, can be applied to determine how listing peyote as threatened or endangered under the ESA would impact the religious practices of the NAC. The first burden of the test would require church members to show that peyote's listing as an endangered species substantially burdens the free exercise of their religion. In order to show a substantial burden, the NAC would need to stress the significance and centrality of peyote to their religious practices, which might be demonstrated through explanations of the rituals and contexts in which peyote is used. Fortunately, Congress recognized the central role peyote plays in the NAC when it passed the American Indian Religious Freedom Act (AIRFA) Amendments of 1994. The Act states in pertinent part:

The Congress finds and declares that — for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures. (1994, sec. 1996a [1])

Given Congress's declaration regarding the centrality of peyote to the religious practices of some Indian tribes and cultures, the burden then shifts to the government to show a compelling interest in listing peyote as threatened or endangered.

The Supreme Court has acknowledged that “the language, history, and structure of the [ESA] . . . indicates beyond doubt that Congress intended endangered species to be afforded the highest of priorities” (*Tenn. Valley Auth. v. Hill*, 1978, p. 174). Several district court cases help further highlight the government’s interest in preserving endangered species. The District Court of Nevada, in *United States v. 38 Golden Eagles* (1986), relied on the Congressional Record of the ESA when it determined that preserving threatened species is of great importance and a compelling government interest. In a related case, the District Court of Oregon found that the government’s interest in protecting endangered bald eagles was not lessened by rebounding eagle populations because the slow maturity rate for eagles and continued hunting would pose a severe threat to the species (*United States v. Jim*, 1995). These decisions suggest that preservation of a species declared to be endangered, or shown to be endangered by uncontradicted evidence, satisfies a compelling government interest.

The final part of the analysis requires determining whether the government can satisfy its compelling interest by means less restrictive to American Indian religious practices. The manner in which federal law has dealt with the scarcity of eagles, under the Bald and Golden Eagle Protection Act (BGEPA), is instructive when considering means by which the government might protect peyote while simultaneously accommodating NAC religious use.

The BGEPA (1994) prohibits, through criminal penalties, the taking of bald and golden eagles from the wild and the possession, transport, or sale of eagles and eagle parts without a special permit. The permit exception was created specifically to accommodate the traditional use of eagle feathers and parts in American Indian religious ceremonies. Despite this religious exemption, the bald eagle population has significantly rebounded in the last several decades, resulting in the reclassification of the bald eagle from “endangered” to “threatened” in 1995 (Endangered and Threatened Wildlife, 1995) and the complete removal of the bald eagle from the ESA list in 2007 (Endangered and Threatened Wildlife, 2007).

If peyote were placed on the ESA list, a similar permit system might be created as a remedy to allow American Indians limited access to peyote for religious purposes. Although there is no precedent for creating a free exercise exemption to the ESA, the BGEPA could stand as a model for how a permitting system can accommodate religious practices without impairing the recovery of a listed species. Assuming, however, that peyote is listed under the ESA and an exemption is created by Congress or a court of law, NAC access to peyote, as with eagle feathers, will remain impaired.

While eagle populations have experienced significant rebounds, despite BGEPA’s religious exemption, no American Indians have ever been granted permits to take eagles from the wild under this exemption, and access to eagles

and eagle parts for religious purposes has been severely limited. Requests for eagle parts have been filled by a National Eagle Repository that distributes eagle parts collected from eagle carcasses across the country. Many of these eagles die of natural causes, but many also die as a result of poisoning, electrocution, loss of habitat, and other causes (U.S. Fish & Wildlife Service, 2005). The number of eagles that die and become available each year, however, has never met the demand of American Indians, and the permitting process has long been a frustrating obstacle to the performance of vital religious ceremonies.

The main contention that has been made against the permit process concerns the time delays associated with filling requests for eagle feathers and parts (*United States v. Abeyta*, 1986; *United States v. Jim*, 1995; *United States v. 38 Golden Eagles*, 1986). A Yakama man reported waiting up to 15 months for eagle parts, and ultimately had his request filled with the wrong parts of the wrong bird (*United States v. Jim*, 1995). Another complaint is that some religious uses of eagle feathers require their rapid acquisition, as is the case with burial ceremonies.

As with eagle feathers, the estimated annual demand for peyote for NAC religious ceremonies is high, ranging from between 5 and 10 million buttons a year (Anderson, 1995). With only 1.5 million buttons harvested annually by licensed peyote distributors, the regulated supply already falls far short of meeting demand, and unlike eagles, whose carcasses can be collected, peyote lives and dies where it grows. Even if dead plants could be identified and collected, they would not be fit to consume. The only viable source of peyote for stocking a repository would be peyote seized by law enforcement. Instead of being destroyed by different law enforcement agencies, peyote could be collected at a centralized location and then distributed to members of the NAC. Seizure records for the state of Texas, however, indicate that the average numbers of peyote seized annually are negligible (Table 6.1).⁶ A typical NAC ceremony requires around 300 buttons, the equivalent of approximately 20–30 lbs of fresh peyote, meaning that annual seizures in Texas would be insufficient to supply a single NAC meeting. As a result, the establishment of a national peyote repository is unlikely. Without a repository, NAC members would have to apply for permits to harvest peyote from the wild, though such permits, if granted, would likely limit harvests to numbers substantially below what is currently harvested and sold by licensed distributors. Needless to say, if peyote becomes listed under the ESA, the feasibility of meeting the dual goals of protecting peyote populations and protecting American Indian religious practices under a permitting system similar to BGEPA's is doubtful.

NAC members might challenge the permitting system as not meeting the “least restrictive means” requirement of RFRA (1993); however, the experience with BGEPA would likely be instructive here as well. The constitutionality of

TABLE 6.1 Peyote Seizures in Texas from 1999 to 2012

Year	Seized Peyote		
	lbs	oz.	g
1999	9	—	19
2000	1	1	19
2001	11	9	—
2002	9	—	5
2003	—	11	22
2004	13	14	12
2005	19	5	2
2006	16	12	21
2007	9	9	24
2008	8	14	24
2009	3	6	3
2010	191	13	16
2011	—	1	5
2012	1,885	2	24

Source: Texas Dept. of Public Safety. (1999–2012). *Crime in Texas*.

Retrieved July 28, 2014 from http://www.txdps.state.tx.us/administration/crime_records/pages/crimestatistics.htm.

BGEPA was challenged as a violation of free exercise in *United States v. 38 Golden Eagles* (1986). In this case, the District Court of Nevada relied on the legislative history of BGEPA, including a finding that “exempting all Indians from the regulatory procedures would be disastrous to the eagles” (*United States v. 38 Golden Eagles*, 1986, p. 277), which supported the argument that a permitting system was necessary for the protection of bald and golden eagles. In accordance with the legislative history, the court found that the restrictive level of BGEPA was necessary, but also not overly broad because American Indians would still have access to eagle feathers and parts through the permit process provided for by BGEPA (*United States v. 38 Golden Eagles*, 1986).

One positive development regarding eagle feathers has been the recent establishment of the first Native American feather repository in Oklahoma by Sia, the Comanche Nation Ethno-Ornithological Initiative. Additionally, Sia has received permission to house nonreleasable eagles, from which molted feathers can be collected, and to breed eagles in captivity. Other Oklahoma tribes are also becoming involved in the care and rehabilitation of eagles, a process that will provide tribes greater opportunities to participate in, influence, and drive conservation efforts (Rossman, 2013).



Photo 6.2 Baby Golden Eagle bred in captivity at Sia, on display at the 2014 annual meeting of the Native American and Indigenous Studies Association in Austin, Texas. (Kevin Feeney.)

In light of the experiences of BGEPA, and the potentially devastating impact of an ESA listing on NAC religious practices, it is necessary to consider what steps can be taken to prevent a continuing decline in peyote populations while simultaneously maintaining NAC access to peyote for religious purposes. One promising method of meeting both goals of continued access and peyote preservation would be for individual chapters of the NAC to cultivate their own peyote (Morgan, 1976; Terry & Trout, 2013). While developments at Sia raise the possibility that an ESA listing for peyote could open the doors for cultivation by permit, waiting for such a development while U.S. peyote populations continue to decline would be imprudent, particularly since the legal foundations for cultivation already exist.

CULTIVATION

Peyote is a slow-growing cactus and can take 10–12 years to reach maturity in the wild (Peyote Way Church of God, n.d.; Terry, 2003); however, peyote that is cultivated can provide much quicker results. While wild peyote may

reach a size of 15 mm from seed in 5 years (Anderson, 1996), peyote cultivated under controlled conditions may grow up to 10 mm in the first year (Peyote Way Church of God, n.d.). Although peyote's growth can be accelerated under controlled conditions, it has been estimated that development of any large-scale production of peyote for religious use would take approximately 10 years (Terry & Trout, 2013). In the meantime, it is likely that market availability of peyote will continue to decline, and quite likely that one of the three remaining peyoteros will retire within the next 10 years. In light of these current trends, and the significant amount of time it will take to establish productive greenhouses, prompt action is required to determine the financial and legal logistics of cultivation. Here, I will focus predominantly on legal considerations.

Amendments to AIRFA in 1994 (§ b[2]) allow individuals registered with the DEA to cultivate peyote under federal law, opening up the possibility for NAC chapters to cultivate on federal reservations. This exemption, however, does not necessarily mean that states will allow cultivation of peyote under state law. Currently, 28 states recognize the use and possession of peyote for religious purposes,⁷ but only the states of Alaska (Alaska Statutes, 1989), Minnesota (Minnesota Statutes, 2007), New Mexico (New Mexico Statutes Annotated, 1993), Oklahoma (Oklahoma Administrative Code, 2001), and Oregon⁸ allow the cultivation of peyote in accordance with federal law. American Indians residing in these states and on reservations solely subject to federal jurisdiction could register with the DEA to cultivate peyote, allowing them to become a national source for the NAC and lifting the strain on already overharvested peyote populations.

While AIRFA (1994) opens the door to cultivation, there is no guarantee the DEA would grant any licenses for peyote cultivation. At least one chapter of the NAC has petitioned the DEA for a license to cultivate peyote. The DEA responded to this request with a number of inquiries, questioning: (a) where the peyote would be grown; (b) how many plants would be cultivated; (c) what sorts of security measures would be put in place; (d) whether it would be sold; and, interestingly, (e) whether propagation methods would be used in order to increase levels of mescaline, the primary psychoactive compound in peyote (Appendix I). The NAC chapter sent a detailed response to each of the DEA's questions and, discouragingly, never received a response. After 8 years the project still remains in limbo.

If the DEA is unwilling to grant licenses for cultivation, or insists on using various bureaucratic techniques for stonewalling, NAC chapters interested in cultivation might proceed without a federal license and rely on RFRA as a federal defense of their activities. RFRA might also be raised as a defense in the 19 states that have adopted RFRA at the state level.⁹ This approach is less than optimal because those cultivating without a license are subject to arrest

and prosecution, and there are no guarantees that a RFRA defense will be successful; however, there are a number of strong arguments that can be made within the context of RFRA.

Under RFRA, as explained previously, the NAC would have to argue that restrictions on cultivation substantially burden the free exercise of the peyote religion. The NAC may simply be able to refer to the language of the AIRFA Amendments of 1994, which were intended to protect and preserve the peyote religion, and contemplate cultivation as one avenue toward this end. However, a court may push the NAC to show that cultivation of peyote is part of their religious practices in order to demonstrate that restrictions on cultivation pose a substantial burden on their religion. There are two ways the NAC might respond. The first would be to demonstrate that cultivation is a religious practice that requires protection; the second would be to argue that restrictions on cultivation pose a substantial burden to their religious beliefs and practices, not because cultivation itself is a religious practice, but because without cultivation, the NAC will have insufficient access to amounts of peyote necessary to continue their religious practices. Both of these are potentially viable arguments under RFRA, and the strengths and weaknesses of each will be discussed briefly below.

Cultivation of peyote by American Indians is a practice that has not been widely reported on. Anthropologists studying peyotism and the NAC have focused primarily on the origins, ceremonies, and spread of the peyote religion among American Indian tribes, and references to cultivation in the literature are brief and infrequent. Petrullo (1934, p. 4) makes mention of peyote being “grown in pots, barrels, and other containers” by tribes in Oklahoma trying to save money on travel to the peyote gardens. Morgan (1976, p. 117) relays another story about an Oklahoma peyotist who “unsuccessfully transplanted about 100,000 plants to his home state” in the 1940s. Aside from minor mentions such as these, there is little in the literature to refer to in terms of cultivation as a cultural or religious practice among members of the NAC. As a result, it is likely that further evidence will need to be presented in court in the form of testimony to bolster the argument that growing and keeping peyote is in line with the religious practices and beliefs of the NAC.

Based on my own fieldwork, which has involved participant observation and interviews with various members of the NAC, and with current and former peyoteros, it has become evident that a number of NAC members maintain small gardens for personal use or simply keep one or two specimens for private prayer. These gardens are typically started with peyote buttons or plants with intact roots obtained from the peyoteros. Occasionally, inexperienced peyote pickers will dig out entire plants to sell to the peyoteros. While the peyoteros generally only purchase harvested buttons, exceptions are



Photo 6.3 Box of peyote, including plants harvested with the root by a licensed picker. (Kevin Feeney.)

sometimes made, and whole plants will either be sold to NAC members or planted in a garden on the peyotero's property.

An unearthed peyote plant, like those pictured, will readily keep for weeks or longer before being replanted. Even without an intact root, a button harvested just below the crown will begin to grow new shoots after a couple of weeks and can also be replanted successfully. One Navajo woman explained that she would plant fresh buttons, as described above, and then harvest the buttons when needed. In this way, she could maintain a supply of fresh peyote without having to travel to the peyote gardens too frequently. While I have not found any evidence of large-scale peyote cultivation among NAC chapters or their members, my preliminary findings suggest that it is not uncommon for NAC members to keep and cultivate peyote for prayer and other religious purposes.

If a court does not accept the argument that cultivation is a religious practice, the NAC might alternatively argue that cultivation is necessary in order to maintain access to peyote and to preserve the traditions and practices of the NAC. Under this argument, the NAC does not have to contend that cultivation is an actual religious practice, but instead assert that access to peyote is so impaired that, without cultivation, the NAC's religious practices are substantially burdened by lack of access. Some NAC groups, such as the NAC of North America (NACNA), have been strategizing for decades about how to

maintain adequate supplies of peyote in light of long-standing limitations on access (For Indian Church, 1995; Terry & Trout, 2013). By the beginning of the 1980s, many tribes were already reporting that they had reduced the amount of peyote used in ceremony to half the amount used just a few years before (Morgan & Stewart, 1984). More recently, the decline in peyote has meant that scheduled ceremonies are frequently contingent on the ability of a sponsor or Road Man to obtain peyote (Williams, 2012). Testimony regarding the diminished numbers of peyote used during ceremonies, the cancellation of ceremonies, decreased participation among NAC members due to insufficient quantities of peyote, and the inability of certain chapters to hold ceremonies will help demonstrate that lack of access to peyote poses a substantial burden on the NAC, a burden that could partially be alleviated through cultivation.

Assuming a court accepts one of the above arguments, the burden will fall on the federal government to demonstrate a compelling interest in prohibiting cultivation. The government will be hard-pressed to establish a compelling interest in preventing cultivation for two main reasons: First, cultivation is already contemplated under federal law (AIRFA, 1994), and second, the federal government has a general duty to act in the best interests of American Indians under the trust responsibility. Nevertheless, it is important to consider what interests the government might put forward as “compelling interests” and how they might be evaluated in a court of law.

The most common arguments forwarded by the government in restricting religious use of controlled substances include: (a) protecting the health and safety of consumers, (b) adhering to international law, and (c) preventing diversion to the black market (see Feeney, 2007; Labate & Feeney, 2012). Of the three, only the third argument is a viable one. Consumption of peyote by members of the NAC is already protected, and it cannot reasonably be argued that cultivation augments any health and safety concerns already present. At the international level, indigenous use of peyote in the United States is protected by treaty, so this interest can also be dismissed (Convention on Psychotropic Substances, 1971). Regarding diversion, however, a reasonable argument might be put forward that cultivation could increase the risk of diversion to the black market.

While there is a potential risk of diversion, that risk must be significant enough to justify the substantial burden that a blanket prohibition on cultivation will place on the NAC’s religious practices. The diversion argument is problematic right off the bat due to the fact that peyote has been legally bought and sold in Texas for over 40 years without any significant problems.¹⁰ The government would need to show that the risk of diversion would increase if cultivation were allowed. Without any supporting evidence, this argument is likely to fail. Of further disadvantage to the government’s position is the fact

that the nonexempt Peyote Way Church of God in Arizona has openly cultivated peyote for the last 30 years (Parker, 1982; Weyant, 2004). The government cannot convincingly argue a compelling interest in preventing cultivation by the NAC when it has tacitly allowed cultivation by a non-exempt church.

Assuming that the government prevails on the diversion issue, it will still need to show that the prohibition on cultivation is narrowly tailored to achieve the goal of preventing diversion. This requires showing that no degree of regulation would prevent peyote from being diverted to the black market from legally cultivated peyote gardens, a tall order to say the least. Here, the rules regulating peyote distributors in Texas will likely be instructive, particularly since no significant diversion of peyote from the regulated market has been documented. The peyoteros are required to store peyote in a securely locked and guarded location, to maintain thorough records, to report loss or theft, to file quarterly reports, and to allow annual inspection of their facilities (TAC, 2001). Given that this has been a successful system, it is likely that a court would find that similar regulations would meet the government's goal of preventing diversion without substantially burdening the religious practices of the NAC.

Unfortunately, it will likely be years before cultivation as a conservation and access strategy will be able to off-set the harvesting stresses on wild populations in southern Texas. Working with the DEA to set up appropriate regulations and issue cultivation permits will likely take years. NAC chapters that decide to rely on RFRA and bypass the regulatory process altogether will still require up to 10 years to establish a viable and productive peyote garden. Due to these limitations, it is necessary to consider other potential alternatives that might help maintain access to peyote while simultaneously alleviating harvesting pressures on natural populations.

REGULATION CHANGES

An obvious starting place for addressing problems with access and conservation is to reexamine the current laws regulating the harvest and trade of peyote. Texas currently requires all transactions to be recorded by weight or by number of peyote buttons (TAC, 2001). Conspicuously absent from Texas law, however, are any regulations concerning harvesting practices. It has been suggested that some simple regulations on harvesting could significantly improve the health of peyote populations. A regulation allowing only the harvest of cacti over a certain size, or prohibiting harvesting peyote from the root, could help curb harmful practices; however, implementing such changes could be tricky. The problem is that employing this type of regulation would require a high degree of monitoring of peyote distributors and the

harvesting practices of their employees, a system that is likely to be expensive and unlikely to be paid for by either Texas or the federal government.

Another potential change would be to require recording all transactions by both weight and number. This would allow tracking of the average size of harvested peyote and would provide a statistical means for measuring the health of harvested peyote populations over time. While such a regulatory change would be inexpensive for Texas, there would be added expense for peyote distributors who already feel overburdened by regulations. Increases in regulations may also have the unintended consequence of deterring potential distributors from the profession and hastening the decline of the peyote trade. These and other difficulties posed by regulation change require a more nuanced approach.

EDUCATION AND SUSTAINABLE PURCHASING

The only realistic way for harvesting practices to be changed is if the peyote distributors voluntarily adopt specific standards. While I have seen pickers turned away by distributors for bringing nickel-sized buttons, distributors will often soften their stance if supplies are low or if large numbers of customers are imminently expected. Consistent standards might be achieved if NAC members also refuse to purchase buttons below a certain size, but individuals who have traveled hundreds of miles to purchase peyote are generally reluctant to return home empty handed, and they will buy small buttons if nothing else is available.

According to master's research by Dawn Williams (2012), a member of the Shoshone-Bannock tribe and member of the NAC, church members are familiar with the decreasing size of peyote buttons, as well as steadily rising prices, but awareness of peyote depletion appears to be limited to NAC officers and others with firsthand knowledge of the peyote gardens. Williams suggests that increasing awareness within the NAC regarding the current conditions of the peyote gardens and ongoing threats to peyote in the United States might help to establish sustainable purchasing practices. If there is greater awareness that peyote buttons below a certain size will likely not survive the stress of harvesting and that harvesting young peyote plants also prevents seed production, it may be easier to generate a sustainability ethic that informs NAC purchasing practices. If NAC members consistently refuse to purchase peyote below a certain size, distributors will eventually stop purchasing small buttons for resale to the NAC. This could have a significant impact on preserving the range of peyote populations and allowing smaller plants the opportunity to mature and set seed, and would not require any regulatory or legal intervention.

This type of education would likely need to occur at the chapter level where local church officers have tools at their disposal for encouraging

behavior change. To purchase peyote, NAC members must first get a transport permit from the president, or another officer, of their chapter. In some cases, the permit may limit the amount of peyote an individual member can purchase. This interaction between church leadership and individuals allows an opportunity to create awareness about the current strains on U.S. peyote populations and to provide guidance in purchasing practices. Nevertheless, implementing purchasing practices where the purchaser declines peyote under a certain size runs the risk that NAC members may return home empty-handed. Given the time and money that is involved in traveling to the peyote gardens of south Texas, size limitations might be difficult to implement.

TAX INCENTIVES

One of the primary harvest threats to peyote is the repeated collection of cactus tops from previously harvested populations. When cut correctly, peyote will come back, often producing multiple crowns where before there was only one; however, studies have shown that plants harvested at 2-year intervals exhibit lower growth rates and higher rates of mortality than unharvested individuals (Terry et al., 2011, 2012). One reason peyote plants are frequently subjected to reharvesting is lack of access to private lands where peyote has been left undisturbed. If more land is made available to pickers, there is a chance that already harvested populations will have time to recover before being subjected to another round of harvesting.

One of the main impediments to opening up additional private lands to harvest is that there is little financial incentive for ranchers and landowners to work with the peyoteros. One way to create incentive might be to lobby Texas legislators for the creation of tax breaks for ranchers who lease lands to the peyoteros. In order to prevent harvesting stress and promote sustainability, the tax break could be structured so that it is available to individual ranchers only every 5 years, thus establishing a minimum period for recovery and regrowth (Anderson, 1995).¹¹ The combination of charging peyoteros a nominal leasing fee and receiving a tax break might be sufficient to compel otherwise reluctant landowners to work with the peyoteros.

Alternatively, NAC chapters might bypass the Texas legislature by approaching landowners and asking them to consider providing the church with a lease as a tax-deductible charitable donation. Both options would require a lot of time and energy on the part of the NAC, but the latter option would bypass the often slow and cumbersome legislative process and would have the added benefit of allowing NAC members to harvest peyote themselves and to conduct associated rituals and prayers. Chapters might also seek permission to hold ceremonies on the land as part of the donation. While tax incentives might be useful in creating access to untouched peyote populations,

it is not clear that access will reduce reharvesting of already stressed populations. Whether harvested areas are allowed to replenish will depend on the activities of the peyoteros and their employees. One of the remaining peyoteros, however, has reported that he currently leases properties on a 5-year rotation in order to allow population recovery (Williams, 2012).

SALVAGE OPERATIONS

Proposals for salvaging peyote from fields to be root-plowed or otherwise developed for oil drilling or wind farms should be investigated and implemented if possible. Salvaging arrangements could be mutually beneficial for landowners and the NAC. Landowners could make a little money by leasing their lands before plowing, and peyote distributors or NAC members could be given the opportunity to recover peyote plants that would otherwise be destroyed. Although root-plowing, and other forms of mechanical brush management, will continue to shrink peyote's natural habitat, salvaging the cacti from fields waiting to be plowed would allow peyote to be transplanted to help replenish currently overharvested populations. Peyote could also be transplanted onto reservations to be cared for by members or congregations of the NAC, though the legality of cultivation remains in a gray area, as discussed above.

LAND ACQUISITION

Another approach to expand protection for peyote and NAC religious practices would be for NAC congregations to acquire some of the private land where peyote grows. By acquiring peyote habitat, the land could be protected from development and could expand the harvest range for NAC members, thus easing the strain on overharvested populations and allowing NAC members the opportunity to harvest themselves. However, without a foreman or caretaker to look after the property, the land may become susceptible to peyote poaching, particularly if word gets out that there is peyote on the property. Even without poaching, peyote populations on any tract of land will be limited and could be quickly depleted, depending on the size of the property, the size of the proprietary NAC chapter, and whether any harvesting or conservation standards are adopted and enforced by that chapter. Investing in leases might be more fruitful since new ranches could be leased each year, allowing previously cut populations to recover before being harvested a second time.

IMPORTATION FROM MEXICO

Importation of peyote from Mexico has long been championed as a solution to the "peyote crisis" by NACNA. Although importing peyote from Mexico may reduce the stress of overharvesting on local populations, it may

simply displace the stress to other locations where peyote is already considered in need of “special protection” (NOM-059-SEMARNAT, 2010; see also Labate & Feeney, this volume). Because Mexico forbids the exportation of peyote (Sahagun, 1994; Terry & Trout, 2013), acquiring an export permit from the Mexican government might be difficult. Martin Terry, an assistant professor of biology at Sul Ross University, received an import permit from the DEA back in 2002 to import up to 200 g of peyote from Mexico, but was unable to obtain an export permit from the Mexican government (Terry & Trout, 2013). In light of this, obtaining an export permit for commercial quantities of peyote from the Mexican government seems unlikely.

CONCLUSION

Although solid evidence pertaining to the current status of peyote is lacking, trends in the declining availability of peyote for NAC religious ceremonies and commercial developments in peyote’s limited habitat, as well as anecdotal reports of peyote’s increasing scarcity, should be heeded in order to prevent the loss of this remarkable cactus. Unfortunately, protections for endangered plant species under the ESA are woefully inadequate and often detrimental to minority groups whose cultural practices are disproportionately affected in comparison to highly culpable economic activities. If peyote is determined to be a threatened or endangered species in accordance with the ESA, it would be protected only on public lands and not on private property, which comprises the major portion of peyote’s U.S. habitat. A permit system, like the one created for bald and golden eagles, might be implemented, but the establishment of a national repository is unlikely, and permits would have to allow harvesting. Given the difficulty in accessing uncut populations on private lands, it is likely that access would be limited to populations that are currently overharvested, a reality that would likely result in significant restrictions in the permitting process. The inadequacies of the ESA require that preventative measures be explored in order to preserve both peyote and its religious use.

Potentially beneficial steps for preserving peyote and the traditions of the NAC might include cultivation, education and changes in purchasing practices, acquisition of peyote habitat, implementing salvage operations to protect at-risk peyote populations, and lobbying for tax incentives for land-owners who work with peyoteros and NAC chapters. While importing peyote from Mexico may be a possibility, such a solution may merely displace the stress of overharvesting to peyote populations in Mexico, where peyote is already considered in need of “special protection.” Ultimately, cultivation of peyote will provide NAC congregations the most control over access to peyote for religious ceremonies and will also allow congregations to play a

significant role in the conservation of this species, perhaps similar to the role Sia plays in the conservation of eagles.

Although Congress has tacitly approved cultivation, no federal regulations have been implemented in order to allow cultivation to begin, and there are no guarantees that permission to cultivate will be granted. If an NAC chapter is approved to grow, it could still take up to 10 years for productive greenhouses to be established. Alternatively, NAC chapters may choose to begin cultivation without the guidance of federal regulations. This option runs the risk of arrest and prosecution, but there is a strong likelihood that a RFRA defense to federal prosecution (or to state prosecution where RFRA is recognized) will be successful. As the peyote trade continues to decline and access to peyote continues to drop, the NAC can make a strong argument that cultivation is necessary to sustain their religious practices, an argument that will be difficult to rebut.

While cultivation alone will not support the natural populations of peyote (which would remain vulnerable to root-plowing and destruction of habitat), cultivation in combination with education, salvage operations, tax incentives, and land acquisition may offer a temporary solution for the cultural and biological preservation and prosperity of this very unique species of cactus.

APPENDIX I

Questions posed by the DEA in response to an NAC inquiry regarding greenhouse peyote cultivation (Caverly, 2007):

1. Where do you plan to put the greenhouse?
2. What will be the initial size of the greenhouse?
3. How many plants do you expect to plant?
4. How much peyote do you expect to harvest per year?
5. What research have you, or others, pursued in determining the viability of using a greenhouse for this purpose?
6. Are you aware of any greenhouse cultivation of peyote?
7. Has this approach to peyote cultivation been discussed with other Native American Church communities?
8. Do you plan to sell peyote? If so, to whom?
9. How many customers do you expect?
10. Would these plants serve only the Rio Grande Native American Church, or would other Native American Church communities be able to purchase the peyote?
11. Would the current DEA-registered peyote distributors be involved in the greenhouse program?
12. How do you plan to harvest and process the peyote?

13. Would your greenhouse method of cultivation be in accordance with the traditional method of harvesting peyote or would it be in competition?
14. How will the peyote be stored?
15. Who will oversee the operation?
16. What is your current plan for security at this greenhouse?
17. Do you plan to use this method of propagation to increase peyote plant's production of mescaline?
18. What has the state government advised regarding this proposal?

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NOTES

1. The NAC is not a singular entity but rather a loose confederation of churches. Without a centralized authority, most NAC chapters operate independently in financial and political matters. There is also a degree of variation in belief and practice among the approximately 200 known chapters of the NAC.

2. Commercially harvestable U.S. populations of peyote are confined to Starr, Jim Hogg, Webb, and Zapata counties in the state of Texas.

3. This estimate was provided to Edward Anderson in the mid-1990s by Anthony Davis, then president of the NAC of the United States (Anderson, 1995).

4. Under the Endangered Species Act of 1973 (1994), the terms *endangered* and *threatened* designate different levels of susceptibility to extinction. An “*endangered species*” is in danger of extinction throughout all or a significant portion of its range, while a “*threatened species*” is likely to become endangered throughout all or a significant portion of its range in the foreseeable future.

5. A study is currently underway on the impacts of repeat harvesting on wild peyote populations (Terry et al., 2011, 2012), but such studies require the permission and co-operation of landowners, individuals who may fear that an ESA listing for plants occurring on their property may encumber use of their land. Problems accessing private property, whether due to unfounded fears or other considerations by landowners, make any population-wide studies unlikely.

6. The amount of peyote seized in 2012 is a striking exception, and it is not clear exactly what this number signifies. It could indicate a growing illicit interest in peyote, or it could be a result of increased smuggling from Mexico to compensate for Texas drought conditions and the dismal numbers of peyote harvested and sold in the regulated market in that year.

7. Alaska, Arizona, California, Colorado, Idaho (reservation use only), Iowa, Kansas, Maryland, Minnesota, Mississippi, Montana, New Jersey, Nevada,

New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas (limited to 25% Indian blood quantum), Utah (reservation use only), Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

8. In Oregon, cultivation for religious purposes is allowed as an affirmative legal defense (Oregon Revised Statutes, 2005).

9. Alabama, Arizona, Connecticut, Florida, Idaho, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, and Virginia.

10. No peyoteros have ever had their licenses revoked for diversion or other misconduct. A single peyotero had his license briefly suspended in 1987 after one of his pickers was caught trespassing (Sahagun, 1994; TDPS, 2013).

11. Studies have shown that 4 years is an insufficient amount of time for regrowth to take place following harvest (Terry et al., 2012). Five years is in excess of this period and may help reduce mortality rates associated with too frequent harvesting, but the actual time necessary for harvested peyote plants to recover and regrow to preharvest levels of crown biomass is presently unknown.

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Protecting the Peyote for Future Generations: Building on a Legacy of Perseverance

Bob Prue

I am a member of the Rosebud Sioux tribe of Indians of South Dakota; we call ourselves the *Sicangu Lakota*, and I am a resident of that seemingly parallel universe called “Indian Country.” It is from the standpoint of Indian country that I try to write about concerns related to our peoples. I came to write about peyote somewhat by accident. I had known about peyote since childhood. My older brother had received a stern rebuke from our father when it was discovered he had used peyote recreationally with a group of his non-Indian friends. “That is Indian medicine,” said my father, “you don’t want to fool around with it that way.” “That way,” of course, was recreationally. Our family had no connection to the Native American Church (NAC), but the knowledge that peyote was powerful and sacred was nonetheless palpable. Later, a group of Indian friends invited me to attend a peyote service that was being held adjacent to a social gathering. I declined, feeling as if the medicine deserved a more heartfelt approach than this casual encounter would have offered. Again, much later, a colleague to whom I had provided clinical supervision invited me to attend his Thanksgiving celebration, which was to be held at a peyote meeting.

It was only later, as an academic pursuing my doctorate in social work, that my research led me to a more intimate understanding of the role of peyote in the NAC. Two years of participant observation help me to understand how the vast and supportive network of the NAC served to support sobriety as much as or more than any biochemical or spiritual phenomenon occurring with peyote (Prue, 2008). However, writing about peyote can be challenging. Foley (2003) has lamented the frustration of indigenous scholars as they approach a Western-dominated academy when they themselves write on topics intimately familiar to them. Out of that frustration, Foley advocates

for an *Indigenous Standpoint*, which recognizes that indigenous people approach knowledge generation in their own way. Furthermore, we often have different agendas from those of our Western-oriented colleagues. We often are accused of being *oppositional, political, radical, or emotional* (Mihesuah, 1998), which is understandable considering the history of Western European and indigenous peoples.

SYNCRETISM

Why start with syncretism? It is important that we understand the syncretic process, so that we better understand that the NAC has not been static since its inception. The change that the NAC has experienced in the last century is hardly finished; with significant growth in just the past 20 years, diversification of NAC practices is likely.

The NAC is often described as a syncretic religion (Nagel, 1994; Smith & Snake, 1996). In both the contemporary and the classic original sense, that is true. The common understanding of syncretism is that when religious cultures collide and are forced to coexist, there is a blending of one set of practices with another. And usually that means that elements of the dominant culture begin to manifest in the less-powerful culture. Meaning “to behave like a person of Crete,” the word “syncretic” was first used to describe the process by which Cretan culture adopted the practices and values of their Greek oppressors as a survival strategy, even though the two groups’ practices and values were sometimes seemingly contradictory (Starkloff, 2002). One can see that this process is neither static nor one way, with ebb and flow dependent on the power dynamics.

The Spanish and French were the original European colonizers of what is now considered peyote-using territory in the United States. In the case of the early French explorer/fur trappers traveling for months upon months in Indian Territory, a phenomenon developed called “going Indian.” These fur trappers would adopt dress similar to Indians and began to eat the same kinds of foods that the Indians ate, both practices that have very practical rationales. It was the food that was available, and since dress could identify allegiance, this outfit could offer some safety. In some cases, these Catholic French men went against strongly held cultural and religious norms, such as monogamy, which was abandoned readily for the economic and political power gained by having multiple wives, one French and one or more Indian (Willoughby, 2012). However, as dominance shifted from Indian to European American, and from French to Anglo, it was the Indian who was forced to abandon a system of mating that centered more around clan lines than romantic love and monogamy (Stremlau, 2005).

Syncretism is often used when speaking of religions; when it is cultural clash or merging, we usually speak of assimilation. Assimilation often

presumes the less-dominant cultural groups will be subsumed under the weight of the more dominant group, which tends to be true. However, anti-assimilation strategies such as biculturalism or nationalism are employed by minority cultures to maintain a continuity of their identity (Warner, 2009). American Indians have adopted a colonization and decolonization framework to understand how their cultures have been adulterated and how they might be restored or reimagined (Duran & Duran, 1995; Gone, 2013; Wilson & Yellow Bird, 2005). Oppressive influences applied by colonial forces assumed that once American Indians saw the light of European and Christian society, they would abandon tribal ways. History has proven otherwise.

Despite all these pressures for change, there are still basically Indian systems of social structure and culture persisting with variable vigor within conservative nuclei of American Indian populations. It would be rash indeed to predict now that these cultural features will completely disappear in the course of acculturation in one, two, or even several generations. (Evon, 1957, p. 139)

Indeed, American Indians seem to be moving from a defensive posture on their cultural expression to asserting their right to interpret their own histories (Clark, 2007), thereby defining their own futures.

OPPRESSION AS CHANGE AGENT

So, while oppression has served as a catalyst for change, as pressure is relieved, there will be a tendency for oppressed groups to seek renewed authenticity through rediscovery of their former selves. Ironically, much of the homogenizing elements of the church came through the interactions of students incarcerated at the Carlisle and Haskell Institutes (Prue, 2008). Had there not been the presence of a common oppressor, the various peyote leaders in the 1880s would not have had such a strong need to incorporate as a single entity. It is likely that peyote ways would have developed even more diversity as they settled into and became part of diverse indigenous cultures. Buffered by their large populations, the Navajo have maintained much cultural integrity and have integrated the peyote rite into their way of healing, forming a unique expression of peyote religion (Wagner, 1975). With that in mind, the future development of the peyote ways would likely look more like its past history of expansion and adaption.

From pre-European contact through the present, we can see that the spiritual use of peyote has adapted to different circumstances depending on need and on the culture of those who are participating in the practice. Mayans and Aztecs adopted peyote use after contact with peyote-using groups

(Anderson, 1996). Quanah Parker learned the ceremony from the Tonkawa Indians' and the Lipan Indians' peyote ceremony, and he adapted it to suit his own purposes, within the context of the Comanche people (Hagan, 1993). Similarly, Moonhead Wilson developed his own method of conducting peyote ceremonies based on Parker's instruction and impacted by his cultural background as a Caddo/Delaware Indian with considerable Christian influences (Stewart, 1987; Wilson & Thurman, 1973). These adaptations and changes are consistent with the traditional worldview of indigenous people who were behaving according to their vision of the way things should be conducted. In the absence of a strong need to do so, peyote-using groups like the Huichol have maintained fair continuity of practices throughout a long history (Schaefer & Furst, 1996). While the Huichol have changed less over the centuries, this in no way delegitimizes the variations initiated by the Lipan, Parker, and Wilson. The history of peyote use by indigenous people has been marked by adaptation and change. Individual American Indian peyotists could have visions of new spiritual and healing paths that could gain acceptance within local communities, such as is occurring in Diné country, where there are "some unknown number of other practitioners who have incorporated peyote use into the religious mix of Diné, peyote way, and Charismatic Christianity found in the Southwest" (Prue, 2008, p. 161). Peyotists are a living and evolving collective and change is inevitable; while these practices may evolve, they remain traditional practices, though they might differ at times throughout their history.

The incorporation of the NAC came about because of the ongoing threats posed by antipeyotist groups, who lobbied Oklahoma and federal legislatures for prohibition of peyote as an intoxicant (Stewart, 1987). Legal incorporation was a foreign process to the previously separate Peyote Way groups, though collaboration and alliance-making were common. Prior to incorporation, separate peyotist groups learned from one another and accepted or rejected changes they experienced in meetings with other peyotists, but remained autonomous.

The close interactions of the peyotists encouraged practical and theological similarity between the groups, but, as in most indigenous practices, there was no central authority. Authority came through the auspices of the peyote itself. Therefore, authority rested with the person who held the medicine or the Fire Place.¹ It was the Road Man² who mediated between his community and the spiritual world by the ceremonial use of peyote. That authority did not exist in a vacuum: the community surrounding the Road Man was an important arbiter of whether or not a practice was genuine.

The incorporation of the NAC out of the loosely affiliated peyote-using groups in Oklahoma expanded to become continent-wide. Incorporation as a church was clearly a survival strategy employed by peyotists that worked.

By becoming an incorporated church, the NAC developed a structure by which representatives of the church could negotiate with colonizing forces. Indigenous people are practical and experimental; their current hierarchical structure of electing chairmen every two years (Stewart, 1987) assures decentralized authority. It is a system that has served the church well through a century of turbulence. Yet, when necessary, the chapters will present a unified front, as was the case from 1984 through 1995, when the Oregon *Employment Division v. Smith* case worked its way to the Supreme Court, then later on to Congress, which modified the American Indian Religious Freedom Act to specifically exempt the sacramental use of peyote from any state or federal law that otherwise criminalized peyote. The current peyote supply crisis apparently has not risen to the level necessary to bring together a unified voice.

EXAMPLE OF ANTISYNCRETIC PROCESS: STARK RISE IN PEYOTE USE

Incorporation served a vital function for the NAC as it suffered ongoing repressive actions by state and federal and, sometimes, tribal governments. However, as time progressed, the U.S. government began to acknowledge the grievous wrongs done to American Indians, and efforts have been made to restore self-determination and self-governance to native people. Currently, it is broadly recognized that the United States has a responsibility to assist and restore indigenous cultures. Whereas in the past, survival meant assimilation, the relief of survival pressures has brought the emphasis toward an antisyncretic process indigenous people call “decolonization” (Clark, 2007).

The growth of peyote use has been mirrored by the growth of the NAC. In 2006, the Chairman of the Native American Churches of Oklahoma George Akeen “placed the membership of the Native American Church of North America at 612,000 individuals” (Prue, 2008, p. 140), up from 300,000 in the middle of the 1990s (Cousineau & Rhine, 1993). The Oregon *Employment Division v. Smith* decision caused a groundswell of support from other religious groups and non-peyote-using American Indians. Peyote has been monitored since 1979 by the National Household Survey of Drug Abuse and its successor the National Survey of Drug Use and Health. These surveys are based on a very large, random selection of the U.S. population that, after 1990, included enough American Indians to analyze peyote-using American Indians as a subpopulation. Those data were paired with the annual peyote harvest data provided by the Texas Department of Public Safety. While the general rule is that one does not attribute causation when using nonexperimental methods, the time series analysis of those two annual surveys is undisputedly clear. The reported use of peyote increased by nearly nine

percent between 1994, when American Indian Religious Freedom Act Amendments (AIRFAA) became law, and 2000, when the trend line stabilized (Prue, 2013a). Figure 7.1 clearly identifies a dramatic increase in the levels of reported peyote use by American Indians immediately following the enactment of the AIRFAA of 1994. The peyote harvest rates also show a bit of a rise during the same period, and then dips at about the same time the use line peaks. In fact, the *Smith* case in Oregon became part of the general American Indian awareness in the mid-1980s. There was a corresponding rise in the peyote harvest. This was probably when the increased use actually began. During a period of professional practice in the field of substance abuse in the mid-1980s, I worked with American Indians. That period saw NAC members actively reaching out at Alcoholics Anonymous (AA) meetings catering to American Indians. Many only attended the NAC briefly, perhaps as much a show of solidarity as anything, but did not continue as regular users. The rise in reported use is beyond what the reported harvesting could have accommodated. Social desirability biases might have attenuated the reporting levels prior to the Act.

The entire phenomenon surrounding the stark rise in reported peyote use by American Indians remains a mystery. What is clear is that there has been an exponential growth in peyote use by American Indians compared to the pre-AIRFAA period.

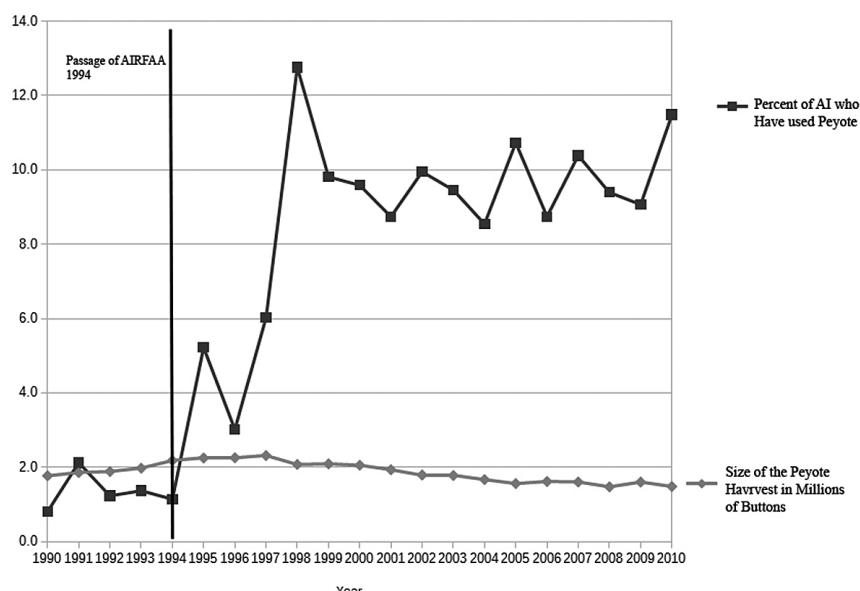


Figure 7.1 Trendline of American Indians who have used peyote by percent and the harvest of peyote buttons in millions. (Bob Prue.)

PLANT-HUMAN RELATIONSHIPS

Just as important as syncretism is to this discussion, equally so is the discussion about the way American Indians relate to plants and plant medicines. Indigenous healers and shamans have known since antiquity that plants possess a spirit essence that can communicate through light, sound, and vibration (Buhner, 2002). Messer's study (Buhner & Marini, 1996), with the Mitlenos of Mexico, is unambiguous in reference to the communication flow between an indigenous healer and her plant medicine helpers: "the herbs and flowers also talk to her" (p. 27). Matilda Coxe Stevenson quotes a Zuni informant, "[T]he initiated can talk to their plants, and the plants can talk with them" (Buhner & Marini, 1996, p. 27). The Mikasuki Seminole indicate a variety of ways that plant knowledge might come to the people: via animals, the supernatural, or "a prophet might hear a 'little bush, about twenty yards away,' singing in Creek [language]" (Sturtevant, 1954).

Less clear is the Iroquois claim that the water hemlock or muskrat's root will behave like any other medicinal herb, "that when you want it, it stands up there where it grows calling to you" (Fenton, 1941). The water hemlock is used for suicide and "all the Indians—every nation in western New York and Canada [the Iroquois tribes]—know that that plant is poison. They all know that Indians have taken it to commit suicide" (Sturtevant, 1954, p. 87). Cultural knowledge and the plant's distinctive odor might be what the informant is referring to as "calling to you," or it might be a more direct experience.

Such mechanism of plant-human communication continues in the contemporary pan-tribal NAC. While the NAC is somewhat Christianized, it retains much of its tribal roots. Individuals have described the peyote plant, the central sacrament of the NAC, as having the ability to "choose people" to be part of the peyote way and describe having peyote appear in dreams, even in the case of individuals with no prior exposure to the NAC (Prue, 2008). The fact that many NAC members have strong Christian convictions should not necessarily be seen as an inhibitor to beliefs in plant-human communications, especially considering that this communication is believed to be facilitated by God or the spirits. After all, the foundation of the Jewish, Christian, and Muslim moral codes, the Ten Commandments, was facilitated by a bush.

LEGAL ISSUES

Legal issues lie at the heart of the topic of this chapter. American Indians have a unique legal relationship with the United States. No other group, regardless of race, ethnicity, or religion, has a similar relationship. Furthermore, the United States has unique responsibilities to American

Indians. Part of the recognition of this unique relationship and special “trust” responsibility has manifested itself as the enactment of the American Indian Religious Freedom Act.

On and after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites. (42 U.S. Code, §1996)

It is in the background of this understanding of the federal–Indian relationship that this discussion must be understood.

RELEVANT STATUTES

In almost every instance, the use of peyote is against the law in the United States (Comprehensive Drug Abuse Prevention and Control Act, 1970). American Indians are exempted from the peyote provisions when it comes to religious use by the provisions of the AIRFAA of 1994. This amendment to the earlier Act of 1978 clarified Congress’s intent around the religious use of peyote. Included in this section are both the full text of some sections and subsections of the 1994 amendment and a brief description of the rest.

The substantive change to the prior Act begins with Section 3 of the 1994 amendment. In §3(a) the Congress finds and declares that (1) “for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures” and (2) “since 1965, this ceremonial use of peyote by Indians has been protected by Federal regulation.” Subsection (3) expresses the desire from Congress for uniformity in laws protecting Indians. Subsection (4) cites the 1990 *Employment Division v. Smith* case as a rationale for the Act and subsection (5) cites marginalization of Indians as further justification for the Act.

In §3(b)(1) we find, “Notwithstanding any other provision of the law, the use, possession, or transportation of peyote by an Indian who uses peyote in a traditional manner for bona fide ceremonial purposes in connection with the practice of a traditional Indian religion is lawful, and shall not be prohibited by the United States or by any State. No Indian shall be penalized or discriminated against on the basis of such use, possession or transportation, including, but not limited to, denial of otherwise applicable benefits under public assistance programs”; §3(b)(2) “does not prohibit such reasonable regulation and

registration by the Drug Enforcement Administration of those persons who cultivate, harvest, or distribute peyote as may be consistent with the purposes of this section and section 1996 of this title”; §3(b)(3) “does not prohibit application of the provisions of section 481.111(a) of Vernon’s Texas Health and Safety Code Annotated, in effect on October 6, 1994, insofar as those provisions pertain to the cultivation, harvest, and distribution of peyote.” In §3(b) 4 through 7, the Act specifies areas where the state has a compelling interest: in the areas of transportation (4), operation of prisons (5), state traffic safety (6), and military readiness (7).

Subsection 3(c) defines Indian and Indian religion: §3(c)(1): “the term ‘Indian’ means a member of an Indian tribe”; §3(c)(2): “the term ‘Indian tribe’ means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village” (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.S. 1601 et seq.)), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians”; §3(c)(3): “the term ‘Indian religion’ means any religion—(A) which is practiced by Indians, and (B) the origin and interpretation of which is from within a traditional Indian culture or community.”

RELEVANT TEXAS STATUTES

Since Texas statutes are specifically mentioned in the 1994 amendment in §3(b)(3), those statutes will be reviewed here. The cited Texas statutes §481.111(a) concerns exemptions to peyote laws in Texas:

The provisions of this chapter relating to the possession and distribution of peyote do not apply to the use of peyote by a member of the NAC in bona fide religious ceremonies of the church. However, a person who supplies the substance to the church must register and maintain appropriate records of receipts and disbursements in accordance with rules adopted by the director. An exemption granted to a member of the Native American Church under this section does not apply to a member with less than 25 percent Indian blood. (Sec. 481.111, Exemptions [a])

In Texas, the Director of Health and Safety can authorize the planting and cultivating of controlled substances for research and law enforcement reasons, under §481.065, but there is no mention of religious reasons. However, the intent in other sections of the chapter demonstrates a desire by the Texas legislature to accommodate NAC members who are 25% or more Indian ancestry. Perhaps political action in Texas could amend §481.065 to include cultivation for religious use, or perhaps a legal decision to determine if the

exemption for use and possession contained in §481.111(a) extends to cultivation.

CULTIVATION OF PEYOTE

Terry and Trout (2013) present the cultivation of peyote as a logical and practical solution to the current peyote shortage. Terry is correct in saying that the NAC is an interested party, as are American Indians as a class of people. The American Indian Religious Freedom Act does not specifically mention the NAC. It protects the use of peyote by Indians “in a traditional manner for bona fide ceremonial purposes.” Also, Terry uses the word *consumption*, which is also not specifically mentioned in the act. The AIRFAA protects “the use, possession, and transportation of peyote for religious purposes.” These semantics are important because there are nonconsumption uses of peyote, both spiritual and medicinal, that peyotists report. These nonconsumption uses range from a special, usually large, peyote button called a “Chief Peyote” that sits on ritual altars, to being worn in medicine bundles by soldiers overseas, to its use as an astringent to cure rashes caused by poison ivy. Further, American Indians have historically used peyote for its stimulant qualities when on long hunts or war parties (Prue, 2008). It is unclear whether such nonritual use has survived colonial pressures. American Indians think about plant medicines less as a biochemical process than as part of a spiritual relationship. This is important to consider when anticipating what they will see as logical and practical.

While the cultivation of peyote by the NAC is a logical solution, it becomes practical only when the church or individual American Indians will to cultivate it. Currently, prominent individuals in the church are not in agreement on the matter of cultivation. Some are decidedly for cultivations, others against, and some have no opinion (Wahtomy, 2013). Some have argued that if the peyote goes away, that does not mean that the church goes away. Currently there is no doubt as to the centrality of peyote to the NAC, as of the 1973 *State of Arizona v. Whittingham* decision. However, one might speculate that, while peyote might be central to the NAC’s current religious practice, it might not be necessary to its survival as a religious movement, as cultures are dynamic and transform throughout time.

The ongoing discussion among NAC members about the peyote crisis and their reluctance to simply adopt cultivation as a solution reflects the conservative nature that religious and cultural groups have when it comes to change. Despite our being in an era of rapid individualization, the perceptions of American Indians as collectivist societies persist. Among religious groups, a collective sense is slowly giving way to a more individualist orientation (Meintel, 2014). The American Indian collectivist-versus-self concept is

complex, as it varies widely among American Indian groups (Whitesell, Mitchell, Kaufman, Spicer, & The Voices of Indian Teens Project, 2006). American Indians place a higher level of importance on religion in general and give their religious beliefs much more influence in their decision-making than non-Indian Americans (Prue, 2013b). The core category that emerged from the grounded theory analysis of my ethnographic investigation of the NAC was that they are not fly-by-night people; defined as follows: “[W]e are a people of substance, we have staying power, we are real, we are dependable, and we are people to be taken seriously” (Prue, 2008, p. 268). The general tendency toward collectivism, and the higher levels of influence of religion on decision-making, come together in the NAC to form a conservative body not likely to quickly or radically change their status quo. So, while cultivation of the plant peyote might be a relatively easy technological solution, it would require a shift in the concept of peyote by peyotists. Just as other plants sacred to American Indians have moved from wild harvest to cultivation (e.g., tobacco), it remains to be seen just how quickly that shift in consciousness concerning the relationship with peyote can occur.

When we are speaking of cultivation concerns, we are only talking about the United States. In Mexico, the supplies are at risk (Terry & Trout, 2013), endangered by habitat loss caused by mining, encroaching agriculture, and psychedelic tourism (Walker, 2007); however, peyote in Mexico is not threatened to the extent it is in the United States. In Canada, the possession of peyote plants is specifically not illegal. The Canadian Department of Justice’s drug scheduling regulation titled “Drug Use and Offending,” in Appendix A: Schedule III, #17 “Mescaline and any salt thereof, but not peyote (*Lophophora*),” specifically omits the plant itself. Google Internet search for the terms “purchase peyote Canada” retrieved over 74,000 results, many offering to sell peyote plants or seeds to Canadian buyers, or others internationally where there is not legal restriction. Assuming Canadian NAC members are so inclined, their reliance on greenhouse peyote could at least relieve some of the demand from the U.S. consumers.

ON REASONABLE REGULATION OF PEYOTE

A key phrase regarding reasonable regulation of peyote cultivation contained in the AIRFAA of 1994 is that the Act *does not prohibit*. Congress allowed for reasonable regulation of peyote by the Drug Enforcement Administration (DEA), but it has not mandated it. Government departments are rightly reluctant to draft regulations affecting religious bodies without being directly told to do so by Congress. For the government to write additional regulations concerning religion requires a compelling state interest (Cookson, 2001). This begs the question: What is a reasonable compelling

interest for the government to interfere with the free exercise of the NAC member's religion?

There is not a significant public safety interest in expanding regulation of peyote. The DEA reports noteworthy drug seizures in its internal periodical titled *Microgram*. A search of that journal revealed very few entries for peyote. When it was discovered, it was for small amounts of peyote. Three living plants in Arkansas were processed in 2008, 25 g of fresh peyote or other cactus in Illinois in 2005, 12 pots of live peyote plants in New York, 4 kg of whole plants and roots in Texas, and 11 g of dried peyote in California in 2003. In the July 2009 edition, a seizure of illicit peyote in Oklahoma was reported, which was notable because it "was the largest amount (total net mass 49.4 g) of dried peyote ever submitted to the laboratory" (*Microgram* Editor, 2009). The paucity of seizures is noteworthy, but what is most important for the issue of regulating NAC members is that the Oklahoma example involves such a small amount of peyote. Oklahoma is home to most of the NAC chapters and a large Indian population and yet less than 2 oz. of illicit peyote has been seized by the DEA. Such a marginal illicit trade in Oklahoma is an indicator of the security with which the church maintains peyote.

HAVING NO CENTRALIZED AUTHORITY

The NAC does have some semblance of being hierarchical: there is a centrally elected chairman of the Native American Churches of North America. However, one must look at the history of the development of the NAC to get a clearer idea of what that hierarchy actually is. Originally, the NAC chapters came together under a single umbrella, not for the purpose of developing a unified theology or set of practices, but rather as a means of protection from harassment and discrimination, the hope being that, once organized as a "church," the indigenous practices would share the same protections under the First Amendment that all other religious organizations enjoyed. This is a classic example of cultural syncretism: taking on aspects of a foreign oppressor's culture and incorporating it into your own for the purpose of your own protection. So, while the NAC does have the appearance of being hierarchical, with a centrally elected representative, it is not the same as saying that the central representative is an authority. The chairman of the Native American Churches of North America does not carry the same weight of authority as the Pope does in the Catholic Church.

The Nature of a Decentralized Authority

The decentralized nature of authority in the NACs does not mean that local chapters would act haphazardly and do whatever they want without regard to the impact on their fellow churches. Furthermore, because of the

long history of oppression that the NAC has experienced, there will be a natural sense of reticence in engaging in an activity that might draw attention to the church in a negative way. Therefore, taking on a new activity might seem to be engaging in risky behavior. However, let's look to the history of the NAC as it has engaged with other new behaviors. At its inception, the church obtained its peyote directly by harvesting, or indirectly and just one step removed by trade with other tribes, such as Lipan Apache, who lived in peyote's natural range. Before they thought of themselves as churches, they were peyote way fireplaces, and their geographic location in southwest Oklahoma lent itself to relatively easy access to the peyote-growing regions.

Autonomous Regional Change

Prior to the arrival of Europeans, indigenous people traveled by foot and utilized pack dogs to carry or drag their belongings. Horses and mules replaced the dog; the travois that were once dragged behind their pack dogs were enlarged and adapted to horses and mules. These travois were abandoned in favor of wagons. Next were the trains, automobiles and trucks, and eventually, air flight. Originally, there were pilgrimages to peyote-growing regions. Individual travel became trade and that trade changed with the times.

The coming of the railroad between South Texas and Oklahoma dramatically changed the use of peyote by the Indians there. Almost immediately, peyote arrived by train into Oklahoma by the barrelful (Stewart, 1987). Peyote was shipped by rail and, eventually, by the Postal Service as the NAC expanded its range outside of the Oklahoma tribal territories into tribes located on reservations in Nebraska, Kansas, the Dakotas, and ultimately, all states and territories of the U.S. west. Was the use of those mechanisms of transport of and trade in peyote seen as a theological problem, or was it simply an adaptation to a new way of engaging in commerce? It is not uncommon for NAC members to fly a great distance to Texas, where they rent a vehicle and proceed to the peyote gardens to make their purchases and return home on an airplane.

Traditionalism versus Pragmatism

So, clearly, the indigenous people have been quite adaptable to changing context and technology. While there is a sense of esteem for those Huichol Indians who continue their ancient practice of travel by foot to their peyote gardens in Mexico, those who travel by car or train or bus from other parts of Mexico are also Huichol. For indigenous people, deciding what is the proper course of action is a highly individualistic process that is carried out within the context of a deep regard for the sensibilities of those with whom they have relations; while we see some NAC chapters or members engaging

in cultivation on tribal land, there will be other chapters or individual members who will see that as improper. Just as many other religious practitioners make pilgrimages to holy sites, there are still many peyotists in the NAC for whom going to the “Peyote Gardens” is an important, if not necessary, part of their religious life. Peyotists speak of “peyote having a spirit that goes out from the peyote gardens in south Texas and into different communities, looking around for worthy individuals” (Prue, 2008, p. 211). Similarly, while there are NAC chapters and members desiring to wait until there are appropriate regulations written up by the DEA before they would be willing to engage in cultivation, other members will see those regulations both as unnecessary intrusions into their sense of sovereignty as American Indians and as unnecessary involvement of the federal government in their religious life. Furthermore, there is much about both perspectives that is correct and realistic.

During my dissertation research, I observed the process of adaptation to new technologies happening in real time. Older NAC members talked a lot about the process of learning songs. This process was one that seemed as much about making a close relationship bond with a more senior NAC mentor as it was about learning the song. What was observed, in younger NAC members, was an adoption of modern means to accomplish both. An iPhone or Android device worked equally well to be in connection with church members during the sometimes quite time-consuming drives from home to church services. That same smartphone would then be used to record songs that could then be played back on the vehicle stereo system, reinforcing the learning of the new songs. There are now NAC folks using freely available social media platforms not only to practice songs and discuss their origins but also to discuss theological and procedural issues. There are numerous NAC-related Facebook groups, some with memberships over 7,000.

CULTIVATION OF OTHER BOTANICAL PARAPHERNALIA IS NOT UNCOMMON

Terry has outlined prehistoric evidence that indigenous North Americans cultivated peyote. We should then look to contemporary practices of the NAC for answers to the question of cultivation. While peyote does play a central role in the religious practice of the NAC, it is not the sole organic substance used in the religious practice. Tobacco, often specially cultivated for religious use, is smoked from corn husks, also frequently cultivated for that purpose. Gourds are cultivated to make their rattles. Deer hides are used to craft their drums. The feathers of a whole host of birds are used in the construction of fans and staffs. Wood is used for the fire, and cedar, sage, and other aromatic botanicals all play a role in creating the setting of the NAC service.

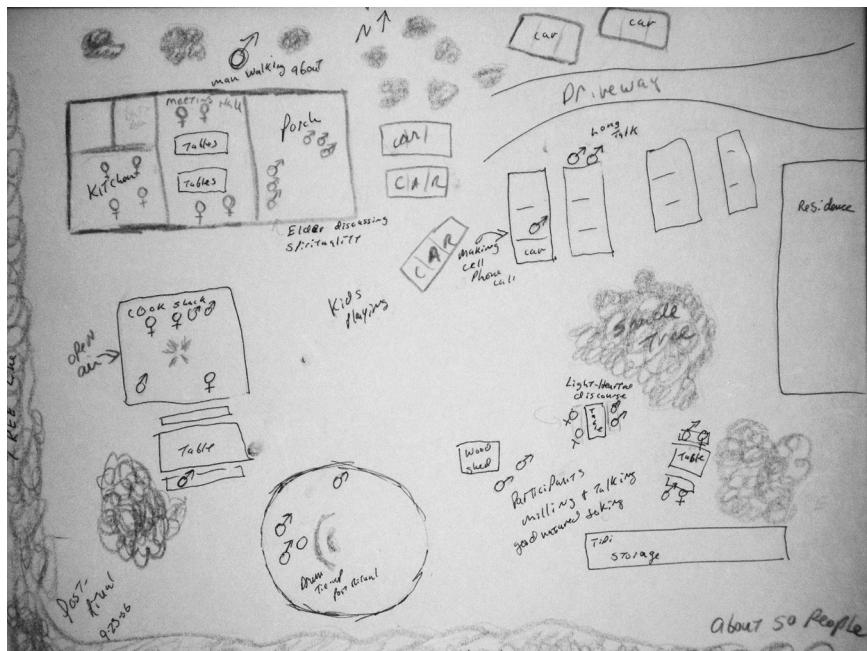


Photo 7.1 Layout of a typically Native American Church (NAC) grounds. (A NAC Chapter in Kansas, 2006)

Finally, the ceremonial meal at dawn during an NAC ceremony consists of edibles both harvested and hunted in the wild or cultivated for ceremonial purpose.

An observation that did not make it into the final copy of my dissertation related to the NAC resulted from an informal conversation I had with the caretaker of a local NAC church ground. In addition to being a Road Man, qualified to conduct the ceremony, this man also took care of the bulk of the tangible responsibilities for making sure a pleasant environment existed for the attendees and was typically the fire tender at meetings he was not facilitating. This man talked about the importance of his religious expression not having a negative impact on the environment with great passion. Specifically, he was referring to the amount of wood necessary to conduct their meetings throughout the year. He had therefore incorporated, as part of his process of preparation of an NAC service, the planting of a tree to replace the one that he had taken for use in the fireplace. If the same logic could be applied to peyote, much of the concern about dwindling supplies could be alleviated. Whether peyote belongs in the same class of being as a tree for firewood resides only in the mind of the peyotist.

CHANGE: CONSERVATIVE VERSUS EARLY ADOPTERS

The cautious American Indians, those who want their regulations spelled out, do so out of concern for themselves or their family. The long history of persecution of Native Americans in general, and peyote-using sects in particular, supports the cautious view. The more assertive American Indian will see as unnecessary, and/or unrealistic, the notion of waiting for the federal government to write a regulation that it does not want to write. The DEA will probably not write a regulation in the absence of a court or congressional directive telling them to do so. That there should be these differing points of view regarding any aspect of the human relationship with peyote is entirely consistent with the way American Indians view their relationships with plant medicines.

Since it is an article of faith of the peyote religion that peyote can teach all who partake of it, every peyotist should hold himself open to enlightenment during rituals. Most peyotists consider themselves instructed by a supernatural spirit—God, Jesus, peyote—during rituals. For most, the revelations are for personal improvement, but Sam Long, like John Wilson, felt that he received supernatural instruction to conduct peyote ceremonies in a different way. (Stewart, 1987, p. 268)

Within the mosaic of American Indian cultures that have embraced peyotism, the belief predominates that if the peyote wishes to be cultivated, it will let them know.

Of course, there are not laws in place forbidding anyone from planting trees, gourds, cedars, tobaccos, and so on. NACs have been successful because they have found ways to exist within the context of laws. Where there is a law governing any of the NAC ceremonial items, particularly eagle feathers or bone whistles, there is also a federal exemption for American Indians. We can see where it has been the intent of the U.S. government, in recent history, to provide protections, where needed, for the restoration and preservation of American Indian cultures, even to the extent of providing exceptions to the Controlled Substances and Endangered Species Acts, when necessary: “When necessary,” being the optimal phrase.

CENTRALITY OF PEYOTE IN THE NATIVE AMERICAN CHURCH

The dialogue in the literature about the NAC invariably focuses on the central role that peyote has as a religious sacrament. This plays out whether the topic of the essay is religious studies or if the article is more legal in its focus. The NAC has developed a strong track record of interacting with the legal establishment to protect its religious rights around the use of peyote

(Stewart, 1987). It has been settled law since *State v. Whittingham* in 1973 and is central to the passage of the AIRFAA in 1994. American Indians, in general, find themselves in a place where their unique geopolitical and familial identities have become enmeshed in a legal relationship with the U.S. government. When one reviews the tactics utilized by the NAC in its struggles with the legal establishment over the past century, what stands out is not artful legal maneuvering, but the artful use of relationship to accomplish their goals. A century ago, American Indians relied on their relationships with Western researchers, such as James Mooney, and with sympathetic employees of the Indian department, to transmit an understanding of their religious practice and the importance of peyote to it. American Indians and the NAC also developed relationships with political forces, such as was the case when they established a religious exemption for peyote in the Oklahoma territory. The relationships they developed with the Oklahoma territorial legislatures were not those focusing on their religious rights, nor on whether peyote was a “intoxicant” or not, but rather on bringing these lawmakers into contact with ordinary American Indians who could offer testimony on the importance of peyote to their religious life. Probably as important as anything they testified to was how the peyote church had turned them away from alcoholic lifestyles and restored them to productive roles in their families and their tribes.

CONCLUDING THOUGHTS: REGULATION AND ITS NECESSITY

While tribal authority does offer a sense of security to individual American Indians who are engaged in the production of peyote on tribal land, the true question would be: Is it necessary for the DEA to craft regulations in order for American Indians to cultivate peyote for religious use? To that end, the argument would be no. The AIRFAA refers the cultivation issue over to the Texas Department of Health and Safety. Since the AIRFAA only defers to the regulations in Texas that existed at the time of its enactment, American Indians residing in other states, but not on reservation land, would fall under the jurisdiction of the individual Indian’s state of residence. Where there may or may not be a specific ban on the cultivation of peyote or controlled substances, but nonetheless, if the person is an Indian as defined by the AIRFAA, and their cultivation is part of their bona fide religious practice, AIRFAA should already provide protections. Are American Indians currently required to notify individual states when they are transporting, possessing, or using peyote within the state borders? No. It is understandable why an individual American Indian would be cautious about cultivating peyote, in light of past discrimination; however, a compelling argument can be made that waiting for DEA regulations to be written is both overly cautious and supports

the very sense of dependency that most American Indians are trying to break free from in their relationship with the U.S. government.

Is it necessary at this point for the federal government to do anything to provide guidance to American Indians regarding their relationship with the sacrament that is used in their traditional ceremonies? I say it is not. The federal government is reluctant to do anything that might evoke concerns about the establishment clause of the First Amendment. Writing a regulation governing the cultivation of peyote, in the absence of a compelling state interest and a unified voice from American Indian peyotists that using cultivated peyote as a sacrament is acceptable, would rightly be viewed as governmental intrusion into the religious life of American Indian citizens.

Developing the political pressure for Congress to write a change in the law is another possible, but unlikely, solution. Democrat Bill Richardson was the original sponsor of the AIRFAA in 1994 (Library of Congress, 1994), when the Democrats controlled all three branches of government. He is no longer in the House. The two cosponsors were also Democrats; of the two, only John Lewis of Georgia remains. While Lewis would likely be a strong advocate, gathering the multitude of voices to come together to persuade a deeply divided House of Representatives to act might prove difficult in the absence of a cause de célèbre, such as was provided by the *Smith* case. Are religious leaders going to rise up and demand action of Congress in the absence of an immediate problem? Probably not. American Indians, as a political block, also lack considerable power. At around 1% of the U.S. population, with a poor track record for engaging in the electoral process, American Indians have relied on the courts as much as the legislature for action. Furthermore, the NAC, while remaining the largest single spiritual movement in Indian Country, still constitutes a minority of American Indians. American Indians who have used peyote comprise just 10% of that race's population. One tenth of 1% of the entire U.S. population does not translate into the strength necessary to make things happen in the nation's capitol. Individual NAC chapters might have better luck effecting political action at the tribal or state level than they would getting the federal government to act. The NAC of Oklahoma has been successfully doing just that since it was Oklahoma Territory, and chapters in other states have petitioned their legislatures for religious exemptions as well.

It might take a case like *Smith* before the federal government will offer clarification around cultivation in the American Indian Religious Freedom Act and its amendments. As the wild stocks of peyote continue to wane, there will be pressure to modify use. Some chapters will continue on using small amounts; others will doubtlessly adopt cultivation. In the absence of specific protections for American Indians, at some point, pressure to conform to American standards will come back into play and clarified regulations will be written. Finally, a case regarding cultivation of peyote might well result in

the recognition that the state lacks a compelling interest in the regulation of peyote cultivation by religious groups. Considering the NAC's ability to self-regulate in preventing its stocks of peyote from falling into misuse, and if past behavior truly is a predictor of future behavior, the need for that case may never present itself.

NOTES

1. A Native American Church Fire Place refers to a particular style of conducting an NAC service. A Fire Place is usually inherited or passed on after an extended period of apprenticing with a Roadman.
2. A Road Man is an NAC member (male only) who conducts ceremonies.

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Peyote and Psychedelics on the Canadian Prairies

Erika Dyck

It is too White for many Indians, and too Indian for the Whites. By its powerful enemies it is called a Peyote “habit,” an addiction, and orgy, and it doesn’t seem to matter that scientists have proven otherwise while its opponents have never attended or participated in a ceremony.

—Duncan Blewett, psychologist and peyote ceremony observer,
Saskatchewan, 1956 (Kahan, 1963)

The peyote cactus is not native to Canada, and although the Royal Canadian Mounted Police reported its use among Aboriginal people as early as the 1920s, these discussions fed largely on rumors and information gleaned from American authorities. Allegations regarding its use concentrated on incidents in western Canada, west of Ontario and spreading all the way to the Pacific Coast, focusing mainly among Cree, Sioux, Stoney, and Blackfoot bands on the Canadian plains. It is unclear in police reports whether Canadian government officials linked peyote use exclusively with the Native American Church (NAC), although discussions generally connected peyote with displaced and disenfranchised Native American who crossed the border into Canada, bringing allegedly addictive habits with them (Dyck & Bradford, 2012). By the mid-1950s, the tone of the government and police discussions had changed. Instead of dismissing peyotism as a set of isolated drug habits linked to American influences, discussion of the increase in peyote use on the Canadian prairies focused on the connection between drugs and religion.

The question as to whether peyote was a narcotic or a religious sacrament created a sharp division in mid-twentieth-century discussions and embroiled all Canadians, Aboriginal and non-Aboriginal, in contentious debates over what appeared to be an imported cultural rite. On one side of the debate were

Indian agents, local police, and federal bureaucrats from the Department of Health and Welfare who supported the view of peyote as a narcotic that, in the harshest terms, should be subject to criminal charges, while in more liberal terms, peyote use was regulated by the Food and Drug Act. The latter designation prohibited peyote from entering Canada on the basis of its psychoactive chemical properties. On the other side of the debate were members of the Native American Church of Canada (NACC), a handful of scientists with long-standing interests in the study of psychedelic substances, and a few sympathetic lawyers who argued that, as part of a religious rite, peyote should not be classified as a narcotic, but rather recognized as a sacrament.

This chapter explores these debates and adds to the small body of literature on the history of peyote and the NACC. In spite of the voluminous research on Canadian Aboriginal history and on native-newcomer relations in Canada, the issue of peyote and the NACC receives only passing mention, if it appears at all in these studies. Katherine Pettipas, in her analysis of the government's role in repressing religious ceremonies among Aboriginal people on the Canadian prairies, presents one of the few comments on peyote in the Canadian context. She found that it stood out among Canadian examples in the way that its use was regulated. She explains that the numbers of people using peyote were very small, compared with American figures, and due to the need to import the plant, the issue tended to be regulated by police and customs officials rather than invoking the direct surveillance of federal Indian agents over a traditional practice (Pettipas, 1994). The paucity of studies is, in part, reflective of the small numbers of people engaging in peyote rituals, as noted by Pettipas. However, as this chapter shows, due to the timing of peyote's arrival in Canada, and to the local personalities involved, the experiences in Canada were slightly different than those of the United States, offering another perspective on the history of peyote and peyote regulation. Ultimately, I argue that, in spite of the small numbers, the issue of peyote use in Canada attracted widespread attention from a variety of people, bringing government officials and Church members into a dialogue about what constituted an authentic religious practice at a moment in Canadian history when there was an ascendency of scientific research on psychedelics and a growing recognition of the importance of spiritual visions as a healing mechanism. It was within this context that NACC members in western Canada turned to authorities in science and medicine, hoping to find irrevocable scientific proof that the drug itself was not harmful to the physical health of its consumers and, moreover, that its use had potential benefits. Local scientists in Saskatchewan had been studying hallucinogenic drugs, including mescaline, which is the main psychoactive substance within the peyote cactus. Although the NACC found a receptive audience among scientists familiar with these drugs, the federal government continued to respond in a

paternalistic manner. As historian Maureen Lux has observed in more general terms, the federal government's response reveals a growing belief in 1950s Canada that the Indians were "racially careless" and needed the intervention of the state to properly care for their physical selves (Lux, 2010).

THE NATIVE AMERICAN CHURCH IN CANADA

Estimates from government sources in Canada suggest that the NACC had a few hundred members, spread thinly across the Canadian prairies, but the reports were never particularly clear about the details. The Alberta and Saskatchewan chapters were the best-documented examples of the church's activities. The Saskatchewan-based NACC established a legal presence and conducted ceremonies that received public exposure. Those examples, however, only ever involved a few dozen people. Due to uneven reporting and competing government perspectives over whether NACC was a positive or negative influence, the actual numbers of people involved are very difficult to pinpoint. As was the case elsewhere, membership was restricted to Aboriginal people, which brought peyote into broader discussions of colonialism and cultural rites. As Kevin Feeney has shown, while the NAC was a "modern permutation of the sacramental and religious use of peyote in North America," the practice of taking peyote is over 1,000 years old (Feeney, 2014, p. 66). The peyote movement in the United States was well documented, particularly by anthropologists, who regarded this practice of peyotism as part of a religious practice in the nineteenth century that fostered a pan-Indian identity. The movement spread north into Canada in the 1940s, but was slower to gain traction and seemed to only ever attract a few hundred members.

Until 1951, the formal federal Indian policy in Canada discouraged traditional practices, including religious and cultural rites. American anthropologist Weston La Barre rather famously drew attention to elements of Indian spirituality that were at risk of being lost due to these heavy-handed colonial practices throughout the United States (La Barre, 1938). He pointed to the Sun Dance and the Ghost Dance as traditions that relied on visions for authority and guidance that had been outlawed. Nineteenth-century Canadian laws similarly forbade cultural practices, including the Potlatch and the Sun Dance (Pettipas, 1994). Revealingly, the Indian Agent for the Blackfoot agency in the Northwest Territories (present-day Alberta) recorded in his annual report in 1886 that "the Indians held their usual 'sun dance' this year, but . . . I do not think it was a success from an Indian point of view and I should be glad if they were disgusted as it is an unmitigated nuisance, always occurring at the time they should be working at the crops. I am continually trying to get them to do away with it" (Begg, 1886). Beyond breaking these

traditions, the Canadian government often insisted upon a more Christian approach to spirituality and a more scientific approach to medicine, views that denounced visions and dreams, central features of Aboriginal spirituality, as madness and medicine men as harbingers of disease (Kelm, 1999).

According to early scholarly accounts, the Native American Church emerged as a blend of Christian and non-Christian spiritualties. Early studies interpreted this marriage of Christian and Native religious approaches as proof of the success of assimilation (Aberle, Moore, & Johnston, 1982; Dusenberry, 1962; Nabokov, 1969; Slotkin, 1975; Stenberg, 1946). More recently, however, Thomas Maroukis argued that this pragmatism is better understood as an astute and deliberate maneuver to retain traditional forms of spirituality in a refashioned set of practices that appeared to conform to colonial dictums (Maroukis, 2012). The Canadian example shows clear evidence of agency on the part of NACC members, who very deliberately sought support from local legal and scientific experts. They imported a set of religious practices to the institutionalized version of the Native American Church that resurrected authority in visions and personal communication with God. This religion adopted a veneer of Christianity and also established a deeper connection with older native traditions. The move was not simply an acceptance of Christianity, but a way to retain the power of visions as part of spiritual practices.

In 1954, Cree band members in Battleford, Saskatchewan, established the first Canadian branch of the Native American Church (Cockburn, 1954; Toronto Globe and Mail, 1954). The timing of this development was crucial. Canadian historians have explained that, in 1951, changes to the Indian Act had significant repercussions for the legal status of Indian cultural practices, especially religious traditions (Bohaker & Iacovetta, 2009; Dyck & Bradford, 2012; Miller, 2000; Pettipas, 1994). Peyote was caught up in these changes. Worshippers and sympathizers claimed that it was an authentic form of dignified religious observance, while opponents argued that it was an imported practice that merely justified the abuse of narcotics (Dyck & Bradford, 2012).

Members in Alberta and Saskatchewan had been laying the groundwork for establishing the church since the early 1950s. In the spring of 1954, Ernest Nicotine, medicine man, son of the chief of the Red Pheasant Band in Saskatchewan, and member of the proto-Native American Church of Canada, contacted Dr. Abram Hoffer, director of Psychiatric Services in the Saskatchewan, asking him whether he would lend his professional expertise to the cause of his church in securing peyote for their rituals. Abram Hoffer ran a substantial research unit devoted to studies of LSD and mescaline, among other substances, attempting to discover what they revealed about the biochemical nature of madness. His close colleague, psychiatrist Humphry Osmond, had arrived from England in 1951 and, in 1956, first

introduced the word “psychedelic” to describe the sensations associated with hallucinogenic drugs.¹ By the mid-1950s, the psychedelic research in Saskatchewan had generated attention from around the world, and Saskatchewan scientists were credited as leading authorities on the issue. Nicotine recognized their credibility in scientific studies of these substances and sought their support; he indicated to Hoffer that

[p]eyote is probably wholly beneficial and in no way a drug of addiction. My fellow Indians use it as a part of a religious ceremony [in the] Native American Church. I was at the ceremonies. The members of this church conduct themselves well and act with dignity and good sense. We have suggestions that you are the person who could give expert testimony or statement. (Nicotine, 1956a)

Nicotine astutely recognized the value in adding scientific credibility to their cause, and Hoffer happened to be local and, indeed, one of the leading international authorities on hallucinogenic substances (Dyck, 2008). Nicotine wrote again a month later, thanking Hoffer for sending him information about the biochemical properties of peyote and mescaline, and offered in exchange his praise for the psychologically productive effects of peyote, stating that “you could use peyote for one hundred years and still you will be learning something new” (Nicotine, 1956b). He added that they were planning another worship meeting and “we would be very glad to have you and sit with us during the all night rite in order to observe the effects of peyote, and the worshipping” (Hoffer, 1956). His invitation to Hoffer was unprecedented and not welcomed by all members of the NACC, but Nicotine and some of the other members of the church recognized the need to collaborate with sympathetic authorities to retain legal access to peyote.

Hoffer responded eagerly and requested “that I might spend an all-night session with you to observe the effects of peyote” (Hoffer, 1956). He further recommended that others involved in psychiatric research in the province might also join. Although they had to delay the ceremony to accommodate this request, four White men ultimately joined the ceremony in October 1956, in what was billed as the first time in Canada that the rituals were performed with such outsiders present.

The four White men who attended the ceremony, although outsiders to the NACC rituals, were some of the leading authorities on hallucinogenic research. Abram Hoffer was the director of psychiatric research for the province and had worked closely with Humphry Osmond, superintendent of the Saskatchewan Mental Hospital at Weyburn, on LSD and mescaline research. Their work had gained an international reputation for using LSD to treat alcoholism, and Osmond was on the cusp of coining the word “psychedelic” to



Photo 8.1 Scientists attend peyote ceremony near North Battleford, Saskatchewan, October 6, 1956, with members of the Red Pheasant Band, NACC, and NAC Montana. Pictured: (left to right) Duncan Blewett (psychologist), Frank Takes Gun (president of NAC), William Russell (president of NAC, Montana), Humphry Osmond (psychiatrist), unknown. (From the Saskatoon Star Phoenix collection, S-SP-B-5983-32, photo courtesy of the Saskatchewan Archives Board, with permission granted from the Saskatoon Star Phoenix.)

capture the sensations associated with the visions or hallucinations that one can experience (Dyck, 2008).² Duncan Blewett, one of the other invitees, was a psychologist in Regina, the co-author of *The Handbook on the Therapeutic Use of LSD*, and a leading authority in his own right on the proper set and setting for taking these psychoactive substances and for cultivating a positive, reflective, and enlightening reaction. The fourth White participant was also a psychologist, Teddy Weckowicz, who was also a member of the psychedelic research network on the prairies, and whose own research led to a reconceptualization of abnormal psychiatric classifications, including developing new approaches to understanding addiction (Weckowicz, 1984).

This team of researchers had already developed an international reputation for their interdisciplinary work on hallucinogenic substances (Dyck, 2008). A decade later, Hoffer, Osmond, and to a lesser extent, Weckowicz devoted an entire chapter to the study of mescaline and peyote, describing mescaline as “one of the active alkaloids of the American peyote plant, [which] is historically the most interesting hallucinogen” (Hoffer & Osmond, 1967, p. 1).



Photo 8.2 Duncan Blewett and Frank Takes Gun at peyote ceremony near North Battleford, October 6, 1956, with members of the Red Pheasant Band, NACC, and NAC Montana. (From the Saskatoon Star Phoenix collection, S-SP-B-5983-32, photo courtesy of the Saskatchewan Archives Board, with permission granted from the Saskatoon Star Phoenix.)

They suggested that, unlike other hallucinogenic substances, such as LSD, mescaline consumed as part of the peyote plant had a bitter taste and a tough fibrous exterior that was less “suitable for the White man’s palate” (Hoffer & Osmond, 1967, p. 4). They described the reaction to mescaline in highly visual and deeply psychological terms:

Quite ordinary objects appear as marvels. In comparison with the material world which now manifests itself, the ordinary world of everyday life seems pale and dead. Color-symphonies are perceived. The colors gleam with a delicacy and variety which no human being could possibly produce . . . then after a short time colored arabesques and figures appear in endless play. (Hoffer & Osmond, 1967, p. 5)

Beyond the visual changes in perception, they also noted a pattern of spiritual reactions to hallucinogenic substances that they associated with a more general theme of introspection and contemplative reflection; in many cases these moments manifested in spiritual descriptions. Hoffer and Osmond carefully catalogued these reactions, compared them with extant scientific and

psychological literature, and produced a comprehensive set of studies exploring the science of psychedelics. This high-powered collection of researchers was well positioned to explore the scientific basis of the peyote ceremony, and the NACC was well advised to seek them out.

The rise of the NACC and the concurrent rise of psychedelic research on the prairies was a remarkable coincidence, because these substances are not organic to the region, and because both the science and the religion were imported. The result, however, was an unprecedented opportunity to explore the science of psychedelics in a specific spiritual ceremony, albeit one poised to challenge the colonial practices of the past and to offer a spiritual salve on the deep divide between Christianity and allegedly “pagan” rituals associated with Indian practices.

SCIENTISTS PARTICIPATE IN THE CEREMONY

One of the first challenges was securing peyote for the ceremony. President of NAC in the United States, Frank Takes Gun, of Montana, prepared to bring peyote across the border that summer. He immediately encountered problems as Canadian customs officials maintained that peyote fell under the jurisdiction of the Food and Drug Act, insisting that the packages were improperly labeled. Takes Gun sought legal counsel which, in turn, advised him to comply with the Food and Drug Act. In his letter, lawyer John Maher recommended that Takes Gun get a letter from a “qualified medical authority with knowledge of the subject” who could attest to the proper name of the drug, the distributor, directions for use, and declaration of contents (Takes Gun, 1960). Takes Gun turned to Hoffer for support, who complied, but lambasted the regulations for misunderstanding the situation entirely. Peyote is a plant, not a drug, he maintained, and describing its chemical contents was beyond reason; Hoffer singled out this substance from many food products that crossed the border without difficulty. Hoffer insinuated that the real problem was the intended use by Indians of a plant that White men did not know, in a ritual that bureaucrats could not understand and perhaps even feared.

Ultimately customs officials, on Hoffer’s urging, allowed a good supply of peyote to cross the border for the purposes of this staged event. The ceremony had grown into a significant public relations opportunity that introduced a number of key players to the Canadian scene. Frank Takes Gun, president of the NAC, and William Russell, president of NAC of the state of Montana, presided over the ceremony; Takes Gun referred to himself as the priest and Russell as the drummer. The site of the ceremony was also strategically chosen:

The ceremony took place in a teepee, near the Indian Museum at Fort Battleford, near the confluence of the Battle and Saskatchewan Rivers where an aged chief and councilors of the Red Pheasant Band, the oldest in Canada's Northwest, extended the hand of friendship to Governor Alexander Morris, eighty years ago this fall, as he was departing for his home in Fort Garry after negotiating Treaty Number Six with the Crees at Fort Carlton and Fort Pitt. (Kahan, 1963)

Although they were incorrect about the Red Pheasant Band being the oldest, the sentiment was significant as a symbolic gesture demonstrating the coming together of the Canadian government and the Aboriginal people.

Members were instructed to arrive in "ordinary civilian dress" and the prayers were a mixture of English and Takes Gun's language, Crow (*Mimeographed statement*, 1956). The script for the event outlined a detailed set of rituals, from lighting the fire, to a series of four songs, pounding sagebrush into powder, followed by a confession before receiving the peyote. Each participant took four peyote buttons. According to Takes Gun and Russell, "'It [peyote] brightens up the mind,' they said, and 'makes us realize that there is a Divine Creator.' The all-night service is devoted to Divine communications with a Universal God" (Kahan, 1963). The worshipping concludes at sunrise as participants leave the teepee, symbolizing a new day and a rebirth.

During the ceremony, Humphry Osmond partook fully in the peyote sacrament, while Hoffer, Blewett, and Weckowicz observed and took notes. The decision to engage in a form of self-experimentation was consistent with the approach that these researchers had used in their own studies of drugs, where they believed that the experience provided them with valuable insights and perhaps even might produce a model psychosis for tapping into the inner world of madness.³ Osmond, who had considerable personal experience with hallucinogenic drugs, was overwhelmed by the event. His notes revealed a mixture of sensations from fear to humiliation, to feelings of being out of place, and later of being united with the others involved in the ceremony. Shortly afterward, Osmond thanked Frank Takes Gun, writing: "my colleagues agreed that the ceremony was one of the most remarkable they had ever witnessed. They were most favorably impressed by the dignity and beauty of it and I think surprised that in such simple surroundings such an extraordinary atmosphere could be created. For me, the situation was rather different since I took part in the ceremony, though unfortunately unable to drum or sing, I was able to take peyote, and being used to working with similar substances, to observe the similarities and differences" (Osmond, 1956b). He then elaborated on his intentions to support the NACC:

I had a much greater understanding of the Indian's way of life, his way of looking at things, his hopes and fears, the very harsh time he has endured in the last hundred years of so, and the part that peyote may play in giving him back the confidence and self-respect that he had almost lost, and making good use of the courage that he has never lost in his struggle with an overwhelmingly powerful, unscrupulous and unthinking opponent (the White man). . . . I know that my colleagues and I will certainly do our best to help the NAC in Canada with all our abilities and see that the Indians get a square deal and are not imposed upon by well-meaning officials and public people who, as has so often happened in the past, have made no attempt to find out what in fact goes on in the services of the Church. (Kahan, 1963)

A week after the ceremony, the *Saskatoon Star Phoenix* published a feature article on the ceremony under the title “White Men Witness Indian Peyote Rites.” The article achieved what planners had hoped; it offered a sympathetic portrayal of the event as a culturally enlightening and nonthreatening ritual. Journalist Doug Sagi explained that the worshippers and observers participated in an intense ceremony, in which the intended peak of the event was a connection with “the Almighty God,” a feat achieved through a combination of smoking tobacco, chewing peyote buttons, drumming, singing, and meditating throughout the night. The local radio and television station followed up a month later in a similarly sympathetic perspective on the ceremony, in a report peppered with more aggressive comments from Abram Hoffer, who fiercely defended the use of peyote within the NACC. Hoffer expressed his concern with the federal government’s decision to uphold the law on classifying peyote under the Food and Drug Act, stating that it “disturbs me to think that the natives’ personal rights and religious freedoms would be infringed on if they did not get the substance . . . Indians who belong to the Native American Church, he [Hoffer] says, must have peyote as a part of their religion. And if it is kept away from them, there could be smuggling. It’s either that, he states, or the disbanding of the church. And they would not disband” (Hoffer, 1956).

Not all news agencies shared this sympathetic perspective. The print media had maintained a more sardonic tone in describing the peyote rituals. A report from Winnipeg referred to peyote as either a “devil’s brew or a sacred potion” (Bryant, 1954a). Another article appeared in Calgary and moved between describing NACC as a model organization to chastising the regulations for allowing Indians to substitute peyote for alcohol as a sanctioned drug of abuse (*Peyote buttons used in Cree Indian church*, 1954). The Vancouver press also weighed in on the debates, reporting: “People out for kicks have come down with instant insanity after taking peyote or one of its derivatives. But peyote,

chewed or brewed as a tea, is also at the sacramental heart of the native American church [sic] and its all-Indian membership" (*Defend use of peyote*, 1954).

Osmond followed through on his promise to Frank Takes Gun and set about writing to government officials in an attempt to demystify the rumors surrounding peyote. In writing to local Member of Parliament Max Campbell, he plainly stated: "The Deputy Attorney General's remarks about the deadly poisonous nature of peyote beans or mescal buttons is pure poppycock" (Osmond, 1956). He was critical of the federal government in its handling of Aboriginal people and suggested that peyote was far less dangerous than the many other demoralizing influences in their lives, including the seizure of land and the consumption of alcohol. He further pressed Campbell on the health issues, stating:

Certainly I have advised those Indians whom I know that they are not to place any credence in the healing powers of the drug. Certainly the standards of the Indians can be and ought to be substantially improved and this must be done by the White man who is chiefly responsible for bringing the Indian to his present plight. It is true that peyote is a drug but I do not think the Indian uses it primarily to escape. I think they use it primarily to achieve a closer union with their God. (Hoffer, 1956)

Hoffer continued to work with members of the church and lent his scientific expertise to the cause. He wrote, for instance, to the Department of Public Health, maintaining, "We have been analyzing some peyote buttons for the concentration of mescalin [sic]. According to our analysis, the peyote button contains between one half to one percent mescalin. With the average consumption of four to five buttons, this quantity would contain very little mescalin; certainly not enough to do any harm" (Hoffer, 1956). In spite of his protestations, the federal government continued to restrict the importation of peyote on legal grounds, at which point the NACC retained the services of legal counsel.

DRUG OR SACRAMENT: LEGAL DEBATES

In 1957, Hoffer wrote to his friend, lawyer Roger Carter and encouraged him to consider working on behalf of the NACC among the Red Pheasant Band. Carter was by then a public figure, best known for his sympathies toward workers and for defending the rights of individuals against an unjust state. In the 1970s, Carter went on to establish the Native Law Centre and was later honored with an Award of Excellence in Race Relations by the government of Canada for his work on behalf of Aboriginal people. In the late

1950s, Carter was still developing his legal career but emerged as a sympathetic figure with the authority to help contest the legal prohibition surrounding the NACC's claims to religious freedom. Hoffer implored him: "I hope you will consider acting for the Indians. I do believe that they are suffering a decrease in personal liberty because of the bias of a small group of our population who happen to be in influential positions. . . . You will understand that the Indian is naturally suspicious of the White man and the most important thing to do at first would be to gain their confidence" (Hoffer, 1957).

Carter very quickly responded and began pressing the federal government for a more reasonable legal solution to the restrictions on importing peyote. He complained about a custom official's refusal of a peyote shipment based on an interpretation of the Food and Drug Act regulations stating "no adequate directions for use." Carter maintained that the customs officers had denied the entry of peyote based on defining it as a plant, subject to the Food and Drugs Act. The NACC had been frustrated with the decision and argued that it restricted them from practicing one of the basic tenets of their religion. He explained, "An exactly parallel situation would exist if the members of the Church of England in Canada had to import their sacramental wine and found that they could not do so by reason of the administrative action of your department" (Carter, 1957a). He went on to refer to evidence from biochemists, medical doctors, and psychiatrists, verifying that the plant is not a drug and that its consumption was not harmful. "Certain of these authorities have, before forming their opinion on these points, attended a meeting of the members of the church in Saskatchewan at which the communion rite was carried out" (Carter, 1957b). He later outlined his legal approach to Hoffer, suggesting that if they could convince the federal government to change the designation of peyote, then they could avoid the expensive court proceedings that had been unfolding in the United States (Carter, 1957b). The result of these court cases in the United States was to designate peyote under the Federal Food, Drug and Cosmetic Act, making access to peyote acceptable by prescription only (Yakowitz, 1959).

The bureaucrats in the Canadian Department of Health & Welfare disagreed with the protests emanating from Saskatchewan and maintained that peyote was a drug and therefore subject to the Food and Drug Act regulations. The deputy minister explained: "The substance, I understand, contains at least nine alkaloids, all having varying degrees of physiological effect and may be highly dangerous when taken in unknown dosage or indiscriminately. If, of course, you are able to show that the substance is no longer considered as a drug by competent scientific experts and that the literature respecting it is no longer regarded as valid, then I would be quite prepared to give further consideration to the above" (Cameron, 1957).

Hoffer openly questioned the wisdom of a law that placed control within the hands of medical experts as to whether or not peyote could be obtained for religious observances. As Hoffer explained,

Consequently members of this church can only practice their faith legally by medical prescription. Do we want the responsibility of allowing or denying their sacrament to a church which has been incorporated in at least one province, where peyote, like sacramental wine, can be imported duty free? . . . Few scientists are interested in these matters and few doctors have much experience of these substances. Studies of mescaline [sic] have been an integral part of our seven years research into mental illness which we have undertaken in Saskatchewan. Because of this we believe that we have some competence to discuss these matters. (Hoffer & Osmond, 1967)

Frank Takes Gun further weighed in on the Canadian debates, both demonstrating the spread of the NAC into Canada and also emphasizing the role of the church in providing a transitional phase for displaced Aboriginal communities. He firmly defended the right to freedom of worship, claiming:

The law of Canada and the Constitution of the United States guarantees us this right and we respectfully request all those who differ from us in their form of religious worship be as tolerant as we are. . . . It would be a great pity if the Canadian Government due to a lack of adequate information deprived its Indians of their Indian form of Christianity known as the Native American Church of Canada. For this Church is the only significant means the Indians have developed for their organized transition from the Indian to White culture. (Takes Gun, 1960)

Although the official policy of the federal government allowed for traditional Indian customs and the freedom of religious expression, not everyone within the government agreed when it came to peyote. P. E. Moore, the director of Health Services at Indian Affairs, balked at the notion that the NACC was part of a traditional spiritual practice or that peyote held any authentic meaning for Canadian Indians. He discarded sympathetic claims regarding “this so-called religious orgy” (Moore, 1953). He further explained: “We are anxious to control the use of this substance among Indians. I do not believe that if any thinking man had direct knowledge of the disgusting orgies that occur when these peyote sprees are indulged in by groups of Indians, he would hesitate to take drastic steps to curtail its use” (Moore, 1956).

Hoffer combated this view in a public statement: “[S]ociologists have evidence that the followers of the peyote religion are as a rule better members

of society" (Hoffer, 1956). Osmond shared these views, adding: "Peyote, like anything else that contains a powerful chemical substance, should be handled with respect. . . . In the hands of a foolish, cruel or malignant person it could be harmful, but is there anything so good that the fool, the brute, or the wicked cannot pervert it? Even the Christian Eucharist was used for the devil's worship in the Black Mass" (Osmond, 1956).

Hoffer further expressed the folly of these views and outlined the health risks associated with criminalizing peyote. He indicated that there had been no reported incidents of peyote-induced psychosis among NACC members. This situation may have been similar to that of other drug-induced states where individuals confronted by police or hospital staff have rarely admitted to having ingested a drug. Hoffer recalled, however, that in 1964, a member of the NACC was admitted to the provincial mental hospital after hearing voices. He later confided to Hoffer that he had been part of a peyote ceremony 5 days earlier and believed he would die if he did not continue praying for everyone continuously. "Strange-sounding voices which he believed to be those of God and angels came to him from a distance and commanded him to pray" (Hoffer, 1965). In this case, the man also had a family history of schizophrenia, and Hoffer concluded that, when combined with alcohol consumption and peyote use, the psychosis was likely induced through this cocktail and was not the direct result of peyote alone (Hoffer, 1965). This diagnostic appraisal matched the research findings that he had done with LSD and schizophrenic or psychotic states, and further convinced him that, as with other psychedelic drugs, the environment or circumstances under which someone consumes peyote is a critical part of the experience. As a religious sacrament, peyote remained a vital element in achieving a spiritual state; as an intoxicant, peyote was difficult to obtain, hard to digest, and had the potential to emulate a psychotic state.

As with their contemporaneous studies on psychedelics, most local researchers agreed that these psychoactive substances had tremendous cultural value if used properly. In the case of peyote, it offered a route to spirituality that had long been discouraged. In a case of a Navajo woman, Mary Attakai, who was prosecuted for possessing peyote, an American judge ruled that the substance was a sacrament and therefore not subject to criminal charges. Ultimately, the United States created a special category for peyote use among Aboriginal people, based in part on racialized assumptions (Feeney, 2014). When questioned about the details of the religion, the judge admitted, "I don't know anything about it and I don't want to know anything about it" (Kahan, 1963). He proceeded to repeat the contemporary rumors of peyote-fostering orgies, intoxicating states, and secretive Indian activities. "But when I began asking around," he admitted, "I found that this doesn't seem to be true. So now that I know more about it, I can't stick to my original

impressions that I got from the papers. I say, if it doesn't harm the Indians or make them do anything bad, no one should try to stop them from following their own religion" (Kahan, 1963).

In Canada, despite the voices of support from non-Indian figures, federal politicians and bureaucrats favored the description of peyote as a narcotic. By the end of 1956, it was reclassified as a drug, prohibiting it from importation or use, and subject to criminal charges. In 1958, it was again reclassified and placed on Schedule F of the Food and Drug Act, restricting it to clinical uses and requiring a prescription from a physician for strict medicinal use. Hoffer mocked the law, suggesting, "We will therefore have a rather unique situation where the Indians will not be able to follow their religion unless they are able to get a prescription every Saturday night" (Hoffer, 1958). "It means," he said, "in effect, that it becomes illegal for anyone other than a physician to provide peyote to the Indians, although one could not stop them from raising or picking their own. . . . The members of the NACC, as a result, have the unique and dubious honor of being the first group of Canadians to practice religion by medical prescription" (Kahan, 1963).

FANNIE KAHAN: UNPUBLISHED DEFENSE

In 1963, Hoffer's sister, Fannie Kahan, completed a 200-page manuscript offering a sympathetic account of the rise of peyotism across the Canadian west. She had spent years researching the topic in seeking to understand the NAC's spread northward into Canada, far from peyote's natural ecological habitat and into Aboriginal territories separated by international borders, different treaty promises, and varied reserve experiences. Her book was full of sympathetic testimonials from NAC and NACC members, alongside scientific analyses, anthropological renderings, and a staid historical appraisal of centuries of colonialism alongside the resilience of Aboriginal spiritual beliefs. Her book was poised to make a serious contribution to the contentious debates, while it clearly favored deregulation.

Her role in this task was not coincidental; she was well connected with the local scientists and mental health reformers in Saskatchewan during this period who had put the province on the map for their daring experimentation with hallucinogenic substances, including mescaline, the psychoactive agent in the peyote cactus. Fannie's older brother was Abram Hoffer. Her husband, Irwin Kahan, directed the Canadian Mental Health Association's provincial chapter in Saskatchewan and became a founding member of the Canadian Schizophrenia Foundation. Fannie herself was dedicated to promoting a better understanding of schizophrenia, and published and edited several pieces of writing on the issue. She had completed a degree in journalism at the University of Minnesota and, by 1960, had published her first book, based

on her family's history as Jewish farmers in southern Saskatchewan (Hoffer & Kahan, 1960). She initially attempted to have peyote book published by the University of New Mexico Press, but they ultimately turned it down (Hoffer, 1960). Although it is not abundantly clear why the book was left unpublished, given her proven track record in publishing, and the absence of competing material in Canada, the manuscript remains a valuable resource for recovering the history of peyotism in Canada.

She began her study with the origin story, as told by James Mooney and recorded by anthropologist J. S. Slotkin, who recalled the myth of the "peyote woman." In this story, the "peyote woman" grieved the loss of her two brothers who had not yet returned from a war expedition. Exhausted from her wailing, she fell asleep and dreamt about a great spirit that told her that her brothers were alive yet. Upon awaking, she found peyote, which she dug up and brought home with her to give to the priests of the tribe. They engaged in songs and drums, and ate the peyote that brought forth visions of the young warriors returning. The vision later came true, and the woman became an inspirational figure known as "peyote woman." Although women play a very minor role in Kahan's study, appearing only in one description of a ceremony as "two ladies" who participated in the rituals and later prepared the feast, the image of the peyote woman served as a powerful reminder of a ritual interlaced with tradition, mythology, sacrament, and hope. It functions in Kahan's account as a fitting introduction to an examination of an imported ritual targeted at bringing hope and salvation to a splintered group of Aboriginal people who struggled to survive under Canadian colonial practices.

She adopted a similar perspective to that of her scholarly contemporaries who viewed peyotism as a blend of Christian and tribal approaches to spirituality, and praised the NACC for institutionalizing a productive religious experience that helped to lift people out of the shackles of colonial subservience. She argued that, although peyote itself was imported into Canada, its use allowed for a reconnection with traditional practices that had been restricted before the changes in the Indian Act in 1951. She argued that "[t]o forbid the Sun Dance was to forbid tribal existence and to cut the tap-root of Plains Indians' personality" (Kahan, 1963). She went on to explain, "Among the new religions which arose about this time were the Ghost Dance and the Peyote religion. They were an answer to a cry from a desperate people, and filled the vacuum in aching souls. The rapidity with which they spread across the United States and into Canada was mute evidence of their worth" (Kahan, 1963). She tied the disappearance of older spiritual traditions to the desire to import a new one that privileged visions as a fundamental element. Referring to La Barre, she suggested, "When old religions and institutions began disintegrating under the gun-wielding hands and inimical pressures of the superior number of Whites, The Sun Dance and Ghost Dance

were gone. But the ‘character and cast of thinking,’ the dependence upon visions for authority and guidance, remained” (Kahan, 1963).

The University of New Mexico Press rejected Kahan’s manuscript, and the same response was repeated with a number of other American scholarly presses. Her book failed to make the scholarly impact she and others had hoped for, and the balance of reports on peyote on the Canadian prairies continued to emphasize the imported nature of the religion, the abusive and intoxicating qualities of the drug, and the secretive or “cult-like” element of the ceremonies. In spite of this outcome, Kahan’s manuscript remains one of the only book-length sources on peyote in Canada. Its collection of essays from participants, archival research, and political defense of the NAC offers a rich resource with rare insights into this contested history.

CONCLUSION

Although the literature on peyote in Canada is limited, these historical discussions illustrate that, in spite of the small numbers of participants, the NACC attracted local support from key figures in the scientific and legal communities and helped to broaden debates over the authenticity of the peyote religion. Experiences with peyote in Canada differed in at least two fundamental ways: First, the issue of importation involved another layer of regulation and brought together different bureaucrats representing disparate policy perspectives, ranging from customs and organic matter, health and welfare, Indian affairs, police, and the Food and Drug Administration. The issue, as elsewhere, extended beyond discussions of the peyote cactus itself and raised questions about the authenticity of a set of religious rites that appeared to justify the consumption of an hallucinogenic drug. On the Canadian prairies, the local psychiatric researchers provided an unprecedented degree of scientific rationale in support of peyote use as a sacrament based on their psychiatric research. Psychedelic-induced visions, whether framed as an expression of spirituality, healing, or introspection, however, challenged orthodox views of Christianity, medicine, and sobriety, and failed to generate sufficient mainstream support. Consequently, psychoactive substances that did not conform to a more conventional view as either narcotic or therapeutic fell beyond the realm of evidence-based policymaking. In the case of the NACC, in spite of recent changes to the Indian Act that officially allowed for freedom of religious expression, the importation of this religion did not suit the visions of all federal bureaucrats, many of whom held to a more conservative interpretation of Indian culture. By the 1960s, however, the rights-based discourse, in combination with support from unorthodox scientists, refreshed the debates about religious freedom and triumphed over the older conservatism of bureaucrats within Indian Affairs.

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NOTES

1. Humphry Osmond first introduced the word in 1956 in his correspondence with Aldous Huxley, and later published it in 1957. He combined Greek roots from *psyche*, or mind, and *delos*, or to bring to light.
2. This was not entirely uncommon among researchers at the time, but their study of hallucinogens differed in part because they engaged in self-experimentation to study perceptions of schizophrenia, not to treat the disorder with the drug, but rather to understand it. They later extended this approach by encouraging staff, including nurses, to take LSD in a monitored, safe setting to foster a degree of empathy for their psychiatric patients. For more on this topic, and specifically the work of Osmond et al., see Dyck (2008), Chapters 2 and 3.
3. Sommer, Robert and Humphry Osmond, “Autobiographies of Former Mental Patients,” *Journal of Mental Science* (1960) 107: 648–62.

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From Solid to Frothy: Use of Peyote in the Cora and Huichol Easter in Western Mexico

Maria Benciolini and Arturo Gutiérrez del Ángel

When speaking of consumption of peyote among Mexico's indigenous peoples, one's thoughts inexorably move toward the Wixaritari (Huichol). Cactus consumption among these people has been the subject of copious research (Gutiérrez del Ángel, 2002; Meyerhoff, 1974; Nahmad, Klineberg, Furst, & Meyerhoff, 1972), strengthening their image as the "last guardians of the sacred peyote." This is one powerful reason the Wixaritari captivate groups such as the New Age movement, national and international NGOs, and anthropologists. However, it should be noted that, although less visible, other peoples also have an important relationship with peyote. They are the Navajo, the Comanche, and the Athabascans, who live in the southern United States, or the Rarámuri (Tarahumara) in the state of Chihuahua, and in western Mexico the Náayeri (Cora) make significant use of this cactus. It could be said that a religious and ritual system exists around peyote consumption in the north of Mexico and south of the United States.

Although we cannot cover the use of peyote by these other peoples in this chapter,¹ we want to make a comparative exercise of its use among the Huichol and the Cora. We justify the comparison because we start from the following hypothesis: The meanings of the ceremonial use of peyote can be extended and transformed both in time and in space, in remote villages such as those in the northwest and southwest United States, or those in western Mexico, and perhaps to other regions as well (Gutiérrez del Ángel, 2011). Although this comparative exercise is fascinating, this chapter does not have sufficient space to linger over each of these cases. However, checking the aforementioned system involves at least comparing it with western Mexico groups, which is revealing. This is so because an element, whatever its possibilities of semantic expansion, leaves behind traces, whether in terms of function

or classification, transforming in movement from one place to another. If, instead, an element is lost, says Lévi-Strauss, “its efficacy will have been extinguished, as it only remains ‘alive’ as long as it transforms” (1987, p. 14).

While peyote is used in several ceremonies conducted by both the Cora and the Huichol, in this chapter, we will use the Holy Week ritual as the example in which the two peoples use the cactus. An exercise of this kind is particularly significant because these two groups are particularly close, not only in their territorial contiguity but because they are the only two representatives of the Sonoran southern branch of Nahuatl, and also because they share certain features of their cosmogony. They are also mountain peoples that tend to live scattered in villages during the rainy season or concentrated in the main villages or other lesser centers when their ritual calendar intensifies in the dry season. This is particularly apparent during the Holy Week.

When questioning ourselves about the Huichol reputation as the “guardians of peyote,” and the lack of attention given to the Cora on this topic,² we assume that this is due to being part of what each people want to show and how they relate to divinity. While the Huichol have a visible and solar relationship with the *hikuli*, the relationship of the Cora with the cactus is more silent and nocturnal. However, the two peoples consider that peyote is a “medicine” and that its use is restorative. It is worth noting that the conception of the *hikuli* for these people is not of an absolute entity, nor is it a unit. As has been shown by Gutiérrez del Ángel (2002), at least for the Huichol, peyote is above all a family, and a family related to them. That is why the Wixaritari differentiate between the different properties of peyote and classify it by colors and kinship. In order for peyote to be “sacrificed” or “hunted,” a family of five peyotes must be found that comply with the manner of classification the Huichol use to designate both maize and deer; this family is divided as follows: (a) *yawei hikuli*, which is cultural hero kauyumari’s peyote; (b) *nierika hikuli*, considered the most important peyote center; (c) *maxa hikuli*, equated with a mythological deer and called Paritsika; (d) *Tatei hikuli*, the mother of peyotes; and (e) *hikuli haimutiyo*, a very large cactus representing the grandfather of all peyotes.

Upon finding the peyote family, the Huichol mount a small altar before them. Everyone gathers around the peyotes to worship them and thank them for allowing them to be carried away to the mountains to metaphorically continue life. Once the pilgrims have dialogued ritually with the peyote family, they proceed to cut off the cactus head, making sure they leave the root, so that new plants can grow from it, as they know that otherwise, that peyote is lost. When they finish collecting the cactus, the *jicareros* (bowl bearers) perform several rituals and finally head to the mountains, where they eagerly join their families. It is not known whether the Cora have a classification system like the one mentioned above for the Huichol.

This chapter will be developed in several parts. First, we will present a specific ethnographic exercise on the peyote consumption in the Holy Week ritual of the Cora and Huichol. Then, we will place the ritual in a broader context: that of its cosmogony, whose points of convergence and difference will allow us to arrive at an ethnological explanation. Finally, in the conclusions, we will conduct a more general reflection on the visibility of peyote in these two peoples.

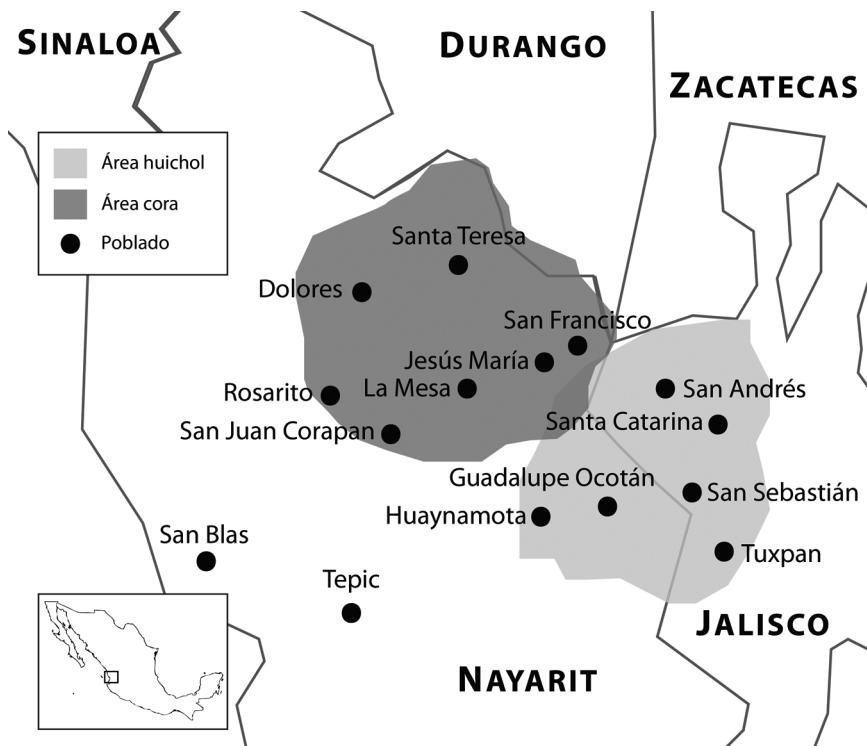
We take the Holy Week as an example for several reasons: first, because the two groups make ritual use of the cactus in this ceremony, although the meaning may or may not be diametrically opposed, and second, because, for both groups, this ceremony clearly links the agricultural system ritual with the Catholic ritual (Gutiérrez del Ángel, 2010).

PEYOTE AMONG THE CORA AND HUICHOL

As mentioned above, the Cora and Huichol belong, linguistically, to the southern Sonoran branch of Nahuatl, but beyond the language relationship that may exist between the two groups, they also share many cultural characteristics. Both groups inhabit the mountains of the Sierra Madre Occidental in Mexico. The main Cora communities are located in the state of Nayarit, while the most important Huichol communities are settled in the state of Jalisco (see Map 9.1).

The populations of the two groups are settled in communities and ranches scattered around the mountains. Until a few decades ago, most of the members of these groups lived on ranches where they had their farmland, and they gathered in community villages only on certain ritual occasions. However, things have changed lately: The concentration of a number of services and government support in the communities has made increasing numbers of families choose to steadily remain in them. The two groups live mainly off the sowing of maize, although it should be noted that a significant portion of Huichol income is also earned in the sale of arts and crafts that are appreciated both in Mexico and abroad, while some of the Cora are engaged in petty trade and livestock. In recent years especially, the Cora have developed a great dependence on government aid.

Both groups have a very intense ceremonial life that revolves around a complex ritual calendar. The ritual systems of these groups have a common backdrop, composed of several elements: the agricultural cycle of maize; the life of certain animals, for example, deer and the cicada; the life cycles of people; and the movements of the sun, both annually and daily. If the elements mentioned so far refer basically to the passage of time, we must note another aspect that is always present in the development of rituals: the orientation of the world from the cardinal directions, organized on the basis of the east-west (up and down, respectively) and north and south axes.



Map 9.1 Distribution of Cora and Huichol in the Great Nayar. (J. Jáuregui. Digital illustration: Raíces. In: Arqueología Mexicana Vol. 11, 65; p. 70.)

Peyote is consumed in various types of rituals among the Huichol: in the *neixa* and in rituals that are performed in the main village. The *neixa* are agricultural rituals commemorating different moments of the creation of the Huichol people and of the reproduction of life. They are dedicated to the various phases of development and consumption of maize and to solar creation. There are basically four rituals: (1) *tatei neixa* (the dance of our mothers), also known as the feast or farewell of our mothers; it commemorates the first fruits, the birth of children, and tender maize; (2) the pilgrimage, where the Wixaritari go in search of peyote in the Real de Catorce desert in San Luis Potosí; (3) *hikuli neixa*, or peyote dance; this ritual closes the dry season cycle and is about grinding the peyote brought from the mountains to drink it in liquid form and then wait for the rains; and (4) *namawita neixa*, an investment ritual whose axis is the devaluation of the sun by the underworld forces.

The Cora consume peyote at certain feasts (*mejtinietaka*) and rituals conducted in their communities. These are a group of rituals dedicated to the life cycle of maize and of people. Most Cora communities celebrate three feasts dedicated to maize at its various stages (sowing, early cobs, and mature maize).

These rituals are performed both in communities and on ranches. Some cognate groups also hold rituals that mark the progressive integration of children into the group of relatives. Finally, it should be mentioned that in Mesa del Nayar the governor's feast is celebrated, in which the new traditional authorities are presented to the gods. In the feast cycle, peyote is consumed when some members of the cargo system³ that have a very important role in these rituals are granted; such granting takes place every 5 years. Other rituals in which peyote is consumed are those related to the life cycle of Christ, to which this chapter is dedicated. We will return to them in more detail below.

For both the Cora and the Huichol, getting peyote means going into the Real de Catorce desert in its quest. While much has been written about the meanings of this cactus among the Huichol, there is little information about the Cora. For the former, peyote is an ancestor who is part of their own existence; that is, they are ancestors with peculiar characteristics, among which "knowledge" stands out. Peyote is as wise as the elders, also called "Older Brothers." One should not speak of peyote in the singular but instead in the plural because, in reality, it is not the peyote but the peyote families that form a lineage, which is reproduced in the *xukuri' + kate* or jicareros line; this name comes from each one of them taking a jicara [bowl], which is the personification of an ancestor or divinity, to the desert.

These pilgrims go in search of the cactus every year during the course of a very complex ritual. Indeed, before the harvest, the jicareros must find a hikuli family that they consider as such; some they call grandfather, others uncles, and others brothers. Upon finding the family, the singer weeps for the encounter, giving gifts from the mountains: maize, chocolate, meat of slaughtered



Photo 9.1 A jicarero offering peyote. (Arturo Gutiérrez del Ángel.)

animals, fruit, and so on. In return, the peyote family gives its own essence, its children, who are the light and encouragement, which must be taken by the jicareros to the mountains to be consumed during the Holy Week by all present. As we shall see, this fact has important implications in the conception that this people have of the cactus. By consuming peyote, the Huichol claim they are cured; peyote is wise, knows how to care, and knows how to give you back your health. They also claim that the peyote is not a merely a cactus in itself, but the transformation of a deer; it is its tracks and it is also the deer itself. So, when they go in search of peyote, they also go in search of deer.

The conception that the Cora have of peyote is, in one sense, like that of the Huichol, and is known as *watari*, which literally means “medicine.” Its handling is exclusive to the wisest men, shamans and elders, and only certain ritual cargos can consume it; its association, as with the Huichol, is directly with the powers of the Wirikuta resident deer. This is demonstrated in the story that a Cora shaman told to Fernando Benítez while traveling to Wirikuta:

I go there looking, searching with my feathers. The big deer appeared, the Red Horned Deer. I shot an arrow and was no more a deer, but a very large peyote that sprouted four small peyotes. So I cut them with a machete, removed their peel and cut them in pieces. I threw a few to the four cardinal directions and ate the rest, sitting on a rock. (Benítez, 1973, p. 352)

It should be mentioned that the collection of peyote among the Cora is a much more discrete event than among the Huichol. The Cora do not organize large pilgrimages to the desert, but it is the shamans or traditional authorities (e.g., in the case of Mesa del Nayar, the governor and the chief steward) who begin their journey to the desert to collect the cactus. This trip usually takes place in February, before the beginning of the *pachitas*⁴ (carnival). As a hypothesis, we want to propose that these two different ways to collect peyote also reflect a different way of living the rituality and relating with the gods. If the peyote is a “medicine” for these groups, why is it used at the Holy Week? We’ll move on to that.

HOLY WEEK AS A LARGER SYSTEM

We find the first record about Easter among the peyote users in the writing of Konrad T. Preuss (1909, 1933, 1955, 1960, 1982), who, at the beginning of the last century, saw an ethnographic equivalent of the ancient representations of the astral struggle among the Mexica in the cosmogonic concepts of

the Sierra del Nayar natives. The space he devoted to the analysis of this celebration was perhaps not extensive but nonetheless very suggestive, especially placing it in its historical context. As a Mesoamericanist, Preuss placed emphasis on one of the possible expressions of the astral conflict manifested in this ritual, undoubtedly the dominant in the contexts considered by him. However, his analysis does not mention peyote at any stage of this ritual. So, what role does this cactus have in the Holy Week? To answer this, we must start by saying that the meaning of a ritual is not complete in itself; rather, the set of rituals that are part of the cycle consists of episodes joined together and operating as units. It is therefore necessary to study them by delving into the messages that these rituals want to express; in this case, the ritual use of peyote.

In this sense, the Cora and Huichol Holy Weeks have Christ's sacrifice and the death of his enemies, who, during the course of Easter, seek him, find him, and kill him, as the main narrative axis. However, this conflict does not start in the Holy Week, but in previous rituals. The development of the ceremony involves a confrontation between two opposing forces: on one side, light and the other, darkness, representing conflict between the two poles of the cosmos, the light and the dark. The Earth is the setting for this ritual confrontation. The breaking point between these two forces is evident in the mythological narratives, where creation sometimes appears as an upward movement that transitions to cultural time through successive stages of destruction. This sequence is initiated by a transgression that causes a separation between the upper and lower worlds. Therefore, transgression, seen as first-degree incest (Bonfiglioli, Gutiérrez, & Olavarriá, 2004), becomes conflict, allowing passage from one state to another and also distinguishing the opposite. The movement itself of the ceremonial cycles means that, for various reasons, these accumulated conflicts accrue in new conflicts, disassociations, and alternations that are timed to the rhythm of the seasons and crops (Gutiérrez del Ángel, 2010). In the analysis of peyote during Easter, we must pay attention to who carries it, and who consumes it, and why.

The plot itself does not start in Easter; rather, this ritual is the outcome of events that have been building up since the beginning of the ritual cycle. For the Cora, we must find the start of the facts at Christmas, and for the Huichol, with the birth of Father-Sun in a festival called *neixa tatei*. Jáuregui has made this clearly evident in the case of the Cora, by taking up a version that says:

The pachitas are a semblance of Easter. The night of the [December] 24th is the birth of Jesus Christ. The pachitiada is an example that he has fallen out with his mother around these times. It's that Jesus Christ, around these times, slept with his mother, he fell out with her. Since he was great, he slept with his mother. Jesus Christ might seem another, not of the same family. And after she [his mother] realized that

it was Jesus Christ who had slept with her. He appeared to her in another form and she could not recognize him, but it was her son. He did know he was her son. His own mother accused him with the Judíos. That is why they walk from house to house, looking to Jesus Christ to catch him and punish him, because his mother ordered him killed. In these times refers that they are already looking for him. That is why seven Fridays went by until he died. It's step by step, so every Friday Judíos have the commitment to walk the station [the processional circuit circling the village], looking for him. The end of Jesus Christ at Easter. That day the Judíos will find him and end his life. First they couldn't find him. They were looking for him for fourteen years. He was not killed until that time. . . . He was punished with thorns on his head. (Jáuregui, 2003, p. 264)

For the Huichol it is similar, as demonstrated by Gutiérrez del Ángel:

The dominant phrase of pachitas merely states a transgression and introduces us to the semantics of its acts; however, it does not solve the issues raised but just affirms a plot: it is the beginning of an out-of-control god, coming from a region that is not this one and which harasses with its infringements and is also associated with the aurora. Nevertheless it is God, still absent, devalued for which he drags himself, who bleeds and has to escape. An impure God needing to destroy for his redemption. (Gutiérrez del Ángel, 2010, p. 281)

DEVELOPMENT OF HOLY WEEK

Easter is one of the more popular rituals, among both the Cora and the Huichol, and sometimes hundreds of people from the communities' ranches congregate. New rules are established in communities during the course of this ritual: They cannot bathe or drink water before noon; shops must remain closed until then; it is forbidden to take pictures, get drunk, ride a truck, and kiss; and women must wear their hair loose, without braids or hair combs.

The Easter Holy Week ritual is extremely complex; several actions occur simultaneously and it involves a large number of actors. This text does not present a detailed ethnography of this ritual, but describes more generally a framework of certain aspects of the ritual that allow us to develop our argument.

The Holy Week itself begins on Palm Sunday and ends on Resurrection Saturday. On Holy Wednesday, activity increases when the village is suspended from the everyday and dominated by the party of Judíos, associated with darkness and night. They have the mission to collapse the other side that

is associated with the luminous part. In the case of the Huichol, it is, as we saw, the jicareros who are associated with peyote. In the case of the Cora, it is the stewards who look after the church's religious figures.

The most intense days are Thursday, Friday, and Holy Saturday. However, in the case of the Huichol, the jicareros arrive to the village on Holy Wednesday and deliver the peyote gathered in Real de Catorce to the traditional and religious authorities, who share it among all participants except the Judíos. This evening is the preamble to the death of Christ. The traditional authorities cut the peyote in wedges and arrange it on the table of power where everyone will eat it during the evening.

At night, starting on Monday, the Judíos patrol the Cora community of Jesús María, and gradually assume the identity that characterizes them in the last days of the ritual. Starting on Wednesday, the Judíos sweep what will be their acting space. The Judíos consists of a large group of men arranged in a military organization, composed of captains, centurions, Pharisees, corporals, and so on. Before nightfall, this group performs a dance that is known as "the tortoise" in Jesús María, a dance in which the established order is mocked, symbolizing the installation of the power of darkness and transgression. It is a dance with high sexual content. After this, they eat dry peyote. The dance lasts all night until dawn. When they are finished, they will go to a small beach on the Jesús María River, where they will paint their bodies with black soot from burnt cobs.



Photo 9.2 Judíos in the community of Rosarito. (Arturo Gutiérrez del Ángel.)

Judíos may only wear a loincloth or shorts; they must wear leather huara-ches sandals, and are expressly forbidden from wearing sneakers to run; they also carry a wooden sword as a weapon. In the communities of Jesús María and Mesa del Nayar, swords may be of varied shapes and colors and, in Mesa del Nayar, besides the sword, the Judíos carry very long wooden spears with elaborately shaped tips. The body paint of the Judíos varies as the days proceed: on Thursday, only black and white, while on Friday, other colors are allowed.

On Holy Thursday, the Judíos take the village and exercise their authority. In the case of the Huichol, this group consists of 6–15 participants, but the Coras number around 300, depending on the community. Although their presence is more evident after Wednesday night, Cora villages remain occupied by the Judíos' authorities until Palm Sunday, when the traditional authorities hand over the community seals to the Judíos' corporals, thus handing over their power. From this moment, the Judíos' leaders are the decision makers and enforce the village rules. After the governor hands over the seals, the ritual action of the light side is reduced, and most activities takes place at night and indoors.

In the case of the Huichol, the jicareros go out alone at night; in the case of the Cora, the stewards restrict their space to the church, where they will later hold a vigil for the Holy Burial. During the day on Holy Thursday, the Judíos seek the Nazarene, who flees and transforms into several elements so as not to be found (Gutiérrez del Ángel, 2007). According to the myths, in these transformations and his escape, the Nazarene gradually creates the universe. It must be stressed that, in the case of both the Cora and the Huichol, there is no single Nazarene figure. For the Cora, there is the Holy Burial, and the child Nazarene running and hiding, and for the lower Cora, such as those in Rosarito and Corapan, there is a phallic Nazarene.

The Huichol recognize several Christs; among them, the so-called Xaturi Ampa, who is male, and Xaturi Chumpe, who is female.

In the Cora communities, the Nazarene runs throughout the village and hides in several places, especially in the community *casa fuerte*.⁵ In the Mesa del Nayar community, the Nazarene is trapped by the Judíos and “crucified” in the church courtyard on Holy Thursday evening (Benciolini, 2012a); in Jesús María, the Nazarene child is trapped on Good Friday (Valdovinos, 2002). The Huichol do not present this character as an exact representation of the Christ child, but his death occurs when the Christs and other religious figures are lowered from their pedestal and shrouded. The Huichol say the Nazarene is hunted like a deer. After this death, a *via crucis* will be carried out.

During the night between Holy Thursday and Good Friday, cloths shroud the religious figures in their churches. In the case of the Cora, one figure stands out: the Holy Burial; in the case of the Huichol, it is the Xaturi Chumpe and



Photo 9.3 The Rosarito phallic Nazarene. (Arturo Gutiérrez del Ángel.)

Xaturi Ampa. At this time, everyone who wants to enter to hold a vigil on the deceased's images can do so, with the commitment to stay awake and light a candle. The apostles, stewards, and *tenanches* (steward assistants) of the Cora

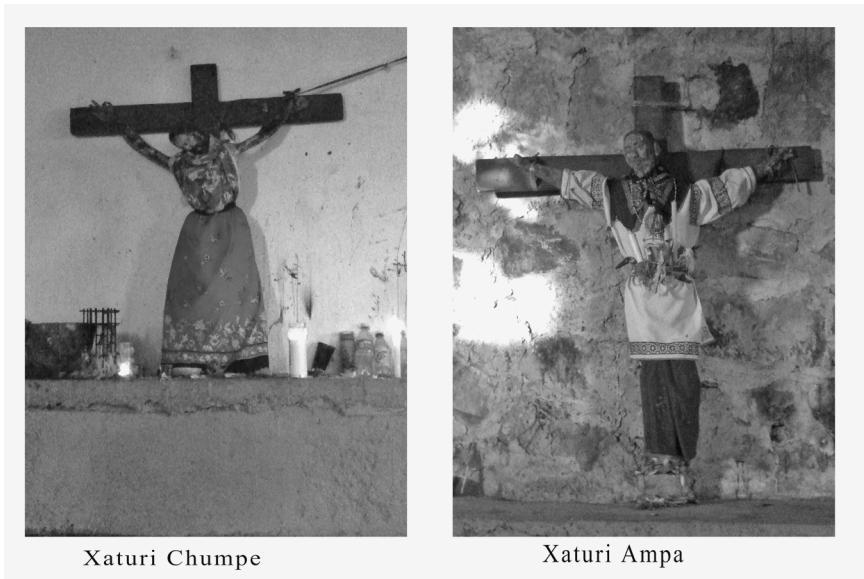


Photo 9.4 Huichol male and female Christs. (Arturo Gutiérrez del Ángel.)

hold an overnight vigil on Catholic images, particularly the Holy Burial, consuming large amounts of ground peyote and peyote prepared as juice,⁶ an action that, in the community of Dolores, is carried out by the tenanches using *metates* (grinding stones).⁷ The ingestion of the ground peyote can take place in the church or in certain casas fuertes, depending on the community; the point here is the association between the shrouded images and the consumption of ground peyote by the stewards and traditional authorities; that is, by the side associated with the luminous appearance of Christ. As this happens on the Nazarene side, the Judíos gather outside the churchyard on the east side and remain there, dancing around a bonfire and playing a flute. During the course of the night, they irreverently consume wedges of dry peyote, celebrating their victory.

In the Huichol system, there are also stewards, apostles, and tenanches; however, they are next to the jicareros, who make mini processions from the casa fuerte in the western part of the village, where they left the peyote on arrival, to the east side, where the church is located with the shrouded figures during the night. As we mentioned, this group consumes large wedges of peyote but, unlike the Cora, they consume it fresh and not ground.

At around noon on Friday, those in the interior of the church go on a procession around the village. The Cora stewards go in front and alongside the images. In the Huichol procession, it is the leaders of the jicareros who occupy this position. Meanwhile, the Judíos run round the procession keeping the participants in line. After that, all the participants in the procession, returns to their places. Inside the church, only the apostles and stewards will remain to continue consuming ground peyote.

During Friday evening, the participants stay inside the church while the Judíos tour the village wildly. The Huichol Nazarene will be raised early on Saturday. The jicareros near all the villages will light their candles and head to the door of the church. There the Judíos will be waiting, and they will be brusquely removed. At that time, the jicareros open the doors of the church and go in to unshroud the religious images. After this, some musicians sing *mañanitas* (Happy Birthday)⁸ to the saints and, while this happens, the families begin to sacrifice animals: cows, bulls, goats, and so on. These sacrifices are dedicated to Christ.

The defeat of the Judíos is more complex for the Cora. In some communities, the Judíos will build a "Judas" and sometimes two: one with a large penis and the other with a nopal cactus as a vagina. They will make fun of them and they will eventually be burned. In Mesa del Nayar, only one Judas is built. Following this, the Nazarene child, accompanied by two Judíos and one of the apostles, arrives and the child is placed at the foot of the atrial cross facing the church with a small wooden cross in his hand. When the child is in place, the remaining Judíos come running and rest their spears on the atrium cross on

the opposite side of the Nazarene. A lot of confusion is created, because the Judíos run in a disorderly fashion in the churchyard; some of them start mockingly worshiping a figure that is engraved near the door of the church and painted with cob: This is a “devil” who cannot enter the church.

Once all the spears are left resting on the cross, one of the captains addresses the “devil” and strikes it twice with his sword, drawing a cross. Some of the Judíos lie on the corpus leaves (*Magnolia schiedeana*) that are on the floor of the atrium. The captains then start hitting the ground with the swords. The others imitate them, and some Judíos lie down, wallowing in the dirt. The captains leave the atrium limping and carried by other Judíos. The church bells start ringing and fireworks are heard, a sign that Christ has risen inside the temple. In the Huichol ritual, the religious images are raised and a mariachi band comes in to sing the mañanitas at this time. Following this, there will be exchange of food and a big party with alcohol consumption to drunkenness.

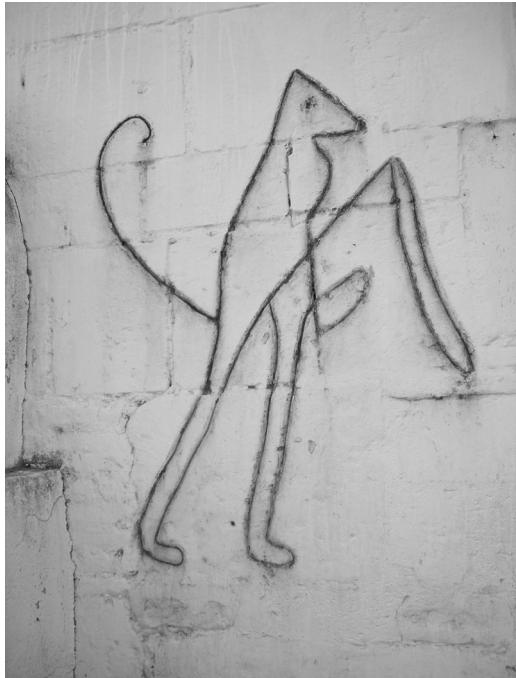


Photo 9.5 The devil (tyiaru) cannot enter the Mesa del Nayar church. (Arturo Gutiérrez del Ángel.)

FROM FRESH TO THE LIQUID AND DRY: PROPERTIES OF THE PEYOTE-DEER

We saw that the governing topic of Holy Week is the destabilization of worldly order by way of iconography, dance figuration, and mythical evocation, by some telluric monsters associated with the stars and the serpent, factors that join forces to devour the Sun (Preuss, 1998). During Holy Week, in their wanderings, the Judíos consume dry peyote, a cactus that, in both Cora and Huichol mythology, has a direct association with the sun. Its ingestion should be interpreted as the appropriation of the powers of the daytime star by underworld beings who metaphorically “eat the Sun.” We should note

that the Cora Judíos do not eat this cactus in either fresh or liquid form, but only dry. When we contrast this with the ritual consumption of other groups, important implications are raised. The emphasis the Cora place on Christ's passion leads to a rather complex staging of this subject, primarily because the Son of God is represented in three different ways and, secondly, because the symbolism that emerges from each of these representations refers to different semantic contexts, although, of course, everything ends up entangled in another level of the analysis.

As shown in the Cora case especially, the figure of the Holy Burial is clearly inspired by certain passages of the Gospel, because after a representation of the Last Supper, the child who held the cargo of "Jesus Christ" is captured and, unlike the scriptures, the Judíos "kill" Jesus with their swords or spears. Instead, the Nazarene child and the phallic Nazarene that appears in Rosarito refer to a part of the Cora mythology inspired not by the Catholic tradition but by pre-Hispanic tradition. Like the Holy Burial, these two images also die at the hands of the Judíos; on Good Friday, the Nazarene is pursued to the five points representing the directions of the universe and ends up executed by the spears of the Judíos. The phallic Christ, in the communities where it appears, is destroyed after being taken all around the village. The atmosphere prevailing in the appearance and persecution of these two figures is of mockery and transgression. Its function is to evoke the above-mentioned myth of incest represented in the carnival, when the Virgin looks for Christ to account for his shameful actions. The Cora myths about incest between Christ and the Virgin recall other myths, such as the astral brothers (Preuss, 1912), in which a sexual transgression leads to the creation of the world. Although the premises of the incest are established at the carnival, is only at the Holy Week that the Judíos catch the Nazarene and crucify him to purge their sins. Their destruction should be interpreted as the atonement of one of their facets: the transgressive.

The last major episode of Holy Week is the disappearance of the Judíos. Their dissolution is performed by water and fire. First, they are blessed; then they drag themselves on the ground and wallow backward; then they go to the place where they painted themselves, but this time, to take off the paint and burn their paraphernalia. In some cases, their destruction involves urinating or spitting on the captain of the Judíos. Meanwhile, the principles take charge of deshrouding the religious figures, and the musicians dedicate "Las Mañanitas" to them. The cosmic disorder has come to an end.

The role of Judíos weakens among the Huichols, and that of the solar beings, the jicareros, strengthens. The jicareros meet year after year to revive the sun collapsed by the forces of the underworld. Let us recall that on Holy Wednesday, peyote is given to the traditional and religious authorities, who distribute it to all participants except the Judíos. This ingestion intends to

TABLE 9.1 Opposition between Cora's Judíos and Huichol's Jicareros

Judíos (Cora)	Stewards and Jicareros (Huichol)
Darkness, underworld	Sun, daylight
Unrestrained transgression	Continence, control of bodies
Kill Christ	Hide Christ
Shout at and insult the people	Hold vigil over the Christ

symbolically extend the partnership between the sun, the peyote, and the jicareros to the rest of the villagers.

Between the two types of peyote consumers, the Huichol and the Cora, there is a complementary investment of meanings. In the case of the Cora, when Judíos eat the peyote-sun, this element weakens metaphorically. For the Huichol, ingestion of the cactus expresses the solidarity of the people with the solar star. The jicareros sing during the nights of Holy Thursday and Friday to promote their own triumph over the forces of the underworld at dawn on Holy Saturday. This opposition can also be seen in that the Cora Judíos eat dry peyote, while the jicareros consume it solid and fresh. It is notable that, on Holy Saturday, the water collected by the jicareros from the Wirikuta sacred springs is used for spraying—with an orchid, called *tutu*, “flower,” as a hyssop—participants gathered at the Catholic temple. Thus, through their songs and dances, the jicareros become victorious bearers of the fertility that opposes the deposed weapons of the Judíos.

Table 9.1 shows the oppositions there are between, on the one hand, Judíos and, on the other, the Cora and Huichol steward jicareros.

The full understanding of the overthrow of the Judíos lies in their relationship with previous events, where the ritual and agricultural cycles merge into a single narrative. We refer, as already mentioned, to the transgression committed by the Nazarene to the detriment of the Virgin during the celebration of the pachitas, or carnivals, that relates, in terms of agricultural processes, to the start of the burning of stubble from the tomb. The purpose of this operation, which lasts until the beginning of Easter, is to fertilize the land with the ashes obtained. We should recall that, in Huichol thought, the Virgin and the earth goddess Tatei Utianaka, who appears in the myth as the water goddess, merge into one figure (Gutiérrez del Ángel, 2002). On the other hand, among the Cora, the pachita Malinches,⁹ who, according to indigenous exegesis, represent the Virgin in search of Christ, are also associated with Teij, Our Mother; that is, the female goddess of the land. In this way, incest and insemination of the land are part of the same paradigm of fertility. Thus, incest, a socially reprehensible action, and waste, the stubble, are part of one semantic field because they are conceived as elements that will transform

and become, in the former, a rule, in the latter, in ashes. The same is applied to the case of consumption of dried peyote. Just as the stubble that is not good to eat and is old, dry peyote is not good to consume; it must give way to fertility, i.e. fresh peyote, associated with the triumphant and bright side. As the stubble is burned, defeated Judíos clean their bodies of the ashes, an act that leads to the restoration of power to the traditional authorities and the arrival of the rains, the latter also propitiated, with even greater vehemence in the symbolic peyote dance held by the Huichol (*hikuli neixa*). In it, the jicareros simulate being transformed into a feathered serpent called Tatei Ni'ariwame (Our Mother the Desert Rain) and arrive at their ceremonial center (*tukipa*) in that state. Another aspect of the pachitas was observed in the Jesús María Cora community: According to the inhabitants of this village, one of the things the malinches are doing is sowing around the town to promote the fertility of the fields at the time the rains start. The ritual of *hikuli neixa* and the way in which pachitas are celebrated are useful to explain why, among the Cora, the stewards take peyote in liquid form and grind it on a metate.

In Mesa del Nayar, on the last day of the pachitas, after a “battle” between the sides of the governor and the chief steward, everyone drinks a bottle of ground peyote. This is a prelude to what will happen on Easter: Neither side wins, but they manage to overcome the gap that separates them, from being different authorities, to joining and strengthening their presence on the holy days, in which they will be overshadowed by the Judíos. An alliance is established on Holy Saturday to overcome the presence of the Judíos, who took over power in the community and killed the Nazarene. During the course of Holy Week, the two sides, the governors and the stewards, come together and collaborate to face the Judíos: They will have to take care of the Nazarene and try to defend him from the Judíos. They position themselves on the bright side, together with the Nazarene in his role as son of Tayau, Our Father, who is associated with the sun.

Now then, why do the stewards and the apostles consume the ground and frothy peyote? From what has been mentioned so far, we propose that the peyote represents the power of the Nazarene and the sun. But why consume it in liquid form? And, above all, why, if it is related with the Nazarene, do the Judíos also consume it? To answer this, we must again introduce the example of *hikuli neixa*, carried out by the Huichol at the summer solstice. As we have explained elsewhere (Gutiérrez del Ángel, 2010), one of the meanings of this ceremony is that the sun pours its precious liquid, which is carried by the jicareros, and manifested by various ritual actions, including the transformation of the peyote from a solid to a liquid state. The peyote is ground on a metate by *xaki* or fertility mother, who produces a frothy drink, thus depriving peyote of its solidity. However, once the liquid has been drunk, the participants acquire a new identity: They become *takuamama*, or rain dancers.

How does this example help us to explain the liquid beverage of the Cora stewards? Our hypothesis is that the peyote consumed in this manner refers directly to fertility. Indeed, for fertility to be possible, thanks to the rain, solar power should decrease, giving way from solid to liquid, or from masculine to feminine. The Huichol demonstrate this by grinding the peyote on a metate, an action similar to that of the Cora stewards. But there are several myths that state for rain to occur, the sun must penetrate the night and be devoured by it. That is, we are facing the same process: The night devours the sun as the solid peyote is transformed by a metate (female) into a liquid. Accordingly, we realize that that rain brought by the jicareros is the solar rain that will fertilize the soil. The Cora are even more specific, as they say that Wirikuta's place, where peyote grows, is the place of solar sperm (Guzmán, 2002). In sum, peyote is related to the germinating power of the sun and to aspects related with Christ.

CONCLUSIONS

At the Holy Week, we see all the possibilities in which the powers of peyote can be manifested: dry, solid, and liquid. The significance of the differences between the categories of peyote (solid and liquid) undoubtedly refers to one issue: the Judíos taking the power of Christ. It can be said that in this type of ritual (pachitas, Holy Week) peyote is used by the Cora at a time of profound imbalance and lack of order: This exists when the authorities, or even the deities, are absent or dead, and when those in power are transgressors, who convey a kind of upside down world. This aspect of transgressor peyote occurs at a time when the Christ is associated with a carnal sin and conceived, therefore, as an underworld being.

In the description of the Cora and Huichol Easters, it is clear that, although there is a unique backdrop in which the narrative units are basically the same, the two groups highlight different aspects of the ritual. Among the Huichol, it is the jícareros who have a leading role, while for the Cora, the Judíos are more present in the ritual action.

We ask ourselves, why these differences? We believe that this is due to a fact that has already been observed by Jáuregui (2004) by indicating that the two groups, within a shared world view, have created a "ritual macrodivision of work" in which the Huichol remained on the solar and bright side, while the Cora remained on the night and underworld side. This can also be seen in their respective geographical location: The Huichol live farther east, considered the top and closer to Wirikuta, while the Cora are farther west, closer to the bottom, and closer to the Pacific Ocean, the place of water forces (Jáuregui, 2004).

Thus, this ritual and cosmogonic macrodivision can be seen in such diverse aspects as the consumption of peyote and territorial conditions, but also in the

structures of their ceremonial centers. Indeed, the Huichol *tukipa* ceremonial centers are showy and have complex buildings. As one goes to the communities further east, these constructions are increasingly complex, and, as one moves westward, their complexity declines. Well west of the territory, one enters the Cora area. Here, the complexity of the buildings disappears and only yards remain that, at first sight, are lost in the forests of the hills. However, the buildings make sense once the rituals begin.

We therefore see that the Cora and Huichol have a different approach to peyote, but share similar ideas: Some prefer to be visible, solar, and diurnal, while the choice of the others is invisibility, darkness, and intangibility. This can also be seen clearly in the way each group consumes this cactus: The Huichol do it openly, in community, in an arguably massive way, while the consumption of peyote by the Cora could go unnoticed at first glance. Close observation of the ritual actions is required to realize that, in particular circumstances, certain characters consume peyote.

NOTES

1. For another example of comparative studies on the use of peyote, see Bonfiglioli and Gutiérrez (2012), where the authors study the use of this cactus in Huichol and Tarahumara healing rituals.
2. The Benciolini (2012a, 2012b) exceptions should be mentioned.
3. The cargo system is a type of ritual and social organization widespread in many Mexican and Central American societies. Whoever assumes a cargo has to fulfill many responsibilities in the ritual and political life of the community, and at different levels, all the cargos are responsible for the wellness of the community.
4. The term *pachitas* refers to the carnival held by all Cora communities and by one Huichol community (San Andrés Cohamiata). The ritual begins several weeks before the beginning of Lent and ends on the Tuesday before Ash Wednesday. As discussed throughout the chapter, pachitas are characterized as being a ritual of transgression, in which a humorous attitude toward sexuality is manifested.
5. A *casa fuerte* is a community house that serves as a reunion spot for local traditional authorities. Ritual paraphernalia is stored in the casa fuerte and some ceremonies are celebrated there.
6. When it is ground on the metate, peyote assumes a frothy texture. The Huichol call it “chocomilk” for its frothy appearance and color. The frothy state of the cactus represents a series of connections that are mentioned in this chapter. For more information, see Gutiérrez del Ángel (2002, 2010).
7. The metate is a stone mortar composed of a generally rectangular slab and a cylindrical piece. These objects have been used since pre-Hispanic times to grind maize primarily, although they could also be used for other foods such as cocoa or other grains. Metates are still used in current indigenous communities, both in everyday life and in certain ritual actions, as is the case here.
8. This is the song usually sung to people on the day of their birthday.

9. In the case of the pachitas, the term *malinches* refers to female positions representing the Virgin Mary and the goddess of the land. Certain groups of dancers also have their own malinches and, according to Guzmán (2002), in Mesa del Nayar, girls who have positions in mitotes are called “mitote malinches” whenever it comes to positions related to the Virgin or with the female divinity of the land and maize.

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New Age Tourism in Wirikuta: Conflicts and Rituals

Vincent Basset

To the surprise of evolution theorists, who saw shamanism as “a manifestation of a ‘primitive man’” (Rossi, 1997, p. 21, our translation), a renewed interest in “mystical” or “shamanic” beliefs and practices has been witnessed by many social scientists since the late 1970s. The development of shamanic tourism in Latin America “has become a genuine industry” (Galinier & Molinie, 2006); the organization of introductory courses to shamanism or shamanic festivals in Europe shows how this phenomenon has been broadcast and recaptured by Western populations. To apprehend the shaman as a man of knowledge and power reflects the true modern myth of the “Noble Savage,” which those who partake in mystical tourism rush to. This shift in focus toward shamanism leads J. P. Chaumeil to note that “a little less than five centuries during which it was subjected to the scrutiny of the West, shamanism has gone from maximum otherness as religion of the devil’ to the almost perfect identity of a cultural symbol, or as a new form of spirituality or ‘group therapy’ in the Western world” (Chaumeil, 1993, p. 14, our translation).

If many shamans or “medicine men” have helped fuel the craze by visiting Europe each year to educate a wider audience and train new “White shamans,” the dissemination and opening of shamanism to Western and urban populations through these networks has definitely marked a new stage in the history of shamanism. It must be said that shamanism possesses a suitable system for practice with a very flexible structure, allowing it to “adapt to cultures and different structured religions” (Vazeilles, 2003, p. 248). The emergence of neo-shamanism (Perrin, 1995) as an attempt to rediscover and reappropriate knowledge and shamanic practices demonstrates adaptive ability and illustrates the process of trans-nationalization of cultural and symbolic forms at play in globalization processes. According to F. Laplantine (1994, p. 9, our

translation), “the return of religion is probably one of the most significant modern social and cultural phenomena,” where blending, interbreeding, and recreation give rise to a multiplication and diversification of the religious.

As an example, we will look at the ethnographic study I conducted in the sacred nature Reserve of Wirikuta in Mexico. During a period of 18 months, between 2001 and 2008, I carried out 56 semi-structured interviews with tourists, local populations of neo-shamans, and academics, and undertook participant observation on a sample of 154 international tourists, mainly of French, Spanish, Italian, American, and Canadian origin, as well as Mexican nationals. This research will explore how a place of Indian pilgrimage in Mexico has gradually been discovered by foreigners and reshaped by the logic of globalization, and aims to measure the impact of the flow of international tourists on this sacred space and on the Native American cultures. The tension between the global and the local can lead to many conflicts of interests in this rural and religious space; however, mystical shamanic tourism does not always generate a folkloric cultural homogenization and reduction of Amerindian cultures. Instead, the recent practice of Western neo-shamanism within this space of pilgrimage tends to show a diversification of cultural forms and stimulates a religious revival with regard to shamanism and a political role on the international stage in favor of Wixaritari Indians.

WIRIKUTA: FROM LAND OF PILGRIMAGE TO TOURIST DESTINATION

Located in the state of San Luis Potosí in North-Central Mexico, more than 700 km from Mexico City, Wirikuta, where it is claimed that the sun and peyote were born, is the most important place of pilgrimage in the Wixaritari Indian cosmogony. Peyote (scientific name *Lophophora Williamsii*) is a cactus that grows on the “Altiplano” desert, which extends from North-Central Mexico to the southeastern parts of the United States and contains more than 30 alkaloids, including mescaline. Peyote, or “Jikuri” in vernacular Wixarica, represents a “kayumari” ancestor spirit, or elder brother. According to the mythological story, “kayumari” was originally a blue deer whose fingerprints were transformed into peyote. For the shaman or Marakame (Marakaté in the plural), whose initiation is punctuated by physical and ascetic tests usually taking place over 10 years, the blue deer is the shaman’s double, to whom he lends his voice, “a true central phone operator who can sort through all the wires and create a dialogue amongst the ancestors to solve an agricultural, therapeutic or hunting problem” (Lemaistre, 2003, p. 240, our translation). Any Wixarica can become a Marakame, although two conditions seem necessary to achieve this: the family situation (shaman father) and an early taste for peyote. Obtaining the status of apprentice shaman is confirmed by revelation,

that is to say, a founding vision during which, for instance, the spirit of the “kayumari” deer appears and invites the apprentice to visit the world beyond. Then follows a period of retreat and learning of meditation, singing, and search for animal allies.

The Wixaritari number approximately 40,000, settled in the “Sierra Huichola,” located more than 600 km from Wirikuta. They go there annually from October to May in order to collect peyote and to ensure the return of the rainy season to their habitat. However, over the past 20 years, this sacred location has also become an important national and international tourist site. The town of Real de Catorce and surrounding villages attract many tourists in search of mysticism and shamanism. Listed by the Ministry of Tourism of Mexico in 2004 among “16 magical villages” of Mexico, they have recently been mentioned in guidebooks such as “Le Routard” and “Lonely Planet.”

Following several denunciations published in official Mexican newspapers (Ochoa, 2004), where the Wixaritari raise the desecration of their sacred territory by tourists—specifically through the theft of their offerings and illegal harvesting of peyote—the area was finally declared a “sacred nature reserve” in 1994 under the auspices of UNESCO. Paradoxically, as I witnessed during my fieldwork, since then, the concern of the Wixaritari has grown steadily, as the sacred status has done little to prevent the growth of tourism in the region.

The Wirikuta reserve, playground to mystical tourism, is not considered by local authorities as a tourist site in itself; its development is rather a creation, from the ground up, by the different actors in this type of tourism. In fact, since the 1970s, many foreigners have settled in the ghost town of Real de Catorce, the main tourist attraction in the Altiplano region for his historical and architectural heritage, and brought with them other travelers seeking mystic experiences. Faced with this crowd of tourists, other villages in the heart of the sacred nature reserve, such as Estacion Catorce, Wadley, or Margaritas, have benefited from the tourist trade. The Mexico-Texas rail and the construction of a road from Matehuala contributed to the arrival of a steady stream of tourists, both domestic and international, coming for a shamanic experience through the use of peyote. Since the closure of the “Sierra de los Catorce” mines, many villages whose economy was based on the exploitation and transportation of minerals have fallen into a persistent economic downturn. Many villagers now rely on the development of tourism to prevent emigration to the cities. However this “wild” development of tourism, as described by the Tourist Office of San Luis Potosí, benefits only a small proportion of the local population (M. Carmen, personal communication, 2004). Some villagers have learned to adapt to this new arena since the early 1980s and have not hesitated to turn their goat pens into tourist “ranchos.” Local taxis have become desert excursion specialists, while others play at being tour guides or even shamans for tourists wanting to experience the



Photo 10.1 A French tourist before Wixaritari offerings on the sacred Vernalejo site in the desert of San Luis Potosí, Mexico, July 18, 2011. (Vincent Basset.)

effects of peyote. Given the lack of political will in the development of tourism over the years, tourists themselves have been able to organize and extend the network of “peyoteros” available to tourists. Over the past decade, a new phenomenon has intensified and spread within the reserve: the purchase and construction of houses by foreigners. For instance, in the village of Wadley (567 inhabitants in 2010), the acquisition of houses by foreigners has more than tripled between 2001 and 2009. Faced with this constant attendance and the little control exercised by the Wixarica community on this issue, many faith-based organizations, some of which are classified as “sects” in Mexico, have established contact points to offer retreats, quests for spiritual vision, and pilgrimages to their members. The *Fuego Sagrado de Iztachilatlan* (Sacred Fire of Iztachilatlan)¹ aims to train new people in pan-American shamanism and to create, through the net, a worldwide neo-shamanic network. Others neo-shamans have created businesses offering shamanic training to American and European participants, charging \$1,500.00, and combining a myriad of beliefs and healing techniques from very diverse geographical and cultural areas.

Opponents to tourists accessing the reserve denounce their irresponsible and predatory attitude toward the environment and indigenous culture. Peyote, a central component, with corn and deer, of the religious Trinity Wixarica, seems the first affected by this phenomenon. At the beginning of

the century, peyote was available all around the village; now tourists must walk at least 2 hours before encountering any peyote. Bush taxis can access them easily and know exactly where tourists will be able to collect some of the plants. In the most sacred and most visited areas, like "Vernalejo," where, according to Wixarica mythology, peyote was born, there is virtually no trace of peyote. Through ignorance, some tourists proceed to make devastating cuts to the cactus; they consider the use of a knife to be damaging to peyote, "If you cut peyote with a knife, you hurt it, I assure you." Instead they favor a more "traditional" way of cutting where they use natural tools available on the spot, such as a stone, a yucca leaf, or a piece of wood, but from a botanical point of view, using such dirty tools could damage the plant (the cut should be made in the proper place and with proper tools, or else the cactus might not grow back again). However, many others are thought to harvest properly, keeping the root. This situation goes much farther, as local and foreign traffickers represent a much greater danger, collecting hundreds of plants for the production of the powder or synthetic crystal they sell in the United States (Interview recorded in May 2004 with a local trafficker in Wadley).

Since the implementation of the reserve's conservation and protection policy against the possession of this plant, criminal sanctions have significantly increased. Recently, a Mexican arrested in possession of 20 peyote plants was sentenced to 4 years in prison ("Sentencian a mujer," 2010). Military checkpoints have proliferated around the reserve to the point that even the Wixaritari, as indigenous people having the right to harvest the plant, were arrested for excessive collection of peyote. In 2004, a circumstantial



Photo 10.2 Bush taxi offering tourist trips for the collection of peyote in Sierra Los Catorce, Mexico, July 26, 2009. (Vincent Basset.)

agreement between different governmental authorities, such as the Council for Development of Indigenous Peoples and the Ecology Ministry of San Luis Potosí, imposed a limit on the legal and customary extraction of the plant for indigenous populations: 100 peyote plants per pilgrim (Torres, 2010). In this way, tensions have continued to increase between federal authorities and indigenous populations. In February 2010, police in the State of San Luis Potosí used the pretext of controlling the amount of peyote harvested by indigenous pilgrims to interrupt the Wixaritari during their annual ceremony in the desert, insulting them and treating them as criminals ("Asociación jalisciense," 2010). It must be said that this level of corruption does not facilitate governance nor respect for the reserve's biodiversity. It affects all institutional bodies, including the Mexican Secretariat for the Environment and Natural Resources (SEMARNAT) who, in 2005, authorized "by mistake" the illegal export of 300 peyote plants to Europe (Guien, 2006).

The food sector is also a real problem with respect to the reserve's ecological balance. Over 400 ha, where endemic plant species such as peyote grow, were purchased by the municipality of Estacion Catorce in order to establish tomato plantations covering an area of 15 km².

Today, there is a new threat to the reserve. Despite the "Hauxa Manaka" agreement for the preservation and development of the Wixarica culture, signed in 2008 by Mexican President Felipe Calderon, the Mexican government recently granted 22 mining concessions to the Canadian "First Majestic Silver" company to extract a ton of silver per day in over 6,326 ha near the Cerro Quemado on the sacred Wirikuta nature reserve. The open pit mining would be an environmental disaster and a violation of the intangible heritage of the Wixaritari Indians.

Facing the feeling that their "life essence" is being seriously affected, the Wixarica community has deployed a strategy of openness to participation in their rituals and have brought their claims to the international level. According to anthropologist Liffman (2012), "the Wixarica cosmopolitic" played a very important role in the mobilization and participation of non-Indians in the rituals and in Wixaritari social representations and claims. Shamanic ceremonies, once reserved exclusively for members of the community, have opened up to foreigners and media to enable the Indians to share their culture and disseminate the messages sent by the gods. In February 2012, a historic meeting was held at the top of the main sacred Wirikuta mountain, called El Quemado, where Indian shamans invited journalists, researchers, and artists to receive and disseminate publicly the message delivered by their deities.

On the other hand, due to the scarcity of peyote and the restrictions related to the Wirikuta reserve, the Wixaritari tend to adopt new sacred territories.

Such territories exist close to the city of Monterrey, in the “Huasteca” park where the construction of a Wixarica temple, close to an area where peyote grows, represents a real alternative to ensure the necessary supplies for the organization of different religious holidays.

TOURISTS AND THE MESTIZO PEYOTE CULT

To the casual observer, tourists moving in this reserve appear somewhat similar in appearance. Some villagers who avoid contact with these foreigners “with strange customs” qualify them as “hippies” or “peyoteros,” regardless of their background. Assigned to villages for short periods, the police with whom I could speak formally refused to call them tourists: “Here there is no tourism; these are just people who use drugs and create mayhem. Here there is a culture of the Huichol, a pure race; tourism is in Real de Catorce, old buildings, ghost villages etc.”²

However, prolonged observation of the area led me to break with this general perception born out of stereotypical perceptions and superficial knowledge of the persons concerned. There were, of course, a significant proportion of individuals who are primarily motivated to take psychoactive plants, but it would be reductive to extend this category to all tourists observed. In my thesis (Basset, 2011), I proposed a typology consisting of three groups of tourists: the artisan tourist, the psychonaut tourist, and the pilgrim tourist. As a methodological tool, the objective of this typology is to allow, for the purpose of comparison, a different initiation to interculturality and to grasp the process of formative identity related to each group. From a numerical point of view, the majority of psychonauts (77 out of 154 tourists observed) are driven by sensation seeking and the pursuit of altered states of consciousness through the use of psychoactive plants. From an identity point of view, they are the least committed, a group in transit that, in the long term, veers more toward group membership with more defined identities, such as artisans or pilgrims. The artisan group (45 out of 154) combines work and travel and chooses places to visit based on opportunities for the sale, replenishing, and production of handicrafts. Finally, the pilgrim group (32 of 154) understands mobility as an aspect of a solitary and mystical quest to transform their beings, and destinations are selected according to their religious and sacred interest.

For some researchers, such as Rossi, mystical practices of Western tourists refer to an encounter with oneself rather than as an initiation (Rossi & Kaech, 2008). However, it seems important to qualify his remarks, as in the field of my inquiry; it appears that, depending on the different degrees of personal involvement and neo-shamanic instruction, some tourists engage in a process of recomposition of identity through symbolic acts and physical and psychological tests. Learning ritual practices through Indian populations,

neo-Indians, and other tourists and the liminality characteristics they assume allows them to order and frame the non-ordinary experiences they go through during this type of activity.

The practice of rituals, be they copied, mixed, or invented, is a real tool to initiate the tourist to new religious practices. Beyond an “intimate creation of the sacred” (Le Breton, 1991), the wild form of the divine needs to take root on an established form of the divine (Chablop, 2009). Using significant archaic forms, such as those of the Wixaritari that are extensively employed by the mystical tourists, facilitates the elaboration of a more or less long-term collective form of the sacred, that is to say, a group or organization sharing the same values, beliefs, and practices. This attachment to an ideological or normative *communitas* would call for the tourist to return annually to the scene of his pilgrimage so as to complete the self-learning or training with a neo-shaman. In the longer term, a majority of these mystical tourists tend to reclaim, through ritual practices, the Wixarica pilgrimage during which indigenous pilgrims proceed with the “peyote hunting” ceremony. Thus, they draw the contours of a new mestizo peyote cult.

PEYOTE HUNTING

The observation of ritual activities carried out during “peyote hunting” has allowed me to demonstrate the existence of a ritual procedural basis common to all participants in this mystical tourism. Indeed, the peyote-hunting ceremony is usually performed in a group where participants travel on foot or by car for about 10 km from the town of Wadley in order to collect peyote. The ritual procedure borrowed from the Wixaritari indicates that the first plant to be found should be spared. When looking for that first plant, more than half of the surveyed tourists told me that they connected with the spirit of the deer to find their first peyote. I collected several testimonies illustrating this idea, such as “the deer spoke to me,” “peyote found you,” “Mescalito will guide me,” “once the peyote finds you, and it will only find you if you are ready to learn, then eat it with respect.” Local belief is that it is not the tourist who finds peyote, but it is the plant that decides to present itself to the tourist. In other words, as far as peyoteros are concerned, if a tourist does not find any peyote in his “hunting,” it means he is not ready to welcome the spirit of the deer; that is, he is not sufficiently “psychologically” ready to ingest peyote. Before cutting the peyote, participants ask the plant outloud for the authorization to do so and give thanks; it is also an opportunity for people to leave offerings of food, water, or personal property as part of the ritual. The next step is to gather the plants needed for the ceremony with a metal or wooden knife specifically prepared for this purpose. It is then time to set up camp for the night; while some go in search of wood, others create a circle

made out of stones around the camp as a symbolic protection against evil spirits. The peyote are washed, peeled, and placed in a container or on an altar near the fire. A participant or the master of ceremonies pours incense over the plants before they are consumed. At nightfall, the ingestion of plants begins. Since peyote has a relatively bitter taste, each person makes his own recipe using either fruit, mixing with chocolate (*chocoyotl*), or making tea with water. After 40 min, participants start feeling the first effects, and they generally observe a long period of silence; then, after little over an hour, the first words and laughter arise. Throughout the night, everyone is free to sing or play an instrument. The ceremony usually ends at sunrise. In many cases, participants travel as the Wixaritari do, on a specific route leading to various sites of indigenous worship in the valley where peyote grows, such as the “Vernalero,” “Las Animas,” or the “Las Narices” cave, then on to the “Sierra de los Catorce” to complete a final ritual atop the “Quemado” Mountain.

The study of ritual services relating to these touristic activities allows me to identify these practices as introductory to the extent that they represent a key moment in the subject's experience, that is to say, a point of no return marked by the transition between a “before” and an “after” (Turner, 1969), marked by physical and moral trials, and characterized by the search for a hierophany, indicating a likely shamanic election.

RITUALS AND THE LIMINALITY PHASE

During the so-called liminal phase, participants experience a break from the ordinary world by diving into a universe of meaning where everything seems sacred. Ritual practices from various Native American traditions are reproduced in a syncretic manner, blending names of Wixaritari and Aztec deities as well as ritual objects and patterns. These traditions play the role of cultural matrix and facilitate the reconstruction of a symbolic world as a basis for structure more or less close to Native American shamanism. These rituals are indicators revealing the separateness in the relationships the tourists maintain toward the Indians.

In the Wirikuta reserve, the tourists tend to reclaim the spaces deified by the Wixarica culture to ensure their passing from the profane to the sacred world. While following the route taken by the Wixaritari, they try to capture the mythological Wixarica story related to these places of worship, reconstructing some of these beliefs derived from local knowledge in order to “give meaning to their ritual practices.” It should be noted that some places of worship such as “Tatei Matineiri” and “las Narices” are much less popular than “El Vernalejo” or “El Quemado.” The latter is specifically attractive to the group I called the pilgrims. The majority of them tend to carry out their last rituals at the top of this mountain, a way for them “to bid a final farewell to

the location and the gods.” Walking the Wirikuta valley to the top of the Quemado Mountain symbolically translates a passage from the horizontal world where subjects have no perspective on their own experience to the verticality of the mountain range of the “Sierra Catorce,” where they can overlook the valley and “access the world of the gods.”

This limanility phase would not represent such a crucial moment in the participant’s experience if the latter did not endure physical and moral trials. Resistance to the desert heat, submission to ritual procedures, ingestion of psychoactive plants, and dangerous hiking in the wilderness contribute to legitimizing the will of participants to part with identity shackles and fulfill a therapeutic function. According to Juan, a Mexican neo-shaman, “If he wants to heal, he must give of himself and accept the pain.”

According to the participants, the ingestion of psychoactive plants such as peyote during the ceremonies that I witnessed facilitates “access to the sacred world of American Indians.” Much more than a plant, peyote represents a divinity, “the flesh of the gods.” Absorption of the plant ensures the acquisition of capacities such as the enhancement of sensory acuity in order to obtain new knowledge. This representation of the absorption of psychoactive plants as the practice of spiritual exercises, such as meditation, is a characteristic of this type of neo-shamanism.

During a ceremony it is always better that you eat [peyote] as much as you can and then some more so then you come to the edge and you go over to get to another dimension or another level of knowledge of the capacity you have within you to awaken the ancestral memory. We have a heritage here but it is not visible to the eye. (Juan, a Mexican neo-shaman offering his Temazcalero [sweat lodge] services to tourists in the Wirikuta natural reserve, December 2004.)

Peyote possibly plays the role of mediator to the extent that it induces an altered state of consciousness to aid in connecting to the ancestral memory of the Indian spirits. It could bring about a “hidden knowledge” present in each of us and would guarantee a better understanding of the different situations we face. A new system of representation opens to participants, where signifiers no longer refer to the same meanings and benign manifestations of nature, but become telltale signs of the presence of a spirit, such as a sudden breeze announcing the passage of a spirit.

At this introductory stage, one of the illuminating aspects of the tourist-Indian relationship is the fact that participants in this sort of neo-shamanism attempt to establish communication and appropriation of indianness through corporeality. The body is a privileged medium to assimilate culturally distinct elements. “Put yourself in the shoes of the Indian” translates in a concrete

manner, for the traveling tourist, through drumming and singing accompanying rituals, but also through the use of dress codes symbolizing indianness (sandals, scarves, and Hispanic jewelry); the use of physical signs, such as tattoos with pre-Hispanic patterns; and the use of ritual objects, such as copal incense, Wixaritari power sticks, and offerings such as tobacco, candles, and stones, all markers of the shaman's power. For instance, when hunting peyote, tourists make offerings to the first peyote they find. The ritual act of offering tobacco, personal property, or other ritual objects reflects the will of the participants to own and rebuild the practice of a ritual constructed on an Indian model.

When performing the various rituals, the mystical tourist looks to come into communication with "the spirit" or "energy." Indeed, the rituals I observed contribute to the manifestation and communication from this "invisible other," either through a natural phenomenon such as the appearance of an animal such as a deer or through the expression of an inner voice. This type of event is usually interpreted as a call to oneself to become a shaman or to find a cure.

During peyote hunting, tourists try to communicate with nature. Words, gestures, offerings, and songs are addressed to the spirits of the place. This relationship creates a "giving back" relationship where "we pay tribute to nature because it is what allows all of this to exist" (L. R. Guzman, a reserve's guardian, 2005). Answers are transmitted to individuals through various natural or nonnatural manifestations, and are all signs to interpret and decipher. Unlike a Wixarica Indian, for whom the content of the experience is culturally predetermined, each tourist interprets the flight of a bird, a cloud in the sky, or the shape of certain plants as he wishes. The meaning given to such an ordeal imposes on a Westerner a rereading and reinterpretation of the experience afterward.

Many participants said they had the privilege "to attend a demonstration of the spirit, the divine" through nature. I am specifically referring to Eric, a fan of Castaneda, who explained how he had been driven into the wilderness by means of two lizards. Through an interpretation of which only he knew the secret, he could decipher the signs given by the lizards and so find his way. The appearance of a deer is one of the most common manifestations. For instance, Mathieu, a French tourist, says he saw a deer drawn in the sky through the clouds several times, without knowing what the latter symbolically represents for the Wixaritari. His vision was so intense that once he returned home, he decided to replicate the pattern in the form of a tattoo on his chest. Pancho, a Mexican tourist, along with other Mexican friends, indicated that he saw a huge blue deer coming out of the fire at the top of the Quemado, "[I]t was one of the highlights of my life." This would justify his choice to settle in the village of Wadley.

For others, that inner voice is a sign that the mind is calling to the individual, as if making an announcement for a future election as a shaman. The experience of Roberto clearly illustrates this interpretation:

We sat in caves eating this medicine continuously during days and nights and suddenly I felt a voice inside of me; peyote was speaking to me and was telling me that I had to go. But I did not know where to go. So I asked him, "What will I do with my family?" I told Pedro, "I'm going crazy, they are talking to me inside and I do not know what it is, I am told that I have to go and I do not know where to go and what I should do." Pedro knew what was happening to me and he told me I was going on a vision quest for the spirit is calling me to become a shaman. (Roberto, a Spanish tourist, March 2007)

Finally, practicing adorcism, that is, a voluntary, desired, and curative possessions, could also facilitate both physical and spiritual healing. According to participants, the call to "helper spirits or allies" present in the peyote can lead to miraculous healings: "This medicine is the highest of all forms of sacred medicines; around it there are miracles. I saw people who got up from their wheelchairs and others who are cured of cancer"³ (quote recorded in a December 2005 interview with David, an American tourist). As noted by the neo-shamans, "You heal if you really believe, with all deep fervour," provided by personal involvement in the rituals.

Rituals observed during this introduction truly represent means for the traveling tourist to learn about a new form of shamanism: neo-shamanism. Here, the study of these practices tends to show that the traveling tourist's relationship of otherness toward the Indian is not just an excuse to criticize his own society, but also contributes to a change linked to identity in the experience of the tourist. The practice of rituals is a performative act in itself and therefore responds to practical interests; it indicates their own differences toward other tourists, to change to the status of a peyotero, to increase their powers and their knowledge, and to establish communication with the spirits in order either to become a shaman or to seek a cure.

SHAMANISM AND NEO-SHAMANISM

Shamanic practices observed in the Wirikuta reserve present, as ideological and cultural substrate, "different trends rooted mainly in various socio-religious movements such as Wixarica shamanism, peyotism, New Age, and the Mexican movement" (Basset, 2011, p. 187, our translation). Although it is difficult to position oneself in the face of this tourism of nebulous practices, observation of the phenomenon in the long term has led me to distinguish

different types of practices, to grasp their specificities and their differences from native shamanism.

Rituals, ceremonies, and neo-shamanic techniques undertaken by tourists during their pilgrimage oscillate between very disparate, disorderly neo-shamanism composed of diverse cultural and symbolic elements comprising a self-taught and personal “initiation,” and a rarer, more “structured” neo-shamanism, where the participant is initiated either through one of the Wixarica community members or by a religious association such as Fuego Sagrado de Iztachilatlan. This reconstruction of a shamanic universe, targeted to European imaginary, can paradoxically lead to a continual renegotiation of the White man’s or mestizo identity toward the Indian shaman. Concrete evidence of this process of identity formation in the mystical tourist is reflected in the fact that an increasing number of Europeans, but also Mexicans, declare themselves shamans after a personal or structured neo-shamanic initiation.

Even if this occurrence concerns only a minority of all surveyed tourists, it illustrates a new way of thinking about our relationship to indianness. As substitutes for the figure of the Native American shaman, they presuppose that Native American otherness is in each of us, what Chablotz (2009) calls “the primitive within.” This shamanic otherness is not to be found in the remote and traditional societies, but in the here and now where “everyone is now free to proclaim themselves a shaman” (Paco, a spiritual guide in the Wirikuta reserve, 2003). The neo-shaman turns out to be a genuine importer of influence in its original society; he works as a bridge between the Native American and Western cultures as long as he sensitizes and educates urbanized populations to such practices.

This re-appropriation and reinterpretation of symbolic and cultural forms of shamanism by Westerners is the result of a succession of processes involved in the phenomenon of globalization: that of deterritorialization and reterritorialization (Argyriadis, De La Torre, Gutierrez, & Aguilar, 2008). It should be noted here that any religion or philosophy called “traditional” is the result of a crafted mix of a more or less original combination of concepts, practices, and stories drawn from earlier beliefs and thoughts. The process of globalization only stimulates and accelerates the disintegration and recomposition of these social constructs.

In the case of neo-shamanic practices observed in the Wirikuta Natural Reserve, the process of deterritorialization tends to blur cultural and mythological indigenous references that comprise the collective memory of the place as identity support and promote the flow of diverse, disjointed, or even contrary identity referents. Located at the crossroads of tourism flows, consumerism, and neo-shamanic networks, this place of Indian pilgrimage has become a showcase of neo-shamanic transnational culture. On the other hand, the existence and recognition of the figure of the neo-shaman in Western societies

is part of the process of reterritorialization, during which we are witnessing the emergence of “glocalized” shamanic practices (Robertson, 1995) that adapt to the local realities and concerns of our modern societies. Upon their return, mystical tourists try to reinvest and deploy, at home, many shamanic and spiritual practices collected on their travels. For example, some mystical tourists continue practicing certain rituals on their return, such as the preparation and making of offerings in places they consider sacred, holding ceremonies such as Temazcal during specific occurrences such as solstices or full moons, and psychotropic plant sessions and meditation practices to establish communication with the spirit world. The practice of rituals in the experience of everyday life shows how necessary it is for the tourist to keep contact with the invisible and sacred world of the spirits, but also shows, at the same time, the desire to abolish the difference between a self here and a self there. During this process of reterritorialization, we are witnessing a shift from the form generally understood in anthropology as shamanism (Perrin, 1995) to a new form of religiosity, Western neo-shamanism.

It should be noted that the neo-shamanic phenomenon emerged in the mid-1970s in the United States when the New Age movement adopted some shamanic concepts and techniques and used shamanism as a “reference tool for building its vision of the world” (Stuckrad, 2003). Some anthropologists (Perrin, 1995; Townsend, 1998) have then qualified the modern adaptations of traditional shamanism as “neo-shamanism.” In its literal sense, the neo-shamanism neologism both refers to a new form of shamanism and, as suggested by anthropological research on this topic, indicates a practice mainly exerted by an urbanized Western population (Perrin, 1995; Townsend, 1998). Others, like Stuckrad, prefer to use the term “modern Western shamanism” (2003) to distinguish it from an ethnic point of view (indigenous shaman vs. White shaman) to new indigenous shamanic practices.

According to my analysis, many elements tend to clearly distinguish between “traditional” shamanism and this modern form of Western shamanism. Indeed, the latter is, first of all, characterized by a personal search for meaning, where there is no longer a question of practicing shamanism for others, but instead only for oneself, for the purpose of personal gain. For these new practitioners, the practice of this type of shamanism is a way to increase their personal power through the acquisition of new knowledge and techniques. Moreover, according to Costa, Western neo-shamanisms’ being “centered on the personal development” (Costa, 2007, p. 114) of the practitioner is an essential difference from traditional shamanism. The participant in neo-shamanism is looking for a state of being, for a personal experience, and not for an “effect in relation to the outside world” (Hamayon, 2003, p. 45). The neo-shaman no longer functions to prevent misfortunes and imbalances across the community but works primarily in the treatment of his own

problems and, in some cases, those of his “patients.” As in Gabon, where Western tourists come “to be initiated” by taking the hallucinogenic iboga (*Tabernanthe iboga*), we are witnessing a shift from a traditional to a Western use typified by the “search for healing individual unhappiness” (Bonhomme, 2010).

Based on semi-structured interviews with nine neo-shamans, it appears that the neo-shamanic practitioner can become a shaman out of his own volition; that is to say, he does not need to use a spiritual guide or follow a tradition marked by learning; rather, he seeks to develop “his own internal guides” (Julian, neo-shaman, 2005). There are no intergenerational or community affiliations in the election of the future shaman anymore; according to interviewees, “everyone has the ability to self-proclaim themselves as shamans when they wish to” (Alfonso, spiritual guide, Red Road, 2007). The interpretation of the signs of a future shamanic election depends on the free will of each. These signs may occur through dreams or through the manifestation of an inner voice, while learning to become a shaman usually involves working on yourself: a slow and demanding process. After some shamanic courses, where they experience some level of altered states of consciousness, neo-shamans do not hesitate to consider themselves elect of the “Great Spirit” to become spiritual guides.

This Western neo-shamanism presents itself as the result of a mixture of spiritual and shamanic practices, insofar as its practitioners are inspired by traditional shamanic models from very different geographical and cultural areas, as well as by New Age conceptions and ideologies. They do not follow the teaching of a specific shamanic tradition, but follow a variety of traditions to the point that it can be said that they concoct an “à la carte menu” of shamanism (Laflamme, 2000). The Mexican neo-shaman organization El Fuego Sagrado de Itzachilatlan achilatlan, for example, offers a pan-American form of shamanism in which participants ingest several “sacred” plants of different origins and cultures, such as peyote (*Lophophora williamsii*), mushrooms (*Stropharia cubensis*), tobacco (*Nicotiana tabacum*), coca leaf (*Erythroxylum coca*), and ayahuasca (*Banisteriopsis caapi*). Similarly, Michael Harner, former anthropologist and founder of “Core Shamanism,” describes his shamanic teaching as being at “the heart of shamanism,” that is to say, a summary of shamanic rituals and beliefs for universal purpose. The selection of certain practices and shamanic beliefs considered traditional and authentic, such as the use of psychoactive plants to communicate with “the spirit world,” tends to create a sort of ideal shamanism where the symbolic figure of the shaman is nothing more than a stereotypical representation.

If a significant proportion of those surveyed declared engaging in neo-shamanism to get to know themselves better, many also come in search of healing or for therapeutic purpose. As I have observed, many experiment with

peyote in order to heal addiction or depression. Here, the therapeutic function of the neo-shaman differs substantially from that of a Native American shaman to the extent that it is no longer a question of restoring the cosmological balance between the patient and the gods through symbolic acts (offerings), as is the case in Wixarica shamanism, but rather to ingest this “sacred medicine” to wake up an “ancestral memory” (Julian, neo-shaman, 2007) or contact the “spirit of the plant” (Philip, French tourist, 2005) for healing purposes. Each person would have the ability to communicate with a “non-ordinary reality,” as if every being possessed an innate spiritual potentiality, a reservoir of tremendous self-healing capacity.

Neo-shamanism has a particular interest in ritual devices and healing techniques marshalled by the shaman at the expense of interest in cosmological conceptions, beliefs, and mythological stories. Transmission of neo-shamanic knowledge to the tourists mainly revolves around these techniques in order to obtain concrete and immediate results. In other words, we are witnessing an imitation of shamanic techniques or re-appropriation and rehabilitation thereof, without the knowledge of the signified.

The neo-shamanic movement, in which participants receive a therapy session or a ritual in exchange for payment, differs from traditional shamanism in its strategy and mercantile propensity. It is introduced as “a market where the hope of healing and an alternative route to self-knowledge are on offer” (Laflamme, 2000, p. 79). Some neo-shamans even claim to treat diseases such as cancer that scientific medicine cannot cure. Today, there is a commercial exploitation of certain Indian rituals, such as the Vision Quest and Temazcal, that have become part of tourist merchandising in Mexico and Peru. For these neo-shamans, the Internet is a very effective advertising tool because the fabric of the Web allows them to have greater interaction with the general public. Neo-shamanism aficionados can, for instance, consult forums, exchange opinions, enroll in many workshops and shamanic trips, and thus create elective social networks. “Mystical-spiritual tourism,” “shamanic immersion,” and “spiritual retreats” represent new tourism products operated by the promoters of this neo-shamanism.

The psychotropic experience of being under the influence of peyote is very different for a Westerner than for a Wixarica. The experience of peyote requires, according to Rossi and Kaech (1985, p. 18), “a coherent mental and bodily oriented disposition that can define a cultural response to this kind of experience.” While experience in a Western individual is personal, an Indian responds to a request in which the collective sense of what is experienced exists before the experiment. Moreover, during my field experience between 2003 and 2009, I knew of three cases of tourists who used peyote and ended up in the Matehuala hospital because of acute paranoia attacks. This was the case for an Italian woman, according to the diagnosis of the

hospital, who fell into a crisis of infantile regression for more than a week after having eaten peyote.

CONCLUSION

Since the early 1980s, just like Mount Shasta in the United States, the Wirikuta and Mount El Quemado natural reserves have been the subject of a particular kind of tourism in which participants try to regain a Native American sacred space by performing neo-shamanic rituals. Through this study, I was able to uncover how this sacred space, a place of Indian pilgrimage, has gradually been transformed into a tourist destination under the logic of globalization. I identified the characteristics of this type of activity, the rituals and their features, and thus ascertained the main differences between native shamanism and Western neo-shamanism. Western neo-shamanism appears as a set of beliefs and syncretic religious-spiritual practices based on a mixture of many cosmologies, conducted individually or framed by a tradition or religious association, that pursues specific objectives such as obtaining answers to existential questions, moral and physical self-healing through communication rituals with the other world, and in some cases, the possibility of becoming a self-made shaman.

The sacred Wirikuta Nature Reserve is lusted after by many such as tourists, agricultural industries, and mining projects, and this gives rise to various conflicting usages and interests amongst the local population, the Wixaritari Indians, and the foreign populations; it is quite paradoxical that the neo-shamanic tourists performing rituals tend to act as a relay for the dissemination of the international political and cultural claims of the Wixaritari Indians. The instrumentalization of these foreign populations by the natives through various media (press, television, documentary) has facilitated the creation of a defensive front of Wixaritari interest groups of academics, environmentalists, and foreign sympathizers (e.g., Hollywood actors like Johnny Depp, Salma Hayek, and more than 150 artists and intellectuals involved in the “Wirikuta Fest” in Mexico City in 2012); it has also provided the possibility for Wixaritari Indians to define themselves as social actors in the preservation of their tangible and intangible heritage.

NOTES

1. The “Fuego Sagrado de Itzachilatlan,” also called the *Iglesia Nativia Americana de Itzachilatlan* (Native American Church of Itzachilatlan), headed by Aurelio Diaz, is the Mexican version of the U.S.-based Native American Church. Despite various requests to the Mexican Dirección General de Asuntos Religiosos to be recognized by law as an *Asociaciones Religiosas y Culto Público*, the organization has been classified as a religious cult.

2. These words were collected from police officers in Wadley in the State of San Luis Potosí in November 2004.
3. These words were collected from police officers in Wadley in the State of San Luis Potosí in November 2004.

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Paradoxes of Peyote Regulation in Mexico: Drug Conventions and Environmental Laws

Beatriz Caiuby Labate and Kevin Feeney

This chapter analyzes the history of peyote (*Lophophora williamsii*) regulation in Mexico. Peyote, a cactus native to Mexico and southern Texas, contains the hallucinogenic compound mescaline, a nationally and internationally controlled substance. Despite its controlled status, mechanisms have been put in place to protect traditional uses among indigenous groups.¹ Peyote is also internationally regulated for environmental reasons under the Convention on the International Trade in Endangered Species (CITES), which categorizes the cactus as a species liable to become endangered, while in Mexico peyote is classified as requiring “special protection.” In contrast to other controlled substances (e.g., coca, marijuana, heroin), the regulation of peyote occurs at a unique nexus of several policy objectives: drug control, indigenous interests, and environmental protection.

Determining how regulations advancing these diverse policy interests interact, and whether these opposing interests are appropriately balanced, is a key focus of this chapter. We begin with a brief discussion of the history of peyote use in Mexico, followed by an examination of international and national drug and environmental laws regulating its use. Next, we describe the mechanisms through which exemptions are given to indigenous groups, and provide a brief overview of legal cases involving peyote. Through an examination of peyote regulation, we will show that a broader dialogue between different actors and regulatory agencies may provide viable and beneficial alternatives to the narrow policy concerns of the international prohibitionist system and its limited outcomes.

HISTORICAL BACKGROUND

Archaeological evidence from southwestern Texas and Mexico suggests that the ritual use of peyote dates as far back as 5,700 years (El-Seedi,



Photo 11.1 Peyote growing under a clump of grass in San Luis Potosí, Mexico.
(Beatriz Caiuby Labate)

De Smet, Beck, Possnert, & Bruhn, 2005; Terry, Steelman, Guilderson, Dering, & Rowe, 2006). Peyote use was documented by Spanish missionaries in Mexico as early as 1560 (Ott, 1993; Sahagún, Dibble, & Anderson, 2012) and was later prohibited in 1620 by an act of the Spanish Inquisition (Leonard, 1942). According to the Mexican National Archives, the Inquisition conducted at least 90 trials for peyote possession in 45 different localities over a 265-year period (Loizaga Pazzi, 2012), suggesting that the use of peyote was geographically widespread. As a result of these efforts, the ritual use of peyote was largely wiped out, although use is known to have persisted among a handful of indigenous groups, including the Cora, Huichol, Tarahumara, and some communities of Tepehuan (Beciolini, 2012; Diguet, 1992; Escohotado, 1989; Gandola, 1967).²

While ritual uses of peyote survived only among a few indigenous groups, peyote remained popular as a folk medicine among both indigenous and mestizo populations, and was listed as a remedy in the *Farmacopía Mexicana* during the 1800s (Schultes, 1938). Traditionally, peyote has been used to treat fevers, infections, muscle aches, cramps, rheumatism, and a variety of skin ailments. While fresh peyote buttons were reportedly available in markets as recently as the 1950s (Kelly, 1965; Schultes, 1938), currently, topical



Photo 11.2 Pomadas (an oil-based preparation of peyote) for sale by a Huichol street vendor in Zacatecas, Mexico. (Beatriz Caiuby Labate)

preparations such as *pomadas* (creams) and tinctures are more commonly found (for the use of peyote as herbal medicine, see Loizaga-Velder & Loizaga Pazzi, 2012; Mendo, 2000; Terry, 2008).

During the nineteenth century, a new type of peyote ritual developed north of the Rio Grande, involving all-night ceremonies conducted in a tipi, the typical lodging among Plains Indians. This type of ceremony, referred to here simply as the tipi ceremony, is distinct in its focus on prayer and contemplation, and lacks the dancing and instrumentation common in Mexican varieties of peyotism.³ While religious use of peyote north of the Rio Grande is thought to have developed through cultural exchanges with Mexican groups, such as the Coahuiltecans, the tipi ceremony developed independently (Slotkin, 1956; Stewart, 1987). Eventually, American Indian tribes in Oklahoma banded together to form the Native American Church (NAC) in 1918, with the tipi ceremony being the dominant ceremonial form. While American Indians are believed to have adopted peyotism from Mexico, there is now evidence that the tipi ceremony is being introduced to nonindigenous populations in Mexico.

In the United States, peyotism among American Indians is legally protected, and both Texas and the U.S. government strictly regulate the purchase



Photo 11.3 Sign advertising peyote sales by a licensed dealer in the Rio Grande Valley of South Texas, United States. (Kevin Feeney)

and sale of peyote harvested from the South Texas peyote gardens. Despite the legal protections, however, many American Indians are excluded from the legal exemption due to a lack of federal recognition for tribes who never entered treaties with the U.S. government, or due to tribes having been stripped of their federally recognized status during the Termination Era of the 1950s. Many American Indian groups are also heavily divided on issues of race, and who can and cannot participate in religious ceremonies, often resulting in the exclusion of “mixed” families and of children who do not meet a particular threshold of “Indianness” (Feeney, 2014).

Peyote was popularized in the twentieth century by books such as Aldous Huxley’s *The Doors of Perception* (1954), which recounted the author’s experiences with mescaline, and Carlos Castaneda’s *The Teachings of Don Juan* (1968), which purported to be an ethnographic (nonfiction) account of the author’s apprenticeship to a Yaqui shaman.⁴ These accounts brought peyote into the popular imagination and, along with R. Gordon Wasson’s accounts of Maria Sabina’s mushroom ceremonies, sparked great interest among



Photo 11.4 Tipi erected for a peyote ceremony in Central Mexico (Beatriz Caiuby Labate)

foreigners and mestizos in the use of Mexico's native hallucinogens. As a result, use of peyote has expanded beyond the traditional uses of indigenous groups.

According to initial fieldwork observations,⁵ there are currently a range of practices involving the ritual use of peyote that extend beyond the traditionally recognized customs of the Huichol and other indigenous peyote-using groups. Within this spectrum, one can find: (1) Huicholes who conduct ceremonies for nonindigenous people (Guzmán, 2014); (2) peyote tours and ceremonies targeted toward tourists visiting communities near Wirikuta, in San Luis Potosí (Basset, 2011); (3) a wide range of spiritual and therapeutic ceremonies combining elements of the NAC tipi ceremony with other traditions, including Mexican indigenous rituals (reinvented "neo-Mexican" Nahuatl songs, elements of the *danzas concheras* and *azteca*), spiritual practices of American Indians (including sweat lodge and Sun Dance ceremonies), and elements of the Brazilian ayahuasca religion Santo Daime; and (4) use among indigenous groups not previously known to use peyote.

The consumption of peyote outside of traditional peyote-using communities, and these newer modalities of use, however, appear to be minimal. According to the National Addiction Surveys in Mexico (Secretaría de

Salud, 2012), the substance most consumed by individuals between the ages of 12 and 65 years is marijuana, followed by cocaine and crack. The hallucinogens, including LSD, magic mushrooms, and peyote, are consumed by only 0.1% of the population.⁶ This suggests that the actual numbers of people using peyote outside of the contexts described in this chapter are limited. However, it is important to note that there are no systematic quantitative studies to assess the number of users in either traditional or hybrid contexts.

INTERNATIONAL LEGISLATION

As in many countries, Mexico's Constitution is at the heart of its legal system, providing the foundation upon which all other laws and regulations are based. Importantly, the Constitution includes a declaration (Article 133) that international treaties, along with the Constitution and laws passed by Congress, shall be the “supreme law of the land” and shall take precedence over the laws of the individual states. Consequently, an understanding of international treaties to which Mexico is a signatory is necessary to help contextualize rights and regulations pertaining to the use of peyote in Mexico.

Treaties important to traditional and contemporary uses of peyote are those that address drug use and trafficking, human rights, and indigenous rights. The most significant treaty, in this regard, is the United Nations Convention on Psychotropic Substances (CPS), adopted in 1971 and ratified by Mexico in 1975. The CPS was drafted as a companion treaty to the 1961 Single Convention on Narcotic Drugs, a treaty that created a framework for international regulation of specific psychoactive plants: cannabis, coca, and the opium poppy. The CPS was designed to extend this regulatory framework to include a variety of psychoactive compounds that had become increasingly common both in medical practice and on the black market. Among the compounds covered by CPS is mescaline, the primary psychoactive agent found in peyote.

Mexico played a crucial role in the CPS proceedings, helping to carve out an exemption for the traditional use of psychoactive substances such as peyote and hallucinogenic mushrooms, both plants with long-standing traditional uses in the country. The issue was first raised by the Mexican delegate Barona Lobato, who expressed concern that the treaty might be misconstrued as applying to psychoactive plants used in the “magic or religious rites” of “certain indigenous ethnic groups,” and not just the specifically prohibited compounds; in this case, mescaline and psilocybin (United Nations, 1973, p. 106). Lobato stated that such an interpretation would be at odds with protections for religious freedom enshrined in the Mexican Constitution (Articles 24 and 130) and that Mexico would be unable to ratify a treaty at odds with its own Constitution and national laws. Consequently, an amendment was

offered to allow signatory states to make reservations for the traditional use of plants known to contain prohibited compounds (United Nations, 1973). The amendment, as eventually adopted, reads:

A State on whose territory there are plants growing wild which contain psychotropic substances from among those in Schedule I and which are traditionally used by certain small, clearly determined groups in magical or religious rites, may, at the time of signature, ratification or accession, make reservations concerning these plants, in respect of the provisions of article 7, except for the provisions relating to international trade. (CPS, 1971, Article 32[4]).

Upon ratification in 1975, Mexico became the first of five states that would claim a reservation for traditional indigenous use under the stated provision.

The significance of CPS is clear, but other treaties addressing both human and indigenous people's rights are often overlooked. One prominent treaty is the Indigenous and Tribal Peoples Convention (ITPC) of 1989, ratified by Mexico in 1990. The ITPC requires governments to work with indigenous populations to safeguard natural resources. If the government retains mineral or other rights to resources on indigenous lands, it is required to consult with indigenous groups, "with a view to ascertaining whether and to what degree [indigenous] interests would be prejudiced, before undertaking or permitting any programs for the exploration or exploitation of such resources pertaining to their lands" (International Labor Organization, 1989, Article 15[2]).⁷ Although the Convention does not prohibit governments from extracting resources from indigenous lands, the consultation requirement provides indigenous communities with an opportunity to organize and respond to any federal actions that might be against their interests.

Protections for religious freedom have also been iterated and reiterated among a number of international treaties. The Universal Declaration of Human Rights (1948) was one of the first international documents to espouse the value of religious freedom (Article 18). The International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966, Article 13) later advocated tolerance for different religious and cultural beliefs and practices. The International Convention on Civil and Political Rights (ICCPR, 1966), however, was the first international treaty to suggest specific parameters for balancing interests of religious groups with interests of the state: "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others" (ICCPR, 1966, Article 18[3]).

A similar standard was later adopted by the American Convention on Human Rights in 1969 (Article 12). This Convention, however, allows signatory states a great deal of latitude in striking the proposed balance and may not necessarily protect traditional uses of psychoactive plants. The issue of religious and ritual use of psychoactive plants, and the lack of legal protections for such traditions, was specifically taken up in 1985 during the Ninth Inter-American Indian Congress. The Congress, recognizing that indigenous groups in the Americas continue to face prosecution for traditional use of sacred plants, passed a resolution urging the Organization of American States (OAS) to convene a convention that would pass protections for the religious practices of indigenous peoples, including psychoactive plant use. Although the import of each of these treaties varies, and the language is often advisory rather than compulsory, the ratification of each treaty renders it a part of federal law in accordance with Mexico's Constitution (Article 133). These treaties provide grounds for the government to be challenged on a number of issues, including human rights, religious freedom, and access to traditional resources.

NATIONAL LEGISLATION

Since colonial times, moral objections have been used to justify the regulation and prohibition of psychoactive substances, and have remained the primary basis for such bans until the twentieth century. In criminal matters, what we now know as “delitos contra la salud” (health crimes)⁸ first appeared in the 1931 Penal Code and included the use and possession of “narcotic drugs,” as defined by the Sanitary Code (*Código Sanitario*) of 1926 (Alonso Aranda, 2014). The Sanitary Code expressly prohibited coca, marijuana, and opium, as well as their compounds and derivatives, including cocaine, heroin, and morphine. Peyote was not included in this list, but under Article 199 of the Code, the General Wellness Council (*Consejo de Salubridad General*)⁹ retained the right to add to the list “those substances, which, in their opinion, should be included in the category of narcotic drugs, if discovered to have similar properties [to listed narcotics] and which, when used as a vice, can poison the individual or degenerate the race” (Official Journal of the Federation of Mexico, 1926, our translation).

In 1928, the Board of Wellness (*Consejo Superior de Salubridad*) determined that the peyote plant was not narcotic or poisonous, but possessed special “pharmacodynamic” properties. Based on its investigations, the Board came to the following conclusions:

1. The peyote plant is not narcotic (*enervante*).
2. Peyote has special pharmacodynamic properties that influence heart function in a manner similar to digitalis,¹⁰ properties that deserve further study.

3. Peyote has not led to any known poisonings (*intoxicaciones*).
4. The ingestion of peyote produces visual hallucinations and other psychological changes (*manifestaciones de orden psíquico*) (Martínez, 1944, p. 217, our translation, citing Oficio 9 12880, April 27, 1928).

However, 2 years later the Public Wellness Department (Departamento de Salubridad Pública)¹¹ created a special commission to review the regulation of narcotics in the Sanitary Code. This commission convened in 1930 to examine the definition and scope of the term “narcotic substances” as outlined in the Sanitary Code. At the end of its investigations, three natural products were added to the list of prohibited substances: *Amanita* (sp.), peyote, and yerba mate (*Ilex paraguariensis*). Of these three substances, only peyote remains on the list (Pérez Montfort, 2000).

In 1984, the General Health Law (Ley General de Salud) was published (Diario Oficial de la Federación, 1984), replacing the previous Wellness Codes, along with a new classification system for narcotic and psychotropic (*estupefacientes y psicótropicas*) drugs that prevails today. Under the Health Law, psychoactive substances are separated into five categories, or schedules, of control. Substances are placed into schedules based on two primary considerations: a drug's alleged degree of therapeutic value and its potential for abuse (Article 245). Both the peyote cactus and mescaline are grouped in the first and most restrictive schedule, which includes substances believed to have little or no therapeutic value and a high potential for abuse and to pose a threat to public health. It is interesting to note that mescaline alone is listed in the 1971 UN Convention and that no mention is made of the peyote cactus. In this sense, one could say that Mexican law is more stringent than international regulation.

This Schedule I classification is at odds with scientific literature, according to which there are no such harms associated with peyote use (Bergman, 1971; Carstairs & Cantrell, 2010; Halpern, Sherwood, Hudson, Yurgelun-Todd, & Pope, 2005). It is also contrary to the customs and practices of some Mexican indigenous groups, who use peyote as a medicine in the treatment of both physical and spiritual ailments. Perhaps adding to the irony is the fact that the General Health Law (Article 6, VI Bis.) seeks to promote, as one of its national health goals, the knowledge, preservation, and development of traditional indigenous medicines.¹²

Sentencing tables for each schedule are to be found in the Penal Code (Código Penal Federal, 2013), which is to be read as a companion document to the General Health Law with regard to illicit substances. In the case of peyote or mescaline possession, as with other Schedule I substances, the sentences range from 4–7 years and 6 months' imprisonment (Article 195 Bis.).

In 2009, however, both the Penal Code and the Health Law received substantive revisions affecting the regulation of illicit substances (Diario Oficial de la Federación, 2009; Hernández, 2010). Importantly, the Penal Code was revised to provide an exception for indigenous uses of peyote “when, by the quantity and circumstances of the case, it can be presumed that they [peyote or hallucinogenic mushrooms] will be used in the ceremonies, uses, and customs of indigenous peoples and communities, as so recognized by their own authorities” (Código Penal Federal, 2013, Article 195 Bis. II, our translation).

The language used is ambiguous and requires a degree of interpretation on the part of law enforcement to determine whether the “circumstances” are suggestive of ceremonial intent and whether the amount of peyote conforms to “custom” or is indicative of intent to traffic. The law also suggests that the determination of the authenticity or legitimacy of “intent” should be made in consultation with the indigenous communities affected (“as so recognized by their own authorities”). It is important to note that ethnic identification in Mexico is not based, as in the United States, on “blood quantum” criteria (see Feeney, 2014), but on self-identification as well as linguistic and territorial criteria. Note also that the assessment, presumably, allows for some variation in customary use among traditional communities.

The law gives no indication which indigenous groups may have a claim under the exemption. Four indigenous groups are widely known to use peyote in the country—Cora, Huichol, Tarahumara, and Tepehuan—as mentioned above, and according to our fieldwork, these are frequently mentioned as the “only” groups that have legal permission to use peyote (see also Ecología Cultura, 2013; Loizaga Pazzi, 2012; Loizaga-Velder & Loizaga Pazzi, 2012). A search of the literature and pertinent legal documents, however, failed to uncover any sources that corroborate claims that the exemption is limited to these groups. Because traditional peyote use by these four groups is well documented, they should easily qualify for the legal exemption; however, the existence of this legal exemption has not entirely prevented such individuals from arrest (Camino, 2008; Guzmán, 2014; Loizaga Pazzi, 2012).¹³ It remains possible that other indigenous groups could avail themselves of this exemption if they are able to show a pattern of traditional peyote use within their communities.

The main limitation of the exemption appears to be a lack of recognition of mestizo folk uses, as well as of contemporary hybrid ceremonies. Considering Mexico’s long history of colonization, of the hybridization between different indigenous ethnicities, and of Christian and European traditions, it is unfortunate that the law appears to discriminate between pre-conquest indigenous traditions and post-conquest mestizo cultural forms (cf. Loizaga Pazzi, 2012). It is also ironic that Mexicans are allowed to practice different sorts of

religions, but not traditions with deep historical and indigenous roots in the nation (Villalobos Díaz & Gutiérrez Nájera, 2000).

The General Health Law, as revised in 2009, provides guidelines for exempting personal use of some substances, such as marijuana and cocaine (Article 479). Under the revised law, possession of “personal” amounts of controlled substances is to be treated as a nonpunishable offense and not subject to prosecution or incarceration.¹⁴ While this was arguably a progressive step in Mexico’s drug laws,¹⁵ the distinction between personal and nonpersonal use does not extend to all illicit substances. Neither peyote nor mescaline is recognized under this “personal use” exception. Interestingly, substances recognized as having “personal” uses are subject to lesser penalties when possessed in excess of “personal” amounts than substances that do not qualify for the personal use exception. For example, if someone is caught with more than 0.015 mg of LSD, he or she will be sentenced from 10 months to 3 years in prison (General Health Law, Article 477),¹⁶ but if one is caught with 0.015 mg of peyote, he or she will be sentenced from 4 to 7 years of prison (Penal Code, Article 195 Bis.). This means that a person caught with any amount of peyote, unless for traditional ceremonial purposes, will be judged by the Penal Code instead of the General Health Law. So, even though peyote and LSD are listed in the same drug schedule, the sentencing is incommensurate. The addition of peyote to the list of substances recognized as having “personal uses” would provide some protection to nonindigenous individuals who use peyote as a folk medicine or for spiritual purposes. Without the “personal use” exception, there remains a substantial gap between the protections offered to indigenous populations and the punishments meted out to other practitioners.

ENVIRONMENTAL LEGISLATION

Peyote, in addition to being a controlled substance, is also subject to environmental protections. This means that use of peyote, unlike other drugs, faces two potential impediments: criminal law and environmental regulations.¹⁷ In this section, we examine the environmental controls concerning peyote use in Mexico and discuss how these regulations may affect both traditional uses of peyote as well as emerging ritual practices.

In the 1990s, Mexico began taking significant legal steps toward protecting its natural resources, including joining the CITES in 1991 and the Convention on Biological Diversity (CBD) in 1993 and, finally, adopting its own national legislation for the protection of endangered species in 1994 (NOM-059-SEMARNAT, 2010). Mexico’s legislation established four categories of protected species, which include: (1) species that are likely extinct in the wild, (2) species in danger of extinction, (3) threatened species, and

(4) species subject to special protection. Peyote is currently recognized as a species requiring “special protection,” which is considered the least vulnerable of the four categories (NOM-059-SEMARNAT, 2010). Peyote, as a member of the *Cactaceae* family, is also covered under Appendix II of CITES (1973), where it is considered a species liable to become endangered.¹⁸ The International Union for Conservation of Nature (IUCN) recently upgraded the categorization of peyote on the Red List of Threatened Species (Fitz Maurice & Fitz Maurice, 2009) from a species of “least concern” to “vulnerable” (Terry, 2013). Unfortunately, studies on the range and health of peyote populations in Mexico are limited, though preliminary research suggests that existing environmental evaluations of peyote have overstated the vitality of natural populations, while simultaneously understating the present risks (Martin Terry, personal communication, June 28, 2013).¹⁹

While the various protected statuses of peyote tend to be among the least stringent of assignable categories, some of the classifications are beginning to be revisited, and peyote is clearly recognized as a species requiring close observation. As a counterpoint to environmental protections, however, treaties aimed at protecting indigenous rights also contemplate that indigenous peoples may have a special claim to traditional natural resources and suggest that traditional uses should be safeguarded in spite of environmental risks and regulations. One such example can be found in the CBD, which encourages signatory states to “respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity” (CBD, 1992, Article 8[j]).

Similarly, Article 15 of the ITPC of 1989, to which Mexico is also a party, states: “The rights of the peoples concerned to the natural resources pertaining to their lands shall be specially safeguarded. These rights include the right of these peoples to participate in the use, management, and conservation of these resources.”

Mexico has also specifically recognized the importance of balancing indigenous rights with environmental protection. In 2006, Mexico passed its Wildlife Act (*Ley General de Vida Silvestre*), which included guidelines for the ritual use of protected species by rural and indigenous communities (*Diario Oficial de la Federación*, 2006). Under these guidelines, ritual use is to be regulated by the Secretary of Environment and Natural Resources (*Secretaría de Medio Ambiente y Recursos Naturales [SEMARNAT]*), who may also introduce measures to restrict or stop such practices if shown to be a detriment to the species in question. Unlawful possession, trafficking, or destruction of protected species is subject to a penalty of 1–9 years’ imprisonment under the Penal Code (*Código Penal Federal*, 2013, Articles 420 and 422).

Given the severity of the penalty, it is necessary that indigenous communities understand their rights to natural resources and that they be notified when regulations change. In order to avoid prejudicial treatment, the Mexican Supreme Court recently published an action protocol to guide criminal courts when dealing with indigenous populations (Suprema Corte, 2013). This document directs judges to account for cultural particularities and to ensure that defendants have access to an attorney who speaks their native tongue.

LICENSING FOR PEYOTE USE AND POSSESSION

Currently, those who wish to harvest peyote are expected to obtain a permit detailing where and when they will harvest, and how much. Through our fieldwork, we have attempted to trace the bureaucratic route that indigenous people have to pursue in order to obtain the appropriate papers. The steps can be broken down as follows: Interested parties must sign a document known as a *Permiso de Aprovechamiento para fines de Subsistencia* (subsistence harvest permit) and attach it together with a letter signed by the Health Secretary (Secretaría de Salud) for submission to SEMARNAT, or, alternatively, they can request a *salvoconducto* (transport permit) from the National Commission on Indigenous Development (CDI, Comisión Nacional para el Desarrollo de Pueblos Indígenas). A *salvoconducto* is required to contain the following information: (a) a statement that ritual pilgrimages to harvest will be made; (b) identification of the indigenous community seeking permission to harvest and transport peyote (with supporting documents from local authorities); (c) location of the intended harvest; (d) identities of all party members; (e) dates of harvest and return travel; and (f) means of transportation. Either set of documents can be shown to the authorities in case members of the harvesting party are stopped by the police.

CDI, a decentralized agency of the federal government, is one of the main agencies responsible for monitoring indigenous uses of peyote. CDI's mission is to guide "federal public policies for the development and preservation of indigenous peoples and communities" in a manner that "guarantees respect for their cultures, enforcement of their rights, and the achievement of a full life" for indigenous peoples (CDI, 2008). Some of the constitutionally protected rights that CDI helps indigenous communities to realize include the right to religious freedom (Constitución, 2013, Articles 24 and 130), the right to communal ownership of land (Article 27, VII), and the right to preserve and continue traditional cultural practices (Article 2, [A] IV).

Interviews were conducted with offices of the CDI located in states with indigenous communities believed to maintain traditional uses of peyote, specifically the Cora, Huichol, Tarahumara, and Tepehuan. According to the

CDI (2006), communities from these four ethnic groups can be found in the states of Chihuahua, Durango, Jalisco, Nayarit, Sonora, and Zacatecas. Among these states there are different procedures for obtaining licenses, and in some states (Chihuahua and Durango) no licenses are available, suggesting that the licensing process is highly discretionary. In the state of Nayarit, CDI notifies the police about authorized parties directly in order to prevent arrests, while in the state of Durango, a similar informal arrangement exists with the military for groups that will pass through military zones. In the remaining states, the document is simply carried by the permitted group.

The CDI license, according to agency representatives, is provided to every indigenous group who requests one, so long as they can prove a history of ritual peyote use within their community. Although this is a seemingly flexible standard, it may prove difficult, depending on what type of “proof” the CDI will accept. Presumably, even well-known peyote-using groups would have had to submit proof of their cultural practices to the CDI at some point. Despite our efforts, however, we were unable to discover any CDI documents discussing or confirming traditional peyote use among any indigenous groups.

When indigenous people are arrested for carrying peyote during their pilgrimage, the CDI may intervene and assist the group, providing free legal services. Even so, arrests mainly occur when nonindigenous people are involved in the religious pilgrimage. According to our interviews, indigenous people are freed, almost always without a trial, while the situation of mestizos and nonindigenous people is more complicated. The CDI does not intervene in such cases, even if nonindigenous people are involved in traditional rituals or other emerging peyote circles and practices. The CDI also provides an anthropological analysis (*peritaje antropológico*) when trials involve the necessity of proving ritual use. Nevertheless, we were unable to access information regarding any instances where this occurred. Requests for data about arrests involving peyote and indigenous people were also submitted to CDI. The agency responded that they knew about several cases, but had not kept records on any specific incidents (CDI, 2013).

It is necessary to note that the licensing system implemented by CDI is preventative. The law does not specifically contemplate the use of licenses—and theoretically they should not be necessary—in contrast to the environmental permit issued by SEMARNAT, which is required by law. We also submitted an information request regarding the application for, and use of, environmental permits by indigenous peoples for the harvest and use of peyote (*L. williamsii*) and the related species *L. diffusa*. According to SEMARNAT (2013), no applications for permits have been received in the last 10 years. The results of our investigation cause us to conclude that the reforms of 2009 have not been entirely adopted by the competent authorities; neither does it appear

that indigenous people are fully aware of the availability of permits, or of their rights, or obligations, under this recent legislation.

LEGAL CASES

Official data and estimates on arrests involving peyote in Mexico have proven difficult to find. Nevertheless, we have been able to acquire some data on arrest rates over the last 20 years and have also uncovered a number of media reports that help contextualize the circumstances surrounding many of the incidents involving the detention and arrest of individuals found in possession of peyote.

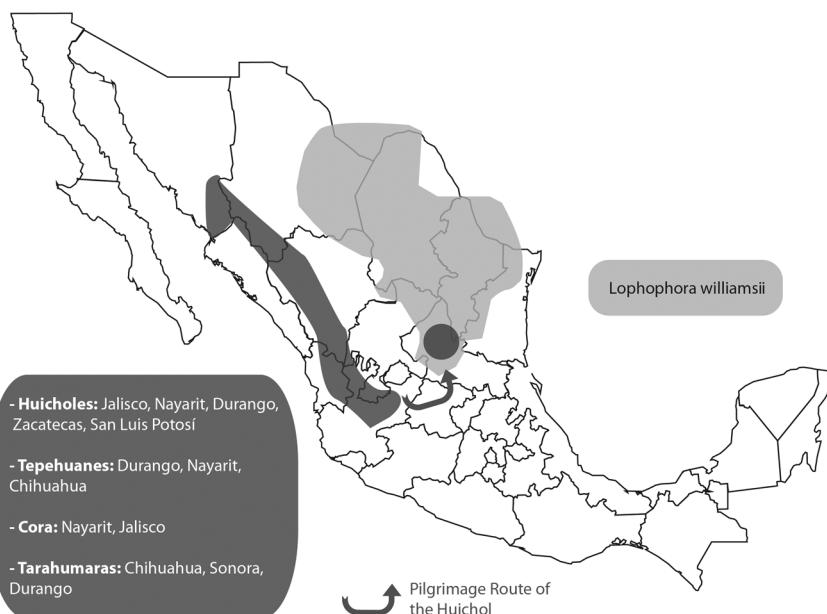
In order to obtain data regarding peyote arrests and prosecutions, an information request was submitted to the Office of the General Prosecutor (PGR, or Procuraduría General de la República, 2013) for the number of felony



Photo 11.5 A cluster of peyote tops, potentially sharing a single root, encountered in San Luis Potosí, Mexico. (Beatriz Caiuby Labate)

arrests involving the use or possession of peyote in states where traditional use is thought to occur. These states are not necessarily the same states where peyote grows (i.e., Chihuahua, Coahuila, Durango, Nuevo León, San Luis Potosí, Tamaulipas, and Zacatecas [Terry, 2008b, 2013]), although there is some overlap. San Luis Potosí, though not inhabited by any known peyote-using groups, is home to Wirikuta, the sacred land of the Huichol Indians as well as the destination of their religious pilgrimage to harvest peyote. Map 11.1 illustrates the geographical range of peyote's growth and traditional use.

In response to our request, the PGR reported a total of 69 arrests for the last 20-year period (see Table 11.1), with the majority of arrests occurring in the state of San Luis Potosí (40), the pilgrimage destination mentioned before. It would be logical to presume that the number of arrests would have declined after legislation protecting traditional use was passed in 2009; however, the data indicate an increase in arrests from 2009 to 2013, particularly in San Luis Potosí. The increased arrests during this period might reflect heightened tensions among peyote pilgrims, environmental activists, New Age practitioners, and the government over a controversial mining operation to be located in Wirikuta. In this case, the increased arrests would suggest targeted



Map 11.1 Traditional uses of peyote in Mexico, and areas where peyote grows naturally (Comisión Nacional para el desarrollo de los pueblos indígenas (2006). *Regiones Indígenas en México*. México: CDI; Terry, M. (2008). Stalking the wild Lophophora. *Cactus and Succulent Journal*, 80(6): 310–317.)

harassment of peyote pilgrims and their supporters, who are seen as standing in the way of economic development in the region. However, it is also possible that these arrests represent an increase in recreational use. Unfortunately, not enough information is available to determine whether law enforcement is continuing to target indigenous peoples with traditional uses or whether focus is shifting to illicit uses of peyote.

While the PGR report provides useful data, it lacks context. To fill in these gaps, we sought to identify media accounts of arrests that might provide additional details about who is being arrested, and why. We were able to identify

TABLE 11.1 Peyote Arrests in Selected States, 1993–2013

Year	State							Total
	Chihuahua	Durango	Jalisco	Nayarit	San Luis Potosí	Zacatecas		
1993	0	0	0	0	0	0	0	0
1994	0	0	0	0	0	0	0	0
1995	0	0	0	0	0	4	4	4
1996	NA	NA	NA	NA	NA	NA	NA	NA
1997	0	0	0	0	0	0	0	0
1998	0	0	0	0	0	11	11	11
1999	0	0	0	0	0	0	0	0
2000	0	0	0	0	0	0	0	0
2001	0	0	0	0	0	0	0	0
2002	0	0	0	0	0	0	0	0
2003	0	0	0	0	0	0	0	0
2004	0	0	0	0	0	1	1	1
2005	0	0	0	0	1	0	0	1
2006	0	0	1	0	3	1	5	5
2007	0	0	2	0	8	0	10	10
2008	0	0	0	0	1	0	1	1
2009	0	0	2	0	3	0	5	5
2010	0	0	1	0	4	0	5	5
2011	0	0	1	0	4	0	5	5
2012	1	0	0	0	4	0	5	5
2013	0	0	4	0	12	0	16	16
Total	1	0	11	0	40	17	69	

Source: Office of the General Prosecutor. (2013, October 7). Mexico City. Oficio con Folio 0001700248113: Response to information request. Copy on file with Beatriz Labate.

23 instances of arrest involving possession or transportation of peyote reported in the media since 1998. The media has reported arrests from around the country, but most of these have coincided with states where peyote is reported to grow naturally or where traditional use of peyote is known (see Map 11.1). The majority of the news items we found were reported in 2013, confirming data reported by the PGR.²⁰ It is important to note that, as corruption is widespread in Mexico, it is likely that some incidents with peyote are resolved through informal “financial transactions” between law enforcement and those involved. The general paucity of reports found in both the PGR report and the media suggests that arrests for possession or trafficking of peyote are minimal; however, interviews conducted during the course of our fieldwork suggest that harassment of indigenous groups by law enforcement continues to take place during ritual peyote pilgrimages.

The circumstances surrounding these arrests suggest a variety of motivations among those detained. The great majority of the reported cases involved simple “possession,” with a few exceptions where “possession with commercial intent” seemed evident (e.g., arrestees were in possession of guns or had criminal records). Possession cases were typically suggestive of either recreational use (e.g., arrestees in possession of alcohol or marijuana) or traditional use by indigenous peoples (e.g., individuals arrested collecting peyote as part of a traditional pilgrimage). The determination by the authorities of whether a case involved mere possession or possession with intent to sell appeared to be primarily influenced by the quantity of peyote involved, with reported quantities ranging from one button to 198 kg. Of the 23 cases we found, 7 involved suspicion of commercial intent. Of these, four included indigenous people who were likely gathering large amounts of peyote as part of their annual pilgrimage.

Among our sample of 23 cases, only 3 involved foreigners. No evidence was offered to suggest intent to export peyote in these cases. The ages of the accused ranged from 17 to 70 years old. In general, it seemed that the cases involving possession of small amounts (i.e., less than 5 kg) were associated with young adults, while cases with larger amounts and suspicion of commerce typically involved individuals over 35 years of age. Unfortunately, the news generally does not follow these cases past the initial arrest and detainment.

The most recent publicized arrest occurred on April 4, 2013, when a group of seven individuals were arrested with 198 kg of freshly harvested peyote in Wirikuta. Two of the group members were Huichol, but the remaining members were nonindigenous (Notimex, 2013). The arrests were probably based on the large amount of peyote harvested as well as the mixed nature of the group. Following this incident, an Internet campaign was launched in support of the arrestees, largely supported by individuals who appeared to be practitioners of current New Age peyote ceremonies. Charges of organized crime

were dropped, but the group remains accused of “transportation” under the General Health Law (Comunicados, 2013). According to our sources, all members of the arrested party were released after being detained for approximately 2 months. Whether charges will be pursued against any group members remains unclear. In the appendix we offer a summary of reported arrests that we hope will help to further illustrate and contextualize current attitudes and law enforcement practices regarding the possession and use of peyote.

CONCLUSIONS: CHALLENGES AND PARADOXES

The regulation of peyote in Mexico occurs at a complex intersection of environmental, human rights, public health, and religious and ethnic interests. The introduction of the exemption for indigenous use in the 2009 reform was an important step toward the recognition of indigenous rights. The broadly stated exemption recognizing customary use of peyote among indigenous communities provides some flexibility, perhaps allowing for some indigenous communities with “lost” peyote traditions to reclaim them, or for others with more secretive traditions to gain legal protection. It remains unclear, however, what standards the government will require to be met by groups claiming traditional use of peyote. If a cultural group has no written language, and if anthropologists or missionaries did not document historical practices, how will these groups be expected to demonstrate historical use to a satisfactory degree? Will oral histories suffice? Should communities with discontinued or “lost” peyote traditions be allowed to revive them? And how will the parameters of “tradition” be established? These are complex issues that have no easy answers, and which are increasingly important in the context of globalization.

One shortcoming of the current exemption is that it is limited to indigenous communities, excluding mestizo populations that developed at the social and cultural intersection of indigenous groups and colonial powers, and which now constitute the overwhelming majority of the Mexican citizenry. These populations, some of which maintain some indigenous customs and who also developed many of their own unique cultural practices, are as much a part of the culture and history of Mexico as are the indigenous groups whose cultures and traditions endured conquest and colonialism. It is at this intersection that we find use of peyote in folk medicine, *curanderismo*, and within emerging hybrid ceremonies and spiritual networks, all practices that remain unprotected in Mexico.

It is unclear how the Cora, Huichol, Tarahumara, and Tepehuan came to be recognized as groups with legitimate peyote traditions, and further investigation is required to understand how their practices came to be legally protected. A better understanding of these matters will be helpful to currently

unprotected groups in determining how best to establish their peyote traditions to the satisfaction of authorities. Newer peyote-using groups, who fall outside of the categories of “indigenous” and “traditional,” have developed practices that are difficult to simply dismiss as recreational or abusive. More anthropological inquiry into the nature of these groups may be necessary to determine what, if any, legal protections should be provided.

Penalties for folk and other nonindigenous practices involving peyote could be mitigated through the personal-use exception, which allows individuals caught with minimal amounts of a drug to avoid prosecution and incarceration; however, peyote is not currently recognized as eligible for this exception under the General Health Law. As a result, individuals caught with peyote intended for nonindigenous spiritual circles, or with ointments, tinctures, or other medical preparations of peyote, will be treated more harshly under the law than individuals possessing “personal” amounts of marijuana, cocaine, or heroin. While folk and contemporary spiritual uses may not be indigenous, many are not only customary practices but also medical ones. That such practices should be treated more harshly than the recreational or problematic use of drugs, particularly when therapeutic and ceremonial uses of peyote are protected among certain indigenous groups, suggests a serious disconnect in the current state of the law.

Peyote’s status as a species requiring “special protection” also demands attention. Although peyote is a limited resource, one on both national and international environmental radars, there is little research available documenting the vitality and scope of peyote populations, much less the potential risks to the species as a whole. Measuring the degree of threat to the cactus also poses difficulties, since there are multiple economic activities that affect wild populations in their natural habitat, and because only some uses of peyote are regulated. The permitting process is a positive development, but it is only the first step in protecting peyote populations and cultural practices involving the rare cactus. Uniformity in licensing and data collection is necessary to provide clear guidelines to indigenous communities and also to measure the successes and failures of the permitting system. Ultimately, additional conservation strategies may need to be explored.

There is a great contradiction between having the species considered under special environmental protection and also having it classified as a Schedule I drug, a status that limits the scope and type of potential conservation strategies. Because of peyote’s prohibited status, it is not possible for the plant to be cultivated in order to meet demand or for purposes of reintroduction to depleted habitat, both measures that could partially address environmental concerns. This perverse circularity seems to be problematic both for the plants survival and for the cultural traditions that surround it.

The role and involvement of various government agencies, including CDI, SEMARNAT, the Federal Attorney for Environmental Protection (PROFEPA), and the Offices of the Health Secretary and the General Prosecutor in regulating peyote remain vague. Further research to elucidate the actual involvement and role of each agency in this process is necessary. A more comprehensive and transparent system of tracking peyote-related arrests and prosecutions would provide much-needed information.

Despite a history of use spanning several millennia, there is still much to be explored about ritual practices involving peyote and how they have evolved across cultures and through time. Although a foundation appears to be in place for protecting traditional uses of peyote, the scope of these protections is currently limited and does little to address practices that have developed or evolved since colonial times. While the regulatory issues are complex, and the interests various, further academic research and public debate is required in order to develop a system that protects both the interests of peyote-using communities in Mexico and also the habitat and survival of peyote as a species.

APPENDIX: MEDIA REPORTS OF ALLEGED PEYOTE USE AND COMMERCE

March 16, 1998: The Mexican army arrested 21 Huicholes near Huejuquilla on their peyote pilgrimage. The group, which included men, women, and children, was in possession of 50 kg of peyote. Everyone was released after 2 days, but authorities did not return all of the confiscated peyote, and several religious artifacts were withheld (Hammett, 1998).

January 14, 2010: In Real de Catorce, five people were arrested on the road leading to the El Tecolote community, which sits along the path of the traditional Huichol pilgrimage route. The group possessed 900 peyote buttons, which weighed about 28 kg. Among the arrested were a 49-year-old British man; a 51-year-old German man; a 53-year-old woman from Puerto Vallarta, Jalisco; a 52-year-old woman from Michoacan; and a 30-year-old woman from Zapopan, Jalisco. The group was traveling with two children who reported consuming peyote provided to them by their mother, who was among those arrested. A marijuana cigarette was also found. The detainees were turned over to prosecutors, and the children were referred to the System for Integral Family Development (DIF in Spanish) (Redacción, 2010).

February 22, 2010: A group of Huichol from Tuapurie, Santa Catarina Cuexcomatitlán, Jalisco, were performing a ritual at Valentine Tank in San Luis Potosí when four state police patrols arrived and broke up the ceremony. The next day the police returned with cameras and threatened federal

sanctions under PROFEPA (Procuraduría Federal de Protección al Ambiente) for allegedly uprooting and damaging peyote plants. These events were later denounced by the Huichol community of Tuapurie as an abuse of police power and as an action taken in complete ignorance of protected Huichol custom (Del Castillo, 2010). This case stands out not only because it involved the interruption of a traditional ceremony but also for the peculiar fact that the authorities claimed to be enforcing (alleged aspects of) federal environmental law rather than drug laws.

October 13, 2011: Tourists were arrested in the Emeterio Tank in San Luis Potosí for possession of 225 peyote buttons with the intent to distribute. Among the arrested were six Mexicans (four from Guadalajara, one from Sinaloa, and one from Tecate, Baja California) and two foreigners (a Swiss national, who was accompanied by a small child, and a German national) (Plano Informativo, 2011; Redacción, 2011).

NOTES

1. There are several species within the genus *Lophophora* that are similar in appearance to *L. williamsii* and that are sometimes referred to as “peyote,” including *L. diffusa*, *L. fricii*, *L. koehresii*, and *L. alberto-vojtechii*. The term peyote is also applied to other cacti, such as *A. asterias*, which are not part of the *Lophophora* genera. When we use the term “peyote” we are referring specifically to *L. williamsii*. *L. diffusa* is also psychoactive, but this is due to the presence of pellotine, a sedative-hypnotic alkaloid. Mescaline is not known to occur in other species of *Lophophora*.

2. Although these ethnic groups are widely associated with the use of peyote, traditional practices are not necessarily followed uniformly throughout these groups, and cultural practices often vary from community to community.

3. *Peyotism* refers to the religious or ritual use of the peyote cactus.

4. There has long been controversy surrounding Castaneda’s work, which is considered by some critics to have been largely fabricated (see De Mille, 1976; Fikes, 1993).

5. Participant observation of contemporary hybrid peyote rituals was conducted by Beatriz Labate in Mexico in 2013 and 2014 and Brazil in 2008.

6. Another study in the same year (Colectivo por una Política Integral hacia las Drogas 2012) found rates of peyote use as high as 17.5%, but these results are questionable. The study used a process known as “snow-ball” sampling, which usually produces a fairly homogenous group of survey participants, and consequentially, there is little that can be inferred about the habits of the general public.

7. The Mexican Supreme Court recently cited the ITPC in a decision to enjoin government construction of an aqueduct on the Yaqui River after it was shown that the project would significantly impact the water rights of Yaqui Indians and that the government had failed to consult the Yaqui regarding the project (Supreme Court of Justice, 2013).

8. One of the first recognized health crimes was drug addiction, or “toxicomania.” This is a curious category, which implies that people with “drug problems” are afflicted with a pathological health condition (drug abuse/addiction) that compels them to criminal behavior. For a history of the appearance of “toxicomania” as a crime in the 1930s, see Pérez Montfort (2000), and for a history of drug regulation since the late nineteenth century, see Campos (2010).

9. The Spanish term “salubridad” directly translates to the obscure English word “salubrity,” meaning health promoting. For simplicity sake, we have translated the term as “wellness.”

10. Digitalis is obtained from foxglove (*Digitalis purpurea*) and compounds isolated from it are widely used in medicine in the treatment of heart conditions.

11. Note that this department is different from the Board of Wellness and the General Wellness Council, despite the similarities in name (for more information on Mexican agencies, see Instituto Nacional de Estudios Políticos, n/d).

12. Also important to this discussion is the fact that the Mexican Constitution provides its citizens with what are known as “individual guarantees” that are meant to protect both basic human and otherwise fundamental rights of citizenship (Constitución, 2013). Among these guarantees are specific protections pertaining to religious freedom, which can be found in Articles 24 and 130.

13. Indigenous persons may theoretically avoid arrest entirely by applying for a permit for the possession and transport of peyote (see *Licensing for Peyote Use and Possession*).

14. Though not technically punishable by jail time, individuals in possession of personal amounts are still considered offenders and may be subject to arrest, temporary detainment, and investigation in some cases.

15. Some have questioned how progressive these changes were, noting that the quantities established for some substances may be too restrictive to account for actual “personal use” amounts. For a discussion on drug regulation and sentencing in Mexico, see Madrazo Lajous (2014) and Pérez-Correa (2012).

16. As said before, the quantities recognized by the law are questionable. In the case of LSD, this is largely an empty gesture since the allowed amount for personal use, 15 micrograms, is less than one-third of what is generally considered to be a threshold dose (Ott, 1993).

17. Medical uses and preparations of peyote, such as ointments and tinctures, might also implicate health and medical regulations.

18. Under CITES, the trade in some protected species is allowed under a limited exemption for medicinal uses. Currently, *L. williamsii* is not included within the list of plants for which a medical exemption is available. Since the Mexican system is subjected to the provisions of this Convention (as explicitly mentioned in Mexico’s Wildlife Act), the trade in *L. williamsii* for medicinal purposes is not currently permitted. This applies not only to internal preparations but also to ointments.

19. We have also been informed that some Huicholes have previously made petitions to the CDI authorities requesting that seized peyote be returned to them after charges have been dropped. Confiscated peyote is typically burned, a practice

that has clear ecological implications for a species that already requires “special protection.”

20. However, these searches were conducted online, and there may be a search engine bias toward more recent news items.

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Why Peyote Must Be Valued as Biocultural Patrimony of Mexico

Mauricio Genet Guzmán Chávez

In this chapter, we explore the benefits and risks that could follow a declaration of peyote (*Lophophora williamsii*) as biocultural patrimony of Mexico. Transforming the negative valuation Mexican authorities have regarding this plant—which they believe is a drug lacking any therapeutic value—into a positive one that recognizes its potential therapeutic and religious benefits is not a simple task. In this exploration, it is necessary to turn to anthropological (cultural) and biological (conservation of species) arguments in order to understand the dimensions of a peyote field that is not restricted only to certain indigenous groups, and thereby analyze the problems related to its use and preservation. What type of information, competencies, and responsibilities should the institutions and the diverse actors involved assume?

The patrimonial value we will refer to contains the basic elements needed to rescue from the shadows a plant demonized first by the religious and civil Spanish authorities, and then by the Mexican State, but one that has ridden out the winds of repression for more than five centuries and reaffirmed its value as an element that has links to territory and identity. The biotic heritage that composes its fine chemical nomenclature is ancient heritage kept by the Coras, the Huichol (Wixaritari), the Tarahumara (Rarámuris), and the Tepehuan people, and has been recovered and resized by a growing group of nonindigenous people, including young people, not only in Mexico, but from urban centers all over the world, who go to the places where it grows wild to affirm their identity and purpose in life in the midst of globalization.

This discussion has a prospective nature, with the final goals of regulating peyote's use by indigenous and nonindigenous groups, contributing through management plans to its propagation and preservation, and creating the legal conditions for the study and research of its therapeutic properties.

These reflections are inspired by the process of patrimonialization of the coca leaf in Bolivia and Peru, and of ayahuasca and the kené designs of the Shipibo-Conibo tribe in Peru (Belaunde, 2009, 2012).¹

Even when a series of international documents are observed for the protection of cultural and environmental heritage, each country possesses its own historical legacy of legal regulations to name and protect its patrimony. Therefore, it is necessary to revive the Mexican debate on patrimony in order to be able to discuss the possibilities, benefits, and doubts about peyote as biocultural patrimony of the nation (Sánchez, 2012). We are interested in emphasizing the distinctiveness of peyote as a key element in the biocultural diversity of Mexico and the semiarid ecosystems, specifically the Chihuahuan Desert (see Map 12.2). Regarding this, we want to highlight the contemporary interactions between humans, the plant, and the environment. If peyote patrimonialization has benefits, according to the above-mentioned goals, we would need to speculate about the mechanisms, the rules, and the responsibilities that those involved would have to assume so that such recognition does not stagnate, but will instead facilitate an original and innovative process of cultural change.

PATRIMONIES IN MEXICO: IDENTITY, CULTURE, AND TERRITORY

In its original meaning, “patrimony,” from Latin *patrimonium*, referred to what is possessed or acquired by inheritance or family legacy. In its contemporary use, its meaning has expanded to express a number of common properties, material and intangible, natural and cultural. These inheritances represent a limited selection of the total properties that a group, a community, a nation, or the whole of humankind consider emblematic of their cultures. Patrimony or heritage is classified by scale (regional, national, global) and by the cultural thematic fields applied to material heritage—historical, architectural, archeological, natural, and immaterial—or intangible heritage: myths, rituals, gastronomy, music, and oral traditions (United Nations Educational, Scientific, and Cultural Organization [UNESCO], 1972).

Every heritage has at the same time both a material and an intangible or ideational dimension. We cannot isolate the technical knowledge and ideological cosmologies that were essential for the location and definition of the architectural characteristics of mute archeological temples. In another example, that of regional cuisine, the gastronomy of one people or culture is formed by ingredients (fruits, herbs, and fauna) and a series of practices that necessitate management of the environment and impact the process of adaptation and coevolution between people and their environment. As a natural element of the landscape, peyote is associated with a series of practices and mythical-

ritual knowledge and is incorporated symbolically and materially as an intermediary between humans and gods. By emphasizing the notion of biocultural heritage (a term not recognized in the international UNESCO regulations, nor in any national rulings), we put special emphasis on a permanent and logical culture-nature interaction (Patrick-Encina & Bastida-Muñoz, 2010).

NATIONAL PATRIMONY

Gilberto Giménez (2005) and Claudio Lomnitz (2013) have discussed the instrumentalization of patrimony for political and ideological purposes from different perspectives. In this regard, patrimony's profile matches the homogenizing and integrationist or assimilationist nature of modern nation-states (Díaz Polanco, 2003) and their engagement with globalization, that is, "the expansion, at planetary scale, of the capitalist order under its neoliberal modality" (Giménez, 2005, p. 179).

The "patrimonialist ideology," or "patrimonialism," refers to a phase of using cultural control as a domination strategy that the hegemonic group of the state exerts against the majority. The idea of national patrimony is not just a historical construction for the service of the elite groups, but a malleable idea that is embodied in the power of sociopolitical relationships (Cottom, 2006; López, 2011; Melé, 1998). Patrimonialism represents a selection of, to a certain extent, arbitrary elements (symbols, objects, architectural complexes, landscapes, etc.) with the main objective to reinforce the idea of an origin-destiny community (Cottom, 2006). In addition, by symbolizing, through metonymy, the group of cultures that form the pluricultural Mexican nation, national patrimony imposes itself through education and civic events as an ideological mold, totalizing and unconnected to historical and regional particularities.² Apart from their internal function, national patrimonies maintain an exterior performance, because they affirm originality and distinction in front of strangers. To this extent, patrimonial properties acquire an economic valuation and can easily be incorporated as tourist attractions (Chaumeil, 2009; Machuca, 2004). Nowadays, there is no way to separate the topic of patrimonies from that of the tourism industry. Today, Mexico has 32 designated positions (26 as cultural heritage, 5 as natural heritage, and 1 as mixed heritage); it also has seven traditions and celebrations recognized as intangible cultural heritage. As a result of these designations, Mexico is regarded as the country with the most patrimonial heritage in the American continent and is sixth, alongside India, worldwide. In addition to these, Mexico has signed 24 properties to UNESCO's indicative patrimony list. Among these properties, we find the *Huichol Route through the Sacred Sites to Huiricuta*, a file presented by the Mexican government and prepared by the National Commission for the Development of Indigenous Peoples

(CDI) in the midst of the mining conflict in Huiricuta, which was severely criticized by the indigenous Huichol people themselves.

PATRIMONY AND INTERCULTURALITY IN GLOBALIZATION

There is no doubt that heritage will continue being a value exaggerated by nation-states. Nevertheless, it is important to recognize the transformations in this concept that unavoidably refer to cultural and economic matters in the globalization field. As several authors have demonstrated, globalization does not suppose the abolition of cultural particularities. In fact, it implies a new series of challenges for the safeguard and protection of patrimony. Arizpe (2006a) recognizes that it has been a long international debate process to overcome the monumental, historical vision of patrimony and to integrate a wider notion that covers cultural expressions and distinctive daily practices of diverse groups. This has given rise to the recognition of regional heritage (such as cuisine or certain Mesoamerican rituals) that, even if limited to a specific territory, are part not only of a country's richness but also of humanity's.

The idea that the state, or whomever permits the creation and preservation of patrimonial properties, has absolute responsibility for them is quite limited, however. States are the ones in charge of creating the new frameworks and public policies necessary to avoid deterioration, sacking, and loss of the patrimony. But because they are public property, they demand attention, care, and compromise among diverse actors: governmental employees, businessmen, academic institutions, local inhabitants, tourists, and nongovernmental associations. Cultural hybridization processes are a reality that mark globalization's course in such a way that mainly today (though in the past it was also like this), cultures and patrimonies are recreated from their connectivity, influences, and contacts with other cultures. Everything demonstrates that cultures are part of a cultural continuum where they invent themselves, interchange, and redefine uses and customs in each generation. While a solid core is kept in the heart of any tradition or body of knowledge and practices, many elements are refunctionalized and assembled according to communicative and economic global demands. This can be said regarding the use of entheogenic plants that ritual contexts have transferred to the metropolis, or that simply have expanded beyond their cultural frontiers (Basset, 2011; Labate & Cavnar, 2014); for example, the Mexican dances of pre-Hispanic origin (De la Torre, 2008), the Huichol votive bowls, or Shipibo kené designs acquire certain value in the market of psychedelic tourism (Belaunde, 2012; Kindl, 2003). Increasingly, larger numbers of people are practicing multiple religions, cultures, or thinking systems, taking and bringing elements that reinforce, modify, and give "local" cultures a new sheen (Arizpe, 2006b).



Photo 12.1 Peyote ceremony and offering by a nonindigenous group in Wirikuta, San Luis Potosí, Mexico, November 2012. (Mauricio Genet Guzmán Chávez.)

For some people, this free circulation, or hybridization, is a matter of preoccupation they plan to build taller walls in response to. This is no doubt a menace that hovers over tradition in the eyes of purist “guardians of tradition.” For others, this phenomenon is part of interculturality, in which the dynamics of economy and world culture move not only in the heterogeneity of the groups and their adjustment to global pressures but also in their coexistence with the interior of the same society of codes and very diverse tales, moving in this way the experience of identity we have had so far (Barbero, 2005, p. 166).

Unlike multiculturalism, and still attached to a kind of apolitical peculiarity, interculturality supposes interaction as a positive field to recognize difference, equity, and cultural innovation. In this case, cultural frontiers are in constant redefinition. Under those terms, we understand that a patrimony is circumscribed to a certain place or linked to a series of cultural practices that a specific group has kept through time, but modernization processes, circulation of goods and cultural properties, practices, and ideologies have caused patrimonies to be universal or to create audiences beyond their own national frontiers. This universalization is a result of media devices, the global tourism system, and the individualization processes that make it possible for all cultures to be reached or penetrated.

Mexico is a pluricultural country, formed by more than 62 ethnic groups that speak more than 85 languages and dialectic variations, altogether; this

cultural diversity is a direct correlate of biological diversity (Boege, 2008; Instituto Nacional de Estadística, Geografía e Informática [INEGI], 2004; Toledo, 2010). Throughout history, before the Spaniard's arrival, indigenous groups developed very specialized cultures that, at the same time, were part of wider cultural fields. These cultural fields (Mesoamerica, Aridoamerica, etc.) were never very precise, nor were their frontiers fixed. On the contrary, archeological and ethnohistorical research allows us to see a complex and intricate flow of merchandise, material and symbolic goods, and people (see Map 12.1). These intercultural pre-Hispanic relationships did not disappear completely; they changed, and new ones emerged on the colonizer fronts and in the center of the miscegenation process itself. One way to grasp this miscegenation has been through cunning, a formula expressed in the separation between indigenous and nonindigenous people that is recorded in the daily processes of racism. The other, which we are interested in, is the one suggested by Bonfil (1987) in his work *Deep Mexico*, a theoretical proposal that criticizes the model of Mexican national construction because of its Eurocentric tendencies. Instead, he proposes recovering the identity and territorial roots of Mexican people: something that clearly permeates the re-Indianization or neo-Indianization processes (Galinier & Molinié, 2006) linked to the defense, recovery, and reinvention of the traditions that include the consumption of peyote.



Photo 12.2 Stroll to Cerro Quemado, Wirikuta, by nonindigenous peyote pilgrims, San Luis Potosí, Mexico, March 2012. (Mauricio Genet Guzmán Chávez.)

It is not only about tracking the roots, or asking in which moment the mixture congealed into what today is erected, regarded, or defined as patrimony, but also about seeing and analyzing the cultural practices within diachronically and synchronically built intercultural relationships. Intercultural relationships potentiate the spread of practices and beliefs, do not run out, are reinvented, and resurrect. This is a basic principle to understand: how a psychoactive cactaceae from the desert has been able to circulate for many centuries, through sieges and fanatic proscription, and still preserves its essential characteristics, related to its territory's vitality (e.g., Huiricuta) and to its therapeutic potentials and ritual aesthetic associations.

All this is of high importance for the case of peyote as biocultural patrimony; there is a great diversity of involved parties that should start looking at each other in terms of a global group.

PEYOTE AS NATIONAL HERITAGE

The simple and easy way to insist on a declaration of peyote as national heritage would be to integrate a dossier about the importance of peyote in indigenous cosmology. Beyond being merely an emblem or folkloric cultural feature, it would fit a solid line of argument of the central role that this cactus plays in the mythic ritual universe of these groups. In a certain way, this argument is the one that makes possible Mexico's exception to the Vienna Convention on Psychotropic Substances. However, we believe this matter sends us to a greater complexity. We observe a peyote field that overflows its ethnic frontiers and spreads itself beyond national frontiers (Basset, 2011; Guzmán, 2014). In the same way, we see a great variety of participants working locally and trans-locally, in one way or another, collecting it, who could potentially influence specific frameworks for its preservation, propagation, and study (Hollander, 2012).

What benefits could be realized by declaring peyote as national cultural heritage? We think this is a goal to be built step by step, boosting or creating gradual declarations from below, from the municipal competencies themselves, up to a national one, and finally, to international recognition. Taking this question into account, we will build a line of arguments in the next sections that will result in an explicit recognition of the possible benefits. In the following, our analysis is based on a region of the Chihuahuan Desert, the Huiricuta zone, located in the high plateau in San Luis Potosí. It is at the center of debates regarding peyote. In spite of this focus, we want to emphasize a degree of generality, because the problem of illicit sacking of peyote, even with its particularities, is just part of a bigger problem of illegal sacking of cacti in Mexico.

BIOCULTURAL LANDSCAPES OF THE SEMIARID CHIHUAHUAHAN DESERT

Peyote is a plant of the cactaceae family that is distributed in certain areas of the Chihuahuan Desert, from South Texas to Guanajuato's northeast. It is a typical plant from semiarid ecosystems, exclusive to the American continent. As such, it is part of the landscape's totality, and therefore, it is a little bit illogical to talk about its preservation without considering all the elements around it. We think of the biocultural landscapes of the semiarid Chihuahuan Desert as a long process of coevolution between animals and plants.³ This evolution implies adaptive processes for specific climatic, orographic, and topographic conditions. The Chihuahuan Desert is an interior desert; that is, it is fenced in by two majestic mountain ranges that go through it vertically from south to north, the Sierra Madre Oriental and the Sierra Madre Occidental, and across by the Trans-Mexican Volcanic Belt (see Map 12.2). They create an orographic shadow that hinders a regular and abundant discharge of rain; when the clouds run into the mountain ranges, they discharge most of their water in the external slopes of the desert pocket, a zone where there are average records of between 300 and 500 mm³ of annual rainfall. In these relative low-humidity and high-insolation conditions, vegetation adapted by creating mechanisms to retain water. Vegetal associations known as microphyll, xeric, and rosette shrublands alternate with the yucca, agave, and *prosopis* spp. populations that make up the ecosystems where peyote grows.

Indigenous groups that inhabited these vast landscapes before the Spaniards' arrival in the sixteenth century belonged to several linguistic families. These groups were organized as hunting-gathering groups, and they practiced nomadism as part of a tradition known as "desert cultures" that goes back 10,000 years to antiquity. Even considering the use of a simple technology, these hunting groups left their footprint in the landscape through the harvesting of fruit, flower, and seed, and their dispersal. This process did not stop with the Spaniards' arrival and the introduction of agriculture and the husbanding of ungulate animals (goats and sheep) and bovine and equine livestock (donkeys, mules, and horses), but it followed other directions in the semiarid biocultural landscape.

Royal mines, and associated mixed-crop and livestock farming and the extractive hinterland, played a defining role in the next four centuries. This radical transformation in production processes and relationships created new perceptions, knowledge, practices, and uses regarding the environment and resources, but they definitely did not cancel the nomadic spirit. Knowledge about weather and about the uses and properties of a large number of animals and plants were preserved within the *mestizo* (local people) hunting techniques (Guzmán, 1998). Huichol or Wixaritari people preserved

nomadism by making a pilgrimage every year from Sierra Madre Occidental to the Chihuahuan Desert in part of the high plateau of San Luis Potosí, or Huiricuta, as they call it. In their route of more than 500 km, they visit and give offerings in sacred places according to their cosmology. In this pilgrimage, they relive the fundamental act of the creation of the Sun. According to the mythic tale, the birth of the Sun was caused by the self-sacrifice of a deer-boy whose footprints are peyote's buds. Wixaritari people do this pilgrimage from November to March, in drought season; the birth of the Sun is considered as the emergence of a new cycle. Pilgrims relive this moment as a necessary action to add dynamism to life. Their sacrifice and fires will work to summon the clouds that will discharge water over the agricultural fields where they live.

We do not know the exact age of this ritual pilgrimage—some authors say that it is at least 2,000 years old—such that we can really infer it is continuous in relation to the nomadic cultures that inhabited all the areas north of Mexico and into the southeast United States. The Huichol route is probably the only current route among hundreds of routes and roads traversed by countless nomadic groups to feed themselves with peyote and harvest it. Biocultural richness is reflected in that route, but only to the extent that it makes obvious the activity in a specific territory: the ecosystem of the semiarid Chihuahuan Desert, where a precious cactus, whose essential attribute is to make communication with the ancestors possible, is harvested and consumed.

In this respect, it is worth briefly revisiting the polemic about “the patrimonialization of Huiricuta,” which rises in the context of the conflict. In February 2012, the federal government, through the CDI, submitted the papers to include the Natural Sacred Sites of the Huiricuta, specifically the Huichol Route of the Sacred Sites, in the List of Intangible Cultural Heritage in Need of Urgent Safeguarding. This file, in spite of having the support and signatures of academic institutions and traditional Wixaritari authorities—members of the Wixarika Union for Ceremonial Centers, Jalisco, Durango, and Nayarit A. C. (UW)—was contested by another organization in May of the same year, the Wixarika Regional Council (CRW). This organization, bastion of the antimining struggle, basically presented two arguments against it: first, failures and inconsistencies in the consultation process, a fundamental requirement in UNESCO's protocols to form the file, and second, because the proposal of intangible cultural heritage dissociates traditions and cultural expressions—dances, rituals, language—from their physical references and natural elements. Besides, the governmental initiative overlooked a process that started in 2004, headed by nongovernmental groups and organizations linked to the CRW, to include this site in the list of World Cultural and Natural Heritage Sites (Mixed). For the opponents of the mining projects, only this modality would guarantee the protection of

the territory (history, culture, physical elements, and environmental aspects, including, obviously, peyote) and not the deceitful, in this case intangibility, formula (Reyna, in press; Vargas, 2012).

To sum up, biocultural heritage is, first of all, a living patrimony because indigenous people have practiced it since immemorial times. In the case of Wirikuta, where there are local settlers and Wixaritari pilgrims, this patrimony possesses an intercultural dimension; the practice has not been stopped in spite of the changes in the landscape. Informal agreements or custom itself has made it possible for local settlers to allow the free passage of indigenous people over their lands. The historical relationship between indigenous people and mestizos has been relatively smooth; they have been able to share the territory. The same can be said, though with more frictions, about the relationship between contemporary nonindigenous pilgrims and local mestizos; the use of resources valued by some and not others had been an issue before the announcement in 2010 of new mining projects (Guzmán & Kindl, in press). The difficulties, then, are located in another level: where the territory and its resources are perceived under the extractivist logic dominated by the market forces. In order to encourage the declaration of peyote as natural heritage of Mexico, we cannot ignore two processes that seriously threaten the integrity of biocultural landscapes in the entire Chihuahuan Desert: illegal trade of cacti and the projects of great impact such as mining, roads, and agro-industries.

ILLEGAL EXTRACTION OF CACTI: THE EROSION OF A HERITAGE

The cacti family is native to the American continent and includes three subfamilies of perennial plants, that is, those that live for more than one season: *Perekoideae*, *Cactoideae*, and *Opuntioideae*. This includes the cacti popularly known as *nopales* (opuntias) cacti, bisnagas, and Organ Pipe Cacti (columnar cacti); about 2,000 species are included. In Mexico, this family occupies the fifth place in biodiversity, with approximately 55 genera and around 913 taxa, of which 80% are endemic to Mexico.

This makes Mexico the richest country in biodiversity of this kind of plant. Seventy percent of cacti grow mainly in arid and semiarid climates, but we can also find them in moderate climate environments, tropical regions, and even in zones where it snows during winter. According to specialists (Bárcenas, 2006; Becerra, 2000; Bravo-Hollis, 1978; Mandujano, Gulobov & Reyes, 2002), the Chihuahuan Desert, which extends from the states of Texas and New Mexico in the southeast United States to San Luis Potosí and part of Guanajuato in Mexico, is without a doubt the most important region for the conservation of cacti. In this vast area we can find 329 native species.

It is also probable that the highest number of endemic species exclusively localized inside a national/local territory worldwide is found in Mexico with 18 genera (35%) and 715 species (84%).

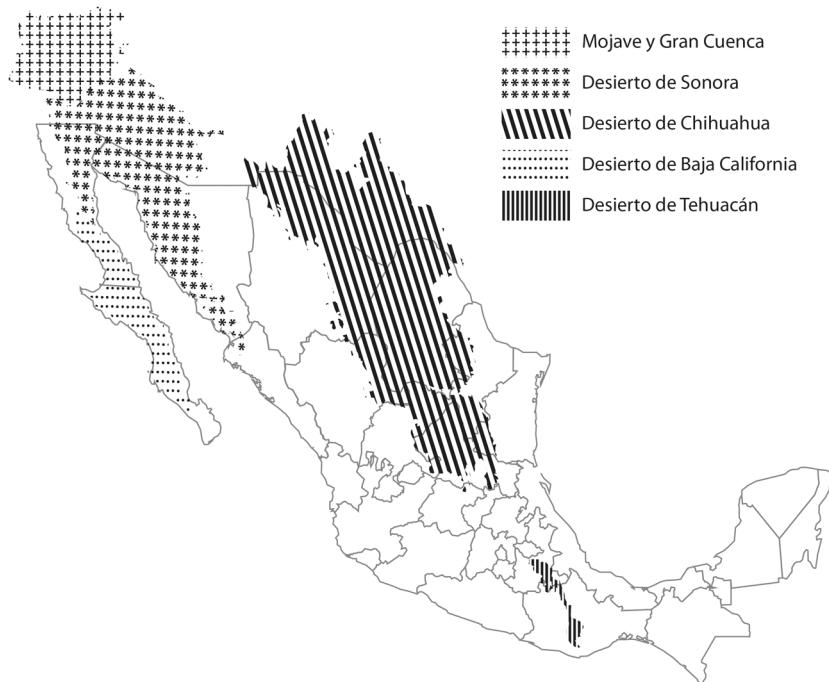
Cacti, including peyote, are illegally trafficked both nationally and internationally. The first sackings were done during the early voyages of the Spaniard ships, but there is still an intense traffic due to demand by private collectors, academic institutions, and botanical gardens from all around the world. These sackings of seeds and mature specimens are sometimes made through the fraudulent granting of permits by institutions. Mexican experts on the subject have sorrowfully noticed how this rich heritage is being rapidly lost, and they point in their conclusions to different strategies for conservation and propagation of peyote.

Some relevant data about this trafficking tell us that more than 300 species from the Chihuahuan Desert (out of the 329 total) are commercialized outside the country and that practically 100% of the cacti that grow in Mexico have been reproduced in the Canary Islands of Spain (Cerón, 2006). The countries that lead the commerce of cacti in order of importance are the United States (288 species), the United Kingdom (197 species), Germany (185 species), with Sweden, Mexico, Spain, Italy, and Canada accounting for most of the rest. In Mexico only 97 species are commercialized and 3 of them are exclusive: They cannot be commercialized outside the country. Mexico has commercialized only 28.6% of the total number of species that are commercialized in the United States, even though most of these are species endemic to Mexico (Bárcenas, 2006).

According to the most diligent report about cacti trafficking, in 1982, 73,000 live, wild cacti were illegally imported to the United States from Mexico. This apparently changed, and in 1998 the records show imports of



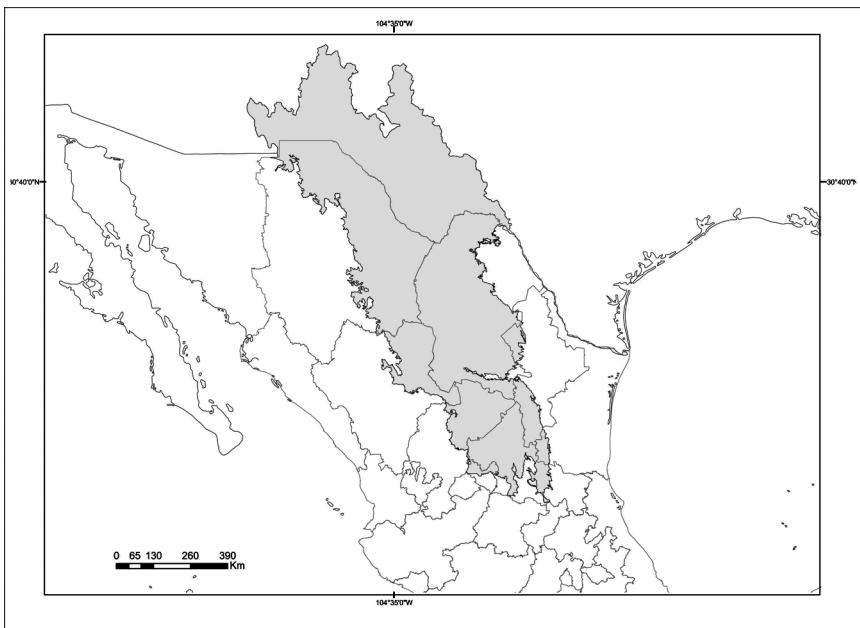
Photo 12.3 Bisnagas cabucheras (*Ferocactus pilosus*), appreciated for their fruits, which are used to make delicious meals. (Abdel Deus.)



Map 12.1 Desert regions of North America. (María Margarita Molina Ronquillo.)

only pieces of saguaro wood (*Carnegiea gigantea*) and cholla (*Opuntia fulgida*). However, the U.S. Department of Agriculture reported that, in that same year, 800 cacti specimens were confiscated from travelers who were going through the United States from Mexico. The next year, in 1999, there were more border seizures; around 480 cacti were extracted from the luggage of travelers who crossed the Mexican-American border (Robbins, 2003).

Between 1996 and 2000, Mexican and Dutch authorities seized more than 8,000 cacti specimens. Additionally, 1,180 were confiscated in American ports from travelers who were going back to or were passing through the United States. Out of those specimens, probably 321 (27%) were species from the Chihuahuan Desert. By comparing the seized specimens with their corresponding scientific name, it was noticed that practically all taxa were native to Mexico and were probably gathered in the wild. In 2000, more than 900 live Mexican cacti were reportedly seized in the Netherlands, surpassing the number of seizures in the combined nine Mexican states in that year. Between 1996 and 2000, Mexican and Dutch governments seized more than 5,100 specimens, representing 75 species that were probably gathered in the Chihuahuan Desert (Bárcenas, 2003).



Map 12.2 Chihuahuan Desert. (María Margarita Molina Ronquillo.)



Photo 12.4 Chihuahuan Desert during rainy season, when all life blooms. (Abdel Deus.)

ILLEGAL PEYOTE TRAFFIC

Peyote is found in scattered colonies in eight states of the Mexican Republic (Guanajuato, Aguascalientes, San Luis Potosí, Coahuila, Durango, Nuevo León, Chihuahua, and Tamaulipas). It is found in the north and northeast in shared lands and agricultural communities, but also on ranches and private properties. To this date, we do not have any exhaustive studies about the conditions of the different peyote populations in the states that host them, let alone inventories or official statistics by district or region. Neither are there any quantifications of the peyote gathered by the “authorized” indigenous groups that use it regularly. A lot has been speculated about the local illegal traffic and the practice of making “goma de peyote” (peyote paste), prepared by decoction over slow heat with clean plants, or the practice of pulverizing it. In both cases, peyote loses water, but retains its alkaloids and is easier to consume directly. But even when there are news reports about the detention of individuals transporting between 100 and 200 buds, or other smaller quantities, there are no data that reveal regular traffic on a large scale.

As signatory of the United Nation’s Convention on Psychotropic Substances in 1971, Mexico has adopted a narrow and limited posture regarding peyote. By accepting, under U.S. pressure, that peyote will be included in the Schedule I list as a psychotropic without any therapeutic value, the opportunities to establish scientific investigation projects to validate its therapeutic properties were considerably complicated. Undoubtedly, the reservation, attached by the Mexican government and ratified in 1975, pertaining to the uses and customs of the indigenous groups in Mexico, and supported by the Fourth Constitutional article, was important because it permitted, at least, the groups that make ancestral use of the plant, as well as of fungi with psychotropic properties, to continue their consumption without any restriction. Despite this, police authorities regularly repress indigenous people, disrespecting this right. Harvesting, consumption, and transportation of peyote is punishable with imprisonment ranging from 1 to 5 years, or even more, depending on aggravating factors, according to the Penal Code. Nevertheless, due to its wild availability and the expansive territory where it grows, and in spite of various detentions, the number of consumers has grown constantly, especially since the 1960s, because of several reasons, among which was the diffusion of peyote culture.

The Mexican government is also a member of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), from which it generated its own normative framework for wildlife conservation. In this framework, it is the Secretariat of Environment and Natural Resources (SEMARNAT) that acts as an administrative authority and the National Commission for Knowledge and Use of Biodiversity

(CONABIO) as a scientific authority. These authorities have at their disposal an instrument known as the Official Mexican Standard 059 (NOM-059). In both the CITES and the NOM-059, species are divided into three appendices. In the first one, there are those species that are trafficked that are imminently endangered. In the second, we find the species that are not imminently endangered, but for which commercialization must be controlled in order to avoid their deterioration and assure their survival. In the third, there are those species that might be endangered in at least one member country of the CITES.

Mexico has faced pressures for some cacti today in Appendix I to be included in Appendix II because of the commercial interests of some countries that traffic them and currently reproduce them in their nurseries (Benítez & Dávila, 2002). Ironically, in the case of peyote, the situation is different. Within the NOM-059, two species are recognized: *Lophophora williamsii* and *L. difussa*, the latter with two subspecies: *difussa* and *viridiscens*. Both *L. difussa* and *L. viridiscens* are endemic. The first one is classified as threatened, and the second one as endangered. *L. williamsii*, which is not endemic, as it can also be found in the United States, is labeled as subject to special protection; that is, it is not at risk or imminently endangered. This valuation is highly important because, in the international context, there are contrasting positions that allow us to appreciate the sacking and consumption from a wider perspective.

Now we will present some examples of reports published in the written press about detentions because of “illegal” traffic of peyote in the last 8 years. Most of them refer to harvests in San Luis Potosí, particularly within the Natural Sacred Site to Huiricuta. Environmental organizations denounced that SEMANART’s General Direction for Wildlife illegally authorized the export of 91,000 cacti, among them, 300 peyote plants. Accusers affirm that out of 265 certificates, only one had the scientific approval of CONABIO (Enciso, 2006). In another journalistic report, it was announced alarmingly that peyote could disappear in 12 years. One of the people interviewed, a well-known archaeologist from San Luis Potosí, affirms that one of the greatest threats is the small-scale traffic (*tráfico hormiga*: “ant traffic”), which involves farmers and tourists themselves. There is also a traffic network that supplies North American and European markets, where consumers pay considerable amounts of money (Lucas, 2010). In 2012, the chief of the Secretary of Ecology and Environmental Management (SEGAM) declared to the media that “groups of hippies” are still recklessly sacking peyote plants for hallucinogenic purposes (Gutiérrez, 2012; Pacheco, 2012). Another report tells that seven individuals, included five mestizos, were detained driving a pickup van with Nayarit license plates in the municipality of Charcas. In the van, they found bags, sacks, and coolers with 198 kilograms of peyote. Passengers were held and remitted to a high-security prison for more than 30 days (El Sol de Nayarit, April 8, 2013). This report had a big impact on the media, because

it was about two Huichol people, one of them a *marakame* (shaman) and another his son, coming from the Tateposco Ceremonial Center in the indigenous Taquepescan community in Santa María del Oro, Nayarit. In this case, police authorities were accusing everyone, without considering the rights Huichol people are granted to transport this plant; the mestizos, it was later claimed, were simply companions.

The production dynamics and consumption observed in the United States, particularly in the Native American Church, is the most revealing place to start discussing illegal traffic of peyote in Mexico, in our opinion. In this congregation, which has at the core of its ceremony the consumption of peyote, there are more than 250,000 members (this is a conservative estimation because we do not have recent data). For them, the principal and “unique” source of supply are the “desert gardens,” private ranches located in the plains of Mustang, to the south of Texas. In these gardens, the authorities have granted permits to certified “peyote people” to harvest in the ranches, with the required authorization of their owners. According to reports from authorities in this state, between 1995 and 2001, an average of 2.1 million pieces were harvested (Robbins, 2003). Several records have pointed out that this pace of extraction has considerably reduced the size of the buds (Anderson, 1995; Morgan & Stewart, 1984). Between 1995 and 2001, there were 11 authorized peyote people (harvesters) in Texas. Each one harvested and sold an average of 200,000 pieces a year. Nowadays, it seems that there are only three, who supply the whole market.

All in all, in Edward Anderson’s opinion, harvesting is not really the main threat to peyote’s preservation. He observed that peyote people cut the plants just above the bud, allowing it to regenerate itself. The main threat comes from the change of the use of soil, because ranchers destroy native flora in order to create pasture for cattle. He also says that, in the 1960s and 1970s, many hippies invaded the ranches, causing the ranchers to adopt restrictive attitudes toward passing through their properties. The solutions Anderson suggests to avoid the extinction of this species are relevant for Mexico not only because he anticipates depletion of the peyote stock but also because demand and availability of the plant on both sides of the frontier should be considered as linked issues. He proposes the following: (1) to start negotiation with ranchers so they allow harvesting; (2) to initiate negotiations with the Mexican government to import dried peyote from Mexico, where its availability is vast, to the United States; to favor Mexican harvesters; to create trade with defined rules; and to include peyote in the North American Free Trade Agreement (NAFTA); and (3) to rescue specimens before fields are plowed and to create special zones for the cultivation of peyote. Anderson believes every effort should be made to provide the Native American Church with a regular supply of peyote (Anderson, 1995; for more on this topic, see

Chapter 6, “Peyote, Conservation, and Indian Rights in the United States,” Feeney, this volume). The expansion of aspects of the Native American Church toward diverse parts of the Mexican territory is, without a doubt, a matter of economic and political interest, articulating and giving credence to the complaints of several sectors about legalizing the use of peyote, or even creating a Native Mexican Church (Universidad Autónoma del Estado de México, 2010, 2014).

GREAT IMPACT PROJECTS, MEGA-MINING, AND COMMERCIAL CROPS

Because of space limitations, we will not go into detail about the negative effects of the change of land use, the construction of highways, mining projects, and the expansion of agro-industry crops in the Mexican portion of the Chihuahuan Desert. It is enough to emphasize that these types of projects constitute the main threat because of their radical effects as they promote the disposal of pollutants in the environment and the removal of all vegetal life or, in the case of underground mining, the exploitation of aquifers, in zones defined by their lack of water. In the Natural Sacred Sites to Huiricuta, just two Canadian companies (First Majestic Silver Co. and Revolution Resources), whose licenses together cover around 64,176 ha, plan the extraction of precious metals, silver, and gold.

BETWEEN HERITAGE, CONSERVATION, AND LEGALIZATION OF PEYOTE

Biodiversity is a heritage. The global crisis regarding biodiversity loss has widespread implications, not only for nature itself. Cultural biodiversity is more than just a simple correlate to this biodiversity; it is a dynamic support that makes reciprocal adaptations possible. Loss or deterioration of resources cancels the possibility of development for future generations. The problem of peyote sacking, as we have presented in this chapter, is part of a bigger problem related to the decline of resources in general, and it is directly linked to the illegal extraction of cacti and other specimens from semiarid ecosystems. This kind of ecosystem covers 60% of the Mexican territory; however, a certain aversion is predominant, which can be understood as ignorance, about the attributes of this type of ecosystem, and the cultural peculiarities that its mestizo populations have developed. Anthropologists have been reluctant to analyze the adaptation processes in these areas, even when they have paid attention to indigenous cultures of the desert that have survived until today. This ethnographic construction has generated a deformed vision to a certain degree, because it reinforces the idea of a predator mestizo population in opposition to the ecological wisdom of indigenous groups. Mexican biologists,

on the other hand, have made an important contribution to the understanding of the biodiversity of the desert flora and fauna, within their capabilities, rescuing the knowledge and practices of local inhabitants. A breach between anthropologists and biologists has been created that will be hard to overcome without urgent political action from the Mexican State to develop these regions under an appropriate biodiversity-based model.

Mestizo communities from the high plateau in San Luis Potosí, like all Mexican communities of the Chihuahuan Desert, live below the poverty line. Their survival is based on rain-fed agriculture and extensive cattle raising and goat grazing that are often done with little to no profit, and sometimes even with losses. This poverty condition is the direct cause of three phenomena: (1) high migration rate, (2) illegal extraction of flora and fauna for commercial purposes, and (3) acceptance of poorly paid jobs in the local agro-industry and mining.

It is enough to take a tour in any Mexican community of the Chihuahuan Desert to notice the disintegration of family units. In the villages, one can often find older people whose children have migrated to a northern city or to the United States and young married couples with school-aged children who will soon consider the idea of migration if they do not find opportunities in agroindustry or mining.

Illegal extraction of flora and fauna, particularly of cacti, has been a recurring means for the inhabitants to alleviate their poverty. They take part in the traffic and receive an insignificant portion of the prices for which cacti are valued in the national and international market. For 40 years, on Federal Highway 57 México-Laredo, next to Huizache, the main illegal trade center of flora and fauna operated, until its definitive closing in 2011. In Charco Cercado, 100% of the links of the illicit chain (extraction, storage, transportation, and trade) were recorded; this constituted a center of illegal distribution of wildlife that accounted for 22% of all illegal traffic in Mexico and other countries of North and Central America (PROFEPA, 2011; Sosa-Escalante, 2011).

This case shows, in a distorted way, the value of biocultural heritage and the void of public policies, not only in matters of prevention and repression of crime but also in the creation of normative frameworks under which the trade of flora and fauna could be made in a licit and regulated manner. This is the point to which we want to take our reflections about the patrimonialization of peyote.

NONINDIGENOUS USERS OF PEYOTE: A NEW INTERCULTURAL FRAMEWORK FOR THE PROTECTION OF BIOCULTURAL PATRIMONY OF THE MEXICAN SEMIARID DESERT

We support the importance of peyote as a patrimonial property not restricted to one cultural group, but as a linking, connective, and articulatory

heritage. In all these matters, Mexican authorities should no longer extend the restrictive and punitive policy regarding the consumption of peyote among nonindigenous people. If we have as a base the ancestral uses of this plant among several indigenous groups, then updating these spiritual and therapeutic virtues will tend to revitalize the practices and rites of young people and urban liberals, described as “New Age” types, but who refer specifically to the transformative character of this culture. Some sections of the population worldwide have made the demand that they have to “create new meanings—their own cultural heritage, if you may—to be able to adapt to the unprecedented situations that have fallen to their lot” (Arizpe, 2006a, p. 290). This effort and dedication to create new rituals, mixing them with others and making them their own, reflects an attitude of contact and dialogue with elements and processes that refuse to be presented as relics or as the folkloric detail of a multiculturalism preserved in museums.

This language in which they express their search is one of a new spirituality and cosmology, very likely because traditional institutions do not offer them any other language, considering that they are still trapped in the political and social inertia, and limit their activities almost exclusively to preserving what already exists. (Arizpe, 2006a, p. 290)

Two key elements that must be laid on the table for discussion in the declaration of peyote as cultural heritage of the nation, and eventually of humanity, are as follows: (1) the existence of a cultural community: the peyote field we mentioned at the beginning of the text, that is, all those social elements that establish a bond of communication, identity, and belonging to a territory, combined with an ethical-environmentalist, spiritual position; and (2) scientific research that corroborates the therapeutic values of peyote, for instance, to treat alcoholism and dependency on other drugs (Blum, Futtermann, & Pascarosa, 1977), as an immunologic aid in the treatment of carcinogenic tumors (Franco-Molina et al., 2003),⁴ for psychiatric uses (Halpern, Sherwood, Hudson, Yurgelun-Todd, & Pope, 2005), and for its antibacterial and antiparasitic properties (Anderson, 1995).

THE DESERT IS A GARDEN AND A BIOCULTURAL PATRIMONY

To conclude, and making the agreement to extend this debate in future publications, we suggest this: The Mexican State should start a serious debate about the patrimonialization and legalization of peyote, two different but tightly linked aspects, and it should promote a series of referendums with the participation of experts in different disciplines (anthropology, medicine, psychiatry, biology, ecology, law, etc.). Out of these referendums, a new

sustainable development policy in the field could be made that defines the conservation, propagation, trade of species, and tourism in different modalities as a central strategy. The state should also make the necessary changes in the NOM-059 to promote the propagation of threatened, endangered, or specially protected cacti, such as peyote. It is essential to go deeper into the intercultural dimension of the contemporary uses of peyote, for that is what is required to undertake an open ethnographic record, free from ethnocentrisms. The Chihuahuan Desert is a garden we all must care for.

NOTES

1. For the pluricultural state of Bolivia, coca leaf and chewing it (*aculliku*) are considered cultural heritage of the nation, according to the article 384 of that country's Constitution. Recently, the Bolivian government reentered the Single Convention on Narcotic Drugs (Vienna Convention) with a reservation for coca in order to assure this ancestral tradition was respected within its territory. The past government had not requested this because it was antidemocratic and against the interests of the indigenous majority. (For further discussion regarding the legal status of the coca leaf in Bolivia, see Feeney and Labate, 2014; Boiteux, Peluzio, and Alves, 2014.)

2. Article 2 of the Political Constitution of the United Mexican States says: "The Nation has a pluricultural composition sustained originally by its indigenous peoples who are the descendants of populations that inhabited the present territory of the country when colonization began and that preserve their own social, economic, cultural, and political institutions, or part of them."

3. Mexican biologist Arturo Gómez Pompa suggested that biodiversity in the jungles in the southeast of this country was the result of the presence of human groups who collaborated in spreading seeds and in arrangement of vegetal populations. In a more recent article, Anglo-Mexican historian Cynthia Radding (2012) suggests something similar for the desert regions in North America. She refers specifically to the case of the relationship between humans and agavaceae. For this topic, see also Chapter 1, "Decline of the Genus *Lophophora* in Texas," Trout and Terry, this volume.

4. The value of peyote as a stimulant of the nervous central system, regulator of blood pressure, stimulant and moderator of sleep, thirst, and appetite was recognized early. However, there are now works that prove its benefits over the immunologic system and its properties to inhibit the growth of cancerous cells. The tests were performed with a methanolic extract of peyote. It is the first report that shows that the extract used not only strengthens some parameters of the immunologic system but also efficiently kills tumorous cells. The authors say that more studies are needed to determine the bioactive chemical components and to elucidate the role of each substance, which must involve both stimulation and inhibition of certain biological functions. "To sum up, this study demonstrated that the extract of peyote was capable of stimulating the proliferation of lymphocytes and suppressing tumorous cells" (Franco-Molina et al., 2003, p. 1080).

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