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Ayahuasca in Canada: Cultural Phenomenon and Policy Issue

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[p. 319] The rise of interest in ayahuasca beyond the Amazon and South America in the late 20th and early 21st centuries is a trend that presents significant legal and policy challenges for governments in liberal democratic states that strive to balance competing interests of criminal justice, public health, economic welfare and human rights (Tupper, 2008). In this chapter, I review the legal status, increasing popularity, and types of ayahuasca uses in Canada, including psychonautic, cross-cultural *vegetalismo*, and Brazilian ayahuasca religions such as the Santo Daime (Labate, Rose & Santos, 2009). I summarize a 2001 legal action involving a visiting Ecuadorian shaman under whose care a Canadian woman died during an alleged “ayahuasca” ceremony, as well as the Canadian government’s consideration of the Santo Daime congregation’s request for a drug law exemption allowing its members legally to use its sacrament. Finally, I conclude with a few remarks on the significance of the Canadian government’s decision on the Santo Daime case with respect to the context of domestic and international drug control.

Canada’s 1996 *Controlled Drugs and Substances Act* prohibits *N,N*-dimethyltryptamine (DMT), harmalol, and harmaline, three alkaloids found in the ayahuasca brew (although harmine and tetrahydroharmine, which are analogues of the latter and present in much greater quantities in ayahuasca, are not scheduled). Yet plants containing these chemicals, such as ayahuasca’s constituents, *Psychotria viridis* and *Banisteriopsis caapi*, are not themselves explicitly controlled in the legislation, unlike plants that contain other controlled substances, such as *Cannabis* species (marijuana), *Papaver somniferum* (opium poppy) or *Erythroxylum coca* (coca leaf). Thus, possessing or selling plants used to make ayahuasca is not a criminal act, but possessing or

distributing a preparation made from them may be interpreted as such and could lead to criminal charges.

This legal ambiguity has led some entrepreneurs to sell dried plant materials, albeit with cautions that they are not intended for human consumption. In larger Canadian cities, “entheobotanical” shops sell *P. viridis* and *B. caapi* over the counter, along with other “ayahuasca analogue” plants (such as *Mimosa hostilis* and *Peganum harmala*, which respectively contain tryptamine and harmala alkaloids) and a variety of other psychoactive flora. Commercial websites also advertise *P. viridis* and *B. caapi* for sale over the Internet, sometimes offering bulk purchase discounts or free shipping to Canadian mailing addresses. People who purchase these plants over the counter or online are likely home-brewing and consuming ayahuasca, or “anahuasca” (i.e. ayahuasca analogue), preparations in psychonautic contexts (i.e. without adherence to any traditional or formalized ritual protocols).¹ Judging by reports of the use of other types of plant entheogens—such as *Datura stramonium* or *Salvia divinorum* (Lange, Reed, Ketchie Croff & Clapp, 2008; Wiebe, Sigurdson & Katz, 2008)—one might [p. 320] surmise that these kinds of relatively unstructured uses of ayahuasca are more likely to appeal to youth, whose school-based drug education classes are wont to avoid conveying the politically distasteful information that ancient intergenerational education practices can facilitate learning from “plant teachers” such as ayahuasca (Tupper, 2002). However, people who do drink the brew casually or for fun may be disappointed and not repeat the experiment, as the unpredictable and sometimes unpleasant nature of the experience, including the common side effects of nausea and vomiting, are probable deterrents. Furthermore, as contemporary (especially online) discourses about ayahuasca tend to emphasize the importance of ritual, many may prefer instead to seek out spiritually- or shamanically-guided practices.

Popular knowledge about ayahuasca in the English and French languages has been propelled by the work of Canadian scholars and by media reports in the past decade or so. For example, Wade Davis’ *One River* (1996)—a story of his ethnobotanical work in the Amazon, inspired by

¹ See Jonathan Ott’s chapter, “Psychonautic uses of ‘ayahuasca’ and its analogues - Panacea or outré-entertainment?,” in this book.

Harvard mentor, Richard Evans Schultes, and culminating in a vivid narrative of a personal ayahuasca experience—was nominated for a Governor General’s Literary Award for non-fiction in 1997. Similar insights about the rainforest and its plants are conveyed by anthropologist Jeremy Narby in *The Cosmic Serpent: DNA and the Origins of Knowledge* (1998, originally published in French in 1995). The Canadian literary magazine, *The Walrus*, published a feature story, “Plants With Soul” (Posner, 2006), in which the author’s personal experience provides the backdrop for a meditation on ayahuasca’s uptake in modern culture. In 2007, the Canadian Broadcasting Corporation’s Radio One show, *Ideas*, broadcast (and subsequently podcast) “In Search of the Divine Vegetal,” a two-hour audio documentary on the uses of ayahuasca in various contexts (McKinnon & Cler-Cunningham, 2007). And in 2009, Canadian cable network channel Vision TV—which is devoted to religious and spiritual themes—funded the production of a video documentary on the spiritual uses of ayahuasca in Canada (R. Meech, personal communication, February 13, 2009). The increase of stories of ayahuasca in popular media indicate that ayahuasca is becoming less obscure, and thus perhaps more widely consumed, than it was a decade or so ago. Furthermore, the representations of ayahuasca in these reports have been mostly respectful, if not outright positive, suggesting that ayahuasca is being regarded as not merely a so-called “drug of abuse,” as a simplistic legal argument might entail.

Cross-cultural *Vegetalismo*

The ayahuasca uses with which I am most familiar through personal experience are underground cross-cultural *vegetalismo*-style ceremonies conducted in the western Canadian (and my home) province of British Columbia. *Vegetalismo* is a Peruvian Spanish term denoting *mestizo* (i.e. mixed indigenous and non-indigenous) healing rituals commonly practiced by *curanderos* (healers) using local plants in Peruvian Amazonian communities (Luna, 1986). “Cross-cultural *vegetalismo*” is a phrase here used to refer to ayahuasca ceremonies based, to varying degrees, on the *vegetalismo* tradition. These take place either in the Amazon—pejoratively characterized as “ayahuasca tourism” (Dobkin de Rios, 1994)—or outside the Amazon under the [p. 321] direction of itinerant Amazonian shamans, or non-indigenous practitioners of traditional Amazonian shamanism (Labate, 2004).

In the past decade, an increasing number of Amazonian *curanderos* regularly visit Canada (and other affluent countries) to perform ayahuasca ceremonies for groups of clients, who may pay up to several hundred dollars a session. Some Canadians have also begun apprenticeships in the *vegetalismo* tradition and are now themselves leading ceremonies as neo-shamanic practitioners. These hybrid practices often incorporate non-traditional musical instruments—such as the frame drum, the *kalimba* (a type of African thumb piano) or the *hang* (a modern Swiss percussion instrument that is a kind of inverted steel-pan drum)—to produce innovative soundscapes and augment the more traditional *icaros* (healing chants or songs) performed in their ceremonies. Some also incorporate therapeutic practices from other cultural traditions, such as *reiki* or *qigong* energy work, in their ceremonies. These kinds of neo-shamanic practices illustrate the dynamic nature of human spiritual seeking, and at the same time raise challenging questions around issues of commodification and cultural appropriation (Tupper, 2009).

Uyunkar Case

The most public example of “ayahuasca” use (or at least a case represented as such) in Canada has been the judicial process of *Regina v. Uyunkar*, a criminal case against a visiting traditional indigenous Ecuadorian healer under whose care a Canadian woman died in October, 2001. Juan Uyunkar is a traditional Shuar *curandero* who was invited by members of a Canadian aboriginal community to conduct shamanic rituals as part of a cultural exchange in Wikwemikong, Ontario, a First Nations reserve on Manitoulin Island in Lake Huron, southwest of Sudbury. According to the healing traditions of the Shuar, Uyunkar used *natem*—the Shuar name for a preparation of *B. caapi*—as well as preparations of strong Amazonian tobacco in his rituals (Bonenfant & Bolsanello, 2003). On October 19, 2001, Uyunkar led a ceremony in which Wikwemikong elder Jane Maiangowi, who was aged 71 and suffering from diabetes, unexpectedly died (Ottley, n.d.).

Subsequent to a police investigation, Uyunkar was charged with criminal offences, including Trafficking in a Controlled Substance and Administering a Noxious Substance. The controlled substance in question was harmaline, which laboratory analysis determined was in the *natem* that Uyunkar used. DMT was not found in laboratory tests, as Uyunkar did not prepare his *natem* with tryptamine-containing admixtures such as *P. viridis*, the plant that is usually added to ayahuasca preparations. Media reports in both local and national newspapers described the so-

called noxious substance as “ayahuasca” (Dubé, 2003a, 2003b; Erskine, 2003), even though it was determined that ayahuasca as it is commonly prepared—with both harmala alkaloid- and DMT-containing plants—had no causal relation to Maiangowi’s death. Rather, a coroner’s report ruled that the cause of death was “acute nicotine intoxication,” as Uyunkar also had Maiangowi consume large quantities of tobacco preparations in addition to *natem*. Uyunkar ultimately pled guilty and was sentenced to a year’s community service in Wikwemekong.

[p. 322] Whether justice was served in the Uyunkar case is ultimately a matter of interpretation, but one consequence was that ayahuasca was maligned in the public sphere. Ms. Maiangowi’s death also had implications outside Canada. For example, it was cited by the United States federal government, in the case of the *Church of the Holy Light of the Queen, et al. v. Mukasey, et al.* (2009), as evidence that ayahuasca is harmful, although the judge ruled that the Uyunkar case was irrelevant. However, within Canada, the year-and-a-half duration of the judicial process may have delayed another much less publicized, but far more important government action regarding ayahuasca, a policy decision on an application by the Santo Daime church to allow the legal use of its sacrament.

Céu do Montreal

In May 1996, Jessica Williams Rochester returned home to Canada after an extended visit to Brazil and established Céu do Montreal, a chapter of the *Centro Eclético de Fluente Luz Universal Raimundo Irineu Serra* (CEFLURIS, or in English, the Eclectic Centre of the Flowing Universal Light, Raimundo Iriuneu Serra), one of the more prominent branches of the Santo Daime religion. From the time of its founding until 2000, Céu do Montreal leaders imported the Daime sacrament (i.e. ayahuasca) into Canada with Brazilian agricultural export documents, and practiced their religion according to church doctrines. In September 2000, the Canada Customs and Revenue Agency intercepted a shipment of the tea and turned it over to the Royal Canadian Mounted Police (RCMP) for chemical analysis. Subsequently, RCMP officials informed the church that because of the presence of DMT and harmala alkaloids in the tea, possession of Daime constituted an offense under the Canadian criminal code and any further attempts to import it or distribute it in ceremonies could result in criminal charges of trafficking a controlled substance (Rochester, 2006). It is important to note that the RCMP were respectful in this

process and provided C eu do Montreal with the contact information for Health Canada’s Office of Controlled Substances, explaining that the church could apply for an legal exemption for their sacrament. Although the seized Daime brew was not returned, the police kept it for six months in anticipation of a successful exemption outcome and expressed regret when they were ultimately obliged to destroy it.

In April 2001, based on the advice of the RCMP, C eu do Montreal applied to the Office of Controlled Substances of Health Canada for a Section 56 exemption from the *Controlled Drugs and Substances Act* to lawfully permit its ceremonial use of the Santo Daime sacrament. Section 56 is a clause in the *Controlled Drugs and Substances Act* that allows the Minister of Health to grant permission to import, possess or distribute any illegal drug. Specifically, it reads:

The Minister may, on such terms and conditions as the Minister deems necessary, exempt any person or class of persons or any controlled substance or precursor or any class thereof from the application of all or any of the provisions of the Act or the regulations if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest” (Department of Justice Canada, 2007).

[p. 323] Section 56 is seldom and cautiously exercised. Most notably, Section 56 exemptions are granted to some physicians to prescribe methadone as a maintenance treatment for opioid dependence. Section 56 has also been used to authorize scientific research trials for a supervised injection site in Vancouver, British Columbia and for heroin prescription in Vancouver and Montreal. Prior to a 2001 court ruling that resulted in enactment of federal *Medical Marijuana Access Regulations*, the legal use of medical cannabis was granted through the Section 56 exemption process (Lucas, 2008).

The C eu do Montreal application coincided with a similar request by a Somali Canadian who sought a Section 56 exemption to use *khat* (*Cathula edulis*), a plant whose mildly psychoactive leaves are chewed for a stimulant effect among peoples of East Africa and the Arabian Peninsula. The two applications were unusual in that they sought an exemption from the law based not on medical or scientific rationale, but rather on “public interest,” a reason for which, to my knowledge, no group or individual has ever received a Section 56 exemption. According to documents released under the Canadian *Access to Information Act*, preliminary government assessments of these two cases resulted in very different conclusions. Officials recommended not

to issue a Section 56 exemption for khat, but determined that “the risks of issuing a s56 exemption for the religious use of the Daime Tea are *less* than the risks associated with refusing the request” (italics original); however, what these respective risks were was not disclosed.

A potentially confounding factor in trying to establish the legitimacy of the Santo Daime’s religious practices in Canada is the formerly approved use of “Santa Maria,” or the ceremonial use of cannabis, by some Santo Daime communities in Brazil (MacRae, 1998; MacRae, 2006). Although the Canadian government might be persuaded to look favorably on the sacramental use of an obscure Amazonian brew, it is unlikely to willingly recognize the legitimacy of a sacramental use of cannabis. To do so would undoubtedly set a precedent triggering an avalanche of similar applications for the religious exemption of cannabis use, a situation that the government would perceive as undermining its ongoing (although ineffective) efforts to eradicate cannabis and its use in Canada. The use of Santa Maria is not a factor in the Canadian Santo Daime Section 56 exemption application, however, as Céu do Montreal has never permitted the use of cannabis and Brazilian church leaders have affirmed that CEFLURIS and its affiliates use ayahuasca exclusively, and do not accept cannabis or other substance use in their rituals (J. Rochester, personal communication, June 17, 2008).

In September 2006, Céu do Montreal received a letter from the Director General of Health Canada’s Drug Strategy and Controlled Substances Programme informing them that the government had concluded its investigations and approved “in principle” the granting of a Section 56 exemption, pending receipt of documentation from the government of Brazil allowing legal export of the tea. Jessica Rochester reports that throughout the application process the officials at Health Canada’s Office of Controlled Substances have been consistently thorough, respectful and patient with what has been an unusual and complex investigation (personal communication, April 12, 2009). At the time of this writing, the Canadian government had not yet had word from the Brazilian government on a conclusion to their export permit process, and Health Canada had yet to bestow final approval for the Section 56 exemption. In the [p. 324] time since the Section 56 exemption application was initiated, however, the Santo Daime has expanded in Canada, with now three chapters in Quebec and four in Ontario. Yet even if the Santo Daime is given an exemption, it will only apply to the church sacrament prepared and

distributed according to their religious doctrines. This leaves open the question of the fairness of restricting other types of ayahuasca drinking, such as psychonautic or cross-cultural *vegetalismo* practices.

Conclusion

Ayahuasca's globalization is a sociological phenomenon that modern liberal democratic states have been ill-equipped to deal with through current laws and policies. Legal battles over the religious use of ayahuasca—fought in the past decade in countries such as France, Germany, Italy, the Netherlands, Spain and the United States—show that many governments do not readily accept the legitimacy of religious practices involving the consumption of a psychoactive substance, however benign they may prove to be. In some respects, these cases are ironic, inasmuch as the governments prosecuting them have been staunch champions of globalization and (at least in rhetoric) of human rights such as religious freedom. However, the fears instilled through decades of a global war on (some) drugs have led to regimes of domestic drug control that are often applied in ways inconsistent with the founding principles of the Charter of the United Nations (Barrett, Lines, Schleifer, Elliott, & Bewley-Taylor, 2008), not to mention national constitutions.

There is a further irony in Health Canada's July 2006 communication that they had, at least "in principle," decided to grant a Section 56 to Céu do Montreal. This is because the minority Conservative government, led by Prime Minister Stephen Harper since February 2006, has substantially shifted Canadian drug policies. Harper's government in 2007 announced a federal "National Anti-Drug Strategy" whose agenda included increased resources for police, mandatory minimum prison sentences for drug offenses, simplistic media-based youth drug prevention campaigns, and a repudiation of evidence-based harm reduction strategies (DeBeck, Wood, Montaner & Kerr, 2009). In the political climate of a reinvigorated war on drugs, a policy decision to approve the sacramental use of an otherwise illegal drug seems contrary to what one might expect.

Only a few senior policy-makers know whether the Canadian government's decision to forego legal action against Céu do Montreal was based on a principled respect for religious freedom or a

cynical concern that it would likely lose, should the church defend itself according to the protections guaranteed by the *Charter of Rights and Freedoms*. Regardless, Canada has chosen a relatively unique path in making the Céu do Montreal case a matter of policy rather than law. The only other country that has done likewise is Brazil, where ayahuasca is an indigenous substance and its sacramental use by churches such as the Santo Daime and União do Vegetal arose *sui generis*. Among countries to which ayahuasca is not indigenous, Canada's Section 56 exemption decision, should it ultimately be granted, will set an international precedent by enshrining through policy the legitimacy of an entheogenic practice involving [p. 325] the ritual consumption of a preparation that contains an otherwise controlled substance.

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