

**Reflections on the Expansion and Legality of Peyote in Mexico****Reflexiones sobre la expansión y legalidad del campo peyotero en México**

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**ABSTRACT**

This paper presents a reflection on the implications of the use and trade of peyote (*Lophophora williamsii*) and the challenges associated with its conservation in a religious and binational (Mexico and the United States) context. Our main focus is on a controversy raised by the Native American Church before the Mexican government, via an application submitted to the General Directorate of Religious Associations of the Secretariat of the Interior, demanding the registration of organizations that use the cactus in their rituals. This case is unique because it represents a paradigmatic illustration of the drug policy and religious rights frameworks currently in place in Mexico.

*Keywords:* 1. peyote, 2. legality, 3. drug policy, 4. Mexico, 5. United States.

**RESUMEN**

Este artículo plantea una reflexión sobre las implicaciones del uso y comercio del peyote (*Lophophora williamsii*) y los desafíos de su conservación en un contexto binacional y religioso (México y Estados Unidos). Se da importancia central a la controversia suscitada por la Iglesia Nativa Americana de México (INAM) ante el Estado mexicano en su solicitud turnada a la Dirección General de Asociaciones Religiosas de la Secretaría de Gobernación para obtener su registro y poder realizar rituales que incluyen el consumo de esta cactácea. Este caso es único porque ilustra de manera paradigmática los entramados de las políticas de drogas y de derechos religiosos operadas por el Estado mexicano.

*Palabras clave:* 1. peyote, 2. legalidad, 3. política de drogas, 4. México, 5. Estados Unidos.

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## INTRODUCTION

### *From Political Economy to the Cultural Policy Of Peyote*

Different authors have been reflecting on the expansion and renewed presence of the religious field in Mexico over the past 20 years. This expansion is reflected, first of all, by an intensified exchange and flow of different types of ritual traditions, beliefs, and practices. Many of these expressions have acquired new formats or have been resignified, and they have been adapted to the new contexts and audiences that make them a matter of devotion, faith, or religious consumption.

Many of these ritual traditions and practices have their origins in indigenous world views; however, they acquire a new dimension and presence in the national and international debate as non-indigenous urban citizens acquire or recover such practices. This has happened not only in the context of religious freedom and human rights but also in the area of drug policy, since the use of psychoactive substances is embedded in the ritual nature of many of these world views (De la Torre, Gutiérrez, & Huet, 2013; De la Peña, 2002; Argyriadis, De la Torre, Gutiérrez, & Aguilar, 2008; Galinier & Molinié, 2006; García & Gutiérrez, 2012; Arias, 2012; Guzmán, 2014; Guzmán & Labate, 2018).

Thus, the focus of the present paper will be on the public debates associated with the collection, transportation, and consumption of peyote (*Lophophora williamsii*) from a cross-border perspective involving localized users, especially in Mexico and the United States. In particular, we will analyze different efforts to institutionalize a series of rituals conceived within the Mexican Native American Church (INAM), among which is the tepee ceremony that includes the ingestion of peyote.

The information and reflections in this paper are the result of more than 20 years of empirical research by the first author during ceremonies and collection and consumption practices involving peyote, mostly in Mexico, in addition to five years of research activities by the second author in Mexico, Brazil, Peru, and the United States.

The first author has carried out participant observation focused on neo-indigenous peyote tepee ceremonies and pilgrimages in different parts of the Mexican territory (these contexts will be described below). A total of 52 open interviews were conducted during these pilgrimages; in these interviews, participants were asked about their reasons to approach these rituals, their experiences associated with the consumption of peyote, and the meaning attributed to such experiences in their lives. Shamans, who play the role of guides in these ceremonies, were also interviewed to find out their point of view on the legalization and importance of the plant in terms of health, the environment, and religious rights.

The second author draws on experiences as a participant in neo-tepee ceremonies in Brazil, Peru, and Mexico, in addition to research trips to West Texas and the peyote gardens in South Texas. Leaders of the Native Church of North America (NACNA) and

people associated with peyote conservation were interviewed on these occasions. This author has also participated in a conference in northern California for three years with the purpose of exchanging ideas with specialists in the field.

Both authors have studied the use of ayahuasca in Brazil, its internationalization process, and the legal implications of such process over the past decades. Thus, both authors share an interest in paradoxical yet fundamental themes concerning the use of psychoactive substances present in entheogenic plants, regarded as plants that teach, in the contexts of indigenous and non-indigenous practices and drug policy. These authors share their ethnographic experience and, following methodological guidelines, have taken up the task of recovering and discussing the issues that make comparative analysis possible: legalization, cultural practices, and conservation, in addition to a cultural perspective supported by available bibliography on peyote consumption in Mexico and the United States.

Based on the available literature on psychoactive plants and natural substances, it can be stated that Mexico has one of the largest repertoires of such species in its territory, as well as a rich cultural heritage based on the uses and customs of indigenous peoples (Ott, 2011; Schultes & Hofmann, 1982; Glockner, 2010). A prohibitionist policy has been enforced since colonial times, and contemporary legislation has continued the trend; nevertheless, these plants continue to be used, not only by indigenous groups, but also by Mexican and foreign non-indigenous or mestizo groups and individuals who come to the country specifically for that purpose. This phenomenon, which is discussed in other studies by these authors, has spurred the emergence of a vibrant entheogenic field in Mexico, thus far little explored by anthropologists (Guzmán & Labate, 2018).

As a contribution to this entheogenic field, the present study addresses the expansion, unfolding, and adaptation of Native American Church rituals (created in the United States, but including representatives in Canada) to the Mexican context. This expansion and development is expressed by the intentions of some actors to create a similar entity in Mexico, acknowledged by national legislation. We refer specifically to a request made by the INAM on July 1, 2012 to the General Directorate of Religious Associations, part of the Secretariat of the Interior, concerning their recognition and registration by the Mexican state.<sup>3</sup>

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<sup>3</sup>It is important to bear in mind that not all countries have a legal device to acknowledge religious institutions. In this case, the recognition of these practices is complicated by the fact that the plant consumed during the studied religious rites is psychoactive and included in the international list of banned substances. The legal recognition of ayahuasca-related religions in Europe and the USA was described by Labate and Jungaberle (2011) and Labate and Feeney (2012).

The text is composed of four sections. The first section describes the characteristics of the Mexican and international peyote fields, their constituent actors, and their cultural dynamics. The second discusses the public debate concerning the rationale behind the laws and norms that ban the use of peyote and points out the difficulties of reversing prohibitionist policy. The third section presents a general panorama of peyote trade and exchange; an issue that needs to be addressed from an international and environmental perspective because the largest recognized consumer is across Mexico's northern border. The fourth part addresses the case of the Mexican Native American Church; it focuses on different discourses as controversial elements that allow for the visualization of the interests and perceptions of the Mexican state in regard to the claims of these new actors in the Mexican entheogenic field.

The discussion around the political economy of peyote (involving its trade, exchange, and consumption at the local, national, and perhaps global levels) acknowledges certain issues that the international prohibitionist policy has overlooked. The cultural practices associated with the consumption of peyote and the views of the sectors that defend their right to such practices based on arguments such as tradition, ethnic origins, belonging to a territory, and human and religious rights are a central part of the discussion.

As can be seen in section four, issues related to health and criminal law are the main concern of the Mexican state regarding peyote. Although the state grants the right to religious or ceremonial consumption of peyote, the permit is associated with indigenous usage only (Labate & Feeney, 2016), which opens the door to the recognition of non-indigenous uses. This position denies the processes of *mestizaje*, hybridization, and interculturality that have characterized Mexican history and the current demands of non-indigenous groups that use peyote in their ceremonies.

We also noticed that ecological issues have been irrelevant in the discussion around the regulation of peyote, which is unfortunate because the resurgence of religious traditions, whether or not linked to the consumption of peyote, has resulted in conspicuous overexploitation of the plant at specific sites. Changes in soil use and the presence of different development projects represent additional threats to this cactus, endemic to the Chihuahuan Desert. Therefore, the need to incorporate the ecological dimension in the definition of cultural policies addressing the legitimacy or lack of legitimacy of new religious practices is derived from the discussion on religious practices.

The political dilemma lies in the definition of the advocacy strategies used by consumers to face the public and the Mexican state, namely: 1) to pursue a reclassification of peyote as a therapeutic plant (Federal Health Law) that does not entail any type of crime when used correctly (Penal Code) and can be managed using sustainability criteria to secure its

conservation; or 2) to demand that its use be limited to ceremonial contexts, established and recognized by the state, appealing to freedom of worship.<sup>4</sup>

The reclassification of peyote represents a very improbable and ambitious attempt, considering the weight of international conventions and the fact that, whenever an exception to the use of a substance banned in international conventions (for example, the use of marijuana in the United States or Uruguay) has been made, it has taken place independently of national reclassifications of substances or species. In Brazil, the regulation of ayahuasca has not resulted in the elimination of DMT from the list of proscribed substances. In any case, discussing the regulation of peyote without taking conservation aspects into account would be a great mistake. The present article argues that the discussion around regulation should be interdisciplinary and inclusive, as in the case of ayahuasca in Brazil (Labate & Feeney, 2012), and it should encompass native knowledge and practices (*saberes*), scientific knowledge about the psychoactive properties of peyote, considerations about religious freedom, and the issue of sustainability and conservation.

#### AN INTERNATIONAL PEYOTE FIELD

Peyote is a cactus growing at ground level in semi-arid ecosystems; it is endemic to the Chihuahuan Desert. Peyote is classified as part of the Plantae kingdom, Embryophyta subkingdom, Angiosperm division, Dicotyledonous class, Dialipétalas subclass, Caryophyllales order, Cactaceae family, Echinocactus subfamily; its scientific name is *Williamsii Lophophora*. This globose plant is frequently flattened at the apex, measures from 2 to 6 cm in height and 4 to 11 cm in diameter, and is usually bluish-green, sometimes yellowish-green, and sometimes reddish in color. Almost always, it presents from 4 to 14 well-defined ribs of variable height, and it sometimes forms more or less tall tubers. Circular areolas measuring between 2 and 4 mm are placed between 0.9 and 4 mm apart. Its flowers measure from 1 to 2.4 cm in length and 1 to 2.2 cm in diameter. It bears perianth segments measuring from 2.5 to 4 mm in width; they are usually pink with a yellowish tint, and sometimes carmine-colored. Its pollen measures from 14.9 to 63 microns in diameter, and it consists of spheroidal, rarely polycolporate grains (0 to 18), seldom tricolporate or bicolporate (García Naranjo & Mandujano, 2010, p. 43; Bravo-Hollis & Sánchez Mejorada, 1978).

Its distribution covers an extensive territory from southern Texas in the United States to the states of Coahuila, Nuevo León, Tamaulipas, Chihuahua, Durango, and San Luis Potosí, Aguascalientes, and Guanajuato in Mexico. The largest peyote populations are located within the Mexican territory, but also in the south of Texas, in the Mustang plains; a region that, incidentally, faces serious over-exploitation problems: The population of this

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<sup>4</sup>Other possibilities would be to pursue an “exception for personal use” in order to protect contemporary uses or an “exception for therapeutic uses.” However, we believe that this strategy has not been attempted yet.

plant is being depleted (Anderson, 1995, 1996; Trout & Terry, 2016; Feeney, 2016). Its psychoactive properties are mainly due to an alkaloid called mescaline, but according to laboratory analyses, some species contain more than 40 types of alkaloids whose properties and effects have not yet been fully studied.<sup>5</sup>

Its uses have been documented since the colonial period (Dawson, 2016); archaeological records and paleontological studies supported by radiocarbon dating suggest that different groups and cultures associated with the desert have been using the plant for millennia. References to its use among tribes in the United States suggest a series of loans between groups in northern Mexico and the southern United States. One of these refers to the use of Texas mountain laurel, also known as mescalbean (*Sophora secundiflora*), a seed borne with visionary properties, as the background for the introduction and use of peyote among different tribes north of the Rio Grande that discovered similar effects without the risks associated with the use of mescalbean (Howard, 1957). During the eighteenth century, the Lipan and Mescalero Apache peoples were reported to have established relationships with the Kiowas, the Comanches, and other Oklahoma groups—the peyote was part of the cultural interchange. One hundred years later, in 1870, a new syncretic religion emerged in this territory; Christian and native elements were combined with the use of peyote as a ritual sacrament (Barber, 1941, p. 673). In the following decade, ritual paraphernalia and doctrinal elements were largely standardized.

The Native American Church was formally created in 1918. Different churches, collectively known as NAC, emerged in the following years and throughout the twentieth century, but they were differentiated by their location or ethnic origin. Most of them are grouped under a body recognized as the Native Church of North America (NACNA), which includes mostly organizations from the United States, but also from Canada and Mexico. According to data from the Texas Department of Public Safety, there are more than 250 organizations and around 650 000 members (Walker, Walker, & Graves, 2015). Their meetings are recognized and allowed by the laws of the United States government, but the legalization issue refers to a long process of legal disputes, which are favorably resolved on the basis of arguments in favor of religious freedom and the preservation of cultural traditions (Arth, 1956; Kimber & McDonald, 2004; Soni, 2016; Forren, 2016; Feeney, 2016).

The first accounts of peyote in Canada date back to 1920, although Weston La Barre (2002) states that peyote dates back to 1890; its use became more common in the mid-

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<sup>5</sup>Mescaline is frequently used as a synonym of peyote, as in the case of cocaine, which is mistaken for coca leaf. This misunderstanding should be underscored. The substance mescaline can only be isolated in the laboratory, either from natural specimens or using a synthetic procedure. The NAC from Oklahoma brought together different tribes from that state who adhered to Peyotism early on.

1950s. The dissemination of peyote is associated with the presence of rights-deprived groups in the United States who crossed the border in search of greater liberty; these peoples established themselves in the Western Plains and the West Coast (Cree, Sioux, Blackfoot, and Stoney).

In 1954, a group of Cree founded the Native Church of Canada (NACC) as an NAC branch. There are no more than 100 members in this country, and the debates around the permission to celebrate rituals and take peyote is peculiar, since the plant does not grow in Canadian soil, so the ritual is imported in every way. Erika Dick (2016) states that the foundations of regulation in Canada are based on the debates and arguments presented by a group of pioneering scientists focused on psychedelics research. Based on her participation in these rituals, the author developed an interesting appreciation of the spiritual experience as a cure mechanism in such a way that scientific arguments about the positive attributes of this experience are, in essence, supported by Canadian constitutional reforms that guarantee religious freedom (Dick, 2016).

In Mexico, the Huichol, Cora, Raramuris, and Tepehuan peoples have carried out religious practices involving peyote since pre-Hispanic times, although current rites have been modified. Other groups, such as the Nahuas and, more recently, the Yaqui, use it more discreetly, adapting it to their ritual forms.<sup>6</sup> In the repressive context of the colonial era, these practices remained limited to popular *mestizo* sectors, whose members could acquire the plant in public markets, given certain restrictions. Nowadays, it is possible to find it as an ingredient in ointments used to relieve bumps and sprains and as a muscular pain remedy for arthritis and rheumatism; it is often macerated in alcohol and combined with cannabis and *toloache* (*Datura ferox*) for certain homemade preparations.

Two important moments can be observed in the constitution of the phenomenon described here:

1) The countercultural movement of 1960, specifically, the emergence of the first generation of experimenters of the effects of plants with psychoactive properties. This generation was influenced by the works of Carlos Castaneda, A. Hofmann, R. Schultes, G. Wasson, T. McKenna, and even A. Artaud and H. Michaux.

2) A second generation draws from the previous one, and many survivors from the first generation are now associated with movements or groups of a more formal or even institutional nature (*danzantes*, yogis, associations defending indigenous culture and

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<sup>6</sup>The use of peyote by the Yaqui is a Neo-shamanic incorporation. It was precisely in the process of expanding rituals from the Native American Church to Mexico when Yaqui leaders were contacted for a first ceremony in 2017, which entailed a series of agreements and alliances. This information was transmitted orally by Javier Martínez, an anthropologist in charge of mediating between Native Americans and Yaquis (Javier Martínez, personal communication, January 09, 2018 ).

identity, etc.). In historical terms, this generation can be considered to be born in 1992, in the context of the 500th anniversary of the discovery of America.

Previous and subsequent events open, so to speak, the cultural boundaries of native peoples throughout the continent and promote the translocation of rituals and ceremonies using sacred plants such as peyote, tobacco, ayahuasca, or magical mushrooms, among others. This generation, described by Galinier and Molinié (2006) as “*Neoindian*,” and by others simply as “New Age,” furthers the approach of the first generation to indigenous traditions and customs and initiates a much more intense process of resignifications and appropriations, sometimes carrying religious content that is still political in certain scenarios. In this sense, as a field of study, peyote represents a particular expression of the entheogenic field (Guzmán & Labate, 2018), whose modulation is given by the predominant role of Wirikuta, San Luis Potosí, Mexico, as the mecca of shamanic peyote tourism (Basset, 2011, p. 192), and two extremely interesting phenomena:<sup>7</sup>

1) We define *Huicholization* as a discursive construction process centered on the ecological and spiritual Indian and the art and rituals of the Wixaritari people (the Huichol), with which Mexican society has identified. This phenomenon has created an intercultural environment of loans and counter-loans, solidarity associations at various levels, advantages for the seekers of indigenous spirituality (both Mexican and foreigners), and strategies to resist and defend the indigenous territory and identity.

A number of ritual specialists known as *marakate* (plural of *marakame*, or shaman), have attempted to stimulate the creation of medical circles among non-indigenous people, not only in the Mexican cities of Cancún, Tijuana, Morelia, or San Luis Potosí, but also in cities in Spain, France, Finland, and Japan, among other countries. This is the origin of a whole series of cultural practices referenced in different elements of the Wixaritari cosmological universe: fire design, types of oblations, the five-year cycle, and the pilgrimage to Wirikuta, as well as diets, attitudes, and commitments acquired in the ritual space. For some *marakate*, the association with non-indigenous groups has become a resource to sustain the costly ritual cycle that they have put in place in their communities. Similarly, this knowledge transfer process has allowed for the emergence of neoshamans: peyote guides who tend to resignify themselves and innovate in accordance with the expectations and possibilities of their urban audiences.<sup>8</sup>

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<sup>7</sup>From an *emic* perspective (the users’ cultural view), peyote is a sacred plant through which individuals communicate with their deities. An alternative version would say that peyote is an intermediary between human beings and the divine.

<sup>8</sup>These processes have been widely criticized by both indigenous and non-indigenous communities. Many indigenous people disagree with the departure of their ritual specialists to cities, and outsiders are not welcome by many groups. However, this paper will not discuss the problematic aspects of these dynamics.



2) We refer to the “Native-Americanization” of peyote as a process that explains the emergence of chiefs and “roadmen,” the dissemination of tepee rituals where peyote is used as a sacrament, the search for visions, and the dance of the sun in the late 1980s. In Mexico, the presence of NAC leaders and groups began to increase in the late 1990s. In a preliminary record, we identified 20 tepee circles in the same number of states in the Mexican Republic, some of which have been operating for almost 20 years.

To date, no in-depth study has focused on this curious process, in which an indigenous and, at the same time, syncretic religious tradition is imported; moreover, the process takes hold in a territory where peyote-related traditions were already present, although the new actors are basically urban types. The role played by Chicano leaders, who have found a space in the NAC to reformulate their identities and missionary work, is clear, and it is also necessary to understand the harmony between Native American traditions and Mexican nativist ritual expressions, such as the conchero dance and the Aztec dance, and among the hundreds of disciples of Carlos Castaneda. Finally, despite a certain amount of conflict, rituals shared between Huichol and Native American Indians have begun to fade and give way to the integration of mestizo followers who are now allowed access to knowledge that was previously guarded with zeal, creating new configurations.

We have thus far presented an overview of this history. In this context, we propose the concept of the “international field of peyote” to define and understand a phenomenon that has emerged over the past decades: a culturally diverse and scattered group of peyote users in Mexico and the United States, composed of indigenous and non-indigenous leaders who experience novel forms of interaction in a New Age, pan-Indian framework. In our opinion, the idea of a field is adequate to understand these mixture and hybridization processes taking place in a globalized arena and the migration of religious belief, where tradition or ancestral tradition is constantly resignified. This intercultural field reflects loans and exchanges as a dynamic phenomenon in the relationship among native cultures, and between these and the mestizo culture or dominant society (see also Guzmán & Labate, 2018). It is a labile field, since its geographical contours are difficult to define, and there is a constant circulation of peyote, actors, beliefs, objects, affections, and values.

Besides its cultural dimension, this field has political and historical dimensions—its constitution is an expression of conflicts and tensions faced by indigenous groups in Mexico and the United States. These problems are, on the one hand, the legal peculiarities of each government and, on the other hand, the increasing scarcity of peyote. In other words, the international field of peyote and the political economy of peyote have to do with borders. Consumption is controlled in one country and forbidden in the other, a situation that disrupts the law of supply and demand and has ecological and cultural implications. Agreements and strategies to achieve the conservation of the species and ensure the continuity of its associated ritual expressions involve users and authorities in the United States and Mexico, where the cactus is endemic. Thus, while different groups and

organizations in Mexico and the United States have made alliances and established exchanges related to peyote and territorial defense, conflict and dispute have also been present.

### POLICY AND THE LEGAL STATUS OF PEYOTE

In Mexico, the current status of peyote is governed by three types of norms: sanitary (Article 245 of Chapter IV, General Health Law), criminal (articles 193 to 199, Federal Penal Code), and environmental (Official Mexican Norm 059, Environmental Protection-Native Mexican Flora and Fauna Species-Endangered categories threatened and subject to special risk protection; hereafter, NOM 059).

These norms, in turn, should be considered in connection with international conventions and normative frameworks signed by Mexico concerning psychoactive substances (Convention on Psychotropic Substances, Vienna, 1971), human rights, and the culture of traditional peoples (Convention 169 on Indigenous and Tribal Peoples, International Labor Organization, hereinafter ILO 169). When viewed as a whole, these regulations show contradictions, ambiguities, and interpretation errors that confound a fair valuation of the issue and hinder the implementation of a positive regulatory system opposed to the prohibitionist stance that prevails today.

The General Health Law (article 245), created in 1984 and still in force in the country, considers peyote as a psychotropic substance with little or no therapeutic value, high addictive potential, and a public health risk. The Criminal Code, established in 1931, includes peyote under the heading of crimes against health. It establishes penalties from 10 to 25 years in prison for those who produce, transport, traffic, trade, or even supply or prescribe any of the narcotics in the banned list, among which is peyote (article 194). The penalty is four to seven years when the amount possessed cannot be connected to the activities listed above (article 195).

This code was adjusted in 2009 due to: 1) a reservation submitted by the Mexican government to make an exception in the case of substances used by indigenous groups as common usage; 2) constitutional reforms concerning the recognition of the multicultural composition of the nation; and 3) different ILO 169 articles that secure guarantees for the reproduction of native cultures and respect for their territories and their use of biodiversity. Thus, Article 195 underscores the need to respect and protect indigenous groups that use psychotropic substances—in this case, peyote—as part of their customs, rituals, and ceremonies.

Against this backdrop, the Penal Code is inadequate because it lacks judicial support sensitive to cultural practices and to the ignorance that preempts the idea of an illicit drug associated with crime that must be punished regardless of the therapeutic value of rituals involving the use of peyote.

The main instrument concerning wildlife protection and preservation in the Mexican legal system is NOM 059, which was published in 1994. The General Wildlife Law (2006) describes the framework used to create NOM 059. In this standard, peyote is classified as a species subject to special protection, which is the fourth and most lax category. This criterion indicates that peyote is neither endangered nor at risk or threatened, but simply “subject to special protection.”

The perception of peyote as a plant deserving special attention and protection goes hand in hand with criteria adopted by the International Treaty on Endangered Species (CITES), assumed by Mexico, in which peyote is classified as “susceptible to becoming an endangered species.”<sup>9</sup> In addition, the *Red List of Threatened Species*, updated by the International Union for the Conservation of Nature (IUCN), reclassified peyote in 2013, and its status was changed from low-concern to vulnerable (Labate & Feeney, 2016).

If methodological lines and particular cases are thoroughly discussed, the categories of “threatened,” “vulnerable,” “at risk,” or “subject to special protection” are questionable. However, from a normative perspective, both the specialized literature and empirical observation confirm that peyote is increasingly being consumed and—in view of the current trends—its reproduction rate as a species will not withstand the medium- and long-term demand.

The Mexican state has simulated a policy of respect towards indigenous groups, under which they are allowed to collect peyote freely and legally, but police harassment and recurring arrests debunk it (Labate & Feeney, 2016). Additionally, the combination of drug legislation and the NOM-059 environmental regulation have hindered initiatives to study the ecology of this cactus in any depth; these studies would shed light on the most favorable conditions for its development and help to create strategies to restore degraded habitats.

Finally, regardless of its status as a “species subject to special protection,” additional preservation measures must be put in place. The efforts to grow the plant in greenhouses or to restore its natural habitat are complicated due to the classification of peyote as a controlled drug. In this regard, it is important to discuss and find solutions to make conservation programs possible that will exceed the vision of privileged rights (for a minority), in order to reach models that facilitate the interaction between indigenous and non-indigenous people. A project in its initial phases seeks to develop conservation initiatives among the Wixarikatari with scientific support (Nájera, 2018). Therefore, it is important for new studies to accurately determine the level of danger that can be possibly expected from this species and propose concrete and proactive conservation solutions, and

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<sup>9</sup>Both legislations have different criteria and methods, so it is difficult to establish immediate equivalences. By signing the international convention, Mexico acquires its associated legal obligations in addition to those derived from its internal regulation.

legislation efforts must consider the rights of minorities, the therapeutic benefits of the plant, and the efforts geared toward its conservation.

### TRADE OR EXCHANGE OF A SACRED PLANT?

The aim of this section is to unravel the meaning and social value of peyote. Is it a ritual object, or is it only merchandise in the cultural context of the international field of peyote? The answer to this question should shed light on the issue of scarcity or relative abundance, which is closely associated with ecological considerations, conservation statutes, and regulations concerning cultural policy; that is, the tensions or controversies between legalization and prohibition and those related to ethnic or religious rights (Feeney, 2017).

As a plant species, peyote was originally abundant in its ecological environment and scarce or non-existent outside such environment. If we refer to chronicles and historical accounts, peyote was appreciated by both nomadic groups who roamed peyote's semiarid habitat and sedentary groups settled in areas where it grows. Trade and exchange among these groups is the first reference to its value in a non-capitalist economy. There are no precise references, but pre-Hispanic poetic evocations suggest a link between these ancient forms and the meanings developed by contemporary indigenous groups.

Among the Wixaritari, peyote acquires multiple connotations: it is a cultural hero, the Big Brother, the Blue Deer *Kauyumari*, the link or bridge between living humans and their ancestors. Finally, its ontology can only be captured within the cosmological complex that, among other things, summarizes the economy of loans and counter-loans with life, nature, and the ancestors. Their pilgrimage is a sacrifice that, in present times, entails important economic expenses for transportation, food, and offerings in different sacred places, in addition to physical effort. Among the different ways of saying what peyote is in essence, the marakate use to say, "Peyote is your teacher; he is the guide because he shows you the truth of things, the heart of things... he tells you where you are at, and that is how he heals."

Among all North American indigenous groups, peyote is a medicine that heals the spirit, a sacrament through which prayers can be raised to Great Creator as a plea for health, guidance along the way, and an understanding of the fundamentals of life. However, there is a fundamental difference between the Huichol, who have direct access via peregrinations (and interchange with other groups), and the Native Americans of the United States, who require the services of a commercial intermediary (Feeney, 2014, 2017).

Interestingly, the significance of peyote for both Huichol and Native American populations is never limited to an economic valuation, but to the type of valuations involved in their interchange processes. When we refer to these processes, we think about the meanings inscribed in their forms, uses, and trajectories (Appadurai, 2015, p. 23). However, users are hardly blind to the economic connotations of the interchange or the costs involved in harvesting peyote.

Still, we should stress that the entheogen is never only a commodity. As it is for the natives of the Solomon Islands, certain objects of interchange and ritual use are placed beyond the culturally demarcated dimension of trade (Appadurai, 2015, p. 48). These objects of aesthetic and sacred elaboration and purpose exist outside the commercial sphere.

However, when referring to the international field of peyote, we must acknowledge the overflowing of ethnic boundaries, the resignifications, the expansion of consumption among non-indigenous people, and the internationalization of peyote as so many elements of its double valuation as a commodity and as a sacrament. Estimating the dimensions of trade and interchange involving peyote from an international perspective is beyond the scope of the present paper; in any case, the illegal status of the plant and the prohibitionist policy around it has resulted in the absence of harvest inventories and information on its destination. However, one way to approach this issue is through the consumption pattern in the United States and Canada in the context of NAC institutionalized rituals involving the cactus; there is a record of these events, that is, a historical sequence (Feeney, 2014, 2017). Given that the plant grows naturally only in the United States and Mexico, the depletion of the resource in the former country has become a critical issue, with regard to both the continued expansion of the NAC in the United States and the Native-Americanization phenomenon in Mexico, especially in connection with the economy and ecological policy of the plant.

In the United States, the Texas Department of Public Security (DPS) introduced regulations in this regard as early as the 1960s. By the mid-1970s, there were 27 authorized dealers who harvested and sold the plant directly to indigenous users. At present, only three of them continue in business, and they now face the problem of meeting growing demand in a more problematic and uncertain context. According to records from this department, peak harvest occurred in 1997, at 2.3 million peyote buttons, which decreased to 1.5 million the following year. However, according to direct and indirect empirical research carried out using accounts from secondary sources, illegal harvest and sale are common in the United States and Mexico in the form of fresh specimens and as dried and ground buttons.

It is true that the demand has continued to grow. Some authors estimate that consumption in the United States by NAC members could be around five to 10 million peyote buttons per year. Shortages have resulted in a higher price per specimen since 2000. DPS data report the sale of 700,000 peyote heads only in the first four months of 2012 and the decreased size of the specimens, which are often harvested before full maturity; these reports are an evidence of the conspicuous overexploitation of the cactus (Feeney, 2016; Feeney, 2017; Anderson, 1995, 1996).

A confidential study commissioned by the NAC to a group of researchers points out that the number of peyote ceremonies has increased in recent years relative to the past. Nowadays, ceremonies are performed to heal oneself, to thank for healing, to pray for

guidance into the military service or school, to celebrate births and anniversaries, or to bless someone in particular who is going through a problem. In a survey conducted as part of this project, 67 percent of interviewees reported that they participate in at least three peyote ceremonies per month; 24.84 percent participate in four to seven ceremonies, and 3.09 percent in 8 to 12 in the same period (Walker, Walker, & Graves, 2015).

The increased demand is associated with incorrect peyote cutting, and other socio-environmental factors have put the conservation of this species at a critical level of risk in the South Texas region, the only formal source of peyote for people in the United States and Canada (Terry, 2008).

Given the increasingly close links between religious leaders and Mexican citizens, we know that the transportation and illegal trade of Mexican peyote in the rest of North America is working. The characteristics of this type of commerce are difficult to estimate; apart from empirical observations, which are unreliable and useless for quantitative estimations, the media has published stories on Mexican or American citizens who have been arrested due to possession of peyote in their luggage.

#### THE MEXICAN NATIVE AMERICAN CHURCH: PARADOXES OF THE INSTITUTIONALIZATION OF THE CULT OF PEYOTE IN MEXICO

Before discussing the legal process proposed by the INAM to the Directorate of Religious Cults, we will present a brief description of the teepee ceremonies. The basic meaning—even though peyote consumption is involved in all cases—is the action of “raising a prayer” to the *Great Spirit* (*Wanka Tanka* in Lakota). These prayers are raised with two main types of intention: to express gratitude for the Spirit’s favor in the past or petitions for the future, or to plea for guidance toward one’s goals in life. Peyote, tobacco, sage, cedar, water, musical instruments, and songs are all elements of this prayer; however, each of these elements plays a different role. For example, the main smoke (tobacco) is assumed to be the foundation of the prayer; speech is given through it, and among all plants and medicines, it is considered the oldest, the wise one, the grandfather.

For its part, peyote represents a spirit that provides a communication channel with the *Great Spirit* (*Jesus Christ* in syncretic forms of the ritual) and with the rest of the elements involved in the ceremony. Consumption involves the presence of a chief peyote, that is, a sizeable dry specimen whose age at harvest can be around 100 years. It is kept in a specially decorated box, and its role is to be the “ruler” in the different ceremonies carried out by a specific roadman. During the ceremony, which begins at dusk and ends in the morning, fresh peyote circulates among participants, sometimes macerated in water or dried and shredded into powder, at least four times or depending on each occasion.

The beginning of the different phases of the teepee ceremony is marked by tobacco: the main smoke, the smoke of the midnight water, the smoke of the morning water. There are variations and modulations of the ritual that depend on the tribes and the ways in which

knowledge and practices were transmitted and adapted (Anderson, 1996). We should now stress the figure of the roadman, usually a middle-aged man over 50 who has been authorized by an older roadman to lead the ritual because his merits, wisdom, and ability allow him to take care of all of the aspects of the ritual. However, ceremonies are usually carried out at the request of somebody; this person is the sponsor, and they must cover transportation expenses for all the people in the road man's support team (e.g., singers), including gifts, as well as firewood and other supplies. At this point, we will address the arrival of tepee ceremonies in Mexico.

In the 1980s, relationships between leaders of the Aztec dance tradition and leaders of the NAC began to take shape, joined by Mexican-American citizens who had access to tepee, Sun Dance, and vision quest ceremonies, in addition to the temazcal, or sweat lodge. These contacts led to invitations to celebrate ceremonies on Mexican soil. It should also be mentioned that the broader distribution and abundance of peyote, and its relatively easier access in Mexico despite the prohibitionist policy, encouraged the relocation of several roadmen, who began to weave alliances and interchange relationships with the contacts that they established in their journeys. After several years, many of these Mexicans were given the "authorization" to open and guide ceremonies with an audience consisting basically of dancers and neo-Indians (Arias, 2012).

Thus, an important movement has emerged in Mexico after almost 30 years of interchange among groups and influence from Native American ritual forms. Based on experience in the field and a preliminary survey, we estimate that more than 20 groups have been identified with peyote tepee ceremonies. The ritual takes different forms in the United States; there are different lines, schools, or traditions that can be linked to the NAC, but others are independent and constitute different religious tribal associations.

Groups in Mexico have been influenced by these different traditions or lines; as a result, they are fragmented, and an organizational basis to include all of them has not yet been established. This is combined with the differences among Mexican urban groups and their forms of neo-Mexican spirituality.

#### *The Native American Church of Mexico: Paradoxes of the Legalization of Peyote among Neo-Indians*

In 2012, the INAM, based in Jalisco and led by Peruvian roadman Freddy Arévalo, who lives in Austin, Texas, submitted a request to the General Direction of Religious Associations seeking the registration and official recognition of the organization by the Mexican state. The following year, on April 24, 2013, the deputy director of Religious Associations Movements of the Religious Associations Registration Office issued a negative response, which is justified in 46 pages using several arguments. In sum, it considers the request inadmissible and orders its administrative withdrawal. In the same year, a writ of amparo (828/2013) was filed as a legal device to challenge the decision of

the authority, but the writ was rejected. Finally, in 2014, the plaintiffs demanded a review (RA112 / 2014-1757), which resulted in the case being heard by the Supreme Court of Justice of the Nation (SCJN), where minister Jorge Pardo Rebolledo proposed granting the amparo and acknowledged that the authorities had exceeded their duties by questioning the validity of the association's religious practices, thereby violating the constitutional precept of religious freedom (Reyes, 2016).

The decision issued by the sub-directorate of religious movements and the resolution of the writ of amparo represent valuable information for the analysis of drug policy and the recognition of religious identity as viewed by the Mexican state. The authority's arguments to support its refusal were the result of consultations requested by this sub-directorate from different public agencies in charge of health, the environment, law, and culture. Therefore, the overt role of the state in defining the policy becomes evident, and the contradictions emanating from a constitutional order that protects the freedom of religion but fails to provide options to alternative forms of worship are explained.

On the basis of the INAM statutes, the authority considers, for instance, that the doctrinal essence is vague and unclear in its definition of the deity associated with the cult (the great spirit, the creator), that the classification of the cult among other indigenous traditions in the continent is inaccurate, since there is no homogeneous body of beliefs, and that the cult lacks a sacred reference text, such as the Bible or the Koran. It also questions the legitimacy of the association's demands in terms of indigenous rights and the legal exception for consumption based on ancestral use because there are no associated historical territories, languages, or traditional customs. It claimed to be unaware of any current or past request by indigenous groups seeking the recognition of their ritual use of the plant and their constitution as a church.

In accordance with the requirements of the law to become a church before the Mexican state, regular ceremonies must be carried out over a period of five years, the community must be established, and the property of the buildings where the rituals are held must be verified. In the case of INAM, according to the authority, none of these requirements was met, since there was no prior notification about the beginning of activities, and the evidence that should prove community roots was insufficient. Similarly, the proof of property ownership was deemed dubious.

Categorically, the authority denied performing tepee-type ceremonies using "mescaline, usually known as peyote" (Secretaría de Gobernación- Subdirección de Movimientos y Asociaciones Religiosas, 2013). For that purpose, the Ministry of Health (SS) and the Attorney General's Office (PGJN) were also consulted. The SS refers to peyote as a powerful hallucinogen that produces depersonalization, split personality, and alteration or loss of awareness of time. According to the General Health Law, Section I, Art. 245, it is among the substances lacking therapeutic value, and therefore, its use represents a public health risk.



The environmental authorities (Semarnat) reinforced this position by invoking the condition of peyote as a species subject to special protection according to the NOM 059. In addition, the same institution considers that the use of parts of animals such as deer, falcons, and eagles, described in the statutes and overview of the ritual, can constitute an offense against biodiversity and is therefore a violation of environmental laws. At least in the United States, the discussion has already taken hold—ancestral ritual forms are the subject of special exceptions and are not considered a possible direct cause of the decline of certain species (Feeney, 2016).

The PGJN considers that, according to the Penal Code, the harvest, transportation, and consumption of peyote are criminal activities, except in the case of groups that use the plant in their ceremonies as part of their common usage. In this section, the authority links the criminal classification of the cactus with the information provided by the agency in charge of culture and states that the INAM fails to provide valid evidence of its nature as an indigenous people or community.

The request made by the INAM to the Directorate of Religious Associations, part of the Secretariat of the Interior, is a very illustrative case of the current circumstances of the religious field in Mexico, and it also shows the tone of the debate on the decriminalization of drugs in general, but particularly substances considered as medicines or sacraments within rituals inspired by or derived from indigenous traditions.

The case of the INAM presents an interesting paradox. On the one hand, the problem refers to the political uses of ethnicity and discourses on ancestry and tradition, which become negotiation strategies in processes called “reinvention of tradition” by the anthropological literature (Hobsbawm & Ranger, 2002). In this regard, the mystification of the past and the creation of pragmatic cultural affiliations can be easily confirmed. In its request to the religious authority, the INAM refers to its members as legitimate owners of peyote-related traditions simply because they have appropriated them, despite not being indigenous. This neo-Indianist strategy may make sense in cultural terms, but politically, it is often mistaken and seen as an imposture.

Therefore, the official position that only indigenous populations should have legal access to peyote is equally misguided because it fails to acknowledge the historical reality of the non-indigenous use of peyote and the fact that Mexico is largely a mestizo country. Additionally, the criteria for the recognition of religious identity are based on the parameters of dominant monotheistic religions, which fail to account for the entire scope of the contemporary religious experience.

It is important to note that this type of controversy is not isolated in Mexico, and the same is true about efforts by non-indigenous groups to regulate the use of ayahuasca in the United States under the Native American Church banner (Feeney, Labate, & Hudson, 2018). A similar claim was found in South America. In Brazil, the Igreja Nativa Americana do Fogo Sagrado de Itzachilatlan do Brasil has also submitted a request to the

government of that country with the purpose of regulating its consumption of peyote. These procedures have been unsuccessful for almost a decade (Ministerio de Justicia, Brasil, 2015).

The problem with teepee rituals, such as those performed by the INAM, which include peyote use, should be put in context from the recent debates regarding the regulation of marijuana for therapeutic and recreational use. We even believe that it should be discussed in the light of the failure of prohibitionist policies and its aftermath of violence, as well as the new apparent stance announced by the government of President Andrés Manuel López Obrador (2018-2024), which consists, as it is understood, of a change in the policy towards better distribution of wealth and reduce marginalization and poverty.

The regulation of tepee rituals involving peyote consumption should be included in the context of recent debates focused on the regulation of cannabis. A request submitted to the Federal Commission for the Protection against Sanitary Risks (Cofepris), so that eight citizens could use cannabis for recreational purposes, as well as the legal process conducted by Grace's parents (a girl who suffers from The Lennox-Gestalt syndrome, a severe form of childhood epilepsy that can cause up to 400 seizures per day) to request permission for the acquisition of medicinal products based on cannabis (e.g., cannabidiol oil), and it should be viewed as the opening up of the Mexican legal framework regarding drug policy. Whereas the former plaintiffs (represented by the Mexican Society for Responsible and Tolerant Self-Consumption) obtained an amparo, in Grace's case, the judge granted the import permission as justified by the right to health guaranteed by the Mexican state. More recently, in late March 2017, the use of marijuana for medicinal purposes was approved. This will result in amendments to the General Health Law and the Criminal Code. Similar outcomes could be expected as a result of the amparo granted to the INAM and the review of its application for registration.

## FINAL REFLECTIONS

After a long period of dormancy, the issue of peyote consumption has reemerged in the context of the discussion around drug policy, especially concerning human and religious rights, and it must be viewed from an international perspective. As discussed in the present paper, the issue becomes particularly complex when approached from a cross-border perspective as a result of the progressive scarcity of the cactus; moreover, its resolution calls for agreements addressing the ecological, legal, and cultural dimensions.

The cultural policy of peyote refers to the intercultural dimension involved in the creation, expansion, and innovation of new forms of use and users (Guzmán, 2017). This extensive process is rooted in the countercultural environment of the 1960s, which has been constantly updating and, over the past three decades, has acquired new contours that can be defined as the Huicholization and Native-Americanization of the rituals and ceremonies involving peyote in Mexico.

The case of the INAM is significant not because its strategy is effective (in any case, it entails the risks of reinventing the traditions described in previous sections), but because of its categorical attempt to enforce the rights of a religious minority whose ritual opposes and defies the international prohibitionist policy currently in force in Mexico. An interesting aspect of this legitimation process is its foundation on a pan-Indianist outlook; that is, an ideology that gravitates toward the indigenous but is nonetheless a cultural construction of non-indigenous groups. Therefore, it represents a curious case of cultural hybridization. By all appearances, this point of view can be expected to grow in the following years. In fact, the INAM attempt is the second of its kind, the first of which was made in 1994 by Aurelio Díaz Tepancalli (Diario Oficial de la Federación, 1994). This process failed to produce favorable legal results.

Effective peyote regulation requires that the government and Mexican indigenous and non-indigenous representatives establish communication and include conservation and health scientists in the discussion. The unprecedented model of legal, religious use of ayahuasca in Brazil (Labate & Feeney, 2012) could be a model for collective parameters that all social actors could accept and commit to.

However, the ecological aspects of this cactus are more complicated than those of ayahuasca due to its slow growth rate, increasing scarcity, and issues derived from the transnational border. Therefore, given its complexity, discussing the expansion and regulation of peyote is an excellent laboratory for ideas concerning drug regulation policy.

Translator: Miguel Ángel Ríos

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