



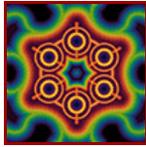
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Legal, Ethical and Political Dimensions of Ayahuasca Consumption in Brazil¹

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Introduction

This article investigates the relationship established between the Brazilian ayahuasca religions and civil society, considering especially the ethical, political, social, ecological, and legal questions that have emerged as the consumption of this psychoactive beverage, originally restricted to the Amazon region, has expanded and become integrated into a broader national context. The use of psychoactive plants by indigenous and other rural Amazonian populations generates little controversy, but this is not the case for the non-indigenous urban religions that use the same substances.

The word ayahuasca is derived from the Quechua language. According to Luna (1986), aya means "dead person, soul, spirit" and waska means "cord, liana, vine". Thus, ayahuasca could be translated as "vine of the soul" or "vine of the dead". Indeed, during my own fieldwork in Pucallpa, Peru, I encountered people using the local terms *soga de muerto* and *soga de los muertos*: "vine of dead". In some Portuguese-language internet sites, and even academic publications, one finds ayahuasca translated as "wine of the soul/of the dead", apparently owing to a confusion in translation between the similar words *vinha*, "vine" and *vinho*, "wine"; at any rate this new translation, even if erroneous, provides a seductive poetic element that enthusiasts appreciate.

Ayahuasca is, generally, a drink prepared from the liana *Banisteriopsis caapi* and leaves of the shrub *Psychotria viridis*, to which diverse other plant admixtures may be added. In Brazil, the same beverage (with slight variations in preparation and concentration) is known by various names and is used in diverse contexts: by indigenous societies, among rubber-tapper and riverine Amazonian populations, and by the so-called "Brazilian ayahuasca religions", consisting of three main groups; namely, Santo Daime, Barquinha and União do Vegetal (UDV). Santo Daime was founded by Raimundo Irineu Serra, or Mestre Irineu, in the 1930s in Acre, and today is divided among two main branches: Alto Santo and CEFLURIS or ICEFLU, the latter established by Sebastião Mota de Melo. (For the remainder of the article when I mention "Santo Daime", I will be referring to the CEFLURIS branch, which has spread widely throughout Brazil, in contrast to the much smaller Alto Santo tradition, found only in Acre). Daniel Pereira de Mattos founded Barquinha in the mid 1940s in Rio Branco. José Gabriel da Costa in Rondônia founded the UDV, known formally as "Centro Espírita Beneficente União do Vegetal", in the early 1960s.

Although indigenous and non-indigenous shamans and healers in the neighboring Amazonian countries of Peru, Colombia, Venezuela, Ecuador, and Bolivia use ayahuasca in both rural and urban contexts, it is only in Brazil that the beverage has been incorporated into fully elaborated new religious traditions of essentially Christian orientation. Beginning in the 1970s, both UDV and Santo Daime expanded to important urban centers in Brazil, and since 1990, both have gained followers in Europe and North America.

First, I will define the outline of the legal parameters surrounding illicit substance use in Brazil, and contextualize ayahuasca in relationship to these laws in Brazil and internationally. I will also

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refer to pharmacological studies on ayahuasca, since legal discourses have relied heavily on biomedical research. Next, I will trace the historical trajectory of ayahuasca's regulation in Brazil; beginning with the first controversies involving ayahuasca groups; moving on to the initial, temporary prohibition of its use and successive attempts to outlaw it; and arriving finally at the most recent developments.

From this legal discussion, I will move on to another fundamental dimension implicit in the expansion of ayahuasca groups: the dangers of overharvesting of the plant species present in the brew, and governmental attempts at regulating their extraction from forests. I will also examine the relationships established between the UDV and the Santo Daime especially, and the news media and civil society; revealing important information about the ethos of these groups and about the popular imagination surrounding the consumption of ayahuasca. Finally, I will show how the expansion of ayahuasca religions in Brazil is tied to a broader context of international expansion, raising additional questions and problems.

Ayahuasca and Brazilian and International Drug Legislation

In Brazil, the new Antidrug Law 10409/02 went into effect on the 27th of February, 2002, partially revoking the previous Law 6368/76 of October 21, 1976, that had established methods for preventing and repressing the trafficking and improper consumption of intoxicating drugs. Yet, because articles 14 and 26 in Chapter 3 of the new law, "On Crimes and Punishments" were vetoed, the previous law's stipulations on these matters remain. The coexistence of both the old and the new laws has led to debates and confusion owing to various problems and technical inaccuracies found in the older law. Law 6368/76 has been criticized by various sectors of society for criminalizing the user, for not establishing a clear enough distinction between users and traffickers, and for not differentiating penalties according to the substance involved. Some of these central points remain unchanged in the new Antidrug Law 10409/02 due to the veto of the third chapter. How did this come to be?

At the end of 2001, after ten years of debate, the Brazilian Congress approved a draft project for Law 1873 of 1991. This draft went into effect as Law 10409 of 2002, which received several vetoes from the Brazilian president. An important innovation in this law was to replace prison sentences for users with social-educational measures. Another significant alteration was the possibility for alternatives to prison sentencing for traffickers, including revoking of the driver's license, treatment and rehabilitation programs, community service, etc. However, the new law did not provide an estimate of the duration for such alternative punishments. For this reason, the president, based on an evaluation by the Ministry of Justice, vetoed articles 1 and 3, arguing that such lack of clarity would cause enforcement and policing of drug laws to be weakened, as well as leading to conflicts of jurisdiction between the Health and Justice ministries. Furthermore, if these articles remained after the entire chapter on "Crimes and Punishments" had been vetoed, the result would be a de facto liberalization of drug use: every law proposes a sanction for non-compliance, and the lack of a sanction would imply that drug use was no longer criminalized.

Draft Law 6108 of 2002, proposed by the executive branch, aimed to revoke all contradictory measures, especially Law 6368/76 and Law 10409/02. It established new terms for alternative sentencing and special non-criminal legal standing for users, who could be eligible for these alternative sentences, as opposed to traffickers, who would not. However this law encountered similar problems found in the long debates over draft Law 1873/91, notably with regard to an end to prison sentences for users. The 2002 draft law allowed alternative sentences for users, but also provided for a conversion to prison terms if treatment and community service obligations are not met. This law's effort to decriminalize² the user aims to establish in Brazilian law a tendency already found in countries like Spain, Switzerland, and Portugal, and that has been under discussion since the 1970s. Yet, while for some, decriminalization of the user is interpreted as progress, for others it is seen as a step backward. For example, the new regime of control would transform the criminal into a sick person; not a true transformation but merely a shift in the focus of stigma and persecution. According to Rodrigues (2004), the user is no longer a criminal to be captured by the net of the prison system, but rather a poor victim of addictive drugs, who must be supported, taken care of, and treated; another circuit that tracks, confines, and coerces. Traffickers, generally coming from the "dangerous underclass" of people of color and immigrants, remain targets for the repressive state apparatus with support from the public who fear for the safety and health of their children.

Article 12 of Law 6368/76, which is still in effect, established penalty terms with precision but does not provide a complete definition of the criminal offense to which it applies. The article does not even define which drugs are considered narcotic or addictive, and hence subject to punishment under this article. For this law to function, this lacuna must be filled with complementary regulations. The definition of which substances are considered illicit or subject to controlled use was passed on to the Health Ministry (Fiore 2002).

Previously, it was up to the medication division of the Health Ministry (DIMED) to list narcotic and addictive substances. These lists are not fixed or permanent, but rather subject to periodic revision. Law 9782 of January 26, 1999 (previously Provisional Presidential Decree 1791 of 1998) created the Agency for Sanitary Inspection (ANVISA), to which this responsibility was assigned. According to resolution 228 of December 11, 2001, ANVISA's advisory board is charged with publishing and updating the list of controlled and proscribed substances. The new Antidrug Law of 2002, however, does not change the division of labor between the ministries of Justice and Health. Yet, in the last instance, it is the Health Ministry that is charged with liberalizing or prohibiting substances, implying "an

Article 12 of Law 6368/76, which is still in effect, established penalty terms with precision but does not provide a complete definition of the criminal offense to which it applies.

institutional role of medicine in guiding public policy on drugs" (Fiore 2002). The responsibilities and apparatus for preventing improper use of narcotic substances, treating addiction, and repressing production and trafficking all fall upon the National Antidrug System (SISNAD), which includes federal, state, and municipal government offices involved in activities relating to these goals. The National Antidrug Council (CONAD - Conselho Nacional de Políticas sobre Drogas), set up by Provisional Presidential Decree 1689-4 of September 25, 1998, replaced the former CONFEN (the Conselho Federal de Entorpecentes, or Federal Drug Council) of the Justice Ministry. CONAD is a regulatory body formed by a board tied to the Cabinet of Institutional Safety for the President's office, and is composed of representatives of diverse governmental and non-governmental entities. SENAD, the National Antidrug Secretariat, created in 1998, functions as the executive secretary to CONAD. SENAD is responsible for government prevention policies regarding narcotics and related substances, while the Federal Police are responsible for coordinating control and repression.

On the international stage, Brazil is signatory to various international conventions and treaties on drug control, including: 1) the United Nations Single Convention on Narcotic Drugs, signed in New York in 1961; 2) the Convention on Psychotropic Substances established in Vienna on February 21, 1971; 3) and the Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, also concluded in Vienna on December 20, 1988. These conventions present lists that identify drugs according to somewhat vague "degrees of danger" that imply varying degrees of strictness in prohibition. In the second Convention, DMT (a substance found in the leaves of the ayahuasca ingredient *Psychotria viridis*) is found under category 1, which refers to the most restrictive category of substances including LSD, psilocybin (magic mushrooms), MDMA ("ecstasy"), and mescaline (peyote, San Pedro).

DMT, typically smoked in glass pipes or water bong³, gained popularity in California in the mid-1960s. For this reason, the earlier 1961 Convention does not mention this substance. Between 1966 and 1970, several American states declared it illegal until, in 1970, the American federal government included DMT under Schedule 1 (the U.S. system of drug scheduling is similar to the U.N.'s). The U.S. was the first country to declare DMT illegal. Soon afterwards, other European governments followed suit (Stafford 1992).

Legal Discourses and Ayahuasca Pharmacology: A Critical Analysis

DMT is now clearly and explicitly banned by international drug conventions, and hence it is assumed by some that ayahuasca, which contains DMT, would likewise be considered an illegal substance. And yet, according to certain controversial legal discussions we shall discuss, it is possible to view this question from a different angle. Indeed, there seems to be a certain legal vacuum that makes classifying ayahuasca somewhat problematic.

According to the scientific literature, ayahuasca consists of an infusion of tropical liana *Banisteriopsis caapi* with the leaves of the shrub *Psychotria viridis*. The active ingredient DMT (N,N-dimethyltryptamine) is found in *Psychotria* leaves. Like other tryptamine-based alkaloids such as LSD and psilocybin, DMT is structurally similar to the important neurotransmitter serotonin. The psychoactive potency of these substances is largely due to their interactions with serotonin and other neurotransmitter receptor systems. DMT is quickly deactivated in the body by monoamine oxidase (MAO), an enzyme that plays a role in removing serotonin and other neurotransmitters from synapses to ensure normal transmission of nerve impulses. Thus, unlike LSD and psilocybin, DMT is inactive when administered alone orally. However, beta-carboline alkaloids such as harmine, harmaline, and tetrahydroharmine, present in *Banisteriopsis*, temporarily inhibit MAO activity, potentiating the DMT component of the brewed infusion. It is the interaction between these two separate components that gives ayahuasca its potency (Callaway 2002; Brito et al. 2002).

International law declares the chemical substance DMT to be illegal. DMT can be found in different forms: pure, or in combination with other substances. It can also be acquired by two methods: either by extracting from *Psychotria* and other natural botanical sources, or by synthesizing from precursors like tryptophan. From a legal standpoint, DMT is all the same thing, whether it is pure or combined with other substances, or whether it comes from natural or synthetic sources. The same applies to other substances like mescaline, cocaine, and morphine that can be extracted from natural sources (from peyote, coca, and opium poppies) or synthesized chemically, either in the pharmaceutical industry (e.g., morphine) or in the clandestine market. All of these pure substances and their plant sources are illegal, with some dispensations for pharmaceutical production.

The first problem that appears in this legal classification of ayahuasca involves dosage. DMT is illegal, independent of dosage; just like cocaine, heroin, LSD and so on. However it could be argued that pharmacologists do know the active dose for DMT, and it varies greatly between smoked versus orally ingested administration. When smoked, the dose of DMT required to achieve full psychoactive potency is small, around 15 to 30 mg. However the active dose required to achieve potency via oral ingestion without MAO inhibition is thousands of times higher, some dozens of grams. The quantity of DMT in a typical dose of ayahuasca is about 20 to 30 mg, far too small to be pharmacologically active by oral ingestion without the presence of the MAO inhibition provided by beta carbolines from the *Banisteriopsis* vine. Beta carbolines, by contrast, are not prohibited. For this reason, it could be argued, ayahuasca should not be considered illegal: It is only the presence of MAO inhibiting effects of this added (and legal)

Another polemical dimension of this discussion involves the so-called psychonauts, a diverse group of enthusiasts with a strong personal connection to experimentation, use, and even invention of novel psychoactive substances who have created "ayahuasca analogs"...

component that renders the DMT active by oral administration. Without the beta carbolines, the dosage of DMT would be orders of magnitude too small to achieve any psychoactivity by oral administration. Moreover, ayahuasca is a liquid, and hence cannot be smoked or inhaled to bypass any dosage limitations caused by oral administration.

Another dimension to this argument is as follows: If both natural and synthetic DMT are illegal by the anti-drug convention, then why shouldn't all other natural plants containing the substance be outlawed? There are over 200 plant species throughout the world that contain DMT. Some are widespread, like *Phalaris arundinacea*, a weed common in Europe, and some have well-established economic uses, for example *Desmanthus illinoensis*, a native grass of the U.S. and Australia used for pasture that contains more DMT than *Psychotria*. Various species of *Acacia* that contain DMT are used in Ayurvedic medicine and sold legally in Europe. Ayahuasca is illegal in some countries when it consists of *Banisteriopsis* and *Psychotria*, but it would not be illegal if it were prepared, say, from *Banisteriopsis* and *Phalaris*, or *Acacia*. Prohibiting all plants that contain DMT would be impossible, just like it would be impossible to prohibit all plants containing other toxins and poisons (Ott 1993).

This discussion goes even further, since DMT has been found in many plant and even animal species, as well as in human tissue, including the brain, lungs, and bodily fluids (Callaway et al. 1995). It is also found in infinitesimal but measurable quantities in the blood platelets responsible for clotting; the platelets also contain serotonin, and the DMT traces may be the result of serotonin breakdown (Wyatt et al. 1973). If any dose of DMT is illegal, then are these blood platelets also illegal?

Another polemical dimension of this discussion involves the so-called psychonauts, a diverse group of enthusiasts with a strong personal connection to experimentation, use, and even invention of novel psychoactive substances who have created "ayahuasca analogs", which is to say, various non-traditional mixtures of plants containing beta carbolines and DMT to produce novel psychoactive brews similar in effects to ayahuasca. Examples include "juremahuasca" which combines the leaf of the DMT-containing Brazilian savanna plant *Mimosa tenuiflora* (known locally as jurema) with the Middle Eastern medicinal plant *Peganum harmala* ("Syrian rue") which contains beta carbolines. These ayahuasca analogs fall into a vacuum of legal incongruence and, in some cases, they turn out to be cheaper to obtain and easier to prepare than the original, native ayahuasca. Another analog formula widely available on the internet consists of capsules of *Peganum harmala* mixed with *Phalaris arundinacea* or *Desmanthus illinoensis*. It is worth noting that none of these novel combinations have any history of traditional use; hence, there is a high degree of uncertainty around possible risks of toxicity (Metzner 2002).

One legal strategy that has been debated to maneuver around these difficulties would be to ban all forms of DMT that can be inhaled or smoked—in practice, synthetic DMT—as well as all those forms in which DMT is associated with beta carbolines through oral administration. However, this possibility is not part of current legislation, which considers beta carbolines and their interactions with other substances to be perfectly legal.

At any rate, a new understanding seems to be emerging around this theme. In 2000, the Ministry of Public Health in The Hague requested advice from the United Nations Narcotics Control Commission in a consultation regarding a lawsuit against Santo Daime in Holland. The Commission's secretary, Herbert Schaepe, faxed a response on January 17, 2001, that included the following declaration:

No plants (natural materials) containing DMT are at present controlled under the 1971 Convention on Psychotropic Substances. Consequently, preparations (e.g., decoctions) made of these plants, including ayahuasca, are not under international control and, therefore, not subject to any of the articles of the 1971 Convention.

It is still not possible to evaluate to what extent this individual's declaration has become official international policy. Yet, this brief discussion has highlighted the difficulties and ambiguities, both legal and pharmacological, in interpreting and enforcing existing narcotics laws with regard to ayahuasca. At this point in the discussion, I move on from these complex and unresolved legal debates to consider other social, cultural, historical, and political factors that are relevant to understanding the current legal status of ayahuasca in Brazil. These issues, too, turn out to be complex.

CONFEN and the Regulation of Ritual Ayahuasca Use

On the 30th of September, 1981, a young man living in Colônia Cinco Mil—"Colony 5000", the original Santo Daime CEFLURIS community founded by Padrinho Sebastião near Rio Branco—was stopped for marijuana possession by the police (Dias Jr. 1992; Mortimer 2000). This event marked the beginning of a series of conflicts between the police and the CEFLURIS branch of Santo Daime. Mortimer (2000) describes how the police arrived at Colônia Cinco Mil and destroyed eighteen *Cannabis* plants, referred to as "Santa Maria" in the Santo Daime religion and considered sacred, just like the daime (ayahuasca) brew. The police were perplexed as they proceeded to destroy the plantation while a group of Daime adepts sang a spiritual hymn of farewell to the plants. "A twelve-year-old boy, courageous and not shy, asked to sing a hymn that he himself had 'received' [through divine spiritual inspiration]. In simple rhymes the boy told how Santa Maria was persecuted because of the evil ways of men" (Mortimer 2000, p. 207). In the end, no one was arrested because the police couldn't determine who owned the plants. But the episode had important consequences. In 1982, the Ministry of Justice created a commission consisting of a psychologist, an anthropologist, a historian, and a sociologist to follow up on

the case (Dias Jr. 1992, pp. 82-84). They visited the Federal Police and the army base at the Rio do Ouro rubber-tapping camp (idem ibidem; see whole Noílton Nunes documentary, Daime Santa Maria, 1983).

These events influenced a later episode, in February 1985, when DIMED (Divisão Nacional de Medicamentos, the National Division of Medicines) added Banisteriopsis caapi to the list of prohibited psychoactive substances in Brazil. However, this decision was made without consulting the Federal Council on Narcotics (CONFEN), to which DIMED answers (Goulart 1996; Dias Jr. 1992; MacRae 1992; for CONFEN reports, see CEBUDV 1989). Not long thereafter, the União do Vegetal (UDV) addressed a petition to CONFEN asking for this norm to be struck down. In 1985, through the Resolution 04/85, CONFEN established an interdisciplinary working group to study the question. The group, led by Domingos Bernardo de Sá, was composed of anthropologists, historians, sociologists, philosophers, theologians, doctors, and psychiatrists, among others (MacRae 1992).

By early 1986, the working group delivered a report recommending the provisional suspension of the ban on ayahuasca until they could finish their work. The research took two years and included visits to UDV and Santo Daime centers in Amazonia and elsewhere in Brazil. On August 26, 1987, the group's final report recommended removing ayahuasca permanently from CONFEN's list of prohibited substances. Thus, ritual use of ayahuasca was no longer considered a crime, though recreational, experimental, and scientific use of the substance was not authorized.

Another important milestone in this process was the November 24, 1991 drafting of the "Letter on Principles from the Main Entities Using Ayahuasca". This letter began as an initiative by UDV to establish common procedures and ethical guidelines for the use of ayahuasca and communicate these principles to government authorities and public opinion. The following year, this document expressing a joint commitment was signed by representatives of seven of the main ayahuasca-using religious groups at the First International Ayahuasca Congress in Rio Branco, Acre, November 18 to 21, 1992. Though most of the participants belonged to ayahuasca religions, some scholars were present, and the event led to the strengthening of an intellectual leadership within some groups. The event was filmed, and groups made public various aspects of their institutional structure, history, myths, and rituals. Topics covered in the event ranged widely, from the botanical characteristics of different varieties of Banisteriopsis liana used by the groups to discussions of the political and legal context of anti-drug legislation in Brazil. However, the delicate points of conflict between the groups were touched on only implicitly.

The full text of the letter can be found in Jornal Alto Falante (1991, p. 3). Some of the principles mentioned in the letter include:

- participants in an ayahuasca ritual must remain on the church grounds until the ritual is over;
- ayahuasca will not be consumed together with other prohibited substances;
- ayahuasca should not be sold, even to church members;
- shamanistic healing practices or "curdandeirismo" (subject to "false practice of medicine" and "charlatanism" legislation) should be avoided;
- avoid publicity (however, both UDV and Santo Daime now have web sites);
- the churches have the right to maintain their own plantations of the two botanical components of the brew;
- people who are drunk or under the influence of illicit drugs are not allowed to participate in the rituals.

The document also underlines the importance of caution in relationship to all information that is publicly associated with each group; for example, each institution should make clear that it only speaks in its own name, and only those in hierarchically recognized positions of authority should speak in the name of the group. Finally, the letter proposes the formal regulation of ayahuasca use as a major objective for collaborative action among groups.

This Letter of Principles has no legal status. Nevertheless, it is relevant to the extent that it represents an initiative to establish formal parameters to control the use of ayahuasca by the groups themselves, making it a point of reference for CONFEN and the general public. Self-regulation of ayahuasca use was a constant recommendation of Domingos Bernardo de Sá, of the CONFEN commission, to all the groups. This coincides with the opinion of some anthropologists (see MacRae 1992), who trusted in the capacity of the religious communities to develop their own means of social and cultural control. Such self-regulation is much more effective than coercive, external, legal and institutional controls.

The letter makes explicit the centrality of concerns about both legal status and public media representation, which in turn expresses the close relationship between these two spheres. The declaration also attempts to present a uniform and cohesive view of a situation that, in practice, is not necessarily uniform across groups. Overall, the principles stated in the letter are especially representative of the opinions and practices of UDV, which took a

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lead in the initiative. There are notable disagreements among groups regarding the role of shamanic curing and the use of other prohibited substances (i.e. Cannabis or "Santa Maria" in Santo Daime). Indeed, the ayahuasca religious scene is rife with "splits" and differences of opinion, practice, and doctrine between different groups (Labate 2004). Goulart (2005) has analyzed how certain conflicts and accusations between groups reflect projections of their own religious identity.

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The question of Santa Maria (Cannabis) is quite thorny, and represents probably the main point of contention between the CEFLURIS Santo Daime branch and the other groups, underlying conceptual and moral differences. Barquinha and UDV both prohibit members from any consumption of alcoholic beverages, even in their private lives outside the church. UDV norms explicitly call for suspensions for people observed to infringe public order by consuming intoxicants or appearing in a "visible state of intoxication" (CEBUDV 1994: 94). Tobacco use by members is also prohibited in UDV and Barquinha, with the exception (in one Barquinha "line") of certain incorporated spiritual entities who smoke pipes or cigars (Goulart 2005; Mercante 2002). Santo Daime, however, does not ban tobacco use except in the immediate vicinity of the church. These different groups have varying concepts about different substances, and yet their notions also contrast sharply with those found in the wider society, where ayahuasca and marijuana are generally considered dangerous or aberrant, while alcohol and tobacco, though subject to restrictions, are legal and normal.

The letter's distancing of religious use from healing (shamanistic) practice comes into conflict with certain rituals of Santo Daime and Barquinha considered "healing work", a notion encompassing spiritual and physical well-being (for CEFLURIS notions of healing see Groisman 1992; Goulart 1996; and Pelaez 1994. For Barquinha, see Sena Araújo 1999 and Mercante 2000). These concepts vary from group to group and also stand in contrast to more general Brazilian concepts and to the official medical establishment, raising questions about the legitimacy of such healing practices considered folkloric, superstitious, or charlatanic (see also Labate 2004).

Despite disagreements, this meeting in Acre consolidated a pan-religious alliance around ritual ayahuasca use, giving these religious practices a newfound mantle of legal and social legitimacy in Brazil. Indeed, the term "ayahuasca"—of Peruvian Quechua origin and not used by any of these religious groups, who refer to the beverage variously as "daime", "tea", "vegetal", and "hoasca"—was chosen intentionally to refer to the brew in a generic and politically neutral way that would not lead to internal debates over vocabulary and dogma: Classification is always a political act. The same term has been adopted by the scientific community as well as by urban neo-ayahuasquero groups (Labate 2004) that have broken away from mainstream Santo Daime and UDV.

The story of ayahuasca legalization takes another important turn in 1992, when a police investigation was opened as the result of an anonymous tip made in 1988, which claimed that ayahuasca church members "number some ten million fanatics concentrated in urban centers... In União do Vegetal the plant is mixed, without anyone noticing, with LSD or similar drugs.... Adepts are initiated into slave labor and forced donations... Children... are terrified by horrific visions". The document (cited in a 1992 CONFEN report; see *Jornal Alto Falante* 1992, pp. 6-9) alleges that these religions even pose a threat to national security, suggesting that, "all of this can be blamed on... a counter-attack of the urban guerrillas". The text closes with images that point out the symbolic cartography of certain social groups of the country in relation to ayahuasca consumption.

CONFEN established another working group to update the studies carried out by the prior group, and again called upon specialists from many areas. A mixed commission was established, including three members of CONFEN as well as representatives from various ayahuasca-using groups, to consolidate principles and common rules. The anonymous report was disqualified as "accusatory hysteria" in a CONFEN report dated June 2, 1992. The panel report, penned by Domingos Bernardo de Sá, is practically a manifesto on religious tolerance and against the "fear of hallucination". This lawyer cites classical authors in the human sciences, as well as Catholic saints, Biblical passages, doctors and psychiatrists, and anthropologists such as Clodomir Monteiro and Edward MacRae. He also mentions the medical conferences organized by UDV (see *Jornal Alto Falante* 1991). The report, approved unanimously in June of 1992, concludes by reinforcing the favorable findings of the prior report and definitively suspending the interdiction of ritual ayahuasca use (MacRae 1992).

In 1996, the UDV took a proposal to the other groups to suggest forming a legal council composed of the religious institutions themselves to establish the mechanisms of control proposed in the Letter of Principles. The proposal also included a reformulation of some of the dimensions of the Letter of Principles, including specific observations regarding ayahuasca commercialization and the participation of minors in rituals (Queiroz 1996). Though I was unable to find out more about the specifics of this process, these negotiations were not successful. On April 5, 1996, UDV removed its name from the Letter of Principles. Thus, the unity of purpose forged previously, achieved during that historical moment for a specific purpose, proved in the end to be fragile and not entirely sustainable.

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Another Sensitive Issue: The Participation of Minors

There is no legal basis for banning the participation of minors in ayahuasca rituals, yet the question has generated enormous controversy. The Letter of Principles states that participation of minors can occur only with parental authorization. In a 1997 UDV document (Carta Circular nº 14/97), the question is addressed through a series of specific rules: (1) children under twelve may participate in ayahuasca ceremonies only during five special yearly sessions: Mother's Day, Saint John's Day, the day of saints Cosmos and Damian, Christmas, and New Year's; (2) adolescents from ages twelve to fifteen may participate in at most one session per month; (3) ages sixteen and older may participate in all bimonthly regular sessions (1st and 3rd Saturdays of each month) as well as the special yearly sessions; (4) over age eighteen, members can join and participate regularly without parental consent; finally, (5) youth ages sixteen to eighteen may wear the standard green uniform, only without the emblazoned letters "UDV", which is reserved for adults.

In Santo Daime and Barquinha, there are no official rules regarding the participation of minors in ayahuasca rituals. Rather, this is decided on a case-by-case basis, depending on the nature of the session, the relationship of the parents with the Doctrine, and the kind of cumulative group knowledge that is transmitted orally. In all groups, minors receive a smaller quantity than adults. (Note that women generally receive smaller doses than men, and all groups have specific criteria and appoint people responsible for administering the proper dose and limiting the number of repetitions allowed for different participants and contexts).

In its third general meeting on June 2, 1995, and taking into account suggestions found in Process 136/94, CONFEN approved an internal opinion recommending that ayahuasca not be served to people with mental health disturbances nor to minors, even when accompanied by their parents, and no matter what dosage or ceremonial context (personal communication with Luis Fernando Godinho Santos, SENAD's press advisor, April 2002). In a next meeting on May 16, 1997, this previous decision was ratified (O Globo July 20, 1997).

An opinion is a point of view, a positive or negative perspective, but it is not legally binding nor does it have the power of a law or decree; however, it does open a precedent. This 1997 decision was a result of a request by UDV groups in Rondônia to authorize participation in ayahuasca sessions for minors under fourteen. CONFEN, on the contrary, expanded its recommendation suggesting a ban on serving ayahuasca to minors under eighteen. CONFEN decided to create a working group to examine this question in greater detail but later dissolved this commission.

Domingos Bernardo de Sá, however, placed a dissenting vote to this CONFEN opinion (Act of CONFEN meeting August 25, 1997; I CURA 1997; Diário Oficial, September 26, 1997). For him, use of ayahuasca by children falls under the auspices of private law, as regulated by the Civil Code. This doesn't mean this right is not regulated, only that it falls under the domain of individual responsibility. In private law, there are obligatory norms, including those regarding public order, and subsidiary norms, which are applied when there is a lack of agreement between the parties. By contrast, public law (judicial, penal, administrative, etc.) is always imperative. Private law invokes the intervention of public/penal law only when necessary. Thus, private law is subsidiary (Domingos Bernardo de Sá, I CURA 1997).

The Brazilian Civil Code enshrines parental rights over decisions regarding raising and educating children, including schooling and religious activity, parallel to the individual constitutional right of religious freedom. However, when the state decides that parental decisions are harming a child, it can enact legal processes to revoke parental powers and transfer them to other parties. The laws governing children's rights are found in the Statute of Children and Adolescents, giving the state broad powers to act in the "best interests of children". Conflicts between state and parental powers are found for example in cases where parents don't allow their children access to standard school education, or in religious denominations such as Jehovah's Witnesses who refuse to allow blood transfusions.

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According to Sá, disrespecting the parental powers of parents who wish to allow their children to take ayahuasca represents an unnecessary police intervention in family relations. However this view is not universal. For some jurists, ayahuasca usage constitutes a legitimate exception for state intervention. Difficult questions come up, especially in cases of divorce or separation, where one of the parents is involved in an ayahuasca church and the other who is not is opposed to their child's involvement. Both UDV and Santo Daime approach this situation by requiring that the participation of minors be authorized by both biological parents. As we have seen, this was in the previous CONFEN's official opinion.

Getúlio Barbosa de Andrade (2001), former Attorney General for Rio Branco, tried to broaden this debate by calling on the Public Ministry to intervene to defend the "individual interests of all those affected by harmful or injurious activities". He presented a recommendation to CONAD that ayahuasca should be completely prohibited for minors, and its use by the mentally ill restricted. He also recommended that environmental agencies provide incentives for ecologically rational plantations of the botanical components of the brew (see below). His document begins with brief speculations on the origins of mysticism, passing through ancient Greece and other examples, and moves on to a list of phytochemical components of the brew and its supposed effects on the human organism without, however, citing any bibliographical references on the subject. According to his arguments, adolescents are at the mercy of violence and sexual abuse when they consume the beverage. He also claims children in Santo Daime are forced to drink the brew against their will. He mentions two lawsuits from the Court of Children and Youth in Rio Branco and one incident in a school where such

problems were alleged (for more on legal cases involving ayahuasca religions in Brazil, see Castilla 1995 and Mourão 1995). One cannot be sure how much influence this document had, though he did bring to vote a law regarding these issues in the Legislative Assembly of Rio Branco in June 2001, and lost by only one vote.

SENAD and More Recent Initiatives

In 2000, the National Anti-Drug Secretariat, together with the Ministry of Education and the Federal Police, developed a survey with 74 questions to be administered to ayahuasca-drinking groups. The questionnaire was approved by CONAD in March of 2001. It is hard to determine the origin of this initiative. In a telephone interview (personal communication, April 23, 2002) with Luis Fernando Godinho Santos, the press advisor for SENAD, I was told that in mid-2000, UDV and Santo Daime had gotten in touch with the secretariat to obtain a final regulation for ayahuasca use, probably taking advantage of anti-drug laws then under debate in the Congress. Which is to say, the ayahuasca groups appear to have taken their own initiative to establish formal legal status for their activities. Thus, the questionnaire was apparently prepared to gain "more precise data to allow further study towards a technical analysis of the subject and the adoption of legal instruments of regulation and control" (personal communication, Luis Fernando Godinho Santos, April 23, 2002).

The news that this incident was a response to the ayahuasca groups' own initiative surprised me, since the questionnaire had been interpreted by the groups as excessively intrusive and authoritarian. I tried to confirm this information in interviews with Santo Daime and UDV. Alex Polari (personal communication, May 2002), vice president of Santo Daime, stated that the group had not contacted SENAD with this finality, and that he had received the questionnaire from the UDV. The UDV likewise stated that "the initiative for the questionnaire came from CONAD/SENAD" and that the UDV "supported the initiative... The questionnaire emerged out of the necessity of building ties with the other institutions, which have been absent in the process of ayahuasca legalization; UDV is the only society currently participating" (personal communication, James Allen, then president of UDV, email of June 25, 2002). There are numerous interpretations over this re-opening of investigations into ayahuasca groups. One unconfirmed theory is that SENAD had been pressured by the United States embassy after frequent confiscations of ayahuasca among drinkers in that country (see below). This idea appears to be in alignment with the general spirit of "Plan Colombia".

Regardless of its actual motivations and origins, according to Godinho, the questionnaire was sent out to UDV and Santo Daime (though note above, Alex Polari's statement to the contrary), the two main groups, who passed it on to others in March 2001. The questionnaire covered many topics, such as the institutional profile of the groups, descriptions by the adepts of the brew's effects, forms of harvest and transportation of botanical components, and so on. Several details struck me in my reading of the document:

1. The presence of specific UDV jargon like "burracheira" for the brew's effects and "preparo" to refer to the preparation of the brew, terms not used by other groups;
2. Somewhat careless use of pejorative, politically incorrect terminology not generally found among ayahuasca using groups, for example the term "hallucination";
3. A reappearance of all the polemical questions regarding ayahuasca usage in Brazil, sometimes with new nuances: use by minors, concurrent use with other illicit substances, commercial sale of the brew, etc.
4. With regard to commercialization, the questionnaire appears interested in addressing the international expansion of ayahuasca that happened during the 1990s, with specific questions regarding international export of the brew and visits of foreigners to Brazilian centers;
5. The questionnaire also seems concerned with the issue of non-ritual use, use off of church premises, and the possibility that people who learn to prepare the brew at the church might do so elsewhere on their own;
6. A notable absence of any reference to the divisive question of shamanistic healing practices;
7. An apparent oscillation in some questions between the legitimacy of traditional knowledge versus scientific opinion, including questions asking whether drinkers have heard of the substance DMT, and whether they know it is reported to cause hallucinations.

On the one hand, the questionnaire suggests the drinkers are consuming a toxic substance, and yet, on the other hand, shows a certain curiosity regarding the traditional "native" forms of understandings and controls. Other questions reveal similar bias, for example: "Does this Sect know that in other countries, like France, ayahuasca tea is prohibited because of the damage it can cause to users?" This question ignores the existence of scientific studies and reports by CONFEN itself attesting to the contrary. A similarly biased and scientifically uninformed question posits: "Are representatives of the Sect aware that ayahuasca tea contains active principles that are capable of causing physical and psychological dependency? If not, how to explain the state of trance drinkers of the substance (ayahuasca) experience during the rituals?" Since when are "trance" and "physical/psychological dependency" considered synonymous?

One question addresses the notion of authenticity: "What is your opinion about the transport of these plants to be used in preparing the tea thousands of kilometers from where it grows naturally?" The question implies that only local, native populations have the right to legitimate use. This posture is specifically contradicted in one of CONFEN's own reports: "The confinement of the ritual practices to the city of Rio Branco has no logical or scientific basis. In the first place, one has merely to walk around the streets of Rio Branco, sit down at a restaurant or turn on the radio or TV to verify the identity of programs and the similarity of local fashions and customs adopted in diverse states of the Federation" (cited in Alto Falante 1992, p. 8).

A new round of meetings took place in Rio Branco in 2001, from June 4 to June 7, in which more than thirty Brazilian ayahuasca-drinking organizations participated, a much larger number than had been present during the elaboration of the Letter of Principles. However, according to some of those present, internal conflicts between different groups made it almost impossible to arrive at a consensus. Unlike the cordial and unified meeting a decade earlier, the climate here was tense and divisive. Notably, there was a strong polarization between the emerging traditionalist coalition of Alto Santo, Barquinha, and UDV against the CEFLURIS branch of Santo Daime. Other groups questioned UDV's initiative in distributing the SENAD questionnaire, insinuating that UDV might even have participated in its drafting in order to exclude some groups from the possibility of legal use of ayahuasca. The legality of the questionnaire itself also fell under doubt.

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In the end, the groups present decided to participate in the questionnaire, a decision that was reaffirmed in later internal meetings by Santo Daime and UDV. Each group administered the questionnaire to its members between late 2001 and early 2002. The groups did not have a deadline to return the questionnaire, neither did SENAD have any fixed date to respond to it.

In addition to the questionnaire, the government took other initiatives to reconsider ayahuasca consumption. In November 2001, during the Brazilian Psychiatric Association's (ABP) meetings in Recife, SENAD requested an opinion on ayahuasca from the association's Department of Chemical Dependency. The ABP, with the help of the Brazilian Association for the Study of Alcohol and other Drugs (ABEAD), prepared a twenty-page report entitled, "Technical-Scientific Opinion on Ayahuasca". This was presented to CONAD on December 19, 2002 and discussed in a joint CONAD-ABP meeting in early 2003.

According to ABEAD president Ana Cecília Marques (personal communication, October 2003), these discussions "covered the interactions between ayahuasca and certain medications, and also the necessity of more adequate social controls by the organizers of rituals to prevent problems associated with use (as noted in the report)". The document presents a limited historical and anthropological discussion that paradoxically overlooks contemporary studies on Brazilian ayahuasca religions. Such deeper analysis would call into question the document's use of common psychiatric terms like "abuse", "dependency", "dangerous use", and so on.

On December 31, 2002, the final day of president Fernando Henrique Cardoso's term in office, the Cabinet of Institutional Security issued Resolution No. 26, establishing a working group "whose objective is to submit to the National Anti-Drug Council [CONAD] for deliberation a set of norms of social control referring to the use of 'ayahuasca tea.'" In other words, the government decided to reopen investigations on ayahuasca use and to constitute a new group, composed of various institutions, to evaluate the question. The resolutions cites several reports and documents of governmental and non-governmental agencies, including Technical Note 003/2002, of the National Agency of Sanitary Vigilance (ANVISA), affirming, "The use of [ayahuasca] tea in cultural and spiritual rituals is legitimate in Brazil, however considering recent materials that have been submitted, as well as accusations of the tea being used outside of permitted contexts, we understand that CONAD should intensify its control of potential non-authorized use of Ayahuasca or Hoasca tea outside of organized communities".

The resolution sets forth a number of initial considerations, such as concern over commercialization, non-ritual use, and other points:

"Considering that the religious faiths know about the prohibition of exporting ayahuasca tea and the vine Jabuge/Mariri *Banisteriopsis caapi* and the leaf of Rainha/Chacrona *Psychotria viridis* it is clear that its use is exclusively ritualistic, a peculiar Brazilian regional cultural manifestation..".

Considering that those responsible for the religious rituals are also responsible for not administering 'ayahuasca tea' to minors under eighteen years old and to those bearing mental disabilities..."

Both of these presuppositions are problematic. There is no established consensus prohibiting ayahuasca export, especially considering the recent regulation of ayahuasca in several European countries and the U.S. Moreover, there is no official prohibition, but rather only a recommendation, against serving ayahuasca to minors. In any event, the resolution had no real effect during 2003, since no report was produced and the agencies in question were in transition as President Cardoso's administration gave way to that of Luiz Ignacio ("Lula") da Silva. The debate was taken up again in 2004 in the context of the Technical-Scientific assembly of SENAD.

The continuity and viability of Brazilian ayahuasca religions depends on a constant supply of the botanical ingredients *Banisteriopsis caapi* and *Psychotria viridis*. Given the expansion of ayahuasca consumption in Brazil and internationally, these species are under increasing harvest pressure and could be subject to problems of overharvesting; the plants have been used intensively by these churches for over 60 years with little attention to sustainability until quite recently. A system

of agroforestry management, or reforestation, would have to be devised to sustain long-term harvest for national and even global demand. ⁴ Very little attention has been paid to this question so far, especially considering the polemics involving ayahuasca commercialization, patent disputes, possible taxation schemes, export control, health inspection, and so on. It is worth remembering that many of these religious groups represent themselves as pro-environment, pro-Amazonia, and critical of capitalist consumerism and resource exploitation, so it would seem logical that they would be open to such approaches. On the one hand, foresters typically argue that lianas are inherently damaging to tree species, and hence they are often removed in management plans to promote forest health. And yet other studies have shown how certain lianas represent important food sources for animal species. Such ecological questions also touch on other concerns, such as whether cultivated and wild species are perceived as having the same potency and symbolic value, classifications of the different varieties and their relative desirability and agronomic potential, the perceived minimum growth times required to achieve the desired effects, and so on.

The Brazilian Institute of the Environment and Natural Resources (IBAMA) is responsible for policing the extraction, transportation, and storage of forest products and other forms of resource management. Environmental regulation of ayahuasca was first based on Ordinance 117 of August 17, 1998, stipulating that, in order to obtain an Authorization for Transporting Forest Products, groups should present their statutes certifying legitimate social objectives, provide a "declaration with an estimate of the quantity and species of forest products to be transported annually", and prepare a reforestation/plantation project for the affected species to provide "obligatory forest recovery". However according to Edna Maia, an IBAMA agronomist from Acre (personal communication, email of May 7, 2002), in practice, no real verification was taking place. From IBAMA's point of view, ayahuasca extraction was uncontrolled at that time. Nonetheless, UDV and Santo Daime (CEFLURIS) have made contact with IBAMA to regularize this extraction. In 1998, IBAMA made its first accord with Santo Daime, Barquinha, and UDV, requiring a management and plantation plan for Banisteriopsis and Psychotria. This was a difficult requirement, especially for some of the smaller centers with minimal infrastructure.

More recently however, IBAMA began stricter policing of ayahuasca extraction and transportation. According to Edna Maia (ibid.), this change came at the request of the ayahuasca groups themselves, concerned with regulating extraction of the raw materials. According to her, there were accusations that certain individuals or façade groups were collecting and preparing ayahuasca for solely commercial purposes.

It was not possible to verify these specific claims; however, conflicts surrounding these issues were registered. For example, in January 2002, the Federal Police confiscated 265 liters of ayahuasca that was supposedly being produced for clandestine sale. Silva (2002) describes the case of an indigenous community near the CEFLURIS center of Céu do Mapiá in Amazonas that joined Santo Daime. The indigenous community established a system of barter with the church, exchanging the raw liana for the prepared beverage. This system generated concern among other indigenous communities and the national Indian agency, FUNAI.

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Although the new measures adopted by IBAMA were valued as legitimate in ayahuasca circles, they still caused controversy. According to Alexandre Dias de Souza, Director of the Department of Sustainable Communities for the Executive Secretary Forests and Extractivism for Acre State (personal communication, email of August 17, 2002), the ayahuasca groups sought out this agency to complain that IBAMA's actions, together with the Federal Police, were causing embarrassing situations, "making them feel like 'ayahuasca traffickers', or at least a bad taste of being handled by the same system that deals with drug trafficking". And yet, by the same token, IBAMA didn't seem to be nearly as concerned with large-scale deforestation taking place in sizable agricultural land holdings where large quantities of Banisteriopsis and Psychotria could be harvested. Dias de Souza also suggested (ibid.) that logging had a greater overall impact on wild Banisteriopsis and Psychotria populations than did harvest by ayahuasca groups. Some suggest that the new norms are applied only selectively to interrupt production and circulation of ayahuasca in the country.

IBAMA carried out several meetings with ayahuasca groups from July 4 to July 7 in 2001. These meetings became a space for dialog between these entities, since all were having difficulties with the new regulations. Many themes were discussed, including the possibility of carrying out forest management plans instead of reforestation. Note that management is distinctive from cultivation: it is much more complex and expensive. Some considered a management plan requirement to be unnecessary since plantation should be sufficient. According to Dias de Souza (ibid.), "The ideal would be to begin reforestation so that, in the medium term horizon, there would be more planted material attaining self-sufficiency. In this case, there would be no pressure on natural stocks that would be harvested according to a management plan. But we must remember that these are not really mutually exclusive options, since the centers can have both plans, management and reforestation".

Other themes covered were: the need for the larger churches to provide greater collaboration so the smaller churches would be relieved of some obligations; identify the origin of cultivated and wild varieties of the vine and leaf (extremely relevant as this is related to the disappearance of genetic variety); ⁵ mapping of collection territories on private property to avoid overlap of extraction areas; the possibility of requesting parcels from the Agrarian Reform Agency (INCRA) for centers that don't have adequate land; replantation nurseries to replace harvested plants; tax exemption for areas that promote a management plan; identifying areas of common collection and the creation of collective harvest reserves;

exportation of material to other parts of Brazil on the condition of the implementation of a management plan.

These meetings created an environment of open debate and proposals that contributed to the wording of a new ordinance by IBAMA regulating the extraction of leaf and vine (*ibid.*). IBAMA state ordinance 004/02 (valid only for Acre) was issued on October 16 of 2001 (see also Instrução Normativa nº 001 and 002, May 10, 2001; Instrução Normativa nº 003/02, March 4, 2002, Portaria Interinstitucional nº 001, May 8, 2002 IBAMA/IMAC). The ordinance establishes a number of norms. A license for extraction of forest products ("ATPF") depends on prior registration of the religious organization with IBAMA in Acre. In this document, the organization must specify the quantity and places where leaf and vine will be extracted, if the species are being cultivated, if the group has a management plan, average monthly attendance and quantity consumed, quantity of raw materials or prepared beverage shipped to other states, and location of any branch organizations. They must inform IBAMA of the areas prior to collection so IBAMA can make inspections before and after. Harvest should be carried out in a way that minimizes damage to the environment and preserves the plants, such as: removing the leaves carefully without destroying branches and buds; harvesting the vine from the top down, leaving some 30 cm above the ground, without damaging the vine's roots or the host tree so it can regrow. Any non-registered raw materials confiscated will be donated to the registered churches. IBAMA provides to the churches the locations of areas slated for deforestation so that the churches can request permission from the owners to collect material before it is destroyed. Groups that prepare ayahuasca in a separate location from where it is consumed need to inform IBAMA beforehand. The ordinance gives the groups one year to prepare a plantation plan, which is a condition for issuing the ATPF license. In the case of infractions, IBAMA can suspend the group's permits for a year. These new requirements were, in some sense, coherent with the basic elements established by the populist and pro-environmental "Forest Government" of governor Jorge Viana, who had included ayahuasca in the list of species under discussion for Ecological Economic Zoning, alongside other important commercial species like the Brazil nut and rubber. It should be remembered that Acre is the region with greatest harvest of ayahuasca and greatest concentration of ayahuasca churches in Brazil.

In March and April of 2002, two more meetings took place in Rio Branco. In the latter, organized by IBAMA, ayahuasca groups met with public attorneys and the state Forest and Extractivism Secretary (SEFE) in a climate that was "much more about collaboration than of accusation", according to ayahuasca adepts who were present. Some conflicts emerged, however: IBAMA was criticized for enacting its punitive policies without having any information about management nor elaborating any technical suggestions for sustainable harvest. Institutional tensions between IBAMA and SEFE also emerged.

Discussions about legality and ecology required the churches to take up a dialog that had been suspended for a long time. In internal meetings among some centers, they established a "Deliberative Council on Ayahuasca", composed of members of various churches. The Council was charged with preserving the use of ayahuasca as well as promoting scientific research. In the same spirit as the Letter of Principles, the groups tried to form a coalition to overcome doctrinal differences to achieve a consensus on the correct use of the beverage. Special attention seems to have been paid to the perennial polemical questions such as commercialization, shamanistic healing, and consumption by minors or by people with mental health problems.

Groups exporting ayahuasca to other states were required by IBAMA to submit forest restoration plans by October 26, 2002, and yet by December 2001 only one among the 26 groups had established such a plan (according to a news piece published at IBAMA's site, www.ibama.gov.br). Inspections and regulations began to be enforced, though only in Acre at the time of this writing. It is likely that other states will copy this model. However, mapping of replantation areas, as declared by UDV and Santo Daime, had not yet taken place. This kind of information touches on political and strategic questions for these groups. For example, one problematic feature is that protected areas outside the Amazon – where the groups would appreciate planting the species – do not allow plantation of exogenous species. Though the mapping task is arduous, it is not impossible.

The Legal Status of Ayahuasca and the Place of Ayahuasca Groups in Brazilian Society

Today in Brazil, no one would think of closing a Candomblé worship center, and yet such occurrences were common in the 1930s. However, persecution of ayahuasca centers is not altogether uncommon even today. There is still no official law regulating the use of ayahuasca, meaning that the churches remain in legal limbo. Religious activity around the use of ayahuasca was once regulated by CONFEN, which removed ayahuasca from a list of substances prohibited by DIMED. This process was first questioned and then reaffirmed: the Mixed Commission was dissolved in 1996, but ayahuasca use could be further reexamined if new facts emerge. This did not occur, but ayahuasca use was nonetheless brought under question in 2000 as examined above.

Ayahuasca groups and civil society appear to have adopted three generalized, contrasting approaches to interpreting the legal situation of ayahuasca use. The first asserts that only a law will provide a definitive solution to the situation, overriding potential SENAD/CONAD vicissitudes and interference by politicians with specific agendas. On the other hand, it seems clear that such a legal solution will present serious problems in terms of its technical specifications (delineating its features, and the broadness or narrowness of its application), not to mention political difficulties and the time required to propose, pass, and implement legislation. The UDV appears to support this approach, but more research on this matter is necessary.

A second strategy opts more for silence: The topic is so controversial and unstable that it is best not to interfere, to stay out of the fray. The CEFLURIS branch of Santo Daime, though a large, visible, and open organization in its relations with the media and society, appears to adopt this approach. Alto Santo and Barquinha, which are restricted to the state of Acre and are somewhat less threatened by broader national trends, seem to oscillate between indifference and distance (in this sense being closer to CEFLURIS) and ally themselves with the legalist strategies of the UDV (allied also due to their doctrinal differences with CEFLURIS).

The third tendency gathers together diverse conservative voices from the legal, religious, and political spheres who are dissatisfied with the current permissive atmosphere and hope to see ayahuasca placed back on the list of prohibited substances. This group continues to promote its agenda through sporadic initiatives. For example, a retired judge from the Justice Tribune of São Paulo published a manifesto in favor of prohibiting ayahuasca use (Gomes 1998). He builds his arguments around tendentious pharmacological claims, for example, "The drug's immanent essence is a hallucinogenic substance" (ibid, p. 68). Gomes's reading of the anthropology is likewise spotty, biased, and at times counter-factual, for example, when he ascribes legitimate use of ayahuasca only for "Andean regions", as opposed to the "tropical" regions of Brazil: It is a well-established fact that ayahuasca is an Amazonian plant. Using such outdated medical, psychiatric, and essentialist discourses, Gomes argues against CONFEN's reports and rulings.

If ayahuasca groups benefit from a certain benevolence on behalf of the current legal system, it is in large part due to the relationships that they, and especially the UDV, have built and maintained with the centers of power. The UDV, through its membership and contacts, maintains close ties with some government offices and the legislative branches (Fernando Godinho, personal communication, April 2002; congressman Salmo Coelho, Alto Falante 1992; Queiroz 1996; Henman 1986). This political articulation has certainly facilitated the legalization process, as well as the larger social legitimization of these groups. The UDV, in part due to its Kardecist spiritist origins, has a certain scientific/positivistic character that joins law, order, and spirituality. The group is highly structured and organized, and maintains internal groups such as the Medical-Scientific Department, the Legal Department, and the Department of Memory that are dedicated to promoting dialog with scientific and governmental institutions. The UDV also participated actively in the First National Anti-Drug Forum in 1998, which was SENAD's first public activity.

Though the UDV has maintained a certain elite profile among its members and its political connections, Santo Daime/CEFLURIS has its own channels of communication with the government. For example, in 1989, CEFLURIS received support from the Sarney government through the Decree n. 98.051 in the creation of the 311,000 hectare Mapiá-Inauini National Forest around the site of its main center at Céu do Mapiá. Even further back, the Santo Daime founder Mestre Irineu had the support and sympathy of local authorities in Rio Branco in the 1940s and 1950s (MacRae 1992).

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In investigating the historical, political, economic and cultural roots of ayahuasca legality in Brazil, I came across a number of anecdotes and stories about the relationships of different group members with government officials. Many were told with a sense of humor or pride. Some stories border on the fantastic, such as a tale about Mestre Irineu receiving an official blessing from a powerful local political boss (coronel) during the foundational years of Santo Daime (Antonio Alves, I CURA, 1997). Some claim, in esoteric tones, that certain CONFEN members, police, and other authorities who were sent to investigate or inspect Santo Daime centers in the Amazon have ended up joining the church, bringing along their families.

"Mestre Gabriel", founder of UDV, published an article in the newspaper of Porto Velho on October 6, 1967, that has become a standard text in the group's doctrine, read at all regular sessions:

When José Gabriel da Costa, the master of União do Vegetal, was put in jail... for preparing a tea known by the name of Hoasca, he was called by the city police officer to give some explanation about that liquid mysterious tea. The police officer, who could find no legal infraction, gave cover to União do Vegetal with the following words: "I can't prohibit your sessions, but I also can't give permission".

The officer's ambivalence is interpreted in the symbolism of the group as evidence that the subject lies beyond human jurisdiction, for Mestre Gabriel was authorized directly by God to distribute the tea.

Santo Daime, UDV and the Media

Although Santo Daime/CEFLURIS and UDV do not pronounce themselves officially on this subject (if anything, they contradict this characterization) both seem to be pursuing an expansionist program, unlike Alto Santo and Barquinha, which do not seem to have such ambitions. The latter are both restricted to the state of Acre, and are hardly mentioned in the press, so they will be left out of this analysis. Here, I present my interpretations of 78 news reports from 1982 to 2000, gathered from the following newspapers: O Globo and Jornal do Brasil (Rio de Janeiro); O Dia, Folha de São Paulo, O Estado de São Paulo and Jornal da Tarde (São Paulo); Correio Brasiliense (Brasília); A Tribuna and o Correio Popular (Campinas, SP); and the national news magazines Manchete, Isto É, Veja and Contigo (for additional news analysis see Weber 1997; Abreu 1990).

To contextualize these news reports, it is important to understand a bit more about the organization and ethos of the two main ayahuasca churches. The CEFLURIS branch of Santo Daime has a very flexible organization, composed of independent and rather diverse churches. The autonomy of individual churches is limited, however, to the extent that the daime beverage is mostly supplied centrally to all churches from the headquarters in Céu do Mapiá, Amazon state. The church maintains other plantations (known as reinados or "kingdoms" in Daime terminology) of the Banisteriopsis vine (jagube) and the Psychotria leaf (rainha, "queen") throughout Brazil, though these are much smaller. Daime preparation rituals (feitios) take place in diverse centers throughout Brazil, but Mapiá maintains a central role in the social, symbolic, and material dimensions of Santo Daime (Groisman 1992).

Unlike Santo Daime, each UDV center (núcleo) maintains its own plantation and production of the vine (mariri) and leaf (chacrona), with the ultimate objective of self-sufficiency. However some centers, especially those in the southern, less tropical parts of the country, nonetheless occasionally also import the vine and leaf from Amazonian regions as well as exchange with older, more traditional masters from these regions to guide the preparation and ceremonies. But plantation of vine and leaf is a prerequisite for new groups to become recognized as official UDV centers. Despite this greater autonomy in ayahuasca production, the UDV is a highly organized and hierarchical religious group, much more centralized than Santo Daime, with its main headquarters in Brasília.

With 7000 members, UDV is also more than twice as large as Santo Daime, which numbers just 3000 (Labate and Sena Araújo 2002). However, UDV maintains a much lower public profile than Santo Daime. Secrecy permeates the UDV institution, which may be inspired in part by its Masonic legacy (Andrade 1995; Brissac 1999). UDV adepts are counseled not to expose their religious identity at work, in their neighborhood, and so on, and the group maintains a somewhat more closed structure and careful attitude with regard to admittance. Candidates for membership pass through a rigorous selection process, and participate in a limited number of special sessions for this purpose. By contrast, most Santo Daime rituals—except for a few exclusive members-only occasions—are open for anyone to attend. Indeed, there is an enormous circulation of visitors in Santo Daime, many of whom do not become members. However, Santo Daime does charge a fee (that may be more or less, depending on the region) for novices and visitors, and a fixed contribution for members. In the UDV, novices do not pay, but members make a monthly contribution. After about three months of trial visitation, UDV strongly encourages novices to affiliate themselves officially. In some cases, this trial period is restricted to just three sessions: thus, there is greater pressure for visitors to join UDV than in Santo Daime (for a contrast between newcomers' experiences in Santo Daime and UDV, see Barbosa 2001).

The relative discretion of UDV is also a result of its hierarchical and bureaucratic structures. The UDV maintains strict controls and precautions as to what its disciples say publically. Few are authorized to speak on behalf of the group, and interviews, media news, and research are subject to limitations and careful controls. While the group has sought out and encouraged pharmacological and medical research, social science researchers have often become discouraged by the restrictions and authorization process. The UDV's relative public "invisibility" reflects a political choice: The group does seek to grow and expand membership, but through a process that is gradual, careful, and correct. Yet this public discretion is not a desire for isolation; when important public figures like artists, politicians, or celebrities express a desire to participate in a ritual, the group often reacts quickly with a special session to receive them (see Henman 1986).

The relationship of Santo Daime to the media began with a period of wide attention in the 1980s when celebrities like Lucélia Santos, Ney Matogrosso, Buza Ferraz, and Maitê Proença joined. Indeed, since its beginnings, Santo Daime has always received media attention, and that relationship has also been problematic. Sensationalist headlines culled from media reports highlight this tendency: "Divine madness", "Sect in Acre uses drugs in ceremony", "The sect that gets high", "Hallucination potions", "Legal high".

Intermittent conflicts occurred as a result of unrelated episodes that created a recurrent dynamic of tensions between Santo Daime leaders and the press. One icon of this dynamic is Alex Polari, vice-president of CEFLURIS. Because of his former political activities against the Brazilian military dictatorship of the 1960s and 1970s, certain satirical presses have dubbed him the "guerrilla who became a guru". Other stories exploited in a sensational vein by the media include that of Verônica, an adolescent girl who moved to the Daime community of Mauá, in Rio de Janeiro, at which point her mother, a former Daime adept, tried to take back custody of her daughter in the courts; and Jambo, a young man who had problematic patterns of drug use, who committed suicide at the main Daime community of Céu do Mapiá. Both stories resulted in numerous media reports and even popular books (Castilla 1995; Mourão 1995).

Despite serious academic studies to the contrary, the public image of Santo Daime remains negative. Popular prejudice and misunderstanding of this religious group owes largely to media representations, whether as an abominable sect, or as a wild drug party scene. The press seems to exploit the public's desire to consume exotic, shocking stories; a sort of symbolic cannibalism of the radically other, a perverse appreciation of diversity.

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On the other hand, one must place partial blame on the group itself for being unable to better mediate its relations and representations with various institutions of Brazilian society. The group seems to have difficulties moving beyond its own internal parameters and interpretations in responding to the broader popular repercussions of these and other difficult

episodes. The group's messianic, eschatological tendencies create a barrier of incommensurability between the Daime universe and the rest of society (see Goulart 1996). For example, in response to the polemical books by Mourão (1995) and Castilla (1995) about the cases of Verônica and Jambo, or critical reporting about the group's activities in the German magazine *Der Spiegel* (see Balzer 2002; Groisman 2000), some Daime adepts I interviewed suggested these stories were "tied with negative spiritual entities", or that they "didn't happen by chance", that there was an invisible but significant spiritual message behind these conflicts in order to reveal "what is true and what is not", or that these unfounded criticisms only underlined the "chaos and incomprehension that existed in the world today", representing "signs that the end times were near", and so on.

At any rate, these dramatic episodes only reinforce the sense of legitimacy and internal cohesion of the group, establishing an opposition between "us", the few, the chosen, the Daime adepts, and "them", the rest of society that doesn't understand. (Note that there is a similar idea of "the chosen ones" and "the privileged" behind UDV's contrasting silence and public invisibility). The CEFLURIS branch of Daime was founded by a group of rubber tappers and migrant families from northeast Brazil who lived in a strongly cohesive, marginalized settlement on the outskirts of Rio Branco with a strong sense of *communitas* (Turner 1974). The group remained fairly unknown until the mid 1980s, when it began a rapid process of expansion. The need for institutional growth is relatively recent, and has become increasingly central: National and international meetings are organized on a regular basis, the group has produced several publications (CEFLURIS 1997; Mortimer 2000, 2001), developed a web site, created regional offices, and initiated administrative reforms.

In the late 1990s, one detects a certain shift in the approach of the media to ayahuasca groups, beginning with a series of less exotic news reports that offered an almost anthropological view of these practices, highlighting the syncretic nature of these religions, the reasons people mention for joining, the search for alternative therapies, and the fascination these religions hold for foreigners. Titles like "The visionary brew", "Feast in the forest", "Disquiet in the heart of the forest", and "Tea without borders" are representative of this new phase. Perhaps the sensationalist model had run out of steam for stories about "unmasking crazy sects". Rather, the expansion of these religions throughout new regions in Brazil and internationally became a topic in itself, and this expansion brought the public and the government greater awareness of the phenomenon.

The institutional growth of ayahuasca groups, especially notable in the UDV, and later, CEFLURIS, has also facilitated greater dialog with the broader public, government agencies, scientists, and the press in particular. In this sense, the story called "Legal high" in the September 13, 2000 issue of *Veja* represents the exception, rather than the norm, in the current media landscape. Ricardo Galhardo, the journalist behind this story, insinuates that the government has "turned a blind eye to the consumption of a drug that is harmful to health", thus ignoring the whole recent history of the CONFEN studies, biomedical research, and the important advances toward legalization. Confirming this change in popular opinion, the piece was met with a chain reaction of protests and received some 286 critical letters written not only by adepts, but also by sympathizers and scientists. Indeed, General Alberto Cardoso, Chief Minister of the Institutional Security Cabinet, who was cited in the article, contested its conclusions, affirming "freedom of religion is a constitutional precept, and according to the current understanding adopted by the judicial branch, ayahuasca use in rituals is included under the constitutional determinations" (quoted in www.santodaime.org). UDV looked into the possibility of suing the magazine, or at least raising a legal protest against it. Unlike the situation in past decades, the ayahuasca groups have gained greater public legitimacy and bargaining power in relation to press reports about them.

Many initiatives have advanced the legal and social legitimacy of ayahuasca in Brazil. Various intellectuals and scientists have contributed in specific ways, providing their advice or research results to CONFEN. UDV's medical and legal committees maintain ties with a wide range of well-connected professionals in various fields. Of these, perhaps the most important has been the UDV's initiative to promote studies on ayahuasca and health. In 1986, UDV created its center for medical studies, and in 1991, it hosted the "First UDV Congress on Health" in São Paulo. Several important foreign researchers were present, including Dennis McKenna (Alto Falante 1991). Brazilian, American, and Finnish researchers carried out a series of biomedical studies concerning the human pharmacology of ayahuasca in Manaus in 1993, resulting in an important and widely cited study (Brito et al. 2002). The International Conference on Hoasca Studies in Rio de Janeiro in 1995, with over 800 participants, including religious adepts, researchers, government representatives and the general public, was another important landmark (Luna 1995).

Global Expansion of Ayahuasca Consumption

As the eighties became the nineties, ayahuasca was thrust ever more into the limelight as the new, modern, "hip" entheogen of the cognoscenti (Jonathan Ott 1994, p. 12).

The expansion of ayahuasca consumption in Brazil resulted in a number of novel and unexpected political, legal, ecological, ethical, and social consequences. Various social actors disputed attention and legitimacy in a setting of contradictory discourses. The process of legalization of this psychoactive substance has been permeated by conflicts and disputes that have challenged the legitimacy of these religious groups and sometimes threatened their existence. Legality is a process of legitimation, not an inherent, ahistorical quality of the phenomenon independent of its sociopolitical circumstances. Keeping in mind the fairly conservative Brazilian anti-drug legislation, and taking into consideration the

international conventions banning DMT consumption, the current situation is surprisingly positive for the ayahuasca churches, even though these religious groups have only relatively limited stability. Yet, the expansion of ayahuasca groups, with an estimated 11,000 members in Brazil, must be considered within a broader context, namely, the global diversification and expansion of ayahuasca consumption. Below I outline notable examples of this process.

Urban "neo-ayahuasqueros". This modality is a rather new phenomenon in large Brazilian cities: small experimental groups that use ayahuasca in therapeutic or "New Age" settings, in relation to artistic, theatrical or musical contexts, or even with the homeless. This movement is part of the diversification and segmentation of ayahuasca use in Brazil; on the one hand, criticizing and rejecting the institutional religious doctrines of Santo Daime and UDV but, on the other hand, concerned with not falling into "profane" use of drugs. These groups create new kinds of rituals and elaborate novel symbolic philosophical, existential, and therapeutic discourses tied to spiritual references (Labate 2004).

Psychonauts and the psychedelic market. Novel plant mixtures known as "ayahuasca analogues" have been developed, imitating the active ingredients of ayahuasca and producing similar effects. Synthetic substitutes have not yet been created beyond synthetic DMT itself. In psychedelic magazines like High Times in the U.S., it is possible to purchase Banisteriopsis caapi vine, seeds and seedlings, as well as ground ayahuasca in powder or capsule form. One on-line source offers diverse ayahuasca varieties for \$18. A report by the endangered species trafficking alert Traffic (www.traffic.org) warns that the vine sells for \$50 to \$80, and that root stock can be bought for \$45 and 60 grams of the beverage are sold for \$20.

Shamanic tourism. In Peru, and to a lesser extent in Brazil and Colombia, ayahuasca has become a standard offering for foreign tourists. There are various modalities available, from luxury hotels with shamans who recreate folkloric rituals for especially for tourists, to isolated cabins where participants are subjected to more rigorous and realistic rituals of deprivation and initiation. In this ayahuasca tourism circuit one encounters both middle-class, Caucasian adepts with strong shamanic aspirations and local "neo-natives" who reclaim their indigenous identity and connect with an international network of congresses, seminars and travel routes. In some cases, local shamans carry out sessions in foreign countries: I met one ayahuasca healer from Pucallpa who charges 150 dollars for ayahuasca sessions in the U.S. Some of these activities must be carried out in secrecy because of issues around legality, which only tends to inflate the market price (Labate 1999; Ott 1994; Dobkin de Rios 1994).

Another new modality that has emerged is the seminar that teaches how to prepare ayahuasca for oneself (Ecuador, www.traffic.org).

International Expansion of the Ayahuasca Religions

Santo Daime and UDV have expanded to several other countries, generating a number of legal problems. Research on the subject is fairly limited, beginning with Groisman's (2000) pioneering research on Santo Daime in Holland. The first non-official overseas Santo Daime ritual was held in the U.S. in 1987, and the first official ritual, in Spain in 1989. Today, Santo Daime is active in most of South America, Japan, the U.S., and Europe (MacRae 1992; Groisman 2000). UDV has a fully recognized center (núcleo) in Santa Fé, NM, three early-stage centers (distribuições) in Norwood, CO, Seattle, WA and Fairfax, CA as well as a preliminary center (pré-núcleo) in Madrid, Spain. It is difficult to count exactly how many ayahuasca religious adepts there are outside of Brazil. According to one recent report, there are 1,200 participants in Santo Daime and UDV in the U.S. and Europe (Padilla 2002). According to UDV data, there are 130 members in the U.S. (Federal Government..., 2003).

In 2003, the UDV faced its defining legal case in the U.S. In May 1999, U.S. agents confiscated 115 liters of ayahuasca belonging to the Santa Fe UDV center. In November 2000, UDV (which had long been preparing itself for such a legal challenge) sued on the basis of constitutionally guaranteed religious freedom rights, as reaffirmed in the case of peyote for the Native American Church (NAC). On August 12, 2002, the U.S. District Court for New Mexico authorized the religious use of ayahuasca, and its legal importation to the U.S. This decision, handed down by Judge James A. Parker, was based on the precedent set by the Religious Freedom Restoration Act (RFRA), affirming that the government could not prove that ayahuasca was harmful to health. The U.S. attorneys' office contested this decision, and the case went back to trial before a three-judge panel in the 10th Circuit U.S. Court of Appeals in Denver, but Judge Parker's decision was upheld. However, in October of 2003, the federal government requested that the full court review the decision.

While Santo Daime and UDV have at times established temporary alliances and exchanges over broad questions of mutual interest, they face legal challenges independently.

Santo Daime has likewise faced legal battles in the U.S. This includes a CEFLURIS center in Oregon as well as a group of Daime centers in Washington State and Hawaii associated with the psychologist Paulo Roberto Sousa e Silva from Rio de Janeiro, president of a dissident Daime group that split off from the main CEFLURIS branch. Daime has also faced legal problems in Germany and France. In Spain and Holland, Santo Daime achieved legal victories in 2000 and 2001, respectively, and the groups now carry out regular ceremonies.

While Santo Daime and UDV have at times established temporary alliances and exchanges over broad questions of mutual interest, they face legal challenges independently. For example, in the UDV case in New Mexico, Santo Daime

filed an amicus curiae brief supporting the UDV's case. Though the UDV accepted the arguments in the brief, it did not agree to the Santo Daime filing the amicus curiae, so the judge did not accept it (Sharpe 2001). In sum, one can say in general that the rivalries and doctrinal differences that are present in Brazil are maintained and reproduced (with local variations) in the overseas context. Following the same logic, in some cases, different Santo Daime churches in the U.S. have disagreed with their leaders over legal strategy.

European cases add further diversity and complexity to the international legal scenario. In Spain, government lab analyses initially claimed to have detected 23 % to 87 % (!) DMT content in various confiscated batches of ayahuasca. Later, the National Institute of Toxicology corrected these values down by several orders of magnitude to 0.023-0.087%. The agency also noted that DMT showed hallucinogenic activity in intravenous doses of 75 to 1000 mg, but that oral doses would have to be ten or more times that amount. The report stated that ayahuasca is a liquid decoction, and hence only consumed by oral ingestion, meaning that the minimum active dose would be 750 to 1000 mg. The report concluded by stating that the amount of DMT confiscated was "insignificant, if not insufficient, to produce hallucinogenic effects" (author's translation, Auto de Archivo del Proceso Instruido contra el Daime en Espanã 2000). According to the Spanish pharmacologist Jordi Riba of the Research Institute of Sant Pau Hospital (personal communication, email of November 11 2002), this conclusion was paradoxically, "clearly wrong, since the affirmation was based on the fact that doses of up to one gram of DMT are not psychoactive by oral administration when administered alone. However, the conclusion totally ignores the interaction between beta-carbolines and DMT when ayahuasca is ingested". Moreover, a dose of liquid ayahuasca with 0.08 % DMT is certainly psychoactive, since clinical studies observed psychoactivity in concentrations of 0.053 % DMT, assuming similar or higher concentrations of beta-carbolines (Riba et al. 2001). The court case was closed without any reference to religious use, but rather on the basis of an argument claiming that the case revolved essentially around a group of addicts who formed a shared fund to purchase a substance they all consumed, classifying the episode as "a modality of self-administration of drugs".

In Holland, the Criminal Court of Amsterdam identified 3-4 g of DMT in 17.5 liters of confiscated ayahuasca. In this case, unlike the one in Spain, the question of religious freedom predominated over pharmacological discussions. The decision was decided in accordance with Article 9 of the European Convention on Human Rights and Fundamental Liberties, which protects religious liberty. However, the decision also makes reference to a declaration by the INCB, an agency related to the U.N. anti-drug system. The decision argues that ayahuasca use in Santo Daime is a controlled context of use and does not represent a threat to public health. Drawing partly on a report by anthropologist Edward MacRae, the decision upholds the status of Santo Daime as "a church", its doctrine as a "religious belief", and that the use of daime as "an essential part of the religious experience of its members" which should, thus, be respected.

The political implications of these various decisions in the U.S., Spain, and Holland are not yet clear, and a pending court case in France and developments in Germany should further influence future perspectives. The expansion of Brazilian ayahuasca religions and other forms of ayahuasca use has raised a series of thorny questions: Which substances and uses are legitimate? Which criteria should prevail: pharmacological, legal, historical, cultural, others? How to separate sacred from profane uses? Is indigenous use of ayahuasca in shamanic healing also a "religious" practice? Are pharmacological imitations of ayahuasca with substitutes produced in labs or with other botanical species the same or different from the original beverage, both in terms of potential for legitimate use and safety?

These questions are important not only in SENAD discussions and international courts, but also within the universe of ayahuasca drinkers themselves. There are numerous disputes tied to the question, "who possesses legitimacy over ayahuasca use?" (Labate 2004). This conflict is not just about internal quarrels among outwardly similar religious and other groups, but involves fundamental questions of rights and hopes for survival of these groups and their practices.

The case of ayahuasca "biopiracy" is also important in this context. The International Plant Medicine Corporation, based in California, gained exclusive patent rights (U.S. Patent 5571, June 17, 1986) to raise and sell a certain variety of *Banisteriopsis caapi*, supposedly "novel" based on the color of its flowers. Loren Miller, the company's president, had collected the plant in Ecuador and, after obtaining the patent, tried to develop psychiatric and cardiovascular remedies from it. In 1999, the indigenous federation COICA, representing indigenous groups in eight Amazonian countries, together with the Center for International Environmental Law (CIEL), disputed the patent, claiming that the species was already well known, and ayahuasca constituted cultural heritage of Amazonian indigenous peoples. The case gained international notoriety and Miller was threatened with banishment from all indigenous territories in the region. The U.S. Patent and Trademark Office (PTO) revoked the patent, arguing that the variety was not novel, and had been previously described in scientific literature. However, the office did not recognize that the spiritual and medical use of the plant by indigenous people granted any exceptions to patent procedures. Miller appealed the decision and, in 2001, the office reexamined the case and decided to maintain the patent over the "novel" botanical variety, allegedly based on differences in the shape and size of the leaves (NACLA Report 1998); no medical uses were claimed in the original patent request. COICA and CIEL appealed the decision once again, and on November 4, 2003, the PTO once again revoked the patent. However, in 2003, the patent's 17-year statutory term of validity would have expired anyway.

It is apparent that in Brazil and other countries, ritual uses of ayahuasca by church-like organizations such as Santo Daime and UDV have been protected and legitimized most consistently under the aegis of religious freedom. However, when we examine the situation from the perspective of the other modalities of ayahuasca use discussed above, these relatively new, syncretic religious uses are considered non-traditional and possibly even "illegitimate" historically recent

"corruptions" of the original indigenous contexts of shamanic healing and other related modalities. This perspective has legal support; for example, in Peru, where ayahuasca healing is considered a part of indigenous cultural and medical heritage. This perspective is precisely the opposite of that in Brazil, where ayahuasca groups claim legitimacy through religious freedom, but officially distance themselves from any therapeutic uses which might fall under suspicion for "false practice of medicine" or charlatanism. For example, French physician Jacques Mabit runs Takiwasi, a center for addiction treatment located in Tarapoto in the Peruvian Amazon, that uses indigenous plant therapy (including ayahuasca) and shamanistic techniques (alongside Western psychotherapy). Mabit, who has become a shamanistic curandero in his own right, legitimizes the center's activities by focusing on the healing powers of traditional Peruvian medicine while distancing himself from any religious discourse; however, Catholic symbolism is apparent during the sessions and in the healing practices of the center. Nevertheless, Takiwasi has run into legal problems in France, both due to its use of ayahuasca per se (which is prohibited in France but perfectly legal in Peru, where Takiwasi is based) and because of strict French regulation and surveillance of any religious "sects" perceived as fanatical and dangerous. For this reason, Mabit has consciously distanced himself from the Santo Daime churches that have faced numerous legal problems in France.

The participation of non-indigenous "whites" in ayahuasca consumption, whether neo-shamanistic rituals or Brazilian ayahuasca religions, has been interpreted by some as a new form of colonial exploitation and appropriation, the final frontier of colonial intrusion into an area of indigenous life that had been, until recently, safeguarded, namely: spirituality (Zuluaga 2002). Several international congresses of indigenous peoples, some including shamans and ayahuasca healers known as vegetalistas (Luna 1986), have questioned the expansion of ayahuasca use in such terms of colonial appropriation. These forums have produced a number of declarations expressing these concerns (author's translation from originals that are cited in the bibliography under "Legal sources and Declarations"):

1. The Declaration of UMIYAC (1999) condemned ayahuasca tourism promoted by false shamans. It called for the rejection of Loren Miller's ayahuasca patent, "For us, this represents an abuse and a grave profanation of our sacred plant. We declare that yagé [ayahuasca] and the medicinal plants we use are cultural heritage and collective property of indigenous peoples, and any use in the name of the good of mankind should be undertaken with our participation and the benefits that derive therefrom". The text declares further, "We denounce that many anthropologists, botanists, doctors, and other scientists are doing experiments with yagé and medicinal plants without taking into account our ancestral knowledge and our collective intellectual property rights". They propose to begin a process of certifying practitioners of indigenous medicine and establishing their own code of medical ethics in order to facilitate the distinction between true shamans (taitas) and charlatans.
2. The Declaration of Tarapoto (2001): "We insist that the unique knowledge, practices, and resources of traditional medicine are the collective heritage of the original peoples, and we sustain that no one has the right to establish systems of intellectual property over them... We reject categorically the improper use and manipulation of sacred and medicinal plants used in traditional medicine. We are especially concerned with charlatanism, the new modalities of shamanistic tourism, and the traffic of cultural plants and symbols. We denounce those responsible for the usurpation of ayahuasca by those who plan to patent it".
3. The Declaration of Yachac (2002): "We are very worried to see how they are treating our sacred plant, using its name to do business or selling it to anyone... We do not reject those who want get to know the plant, as long as they have good intentions and understand that it can only be used according to our tradition. We do not accept that our sacred plant be turned into a business, neither by us nor by tourism companies". They recognize that it is up to themselves, however, "to put order in our own, to establish basic rules of conduct and behavior to guide our brothers the healers, apprentices, and followers who want to join us".
4. The Declaration of Caguas (2002) requests that the "medical-religious and ceremonial use of sacred plants" be decriminalized, given the "absence of effects of addiction in its natural form". It requests a revision of the 1971 Vienna Convention, which "improperly includes plants considered ancestrally sacred". It also denounces the improper appropriation of the cultural heritage of aboriginal peoples by indigenous and non-indigenous groups alike for commercial ends, such as so-called "shamanic tourism", "pseudo-sacred folklorism", and "fragmented or reductionist syncretism that tries to turn indigenous spirituality into a supermarket product".

The expansion of ayahuasca religions throughout Brazil and the world cannot overlook this broader international context that includes not only the psychedelic marketplace, but also the voices of indigenous representatives. Indigenous federations are seeking new forms of internal and external regulation of their traditional medical and sacred practices, just as the Brazilian ayahuasca religions have sought to regulate their own practices through internal discussions and regulations, state interventions, and through communication with society at large. Yet, this distinctive context brings up new questions relating to the particular dynamics and history of indigenous movements in the Amazon and elsewhere in the Americas.

In the new global market for ayahuasca, various groups dispute legitimacy and social space among themselves, dealing with the impositions of national states and the flow of capital, information, people, and knowledge on a global scale. Depending on the context, alliances between groups are created or broken. Whether one likes it or not, ayahuasca

consumption throughout the world is in a period of rapid expansion and diversification. The complex questions and evolving issues raised here call attention to the necessity for new and serious research in this emerging area.

Notes

1. This is a translation from the original published in Portuguese in: Labate, B. C. & Goulart, S. L. (Eds.). (2005). *O Uso Ritual das Plantas de Poder*. Campinas: Brazil, Mercado de Letras, 397-457. The article was not updated since its original publication.
2. Although not always spelled out in discussions of drug policy, there are important semantic distinctions between the terms *legalize*, *decriminalize*, and *liberate*. To *legalize* is to make something legal and valid before the law. The legalization of certain drugs might result in submitting users to taking on certain obligations and procedures; for example, drug use by people with certain illnesses is legal, but subject to various kinds of control. But *legalize* takes on the additional meaning of disciplining drug use, and in some cases prohibiting it. It is worth remembering that only in the early 20th century were drugs subjected to legal controls. Thus "legalization" began at this time, even though in the negative sense of prohibition. For this reason Thomas Szasz ironically suggests that drugs should be "de-legalized" rather than "legalized." The notion of "liberation" can take on a more limited form, to permit or authorize use, or a more radical form as proposed by Szasz, entirely abolishing the legal codes surrounding drug use. Which is to say, something similar to the state of things prior to the prohibitionism period, when drug use was controlled through local social controls, tied with codes of ethics and conduct in different communities. Thus, while there exists a formal legal concept of "legalization," no formal concept exists for "liberation" or "liberalization" since these involve the absence of legal codes. *Decriminalization* is a modest step in the direction of legalization, involving weakening the sanctions and penalties for drug possession, especially when the quantities involved are considered so small as to involve only personal consumption. While decriminalization involves eliminating or reducing the punishment, it does not free the user from restrictions or legal penalties. In this context, as is the case in the new law from Portugal, the "user" thus enters the realm of compulsory medical treatment and social or psychological counseling. With decriminalization, drugs remain prohibited and illegal, just not punishable as a crime (Rodrigues 2004; Zaluar 1994).
3. DMT can be smoked, injected (especially in the context of medical or psychiatric experiments), inhaled (for example in the case of snuffs made from *Viola theiodora*, 'ebena' and *Anadenanthera peregrina*, 'paricá', 'yopo'), ingested as a drink with the addition of MAO-inhibiting beta carbolines, as is the case for ayahuasca, or ingested in solid form in the case of some "pharmahuasca" preparations (see below). The effects of orally consumed DMT are different from those of smoked or injected DMT in the absence of MAO inhibitors (see below). In the latter case, the effects are short-lived, five to ten minutes, but marked by an "avalanche of visions, as well as a complete dissociation from reality" (Callaway 2002, p. 239; see also Brito *et al.* 2002).
4. A "management plan" refers to a set of activities that describe the place to be managed and the species to be cultivated. It involves three phases: pre-harvest, harvest, and post-harvest with monitoring. In theory, these interventions promote sustainable extraction of the species involved. Reforestation," on the other hand, means taking a certain quantity of species from one area and planting the same quantity in another area. Control of extraction is different than in a management plan, since there is no monitoring and no expectation of replacing the species in the original area. For example, restaurants and ceramic factories in São Paulo that use wood-burning ovens pay a reforestation fee to NGOs who plant an equal volume of trees to that consumed as firewood, thus guaranteeing stocks.
5. If the centers cultivate leaf and liana from seeds gathered in the wild, and each new plantation involved new collections, genetic diversity would be maintained. However, if one established plantation provides the seed stocks for all new plantations, genetic diversity becomes eroded through endogamy.

About this Document

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[[back to chemicals](#)] [[back to ayahuasca](#)]

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