

# Something Old or Something New? Indian Peyote Churches And the Cultural Logic of Authenticity<sup>1</sup>

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## Prologue: The UDV and the Peyote Churches

On May 21, 1999, agents of the U.S. Customs Service raided the Albuquerque, New Mexico home of Jeffrey Bronfman, titular head of the American branch of a Brazilian church, the União do Vegetal (UDV).<sup>2</sup> They confiscated in the raid some 30 gallons of *hoasca*, an infusion made of two Amazonian plants and drunk in UDV services. While no arrests were made, the Customs Service refused to return the “tea,” which is legal in Brazil, because it contained dimethyltryptamine (DMT), which is classified in “Schedule I” of the Controlled Substances Act<sup>3</sup>. Bronfman and other members of the UDV sued the representatives of the federal agencies involved, alleging that the government acted illegally in seizing the “tea,” violating protections guaranteed under the Constitution and the Religious Freedom Restoration Act of 1993 (Memorandum Opinion and Order filed August 12, 2002 in CIV. No. 00-1647: 4-5).

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<sup>2</sup> The UDV was founded in 1961. It is a syncretic church incorporating elements of Christianity, AfroBrazilian spirituality, EuroBrazilian Spiritism, and a sacramental potion of Indian origin.

<sup>3</sup> Three criteria qualify a “drug or other substance” for inclusion in Schedule I: “a high potential for abuse,” the lack of a “currently accepted medical use in treatment in the United States,” and “a lack of accepted safety for use of the drug or other substance under medical supervision” (21 USCS Section 812 (1996), I A-C).

Of the several arguments the UDV made in its case against the government, one is of primary interest here: the plaintiffs' claim that the government violated the Fourteenth Amendment's Equal Protection Clause by failing to extend to the UDV the same protections that are granted to Native American use of peyote. Like *hoasca*, peyote contains alkaloids listed in Schedule I, foremost among which is mescaline. In a preliminary Memorandum Opinion and Order handed down in February, 2002, Chief United States District Judge James A. Parker denied the UDV's Equal Protection claim, ruling that the church's situation was not comparable to that of the Native American Church (NAC).

How does the law allow Native Americans to use peyote and prohibit anyone else from using it or pharmacologically similar substances for religious purposes? I want to answer this question as a means to understanding something about the ways the past is interpreted for political ends in the present. That discourses can be relatively easily trotted out which make the widespread use of peyote among Native American groups appear as both a relatively recent phenomenon and as a form of cultural resistance makes clearer the invented character of the peyote religion. At the same time, I want the analysis to be, in the end, not an attempt to discredit the authenticity of the Native American peyote churches, but to show that this authenticity is composed, publicly at least, in tones that play into, and play upon, thoroughly Western conceits. In particular, I draw on Richard Handler's (1985) discussion of the idea of "having a culture" to argue that legal and popular discourses depict the peyote churches as ancient and traditional not because they are, but because that is the precondition of authentic culture in the logic they employ. This is not, then, an account of the experiential reality of the Native American

peyote churches, nor is it an indictment of the intentions of the members and leaders of the churches and their advocates. What I seek to clarify is the fact that, whatever the understanding a group such as the Native American Church or the UDV may construct for itself, it is in the nature of the official and popular discourse to demand acceptance of its terms as a prerequisite for the bestowal of state and cultural legitimacy.

### **Morton v. Mancari: Of Tribes and Trust**

The explicit goal of Indian assimilation was abandoned in 1934 with the passage by Congress of the Indian Reorganization Act, which recognized the existence of tribes once more and sought to promote their self-determination. As part of the implementation of the Act, the Bureau of Indian Affairs instituted hiring preferences for tribe members. Non-Indian BIA employees challenged this practice in the wake of the 1972 passage of the Equal Employment Opportunity Act, arguing that it made unlawful and unconstitutional racial distinctions between classes of people. The Supreme Court's decision in *Morton v. Mancari* upheld the preferences, reasoning that the federal government had a unique "trust responsibility" toward tribes, based on their semi-autonomous status and authorized by the treaty power and the Indian Commerce Clause of the United States Constitution. This decision interpreted the Constitution as granting Congress a "plenary power" to enact legislation rationally related to the promotion of Indian self-governance and the preservation of Indian culture (Gould 2001:711-712). Thus the BIA hiring preferences, and legislation treating Indians differently in general, owed to the unique, "quasi-sovereign" legal and political relationship between the tribes and the United States government. The hiring preferences were political, not racial, the Supreme Court argued in *Morton v. Mancari*, because "the preference applied only to

Indians who were members of federally recognized tribes, and not to persons who might be classified racially as Indians, but were not members of such tribes” (ibid.). Since being handed down in 1974, *Morton v. Mancari* has been “the principal means by which congressional acts benefiting Indians have withstood judicial scrutiny” (Gould 2001:771), and the key to the exemption from drug laws granted to Indian peyote churches.

### **The Genesis of AIRFAA**

In Douglas County, Oregon in the mid-1980s, Alfred Smith and Galen Black were fired from their positions as counselors for ADAPT, a county-run non-profit organization for the prevention and treatment of drug abuse, because they used peyote in NAC services. Subsequently they were each denied unemployment benefits “because they had been discharged for work-related ‘misconduct’” (*Employment Division v. Smith*, 494 U.S. 872 1990). They sued, charging that the state was infringing upon their right to the free exercise of their religion. The case made its way to the Supreme Court, which upheld the denial of benefits, ruling that the Constitution provided no protection, “since the First Amendment protects ‘legitimate claims to the free exercise of religion,’ ... not conduct that a State has validly proscribed” (ibid.). (While the federal government has written exemptions into its omnibus drug laws for Indian use of peyote, beginning with the Drug Abuse Control Amendment of 1965, many states, including Oregon, continued absolute prohibitions on peyote.) Other churches and civil liberties groups became interested in the case because the legal architecture of the ruling was such that it established a precedent in which the state no longer bore the burden of demonstrating a compelling reason for the enactment of laws infringing upon religious practices. Said Walter Echo-Hawk, lawyer for the NAC, in testifying before Congress: “Not only did Smith devastate

Native American Church worship, but it seriously weakened religious liberty for all Americans by abandoning the legal standard long used by courts to protect First Amendment rights, known as the ‘compelling government interest’ test” (Echo-Hawk 1994: n.p.). There is evidence for the wide spectrum of organizations concerned with the ramifications of the Smith decision in the friend-of-the-court briefs filed in the case, which included statements by the American Jewish Congress and the American Civil Liberties Union.

A broad coalition of interests lobbied for a legislative remedy to the judicial setback Smith represented for defenders of religious freedom, and their efforts culminated in the 1993 passage of the Religious Freedom Restoration Act (RFRA)<sup>4</sup>. The purpose of the law was to restore the “compelling interest test.” “Laws ‘neutral’ toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise,” the text notes, and “in *Employment Division v. Smith* ... the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion” (RFRA, Public Law 103-141: Section IIa,2-4).

Because the RFRA was passed explicitly in response to Smith, there is irony in the fact that it offered no clear protection for Indian use of peyote. Native American special interest groups continued to lobby for a federal umbrella law specifically permitting the religious use of peyote. In April, 1994, President Bill Clinton met with leaders of Indian tribes at the White House and promised to help pass a federal law protecting the religious use of peyote by American Indians:

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<sup>4</sup> The federal RFRA was effectively overturned in 1997.

No agenda for religious freedom will be complete until traditional Native American religious practices have received the protections that they deserve. Legislation is needed to protect Native American religious practices threatened by federal action. The Native American Free Exercise of Religion Act is long overdue. My Administration will work with you and members of Congress to make sure the law is constitutional and strong. Then I want it passed . . . (Cited in Echo-Hawk 1994:n.p.)

Two quite similar bills wended their way through the House and the Senate, and House bill 4230 was passed and signed into law on October 6, 1994 as the American Indian Religious Freedom Act Amendments (AIRFAA). The bill relied on the *Morton v. Mancari* decision to make peyote explicitly legal for Indians, yet still illegal for non-Indians. In a report on the bill's constitutionality prepared by the House Committee on Natural Resources while the bill was in process, the long history of legislation specifically directed at Indians was noted—hundreds of laws encompassing an entire section of U.S. law. Furthermore, the report emphasized the special status of Indians affirmed by *Morton*:

Because Indians and Indian tribes occupy a *sui generis* legal status in Federal law under the U.S. Constitution and enjoy a special political relationship with the United States Government, separate Indian legislation has consistently been upheld by the U.S. Supreme Court under the legal principles set forth in *Morton v. Mancari*, 417 U.S. 535, 551-55 (1974).

This special relationship, the report noted, had been invoked with relation to peyote in the 1991 decision, *Peyote Way Church of God v. Thornburgh*. In that case, the 5<sup>th</sup> Circuit Court of Appeals rejected the appellants' claims that religious use of peyote was protected for non-Indians under the equal protection clause of the 14<sup>th</sup> Amendment. The committee's report quoted the decision in that case as supporting the constitutionality of AIRFAA against equal protection claims:

We hold that the federal NAC exemption allowing tribal Native Americans to continue their centuries-old tradition of peyote use is rationally

related to the legitimate governmental objective of preserving Native American culture. Such preservation is fundamental to the Federal Government's trust relationship with tribal Native Americans. Under Morton, [non-Indians] are not similarly situated to NAC [members] for purposes of cultural preservation and thus, the Federal Government may exempt NAC members from statutes prohibiting possession of peyote without extending the exemption to [non-Indians]. [Quoted in House Rept. 103-675, from the Committee on Natural Resources; August 5, 1994:n.p.]

Through AIRFAA, the religious use of peyote became explicitly protected for members of federally recognized tribes (but for no one else) based on the relationship of the tribes and the government as defined by Morton: a "trust" relationship of a unique kind, political rather than racial by virtue of the tribes' quasi-sovereign status.

The validity of *Morton v. Mancari* as the linchpin of AIRFAA relied on the "rational relation" between the legislation and the government's responsibility, outlined in the original AIRFA, to "protect and preserve...the traditional religions" of Indian peoples (AIRFA 1978). That peyote religions were an authentic part of "Indian culture" was apparently never questioned in any of the testimony related to the bill. Repeatedly, in congressional testimony, in media reports about AIRFAA, and in the text of the law itself, the "traditional" and "ancient" character of Native American peyote use is presented as a fact of anthropological knowledge by Indians and lawmakers alike. For example, there is the oft-repeated assertion, read into the Congressional Record, that contemporary peyote churches have links to a tradition that is 10,000 years old.

According to the joint testimony of the five presidents of the Native American Churches,

The roots of this religion go back at least 10,000 years according to anthropological evidence--making it among the oldest ongoing religious traditions in the Americas, and grounding it firmly among the historic, bona fide religions of the world. [Long et al. 1994]

Similarly, according to Walter Echo-Hawk, “[t]he sacramental use of peyote by Indians has a long history, spanning 10,000 years as one of the oldest religious traditions in North America”; the Native American Church is “the embodiment of this ancient religion” (Echo-Hawk 1994:n.p.). The Natural Resource Committee’s report stated that “Anthropologists date the sacramental use of the peyote cactus among indigenous peoples back 10,000 years” and spoke of “accomodat[ing] this ancient religious practice” (House Rept. 103-675 1994:n.p.). And while these statements invoked scientific authority in linking contemporary Indian peyote churches to a ten-millennium history, they cannot compare for bluntness and color with a popular news media story lead, from a June 25, 1995 Omaha World Herald article on the passage of AIRFAA:

Members of the Native American Church of North America performed religious ceremonies Saturday in Macy that date back 10,000 years. They sang under cover of tepees on the Omaha Tribe Pow-Wow Grounds. They banged drums. And they used peyote, grinding up the cactus for consumption, just as their ancestors did. [Robb 1995:4b]

Such examples from the popular media could easily be multiplied; in them, even more than in the statements before Congress, the extreme antiquity of the peyote church is taken completely at face value, and accepted as scientific fact. Contemporary Indians, such examples imply, are performing the same rituals, in the same way and for the same purposes, as their ancestors did thousands of years ago.

Such purported antiquity runs throughout the text of AIRFAA, which is carefully written to link the bill to the precedent of *Morton v. Mancari*. AIRFAA declares the use of peyote lawful “for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion” (AIRFAA 3(b)(1)). This is justified by the trust responsibility established in *Morton v. Mancari*, as well as by Congress’s finding that

“for many Indian people, the traditional ceremonial use of the peyote cactus as a religious sacrament has for centuries been integral to a way of life, and significant in perpetuating Indian tribes and cultures” (AIRFAA 3(a)(1)). “Indian” as used in AIRFAA means a member of a tribe which is federally recognized “as eligible for the special programs and services provide by the United States to Indians because of their status as Indians” (AIRFAA 3(c)(1-2)). Indians unaffiliated with recognized tribes are not protected by AIRFAA because, under federal regulations, there is no such category of person as an unaffiliated Indian. The law is also quite explicit that an “Indian religion” is a religion “which is practiced by Indians; and the origin and interpretation of which is from within a traditional Indian culture or community” (AIRFAA 3(c)(3a-3b)). The law does not tell us what qualifies as “a traditional Indian culture or community,” but since the only relevant legal entities are the state, the recognized tribes, and their members, we might assume that this effectively refers to federally recognized tribes.

Skirting these issues enables courts to avoid considering some very sticky questions about cultural authenticity that are raised by the peyote churches’ legal exemption. Is a “traditional Indian religion” whatever federally recognized tribes say it is? What if a group of Indians belonging to recognized tribes started an explicitly new religion that used peyote as its sacrament? Would AIRFAA protect them? Who would decide whether their religion was traditional or not? Because of the idea of culture encoded in *Morton v. Mancari*, the law is as much preoccupied with *establishing* the official legitimacy of the peyote churches as authentic expressions of “Indian culture,” as it is with recognizing and legalizing an aboriginal practice of consuming peyote. Logically enough, it is the presumptive fact that the peyote church is “traditional” that

makes it a part of the “culture” the government says it is supposed to “protect.” It would seem, however, that the converse proposition, that the church is not a “truly traditional” part of “Indian culture”—if it dated from the contact period, say—would disqualify it from government protection as less than purely Indian. I want to make the point that this is a feature of the cultural logic that dominates legal and public discourse and which operates on the assumption of a Western, individualist idea of what culture is, before going on to argue that Indian peyote churches could not be seen as a response to Euroamerican domination—which ethnographic evidence suggests they are—without classifying them as *ipso facto* not essentially, authentically, Indian.

### **Cultural Authenticity: To Have Is to Be**

In his study of nationalism in Quebec, Richard Handler (1985) argues that nationalist ideologies bring certain assumptions about culture to their struggles. First, because they subsist within the confines of the nation-state and base their goals on its logic, such ideologies posit their existence as a “collective individual,” which

is said to ‘have’ or ‘possess’ a culture, just as its human constituents are described as ‘bearers’ of the national culture. From the nationalist perspective, the relationship between nation and culture should be characterized by originality and authenticity. Culture traits that come to the nation from outside are at best ‘borrowed’ and at worst polluting; by contrast, those pieces of aspects of national culture that come from within the nation, that are original to it, are ‘authentic.’ (Handler 1985:198)

Further on, Handler draws on the works of Tocqueville, Louis Dumont, and C.B. Macpherson to argue that, just as the modern “individual” is defined by what he or she possesses, so the collective individuals imagined by nationalist discourses are considered to be real because of what they possess: “We are a nation because we have a culture,” is the rallying cry (Handler 1985:210). Ideas, beliefs, and other kinds of “intellectual

property” become things to be had just as much as any object. Quebecois *patrimoine*, and culture in general from the perspective of possessive individualism, therefore involves a broad array of items, material or not, provided they exhibit: “(1) age combined with (2) proprietorship that is (3) collective” (Handler 1985:195). In this way, culture itself becomes an object a group of people may hold in common.

While there are surely many differences between the Quebec nationalists studied by Handler and the Native American peyote churches, there are also many similarities. In constituting themselves as political entities in the modern world, Indian tribes are often forced to justify their existence as “real” tribes possessing “real Indian culture.” If there ever was a time when “Indian culture” was just the way that Indians lived their lives, these days legal and cultural battles over Indian-ness have made “Indian culture” an object of intense contestation. On the Internet, for example, “New Age” spirituality web pages appropriate “Indian culture” in the form of Kokopelli figures and sweatlodge ceremonies, only to be denounced as “culture vultures” by watchdog sites who object to their “using Native American imagery and ‘noble savage’ stereotypes for their own profit” (for example, see <http://www.hanksville.org/sand/intellect/newage.html>). In the courts cases are tried to decide which groups can be considered authentic Indian “tribes,” with lucrative rights to land or to the operation of casinos sometimes at stake.

James Clifford analyzed one such situation with thunderously ironic acuity in the 1976 case of the Wampanoag tribe of Mashpee, Massachusetts. The group sought recognition as a tribe in order to be able to sue for wrongfully alienated lands. Operating with the kind of logic discussed by Handler, the court sought to know whether the Mashpee Indians had constituted a “collective individual” continuously from contact

onwards. Lawyers for the opposition tried repeatedly during the trial to portray the Mashpee as inauthentic because of their adoption of outside influences, including Christianity and private property, and because of the abandonment of their traditional language and culture. Lawyers for the Mashpee mainly argued that to put things in such terms was unfair, since traditional Mashpee identity had never depended on the same criteria (common race, territory, community, and leadership) demanded by the court. The court could not permit the case to be about Indian ideas of Indianness, however; it demanded to know *objectively* whether the Mashpee were a tribe or not.

An either-or logic applied. ... The plaintiffs could not admit that Indians in Mashpee had lost, even voluntarily abandoned, crucial aspects of their tradition while at the same time pointing to evidence over the centuries of reinvented 'Indianness.' They could not show tribal institutions as relational and political, coming and going in response to changing federal and state policies and the surrounding ideological climate. And identity could not die and come back to life. To recreate a culture that had been lost was, by definition of the court, inauthentic. (Clifford 1988:341)

(The Mashpee lost the case.)

Like nationalists and courts, anthropologists are not exempt from the siren song of authenticity. Handler argues that anthropologists go about fashioning their objects of study in similar ways, by “describing the cultural substance or social facts that will establish the existence of the cultures they enclose within the covers of their monographs,” so that ultimately “the concept of ‘authenticity’ is as deeply embedded in anthropological theory as it is in the self-conscious ethnic ideologies of many of the groups that we study” (Handler 1986:4). Anthropologists, then (as well as courts and others who follow this tack), in deciding what is authentic and traditional culture, have concerned themselves with Handler’s three criteria of the Quebecois *patrimoine*: the

collective ownership of old things, be they physical objects, traditions, or, as we will now see, culture complexes.

### **History, Cultural Essence, and the Peyote Churches**

The persistent (and undefined) use of the idea of “tradition” in AIRFAA is conspicuous, and makes a clear semantic link between the use of peyote and a centuries-old, integrated way of life. If the legal rationale for permitting Native Americans, and only Native Americans, to use peyote is based on the importance of preserving a centuries-old culture to which its use is integral, we might well question this weakly supported semantic link. What, besides averring that aboriginal peoples 10,000 years ago used peyote, have anthropologists actually said about the peyote churches? Do their findings support the law’s assertion that the ceremonial use of peyote is, in fact “integral to a way of life” that is “centuries” old among “many Indian people”? While it is not my intention to provide a yes-or-no answer to this question, I move now to a discussion of anthropological perspectives on the Native American peyote churches for two reasons: first, in order to complicate the unchallenged view presented in the media, congressional testimony, and the law of the near-primordial antiquity of Native American peyote religion; and second, to argue that there is a basic consistency between certain anthropological views and the legal and popular discourses I have been discussing in their use of an “objectifying logic” (Handler 1985:195) of culture that makes it into a thing that can be possessed, diffused, stolen, lost, preserved—and a thing which is ultimately the guarantor of the authenticity of a group of people.

There are three major anthropological monographs on Native American peyote churches: Weston La Barre’s (1975[1938]) *The Peyote Cult*; J.S. Slotkin’s (1956) *The*

*Peyote Religion*, and Omer C. Stewart's (1987) *Peyote Religion*. I want to focus on La Barre's early and meticulous study of the "peyote cult" because his diffusionist / culture-historical approach is in some ways a more sophisticated version of the notion of culture incorporated in the popular and legal discourse surrounding AIRFAA.

Of the three books, La Barre's is the most insistent that "peyotism is an essentially aboriginal American religion" (166). This insistence is ironic because La Barre presents what seems like compelling evidence for the recent historical creation of the peyote churches in response to white ethnocide and genocide visited upon the Indians; for resistance against it by some Indians who saw it as *opposed to* traditional ways; and for the syncretic character of peyote rituals and beliefs. Taking this last proposition first, for example, La Barre documents numerous ways that Christianity was incorporated into many of the peyote churches as they spread and grew,<sup>5</sup> noting that: of the songs sung during the rites "[m]any show a Christian influence" (82); "[a]mong the Winnebago the leader, drummer and cedar-man symbolize respectively the Father, the Son and the Holy Ghost" (64); the Oto peyote leader Jonathan Koshiway "doctored and 'hollered' like the source of his power in good old Indian fashion, and on the other hand baptized, conducted funerals and married couples just as in white churches" (99); among the Osage, "[s]ome say the whole firepit is the grave of Christ, and the ash mounds his lungs, as the figure under the fire is his heart" (157). Nevertheless, despite these and many other examples, La Barre concludes that "when all these features have been

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<sup>5</sup> Today, the number of members of the Native American Church of North America, the largest but not the only peyote church, is estimated to be approximately 250,000, (Smith and Snake 1996:172) with chapters of the church all across the United States, especially west of the Mississippi River, and as far north as Canada, including groups of Salish Native Americans of the Pacific Northwest (Stewart 1987:149).

summed up, it is still clear that the layer of Christianity on peyotism is very thin and superficial indeed” (165).<sup>6</sup>

In addition, La Barre reports that in some circumstances traditionalists among the Indians who associated the peyote churches with white influence opposed its use. For example, La Barre cites the following statement from Crashing Thunder’s father in Paul Radin’s “autobiography” of *Crashing Thunder* (Winnebago):

The peyote people are rather foolish for they cry when they feel happy about anything. They throw away all the medicines they possess and whose virtues they know. They give up all the blessings they received while fasting, give up all the spirits who blessed them. They stop giving feasts and making offering of tobacco. They burn up all their holy things, destroy the war bundles. They stop smoking and chewing tobacco. They are bad people. They burn up their medicine pouches, give up the Medicine Dance and even cut up their otter skin bags. (La Barre 1975[1938]:100).

Among the Kiowa, one of the principal groups La Barre credits with spreading peyotism in the Plains, an anti-peyote, anti-white traditionalist movement was promulgated by a man named Baïg<sup>y</sup>ä. In 1887, about a decade or so after some Kiowa joined the peyote church, Baïg<sup>y</sup>ä formed a group called “Sons of the Sun” who wore clothes, sang songs, and performed smoking ceremonies recalling the traditional ways. They were “bitterly opposed to peyote on the ground that it was in conflict with the Ten Medicine Bundles” (La Barre 1975[1938]:112). Like the Ghost Dance, which followed it, Baïg<sup>y</sup>ä’s Sons of the Sun movement promised a catastrophe that would remove the whites from Indian territory (the movement collapsed when this failed to appear). These examples clearly

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<sup>6</sup> Slotkin and Stewart take a more sanguine perspective on the possibility of mixing Indian religion and Christianity. Slotkin writes that “[m]ost Peyotists consider themselves to be Christians, for they conceive Peyotism to be the Indian version of Christianity” (1956:68), while Stewart notes that it is “not unusual for peyotists to be active members of Christian churches” (1987:123). He gives the (somewhat unusual) example of George Butler, who “had been a peyote roadman at the same time he was minister in charge of the Baptist church in Cushing, Oklahoma” (ibid.).

complicate the view, implicit in the discourse surrounding AIRFAA, that the peyote churches have an unambiguous relationship with “traditional Indian culture.”

La Barre’s book provides further evidence for the relatively recent, historical invention of the peyote churches in the form of a chart summarizing the probable chronology of the spread of the peyote churches among Native Americans of North America (1975[1938]:122). While the chart and the discussion in the book both point to the “pre-Columbian” use of peyote by Native Americans in Mexico (such as the Huichol and the Cora); and while La Barre discusses occasional colonial reports of its presence in the Rio Grande and Taos areas as early as 1716, it is clear that the regular use of the cactus much beyond its native habitat began with the adoption of the peyote religion by Plains Indians beginning around 1870 (110). In fact, about two-thirds of the groups named in La Barre’s chart apparently began practicing a peyote religion only after 1900. This period roughly coincides with the period of the “vanishing frontier,” when Indian territory became completely circumscribed in the westward realization of “Manifest Destiny.” Indians were removed to reservations throughout the country, and especially in Oklahoma, and forced to attend special “Indian schools” as a way to alienate them from their culture. Writes Stewart:

The peyote religion developed in the United States after Indian reservations were established by the U.S. government. It was one of the results of the confluence of peoples, cultures and conflicts that the U.S. government created when it established the ‘Indian Territory’ in Oklahoma” (1987:53).

La Barre also concedes that these events played a role, yet he emphasizes the relatively autonomous peregrination of the culture complex, rather than the active creation of a pan-Indian spirituality-based resistance movement:

The express intention of Indian policy of the period was the deculturation of the natives, to be obtained by sending the children to white schools, away from the influence of tribal life. But this policy *prepared the way for peyotism* in several ways: it weakened the tradition of the older tribal religions without basically altering typical Plains religious attitudes, and multiplied friendly contacts between members of different tribes...

In this way,

*nearly ideal conditions for the diffusion of the cult were established...* the use of English as a lingua Franca is an enabling factor of great importance in the diffusion of the cult. Thus, ironically, the intended modes of deculturizing the Indian have contributed preëminently to the reinvigoration of a basically aboriginal religion. (1975[1938]:113; my emphasis)

In this view, peyotism was a culture complex originating in Mexico and south Texas, then diffusing to Indians of the Great Plains and beyond. Whether the U.S. government policy helped or hindered this movement is interesting only as a secondary phenomenon.

Despite what seems like good evidence that the peyote churches were syncretic movements created in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries in response to violent policies that polarized “white” and “Indian” into two opposed groups, and aimed to extinguish the latter, the essentially historical character of the churches is ignored by La Barre, just as it is ignored in the discourses around AIRFAA. Throughout (for La Barre), the focus remains on the factors conditioning the spread of the pre-existent culture complex. Situational and historical circumstances are unimportant except insofar as they promote or inhibit the transmission of the “peyote cult.” La Barre stresses elements already within “Indian culture,” such as “typical Plains religious attitudes” over the agentive and creative process of achieving a pan-Indian culture to resist the fateful role of “vanishing primitive” assigned the Indians by the whites. History becomes a mere backdrop.

In an appendix to the 1969 edition of his book, La Barre notes the criticism of his approach implicit in the title of a paper on the “peyote cult” by one Camille Orso, called

“The Chapter that La Barre Didn’t Write.” This paper, in treating the peyote churches as a revitalization movement, asked the question, “How did the Plains Indian culture, which was on the brink of extinction as a result of White policy, manage to reunify and strengthen itself through the incorporation of the Peyote Cult?” (La Barre 1975[1938]:215). La Barre responds that, at the time of his fieldwork, accepted practice was to regard oneself as “collecting primary ethnographic material” from carriers of “the old native culture.” So-called “acculturation studies,” according to La Barre’s dissertation adviser, Leslie Spier, were “not anthropology” (La Barre 1975[1938]:215*n*). La Barre is consistent with Spier’s diffusionist / culture-historical perspective in his insistent use of imagery depicting the peyote churches as spreading by latching onto an essentially aboriginal core spirituality already possessed by all Indians, which merely happened to be covered with a white integument. One could hardly ask for a more “object”-ive view of culture than this.

Ultimately the justification of backgrounding history and politics in analyzing a situation shot through with both is La Barre’s invocation of a grand “New World narcotic complex.” This notion is mentioned in *The Peyote Cult* and was expanded later into a theory about the origins of religion (e.g., La Barre 1970, 1972). For La Barre, Indian use of peyote can be explained, and, in the context of its attempted legal suppression, is legitimated by, the fact that it links up with an essential and authentic part of a pan-Indian culture: Indians (and La Barre expands this claim to mean all, or at least nearly all, aboriginal Americans [1975(1938):137]) are “motivated to explore” drug plants by a “cultural disposition” that is a fundamental part of the culture and psychology possessed by them (ibid.:xv). Writing in the polemical context of the hippie era, in his preface to the

1969 edition of *The Peyote Cult* La Barre uses the idea of the “narcotic complex” to justify his support of Indian use of peyote, writing that the “epistemological touchstone for truth for American Indians from the most ancient times was [the] experience of ‘medicine power’ ... American Indian religion is based on direct psychodynamic and pharmacological experience of the supernatural” (ibid.). At the same time, La Barre rejects the interest shown by non-Indians in peyote and similar plants as culturally inauthentic, deriding “British eaters from Havelock Ellis down to Aldous Huxley, as well as the pseudo-peyotists among the Lawrencites around Mabel Dodge Luhan” as “ethnologically spurious, meretricious and foolish poseurs” (1975[1938]:xiv). The crux of the authenticity of the practice on the one hand, and its spuriousness on the other, is a fundamental hiatus between Indian and European mentalities such that

epistemological techniques among Amerindians and among Europeans are *diametrically opposed*; the two groups have quite different cognitive maps. Indians still actively seek in peyote the supernatural visionary experience; but Europeans strenuously pursue the sophisticated critique that seeks assiduously to rid experience of idiosyncratic subjective elements. (Ibid.:xv-xvi; La Barre’s emphasis)

La Barre’s insistence on the fundamentally aboriginal character of peyotism makes sense in this context: in the last analysis, the peyote churches are the expression of a difference between Indians and Europeans that is so basic that it might as well be natural. They “have quite different cognitive maps.” The possession of these “diametrically opposed” culture complexes both explains and justifies Indian use of peyote. By contrast, the Havelock Ellises and UDV’s of the world, lacking the appropriate culture, cannot *a priori* use peyote (or ayahuasca) “authentically.” This would be merely the quaint opinion of an old anthropology were it not also the logic of popular culture and law.

## Conclusions

Underlying the text of laws like AIRFAA and decisions such as Morton is a logic of cultural essence. That “Indian culture” could be as much a product of three or four hundred years of contact with whites as it was an expression of a pure, static and aboriginal pattern, would not fit the logic of authentic culture, with its emphasis on antiquity. As Clifford (1988:339) puts it, “[t]he related institutions of culture and tribe are historical inventions, tendentious and changing. They do not designate stable realities that exist aboriginally ‘prior to’ the colonial clash of societies and powerful representations.” And yet the logic of objectification demands that culture be viewed as something old and “traditional”—literally, “handed down”—in order to be authentic. Where the Mashpee in Clifford’s discussion lost their lawsuit because they could not demonstrate continuity of their “tribe” to the satisfaction of the court, the peyote churches were able to avoid the close scrutiny of the question of their religion’s historicity by appealing to images of “Indian culture” as homogeneous, ancient, and static. This sort of temporal gerrymandering is discussed by Bernbeck and Pollock (1996:s140) as “ascending anachronisms,” in which “pushing something back in time confers legitimacy upon it in the present by demonstrating that it has an ancient precedent.” A similar point is made by Hobsbawm (1983).

By defining the use of peyote as a centuries-old tradition, the state and the courts justify the need to protect it as part of the more general mandate to preserve Native American culture. La Barre, although his work highlights the historical construction of the peyote religion as a widespread phenomenon, is complicit in this essentialist view, inasmuch as he argues that the peyote churches are an expression of “a basically

aboriginal religion” whose diffusion was facilitated by a nearly pan-Native American cultural core: a “narcotic complex,” which accounted for a tendency toward ecstatic visionary experience aided by botanical preparations found across huge swaths, if not all of, the native American continent. Thus anthropologists, the state, and ethnic groups sometimes come together in constructing the authenticity of cultural forms by referring them, even against ethnohistorical evidence, to the possession of ancient, stable patterns analogous to *patrimoine*.

### **Postscript**

A few notes of self-criticism and future directions for these topics are appropriate here. First, the issue of the UDV merits greater inclusion throughout. This paper was inspired in large part by the *amicus curiae* brief the NAC attempted to file in the UDV case, arguing against the UDV’s claim to similar situation for purposes of legal analysis, yet here the UDV suit becomes mainly a jumping off point for a discussion of the Indian situation in the context of the logic of “cultural essence.” A better version of this paper will weave in a more complex comparison of the peyote churches and the UDV. In a time when the legal and political winds are shifting toward making sharp distinctions between Indians and non-Indians for purposes of social institutions like casinos, land claims, and not least the peyote churches, a better analysis of the machinations behind these issues would be useful. A good part of such a comparison would have to entail more attention to race, a topic mostly avoided here. It would include greater discussion of claims, such as that made by Gould, *pace* the courts, that the legal basis for *Morton v. Mancari* is ultimately racial and not merely political at all. It would expand, too, on the issues raised by La Barre’s repudiation of the legitimacy of white use of hallucinogens, since the drug

laws passed in the 1960s and 1970s targeting the counterculture added a new chapter to the long history (also worthy of greater discussion) of legislation against peyote.

There is a lingering sense of attempted exposé about this paper, as well. I would like it to develop in such a way that it is possible to see some distinction between the rites of Indian peyote churches as effective and sincere practices, and organizations like the Native American Church as political agents seeking maximization of their institutional good, as it were. I think the peyote churches are inauthentic in the sense that they are portrayed in the legal and media discourse around AIRFAA as expressions of an ancient pan-Indian spirituality, but I am concerned that I have not done more here than attempt to critique this idea without replacing it with a more complex but still sympathetic understanding. I am not sure I have escaped the either / or logic that I have attempted to criticize. A better version of this paper will include more detail about peyotism (and pan-Indianism in general) as a historical alliance against white oppression, based not on a pre-existing sense of Indianness, but on a solidarity constructed against a monolithic sense of white/Indian difference. Given such a situation, it is necessary to show that “Indian” is emphatically not an eternal essence, but makes sense only in contrast to “white.”

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