

## Paradoxes of ayahuasca expansion: The UDV–DEA agreement and the limits of freedom of religion

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This article comments on the agreement signed in 2010 between a US branch of the Brazilian ayahuasca religion União do Vegetal (UDV) and the US Drug Enforcement Agency. This document settles a dispute regarding administrative issues involving ayahuasca, a psychoactive brew used by this group as a religious sacrament. The government originally confiscated this substance in 1999, and the matter went to the Supreme Court, which handed down a decision favourable to the UDV in 2006. Despite the fact that this group prevailed, the agreement reveals that the Drug Enforcement Agency (DEA) views ayahuasca not as a religious sacrament, but as a toxic and hazardous compound. This article also contextualizes this agreement in relation to the history of the UDV, which has been expanding beyond the Amazon since the 1970s. This process entailed increasing levels of institutionalization, formalization and bureaucratization. In its search for social legitimacy and legal conformity, the group has gradually shifted from its popular Amazonian origins. This process reached its peak with the current agreement with the DEA. Nevertheless, the agreement surpassed the levels of control and interference that would be tolerated by these religions in Brazil. It raises serious concerns for all those interested in human rights, religious freedom and cognitive liberty.

In August 2010, the Brazilian ayahuasca religion União do Vegetal (UDV) came to an agreement with the US government that settled a dispute regarding administrative issues involving the use of hoasca, more widely

known as ayahuasca, a psychoactive brew made from *Banisteriopsis caapi* and *Psychotria viridis* (Mesquita, 2010; Sandlin, 2010; Settlement Agreement, 2010). The UDV is a religious group of about 14,000 members, including around 150 members in six congregations around the USA (Brissac, 1999, 2010; Goulart, 2010; Labate & Pacheco, 2010; Labate, Rose, & Santos, 2009). This document ended a decade-long battle initiated when the UDV's sacrament was first confiscated by the Drug Enforcement Agency (DEA) in 1999.

After having its sacrament confiscated, the UDV challenged the government's action in court, arguing for their right to exercise their religion, and have their sacrament returned. They won a pre-trial motion for a preliminary injunction to use hoasca in the District Court of New Mexico in 2002, which was later upheld by the Supreme Court in 2006 (Bullis, 2008; Bronfman, 2007; Feeney, 2011; Labate & Feeney, in press; Meyer, 2006). Needless to say, this represented a landmark decision by a highly conservative US Supreme Court that creates an important precedent for cases involving the use of drugs in religious settings, such as the use of peyote, marijuana, mushrooms, San Pedro and salvia, among other substances.

Despite the UDV's victory in the Supreme Court, during ensuing years the US Government complicated the group's activities through a series of bureaucratic and administrative strategies. Because of the legal path that this dispute followed, the UDV was still subject to a variety of pressures and uncertainties, and the agreement finally settled this dispute between them. The agreement provided a legal process for the UDV to import and use ayahuasca without creating any legal precedent that the DEA would view as detrimental to the Controlled Substance Act (CSA). I will comment here on this document, and how it sheds light on

important aspects and paradoxes involved in the expansion and internationalization of the use of ayahuasca, as well as on the particular ethos of the UDV.

The document has around 20 pages and is divided into several sections: 'Introduction', 'General Provisions', 'DEA Registration', 'Importation of Hoasca', 'Inspections and Record Keeping', 'Storage and Security', 'Manufacture and Distribution', 'Disposal', 'Denial, Suspension, or Revocation of the Registrations and Dispute Resolution' and 'Points of Contact' (O Centro Espírita Beneficente União do Vegetal et al. v. Eric H. Holder, 2010). In brief, one could say that the driving inspiration of this document is the DEA's concern for the 'non-diversion of hoasca'.

The agreement establishes that the UDV must: inform the DEA of all shipments of hoasca in advance, as well as quantities; follow a strict bureaucratic protocol to import, store and distribute hoasca; keep a record of how many participants attend each session and the total amount of hoasca consumed in each session; keep hoasca in rooms protected with a solid-core door and a deadbolt lock to avoid thefts and diversion; inform the DEA of the names of people authorized to keep the hoasca, and allow the DEA to investigate whether this person has been previously convicted of a felony relating to controlled substances. If the UDV wants to manufacture hoasca with plants in the USA, they will have to ask permission; if the UDV wants to 'decant stored hoasca' [this is what is called *apurar* in Brazil; to refine, i.e. boil ayahuasca to render it more concentrated], they have to measure the volume of hoasca before and after boiling and maintain a written record of this process. If the UDV wants to 'combine batches and boil them into a union of different batches' they must keep a written record of the volume of each batch before combining them and keep a record of the total volume after boiling. If the UDV wants to discard ayahuasca (elegantly named 'disposal'), they have to notify the DEA 14 days before of the name of the person who will do this, and the DEA must be allowed to observe this process. The DEA has the right to do audits and inspections of the storage places and during the transportation process, but not during rituals. It is still not clear if the UDV will have to pay taxes or tariffs to import hoasca. While there are many restrictions on the UDV's practices, one substantial benefit of this agreement for the UDV is that the government agreed to reimburse the UDV for its costs for the legal case. Information regarding the size of the reimbursement has not been disclosed by the UDV.

Some relevant points deserve comment here. First, the document refers repeatedly to the 'importation, possession, distribution and control of the schedule I DMT substance'. It is clear that this document follows the 2006 US Supreme Court rulings, which considered

hoasca illegal because it contains DMT. DMT is forbidden by US internal drug laws, and is also listed under the 1971 UN Convention on Psychotropic Substances. The US Supreme Court ruling also considered hoasca to be a preparation under the 1971 UN Convention, despite the fact that the International Narcotics Control Board (INCB) has stated that ayahuasca is not covered by this Convention (International Narcotics Control Board, 2011; Schaepe, 2001). The UDV won its Supreme Court case despite the fact that the Government considered ayahuasca to be controlled under the 1971 UN Convention and under US domestic laws, because the argument of religious freedom, supported by the Religious Freedom Restoration Act, prevailed (Bullis, 2008; Bronfman, 2007; Feeney, 2011; Labate & Feeney, in press; Meyer, 2006). Nevertheless, in the DEA agreement, the recognition that hoasca is a 'religious sacrament' seems to have completely vanished, even if it occasionally references religious rights. Instead, the brew is referred to in purely material or chemical terms, such as 'inactive dissolved solids', 'decantation', 'DMT', etc. Further, the regulation of the 'disposal' suggests that, apart from being worried about potential 'diversion', the government apparently sees hoasca as a toxic or potentially environmentally hazardous compound, like insecticides, car engine fluids or radioactive waste. These apparent concerns about toxicity or environmental harm do not stand on any scientific grounds. Additionally, these concepts about hoasca are exogenous to the UDV's religious universe and its understanding of the nature of this 'spirit-plant', frequently referred to as 'mysterious and enchanted'. Hoasca or daime, the name ayahuasca is given by another Brazilian ayahuasca religion, the Santo Daime, (Labate & MacRae, 2010; Labate, Rose, et al., 2009) is seen as a sacrament and plays a significant role in the cosmology of Brazilian ayahuasca religions: it is understood not merely as a combination of *B. caapi* and *P. viridis*, also it is not possible to substitute ingredients with analogue plants (Labate, MacRae, & Goulart, 2010). Even farther from this view of ayahuasca is the conception that it is a 'preparation containing DMT'.

The expansion of the UDV, as with the other Brazilian ayahuasca religions, from beyond the Amazon borders in the 1970s into the larger Brazilian cities, involved a series of changes and adaptations in the nature of these groups. This process entailed increasing levels of institutionalization and bureaucratization that seem to have reached their peak with the current agreement with the DEA.

To have a clear picture, it is important to remember that in the beginning of the 1960s there were only a couple of families drinking vegetal (another name which refers to hoasca) in a remote little town in the north of Brazil. A reporter in the 1960s described the

places where the sessions happened as a ‘filthy old hovel’ (Labate, Anderson, & Meyer, 2009). Currently, however, the UDV has expanded from Brazil to the USA, Spain, Switzerland, Portugal and England. The UDV expansion has created many challenges that have been met with mixed success. One of the most successful aspects is an exemplary concern with the sustainability of the species from which ayahuasca is prepared: according to data collected during fieldwork, the UDV is currently in possession of more than 100,000 vines of *Banisteriopsis caapi* (for the incredible achievements in the ecological study of the species that compose ayahuasca, see Bernardino-Costa, 2011).

At first glance, the settlement with the DEA seems to indicate an intense process of bureaucratization of the activities of this religious group. However, it is important to understand that the expansion of the UDV in Brazil was accompanied by the implementation of various forms of institutionalization. This process of formalization goes beyond the administrative organization of the UDV and directly affects the religious experience itself. Perhaps the most outstanding example of this ‘institutionalization project’ is the reading of a series of administrative documents at the beginning and end of each ceremony (cf. Melo, 2010, pp. 107–110). The documents read in the beginning are considered to contain ‘spiritual teachings’, and those read at the end are more informative and organizational in nature. In any case, the role of these written documents in UDV’s self-representation as an ‘oral tradition’ (Bernardino-Costa, 2011) has been underestimated. A newspaper article narrating an episode in 1967 where the founder of the UDV was arrested in Porto Velho is among the documents read and commented on during the ceremony. This episode is frequently quoted among members as a warning about ‘authorities’ and the status quo.

There are several aspects of the formalization of the UDV that require attention. First, the process of formalizing transmission of knowledge, typical to oral traditions, is taking place. For example, it is currently not uncommon for new masters of the UDV to learn the origin myth of the UDV, *História da Hoasca*, by listening to audio recordings, or by writing what they remember, rather than relying exclusively on memorization of the stories as spoken by masters in the rituals, as had previously been done. A parallel can be found among the Santo Daime, in which the progressive codification of the lyrics and melodies of Daime *hinos*, or religious hymns, are no longer learned solely by attending rituals and memorizing, but also through methods such as downloading mp3 files from the internet and listening to professionally recorded CDs (Labate & Pacheco, 2010).

Another example of formalization is the regulation of the process of cooking ayahuasca. In the UDV’s early history, only a small portion of ayahuasca

was prepared, because there were few members, and there was no need for storage. The brew was kept in modified cans, originally used to store kerosene. The traditional system of cooking was based on accumulated empirical knowledge and intuition. The expansion and ensuing increase in membership created, at first, a need to import raw materials from different parts of the Amazon region in the north of the country to meet the demands for a substantial increase in the amounts of vegetal consumed. New urban members started taking notes during the *preparo de vegetal* (preparation of ayahuasca) on the time and quantities cooked in each pot, because they could not keep track by heart like the older *caboclos* (person of mixed Amazonian Indian and white European ancestry and culture), some of whom were illiterate, and because the process had grown and become more complex. For example, some temples currently have semi-industrial furnaces with up to nine pots being cooked simultaneously, with 100–120 L of water and raw plant material in each pot. Also, the vine and the leaf were originally harvested in the wild. With expansion, the group started to cultivate and harvest these plants. Now the UDV is creating a school that will teach courses to its members on growing and handling the species that constitute ayahuasca; the school will supply written curriculum and offer a diploma at completion (Alto Falante, 2011).

The DEA’s imposition of record-keeping and measuring the volumes of batches during the process of cooking ayahuasca, and the quantities consumed in each session, would be considered a burden for some of the other Brazilian ayahuasca groups, but for the UDV it is not much additional work. But whereas the UDV might institute these controls for pragmatic and organizational reasons, the Government does it for the purpose of ‘narcotics control’. One substantial difference between the US and Brazil lies in the fact that the DEA grants itself the right to audit this process, which would be considered very inappropriate in Brazil in any religious setting where ayahuasca is consumed. For example, in Alto Santo, a small traditional Santo Daime branch from Acre, only a few appointed men are allowed even to be present during the *feitio* (the word for preparation of ayahuasca in the Santo Daime religion), a highly sacred moment (Meyer, 2010). The rules imposed by the DEA on the UDV in the USA represent further formalization and will likely influence the way in which future generations learn how to cook ayahuasca in this country. This influence may eventually bounce back to Brazil and influence the cooking of ayahuasca there as well. Expansion and institutionalization will continue in this dialectical process, creating new traditions based on regulations and regulations based on tradition.

One particularly religious aspect that seems to fade through the process of the legal birth of the UDV in the

USA is the traditional practice, also present in Santo Daime (Ferreira, 2008), of allowing certain members the right to keep some vegetal at home, for specific reasons and on special occasions. Traditionally, the masters can take home a litre of vegetal, to be drunk in case of personal illness, complicated life situations or family problems. The master will inform the higher ranking Representative Master of his centre of the reason that led to the consumption of the vegetal. Rarely, a regular member of UDV will receive a small amount of vegetal for personal use, or in the case of illness, travel, living at a great distance from the temple, etc. In recent years, however, there has been an increasing trend towards greater restriction of such practices.

Parallel to the UDV case, and benefiting from its outcome, a branch of the Santo Daime religion in Oregon won a permanent injunction (and not temporary, as was the case with the UDV) in 2009 against application of US drug laws to the ceremonial use of ayahuasca (Haber, in press; Church of the Holy Light of the Queen v. Mukasey, 2009; Labate & Feeney, in press). They received a deal similar to the UDV's, but with somewhat less stringent conditions. Nevertheless, it is hard to think of any other Brazilian ayahuasca religion that would be able to comply with the DEA demands as well as the UDV. A number of other ayahuasca-drinking groups are guided mainly by kinship and vicinity ties, and lack a well-organized administrative body, in contrast to the UDV, which collects regular dues or tithes paid to the institution by every member of the congregation, pays an administrative staff, health insurance coverage for the older masters from the North of Brazil, and provides financial support for living expenses to the main religious leader, the General Representative Master, who lives in the capital, Brasília. The regulatory burdens imposed by the DEA seem to blend well with UDV's current administrative and organizational structure. There is nevertheless a paradoxical aspect in the signing of this document, which touches on a delicate issue that relates to the bureaucratization of these religions and the mystical experience.

Some anthropologists maintain that the UDV has engaged in a progressive process of institutionalization, bureaucratization, secularization, rationalization, and sanitizing of its popular Amazonian shamanic and African religious origins (Goulart, 2004; Henman, 2009; Melo, 2010; for a reflection on the process of the 'bureaucratization' of religious leadership, see Weber, 1978). While many of these aspects were fundamental to the UDV's expansion, such as the creation of protocols to receive new members, and the calculation of sufficient volumes of vegetal to be cooked for the congregation, it is also true that that UDV has a particularly proactive regulatory and legalistic ethos. Besides limiting access to vegetal at

home, as mentioned above, other examples of this ethos include: limiting participation of children and teenagers to a restricted number of rituals per year, and limiting 'extra sessions', which were traditionally more informal ceremonies held outside in nature. Perhaps a better example is the self-imposed suspension of the consumption of the 'Nine *Vegetais*', a mixture of nine other plants together with ayahuasca, used especially for healing (Labate, Camurça, Brissac, & Ott, in press). One purpose for doing this may have been to dissociate the UDV from *curandeirismo* (the unlicensed practice of medicine). It also may have been the worry that mentioning publicly the consumption of another preparation which included nine plants in addition to the two plants most known to be traditional components of ayahuasca in Brazil would complicate the route to acceptance of the use of hoasca, either by symbolically confusing the concept of what this 'sacrament' is, or by leading to inquiries for even more complex scientific examinations of the active principles of all the plants and their biochemical interactions. However, it is important to note that the use of the nine *vegetais* was never questioned by the Brazilian government; none of these *vegetais* are psychoactive and none of these plants have any legal restrictions on their use. In taking this preventive measure, the UDV was accommodating its religious practices to dominant biomedical models and legal global discourses on drugs.<sup>1</sup>

While it may be pointed that these internal regulations and limitations were necessary steps in expansion, and that they show the UDV to be a very serious and responsible ayahuasca-drinking group, it could also be said that the UDV has distanced itself from its rustic roots in its search of social legitimacy and status. Inside the UDV, different factions hold various positions, some appearing to be nostalgic for 'old times', a period when the group was not as organized and had fewer rules. In ayahuasca circles, it is noted with resignation that all this is inherent to the process of expansion. Will the UDV still be a *casa de caboclo* (caboclo house), as it likes to represent itself, after signing this agreement in the USA? Will future generations perhaps hear stories of how, in Santa Fé, New Mexico, the office of the USA UDV president Jeffrey Bronfman was invaded by agents of the Federal Bureau of Investigation (FBI) and the US Customs Service in 1999, or have part of the UDV-DEA agreement solemnly read in the beginning of their sessions?

It could be argued that the government regulations both in Brazil and the USA represent irreversible steps towards de-sacralization. However, it is worth noting that the ayahuasca-drinking groups produce their own 'spiritual' interpretations of these legal regulations. Historically, they have used the legal status of their groups in public and internal discussions as evidence of

the authentically sacred character of their use of ayahuasca. This process seemed to achieve its peak as the decisions in the North American court cases were seen as the paramount recognition of the religious truth of the revelations of both Mestre Gabriel and Mestre Irineu (founders of the UDV and of Santo Daime). The traditional disputes between these groups (Goulart, 2004; Labate, 2004, 2005) also migrate dynamically in both countries to legal idioms such as accusations of violating the law, or of being pioneers in receiving government recognition as evidence of religious superiority. Therefore, it is necessary to be cautious when suggesting that there is a process of 'de-sacralization', because spheres such as legal history or popular music, which would not normally be considered sacred, are often invested with great symbolic and religious meaning in the UDV (on the sacralization of commercial music in UDV sessions, see Lima, 2010).

It is also interesting to compare the regulations of hoasca in the UDV with the regulation of peyote use in the Native American Church. The NAC's legal protection is based on the special relationship of responsibility and trust between the US government and indigenous peoples in the USA, which is a different basis than that which was used to grant permission to the UDV to use ayahuasca. Despite this, it is worth establishing a comparison. The NAC does not currently have permission to import peyote from Mexico, even though individuals travel there to bring back peyote for ceremonies (Anderson, 1995). In this sense, one could argue that the UDV have been granted greater rights than the NAC, because they actually have permission to import hoasca from Brazil. The comparison is somewhat unfair, however, because the constituent plants of the ayahuasca brew are not native to the USA, and are difficult to grow there (apart from the tropical climates of Hawaii or Florida), whereas peyote naturally grows or can be cultivated in the southwestern region of the continental USA. Most of the regulations involving the NAC concern the harvest and sale of peyote, which is done by licensed *peyoteros*, who are usually non-Indian individuals. Some of these regulations involve ecological concerns to avoid making the cactus a threatened species, i.e. the peyote buttons be harvested properly without destroying the roots, so that the plant continues to live. Rules regarding the commerce and possession of peyote for the NAC are not nearly as stringent as the controls over ayahuasca are for the UDV. It appears that once peyote is transferred to the NAC groups that will use it, the DEA has no further role. Another complicating issue is that applicants seeking permission to use peyote must provide proof they are a member of a federally recognized tribe, a discussion that is beyond the scope of this article.

The UDV's was the first major court case in the USA to establish the right of non-indigenous North

Americans to use a controlled psychedelic substance for religious or ceremonial purposes (Feeney, 2011). Its case influenced the positive outcome of the Santo Daime cases in Oregon and in Canada (Labate & Feeney, in press; Office of Controlled Substances, 2008 for the Canadian case, see Tupper, 2011) and echoed throughout the rest of the world. In negotiating this settlement, the UDV has avoided the even stricter controls originally sought by the US government. One example of this was the government's attempt to oblige the group to measure the hoasca dose of each member during the session, suggesting they regard it as akin to the dispensing of methadone in a medical clinic. Depending on the way one looks at it, the UDV agreement can be seen as a real accomplishment, especially considering the context of the enduring 'war on drugs' in the USA. Perhaps its several requirements will not be seen by North American UDV members as such a huge burden after the group was compelled to drink water instead of hoasca in their ceremonies while the court case continued for nearly 5 years.

This agreement ties the UDV to the DEA for the foreseeable future in order to perform its most basic activities. It is also an affront to the sense of privacy in religious affairs when seen in comparison to the situation of the ayahuasca religions in Brazil. A particularly worrying aspect of this is the DEA's requirement to keep track of the names and social security numbers of the UDV leadership, a condition that does not apply to any other religion in North America. In Brazil, the National Council on Policies about Drugs (CONAD) initially tried to institute a mandatory record of all ayahuasca-drinking groups, but finally chose to make this registration voluntary to the groups. Around 100 groups have voluntarily registered themselves since 2006, a much smaller number than the actual number of existing groups.

Perhaps the most problematic aspect of the agreement is that it is not really clear what would happen in case of a disagreement between the UDV and the DEA. This issue was left undecided, meaning future conflicts between the UDV and DEA will have to be settled in court, a process which will likely involve a re-hashing of legal questions left unresolved by the settlement. By adopting this strategy, the DEA has avoided creating any formative legal precedents for other chapters of the UDV or other groups who wish to use ayahuasca ceremonially. In any case, the way the UDV-DEA agreement regards the religious sacrament hoasca and the impositions it places on internal religious spheres raises serious concerns for all those interested in human rights, religious freedom and cognitive liberty.

The adoption of this agreement, together with the recent harassment of Santo Daime members in the UK (Devon & Cornwall, 2010; Man appears in court after police seize hallucinogenic drugs, 2010; Peacock, 2010; Two arrested in Dartington drugs search,

2010), concurrent legal problems in various other European countries (Labate & Feeney, in press; Labate & Jungaberle, in press) and a new legal case in Chile (Las Ultimas Noticias, 2010), portend a troubled future ahead for the use of ayahuasca in the world. The example of the UDV reveals a need for flexibility, adaptability and negotiation, along with a lot of inspiration from faith and financial donations from members when confronting prejudiced governmental controls of religious practices involving psychoactive sacraments.

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## NOTE

1. One of the most outstanding parts of the UDV's institutionalization process can be found in the cooperation established between the UDV and medical, psychological and pharmacological experts in two research projects: the 'Hoasca Project' (Callaway, Airaksinen, McKenna, Brito, & Grob, 1994; Callaway et al., 1996, 1999; Grob et al., 1996; McKenna, Callaway, & Grob, 1998) and the 'UDV Adolescents' (Da Silveira et al., 2005; Dobkin de Rios et al., 2005; Doering-Silveira, Grob, et al., 2005; Doering-Silveira, Lopez, et al., 2005). The UDV chose to actively support biomedical scientific research in anticipation of its legal and political problems. In fact, the 'Hoasca Project' was quoted during court proceedings in the USA (Meyer, 2006). Perhaps this is the best example of how modernity imposes the view that these cultural and religious expressions are in fact 'drug use'. Even if the UDV supports these studies in hopes of proving that the 'use of ayahuasca in a ceremonial context is safe', this almost instinctive self-disciplining approach, including conforming to biomedical and legalistic paradigms, paradoxically suggests the adoption of a world view that is foreign to the legacy of Amazonian shamanism, a core element of the UDV tradition. This foundational component ultimately contributes to the UDV's legitimacy as a 'folk tradition', and furthers its chances of being recognized as a 'religion' deserving exemption from US drug laws (for further reading on this topic, see Labate, Rose, et al., 2009; for the pharmacologization present in the idea of 'ayahuasca religion', see Labate et al., 2010; Meyer, 2008).

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