

Peyote And The Law

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The Peyote Book, A study of Native Medicine, Sweetlight Books, ©G. Mount 1993.

We need spiritual freedom in America. The peyote religion has been a lifeline from the past for native people. I believe it can be a lifeline to the future for many others. But the truth is the Peyote Religion has been suppressed by laws which discriminate against followers according to their race, and by ideas which discredit the Good Medicine by classifying it as a dangerous drug.

In California, for example, the rights of Native Americans seem protected because of a favorable decision by the California Supreme Court in the 1964 "Woody Case." However the rights of non-Indian peyotists are ambiguous at best since their use of peyote is a felony under state law despite the fact that peyote proves to be spiritually nourishing and medically beneficial regardless of ethnic ancestry, and despite the alleged constitutional right to religious freedom for all Americans.

Three states have exempted peyote from "controlled substance" prohibitions, and do permit the "bona-fide" sacramental use of peyote by non-Indians who are members of an established church: these are New York, Arizona and New Mexico. The Federal District Court of New York decided in 1979 that "the use of peyote for sacramental purposes...is not to be restricted solely to the Native American Church." Thus a precedent has been clearly established, and under Arizona laws the Peyote Way Church of God was licensed as perhaps the first all-race organization with appropriate authority. A recent decision by the Supreme Court of the United States (1990) makes it clear that we do not have a constitutional right to use any controlled substance as a religious sacrament. Instead, each state has the right to pass laws which honor the peyote religion, or continue to suppress it. Apparently the First Amendment only applies to established religions.

The same Peyote Way Church which is legal in Arizona has encountered difficulties in Texas, where church members were arrested for harvesting medicine. Charges were dismissed, but the Church filed a counter-suit against Texas for discrimination, noting that members of the Native American Church were permitted to harvest and purchase peyote from local licensed dealers. This would seem to be a case of obvious racial and religious discrimination on the part of Texas, but in a decision that makes

a mockery of American history, the Fifth Circuit Court declared that "Indian Nations were sovereign entities" with special rights to all of the peyote in the United States. Therefore members of the Peyote Way Church, with membership open to all people regardless of ethnic ancestry, could not pick or purchase peyote in Texas. I would think the previously unrecognized "Indian Nations" could now use the language of this decision to sue Texas for the return of their sovereign land and other natural resources. The American legislative and judicial system conveniently recognizes Sovereign Indian Nations only when that point of view perpetuates the empire.

If the state of Texas really cared about Indian rights, or preventing the depletion of the natural peyote gardens by non-Indian peyotists, it would encourage commercial cultivation of peyote and develop a peyote nature preserve in Starr County, which had a perpetual harvest plan for providing medicine to the Native American Church. This would put many south Texas ranchers back in business, after years of recession-economics. And perhaps the Native American Church might be more supportive of non-Indian rights, if the increasingly diminishing natural supply of peyote were not threatened by a growing demand.

—Guy Mount, Editor