FINANCIAL TIMES

ADJUDICATION

GREG CALLUS

EDITORIAL COMPLAINTS COMMISSIONER

Financial Times Limited

EXECUTIVE SUMMARY

This is the Adjudication of a complaint by Dr Beatriz "Bia" Labate, a sociologist and anthropologist, who has made allegations of plagiarism in respect of an Article in the *Financial Times* Weekend magazine on 27 February 2015. The Article, written by the *FT*'s Latin American editor JP Rathbone, concerned the psychedelic drug ayahuasca and the 2010 murder of Brazilian cartoonist Glauco and his son by a disturbed individual called Cadu who had attended the sacramental ayahuasca tea ceremonies organised by Glauco.

The Article was conceived in 2012, and involved many months of reporting, including original interviews in Brazil with Glauco's widow, his colleagues, and a member of the congregation who witnessed the murder. There were interviews with scientists, lawyers and other academics, and a significant volume of research and reporting that was not ultimately included. The Article, which was edited down to around 3,500 words in length, includes the author's own experiences of attending an ayahuasca tea ceremony.

Dr Labate, who had been one of JP Rathbone's sources in reporting the Article, complained that its general subject matter – the duality of Glauco as cartoonist and religious leader, and the paradox of his gentle life and satire when counterposed with the violence of his murder – was taken from an article she co-authored for the Erowid website. Furthermore, she alleged that two paragraphs (around 250 words) in the Article were directly plagiarised from the Erowid Article: that is to say copied, then deliberately re-written to avoid detection.

Lionel Barber, *FT* editor, was prepared to publish an update reflecting Dr Labate's assistance, but rejected her plagiarism allegations. He alerted her to her right of appeal.

I have spent around three months investigating the allegations. I have had the opportunity of reviewing all of JP Rathbone's notes, materials and the 14 drafts of the story, ten of which preceded its submission to editors. We had two long interviews, attended by the *FT* Managing Editor, James Lamont. JP Rathbone's position was that he had been introduced to the Glauco story years before ever reading the Erowid Article, and that anyone covering the story would contrast the two facets of his life.

As to the specific allegation regarding the two paragraphs, he remarked that they were narrative passages comprising facts that many news outlets had reported. The similarity was borne of coincidence, in that anyone writing about the chronology of the murder would have to rely on them.

It is a curiosity that the FT Editorial Code of Practice (which incorporates the long-standing IPSO (formerly PCC) Editors' Code) has no express prohibition against plagiarism. I recommend that the FT Code should be amended to include an express prohibition, which would also define what constitutes plagiarism. However, it would be procedurally unfair to hold JP Rathbone to a standard which did not obtain at the time the Article was published.

I must therefore adjudicate on a breach of the spirit of the Code, based on very general propositions. This requires me to articulate the framework that I must then apply to the facts of this case: both the way in which the Code (as it currently stands) can be breached by plagiarism, and my own working definition of what constitutes journalistic plagiarism. As to my definition, I have drawn on academic and professional standards codes, as well as published papers and journalistic discussions as to how plagiarism should be defined.

Under my framework, Articles 1(2) and 1(4) provide the basis for the adjudication, in that they require FT journalists to conduct themselves "according to practices which reinforce the FT's reputation for accuracy, truthfulness, honesty and authority".

As to my definition of "plagiarism", I have taken it to mean "the passing-off of the original expression or work of another author as one's own". This allows for not only the unattributed copying of words/images, but also the ideas/reporting of another.

As to the mental element of plagiarism, in contrast to some academic codes of conduct, I do not think it fair to make plagiarism a 'strict liability' offence, unless (or until) the Code expressly requires it to be so. As such, I have held that the mental element of plagiarism requires actual intent to misappropriate (however limited the extent of the copying), or seriously negligent failure to attribute (i.e. where the extent and circumstances are sufficiently serious as to reflect an unacceptable failure of journalistic practice).

Although the appropriate standard is the 'balance of probabilities' (or 'preponderance of the evidence'), in relation to the specific allegations of plagiarism of the two paragraphs, I have arrived (for the reasons set out in full below) at two conclusions of which I am sure:

(1) the two paragraphs were directly derived from the Erowid Article; and

(2) the derivation of those paragraphs was not wilful or intentional.

On the balance of probabilities, I have found that – in all the circumstances, as set out in full below – although failure to attribute those paragraphs was an error, JP Rathbone's conduct was not seriously negligent. The allegation of plagiarism of expression is therefore not made out in respect of the two paragraphs.

The allegation of plagiarism of ideas fails at the first hurdle. On the evidence I have seen, it is quite clear that the idea of using Glauco (and the duality of his cartoons and role as a religious leader) as a hook to write about ayahuasca had occurred to JP Rathbone well before he read the Erowid Article or before he spoke to Dr Labate. As such, the ideas were not directly derived from her Erowid Article and cannot be said to be plagiarism.

I do consider that JP Rathbone's handling of Dr Labate's original complaint was rude and should have been dealt with very differently. The apology she has received, from Lionel Barber on behalf of the *FT*, was appropriately made.

The current update on the Article thanks Dr Labate for her help and assistance in reporting the Article, but does not (as she requested) reference that two paragraphs were directly derived from her Erowid Article. To avoid a *prospective* breach of Clause 1(2) of the Code (concerning correcting inaccurate or misleading statements once the error is recognised), I direct that such recognition and a link to this Adjudication should be appended to the online version of the Article.

Greg Callus
Editorial Complaints Commissioner
Financial Times Ltd
18 June 2015

Chronology of the Complaints

1. On 28 February 2015, the 'FT Weekend' Magazine published a 3,500-word article ("the Article") titled *"Ayahuasca: a psychedelic murder story"* as its cover story. It was written by the *Financial Times'* Latin-American Editor, John Paul Rathbone ("JP Rathbone"), and concerned the 2010 murder of Brazilian cartoonist Glauco Villas Boas ("Glauco") and his son Raoni by Carlos Eduardo Sundfeld Nunes (known as "Cadu").

2. As well as being a famous satirical cartoonist, Glauco was also the leader of the Céu de Maria church. This church is parts of a syncretic religion Santo Daime, for whom the psychedelic ayahuasca tea ('daime', brewed from an Amazonian leaf and vine) has sacramental significance. Cadu had been a member of Glauco's congregation, and so the role of ayahuasca in Glauco's murder became Rathbone's cypher for examining its place in Brazilian culture, and the wider questions of religious tolerance and public policy.

3. An online version of the article was published on FT.com (available only to subscribers) at 12:53pm (GMT) on Friday 27 February 2015 at the URL: http://www.ft.com/cms/s/2/40993b48-bd40-11e4-b523-00144feab7de.html. An amended version of the article, complete with 18 readers' comments, is still available at that URL. The full text of the original online article is appended to this Adjudication at Appendix A, with paragraph numbers added in bold.

4. One of JP Rathbone's sources was a leading academic social scientist called Dr Beatriz ("Bia") Labate, who has written extensively on ayahuasca and Glauco, including for the Erowid website: http://www.erowid.org.

5. JP Rathbone wrote to Dr Labate at 15:07 GMT on 27 February 2015 to alert her to publication online (and copying a PDF version). It said:

> *"There is so much more I wanted to say, and could have said, but I ran out of space. Perhaps I will write a longer version one day. If I do, I will be sure to credit you – I am so sorry, really a thousand times sorry, that there was not enough space to credit you in this one – or indeed many other people who I spoke to. Still, your help was invaluable. Thank you."*

6. Dr Labate responded within the hour (15:59 – emails edited for clarity):

> *"Thanks for sharing. Congratulations on publication. I took a look and will read it in more detail soon. However, I find it truly upsetting that you did not quote me, my previous work nor asked my opinion.*
>
> *I had written several pieces on Glauco, and translated all his cartoons into English. I send these materials to you, and they are also available in English and Portuguese on my site and many other places. As a journalist, you act as if you were the first one doing this analysis, which does not acknowledge previous work – I find this troubling.*
>
> *This is not to mention the great assistance I gave to you in contacting many key actors in the story. Instead, you quote male American and British researchers, with no records of fieldwork or reseach about Santo Daime. So much of the male centric biomedical model in our world! Very frustrating!"*

7. JP Rathbone's response was sent within minutes (16:02):

> *"Thank you Bia, and i fully understand your frustration. It is warranted – but not part of a male-centric plot, I assure you. Nor do I begin to assume to be doing any of this work first.*
> *I did try to contact you though for a skype conversation or meeting or telephone call or whatever – but you can be even more elusive and harder to pindown than me."*

8. Fifteen minutes later, Dr Labate responded (16:17):

> *"Sorry, you have never asked me for an interview, only remotely said you wanted to talk on Skype, implying you needed help for doing your work and research – which is not my job. There was never a formal request for an interview on your side.*
>
> *By quoting none of my several pieces on this topic, you are assuming that it does not exist. It is basic homework to quote what others have done before, ie, something like* "This was discussed intensively in Brazil in the media and by social scientists experts on the topic. Brazilian anthropologist Bia Labate wrote extensively on how the media deturpated the death and attributed it wrongly to ayahuasca" *etc. It is part of the context of the discussion. You could also hyperlink to the Erowid piece or indicate it as further reading.*

However, your answer makes me think that you did not read what I wrote, did not want to mention it on purpose (to make your piece look more original), or simply do not think that the opinion of Brazilian social scientists experts in this topic is important in this regard.

You spelled the name of Beatriz wrong, it is not Beatrice.

This adds to my (and so many social scientists') distrust of journalists "

9. JP Rathbone sent his final email to Dr Labate at 16:57:

"I genuinely regret not finding an elegant way to have credited the help you provided me, and I sincerely regret that lack of grace. It is my shortcoming, and I apologise.

But you flatter yourself if you think you are only the person who helped, or was the only person to lead me to Ceu de Maria and Beatriz (anglicised, wrongly, by the subeditors to Beatrice, and now changed online), or that your work was the only that I read – whether in Portuguese or Spanish or English.
Many other people helped too, and they were not credited – because there is only so much one can do in a magazine article and this is not an academic publication with a cited bibliography that runs to several pages. Diffusion and accuracy, over a smalltime readership and dry academic precision, are the main points here.

I had rather hoped you would step back from academic small-worldism and see this story as a sincere effort by a mainstream publication to put a good word out there."

10. Several hours later, at 18:18 on 27 February 2015, Dr Labate sent her final email directly to JP Rathbone:

"I can understand that you did not mean any of this, and I think that the result of your story is ok. However, on my side it does not feel good.
This is not about helping you out, this is about acknowledging the previous work that has been done on the topic. This is absolutely legitimate.
I have read my piece and found out that unfortunately you have both copied my ideas and plagiarized my work:

[here she cited two paragraphs of JP Rathbone's Article counter-posed to two paragraphs of an article she had co-authored for the Erowid website ("the Erowid Article")]

These findings and interpretations are not yours, but mine. The same rules apply to journalism and academic work: sources must be quoted.
It does not matter that you had limited space, or that journalism articles do not have references (by the way, I worked as a free-lance journalist for many years and I am fully aware of ethics and standards of media).

Claiming that this is about me being a 'small world academic' is insulting and ignores the basic rules of ethical journalism.

Further, this approach where a foreigner, who can't even spell the name of their main character, largely benefits from the original research done by local social scientists (who have also been kind and facilitated contact with the key informant of his story!), quotes only international researchers from abroad, becomes more problematic with your claims that the original source should be happy that some of her ideas reached mainstream publication, instead of being upset."

11. There were two readers' comments made under the Article on FT.com on 27 February 2015, and four more on 28 February 2015. Then on 1 March 2015, this comment was left by a reader with the username **'J. Hamilton'**:

> Hi John,
>
> Thanks for a great article. You brought great new information to an interesting subject.
>
> Some of your synthesis looked awfully familiar - deja vu! - I wrote a lot of the same things, with the same turns of phrase, in Ayahuasca and Globalization (**https://www.academia.edu/9333971/Ayahuasaca_and_Globalization**).
>
> I'm in law school now, and one thing they make sure to teach us is proper citation format - "cite your references," they say, "or it's plagiarism." Harsh, in my opinion. I prefer a more gentle approach. Soft law. The sweet force of public opinion.
>
> I enjoyed reading your article. Some damned fine reporting...
>
> Keep up the good work,
>
> Jesse

12. JP Rathbone replied in the thread, also on 1 March 2015:

> …
>
> @J Hamilton. Thank you -- for your email and also the link to your excellent paper. I am not familiar with it, although searching my notes I do find a bibliographic reference to a work by a J Hudson – perhaps it is you? "Biol Psychiatry 58: 624–631."
>
> For anyone else wondering about sources – because there have been requests -- please see select bibliography below. I tried to take scrupulous care with this project. So apologies to any researchers/writers/bloggers who feel that I trespassed on their terrain and lament not being cited. Sorry! I felt my first responsibility was to Glauco's family and work colleagues, and their stories. And while there is a huge soup of literature out there, I was writing for a general audience as a journalist, not an academic. For more general readers whose curiosity has been piqued, I hope the list is of interest.

JohnPaul

Sources:

The three most useful were: Folha de Sao Paulo's exuberant and sad tributes to Glauco's memory, published the weekends following his murder; Otavio Frias Filho's "Queda Livre", a perceptively reported and literary narrative by Folha's editorial director about a trip, with Glauco, made to Mapia in the Amazon several years before he died; and Bia Labate (eds) "Ayahusca Shamanism" a lively, more ethnographic-focused collection of essays about broader ayahuasca movements today. McRae is excellent. I am sure there are many other essential works out there too.

Beckley Foundation, The pharmacology of LSD, a critical review

Dawson, Andrew: Santo Daime: A New World Religion (2013)

Frias Filho, Otavio: Queda Livre (2003)

ICEERS Foundation – proceedings, ayahusaca confernce, Ibiza, 2015.

Lamb, F. Bruce : Wizard of the Upper Amazon (1971)

Labate, Beatriz & Cavner, Clancer: Ayahusaca Shamanism in the Amazon & Beyond (2014)

Levy Strauss, Claude: Tristes Tropiques (1955)

McKenna, Terence: Food of the Gods (1999)

McRae, Edward: Eu venho de longe (2011).

Narby, Jeremy: The Cosmic Serpent (1999)

Pinchback, Daniel: Breaking open the head (2010)

Shultes, Richard Evans: Plants of the Gods (1996)

The Hoasca Project

Articles:

Among the most useful, although too numerous to list here, was the reportage and commentary of extensive Brazilian media coverage at the time, led most comprehensively by Folha de Sao Paulo, Glauco's newspaper, but also Veja, Epoca, Estado de S Paulo and Globo. Articles are on the news websites. Many of the TV news bulletins are also easily findable on YouTube, available through simple searches of key names.

Bouso et al: Personality, Psychopathology …among ritual users of ayahusaca (Plos One, 2012)

Kupferschmidt, Kai: High hopes (4 July, 2014: Science)

Labate, Beatriz: A tribute to Glauco Vilas Boas (Erowid, Aug 20, 2010)

Man, Ted: Magnificent Visions (Vanity Fair, Dec 2011)

Morris, Bob: Ayahusaca: A Strong Cup of Tea (June 13, 2104; NYT)

Nemu, Danny, Ayahusaca and the vines of politics (Psypress)

Salak, Kira: Ayahusaca, healing in Peru (National Geographic, March 2006)

Tellwelll, Emma: Why do people take ayahusaca? BBC, April 29, 2014.

13. Dr Labate, under the username **Bia Labate**, commented the same day:

> Mr Rathbone looked me up and asked my help to write his story. I exchanged several emails with him, provided him with several articles and materials, explanations, support/ encouragement and many contacts and intermediations -- including to the main character of his story, the widow of Glauco (whom understandably was especially closed to journalists).
>
> Mr Rathbone however copied our research, data and interpretation of facts, without quoting the original published initially at Folha de São Paulo, and then modified and amplified and published at Erowid here: **https://www.erowid.org/chemicals/ayahuasca/ayahuasca_info14.shtml** (I reccomend you read it!)

[here she cited her comparison of the two paragraphs]

> Claiming that this is not an academic publication, hinding our our article in the middle of a huge list of references and that there are multiple sources to the story, is a very un-ethical and complicated behaviour as a journalist.
>
> I wrote to the Senior Editor and I am waiting a formal response to this.
>
> Best regards
>
> Bia Labate, PhD
>
> See more References here **http://bialabate.net**

14. **J. Hamilton** replied to **Bia Labate** saying:

> @Bia Labate Bia Labate! You're a hero! Commenting on the same article as me - and in a similar fashion, to boot! I've got academic celebrity butterflies...
>
> **http://i.imgur.com/CSrmKsD.gif**

15. **Bia Labate** responded to **J. Hamilton:**

> @J. Hamilton @Bia Labate Thank you. I was stimulated to post on line after I read your post, as I saw this as a pattern. The journalists' answer to you was an implicit answer to me as well, as I had written to him complaining about this (his reply to my complaints were very poor, so I dropped conversation with him and decided to write to the Senior Editors; when I saw your post and his answer, I decide to post something here too). I suggest you to the same. email me at: blabate@bialabate.net

16. A user **juno** then commented (still on 1 March 2015):

> "Sorry" is not sufficient to reply to accusations of plagiarism. If you really did want to prioritize the story and for this "reason" did not care to give credit to authors you lifted from, you created the opposite effect; in fact, you cast doubt on your own credentials and the stories you tell. You don't seem it get it, but the rewards of publishing are greatly diminished by sleazy research techniques, and your credibility as a journalist, especially with your lame defense, is cast into doubt due to your laziness and/or intentional deception. The authors are not "lamenting": they are protesting. A general audience is in fact more in need of strict accuracy, not less, as they are unfamiliar with the topic, so the excuse that somehow you do not owe your audience the honesty that academic research entails shows your low regard for your readers, matching your low regard for the authors who you did not credit.

17. JP Rathbone left his final comment on the piece on 2 March 2015, saying:

> This article has now been amended to include reference to Beatriz Labate, who helped me in the research of this article. I tried to take particularly scrupulous care in the reporting of this piece, and read widely and spoke to many people. It is right to recognize this. No offence was intended.

18. Prior to leaving her first comment, Dr Labate had written to me (as the *Financial Times* Editorial Complaints Commissioner), copying Lionel Barber (the Editor of the *Financial Times*) and others, on 27 February 2015 at 21:15. The substance of her complaint was largely in the terms of her first comment on FT.com on 1 March 2015, that JP Rathbone:

    a. *"copied my research, data and interpretation of facts, without quoting me"*;

    b. that two paragraphs were copied from her 'Erowid Article'.

19. I replied on 1 March 2015 at 11:01, explaining that mine is an appellate role, and that her complaint would be dealt with at first instance by senior editors. If she was dissatisfied with senior editors' attempts to resolve her complaint, at that stage she could contact me again, and I would investigate the matter.

20. The same day, Dr Labate replied at 14:18, and added to her complaint that she had contacted JP Rathbone directly herself. She wished also to complain about his tone in replying to her.

21. Lionel Barber acknowledged the complaint at 14:23 on 1 March 2015. There was further correspondence from Dr Labate to Lionel Barber that day, and a short reply from Lionel Barber, mostly relating to the comments then published on FT.com. It was clear that Dr Labate did not consider JP Rathbone's response in his comment to be adequate.

22. Lionel Barber issued his formal response to the complaint on 4 March 2015 by email to Dr Labate at 17:37. He said:

> *Dear Dr Labate,*
>
> *I refer to your email of complaint dated 27 February.*
>
> *The Financial Times takes allegations of plagiarism very seriously. I have reviewed the FT article in question and discussed your concerns with Mr Rathbone. Other senior FT editors have been involved in the review process.*
>
> *At the outset, I should say that the tone of one particular email that Mr Rathbone sent you at 13:57 GMT on 27 February was unfortunate. I trust you will accept my apology on behalf of the FT.*
>
> *As regards your substantive complaint, while it is clear that some of Mr Rathbone's article was informed by that previous article that you and colleagues had published on the Erowid website, in my view his piece did not entail plagiarism - which is a serious allegation of unethical journalistic conduct.*
>
> *It is important to bear in mind that his article was first and foremost a piece of journalism, not an academic paper. It goes without saying that there is a clear difference between those two types of publication.*
>
> *Newspaper and magazine articles are not peppered with citations, references and footnotes. A lengthy journalistic review of the life and death of Glauco Villas Boas (subjects which have been very widely written about during the five years since he was murdered) was inevitably going to draw some inspiration from previously published information in the public domain.*
>
> *I note that Mr Rathbone emailed you when his article was first published last week in order to let you know that it was available to read online, and to thank you for your help. That was surely not something an illicit plagiarist would have done.*
>
> *It is also fair to say that the words you have complained about comprise only fragments of the FT article as a whole, which is more than 3,800 words long and involved many original interviews and conversations.*
>
> *I have considered the relevant excerpt from your original work, and have marked in the attached pdf document, in bold, the words from your piece which (from what I can see) also appear in Mr Rathbone's article.*

In my view, this shows that Mr Rathbone substantially re-wrote the relevant parts of your article. Whilst I would have preferred that he had adopted none of your phraseology whatsoever, I do not think he used your wording to an extent that was journalistically unethical or amounted to plagiarism. I do not accept your allegation that he copied your "research, data and interpretation of facts". You will have seen from the list of sources that he posted in the discussion thread below the online article that he had read very widely about Glauco and researched it for a considerable period of time before writing his feature. The genesis of the story also began well before he contacted you; so, too, his first introductions to Glauco's church and his widow, which came from other contacts; and Mr Rathbone went back to primary sources, especially news reports and commentaries from the time, that were published before the Erowid article appeared.

So much has been written about the cartoonist and his tragic death that it was unavoidable that Mr Rathbone's review of the widely-reported events of March 2010 would be influenced to a certain extent by prior publications. It would not have been appropriate to cite all those sources in a piece of journalism.

You have seen fit to post details of your complaint online below the article, which provides suitable transparency on this issue so that readers may make their own assessment.

In addition, in light of your dissatisfaction, we have taken steps to amend the online article itself as a gesture of goodwill so that it includes a reference to you, by name, as an anthropologist who has studied the case, and a footnote to record the help that you gave Mr Rathbone in researching the article - which I assure you was very much appreciated by him. I should add that he is one of the FT's most respected senior journalists, with no previous record of error or misjudgement.

I hope this settles the matter. You are of course entitled to appeal to the FT's complaints commissioner.

Yours sincerely
Lionel Barber
Editor

23. Dr Labate availed herself of the right of appeal, in her response to Lionel Barber which she then forwarded to me on 5 March 2015 at 13:09:

Dear Lionel Barber

Thanks for your message.

However, I disagree. Rathbone did not come up with the idea of those main paragraphs pointed out. This involved following the case closely, during several weeks -- which he did not. Those ideas are result of our research and interpretation of facts. That did not involve any original research or interview from him. He re-phrased them slightly (and cleverly), but he did not quote the source, and that is un-ethical. If he consulted other sources, that was not shown in the specific passages.

I did not like the solution of the journal.

1. adding references:

JP lists in the end a bunch of references; he clearly did not read all of that. Adding those references in the end makes it seem like all of them were equally valid, which is not the case.

2. This amendment ***This article has been amended since original publication to include reference to Beatriz Labate, who was helpful to the author in the research of this article.***

It covers up the fact that I complained about him copying our article, and it makes it seem like this is about me wanting to be acknowledged for helping him.

I ask you to change to this amendment ***This article has been amended since original publication to include reference to Beatriz Labate, whose previous work was used in this story and was not previously cited.***

3. JP's post is inadequate:
His discourse on his post about "offense," "lamentation," "trespassing on someone's terrain," etc. implies that these are vanities or idiosyncrasies of the authors, while not acknowledging plagiarism.

4. He copied the whole paragraph, not just part of it. This is a whole idea that he copied, and he recognized only 1/2 of it:

[paragraphs [9] and [10] of the Article]

The correct version should be:

*As outlined by Beatriz Labate, an anthropologist who has studied the case…***[paragraphs [9] and [10] of the Article]**

5. Insert reference to where he clearly copied from us too.

As noted by Labate and her colleagues, **[Paragraph B of the Erowid Article]**

We were the only people who ever published about this double dimension of Glauco as a cartoonist and charismatic religious leader, and the paradox of his death. That idea comes directly from our article. That is the essence of our article.

6. The source citation is still wrong. Please change to:

Labate BC, Alves Jr. AM, de Rose IS, Lemos JA. "A Tribute to Glauco Vilas Boas: Beloved Brazilian cartoonist and a leader in the Santo Daime religion, slain in São Paulo." Erowid.org. May 6, 2010: Erowid.org/chemicals/ayahuasca/ayahuasca_info14.shtml

Yes, I would like to appeal from this.

Unfortunately, I think that you are reproducing JP's defence and discourse, and have failed to see the gravity of his actions.

Please let me know if you are going to make my requested changes above, and if not, how I can appeal from this.

Best regards
Beatriz Labate

24. She sent me one further email at 13:33 on 5 March 2015:

> *Dear Greg Callus*
>
> *You told me that if I was not satisfied with the answer given to me, I could appeal from it. I am not satisfied, as the plagiarism was not acknowledged and a superficial solution was given -- unfortunately, one which makes me look bad publicly, as if I was whining for not being 'acknowledged' for having 'helped' the journalist. This, alongside the journalist's decision to place a quote on 1/2 of the full paragraph he copied, makes me feel that this is more an attempt to make me stay quiet than any genuine self-criticism.*
>
> *Let's please clarify that slight re-wording of ideas without quoting the original source -- in order not to be a literal quotation -- can be seen as even worse then copying and pasting **ipis literis**, ie, an attempt to 'disguise' the plagiarism.*
>
> *This is as valid for journalism as for academic work. Claiming there is no space is very poor, as the solution can be simply amended with "According to person x…"*
>
> *In sum … the real problem is still there. The editor clearly reproduced the journalist's version, which can be read in this email that JP wrote to me on Feb 27:*
>
> **[here she cited JP Rathbone's final email to her of 16:57 on 27 February]**
>
> *I have sent his message to me, and my answer to him, to you; just in case, I am copying here the message I have sent to Lionel Barber here.*
>
> *I look forward for hearing back from you about this important matter.*
>
> *I have this the FT in high regard and I expect that the internal investigations are meant not to "protect" the journalist or their mistakes, but rather to acknowledge them.*

25. I replied at 22:09 on 5 March 2015, saying:

> *Dear Dr Labate,*
>
> *I acknowledge receipt of your email seeking my review of your complaint.*
>
> *Given the seriousness of the allegation, you will understand that it is very important that I do not rush to any conclusions, and that I give everyone involved the chance to put their case, including yourself.*
>
> *I say this by way of warning that it may be weeks rather than days until you receive my final adjudication.*
>
> *I am sure you understand this is only a mark of how seriously I take complaints of this nature, and I am grateful in advance for your patience.*
>
> *I will be in touch before the final adjudication if I have any further questions for you.*
>
> *Very best regards*
>
> *Greg Callus*
> *Editorial Complaints Commissioner*

26. I received a further email from Dr Labate (copied to various people) on 6 March 2015 at 13:50, which developed some of her points a little further:

> *Dear all*
>
> *Thank you so much for your careful attention to this matter. Much appreciated.*
>
> *I am lost regarding all the different levels of the journal and whom I have to address. I just wrote to an email that I found on the site. Please instruct me on whom to address and also please include my colleague and co-author, Jose Augusto Lemos, who is also a journalist, in all communications.*
>
> *I am sorry, but I do not wish to communicate with Mr Rathobone, who I tried to approach before and was rude to me. In an email of 27 Feb he wrote:*
>
> **[here she cited JP Rathbone's final email to her of 16:57 on 27 February]**
>
> *If I could have solved things with him directly, I would not write to you. I hope you can respect that I do not wish to further discuss things with him.*
>
> *This is my answer to the points below:*
>
> *1. It does not matter if he did read it or not (I am not sure how Narby or Lamb's book and many others quoted there were actually incorporated into the story!). In any case, you can quote everything you read in your life but that does not mean those reading informed directly your text. Our reference is one in the middle of several others, when our reference was clearly used in the text, while others not. In this regard, I find the answer given -- of inserting a big list of references -- problematic.*
>
> *2. The footnote must be read in comparison with my post made on the blog, where I say (a) I helped him; (b) he used my work. Acknowledging only that I "helped" him and not that he copied my work without quoting makes my complaint look minor, ie, 'vanity', someone 'offended' for not have been quoted as having helped; the regular reader will think "oh, another whining academic jealous of his territory'. This comment from me must be read in the light of his amendment in the story. "This article has been amended since original publication to include reference to Beatriz Labate, who was helpful to the author in the research of this article and his post, So apologies to any researchers/writers/bloggers who feel that I trespassed on their terrain and lament not being cited. Sorry!". While you do not have obligations to quote people that "helped" you, you do of quoting people whose work you used. I ask you to change to this amendment to "This article has been amended since original publication to include reference to Beatriz Labate, whose work was used in this story and was not previously cited."*
>
> *Also note that some of the readers (who do not read the comments) will not know that my name was inserted there as a result of the contention. So the regular reader will see only that someone the newspaper wanted to acknowledge my help and participation, when the objective is that the article was "amended" to correct a serious lack of quotation of sources.*
>
> *3. The comment was "officially" posted as a response by Mr Rathbone to J Hamilton, but in fact, was an implicit answer to me, as I had already written to him about this, and to the editors. Please note that he mentions "For anyone else wondering about sources – because there have been requests -- please see select bibliography below." These "people" are me and my co-authors.*
>
> *4. There seems to be a confusion between "wording" and "content". The "wording" is definitely different, but the "content" is the same. That means that the journalist re-phrased the original. This is a more-subtle strategy then copying ipis*

literis, but equally problematic if quotes are not given. The detail might be different, but note that its purpose is to serve the same idea/ flow of argument: that the media changed its attitude towards ayahuasca and the case after some specific developments. In any case, the solution given here is limited, as the "new" information introduced by "original research" comes after my name anyway. But as outlined by Beatriz Labate, an anthropologist who has studied the case, that approach changed abruptly after the police caught Cadu while he was trying to escape to Paraguay. Glauco's captured murderer told TV reporters that he had wanted to kidnap the cartoonist to prove to his family that his ***younger brother was, in fact, Jesus Christ.*** *(And again, his passage goes back to my original analysis). So in fact, if he copied our text and then introduced new information product of his own research, that should be clear. (I am assuming here that all people involved in the communications have access to (a) the original at Erowid; b) the original of Mr Rathbone; c) the amendment. It is important to contrast these 3 sources to understand what I am saying).*

5. Your answer is a misrepresentation of my claim. The idea that Glauco was violently killed is obvious; and also that most Brazilian's knew Glauco as a cartoonist; and that as a cartoonist, his main job is to make fun = therefore there is an irony in this violent death. The nation was in shock for that, and I am not claiming I am the only one who felt like this or wrote about it.

The idea that Glauco was the leader of Daime was disseminated too. But most definitely only very superficial and generic information was available. Our article is the only one that got into the merits of what the church really was; what he was as a religious leader; what was the relationship between his art/cartoons and his Santo Daime mediumship, inspiration and leadership; how he was accommodating to poor and problematic people who looked him up, and how this might have played a role in the end of his life. That added another layer of complexity to the discussion; that shows the full irony or paradox. The author writes in the beginning of his text:
"And then there is Glauco's story, largely unreported outside Brazil, although it is one of the most curious cases of them all."

Not quoting our original in this regard seems to be one of the strategies to make his article useful, after 5 years, with not much new research regarding what happened afterwards, besides what has been already published by the media. Omitting the main article that inspired the essence of his pieces is a serious short-coming.

6. Yes, the full reference should be given and it should be in the beginning. Also note that this is wrong
Labate, Beatriz & Cavner, Clancer: Ayahusaca Shamanism in the Amazon & Beyond (2014).

The correct spelling is Cavnar, Clancy.

Thank you again for your attention,

Best regards

27. This is not an exhaustive account of all of the emails exchanged, but rather a brief history of how and why this matter came to be subject of Adjudication. I should, for sake of fairness, include a *draft* further response from Lionel Barber to Dr Labate, which was not sent before her appeal was launched, but to which she was copied when it was sent to me on 6 March 2015 at 12:24.

Dear Dr Labate

I refer to your further email.

It would be possible post a full citation and link for your piece on the Erowid website, as explained in my response to point no.6 below, if you so wish. However, I disagree with you in other respects.

Adopting your numbering:

***1.** You are wrong in suggesting Mr Rathbone did not read the material that he has listed in a post below the article. He first heard of Glauco's story in 2012 while in Brazil researching an FT magazine piece on the country's attitude to the environment and particularly the Amazon. It drew his attention as Mr Rathbone has written widely about drugs issues in Latin America. He began researching Glauco's story gradually, then initially pitched it to the magazine in September 2013, months before he first contacted you. In the three years spent on the story, Mr Rathbone read all the books and papers listed in his post, plus others too. As to the comparative 'validity' of the listed publications, the list relates to the whole arc of the story and its subject matter, not just the passage in question. Mr Rathbone's thoroughness is also well-recognised. For example, his NYTimes best-seller The Sugar King of Heaven was commended by reviewers for his meticulous and original research.*

***2.** The footnote is fair and appropriate, and does not require revision. It acknowledges your help. The posts beneath the article also provide transparency as regards your complaint. Nothing has been "covered up".*

***3.** That particular comment was posted by Mr Rathbone in response to a post by "J Hamilton", a researcher whom he does not know and has not had contact with, and whose work he has not read. Hence the generality of Mr Rathbone's remarks and their puzzled tone. I do not consider his remarks inappropriate in the circumstances. He did not acknowledge any plagiarism, as you apparently wish he had, because his article did not entail plagiarism.*

***4.** For reasons that I set out in my earlier email to you, I disagree that it would be appropriate to make those two additional amendments to the article that you are requesting. The passage did not plagiarise your work. A reference to you by name has already been added as a gesture of goodwill. That is adequate. Incidentally, the proposed wording that you describe as being "correct" is obviously different from the wording of your original, not least in that your article stated Cadu wanted to prove to his family that he himself was Jesus Christ, whereas Mr Rathbone's states he wanted to prove that his younger brother was Christ. That detail, which Mr Rathbone sourced from interviews with Glauco's family, his friends and colleagues, and from news reports at the time, further weakens any suggestion of plagiarism as it contradicts your work. Mr Rathbone took great care with this article by going to a wide variety of primary sources, such as:*

- Veja, Reinaldo Azevedo, leading columnist, March 24 2010:
"It was foreseeable that the tragic deaths of cartoonist Glauco and his son Raoni would reanimate the controversy over the use of hallucinogenic tea ayahuasca".

- Veja, newsreport, March 26, 2010:
"The purpose of the kidnapping was to force the cartoonist and religious leader to tell his family that his younger brother, Carlos Augusto, was the reincarnation of Jesus Christ."

- O Globo, newsreport, March 16, 2010:
"Although Cadu confessed to the crime in front of television cameras..his lawyer cannot yet say that his client is guilty…and will ask for a mental health [profile] of Cadu."

- Folha de Sao Paulo, newsreport March 18, 2010:
Cadu's father, speaking to reporters at his lawyer's office: "For me, the tea Carlos Eduardo took at Ceu de Maria was the triggering factor of a psychotic break… I know how schizophrenia is a psychotic break, because I lived with his mother, who has schizophrenia".

- Folha, Op-ed Helium Schwartsman, columnist, March 18, 2010:
"The early death of our Glauco in dire circumstances has already launched on the internet a movement calling for the prohibition of psychotropic tea consumed in the religious ceremonies of the Santo Daime…. But the larger truth is that terrible things happen all the time, without us needing to go looking for places to direct our blame".

***5.** Your assertion of copying here is misconceived. Your article on the Erowid website did not provide an exclusive or unique insight. Most Brazilians, and indeed many of his work colleagues who spoke to Mr Rathbone in multiple interviews, knew Glauco as a cartoonist - not a spiritual leader - and were aware of his double life. The irony of gentle Glauco meeting a violent death was also frequently mentioned in news reports at the time, and was an idea that was established before your article of August 20, 2010 was published. For example, the following were among the single-paragraph tributes paid by more than a dozen friends, politicians and artists in a six-page Folha supplement on March 13, 2010:*

"It is shocking the nature of his violent death"..."[of] a man who was averse to violence"..."he left a huge legacy, but we do not know what he could have still created...having been a victim of violence"..."he had an ironic and wry take on Brazil"..."and he was a great chronicler of Paulista neuroses".

A subsequent 31-page special tribute to Glauco's cartoons, published by Folha on March 16, 2010, also contained an introduction by Sergio Davila, Folha's executive editor, which concludes: "[this publication] is a gift and a tribute to a chronicler of human neurosis, of which he also fell victim".

Bearing in mind the above, for ease of comparison the passage that you assert was copied is set out below, together with the part of your article in question:

***JPR's article**: Glauco's murder is filled with ironies. He was a gentle artist who depicted a country's neuroses in his cartoons, and then met a violent death at the hands of a neurotic.*

***Your article**: The story of Glauco's death is full of paradoxes. The artist who made gentle fun of Brazil's political and economic problems was violently murdered; the religious leader who generously supported people in search of help was killed by an ex-member of his church.*

***6.** None of the other articles or books mentioned in the select bibliography list in Mr Rathbone's post, below the FT article, are referenced in the full academic style. For a piece of journalism, there is no reason why they should be, nor would it be necessary to include internet hyperlinks. However, as a further gesture of goodwill we would be prepared to provide a full reference to your article, in another online post below the FT article, if you wish. Please let me know.*

I look forward to hearing from you in relation to point no.6 above.

Yours sincerely
Lionel Barber

Summary of the Complaints

28. From the complaints and subsequent correspondence there are three matters on which I am bound to adjudicate:

29.1 a specific plagiarism allegation in relation to two paragraphs (paragraphs **[9]** and **[10]** and a line from **[37]**) in the Article, which are said to have been taken from the complainant's Erowid Article, including the accusation that the re-wording (rather than copying *ipsis literis*) was an effort to disguise that plagiarism;

29.2 a general plagiarism allegation that in writing the Article, JP Rathbone took the complainant's ideas, research, and interpretation and passed them off as his own;

29.3 a complaint about JP Rathbone's manner and tone in dealing with the complainant's complaint.

JP Rathbone's Response to the Complaints

30 I shall deal with the third element of the complaint first, and shortly.

31 As can be seen above, my role at the FT is appellate: it is for editorial to deal with complaints at first instance. Usually, those of sufficient seriousness (as here) are elevated to the Editor himself. Those of moderate seriousness are dealt with by the Deputy Editor, or Managing Editor, or Desk Editors. But many complaints are initially addressed not to editors, but (as here) to the journalist in question.

32 A feature of many complaints is that they are from those who are the source for, or subject of, the very articles about which they are complaining. This complicates the relationship: the journalist (and later the editor) is dealing with a complainant in the handling of a complaint, and that relationship rides on the back of the pre-existing journalist-source relationship.

33 *"News is what somebody doesn't want you to print. All the rest is advertising"*[1] may be unduly cynical, but I appreciate that almost every work of serious journalism involves a source or subject who is likely to be disappointed that the product is not as they imagined it would be. Sources of stories, as much as the subjects of stories, are often angry or upset complainants. Resisting their entreaties for revision of the journalistic product is a necessary part of being an editor.

34 But where journalists and editors are handling a complaint: (which I define as being 'a communication from an external party, in which a breach of the Editorial Code of Practice is alleged or could reasonably be inferred') the relationship changes. Whatever acrimony and/or sympathy may have infected the journalist-source relationship must be suspended, because in the handling of a complaint, the editorial staff at the FT take on a quasi-judicial role. Journalists or editors who are unable to suspend that prior relationship (which I imagine will happen frequently) should get a more senior editor to deal with the complaint on their behalf.

35 I think JP Rathbone should have elevated Dr Labate's complaints to a more senior editor before the post-publication conversation by email took the turn that it did. I am afraid I am singularly disappointed in the tone of his final email – even his perspective was entirely justified, it displays a degree of intellectual arrogance quite inappropriate to the handling of a complaint that was not manifestly unfounded.

36 Lionel Barber, in his first email to Dr Labate at 17:37 on 4 March 2015 said:

> "*At the outset, I should say that the tone of one particular email that Mr Rathbone sent you at 13:57* [sic] *GMT on 27 February was unfortunate. I trust you will accept my apology on behalf of the FT."*

37 That apology was rightly, and timeously, made. Had it not been volunteered, I would have asked for one to be published. I consider no further remedy is necessary.

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[1] Of unknown source: http://quoteinvestigator.com/2013/01/20/news-suppress/

Investigation into the Plagiarism Complaints

38 In respect of both the framework of adjudicating this complaint, and the steps taken in investigating it, I have had the benefit of the advice and support of my Appointments & Oversight Committee, all of whom have great editorial experience:

38.1 Professor Ian Hargreaves CBE of Cardiff University (formerly editor of *The Independent* and *The New Statesman* magazine);

38.2 John Ridding (*Financial Times* Group CEO, and non-executive Director at *The Economist* Group);

38.3 Baroness Wheatcroft (former editor of *The Sunday Telegraph* and editor-in-chief of the *Wall Street Journal Europe*), who chairs the Appointments & Oversight Committee.

39 Article 3 of the FT Editorial Code of Practice makes clear that all journalists who are subject to a complaint *"must comply with the lawful enquiries and requirements of the Commissioner"*. I should record here that JP Rathbone and all FT staff have given me the utmost co-operation throughout this investigation.

40 I interviewed JP Rathbone on two occasions, and these two meetings (both attended by FT Managing Editor James Lamont, who took a full note of proceedings) were the bookends to my investigation:

40.1 The First Interview was on Saturday 7 March 2015, less than 48 hours after Dr Labate's appeal. This was expedited because JP Rathbone was due to be out of the UK for two weeks from the following Tuesday morning, and I was unable to make a meeting on Monday. I had at this stage read only the article complained of, the readers' comments, the Erowid Article, and the email correspondence with Dr Labate. For this reason, our conversation of around 2 hours primarily consisted of my asking open questions, and JP Rathbone giving narrative answers. We discussed his initial interest in the story, the process of reporting, his research methods, writing and drafting methods, sources (being careful to retain the confidentiality and anonymity of certain sources), his communications with the complainant, and his specific remembrances of the writing process.

40.2 the Second Interview was on 1 May 2015, after I had had the opportunity to read all of JP Rathbone's notes, earlier drafts, source materials, and a selection of email communications relating to the story. Having a much stronger documentary basis at this stage meant that our second meeting was more akin to a two-hour cross-examination: leading questions, structured to tease out inconsistencies, test the veracity of earlier responses, and assess any material changes in position.

41 I tried, without success, to contact the user **J. Hamilton** by email to discuss what similarities ('similar turns of phrase') he had found between his thesis and the JP Rathbone article. He did not respond to my email, as was his right.

42 I also offered Dr Labate the opportunity to speak to me by Skype, but she was content that her emails to me (not limited to those republished here) set out her case with sufficient clarity and particularity. She saw no reason for a live telephone conversation or similar, a decision which I entirely respected.

43 JP Rathbone confirmed in the First Interview that he has never been the subject of an allegation of plagiarism: not at school, or university (Oxford and Columbia Universities), nor at any other periodicals (he has written for many, inlcuding *The Wall Street Journal, Sunday Telegraph* and *Esquire* magazine), nor at any time since joining the *Financial Times* in 2008 (first on the Lex column, then as Latin American editor since 2010), nor to his publisher (Penguin Books published his *'The Sugar King of Havana'* in 2011). I have not checked with these institutions in-person in advance of publishing my Adjudication: I have no basis for doubting that assertion, and if there had been previous allegations, this Adjudication would bring them into the open, and would gives grounds for the matter to be re-opened.

44 Working from the premise that few known plagiarists ever restricted themselves to a single instance of copying, but rather were known to adopt it as a pattern of behaviour, I have performed a limited check (using anti-plagiarism software) of a sample of JP Rathbone's other bylined work for the FT (since becoming Latin American editor). This yielded nothing at all untoward.

45 Beyond the article itself and the substance of the complaints correspondence, the two sources of evidence on which I must rely in making this Adjudication are therefore primarily:

45.1 the First and Second Interviews in person with JP Rathbone;

45.2 the documentary evidence (his reporters' notes) including:

45.2.1 a memory stick containing 28 MB of documents, early drafts, newspaper cuttings etc;

45.2.2 a green notebook, with 116 pages of handwritten notes;

45.2.3 several MS Word documents with translations of Brazilian news clippings and other coverage;

45.2.4 annotated book chapters (photocopies), or book summaries (printed MS Word documents);

45.2.5 a folder containing around 30 magazine/academic articles;

45.2.6 a series of scientific papers on ayahuasca and psychotropic drugs;

45.2.7 documents relating to criminal prosecutions, and also to drugs legislation;

45.2.8 many pages of emails with his sources;

45.2.9 all email correspondence with Dr Labate (both before and since online publication of the article).

Framework for Adjudicating

46 Plagiarism is often referred to (passim) as a 'cardinal sin' of journalism. Few allegations are more serious for a journalist or editor. It is therefore a curiosity that, although the FT Editorial Code of Practice[2] is now 12 full pages in length and incorporates the long-standing IPSO (formerly PCC) Code of Practice as an appendix, there is no *express* prohibition on plagiarism whatsoever.

47 Of course, it has never been suggested that I do not have purview to investigate and adjudicate on a complaint of plagiarism – it would make a mockery of the Code and of the *Financial Times'* system of self-regulation were that so – but as a matter of procedural fairness, I have to be very clear as to the framework I am applying, namely:

2 http://aboutus.ft.com/files/2014/09/FT-Editorial-Code-08.09.pdf

47.1 how the Code might have been breached? and

47.2 what standard of proof would be necessary to find a breach?

48 As to the two plagiarism allegations, I consider that two Articles of the FT Code of Editorial Practice are relevant: Articles 1(2) and 1(4)[3].

> 1.1 It is fundamental to the integrity and success of the titles published by The Financial Times Limited (FT) that the company upholds the highest possible professional and ethical standards of journalism, and is seen to do so.
>
> **1.2 This places a responsibility on every FT editorial employee and contributor to conduct her/himself according to practices which reinforce the FT's reputation for** accuracy, **truthfulness, honesty** and authority**.**
>
> 1.3 …
>
> 1.4 FT employees and contributors must follow this code of practice in their work. … **The code must be followed fully in spirit as well as to the letter** …

49 Part of the reason for articulating my approach in full is that there is not a settled definition of what constitutes 'plagiarism' (in either its specific or general form). I have considered previous investigations within journalism[4], the limited academic literature (focussing on journalistic, rather than academic, plagiarism)[5] which is available, as well as taxonomies created by researchers working with online anti-plagiarism outlets and/or software providers[6].

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3 Article 7, which gives effect to the FT Sourcing & Attribution Policy is not as relevant as its name suggests, being about sufficiency of sources & mode of attribution not sources' rights to attribution.

4 In particular, from the Columbia Journalism Review: *Lieberman, Trudy "Plagiarize, plagiarize, plagiarize…"* (July/August 1995); Silverman, Craig *"The Counter-Plagiarism Handbook"*; Uberti, David: *"Journalism has a Plagiarism Problem"* (November 2014); Spayd, Elizabeth *"The Rules of Plagiarism"* and Fisher, Mark *"Steal This Idea"* (March/April 2015).

5 Especially Lewis, Norman P. (2007) *"Paradigm Disguise: Systematic Influences on Newspaper Plagiarism"* (PhD thesis, University of Maryland).

6 Notably the Research Plagiarism infographic by iThenticate http://www.ithenticate.com/resources/infographics/types-of-plagiarism-research, and the Turnitin Plagiarism Spectrum: http://www.turnitin.com/assets/en_us/media/plagiarism_spectrum.php

50 These sources have each been helpful in their own way, as have the conversations I have had (without reference to the facts of this complaint) with journalists, editors and lawyers. I think it fair to say most definitions include some notion of **"an author passing-off the intellectual work (whether their original ideas/reporting, or their expression/words/images) of another as their own"**.

51 There is a fairly strict division between those definitions that root plagiarism in a form of theft or dishonesty (usually those in journalism), and those (particular in academic codes of practice) which make express that intent is immaterial. Similarly, a cursory review makes clear that some definitions primarily protect originality of ideas (mostly in academia) and others extend primarily to the particular form of expression (again, often in journalism), unless the idea adopted has true originality.

52 Journalism is different from academia, then, in several respects. The turn-around time of a newspaper article is many orders of magnitude faster than most academic articles; space constraints in printed media significantly limit the opportunity for cross-referencing and sourcing; and the readership is far less specialist (and therefore usually requires a high-level synoptic review quite distinct from the literature review that a specialised academic community might need to situate an article).

53 Plagiarism of **expression** – outright copying of pictures, images and so forth – is clearly prohibited in both journalism and academic, but as mentioned the latter appears to take a far more stringent line on originality of idea. The reason is perhaps self-evident: while much news reporting involves the breaking of scoops, much long-form journalism is necessarily vicarious on academic learning or other specialisms. The highest purpose of good long-form journalism is to bring complex subject matter to a wider audience, so as to inspire, inform and elevate public discourse. Journalists often do contribute original ideas and analysis, but they also recite the various ideas and theories that are currently part of the debate. Rarely is the purpose of narrative journalism to reveal an original thesis: more often it is to invite readers to think around a novel subject-matter capable of inspiring their own reflections.

54 Unfortunately, there is also a problem of originality more generally in journalism. While huge swathes of subjects are not covered, even trivial items of news (or

content which doesn't deserve the appellation) are covered by every mainstream media outlet. Much of this journalism is derivative and unoriginal. Many journalists and bloggers complain that certain outlets copy whole chunks of stories, and that the courtesy of 're-writing' copy is a product, not of ethics, but of copyright law.

55 Is journalistic plagiarism even distinct from copyright infringement? As newsrooms have shrunk to historically small numbers of editorial employees, re-writing copy (that is to say, reading a piece and writing a differently-worded version) has become so commonplace as not to be seen by all as a clear ethical infraction. *Failing* to re-write would be seen as such, but the capacity to regurgitate facts in slightly different terms is (it has been suggested to me) more often lauded as a virtue by cash-strapped editors than condemned as a vice. Stealing a scoop might be unethical, it is said, but wilfully re-writing a synopsis of facts is not itself plagiarism: it's efficient journalism.

56 I cannot agree. Plagiarism by outright copying is acknowledged by all, and where the expression is near-identical, this will also carry copyright implications. But although I accept that the citation burden is far lower in journalism than academia, I do not consider it is ethical for a journalist to directly copy text from another's work, and re-write it so that it appears original. Writing boilerplate factual narrative will necessarily lead to similarities between the work of different journalists doing the same job independently of each other, and there is no legal or moral restriction on using the same facts. However, the value of a trained journalist is weaving facts into narrative: to take another's work, and replicate it with modifications to imply original writing, is (to my mind at least) a form of dishonesty.

57 The inescapable impression I have gathered is that there is a significant gulf in understandings of what is acceptable, and that gulf correlates closely to the Atlantic Ocean. American and US-trained journalists appear (to me) to take a much harder line on what constitutes acceptable practice in relation to re-use of others' work, though whether I have that the right way around is actually immaterial. The FT prints on three continents, and has an international audience and competitors. When it seeks to hold itself to the highest standards, that must mean 'highest *globally*'[7].

7 As to which, see the recent American journalism debates on the ethics of re-writing facts and originality: e.g. the 30 July 2014 column[7] by *The New York Times* Public Editor, Margaret Sullivan, also

58 The forbidden **actus reus** (guilty act) therefore encompasses the passing-off of another's original ideas, work or expression. Original expression (words or images, which might also infringe copyright) includes that same expression in some modified form (such as re-writing of copy, which would not infringe copyright). Although it is also (absent copying the actual expression) prohibited to pass-off the ideas or work of another as one's own (such as by suggesting an insight or some reporting was original, when it was actually done by another), this form of plagiarism likely requires that there must be genuine originality and/or novelty in the work copied and it must be that the journalist is actually taking credit for that original work or idea.

59 What then the mental element – the **mens rea** – of journalistic plagiarism? To my (perhaps legalistic) mind, it is incredibly troublesome to have such uncertainty in the mental element of any alleged infraction, especially one which carries such professional opprobrium. English law generally draws a very clear division between (1) crimes and intention torts (whereby actual intention, or at least subjective recklessness, is integral); (2) torts based in negligence (which hold a person to an objective standard of behaviour and foresight of consequence); and (3) those crimes and torts which are 'strict liability' (a perpetrator's intent being immaterial).

60 I shall not follow the approach taken by many universities of making plagiarism a strict liability offence. I understand the public policy reasons for their doing so – notably the deterrent effect, but also (I suspect) the practical limitations on being able to investigate and prove knowing culpability. I can see why they may be necessary and appropriate for the assessment of the work of thousands of students, where there is such a major incentive to cheat (a degree classification being such a major component of future academic and career success).

61 In the present case, the *Financial Times* employs many hundreds of journalists and editorial staff, and gives each major piece of work more supervisory attention than any student's academic essay could expect to receive. Most journalists are employed on stable contracts, and with the largest newsroom in London, there is not the sort of pressure to produce volumes of copy as elsewhere: correspondingly, the benefits

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referencing Gene Weingarten of *The Washington Post*, Jack Shafer at *Reuters* and Joe Coscarelli at *New York Magazine*: http://publiceditor.blogs.nytimes.com/2014/07/30/carol-vogel-plagiarism-investigation/?_r=0

of plagiarism are far more easily outweighed by its risks. Also, I am far less constrained than a university might be into investigating an allegation of plagiarism: I have less to adjudicate, and ample resources to gather evidence. Indeed, the evidence has allowed me to come to a very clear view on the intention of JP Rathbone.

62 I consider that, were plagiarism to be a **strict liability** breach of the FT Editorial Code of Practice, it would need to be made express in that Code. It is not, and so a mental element is necessary for breach. I am only able to adjudicate on a very general provision of the Code, which I must construe. Absent any 'deemed' dishonesty, my reading of Article 1(2) of the Editorial Code of Practice is that a breach of the 'spirit' (per Article 1(4)) of the Code requires a failure of 'accuracy, **truthfulness, honesty** and authority'. As such, any culpable acts of plagiarism (that is, the **intentional or subjectively reckless** use without attribution of another's ideas or their expression) will always breach the Code, irrespective of extent or seriousness. However, while merely **negligence** (that is to say, objectively falling below the standards required of journalists) may in very serious cases mean a breach, in less serious cases it will not.

63 To find a breach of the Code, I therefore need to find intentional use of another's original work/ideas or expression without attribution, or negligent use of another's original work/ideas or expression without attribution of such seriousness or extent as to fall significantly below the standards expected of a journalist.

64 To what standard of proof must intentional plagiarism or negligence be found? The adjudication of a Complaint is not a disciplinary process. Therefore, although it is common for disciplinary proceedings to avail themselves of the criminal standard of proof, notwithstanding that the allegations here are of dishonest or fraudulent conduct, I must apply the civil standard of proof: the 'balance of probabilities' (i.e. whether the breach is 'more likely than not', or what Americans call 'the preponderance of the evidence). However, I must keep in mind the inherent probability of particular outcomes: systematic dishonesty or fraud is generally uncommon, and so the standard must have a necessary degree of flexibility.

65 Some of the conversations I have had with journalists and editors have suggested that scale of alleged plagiarism may be a relevant consideration. In one sense I accept

that submission; in another, I have to reject it. Were I to discover even a single sentence which was **wilfully** copied and attribution **deliberately** withheld, it would be immaterial that the remaining 150,000 words were original, brilliantly-reported, and worthy of a Pulitzer Prize. The only relevance of the scale of the alleged plagiarism *vis* the remainder of the work would be in allowing me to assess the inherent likelihood of a single sentence having been copied in an otherwise excellent (and proven to be original) work, but the scale of originality of the remainder could not mitigate the stolen sentence. Fraud, as Lord Denning said, unravels everything.

66 The position is necessarily different if the infraction proven is one of negligence. Even where it is proven that the work complained-of contained unattributed use of another's original work, such usage (and whether it amounts to a breach of the spirit of the Code) must be assessed in context, including the extent of copying, and with a view to both its consequences and to any undue benefit to the perpetrator.

The Specific Allegation: Two Paragraphs

67 On 20 August 2010, Dr Labate (the complainant) co-wrote a tribute to Glauco on the 'Erowid' website ("the Erowid Article"). Her co-authors were Antonio Marques Alves Jr, Isabel Santa de Rose and Jose Augusto Lemos. The Erowid Article was translated by Jimmy Weiskopf and is available here: https://www.erowid.org/chemicals/ayahuasca/ayahuasca_info14.shtml.

68 The first footnote explains that it is a modified and expanded version of the first three authors' Portuguese-language article of 21 March 2010 on *Folha online*: http://www1.folha.uol.com.br/folha/cotidiano/ult95u709924.shtml.

69 The Erowid Article has, within its introduction, the following phrases:

> **[Paragraph A]** The tragic death of Glauco and his son has made the debate about ayahuasca a national issue in Brazil, where the use of this controversial substance, which has sporadically caught the attention of the media for the past 25 years, has been legal since the mid eighties. At first, with very few exceptions, the media covering the murders showed a respectful attitude towards Santo Daime. Even when the controversies surrounding the case began to emerge their approach to the religion itself remained neutral. However, this suddenly changed when, after being captured when trying to escape to Paraguay, the alleged murderer told TV reporters that he wanted to kidnap Glauco to prove to his family that he was

Jesus Christ (and thus avoid being forcibly placed in a psychiatric clinic by his family). Other than that, his father and lawyer claimed that Cadu had gone "psycho" after joining the Santo Daime rituals, which caused a sudden shift in the media towards the stereotyped, anti-drugs point of view usually found in their coverage of the use of psychoactive substances. Many reports of the case in newspapers, magazines, TV programs and internet sites uncritically set forth the theory that the consumption of ayahuasca had been responsible for the crime, as seen, for example, in the covers of two of the Brazil's most popular weekly magazines, *Veja* and *Época*.

…

[Paragraph B] The story of Glauco's death is full of paradoxes. The artist who made gentle fun of Brazil's political and economic problems was violently murdered; the religious leader who generously supported people insearch of help was killed by an ex-member of his church.

70 Paragraphs **[9]** and **[10]** (my numbering) of JP Rathbone's article read:

[9] Amid the mourning that immediately followed Glauco's murder — Folha de São Paulo, the national newspaper that published his work, left only white space where its cartoons normally appeared — news coverage at first maintained a respectful attitude towards ayahuasca and Glauco's Santo Daime church. That changed abruptly after the police caught Cadu while he was trying to escape to Paraguay. Glauco's captured murderer told TV reporters that he had wanted to kidnap the cartoonist to prove to his family that his younger brother was, in fact, Jesus Christ. Worse, Cadu's father and lawyer both claimed that Cadu, whose mother was schizophrenic, had gone "psycho" after joining Glauco's rituals.

[10] What had been a national tragedy now turned into a heated debate about ayahuasca or *daime* as it is also known. Although legal in Brazil since 1992, because of its deep roots in indigenous shamanistic practice, ayahuasca is mostly only tolerated in what remains an essentially conservative country. Época, a popular glossy magazine, asked on its front cover: "Did daime provoke the crime?" Veja, another, splashed: "The psychotic and daime: up to what point should a hallucinogenic drug be used in the rituals of a sect?"

71 Much later in the JP Rathbone article, in its conclusion, a paragraph begins:

[37] Glauco's murder is filled with ironies. He was a gentle artist who depicted a country's neuroses in his cartoons, and then met a violent death at the hands of a neurotic. ...

72 The similarities are immediately apparent, even where the wording is distinct. There are, in my view, six elements which make paragraphs **[9]-[10]** a match for **[Paragraph A]**:

72.1 National debate, in spite of ayahuasca's legality in Brazil;

72.2 Media's respectful attitude on news of Glauco's death;

72.3 Change in attitudes as Cadu was arrested *en route* to Paraguay;

72.4 The "Jesus Christ" justification for murder told to TV;

72.5 Cadu's father/lawyer saying Glauco's rituals made him "psycho";

72.6 Media coverage of ayahuasca as a potential cause of murder.

Paragraph **[37]** is clearly similar to, but not the same as, **[Paragraph B]**.

J P Rathbone's Account

73 Confronted with these six elements, five of which are in the same order in both articles, I had expected a relatively swift concession by JP Rathbone that, wittingly or not, his words in paragraphs **[9]-[10]** were likely from the Erowid Article's **[Paragraph A]**. That was not a concession he offered, or that he accepted when it was first proposed in the First Interview.

74 By First Interview – and being, I think it is fair to say, irritated at the accusation and ill-inclined to concede to what he saw as proprietary behaviour of academics – his contention was firmly that these were narrative paragraphs, and that any journalist writing a six-fact narrative bridge would, given the clearly different wording, have produced largely the same copy.

75 Similarly, he saw no particular originality in the observation of the contrast between Glauco's gentleness (a feature much remarked upon in the tributes that followed his death, both in relation to her personality and his satire) and the violence of the manner of his death. He considered that anyone writing about Glauco would have made a similar observation, and did not consider the Erowid Article was either the source of it, nor that it was protectable as an insight, even assuming that one could elide 'paradox' and 'irony'. The very similarity of paragraph **[37]** and **[Paragraph B]** was disputed.

76 The First Interview began with a review of his career, opportunity to cite previous allegations, his route to being an FT journalist, his current role (including management responsibilities for Latin America), his book, his family, his personal history, and what had brought him to write about Glauco's murder and ayahuasca. That autobiographical account is itself an interesting tale to be told, but it is only of limited relevance here. Principally, his contention was that, through a regular user of ayahuasca, he had become interested in its role in Brazilian society, and when in 2012 he learnt of Glauco's double life (as satirical cartoonist, and as head of a church of Santo Daime) before his murder, he felt it would make a good long-form article.

77 This article took JP Rathbone around two-and-a-half years to research and report, alongside a full-time role as a desk editor with staff and freelance journalists based in a number of overseas posts. He told me that he had wanted to write about ayahuasca since as early as 2006, but had been looking for the right vehicle for the story.

78 Glauco was first suggested to JP Rathbone in an email I have seen dated 5 November 2012, responding to his queries about ayahuasca. He responded the same day at 22:03, including to say *"The Glauco story is fascinating. Thank you! I had no idea that happened."*. The story was not formally pitched until 10 September 2013, to Ravi Mattu (then Weekend FT editor) with follow-up discussion in December 2013.

79 When the commission was confirmed in January 2014, the magazine initially wanted it for April 2014, but the Brazilian elections and the impending World Cup meant that 2014 was a busy year, even ignoring the wealth of other news coming out of Latin America that year. Ownership of the story was passed to Sue Mattias, who was also keen, and said she would consider it for the cover story.

80 Most of the reaching out to sources seems to have occurred in June and July 2014. He told me that he had three routes to seeking to contact Glauco's widow (confusingly, also called Bia), one of whom was the complainant, Dr Bia Labate, who is a renowned anthropologist whose research focus includes ayahuasca. After JP Rathbone first wrote to Dr Labate, she responded by email on 2 July 2014. She warned him that this was a delicate subject, and that she was wary of participating if this was not to be a sensitive exposition of the Glauco story.

81 JP Rathbone's response on 3 July 2014 sets out his view of what the story will be: the demonization and misconceptions surrounding ayahuasca, and to discuss it through the life and work of Glauco. The subsequent correspondence, though following agreement is – to my mind at least – a little tetchy. However, on 4 July 2014, she contacts him to confirm that she has forwarded his requests to some contacts. She asks what he thought of her Erowid Article and suggests some UK story angles. He says it was very good, and that it was largely why he contacted her, and passes positive comment on the cartoon tributes to Glauco that it contains.

82 This is the only documentary reference to the Erowid Article in all of the notes and materials. It confirms (a) the latest date by which it was first read (i.e. 2 July 2014); (b) that JP Rathbone remembered it when raised a few days later and spoke of it appreciatively. However, the email goes no further.

83 Further correspondence includes the suggestion of an interview, a contact who has written on media representations of ayahuasca, and Dr Labate's research on drugs and addiction. Having been approached by a number of mutual contacts, Glauco's widow gets in contact around 4 July 2014.

84 Formal confirmation of the story (the 'greenlight') was given on 17 July 2014, with a view to piggy-backing reporting onto a pre-existing trip to Brazil. JP Rathbone flew to Brazil via Boston (7 August 2014) and Miami (9 August 2014), returning to London on 18 August 2014. The Brazil trip provided the vast majority of the interviews given prominence in the article, chief amongst them Glauco's widow, but also an eye-witness to the killing, Glauco's colleagues from the newspaper, and those deeply involved in Santo Daime. It was on this trip that he was invited to attend the sacramental tea ceremony.

85 He told me that he had begun to write his first draft of the article on his return from Brazil, in around late August 2014. Nothing had been committed to paper before that time. He began writing a working draft while on vacation. The final draft was submitted to his editor, Sue Mattias, on or around 20 October 2014. Anticipated publication as the FT Weekend magazine cover story in early February was delayed until 28 February 2015 by time-sensitive stories on Ukraine and on Syria.

86 JP Rathbone and I talked about his research, reporting and writing methodology. He estimated that 80% of the research and reporting was done before sitting down to write the first draft, with 20% done mid-drafts (a parallel process of reporting, fact-checking and edit/re-writing). Books would be annotated on the copy, PDFs were more likely to be read online but some would be printed if to be annotated heavily. Handwritten notes only for all interviews and field reporting: didn't usually use tape recording. Online research was useful in the early stages, but he made a point of not copying text into a MS Word document, save for the clearly marked and systematically labelled Brazilian press coverage documents.

87 He acknowledged he read the Erowid Article (which he thought useful), but that he read no more than 1% of the other material Dr Labate sent him. He did not think the academic sociological research particularly useful or relevant to his reporting. The scientific research introduced an aspect on which he clearly relied on his expert sources, and the same was true in navigating the legalities of ayahuasca. Those sources added something original; he considered observations about Glauco's 'double life' as cartoonist and religious leader to be so mainstream and obvious that the law of diminishing returns means it was not worth the effort of ploughing through hundreds of pages of nuanced sociology when the same time could be spent with primary witnesses, and on experts in fields such as pharmacology and law.

The Specific Allegation: Applying the Framework to the Facts

88 From the end of the First Interview, I have operated on the basis that I needed to answer two questions (the first having arisen from the denial):

88.1 **Were paragraphs [9], [10] & [37] directly derived from Paragraphs A and B of the Erowid Article?**

88.2 **If so, was such derivation intentional or deliberate?**

Coincidence or Direct Derivation?

89 As part of the First Interview, JP Rathbone gave me an exposition of his article. The structure of Section 1 sees the *mise-en-scene* **[1]**, an authorial-purpose lede **[3]-[4]**, then dichotomy nut-grafs on ayahuasca as healer/killer **[5]-[6]**, the interview with Glauco's widow (part I) **[11]-[14]**, all linked by narrative bridges from the Glauco murder in **[2]**, **[7], [9]-[10]**.

90 Section 2 is Glauco's life story and relationship to ayahuasca. Section 3 is the science and the author's personal experience of a 'tea ceremony'. Section 4 returns to the structure of Section 1: the 'dualities' premise **[32]-[33]**, and **[37]**, interspersed with an interview with an eye-witness who knew Glauco and Cadu, and narrative bridges focussing on Cadu in **[34]-[35].**

91 To JP Rathbone at least, the disputed paragraphs **[9] and [10]** are mere narrative bridges: they do the donkey-work of placing facts necessary for the understanding of the central thesis, and to make the reportage (especially the interviews of primary participants in the story) intelligible. As such, they are the common building blocks on which all news reporters, and all subsequent feature writers, must rely to tell their stories. They must "all drink from the same pool" (JP Rathbone's expression).

92 The details chosen, on his account, were necessary commonalities. The two cover stories mentioned were by major publications, apparently akin in journalistic style to the UK's mid-market tabloids *The Daily Express* and *The Daily Mail*, but with similar cultural resonance as TIME and NEWSWEEK covers enjoy in the USA.

93 Indeed, JP Rathbone drew my attention to two particular details which were clearly different between his two paragraphs and the Erowid Article:

93.1 First, that in his article, the legalisation of ayahauasca in Brazil is dated in 1992; the Erowid Article has it in the "mid-eighties"; and

93.2 The Erowid Article claims that Cadu acted to prove that he (Cadu) was Jesus Christ; the JP Rathbone article reports that Cadu was seeking to prove the messianic divinity of his younger brother.

94 JP Rathbone emphasised these differences (on his account, and standing by his reporting, he considered them 'errors' in the Erowid Article). He told me that he was aware of his version of those two facts (though not the purported error of the Erowid article) at some point during his trip to Brazil in August 2014. Certainly, the fact that Cadu thought his younger brother was Jesus Christ was something he learned directly from Glauco's widow in Brazil, from an in-person interview.

95 So put at its highest – even allowing for the inherent unlikelihood of a senior journalist at a major publication with no track record of plagiarism copying 'boilerplate narrative' when the remainder of a long-form piece had so clearly been reported in person – JP Rathbone's challenge was to ask: how likely was it that he had copied a narrative account that he knew (prior to writing his first draft) contained two mistakes of fact?

96 My initial concern was that, although narratives are capable of resembling each other, that six data points (with five in order) was asking me to believe in a higher degree of coincidence than was usual. Fingerprinting traditionally only relied on sixteen data points to proclaim a truly unique match. Granted, if I gave journalists the six points, many or most would match JP Rathbone's ordering, but if I were to ask a thousand journalists at a thousand typewriters to pen a narrative involving six data points, how many would also choose these precise six?

97 Two complications caused concern: first, emails between Dr Labate and JP Rathbone made quite clear that he had read and appreciated the Erowid Article (about which he had always been very upfront). Second, although the references to Cadu's capture, his being called "psycho" and his destination being Paraguay were clearly narrative, the description of the change in media tone and the choice of those two publications to typify the debate was a form of meta-narrative more peculiar than the news reporting of the murder. JP Rathbone accepted this, but explained that the meta-narrative was prosaic: after every national tragedy, from JFK to Diana, there is a well-observed tradition of mournful respect by the media, broken only by their eventual desire to find scapegoats and apportion blame. Brazil was no different.

98 The news clippings documents from 2010, cited by Lionel Barber in his draft response to Dr Labate, confirmed the wide availability of the primary facts of the narrative (four of the six points). The two meta-narrative points (the narrative of how the media narrative developed) could also have been independently-sourced: one of the Portuguese-language articles, which I translated online, discussed the change in media tone. It was at least possible that even those parts of the two paragraphs had not be sourced from the Erowid Article.

99 We had discussed that, with news clippings and their translations, JP Rathbone had copied and pasted cuttings into MS Word documents, always in full, and labelled them accordingly. He was relatively sure he had not done this for any non-newspaper/magazine source (including the Erowid Article). He could not remember whether he had printed out or marked up a hard copy of the Erowid Article – it was possible, but he did not remember as much. He thought it unlikely that he would type narrative direct from a source – by time of writing, he knew the story well-enough to write unaided. He translated the news front-pages into English differently than the English version of the Erowid article, which suggests they were not copied.

100 After the First Interview, it was quite clear that I was being asked to believe that this was coincidence, and that there was no formal link (save for commonality of subject matter and primary sources) between the two paragraphs and the Erowid Article. Indeed, JP Rathbone confirmed this position to me early on in the Second Interview.

101 The 'inherent unlikelihood' problem concerned me. This was no a cub reporter, but a relatively senior desk editor, an established subject-matter expert on Latin America, and author of a very well-reviewed book. The alleged plagiarism was confined to narrative (and meta-narrative) which bridged passages that were unquestionably and provably the product of long, expensive and painstaking original reporting and research. There were further entire wings of the story that had been shorn to keep it to an appropriate length, themselves consisting of newly-reported material. He had clearly known at least one material fact in the Erowid Article passage was wrong before writing: was this perhaps a particularly striking coincidence after all?

102 One reason for perpetuating my scepticism of the coincidence theory was that resting on probabilities alone required me to discount an equally improbable outcome: that a journalist never accused of plagiarism should be accused of such by **two** separate individuals in relation to the same article.

103 Whereas I had the passages from the Erowid Article said by Dr Labate to be similar, the other accusation was not articulated. **J. Hamilton** merely gave a general (if friendly) warning, and claimed that: *"Some of your synthesis looked awfully familiar - deja vu! - I wrote a lot of the same things, with the same turns of phrase, in Ayahuasca and Globalization"*.

104 As mentioned above, I did seek to make contact with the person behind the username **J. Hamilton**, and I did not receive a reply. However, I could not have considered Dr Labate's plagiarism allegation without taking into account this other allegation – however politely phrased – of essentially the same offence. Notwithstanding that no complaint was made, I folded the accusation of similarity into my ongoing investigation as a fact capable of affecting the probabilities.

105 I have now read JP Rathbone's article in excess of thirty times, and have read the 50-page thesis on 'Ayahuasca and Globalization' five times in full. I have been entirely unable to find more than two or three parallel passages that even share general subject matter. Those paragraphs are so different in their facts, wording, structure and inferences that I am entirely confident in ruling out the thesis as JP Rathbone's source for any given sentence of his article. If I am in grave error, I would welcome being corrected on this assessment.

106 Ruling out some form of serial plagiarism (whether intended or negligent) from both the Erowid Article and the Globalization thesis, my first question was therefore whether the similarities were coincidental or not. That would have been a vexed question, but for the provision of JP Rathbone's reporting materials.

107 Any article that is researched and reported, even intermittently, for two and a half years will turn up a wealth of material. JP Rathbone, it transpires, is more assiduous than I might have expected at keeping research and reporting material. It took me several days to work my way through all that he volunteered. The review, particularly of his handwritten notes, was necessarily painstaking. The volume of Portuguese material could not, of course, all be translated, but I was able to translate key passages (relying on the identification of proper nouns, a high-school education in French and Spanish, and Google Translate) of the more heavily-annotated sources.

108 From having reviewed this material, I saw the primary evidence of every interview, and the majority of both the allusions and references that made the finished article, and the many lines of enquiry which did not. Whatever other conclusions I reached before the Second Interview, one thing must be made clear: when Dr Labate on 5

March 2015 wrote *"JP lists in the end a bunch of references; he clearly did not read all of that. Adding those references in the end makes it seem like all of them were equally valid, which is not the case."* she is very deeply mistaken. The list of references is nowhere close to the volume of annotated reporting material I reviewed in this investigation, and itself did not (I am told) even represent the totality of what was read in reporting this piece.

109 Most illuminating, however, were the drafts. There are fourteen drafts of this story on the memory stick that JP Rathbone provided. The first ten have filenames "Glauco 1.doc", "Glauco 2.doc" etc until "Glauco 10.doc". The final four clearly post-date submission to the FT Weekend editor: their filenames are "JPR ayahuasca [date].doc". All the files have meta-data indicating date of creation and last modification. I should reiterate at this stage that all electronic files, including the time-stamped drafts, were provided to me by JP Rathbone entirely voluntarily.

110 Remembering the two differences of fact between paragraphs **[9]** and **[10]** and **[Paragraph A]**, it is not until Glauco 10 – dated 20 October 2014, and presumably the draft sent to Sue Mattias – that these are confirmed. Glauco 10 is different from the final, published article only in minor respects: editors added two commas, cut three words and italicised a fourth. That Cadu thought his *younger brother* (rather than Cadu himself) was Jesus Christ, and the year of legalisation being 1992, both appear.

111 But this was not always so. Go back to Glauco 7, and although the 'younger brother' point is made clear, the draft has the date of Brailizian legalisation as 1988 (expressed in numerals). The Erowid Article had, of course, given the date of legalisation as being in the 'mid-eighties' (in words). The draft's meta-data indicate that this file was last modified at 19:43 on 4 October 2014 (some 16 days before Glauco 10).

112 A step further back, and we see other changes in Glauco 5 (last modified at 18:44 on 15 September 2014, a month before submission). Glauco 5 gives the date of legalisation of ayahuasca in Brazil as being "the late 1980s" (numerically expressed). It is also the latest-in-time draft that has Cadu trying to prove that he (Cadu himself) was Jesus Christ. This alone suggests a much closer relationship between Glauco 5 and the Erowid Article.

113 Furthermore, **immediately following** what would become paragraphs **[9]** and **[10]**, Glauco 5 includes (in a different position to all the other drafts) a version of paragraph **[37]** which reads: *"Glauco's tragic story throws up many paradoxes: that of a cartoonist who saw humour everywhere around him yet died in a violent murder, and that of a benevolent religious leader who literally gave his life helping others"*. This early variant of **[37]** is important for three reasons: the word "paradoxes" which would later become "ironies"; the positioning immediately after **[9]** and **[10]**; and the 'second paradox' (religious leader as 'pelican-in-her-piety'[8]). All three strongly suggest that this passage has its origins in the Erowid Article, notwithstanding that the date-range for legalisation is different.

114 When we go all the way back to Glauco 1 (last modified at 19:02 on 24 August 2014) that the two factual differences are lost altogether:

> "In the public sphere, these details [about Cadu being a member of Glauco's church] immediately converted the story of Glauco's death into a debate about ayahuasca – legal in Brazil since the mid-1980s and in the US and several European countries since the 2000s – into a national issue. At first, Brazilian media coverage maintained a respectful attitude towards Santo Daime, which forms part of Brazil's rich tapestry of religious and animist beliefs. However, this changed when police captured Cadu while he trying [sic] to escape to Paraguay and he told TV reporters that he had wanted to kidnap Glauco to prove to his family that he was Jesus Christ. Cadu's father and lawyer then claimed that Cadu had gone "psycho" after joining the rituals. TV footage of the time show Cadu as a distressing figure, sat in jail, his trousers ripped, with wild bug eyes and a metal punk chain around his neck. Veja, a popular Brazilian glossy, asked on its front cover: Did Daime kill Glauco? [sic]"

115 Several paragraphs later in Glauco 1, the original of paragraph **[37]**:

> "I stumbled across the story of Glacuo's death two years ago, and it had anchored itself in my mind. There was the paradox of an artist who gently satirised Brazil but was killed in a violent murder. There was the contradiction of a religious leader who literally gave his life to people who were seeking help. His murder seemed to capture…"

116 Once: the differences of fact are removed entirely in Glauco 1; the juxtaposition of what would become **[9], [10]** and **[37]** in Glauco 5 is noted; the substitution of 'ironies' and 'paradoxes' in the first five drafts; and the additional 'contradiction'

8 http://www.pelican-in-her-piety.co.uk/pelican.php

(religious leader killed by an acolyte) appears, the first question I have to answer is simple. I am easily satisfied, on the balance of probabilities, that paragraphs **[9], [10]** and **[37]** of JP Rathbone's published article had their genesis (in some form) in the Erowid Article. The material was not coincidentally similar: it was directly derived.

Direct Derivation: With or Without Intention?

117 Direct derivation having been proven to the requisite standard, the next question I must therefore answer is whether, on the balance of probabilities, JP Rathbone knowingly or wilfully copied or re-wrote the passages in the Erowid Article?

118 I should begin with his denials. In the First Interview, he acknowledged that he had first read the Erowid Article in June or July, possibly since then, but had written his first draft freehand at the end of August. He had not copied the disputed paragraphs across into his draft, and he considered the most likely explanation for the similarity to be entirely coincidental – 'drinking from the same pool' of narrative facts.

119 I confirmed this remained his position in the Second Interview, before taking him through the history of the drafts and showing him the changes as they related to thee paragraphs. By the end of that process, JP Rathbone agreed that the clear implication was that his paragraphs had come directly from the Erowid Article.

120 I asked for an explanation, but he could not provide one. He had no memory of reading the Erowid Article shortly before writing, or having it open (in hard copy or online) while producing the first draft. He could not even be sure he had ever printed it – it was so easily available as a high-ranking link on Google, he was not sure he had taken the precaution of archiving it digitally or manually.

121 I put to him the allegation that he had essentially re-written those paragraphs of the Erowid Article, and he strenuously denied doing so. He explained that his concern in producing those earlier drafts was structural: he would write-up various paragraphs which were 'boxes' that needed ordering, and his concern was the arrangement of the boxes and not their contents. This is substantiated by other, unrelated factual errors (names etc) in the early drafts which are corrected by the middle-drafts.

122 Having wrestled with this question for several weeks, I have come to the very firm conclusion that JP Rathbone is telling me truth. Partly this is a reflection of inherent improbability: a relatively senior and successful journalist, with no prior history of complaints of this kind, working on a piece which so clearly benefitted from a remarkable degree of original reporting, and the paragraphs taken being largely 'boilerplate narrative' from a source that the journalist considered to include two factual errors: that so much should be thrown away for such little tangible advantage seems to me to be intrinsically unlikely.

123 Other aspects of his conduct appear to me to be flatly inconsistent with dishonesty. Sending a copy of the published article to the complainant would be a curious act if he had knowingly plagiarised her work. His insistence on the similarity being only coincidence, a theory easily disproved by the meta-data of his early drafts which he had voluntarily provided, was very far from the well-crafted defence and cover-up expected by those caught wilfully breaching ethical rules.

124 Finally, though I ascribe it little weight, there is the simple matter that I had the benefit of questioning him for many hours, in two separate sessions. I fear we drastically over-estimate our abilities to tell when other people are lying, but I did get a very real sense that he was being honest with me. His story was almost entirely consistent (the inconsistencies being immaterial, as is perfectly usual when the same questions are asked weeks apart); he declined easier routes to exculpation that I offered him; he was reflective on where he had erred and defensive as to those areas he was adamant he had not. He was an impressive witness, and had I not been seeking to doubt him, it never would have occurred to me to do so.

125 In conclusion, the evidence falls very far short of proving any dishonesty on the part of JP Rathbone (whether at time of first writing, or on submission of his draft to his editor). No-one ever needs to prove their innocence to a higher standard of proof, but I would have been prepared to make such a finding. As sure as I am that the paragraphs had some direct origin in the Erowid Article, I am equally sure that JP Rathbone did not do so intentionally or with the realisation that it was the source of those paragraphs in his Article. I am entirely confident that he is not a plagiarist.

Negligent Failure to Attribute?

126 Given my finding that the Erowid Article was the original source for the paragraphs in the Article, albeit unwittingly, there is still the question of negligence. Was that **failure to avoid** the unattributed use of Dr Labate's paragraphs, in modified form, so serious as to constitute a breach of the FT Editorial Code of Practice?

127 There will be circumstances where using another's original work without attribution, even without any intent to do so, will be a breach of professional standards. If a news story of, say, 400 words relying primarily on three written sources turns up a whole paragraph which is identical or similar, then even absent any mal-intent, that will be a serious breach. We expect journalists to manage their source material, and write their articles, free of even a significant risk of unattributed use of others' work.

128 The present case falls at the other end of the spectrum. The paragraphs which have their origin in the Erowid Article amount to under 250 words (approximately 7% of the total word count of the published Article), and on any account have been substantially re-written (which, absent intent to disguise the origin, serves only to obscure the origin for the journalist to spot that attribution may be required). The paragraphs unattributed deal in narrative fact, with a degree of media meta-narrative, common to many publications and many sources in the Article itself. It is in the context of a long piece of highly-original reporting, against a background of a stupendous volume of research and reading. The Article itself was prepared over a very long-period of time (for a newspaper journalist at least), and it is unclear the extent to which a journalist submitting in late October should recognise modified turns of phrase from narrative paragraphs he first read the June or July previously.

129 That is not to say there are not criticisms that could be made. JP Rathbone himself described his archival system of source material as "pile it high": a more systematic approach to collation and storage of materials might have assisted. When confronted with two 'errors' of fact (the date of legalisation of ayahuasca in Brazil, and that it was the younger brother of Cadu whom Cadu thought to be Jesus Christ) in the narrative which (several drafts earlier) had been sourced from the Erowid Article, he did not return to the source of those 'errors' to check if there were further errors of

fact. Had he done so, he would have been struck by the similarity that Dr Labate has highlighted in this complaint.

130 In all the circumstances, I do not think that JP Rathbone fell far below the standards expected of a professional journalist. It was an error to allow the direct use of those paragraphs from the Erowid Article, and had it been wilful, that would have been a most serious error indeed. But I have found it was not wilful, and I appreciate the context of reporting a story of this scale while running a busy desk: taken together, I cannot condemn as a breach of the spirit of the Code his failure to spot the similarity between his narrative paragraphs and those in the Erowid Article he had read months earlier.

The General Allegation: The Scope of the Idea

131 Compared to the Specific Allegation, which was discrete and limited to two paragraphs, it is not as easy to discern the scope of the General Allegation of plagiarism. The following passages from Dr Labate's correspondence seem relevant:

(1) [After citing the Erowid Article] *These findings and interpretations are not yours, by mine. The same rules apply to journalism and academic work: sources must be quoted.*

(2) [He] *copied our research, data and interpretation of facts, without quoting the original published initially at Folha de São Paulo, and then modified and amplified and published at Erowid*

(3) Rathbone did not come up with the idea of those main paragraphs pointed [in the Erowid Article]*. This involved following the case closely, during several weeks -- which he did not. Those ideas are result of our research and interpretation of facts.*

(4) We [Erowid] *were the only piece who ever published about this double dimension of Glauco as a cartoonist and charismatic religious leader, and the paradox of his death. That idea comes directly from our* [Erowid] *article. That is the essence of our article.*

(5) [Rathbone's Article's] *pourpose is to serve the same idea/ flow of argument: that the media changed it's attitude towards ayahuasca and the case after some specific developments. In any case, the solution given here is limited, as the "new" information introduced by "original research" comes after my name anyway*

(6) The idea that Glauco was violently killed is obvious; and also that most Brazilian's knew Glauco as a cartoonist; and that as a cartoonist, his main job is to make fun = therefore there is an irony in this violent death. The nation was in schock for that, and I am not claiming I am the only one who felt like this or wrote about it.
The idea that Glauco was the leader of Daime was disseminated too. But this was most definitly very superficial and generic information availalbe. Our [Erowid] *article is the only one that got into the merits of what the church really was; what he was as a religious leader; what was the relationship between his art/cartoons and his Santo Daime mediumship inspiration and leadership; how he was accomodating to poor and problematic people who looked him up, and how this might have played a role in the end of his life. That added another layer of complexity to the discussion; that shows the full irony or paradox. The author writes in the begining of his text:*

> *And then there is Glauco's story, largely unreported outside Brazil, although it is one of the most curious cases of them all.*
>
> *Not quoting our original in this regard seems this is one of the strategies to make his article useful, after 5 years, with no much new research regarding what happened after, besides what has been already published by the media. Omitting the main article that inspired the essence of his pieces is a serious short-comming.*

132 Thus it seems apparent that the alleged plagiarism of ideas and/or interpretation of the facts relates to the Erowid Article, which set out (a) the duality of Glauco as both a cartoonist but also as a spiritual/religious leader, and the relationship between those parts of his life; (b) the meta-narrative of the media coverage, whereby at a certain point tragedy turned to blaming ayahuasca; and (c) that this involved paradoxes as to violence/gentleness.

133 Again, the Framework I have set out above applies: I need to ask myself both:

133.1 Was the Erowid Article the direct source of these ideas, which are original to it, and which are presented in the Article as original work?

133.2 If so, what was JP Rathbone's intention in using them without any attribution in the Article?

The General Allegation: Applying the Framework to the Facts

134 I have seen the email JP Rathbone sent in 2012 intending to use the murder of Glauco as the hook upon which to hang a broader article about ayahuasca and the sacred tea ceremonies of the Santo Daime religion. It is clear in his pitches to editors, and in his introductory emails to potential sources, that he was focussing on the dualism of Glauco's life, and the contrast between his gentle satire and character, and the violence of his death.

135 Lionel Barber's correspondence sets out the various elements of news coverage that followed. Anyone who looked at the news coverage of Glauco's murder (and a piece this carefully researched would not have failed to do so) would have struggled to miss the national debate about ayahuasca on the front page of Brazil's leading magazines, nor that ayahuasca was in some way blamed for Glauco's death, nor that the point at which the familiar media narrative switched from tragedy to blame was at the point it transpired that Cadu was mentally ill and that his father and lawyer had

linked that to Glauco's tea ceremonies. These elements are common currency, and to fail to arrange them as JP Rathbone did would have been almost perverse.

136 Ultimately, JP Rathbone's defence to this element of the charge, beyond disputing that the Erowid Article's thesis is sufficiently original to attract protection, is that he did not consider the material which was drawn from the Erowid Article to be the stuff of ideas at all: he considered it boilerplate narrative. The originality of which JP Rathbone is (I think rightly) proud in this story stems from the scale of the original reporting, especially the interviews with primary sources such as Glauco's widow.

137 Accordingly, I consider this complaint fails at the hurdle of the first question, and so it is unnecessary for me to answer the second question of intention. Had I been required to do so, it seems inconceivable that I could have found any dishonesty in the alleged appropriation of Dr Labate's work or ideas, given his eagerness to share the Article with her immediately upon publication online.

138 There is no doubt that Dr Labate was helpful to JP Rathbone in reporting this story – she was one of three people who effected the introduction to Glauco's widow – and she sent through plenty of information, even allowing that much of it remained unread. But I have been able to confirm the extent of the other sources of information on which the Article relied, and once their influence is also seen, the reliance by JP Rathbone on the Erowid Article to the extent alleged is manifestly without foundation.

139 I have some sympathy for Dr Labate – without the benefit of seeing the whole of the reporting process laid bare, and knowing that she was in-part instrumental, her annoyance at the lack of credit is not without moral justification. But, beyond the plagiarism Framework I have set out above, it is not my place to interfere in the writing or editing of articles to ensure that sources get the credit *for being sources* that they perhaps morally deserve. That is a function reserved to editorial.

140 Accordingly, I am easily satisfied that JP Rathbone did not plagiarise the ideas, research, or interpretation of the facts from the Erowid Article, and thus the General Allegation has disclosed no breach of the spirit of the Code.

Conclusion & Remedies

141 In summary, I have found that the tone used by JP Rathbone in responding to Dr Labate's complaint was unacceptable but that it has been remedied by an apology from Lionel Barber on behalf of the *Financial Times*.

142 As to the specific allegation of plagiarism (the two paragraphs), I have found that they were indeed directly derived from the complainant's Erowid Article, but that I am entirely satisfied that this was unintentional, and not plagiarism. I have considered whether failure to prevent unattributed use, even though unintentional, was a breach of the Code by negligence, and have concluded that in all the circumstances it was not. The general allegation is misconceived: the idea in the article was not derived from the complainant's work.

143 However, notwithstanding that I have not found a breach of the spirit of the Code by JP Rathbone, I am concerned that the unintentional direct sourcing of two paragraphs from the Erowid Article should be reflected somehow online. This remedy attaches not to any breach of the Code by JP Rathbone, but out of the need for the *Financial Times* itself to avoid a *prospective* breach of Clause 1.2 of the Code, prohibiting misleading statements once recognised. To merely state *"This article has been amended since original publication to include reference to Beatriz Labate, who was helpful to the author in the research of this article"* does not address that one of her articles was (in modified form) the origin of two paragraphs of the Article. The FT having been put on notice of that finding of fact by this Adjudication now makes it necessary to clarify that fact, failing which I consider the FT would breach Clause 1.2.

144 Finally, to mark the seriousness of the allegation (if not the outcome) the Article shall also carry a link to this Adjudication.

GREG CALLUS
Editorial Complaints Commissioner
Financial Times Ltd
18 June 2015