

## Grog. Again.

It was Christmas Eve, so in accordance with core Territorian values, I headed off to my local bottle shop to stock up on some Christmas cheer to tide me over. There were long queues, but, it being Christmas and all, what with the tinsel and the piped carols and the staff in their Santa hats and furry antlers, the atmosphere, if not exactly jolly, was at least moderately festive. The woman ahead of me in the line was middle-aged, neatly dressed, and unremarkable in her demeanour. Like me. Unlike me, she was Aboriginal. And unlike me, as we exited the bottle shop, she was stopped by the police officer stationed at the door, who conducted a mini-interrogation. Name? Address? Where are you taking this carton? And then laboriously checked the woman's particulars against a long list on a clipboard, before waving her on. All of course in full, humiliating view of the passing shoppers.

I caught up with the woman as she was disconsolately pushing her trolley towards the carpark, to share my embarrassment at the petty ordeal she had just been subjected to. She was fuming. Merry Christmas, Alice Springs.

Whereas Minister for Alcohol Policy Dave Tollner lambasted the erstwhile Banned Drinkers Register by saying it made licensees into "something akin to heroin traffickers",<sup>1</sup> no such criticism has been leveled by the government at this replacement measure, at least in Katherine, Tennant Creek and Alice Springs: the ubiquitous and conspicuous police patrols outside takeaway outlets, tasked to enforce the prescribed patchwork of restrictions which blanket, in a specially measured way, Aboriginal drinkers.<sup>2</sup> Police are entitled, and indeed required, to enforce this discriminatory prohibition regime. Their presence at bottle shops is no doubt expensive, and by many resented, but it seems to have been effective: the apparent increase in drinking levels immediately following the abolition of the BDR on 1 September 2012 was succeeded by a modest but welcome reduction in consumption, particularly in Alice, Tennant and Katherine, as compared to Darwin and Palmerston,<sup>3</sup> where the bottle shop patrols do not operate. In our jurisdiction, where the havoc wreaked by alcohol is so appalling, there is at least a prima facie case to support any measure which brings drinking down.

Notwithstanding this, recorded alcohol related assaults per capita went up by 10% in the 2013 calendar year,<sup>4</sup> although the government puts that down to improved and more intensive policing. Perhaps that is so: unpacking and unpicking the data is no simple task.

Still on the topic of alcohol policy, the following extracts from CLANT's recent submission to the Review of the *Alcohol Mandatory Treatment Act*, refer to a similar data-related problem:<sup>5</sup>

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<sup>1</sup> Speech to Australian Hotels Association annual dinner, 22 May 2013

<sup>2</sup> See, for example, *Stronger Futures in the Northern Territory Act 2012* (Cth), Part 2 ("Tackling Alcohol Abuse"), which authorises the establishment of alcohol protected areas in town camps.

<sup>3</sup> NT Department of Business, "Wholesale Alcohol Supply to June 2013" accessed at [http://www.dob.nt.gov.au/gambling-licensing/liquor/Documents/wholesale\\_alcohol\\_supply\\_201306.pdf](http://www.dob.nt.gov.au/gambling-licensing/liquor/Documents/wholesale_alcohol_supply_201306.pdf), 18 February 2014

<sup>4</sup> <http://www.pfes.nt.gov.au/Police/Community-safety/Northern-Territory-crime-statistics.aspx>, accessed 18 February 2014

<sup>5</sup> The full submission can be accessed at: [http://clant.org.au/images/images/AMT\\_submission\\_Feb\\_2014.pdf](http://clant.org.au/images/images/AMT_submission_Feb_2014.pdf)

The stated objective of the Review is “to assess to what degree the *AMT Act* meets its function”. However, publicly available information regarding the outcomes of the AMT scheme is so scant that the capacity of organisations such as CLANT to contribute to comment on the extent to which the scheme is fulfilling its function is severely limited. This problem is aggravated by the fact that control of the information that has been released to the public is exercised by the Northern Territory agency responsible for the operation of the scheme, the Department of Health, which is also conducting the Review. The Review, accordingly, lacks both transparency and independence. These are fundamental defects which CLANT submits undermine and compromise the Review process.

CLANT submits that an independent evaluation of the AMT scheme be undertaken, to be conducted by an appropriately qualified expert body, such as the National Drug Research Institute at Curtin University, and that the evaluation team be given full and unfettered access to all records held by the Northern Territory Government in relation to the administration of the *AMT Act*.

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As an example of this lack of transparency and independence, CLANT refers to the government’s response to the decision in *RP v Alcohol Mandatory Treatment Tribunal of the Northern Territory* [2013] NTMC 32. A central issue in that case was the lack of an advocate for the appellant who had appeared before the Tribunal. The court found:

Without an advocate she was effectively not being heard on factors crucial to the Tribunal’s determination and as such I find that failure to appoint an advocate was a denial of natural justice (at [31]).

As reported by the ABC on 10 January 2014, [Alcohol Rehabilitation] Minister Lambley responded by saying that this decision “has no implications for the tribunal’s decisions, and it is not a precedent”, and that “an advocate is not always required”.<sup>6</sup> What was not disclosed in this or any of the numerous public statements by the Minister, or in the Alcohol Mandatory Treatment Quarterly Reports published to date, or in any of the material published by the government for the purpose of this Review, was that in fact, no advocate had been provided for any of the scores of people who had appeared before the Tribunal in Alice Springs. This was only disclosed to CLANT by government at the Focus Group consultation with legal services conducted on 4 February 2014, in response to a direct question.

The Minister’s statement was seriously misleading. That is deplorable.

Subsequently, on 13th February 2014, the eve of the deadline for the lodgement of submissions to this Review, Minister Lambley, under the cloak of parliamentary privilege, launched an extraordinary attack on the legal service which had represented the successful appellant in the matter referred to above, accusing its staff of “rank duplicity” and “utter hypocrisy” and, in effect, of acting in bad faith. Once again, Minister Lambley omitted to mention in her lengthy statement that in fact, no lay advocate had

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<sup>6</sup> <http://www.abc.net.au/news/2014-01-10/second-mandatory-grog-rehab-tribunal-rulingchallenge-alice-spr/5193970>, accessed 18 February 2014

been provided for any of the people who had appeared before the Tribunal in Alice Springs, and that requests by the legal services for funding to enable them to provide legal representation to persons appearing before the Tribunal had been ignored or refused.

If this is characteristic of the government's response to problems which emerge in relation to the administration of the AMT scheme, then CLANT has little confidence in the process and outcomes of this Review.

Both the bottle shop police patrols and the alcohol mandatory treatment scheme operate in a manner that targets Aboriginal people. They may both be effective in reducing alcohol-related harm, although the jury hasn't even gone out yet, let alone come back in. But even if they are ultimately shown to be effective, is this sort of racially discriminatory approach, even if it can be justified as a special measure, really in the best interest of our community as a whole?

One hopes that this key question will be addressed and perhaps even answered by the Federal Parliamentary Standing Committee on Indigenous Affairs Inquiry into the Harmful Use of Alcohol in Aboriginal and Torres Strait Islander Communities<sup>7</sup> – the announcement of this Inquiry is welcome, but perhaps we would have been better off with an Inquiry with Terms of Reference broad enough, and brave enough, to embrace (and to challenge) our community as a whole.

Russell Goldflam

February 2014

#### **Apology to Hon John Elferink**

I apologise to the Northern Territory Attorney-General, John Elferink, for the offence to him caused by my column published in the January 2014 edition of Balance. Mr Elferink has specifically taken umbrage at the superimposition of the article (which included criticism of a comment he had made) on a photograph depicting a crowd of people delivering the Nazi salute. As Mr Elferink courteously but firmly explained to me, it was offensive to associate him in this way with the Nazi regime, notwithstanding the following express assertion in the text of the article:

I am [not] worried that we are sliding towards fascism. I have no doubt that John Elferink is sincerely committed to securing the peace, order and good government of the Northern Territory, and moreover, I accept that his concerns [regarding the administration of the Serious Sex Offenders Act 2013] are both clear and proper: the protection of the community, and the protection of the public purse.

Despite that statement, the fact remains that I caused offence. Like the Attorney, I believe in robust debate, but on reflection I agree that to publish my article in conjunction with the photograph as I did was an error of judgement on my part, and has been personally hurtful. It was not my intention to wound, and I am embarrassed to now realise that this was the effect of my publication. For that I unreservedly apologise.

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<sup>7</sup> Terms of Reference accessed 18 February 2014 at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=indigenouaffairs/harmfulalcohol/tor.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=indigenouaffairs/harmfulalcohol/tor.htm)