

The Sublime Tragedy of Kava in North East Arnhem Land

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11 May 2015

Photograph: Fijian Methodist missionary Kolinio Saukaru of Yirrkala mission conducting a funeral service. Photograph Ted Evans, Jan 1, 1947, Northern Territory Library

It takes a long time to understand even the basics of Yolŋu life and to comprehend the dynamics of kava in North East Arnhem land is equally difficult. Perhaps the best that can be done is to simply state some facts- some more obvious than others. There is an obvious bottom line problem at an individual level with kava. Its abuse, whether detrimental to long term health or not, can have a very troubling effect on personal, family and community life. Is this effect worse than the effects of Australia's number 1 drug, alcohol? Definitely not. Nonetheless personal abuse of kava is a major problem in contemporary society even its homelands of Fiji.

Successive Federal and Northern Territory governments have understandably acted to ban kava, however, in cutting back funding to Aboriginal homelands and communities they have also created an inevitable escalation of an illegal, out of control market that makes Al Capone's bootleg industry of Chicago in the 1930s look like a tea party. The porous coastlines of Arnhem land and the relatively free movement and exchange of kava outside of the Northern Territory made an explosion of illegal kava usage and abuse in the North inevitable. This has an even more compounding destructive effect on Yolŋu life and a fresh approach from government, the courts and police is badly needed.

Yolŋu people facing serious charges involving the sale of large quantities of kava? The appalling reality is that senior leaders run out of options to support their homelands and their families and the only option is to sell kava. In this they are simply following the example of missionaries and homelands associations before the ban on kava. It is particularly the duty of the courts but also every Australian to understand how this problem has come to be since the Northern Territory Intervention in 2007. I absolutely detest the personal abuse of kava but I have come to understand that the sublime tragedy of kava in North East Arnhem land is driven by many forces some wicked and some benevolent.

It is very important that there are no witch hunts

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or highly politicized debates about kava. (See Amos Aikman, "Kava's Going Toll in the Territory", The Australian, November 22-23, 2014, Inquirer, p. 3) It is also important that the burden of living in two worlds does not fall onerously on one set of individuals. (Heather Douglas, Namitjira, Citizenship and Prohibition)

Many issues pertaining to kava are not well understood important basic background points are:

- Kava was introduced to the North Eastern Arnhem land communities by missionaries representing the Methodist Overseas Mission for largely benevolent purposes.
- The debate about the beneficial (Ellis 1984) and non-beneficial (Mathews et al 1988) effects of kava has raged since its first introduction into Aboriginal communities in the Northern Territory. There is still no substantive conclusion to this debate and this is reflected in policy changes which swing from extreme prohibition to regulated usage.
- From 2001/2-2006/7 the licenced sales of kava was the main non-government source of income for Aboriginal people living outside the towns and regions in the Laynhapuy homelands of North East Arnhem land.
- In 2006/7 the reported revenue from kava sales in Yirrkala brought hundreds of thousands of dollars to homelands from the licencing agency namely the Laynhapuy Homelands Association
- Since that time based on reliable estimates would have brought millions of dollars into these communities and funded a long list of community activities which, due to government cutbacks, are now completely un-funded and have left many homelands in a parlous state. (see appendix 1) I estimate that approximately \$7.2 million would have gone to homelands for a wide variety of community projects under the system in which kava was sold through an Aboriginal owned licencing agency Laynhapuy Homelands Association which also regulated safe usage and monitored the importation and modes of delivery of kava across the region.
- Once an illegal market occurred due to the

total ban on the sale or usage of kava, not only did millions of dollars disappear directly from the communities into the hands of illegal marketeers, these funds went directly outside the community, outside the Northern Territory and outside the country. This has created economic devastation in North East Arnhem land communities like Lake Evella/Gapuwiyak and increasing impoverishment in remote community hubs like Yirrkala and Elcho Island.

- The importation of kava outside the Northern Territory has been relatively un-regulated and unpoliced. Fijian communities in the southern states freely consume and distribute kava without regulation.
- The police are ill prepared to stop personal use of kava and since the blanket prohibition in June 2007 and with the emergence of an illegal market situation there is no way to regulate or record usage. In this scenario the personal abuse of kava across the North East Arnhem land community has in all probability worsened draining the meagre pockets of the community in the process. Although before prohibition the abuse of kava was reportedly bad and it is certainly a mistake to gloss over the tendency for kava to create a zombie like state amongst people who over-indulge. It is also the case that for reasons which can only be speculated about, kava does tend to lend itself to abuse in North East Arnhem land. But this is also occurring in other places including Fiji.
- Part of the propensity towards kava in North East Arnhem land is because kava is seen to be an alternative to alcohol with less detrimental health and behavioural problems not only by lay-men but by church leaders, by community leaders and by many health professionals. In fact this was one of the original motivations for the importation of kava in north east Arnhem land and it continues to be an accepted principle.
- If it is not already clear I do not support the unlicensed use of kava then let me make it patently clear. I am very concerned about the way in which the personal abuse of kava can affect personal behavior and stupify people who would normally be

full of life and vitality. I certainly do not doubt the motivations of the police and officers who have the impossible job of policing what has become a black market of kava sales and importations across the whole of mainland Australia. But what is occurring in North East Arnhem land is nothing less than an economic tragedy and it is connected to the tragic misunderstanding and lack of investment in Aboriginal homelands by the Federal, Territory and in another context the Western Australian government.

Wanjarr

“No English words are good enough to give a sense of the links between an Aboriginal group and its homeland. Our word ‘home’, warm and suggestive though it may be, does not match the Aboriginal word that means ‘camp’, ‘hearth’, ‘country’, ‘everlasting home’, ‘totem place’, ‘life source’, ‘spirit centre’ and much else. Our term ‘land’ is too spare and meagre. We can scarcely use it except without economic overtones unless we happen to be poets.”

W.E.H. Stanner, *Confrontation*, Boyer Lectures, 1969, p. 44 cited by Mick Dodson, Foreword, Hinkson, Melinda and Beckett, Jeremy. *Appreciation of Difference: WEH Stanner and Aboriginal Australia*, An [online](#). Canberra, A.C.T.: Aboriginal Studies Press, 2008. Canberra, A.C.T.: Aboriginal Studies Press, 2008. xviii, 293 ISBN 9780855756604.

It is very important to understand what might motivate Yolŋu to become involved in kava trafficking. . There are several important points to be made here. The first basic point is that even in a welfare community very big sums of money are associated with kava sales. It is not un-common that every discretionary dollar of an individual’s income can be spent on kava. This is why the basics card is in many ways a god-send. It means that for families there is a certain amount that has to be spent on the basic needs of life. So in North East Arnhem land there is no doubt that the basics card has been important for many families and individuals.

But for more entrepreneurial Yolŋu kava is a way to make money. For others with a civic motivation, and following the lead of missions and homelands associations selling kava can be a way to make up for profound cutbacks and the dismantling of homelands organisations. Furthermore, even when community members are living in towns there is a yearning to be on country and in homelands. Kava has come to play an important role in appeasing people who were not able to live where they wanted, who may be living alongside clan rivals or people who over generations there was conflict.

It is not surprising that significant Yolŋu leaders have a tolerant attitude to kava. Kava’s introduction to North East Arnhem Land had divine origins. It was almost certainly introduced into Yolŋu life by Reverend Kolinio Saukuru in the war years. With the withdrawal of the European staff Reverend Saukuru took charge of the Yirrkala mission for the duration of World War II. Reverend Saukuru was followed by Reverend Taniela Lotu from the Methodist Church Overseas Mission and the friendship between the Fijian missionaries and the Yirrkala community established a long, fruitful and continuing relationship.

In Fijian mythology is it Degei, the creator of human beings who appears in the form of a snake, who gives the people kava and teaches them how to cultivate it. The serpent in Yolŋu life brings lightning, the change of seasons, fertility and power. Reverend Saukuru was a firm friend and advisor to many of the men involved in the Elcho Island reconciliation of 1957. Such is the esteem in which he was held that Kolinio Road in Yirrkala is named after him. Reverend Lotu was also around Yirrkala during the time of the bark petition and the famous church panels.

Kava was introduced by Fijian missionaries as a way of connecting Yolŋu people to the church, of reconciling the world of traditional life with the church and most importantly to soothe conflicts in the war years and what was probably the most violent and traumatic part of contemporary Yolŋu history. It is

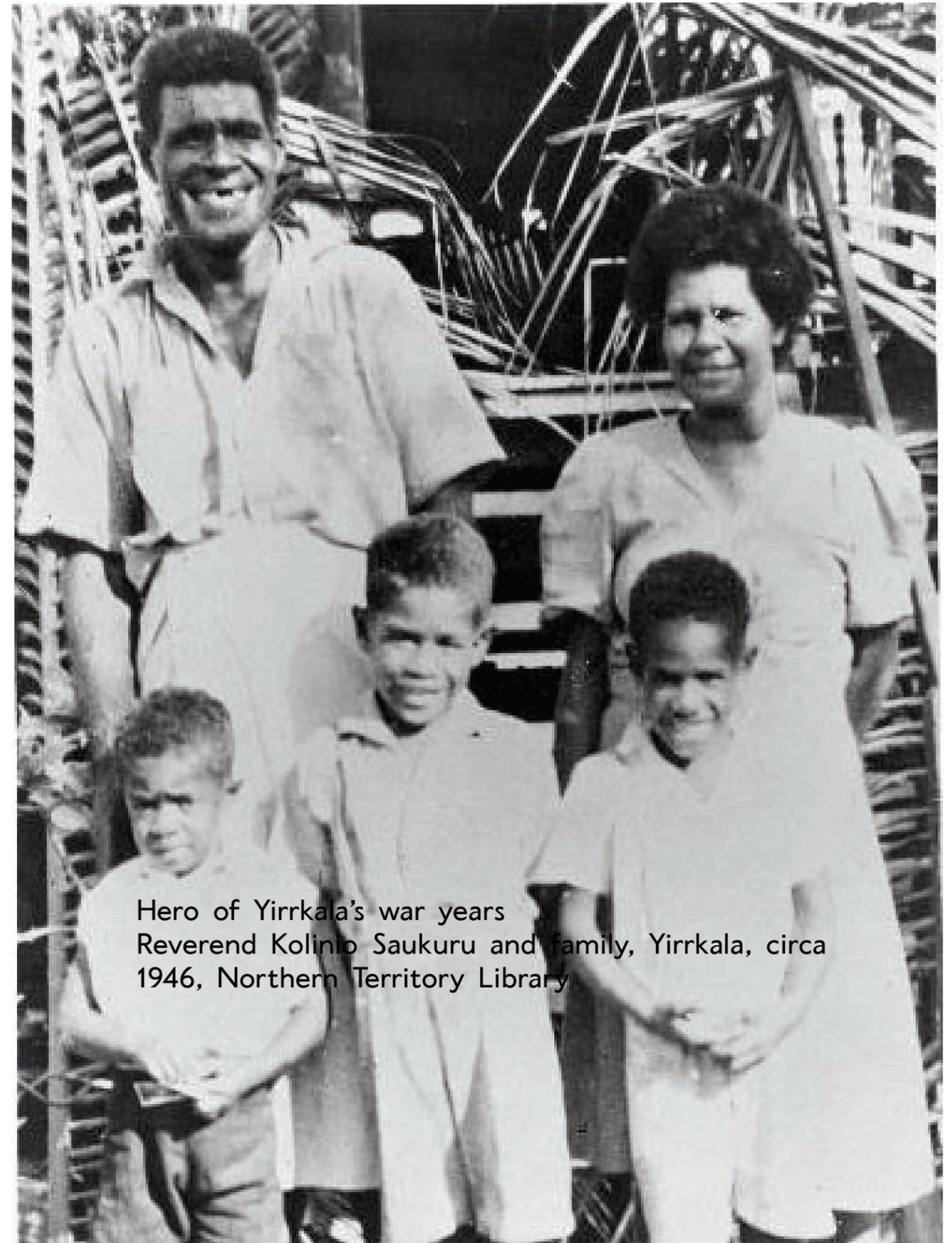
well known that particularly Reverend Saukuru moderated many conflicts and as the pictures above show he was a very trusted person by the Yolju clans.

The second major point to be made is that revenue from kava sales was the main form of discretionary income for homelands support. I do not know if the Yirrkala church generated revenue from kava sales. But it is more than likely that it did. With the homelands movement in the 1970s and the formation of homelands infrastructure groups then kava became an important source of revenue. The well respected Australian National University anthropologist and linguist Frances Morphy writes of Laynhapuy Homelands Association as follows:

“Laynha has frequently used its income from kava to supplement government programs, for instance by providing assistance to members to act as escorts for sick relatives, and by contributions to the funding of capital projects such as the building of the ranger station at Yilpara. It has also initiated its own projects, such as building and equipping offices on the homelands. The power and water systems on the homelands have also been substantially funded from kava income. Laynha’s contributions from kava income to the expenses of funerals and other ceremonies have had a significant impact on the trajectory of Yolngu ceremonial life, and on the process of intergenerational cultural transmission. Such aspects of the organisation’s role are not given any kind of official recognition by the state.”(Morphy, 2008, p. 140)

Describing the effect of the loss of the income from kava wholesaling and distribution Morphy went on:

“Until kava importation was summarily banned in June 2007 by government fiat, Laynha’s major source of discretionary income was kava wholesaling and distribution. It also derived some income from civil works contracts such as road grading undertaken by its operations department, and from a small proportion of the royalty equivalents from the Alcan (now Rio Tinto) bauxite mining operation on the Gove Peninsula near Yirrkala. The separately



Hero of Yirrkala’s war years
Reverend Kolinio Saukuru and family, Yirrkala, circa
1946, Northern Territory Library

incorporated air service, Layhna Air (or more formally Balamumu Mungurru Aviation Pty Ltd), runs a break-even charter service between Gove airport and the Layhna homelands.” (Morphy, 2008, p. 114)

In other words, kava wholesaling and distribution was the largest income earner of all of the conventional economic activities occurring in the homelands of the region.

In its 2007 Senate submission Laynhapuy Homelands Association estimated that after the costs of running the Kava Wholesale Business and meeting licensing obligations (eg. health monitoring & education activities) the proceeds available for use for community benefit were approximately \$900k per annum. It maintained that “Annual proceeds have built to this level over the past 4 years, as licensed kava has supplanted ‘black market kava’ in the licensed communities. Wholesale sales have remained fairly constant for about 2½ years. So this is the anticipated level of income forgone with the current 5 kava License Areas”. (Laynhapuy, 2007, p.22)

This means that since the total ban on kava across North East Arnhem land has occurred over 7 million dollars has been lost to the homelands. It is difficult to express how much the loss of this money represents in a context where there have been Territory and Commonwealth cut backs to remote Indigenous communities and where the closure of the Gove aluminium processing plant has led to a serious erosion of services and income for the region. This also does not include the flow on externalities of these funds being invested in community jobs and infrastructure. In short the effect of all these factors has been devastating. Nor does it include a calculation of what it means for money in a poor community to flow directly out of the community to a kava traffic cartel effectively operating outside the Territory and even outside the country.

The final contextual point that needs to be made here is that at the same time as the Howard gov-

ernment outlawed kava sales and distribution in Arnhem land it also ended the Community Development Employment Program (CDEP) which meant that not only was there an end to revenue for infrastructure and community development there was no payments for community work.

Much of what I have discussed above, namely the very large revenue stream generated by kava sales by Laynhapuy was not known very well known to many Yolŋu people. They would have known of kava’s general acceptability by homelands managers and the sudden reversal of government policy during the so-called Federal intervention. But every Yolŋu person is aware of the amount of personal income being spent on kava in the Yolŋu community. Over time any capable entrepreneur becomes alive to the possibility of how the sale of kava might boost their own capacity to support a family or a homeland in the same fashion as had been practiced by missionaries and Aboriginal managers over previous decades. In effect in the absence of any other source of economic development Yolŋu people were simply doing what others had done before them in their own resourceful ways.

Even given the overwhelming pressures and rationale there is genuine resource amongst the older leaders about the effects of kava. Much of the contemporary writing about kava in Fiji expresses a similar remorse. The concern is that the economics of kava production is creating an addicted community.

“Many indigenous Fijians, however, complain about kava drinking. They sometimes even complain about kava while drinking it because public forums are held around the kava bowl. People complain that too many people drink nowadays, and that they drink too much. They say that it makes people too lazy to work or go to church, and that men come home from drinking sessions too tired to satisfy their wives. In short, kava is seen as a force that weakens individual

bodies and the social order, numbing and nudging Fijian society along its slow and persistent path of decline. A typical sentiment heard in Kadavu is, "Nowadays, too many people drink too much kava, and it wasn't this way in the old days." (Tomlinson, *A Consuming Tradition*, p. 10)

It seems very clear that there should neither be a free market or an illegal market for kava production and distribution. Kava should be regulated on behalf of the community. Its use should be limited. Its production and distribution should be monitored. Revenue from its sales should be used for health and education and any further income should go to homelands and the economic development of the community. Ideally the kava licenced communities should be run at arms-length from community members but any revenue from sales should go directly to community economic development.

With regard to Yolŋu people coming before the courts for the sale of kava the burden of citizenship placed on Albert Namitjira in 1958 is very much relevant. In that case the contradictions of a very poor government strategy of assimilation crashed head long into an outstanding individual who carried an impossible burden of citizenship in two worlds. Today in 2015 Yolŋu leaders carry a similar burden. They like Namitjira are emissaries for their people. They are supporters of a way of life that is not adequately supported or understood by our local, Territory and Commonwealth government. They must do their best for their people in an imperfect world where poor government decisions are the norm. It is the burden of the court to administer justice before the law. So far Northern Territory magistrates have not made the same mistakes as the Northern Territory court in 1958. (See Douglas) But currently in the Northern Territory the law is being made an ass because of the loss of revenue, industry and the lack of regulation of kava sales in North East Arnhem land. The bottom line is that in most Australian communities a civic leader enjoys a strong stream of public and private revenue. The leader's job is to en-

sure that the revenue is carefully and appropriately spent within budget. Yolnu Aboriginal community leaders should enjoy the same opportunity. That is the nub of the kava problem in North East Arnhem land.

Appendix One: Extract from Submission to Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the Appropriation (Northern Territory National Emergency Response) Bill (No.2) 2007-2008 by Laynhapuy Homelands Association Inc. on behalf of our members - Traditional Owners of the Laynhapuy, Djalkarripyungu and Miyarkapuyngu regions of North East Arnhem Land

The 'ban' on the commercial importation of Kava. Kava has been a highly regulated substance in the Northern Territory for the past 4 years unlike kava in the southern states, which is the source of the black market. Kava's history of use in this East Arnhem region goes back however a quarter of a century.

In Licensed Kava Areas in the NT, adults can only purchase 400g per week per person, and their names and purchase quantities must be recorded. 100g of licensed kava costs \$15 including GST.

Laynhapuy Homelands Association Inc. (LHAI) is the licensed wholesaler of kava under the Northern Territory Kava Management Act.

LHAI hold a legally valid importation license issued by Mr Abbott's own Department that does not expire until 31 December 2007. However we are now not allowed to import any product.

This decision was taken without any advance warning and with no consultation with the communities or businesses affected. In fact we received advice a day after the ban came into place

The decision to ban kava is not a decision based on reliable scientific, medical or social research.

In 2004, Foods Standards Australian New Zealand compiled a technical report on Kava - A Human Health Risk Assessment. It says

"While excessive consumption may lead to adverse health effects, such as kava dermatopathy (scaly skin rash), there is no evidence that occasional use of kava beverage is associated with long term

health effects."

Because many of our Associations' members, directors, staff and their families drink kava to varying degrees, they are obviously directly concerned about possible health risks and they want to know the facts.

Our Association has commissioned two independent reports by the Sydney Health Projects Group from the School of Public Health at Sydney University, to identify and review all available scientific and medical literature on the health impacts of Kava.

Current evidence indicates a 'casual effect' related to kava drinking, only in relation to: lethargy, 'scaly skin rash' nausea/loss of appetite and indigestion, weight loss, and raised levels of a liver enzyme which is a reversible condition.

Compare this with the well known harmful effects of tobacco, softdrinks and high sugar/fat content foods which are killing many Aboriginal people through lung disease, heart disease, diabetes, and with the effects of alcohol which alone has killed 19 -21 people in this regions in the past 4 years through violence, suicides and road accidents.

If the Minister has any credible information on kava-related morbidity and mortality, or adverse social consequences, this should put it into the public arena so it is available to health professionals and consumers alike. Quite frankly, LHAI doubts that such evidence exists.

Yes, there is some abuse of kava sold under license, but the licensees - all of whom are indigenous (Yolngu) run multi-purpose service organizations - and the respective communities are working on strategies to address this in cooperation with the NT Licensing Commission and Division of Racing Gaming and Licensing..

Yolngu communities in this region made a conscious choice at the community level to request the sale of licensed kava in preference to alcohol. All of the six licensed kava communities are 'dry' communities - they have already banned alcohol of their own

volition. There choice should be respected.

There is no known association whatsoever between kava use and violence, crime, child abuse, sexual assault, etc. In fact the opposite is likely because of the sedating effects of kava.

No consideration appears to have been given to the impact of the ban on the likely influx and use of alternatives, which are far more damaging to health and social functioning of the communities.

We understand that Minister Brough and Minister Abbott have never actually visited a 'licensed kava community'. They have only visited communities where the black market has been allowed to thrive. Black market kava can cost up to 10 times the price of legal kava and definitely would cause financial hardship. They have certainly never discussed their concerns directly with the licensees or licensed communities.

Some of the information provided by Government has been misleading in relation to health and social impacts and details of the supply of kava. Licensed kava has effectively and incrementally displaced 'black market kava' in communities where it was licensed. This was precisely the intended effect of the regulatory system, and is the proper explanation of why legal imports of kava have increased to the current stable levels.

Better regulation of kava in other jurisdictions to prevent it being illegally brought in quantity into the Northern Territory would have been a far more appropriate policy response. Similarly the expansion of the licensing regime into unlicensed communities would similarly have removed the black market and provided for more effective control and monitoring of kava use and incremental reduction in consumption levels.

The Australian Government's precipitous action will also have very adverse financial consequences for the Yolngu owned organizations that sell kava as just one of their diverse community functions. All kava profits must go back to the community for commu-

nity benefit. That is, services, facilities, training and employment - it complements if not exceeds government assistance in these areas.

At Ramingining kava proceeds have been used to help rehabilitate the Murwangi cattle station and abattoir to create employment., Yirrkala Dhanbul Council currently has \$600,000 worth of community projects dependent on kava proceeds for completion. Laynhapuy Homelands Association has substantially funded our Ranger program, staff housing, improvements to community housing, and were planning to invest in a homeland training center, homeland power system, and cyclone shelter, co-finance owner-occupier house building, and the development of our construction and civil works businesses. We have current contracts with suppliers of various services to the value of some \$300,000 that we will now have trouble honoring

The Government has just removed several million dollars per annum of income from these communities all of which goes to provision of services and facilities and generation of employment and other business activity without consideration of the consequences.

Activities at LHAI funded from proceed of Kava Wholesale business.

After the costs of running the Kava Wholesale Business and meeting licensing obligations (eg. health monitoring & education activities) the proceeds available for use for community benefit are in the order of \$900k per annum.

Annual proceeds have built to this level over the past 4 years, as licensed kava has supplanted 'black market kava' in the licensed communities. Wholesale sales have remained fairly constant for about 2 years. So this is the anticipated level of income forgone with the current 5 kava License Areas.

Assistance to Members (recurrent)

- Health Escort Travel Assistance

- Training Assistance
- Funeral & Ceremonial Activities
- Welfare Assistance
- Cyclone Evacuation

External donations/support

- Support to school & sporting excursions
- Support to harmony/Night Patrol
Direct Indigenous Employment (recurrent)
- Chairperson's Stipend
- Executive Support Officer
- Community Worker (2 days/wk)

Homeland Capital Projects

- Ranger Station at Yilpara (approx 70Ä)
- Boat for Sea Rangers
- Yilpara Reticulated Power network (\$27k contribution)
- Power Line at Yilpara (approx 30Ä)
- Women's Centre, Yilpara (electrical, plumbing & slab) (10Ä)
- Community housing concrete verandas x 30 (100Ä)
- Reticulated power engineering study Wandawuy Homeland (100Ä)
- Homeland Offices x 6 Force 10 building kits (100Ä)
- Homeland Office generators
- Dhuruputjpi SRA (School of Air) (\$30k)
- Homeland Tractors & Trailers (approx \$57K)
- Homeland Bores (approx \$39,000)

Resource Centre Capital Projects

- Short term accommodation for contractors & visitors x 2 units (100Ä)
- Staff housing 2x3 bdr duplex (100Ä)
- Staff housing (CDEP Coord) earth works & infrastructure (15Ä)
- Resource Centre Office Extensions & refurbishment (100Ä)
- Survey and engineering assessment for subdivision and Land Use Agreement (100Ä)
- Fencing, repairs and furniture for staff housing.
- Computer hardware (servers & PCs)
- Purchase of plant & equipment to support Civil Works business.
- 2 x vehicles

Funding Leverage

- 20Ä matching funds to Health People Healthy Country Early Investment project (approx \$250k Laynha contribution) to build housing for Ranger.

Other

Contribution to General Operating & Governance Costs:

- including part CEO and Corporate Services Manager positions
- Board meeting costs.
- Consultancy re finance & accounting.
- Cash flow/liquidity to underwrite commercial finance for Grader, Tipper and Low Loader.

Investment/Contracts Related to Kava Business

- Kava Warehouse - special construction/fit out in

2006 (approx \$140,000)

- Kava wholesale/retail sales, inventory and ID tracking software almost completed (approx \$100,000)
- Kava Health Monitoring Project - \$120,000 contract with NT Health for 12 months only 4 months in.
- Kava research. Two projects completed in last few months approx \$35k.

(We anticipate a bill for approximately \$140,000 for kava ordered and ready for export that can no longer be delivered).

Planned Use of Kava Proceeds 07/08

- Labour & other material costs for homeland offices x 6
- Homeland Training Centre including VOQ accommodation (approx \$250k) if govt. funding not secured or co-contribution required.
- Basketball courts x 2
- Cyclone shelter/resource centre office/training room extension (\$350k contribution)
- Support to develop homeland stores business as part of SRA
- Reticulated 240v power for Wandawuy if Govt funds not secured or co-contribution required (\$400k)
- Purchase of D6 Bulldozer for Civil Works Business
- Infrastructure works for subdivision to allow expansion of business activities and staff housing. (\$450k)
- Proposal to develop Home Owner/Builder

project with Habitat for Humanity involving establishment of mud brick construction business.

Laynhapuy Retail Kava License

Laynhapuy Homelands Association also hold a retail kava license for the Laynhapuy homelands. We have six 'nominee' outlets who sell kava in their homeland.

Proceeds from these sales (average of probably \$400 per week) are retained by the homeland to use as they see fit.

Yilpara Homeland is the largest nominee outlet and probably retains \$1,000 per week in kava proceeds. They have used their kava profit savings to set up their own community store, and use current profits to assist people with travel, subsidise the purchase of power cards (about 4 x the cost of Yirrkala/Nhulunbuy), and periodically support the operation of the store.

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