

Edited extract from email to CLANT members sent 3 February 2017:

Dear CLANT member

Titus Ani

On 1 February 2017, the CLANT Committee, in the course of considering a proposal to donate a further \$20,000 to the Titus Ani case ('the proposal'), resolved to seek the guidance of our membership by consulting with you.

Accordingly, I am now write to ask your view on the proposal.

Titus Ani is a Nigerian national who has been in custody for 13 years in Indonesia after being apprehended with 390 grams of heroin he had ingested. He has been sentenced to death.

Titus Ani came to the attention of CLANT because he was formerly a cellmate of Bali 9 member Scott Rush, who was then being assisted by former CLANT President Colin McDonald QC. Colin is a leading member of a group of Australian lawyers who have since then been acting pro bono for Titus Ani.

CLANT has to date made the following contributions to assist with witness expenses and the fees of some of the Indonesian lawyers who have joined the team representing Titus Ani:

- 2010 \$10,000
- 2012 \$20,000
- 2013 \$15,000
- 2014 \$15,000

In October 2013, Titus Ani's legal team filed a Memorandum of Motion to Reconsider, seeking extraordinary judicial review in Indonesia's Supreme Court. Three years then passed without progress. Then, in late October 2016, the team was informed that the judicial review had been listed for hearing commencing on 10 November 2016. CLANT was asked to urgently contribute further funds, and on 25 October 2016 we donated a further \$10,000, bringing our total contribution to \$70,000. At that time, about \$40,000 of the funds previously donated by CLANT were still unspent.

The judicial review, the next hearing dates for which are 6 and 13 February 2017, is an evidentiary hearing. Titus Ani has called these witnesses to date since November 2016:

- Dr Herawati Sudoyo (DNA evidence: a live issue is the identity of the prisoner – is he Emmanuel O Ihejirika, a professional drug smuggler, under whose identity he was convicted; or Titus Ani, a mule acting under duress?)
- Maruapar Siahaan (legal expert as to the appropriate legal remedy in the case)
- Dr Lely and Dr Darmadji (psychiatric evidence as to Titus Ani's current mental state)
- Prof Andrew Byrnes (human rights law expert; evidence on the death row phenomenon)
- Fr Chris Middleton SJ (human rights expert, works for a faith-based NGO)
- Lucia Orchard (character witness)
- Ms Dina Puspita Hapsari (evidence as to residence of Titus Ani in 2003 in UNHCR refugee camp in Pakistan: if accepted, this corroborates the defence contention that Titus Ani is not Emmanuel O Ihejirika)

Titus Ani's legal team estimate that they will require an additional \$15,000 to \$20,000 to cover known upcoming expenses.

The known upcoming expenses are to call witnesses from Nigeria and Pakistan including family members to give evidence regarding Titus Ani's identity and character, as well as Emmanuel Ogebe, a Nigerian/US lawyer who has collected evidence to establish Titus Ani's identity and movements before his apprehension. The team had planned to call Titus Ani himself, but his mental state has deteriorated to the

point where that is no longer possible, and in his stead Russell Thirgood, a leading member of the Australian pro bono team, will give evidence of his own investigations of Titus Ani's identity and movements, and of the instructions he has received from Titus Ani.

Among the reasons the Committee has discussed for accepting the proposal are:

- The outcome of this case – and the life of Titus Ani – may depend on whether the remaining witnesses are called, and their evidence adduced.
- The Titus Ani case is potentially a test case, the outcome of which could affect the prospects of many prisoners who have been on death row for lengthy periods and affected by the death row phenomenon.
- Continuing support for this campaign is consistent with CLANT's long-held opposition to capital punishment.
- Continuing support for the campaign is consistent with CLANT's long engagement with our Indonesian colleagues and the Indonesian justice system.
- Continuing support for the campaign is consistent with CLANT's purpose "to promote and encourage the protection of human rights and compliance with international human rights principles".

Among the reasons the Committee has discussed for declining the proposal are:

- CLANT has already donated a substantial amount to this case, and it is now time for other organisations or individuals to share the load.
- We should use our money to invest in objectives that serve our members.
- It is incongruous to continue to support this case, while implicitly supporting the Indonesian government by continuing to hold our conference in Bali.
- Rather than continue to support this single case, we should diversify our "portfolio" of cases.

Regards,



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