

**IN THE SUPREME COURT OF  
THE REPUBLIC OF VANUATU**  
(Criminal Jurisdiction)

Criminal Case No. 3875 of 2016

**PUBLIC PROSECUTOR**

**v.**

- 1. SAMSON LEO**
- 2. JOHN LUGAO**
- 3. BRUNO LEO**
- 4. PATRICK LEGA**

**Coram:** Justice D. V. Fatiaki

**Counsel:** Mr. D. Boe for the State  
Mr. R. Tevi for the Defendants

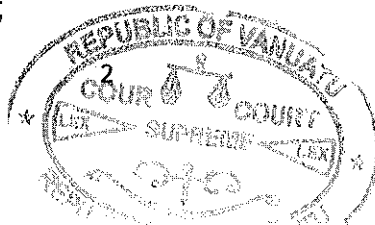
**Date of Sentence:** 03 June 2017

**SENTENCE**

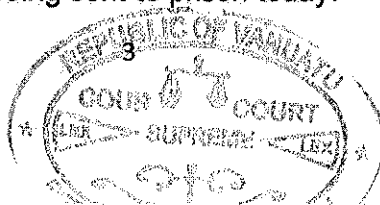
1. The 10<sup>th</sup> and 11<sup>th</sup> June 2014 are 2 days that will be long remembered by the community of Aronbwaratu village. On those 2 days the peace and tranquillity of the village was shattered by the defendants rampaging through the village, shouting and armed with bush knives. They destroyed the kitchen house and contents of Yvong Lingi and, Ham Soso was threatened to have his leg chopped in the process.
2. Terrorised mothers and children fled out of the safety of their homes and the family of Yvong Lingi was summarily banished from the village and forced to seek refuge at Laone village for 4 months before it was safe for them to return to their home at Aronbwaratu village. The dislocation resulted in school children missing school and many families had to be cared for by the people of Laone village.
3. Although the complainants have returned to Aronbwaratu village and an uneasy truce has been maintained there has been no custom reconciliation between the complainants and the defendants. That is unfortunate and even now almost 3 years after the incidents of June 2014 memories and hurts remain unresolved and are left to simmer beneath the surface.
4. This Court as the final arbiter of justice has a duty under the law to promote reconciliation and encourage and facilitate the settlement according to custom of any offence committed (see: Section 38 of the PC). The Court is also required to have regard to the possibility of keeping offenders in the community if it is practicable and consistent with the safety of the community (see: Section 37 of the PC).



5. In this case both the defendants and complainants have exhibited stubbornness and inappropriate behaviour. Samson Leo in his failure to perform the proper kastom ceremony concerning a "*tabu garden*" and Yvong Lingi in his provocative behaviour in stoning Samson Leo's family in the garden with dried coconuts and then, refusing to accept the offer of a reconciliation ceremony.
6. As leaders of your respective households and as fathers and husbands you have a duty to be good examples to your children and families. You should always show respect to each other in your relations and behaviour as the later Father Walter Lini proclaims: "*Respect is honourable*".
7. Before even considering any sentence in this case I urge you both to put aside your anger and strong-headedness and re-establish respect and peace between you and your families and the community of Aronbwaraty village. I direct you Samson Leo and Yvong Lingi and Ham Soso to perform a mutual kastom reconciliation ceremony to achieve that end.
8. I now turn to the charges in this case on which all 4 defendants have been convicted. Unlawful Assembly carries a maximum sentence of 3 years imprisonment and Riot 10 years imprisonment. Malicious Damage to Property carries 1 year imprisonment and Unlawfully Entering a Dwelling House carries 20 years imprisonment. Finally Threats to Kill carries a maximum sentence of 15 years imprisonment because human experience shows that death threats can quickly escalate into actual deadly violence.
9. All the offences with which the defendants have been convicted are serious offences as their maximum penalties show and in the present case the fear panic and terror that the community of Aronbwaratu experienced on the 10<sup>th</sup> and 11<sup>th</sup> June will continue to haunt its inhabitants for some time yet.
10. Although I am satisfied that all defendants are guilty of the offences charged I am also convinced that Samson Leo must bear the greater blame and responsibility – you were the older person and father of your sons and could have prevented the events of 10<sup>th</sup> and 11<sup>th</sup> June happening if you had shown wise counsel and self-control. You did not. I have considered and counsels helpful submissions in formulating the Court's sentences. The sentences of the Court are as follows bearing all the circumstances in mind:
  - (1) For Unlawful Assembly each defendant is sentenced to 12 months imprisonment;
  - (2) For Riot each defendant is sentenced to 2 years imprisonment;
  - (3) For Malicious Damage to Property each defendant receives a sentence of 9 months imprisonment;



- (4) For Unlawful Entry each defendant is sentenced to 4 years imprisonment; and
- (5) For Threat to Kill Samson Leo is sentenced to 3 years imprisonment.
11. All prison sentences are ordered to be served concurrently making a total prison sentence for each defendant of 4 years imprisonment. I have also considered all the defendant's pre-sentence reports in mitigation. I reduce each of your total sentences by a year as you are all first offenders making a final end sentence of 3 years imprisonment for each defendant.
12. Although Samson and Bruno Leo admitted some of the offences at the start of the case they had previously pleaded not guilty and their guilty pleas to Unlawful Assembly and Riot only occurred after Samson Leo had concluded his evidence. That is too late an admission to warrant any further discount although I accept that it shows some remorse and an acceptance of responsibility.
13. No sentence this Court passes today can bring back the 4 months of exile and loss of schooling that the family and children of Yvong Lingi and Ham Soso suffered in 2014. No power exists in this Court to force 2 strong-headed men to reconcile and like each other or forgive each others transgressions. That power rests in each of your hands-forgiveness is a gift of humility that every man can bless another man with and I urge you to do that for your future relations and your children and families.
14. Having said that I turn next to consider whether or not I should suspend the prison sentences imposed, and, despite the prosecutors strenuous call, I am satisfied that given the 3 years that have elapsed since the offences were committed and the return of the complainants to Aronbwaratu village after 4 months and considering the relative peace and calm that has been maintained between the parties for the past 3 years. I also take account of the past good character of the defendants coupled with the particular circumstances of the offending where the defendants were justifiably angered by the unlawful and dangerous actions of Yvong Lingi stoning them with coconuts. Given all that, I am satisfied that this is a proper case to suspend the defendant's sentences of imprisonment for 3 years as has been done in other cases of Unlawful Assembly and Riot.
15. This means that the defendants do not have to go to prison today but, if any defendant re-offends and is convicted in the next 3 years he will be immediately sent to prison to serve this sentence of 3 years imprisonment in addition to any other penalty he may receive for his re-offending. In other words each defendant's sentence of 3 years imprisonment lasts for 3 years and only after that period has passed is it extinguished but only if the defendant behaves himself in a law-abiding manner. The defendants must consider themselves very fortunate that they are not being sent to prison today.



16. In addition, I order the defendants collectively to pay compensation of VT10,000 to Yvong Lingi and to Ham Soso separately within 6 months of the date of this sentence ie. a sum of VT5,000 each to be receipted in writing by Yvong Lingi and Ham Soso.
17. I also order each defendant to perform 100 hours of community service under the supervision of a probation officer or other authorised person to be completed within 12 months, and lastly, each defendant is sentenced to supervision for 12 months and ordered as a special condition to undergo spiritual counselling with Pastor Harry Lega and anger management training as directed by the Probation Officer.
18. The custom reconciliation ceremony directed by the Court at para. 7 above is to be performed within 14 days and is to be witnessed by Chief Hutchinson Bogiri and Chief Vusen Boe.
19. Each defendant is advised that he has 14 days to appeal this sentence if he does not agree with it.

**DATED at Angoro, North Pentecost, this 3<sup>rd</sup> day of June, 2017.**

**BY THE COURT**

  
**D. V. FATIAKI**  
**JUDGE.**

The seal of the Republic of Vanuatu Supreme Court is circular. It features the text "REPUBLIC OF VANUATU" at the top and "SUPREME COURT" in the center. There are also smaller inscriptions in Vanuatu's indigenous languages: "ILEN" and "SIPWENET" (likely "Sipwene" or "Sipwene"). The seal is partially obscured by the signature and the judge's name.