



## HIGH COURT OF KIRIBATI

*Criminal Case N° 34/2018*

### THE REPUBLIC

v

### MANNABA TEAUOKI, TEITEMAURI EROTE and TEAIWA TETAO

*Teanneki Nemta for the Republic  
Banuera Berina for the prisoners*

### FILE NOTE

- [1] The prisoners are jointly charged with 1 count of damaging property, contrary to section 319(1) of the *Penal Code* (Cap.67). The property said to have been damaged was a *mwaneaba* in Aoniman village on Beru island. The *mwaneaba*, constructed from 'permanent' materials and belonging to the Kiribati Uniting Church (KUC), had been demolished by a large mob on 14 December 2017, leaving only the concrete floor.
- [2] The original information, filed on 29 August 2018, charged the prisoners and 23 others with 2 counts of damaging property and 1 count of arson, contrary to section 312(a) of the *Penal Code*. The damaging property charges related to the *mwaneaba* and a church building, while the arson charge concerned the house of the KUC minister. A further information was filed on 30 October, charging only the prisoners with 1 count of damaging property and 1 count of arson. The subject of the damaging property charge was said to be both the *mwaneaba* and the church. On 9 November a *nolle prosequi* was entered with respect to the original information. On 22 February counsel for the prisoners informed the Court that his clients would be pleading guilty to the damaging property charge but not guilty to the arson charge. The matter was set down for trial. Yesterday (which was to have been the first day of the trial) counsel

for the prosecution withdrew the arson charge. This morning she amended the damaging property charge to remove the reference to the church building. The prisoners were arraigned on the charge as amended and each pleaded guilty.

- [3] The incident giving rise to the charge has, as its genesis, a split that arose in 2016 among the members of what had previously been known as the Kiribati Protestant Church, or KPC. The prisoners (and many others) disagreed with a resolution taken at the KPC General Assembly in 2014 to change the name of the church to the Kiribati Uniting Church. That change took effect from the time of the next General Assembly, in September 2016. A legal challenge to the change of name was unsuccessful.<sup>1</sup> Those who opposed the name change (including the prisoners) then left the KUC and set themselves up as a new church, also called the Kiribati Protestant Church.
- [4] The split led to disputes in many parts of the country. Often the disagreement concerned the desire of the members of the new KPC to retain possession of the assets of the KUC. This was based on their mistaken belief that the KUC was a new church, and the assets of the old KPC should be vested in the new KPC.
- [5] Shortly before the events giving rise to the present charge, the Magistrates' Court in Beru registered the KUC (properly, the trustees of the KUC) as owners of the land in Aoniman on which stood the *mwaneaba*, church and minister's house. The prisoners and others who considered themselves members of the new KPC were aggrieved by this decision. On 14 December 2017 they held a meeting at the *mwaneaba*, at which it was decided that the *mwaneaba* should be demolished and the materials carried away to allow for its reconstruction at another location. It would appear that the mood of the deliberations was not helped by the actions of the KUC minister's husband, who was cycling nearby, and whistling, in a manner considered provocative. The group then proceeded to dismantle the *mwaneaba*, carrying away the roofing iron and timber frame. The concrete *boua* (pillars) were smashed. When the group was approached by the senior police officer on Beru and asked to desist, the prisoner Mannaba told him that he should not interfere. The roofing iron and timber was taken to the house of Mannaba, which was nearby.

---

<sup>1</sup> *Motiti Koa & ors v Ariti Tiira & ors* [2017] KICA 12.

- [6] It is not clear who at the meeting led the discussion about the demolition of the *mwaneaba* – counsel for the prosecution concedes that she has no evidence to suggest that any of the prisoners played a leadership role in the commission of the offence. Indeed, counsel for the prosecution is unable to say what distinguishes the conduct of the prisoners, such that they should be singled out for prosecution ahead of the more than 20 others who participated. Apart than Mannaba’s conversation with the police officer, and the fact that the materials were taken to his house, there is nothing to suggest a greater culpability on the part of any of the prisoners when compared to the rest of the group.
- [7] The prisoner Mannaba is aged 49 years. He is married with 4 children aged between 7 and 16. The prisoner Teitemauri is aged 37 years. He is married with 4 children aged between 6 and 16. The prisoner Teaiwa is aged 56 years. He is married with a 27-year-old son, who lives with an intellectual disability. None of the prisoners are employed – they lead a subsistence lifestyle.
- [8] Counsel for the prisoners submits that his clients are remorseful for their actions. They maintain that they were not the ringleaders of the group; they were simply carrying out the wishes of their *unimwane*. Mannaba’s house was used to store the roofing iron and timber only because it was the closest. Having now had the benefit of legal advice with respect to the dispute between the KUC and the new KPC, the prisoners accept that they were wrong to do as they did. A customary apology has been offered. The prisoners agree that the roofing iron and timber (now in the custody of the Council, having been seized by the police) should be returned to the KUC. They are prepared to assist in making good the damage they did to the *mwaneaba*.
- [9] Determining appropriate sentences in this case poses a significant challenge. Ordinarily an immediate sentence of imprisonment would be the inevitable consequence of property damage on this scale.<sup>2</sup> The seriousness of their conduct is magnified by the fact that their target was a *mwaneaba*, a building that sits at the heart of the community. Counsel for the prosecution submits that I should impose a custodial sentence. However I am concerned that sending these 3 men to prison while the ringleaders go unpunished would not be fair. I also believe that there are positive steps that we can take that have

---

<sup>2</sup> Counsel for the prosecution is unable to give a precise valuation of the damage caused, but it is conceded that it was in the tens of thousands of dollars.

