

In the Honorable Supreme Court of the Republic of Liberia
Sitting in its March Term, A.D. 2016.

Present: His Honor: Francis S. Korkpor, Sr.Chief Justice
Present: His Honor: Kabineh M. Ja'neh.....Associate Justice
Present: Her Honor Jamesetta H. Wolokolie.....Associate Justice
Present: His Honor: Philip A. Z. Banks, IIIAssociate Justice
Present: Her Honor: Sie-A-Nyene G. Yuoh.....Associate Justice

Fred Saye, Yei Dokie, Prince Zeaduah, Jerome Zuweh,)
Wilson Gondo, Wuo Gballah, Peter Zuweh, Orlando) APPEAL
Korto, William Gbanda, Saye Jeboe, Saye Garteh,)
Oretha Gono.....APPELLANTS)

VERSUS

Republic of Liberia.....APPELLEE)

GROWING OUT OF THE CASE:

The Republic of Liberia.....PLAINTIFF)
VERSUS)

CRIME:

Fred Saye, Jonathan Paye, Yei Dokie, Prince Lah,) ARSON, ARMED ROBBERY
Prince Zeaduah, Emmanuel Torbaye, Jerome Zuweh,) THEFT OF PROPERTY
Jerome Suah, Wilson Gono, Wuo Gballah, Peter) PHYSICAL OBSTRUCTION
Zuweh, George S.K. Dolo, Melvin Zeantoe, Saye T.) OF GOVERNMENT
Zuweh, Patrick Gongar, Othello Bontor, Junior Musa,) FUNCTION, CRIMINAL
Orlando Korto, William Gbandah, Darius Tokpah,) MISCHIEF, RIOT,
Saye Jeboe, Yei Brown, Saye Garteh, Oretha Gono,) FAILURE TO DISPERSE,
and others to be identified.....DEFENDANTS) DISORDERLY CONDUCT,
HIGHWAY, & CONSPIRACY) OBSTRUCTION OF

Appeal from the Second Judicial Circuit for
Grand Bassa County, Republic of Liberia.

Heard: May 17, 2016

Decided: September 22, A.D. 2016.

Counsellor Tiawon S. Gongloe of Gongloe & Associates, appeared for the appellants. Counsellors J. Daku Mulbah, County Attorney for Montserrado County, in association with David W. Woah and Theophilus C. Gould, Legal Consultants, Ministry of Justice appeared for the appellee.

MR. JUSTICE JA'NEH delivered the opinion of the Court.

Officers of the Liberia National Police (LNP), between July 3rd and 5th, A.D. 2014, arrested over fifty (50) persons suspected of masterminding, planning and participating in a mass demonstration at the Banlaw junction near Gbarpa, in Nimba County. The mass gathering, which took place on July 3, 2014, turned violent, halted all mining operations in Nimba County and inflicted substantial damages to the equipment and facilities of Arcelor Mittal, the mining conglomerate operating in Nimba County, estimated around five million (5,000,000.00) United States Dollars.

The certified records show that the police conducted preliminary investigations into the incident and found a number of the arrestees to be criminally culpable. A Special Grand Jury for Nimba County was then constituted and on July 29, A.D. 2014, presented an indictment charging multiple crimes against twenty four (24) of the arrested persons. The indictees were called upon to answer to serious charges, including arson, armed robbery, theft of property, physical obstruction of Government function, criminal mischief, riot, failure to disperse, disorderly conduct, obstruction of highway and criminal conspiracy. The twenty four (24) indictees were: (1) Fred Saye, (2) Jonathan Paye, (3) Yei Dokie, (4) Prince Lah, (5) Prince Zeaduah, (6) Emmanuel Torbaye, (7) Jerome Zuweh, (8) Jerome Suah, (9) Wilson Gono, (10) Wuo Gballah, (11) Peter Zuweh, (12) Olando Korto, (13) Yei Brown, (14) Willam Gbandah, (15) Saye Jebole, (16) Geoege S.K. Dolo, (17) Melvin Zeantoe, (18) Saye Tee Zuweh, (19) Patrick Gongar, (20) Othello Bontor, (21) Darius Tokpah, (22) Junior Musa, (23) Oretha Gono, and (24) Saye Garteh.

Though a writ of arrest, along with copy of the indictment, was duly issued and ordered served in keeping with law in order to bring all twenty four (24) indicted persons under the jurisdiction of the trial court, the records reveal that only thirteen (13) indictees were presented by the State before the Second Judicial Circuit Court for Grand Bassa County, where the trial was conducted. Those brought for trial included Othello Bontor in whose favour a motion for *nolle prosequi* was filed by the State and granted by the court. The records do not indicate any explanations or reasons, if any, provided by the State for what appears to be a major failure to present the other eleven (11) indictees for trial. The Supreme Court finds this conduct rather strange and unorthodox. It is trite law in this jurisdiction that absent a formal dismissal of an indictment duly presented by a grand jury, as in this case where the accused have been indicted and therefore called upon to answer to serious crimes, including a capital offense, the indictment remains valid and enforceable against all those named therein and are subject to criminal prosecution.

Be as it may, defense counsel, in its brief filed with this Court, has brought to our attention that Co-appellant Prince Zeaduah expired days following his release from prison on medical grounds.

Defense has also called our attention to the release from detention, reportedly for health reasons, of four other appellants, Yei Dokie, Peter Zuweh, Jerome Zuweh, and Oretha Gono. Our diligent review of the record proved futile to ascertain (1) whether these releases for reason of poor health were ordered by the trial court, and if so; (2) whether these persons were released prior to the conclusion of the trial or after the granting of, and during the pendency of the appeal before the Supreme Court of Liberia. The need for clarity on the issue is important as it is the law in this jurisdiction that where a tribunal of justice has rendered a final judgment in a matter and granted an appeal, as in the case at bar, jurisdiction over matters of admission to bail and release of the prisoner are removed to, and cognizable only before the appellate court.

This Court also has no application before it in respect of a release. We therefore admonish the parties and our lower courts that such releases should always be made part of the minutes of court.

As for the other defendants, the records show that on August 11, A. D. 2014, defense counsel moved the Eight Judicial Circuit Court for Nimba County to admit them to bail which motion was resisted by Prosecution. The motion to admit to bail was argued, *pro et con*, and denied by the trial court. Thereafter, two motions were filed by prosecution on October 4, A. D. 2014, praying the trial court to advance the case and for change of venue. None was objected to by defense counsel. The court granted these motions. Accordingly, the case was transferred to, and venued before the Second Judicial Circuit Court for Grand Bassa County, a contiguous county in keeping with law. This Court has often stated that it is consistent with statute that a court may order a proceeding in a criminal prosecution, on either the motion filed by a Prosecuting Attorney or a defendant, transferred to a competent court in another county if, among other reasons, there is reason to believe that an impartial trial cannot be had in the county in which the case is pending. *Weah v. Republic*, 35 LLR 567, 571 (1988); Criminal Procedure Law, Rev. Code 2:5.7.1 (b).

Though the case was forthwith transferred, the records reveal that a speedy sequestered jury trial appeared to have been eluded by the Ebola Virus disease then raging in Liberia. Months later, a jury trial commenced during the February Term of Court, A. D. 2015, lasting almost ten (10) weeks.

At the trial, according to the transcribed records, both the Prosecuting and defense counsels introduced witnesses and also caused evidentiary instruments to be admitted into evidence in support of their respective positions. When both parties rested, His Honour Yussif D. Kaba, presiding by assignment, charged the jury, who retired, deliberated and returned a unanimous guilty verdict against the herein appellants of the crimes as charged: arson, armed robbery, theft of property, physical obstruction of government function, criminal mischief, riot, failure to disperse, disorderly conduct, obstruction of highway and criminal conspiracy.

Thereafter, His Honour Yussif D. Kaba, on April 6, A.D.2015, entered a ruling confirming the verdict. Seven (7) days thereafter on April 13, A.D. 2015, Judge Kaba entered a final judgment, stating thus:

"The jury empaneled to hear this matter having returned unanimous verdicts holding the defendants GUILTY of all of the crimes charged, which verdicts were excepted to by the defense, there being no motion for a new trial filed on behalf of the defendants, it being the law in this jurisdiction that the trial jury is responsible to determine the facts in matter of this nature, the court therefore hereby adjudges the defendants GUILTY of the commission of the crimes charged in the indictment. AND IT IS SO ORDERED."

After adjudging the defendants guilty of the crimes charged, Judge Kaba also proceeded sentencing them as hereunder quoted:

"Under our law, a defendant charged with multiple offenses for which a verdict of guilty is rendered shall be sentenced for the highest crime charged. A perusal of the indictment shows that the highest crime charged is ARMED ROBBERY. A review of the record in these proceedings shows that no death ensued as the consequence of the commission of the crime. Additionally it does not appear from the records of these proceedings that anyone of these defendants is a habitual criminal. The record showed that the crimes committed by these defendants were more or less crimes of passion. Since the purpose of a criminal trial is to serve as a deterrent to future commission of similar offences, the court shall take due cognizance of the peculiar nature of the crimes for which defendants were brought down GUILTY."

Wherefore and in view of the foregoing this court hereby SENTENCES defendants to an indefinite period of detention, the same not to exceed ten (10) years with the possibility of Parole in the instant of good behavior. [AND IT IS] SO ORDERED."

In exercise of the constitutional right to appeal to the final arbiter of justice in the land, defense counsel announced an appeal from Judge Kaba's final ruling as well as to the sentence imposed. The Judge granted same as a matter of law. Hence, these appeal proceedings.

Appellants are before this Court seeking a reversal of the judgment rendered against them and are praying for the issuance of an order to release them from any further detention. Counsel for appellants, in aid of the appeal process as mandated by statute, has duly filed a seven (7) count bill of exceptions. Appellants' contentions against Judge Kaba's final judgment are encapsulated in the approved bill of exceptions now before this Court of **final arbiter of justice** for our review. In counts one (1), two (2) and three (3), appellants vigorously argued as quoted:

- "(1). The jury verdict holding all the twelve defendants that appeared before it guilty of all the crimes charged by the indictment was clearly contrary to the weight of the evidence produced by the prosecution.*
- "(2). That the jury erred when it ignored the reasonable doubts created by Prosecution's witnesses' failure to show a conspiratorial link among all the defendants and yet gave a verdict holding all of them equally guilty of all the crimes charged by the indictment.*
- "(3). That the jury erred when it ignored the fact that except for Peter Zuweh, Jerome Zuweh, Saye Gada, Orlando Korto, Fred Saye and Saye Jerbo, who were named by some of prosecution's witnesses, although evidence produced by said witnesses were scanty and clearly insufficient for their conviction, not a scintilla of evidence was produced against the rest of the twelve defendants that appeared before them."*

In view of the contentions highlighted in the bill of exceptions, counsel for the appellants has suggested the following issues for the disposition of these appeal proceedings,: (1) whether where the guilt of the accused is not

proven beyond a reasonable doubt, a criminal defendant is entitled to an acquittal; (2) whether or not appellants' guilt was proven beyond a reasonable doubt in this case; and (3) whether where the best evidence that is required in a criminal case is not produced, an accused is entitled to an acquittal.

In the light of appellants' contentions, this Court poses this question: what were the allegations upon which appellants were tried and convicted? For the benefit of this Opinion, and to provide a full background of the trial in regards to the allegations and charges to which appellants were called upon to answer, we herewith reproduce verbatim the two count indictment as follows:

"INDICTMENT

COUNT ONE (1)

The Special Grand Jurors for Nimba County, Republic of Liberia, upon oath do hereby find more probably than not, that, Fred Saye, Jonathan Paye, Yei Dokie, Prince Lah, Prince Zeaduah, Emmanuel Torbaye, Jerome Zuweh, Jerome Suah, Wilson Gono, Wuo Gballah, Peter Zuweh, Olando Korto, Yei Brown, Willam Gbandah, Saye Jerboe, George S.K. Dolo, Melvin Zeantoe, Saye Tee Zuweh, Patrick Gongar, Othello Bantor, Darius Tokpah, Junior Musa, Oretha Gono, Saye Garteh and others to be identified did conspire to, and did do and commit the crimes of Riot; Failing to Disperse, Disorderly conduct, Physical Obstruction of Government Function, Obstructing Highway and other Public Passage, Criminal Conspiracy and Criminal Mischief, in violation of Chapter 17, Section 17.1, 17.3, 12.1, 17.7, and Chapter 10, Section 10.4(1)(2)(3)(4), respectively, of the New Penal Law of Liberia, Title 26, Liberian Code of Laws Revised, in the form and manner as follows to wit:

1. *That on June 27, 2014, the Tokardeh Progressive Youth wrote the County Attorney for Nimba County, requesting permission to carry out a march on July 3, 2014. This communication was delivered and received by the County Attorney for Nimba County, Hector Quogoah, on July 1, 2014. The County Attorney in his response to the letter, directed the organization to call-off the planned march on grounds that the notice given was short and would not allow for proper police coordination and protection to guard the march.*

2. *That at about 6:25 a.m. on Thursday, July 3, 2014, notwithstanding the response of the County Attorney directing the organization to call-off the march, Defendant Othello Bontor and others to be identified, also without any color of right, and with the intent to cause public disturbance, damaged and carried away the properties of Arcelor Mittal and AFCONS, and physically obstructed the enforcement of the law and public passage, gathered at the Banlaw (TMF) junction near Gbapa, fell trees and created road blocks thereby restricting the free movement of traffic, violently exhibiting cutlasses, sticks, and other lethal instruments, and carrying stones. That though security officers of Arcelor Mittal and the Liberia National Police engaged Defendant Othello Bantor and others in a peaceful manner and tried to persuade them to unblock the road, they rained insults at the Arcelor Mittal's security personnel and the police and began to throw stones at them.*
3. *That at about 6:45a.m. on Thursday, July 3, 2014, notwithstanding the response of the County Attorney directing the organization to call-off the march, the Defendants, headed by Saye Tee Zuweh and Peter Zuweh, President of the Tokardeh Progressive Youth, along with others to be identified, without any color of right and with the intent to cause public disturbance, damaged and carried away the properties of Arcelor Mittal and AFCONS, and physically obstructed the enforcement of the law and public passage, did conspire to and did gather at the Tokardeh junction, fell trees with power saws, created road blocks at the Tokardeh Junction, thereby restricting movement to and from the Tokardeh mines, violently exhibiting cutlasses, sticks, and other lethal instruments, and carrying stones, while mask dancers displayed traditional war dances and the Defendants chanted threatening slogans.*
4. *That at about 12:00 noon on Thursday, July 3, 2014, the County Attorney of Nimba County, Cllr. Hector Quigoah, amidst the growing number, and violent nature of the demonstrators, tried to calm the situation down at Tokardeh junction but was booed at by the Defendants and other demonstrators to be identified and he left the scene. That at about 1:50p.m. on Thursday, July 3, 2014, at the Tokardeh Junction, the demonstration became extremely violent with the Defendants and other*

demonstrators throwing heavy stones at the police which resulted to the police releasing tear gas on the defendants and other demonstrators. The defendants along with other demonstrators to be identified, intensified their attack on the police and they broke up into groups with some of them headed towards the Tokardeh Mines where they damaged, looted and set ablaze properties of AFCON, SEGAL and Arcelor Mittal, valued at over US\$5,000,000 (United States Dollars Five Million). The police pursued the group and initially on July 3, 2014, arrested twelve of the Defendants namely: Yei Brown, Saye Jerboe, Yei Dokie, Saye Garteh, Junior Musah, Wilson Gono, Olando Kortoe, Prince Lah, Oretha Gono, William Gbandah, Prince Zeaduah, Emmanuel Togbay with looted items (assorted) belonging to AFCON, SEGAL and Arcelor Mittal and other defendants were subsequently arrested upon identification by employees of AFCON, SEGAL and Arcelor Mittal and officers of the Liberian National Police whilst others are still at large.

5. That the Defendants and other demonstrators to be identified, dug trenches to further obstruct the movement of law enforcement officers and did entrap employees of AFCON, SEGAL and Arcelor Mittal at the Tokardeh Mines for over 24 hours.
6. That Title 26, Chapter 17, Section 17.1 of the Penal Law of the Republic of Liberia provides that:

Riot: Failure to Disperse.

1. *Offense.* A person is guilty of riot, a third degree felony, if he participates with two or more other persons in a public disturbance which by tumultuous and violent conduct creates grave danger or damage or injury to property or persons or substantially obstructs law enforcement or other government functions.
2. *Failure to disperse upon official order.* Where three or more persons are participating in a public disturbance likely to cause substantial harm or serious inconvenience, annoyance or alarm, a peace officer or other public servant engaged in executing or enforcing the law may order the participants and others in the immediate vicinity to disperse. A person who refuses or knowingly fails to obey such an order commits a second degree misdemeanor.
3. *Definition.* "Public" means affecting or likely to affect persons in a place to which the public or a substantial group has access; among the places included are highways, transport facilities, schools, prisons, apartment houses, places of business or amusement or any neighborhood.

Disorderly conduct.

1. *Offense. A person is guilty of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, he:*
 - (a) *Engages in fighting or threatening, or in violent or tumultuous behavior; or*
 - (b) *Makes unreasonable noise or offensively coarse utterance; gesture, or display, or addresses abusive language to any person present; or*
 - (c) *Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor. "Public" has the meaning defined in section 17. 1 (3).*
2. *Grading. An offense under this section is a second degree misdemeanor if the actor's purpose is to cause substantial harm or serious inconveniences, or if he persists in disorderly conduct after reasonable warning or request to desist. Otherwise, disorderly conduct is infraction.*

8. *That Title 26, Chapter 12, Subchapter A. Section 12.1 of the Penal Law of the Republic of Liberia provides that:*

Physical obstruction of Government Function

1. *Offense. A person has committed a first degree misdemeanor if, by physical interference or obstacle, he purposely obstructs, impairs or perverts the administration of law or other government function.*

9. *That Title 26, Chapter 17, Section 17.7 of the Penal Law of Liberia provides that:*

Obstructing highways and other Public Passages.

1. *Obstructing Highways. A person who having no legal privilege to do so, purposely or recklessly obstructs any highway or other public passage, whether alone or with others, commits an infraction, or in case he persists after warning by a peace officer, a second degree misdemeanor. "Obstruct" means renders impassible without reasonable inconvenience or hazard. No person shall be deemed guilty or recklessly obstructing in violation of this paragraph solely because of a gathering of persons to hear him speak or otherwise communicate, or solely because of being a member of such a gathering.*

2. *Refusal of person in gathering to move on official request. A person in a gathering commits an infraction if he refuses to obey a reasonable official request or order to move:*

- (a) *To prevent obstruction of a highway or other public passage, or*
- (b) *To maintain public safety by dispersing those gathered in dangerous proximity to a fire or other hazard.*

10. *That Title 26, Chapter 15, Section 15.5 of the Penal Law of Liberia provides that:*

Criminal Mischief.

- 1. *Offense. A person is guilty of criminal mischief if he:*
 - (a) *Damages tangible property of another purposely or recklessly;*
 - (b) *Damages tangible property of another negligently in the employment of fire, explosives or other dangerous means listed in Section 15.4 (1):*
 - (c) *Purposely or recklessly tampers with tangible property of another so as to endanger person or property.*

11. *That Title 26, Chapter 10, Section, 10.4. Provides that:*

Criminal conspiracy.

- 1. *Offense. A person is guilty of conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to effect the object of the conspiracy.*
- 2. *Scope of conspiratorial relationship. If a person knows that one with whom he agrees has agreed or will agree with another to effect the same objective, he shall be deemed to have agreed with the other, whether or not he knows the other's identity.*
- 3. *Conspiracy with multiple criminal objectives. If a person conspires to commit a number of crimes, he is guilty of only one conspiracy so long as such multiple crimes are the object of the same agreement or continuous conspiratorial relationship.*
- 5. *Duration of conspiracy. A conspiracy shall be deemed to continue until the crime which is its object is committed or the agreement that it be committed is abandoned by the defendant and by those with whom he conspires. A conspiracy shall be deemed to have been abandoned if no overt act to effect its objectives has been committed by any conspirator during the applicable period of limitations. If an individual abandons the agreement, the conspiracy is terminated as to him only if and when he timely advises those with whom he has agreed of his abandonment or by timely informing a law enforcement officer of the existence of the conspiracy.*

12. THAT THE PLAINTIFF SAYS THAT THE DEFENDANTS HAVE NO AFFIRMATIVE DEFENSE IN THE PREMISES.

COUNT TWO (2)

The Special Grand Jurors for Nimba County, Republic of Liberia, upon oath do hereby find more probably than not, that Fred Saye, Jonathan Paye, Yei Doki, Prince Lah, Prince Zeadiah, Emmanuel Torbaye, Jerome Zuweh, Jerome Suah, Wilson Gono, Wuo Gballah, Peter Zuweh, George S.K Dolo, Melvin Zeantoe, Saye Tee Zuweh, Patrick Gongar, Othello Bontor, Saye Jebole, Saye Garteh, Oretha Gono, Olano Korto, Yei Brown, William Gabandah, Junior Musa, Daruius Tokpah and others to be identified, did conspire to, and did do and commit the crimes of Armed Robbery, Theft of Property and Arson, in violation of Chapter 15, Section 15.32, 15.51 and 15.1, respectively, of the New Panel Law of Liberia, Title 26, Liberia Codes of Laws, in the form and manner as follows to wit:

1. That on July 3, 2014, the Defendants herein and others to be identified, armed with guns, cutlasses, sticks, and other lethal instruments, did with the intent to loot the facilities of Arcelor Mittal, enter thereupon at the Tokardeh Mines, outnumbered the security guards assigned threat and the police, and looted the offices of AFCON, and Areclor Mittal, taking away computers, cement, steel rod and other office equipment and thereafter set containers, vehicles and the train ablaze.
2. That Defendant Prince Lah, armed with a stick, hit Morris Loe, a SEGAL security, with the stick and forcibly took away his cell phone...
3. Armed Robbery

A person has committed a capital offense of armed robbery which is a felony of the first degree if, in the process or course of committing theft, he threatens to kill, kills, or inflicts bodily injury upon a person or group of persons, or places such person or group of persons in imminent danger or peril of life under gun point, or by means of explosives, weapons or other lethal devices or instruments.

4. That Title 26, Chapter 15. Section 15.51 of the Penal Law of the Republic of Liberia Provides:

Theft of property.

A person is guilty of Theft if he:

- (a) Knowingly takes, misappropriates, converts or exercises unauthorized control over, or makes an unauthorized transfer of an interest in, the property of another with the purpose of depriving the owner thereof;
- (b) Knowingly obtains the property of another by deception or by threat with the purpose of depriving the owner thereof or purposely deprives another of his property by deception or by threat, or
- (c) Knowingly receives, retains or deposes of property of another which has been stolen, with the purpose of depriving the owner thereof.

5. That title 26, Chapter 15, Section 15.1 of the Penal Law of the Republic of Liberia provides that:

Arson.

A person is guilty of arson, a felony of the second degree, if he starts a fire or causes an explosion with the purposes of:

- (a) Destroying a building or occupied structure of another;
- (b) Destroying a vital public facility.

AND THE SPECIAL GRAND JURORS AFORESAID, UPON THEIR OATH AFORESAID, DO PRESENT THAT THE HEREINABOVE NAMED DEFENDANTS COMMITTED THE CRIMES OF ARMED ROBBERY, THEFT OF PROPERTY, ARSON, CRIMINAL MISCHIEF, PHYSICAL OBSTRUCTION OF GOVERNMENT FUNCTION, RIOT, FAILURE TO DISPERSE, DISORDERLY CONDUCT, CRIMINAL CONSPIRACY, OBSTRUCTING HIGHWAY AND OTHER PUBLIC PASSAGE, CONTRARY TO THE FORM, FORCE AND EFFECT OF THE STATUTORY LAWS OF THE REPUBLIC OF LIBERIA IN SUCH CASES MADE AND PROVIDED, AND AGAINST THE PEACE AND DIGNITY OF THE SAID REPUBLIC.

REPUBLIC OF LIBERIA, PLAINTIFF BY AND
THRU THE MINISTRY OF JUSTICE
CLLR. HECTOR QUOIGOAH
COUNTY ATTORNEY
NIMBA COUNTY

WITNESSES

ADDRESSES

- | | |
|----------------------------|-------------------------|
| 1. Francis Bangura..... | Arcelor Mittal |
| 2. Solomon M. Jabateh..... | AFCON |
| 3. Ernest J. Mineen..... | Liberia National Police |
| 4. Morris Loe..... | SEGAL Security |
| 5. Lyndon T. Johnson..... | Liberia National Police |
| 6. Morris Teamah..... | Liberia National Police |
| 7. Harris Kiyen..... | SEGAL Security and |
| 8. Others.....” | |

We now inspect the evidence the State presented.

To prove its case, as is mandatory in every criminal case, the State introduced evidence in support of the material allegations constituting the crimes charged in the indictment. The State presented a total of nine (9) witnesses, including rebuttal witnesses. Three (3) of the witnesses included those recalled as rebuttal witnesses. Those introduced to testify for and on behalf of the State were Othello Bontor, Francis Bangura, Solomon Jabateh, Police Superintendent Emmanuel Jliken, Jersey K. Harris and Roderick Martin.

Othello Bontor took the stand and testified as Prosecution's first witness. It is worth mentioning here that Witness Bontor was one of the twenty four persons initially arrested, investigated and subsequently indicted. According to the certified records, Judge William B. Sando, on December 12, A.D. 2014, granted prosecution's motion to enter a plea of *nolle prosequi* in favour of Othello Bontor, thereby dropping all charges against him. The former criminal defendant now State witness introduced himself as Vice President of the Tokardeh Progressive Youth, the organizing group of the demonstration. Witness Bontor testified substantially that although they had several meetings with the management of the mining company operating in Nimba County, Arcelor Mittal, and with Nimba local authorities, they had failed to address issues relating to just benefits earmarked for their communities. As a result, the Tokardeh Progressive Youth communicated with the County Attorney, by a letter dated June 27, A.D. 2014, seeking "*indulgence and protection to have a peaceful march on the 3rd of July 2014 at the Tokardeh Junction, Zolowee Town, Nimba County*". On July 3, A.D. 2014, the witness said they gathered at the Tokardeh Junction, set up road blocks with trees they had fell with cutlasses and power saw.

The witness told the court and jury that the County Attorney and a team of liaison officers from Arcelor Mittal came to Tokardeh Junction and attempted to intervene; but the Tokardeh Progressive Youth did not listen to anyone. Witness Othello Bontor also explained that as the agitation was intensifying, Liberia National Police officers from the Emergency Response Unit (ERU) arrived at the Tokardeh junction.

According to him, the angry demonstrators started throwing stones at the police officers who responded with tear gas.

Witness Bontor identified Peter Zuweh, Jerome Zuweh, Fred Saye, Saye Jerbo and Saye Gargar as active participants in the demonstration. He also identified Fred Saye as one of the persons who assaulted LNP Officers and gave cutlasses to demonstrators. He also named Saye Jerboe and Saye Gargar as some of the persons who threw rocks and sticks at the police. The witness further testified to seeing a boy with a short single barrel gun in his trouser. He further testified identifying that Peter Zuweh was one of the leaders of the Tokardeh Youth Organization who signed the letter addressed to the County Attorney.

Defense, during cross examination, posed the quoted questions to which the witness provided the referenced answers:

Question: *"And am I correct to say that as vice president you participated in the planning of the protest action?"*

Answer: *"Yes."*

Question: *"Am I correct to say that there was a plan to hold a peaceful protest?"*

Answer: *"Yes. It was planned to be a peaceful protest in the morning."*

Question: *"And on July 3rd the protest started as a peaceful protest in the morning around 7:30-8:00 a.m. Am I correct?"*

Answer: *Yes, it started as a peaceful demonstration in the morning.*

Question: *Is it true that the demonstrators were singing and that there were mask dancers present and participating in a peaceful demonstration?*

Answer: *"Yes."*

Question: *"You said that you are the current Vice President of the Tokardeh Progressive Youth Movement and that you participated in the planning and execution of the peaceful demonstration that took place on July 3rd, 2014. You have named the role played by others whom you identified as being present on the day of the demonstration. I put to you that it was you, Othello Bontor, who led the peaceful demonstration on that day. Am I correct?"*

Answer: *"yes. I said I and other officials."*

Question: "Defendant Peter Zuweh is named in the indictment and identified as President of the Tokardeh Progressive Youth is this true?"

Answer: "He is not the President; rather, Saye T. Zuweh is the President."

Question: "You sad two things when you were testifying in this trial:

1. Someone from the crowd threw rock at the police; 2. There was a man at the scene of the demonstration with a short single barrow gun in his trouser. For the purpose of the jury who will decide the fact of the case, none of those two persons is present in court among the defendants. Am I correct?"

Answer: "Only one of the persons is not present; but I said earlier that we threw rock at the security." **See sheets one, two, three, four, five and six, 22nd day sitting, March 5th, 2015.**

Francis Bangura, Acelor Mittal Security Lead Investigator, was Prosecution's second witness. He substantially told the court and jury that while *enroute* to Buchanan on June 30th, 2014, he had heard of a planned mass demonstration to be staged against Acelor Mittal. Consequently, he called off his trip on advice of Arcelor Mittal Security Manager. He testified that he infact made a stop at Zolowee and interacted with Patrick Gongar, known to be one of the leaders of Tokardeh Progressive Youth. According to the witness, Patrick Gongar confirmed to him (the witness) that their organization had planned a demonstration to be staged on that Monday but was quick to mention that some of the elders of the community had advised the youth leaders to first contact and seek permission from the County Attorney.

According to the witness, that while accessing the motor road on the morning of July 3, 2014, the date slated for the planned demonstration, he received the first call at Zolowee school campus that Tokardeh by-pass junction had been blocked by the demonstrators who were also preventing expatriate and national employees from going to work. The witness stated that while on their way to the TMF junction and at Gbarpa, he saw Othello Bontor and two other persons setting up road block. Every effort, according to the witness, to persuade them to remove the blockade, failed.

He said that he also saw a group of demonstrators at Tokardeh Junction dressed in country/traditional forms with their faces marked, some with alcohol bottles chanting slogans and saying that they will cause damage if anyone tries to stop them. Some of the persons the witness said he identified at the Tokardeh Junction were Saye T. Zuweh and Peter Zuweh.

According to the witness, he and others tried to persuade them to end the demonstration. He said: *"we tried in our weak ways persuading them to remove the blockade but they refused. I even asked him personally as to whether he listened to the Sanniquellie Radio Station where the County Attorney was advising people not to go on the rampage and they boldly told me that they don't have time for that.."* The witness also identified Oldman Peter Zuweh and indicated that the oldman would pretend as cooperating with them by walking *"to the power-saw man acting like he was stopping him but the more the power-saw man continued and they felled the trees...Later on, that is around 1:00 to 1:30 in the afternoon, people among the crowd started stoning at the PSU, which resulted to one of the PSU Officers getting wounded on his hand. When the tension was mounting, we the AML staff backed off...I was on top of the Zolowe Hill, I saw a group of demonstrators that included men, women and children from Zolowe going towards the PSU at the Tokardeh Junction, throwing stones. And what they did was that they used little children as shield, putting them in front of them, throwing stones too. ...Among the demonstrators coming from Zolowe was a guy with a white t-shirt, carrying a single barrel gun in his hand. And what made every one of us afraid was when we heard a gunshot sound from the direction of the crowd but in the air. So the PSU we were depending on started running, jumping in their vehicle while we ourselves started running...the whole group started running back towards Yekepa, the PSU already had 12 suspects that included my friend Jerbo at the back of the pick-up...On Friday, we heard that a huge police convoy had opened the road and gone to Tokardeh to rescue the expatriates that were entrapped at the mine. Based on that information, myself started mobilizing SEGAL guards for redeployment at the mine.*

We went to Tokardeh and there I saw the damages that were caused and took majority of the photos of the destruction: including the Tokardeh Security gate, the AFCONS batching plant near the gate and the train. We entered the train and there was fire at the driver seat. We went to the AFCONS laydown yard and there were four or five containers that were on fire burning. I took photos of cars that were damaged and photos of the AFCONS Offices that were vandalized and looted...."

We note also that Witness Bangura related that they (officers of the Liberia National Police who had also arrived at the junction) tried in vain to persuade the youth to remove the road block but the crowd continued to swell. He said Mr. Saye Zuweh the Chairman of the Youth group was also at the junction and the Police County Commander, Morris Timah, Mr. Ambrose Gbormie, Government Affairs Superintendent at Arcelor Mittal along with Jerry, the Communication Manager of Arcelor Mittal all tried talking to the youth to call off the demonstration without success. He further narrated: *"...while there at the junction, in the presence of the police and Mr. Saye Zuweh, a man came with a power saw and started to cut down trees at the junction. Even though Saye Zuweh spoke with the man with the power saw, he still cut down a big tree at the junction which blocked the junction completely."*

The witness said he saw Elder Peter Zuweh with some ladies under a shade built with tarpaulin cooking. Some of the demonstrators using foot path managed to reach the concession area and caused some destruction before the police could reach there. When they saw the Police vehicle approaching the area, some of them escaped.

During direct examination, the witness testified to a number of photos indicating as follows: *"I have perused the pictures...There were two trains on the day of the incident parked on separate tracks near the security. The first one is train 094. This train was brought into Liberia barely one and the half months before the incident; it is the driver room that was set ablaze. The next train was train 092. This was parked on the rail track near the AFCONS lay down yard. As you can see in the picture, even though the front head lights were all damaged and the operator room was ransacked..."*

Solomon Jabateh, a driver employed with AFCONS, on March 17, 2015, testified as Prosecution's third witness. He testified that he was at AFCONS' Head Office at Tokardeh on July 3, 2014, when he learnt of the demonstration and that the Tokardeh junction had been blocked by those demonstrators. He said he left for the Tokardeh junction where he saw a man with power saw. He left and went back to his office. The witness said by the time he could reach their offices to inform the other staff, the demonstration had spread to that area so they got in their vehicles to go to the workshop for shelter but the demonstrators were throwing stones and damaging the window glasses of some of the buses. One Indian got cut on the face in the process. The witness said on July 4, 2014, he observed that all the containers were broken into and opened, burned vehicles while some of the wires in the train were cut and cement was all over the place.

A few minutes later, the witness said he saw a group of young people coming with sticks, stones, rocks and other instruments. According to Witness Jabateh, when the group reached to one of the SEGAL Security Officers, *"they started assaulting him; they took his phone from him, but which was retrieved and given back to the SEGAL Security Officer. The police later arrested the said demonstrator."*

According to the witness, when they later went back to the offices to get some things, they saw some of the demonstrators taking computers while others were setting fire at the batching plant. On the next day, the witness stated he saw *"all of the containers open, cars burned; cement was scattered all over the place; the train burned and wires cut."* The witness testified to the photographs depicting the damages caused to Arcelor Metal's facilities by the demonstrators. **See sheets one, two, three, four, five, six and seven, 25th day sitting, March 10, 2015. See sheets two and three, 29th day sitting, March 17th, 2015.**

When Witness Jabateh rested, Prosecution submitted that its three remaining witnesses who had been qualified *"are witnesses of the same line of presentation and this include: Ernest J. Menseh, Morris Luo and Harris Kiyen. Accordingly, except for the purpose of rebuttal witnesses, prosecution waives their direct testimonies with reservation for the purpose stated above..."* There being no objection to this application from defense, the court accordingly granted same.

Taking the stand as Prosecution's fourth witness was Police Superintendent, Emmanuel Jliken. He also served as Deputy Chief Investigator with Liberia National Police. He testified that the Crimes Services Department of the LNP received fifty (50) persons on July 7, 2014 for criminal investigation. They were suspected of committing major crimes such as Theft of Property, Arson, Armed Robbery and Criminal Mischief.

The Deputy Chief Investigator, General Crime Section, Crime Service Department, Liberia National Police, testified that their investigation "established" that the defendants and others in the dock wrote a communication styled as resolution to the County Attorney of Nimba County in June, 2014, under the name of Tokardeh Progressive Youth for Peace and Development. In their communication they indicated, among others, that they will halt the operations of Arcelor Mittal in their area. He said that on July 2, 2014, Saye T. Zuweh went on the community radio in the area to say that whether or not they got the approval of the government, they were going to demonstrate to halt the Arcelor Mittal operations since several attempts to peacefully resolve their issues of concern had failed. He said, on July 3, 2014, Saye T. Zuweh and others gathered at the Tokardeh junction, dressed in warlike condition with single barrel guns, cutlasses, knives and gasoline; where they felled trees to block the junction and issued threats to police officers who had gone there to try to stop them from demonstrating. While the police were talking with the demonstrators at the junction, some of them spread out to other parts setting ablaze the wooden bridge connecting Sehkimpa with Sanniquellie. Some dug holes in the middle of the road while others began moving towards the Mine area. At the Tokardeh junction, the demonstration became violent with demonstrators throwing stones at the police, firing single barrel rounds and looting properties belonging to Arcelor Mittal and AFCONS.

Witness Jliken testified that one Jonathan Karsee using a white Tata Truck loaded on board several bags of cement and other looted materials from the mine; that Fred Saye and Jonathan Paye, using their cutlasses and gun robbed Security Officer Morris Dolo of his cell phone while Prince Lah and Prince Zeanleh were throwing stones at the police.

He said a jeep used by the police was fired on while the excavator glass was damaged by the demonstrators. The witness said that some offices were set on fire and some employees were held against their will in the mine area. When the police got support from Gbarnga and Tapitta, they then arrested some of the defendants. He concluded by informing the court and jury that the police investigation took statements from those arrested in the presence of their Lawyer, Cllr. Yaimie Gbassay. We hasten to state here that the statement was supported by the records. In those statements, except for a few, appellants did admit being associated with the Tokardeh Progressive Youth Movement for Peace and Development, though they claimed not to have personally participated in the destruction of properties.

Pictures taken of guns, cutlasses, knives and gunshot shells discovered from the crime scene, the letter written to the County Attorney by the Youth group and the County Attorney response thereto and statements taken from defendants and witnesses were testified to by the investigator and admitted into evidence.

Assistant Commissioner of Police, Jersey K. Harris, was Prosecution's fifth witness. He was said to have participated in the police investigation. Appearing before the court and jury, Witness Harris substantially testified confirming Officer Jlikan's narrative as to the findings of the investigation. He said that it was demonstrated during investigation that Tokardeh Youth Movement organized a demonstration on July 3, 2014, gathered demonstrators at the Tokardeh Junction, set road blocks, dug trenches, exhibited and used cutlasses, sticks, and guns and threw stones at the police, despite the warning from the County Attorney of Nimba County. According to Harris, their investigation revealed that all of the persons arrested took part in the riot and were the ones who led and participated in the looting, burning and destruction of Arcelor Mittal, AFCONS and SEGAL's properties. Police Commissioner Harris also informed the court that their investigation uncovered weapons such as guns, knives and cutlasses that were left behind as the police went after the fleeing rioters. He said that the investigation further found that the rioters used weapons and force to attack the police and other employees of AFCONS and Arcelor Mittal and physically took away properties belonging to the said Companies.

According to the witness, their investigation also established that a locomotive belonging to Arcelor Mittal was damaged, warehouses containing construction equipment damaged and a bridge destroyed. Photographs taken and person arrested by the police were seen physically taking part in the riot. The witness identified the exhibits and caused them to be reconfirmed.

Roderick Martin, Deputy Project Director of Arcelor Mittal, testified for the State as its sixth witness. Witness Martin told the court and jury that the extent of the damages done and destruction visited on properties of AFCONS and ARCELOR Mittal were assessed by Banlaw and AFCONS (contractors of Arcelor Mittal) to be over Five Million United States Dollars (USD5,000,000.00). The assessment reports were identified and admitted into evidence.

This Court desires to remark here that in all criminal trials, the onus of proof rests essentially on the State as plaintiff. Excluding limited exceptions, as in the case of justification on ground of self-defense, a criminal defendant is under no legal obligation to testify in exoneration. It is rather the State's obligation, imposed by law to set out and prove by the evidence which excludes reasonable doubt that the defendant not only committed the crime but that he did so as laid out in the indictment. *Wahhab v. Republic*, 10 LLR 234, 236 (1949); *Keller v. Republic*, 28 LLR 49, 75 (1979); *Kamara v. Republic*, 33 LLR 329, 332 (1974). Otherwise, there can be no juridical conviction and in such a case the defendant is entitled to judgment of acquittal as a matter of law. *Davis v. Republic*, 24 LLR 319, 330-1 (1975); *Logan v. Republic*, 2 LLR 472, 475 (1924).

But it is also true that where damning testimonies have been deposed against a criminal defendant, especially in a jury trial, as the instant case, tending to put commission of the crime at his feet, and pointing criminal culpability to the defendant, his silence at that time is done to his personal peril. *Paye v. Republic*, 10 LLR 55, 56-7 (1948); *Kpolleh et al. v. Republic of Liberia*, 36 LLR 623 (1990); *Nyazee Barway et al. v. Republic of Liberia*, Supreme Court Opinion, March Term, 2016.

In apparent appreciation of this basic fact, and in an effort to rebut the evidence deposed by Prosecution witnesses, defense produced twelve (12) witnesses. Co-defendant Saye Jerbo took the stand as defense first witness and introduced himself as a businessman operating a shop.

Hé said that while he was at his shop in Zolowe on the afternoon of July 3, 2014, he was approached by Orlando Kortoe and his brother, Julius, to carry them to Gbarpa. He refused to carry two persons on his bike. So Orlando's brother rode on another bike. According to the witness, he and Kortoe were arrested by police while enroute to Gbarpa near a place called No-Way Camp. He said the Police arrested them and they were put in the back of a pickup along with others and taken to the police station where their names were registered. Witness Jerbo further testified that he was truly surprised by Othello Bontor's testimony accusing him, Saye Jerbo, of throwing stones at the police. He was equally taken aback, he said, by Solomon Jabateh, Prosecution's third witness' testimony that that he, Saye Jerbo, was under a tarpaulins with Peter Zuweh while the demonstration was on going. He explained that while in Zolowee on July 3, 2014, following his return from Saniquellie where he had gone to collect his rent, Orlando Kortoe and his brother visited him. They asked him to drop them at Gbarpa but he could only carry one person. According to Witness Saye Jerbo, he and Orlando Kortoe were arrested by the police around a place called No way Camp and taken to Tokardeh Junction. There at Tokardeh Junction, the witness said, they met a group of PSU and ERU police officers who beat and threw them at the back of their pick-up, tear gassed them and were thereafter taken to Yekepa at SEGAL headquarter and detained. He also said that while twelve (12) of them were in jail, it was at that time he heard one of the police man telling his friends that someone called him and said that some people were looting Tokardeh. The witness also testified that the next day while they were being taken to Yekepa, they were taken inside Tokardeh where they were shown the places that were looted and they saw where the fire was burning and were later taken to Saniquellie. The defense witness also testified before the court and jury that far from the accusation made by prosecution witness against him, he, as a resident of Zolowe, did not know of any Tokardeh Progressive Youth Movement and that he was totally unaware of any planned demonstration for July 3rd, 2014.

Julius Ynanama, reported to be a resident of Zolowe Town, was defense second witness. Witness Ynanama narrated that on July 3, 2014, Orlando asked him to accompany him (Orlando) to Gbarpa for goods. He said they saw Saye Jerbo before his shop on the road and asked him to take them to Gbarpa on his bike. Orlando told them that he was not a commercial bike rider and therefore could not take the both of them. The witness told Orlando and Saye to go on the bike and he would return to the shop. He said the two men left on the bike and he returned to the shop. The witness said he did not ride along with Orlando and Saye to No Way Camp, but returned to the shop.

The third witness for defense was Lawrence Tokpa, Program Manager of EARS, a local advocacy and pro-democracy organization and residence in Sanniquellie. According to the witness, he was in Yekepa on a private mission on the morning of July 3, 2014. The witness stated that prior to leaving Yekepa, he had heard that there was an ongoing demonstration at Tokardeh junction near Zolowe. He said that he would stop at the junction on his way from Yekepa to observe what was happening. While at the junction, he observed groups of people singing and dancing. He stayed at the junction for over two hours and was at the junction when the County Attorney arrived and tried addressing the citizens that were present. They refused to listen to him alone and asked that the County Superintendent and other officials of the county to come before they could go into any discussion. The County Attorney left the scene. The witness also left to go to Zolowe Town where he visited Elder Peter Zuweh before leaving for Sanniquellie.

Defense fourth witness was Patrick Beidglar. He introduced himself as a former carpenter helper of AFCONS. He also said that he lived in Makinto, a small town located on the road leading to Zolowe. The witness explained that on July 3, 2014, while on his way to town he saw group of people standing at the junction. He said some of them were cooking and another group was dancing at the Tokardeh junction. He further stated that he also saw armed police officers at the junction. While climbing the hill to Zolowe town, the witness said he started hearing noise and crying from some people who were saying "*we are being teargased*". He also started to hear gun sound and more intense crying.

The gun sound could be heard as far as Tokardeh, according to the witness. He indicated that on reaching the town, he met a group of people who asked him where the gun sound was coming from. He responded by telling them it was from the junction. The witness also testified that he saw Jerome Flomo, alias Jerome Zuweh and his brother Peter Zuweh in the town, standing in front of his house with group of people. The witness said that when he reached their village, Makinto, people were asking him where the gun sound was coming from and he told them the sound was coming from Tokardeh junction. The witness narrated that on the next morning an ERU Truck arrived in the village and most of the people ran from the police into the bushes. So he approached the truck to find out what was happening and was told by the police commander that they had a mandate from the County Attorney to search the buildings in the town for looted properties. According to him, the police searched the houses and found three single barrel guns from some of the houses in Zolowe Town. He followed the police to Zehgeh Town and observed that the police also searched houses and seized three single barrel guns. He claimed that the police also took two drums of fuel and some steel rods from Zehgeh Town. The witness said when he returned to work one week after the July 3, 2014 incident, he did not see any burned locomotive, burned offices or vehicles.

Witness Saye Garteh took the stand and testified as defense fifth witness. The witness narrated that he is a resident of Gbarpa and a farmer; that he was on his farm on July 3, 2014; that he was returning from his farm and while on the Sanniquelie Road met an army car. According to the witness, he was suddenly arrested, placed in the vehicle, teargassed and taken to Yekepa with others and turned over to the Arcelor Mittal Security. He said they were later turned over to the police at Camp 4 where they were registered and kept until they were taken to Monrovia. He named those who were taken to Camp 4 to include Saye Jerbo, Orando Kontoe, Yei Dokie, William Gbanda, Prince Zeaduah, Wilson Gono, Prince Lah, Emmanuel Tobaye, Oretha Gono, Yei Bontor and others whose names he did not know.

Peter Zuweh, Chief Elder in Zolowe Town testified for defense as its sixth witness. He told the court and jury he was aware of the demonstration and even signed the papers that were sent to the Nimba County Superintendent and other local government officials. The intent for writing these "papers" was to invite the Superintendent, County Attorney and UNMIL to come to their peaceful demonstration. He testified that the papers were signed for and received by the county officials who were expected to be with them on July 3, 2014. But on that date, July 3, 2014, he saw some police cars and the County Attorney vehicle passing and going towards the site of the demonstration. According to Elder Zuweh, he and other elders decided to wait in the town for the superintendent and other officials to come in response to the papers that he (Zuweh) signed. *"The officials did not come at all on that day as they waited from 6AM to 3PM. Later, during the day, I saw the leader of the Tokardeh Progressive Youth for Peace and Development with an arm chair and empty shell from the tear gas telling me that they were attacked by teargas and gun fire."* Witness told the youth leader to keep those items and that they should wait for the arrival of the superintendent.

The witness further testified that Nimba County Superintendent came the next day, Friday July 4, 2014 along with the District Commissioner and the City Mayor of Sanniquellie City. The Superintendent asked the witness to call the elders for a dialogue and they all met under the palaver hut. While there, we had been informed that there were armed men at the school campus. We observed that there were other vehicles approaching the town. The superintendent informed us that he was going to inquire from the police commander what was happening. He came back to say the police were on their way to Yekepa and he was going to accompany them and come back. The Superintendent did not return. On July 5, 2014, the witness said he boarded a vehicle to Sanniquellie to talk with Prince Tokpa, Nimba County Representative of Electoral District #2, who was also arrested. He said that on return to Zolowe, he was asked by the commander of the police deployed in the town to identify himself. He told them his name and was arrested. He told the court and jury that the police commander ordered that he should not be beaten. At about 6 P.M., the witness was placed in a police vehicle and taken to Sanniquellie Police Station and detained along with others. He was later transferred to Monrovia.

Elder Zuweh, further testifying, blamed the Superintendent for the demonstration because he was supposed to reach them and give reason/s why the demonstration should be called-off. According to him, the Tokardeh Progressive Youth did not receive any response from the authorities on the communication sent to them about the demonstration. The witness considered the action of the County Attorney to go to Tokardeh junction to talk to the youth as a mistake. According to him, the County Attorney knew that the town elders were in the town and the County Attorney could have stopped to talk with them.

Jerome Zuweh took the stand as defense seventh (7th) witness. He is also a resident of Zolowe Town and a farmer. The witness introduced himself as a brother of Peter Zuweh; that Saye T. Zuweh is his nephew and son of Peter Zuweh, who is the President of the Tokardeh Youth for Peace and Development. According to him, his nephew, Othello Bantor, is the Vice Chairman of the Tokadeh Youth for Peace and Development. The witness said on July 3, 2014, he was sitting in his shop on the road from Sanniquellie to Yekepa between 11:00 – 11:30AM when Othello Bantor and some PSU officers arrived in a pickup. Bantor introduced him to the officers as his uncle. When the witness asked Othello about the mission of the police, he informed the witness that the police had come to guard the demonstration. The witness said around 12 PM, he saw other police vehicles heading towards Yekepa from Sanniquellie. Around 1PM, he saw group of people including men, women and children heading towards Zolowe Town in panic causing other residents to run to the bushes and to their farms. The witness said that he was informed that ERU officers had attacked the demonstrators at Tokardeh junction. Someone from the group running told him that they heard gun sound which caused them to run back to the town.

The witness said he was arrested on July 6, 2014 after a meeting held in Zolowe Town convened by the Legislative caucus of Nimba County headed by Senator Thomas Grupee. At the conclusion of that meeting, the caucus set up a peace and recovery committee to talk to the people who had left the towns for the bushes to return. He was arrested along with others and taken to Sanniquellie and then to Monrovia.

Fred Saye testified as defense eighth (8th) witness. He introduced himself as a resident of Gbarpa and a businessman. In his testimony, he told the court and jury that he was not well all day on July 3, 2014 and was home the whole day until the morning of July 4, 2014 when he was arrested. According to the witness, he came on the road in the morning of July 4, 2014, to send some money to Guinea for a musical set and was arrested by PSU and ERU Officers when he reached the Gbarpa junction. He denied any link with Tokardeh Youth Movement.

Orlando Bai Kortoe, a resident of Zolowe Town, was defense ninth (9th) witness. The witness said that he operates a drug store; that he left Zolowe Town on the morning of July 3, 2014, and went to the bank in Ganta to withdraw some money and buy goods. He took the goods to Zolowe and then decided to go to Gbarpa for other goods he had there. The witness asked Saye Jerbo to take him and his brother Julius to Gbarpa on his bike. On the way to Gbarpa, at No Way Camp, he said they were stopped by two police officers who arrested them and placed them in the back of a pickup and took them to Yekepa. After a while, they were taken to Camp 4 Police station where they were kept until the next day. They were taken to Tokardeh Mine, shown the destruction before being taken to Sanniquellie and then on to Monrovia. The witness said he had his own bike which he used to travel to Ganta at around 6:45AM on the morning of July 3, 2014. He said Zolowe was calm when he left that morning. He admitted to having knowledge of the planned demonstration. He heard it on the radio. The witness admitted to knowing Peter Zuweh, his son Saye Zuweh but that he did not know Othello Bontor or that he had any knowledge of the Tokardeh Youth for Progress and Development.

Taking the stand thereafter was Saye Dolo as defense tenth (10th) witness. He said that he is a resident of Ganta. He said he was in Gbarpa on July 3, 2014, but left to go on his farm. While on his way to the farm, the witness said he saw Fred Saye walking in a weak manner and therefore asked him where he was going. Fred told him that he was going to buy medicine from the drug store. Witness Dolo further testified that he saw Fred Saye on July 4, 2014, with plastic in his hands walking towards the junction when he was stopped by the police, arrested and placed in the police pickup.

When the police were coming towards the witness and others who were standing around, he said, they all ran from the police. The witness testified that he heard about the demonstration on the radio and that he went into the bushes for one week after the demonstration.

The eleventh witness for defense was Abraham Duplay. He presented himself as an Ex-Inspector of the Liberia National Police with more than 15 years of experience in Criminal Investigation under his belt. He said that he holds two police certificates with a distinguished leadership award from UNMIL. He's also a holder of a Bachelor Degree in Criminal Justice, Zion University College. He said that he has participated in many major criminal investigations including one involving the chairman of the National Transitional Government of Liberia, Charles Gyude Bryant. In his testimony, he basically stated that the police simply "painted" what was written in their report; that the act was not committed by the accused persons. He claimed that the police report neither established any monetary value of the damaged properties nor showed a demonstrated link of the defendants to the weapons, cutlasses, knives and other items that were admitted.

During cross examination, the following question was propounded to the witness and he answered as quoted:

Question: *"Mr. Witness, is it mandatory and as you have called yourself an expert witness that the police must establish monetary value when several crimes are being committed?"*

Answer: *"Yes, especially when properties were claimed to have been looted and destroyed. Said property values must be made available in a court of law showing instruments such as receipts, invoices so as to convince the court and jury as to the tangible value if restitution will be decided by the court. In the absence of such a value, the jury and the judge will find it difficult to render a decision in a property case."*

As for defense twelfth (12th) and last witness, Anthony Tobor, a resident of Clara Town, Bushrod Island, he testified to knowing defendant Abraham Duplay as a family friend for over 30 years and as a police officer who served the Liberia National Police.

He said he attended the graduation of Mr. Duplay from the United Methodist University in 2011 and also attended his graduation from the Police Academy. Defense hereafter rested with the usual reservation. This was followed by prosecution's application for permission to introduce its rebuttal witnesses. The court duly granted said application.

Prosecution hereafter introduced Police Superintendent Emmanuel Jliken as its first rebuttal witness. Police Superintendent Jliken served as Deputy Chief Investigator, Crime Services Department, with more than 20 years of experience as a criminal investigator. He testified to various training courses he has benefitted from, both locally and internationally, as a crime investigator. The witness is also an Associate Degree holder in Computer Science and a Bachelor Degree in Public Administration from the University of Liberia. The witness in answer to question posed to him about whether he knew Abraham Duplay, defense expert witness, responded that Mr. Duplay is an Ex-Police officer who had worked with him. He accused him of having unprofessional attitude; that while with the Liberia National Police, Mr. Duplay built a reputation of not following orders in keeping with the chain of command but did things his own way. Witness Jliken further testified that Duplay was infact suspended for acts unbecoming of a police officer. He expressed the view that the fact that Witness Duplay was introduced by the defense to testify in this case did not qualify Duplay as an expert. He also said that the investigation not having indicated the exact value of damaged properties does not mean that properties were not damaged. He said the value of the damaged properties must be verified before it can be stated. The witness, further testifying, said when people plan together in concert to commit a crime, the conspiracy theory will apply and they will all be held criminally responsible for the commission of the crime. He also indicated that the defendants and others at large planned and held meetings and therefore acted together under this theory for the purpose to bring the operations of Arcelor Mittal to a halt. The individual act is the act of all.

Nimba County Police Detachment General Commander, Colonel Morris Timah, was Prosecution second rebuttal witness. In his testimony, the witness said Tokardeh junction was not calmed on the morning of July 3, 2014.

The witness described the situation as terrifying as there were people dressed in warlike form with chalk marks on their faces and trees were cut down using power saw to block the road. He said there was a group called and styled Tokardeh Progressive Youth for Peace and Development. He said the group was first brought to his attention on April 28, 2014 when they presented a resolution in Zolowe. He disclosed that he received a copy of the communication sent to the County Attorney in which Tokardeh Progressive Youth for Peace and Development was asking permission to demonstrate. He testified that the action of the demonstrators at Tokardeh junction restrained others from moving about freely. The blocked the road with objects including logs that needed to be moved by machine. According to this witness, Elder Peter Zuweh knew about the demonstration because he approached him (Col. Timah) on the morning of the demonstration to find out what was going on at Tokardeh junction; that Elder Zuweh said that **"Tokadeh Mine belongs to them; if anything happens there, nothing will come out of it."** The witness said that he told him that an elder should not make such statement. But the elder explained that everyone in Zolowe and the surrounding towns and villages knew about the demonstration; that they were being conveyed by numerous motorbikes. The witness said they even brought a blind person to the demonstration. Prosecution's third and final rebuttal witness, Francis Bangura, testified that on Thursday, July 3, 2014, he personally saw under the tarpaulin kitchen at the Tokardeh junction, Elder Peter Zuweh, whom he **"knows very well"** and had interacted with several times. He said as a private security person, he had no LNP personnel with him when he went on the inspection on July 3, 2014. The witness identified some of the defendants he saw during the demonstration on July 3, 2014, as Peter Zuweh, Saye Jerbo, Orando Kortoe and Saye T. Zuweh.

It was on the basis of this body of evidence presented by the State that the trial jury retired, considered same and returned a unanimous verdict of guilty on all charges against all twelve (12) defendants. The trial court's confirmation of the guilty verdict together with the imposition of long prison sentence of ten (10) years forms the basis of these appeal proceedings.

We are unable to accept the substantive argument advanced by counsel for defense that the State did not present prima facie evidence to warrant the conviction of any and all twelve appellants now before us.

In the entire records and from the testimonies and the evidence deposed by both sides, there is not a scintilla of evidence to show to the contrary that the crimes charged were not committed. The evidence before us clearly demonstrates that properties were looted, vandalized and burned. From the testimonies of both prosecution and defense, roads were blocked, trees felled to obstruct free movement of security forces, ordinary Liberian citizens and expatriate workers from carrying on their normal activities. The overwhelming body of evidence duly presented, both by the State and corroborated also by a number of defense witnesses, indeed established that crimes were committed by these defendants.

There being no dispute over the fact that crimes were committed, this Court will now consider the other two elements which must be secured in order to authorize juridical conviction. This requires the Court to consider the question whether the State demonstrated a link between the defendants and the crimes committed as charged in the indictment.

This is the way defense emphasized the point in its brief: *"There was a need for forensic examination to determine the connection between the defendants and the alleged instruments used to commit the crime alleged. There were no eye witnesses produced in court to testify as to who used those instruments allegedly used to commit the crimes alleged in the indictment. This failure of scientific proof creates doubt that must operate in favor of the accused."* In propounding this proposition, defense has cited and relied on a recent Opinion of this Court: *Hans Williams versus Republic of Liberia, Supreme Court Opinion, October Term, 2013.*

We see it differently. It must be borne in mind that appellants were indicted for multiple crimes including criminal conspiracy. This Court, in *Browne et al. v. Republic*, 22 LLR 398, 412 (1974), adopted a common law principle which outlines the "essentials" constituting the offense of criminal conspiracy. That principle states:

"The crime of conspiracy consists of several distinct elements. The first of these is that there must be a combination of two or more persons to constitute a conspiracy; one may plot or plan alone, but he cannot conspire alone. The second element is that there must be a real agreement, combination or confederation with a common design; mere passive cognizance of the crime or unlawful act to be committed or mere negative acquiescence is not sufficient. The agreement, however, need not be of any special forms; it need not

be in writing or any other express form. In fact, the agreement is almost always a matter of inference deduced from the acts of the persons accused which are done in pursuance of an apparent criminal purpose. The agreement need not state the means by which the conspiracy is to be accomplished or what part each conspirator is to play. The third essential is the existence of an unlawful purpose or act accomplished by unlawful means. It is the nature of the purpose of the nature of the means by which the purpose is to be accomplished which imparts to the confederacy its criminal character."

In other words, where a number of persons has planned and organized to commit a crime or multiple crimes, not being physically present at the crime scene, or not personally executing the crime/s, does not constitute a defense. The common law essential elements also seem consonant with Liberian Penal Laws which holds a person culpable or guilty of conspiracy to commit a crime *"if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to effect the object of the conspiracy."*

Against this background, and to reasonably probe the question whether the State established any linkage between the defendants and the commission of the crimes, a further scrutiny and examination of the evidence before us is critically important. The evidence demonstrates thus:

- (a) In its first count of the two count indictment, the State alleged that a group naming itself as Tokardeh Progressive Youth, by a communication sought permission from Nimba County Attorney to stage a "march" on July 3, A.D. 2014. The evidence before us shows that during the entire proceedings, almost all of the appellants did not deny having knowledge of, or participating in the preparation of the referenced communication.
- (b) Persons whose signatures were affixed to the formal communication, dated June 27, A.D. 2014, addressed to the County Attorney of Nimba County, represented themselves to be leaders of an organization called The Tokardeh Progressive Youth Movement for Peace and Development.

Though bearing the date June 27, A.D. 2014, Nimba County Attorney in his response acknowledged receipt of said communication on July 1, A.D. 2014. In his letter of July 2, A.D. 2014, to Mr. Saye Tee Zuweh, President of Tokardeh Progressive Youth Movement for Peace and Development, County Attorney Counsellor Hector W. Quoigoah stated as quoted:

"With compliment, we write to acknowledge receipt of your communication dated June 27, 2014, and received July 1, 2014, seeking our indulgence and protection to have a peaceful march on the 3rd of July 2014 at the Tokardeh Junction, Nimba County.

In view of the foregoing, we like to advice and direct your organization to call-off the planned march on July 3, 2014, on ground that it's untimely and with short notice. How-be-it, while it is true that you have a right to have a peaceful assembly and/or demonstration, such notice must be timely given the Ministry of Justice to have the Liberia National Police guard and protect you in the process so as to avoid persons with evil intent penetrating your rank to disrupt, destabilize or sabotage Arcelor Mittal operation and the right of other citizens."

- c. The Tokardeh Progressive Youth Movement for Peace and Development (TPYMPD) June 27, 2014 communication, in reference, purported to be seeking the Justice Ministry's *"indulgence and protection to have a peaceful march on the 3rd of July, 2014, at the Todarkeh Junction, Zolowee Town, Nimba County."* Thirteen (13) persons (mainly members of the "Board of Elders" and the Movement's president), signed this letter. Also worth noting is that copy of a resolution endorsed by the Movement's officials (especially the "Board of Elders") was attached to the June 27, 2014 letter and forwarded to the County Attorney. Said resolution listed a number of the Movement's demands to include the following:

1. *That the land rental be paid to the authorities in Nimba County for development purposes in the affected areas;*
2. *That the Social Development Fund shall be paid based on the total amount of Iron ore exported.*
3. *That all protected species that have been damaged and will be damaged by the company operations shall be paid to the affected communities.*
4. *That the traditional forest inhabitants be relocated into another forest to save the lives of our people.*
5. *That the concession areas shall fully be a part of every policy development processes that have an impact on them and copies of these development processes and agreements must be made available to representatives of the communities."*

In concluding the Resolution, The Tokardeh Progressive Youth Movement for Peace and Development issued what clearly appears to be a threat to destruction if their demands were not met. These are their exact words: *"We anticipate your prompt response. Otherwise, we shall take other actions that might not auger well for your smooth operations."* Those signing the June 27, 2014 letter accompanying the Resolution (not very legible in the certified records) were the following persons: (1) Darius S. Tokpah (Security), (2)Korto (member Board of Elders), (3) Roland.....(Member Board of Elders), (4) Peter G. Zuweh (member Board of Elders), (5) Saye Korto (member Board of Elders), (6) Paul(Member Board of Elders), (7) Lawrence Gwen (Member Board of Elders), (8) Harrison Newah (Member Board of Elders), (9) Ernest Gborkie (Member Board of Elders), (10) Abel.....(Member Board of Elders), (11) Sylvester(Member Board of Elders), (12) Saye Tee Zuweh (President), and (13) Jeff G. Fangan (Chairman Board of Elders). These thirteen named individuals were clearly the masterminds and architects of the planned "peaceful march" of July 3, A.D. 2014. Nimba County Attorney's directive to them to call-off the planned demonstration *"so as to avoid persons with evil intent penetrating your rank to disrupt, destabilize or sabotage Arcelor Mittal operation and the right of other citizens"* was totally disregarded. It would seem that having met, organized and carefully planned to carryout actions which, to use their words *"might not auger well"* mobilized people of various towns and villages to attack both the employees, local and international, of Arcelor Mittal and to destroy, damage and burn Arcelor Mittal's properties and facilities. Given the several dozens of persons mobilized to participate in the *"demonstration"* and considering the size of destructions and damages inflicted on Arcelor Mittal facilities, to suggest that these were not organized and planned actions intended to cause the maximum havoc, is simply preposterous.

- d. By these pieces of evidence deposed, Prosecution clearly demonstrated that multiple crimes were committed: trees were felled obstructing and blocking the highways, law enforcement officers were physically obstructed by the demonstrators from carrying on their statutory responsibilities; police and other security personnel were stoned and some wounded in the process and cutlasses, sticks, and other lethal instruments were exhibited and used by the demonstrators.

For instance, Patrick Beidglar, defense fourth witness, testified that he heard gun sound as he climbed the hill to Zolowe town. *"The gun sound could be heard as far as Tokardeh"*, he told the court. This appears to corroborate Prosecution's evidence that guns were seen in the hands of some of the demonstrators, mobilized and brought in for the demonstration by the organizers. Also, defense first witness, Saye Jerbo, testified that after his arrest and detention by PSU officers, they (detained persons) were taken inside Tokardeh on tour. They were shown the places that were looted and that they *"saw where the fire was burning..."*. Clearly by defense own witness' account, he was taken on "a guided inspection tour" to see for himself the damages caused to company properties; hence, there was clear showing that multiple crimes were indeed committed. Further, it was not slightly ever refuted that huge valuable properties were deliberately set ablaze and maliciously burned; there was no dispute that huge quantities of properties were lost; some damaged, others vandalized, looted and burned down. This being the undisputed narrative, it would be rather difficult for any person in his right frame of mind to propose that the events of July 3, A.D. 2014, culminating in loss of millions of dollars was spontaneous. It would be totally ludicrous to christen any such proposition.

- e. It was alleged and the State presented evidence in support of the fact that it did not authorize the demonstration and therefore the holding of such march without permit from the Liberian Government through the Ministry was an act of illegality. The evidence showed that without any color of right and with the deliberate intent to cause public disturbance, appellants Saye Tee Zuweh and Peter Zuweh, President of the Tokardeh Progressive Youth, led a band of demonstrators, disregarded the County Attorney's call off directive and embarked on the march on Thursday, July 3, A.D. 2014, violent in stance from the very onset.

From the inspection of the evidence presented, we are convinced that these criminal defendants: (1) Fred Saye, (2) Jonathan Paye, (3) Yei Dokie, (4) Prince Lah, (5) Prince Zeaduah, (6) Emmanuel Torbaye, (7) Jerome Zuweh, (8) Jerome Suah, (9) Wilson Gono, (10) Wuo Gballah, (11) Peter Zuweh, (12) Olando Korto, (13) Yei Brown, (14) Willam Gbandah, (15) Saye Jebole,

(16) Geoege S.K. Dolo, (17) Melvin Zeantoe, (18) Saye Tee Zuweh, (19) Patrick Gongar, (20) Othello Bontor, (21) Darius Tokpah, (22) Junior Musa, (23) Oretha Gono, and (24) Saye Garteh, were co-conspirators; that with the intent to cause public disturbance, they organized, planned and caused damages to properties of Arcelor Mittal and AFCONS, physically obstructed the enforcement of the law and public passage, gathered at the Banlaw (TMF) junction near Gbarpa, felled trees and created road blocks, thereby restricting the free movement of traffic, violently exhibiting cutlasses, sticks, and other lethal instruments, and carrying stones.

In the second count of the indictment, the substantive allegations were as follows:

1. That the twenty four (24) defendants, (as named and listed in the first count of the indictment), on Thursday, July 3, A.D. 2012, while armed **with guns, cutlasses, sticks, and other lethal instruments**, entered the Tokardeh Mines, outnumbered the security guards and officers of the Liberia National Police thereat assigned, and looted the offices of AFCON, and Arcelor Mittal, taking away computers, cement, steel rod and other office equipment and thereafter set containers, vehicles and the train ablaze. The indictment particularly named Defendant Prince Lah, as being armed and hitting one Morris Loe, a SEGAL security, with the stick and forcibly taking said officer's cell phone.

Regarding the use of weapons during the demonstration staged on July 3, A.D. 2014, a number of the witnesses named Fred Saye "as one of the persons who assaulted LNP Officers and gave cutlasses to demonstrators." They also told the court and jury that they saw Saye Jerboe and Saye Gargar as persons throwing stones and stick at the police.

It is interesting to note that Appellant Fred Saye took the stand in his own defense during trial. He stringently denied ever being associated with Tokardeh Progressive Youth Movement. He also frantically denied being anywhere around Tokardeh junction on the day and the time of the incident. He claimed to have been home sick the whole day of July 3, A.D. 2014.

This is his testimony in chief:

"...On the fourth of July, I was coming on the road in the morning to send my money for my musical set. [The amount] I was having [was] 21,500.00 LD and \$500.00USD. I had it in a black plastic bag.

While coming on the road that morning to send the money to Guinea, I got to the junction. Unfortunately, I saw the PSU and ERU convoy. As soon as they got down, they jumped on me and "jacked me up" and put me in their big bus and decided to run behind the other people who started running. The other PSU guy came to me in the bus and asked me; "what do you have in this plastic? I responded: "it is my money." Then he told me to give him the money and I asked him why should I give you my money? He said: "so you don't want to give me the money?". Then he said: "don't argue with me." Then I told him I am not arguing with you; I just want to know why you want my money. That is how he took the armed from one of his men and said: "if you do not want to give me the money, I will hurt you." So I gave him the money."

We note here that damning and incriminating statements were made against Co-appellant Fred Saye. Prosecution witness Othello Bontor testifying said that he saw Co-appellant Fred Saye at the Tokardeh junction on July 3, A.D. 2014, distributing cutlasses to fellow demonstrators. Not a word of denial Saye made about this accusation either during his testimony in chief or during direct or cross-examinations.

We therefore take it that the jury did not err in bringing a verdict of guilty and that the judge also did not offend the law nor commit wrong when he confirmed the jury verdict finding the defendants as co-conspirators; that they were satisfied with the evidence presented by the State showing link and criminality in their actions and declarations to realize the criminal object, especially in respect of the crime of armed robbery. One is guilty of armed robbery, a capital offense, *"if, in the process or course of committing theft, he threatens to kill, kills, or inflicts bodily injury upon a person or group of persons, or places such person or group of persons in imminent danger or peril of life under gun point, or by means of explosives, weapons or other lethal devices or instruments."* [Emphasis supplied].

In counts six (6) and seven (7) of the bill of exceptions, counsel for appellants has raised the following arguments:

D. *That the jury ignored the reasonable doubt created by the fact while the indictment clearly stated that the value of the properties allegedly looted, vandalized, and burned by the police was U\$5,000,000 (United States Five Million Dollars) count fifteen of the findings contained in the police report stated that police did not establish that fact or establish any other value for the properties allegedly looted, vandalized or burned by the defendants and brought a verdict of guilty against them."*

E. That Your Honor erred when you sustained objection to the following questions on the cross:

Q. *The indictment that you testified to stated that the total value of the damages that occurred on July 3rd is over Five Million United States Dollars (\$5,000,000). Do you agree with that statement in the indictment?*

Objection: Ground: Not the best evidence; 2. The management of Arcelor Mittal would be; Entrapment; 3. Opinionative. And submit.

Court: Sustained on the first two grounds.

Yet the witness was the superintendent of Police and Deputy Chief Investigator in the Crime Services Department of the Liberia National Police.

Appellants maintain that the question was proper on the cross. He was the best person to respond to the question because he was the chief of the department that conducted the investigation that led to Appellants being indicted. There was nothing wrong with him confirming the statement or saying that he did agree with it. A cross examiner's role is to check on the bias, inclination, motive of a witness in an effort to discredit him. The question was therefore, proper.

Q. *By your last answer am I correct to say that as to the alleged damages that took place at the Tokardeh Mine, the Tokardeh junction and numerous places according to you on July 3rd, 2014 are still being investigated by the police and the matter still remains inconclusive?*

Objection: Imputing fact not testified to by the witness on the cross as to the inconclusiveness of the investigation; asked merely to entrap; irrelevant and immaterial.

Court. Sustained.

In the brief filed before us, counsel for appellants has highlighted the inclusive nature of police investigation as to the actual value of the properties destroyed during the violent demonstration. This is the way counsel has raised the contention:

"Appellants maintain that this question was proper on the cross. The Civil Procedure Law section 25.3 provides, "Except as otherwise provided by law, a witness may be cross-examined as to all matters touching the cause or likely to discredit him."

The witness who the question was addressed to was at the time the Chief of Crime Services Department of the Liberia National Police. He was recently promoted to the position of Director of Crime services Division (formerly CID Director). He having testified, "As we speak, other suspects are still at large and our police investigation will show that evidence collection as relate to this incident is still ongoing and any other material evidence may be also forthcoming."

It was not improper to ask him whether the investigation was still ongoing and inconclusive. This question was intended for him to clarify to the jury what he had earlier stated. The question was meant to show to the jury that the case was premature, as the police had not completed investigation."

We are in agreement with counsel for appellant that the conduct of the trial court to disallow prosecution's witness from answering the questions posed was a reversible error. The State in prosecuting the crime of Criminal Mischief is required to establish the verified value of the damaged property. This is very important for the singular purpose of restitution the defendant is required to make under this provision of the Penal Code. By sustaining prosecution's objection to a question meant to know whether that burden was carried by the State, appellants were deprived of the clarity needed and expected from a person who infact was introduced and did testify as chair of the police investigations conducted in the matter. The witness was best placed to have told the court and jury what the true values of the destroyed properties were. Additionally, the judge equally robbed this Court of that rare opportunity of benefitting from the investigator's answer on such an important question. In our view, the question posed was proper and legitimate and should have been ordered answered (1) to establish actual value/of the damaged properties, and (2) to enable the court and jury to declare with certainty the exact figure or amount to be ordered restituted.

Why we concur that sustaining the objection and disallowing the question was a reversible error on the part of the judge, we however do not agree that same constitutes a sufficient compelling ground for reversal of the judgment entered by the judge in this matter.

For the purpose of restitution, Criminal Procedure Law Revised Code 2:31.1(4), which is also in harmony with the Penal Law Rev. Code 26:50.9, provides that "*the [trial] court may include in the sentence an order of restitution of the property damaged or its value in favour of the person wrongfully deprived thereof.*" In *Swen v. Republic*, this Court, interpreting the cited provisions held thus:

"an order of restitution shall be included in the sentence, meaning that the law requires that restitution shall be ordered in addition to the other forms of punishment." See: 40 LLR 138, 147 (2000). See also: Yates et al. v. Republic, Supreme Court Opinion, October Term, 2015.

During the trial, it was clearly established without a scintilla of the slightest doubt that a many valuable pieces of properties were damaged. These included two trains, train 094, which had been brought into Liberia in less than sixty (60) days. The other destroyed was train 092. Other properties and facilities damaged or destroyed included the batching plant. At least four containers and their contents were set ablaze. Cars were damaged, vandalized and looted. Photographs admitted into evidence show how extensive the damages were. Deputy Project Director of Arcelor Mittal, Roderick Martin, testified for the State. He testified to instruments which tended to give figures and values of damaged properties. He said that the damage assessment conducted by Arcelor Mittal and by two independent contractors, Banlaw and AFCONS, put the value at over Five Million United States Dollars (USD5, 000,000.00). The assessment reports were identified and admitted into evidence.

We take note of the argument made by defense counsel during appearance before this Court that the State failed to establish the actual values of the destroyed and damaged properties. That under the charge of criminal mischief, for which the appellants were also held answerable, the State was under a duty to present verified and true values of the damaged and destroyed properties. According to defense counsel, the State not having established the actual worth of the properties said to have been destroyed, committed a reversible and for this blunder the judgment entered against the appellants should be set aside as a matter of law.

As to this issue, defense has argued with forensic eloquence that the actual worth of the destroyed properties and facilities were not established; hence, the final ruling of guilty entered against the appellants be reversed. We are least impressed by this argument. In criminal proceedings where an order is entered for restitution, such order must be based on actual proven values introduced during trial.

In criminal mischief proceedings, one primary reason for requiring proof of property value is to enable the court order restitution on just and fair basis. This Court notes that our review of the records shows that the sentence imposed is void of any order for restitution. We have further observed that neither the State nor the defense excepted to this point.

This Court has said time and again that *"without an exception an objection, no matter its intrinsic merit, is lost."* See: *Republic v. Dillon*, 15 LLR 119, 123 (1962). Secondly, we cannot accept that the values were not established. According to the records, Witness Roderick Martin, Deputy Project Director, Arcelor Mittal, testified to instruments said to have been assessment reports which estimated the value of destroyed properties to over five million United States Dollars. These instruments were introduced by Prosecution, identified by Witness Roderick, confirmed, reconfirmed and thereafter admitted into evidence without any exceptions from defense counsel. Those proceedings were captured on sheet 2, 31st Day's sitting, February Term, A.D. 2015. Answering to a question on the actual values of the destroyed properties, the witness said:

Ans: *The value of the destruction was estimated by four different parties, the main two parties were Banlaw and AFCONS. Those companies itemized the damages and placed value to it. The total is over five million United States Dollar (\$5,000,000.00USD).*

Que. *Mr. Witness you just told this Honorable Court and jurors that Banlaw and AFCONS assessed the damaged done to the properties of AML. Were you to see the assessment report that you talk about will you be able to identify it?*

Ans: *I will.*

Que: *By permission of this Honorable court I pass to you these instruments, what do you recognize them to be?*

Ans: *The first two documents, were submitted by Banlaw, the third document was submitted by AFCONS.*

At this stage prosecution request court for a mark of identification on the instruments testified to and now identified by the witness on the direct as being the assessment report of the damaged properties and its associated costs done by the two entities Banlaw and AFCONS following the demonstration against the company which led to the destruction of the properties so as to form a cogent part of this case.

The Court: The first two instruments containing 22 sheets is ordered marked p/9 in bulk, the third instruments containing 91 sheets is ordered mark p/10. In bulk. AND SO ORDERED.

Que: Mr. Witness with permission of this Honorable Court I again pass onto you court marked p/9 and p/10 in bulk. Do you confirm that these were the report, the same report from the two companies named herein above that was submitted to the Arcelor Mittal Management?

*Ans: These were the reports submitted to Arcelor Mittal Project Management Team.
At this stage prosecution request court for a mark of confirmation on court marked p/9 and p/10 in bulk respectively earlier testified to and identified and now confirmed by the witness on the direct.*

THE COURT: P/9 in bulk and p/10 in bulk are all hereby ordered marked confirmed.

Que: Mr. Witness, again with permission of court I pass unto you court marked p/9 and p/10 in bulk just confirmed by you. Do you reconfirm Mr. Witness that these documents were submitted to the Arcelor Mittal Project Management by the two companies, meaning, Banlaw and AFCONS as you earlier stated?

Ans: That is the same document.

Que: At this stage prosecution most respectfully request court for a mark of reconfirmation on court marked p/9 and p/10 in bulk respectively, earlier testified to and identified, confirmed and now reconfirmed."

The documents seeking to establish the value of the damaged properties having been admitted into evidence as detailed herein above, those instruments cannot, at this stage, be properly challenged in regards to the values of the properties under review. There being no noted exceptions to the admission of these evidentiary instruments, appellants contention belatedly raised must therefore crumble as a matter of law.

Also in its brief, the State has vigorously contended that the appellants' conduct to hold mass public march/demonstration without obtaining Justice Ministry's permit constituted a flagrant violation of the law controlling in this jurisdiction. Raising the issue whether the appellants violated the law when they engaged in demonstration without the permission of the County Attorney of Nimba County representing the authority of the Minister of Justice/ Attorney General, the State cited in its brief the case, "*Republic of Liberia v. Grand Coalition*" which Prosecution states this way:

"In the case RL v. Grand Coalition, 34 LLR page 70, Syl. 9, the Supreme Court of Liberia opined that the Minister of Justice is empowered to issue permits for all marches and demonstrations within the Republic of Liberia.

That any group of persons desiring to stage a march or demonstration with the Republic of Liberia must first obtain from the Minister of Justice of the Republic of Liberia a permit to do so.”

But the Ministry has contended thus:

“In the instant case, un-rebuttable evidence adduced at trial shows that Co-defendants Peter Zuweh, the Elders and the Tokardeh progressive Youth wrote the County Attorney of Nimba County for permission to carry out a demonstration on the 3rd of July, 2014... The evidence also shows that the County Attorney did not permit the Youth group to carry out the demonstration as requested on the 3rd of July, 2014 because the time was short to allow for proper Police coordination....The evidence further shows that despite the refusal of the County Attorney to permit any demonstration, the demonstration was still carried out by the Youth group and the Elders...It was therefore against the law of our country for the Defendants to engage in demonstration or March without the permission of the County Attorney who represents the Minister of Justice in the respective County.”

We must remark here that Opinions of the Supreme Court of Liberia apply to, are binding on and enforceable as against all persons and institutions within the bailiwick of the Republic of Liberia. Declarations by the Supreme Court are laws in this jurisdiction until otherwise recalled by the Court. The holding by this Court articulated in the cited case, Republic of Liberia v. Grand Coalition, to the effect that to host a public march/demonstration without prior permit issued by the Minister of Justice is illegal, remains the law of this Republic, as we are unaware of any recall to the contrary. We affirm this established principle of law. We however hold and further recognize that organizing, staging and hosting a public march or demonstration is in exercise of a constitutional right. It therefore follows that persons affected by an undue withholding of a permit to exercise this right by the Minister of Justice without cause may seek court intervention in every instance.

To conclude, this Court reiterates that the primary object of prosecution is and has never been to convict for the sake of it. Every criminal conviction in the Republic, examined by this Court is affirmed only upon the evidence legally obtained and properly placed before the court of law.

Along this line, we have taken due note of a very serious point raised by defense counsel, both in its brief and during arguments before us. Counsel argued that the State presented “scanty evidence at best” to link most of the defendants to the crimes charged in the indictment. Defense counsel reminded the Court that every conviction in the Republic of Liberia must be exclusively based on the evidence properly introduced before the court called upon to enter such a judgment.

This Court has painstakingly examined the records, found therein the prima facie evidence introduced by the State and thereupon determine and therefore comment as to the following named six (6) appellants/defendants, i.e. (1) Peter Zuweh; (2) Jerome Zuweh; (3) Saye Garteh; (4) Olando Korto; (5) Fred Saye; and (6) Saye Jerbo. Defense insists that the State presented not a scintilla of evidence, be it in any shape, form or manner, to connect the six named appellants to the commission of the crimes charged. In this regard, counsel, in its bill of exceptions, further argued that “it was against the weight of the evidence to hold all of the defendants Guilty of all the crimes charged in the indictment because a conspiratorial link among the defendants was not established by the prosecution.”

We do not agree. As we stated before, under the conspiracy theory, criminal liability is not attached to a party because of his physical or personal execution of a crime. Criminal liability is attached to a co-conspirator on account of conspirator’s conduct, participation and execution of the crime or multiple crimes planned, organized, orchestrated and masterminded jointly by the conspirators. His or her personal physical presence at the scene of the commission of the crime is not required for conviction. Liberian Penal Law, Title 26, Chapter 10, Section 10.4 provides that a person is guilty of a conspiracy to commit a crime if, with the purpose of promoting or facilitating its commission, he agrees with one or more persons to engage in or cause the performance of conduct which constitutes the crime, and any one or more of such persons does an act to effect the object of the conspiracy.

This Court, in the case, *Prince N. A. Browne et al v. Republic of Liberia*, reported in 22 Liberian Law Reports, 398, 411 (1974), conspiracy is defined as a combination between two or more persons to do a criminal or unlawful act or a lawful act by criminal or unlawful means, in which case, no overt act is necessary to constitute the crime of conspiracy. See also: *Horace et al. v. Republic*, 16 LLR 341, 390 (1958). This principle is further articulated in *Kpolleh et al. v. Republic of Liberia*, 36 Liberian Law Reports 623, 657 (1990).

In that case, this Court held that where several persons are proved to have unlawfully conspired to commit a crime, the acts and declarations of any conspirator pending such conspiracy, and in furtherance thereof, are admissible as substantive evidence against any co-conspirator on trial. This rule equally applies and controls in the case of an unlawful combination of persons though not necessarily a conspiracy. That is, persons may not conspire to commit a crime, or the prosecution may be unable to prove a conspiracy, but yet, the evidence adduced may show that the persons involved in a crime were acting in concert in the com[mission] of the crime charged.

In the instant case, Peter Zuweh, assuming that none of the prosecution witnesses' testimony linked him to his presence and direct physical and actual execution of the crimes, that in itself does not constitute a defense. The undeniable fact is that Appellant Peter Zuweh was a co-conspirator. He was one of the signatories to the resolution transmitted to the Nimba County Attorney. That instrument concluded with the issuance of threats of dire consequences if their demands were not attended to. This is their exact expression: "*We anticipate your prompt response. Otherwise, we shall take other actions that might not augur-well for your smooth operations.*"

Also, Prosecution witness, Othello Bontor, identified Peter-Zuweh, Jerome Zuweh and Fred Saye as leaders of the Movement. He said that these persons were at the junction participating in the demonstration. He also linked Fred Saye to assaulting LNP Officers and giving out cutlasses to demonstrators. Saye Jerboe was also identified by Witness Bontor as one of those throwing rocks and sticks at the police. In respect to Orlando Kortoe, Witness Bontor testified that he (Orlando Kortoe) was at the Tokardeh Junction and "helped us with a cutlass".

A further careful review of the totality of the evidence in this case clearly demonstrates that Appellant Peter Zuweh, Jerome Zuweh, Fred Saye and Saye Jerbo directly participated in the commission of the crimes charged. Further, the evidence demonstrates that they were also co-conspirators and therefore criminally culpable for the crimes executed by fellow conspirators. Accordingly, defense argument that the State did not produce prima facie evidence to warrant the conviction of the appellants (1) Peter Zuweh, (2) Jerome Zuweh, (3) Olando Korto, (4) Fred Saye, (5) Saye Jerbo, (6) Oretha Gono, (7) William Gbanda, (8) Wuo Gballah, (9) Wilson Gono, (10) Prince Zeaduah; and (11) Yei Dokie, is untenable. Also, the sentence of indefinite period of detention not to exceed ten (10) years, with the possibility of parole in the instance of good behavior, imposed by the trial judge, same not having been supported by law, is hereby modified to fifteen (15) calendar years, this being the minimum detention time stipulated under chapter 15 section 15.34.2 of the Penal Law of Liberia.

Regarding Appellant Saye Garteh, it does not appear to us that the State presented the evidence, be it direct or under the conspiracy principle, to link this appellant to the commission of the crimes charged. Saye Garteh's narrative that he was returning from his farm on the road from Gbarpa leading to Sanniquelie, met an army jeep and was immediately arrested and placed in an army car and teargassed which was never refuted, depicting a case of one being in the wrong place at the wrong time, appears plausible. We have searched through the voluminous records transmitted to this Court but found nothing to hold Saye Garteh as a co-conspirator in the commission of the multiple crimes charged in the indictment. The State not having proffered evidence to link Saye Garteh to the commission of the offenses as charged, he therefore ought to be released in consonance with law in this jurisdiction. Therefore, Saye Garteh is hereby ordered released without day.

WHEREFORE, and in view of the foregoing, the final judgment entered by the trial court declaring the herein appellants guilty as charged is affirmed in part and reversed in part, as detailed in this Opinion.

THE CLERK of this Court is directed to send a mandate to the judge presiding in the court below to give effect to this Judgment. AND IT IS HEREBY SO ORDERED.