

WHITE PAPER

ON THE TRUTH AND RECONCILIATION REPORT

The Government recalling earlier initiatives undertaken by the countries of the sub-region and the international community aimed at bringing about negotiated settlement of the ten-year conflict in Sierra Leone, which culminated in the Abidjan Peace Agreement of 30th November 1996 and the ECOWAS Peace Plan of 23rd October 1997.

And Further the Government moved by the imperative need to meet the desires of the people of Sierra Leone for a definitive settlement of the fratricidal war in Sierra Leone, and the frantic desire to achieve lasting peace, national unity and reconciliation, entered into the Lome Peace Agreement (Lome Agreement) with the Revolutionary United Front of Sierra Leone (RUF/SL) on th July 1999. Government wishes to remain the general public that the Lome Agreement was subsequently ratified by the Parliament of the Republic of Sierra Leone as "The Lome Peace Agreement (Ratification) Act 1999" (Act No 3 of 1999).

By virtue of Article VI paragraph 2 (ix) of the Lome Agreement, the Government of Sierra Leone undertook to establish a Truth and Reconciliation Commission (the Commission) as a major transitional justice pillar. In adherence to the aforementioned Article Government established the Commission by the enactment of the Truth and Reconciliation Commission Act 2000 (Act No.4 of 2000), hereinafter referred to as the TRC Act.

The Commission was inaugurated by His Excellency President Alhaji Dr. Ahmad Tejan Kabbah (herein after referred to as the President) on the 5th day of July 2002, at the State House.

According to Section 3 of the TRC Act, the Commission was to consist of seven (7) members; four (4) nationals and three (3) non-citizens, all of whom were appointed by the President. Those appointed include:

1. Bishop Joseph Christian Humper (Sierra Leonean), Chairman;
2. Honourable Justice Laura Marcus-Jones (Sierra Leonean),
Deputy Chairperson;
3. Professor John Kamara (Sierra Leonean), Member;
4. Mr. Sylvanus Torto (Sierra Leonean), Member;
5. Professor William Schabas (Canadian), Member;
6. Ms. Yasmin Louise Soka (South African), Member; and
7. Ms. Ajaratu Satong Jow (Gambian), Member.

The Commission was mandated under Section 6 of the TRC Act, to, among other things, address impunity and trigger the consolidation of peace and reconciliation in the Country. Specifically the Commission was set up to create an impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone from the beginning of the conflict in 1991 to the signing of the Lome Agreement. The Commission was also required to address impunity, respond to the needs of the victims, promote healing and reconciliation and work to prevent a repetition of the violations and abuses suffered.

In order to fulfill its mandate the Commission was empowered under Section 8 (1) of the TRC Act as follows:

- a. to gather, by means it deems appropriate, any information it considers relevant, including the ability to request reports, records, documents or any information from any source, including governmental authorities, and to compel the production of such information as and when necessary;
- b. to visit any establishment or place without giving prior notice, and to enter upon any land or premises for any purpose which is material to the fulfillment of the Commission's mandate and in particular, for the purpose of obtaining information or inspecting any property or taking copies of any

documents which may be of assistance to the Commission, and for safeguarding any such property or document:

c. to interview any individual, group or members of organisations or institutions and, at the Commission's discretion, to conduct such interviews, in private;

d. subject to adequate provision being made to meet his expenses for the purpose, to call upon any person to meet with the Commission or Its staff, or to attend a session or hearing of the Commission, and to compel the attendance of any person who fails to respond to a request of the Commission to appear and to answer questions relevant to the subject matter of the session or hearing;

e. to require that statements be given under oath or affirmation and to administer such oath or affirmation:

f. to request information from the relevant authorities of a foreign country and to gather information from victims, witnesses, government officials and others in foreign countries;

g. to issue summonses and subpoenas as it deems necessary in fulfilment of its mandate; and

h. to request and receive police assistance as needed in the enforcement of its powers.

In spite of the difficulties faced by the Commission in its early stages, Government is encouraged by the full vent with which the Commissioners and staff of the Commission exercised professionalism in the execution of the assigned duties, not least judicial prowess and analytical skills used to sail through the huge volume of evidence and testimonies, both oral and documentary, upon which the findings and recommendations of the Commission were based.

Government also recognizes the nationwide coverage of the Commission's work, as it conducted its sessions all over the country in order to enable witnesses with diverse facts and background to actively participate in the much cherished truth and reconciliation process.

Having completed its findings, the Commission on 5th October 2004 presented its final Report (and a child-friendly version of the Report) to the President at the State House. Present at the occasion were the Commissioners and staff of the Commission. members of Government, diplomatic corps, heads of UN agencies, civil society organizations, representatives of victim organizations (women, children, amputees, war-wounded, etc), as well as a cross-section of the population of the country. Government expresses its appreciation to the Commissioners and staff of the Commission for the enormous effort exerted in bringing this historical work to fruition.

Government further extends its gratitude to the following for their invaluable financial and logistical support to the Commission, without which the work of the Commission would not have been accomplished: the Office of the High Commissioner for Human Rights, UNAMSIL, the European Union, UNDP, UNICEF, and Governments of the United Kingdom, United States of America, Norway, the Netherlands, Switzerland, Germany, Canada, Iceland, Sweden, France, Luxemburg, and others. Government wishes to pay special tribute to Mrs. Mary Robinson, the former United Nations High Commissioner for Human Rights and Mr. Jan Cedergren, former Chief of Activities and Programmes Branch of the Office of the High Commissioner for Human Rights.

Government expresses its concern and regret that since the publication and presentation of the Truth and Reconciliation Commission Report to His Excellency the President on the 5th October 2005, there has been undue delay in printing the final copies of the Report and making it available to the general public at large. This undue delay is beyond Government's control as the task of printing and binding of the hard cover copies of the Truth and Reconciliation Commission Report was contracted by the Commission to the Graphic Packing Limited, Accra, Ghana. Government has recently received assurances from the Commission that the printed hard cover copies of the Truth and Reconciliation Commission Report will be delivered to the Chairman of the Commission "not later than the first week of July, 2005". Government hopes that on the assurances given by the Chairman of the Commission the printed hard cover copies of the Report will be available to the Public shortly thereafter.

Regarding the rumour about the existence of two versions of the TRC Report, Government confirms that it has received communication from the Chairman of the TRC whose explanation is that "..... there is only ONE VERSION of the Report. It will be essentially the same Report which was presented to the President on 5th October, 2004. The only difference would be that the expected Report would reveal the professionalism required in producing a Report like ours. The substance of the Report will be the same in its entirety."

Re: Protection of Human Rights

Government notes the findings and recommendations on Protection and Promotion of Human Rights as contained in the Commission's Report. However, Government points out that the issue of fundamental Rights to Human Dignity is already enshrined and entrenched in Chapter III of the Constitution of Sierra Leone 1991 (Act NO.6 of 1991).

The excesses or abuses of these rights, which took place during the period of the decade-long conflict, could have been caused as suggested by the Commission's findings. Government is conscious of the need to protect the human rights of our nationals as well as foreigners within Sierra Leone and is anxious to prevent the occurrence of the Human Rights violations referred to in the Commission's Report. Government's determination to achieve this is evident from the measures which it has already put in place to create an atmosphere of proper respect for, and enjoyment of the core Human Rights and fundamental freedoms enshrined in our national Constitution. To this end Government has already by legislation established the Human Rights Commission of Sierra Leone which is in line with the Paris Principles determined by the United Nations. It is worthy to note that Parliament has enacted the Human Rights Commission Act in July 2004, (Act No. 9 of 2004). Government confirms that the appointment of members to this Commission is in process.

Re: Promoting a Human Rights Culture

Government accepts the recommendation of the Commission contained in paragraphs 94 and 96 at pages 153-154, Volume II of

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the Commission's Report. Government is in fact working towards the promotion of a human rights culture in Sierra Leone, including incorporation of human rights principles into school curriculum, and in all Government policies, in its ministries and departments.

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Government accepts the views expressed in paragraph 53 at page 145 in Volume 1\ of the Commission's Report that, "the respect for human dignity and human rights must begin with the respect for human life. Everyone has the right to life," However, Government wishes to state that Sierra Leone has just emerged from a decade-long armed conflict with attendant wanton killings of individuals and the commission of various atrocities, and as such does not accept the Commission's call for immediate abolition of death penalty for persons guilty of heinous crimes. However, Government will continue to monitor and review its present stance on this matter, Furthermore the Government wishes to reiterate that the death penalty imposed on heinous offences is in consonance with Article 6 (2) of the United Nations International Covenant on Civil and Political Rights <ICCPR>¹ which provides:

" In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court."

Government further wishes it to be noted that the President may, pursuant to Section 63 of the Constitution of Sierra Leone 1991 (Act No.6 of 1991), pardon any person convicted of any criminal offence, including a person sentenced to death by a court of competent jurisdiction.

¹ International Covenant on Civil and Political rights (ICCPR). Adopted and opened for signature, ratification and accession by the UN General Assembly Resolution 2200A (XXI) of 16 December 1966. entry into force 23 march 1976, in accordance with Article 49. The Republic of Sierra Leone signed/ratified the ICCPR In 1996.

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Re: Emergency Powers

Government wishes to assert that it has the obligation to ensure law and order, and to protect life and property. Where the life and security of the Nation is threatened, it has the obligation to proclaim a state of emergency. Government also wishes to assert that it will only declare a state of emergency in cases of violent disturbance and demonstrations, or natural catastrophes, and during internal or international armed conflict that threaten the life of the Nation. Government further asserts that where a state of emergency exists, it will not derogate from the recognized international requirements pertaining to certain fundamental human rights which have been identified in Article 4 (2) of the United Nations International Covenant on Civil and Political Rights as non-derogable under any circumstances, such as the right to life, the prohibition of torture, the principle of legality in the field of criminal law, and the freedom of thought, conscience and religion, among others.

Re: law Reform Commission!

Government commissioned the Law Reform Commission in 2000 with the mandate to review the laws of Sierra Leone including laws relating to libel, citizenship, corporal punishment, etc. Government is awaiting the final report of the Law Reform Commission.

However, in the light of the great concern expressed both locally and internationally Government is therefore obliged to publish this White Paper on the findings and recommendations of the TRC Report.

Re: Arbitrary Detention

Government accepts the views expressed on the issue of arbitrary detention, which is a clear deprivation of the liberty of individuals and infringement of their human rights as contained in paragraph 59 at page 146 in Volume II of the Commission's Report. Government is conscious of maintaining its obligation as provided in Chapter III of the Constitution of Sierra Leone (1991) as well as in various international instruments duly signed and ratified by the Government of Sierra Leone, to uphold and protect the rights and privileges of individuals. Further, Government in its reconciliatory efforts, has

adopted policies against arbitrary detention and deprivation of property. Government asserts and informs its nationals and the international community that there are currently no arbitrarily arrested and incarcerated persons in the Country, and that it has no intention to go against the practices identified and recognized both within national and international law.

R The Office of The Attorne -Gene I and Minister of Justice
Government notes the findings and recommendations regarding the office of the Attorney-General and Minister of Justice contained in paragraphs 152 to 154 on page 164 in Volume 2 of the Truth and Reconciliation Commission Report.

Government would like to remind the public that the National Constitutional Review Commission of 1990 had cause to fully deliberate on the separation of the office of the Attorney-General and Minister of Justice and after full deliberations such recommendation for such separation was not accepted and was thus not incorporated in the 1991 Constitution.

Further, Government observes that since the establishment of the post of Attorney-General and Minister of Justice in 1978, there has been no occasion or history of conflict between the Attorney-General and Minister of Justice and the Chief Justice. Government notes the reasons canvassed by the Commission and is not convinced that the power to initiate, prosecute or terminate criminal proceedings would be compromised simply because the Attorney-General is also a Minister of Justice. This office requires the incumbent to be of such high standard of legal proficiency and experience, stature and integrity, but no judicial powers are conferred on the holder of that office and he does not perform any judicial functions, nor does he exercise any control over the judiciary in the exercise of his constitutional functions. Government would not *want* to appoint a Minister of Justice who would exercise political or other control over

the judiciary. Our situation in Sierra Leone is not unique as most of the Commonwealth Countries including those in the Sub-Region have a composite of office of Attorney-General and Minister of Justice. The one useful purpose which this composite office of AttorneyGeneral and Minister of Justice fulfills is to act as a necessary link between the Judiciary and the Executive on the one hand and

between Parliament and the Executive on the other hand. The holder of the Office of Attorney-General and Minister of Justice performs this role without in any way interfering with the constitutional functions assigned to these two other arms of Government - the Judiciary and Parliament. Our Attorney-General and Minister of Justice does not perform the role which is performed by, for example the Lord Chancellor of England - As a Judge presiding over the highest Court in England (The House of Lords). as a Senior Cabinet Minister and also a member of Parliament (the *House of Lords*).

Re: The Judiciary

Government notes the recommendations of the Commission regarding the judiciary. Government confirms its desire to ensure that the administration of justice and respect for basic tenets of rule of law have a firm grip in our judicial system. Government will continue to encourage reforms, both substantive and procedural, which will enhance the proper administration of justice and facilitate the access to justice for all.

Re: Securi Services

Government notes the recommendation of the Commission regarding security. Government gives the highest regard and consideration to the security of the Nation. Government has established a National Security Council, which is mandated among other things, to look into the conditions of service of the security sector.

As regards the Commission's recommendation to dissolve the Operational Support Division (OSD) of the Sierra Leone Police contained in paragraph 203 at page 173 in Volume 1/ of the Commission's Report, Government wishes it to be noted that the OSD is an arm of the Sierra Leone Police under the unified command of the Inspector-General of Police that personnel of the OSD are allowed only to carry arms when necessary to ensure the security of the state, life and property of the Community. These are functions carried out by Para-Military Officers such as the Special Forces of United States of America and most states in Europe and Africa. Government strongly holds the view that the increase in the crime rate in the aftermath of the decade-long war, the current unsettled situation in the sub-region and the primacy of State security which is now being transferred by UNAMSIL to Sierra Leonean security forces

do not warrant an abolition of the OSO. Government wishes to give the assurance that whatever happened in the past as mentioned in the central findings of the Commission's Report will never be encouraged or tolerated again.

Re: Promotina Good Governan~

Government accepts the view of the Commission pertaining to good governance and gives the assurance that its leadership is committed to setting the highest standards in public and private life expected of all officials in positions of responsibility as demonstrated in:

- a. the conduct of free and fair elections (presidential and parliamentary elections of 2002, local government election of 2004, as well as paramount chieftaincy elections in all regions of the Country);
- b. the establishment and operationalisation of the Anti-Corruption Commission (ACC), to ensure that pUblc servants are diligent, transparent and accountable in the performance of their mandated duties. Government, with the assistance of its international partners has appointed foreign judges and prosecutors to assist the ACe to perform its functions effectively and efficiently;
- c. Government ensuring that appointments to important public offices as provided for in the 1991 Constitution and other national laws are subject to scrutiny and approval by Parliament;
- d. with the support of our international partners, in order to promote integrity, probity and transparency in the Government's procurement of goods and services, Government has caused the enactment of the Public Procurement Act 2004 and has established the Public Procurement Secretariat to replace the defunct Central Tender Board. The Act of 2004 has been acclaimed as containing provisions to ensure best practices in public procurement. It expressly states that any public procurement that was done without complying with the provisions and procedures in that Act would not be valid.

Re: Youth

Government accepts the views of the Commission regarding the situation of youth in the Country, Government is presently working towards the establishment of a National Youth Commission, which will adequately address the problems and concerns of the youth.

Re: Women

With regards to the recommendations of the Commission contained in paragraphs 316 to 376 at pages 193 - 202 in Volume II of the Commission's Report, Government does acknowledge the enormity of the suffering of women and girls caused by the war, with particular reference to torture, rape, sexual abuse, and sexual slavery, trafficking, enslavement, abductions, amputations. forced pregnancy, forced labour and detentions. Further Government wishes to express its unreserved regrets and sympathy to all who have in one way or the other been subjected to these indignities. Government is committed not only to redressing these indignities but has also taken action by acceding and adhering to the provisions of:

- a. the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), ratified by Sierra Leone in 1998;
- b. the Convention on the Rights of the Child (CRC), ratified by Sierra Leone in 1990;
- c. the Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, signed by Sierra Leone on 3 September 2000, and ratified on 15 May 2002;
- d. the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, signed by Sierra Leone on 8 September 2000, and ratified on 10 October 2002;
- e. the Convention Against Torture (CAT), ratified in 2001.

In addition Government has ensured the fast-tracking of the ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

All these acts are geared towards addressing various forms of discrimination and injustices suffered by women and the girl-child raised in the Commission's Report.

With regards to the recommendation contained in paragraphs 342 and 345 at pages 197 and 198 in Volume II of the Commission's Report relating to inheritance, land ownership, marriage, divorce and the administration of estates of women; these are issues that have been referred to the Law Reform Commission for review, quite apart from the fact that Section 26 of the 1991 Constitution of Sierra Leone, dealing with these matters is an entrenched clause which requires special procedure for review or amendment.

Government notes the Commission's views on the political participation and access to power in respect of women and the recommendations contained in paragraphs 349 to 352 at pages 198 to 199 in Volume II of the Commission's Report. Government states that it will continue to encourage greater participation of women in politics and public affairs.

As regards the empowerment of women in respect of political power, skills training, education and economic empowerment, Government has already amply demonstrated its determination to ensure the active participation of women in all spheres of life. The SABABU Education Project, Free and Compulsory Education, the appointment of female judges, women heading other important government offices, and the Poverty Reduction Strategy Paper (PRSP), at the moment being implemented by the Government and donor agencies, are clear examples of Government's commitment in respect of the empowerment and active involvement of women in national life.

Re: Children

Government notes the findings and recommendations of the Commission contained in paragraphs 377 to 410 at pages 203 to 208 of the Commission's Report and states that almost all the issues

raised In the recommendations have now been addressed in the Child Rights Bill which has been presented to Parliament for enactment. Government hopes that when the Bill is enacted the issues raised in the Commission's Report will be adequately addressed.

As regards paragraphs 384 to 386 at page 204 in Volume II of the Commission's Report, pertaining to free and compulsory education for children, Government has already addressed these issues and indicated 2005 as the date in which Government's proposal for *free* and compulsory education will come into operation.

As regards the trafficking of human beings, especially women and children, Government has already commenced the tackling of these issues by acceding to and upholding the underlying intents and purposes of the Convention of the Rights of the Child and its two Protocols, the Convention on Elimination of all forms of Discrimination Against Women (CEDAW), among others. Further the Government wishes to inform the general public that CEDAW has already been tabled before Parliament for domestication into our national law. In addition. Government is fully engaged with and adheres to, the ECQWAS initiative in tackling child trafficking.

Re: External Actors

Government notes the Commission's findings and recommendations contained in paragraphs 411 to 413 regarding external actors in respect of their involvement in the conflict in our country. Government conscious of the promotion of the much needed National and Regional peace Integration and Unity gives the assurance that it will pursue this relentlessly both at home and within our sister countries in the sub region and the African Union as a whole. As members of ECOWAS and The African Union will use the opportunities available to us on the diplomatic Channel to restore good neighbourliness for the attainment of our national goals.

Government also notes and accepts the recommendations of the Commission contained in paragraph 415 at page 209 in Volume II of the Commission's Report regarding the requesting of Government "to work with the Governments of Liberia and Guinea to ensure adequate

security along the common borders in order to prevent the flow of small arms and light weapons." The Government wishes to assure and Inform the Nation and all concerned that we have taken and continue to take adequate measures towards the fulfilment of the findings and recommendations of the Commission on this matter. The Government wishes to further inform the public that a National Security Council has now been established which receives and directs all security matters involving our borders; this task is crucial to the consolidation of the peace, economic transformation and the reconstruction of Sierra Leone. To this end, Government is giving active consideration to the reviewing and harmonization of legislation in regulating the use and proliferation of firearms and light weapons within the Mano River Union.

With regards to matters mentioned in paragraphs 429 and 430 at page 211 regarding "Tracing the Assets of Charles Taylor and the NPFL"; paragraphs 431 and 432 dealing with "Tracing RUF Assets in Other Countries", Government wishes to state that this matter is receiving active consideration and will subsequently enlist the assistance of the international community In this regard at the appropriate time.

Re . al Resources

Government notes the findings and recommendations of the Commission in respect of the "Accounting for the Spending of Diamond Proceeds" contained in paragraphs 439 to 442 at pages 213 and 214 in Volume" of the Commission's Report, and states that at present the revenues generated by Government are collected in a transparent manner through the Ministry of Mines, and the Government Gold and Diamond Office (GGDO) regulations and these are utilized for national and community development programmes under the watchful eyes of the International Monetary Fund (IMF) and in compliance with its budgetary regulations. Government also wishes to add that a portion of revenues collected are specifically paid to chiefdoms of diamond mining areas to assist in the development of these areas, thus enhancing the socio-economic welfare of their people. Government confirms that the Ministry of Mines regularly compiles and publishes sales returns and disbursements of diamond,

gold and other minerals on a periodic basis. The public is entitled and authorized to visit this Ministry to acquire the information it requires.

Government notes and agrees with the Commission's concerns in respect of the need to prevent the smuggling of diamond and the non-compliance with national and international regulations relating to the acquisition, transportation and sale of diamond and other mineral resources. Government wishes to state in this regard that it has established the Government Gold and Diamond Office (GGDO), through which professional and impartial sale of diamond is implemented.

In addition Government is fully engaged with, and adheres to the Kimberly Process established in 2000 to eliminate the use of rough diamonds to finance armed conflicts and to protect the legitimate diamond industry upon which Sierra Leone derives revenue for development programmes. Government is a party to the Kimberly Process Participation Scheme with a view to ensuring that conflict diamonds do not enter the legitimate market. Government has installed electronic detection gadgets and other systems and procedures at border posts, including at the International Airport at Lungi, to prevent the smuggling of our mineral resources. Government has also stationed armed personnel (border patrols) along our extensive borders in order to provide a visible deterrent to smuggling. All the above measures are intended to regulate the diamond trade and to enhance the earning capacity of our country.

Government Notes the Commission's concern expressed in paragraphs 474 to 481 at pages 220 to 222 in Volume II of the Commission's Report pertaining to the establishment and functioning of the United Nations assisted transitional justice institutions; the Truth and Reconciliation Commission and the Special Court for Sierra Leone. Government states that the establishment of the Special Court emanated from an agreement entered into between the Government and the United Nations Security Council to address impunity and to try persons who bear the greatest responsibility during the conflict. Government holds the strong view that the establishment of the Special Court is in the best interest of this Nation; to address impunity, bring retributive justice, peace and

reconciliation in like manner as the Truth and Reconciliation Commission.

Re: Recaratlon

Government notes the findings and recommendations of the Commission in respect of reparation programmes as contained in paragraphs 482 to 513 at pages 222 to 228 in Volume II of the Commission's Report. Government accepts in principle the findings and recommendations therein contained. However the Government will use its best endeavours to ensure the full and timely implementation of various reparation programmes recommended by the Commission, subject to the means available to the State, taking into consideration the resources available to it and assistance received from the international community and the countries mentioned in the Report.

Re: Reconciliation

Government notes and accepts the findings and recommendations of the Commission contained in paragraphs 512 to 524 at pages 230 to 231 in Volume II of the Commission's Report in respect of guiding principles and activities of reconciliation. Government assures its nationals and the international community that it will fully follow and implement the recommendations proffered by the Commission taking into consideration what has already been achieved to bring lasting peace and reconciliation to our country.

Re: National
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Follow-up

Government notes with pleasure the valuable contributions made by Sierra Leoneans, whose effort and cooperation has brought into fruition the onerous task that was imposed on the Commission resulting to a successful end, as mentioned in paragraphs 525 to 526 at pages 232 to 233 of the Commission's Report. This will form a part of our national heritage.