

South Sudan Women's Submission to the Reconstituted National Constitution Amendment Committee (R-NCAC) for Consideration in the Review of the Four Security Laws SPLA Act 2009, National Security Service Act 2014, Police Service Act 2009 and the Prison Service Act 2011

Overview

This document contains submissions on specific sections and clauses of the above-mentioned Acts which are currently under review by the R-NCAC in accordance to the Revitalized Agreement on the Resolution of Conflict in the Republic of South Sudan (R-ARCSS).

This document is developed by women from different groups, different walks of life and coordinated by South Sudan Women's Coalition for Peace with the support of UN Women South Sudan office.

The primary documents used to inform the suggestions made in this submission document are the above-mentioned Acts, R-ARCSS, the Transitional Constitution of the Republic of South Sudan 2011 (as amended).

In the submission, the women have used four approaches of - Amendment, Addition, Deletion and Modification. At the end of the section proposing for each of the above-mentioned Acts, there are few recommendations included for consideration of R-NCAC members during this critical process.

Through this process women have introduced the following number of amendments per each Act

1. 25 Amendments in SPLA Act 2009 and 2 recommendations for R-NCAC
2. 26 Amendments in National Security Act 2014 and 3 recommendations for R-NCAC
3. 18 Amendments to the Police Service Act 2009 and 2 recommendations for R-NCAC
4. 52 Amendments to the Prison Service Act 2011 and 3 Recommendations for R-NCAC

SPLA Act 2009

NB: Any section or provision containing the word ‘Southern Sudan’ should be changed to ‘South Sudan’ throughout the document.

S/N	Provision of the law affected	Proposed Amendment (indicating the specific proposed amendment to the Act)	Justification for Amendment
1.	Section 1. Title of the Act	Amendment: Amend name of the Act and the institution from SPLA to South Sudan People Defence Force Act 2019	This is to be in conformation with the current changes in the Army
2.	Section 6 Principles Add Clause 6 (g)	Addition: Add Clause 6 (g) to read “Uphold Bill of Rights, principle of gender equality and promote accountability in accordance with national laws and international standards and best practice	For the purpose of standardization and professionalization of the institution of the Army. This is in accordance with international principles and best practices
3.	Section 6 Principles Add Clause 6 (h)	Addition: Add Clause 6 (h) to read “Uphold international standards and ensure gender equity in all recruitment processes and prohibit recruitment of Child Soldiers”	To conform with the provisions of the constitution, international standards and best practice
4.	Section (8) Mission of the Army Amend Clause 8 (d)	Amendment: Amend Clause 8 (d) to read “secure the territorial integrity and sovereignty of South Sudan	To conform with the Transitional Constitution of South Sudan 2011 (as

			amended) and international best practice and standards
5.	Section 12 Composition Amend Clause 12 (b)	Amendment: Amend Clause 12 (b) to read “retired officers and non-commissioned officers, privates, men and women”	We removed the word “discharged” because discharge may mean dismissed due to gross misconduct and offences. Therefore we think such persons are not to serve in the army in any way.
6.	Section 14 Functions and Powers of the Commander-in-Chief Delete Clause 14 (a)	Deletion: Remove Clause 14 (a)	Fate of the party and the Army cannot be left for one person to decide
7.	Section 21. Recruitment, Authority and Procedure Add Clause 21 (5)	Addition: Add Clause (5) to read “Recruitment process shall be carried out in accordance with the constitutional provision to ensure at least 35% of the recruits are women while diligently implementing states and counties quota to reflect diversity of the nation”	This is in line with the R-ARCSS 2018 and the constitution and to ensure fairness and equitable recruitment reflect national diversity in the Army
8.	Section 25. Military Training Add Clause 25 (5)	Addition: Add Clause (5) to read “Female recruits who might have conceived at the time of training should be allowed to take	This is to allow female recruits their fundamental rights, opportunity to serve the nation and contribute towards attainment of 35%

		leave of absence and given a chance to re-join and continue with the training after delivery.	
9.	Section 25. Military Training Add Clause (6)	Addition: Add Clause (6) to read "Literacy programmes and trainings shall be offered to the recruits and personnel serving in the Army with special consideration given to female personnel	This is to fortify the affirmative action provided for in the constitution and in compliance with the National Action Plan for implementation of UNSCR 1325 considering the low level of literacy among women
10.	Section 26 Period of Service Amend Clause (5)	Amendment: Amend Clause 26 (5) to read "The SSPDF General Headquarters may, under special circumstances accept request for early retirement or extend the age of retirement specified above for a period not exceeding two years.	This is to allow those who may want to retire early enjoy the right of decision but also allow the institution to retain critical personnel for a specific period as their replacement is being developed or promoted
11.	Section 27. Assignment, Transfer and Secondment Add Clause (1) (e)	Addition: Add Clause (1) (e) to read "Assignment, deployment, redeployment, and secondment of personnel actively serving in the force should be for at least a period not less than 2 years and not exceeding 3 years for NCOs and for a period not exceeding 5 years for junior and senior officers and personnel."	Because realizing strategic management in leadership requires ample time and 5 years will be appropriate. The 2 years lower level personnel (NCOs), is because if they overstay, they can easily be assimilated in the community and get compromised

			and violate the principal number of the service
12..	Section 27 Assignment, Transfer and Secondment Add Clause (3)	Addition: Add Clause (3) to read “Married couples who are both personnel in the force shall be given considerations for coordinated dual assignment, deployment, redeployment and secondment with exception of combat.	This is to protect the marriages and give stability and allow for career development for both male and female personnel in the force
13..	Section 28 Entitlements Amend Clause (3) (e)	Amendment: Amend Clause 28 (3) (e) to read “annual leave, maternity leave of 90 days, paternity leave of 14 days and any other leave prescribed by regulations”	This is to allow the father to take care of the new born baby and the mother to recover
14.	Section 28. Entitlements Add Clause 28 (3) (f)	Addition: Add Clause 28 (f) to read “Establish special unit to handle issues of women, children, widows and orphans and benefits of deceased personnel”	This is to help manage whatever support the families and spouses of deceased or living personnel are entitled to in a dignified manner
15.	Section 28 Entitlements Add Clause 28 (4) (a)	Addition: Add Clause 28 (4) (a) to read “Wounded and demobilized personnel should be supported to settle in dignity in their	This is to appreciate their sacrifice and contribution in defending the country

		home state or to legally settle in another state of their choice	
16.	Section Entitlements Add Clause 28 (4) (b)	28 Addition: Add Clause 28 (4) (b) to read “All retired personnel should be paid their dues within a period not exceeding one year”	This is to facilitate a dignified transition from military life to civilian life and still be able to take care of their families’ livelihood
17.	Section Entitlements Add Clause 28 (4) (c)	28 Addition: Add Clause 28 (4) (c) to read “Military personnel and their families shall enjoy government subsidies on housing, medical cover, primary and secondary education of their children and other basic necessities established within their residential areas.	In line with international best practice and standards
18.	Section Entitlements Add Clause 28 (4) (d)	28 Addition: Add Clause 28 (4) (d) to read “The commission for war widows, orphans and veteran affairs should be empowered to effectively reintegrate and rehabilitate the wounded soldiers so as to live a normal and dignified life.”	This is because they spent their youthful years defending the nation

19.	Section 29 Promotions and Military Ranks Amend Clause 29 (5)	Amendment: Amend Clause 29 (5) to read “Meritorious promotion shall be awarded in recognition of outstanding performance in line of duty regardless of gender and ethnicity “	To ensure meritocracy, fairness and respect is maintained within service in line with principle number (d) outlined in this Act
20.	Section 29 Termination of Service Add Clause 29 (5) (j)	Addition: Add Clause 29 (5) (j) to read “Any military personnel found guilty of committing, rape, sodomy and or defilement”	To prevent damaging the image of the Army and deter other personnel from committing such crimes
21.	Section 31 Employment of Civilians Amend Clause (c)	Amendment: Amend Clause 31(c) to read “the SSPDF may recruit civilians to offer specialized service and ensure adherence to constitutional provision of at least 35% women representation	In accordance to the Constitution and R-ARCSS
22.	Section 53 Cowardice in Action	Amendment: “Cowardice in action” Should be removed from being a subheading and only left as military offence number 1 Create a section for “Sexual Offences and Offences Against Civilians” and this includes sexual harassment, rape, sodomy, defilement, looting, abduction etc	Legally, if “Cowardice in action” remains as a subheading, it implies that cowardice in action is the principle offence of military nature only. These are crucial offences that Army personnel commit but in most cases it is left unpunished

23.	Section 57 Offences Relating to Operation Add Clause 57 (3)	Addition: Add Clause 57 (3) to read “Committing an act of rape and defilement when in uniform and operation shall be an offence punishable with imprisonment by law.	In accordance with the Penal Code 2008 section 247
24.	Section 57 Offences Relating to Operation Add Clause 57 (4)	Addition: Add Clause 57 (4) to read “Sexual harassment and gender-based violence within the force shall be punishable according to the law”	There have been rampant cases of sexual harassment and usually there is no clarity of how the survivors receive justice
25.	Section 99 Code of Conduct Amend Section 99	Amendment: Amend Section 99 to read “All persons subject to the provisions of this Act shall abide by the code of conduct as provided for in the Rules and Regulations, including other regulations against sexual harassment at work place and during operation	This provision protects women and any other vulnerable persons. Explicitly making reference to it in the Act compels it to be included in the Rules and Regulations of the SPLA

Recommendation

1. Given that the Name of the Army has changed from SPLA to SSPDF we recommend that this change be incorporated throughout the Act.
2. Women have noticed the evolution of the institution and creation of new positions in the Army, however, there seems to be an overlap in the role of Assistant Chief of Defence Forces and that of Deputy Chief of Defence Forces. We recommend that one of the two positions be dropped.

National Security Service Act 2014

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SN	Provision of the Law	Proposal	Justification
1.	Section 5 Interpretation Amend “Security Clearance”	Amendment: Amend the definition of “Security Clearance” to read “means permission granted to a person to access a marked restricted area”	This allows for easy surveillance and clarity. In this case trespassing and trespassers can be prevented
2.	Section 5 Interpretation Add to definitions	Addition: Add definition of the following words <ul style="list-style-type: none"> • Nation • National • Security • National security • Incitement of threat 	There should be clear distinction drawn between human security and state security. Defining these terms will allow clear understanding and use
3.	Section 6 Guiding Amend Clause 6 (e)	Amendment: Amend Clause 6 (e) to read “pre-empt, analyse and share information on situations that may threaten and cause danger to national interest with the relevant institutions for action”	This will enhance coordination among the different security agents rather than overlapping mandate which is problematic
4.	Section 6 Guiding Amend Clause 6 (f)	Amendment: Amend Clause 6 (f) to read “be professional and operate within the mandate to focus on information gathering, analysis in a discrete manner that does not cause interference and advise to the relevant authorities	This is because National Security is supposed to be an undercover service and not to exhibit overt power

5.	Section 6 Guiding Amend Clause 6 (g)	Amendment: Amend Clause 6 (g) to read “continuously provide analysis for purpose of reform and improving national security	This is in line with the purpose of the service
6.	Section 6 Guiding Add Clause 6 (h)	Addition: Add Clause 6 (h) to read “non-partisan and serve with integrity	This is the same principle that applies to SPLA Act
7.	Section 7 Crimes and Offences Against the State Amend Clause 7 (1)	Amendment: Amend Clause 7 (1) to read “Crimes and offences against the state as provided for under Chapter five Sections 64-74 of the PCA, 2008	This makes the provision to be specific
8.	Section 7 Crimes and Offences Against the State Amend Clause 7 (c)	Amendment Amend Clause 7 (c) to read “any act or threat of violence or harm including sexual and gender-based violence that is directed or intended... “	This is in line with the gender principles
9.	Section 10 Council Add Clause 10 (3)	Addition: Add provision number 10 (3) to read “Composition of the council should have at least 35% women representation. In the event all ministers comprising the council are men, the chairperson must take deliberate action to appoint three female ministers to join as members of the NSS Council	This is to ensure realisation of the constitutional provision for at least 35% women participation in public affairs

10.	<p>Section 11 Powers and Function of the Council</p> <p>Amend Clause 11 (d)</p>	<p>Amendment Amend Clause 11 (d) to read “follow up the implementation of security programmes, plans and policies including polices related to sexual and gender-based violence</p>	<p>Because the role of the council is perceived to be mainly for policy making</p>
11.	<p>Section 13 Powers and Functions of the Service</p> <p>Amend by deleting Clauses (2), (5), (8), (9), (14), (15)</p>	<p>Amendment: Amend Clauses 13 by deleting (2), (5), (8), (14) and (15)</p>	<p>These are of powers of police and CID. If they are also included in the NSS Act it will be duplication and will cause overlap in the mandate and possibly lead to conflict in operation National security should only be allowed to investigate and report to relevant authorities</p>
12.	<p>Section 13 Powers and Functions of the Service</p> <p>Amend Clause 13 (11)</p>	<p>Amendment: Amend Clause 13 (11) to read “monitor frequencies, wireless systems, publications, broadcasting stations and postal services in respect to security interest and share the information gathered with relevant institutions for appropriate action so as to ensure compliance with the law”</p>	<p>This is because the role of national security service is supposed to be co-overt as opposed to the current overt nature of national security in the country</p>
13.	<p>Section 13 Powers and Functions of the Service</p> <p>Amend Clause 13 (13)</p>	<p>Amendment: Amend Clause 13 (13) by inserting “and forward it to the Criminal Investigation Department and retained a copy with National Security Service records and archives department” at the end of the provision</p>	<p>Findings should aid other authorities in their investigations but not for national security. This will bring in the aspect of accountability between</p>

			national security and other institutions.
14.	Section 15 Appointment and Removal of Director General Add Clause 15 (2) (e)	Addition Add Clause 15 (2) (e) to read “if the Director General indulges in activities that compromises national interest and safety of the people including sexual and gender-based violence	Professionalism
15.	Section 16 Powers and Functions of the Director General Amend Clause 16 (d)	Amendment: Amend Clause 16 (d) to read “assess and recommend the need for appointment of new staff and employees for the service in accordance with the state and national quarters and at least 35% women representation	This is to ensure realisation of the constitutional provision for at least 35% women participation in public affairs and ethnic diversity
16.	Section 16 Powers and Functions of the Director General Amend Clause 16 (f)	Amendment: Amend Clause 16 (f) to read “Submit periodic and annual reports on activities of the service to the minister including special reports on sexual and gender-based violence	In line with their guiding principles as outlined in the act
17.	Section 18 Appointment and Functions of the Legal Department Add Clause 18 (1) (a)	Addition: Add Clause 18 (1) (a) to read “Members of the legal department shall be qualified and competent lawyers of proven integrity and experience	Importance of the specialized role of this office
18.		Addition	

	Section 18 Appointment and Functions of the Legal Department Add Clause 18 (2) (a)	Add Clause 18 (2) (a) to read “advise the service on legal matters including human rights, sexual and gender-based violence	Importance of the specialized role of this office
19.	Section 19 Legislative Oversight of the Service Add Clause 19 (a)	Amendment Amend Clause 19 (a) to read “the Minister must submit an annual report to the National Legislature on matters relating to their performance and security status of the country”	To provide for an oversight role of the parliament
20.	Section 22 Establishment of the Technical Security Committee Amend Section 22	Amendment Amend Section 22 to read “there shall be established a technical security committee of which at least 35% shall be women”	To conform with the Constitution
21.	Section 25 Establishment of State Security Committee Amend section 25	Amendment Amend Section 25 to read “there shall be established a technical security committee of which at least 35% shall be women”	To conform with the Constitution
22.	Section 34 Recruitment into the Service Amend Clause 34 (3)	Amendment Amend Section 34 (3) to read “there shall be established a technical recruitment committee of which at least 35% shall be women”	To conform with the Constitution
23.	Section 46 Promotion Amend Clause 46 (2)	Amendment: Amend section 46 (2) to read “Promotions of Non-commissioned officers, women and men of the service shall be approved by the Minister on recommendation by the Director General of the Operational Organ concerned and strictly based on merit and years of service	This is to ensure fairness, equity, respect and professionalism within the service

24.	Section 51 Termination of Employment Amend Clause 51 (6)	Amendment: Amend Clause 51 (6) to read “conviction by a tribunal constituted by the service for commission of an offence punishable with more than one year including sexual and gender-based violence	This is because the personnel of the service must maintain professionalism and integrity
25.	Section 54 Arrest without Warrant Amend Clause 54 (1),	Amendment: Amend Clause 54 (1) to read “Any person or group whose activities have been monitored, analysed and proven beyond reasonable doubt to be committing crime against the state shall be issued an arrest warrant to be executed by Criminal Investigation Department and taken to special lawful detention facility for further investigation”	To avoid overlapping of roles and to prevent conflict with CID
26.	Section (55) Arrest with Warrant Amend Clause 55 (1)	Amendment: Amend Clause 55 (1) to read “Where the investigation reports have established reasonable grounds to believe that the suspect is planning or committing crime against the state, the Director General or any designated officer may apply for the issuance of a warrant of arrest against the suspect from the relevant institution	This is to ensure fairness and justice in the exercise

Recommendations

1. There is need to establish complaints mechanism for members of the public to report any misconduct by national security personnel.
2. Terms of office for Directors General, Deputy Directors General and members of the legal department should be expressly mentioned.
3. National Security Service should be organized not as a combat force but rather an discreet intelligence service

Police Service Act 2009

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S/N	Provision of The Law	Proposed Amendments	Justification for The Amendments
1.	Section 3 Purpose Amend	Amendment: Amend section 3 to include, "...protect the people of South Sudan, women, children and other vulnerable groups as well as their properties, uphold and enforce the constitution"	Women most often than not get side lined and rarely benefit from the services of the organized forces. Hence the reason for the specific mention in the Act.
2.	Section 4. Authority and application Add	Additional Provision: "This Act shall promote principles of gender equality, non-discrimination and have human rights-based approach".	It is important that this Act conforms to the Transitional Constitution and the gender provisions and National Gender Policy in the Republic of South Sudan.
3.	Section 4 Authority & Application Amend 4	Amendment: Amend section 4 by cross checking the articles of the constitution quoted	This is because the aforementioned sections and paragraphs were as contained in the Interim constitution of 2005 and have since changed with the enactment of the 2011 transitional Constitution

4.	Section 5 Interpretation Amend Section 5	Amendment: Amend the section 5 by Aligning all the definitions with current & most recent laws and offices as constituted under the Transitional Constitution as Amended	Some of these definitions have changed with time and such changes must be reflected in the Act.
5.	Section 6 Establishment of Police Service Amend Clause 6 (2)	Amendment: Amend the section 6 (2) by inserting “gender sensitivity” between the word neutrality and, honesty	Women are most often side lined and rarely benefit from the services of the organized forces. Hence the reason for the specific mention in the Act.
6.	Section 6 Establishment of police service Amend Clause 6 (5)	Amendment: Amend section 6 (5) to read “The South Sudan Police Service shall comprise of officers, non-commissioned officers, privates, women and men serving as officers and individuals on whom an order is issued by virtue of section 13 (4) of this Act	This will reinforce the spirit of the constitution and the Agreement in ensuring gender equity.
7.	Section 7 Functions and Powers of the Police Service Personnel Add Clause 7 (m)	Addition: Add Clause 7 (m) to read “protect vulnerable persons including women, children, persons with disability and the elderly”	It is important that the police understand their responsibilities and treat these groups of persons as equal citizens.
8.	Section 8. Duties of Police Service Add Clause 8 (k)	Addition: Add Clause 8 (k) to read “Duties of the Police should include the protection of women, children, persons with disability and other vulnerable persons”.	It is important to be explicit on the roles and duties of the police. Making specific reference to the protection of women, children and

			vulnerable groups accentuates this duty further.
9.	Section 9 Obligations of police Service Add Clause 9 (2)	Addition: Add Clause 9 (2) to read “police service personnel shall in his or her general conduct uphold principle of gender equity, non-discrimination, international human rights standards honesty, trust and shall abide by the regulations and order.	It is important that international Human rights standards and principles such as gender equity and non-discrimination are incorporated in the operations of the police service to avoid abuse and misuse of their positions and power
10.	Section 12 Competences of the National & Southern Sudan Police Services	Delete this section	The section has been overtaken by events since South Sudan got independence.
11.	Section 14 Movement & Integration of Forces Amend Clause 14 (1)	Amendment: Amend section 14 (1) to read “During Emergency and disaster situations, the President in consultation with the First Vice President, the Four Vice Presidents and with approval of Parliament, may issue a decree ordering the National Army to assist the Police Service.	This is because the powers for such extraordinary decisions are powers implemented in consultation within the presidency. However, we feel that Parliament has a critical role in this as well
12.	Section 14 Movement & Integration of Forces Amend Clause 14 (2)	Amendment Amend section 14 (2) by inserting the following sentence at the end to read “ And in accordance with section 14(1) above, the deployed forces shall be under the responsibility and control of the Inspector General of Police	This will ensure that there is a clear chain of command during emergency situations.

13.	Section 15 Community Policing Amend Clause 15 (2)	Amendment: Amend Clause 15 (2) to read “The Police Service shall create a national hotline dedicated to rescue the victims of sexual and gender-based violence, domestic violence and other crimes and enhance respect for human rights and gender equality	The creation of a hotline will allow the victims to access services and expedite redress. These hotlines should be connected to or managed by the Special Protection Units.
14.	Section 27 Admission to the Police College Amend Clause 27 (1)	Amendment: Amend Clause 27 (1) to read “admission to the Police College shall be open to all South Sudanese nationals and ensure at least 35% of all recruits at the Police college must be women”	This will be a reinforcement of the constitutional provisions on affirmative action to enhance women participation in public life.
15.	Section 31 Determination of Seniority Amend Clause 31 (1)	Amendment: Amend Clause 31 (1) by inserting the following statement at the end to read “...without discrimination to gender or ethnicity whatsoever.”	This will ensure that women and minority rights are not violated in promotion and determining seniority in the service
16.	Section 32 Promotion of officers Amend Clause 32 (1)	Amendment: Amend Clause 32 (1) by inserting the following at the end to read ... and due regard shall be given to women officers with no discrimination whatsoever”.	This is to allow women to participate in decisions made on promotion and prevent discrimination
17.	Sec 33 Transfer of officers Add Clause 33 (4)	Addition: Add Clause 33 (4) to read “Married couples who are both personnel in the service shall be given considerations for coordinated dual assignment,	This is to protect the marriages and give stability and allow for career development for both male and female personnel in the force

		deployment, redeployment and secondment with exception of combat.	
18.	<p>Section 39 Admission to the Police College</p> <p>Add Clause 39 (5)</p>	<p>Addition:</p> <p>Add Clause 39 (5) to read “35% of all admission to the police college should be women and female recruits who might have conceived at the time of training should be allowed to take leave of absence and given a chance to re-join and continue with the training after delivery.</p>	<p>This is to allow female recruits enjoy their fundamental rights, contribute towards attainment of the constitutional provision of 35% and protect lives of the unborn babies.</p>

Recommendation

1. Where ever the Act talks of ‘Him’ the language need to be improved to accommodate ‘her’ or use a gender neutral term such as ‘person’
2. There is need to create an independent complaints directorate where civilians can register complain against police personnel in case of such an unfortunate event.

Prison Service Act 2011

SN	Provision of the Law	Proposal	Justification
1.	Section 7: Functions Amend section 7	Amendment: Amend the title of the section to read "Functions of the Prisons Service	For Clarity
2.	Section 7: Functions Add Clause 7 (d)	Addition Add Clause 7 (d) to read; Administer, safe custody, health, protect rights and welfare of prisoners including protection from sexual assault and violence with special attention to female inmates, juveniles in detention	Inmates in general have rights for protection to be provided by prison service authority, however, women inmates and juveniles in detention are often more vulnerable to sexual violence.
3.	Section 9: Director General and Deputy Director General Amend Clause 9 (1)	Amendment: Amend Clause 9 (1) to read; The Prison Service shall be headed by Director General and Deputy Director General both of whom shall be appointed by the President upon recommendation by the Minister and one shall be a woman.	R-ACRSS provided for affirmative action for women by at least 35% Women have equal rights to participate with men in public life in accordance to the constitution
4.	Section 10: Directors Add Clause 10 (d)	Amendment: Amend Clause 10 (d) to read; Out of all the directors of the Prison service, State and national levels, at least 35% should be women	In accordance with R-ACRSS and the Transitional constitution, CEDAW, Maputo Protocols and African Charter on Human and

			Peoples rights affirm women’s participation at all levels of governance
5.	<p>Section 12: Appointment of the Director General and Deputy.</p> <p>Amend Clause 12 (2)</p>	<p>Amendment:</p> <p>Amend Clause 12 (2) to read; The Director General shall in consultation with the Minister appoint Directors at different levels and ensure at least 35% women representation</p>	See above justification
6.	<p>Section 13: Appointment of officers</p> <p>Amend Clause 13 (1)</p>	<p>Amendment:</p> <p>Amend Clause 13 (1) to read; The President shall on recommendation of the Minister appoint officers to the Prison Service after completion of the prescribed training and ensure at least 35% women inclusion</p>	See above justification
7.	<p>Section 13: Appointment of officers</p> <p>Amend Clause 13 (2)</p>	<p>Amendment:</p> <p>Amend Clause 13 (1) to read; The officers appointed by the president shall serve for one year on probation after which and on satisfactory performance of their function and duties they shall be eligible for confirmation and join the list of permanent Prison Service Officers</p>	We are suggesting that the probation period be reduced to one year instead of two. Two is too long for probation period

8.	<p>Section 15: Determination of Seniority of Officers</p> <p>Amend Clause 15 (3)</p>	<p>Amendment: Amend Clause 15 (3) to read; The Director General shall issue directives for the establishment of Officers and Non-Commissioned Officers seniority list and ensure that all the lists fulfill at least 35% women representation in accordance to the constitutional requirement</p>	<p>It is a constitutional requirement</p>
9.	<p>Section 16: Promotion of Prisons Service Personnel</p> <p>Amend Clause 16 (1)</p>	<p>Amendment: Amend Clause 16 (1) to read; The Director general shall establish a gender balanced promotion committee of not less than 35% women representation in its composition at all levels of the Prison Service.</p>	<p>This step will ensure that female personnel are not forgotten when the committee sits to prepare the list of personnel for promotion</p>
10.	<p>Section 17: Transfers of prison service personnel</p> <p>Add Clause 17 (4)</p>	<p>Addition Add Clause 17 (4) to read; The Director General or Officer in charge shall take into consideration the special needs of women in every transfer which shall include Pregnancy, lactation period and health care service for their young children under the age of 6 years</p>	<p>Pregnant, lactating and mothers of children under the age of 6 require special consideration due to the fact that the children are very much dependant on the mothers at this time and those under that age of 6years are very vulnerable. Therefore, it will not be wise to deploy their mothers in harsh environments without proper arrangement for their welfare.</p>
11.	<p>Section 18: Termination of Service of Prisons Service Personnel</p> <p>Amend Clause 18 (1) (h)</p>	<p>Amendment: Amend Clause 18 (1) (h) to read; 'If convicted of crime pertaining to honor, trust, honesty, sexual and gender-based violence, violence against children or imprisoned</p>	<p>The inclusion of sexual and gender based violence and violence against children is important to ensure that the prisons are safe for inmates.</p>

12.	<p>Section 18: Termination of Service of Prisons Service Personnel</p> <p>Delete Clause 18 (1) (j)</p>	<p>Deletion: Delete Clause 18 (1) (i)</p>	<p>Its not the president who should decide. The president should always act on the recommendation of the Director General</p>
13.	<p>Section 21: Creation of Prison Service Vacancies.</p> <p>Amend Section 21</p>	<p>Amendment: Amend Section 21 to read; Creation of Vacancies in Prison Service</p>	<p>Clarity Purposes</p>
14.	<p>Section 23: Prisons Service Budget</p> <p>Amend Clause 23 (1)</p>	<p>Amendment: Amend Clause 23 (1) to read; The Director General shall lead the institution and work in consultation with the Prisons Service Executive Council to ensure implementation of gender budgeting process in preparing all budgets of the institution.</p>	<p>This is because gender budgeting process will ensure that special needs of every section of the society will be taken care of including budgetary allocation for specialized needs of men, women, children and persons with disabilities</p>
15.	<p>Section 25: Salaries and privileges of the Prisons Service</p> <p>Amend Section 25</p>	<p>Amendment: Amend Section 25 Recommendation; Standardise this with the provision for salaries and privileges for police service</p>	<p>This is because they are all members of the "Organized Forces"</p>

16.	<p>Section 27: Medical Accommodation and Transportation</p> <p>care, and</p> <p>Amend Clause 27 (1)</p>	<p>Amendment:</p> <p>Amend Section 27 (1) to read; ‘The Government shall provide free medical service or health insurance for Prisons Service personnel and their immediate family members</p>	<p>This will help provide for the welfare of the prison personnel and their families and mitigate corruption</p>
17.	<p>Section 28: Leave</p> <p>Amend Clause 28 (2)</p>	<p>Amendment:</p> <p>Amend Clause 28 (2) to read; Where the work so requires, Prisons Service personnel may be denied his or her right to leave or any official holiday except for maternity leave or medical ground authorized by designated or qualified medical personnel or institution.</p>	<p>Persons on medical or maternity leave should not be forced to work no matter what the circumstances may be. The duration of maternity leave should be standardized with the provisions of Labours regulations in the country and international standards.</p>
18.	<p>Section 32: Annual reports and other reports</p> <p>Amend Clause 32 (2)</p>	<p>Amendment:</p> <p>Amend Clause 32 (2) to read; The Director General shall direct that other reports including special report on status of female officers, and female prisoners, juveniles and persons with special needs are developed on any aspect of the Prisons Service at any time.’</p>	<p>This will help to improve access to justice issues that inmates and human rights defenders and other institutions of public interest find difficult to address especially in light of increase of case backlog</p>
19.	<p>Section 33: Prisons Committee</p>	<p>Amendment:</p> <p>Amend Clause 33 (1) to read; There shall be established a Prisons Committee whose members shall be appointed by the Minister on the</p>	<p>This is in accordance to the 35% women representation provided for in R-ACRSS and the at least 35% women participation as provided for in the constitution</p>

	Amend Clause 33 (1)	recommendation of the Director General and shall reflect at least 35% women representation. If there is no qualified women, the ministers shall take deliberate action to recruit, train and promote competent women to participate in the committee.	
20.	Section 33: Prisons Committee Amend Clause 33 (3) (d)	Amendment: Amend Clause 33 (3) (d) to read; monitoring human rights standards incidences of sexual and gender-based violence and general performance within the Prisons Service	This will help improve human rights situations in the prison
21.	Section 34: Prisons Service Executive Council Amend Section 34	Amendment: Amend Section 34 to read; A Prison Service Executive Council shall be established to assist the Director General in leading the Prison Service and shall comprise of the following and ensure at least 35% women representation	This is in accordance to the constitutional provision and the R-ARCSS
22.	Section 35: Official visitors Amend Clause 35 (2)	Amendment: Amend Clause 35 (2) to read; The Director General or any other person, whom he or she may authorize, shall approve civil society organizations working	This will allow the civil society organizations offer the much needed legal aid and other support to the needy inmates and the prison service as an institution

		on Human rights and access to justice, women's rights organizations and any other person to enter an inmates institution at any time.	
23.	Section 56: Unlawful dealings with Prisoners Add Clause 56 (2)	Addition Add Clause 56 (2) to read; Any other person who commits sexual assault and violence against inmates is liable for punishment under the law	This will help to reduce sexual violence against inmates and ensure abuses by officers against inmates will be reported and punished by law It guarantees respect for rights of inmates
24.	Section 61: Duties of Officer in Charge on Admission of a Prisoner Amend Clause 61 (1) (a) (ii)	Amendment: Amend Clause 61 (1) (a) (ii) to read; by removing tribe in recording statement form prisoner	We feel that asking for ones tribe is derogative and divisive. The information on the persons ID and the other information are adequate for follow up
25.	Section 61: Duties of Officer in Charge on Admission of a Prisoner Amend Clause 61 (1) (a) (iv)	Amendment: Amend Clause 61 (1) (a) (iv) to read; details of known physical and/or mental health problems, including substance abuse and any obvious injury including sexual violence and rape and these cases will be forwarded to a designated medical officer for appropriate action	This will help the inmates to reform and make good decisions towards recovery and reform
26.	Section 61: Duties of Officer in Charge on Admission of a Prisoner	Addition Add Clause 61 (1) (e) to read; Provide trauma	This will begin the process of healing and reform and also facilitate genuine confessions

	Add Clause 61 (1) (e)	counselling services during admission of persons convicted of committing SGBV human rights violations	
27.	Section 64: Separation of prisoners Add Clause 64 (3)	Addition: Add Clause 64 (3) to read; Notwithstanding section 63 and 64 (1), the state shall establish a separate women’s Prison facility that takes care of special needs of women including provision of sanitary towels, antenatal and postnatal clinics and specialized care and facility for persons living with disabilities	Currently the facilities are not adequate and the inmates are all put in the same facility regardless of the magnitude of their crime. They only get to be separated in different rooms
28.	Section 65: Female prisoners and their children Amend Clause 65 (1)	Amendment: Amend Clause 65 (1) to read; Every pregnant prisoner shall have the right to access medical care and where practical, female prisoners who are pregnant shall be taken to deliver their babies in hospitals and if a child is born in a prison institution, every effort shall be made to secure the assistance of a mid-wife or traditional birth attendant.	To provide for best interest of the child and respect to the rights of the child
29.	Section 65: Female prisoners and their children	Amendment: Amend Clause 65 (2) to read; A child born in a prison facility has a right to breastfeed and cared for by the mother for two years. children born less than 2	To provide for best interest of the child and respect to the rights of the child

	Amend Clause 65 (2)	years before the mother is convicted shall have the right to breastfeed and stay with the mother.	
30.	Section 65: Female prisoners and their children Amend Clause 65 (4) (a)	Amendment: Amend Clause 65 (4) (a) to read; A medical officer and competent court considers it is in the best interests of the child’s physical or mental health to remain with his or her mother; or	To protect best interest of the child and respect to the rights of the child
31.	Section 65: Female prisoners and their children Amend Clause 65 (4) (b)	Amendment: Amend Clause 65 (4) (b) to read; the child has no father or close relatives willing to take care.	To protect best interest of the child and respect to the rights of the child
32.	Section 65: Female prisoners and their children Replace Clause 65 (5)	Replacement: Replace Clause 65 (5) to read: the state shall refer the child to the juvenile centre or any other private or government owned charitable children organisation or orphanage for specialized care	To protect best interest of the child and respect to the rights of the child
33.	Section 68: Health and Medical Care	Amendment:	

	Amend Clause 68 (1)	Amend Clause 68 (1) to read; A prisoner shall be entitled to adequate health care services including maternal health service, counselling, testing and treatment of HIV/AIDs based on international health standard and best practice.'	According to international best practice and on grounds of humane treatment
34.	Section 68: Health and Medical Care Amend Clause 68 (2)	Amendment: Amend Clause 68 (2) to read; A prisoner shall be entitled to adequate health care, maternal, antenatal, postnatal services and right to privacy and choice of medical facility if they are able to cover the cost	According to international best practice and on grounds of humane treatment
35.	Section 68: Health and Medical Care Add Clause 68 (3)	Addition: Add Clause 68 (3) to read; The prison service shall provide free counselling, testing and treatment healing for inmates living with HIV/AIDs and report kept confidential.'	Human rights
36.	Section 69: Prisoner work Amend Clause 69 (1)	Amendment: Amend Clause 69 (1) to read; A convicted inmate, after serving their jail term for a prescribed duration shall be deployed in a program of rehabilitative or productive labor, where available and shall be entitled to pay for the work done based on the law.	The pay will help them start life after serving the jail term

37.	<p>Section 72: Education and vocational training</p> <p>Modify Clause 72 (1) to become 72 (1) (a)</p>	<p>Modification:</p> <p>Modify Clause 72 (1) to become 72 (1) (a) and read; A prisoner shall enjoy the right to education and vocational training.</p>	<p>This is based on experiences from other countries even Uganda and Kenya in the region are doing the same. Helps to equip the prisoners with skills necessary to be used after they serve their jail term</p>
38.	<p>Section 72: Education and vocational training</p> <p>Add Clause 72 (1) (b)</p>	<p>Addition:</p> <p>Add Clause 72 (1) (b) to read; The prison service shall in collaboration with the Ministry of Education initiate education programs for inmates and special programs for children and women.</p>	<p>This is to actualize the concept of prisons not just being a punishment facility but also a reformatory of correctional service and people are expected to come out when they are better members of the society</p>
39.	<p>Section 73 right to access to legal services</p> <p>Amend Clause 73 (1)</p>	<p>Amendment:</p> <p>Amend Clause 73 (1) to read; A prisoner shall be entitled to consult on any legal matter with a legal practitioner of his or her choice, human rights defenders, pro bono lawyers and in a manner which preserves legal confidentiality between the prisoner and his or her legal practitioner or legal representative.</p>	<p>Access to legal representation is a human rights entitlement</p>
40.	<p>Section 74: Visits and Communication</p> <p>Amend Clause 74 (2) (f)</p>	<p>Amendment:</p> <p>Amend Clause 74 (2) (f) to read; Where the prisoner is a foreign national, consular representatives; friends, family and lawyers shall be allowed to</p>	<p>In line with Human Rights principles</p>

		visit.'	
41.	Section 74: Visits and Communication Amend Clause 74 (2) (g)	Amendment: Amend Clause 74 (2) (g) to read; A representative of a competent international organization or local human rights organizations whose mission involves the protection and promotion of rights of inmates and support to the prison services shall be accredited by the Director General of Prison Services to have access to the facility upon request	To promote partnership between the prison services and other sectors of the society. This will not only protect human rights but also support in improving prison services in the country
42.	Section 74: Visits and Communication Amend Clause 74 (5)	Amendment: Amend Clause 74 (5) to read; Conjugal visits may be allowed after confirmation by the Prisons Service of a legally valid marriage recognized under the laws between the prisoner and the visiting spouse. The regulations shall prescribe how such visits will take place	General Assembly Resolution 70/175, 20, U.N. Doc. A/RES/70/175 (Dec. 17, 2015), <i>available at</i> https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf . International standards suggest that where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men
43.	Section 74: Visits and Communication Add Clause 74 (7)	Addition Add Clause 74 (7) to read; Duration and frequencies of conjugal visits for all legally married inmates shall be equal without prejudice to sex and social status of the inmate before conviction	It a human right for all

44.	<p>Section 74: Visits and Communication</p> <p>Add Clause 74 (8)</p>	<p>Addition</p> <p>Add Clause 74 (8) to read; The prison service shall make available option for contraception if required by the prisoner and his or her spouse.'</p>	It's a right
45.	<p>Section 78: Complaints by Prisoners</p> <p>Add Clause 78 (3)</p>	<p>Addition</p> <p>Add Clause 78 (3) to read; The Director General in consultation with the Minister shall establish a Gender and women Affairs complain desk that must adhere to the principle of confidentiality</p>	Human rights and dignified reporting of sexual and gender based violence related issues
46.	<p>Section 78: Complaints by Prisoners</p> <p>Add Clause 78 (4)</p>	<p>Addition</p> <p>Add Clause 78 (4) to read; The Director General of Prison Services shall provide periodic reporting of complaints filed for purposes of improving discipline and work ethic within the service.'</p>	To ensure Accountability
47.	<p>Section 80: Guaranteed Prisoners</p> <p>Amend Clause 80 (1) (c)</p>	<p>Amendment:</p> <p>Amend Clause 80 (1) (c) to read; Inmates who have been determined by the Prison Director as having</p>	Gender equality and human rights principles

		a record of good conduct during their term of imprisonment regardless of age and sex.	
48.	<p>Section 80: Guaranteed Prisoners</p> <p>Amend Clause 80 (4)</p>	<p>Amendment:</p> <p>Amend Clause 80 (4) to read; A female prisoner is entitled to be declared as guaranteed inmate on equal conditions as a male inmate based on the recommendation of the Director general or designated officer of the prison service with the authority to declare an inmate as guaranteed'</p>	The Universal Declaration of Human Rights provides for equality before the law and is a right for both man and woman
49.	<p>Section 82: Execution of condemned Prisoners</p> <p>Amend Clause 82 (1)</p>	<p>Amendment:</p> <p>Amend Clause 82 (1) to read; Death sentences shall not be executed in State and Central Prison facilities in South Sudan and the General based on international human rights standards and best practice shall hold on with execution pending review of the Transitional Constitution and applicable laws.</p>	Many countries have barred the use of death sentence. It is inhumane and degrading

50.	Section 82: Execution of condemned Prisoners Add Clause 82 (7)	Addition Add Clause 82 (7) to read; Any person who sexually assaults or abuses or violates rights of an inmate on death roll shall be subjected to disciplinary action or punishment under the law.	Human right principle
51.	Section 95: Searching of prisoners Amend 95 (1)	Amendment: Amend Clause 95 (1) to read; Prisons Service personnel may search any prisoner, provided that the personnel undertaking the search is of the same sex and the search must be done with dignity’	It is humiliating to search women before men or even to undress a man to be searched by a woman. The search must be done in a dignified manner. Use of force in search sessions amount to harassment and intimidation
52.	Section 107: Oath	Section 107 to read South Sudan Note: Swearing should be by choice of one’s own faith and use either Kuran or Bible or spear or stick in case of non-believers	Bill of rights and international human rights instrument provide for religious freedom

Recommendation

1. Include a Section in the Act that reads: The Minister, shall take deliberate action to train and build the capacity of female personnel in terms of appointments, promotions, confirmations and determinations of seniorities women must be considered by at least 35%.
2. Create section on a committee or directorate for Women’s affairs and will also handle cases of SGBV

3. Swearing should be by choice of one's own faith either Kuran or Bible or spear or stick in case of non-believers