ACTS
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ACTS SUPPLEMENT

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THE PENAL CODE ACT, 2008

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LAWS OF SOUTHERN SUDAN

THE PENAL CODE ACT, 2008

In accordance with the provisions of Article 59(2)(b) read together with Article 85(1) of the Interim Constitution of Southern Sudan, 2005, the Southern Sudan Legislative Assembly, with the assent of the President of the Government of Southern Sudan, hereby enacts the following—

CHAPTER I

PRELIMINARY PROVISIONS

1. Title and Commencement.

This Act may be cited as "The Penal Code Act, 2008," and shall come into force on the date of its signature by the President.

Signed on 22nd August, 2008

2. Repeal and Saving.

The Penal Code Act, 2003, is hereby repealed; provided that, all actions taken, proceedings, orders and regulations made or issued thereunder shall remain in force until they are repealed or amended in accordance with the provisions of this Act.

3. Purpose.

The purpose of this Act is to provide for the penalties which govern the criminal acts that may be adjudicated upon by the Courts of Southern Sudan, the sentences which may be imposed upon conviction, and any other issues related thereto.

4. Authority and Application.

(1) This Act is drafted in accordance with the provisions of paragraphs (4) and (9) of Schedule (B) of the Interim Constitution of Southern Sudan ("ICSS"), 2005, and as part of the effort to establish minimum Southern Sudan standards and uniform norms in the areas of penal law, and judicial institutions.

(2) The provisions of this Act represent the minimum standards that shall be applied to all the judicial proceedings in or before any Court in Southern Sudan in criminal and criminal related matters, except for criminal proceedings under National Laws, which will be governed by national legislation.

5. Interpretations.

(1) In this Act, unless the context otherwise requires, the following words and expressions shall have the meanings assigned to them respectively—

"Act" means something done or performed, and may denote a series of acts as well as a single act; except where a contrary intention appears from the context, words which refer to acts committed may also extend to illegal omissions;
"Act of insurgency, banditry, sabotage or terrorism" means any act referred to in section 67(1)(d)(i), (ii), (iii), (iv) or (v) that is undertaken for a purpose referred to in section 67(1) paragraph (a), (b) or (c) therein;
"Animal" means a living creature, other than a human being;
"Assembly" means the Southern Sudan Legislative Assembly;
"Bomb" means—

(a) any device consisting of or carrying an explosive charge or fused to detonate upon impact or percussion or through a timing contrivance or by an electrical or electronic device; or

(b) any other device capable of causing an explosion;

"Coin" means any metal used as money and stamped and issued by any government in order to be used as a currency;

"Counterfeit" means to unlawfully cause one thing to resemble another thing intending by means of that resemblance to practice deception or knowing it to be likely that deception will thereby be practiced;

"Coercing" means constraining, compelling or restraining by—

(a) physical force or violence or, if accompanied by physical force or violence or the threat thereof, boycott, civil disobedience or resistance to any law, whether such resistance is active or passive; or

(b) threats to apply or employ any of the means described in paragraph (a), above;

"Court" means a court of competent jurisdiction;

"Creed or religion" means any system of beliefs associated with practices of worship that is adhered to by any group of persons in Southern Sudan or any other country, and includes African traditional beliefs;

"Defence forces" means the SPLA and Joint Integration Units in Southern Sudan;

"Dishonesty" means a state of mind where an act is committed by a person with the intention of causing wrongful gain for himself, herself or another, or of causing wrongful loss to any other person;

"Document" signifies any writing intended to be used or which may be used as evidence of the matter expressed thereby;

"Document of title" means a document which is or purported to be a document whereby a legal right is created, extended, transferred, restricted, extinguished or released, or whereby the existence or the extinction of a legal right is acknowledged or established;

"Essential service" means—

(a) any service relating to the generation, supply or distribution of electricity;
(b) any fire brigade or fire service;
(c) any health, hospital or ambulance service;
(d) any service relating to the production, supply, delivery or distribution of fuel;
(e) any service relating to the supply or distribution of water;
(f) any communications service;
(g) any transport service; or
(h) any other service or occupation whose interruption would endanger the life, health or safety of the whole or a part of the population and which the Minister may declare by notice in a statutory instrument to be an essential service;

"Fraudulently" or **"with intent to defraud"** means a state of mind where an act is committed by a person with the intent to deceive, and by means of such deceit, to obtain some advantage for himself or another or to cause loss to any other person;

"Good faith" means a state of mind where an act is committed or believed to be done honestly, with due care and attention, and without malice;

"Government" means the Government of Southern Sudan, State and the Local Government;

"Guardian" or **"lawful guardian"** means any person lawfully entrusted with care or custody of a minor or other person authorised to consent to the taking of such a minor out of the custody;

"Harbour" means the act of affording lodging, shelter, or refuge to another person who has committed or intends to commit an offence or who is seeking to evade arrest;

"Constitution" or **"ICSS"** means the Interim Constitution of Southern Sudan, 2005;

"Illegal" means something which is prohibited by this Act or other applicable law;

"Injury" or **"hurt"** means any harm whatsoever caused to any person, in body, mind, reputation, or property;

"Insurgent, bandit, saboteur or terrorist" means a person who—

(a) is about to commit, is committing or has committed an act of insurgency, banditry, sabotage or terrorism; or

(b) has attended a course or undergone training, is about to attend a course or undergo training or is attending a course or undergoing training referred to in section 69(1) of this Act;

"Judicial proceedings" means any proceeding in the course of which it is lawful to take evidence under oath;

"Probable" means to have a certain consequence or to cause a certain effect if the occurrence of that consequence or effect would not be unexpected;

"Likely" means that an act is said to be "likely" to have a certain consequence or to cause a certain effect if the occurrence of that consequence or effect would cause no surprise to a reasonable man;

"Minister" means the Minister concerned in the Government;

"Movable property" means any property of every description except immovable property such as land and things attached to the earth or permanently fastened to anything which is attached to the earth;

"Note" means every currency note issued by or under the authority of any government and intended to be used as equivalent to or as a substitute for money and any banknote which is legally a currency in any country;

"Oath" means any declaration required or authorised by law; or tradition to be used for the purpose of proof, whether in a Court or otherwise;

"Offence" means a violation of the law, and includes an offence under any law for the time being in force;

"Offensive material" means any inflammable, dangerous, noxious, or deleterious substance, material or thing capable of killing or injuring persons, including, but not limited to—

(a) low or high explosives and the ingredients thereof;
(b) all types of fuse used in the ignition of explosives;
(c) detonators;
(d) timing devices, especially time pencils;
(e) wire cutters;
(f) concentrated or other harmful acids;
(g) ammunition;
(h) biological or chemical warfare agents;
(i) any other substance, material or thing declared by the Minister, by notice in a statutory instrument, to be an offensive material for the purposes of this definitions;

"Other Organized Forces" means organized forces of Police, Prisons, Wildlife and Fire Brigade..

"Omission" means a failure to do something, in which the person was under a legal obligation to do, and may denote a series of omissions as well as a single omission;

"Person" means any legal entity, association or body of persons, whether or not incorporated, as well as any individual;

"President" means the President of the Government of Southern Sudan;

"Prostitution" means an immoral sexual intercourse for a consideration, being payment or reward;

"Public" means any class or section of the public;

"Public demonstration" means a procession, gathering or assembly in a public place of persons and additionally, or alternatively, of vehicles, where the gathering is in pursuit of a common purpose of demonstrating support for, or opposition to, any person, matter or thing, whether or not the gathering is spontaneous or is confined to persons who are members of a particular organization, association or other body or to persons who have been invited to attend;

"Public gathering" means a public meeting or a public demonstration;

"Public meeting" means any meeting which is held in a public place or to which the public or any section of the public have access, whether on payment or otherwise;

"Public place" means any building, open space or other place of any description to which the public or any section of the public have access, whether on payment or otherwise and whether or not the right of admission thereto is reserved;

"Publicly" means in relation to making a statement—

(a) in a public place or any place to which the public or any section of the public have access;

(b) by publishing it in any printed or electronic medium for reception by the public;

"Publicly solicits" means—

(a) solicits in a public place or any place to which the public or any section of the public have access; or

(b) solicits by publication of the solicitation in any printed or electronic medium for reception by the public;

"Public servant" means a person falling under any of the following descriptions—

(a) a person appointed by the Government, State Authority or by any Local Authority for the performance of public duties whether with or without remuneration or for the performance of a specific public duty while performing that duty;

(b) a person not falling within the description set forth in subparagraph (a), above, who is in the service of another County's authority in a judicial, quasi-judicial, executive, administrative or clerical capacity;

(c) a private, non commissioned officer or commissioned officer of the SPLA;

(d) an assessor or other person assisting a Court or a public servant exercising judicial or quasi-judicial functions while acting in that capacity;

(e) a person not being a member of the Assembly, who is appointed or deputed by the Assembly to do anything pertaining to the functions of the Assembly or any of its organs; and

(f) a person who works in a public corporation whether such corporation is established by law or by an order of the President;

"Reason to believe" means a situation where a person has sufficient cause to believe that something is true or false, but not otherwise;

"Revenue stamp" means a stamp issued by or under the authority of Southern Sudan or the government of any other country for postal or other revenue purposes;

"Sentence" means the punishment imposed after conviction of an offence;

"Sexually transmitted disease" means syphilis, gonorrhea, herpes, and all other forms of sexually transmitted diseases except, for the purposes of this section, HIV/AIDS;

"SDG" means the Sudanese Pound;

"SPLA" means the Sudan People's Liberation Army which includes land, naval and air forces;

"Statement" includes any act, gesture or form of expression, whether verbal, written or visual, but does not include any film, picture, publication, statue or record that is of a *bona fide* literary or artistic character;

"Treason" means an act of sedition disloyalty, betrayal or subversion.

"Unconstitutional means" means any process which is not a process provided for in the Interim Constitution of Southern Sudan and,or other law;

"Vessel" means anything made for the conveyance by water, of human beings or of property;

"Voluntarily" means an act done by design and intention;

"Weaponry" means any of the following kinds of offensive material—

(a) artillery of all kinds;

(b) a firearm or other apparatus for the discharge of bullets or other kinds of projectiles which are designed to be lethal, whether solid, explosive or gas diffusing;

(c) a flame-thrower;

(d) high or low explosive, whether or not manufactured as a bomb, grenade or similar missile or device and whether capable of use with a firearm or not, including a fuse, detonator or timing device therefor;

(e) biological or chemical warfare agents;

(f) any other offensive material declared by the Minister, by notice in a statutory instrument, to be an offensive material for the purposes of this definition;

"Writing" denotes any marks made upon paper or other substance to express words or ideas, and includes marks made by printing, lithography, photography, inscription, engraving or any other process;

"Wrongful gain" means any benefit gained by or through unlawful means, or property to which the person gaining is not legally entitled;

"Wrongful loss" means any loss incurred by or through unlawful means, or property to which the person losing it is legally entitled.

(2) Terms not specifically defined herein, which are defined in either the Code of Criminal Procedure Act, 2008, or the Evidence Act, 2006, as in force from time to time, shall have the meanings set forth in those Codes, unless the context is inconsistent, and except where it is otherwise expressly provided.

CHAPTER II

APPLICATION OF LAW, CONVICTION AND COMPENSATION

Application of Law

6. Conviction for Offences Committed Within Southern Sudan.

(1) Every person, who either by an act or omission, acts contrary to the provisions of this Act, commits an offence, and upon conviction, shall be sentenced in accordance with the provisions of this Act or other applicable law.

(2) In the application of this Act, Courts may consider the existing customary laws and practices prevailing in the specific areas.

(3) For the purpose of this Act, definition of Southern Sudan includes its land, airspace, internal waters, and all Southern Sudan steamers and aircrafts wherever they are.

7. Conviction for Offences Committed Outside Southern Sudan.

(1) Every person who engages in the acts set forth in this section, commits an offence, which is subject to adjudication by the Courts of Southern Sudan—

(a) Any person who commits an offence outside Southern Sudan, whether as principal or abettor, with respect to any offence committed either wholly or in part, in Southern Sudan;

(b) Any person who commits an act in Southern Sudan, which is an offence in Southern Sudan, and is also an offence under any law in force in the place where the act is committed or intended to be committed; or

(c) Any person who is guilty of the commission or abetment outside Southern Sudan of any of the following offences—

(i) an offence falling under Chapters II, V, VI of this Act;

(ii) an offence falling under section 160 of this Act; or

(iii) an offence falling under section 169 of this Act.

(2) Every Southern Sudanese who is guilty of the commission of abetment outside Southern Sudan, or an offence that falls within the meaning of this Act, upon conviction, shall be subject to sentencing in Southern Sudan.

(3) No person shall be convicted in Southern Sudan for an offence committed outside Southern Sudan, if it is proved that such person was tried outside Southern Sudan before a Court of competent jurisdiction, and that such person has served his or her sentence. Further more such person shall not be convicted if he or she was declared innocent by such Court.

Provisions Related to Conviction

8. Possible Sentences.

Persons who act contrary to the provisions of this Act, may be subject to the following sentences—

(a) death;
(b) imprisonment;
(c) forfeiture of property;
(d) detention in a reformatory; or
(e) fine.

9. Juveniles, Aged Persons, Pregnant or Suckling Women.

The Court shall not pass—

(a) a sentence of imprisonment on any person who in the opinion of the Court is under sixteen years of age;
(b) the death penalty on any person who in the opinion of the Court is under eighteen years of age; and
(c) the death penalty on any person who in the opinion of the Court is over seventy years of age.

10. Term of Life Imprisonment.

A sentence to life imprisonment shall be equivalent to a term of twenty years.

11. Special Sentence for Juvenile Offenders.

When an accused person who is twelve and less than eighteen years of age is convicted by a High Court of any offence, or by the Court of a Magistrate of the First or Second Class of any offence not triable summarily, the Court may, in passing the sentence prescribed by law, sentence such accused person to be detained in a reformatory school or other establishment for the purpose for a term which shall not be less than two or more than five years.

12. Fines not to be Excessive.

Where no sum is expressed to which a fine may be levied, the amount of fine to which the offender is liable is unlimited, but in no event shall such fine be excessive.

13. Sentence of Imprisonment for Non-payment of Fine.

Whenever an offender is sentenced to a fine, regardless of whether the fine is to be paid in addition to a sentence of imprisonment, the Court which sentenced the offender may direct that upon default of payment of the fine, the offender shall be sentenced to imprisonment for a certain term, provided that, which such term shall not exceed any other term of imprisonment to which he or she may have been sentenced or to which he or she may be liable under a commutation of a sentence.

14. Limit to Imprisonment for Non-payment of Fine, when Imprisonment and Fine are Awardable.

If the offence subject to a sentence of imprisonment and a fine, upon default in payment of the fine, the Court may sentence the offender to be imprisoned for a term, that shall not exceed one-fourth of the maximum term of imprisonment which is fixed for the original offence; provided that, in case of offences in which the offender has obtained material benefit, he or she shall be bound to return such benefit; and in case of default, he or she shall be sentenced to an additional term of imprisonment without regard to the limitation provided for in this section.

15. Imprisonment for Non-payment of Fine, when the Offence is Subject to Fine Only.

If the offence is subject to a sentence of a fine only, the term for which the Court may sentence the offender to be imprisoned upon default of payment of the fine, shall not exceed the following—

(a) a term not exceeding two months, when the amount of the fine does not exceed SDG120;

(b) a term not exceeding four months when the amount of the fine does not exceed SDG300; and

(c) a term not exceeding six months in any other case.

16. Imprisonment to Terminate on Payment of Fine or Proportional Part of Fine.

(1) If, before the offender is committed to prison under section 13 of this Act, upon default of payment of a fine, and a proportion of the fine is paid or levied by process of law, the term of imprisonment upon default of payment shall be abated proportionately.

(2) If the offender has been committed to prison under section 13 of this Act, the imprisonment shall terminate whenever the fine or a proportion of the fine, equal to the proportion which the un-expired term of imprisonment bears to the whole term, is either paid or levied by due process of law.

17. Fine Discharged by Death or Service of Sentence in Default of Payment.

Where a fine or any part thereof remains unpaid, the offender or his or her estate, if he or she is dead, is discharged from liability to pay the fine or the unpaid part thereof, notwithstanding that he or she has served a term of imprisonment upon default of payment of the fine.

18. Limit on Sentence when act Falls within Definition of more than one Offence, or when an Offence made up of Several acts.

When the same act falls within the definition of more than one offence, or when an offence consists of a series of acts, any one or more of which constitutes the same or some other offences, the offender shall not, unless it is otherwise expressly provided for be sentenced to a longer term than the Court which tries him or her could have awarded for any one of such offences.

Illustrations—

(a) "A" gives "Z" fifty strokes with a stick. Here "A" can be punished for one beating only although each blow may by itself constitute an offence;

(b) But if, while "A" is beating "Z", "Y" interferes and "A" intentionally strikes "Y", here, as the blow given to "Y" is no part of the act whereby "A" voluntarily causes hurt to "Z", "A" is liable to one punishment for voluntarily causing hurt to "Z" and to another for the blow given to "Y".

19. Sentencing of a Person Convicted of one of Several Offences.

In all cases in which the judgment specifies that a person has committed one of several offences, but it is unclear which of these offences he or she has been convicted of, the offender shall be sentenced for the offence for which the lowest sentence is provided.

20. Habitual Offenders.

(1) Whenever any person is sentenced to imprisonment for a term of more than six months for an offence committed under this Act, and the said convicted person has, on at least, three previous occasions been sentenced to imprisonment, the Magistrate or Court may, if in his, her or its opinion the circumstances justify so doing, give such person a warning by reading out and explaining to him or her the relevant parts of this section and such warning shall be recorded with the sentence.

(2) If any person who has been warned is subsequently convicted of any offence which may subject him or her to imprisonment, and such offence is committed more than one year after his or her release from serving the sentence in respect of which he or she was warned, the Court or Magistrate when sentencing him or her shall give him or her a second warning.

(3) If any person who was warned is convicted of an offence which may subject him or her to imprisonment, and such offence is committed within one year of his or her release from serving the sentence in respect of which he or she was warned, or if any person who was twice warned, is convicted of any such offence at any time after the second warning, he or she shall be sentenced to imprisonment for a term that may extend to ten years.

(4) No person who was warned shall be tried for any offence which may subject him or her to imprisonment except under this Act, by a Magistrate of the First Class, non-summarily, or by a higher Court, and in awarding sentence under subsection (3), above, such Magistrate or Court shall not be subject to the limits of his or her or its powers set forth by the Code of Criminal Procedure Act, 2008.

(5) Sentences awarded under subsection (3), above, shall not be subject to any maximum term prescribed for the offence of which the warned person is convicted.

Compensation

21. Compensation.

(1) A Court which convicts any accused person, whether or not the said Court passed any sentence as set forth in section 8, may order the offender to pay compensation to any person injured by his or her offence, if such compensation is in the opinion of the Court recoverable in a civil suit.

(2) An order under this section may be sent to a Civil Court for execution in accordance with the rules governing execution of judgments as set forth in the Code of Civil Procedure Act, 2008.

Note-*Money or any other property as well may be ordered as compensation under this section. See the Code of Criminal Procedure Act, 2008. Under such section, the Court first decides whether a fine is the proper punishment and if it so decides, it may order the whole or part of the fine to be paid as compensation. The fact that it has made such an order does not prevent the Court from ordering further compensation under this section.*

CHAPTER III

CRIMINAL RESPONSIBILITY AND DEFENCES

Criminal Responsibility

22. Common Knowledge.

A person is presumed, unless the contrary is proved, to have knowledge of any material fact if such fact is a matter of common knowledge.

23. Presumption of Knowledge of an Intoxicated Person.

A person who does an act in a state of intoxication is presumed to have the same knowledge as he or she would have had if he or she not intoxicated.

Defences Negating Criminal Responsibility

24. Acts of a Person Incapable of Judgment by Reason of Intoxication Caused Against his or her Will.

No act is an offence which is committed by a person who, at the time of doing such act, did not possess the power of appreciating the nature of his or her actions or of controlling them, by reason of intoxication caused by any substance administered to him or her against his or her will or without his or her knowledge.

25. Act done by Person Bound or Justified by Law.

No act is an offence which is done by a person who is legally bound to do it or justified by law in doing it, or who by reason of a mistake of fact, and not by reason of a mistake of law in good faith believes himself or herself to be bound by law to do it or justified by law in doing it.

Illustration—

(a) "A" an officer of a Court being ordered by that Court to arrest "Y" and after due enquiry believing "Z" to be "Y" arrests "Z". "A" has committed no offence.

(b) "A" sees "Z" commit what appears to "A" to be a murder. "A" in the exercise to the best of his or her judgment exerted in good faith of the power which the law gives to all persons of arresting murderers in the act, seizes "Z" in order to bring "Z" before the proper authorities. "A" has committed no offence, though it may turn out that "Z" was acting in self defence.

26. Act of a Court.

No act is an offence which is committed by a person when acting judicially as a Court or as a member of a Court in the exercise of any power which is in good faith he or she believes to be given to him or her by law.

27. Act Committed Pursuant to the Judgment or Order of the Court.

No act is an offence which is committed in pursuance of, or which is warranted by, the judgment or order of a Court, or for the execution of such judgment or order, if done whilst such judgment or order remains in force, notwithstanding that the Court may have had no jurisdiction to pass such judgment or order; provided that, the person doing the act believes, in good faith, that the Court has proper jurisdiction.

28. Accident in Committing a Lawful Act.

No act is an offence which is committed by accident or misfortune and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with due care and attention.

29. Act Committed to Prevent Injury.

No act is an offence by reason of any injury which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, if such act was committed without any criminal intent to cause injury, and in good faith for the purpose of preventing or avoiding other injury to person or property, or of benefiting the person to whom injury is or may be caused, provided that—

(a) in the light of the circumstances of the case, the commission of the act was reasonable;

(b) where the circumstances so require, the act was committed with reasonable care and skill;

(c) the act was not committed with the intent of causing death or attempt to cause death in order to prevent or avoid injury only to property, and not an individual person;
(d) death of an individual person shall under no circumstances be deemed to be for the benefit of that person; and
(e) pecuniary benefit is not deemed to be a benefit within the meaning of this section.

Illustrations—

(a) A passenger train traveling at a high speed is approaching a stationary passenger train upon the same line of rails. A railway employee, as the only means of preventing a collision that would probably involve the lives of many passengers, switches the moving train in to a siding. The employee is not guilty of an offence if in light of all the circumstances, his or her act was reasonable, although fatal though less serious accident will likely result and a fatal accident in fact occurs;

(b) "A" in a great fire pulls down houses in order to prevent the conflagration from spreading. "A" does this with the intention in good faith of saving human life or property. If, in light of the circumstances his or her acts are found to be reasonable, "A" is not guilty of an offence.

(c) "Z" is seized by a crocodile, "A" fires at the crocodile knowing it to be likely that the shot may kill "Z" but not intending to kill "Z" and in good faith intending "Z's" benefit. In fact "A" kills "Z". "A" has committed no offence.

30. Children under Twelve Years of Age not Criminally Liable.

A child under twelve years of age, shall be deemed to lack criminal capacity and shall not be tried for or convicted of any offence, which he or she is alleged to have committed.

31. Criminal Capacity of Children of Twelve and under Fourteen Years of Age.

A child who is of twelve, but under fourteen years of age, at the time of the conduct constituting any offence which he or she is alleged to have committed, shall be presumed criminally liable, unless the contrary is proved beyond reasonable doubt—

(a) to lack the capacity to form the intention necessary to commit the offence; or

(b) where negligence is an element of the offence concerned, to lack the capacity to behave in the way that a reasonable adult would have behaved in the circumstances.

32. No Presumption of Criminal Incapacity for Persons of and over the Age of Fourteen Years.

No person who is of or above the age of fourteen years shall be presumed to lack the capacity to form the necessary intention to commit any offence or, where negligence is an element of the offence concerned, to behave in the way that a reasonable person would have behaved in the circumstances of the offence.

33. No Relief from Civil Liability.

The provisions regarding criminal responsibility as they apply to children, shall not, however, affect any civil claim by the aggrieved party against the parents or guardian of the child.

34. Act of a Person Incapable of Judgment by Reason of Unsoundness of Mind.

No act is an offence which is committed by a person who at the time of committing such act did not possess the power to appreciate the nature of his or her acts, or of controlling them by reason of permanent or temporary insanity or mental infirmity, provided however, that this provision shall not affect any civil claim instituted by the aggrieved party against the guardian unless the person of unsound mind was in custody at the time of the Commission of the offence.

35. Act not Intended to Cause Death or Grievous Hurt Done by Consent.

No act is an offence by reason of the injury it has caused to the person or property of any person who, being above the age of eighteen years, has voluntarily and with understanding given his or her consent, express or implied, to that act; provided that, this section shall not be applicable to acts which are likely to cause death or grievous hurt, nor to acts which constitute offences independently of any injury which they are capable of causing to the person who has given his or her consent or to his or her property.

Illustration—

"A" and "Z" agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which in the course of such fencing may be caused without foul play; and if "A" while playing fairly hurts "Z", "A" commits no offence.

36. Consent Known to be Given Under Fear or Misconception.

A consent is not such a consent as is intended by any section of this Act, if its is given by any of the following—

(a) by a person under fear of injury or under a misconception of fact, and if the person doing the act knows or has reason to believe that the consent was given in consequence of such fear or misconception;

(b) by a person who from unsoundness of mind or intoxication is unable to understand the nature and consequence of that to which he or she gives his or her consent; or

(c) by a person who is under eighteen years of age.

37. Communication made in Good Faith.

No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration—

"A" a surgeon in good faith communicates to a patient his opinion that the patient will not live. The patient dies in consequence of the shock. "A" has committed no offence.

38. Act to Which a Person is Compelled by Threats.

Except murder, and offences against the Government which may result in the sentence of death, no act is an offence which is committed by a person who is compelled to do it by threats, which at the time of committing such act, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided that, the person committing the act did not, of his or her own accord, or from a reasonable apprehension of harm, put himself or herself, in the situation by which he or she became subject to such constraint.

39. Act Causing Slight Injury.

No act is an offence by reason that it causes or that it is intended to cause or that it is known to be likely to cause any injury, if that injury is so slight that no person of ordinary sense and temper would complain of such injury.

Right of Private Defence

40. The Right of Private Defence.

(1) No act is an offence which is done in the lawful exercise of the right of private defence.

(2) Every person has a right, subject to the restrictions hereinafter contained, to defend—
   (a) his or her own body and the body of any other person against any offence affecting the human body; and

(b) property, whether movable or immovable, of himself, herself or of any other person, against any act, or attempted act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass.

41. Right of Private Defence Against Act of Person of Unsound Mind, etc.

When an act, which would otherwise be an offence is not an offence by reason of age, want of maturity of understanding, the unsoundness of mind or the intoxication of the person doing that act or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he or she would have had as if the act was an offence.

Illustrations—

(a) "Z" under the influence of madness attempts to kill "A". "Z" is guilty of no offence. But "A" has the same right of private defence which he would have if "Z" were sane;

(b) "A" enters by night a house which he or she is legally entitled to enter. "Z" in good faith taking "A" for a house breaker, attacks "A" Here "Z", by attacking "A" under this misconception, commits no offence. But "A" has the same right of private defence against "Z", which he or she would have if "Z" were not acting under that misconception.

42. General Limit of Right of Private Defence.

The right of private defence shall, in no case, extend to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

43. No Right of Private Defence when Protection of Public Authorities Available.

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

44. Limitation of Right of Private Defence Against Act of Public Servant.

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done or attempted to be done by a public servant acting in good faith under the colour of his or her office, or at the directives of a public servant acting in good faith, though those directives may not be strictly justifiable by law.

Explanations—

(a) A person is not deprived of the right of private defence against an act done or attempted to be done by a public servant, as such, unless he or she knows or has reason to believe that the person doing the act, or attempting to do it, is such public servant.

(b) A person is not deprived of the right of private defence against an act done or attempted to be done by the direction of a public servant, unless he or she knows or has reason to believe that the person doing the act is acting by such direction or, if he or she has authority in writing, unless he or she produces such authority if demanded.

45. When Right of Private Defence of the Body Extends to Causing Death.

The right of private defence of the body extends, under the limitations mentioned in sections 43 and 44 of this Act, to the voluntary causing of death only when the act to be repulsed is any of the following—

(a) an attack which causes reasonable apprehension of death or grievous hurt;

(b) rape or an assault with the intention of gratifying unnatural lust; or

(c) abduction or kidnapping.

46. When Right of Private Defence of Property Extends to Causing Death.

The right of private defence of property extends, under the restrictions mentioned in sections 43 and 44 of this Act, to the voluntary causing of death only when the act to be repulsed is of any of the following—

(a) robbery;
(b) house-breaking by night;
(c) mischief by fire committed on any building, tent or vessel, which building, tent or vessel, is used as human dwelling or as place for the custody of property; or
(d) theft, mischief or house-trespass in such circumstances as may reasonably cause apprehension that, if such right of private defence is not exercised, death or grievous hurt shall be the consequence.

47. Right of Private Defence against Deadly Assault when there is Risk of Harm to Innocent Person.

The right of private defence against an assault which reasonably causes the apprehension of death, may be exercised, even if such defence can only be exercised at the risk of causing harm to an innocent person.

Illustration—

"A" is attacked by a mob which attempts to murder him or her. He or she cannot effectually exercise his or her right of private defence without firing on the mob and he or she cannot fire without risk of harming young children who are mingled with the mob. "A" commits no offence if by so firing he or she harms any of the children.

CHAPTER IV

JOINT ACTS, ABETMENT, CONSPIRACY AND ATTEMPT

Joint Acts

48. Acts Committed by Several Persons in Furtherance of Common Intention.

When a criminal act is committed by more than one person in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were committed by him or her alone**.**

49. When such an Act is Criminal by Reason of its Being Committed With a Criminal Knowledge or Intent.

Whenever an act, which is criminal by reason of its being committed with a criminal knowledge or intent, is committed by more than one person, each of such persons who joins in the act, with such knowledge or intention, is liable for the act in the same manner as if the act were committed by him or her alone with that knowledge or intent.

50. Cooperation by Committing One of Several Acts Constituting an Offence.

When an offence is committed by means of several acts, whoever intentionally cooperates in the commission of that offence by committing any one or more of those acts, either separately or jointly with any other person, commits that offence.

Illustrations—

(a) "A" and "B" agree to murder "Z" by separately and at different times giving him small doses of poison.

"A" and "B" both administer the poison according to the agreement with intent to murder "Z". "Z" dies from the effect of the several doses of poison so administered to him or her. Under these facts, "A" and "B" intentionally cooperate in the commission of murder and, as each of them does one or more of the several acts by which death is caused, they are both guilty of the offence, though their acts are separate and though the acts of one without the acts of the other would not have caused death.

(b) "A" and "B" are joint jailors and each has charge of "Z", a prisoner alternately for six hours at a time. "A" and "B", intending to cause "Z's"' death, knowingly cooperate, by illegally omitting to furnish "Z" with food supplied to them for that purpose during the time of their respective attendance. "Z" dies of hunger. Both "A" and "B" are guilty of the murder of "Z".

(c) "A" a jailor has the charge of "Z" a prisoner. "A" intending to cause "Z's" death illegally omits to supply "Z" with food. As a consequence, "Z" is significantly weaker, but still alive. "A" is dismissed from his or her office and "B" succeeds him or her. "B" without collusion or cooperation with "A" illegally omits to supply "Z" with food, knowing that he or she will probably cause "Z's" death. "Z" dies of hunger. "B" is guilty of murder; but as "A" did not cooperate with "B" "A" is guilty only of an attempt to commit murder.

51. Persons Concerned in Criminal Act May be Guilty of Different Offences.

Where more than one person is engaged or concerned in the commission of an offence, each may be guilty of a different offence depending on their individual actions.

Illustration—

"Z" is attacked by "A", under such circumstances of grave provocation that "A" killing of "Z" would only be culpable homicide, and not murder. "B", having ill will towards "Z" intending to kill him or her and not having been subject to the provocation, assists "A" in killing "Z". Under these facts, although both "A" and "B" are engaged in causing "Z's" death, "B" is guilty of murder and "A" is guilty only of culpable homicide not amounting to murder.

Abetment

52. Abetment.

(1) A person abets the commission of an act when he or she—
  (a) instigates another person to commit such act;
  (b) engages in a conspiracy with one or more other persons in the commission of the act; and/or,
  (c) intentionally aids or facilitates any act or illegal omission in the commission of the act.

(2) A person abets an offence when such person abets either the commission of an offence, or the commission of an act which would be an offence, if committed with the same intention or knowledge as that of the abettor by a person capable by law of committing the offence.

(3) It is not necessary that the person abetting should be capable by law of committing an offence or that he or she should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Explanation 1—

A person who by willful misrepresentation or by willful concealment of a material fact which he or she is bound to disclose, voluntarily causes or procures or attempts to cause or procure the commission of an act, instigates the commission of such act within the meaning of this Chapter.

Illustrations—

(a) "A" is authorised by a warrant issued by a Court to arrest "Z". "B", knowing that fact and also that "C" is not "Z" willfully represents to "A" that "C" is "Z" and thereby intentionally causes "A" to arrest "C". Under these facts, "B" abets by instigating the arrest of "C".

(b) "A", a policeman, bound as such to give information of all designs to commit robbery, and knowing that "Z" intends to commit a robbery, illegally omits to give information of "Z's" intention, knowing that the commission of the robbery is likely to be thereby facilitated. Under these facts, "A" has abetted the robbery.

Explanation 2—

(a) the abatement of the illegal omission of an act, may amount to an offence although the abettor may not himself or herself be bound to do that act.

(b) to constitute the offence of abetment, it is not necessary that the act abetted should be committed or that the effect requisite to constitute the offence should be caused.

Illustrations—

(a) "A" instigates "B" to murder "C". "B" refuses to do so, "A" is guilty of abetting "B" to commit murder.

(b) "A" instigates "B" to murder "D"."B" in pursuance of the instigation stabs "D". "D" recovers from the wound. "A" is guilty of instigating "B" to commit murder;

(c) "A", with a guilty intention, abets a child or a lunatic in committing an act which would be an offence, if committed by a person capable by law of committing an offence and having the same intention as "A". Under these facts, "A", whether the act be committed or not, is guilty of abetting an offence.

(d) "A", intending to cause a theft to be committed, instigates "B" to take property belonging to "Z" out of "Z's" possession. "A" induces "B" to believe that the property belongs to "A". "B" takes the property out of "Z's" possession in good faith believing it to be "A's" property. "B", acting under this misconception does not take dishonestly and therefore does not commit theft. But "A" is guilty of abetting theft and is liable to the same punishment as if "B" had committed theft.

Explanation 3—

It is not necessary to the commission of the offence of abetment by conspiracy that the abettor engages in the offence with the person who commits it. It is sufficient if he or she engages in the conspiracy in pursuance of which the offence is committed.

Illustration—

"A" and "B" create a plan for poisoning "Z". It is agreed that "A" shall administer the poison. "B" then explains the plan to "C" mentioning that a third person is to administer the poison but without mentioning "A's" name. "C" agrees to procure the poison, procures and delivers it to "B" for the purpose of its being used in the manner explained. "A" administers the poison; "Z" dies in consequence. Under these facts, though "A" and "C" have not conspired together, "C" has been engaged in the conspiracy in pursuance of which "Z" has been murdered. "C" has therefore committed the offence defined in this section and is liable to the punishment for murder.

53. Abetment if the Act Abetted is Committed in Consequence and where no Expressed Provision is made for Sentencing.

If the act abetted is committed in consequence of the abetment, and no express provision is made by this Act or by any other law for the conviction of such abetment, whoever abets the offence shall be sentenced in accordance with the same provisions that apply to the commission of the offence.

Explanation—

An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation or in pursuance of the conspiracy or with the aid which constitutes the abetment.

Illustrations—

(a) "A" instigates "B" to give false evidence. "B" in consequence of the instigation commits that offence. "A" is guilty of abetting that offence and is liable to the same punishment as "B".

(b) "A" and "B" conspire to poison "Z". "A" in pursuance of the conspiracy procures the poison and delivers it to "B" in order that he or she may administer it to "Z". "B" in pursuance of the conspiracy administers the poison to "Z" in "A's" absence and thereby causes "Z's" death. Under these facts, "B" is guilty of murder. "A" is guilty of abetting that offence by conspiracy and is liable to the punishment for murder.

54. Abetment if a Person Abetted Commits the Act with Different Intention from that of the Abettor.

Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, upon conviction, shall be sentenced in accordance with the same provision that apply to the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

55. Liability of Abettor when one act Abetted and Different Act Committed.

When an act is abetted and a different act is committed, the abettor is liable for the act committed in the same manner and to the same extent as if he or she had directly abetted it; provided that, the act committed was a probable consequence of the

abetment, and was committed under the influence of the instigation or in pursuance of the conspiracy or with the aid which constituted the abetment.

Illustrations—

(a) "A" instigates a child to put poison into the food of "Z" and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of "Y", which is by the side of that of "Z". Here, if the child was acting under the influence of "A's" instigation, and the act committed was in the circumstances a probable consequence of the abetment, "A" is liable in the same manner and to the same extent as if he or she had instigated the child to put the poison into the food of "Y".

(b) "A" instigates "B" and "C" to break into an inhabited house at midnight for the purpose of robbery, and provided them with arms for that purpose. "B" and "C" break into the house and being resisted by "Z", either "B" or "C", murder "Z". Under these facts, if that murder was the probable consequence of the abetment, "A" is liable to the punishment for murder.

56. Abettor when Liable to Cumulative Sentences for act Abetted and for act Committed.

If the act for which the abettor is liable under section 55 above, is committed in addition to the act abetted, and such act constitutes a distinct offence, the abettor is liable to sentencing for each of the offences.

57. Liability of Abettor for an effect caused by the act Abetted different from that Intended by the Abettor.

When an act is abetted with the intention on the part of the abettor of causing a particular effect, and the act is committed in a different way from that intended by the abettor, the abettor is liable for the effect caused in the same manner and to the same extent as if he or she had abetted the act with the intention of causing that effect; provided that, he or she knew that the act abetted was likely to cause that effect.

Exception—

The abettor shall not be liable under this section to the punishment for murder unless he or she knew that death would be the probable consequence of the act abetted.

Note- *See section 210 of this Act.*

Illustration—

"A" instigates "B" to cause grievous hurt to "Z". "B" in consequence of the instigation causes grievous hurt to "Z". "Z" dies in consequence. Under these facts,, if "A" knew that the grievous hurt abetted was likely to cause death, "A" is liable to be punished with the punishment provided for culpable homicide not amounting to murder or for murder as the case may be.

58. Abettor Present when an Offence is Committed Liable as a Principal.

Whenever any person who if absent would be liable to be convicted as an abettor, is present when the act or offence for which he or she would be sentenced in consequence of the abetment is committed, he or she shall be deemed to have committed such act or offence.

59. Abetment of Offence Subject to Death Sentence or Life Imprisonment if the Offence is not Committed.

(1) Whoever abets the commission of an offence which may result in the death sentence or imprisonment, shall, if that offence is not committed in consequence of the abetment, and no express provision is made by this Act or by any other law for the sentencing of such abetment, upon conviction be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

(2) If the abettor is a public servant whose duty is to prevent the commission of such offence, he or she shall be liable to imprisonment for a term not exceeding ten years or with a fine or with both.

Illustration—

"A" instigates "B" to murder "Z". The offence is not committed. If "B" had murdered "Z" "B" would have been liable to the punishment of death. Therefore "A" is liable to imprisonment for a term not exceeding seven years or, if he or she is a public servant whose duty it is to prevent the murder, for a term not exceeding ten years and also in any event to a fine.

60. Abetment of Offence Subject to Sentence of Imprisonment if Offence is not Committed.

(1) Whoever abets an offence, subject to the sentence of imprisonment, if that offence is not committed in consequence of the abetment and no express provision is made by this Act or by any other law for the conviction of such abetment, upon conviction, shall be sentenced to imprisonment for a term not exceeding one-fourth of the longest term provided for that offence or with a fine or with both.

(2) If the abettor is a public servant whose duty is to prevent the commission of such offence, he or she, upon conviction, shall be sentenced to imprisonment for a term not exceeding one-half of the longest term provided for that offence or with such time as is provided for the offence or with a fine or with both.

Illustration—

"A", a policeman whose duty is to prevent robbery, abets the commission of robbery. Under these facts, though the robbery be not committed, "A" is liable to one-half of the longest term of imprisonment provided for that offence and also to a fine.

61. Abetting Commission of Offence by the Public, or by more than Ten Persons.

Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Criminal Conspiracy

62. Conspiracy.

(1) Whoever conspires with one or more persons for the commission of an offence—

(a) intending by this conspiracy agreement to bring about the commission of the offence; or

(b) realising that there is a real risk or possibility that the conspiracy may bring about the commission of an offence,

commits the offence of criminal conspiracy.

(2) Whoever is a party to a criminal conspiracy and, where there is no express provision for conviction in this Act, shall be sentenced in the same manner as if he or she had abetted such an offence.

Attempt

63. Attempting to Commit Offences Punishable with Imprisonment.

Whoever attempts to commit an offence or cause such an offence to be committed, and in such attempt commits any act towards the commission of the offence, where no express provision is made by this Act or any other law for the conviction of such attempt, shall be sentenced to imprisonment for a term not exceeding one-half of the longest term provided for that offence or with such fine as is provided for the offence or with both.

Illustrations—

(a) "A" makes an attempt to steal some jewels by breaking open a box and finds on opening the box that there are no jewels in it. "A" has committed an act in furtherance of the commission of theft and therefore is guilty under this section.

(b) "A" makes an attempt to pick the pocket of "Z" by thrusting his or her hand into "Z's" pocket. "A" fails in the attempt to pick the pocket of "Z", because "Z" has nothing in his or her pocket. "A" is guilty under this section.

CHAPTER V

OFFENCES AGAINST SOUTHERN SUDAN

64. Treason.

(1) Whoever being a citizen of or a resident in Southern Sudan—
   (a) does any act, whether inside or outside Southern Sudan, with the intent of overthrowing the Government; or
   (b) incites, conspires with or assists any other person to do any act, whether inside or outside Southern Sudan, with the intent of overthrowing the Government,

commits the offence of treason, and upon conviction, shall be sentenced to death or to life imprisonment.

(2) Without limiting the generality of subsection (1), above, the following acts shall constitute treason—
   (a) preparing or endeavoring to carry out by force any enterprise which usurps the executive power of the President or the Government in any matter;
   (b) in time of war or during a period of public emergency, doing any thing which assists any other State to engage in hostile or belligerent action against Southern Sudan; or

(c) instigating any other State or foreign person to invade Southern Sudan.

(3) Nothing in this section shall prevent the doing of anything by lawful constitutional means directed at—

(a) the correction of errors or defects in the system of the government, the ICSS or the administration of justice in Southern Sudan;

(b) the removal of the government or impeachment of the President of Government;

(c) the adoption or change of policies or repeal of legislation; or

(d) the review of any matter established by law in Southern Sudan.

65. Concealing Treason.

Whoever, subject to section 64(3) of this Act, is a citizen of or a resident in Southern Sudan and knows that any person, whether inside or outside Southern Sudan—

(a) has done or attempted to do;

(b) is doing or is attempting to do; or

(c) intends to do;

any act with the intention of overthrowing the government, does not inform an official, as soon as is reasonably possible, after acquiring such knowledge, commits the offence of concealing treason, and upon conviction, shall be sentenced to imprisonment for a period not exceeding twenty years or with a fine or with both.

66. Subverting Constitutional Government.

Whoever, whether inside or outside Southern Sudan—

(a) organizes or sets up, or advocates, urges or suggests the organization or setting up of, any group or body with aim of—

(i) overthrowing or attempting to overthrow the Government by unconstitutional means;
(ii) taking over or attempting to take over the government by unconstitutional means or usurping the functions of the Government; or
(iii) coercing or attempting to coerce the government in an unconstitutional manner.

(b) supports or assists any group or body in doing or attempting to do any of the things described in paragraph (a), above

commits the offence of subverting the constitutional government, and upon conviction, shall be sentenced to imprisonment for a term not exceeding twenty years.

67. Insurgency, Banditry, Sabotage or Terrorism.

(1) Whoever for the purpose of—
(a) causing or furthering an insurrection in Southern Sudan;
(b) causing the forcible resistance to the Government or the Defence Forces or any law enforcement agency;
(c) procuring by force the alteration of any law or policy of the Government;
(d) committing any act accompanied by threats or use of weaponry with the intention or realizing that there is a real risk or possibility of—
(i) killing or injuring any other person;
(ii) damaging or destroying any property;
(iii) inflicting substantial financial loss upon any other person;
(iv) obstructing or endangering the free movement in Southern Sudan of any traffic on land or water or in the air; or
(v) disrupting or interfering with an essential service,

commits an offence, whether or not any purpose referred to in paragraph (a), (b) or (c) is accomplished.

(2) Whoever commits the offence under subsection (1), above, upon conviction, shall be sentenced as follows—

(a) where the act of insurgency, banditry, sabotage or terrorism results in the death of a person, he or she shall be sentenced to death or to imprisonment for life; and

(b) in any other case, to imprisonment for life or any other shorter term.

(3) Whoever engaged in any act under subsection (1), above, and the act does not result in any of the consequences referred to in subsection (1)(d)(i), (ii), (iii), (iv) or (v), commits the offence of attempting to commit an act of insurgency, banditry, sabotage or terrorism.

68. Recruiting or Training Insurgents, Bandits, Saboteurs or Terrorists.

Whoever intentionally—

(a) recruits, assists or encourages any other person to undergo training inside or outside Southern Sudan in order to commit any act of insurgency, banditry, sabotage or terrorism in Southern Sudan; or

(b) provides training to any person, whether inside or outside Southern Sudan, in order to commit any act of insurgency, banditry, sabotage or terrorism in Southern Sudan,

commits the offence of recruiting or training an insurgent, bandit, saboteur or terrorist, and upon conviction, shall be sentenced to life imprisonment or any other shorter term.

69. Training as Insurgent, Bandit, Saboteur or Terrorist.

(1) Whoever attends or undergoes any course of training, whether inside or outside Southern Sudan, for the purpose of enabling him or her to commit any act of insurgency, banditry, sabotage or terrorism in Southern Sudan, commits an offence, and upon conviction, shall be sentenced to life imprisonment or any other shorter term.

(2) If it is proved in a prosecution for training as an insurgent, bandit, saboteur or terrorist that the accused attended or underwent a course of training whose effect was to enable that person to commit an act of insurgency, banditry, sabotage or terrorism in Southern Sudan, it shall be presumed, unless the contrary is proved, that he or she did so for that purpose.

70. Supplying Weaponry to Insurgents, Bandits, Saboteurs or Terrorists.

Whoever, whether inside or outside Southern Sudan, supplies weaponry to an insurgent, bandit, saboteur or terrorist, knowing that the weaponry will be used in the commission of an act of insurgency, banditry, sabotage or terrorism in Southern Sudan, or realising that there is a real risk or possibility that the weaponry will be so used, commits an offence, and upon conviction, shall be sentenced to life imprisonment or any other shorter term.

71. Possessing Weaponry for Insurgency, Banditry, Sabotage or Terrorism.

(1) Whoever has any weaponry in his or her possession or under his or her control with the intention that such weaponry will be used in the commission of an act of insurgency, banditry, sabotage or terrorism, commits an offence, and upon conviction, shall be sentenced to life imprisonment or any other shorter term.

(2) Whoever possesses weaponry for insurgency, banditry, sabotage or terrorism, and if it is proved that—

(a) the accused was in an unlawful possession of any weaponry;

(b) the weaponry consists of any weapon, firearm or ammunition for the purchase, acquisition or possession of which the accused has no good ostensible reason; or

(c) that was part of a cache or was found in the possession of the accused in such a quantity as cannot be accounted for by reason of personal use alone,

it shall be presumed, unless the contrary is proved, that the accused possessed the weaponry with the intention that it should be used in the commission of an act of insurgency, banditry, sabotage or terrorism in Southern Sudan.

(3) A person charged with possessing weaponry for insurgency, banditry, sabotage or terrorism may be found guilty of possessing a dangerous weapon, if such facts are proved.

72. Possession of Dangerous Weapons.

(1) Whoever is in an unlawful possession of—

(a) artillery of any kind or any shell or other ammunition therefor;

(b) a flame thrower;

(c) a bomb, grenade or similar missile or device, whether capable of use with a firearm or not, including any fuse, detonator or timing device therefor;

(d) a machine-gun or sub-machine-gun; or

(e) any automatic or semi-automatic firearm other than a pistol, that is being used by the Defence, other organized forces, Police or other forces of any neighbouring State,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(2) It shall be a defence to a charge of possessing a dangerous weapon for the accused to prove that—

(a) he or she was the holder of a license or permit issued under any law authorizing his or her possession of the weapon concerned; or

(b) he or she possessed the weapon concerned in the course of his or her duties as a member of the defence or other organized forces or as an employee of the State duly authorised to possess the weapon.

73. Harbouring, Concealing or Failing to Report an Insurgent, Bandit, Saboteur or Terrorist.

(1) Whoever, knowing that another person is an insurgent, bandit, saboteur or terrorist, intentionally harbours or conceals that other person, commits an offence, and upon conviction, shall be sentenced to imprisonment of for a term not exceeding ten years and a fine.

(2) Whoever becomes aware of the presence in Southern Sudan of another person whom he or she knows to be an insurgent, bandit, saboteur or terrorist and who—

(a) fails, within the period prescribed in subsection (3), below, to report to an official the presence of that other person in Southern Sudan and any information in his or her power to give in relation to that other person; or

(b) upon being questioned by an official, intentionally—

(i) omits or refuses to disclose to the official any information in his or her power to give in relation to that other person; or

(ii) gives the official false information in relation to that other person,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term, not exceeding five years or with a fine.

(3) Whoever shall make a report in accordance with the provision of subsection (2)(a), above, as soon as is reasonably practicable after he or she becomes aware of the presence in Southern Sudan of the insurgent, bandit, saboteur or terrorist concern, and in any event within seventy-two hours of becoming so aware, and

(4) Whoever—

(a) has committed an act of insurgency, banditry, sabotage or terrorism; or

(b) has attended a course or undergone training referred to in section 69(1), for which he or she has been convicted and sentenced or granted a pardon or amnesty shall not be regarded as an insurgent, bandit, saboteur or terrorist in respect of that conduct.

74. Causing Disaffection among Police Force or Defence Forces.

Whoever induces, or attempts to induce, or does any act with the intention or realising that there is a real risk or possibility of inducing or causing any member of the Police Force or Defence Forces to withhold his or her services, loyalty or allegiance or to commit breaches of discipline, commits an offence, and upon conviction, shall be sentenced to imprisonment for a period not exceeding two years or with a fine or with both.

75. Publishing or Communicating False Statements Prejudicial to Southern Sudan.

Whoever, whether inside or outside Southern Sudan, does any of the following—

(a) publishes or communicates to any other person a statement which is wholly or materially false with the intention of realising that there is a real risk or possibility of—

(i) inciting or promoting public disorder or public violence or endangering public safety;

(ii) adversely affecting the defence or economic interests of Southern Sudan;

(iii) undermining public confidence in a law enforcement agency, or the Defence Forces of Southern Sudan; or

(iv) interfering with, disrupting or interrupting any essential service;

whether or not the publication or communication results in a consequence referred to in subparagraphs (i), (ii), (iii) or (iv); or

(b) with or without the intention or realisation referred to in paragraph (a), publishes or communicates to any other person a statement which is wholly or materially false and which—

(i) he or she knows to be false; or

(ii) he or she does not have reasonable grounds for believing it to be true;

shall, if the publication or communication of the statement—

A. promotes public disorder or public violence or endangers public safety; or

B. adversely affects the defence or economic interests of Southern Sudan; or

C. undermines public confidence in a law enforcement agency the police force the Prison Service or the Defence Forces of Southern Sudan; or

D. interferes with, disrupts or interrupts any essential service,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding twenty years or with a fine or with both.

76. Undermining Authority of or Insulting President.

Any person who publicly, unlawfully and intentionally—

(a) makes any statement about or concerning the President or an acting President with the knowledge of realising that there is a real risk or possibility that the statement is false and that it may—

(i) engender feelings of hostility towards; or

(ii) cause hatred, contempt or ridicule of;

the President or an acting President, whether in person or in respect of the President's office; or

(b) makes any abusive, indecent or obscene statement about or concerning the President or an acting President, whether in respect of the President personally or the President's office,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

CHAPTER VI

OFFENCES RELATING TO THE DEFENCE FORCES AND OTHER ORGANIZED FORCES

77. Prohibition of Wearing Uniform or using token Resembling what is used by the Defence Forces and Other Organized Forces or Manufacture or Trade therewith.

(1) In this section—

"authorised person" means—

(a) a member of the SPLA, Joint Integrated Units, and any other organized forces in Southern Sudan.

(b) a member of a military force of a foreign State who is—

(i) on attachment to any force referred to in paragraph (a) under an arrangement made between the Government and the government of that foreign State; or

(ii) present in Southern Sudan, with the approval of the Government, in the course of his or her official duties.

(2) Whoever, subject to subsection (5), below, not being a member of the SPLA or other organized forces, wears any uniform used by such forces or wears any dress or uses any token resembling any uniform or token use by such forces with the intention that it may be believed that he or she is such a member, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

(3) Whoever manufactures or trades in any dress or token used by the Defence Forces or other organized forces referred to in subsection (1), above, without license from the appropriate authorities commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine or with both. The Court may order the forfeiture of the dress or token, subject of the offence; provided that the court shall order the forfeiture of the uniform or token, subject of the offence.

(4) Whoever wears any uniform or uses any token mentioned in this section to be allocated to his or her employees without license from appropriate authority, commits an offence, and upon conviction, shall be sentenced the same as provided for in subsection (1), above, and the Court may order the forfeiture of the uniform or token subject of the offence.

(5) Subsection (2), above, shall not apply in relation to—

(a) an authorised person to the extent that the person possesses or wears a camouflage uniform that has been supplied to him or authorised for his or her use, by the force of which he or she is a member or to which he or she is attached; or

(b) the possession of a uniform as an exhibit in a museum administered by the State; or

(c) any person or member of a class of persons exempted from this section by the Minister by notice in writing to that person or by notice in the *Gazette*, as the Minister deems fit, to the extent that such person or member possesses or wears a uniform in accordance with the terms and conditions of such exemption.

78. Unlawful Drill.

(1) Except with the permission of the appropriate authority, no person other than a member of the Defence Forces and other organized forces shall instigate, practice, take part in or be concerned in any exercise, movement, or drill of military nature.

(2) Any person who contravenes any of the provisions of this section, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

CHAPTER VII

OFFENCES AGAINST PUBLIC ORDER

79. Public Violence.

(1) Whoever, acting in concert with one or more other persons, forcibly and to a serious extent—

(a) disturbs the peace, security or order of the public or any section of the public; or

(b) invades the rights of other people;

intending such disturbance or invasion or realising that there is a real risk or possibility that such disturbance or invasion may occur, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(2) In determining whether or not a disturbance of peace, security or order or an invasion of rights is sufficiently serious to constitute the offence of public violence, a Court shall take into account all the relevant factors, including the following—

(a) the nature and duration of the disturbance or invasion;

(b) the motive of the persons involved in the disturbance or invasion;

(c) whether the disturbance or invasion occurred in a public place or on private property;

(d) whether or not the persons involved in the disturbance or invasion were armed and, if so, the nature of their weapons;

(e) whether or not bodily injury or damage to property occurred in the course of or as a result of the disturbance or invasion;

(f) whether or not there was an attack on the police or on other persons in lawful authority; and

(g) the manner in which the disturbance or invasion came to an end.

(3) It shall be an aggravating circumstance if, in the course of or as a result of the public violence—

(a) there was an attack on the police or on other persons in lawful authority;

(b) bodily injury or damage to property occurred; or

(c) the person who has been convicted of the offence instigated an attack on the police or other persons in lawful authority or instigated the infliction of bodily injury or the causing of damage to property.

80. Participating in Gathering with Intent to Promote Public Violence, Breaches of the Peace or Bigotry.

(1) Whoever—

(a) acts together with one or more persons present with him or her in any place or at any meeting with the intention or realising that there is a real risk or possibility of forcibly—

(i) disturbing the peace, security or order of the public or any section of the public; or

(ii) invading the rights of other people; or

(b) acting together with one or more persons present with him or her in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked; or

(c) acting together with one or more persons present with him or her in any place or at any meeting utters any words or distributes or displays any writing, sign or other visible representation—

(i) with the intention to engender, promote or expose to hatred, contempt or ridicule any group, section or class of persons in Southern Sudan solely on account of the race, tribe, nationality, place of origin, national or ethnic origin, colour, religion or gender of such group, section or class of persons; or

(ii) realising that there is a risk or possibility that such behaviour might have an effect referred to in subparagraph (i) above,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

(2) The offence of participating in a gathering with intention to promoting public violence, a breach of the peace or bigotry is committed whether the action constituting it is spontaneous or planned in advance, and whether the place or meeting where it occurred is public or private.

(3) Whoever engages in an action that would be in violation of this section, but for the fact that he or she was acting alone in a public place, the competent charge is disorderly conduct in a public place or causing offence to persons of a particular race, tribe, place of origin, colour, creed or religion, as the case may be, and not a contravention of this section.

81. Obstructing or Endangering Free Movement of Persons or Traffic.

(1) Whoever—

(a) throws or propels or prepares to throw or propel any missile, article or a thing at any person, motor vehicle, boat, aircraft or building with the intention of realising that there is a real risk or possibility of causing damage or injury;

(b) without lawful excuse, the proof whereof lies on him or her, overturns or attempts to overturn any motor vehicle, boat or aircraft; or

(c) otherwise than under and in accordance with any other law, leaves or places on or over any road any thing with the intention or realising that there is a real risk or possibility of obstructing such road or endangering persons using it;

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

82. Possession of Articles for Criminal Use.

(1) Whoever, without lawful excuse, knowingly has in his or her custody or possession any article for use in unlawful entry into premises, theft, or fraud commits the offence of possessing an article for criminal use, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or to a fine or with both.

(2) In prosecuting for the possessing an article for criminal use—

(a) the onus of proving a lawful excuse for the custody or possession of an article referred to in subsection (1), above, shall lie on the person charged with the offence;

(b) if it is proved that the person charged with the offence had in his or her custody or possession an article made or adapted for use in unlawful entry into premises, theft, or fraud it shall be presumed unless the contrary is proved that the person had it in his or her possession for such use.

83. Disorderly Conduct in Public Place.

Whoever, in a public place—

(a) intentionally engages in disorderly or riotous conduct; or

(b) uses threatening, abusive or insulting words or behaves in a threatening, abusive or insulting manner, intending to provoke a breach of the peace or realizing that there is a real risk or possibility that a breach of the peace may be provoked,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or to a fine or with both.

84. Causing Offence to Persons of a Particular Race, Religion, etc.

Any person who publicly makes any insulting or otherwise grossly provocative statement that causes offence to persons of a particular race, tribe, place of origin, colour, creed or religion, intending to cause such offence or realising there is a real risk or possibility of doing so, commits an offence, and upon conviction, shall be sentenced to imprisonment for a period not exceeding one year or to a fine or with both.

85. Possession of Offensive Weapons at Public Gatherings.

(1) In this section—
"offensive weapon" means—
(a) any weaponry or offensive material; or
(b) any object made or adapted to be used for causing injury to the person; or
(c) any stone or similar object.

(2) Whoever, while present at a public gathering, has with him or her any offensive weapon, otherwise than in pursuance of lawful authority, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or a fine or with both.

(3) For the purposes of subsection (2), above, a person shall be deemed to be acting in pursuance of lawful authority only if the person is acting in his or her capacity as a police officer, a member of the Defence Forces or an employee of the State, Government of National Unity, Government, or a local authority.

86. Disrupting a Public Gathering.

Whoever, at a public gathering—

(a) engages in disorderly or riotous conduct; or

(b) uses threatening, abusive or insulting words or behaves in a threatening, abusive or insulting manner;

intending to prevent the transaction of the business for which the gathering was called together, or realising that there is a real risk or possibility that the transaction of business may be prevented, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

CHAPTER VIII

OFFENCES BY OR RELATING TO PUBLIC SERVANTS

87. Public Servants taking Gratification in Respect of an Official Act.

Whoever being or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person for himself, herself or for any other person, any gratification whatever, whether pecuniary or otherwise, other than legal remuneration, as a motive or reward—

(a) for doing or forbearing to do any official act;

(b) for showing or forbearing to show in the exercise of his or her official functions favour or disfavour to any person; or

(c) for rendering or attempting to render any service or disservice to any person with any department of the Government State or with any public servant as such,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

88. Taking Bribes or Gratification in Order to Influence Public Servant.

Whoever accepts or obtains or agrees to accept or attempts to obtain from any person for himself or herself or for any other person any bribery or gratification whatever as a motive or reward for inducing by corrupt or illegal means any public servant—

(a) to do or forbear to do any official act;
(b) in exercise of the official functions of such public servant to show favour or disfavour to any person;
(c) to render or attempt to render any service or disservice to any person with any department of Government, State or with any public servant as such,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

89. Abetment by Public Servant of Offence Mentioned in Section 88.

Whoever being a public servant, in respect of whom an offence under section 88 of this Act, is committed, abets the offence, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

90. Offering or Giving Bribe or Gratification to Public Servant.

Whoever offers or gives or agrees to give any bribery or gratification whatever, whether pecuniary or otherwise, in the circumstances and for any of the purposes mentioned in section 88 or 89 of this Act, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or a fine or with both.

91. Receiving or Giving Bribe or Gratification by Agent or Employee to show Favour or Disfavour.

Whoever being an employee or agent of another, accepts or agrees to accept from any person for himself or herself or for any other person any bribery or gratification whatever as a motive or reward for doing or forbearing to do any act in connection with the affairs of his or her employee or principal or who shows favour or disfavour to any person having any concern in the affairs or business of his or her employer or principal, and whoever gives or agrees to give to the employee or the agent any reward or remuneration as a motive for doing, or forbearing to do any of the aforesaid commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

92. Public Servant Obtaining Valuable thing without Consideration from Person Concerned in Proceeding or Business Transacted by such Public Servant.

Whoever being a public servant accepts or obtains or agrees or attempts to obtain, for himself or herself or for any other person something of value without consideration or for a consideration which he or she knows to be inadequate—

(a) from any person, whom he or she knows to have been or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant or having any connection with the official functions of himself, herself or of any public servant to whom he or she is subordinate, or

(b) from any person, whom he or she knows to be interested in or related to the person so concerned,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Illustration—

"Z's" brother is arrested and taken before "A" a Magistrate on a charge of perjury. "A" sells to "Z" shares in a company at a premium, when they are selling in the market at discount. "Z" pays "A" for the shares accordingly. The money so obtained by "A" is something of value obtained by him or her without adequate consideration.

93. Offering or Giving Something of Value without Consideration.

Whoever in any of the circumstances mentioned in section 92 of this Act, offers or gives or agrees to give to any public servant or to any person, in whom a public servant is interested or to whom he or she is related, something of value without consideration or for a consideration which he knows to be inadequate, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

94. Third Person Profiting by Bribery or Gratification.

Whoever knowingly profits by bribery, any gratification or benefit obtained in any of the circumstances mentioned in sections 88, 89 or 92 of this Act, but does not take any active part in obtaining such gratification or benefit, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

95. Public Servant Dishonestly Receiving Money or Property not Due.

Whoever being a public servant in his or her capacity as such dishonestly receives, from any person, any money or other property which he or she is not authorised to receive or which is in excess of the amount which he or she is authorised to receive, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

96. Public Servant Disobeying Directives of Law with Intent to cause Injury or to save Person from Punishment or Property from Forfeiture.

Whoever, being a public servant knowingly disobeys any directives of the law as to the way in which he or she is to conduct himself or herself as such public servant intending thereby or knowing himself or herself to be likely thereby—

(a) to cause injury to any person or to the public;

(b) to save any person from legal punishment or to subject him or her to a less punishment than that to which he or she is liable or to delay the imposition on any person of any legal punishment; or

(c) to save any property from forfeiture or from any seizure or charge to which it is liable by law or to delay the forfeiture or seizure of any property or the imposition or enforcement of any charge upon any property,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

97. Public Servant Framing Incorrect Record or Writing or Mistranslating Document with Intent to cause Injury or to save person from Punishment or Property from Forfeiture.

Whoever, being a public servant and being as such public servant charged with the preparation of any record or other writing or with the translation of any document, frames that record or writing or translates that document in a manner which he or she knows or believes to be incorrect intending thereby or knowing himself or herself to be likely thereby to cause any of the results mentioned in section 96, above, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

98. Public Servant in Judicial Proceedings making a Report which he or she knows to be Contrary to Law.

Whoever, being a public servant intentionally makes or pronounces in any stage of judicial proceedings any report, order, judgment or decision which he or she knows to be contrary to law, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

99. Commitment for Trial or Confinement by person having Authority who knows that he or she is Acting Contrary to Law.

Whoever, being a public servant authorised by law to commit persons for trial or to confinement or to keep persons in confinement intentionally commits any person for trial or to confinement or keeps any person in confinement knowing that in so doing he or she is acting contrary to law, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

100. Public Servant Intentionally Omitting to Arrest, or Permitting or Aiding Escape from Confinement or Custody.

Whoever, being a public servant whose duty is as such public servant to arrest any person or to keep any person in confinement or custody, intentionally refuses to arrest such person or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement or custody, commits an offence, and upon conviction, shall be sentenced as follows—

(a) with imprisonment for a term not exceeding fourteen years with or without fine, if such person is under a sentence of death;

(b) with imprisonment for a term not exceeding seven years with or without fine if such person is under sentence of imprisonment for a term of ten years or more or is charged with or liable to be arrested for an offence subject to the sentence of death;

(c) with imprisonment for a term not exceeding three years or with a fine or with both, if such person is under sentence of imprisonment for a term not exceeding ten years or is charged with or liable to be arrested for an offence subject to the sentence of imprisonment for a term which may extend to ten years; or

(d) with imprisonment for a term not exceeding two years or with a fine or with both, in any of the cases not specified above.

101. Public Servant Negligently Omitting to Arrest or Permitting Escape from Confinement or Custody.

Whoever, being a public servant whose duty as such public servant is to arrest any person or to keep him or her in confinement or custody, negligently omits to arrest that person or negligently suffers that person to escape from confinement or custody, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

102. Public Servant Willfully Omitting to Perform Duty, if such Omission Causes Danger etc.

Whoever, being a public servant, willfully omits to perform any duty pertaining to his or her office, he or she is legally bound to perform, if such omission causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

103. Wrongful Abandonment of Duty by Public Servant.

Whoever, being a public servant wrongfully abandons his or her duty in pre-arranged agreement with two or more other public servants, if the intention or effect of such abandonment is to interfere with the performance of a public service to an extent which will cause injury or damage or grave inconvenience to the community, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

104. Public Servant Engaging in Trade.

Whoever, being a public servant engages in any trade or business contrary to the provisions of any law, order or regulation, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

105. Public Servant Not to Engage in Purchase or Bidding.

Whoever, being a public servant and being legally bound as such public servant not to purchase or bid for certain property, purchases or bids for that property either in his or her own name or in the name of another or jointly or in shares with others, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

106. Impersonating a Public Servant.

Whoever, pretends to hold any particular office as a public servant knowing that he or she does not hold such office, or falsely impersonates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

107. Wearing Uniform or using Token used by Public Servant.

Whoever not belonging to a certain class of public servants wears any uniform or carries any token resembling any uniform or token used by that class of public servants with the intention that it may be believed that he or she belongs to that class of public servants, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine, or with both.

CHAPTER IX

CONTEMPT OF THE LAWFUL AUTHORITY OF A PUBLIC SERVANT

108. Avoidance of Service of Process.

(1) Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine, or with both.

(2) If the summons or notice or order, referred to in subsection (1), above, is to attend in person or by agent or to produce a document in a Court, upon conviction, he or she shall be sentenced to imprisonment for a term not exceeding six months or with a fine, or with both.

109. Preventing Service or Publication of Process.

(1) Whoever in any manner intentionally prevents—

(a) the serving on himself, herself, or on any other person of any summons, notice or order proceeding from any public servant legally competent as such public servant to issue such summons, notice or order;

(b) the lawful affixing to any place of any such summons, notice or order; or

(c) the lawful making of any proclamation under the authority of any public servant legally competent as such public servant to direct such proclamation to be made;

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month, or with a fine, or with both; or

(2) If the summons, notice, order or proclamation is to attend in person or through an agent or to produce a document in Court, with imprisonment for a term not exceeding six months or with a fine, or with both.

110. Failure to Appear.

(1) Whoever, having been required by a summons, notice, order or proclamation issued by any public servant legally competent to issue the same, is required to attend in person or through an agent at a certain time and place, intentionally and without reasonable cause refuses or omits to attend at the place and time, or departs from that place before the time at which it is lawful for him or her to depart, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG10 or with both; or

(2) If the summons, notice, order or proclamation is to attend in person or though an agent before the Court, upon conviction, he or she shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

111. Failure to Produce Document.

(1) Whoever, having been required by a summons, notice, order or proclamation issued by a public servant legally competent as such public servant to issue the same, fails to produce or deliver up any document or other thing, intentionally omits so to produce or deliver up the same, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG 10 or with both.

(2) If the document referred to in subsection (1), above, is to be produced or delivered up to a Court, such person, upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

112. Failure to give Notice or Information to Public Servant.

(1) Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG10 or with both.

(2) If the notice or information required to be given under subsection (1), above in respects to the commission of an offence or is required for the purpose of preventing the commission of an offence or in order for the arrest of an offender, such person, upon conviction shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

113. Furnishing False Information.

(1) Whoever, being legally bound to furnish information on any subject to any public servant as such, furnishes as true information on the subject which he or she knows or has reason to believe to be false, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both; or

(2) If the information referred to in subsection (1), above, relates to the commission of an offence, or the information is required for the purpose of preventing the commission of an offence or the arrest of an offender, such person, upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

114. False Information with Intent to Mislead Public Servant.

Whoever gives to any public servant any information which he or she knows or believes to be false, intending thereby to cause or knowing it to be likely that he or she will thereby cause such public servant—

(a) to do or omit anything which such public servant ought to do or omit if the true state of facts in respect of which such information is given were known by him or her; or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

Illustrations—

(a) "A" informs a Magistrate that "Z" a policeman subordinate to such Magistrate has been guilty of neglect of duty or misconduct knowing such information to be false and knowing it to be likely that the information will cause the Magistrate to dismiss "Z". "A" has committed an offence under this section;

(b) "A" falsely informs a public servant that "Z" has contraband goods in a secret place knowing such information to be false and knowing it is likely that the consequence of the information will be a search of "Z's" premises attended with annoyance to "Z". "A" has committed an offence under this section.

115. Refusing Oath or Affirmation when duly Required by Public Servant.

Whoever refuses by an oath or affirmation to state the truth when required so to bind himself or herself by public servant legally competent to require that he shall so bind himself or herself, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

116. Refusing to Answer Public Servant Authorised to Question.

Whoever, being legally bound to answer questions put to him or her on any subject by any public servant in the exercise of the public servant's lawful powers, refuses to answer any such question, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

117. Refusing to Sign a Statement.

Whoever refuses to sign any statement made by him or her when required to sign that statement by a public servant in the exercise of the public servant's lawful powers, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine not exceeding SDG30 or with both.

118. Resistance to Taking of Property by Lawful Authority of Public Servant.

Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he or she is a public servant, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

119. Obstructing Sale of Property Offered for Sale by Lawful Authority of Public Servant.

Whoever intentionally obstructs any sale of property offered for sale under the lawful authority of a public servant, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG10 or with both.

120. Illegal Purchase or Bid for Property Offered for Sale by Authority of Public Servant.

Whoever at any sale of property held by the lawful authority of a public servant—

(a) purchases or bids for any property on account of a person, whether himself, herself or any other person, and such person does not have the legal capacity to purchase that property at that sale; or

(b) bids for such property not intending to perform the obligations under which he or she undertakes by bidding,

commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG10 or with both.

121. Obstructing Public Servant in Discharge of Public Functions.

Whoever voluntarily obstructs any public servant in discharge of his or public functions, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine not exceeding SDG30 or with both.

122. Omission to Assist Public Servant when Bound by Law.

Whoever, being legally bound to render or assistance to a public fine not exceeding SDG60 or with both servant in the execution of his or her public duty, intentionally omits to render such assistance, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine not exceedingSDG30 or with both.

123. Contravention of Residence Order.

Whoever being legally prohibited from residing in a Payam, or being legally ordered to reside in a Payam, intentionally disobeys such prohibition or order, commits an offence, and upon conviction, shall be sentenced with imprisonment for a term not exceeding six months or with a fine or with both.

124. Disobedience to an Order Duly Promulgated by Public Servant.

(1) Whoever, knowing that by an order promulgated by a public servant lawfully empowered to promulgate such order, he or she is directed to refrain from a certain act, or to take certain order with certain property in his or her possession or under his or her management, disobeys such directives, shall if such disobedience causes or tends to cause obstruction, annoyance or injury to any person lawfully employed, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG20 or with both.

(2) If such disobedience referred in subsection (1), above, causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot, such person, upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

125. Threat of Injury to Public Servant.

Whoever threatens to injure or cause injury to any public servant or to any person who is related to, or whom the public servant otherwise has an interest, for the purpose of inducing that public servant to do any act or to forbear or delay to do any act connected with the exercise of the public servant's functions, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

126. Threat of Injury to Induce Person to Refrain from Applying for Protection to Public Servant.

Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from applying for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

127. Intentional Insult or Interruption to Public Servant Sitting in Judicial Proceeding.

Whoever intentionally insults or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

CHAPTER X

OFFENCES RELATING TO THE ADMINISTRATION OF JUSTICE

128. Offences Relating to Evidence.

Whoever, being legally bound by an oath or by any express provision of law to state the truth or being bound by law to make a declaration upon any subject, makes any statement which is false and which he or she either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation 1—

A false statement as to the belief of the person attesting is within the meaning of this section and a person may be guilty of giving false evidence by attesting that he believes a thing which he or she does not believe, as well as by stating that he knows a thing which he or she does not know.

Illustrations—

(a) "A", in support of a just claim which "B" has against "Z" for SDG10 falsely swears on a trial that he or she heard "Z" admit the truth of "B's" claim. "A" has given false evidence.

(b) "A", being bound by an oath to state the truth, states that he or she believes a certain signature to be the handwriting of "Z" when he or she does not believe it to be the handwriting of "Z". Under these facts, "A" states that which he or she knows to be false and therefore gives false evidence.

(c) "A", knowing the general character of "Z's" handwriting, states that he or she believes a certain signature to be the handwriting of "Z"; "A" in good faith believing it to be so.

129. Fabricating False Evidence Defined.

Whoever, causes any circumstances to exist or makes any false entry in any book or record or makes any document containing a false statement intending that such circumstance, false entry or false statement, may be relied upon as evidence in a judicial proceeding or in a proceeding taken by law before a public servant as such or before an arbitrator and intending that such circumstance, false entry or false statement so appearing in evidence may cause any person, who is in such proceeding to form an opinion upon the evidence, to entertain an erroneous opinion touching any material point to the result of such proceedings, is said to fabricate false evidence.

Illustrations—

(a) "A" puts jewels into a box belonging to "Z" with the intention that they may be found in that box and that this circumstance may cause "Z" to be convicted of theft. "A" has fabricated false evidence.

(b) "A" makes a false entry in his or her shop-book for the purpose of using it as corroborative evidence in a Court. "A" has fabricated false evidence.

(c) "A", with the intention of causing "Z" to be convicted of a criminal conspiracy, writes a letter in imitation of "Z's" handwriting purporting to be addressed to an accomplice in such criminal conspiracy and puts the letter in a place which he or she knows that the police are likely to search. "A" has fabricated false evidence.

130. Giving or Fabricating False Evidence.

(1) Whoever, intentionally gives false evidence in any stage of judicial proceedings or fabricates false evidence for the purpose of being used in any stage of a judicial proceedings commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine;

(2) Further more whoever intentionally gives or fabricates false evidence in any other case, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

Illustration—

"A", in an inquiry before a Magistrate for the purpose of ascertaining whether "Z" ought to be committed for trial makes, on oath, a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, "A" has given false evidence.

131. Giving or Fabricating False Evidence with Intent to Procure Conviction for an Offence Punishable with Death.

(1) Whoever gives or fabricates false evidence intending thereby to cause or knowing it to be likely that he or she will thereby cause any person to be convicted of an offence which is subject to the sentence of death commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

(2) Further more, if an innocent person is convicted and executed as a consequence of such false evidence, the person who gave or fabricated such false evidence, upon conviction, shall be sentenced to death or imprisonment for life or for any less term and may also be liable to a fine.

132. Giving or Fabricating False Evidence with Intent to Procure Conviction of Offence Subject to Imprisonment.

Whoever gives or fabricates false evidence, intending thereby to cause or knowing it to be likely that he or she will thereby cause any person to be convicted of an offence which is not subject to the sentence of death but is subject to imprisonment for a term of seven years or more, commits an offence, and upon conviction, shall be sentenced as a person convicted of the underlying offence would be sentenced.

133. Using Evidence Known to be False.

Whoever uses or attempts to use as true or genuine any evidence which he or she knows to be false or fabricated, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she gave or fabricated false evidence.

134. Issuing or Signing False Certificate.

Whoever issues or signs any certificate required by law to be issued or signed or relating to any fact of which such certificate is legally admissible in evidence, believing or knowing that such certificate is false in any material point, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she gave false evidence.

135. Using as True a Certificate known to be False.

Whoever uses or attempts to use any such certificate as a true certificate knowing the same to be false in any material point, commits an offence and upon conviction, shall be sentenced in the same manner as if he or she gave false evidence.

136. False Statement made in Declaration which is by Law Receivable as Evidence.

Whoever in any declaration made or subscribed by him or her, which declaration any Court or any public servant or other person is bound or authorised by law to receive as evidence of any fact, makes any statement, which is false and which he or she either knows or believes to be false or does not believe to be true, touching any point

material to the object for which the declaration is made or used, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she gave false evidence.

137. Using as True such Declaration Knowing it to be False.

Whoever uses or attempts to use as true any of the declarations referred to in section 136, above, knowing the same to be false in any material point, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she gave false evidence.

Explanation—

A declaration, which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 136 and 137 of this Act.

138. False Translation.

Whoever knowingly makes a false translation of the evidence of a witness or of the statement of an accused person or of a party to a civil suit or makes a false translation or copy of any document which may be used as evidence with the intention that such translation or copy shall be used in any manner in any judicial proceeding or knowing that it is likely to be so used, and whoever knowingly uses such translation or copy in any manner in any judicial proceeding commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she gave false evidence.

139. Destruction of Document to Prevent its Production as Evidence.

Whoever conceals or destroys any document, which he or she may be lawfully compelled to produce as evidence in Court or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public

servant as aforesaid, or after he or she shall have been lawfully summoned or required to produce the same for that purpose, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

140. Screening or Harbouring Offender.

Whoever knowingly or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or gives any information respecting the offence which he or she knows or believes to be false, or harbours or conceals a person whom he or she knows or has reason to believe to be the offender with the intention of screening such person from legal punishment or prevents his or her arrest, commits an offence, and upon conviction—

(a) if the offence which he or she knows or believes to have been committed is punishable with death or with imprisonment for more than ten years, shall be sentenced to imprisonment for a term not exceeding five years and may also be liable to a fine;

(b) if the offence is punishable with imprisonment for a term which extends to ten years, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine;

(c) if the offence is punishable with imprisonment for any term not extending to ten years, shall be sentenced to imprisonment for a term not exceeding one-fourth of the longest term of the imprisonment provided for the offence or with a fine or with both;

(d) in any other case, be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

Exception—

The provisions of this section shall not extend to the case of the harbouring or concealment of an offender by the husband or wife of the offender.

Explanation—

In this section, the word "offence" includes any act done outside Southern Sudan which if done in the Southern Sudan would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in the Southern Sudan.

Illustration—

"A", knowing that "B" has murdered "Z", assists "B" to hide the body with the intention of screening "B" from punishment, "A" is liable to imprisonment for five years and also to fine.

141. Taking Gift to Screen an Offender from Punishment.

(1) Whoever—

(a) accepts or attempts to obtain or agrees to any gratification for himself, herself, or any other person or any restitution of property to himself or herself, or any other person in consideration of—

(i) his or her concealing an offence or screening any person from legal punishment for any offence, or of;

(ii) his or her not proceeding against any person for the purpose of bringing him or her to legal punishment; or

(b) gives or causes or offers or agrees to give or cause any gratification to any other person or to restore or cause the restoration of any property to any other person, in consideration of—

(i) that other person's concealing an offence, or;
(ii) his or her screening any person from legal punishment for any offence or of his or her not proceeding against any person for the purpose of bringing him or her to legal punishment,

commits an offence.

(2) Whoever is convicted of the offence set forth in subsection (1), above, shall be sentenced as follows—
(a) if the sentence prescribed for the offence is death or imprisonment for more than ten years, sentenced to imprisonment for a term not exceeding five years and may also be liable to fine;
(b) if the sentence prescribed for the offence is imprisonment for a term not exceeding ten years, sentenced to imprisonment for a term not exceeding three years and may also be liable to fine;
(c) if the sentence prescribed for the offence does not extend to ten years, sentence to imprisonment for a term not exceeding one-fourth of the longest term of imprisonment prescribed for the offence, or with a fine or with both; and
(d) in all other cases, sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

Exception—

The provisions of this section do not extend to any case in which the offence may lawfully be compounded.

Explanation—

In this section, the word "offence" includes any act done outside Southern Sudan which if done in Southern Sudan would be an offence and the punishment for the offence shall be deemed to be the same as the punishment would be if the act were done in Southern Sudan.

142. Harbouring Robbers or Brigands.

Whoever, knowingly or having reason to believe that any persons are about to commit or have recently committed robbery or brigandage, harbours them or any of them with the intention of facilitating the commission of such robbery or brigandage or screening them or any of them from punishment, commits an offence and, upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

Exception—

This provision does not extend to the case of the harbouring of an offender by the husband or wife of the offender.

Explanation—

For the purpose of this section it is immaterial whether the robbery or brigandage is intended to be committed or has been committed within Southern Sudan or elsewhere.

143. Resistance to Arrest and Escape.

(1) Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of any other person, or rescues or attempts to rescue any other person from any confinement or custody in which that person is lawfully detained, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

(2) If such other person is charged with or liable to be arrested for an offence subject to a sentence of imprisonment for a term not exceeding ten years, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

(3) If such other person is charged with or liable to be arrested for an offence subject to the sentence of death or is under sentence of imprisonment for a term of ten years or more, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

(4) If such other person is under sentence of death, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

144. Resistance or Obstruction by a Person to his or her Lawful Arrest or Escape.

Whoever intentionally offers any resistance or illegal obstruction to the lawful arrest of himself or herself for any offence with which he or she is charged, or of which he or she has been convicted or escapes or attempts to escape from any custody in which he or she is lawfully detained for any such offence, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

145. Resistance or Obstruction to Lawful Arrest or Escape, in Cases not provided for by Section 144.

Whoever in any case not provided for in section 144 intentionally offers any resistance or illegal obstruction to the lawful arrest of himself or herself, or escapes or attempts to escape from any custody in which he or she is lawfully detained, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

Fraudulent Dealing with Property

146. Fraudulent or Dishonest Dealing with Property to Prevent its Seizure or its Application According to Law.

Whoever, with intent to prevent his, her or another person's property from being taken as a forfeiture or in satisfaction of a fine under a

sentence, which has been pronounced or which he or she knows to be likely to be pronounced by a Court or other competent authority, or from being taken in execution of a decree or order, which has been made or which he or she knows to be likely to be made by a Court, or from being distributed according to law amongst his or her or another person's creditors, or from being available according to law for payment of his, her or another person's debts, dishonestly or fraudulently removes or conceals or assists in removing or concealing such property or dishonestly or fraudulently transfers, delivers or releases such property or any interest therein to any person or practices any deception touching the same, or dishonestly or fraudulently accepts, receives or claims such property or any interest therein, knowing that he or she has no right or rightful claim thereto, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

147. Fraudulently Suffering A Decree for Sum not Due.

Whoever fraudulently causes or suffers a decree or order to be passed against him or her at the suit by any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order or any part of such decree or order, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

Illustration—

"A" institutes a suit against "Z". "Z" knowing that "A" is likely to obtain a decree against him or her fraudulently suffers a judgment to pass against him or her for a large amount at the suit of "B", who has no just claim against him or her, in order that "B", either on his or her own account or for the benefit of "Z", may share in the proceeds of any sale of "Z's" property which may be made under "A's" decree. "Z" has committed an offence under this section.

148. Fraudulently Obtaining Decree for Sum not Due.

Whoever fraudulently obtains a decree or order against any person for a sum not due or for a larger sum than is due or for any property or interest in property to which he or she is entitled or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied or fraudulently suffers or permits any such act to be done in his or her name, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

149. Dishonest or Fraudulent Execution of Deed of Transfer Containing False Statement of Consideration.

Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property or any interest therein and which contains any false statement relating to the consideration for such transfer or person or persons for whose use or benefit it is really intended to operate, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

Miscellaneous

150. Giving False Information in Respect to an Offence Committed.

Whoever, knowingly or having reason to believe that an offence has been committed, gives any information in respect to that offence which he or she knows or believes to be false, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

151. Impersonation for Purposes of an act or Proceedings in a Suit or Prosecution.

Whoever falsely impersonates another and in such assumed character makes any admission or statement or causes any process to be issued or becomes bail or security or does any other act in any suit or criminal prosecution, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Explanation—

This section applies whether the impersonation is of an actual or fictitious person but does not render punishable the mere assumption of a false name.

152. False Charge for an Offence made with Intent to Injure.

(1) Whoever with the intention to cause injury to any person institutes or causes to be instituted any criminal proceedings against that person or falsely charges any person with having committed an offence knowing that there is no just or lawful ground for such proceeding or charge against that person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both; and

(2) If such criminal proceedings referred to in subsection (1), above, be so instituted on a false charge for an offence punishable with death or imprisonment for seven years or more, such person shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

153. Taking Gifts to Help to Recover Movable Property.

Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he or she shall have been deprived by any offence, unless he or she uses all means in his or her power to cause the offender to be brought to justice, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

Explanation—

In this section, the word "offence" includes any act done outside Southern Sudan which if done in Southern Sudan would be an offence.

154. Influencing Course of Justice.

Whoever with the intention to influence the course of justice in any civil or criminal proceedings does any act whereby the fair hearing, trial or decision of any matter in that proceeding may be prejudiced, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

155. Influence on Accused or Witness.

Without prejudice to the generality of the provisions contained in section 154 of this Act, any member of the police force or any other person in authority, who influences any accused person or witness or takes part or assists in influencing any such accused person or witness in contravention of the Code of Criminal Procedure Act, 2008, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

CHAPTER XI

OFFENCES RELATING TO COUNTERFEITING NOTES, COINS AND REVENUE STAMPS

Counterfeiting Coins and Notes

156. Counterfeiting Coin and Notes.

(1) Whoever counterfeits or knowingly performs any part of the process of counterfeiting any coin or note, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

(2) A person commits an offence under subsection (1), above, if he or she, intending to practice deception or knowing it to be likely that deception will thereby be practiced, causes a genuine coin or note to appear like a different coin or note.

157. Making, Buying or Selling Instrument for Counterfeiting Coin or Notes.

Whoever makes or mends or performs any part of the process of making or mending or buys, sells or disposes of any die or instrument for the purpose of being used or knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting coin or notes, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

158. Possession of Instrument or Material for the Purpose of using the same for Counterfeiting Coin or Notes.

Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin or notes or knowing or having reason to believe that the same is intended to be used for that purpose, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

159. Import or Export of Counterfeit Coin or Notes.

Whoever imports into or exports outside Southern Sudan, any counterfeit coin or notes knowing or having reason to believe that the same is counterfeit, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

160. Fraudulently or Dishonestly Diminishing Weight or Altering Composition of Coin.

Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years and may also be liable to a fine.

161. Delivery of Counterfeit Coin or Note.

Whoever, having in his or her possession any counterfeit coin or note or any coin with respect to which an offence under section 160 of this Act, has been committed and having known at the time when he or she came into possession of such coin or note that such coin or note was counterfeited or that such offence had been committed with respect to such coin, fraudulently or with intent that fraud may be committed delivers such coin or note to any other person or attempts to induce any other person to receive the same, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

162. Possession of Coin or Note by Person who knew it to be Counterfeit when he became Possessed thereof.

Whoever fraudulently or with intent that fraud may be committed is in possession of any counterfeit coin or note or of any coin with respect to which an offence under section 160 of this Act, has been committed having known at the time of being in possession thereof that such coin or note was counterfeit or that such offence had been committed with respect to such coin or note, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years and may also be liable to a fine.

163. Delivery of Coin or Note as Genuine which when first Possessed the Deliverer did not know to be Counterfeit.

Whoever delivers to any other person as genuine or attempts to induce any other person to receive as genuine any counterfeit coin or note which he or she knows to be counterfeit but which he or she did not know to be counterfeit at the time when he or she took it into his possession, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine not exceeding ten times the value of the coin or note counterfeited, or with both.

164. Delivery of coin as genuine which when first possessed the deliverer did not know to be altered.

Whoever delivers to any other person as genuine or attempts to induce any person to receive as genuine any coin in respect of which he or she knows that any such operation as is mentioned in section 160 of this Act, has been performed but in respect of which he or she did not at the time when he or she took it into his or her possession know that such operation had been performed, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine not exceeding ten time the value of the coin for which the altered coin is passed or attempted to be passed, or with both.

Revenue Stamps

165. Counterfeiting Revenue Stamp.

Whoever counterfeits or knowingly performs any part of the process of counterfeiting any revenue stamp, or causes a genuine revenue stamp of one denomination to appear like a genuine revenue stamp of a different denomination, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

166. Having in Possession Instrument or Material for Counterfeiting Revenue Stamp.

Whoever has in his possession any instrument or material for the purpose of being used or knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting any revenue stamp, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

167. Making Buying or Selling Instrument for Counterfeiting Revenue Stamp.

Whoever makes or performs any part of the process of making, or buys or sells or disposes of any instrument for the purpose of being used or knowing or having reason to believe that it is

intended to be used for the purpose of counterfeiting any revenue stamp, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

168. Import, Export, use or Sale of Counterfeit Revenue Stamp.

Whoever imports into or exports from Southern Sudan, or uses as genuine or sells or offers for sale any stamp which he or she knows or has reason to believe to be a counterfeit of any revenue stamp, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

169. Having Possession of Counterfeit Revenue Stamp.

Whoever has in his or her possession any stamp which he or she knows to be a counterfeit of any revenue stamp intending to use or dispose of the same as a genuine revenue stamp, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

170. Effacing Writing from Substance Bearing Revenue Stamps, or Removing from Document a Stamp used for it, with Intent to cause Loss.

Whoever fraudulently or with intent to cause loss to the Government or any Government removes or effaces from any substance bearing any revenue stamp any writing or document for which such revenue stamp has been used or removes from any writing or document a revenue stamp which has been used for such writing or document in order that such revenue stamp may be used for different writing or document, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

171. Using Revenue Stamp Known to have been used Before.

Whoever fraudulently or with intent to cause loss to the Government or any government, uses for any purpose any revenue stamp which he or she knows to have been used before, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

172. Erasure of Mark Denoting that Revenue Stamp has been Used.

Whoever fraudulently or with intent to cause loss to Government or any government erases or removes from any revenue stamp any mark put or impressed upon such revenue stamp for the purpose of denoting that the same has been used or knowingly has in his or her possession or sells or disposes of any such revenue stamp from which such mark has been erased or removed or sells or disposes of any such revenue stamp which he or she knows to have been used, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

CHAPTER XII

OFFENCES RELATING TO WEIGHTS AND MEASURES

173. Fraudulent use of False Instrument for Weighing.

Whoever fraudulently uses any instrument for weighing which he or she knows to be false, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

174. Fraudulent use of False Weight or Measure.

Whoever fraudulently uses any false weight or false measure of length or capacity or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

175. Being in Possession of False Weight or Measure Instrument.

Whoever is in possession of any instrument for weighing or any measure of length or capacity which he or she knows to be false and intending that the same may be fraudulently used, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

176. Making, Buying or Selling False Weight or Measure Instrument.

Whoever makes, buys, sells, or disposes of any instrument for weighing or any weight or any measure of length or capacity which he or she knows to be false in order that the same may be used as true or knowing that the same is likely to be used as true, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

CHAPTER XIII

OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, AND CONVENIENCE

Public Nuisance

177. Public Nuisance Defined.

(1) Whoever commits an act or illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right, commits the offence of public nuisance.

(2) Whether an act or omission is a public nuisance is a matter of fact, which depends on the character of the neighborhood.

(3) Where premises on which a public nuisance has occurred are occupied by two or more persons in common, each of such persons shall be liable to conviction on account of the nuisance in the absence of sufficient evidence that he or she has not committed such an offence.

Explanation 1—

A public nuisance does not cease to be an offence because it causes some convenience or advantage.

Illustration—

A powerful steam whistle sounded at intervals during the day, which might be a public nuisance in a residential quarter, may not be a public nuisance in a manufacturing quarter.

178. Adulteration of Food or Drink Intended for Sale.

(1) Whoever adulterates any article of food or drink or abstracts from any article of food or drink any part thereof so as to affect injuriously the quality, substance or nature, intending to sell such article as food or drink without notice to the purchaser or knowing that it is likely that the same will be sold as food or drink without notice to the purchaser, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

(2) Further more, if the effect of such adulteration or abstraction is to make the article noxious as food or drink, then the sentence to imprisonment shall be for a term not exceeding three years or with a fine or with both.

179. Sale of Food or Drink not Corresponding to Description.

Whoever sells any article of food or drink which is not of the nature, substance and quality demanded by the purchaser or of the article which the seller represents it to be, commits an offence, and upon conviction, shall be sentenced to a fine not exceeding SDG50.

180. Sale of Adulterated Food or Drink.

Whoever sells or offers or exposes for sale any article of food or drink, with which any admixture has been fraudulently made to increase the bulk, weight or measure of such article or to conceal the inferior quality thereof, or any article of food or drink from which any part has been intentionally abstracted so as to affect injuriously its quality, substance or nature, without notice to the purchaser, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

181. Sale of Noxious Food or Drink.

Whoever sells or offers or exposes for sale any article of food or drink which has been rendered or has become noxious or is in a state unfit for human consumption, knowing or having reason to believe that the same is noxious as or unfit for food or drink, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

182. Adulteration of Drugs.

Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy, change the operation, or to make it noxious, intending that it shall be sold or used for or knowing it to be likely that it will be sold or used for any medical purpose as if it has not undergone such adulteration, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

183. Sale of Adulterated Drugs.

Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation or render it noxious, sells the same or offers or exposes it for sale or issues it from any dispensary for medical

purposes as unadulterated or causes it to be used for medical purposes by any person not knowing of the adulteration, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

184. Sale of Drug as a Different Drug or Preparation.

Whoever knowingly sells or offers or exposes for sale or issues from a dispensary for medical purposes any drug or medical preparation as a different drug or medical preparation, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

185. Destruction of Property upon Conviction.

The Court may, on a conviction under sections 178, 179. 180, 181,182, 183 or 184, order the food, drink, drug or medical preparation in respect of which the conviction was had to be destroyed.

186. Fouling Water of Public Well or Reservoir.

Whoever intentionally corrupts or fouls the water of any public well or reservoir or other public water supply so as to render it less fit for the purpose for which it is ordinarily used, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

187. Making Atmosphere Noxious to Health.

Whoever intentionally vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, commits an offence, and upon conviction, shall be sentenced to a fine not exceeding SDG10.

188. Exhibition of False Light, Mark or Buoy.

Whoever exhibits any false light, mark or buoy intending or knowing it to be likely that such exhibition will mislead any navigator, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

189. Obstruction in Public Way or Line of Navigation.

Whoever by doing any act or by omitting to take order with respect to any property in his or her possession or under his or her charge causes obstruction to any person in any public way or public line of navigation, commits an offence, and upon conviction, shall be sentenced to a fine not exceeding SDG20.

190. Employees Engaged on Work of Public Utility Ceasing Work without Notice.

Whoever, being an employee engaged in any work connected with the public health or safety or with any service of public utility, ceases from performing such work in pre-arranged agreement with two or more other such employees without giving to his employer fifteen days notice of his or her intention so to do, and the intention or effect of such cessation is to interfere with the performance of any general service connected with public health, safety or utility to an extent which will cause injury or damage or grave inconvenience to the community, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

191. Negligent Conduct Causing Danger to Person or Property.

Whoever does any act in a manner so rashly or negligent as to endanger human life or to be likely to cause hurt or injury to any person or property, knowingly or negligently omits to take such order with respect to any property or substance in his or her possession or under his or her control or with any operations under his or her control as is sufficient to guard against probable

danger to human life from such property, substance or operations, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

192. Omission to Assist Person Injured or Unconscious or in Danger of his or her Life.

Whoever having it in his or her power to assist a person injured or unconscious or in danger of his or her life willfully omits to render such assistance as is possible without exposing himself, herself or others to danger, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

193. Breach of Contract to Attend to and Supply Wants of Helpless Person.

Whoever, being bound by a lawful contract to attend to or to supply the needs of any person, who by reason of youth, unsoundness of mind, disease or bodily weakness is helpless or incapable of providing for his or her own safety or of supplying his or her own wants, voluntarily omits so to do, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

194. Sentencing for Public Nuisance in Cases not Otherwise Provided.

Whoever commits a public nuisance in any case not otherwise subject to specific provisions under this Act, upon conviction, shall be sentenced to a fine not exceeding SDG 10.

195. Continuance of Nuisance after Injunction to Discontinue.

Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such as injunction not to repeat or continue such nuisance, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

CHAPTER XIV

PROVISIONS RELATING TO ANIMALS

196. Ill-treatment of Domestic Animal.

Whoever cruelly beats, tortures or otherwise willfully ill-treats any tame, domestic or wild animal, which has previously been deprived of its liberty, or arranges, promotes or organizes fights between cocks, rams, bulls or other domestic animals or encourages such acts, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two months or with a fine.

197. Riding and Neglect of Animal.

Whoever wantonly rides, overdrives or overloads any animal or intentionally drugs or employs any animal, which by reason of age, sickness, wounds or infirmity is not in a condition to work, or neglects any animal in such a manner as to cause it unnecessary suffering, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine or with both.

198. Power to Order Temporary Custody or Destruction of Animal.

On conviction of an offence under section 196 or 197, above, the Court may in addition to or in substitution for any other penalty, make an order for the temporary custody by the police of the animal in respect of which such offence has been committed and may order the person convicted to pay such sum as the Court thinks fit for the maintenance and treatment of such animal, and such sum shall be recoverable in the same manner as a fine inflicted under this Act; or, if such animal is suffering from incurable disease or injury, may order it to be destroyed.

199. Time Limit for Prosecution.

No proceedings in respect of an offence under the foregoing sections of this Chapter shall be taken after the expiration of one month from the commission of the offence.

200. Negligent Conduct with Respect to Animal.

Whoever knowingly or negligently omits to take such order with respect to any animal in his or her possession as is sufficient to guard against any probable danger to human life or any probable danger of grievous hurt from such animal, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine or with both.

CHAPTER XV

OFFENCES RELATING TO RELIGION

201. Insulting or Inciting Contempt of Religious Creed.

Whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

202. Abuse of Religious and Noble Beliefs.

Whoever abuses religious or noble spiritual beliefs for political exploitation or with the intention to incite or promote feelings of hatred, enmity or discord among religious communities or commits an act intended or is likely to cause the same, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

203. Injuring or Defiling Place of Worship with Intent to Insult the Religion of any Class.

Whoever destroys, damages or defiles any place of worship or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

204. Disturbing Religious Assembly.

Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

205. Committing Trespass on Burial Places etc.

Whoever, with the intention of hurting the feelings of any person, or of insulting the religion of any person or with the knowledge that the feelings of any person are likely to be injured thereby, commits any trespass in any place of worship or on any place of burial or offers any indignity to any human corpse or commits any act of disrespect towards such corpse or causes disturbance to any persons assembled for the performance of funeral ceremonies, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

CHAPTER XVI

OFFENCES RELATED TO DEATH

Homicide

206. Murder.

Whoever causes the death of another person—

(a) with the intention of causing death; or

(b) knowing that death would be the probable and not only a likely consequence of the act or of any bodily injury which the act was intended to cause,

commits the offence of murder, and upon conviction be sentenced to death or imprisonment for life, and may also be liable to a fine; provided that, if the nearest relatives of the deceased opt for customary blood compensation, the Court may award it in lieu of death sentence with imprisonment for a term not exceeding ten years.

207. Murder by a Person serving Life-Imprisonment.

Whoever while serving the sentence of life imprisonment, commits murder and shall upon conviction, be sentenced to death.

208. Attempted Murder.

(1) Whoever commits any act with such intention or knowledge and under such circumstances that the act caused death, but such death did not occur, he or she commits the offence of attempted murder, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(2) If hurt is caused to any person by the act referred in subsection (1), above, the sentence to imprisonment may be for a term not exceeding fourteen years or with a fine or with both.

(3) Any person, who is already under sentence of imprisonment for life in connection with a previous murder, commits an offence under this section and causes injury, may, upon conviction be sentenced to death.

209. Infanticide.

Notwithstanding the provisions of sections 206 and 207 of this Act, if a woman causes the death of her child, immediately or within eight days after its birth, due to a mental or psychological state caused by delivery, or if a woman causes the death of her illegitimate child, immediately or within eight days after its birth, in order to avoid shame, she commits the offence of infanticide, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

Culpable Homicide

210. Culpable Homicide.

(1) Whoever causes the death to a person by—
(a) negligently failing to realize that death may result from his or her conduct; or
(b) realising that death may result from his or her conduct and negligently failing to guard against that possibility,
commits the offence of culpable homicide, and upon conviction, shall be sentenced to imprisonment for life or for any lesser term or with a fine or with both.

(2) Whoever, whilst deprived of the power of self-control due to grave and sudden provocation, causes the death of any other person by mistake or accident, commits the offence of culpable homicide not mounting to murder, and shall upon conviction, be sentenced in accordance with subsection (1), above.

(3) Whoever, in good faith, exercises the right of private defence of person or property, exceeds the power given to him or her by law and causes the death of the person against whom he or she is exercising such right of defence without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence, commits the offence of culpable homicide not amounting to murder, and shall upon conviction, be sentenced in accordance with subsection (1), above.

(4) Whoever, being a public servant acting for the advancement of justice or being a person aiding a public servant so acting, exceeds the powers given to him or her by law, and causes death by doing an act which he or she in good faith believed to be lawful and necessary for the due discharge of his or her duty, as such public servant or for assisting such public servant in the due discharge of such duty and without ill will towards the person whose death is caused, commits the offence of culpable homicide not amounting to murder, and shall upon conviction, be sentenced in accordance with subsection (1), above.

(5) Whoever, without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner, commits the offence of culpable homicide not amounting to murder, and shall upon conviction, be sentenced in accordance with subsection (1), above.

(6) Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his or her own consent.

(7) Culpable homicide is not murder if the offender at the time of committing the act was under the influence of mental abnormality due to a mental retardation or an injury or a disease of the mind to an extent that substantially affects his ability to direct or control his or her act.

211. Culpable Homicide by Causing Death of a Person other than the Person whose Death was Intended.

A person who commits an act which he or she intends, or knows is likely to cause death, commits culpable homicide by causing the death of any other person whose death he or she neither intends nor knows himself or herself to be likely to cause. The culpable homicide committed by the offender is of the description of which it would have been as if he or she had caused the death of the person whose death he or she intended or knew he or she was likely to cause.

212. Attempted Culpable Homicide.

Whoever, commits any act with an intention or knowledge and under such circumstances that, if he or she by that act caused the death, he or she would be guilty of culpable homicide not amounting to murder, commits the offence of attempted culpable homicide, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both; provided further that, if injury is caused to any person by such an act, the imprisonment may extend to seven years or with a fine or with both.

Illustrations—

(a) "A", under the influence of passion excited by grave and sudden provocation given by "Z", intentionally kills "Y", "Z's" child. This is murder, in as much as the provocation was not given by the child.

(b) "Y" gives grave and sudden provocation to "A". "A" on this provocation fires a gun at "Y", neither intending nor knowing himself or herself to be likely to kill "Z", who is near him or her but out of sight. "A" kills "Z". Here "A" has not committed murder but culpable homicide not amounting to murder;

(c) "Z" gives grave and sudden provocation to "B" who is thereby excited to violent rage. "A", a bystander meaning to take advantage of "B's" rage and to cause him or her to kill "Z", puts a knife into "B's" hand for that purpose. "B" kills "Z" with the knife. Under these facts, "B" has committed culpable homicide not amounting to murder, but "A" is guilty of murder.

Suicide

213. Abetment of Suicide.

Subject to the provisions of section 214 of this Act, whoever abets any person to commit suicide, commits the offence of abetment of suicide, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

214. Abetment of Suicide by a Child or an Insane Person.

Whoever, abets any person under eighteen years of age, any insane person, delirious person, an idiot or any person in a state of intoxication, to commit suicide, commits an offence, and upon conviction, shall be sentenced to imprisonment for life or with a fine or with both.

215. Attempt to Commit Suicide.

Whoever, attempts to or engages in any act towards committing suicide, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

Unlawful Termination of Pregnancy

216. The Causing of Miscarriage, Injuries to Unborn Children, Exposure of Infants, Cruelty to Children and Concealment of Birth Causing Miscarriage.

(1) Whoever, voluntarily causes or attempts to cause a pregnant woman to miscarry, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman,

commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

(2) A pregnant woman, who voluntarily participates in causing the miscarriage, commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding seven years and a fine; provided that, if the offence is committed by an unmarried pregnant woman in order to avoid shame, she shall upon conviction be sentenced to imprisonment for a term which shall not exceed three years or with a fine or both.

217. Causing Miscarriage Without Woman's Consent.

Whoever, voluntarily causes or attempts to cause a pregnant woman to miscarry, without the consent of the woman, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine.

218. Death Caused by act done with Intent to Cause Miscarriage.

(1) Whoever, with the intention to cause miscarriage of a pregnant woman, does an act which causes the death of such a woman, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine.

(2) If the act referred to in subsection (1), above, is committed without the consent of the woman, the person committing such act, upon conviction, shall be sentenced to imprisonment for life or a lesser term.

Explanation—

It is not essential to this offence that the offender should know that the act is likely to cause death.

219. Causing Miscarriage Unintentionally.

(1) Whoever uses force upon any woman, and thereby unintentionally causes her to miscarry, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

(2) If the offender knew that the woman referred to in subsection (1), above, was pregnant, he or she, upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

220. Act Done with the Intent to Prevent a Child being Born Alive or to Cause it to Die after Birth.

Whoever before the birth of any child does any act with the intention of preventing that child from being born alive or causing it to die after its birth, and as a result of the act, the child is not born alive or dies after its birth, and, if such act was not done in good faith for the purpose of saving the life of the mother, he or she commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

221. Causing Death of Quick Unborn Child by an Act Amounting to Culpable Homicide.

Whoever does any act under such circumstances that, if he or she thereby causes death he or she shall be guilty of culpable homicide, and in the commission of such act causes the death of a quick unborn child, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine.

Illustration—

"A", knowing that he or she is likely to cause the death of a pregnant woman, commits an act which, if it caused the death of the woman, would amount to culpable homicide.

The woman is injured but does not die; but the death of a quick unborn child with which she is pregnant is thereby caused. "A" is guilty of an offence under this section.

222. Concealment of Birth by Secret Disposal of a Child or Dead Body.

Whoever, by secretly burying or otherwise disposing of a child or dead body of a child, whether such a child dies before, during or after its birth, intentionally conceals or endeavours to conceal the birth of such child, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

CHAPTER XVII

OFFENCES RELATING TO BODILY INJURY AND INTIMIDATION

Assault and Criminal Force

223. Assault.

(1) Whoever makes any gesture or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that the person making it is about to use criminal force to that person, is said to commit an assault.

(2) For the purposes of subsection (1), above, mere words alone, do not amount to an assault; provided however that, words which a person uses may give to his or her gestures or preparations such a meaning as may make those gestures and preparations amount to an assault.

Illustrations—

(a) "A" shakes his or her fist at "Z", intending or knowing it to be likely that he or she may thereby cause "Z" to believe that "A" is about to strike "Z", "A" has committed an assault;

(b) "A" begins to unclose the muzzle of a ferocious dog intending or knowing it to be likely that he or she may thereby cause "Z" to believe that he or she is about to cause the dog to attack "A" has committed an assault upon "Z".

(c) "A" takes up a stick saying to "Z" "I will give you a beating". Here, though the words used by "A" could in no case amount to an assault and though the mere gesture unaccompanied by any other circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

224. Force and Criminal Force.

(1) A person is said to use "force" against another person, if he or she causes motion, change of motion or cessation of motion to that person, or if he or she causes any substance to come into contact with any part of that person's body or with anything which that person is wearing or carrying or with anything so situated that such contact affects that person's sense of feeling; provided that, the person causing any effect abovementioned, causes it—

(a) by his or her own bodily power;

(b) by disposing any substance in such a manner that the effect takes place without any further voluntary act on his or her on the part of any other person; or

(c) by means of any animal.

(2) Whoever intentionally uses force against another person, without that person's consent, in order to commit any offence or intending by the use of such force to cause or knowing it to be likely that by the use of such force he or she will cause injury, fear or annoyance to the person to whom the force is used, is said to use "criminal force" to the other person.

Illustrations—

In all the following cases, "A" has used force against "Z"—

(a) "A" unfastens the moorings of a boat in which "Z" is sitting so that the boat drifts down the river. "A" has caused motion to "Z";

(b) "A" lashes the horse on which "Z" is riding so that the horse quickens its pace, "A" has caused change of motion to "Z";

(c) "A" seizes the rein of "Z's" horse and stops the horse, "A" has caused cessation of motion to "Z";

(d) "A" pushes against "Z" in the street, "A" has caused his or her own body to come into contact with "Z";

(e) "A" throws a stone at "Z" and hits him or her;

(f) "A" rides past "Z" on a muddy road and splashes him or her;

(g) "A" pulls up the veil of Mary;

(h) "A" pours boiling water into the bath in which "Z" is bathing. "A" has caused the boiling water to come into contact with the water in the bath, so as to affect "Z's" sense of feeling;

(i) "A" incites a dog to spring upon "Z".

225. Assault or Criminal Force Without Provocation.

Whoever assaults or uses criminal force against a person, except as a response to grave and sudden provocation given by that person, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine or with both.

226. Assault or Criminal Force with Provocation.

Whoever assaults or uses criminal force against any person in response to grave and sudden provocation given by that person, commits an offence, and on conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine or with both.

227. Assault or Criminal Force to Deter Public Servant from Discharge of his or her Duty.

Whoever assaults or uses criminal force with respect to any person being a public servant in the execution of his or her duty as such public servant, or with the intention to prevent or deter that person from discharging his or her duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his or her duty as such public servant, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

228. Assault or Criminal Force in Attempt to Commit Theft or Property Carried by a Person.

Whoever assaults or uses criminal force against any person in attempting to commit theft of any property which that person is wearing or carrying, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

229. Assault or Criminal Force in Attempt to Wrongfully Confine a Person.

Whoever assaults or uses criminal force against any person in an attempt to wrongfully confine that person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

Hurt and Grievous Hurt

230. Hurt Defined.

(1) Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

(2) Whoever commits any act with the intention of causing hurt to any person or with the knowledge that he or she is likely to cause such hurt to any person and does cause hurt to any person, is said to voluntarily caused hurt.

231. Voluntarily Causing Hurt on Provocation.

Whoever voluntarily causes hurt or grave and sudden provocation, if he or she neither intends nor knows himself or herself to be likely to cause hurt to any person other than the person who gave the provocation, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months or with a fine not exceeding SDG60 or with both.

232. Voluntarily Causing Hurt without Provocation.

Whoever, except in the case provided for under section 231 of this Act, voluntarily causes hurt, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

233. Voluntarily Causing Hurt by Dangerous Weapon or Means.

Except in the case provided for by section 231 of this Act, whoever voluntarily causes hurt by using any one of the following means—

(a) any instrument for shooting, stabbing or cutting;
(b) any instrument, which if used as a weapon of offence is likely to cause death;
(c) fire or any heated substance;
(d) electricity;
(e) any corrosive or explosive substance;
(f) the administration of any poisonous or deleterious substance; or
(g) any animal,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

234. Causing Hurt by means of Poison.

Whoever, causes hurt by administering or causing to be taken by any person any poison or any stupefying intoxicating or unwholesome drug or substance with the intention to cause hurt to such person or with the intent to commit or to facilitate the commission of an offence or knowing it to be likely that he or

she will cause hurt, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

235. Grievous Hurt Defined.

(1) The following types of hurt shall amount to grievous hurt—

(a) emasculation;
(b) permanent deprivation of the sight of an eye, or the hearing of an ear or the power of speech;
(c) deprivation of any part or joint;
(d) destruction or permanent impairing of the powers of any part or joint;
(e) permanent disfiguration of the head, face or any other part of the body;
(f) fracture or dislocation of a bone or tooth, or
(g) any hurt which endangers life or which causes the sufferer to be during the space of at least twenty days in severe bodily pain, or unable to follow his or her ordinary pursuits.

(2) Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself or herself to be likely to cause is grievous hurt and if the hurt which he or she causes is grievous hurt, is said voluntarily to cause grievous hurt.

Explanation—

A person is not said voluntarily to cause grievous hurt except when he or she both causes grievous hurt and intends or knows himself or herself to be likely to cause grievous hurt. But he is said to cause grievous hurt if intending or knowing himself or herself to be likely to cause grievous hurt of one kind, he or she actually causes grievous hurt of another kind.

Illustration—

"A", intending or knowing himself or herself to be likely permanently to disfigure "Z's" face, gives "Z" a blow which does not permanently disfigure "Z's" face but which causes "Z" to suffer severe bodily pain for the space of at least twenty days. "A" has voluntarily caused grievous hurt.

236. Voluntarily Causing Grievous Hurt on Provocation.

Whoever, voluntarily causes grievous hurt on grave and sudden provocation, if he or she neither intends nor knows himself or herself to be likely to cause such grievous hurt to any person other than the person who gave the provocation, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding four years or with a fine or with both.

237. Voluntarily causing Grievous Hurt without Provocation.

Whoever, except in the case provided for by section 236, above, voluntarily causes grievous hurt, upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

238. Voluntarily causing Hurt or Grievous Hurt by Dangerous Weapon or Means.

(1) Whoever, except in the case provided for under section 231 of this Act, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting or any instrument used as a weapon of offence is likely to cause death, or by means of fire or any heated substance or by means of electricity or by means of any corrosive or explosive substance or by the administration of any poisonous or deleterious substance or by means of any animal, shall be punished with imprisonment for a term not exceeding three years or with a fine or with both.

(2) Whoever, except in the case provided for under section 236 of this Act, voluntarily causes grievous hurt by any such means, shall be punished with imprisonment for a term not exceeding ten years and may be liable to a fine.

239. Voluntarily Causing Hurt or Grievous Hurt to Extort Property or to Constrain to an Illegal act.

(1) Whoever voluntarily causes hurt for the purposes of extorting from the victim or from any person interested in the victim, any property, document of title, or of constraining the victim or any person interested in the victim to do anything which is illegal or which may facilitate the commission of an offence, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

(2) Whoever for a similar purpose voluntarily causes grievous hurt, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

240. Voluntarily Causing Hurt or Grievous Hurt to Extort Confession or to Compel Restoration of Property.

(1) Whoever voluntarily causes hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or document of title or to satisfy any claim or demand or to give information which may lead to the restoration of any property or document of title, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

(2) Whoever for the same purpose voluntarily causes grievous hurt, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

241. Voluntarily causing Hurt or Grievous Hurt to deter Public Servant from his or her Duty.

(1) Whoever voluntarily causes hurt to any person being a public servant in the discharge of his or her duty, or with the intent to prevent or deter from discharging his or her duty, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his or her duty as such, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

(2) Whoever in the like circumstances, for similar reasons voluntarily causes grievous hurt to any person being a public servant, upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

242. Exposure and Abandonment of a Child under Twelve Years, by Parent or Person having care of him or her.

Whoever, being the father or mother of a child under the age of twelve years or having the care of such child, commits an act with the intention of wholly abandoning such child or exposes him or her to danger, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

Explanation—

This section does not prevent the trial of the offender for murder or culpable homicide not amounting to murder as the case may be, if the child dies in consequence of the exposure or abandonment.

243. Cruelty to Children.

(1) Whoever having the charge or care of a child under eighteen years of age or being in a position of authority over him or her, willfully ill treats or neglects the child, in such a way as to cause him or her unnecessary suffering, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

(2) If the ill-treatment or neglect referred to in subsection (1), above, results in serious injury to the health of such a child, the offender, upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or a with both.

244. Negligently Causing Serious Bodily Harm or Injury.

Any person who by any act whatsoever causes serious bodily harm or injury to another person, negligently failing to realise that serious bodily harm may result from his or her conduct, or negligently failing to guard against that possibility, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

245. Criminal Intimidation.

(1) Whoever threatens another with any injury to himself or herself or to any person in whom he or she is interested, with intent to cause him or her alarm or to cause him or her to do any act which he or she is not legally bound to do or to omit to do any act which he or she is legally entitled to do as the means of avoiding the execution of such threat, commits criminal intimidation, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

(2) If the threat is to cause death or grievous hurt or to cause the destruction of any property by fire or to cause an offence punishable with death or with imprisonment for a term not exceeding seven years or to impute unchastity to a woman, the offender upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

246. Criminal Intimidation by an Anonymous Communication.

Whoever, commits the offence of criminal intimidation by an anonymous communication or having taken precaution to conceal the name or abode of the person from whom the threat comes, upon conviction, shall be sentenced to imprisonment for a term not exceeding two years in addition to the sentence provided for the offence under section 245, above.

CHAPTER XVIII

RAPE, OTHER SEXUAL OFFENCES AND OFFENCES AGAINST MORALITY

247. Rape.

(1) Whoever, has sexual intercourse or carnal intercourse with another person, against his or her will or without his or her consent, commits the offence of rape, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

(2) A consent given by a man or woman below the age of eighteen years shall not be deemed to be consent within the meaning of subsection (1), above.

(3) Sexual intercourse by a married couple is not rape, within the meaning of this section.

248. Unnatural Offences.

(1) Whoever, has carnal intercourse against the order of nature with any person and whoever allows any person to have such intercourse with him or her commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

(2) If the intercourse referred to in subsection (1), above, is committed without consent, the offender shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine; provided that, a consent given by a person below the age of eighteen years to such intercourse shall not be deemed to be a consent within the meaning of this section.

Explanation—

Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

249. Acts of Gross Indecency.

Whoever, commits an act of gross indecency upon the person of another without his or her consent or by the use of force or threats or compels a person to join with him or her in the commission of such act, commits the offence of gross indecency, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

250. Word, Gesture or Act Intended to Insult the Modesty of a Woman.

Whoever, intends to insult the modesty of any woman by uttering any word or, makes any sound or gesture or exhibits any object, intending that such word or sound shall be heard or that such gesture or object shall be seen by such woman or violates the privacy of such woman, commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

251. Public Indecency.

(1) Whoever—

(a) indecently exposes himself or herself or engages in any other indecent conduct which causes offence to any other person in or near a public place, or in or near a private place within the view of such other person;

(b) utters or makes use of indecent or obscene language in or near a public place, or in or near a private place within the hearing of another person, knowing or realising that there is a real risk or possibility that he or she will be heard;

(c) sings any indecent or obscene song in or near a public place, or in or near a private place within the hearing of another person, knowing or realising that there is a real risk or possibility that he or she will be heard; or

(d) writes or draws any indecent or obscene word, figure or representation in or near a public place, or in or near a private place in the view of another person, knowing or realising that there is a real risk or possibility that such writing or drawing will be seen,

commits the offence of public indecency, and upon conviction shall be sentenced to imprisonment for a term not exceeding six months with a fine or with both.

(2) No person shall be convicted of public indecency under subsection (1), above, unless the words or conduct in question are sufficiently serious to warrant conviction and sentencing. In determining the seriousness of the offence, the Court shall take into account the following factors—

(a) the nature of the words or conduct;

(b) the extent to which the words were repeated or the conduct was persisted in, as the case may be;

(c) the age of the person who heard the words or witnessed the conduct;

(d) any previous relationship between the parties;

(e) the degree of offence caused to the person who heard the words or witnessed the conduct; and
(f) in addition to any others that are relevant in the particular case.

Offences Relating to Prostitution

252. Soliciting.

Whoever publicly solicits another person for the purposes of prostitution commits the offence of soliciting, and upon conviction shall be sentenced to imprisonment for a term not exceeding six months with a fine or with both.

253. Living off or Facilitating Prostitution.

Whoever—
(a) keeps a brothel; or
(b) demands from a prostitute any payment or reward in consideration of the person—
(i) keeping, managing or assisting in the keeping of a brothel in which the prostitute is, or has been, living for immoral purposes;
(ii) having solicited other persons for immoral purposes on behalf of the prostitute; or
(iii) having effected the prostitute's entry into a brothel for the purpose of prostitution; or
(iv) having brought or assisted in bringing the prostitute into Southern Sudan for immoral purposes; or
(c) demands from a prostitute any payment or reward in consideration for any present or past immoral connection with the prostitute,

commits the offence of facilitating prostitution, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years with a fine or with both.

254. Procuring.

Whoever, procures any other person—

(a) for the purposes of engaging in unlawful sexual conduct with another person or with persons generally, whether inside or outside Southern Sudan;

(b) to become a prostitute, whether inside or outside Southern Sudan;

(c) to leave Southern Sudan with the intent that the other person may become a prostitute, or

(d) to leave his or her usual place of residence, not being a brothel, with the intent that he or she may become an inmate of or a frequent brothel elsewhere,

commits the offence of procuring, and upon conviction shall be sentenced as follows—

(a) in a case where the person procured is a child, to imprisonment for a period not exceeding ten years or with a fine or with both;

(b) in any other case, to imprisonment for a period not exceeding two years or with a fine or with both.

255. Coercing or Inducing Persons for Purpose of Engaging in Sexual Conduct.

(1) Whoever, for the purpose of enabling himself or herself or anyone else to engage in unlawful sexual conduct with another person—

(a) threatens or intimidates that other person; or

(b) applies or administers any intoxicating drug, liquor, matter or thing to that other person; or

(c) causes other person to take any intoxicating drug, liquor, matter or thing,

commits the offence of coercing or inducing a person for the purpose of engaging in sexual conduct, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

(2) Nothing in this section shall preclude a person from being charged with or convicted of rape, attempted rape, being an accomplice to rape, or other unlawful sexual conduct if the facts support such a charge or conviction.

256. Detaining a Person for Purpose of Engaging in Unlawful Sexual Conduct.

(1) Whoever, detains another person against his or her will in any place whatsoever with the intention that the person detained should engage in unlawful sexual conduct with himself or herself or another person or with persons generally, commits the offence of detaining a person for the purpose of engaging in unlawful sexual conduct, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

(2) Nothing in this section shall preclude a person from being charged with or convicted of kidnapping or unlawful detention if the facts support such a charge or conviction.

257. Permitting Young Person to Resort to Place for Purpose of Engaging in Unlawful Sexual Conduct.

(1) Whoever, being the owner of a place knowingly induces or allows a young person to enter or be in the place for the purpose of engaging in unlawful sexual conduct with another person or with other persons generally, commits an offence, and upon conviction shall be sentenced as follows—

(a) if the young person is under the age of twelve years, to imprisonment for a term not exceeding ten years or with a fine or with both;

(b) if the young person is over the age of twelve years, to imprisonment for a term not exceeding seven years or with a fine or with both.

(2) It shall be a defence to a charge under subsection (1), above, for the accused to prove that he or she had reasonable cause to believe that the young person was of or over the age of eighteen years.

258. Allowing a Child to Become a Prostitute.

Whoever, being a parent or guardian causes or allows his or her child under the age of eighteen years to associate with prostitutes or to be employed by any prostitute as a prostitute or to reside in a brothel commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

259. Female Genital Mutilation.

Whoever, makes or causes a female Genital Mutilation to be performed, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

260. Sale of Obscene Books etc.

Whoever, sells, distributes, imports or prints, or makes for sale or hire or willfully exhibits to public view any obscene writing, book, newspaper, film, gramophone record or similar article, drawing, painting, representation or figure or attempts or offers so to do or has in his or her possession any such obscene book or other thing for the purpose of sale, distribution or public exhibition, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

261. Deliberate Infection of Another Person with a Sexually Transmitted Disease.

(1) Whoever—

(a) knowing that he or she is suffering from a sexually transmitted disease; or

(b) realising that there is a real risk or possibility that he or she is suffering from a sexually transmitted disease,

intentionally infects any other person with the disease, or does anything or causes or permits anything to be done with the intention or realising that there is a real risk or possibility of infecting any other person with the disease, commits the offence of deliberately infecting that other person with a sexually transmitted disease, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

(2) If it is proved in a prosecution for intentionally spreading a sexually transmitted disease, that the person charged was suffering from a sexually transmitted disease at the time of the offence, it shall be presumed, unless the contrary is proved, that he or she knew or realised that there was a real risk or possibility that he or she was suffering from it.

(3) It shall be a defence to a charge under subsection (1), above, for the accused to prove that the other person concerned—

(a) knew that the accused was suffering from a sexually transmitted disease; and

(b) consented to the act in question, appreciating the nature of the sexually transmitted disease and the possibility of becoming infected with it.

262. Deliberate Transmission of HIV/AIDS.

(1) Whoever—

(a) knowing that he or she is infected with HIV/AIDS; or

(b) realizing that there is a real risk or possibility that he or she is infected with HIV/AIDS;

(c) intentionally does anything or permits the doing of anything which he or she knows will infect, or does anything which he or she realizes or involves a real risk or possibility of infecting another person with HIV/AIDS,

commits the offence of deliberately transmitting HIV/AIDS, whether or not he or she is married to that other person, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

(2) It shall be a defence to a charge under subsection (1), above, for the accused to prove that the other person concerned—

(a) knew that the accused was infected with HIV/AIDS; and

(b) consented to the act in question, appreciating the nature of HIV/AIDS and the possibility of becoming infected with it.

263. Sentence for Certain Offences where Accused is Infected with HIV/AIDS.

(1) Where a person is convicted of—

(a) rape;

(b) aggravated indecent assault; or

(c) sexual intercourse or performing an indecent act with a young person, involving any penetration of any part of his or her or another person's body that incurs a risk of transmission of HIV/AIDS; and it is proved that, at the time of the commission of the offence, the convicted person was infected with HIV/AIDS, whether or not he or she was aware of his or her infection, he or she commits an offence, and upon conviction shall be sentenced to imprisonment for a term not less than ten years.

(2) For the purposes of subsection (1), above—

(a) the presence in a person's body of HIV/AIDS antibodies or antigens, detected through an appropriate test, shall be *prima facie* proof that the person concerned is infected with HIV/AIDS;

(b) if it is proved that a person was infected with HIV/AIDS within thirty days after committing an offence referred to in sections 262 and 263 of this Act, it shall be presumed, unless the contrary is shown, that he or she was infected with HIV/AIDS when he or she committed the offence.

CHAPTER XIX

OFFENCES RELATING TO MARRIAGE AND INCEST

264. Cohabitation by Deceit.

Every person who by deceit causes any other person who is not lawfully married to him or her to believe that he or she is lawfully married to him or her and to cohabit or have sexual intercourse with him or her in that belief, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

265. Marriage Ceremony Fraudulently gone through without Lawful Marriage.

Whoever, dishonestly or with a fraudulent intent goes through the ceremony of being married knowing that he or she is not thereby lawfully married, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

266. Adultery.

Whoever, has consensual sexual intercourse with a man or woman who is and whom he or she has reason to believe to be the spouse of another person, commits the offence of adultery, and shall be addressed in accordance with the customs and traditions of the aggrieved party and in lieu of that and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

267. Enticing, Taking Away or Detaining a Married Woman.

Whoever, takes away, entices or detains any woman, who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from any person having the care of her on behalf of that man, with intention that she may have illicit intercourse with him or any other person or conceals or detains with that intent any such woman, commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

268. Incest.

Whoever, has sexual intercourse with a person who is and whom he or she knows or has reason to believe to be his or her daughter, his or her grand-daughter, his or her mother or any other of his or her female immediate descendants, his or her sister or the daughter of his or her brother or sister or his or her paternal or maternal aunt or uncle and whoever voluntarily permits a person who is and whom he or she knows or has reason to believe to be his or her son, or his or her grandson, his or her father or any of his or her male immediate ascendants or descendants, his or her brother or the son of his or her brother or sister of his or her paternal or maternal uncle, to have sexual intercourse with him or her, commits an offence, and upon conviction shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

Explanation—

In this section, words expressing relation include relatives of the half blood and relatives whose relation is not traced through a lawful marriage.

CHAPTER XX

OFFENCES INVOLVING INFRINGEMENT OF LIBERTY, DIGNITY, PRIVACY OR REPUTATION

Kidnapping and Abduction

269. Kidnapping.

(1) Whoever takes or entices any juvenile, or any person of unsound mind, out of the keeping of the lawful guardian of such juvenile, without the consent of such guardian, or conveys any such juvenile or any person of unsound mind beyond the limits of Southern Sudan without the consent of the person legally authorised to consent to such removal, is said to kidnap such juvenile or person of unsound mind.

(2) Whoever kidnaps any person under subsection (1), above, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years with a fine or with both.

270. Abduction Defined.

Whoever, by force compels or by any deceitful means induces any person to go from any place to another is said to abduct that person.

271. Kidnapping or Abducting in Order to Murder.

Whoever, kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

272. Kidnapping or Abducting with Intent Secretly and Wrongfully to Confine Person.

Whoever, kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

273. Kidnapping or Abducting a Woman to Compel her Marriage, etc.

Whoever, kidnaps or abducts any woman with intent that she may be compelled or knowing it to be likely that she will be compelled to marry any person against her will or in order that she may be forced or seduced to illicit intercourse or knowing it to be likely that she will be forced or seduced to illicit intercourse, commits an offence and shall be addressed according to the customs and traditions of the aggrieved party, in lieu of that and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

274. Kidnapping or Abducting in Order to Subject a Person to Grievous Hurt etc.

Whoever, kidnaps or abducts any person in order that such person may be subjected or may be so disposed of as to be put in danger of being subjected to grievous hurt or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or a fine or with both.

275. Wrongfully Concealing or Keeping in Confinement Kidnapped or Abducted Person.

Whoever, knowing that any person has been kidnapped or abducted wrongfully conceals or confines such person, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with the same intention or knowledge or for the same purpose as that with or for which he or she conceals or detains such person in confinement.

276. Buying or Selling or Disposal of a minor for purpose of Prostitution.

Whoever buys, sells, hires, lets to hire or otherwise obtains possession or disposes of any person under the age of eighteen with the intent that such a person shall be employed or used for any unlawful or immoral purpose or knowing it to be likely that such person will be employed or used for any such purpose, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

277. Unlawful Compulsory Labour.

Whoever, unlawfully compels any person to labour against the will of that person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

278. Kidnapping or Abducting in Order to Subject to Unlawful Compulsory Labour.

Whoever kidnaps or abducts any person with intent that such person may be unlawfully compelled to labour against his or her will commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

279. Transferring Control of Person with Intent to Subject him or her to Unlawful Confinement or Unlawful Compulsory Labour.

Whoever for money or value, transfers or purports to transfer the possession or control of any person to another with the intent to enable such other person to confine such person unlawfully or to compel him or her unlawfully to labour against his or her will, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

280. Possession or Control of Person in Southern Sudan after obtaining such Possession or Control Outside Southern Sudan.

Whoever, is in possession or control of any person within Southern Sudan having obtained such possession or control outside Southern Sudan by acts which would have constituted an offence if done within Southern Sudan, commits an offence, and upon conviction, shall be sentenced in the same manner as if such acts had been done within Southern Sudan.

281. Transferring outside Southern Sudan the Possession of Person Obtained within Southern Sudan.

Whoever, being in possession or control of any person within Southern Sudan, conveys such person outside Southern Sudan and thereby transfers or purports to transfer the possession or control of such person in any manner which would constitute an offence if such transfer or purported transfer took place within Southern Sudan, commits an offence, and upon conviction, shall be sentenced in the same manner as if such transfer or purported transfer had taken place within Southern Sudan.

282. Trafficking in Persons.

Whoever procures, entices or leads away, even with his or her consent, any person for sale or immoral purposes to be carried outside Southern Sudan, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

Wrongful Restraint and Wrongful Confinement

283. Wrongful Restraint.

Whoever, voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, commits the offence of wrongful restraint, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine or with both.

284. Wrongful Confinement.

Whoever, confines any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, commits the offence of wrongful confinement, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both; and if the wrongful confinement continues for three days or more, the imprisonment shall extend to a term not exceeding three years or with a fine or with both.

Illustrations—

(a) "A" causes "Z" to go within a walled space and locks "Z" in, "Z" is thus prevented from proceeding in any direction beyond the circumscribing line of wall. "A" wrongfully confines "Z".

(b) "A" places people with firearms at outlets of a building and tells "Z" that they will fire at "Z" if "Z" attempts to leave the building; "A" wrongfully confines "Z".

285. Wrongful Confinement after Warrant or Order Issued for Production or Liberation.

Whoever, keeps any person in wrongful confinement knowing that a warrant or order for the production or liberation of that person has been duly issued, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years in addition to any term of imprisonment to which he or she may be liable under any other provisions of this Act or any other law in force.

286. Wrongful Confinement in Secret.

Whoever, wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined

or to any public servant or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years, in addition to any other sentence to which he or she may be liable for such wrongful confinement.

287. Wrongful Confinement to Extort Property or Constrain to Illegal Act.

Whoever, wrongfully confines any person for the purpose of extorting from the person confined or from any person interested in the person confined any property or document of title or of constraining the person confined or any person interested in such person to do any thing illegal or to give any information which may facilitate the commission of an offence, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years with a fine or with both.

288. Wrongful Confinement to Extort Confession or Compel Restoration of Property.

Whoever, wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or document of title or to satisfy any claim or demand or to give information which may lead to the restoration of any property or document of title, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

Criminal Defamation

289. Defamation.

(1) Whoever, by words either spoken or reproduced by any mechanical means or intended to be read or by signs or by visible representations makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, save as hereinafter excepted, to defame that person.

(2) Whoever, defames another person commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

(3) For the purposes of subsection (1), above, it is not criminal defamation—

(a) to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published; provided that, whether or not it is for the public good is a question of fact;

(b) to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his or her public functions or respecting his or her character so far as his or her character appears in that conduct and no further;

(c) to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his or her character so far as his or her character appears in that conduct and no further;

(d) to publish a substantially true report of the proceedings of a Court or of the result of any such proceedings;

(e) to express in good faith any opinion whatever respecting the merits of any case civil or criminal which has been decided by a Court or respecting the conduct of any person as a party, witness or agent in

any such case or respecting the character of such person as far as his or her character appears in that conduct and no further;

(f) to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public or respecting the character of the author so far as his or her character appears in such performance and no further;

(g) to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation;

(h) to make an imputation on the character of another person provided that the imputation be made in good faith for the protection of the interests of the person making it or for the protection of the interests of any other person or for the public good;

(i) where a person having over another any authority either conferred by law or arising out of a lawful contract made with that other person to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates;

(j) to convey a caution in good faith to one person against another provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested or for the public good; and

(k) any defence that would be available to him or her in civil proceedings for defamation arising out of the same publication of the same statement.

290. Factors to Consider.

In deciding whether a person has caused harm to another person's reputation that is sufficiently serious to constitute the offence of criminal defamation, a Court shall take into account the following factors in addition to any others that are relevant to a particular case—

(a) the extent to which the accused has persisted with the allegations made in the statement;
(b) the extravagance of any allegations made in the statement;
(c) the nature and extent of publication of the statement; and
(d) whether and to what extent the interests of the State or any community have been detrimentally affected by the publication.

291. Printing or Engraving etc. Matter known to be Defamatory.

Whoever prints or engraves or inscribes any matter or prepares or causes to be prepared any record for the purpose of mechanical reproduction of any matter, knowing or having good reason to believe that such matter is defamatory of any person commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

292. Sale of Printed or Engraved or Inscribed Substance Containing Defamatory Matter.

Whoever sells or offers for sale any printed or engraved or inscribed substance containing defamatory matter or any record prepared for the purpose of the mechanical reproduction of defamatory matter, knowing that such substance or record contains such matter, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

CHAPTER XXI

OFFENCES RELATING TO ACQUISITION OF PROPERTY

Theft and Theft Related Offences

293. Theft.

(1) Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to effect such taking, and whoever dishonestly diverts, consumes or

uses any electricity, electric current or tap water, commit the offence of theft, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

(2) For the purposes of subsection (1), above, a person is said to cause a thing to move, by removing an obstacle which prevented it from moving or by separating it from any other thing as well as by actually moving it.

(3) For the purposes of subsection (1), above, "consent" may be expressed or implied and may be given either by the person in possession or by any person having for that purpose authority either expressed or implied.

Illustrations—

(a) "A" meets a camel carrying merchandise. He or she drives the camel in a certain direction in order that he may dishonestly take the merchandise. As soon as the camel begins to move, "A" has committed theft of the merchandise;

(b) "Z" going on a journey entrusts jewellery to "A" until "Z's" return, "A" carries the jewellery to the market and sells it. Under these facts, the jewellery was not in "Z's" possession. It could not therefore be taken out of "Z's" possession and "A" has not committed theft, though he or she may have committed criminal breach of trust;

(c) "A" sees a ring belong to "Z" lying on a table in "Z's" house. Not venturing to misappropriate the ring immediately for fear of search and detection, "A" hides the ring in a place where it is highly improbable that it will ever be found by "Z", with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Under these facts, "A" at the time of first moving the ring commits theft.

(d) "A" delivers a jewel to "Z" a jeweler to be re-set. "Z" carries it to his shop. "A", not owing to the jeweler any debit for which the jeweler might lawfully detain the jewel as a security, enters the shop openly, takes his jewel by force out of "Z's" hand and carried it away. Under these facts, "A", though he or she may have committed criminal trespass and assault, has not committed theft inasmuch as what he or she did was not done dishonestly.

(e) Again if "A" having pawned an article to "Z" takes it out of "Z's" possession without "Z's" consent not having paid what he or she borrowed on the article, he or she commits theft though the article is his own property inasmuch as he or she takes it dishonestly;

(f) "A" in good faith, believing property belonging to "Z" to be "A's" own property, takes that property out of "Z's" possession. Here, as "A" does not take dishonestly, he or she does not commit theft.

294. Theft in Dwelling House.

Whoever commits theft in or from any building, tent or vessel, which building, tent or vessel is used as a human dwelling or the custody of property, or in or from any means of transportation used for the conveyance of passengers or goods, commits the offence of theft from a dwelling house, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

295. Theft by Clerk or Servant of Property in Possession of the Employer.

Whoever, being a clerk or servant or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his or her master or employer, shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

296. Theft after Preparation made for Causing Death, Hurt or Restrain in Order to Facilitate the Committing of the Theft.

Whoever commits theft having made preparation for causing death, injury, restraint or fear of death or of injury or of restraint to any person in order to facilitate such theft or in order to facilitate his or her escape after the committing of such theft or in order to the retaining of property taken by such theft, shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years with a fine or with both.

Illustrations—

(a) "A" commits theft on property in "Z's" possession; while committing this theft he has a loaded pistol under his or her garment having provided this pistol for the purpose of hurting "Z" in case he or she should resist. "A" has committed an offence under this section;

(b) "A" picks "Z's" pocket, having posted several of his or her companions near him or her, in order that they may restrain "Z", if "Z" should perceive what is passing and should resist or should attempt to arrest "A". "A" has committed an offence under this section.

Receipt or Possession of Stolen Property

297. Receipt of Stolen Property.

(1) Property, the possession of which has been transferred by theft or by extortion or by robbery, and property, which has been criminally misappropriated or in respect of which criminal breach of trust or cheating has been committed, is stolen property, whether the transfer has been made or the misappropriation or breach of trust has been committed within Southern Sudan or elsewhere. But, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

(2) Whoever receives or retains any stolen property knowing or having reason to believe the same is stolen property, commits the offence of receiving stolen property, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

298. Property Stolen in the Commission of Brigandage.

Whoever dishonestly receives or retains any stolen property, the possession of which he or she knows or has reason to believe, has been dishonestly obtained by the commission of brigandage, or dishonestly receives from a person, whom he knows or has reason to believe belongs or belonged to a gang of brigands, which he or she knows, or has reason to believe to have been stolen, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

299. Habitually Dealing in Stolen Property.

Whoever habitually receives or deals in stolen property shall upon conviction, be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

300. Assisting in Concealment of Stolen Property.

Whoever willfully assists in concealing or disposing of or dealing away with property which he or she knows or has reason to believe to be stolen property, shall upon conviction, be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

301. Extortion.

(1) Whoever intentionally puts another person in fear of any injury to that person or to any other, and thereby dishonestly induces such person so put in fear to deliver to any person, any property or document of title or anything, or anything signed or sealed which may be converted into a document of title, commits the offence of extortion.

(2) Whoever commits extortion, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Illustrations—

(a) "A" threatens to publish a defamatory libel concerning "Z" unless "Z" gives him or her money. He thus induces "Z" to give him or her money. "A" has committed extortion;

(b) "A" threatens "Z" that he or she will keep "Z's" child in wrongful confinement unless "Z" signs and delivers to "A" a promissory note binding "Z" to pay certain moneys to "A". "Z" signs and delivers the note. "A" has committed extortion;

(c) "A" threatens to send men to pull down "Z's" crops, unless "Z" will sign and delivery to "B" a bond binding "Z" under a penalty to deliver certain produce to "B" and thereby induces "Z" to sign and deliver the bond. "A" has committed extortion;

(d) "A" by putting "Z" in fear of grievous hurt dishonestly induces "Z" to sign or affix his or her seal to a blank paper and deliver it to "A". "Z" signs and delivers the paper to "A". Here, as the paper so signed may be converted into a valuable security, "A" has committed extortion.

302. Extortion by Putting a Person in Fear of Death or Grievous Hurt.

Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years or with a fine or both.

303. Extortion by Threat of Accusation for an Offence Punishable with Death.

Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence, which could result in the sentence of death or with imprisonment for a term which exceeds ten years, or of having attempted to induce any other person to commit such offence, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

304. Putting Person in Fear of Accusation of an Offence in Order to Commit Extortion.

Whoever, in order to commit extortion puts or attempts to put any person in fear of an accusation against that person or any other of having committed or attempted to commit an offence which could result in the sentence of imprisonment for a term not exceeding ten years, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

Robbery and Brigandage

305. Robbery.

(1) Whoever, intending to take dishonestly any movable property, from a person's body in his or her presence, using criminal force or intimidation, commits the offence of robbery, and upon conviction, shall be sentenced as follows—

(a) for robbery without extenuating circumstance, to imprisonment for a term which may extend to ten years or with a fine or with both;

(b) if the robbery is committed between sunset and sunrise on the highway or between sunset and sunrise upon a person sleeping or having laid down to sleep in the open air, the imprisonment may be extended to fourteen years; and

(c) if the robbery is committed with the use of fire arm, shall be sentenced to life imprisonment and may also be liable to a fine.

(2) For the purposes of subsection (1), above—

(a) theft is robbery if, in order to the committing of the theft or in committing the theft or in carrying away or attempting to carry away property obtained by theft, the offender for that end voluntarily, causes or attempts to cause to any person death or hurt or wrongful restraint or fear of instant death or instant hurt or instant wrongful restraint; and

(b) extortion is robbery if the offender at the time of committing the extortion is in the presence of the person put in fear of instant death, of instant hurt or of instant wrongful restraint to that person or to some other person and by so putting in fear induces the person so put in fear then and there to deliver up the thing extorted.

306. Attempt to Commit Robbery.

Whoever attempts to commit robbery shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

307. Voluntarily Causing Injury in Committing Robbery.

If any person in committing or in attempting to commit robbery, voluntarily causes injury to another person, such offender, and any other person jointly concerned in committing or attempting to commit the robbery, shall upon conviction, be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

Explanation—

The offender is said to be present if he or she is sufficiently near to put the other person in fear of instant death, of instant hurt or of instant wrongful restraint.

Illustrations—

(a) "A" holds "Z" down and takes "Z's" money and jewels from "Z's" clothes or person without "Z's" consent. Under these facts, "A" has committed theft, and in the commission of that theft has voluntarily caused wrongful restraint to "Z". "A" has therefore committed robbery;

(b) "A" meets "Z" on the high-road, shows a pistol and demands "Z's" purse. "Z" in consequence surrenders his or her purse. "A" has extorted the purse from "Z", by putting "Z" in fear of instant hurt and being at the time of committing the extortion in his or her presence. "A" has therefore committed robbery;

(c) "A" meets "Z" and "Z's" child on the river bank. "A" takes the child and threatens to fling it into the river, unless "Z" delivers his or her purse. Under these facts, "A" has extorted the purse from "Z" by causing "Z" to be in fear of instant hurt to the child who is there present. "A" has therefore committed robbery on "Z"

(d) "A" obtains property from "Z" by saying "Your child is in the hands of my gang and will be put to death unless you send us SP50". This is extortion and punishable as such; but it is not robbery, unless "Z" is put in fear of the instant death of his or her child.

308. Brigandage.

(1) When five or more persons jointly commit or attempt to commit a robbery, or where the whole number of persons jointly commit or attempt to commit a robbery and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding is said to commit brigandage.

(2) Whoever commits the offence of brigandage, upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

309. Brigandage with Murder.

If any one of five or more persons, who are jointly committing brigandage, commits murder, in so committing brigandage, every one of those persons shall upon conviction, be sentenced to death or imprisonment for life or for any lesser term and may also be liable to a fine.

310. Robbery or Brigandage with Attempt to cause Death or Grievous Hurt.

If, at the time of committing or attempting to commit robbery or brigandage, the offender uses any deadly weapon or causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, upon conviction, shall be sentenced to imprisonment for a term not less than two and not exceeding seven years or with a fine or with both.

311. Attempting to Commit Brigandage.

Whoever makes any attempt for committing brigandage, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

312. Belonging to Gang of Brigands.

Whoever belongs to a gang of persons associated for the purpose of committing brigandage, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

313. Belonging to Gang of Thieves.

Whoever belongs to any wandering or other gang of persons associated for the purpose of committing theft or robbery and not being a gang of brigands, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

314. Assembling for Purpose of Committing Brigandage.

Whoever is one of five or more persons assembled for the purpose of committing brigandage, upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

CHAPTER XXII

OFFENCES RELATING TO THE DAMAGE OR DESTRUCTION OF PROPERTY

Malicious Damage to Property

315. Mischief.

Whoever, with intent to cause or knowing that he or she is likely to cause wrongful loss or damage to the public or to any person, causes the destruction of any property or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits the offence of mischief, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

Explanation 1—

It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he or she intends to cause or knows that he or she is likely to cause wrongful loss or damage to any person by injuring any property whether it belongs to that person or not.

Explanation 2—

Mischief may be committed by an act affecting property belonging to the person who commits the act or that person and others jointly.

Illustration—

(a) "A" voluntarily burns a document of title belonging to "Z" intending to cause wrongful loss to "Z". "A" has committed mischief.

(b) "A" voluntarily throws into a river a ring belonging to "Z" with the intention of thereby causing wrongful loss to "Z". "A" has committed mischief.

(c) "A", knowing that his or her effects are about to be taken in execution in order to satisfy a debt due from him or her to "Z", destroys those effects with the intention of thereby preventing "Z" from obtaining satisfaction of the debt and thus causing damage to "Z". "A" has committed mischief.

(d) "A", having joint property with "Z" in horse, shoots the horse intending thereby to cause wrongful loss to "Z". "A" has committed mischief.

(e) "A" causes cattle to enter upon a field belonging to "Z" intending to cause or knowing that he or she is likely to cause damage to "Z's" crop. "A" has committed mischief.

316. Mischief Causing Damage to the Amount of SDG12,000.

Whoever commits mischief and thereby causes loss or damage to an amount of SDG12,000 or more, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

317. Mischief by Killing or Maiming Animal.

(1) Whoever commits mischief by killing, poisoning, maiming or wounding or diminishing the value of, utility or rendering useless any animal commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

(2) Whoever commits mischief by killing, poisoning, maiming or rendering useless any camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or by diminishing the utility or value of any such animal, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

318. Mischief in Relation to Water Supply.

Whoever commits mischief by doing any act which renders or which he or she knows to be likely to render any installation for the supply, storage or distribution of water less efficient for its intended purpose or which causes or which he or she knows to be likely to cause a diminution of the supply of water for animals or for any domestic, agricultural or commercial purpose, commits an offence, and shall upon conviction, be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

319. Mischief by Injury to Public Road, Railway, Bridge, River or Channel.

Whoever commits mischief by doing any act which renders or which he or she knows to be likely to render any public road, railway, bridge, navigable river or navigable channel natural or artificial impassable or less safe for traveling or conveying property, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

320. Mischief by Causing Inundation or Obstruction to Public Drainage Attended with Damage.

Whoever commits mischief by doing any act which causes or which he or she knows to be likely to cause an inundation or an obstruction to any public drainage system attended with injury or damage, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

321. Mischief in Relation to Electricity, Telegraphs and Telephones.

Whoever commits mischief by doing any act which renders or which he or she knows to be likely to render any installation for generating, storing, transmitting or distributing electricity or any telegraph or telephone installation less efficient for its intended

purpose or which causes or which he or she knows to be likely to cause a diminution of any supply of electricity, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

322. Mischief in Relation to a Light House or River, Water-Mark or Landmark.

(1) Whoever commits mischief by destroying or moving any lighthouse or other light used as a river water-mark, buoy or other such thing as aforesaid less useful as a guide for navigators commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

(2) Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant or by any act which renders such land-mark less useful as such, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

323. Mischief with Intent to Damage to an amount of SDG30,000 or in Case of Agricultural Produce SDG6,000.

Whoever commits mischief by fire or any other means intending to cause or knowing it to be likely that he or she will cause damage to any property to an amount of SDG30,000 or more, or where the property is agricultural produce, SDG6,000 or more, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

324. Mischief with Intent to Destroy House.

Whoever commits mischief by fire or any other means, knowing it to be likely that he or she will cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or a place for the custody of property, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

325. Mischief in Relation to Vessel.

(1) Whoever commits mischief to any decked vessel or any vessel of capacity of ten tons or more, intending to destroy or render unsafe or knowing it to be likely that he or she will thereby destroy or render unsafe that vessel, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(2) Whoever commits or attempts to commit by fire or any explosive substance such mischief as is described in subsection (1), above, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

326. Intentionally Running Vessel Aground or Ashore with Intent to Commit Theft, etc.

Whoever intentionally runs any vessel aground or ashore intending to commit theft of any property contained therein or to misappropriate any such property dishonestly or with intent that such theft or misappropriation of property may be committed, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

327. Mischief Committed after Preparation made for causing Death or Hurt.

Whoever commits mischief having made preparation for causing to any person death or hurt or wrongful restraint or fear of death or of hurt or of wrongful restraint, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

CHAPTER XXIII

OFFENCES INVOLVING PREMISES

Criminal Trespass

328. Criminal Trespass.

Whoever enters into or upon property in the possession of another with intention to commit an offence or to intimidate, insult or annoy any person in possession of such property or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with the intent to commit an offence, commits the offence of criminal trespass, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three months or with a fine or with both.

House Trespass

329. House Trespass.

(1) Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship or as a place for the custody of property or any railway carriage used for the conveyance of passengers or goods, commits the offence of house trespass, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

(2) Whoever commits house trespass in order to commit any offence punishable with death, shall upon conviction, be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

(3) Whoever commits house trespass in order to commit any offence punishable with fourteen year's imprisonment shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(4) Whoever commits house trespass in order to commit any offence punishable with imprisonment, shall upon conviction, be sentenced to imprisonment for a term not exceeding two years or with a fine or with both; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

330. House Trespass after preparation for Hurt, Assault or Wrongful Restraint.

Whoever commits house trespass having made preparation for causing injury to any person or for assaulting any person or for wrongfully restraining any person or for putting any person in fear of hurt or of assault or of wrongful restraint, shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

Lurking House Trespass

331. Lurking House Trespass.

(1) Whoever commits house trespass, having taken precautions to conceal such house trespass from some person who has a right to exclude or eject the trespasser from the building, vessel or railway carriage which is the subject of the trespass, commits the offence of lurking house trespass, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

(2) Whoever commits lurking house trespass in order to commit any offence punishable with imprisonment shall upon conviction, be sentenced to imprisonment for a term not exceeding three years or with a fine or with both; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

(3) Whoever commits lurking house trespass having made preparation for causing injury to any person or for assaulting any person or for wrongfully restraining any person or for putting any person in fear of hurt or of assault or of wrongful restraint, shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years or with a fine or with both.

(4) Whoever, whilst committing lurking house trespass causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

332. Lurking House Trespass by Night.

(1) Whoever commits lurking house trespass between sunset and sunrise, commits the offence of lurking house trespass by night, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

(2) Whoever commits lurking house trespass by night in order to commit any offence punishable with imprisonment, shall upon conviction, be sentenced to imprisonment for a term not exceeding five years or with a fine or with both; and, if the offence intended to be committed is theft, the term of imprisonment may be extended to fourteen years.

(3) Whoever commits lurking house trespass by night having made preparation for causing injury to any person or for assaulting any person or for putting any person or for wrongfully restraining any person or for putting any person in fear of injury or of assault or of wrongful restraint, shall upon conviction, be sentenced to imprisonment for a term not exceeding fourteen years or with a fine or with both.

333. House Breaking.

A person is said to commit house breaking, who commits house-trespass, if he or she effects his or her entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in or any part of it for the purpose of committing an offence therein, he or she quits the house or any part of it in any of the following six ways—

(a) if he or she enters or quits through a passage made by himself or herself or by any abettor of the house-trespass in order to the committing of the house trespass;

(b) if he or she enters or quits through any passage not intended by any person, other than himself or herself or any abettor of the offence, for human entrance, or through any passage to which he or she has obtained access by scaling or climbing over any wall or building;

(c) if he or she enters or quits through any passage which he or she or any abettor of the house trespass has opened in order to the committing of the house trespass by any means by which that passage was not intended by the occupier of the house to be opened;

(d) if he or she enters or quits by opening any lock in order to the committing of the house trespass or in order to the quitting of the house after a house trespass;

(e) if he or she effects his or her entrance or departure by using criminal force or committing an assault or by threatening any person with assault;

(f) if he or she enters or quits by any passage which he or she knows to have been fastened against such entrance or departure and to have been unfastened by himself or herself or by any abettor of the house trespass.

Explanation 1—

The word "house" in this section includes any place which may be the subject of house trespass.

Explanation 2—

Any outhouse or building occupied with a house between which and such house there is an immediate internal communication is part of the house within the meaning of this section.

Illustrations—

(a) ("A") commits house trespass by making a hole through the wall of ("Z's") house, or by cutting a slit in the tent in which ("Z") is living, and putting his hand through the aperture; ("A") commits house breaking.

(b) ("A") commits house trespass by creeping into a ship at a porthole between decks. This is house breaking.

(c) ("A") commits house trespass by entering ("Z's") house through a window. This is house breaking.

(d) ("A") commits house trespass by entering ("Z's") house through the door having opened a door which was fastened. This is house breaking.

(e) ("A") commits house trespass by entering ("Z's") house through the door having lifted a latch by putting a wire through a hole in the door. This is house breaking.

(f) ("A") finds the key of ("Z's") house-door which ("Z") had lost and commits house trespass by entering ("Z's") house having opened the door with that key. This is house breaking.

(g) ("Z") is standing in his doorway. ("A") forces a passage by knocking ("Z") down and commits house-trespass by entering the house. This is house breaking.

(h) ("Z"), the doorkeeper of ("Y"), is standing in ("Y's") doorway. ("A") commits house trespass by entering the house, having deterred ("Z") from opposing him by threatening to beat him. This is house trespass.

334. House Breaking by Night Defined.

(1) Whoever commits house breaking between sunset and sunrise is said to commit house breaking by night.

(2) Whoever commits house breaking by night, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

(3) Whoever commits house breaking by night in order to commit any offence punishable with imprisonment, upon conviction, shall be sentenced to imprisonment for a term not exceeding five years and may also be liable to a fine; and, if the offence intended to be committed is theft, the term of imprisonment may be extended to fourteen years.

(4) Whoever commits house-breaking by night, having made preparation for causing injury to any person or for assaulting any person or for putting any person or for wrongfully restraining any person or for putting any person in fear of injury or of assault or of wrongful restraint, upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

335. Joint Offenders punishable Where Death or Grievous Hurt is Caused.

If during the commission of lurking house trespass by night or house breaking by night, any offender voluntarily causes or attempts to cause death or grievous hurt to any person, every person jointly concerned in the commission of such lurking house trespass by night or house breaking by night, upon conviction, shall be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to a fine.

336. Dishonestly Breaking Open Receptacle Containing Property.

Whoever dishonestly or with the intention to commit mischief breaks open or unfastens any closed receptacle which contains or which he or she believes to contain property, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

337. Same Offence when Committed by a Person Entrusted with Custody.

Whoever, being entrusted with any closed receptacle which contains or which he or she believes to contain property, without having authority to open the same, dishonestly or with the intention to commit mischief breaks open or unfastens that receptacle, upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

338. Lurking with House-Breaking Instruments.

Whoever is discovered between sunset and sunrise carrying false keys or other instruments suitable for house breaking and seeks to conceal himself or herself or is otherwise shown to have a criminal intention, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine or with both.

339. Fabrication of False Key or Instrument.

Whoever imitates or alters any key or fabricates any instrument intending that such false key or instrument shall be used for a criminal purpose, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

340. Keeping Gaming House or Lottery Office.

Whoever keeps any house or place whereto the public are admitted for the purpose of playing any game of chance or keeps any office or place for the purpose of drawing any lottery or assists in the conduct of any such house or place or office without license, or permission from the appropriate authority, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding six months with a fine or with both.

CHAPTER XXIV

CHEATING, CRIMINAL MISAPPROPRIATION, BREACH OF TRUST, OFFENCES INVOLVING CHEQUES, FRAUD AND FORGERY

Cheating

341. Cheating.

(1) A person is said to "cheat" whenever he or she—

(a) fraudulently or dishonestly induces the person so deceived to deliver any property to any person or to consent that any person shall retain any property; or

(b) intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he or she were not so deceived and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property.

(2) Whoever cheats, upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Explanation—

A dishonest concealment of facts is a deception within the meaning of this section.

Illustration—

(a) "A", by falsely pretending to be a public servant, intentionally deceives "Z" and thus dishonestly induces "Z" to let him or her have on credit goods for which he or she does not mean to pay. Under these facts, "A" cheats "Z";

(b) "A", by exhibiting to "Z" a false sample of an article, intentionally deceives "Z" into believing that the article corresponds with the sample and thereby dishonestly induces "Z" to buy and pay for the article. Under these facts, "A" cheats "Z";

(c) "A", by tendering in payment for an article a cheque on a bank with which "A" keeps no money and by which "A" expects that the cheque will be dishonoured, intentionally deceives and thereby dishonestly induces to deliver the article intending not to pay for it. "A" cheats;

(d) "A", by pledging as diamonds articles which he or she knows are not diamonds, intentionally deceives "Z" and thereby dishonestly induces "Z" to lend money. "A" cheats;

(e) "A" intentionally deceives "Z" into a belief that "A" means to repay any money that "Z" may lend to him or her and thereby dishonestly induces "Z" to lend him money, "A" not intending to repay it. "A" cheats;

(f) "A" intentionally deceives "Z" into a belief that "A" means to deliver to "Z" a certain quantity of dura which "A" does not intend to deliver and thereby dishonestly induces "Z" to advance money upon the faith of such delivery. "A" cheats; but, if "A" at the time of obtaining the money intends to deliver the dura and afterwards breaks his or her contract and does not deliver it, he or she does not cheat but is liable only to a civil action for breach of contract;

(g) "A" intentionally deceives "Z" into a belief that "A" has performed "A" part of a contract made with "Z", which he or she has not performed, and thereby dishonestly induces "Z" to pay money. "A" cheats.

342. Cheating by Impersonation.

(1) A person is said to "cheat by impersonation" if he or she cheats by pretending to be some other person, by knowingly substituting one person for another, or by representing that he, she or any other person is a person other than he or she or such other person really is.

(2) The offence of cheat by impersonation is committed whether the person impersonated is real or imaginary.

(3) Whoever cheats by impersonation shall upon conviction, be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

343. Cheating with the knowledge that wrongful loss may ensue to a person whose interest offender is bound to protect.

Whoever cheats with the knowledge that he or she is likely to cause wrongful loss to a person who has an interest in the transaction to which the cheating relates, and who he or she was bound either by law or by a legal contract to protect, shall upon conviction, be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

344. Cheating and Dishonestly Inducing Delivery of Property.

Whoever cheats and fraudulently or dishonestly induces the person deceived to deliver any property to any person or to make or alter or destroy the whole or any part of a document of title or anything which is signed or sealed and which is capable of being converted into a document of title, upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

345. Cheating by False Description of Goods for Sale.

Whoever sells or attempts to sell or exhibits or offers for sale—

(a) anything in respect of which a false description is made; or

(b) anything which in fact is of less weight, length measure or number, is described as of a certain weight, length, measure or number; shall, unless the contrary is proved, be presumed to have dishonestly concealed the truth,

commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Criminal Misappropriation

346. Criminal Misappropriation.

Whoever dishonestly misappropriates or converts to his or her own use any movable property, commits the offence of criminal misappropriation, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Illustrations—

(a) "A" finds a pound on the high-road, not knowing to whom the pound belongs. "A" picks up the pound. Under these facts, "A" has not committed criminal misappropriation;

(b) "A" finds a letter on the road containing a bank note. From the direction and contents of the letter he or she learns to whom the note belongs. He or she appropriates the note. Under these facts, "A" is guilty of criminal misappropriation;

(c) "A" finds a cheque payable to bearer. He or she can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. "A" knows that this person can direct him or her to the person in whose favour the cheque was drawn. "A" appropriates the cheque without attempting to discover the owner. He or she is guilty of criminal misappropriation;

(d) "A" sees "Z" drop his purse with money in it. "A" picks up the purse with the intention of restoring it to "Z" but afterwards appropriates it to his or her own use. "A" has committed criminal misappropriation;

(e) "A" finds a purse with money, not knowing to whom it belongs; he or she afterwards discovers that it belongs to "Z" and appropriates it to his or her own use. "A" is guilty of criminal misappropriation;

(f) "A" finds a valuable ring not knowing to whom it belongs "A" sells it immediately without attempting to discover the owner. "A" is guilty of criminal misappropriation.

347. Criminal Misappropriation of Property owned by a Deceased Person at the time of his or her Death.

Whoever commits a criminal misappropriation of property knowing that the property so misappropriated was the property of or was in the possession of a deceased person at the time of that person's death and has not since been in the possession of any person legally entitled to such possession, shall upon conviction, be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine; and, if the offender at the time of such person's death was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Criminal Breach of Trust

348. Criminal Breach of Trust Defined.

Whoever, being in any manner entrusted with the property or with any dominion over property, dishonestly misappropriates or converts to his own use or dishonestly uses or disposes of that property in violation of law or the terms of any trust, or willfully suffers any other person so to do, commits criminal breach of trust, and upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

Illustrations—

(a) "A", being executor to the will of a deceased person, dishonestly disobeys the law which directs him or her to divide the effects according to the will, and appropriates the effects to his or her own use. "A" has committed criminal breach of trust;

(b) "A" is a warehouse keeper. "Z" going on a journey, entrusts his or her furniture to "A" under a contract which provides that the furniture shall be returned to "Z" on payment of a stipulated sum for warehouse-room. "A" dishonestly sells the goods. "A" has committed criminal breach of trust;

(c) "A" residing in Yei is an agent of "Z" residing at Rumbek. There is an express or implied contract between "A" and "Z" that all sums remitted by "Z" to "A" shall be invested by "A" according to "Z's" direction. "Z" remits a sum of money to "A" with directives to "A" to invest the same in Government securities. "A" dishonestly disobeys the directives and employs the money in his or her own business. "A" has committed criminal breach of trust;

(d) but if "A" in the last illustration, not dishonestly but in good faith believing that it will be more for "Z's" advantage to hold bank shares, disobeys "Z's" direction and buys bank shares for "Z" instead of buying government securities here, though "Z" should suffer loss and should be entitled to bring a civil action against "A" on account of that loss, yet "A" not having acted dishonestly has not committed criminal breach of trust;

(e) "A" a revenue officer is entrusted with public money and is either directed by law or bound by a contract express or implied with the Government to pay into a certain treasury all the public money which he or she holds. "A" dishonestly misappropriates the money. "A" has committed criminal breach of trust;

(f) "A" a carrier is entrusted by "Z" with property to be carried by land or by water. "A" dishonestly misappropriates the property, "A" has committed criminal breach of trust.

349. Criminal Breach of Trust by Carriers.

Whoever, being entrusted with the property as a carrier, wharfing or warehouse-keeper, commits criminal breach of trust in respect of such property, shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

350. Criminal Breach of Trust by an Employee.

Whoever, being an employee of another person and being in any manner entrusted in such capacity with property or with any domain over property, commits criminal breach of trust in respect of that property, shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years and may also be liable to a fine.

351. Criminal Breach of Trust by a Public Servant, Banker, Merchant or Agent.

Whoever, being in any manner entrusted with property in his or her capacity as a public servant, or banker, or factor, or broker, or agent commits criminal breach of trust in respect of that property, shall upon conviction, be sentenced to imprisonment for a term not exceeding fourteen years and may also be liable to fine.

352. Causing Loss or Waste of Public Property by a Person Entrusted with its Investment.

Whoever, being entrusted with public property or property partly owned by the Government, or being entrusted with the control or supervision over investment of such property dishonestly or without exercising due care and diligence disposes of the same, causing loss or waste or willfully suffers any person so to do,

shall upon conviction, be sentenced to imprisonment for a term not exceeding ten years and with a fine which shall not be less than the value of the property lost or wasted.

Offences Involving Cheques

353. Giving an Uncovered Cheque.

Whoever in fulfillment of an obligation or for consideration, issues to any person a cheque which is dishonoured by the drawee because—

(a) he or she has no account with the drawee at the time the cheque was issued and presented for payment;

(b) he or she has insufficient funds with the drawee and this fact is known to him or her;

(c) he or she has countermanded the payment of the cheque for no reasonable cause;

(d) his or her credit, to his or her knowledge, is not available for payment; or

(e) he or she has intentionally drawn the cheque in such a manner that the drawee refuses to honour it,

commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

354. Endorsement or Delivery of a Cheque knowing that it is Uncovered.

Whoever endorses or delivers a cheque knowing that the credit is not available for payment or that there are insufficient funds or that it has been countermanded, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

355. Misrepresentation by the Drawee that Funds are Non-Available.

Whoever, being a servant, or an agent of a drawee, intentionally misrepresents that the drawee has no credit or that the credit is insufficient to meet the cheque, or that the credit is not available for payment, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

Offences Relating to Document and to Property or Other Marks

356. Making a False Document Defined.

A person is said to make a false document if—

(a) he or she dishonestly or fraudulently makes, signs, seals or executes a document or part of a document or makes any mark denoting the execution of a document with the intention of causing it to be believed that such document or part of a document was made, signed, sealed or executed by or by the authority of a person by whom or by whose authority he or she knows that it was not made, signed, sealed or executed or at a time at which he or she knows that it was not made, signed, sealed or executed;

(b) he or she without lawful authority dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof after it has been made or executed either by himself or herself by any other person whether such person be living or dead at the time of such alteration; or

(c) he or she dishonestly or fraudulently causes any person to sign, seal, execute or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot or that by reason of deception practiced upon him he does not know the contents of the document or the nature of the alteration.

357. Forgery and Forged Document Defined.

(1) Whoever makes any false document or part of a document, with the intention to cause damage or injury to the public or to any person or to support any claim or title or to cause any person to part with property or to enter into any expressed or implied contract or with intent to commit fraud or that fraud may be committed, commits forgery; and a false document made wholly or in part by forgery is called a forged document.

(2) Whoever commits forgery, upon conviction, shall be sentenced to imprisonment for a term not exceeding five years or with a fine or with both.

Illustrations—

(a) "A" leaves with "B" his or her agent, a cheque on a bank signed by "A" without inserting the sum payable and authorises "B" to complete the cheque by inserting a sum not exceeding SDG2,000 for the purpose of making certain payments "B" fraudulently completes the cheque by inserting a sum of SDG3,000 "B" commits forgery;

(b) "A" draws a act of exchange on himself or herself in the name of "B" without "B's" authority intending to discount it as a genuine act with a banker and intending to take up the act on its maturity with intent to deceive the banker by leading him or her to suppose that he or she had the security of "B" and thereby to discount the act. "A" is guilty of forgery;

(c) "Z's" will contains these words - "I direct that all my remaining property be equally divided between "A", "B" and "C". "A" dishonestly scratches out "B's" name intending that it may be believed that the whole was left to himself or herself and "C". "A" has committed forgery;

(d) "A" sells and conveys an estate to "Z", "A" afterwards, in order to defraud "Z" of his or her estate, executes a conveyance of the same estate to "B" dated six months earlier than the date of the conveyance to "Z", intending it to be believed that he or she had conveyed the estate to "B" before he or she conveyed it to "Z". "A" has committed forgery;

(e) "A" writes a letter and signs it with "B's" name without "B's" authority certifying that "A" is a man of good character and in distressed circumstances from unforeseen, misfortune, intending by means of such letter to obtain alms from "Z" and other person. Here, as "A" made a false document in order to induce "Z" to part with property, "A" has committed forgery;

(f) "A" without "B's" authority writes a letter and signs it in "B's" name certifying to "A's" character, intending thereby to obtain employment under "Z". "A" has committed forgery in as much as he or she intended to deceive "Z" by the forged certificate and thereby to induce "Z" to enter into an express or implied contract for service.

Explanation 1—

A person's signature of his or her own name may amount to forgery.

Explanation 2—

The making of a false document in the name of a fictitious person intending to be believed that the document was made by a real person, or in the name of a deceased person intending it to be believed that the document was made by the person in his or her lifetime, amounts to forgery.

Illustration—

"A" draws a act of exchange upon a fictitious person and fraudulently accepts the act in the name of such fictitious person with intent to negotiate it. "A" commits forgery.

Note *As to sanction necessary before taking cognizance of the offence described in this section when committed by a party to any proceedings in any Court or in respect of a document used or given in evidence in such proceedings.*

358. Forgery of Document of Title and Record of Court etc.

Whoever forges a document purporting to be a document of title or to be a record or proceedings of or in a Court or a register of birth, baptism, marriage or burial or a register kept by a public servant as such or a certificate or document purporting to be made by a public servant in his or her official capacity or an authority to institute or defend a suit or to take any proceedings therein, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

359. Forgery for Purpose of Cheating.

Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

360. Forgery for Purpose of Harming Reputation.

Whoever commits forgery intending that the document forged shall harm the reputation of any person or knowing that it is likely to be used for that purpose, shall upon conviction, be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine, or with both.

361. Using as Genuine a Forged Document.

Whoever fraudulently or dishonestly uses as genuine, any document which he or she knows or has reason to believe to be a forged document, commits an offence, and upon conviction, shall be sentenced in the same manner as if he or she had forged such document.

Note *As to sanction necessary before taking cognizance of an offence under this section when committed by a partly to any proceedings in any Court or in respect of a document used or given in evidence in such proceedings, see the Code of Criminal Procedure Act, 2008.*

362. Making or Possessing Counterfeit Seal.

Whoever makes or counterfeits any seal, plate or other instrument for making an impression with the intention that the same shall be used for the purpose of committing forgery or with such intent has in his or her possession any such seal, plate or other instrument knowing the same to be counterfeit, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

363. Having Possession of Document Described in Section 361, knowing it to be Forged and Intending to use it as Genuine.

Whoever has in his possession any document of the description mentioned in section 361 of this Act, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

364. Counterfeiting Device or mark used for Authenticating Documents or Possessing Counterfeit Marked Material.

Whoever counterfeits upon or in the substance of any material, any device or mark used for the purpose of authenticating any document intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material or who with such intent has in his or her possession any material upon or in the substance or which any such device or mark has been counterfeited, shall upon conviction, be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

Note *As to sanction necessary before taking cognizance of any offence under this section when committed by a party to any proceedings in any Court or in respect of a document used or given in evidence in such proceedings, the Code of Criminal Procedure Act, 2008.*

365. Fraudulent Cancellation, Destruction etc. of Document of Title.

Whoever fraudulently or dishonestly or with intention to cause damage or injury to the public or to any person, cancels, destroys or defaces or attempts to cancel, destroy or deface or conceal or attempts to conceal any document which is or purports to be a document of title or commits mischief in respect to such document, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years and may also be liable to a fine.

366. Falsification of Accounts.

Whoever, being an employee of another person, willfully and with the intention to defraud and injure, destroys, alters, mutilates or falsifies any book, paper, writing, document of title or account, which belongs to or is in the possession of his or her employer or has been received by him for or on behalf of his or her employer, or willfully and with intent to defraud and injure makes or abets the making of any false entry in or omits or alters or abets the omission or alteration of any material particular from or in any such book, paper, writing, documents of title or account, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven years or with a fine or with both.

367. Property and Other Marks.

A mark used for denoting that movable property belongs to a particular person is called a property mark.

368. Using a False Property Mark.

(1) Whoever marks any movable property or goods or any case, package or other receptacle property or goods or uses any case, package or other receptacle having any mark thereon in a manner reasonably calculated to cause it to be believed that the property or goods so marked or any property or goods contained in any such receptacle so marked belong to a person to whom they do not belong, is said to use a false property mark.

(2) Whoever uses any false property mark, unless he or she proves that he or she acted without intent to defraud and injure, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

369. Counterfeiting a Property Mark used by Another Person.

Whoever counterfeits any property mark used by any other person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

370. Counterfeiting a Mark used by a Public Servant.

Whoever counterfeits any property mark used by a public servant or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place or that the property is of a particular quality or has passed through a particular office or that it is entitled to any exemption or uses as genuine any such mark knowing the same to be counterfeit, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years and may also be liable to a fine.

371. Making or Possession of any Instrument for Counterfeiting a Property Mark.

Whoever makes or has possession of any die, plate or other instrument for the purpose of counterfeiting a property mark or has in his or her possession a property mark for the purpose of denoting that any goods or commodity belong to a person to whom they do not belong, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

372. Making a False Mark upon any Receptacle Containing Goods.

Whoever makes any false mark upon any case, package or other receptacle containing goods or commodities, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods or commodities which it does not contain, the goods which it has to contain or that the goods or commodities contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall unless he or she proves that he or she acted without the intent to defraud and injure, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

373. Making use of any Such False Mark.

Whoever makes use of any such false mark in any manner prohibited by section 372 of this Act, shall, unless he or she proves that he or she acted without intent to defraud and injure, commits an offence, and upon conviction, shall be sentenced as if he or she had committed an offence against that section.

374. Tampering with Property Mark with the Intent to cause Injury.

Whoever removes, destroys, defaces or adds to any property mark intending or knowing it to be likely that he or she may cause injury to any person, commits an offence and upon conviction, shall be sentenced to imprisonment for a term not exceeding two years or with a fine or with both.

CHAPTER XXV

DRUNKENNESS, IDLE PERSON AND VAGABOND

375. Drunkenness in a Public Place.

(1) Whoever is found drunk in a public place or in any place which he or she has entered by way of trespass, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding seven days or with a fine or with both.

(2) If the person referred in subsection (1), above, conducts himself or herself in such place in a disorderly manner or is incapable of taking care of himself or herself, the sentence may extend to imprisonment for a term of one month or with a fine or with both.

376. Drunkenness in a Private Place.

Whoever being drunk in any private place, conducts himself or herself in a disorderly manner to the annoyance of any person having a right to exclude him or her from such place if fails to leave such place when requested to do so by such person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine not exceeding SDG20 or with both.

377. Effect of Previous Conviction under Section 381 or 382.

Whoever is convicted of an offence under section 375 or 376 of this Act shall, if he or she is shown to have been convicted of an offence under either of such sections within the previous six months, shall be sentenced to imprisonment or fine which may extend to twice the maximum imprisonment or maximum fine prescribed for the offence of which he or she is convicted or with both; and, if he or she is shown to have been convicted of two or more such offences within the like period, then with imprisonment or maximum fine aforesaid or with both.

378. Idle Person.

(1) The term "idle person" means—

(a) any person who being able wholly or in part to maintain himself or herself or his or her family willfully neglects or refuses to do so;

(b) any person who wanders about or places himself or herself in any street or public place to beg or cause or encourages children to do so unless from age or infirmity he or she is unable to earn his or her living; and

(c) any person who has no settled home and has no ostensible means of subsistence and cannot give a satisfactory account of himself or herself,

(2) Whoever conducts himself or herself as and idle person commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one month or with a fine or with both.

Explanation—

In order to convict a person under paragraph (c) all the things mentioned must be proved. A nomad cannot be convicted because he or she has no settled home if he or she has either apparent means of subsistence or gives a satisfactory account of himself or herself.

379. Vagabond.

(1) The term "vagabond" means—

(a) any person who after being convicted as an idle person, commits any of the offences which would render him or her liable to be convicted as such again;

(b) any person who is found to be in possession of breaking implements with the intent to commit house trespass;

(c) any suspected person or reputed thief who by night frequents or loiters about any shop, warehouse, dwelling house, dock or wharf with the intent to commit any offence under Chapter XXI of this Act;
(d) any person who knowingly lives wholly or in part on the earnings of a prostitute or in any public place solicits or importunes for immoral purposes; and
(e) any male person who dresses or is attired in the fashion of a woman in a public place.

(2) Whoever is convicted as a vagabond shall be sentenced to imprisonment for a term not exceeding three months or with a fine or with both.

380. Incorrigible Vagabond.

(1) The term an "incorrigible vagabond" means any person who after being convicted as a vagabond commits any of the offences which would render him or her liable to be convicted as such again.

(2) Whoever is an incorrigible vagabond, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with a fine or with both.

381. Evidence of Intent to Commit an Offence.

For the purposes of this Chapter, and in proving the intent to commit an offence it shall not be necessary to show that the person suspected, committed any particular act tending to show this purpose or intent and he or she may be convicted if from the circumstances of the case and from his or her known character as proved to the Court before which he or she has been brought for trial and it appears to the Court that his or her intention was to commit such an offence.

Illustration—

A man who has been convicted of theft is found by night crouching in the shadow of a locked shop and seeing a policeman at once runs away. He or she is arrested in possession of a large bundle of keys. It need not be shown that he or she was trying the keys or attempting to open the shop.

CHAPTER XXVI

OFFENCES INVOLVING DANGEROUS DRUGS

Offences Involving Dangerous Drugs

382. Definitions in Chapter XXVI.

In this Chapter—

"cannabis" means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated;

"cannabis plant" means any plant of the genus cannabis;

"cannabis resin" means the separated resin, whether crude or purified, obtained from the cannabis plant;

"coca bush" means the plant of any species of the genus erythroxylon;

"coca leaf" means the leaf of the coca bush except a leaf from which all ecgonine alkaloids have been removed;

"dangerous drug" means—

(a) any coca bush, coca leaf, raw opium or cannabis plant;

(b) prepared opium, prepared cannabis or cannabis resin;

"deal in" in relation to a dangerous drug, includes to sell or to perform any act, whether as a principal, agent, carrier, messenger or otherwise, in connection with the delivery, collection, importation, exportation, trans-shipment, supply, administration, manufacture, cultivation, procurement or transmission of such drug;

"medicinal opium" means opium which has undergone the processes necessary to adapt it for medicinal use;
"opium" means the coagulated juice of the opium poppy;
"opium poppy" means the plant of the species *Papaver somniferum L*;
"poppy straw" means all parts (except the seeds) of the opium poppy, after mowing;
"prepared cannabis" means cannabis which has been prepared for smoking and any dross or other residue remaining after cannabis has been smoked;
"prepared opium" means opium prepared for smoking and any dross or other residue remaining after opium has been smoked;
"raw opium" includes powdered or granulated opium, but does not include medicinal opium.

383. Unlawful Dealing in Dangerous Drugs.

(1) Whoever unlawfully—
(a) imports, exports, sells, offers or advertises for sale, distributes, delivers, transports or otherwise deals in a dangerous drug;
(b) cultivates, produces or manufactures a dangerous drug for the purpose of dealing in it;
(c) possesses a dangerous drug, or any article or substance used in connection with the production or manufacture of a dangerous drug, for the purpose of dealing in such drug;
(d) incites another person to consume a dangerous drug; or
(e) supplies or administers to or procures for any person, or offers to supply or administer to or procure for any person, a dangerous drug,
commits the offence of the unlawful dealing in dangerous drugs.

(2) Whoever commits the offence of unlawful dealing in a dangerous drug, upon conviction, shall be sentenced as follows—

(a) if the offence was committed in any of the aggravating circumstances described in subsection (3), below, and there are no special circumstances in a particular case as provided for in subsection (4), below shall upon conviction be sentenced to death or life imprisonment; and

(b) in any other case, to imprisonment for a period not exceeding fourteen years or with a fine or with both.

(3) For the purpose of subsection (1), above, the offence of unlawful dealing in a dangerous drug is committed in aggravating circumstances if the dangerous drug in question was a dangerous drug other than cannabis and the convicted person—

(a) was a member of a group of persons organised within or outside Southern Sudan for the purpose of committing the offence;

(b) employed weapons or engaged in violence in the course of committing the offence;

(c) held a public office which he or she abused to facilitate the commission of the offence;

(d) being over the age of eighteen years, incited any minor to consume or deal in a dangerous drug; or

(e) was previously convicted, whether within or outside Southern Sudan, of a offence constituted by any of the acts specified in subsection (1)(a) and (e), above.

(4) If a person convicted of unlawful dealing in a dangerous drug in aggravating circumstances satisfies the Court that there are special circumstances in the particular case, which circumstances shall be recorded by the Court, why the penalty provided under subsection (2)(a) should not be imposed, the convicted person shall be liable to the penalty provided under subsection (2)(b).

(5) A Court sentencing a person under subsection (2)(a) shall not order that the operation of the whole or any part of the sentence be suspended.

384. Unlawful Possession or use of Dangerous Drugs.

(1) A person commits the offence of unlawfully possessing or using a dangerous drug, if he or she unlawfully—
   (a) acquires or possesses a dangerous drug;
   (b) ingests, smokes or otherwise consumes a dangerous drug; or
   (c) cultivates, produces or manufactures a dangerous drug for his or her own consumption.

(2) A person who commits the offence of unlawfully possessing or using a dangerous drug and, subject to subsection (3), below, upon conviction, shall be sentenced to imprisonment for a period not exceeding five years or with a fine or with both.

(3) Where a person is convicted of the offence of unlawfully possessing or using a dangerous drug, and it is established that the person is an abuser or an addicted to a dangerous drug, the Court may, additionally or alternatively to any sentence under subsection (1), above, impose a sentence requiring the person to undergo treatment for such addiction.

385. Permitting Premises to be used for the unlawful Dealing in or use of Dangerous Drugs.

(1) Whoever—
   (a) being the occupier of any premises, permits such premises to be used for purpose of the unlawful cultivation, manufacture, sale, supply, storage or consumption of a dangerous drug; or
   (b) is concerned in the management of any premises used for any purpose referred to in paragraph (a), above,

commits the offence of permitting premises to be used for the unlawful dealing in or use of dangerous drugs.

(2) A person who permits premises to be used for the unlawful dealing in or use of dangerous drugs, upon conviction, shall be sentenced to imprisonment for a period not exceeding ten years or with a fine or with both.

386. Concealing, Disguising or Enjoying the Proceeds of the Unlawful Dealing in Dangerous Drugs.

(1) Whoever conceals, disguises or enjoys the proceeds of the unlawful dealing in dangerous drugs, knowing that any property is derived from the unlawful dealing in dangerous drugs, or realising that there is a real risk or possibility that any property may be so derived—

(a) converts or transfers such property for the purpose of concealing or disguising the origin of the property;

(b) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of such property; or

(c) acquires, possesses or uses such property,

commits an offence.

(2) Any person who conceals, disguises, or enjoys the proceeds of the unlawful dealing in dangerous drugs, upon conviction, shall be sentenced to imprisonment for a period not exceeding ten years or with a fine or with both.

387. Persons who may Lawfully Possess, Deal in or use Dangerous Drugs.

Any of following persons, may, in that capacity and so far as is necessary for the practice or exercise of that person's profession, function or employment, lawfully acquire, possess and supply any coca bush, cannabis plant, raw opium or scheduled drug and, prescribe, administer, manufacture or compound such drug—

(a) any medical practitioner, dental practitioner or veterinary surgeon;
(b) any pharmaceutical chemist or other person-
  (i) employed in a hospital, clinic, dispensary or like institution administered by the Government, State or by a local authority, or in any other hospital, clinic, dispensary or like institution approved by the Minister responsible for health; or
  (ii) employed in any medical store of the Government or State;
(c) any person in charge of a laboratory used for the purposes of research or instruction and attached to-
  (i) a University, a University college or other educational institution approved by the Minister responsible for health; or
  (ii) any hospital referred to in subparagraph (i) of paragraph (c);
(d) any analyst employed by the State; or
(e) any other person prescribed by the Minister by notice in a statutory instrument after consultation with the Minister responsible for health.

CHAPTER XXVII

COMPUTER AND ELECTRONIC RELATED OFFENCES

388. Definitions in Chapter XXVII.

(1) In this Chapter—
"computer" means a device or apparatus or series of devices which, by electronic, electromagnetic, electro-mechanical or other means, is capable of one or more of the following—
  (a) receiving or absorbing data and instructions supplied to it;

(b) processing data according to rules or instructions;
(c) storing and additionally, or alternatively, reproducing data before or after processing the data;

and includes—

(i) the devices or apparatus or series of devices commonly known as automatic telling machines, electronic cash registers and point-of-sale tills; and
(ii) any other device or apparatus used for the electronic processing of monetary transactions;

"computer virus" means any set of computer instructions that are, or any data, programme or system that is designed directly or indirectly to—

(a) destroy or alter;
(b) render meaningless, useless or ineffective; or
(c) obstruct, intercept, divert, interrupt or interfere with the use of; any computer or computer network;

"computer network" means the interconnection of one or more computers through—

(a) the use of satellite, microwave, terrestrial line or other communication media; or
(b) computer terminals, or a complex consisting of two or more interconnected computers, whether or not the interconnection is continuously maintained;

"credit or debit card" means a card, disc, plate or token which, directly or indirectly, causes a computer to function;

"data" means representations of information or concepts that are being prepared or have been prepared for storage or use in a computer;

"function" includes an operation or exercise of logic, control, arithmetic, deletion, storage, retrieval and communication within, to or from a system;

"owner", in relation to a computer or computer network, means the owner or person entitled to possess or control the computer or computer network;

"password or pin number" means any combination of letters, numbers or symbols that belongs or is assigned to a particular user for the purpose of enabling that user to gain access to a programme or system which is held in a computer or computer network;

"programme" means data or a set of instructions which, when executed in a computer, causes the computer to perform a function;

"system" means an arrangement of data or one or more programmes which, when executed, performs a function.

(2) For the purposes of this Chapter, the Minister concerned may, by notice in a statutory instrument specify as a computer or exclude from the definition of computer, any particular device or apparatus.

389. Unauthorised Access to or Use of Computer or Computer Network.

(1) Whoever, without authority from the owner of the computer or computer network, intentionally—

(a) gains access to;
(b) destroys or alters;
(c) renders meaningless, useless or ineffective;
(d) copies or transfers; or
(e) obstructs, intercepts, diverts, interrupts or interferes with the use of;

any data, programme or system which is held in a computer or computer network commits the offence of unauthorised access to or use of a computer or computer network

(2) Whoever gains unauthorised access to or use of a computer or computer network, upon conviction, shall be sentenced as follows—

(a) if the offence was committed in any of the aggravating circumstances described in section 392 (a), below, to imprisonment for a term not exceeding ten years or with a fine or with both; or

(b) in any other case, to imprisonment for a term not exceeding three years or with a fine or with both.

(3) It shall be a defence to a charge of unauthorised access to or use of a computer for the accused to prove that he or she was not motivated by malice when engaging in the conduct constituting the offence, and that the conduct did not materially affect the data, programme or system in question nor the interests of the owner of the computer or computer network.

390. Deliberate Introduction of Computer Virus into Computer or Computer Network.

Whoever, without authority from the owner of the computer or computer network, knowingly introduces or causes to be introduced any computer virus into any computer or computer network commits the offence of deliberate introduction of a computer virus into a computer or computer network, and upon conviction, shall be sentenced as follows—

(a) if the offence was committed in any of the aggravating circumstances described in section 392 (a), to imprisonment for a term not exceeding ten years or with a fine or with both; or

(b) in any other case, to imprisonment for a term not exceeding three years or with a fine or with both.

391. Unauthorised Manipulation of Proposed Computer Programme.

(1) Whoever fraudulently or mischievously creates, alters or manipulates any data, programme or system, or any part or portion thereof which is intended for installation in a computer, commits the offence of unauthorised manipulation of a proposed computer programme.

(2) A person who manipulates a proposed computer programme without authorization commits an offence and upon conviction, shall be sentenced as follows—

(a) if the offence was committed in any of the aggravating circumstances described in section 392(a) below, to imprisonment for a term not exceeding ten years or with a fine or with both; or

(b) in any other case, to imprisonment for a term not exceeding three years or with a fine or with both.

392. Aggravating Circumstances in Relation to Offences under Sections 389, 390 and 391.

The offence of unauthorised access to or use of a computer, deliberate introduction of a computer virus into a computer or computer network, or unauthorised manipulation of a proposed computer programme is committed in aggravating circumstances if—

(a) it is committed in connection with or in furtherance of the commission or attempted commission of the offence of insurgency, banditry, sabotage or terrorism, theft, unauthorised borrowing or use of property, extortion, fraud, forgery, malicious damage to property, damaging, destroying or prejudicing the safe operation of an aircraft, concealing, disguising or enjoying the proceeds of the unlawful dealing in dangerous drugs, corruptly using a false document or defeating or obstructing the course of justice;

(b) the computer, computer network, data, programme or system is owned by the Government, State, a law enforcement agency, the Defence Forces, the Prison Service, a statutory corporation or a local or like authority;

(c) the offence occasions considerable material prejudice to the owner of the computer, computer network, data, programme or system; or

(d) the offence disrupts or interferes with an essential service.

393. Unauthorised Use or Possession of Credit or Debit Cards.

Whoever possesses, copies or uses any credit or debit card belonging to another person, without authority or without reasonable excuse, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

394. Unauthorised Use of Password or Pin-number.

Whoever without authority, intentionally uses any password or pin-number which belongs to or which has been assigned to another person, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

CHAPTER XXVIII

SEXUAL HARRASSMENT

395. Sexual Harassment Defined.

(1) Whoever uses his or her position of authority or advantage to—

(a) offer a benefit in exchange for sexual favors;

(b) intimidate another person or threaten retaliation if such person refuses to engage in any type of sexual relations;

(c) engage in any unwanted physical contact of a sexual nature with respect to another person, including, but not limited to inappropriate touching,

commits the offence of sexual harassment.

(2) Whether a particular act constitutes sexual harassment is a matter of fact, which depends on the character and nature of the parties.

396. Committing Sexual Harassment.

Whoever intentionally engages in sexual harassment commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years, liable to a fine or both.

CHAPTER XXIX

MISCELLANEOUS PROVISIONS

397. Property in Possession of Husband, Wife, Clerk or Servant.

When property is in the possession of a person's husband or wife, clerk or servant on account of that person, it is in that person's possession within the meaning of the provisions of this Act.
