



THIRTY NINTH ANNUAL REPORT

OF THE

**SOUTH AFRICAN LAW
REFORM COMMISSION**

2011 / 2012

To Mr JT RADEBE MP

Minister of Justice and Constitutional Development

I have the honour to submit to you, in terms of section 7(2) of the South African Law Reform Commission Act 19 of 1973, the Commission's report on all its activities from 1 April 2011 to 31 March 2012.

Yours sincerely

A handwritten signature in black ink, appearing to read 'MF Palumbo', written in a cursive style.

Mr MF Palumbo

Secretary of the South African Law Reform Commission

A handwritten signature in black ink, appearing to read 'MF Palumbo', written in a cursive style.

Gallery of Commissioners

1 January 2007 to 31 December 2011



JUSTICE JY MOKGORO
Chairperson and retired Justice
of the Constitutional Court



JUDGE WL SERITI
Vice-Chairperson and
Judge of the Supreme
Court of Appeal



PROF C ALBERTYN
Professor of Law
University of the
Witwatersrand



JUDGE DM DAVIS
Judge President of the
Competition Appeal Court



ADV NT NGCUKAITOBI
Advocate of the High Court
of South Africa



ADV DB NTSEBEZA SC
Advocate of the High Court
of South Africa



PROF PJ SCHWIKKARD
Dean of Law
University of Cape Town



ADV M SELLO
Advocate of the High Court
of South Africa

Vision, mission and values of South African Law Reform Commission

Vision

To be a centre for excellence, producing ground-breaking research pivotal to the improvement and renewal of the legal system of South Africa.

Mission

The continuous reform of the law of South Africa in accordance with the principles and values of the Constitution to meet the needs of a changing society operating under the rule of law.

Values

In the execution of its duties the SALRC strives to uphold the values of equality, integrity, inclusiveness, professionalism, impartiality, excellence, responsiveness, efficiency and respect for the dignity of others.

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CHAPTER 1

OVERVIEW

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OVERVIEW

Introduction

“Laws and institutions are constantly tending to gravitate. Like clocks, they must be occasionally cleansed, and wound up, and set to true time.”

Henry Ward Beecher (American abolitionist 1813 to 1887)

At the South African Law Reform Commission (SALRC) we do not only clean and wind the clock: we take it apart and reassemble it, sometimes we redesign it; more often than not we take an old wind-up grandfather clock and transform it into a modern digital clock, and sometimes we even build a new clock out of some spare parts floating around. The principle aim however, is always to reflect the true time as we continue to review the past, reform the present and anticipate the future.

The previous Commission's term of office expired at the end of December 2011. It is therefore an appropriate time to look back on the Commission's achievements during its term of office from 1 January 2006 to 31 December 2011.

Reports completed

The *Report on Domestic Partnerships* (Project 118) was approved in the 2005/2006 reporting year. The report was subsequently published on 28 September 2006 and the Civil Union Act 17 of 2006 was enacted and commenced on 30 November 2006. The term 'domestic partnership' is used in the report to describe all established permanent life partnerships, whether between people of the same or the opposite sex, which currently exist outside the ambit of the institution of marriage. The report deals with the lack of legal recognition and regulation of permanent life partnerships against the background of section 9 of the Constitution which, amongst others, prohibits discrimination on the grounds of sexual orientation and marital status. It seeks to establish a new family law framework that will provide for marriage (irrespective of the system under which it is celebrated) as well as various other permanent life partnerships.

The *Report on Customary Law of Succession* (Project 90) was submitted to the Minister of Justice and Constitutional Development (the Minister) in August 2004. After approval, the report was released at a media conference on 7 March 2008. The South African Law Reform Commission has been involved in an investigation into the customary law of succession since 1998. The customary law of succession is based on the principle of male primogeniture, which means that women, daughters and other male children do not inherit in the event of a deceased dying intestate. The purpose of the investigation was to reform the customary law of succession in order to bring it in line with the Constitution. The reform was necessary as the application of the customary law of succession was discriminatory on the basis of gender and age. The investigation resulted in the enactment of the Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009, which came into operation on 20 September 2010.

The *Report on Stalking* (Project 130) was submitted to the Minister in November 2006. The report was approved for publication on 27 October 2008 and the report was released at a media conference held on 25 November 2008. The stalking investigation sought to define stalking behaviour in a South African context and to investigate all aspects of the problems relating to stalking. In addition the investigation aimed to identify appropriate legal remedies to prevent or reduce harm brought about by such behaviour and to recommend any legislative or other steps that should be taken in this regard. Internationally the legal understanding of stalking has evolved to the point where it now resorts under what is broadly termed 'harassment'. The term 'harassment' is used in order to provide greater protection. The Protection from Harassment Act 17 of 2011 provides a specific civil remedy for stalking aimed at interrupting the stalker's pattern of behaviour before physical harm to the victim occurs.

The SALRC completed the *Report on Consolidated legislation pertaining to international co-operation in civil matters* (Project 121) in December 2006. The report was submitted to the Minister in January 2007. The publication of the report was approved on 19 June 2008 and a media statement announcing the publication of the report was issued on 15 August 2008. This investigation was prompted by the need to end South Africa's legal isolation and to allow South Africa to participate more actively in global attempts to improve judicial cooperation in civil matters. In order to achieve this goal, South Africa needed to clarify and improve its law and remedy gaps and ambiguities in the common law. This investigation reviewed the South African

law on the recognition and enforcement of foreign civil judgments, maintenance orders, service of documents abroad and obtaining evidence from abroad for use in civil proceedings.

The SALRC finalised the *Report on Protected Disclosures* (Project 123) on 25 April 2008. The report was approved for publication on 23 September 2008 and released at a media conference held on 25 November 2008. The main focus of the investigation into protected disclosures was to explore the possibility of extending the ambit of the Protected Disclosures Act (PDA) beyond the purview of the traditionally understood employer / employee relationship. In the report the Commission has made a number of findings and has recommended that certain amendments be made to the PDA and the draft Practical Guidelines for Employees.

The SALRC finalised the *Report on Trafficking in Persons* (Project 131) in August 2008 and submitted it to the Minister in the same month. The report was approved for publication on 23 September 2008 and released at a media conference held on 25 November 2008. The Prevention and Combating of Trafficking in Persons Bill [Bill 7 – 2010] was introduced into Parliament on 15 March 2010. South Africa has ratified various international instruments, including the United Nations Protocol on Trafficking in Persons, which recognise trafficking in persons as a world-wide problem. This places an obligation on the RSA to align its domestic laws and policies with the standards set by the international instruments. Trafficking in persons involves the trading of persons as commodities by various means and is often connected to organised crime, the sex trade and modern-day slavery. South Africa is increasingly becoming a transit country and a country of destination for the trafficking of persons, especially women and children. The Prevention and Combating of Trafficking in Persons Bill contained in the *Report on Trafficking in Persons* addresses three main aspects, namely the prevention of trafficking in persons, the prosecution of traffickers and other role-players, and the protection of victims of trafficking.

The SALRC finalised an interim report on the administration of estates in 2008 (Project 134). The interim report deals with two matters that require urgent resolution, namely administration of 'small' estates (estates with a value of less than the amount fixed by the Minister from time to time – at the time of the release of the report the amount was R125 000-00) and streamlined procedures for other estates. The interim report was submitted to the Minister during August 2008. The report was approved for publication on 23 September 2008 and was released at a media conference held on 25 November 2008.

The Commission approved the *Report on Privacy and Data Protection* (Project 124) in January 2009. The report was submitted to the Minister on 26 February 2009 and again on 14 May 2009. The report was approved for publication on 25 August 2009 and released by media statement on 27 August 2009. The Protection of Personal Information Bill [Bill 9 – 2009] was introduced into Parliament on 25 August 2009 and is currently the subject of deliberations before the Portfolio Committee on Justice and Constitutional Development. The main focus of the investigation has been to investigate all aspects regarding the protection of personal information in relation to the processing (collection, storage, use and communication) of the information by the State or another person and to recommend legislation or other steps that should be taken in this regard.

The adoption of the Constitution of the Republic of South Africa necessitated a review of the country's legal, policy and institutional framework to ensure alignment with the Constitution. In January 2003 Cabinet approved that the Minister of Justice and Constitutional Development coordinates and mandates the SALRC to review South African legislation for provisions that may result in discrimination as described in section 9 of the Constitution. Section 9 prohibits unfair discrimination based on race, gender, sex, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. In 2004 the SALRC included a review of the entire statute book of South Africa as an investigation in its law reform programme. The purpose of the investigation is to review the South African statute book for redundancy, obsolescence, and unconstitutionality on the basis of section 9 of the Constitution.

The Commission approved the *Report on Statutory Law Revision: Legislation administered by the Department of Transport* (Project 25) on 10 October 2009. The report was submitted to the Minister on 17 February 2010 and was approved for publication on 3 May 2010. The SALRC released the report for public information on 9 June 2010. As part of this investigation, the SALRC has reviewed 218 Acts administered by the national Department of Transport, which Acts were enacted between 1910 and 2004. The subject-matter of these Acts includes railways, harbours, aviation, transport services, shipping, road transportation, advertising on roads, the adjudication of traffic offences and the Transnet Pension Fund.

The Transport Laws Repeal Bill [Bill 19 – 2010] was introduced into Parliament on 19 July 2010. The Transport Laws Repeal Act 10 of 2010 came into operation on 16 February 2011. Act 10 of 2010 repealed a number of Acts and provisions in Acts administered by the Department of Transport that had been identified by the SALRC as redundant or obsolete.

The Commission approved the *Report on Statutory Law Revision: Legislation administered by the Department of Energy*, the *Report on Statutory Law Revision: Legislation administered by the Department of Labour* and the *Report on Statutory Law Revision: Legislation administered by National Treasury (non-tax legislation)* on 22 October 2011 for publication and referral thereof to the relevant Ministers. The reports pertaining to the Departments of Energy and Labour were referred to the Minister of Energy and the Minister of Labour in March 2012 under cover of a letter signed by the Minister. The report pertaining to National Treasury was referred to the Minister of Finance in February 2012 under cover of a letter signed by the Minister.

The Commission approved the *Report on Statutory Law Revision: Legislation administered by the Department of Human Settlements*, the *Report on Statutory Law Revision: Legislation administered by the Department of Public Works* and the *Report on Statutory Law Revision: Legislation administered by the Department of Rural Development and Land Reform* on 3 December 2011 for publication and referral thereof to the relevant Ministers. The reports were referred to the Minister of Human Settlements, the Minister of Mineral Resources, the Minister of Public Works and the Minister of Rural Development and Land Reform respectively in March 2012 under cover of a letter signed by the Minister.

Other endeavours

The SALRC embarked upon a period of introspection as alluded to in Chapter 1 of the SALRC's 2007 / 2008 Annual Report. The process of critical review commenced with a review of the SALRC's processes and followed a two-pronged approach: an investigation into the development of the SALRC's research programme, and looking into the streamlining of the SALRC's processes and the release of its reports. In the course of reviewing the processes, the SALRC also compared itself to other law reform agencies and made contact with several of them with a view to establishing best practices in law reform.

During this time it became clear that the SALRC should develop selection criteria to determine which proposals ought to be included as investigations, starting with a decision on which proposals should be subjected to preliminary investigation. Given the human and financial resources and the amount of time expended on an investigation, it is clear that the SALRC is unable to investigate each and every proposal received. Since many more proposals are received than what can be practically dealt with by the SALRC at a given time, it is clear that the SALRC needs some method to determine when a proposal for an investigation will be entertained and when it will be rejected. Although proposals for investigation are usually subjected to preliminary investigation, even a preliminary investigation takes up valuable time and resources and may not always be necessary.

The selection criteria that were developed therefore provide for a two-phased process to determine the inclusion of an investigation in the SALRC's programme. The first set of criteria is used to determine whether a proposal should be rejected even before a preliminary investigation is done. It creates a sifting mechanism to reduce the number of preliminary investigations. If the proposal does not meet the initial criteria set for inclusion, it is rejected and the person or institution that requested the investigation is informed accordingly.

However, where the initial criteria are met, a preliminary investigation is indicated and the second set of criteria is then applied to evaluate the proposal and to determine the ultimate inclusion or rejection of the proposal. Whereas all the initial criteria need to be met when deciding whether to go ahead with a preliminary investigation, a proposal need not meet all the second set of criteria to be included in the programme. All the criteria in the second phase are considered and such weight is attached to a specific factor as the Commission deems appropriate in the circumstances of each case. The selection criteria are discussed in detail in Chapter 1 of the SALRC's 2008 / 2009 Annual Report.

Commission

The Commission is appointed in terms of section 3 of the South African Law Reform Commission Act 19 of 1973. The term of office of the former Commission members, who were appointed with effect from 1 January 2007, expired on 31 December 2011. This Commission was comprised of the following Commissioners appointed by the President:

- Madam Justice Yvonne Mokgoro (Chairperson)
- Mr Justice Willie Seriti (Vice-Chairperson)
- Professor Cathi Albertyn
- Mr Justice Dennis Davis
- Mr Tembeka Ngcukaitobi
- Advocate Dumisa Ntsebeza SC
- Professor Pamela Schwikkard
- Advocate Mahlape Sello

The former Full-time Commissioner, Advocate Thuli Madonsela, resigned with effect from 15 October 2009 to take up her appointment as Public Protector of South Africa.

The new Commission is in the process of being appointed.

Completed reports receiving the attention of Parliament

1. Project 90 – Customary law: Traditional Courts: introduced into Parliament on 2 April 2008 as the Traditional Courts Bill [Bill 15 – 2008] and re-introduced into Parliament on 7 July 2009. The Bill however was withdrawn on 2 June 2011 with the intention to introduce it into the National Council of Provinces in terms of section 76(2) of the Constitution. The Bill was tabled in the NCOP on 26 January 2012 as the Traditional Courts Bill [Bill 1 – 2012].
2. Project 124 – Privacy and Data Protection: introduced into Parliament on 25 August 2009 as the Protection of Personal Information Bill [Bill 9 – 2009].
3. Project 130 – Stalking: introduced into Parliament as the Protection from Harassment Bill [Bill 1 – 2010], approved as the Protection from Harassment Act 17 of 2011 and published in the *Government Gazette* on 5 December 2011.
4. Project 131 – Trafficking in Persons: introduced into Parliament on 15 March 2010 as the Prevention and Combating of Trafficking in Persons Bill [Bill 7 – 2010].

Completed reports receiving the attention of government departments

Department of Justice and Constitutional Development

The following reports were submitted to the Department of Justice and Constitutional Development (DOJCD) during previous reporting years:

1. Project 47 – Unreasonable stipulations in contracts and the rectification of contracts: submitted to DOJCD in May 1998.
2. Project 59 – Islamic marriages: submitted to DOJCD in July 2003.
3. Project 63 – Review of the law of insolvency: submitted to DOJCD in February 2000.
4. Project 73 – Simplification of criminal procedure: Appeal by the Director of Public Prosecutions on questions of fact: submitted to DOJCD in December 2000.
5. Project 73 – Simplification of criminal procedure: Out of court settlements: submitted to DOJCD in August 2002.
6. Project 73 – Simplification of criminal procedure: A more inquisitorial approach to criminal procedure – police questioning, defence, disclosure, the role of judicial officers and judicial management of trials: submitted to DOJCD in August 2002.
7. Project 82 – Sentencing: A new sentencing framework: submitted to DOJCD in December 2000.
8. Project 88 – The recognition of class actions in South African Law: submitted to DOJCD in September 1998.
9. Project 90 – Customary law: Conflicts of law: submitted to DOJCD in September 1999.
10. Project 94 – Arbitration: Domestic arbitration: submitted to DOJCD in June 2001.
11. Project 94 – Arbitration: International arbitration: submitted to DOJCD in July 1998.
12. Project 96 – The Apportionment of Damages Act, 1956: submitted to DOJCD in July 2003.
13. Project 101 – The application of the Bill of Rights to criminal procedure, criminal law, the law of evidence and sentencing: submitted to DOJCD in June 2001.
14. Project 112 – Sharing of pension benefits: submitted to DOJCD in June 1999.
15. Project 114 – Publication of divorce proceedings: submitted to DOJCD in August 2002.
16. Project 121 – Consolidated legislation pertaining to international judicial co-operation in civil matters: submitted to DOJCD in April 2008.

17. Project 134 – Interim report on administration of estates: submitted to DOJCD in August 2008.
18. Project 123 – Protected disclosures: submitted to DOJCD in November 2008.

Other government departments

The following reports emanating from the Commission were referred to government departments other than the Department of Justice and Constitutional Development during previous reporting years:

1. Project 86 – Euthanasia and the artificial preservation of life: submitted to the Department of Health in 1999.
2. Project 109 – Review of the Marriage Act 25 of 1961: submitted to the Department of Home Affairs in May 2001.
3. Project 118 – Domestic partnerships: proposed Domestic Partnerships Bill under consideration by the Department of Home Affairs: submitted to the Department of Home Affairs in 2006.

The following reports emanating from investigations under Project 25 – Statutory Law Revision: Redundancy, obsolescence and unconstitutionality of legislation were referred to other government departments during the reporting period:

1. Review of legislation administered by the Department of Energy: submitted to the Minister of Energy in March 2012.
2. Review of legislation administered by the Department of Human Settlements: submitted to the Minister of Human Settlements in March 2012.
3. Review of legislation administered by the Department of Labour: submitted to the Minister of Labour in March 2012.
4. Review of legislation administered by the Department of Mineral Resources: submitted to the Minister of Mineral Resources in March 2012.
5. Review of legislation administered by National Treasury (non-tax legislation): submitted to the Minister of Finance in February 2012.
6. Review of legislation administered by the Department of Public Works: submitted to the Minister of Public Works in March 2012.

7. Review of legislation administered by the Department of Rural Development and Land Reform: submitted to the Minister of Rural Development and Land Reform in March 2012.

The year under review

This annual report covers the period from **1 April 2011 to 31 March 2012**. The Commission published the following documents in the year under review:

Issue papers

The Commission did not publish any issue papers during the year under review.

All issue papers published by the Commission from inception to date are listed in **Annexure A**.

Discussion papers

The following discussion papers were published for general information and public comment during the year under review:

1. *Discussion Paper 122 – Statutory Law Revision: Review of legislation administered by the Department of Communications* (Project 25) was published on 27 May 2011.
2. *Discussion Paper 123 – Statutory Law Revision: Review of legislation administered by the Department of Defence and Military Veterans* (Project 25) was published on 27 May 2011.
3. *Discussion Paper 124 – Statutory Law Revision: Review of legislation administered by the Department of Mineral Resources* (Project 25) was published on 24 May 2011.
4. *Discussion Paper 125 – Statutory Law Revision: Review of legislation administered by the Department of Basic Education* (Project 25) was published on 27 May 2011.
5. *Discussion Paper 126 – Prescription Periods* (Project 125) was published on 28 July 2011.
6. *Discussion Paper 127 – Statutory Law Revision: Review of legislation administered by the Department of Tourism* (Project 25) was published on 4 November 2011.

7. *Discussion Paper 128 – Statutory Law Revision: Review of legislation administered by the Department of International Relations and Cooperation* (Project 25) was published on 4 November 2011.
8. *Discussion Paper 129 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on the legal professions, courts and institutions, civil procedure and evidence, substantive criminal law, substantive civil law, wills, estates and insolvency, constitutional and political legislation]* (Project 25) was published on 23 November 2011.
9. *Discussion Paper 130 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on family law and marriage]* (Project 25) was published on 30 January 2012.

All discussion papers published by the Commission from inception to date are listed in **Annexure B**.

Reports

The SALRC finalised the following reports during the reporting period:

1. *Report on Statutory Law Revision: Legislation administered by the Department of Energy:*
The Commission approved the report on 22 October 2011 for publication and referral thereof to the Minister of Energy. The report was referred to the Minister of Energy on 6 March 2012 under cover of a letter signed by the Minister of JCD.
2. *Report on Statutory Law Revision: Legislation administered by the Department of Human Settlements:* The Commission approved the report on 3 December 2011 for publication and referral thereof to the Minister of Human Settlements. The report was referred to the Minister of Human Settlements on 6 March 2012 under cover of a letter signed by the Minister of JCD.
3. *Report on Statutory Law Revision: Legislation administered by the Department of Labour:*
The Commission approved the report on 22 October 2011 for publication and referral thereof to the Minister of Labour. The report was referred to the Minister of Labour on 6 March 2012 under cover of a letter signed by the Minister of JCD.
4. *Report on Statutory Law Revision: Legislation administered by the Department of Mineral Resources:* The Commission approved the report on 3 December 2011 for publication and

referral thereof to the Minister of Mineral Resources. The report was referred to the Minister of Mineral Resources on 6 March 2012 under cover of a letter signed by the Minister of JCD.

5. *Report on Statutory Law Revision: Legislation administered by National Treasury (non-tax legislation):* The Commission approved the report on 22 October 2011 for publication and referral thereof to the Minister of Finance. The report was referred to the Minister of Finance on 22 February 2012 under cover of a letter signed by the Minister of Justice and Constitutional Development.
6. *Report on Statutory Law Revision: Legislation administered by the Department of Public Works:* The Commission approved the report on 3 December 2011 for publication and referral thereof to the Minister of Public Works. The report was referred to the Minister of Public Works on 6 March 2012 under cover of a letter signed by the Minister of Justice and Constitutional Development.
7. *Report on Statutory Law Revision: Legislation administered by the Department of Rural Development and Land Reform:* The Commission approved the report on 3 December 2011 for publication and referral thereof to the Minister of Rural Development and Land Reform. The report was referred to the Minister of Rural Development and Land Reform on 6 March 2012 under cover of a letter signed by the Minister of Justice and Constitutional Development.

Investigations

All investigations completed or being undertaken by the Commission are listed in **Annexure C**.

A progress report on investigations not yet completed appears in **Chapter 3**.

CHAPTER 2
OBJECTS, CONSTITUTION AND
FUNCTIONING

CHAPTER 2

OBJECTS, CONSTITUTION AND FUNCTIONING

Establishment of the Commission

The South African Law Reform Commission (SALRC) was established by the South African Law Reform Commission Act 19 of 1973 (the SALRC Act).

Objects of the Commission

The objects of the Commission are set out as follows in section 4 of the SALRC Act:

To do research with reference to all branches of the law of the Republic and to study and investigate all such branches in order to make recommendations for the development, improvement, modernisation or reform thereof, including –

- the repeal of obsolete or unnecessary provisions;
- the removal of anomalies;
- the bringing about of uniformity in the law in force in the various parts of the Republic;
- the consolidation or codification of any branch of the law; and
- steps aimed at making the common law more readily available.

In short, the Commission is an advisory body whose aim is the renewal and improvement of the law of South Africa on a continuous basis.

Constitution of the Commission

The members of the Commission are appointed by the President.

In terms of section 3(1)(a) of the SALRC Act the Commission is constituted as follows:

- A judge of the Constitutional Court, the Supreme Court of Appeal or a High Court, as Chairperson.
- Not more than eight persons who appear to the President to be fit for appointment on account of the tenure of a judicial office or on account of experience as an advocate or as an attorney or as a professor of law at any university, or on account of any other qualification relating to the objects of the Commission.

As indicated in Chapter 1, the President appointed the previous Commission for a period of five years with effect from 1 January 2007. The Commission's terms of office expired on 31 December 2011. The new Commission is in the process of being appointed.

Annexure D contains a list of members of the Commission and the periods for which they served or for which they were appointed.

Powers and duties of the Commission

The powers and duties of the Commission are set out in section 5 of the SALRC Act. Section 5 directs the Commission to draw up programmes that include, in order of preference, the various matters which in the Commission's opinion require consideration. The programmes must be submitted to the Minister of Justice and Constitutional Development (the Minister) for approval. The Commission may include any suggestion for investigation relating to the Commission's objects received from any person or body.

The Commission has to investigate the matters appearing on the programme as approved by the Minister and may consult any person or body for the purpose of the investigation. The Commission prepares draft legislation if it is of the opinion that legislation ought to be enacted with regard to the matter investigated.

Committees

Section 7A of the SALRC Act provides for the establishment of committees of the Commission. There are two categories: committees appointed by the Commission and consisting of members

of the Commission only (such as the Working Committee), and committees consisting of members of the Commission and persons who are not members of the Commission. The latter are appointed by the Minister. The object of the second category of committees is to utilise the expertise of persons outside the Commission and to ensure direct community involvement in the activities of the Commission.

Committees of the Commission perform the functions assigned to them by the Commission and are subject to the Commission's directives. Activities performed by committees are deemed to be performed by the Commission and for purposes of remuneration, members of committees are deemed to be members of the Commission.

Working Committee

Under the first category of committees, the Commission has established a working committee which consists of members of the Commission co-opted for meetings according to their availability (section 7A(1)(a) of the SALRC Act).

The Working Committee may be considered the executive committee of the Commission. In accordance with the Commission's directives, this Committee attends on a continuous basis to routine matters and other matters that require urgent attention. The Working Committee may exercise all the functions of the Commission excluding the approval of reports. The Committee also considers the inclusion of new investigations in the Commission's programme. Furthermore, the Committee plans and manages the activities of the Commission's Secretariat.

Advisory committees

Advisory committees fall under the second category of committees. The Commission follows the practice of instituting advisory committees consisting of experts to assist with investigations and to advise the Commission if a specific investigation on the Commission's programme so requires (Section 7A(1)(b) of the SALRC Act).

The names of the members of the advisory committees appear in **Annexure E**.

Project leaders

Although the SALRC Act does not specifically refer to the appointment of project leaders, it is the Commission's practice to appoint a project leader for each investigation on its research programme. A project leader could be a Commissioner, a member of an advisory committee appointed by the Minister (section 7A(1)(b)(ii)), or any other person who is not a Commissioner and who is not a member of an advisory committee (section 8(2)).

The main task of a project leader is to guide the designated researcher by providing advice and direction and evaluating the research. If the project leader is the designated chairperson of a committee as envisaged in section 7A(3) of the SALRC Act, he or she will also guide the proceedings of the advisory committee.

Secretariat of the Commission

The Commission is assisted in its task by a full-time Secretariat consisting of officials on the establishment of the Department of Justice and Constitutional Development. The Secretariat consists of a research component and an administrative component. A Deputy Chief State Law Adviser serves as the Secretary of the Commission. Mr Michael Palumbo was appointed as Deputy Chief State Law Adviser with effect from 1 June 2008.

The post of Assistant Secretary on the level of a Principal Legal Administration Officer (post level approved with effect from 1 November 2011) to the Commission is vacant. The post will be filled after the relocation of the SALRC to permanent office premises.

Research component

The research component of the Secretariat consists of 18 State Law Advisers from diverse backgrounds. Their task is to conduct the necessary research under the guidance of project leaders (who are appointed by the Commission), to consult with interested parties, to compile

proposal papers, issue papers, discussion papers and draft reports and to carry out other assignments of the Commission.

Law reform cannot be delivered without high quality research. The in-house researchers at the South African Law Reform Commission (SALRC) are qualified legal professionals, the majority of whom have vast experience in the law reform environment. The result has been the development of scholarly research publications and the involvement of the researchers in various activities as highlighted in Chapter 5.

The research posts are filled by the following state law advisers:

Ms Dellene Clark

Mr Tienie Cronje (seconded to the Office of the Chief Master with effect from 19 March 2012 until 30 June 2013)

Ms Anna-Marie Havenga

Ms Jennifer Joni (from 1 May 2011)

Ms Ananda Louw

Mr Fanyana Mdumbe (seconded to serve as head of the legal research division for the Arms Procurement Commission with effect from 15 March 2012 until 31 December 2014)

Mr Linda Mngoma

Ms Aura Mngqibisa (from 1 January 2012)

Ms Maureen Moloi

Mr Tshepang Monare (until 31 May 2011)

Ms Carien Pienaar (until 30 April 2011)

Ms Tania Prinsloo

Ms Nerisha Singh (until 31 May 2011)

Ms Lowesa Stuurman

Mr Willie van Vuuren

Mr Pierre van Wyk

Ms Ronel van Zyl

Four posts of Senior State Law Adviser are vacant, but are in the process of being filled.

Administrative component

The administrative component of the Secretariat consists of the following persons:

Assistant Director:	Ms Maryna Oosthuizen
Copy Editor:	Vacant
Personal Assistant:	Ms Ronell Bronkhorst
Senior Secretary:	Ms Nomfundo Mhambi
Administrative Officer:	Mr Ajay Singh
Administrative Officer:	Mr Jacob Kabini
Administrative Officer:	Ms Johanna Msizi (from 1 January 2012)
Principal librarian:	Vacant
Librarian:	Ms MJ Mogale (from 1 August until 31 August 2011)
	Ms Portia Bobodo (from 1 October 2011)
Administration Clerk:	Ms Chantelle Krebs
Administration Clerk:	Ms Meisie Kruger (until 31 August 2011)
Administration Clerk:	Ms Edith Louw
Administration Clerk:	Ms Patricia Mashabela
Administration Clerk:	Mr Vusi Mavuso
Administration Clerk:	Ms Tume Mofoka (from 1 January 2012)
Administration Clerk:	Ms Natalie Pillay (until 30 September 2011)
Administration Clerk:	Mr Renier Swart
Operator:	Mr Koos Mahlangu
Food Service Aid:	Ms Anna Mahlangu
Messenger:	Mr George Maseko

The post of Principal Librarian was created on the organisational establishment of the SALRC with effect from 1 June 2011. The post is in the process of being filled. The post of Copy Editor was created on the organisational establishment of the SALRC with effect from 1 February 2012. The post will be filled after the relocation of the SALRC to permanent office premises.

Internal committees and task teams

Two internal committees and a task team have been established to assist the SALRC with the execution of its functions. The following internal committees and task team are currently in existence:

Library Committee

Members	Purpose	Activities
Mr Pierre van Wyk (chairperson) Mr Tienie Cronje (until 18 March 2012) Ms Maureen Moloji Mr Linda Mngoma Ms Maryna Oosthuizen Ms Portia Boboda	<p>The Library Committee is responsible for considering the acquisition of publications to ensure the relevance of the holdings of the SALRC library.</p> <p>The Committee reflects annually on the SALRC's standing orders for publications and subscriptions to electronic data bases. The Committee also liaises with the principal librarian at the DOJCD.</p>	<p>The Library Committee considered and recommended the renewal of the SALRC's subscription to certain Sabinet data base products (Magnet (SA Citations), Request and Sabinet) in April 2011 and subsequently developed memoranda for the consideration of the Departmental Bid Adjudication Committee (DBAC).</p> <p>On 11 May 2011 Library Committee members participated in the short-listing of candidates for the vacant librarian post and in the interviews held on 7 June 2011.</p> <p>In September 2011 Library Committee members participated in the development and finalisation of the advertisement for the vacant principal librarian post.</p> <p>In October 2011 the Library Committee developed a memorandum recommending the approval of additional Sabinet data base products (E-Publications, Netlaw: South African Legislation and SA Gazettes), the subscriptions of which expired in December 2011, for DBAC consideration.</p> <p>On 1 February 2012 Library Committee members participated in the shortlisting of candidates for</p>

Members	Purpose	Activities
		the vacant principal librarian post and in the interviews held on 8 February 2012.

Occupational Health and Safety Committee

Members	Purpose	Activities
Mr Linda Mngoma (chairperson) Mr Willie van Vuuren Ms Dellene Clark Ms Edith Louw Mr George Maseko	The Occupational Health and Safety (OHS) Committee was established on 11 April 2007 in terms of section 19(1) of the Occupational Health and Safety Act 85 of 1993.	During the reporting period the OHS Committee attended to health and safety issues at the SALRC's temporary office premises as well as at its proposed new office premises. The Committee also dealt with the following matters during this period: <ul style="list-style-type: none"> • Liaised with the construction company responsible for renovations at the De Meent building with a view to address a number of health and safety concerns identified by staff. • Monitored and evaluated health and safety issues at the SALRC's temporary office premises during on-site structural renovations. • Requested the Department of Labour to investigate the construction company's compliance with the Occupational Health and Safety Act. Letters of non-compliance with the Act were issued to the company to address within a period of sixty days. • Two Committee members attended fire-fighting and first aid training to ensure compliance with the OHS Act.

Relocation Task Team

Members	Purpose	Activities
Mr Michael Palumbo Mr Willie van Vuuren Ms Ananda Louw Mr Linda Mngoma Ms Maryna Oosthuizen (from 9 September 2010 to date)	The Relocation task Team organised the SALRC's move from its previous to its temporary office premises. The Task Team liaises with DOJCD Facilities Management and the Department of Public Works on the procurement of a new lease agreement for permanent office premises for the SALRC.	<p>On 2 July 2010 the Secretary received a notice of the termination of the lease of the SALRC office premises and was requested to vacate the SALRC's offices in the Middestad Centre by 31 July 2010. The vacation date was later extended to 31 August 2010. The SALRC moved to temporary accommodation in the De Meent Building at the end of August 2010. Most of its furniture, equipment and appliances, the registry and the content of the library are in storage at present.</p> <p>On 17 December 2010 the Department of Public Works (DPW) approved the procurement of a 5 year lease agreement for the Spooral Park Building in Centurion on behalf of the SALRC. In January 2011 DPW appointed a project team taking responsibility for managing the refurbishment of the SALRC's new offices.</p> <p>Refurbishment of the new offices started in June 2011, but finalisation of the refurbishment was delayed pending approval for an extension of the lease term from 5 years to 10 years.</p> <p>Refurbishment of the offices is expected to be completed in July 2012 and it is hoped that the Commission will be able to relocate to its new office premises in August 2012.</p>

Financing of the SALRC

The SALRC's budget for the financial year 1 April 2011 to 31 March 2012 was R14 810 637-96, which is made up as follows:

- Personnel expenditure R13 154 665-32
- Current expenditure R1 579 371-08
- Capital expenditure R76 601-56

Programme

The SALRC Act provides that the Commission must, from time to time, draw up programmes listing in order of preference the matters which in its opinion require consideration. The Commission's programme is subject to the Minister's approval.

The Commission's present programme appears in **Annexure F**. As indicated, **Annexure C** contains a list of all the investigations included in the Commission's programme since its inception and indicates the final result or current state of investigations.

Any person or body is free to submit proposals for law reform to the Commission. In each case the Commission considers the merits of a proposal. In some instances a preliminary inquiry is instituted to determine whether the inclusion of a matter in the Commission's programme is justified. The Commission may also include matters in the programme of its own accord.

Every effort is made to dispose of urgent matters with the least possible delay. However, the Commission has to follow certain procedures which sometimes take up considerable time. The availability of funds and skilled research capacity, the nature and extent of the inquiry and the need for consultation all determine the time spent on each project. Consultation, in particular, is time-consuming, but the Commission regards it as an indispensable part of the law reform process.

Working methods

Research is done to determine authoritatively the existing legal position and to identify shortcomings or deficiencies that need to be rectified. Consultation takes place between the researcher, project leader, advisory committee (where one exists), the general public, stakeholders and persons with particular knowledge concerning the matter under investigation.

Comparative studies are carried out in order to enable the Commission to benefit from experiences elsewhere in the world. The consultation process is facilitated by the Commission's policy (since 1996) of compiling issue papers as a first step. Issue papers outline the problems encountered with particular areas of the law and invite submissions on possible solutions. They are distributed as widely as possible for general information and comment and are in appropriate cases also supplemented by workshops. Responses to an issue paper and further intensive research form the basis for the preparation of a discussion paper.

Discussion papers contain essential information on the investigation and the Commission's tentative proposals for reform. In particular, a discussion paper will include a statement of the existing legal position and its deficiencies, a comparative survey and a range of possible solutions. In most cases the discussion paper will also include a draft Bill. Members of the public are informed of the availability of discussion papers by means of media releases and media conferences. In addition, copies are distributed to organisations and, sometimes, to individuals whose views on the subject under discussion the Commission particularly wishes to canvass. The responses to the provisional proposals are carefully studied before final decisions are made. The Commission also hears oral evidence in appropriate cases. Its recommendations are embodied in comprehensive reports, which are submitted to the Minister.

In making its recommendations, the Commission bears in mind that there is a need to provide access to justice for all; to protect the rights of all parties – especially those of women, children and the poor; to make legal processes affordable; to make the law less complicated; and to give effect to the values and principles underlying the Constitution.

Judging from comments received, the Commission's discussion papers and reports are of a high standard. The faculties of law of various universities often prescribe the Commission's research publications as literature for their students at undergraduate as well as postgraduate level.

The many valuable comments and proposals received on the Commission's recommendations as contained in its documents, confirm that its working methods are successful. These methods ensure that the Commission's final recommendations are well-substantiated and are the product of thorough debate. The working methods also facilitate the enactment of the Commission's proposed legislation, which embodies the recommendations.

Commission publications

In the course of its activities, the Commission publishes a variety of documents. The document series of the Commission consists of the following:

Commission papers and committee papers

Commission papers and committee papers are internal documents that are normally not available outside the ranks of the Commission. In these papers proposals for the inclusion of matters in the Commission's programme, research results for the information of or consideration by the Commission, draft issue papers, discussion papers and reports as well as a variety of other matters in respect of the functioning of the Commission are dealt with. The papers are numbered in sequence as they serve before the Commission each year.

Issue papers

In order to involve the community actively at an earlier stage, the Commission publishes issue papers for appropriate investigations as the first step in the consultation process. The purpose of an issue paper is to announce an investigation, to clarify the aim and extent of the investigation, and to suggest the options available for solving existing problems.

Issue papers published since the introduction of the document series are listed in **Annexure A**.

Discussion papers

Discussion papers, previously referred to as working papers, are documents in which the Commission's preliminary research results are contained. In most cases discussion papers also contain draft legislation. The main purpose of these documents is to test public opinion on solutions identified by the Commission.

Discussion papers published since the introduction of the document series are listed in **Annexure B**.

Reports

The SALRC Act requires the Commission to prepare a full report on any matter investigated by it and to submit such reports together with draft legislation, if any, to the Minister for consideration. All reports of the Commission are official, but not all are published. **Annexure C** lists all the investigations reported on by the Commission since its establishment.

In addition to the reports on particular investigations, the SALRC Act provides that the Commission must annually submit to the Minister a report on all its activities during the previous year.

Papers in the Commission's research series

This series has been used mainly for publications intended to make the common law more readily available and contains translated common law sources and noters-up. Research papers published are listed in **Annexure G**.

Obtaining Commission publications

Issue papers and discussion papers are supplied free of charge to interested institutions and persons who wish to comment on a particular matter. These papers are widely distributed and are also obtainable from the Commission's offices. All issue papers and discussion papers published since 1996 are available on the SALRC website.

The annual report, papers in the research series and reports on investigations are available from the Commission's offices. All reports on investigations published since 1996 and all the Commission's annual reports since 1996 are available on the SALRC website.

Commission and Committee meetings

The Commission met during the reporting period on 14 May 2011, 22 October 2011 and 3 December 2011.

The Advisory Committee for Project 138 – The practice of *ukuthwala* met on 18 September 2011.

Certain members of the Advisory Committee for Project 25 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development met on 3 November 2011 to consider a draft discussion paper pertaining to legislation on family law and marriage.

CHAPTER 3

PROGRESS REPORT

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PROGRESS REPORT

It is axiomatic that the extent to which the South African Law Reform Commission (SALRC) can add value will to a large extent be influenced by the nature of the work it undertakes and its particular experience and suitability to do so. In selecting topics for law reform there is a need for independence from, but good liaison with, government. It is therefore important for the Commission to understand how its work will contribute to the government's overall strategic outcomes and priorities. There should also be explicit recognition by government of the particular contribution the SALRC can make to the overall law reform environment.

Research programme of the SALRC

For the year under review the research programme of the SALRC was as follows:

Project	Title	Responsible researcher
25	Statute law: The establishment of a permanently simplified, coherent and generally accessible statute book <ul style="list-style-type: none"> • Statutory law revision: Redundancy, obsolescence and constitutionality of legislation <ul style="list-style-type: none"> • Review of the Interpretation Act 	Mr Pierre van Wyk Mr Fanyana Mdumbe Mr Linda Mngoma Ms Aura Mngqibisa Ms Maureen Moloji Ms Tania Prinsloo Ms Lowesa Stuurman Mr Willie van Vuuren Ms Ronel van Zyl Mr Pierre van Wyk
94	Arbitration <ul style="list-style-type: none"> • Role for ADR in civil practice • ADR and the criminal law 	To be assigned
100	Family law and the law of persons <ul style="list-style-type: none"> • Custody of and access to minor children 	Ms Ananda Louw

	<ul style="list-style-type: none"> • Review of aspects of matrimonial property law • Hindu marriages • Review of the law of maintenance 	Ms Anna-Marie Havenga Ms Maureen Moloji Ms Jennifer Joni
107	Sexual offences <ul style="list-style-type: none"> • Adult prostitution • Pornography and children 	Ms Dellene Clark Ms Carien Pienaar
122	Assisted decision-making	Ms Anna-Marie Havenga
125	Prescription periods	Ms Maureen Moloji
126	Review of the law of evidence <ul style="list-style-type: none"> • Hearsay and relevance • Electronic evidence • Cyber crime 	Mr Willie van Vuuren Mr Willie van Vuuren To be assigned
127	Review of administration orders	Ms Lowesa Stuurman
134	Administration of estates	Mr Tienie Cronje
135	Review of witchcraft legislation	Ms Jennifer Joni
136	Multi-disciplinary legal practices	To be assigned
137	Expungement of certain criminal records	Mr Willie van Vuuren
138	The practice of <i>ukuthwala</i>	Mr Fanyana Mdumbe

SALRC research programme and government priorities

The projects on the SALRC's programme support government's priorities as identified in the State of the Nation Address delivered by President Jacob Zuma on 9 February 2012 and the strategic plan developed by the Department of Justice and Constitutional Development (DOJCD) for the period 2012 to 2017.

In the State of the Nation Address, the President gives recognition to the work of all South Africans in 'bringing about a truly free, non-racial, non-sexist, democratic and prosperous country.' The SALRC is playing an active part in this regard by means of its review of the entire South African statute book for redundancy, obsolescence and constitutionality in view of section 9 of the Constitution as part of *Project 25 – Statutory Law Revision*.

The right to equality is one of the founding principles of the Bill of Rights as enshrined in the Constitution. Section 9 prohibits discrimination directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. This particular SALRC investigation will therefore make a major contribution towards bringing about the 'non-racial and non-sexist' country envisaged by the President in the State of the Nation Address.

The President also refers to the strengthening of 'social dialogue and cooperation between government, business and the community sector.' The SALRC goes to great lengths to ensure social dialogue and adequate consultation on investigations in its programme. Apart from publishing documents such as issue papers and discussion papers for general information and public comment, the SALRC consults directly with government departments, non-governmental organisations and other institutions that have an interest in SALRC investigations. These consultations may take the form of workshops, expert meetings and round-table conferences.

The Strategic Plan of the Department of Justice and Constitutional Development (DOJCD) for the period 2012 to 2017 sets out the Department's commitment to, among others, the following:

- Ensuring that everyone in South Africa is and feels safe.
- Developing policies for protecting the rights of vulnerable groups and victims in our society.
- Promoting legislation to transform the state and society, and meet the needs of society.

The review of the law of evidence (Project 126) will support efforts towards ensuring that everyone in South Africa is and feels safe. Any measures to increase the successful prosecution and conviction of criminals to add to people's safety and to make them feel safer are to be welcomed.

The Project 100 family law and the law of persons investigations into custody of and access to minor children; review of aspects of matrimonial property law; investigation into Hindu marriages and review of the law of maintenance are aimed at assisting members of the community, especially women, to protect their rights as vulnerable groups and victims in our society. The investigation into assisted decision-making relating to adults with impaired decision-making capacity (Project 122) aims to provide for measures to deal with the shared problems faced by persons who need assistance with decision-making. The project seeks to address the needs of

especially older people, mentally disabled persons and other adults who need support in exercising their legal capacity.

The investigation into sexual offences focusing on adult prostitution (Project 107) is a critical step in finding ways to address a social problem which has strong links with organised crime on the one hand, and the exploitation of vulnerable groups on the other hand. Women – especially women from poor communities – are usually the victims of exploitation in the sex industry.

The review of witchcraft legislation (Project 135) will support the constitutional guarantee to freedom of religion, but will also serve to protect vulnerable groups, as it is mostly women advanced in age that are persecuted as witches by communities holding traditional beliefs. These innocent victims are vulnerable to a double degree: as women and as older persons. Another project that has been included in the SALRC's programme is the investigation into the practice of *ukuthwala* (Project 138). The cultural practice of *ukuthwala* is often abused by using it as an excuse for abducting young girls (between 12 and 15 years) and selling or forcing them into marriages with adult men. The girl child, especially in poor and unsophisticated communities, is highly vulnerable to harmful cultural practices or exploitation conducted under the guise of culture.

One of the SALRC's other new projects is the investigation into pornography and children, part of the SALRC's investigation into sexual offences. The investigation will look at children as victims of pornography by investigating the legal framework dealing with child pornography in South Africa, as well as the exposure of children to pornography.

All the work being done by the SALRC in respect of law reform subscribes to the commitment of promoting legislation to transform the state and society, and to meet the needs of society.

Work in progress in respect of the Commission's research programme is as follows:

Project 25 – Statutory law revision: The establishment of a permanently simplified, coherent and generally accessible statute book

Redundancy, obsolescence and constitutionality of legislation

In 2004, the Commission embarked upon a major investigation aimed at revising the complete statute book with a view to removing or adapting legislative provisions considered to be unconstitutional, redundant or obsolete. An audit of all national legislation (excluding provincial and secondary legislation) by the Commission revealed that there are close to 3 000 statutes on the statute book, comprising Principal Acts, Amendment Acts, Supplementary or Additional Acts and Private Acts. Many of these Acts are not being applied anymore, while others contain provisions that are in conflict with the Constitution. Redundant and obsolete provisions on the statute book are being identified and government departments are being consulted in order to verify these provisions.

Numerous meetings were held to develop a methodology for conducting the investigation into the constitutionality and redundancy of existing legislation. The constitutional validity aspect of this investigation focuses on statutes or provisions in statutes that are clearly inconsistent with the right to equality entrenched in section 9 of the Constitution. In practical terms, this means that this leg of the investigation will be limited to those statutes or provisions in statutes that –

- (a) differentiate between people or categories of people, and which are not rationally connected to a legitimate government purpose; or
- (b) unfairly discriminate against people or categories of people on one or more grounds listed in section 9(3) of the Constitution; or
- (c) unfairly discriminate on grounds which impair or have the potential to impair a person's fundamental human dignity as a human being.

Consequently, a law or a provision in a law which appears, on the face of it, to be neutral and non-discriminatory, but which has or could have discriminatory effect or consequences, will be left to the judicial process.

The Commission considered the status of Project 25 on 23 June 2007. The Commission noted that internal research capacity to conduct statutory law review was limited and needed to be expanded. The Commission approved in principle the appointment of advisory committee members by the Minister to increase the Commission's research capacity in respect of fourteen national state departments that administer a high number of statutes. The departments at the time were the Departments of Agriculture; Communications; Defence; Education; Environmental

Affairs and Tourism; Health; Home Affairs; Justice and Constitutional Development; Labour; Land Affairs; Minerals and Energy; National Treasury; Provincial and Local Government; and Trade and Industry.

The SALRC submitted a memorandum to DOJCD in September 2007 proposing the appointment of advisory committees by the Minister. The Minister appointed 112 advisory committee members on 31 July 2008. The first meetings of the advisory committees took place during October and November 2008. The Minister appointed eight additional advisory committee members on 28 July 2009 to further assist with the review of legislation administered by the Department of Justice and Constitutional Development.

After the reshuffling of state departments in 2009, the fourteen advisory committees appointed for *Project 25 – Statutory law revision* assisted or are now assisting with the review of legislation administered by the following 17 state Departments: Agriculture, Forestry and Fisheries; Basic Education; Communications; Cooperative Governance and Traditional Affairs; Defence and Military Veterans; Energy; Environmental Affairs; Health; Higher Education and Training; Home Affairs; Justice and Constitutional Development; Labour; Mineral Resources; National Treasury; Rural Development and Land Reform; Tourism; and Trade and Industry.

The statutes of the remaining Departments that administer a smaller number of statutes are being or will be reviewed by SALRC researchers, namely Arts and Culture; Correctional Services; International Relations and Cooperation; Police; Public Enterprises; Public Service and Administration; Science and Technology; Social Development; Sport and Recreation; State Security; Water Affairs; and Women, Youth, Children and People with Disabilities. The review of the legislation administered by the Departments of Human Settlements, Public Works and Transport was also done internally.

The review of the legislation administered by the Departments of Energy; Human Settlements; Labour; Mineral Resources; National Treasury (non-tax legislation); Public Works; Rural Development and Land Reform; and Transport has been finalised.

The following table indicates work in progress in respect of the revision of the statute book for constitutionality, redundancy and obsolescence:

Department	Progress
<p>Agriculture, Forestry and Fisheries (DAFF)</p> <p>Ms Ronel van Zyl</p>	<p>The statutes administered by DAFF are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. Due to the diversity of agricultural legislation and the lack of experts in this field, it was decided that the SALRC will develop the consultation paper in-house, using the research submitted by advisory committee members. The target date for submitting the consultation paper to DAFF for comment is 28 February 2013.</p>
<p>Arts and Culture (DAC)</p> <p>Ms Lowesa Stuurman</p>	<p>The statutes administered by DAC were analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The consultation paper with repeal and amendment proposals was submitted to DAC on 25 November 2011 for comment. DAC gave an initial response on 29 November 2011. The consultation paper was also submitted to the Departments of Rural Development & Land Reform (DRDLR) and Public Works (DPW) for comment on specific proposed amendments. DPW commented on the consultation paper on 27 March 2012 and DRDLR commented on 29 March 2012. On 20 March 2012 DAC requested extension for the submission of final comments until 30 April 2012.</p>
<p>Basic Education (DBE)</p> <p>Mr Linda Mngoma</p>	<p>The statutes administered by DBE were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DBE on 4 June 2010 for comment. DBE comment was received on 26 October 2010. On 14 May 2011 the Commission approved publication of the discussion paper. Discussion Paper 125 was published on 27 May 2011 for general information and public comment. Comments received on Discussion Paper 125 are being evaluated and incorporated. The target date for finalising the draft report for submission to the Commission for consideration is 31 August 2012.</p>
<p>Communications (DOC)</p> <p>Ms Maureen Moloji</p>	<p>The statutes administered by DOC were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOC on 31 May 2010 for comment. DOC comment was received on 18 August and 19 October 2010. On 14 May 2011 the Commission approved the publication of the discussion paper. Discussion Paper 122 was published on 27 May 2011 for general information and public comment. Comments received on Discussion Paper 122 are being evaluated and incorporated. The target date for finalising the draft report for</p>

	submission to the Commission for consideration is 31 August 2012.
Cooperative Governance and Traditional Affairs (DCGTA) Mr Linda Mngoma	The statutes administered by DCGTA were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DCGTA on 28 July 2009 for comment. DCGTA comment was received on 22 October 2009. On 17 November 2010 the Commission approved the publication of the discussion paper. Discussion Paper 120 was published on 8 December 2010 for general information and public comment. Comments received on Discussion Paper 120 are being evaluated and incorporated. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2012.
Defence and Military Veterans (DOD) Ms Maureen Moloji	The statutes administered by DOD were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOD on 26 March 2010 for comment and discussed with DOD at a workshop held on 30 March 2010. DOD comment was received on 23 July 2010. The draft discussion paper was submitted to DOD on 23 August 2010 for comment. DOD comment was received on 20 October 2010. On 14 May 2011 the Commission approved publication of the discussion paper. Discussion Paper 123 was published for general information and public comment on 27 May 2011. The target date for finalising the draft report for submission to the Commission for consideration is 31 July 2012.
Energy (DOE) Mr Pierre van Wyk	The statutes administered by DOE were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOE on 2 October 2009 for comment. DOE comment was received on 25 February 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 116 was published on 25 August 2010 for general information and public comment. The Commission approved the report on the review of legislation administered by DOE on 22 October 2011 for publication and referral thereof to the Minister of Energy. The report was referred to the Minister of Energy in March 2012 under cover of a letter signed by the Minister of JCD.
Environmental Affairs (DEA) Ms Aura Mngqibisa	The statutes administered by DEA were analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The consultation paper was submitted to DEA for comment on 30 September 2011. DEA comments were received on 5 January 2012. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 30 November 2012.

<p>Health (DOH)</p> <p>Ms Ronel van Zyl</p>	<p>The statutes administered by DOH are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DOH for comment is 31 January 2013.</p>
<p>Higher Education and Training (DHET)</p> <p>Mr Linda Mngoma</p>	<p>The statutes administered by DHET were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DHET on 4 June 2010 for comment. DHET comment was received on 22 September 2010. From comments received from both DHET and the Department of Basic Education (DBE), it transpired that there are no substantial legislative proposals with regard to DHET legislation. In February 2011 it was decided that the limited research proposals emanating from this investigation should be incorporated into the DBE discussion paper. On 1 March 2011 the decision and the reasons for termination of the investigation were communicated to DHET. DHET accepted the proposal.</p>
<p>Home Affairs (DHA)</p> <p>Ms Maureen Moloji</p>	<p>The statutes administered by DHA were analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The consultation paper was submitted to DHA on 31 January 2012 for comment. DHA comment is still awaited. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 31 October 2012.</p>
<p>Human Settlements (DHS)</p> <p>Mr Linda Mngoma</p>	<p>The statutes administered by DHS were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DHS on 7 May 2008 for comment. DHS comment was received on 17 June 2008. On 25 October 2010 the Commission approved the publication of the discussion paper. Discussion Paper 115 was published in November 2008 for general information and public comment. The Commission approved the report on the review of legislation administered by DHS on 3 December 2011 for publication and referral thereof to the Minister of Human Settlements. The report was referred to the Minister of Human Settlements in March 2012 under cover of a letter signed by the Minister of JCD.</p>
<p>International Relations and Cooperation (DIRCO)</p> <p>Mr Pierre van Wyk</p>	<p>The statutes administered by DIRCO were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DIRCO on 23 February 2011 for comment. DIRCO comment was received on 30 May 2011. On 22 October 2011 the Commission approved the publication of the discussion paper. Discussion Paper 128 was published on 4 November 2011 for general</p>

	<p>information and public comment. The target date for finalising the draft report for submission to the Commission for consideration is 31 July 2012.</p>
<p>Justice and Constitutional Development (DOJCD)</p>	<p>The statutes administered by DOJCD are being analysed to determine which are redundant, obsolete or unconstitutional. It was decided to develop separate research papers for dealing with the huge volume of DOJCD legislation.</p>
<p>Mr Fanyana Mdumbe Ms Tania Prinsloo</p>	<p>DOJCD One deals with legislation pertaining to legal professions, courts and institutions, civil procedure and evidence, substantive criminal law, substantive civil law, wills, estates and insolvency and constitutional and political legislation. DOJCD Consultation Paper One was submitted to DOJCD on 21 June 2010 for comment. DOJCD comment was received on 12 January 2011. DOJCD was requested for additional comment on 6 and 8 April 2011, which comment was received on 6 May 2011. On 22 October 2011 the Commission approved the discussion paper for publication. Discussion Paper 129 was published for general information and public comment on 23 November 2011. The target date for finalising the draft report for submission to the Commission for consideration is 28 February 2013.</p>
<p>Mr Fanyana Mdumbe Ms Tania Prinsloo</p>	<p>DOJCD Two deals with legislation pertaining to family law and marriage. DOJCD Consultation Paper Two was submitted to DOJCD for comment on 10 January 2011. DOJCD comment was received on 9 May 2011. Discussion Paper 130 was published on 30 January 2012 for general information and public comment. The target date for finalising the draft report for submission to the Commission for consideration is 31 March 2013.</p>
<p>Mr Willie van Vuuren</p>	<p>DOJCD Three deals with legislation pertaining to criminal procedure. The consultation paper was submitted to DOJCD for comment on 21 June 2011. DOJCD comments were received on 14 February 2012. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 31 March 2013.</p>
<p>Mr Fanyana Mdumbe Mr Pierre van Wyk</p>	<p>DOJCD Four deals with the Transkei Penal Code. The Judge President of the Transkei High Court requested a review of the Transkei Penal Code and the Dangerous Weapons Act 71 of 1968, as far as they are still in force in the territory of the former Transkei. The Eastern Cape High Court declared in <i>The State v Thunzi and Another</i> that section 4 of the Dangerous Weapons Act, 1968</p>

	<p>(Transkei) is unconstitutional. On 2 December 2010 the Constitutional Court ordered in the <i>Thunzi</i> case that the Speaker of the National Assembly, the Chairperson of the National Council of Provinces and the Minister of JCD have to notify the Court by 8 November 2011 of the legislative steps taken to fulfil the undertaking to rationalise the laws that are the subject of the litigation. A task team consisting of DOJCD and SAPS officials was appointed to give effect to the <i>Thunzi</i> judgment. The target date for submitting the consultation paper to DOJCD for comment is 30 June 2012.</p>
<p>Labour (DOL) Mr Linda Mngoma</p>	<p>The statutes administered by DOL were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOL on 1 August 2009 for comment. DOL comment was received on 6 October 2009. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 117 was published on 23 August 2010 for general information and public comment. The Commission approved the report on legislation administered by DOL on 22 October 2011 for publication and referral thereof to DOL. The report was referred to the Minister of Labour in March 2012 under cover of a letter signed by the Minister of JCD.</p>
<p>Mineral Resources (DMR) Mr Pierre van Wyk</p>	<p>The statutes administered by DMR were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DMR on 12 January 2010 for comment. DMR comment was received on 30 August 2010. The SALRC requested DMR for comment in September 2010 on additional obsolete provisions identified in DMR legislation. Supplementary comment from DMR was received on 27 October 2010. On 14 May 2011 the Commission approved the publication of the discussion paper. Discussion Paper 124 was published on 24 May 2011 for general information and public comment. DMR comment on the discussion paper was received on 11 August 2011. The Commission approved the report on legislation administered by DMR on 3 December 2011 for publication and referral thereof to the Minister of Mineral Resources. The report was referred to the Minister of Mineral Resources in March 2012 under cover of a letter signed by the Minister of JCD.</p>
<p>National Treasury Mr Linda Mngoma Mr Fanyana Mdumbe</p>	<p><i>Non-tax legislation</i></p> <p>The statutes administered by National Treasury that are not tax related were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to National Treasury in June 2008 for comment. National Treasury comment was</p>

	<p>received on 13 May 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 119 was published on 1 October 2010 for general information and public comment. The Commission approved the report on legislation administered by National Treasury (non-tax legislation) on 22 October 2011 for publication and referral thereof to the Minister of Finance. The report was referred to the Minister of Finance in February 2012 under cover of a letter signed by the Minister of JCD.</p> <p><i>Tax legislation</i></p> <p>The statutes administered by National Treasury that are tax related are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to SARS and National Treasury for comment is 30 November 2012.</p>
<p>Police (DOP)</p> <p>Ms Aura Mngqibisa</p>	<p>The statutes administered by DOP are to be analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DOP for comment is 28 February 2013.</p>
<p>Public Service and Administration (DPSA)</p> <p>Ms Tania Prinsloo</p>	<p>The statutes administered by DPSA are to be analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DPSA for comment is 28 February 2013.</p>
<p>Public Works (DPW)</p> <p>Mr Linda Mngoma</p>	<p>The statutes administered by DPW were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DPW in October 2007 for comment. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 121 was published on 23 February 2011 for general information and public comment. Despite repeated requests and a meeting with DPW on 12 May 2011, the SALRC never received any written comment from DPW. The Commission approved the report on legislation administered by DPW on 3 December 2011 for publication and referral thereof to the Minister of Public Works. The report was referred to the Minister of Public Works in March 2012 under cover of a letter signed by the Minister of JCD.</p>
<p>Rural Development and Land Reform (DRDLR)</p>	<p>The statutes administered by DRDLR were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DRDLR on 29 January 2010 for</p>

Mr Linda Mngoma	comment. DRDLR comments were received on 9 April 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 118 was published on 23 August 2010 for general information and public comment. The Commission approved the report on legislation administered by DRDLR on 3 December 2011 for publication and referral thereof to the Minister of Rural Development and Land Reform. The report was referred to the Minister of Rural Development and Land Reform in March 2012 under cover of a letter signed by the Minister of JCD.
Social Development (DSD) Ms Tania Prinsloo	The statutes administered by DSD are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DSD for comment is 31 October 2012.
Tourism (DT) Ms Maureen Moloji	The statutes administered by DT were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DT on 28 January 2011 for comment. DT comments were received on 22 June 2011. On 22 October 2011 the Commission approved the publication of the discussion paper. Discussion Paper 127 was published on 4 November 2011 for general information and public comment. The target date for finalising the draft report for submission to the Commission for consideration is 31 July 2012.
Trade and Industry (DTI) Mr Maureen Moloji	The statutes administered by DTI were analysed to determine which are redundant, obsolete or unconstitutional. A consultation paper with repeal and amendment proposals was submitted to DTI on 1 June 2010 for comment. DTI comment is still awaited. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 28 February 2013.
Transport (DOT) Mr Fanyana Mdumbe Ms Ronel van Zyl	The statutes administered by DOT were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOT on 20 October 2006 for comment. DOT comment was received during March 2007. Discussion Paper 114 was published for general information and public comment on 29 May 2008. The Commission approved the report on 10 October 2009. On 3 May 2010 the Minister approved the publication of the report and the referral thereof to DOT. The Transport Laws Repeal Bill [Bill 19–2010] was introduced into Parliament on 19 July 2010. The President assented to the Transport Laws Repeal Act 10 of 2010 on 30 November 2010. The Act was published in Government Gazette No. 33828 of 2 December 2010. Proclamation 7 of 2011 published in Government

	Gazette No. 34030 of 16 February 2011 determined 16 February 2011 as the date on which the Act came into operation.
Water Affairs (DWA) Ms Maureen Moloï	The statutes administered by DWA were analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The consultation paper was submitted to DWA on 30 September 2011 for comment. The researcher briefed an official from DWA about the investigation at a meeting held on 12 March 2012. DWA comment is awaited. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 31 January 2013.

Review of the Interpretation Act

The ad hoc Joint Committee on the Open Democracy Bill, 1998 (which resulted in the Promotion of Access to Information Act, 1998) in its resolutions on the Bill adopted on 24 January 2000, amongst others requested the Minister to consider the amendment of the Interpretation Act 33 of 1957 to bring it in line with the principles of constitutional democracy and practices of interpretation used by Parliament and the courts since 1994. The Commission decided on 17 November 2000 that the review of the Interpretation Act should form part of its existing Project 25 on *Statute Law: The establishment of a permanently simplified, coherent and generally accessible statute book*. This was subsequently approved by the Minister.

The Commission approved the publication of a discussion paper on the review of the Interpretation Act on 9 September 2006. *Discussion Paper 112 – Statutory law revision: Review of the Interpretation Act* was released by media statement on 6 October 2006. The discussion paper is discussed in the 2006/2007 annual report. After several extensions to afford respondents more time to comment, the final closing date for comments on Discussion Paper 112 was determined as 30 April 2007. However, comment on the discussion paper was received as late as September 2007.

Due to his involvement in Project 25 the researcher had not been able to attend to this project for an extended period. The researcher has been developing the draft report since November 2010. On 8 November 2010 the researcher participated in a round table discussion with officials from National Treasury, the Financial Intelligence Centre, SARS, the Reserve Bank and the Financial Services Board on this review. Due to the complexity of the investigation and the

extent of further research to be conducted on national as well as foreign law, the target date has been postponed to 28 February 2013.

Project 94 – Arbitration

The investigation initially dealt with international and domestic commercial arbitration only. A report on international arbitration was submitted to the Minister in July 1998 and a report on domestic arbitration was submitted to the Minister in June 2001.

Alternative dispute resolution

Alternative dispute resolution (ADR) covers all forms of dispute resolution other than litigation or adjudication through the courts. It therefore includes a broad range of mechanisms and processes designed to assist parties in resolving disputes creatively and effectively. These mechanisms and processes are not intended to supplant court adjudication, but rather to supplement it. The most common types of ADR include negotiation, conciliation, mediation and arbitration. An issue paper dealing with all aspects of ADR was published for general information and comment during 1997.

Information regarding *Issue Paper 8 – Arbitration: Alternative dispute resolution* published in May 1997 appears in the 1998 annual report. *Discussion Paper 83 – Arbitration: Domestic arbitration* and *Discussion Paper 87 – Arbitration: Community dispute resolution structures* were submitted to the Minister of JCD at a media conference on 8 September 1999. Information regarding Discussion Papers 83 and 87 appears in the 1999 annual report.

The DOJCD has confirmed that it has started the process to promote the Domestic and International Arbitration Bills through Parliament. The investigation into family mediation now forms part of *Project 100 – Custody of and access to minor children*.

Project 100 – Family law and the law of persons

There are four investigations that are currently being dealt with as subprojects under the Commission's existing broad investigation into family law and the law of persons (Project 100). The four subprojects are 'Custody of and access to minor children', 'Review of matrimonial property law', 'Hindu marriages' and 'Review of the law of maintenance'.

The Commission approved on 23 June 2007 that the name of Project 128, 'Review of aspects of the law of divorce', be changed to 'Custody of and access to minor children' in accordance with its focus and that, because of possible mutual elements in Project 128 and Project 129 – Review of matrimonial property law, both investigations should be dealt with as subprojects under Project 100. The Commission also approved that the Minister be approached to appoint a joint advisory committee for the two sub-projects.

On 20 May 2008 the Minister approved the inclusion of the former *Project 128 – Review of aspects of the law of divorce* and the former *Project 129 – Review of aspects of matrimonial property law* as subprojects under *Project 100 – Family law and the law of persons*. This was done in view of possible mutual elements – such as a possible need to reform current divorce procedures – between these two subprojects. The Minister also appointed a single advisory committee to assist with the two investigations.

The Commission approved on 9 September 2006 the inclusion of an investigation into the recognition of Hindu Marriages in the SALRC's programme. In February 2011 the Minister of JCD requested the Commission to review the Maintenance Act 99 of 1998. On 22 October 2011 the Commission approved the inclusion of a review of the Maintenance Act in the SALRC's programme.

Care of and contact with (custody of and access to) minor children

This investigation emanates from a request received from a family counsellor at the Office of the Family Advocate in Bloemfontein. Data received from focus group forums, questionnaires and consultations held during 2008 were analysed and collated by the researcher for discussion by the advisory committee. The committee considered a draft discussion paper on 9 March 2009. At its next meeting held on 22 June 2009 the advisory committee decided that the existing draft

discussion paper would be published as an issue paper after it had been remodelled according to a framework approved at the meeting.

The issue paper will focus on the broader issues of process determining care and contact, including the role of alternative dispute resolution in family law disputes, the effect of *pendente lite* applications and the importance of a child-centred approach. It sets out to consider the interests of all children, including children from customary marriages and children living in rural areas.

The object of the investigation is to develop a new integrated structure for the implementation of family law in South Africa with specific reference to care and contact issues. Preliminary research to develop an issue paper proceeds while the researcher allocated to the investigation is still involved in Project 124, which receives priority. The target date for finalising the draft issue paper for submission to the Commission for consideration is 31 December 2012.

Review of aspects of matrimonial property law

The Matrimonial Property Act was passed in 1984 in order to deal with shortcomings in the matrimonial property law at the time. The Act has been in place for more than 25 years. Apart from problems which have in particular been brought to the SALRC's attention, a number of social and legal changes since 1984 (including the adoption of the 1996 Constitution and the recognition of customary marriages and civil unions) suggest that a review of the law is necessary to ensure that it meets current needs. The purpose of the investigation is to review the current law for greater legislative fairness and justice in governing interpersonal relationships between spouses.

The question whether sharing of pension benefits on divorce should be included in the investigation in view of the envisaged pending implementation of draft legislation dealing with this issue was resolved through consultation with DOJCD in January 2009. It was agreed that in view of the fact that DOJCD will not promote the Sharing of Pension Benefits Bill / Divorce Amendment Bill (which emanated from a 1999 report of the Commission) in the near future, problems pertaining to the sharing of pension benefits on divorce would also be addressed in the review of matrimonial property law. The issue of maintenance claims between former

spouses has been included in the SALRC's investigation into the review of the Maintenance Act, 1998.

Preliminary research to develop an issue paper proceeds while the researcher allocated to the investigation is still involved in Project 122, which receives priority. The target date for submitting the draft issue paper to the advisory committee for comment is 30 September 2013.

Hindu Marriages

On 9 September 2006 the Commission approved the inclusion of an investigation into the recognition of Hindu Marriages in the SALRC's programme. This investigation is being conducted as part of *Project 100 – Family law and the law of persons*. South African law does not recognise marriages by Hindu rites; therefore all the legal consequences of marriage do not apply to such marriages entered into in South Africa. Couples in a Hindu marriage for example need not use the court if they want to get divorced. Spouses can also not claim any of the legal consequences of divorce, such as maintenance, after the relationship has ended. The aim of this investigation is to look into the recognition of Hindu marriages in order to afford these marriages full legal recognition and the same status as civil marriages.

It was decided in November 2008 to convert an issue paper developed on the recognition of Hindu marriages into a discussion paper and to recommend the appointment of an advisory committee to the Minister in order to expedite progress on the investigation.

On 7 September 2009 the Minister of JCD approved the appointment of four advisory committee members to assist the researcher to fast-track the investigation. The Minister appointed an additional advisory committee member on 12 January 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 31 July 2012.

Review of the law of maintenance

At the Commission meeting held on 22 October 2011 the Commission approved the inclusion of the investigation in the SALRC's programme. The Commission agreed that the investigation should be investigated under *Project 100 – Family Law and the Law of Persons*. On 31 October

2011 a letter was sent to the Minister of Justice and Constitutional Development advising him of the inclusion of the investigation in the SALRC's programme.

The appointment of an advisory committee for the investigation is being held in abeyance pending the appointment of the new Commission. The target date for the finalisation of the issue paper is 30 September 2012.

Project 107 – Sexual offences

The larger project on sexual offences has so far seen the completion of an investigation into the substantive and procedural law regulating sexual offences (to the exclusion of adult prostitution and pornography and children), which culminated in the promulgation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. The Commission is currently investigating adult prostitution and pornography and children.

Adult prostitution

This investigation is the third leg of the larger project on sexual offences. *Issue Paper 19 – Sexual offences: Adult prostitution* was published for general information and public comment in August 2002. This leg of the investigation was held in abeyance for a while as priority was given to the promotion of the Criminal Law (Sexual Offences and Related Matters) Amendment Act through Parliament, completion of the investigations into protected disclosures (Project 123), stalking (Project 130) and trafficking in persons (Project 131). Research on law reform in respect of adult prostitution commenced in earnest again in 2008 and the Commission approved a discussion paper on this investigation on 28 March 2009. *Discussion Paper 1/2009 – Sexual Offences: Adult Prostitution* was published on 6 May 2009 for comment. Several workshops facilitated by the SALRC were held throughout the country during May, June and July 2009. A number of focus group meetings were also held at the invitation of various sector specific organisations in 2010 and 2011.

The legal response to prostitution differs from society to society and over the course of time. Internationally, the topic of prostitution remains an emotive one and opinions on the legal response to prostitution are generally strongly polarised. Within the current totally criminalised

setting, this is no different in South Africa. The researcher assigned to this project received in excess of 2 600 email submissions in addition to many handwritten and faxed submissions. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2012.

Pornography and children

The Deputy Minister of Home Affairs requested the SALRC on 15 September 2009 to advise on the possibility of a ban on the dissemination and circulation of pornography through the electronic and printed media, as well as mobile technology. The SALRC responded to the Deputy Minister in December 2010, informing her that the existing legislative framework protecting children from exposure to pornography is inadequate and that ways of regulating and filtering pornography need to be explored in a holistic manner and not just in respect of a ban. The Commission has therefore decided that this matter warrants inclusion in Project 107: Sexual Offences, where it will be dealt with alongside other matters pertaining to pornography and children.

The Commission approved the appointment of a project committee member to assist the Commission with this leg of the sexual offences investigation at its meeting of 22 October 2011. The Minister appointed the project committee member on 15 November 2011.

Project 122 – Assisted decision-making

The SALRC, as far back as 1988, undertook an investigation with a view to improving the plight of mentally incapacitated persons who cannot afford the costs involved in securing a High Court appointed curator. The Commission's recommendations led to the adoption of the Mentally Ill Persons' Legal Interests Amendment Act 109 of 1990, which amended the Mental Health Act 18 of 1973. This amendment enabled an interested person to apply to the Master of the High Court (which entails minimal costs) for the appointment of a curator to a person who is not declared to be mentally ill, but whom the applicant believes to be suffering from mental illness to such an extent that the person is incapable of managing his or her own affairs.

Although the present investigation revives the Commission's previous investigation, it covers a broader spectrum. The Commission decided to undertake the investigation after attention was drawn by a member of the public to the declining decision-making ability of persons with Alzheimer's disease and the outdated and inappropriate ways in which South African law addresses this. The Commission's investigation deals with the shared problems faced by persons who need support with decision-making irrespective of the reason therefore (e.g. mental illness, intellectual disability, brain injury, stroke or dementia). The investigation aims to provide for a system of supported decision-making that is affordable and accessible to all South Africans and that also protects persons who need protection from abuse, neglect and exploitation. In the course of this, the Commission also addresses the need for introducing the concept of an enduring power of attorney in South African law.

An issue paper on this project was published at the end of 2001. A discussion paper was published for general information and public comment in January 2004 and is discussed in the 2003/2004 annual report. An extensive draft Bill was developed after broad consultation. Consultation with the DOJCD policy unit and with the Chief Master of the High Court on policy issues took place during 2007. Flow charts of processes reflected in the draft Bill were prepared at the request of the Chief Master during 2008 to enable long-term planning for the envisaged implementation of the proposed legislation. Policy input on the draft Bill was received from DOJCD on 27 January 2009.

The finalisation of the SALRC's draft report and draft Bill on assisted decision-making was interrupted by a request from the South African Human Rights Commission in September 2009 that the report and draft Bill should take the United Nations Convention on the Rights of Persons with Disabilities (CRPD) into account. The CRPD was ratified unreservedly by the South African Government. Subsequent consultation with representatives of the Human Rights Commission and government stakeholders (including the Departments of Health; Social Development; International Relations and Cooperation; and the Ministry of Women, Children and Persons with Disabilities) between October 2009 and April 2010 confirmed national and international uncertainty about the interpretation of the provisions of the CRPD dealing with legal capacity that impact on the SALRC's draft proposals.

The matter is complicated by the fact that the South African government has not yet taken concrete steps to implement the CRPD in South Africa by way of general legislation. A South

African interpretation of the relevant provisions of the CRPD is therefore not available. On the advice of the Department of International Relations and Cooperation and to take the matter forward, the SALRC in January 2010 embarked on further research to establish a draft interpretation of those articles of the CRPD which are relevant to the SALRC's draft proposals. The interpretation served as a basis for amendments to the text of the proposed draft Bill with a view to ensure its compliance with the CRPD. The amended text of the draft Bill was submitted for consultation to government and disability sector stakeholders during the reporting period with a view to its inclusion in the draft report to be developed.

The researcher and a member of the advisory committee met with representatives of the Department of Health (DOH) on 13 December 2011 to obtain that Department's input on and support for the amended draft Bill. DOH's response on the draft Bill submitted for comment and support is still awaited. The amended draft Bill was submitted to the Master's Division for its support at a workshop presented by the researcher and a member of the advisory committee on 27 to 28 October 2011.

An information and consultation session aimed at government stakeholders, the disability sector and public interest lawyers on the compatibility of the draft Bill with the Convention on the Rights of Persons with Disabilities (CRPD) was held on 16 February 2012. Stakeholders of Dementia SA were given an opportunity for further input at a consultation session on 29 March 2012. A working session with representatives of the SA Human Rights Commission and the Centre for Disability Law (UWC) took place on 30 March 2012. The SALRC received extensive comment from Lawyers for Human Rights on 30 March 2012. The target date for finalising the draft report for submission to the Commission for consideration is 31 March 2013.

Project 125 – Prescription periods

No comprehensive review of the provisions providing for different prescription periods – whether of a contractual or delictual nature – has ever been undertaken by the SALRC. When reporting on the Bill which subsequently became the Legal Proceedings against certain Organs of State Act 40 of 2002, the Portfolio Committee on Justice and Constitutional Development recommended that the Minister of Justice and Constitutional Development be approached to request the Commission to conduct an investigation into the harmonisation of the provisions of

existing laws providing for different prescription periods. An investigation into the review of prescription periods was subsequently included in the SALRC's programme.

Issue Paper 23 – Prescription periods was published for general information and public comment in August 2003 and is discussed in the 2003/2004 annual report. On 17 November 2010 the Commission approved the discussion paper for publication. *Discussion Paper 126 – Prescription Periods* was published on 28 July 2011 for general information and public comment. The researcher allocated to the investigation dealing with prescription periods resigned from the Commission on 31 May 2011. The investigation will be assigned to another researcher when capacity becomes available. The target date for finalising the draft report for submission to the Commission for consideration is 28 February 2013.

Project 126 – Review of the law of evidence

The Advisory Committee dealing with the simplification of criminal procedure (Project 73) proposed in 2001 that the Commission should review the rules of evidence. The Commission's Working Committee subsequently on 17 September 2001 recommended the inclusion of the project in its programme. The Minister approved the inclusion of an investigation to review the rules of evidence in the SALRC's programme in December 2001. An advisory committee for the investigation was approved on 26 November 2003.

The last decade has seen a rapid development in technology and with it unforeseen forms of evidence and attendant difficulties in determining admissibility. In addition thereto, the new constitutional dispensation has impacted on the law of evidence in a number of ways. The right of access to information, the entrenchment of the right to a fair trial and the exclusion of evidence obtained in an unconstitutional manner have all had an impact on the law of evidence and gave rise to a large body of new case law. In addition, the right to equality requires a re-examination of evidence in so far as it departs from the requirements of formal equality. The right to equality also necessitates a reconsideration of the rules of evidence in so far as the rules relate to effective equal access to justice.

Legal certainty on the extent of constitutionally enforceable rights is in the public interest. It is equally important to be able to ascertain the rules of evidence for the sake of case preparation.

This issue impacts on the accused, the prosecution and the police in criminal cases, and on the parties to litigation in civil cases. The law of evidence is integral to the enforcement of substantive law and consequently has attracted the interest of non-governmental organisations working in specific fields such as child justice and the abuse of women.

The current subprojects under Project 126 are:

- Review of the law of evidence (incorporating general issues and electronic evidence)
- Hearsay and relevance
- Cybercrime

The following research papers have been published to date:

- *Issue Paper 26 – Review of the Law of Evidence (general issues)*
- *Issue Paper 27 – Electronic evidence in civil and criminal matters: Admissibility and related issues*
- *Discussion Paper 113 – Review of the Law of Evidence: Hearsay Evidence and Relevance*

The researcher allocated to the investigation dealing with electronic evidence resigned from the Commission on 31 May 2011. On 11 December 2011 the Minister approved the appointment of an additional advisory committee member to conduct further research to complete a discussion paper and the final report.

Issue Papers 26 and 27 and the comments received on these issue papers will be developed into a discussion paper, where after the resultant discussion paper, Discussion Paper 113, and the comments received on the two discussion papers will be combined for the development of the final report.

Review of the law of evidence (general matters and electronic evidence)

On 1 December 2007 the Commission approved the publication of an issue paper in the format of a questionnaire. The publication of *Issue Paper 26 – Review of the Law of Evidence (general issues)* was announced at a media conference on 7 March 2008 with a closing date for comment of 30 June 2008. The paper was redistributed for comment in January 2009 with a closing date of 31 March 2009.

Following a recommendation by the advisory committee, the Commission approved on 1 August 2009 that the outstanding issues relating to evidence in Project 113 should be included as a subproject under Project 126 and that Project 113 be finalised and closed. On 13 March 2010 the Commission approved the publication of an issue paper for general information and public comment. The publication of *Issue Paper 27 – Electronic evidence in civil and criminal matters: Admissibility and related issues* was announced at a media conference on 16 March 2010 with a closing date for comment of 30 June 2010, which was later extended to 31 August 2010.

In the case of criminal proceedings, Issue Paper 27 is particularly concerned with the relationship between chapter three of the Electronic Communications and Transactions Act 25 of 2002 (ECT Act) and the rule against hearsay. The purpose of the issue paper was twofold: Firstly, to facilitate a focused debate on issues concerning the admissibility of electronic evidence in criminal and civil proceedings; and secondly, to allow stakeholders and practitioners in the criminal and civil sectors affected by the applicability and scope of the evidential provisions of the ECT Act to consider the issues raised and to be provided with an opportunity to bring other relevant matters to the Commission's attention.

Hearsay and relevance

On 1 December 2007 the Commission approved the publication of a discussion paper for general information and public comment. *Discussion Paper 113 – Review of the Law of Evidence: Hearsay Evidence and Relevancy* was released at a media conference on 7 March 2008 with a closing date for comment of 30 June 2008. The paper was redistributed for comment in January 2009 with a closing date of 31 March 2009.

Cybercrime

The SALRC had initiated a preliminary investigation into cybercrime in response to growing concern about the adequacy of current legislation to address the rising threat of cybercrime. The Commission considered and approved a proposal to broaden the scope of *Project 126 – Review of the Law of Evidence* to include an investigation into cybercrime at a Commission meeting held on 3 December 2011.

Project 127 – Review of administration orders

The Minister of Justice and Constitutional Development requested the SALRC to investigate administration orders by following an incremental approach to distinguish between reforms that could be effected in the short to medium term and reforms that could be effected in the medium to long term.

The Commission decided on 30 September 2005 that a proposal should be made to the Department of Trade and Industry that the National Credit Bill, 2005 should provide for certain amendments which would pave the way for the abolishment of administration orders in terms of section 74 of the Magistrates' Courts Act 32 of 1944. However, the Bill was passed by Parliament without any of the proposed provisions. DOJCD then indicated that it would consider the repeal of section 74 amendments along the lines suggested.

When the Department of Trade and Industry submitted a proposal for urgent amendments to the National Credit Act and the Magistrates' Courts Act, the Commission reconsidered the matter. The Commission decided on 23 June 2007 that it would continue with the investigation. During March 2008 the Commission published a questionnaire on the future of administration orders in view of the provisions of the National Credit Act 34 of 2005. The Commission considered a document on 14 January 2009 detailing the researcher's response to comments on the questionnaire and approved the researcher's proposals on the way forward.

The Commission's preliminary views include the following:

- It would be to the detriment of debtors and others to abolish administration orders at this stage.
- If administration orders are retained a comprehensive review should be undertaken, but amendments which could be dealt with urgently must be identified.
- Administration orders should lapse after a specified number of years and all outstanding debts subject to the administration order should be discharged. This is subject to a court order on good cause shown made on the basis of an application by a creditor before the lapsing of the order that the debtor should not obtain a discharge for some or all of the outstanding debts.

- This is a matter where further consultation is advisable. Consultation should commence with stakeholder meetings and workshops with debtors under administration.

A workshop was held at the University of Pretoria on 31 May 2011. The workshop was attended by 62 persons representing administrators, debt counsellors, creditors, magistrates, debtors under administration and the NGOs representing them. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 28 March 2013.

Project 134 – Administration of estates

A discussion paper dealing with measures to improve the administration process and to reduce the work of the supervising authority and executors was approved for publication by the Commission in September 2005 and is discussed in the 2005/2006 annual report.

Draft legislation recommended in an interim report dealing with the administration of small estates and streamlined procedures for other estates was submitted to the Minister on 19 August 2008. The Chief Master requested that promotion of legislation be held back until the Integrated Case Management System – Masters (ICMS-Masters) has been developed. The system provides for the filing of electronic documents and the management of estates reported at service points (magistrate's offices) by experienced and well-qualified staff at the Masters' Offices. This investigation has been suspended to allow for the proper development of the ICMS-Masters. Due to the suspension of the investigation, the Minister will be approached to approve the removal of the project from the SALRC's programme.

Project 135 – Review of witchcraft legislation

The Commission received two submissions from the South Africa Pagan Council and the Traditional Healers' Organisation respectively, requesting that the Witchcraft Suppression Act 3 of 1957 and the proposed Mpumalanga Witchcraft Suppression Bill, 2007 be investigated to determine their constitutionality.

A meeting was held with stakeholders on 4 September 2008 to explain the process to be followed in determining whether this investigation should be included in the SALRC's programme, as well as to clarify the substantive issues raised in the submissions. A proposal paper was prepared for consideration by the Commission. It provided background information on the concept of witches and witchcraft in South Africa; set out the current legal framework; described existing attempts at and suggestions for law reform in this area and measured the relevant facts against the Commission's criteria for the inclusion of an investigation.

The Commission approved a review of legislation pertaining to witchcraft on 1 August 2009. The Minister approved the inclusion of *Project 135 – Review of witchcraft legislation* in the SALRC's programme on 23 March 2010. The target date for finalising the draft issue paper for submission to the Commission for consideration is 31 October 2012.

Project 136 – Multi-disciplinary legal practices

The request for the inclusion of this investigation emanates from the SALRC's media conference of 7 March 2008. The Cape Law Society submitted a proposal to the SALRC on the possible recognition of multi-disciplinary practices for attorneys and the parameters that would need to be set should multi-disciplinary practices be recognised.

The SALRC sent a memorandum to DOJCD on 6 June 2008 seeking guidance from the Director-General on the inclusion of the investigation in the SALRC's programme, as it seems to fall within the purview of the Legal Practice Bill. The Director-General: DOJCD agreed with the DOJCD recommendation that the SALRC should pursue a separate investigation into the issue of multi-disciplinary practices for attorneys.

The Commission approved the inclusion of an investigation into multi-disciplinary legal practices on 25 October 2008. The Minister approved the inclusion of *Project 136 – Multi-disciplinary legal practices* in the SALRC's programme on 23 March 2010. The investigation will be assigned to a researcher when capacity becomes available.

Project 137 – Expungement of certain criminal records

During the deliberations on the Criminal Procedure Amendment Bill (enacted as the Criminal Procedure Amendment Act 65 of 2008), the Portfolio Committee on Justice and Constitutional Development received a number of inputs on the expungement of criminal records. The Portfolio Committee concluded that it is a complex matter that requires a balance between the right of citizens to be protected against criminals and the recognition that having a criminal record can cause undue hardship for an individual.

The Portfolio Committee decided to request that the Minister of Justice and Constitutional Development:

- Conducts further research on the different systems followed in the keeping of criminal records and their expungement. This research should draw, among others, on international best practice.
- Consults more widely with relevant stakeholders and the public on this issue.
- Reports to Parliament on his findings within 24 months of the adoption of this report by the National Assembly.

On 2 October 2009 the SALRC received a letter from the Minister requesting the Commission to include a new investigation in its programme dealing with the expungement of certain criminal records. The Commission approved an investigation into this matter on 13 March 2010. The Minister approved the inclusion of *Project 137 – Expungement of certain criminal records* in the SALRC's programme on 28 April 2010. The target date for finalising the draft discussion paper is 31 December 2012.

Project 138 – The practice of *ukuthwala*

On 15 March 2009 the SABC and e-TV television news covered the practice of forced marriages and the sale of young girls (between 12 and 15 years) into marriages with adult men that are prevalent in some parts of the country. On 24 August 2009 the SALRC received a request from the Gender Directorate of DOJCD to investigate the practice of *ukuthwala*; its impact on the girl-child; the appropriateness and adequacy of the current law of *ukuthwala* and compliance with

the human rights of the girl-child, also taking the principle of the best interest of the child into consideration.

The Commission hosted a roundtable discussion on *ukuthwala* on 30 November 2009. The purpose of the discussion was to gather information on the subject to enable the Commission to decide whether or not to include an investigation into this issue in the SALRC's research programme. About 50 people representing various stakeholders attended the discussion.

The Commission approved an investigation into the practice of *ukuthwala* on 14 August 2010. The Minister approved the inclusion of *Project 138 – The practice of ukuthwala* in the SALRC's programme on 2 December 2010. The advisory committee met for the first time on 18 September 2011 to discuss the project. On 16 January 2012 the chairperson of the advisory committee submitted a letter to the National House of Traditional Leaders requesting an audience with the House to discuss the project. A meeting with the House has been scheduled for 19 April 2012. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 31 March 2013.

Proposals for new investigations

Evaluation of proposals for new investigations

The SALRC developed selection criteria to determine which proposals for new investigations should be included as investigations, starting with a decision on which proposals should be subjected to preliminary investigation. Given the human and financial resources and the amount of time expended on an investigation, it is clear that the SALRC is unable to investigate each and every proposal received. Since many more proposals are received than what can be practically dealt with by the SALRC at a given time, the SALRC requires a method to determine when a proposal for an investigation will be entertained and when it will be rejected. Although proposals for investigation are usually subjected to preliminary investigation, even a preliminary investigation takes up valuable time and resources and may not always be necessary.

The selection criteria that were developed therefore provide for a two-phased process to determine the inclusion of an investigation in the SALRC's programme. The first set of criteria is used to determine whether a proposal should be rejected even before a preliminary investigation

is done. It creates a sifting mechanism to reduce the number of preliminary investigations. If the proposal does not meet the initial criteria set for inclusion, it is rejected and the person or institution that requested the investigation is informed accordingly.

Proposal received

Regulating the rental property business

Mr Morgan Phaahla requested the inclusion of this investigation in the SALRC's programme in January 2012. The crux of the request is that legislation regulating rental property business operators should be enacted. The proposal will be assigned for consideration as soon as capacity becomes available.

Proposals considered

Investigation into cable theft

The SALRC received a request from the Acting Chief Corporate Affairs Officer at Telkom SA Limited on 13 September 2011 for the inclusion of an investigation into the law relating to the theft of copper cable. The SALRC responded to Telkom on 22 December 2011, indicating that the request was considered on the basis of the SALRC's selection criteria for proposals for investigations. The SALRC decided not to conduct a preliminary investigation into this matter, as the SALRC is of the opinion that another government department, namely the DOJCD, is better placed to deal with the matter.

Labour Relations Act reform

The SALRC received a request from Mr Sebjeni Moyahabo on 1 February 2012, requesting the SALRC to review the Labour Relations Act, 1995. The SALRC prepared a response which will be submitted to Mr Moyahabo on 3 April 2012, indicating that the request was considered on the basis of the SALRC's selection criteria for proposals for investigations. The SALRC decided not to conduct a preliminary investigation into this matter, as the SALRC is of the opinion that there is another government department, namely the Department of Labour, better placed to deal with this matter. Mr Moyahabo was advised to contact the Department of Labour in connection with his proposal.

Preliminary investigations

If a proposal for a new investigation meets the SALRC's initial criteria for the inclusion of new investigations into the SALRC's programme, a preliminary investigation is indicated. The second set of criteria is then used to evaluate the proposal and to determine the ultimate inclusion or rejection of the proposal. Whereas all the initial criteria need to be met when deciding whether to go ahead with a preliminary investigation, a proposal need not meet all the secondary criteria to be included in the programme. All the criteria in the second phase are considered and such weight is attached to a specific matter as the Commission deems appropriate in the circumstances of each case.

During the period under review, the SALRC conducted the following preliminary investigations of its own volition or following requests for investigations by other organs of state or members of the public:

Violence against pregnant women

In South African law, the common law offence of murder consists in the intentional and unlawful killing of another person. The culpable and unlawful killing of an unborn baby by a third party does not constitute a crime since a foetus is not considered to be a person. The current position in South African law is that a person only attains legal subjectivity at birth.

The Deputy Director of Public Prosecutions in Grahamstown requested the inclusion of an investigation with regard to the culpable and unlawful killing of an unborn baby by a third party in the SALRC's programme. A proposal paper dealing with the South African legal position (referring to the Constitution, the 'born alive' rule in the common law, delict and succession, procedural law, murder, attempted murder, abortion and sentencing), the international legal position, relevant international instruments, regional treaties, foreign jurisdictions, the phenomenon of violence against pregnant women and local cases to recommend the inclusion of the investigation served before the Commission on 25 October 2008.

After consideration of a supplementary proposal paper on 10 October 2009, the Commission approved the inclusion of the project, but under an amended title, namely 'Violence against

Pregnant Women'. A memorandum to request the Minister of Justice and Constitutional Development to approve the inclusion of the project in the SALRC's programme was submitted to the DOJCD in November 2009. The SALRC is awaiting the Minister's decision on whether to include this investigation in the SALRC's programme.

Protection of journalistic sources

The Freedom of Expression Institute (FXI) requested the SALRC to investigate the amendment of section 205 of the Criminal Procedure Act to introduce a 'shield law' to protect confidential journalistic sources and information. The issuing of subpoenas in 2009 and 2010 calling for two e-TV journalists to divulge their sources and confidential information highlighted the controversy around conflicting rights and the manner in which section 205 is abused. The question at the core of this conflict appears to be whether the public interest in compelling a journalist to reveal confidential information or his or her sources outweighs the public interest in the free flow of information.

The Commission approved the inclusion of the investigation in the SALRC's programme on 14 August 2010. A memorandum to request the Minister of Justice and Constitutional Development to approve the inclusion of the project in the SALRC's programme was submitted to DOJCD on 25 October 2010. The SALRC is awaiting the Minister's decision on whether to include this investigation in the SALRC's programme.

Access to Justice

This preliminary investigation is an initiative of the SALRC in terms of its statutory powers to initiate investigations. After conducting an initial investigation, the Commission decided not to include an investigation into the extension of legal aid in civil matters in order to improve access to justice in the Commission's programme, as Legal Aid South Africa has already taken steps to address this issue.

Cyber crime

The Commission initiated a preliminary investigation into cybercrime in response to growing concern about the adequacy of current legislation to address the rising threat of cybercrime. On 3 December 2011 the Commission considered and approved a proposal to broaden the scope of *Project 126 – Review of the Law of Evidence* to include an investigation into cybercrime.

Placing a ban on the distribution and circulation of pornography through the mass media

The Deputy Minister of Home Affairs requested the SALRC on 15 September 2009 to advise on the possibility of a ban on the dissemination and circulation of pornography through the electronic and printed media, as well as mobile technology. After considering a proposal in this regard following a preliminary investigation, the Commission decided on 14 May 2011 that this matter warrants inclusion in Project 107: Sexual Offences, where it will be dealt with alongside other matters pertaining to pornography and children. The Commission is of the view that the existing legislative framework protecting children from exposure to pornography is inadequate and that ways of regulating and filtering pornography need to be explored in a holistic manner and not just in respect of a ban.

Review of the law of maintenance

In February 2011 the Minister of Justice and Constitutional Development requested the Commission to review the Maintenance Act 99 of 1998. The Minister's request flowed from reported challenges with the implementation of the Act. At the Commission meeting held on 22 October 2011 the Commission approved the Proposal Paper on the Review of the Maintenance Act, which recommended the inclusion of the investigation in the SALRC's programme. The Commission agreed that the investigation should be investigated under *Project 100 – Family Law and the Law of Persons*. On 31 October 2011 a letter was sent to the Minister of Justice and Constitutional Development advising him of the inclusion of the investigation in the SALRC's programme.

Compensation fund for victims of crime

In a letter to the Commission dated 26 November 2010 the Minister of Justice and Constitutional Development requested the Commission to consider including a new investigation in its programme dealing with the concerns raised by the Minister on the Commission's final report on a Compensation Fund for Victims of Crime. The Commission considered the Minister's request at its meeting held on 27 November 2010. The Commission agreed to conduct a preliminary investigation separate from the Commission's completed report in terms of the Commission's approved selection criteria for new investigations and after considering a proposal paper on the concerns raised by the Minister.

The Commission considered a proposal paper for the inclusion of a new investigation into this matter at its meeting of 22 October 2011. The Commission resolved not to recommend the inclusion of a new investigation in its programme. The reason for the decision is that the concerns raised by the Minister are not predominantly legal matters, but in essence relate to the cost implications of the Commission's recommendations in the completed report. The Commission is of the view that DOJCD would be better suited to conduct costing of the recommendations.

CHAPTER 4
REPORTS COMPLETED

CHAPTER 4

REPORTS COMPLETED

Project 25 – Statutory Law Revision

Background to the project on statutory law revision

The advent of democracy and the adoption of the Constitution of the Republic of South Africa of 1996 necessitated a review of the country's legal, policy and institutional framework to ensure alignment with the Constitution. In January 2003 Cabinet approved that the Minister of Justice and Constitutional Development coordinates and mandates the SALRC to review South African legislation for provisions that may result in discrimination as described in section 9 of the Constitution. Section 9 prohibits unfair discrimination based on race, gender, sex, pregnancy, marital status, ethnic and social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

In 2004 the SALRC included a review of the entire statute book of South Africa as an investigation in its law reform programme. The purpose of the investigation is two-fold:

1. To align the South African statute book with the Constitution, especially the right to equality entrenched in section 9 of the Constitution.
2. To provide a statute book that is free from obsolete and redundant provisions.

The South African Law Reform Commission (SALRC) finalised its reports on Project 25: Statutory Law Revision in respect of legislation administered by the Departments of Energy; Human Settlements; Labour; Public Works; Mineral Resources; National Treasury (non-tax); and Rural Development and Land Reform for general information during the reporting period. The reports set out the SALRC's final recommendations for law reform regarding statutes administered by the seven Departments referred to. The reports will be released in April 2012.

Legislation administered by the Department of Energy

The SALRC reviewed the 33 statutes administered by the Department of Energy and found no provisions which infringe the equality provisions of the Constitution in the legislation reviewed.

The SALRC recommends 12 statutes for amendment and four statutes for repeal. The statutes recommended for repeal are the Electricity Amendment Act 58 of 1989; the Coal Resources Act Repeal Act 6 of 1992; the Nuclear Energy Act 131 of 1993; and the Electricity Amendment Act 46 of 1994. These recommendations are contained in a Bill entitled the 'Energy Laws Repeal and Related Matters Bill'.

Legislation administered by the Department of Human Settlements

The SALRC reviewed 15 statutes administered by the Department of Human Settlements or assigned to provinces. The SALRC has identified one statute for repeal, namely the Disestablishment of South African Housing Trust Limited Act 26 of 2002, which appears to be redundant. Two statutes are recommended for amendment, namely the Housing Consumers Protection Measures Act 95 of 1998 and the Home Loan and Mortgage Disclosure Act 63 of 2000. These recommendations are contained in a Bill entitled 'Human Settlements General Laws Amendment and Repeal Bill'.

Legislation administered by the Department of Labour

The SALRC reviewed 47 statutes administered by the Department of Labour. The SALRC recommends that –

- (a) 25 statutes, which appear to be redundant, be repealed, namely the Black Labour (Transfer of Functions) Act 88 of 1980; the Second Wage Amendment Act 58 of 1981; the Agricultural Labour Act 147 of 1993; the Agricultural Labour Amendment Act 50 of 1994; and 21 Amendment Acts to the Unemployment Insurance Act 30 of 1966; and
- (b) four statutes be amended, namely the National Economic, Development and Labour Council Act 35 of 1994; the Basic Conditions of Employment Act 75 of 1997; the Employment Equity Act 55 of 1998; and the Unemployment Insurance Act 63 of 2001.

These recommendations are contained in a Bill entitled 'Labour Laws General Amendment and Repeal Bill'.

Legislation administered by the Department of Public Works

The SALRC reviewed 57 statutes administered by the Department of Public Works. The SALRC recommends that –

- (a) thirteen statutes (five principal Acts and eight Amendment Acts) be repealed on the ground of obsolescence, since the purpose for which they were enacted has either been fulfilled or has been superseded by more recent legislation and thus no longer serve any useful purpose. Among the statutes recommended for repeal are the Carnarvon Outer Commonage Settlement Act 19 of 1913; the Bethelsdorp Settlement Act 34 of 1921; the Mooi River Township Lands Act 5 of 1926; the Municipal Lands (Muizenberg) Act 9 of 1941; and the Church Square, Pretoria, Development Act 53 of 1972; and
- (b) the following eight statutes be amended, namely the Rhodes' Will (Groote Schuur Devolution) Act 9 of 1910; the Local Government City of Cape Town (Muizenberg Beach) Improvement Act 17 of 1925; the Cape Outspans Act 17 of 1937; the State Land Disposal Act 48 of 1961; the General Law Amendment Act 102 of 1972; the Land Affairs Act 101 of 1987; the Commonwealth War Graves Act 8 of 1992; and the Construction Industry Development Board Act 38 of 2000.

These recommendations are contained in a Bill entitled the 'Public Works General Laws Amendment and Repeal Bill'.

The SALRC further recommends that the Department of Public Works initiates the process to bring into operation, through proclamation by the President, the commencement of –

- (a) section 14(1) of the Land Affairs Act 101 of 1987, which will result in the repeal of the Community Development Act 3 of 1966 (with the exception of section 51B of the Community Development Act 3 of 1966); and
- (b) section 14(2) of the Land Affairs Act 101 of 1987, which will result in the repeal of section 51B of the Community Development Act 3 of 1966 and the Community Development Amendment Act 48 of 1986.

Legislation administered by the Department of Mineral Resources

The SALRC reviewed 28 statutes (11 principal Acts and 17 amendment Acts) that are

administered solely by the Department of Mineral Resources and 13 statutes that are relevant ancillary statutes administered by other Departments. The SALRC found no provision which infringes the equality provisions of the Constitution in the legislation reviewed. The SALRC recommends that 14 statutes be amended. The SALRC further recommends that four statutes be repealed, namely the Diamonds Amendment Act 28 of 1988; the Diamonds Amendment Act 22 of 1989; the Diamonds Amendment Act 10 of 1991; and the Abolition of the Lebowa Mineral Trust Act 67 of 2000. These recommendations are contained in a Bill entitled the 'Mineral Resources Laws Repeal and Related Matters Bill'.

Non-tax legislation administered by National Treasury

The SALRC identified 611 statutes which are administered by National Treasury. The SALRC conducted an investigation to determine whether any of the 611 Acts, with the exception of the Income Tax Acts, the Value Added Tax Act and the Abolition of Quitrent Acts, contain provisions that are inconsistent with the Constitution or which no longer serve any useful purpose as a result of redundancy or obsolescence. The SALRC recommends that these Acts be repealed. The SALRC established that a number of Pensions (Supplementary) Acts, Appropriation Acts and other miscellaneous Acts administered by National Treasury no longer serve any useful purpose. The SALRC also found that a number of provisions contained in other statutes have been superseded by more recent legislation and require updating. These recommendations are contained in a Bill entitled the 'National Treasury Laws Amendment and Repeal Bill'.

Legislation administered by the Department of Rural Development and Land Reform

The SALRC reviewed 110 statutes (32 Principal Acts and 78 Amendment Acts) that are administered by the Department of Rural Development and Land Reform (DRDLR) to determine whether any of these Acts or provisions therein may be repealed as a result of redundancy, obsolescence or unconstitutionality in terms of section 9 of the Constitution. The SALRC recommends that –

- (a) eight statutes (one principal Act and seven amendment Acts) be repealed. Save for the Communal Land Rights Act 11 of 2004, which the SALRC recommends should be repealed on the ground of unconstitutionality following the Constitutional Court decision

in *Tongoane and Others v National Minister for Agriculture and Land Affairs and Others* (11 May 2010), the other seven statutes are recommended for repeal on the ground of obsolescence. Two of the statutes recommended for repeal are Black Administration Amendment Acts and the other five statutes recommended for repeal are Black Laws Amendment Acts;

- (b) two statutes are recommended for partial repeal on the grounds of their discriminatory nature and obsolescence, namely the State Land Disposal Act 48 of 1961; and the General Law Second Amendment Act 108 of 1993; and
- (c) four statutes are recommended for amendment, namely the State Land Disposal Act 48 of 1961; the Land Affairs Act 101 of 1987; the Interim Protection of Informal Land Rights Act 31 of 1996; and the Planning Profession Act 36 of 2002.

These recommendations are contained in a Bill entitled the 'Rural Development and Land Reform General Amendment and Repeal Bill'.

Referral of the reports to the respective Ministers

The Commission approved the *Report on Statutory Law Revision: Legislation administered by the Department of Energy*, the *Report on Statutory Law Revision: Legislation administered by the Department of Labour* and the *Report on Statutory Law Revision: Legislation administered by National Treasury (non-tax legislation)* on 22 October 2011 for publication and referral thereof to the relevant Ministers. The reports pertaining to the Departments of Energy and Labour were referred to the Minister of Energy and the Minister of Labour respectively in March 2012 under cover of a letter signed by the Minister for the possible implementation of the recommendations contained in the reports. The report pertaining to National Treasury was referred to the Minister of Finance in February 2012 under cover of a letter signed by the Minister for the possible implementation of the recommendations contained in the reports.

The Commission approved the *Report on Statutory Law Revision: Legislation administered by the Department of Human Settlements*, the *Report on Statutory Law Revision: Legislation administered by the Department of Public Works* and the *Report on Statutory Law Revision: Legislation administered by the Department of Rural Development and Land Reform* on 3 December 2011 for publication and referral thereof to the relevant Ministers. The reports were

referred to the Minister of Human Settlements, the Minister of Mineral Resources, the Minister of Public Works and the Minister of Rural Development and Land Reform respectively in March 2012 under cover of a letter signed by the Minister for the possible implementation of the recommendations contained in the reports.

Project 82 – Sentencing: A compensation fund for victims of crime

Background to the project

In the early 1990s the Minister of Justice and Constitutional Development appointed a number of project committees to review the law relating to specific areas on a continuous basis. As part of this initiative the law of sentencing was designated to be subjected to investigation. During September 1996 the Minister appointed a new project committee to deal with sentencing and victims of crime. The project committee identified a number of subjects for further investigation, which included:

- Victim empowerment: a restorative justice approach to criminal law.
- The establishment of a compensation fund for victims of crime and victim empowerment.

Issue Paper 7 – Sentencing: Restorative justice (compensation fund for victims of crime and victim empowerment) was published in April 1997. Issue Paper 7 considered the need for the establishment of a compensation fund for victims of crime as well as the broader issues of victim empowerment and a restorative approach to crime. *Discussion Paper 97 – Sentencing: A compensation fund for victims of crime* was published in March 2001. Discussion Paper 97 considered the feasibility of establishing a victim compensation scheme in South Africa against the SALRC's broader mandate to revisit the plight of victims of crime within the criminal justice system in general.

Report on Sentencing: A compensation fund for victims of crime

The Commission approved the *Report on Sentencing: A compensation fund for victims of crime* in April 2004. The report was submitted to the Minister of Justice and Constitutional Development in May 2004. After engaging the Minister on the publication of the report, the

Commission released the report by media statement in April 2011. The investigation into a compensation fund for victims of crime seeks to:

- a) Investigate all aspects regarding the establishment of a compensation fund for victims of crime; including the question of how victims of crime should be treated in their interaction with the criminal justice system.
- b) Recommend steps to be taken on the establishment of a compensation fund for victims of crime and any other legislative or other steps that should be taken to address the plight of victims of crime in their interaction with the criminal justice system.

The report draws conclusions and makes recommendations as follows:

- a) The establishment of a victims' compensation fund is not a viable option at this stage due to affordability in the current financial climate and a lack of the prerequisites necessary for the efficient and effective administration of the fund.
- b) The Commission however recommended that the establishment of a victims' compensation fund should not be abandoned, but developed over time as a project with the broader objective of improved services for victims of crime.
- c) The Commission proposes the establishment of a victim empowerment programme aimed at providing and improving services to victims.
- d) The current Victim Empowerment Programme still lacks the ability to deal effectively with all the issues relating to victims of crime.
- e) Without an effective legislative basis, support services will continue to be uncoordinated, fragmented and reactive in nature.
- f) The treatment of victims and services provided to them should be placed on a firm footing.
- g) Legislation should be adopted to provide for a comprehensive package when dealing with the needs of victims of crime, and should be based on the approved government policy of the National Crime Prevention Strategy, advocating for a victim-centred approach.

The legislation proposed in the report is based on the establishment of four major structural components to provide a package aimed at improved services and support to victims and the introduction of legislative principles, providing for the standards which the treatment of victims must meet. These include the following:

- a) The creation of a permanent structure and Office for Victims of Crime, to take care of the needs of victims on a permanent basis.
- b) The creation of branch offices to provide victims with access to victim service delivery close to victims.

- c) The creation of a limited fund, the 'fund for victims of crime' (**not** to be confused with a 'compensation fund for victims of crime') to support the development, improvement, and provision of services to victims of crime. The purpose of the fund is solely to finance the establishment of support services to victims of crime.
- d) Provision that a victim may apply for compensation in **exceptional circumstances** where there is an absence of appropriate services. The financial assistance should be limited and comply with clearly defined conditions.
- e) The creation of a permanent body or institution (Victims' Council) to advise government on policy issues and legislative amendments to meet the needs of victims of crime.
- f) The introduction of legislative principles to guide the treatment of victims of crime.

CHAPTER 5

PUBLIC RELATIONS

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PUBLIC RELATIONS

Public consultation

The SALRC relies extensively on the cooperation of institutions and persons who have an interest in its investigations for the efficient performance of the SALRC's functions. In order to ensure the best possible involvement of interested parties, it is the SALRC's policy to inform the public as far as possible of new investigations undertaken and of issue papers and discussion papers published for general information and comment. The SALRC's issue papers and discussion papers are released by way of media statements so as to ensure good coverage. However, the SALRC also submits issue papers and discussion papers of its own accord to institutions that have an interest in the investigations concerned. The reaction to these documents is an indispensable link in the process of law reform and it plays an important role in the eventual recommendations made by the Commission in its reports.

Interaction with foreign law reform bodies and institutions

The SALRC received a request on 15 March 2012 from the Carey Law School of the University of Maryland to host one of their students as an intern during 2012. The request was made after the Law School received positive feedback from students who had visited the SALRC as interns in 2010. The SALRC was unable to accede to the request due to insufficient office space at the SALRC's temporary office premises. The Law School was however invited to send students once the SALRC has relocated to its new office premises.

International liaison

SALRC researchers frequently liaise with international organisations, as well as experts and officials from other countries. Mr Tienie Cronje liaised with the World Bank Task Team on the *World Bank Report on the Observance of Standards and Codes – Insolvency and Creditor Rights* on a regular basis during the reporting period.

Ismail Mahomed Law Reform Essay Competition

The Ismail Mahomed Law Reform Essay Competition is a joint venture between the South African Law Reform Commission and Juta & Co. The competition was established in honour of the late Chief Justice and former Chairperson of the South African Law Reform Commission. The aim of this competition, an annual event at the SALRC, is to encourage critical legal writing by students, while generating new innovative ideas for the reform of the law. The initiative also seeks to encourage legal scholarship and public dialogue on the link between law reform, human rights and the rule of law. All LLB and LLM students registered at any South African university are eligible to enter the competition.

2010 Competition

The prizes for the 2010 Ismail Mahomed Competition were awarded at a prestigious ceremony held at the Constitutional Court on 22 July 2011. Among the dignitaries present at the ceremony were Judge Sandile Ngcobo, the Chief Justice of South Africa at the time; Judge Yvonne Mokgoro, former Judge of the Constitutional Court and Chairperson of the SALRC at the time; Mrs Mahomed, the widow of late Chief Justice Ismail Mahomed; and Mr Enver Mahomed, the brother of the late Chief Justice, and his family. Chief Justice Sandile Ncgobo delivered the keynote address.

The winners of the 2010 Competition in the LLB category are Messrs Stuart Scott (winner) and Timothy Hodgson (runner-up). Mr Scott is a graduate of the University of KwaZulu Natal and the topic of his essay is “Does copyright law have a sense of humour? The need for the introduction of a clear defence to copyright infringement based on parody and satire.” Mr Hodgson is a graduate of the University of Cape Town and the topic of his essay is “Reasonableness as a comparative heuristic, polycentricity, separation of powers and socio-economic rights jurisprudence.”

The winners in the LLM category are Ms Sanita van Wyk (winner) and Mr Henri Nkuepo (runner-up). Ms van Wyk is a graduate of the University of Stellenbosch and the topic of her essay is “A comparative study of crimes against life in South Africa and Germany.” Mr Nkuepo is a

graduate of the University of the Western Cape and the topic of his essay is “Enhancing the capacity of policy makers to mainstream gender in trade policy and make trade responsive to women’s needs: a South African perspective.”

The prize for the winners in both the LLB and LLM categories was an Incredible Connection voucher or a book voucher to the value of R10 000 each, or a one-year subscription to Juta’s South African Law Reports from 1947 to date on CD-ROM. The prize for the runners-up in both categories was an Incredible Connection voucher or a book voucher to the value of R5 000 each, or a one-year subscription to Juta’s Statutes and Regulations of South Africa on CD-ROM. In addition, the supervisors and the law faculties of the winners each received a credit voucher to the value of R1 250.

Competition for the 2011 and 2012 academic years

The SALRC launched the Ismail Mahomed Law Reform Essay Competition for the 2011 and 2012 academic years on 15 February 2012. Letters were sent to the Deans of the Law Faculties of the various South African Universities on 16 February 2012 notifying them of the launch of the competition. Promotional material for the competition was distributed to universities throughout the country during March 2012. The closing date for entries for the competition is 30 September 2012.

Juta has once again made the competition more enticing by increasing the prizes for both the LLB and LLM categories. The prizes for the winners in both the LLB and LLM categories will be an Incredible Connection voucher or book voucher to the value of R20 000 or a one-year subscription to Juta’s South African Law Reports from 1947 to date on CD-ROM. The prizes for the runners up in both the categories will be an Incredible Connection voucher or a book voucher to the value of R10 000 each or a one-year subscription to Juta’s Statutes and Regulations of South Africa on CD-ROM. In addition, the supervisors and the law faculties of the winners will each receive a credit voucher to the value of R2 500.

Electronic and printed media and liaison

The SALRC maintains good relations with the electronic and the printed media. Information that, in the SALRC's opinion, is newsworthy is supplied to the media and enquiries are replied to fully and promptly. The SALRC wishes to express its gratitude for the interest displayed by the media in investigations conducted by the SALRC.

The Secretary deals with enquiries on the work of the SALRC virtually on a daily basis. These include enquiries from the media, other state departments, the professions, universities, NGOs and members of the public. Apart from dealing with routine enquiries on a regular basis, researchers and advisory committee members also participate in various programmes and discussions relating to their research projects. These take the form of, among others, interviews with radio stations, television appearances, articles in law journals and liaison with individuals and institutions.

The SALRC holds extensive workshops and briefings in respect of relevant investigations, which is in line with the Commission's policy of broadening its consultation base. An effort is made to host the workshops and present briefings in as many different locations (urban and rural) as possible and the target audiences are state departments, parliamentary committees, relevant NGOs, the legal fraternity, relevant experts and the community in general.

Researchers and advisory committee members often participate in activities not initiated by the SALRC nationally and abroad. They are invited by government departments, NGOs and other institutions to attend seminars or conferences and to participate in workshops relating to investigations on the SALRC's programme. In addition, they are frequently requested to present papers or lectures on the research projects that they are involved in or have been involved in. This approach facilitates cooperation between the SALRC and other role players, serves to publicise the SALRC's activities and ensures that duplication of initiatives is avoided.

External conferences, workshops, briefings, consultative meetings and expert meetings

In the year under review researchers at the SALRC were involved in the following conferences, workshops, briefings, consultative meetings and expert meetings:

Project	Activity	Date
Project 25 Statutory law revision Redundancy, obsolescence and constitutionality of legislation		
Ms Tania Prinsloo Ms Ronel van Zyl	Consultative meeting with official from DSD Legal Services on legislation administered by the Department of Social Development (DSD).	11 August 2011
Mr Fanyana Mdumbe Mr Pierre van Wyk	Meeting with DOJCD officials and an official from the Department for Women, Children and People with Disabilities to discuss the following: <ul style="list-style-type: none"> • Age differentiation in legislation. • Possible reforms to ensure age harmonisation in all legislation. • The differences between the scope of Project 25 and the scope of the contemplated age harmonisation project. 	17 August 2011
Mr Linda Mngoma	Consultative meeting with DPW officials to discuss DPW's comments on Discussion Paper 121 on legislation administered by the Department of Public Works (DPW).	27 August 2010
Project 63 Review of the law of insolvency	Meeting with the World Bank Task Team on the <i>World Bank Report on the Observance of Standards and Codes – Insolvency and Creditor Rights</i> on behalf of the Department of Justice and Constitutional Development.	6 April 2011
Mr Tienie Cronje	First steering committee meeting of the World Bank Task Team on the <i>World Bank Report on the Observance of Standards and Codes – Insolvency and Creditor Rights</i> .	6 May 2011
	Meeting with insolvency practitioners to discuss the	June 2011

Project	Activity	Date
	Minister's policy on the appointment of insolvency practitioners.	
	Meeting with Chair of Policy Committee of DOJCD and Broad-based Black Economic Empowerment consultants to discuss the Minister's Policy on the Appointment of Insolvency Practitioners.	July 2011
	INSOL International Africa Roundtable to share insolvency and restructuring reform experiences and challenges in the region.	16 and 17 September 2011
	Steering Committee meeting on the <i>World Bank Report on the Observance of Standards and Codes – Insolvency and Creditor Rights</i> .	23 September 2011
	Meeting with Chief Master and Sarah Truen from DNA Economics on the Cooperatives Bill Regulatory Impact Assessment.	28 September 2011
	Attended the 3 rd Annual Conference of the Association of Insolvency Practitioners of Southern Africa.	October 2011
	Participated in World Bank <i>Insolvency and Creditor/Debtor Regimes Task Force Meeting Working Group on the Treatment of the Insolvency of Natural Persons, Washington DC</i> via internet streaming.	17 and 18 November 2011
	Steering Committee meeting on the <i>World Bank Report on the Observance of Standards and Codes – Insolvency and Creditor Rights</i> .	30 January 2012
	Meeting with the Chief Master and representatives of the Association of Insolvency Practitioners on their comments on the 'Policy on appointment of insolvency practitioners'.	7 February 2012
	Meeting with National Treasury and World Bank representatives on insolvency reforms.	27 March 2012
Project 94 Arbitration	Meetings with the Rules Board for Courts of Law and other stakeholders on the involvement of the SALRC in the Civil Justice Review Project (CJRP).	January to March 2012
Ms Ananda Louw	Meetings with DOJCD and Professor David Butler to discuss the updating and the promotion of the International and Domestic Arbitration Bills through Parliament.	March 2012

Project	Activity	Date
Project 100 Family law and the law of persons Custody of and access to minor children Ms Ananda Louw	General inquiries regarding problems with contact and care issues. Attended workshop on "Seeing and hearing the child" hosted by the SA Association of Mediators. Meeting with representatives of the Rules Board for Courts of Law to discuss the SALRC's involvement in the Civil Justice Review Project (CJRP) with specific reference to family mediation. Attended CJRP stakeholder workshop at OR Tambo Airport. Attended Miller Du Toit Inc Family Law Conference in Cape Town and made presentations on "Surrogate Motherhood" and "Domestic Partnerships".	Throughout the reporting period 25 to 26 January 2012 27 January 2012 2 February 2012 15 to 16 March 2012
Matrimonial property law Ms Anna-Marie Havenga	General inquiries regarding problems with pension benefits on divorce and the relevance of the SALRC investigation.	Throughout the reporting period
Review of the law of maintenance Ms Jennifer Joni	Meeting of the Maintenance Project Monitoring Committee of DOJCD to discuss: <ul style="list-style-type: none"> • Developments on the implementation of the Maintenance Act. • The SALRC's preliminary investigation into the review of the Maintenance Act. • Some of the achievements in the implementation of the Act, specifically the role of maintenance investigators. 	6 September 2011
Ms Jennifer Joni Ms Ronel van Zyl	Meeting with representatives from Legal Aid South Africa and the Legal Resources Centre to discuss the SALRC's involvement in their colloquium on Child Support and Maintenance planned for March 2012.	6 February 2012
Ms Jennifer Joni	Attended Colloquium on Child Support and Maintenance hosted by Legal Aid South Africa together with the Legal Resources Centre and made a presentation on the status of the SALRC's investigation on the review of the Maintenance Act.	6 March 2012
Project 107 Sexual offences	General enquiries regarding sexual offences.	Throughout the reporting

Project	Activity	Date
Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 Ms Dellene Clark		period
	Provided information and update to Washington UN Embassy on trafficking in terms of the Sexual Offences Act.	3 May 2011
	Participated in St Mary's DSG Day of Discovery and made a presentation on some of the innovative crimes brought about by the Sexual Offences Act.	9 June 2011
	Briefed the DOJCD Branch: Vulnerable Groups on section 170A of the Criminal Procedure Act in respect of the mental and physical age of victims of sexual offences.	24 June 2011
	Attended SASHA Seminar on 'Sexual and Reproductive Rights: Progress or Permissiveness?'.	28 July 2011
	Attended Genesis Workshop aimed at community awareness and support in sexual abuse cases.	30 July 2011
	Appointed to the Interim National Task Team on LGBTI issues relating to homophobic rape.	August 2011
	Corresponded with the National Council of Women of SA regarding sexual offence courts.	6 September 2011 and on-going
	Assisted the DOJCD in the Teddy Bear Clinic matter challenging the statutory rape provisions in the Sexual Offences Act.	12 September 2011 and on-going.
	Corresponded with Professor Pillay of the UKZN regarding the intellectually disabled sexual violence complainant's competency to testify.	21 September 2011
	Corresponded with a prosecutor of the Regional Court Durban regarding section 61 of the Sexual Offences Act pertaining to extra-territorial jurisdiction.	29 November 2011
	Briefed Sr Ruth Loubser, a sexual health educator, on statutory rape.	1 February 2012
Adult prostitution Ms Dellene Clark	Numerous general enquiries regarding prostitution	Throughout the reporting period
	Attended the Poverty Colloquium at the University of Stellenbosch.	29 to 31 May 2011
	Meeting with SAPS Legal Services to discuss the law and	19 August

Project	Activity	Date
	order response to adult prostitution.	2011
	Seminar on the 'Role of Men in Transactional Sex – does the law have a role in regulating this behaviour and if so how should it do it?' at WITS, presented by Prof Rachel Jewkes, the Director – Gender and Health Group (Medical Research Council).	9 November 2011
	Foundation of Human Rights workshop on PEPUDA.	24 and 25 January 2012
	Correspondence with FEDUSA regarding a proposal to totally criminalise adult prostitution.	16 February 2012
	Briefing on adult prostitution and attendance of the COSATU Gender Conference.	27 to 29 March 2012
Project 110 Review of the Child Care Act Ms Ronel van Zyl	General inquiries, especially from social workers, regarding the Children's Act 38 of 2005 and parental responsibilities and rights in particular.	Throughout the reporting period
	Meeting with Prof Jan Bekker on possible provision for customary adoption in the Children's Act.	10 June 2011
	Provided information and input to journalist from the <i>Living and Loving</i> magazine on inquiries regarding the parental responsibilities and rights of unmarried fathers.	13 July 2011
	Assisted an official from the Office of the Family Advocate to review the Children's Act and to compile a list of amendments required to the Act as proposed by the Office of the Family Advocate.	10 and 13 October 2011
	Attended a workshop hosted by DSD on amendments to the Children's Act.	20 October 2011
Project 122 Assisted decision-making Ms Anna-Marie Havenga	General inquiries on the current legal position regarding assisted decision-making for persons with Alzheimer's disease and other mental disabilities and the SALRC's envisaged proposals for law reform.	Throughout the reporting period
	Information and consultation session with representatives of Masters Offices country-wide on proposed draft Bill on Assisted Decision-making (as amended for compatibility with the United Nations Convention on the Rights of Persons with Disabilities).	27 to 28 October 2011

Project	Activity	Date
	Information and consultation session with an official from the Department of Health and submission of proposed draft Bill on Assisted Decision-making (as amended for compatibility with the United Nations Convention on the Rights of Persons with Disabilities) for final comment.	13 December 2011
	Information and consultation session with government and disability sector stakeholders on compatibility of proposed draft Bill on Assisted Decision-making with the United Nations Convention on the Rights of Persons with Disabilities.	16 February 2012
	Information and consultation session with representatives of Dementia South Africa on compatibility of proposed draft Bill on Assisted Decision-making with the United Nations Convention on the Rights of Persons with Disabilities.	29 March 2012
	Working session with representatives of the South African Human Rights Commission and the University of the Western Cape Centre for Disability Law and Policy on compatibility of the proposed draft Bill on Assisted Decision-making with the United Nations Convention on the Rights of Persons with Disabilities.	30 March 2012
Ms Margaret Meyer (Advisory Committee Member)	General inquiries on the current legal position regarding assisted decision-making for persons with Alzheimer's Disease and other mental disabilities and the SALRC's envisaged proposals for reform.	Throughout the reporting period
	Information on the SALRC investigation to attendants of a Curatorship Course for Master's Office personnel, Justice College.	31 May 2011
	Presentation on curatorship, administration in terms of the Mental Health Care Act 17 of 2002 and the SALRC investigation's envisaged impact on assisted decision-making at the Jeugland Alzheimer Seminar.	9 September 2011
	Presentation on the Legal Position of persons incapable of managing their own affairs and the SALRC investigation's envisaged impact on assisted decision-making at the Alzheimer's (Dementia) National Conference.	21 September 2011

Project	Activity	Date
Project 123 Protected disclosures Ms Dellene Clark	Assistance to the Special Anti-Corruption Unit in the Department of Public Service and Administration.	20 April 2011
	Assistance to the Secretariat of the Public Service Commission.	13 June 2011
		13 July 2011 1 March 2012
Project 124 Privacy and data protection Ms Ananda Louw	General inquiries on the impact of the proposed Protection of Personal Information Bill.	Throughout the reporting period
	General inquiries regarding the Protection of Personal Information Bill and its progress through Parliament.	Throughout the reporting period
	Assistance to DOJCD with the passing of the Protection of Personal Information Bill through the parliamentary process. This included the following: <ul style="list-style-type: none"> • Numerous meetings with officials from DOJCD. • Attended meetings of the Technical Committee appointed by the Portfolio Committee on Justice and Constitutional Development to brief members. • Attended public hearings and provided the Committee with a response to submissions made at the hearings. • Attended and participated in the deliberations of the Technical Committee and the Portfolio Committee. 	Throughout the reporting period
	Meeting with the Department of Communications to discuss the SALRC's input on a draft African Union Convention on the Establishment of a Credible Legal Framework for Cyber Security in Africa.	24 August 2011
	Meeting with representative from Price Waterhouse Coopers on the position of data privacy in the USA.	25 August 2011
	Presentation on Protection of Personal Information Bill at the Association of Debt Recovery Agents.	8 September 2011
	Workshop hosted by the Tax and Financial Sector Policy Section of the Department of National Treasury.	30 September 2011
	Presentation on the PPI Bill at the Safari into Credit Conference.	19 October 2011
	Meeting with the Direct Marketing Association of South Africa.	28 October 2011

Project	Activity	Date
	Workshop on the Protection of State Information Bill at the Nelson Mandela Centre of Memory.	1 November 2011
	Meeting with the DOJCD on the costing of the PPI Bill.	23 November 2011
	Presentation on the Parliamentary amendments to the PPI Bill and the impact of the new EU Regulation at the ISG meeting.	17 February 2012
	Meeting with the DOC on the link between the PPI Bill and cyber security in general.	9 March 2012
Project 127 Administration Orders Ms Lowesa Stuurman	General inquiries from debtors under administration.	Throughout the reporting period
	Inquiries from stakeholders regarding the workshop on administration orders held on 31 May 2011.	Throughout April and May 2012
	Attended the National Debt Mediation Association Stakeholder Conference on 'The impact of the National Credit Act on South Africa – What does the future hold?'	17 February 2012
Project 130 Stalking Ms Dellene Clark	Assisted the Department of Justice and Constitutional Development with the passing of the Protection from Harassment Act 17 of 2011 (published on 5 December 2011) through Parliament.	April to December 2011
	Completed the Certificate in the Investigation of Cyber Crime at the University of Pretoria.	22 to 25 August 2011
Project 131 Trafficking in persons Ms Lowesa Stuurman	Assisted the DOJCD with the promotion of the Prevention and Combating of Trafficking in Persons Bill in Parliament. This included: <ul style="list-style-type: none"> • Numerous meetings with DOJCD officials to discuss the provisions of the Bill. • Attended public hearings on the Bill and provided the Portfolio Committee on Justice and Constitutional Development with a response to submissions received. • Participated in the Portfolio Committee's deliberations on the Bill and assisted with incorporating the Committee's proposed amendments to the Bill; • Commented on proposed amendments by DOJCD and 	Throughout the reporting period

Project	Activity	Date
	<p>making proposals for amendments.</p> <ul style="list-style-type: none"> • Liaising with other stakeholder Departments and institutions and commenting on their submissions on the Bill. • Assisted with the compilation of briefing documents on issues relating to the Bill. • Briefed the Deputy Minister of Home Affairs on the Bill and the involvement of the Department of Home Affairs. 	
	Interview by a Masters of Arts student from the University of the Witwatersrand. The interview related to the SALRC's investigation into trafficking in persons and the parliamentary process on the Bill.	18 January 2012
	Meeting with Prof Philip Frankel from Wits University. Prof Frankel is writing a book on human trafficking and he wanted information on the SALRC's processes, the SALRC's investigation into trafficking in persons and the parliamentary process on the Bill.	6 February 2012
	Attended a gender conference hosted by COSATU. Human trafficking and decriminalisation of adult prostitution were among the issues discussed at the conference.	28 March 2012
<p>Project 138 The practice of <i>ukuthwala</i> Mr Fanyana Mdumbe</p>	Attended a meeting hosted by the DOJCD Gender Directorate, the Rural Women Movement and SALWA (KZN) in Durban to discuss atrocities committed against rural women and young girls under the guise of 'culture', including <i>ukuthwala</i> , in areas falling under the Mbabazane and Ukhahlamba Municipalities.	14 April 2011
	Meeting with Mr Heinz Kuhn from the KZN provincial government to discuss work already done by the KZN government with regard to <i>ukuthwala</i> in that province and the possibility of collaboration.	9 September 2011
	Meeting with officials from the Department of Cooperative Governance and Traditional Affairs (DCGTA) to discuss cooperation between the SALRC and DCGTA on the investigation into the cultural practice of <i>ukuthwala</i> .	21 October 2011
	Attended the Miller Du Toit Inc Family Law Conference and made a presentation on <i>ukuthwala</i> .	15 and 16 March 2012

Project	Activity	Date
Department of Social Development Workshop Mr Fanyana Mdumbe	Participated in and made a presentation on the legislative framework regulating customary marriages at a workshop hosted by the Department of Social Development.	23 and 24 August 2011

Internet

The South African Law Reform Commission's comprehensive website can be accessed at <http://salawreform.justice.gov.za>.

CHAPTER 6

ACKNOWLEDGEMENTS

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ACKNOWLEDGEMENTS

During the period under review a substantial number of persons and institutions responded to specific or general invitations by the Commission to comment on particular issues or to assist it with its activities in some respect. It is impossible, within the scope of this report, to mention all contributors. However, the Commission expresses its sincere gratitude to all concerned: without their goodwill and assistance the Commission would not be able to execute its mandate properly.

The Commission also wishes to express its appreciation to the various project leaders and advisory committee members (from within and outside the Commission) for providing advice and direction to researchers, evaluating the research and for the documents and reports compiled under their guidance. The willingness of individuals and organisations to serve on advisory committees of the Commission is valued.

The Commission would also like to thank the researchers of the Secretariat for their dedication and the consistently high levels of excellence and professionalism maintained by them. The Department of Justice and Constitutional Development as a whole is thanked for its cooperation and goodwill.

The Secretariat of the Commission wishes to thank the former Commission members for their guidance, dedicated service and commitment to law reform.

The administrative staff members are thanked for their contribution, which is indispensable for the success of the law reform process.

ANNEXURES

ANNEXURE A

ISSUE PAPERS PUBLISHED BY THE COMMISSION

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
1	104	Money laundering and related matters	0 631 17404 1 May 1996
2	100	Family violence	0 621 17495 5 July 1996
3	90	Harmonisation of the common law and the indigenous law (Customary marriages)	0 621 17531 5 September 1996
4	90	Harmonisation of the common law and the indigenous law (The application of customary law: Conflict of personal laws)	0 621 17532 3 September 1996
5	100	Family law and the law of persons: Review of the maintenance system	0 621 17651 6 January 1997
6	73	Simplification of criminal procedure: Access to the criminal justice system	0 621 17705 9 April 1997
7	82	Sentencing: Restorative justice (Compensation for victims of crime and victim empowerment)	0 621 17718 0 April 1997
8	94	Arbitration: Alternative dispute resolution	0 621 27319 8 May 1997
9	106	Juvenile Justice	0 621 27335 June 1997
10	107	Sexual offences against children	0 621 27352 X June 1997
11	82	Sentencing: Mandatory minimum sentences	0 621 27353 8 July 1997
12	90	Harmonisation of the common law and the indigenous law: Succession in customary law	0 621 8 008 9 April 1998
13	110	The review of the Child Care Act	0 621 28026 7 April 1998
14	108	Computer related crime: Options for reform in respect of unauthorised access to computers, unauthorised modification of computer data and software applications and related procedural aspects	0 621 28710 5 August 1998
15	59	Islamic marriages and related matters	0 621 30089 6 May 2000
16	119	Uniform national legislation on the fencing of national roads	0 621 30188 4 July 2000
17	118	Domestic partnerships	0 621 31574 5 September 2001
18	122	Incapable adults	0 621 31797 7 November 2001

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
19	107	Sexual offences: Adult prostitution	0 621 33159 7 July 2002
20	123	Protected disclosures	0 621 33555 X November 2002
21	121	Consolidated legislation pertaining to international cooperation in civil matters	0 621 33553 3 November 2002
22	130	Stalking	0 621 34410 9 August 2003
23	125	Prescription periods	0 621 34444 3 August 2003
24	124	Privacy and data protection	0 621 34530 X August 2003
25	131	Trafficking in persons	0 621 350168 January 2004
26	126	Review of the law of evidence	0 978 0 621 37676 0 March 2008
27	126	Electronic evidence in civil and criminal proceedings: Admissibility and related issues	978 0 621 389226 5 March 2010

ANNEXURE B

DISCUSSION PAPERS PUBLISHED BY THE COMMISSION

Since March 1983 a serial number has been assigned to all discussion papers – previously referred to as working papers – and only these are listed below. Discussion papers are numbered consecutively.

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
1	37	Preference on insolvency	18 March 1983
2	22	Law of succession: Intestate succession	17 February 1984
3	9	Law of trusts	24 February 1984
4	41	Investigation into the possibility of making provision for a divorced woman to share in the pension benefits of her former husband	October 1984
5	49	Offences committed under the influence of liquor or drugs	10 August 1984
6	43	Investigation into the advancement of the age of majority	15 February 1985
7	38	Investigation into the legal position of illegitimate children	22 February 1985
8	33	Review of the law of prize	12 April 1985
9	25	Statute law: Investigation into the law relating to theft and house-breaking	Not published
10	51	Marriages and customary unions of black persons	13 September 1985
11	6	Review of the law of evidence	25 April 1986
12	57	Anton Piller type of orders	Not published
13	22	Review of the law of succession: The introduction of a legitimate portion or the granting of a right to maintenance to a surviving spouse	8 August 1986
14	22	Review of the law of succession: Formalities of a will	17 October 1986
15	24	Investigation into the courts' powers of review of administrative acts	2 January 1987
16	62	The protection of a purchaser of securities	27 April 1987

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
17	22	Review of the law of succession: Amendment and repeal of wills	23 September 1987
18	61	Enduring powers of attorney and the appointment of curators for mentally incapacitated persons	0 7970 1381 4 18 March 1988
19	22	Review of the law of succession: Disqualification from inheriting, substitution and the succession rights of adopted children	0 7970 1401 2 26 February 1988
20	60	Domicile	0 7970 1435 7 26 August 1988
21	62	The protection of a purchaser of securities	0 7970 1460 8 31 March 1988
22	50	Proposals for the reform of the Bills of Exchange Act	0 621 1198 9 X 19 December 1988
23	46	The giving of security by means of movable property	0 7970 1558 2 7 October 1988
24	52	Investigation into the legal consequences of sexual realignment and related matters	0 7970 1589 2 17 June 1994
25	58	Group and human rights	GPS 003 9160 10 March 1989
26	12	Amendment of section 7(3) of the Divorce Act, 1979	0 7970 1667 8 1 March 1989
27	69	The acquisition and loss of ownership of game	0 7970 1727 5 29 May 1989
28	71	The protection of child witnesses	0 7970 1826 3 12 June 1989
29	63	Insolvency: Requirements for and alternatives to sequestration	0 7970 1854 9 7 August 1989
30	63	Insolvency: Qualifications, appointment and discharge of trustees	0 7970 1954 5 10 November 1989
31	66	Reform of the South African law of bail	0 7970 2078 0 December 1990
32	75	Bribery	0 7970 2126 4 March 1990
33	63	Insolvency: Effect of insolvency on assets, civil proceedings and contracts	0 7970 2185 X November 1990
34	24	Investigation into the courts' powers of review of administrative acts	0 7970 2292 9 December 1991
35	63	Insolvency: Insolvency interdicts	0 7970 2296 1 May 1991
36	62	The protection of a purchaser of securities	0 7970 2300 3 September 1991
37	68	Access to police dockets	0 7970 2316 X July 1991
38	65	Surrogate motherhood	0 7970 2381 X September 1991
39	63	Insolvency: Rehabilitation	0 7970 2490 5 April 1992

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
40	78	Interest on damages	0 7970 2607 X May 1992
41	63	Insolvency: Voidable dispositions and dispositions that may be set aside and the effect of sequestration on the spouse of the insolvent	0 7970 2638 X July 1992
42	73	Simplification of the criminal procedure: Working paper on appeal procedure	0 7970 2641 X July 1992
43	41	Investigation into the possibility of making provision for a divorced woman to share in the pension benefits of her former husband: Matters relating to the Divorce Amendment Act 7 of 1989	0 621 15039 8 December 1992
44	79	A father's rights in respect of his illegitimate child	0 621 15329 X February 1993
45	76	Jewish divorces	0 621 15331 1 January 1993
46	67	The Usury Act and related matters	0 621 15021 5 April 1993
47	87	Jurisdictional lacuna in the Supreme Court Act 59 of 1959	0 621 15429 6 April 1993
48	62	The protection of a purchaser of shares	0 621 15848 8 October 1993
49	73	Simplification of criminal procedure	0 621 15923 9 November 1993
50	74	Debt collecting	0 621 15933 6 November 1993
51	70	Limitation of professional liability	0 621 15955 7 December 1993
52	84	Application of the trapping system	0 621 15959 X December 1993
53	86	Euthanasia and the artificial preservation of life	0 621 15994 8 February 1994
54	47	Unreasonable stipulations in contracts and the rectification of contracts	0 621 16038 5 May 1994
55	89	Declaration and detention of persons as State patients in terms of the Criminal Procedure Act, 1977, and the release of such persons in terms of the Mental Health Act, 1973, including the onus of proof regarding the mental condition of an accused or convicted person	0 621 16358 9 December 1994
56	98	International co-operation in criminal prosecutions	0 621 16820 3 May 1995
57	88	The recognition of a class action in South African law	0 621 16928 5 September 1995
58	85	Aspects of the law relating to AIDS	0 621 16964 1 September 1995
59	94	Arbitration	0 621 16971 4 September 1995

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
60	95	Investigation into the Computer Evidence Act 57 of 1983	0 621 17259 6 October 1995
61	63	Review of the law of insolvency: Statutory provisions that benefit creditors	0 621 17297 9 November 1995
62	100	The granting of visitation rights to grandparents of minor children	0 621 17344 4 March 1996
63	93	Speculative and contingency fees	0 621 17353 3 March 1996
64	104	Money laundering and related matters	0 621 17453 X June 1996
65	47	Unreasonable stipulations in contracts and the rectification of contracts	0 621 17503 X August 1996
66	63	Review of the law of insolvency: Draft Bill and explanatory memorandum	0 621 17509 9 August 1996
	63	Review of the law of insolvency: Draft Bill and explanatory memorandum: Executive summary	0 621 17510 2 August 1996
67	96	Apportionment of Damages Act, 1956	0 621 17543 9 October 1996
68	85	Aspects of the law relating to AIDS	0 621 17550 1 October 1996
69	94	International commercial arbitration	0 621 17602 8 December 1996
70	100	Family law and the law of persons: Domestic violence	0 621 17650 8 February 1997
71	86	Euthanasia and the artificial preservation of life	0 621 17724 5 April 1997
72	85	Aspects of the law relating to AIDS: Pre-employment HIV testing	0 621 27350 3 June 1997
73	85	Aspects of the law relating to AIDS: HIV/AIDS and discrimination in schools	0 621 27697 9 August 1997
74	90	Customary law: Customary marriages	0 621 27723 1 September 1997
75	111	Constitutional jurisdiction of magistrates' courts	0 621 27997 8 March 1998
76	90	Customary law: Conflicts of law	0 621 28007 0 April 1998
77	112	Sharing of pension benefits	0 621 28020 8 April 1998
78	105	Review of security legislation: The Interception and Monitoring Prohibition Act 127 of 1992	0 621 28847 0 November 1998
79	106	Juvenile justice	0 621 28851 9 November 1998
80	85	Aspects of the law relating to AIDS: The need for a statutory offence aimed at harmful HIV-related behaviour	0 621 28854 3 December 1998

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
81	115	Administrative law	0 621 28895 0 January 1999
82	90	Customary law: Traditional courts and the judicial function of traditional leaders	0 621 29273 7 May 1999
83	94	Arbitration: Domestic arbitration	0 621 29371 7 September 1999
84	85	Aspects of the law relating to AIDS: Compulsory HIV testing of persons arrested in sexual offence cases	0 621 29372 5 September 1999
85	107	Sexual offences: The substantive law	0 621 29374 1 September 1999
86	63	Review of the law of insolvency	0 621 29377 6 September 1999
87	94	Arbitration: Community dispute resolution structures	0 621 29381 4 September 1999
88	109	The review of the Marriage Act 25 of 1961	0 621 29428 4 September 1999
89	73	Simplification of criminal procedure: The right of the Attorney-General to appeal on questions of fact	0 621 29935 9 January 2000
90	101	The application of the Bill of Rights to criminal procedure, criminal law, the law of evidence and sentencing	0 621 29936 7 January 2000
91	82	Sentencing: A new sentencing framework	0 621 30070 5 April 2000
92	105	Review of security legislation: Terrorism: Section 54 of the Internal Security Act 74 of 1982	0 621 30184 1 July 2000
93	90	Customary law: Succession	0 621 30205 8 August 2000
94	73	Simplification of criminal procedure: Sentence agreements	0 621 30337 2X December 2000
95	90	Customary law: Administration of estates	0 621 30338 0 December 2000
96	73	Simplification of criminal procedure: A more inquisitorial approach to criminal procedure – police questioning, defence disclosure, the role of judicial officers and judicial management of trials	0 621 30683 5 April 2001
97	82	Sentencing: A compensation scheme for victims of crime	0 621 30687 8 April 2001
98	114	Publication of divorce proceedings: Section 12 of the Divorce Act 70 of 1979	0 621 30715 7 May 2001
99	108	Computer-related crime: Preliminary proposals for reform in respect of unauthorised access to computers, unauthorised modification of computer data and software applications and related procedural aspects	0 621 30718 1 May 2001

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
100	73	Simplification of criminal procedure: Out-of-court settlements in criminal cases	0 621 31591 5 October 2001
101	59	Islamic marriages and related matters	0 621 31794 2 December 2001
102	107	Sexual offences: Process and procedure	0 621 31809 4 December 2001
103	110	Review of the Child Care Act	0 621 31810 8 December 2001
104	118	Domestic partnerships	0 621 34421 4 August 2003
105	122	Assisted decision-making: Adults with impaired decision-making capacity	0 621 35014 1 January 2004
106	121	Consolidated legislation pertaining to international co-operation in civil matters	0 621 35115 6 June 2004
107	123	Protected disclosures	0 621 35116 4 June 2004
108	130	Stalking	0 621 35379 5 September 2004
109	124	Privacy and data protection	0 621 36326 X October 2005
110	134	Administration of estates	0 621 36328 6 October 2005
111	131	Trafficking in persons	0 621 36526 2 March 2006
112	25	Statutory law revision: Review of the Interpretation Act 33 of 1957	0 621 36904 7 September 2006
113	126	Review of the law of evidence: Hearsay evidence and relevance	978 0 621 37675 3 March 2008
114	25	Statutory Law Revision: Legislation administered by the Department of Transport	978 0 621 37829 0 June 2008
115	25	Statutory Law Revision: Legislation administered by the Department of Housing	978 0 621 38319 5 November 2008
1/2009	107	Sexual Offences: Adult Prostitution	978 0 621 38498 7 May 2009
116	25	Statutory Law Revision: Legislation administered by the Department of Energy	978 0 621 39655 3 August 2010
117	25	Statutory Law Revision: Legislation administered by the Department of Labour	978 0 621 39656 0 August 2010
118	25	Statutory Law Revision: Legislation administered by the Department of Rural Development and Land Reform	978 0 621 39657 7 August 2010
119	25	Statutory Law Revision: Legislation administered by National Treasury – Legislation other than tax legislation	978 0 621 39738 3 October 2010

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
120	25	Statutory Law Revision: Legislation administered by the Department of Cooperative Governance and Traditional Affairs	978 0 621 39827 7 December 2010
121	25	Statutory Law Revision: Legislation administered by the Department of Public Works	978 0 621 39916 5 February 2011
122	25	Statutory Law Revision: Review of legislation administered by the Department of Communications	978 0 621 40070 0 May 2011
123	25	Discussion Paper 123 – Statutory Law Revision: Review of legislation administered by the Department of Defence and Military Veterans	978 0 621 40071 7 May 2011
124	25	Discussion Paper 124 – Statutory Law Revision: Review of legislation administered by the Department of Mineral Resources and ancillary legislation administered by other departments	978 0 621 40076 2 May 2011
125	25	Discussion Paper 125 – Statutory Law Revision: Review of legislation administered by the Department of Basic Education	978 0 621 40077 9 May 2011
126	125	Discussion Paper 126 – Prescription Periods	978 0 621 40078 6 July 2011
127	25	Discussion Paper 127 – Statutory Law Revision: Review of legislation administered by the Department of Tourism	978 0 621 40469 2 October 2011
128	25	Discussion Paper 128 – Statutory Law Revision: Review of legislation administered by the Department of International Relations and Cooperation	978 0 621 40470 8 October 2011
129	25	Discussion Paper 129 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on the legal professions, courts and institutions, civil procedure and evidence, substantive criminal law, substantive civil law, wills, estates and insolvency, constitutional and political legislation]	978 0 621 40490 6 October 2011
130	25	Discussion Paper 130 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on family law and marriage]	978 0 621 40491 3 December 2011

ANNEXURE C

INVESTIGATIONS INCLUDED IN THE COMMISSION'S PROGRAMME SINCE ITS ESTABLISHMENT

Project number	Title	Year of report	Reference number of published report	Result
1	The codification of certain crimes against the State	1974	RP 17/1976	Recommended legislation not implemented
2	Investigation into a proposed new process for the administration of certain estates	1974	Not published	No new legislation recommended
3	The submission of questions of law in civil cases to the Appellate Division of the Supreme Court	1974	Not published	Section 36 of Second General Law Amendment Act 94 of 1974 enacted
4	Investigation into the element of fault in <i>injuria</i>	1978	Not published	No legislation recommended – see also Project 44
5	The safeguarding of money held in trust by an agent on behalf of a client	1974	Not published	No legislation recommended
6	Review of the law of evidence			
	The admissibility in civil proceedings of evidence generated by computers	1982	RP 95/1982	Computer Evidence Act 57 of 1983 enacted, since repealed
	Final report	1986	ISBN 0 621 11348 4	Law of Evidence Amendment Act 45 of 1988 enacted
7	Revision of pre-Union statutes			
	Repeal of certain pre-Union Statutes	1975	Not published	Pre-Union Statute Law Revision Act 36 of 1976 enacted
	Repeal of certain pre-Union statutes	1976	Not published	Pre-Union Statute Law Revision Act 43 of 1977 enacted
	Retention of certain pre-Union statutes	1977	Not published	Pre-Union Statute Laws Revision Act 24 of 1979 enacted
8	Steps aimed at making the common law more readily available	-	-	Several works published – see previous annual reports and Annexure G
9	Review of the law of trusts	1986	June 1987	Trust Property Control Act 57 of 1988 enacted
10	Draft convention for a uniform law of agency of an international character in respect of the sale of goods	1974	Not published	No legislation recommended
11	Investigation into the common	1974	RP 18/1975	Recommendations not

Project number	Title	Year of report	Reference number of published report	Result
	law rule that interest may not accrue beyond the principal debt			implemented – see section 68A of the Insurance Act 27 of 1943, since repealed, in respect of policy loans
12	Review of the law of divorce			
	Report	1977	RP 57/1978	Divorce Act 70 of 1979 enacted – see also Project 40
	Section 7(3) of Act 70 of 1979	1991	ISBN 0 621 14140 2	Divorce Amendment Act 44 of 1992 enacted – see also Projects 100 and 114
13	Investigation into the right of recourse of spouses in respect of contributions towards necessities for the joint household	1974	RP 79/1975	Matrimonial Affairs Amendment Act 13 of 1976 enacted, since repealed – see also Project 15
14	The prescribing of a rate of interest in respect of debts where no rate of interest applies in law	1974	Not published	Prescribed Rate of Interest Act 55 of 1975 enacted
15	The matrimonial property law with special reference to the Matrimonial Affairs Act, 1953, the status of the married woman, and the law of succession in so far as it affects the spouses	1982	RP 26/1982	Matrimonial Property Act 88 of 1984 enacted – see also Projects 41 and 51
16	Investigation into the application of set-off in insolvency	1975	Not published	No legislation recommended – see Project 63
17	Examination of the convention on the form of an international will	1975	Not published	No legislation recommended – see Project 22
18	Investigation into the enforceability of foreign arbitration awards in the Republic	1975	Not published	Recognition and Enforcement of Foreign Arbitral Awards Act 40 of 1977 enacted
19	Investigation into the shifting of the onus of proof in bribery charges	1975	Not published	No legislation recommended – see Project 75
20	Investigation into the substitution of petition proceedings in superior courts	1975	Not published	Petition Proceedings Replacement Act 35 of 1976 enacted
21	Limitation of the institution of legal actions against the State	1977	Not published	No legislation recommended – see also Project 42
22	Review of the law of succession			
	Intestate succession	1985	ISBN 0 621 09611 3	Intestate Succession Act 81 of 1987 enacted
	Legitimate portion or right to maintenance	1987	Not published	Maintenance of Surviving Spouses Act 27 of 1990 enacted
	Formalities of a will, alteration	1991	ISBN 0 621 14189 5	Law of Succession

Project number	Title	Year of report	Reference number of published report	Result
	and revocation of wills, disqualification from inheriting, substitution and the succession rights of adopted children			Amendment Act 43 of 1992 enacted
23	Risk as a ground for liability in delict	1985	ISBN 0 621 10202 4	No legislation recommended
24	Investigation into the courts' powers of review of administrative acts			
	Report	1992	ISBN 0 621 15356 7	See Project 115
	Supplementary report	1994	Not published	See Project 115
25	Statute law: The establishment of a permanently simplified, coherent and generally accessible statute book			
	Repeal of Laws Act	1980	Not published	Repeal of Laws Act 94 of 1981 enacted
	Investigation into certain aspects of the Prescription Act 68 of 1969	1983	Not published	Prescription Amendment Act 11 of 1984 enacted
	Investigation into further aspects of the Prescription Act 68 of 1969	1984	Not published	No legislation recommended
	Repeal of the Black Administration Act, 1927	2004	ISBN 0 621 35472 4 RP 213/2004	Repeal of the Black Administration Act and Amendment of Certain Laws Act 28 of 2005 enacted
	Statutory Law Revision: Redundancy, obsolescence and constitutionality of legislation			See Chapter 3
	Legislation administered by the Department of Transport	2009	ISBN 0 621 40020 5	Transport Laws Repeal Act 10 of 2010 enacted
	Legislation administered by the Department of Energy	2011	To be published	See Chapter 4
Legislation administered by the Department of Human Settlements	2011	To be published	See Chapter 4	
Legislation administered by the Department of Labour	2011	To be published	See Chapter 4	
Legislation administered by the Department of Mineral Resources	2011	To be published	See Chapter 4	
Legislation administered by the Department of Public	2011	To be published	See Chapter 4	

Project number	Title	Year of report	Reference number of published report	Result
	Works	2011	To be published	See Chapter 4
	Legislation administered by the Department of Rural Development and Land Reform	2011	To be published	See Chapter 4
	Legislation administered by National Treasury			
	Review of the Interpretation Act	-	-	See Chapter 3
26	Criminal law consolidation: Theft and house-breaking	1977	Not published	Recommendations regarding legislation not implemented
27	Abolition of civil imprisonment	1976	Not published	Abolition of Civil Imprisonment Act 2 of 1977 enacted – see also Project 54
28	Investigation into leases in respect of movables	1976	Not published	No legislation recommended
29	Investigation into the application of <i>mens rea</i> in statutory offences	1982	GP-S 300	No legislation recommended
30	Investigation into an unlimited right of appeal for convicted persons in criminal proceedings	1976	RP 73/1977	No legislation recommended
31	Investigation into the law relating to presumption of death	1977	Not published	Dissolution of Marriages on Presumption of Death Act 23 of 1979 enacted
32	Review of the law of admiralty	1982	RP 12/1983	Admiralty Jurisdiction Regulation Act 105 of 1983 enacted
33	Review of the law of prize	1987	-	Recommendations not implemented
34	Examination of the legal consequences of artificial insemination and the duty of support in respect of certain adulterine children	1978	Not published	No legislation recommended – see also Project 38
35	Negligent use of fire-arms	1978	Not published	No legislation recommended
36	Investigation into delictual liability in cases of misrepresentation	1983	Not published	No legislation recommended
37	Review of preferent claims in insolvency	1984	ISBN 0 621 090840 X	Recommendations not implemented – see Project 63
38	Investigation into the legal position of illegitimate children	1985	ISBN 0 621 10205 9	Children's Status Act 82 of 1987 enacted, since repealed and re-enacted in the Children's Act 38 of 2005
39	Investigation into the legal consequences of suspensive conditions in contracts of sale	1985	ISBN 0 621 11350 6	No legislation recommended
40	Evaluation of the effect of the	1983	Not published	No legislation recommended

Project number	Title	Year of report	Reference number of published report	Result
	Divorce Act 70 of 1979			
41	The division of pension benefits on divorce			
	Report	1986	ISBN 0 621 11357 3	Divorce Amendment Act 7 of 1989 passed
	Supplementary report	1994	RP 158/1995 ISBN 0 621 16869 6	Referred back to the SALRC – see Project 112
42	Investigation into time limits for the institution of actions against the State			
	Report	1985	Not published	Recommendations not implemented
	Supplementary report	1998	ISBN 0 621 28862 4	Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 enacted
43	Investigation into the advancement of the age of majority	1985	ISBN 0 621 10246 6	No legislation recommended
44	A comprehensive and comparative inquiry into the protection of all rights of personality	-	-	Struck off
45	Women and sexual offences in South Africa	1985	ISBN 0 621 09609 1	Law of Evidence and the Criminal Procedure Amendment Act 103 of 1987, Criminal Law and Criminal Procedure Act Amendment Act 39 of 1989 and Prevention of Family Violence Act 133 of 1993 enacted
46	The giving of security by means of movable property			
	Report	1991	ISBN 0 621 14544 0	Security by means of Movable Property Act 57 of 1993 enacted
	Supplementary report	1993	Not published	Act 57 of 1993 enacted
47	Unreasonable stipulations in contracts and the rectification of contracts	1998	RP 133/1998 ISBN 0 621 28678 8	Under consideration by Department of Justice and Constitutional Development – report submitted to the Department in May 1998
48	Examination of the limits of criminal defamation	1983	Not published	No legislation recommended
49	Offences committed under the influence of liquor or drugs	1985	ISBN 0 621 10207 5	Criminal Law Amendment Act 1 of 1988 enacted
50	Investigation into the payments system in South African law	1994	RP 105/1995 ISBN 0 621 16776 2	Recommendations not implemented
51	Marriages and customary unions of black persons			

Project number	Title	Year of report	Reference number of published report	Result
	Problems relating to the acquisition of leasehold	1985	Not published	Section 1 of Laws on Co-operation and Development Second Amendment Act 90 of 1985 enacted
	Final report	1986	-	Marriage and Matrimonial Property Law Amendment Act 3 of 1988 enacted
52	Investigation into the legal consequences of sexual re-alignment and related matters	1995	RP 32/1996 ISBN 0 621 17334 7	Alteration of Sex Description and Sex Status Act 49 of 2003 enacted
53	Investigation into the amendment of section 26 of the Insolvency Act 24 of 1936	1983	Not published	Insolvency Amendment Act 84 of 1984 enacted – see also Project 63
54	Committal to prison in respect of debt	1985	ISBN 0 621 11346 8	See Project 74
55	Removal of certain restrictions in respect of land	1984	Not published	No legislation recommended
56	Submission of a question of law to the Appellate Division of the Supreme Court relating to the calculation of finance charges under the Limitation and Disclosure of Finance Charges Act 73 of 1968	1976	Not published	<i>Ex parte Minister of Justice</i> 1978 2 SA 572 (A)
57	Anton Piller type of orders	1987	Not published	Recommendations not implemented
58	Group and human rights			
	Interim report	1991	Report: ISBN 0 621 14128 3 Summary: ISBN 0 621 14127 5	Constitution of the Republic of South Africa Act 200 of 1993 enacted, since repealed Constitution of the Republic of South Africa, 1996 enacted
	Final report	1994	RP 66/1995 ISBN 0 621 16727 4	Made available to the Constitutional Assembly
59	Islamic marriages and related matters	2003	RP 210/2003 ISBN 0 621 34989 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 2003
60	Domicile	1991	ISBN 0 621 14255 7	Domicile Act 3 of 1992 enacted
61	Enduring powers of attorney and the appointment of curators for mentally incapacitated persons	1988	ISBN 0 621 12107 X	Mentally Ill Persons' Legal Interests Amendment Act 108 of 1990 enacted
62	The protection of a purchaser of shares			
	Report	1993	ISBN 0 621 16287 6	Recommendations not implemented

Project number	Title	Year of report	Reference number of published report	Result
	Supplementary report on section 138 of the Companies Act 61 of 1973	1994	RP 152/1995 ISBN 0 621 16847 5	Companies Amendment Act 35 of 1998 passed
63	Review of the law of insolvency			
	Interim report: Section 34 of the Insolvency Act 24 of 1936	1990	Not published	Section 1 of the Insolvency Amendment Act 6 of 1991 enacted
	Interim report: Insolvency interdicts	1992	ISBN 0 621 14964 0	Insolvency Amendment Act 122 of 1993 enacted
	Interim report: Appeals against sequestration orders	1993	ISBN 0 621 15421 0	Section 1 of the General Law Third Amendment Act 129 of 1993 enacted
	Interim report: The protection of the financial markets in the event of insolvency	1994	RP 63/1995 ISBN 0 621 16721 5	Insolvency Amendment Act 32 of 1995 enacted
	Interim report: The enactment in South Africa of UNCITRAL's Model Law on Cross-Border Insolvency	1999	Not printed	Cross-Border Insolvency Act 42 of 2000 enacted
	Report: The review of the law of insolvency	2000	RP 89/2000 ISBN 0 621 30069 1	Insolvency and Business Recovery Bill approved by Cabinet in March 2003 to be revived following the enactment of business rescue provisions in the Companies Act 71 of 2008
64	The legal protection of information	-	-	Struck off
65	Surrogate motherhood	1992	ISBN 0 621 15353 2	Recommendations incorporated in the Children's Act 38 of 2005
66	Reform of the South African law of bail			
	Report	1992	Not published	Referred back for consideration
	Report	1994	RP 82/1995 ISBN 0 621 16746 0	Criminal Procedure Second Amendment Act 75 of 1995 enacted
67	The Usury Act and related matters	-	-	Struck off
68	Access to police dockets	1992	ISBN 0 621 15349 4	Not implemented in view of the access to information provisions in the 1993 and 1996 Constitutions
69	The acquisition and loss of ownership of game	1991	ISBN 0 621 14138 0	Game Theft Act 105 of 1991 enacted
70	Limitation of civil liability of professional persons	-	-	Struck off
71	The protection of child witnesses	1991	ISBN 0 621 14139 9	Criminal Law Amendment Act 135 of 1991 enacted

Project number	Title	Year of report	Reference number of published report	Result
72	The alienation of personal servitudes	-	-	Struck off
73	The simplification of criminal procedure			
	First interim report: Appeal procedures	1994	-	Recommendations not implemented
	Second interim report: The simplification of criminal procedure	1995	RP 70/1996 ISBN 0 621 17405 X	Criminal Procedure Amendment Act 86 of 1996 enacted
	Third interim report: The right of the Director of Public Prosecutions to appeal on questions of fact	2000	RP 58/2001 ISBN 0 621 30678 9	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in December 2000
	Fourth interim report: Sentence agreements	2001	RP 120/2001 ISBN 0 621 31452 8	Criminal Procedure Second Amendment Act 62 of 2001 enacted
	Fifth interim report: A more inquisitorial approach to criminal procedure	2002	RP 219/2002 ISBN 0 621 33510 X	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
	Final report: Out-of-court settlements in criminal cases	2002	RP 218/2002 ISBN 0 621 33511 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
74	Debt collecting			
	Interim report on imprisonment for debt	1994	RP 199/1995 ISBN 0 621 16956 0	Magistrates' Courts Amendment Act 81 of 1997 enacted
	Final report	1995	RP 198/1995 ISBN 0 621 16960 9	Debt Collectors Act 114 of 1998 enacted, since repealed Act 81 of 1997 enacted
75	Bribery	1991	ISBN 0 662 15184 43	Corruption Act 94 of 1992 enacted, since repealed
76	Jewish divorces	1994	RP 56/1995 ISBN 0 621 16707 X	Divorce Amendment Act 95 of 1996 enacted
77	Constitutional models	1991	Report: ISBN 0 621 14239 5 Summary: ISBN 0 621 14197 6	No legislation recommended
78	Interest on damages	1994	ISBN 0 621 16231 0	Prescribed Rate of Interest Amendment Act 7 of 1997 enacted
79	Natural fathers of children born out of wedlock	1994	RP 55/1995 ISBN 0 621 16706 1	Natural Fathers of Children born out of Wedlock Act 86 of 1997 enacted, since repealed

Project number	Title	Year of report	Reference number of published report	Result
				– now regulated by the Children’s Act 38 of 2005
80	Accession to the Hague Convention on the Civil Aspects of International Child Abduction	1992	Not published	Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996 enacted, since repealed and re-enacted in the Children’s Act 38 of 2005
81	Submission of a question of law to the Appellate Division of the Supreme Court concerning certificates under instruments of debt as conclusive proof of liability	1991	Not published	<i>Ex parte Minister of Justice in re: Nedbank v Abstein Distributors and Donelly v Barclays National Bank</i> 1995 3 SA 1 (A)
82	Sentencing			
	A new sentencing framework	2000	RP 57/2001 ISBN 0 621 30679 7	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in December 2000
	A compensation scheme for victims of crime in South Africa	2004	To be published	See Chapter 4
83	Review of the Moratorium Act, 1963	-	-	Struck off
84	Application of the trapping system	1994	RP 174/1995 ISBN 0 621 16896 3	Criminal Procedure Second Amendment Act 85 of 1996 enacted
85	Aspects of the law relating to AIDS			
	First interim report: Health related aspects	1997	RP 106/1997 ISBN 0 621 27345 7	Regulations on Hazardous Biological Agents promulgated on 27 December 2001
	Second interim report: Pre-employment HIV testing	1998	RP 120/1998 ISBN 0 621 28049 6	Recommendations incorporated in the Employment Equity Act 55 of 1998
	Third interim report: HIV/AIDS and discrimination in schools	1998	RP 121/1998 ISBN 0 621 28048 8	Department of Education promulgated Commission’s draft National Policy on HIV/AIDS for Learners in Public Schools on 10 August 1999
	Fourth interim report: Compulsory HIV testing of persons arrested in sexual offence cases	2000	RP 40/2001 ISBN 0 621 30618 5	Recommendations regarding victims’ need for information on their alleged offenders’ HIV status have been included in Chapter 5 of the Criminal Law (Sexual

Project number	Title	Year of report	Reference number of published report	Result
				Offences and Related Matters) Amendment Act 32 of 2007
	Fifth interim report: The need for a statutory offence aimed at harmful HIV-related behaviour	2001	RP 78/2001 ISBN 0 621 30750 5	No legislation recommended
86	Euthanasia and the artificial preservation of life	1998	RP 186/1999 ISBN 0 621 29831 X	Report under consideration by Department of Health – report submitted to the Department in 1999
87	Jurisdictional lacuna in the Supreme Court Act, 1959	1994	RP 64/1995 ISBN 0 621 16723 1	Judicial Matters Second Amendment Act 122 of 1998 enacted
88	The recognition of a class action in South African law	1998	RP 181/1999 ISBN 0 621 29818 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in September 1998
89	Declaration and detention of persons as State patients in terms of the Criminal Procedure Act, 1977, and the release of such persons in terms of the Mental Health Act, 1973, including the onus of proof regarding the mental condition of an accused or convicted person	1995	RP 100/1996 ISBN 0 621 17494 7	Criminal Matters Amendment Act 68 of 1998 enacted
90	Customary law			
	Customary marriages	1998	RP 170/1998 ISBN 0 621 28755 5	Recognition of Customary Marriages Act 120 of 1998 enacted
	Conflicts of law	1999	RP 81/2000 ISBN 0 621 30061 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in September 1999
	Traditional courts and the judicial function of traditional leaders	2003	RP 209/2003 ISBN 0 621 34988 7	Traditional Courts Bill [Bill 15 – 2008] introduced into Parliament on 2 April 2008, reintroduced into Parliament on 7 July 2009
	Customary law of succession	2004	ISBN 0 621 38482 6	Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009 enacted. The Act commenced on 20 September 2010.

Project number	Title	Year of report	Reference number of published report	Result
91	The review of the offences created by sections 36 and 37 of the General Law Amendment Act 62 of 1955, and section 1 of Act 50 of 1956 and related matters	-	-	Struck off
92	The re-evaluation of the offence created by section 1 of Act 1 of 1988	-	-	Struck off
93	Speculative and contingency fees	1996	RP 37/1997 ISBN 0 621 17648 6	Contingency Fees Act 66 of 1997 enacted
94	Arbitration			
	International arbitration	1998	RP 30/1999 ISBN 0 621 28861 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 1998
	Domestic arbitration	2001	ISBN 0 621 31453 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 2001
	Community dispute resolution structures	-	-	See Chapter 3
	Family mediation	-	-	See Chapter 3
95	The admissibility of computer-generated evidence	-	-	Struck off
96	Apportionment of Damages Act, 1956	2003	RP 208/2003 ISBN 0 621 34987 9	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 2003
97	Unjustified enrichment	-	-	Struck off
98	International co-operation in criminal prosecutions	1995	RP 47/1996 ISBN 0 621 17357 6	International Co-operation in Criminal Matters Act 75 of 1996 enacted Proceeds of Crime Act 76 of 1996 enacted, since repealed Extradition Amendment Act 77 of 1996 enacted
99	The application of the rule <i>huur gaat voor koop</i> with reference to the question whether a lessee has a choice to continue the lease with a new lessor after the sale of the leased property	-	-	Struck off
100	Family law and the law of persons			
	Access to minor children by	1996	RP 107/1996	Recommendations

Project number	Title	Year of report	Reference number of published report	Result
	interested persons		ISBN 0 621 17515 3	incorporated in the Children's Act 38 of 2005
	Domestic violence	-	See Annexure G	Domestic Violence Act 116 of 1998 enacted
	Maintenance: Interim report	1998	RP 137/1998 ISBN 0 621 28685 0	Maintenance Act 99 of 1998 enacted
	Custody of and access to minor children	-	-	See Chapter 3
	Review of aspects of matrimonial property law	-	-	See Chapter 3
	Hindu marriages	-	-	See Chapter 3
	Review of the law of maintenance	-	-	See Chapter 3
101	The application of the Bill of Rights to the criminal law, the law of criminal procedure and sentencing	2001	RP 118/2001 ISBN 0 621 31451 X	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 2001
102	The civil jurisdiction of courts	-	-	Struck off
103	Capping of claims against the Multilateral Motor Vehicle Accidents Fund	-	-	Struck off
104	Money laundering and related matters	1996	RP 31/1997 ISBN 0 621 17621 4	Financial Intelligence Centre Act 38 of 2001 enacted
105	Review of security legislation			
	Monitoring and Interception Prohibition Act 127 of 1992	1999	RP 203/1999 ISBN 0 621 29897 2	Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 enacted
	Terrorism	2002	RP 216/2002 ISBN 0 621 33513 5	Protection of Constitutional Democracy against Terrorism and Related Activities Act 33 of 2004 enacted
106	Juvenile Justice	2000	RP 159/2000 ISBN 0 621 30228 7	Child Justice Act 75 of 2008 enacted
107	Sexual offences	2002	RP 16/2003 ISBN 0 621 33583 5	Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 enacted
	Adult prostitution	-	-	See Chapter 3
	Pornography and children	-	-	See Chapter 3
108	Computer-related crimes	-	-	Struck off
109	Review of the Marriage Act	2001	RP 117/2001 ISBN 0 621 31454 4	Report under consideration by Department of Home Affairs – report submitted to the Department in 2001
110	Review of the Child Care Act	2002	RP 17/2003	Children's Act 38 of 2005 and

Project number	Title	Year of report	Reference number of published report	Result
			ISBN 0 621 33584 3	Children's Amendment Act 41 of 2007 enacted
111	Jurisdiction of magistrates' courts in constitutional matters	1998	RP 80/2000 ISBN 0 621 30062 4	Recommendations not implemented
112	Sharing of pension benefits	1999	RP 82/2000 ISBN 0 621 30060 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 1999
113	Use of electronic equipment in court proceedings	-	-	Struck off – continued as part of Project 126
	Postponement of criminal cases via audio-visual link	2003	RP 211/2003 ISBN 0 621 34990 9	Criminal Procedure Amendment Act 65 of 2008 enacted
114	Publication of divorce proceedings	2002	RP 217/2002 ISBN 0 621 33572 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
115	Review of administrative law	1999	ISBN 0 621 29881 6	Promotion of Administrative Justice Act 3 of 2000 passed
116	The carrying of firearms and other dangerous weapons	-	-	Struck off
117	The legal position of voluntary associations	-	-	Struck off
118	Domestic partnerships	2006	ISBN 0 621 37255 7	Civil Union Act 17 of 2006 enacted Proposed Domestic Partnerships Bill under consideration by Department of Home Affairs
119	Uniform national legislation on the fencing of national roads	-	-	Struck off
120	Section 63(3) of the Insurance Act 27 of 1943	-	-	Struck off
121	Consolidated legislation pertaining to international co-operation in civil matters	2006	ISBN 0 621 38480 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2008
122	Assisted decision-making: Adults with impaired decision-making capacity	-	-	See Chapter 3
123	Protected disclosures	2007	ISBN 0 621 38278 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in November 2008

Project number	Title	Year of report	Reference number of published report	Result
124	Privacy and data protection	2009	ISBN 0 621 38922 7	Introduced into Parliament on 25 August 2009 as the Protection of Personal Information Bill [Bill 9 – 2009]
125	Prescription periods	-	-	See Chapter 3
126	Review of the law of evidence	-	-	See Chapter 3
127	Review of administration orders	-	-	See Chapter 3
128	Review of aspects of the law of divorce	-	-	Struck off – see Project 100
129	Review of aspects of matrimonial property law	-	-	Struck off – see Project 100
130	Stalking	2006	ISBN 978 0 621 38320 1	Protection from Harassment Act 17 of 2011 passed
131	Trafficking in persons	2008	ISBN 0 621 38926 5	Introduced into Parliament on 15 March 2010 as the Prevention and Combating of Trafficking in Persons Bill [Bill 7 – 2010]
132	Abolition of the oath	-	-	Struck off
133	A specific civil action in respect of consequential damages arising from hoaxes	-	-	Struck off
134	Administration of estates			
	Interim report	2008	ISBN 0 621 38277 8	Interim report under consideration by Department of Justice and Constitutional Development – interim report submitted to the Department in November 2008
135	Review of witchcraft legislation	-	-	See Chapter 3
136	Multi-disciplinary legal practices	-	-	See Chapter 3
137	Expungement of certain criminal records	-	-	See Chapter 3
138	The practice of <i>ukuthwala</i>	-	-	See Chapter 3

ANNEXURE D

MEMBERS OF THE COMMISSION IN ORDER OF APPOINTMENT

Title/Name	Term of office
Chairpersons	
Judge D H Botha, Judge of Appeal	28/09/1973 to 28/12/1975
Chief Justice P J Rabie	27/02/1976 to 31/05/1982
Judge G Viljoen, Judge of Appeal	30/09/1982 to 30/11/1988
Judge H J O van Heerden, Judge of Appeal	01/12/1988 to 31/12/1995
Chief Justice I Mahomed	01/01/1996 to 17/06/2000
Madam Justice Y Mokgoro, Justice of the Constitutional Court	03/11/2000 to 31/12/2006 01/01/2007 to 31/12/2011
Vice-Chairpersons	
Judge President N James	28/09/1973 to 13/07/1977
Judge G Viljoen, Judge of Appeal	22/09/1977 to 27/09/1982
Judge H J O van Heerden, Judge of Appeal	30/09/1982 to 30/11/1988
Judge P J J Olivier, Judge of Appeal	01/12/1988 to 31/12/1998
Madam Justice Y Mokgoro, Justice of the Constitutional Court	01/01/1999 to 02/11/2000
Judge M L Mailula, Judge of the High Court	01/01/2002 to 31/12/2006
Judge W L Seriti, Judge of the High Court	01/01/2007 to 31/12/2011
Full-time members	
Mr G G Smit	01/01/1982 to 31/12/1995
Judge P J J Olivier	01/02/1986 to 31/03/1995
Prof R T Nhlapo	01/01/1996 to 30/09/2000
Prof I P Maithufi	26/03/2001 to 31/12/2006
Ms T Madonsela	01/01/2007 to 14/10/2009
Members	
Mr D J du P Geldenhuys	28/09/1973 to 31/10/1975
Mr C P Joubert SC	28/09/1973 to 20/08/1974
Mr J E Knoll	28/09/1973 to 31/12/1995
Mr D D van Niekerk SC	28/09/1973 to 31/01/1979
Prof A D J van Rensburg	28/09/1973 to 30/08/1982
Mr H J O van Heerden SC	30/09/1974 to 11/08/1976
Mr J C Ferreira SC	22/09/1975 to 31/10/1979
Mr M Bliss QC	07/10/1976 to 24/02/1977
Mr F H Grosskopf SC	01/07/1977 to 21/11/1980
Mr G G Smit	01/02/1979 to 01/01/1982
Mr P A J Kotzé	01/11/1979 to 30/10/1988

Mr P M Nienaber SC	14/06/1981 to 27/07/1982
Mr P J J Olivier SC	30/09/1982 to 01/12/1988
Prof J T Delpont	30/09/1982 to 27/05/1987
Prof D J Joubert	21/12/1987 to 31/12/1995
Dr W G M van Zyl	01/11/1988 to 31/10/1991
Mr R P McLaren SC	24/07/1989 to 31/10/1990
Prof C R M Dlamini SC	08/05/1991 to 31/12/1995
Mr J A Venter	12/03/1992 to 31/12/1995
Justice Y Mokgoro	01/01/1996 to 31/12/1998
Mr J J Gauntlett SC	01/01/1996 to 31/12/2006
Mr P Mojapelo	01/01/1996 to 31/12/2001
Ms Z Seedat	01/01/1996 to 31/12/2006
Judge M L Mailula	01/01/1999 to 31/12/2001
Prof C E Hoexter	27/10/1999 to 31/12/2004
Judge C T Howie	03/11/2000 to 31/12/2006
Judge W L Seriti	01/01/2002 to 31/12/2006
Prof C Albertyn	01/01/2007 to 31/12/2011
Judge D Davis	01/01/2007 to 31/12/2011
Mr T Ngcukaitobi	01/01/2007 to 31/12/2011
Mr D Ntsebeza SC	01/01/2007 to 31/12/2011
Prof P J Schwikkard	01/01/2007 to 31/12/2011
Ms M Sello	01/01/2007 to 31/12/2011

ANNEXURE E

ADVISORY COMMITTEES OF THE COMMISSION AND THEIR MEMBERS

Project	Members	Background
Project 25 Legislation administered by the Department of Agriculture, Forestry and Fisheries	Ms D Collier	University of Cape Town
	Prof ML Mbaob	University of the North West
	Ms M Moselagomo	Agricultural Research Council
Project 25 Legislation administered by the Department of Basic Education	Prof E Bray	University of South Africa
	Ms S Budhu	University of South Africa
	Dr R Joubert	University of Pretoria
	Ms W Kaguongo	University of Pretoria
	Prof BP Wanda	University of Fort Hare
Project 25 Legislation administered by the Department of Communications	Dr T Cohen	Neotel Regulatory Affairs
	Ms J Limpitlaw	Communications expert and lawyer
	Ms N Mabandla	Edward Nathan Sonnenbergs Attorneys
	Ms C Raffinetti	Edward Nathan Sonnenbergs Attorneys
	Ms LA Thornton	Lisa Thornton Inc
Project 25 Legislation administered by the Department of Co-operative Governance and Traditional Affairs	Ms H Zondo-Kabini	Bowman Gilfillan Inc Attorneys
	Prof M Beukes	University of South Africa
	Mr J Brickhill	Legal Resources Centre
	Ms A du Plessis	University of the North West
	Mr T Madlingozi	University of Pretoria
	Prof N Olivier	University of Pretoria
	Dr DM Pretorius	Bowman Gilfillan Inc Attorneys
	Ms R Roos	University of the North West
Project 25 Legislation administered by the Department of Defence and Military Veterans	Mr M Tenza	Walter Sisulu University
	Prof H van As	Nelson Mandela Metropolitan University
	Adv T Norman	Durban Bar
Project 25 Legislation administered by the Department of Energy	Rear Admiral D Smart	Formerly of the SANDF
	Adv A Tshivhase	University of Cape Town
	Ms PV Mnonopi	University of Fort Hare
	Dr OJ Olowu	North West University
Project 25 Legislation administered by the Department of Environmental Affairs	Mr C Stevens	Tabacks and Associates Attorneys
	Prof E van der Schyff	University of the North West
	Prof L Feris	University of Pretoria
	Prof L Kotze	University of the North West
	Ms KO Lefenya	University of the North West
Mr T Murombo	University of the Witwatersrand	
Mr A Paterson	University of Cape Town	

Project	Members	Background
	Prof W Scholtz	University of the North West
Project 25 Legislation administered by the Department of Health	Dr P Andanda	University of the Witwatersrand
	Adv A Hassim	The Aids Law Project
	Ms M Mushariwa	University of the Witwatersrand
	Ms K Pillay	University of the Witwatersrand
	Dr J Singh	University of KwaZulu-Natal
	Prof M Slabbert	University of South Africa
Project 25 Legislation administered by the Department of Higher Education and Training	Prof E Bray	University of South Africa
	Ms S Budhu	University of South Africa
	Dr R Joubert	University of Pretoria
	Ms W Kaguongo	University of Pretoria
	Prof BP Wanda	University of Fort Hare
Project 25 Legislation administered by the Department of Home Affairs	Ms A Bhamjee	University of the Witwatersrand
	Prof T Boezaart	University of Pretoria
	Prof M Carnelley	University of KwaZulu-Natal
	Prof J Heaton	University of South Africa
	Ms MAB Majoko	University of KwaZulu-Natal
	Adv N Morei	University of the North West
	Prof T Mosikatsana	University of the Witwatersrand
	Mr J Pokroy	Pokroys Attorneys
Project 25 Legislation administered by the Department of Justice and Constitutional Development	Mr C Watters	Watters Attorneys
	Mr R Badal	Raj Badal and Associates Attorneys
	Mr G Bradfield	University of Cape Town
	Ms K Lehmann	University of Cape Town
	Ms B Majiki	Majiki and Vuba Attorneys
	Adv M Malete	Pelo-Tshwaana Consultancy CC
	Prof L Meintjes van der Walt	University of Fort Hare
	Mr MM Mongake	University of the North West
	Mr T Mutangi	University of Pretoria
	Ms C Ncube	University of Cape Town
	Dr I Nonjongo	University of Cape Town
	Prof M Paleker	University of Cape Town
	Ms K Phelps	University of Cape Town
	Prof M Reddi	University of KwaZulu-Natal
	Dr A Skelton	University of Pretoria
Dr C Theophilopoulos	University of the Witwatersrand	
Judge RH Zulman	Retired Judge of the High Court	
Project 25 Legislation administered by the Department of Labour	Dr K Calitz	University of Stellenbosch
	Prof M Christianson	University of the Witwatersrand
	Ms M Conradie	University of the Free State
	Prof C Cooper	University of the Witwatersrand
	Mr HJ Deacon	University of the Free State
	Mr A K Funnah	University of Pretoria
	Prof E Kalula	University of Cape Town
	Prof R le Roux	University of Cape Town
	Adv R Letseku	University of Limpopo
	Ms N Lubisi-Nkoane	University of Fort Hare
Mr K N Matshekg	University of Johannesburg	

Project	Members	Background
	Prof O Sibanda	University of South Africa
	Mr C Todd	Bowman Gilfillan Inc Attorneys
	Prof BPS van Eck	University of Pretoria
	Ms T Zondeki	University of Fort Hare
Project 25 Legislation administered by the Department of Mineral Resources	Ms PV Mnonopi	University of Fort Hare
	Dr OJ Olowu	North West University
	Mr C Stevens	Tabacks and Associates Attorneys
	Prof E van der Schyff	University of the North West
Project 25 Tax legislation administered by National Treasury	Prof R Franzen	University of South Africa
	Ms T Gutuza	University of Cape Town
	Mr C Louw	University of Pretoria
	Dr MO Mhango	University of the Witwatersrand
	Ms E Muller	University of Pretoria
	Prof L Olivier	University of Johannesburg
	Prof L van Schalkwyk	University of Stellenbosch
Project 25 Legislation administered by the Department of Rural Development and Land Reform	Prof J Bekker	University of Pretoria
	Prof W du Plessis	University of the North West
	Prof W Freedman	University of KwaZulu-Natal
	Ms L Mbatha	University of the Witwatersrand
	Prof H Mostert	University of Cape Town
	Prof N Olivier	University of Pretoria
	Prof J Pienaar	University of Stellenbosch
	Prof A van der Walt	University of Stellenbosch
	Prof J van Wyk	University of South Africa
Project 25 Legislation administered by the Department of Tourism	Prof L Feris	University of Pretoria
	Prof L Kotze	University of the North West
	Ms KO Lefenya	University of the North West
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	University of the North West
Project 25 Legislation administered by the Department of Trade and Industry	Prof F Cassim	University of the Witwatersrand
	Prof P Delpont	University of Pretoria
	Dr A Govindjee	Nelson Mandela Metropolitan University
	Prof M Havenga	University of South Africa
	Prof A Itzikowitz	Edward Nathan Sonnenbergs Attorneys
	Mr MM Mnisi	University of Johannesburg
	Mr JR Modise	University of the North West
	Mr TK Mojela	University of Limpopo
	Prof TH Mongalo	University of Cape Town
	Prof M Roestoff	University of Pretoria
	Prof EC Schlemmer	University of South Africa
	Prof E Snyman-Van Deventer	University of the Free State
	Prof JC Sonnekus	University of Johannesburg
	Ms A Stern	Formerly of the University of the Witwatersrand

Project	Members	Background
Project 100 – Family law and the law of persons	Judge D van Zyl (Chairperson)	Inspecting Judge in the Judicial Inspectorate of the Department of Correctional Services; formerly Judge of the Western Cape High Court
Custody of and access to minor children	Prof E Bonthuys	University of the Witwatersrand
	Adv F Bosman	Advocate of the High Court Former Chief Family Advocate
Review of aspects of matrimonial property law	Prof IP Maithufi	University of Pretoria
	Ms Z Moletsane	Central Divorce Court, Johannesburg
	Prof T Mosikatsana	University of the Witwatersrand
	Prof J Mowatt	Rhodes University
Project 100 – Family law and the law of persons	Adv DN Perumal	University of KwaZulu-Natal
	Ms P Pillay-Shaik	Bowman Gilfillan Inc Attorneys
Hindu Marriages	Ms S Samuel	Legal Resources Centre, Durban
	Ms Y Sooka	Executive Director, Foundation for Human Rights
	Mr A Trikamjee	Practising attorney and Hindu priest
Project 107 – Sexual offences	Mr I Chetty	Previous head of the Film and Publication Board
Pornography and children		
Project 122 – Assisted decision-making: Adults with impaired decision-making capacity	Judge B du Plessis (project leader)	Former Judge of the North Gauteng High Court
	Prof J Bekker	Retired Dean of the Faculty of Law, Vista University
	Ms D Mahlangu	Department of Social Development
	Ms M Meyer	Office of the Master of the High Court
	Dr S Selemani	Psychiatrist in private practice
	Mr L Vitus	Retired Executive Manager of the SA Federation for Mental Health
Project 126 – Review of the law of evidence	Prof PJ Schwikkard (project leader)	Dean: Faculty of Law University of Cape Town
	Prof L Fernandez	University of the Western Cape
	Adv T Masuku	Cape Bar
	Judge T Ndita	Judge of the Eastern Cape High Court
	Judge M Nhlantla	Judge of the Eastern Cape High Court

ANNEXURE F

PRESENT PROGRAMME OF THE COMMISSION

Project number	Title
25	The establishment of a permanently simplified, coherent and generally accessible statute book <ul style="list-style-type: none"> • Statutory law revision: Redundancy, obsolescence and constitutionality of legislation • Review of the Interpretation Act
94	Arbitration <ul style="list-style-type: none"> • Role for ADR in civil practice • ADR and the criminal law
100	Family law and the law of persons <ul style="list-style-type: none"> • Custody of and access to minor children • Review of aspects of matrimonial property law • Hindu marriages • Review of the law of maintenance
107	Sexual offences <ul style="list-style-type: none"> • Sexual offences: Adult prostitution • Pornography and children
122	Assisted decision-making
125	Prescription periods
126	Review of the law of evidence <ul style="list-style-type: none"> • Hearsay and relevance • Electronic evidence • Cyber crime
127	Review of administration orders
134	Administration of estates
135	Review of witchcraft legislation
136	Multi-disciplinary legal practices
137	Expungement of certain criminal records
138	The practice of <i>ukuthwala</i>

ANNEXURE G

PAPERS PUBLISHED BY THE COMMISSION IN ITS RESEARCH SERIES

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
1	Mr J P J Coetzer SC	A critical legal comparative study of law reform in South Africa (translation)	ISBN 0 621 09442 0
2	Prof Ellison Kahn	The life and works of Hugo Grotius (1583-1645)	GP-S 3 00344
3	Mrs M A Olwage (ed)	Women and sexual offences in South Africa: Proceedings of a seminar held by the Institute for Criminology at the University of South Africa in conjunction with the South African Law Commission, Pretoria, 18 October 1984 (translation)	ISBN 0 621 09779 9
4	Mr S I E van Tonder SC (ed)	Index to the Opinions of the Roman-Dutch Lawyers and the Decisions of the Courts of the Netherlands which have been digested in the <i>Algemeen Beredeneerd Register of Nassau La Leck</i> (1741-1795), by Dr A A Roberts, Vols 1(A-B), 2(C-D), 3(E-H), 4(I-L), 5(M), 6(N-R), 7(S-T) and 8(U-W)	Vol 1 ISBN 0 621 09382 3 Vol 2 ISBN 0 621 09646 6 Vol 3 ISBN 0 621 09778 0 Vol 4 ISBN 0 621 10254 7 Vol 5 ISBN 0 621 10295 4 Vol 6 ISBN 0 621 10686 0 Vol 7 ISBN 0 621 10710 7 Vol 8 ISBN 0 621 10709 3
5	Profs F J Bosman, J De Smidt, H W van Soest & P van Warmelo	Observations on decided cases concerning antenuptial contracts written by Cornelius Neostadius	ISBN 0 621 09855 8

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
6	Profs R Feenstra, P van Warmelo & D T Zeffertt	Some cases heard in the <i>Hooge Raad</i> reported by Willem Pauw	ISBN 0 621 09715 2
7	Mr P J J Viljoen	South African Noter-up to the Institute of Justinian	ISBN 0 621 09743 8
8	Prof P van Warmelo and Adv C J Visser	Aantekeninge van Johannes Voet oor die Inleidinge van Hugo de Groot (text and translation)	Vol 1 ISBN 0 621 10641 0 Vol 2 ISBN 0 621 10642 9
9	Prof L J du Plessis	Translation of Vinnius' <i>Tractatus de Pactis</i>	ISBN 0 621 10277 6
10	Prof W J Hosten (ed and transl), Mrs C van Soelen and Mr P Ellis	Treatise on the quasicontract called <i>promutuum</i> and on the <i>condictio indebiti</i> by Robert-Joseph Pothier	ISBN 0 621 10722 0
11	Prof R Whitaker	<i>Quaestiones juris privati</i> by Cornelius van Bijkershoek	Vol 1 ISBN 0 621 10657 7 Vol 2 ISBN 0 621 10675 5
12	Profs J T Delpont and C R M Dlamini	Two lectures on law reform	ISBN 0 621 10670 4
13	Mr H C Smuts (ed)	Report on the Fourth International Congress with the theme <i>Law and Computers</i> , which was held in Rome from 16 to 21 May 1988	ISBN 0 621 12639 X
14	Mr P J J Viljoen	South African Noter-up to the <i>Corpus Juris Civilis</i> of Justinian including the Institutes of Gaius	ISBN 0 621 13088 5
15	Margaret Hewett (transl)	<i>Censura Forensis</i> Part I Book V by Simon van Leeuwen	ISBN 0 7970 2231 7
16	SALRC	Domestic Violence	Accessible on SA Law Reform Commission Website
17	SALRC / GTZ	Empirical study of the sentencing practices in South Africa	ISBN 0 621 30091 8
18	SALRC / GTZ	Sentencing: An empirical, quantitative study on the progress and finalisation, including by conviction, of criminal matters reported to the police	ISBN 0 621 31582 6
19	SALRC / GTZ	Simplification of criminal procedure: Settlements out of court – a comparative study of European criminal justice systems	ISBN 0 621 29881 6

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