South African Law Reform Commission

FORTIETH ANNUAL REPORT

OF THE

SOUTH AFRICAN LAW REFORM COMMISSION

2012 / 2013

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

Ms K Pillay

Acting Secretary of the South African Law Reform Commission

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.

The address of the South African Law Reform Commission is as follows:

Postal address

The Secretary

South African Law Reform Commission

Private Bag X668

Pretoria

0001

REPUBLIC OF SOUTH AFRICA

Physical address

Spooral Park Building

2007 Lenchen Avenue South

Centurion

Telephone:	(012) 622 6300
Fax:	(012) 622 6362
E-mail:	Reform@justice.gov.za
Internet:	http://salawreform.justice.gov.za

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CHAPTER 1

OVERVIEW

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OVERVIEW

History of the South African Law Reform Commission

The South African Law Reform Commission (SALRC) celebrates its 40th anniversary this year. The South African Law Commission was established by the South African Law Commission Act, Act No. 19 of 1973. The Act was assented to on 27 March 1973 and came into operation on 1 September 1973. The Act was amended several times, among others to improve the SALRC's operational procedures. The Judicial Matters Amendment Act, Act No. 55 of 2002 changed the name of the Act to the "South African Law Reform Commission Act, Act No. 19 of 1973" and the name of the Commission to the "South African Law Reform Commission".

The South African legal system is an amalgamation of the Roman-Dutch and English common law systems, statutory law and case law, with indigenous or customary law as an additional component. This establishes the South African legal system as a mixed jurisdiction. As explained in the South African Law Commission Annual Report for 1983, no system of law can remain static. In every developing and dynamic society new demands are made on the law because of various factors, among which are an ever-changing sociological, family and property scene, commercial phenomena, technological and scientific advancement, the need for new and better safeguards to protect the privacy, personal and other rights of the individual, inadequate provision for redress of wrongs and encroachments upon the rights of members of the community. For these reasons it is not only desirable, but also essential that the law should be constantly revised, adapted and supplemented.

In an endeavour to satisfy the requirements of the time, the Law Revision Committee was instituted in 1950. Although never statutorily established this body was comprised of a number of prominent lawyers and did valuable working during its existence. However, in course of time, certain deficiencies were found in the constitution and functioning of this body and the need therefore arose to establish a statutory law reform body with powers to undertake its task in a purposeful and sustained manner. The Law Revision Committee was dissolved on 31 January 1973 after being in existence for nearly 23 years and was succeeded by the South African Law Commission, now known as the South African Law Reform Commission.

Establishment of the South African Law Commission

The first annual report issued by the SA Law Commission for 1973 reported that the first meeting of the Commission was held on 21 November 1973 in Pretoria, on which occasion the official opening was officiated by Mr PC Pelser, Minister of Justice at the time. The first Commission consisted of Judge DH Botha, Judge of the Appeal Court (chairperson); Judge N James, Judge President of the Natal Provincial Division of the Supreme Court (vice-chairperson); Commission members Mr DJ du P Geldenhuys, Deputy Chief Magistrate of Johannesburg; Adv CP Joubert SC, a practising advocate; Mr JE Knoll, a practising attorney; Adv DD van Niekerk SC, Deputy Chief State Law Adviser, Department of Justice; and Prof ADJ van Rensburg, Head of the Department of Private Law of the University of South Africa. Adv Joubert was later replaced by Adv HJO van Heerden SC, also a practising advocate. Mr GG Smit was the Commission's first secretary.

South African Law Commission 1973

From left to right: Adv DD van Niekerk SC, Mr JE Knoll, Adv CP Joubert SC, Judge N James (vice-chairperson), Judge DH Botha (chairperson), Mr GG Smit (secretary), Mr CM van Niekerk (acting secretary), Mr DJ du P Geldenhuys, Prof ADJ van Rensburg.

Chairperson 1973

Judge DH Botha, Judge of Appeal
Chairperson of the South African Law Commission
28 September 1973 to 28 December 1975

Adv M Bliss QC, a practising advocate, was a member of the Commission for a few months from October 1976 to February 1977. During the period 1977 to 1988 the Commission consisted of Judge PJ Rabie, Judge of the Appeal Court (chairperson); Judge G Viljoen, Judge of the Transvaal Provincial Division of the Supreme Court (vice-chairperson); Commission members Adv JC Ferreira SC, head of the Training Section of the Department of Justice; Dr FH Grosskopf, a practising advocate; Mr JE Knoll, a practising attorney; Adv DD van Niekerk SC, Deputy Chief State Law Adviser, Department of Justice; and Prof ADJ van Rensburg, Head of the Department of Private Law of the University of South Africa. After Adv Van Niekerk's resignation in 1979, Adv GG Smit, head of the Section: Legislation, Department of Justice, a former secretary of the Commission, was appointed as a member of the Commission. Mr PM Nienaber SC, a practising advocate, was a Commission member for a little over a year from 14 June 1981 to 27 July 1982. Adv A Bosch succeeded Mr Smit as secretary in 1979, where after Adv JD de Bruyn was appointed as the Secretary in the course of 1981.

The South African Law Commission 1979

From left to right: Back row: Mr GG Smit, Prof ADJ van Rensburg, Mr JE Knoll, Dr FH Grosskopf, Adv A Bosch (secretary); Front row: Judge G Viljoen (vice-chairperson), Judge PJ Rabie (chairperson), Adv JC Ferreira.

Adv Smit was appointed as the Commission's first full-time member with effect from 1 January 1982. Judge G Viljoen succeeded Judge Rabie as chairperson during the same year, on 30 September 1982. Judge HJO van Heerden was the vice-chairperson from the same date. Both were judges of the Appellate Division of the High Court. The other members at the time were Mr PAJ Kotzé, a regional court magistrate; Adv PJJ Oliver SC, a practising advocate and later a judge; Mr JE Knoll, a practising attorney; and Prof JT Delport, dean of the Faculty of Law of the University of Port Elizabeth. Mr DA Kruger was appointed as the Commission's secretary during the period of office of these Commission members. After Mr Kruger's departure, Mr GJ van Zyl acted as Secretary for several months and was appointed as Secretary with effect from 1 September 1987.

Chairperson 1976

Judge PJ Rabie, Judge of Appeal
Chairperson of the SA Law Commission
27 February 1976 to 31 May 1982

Chairperson 1982

Judge G Viljoen, Judge of Appeal
Chairperson of the SA Law Commission
30 September 1982 to 30 November 1988

Judge HJO van Heerden succeeded Judge Viljoen as chairperson on 1 December 1988. Judge Olivier was the vice-chairperson of the Commission from 1 December 1988 to 31 December 1998. The Commission had two full-time members for a few years from 1 February 1986 to 31 March 1995, when both Adv Smit as well as Judge Olivier were full-time members. The other Commission members appointed during the 1988-1989 time period or still in office at the time were Prof DJ Joubert, dean of the Faculty of Law of the University of Pretoria; Mr JE Knoll; Adv RP McLaren SC, practising advocate; and Dr WGM van Zyl, regional Court President. Adv McLaren resigned late in 1990 when he was appointed as a judge. The vacancy created by his resignation was filled by Prof CRM Dlamini, Registrar: Academic at the University of Zululand, who became the first black person to be appointed as a member of the Commission. Mr WJ Henegan was appointed as Secretary with effect from 1 December 1991.

South African Law Commission 1991

From left to right: Prof DJ Joubert, Dr WGM van Zyl, Minister HJ Coetsee, Prof CRM Dlamini SC, President FW de Klerk, Judge HJO van Heerden (chairperson), Judge PJJ Olivier (vice-chairperson), Mr GG Smit.

A new era for law reform in South Africa

Following the first democratic elections in South Africa on 27 April 1994, Advocate AM Omar was appointed as Minister of Justice on 13 May 1994. The President appointed a new Commission with effect from 1 January 1996. The Commission consisted of Judge I Mahomed, later Chief Justice of South Africa (chairperson); Judge PJJ Olivier, Judge of the Appeal Court (vice-chairperson); and Commission members Adv JJ Gauntlett SC, member of the Cape Bar; Mr P Mojapelo, practicing attorney; Judge JY Mokgoro, Judge of the Constitutional Court; and Ms Z Seedat, practicing attorney. Judge Mokgoro and Ms Seedat became the first women to be appointed as Commission members. Prof RT Nhlapo was the full-time member from 1 January 1996 until his resignation on 30 September 2000.

On 26 October 1994 the Human Sciences Research Council awarded the much sought after *Humanitas* prize to the South African Law Commission (as the SALRC was known at the time). It is the Council's highest award in the field of applied human sciences research. As explained

in the SALC Annual Report of 1994, the prize is awarded on the grounds of outstanding research in the field of the human sciences which has had a proven and practical effect on the improvement of the quality of life in South Africa. The *Humanitas* award was "Awarded to the South African Law Commission for outstanding research into human rights and constitutional models" for its reports on Group and Human Rights (Project 58) and Constitutional Models (Project 77).

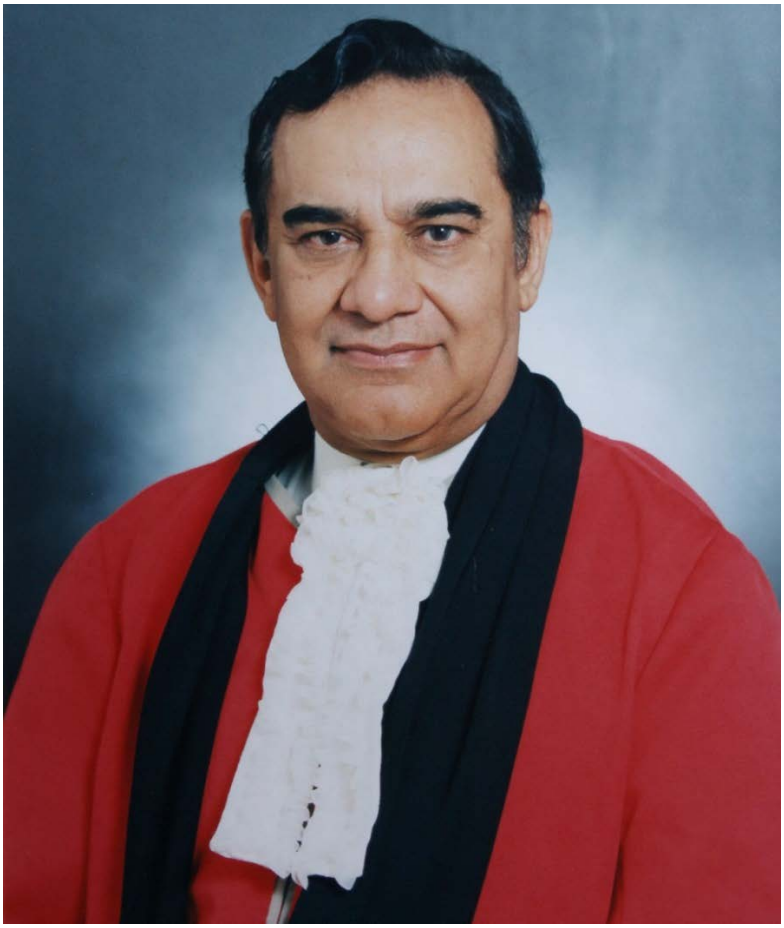
South African Law Commission 1996

From left to right: back row: Ms Z Seedat, Mr P Mojapelo, Adv JJ Gauntlett SC, Prof RT Nhapo, Judge JY Mokgoro; front row: Judge PJJ Olivier (vice-chairperson), Judge I Mahomed (chairperson).

When Judge Mahomed was appointed as chairperson of the Commission after the 1994 democratic elections, he brought with him a new vision and perspective on law reform, which had a dramatic impact on the Commission. Under his guidance the Commission changed its course to focus on investigations that would contribute towards enhancing the quality of life of previously disadvantaged groups, including women and children. Judge Mahomed is remembered for the passion with which he upheld an unshakable belief in the importance of human rights in a constitutional society and the way in which that belief became evident during deliberations of the Commission. His devotion to the protection of human rights and his

confidence in the Constitution can only be described as inspiring. Judge Mahomed passed away on 17 June 2000 after a brief illness.

Chairperson 1996



Chief Justice Ismail Mahomed
Chairperson 01 January 1996 to 17 June 2000

According to the SALC Annual Report of 1996 a number of new policies were adopted at the first meeting of the newly constituted Commission on 23 and 24 February 1996. In the main emphasis was placed on making the SALRC a community-oriented institution which could be seen by members of the public as a body driven by the needs of the people.

A law reform agency is a bridge between the people and the law. To remain relevant and useful to the community is serves, and to provide government with pragmatic advice, law reform must be supported by extensive research and effective public consultation. Consultation is required to ensure that the law reform process is consistent with the principles of participatory democracy

where the law is influenced by those it affects. This will ensure that the law evolves in a manner that is in tune with society. Laws that are derived from consultation are also more likely to function effectively and to be accepted by the community. It is therefore imperative that the community should become involved in the Commission's activities at grassroots level and that the Commission should not be viewed by the public as an academic and aloof institution.

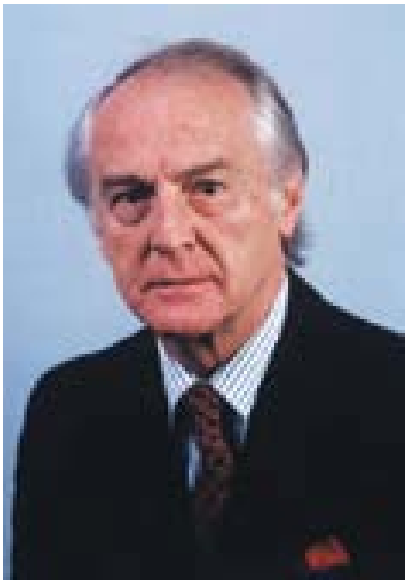
Judge Mahomed was succeeded as chairperson by Judge Yvonne Mokgoro, judge of the Constitutional Court. The rest of the Commissioners that were appointed with effect from 1 January 2002 were Judge M L Mailula (vice-chairperson); Professor I P Maithufi (full-time member); Adv J J Gauntlett SC, practicing advocate; Judge C T Howie, President of the Supreme Court of Appeal; Ms Z Seedat, practising attorney; and Dr W L Seriti (later Judge Seriti) as members. Prof CE Hoexter was appointed as additional member. Mr Henegan continued as Secretary until 31 March 2006, when he retired.

South African Law Commission 2001

JUDGE J Y MOKGORO
Chairperson
Judge of the Constitutional Court

JUDGE M L MAILULA
Vice-Chairperson
Judge of the High Court

PROF I P MAITHUFI
Full-time Member
Faculty of Law, University of Pretoria



JUDGE C T HOWIE
Member
President, Supreme Court of Appeal

MS Z SEEDAT
Member
Practising Attorney – Durban

ADV JJ GAUNTLETT SC
Member
Practising Advocate - Cape Town

PROF C E HOEXTER
Additional member
School of Law, University of the Witwatersrand

JUDGE W L SERITI
Member
Judge of the High Court

Judge Mokgoro was re-appointed as chairperson with effect from 1 January 2007 to 31 December 2011. The rest of the Commission for this period was comprised of Judge Willie Seriti and Ms Thuli Madonsela as vice-chairperson and full-time member respectively; and members Professor Cathi Albertyn from the University of the Witwatersrand; Judge Dennis Davis, Judge of the High Court and Judge President of the Competition Appeal Court; Mr Tembeka Ngcukaitobi, attorney; Advocate Dumisa Ntsebeza SC, practising advocate; Professor Pamela Schwikkard from the University of Cape Town; and Advocate Mahlape Sello, practising advocate. Various persons acted as Secretary after Mr Henegan's departure, until the appointment of Mr MF Palumbo as Secretary with effect from 1 June 2008 until his resignation at the end of January 2013.

South African Law Reform Commission 2007

JUSTICE JY MOKGORO
Chairperson
Justice of the Constitutional Court

JUDGE WL SERITI
Vice-Chairperson
Judge of the High Court

PROF C ALBERTYN
Member
Associate Professor
University of the Witwatersrand

JUDGE DM DAVIS
Member
Judge of the High Court

MS TN MADONSELA
Full--time member

MR NT NGCUKAITOBI
Member
Practising Attorney

ADVOCATE DB NTSEBEZA SC
Member
Practising Advocate

PROF PJ SCHWIKKARD
Member
Professor, University of Cape Town

ADVOCATE M SELLO
Member
Practising Advocate

Highlights of the SALRC's work

Human rights and constitutional models

In preparation of the onset of South Africa's democracy in 1994, the SALRC was requested to investigate the protection of human rights and different constitutional models. The SALRC conducted research into group and human rights and constitutional models as part of *Project 58 – Group and human rights* and *Project 77 – Constitutional models*. This research was considered in drafting the Constitution of the Republic of South Africa Act 200 of 1993, which in turn informed the drafting of the Constitution of the Republic of South Africa Act, 1996.

The SALRC investigation into group and human rights recommended the protection of individual rights by means of an entrenched bill of rights justiciable by an independent judiciary on the basis of equality before the law, non-discrimination and the safeguarding of the individual's fundamental rights and liberties. Examples of different types or rights were explained and discussed with reference to civil and political rights such as the right to life, liberty, equality, property, freedom of movement and speech, privacy, vote, representation in government, assemble and demonstrate, citizenship, legal representation and procedural rights. Socio-economic rights such as the right to medical care, food, housing, employment, education and participation in cultural life were also dealt with, as well as the so-called "people's rights", such

as the right to peace, self-determination, development, information and a clean and safe environment.

The investigation into constitutional models did not recommend legislation, but reviewed the requirements for a valid constitution. The report dealt with various issues, including the national territory of South Africa, citizenship, language, national symbols, separation of powers, national, regional and local government, the legislature, voters and representation, the executive, the judiciary, financial control and an ombudsman. Comments from respondents from across the community and political spectrum were also considered and discussed.

Post 1994

The Natural Fathers of Children Born out of Wedlock Act 86 of 1997 was an important development in South African law. Whereas the biological father of an illegitimate child had no rights in respect of his child under the common law, the Act made it possible for the natural father of a child born out of wedlock to apply to court for an order granting the father access rights or custody or guardianship of his child. The Act was the result of the recommendations made in the SALRC's *Project 79 – A father's rights in respect of his illegitimate child*. The legal position of fathers of children born out of wedlock was further developed and is now regulated by the Children's Act 38 of 2005.

South Africa was proactive in realising the need for an investigation into aspects of the law relating to AIDS. This extensive project, *Project 85 – Aspects of the law relating to AIDS*, led to the adoption of a National Policy on HIV/AIDS for learners in public schools by the Department of Education, the promulgation of subordinate legislation (Regulations on Hazardous Biological Agents promulgated in December 2001), legislation on pre-employment HIV testing incorporated into the Employment Equity Act 55 of 1998, and provisions in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 to provide for the need of victims of sexual offences for information relating to the HIV status of alleged perpetrators.

The SALRC conducted a number of investigations that flowed from the requirements of the Constitution. Section 39 of the Constitution determines that every court, tribunal or forum, when interpreting legislation and when developing the common law or customary law, must promote the spirit, purport and objects of the Bill of Rights. *Project 90 – Customary law* dealt with, among others, the harmonisation of the common law and indigenous law. This investigation has already

resulted in the adoption of two statutes, namely the Recognition of Customary Marriages Act 120 of 1998 and the Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009. The protection of especially women and children was the focus of the domestic violence investigation done as part of *Project 100 – Family law and the law of persons*, which gave rise to the Domestic Violence Act 116 of 1998.

Project 105 – Review of security legislation was initiated by the Minister of Safety and Security after some ground work on terrorism had been done by the South African Police Service. The investigation was conducted in two stages. The first stage dealt with the Monitoring and Interception Prohibition Act 127 of 1992, which resulted in the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, while the second stage focused on terrorism and resulted in the Protection of Constitutional Democracy against Terrorism and Related Activities Act 22 of 2004. The 2002 Act regulates matters such as the interception of communications, the monitoring of signals and radio frequency spectrums and the provision of communication-related information. The 2004 Act provides for measures to prevent and combat terrorist and related activities, provides for terrorism and associate offences, and gives effect to international instruments dealing with terrorist and related activities.

The SALRC conducted a number of investigations that focused on children or where the protection of children formed an important aspect of the investigation. The Child Justice Act 75 of 2007 deals with children in conflict with the law. The Child Justice Act of 2007, which is the result of the SALRC's recommendations made in the *Report on Juvenile Justice* (Project 106), brings about a major shift in the manner in which South Africa deals with juvenile offenders. The Act aims to establish a criminal justice system for children who are in conflict with the law in accordance with the values underpinning the Constitution and the international obligations of the Republic. The Act among others provides for the minimum age of criminal capacity, a mechanism for dealing with children who lack criminal capacity, the holding of preliminary inquiries and diverting matters away from the formal criminal justice system, and child justice courts. The Act in addition extends the sentencing options for convicted children and entrenches the notion of restorative justice in the criminal justice system.

The protection of children is further enhanced by the provisions of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. The Act is the result of the first and second stages of *Project 107 – Sexual offences*. The Act repeals the common law crime of rape

and redefines the crime of rape, expanding it to all forms of sexual penetration; creates several new statutory sexual offences, such as sexual grooming, sexual violation and sexual assault; and focuses strongly on the protection of children against crimes of a sexual nature. The Act also sets the minimum age of consent for sexual acts and sexual conduct, provides certain services to victims of sexual offences and establishes a National Register of Sex Offenders. The third stage of this investigation, dealing with adult prostitution, is currently in progress.

South Africa is one of a few countries worldwide that makes specific provision in its Constitution (section 28 of the Constitution) for protection of the rights of children. One of the major considerations in *Project 110 – Review of the Child Care Act* was the meaningful expansion and support of this provision of the Bill of Rights as contained in the Constitution. The comprehensive and ground-breaking Children's Act 38 of 2005 was passed in two parts in 2005 and 2007 and became fully operational on 1 April 2010.

The Children's Act sets out principles relating to the care and protection of children, defines parental responsibilities and rights, deals with children's courts, provides for partial care, early childhood development, prevention and early intervention, alternative care, foster care, child and youth care centres, drop-in centres, adoption, and gives effect to international agreements pertaining to children and child protection. Important new legal developments introduced by the Children's Act is the lowering of the age of majority to 18 and the extension of full parental responsibilities and rights to unmarried fathers if certain conditions have been complied with. The Act also gives children access to court and provides for child participation and the right of children to be heard.

The objective of *Project 113 – Use of Electronic Equipment in Court Proceedings* was to determine whether the use of electronic equipment in court proceedings is a viable option to save costs or prevent delays in civil and criminal trials. The office of the National Director of Public Prosecutions requested the SALRC to expedite the investigation and to conduct a separate investigation into the possibility of postponement of cases via video conferencing. The SALRC's report titled *The Use of Electronic Equipment in Court Proceedings (Postponement of Criminal Cases via Audio-visual Link)* recommended the use of audio-visual links for applications for leave to appeal and appeals in respect of accused persons in custody in prison. The recommendations of this report have been incorporated into the Criminal Procedure Amendment Act 65 of 2008.

The 1996 Constitution came into operation on 4 February 1997. Meetings took place later that year between the Centre for Applied Legal Studies, the SALRC and the Planning Unit in the Ministry of Justice, where it was agreed that the SALRC should review administrative law and be the overall co-ordinating body to take responsibility for managing the project. Although there are other countries with administrative justice legislation, South Africa is unique in being required by its Constitution to adopt such legislation. Section 33(3) of the Constitution requires the adoption of national legislation which gives effect to the right to just administrative action. This investigation was done as *Project 115 – Review of administrative law*, which resulted in the adoption of the Promotion of Administrative Justice Act 3 of 2000.

Human rights and specifically the rights to equality and human dignity played a central part in *Project 118 – Domestic partnerships*. Some of the recommendations made in this investigation were incorporated in the Civil Union Act 17 of 2006, which allows homosexual couples to enter into a civil union that is recognised by law and that has the same legal consequences as a marriage concluded in terms of the Marriage Act.

The investigation on *Project 124 – Privacy and data protection* was included in the SALRC's programme subsequent to a request from the *Ad hoc* Parliamentary Committee on the Open Democracy Bill (adopted as the Promotion of Access to Information Act 2 of 2000). The Committee's report on the Bill explained that it dealt with access to personal information in the public and private sectors, also providing for mandatory protection of the privacy of third parties. The report pointed out that the Bill however does not regulate other aspects of the right to privacy such as the correction of and control over personal information. Project 124 dealt with the protection of personal information of persons where their information is being processed by another person or institution. The Protection of Personal Information Bill, which flowed from Project 124, is currently before Parliament.

The Commission's investigations into sexual offences and the review of the Child Care Act considered the issue of trafficking in children. However, the Commission subsequently decided to include a separate investigation into trafficking in persons, including children, in its programme as *Project 131 – Trafficking in persons*. As indicated in the report, trafficking in persons has become one of the most lucrative businesses today with links around the world. Trafficking in persons involves the trading of persons as commodities by various means and is often

connected to organised crime. A number of factors contribute to the trafficking of persons. These include poverty, lack of economic opportunities, war, natural disasters and political instability. The resulting Prevention and Combating of Trafficking in Persons Bill is currently before Parliament.

Prior to 1994

Even before the adoption of the 1993 and 1996 Constitutions, the SALRC played a pivotal part in the development of new and innovating legislation. The SALRC investigation *Project 12 – Review of the law of divorce* resulted in the Divorce Act 70 of 1979. The Divorce Act 70 of 1979 among others abolished the common law grounds for divorce (adultery and malicious desertion, both grounds necessitating proof of guilt) and introduced the concept of the irretrievable breakdown of a marriage. The Matrimonial Property Act 88 of 1984 abolished the archaic institution of matrimonial power, created a system of joint administration by both spouses in marriages in community of property, and significantly amended the patrimonial consequences of a marriage out of community of property by introducing the principle of accrual. The Act was preceded by an SALRC investigation with the lengthy title *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* (Project 15).

Project 27 – Abolition of civil imprisonment recommended the abolition of imprisonment for debt, which recommendation was effected with the Abolition of Civil Imprisonment Act 2 of 1977. The procedures applicable following judgment given for the payment of a sum of money by a judgment debtor was fleshed out by *Project 74 – Interim report on imprisonment for debt* and the final report on *Project 74 – Debt collecting*, which recommendations were effected by an amendment to the Magistrates' Court Act 32 of 1944.

Project 38 – Investigation into the legal position of illegitimate children gave rise to the Children's Status Act 82 of 1987, the provisions of which was later re-enacted in the Children's Act 38 of 2005. The Children's Status Act amended the law relating to paternity, guardianship and the status of certain children, including illegitimate children. The investigation into *Project 41 – The division of pension benefits on divorce* gave rise to the Divorce Amendment Act 7 of 1989, which amended the Divorce Act of 1979 to allow a party to a divorce action to share in the pension interest of the other party.

Effect was given to the recommendations made in the investigation relating to *Project 45 – Women and sexual offences in South Africa* by means of the Law of Evidence and the Criminal Procedure Amendment Act 103 of 1987, the Criminal Law and Criminal Procedure Act Amendment Act 39 of 1989 and the Prevention of Family Violence Act 133 of 1993. The resulting legislation pertains to matters such as the protection of the identity of complainants in sexual offence cases, abolishes the irrebuttable presumption that a boy under the age of 14 is incapable of sexual intercourse, regulates adducing evidence relating to the character of a person in connection with whom an offence of a sexual nature is alleged to have been committed, regulates the circumstances in which such cases take place in open court or evidence is presented in open court and makes it possible for a man to be convicted of the rape of his wife.

South Africa never had legislation dealing with surrogate motherhood. Under the common law, the woman that gives birth to a child is considered to be the mother of the child. As a result of developments in medical technology, it has become possible for a woman to give birth to a child that is biologically the child of another woman. The SALRC investigated the legal implications of this phenomenon in *Project 65 – Surrogate motherhood*. The legislation recommended to regulate surrogate motherhood was eventually incorporated as a chapter of the Children's Act 38 of 2005.

Child witnessed came under scrutiny in *Project 71 – Protection of child witnesses*. The SALRC made recommendations with regard to the treatment of child witnesses, such as allowing a child witness to give evidence with the assistance of an intermediary, and to give evidence by means of demonstrations, gesture language and other forms of non-verbal expression. The recommendations were enacted by the Criminal Procedure Act Amendment Act 135 of 1991.

Another legal innovation heralded by an SALRC investigation was the amendment of the Criminal Procedure Act 51 of 1977 to authorise prosecutors to enter into plea and sentence agreements with accused persons in certain circumstances. Plea and sentence agreements make a significant difference to the time, costs and resources expended on criminal cases. The Criminal Procedure Second Amendment Act 62 of 2001 which achieved this change, was the result of *Project 73 – The simplification of criminal procedure: Fourth interim report: Sentence agreements*.

It is clear that the work of the SALRC has had a major impact on the legal landscape of South Africa. The SALRC is indeed living up to its vision of being "a centre for excellence, producing ground-breaking research pivotal to the improvement and renewal of the legal system of South Africa."

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. The new Commission is in the process of being appointed.

Completed reports receiving the attention of government departments

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

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 2012 to 31 March 2013**. Since there was no Commission during the reporting period, no papers could be published.

Issue papers

No issue papers were published during the year under review.

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

Discussion papers

No discussion papers were published during the year under review.

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

Reports

No reports were published during the reporting period.

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, the former Secretary of the Commission, resigned at the end of January 2013.

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 is in the process of being filled.

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, consultation 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 4.

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

Ms Veruksha Bhana (with effect from 1 September 2012)
Ms Dellene Clark
Mr Tienie Cronje (seconded to the Office of the Chief Master with effect from 19 March 2012)
Ms Theresa Häderli (with effect from 1 September 2012)
Ms Anna-Marie Havenga
Mr Willie Jansen van Vuuren
Ms Jennifer Joni
Ms Ananda Louw
Mr Simon Maphanga (with effect from 1 September 2012)
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
Ms Maite Modiba (with effect from 1 September 2012)
Ms Maureen Moloi
Ms Tania Prinsloo
Ms Lowesa Roberts
Mr Pierre van Wyk
Ms Ronel van Zyl

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 Jacob Kabini

Administrative Officer:	Ms Johanna Msiza
Administrative Officer:	Mr Ajay Singh
Principal librarian:	Ms Rosinah Matlala (with effect from 15 May 2012)
Senior Librarian:	Ms Portia Bobodo
Administration Clerk:	Ms Chantelle Krebs
Administration Clerk:	Ms Edith Louw
Administration Clerk:	Mr Vusi Mavuso
Administration Clerk:	Ms Tume Mofoka
Administration Clerk:	Ms Patricia Moumakwe
Administration Clerk:	Mr Renier Swart
Operator:	Mr Koos Mahlangu
Food Service Aid:	Ms Anna Mahlangu
Messenger:	Mr George Maseko (passed away on 23 February 2013)

A post of Copy Editor was created on the organisational establishment of the SALRC with effect from 1 February 2012. The post is in the process of being filled.

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) Ms Maureen Moloi Mr Linda Mngoma Ms Maryna Oosthuizen Ms Rosinah Matlala Ms Portia Boboda	The Library Committee is responsible for considering the acquisition of publications to ensure the relevance of the holdings of the SALRC library. The Committee also liaises with the principal librarian at the DOJCD.	The SALRC's library was in storage for the greater part of the reporting period due to the relocation of the SALRC to new permanent office premises. Unpacking the library's publications commenced in March 2013. During the reporting period the Library Committee also attended to the matters referred to below.

Members	Purpose	Activities
		Ms SR Matlala commenced duties as Principal Librarian at the SALRC on 15 May 2012. The Committee met in September 2012 to consider newly published publications. The committee met with representatives from shelving companies in October and November 2012 and January 2013 to discuss and obtain quotations for the installation of library shelves and storeroom shelving in the SALRC's new office premises. The Committee regularly followed up on quotations with the companies. In March 2013 the committee was involved in overseeing arrangements for the DOJCD library asset verification, which proceeded in April 2013.

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 (until February 2013)	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.	While in temporary office premises in the De Meent Building, which was under construction, the Committee attended to various problems regarding the health and safety of the staff, including noise levels, the floor plan, fire escape routes, fire-fighting equipment and emergency telephone numbers for information of staff members. On 24 October 2012, after relocation to Spooral Park building on 1 October 2012, a briefing session was conducted with all staff members to inform them about the security system. The OHS Committee met on 16 November 2012 to discuss, among others, the activation of the

Members	Purpose	Activities
		security system and other security measures such as an evacuation procedure manual for the Spooral Park Building. On 22 January 2013 the OHS Committee submitted a draft SALRC Emergency Plan to DOJCD in compliance with the new SHER policy and procedures contained in Circular 1 of 2013 dated 7 January 2013 approved by the DG. On 12 February 2013 the OHS Committee had an assessment done of the electro-magnetic radiation emanating from the Vodacom base station on the roof of the Spooral Park building. According to the Electromagnetic Field Measurement Report, there is minimal exposure to radiation in the building. The OHS Committee met on 20 February 2013 to discuss the deployment of Bosasa security guards to Spooral Park building; security system (biometric system) updates and general security matters. Other issues dealt during January to March 2013 was the relocation of two bee hives, the containment of a fire in the workshop area, and facilitating the installation of air conditioning units.

Relocation Task Team

Members	Purpose	Activities
Mr Michael Palumbo Mr Willie van Vuuren Ms Ananda Louw Mr Linda Mngoma	The Relocation task Team organised the SALRC's move from its temporary to its permanent office	On 2 July 2010 the Secretary received a notice of the termination of the lease of the SALRC office premises in the Middestad Centre. The SALRC was requested to vacate the premises

Members	Purpose	Activities
Ms Maryna Oosthuizen (from 9 September 2010 until 02 November 2012)	premises. The Task Team liaised with DOJCD Facilities Management, the Department of Public Works, the removal company and the landlord of the new office premises on the relocation of the SALRC to its new office premises in Centurion.	by 31 August 2010, where after the SALRC moved to temporary accommodation in the De Meent Building. Most of its furniture and appliances, the registry and the library's contents were placed in storage. On 17 December 2010 the Department of Public Works (DPW) approved the procurement of a lease agreement for the Spooral Park Building in Centurion on behalf of the SALRC. The acting CFO of DOJCD made the necessary budget allocation to DOJCD: FM for the lease contract in December 2011. After several delays, the SALRC finally relocated to its new office premises at 2007 Lenchen Avenue South in Centurion on 2 October 2012.

Financing of the SALRC

The SALRC's budget for the financial year 1 April 2011 to 31 March 2012 was R 24 423 000, which is made up as follows:

- Personnel expenditure R20 000 000
- Current expenditure R 4 098 000
- Capital expenditure R325 000

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.

Consultation papers

A new category of Commission paper, referred to as a consultation paper, was introduced for purposes of Project 25 – Statutory Law Revision. Unconstitutional, redundant and obsolete provisions on the statute book are identified. Consultation papers with repeal and amendment proposals in respect of the legislation reviewed are then prepared and submitted to relevant state departments for consideration and comment. A consultation paper reviews the relevant legislation and contains preliminary findings and proposals regarding the legislation. The purpose of a consultation paper is to consult with the government department concerned. If the legislation affects more than one department the consultation paper is submitted to all the government departments involved. Consultation papers are not published.

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

Due to the absence of a Commission, no Commission meetings took place during the reporting period.

The advisory committee for Project 107 – Sexual Offences: Pornography and Children met on 19 July 2012.

The advisory committee for Project 126 – Review of the law of evidence met on 29 September 2012.

The advisory committee for Project 138 – The practice of *ukuthwala* met on 24 November 2012 and held a telephone conference on 05 March 2013.

The advisory committee for Project 122 – Assisted decision-making met on 13 March 2013.

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 • Statutory law revision: Redundancy, obsoleteness and constitutionality of legislation • Review of the Interpretation Act	Mr Pierre van Wyk Ms Veruksha Bhana Mr Simon Maphanga Mr Linda Mngoma Ms Aura Mngqibisa Ms Maureen Moloi Ms Tania Prinsloo Ms Lowesa Roberts Mr Willie van Vuuren Ms Ronel van Zyl Mr Pierre van Wyk
94	Arbitration • International arbitration • Domestic arbitration • Alternative dispute resolution	Ms Ananda Louw

100	Family law and the law of persons • Care of and contact with children • Review of aspects of matrimonial property law • Hindu marriages • Review of the law of maintenance	Ms Ananda Louw Ms Anna-Marie Havenga Ms Maureen Moloi Ms Jennifer Joni
107	Sexual offences • Adult prostitution • Pornography and children	Ms Dellene Clark
122	Assisted decision-making	Ms Anna-Marie Havenga
125	Prescription periods	Ms Theresa Häderli
126	Review of the law of evidence • Hearsay and relevance • Electronic evidence • Cyber crime	Mr Willie van Vuuren
127	Review of administration orders	Ms Lowesa Roberts
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 *ukuthwala*	Ms Maite Modiba

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 14 February 2013 and the strategic plan developed by the Department of Justice and Constitutional Development (DOJCD) for the period 2013 to 2018.

In the State of the Nation address, the President recalled that, on the 15th of August 2012, the National Planning Commission handed over the National Development Plan (NDP), the vision of the country for the next 20 years, to the President. The NDP contains proposals for tackling the problems of poverty, inequality and unemployment. The SALRC is playing an active part in this venture by means of its review of the entire South African statute book for redundancy,

obsoleteness and unconstitutionality 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 the NDP's proposal for dealing with the problem of inequality.

Referring to the much-needed growing of the South African economy, the President declared in the State of the Nation address that: "We will engage business, labour and other social partners in pursuit of solutions. No single force acting individually can achieve the objectives we have set for ourselves." The SALRC would like to see itself as part of the effort of pursuing solutions. The SALRC goes to great lengths to engage 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 stake holders that have an interest in SALRC investigations. These consultations may take the form of workshops, expert meetings and round-table conferences.

The President made mention of other mechanisms to protect women, such as the Protection from Harassment Act 17 of 2011, which deals with all forms of harassment, including harassment by persons who stalk their victims by means of electronic communications. The President also referred to the Combating of Trafficking in Persons Bill. The Bill was passed by the National Assembly in 2012 and is currently at the National Council of Provinces. Both Bills emanate from investigations conducted by the SALRC.

The Strategic Plan of the Department of Justice and Constitutional Development (DOJCD) for the period 2013 to 2018 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 care of and contact with 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 projects is the investigation into pornography and children, part of the SALRC's investigation into sexual offences. The investigation looks 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, obsoleteness and unconstitutionality 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 obsoleteness:

Department	**Progress**
Agriculture, Forestry and Fisheries (DAFF) Ms Ronel van Zyl	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 finalising the consultation paper is 30 September 2014.
Arts and Culture (DAC) Ms Lowesa Roberts	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 comment was received on 29 November 2011, and additional DAC comment on specific issues was received on 30 April 2012. 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. The researcher finalised the draft discussion paper with proposed amending and repealing legislation in July 2012. Due to the delay in the appointment of the Commission, the draft discussion paper will have to be reviewed to determine whether there have been further developments since July 2012. The discussion paper will be

	finalised for submission to the Commission as soon as a project leader is appointed.
Basic Education (DBE) Mr Linda Mngoma	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 draft report was forwarded to advisory committee members for comment in December 2012. The researcher finalised the draft report on legislation administered by DBE with proposed amending and repealing legislation in January 2013. The draft report will be submitted to the project leader for consideration and comment once appointed.
Communications (DOC) Ms Maureen Moloi	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. The researcher and the advisory committee finalised the draft report with proposed amending and repealing legislation in August 2012. The draft report will be submitted to the project leader for consideration and comment once appointed.
Cooperative Governance and Traditional Affairs (CoGTA) Mr Linda Mngoma	The statutes administered by CoGTA were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to CoGTA on 28 July 2009 for comment. CoGTA 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 with a closing date of 31 March 2011. The researcher finalised the draft report on legislation administered by CoGTA with proposed amending and repealing legislation in October 2012. The draft report will be submitted to the project leader for consideration and comment once appointed.
Correctional Services (DCS)	The statutes administered by DCS are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper

Ms Veruksha Bhana	with repeal and amendment proposals. The target date for finalising the draft consultation paper for submission to the project coordinator is 31 March 2014.
Defence and Military Veterans (DOD) Ms Maureen Moloi	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 researcher finalised the draft report with proposed amending and repealing legislation in August 2012 after receiving comments from the two active advisory committee members. The draft report will be submitted to the project leader for consideration and comment once appointed.
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. The report was posted on the SALRC's website and a media statement about the report released in April 2012.
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 September 2013.
Health (DOH) Ms Ronel van Zyl	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 March 2014.
Higher Education and Training (DHET) Mr Linda Mngoma	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.
Home Affairs (DHA) Ms Maureen Moloi	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. The researcher finalised the first draft of the discussion paper (without DHA comment) and submitted it to advisory committee members for consideration and comment in October 2012. Three comments were received in January 2013. The researcher continues liaising with DHA regarding their comment. The target date for finalising the draft discussion paper for submission to the advisory committee for consideration and comment is 31 October 2013.
Human Settlements (DHS) Mr Linda Mngoma	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. The report was posted on the SALRC's website and a media statement about the report released in April 2012.
International Relations and Cooperation (DIRCO)	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

Mr Pierre van Wyk	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 information and public comment with a closing date of 31 January 2012. Two responses were received in January 2012. The researcher finalised the draft report with proposed amending and repealing legislation in July 2012. The draft report will be submitted to the project leader for consideration and comment once appointed.
Justice and Constitutional Development (DOJCD)	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.
Ms Veruksha Bhana	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. Limited comments were received on Discussion Paper 129. The researcher requested comments again from specific stakeholders. The researcher received comments from Legal Aid SA on 09 November 2012 and from the Commission for Gender Equality on 18 March 2013. The target date for finalising the draft report for submission to the Commission for consideration is 31 March 2014.
Ms Tania Prinsloo	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. Discussion Paper 130 was circulated for comment again due to the limited comments received. The comments received in 2012 are being analysed and a need for further investigation of selected areas has been identified. The research is required to enable the researcher to make informed decisions regarding the report to be developed and changes to the proposed draft Bill. The target date for finalising the draft report for submission to the Commission is 31 March 2014.

Mr Willie van Vuuren	DOJCD Three deals with legislation pertaining to criminal procedure. Legislation dealing with criminal procedure was 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 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 is 31 March 2014.
Mr Simon Maphanga	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 *The State v Thunzi and Another* that section 4 of the Dangerous Weapons Act, 1968 (Transkei) is unconstitutional. On 2 December 2010 the Constitutional Court ordered in the *Thunzi* 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 *Thunzi* judgment. On 24 July 2013 the Dangerous Weapons Act, 2013 (Act 15 of 2013) was published in Government Gazette No. 36704 for general information. The Act will have a significant impact on the current investigation as it seeks to align the different Dangerous Weapons Acts that are applicable in the former self-governing territories of Venda, Transkei, Ciskei and Bophuthatswana with the legislation that applies in the rest of the Republic. The new Act repeals the Dangerous Weapons Act 71 of 1968. The target date for finalising the draft consultation paper is 31 March 2014.
Labour (DOL) Mr Linda Mngoma	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. The report was posted on the SALRC's website and a media statement about the report released in April 2012.

Mineral Resources (DMR) Mr Pierre van Wyk	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. The report was posted on the SALRC's website and a media statement about the report released in April 2012.
National Treasury Mr Linda Mngoma Mr Fanyana Mdumbe	*Non-tax legislation* 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 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. The report was posted on the SALRC's website and a media statement about the report released in April 2012. *Tax legislation* 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. A first draft of the consultation paper, compiled in January 2009 by the researcher who had worked on the project previously, is being updated. The target date for submitting the consultation paper on tax legislation to National Treasury for

	comment is 31 December 2013. The advisory committee is assisting the SALRC with the review of the Income Tax Act, the Value Added Tax Act, the Abolition of Quitrents Act and the Savings Bank Societies Borrowing Powers Act.
Police (DOP) Ms Aura Mngqibisa	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 31 March 2014.
Public Service and Administration (DPSA) Ms Tania Prinsloo	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 finalising the consultation paper for submission to DPSA is 31 December 2013.
Public Works (DPW) Mr Linda Mngoma	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.
Rural Development and Land Reform (DRDLR) Mr Linda Mngoma	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 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. The report was posted on the SALRC's website and a media statement about the report released in April 2012.
Social Development (DSD)	The statutes administered by DSD are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper

Ms Tania Prinsloo	with repeal and amendment proposals. The target date for finalising the consultation paper is 31 December 2013.
State Security (DSS) Mr Simon Maphanga	The statutes administered by DSS will be analysed to determine which are redundant, obsolete or unconstitutional. The target date for finalising the consultation paper is 31 March 2014.
Tourism (DT) Ms Maureen Moloi	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 with a closing date of 31 January 2012. The researcher finalised the draft report with proposed repealing and amending legislation in August 2012. The draft report will be submitted to the project leader for consideration and comment once appointed.
Trade and Industry (DTI) Mr Maureen Moloi	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 suggested amendments to Schedules 1 and 3 of the proposed draft Department of Trade and Industry Acts Repeal and Amendment Bill on 1 August 2011. On 23 November 2012 an official from DTI informed the researcher that the process may be taken forward subject to suggested changes. The target date for finalising the draft discussion paper for submission to the advisory committee for consideration and comment is 31 December 2013. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 28 February 2014.
Transport (DOT)	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 Moloi	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. The consultation paper was submitted to DWA on 30 September 2011 for comment. The researcher met with an official from DWA on 12 March 2012. DWA comment was received on 12 November 2012. The target date for finalising the draft discussion paper for submission to the Commission is 31 March 2014.

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 for finalising the draft report for submission to the Commission for consideration has been postponed to 31 March 2014.

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.

International arbitration

The SALRC report entitled "Arbitration: An International Arbitration Act for South Africa" was published and submitted to the Minister of DOJCD for consideration in July 1998. Cabinet subsequently approved the introduction of the Bill into Parliament and the State Law Advisers certified the Bill. The Bill however was never introduced into Parliament. The DOJCD has now indicated its intention to promote the International Arbitration Bill through Parliament. The Bill was originally drafted more than ten years ago and has to be updated to take developments in this field into account. The researcher is working with Prof David Butler, in his capacity as a SALRC advisory committee member, to research and update the International Arbitration Bill.

The first proposed draft of the Bill was submitted to DOJCD on 12 November 2012 and discussed at a subsequent meeting with DOJCD on 23 November 2012. A decision was taken that an experts meeting on the draft Bill will be jointly hosted by the SALRC and the DOJCD at the SALRC's offices in August 2013.

Domestic arbitration

The SALRC report entitled "Domestic Arbitration" was published and submitted to the Minister of DOJCD for consideration in May 2001. The Bill however was never introduced into Parliament. The DOJCD has now indicated its intention to promote the Domestic Arbitration Bill through Parliament. The Bill was originally drafted more than ten years ago and has to be updated to

take developments in this field into account. The researcher is working with Prof David Butler, in his capacity as a SALRC advisory committee member, to research and update the draft Domestic Arbitration Bill.

The first proposed draft of the Bill was submitted to DOJCD on 12 November 2012 and discussed at a meeting on 23 November 2012. A decision was taken that an experts meeting on the draft Bill will be jointly hosted by the SALRC and the DOJCD at the SALRC's offices in August 2013.

Alternative dispute resolution

The investigation into arbitration was broadened on 8 July 1996 at the request of the Minister of JCD to include an investigation into alternative dispute resolution (ADR). The SALRC published an issue paper on Alternative Dispute Resolution (Project 94, Issue Paper 8) in July 1997. On 18 October 1997 it was decided to divide the investigation into three parts and to develop three separate discussion papers on ADR and the civil law; family mediation; and community courts. The community courts investigation has been discontinued. The investigation into family mediation now forms part of *Project 100 – Custody of and access to minor children*.

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. This subproject will receive attention once the International and Domestic Arbitration subprojects have been finalised.

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 'Care of and contact with 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 minor children

The object of this investigation is to develop an integrated approach to the implementation of family law in South Africa with specific reference to disputes relating to minor children after relationship breakdown of their parents. The investigation into family mediation (Project 94) now forms part of this project

Work on an issue paper has commenced. 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 target date for finalising the draft issue paper is September 2014.

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.

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 researcher is finalising amendments to the draft discussion paper and updating research material for inclusion in the paper. The target date for finalising the draft discussion paper for consideration by the Commission is 31 March 2014.

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 researcher finalised the draft issue paper in September 2012. The draft issue paper will be submitted to the project leader for consideration and comment once appointed.

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 submissions. The researcher has completed draft chapters on the introduction and background; research, discussion, submissions and recommendations pertaining to persons selling sexual services; and research, discussion, submissions and recommendations pertaining to persons buying sexual services. Work has commenced on the chapter on third parties involved in prostitution; the draft Bill; the index, the list of sources and list of respondents. The target date for finalising the draft report is 30 September 2013.

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 an advisory 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 advisory committee member on 15 November 2011. The advisory committee member has submitted two research documents to the researcher for incorporation into the draft issue paper. The documents separately exposit the effect of children used in pornography and the effect of children exposed to pornography, albeit adult pornography. The target date for finalising the draft issue paper for submission to the Commission for consideration is 31 March 2014.

Project 122 – Assisted decision-making

The Commission decided to undertake an investigation into assisted decision-making after a member of the public submitted a request drawing attention to the declining decision-making ability of persons with Alzheimer's disease and the out-dated and inappropriate ways in which South African law addresses this.

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. The latter Act has since been replaced by the Mental Health Care Act, 2002. The Mental Health Care Act however does not deal comprehensively with the needs of persons with impaired decision-making skills.

The Commission under a separate investigation in 1988 also made recommendations for the introduction of an enduring power of attorney into South African law. These recommendations were not implemented at the time.

The Commission's current investigation has a broad focus in dealing 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 addition, the investigation addresses the need for introducing and regulating the enduring power of attorney.

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 the re-development of the text of the draft Bill with a view to ensure its compliance with the CRPD.

An information and consultation session aimed at government stakeholders, the disability sector and public interest lawyers on the compatibility of the redeveloped draft Bill with the CRPD was held on 16 February 2012. Prior to this, the redeveloped 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. The draft Bill was also submitted to the Department of Health during a briefing session of representatives of that Department on 13 December 2011 for their support.

Subsequent to the information session of 16 February 2012, stakeholders of Dementia SA were given an opportunity for further input at a meeting 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 and with the Legal Resources Centre on 9 June 2012.

Extensive written comments were received from the Human Rights Commission, the Centre for Disability Law (UWC), the South African Association for Learning and Educational Difficulties and the Legal Resources Centre between 27 April and 5 May 2012. Additional consultation with the Chief Master to deal with matters raised by stakeholders took place on 5 June 2012. Several working sessions with an advisory committee member to evaluate and incorporate comments in the draft Bill took place during May, July and August 2012.

The bulk of amendments to the draft Bill developed after the consultation with major stakeholders together with supporting documentation and explanatory notes were submitted to the project leader on 14 December 2012 for consideration. The project leader's input on these amendments were evaluated and incorporated at a working session with an advisory committee member on 16 January 2013 prior to consideration of the final amended version of the draft Bill by the project leader at a meeting on 5 February 2013. The advisory committee considered and approved the amended draft Bill at its meeting of 13 March 2013. The target date for finalising the draft report for submission to the advisory committee for consideration and comment is 31 March 2014.

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 was assigned to a newly-appointed researcher in September 2012. The researcher is developing a status report detailing her evaluation of the investigation for submission to the Secretary by 31 August 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. At the time of inclusion of the investigation the advisory committee resolved to follow an incremental approach to the investigation and identified a number of subprojects to be dealt with separately.

The subprojects identified for investigation under Project 126 are:

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

In the course of the investigation 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. With the appointment of an additional advisory committee member in 2011 the Advisory Committee reconsidered its incremental approach and resolved to consolidate all matters identified for investigation in one discussion paper.

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. The target date for finalising the draft consolidated discussion paper for submission to the Commission for consideration is 31 December 2013. A brief outline of the subprojects is given below.

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.

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 in criminal proceedings. 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. The Advisory Committee resolved to consider the appointment of a dedicated research consultant to advise on the continuation of the investigation.

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. Due to her involvement in the parliamentary process on the Trafficking Bill, the researcher had not been able to attend to this project for an extended period. The researcher is doing additional research and compiling a draft discussion paper with proposed amendment legislation, taking into account comments received on the background document. The target date for finalising the draft discussion paper for submission to the project leader for consideration is December 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 Minister will be requested to appoint advisory committee members after the new Commission has considered the proposed advisory committee. The researcher finalised the draft issue paper on 31 October 2012. The draft issue paper will be submitted to the project leader for consideration and comment once appointed.

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 Minster 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 researcher is developing the draft discussion paper. The target date for finalising the draft discussion paper for submission to the project leader is 31 March 2014.

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. The project leader and the researcher met with the National House of Traditional Leaders on 19 April 2012. A telephonic conference was held with advisory committee members on 05 March 2013. The target date for finalising the discussion paper for submission to the advisory committee for consideration and comment is 31 March 2014.

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.

Proposals considered

Accountability in the Attorney's Profession

In August 2012, a member of the public submitted a request for an investigation into what she described as 'The Rape of Justice in [South African] society'. According to the submission, the law has failed to protect the rights of clients against attorneys mandated to act on their behalf in the provision of legal services. She maintained that the professional bodies responsible for monitoring and overseeing the attorney's profession (the respective Law Societies) have failed in this regard. The submission calls for the creation of a forum or the promulgation of legislation enforcing accountability in the attorney's profession.

The request on the feasibility of conducting an investigation into the creation of a forum or the promulgation of legislation calling for accountability in the attorney's profession was summarily dealt with after it was established that the request does not warrant a preliminary investigation for the possible inclusion of the matter as an SALRC investigation. The request for an investigation was rejected based thereon that there is another institution better placed to deal with the topic, and pending legal developments, namely the Legal Practice Bill, 2012. On 23

November 2012 a response to the request was submitted to the member of the public who had made the request.

Section 63 of the Long-term Insurance Act, 52 of 1998

Mr. Justice Brian Galgut, Ombudsman for Long-Term Insurance, submitted a request to the SALRC to investigate possibly conflicting legislation. Section 63 of the Long-term Insurance Act 52 of 1998 seeks to provide protection of disability benefits that become payable in terms of a long-term policy, but limits the protection afforded by these benefits to a maximum of R50 000. The protection of R50 000 is substantially inadequate bearing in mind current financial and practical realities.

The researcher considered the request for an investigation into section 63 of the Long-term Insurance Act 52 of 1998. In considering the criteria for inclusion of an investigation in the SALRC programme, the question arose whether another body or institution would be better placed to address the issue. It was discovered that the request had also been submitted to the FSB, which has already prepared a bill in this regard. The FSB made the bill available to the SALRC on 28 September 2012. The draft amendments proposed by the FSB seem to adequately remedy the problem identified by the Ombudsman for Long-Term Insurance.

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 in addition to the first set of criteria 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 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 did not conduct any preliminary investigations. The two preliminary investigations discussed below that were conducted during previous reporting periods have been referred to the Minister. The SALRC is awaiting the Minister's decision on whether to include this investigation in the SALRC's programme.

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.

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.

CHAPTER 4
PUBLIC RELATIONS

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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 was unable to receive or host delegations from foreign law reform bodies and institutions while occupying temporary office premises as the SALRC had neither the facilities nor the office space therefor. The Secretary and some of the researchers met with Professor Peter Danchin, Director of the International & Comparative Law Program at Maryland Carey Law School of the University of Maryland, on 17 July 2012 regarding the possible hosting of students from Maryland as interns on a future date.

The SALRC however has other opportunities for international liaison. For the first time in the history of the Commonwealth, the Commonwealth Law Conference (CLC) will be held in South Africa in April 2013. The Commonwealth Association of Law Reform Agencies (CALRAs) is one of about 80 Commonwealth Associations in comparable spheres accredited by the Commonwealth. The SALRC is one of 29 law reform agencies of Commonwealth countries that are members of CALRAs. CALRAs is also planning on holding its biennial conference in South Africa, just before the CLC. Mr Michael Sayers, the Honorary General Secretary of CALRAs, approached the SALRC to assist CALRAs with the hosting of the CALRAs Conference in Cape

Town. The SALRC is assisting with planning of the conference and the conference programme, arrangements for a venue, the conference dinner, a speaker to deliver the keynote address, other speakers for the conference and a speaker for the conference dinner.

South Africa, through the SALRC, is a member of the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA). ALRAESA was established at a seminar on Best Practices in Law Reform held in Dar-es-Salaam, Tanzania, in October 2000. South Africa is currently the Treasurer of ALRAESA. The Secretary of the SALRC manages the bank accounts of ALRAESA which are held in South Africa. In view of the Commonwealth Law Conference to be held in South Africa in April 2013, the ALRAESA Executive Committee took a decision to hold the ALRAESA Executive Committee Meeting and the Annual General Meeting in Cape Town, South Africa, on 11 and 12 April 2013 respectively. The SALRC assisted with arrangements for the meetings and a function for ALRAESA members.

International liaison

SALRC researchers frequently liaise with international organisations, as well as experts and officials from other countries.

Ms Ananda Louw attended pre-congress workshops at the University of Sydney, Australia on negotiating divorce with the best interests of the child in mind; and judicial case flow management and settlement conferencing: a problem solving role for judges and judicial officers. She also attended the 6th World Family Law Congress in Sydney, Australia from 18 to 20 March 2013.

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.

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 was 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 a voucher for computer equipment or a 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 a voucher for computer equipment 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 94 Arbitration Ms Ananda Louw	Inquiries by members of the legal profession as well as the public on the current legal position regarding international and domestic arbitration and the proposed amendments to the two draft Bills.	Throughout the reporting period
	Meetings with DOJCD and Professor David Butler to discuss the updating of the International and Domestic Arbitration Bills.	Throughout the reporting period
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.	Throughout the reporting period
	The researcher and the Secretary met on various occasions with representatives of the Rules Board, the DOJCD (acting DDG) and other stakeholders to discuss the SALRC's involvement in the Civil Justice Review Project with specific reference to family mediation.	Throughout the reporting period

Project	Activity	Date
	Children's Act Review workshops hosted by the Department of Social Development.	7 to 11 May 2012
	The researcher attended the HSRC Seminar Series "The Traditional Courts Bill: Reconciling the Irreconcilable?"	8 May 2012
	Three-day course in Muslim personal law hosted by the Professional Development Project of the Faculty of Law, University of Cape Town.	6 to 8 November 2012
	Attended the Magistrates Court Committee meeting	18 February 2013
	Presentation on "The Current Developments in Mediation Legislation" at an in-service training session for volunteer mediators at the Family Life Centre in Johannesburg.	20 February 2013
	Pre-Congress workshops at the University of Sydney, Australia on, respectively – (i) negotiating divorce with the best interests of the child in mind; and (ii) judicial case flow management and settlement conferencing: a problem solving role for judges and judicial officers	17 March 2013
	Attended the 6th World Family Law Congress in Sydney, Australia	18 to 20 March 2013
Matrimonial property law Ms Anna-Marie Havenga	General enquiries from the public on the nature, extent and progress with the SALRC investigation on review into aspects of matrimonial property law.	Throughout the reporting period
Project 107 **Sexual offences** Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 Ms Dellene Clark	General enquiries regarding sexual offences.	Throughout the reporting period
	Meetings were held with DOJCD and counsel in respect of the Teddy Bear Clinic matter on challenges to the statutory rape provisions in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007.	Sporadically throughout the reporting period
	Meeting with officials of the DOJCD Branch Legislative Development and the Office of the Chief Litigation Officer regarding the Western Cape decision (Prins) pertaining to the absence of express penalty provisions in the Act. Provided the Branch with assistance as needed, including comment on draft legislation.	14 May 2012
	Meeting with officials of the DOJCD Branch	14 and 15 May

Project	Activity	Date
	Legislative Development to advise on the revision of the content of the HIV TB STD Departmental Implementation Plan. Accompanied an official of the Branch to a meeting with the Directorate Vulnerable Groups to advise on the content and provided the Secretary of the SALRC with feedback for signoff of the Plan.	2012 22 May 2012.
	Attended the HSRC Retributive justice and socio-economics of crime and punishment in a developing country seminar focusing on penalty provisions.	7 June 2012
	Meeting with Ms Schoeman, a trainer of intermediaries at Justice College, to discuss Section 170 A and challenges experienced in practice.	8 November 2012
	Responded to Sonja van Niekerk, a social worker from the CMR in Ermelo, on an enquiry in respect of the revision of the age of consensual sex.	13 February 2013
	Correspondence with Sr Ruth, a sexual health educator, regarding the age of consent and the practice of sexting by teenagers in view of the crimes of grooming and creation and distribution of child pornography.	February and May 2013 ongoing
Adult prostitution Ms Dellene Clark	General enquiries regarding sexual offences.	Throughout the reporting period
	Meeting with Professor Danchin, Director of the International and Comparative Law Program of the University of Maryland, to discuss the interns assigned to Project 107 – Sexual Offences: Adult Prostitution and to discuss the continued partnership between this faculty and the SALRC in respect of interns at the SALRC.	17 July 2012
	Briefing of the South African National AIDS Council (SANAC) Inter-Ministerial Committee on the status and content of the SALRC Project 107 – Sexual Offences: Adult Prostitution.	2 August 2012
	Meeting with Dr Malumba appointed by the Department of Health to roll out the National Strategic Plan for SANAC to brief her on Project 107 and to ascertain the aim of SANAC in respect of adult prostitution.	14 August 2012
	Attended SANAC Sector Leaders Meeting.	17 August 2012

Project	Activity	Date
	Attended SWEAT/SANAC Sex Work Symposium held in Birchwood	23 August 2012
	Attended meeting between the Deputy Minister of JCD and the CEO of SANAC with a view to align the DOJCD and SANAC's view and role in steering the implementation of the DIPs in the JCPS Cluster.	10 September 2012
	Provided written information on the project for inclusion in a news article of the Parliamentary Magazine Insession.	16 October 2012
	Appointed to serve on the *SANAC Strategic Objective 4 Technical Task Team: Ensuring Protection of Human Rights and Improving Access to Justice* at the request of the CEO of SANAC. Attended the first meeting of the Task Team.	5 November 2012
	Attended the DOJCD HIV-STI-TB SANAC Review Workshop on behalf of the Branch.	14 November 2012
	Met with Ms Nozizwe Madlala-Routledge, founder of Embrace Dignity and her legal adviser.	7 December 2012
	Apprised the Women's Legal Centre of the status of the investigation.	27 February 2013
	Response to Amalia Christoforou of, Carte Blanche regarding the project.	6 March 2013
Children and pornography Ms Dellene Clark	Provided information on the sale of children, child prostitution, child pornography and the involvement of children in sex tourism to the Department of Women, Children and People with Disabilities in respect of the SORMAA.	7 August 2012
	Expert meeting with the President and CEO of KINSA, the Canadian Chief Crown Prosecutor and Mr Chetty (also a member of KINSA) during training of SAPS and NPA in Paarl on cybercrime and pornography	7 December 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

Project	Activity	Date
Project 122 Assisted decision-making Ms Anna-Marie Havenga	Enquiries by the public 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
Ms Anna-Marie Havenga (researcher) and representatives of advisory committee	Consultative meeting with Chief Master of the High Court on aspects concerning Masters' supervisory role in proposed draft Bill on Assisted Decision-making.	5 June 2012
	Working session with representative of Legal Resources Centre, Durban on comments submitted on behalf of Legal Resources Centre on proposed draft Bill on Assisted Decision-making	8 June 2012
Ms Anna-Marie Havenga (researcher)	Attend demonstration and assessment by Chief Master and stakeholders of the Paperless Estates Administration System (PEAS) at Nelspruit Masters Office - envisaged to be used in implementing the proposed draft Bill on assisted decision-making in Masters Offices.	4 October 2012
Ms Margaret Meyer (advisory committee member)	Field enquiries by the public 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
	Presentation on the legal position of persons incapable of managing their own affairs, curatorship, administration and related matters to social workers at the Sterkfontein Psychiatric Hospital in Krugersdorp.	20 November 2012
Project 123 Protected disclosures Ms Dellene Clark	Briefing of the DM of DOJCD on the SALRC Report on Protected Disclosures.	31 July 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
	Assistance to DOJCD with the passing of the Protection of Personal Information Bill through the parliamentary process. This included the following: • Numerous meetings with officials from DOJCD. • Meetings of Portfolio Committee on Justice and	Throughout the reporting period

Project	Activity	Date
	Constitutional Development to brief members. • Attended the Second Reading debate. • Attended NCOP Select Committee on Security and Constitutional Development meetings to brief members.	
	Conducted a number of information and consultation sessions on the Bill with the Financial Services Board and National Treasury.	Throughout the reporting period
	Meeting with Mr Alistair Tempest, CEO Direct Marketing Association of South Africa on at the SALRC, De Meent.	20 April 2012
	Presentation on the Bill at Department of Communications (DOC) Cyber Security Awareness Strategy Development Workshop in Johannesburg.	3 May 2012
	Presentation on the amendments to the Bill at the Privacy Special Interest Group (SIG) of the Information Security Group (ISG) in Johannesburg.	25 May 2012
	Meeting with Mr Lala-Mohan, Banking Association of South Africa at the SALRC offices to discuss the impact of the PPI Bill on the banking sector.	13 June 2012
	Experts group meeting to review the draft African Union Convention on Cybersecurity in Ethiopia.	30 to 31 August 2012
	Did presentation and attended a meeting of the committee members of the Banking Association of South Africa in Johannesburg at the offices of the Association.	10 September 2012
	Presentation on the impact of the PPI Bill on the protection of credit information at the Safari Into Credit Conference in Johannesburg.	12 September 2012
	Meeting with the acting National Credit Regulator, Ms Annemarie Friedman.	18 September 2012
	Participated in an in-house awareness campaign on POPI hosted by First National Bank in Johannesburg where she provided information on the PPI Bill.	17 October 2012
	Presentation and joined a panel discussion on “The Future of Privacy and the World in 2020” jointly hosted by the Department of Communications, the Film and Publications Board and the African Centre of Excellence for Information Ethics, University of Pretoria.	13 November 2012

Project	Activity	Date
Project 127 Administration Orders Ms Lowesa Roberts	General inquiries from debtors under administration.	Throughout the reporting period
Project 130 Stalking Ms Dellene Clark	Written contribution to the United Nations Cybercrime Member State Questionnaire in respect of the Protection from Harassment Act.	16 August 2012
Project 131 Trafficking in Persons Ms Lowesa Roberts	Assisted DOJCD with the passing of the Prevention and Combating of Trafficking in Persons Bill in Parliament as follows: • Met on several occasions with DOJCD officials. • Participated in several meetings of the Portfolio Committee on Justice and Constitutional Development. • Participated in meetings of the NCOP Select Committee on Security and Constitutional Development • Responded to queries relating to the parliamentary process on the Bill.	Throughout the reporting period
	Participated in an interdepartmental meeting in preparation of the South Africa-European Union Migration Dialogue Forum Video Conference.	4 July 2012
	Participated in a workshop arranged by the Gauteng Human Trafficking Task Team for the Eastern Cape Human Trafficking Task Team.	10 July 2012
	Participated in the South Africa-European Union Migration Dialogue Forum Video Conference held at DIRCO.	16 July 2012
	Briefed the National Prosecuting Authority: Sexual Offences and Community Affairs Unit on the content of the Bill as amended by the Portfolio Committee.	21 August 2012
Project 138 The practice of *ukuthwala* Ms Maite Modiba	General enquiries regarding the practice of *ukuthwala*	Throughout the reporting period

Internet

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

CHAPTER 5

ACKNOWLEDGEMENTS

CHAPTER 5

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.

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 *injuria*	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 necessaries 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, obsoleteness 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	ISBN 978-0-621-41666-4	Report under consideration by Department of Energy– report submitted to the Department in March 2012.
	Legislation administered by the Department of Human Settlements	2011	To be published	Report under consideration by Department of Human Settlements – report submitted to the Department in March 2012.
	Legislation administered by the Department of Labour	2011	To be published	Report under consideration by Department of Labour – report submitted to the Department in March 2012.

Project number	Title	Year of report	Reference number of published report	Result
	Legislation administered by the Department of Mineral Resources	2011	ISBN: 978-0-621-41667-1	Report under consideration by Department of Mineral Resources – report submitted to the Department in March 2012.
	Legislation administered by the Department of Public Works	2011	To be published	Report under consideration by Department of Public Works – report submitted to the Department in March 2012.
	Legislation administered by the Department of Rural Development and Land Reform	2011	To be published	Report under consideration by Department of Rural Development and Land Reform – report submitted to the Department in March 2012.
	Legislation administered by National Treasury	2011	To be published	Report under consideration by Department of Finance– report submitted to the Department in February 2012.
	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 *mens rea* 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	1983	Not published	No legislation recommended.

Project number	Title	Year of report	Reference number of published report	Result
	liability in cases of misrepresentation			
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 Divorce Act 70 of 1979	1983	Not published	No legislation recommended.
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	1998	RP 133/1998 ISBN 0 621 28678 8	Consumer Protection Act 68 of 2008 enacted which also

Project number	Title	Year of report	Reference number of published report	Result
	contracts			regulates fair, just and reasonable terms and conditions.
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			
	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	*Ex parte Minister of Justice* 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	Draft bill published for comment on 21 January 2011 by Notice No. 37 of 2011 (Government Gazette No. 33946).

Project number	Title	Year of report	Reference number of published report	Result
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.
	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

Project number	Title	Year of report	Reference number of published report	Result
				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.
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	No legislation recommended.

Project number	Title	Year of report	Reference number of published report	Result
			Summary: ISBN 0 621 14197 6	
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 – 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	*Ex parte Minister of Justice in re: Nedbank v Abstein Distributors and Donelly v Barclays National Bank* 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	Not published	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in May 2004. Released in April 2011.
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

Project number	Title	Year of report	Reference number of published report	Result
				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 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	2003	RP 209/2003 ISBN 0 621 34988 7	Traditional Courts Bill [Bill 15 – 2008] introduced into

Project number	Title	Year of report	Reference number of published report	Result
	leaders			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.
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	See Chapter 3
	Domestic arbitration	2001	ISBN 0 621 31453 6	See Chapter 3
	Community dispute resolution structures	-	-	Struck off
	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 *huur gaat voor koop* 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.
	Care of and contact with 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	The Department of Home Affairs published Government *Gazette* Notice 13 of 2008 on 14 January 2008 to invite public comment on the draft

Project number	Title	Year of report	Reference number of published report	Result
				Marriage Amendment Bill of 2008. The Department of Home Affairs published Government *Gazette* Notice 149 of 2009 on 13 February 2009 to invite public comment on the draft Marriage Amendment Bill of 2009.
110	Review of the Child Care Act	2002	RP 17/2003 ISBN 0 621 33584 3	Children's Act 38 of 2005 and 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	Pension Funds Amendment Act 11 of 2007 enacted. Government Employees Pension Law Amendment Act 19 of 2011 enacted.
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.

Project number	Title	Year of report	Reference number of published report	Result
122	Assisted decision-making	-	-	See Chapter 3
123	Protected disclosures	2008	ISBN 0 621 38278 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in November 2008.
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 enacted.
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 *ukuthwala*	-	-	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 Delport	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 Mbao	University of the North West
	Ms M Moselakgomo	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
	Ms H Zondo-Kabini	Bowman Gilfillan Inc Attorneys
Project 25 Legislation administered by the Department of Co-operative Governance and Traditional Affairs	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
	Mr M Tenza	Walter Sisulu University
	Prof H van As	Nelson Mandela Metropolitan University
Project 25 Legislation administered by the Department of Defence and Military Veterans	Adv T Norman	Durban Bar
	Rear Admiral D Smart	Formerly of the SANDF
	Adv A Tshivhase	University of Cape Town
Project 25 Legislation administered by the Department of Energy	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 Legislation administered by the Department of Environmental Affairs	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
	Mr C Watters	Watters Attorneys
Project 25 Legislation administered by the Department of Justice and Constitutional Development	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 Matshekga	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 Delport	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 Custody of and access to minor children Review of aspects of matrimonial property law	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
	Prof E Bonthuys	University of the Witwatersrand
	Adv F Bosman	Advocate of the High Court Former Chief Family Advocate
	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 Hindu Marriages	Adv DN Perumal	University of KwaZulu-Natal
	Ms P Pillay-Shaik	Bowman Gilfillan Inc Attorneys
	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 Pornography and children	Mr I Chetty	Previous head of the Film and Publication Board
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
	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
	Dr D Collier	University of Cape Town
Project 138 – The practice of *ukuthwala*	Prof T Nhlapo	University of Cape Town
	Prof R Mqeke	Rhodes University
	Prof T Meyiwa	Human Sciences Research Council
	Prof P Sithole	University of KwaZulu Natal

ANNEXURE F

PRESENT PROGRAMME OF THE COMMISSION

Project number	Title
25	The establishment of a permanently simplified, coherent and generally accessible statute book • Statutory law revision: Redundancy, obsoleteness and constitutionality of legislation • Review of the Interpretation Act
94	Arbitration • Role for ADR in civil practice • ADR and the criminal law
100	Family law and the law of persons • Custody of and access to minor children • Review of aspects of matrimonial property law • Hindu marriages • Review of the law of maintenance
94	Arbitration • International Arbitration • Domestic Arbitration • Alternative Dispute Resolution
100	Family law and the law of persons • Care of and contact with minor children • Review of aspects of matrimonial property law • Hindu marriages • Review of the law of maintenance
107	Sexual offences • Sexual offences: Adult prostitution • Pornography and children
122	Assisted decision-making
125	Prescription periods
126	Review of the law of evidence • 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 *ukuthwala*

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 *Algemeen Beredeneerd Register of Nassau La Leck* (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 *Hooge Raad* 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' *Tractatus de Pactis*	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 *promutuum* and on the *condictio indebiti* by Robert-Joseph Pothier	ISBN 0 621 10722 0
11	Prof R Whitaker	*Quaestiones juris privati* by Cornelius van Bijnkershoek	Vol 1 ISBN 0 621 10657 7 Vol 2 ISBN 0 621 10675 5
12	Profs J T Delport 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 *Law and Computers*, 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 *Corpus Juris Civilis* of Justinian including the Institutes of Gaius	ISBN 0 621 13088 5
15	Margaret Hewett (transl)	*Censura Forensis* 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

The postal address of the South African Law Reform Commission is as follows:

The Secretary
South African Law Reform Commission
Private Bag X668
PRETORIA
0001
REPUBLIC OF SOUTH AFRICA

Telephone: (012) 622 6300
Fax: (012) 622 6362
E-mail: Reform@justice.gov.za
Internet: http://salawreform.justice.gov.za