South African
Law Reform Commission

REPORT ON ACTIVITIES

OF THE

SOUTH AFRICAN LAW REFORM COMMISSION

2013 / 2014

TO: ADV TM MASUTHA, MP
MINISTER OF JUSTICE AND CORRECTIONAL SERVICES

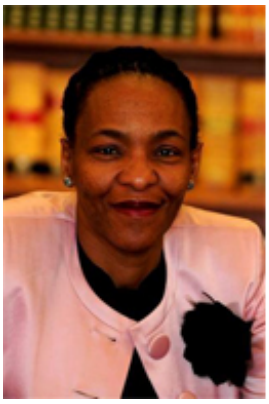
I have the honour to submit to you, in terms of section 7(2) of the South African Law Reform Commission Act 19 of 1973, the Commission's report on all its activities from 1 April 2013 to 31 March 2014.

Yours sincerely

Judge MML Maya

Judge of the Supreme Court of Appeal
Chairperson of the South African Law Reform Commission

Gallery of Commissioners



Judge MML Maya
Judge of the
Supreme Court of Appeal

Judge JN Kollapen
Judge of the Gauteng North
High Court

Prof V Jaichand
Head: School of Law
University of the
Witwatersrand

Mr IBW Lawrence
Practising attorney

Adv M Sello
Advocate of the High Court

Prof PJ Schwikkard
Dean: Faculty of Law
University of Cape Town

Ms NT Siwendu
Practising attorney

Vision, mission and values of South African Law Reform Commission

Vision

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

Mission

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

Values

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

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CHAPTER 1

OVERVIEW

CHAPTER 1

OVERVIEW

Appointment of the new Commission

The most important event that took place during the year under report was the announcement by the President of the appointment of new Commission members. These appointments are effective for five years. 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 current Chairperson and Vice-Chairperson were appointed with effect from 19 July 2013, and the remaining members of the Commission were appointed with effect from 12 August 2013. The SALRC Secretariat extends a warm welcome to the new Commissioners.

The current Chair and Vice-Chair are, respectively:

- Judge Mandisa Maya, Judge of the Supreme Court of Appeal.
- Judge Jody Kollapen, Judge of the Gauteng North High Court.

The current Commissioners are as follows:

- Prof Dr Vinodh Jaichand, Head of the School of Law, University of the Witwatersrand.
- Mr Irvin Lawrence, attorney in private practice.
- Ms Mahlape Sello, member of the Bar.
- Adv Thina Siwendu, attorney in private practice.

Prof Pamela J Schwikkard was appointed as a Commissioner for the current term but she subsequently resigned. Brief biographies of the Commissioners follow.

Chairperson of the SALRC: Judge MML (Mandisa) Maya

The President appointed Judge Maya as a part-time SALRC Commissioner and Chairperson of the SALRC with effect from 19 July 2013. Judge Maya is a judge of the Supreme Court of Appeal (SCA).

Judge Maya completed her BProc degree at the University of Transkei, an LLB at the University of Natal, and an LLM at Duke University Law School in North Carolina, USA. She was an intern at the Smithsonian Institution in Washington DC, and was involved in legal policy counsel and lobbying for the Women's Legal Defence Fund.

Her past roles in South Africa include having worked as an attorney's clerk, a court interpreter and prosecutor, assistant state law advisor and law lecturer. She served her pupillage at the Johannesburg Bar and was an investigator for the Independent Electoral Commission during the 1994 elections. Judge Maya was a practising advocate before becoming an acting judge and judge in various divisions of the High Court. She was an acting judge in the Labour Court and Supreme Court of Appeal before her appointment as a judge of the SCA. She also served as acting judge in the Constitutional Court and as acting Judge of Appeal in Windhoek, Namibia.

Further achievements of this distinguished lawyer include:

- Fulbright scholarship
- Fellow of the Georgetown University Law and Gender Fellowship Programme
- Fellow of the Commonwealth Foundation Fellowship.

She is recognised by the SA Women Lawyers Association programme in history and icons. Judge Maya is or has been a member of the General Council of the Bar, Transkei Society of Advocates, Black Lawyers Association, National Democratic Lawyers Association, and the International Association of Women Judges (SA Chapter). She served on the advisory board of the *Walter Sisulu University Law Journal*. Her extra-judicial membership includes being a patron of Lawyers Against Abuse and a trustee of the SA Institute for Advanced Constitutional, Public, Human Rights and International Law (SAIFAC).

Vice-Chairperson of the SALRC: Judge JN (Jody) Kollapen

The President appointed Judge Kollapen as a part-time SALRC Commissioner and Vice-Chairperson of the SALRC with effect from 19 July 2013. Judge Kollapen is a judge of the North Gauteng High Court in Pretoria.

Judge Kollapen obtained his Bachelor of Laws and BProc degrees from the University of the Witwatersrand. He practised as an attorney and worked on many high profile cases, including

the Sharpeville Six, the Delmas Treason Trial and the failure of the Medical and Dental Council to enquire into the behaviour of the doctors who treated Steve Biko. He was a member of the selection panel that selected the Commissioners for the Truth and Reconciliation Commission. He joined Lawyers for Human Rights (LHR) where he coordinated the "Release Political Prisoners" programme, which championed the rights of political prisoners. He was National Director of LHR from 1995 to 1996.

He joined the South African Human Rights Commission (SAHRC) in 1996 as a Commissioner. He was appointed as the Chairperson of the SAHRC in 2002, in which capacity he served until 2009. Judge Kollapen has served on various boards and statutory bodies. These include the National Advisory Council of Correctional Services, the International Board of Article 19 (London), the Legal Resources Trust, and the Foundation for Human Rights. He previously served as an extraordinary lecturer in the Centre for Human Rights at the University of Pretoria.

SALRC Commissioner: Mr IBW (Irvin) Lawrence

The President appointed Mr Lawrence as a SALRC Commissioner. Mr Lawrence is a practising attorney and is a director at the law firm Edward Nathan Sonnenbergs.

Mr Lawrence obtained a BA from Rhodes University and his LLB and LLM (corporate law) from the University of KwaZulu-Natal. Mr Lawrence has 23 years' experience as an employment attorney, specialising in employment and constitutional law. He has conducted arbitration and mediation and has appeared in the High Court, Labour Court, and Labour Appeal Court. He has litigated for corporate clients and has advised bargaining councils and executive employees. He has experience in restructuring businesses and conducting sales or transfers of going concerns.

He also specialises in economic empowerment, especially the structuring of transactions to optimise an organisation's scores in broad-based black economic empowerment. Mr Lawrence has represented the Ship Owners' Association of South Africa and the Association of Ships Agents in South Africa in their respective contributions to the Department of Transport's *Sector Charter* in the maritime sector. He served as Arbitrator of the Court of Sport in Lausanne, Switzerland from 2003 to 2006.

SALRC Commissioner: Prof V (Vinodh) Jaichand

The President appointed Prof Jaichand as a SALRC Commissioner with effect from 12 August 2013. Prof Jaichand is a Professor in human rights law and Head of the School of Law at the University of the Witwatersrand, Johannesburg. He also is director of the International Human Rights Exchange at Wits University.

Prof Jaichand obtained his doctorate and an LLM in international human rights law from the Centre for Civil and Human Rights at the University of Notre Dame, Indiana; both degrees were awarded with distinction. He holds further degrees from the Universities of Miami, Natal, and Durban-Westville.

He is a former National Director of Lawyers for Human Rights. He has been a human rights educator for more than 22 years and has trained police, lawyers, prosecutors and judges in South Africa, China, Slovenia, Slovakia, Hungary, Ireland, Ethiopia, Nepal, India, Malta, and Italy. He received the President's Award for Teaching Excellence from the National University of Ireland, Galway. He developed the first LLM degree in economic, social and cultural rights offered by the Irish Centre for Human Rights, where he was deputy Director for nine years; the LLM course was launched in 2009.

Prof Jaichand is an editorial member of the following publications:

- *Human Rights Series* (Republic of Letters Publishing)
- *Human Rights & Human Welfare*
- *Sur-International Journal on Human Rights*
- *University of Ghana Law Journal*
- *International Journal for Transitional Justice.*

Prof Jaichand was the first Chair of Integrating Ireland, and is a member of the international advisory board of Diakonia (Jerusalem). His work has been published internationally in five languages.

SALRC Commissioner: Prof PJ (Pamela) Schwikkard

Prof Schwikkard served as a part-time SALRC Commissioner from 2007 until the end of 2011. The President re-appointed her to this role with effect from 12 August 2013. Unfortunately, however, due to work pressure Prof Schwikkard resigned from the position of SALRC Commissioner in January 2014. Her valuable contribution will be sorely missed.

Prof Schwikkard is the current Dean of the Faculty of Law at the University of Cape Town (UCT). She completed a BA at Wits University before embarking on her LLB, which was awarded with distinction. She began teaching in 1987 as a contract lecturer at the University of Natal (School of Law) and later became a senior lecturer. She left in 1998 to take up a professorship at Rhodes University Law Faculty. She completed her LLM with distinction at the University of Natal, and completed her LLD at the University of Stellenbosch in 1999.

She was admitted as an attorney of the High Court in 1990. Over the past 20 years, Prof Schwikkard has taught in diverse areas, including gender and the law, criminal law, criminal procedure, evidence, youth justice, conflict resolution, civil procedure, legal interpretation, legal skills, and special contracts. She joined the Faculty of Law at UCT in the Department of Criminal Justice in 2001, and in 2006 was appointed Head of the Department. A year later she became Deputy Dean, and in 2009 she took up the post of Dean of the Faculty of Law at UCT. An accomplished and widely published scholar, Prof Schwikkard has substantial experience in both academia and the legal profession.

SALRC Commissioner: Ms M (Mahlape) Sello

Ms Sello served as a part-time SALRC Commissioner from 2007 until the end of 2011. The President re-appointed her to this role with effect from 12 August 2013. Ms Sello is an advocate of the High Court of South Africa, and a member of the Johannesburg Society of Advocates.

Ms Sello holds an MA Law from Voronezh State University in Russia, obtained in 1986, and an LLB from the University of the Witwatersrand, which she obtained in 1993. Adv Sello's distinguished CV includes the following experience:

- Legal practitioner, Maseru, Lesotho
- Member of Wits Vaal Peace Secretariat

- In charge of business development and social responsibility at Barloworld Ltd
- Legal and human resources Director at Renapet (Pty) Ltd
- Member of the Construction Industry Development Board
- Business representative in the development chamber of NEDLAC
- Acting Director of the Wits Vaal Peace Secretariat
- Represented the government in the Ginwala Enquiry
- Acting Chair of the Advisory Committee on Licensing of Private Hospitals.

She served on the Johannesburg Bar Council for five years and currently serves on some Council committees. She has practised as an advocate at the Johannesburg Bar since 2003, mostly dealing with litigation related to administrative, commercial and constitutional law and statutory interpretation. She has been a chair or member of numerous committees, trusts, and organisations over the years.

SALRC Commissioner: Ms NT (Thina) Siwendu

The President appointed Ms Siwendu as an SALRC Commissioner with effect from 12 August 2013. Ms Siwendu is a Director at the law firm Cliffe Dekker Hofmeyr in their corporate and commercial practice, focusing on corporate governance.

Ms Siwendu obtained a BA (Hons) in social science from the University of Cape Town in 1988, followed by an LLB at the University of Natal in 1991. She was employed as a Fellow by the Centre for Applied Legal Studies at Wits University in 1992. From 1993 to 1995 she served her articles at Cheadle, Thompson & Haysom. In 1996 she became a partner at Thina Siwendu & Associates. In 2003, she became Director and head of corporate commercial law at the firm.

Ms Siwendu qualified as an accredited arbitrator in 1997 through the Independent Mediation Services of South Africa. Since 2007, she has been a senior research Fellow at the Centre for Corporate Governance in Africa at Stellenbosch Business School (USB). She obtained a GFD Certificate from Wharton Business School in 2010, and has experience in commercial transactions, public-private partnership, and corporate governance.

She has served on numerous boards and committees and is a member of the KZN Law Society and the African Leadership Initiative (Aspen Institute). In 2004 Ms Siwendu received the

Regional Business Achiever Award (professional category) from the Business Women's Association, and from 2009 to 2011 she was a panellist for the Top 100 Business and Lifetime Achievers Award run by the *Sunday Times*.

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 government departments other than the Department of Justice:

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**. Because 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 Commission investigations that have been completed to date, or which are currently in progress, are listed in **Annexure C**. A progress report on investigations not yet completed appears in **Chapter 3**.

CHAPTER 2

OBJECTS, CONSTITUTION AND FUNCTIONING

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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 continual 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 a new Commission in the course of the year under report. The President appointed the Chairperson and Vice-Chairperson on 19 July 2013 and the other five members on 12 August 2013. **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 a programme that includes, in order of preference, the various matters which – in the Commission's opinion – require consideration. The programme 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 SALRC is required to investigate the matters which appear on its programme (as approved by the Minister), and may consult any person or body during the investigations. The SALRC also 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 committee is to utilise the expertise of persons outside the Commission and to ensure direct community involvement in the activities of the Commission.

Both types of committee 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 the members of committees are deemed to be members of the Commission.

Working Committee

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

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

Advisory committees

Advisory committees fall under the second category of committee. The Commission institutes advisory committees consisting of experts to assist with investigations and to advise the Commission where necessary (Section 7A(1)(b) of the SALRC Act). The names of the members of the current 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 neither a Commissioner nor 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 Secretary and full-time Secretariat consisting of officials employed by the Department of Justice and Constitutional Development. The Secretariat includes a research component and an administrative component, which are broadly – together with the Commission itself – referred to as the SALRC. The Secretary, appointed at the level of Chief Director, is the head of the Secretariat and the head of office. The post of SALRC Secretary has been vacant since the resignation of Mr Michael Palumbo at the end of January 2013. Adv Jacob Skosana, current head of the Policy Unit in the Department, has been the acting Secretary since August 2013. The post of Secretary is in the process of being filled. Mr Masibulele Chris Mfunzana was appointed as Assistant Secretary (on the level of Principal Legal Administration Officer) with effect from 1 October 2013.

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 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 described in Chapter 5.

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

Ms Veruksha Bhana
Ms Dellene Clark
Mr Tienie Cronje (seconded to the Office of the Chief Master with effect from 19 March 2012 until 30 June 2013, retired on 30 June 2013)
Ms Theresa Häderli
Ms Anna-Marie Havenga
Mr Willie Jansen van Vuuren
Ms Jennifer Joni
Ms Ananda Louw
Mr Simon Maphanga
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
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:	Ms Sue Randall (with effect from 1 June 2013)
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

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 (until 28 May 2013)
Food Service Aid:	Mr Mpolokeng Moyo (with effect from 1 Nov 2013)
Messenger:	Mr George Maseko (deceased Feb 2013)
Messenger:	Mr Ernest Rangwato (with effect from 6 Nov 2013)

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 internal committees are currently as follows:

Library Committee

Members	**Purpose**	**Activities**
Mr Pierre van Wyk (chairperson) Ms Maureen Moloi Mr Linda Mngoma Ms Maryna Oosthuizen Ms Rosinah Matlala Ms Portia Bobodo	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 Library Committee met in May 2013 to consider the acquisition of publications and approved the acquisition of a number of publications. During April and May 2013 the committee sought quotations for shelving components so that the library shelving could be re-assembled at the new premises. In June 2013 the committee sought approval from the Departmental Bid and Adjudication Committee for the acquisition of shelving components and the re-assembly of the shelves. The committee chairperson represented the SALRC Library Committee at the first meeting of the Departmental National Library Advisory Committee (NLAC) held on 1 August 2013. The NLAC was established for purposes of reviewing

Members	Purpose	Activities
		library service operations, to make recommendations for improvements, and to monitor implementation to ensure effective and efficient management of library services in all DOJCD libraries.

Occupational Health and Safety Committee

Members	Purpose	Activities
Mr Linda Mngoma (chairperson) Mr Willie van Vuuren Ms Dellene Clark Ms Edith Louw	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.	On 20 May 2013, the OHS Committee with a representative from the Directorate: Risk Management conducted an inspection of the SALRC premises. They identified a number of security access control measures that require upgrading. These include additional surveillance cameras, burglar bars and an intercom system. A fire drill was held on 12 July 2013, the first fire drill since the SALRC moved to its current premises. The committee arranged for the Directorate: Security Management to conduct a briefing session on Information, Security and Awareness. This session took place on 26 July 2013. All staff members were invited to attend. On 30 September the DOJCD appointed a new security company, Mabotwane Security, to render a 24-hour guard service at the SALRC premises. The OHS Committee briefed the new guards on the security features of the building and the SALRC's requirements. The committee held its last meeting for the 2013-2014 year on 13 March 2014.

Financing of the SALRC

The SALRC's budget for the financial year 1 April 2013 to 31 March 2014 was R 25 973 000, broken down as follows:

- Personnel expenditure R 21 260 000
- Current expenditure R 4 453 000
- Capital expenditure R 260 000

Programme

As described earlier in this chapter, the SALRC Act provides that the Commission must from time to time draw up a programme of investigation, subject to the Minister's approval. The Commission's current programme is shown in **Annexure F**. **Annexure C** lists all investigations on the Commission's programme since its inception, including the final result or current status of each investigation.

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 as quickly as possible. However, the Commission must follow certain procedures which may take 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 a 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 about the matter under investigation. Comparative studies are performed so that the Commission can draw on experiences elsewhere in the world.

The consultation process is guided by the Commission's policy, which has been in place since 1996. According to this process, an issue paper is compiled as the first step. The issue paper outlines problems encountered with a particular area of the law and invites submissions on possible solutions. The paper is distributed as widely as possible for general information and comment, and where appropriate may be supplemented by workshops. Responses to an issue paper coupled with further intensive research form the basis for preparing a discussion paper.

A discussion paper contains essential information on the investigation and the Commission's tentative proposals for reform. In particular, a discussion paper includes 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 also includes a draft Bill. Members of the public are informed of the availability of discussion papers through 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. Responses to the provisional proposals are studied carefully before final decisions are made. The Commission also hears oral evidence in certain instances.

The Commission's recommendations are written up as comprehensive reports, which are submitted to the Minister. In making its recommendations, the Commission bears the following imperatives and needs in mind:

- to provide access to justice for all;
- to protect the rights of all parties, especially women, children and poor people;
- to make legal processes affordable;
- to make the law less complicated; and
- to give effect to the values and principles underlying the Constitution.

The SALRC strives to maintain a high standard of legal research and welcomes feedback in this regard. The law faculties of several South African universities regularly prescribe SALRC research publications for their students at both undergraduate and postgraduate levels. The many valuable comments and proposals received about the Commission's recommendations on various projects, as contained in SALRC reports, indicate the effectiveness of the research methods. These methods ensure that the Commission's final recommendations are well-substantiated and the product of thorough debate. The working methods also facilitate the

enactment of the Commission's proposed legislation, in which the final recommendations are embodied.

Commission publications

In the course of its activities, the Commission publishes various documents. The document series of the Commission is as follows:

Commission papers and committee papers

Commission papers and committee papers are internal documents that are not normally available beyond the ranks of the Commission. These papers typically contain proposals for the inclusion of matters in the Commission's programme, research results (intended to inform the Commission or for its consideration), draft issue papers, discussion papers, and reports, and a variety of other matters in respect of the functioning of the Commission. The papers are numbered in sequence as they serve before the Commission each year.

Issue papers

To involve the community actively at an early stage of an investigation, the Commission generally publishes an issue paper as the first step in the consultation process. The purpose of an issue paper is to announce an investigation, to clarify its aim and scope, and to suggest options for solving existing problems. Issue papers that have been 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 that contain the Commission's preliminary research results. In most cases a discussion paper also contains draft legislation. The main purpose of these documents is to test public opinion on solutions identified by the Commission. Discussion papers that have been 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 documents, but not all are published. **Annexure C** lists all the investigations reported on by the Commission since its establishment.

In addition to reports on specific 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 the purpose of Project 25: Statutory Law Revision. Project 25 entails identifying provisions on the statute book that are unconstitutional, redundant or obsolete. Consultation papers are then prepared which contain preliminary findings and proposals for repeal or amendment in respect of the legislation reviewed. These consultation papers are submitted to relevant state departments for consideration and comment. Thus, the purpose of a consultation paper is to consult with the government department concerned. If the legislation in question affects more than one department, the paper is submitted to all departments involved. Consultation papers are not published for public reading.

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 that have been published to date are listed in **Annexure G**.

How to obtain 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 obtainable from the Commission's offices. In addition, all issue papers and discussion papers that have been published since 1996 are available on the SALRC website.

Annual reports, papers in the research series, and reports on completed investigations are available from the SALRC offices. All reports on investigations that have been published since 1996, and all annual reports since 1996, are available on the SALRC website.

Commission and committee meetings

During the period under report the Commission met on 28 September 2013 and held a two-day workshop on 6 and 7 December 2013.

The advisory committee for Project 138: The practice of *ukuthwala* met on 9 November 2013 and between 16 and 19 January 2014. The advisory committee for Project 107: Sexual Offences: Pornography and children met on 1 March 2014.

CHAPTER 3

PROGRESS REPORT

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

Research programme of the SALRC

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

Project	Title	Project leaders	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	Prof Vinodh Jaichand Mr Irvin Lawrence Adv Mahlape Sello Ms Tina Siwendu	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 Mr Pierre van Wyk Ms Ronel van Zyl Mr Pierre van Wyk
94	Arbitration • International arbitration • Domestic arbitration • Alternative dispute resolution	Adv Mahlape Sello	Ms Ananda Louw

Project	Title	Project leaders	Responsible researcher
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	Adv Mahlape Sello / Judge Deon van Zyl Mr Irvin Lawrence	Ms Ananda Louw Ms Anna-Marie Havenga Ms Maureen Moloi Ms Jennifer Joni
107	Sexual offences • Adult prostitution • Pornography and children	Judge Mandisa Maya	Ms Dellene Clark
122	Assisted decision-making	Ms Tina Siwendu / Judge Ben du Plessis	Ms Anna-Marie Havenga
125	Prescription periods	Adv Mahlape Sello	Ms Theresa Häderli
126	Review of the law of evidence • Hearsay and relevance • Electronic evidence • Cyber crime	To be appointed	Mr Willie van Vuuren
127	Review of administration orders	Prof Vinodh Jaichand	Ms Lowesa Roberts
135	Review of witchcraft legislation	Judge Mandisa Maya	Ms Jennifer Joni
136	Multi-disciplinary legal practices	Judge Jody Kollapen	Mr Simon Maphanga
137	Expungement of certain criminal records	Judge Jody Kollapen	Mr Willie van Vuuren
138	The practice of *ukuthwala*	Judge Mandisa Maya / Prof Thandabantu Nhlapo	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 (SONA) delivered by President Jacob Zuma on 13 February 2014, and the strategic plan developed by the Department of Justice and Constitutional Development (DOJCD) for 2013 to 2018.

In the SONA, the President stated that “We elected to focus on five priorities: education, health, the fight against crime and corruption, rural development and land reform, as well as creating decent work.” The President also referred to the establishment of the National Planning Commission, which produced the landmark National Development Plan (NDP). The NDP provides a blueprint for the country’s socio-economic development, and is widely regarded as a major achievement in its own right. The NDP contains proposals for tackling poverty, inequality and unemployment.

The SALRC is playing an active part in this venture through its review of the entire South African statute book for constitutionality (with reference to section 9 of the Constitution), redundancy and obsoleteness, as part of Project 25: Statutory Law Revision. The right to equality is one of the founding principles of the Bill of Rights enshrined in the Constitution. Section 9 prohibits discrimination directly or indirectly against anyone on any grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. Project 25 makes a major contribution in line with the NDP’s proposal for dealing with the problem of inequality.

The Strategic Plan of the DOJCD for 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. Measures that increase the successful prosecution and conviction of criminals will result in citizens being and feeling safer.

The Project 100: “Family law and the law of persons” investigations are aimed at assisting members of the community, especially women, to protect their rights as vulnerable groups and victims in our society. These investigations deal with the following matters: care of and contact with minor children; review of aspects of matrimonial property law; and the review of the law of maintenance.

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 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 typically the victims of exploitation in the sex industry. A related SALRC project is the investigation into pornography and children (another aspect of the SALRC investigation on sexual offences). The latter investigation examines children who are victims of pornography by investigating the legal framework that deals with child pornography in South Africa as well as the exposure of children to pornography.

The review of witchcraft legislation (Project 135) will support the constitutional imperative to freedom of religion. However, it will also protect vulnerable groups, because it is mostly older women who are persecuted as witches by communities that hold traditional beliefs about witchcraft. 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 today, with it being used 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.

All investigations being done by the SALRC support the government's commitment to promoting legislation to transform the state and society, and to meet the needs of society. Work in progress with regard to 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 constitutionality of legislation

In 2004 the Commission embarked on a major investigation aimed at revising the entire statute book. The aim was to remove or adapt legislative provisions that are considered to be unconstitutional, redundant or obsolete. An audit by the Commission of all national legislation (excluding provincial and secondary legislation) 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 no longer applicable and others contain provisions that are in conflict with the Constitution. Redundant and obsolete provisions on the statute book continue to be identified, and government departments are being consulted to verify the findings.

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 leg of the investigation is 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 previous 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 many statutes. At that time, these departments were 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, and 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 with (or are still assisting with) the review of legislation administered by the following seventeen 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, which administer fewer statutes, are being (or will be) reviewed by SALRC researchers. These departments are as follows: 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 reviews of legislation administered by the three respective departments of Human Settlements, Public Works and Transport were done internally.

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

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 31 December 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 March 2014. The draft discussion paper is being edited. The Commissioner appointed as project leader has since resigned and the appointment of a new project leader is awaited. The draft discussion paper will be submitted to the project leader for consideration and approval once that person has been appointed. The target date for finalising the discussion paper for submission to the Commission is subject to the appointment of the new project leader.
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 and 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. An updated draft report was forwarded to the project leader on 20 March 2014 for consideration and comment.
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 and 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 has been updated and finalised. The Commissioner appointed as project leader has since resigned and the appointment of a new project leader is awaited. The draft discussion paper will be submitted to the project leader for consideration and approval once that person is appointed. The target date for finalising the draft report for consideration by the Commission is 30 September 2014.
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 and 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 was submitted to the Research and Policy Units of CoGTA On 22 January 2014 for comment. A response from CoGTA is still awaited.
Correctional Services (DCS) Ms Veruksha Bhana	The researcher finalised the draft consultation paper in March 2014 for submission to the project leader for comment. The target date for submitting the amended draft consultation paper to the project leader for consideration is 31 August 2014.
Defence and Military Veterans (DOD)	The statutes administered by DOD were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and

Ms Maureen Moloi	amendment proposals was submitted to DOD on 26 March 2010 for comment and was discussed with DOD at a workshop 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 and 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 was updated and submitted to the project leader in February 2014. The draft report will be submitted to the Commission for consideration at its next meeting.
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 and 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 was 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 and DEA comments were received on 5 January 2012. The draft discussion paper has been completed. The Commissioner appointed as project leader has since resigned and the appointment of a new project leader is awaited. The draft discussion paper will be submitted to the project leader for consideration and approval once that person is appointed. The target date for finalising the discussion paper for submission to the Commission is subject to the appointment of the new project leader.
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 December 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 and 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. Comments from three advisory committee members were received in January 2013. Comments from DHA were received on 13 August 2013. The researcher has incorporated DHA comments into the draft discussion paper and has updated the research material and finalised amendments to the draft discussion paper and the draft Bill. The researcher will meet with the project leader in April 2014 to discuss the draft discussion paper.
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 and 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 website and a media statement about the report was released in April 2012.
International Relations and Cooperation	The statutes administered by DIRCO were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and

(DIRCO) Mr Pierre van Wyk	amendment proposals was submitted to DIRCO on 23 February 2011 for comment and 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 was submitted to the project leader for consideration and comment in February 2014. The researcher will meet with the project leader in April 2014 to discuss the draft report.
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 large volume of DOJCD legislation. These are listed below as DOJCD One, Two, Three and Four.
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 and DOJCD comment was received on 12 January 2011. DOJCD was asked to give 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 9 November 2012 and from the Commission for Gender Equality on 18 March 2013. The researcher finalised the draft report in March 2014 for submission to the project leader for comment.
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, and 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 then re-circulated for comment due to the limited comments that had been received. Further comments received in 2012 are being analysed and a need for further investigation in selected areas has been identified. The researcher finalised the first draft of the report in March 2014 for submission to the project leader for comment.

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 and DOJCD comments were received on 14 February 2012. A new project leader was appointed in December 2013. A draft discussion paper will be submitted to the project leader in April 2014. The target date for finalising the draft discussion paper for submission to the Commission is 31 December 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 were required 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 came into operation on 2 January 2014. The Act repeals the Dangerous Weapons Act 71 of 1968 applicable to the former territories of Venda, Ciskei and Transkei, as well as the Dangerous Weapons Act 71 of 1982 that applied to the former territory of Bophuthatswana. The researcher effected amendments to the draft consultation paper to provide for the changes brought by the Dangerous Weapons Act 2013. The target date for finalising the draft consultation paper is 30 November 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 and 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 website and a media statement about the report was 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 and DMR comment was received on 30 August 2010. The SALRC asked DMR for further comment in September 2010 with regard to 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 website and a media statement about the report was 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 and 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) 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 website and a media statement about the report was released in April 2012. *Tax legislation* The statutes administered by National Treasury that are tax-related 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 finalised on 27 February 2014. The researcher will meet

	with the project leader on 11 April 2014 and after that the consultation paper will be submitted to National Treasurer for comment.
Police (DOP) Ms Aura Mngqibisa	The statutes administered by DOP 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 DOP for comment is 31 March 2015.
Public Service and Administration (DPSA) Ms Tania Prinsloo	The statutes administered by DPSA are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The researcher will meet with the project leader in April 2014 to discuss the draft consultation paper.
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. The report was posted on the SALRC website and a media statement about the report was released in April 2012.
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 and 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 website and a media statement about the report was released in April 2012.

Science and Technology (DST) Mr Veruksha Bhana	The statutes administered by DST 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 draft consultation paper to the project leader for consideration and comment is 31 July 2014.
Social Development (DSD) Ms Tania Prinsloo	The statutes administered by DSD are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The researcher will meet with the project leader in April 2014 to discuss the draft consultation paper.
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 28 February 2015.
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 and 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 Commissioner appointed as project leader has since resigned and the appointment of a new project leader is awaited. The draft report will be submitted to the project leader for consideration and approval once that person is appointed. The target date for finalising the report for submission to the Commission is subject to the appointment of the new project leader.
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 researcher met with the project leader on 20 February 2014. The researcher is effecting amendments to the draft discussion paper to deal with anomalies in the legislation reviewed. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 30 September 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 and 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 No. 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 and the researcher met with an official from DWA on 12 March 2012. DWA comment was received on 12 November 2012. The Commissioner appointed as project leader has since resigned and the appointment of a new project leader is awaited. The draft report will be submitted to the project leader for consideration and approval once that person is appointed. The target date for finalising the report for submission to the Commission is subject to the appointment of the new project leader.

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 requested the Minister to consider, among others, an amendment of the Interpretation Act 33 of 1957. The Joint Committee advised that such amendment was needed to bring the Act in line with the principles of constitutional democracy and practices of interpretation that have been 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 inclusion 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. After several extensions to give respondents more time to comment the final closing date for comments on Discussion Paper 112 was set as 30 April 2007. However, comments were received as late as September 2007.

Due to his involvement in Project 25 the researcher was unable to attend to this project for an extended period. The researcher has been developing the draft report since November 2010. On 8 November 2010 he 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. During the reporting period the researcher continued updating the draft report with developments in other jurisdictions. He will meet with the project leader on 5 April 2014 to discuss the investigation. The target date for finalising the draft report for consideration by the Commission is 31 March 2015.

Project 94 – Arbitration

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 Bill for introduction into Parliament and the State Law Advisers certified the Bill. However, the Bill was never introduced into Parliament. In 2011 the DOJCD indicated its intention to promote the International Arbitration Bill through Parliament. Because the Bill had been drafted more than ten years earlier it required updating. The researcher worked with Prof David Butler, in his capacity as 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 was discussed at a subsequent meeting with DOJCD on 23 November 2012. To facilitate the

consultation process, the SALRC and DOJCD jointly hosted an experts' meeting on 12 August 2013. The purpose of the meeting was to consider proposed updates to the International Arbitration and Domestic Arbitration Bills. The meeting was attended by thirty delegates, including representatives of arbitration institutions and other stakeholders such as the Law Society of South Africa, the National Association of Democratic Lawyers and Advocates for Transformation. The due date for further written submissions from the experts was 6 September 2013. The DOJCD is now dealing with the Bill.

Domestic arbitration

The SALRC report entitled "Domestic Arbitration" was published and submitted to the Minister of DOJCD for consideration in May 2001. However, the Bill was never introduced into Parliament. In 2011 the DOJCD indicated its intention to promote the Domestic Arbitration Bill through Parliament. The Bill had been drafted more than ten years earlier, and needed to be updated to include recent developments. The researcher worked 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 was discussed at a meeting on 23 November 2012. To facilitate the consultation process, the SALRC and DOJCD jointly hosted an experts' meeting on 12 August 2013. The purpose of the meeting was to consider proposed updates to the International Arbitration and Domestic Arbitration Bills. The meeting was attended by thirty delegates, including representatives of arbitration institutions and other stakeholders such as the LSSA, NADEL and Advocates for Transformation. The due date for further written submissions from the experts was 6 September 2013. Written and oral submissions have been collated and the final draft of the Bill is receiving attention.

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: 1) ADR and the civil law; 2) family mediation; and 3) 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.

Project 100 – Family law and the law of persons

Four investigations 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”. These are described briefly below.

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 between 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.

Review of aspects of matrimonial property law

The purpose of the investigation is to review the current law for greater legislative fairness and justice in governing interpersonal relationships between spouses.

The Matrimonial Property Act was passed in 1984 to deal with shortcomings in the matrimonial property law at the time. The Act has now been in place for nearly 30 years. In addition to specific problems which have been brought to the SALRC's attention, a number of social and legal changes since 1984 (including the 1996 Constitution and 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 law for greater legislative fairness and justice in governing interpersonal relationships between spouses.

An issue about pension benefits was resolved through consultation with DOJCD in January 2009. This issue pertained to the sharing of pension benefits after spouses get divorced. The question was whether this topic should be included in the investigation in view of the envisaged pending implementation of draft legislation dealing with this topic. It was agreed that because DOJCD is not expected to 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 after divorce would 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; however, the researcher allocated to this investigation is still involved in Project 122, which receives priority.

Hindu Marriages

On 9 September 2006, the Commission approved the inclusion in the SALRC programme of an investigation into the recognition of Hindu Marriages. 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. For example, couples in a Hindu marriage need not use the court if they want to get divorced. Spouses cannot 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. In addition, the appointment of an advisory committee was to be recommended to the Minister to expedite progress in the investigation.

On 7 September 2009, the Minister 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 project leader is 30 April 2014.

Review of the law of maintenance

At the Commission meeting held on 22 October 2011 the Commission approved the inclusion of this investigation in the SALRC programme. The Commission agreed that the investigation should be included 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 programme.

The researcher finalised the first draft of the draft issue paper in September 2012. During August and September 2013 the researcher considered and incorporated comments received from her supervisor in August 2013. The researcher submitted a detailed report to the project leader on the status of the investigation on 28 February 2014. The researcher will meet with the project leader to discuss the investigation in April 2014.

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, excluding adult prostitution and pornography and children. The earlier research 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, as well as the completion of three investigations, namely 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 in 2008 and the Commission approved a discussion paper 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 more than 2 600 email submissions. The draft report was finalised for submission to the project leader by 30 September 2013 and was submitted to the project leader (who was appointed to lead this project on 31 January 2014) on 3 February 2014 for consideration and comment. The project leader indicated her satisfaction with the quality and content of the draft report on 7 February 2014, and on 1 March 2014 she approved the draft report for tabling at the Commission meeting scheduled for April 2014.

Pornography and children

On 15 September 2009 the Deputy Minister of Home Affairs requested the SALRC to advise on the possibility of a ban on the dissemination and circulation of pornography through electronic or print media and 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 screening for pornography need to be explored in a holistic manner and not just in respect of a ban. The Commission 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.

At its meeting of 22 October 2011 the Commission approved the appointment of an advisory committee member to assist with this leg of the sexual offences investigation. The Minister appointed the advisory committee member on 15 November 2011. The advisory committee member submitted two research documents to the researcher for incorporation into the draft issue paper. The documents separately describe –

- the effect of pornography on children who are used in the making of pornographic material; and
- the effect of pornography on children who are exposed to pornography, albeit adult pornography.

A project leader was appointed on 31 January 2014. The researcher submitted the draft research documents and the report on the preliminary investigation to the project leader on 3 February 2014. An advisory committee meeting was held on 1 March 2014. The target date for submitting the first draft of the issue paper to the project leader and advisory committee member for their consideration and comment is 9 April 2014.

Project 122 – Assisted decision-making

As far back as 1988 the SALRC 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 Mental Health Act, 1973 has since been replaced by the Mental Health Care Act, 2002. The latter 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

recommended the introduction of the enduring power of attorney into South African law. These recommendations were not implemented at the time.

The Commission's current investigation was undertaken as a result of attention being drawn to the declining decision-making ability of persons with Alzheimer's disease and the out-dated and inappropriate ways in which the South African law addresses this challenging scenario. However, the investigation has a broader focus. It deals with the shared problems faced by persons who need support with decision-making, irrespective of the reason for this (eg 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, it addresses the need to introduce and regulate 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. 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 has been ratified unreservedly by the South African Government. The SALRC subsequently consulted with representatives from the Human Rights Commission and various government stakeholders, including the Departments of Health; Social Development; International Relations and Cooperation; and the Ministry of Women, Children and People with Disabilities between October 2009 and April 2010. The consultation process, however, confirmed the uncertainty at both national and international levels about how to interpret the provisions of the CRPD that deal with legal capacity – which would affect the SALRC's draft proposals in this investigation.

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 embarked on further research in January 2010 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 to ensure compliance with the CRPD.

An extensive additional research and consultation process was embarked upon to deal with the request to take the CRPD into account. The consultation process and the main milestones in re-developing legislative proposals to this end were outlined in the Commission's 2012/2013 Annual Report. The 2012/2013 year culminated in the submission of the re-developed draft Bill to the advisory committee on 13 March 2013 for consideration and comment. Apart from incidental consultation in the course of developing the Commission's final proposals, the formal consultation process has now been concluded. Final comments from the national Department of Health regarding an overlap between the Bill and certain provisions of the Mental Health Care Act, 2002, and the view of the Banking Association South Africa on financially-related matters in the draft Bill, were sought on 28 and 31 March 2014 respectively.

Most of the 2013/2014 year was utilised to prepare the draft report on this investigation, which will contain the SALRC's final recommendations on law reform in the field of assisted decision-making. Selected chapters and the draft Bill were submitted to the project leader for his comment on 20 December 2013. Comments were received from the project leader on 24 January, and on 3, 6, 8, and 23 March 2014. These were incorporated into the draft report. Working sessions with advisory committee member Ms Margaret Meyer, focused on practical matters addressed in the draft report and on incorporating the project leader's comments, took place on 21 January and 28 February 2014. A further working meeting was held with the project leader on 5 February 2014. A first draft of the report was submitted to advisory committee members on 31 March 2014 for consideration and comment. The target date for submitting the final draft report and draft Bill to the Commission for consideration is 20 March 2015.

Project 125 – Prescription periods

No comprehensive review of the provisions providing for different prescription periods, whether of a contractual or delictual nature, had been undertaken by the SALRC prior to this investigation. When reporting on the Bill which later 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 programme.

Issue Paper 23: Prescription periods was published for general information and public comment in August 2003. 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 on prescription periods resigned from the Commission on 31 May 2011. The investigation was then assigned to a newly-appointed researcher in September 2012.

This researcher has since reviewed Discussion Paper 126 and has identified the need to develop an additional discussion paper. In August 2013 she compiled a draft status report detailing her evaluation of the investigation and motivating for an additional discussion paper to be published. She also requested that an advisory committee be appointed. The researcher forwarded Discussion Paper 126 and the draft status report to the project leader on 11 February 2014 for her consideration and comment in light of the need for an additional discussion paper and an advisory committee. The researcher will meet with the project leader in April 2014 to discuss the investigation.

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. Subsequently, on 17 September 2001, the Working Committee recommended the inclusion of an investigation to review the rules of evidence into the SALRC programme. In December 2001 the Minister

approved this inclusion. 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 the attendant difficulties in determining their admissibility. In addition, the new constitutional dispensation has affected 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. These issues 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 about 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 (eg child justice and the abuse of women). When the investigation was included on the SALRC programme, the advisory committee resolved to follow an incremental approach to the project 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.

To date, in the course of this investigation, the following research papers have been published:

- *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 instead to consolidate all matters identified for investigation into one discussion paper.

Issue Papers 26 and 27 and the comments received on these issue papers will be developed into a discussion paper. The resultant discussion paper and Discussion Paper 113, as well as the comments received on both discussion papers, will be combined to develop a final report. The target date for finalising the draft consolidated discussion paper to submit 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 of 30 June 2008 for comment. 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 on 1 August 2009 approved 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.

With regard to criminal proceedings, Issue Paper 27 is particularly concerned with the relationship between chapter three of the Electronic Communications and Transactions Act 25 of 2002 (ECT Act) and the rule against hearsay. The purpose of the issue paper was twofold:

- to facilitate a focused debate about issues concerning the admissibility of electronic evidence in criminal and civil proceedings; and
- to allow stakeholders and practitioners in the criminal and civil sectors, who are affected by the applicability and scope of the evidential provisions of the ECT Act, to consider the issues

raised; and to give these stakeholders 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. At a meeting on 3 December 2011, the Commission considered and approved a proposal to broaden the scope of Project 126: "Review of the Law of Evidence" to include an investigation into cybercrime.

In April 2012 the Minister of Communications launched a process to review the Information and Communications Technology (ICT) Policies. To this end, a National ICT Policy Colloquium was held from 19 to 20 April 2012. The review was initiated to examine the policy and regulatory frameworks that apply to telecommunication, broadcasting, postal and e-commerce that were expected to lead to the adoption of a white paper on an Integrated Policy Framework for South Africa. Due to the enormity and the complexity of the process and the need to ensure inclusivity in the development of these documents, the Minister of Communications intends to appoint an ICT Policy Review Panel in April 2014.

The Review Panel will review the functioning of the policy and regulatory frameworks for telecommunication, broadcasting, postal and e-commerce. In doing its work, the Panel will also review the legislative framework, including cyber security; and will review the Electronic Communications Act of 2005, the ICASA Act of 2000, the Broadcasting Act of 1999, the Postal Services Act of 1998 and the Electronic Communications and Transactions Act of 2002. In light of these developments, the advisory committee will review the inclusion of an investigation into cybercrime as part of this project at its first meeting in 2014.

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 1) the short to medium term, and 2) 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. These amendments 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 light of the provisions of the National Credit Act 34 of 2005. On 14 January 2009, the Commission considered a document that detailed 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; however, 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 through 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, and debtors under administration and the NGOs representing them. The researcher is currently busy with additional research and is compiling a draft discussion paper containing proposed amendment legislation. This work takes into account those comments received on the background document titled "Administration Orders: proposed amendments to section 74-74W of the Magistrates Court Act, 32 of 1944".

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 programme. The meeting also clarified the substantive issues raised in the submissions. A proposal paper was then 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 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. A project leader was appointed in February 2014, and the draft issue paper was submitted to the project leader for consideration and comment. The project leader approved the draft issue paper and the proposed members of the advisory committee. The draft issue paper and Commission Paper on the appointment of the advisory committee are to be tabled at the next Commission meeting.

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, including 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 programme, as the topic 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 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, on the one hand, the right of citizens to be protected against criminals and, on the other, the recognition that having a criminal record may cause undue hardship for a person.

The Portfolio Committee decided to request that the Minister for JCD should –

- Conduct 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.
- Consult more widely with relevant stakeholders and the public on this issue.

- Report 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 programme on 28 April 2010. The researcher is developing the draft discussion paper. The term of office of the previous project leader expired in December 2011, and a new project leader was appointed in December 2013. The target date for submitting the draft discussion paper to the project leader is 30 June 2014.

Project 138 – The practice of *ukuthwala*

On 15 March 2009, the South African Broadcasting Corporation (SABC) and e-TV gave news coverage to a practice that is prevalent in parts of the country, namely the forced marriage or sale of young girls into marriages with adult men. The girls are generally aged between 12 and 15 years. On 24 August 2009, the SALRC received a request from the Gender Directorate of DOJCD to investigate this practice of *ukuthwala.* Specific issues were the effect of *ukuthwala* on girl children; the appropriateness and adequacy of the current laws on *ukuthwala*; and protection of the human rights of girl children, taking the principle of the best interest of the child into consideration.

The Commission hosted a round-table 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 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 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 researcher distributed questionnaires to various stakeholders on 19 April 2013. The purpose of the questionnaire was to source opinions from stakeholders on the practice of *ukuthwala*. Seven responses were received from various NGOs, and Professors Meyiwa and Sithole evaluated the responses received. Advisory committee meetings were held on 9 November 2013 and 10 January 2014, and an advisory committee writing retreat took place from 16 to 19 January 2014. The draft discussion paper will be tabled at the next Commission meeting for consideration.

Proposals for new investigations

Evaluation of proposals for new investigations

The SALRC has developed selection criteria to determine which proposals for new investigations should be included as investigations. The process starts with a decision on which proposals should become preliminary investigations. 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 every proposal received. The SALRC therefore 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 have been developed provide for a two-phased process. In the first stage, an initial set of criteria is used to determine whether a proposal should be rejected without even a preliminary investigation. This stage entails a sifting mechanism to reduce the number of preliminary investigations. If a proposal does not meet the initial criteria, it is rejected and the person or institution that requested the investigation is informed accordingly. Proposals that pass the initial criteria are put through the second stage of the selection process, namely a preliminary investigation as described below.

Proposals received

In the year under report, the SALRC received the following requests for consideration for inclusion in its law reform programme:

- Possible legislation for the promotion and protection of the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.
- Review of the current fees dispensation for attorneys and advocates who render legal services to clients.
- Review of legislation that regulates maternity benefits in South Africa, to align these laws with section 9 of the Constitution.
- Strengthening the legal process for the effective handling of medical legal claims.
- Review of the Small Claims Courts Act 61 of 1984 to bring it in line with the constitutional imperative of access to justice, and to provide measures for enforcing decisions of the Small Claims Courts.
- Harmonising the law pertaining to the age of criminal capacity of children.
- Harmonising the law pertaining to the age of marriage.
- Establish whether the prohibition in the Children's Act 38 of 2005 on revealing the identity of a surrogate mother and a sperm donor violates the "best interest of the child" principle, as provided for in the Constitution and the UN Convention on the Rights of the Child.
- Review of national legislation that impacts local government, to reduce the lack of regulatory compliance and the reporting burden on municipalities, and to simplify implementation.
- Research on the framework for intergovernmental relations and the implementation of MINMEC decisions.

Preliminary investigations

If a proposal for a new investigation meets the SALRC's initial criteria for the inclusion of new investigation into its programme, a preliminary investigation is indicated. The second set of criteria is then used to evaluate the proposal further, 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.

During the period under review, the SALRC did not conduct any preliminary investigations. The two preliminary investigations discussed below, conducted during previous reporting periods, have been referred to the Minister. The SALRC is awaiting the Minister's decision on whether to include them in the SALRC 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 in the SALRC programme of an investigation on the culpable and unlawful killing of an unborn baby by a third party. A proposal paper dealing with the South African legal position served before the Commission on 25 October 2008. This paper made reference to the Constitution, the "born alive" rule in common law, delict and succession, procedural law, murder, attempted murder, abortion and sentencing. It examined the international legal position, relevant international instruments, regional treaties, foreign jurisdictions, the phenomenon of violence against pregnant women, and local cases, and recommended the inclusion of the investigation.

After consideration of a supplementary proposal paper on 10 October 2009, the Commission approved the inclusion of the project under an amended title, "Violence against Pregnant Women". A memorandum to request the Minister for JCD to approve the inclusion of the project in the SALRC 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 programme on 14 August 2010. A memorandum to request the Minister for JCD to approve the inclusion of the project in the SALRC programme was submitted to DOJCD on 25 October 2010.

CHAPTER 4
PUBLIC RELATIONS

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PUBLIC RELATIONS

Public consultation

The SALRC relies extensively on the cooperation of institutions and persons who have an interest in its investigations. The input of these external stakeholders contributes enormously to the efficient functioning of the SALRC. To ensure the best possible involvement of interested parties, SALRC policy requires that we inform members of the South African public of new investigations that we initiate, and of issue papers and discussion papers that are published for general information and comment. SALRC issue papers and discussion papers are released by way of media statements to ensure good coverage. However, the SALRC also directly sends issue papers and discussion papers to institutions that have an interest in specific investigations. Responses to these documents form an indispensable link in the process of law reform, and play an important role in the eventual recommendations made by the Commission in its reports.

Interaction with foreign law reform bodies and institutions

Association of Law Reform Agencies of Eastern and Southern Africa

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.

ALRAESA Executive Committee (Exco) meetings are held bi-annually, and the general meeting takes place every two years. The first Exco meeting was held in Cape Town, South Africa, on 11 April 2013; the second was held in Etosha, Namibia, on 5 November 2013. The ALRAESA general meeting was held in Cape Town on 12 April 2013. Because South Africa is the treasurer, the SALRC assisted with making arrangements and payments for the venues for all ALRAESA meetings. Auditing of ALRAESA accounts will be finalised in April 2014. The audited financial statements (agreed-upon procedures) for the 2012 and 2013 financial years will be

presented at the general meeting scheduled to take place in Kampala, Uganda, in November 2014.

In view of the Commonwealth Law Conference that was due to be held in South Africa in April 2013, the ALRAESA Exco decided to hold its meeting and the ALREASA general meeting in Cape Town on 11 and 12 April 2013 respectively. The SALRC Secretariat assisted with making arrangements for the venue of the meetings and the event hosted by ALRAESA.

Commonwealth Association of Law Reform Agencies

The Commonwealth Association of Law Reform Agencies (CALRAs) was formed to encourage, facilitate and take forward cooperative initiatives in law reform. CALRAs was formally established at a Law Reform Agencies Day during the Commonwealth Law Conference in 2003, and has been granted formal accreditation in the Commonwealth. The SALRC is one of 29 law reform agencies of Commonwealth countries that are members of CALRAS.

The year 2013 marked the first time in the more than 60 year history of the Commonwealth that the CALRAs Conference has been held in South Africa; this was only the second time it has been hosted in Africa. The 2007 CALRAs Conference was held in Kenya; in 2005 it was held in England; in 2009 in Hong Kong; and in 2011 in India. It was therefore a huge honour for the SALRC to have been requested to co-host the 2013 CALRAs Conference. The event took place at the Commodore Hotel at the Victoria and Alfred Waterfront in Cape Town, on Saturday 13 and Sunday 14 April 2013.

The Secretariat of the SALRC liaised with Mr Michael Sayers, Honorary General Secretary of CALRAs, to arrange the Conference. The Conference and the SALRC's involvement in it provided a unique opportunity to market South Africa and the SALRC to fellow law reform agencies and other Commonwealth countries. The event brought together representatives of law reform agencies, the judiciary, legal practitioners and legal academics from across the world to discuss topical issues of importance to law reformers. The main theme was "Law Reform – Common Challenges and Solutions".

The keynote address was delivered by Prof Thandabantu Nhlapo, former Commissioner of the SALRC and Deputy Vice Chancellor of the University of Cape Town. His address on "When law

reform is at a crossroads with resistance to change – where to from there?" interrogated the potential conflict between the need to reform and the desire to retain the *status quo* with reference to specific examples of South African case law. Other topics included a paper on selection criteria to develop a research programme, delivered by Prof Cathi Albertyn, Professor of Law at the University of Witwatersrand; a paper on international cooperation across frontiers, delivered by Mr Sakeus Shanghala, Chairperson of the Namibia Law Reform and Development Commission and Chairperson of the Association of Law Reform Agencies of Eastern and Southern Africa (ALRAESA); and guidelines on achieving implementation of law reform proposals by getting proposals for laws onto the statute book, delivered by the Hon Justice Sir Grant Hammond, the President of the New Zealand Law Commission.

Mr John Gara, Chairman of the Rwanda National Law Reform Commission, and Mrs Ade Adeyemo, Executive Secretary of the Lagos State Law Reform Commission in Nigeria, discussed the need for a law reform agency and whether new law reform agencies are succeeding. Ms Carmel Rickard, a noted South African independent legal correspondent, entertained the usually rather serious audience by taking a witty closer look at the media and law reform in a democratic society. The Hon Justice Aloysius A Mujulizi, Chairman of the Law Reform Commission of Tanzania, and Mr Stuart Stoker, former Secretary of the Law Reform Commission of Hong Kong, talked about facing the challenge of difficult times.

The delegates were privileged when Mr Andries Nel, Deputy Minister of Justice and Constitutional Development at the time, joined them for a conference dinner on Saturday evening. He addressed the dinner party on the importance of law reform in the legal community. The Conference concluded with a CALRAs general meeting, at which the way ahead for CALRAs was discussed.

Law reform is a highly specialised area of the law. Law reform agencies must learn from each other about issues such as best practices, selection criteria for investigations, research methodology, effective consultation methods, assistance with the adoption of law reform proposals, and ways of improving current processes. Engagement with other law reform agencies takes place by means of direct liaison, study visits, comparative research and the attendance of international conferences. Attending international conferences is especially important as it offers the chance to learn from experts in the field, provides a unique opportunity for liaison with several law reform agencies simultaneously, and offers vital networking

opportunities.

Commonwealth Law Conference

The Commonwealth Law Conference (CLC) is one of the most prestigious events on the international legal calendar, providing an opportunity for judges, legal academics and lawyers from across the Commonwealth to meet and discuss current and topical legal issues. The 18th CLC took place in Cape Town during 2013, hosted by the Commonwealth Lawyers Association in association with the Law Society of South Africa (LSSA). The Conference highlighted the legal, socio-economic and commercial challenges faced by the legal profession in Commonwealth jurisdictions, and provided an opportunity to exchange information and learn from each other.

The first CLC was held in London, United Kingdom, in 1955. The CLC that took place at the Cape Town International Convention Centre (CTICC) from 14 to 18 April 2013 was the first CLC ever to be held in South Africa. It is only the third time that the biennial CLC has been held in Africa; previous African host countries were Nigeria in 1980 and Kenya in 2007. The event began with a reception on the evening of Sunday 14 April 2013. The opening ceremony, featuring the Tygerberg Children's Choir, kicked off the Conference on Monday 15 April 2013.

After the keynote address, which was delivered by Ms Navi Pillay (United Nations High Commissioner for Human Rights), delegates spilt into separate groups along the lines of the four broad themes of the Conference. These were as follows:

- Stream A: "Anti-Bribery and Corruption in the Corporate World" for Day One and "Corporate and Commercial Law" from Days Two to Four;
- Stream B: "Legal and Judicial Profession";
- Stream C: "Constitutionalism, Human Rights and the Rule of Law"; and
- Stream D: "Contemporary Legal Topics".

The parallel sessions featured eminent speakers from across the Commonwealth, who addressed a range of contemporary legal topics. The programme was designed to allow ample time for questions and comments from the floor in all sessions.

The Conference ended on Thursday 18 April 2013 with a stirring address delivered by Lord Judge, Lord Chief Justice of England and Wales. His words, while reminding us of South Africa's often turbulent history, encouraged us to take the struggle for justice and equality forward into the future.

Intern from Maryland University School of Law

The SALRC hosted Ms Amelia Parsons as an intern from 3 June to 12 July 2013. The purpose of the study visit was to expose Ms Parsons to working in a legal research environment. Ms Parsons worked under the supervision of Ms Roberts, a Principal State Law Advisor at the SALRC.

On 28 June 2013 SALRC researchers and Ms Pillay (then acting Secretary) met with Profs Dunchan and Hoffman from Maryland University School of Law. The following matters were discussed at the meeting:

- SALRC processes.
- Assistance rendered by interns.
- Possible assistance to SALRC researchers in finding American sources.
- Exposing interns to the work of other divisions within the DOJCD.

Visits from foreign delegations

On 13 August 2013 the SALRC hosted five delegates from the Kenyan Law Reform Commission (KLRC). The meeting was held at the SALRC offices in Centurion, Pretoria. The purpose of the KLRC visit was to compare the working methods of the two law reform commissions and for the respective legal researchers to exchange ideas and learn from each other.

The Secretary of the KLRC, Mr Joash Dache, stated that in addition to its ongoing role of keeping under review all the laws of Kenya, the KLRC has recently been tasked with preparing all new legislation in line with Kenya's new Constitution, 2010. Mr Dache also explained that the KLRC has recently started work on an exciting project that is similar to the SALRC's Project 25. The KLRC expressed its hope that it would be able to learn from the SALRC's success in Project 25 by implementing a Kenyan project along the same lines.

On 15 August 2013 the SALRC was visited by legal professionals from the Zambia Law

Development Commission. They were interested in learning about law reform relating to gender-based violence. Discussions included a short background on SALRC projects that relate to how the courts deal with gender-based violence; a discussion on prostitution, stalking, domestic violence and sexual offences; a discussion on the cultural practice of *ukuthwala* (abduction of women and girls for marriage); and a discussion on the Children's Act and assistance to victims of crime.

The SALRC hosted the Nigerian Law Reform Commission (NLRC) on 26 November 2013. The SALRC and the NLRC discussed the possible exchange of law reform research officers between the two institutions, and the possibility of the formation of a law reform agency for Africa.

International liaison

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

On 12 March 2014, Mr Pierre van Wyk contacted Ms Julia Agar, Senior Legal and Policy Analyst at the Parliamentary Counsel Office in Wellington, New Zealand, to obtain information about developments in New Zealand with regard to the New Zealand Interpretation Act. She responded on 18 March 2014. Mr Van Wyk will use the information she provided to further develop the SALRC draft report on the Review of the Interpretation Act.

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 – generally 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 at South African universities on 16 February 2012 to notify them of the competition's new season. Promotional material for the competition was distributed to universities throughout the country in March 2012. The closing date for entries for the competition was 30 September 2012.

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

For the competition's 2011/2012 season the SALRC received twenty essays in the LLB category and nine in the LLM category. The essays received were submitted by students registered at the Universities of Cape Town, KwaZulu-Natal, Limpopo, Pretoria, Stellenbosch, South Africa, Western Cape, Witwatersrand and Varsity College.

A panel consisting of Professors Cathi Albertyn (Wits University, former Commissioner of the SALRC and Chairperson of the Panel), Vivian Lawack (Dean of the Faculty of Law: Nelson Mandela Metropolitan University), Managay Reddi (Dean of the Faculty of Law: UKZN) and Pamela Schwikkard (Dean of the Faculty of Law: UCT and former Commissioner of the SALRC) was appointed in December 2012. They evaluated the essays and identified the winners and the runners-up of the 2011/2012 season. The panel unanimously agreed that the Ismail Mahomed Law Reform Essay Competition Prize should be awarded only in the LLB category for the year.

The panel also unanimously decided that the first prize for the 2011/2012 competition should be awarded to Mr Daniel Mackintosh from the University of Cape Town, for his essay "Teacher provisioning policy in South Africa: A violation of substantive equality and the right to a basic education?". The runners-up were Mr Marc Schulman from the University of the Witwatersrand for his essay "The origins & influence of Bona Fides on the shaping & development of Roman

Private Law from 300 B.C. to 250 A.D"; Mr Tshepo Mothulwe from the University of the Witwatersrand for his essay "Constitutionalising South African Contract Law: Finding a place for the Bill of Rights and the Constitution"; and Mr SW Burger from the University of Stellenbosch for his essay "Affirmative Action in SA: The (missing) link between benefit and disadvantage."

The award ceremony for the 2011/2012 season was held at the Constitutional Court on 19 July 2013. The keynote address speaker was Judge Lex Mpathi of the Supreme Court of Appeals.

The 2013 season of the Ismail Mahomed Law Reform Essay Competition began in February 2013, and marked the tenth anniversary of the competition. Prizes were again sponsored by Juta Law. The closing date for receipt of essays was 30 September 2013. The SALRC received 27 essays in the LLB category and two in the LLM category. The essays were submitted by students registered at the Universities of Cape Town, Free State, Johannesburg, KwaZulu-Natal, North-West (Potchefstroom), Rhodes, South Africa, Stellenbosch, Venda, and Witwatersrand.

The adjudication panel was appointed in December 2013 to evaluate the essays and identify the winners and runners-up of the 2013 competition. The panel consisted of Professors Pamela Schwikkard (Dean, Faculty of Law, UCT; former Commissioner at the SALRC; Chairperson of the panel); Cathi Albertyn (Professor, Wits University; former Commissioner at the SALRC); Vinodh Jaichand (Dean, Faculty of Law, Wits; Commissioner at SALRC); Vivian Lawack (Dean, Faculty of Law, Nelson Mandela Metropolitan University); and Managay Reddi (Dean, Faculty of Law, University of KZN). The award ceremony for the 2013 season will include a 10-year celebration of the competition and will take place in September 2014.

Electronic and printed media and liaison

The SALRC maintains good relations with the electronic and print media sectors. 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 about the work of the SALRC on virtually a daily basis. These enquiries come from media representatives, other state departments, professionals,

universities, NGOs, and members of the public. In addition to dealing with routine enquiries on a regular basis, researchers and advisory committee members participate in various programmes and discussions relating to their research projects. These take the form of, among others, interviews at 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. The participants include 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 that are initiated by organisations other than the SALRC, both nationally and abroad. They are invited by other government departments, NGOs and other institutions to attend seminars or conferences and to participate in workshops relating to investigations on the SALRC 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 helps to avoid duplication of research initiatives.

Support to departments during parliamentary process

During the period under report Ms Ananda Louw rendered assistance to the Department of Justice and Constitutional Development (DOJCD) with the passing of the Protection of Personal Information Act 4 of 2013 through the parliamentary process. This included her attending and participating in the following:

- Numerous meetings with officials from DOJCD.
- Meetings of the Portfolio Committee on Justice and Constitutional Development to brief members.
- Meetings of the NCOP Select Committee on Security and Constitutional Development to brief members.

- Meetings with SAPS and DOJCD on the Criminal Law (Forensic Procedures) Amendment Bill 9 of 2013.
- Made a presentation on the Protection of Personal Information Bill at the NCOP Workshop on 22 May 2013.

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 and 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
	The SALRC hosted an experts' meeting with thirty stakeholders at the SALRC offices.	12 August 2013
	Meeting with delegation from DTI to discuss the interface of the Arbitration Bill with the Promotion and Protection of Investment Bill.	25 October 2013
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
	Attended the National Accreditation Board for Family Mediators meeting in Cape Town as an observer.	2 August 2013
	Meeting with various role players from the Department of Social Development.	26 September 2013
	Meeting with Dr Charmaine Badenhorst, Director Child Justice and Family Law, DOJCD.	5 November 2013
	Meeting with Prof Ann Skelton, Director Child Law, University of Pretoria.	November 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	Activity	Date
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
	Three Constitutional challenges were launched against provisions in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, namely: the penalty clauses, statutory consensual rape and consensual sexual assault, and mandatory placement on the national register for sex offenders. The researcher assisted the DOJCD with preparing heads of argument and briefing of counsel.	Throughout the reporting period
	Emails from Sister 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 of creation and distribution of child pornography.	May 2013
	Prepared a briefing note for the DOJCD for a discussion on Ukhozi FM on the topic of statutory rape in Zulu.	19 June 2013
	Interviewed on the risk factors that contribute to child prostitution in South Africa by a student completing her Criminology and Criminal Justice Honours at Monash University.	4 July 2013
	Email discussion with a sexual health educator on the age of consent.	8 October 2013
	Email correspondence with Rebecca Johns of UKZN on sexual offences and intellectual disability, explaining the range of the definition of a person who is mentally disabled and the background to the framing of this definition.	28 November 2013
	Presented at the Women and Child Health Symposium hosted by the University of Pretoria and participated in a round-table discussion on the age of consent.	3 & 4 December 2013
	Corresponded with Rebecca Johns of UKZN with regard to her educational resource for teachers on sexuality education.	24 January 2014
	Corresponded with Sr Ruth, a sexual health educator, with regard to primary school learners and the booklet *Sex, the Law and You* as part of the Sexy Hip Hop programme for school learners.	10 February and 31 March 2014
Adult prostitution Ms Dellene Clark	The project enjoys continuous external and media attention and the researcher received several general enquiries regarding sexual offences.	Throughout the reporting period

Project	Activity	Date
	Ms Clark is an elected member of the SANAC Legal and Human Rights Technical Task Team and actively participates in the Task Team meetings.	14 June 2013, 15 and 16 October 2013 and 10 March 2014
	Commented on the UNGASS report in respect of Target 7: Eliminate gender inequalities and sexual violence & increase capacities of women and girls; and Target 8: Eliminate stigma and discrimination.	26 July 2013
	Meeting with SWEAT, SISONKE and WLC via DOJCD video conference between Pretoria and Cape Town.	30 August 2013
	Corresponded with the legal advisor of Embrace Dignity.	3 September 2013
	Corresponded with the Department of Trade and Industry Legal Services regarding the sale of liquor at premises used in the sex entertainment industry (section 160 of the 1989 Act).	5 September 2013
	Corresponded with the Christian Action Network.	12 September 2013
	Fielded media queries from POWA FM on the *Times Live* article that decriminalisation remains on the Zuma agenda.	21 October 2013
	Provided information to the Office of the DG regarding decriminalisation of sex work for a Parliamentary briefing on child justice.	22 October 2014
	Fielded an enquiry from New Zealand on how the SALRC is addressing legalising of prostitution and the discrimination faced by prostitutes and members of the gay community.	28 October 2013
	Fielded an enquiry regarding participation in the law reform process.	28 October 2013
	Fielded an enquiry by *Beeld* on the timelines on Project 107 – referred to the DOJCD spokesperson with an update.	4 November 2013
	Corresponded with the Unit Vulnerable Groups: Victim Support and Specialised Services. Compiled a progress report and submitted the report to Vulnerable Groups and to the DPSA (to update the office of the Deputy President).	15 November 2013
	Presentation to SANAC Project Review Committee on sexual offences and adult prostitution.	26 November 2013

Project	Activity	Date
	Enquiry from the Department of Health regarding male prostitution in Sunnyside.	23 January 2014
	Corresponded with Willem Engelbrecht of Witbank Extension 5 CPC on the uncertainty of the police response to public nuisance and prostitution.	3 February 2014
	Corresponded with the Deputy Minister's Office, the Office of the DG and DDG and the project leader on the PAIA application brought during 2013 for the submissions made with regard to the Discussion Paper on Adult Prostitution.	12 February 2014
	Corresponded with a senior law researcher at the KwaZulu-Natal High Courts (PMB & DBN) regarding the draft report on behalf of a High Court judge.	17 February 2014
	Fielded an enquiry by a reporter from *Daily News* INL doing an article on the recent march by sex workers organised by SISONKE (SWEAT) – referred to the DOJCD spokesperson.	5 March 2014
	Fielded a request by TV show Shift on SABC 1 to discuss prostitution on the show as a studio guest on 1 April – referred to the DOJCD spokesperson.	27 March 2014
Children and pornography Ms Dellene Clark	Attended a meeting on South Africa's participation in the capacity building project on cybercrime launched by the Council of Europe and briefed the meeting on Project 107 – Sexual Offences: Pornography and Children.	26 February 2014
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 122 Assisted decision-making Ms Anna-Marie Havenga	General 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
	Correspondence with the National Department of Health on request for final comment on draft Supported Decision-making Bill under preparation	28 March 2014
	Correspondence with Banking Association South Africa on request for final comment on draft Supported Decision-making Bill under preparation	31 March 2014
Ms Margaret Meyer (advisory committee	Field enquiries by the public on the current legal position regarding assisted decision-making for persons with Alzheimer's Disease and other mental	Throughout the reporting period

Project	Activity	Date
member)	disabilities and the SALRC's envisaged proposals for law reform.	
	Presentation to social workers at Charlotte Maxeke Hospital, Johannesburg. Topics included legal position of persons incapable of managing their own affairs, curatorship, administratorship and related matters.	17 May 2013
	Presentation to social workers at Kalafong Hospital, Pretoria. Topics included legal position of persons incapable of managing their own affairs, curatorship, administratorship, and related matters.	14 June 2013
Project 123 Protected disclosures Ms Dellene Clark	Correspondence with a member of the Board of Certified Fraud Examiners of South Africa with regard to the protection offered by the Protected Disclosures Act and the recommendations made by the SALRC in its Report on Protected Disclosures. Referred enquiries on the draft Bill to DOJCD.	From 21 June 2013 onwards
	Telephonic comment and meeting with the official in DOJCD tasked with promoting the amendment Bill on matters of clarity.	October 2013
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
	Conducted a number of information and consultation sessions on the Bill with the Financial Services Board and National Treasury.	Throughout the reporting period
	Held various meetings with the Medical Schemes Council.	June 2013
	Attended a SAHRC Conference in Johannesburg on privacy and data protection.	27 June 2013
	Presentation on PPI Bill at the business breakfast hosted by Ernst and Young Advisory Ltd.	12 July 2013
	Met with the CEO of the Direct Marketing Association.	18 July 2013
	Presented a paper at the Standard Bank Regulatory Dialogue Series: "Managing Privacy Information in South Africa" in Johannesburg.	5 September 2013
Project 125 Prescription periods Ms Theresa Häderli	Meeting with Prof MM Loubser, expert on prescription law and author of *Extinctive Prescription* to discuss the SALRC investigation in relation to South African prescription law.	June 2013

Project	Activity	Date
Project 126 **The review of the law of evidence** Mr Willie van Vuuren	General inquiries regarding the review of the law of evidence.	Throughout the reporting period
Project 127 **Administration Orders** Ms Lowesa Roberts	General inquiries from debtors under administration.	Throughout the reporting period
Project 130 **Stalking** Ms Dellene Clark	Presentation on the Protection from Harassment Act and stalking at the SA 7th Annual Cyber Law Conference – Protecting Minors in Cyber Space. Permission was subsequently requested and given to a lecturer to use the SALRC presentation to teach students at the University of the Orange Free-State.	23 and 24 July 2013
Project 131 **Trafficking in persons** Ms Lowesa Roberts	The Trafficking in Persons Task Team requested a meeting with Legislative Development (LD) to discuss problems encountered by the NPA in drawing up charge sheets in respect of certain of the offences in the Prevention and Combating of Trafficking in Persons Act 7 of 2013. LD requested the researcher to be part of this meeting.	19 July 2013
	LD requested the researcher to respond to written questions on the Prevention and Combating of Trafficking in Persons Act 7 of 2013 posed by a *Times Media* journalist. The researcher responded to all the questions in a telephonic discussion with the journalist.	1 August 2013
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 such contributors. The Commission expresses its sincere gratitude to all concerned. Without your goodwill and assistance, the Commission would not have been able to execute its mandate properly.

The Commission also wishes to express its appreciation to the various project leaders and advisory committee members, both within and outside the Commission, for providing advice and direction. Thank you for your input in evaluating the research and for the guidance you have given the SALRC researchers in compiling documents and reports. 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 in the Secretariat for their dedication and for the consistently high level of professionalism and excellent research standards which they have maintained. 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 Commission members for their guidance, dedicated service and commitment to law reform.

Finally, the administrative staff members are thanked for their contributions, which are 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, serial numbers have been assigned to all discussion papers (previously referred to as working papers), with the numbers running consecutively. Only discussion papers published since March 1983 are listed below.

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	To be published	See Chapter 4
	Legislation administered by the Department of Human Settlements	2011	To be published	See Chapter 4
	Legislation administered by the Department of Labour	2011	To be published	See Chapter 4
	Legislation administered by the Department of Mineral Resources	2011	To be published	See Chapter 4
	Legislation administered by the Department of Public	2011	To be published	See Chapter 4

Project number	Title	Year of report	Reference number of published report	Result
	Works Legislation administered by the Department of Rural Development and Land Reform Legislation administered by National Treasury	2011 2011	To be published To be published	See Chapter 4 See Chapter 4
	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 liability in cases of misrepresentation	1983	Not published	No legislation recommended.
37	Review of preferent claims in insolvency	1984	ISBN 0 621 090840 X	Recommendations not implemented – see Project 63.
38	Investigation into the legal position of illegitimate children	1985	ISBN 0 621 10205 9	Children's Status Act 82 of 1987 enacted, since repealed and re-enacted in the Children's Act 38 of 2005.
39	Investigation into the legal consequences of suspensive conditions in contracts of sale	1985	ISBN 0 621 11350 6	No legislation recommended.
40	Evaluation of the effect of the	1983	Not published	No legislation recommended.

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

Project number	Title	Year of report	Reference number of published report	Result
	Problems relating to the acquisition of leasehold	1985	Not published	Section 1 of Laws on Co-operation and Development Second Amendment Act 90 of 1985 enacted.
	Final report	1986	-	Marriage and Matrimonial Property Law Amendment Act 3 of 1988 enacted.
52	Investigation into the legal consequences of sexual re-alignment and related matters	1995	RP 32/1996 ISBN 0 621 17334 7	Alteration of Sex Description and Sex Status Act 49 of 2003 enacted.
53	Investigation into the amendment of section 26 of the Insolvency Act 24 of 1936	1983	Not published	Insolvency Amendment Act 84 of 1984 enacted – see also Project 63.
54	Committal to prison in respect of debt	1985	ISBN 0 621 11346 8	See Project 74.
55	Removal of certain restrictions in respect of land	1984	Not published	No legislation recommended.
56	Submission of a question of law to the Appellate Division of the Supreme Court relating to the calculation of finance charges under the Limitation and Disclosure of Finance Charges Act 73 of 1968	1976	Not published	*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	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 2003.
60	Domicile	1991	ISBN 0 621 14255 7	Domicile Act 3 of 1992 enacted
61	Enduring powers of attorney and the appointment of curators for mentally incapacitated persons	1988	ISBN 0 621 12107 X	Mentally Ill Persons' Legal Interests Amendment Act 108 of 1990 enacted.
62	The protection of a purchaser of shares			
	Report	1993	ISBN 0 621 16287 6	Recommendations not implemented.
	Supplementary report on	1994	RP 152/1995	Companies Amendment Act 35

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

Project number	Title	Year of report	Reference number of published report	Result
73	The simplification of criminal procedure			
	First interim report: Appeal procedures	1994	-	Recommendations not implemented.
	Second interim report: The simplification of criminal procedure	1995	RP 70/1996 ISBN 0 621 17405 X	Criminal Procedure Amendment Act 86 of 1996 enacted.
	Third interim report: The right of the Director of Public Prosecutions to appeal on questions of fact	2000	RP 58/2001 ISBN 0 621 30678 9	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in December 2000.
	Fourth interim report: Sentence agreements	2001	RP 120/2001 ISBN 0 621 31452 8	Criminal Procedure Second Amendment Act 62 of 2001 enacted.
	Fifth interim report: A more inquisitorial approach to criminal procedure	2002	RP 219/2002 ISBN 0 621 33510 X	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002.
	Final report: Out-of-court settlements in criminal cases	2002	RP 218/2002 ISBN 0 621 33511 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
74	Debt collecting			
	Interim report on imprisonment for debt	1994	RP 199/1995 ISBN 0 621 16956 0	Magistrates' Courts Amendment Act 81 of 1997 enacted.
	Final report	1995	RP 198/1995 ISBN 0 621 16960 9	Debt Collectors Act 114 of 1998 enacted, since repealed Act 81 of 1997 enacted.
75	Bribery	1991	ISBN 0 662 15184 43	Corruption Act 94 of 1992 enacted, since repealed.
76	Jewish divorces	1994	RP 56/1995 ISBN 0 621 16707 X	Divorce Amendment Act 95 of 1996 enacted.
77	Constitutional models	1991	Report: ISBN 0 621 14239 5 Summary: ISBN 0 621 14197 6	No legislation recommended.
78	Interest on damages	1994	ISBN 0 621 16231 0	Prescribed Rate of Interest Amendment Act 7 of 1997 enacted.
79	Natural fathers of children born out of wedlock	1994	RP 55/1995 ISBN 0 621 16706 1	Natural Fathers of Children born out of Wedlock Act 86 of 1997 enacted, since repealed – now regulated by the Children's Act 38 of 2005.
80	Accession to the Hague	1992	Not published	Hague Convention on the Civil

Project number	Title	Year of report	Reference number of published report	Result
	Convention on the Civil Aspects of International Child Abduction			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	To be published	See Chapter 4
83	Review of the Moratorium Act, 1963	-	-	Struck off
84	Application of the trapping system	1994	RP 174/1995 ISBN 0 621 16896 3	Criminal Procedure Second Amendment Act 85 of 1996 enacted.
85	Aspects of the law relating to AIDS			
	First interim report: Health related aspects	1997	RP 106/1997 ISBN 0 621 27345 7	Regulations on Hazardous Biological Agents promulgated on 27 December 2001.
	Second interim report: Pre-employment HIV testing	1998	RP 120/1998 ISBN 0 621 28049 6	Recommendations incorporated in the Employment Equity Act 55 of 1998.
	Third interim report: HIV/AIDS and discrimination in schools	1998	RP 121/1998 ISBN 0 621 28048 8	Department of Education promulgated Commission's draft National Policy on HIV/AIDS for Learners in Public Schools on 10 August 1999.
	Fourth interim report: Compulsory HIV testing of persons arrested in sexual offence cases	2000	RP 40/2001 ISBN 0 621 30618 5	Recommendations regarding victims' need for information on their alleged offenders' HIV status have been included in Chapter 5 of the Criminal Law (Sexual 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

Project number	Title	Year of report	Reference number of published report	Result
86	Euthanasia and the artificial preservation of life	1998	RP 186/1999 ISBN 0 621 29831 X	Report under consideration by Department of Health – report submitted to the Department in 1999.
87	Jurisdictional lacuna in the Supreme Court Act, 1959	1994	RP 64/1995 ISBN 0 621 16723 1	Judicial Matters Second Amendment Act 122 of 1998 enacted.
88	The recognition of a class action in South African law	1998	RP 181/1999 ISBN 0 621 29818 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in September 1998.
89	Declaration and detention of persons as State patients in terms of the Criminal Procedure Act, 1977, and the release of such persons in terms of the Mental Health Act, 1973, including the onus of proof regarding the mental condition of an accused or convicted person	1995	RP 100/1996 ISBN 0 621 17494 7	Criminal Matters Amendment Act 68 of 1998 enacted.
90	Customary law			
	Customary marriages	1998	RP 170/1998 ISBN 0 621 28755 5	Recognition of Customary Marriages Act 120 of 1998 enacted.
	Conflicts of law	1999	RP 81/2000 ISBN 0 621 30061 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in September 1999.
	Traditional courts and the judicial function of traditional leaders	2003	RP 209/2003 ISBN 0 621 34988 7	Traditional Courts Bill [Bill 15 – 2008] introduced into Parliament on 2 April 2008, reintroduced into Parliament on 7 July 2009.
	Customary law of succession	2004	ISBN 0 621 38482 6	Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009 enacted. The Act commenced on 20 September 2010.
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	-	-	Struck off

Project number	Title	Year of report	Reference number of published report	Result
	created by section 1 of Act 1 of 1988.			
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 interested persons	1996	RP 107/1996 ISBN 0 621 17515 3	Recommendations incorporated in the Children's Act 38 of 2005.
	Domestic violence	-	See Annexure G	Domestic Violence Act 116 of 1998 enacted.
	Maintenance: Interim report	1998	RP 137/1998 ISBN 0 621 28685 0	Maintenance Act 99 of 1998 enacted.
	Custody of and access to minor children	-	-	See Chapter 3
	Review of aspects of matrimonial property law	-	-	See Chapter 3
	Hindu marriages	-	-	See Chapter 3
	Review of the law of maintenance	-	-	See Chapter 3

Project number	Title	Year of report	Reference number of published report	Result
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 comment on the draft 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.

Project number	Title	Year of report	Reference number of published report	Result
112	Sharing of pension benefits	1999	RP 82/2000 ISBN 0 621 30060 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 1999.
113	Use of electronic equipment in court proceedings	-	-	Struck off – continued as part of Project 126
	Postponement of criminal cases via audio-visual link	2003	RP 211/2003 ISBN 0 621 34990 9	Criminal Procedure Amendment Act 65 of 2008 enacted.
114	Publication of divorce proceedings	2002	RP 217/2002 ISBN 0 621 33572 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002.
115	Review of administrative law	1999	ISBN 0 621 29881 6	Promotion of Administrative Justice Act 3 of 2000 passed.
116	The carrying of firearms and other dangerous weapons	-	-	Struck off
117	The legal position of voluntary associations	-	-	Struck off
118	Domestic partnerships	2006	ISBN 0 621 37255 7	Civil Union Act 17 of 2006 enacted. Proposed Domestic Partnerships Bill under consideration by Department of Home Affairs.
119	Uniform national legislation on the fencing of national roads	-	-	Struck off
120	Section 63(3) of the Insurance Act 27 of 1943	-	-	Struck off
121	Consolidated legislation pertaining to international co-operation in civil matters	2006	ISBN 0 621 38480 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2008.
122	Assisted decision-making	-	-	See Chapter 3
123	Protected disclosures	2007	ISBN 0 621 38278 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in November 2008.
124	Privacy and data protection	2009	ISBN 0 621 38922 7	Protection of Personal Information Act 4 of 2013 passed.
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	-	-	Struck off – see Project 100.

Project number	Title	Year of report	Reference number of published report	Result
	divorce			
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	Prevention and Combating of Trafficking in Persons Act 7 of 2013 passed.
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 AND TERMS 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
Judge Y Mokgoro, Judge of the Constitutional Court	03/11/2000 to 31/12/2006 01/01/2007 to 31/12/2011
Judge MML Maya, Judge of the Supreme Court of Appeal	19/07/2013 to date
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
Judge Y Mokgoro, Judge 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
Judge JN Kollapen, Judge of the High Court	19/07/2013 to date
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
Judge 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 12/08/2013 to 01/2014
Ms M Sello	01/01/2007 to 31/12/2011 12/08/2013 to date
Prof V Jaichand	12/08/2013 to date
Mr IBW Lawrence	12/08/2013 to date
Ms NT Siwendu	12/08/2013 to date

ANNEXURE E

CURRENT ADVISORY COMMITTEES AND MEMBERS

Project	Members	Organisation
Project 25 Legislation administered by the Department of Agriculture, Forestry and Fisheries	Ms D Collier	University of Cape Town
	Prof ML Mbao	North-West University
	Ms M Moselakgomo	Agricultural Research Council
Project 25 Legislation administered by the Department of Basic Education	Prof V Jaichand (Project leader)	SALRC
	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	Mr I Lawrence (Project leader)	SALRC
	Prof M Beukes	University of South Africa
	Mr J Brickhill	Legal Resources Centre
	Ms A du Plessis	North-West University
	Mr T Madlingozi	University of Pretoria
	Prof N Olivier	University of Pretoria
	Dr DM Pretorius	Bowman Gilfillan Inc Attorneys
	Ms R Roos	North-West University
	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	Mr I Lawrence (Project leader)	SALRC
	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 Environmental Affairs	Prof L Feris	University of Pretoria
	Prof L Kotze	North-West University
	Ms KO Lefenya	North-West University
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	North-West University

Project	Members	Organisation
Project 25 Legislation administered by the Department of Health	Prof V Jaichand (Project leader)	SALRC
	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 V Jaichand (Project leader)	SALRC
	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	Mr I Lawrence (Project leader)	SALRC
	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	North-West University
	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 I Lawrence (Project leader)	SALRC
	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	North-West University
	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 Supreme Court of Appeal
Project 25 Tax legislation administered by National Treasury	Prof V Jaichand (Project leader)	SALRC
	Prof R Franzen	University of South Africa
	Ms T Gutuza	University of Cape Town

Project	Members	Organisation
	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	North-West University
	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	North-West University
	Ms KO Lefenya	North-West University
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	North-West University
Project 25 Legislation administered by the Department of Trade and Industry	Ms T Siwendu (Project leader)	SALRC
	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	North-West University
	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 94 Arbitration	Adv M Sello (Project leader)	SALRC
International Arbitration	Prof D Butler	Emeritus Professor, University of Stellenbosch
Domestic Arbitration	Prof D Butler Judge J Hlophe Judge CM Sardiwalla Adv N Singh SC	Emeritus Professor, US Judge President Cape High Court Acting Judge, Land Claims Court Kwa-Zulu Natal Bar

Project	Members	Organisation
ADR	Prof D Butler Adv P Pretorius SC	Emeritus Professor, US Johannesburg Bar
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
	Adv M Sello (Project leader)	SALRC
	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
	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	Judge MML Maya (Chairperson)	SALRC
	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
	Ms T Siwendu	SALRC
	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 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 NT Nhlapo (Project leader)	University of Cape Town
	Judge MML Maya	SALRC
	Prof R Mqeke	Rhodes University
	Judge M Maya	SALRC
	Prof T Meyiwa	Human Sciences Research Council
	Prof P Sithole	University of KwaZulu Natal

ANNEXURE F

CURRENT 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 • 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) written 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
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