REPORT ON ACTIVITIES OF THE SOUTH AFRICAN LAW REFORM COMMISSION

South African
Law Reform Commission

South African Law Reform Commission

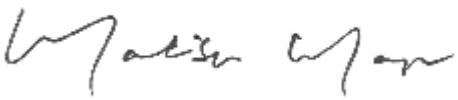
South African Law Reform Commission

Report: 2015 / 2016

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 2015 to 31 March 2016.

Yours sincerely



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Chairperson of the South African Law Reform Commission

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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

Ms NT Siwendu
Practising attorney

Professor Marita Carnelley
College Dean of Research: Law & Management Studies
University of KwaZulu–Natal

Professor Annet Wanyana Oguttu
Professor of Tax Law at the University of South Africa (UNISA)

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

New Appointments at the Commission

The most important events that took place during the year under report were that on 24 March 2016 the Honourable President JG Zuma acceded to Justice Mandisa Maya's request to be relieved of her duties as the Chairperson of the South African Law Reform Commission with effect from 31 March 2016. Consequently, the Vice-Chairperson, Judge Jody Narandran Kollapen was on the same date appointed by the President as the new Chairperson of the Commission. His appointment to this position will be effective from 01 April 2016 for the remainder of the term of the current Commission. As a result of Judge Kollapen having been appointed to take up the position of Chairperson, a vacancy of the Vice-Chairperson will exist at the Commission. In terms of section 3(1)(b)(ii) of the South African Law Reform Commission Act 19 of 1973 ("the Act"), the President shall designate one member of the Commission as the Vice-Chairperson of the Commission.

During the reporting period of 1 April 2015 to 31 March 2016, the Commission remained comprised of the following Commissioners appointed by the President:

- Judge Mandisa Maya, Judge of the Supreme Court of Appeal (Chairperson)
- Judge Jody Kollapen, Judge of the Gauteng North High Court (Vice-Chairperson)
- Professor Marita Carnelley (College Dean of Research - UKZN)
- Professor Vinodh Jaichand (Head: School of Law- Wits University)
- Mr Irvin Lawrence, attorney in private practice
- Professor Annet Wanyana Oguttu (Professor of Law - UNISA)
- Adv Mahlape Sello, member of the Bar
- Ms Namhla Thina Siwendu, attorney in private practice

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.
8. Review of legislation administered by the Department of International Relations and Cooperation submitted to the Minister of International Relations and Cooperation in September 2015.

The following report emanating from Project 107: Sexual Offences was referred to the Minister of Justice and Correctional Services:

9. Project 107: Report on Sexual Offences (Adult Prostitution) – was submitted to the Minister of Justice and Correctional Services on 25 August 2014.

The year under review

This annual report covers the period from 1 April 2015 to 31 March 2016. The Commission published the following documents in the year under review:

Issue papers

1. Issue Paper 30 – Project 107: Sexual Offences (Pornography and Children) was published on 6 August 2015.
2. Issue Paper 31 – Project 100: Family Dispute Resolution: Care of and contact with children was published in February 2016.

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

Discussion papers

1. Discussion Paper 134 – Project 25: Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development (3) – Review of the Criminal Procedure Act was published on 15 April 2015.
2. Discussion Paper 135 - Project 137: The expungement of certain criminal records was published on 30 May 2015.
3. Discussion Paper 136 – Project 25: Statutory Law Revision: Review of legislation administered by the Department of Environmental Affairs was published on 19 October 2015.
4. Discussion Paper 137 – Project 25: Statutory Law Revision: Review of legislation administered by the Department of Science and Technology was published on 22 July 2015.
5. Discussion Paper 138 – Project 138: Revised Discussion Paper on the practice of Ukuthwala was published on 30 October 2015.

6. Discussion Paper 139 – Project 135: The review of the Witchcraft Suppression Act 3 of 1957 was published on 19 January 2016.
7. Discussion Paper 140 – Project 25: Statutory Law Revision: Review of legislation administered by the Department of Arts and Culture was published on 27 January 2016.
8. Discussion Paper 141 – Project 25: Statutory Law Revision: Review of legislation administered by the Department of Water and Sanitation was published on 28 January 2016.

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

Reports

1. Project 107: Report on Sexual Offences (Adult Prostitution) - was submitted to the Ministry of Justice and Correctional Services on 25 August 2014 (date of publication still to be announced).

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:

Obects, Constitution and Functioning

CHAPTER 2

OBJECTS, CONSTITUTION AND FUNCTIONING

Establishment of the Commission

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

Objects of the Commission

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

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

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

In short, the Commission is an advisory body whose aim is the renewal and improvement of the law of South Africa on a 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 the Chairperson and Vice-Chairperson on 19 July 2013 and the other five members on 12 August 2013, one of whom resigned in January 2014. On 19 December 2014 the President appointed two new Commissioners in the existing vacancies in the Commission with effect from 02 January 2015, which is in the course of the year under report.

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 committees. 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. Mr Tshisamphiri Nelson Matibe was appointed as the Secretary of the Commission with effect from 02 January 2015. 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 4.

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

Ms Veruksha Bhana
Ms Dellene Clark
Ms Theresa Häderli
Ms Anna-Marie Havenga
Mr Willie Jansen van Vuuren
Ms Jennifer Joni
Ms Ananda Louw
Mr Simon Maphanga
Mr Fanyana Mdumbe
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

One post of State Law Adviser is vacant.

Administrative component

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

Assistant Director:	(Vacant)
Copy Editor:	Ms Sue Randall
Personal Assistant:	Ms Ronell Bronkhorst (She took transfer to the Vulnerable Groups Unit of DOJCD with effect from May 2015)
Senior Secretary:	Ms Nomfundo Mhambi
Secretary	Ms Nelisiwe Moledi (She started on 7 September 2015 to fill the vacancy left by Ms Bronkhorst.)
Administrative Officer:	Mr Jacob Kabini
Administrative Officer:	Ms Johanna Msiza
Administrative Officer:	Mr Ajay Singh
Principal librarian:	Ms Rosinah Nkuna
Senior Librarian:	Ms Portia Bobodo
Administration Clerk:	Ms Chantelle Krebs

Administration Clerk:	Ms Edith Louw
Administration Clerk:	Mr Vusi Mavuso
Administration Clerk:	Ms Tumi Mofoka
Administration Clerk:	Ms Patricia Moumakwe
Administration Clerk:	Mr Renier Swart
Machine Operator:	Mr Koos Mahlangu
Food Service Aid:	Mr Mpolokeng Ledwaba
Messenger:	Mr Ernest Rangwato

Internal committees

Three internal committees 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 P van Wyk (Chairperson); Mr. T.N Matibe; Ms. S. Nkuna ; Ms. P. Bobodo; Ms. A Louw; Ms. T Haderli; Mr S Maphanga; Mrs M Moloi; Ms V Bhana; and Ms T Prinsloo.	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.	On 24 June 2015 the committee met to consider the acquisition of publications for the SALRC library. Ms Rosinah Nkuna represented the SALRC library committee at the meeting of the DOJCD National Library Advisory Committee in Johannesburg on 18 March 2016 where the Committee considered, among others, the new Terms of Reference for the DOJCD Virtual library tender regarding local and foreign publications; the implementation of cost cutting measures regarding the discontinuation of the updating services for loose leaf publications, the discontinuation of subscriptions and the re-allocation of resources to hubs.

Occupational Health and Safety Committee

Members	Purpose	Activities
Mr Mpolokeng Ledwaba Ms Edith Louw Ms Reitumetse Mofoka Mr Ernest Rangwato	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.	Since the end of term of office of the previous members of the OHS Committee, the Secretary of the Commission, in line with the provisions of sections 17.1 and 19.1 of the Occupational Health and Safety Act No. 85 of 1993 read together with section 9.1 of the DOJCD Safety, Health, Environment and Risk Policy and Procedures Manual, which is contained in Circular 1 of 2013, dated 07 January 2013, has appointed 4 new members to this Committee with effect from 01 September 2015. All the 4 new members of this Committee come from the administrative component of the SALRC. However, both the Chairperson and Secretary of the OHS Committee have not yet been appointed in line with section 10.1.1 of the DOJCD Safety, Health, Environment and Risk Policy and Procedures Manual mentioned above. As a result of this delay in their appointment, no meeting of this Committee had taken place during the reporting period. Nevertheless, in November 2015, evacuation chairs were purchased for the SALRC premises in line with section 8.1.17 of the DOJCD Safety, Health, Environment and Risk Policy and Procedures Manual mentioned above. The existing 4 members of the OHS Committee received on-site training from the supplier on how to use the evacuation chairs properly. Also, during the reporting period, 12 reflective vests were purchased by the SALRC for use by members of the OHS Committee. On 20 August 2015, Mr Mfunzana attended a Safety, Health, Environment and Risk Policy and Procedures Information Session, which was held at the SALRC premises on request from the National Office. This information session was followed by an inspection session of the SALRC premises as a whole, inside out. During the inspection Mr Mfunzana was accompanied by Mr Ledwaba who is one of the members of the OHS Committee, as well as Ms Johanna Msiza.

Facilities Management Committee

Members	Purpose	Activities
Mr Masibulele Chris Mfunzana (Chairperson) Ms Aura Mngqibisa Ms Maite Modiba Ms Ronel van Zyl	The Facilities Management Committee is responsible for the management and maintenance of the SALRC premises. This includes condition monitoring as well as overseeing that routine and preventative maintenance of the facilities is taking place regularly.	For most of the time during the reporting period, the SALRC premises were used for Commissions of inquiry established by the President of the Republic of South Africa. These Commissions of Inquiry were the Nxasana Commission of Inquiry and the Claassen Board of Inquiry. Therefore, most meetings regarding SALRC facilities management took place within the scope of the planning meetings of the task teams that were responsible for establishing the Commissions of inquiry. The Assistant Secretary of the SALRC (Mr M.C Mfunzana), in his capacity as the Chairperson of the SALRC facilities management committee formed part of the above mentioned task teams. On 05 May 2015, Mr Mfunzana attended the planning meeting of the Nxasana Commission of Inquiry. On 15 October 2015, 01 December 2015, 18 January 2015 and 07 March 2015, Mr Mfunzana attended the planning sessions of the task team that was responsible for the establishment of the Claassen Board of Inquiry. In October 2015, Mr Mfunzana arranged with the security management unit of DOJ&CD to come to the SALRC to conduct security awareness workshops. One of the workshops took place on 27 October 2015 and was open to all the SALRC employees.

Financing of the SALRC

The SALRC's budget for the financial year 1 April 2015 to 31 March 2016 was R 24 442 000.00, broken down as follows:

- Personnel expenditure R 22 118 000.00
- Current expenditure R 2 040 000.00
- Capital expenditure R 212 000.00
- Household R 72 000.00

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.** As indicated earlier, **Annexure C** lists all investigations on the Commission's programme since its inception, and indicates 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 13 June 2015 and 05 December 2015.

The advisory committee for Project 100D - Care of and contact with children met on 22 November 2015.

The advisory committee for Project 100 – Review of the Maintenance Act 99 of 1998 met on 10 July 2015.

The advisory committee for Project 107 – Sexual Offences: Pornography and Children met on 18 September 2015 and on 11 February 2016.

The advisory committee for Project 125 – Prescription Periods met on 28 January 2016.

The advisory committee for Project 126 – Review of the law of Evidence met on 25 September 2015 and on 12 March 2016.

The advisory committee for Project 135 – Review of the Witchcraft Suppression Act 3 of 1957 met on 31 July 2015 and 9 November 2015.

The advisory committee for Project 138 – The Practice of Ukuthwala met on 28 and 29 June 2015.

Chapter 3:

Progress Report

CHAPTER 3

PROGRESS REPORT

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	Prof Marita Carnelley Prof Vinodh Jaichand Mr Irvin Lawrence Prof Annet Oguttu 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
94	Arbitration • Alternative dispute resolution	Adv Mahlape Sello Ms Thina Siwendu	Ms Ananda Louw
100	Family law and the law of persons • Care of and contact with children • Review of aspects of matrimonial property law • Review of the law of maintenance	Adv Mahlape Sello / Judge Deon van Zyl Adv Mahlape Sello / Judge Deon van Zyl Mr Irvin Lawrence/ Prof de Jong	Ms Ananda Louw Ms Anna-Marie Havenga Ms Jennifer Joni

Project	Title	Project leaders	Responsible researcher
107	Sexual offences • Adult prostitution • Pornography and children	Judge Mandisa Maya Prof Annet Wanyana Oguttu	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	Judge Jody Kollapen	Mr Willie van Vuuren
127	Review of administration orders	Prof Vinodh Jaichand	Ms Lowesa Roberts
135	Review of witchcraft legislation	Prof Marita Carnelley	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	Prof Marita Carnelley / Prof Thandabantu Nhlapo	Ms Maite Modiba
139	Review of the Interpretation Act	Adv Mahlape Sello	Mr Pierre van Wyk
140	The Right to Knowledge of One's Own Biological Origins	Ms Tina Siwendu	Ms Ananda Louw Ms Veruksha Bhana
141	Medico-Legal Claims	Prof Vinodh Jaichand	Ms Ronel Van Zyl
142	Legal Fees	Judge Jody Kollapen	Mr Linda Mngoma

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 11 February 2016, and the strategic plan developed by the Department of Justice and Constitutional Development (DOJCD) for 2013 to 2018.

In the SONA, the President shared with the country the progress made in the implementation of government's nine point plan to ignite growth and create jobs, which was announced in February 2015. However, new government commitments were also confirmed. The President urged the country to take advantage of the exchange rate as well as the recent changes of visa regulations, to boost inbound tourism. The SALRC's project 25 investigation into tourism is very crucial to the achievement of this government priority. Through the identification and elimination of inequality in the laws that govern the tourism sector in our country, coupled with the changes in the visa regulations, it is envisaged that this industry will attract more international tourists. Within this process of inbound tourism the economy of South Africa will grow.

On the issue of improving the labour relations and stabilizing the labour market, the President shared with the country that discussions are already ongoing within government, led by the Department of Social Development and National Treasury, with regards to finalising the comprehensive social security policy. Along these lines the South African Law Reform Commission, through its investigation on Project 143: Maternity and Paternity Benefits for Self-employed Workers, is already engaged in the determination of the feasibility of extending maternity and paternity benefits offered by the State to women and men in self-employment. This determination falls squarely within the ambit of social security. It is envisaged that once this investigation is finalised its recommendations will enhance the implementation of government's social security policy, once one has been put in place.

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 SALRC investigation on 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 in their communities.

The investigation into sexual offences focusing on adult prostitution (Project 107) is a critical step in finding ways to address a social problem which is largely driven by a complex intersection of social

and economic factors such as poverty and unemployment. It aims to consider and identify the need for alternative policy and legislative responses. 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 (including the phenomena of "sexting" and "grooming").

It is clear that the work done by the SALRC is pivotal in promoting legislation and constitutional development to meet the needs of society.

The position regarding work in progress in respect of the Commission's research programme is as follows:

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

Redundancy, obsoleteness and 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.

The review of legislations administered by the following departments have been finalised: Defence and Military Veterans; Energy; Human Settlements; International Relations and Cooperation; 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. A draft consultation paper is being developed using the research submitted by advisory committee members. The outline for the first draft of the consultation paper was submitted to the project leader on 31 March 2015.
Arts and Culture (DAC) Ms Lowesa Roberts	The discussion paper on legislation administered by the Department of Arts and Culture was approved by the Commission on 5 December 2015. The discussion paper was published in January 2016 and the deadline for submission of comments on the discussion paper was 31 March 2016. Several submissions were received on the discussion paper.
Basic Education (DBE) and Higher Education and Training (DHET) Mr Linda Mngoma	The statutes administered by DBE were analysed to determine which are redundant, obsolete or unconstitutional. The draft report incorporating public comments received was considered by the Commission on 06 December 2014 and approved subject to amendments. On 3 March 2015, the amended report was forwarded to the project leader, Chairperson and Vice-Chairperson for consideration. The report was signed-off by the Chairperson on 12 June 2015. On 20 August 2015, the report was submitted to the Minister of Justice and Correctional Services. The Minister approved the report on 10 September 2015 and referred it to the Minister of Basic Education and the Minister of Higher Education and Training for consideration on the same date.
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 was updated and finalised in October 2014. Work on the project could not proceed after this date as the Commissioner appointed as project leader had resigned in January 2014. Prof Oguttu was assigned as the project leader for this investigation in March 2015. The researcher met with her on 25 March 2015 to brief her about the investigation and to decide the way forward. It is envisaged that the report will be approved by the Commission in the first quarter of 2016

Cooperative Governance and Traditional Affairs (CoGTA) Mr Linda Mngoma	The statutes administered by CoGTA were analysed to determine which are redundant, obsolete or unconstitutional. On 24 June 2014, the Commission wrote a letter to CoGTA requesting for comments on the draft report. Comments were received from the Directors-General of Cooperative Governance and Traditional Affairs separately on 26 July 2014; 21 August 2014 and 1 October 2014. The Directors-General proposed that certain matters be referred to the Department of Justice and Constitutional Development for decision. On 8 September 2014, the Commission referred the said matters to the Director-General: Department of Justice and Constitutional Development for decision. The report was approved by the SALRC at the meeting held on 13 June 2015. The edited report was signed-off by the Chairperson on 17 September 2015 and referred to the Minister of Justice and Correctional Services for approval. The report was approved by the Minister of Justice and Correctional Services on 10 March 2016, and referred to the Minister of Cooperative Governance and Traditional Affairs and the Minister of Home Affairs for their information on 14 March 2016.
Correctional Services (DCS) Ms Veruksha Bhana	The project leader approved the consultation paper in August 2014. The researcher forwarded the consultation paper to the Department of Correctional Services for comments in September 2014. The researcher is liaising with the Department of Correctional Services regarding receiving comments from the DCS. Follow-ups have been made on 2 April 2015, 4 May, 12 May, 3 June, 3 July and 14 July 2015. However, as at 31 March 2016, there is still no response received from DCS.
Defence (DOD) Ms Maureen Moloi	The statutes administered by DOD were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOD on 26 March 2010 for comment and was discussed with DOD at a workshop on 30 March 2010. DOD comment was received on 23 July 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 Commission approved the report on 5 July 2014 for referral thereof to the Minister of Defence and Military Veterans. The Defence Laws Repeal and Amendment Bill [B7-2015] was introduced in Parliament on 10 November 2014. The President assented to the Defence Laws Repeal and Amendment Act 17 of 2015 on 8 December 2015. The Act was published in **Government Gazette** No. 39521 dated 15 December 2015. The date of commencement will be determined by the President by proclamation in the **Gazette.**

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. A project leader for this investigation was appointed in March 2015 and on 24 March 2015 the project leader was briefed on the status of the investigation. On 13 June 2015 the Commission approved the discussion paper for publication for public comments and general information. The discussion paper was published for public comments and general information on 19 October 2015 with a closing date of 31 January 2016. The final report is being prepared and it is anticipated that it will be submitted to the Commission for approval in the 2016/2017 financial year.
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 first draft of the consultation paper was submitted to the project leader on 31 March 2015. The consultation paper was formally submitted to the DG of DOH on 10 February 2016 for comment. The return date for comments is 31 May 2016.
Higher Education and Training (DHET) Mr Linda Mngoma	The statutes administered by DHET were analysed to determine which are redundant, obsolete or unconstitutional. The draft report incorporating public comments received was considered by the Commission on 06 December 2014 and approved subject to amendments. On 3 March 2015, the amended report was forwarded to the project leader, Chairperson and Vice-Chairperson for consideration. The report was signed-off by the Chairperson on 12 June 2015. On 20 August 2015, the report was submitted to the Minister of Justice and Correctional Services. The Minister approved the report on 10 September 2015 and referred to the Minister of Basic Education and the Minister of Higher Education and Training on the same date.
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. Comments from DHA were received on 13 August 2013. The Commission considered and approved the discussion paper to be published for general information and public comment on 6 December 2014. Discussion Paper 133 was posted on the Commission's website on 20 January 2015 and a media statement about the discussion paper was also released. The closing date for comment was 31 May 2015, but it was extended to 30 June 2015 at the request of various interested persons. The report will be finalised in 2016.

International Relations and Cooperation (DIRCO) Mr Pierre van Wyk	The statutes administered by DIRCO were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DIRCO on 23 February 2011 for comment 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 met with the project leader on 5 April 2014 to discuss the draft report. The draft report was finalised in November 2014. On 6 December 2014 the Commission considered the draft report and approved its submission to the Minister of Justice and Correctional Services for referral to the Minister of International Relations and Cooperation. The report was edited in February 2015. The report was submitted to the Minister of Justice and Correctional Services and forwarded to the Minister of International Relations and Cooperation in September 2015.
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. All comments received were considered in preparing the draft report. The draft report was submitted to project leader for consideration on 31 March 2015. The final draft report was approved at the Commission meeting on 5 December 2015. It is envisaged that the report will be submitted to the DOJ&CD Ministry during July 2016.

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. The Advisory Committee consisting of Mr I Lawrence, Prof Skelton and Adv M Malete was convened and approved the draft report. The draft report was tabled and approved at the commission meeting of 13 June 2015. The Report is in the process of being forwarded to the Minister of Justice and Correctional Services.
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. The Commission approved a discussion paper for general information and comment on 6 December 2014. The closing date for comments was 31 July 2015. The report is expected to be finalised and approved by the Commission by 31 May 2016.
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, as part of Project 25. A draft consultation paper was developed with a view to determine which provisions of the Code are obsolete, redundant or in conflict with the equality provisions of the Constitution and to develop repealing legislation. The draft consultation paper was submitted to the Department of Justice and Constitutional Development on 5 August 2015. The Deputy Director-General for Legislative Development advised the researcher that the Department has resolved to refer the investigation to the Legislative Development Chief Directorate of the department in order to speed up the repeal process. On 5 December 2015 the Secretary of the Commission requested the Commission to remove the investigation from its programme. It is anticipated that a Commission paper will be developed and submitted to the Commission requesting the removal of this investigation from the Commission's programme in the first quarter of the 2016/2017 financial year.

National Treasury Mr Linda Mngoma	**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. On 11 April 2014, the consultation paper was submitted to National Treasury for comment. On 31 March 2015, the Secretary of the SALRC and the researcher attended a meeting at National Treasury to discuss comments on the consultation paper. The meeting agreed that National Treasury will submit a written feedback to the SALRC stating the steps that will be taken by National Treasury to implement the SALRC's recommendations. On 30 April 2015, National Treasury responded by saying that they are in the process of providing feedback to the SALRC. This will take place within two months. As at the end of January 2016, no feedback had been received from National Treasury. On 22 February 2016, a follow-up letter signed by the Secretary was forwarded to the DG: National Treasury for reply. Still, as at the end of March 2016, no feedback had been received from National Treasury.
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. A draft consultation paper was drafted and submitted to the supervisor for consideration on 19 November 2014 and a feedback from the supervisor was received on 30 January 2015. The draft consultation paper was then submitted to the project leader for consideration and guidance on 5 May 2015. The consultation paper was received back from the project leader on 27 May 2015. It is anticipated that the consultation paper will be submitted to DOP during the first quarter of the 2016/2017 financial year.
Public Service and Administration (DPSA) Ms Tania Prinsloo	The statutes administered by DPSA have been analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The draft Consultation paper has been completed and was discussed with the DPSA during August 2015. Once the submission of the DPSA was included into the draft consultation paper it became a draft discussion paper. The project leader has approved that the discussion paper can be tabled at the Commission meeting of 28 May 2016.

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 researcher submitted the draft consultation paper to the project leader on 18 August 2014. The researcher effected changes to the paper and resubmitted the paper to the project leader who approved the paper. The researcher circulated the consultation paper for comments to DST and other agencies on 29 August 2014. The target date for receiving comments on the consultation paper was 30 November 2014. After receipt of comments from the DST, a draft discussion paper was finalised for consideration by the project leader. The draft discussion paper was presented to the project leader on 16 March 2015. The project leader approved discussion paper on 26 March 2015. The final draft report was approved at the Commission meeting on 5 December 2015. It is anticipated that the report will be submitted to the Minister of Justice and Correctional Services for referral to the Minister of Science and Technology during the 2016/2017 financial year.
Social Development (DSD) Ms Tania Prinsloo	The statutes administered by DSD have been analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The draft consultation paper has been completed. A meeting took place on 26 November 2015 between the SALRC and the DSD discussing the consultation paper. A response was received during March 2016. The consultation paper is in the process of being converted into a draft discussion paper.
State Security (DSS) Mr Simon Maphanga	The statutes administered by DSS are being analysed to determine which are redundant, obsolete or unconstitutional. The target date for finalising the draft consultation paper is 28 February 2017.

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 resigned in January 2014. In March 2015 Prof Carnelley was assigned as the new project leader for this investigation. The researcher met with the project leader on 7 April 2015 where progress and the way forward will be discussed. On 13 June 2015 the Commission considered the draft report and approved its submission to the Minister of Justice and Correctional Services for referral to the Minister of Tourism. The report was edited at the end of March 2016. It is envisaged that the report will be submitted to the Minister of Justice and Correctional Services during the second quarter of 2016.
Trade and Industry (DTI) Ms 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 effected amendments to the draft discussion paper to deal with anomalies in the legislation reviewed. The updated draft discussion paper was submitted to the project leader on 30 May 2014. On 22 August 2014 the project leader forwarded a memorandum relating to issues raised in relation to the Companies Act of 2008 for the researcher to attend to. The draft discussion paper was considered by the Commission at its meeting on 06 December 2014. The Commission resolved that the discussion paper should be augmented by the inclusion of current developments in the intellectual property and other related terrains. It is envisaged that the discussion paper will be published for general information and comment during the second quarter of 2016.
Water and Sanitation (DWS) Ms Anna-Marie Havenga	The statutes administered by DWS were analysed to determine which are redundant, obsolete or unconstitutional. A draft discussion paper, incorporating provisional comments from DWS received on 30 September 2015, was considered and approved by the Commission on 5 December 2015. The discussion paper was published for public comment on 28 January 2016. The closing date for comments is 31 March 2016.

Project 94 – Alternative Dispute Resolution

Project 94 originally dealt only with arbitration. The investigation into arbitration was, however, broadened on 8 July 1996 at the request of the Minister of JCD to include an investigation into all the other aspects of alternative dispute resolution ("ADR"). Project 94 was, therefore, constituted of three subprojects with three separate advisory committees: International Arbitration; Domestic Arbitration; and ADR (all forms of ADR except arbitration). The ADR subproject was divided into three parts and it was decided to develop three separate discussion papers: ADR and the civil law; Family mediation; and Community courts.

An Issue Paper (Project 94, Issue Paper 8, Alternative Dispute Resolution) was published in 1997 that dealt with all aspects of alternative dispute resolution, including arbitration, mediation, conciliation, etc. The paper, which explained the broadening of the investigation, has been the basis for all the various subprojects of Project 94. Discussion papers and reports (in 1998 and 2001) were published in the International and Domestic Arbitration subprojects. The community courts investigation was discontinued and the investigation into family mediation became part of **Project 100 – Care of and contact with minor children.**

What remained of Project 94 for investigation was the first part of the ADR subproject: ADR and the civil law, which had not yet received attention. Project 94 (including all its subprojects) was dormant for a number of years due to the fact that policy considerations in the DOJCD changed after the term of Mr Dullah Omar as Minister of JCD ended. The Commission, however, reprioritised the project at the end of 2011 as a result of the impact of the Civil Justice Review Project, launched by the DOJCD in 2010.

In reprioritising Project 94 an incremental approach has been followed. In the International and Domestic Arbitration subprojects, the two Bills have been updated and submitted to DOJCD. Family mediation is being dealt with in Project 100.

In 2014 a separate subproject (Mediation) was included in Project 94. It dealt with court-annexed mediation. However, at its meeting of 13 June 2015, the Commission confirmed that the aspects of the alternative dispute resolution investigation are interlinked with the court-annexed mediation investigation, and resolved that the two subprojects should be dealt with together, in one investigation. On 10 September 2015 the Minister approved the combination of the two subprojects of Project 94 into one investigation, to be referred to as "Alternative Dispute Resolution".

The development of a Discussion Paper (including a Mediation Act) is receiving attention.

Project 100 – Family law and the law of persons

Three 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 three subprojects are "Care of and contact with minor children", "Review of aspects of matrimonial property law", 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.

An issue paper was published for information and comment on 23 February 2016. The issue paper focuses on the broader issues of process determining care and contact, including the role of alternative dispute resolution in family law disputes, the effect of **pendente lite** applications, and the importance of a child-centred approach. It sets out to consider the interests of all children, including children from customary marriages and children living in rural areas. The paper therefore examines cost-effective, accessible, efficient and integrated processes that would help to address family law disputes, both in and outside the court system, and from both a private and public family law perspective. In addition, appropriate structures to accommodate the above processes are discussed. The ultimate object of the investigation is to ensure access to justice for the most vulnerable people in our society, namely children.

Review of aspects of matrimonial property law

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 more than 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.

Additional research has been done towards the further development of a first draft issue paper in accordance with comments received from the advisory committee and public input and enquiries throughout the period under report. The focus of the issue paper is wide and include matters relating to matrimonial property agreements (such as the change of matrimonial property system after marriage, and the suitability of the current system with regard to customary marriages); as well as issues related to the division of property on divorce (including the forfeiture of benefits, the redistribution of assets, and settlement agreements).

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 met with the project leader to discuss the investigation in April 2014.

On 5 July 2014 the Commission approved the publication of the Issue Paper on the Review of the Maintenance Act for public comment. They also approved the recommendation to appoint an Advisory Committee to assist with the investigation and designated Professor de Jong as project leader for the investigation. The Issue Paper was published for public comment on 9 September 2014 and the closing date for receipt of comments was 30 November 2014.

The appointment of an advisory committee was approved by the Commission at its meeting held on 5 July 2014. The appointment of the members of the advisory committee was approved by the Minister of Justice and Constitutional Services on 9 May 2015. The researcher held various meetings with the project leader to discuss the scope of the discussion paper and reviewed relevant literature to assist in the development of the scope of the investigation. The advisory committee held its first meeting on 10 July 2015 to deliberate on the development of the discussion paper. A framework of the scope of the discussion paper was developed and discussed at the advisory committee meeting. The framework was finalised on 9 October 2015 and was distributed to advisory committee members. Work on the discussion paper commenced in November 2015 and various sections of the discussion paper were developed during the remainder of the last quarter of the reporting period.

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.

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 Report on Sexual Offences: Adult Prostitution was tabled and approved for submission to the Minister of Justice and Correctional Services at the Commission meeting held on 11 May 2014. Approval was granted subject to minor amendments being effected to the Report and on 5 July it was decided that this should be done to the satisfaction of a working committee comprising of the Chairperson, Vice-chairperson and the researcher. The Report containing the suggested amendments was circulated to the Chairperson and Vice-Chairperson on 8 July 2014. A working committee meeting was held on 24 July to finalise the Report. The working committee approved the amendments to the Report on 16 August 2014. The Report was submitted to the Department on 25 August 2014. A briefing of the Minister of Justice and Correctional Services and the Deputy Minister of Justice and Constitutional Development was conducted on 5 December 2014. Following discussions between the Ministry and the Commission an augmented report was submitted to the Ministry in July 2015. The Deputy Minister has indicated that the report will be published shortly.

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 then Deputy Minister in December 2010, informing him 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, Mr I Chetty, to assist with this leg of the sexual offences investigation. The Minister appointed the advisory committee member on 15 November 2011.

Additional advisory committee members were appointed on 15 September 2014, as follows: Mr Cull, Adv Meintjes (SC), Ms van Niekerk, Colonel Pienaar and Ms Sedumedi. Professor Oguttu took over the role of project leader in February 2015 following her appointment to the Commission. Mr Risiba, CEO of the FPB, replaced Ms Sedumedi on 6 March following her resignation. Ms Linders of the Department of Telecommunications and Postal Services was nominated to assist the committee

on 31 March 2015. Mr S Robbertse, state law adviser, in the Department of Justice and Constitutional Development and Mr K Rutsha, legal services, in the Department of Communications are also ad hoc members of the Committee.

The investigation focuses on four identified areas of concern:

- Access to or exposure of a child to pornography and child pornography (child abuse material);
- Creation and distribution of child pornography (child abuse material);
- Explicit self-images created and distributed by a child; and
- Grooming of a child and other sexual contact crimes associated with or which are facilitated by pornography.

Issue Paper 30 was published for comment on 6 August 2015. Five workshops were held around the country in Pretoria, Nelspruit, Cape Town, Durban and Kimberley. Work has commenced with the compiling of a Discussion Paper.

Project 122 – Assisted decision-making

The investigation deals with the manner in which South African law addresses the needs of persons whose ability to make choices, to exercise their legal capacity, has been impaired ("persons with disability"). A legitimate expectation for the law is that it should establish a structure within which autonomy and self-determination are recognised and protected, while also protecting persons with decision-making impairment from abuse, neglect and exploitation. South African law does not fulfill these requirements at present. In the development of recommendations and draft legislation the Commission aims to provide suitable solutions for this deficiency with regard to existing impairment as well as possible future impairment. In doing so, the Commission has been requested to take into account relevant requirements of the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

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 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 (e.g. mental illness, intellectual disability, brain injury, stroke or dementia).

The SALRC published an issue paper on the matter for general information and comment at the end of 2001, and a discussion paper with a proposed draft Bill in January 2004. The issue paper and discussion paper are discussed in the annual reports of 2001/2002 and 2003/2004, respectively. The extensive consultation process that followed is recorded in subsequent annual reports. A request from the Human Rights Commission in September 2009 to take into account the legal capacity requirements of the CRPD considerably extended, complicated and delayed the Commission's work at a time when the investigation was for all practical considerations already at report stage. Information on this request and the additional research and consultation undertaken is reflected in the annual reports since 2009/2010. This process culminated in a revised draft Bill being submitted to prime stakeholders on 16 February 2012, and thereafter in further refinement of the draft Bill on the basis of comments from these stakeholders. Information on the latter is reported on in the annual reports of 2011/2012 up to that of 2014/2015.

The advisory committee considered and approved a final draft report and draft Bill on 10 March 2015. The Commission approved the report and draft Bill on 5 December 2015. The draft report is being finalised for submission to the Minister.

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 Institution of 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. The researcher has also motivated for the establishment of an Advisory Committee based on the complexity of the subject matter of prescription and the scope of the work that needs to be covered. Whilst awaiting approval for the appointment of the Advisory Committee, the researcher commenced developing the Revised Discussion Paper.

During November 2015, the Prescription Periods Advisory Committee was established. By then, the researcher had already finalised development of the Revised Discussion Paper. The researcher and the Advisory Committee are in the process of reviewing the contents of the Revised Discussed Paper in order to ensure that the law and proposals for reform are correctly reflected and formulated. The 1st Meeting of the Advisory Committee was held on 28 January 2016.

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 (e.g. 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, Dr D Collier, to conduct further research and 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 and the content of Discussion Paper 113 and comments received on the recommendations were consolidated into a new discussion paper. The Committee approved that a consolidated discussion paper would form the basis for a single final report dealing with all the matters raised during the investigation.

In December 2013 the project leader and Commissioner designated to the Advisory Committee, Professor PJ Schwikkard, resigned as Project Leader and Commissioner. Dr Collier appointed as designated researcher, with the assistance of Professor Schwikkard, developed a consolidated Discussion Paper. In July 2014 Dr D Collier, advisory committee member and designated researcher in the investigation submitted her resignation as Committee Member. The Commission accepted her resignation and resolved that a new Advisory Committee Member should be appointed to replace her. In March 2014 the Commission appointed Judge Jody Kollapen as the Project Leader and a memorandum for the appointment of a member to replace Dr Collier was submitted for approval by the Minister. The consolidated discussion paper (131) was submitted for consideration of the Commission in March 2014. The Commission approved its publication on 5 July 2014. The closing date for comment was 31 March 2015, but it was extended to 31 October 2015 at the request of various interested persons.

On 5 August 2015 the Minister approved the appointment of Professor Pistorius as an advisory committee member to replace Dr Collier. An Advisory Committee meeting was held on 25 September 2015. The Advisory Committee considered whether or not to continue with an investigation of the subproject into the review of cybercrime. It resolved to remove the investigation from its terms of reference since the Department of Justice was mandated to undertake a review of cybercrime under auspices of the Review Panel established by the Minister of Communications to review cyber security in 2013. On 28 August 2015 the Department of Justice published a draft Bill on cybercrime for general information and comment. The Advisory Committee considered the planning of its investigation and its mandate after publication of the consolidated Discussion Paper (dealing with all identified and outstanding issues). The Committee resolved to request Professor Pistorius to assist in the investigation and approved that she assists the Commission in this regard and prepare a draft report with provisional recommendations for consideration by the Committee. The Committee also

mandated her to consult with role players in particular judges to obtain their views. A draft report with recommendations was by considered by the Advisory Committee 12 March 2016. A revised draft report will be considered by the Committee at a meeting scheduled for July 2016.

Review of the law of evidence –background preceding the developments reported above (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 was 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. Following the approval of the Department of Communications policy review on cyber security the Department of Justice has been requested to proceed with a review of the legislation dealing with cybercrime. The Department of Justice has already published a draft Cybercrimes and Security Bill for general information and comment on 28 August 2015. In light of these developments, the advisory committee reviewed continuing with an investigation into cybercrime as part of the investigation into the review of the law of evidence at its meeting held on 25 September 2015. The Committee resolved that the Department of Justice was better placed to continue with the investigation and removed the investigation from its planned work.

Project 127 – Review of administration orders

The then 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.

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 has compiled 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".

A proposal paper titled "Should administration orders be repealed taking into account consumers' access to debt review" was distributed to government stakeholders on 20 July 2015. This was followed by a roundtable discussion on administration orders held on 30 March 2016. The suggestions made at the roundtable discussion are being investigated with a view to augment the discussion paper.

Project 135 – Review of witchcraft legislation

The Commission received submissions from the South African Pagan Rights Alliance, 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 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.

On 11 May 2014 the Commission deliberated upon the draft Issue Paper on the Review of the Witchcraft Suppression Act. The main issues in the paper are around; firstly whether there is a need to regulate witchcraft, and the extent of such regulation should it be desirable. Secondly, the extent to which existing laws should encroach on the rights of others in the free exercise of their religion. The Commission approved the publication of the Issue Paper for public comment and the Advisory Committee members that had been identified to assist with the investigation. The issue paper was published for public comment on 9 September 2014 and the closing date for comments was 30 October 2014.

On 26 September 2014 the Minister of Justice and Constitutional Development appointed members of the Advisory Committee to assist with the investigation. The first meeting of the Advisory Committee was held on 20 March 2015 to deliberate on the issues involved in the investigation and the development of the Discussion Paper.

The draft discussion paper was discussed at the advisory committee meeting held on 31 July 2015 where members with expertise in certain areas were identified and tasked with assisting with the development of issues within their area of expertise. The draft discussion paper, together with a draft Bill, was finalised on 30 September 2015 and was further discussed and approved at the advisory committee meeting held on 9 November 2015. The discussion paper was approved for publication by the commission at its meeting held on 5 December 2015. The discussion paper was published for public comment on 19 January 2016. The closing date for receipt of comments was 30 April 2016.

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. Draft consultation paper is currently being developed and will be submitted to the project leader for consideration in due course.

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 inclusion of the investigation in its program on 13 March 2010 and the Minister approved the inclusion of Project 137: "Expungement of certain criminal records" in the SALRC programme on 28 April 2010. The Commission approved the appointment of Commissioner Thembeka Ngcukaitobi as Project Leader and Mr van Vuuren as the designated researcher. The researcher prepared a a draft discussion paper for submission to the Project Leader. The term of office of Mr Ngcukaitobi expired in December 2011. A new project leader, Judge J Kollapen, was appointed in December 2013. A draft discussion paper was finalised in August 2014. The Commission approved the publication of a discussion paper on 5 December 2014. The discussion paper has since been published and the closing date for comments is 31 July 2015 but it was extended at the request of a number of role players to the end of February 2016.

During the consultation phase on the content and provisional recommendations in the Discussion Paper, contact have been established with the Offices of the Department of Correctional Services, the National Office and all sub offices of Nicro and Mr Lukas Muntingh with the view to facilitate input on the draft discussion paper. Meetings were also arranged with Mr Muntingh in the second week of July 2015, formal meetings were held with members of the SAPS Criminal Record Centre (6 July 2015), and the Department of Correctional Services (9 July 2015) during which presentations on the content on recommendations in the discussion paper were made.

On 23/24 July 2015 the researcher attended a conference "Ex Offender Conference" presented by the Department of Correctional Services and made a presentation on "Employability and criminal record". The conference was attended by approximately 500 persons, which included ex-offenders

from the regions Gauteng, Northern Caper, Western Cape and the Free State. Further regional conferences were planned by the Department of Correctional Services and the researcher has been requested to attend these conferences and make further presentations on the expungement of criminal records and the Commission's discussion paper. During August 2015 the Department of Correctional Service submitted its comments as well as the comments received during the conference.

The Discussion paper has also been distributed to members of EXCO of the Department of Justice for comment who distributed the Discussion Paper to all relevant stake holders in the Department and the National Prosecuting Authority. A number of respondents have requested an extension for comment. Extension for comment was again granted until 30 September 2015 and to the end of February 2016. During the course of September the outstanding comments were followed up with the Department of Justice, EXCO, the South African Police Services and Nicro. The Commission received the Comment from the Department of Justice on 28 September 2016. The outstanding comments were followed up regularly. The regional workshops planned by the Department of Correctional Services were held during February and March 2016. During February 2016 the researcher prepared a draft presentation on behalf of the Department of Correctional Services for discussion at the regional workshops. The researcher also responded to questions raised during the course of the regional workshops. In view of the extended time frames for comment the target date for submission of a draft report, including the collation of comments and provisional recommendations to the Project Leader was extended. It is envisaged that the final report will be submitted to the Commission for consideration in the last quarter of 2016.

Numerous requests for information regarding applications for expungement of criminal records were received during the course of the consultation phase and responded to or referred for consideration by the Department of Justice. On 23 February 2016 the researcher a request from Andile Tshona Media Research and Liaison in the Department of Justice and Constitutional Development to provide information on the Commission's investigation into expungement of criminal records. The Department was provided with background information on the Commission's investigation on 24 February 2016 to enable a response to enquiries on the DOJCD social media pages.

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 was tabled at the Commission meeting on 11 May 2014 for consideration and it was approved.

The media statement and discussion paper were published on 01 September 2014 and the closing date for comments was 31 October 2014. The researcher and project leader were interviewed by various media houses after publication of the discussion paper. The researcher presented the discussion paper to the Young Communist League of South Africa National Committee meeting on 05 September 2014. The researcher developed worksheets for the discussion paper and were posted on the SALRC's website on 29 September 2014.

The researcher compiled comments on the Discussion Paper and sent such to the Advisory Committee on 13 May 2015. The researcher sent the paper on civil remedies for the prevention of forced marriages and Draft Bill to the Advisory Committee for consideration on 22 June 2015. In the advisory committee meeting and writing retreat held on 28 and 29 June 2015 it was decided that Discussion Paper 132: The practice of ukuthwala should be revised to include a chapter on public consultations, review a chapter on options for law reform and include a Draft Bill. The researcher sent the Draft Revised Discussion Paper and Bill to the Advisory Committee for comments and consideration during July 2015. The Draft Revised Discussion Paper and Bill were approved by the project leader on 30 July 2015.

The Secretary advised the researcher that he will liaise with the Chairperson to establish a working committee to approve the Draft Discussion Paper and Bill. The Draft Revised Discussion Paper was

approved by the Commission, through round robin on 19 October 2015. The media statement and Revised Discussion Paper were published on the SALRC's website on 30 October 2015.

The consultative workshops on the Revised Discussion Paper took place as follows: 28 January 2016 (KwaZulu-Natal); 04 February 2016 (Eastern Cape); 11 February 2016 (Limpopo); 18 February 2016 (Mpumalanga); 25 February 2016 (Free State) and 03 March 2016 (Gauteng). The researcher received comments on the Revised Discussion Paper from various stakeholders and started consolidating such for inclusion in the draft report.

Project 139 – 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. He met with the newly appointed project leader on 5 April 2014 to discuss the investigation. The further development of the draft report continued with developments in South Africa and other jurisdictions during the period under review and in February 2016 submitted a draft report to the project leader for consideration. It is envisaged that the draft report will be finalised for consideration by the Commission during 2016.

Project 140 – Right to Knowledge of One's Own Biological Origins

The object of this investigation is to perform research into a person's right to knowledge of his/her biological origins. A proposal paper containing the pre-investigation as approved by the Project Leader was considered by the Commission on 13 June 2015. The Commission decided to recommend to

the Minister that the investigation should be included in the SALRC's programme. A ministerial memo was prepared and submitted to the Minister for his consideration on 7 August 2015. The Minister approved the inclusion of the investigation in the Commission's programme on 10 September 2015. The researcher took over the project on 20 January 2016 and is performing research in this regard.

Project 141 – Medico-Legal Claims

The investigation seeks to strengthen the legal position for the effective handling of medical legal claims. At the Commission meeting of 13 June 2015 the Commission approved the recommendation in the proposal paper that the investigation be included in the SALRC's programme. On 10 September 2015 the Minister approved the inclusion of the investigation in the SALRC's programme.

During the reporting period, the researcher conducted research and collected legal data and information on medico-legal claims. The researcher completed a document with preliminary proposals on an aspect of the investigation (Common law "once and for all rule") on 31 March 2016. It is envisaged that the document will be submitted to the Commission for noting at its meeting of the first quarter of the 2016/2017 financial year.

Project 142 – Legal Fees

The investigation aims to review the current fees dispensation in terms of which attorneys and advocates are paid for rendering legal services to their client. The parameters are set out in section 35 of the Legal Practice Act, 2014. The Legal Practice Act, 2014 (Act No.28 of 2014) was promulgated on 22 September 2014. However, section 35 of the Act, which provides for an investigation to be conducted by the SALRC on fees charged in respect of legal services, will, in terms of section 120(4) of the Act, come into operation on a date to be fixed by the President by proclamation. This will take place after commencement of Chapter 2 of the Act, which will commence three years after commencement of Chapter 10 of the Act. Parts I and II of Chapter 10 of the Act (establishment of the National Forum) were brought into operation with effect from 1 February 2015 by Proclamation No. R.2 of 2015 published in GG No.38412 dated 23 January 2015. On 09 February 2015 the Minister approved the inclusion of the investigation in the SALRC's programme.

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 three new requests for consideration for inclusion in its law reform programme. Firstly, a request for the inclusion of an investigation on the ordinances for the abolition of Dog Racing with regards to Sled dog sports was received from the President of the South African Federation of Sleddog Sports, Dr Wolfgang H. Meyer, on 18 June 2015. Secondly, a request for the inclusion of an investigation into the fairness of the Revised Rules of the South African Local Authorities Pension Fund was received from Public Protector South Africa, in July 2015. Lastly, a request for the inclusion of an investigation on the amendment of the laws relating to interruption of extinctive prescription was received from the group called "Real People", a financial services and credit provider, on 11 February 2016.

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.

As indicated in the 2013-2014 and 2014/2015 annual reports that the SALRC had received few requests for consideration for inclusion in its law reform programme, during the period under review, the following preliminary investigations were conducted:

Lesbians, Gays, Bisexuals, Transgendered and Intersexed (LGBTI) in detention

At the Commission meeting held on 5 December 2013 the Commission for Gender Equality (CGE) presented issues which it had identified for inclusion on the program of the Commission. One of these issues was the "law regulating imprisonment of LGBTI people".

The researcher received the assignment in May 2014. Ms Prinsloo is the lead researcher assisted by Ms Clark as supervisor.

On 4 June 2014 the two Commission researchers assigned to this pre-investigation met with officials from the Chief Directorate: Constitutional Development in the Department of Justice and Constitu-

tional Development to ascertain whether there is not already any type of programme in place or investigation ongoing in this regard.

On 5 September a meeting took place between the SALRC and the CGE. The meeting was attended by the Parliamentary Liaison of the CGE, Mr Kamraj Anirudhra, the researchers from the SALRC and Justice Maya, chairperson of the SALRC and (then) project leader of this investigation. This meeting was held to ascertain the scope of the pre-investigation.

On 25 March 2015 a meeting took place between the researcher and the Project Leader, Professor Oguttu, to discuss the proposal paper.

The LGBTI pre-investigation came before the Commission on 13 June 2015.

The Commission requested that further research be done in order to determine the scope of the investigation before final consideration is given to the inclusion of the investigation on the program of the SALRC. The project leader has been provided with regular updated documents on this topic as requested by the Commission. Regular meetings between the SALRC and the project leader on this pre-investigation took place. Regular meetings with stakeholders were sought and held.

The pre-investigation is at a stage where final approval is to be obtained from the project leader to submit it to the next commission meeting during the 2016/2017 financial year.

Maternity and Paternity benefits for Self-employed Workers

The proposal received from the Commission for Gender Equality (CGE) for inclusion of the investigation into maternity benefits for self-employed women emanates from the SALRC's engagement with key role-players during its planning workshop held on 6 December 2013.

The main problem identified by the CGE is that there is currently a gap in the South African social security system in that the vast majority of self-employed workers in the formal and informal sectors of the economy are excluded from receiving maternity and paternity benefits offered by the State. The object of the preliminary investigation is to consider for inclusion in the SALRC's programme the review of the law of the Republic of South Africa with the object of probably extending maternity and paternity protection to self-employed workers in the formal and informal sectors of the economy. This has to take into account the provisions of section 9 of the Constitution that prohibit discrimination on any grounds including gender, sex, pregnancy and marital status.

In August 2014, the Commission consulted with the Departments of Labour and Social Development with a view to determining whether these Departments are currently considering this matter as part of their legislative and constitutional mandate. Feedback from the Directors-General of Labour and Social Development were received on 10 October 2014 and 01 January 2015 respectively. Both Departments support in principle the inclusion of the proposed investigation in the SALRC programme.

During the reporting period a Proposal Paper on Maternity Benefits for Self-Employed Women was tabled at the Commission meeting of 05 December 2015 for consideration and approval. At this meeting, the SALRC took a decision that the role of men should be included in the scope of the investigation, that further comparative study on the subject be conducted, and that an amended preliminary report be submitted by the researcher at its next meeting. In view of the SALRC's decision to include the role of men in the scope of this investigation, the title of the investigation was accordingly amended to read maternity and paternity benefits for self-employed workers.

On 9 February 2016, a brief study on international models for maternity and early child support was submitted by the researcher to the SALRC's Copy Editor for language editing before it is incorporated into the main preliminary report. It is envisaged that the amended preliminary report will be tabled before the Commission for consideration and approval during the first quarter of the 2016/2017 financial year.

Small Claims Court

The object of this investigation is to revamp the Small Claims Courts Act 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.

A meeting was held on 8 July 2014 with officials from Court Services to consult on the scope of the proposal and to find out what DOJCD had done so far and what problems are experienced in relation to Small Claims Courts. Documents received from Court Services were studied whereafter a draft proposal paper recommending this topic be included in the program of the SALRC was prepared and submitted to the project leader on 1 April 2015 for consideration and approval.

Subsequently, it was discovered that another departmental investigation on this same topic is at an advanced stage in that a draft bill is being prepared. Therefore, the researchers developed another proposal paper recommending that this topic not be included in the SALRC's program as it will not be efficient for two offices to be investigating the same topic and, further, as the other branch was already at an advanced stage, it would be more efficient for that office to continue with this topic. The second proposal paper was considered by the Commission at its meeting on 5 December 2015 and it was approved that the Minister be advised that this investigation should not be included on the SALRC's program. Consequently, a memorandum was forwarded to the Minister advising the Minister accordingly.

Minimum age of criminal capacity

The object of this investigation is to investigate whether the minimum age of criminal capacity should remain at 10 years or be raised.

A draft Proposal Paper was developed in September 2014 and submitted to the project leader for consideration on 30 September 2014. In February 2015 the proposal paper was updated with

developments. The Proposal Paper was finalised during 2015 and considered by the Commission on 5 December 2015. The Commission decided that in view of the steps taken during 2015 by the Intersectoral Committee for Child Justice in developing and finalising its report on the review of the minimum age of criminal capacity for consideration by the Minister of Justice and Correctional Services there is no need for the SALRC to include an investigation into this matter in its research programme. In February 2016 the Secretariat informed the DOJCD and the Ministry of Justice and Correctional Services of the Commission's decision.

Age of marriage

On 6 December 2013, the South African Law Reform Commission hosted a workshop with various stakeholders to hear whether they had proposals to make for inclusion in the SALRC programme. The Commission for Gender Equality (CGE) in its presentation highlighted that one of the issues to be considered by the SALRC is the harmonisation of laws regarding the age of marriage. The CGE's main concern was that various pieces of legislation regulate marriages, but there is no uniformity on the age of marriage. Harmonisation is thus required on the legal age of consent for marriage.

Like all investigations, the researcher did a preliminary investigation to determine whether this investigation should be included in the SALRC's programme. A draft pre-investigation report was compiled. On 05 November 2014, the researcher sent the draft pre-investigation report to the project leader for consideration. As at 31 March 2015, the researcher was still awaiting comments from the project leader.

On 05 May 2015 the researcher sent an e-mail to the project leader to follow-up her consideration of the draft pre-investigation report. The project leader responded on the same day and they agreed to have a telephonic conference on 07 May 2015. They had a teleconference on 07 May 2015 in which the project leader gave her input and advised the researcher to table the report in the next Commission meeting.

The researcher incorporated the project leader's input and sent the pre-investigation report to the Secretary for editing. The researcher received editorial comments from the copy editor on 11 May 2015. The researcher incorporated the editor's comments on 12 May 2015 and sent the pre-investigation report to the Assistant Secretary for tabling in the Commission's meeting.

The proposal paper was tabled at the Commission meeting on 13 June 2015 and it was approved. The Commission recommended that the investigation should not be included in the SALRC's programme.

Enacting a single marriage Act

A request for the inclusion of an investigation into the enactment of a single marriage Act was received from the honourable Deputy Minister of Home Affairs, Ms F Chohan, in September 2014. The object of this pre-investigation is to investigate the possibility of enacting a single marriage

Act that will enable South Africans of different religious and cultural persuasions to conclude legal marriages that will accord with the doctrine of equality as encapsulated in the Constitution of the Republic of South Africa.

On 6 December 2014, the Commission approved the inclusion of this research request into its programme. A resolution was taken that a letter should be forwarded to the Deputy Minister of Home Affairs for the following reasons:

- to acknowledge receipt and importance of her research request;
- to advise her that this research request will be included in the programme of the Commission in the 2015/2016 financial year;
- to further inform her of the existing possibility that the investigation may go beyond the term of office of the current Commission, having regard to the wide range of stakeholders who will need to be consulted;
- to also highlight to her that the research will be substantial in nature because the request proposes an introduction of a new principle in the law of marriage.

During the reporting period a proposal paper which applies the Commission's selection criteria for considering the inclusion of a research proposal in the Commission's research programme was developed and on 31 March 2016 submitted to the project leader for consideration. It is envisaged that the Commission will consider the proposal paper during the course of 2016.

Review of National legislation that impact on local government

The object of this investigation is to reduce regulatory compliance and the reporting burden on municipalities, and simplifying implementation.

Research on the intergovernmental relations framework and implementation of MINMEC decisions

The object of this investigation is to study the intergovernmental relations framework and develop the most effective model that the Minister of Social Development can utilise to enforce the decisions of MINMEC.

Ordinances for the abolition of Dog Racing with regards to Sled dog sports

The President of South African Federation of Sleddog Sports, Dr Wolfgang H. Meyer, requested the SALRC to examine the Ordinances for Abolition of Dog Racing with regards to Sleddog Sports. On 18 June 2015 the Secretary gave the researcher a copy of a request for assessment.

The researcher commenced with research for a viability study to ascertain whether an investigation should be included in the SALRC's research programme.

Investigation into the fairness of the Revised Rules of the South African Local Authorities Pension Fund

The Public Protector South Africa proposed consideration of an investigation into the fairness of the Revised Rules of the South African Local Authorities Pension Fund in relation to the submission of insurance claims.

A pre-investigation into the matter is currently underway in order to determine whether the request falls within the mandate of the Commission, and if so, whether it should be included on its programme.

Proposal calling for amendment of the laws relating to interruption of extinctive prescription

The group called Real People, a financial services and credit provider proposed consideration of an investigation into amendment of the Prescription Act in relation to the principles of interruption of extinctive prescription with special reference to debt collection processes provided for in the National Credit Act. The view is held that the principles of interruption in relation to the prosecution of debts to finality are prejudicial to both credit providers and consumers.

A pre-investigation into the matter is currently underway in order to determine whether the request falls within the mandate of the Commission, and if so, whether it should be included on its programme.

Research proposals awaiting Minister's decision

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:

Reports Completed

CHAPTER 4

REPORTS COMPLETED

Project 25 – Statutory Law Revision

Background to the project on statutory law revision

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

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

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

The South African Law Reform Commission (SALRC) finalised its reports on Project 25: Statutory Law Revision in respect of legislation administered by the Departments of Basic Education and Higher Education and Training; Cooperative Governance and Traditional Affairs; Defence; International Relations and Cooperation; and Tourism. The reports set out the SALRC's final recommendations for law reform regarding statutes administered by the five Departments referred to.

Legislation administered by the Departments of Basic Education and Higher Education and Training

The SALRC reviewed 19 statutes which are administered by the Department of Basic Education (DBE), 14 statutes administered by the Department of Higher Education and Training (DHET) and 36 statutes that were assigned to the Provincial Departments of Education. The only legislative proposals emanating from the review of legislation administered by the DHET is the proposed repeal of sections 1, 18 and 19 of the Education Laws Amendment Act 53 of 2000; sections 12 to 14 of the Education Laws Amendment Act 57 of 2001; and sections 14 to 26 of the Education Laws Amendment Act 50 of 2002. These sections deal with matters affecting further education and training, which is a subject matter of the DHET.

The SALRC has identified five (5) statutes for repeal in whole by the DBE, and a further six (6) statutes for partial repeal by the DBE on the grounds of obsolescence. These statutes are listed in the Schedule to the Basic Education General Laws Amendment and Repeal Bill attached in Annexure "A" of the Report.

Furthermore, the SALRC has identified a number of pre-1994 education laws that still exist on the Statute Book. Although most of the provincial legislatures have now repealed all the assigned legislation listed in Annexure "C" of the Report, no proof could be found that these laws were repealed by the North-West provincial legislature. The only statute that appears to have been omitted by the Limpopo provincial legislature when the legislature repealed the old order education laws is the Private Schools Act (House of Assembly) 104 of 1986. The SALRC recommends that these statutes be repealed by the North-West and Limpopo provincial legislatures on the grounds of inconsistency with section 9 of the Constitution, to the extent that this has not been done.

On 6 December 2014, the SALRC approved the Statutory Law Revision (Project 25) Report on legislation administered by the Departments of Basic Education and Higher Education and Training for submission to the Minister of Justice and Correctional Services. The Report was approved by the Minister of Justice and Correctional Services on 10 September 2015 and referred to the Minister of Basic Education and the Minister of Higher Education and Training for their consideration on the same date.

Legislation administered by the Departments of Cooperative Governance and Traditional Affairs

The SALRC has reviewed a consolidated list of 53 principal and amendment statutes which are administered by CoGTA. The SALRC has identified six (6) statutes that may be repealed in whole, four (4) statutes that may be partially repealed, as well as four (4) other statutes that may be amended by CoGTA. These statutes are contained in Schedules 1 to 3 of the Cooperative Governance and Traditional Affairs General Laws Amendment and Repeal Bill attached in Annexure "A" of the Report.

Furthermore, the SALRC recommends that the eight (8) statutes listed in the Schedule to Annexure "D" of the Report be repealed by the relevant provincial legislatures identified in the Schedule, to the extent set out in column four of the said Schedule. The SALRC could not find proof that these statutes or provisions therein were repealed by the provincial legislatures in question to whom they were assigned. Against this background, the SALRC recommends that these statutes be repealed by the provincial legislatures identified in the Schedule on the grounds of redundancy and obsolescence, to the extent that this has not been done.

The review of the Black Laws Amendment Acts entailed an extensive transversal analysis involving CoGTA and one or more other government departments. These Amendment Acts were used by the previous apartheid government to effect amendments to various racially-based policies and legislation of the apartheid regime. When the new constitutional dispensation took effect in February

1997, the then President of the Republic of South Africa did not re-assign a number of the old order statutes to Members of Cabinet, as envisaged by section 97 of the Constitution.

Section 97 of the Constitution provides that the President may, by proclamation, transfer to a member of the Cabinet the administration of any legislation entrusted to another member, or any power or function entrusted by legislation, to another member. As a result, the post-1996 government departments have indicated a lack of authority or mandate to repeal these statutes that were not specifically re-assigned by the President.

The SALRC recommends that only two Cabinet Members be designated, namely the Minister of Justice and Correctional Services and the Minister of Home Affairs, as Cabinet Members responsible for administering the statutes in question; and then only for the purpose of empowering the said Cabinet Ministers to bring about Bills to repeal the said unconstitutional, redundant and obsolete old order statutes listed in Annexures "B" and "C" of the Report.

Accordingly, the SALRC recommends that the ten (10) Black Laws Amendment Acts listed in the Schedule to Annexure "B" of the Report, be repealed by the Department of Justice and Constitutional Development, whereas the Black Laws Amendment Act 76 of 1963 listed in Annexure "C" be repealed by the Department of Home Affairs.

On 13 June 2015, the SALRC approved the Statutory Law Revision (Project 25) Report on legislation administered by the Departments of Cooperative Governance and Traditional Affairs for submission to the Minister of Justice and Correctional Services. The Report was approved by the Minister of Justice and Correctional Services on 10 March 2016 and referred to the Minister of Cooperative Governance and Traditional Affairs and the Minister of Home Affairs on the same date.

Legislation administered by the Department of Defence

(a) The SALRC identified 45 statutes (20 principal Acts and 25 amendment Acts) administered by the Department of Defence. The SALRC proposes that 17 statutes be repealed, namely

(i) Defence Endowment Property and Account Amendment Act, 1929

(ii) Defence Amendment Act 43 of 1954

(iii) Moratorium Act 25 of 1963

(iv) Moratorium Amendment Act 4 of 1969

(v) Civil Defence Amendment Act 5 of 1969

(vi) Defence Amendment Act 26 of 1973

(vii) Defence Amendment Act 1 of 1976

(viii) Moratorium Amendment Act 27 of 1977

(ix) Moratorium Amendment Act 48 of 1978

(x) Defence Special Account Amendment Act 17 of 1981

(xi) Demobilisation Act 71 of 1995

(xii) Demobilisation Act 99 of 1996

(xiii) Defence Special Tribunal Act 81 of 1998

(xiv) Demobilisation Amendment Act 128 of 1998

(xv) Demobilisation Amendment Act 43 of 2001

(xvi) Termination of Integration Intake Act 44 of 2001

(xvii) Armaments Corporation of South Africa, Limited Amendment Act 16 2005

(b) The following two statutes be repealed for reasons mentioned in the report:

(i) First Schedule to the Defence Act 44 of 1957

(ii) Castle Management Act 207 of 1993

These recommendations are contained in a draft Bill entitled the 'Defence Laws Repeal and Amendment Bill' which is attached to the report. The Defence Laws Repeal and Amendment Bill [B7-2015] was introduced in Parliament on 10 November 2014. The President assented to the Defence Laws Repeal and Amendment Act 17 of 2015 on 8 December 2015. The Act was published in Government Gazette No. 39521 dated 15 December 2015. The date of commencement will be determined by the President by proclamation in the Gazette.

Legislation administered by the Department of International Relations and Cooperation (DIRCO)

DIRCO administers 14 statutes (11 principal Acts and three amendment Acts). On 6 December 2014 the Commission considered the draft report and approved its submission to the Minister of Justice and Correctional Services for referral to the Minister of International Relations and Cooperation to consider implementation. The SALRC makes the following findings and recommendations in this report:

(i) The Treaties of Peace Act 32 of 1921 has fulfilled the purpose for which it was enacted, and is now redundant and obsolete. We recommend that the Act be repealed.

(ii) The Treaties of Peace Act 20 of 1948 has similarly fulfilled the purpose for which it was enacted and it is recommended that the Act be repealed.

(iii) The Diplomatic Mission in United Kingdom Service Act 38 of 1961 has also fulfilled the purpose for which it was enacted. We recommend that the Act be repealed.

(iv) The Commonwealth Relations (Temporary Provision) Act 41 of 1961 was intended to deal with the situation after 31 May 1961, when South Africa was no longer a member of the Commonwealth of Nations. Since 1961, South Africa's position in this regard has changed again. The Act is therefore redundant and obsolete and it is recommended that the Act be repealed.

(v) The Commonwealth Relations Act 69 of 1962 was intended to deal with South Africa's withdrawal from the Commonwealth of Nations, and to regulate citizenship laws thereof as a consequence. The Act has ceased to serve any purpose in present-day South Africa, and is therefore redundant and obsolete. We recommend that the Act be repealed.

(vi) Section 1 of the African Renaissance and International Co-operation Fund Act 51 of 2000 contains the following outdated definitions: "'Department' as meaning Department of Foreign Affairs"; and "'Minister' as meaning Minister of Foreign Affairs". DIRCO intends to repeal Act 51 of 2000 when it promotes the South African Development Partnership Agency Bill in the near future. Hence there is no purpose in amending Act 51 of 2000, and we have not recommended the repeal of this Act.

(vii) Certain references in the Foreign States Immunities Act 87 of 1981 are no longer relevant. We recommend that they be updated and amended.

(viii) We recommend that certain definitions in the Diplomatic Immunities and Privileges Act 37 of 2001 be updated in view of the name change of the DIRCO.

(ix) Given that nearly 27 years (at the time of the approval of this report) have passed since the date of assent (3 March 1988) for the Foreign States Immunities Amendment Act 5 of 1988, the question arose whether this amendment Act has perhaps become redundant and ought to be repealed. DIRCO confirmed that there is no longer a need to retain this amendment Act. We recommend that the Act be repealed.

(x) More than 20 years (at the time of the approval of this report) have passed since the date of assent (8 December 1993) for the Application of Resolutions of the Security Council of the United Nations Act 172 of 1993. Hence the question arose whether this Act is perhaps redundant and should be repealed. We requested the view of DIRCO, in particular, about the retention or repeal of this Act. DIRCO responded as follows:

- In July 2012, DIRCO advised the SALRC that it (DIRCO) was in the process of drafting a Bill, which will repeal the Application of Resolutions of the Security Council of the United Nations Act 172 of 1993.

- In October 2013, DIRCO advised that inter-departmental consultations about the Bill were ongoing.
- In November 2014, DIRCO confirmed that the name of the Bill has not been agreed on, and the drafting process is ongoing across the relevant departments.

We therefore do not recommend the repeal of the Application of Resolutions of the Security Council of the United Nations Act 172 of 1993.

Legislation administered by the Department of Tourism

The SALRC reviewed the four statutes administered by the Department of Tourism and found no provisions which infringe the equality provisions of the Constitution in the legislation reviewed. However, the SALRC recommends that the Tourism Act 72 of 1993 be amended and this recommendation is contained in a Bill entitled the 'Tourism Amendment Bill'. The Department of Tourism had already initiated the process to have the recommendations made by the SALRC in the Discussion Paper implemented. In December 2013, the Department of Tourism informed the SALRC about its decision to include the draft Tourism Bill in the legislative programme and to initiate the parliamentary process to have the recommendations identified by the SALRC included in this draft Bill. To give effect to its decision, on 3 April 2014, the Tourism Act 3 of 2014 was assented to.

Referral of the reports to the respective Ministers

The Commission approved the Report on Statutory Law Revision: Legislation administered by the Department of Defence on 5 July 2014 for publication and referral thereof to the relevant Minister. The report was referred to the Minister of Defence in October 2014 under cover of a letter signed by the Minister for noting as the Department of Defence was already in the process of implementing the Commission's recommendations. The Defence Laws Repeal and Amendment Bill [B7-2015], which emanates from this report, was passed by Parliament and on 8 December 2015 the President signed into law the Defence Laws Repeal and Amendment Act 17 of 2015.

Chapter 5:

Public Relations

CHAPTER 5

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, with the assistance of the Assistant Secretary, manages the bank accounts of ALRAESA, which are held in South Africa.

On 24 and 25 November 2015, the Secretary of the SALRC, together with Ms Maite Modiba, attended the ALRAESA EXCO meeting held in Maseru, Lesotho. The Secretary presented the Association's financial statements. The EXCO approved that the treasurer should close the 32 days' notice account and open a depositor plus account so that funds can be readily available when needed than having to give 32 days' notice or be penalised. The treasurer was also tasked to look for other viable investment options.

The Chairperson of ALRAESA, Ms Vastina Nsanze welcomed the new office bearers in the ALRAESA family, the Chairperson of Namibia Law Reform Commission, Ms Yvonne Daussab, and the Chairperson of the Lesotho Law Reform Commission, Mr Justice Sakoane Sakoane.

The EXCO suggested that the next ALRAESA Annual General Meeting be in March 2016. The hosting country was yet to be determined.

Visit by a delegation of the Uganda Law Reform Commission

A delegation of Officials from the Uganda Law Reform Commission undertook a comparative study tour to South Africa in June 2015 and as part of their visit the delegation met with SA Law Reform Commission officials on 4 June 2015.

Their terms of reference for the visit and the major objective of the visit was a review and reform of the Evidence Act in Uganda to benchmark specific issues of interest that have found to be incorporated in the Republic of' South Africa legal system or practice. These included:

- Mechanisms for obtaining identification evidence;
- The adversarial system of litigation vis-a-vis the inquisitorial role of judicial officers;
- The use, authenticity and admissibility of electronic evidence in the judicial process;
- The challenges faced in providing expert evidence in court;
- Methods of preserving evidence by the investigators, prosecutors and the courts;
- The use of emerging technological developments that impact on the implementation of the Evidence Act; and
- The use of forensic evidence as circumstantial evidence.

The delegation was received by Mr Nelson Matibe, the Secretary of the SA Law Reform Commission and Mr van Vuuren. They were briefed on the SALRC's investigation into the review of the law of evidence and other investigations relevant to their brief. The presentation also included an overview of the SALRC's investigation into a more inquisitorial approach in criminal proceedings and the Commission's recommendations. The delegation was also provided with copies of the SALRC's Discussion Paper on the review of the law of evidence and its report on a more inquisitorial approach in criminal proceedings.

Visit by a delegation of the Tanzania Parliamentary Committee for Constitution and Legal Affairs

A delegation of 23 members from the Tanzania Parliamentary Committee for Constitution and Legal Affairs undertook a comparative study tour to South Africa in April 2015 and as part of their visit the delegation met with the SA Law Reform Commission officials on 21 April 2015.

The major objective of the visit was to inculcate capacity to the Parliamentary Committee on Constitution, Law and Administration to enable it to discharge its constitutional duties effectively in law reform activities. In particular, the Committee intended to learn how Ministries and other Government institutions participate in law reform activities. Also, how the Parliament of the Republic of South Africa collaborates with these institutions, in particular the South African Law Reform Commission in law reform activities.

The delegation was received by Mr Nelson Matibe, the Secretary of the SA Law Reform Commission; Mr Masibulele Chris Mfunzana, the Assistant Secretary of the SA Law Reform Commission and all researchers of the SA Law Reform Commission. They were briefed about the legislative mandate of the South African Law Reform Commission, as well as its research work processes and procedures. In particular, the process of public stakeholders' participation in the SALRC's law reform process was explained. Lastly, the collaboration between the SALRC and government departments with the purpose to provide support in the Parliamentary legislation development process was explained.

Internships at South African Law Reform Commission

The SALRC is currently hosting 3 legal interns, namely, Ms Zwivhuya Makuya; Mr Fhulufhelo Mufandilani and Ms Mosima Patricia Phala. The contract period for the internship is limited to 12 months, beginning from 1 March 2016 and ending on 28 February 2017.

Ms Zwivhuya Makuya was born in Thohoyandou (Limpopo). She obtained a Bachelor's Degree in Law from the University of Venda in 2015. She has also recently obtained a Money Laundering Control Certificate from the University of Johannesburg in 2016. He future plans include working in a compliance management environment as a compliance officer.

Mr Mufandilani Fhulufhelo was born in Vuwani (Limpopo). He obtained his Bachelor's Degree in Law from the University of Venda in 2015. During his study years he was involved in the facilitation of the National Schools Moot Court Competition, which is aimed at assisting pupils of different schools in and around the precinct of Thohoyandou to excel in legal research, legal drafting and presentation skills. He also participated in other community programmes, one of which was the Street Law programme, in which he was teaching basic human rights to prison inmates who were incarcerated in the Makhado and Matatshe Correctional facilities. Since joining the SALRC, Mr Mufandilani has fallen in love with law reform.

Ms Mosima Patricia Phala hails from Mokopane (Limpopo). She attended Abiot Kolobe Primary School in Leyden. In 2002 she was chosen to participate in a Science and Technology programme for young women, which was held in Durban. She matriculated from Nkube Senior Secondary in 2008. Ms Phala obtained her Bachelor's Degree in Law from the University of Limpopo in 2014. Before joining the SALRC, she served as a candidate attorney for a short while at TMN Kgomo & Associates in Tshwane. In 2015, Ms Phala attended the School for Legal Practice in Polokwane where she completed training on conveyancing.

After joining the SALRC, the three interns have been exposed to all the work processes of the SALRC, administrative and professional. In addition to the internal day-to-day work of conducting legal research, interns have also been exposed to legal drafting through the attendance of legal drafting sessions with specialist state law advisers at the Legislative Development Chief Directorate of the Department of Justice and Constitutional Development. Moreover, interns have attended Juta and Sabinet practical legal research trainings. Also, they have been exposed to the Socio Economic Impact Assessment System (SEIAS), which must be conducted before any legislation is supported by government.

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 2014 cycle of the Ismail Mahomed Law Reform Essay Competition began in February 2014 and closed on 30 November 2014. The SALRC received 34 essays in the LLB category and 8 essays in the LLM category. The essays were submitted by students registered at the following universities: University of Cape Town, University of Free State, University of Johannesburg, University of KwaZulu-Natal, North West University, University of Pretoria, Rhodes University, University of South Africa, University of Stellenbosch, University of Venda, University of the Western Cape, University of the Witwatersrand, University of Zululand, Varsity College and Walter Sisulu University.

The adjudication panel was appointed in December 2014 to evaluate the essays and identify the winners and runners-up of the 2014 competition. The panel consisted of professors Caroline Nicholson (Dean: Faculty of Law, University of the Free State); Bernard Martin (Dean: Faculty of Law, University of the Western Cape); and Andre Boraine (Dean: Faculty of Law, University of Pretoria).

In view of the number and quality of the content of essays received, the panel unanimously agreed that the Ismail Mahomed Law Reform Essay Competition Prize should be awarded in both the LLB and LLM category for the 2014 cycle. Based on the overall scores awarded to the essays, the panel also decided that the prizes for the 2014 competition should be awarded to the following students:

LLB CATEGORY

- Mr Musa Kika (winner), University of KwaZulu-Natal, for his essay titled "Assessing the effectiveness of the Public Protector in holding public officials to account with specific reference to the SAPS, SABC and the Nkandla investigations: Towards accountability, responsiveness and openness."
- Ms Tamrynne Barnes (runner up), University of Stellenbosch, for her essay titled "Consumer Protection through Organic Food Labelling: A Comparison between South Africa and the European Union."
- Ms TA Hudson (runner up), University of South Africa, for her essay titled "Terrorism: A Southern African response."

LLM CATEGORY

- Ms Sarah Vahed (winner), University of Stellenbosch, for her essay titled "Protecting the Child in a Pluralist State: Assessing the Practise of Ukuthwala in South Africa."
- Ms Nontembeko Mathe (runner up), University of Pretoria, for her essay titled "Aspects of debt enforcement under the National Credit Act 34 of 2005."

The award ceremony for the 2014 Ismail Mahomed Law Reform Essay Competition was held at the Centurion Lake Hotel on 11 September 2015. The keynote speaker was the Honourable Deputy Minister of Justice and Constitutional Development, Mr John Jeffery.

The 2015 cycle of the Ismail Mahomed Law Reform Essay Competition began in March 2015 and closed on 31 January 2016. This cycle marked the twelfth year of this competition's active seasons. As at 31 January 2016, a total of 45 essays were received as entries to the Competition. An impressive total of 34 essays were for the LLB category whereas only 11 essays were for the LLM category of the competition. The essays were submitted by students registered at the following universities: Nelson Mandela Metropolitan University, North-West University, Rhodes University, University of Cape Town, University of KwaZulu-Natal, University of Limpopo, University of Pretoria, University of South Africa, University of Stellenbosch, University of the Western Cape, Witwatersrand University and University of Johannesburg.

The adjudication panel was appointed in February 2016 to evaluate the essays and identify the winners and runners-up of the 2015 competition. The panel consisted of professors Enyinna Nwauche (Faculty of Law, Rhodes University); Aifheli Enos Tshivhase (Faculty of Law, Nelson Mandela Metropolitan University) and Dr Nombulelo Lubisi (Deputy Dean, Faculty of Law, University of Fort Hare). However, Dr Lubisi later pulled out from being an assessor and reasons were provided to the coordinator of the competition.

In view of the number and quality of the content of essays received, the panel unanimously agreed that the Ismail Mahomed Law Reform Essay Competition Prize should be awarded in both the LLB and LLM category for the 2015 cycle. Based on the overall scores awarded to the essays, the panel also decided that the prizes for the 2015 competition should be awarded to the following students:

LLB CATEGORY

- Ms Aadelah Shaik Yakoob from the University of Pretoria (joint winner) for her essay titled "Ambiguity surrounding the powers of the public protector –a threat to the rule of law."
- Ms Stefanie Busch from the University of Cape Town (joint winner) for her essay titled "Promoting Access to Affordable Generics."
- Kessler Perumalsamy from the University of the Western Cape (runner up) for her essay titled "Dignity in death: A constitutional analysis of assisted suicide in South Africa."

LLM CATEGORY

- Ms Alecia Pienaar from the University of Cape Town (winner) for her essay titled "The tangibility of corporate social responsibility in relation to transparent environmental management in the absence of judicial enforcement: a case note on the decision of the supreme court of appeal in Arcelormittal South Africa v Vaal Environmental Justice Alliance."
- Mr Sibusiso Mbutho from the University of KwaZulu-Natal (runner up) for his essay titled "The judicial

test for defensible affirmative action measures: A critique of the rationality standard of judicial review."

The award ceremony for the 2015 Ismail Mahomed Law Reform Essay Competition will be held at the Forever Hotel on 09 September 2016. The keynote speaker will be the Honourable Public Protector of South Africa, Advocate Thuli Madonsela.

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.

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 25: Legislation administered by the Department of Defence (DOD) Ms Maureen Moloi	Briefed the Portfolio Committee on Defence and Military Veterans on Discussion Paper 123 and the Defence Laws Repeal and Amendment Bill [B7-2015]	12 and 19 August 2015
	Attended to queries from Mr Dannyboy Pieterse of the Khoisan Nation Self Defence Unit relating to the "Application to defend the Court ruling of Judge Mavundla to allow the Khoisan Soldiers/ Cape Corps to Integrate into the SANDF".	September, October, November and December 2015

Project 25 Legislation administered by the Department of Home Affairs (DHA) Ms Maureen Moloi	General inquiries from the public relating to Discussion Paper 133.	Throughout the reporting period
	Telephone interview with Mr Shonaphi Fanecky Mashele of the Church of the Nazarene in Thulamahashe explaining the Commission's preliminary recommendations relating to the review of the Public Holidays Act of 1994.	8 April 2015
	Responded to media queries from Ellaine Swanepoel of Rapport relating to Discussion Paper 133.	9 April 2015
	Electronic response to journalist from the Sun, Happy Mnguni, to an email enquiry relating to the Review of the Public Holidays Act of 1994.	20 April 2015
	Telephone interview with Errol Naidoo of the Family Policy Institute to clarify the Commission's preliminary recommendations relating to the Review of the Public Holidays Act of 1994 and the decision to extend the date for submission of comments to 30 June 2015.	19 May 2015
	A group of stakeholders from Thulamahashe submitted 12 000 and petitions to the SALRC	15 June 2015
	An article appeared on the Port Elizabeth Herald in relation to Public Holidays which had the effect that the Commission was scrapping Christmas and Good Friday. A report was compiled for Mr Stephan Mahlangu of PEC clarifying what the Commission is recommending.	23 June 2015
	Respond to questions from Andre Viljoen, Editor of Gateway News, relating to Discussion Paper 133.	24 June 2015
	Interview with Candice Soobramoney of the Post in Durban on the Public Holidays issue	24 June 2015
	Interview by Neo Goba of Times Media on "the scrapping of Christian holidays from the calendar".	30 June 2015
	Interview with Alicestine October, Political Reporter: Parliament for Media24, on Discussion Paper 133 in relation to the process in terms of the roles of the department of Home Affairs, cabinet and parliament.	2 July 2015
	Assisted Mr Stephan Mahlangu PEC to respond to the Times about a "call for Christmas Day to be cancelled".	3 July 2015

	Received three boxes with 56 000 petitions submitted by the "Nelspruit Concerned Christians".	6 July 2015
	Nicola Daniels of Die Son called me to clarify the issue of Christmas as a public holiday	17 August 2015
	Participated in numerous radio interviews and phone-in programmes of the following media houses after publication of the Discussion Paper: • Rainbow Radio with Megan • Barberton Community Radio Station in Mpumalanga with Jabulani Masuku • Kingfisher Radio in Port Elizabeth with Ethan Black • The Breakfast Show on Cape Talk with Kieno Kammies • Breakfast Beat : The Voice of the Cape with Kamal	22 April 2015 6 May 2015 29 May 2015 I June 2015 6 July 2015
Mr Irvin Lawrence (Project leader)	General inquiries from the public relating to Discussion Paper 133.	Throughout the reporting period
	Interview on Power FM in relation to Discussion Paper 133.	2 July 2015
	Interviewed on SAfm: Morning Talk in relation to Christian Holidays and why they must be reviewed.	3 July 2015
Mr Nelson Matibe (Secretary)	The African Christian Democratic Party (ACDP) together with "Concerned Christians" marched on the SALRC to submit 99 556 petitions relating to the Review the Public Holidays Act of 1994. The Secretary: SALRC received the petition on behalf of the Commission.	18 June 2015
Project 68 Euthanasia and the Artificial Preservation of Life Ms Ananda Louw	Attended a seminar entitled "End of Life issues: Who Decides?", hosted by the SA Institute for Advanced Constitutional Public, Human Rights and International Law in Johannesburg and presented by the Hon Lady Justice Mary Arden DBE, Judge of the Court of Appeal of England and Wales.	14 August 2015
Project 90 Customary Law Ms Maureen Moloi	The project enjoys continuous external and media attention and the researcher received several general enquiries regarding customary marriages and customary law of succession. Enquiries by members of the legal profession and the public on the current legal position regarding traditional courts and the way forward with the Traditional Courts Bill were attended to by the researcher.	Throughout the reporting period

Project 94 Alternative Dispute Resolution (ADR) Ms Ananda Louw	Attended a workshop entitled "Conflict is the New Norm – Peace Making isn't As Easy As It Should Be" at the Institute for Dispute Resolution in Africa, UNISA College of Law, presented by the Deputy Director of Mediation Services and Field Operations for the Federal Mediation and Conciliation Service (FMCS) brought to South Africa by the American Embassy.	14 April 2015
	Attended the "Lawyers as Peacemakers Conference at the Institute of Dispute Resolution in Africa at UNISA where the role of the lawyer in dispute resolution in South Africa was highlighted.	October 2015
	Attended a National Policy Dialogue: transferring the Traditional Justice System and Advancing Restorative Justice in Boksburg where the position regarding community justice and the role of traditional leaders in this regard was highlighted.	4 December 2015
	Attended the Companies Tribunal Seminar on Promoting a Culture of Resolving Disputes Through Alternative Dispute Resolution at the Gallagher Convention Centre, Midrand.	17 February 2016
Project 94B Mediation Ms Theresa Häderli	Attended meetings conducted by the Ministerial Advisory Committee on Mediation appointed by the Minister of Justice and Correctional Services.	Throughout the reporting period
	Attended a Restorative Justice National Committee meeting conducted by the Department of Justice and Constitutional Development in Pretoria.	4 November 2015
	Attended a Special Consultation Meeting (Traditional Courts Reform) and National Policy Dialogue (Transforming the Traditional Justice System and advancing Restorative Justice) conducted by the Department of Justice and Constitutional Development in Boksburg.	4 December 2015
	Attended a Consultative Workshop on Court-annexed Mediation conducted by the Department of Justice and Constitutional Development in Boksburg.	15 February 2016
	Made inputs into the Department of Justice and Constitutional Development's Mediation Policy for State Attorneys.	3 August 2015

Project 100D Care of and contact with children Ms Ananda Louw	Meeting with Department of Social Development in order to update the DSD on progress made in the investigation and discussed the co-ordination of the SALRC investigation with the DSD initiative for a Third Amendment of the Children's Act.	19 June 2015
	Attended the DSD consultations on the Third Amendment Bill in Midrand (child care and protection policy) at the invitation of the DSD.	8 March 2016
	Attended the SAAM/NWU/UKZ Conference on the "New Developments in Family Mediation" Conference at the Westville Campus of UKZN in Durban.	29 September 2015
	Attended the Justice Dialogue on International Parental Child Abduction and the Hague Convention hosted by the Justice College at the Midrand Conference Centre in Johannesburg.	24 February 2016
	Attended meeting with Prof Ann Skelton and Ms Carina Du Toit from the Centre for Child Law, and Ms Neliswa Cekiso from DSD, to discuss the inter-relationship of the SALRC investigation and the work being done by the Centre for Child Law on the Third Amendment of the DSD.	11 March 2016
	Attended the Miller Du Toit Conference in Cape Town and made a presentation on Issue paper 31: Family Dispute Resolution: Care of and contact with Children.	17 and 18 March 2016
Project 100 Family law and the law of persons Review of aspects of matrimonial property law Ms Anna-Marie Havenga	General and specific enquiries from members of the public on the content of the investigation, and on the relevance of the investigation to problems related to matrimonial property issues on divorce.	Throughout the reporting period

Project 107 Sexual Offences: Criminal Law (Sexual Offences and Related Matters Amendment Act) 32 of 2007 Ms Dellene Clark	General and specific enquiries from internal and external stakeholders.	Throughout the reporting period
	Meeting DOJCD Chief Directorate Legislative Development to consider and comment on a proposed redraft of the tabled amendments to section 15 and 16 of the Sexual Offences Act.	16 March 2015
	Provided comment on the same	19 March 2015 and 10 April 2015
	Correspondence with a sexual health educator on the consent, rights and regulation of childhood and adolescent sexuality in South Africa.	16 July 2015
	Correspondence with a sexual health educator in respect of health care and sexual behavior education for primary school children.	20 July 2015
	Assisted a sexual health educator with information for schools for teachers on the amended provisions in the Sexual offences Act relating to teenage sex experimentation.	3 August 2015
	Meeting with Chief Directorate Legislative Development to discuss matters relating to the proposed amendment of the Criminal Laws (Sexual Offences and Related Matters) Amendment Act 32 of 2007.	3 September 2015
	Liaised between the advisory committee on pornography and children and the DOJCD on draft amendments to the Sexual Offences Act relating to harmful disclosure practices (revenge pornography).	Between 18 and 25 September 2015
	Correspondence with Sr Ruth, a sexual health educator regarding the Criminal Law (Sexual Offences and Related Matters) Amendment Bill.	Ongoing throughout period
Adult Prostitution Ms Dellene Clark	The researcher has at the request of SANAC and with the approval of the Minister of Justice and Constitutional Development been serving on the SANAC Legal and Human Rights Technical Task Team since June 2012.	Ongoing throughout period
	Mrs Clark participated in the SANAC Legal and Human Rights Technical Task Team meeting. Some of the issues addressed were the draft training programme for Legal Aid South Africa; Stigma Reduction Programme in Eastern Cape; World AIDS Day 2014 and concerns relating to the criminal law (sexual offences and related matters) amendment act and the management of sexual offences.	28 November 2015

	Participated in the SANAC Human Rights TTT meeting.	4 September 2015
	Comment on documents for the DOJCD Chief Directorate Constitutional Development to provide input for the SANAC Lekgotla held on 5 and 6 June 2015 for the Deputy President and Ministers who are SANAC IMC members.	4 June 2015
	Correspondence with the Head: Paediatrics & Child Health KwaZulu-Natal Department of Health seeking background documents and papers informing the drafting of the Sterilization Act, 44 of 1998 and the Sterilization Act, 3 of 2005 and particularly in respect of the review of requests to sterilize mentally handicapped individuals	17 June 2015
	Meeting with the DG and Chief Director Legal Services of the Gauteng Department of Economic Development to discuss the GDED's Project 107 Sexual Offences (Adult Prostitution).	6 November 2015
	Media enquiry from a journalist from the Mail and Guardian Newspaper on the current status of the report on adult prostitution and related questions.	6 October 2015
	End of grant evaluation conducted on the work of the organization Sonke inter alia in respect of the decriminalization of sex work.	19 October 2015
	Correspondence regarding an urgent request regarding an Interdepartmental Transfer of a Parliamentary Question 3662 - SA Law Reform Commission Report into adult prostitution which enquired as to the release of the report.	9 October 2015
	Provided the content development unit within DOJCD PEC with information on prostitution and drug abuse for the development of a fact sheet and guiding script for the Deputy Minister and departmental spokesperson to appear on two consecutive episodes of the Chatroom show, broadcasted on SABC1 on Sundays at 11h00.	23 October 2015
	Dealt with a request for an interview by Ligwalagwala FM, Current Affairs for an open line discussion on the issue of decriminalising sex work.	January 2016

	Prepared a response to the Parliamentary Question regarding the Report on Sexual Offences (Adult Prostitution).	7 March 2016
	Prepared a response to Ms Gonzalez of Health-e-News in respect of the status of the report addressing questions on the length of the investigation; the delay in releasing the report and the publication of the report.	9 March 2016
	Compiled draft response for the office of the Departmental Spokesperson and the DDG in respect of an article entitled "Law nails HIV sex worker scheme" and the speech made by the Deputy President at the launch of the plan to ensure that prostitutes achieve better healthcare.	14 March 2016
	Correspondence with Doctors for Life in respect of the link between prostitution and an increase in Human Trafficking.	9 October and 21 October 2015
	Correspondence with the organisation CYPSA in respect of its press release on the Amnesty International policy decision and, Government and Prostitution in SA.	15 October 2015
	Correspondence with POWA in respect of information sought on the legal frameworks for prostitution law.	17 March 2016
	Correspondence with various NGO's regarding requests for briefing on the process of the SALRC in respect of Project 107 and particularly the legislative options on adult prostitution from persons in Limpopo, Gauteng and KZN.	March 2016
	Response to the Commission for Gender Equality's letters with regard to the CGE's anticipated sex work investigative hearing.	8 April 2015
	Response to a further request from Sisonke Gender Justice requesting information on the timeline of Project 107: Sexual Offences (Adult Prostitution) in terms of researchers and project leaders.	18 May 2015
	Response to enquiry by Honourable Majake, Deputy Chairperson of the Portfolio Committee on Justice regarding the Report on Sexual Offences (Adult Prostitution).	7 June 2015

	Correspondence with the Gauteng Legislature in respect of Project 107.	24 July 2015
	Following a telephonic discussion, Ms Clark provided the Deputy Minister's Chief of Staff with information on the "SANAC submission on the law reform of sex work in South Africa". She also liaised between the MEC's Chief Director: Governance Gauteng Province Economic Development and the Project Manager: Business Regulations & Governance and the Ministry throughout the month of September.	2 September 2015
	Correspondence with Dr Classen of Doctors for Life International (DFL) in respect of exit programs and safe houses.	14 September 2015
	Meeting with representatives from Doctors For Life.	17 September 2015.
	Liaison with key stakeholders in respect of a request by ETV for an interview regarding the NGO Amnesty International statement in favour of full decriminalization.	14 September 2015
	Communication with Mr van der Watt of the National Trafficking Task Team in respect of matters relating to adult prostitution and the legal frameworks applicable. Over this period correspondence has been received from coordinators in Cape Town, Durban, Limpopo and Gauteng requesting briefings on the legislative framework.	2 & 16 October 2015; and November 2015 to March 2016.
	Interviewed by a lecturer in Police Practice at UNISA for his PhD on trafficking and vulnerable communities including prostitutes.	23 February 2016
	"Diversity in Religious Communities" Symposium at UNISA.	8 March 2016
	Correspondence with CGE in response to a letter requesting an update on the status of Project 107.	19 November 2015

Pornography and Children	Identified as one of the experts in the legal field pertaining to children in the country and interviewed by UNISA's Youth Research Unit (YRU) for a study on child pornography in South Africa.	9 May 2015
Ms Dellene Clark	Participated in the second wave: web based survey for the UNISA study on child pornography commissioned by the Film and Publication Board.	1 September 2015
	Ms Clark was offered a Directorship of the SaveTNet Cyber Safety NPC based on her expertise in the field of child protection and the law. She has declined the position of Director but is regularly approached for expert input.	23 September 2015
	FPB Conference on Cyber Safety, child Protection and classification: an African perspective.	11 to 14 October 2015.
	Correspondence with the Public Outreach Manager of the Gender Research and Advocacy Project for the Namibian Legal Assistance Centre on best-practice legislation on child pornography.	17 June 2015
	Correspondence with Intel in order to set up a meeting with Intel and the Director of the Africa Centre for Information Ethics, a company working with partners to create a toolkit to teach Information ethics at school level, this includes working with Departments of Education, Telecoms and postal services and the Police.	September 2015
	Correspondence with Sr Ruth and related sexual health and medical contacts regarding the internalization and stigma of the label porn addiction.	9 May 2015
	Workshops on Issue Paper 30 Sexual Offences (Pornography and Children) were held in Pretoria, Cape Town, Kimberley, Durban and Nelspruit.	1 September 2015
	Digital literacy workshop hosted by the Film and Publication Board in partnership with the South African ICT Industry Association Forum (SAIIAF).	23 September 2015

	Correspondence with an International Consultant on Child Protection & Social Protection in the Namibia Country Office of United Nations Children's Fund (UNICEF) who is working on a survey on child internet use in Namibia and on the drafting of comprehensive online protection provisions.	11 to 14 October 2015. 17 June 2015
	Correspondence with Doctors for Life, Virtue Net and the Justice Alliance in respect of queries relating to the Issue Paper.	September 2015
	Correspondence with Cause for Justice on the Issue Paper.	23 September 2015
	Discussion with SaveTNet and received an invitation to form part of a panel discussing cyber safety in June 2016.	9 November; 11 November; 16 November; 20 November and 25 November 2015.
	Correspondence with Media Monitoring Africa in respect of workshops for children on the Issue Paper aimed at ensuring adequate child participation. She continues to collate the submissions.	20 January 2016
	Queries on the Issue Paper by Carte Blanche.	January 2016
Project 122 Assisted decision-making	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
Ms Anna-Marie Havenga	Attended round table discussion on accelerating access to the right to supported decision-making as source person at the National Disability Rights Summit presented by the Department of Social Development.	11 March 2016

Project 124: Protection of Personal information Ms Ananda Louw	Made a presentation on the PPI Act at the Occupational Workers Association in Pretoria.	7 October 2015
Project 125 Prescription periods Ms Theresa Häderli	Responded to general enquiries regarding the investigation and questions pertaining to the application of the law of prescription.	Throughout the reporting period
	Made inputs into the Debt Collectors Amendment Bill, 2016 to the Department of Justice and Constitutional Development based on Project 125: Prescription Periods and its interrelationship with the National Credit Act and the Debt Collectors Act.	November 2015
Project 127 Administration Orders Ms Lowesa Roberts	Roundtable discussion on administration orders with the Judiciary and officials from the Departments of Justice and Constitutional Development and Treasury.	30 March 2016
	Assisted with the training of the Black Lawyers Association Student Chapter on the work and processes of the components within the branch legislative development	20 July 2015
	Participated in the SEIAS training.	16 and 17 February 2016
Project 135 The Review of the Witchcraft Suppression Act 3 of 1957 Ms Jennifer Joni	General enquiries regarding the discussion paper on the Review of the Witchcraft Suppression Act 3 of 1957.	Throughout the last quarter of the reporting period
	Attend and make a presentation at a Seminar organised by the THO on the discussion paper on Project 35. Seminar held in Braamfontein, Johannesburg.	27 January 2016
	Conduct media interviews with Daily Sun and the Family Policy Institute (Cape Town) on the DP on the Review of the Witchcraft Suppression Act.	1 Feb 2016

Project 137 The expungement of certain criminal records Mr Willie van Vuuren	General inquiries regarding the expungement of criminal records. This included discussions with the officials of the Department of Correctional Services, the Department of Justice and officials of NICRO	Throughout the reporting period
	On 2 June 2015 Mr Van Vuuren was interviewed on Radio FM Western Cape on the expungement of criminal records.	2 June 2015
	On 23 July 2016 Mr Van Vuuren made a presentation at the National "Ex Offender" conference presented by the Department of Correctional Services and was interviewed on SABC on 23 July 2015 during the "Ex Offender Conference" on the expungement of criminal records.	23 July 2015
Project 138 The practice of ukuthwala Ms Maite Modiba	General enquiries regarding the practice of ukuthwala	Throughout the reporting period
	The workshops on the Revised Discussion Paper took place as follows: Nkandla (KwaZulu-Natal)	28 January 2016
	Flagstaff (Eastern Cape)	04 February 2016
	Ga-Molepo Traditional Council (Limpopo)	11 February 2016
	Thusong Service Centre, Bushbuckridge (Mpumalanga)	18 February 2016
	Thibella Traditional Council Hall, Tsheseng Qwaqwa (Free State)	25 February 2016
	Centurion (SALRC's offices)	03 March 2016.
	Attended the SADC regional consultative meeting to review the Draft Model Law on Eradicating Child Marriage and Protecting Children already in Marriage.	21 to 24 March 2016

Internet

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

Chapter 6:

Acknowledgements

CHAPTER 6
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. However, 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.

Annexures:

ANNEXURES

ANNEXURE A : ISSUE PAPERS PUBLISHED BY THE COMMISSION

ANNEXURE B : DISCUSSION PAPER PUBLISHED BY THE COMMISSION

ANNEXURE C : INVESTIGATIONS INCLUDED IN THE COMMISSION'S PROGRAMME SINCE ITS ESTABLISHMENT

ANNEXURE D : MEMBERS OF THE COMMISSION AND TERMS OF APPOINTMENT

ANNEXURE E : CURRENT ADVISORY COMMITTEES AND MEMBERS

ANNEXURE F : CURRENT PROGRAMME OF THE COMMISSION

ANNEXURE G : PAPERS PUBLISHED BY THE COMMISSION IN ITS RESEARCH SERIES

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

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
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
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
28	100	Review of the Maintenance Act 99 of 1998	978 0 621 43034 9 September 2014
29	135	The review of the Witchcraft Suppression Act 3 of 1957	978 0 621 43033 2 September 2014
30	107	Sexual Offences (Pornography and Children)	978-0-621-43964-9 August 2015
31	100	Family Dispute Resolution: Care of and contact with children	978-0-621-44230-4 February 2016

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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
59	94	Arbitration	0 621 16971 4 September 1995
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
100	73	Simplification of criminal procedure: Out-of-court settlements in criminal cases	0 621 31591 5 October 2001

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
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
131	126	The review of the law of evidence	978 0 621 42894 0 December 2014
132	138	The Practice of Ukuthwala	978 0 621 42949 7 1 September 2014
133	25	Statutory Law Revision: Review of legislation administered by the Department of Home Affairs	978 0 621 43280 0 20 January 2015
134	25	Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development – (3) Review of the Criminal Procedure Act, 51 of 1977	978-0-621-43584-9 15 April 2015
135	137	The review of the expungement of certain criminal records	978-0-621-43685-3 30 May 2015

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
136	25	Statutory Law Revision: Review of legislation administered by the Department of Environmental Affairs	978-0-621-43806-2 19 October 2015
137	25	Statutory Law Revision: Review of legislation administered by the Department of Science and Technology	978-0-621-43816-1 22 July 2015
138	138	The practice of Ukuthwala	978 0 621 44138 3 30 October 2015
139	135	The Review of the Witchcraft Suppression Act 3 of 1957	978 0 621 44208 3 19 January 2016
140	25	Statutory Law Revision: Review of legislation administered by the Department of Arts and Culture	978-0-621-44248-9 27 January 2016
141	25	Statutory Law Revision: Review of legislation administered by the Department of Water and Sanitation	978-0-621-44249-6 28 January 2016

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.

Project number	Title	Year of report	Reference number of published report	Result
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 law rule that interest may not accrue beyond the principal debt	1974	RP 18/1975	Recommendations not 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.

Project number	Title	Year of report	Reference number of published report	Result
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 and revocation of wills, disqualification from inheriting, substitution and the succession rights of adopted children	1991	ISBN 0 621 14189 5	Law of Succession Amendment Act 43 of 1992 enacted.
23	Risk as a ground for liability in delict	1985	ISBN 0 621 10202 4	No legislation recommended.

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

Project number	Title	Year of report	Reference number of published report	Result
	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	Under consideration by the Department of Energy
	Legislation administered by the Department of Human Settlements	2011	To be published	Under consideration by the Department of Human Settlements
	Legislation administered by the Department of Labour	2011	To be published	Under consideration by the Department of Labour
	Legislation administered by the Department of Mineral Resources	2011	To be published	Under consideration by the Department of Mineral Resources
	Legislation administered by the Department of Public Works	2011	To be published	Under consideration by the Department of Public Works
	Legislation administered by the Department of Rural Development and Land Reform	2011	To be published	Under consideration by the Department of Public Works
	Legislation administered by National Treasury	2011	To be published	Under consideration by the National Treasury
	Legislation administered by the Department of Defence	2014	To be published	Defence Laws Repeal and Amendment Act 17 of 2015 enacted.
	Legislation administered by International Relations and Cooperation	2014	To be published	Under consideration by the Department of International Relations and Cooperation
	Legislation administered by the Department of Tourism	2015	To be published	See Chapter 3

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

Project number	Title	Year of report	Reference number of published report	Result
38	Investigation into the legal position of illegitimate children	1985	ISBN 0 621 10205 9	Children's Status Act 82 of 1987 enacted, since repealed and re-enacted in the Children's Act 38 of 2005.
39	Investigation into the legal consequences of suspensive conditions in contracts of sale	1985	ISBN 0 621 11350 6	No legislation recommended.
40	Evaluation of the effect of the Divorce Act 70 of 1979	1983	Not published	No legislation recommended.
41	The division of pension benefits on divorce			
	Report	1986	ISBN 0 621 11357 3	Divorce Amendment Act 7 of 1989 passed.
	Supplementary report	1994	RP 158/1995 ISBN 0 621 16869 6	Referred back to the SALRC – see Project 112.
42	Investigation into time limits for the institution of actions against the State			
	Report	1985	Not published	Recommendations not implemented.
	Supplementary report	1998	ISBN 0 621 28862 4	Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 enacted.
43	Investigation into the advancement of the age of majority	1985	ISBN 0 621 10246 6	No legislation recommended.
44	A comprehensive and comparative inquiry into the protection of all rights of personality	-	-	Struck off

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

Project number	Title	Year of report	Reference number of published report	Result
51	Marriages and customary unions of black persons			
	Problems relating to the acquisition of leasehold	1985	Not published	Section 1 of Laws on Co-operation and Development Second Amendment Act 90 of 1985 enacted.
	Final report	1986	-	Marriage and Matrimonial Property Law Amendment Act 3 of 1988 enacted.
52	Investigation into the legal consequences of sexual re-alignment and related matters	1995	RP 32/1996 ISBN 0 621 17334 7	Alteration of Sex Description and Sex Status Act 49 of 2003 enacted.
53	Investigation into the amendment of section 26 of the Insolvency Act 24 of 1936	1983	Not published	Insolvency Amendment Act 84 of 1984 enacted – see also Project 63.
54	Committal to prison in respect of debt	1985	ISBN 0 621 11346 8	See Project 74.
55	Removal of certain restrictions in respect of land	1984	Not published	No legislation recommended.
56	Submission of a question of law to the Appellate Division of the Supreme Court relating to the calculation of finance charges under the Limitation and Disclosure of Finance Charges Act 73 of 1968	1976	Not published	Ex parte Minister of Justice 1978 2 SA 572 (A)
57	Anton Piller type of orders	1987	Not published	Recommendations not implemented.

Project number	Title	Year of report	Reference number of published report	Result
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 section 138 of the Companies Act 61 of 1973	1994	RP 152/1995 ISBN 0 621 16847 5	Companies Amendment Act 35 of 1998 passed.

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

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

Project number	Title	Year of report	Reference number of published report	Result
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 Convention on the Civil Aspects of International Child Abduction	1992	Not published	Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996 enacted, since repealed and re-enacted in the Children's Act 38 of 2005.
81	Submission of a question of law to the Appellate Division of the Supreme Court concerning certificates under instruments of debt as conclusive proof of liability	1991	Not published	Ex parte Minister of Justice in re: Nedbank v Abstein Distributors and Donelly v Barclays National Bank 1995 3 SA 1 (A)

Project number	Title	Year of report	Reference number of published report	Result
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	Report published 4 April 2011.	Recommendations not implemented. 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.

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

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

Project number	Title	Year of report	Reference number of published report	Result
91	The review of the offences created by sections 36 and 37 of the General Law Amendment Act 62 of 1955, and section 1 of Act 50 of 1956 and related matters.	-	-	Struck off
92	The re-evaluation of the offence created by section 1 of Act 1 of 1988.	-	-	Struck off
93	Speculative and contingency fees.	1996	RP 37/1997 ISBN 0 621 17648 6	Contingency Fees Act 66 of 1997 enacted
94	Arbitration			
	International arbitration	1998	RP 30/1999 ISBN 0 621 28861 6	See Chapter 3.
	Domestic arbitration	2001	ISBN 0 621 31453 6	See Chapter 3.
	Alternative Dispute Resolution	-	-	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.

Project number	Title	Year of report	Reference number of published report	Result
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.
	Care of and contact with minor children	-	-	See Chapter 3
	Review of aspects of matrimonial property law	-	-	See Chapter 3
	Hindu marriages	-	-	Struck off
	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

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

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

Project number	Title	Year of report	Reference number of published report	Result
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 divorce	-	-	Struck off – see Project 100.
129	Review of aspects of matrimonial property law	-	-	Struck off – see Project 100.
130	Stalking	2006	ISBN 978 0 621 38320 1	Protection from Harassment Act 17 of 2011 enacted.
131	Trafficking in persons	2008	ISBN 0 621 38926 5	Prevention and Combating of Trafficking in Persons Act 7 of 2013 passed.

Project number	Title	Year of report	Reference number of published report	Result
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
139	Review of the Interpretation Act	-	-	See Chapter 3
140	The Right to Knowledge of One's Own Biological Origins	-	-	See Chapter 3
141	Medico-Legal Claims	-	-	See Chapter 3
142	Legal Fees	-	-	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 31/03/2016
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 31/03/2016
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
Prof AW Oguttu	02/01/2015 to date
Prof M Carnelley	02/01/2015 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	Prof AW Oguttu (Project leader)	SALRC
	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	Members	Organisation
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 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	Members	Organisation
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
	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	Members	Organisation
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 M Carnelley (Project Leader)	SALRC
	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	Members	Organisation
Project 25 Legislation administered by the Department of Water and Sanitation	Prof M Carnelley (Project leader)	SALRC
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
ADR	Prof D Butler Adv P Pretorius SC Adv Rajesh Choudree	Emeritus Professor, US Johannesburg Bar Society of Advocates KZN
Project 100 Family law and the law of persons Care of and contact with minor children	Judge D van Zyl (Chairperson)	Former 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 Review of aspects of matrimonial property law	Judge D van Zyl (Chairperson)	Retired 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

Project	Members	Organisation
Project 100 Review of the Maintenance Act	Prof M de Jong (Project Leader)	UNISA
	Mr I Lawrence	SALRC
	Ms S Erasmus	NPA- KZN
	Ms L Mbatha	National Movement for Rural Women
	Mr D Thulare	Magistrate, Tembisa Court
Project 107 Sexual offences Pornography and children	Prof AW Oguttu (Project Leader)	SALRC
	Mr I Chetty	KINSA (South Africa)
	Mr D Cull	Internet Service Providers Association
	Adv R Meintjes (SC)	DDPP, National Prosecuting Authority
	Ms J van Niekerk	Childline; President International Society for the Prevention of Child Abuse and Neglect
	Col A Pienaar	FCS South African Police Service
	Ad hoc members:	
	Mr S Risiba	CEO Film and Publications Board
	Ms P Linders	Department of Telecommunications & Postal Services
	Mr S Robbertse	State Law Adviser, DoJCD
	Mr K Rutsha	Department of Communications
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 M Meyer	Office of the Master of the High Court
	Mr L Vitus	Retired Executive Manager of the SA Federation for Mental Health

Project	Members	Organisation
Project 126 Review of the law of evidence	Judge J Kollapen	Judge of the North Gauteng High Court
	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 135 Review of the Witchcraft Suppression Act	Prof Marita Carnelley (Project Leader	SALRC
	Dr Theodore Petrus	University of Fort Hare
	Prof David Biltchitz	University of Johannesburg
	Dr Sibisiso Masondo	University of KwaZulu Natal
	Ms Likhapha Mbatha	National Movement for Rural Women
	Prof Pitika Ntuli	Retired professor
Project 138 The practice of ukuthwala	Prof NT Nhlapo (Project leader)	Emeritus Professor of the University of Cape Town
	Prof Marita Carnelley	SALRC
	Prof R Mqeke	Retired Dean of the Faculty of Law, Rhodes University
	Prof T Meyiwa	Durban University of Technology
	Prof P Sithole	Public Service Commission

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
94	• Alternative Dispute Resolution • Mediation
100	Family law and the law of persons • Care of and contact with minor children • Review of aspects of matrimonial property law • 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
139	Review of the Interpretation Act 33 of 1957
140	The Right to Knowledge of One's Own Biological Origins
141	Medico-Legal Claims
142	Legal Fees

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

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
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
6	Profs R Feenstra, P van Warmelo & D T Zeffertt	Some cases heard in the Hooge Raad reported by Willem Pauw	ISBN 0 621 09715 2
7	Mr P J J Viljoen	South African Noter-up to the Institute of Justinian	ISBN 0 621 09743 8
8	Prof P van Warmelo and Adv C J Visser	Aantekeninge van Johannes Voet oor die Inleidinge van Hugo de Groot (text and translation)	Vol 1 ISBN 0 621 10641 0 Vol 2 ISBN 0 621 10642 9
9	Prof L J du Plessis	Translation of Vinnius' Tractatus de Pactis	ISBN 0 621 10277 6
10	Prof W J Hosten (ed and transl), Mrs C van Soelen and Mr P Ellis	Treatise on the quasicontract called promutuum and on the condictio indebiti by Robert-Joseph Pothier	ISBN 0 621 10722 0
11	Prof R Whitaker	Quaestiones juris privati by Cornelius van Bijnkershoek	Vol 1 ISBN 0 621 10657 7 Vol 2 ISBN 0 621 10675 5
12	Profs J T Delport and C R M Dlamini	Two lectures on law reform	ISBN 0 621 10670 4
13	Mr H C Smuts (ed)	Report on the Fourth International Congress with the theme Law and Computers, which was held in Rome from 16 to 21 May 1988	ISBN 0 621 12639 X
14	Mr P J J Viljoen	South African Noter-up to the Corpus Juris Civilis of Justinian including the Institutes of Gaius	ISBN 0 621 13088 5

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
15	Margaret Hewett (transl)	Censura Forensis Part I Book V by Simon van Leeuwen	ISBN 0 7970 2231 7
16	SALRC	Domestic Violence	Accessible on SA Law Reform Commission website
17	SALRC / GTZ	Empirical study of the sentencing practices in South Africa	ISBN 0 621 30091 8
18	SALRC / GTZ	Sentencing: An empirical, quantitative study on the progress and finalisation, including by conviction, of criminal matters reported to the police	ISBN 0 621 31582 6
19	SALRC / GTZ	Simplification of criminal procedure: Settlements out of court – a comparative study of European criminal justice systems	ISBN 0 621 29881 6

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