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: 2018/ 2019

TO: MR R LAMOLA, 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 2018 to 31 March 2019.

Yours sincerely

Judge Jody Narandran Kollapen
(Gauteng North Division of the High Court)
Chairperson of the South African Law Reform Commission

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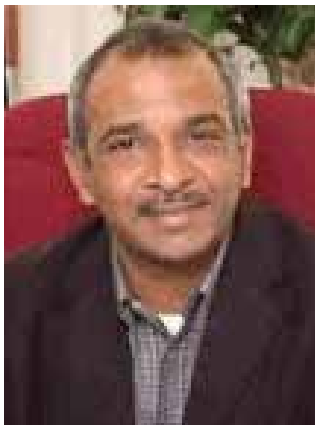
Gallery of Commissioners



Chairperson:
Judge JN Kollapen
Judge of the Gauteng
NorthHigh Court

Vice-Chairperson:
Mr IBW Lawrence
Practicing Attorney: Durban

Prof M Budeli-Nemakonde
Director of School of Law
University of South Africa

Adv HJ de Waal, SC
Advocate of the High Court
Cape Bar

Prof W Domingo
Dean of School of Law
University of the Witwatersrand

Prof K Govender
Advocate and retired
Professor of Law
University of KwaZulu-Natal

Adv HM Meintjes SC
Advocate of the High Court
Retired DDPP

Adv AL Platt SC
Advocate of the High Court
Johannesburg Bar

Adv LT Sibeko SC
Advocate of the High Court
Johannesburg Bar

Vision, Mission and Values of South African Law Reform Commission

Vision

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

Mission

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

Values

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

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CHAPTER 1

Overview

CHAPTER 1

OVERVIEW

Appointment of the new Commission

The most important event that took place during the year under report was the announcement by the President of the Republic of South Africa of the appointment of new Commission members. These appointments are effective for five years. The Commission is appointed in terms of section 3 of the South African Law Reform Commission Act 19 of 1973. The term of office of the former Commission members - who were appointed with effect from 19 July 2013 (Chairperson and Vice-Chairperson), and 12 August 2013 (remaining members of the Commission) - expired on 18 July 2018 and 11 August 2018, respectively.

The current Commissioners were appointed with effect from 05 October 2018. The SALRC Secretariat extends a warm welcome to the new Commissioners.

The current Chairperson and Vice-Chairperson are, respectively:

- Judge Jody Narandran Kollapen, Judge of the Gauteng North High Court.
- Mr Irvine Lawrence, attorney in private practice.

The current Commissioners are as follows:

- Prof Mpfariseni Budeli-Nemakonde, Director of the School of Law, University of South Africa.
- Adv Johan De Waal, SC, member of the Bar.
- Prof Wesahl Domingo - Dean of the School of Law, University of the Witwatersrand.
- Prof Karthy Govender – Advocate and retired Professor of Law, University of KwaZulu-Natal.
- Adv Hendrina Magaretha (Retha) Meintjes, SC - retired Deputy Director of Public Prosecutions.
- Adv Anthea Platt, SC - member of the Bar.
- Adv Leon Tshepo Sibeko, SC - member of the Bar.

Brief biographies of the Commissioners follow below:

Chairperson of the SALRC: Judge Jody Kollapen

The President of the Republic of South Africa re-appointed Judge Kollapen as the part-time Commissioner and Chairperson of the SALRC with effect from 05 October 2018. Before then, Judge Kollapen served as the Vice-Chairperson of the SALRC from 19 July 2013 to 31 March 2016, before his promotion to becoming the Chairperson with effect from 1 April 2016 to 18 July 2018. Judge Kollapen is a judge of the North Gauteng High Court in Pretoria and has also acted as Justice of the Constitutional Court.

Judge Kollapen obtained his Bachelor of Laws and BProc degrees from the University of the Witwatersrand. He practised as an attorney in Pretoria for many years and focussed on public interest litigation. He joined Lawyers for Human Rights (LHR) where he coordinated the "Release Political Prisoners" programme, which championed the rights of political prisoners. He was National Director of LHR from 1995 to 1996.

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

Vice-Chairperson of the SALRC: Mr Irvin Lawrence

The President of the Republic of South Africa appointed Mr Lawrence as the Vice-Chairperson of the SALRC with effect from 05 October 2018. Before then, Mr Lawrence served as an SALRC Commissioner from 12 August 2013 to 18 July 2018, which is when the term of office of the previous Commission came to an end. Mr Lawrence is a practising attorney and is a director at the law firm Edward Nathan Sonnenbergs.

Mr Lawrence obtained a BA from Rhodes University and his LLB and LLM (corporate law) from the University of KwaZulu-Natal. Mr Lawrence has 23 years' experience as an employment attorney, specialising in employment and constitutional law. He has conducted arbitration and mediation and has appeared in the High Court, Labour Court, and Labour Appeal Court. He has litigated for corporate clients and has advised bargaining councils and executive employees. He has experience in restructuring businesses and conducting sales or transfers of going concerns. He served as Arbitrator of the Court of Sport in Lausanne, Switzerland from 2003 to 2006 and has acted as a Judge in the Labour Court in December 2012, January 2013 and January 2015.

SALRC Commissioner: Prof Mpfariseni Budeli-Nemakonde

Professor Mpfariseni Budeli-Nemakonde obtained an LLB degree (2001) and an LLM (*cum-laude*) (2003) from the University of the North (currently University of Limpopo). In 2007, she became the first Black South African woman to be awarded a PhD in Commercial Law from the University of Cape Town (UCT). From 2003 to 2008, she was employed as a Lecturer (2003-2006) and a Senior Lecturer (2007) in the Faculty of Management Sciences and Law at the University of Limpopo. She served as a Senior Lecturer (2008-2009) and later as an Associate Professor (2010-2011) in the Department of Mercantile Law, College of Law, University of South Africa (UNISA). In 2012, she became a full professor in the same Department, and she is currently the Director of the School of Law in the College of Law at the same University.

Professor Budeli-Nemakonde has written book chapters and articles in peer-reviewed journals. She has also presented papers at national as well as international conferences. Her research publications focus on Constitutional law and Collective Labour Law, particularly on the right to freedom of association at the workplace and trade unionism in Africa. She holds the membership of several societies, including the African Labour Law Society, the South African Society of Labour Law, the Society for Law Teachers of Southern Africa, and the African Network of Constitutional Lawyers. She seats on the editorial boards of academic journals such as the *Journal of Law, Society and Development* (UNISA), the *SADC Law Journal* (UCT) and the *African Journal of Democracy and Governance* (Institute of Democracy, Governance, Peace and Development in Africa, IDGPA). Since 2008, she is a member of the International Labour Organisation's (ILO) Network of Experts on Freedom of Association and Collective Bargaining.

Professor Budeli-Nemakonde received several awards, including the South African National Department of Science and Technology Women in Science Award (WISA) for the category of Distinguished Young Women in Social Sciences and Humanities (2013). She is one of the founding members of the South Africa Young Academy of Sciences (SAYAS). She has been a visiting Professor at the University of Dar-es-Salaam, Tanzania and the University of Lusaka, Zambia. Professor Mpfariseni Budeli-Nemakonde is also an admitted Attorney of the High Court of South Africa.

SALRC Commissioner: Adv Johan De Waal, SC

After completing his LL.B (cum Laude) at the University of Stellenbosch in 1987, Adv De Waal studied human rights and constitutional law at the University of Notre Dame in U.S.A where he obtained the LL.M degree (magna cum Laude).

Adv De Waal lectured constitutional law and human rights law at the Universities of Witwatersrand and Stellenbosch for a total of 12 years. In 1995, he was research assistant to Mr Justice LWH Ackermann of the Constitutional Court. Adv De Waal joined the Cape Bar in 2000 and started to practice full-time as member in the beginning of 2002. While he was an academic lawyer, he published numerous articles

in law journals, but he is best known for co-authoring the six editions of The Bill of Rights Handbook (Juta & Co 1998, 1999, 2000, 2001, 2005 and 2013) and for co-authoring The New Constitutional and Administrative Law (Juta & Co, 2001), both with Adv Iain Currie.

Adv De Waal appeared in well over 50 reported cases for and against the Government. Approximately half of these were in the Supreme Court of Appeal and the Constitutional Court. Adv De Waal is also the principal drafter of the Road Accident Benefit Scheme Bill and its regulations, both of which were completed in the beginning of 2016.

SALRC Commissioner: Prof Wesahl Domingo

Dr Wesahl Domingo is the Dean of the School of Law, University of the Witwatersrand (WITS). She has been teaching at WITS for nineteen years. She has a Bachelor of Social Science degree (BsoSc), with a major in Sociology from the University of Cape Town and a Bachelor of Laws degree (LL.B) from the University of the Western Cape. She holds a Master's degree (LL.M) from Columbia University, New York and a Doctor of Juridical Science degree (SJD) from the University of Wisconsin-Madison. After graduating with her LLM degree, Dr Domingo interned at the Centre for Strategic and International Studies in Washington, DC. She was also invited by Senator Paul Strauss, shadow senator of DC, to work at his congressional office as a legislative aid. Dr Domingo's teaching and research interests include Family Law, Child Law, Succession, Gender Studies, Legal Education and Legal Pluralism. She has presented her work at conferences throughout the world including Malaysia, Indonesia, Singapore, Hawaii, Boston, New York, Wisconsin, Minneapolis and Seattle. She has made several appearances on television and radio as an academic expert in the field of family law and legal pluralism. Dr Domingo is also an accredited family law mediator and does family law mediation training (focussing on different cultures and religion) for NGO's. She also runs community workshops for women on culture and religion within marriage and divorce. Dr Domingo was an editor for the South African Journal of Human Rights (SAJHR) for 10 years. On 05 October 2018, she was appointed by the President of the Republic of South Africa to serve on the South African Law Reform Commission as a Commissioner.

SALRC Commissioner: Prof Karthy Govender

Professor Govender is a 3rdth generation South African, whose father's grandmother came to South Africa from India as an indentured labourer to work on the sugar plantations in Durban. His parents, Balan and Rani, ran a grocery shop in the centre of Durban in excess of forty years.

Professor Govender holds law degrees from England, (LLB - London), from South Africa (LLB – Natal - *Summa Cum Laude*), and from the USA (LLM Michigan). He is a barrister of the Middle Temple (England) and an advocate of the High Court of South Africa. He has litigated in constitutional and administrative law matters.

Professor Govender was a professor of law at the University of KwaZulu-Natal for more than 20 years. He currently lectures on an ad hoc basis and is an honorary research fellow at UKZN.

He was appointed to the South African Human Rights Commission by President Mandela in 1995 and re-appointed for a second term in 2002 by President Mbeki. Further he was the Chairperson of the Film and Publication Appeal Tribunal and is a senior arbitrator with the South African Local Government Bargaining Council. In addition he has acted as a judge of the High Court in 2011, 2012, 2013, 2015 and 2017. He currently serves on the adjudicatory panel of the Press Council of South Africa. He has been an adjunct faculty of Duke CE since 2014. He was recently appointed by President Ramaphosa to serve as a Commissioner of the South African Law Reform Commission.

Professor Govender won a Fulbright Scholarship to the University of Michigan and was also the recipient of the Colenso fellowship to St. John's College Cambridge. He has published in the fields of Constitutional and Administrative law and has presented papers and lectured on six continents. In addition, he delivered the Beyers Naude Memorial lecture at University of Johannesburg in 2011 and the Martin Luther King Memorial lecture at the University of Michigan in 2013. He has been a visiting professor at the School of Law at the University of Michigan on some 20 occasions.

Professor Govender is married to Professor Suria Govender and they have two children, Yesh who is a veterinary surgeon and Tarlia-Rasa who is a medical doctor.

SALRC Commissioner: Adv Retha Meintjes, SC

• Advocate Meintjes holds the degrees BA (1973) and LLB (1976) from the University of Pretoria and was admitted as advocate in the High Court of South Africa in 1977. As a career prosecutor, she retired in 2018 holding the rank of Deputy Director of Public Prosecutions. She specialized in sexual offences, matters involving child victims, vulnerable witnesses and child accused and appeared in many high profile matters in the High Court, Supreme Court of Appeal and the Constitutional Court. In October 2005 she was conferred the status of Senior Counsel.

• Advocate Meintjes is a former Chairperson of the *Society of State Advocates of South Africa* (1996-2000). She is a founding member of the *International Association of Prosecutors (IAP)* and served on its executive committee, also as Vice-President from 2002-2010 and was elected an honorary member in 2010. She is presently a member of the *IAP* senate. She chaired the committee responsible for drafting the *IAP Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*, that was adopted as a UN Resolution in 2008. Advocate Meintjes also served as President of the *South African Professional Society on the Abuse of Children* (SAPSAC) from 1998 to 2015. As member of an expert working group she contributed to the drafting of the UNODC`s *Handbook on Effective Prosecution Responses to Violence Against Women and Children*, published in August 2014. In 2014 she was appointed a member of the advisory committee to the SALRC`s Project 107: Children and Pornography. She was appointed by the President of the Republic of South Africa to serve on the South African Law Reform Commission as a Commissioner in October 2018.

SALRC Commissioner: Adv Anthea Platt, SC

Advocate Platt matriculated in 1990 at Christian Brothers College. She is a graduate of the University of the Western Cape, where she obtained a Bachelor of Commerce Degree with Business Economics and Economics as majors in 1994, as well as the Bachelor of Laws Degree (LLB) in 2002. In 2009, she obtained a Diploma in Alternative Dispute Resolution (Cum Laude) at the University of South Africa (UNISA).

Advocate Platt is a Senior Advocate in private practice. She obtained the status of Senior Counsel on 01 June 2016. She has been practicing as an Advocate from December 2003. She is a member of the Pitje Group of Advocates and the Johannesburg Bar.

Before joining the Bar Council, Advocate Platt worked at Futuregrowth Asset Management from August 2001 – January 2003. She was responsible for marketing and development. As part of her duties, she provided reports to all clients regarding their specific funds as well as on all the products on offering. She also managed the transfer of the reporting software package, as well as produced a pension fund manual for trustees.

From November 1994 – July 2001, Advocate Platt worked for Syfrets / Nedcor Investment Bank. She was responsible for marketing and the Unit Trust Development. As part of her duties, she was involved in the Unit Trust Committee whereby various unit trusts were researched and chosen for private banking clients. She was also involved in market research on various companies for asset managers. She researched market trends within the unit trust field.

Advocate Platt specializes in constitutional, commercial, administrative, telecommunications and labour law. Her experience in the finance industry provides her with the necessary insight into commercial matters. Her legal practice consists mainly of drafting, opposed motions and trials. She has also acted as a Judge and an arbitrator.

In October 2011, Advocate Platt was appointed to the Board of Inquiry into the fitness of the National Commissioner of Police, General Bheki Cele, to hold office. Advocate Platt has also held various positions, which include being the Chairperson of the AFT (2017 – current); Member of the Johannesburg Bar Council (2016 – current); Member of the Advisory Committee for the South African Law Reform Commission – Project 94 (2016 – current); Member of the GCB Executive Committee (2014 – October 2016); Member of the Minister for Justice and Constitutional Development Advisory Committee (2013 – current); Member of the Rules Board for Courts of Law (2012 – Feb 2018); GCB - Honorary Secretary (2012 – 2014); Small Claims Commissioner (2011 – 2017); Member of the Johannesburg Bar Council (2011 – 2012); appointed as a panelist of AFSA (2009 – current); GCB - Assistant Honorary Secretary (2009 – 2012); AFT National - Secretary – General (2008 – June 2014); Member of the Johannesburg Bar Council (2006 – 2007); Deputy Chair - Legal Practice Council (2018 – current); Founder at Basadi Ba Molao NPC (2019 – current).

SALRC Commissioner: Adv Tshepo Sibeko, SC

Advocate Sibeko matriculated in 1981 at Tlakula High School in Kwa-Thema, Springs. He is a graduate of the University of the North (now known as the University of Limpopo), where he obtained a B Juris degree in 1986. He is also a graduate of the University of Natal (Durban), where he obtained a LLB degree in 1989 and a LLM degree in 1991, respectively. In 2006, he attended a certificate course in Competition Law at the Mandela Institute of the Wits University School of Law.

Advocate Sibeko is a Senior Advocate in private practice, holding chambers at Pitje Chambers, 81 Pritchard Street, Johannesburg. He was conferred the status of Senior Counsel in October 2005. He is a member in good standing of the Society of Advocates, Johannesburg. He has been a member of the Society since December 1991.

Advocate Sibeko specialises in General Commercial Law; Gambling Law; Administrative Law and Constitutional litigation; and Local Government Law. He has been involved in various high profile cases in the High Court; the Supreme Court of Appeal; and the Constitutional Court. He has also been involved in furnishing legal advice through written opinions to various government departments, national and provincial; municipalities; and state owned entities.

In 1998, Advocate Sibeko was appointed as a member of the Independent Appeal Body of the National Bargaining Council for the Road Freight and Logistics Industry. Since 2001, he has served as an Acting Judge of the High Court and the Labour Court on various occasions. In 2003, he was appointed as a member of the Gauteng Gambling Board until he resigned in June 2006. In 2007, he was appointed as a General Commercial panellist of AFSA. In this capacity, he presided over a number of commercial arbitrations, and has been appointed as an arbitration appeal panellist with other two panellists.

In 2008, Advocate Sibeko was appointed as the President of the Services Appeal Board (Gauteng Province), established in terms of the Town planning and Townships Ordinance 15 of 1986. In 2012, he was appointed as one of the several evidence leaders in the Arms Procurement Commission. With effect from 1 May 2018, he was appointed to the SHIAC's Panel of Arbitrators and Mediators [Shanghai International Economic and Trade Arbitration Commission, also known as the Shanghai International Arbitration Centre]. On 05 October 2018, he was appointed by the President of the Republic of South Africa to serve as a Commissioner of the South African Law Reform Commission.

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 the relevant government departments to consider implementation of recommendations made:

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.

9. Review of legislation administered by the Department of Water and Sanitation submitted to the Minister of Water and Sanitation in March 2017.

10. Review of legislation administered by the Department of Arts and Culture submitted to the Minister of Arts and Culture in November 2017.

11. Review of legislation administered by the Department of Trade and Industry submitted to the Minister of Trade and Industry in November 2018.

12. Review of legislation administered by the Department of Health was submitted to the Minister of Health in March 2019.

• The following reports emanating from investigations under Project 25: "Statutory Law Revision: Redundancy, obsoleteness and unconstitutionality of legislation" were submitted to the Minister of Justice and Correctional Services for referral to other Ministers to consider implementation of recommendations made:

1. Review of legislation administered by the Department of Science and Technology was submitted in June 2016 for referral to the Minister of Science and Technology.

2. Review of legislation administered by the Department of Social Development was submitted in June 2018 for referral to the Minister of Social Development.

The Project 107: Report on Sexual Offences (Adult Prostitution) submitted to the Minister in June 2015

and released for publication in May 2017 is still receiving the attention of the Department of Justice and Constitutional Development.

• The Project 122: Report on Assisted Decision-making – was submitted to the Minister of Justice and Correctional Services on 19 September 2016 to consider implementation of recommendations made.

Commission papers published in the year under review

This annual report covers the period from **1 April 2018 to 31 March 2019**. The Commission published the following documents in the year under review:

Issue papers

1. Issue Paper 34 – Project 100E: Review of Aspects of Matrimonial Properly Act was published for general information and public comment on 28 August 2018.

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

Discussion papers

- No discussion papers were published during the year under review.

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

Reports

1. Project 25 - Statutory Law Revision: Report on the review of legislation administered by the Department of Social Development was published on 19 February 2019.

2. Report on Project 126: Review of the law of evidence was published on 19 February 2019.

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, or a judge who held the office of judge of the Constitutional Court, the Supreme Court of Appeal or the High Court and who is discharged from active service in terms of section 3 of the Judges' Remuneration and Conditions of Employment Act 47 of 2001, as Chairperson.
- Not more than eight persons who appear to the President to be fit for appointment on account of the tenure of a judicial office or on account of experience as an advocate or as an attorney or as a professor of law at any university, or on account of any other qualification relating to the objects of the Commission.

As indicated in Chapter 1, the President appointed a new Commission during the course of the year under report. The new Commissioners were appointed with effect from 05 October 2018. **Annexure D** of this annual report contains a list of members of the Commission and the periods for which they served or 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 (until 30 April 2018)
- Mr Willie Jansen van Vuuren (until 31 May 2018)
- Ms Ananda Louw
- Mr Simon Maphanga
- Mr Fanyana Mdumbe
- Mr Linda Mngoma
- Ms Aura Mngqibisa
- Ms Maite Modiba
- Ms Maureen Moloi
- Ms Kantha Padayachee (with effect from 01 April 2018)
- Ms Tania Prinsloo
- Ms Lowesa Roberts
- Mr Pierre van Wyk
- Ms Ronel van Zyl

Three posts of State Law Advisers are vacant.

Administrative component

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

- Assistant Director: Ms Johanna Msiza (with effect from 01 January 2019)
- Copy Editor: (Vacant)
- Senior Secretary: Ms Nomfundo Mhambi
- Secretary Ms Nelisiwe Moledi
- Administrative Officer: Mr Jacob Kabini
- Administrative Officer: Mr Ajay Singh
- Administrative Officer: (Vacant)
- 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 Gift Mpho Sambo

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; • Mr M.C Mfunzana; • Ms 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 via its librarians with librarians at the DOJCD and elsewhere.	On 2 August 2018 the committee met to consider the acquisition of publications for the SALRC library and recommended the acquisition of publications to the Secretary of the SALRC. Seventeen publications were acquired in this financial year. SALRC membership to the Association of Family and Conciliation Courts which is based in the United States of America was also renewed in December 2018.

Occupational Health and Safety Committee

Members	Purpose	Activities
Vacant	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 there are no members of the OHS Committee who have been appointed in line with section 10.1.1 of the DOJ&CD Safety, Health, Environment and Risk Policy and Procedures Manual, no meeting of this Committee had taken place during the year under review.

Facilities Management Committee

Members	Purpose	Activities
Mr M.C Mfunzana (Chairperson) Ms A Mngqibisa Ms M Modiba Ms R 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.	No meeting of this Committee had taken place during the year under review. However, in June 2018 the Chairperson of the Committee coordinated the process of office renovations. He developed a schedule of the dates and offices to be renovated each day, until the renovations project was finalised. Also, on 05 and 11 October 2018, the Chairperson of the Committee held meetings with Mr Ebrahim Jalaal (DOJCD Facilities Management); Ms Eileen Campodonico (Landlord Representative) and representatives from United Business Solutions, to discuss the way forward regarding faulty CCTV security cameras at Spooral Park (SALRC Offices).

Financing of the SALRC

The SALRC's budget for the financial year 1 April 2018 to 31 March 2019 was R27 618 500.00 broken down as follows:

- Personnel expenditure R24 542 000.00
- Current expenditure R 1 640 000.00
- Capital expenditure R 56 500.00
- Household R 1 380 000.00

Donor Funds

In the financial year 1 April 2018- 31 March 2019, the SALRC received donor funding through National Treasury from the General Budget Support component of the European Union funded National Development Policy Support Programme amounting to R6 054 300 for Project 142: Investigation into legal fees contemplated in sections 35(4) and (5) of the Legal Practice Act, 2014 (Act No.28 of 2014). The funds were utilised as follows:

- Current expenditure R1 037 094
- Capital expenditure R 20 225
- Personnel expenditure R 614 967

Total amount utilised as at 31 March 2019 is R1 672 286. The rest of the money will be surrendered back to National Treasury.

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. Papers in the Commission's research series 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 30 June 2018 and 16 March 2019.

The advisory committee for Project 94 – Alternative Dispute Resolution met on 10 April 2018.

The advisory committee for Project 100D – Care of and contact with children (including family dispute resolution) met on 12 April 2018 and 28 February 2019.

The advisory committee for Project 107 – Sexual Offences: Pornography and Children met on 30 July 2018; 22 and 23 January 2019; 19 and 20 February 2019; and on 26 February 2019 (via Skype).

The Advisory Committee for Project 125 – Prescription Periods met on 12 July 2018. The researcher met with the Project Leader on 20 December 2018. A member of the Advisory Committee and the researcher met with the Project Leader on 21 February 2019.

The advisory committee for Project 142 – Investigation into legal fees met on 20 August 2018; 02 October 2018; 24 and 25 January 2019.

The advisory committee for Project 143 – Maternity and Paternity Benefits for Self-employed Workers met on 30 May 2018 and 28 January 2019.

The advisory committee for Project 144 – Single marriage statute met on 21 April and 29 September 2018, and on 2 March 2019.

The advisory committee for Project 146 – Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation met on 25 January 2019.

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	Project leaders until August 2018: Prof Marita Carnelley Prof Vinodh Jaichand Mr Irvin Lawrence Prof Annet Oguttu Adv Mahlape Sello Ms Tina Siwendu	Ms Veruksha Bhana Ms Anna-Marie Havenga 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	Alternative dispute resolution	Judge Thina Siwendu and Adv Anthea Platt SC / Judge President Dunstan Mlambo	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 • Hindu marriages	Adv Mahlape Sello and Prof Wesahl Domingo / Judge Deon van Zyl Adv Mahlape Sello / Judge Deon van Zyl Mr Irvin Lawrence/ Prof de Jong Prof Marita Carnelley 30 April 2018- 31 July 2018 Prof Karthigasen Govender (from 10 November 2018)	Ms Ananda Louw Ms Kantha Padayachee Ms Maite Modiba Ms Maureen Moloi
107	Sexual offences • Pornography and children	Prof Annet Wanyana Oguttu (until 15 August 2018) Adv HM (Retha) Meintjes (SC) (from 10 November 2018)	Ms Dellene Clark
125	Prescription periods	Adv Mahlape Sello (April 2018 to August 2018) Adv Johan de Waal SC (10 November 2018)	Ms Theresa Häderli
127	Review of administration orders	Judge Jody Kollapen	Ms Lowesa Roberts
135	Review of witchcraft legislation	Prof Marita Carnelley (until August 2018) Professor Mpfariseni Budeli-Nemakonde (from 10 November 2018)	-
138	The practice of *ukuthwala*	Prof Marita Carnelley / Prof Thandabantu Nhlapo	Ms Maite Modiba

139	Review of the Interpretation Act	Adv Mahlape Sello (until August 2018)	Mr Pierre van Wyk
140	The Right to Know One's Own Biological Origins	Ms Thina Siwendu (until August 2018)	Ms Veruksha Bhana
141	Medico-Legal Claims	Prof Vinodh Jaichand (until August 2018) Prof Karthigasen Govender (from 10 November 2018)	Ms Ronel Van Zyl
142	Legal Fees	Judge Jody Kollapen	Mr Linda Mngoma
143	Maternity and Paternity Benefits for Self-employed Workers	Professor Mpfariseni Budeli-Nemakonde (from 10 November 2018)	Mr Linda Mngoma
144	Single Marriage Statute including measures against sham marriages	Prof Marita Carnelley (until 21 April 2018) Prof Thandabantu Nhlapo (from 21 April 2018) Prof Wesahl Domingo (from 10 November 2018)	Mr Pierre van Wyk
145	Investigation into a Model to Enforce Decisions of Minmec for Social Development	Adv Tshepo Sibeko SC (from 10 November 2018)	Mr Fanyana Mdumbe
146	Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation	Adv Tshepo Sibeko SC (from 10 November 2018) / Prof Nico Steytler	Mr Fanyana Mdumbe

SALRC research programme and government priorities

The projects on the SALRC's research programme support government's priorities as identified in the Department of Justice and Constitutional Development (DOJCD) Strategic Plan for 2017 to 2020.

The four strategic goals of DOJCD, as they appear in the 2017-2020 strategic plan, are as follows:

- Optimisation of the use of people, processes and technology to meet service delivery and good governance requirements;

- People-centred justice services that are accessible, reliable and efficient;
- Corporatized, cost effective and integrated quality legal services to proactively protect the interest of the state; and
- Promotion of constitutionalism, human rights and commitment to international legal relations.

As part of the Project 25 investigation, the review of legislations administered by the Department of Health (DOH); Department of Justice and Constitutional Development (DOJCD); as well as the Department of Police (DOP) have been instrumental towards encouraging the achievement of the DOJ&CD strategic goal of promoting constitutionalism, human rights and commitment to international legal relations. As it is publicly known, the primary objective of Project 25 is to review the legislation administered by a particular department, with the aim of identifying inequality, obsolescence and redundancy in the statutes administered by that department; and to propose remedial amending or repealing legislation. By undertaking this legal exercise of identifying inequalities and recommending the repeal of the offensive provisions, the South African Law Reform Commission has helped to ensure that the statutes administered by DOH, DOJCD and DOP are aligned with the founding values of the Constitution of the Republic of South Africa, especially the requirement that every citizen should be equally protected by law.

Similarly, the SALRC's Project 100D - *Care of and contact with minor children (including family dispute resolution)* plays an important role, especially towards the realization of the DOJCD strategic goal of people-centred justice services that are accessible, reliable and efficient. More people are touched by family law disputes than by any other single area of the law. The quality or adequacy of a family's encounter with the justice system can change their lives and influence their wellbeing for the long term. The outcomes of this investigation, if they are implemented, will have an impact on the lives of members of the South African community by providing better access to justice through appropriate resolution of all family related disputes; allow disputing parties and children's voices to be heard and by reducing legal costs.

The SALRC's Project 107C - *Sexual Offences (Pornography & Children)* is aimed at addressing the fragmented legislative framework currently regulating children's exposure to pornography and offences relating to child sexual abuse material, and the risks associated therewith, specifically in cyber-space. A discussion paper that was considered under this investitgation by the Commission on 16 March 2019, it includes recommendations aimed at compliance with South Africa's obligations in terms of international instruments such as the Optional Protocol to the United Nations Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography 2003. This investigation is also aligned to the call of the 2030 Agenda for Sustainable Development to eliminate violence against children.

Still, in attempting to give flesh to the DOJCD strategic objective of people-centred justice services that are accessible, reliable and efficient, the SALRC's Project 142 - Legal Fees investigation is aimed at broadening access to justice by members of the public. It does this by reviewing the current legal fees dispensation in terms of which attorneys and advocates are paid for rendering legal services to their clients. The parameters of this investigation are set out in section 35 of the Legal Practice Act, 2014.

Lastly, the SALRC's Project 144 - *Single Marriage Statute including measures against sham marriages,* has the potential of contributing towards increased compliance by DOJCD and South Africa with South Africa's international treaty obligations regarding marriage. These include the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

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: Communications; Correctional Services; Defence; Education; Energy; Environmental Affairs;

Health; Home Affairs; Human Settlements; International Relations and Cooperation; Labour; Mineral Resources; National Treasury (non-tax legislation); Public Works; Rural Development and Land Reform; Tourism; Trade and Industry; Transport, Public Service and Administration and Social Development.

The following table indicates work in progress in respect of the revision of the Statute Book for constitutionality, redundancy and obsoleteness:

Department	Progress
Health (DOH) Ms Ronel van Zyl	The statutes administered by DOH were analysed to determine which are redundant, obsolete or unconstitutional. The report on legislation administered by the Department of Health was approved by the Commission at a Commission meeting held on 30 June 2018. The Department of Monitoring and Evaluation granted exemption on 02 November 2018 from the application of the Socio-Economic Impact Assessment System to this investigation. The Report was submitted to the Minister on 1 February 2019 for consideration. The Minister referred the Report to the Minister of Health on 6 March 2019 for his consideration and further action. The Ministry of Health acknowledged receipt of the Report on 14 March 2019.
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 published on 20 January 2015. The closing date for comment was 31 May 2015, but was extended to 30 June 2015 at the request of various interested persons. On 10 December 2016 the Commission considered and approved the report. The report was submitted to the Minister of Justice and Correctional Services on 28 March 2017 for referral to the Minister of Home Affairs. On 07 April 2017 the DDG: Legislative Development returned the report with comments that the report should say something about the investigation into the Single Marriage Act. The request is receiving attention.
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. The only investigation still under consideration is listed below as DOJCD Two.

Department of Justice and Constitutional Development Family law and Marriage (DOJCD Two) Ms T Prinsloo	On 30 June 2018 the Report on Legislation Administered by the Department of Justice and Constitutional Development: Family law and Marriage was approved by the Commission for submission to the Minister of Justice and Correctional Services. It was forwarded to the Minister for Justice and Correctional Services on 13 September 2018.
Police (DOP) Ms Aura Mngqibisa	The statutes administered by DOP were 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 was submitted to DOP for comments on 30 June 2016. DOP submitted their comments on the consultation paper on 22 September 2016. The draft discussion paper was considered and approved by the Commission for publication for public comments and general information on 20 May 2017. Discussion Paper 146 was published for general information and public comment on 11 July 2017 with a closing date of 30 November 2017 for receipt of comments. The draft report was approved by the Commission on 30 June 2018 and the final report was forwarded to the Secretary for submission to the Minister on 30 July 2018.
Public Service and Administration (DPSA) Ms Tania Prinsloo	After the approved Report on Legislation Administered by the Department of Public Service and Administration was received back from the Office of the Minister in 2017, the DPSA press release had been issued on 15 October 2018. The Report was published on the SALRC website on 8 November 2018.
Department of Social Development (DSD) Ms Tania Prinsloo	The ministerial memorandum with the Report by the Commission was submitted to the Office of the Minister of Justice and Correctional Services on 19 June 2018. It was received back on 11 July 2018 and forwarded to the Minister of Social Development on 16 July 2018. The Report was subsequently placed on the SALRC website on 19 February 2019.
Trade and Industry (DTI) Ms Maureen Moloi	The statutes administered by DTI were analysed to determine which are redundant, obsolete or unconstitutional. A draft discussion paper was approved by the Commission for publication for general comment on 17 September 2016. Discussion Paper 144 was published on 30 October 2016 for general information and public comment. The closing date for comments was 28 February 2017. The draft report was considered and approved for publication by the Commission on 2 December 2017. On 14 February 2018 a memorandum regarding a SEIAS exemption report was submitted to the Secretary for signature and subsequently submitted to the DPME by Dr Govender. The report was submitted to the Minister of Justice and Correctional Services on 3 July 2018 for referral to the Minister of Trade and Industry. The report was submitted to the Minister of Trade and Industry on 14 November 2018.

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 100D – 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 by the Commission and submitted to DOJCD for submission to Parliament. The International Arbitration Act 15 of 2017 has since been passed on 22 November 2017 and assented to by the State President on 19 December 2017.

Family mediation is being dealt with in Project 100D.

On 10 September 2015 the Minister approved the renaming of Project 94 as "Alternative Dispute Resolution" in the programme of the SALRC. The Advisory Committee for this investigation under the Chairpersonship of Judge President Dunstan Mlambo was appointed by the Minister as proposed by the SALRC on 4 April 2017. The first meeting of the Advisory Committee took place on 4 July 2017. An experts meeting on the development of a Mediation Act was hosted by the SALRC on 30 October 2017 where the inputs of 40 ADR experts, coming from various areas in the country, were obtained. A meeting of the Advisory Committee was held on 10 April 2018.

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 (including family dispute resolution)", "Review of aspects of matrimonial property law", "Review of the law of maintenance" and "Hindu marriages". 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.

The SALRC hosted a two day national consultative meeting on Issue Paper 31 on 5 and 6 April 2016 attended by hundred delegates from all relevant professions across South Africa. After collating the written submissions received on Issue paper 31, an experts meeting on family dispute resolution, attended by 40 delegates, was held in Cape Town on 16 February 2017. The inputs of delegates as well as written submissions emanating from the meeting have been collated. Members of the Project 100D Advisory Committee also attended the experts meeting on a Mediation Act held in the Project 94 investigation where they provided inputs from a family law perspective. The proposed Mediation Act in Project 94 has been aligned with the proposed Family Dispute Resolution Act in Project 100D.

A discussion paper on Alternative Dispute Resolution in Family Matters was approved for publication at the Commission meeting held on 16 March 2019. The discussion paper makes provision for a Family Dispute Resolution Bill in which mandatory family mediation as well as other forms of alternative dispute resolution processes such as family arbitration, parenting coordination and collaborative dispute resolution will be regulated in the context of an integrated family law system. It also provides for a standardised information and education programme, the attendance of which will be compulsory as a first step in the dispute resolution process.

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.

Extensive further research has been done towards the development of a draft issue paper in accordance with comments received from the advisory committee, public input and enquiries, and developments 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, settlement agreements, the marital home, and dissipation of assets). A draft issue paper served before the Commission at its meeting on 30 June 2018. The Commission approved the publication of the issue paper. The issue paper was published for general information and public comment on 28 August 2018.

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.

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 distributed to advisory committee members. The researcher allocated to the investigation resigned at the end of July 2016 and the project was allocated to the new researcher (Ms Modiba) on 08 March 2017. The new researcher continues with the development of the discussion paper.

Hindu marriages

South African law does not recognise marriages by Hindu rites; therefore all the legal consequences of a marriage do not apply to such marriages in South Africa. Couples in a Hindu marriage for example need not use the court if they want to get divorced. Spouses can also not claim any of the legal consequence of divorce, such as maintenance, after the relationship has ended. The aim of this investigation is to look into the recognition of Hindu marriages in order to afford these marriages full legal recognition and the same status as marriages concluded in accordance with civil rites. The Commission resolved at its meeting of 5 December 2015 that the Hindu Marriages investigation should come back into the programme of the Commission.

The project leader and the researcher discussed the issue of advisory committee members on 17 September. Research is being done when time allows with a view to develop a draft discussion paper for submission to the project leader. Work on this investigation was put on hold as the researcher is giving priority to a draft proposal paper on community courts for the Commission's attention. The new Commission was appointed in October 2018 and new project leaders were assigned in December 2018. The new project leader is Professor Karthigasen Govender. The researcher and the project leader met on 24 January 2019 to discuss the way forward. The project leader provided names of experts that the researcher can contact for appointment as advisory committee members and the prospective members have agreed to serve on the advisory committee. A proposal paper requesting the Commission to approve the appointment of the advisory committee served at the Commission meeting on 16 March 2019. The Commission approved the recommendation and a memorandum requesting the Minister to appoint the members was submitted to the Secretary on 20 March 2019 for his consideration. A draft discussion paper was noted by the Commission on 16 March 2019 as the researcher is awaiting the appointment of the advisory committee to take the investigation forward.

Project 107 – Sexual offences

The overarching purpose of this investigation is to bring about a comprehensive overhaul of the criminal justice system in relation to sexual offences by evaluating existing statutory and common law crimes. The focus is on legislative and non-legislative remedies. The first two parts of this investigation have seen the completion of an investigation into the substantive and procedural law regulating sexual offences, excluding adult prostitution and pornography and children comprising of an issue paper, two discussion papers and a report with draft legislation. The earlier research culminated in the promulgation of the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007. The third part of the investigation has seen the publication of the Report on Sexual Offences

(Adult Prostitution) in May 2017 which is receiving the attention of the Department of Justice and Constitutional Development. This part of the investigation consists of an issue paper, discussion paper and report with draft legislation. The fourth part which is currently being actively investigated deals with pornography and children and is exposited further below. Assistance is provided to the department as and when needed.

Pornography and children

The aim of this part of the overarching investigation is to review the fragmented legislative framework regulating children's exposure to pornography and child sexual abuse material and to identify the need for law reform particularly with regard to the online exposure of children to 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. Discussion Paper 149 was approved by the Commission on 16 March 2019. The five topics considered in this paper deal with children accessing or being exposed to pornography; the creation and distribution of child sexual abuse material (the Commission's preferred term for child pornography); the creating of consensual self-child sexual abuse material (commonly referred to as sexting); grooming of a child and other sexual contact crimes associated with or facilitated by pornography or child sexual abuse material; and the investigation, procedure and sentencing protocols in these matters. Draft recommendations in keeping with current international trends include a recommendation that Internet service providers and mobile phone operators should provide for a clean feed Internet (adult content filtering) as the default position as is the case in the UK. This would include all mobile phones having software embedded to prevent any and all access to pornographic sites. The default assumption would be that a user is under the age of 18 and that information about online safety should be provided to account holders in a prominent and easily accessible format throughout the duration of their contract. Internet and mobile phone users would be able to opt-out of the clean feed regime by providing proof of age of majority. A clean feed regime for material deemed unsuitable for children is also considered. The advisory committee to the Commission on this investigation will be conducting workshops on the discussion paper in Pretoria, Cape Town, Mthatha, Bloemfontein, Polokwane, Mbombela and Pietermaritzburg for the general public, stakeholders, relevant government officials and the ICT industry. The return date for comment on the discussion paper is 30 July 2019.

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. The researcher reviewed Discussion Paper 126 and identified the need to develop an additional discussion paper. The researcher 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.

In November 2015 the Prescription Periods Advisory Committee was appointed. By then, the researcher had already finalised development of the Revised Discussion Paper. The 1st Meeting of the Advisory Committee was held on 28 January 2016. Between 2016 and 2017, and after meetings held with members of the Prescription Periods Advisory Committee, development of the Revised Discussion Paper, as reconfigured, was finalised. It was tabled for Commission approval on 10 December 2016 for the purpose of publication for general information and public comment. Approval was deferred pending the holding of an Advisory Committee meeting to consider the incorporation of further inputs into the paper. Five working sessions were subsequently held with members between January 2017 and February 2017 where after further amendments were made to the paper.

Between 2017 and 2018, and after meetings held with members of the Prescription Periods Advisory Committee and the Project Leader in July 2017 and August 2017, amendments to the Revised Discussion Paper were concluded. The paper (as amended) was tabled for Commission approval on 2 December 2017 for the purpose of publication for general information and public comment. The Commission approved publication of the paper on 2 December 2017. The Commission also approved reconstitution of the Prescription Periods Advisory Committee on 2 December 2017. The Revised Discussion Paper was published for general information and public comment on 15 February 2018. Between February 2018 and March 2018, the paper was circulated to certain organs of state, the heads of office of the respective courts, certain Chapter Nine institutions, the legal fraternity, academic institutions, banks and other entities, private persons, non-government organisations and public interest organisations with a request for comments. In March 2018 the researcher commenced with arrangements for the holding of public workshops.

On 12 July 2018, the first Advisory Committee Meeting for the year was held. Between 19 July 2018 and 2 August 2018, three one-day public workshops were held in Cape Town, Durban and Pretoria. Development of a draft Report and two draft Bills, consolidating comments received from members of the public commenced thereafter. On 20 December 201, the researcher met with the new Project Leader allocated to the project in Cape Town in order to provide him with a briefing on the status of the project and to discuss the Revised Discussion Paper and draft Bills developed. On

21 February 2019, a member of the Advisory Committee and the researcher met with the Project Leader in Cape Town to discuss and finalise the recommendations made in the draft Report and draft Bills. The draft Report was presented to the Commission for approval on 16 March 2019.

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, firstly, the short to medium term, and secondly, 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.

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. 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 advisory committee members for Project 127 were appointed on 1 November 2016 and 16 January 2019. The discussion paper, including three Bills, was tabled at the Commission meeting on 16 March 2019. The Commission approved the discussion paper subject to obtaining and incorporating the final comments of the advisory committee on the discussion paper and the proposed Bills. This is because the Minister recently appointed additional subject experts to assist and advise the Commission. Hence the Commission would like to have the benefit of the views and comments of these experts. Furthermore, the Commission agreed that the advisory committee should consult with the Department of Trade and Industry and the Branch Court Services in the DOJCD on certain aspects of the proposed Bills.

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.

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 firstly, whether there is a need to regulate witchcraft and the extent of such regulation should it be desirable, and 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 appointment of 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 the 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 were 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 an 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. Discussion Paper 139 was published for general information and public comment on 19 January 2016. The closing date for receipt of comments was 30 April 2016.

During April to June 2016 comments received on the discussion paper were collated. The discussion paper was also translated into African languages with the assistance of the Office of the Chief State Law Adviser (OCSLA). An Advisory Committee meeting was held on 1 July 2016. At the Advisory Committee meeting the comments received on the discussion paper were discussed as well as the way forward in preparation for the development of a final report. The researcher allocated to the investigation resigned with effect from 1 August 2016. Mr Willie van Vuuren was designated to take over the investigation with effect from 1 April 2017. During July 2017 contact was made with individuals who submitted comments on the discussion paper, informing them of the current status of the investigation. During September 2017 comments received on the discussion paper were collated. Further comparative research was done on witchcraft in Malawi and Tanzania for inclusion in the draft report.

During October 2017 further research was conducted on witchcraft accusations-based violence following a United Nations experts workshop on "Witchcraft and Human Rights" held in Geneva from 21 to 22 September 2017. This was the first UN and international level event with a specific focus on witchcraft beliefs and practices. It brought together a range of key UN office holders, including Kate Gilmore, UN Deputy High Commissioner for Human Rights, with academics, activists, faith-based organisations, NGOs and survivors of violence emanating from witchcraft beliefs and practices. Further research was also done on witchcraft in South Africa and witchcraft violence in Africa.

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 that were raised are 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. 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. 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.

Discussion Paper 132 was published for general information and public comment on 01 September 2014 with the closing date for comments as 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, which were posted on the SALRC's website on 29 September 2014.

The researcher compiled comments on the discussion paper, which were sent to Advisory Committee members 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 draft revised discussion paper was approved by the Commission via round robin on 19 October 2015. The media statement and revised discussion paper were published on the SALRC's website on 30 October 2015.

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 discussion paper from various stakeholders.

An advisory committee meeting was held on 06 August 2017 to discuss the draft report. The draft report was finalised on 04 September 2017. The draft report was tabled at the Commission meeting on 16 September 2017 and approved subject to changing the short title of the draft Bill.

The researcher in consultation with Dr Sandra Govender drafted a Socio-Economic Impact Assessment System (SEIAS) report to accompany the report to the Minister. The SEIAS report was sent to the Department of Planning, Monitoring and Evaluation (DPME) on 15 December 2017. The DPME responded on 21 December 2017 with comments on the SEIAS report. The researcher attended to the comments and sent the revised SEIAS report back to Dr Govender on 15 January 2018. The

researcher received e-mail from Dr Govender on 08 February 2018 advising that, since the DPME did not respond to the revised SEIAS report, it can be assumed that they view the comments minor considering that they issued the SEIAS certificate with the comments sent earlier. The researcher is preparing the memoranda to accompany the report while waiting for the report to be edited before submitting it to the Minister.

The researcher received ISBN and report number 16 April 2018. She then finalised memo and letters to accompany report to the Minister and sent three copies of the report and letter to the Chairperson for signature on 31 May 2018. The Chairperson signed the report and letter to the Minister on 12 June 2018. The report was sent to the Minister on 14 June 2018.

The researcher received a memo from the Minister's office on 11 July 2018 that a Minister has to be briefed on the report before he may consider it. The researcher discussed the issue with the secretary on 16 July 2018, who then advised that an e-mail be sent to the DDG to secure an appointment with the Minister. The DDG advised that the researcher should prepare a briefing document that deals with the consultation process and the content of the report and she will liaise with the Chief of Staff to secure a date once this is done. The researcher sent a draft brief on consultation process to the secretary for signature on 20 September 2018.

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. In the period July August 2013 the Commission was reconstituted. In February 2014 Advocate Sello was assigned to the investigation as the project leader. The further development of the draft report then continued, taking into account local developments and in other jurisdictions,

and evaluating the comments received on the discussion paper. The researcher and the project leader met twice in November 2016 to discuss the recommendations made in the draft report. At the Commission meeting held on 10 December 2016 the Commission resolved that the draft report would be considered at the next Commission meeting.

The Commission decided at its meeting on 20 May 2017 that the draft report would be considered at a separate meeting scheduled for 4 July 2017. The Commission approved the report at this meeting subject to matters to which the researcher would attend. At its meeting on 16 September 2017 the Commission approved the draft report subject to further clarification. At its meeting on 2 December 2017 the Commission approved the draft report and resolved that the status of charters in the South African legislative hierarchy would be dealt with briefly in the draft report. In February 2018 the Commission approved the submission of the draft report to the Minister for comment. In April 2018 the draft report was submitted to the DOJCD for consideration by the Minister. Shortly thereafter the Chief Directorate Legislative Development of the DOJCD commenced evaluating the draft report with a view to advising the Minister on the findings and draft recommendations made in the draft report. It is envisaged that the Commission will receive a comment from the Minister during the course of the next financial year.

Project 140 – Right to know 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 on the preliminary 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. The Minister approved the inclusion of the investigation in the Commission's programme on 10 September 2015. The researcher commenced the investigation on 20 January 2016. She performed extensive research and collated the necessary information in this regard.

The researcher drafted an issue paper which deals with medically assisted reproduction where children are conceived using donor gametes, surrogacy, adoption, registration of birth, disputed paternity, child abandonment, safe haven laws, confidential birth laws and cross-border medically assisted reproduction. Issue Paper 32 was approved by the Commission on 20 May 2017 and was published in June 2017 for general information and public comment. Between August 2017 and November 2017 the researcher held 5 workshops in key provinces including Durban, Port Elizabeth, Cape Town, Pretoria and Bloemfontein and engaged with a range of stakeholders from legal, medical sociology, psychology, bio-ethics and government backgrounds.

The South African Tissue Bank Association requested that the researcher speak on Issue Paper 32 at their annual conference in October 2017. Copies of Issue Paper 32 were distributed at the SATIBA conference. The organizers of the 21st Annual Miller du Toit Cloete Inc Family Law Conference requested the researcher to present on Issue Paper 32 at their conference scheduled for 1 and 2

March 2018. Copies of Issue Paper 32 were distributed at the Family Law conference. Stemming from the conference, the researcher made new contacts and received requests for further engagement. The researcher identified experts who could form part of the Project 140 advisory committee. Comments received on Issue Paper 32 are being considered and engagements with stakeholders are ongoing with a view to develop a discussion paper.

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.

The Commission approved the issue paper for publication at its meeting of 20 May 2017. Issue Paper 33 on Project 141: Medico-legal Claims was published for general information and public comment on 17 July 2017. After receiving several requests for extension, the closing date for comments was extended to 31 October 2017. However, comments were still received up to March 2018. The first draft of the discussion paper was submitted to the project leader on 31 March 2019.

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.

On 4 April 2018, the Minister approved the extension of mandate for Project 142 into full investigation. On 3 April 2018, the Minister granted in-principle approval for hosting of the international Conference on "Access to Justice, Legal Costs and Other Interventions". On 14 March 2018, the DG approved the expenses for hosting of the international Conference. On 19 April 2018, GCAC endorsed the Cabinet Memo on the international Conference for consideration by the DG Cluster: ICTS on 15 May 2018. On 15 May 2018, the ICTS Cluster approved the hosting of the international Conference by the SALRC. On 21 May 2018, the researcher met with the Project Leader to discuss the Call for Papers and Concept Note. On 23 May 2018, the Programme Committee (PC) met to discuss the Call for Papers and Concept Note for the Conference.

On 7 June 2018, the Secretary released a Call for Papers and Concept Note on the international conference on access to justice, legal costs and other interventions to be held at Garden Court Marine Parade, Durban on 31 October -02 November 2018. On 30 June 2018, the Commission approved the recommendation to the Minister for approval to upgrade the interim advisory committee to full advisory committee. The Commission also approved the recommendation to appoint Mr Morne Oosthuizen, an economist, into the advisory committee and the nomination of Ms Rochelle Francis-Subbiah as Deputy Chairperson of the advisory committee. On 31 July 2018, Annexure C: Narrative

and Financial Reporting Template for quarter 1 covering the period April-June 2018 was submitted to National Treasury for information.

On 19 August 2018, the Minister approved the appointment of AC Members for Project 142 and released a media statement in this regard. On 20 August, the AC met to consider all the abstracts received and the draft conference programme. Not all the abstracts received were approved. The meeting was attended by researchers who are members of the Programme Committee, as well as the Secretary of the SALRC and the DDG: Legislative Development. On 17 September 2018 the Programme Committee met to discuss logistical arrangements for the conference and the template for roles and responsibilities of the researchers. On 2 October, the AC met to consider the draft conference programme, draft consultation and communication strategy as well templates to be used at the conference. These include the roles and responsibilities information sheet; presenters' information sheet as well as guidelines for facilitators. On 22 October, Messrs L Mngoma; C Mfunzana, J Kabini and Ms R Mofoka attended a meeting at Travel With Flair to discuss shuttle arrangements for all delegates attending the conference. On 29 October, Messrs Mngoma and Matibe, Ms Van Zyl and Ms Padayachee attended a meeting to brief the Minister and Deputy Minister regarding arrangements for the conference held at the Minister's Boardroom.

On 1-2 November, the legal fees conference was successfully hosted in Durban. It was well attended by members of the judiciary, legal profession, government, statutory bodies and civil society organisations. The conference papers were used to inform the development of a draft issue paper. On 24-25 January, a Project 142 strategic planning session was held in Hatfield, Pretoria. Seven members of the Commission, advisory committee members, the DDG: Legislative Development, Secretary and Assistance Secretary attended the meeting. A draft issue paper was discussed on 24 January, and comments and input made.

On 28 January, Ms Nano Molapo attended the project managers' forum and provided report regarding implementation of the GBS programme. On 30 January, a report for quarter 3 was submitted to the DDG: Legislative Development CFO for approval. On 28 February, a workshop with representatives of CAOSA, Probono.org and Lawyers for Human Rights was held at Momentum Building to discuss community participation strategy. The meeting was facilitated by the Chairperson of the SALRC, Judge Jody Kollapen. The social partners made an undertraining to assist the Commission with logistical arrangements for consultation with communities on the issue paper at provincial and local level to be held from June to August 2019.

On 27 February, the draft issue paper was forwarded to AC members for input, comment and approval. The draft issue paper was tabled at the Commission meeting scheduled for 16 March 2019 for consideration and approval. On 16 March 2016, the Commission considered the issue paper and approved it subject to editing. It is anticipated that the editing process will be completed by not later than end of April 2019. The Commission also approved the international conference report for posting on the SALRC website. On 6 March 2019, the Minister gave approval for attendance

of the Commonwealth Association of Law Reform Agencies (CALRAs) and Commonwealth Law Conference (CLC) by the Chairperson of the Commission, Mr Mngoma and Ms Makola. The CALRAs and CLC will be held in Zambia on 4-5 and 8-11 April respectively.

Project 143 – 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 investigation is to review the law of the Republic of South Africa with the object of extending maternity and paternity protection to self-employed workers in the informal sector of the economy.

On 30 May 2018, an Advisory Committee meeting was held to discuss the Progress Report for tabling at the SALRC meeting to be held on 30 June 2018. It was agreed that Members will supply comments and input to the draft Progress Report by not later than 8 June 2018. The Advisory Committee also met with ILO at 12H00 on 30 May 2018 to discuss gap analysis on the Maternity Convention No. 183. The gap analysis is undertaken by ILO at the behest of the Department of Labour. On 12 June 2018, the DG approved a letter to the World Bank requesting for non-lending technical/ financial assistance for the socio-economic study.

On 30 June 2018, the Commission took note of the progress report outlining engagements by the advisory committee with social partners like the Legal Resources Centre and WIEGO to assist the Committee on pro bono basis in developing a legal research framework incorporating best international practices in the provision of social benefits to informal sector workers.

On 28 January 2019, an advisory committee took place to discuss submissions received from the Legal Resources Centre on the legal framework, as well as presentation by Dr Pamhizai Bamu from WIEGO (United Kindgom) on best international practices. It was agreed at this meeting that Dr Bamu will supply her paper by the end of February 2019 for consideration by the advisory committee.

Project 144: Enacting a single marriage statute including measures against sham marriages

The object of this research is to investigate the possibility of enacting a single marriage statute 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 and to consider possible measures against sham marriages.

At its meeting held on 2 December 2017 the Commission nominated candidates for possible appointment by the Minister as advisory committee members to assist the Commission in this investigation. On 24 January 2018 the Minister appointed the following advisory committee members:

- Professor Ronald Thandabantu Nhlapo, emeritus professor of private law and former Deputy Vice-Chancellor at the University of Cape Town.
- Ms Mothokoa Phumzile Mamashela; emeritus senior researcher of the University of Kwa-Zulu Natal.
- Mr Motseotsile Clement Marumoagae of the University of the Witwatersrand.
- Professor Elsje Bonthuys of the University of the Witwatersrand.
- Professor Christa Rautenbach of the North West University.
- Professor Amanda Barratt of the University of Cape Town.

On 22 August 2018 the Minister appointed Judge of Appeal Mahomed Navsa of the Supreme Court of Appeal – who was the chairperson of the SALRC's investigation into Muslim personal law in the early 2000s – as a further advisory committee member for this investigation.

Prof Marita Carnelley of the North West University was the project leader of this investigation until the advisory committee's first meeting on 21 April 2018. Prof Nhlapo became the chairperson of the investigation at this meeting. The advisory committee resolved at this meeting that an issue paper would be developed as the first step in the investigation to, among others, announce this investigation. It further resolved that the issue paper would deal with the following issues:

- The different forms of marriages provided for by present legislation, namely the civil and religious marriages in terms of the Marriage Act of 1961; the customary marriages in terms of the Recognition of Customary Marriages Act of 1998 (RCMA); civil unions in terms of the Civil Unions Act of 2006; and other types of unrecognised religious marriages and intimate unrecognised relationships.
- Intimate unmarried partnerships.
- The meaning of marriage as compared with sham marriages.
- The meaning and consequences of pluralism in the South African family context.
- Ensuring that the interests of the state are adequately taken into account by the proposed legislation.
- The constitutional imperatives and South Africa's treaty obligations in relation to marriage and civil partnerships.

- A comparative study with emphasis on other jurisdictions with similar pluralistic systems.
- Whether the investigation should include consequences of marriages in relation to maintenance and the division of property given the ongoing investigations by the SALRC on maintenance and matrimonial property.
- Dissolution of marriages and unmarried intimate relationships.
- The use of alternative dispute resolution to resolve issues around property distribution when marriages and unmarried intimate relationships come to an end.
- The impact of the single marriage statute in relation to associated legislation, including the Divorce Act, the Matrimonial Property Act, guardianship, succession, etc.

The second advisory committee meeting was held on 29 September 2018. Further deliberation took place on the development of the issue paper. The Commission was reconstituted in October 2018. At its 10 November 2018 meeting the Commission assigned Prof Wesahl Domingo as the project leader of this investigation.

On 2 March 2019 the third meeting of the advisory committee meeting was held. The committee considered a draft issue paper and took decisions about its finalisation. The draft issue paper was finalised for consideration by the Commission at its 16 March 2019 meeting. At this meeting the Commission approved the publication of the issue paper for general information and comment. It is envisaged that the issue paper will be published early in April 2019.

Project 145: Investigation into a Model to Enforce Decisions of Minmec for Social Development

This inquiry arises from an alleged *lacuna* in the Intergovernmental Relations Framework Act, (Act 13 of 2005). Section 9(1) of this Act empowers Ministers to establish intergovernmental forums (popularly referred to as Minmecs), to promote and facilitate intergovernmental relations in the functional area for which they are responsible. These forums comprise the relevant Minister and Provincial MECs, and are used as avenues where issues of common interest to the sector are discussed and decisions taken. The mischief, it has been argued, is that neither the Intergovernmental Relations Framework Act, nor any other national legislation, prescribes what should happen if the decisions taken at the intergovernmental forums contemplated in any of the provisions of this Act are not implemented. In its submission to the Commission, the Department of Social Development has averred that the lack of a clear legislative authority empowering the Minister of Social Development or the Department to enforce a decision taken at Minmec results in variability in the implementation of social development mandates by provinces as some provinces follow through on decisions and others do not.

The DSD's programmes are geared towards meeting the goals espoused in the National Development Plan which aims to eliminate poverty and inequality by 2030 and the newly inaugurated *Outcome 13:*

An Inclusive and Responsive Social Protection System, which seeks to address the dimensional nature of poverty and inequality. Furthermore, social assistance forms an important part of government's strategy to fight the triple challenge of poverty, inequality and unemployment. The DSD contributes to this programme of government by:

a) Reviewing and reforming social welfare services and financing

b) Improving and expanding early childhood development provision

c) Deepening social assistance and extending the scope of the contributory social security system

d) Enhancing the capabilities of communities to achieve sustainable livelihoods and household food security

e) Strengthening coordination, integration, planning, monitoring and evaluation of services.

Undoubtedly, therefore the outcome of this investigation will contribute towards ensuring seamless provision of social development services throughout the Republic and thus contribute to government's efforts to eliminate poverty and inequality.

The Minister of Justice and Correctional Services approved the inclusion of this inquiry in the Commission's programme towards the end of November 2017. Due to the complex nature of the issues raised in this inquiry, the Commission decided to institute an advisory committee in terms of s7A(1)(b)(ii) of its enabling legislation. Adv Tshepo Sibeko SC; Professors Victoria Lynn Bronstein, Ethel Denise (Kitty) Malherbe and Stuart Craig Woolman; Dr Douglas Tlogane Mailula who have expertise in institutional constitutional law; intergovernmental relations; legislative competence of national and provincial governments; social security law; policy and legislative development were appointed by the Minister in April 2019 to serve in the aforementioned advisory committee.

Project 146: Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation

This investigation emanates from the Ministry of Cooperative Governance and Traditional Affairs. In May 2014, the Minister of COGTA requested the Commission to conduct a *'review of all national legislation that impacts on local government with the objective of reducing regulatory, compliance and reporting burden on municipalities and simplifying implementation*.' The Commission subjected this law reform proposal to a scoping exercise, the purpose of which was to determine, inter alia, the extent to which the statutory framework regulating local government is unsatisfactory (that is the extent to which the law is unfair, unclear, unduly complex, or outdated); the scale of the problem; whether law reform would be the appropriate response; and the potential benefits likely to accrue from undertaking reform. The Commission found:

(a) An audit conducted by municipalities in the Western Cape in 2009 identified several complex and prescriptive pieces of legislation (both original and subordinate legislation) that ostensibly created unnecessary burden for municipalities.

(b) The Provincial Government of KwaZulu-Natal recommended that section 105(2) of the Municipal Systems Act which authorises the MEC for local government in a province to instruct municipalities to provide information to provincial organs of state and other national statutes that impose similar obligations on municipalities which place undue burden on municipalities be amended.

(c) Independent inquiries conducted by the Financial and Fiscal Commission (FFC) found:

(i) evidence that corroborated the assertion that some obligations imposed on local government are excessive. This evidence came from municipalities who are at the coalface of implementing the regulatory framework.

a. Emakhazeni Municipality in Mpumalanga informed the FFC that it spent R6.8 million to implement, or comply with, the Generally Recognised Accounting Practices (GRAP). As a result, the municipality argued, substantial resources were being diverted from service delivery to comply with audit requirements.

b. eThekwini Municipality submitted that municipalities are hardly coping with approximately 75 legislative reporting requirements with monthly, quarterly and annual deadlines.

(ii) that the Municipal Finance Management Act and the Statistics Act contain 40 and 5 reporting requirements respectively.

(iii) that there was no structured process in place across national government that ensures collaboration and coordination to deal with duplicate data collection process.

(d) At a seminar on regulatory burdens on local government hosted by COGTA in 2014, the FFC, without referring to specific provisions, cautioned that the legislative framework applicable to local government could be intrusive, complex, inflexible; difficult to implement uniformly or to enforce; and that it possibly creates unnecessary compliance burden and a barrier to success, performance and development.

(e) In addition to countless workshops and seminars, formal structures namely the Interdepartmental Legislative Review Committee and Local Government Data Collection Forum, which comprised numerous national government departments and other organs of state, were instituted by national government between 2003 and 2014 in an effort to address these problems and thus improve the efficiency of local government.

(f) The Local Government Data Collection Forum, whose main purpose was to address multiple reporting (a burden created when local government is required to provide data, sometimes the same data, to multiple entities), established early on in its investigation that:

(i) the barrage of requests for information came from four organs of state with statutory authority to collect data imposed financial and administrative burden on municipalities;

(ii) there was a great deal of duplication in the data requested by three of these entities namely Stats SA, National Treasury, the Department of Provincial and Local Government and SALGA;

(iii) 95% of municipalities received questionnaires from provincial governments for information similar to that asked for by national government; and that

(iv) 60% of municipalities do not complete all the questionnaires, among other things, due to lack of adequate resources.

(g) Undoubtedly, the Intergovernmental Relations Framework Act (IRFA), in general; and in particular the consultative forums it has created, namely the President's Coordinating Council and section 9(1) national intergovernmental forum, both of which are intended, among other things, to provide avenues for local government to air its views with regard to matters relating to the implementation of national legislation; and the mechanism it recommends could be used to regulate the interaction between national and local governments, the implementation protocol, could assist in getting organs of state to work together more, for example, on collection of information. Disappointingly, the IRFA has not delivered in this regard.

(h) The Organised Local Government Act, which is intended, among other things, to determine procedures by which local government may consult with national government, is another Act that could be used to facilitate communication among municipalities and to ensure that matters of common concern to them are brought to the attention of other spheres of government. Unfortunately, this legislation too has also proven ineffective.

(i) Experts in local government law, warned as far back as 2008 that the plethora of laws intended to structure the institutions and processes of local government, and legislation emanating from sector departments intended to manage functional areas in schedules 4B and 5B of the Constitution could be 'strangulating' local government. They singled out section 76-84 of the Municipal Systems Act, read in conjunction with section 120 of the Municipal Finance Management Act, and the Public-Private Partnership Regulations issued in terms of the latter Act, which, they argued, renders processes such as outsourcing too difficult or costly to undertake. They also cautioned that there is a thin line between regulation and undue control and intervention.

(j) A comprehensive and thorough stocktaking of regulatory obligations imposed on local government, including reporting and compliance obligations; and regulatory functions undertaken by it on behalf of national government, has never been undertaken, and therefore there is no 'formal register' that the Commission, or municipalities themselves, could use as a resource to identify the nature or extent of these obligations.

(k) National government is contemplating using differentiation in allocation of powers and functions to municipalities in order to ensure better fit between capacity and responsibilities (an asymmetrical approach to local government).

(l) The White Paper on Local Government states:

'A number of institutions require accurate and relevant information to enable the monitoring and oversight of local government. For example, such information is required to enable the oversight of municipalities by the National Assembly (required by Section 55(2)(b)(ii) of the Constitution); the monitoring of municipalities by provincial governments (required by Section 155(6)(a) of the Constitution); and to enable the Human Rights Commission to assess the measures municipalities have taken towards the realisation of specific rights. National departments with decentralised policy and implementation programmes also require reliable information from local government with respect to these programmes.

National government should provide a coherent framework to ensure that the reporting requirements placed on municipalities are reasonable, and should also ensure the rationalisation and standardisation of the current multiplicity of local government surveys into a coherent annualised national data collection system, which includes an annual survey of performance in terms of agreed key performance indicators, and a quarterly survey of indicators as required for Project Viability, by the SA Reserve Bank, and so forth.'

(m) The participation of municipalities in previous initiatives which sought to understand and address the impact of the legislative burdens on municipalities was quite negligible. Between 2003 and 2014, when the decision to refer the matter to the Commission was taken, only 52 out of 257 municipalities, and therefore less than 20%, were consulted and eventually made inputs to the Legislative Review Project, Local Data Collection Forum and to the FFC. Owing to the paucity of input from municipalities which is palpable, the Commission is convinced that the findings by the abovementioned entities, which are alluded to in paragraphs 1.3 (a) to (f) above, are just a tip of the iceberg.

On the basis of this preliminary investigation, the Commission decided on 17 September 2017 to accede to COGTA's request. On 2 November 2017, and pursuant to section 5(3) of the South African Law Reform Commission Act, 1973 (Act 19 of 1973), the Commission formally requested the Minister of Justice to include this investigation in the Commission's programme. On 16 May 2018, the Minister acceded to the Commission's request.

Furthermore, the Commission decided to institute an advisory committee consisting of experts in local government law and institutional constitutional law to advise it in this inquiry. In August 2018, the Minister of Justice appointed Professors Mbuzeni Johnson Mathenjwa, Jaap de Visser, Nico Steytler and Anél du Plessis, to serve in the aforesaid committee under the stewardship of Adv Tshepo, a Commissioner designated to the project. The Committee met on 25 January 2019 which signified the commencement of work on the issue paper (a document intended to announce the inquiry and thus generate a conversation about issues raised in the inquiry; delineate the scope of the investigation; and to elicit inputs from interested parties). On 16 March 2019, the Commission considered and approved the publication of an issue paper relating to this investigation for general information and comment.

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 two new requests for consideration for inclusion in its law reform programme. These requests are the investigation into possible legislation for domestication of the UN Convention on the Rights of People with Disabilities; and the investigation on the review of the law relating to the concept of "Usus Fructus".

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 2016/2017 and 2017/2018 annual reports the SALRC received a number of requests for consideration for inclusion in its law reform programme. During the period under review, the following preliminary investigations were conducted:

Re-instating the investigation on community courts

On 7 September 2016 the SALRC received an electronic mail from the Deputy Director General: Legislative Development with an attached letter from the Minister of Justice and Correctional Services to the Chairperson of the SALRC. The Minister requested the Commission to favourably consider re-instating the investigation into community courts. The reason given for the request was that Parliament's Portfolio Committee on Justice and Correctional Services (Committee) is of the view that greater consideration should be given to using structures that are already in place to bring justice closer to communities. The Committee pointed out that although there are some community courts, in practice these have been subsumed into the mainstream system. The Minister further pointed out that the Committee had urged the Department to consider reviving the investigation by the Commission.

The Commission met on Saturday 17 September 2016 to consider, among others, proposal papers, discussion papers and reports. The proposal paper on community courts was also considered. After discussion the Commission resolved that the Chairperson should submit a letter to the Minister relating to the proposed SALRC investigation on community courts, informing the Minister that the Commission has not yet decided to revive the investigation. The Commission identified a number of issues for further research before taking a final decision. A further communication would be addressed to the Minister as soon as the Commission has decided on the issue.

On 4 November 2016 the researcher requested from the DDG further information and clarification relating to the request by the Committee. The DDG: Legislative Development responded to the questions on 11 November 2016.

On 24 January 2017 the researcher provided quarter 3 progress on community courts to the DDG: Legislative Development through the Secretary. The researcher also provided a progress report to the DDG on 3 March 2007. At a meeting held on 14 March 2017 the DDG promised to arrange

a meeting with the Deputy Minister and Mr Skosana for clarification on the mandate in relation to community courts. The draft proposal paper, which applies the Commission's selection criteria for considering the inclusion of a research proposal in the Commission's research programme, was considered by the Commission at its meeting on 20 May 2017. The Commission decided that there were still issues that needed to be clarified before the Commission can rule on the investigation.

The researcher has contacted the office of the DDG: Court Services since it is the branch responsible for community courts to make an appointment for a meeting with the official dealing with community courts in order to get clarity as to what the Department wants investigated. A draft revised proposal paper was placed on the Agenda for noting by the Commission on 30 June 2018 as the meeting between the Deputy Minister and the Chairperson did not take place. On 6 July 2018 the researcher prepared a note on community courts for the Chairperson in preparation for the meeting with the Deputy Minister but it never took place as the term of the Commission came to an end. A proposal paper was considered by the Commission on 16 March 2019. The mandate of the DOJCD was still not clear. The Commission decided to place community courts on the agenda of the envisaged meeting with the Minister and the Deputy Minister. The Commission noted the proposal paper and resolved that the decision of the Commission be pended until the meeting with the Deputy Minister. The DDG for Legislative Development, Ms Kalayvani Pillay, will facilitate the meeting.

Review of laws regulating funeral parlours and related services industry

On 9 July 2017 the SALRC received a request to include in the Commission's research programme, an investigation into the laws regulating funeral parlours and related services industry. The request was sent by Mr Johan Rousseau, the Chairperson of the Funeral Industry Reformed Association (FIRA). On 3 August 2017 the request was assigned to the researcher to prepare a proposal paper recommending to the Commission whether or not there is merit for a full investigation.

The researcher, on several occasions, requested a meeting with Mr Rousseau to clarify the issues involved, to no avail. On three occasions Mr Rousseau failed to attend the scheduled meetings. The researcher commenced with the investigation on 29 August 2017.

On 15 December 2017 the researcher submitted the draft proposal paper with recommendations to the supervisor for inputs and comment. The proposal paper served before the Commission on 30 June 2018. The Commission recommended the inclusion of the investigation into its programme. A memorandum was written to the Minister requesting approval of the Commission's recommendation. The Minister approved the inclusion of the investigation into the Commission programme on 26 November 2018. On 16 March 2019 the Commission recommended the establishment of an Advisory Committee to assist with expertise in the investigation.

Review of Legal Framework Governing Violent Public Protests

On 4 December 2017 the researcher received a copy of a letter, through the Secretary of the Commission, from the Minister of Justice and Correctional Services to the Chairperson of the

Commission, wherein the Minister requests the Commission to consider including in its research programme, an investigation into the review of the legal framework governing violent public protests.

The researcher developed a proposal paper recommending the inclusion of the investigation into the Commission programme. On 30 June 2018 the proposal paper served before the Commission for its consideration. The Commission resolved, after deliberations, to ascertain from the Minister whether the original request seeks to extend the minimum sentencing regime to cover an additional category of offenses or to create new offenses.. It was decided that a draft response to the Minister should be formulated and circulated, together with the original letter of request from the Minister, to the Commission for consideration and approval. However, if there is an aspect of the request which was not covered by the discussion, such matter must be raised with the Commission so it can reconsider the decision. After considering the request from the Minister, the Commission felt that more clarification is required to delineate the scope of the investigation.

A draft letter was prepared by the researcher and send to the Secretary of the Commission. The Secretary send the letter to an official in the Legislative Development branch of the Department who appears as reference on the Minister's original letter of request. The Deputy Director-General replied to the letter on 15 March 2019. The letter will serve at the next Commission meeting.

Investigation into possible legislation for domestication of the UN Convention on the Rights of People with Disabilities

In May 2018, the SALRC received a request from DOJ&CD for investigation into the necessity for legislation for the domestication of the UN Convention on the Rights of People with Disabilities. The object of this investigation is to ascertain the necessity of a single or cross cutting legislation on disability rights in South Africa in response to the UN Convention on the Rights of Persons with Disabilities.

A Commission meeting took place on 10 November 2018 where two project leaders were assigned for this pre-investigation. On 16 March 2019 another Commission meeting took place. At this meeting, a pre-investigation proposal paper into the Domestication of the United Nations Convention on the Rights of Persons with Disabilities was considered and approved. The meeting recommended that the investigation be placed on the research programme of the Commission.

The process of establishing an Advisory Committee for this investigation has started pending ministerial approval that the investigation be placed on the research programme of the Commission.

Investigation on the review of the law relating to the concept of "Usus Fructus"

In November 2018, the SALRC received a request for an investigation into the review of the common law governing certain aspects of "usus fructus" and the implications for the owner of the property, holder of the right to the property and in instances of a tenancy over the property in question, the rights of the tenant *vis a vis* that of the owner. Specifically, the SALRC has been requested to look at firstly the rights and obligations of the owner, holder and tenant, the granting of financial security by

the usufructuary and the issue of utility accounts being in the name of the holder and not the owner of property subject to a right of usufruct. The pre-investigation proposal paper has been completed and will be tabled before the Commission for consideration at its next meeting.

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 Health (DOH); Department of Justice and Constitutional Development (DOJ&CD); as well as the Department of Police (DOP). The reports set out the SALRC's final recommendations for law reform regarding statutes administered by the Departments referred to.

Legislation administered by the Department of Health (DOH)

The SALRC identified 25 principal Acts, 4 general Amendment Acts and 79 Amendment Acts, thus 108 Acts in total, that are administered by the Department of Health (DOH). Since "health services" is a functional area of concurrent national and provincial legislative competence as set out in Schedule 4 of the Constitution, the 63 provincial health laws (provincial Acts and ordinances) currently in force are also listed in the Report.

Organisation of Report

The report is organised in the following manner:

Chapter 1: Background and Scope of Project 25

Chapter 2: History of Department of Health

Chapter 3: Public, Mental and General Health Statutes

Chapter 4: National Health Act

Chapter 5: Termination of Pregnancy and Sterilisation Statutes

Chapter 6: Health Service Statutes

Chapter 7: Health Professions Statutes

Chapter 8: Medicines, Substances and Products Statutes

Chapter 9: Occupational Health Statutes

Chapter 10: Provincial Legislation

Annexure A: Statutes administered by Department of Health

Annexure B: Health Laws Repeal and Amendment Bill

Annexure C: National Health Amendment Bill

Annexure D: National Health Act: Commencement of sections

Annexure E: Pharmacy Bill

Annexure F: Health Professions Bill

Annexure G: Medicines and Related Substances Bill

Annexure H: Occupational Diseases in Mines and Works Bill

Annexure I: Provincial Departments of Health Legislation

Annexure J: List of Respondents

Annexure K: Submission by Department of Health

Legislation recommended for repeal

After an analysis of the statutes administered by DOH, the SALRC proposed that the Acts and Amendment Acts stipulated below be repealed or partially repealed.

1. Public Health Act 36 of 1919
2. Public Health Amendment Act 57 of 1935
3. Public Health Amendment Act 51 of 1946
4. Public Health Amendment Act 44 of 1952
5. Mental Health Amendment Act 48 of 1976
6. Health Laws Amendment Act 36 of 1977 – sections 1 to 3, 9, 10 and 13 to 18.
7. Mental Health Amendment Act 10 of 1978
8. Mental Health Amendment Act 38 of 1981
9. Mental Health Amendment Act 3 of 1984
10. Mental Health Amendment Act 16 of 1985
11. Mental Health Amendment Act 55 of 1987
12. Mental Health Amendment Act 52 of 1988
13. Mental Health Amendment Act 19 of 1992
14. Hospitals Ordinance Amendment Act 111 of 1992
15. Mentally Ill Persons' Legal Interests Amendment Act 108 of 1990
16. Health and Welfare Matters Amendment Act 118 of 1993 – sections 14 and 15
17. Extension of Terms of Office of Members of Certain Councils Act 45 of 1997
18. Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act 91 of 1997
19. Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act 6 of 2000
20. National Health Laboratory Service Amendment Act 24 of 2001
21. Traditional Health Practitioners Act 35 of 2004
22. Choice on Termination of Pregnancy Amendment Act 38 of 2004

Legislation recommended for amendment

The SALRC proposed that the following Acts be amended:

1. Administration of Estates Act 66 of 1965
2. Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972
3. Hazardous Substances Act 15 of 1973
4. Dental Technicians Act 19 of 1979
5. Allied Health Professions Act 63 of 1982
6. South African Medical Research Council Act 58 of 1991
7. Choice on Termination of Pregnancy Act 92 of 1996
8. Sterilisation Act 44 of 1998
9. Medical Schemes Act 131 of 1998
10. National Health Laboratory Service Act 37 of 2000
11. National Health Act 61 of 2003
12. Nursing Act 33 of 2005
13. Traditional Health Practitioners Act 22 of 2007

Legislation recommended for consolidation

The SALRC proposed that the Medicines and Related Substances Act 101 of 1965, Occupational Diseases in Mines and Works Act 78 of 1973, Pharmacy Act 53 of 1974 and Health Professions Act 56 of 1974 be consolidated and promulgated afresh as these Acts have been amended so often and to such an extent that the Acts have become confusing. The relevant current Acts and Amendment Acts will then be repealed.

The consolidation of the Medicines and Related Substances Act 101 of 1965 will lead to the repeal of the following legislation:

1. Medicines and Related Substances Act 101 of 1965
2. Drugs Control Amendment Act 29 of 1968
3. Drugs Control Amendment Act 88 of 1970

4. Drugs Laws Amendment Act 95 of 1971
5. Drugs Control Amendment Act 65 of 1974
6. Medicines and Related Substances Control Amendment Act 19 of 1976
7. Health Laws Amendment Act 36 of 1977 – sections 1, 2 and 3
8. Medicines and Related Substances Control Amendment Act 17 of 1979
9. Medicines and Related Substances Control Amendment Act 20 of 1981
10. Medicines and Related Substances Control Amendment Act 94 of 1991 – sections 1 to 8, 10 to 18, 20, 22 and 26
11. Health and Welfare Matters Amendment Act 118 of 1993 – section 11
12. Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 – section 32
13. Medicines and Related Substances Control Amendment Act 90 of 1997
14. Medicines and Related Substances Amendment Act 59 of 2002
15. Medicines and Related Substances Amendment Act 72 of 2008
16. Medicines and Related Substances Amendment Act 14 of 2015

The consolidation of the Occupational Diseases in Mines and Works Act 78 of 1973 will lead to the repeal of the following legislation:

1. Occupational Diseases in Mines and Works Act 78 of 1973
2. Occupational Diseases in Mines and Works Amendment Act 27 of 1974
3. Occupational Diseases in Mines and Works Amendment Act 67 of 1974
4. Occupational Diseases in Mines and Works Amendment Act 45 of 1975
5. Occupational Diseases in Mines and Works Amendment Act 117 of 1977
6. Occupational Diseases in Mines and Works Amendment Act 30 of 1978
7. Occupational Diseases in Mines and Works Amendment Act 83 of 1979
8. Occupational Diseases in Mines and Works Amendment Act 83 of 1980

9. Occupational Diseases in Mines and Works Amendment Act 85 of 1981
10. Occupational Diseases in Mines and Works Amendment Act 106 of 1983
11. Pension Laws Amendment Act 123 of 1984 – sections 2, 3 and 4
12. Pension and Related Matters Amendment Act 105 of 1985 – sections 1, 2 and 6
13. Pension Laws Amendment Act 106 of 1986 – section 12
14. Pension Laws Amendment Act 88 of 1987 – section 2
15. Pension Laws Amendment Act 89 of 1988 – sections 7 to 14, inclusive
16. Pension Laws Amendment Act 79 of 1989 – the whole
17. Pension Laws Amendment Act 117 of 1990 – sections 4 and 9
18. Occupational Diseases in Mines and Works Amendment Act 137 of 1991
19. Occupational Diseases in Mines and Works Amendment Act 208 of 1993
20. Mine Health and Safety Act 29 of 1996 – Schedule 5
21. Abolition of Restrictions on the Jurisdiction of Courts Act 88 of 1996 – sections 50 and 51
22. Occupational Diseases in Mines and Works Amendment Act 60 of 2002

The consolidation of the Pharmacy Act 53 of 1974 will lead to the repeal of the following legislation:

1. Pharmacy Act 53 of 1974
2. Health Laws Amendment Act 36 of 1977 – sections 9 to 11
3. Pharmacy Amendment Act 20 of 1979
4. Pharmacy Amendment Act 39 of 1982
5. Pharmacy Amendment Act 20 of 1983
6. Pharmacy Amendment Act 69 of 1985
7. Pharmacy Amendment Act 6 of 1995
8. Pharmacy Amendment Act 88 of 1997
9. Pharmacy Amendment Act 1 of 2000
10. Veterinary and Para-Veterinary Professions Amendment Act 10 of 2002 – section 18

The consolidation of the Health Professions Act 56 of 1974 will lead to the repeal of the following legislation:

1. Health Professions Act 56 of 1974
2. General Law Amendment Act 57 of 1975 – sections 46, 47 and 48
3. Medical, Dental and Supplementary Health Service Professions Amendment Act 33 of 1976
4. Health Laws Amendment Act 36 of 1977 – sections 12 to 18
5. Medical, Dental and Supplementary Health Service Professions Amendment Act 52 of 1978
6. Medical, Dental and Supplementary Health Service Professions Amendment Act 43 of 1980
7. Medical, Dental and Supplementary Health Service Professions Amendment Act 66 of 1981
8. Medical, Dental and Supplementary Health Service Professions Amendment Act 38 of 1982
9. Medical, Dental and Supplementary Health Service Professions Amendment Act 58 of 1984
10. Medical, Dental and Supplementary Health Service Professions Amendment Act 79 of 1990
11. Medical, Dental and Supplementary Health Service Professions Amendment Act 58 of 1992
12. Medical, Dental and Supplementary Health Service Professions Amendment Act 18 of 1995
13. Medical, Dental and Supplementary Health Service Professions Amendment Act 89 of 1997
14. Medical, Dental and Supplementary Health Service Professions Amendment Act 1 of 1998
15. Health Professions Amendment Act 29 of 2007

General issues regarding legislation

The SALRC investigation identified general issues to be borne in mind by the national and provincial Departments of Health and statutory bodies in future. These are the following:

Dated legislation: There still are remnants of very dated legislation on the statute book that serve no purpose anymore and that are contrary to current policies and practices. Example: sections of the Public Health Act 36 of 1919 and Public Health Amendment Acts of 1935, 1946 and 1952.

Delays in Operationalizing Legislation: There are often long delays between the adoption of an Act and the operationalization or full operationalization thereof: Examples: Medicines and Related

Substances Amendment Act 72 of 2008, which was only put into operation in 2017; the National Health Act 61 of 2003, which is still not fully operational.

National Health Act 61 of 2003: The National Health Act 61 of 2003 (NHA) is not fully operational. Sections 36 to 40 (pertaining to certificates of need) have not been put into operation. In addition, the issue underlying the failure to operationalize the sections does not appear to have been resolved. It appears that sections 77, 78, 79 and 83 of the National Health Act 61 of 2003 (pertaining to the establishment, objects and functions of the Office of Health Standards Compliance and environmental health investigations) have not been put into operation in their original form. No proclamation could be found that operationalize these specific sections. Proclamation 37 of 2013 published on 30 August 2013 in Government *Gazette* No 36787 put the National Health Amendment Act 12 of 2013 (that amended chapter 10 of the NHA, including sections 77 to 79 and section 83) into operation with effect from 2 September 2013. It therefore seems that the amendments to sections 77, 78, 79 and 83 have been operationalized, but that the original sections might not have been put into operation.

Extensive Amendment of Existing Acts: There are Acts which had been amended repeatedly and extensively over time. In instances where existing legislation requires extensive amendment it is advisable to promulgate a new Act rather than amend an existing Act. The Medicines and Related Substances Control Act 101 of 1965, which has undergone two name changes, 17 amendments to the Act, a change of the authority administering the Act and which had been almost completely overhauled is an example of an Act that should have been redrafted and enacted anew, rather than amended.

Forgotten Acts: A number of Acts or parts of Acts were identified that had not been put into operation and which appears to have been forgotten about. Examples: sections 13 and 15 of the Occupational Diseases in Mines and Works Amendment Act 208 of 1993; National Health Laboratory Service Amendment Act 24 of 2001; sections 1, 2 and 5 of the Dental Technicians Amendment Act 24 of 2004; sections 14, 16 and 30 of the Health Professions Amendment Act 29 of 2007.

International Obligations: The long delay in giving effect to international obligations by implementing local legislation is of concern. The International Health Regulations of 2005 has not been incorporated into South African legislation yet, although it has been in the pipeline for several years.

Coordination between National and Provincial Health: There appears to be a lack of coordination on legislation and the performance of certain functions between the national DOH and the provincial DOHs. The parts of the Health Act 61 of 1977 that were still in force nationally were repealed in 2012. However, the parts of the 1977 Health Act that were assigned to provinces in 1994 still apply in all the provinces either in full or in varying degrees. For example: the Eastern Cape repealed most of the Health Act of 1977, the Western Cape amended the Act and the KwaZulu-Natal Province repealed section 44.

The registration of hospitals is currently a provincial function. Sections 36 to 40 of the NHA will centralise the same function to the national DOH by means of the issuing of certificates of need by the Director General of Health. The President signed Proclamation 21 of 2014 on 21 March 2014 to bring sections 36, 37, 38, 39 and 40 of the National Health Act into operation on 1 April 2014. It later transpired that the proclamation was made in error and premature. The President, the Minister in the Presidency, the Director-General in the Presidency, the Minister of Health and the Director-General of the Department of Health therefore sought a court order declaring Proclamation 21 of 2014 invalid and setting it aside. The Constitutional Court declared the proclamation invalid and set it aside in the case of *President of the Republic of South Africa and Others v South African Dental Association and Another* [2015] ZACC 2. The concern is, however, that the underlying issue regarding the control of the establishment and running of hospitals had still not been finally resolved.

Disparity in Provincial Legislation: There is significant disparity between the legislation of the various provinces. Examples: Ordinances from the former Province of the Cape of Good Hope (dating back to 1946) and assigned sections of the Health Act 63 of 1977 apply in the Northern Cape Province. Ordinances from the former Province of Transvaal (dating back to 1943), assigned sections of the Health Act 63 of 1977 and the Bophuthatswana Health Act of 1983 apply in the Mpumalanga Province. Ordinances from the former Province of Transvaal (dating back to 1943) and the former Province of the Cape of Good Hope (dating back to 1946), assigned sections of the Health Act 63 of 1977 and post 1994 legislation apply in the North-West Province. The Western Cape Province has adopted several provincial health Acts since 1994, eleven of which are in force at this stage, and amended the Health Act, 1977.

Other Matters raised in Comments

Several matters that were beyond the scope of this investigation were raised by respondents in their submissions commenting on Discussion Paper 145. This information was provided to the national Department of Health.

Redrafting of legislation

A number of statutory bodies indicated a need for the complete redrafting of their enabling legislation:

- Allied Health Professions Council of South Africa
- South African Dental Technicians Council
- South African Nursing Council
- South African Pharmacy Council

Updating of legislation

Respondents also expressed concerns about Acts and regulations not keeping up with practical demands and changes in the environment in which the health sector operates; the regulation of organ donations; the corporate structure of statutory bodies; the effect of amendments to medicines regulations; protest action outside hospitals; the isolation of patients suffering from multiple drug-resistant tuberculosis (MDR-TB) and extremely drug-resistant tuberculosis (XDR-TB); and Acts and regulations not being updated. Some respondents identified lacunas in Acts and regulations.

Legislation administered by the Department of Justice and Constitutional Development: Family Law and Marriage

Aspects of this investigation overlap with three other SALRC investigations. The first two investigations form part of Project 100 on Family Law and the Law of Persons. These investigations review, in the first instance, the custody of and access to minor children, and secondly, aspects of matrimonial property law. The scope of the review conducted in this investigation is limited to compliance of the legislation reviewed with the equality provisions of the Constitution and their possible redundancy or obsolescence. The comprehensive reviews into these issues sought to remedy any other deficiencies in these areas of the law. The third investigation dealt with a Project 25 review of the legislation administered by the Department of Home Affairs. Overlaps between this investigation and the other SALRC investigations have been indicated in the body of the report.

The equality issues regarding women and marriage and the relating law were not considered in this investigation. These issues span a broader area of law than was being investigated here. Consequently, the responses received dealing with these matters are mentioned, but not discussed in the report.

Eleven acts are applicable to this investigation. These acts are the following:

1. Matrimonial Affairs Act 37 of 1953
2. Matrimonial Property Act 88 of 1984
3. Divorce Act 70 of 1979
4. Mediation in Certain Divorce Matters Act 24 of 1978
5. Dissolution of Marriages on the Presumption of Death Act 23 of 1979
6. Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996
7. Reciprocal Enforcement of Maintenance Orders Act 80 of 1963
8. Prevention of Family Violence Act 133 of 1993

9. Maintenance Act 99 of 1998
10. Domestic Violence Act 116 of 1998
11. Recognition of Customary Marriages Act 120 of 1998

The SALRC has found that some of these statutes and/or a number of provisions contained in them require amendment or repeal. Furthermore, the SALRC has, as is authorised by section 5(5) of the South African Law Reform Commission Act 19 of 1973, included a draft Bill in its Report which, if enacted, will give effect to its recommendations.

Responses have been received from a variety of stakeholders, with the emphasis mostly on substantive issues relating to law reform in the areas of the Matrimonial Property Act, the Divorce Act, the Domestic Violence Act and the Recognition of Customary Marriages Act. In these responses, relevant provisions for law reform relating to the substantive content of these Acts have been mentioned. However, the project 25 investigation only relates to inequality that is glaringly obvious, obsolete or redundant. Where relevant these submissions have been brought to the attention of researchers assigned to related investigations.

No recommendations are made on the following Acts for the reasons set out hereunder:

- Matrimonial Property Act 88 of 1984
- Prevention of Family Violence Act 133 of 1993
- Hague Convention on the Civil Aspects of International Child Abduction Act 72 of 1996
- Maintenance Act 99 of 1998

1. Matrimonial Affairs Act 37 of 1953

- The SALRC recommends the repeal of section 5(1) as it has been superseded by the Children's Act.
- As section 5(2) is superseded by the scheme of parental rights and responsibilities in the Children's Act, the SALRC recommends that it be repealed and not included in the Children's Act.
- The change to gender-neutral language is not applicable as section 5 has been repealed.
- Section 5(3) has been superseded by section 27 of the Children's' Act and can therefore be repealed.

- Section 5(5) has been superseded by section 28 of the Children's Act and can therefore be repealed.
- Section 5(6) refers back to subsection 5(1) and 5(3)*(a)*. These subsections are recommended for repeal and section 5(6) can therefore be repealed.

2. Matrimonial Property Act 88 of 1984

The Matrimonial Property Act will be reviewed comprehensively in a separate investigation entitled "Review of Aspects of Matrimonial Property Law" (Project 100). An issue paper is currently being prepared.

3. Divorce Act 70 of 1979

Section 1

- The SALRC recommends that the following changes should be made:
- "divorce action" means an action by which a decree of divorce or other relief in connection therewith is applied for, [**but also]** and includes –…"
- In this section the mentioned definitions of "divorce action" and "Minister" need updating. It is recommended that the definition of "divorce action" be amended to bring it in line with the Children's Act 38 of 2005 in terms of the words "care" and "contact" as that Act has superseded by the Divorce Act. The words "custody of" and "access to" should be replaced by the terms "care" and "contact". It is also recommended that the Latin term "*pendente* lite" should be changed as follows:

  (a) an application **[*pendente lite*]** pending the finalization of the divorce action for an interdict or for the interim **[custody of, or access to]** order relating to…

  Other changes are also recommended:

  "… care of and contact with the child, **[a minor child of the marriage concerned or]** and for the payment of maintenance; or"

  …

- The SALRC felt that the definition of Minister in the definition of "pension interest" should be updated to "Minister responsible for the administration of justice".

Section 5

- Section 5 deals with mental illness or continued unconsciousness during the marriage as a ground for divorce. In the light of the technical changes brought about by the Mental Health Care Act of 2002, the Correctional Services Act of 1998, and the insertion of gender-neutral language into the section, the SALRC recommends that section 5(1) of the Divorce Act be amended. In the light of these recommended amendments, the SALRC also recommends consequential amendments to section 5(5).

Section 6

- Section 6(3) deals with the safeguarding of interest of dependant and minor children. The SALRC recommends that section 6(3) of the Divorce Act should remain on the statute book but should be amended to reflect the new terminology that is found in the Children's Act.

Gender- neutral language

Section 7

- The SALRC recommends the use of gender-neutral language in section 7. It is also recommended that references to "spouse", "spouses", "husband", "wife" and "marriage" be kept as is as the Civil Union Act 17 of 2006 provides that marriage in any other law includes a civil union and that husband, wife or spouse in any other law includes a civil union partner. Change will confuse the legislative scheme.

Equality, legal recognition of religious marriages and domestic partnerships

These issues cannot be discussed in this review as they were and are under review in various projects of the SALRC. Project 25: Statutory Law Revision: Report on Legislation Administered by Department of Home Affairs was approved at the SALRC meeting of 10 December 2016. It deals with issues surrounding gender equality, amongst others. In November 2017 the Minister of Justice and Correctional Services approved the inclusion on the research programme of an investigation into the adoption of a single marriage statute including measures against sham marriages (project 144). The investigation aims to enable South Africans of all religious and cultural persuasions to conclude marriages and to give effect to the constitutional demands of equality in this area of the law

Section 8

- It is recommended that section 8 be kept on the statute book as it and section 23(1) and (2) of the Children's Act give effect to the position of children in terms of the divorce of their parents. Leaving the Divorce Act without a measure to regulate the interest of children upon divorce would leave a gap in the legislation.

Section 12

- The DoJ&CD is currently considering amendments to section 12 to bring it into line with the *Johncom Media Investments Limited v M and Others* 2009 (4) SA 7 (CC) case. A draft Judicial Matters Amendment Bill, 2010 had been prepared but had not proceeded through Parliament. Therefore no amendments in this regard are proposed. Also, the Commission recommends that the order by the Constitutional Court in the *Johncom case* not be included in the attached draft Bill. Drafting a precise provision will entail the balancing of the rights to freedom of expression and privacy. This falls outside the scope of the investigation as it deals with substantive constitutional issues.

Section 16

If the Matrimonial Affairs Act is repealed as recommended by the SALRC in Chapter 3, section 16 of the Divorce Act would become redundant. The SALRC therefore recommends that section 16 of the Divorce Act be repealed should the recommendation regarding the Matrimonial Affairs Act be accepted.

4. Mediation in Certain Divorce Matters Act 24 of 1987

Minister

- Section 1 of this Act defines, among others, "Minister" as the "Minister of Justice". It is recommended that "Minister of Justice" be substituted for "Minister responsible for the administration of justice".

Family Advocates, Family Councillors, employment, the Regional Courts Amendment Act 31 of 2008 and dependent and minor child

- Sections 2(1) and 3(1), which refer to the Supreme Court, have to be changed to the words the "High Court" in order to bring it in line with the Constitution. It also is suggested that the use of words like "a dependent and minor child" should be kept as is.

- It was felt that the proposed change to sections 2 and 3 as to where a Family Advocate or Family Councilor can be appointed in terms of the Jurisdiction of the Regional Courts Amendment Act 31 of 2008 can have unintended consequences. Therefore no recommendations are made.
- No comments have been received on the possible unconstitutionality of the temporary employment of Family Councilors and therefore the SALRC does not make any recommendations in this regard.

Gender-neutral language

- It is recommended that gender-neutral language be used in the following sections: 2(2); 4(2) and (3) and 5(1)*(f)*. It is also recommended for sections 2(1); 4(1) and 4(2), and in sections 2(2); 3(2); and 3(4).The masculine word must stand alongside the feminine word.

Section 4

- The SALRC recommends in section 4 of Act 24 of 1987 that the terms "custody" and "access" in terms of children be replaced with the new concepts of "care" and "contact" in the Children's Act.
- In section 4(2) the words "made in terms of the Divorce Act, 1979" need to be deleted. The scope of the investigations needs to be broadened by including the Children's Act.

Section 5

- The duties of the Family Advocate as set out in the Children's Act need to be included in this Act. The SALRC thus recommends that section 5(1)*(dA)* of this Act be amended by inserting the Children's Act and broadening the scope of the investigations by the Family Advocate.

5. Dissolution of Marriages on the Presumption of Death Act 23 of 1979

Equality

- The word "marriage" in sections 1 and 2 should include all relevant marriages as defined by law, including civil unions and customary marriages.
- "Spouse" is a gender neutral word and should replace the words "married person". The substantive issue was the definition of a "marriage". This Act is only applicable to married people and excludes domestic partnerships. The words "married people" in sections 1 and 2 should be deleted and replaced with "spouses".
- With the exception of the amendments proposed above, the SALRC propose that this Act be retained on the statute book.

Courts

- In sections 1 and 2 the words "Supreme Court" needs to be changed to the words "High Court." The words "Provincial" and "Local" should be deleted.

6. Hague Convention on the Civil Aspects of International Child Abduction 72 of 1996

- This Act was repealed by the Children's Act 38 of 2005.

7. Reciprocal Enforcement of Maintenance Orders Act 80 of 1963

Definition

- It is recommended that the "Minister of Justice" be called the "Minister responsible for the administration of justice", as the profile changes often.

Gender- neutral language

- It is recommended that sections 3 and 4(1) be amended to reflect gender-neutral language.

Section 4

- The SALRC recommends that the wording used in section *4(a)* should be aligned with that used in the Constitution by substituting the words "High Court" for the words "Provincial or Local Division of the Supreme Court of South Africa".

8. Prevention of Family Violence Act 133 of 1993

- The SALRC recommends that this Act be repealed in its entirety.

9. Maintenance Act 99 of 1998

- Recommendations are not made in respect of this Act as it is being investigated under project 100: Review of the Maintenance Act 99 of 1998.

10. Domestic Violence Act 116 of 1998

- The SALRC recommends that the definition of "arm" in section 1 of the Domestic Violence Act be replaced with "firearm". Consequential amendments needed to be made to section 9(1) and (2) thereof.

11. Recognition of Customary Marriages Act 120 of 1998

Cross-cutting issues

- Most of the responses relate to substantial or equality issues that cannot be addressed in this review of the Act. It is therefore recommended that only issues relating to project 25

investigations be put into the draft Bill. Comments outside of the framework of this review have been brought to the attention of the SALRC. Any substantive issues pertaining to this Act and legislation administered by the Department of Home Affairs (DHA) are dealt with in Project 25: Statutory Law Revision: Report on Legislation Administered by Department Home Affairs. The Report was approved at the SALRC meeting of 10 December 2016. Marriageable age and gender equality have been discussed in the DHA Report as well as Project 144: Single Marriage Act including measures against sham marriages. Other SALRC reports relating to marriageable age and equality are also mentioned in this Chapter.

Definition of Minister

- It is recommended that the definition of Minister needs to be updated in sections 1, 7(4)*(a)(ii)* and 11(1) to "Minister responsible for the administration of justice."

Legislation administered by the Department of Police (DOP)

The SALRC reviewed 42 statutes that are administered by the Department of Police (DOP). A consultation paper containing preliminary proposals by the SALRC was prepared and submitted to DOP for consideration and comments on 30 June 2016. DOP submitted its comments on the consultation paper on 30 September 2016. In accordance with its policy to consult widely and to involve the general public in the law reform process, the SALRC developed a discussion paper incorporating the comments received from the DOP. The discussion Paper (Discussion Paper 146) was approved by the Commission on 20 May 2017 and it was published for comments and general information on 11 July 2017. Based on the Discussion paper and the comments received from the public a report was subsequently prepared and approved by the Commission on 30 June 2018. Briefly, the report contains the following recommendations:

Legislation / provisions recommended for repeal

1. Dangerous Weapons Amendment Act, 1990 (Act No. 29 of 1990)

- The amendment Act has become redundant and for that reason the SALRC recommended its repeal.

2. Dangerous Weapons Amendment Act, 193 (Act No. 156 of 1993)

- The amendment Act has become redundant and for that reason the SALRC recommended its repeal.

3. Internal Security and Intimidation Amendment Act, 1991 (Act No. 138 of 1991)

- The amendment Act is now redundant and the SALRC recommended its repeal.

4. Transfer of the South African Railways Police Force to the South African Police Act, 1986 (Act No. 83 of 1986)

- The Act is now redundant and the SALRC recommended that it be repealed on the basis of redundancy.

5. Transfer of the South African Railways Police Force to the South African Police Service Amendment Act, 1989 (Act No. 14 of 1989)

- The SALRC recommended that this amendment Act be repealed after the repeal of the Transfer of the South African Railways Police Force to the South African Police Service Amendment Act, 1989 (Act No. 14 of 1989).

The following legislation was recommended for amendment for reasons reflected in chapter 2 of the report:

1. Second-Hands Goods Act, 2009 (Act No. 6 of 2009)
2. Explosives Act, 1956 (Act No. 26 of 1956)
3. Explosives Amendment Act, 1981 (Act No. 5 of 1981)
4. Explosives Amendment Act, 1993 (Act No. 178 of 1993)
5. Firearms Control Act, 2000 (Act No. 60 of 2000)
6. National Key Points Act, 1980 (Act No. 102 of 1980)
7. Private Security Industry Regulation Act, 2001 (Act No. 56 of 2001)
8. Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004)
9. Tear-Gas Act, 1964 (Act No. 16 of 1964)
10. Regulation of Gatherings Act, 1993 (Act No. 205 of 1993)
11. South African Police Service Act, 1995 (Act No. 68 of 1995)
12. Stock Theft Act, 1959 (Act No. 57 of 1959)
13. Control of access to Public Premises and Vehicles Act, 1985 (Act No. 53 of 1985)
14. Second-Hands Goods Act, 2009 (Act No. 6 of 2009)

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.

International Conference on "Access to Justice, Legal Costs and Other Interventions"

Sections 35(4) and (5) of the Legal Practice Act, 2014 (Act No.28 of 2014) which came into operation on 1 November 2018, mandate the SALRC to conduct an investigation and report back to the Minister of Justice and Correctional Services with recommendations on the following:

(a) the manner in which to address the circumstances giving rise to legal fees that are unattainable for most people;

(b) legislative and other interventions in order to improve access to justice by the members of the public;

(c) the desirability of establishing a mechanism which will be responsible for determining fees and tariffs payable to legal practitioners; the composition of such a mechanism and the process it should follow in determining fees or tariffs;

(d) the desirability of giving users of legal services the option of voluntarily agreeing to pay for legal services less or in excess of any amount that may be set by the mechanism;

(e) the obligation by a legal practitioner to conclude a mandatory fee arrangement with a client when that client secures that legal practitioner's services; and

(f) the use of contingency fee agreements in promoting or impeding access to justice.

In conducting the investigation, the SALRC is required to take the following into consideration:

(a) best international practices;
(b) the public interest;

(c) the interests of the legal profession; and
(d) the use of contingency fee agreements as provided for in the Contingency Fees Act, 1997 (Act No.66 of 1997).

On 03 April 2018, the Minister of Justice and Correctional Services approved in principle the hosting of an international Conference on "Access to Justice, Legal Costs and Other Interventions". On 14 March 2018, the Director-General for Justice and Constitutional Development approved the expenses for hosting of the Conference subject to National Treasury' s approval in terms of paragraph 5.5 of the Treasury Instructions. On 15 May 2018, the International Cooperation, Trade and Security Cluster (ICTS) approved the hosting of the international Conference by the SALRC in terms of the Guidelines for the Hosting and Preparing for International Events in South Africa dated January 2015.

On 8 June 2018, the Secretary of the SALRC released a Call for Papers and Concept Note for the conference. During July - August 2018, invitations approved by the Chairperson and Secretary of the SALRC respectively, were sent out to a wide array of local and international stakeholders, including members of the legal profession, the judiciary, academia, government, chapter nine institutions, statutory bodies, civil society and community based organisations, law clinics, and law reform agencies. In addition, a large number of applications to attend the conference were received as had been anticipated.

On 01 - 02 November 2018, the SALRC hosted the international conference on "Access to Justice, Legal Costs and Other Interventions" in Durban. The Deputy Minister of Justice and Constitutional Development, Mr John Jeffery (MP), delivered the keynote address, whereas the Minister of Justice and Correctional Services, Advocate Michael Masutha (MP) delivered the closing remarks.

Among the dignitaries who attended the conference were members of the Judiciary (Judge President Dunstan Mlambo of the Gauteng Division of the High Court; Judge President A Jappie of the KwaZulu-Natal High Court; Judge Motsamai Makume - Judge of the Gauteng South High Court); members of the legal profession (Mr Ettienne Barnard, Co-Chairperson of the Law Society of South Africa; Adv. Greg Harpur SC from the General Bar Council of South Africa); Chairpersons of the Namibia Law Reform and Development Commission and Uganda Law Reform Commission, as well as the Secretary of the Kenya Law Reform Commission.

The conference sought to elicit views and comments from a wide variety of stakeholders broadly on access to justice and the impact of high legal costs which impedes access to justice for the majority of South Africans. The views, comments and input made at the conference were incorporated into Issue Paper 36 which was approved by the Commission for general information and comment on 16 March 2016.

The conference report was presented at the strategic planning session of the SALRC and Project 142 Advisory Committee held on 24th- 25th January 2019 for adoption. The conference report is available on the SALRC website for information.

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 31 October 2018, the South African Law Reform Commission hosted an ALRAESA Annual General Meeting (AGM) and an Executive Committee Meeting in Durban, South Africa. The ALRAESA AGM & EXCO meetings were hosted on the eve of the SALRC International Conference on Access to Justice, Legal Costs and Other Interventions. The purpose of the ALRAESA meetings was to present a report on the association's financial statements. Both, EXCO and the AGM positively received the report on the association's finances. Importantly, representatives from the ALRAESA member countries were also invited to participate in the SALRC's International Conference on Access to Justice, Legal Costs and Other Interventions, which took place on 01-02 November 2018, as indicated above.

Visits by foreign delegations

During the year under review no foreign delegations were received by the SALRC.

Internships at South African Law Reform Commission

During the year under review no interns were placed at the SALRC.

South African Law Reform Commission Legal Essay Writing Competition

The South African Law Reform Commission Legal Essay Writing Competition is a project that is sponsored by Juta Law. It was established in 1999 as the Ismail Mahomed Law Reform Essay Writing Competition, which name was in honour of the late Chief Justice and former Chairperson of the South African Law Reform Commission, Justice Ismail Mahomed. The purpose of this competition is to encourage critical legal writing by students while generating new ideas for law reform which are aligned to South Africa's priorities. All LLB and LLM students registered at any South African University are eligible to enter this competition.

The 2017 season of the Ismail Mahomed Law Reform Essay Writing Competition, which was the last one in Honour of Chief Justice Ismail Mahomed, began in February 2017 and closed on 31 January 2018. This cycle marked the fourteenth year of this competition's active seasons. As at 31 January 2018, a total of 29 essays were received as entries to the competition. Out of the total of 29 received, 24 essays were for the LLB category whereas only 5 essays were for the LLM category of the competition. The essays were submitted by students registered at the following universities:

University of Cape Town, University of Fort-Hare, University of the Free State, University of Johannesburg, University of KwaZulu-Natal, University of Limpopo, North West University, University of Pretoria, University of South Africa, University of Stellenbosch, University of Venda, Witwatersrand University and University of Zululand.

The adjudication panel was appointed in March 2018 to evaluate the essays and identify the winners and runners-up of the 2017 season of the competition. The panel consisted of Judge Jody Narandran Kollapen (SALRC Chairperson); Professor Vinodh Jaichand (SALRC Commissioner); Professor Marita Carnelley (SALRC Commissioner); Dr Ademola Jegede (Faculty of Law, University of Venda); and Professor Dorothy Farisani (Faculty of Law, University of South Africa).

In view of the number and quality of the essays received, the panel unanimously agreed that the Ismail Mahomed Law Reform Essay Writing Competition Prize should be awarded in both the LLB and LLM categories for the 2017 cycle. Based on the overall scores awarded to the essays, the panel decided that the prizes for the 2017 season of the competition should be awarded to the following students:

LLB Category

- Ms Natasha Salant from the University of Cape Town (winner) for her two (2) essays titled "A new answer to an old problem: Could the facilitation of an active civil society be an effective strategy to enhance the consumer protection act's effectiveness?; and Beyond the (class) room: What education *could* be in South Africa".

- Ms Janey Daniels from the University of Stellenbosch (runner up) for her essay titled "The status of the stepchild in the law of intestate succession: A legal comparative and critical analysis".

LLM Category

- Ms Motlalepula Rakubu from the University of Limpopo (winner) for her essay titled "Virginity testing in South Africa: The human rights perspective".

- Ms Navilla Somaru from North West University (runner up) for her essay titled "The lok adalat as an ADR instrument in South African Criminal Law".

The award ceremony for the 2017 Ismail Mahomed Law Reform Essay Writing Competition was held at Royal Elephant Hotel & Conference Centre on 22 February 2019. The keynote speaker was Deputy Minister of Justice and Constitutional Development, Mr John Jeffery (MP).

Importantly, as was indicated in the 2017-2018 Annual Report, the South African Law Reform Commission had since identified the need to change the name of this competition from Ismail Mahomed Law Reform Essay Writing Competition to a neutral name. Hence it is now known as the South African Law Reform Commission Legal Essay Writing Competition. The main aim for the name change has been, and still is, to provide the South African Law Reform Commission with an opportunity

to honour, through this competition, all the Chief Justices as well as other great legal minds that this country has produced. Their honouring will be done by rotating periodically the naming of the prizes as well as the theme for this competition's gala dinner award ceremony after a particular person.

Guided by the idea of inclusivity, the South African Law Reform Commission chose the late Chief Justice Pius Nkonzo Langa as the legal stalwart in whose honour the 2018 season of this competition was dedicated.

The 2018 season of the South African Law Reform Commission Legal Essay Writing Competition began on 23 February 2018 and closed on 31 January 2019. This cycle marked the fifteenth year of this competition's active seasons. As at 31 January 2019, a total of 52 essays were received as entries to the competition. Out of the total of 52 received, 42 essays were for the LLB category whereas only 10 essays were for the LLM category of the competition. The essays were submitted by students registered at the following universities: Nelson Mandela University; North West University; Rhodes University; University of Cape Town; University of Johannesburg; University of KwaZulu-Natal; University of Limpopo; University of Pretoria; University of South Africa; University of the Free State; University of Stellenbosch; and University of the Witwatersrand.

The adjudication panel was appointed in February 2019 to evaluate the essays and identify the winners and runners-up of the 2018 season of the competition.The panel consisted of Professor Juanitta Calitz (Faculty of Law: University of Johannesburg); Professor Zsa-Zsa Boggenpoel (Faculty of Law: University of Stellenbosch); Professor Suria Govender (Retired UKZN Professor); Professor Joanna Botha (Faculty of Law: Nelson Mandela University); and Professor Jo-Mari Visser (Faculty of Law: University of the Free State).

In view of the number and quality of the essays received, the panel unanimously agreed that the Chief Justice Pius Nkonzo Langa Prizes should be awarded in both the LLB and LLM categories for the 2018 cycle. Based on the overall scores awarded to the essays, the panel decided that the prizes for the 2018 season of the competition should be awarded to the following students:

LLB CATEGORY

- Ms Sarah Jane Goldman from the University of the Free State (joint winner) for her essay titled "New approach to clauses that exempt liability for death and personal injury since their inclusion on the grey list".
- Ms Silke Joseph from Rhodes University (joint winner) for his essay titled "The more things change, the more they stay the same: The constitutionality immigration law in South Africa".
- Mr Quentin du Plessis from the University of Cape Town (runner up) for his essay titled "The role and nature of the public interest in South African competition law".

LLM CATEGORY

- Mr Gilbert Kato from the University of South Africa (winner) for his essay titled "Moving away from the binary system".
- Ms Ntemesha Mwila Maseka from Nelson Mandela University (runner up) for her essay titled "Accountability of South African troops serving as UN Peacekeepers for sexual violence".

The award ceremony for the 2018 South African Law Reform Commission Legal Essay Writing Competition will be held at "The Centurion Hotel" on 6 September 2019.

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 virtually on a daily basis. These enquiries emanate 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 Home Affairs **Ms Maureen Moloi**	Enquiries regarding the report on Legislation administered by the Department of Home Affairs with reference to the recommendations made in relation to Public Holidays Act 36 of 1994. After Freedom of Religion South Africa (FORSA) enquired about the status of Discussion Paper 133, the researcher responded to emails and telephone calls on the subject.	February 2019 and March 2019
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**	A consultation process was initiated between the SALRC and the Office of the Chief Justice through the Chairperson of the Advisory Committee, Judge President Dunstan Mlambo. On 25 April 2018 Deputy Judge President A Ledwaba was appointed at the request of the Chief Justice as a member of the Committee.	April 2018
	Attended an international conference hosted by IDRA, UNISA entitled "Mediation the African Way"	23 May 2018
	Liaison with LSSA through Mr John O'Leary, Chair of the ADR Committee.	As from September 2018
	Responded to general and specific enquiries regarding the investigation.	Throughout the reporting period
	Disseminated information and documents in respect of the investigation among interested parties, especially when they contacted the Commission for that purpose.	Throughout the reporting period

Project 100D **Care of and contact with children** **Ms Ananda Louw**	Attended a meeting with representatives from FLAFSA in Cape Town to discuss the SALRC's preliminary legislative proposals on family arbitration	26 July 2018
	Attended a working sessions with the Department of Social Development to discuss the Children's Third Amendment Bill	20 August 2018 and 7 November 2018
	Consulted with Prof David Butler, Emeritus Professor at the University of Stellenbosch, on the SALRC's proposals on family arbitration	June – September 2018
	Attended a meeting with Prof Patrick Parkinson, a visiting Professor from University of Queensland, Australia to discuss comparable challenges in the Australia and South African family law	13 February 2019
	Disseminated information and documents in respect of the investigation among interested parties, especially when they contacted the Commission for that purpose.	Throughout the reporting period
	Responded to general and specific enquiries regarding the investigation.	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
	Participated in the population of the Gender Directorate in the Department of Justice and Constitutional Development's template on the 25 year review on women's empowerment and gender equality in South Africa with regard to the SA Law Reform Commission's part in investigations and laws under two headings i.e. economic transformation & women's economic empowerment; and social transformation and social justice for women and children.	05 September 2018
	Appointed to and met with the Access to Justice Conference Internal Programme Committee	17 September 2018
	Meeting with Ms Motlafi (UNISA) on the topic of 'Black women and rape law reform'.	12 March 2019
	Meeting with Dr Rademeyer, Clinical Psychologist, regarding false allegations of sexual abuse, including abuse and exposure to pornography during divorce proceedings.	06 November 2019
	Appointed to and participated in the sub-committee on law and policy for the National Gender Based Violence against Women and Femicide Summit.	15 August 2018 onwards

Adult Prostitution **Ms Dellene Clark**	General and specific enquiries from internal and external stakeholders.	Throughout the reporting period
	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.	Throughout the reporting period
	Ms Clark received an invitation from the CEO of SANAC to officially service on the new Task Team and attended the first meeting of the Task Team held on 18 February 2019.	11 February 2019
	Attended the Roundtable Discussion on 'Prostitution/Sex Work: Is it work and is it a choice?' at the invitation of the SACBC Parliamentary Organization, Embrace Dignity and the Hanns Seidel Foundation.	21 June 2018
	Attended an engagement on TIPtalk: Dispelling myths about human trafficking in SA hosted by UNISA Faculty of Law and Media Monitoring Africa which dealt primarily with the interface between prostitution and trafficking in South Africa.	21 August 2018
	Provided a colleague with information pertaining to the Report on Sexual Offences to assist with her involvement with meetings at the Human Rights Commission on 'Decriminalisation and Declassification of Petty Offences'.	11March 2019
Pornography and Children **Ms Dellene Clark**	Provided the Department of Justice and Constitutional Development with information regarding reporting lines between Hotlines, NGO's and authorities to populate a UN Report.	23 April 2018
	Became a participant in the ECPAT International situational analysis on children focusing on online safety in South Africa.	03 May 2018
	Attended and participated in the high level learning engagement for identified government officials on violence prevention at the invitation of the DPME and PSPPD.	09 - 11 May 2018
	Meeting with parolee regarding pornography and child sexual abuse material (CSAM) in Correctional Centres.	16 May 2018
	Attended and presented at the 10th Annual Child Trauma Conference in the track (Intersectoral approaches to child abuse, neglect & attachment) on the Project 107 Pornography and Children investigation.	25 May 2018

	Meeting with Dr Papakyriakou, Researcher in Psychology on her research on female sexual offenders and sentencing and on interventions for female offenders against children.	01 June 2018
	Follow up meeting with parolee to discuss further information relevant to child sexual abuse material in correctional centres and notified the SAPS FCS Unit.	08 June 2018
	Participated in a consultation workshop: End Violence! Talking to children about gender equality in Lenasia under the auspices of the UNISA Violence Injury and Peace Research Unit and the South African Medical Research Council.	22 June 2018
	Justice and Crime Prevention Programme of the Institute for Security Studies meeting and recorded commitment to end violence against children.	28 June 2018
	Attended a meeting with SAPS Section Commander: Serial and Electronic FCS Investigations (SECI) Family Violence, Child Protection and Sexual Offences Investigation Service and Proof Communication Africa to discuss awareness initiatives for children with regard to exposure to pornography and generating of child abuse images.	01 August 2018
	Included in the ISS National Dialogue Forum on violence prevention.	28 August 2018
	Attended a meeting with the Director: Legal Services in the Department of Social Development to discuss the draft 3rd amendment to the Children's Act with regards to issues concerning children's privacy and children and the media.	03 September 2018
	GPEN IAP closed Webinar Platform or Publisher? Exploring issues of liability and immunity of Service Providers.	04 September 2018
	Participated in and presented at the UNISA Bureau for Market Research, Youth Research Unit Conference 'The online and offline sexual exploitation of children in South Africa'.	20 – 21 September 2018
	Attended a closed networking meeting with international guests and presented a paper on the law and online exploitation and legal developments	20 September 2018
	Attended a meeting convened by Department of Social Services Legal Services on proposals contained in the proposed 3rd Amendment to the Children's Act.	25 October 2018

	SAPSAC Conference 'Towards multi-disciplinary expertise in handling child abuse: The interspersing reality of child trafficking, cybercrime and pornography'.	15 November 2018
	Meeting with specialist members of South African Police Service, National Prosecuting Authority, Department of Justice and Constitutional Development and a Federal prosecutor specializing in online prosecutions.	15 November 2018
Project 110: Review of the Child Care Act **Ms Ronel van Zyl**	Met with the Director: Legal Services of the Department of Social Development on the draft Children's Amendment Bill.	03 September 2018
Project 125 **Prescription periods** **Ms Theresa Häderli**	Responded to general enquiries regarding the investigation.	Throughout the reporting period
	Attended workshop at the invitation of an organisation called Corporate Rebels in order to make a presentation on the sale, collection and re-activation of prescribed debt dealt with in the Revised Discussion Paper on Prescription Periods	16 May 2018
	Provided an opinion interdepartmentally regarding new litigation that was instituted against the Minister of Justice and Correctional Services seeking to declare section 12(4) of the Prescription Act unconstitutional based on the argument that it differentiated between and provided for the non-commencement of prescription in relation to debts based on the alleged commission of a specific subset of sexual offences rather than extend its protection to all sexual offences.	10 August 2018

Project 127: Review of administration orders **Ms Lowesa Roberts**	On 11 June 2018 the researcher received a submission from a member of the public regarding the manner in which the magistrates' court deals with the recovery of unpaid school fees. The submission, amongst others, proposed that the decision of a school governing body (SGB) regarding the amount of school fees parents must pay should not be altered by the magistrates court as doing so would render the provisions of the South African Schools Act unworkable because magistrates consider all the liabilities of parents in order to determine the amount of instalment towards school fees. Furthermore, the decision by a SGB should be taken on judicial review through an application to court. The researcher provided a comprehensive response on 20 June 2018.	20 June 2018
	On 26 July 2018 the researcher requested the court manager at the Pretoria magistrates' court to provide her with statistics on the number of administration orders that were issued by the court over the past three years as well as statistics on the number of persons currently under administration. The court manager provided the researcher with the information on 23 August 2018.	23 August 2018
	The researcher received a request from a representative of First National Bank to be included on the stakeholder distribution list for project 127.	01 August 2018
	The researcher met with ISM: Business Application Support to discuss the proposed provisions relating to the MojaPay Application and the Justice Administered Fund. The researcher provided ISM: Business Application Support with the revised proposed provisions for their consideration and comment on 28 September 2018. The researcher received comments on 11 October 2018.	07 September 2018. 28 September and 11 October 2018

	The researcher accompanied Ms Engela Steyn to a meeting with Adv Neukircher SC and Adv Mentz at Circle Chambers in Brooklyn. The purpose of the meeting was to discuss what the Department intends to do to curtail the abuses within the administration order regime as the Department had to file an Explanatory Affidavit in this regard in the Anglo American Platinum case. The researcher briefed the meeting on the purpose and status of the administration order investigation, the Commission's processes and the different options to deal with the problem. The researcher provided the Office of the Chief Litigation Officer with a written input on the Commission's working methodology, the purpose of the administration order investigation and the possible options for law reform being considered.	03 October 2018 19 October 2019
	Ms Kalay Pillay, Ms Engela Steyn and the researcher met with the legal team of Anglo American Platinum to discuss their concerns with regard to the administration order regime.	03 October 2018
	Baker and McKenzie Attorneys provided the researcher with written proposals for law reform. The researcher had a working session with them to thrash out some of the issues that required further discussion.	04 December 2018
Project 141: Medico-legal Claims **Ms Ronel van Zyl**	Met with the DG of DoJ&CD, the DDG: Legislative Development and the relevant state law adviser on the State Liability Amendment Bill.	05 April 2018
	Met with trade advisers from the French Trade Commission Business France on the medico-legal environment in South Africa.	07 June 2018
	Met with the DEO and a director of Natmed Financial on Issue Paper 33.	13 June 2018
	Met with the CEO of Natmed Financial and attorneys from Norton Rose Fulbright on medico-legal litigation in the Eastern Cape.	24 August 2018
	Met with members of the Young Professional Development Programme for 2018 (established by the Black Management Forum) on medico-legal claims in Gauteng.	26 September 2018

	Participated in and did a presentation on Issue Paper 33 at a workshop on the Healthcare Crisis hosted by the School of Clinical Medicine, Wits University.	26 October 2018
	Attended seminar on Health Systems Innovation for Universal Health Coverage hosted by the Department of Science and Technology.	26 February 2019
	Travelled to London, the United Kingdom as part of a South African delegation to attend the Prosperity Fund Better Health Programme's co-learning exchange visit. Attended meetings with and presentations by the following UK institutions during the co-learning exchange visit: • Resources, Programmes and Co-ordination, National Health Service (NHS) Improvement • Patient Safety, NHS Improvement • Global Public Health, Public Health England • Education & Leadership Development, Health Education England • Care Quality Commission • NHS Resolution • Parliamentary and Health Service Ombudsman • National Institute for Health and Care Excellence • Global Health and Development Group • Health Safety Investigation Branch • Better Health Programme, Public Health England • Action Against Medical Accidents • Patient Safety Learning Clyde and Company Law Firm (one of the law firms contracted by NHS Resolution).	05 to 08 March 2019
	General enquiries regarding medico-legal litigation.	Throughout the reporting period

Pre-investigation into the incorporation of the UN Convention on the Rights of People with Disabilities into domestic law: **Ms Tania Prinsloo**	During October 2018, Ms Prinsloo attended meetings with Departments that responded positively to the meeting requests sent out during September 2018.	October 2018
	The SALRC was invited to attend a Workshop on the Recommendations for the Systematic Measurement of Discrimination to be held on 19 September 2018 by the Chief Directorate Social Justice and Participatory Democracy, Constitutional Development Branch, Department of Justice and Constitutional Development. This workshop related to the method of gathering information for the implementation of the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance.	19 September 2018
	On 3 October 2018, Ms Prinsloo met with, as a follow-up to that workshop, Ms. Danaline Franzman Chief Director and staff of that office to ascertain the place of disability in the National Action Plan to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance in relation to the effective management of disability issues. On 3 October 2018 Ms Prinsloo also met with the Office of the Director: Promotion of the Rights of Vulnerable Groups Femicide, Domestic Violence and Persons with Disabilities, Dr. Praveena Sukhraj-Ely at the DOJ&CD to discuss the need for law reform in the disability area. On 3 October 2018 Ms. Prinsloo further met with Ms N Stemela Chief Director: Disabilities, Youth and Children and Ms N Monama, Deputy Director: Disability Management of the Department of Public Works to discuss disability issues in the building environment.	03 October 2018
	The interview with Department of Science and Technology took place on 5 October 2018 to ascertain the involvement of that Department in the disability issue.	05 October 2018
	A further meeting took place on 15 October 2018 with the DSD: Social Development Chief Director: Advocacy and Mainstreaming, Rights of Persons with Disabilities, National Disability Rights Machinery Secretariat. This meeting provided background information on how the official response to issues of disability is structured.	15 October 2018

	Ms. Prinsloo was further invited to attend the National Disability Rights Machinery (NDRM) FOSAD JCPS and G&A Disability Rights Cluster meeting on 10 and 11 October 2018. This meeting discussed the establishment of a proposed working group in these clusters to deal with the effective management of disability issues in a coordinated fashion.	10 and 11 October 2018
	On 16 October 2018 the SALRC met with the Directorate: Inclusive Education at the Department of Basic Education. This was to ascertain the level of access to basic education by disabled learner.	16 October 2018
	A meeting took place between the SALRC and The Department of Transport (Directorate of Universal Design and Universal Access in Public Transport) on 22 October 2018. At this meeting accessibility in terms of the building environment, the relevant standards in terms of this access and the current situation on these matters were discussed.	22 October 2018
	In December 2018 the process of the SALRC was shared with the National Council of and for Persons with Disabilities.	December 2018

Internet

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

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

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ANNEXURE D : MEMBERS OF THE COMMISSION AND TERMS OF APPOINTMENT

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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

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
14	108	Computer related crime: Options for reform in respect of unauthorised access to computers, unauthorised modification of computer data and software applications and related procedural aspects	0 621 28710 5 August 1998
15	59	Islamic marriages and related matters	0 621 30089 6 May 2000
16	119	Uniform national legislation on the fencing of national roads	0 621 30188 4 July 2000
17	118	Domestic partnerships	0 621 31574 5 September 2001
18	122	Incapable adults	0 621 31797 7 November 2001
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

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
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
32	140	The right to know one's own biological origins	978-0-621-45561-8 20 May 2017
33	141	Medico-legal Claims	978-0-621-45644-8 17 July 2017
34	100	Review of aspects of Matrimonial Property Law	978-0-621-46810-6 28 August 2018

ANNEXURE B

DISCUSSION PAPERS PUBLISHED BY THE COMMISSION

Since March 1983, serial numbers have been assigned to all discussion papers (previously referred to as working papers), with the numbers running consecutively. Only discussion papers published since March 1983 are listed below.

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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
17	22	Review of the law of succession: Amendment and repeal of wills	23 September 1987
18	61	Enduring powers of attorney and the appointment of curators for mentally incapacitated persons	0 7970 1381 4 18 March 1988
19	22	Review of the law of succession: Disqualification from inheriting, substitution and the succession rights of adopted children	0 7970 1401 2 26 February 1988
20	60	Domicile	0 7970 1435 7 26 August 1988
21	62	The protection of a purchaser of securities	0 7970 1460 8 31 March 1988
22	50	Proposals for the reform of the Bills of Exchange Act	0 621 1198 9 X 19 December 1988
23	46	The giving of security by means of movable property	0 7970 1558 2 7 October 1988
24	52	Investigation into the legal consequences of sexual realignment and related matters	0 7970 1589 2 17 June 1994
25	58	Group and human rights	GPS 003 9160 10 March 1989
26	12	Amendment of section 7(3) of the Divorce Act, 1979	0 7970 1667 8 1 March 1989
27	69	The acquisition and loss of ownership of game	0 7970 1727 5 29 May 1989
28	71	The protection of child witnesses	0 7970 1826 3 12 June 1989
29	63	Insolvency: Requirements for and alternatives to sequestration	0 7970 1854 9 7 August 1989
30	63	Insolvency: Qualifications, appointment and discharge of trustees	0 7970 1954 5 10 November 1989
31	66	Reform of the South African law of bail	0 7970 2078 0 December 1990

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

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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
72	85	Aspects of the law relating to AIDS: Pre-employment HIV testing	0 621 27350 3 June 1997
73	85	Aspects of the law relating to AIDS: HIV/AIDS and discrimination in schools	0 621 27697 9 August 1997
74	90	Customary law: Customary marriages	0 621 27723 1 September 1997
75	111	Constitutional jurisdiction of magistrates' courts	0 621 27997 8 March 1998
76	90	Customary law: Conflicts of law	0 621 28007 0 April 1998
77	112	Sharing of pension benefits	0 621 28020 8 April 1998
78	105	Review of security legislation: The Interception and Monitoring Prohibition Act 127 of 1992	0 621 28847 0 November 1998
79	106	Juvenile justice	0 621 28851 9 November 1998
80	85	Aspects of the law relating to AIDS: The need for a statutory offence aimed at harmful HIV-related behaviour	0 621 28854 3 December 1998
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

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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
100	73	Simplification of criminal procedure: Out-of-court settlements in criminal cases	0 621 31591 5 October 2001
101	59	Islamic marriages and related matters	0 621 31794 2 December 2001
102	107	Sexual offences: Process and procedure	0 621 31809 4 December 2001
103	110	Review of the Child Care Act	0 621 31810 8 December 2001
104	118	Domestic partnerships	0 621 34421 4 August 2003
105	122	Assisted decision-making: Adults with impaired decision-making capacity	0 621 35014 1 January 2004
106	121	Consolidated legislation pertaining to international co-operation in civil matters	0 621 35115 6 June 2004
107	123	Protected disclosures	0 621 35116 4 June 2004
108	130	Stalking	0 621 35379 5 September 2004
109	124	Privacy and data protection	0 621 36326 X October 2005
110	134	Administration of estates	0 621 36328 6 October 2005
111	131	Trafficking in persons	0 621 36526 2 March 2006
112	25	Statutory law revision: Review of the Interpretation Act 33 of 1957	0 621 36904 7 September 2006
113	126	Review of the law of evidence: Hearsay evidence and relevance	978 0 621 37675 3 March 2008

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
114	25	Statutory Law Revision: Legislation administered by the Department of Transport	978 0 621 37829 0 June 2008
115	25	Statutory Law Revision: Legislation administered by the Department of Housing	978 0 621 38319 5 November 2008
1/2009	107	Sexual Offences: Adult Prostitution	978 0 621 38498 7 May 2009
116	25	Statutory Law Revision: Legislation administered by the Department of Energy	978 0 621 39655 3 August 2010
117	25	Statutory Law Revision: Legislation administered by the Department of Labour	978 0 621 39656 0 August 2010
118	25	Statutory Law Revision: Legislation administered by the Department of Rural Development and Land Reform	978 0 621 39657 7 August 2010
119	25	Statutory Law Revision: Legislation administered by National Treasury – Legislation other than tax legislation	978 0 621 39738 3 October 2010
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
125	25	Discussion Paper 125 – Statutory Law Revision: Review of legislation administered by the Department of Basic Education	978 0 621 40077 9 May 2011
126	125	Discussion Paper 126 – Prescription Periods	978 0 621 40078 6 July 2011
127	25	Discussion Paper 127 – Statutory Law Revision: Review of legislation administered by the Department of Tourism	978 0 621 40469 2 October 2011
128	25	Discussion Paper 128 – Statutory Law Revision: Review of legislation administered by the Department of International Relations and Cooperation	978 0 621 40470 8 October 2011
129	25	Discussion Paper 129 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on the legal professions, courts and institutions, civil procedure and evidence, substantive criminal law, substantive civil law, wills, estates and insolvency, constitutional and political legislation]	978 0 621 40490 6 October 2011
130	25	Discussion Paper 130 – Statutory Law Revision: Review of legislation administered by the Department of Justice and Constitutional Development [Legislation on family law and marriage]	978 0 621 40491 3 December 2011
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

Serial number of discussion paper	Project number	Title of investigation	ISBN Publication date
135	137	The review of the expungement of certain criminal records	978-0-621-43685-3 30 May 2015
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
142	25	Statutory Law Revision: Review of legislation administered by the Department of Public Service and Administration (DPSA)	978-0-621-44742-9 August 2016
143	25	Statutory Law Revision: Review of legislation administered by the Department of Social Development	978-0-621-44967-9 17 September 2016
144	25	Statutory Law Revision: Review of legislation administered by the Department of Trade and Industry	978-0-621-45003-3 31 October 2016
145	25	Statutory Law Revision: Review of legislation administered by the Department of Health	978-0-621-45666-0 2 August 2017
146	25	Statutory Law Revision: Review of legislation administered by the Department of Police	978-0-621-45882-4 June 2017
147	125	Harmonisation of existing laws providing for different Prescription Periods	978-0-621-46012-4 15 February 2018

ANNEXURE C

INVESTIGATIONS INCLUDED IN THE COMMISSION'S PROGRAMME SINCE ITS ESTABLISHMENT

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

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

Project number	Title	Year of report	Reference number of published report	Result
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.
24	Investigation into the courts' powers of review of administrative acts			
	Report	1992	ISBN 0 621 15356 7	See Project 115
	Supplementary report	1994	Not published	See Project 115
25	Statute law: The establishment of a permanently simplified, coherent and generally accessible statute book			
	Repeal of Laws Act	1980	Not published	Repeal of Laws Act 94 of 1981 enacted.
	Investigation into certain aspects of the Prescription Act 68 of 1969	1983	Not published	Prescription Amendment Act 11 of 1984 enacted.
	Investigation into further aspects of the Prescription Act 68 of 1969	1984	Not published	No legislation recommended.
	Repeal of the Black Administration Act, 1927	2004	ISBN 0 621 35472 4 RP 213/2004	Repeal of the Black Administration Act and Amendment of Certain Laws Act 28 of 2005 enacted.
	Statutory Law Revision: Redundancy, obsoleteness and constitutionality of legislation			See Chapter 3
	Legislation administered by the Department of Transport	2009	ISBN 0 621 40020 5	Transport Laws Repeal Act 10 of 2010 enacted.

Project number	Title	Year of report	Reference number of published report	Result
	Legislation administered by the Department of Energy	2011	Posted on SALRC website April 2012 ISBN 978-0-621-41666-4	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	Posted on SALRC website April 2012 ISBN 978-0-621-41667-1	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 Rural Development and Land Reform
	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	Posted on SALRC website May 2016 ISBN 978-0-621-47449-7	Under consideration by the Department of International Relations and Cooperation
	Legislation administered by the Department of Tourism	2015	Not published	Recommendations regarding legislation not implemented. A new Tourism Act 3 of 2014 enacted
	Legislation administered by the Department of Communications	2016	To be published	The Department of Telecommunications and Postal Services has responded that it will amend relevant legislation.
	Legislation administered by the Department of Home Affairs	2016	To be published	See Chapter 3

Project number	Title	Year of report	Reference number of published report	Result
	Legislation administered by the Department of Justice and Constitutional Development-Report (3)	2016	To be published	Under consideration by the Department of Justice and Constitutional Development
	Legislation administered by the Department of Trade and Industry	2017	To be published	Under consideration by the Department of Trade and Industry
	Legislation administered by the Department of Justice and Constitutional Development	2018	To be published	
	Legislation administered by the Department of Public Service and Administration	2018	ISBN 978-0-621-445916-6	
	Legislation administered by the Department of Social Development	2019	SBN 978-0-621-461138	
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.

Project number	Title	Year of report	Reference number of published report	Result
35	Negligent use of fire-arms	1978	Not published	No legislation recommended.
36	Investigation into delictual liability in cases of misrepresentation	1983	Not published	No legislation recommended.
37	Review of preferent claims in insolvency	1984	ISBN 0 621 090840 X	Recommendations not implemented – see Project 63.
38	Investigation into the legal position of illegitimate children	1985	ISBN 0 621 10205 9	Children's Status Act 82 of 1987 enacted, since repealed and re-enacted in the Children's Act 38 of 2005.
39	Investigation into the legal consequences of suspensive conditions in contracts of sale	1985	ISBN 0 621 11350 6	No legislation recommended.
40	Evaluation of the effect of the 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.
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.

Project number	Title	Year of report	Reference number of published report	Result
55	Removal of certain restrictions in respect of land	1984	Not published	No legislation recommended.
56	Submission of a question of law to the Appellate Division of the Supreme Court relating to the calculation of finance charges under the Limitation and Disclosure of Finance Charges Act 73 of 1968	1976	Not published	*Ex parte Minister of Justice* 1978 2 SA 572 (A)
57	Anton Piller type of orders	1987	Not published	Recommendations not implemented.
58	Group and human rights			
	Interim report	1991	Report: ISBN 0 621 14128 3 Summary: ISBN 0 621 14127 5	Constitution of the Republic of South Africa Act 200 of 1993 enacted, since repealed. Constitution of the Republic of South Africa, 1996 enacted.
	Final report	1994	RP 66/1995 ISBN 0 621 16727 4	Made available to the Constitutional Assembly.
59	Islamic marriages and related matters	2003	RP 210/2003 ISBN 0 621 34989 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 2003.
60	Domicile	1991	ISBN 0 621 14255 7	Domicile Act 3 of 1992 enacted
61	Enduring powers of attorney and the appointment of curators for mentally incapacitated persons	1988	ISBN 0 621 12107 X	Mentally Ill Persons' Legal Interests Amendment Act 108 of 1990 enacted.
62	The protection of a purchaser of shares			
	Report	1993	ISBN 0 621 16287 6	Recommendations not implemented.
	Supplementary report on 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
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.

Project number	Title	Year of report	Reference number of published report	Result
70	Limitation of civil liability of professional persons	-	-	Struck off
71	The protection of child witnesses	1991	ISBN 0 621 14139 9	Criminal Law Amendment Act 135 of 1991 enacted.
72	The alienation of personal servitudes	-	-	Struck off
73	The simplification of criminal procedure			
	First interim report: Appeal procedures	1994	-	Recommendations not implemented.
	Second interim report: The simplification of criminal procedure	1995	RP 70/1996 ISBN 0 621 17405 X	Criminal Procedure Amendment Act 86 of 1996 enacted.
	Third interim report: The right of the Director of Public Prosecutions to appeal on questions of fact	2000	RP 58/2001 ISBN 0 621 30678 9	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in December 2000.
	Fourth interim report: Sentence agreements	2001	RP 120/2001 ISBN 0 621 31452 8	Criminal Procedure Second Amendment Act 62 of 2001 enacted.
	Fifth interim report: A more inquisitorial approach to criminal procedure	2002	RP 219/2002 ISBN 0 621 33510 X	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002.
	Final report: Out-of-court settlements in criminal cases	2002	RP 218/2002 ISBN 0 621 33511 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
74	Debt collecting			
	Interim report on imprisonment for debt	1994	RP 199/1995 ISBN 0 621 16956 0	Magistrates' Courts Amendment Act 81 of 1997 enacted.
	Final report	1995	RP 198/1995 ISBN 0 621 16960 9	Debt Collectors Act 114 of 1998 enacted, since repealed Act 81 of 1997 enacted.
75	Bribery	1991	ISBN 0 662 15184 43	Corruption Act 94 of 1992 enacted, since repealed.
76	Jewish divorces	1994	RP 56/1995 ISBN 0 621 16707 X	Divorce Amendment Act 95 of 1996 enacted.

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

Project number	Title	Year of report	Reference number of published report	Result
89	Declaration and detention of persons as State patients in terms of the Criminal Procedure Act, 1977, and the release of such persons in terms of the Mental Health Act, 1973, including the onus of proof regarding the mental condition of an accused or convicted person	1995	RP 100/1996 ISBN 0 621 17494 7	Criminal Matters Amendment Act 68 of 1998 enacted.
90	Customary law			
	Customary marriages	1998	RP 170/1998 ISBN 0 621 28755 5	Recognition of Customary Marriages Act 120 of 1998 enacted.
	Conflicts of law	1999	RP 81/2000 ISBN 0 621 30061 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in September 1999.
	Traditional courts and the judicial function of traditional leaders	2003	RP 209/2003 ISBN 0 621 34988 7	Traditional Courts Bill [Bill 15 – 2008] introduced into Parliament on 2 April 2008, reintroduced into Parliament on 7 July 2009.
	Customary law of succession	2004	ISBN 0 621 38482 6	Reform of Customary Law of Succession and Regulation of Related Matters Act 11 of 2009 enacted. The Act commenced on 20 September 2010.
91	The review of the offences created by sections 36 and 37 of the General Law Amendment Act 62 of 1955, and section 1 of Act 50 of 1956 and related matters.	-	-	Struck off
92	The re-evaluation of the offence 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

Project number	Title	Year of report	Reference number of published report	Result
94	Arbitration			
	International arbitration	1998	RP 30/1999 ISBN 0 621 28861 6	International Arbitration Act 15 of 2017 enacted
	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.
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

Project number	Title	Year of report	Reference number of published report	Result
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	-	-	See Chapter 3
	Review of the law of maintenance	-	-	See Chapter 3
101	The application of the Bill of Rights to the criminal law, the law of criminal procedure and sentencing	2001	RP 118/2001 ISBN 0 621 31451 X	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 2001.
102	The civil jurisdiction of courts	-	-	Struck off
103	Capping of claims against the Multilateral Motor Vehicle Accidents Fund	-	-	Struck off
104	Money laundering and related matters	1996	RP 31/1997 ISBN 0 621 17621 4	Financial Intelligence Centre Act 38 of 2001 enacted.
105	Review of security legislation			
	Monitoring and Interception Prohibition Act 127 of 1992	1999	RP 203/1999 ISBN 0 621 29897 2	Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 enacted.
	Terrorism	2002	RP 216/2002 ISBN 0 621 33513 5	Protection of Constitutional Democracy against Terrorism and Related Activities Act 33 of 2004 enacted.
106	Juvenile Justice	2000	RP 159/2000 ISBN 0 621 30228 7	Child Justice Act 75 of 2008 enacted.

Project number	Title	Year of report	Reference number of published report	Result
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	2015	RP 107B/2017 ISBN 978-0-621-42727-1	Report under consideration by the Department of Justice and Constitutional Development.
	Pornography and children	-	-	See Chapter 3
108	Computer-related crimes	-	-	Struck off
109	Review of the Marriage Act	2001	RP 117/2001 ISBN 0 621 31454 4	The Department of Home Affairs published Government *Gazette* Notice 13 of 2008 on 14 January 2008 to invite comment on the draft Marriage Amendment Bill of 2008. The Department of Home Affairs published Government *Gazette* Notice 149 of 2009 on 13 February 2009 to invite public comment on the draft Marriage Amendment Bill of 2009.
110	Review of the Child Care Act	2002	RP 17/2003 ISBN 0 621 33584 3	Children's Act 38 of 2005 and Children's Amendment Act 41 of 2007 enacted.
111	Jurisdiction of magistrates' courts in constitutional matters	1998	RP 80/2000 ISBN 0 621 30062 4	Recommendations not implemented.
112	Sharing of pension benefits	1999	RP 82/2000 ISBN 0 621 30060 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 1999.
113	Use of electronic equipment in court proceedings	-	-	Struck off – continued as part of Project 126
	Postponement of criminal cases via audio-visual link	2003	RP 211/2003 ISBN 0 621 34990 9	Criminal Procedure Amendment Act 65 of 2008 enacted.
114	Publication of divorce proceedings	2002	RP 217/2002 ISBN 0 621 33572 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002.

Project number	Title	Year of report	Reference number of published report	Result
115	Review of administrative law	1999	ISBN 0 621 29881 6	Promotion of Administrative Justice Act 3 of 2000 passed.
116	The carrying of firearms and other dangerous weapons	-	-	Struck off
117	The legal position of voluntary associations	-	-	Struck off
118	Domestic partnerships	2006	ISBN 0 621 37255 7	Civil Union Act 17 of 2006 enacted. Proposed Domestic Partnerships Bill under consideration by Department of Home Affairs.
119	Uniform national legislation on the fencing of national roads	-	-	Struck off
120	Section 63(3) of the Insurance Act 27 of 1943	-	-	Struck off
121	Consolidated legislation pertaining to international co-operation in civil matters	2006	ISBN 0 621 38480 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2008.
122	Assisted decision-making	-	-	See Chapter 3
123	Protected disclosures	2007	ISBN 0 621 38278 5	Protected Disclosures Amendment Act 5 of 2017
124	Privacy and data protection	2009	ISBN 0 621 38922 7	Protection of Personal Information Act 4 of 2013 enacted.
125	Prescription periods	-	-	See Chapter 3
126	Review of the law of evidence	2017	To be published	Report under consideration by the Department of Justice and Constitutional Development.
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	2017	To be published	Report under consideration by the Department of Justice and Constitutional Development.
138	The practice of *ukuthwala*	-	ISBN 0 621 46355 2	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
143	Maternity and Paternity Benefits for Self-Employed Workers	-	-	See Chapter 3
144	Enacting a Single Marriage Statute including measures against sham marriages	-	-	See Chapter 3
145	Investigation into a Model to Enforce Decisions of Minmec for Social Development	-	-	See Chapter 3
146	Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation	-	-	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
Judge JN Kollapen, Judge of the High Court	01/04/2016 to 18/07/2018 05/10/2018 to date
Vice-Chairpersons	
Judge President N James	28/09/1973 to 13/07/1977
Judge G Viljoen, Judge of Appeal	22/09/1977 to 27/09/1982
Judge H J O van Heerden, Judge of Appeal	30/09/1982 to 30/11/1988
Judge P J J Olivier, Judge of Appeal	01/12/1988 to 31/12/1998
Judge Y Mokgoro, Judge of the Constitutional Court	01/01/1999 to 02/11/2000
Judge M L Mailula, Judge of the High Court	01/01/2002 to 31/12/2006
Judge W L Seriti, Judge of the High Court	01/01/2007 to 31/12/2011
Judge JN Kollapen, Judge of the High Court	19/07/2013 to 31/03/2016
Mr IBW Lawrence, Attorney	05/10/2018 to date
Full-time members	
Mr G G Smit	01/01/1982 to 31/12/1995
Judge P J J Olivier	01/02/1986 to 31/03/1995
Prof R T Nhlapo	01/01/1996 to 30/09/2000
Prof I P Maithufi	26/03/2001 to 31/12/2006
Ms T Madonsela	01/01/2007 to 14/10/2009
Members	
Mr D J du P Geldenhuys	28/09/1973 to 31/10/1975
Mr C P Joubert SC	28/09/1973 to 20/08/1974
Mr J E Knoll	28/09/1973 to 31/12/1995
Mr D D van Niekerk SC	28/09/1973 to 31/01/1979
Prof A D J van Rensburg	28/09/1973 to 30/08/1982
Mr H J O van Heerden SC	30/09/1974 to 11/08/1976
Mr J C Ferreira SC	22/09/1975 to 31/10/1979
Mr M Bliss QC	07/10/1976 to 24/02/1977

Mr F H Grosskopf SC	01/07/1977 to 21/11/1980
Mr G G Smit	01/02/1979 to 01/01/1982
Mr P A J Kotzé	01/11/1979 to 30/10/1988
Mr P M Nienaber SC	14/06/1981 to 27/07/1982
Mr P J J Olivier SC	30/09/1982 to 01/12/1988
Prof J T Delport	30/09/1982 to 27/05/1987
Prof D J Joubert	21/12/1987 to 31/12/1995
Dr W G M van Zyl	01/11/1988 to 31/10/1991
Mr R P McLaren SC	24/07/1989 to 31/10/1990
Prof C R M Dlamini SC	08/05/1991 to 31/12/1995
Mr J A Venter	12/03/1992 to 31/12/1995
Judge Y Mokgoro	01/01/1996 to 31/12/1998
Mr J J Gauntlett SC	01/01/1996 to 31/12/2006
Mr P Mojapelo	01/01/1996 to 31/12/2001
Ms Z Seedat	01/01/1996 to 31/12/2006
Judge M L Mailula	01/01/1999 to 31/12/2001
Prof C E Hoexter	27/10/1999 to 31/12/2004
Judge C T Howie	03/11/2000 to 31/12/2006
Judge W L Seriti	01/01/2002 to 31/12/2006
Prof C Albertyn	01/01/2007 to 31/12/2011
Judge D Davis	01/01/2007 to 31/12/2011
Mr T Ngcukaitobi	01/01/2007 to 31/12/2011
Mr D Ntsebeza SC	01/01/2007 to 31/12/2011
Prof P J Schwikkard	01/01/2007 to 31/12/2011 12/08/2013 to 01/2014
Ms M Sello	01/01/2007 to 31/12/2011 12/08/2013 to 18/07/2018
Prof V Jaichand	12/08/2013 to 18/07/2018
Mr IBW Lawrence	12/08/2013 to 18/07/2018
Ms NT Siwendu	12/08/2013 to 18/07/2018
Prof AW Oguttu	02/01/2015 to 18/07/2018
Prof M Carnelley	02/01/2015 to 18/07/2018
Prof Mpfariseni Budeli-Nemakonde	05/10/2018 to date
Adv Johan De Waal, SC	05/10/2018 to date
Prof Wesahl Domingo	05/10/2018 to date
Prof Karthy Govender	05/10/2018 to date
Adv Hendrina Magaretha Meintjes, SC	05/10/2018 to date
Adv Anthea Platt, SC	05/10/2018 to date
Adv Leon Tshepo Sibeko, SC	05/10/2018 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 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 Environmental Affairs	Prof L Feris	University of Pretoria
	Prof L Kotze	North-West University
	Ms KO Lefenya	North-West University
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	North-West University

Project	Members	Organisation
Project 25 Legislation administered by the Department of Health	Prof V Jaichand (Project leader)	SALRC
	Prof P Andanda	University of the Witwatersrand
	Adv A Hassim	Section 27
	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 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
	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	Members	Organisation
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 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 94 ADR	Adv Anthea Platt SC	SALRC
	Judge President Dunstan Mlambo (Chairperson)	Judge President, Gauteng Division of the High Court of South Africa
	Judge Zukisa Tshiqi	Judge of Supreme Court of Appeal
	Judge Aubrey Ledwaba	Deputy Judge President, Gauteng Division of the High Court of South Africa
	Judge Cassim Sardiwalla	Judge of the High Court
	Mr John Brand	Attorney
	Prof David Butler	Emeritus Professor, US
	Adv Hendrik Kotze	Director, Nuvalaw
	Adv P Pretorius SC	Johannesburg Bar

Project	Members	Organisation
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
	Prof Wesahl Domingo (Project leader)	SALRC
	Adv F Bosman SC	Advocate of the High Court Former Chief Family Advocate
	Prof T Mosikatsana	University of the Witwatersrand
	Ms Neliswa Cekiso	Department of Social Development
	Professor Madeleen de Jong	UNISA
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 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	Members	Organisation
Project 107 Sexual offences Pornography and children	Prof AW Oguttu (Project Leader until 18 July 2018) Adv HM (Retha) Meintjes (SC) (Project Leader from 5 October 2018)	SALRC
	Mr I Chetty (until 25 January 2016) (ret)	KINSA (South Africa)
	Mr D Cull	Internet Service Providers Association
	Ms J van Niekerk (Chairperson)	Childline; Past President International Society for the Prevention of Child Abuse and Neglect
	Brigadier A Pienaar (ret)	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 125 Prescription Periods	Adv HJ De Waal SC	Commissioner of the SALRC Cape Bar Association
	Prof M Loubser	Professor *Emeritus:* University of Stellenbosch Cluver Markotter Attorneys
	Adv L Abrahams	Johannesburg Bar Association
	Mr M Cronje	Official of the SALRC (retired)
	Adv T Ngcukaitobi	Johannesburg Bar Association
	Adv H Ngomane	Johannesburg Bar Association
	Adv S Poswa-Lerotholi	Johannesburg Bar Association

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 N Mhlantla	Judge of the Eastern Cape High Court
	Prof T Pistorius	University of South Africa
Project 127 Review of administration orders	Judge J Kollapen (Project leader)	SALRC
	Prof Andrê Boraine	Dean of the Faculty of Law, University of Pretoria
	Mr Hein Viana	Magistrate Johannesburg Central Magistrates Court: Civil Section
	Prof Hermie Coetzee	Associate Professor Department of Mercantile Law, Faculty of Law, University of Pretoria
	Ms Lebogang Raborife-Nchabeleng	Magistrate: Morebeng,
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

Project	Members	Organisation
Project 142 Investigation into legal fees	Judge J Kollapen	Judge of the North Gauteng High Court
	Ms Rochelle Francis-Subbiah	Magistrate, Pretoria Magistrate's Court
	Dr Fawzia Cassim	Former Associate Professor, Department of Criminal and Civil Procedure UNISA
	Dr Willem Hendrik Gravett	Senior Lecturer University of Pretoria
	Mr Vela Mdaka	Regional Operations Execute: Legal Aid South Africa
	Advocate Thobeka Nkabinde	Office of the Chief Litigation Officer/ State Attorney
	Mr Raj Daya	Secretary of the Rules Board for the Courts of Law
	Ms Trudy Zeelie	Registrar and Taxing Master: Office of the Chief Justice
	Mr Morne Oosthuizen	Deputy Director, Development Policy Research Unit, University of Cape Town
Project 143 Maternity and Paternity Benefits for Self-employed Workers	Prof Mpfariseni Budeli-Nemakonde (Chairperson)	SALRC
	Ms Janine Louise Hicks	Lecturer University of KwaZulu-Natal, Project Leader
	Dr Meryl du Plessis	Senior Lecturer, School of Law, Wits University
	Ms Phumzile Xulu	Self-employment
	Adv Kgorohlo Moabelo	Department of Health
	Ms Dikeledi Moema	Department of Social Development
	Adv Kamraj Aniruhra	Commission for Gender Equality
	Ms Nomvula Makgotlho	Department of Small Business Development
	Ms Thembisile Mokoena	Department of Labour
Project 144 Enacting a Single Marriage Statute including measures against sham marriages	Project leader: Prof Marita Carnelley until 21 April 2018; Prof Ronald Thandabantu Nhlapo from 21 April to 10 Nov 2018; Prof Wesahl Domingo from 10 Nov 2018	Law Faculty, North West University Emeritus Professor of law & and former Senior Deputy Vice-Chancellor University of Cape Town Dean, Law School, University of the Witwatersrand
	Professor Ronald Thandabantu Nhlapo (Chairperson since 21 April 2018)	Emeritus Professor of law and former Senior Deputy Vice-Chancellor University of Cape Town

Project	Members	Organisation
	Ms Mothokoa Phumzile Mamashela	Emeritus senior researcher of the University of Kwa-Zulu Natal
	Mr Motseotsile Clement Marumoagae	Law School, University of the Witwatersrand
	Professor Elsje Bonthuys	Law School, University of the Witwatersrand
	Professor Christa Rautenbach	Law Faculty, North West University
	Professor Amanda Barratt	Law Faculty, University of Cape Town
	Judge of Appeal Mahomed Solomon Navsa since 22 August 2018	Supreme Court of Appeal
Project 145 Investigation into a Model to Enforce Decisions of Minmec for Social Development	Adv Tshepo Sibeko SC (Commissioner assigned to the project)	SALRC
	Prof Victoria Lynn Bronstein	Law School, University of the Witwatersrand
	Prof Ethel Denise Malherbe	Faculty of Law, University of the Western Cape
	Dr Tlogane Douglas Mailula	Faculty of Law, Unisa
	Prof Stuart Craig Woolman	Law School, University of the Witwatersrand
Project 146 Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation	Adv Tshepo Sibeko SC (Commissioner assigned to the project)	SALRC
	Prof Anél du Plessis	Faculty of Law, North-West University
	Prof Mbuzeni Mathenjwa	College of Law, Unisa
	Prof Jacobus Wilhelm (Jaap) de Visser	Community Law Centre/Dullar Omar Institute, University of the Western Cape
	Prof Nicolaas Christiaan Steytler	Community Law Centre/Dullar Omar Institute, University of the Western Cape

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
100	Family law and the law of persons • Care of and contact with minor children (including Family dispute Resolution) • Review of aspects of matrimonial property law • Review of the law of maintenance • Hindu marriages
107	Sexual offences • 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
143	Maternity and Paternity Benefits for Self-Employed Workers
144	Enacting a Single Marriage Statute including measures against sham marriages
145	Investigation into a Model to Enforce Decisions of Minmec for Social Development
146	Review of Regulatory, Compliance and Reporting Burden Imposed on Local Government by Legislation
147	Review of the laws regulating Funeral Parlours, Crematoria, Cemeteries and Related Services Industry

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 Com-mission, 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
15	Margaret Hewett (transl)	*Censura Forensis* Part I Book V by Simon van Leeuwen	ISBN 0 7970 2231 7

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
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
20	SALRC	Research proposal paper on maternity and paternity benefits for self-employed workers	Accessible on SA Law Reform Commission website

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