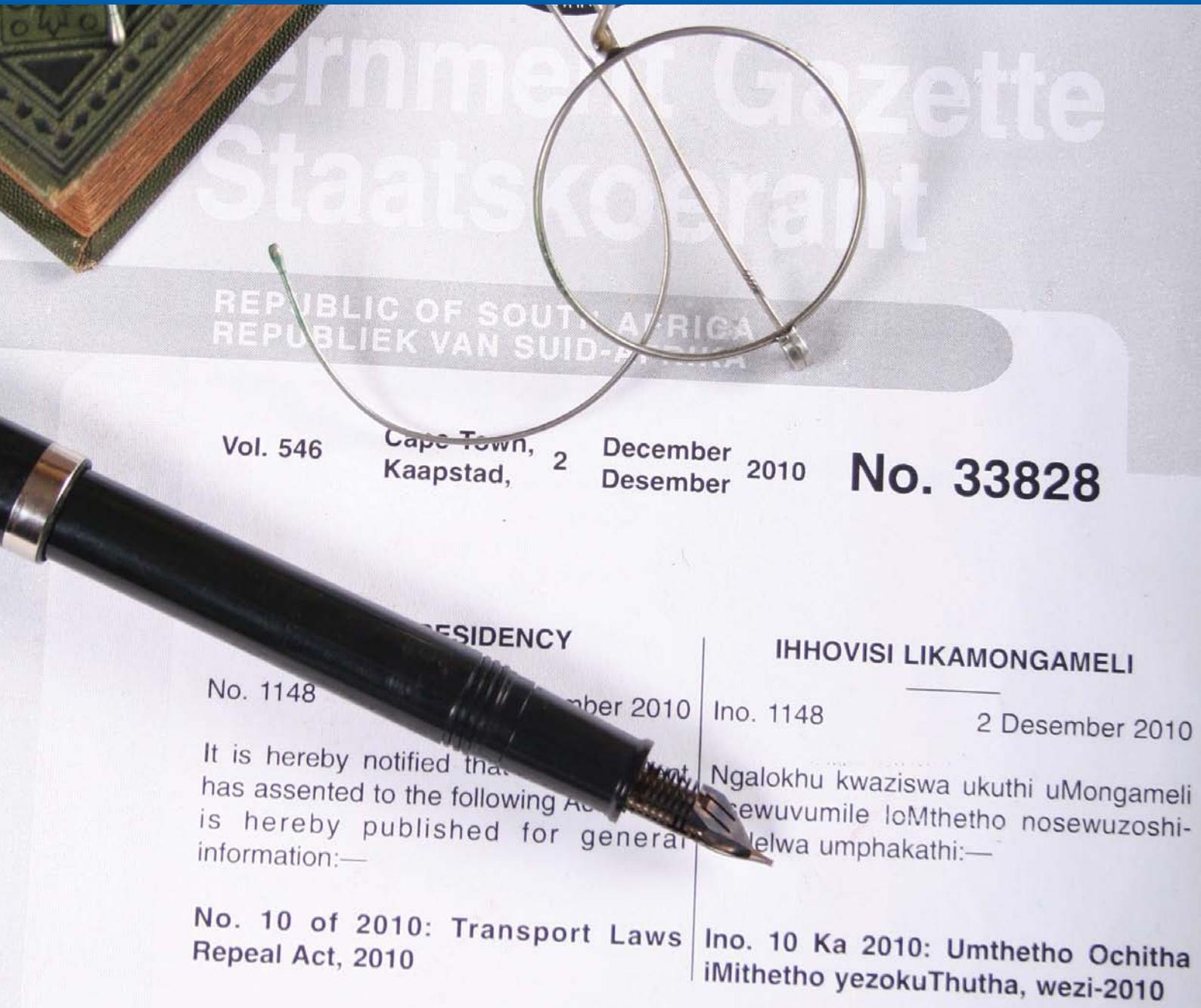


# SOUTH AFRICAN LAW REFORM COMMISSION

## THIRTY EIGHTH ANNUAL REPORT 2010/2011



Review the Past | Reform the Present | Anticipate the Future

**To Mr JT RADEBE MP**  
**Minister of Justice and Constitutional Development**

I have the honour to submit to you, in terms of section 7(2) of the South African Law Reform Commission Act 19 of 1973, the Commission's report on all its activities from 1 April 2010 to 31 March 2011.

Yours sincerely

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

**Madam Justice JY Mokgoro**  
Chairperson of the South African Law Reform Commission

## Gallery of Commissioners



**JUSTICE JY MOKGORO**

*Chairperson and retired Justice of  
the Constitutional Court*



**JUDGE WL SERITI**

*Vice-Chairperson and Judge of  
the Supreme Court of Appeal*



**PROF C ALBERTYN**

*Professor of Law  
University of the Witwatersrand*



**JUDGE DM DAVIS**

*Judge President of the  
Competition Appeal Court*



**ADV NT NGCUKAITOBI**

*Advocate of the High Court of  
South Africa*



**ADV DB NTSEBEZA SC**

*Advocate of the High Court of  
South Africa*



**PROF PJ SCHWIKKARD**

*Dean of Law  
University of Cape Town*



**ADV M SELLO**

*Advocate of the High Court of  
South Africa*

## ***Vision, mission and values of South African Law Reform Commission***

### **Vision**

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

### **Mission**

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

### **Values**

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

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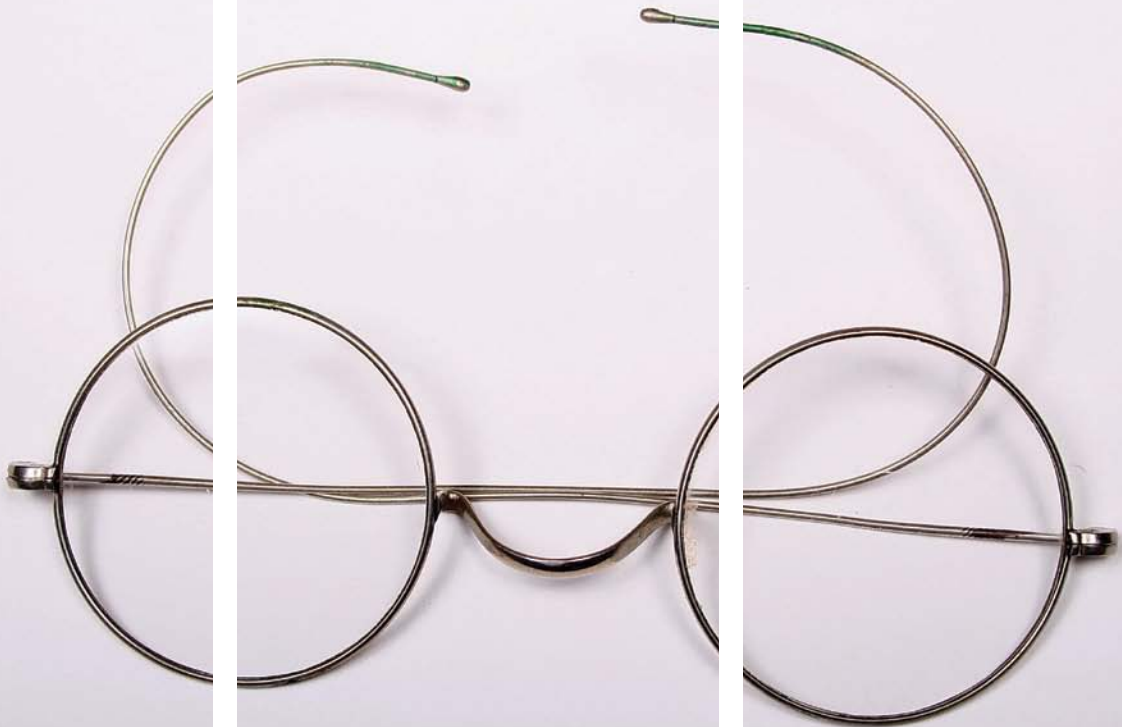
Review the Past

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# CHAPTER 1

## Overview



## CHAPTER 1: Overview

### Introduction

*Project 25 – The establishment of a permanently simplified, coherent and generally accessible statute book* is the most sizeable investigation undertaken by the South African Law Reform Commission (SALRC) since its establishment to date. The project has been running intermittently since 1981 and is set to continue for at least another five years, making it the longest running SALRC investigation ever. The current two phases of the investigation, the subproject on statutory law revision and the subproject on the review of the Interpretation Act 33 of 1957, involve 10 researchers – the greatest number of researchers ever working on a single project. The statutory law revision subproject will eventually see the release of more than 30 reports: another unprecedented event.

In a run-up to Project 25, the SALRC undertook a review of all pre-Union legislation as part of *Project 7 – Revision of pre-Union statutes* shortly after its establishment in 1973. This resulted in the repeal of approximately 1 200 ordinances and proclamations of the former Cape Colony, Colony of Natal, *Oranje Vrijstaat Republiek* and *Zuid-Afrikaansche Republiek*. In 1981 the SALRC finalised a report on the repeal of redundant and obsolete post-Union statutes as part of *Project 25 – The establishment of a permanently simplified, coherent and generally accessible statute book*. This report resulted in Parliament adopting the Repeal of Laws Act 94 of 1981, which repealed approximately 790 post-Union statutes.

In 2003 Cabinet approved that the Minister of Justice and Constitutional Development coordinates and mandates the SALRC to review provisions in the legislative framework that would result in discrimination as defined by section 9 of the Constitution. This section – also referred to as the equality clause – prohibits unfair discrimination on the basis of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

In 2004 the SALRC included an investigation aimed at the revision of statutory law in its law reform programme. This investigation, a subproject of Project 25, entails a review of all statutes from 1910 to date. While the emphasis in previous investigations was on identification of obsolete and redundant provisions for repeal, the emphasis in the current investigation is on compliance with section 9 of the Constitution. However, all redundant and obsolete provisions identified in the course of the current investigation will also be recommended for repeal.

With the advent of constitutional democracy in 1994, the legislation enacted prior to that year remained in force. This has led to a situation where numerous pre-1994 provisions are not aligned with the Constitution. An audit by the SALRC of national legislation remaining on the statute book since 1910 established that there are in the region of 2 800 individual statutes; comprising principal Acts, amendment Acts, private Acts, additional or supplementary Acts and partially repealed Acts. A substantial number of these Acts serve no useful purpose anymore, while many others still contain unconstitutional provisions that have already given rise to expensive and sometimes protracted litigation.



The methodology adopted in this investigation is to review the statute book by state Department. The SALRC identifies a Department, reviews the national legislation administered by that Department for constitutionality, redundancy and obsolescence, sets out the preliminary findings and proposals in a consultation paper and consults with the relevant Department to verify the SALRC's preliminary findings and proposals. The next step that the SALRC undertakes is the development of a discussion paper in respect of the legislation of each Department, and upon its approval by the SALRC, to publish it for general information and public comment. Finally, the SALRC develops a report in respect of each Department that reflects the SALRC's recommendations and comment received on the discussion paper, and that includes a draft Bill proposing amending and repealing legislation.

The report on the review of the legislation administered by the Department of Transport has been finalised and approved by the Commission and the Minister of Justice and Constitutional Development. The Transport Laws Repeal Act 10 of 2010, the legislation that flowed from the Transport report, was enacted in December 2010 and came into operation on 16 February 2011. Seven discussion papers have been published for general information and public comment and another four discussion papers will be published after approval thereof by the Commission at its next meeting. Five consultation papers have been submitted to the relevant line-function state departments for comment.

## Commission

The Commission appointed under section 3 of the South African Law Reform Commission Act 19 of 1973, with effect from 1 January 2007, continued its excellent work. The Commission is comprised of the following Commissioners appointed by the President:

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

The Full-time Commissioner resigned with effect from 15 October 2009 to take up her appointment as Public Protector of South Africa. As an interim arrangement until the Presidential appointment of a new Full-time Commissioner, the Chairperson of the SALRC, who has retired from the Constitutional Court, performs the functions of Full-time Commissioner.

## Completed reports receiving the attention of Parliament

1. Project 90 – Customary law: Traditional Courts: introduced into Parliament on 2 April 2008 as the Traditional Courts Bill [Bill 15 – 2008], re-introduced into Parliament on 7 July 2009.
2. Project 124 – Privacy and Data Protection: introduced into Parliament on 25 August 2009 as the Protection of Personal Information Bill [Bill 9 – 2009].
3. Project 130 – Stalking: introduced into Parliament on 5 February 2010 as the Protection from Harassment Bill [Bill 1 – 2010].
4. Project 131 – Trafficking in Persons: introduced into Parliament on 15 March 2010 as the Prevention and Combating of Trafficking in Persons Bill [Bill 7 – 2010].

## Completed reports receiving the attention of government departments

### *Department of Justice and Constitutional Development*

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

1. Project 47 – Unreasonable stipulations in contracts and the rectification of contracts: submitted to DOJCD in May 1998.
2. Project 59 – Islamic marriages: submitted to DOJCD in July 2003.
3. Project 63 – Review of the law of insolvency: submitted to DOJCD in February 2000.
4. Project 73 – Simplification of criminal procedure: Appeal by the Director of Public Prosecutions on questions of fact: submitted to DOJCD in December 2000.
5. Project 73 – Simplification of criminal procedure: Out of court settlements: submitted to DOJCD in August 2002.
6. Project 73 – Simplification of criminal procedure: A more inquisitorial approach to criminal procedure – police questioning, defence, disclosure, the role of judicial officers and judicial management of trials: submitted to DOJCD in August 2002.
7. Project 82 – Sentencing: A new sentencing framework: submitted to DOJCD in December 2000.
8. Project 88 – The recognition of class actions in South African Law: submitted to DOJCD in September 1998.
9. Project 90 – Customary law: Conflicts of law: submitted to DOJCD in September 1999.
10. Project 94 – Arbitration: Domestic arbitration: submitted to DOJCD in June 2001.
11. Project 94 – Arbitration: International arbitration: submitted to DOJCD in July 1998.
12. Project 96 – The Apportionment of Damages Act, 1956: submitted to DOJCD in July 2003.
13. Project 101 – The application of the Bill of Rights to criminal procedure, criminal law, the law of evidence and sentencing: submitted to DOJCD in June 2001.
14. Project 112 – Sharing of pension benefits: submitted to DOJCD in June 1999.
15. Project 114 – Publication of divorce proceedings: submitted to DOJCD in August 2002.
16. Project 121 – Consolidated legislation pertaining to international judicial co-operation in civil matters: submitted to DOJCD in April 2008.
17. Project 134 – Interim report on administration of estates: submitted to DOJCD in August 2008.
18. Project 123 – Protected disclosures: submitted to DOJCD in November 2008.

### ***Other government departments***

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

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

### **Reports awaiting approval for publication**

The Commission approved the report on *Project 82 – Sentencing: A compensation scheme for victims of crime in South Africa* in April 2004. The report was submitted to the Minister for approval for publication again in November 2009. The publication of the report was discussed with the Deputy Minister of Justice and Constitutional Development at a meeting held on 10 May 2010.

### **The year under review**

This annual report covers the period from **1 April 2010 to 31 March 2011**. The Commission published the following documents in the year under review:

#### ***Issue papers***

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

All issue papers published by the Commission are listed in **Annexure A**.

#### ***Discussion papers***

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

1. *Discussion Paper 116 – Statutory Law Revision: Review of legislation administered by the Department of Energy* was published on 25 August 2010.
2. *Discussion Paper 117 – Statutory Law Revision: Review of legislation administered by the Department of Labour* was published on 23 August 2010.
3. *Discussion Paper 118 – Statutory Law Revision: Review of legislation administered by the Department of Rural Development and Land Reform* was published on 23 August 2010.
4. *Discussion Paper 119 – Statutory Law Revision: Review of legislation administered by National Treasury – Legislation*

*other than tax legislation* was published on 1 October 2010.

5. *Discussion Paper 120 – Statutory Law Revision: Review of legislation administered by the Department of Cooperative Governance and Traditional Affairs* was published on 8 December 2010.
6. *Discussion Paper 121 – Statutory Law Revision: Review of legislation administered by the Department of Public Works* was published on 23 February 2011.

All discussion papers published by the Commission are listed in **Annexure B**.

### **Reports**

The Minister approved publication of the *Report on Statutory Law Revision: Legislation administered by the Department of Transport* on 3 May 2010.

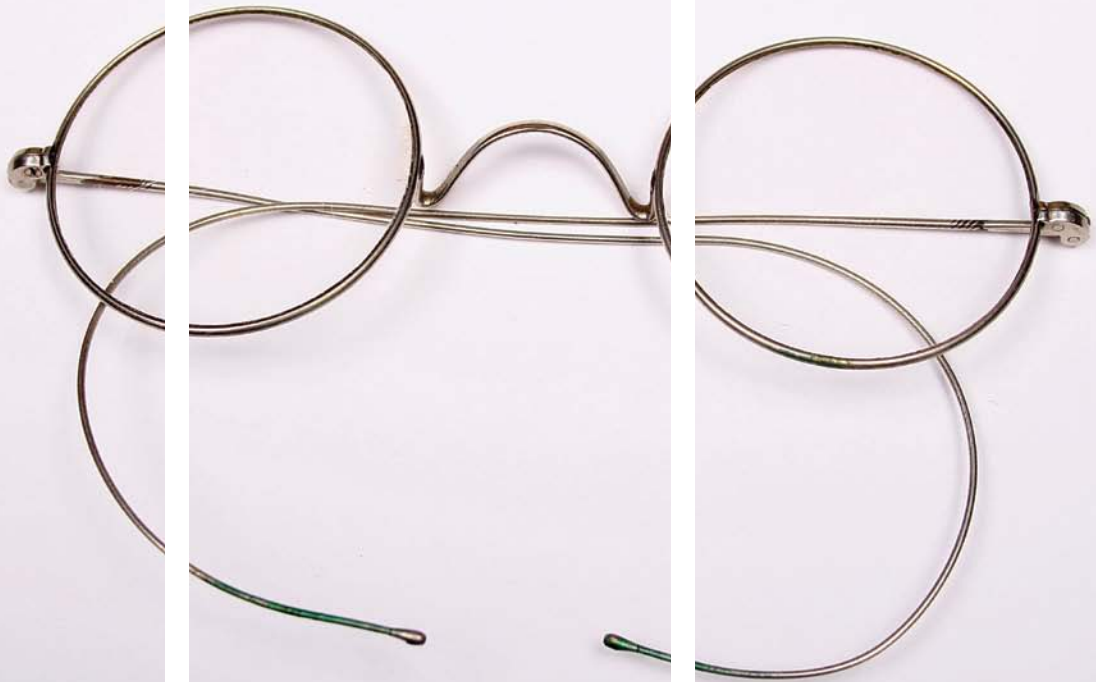
### **Investigations**

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

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

# CHAPTER 2

## Objects, Constitution and Functioning



## ***CHAPTER 2: Objects, Constitution and Functioning***

### **Establishment of the Commission**

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

### **Objects of the Commission**

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

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

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

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

### **Constitution of the Commission**

The members of the Commission are appointed by the President.

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

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

As indicated in Chapter 1, the President appointed a new Commission for a period of five years with effect from 1 January 2007.

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

## **Powers and duties of the Commission**

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

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

## **Committees**

Section 7A of the SALRC Act provides for the establishment of committees of the Commission. There are two categories: committees appointed by the Commission and consisting of members of the Commission only (such as the Working Committee), and committees consisting of members of the Commission and persons who are not members of the Commission. The latter are appointed by the Minister. The object of the second category of committees is to utilise the expertise of persons outside the Commission and to ensure direct community involvement in the activities of the Commission.

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

## **Working Committee**

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

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

## Advisory committees

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

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

## Project leaders

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

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

## Secretariat of the Commission

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

The post of Assistant Secretary to the Commission is vacant.

### *Research component*

The research component of the Secretariat consists of 18 State Law Advisers from diverse backgrounds. Their task is to conduct the necessary research under the guidance of project leaders (who are appointed by the Commission), to consult with interested parties, to compile issue papers, discussion papers and draft reports and to carry out other assignments of the Commission.

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



The research posts are filled by the following State Law Advisers:

Ms Dellene Clark  
 Mr Tienie Cronje  
 Ms Anna-Marie Havenga  
 Ms Ananda Louw  
 Mr Fanyana Mdumbe  
 Mr Linda Mngoma  
 Ms Maureen Moloi  
 Mr Tshepang Monare  
 Ms Carien Pienaar  
 Ms Tania Prinsloo (from 1 March 2011)  
 Ms Nerisha Singh  
 Ms Lowesa Stuurman  
 Mr Willie van Vuuren  
 Mr Pierre van Wyk  
 Ms Ronel van Zyl

Three posts of Senior State Law Adviser are vacant.

### ***Administrative component***

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

Assistant Director:	Ms Maryna Oosthuizen
Personal Assistant:	Ms Ronell Bronkhorst
Senior Secretary:	Ms Nomfundo Mhambi (from 1 July 2010)
Administrative Officer:	Mr Ajay Singh
Administrative Officer:	Mr Jacob Kabini
Librarian:	Ms Sindiswa Gule (until 30 November 2010)
Administration Clerk:	Ms Chantelle Krebs
Administration Clerk:	Ms Meisie Kruger
Administration Clerk:	Ms Edith Louw
Administration Clerk:	Ms Patricia Mashabela
Administration Clerk:	Mr Vusi Mavuso
Administration Clerk:	Ms Natalie Pillay
Administration Clerk:	Mr Renier Swart
Operator:	Mr Koos Mahlangu
Food Service Aid:	Ms Anna Mahlangu
Messenger:	Mr George Maseko

One post of Administrative Officer is vacant.

## Internal committees and task teams

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

### *Library Committee*

<b>Members</b>	<b>Purpose</b>	<b>Activities</b>
Mr Pierre van Wyk (chairperson)	The Library Committee is responsible for considering the acquisition of publications to ensure the relevance of the holdings of the SALRC library. The Committee reflects annually on the SALRC's standing orders for publications and subscriptions to electronic data bases. The Committee also liaises with the principal librarian at the DOJCD.	The Committee met on 28 May 2010 and 16 November 2010 to consider the renewal of its subscriptions and the acquisition of publications. The Committee also noted progress made on the updating of publications held by the Rules Board.  The committee compiled an advertisement for the vacant librarian post. The post was advertised in March 2011.
Mr Tienie Cronje		
Ms Maureen Moloji		
Ms Carien Pienaar		
Ms Maryna Oosthuizen		
Ms Sindiswa Gule (until 30 November 2010)		
Ms Annalie Woest (Rules Board)		

### *Occupational Health and Safety Committee*

<b>Members</b>	<b>Purpose</b>	<b>Activities</b>
Mr Linda Mngoma (chairperson)	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.	Two of the members of the Committee are involved in the Relocation Task Team.
Mr Willie van Vuuren		
Ms Dellene Clark		
Ms Edith Louw		
Mr George Maseko		

**Relocation Task Team**

<b>Members</b>	<b>Purpose</b>	<b>Activities</b>
<p>Ms Carien Pienaar Ms Nerisha Singh Mr Ajay Singh Ms Edith Louw (until 9 September 2010)</p> <p>Mr Michael Palumbo Mr Willie van Vuuren Ms Ananda Louw Mr Linda Mngoma Ms Maryna Oosthuizen (from 9 September 2010 to date)</p>	<p>The Relocation Task Team organised the SALRC's move from its previous to its temporary office premises.</p> <p>The Task Team liaises with DOJCD Facilities Management and the Department of Public Works on the procurement of a new lease agreement for permanent office premises for the SALRC.</p>	<p>On 2 July 2010 the Secretary received a notice of the termination of the lease of the SALRC office premises and was requested to vacate the SALRC's offices in the Middestad Centre by 31 July 2010. The vacation date was later extended to 31 August 2010. The SALRC moved to temporary accommodation in Die Meent Building at the end of August 2010. Most of its furniture, equipment and appliances, the registry and the content of the library are in storage at present.</p> <p>On 17 December 2010 the Department of Public Works (DPW) approved the offer of the landlord of the Spooral Park Building in Centurion for the procurement of a lease agreement on behalf of the SALRC. In February 2011 DOJCD approved the Commission's request for additional office accommodation. DOJCD approval of the SALRC's request was submitted to DPW on 16 February 2011 for approval.</p> <p>Several meetings were held during March 2011 between the Task Team, DOJCD, a representative of the owner of the building and DPW to discuss the building layout proposals.</p>

**Financing of the SALRC**

The SALRC's budget for the financial year 1 April 2010 to 31 March 2011 was R21 963 000, which is made up as follows:

- Personnel expenditure      R15 725 000
- Current expenditure        R5 878 000
- Capital expenditure        R360 000

## Programme

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

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

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

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

## Working methods

Research is done to determine authoritatively the existing legal position and to identify shortcomings or deficiencies that need to be rectified. Consultation takes place between the researcher, project leader, advisory committee (where one exists), the general public, stakeholders and persons with particular knowledge concerning the matter under investigation. Comparative studies are carried out in order to enable the Commission to benefit from experiences elsewhere in the world. The consultation process is facilitated by the Commission's policy (since 1996) of compiling issue papers as a first step. Issue papers outline the problems encountered with particular areas of the law and invite submissions on possible solutions. They are distributed as widely as possible for general information and comment and are in appropriate cases also supplemented by workshops. Responses to an issue paper and further intensive research form the basis for the preparation of a discussion paper.

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

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

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

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

## **Commission publications**

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

### ***Commission papers and committee papers***

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

### ***Issue papers***

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

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

### ***Discussion papers***

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

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

### **Reports**

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

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

### **Papers in the Commission's research series**

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

### **Obtaining Commission publications**

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

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

## **Commission and Committee meetings**

The Commission met during the reporting period on 1 August 2009, 10 October 2009, 13 March 2010, 14 August 2010 and 27 November 2010.

The Working Committee meeting scheduled for 18 June 2010 had to be postponed as the attendants did not constitute a quorum. The Working Committee met again on 17 November 2010.

The Advisory Committee assisting with the review of legislation administered by the Departments of Basic Education and Higher Education and Training met on 26 May 2010.

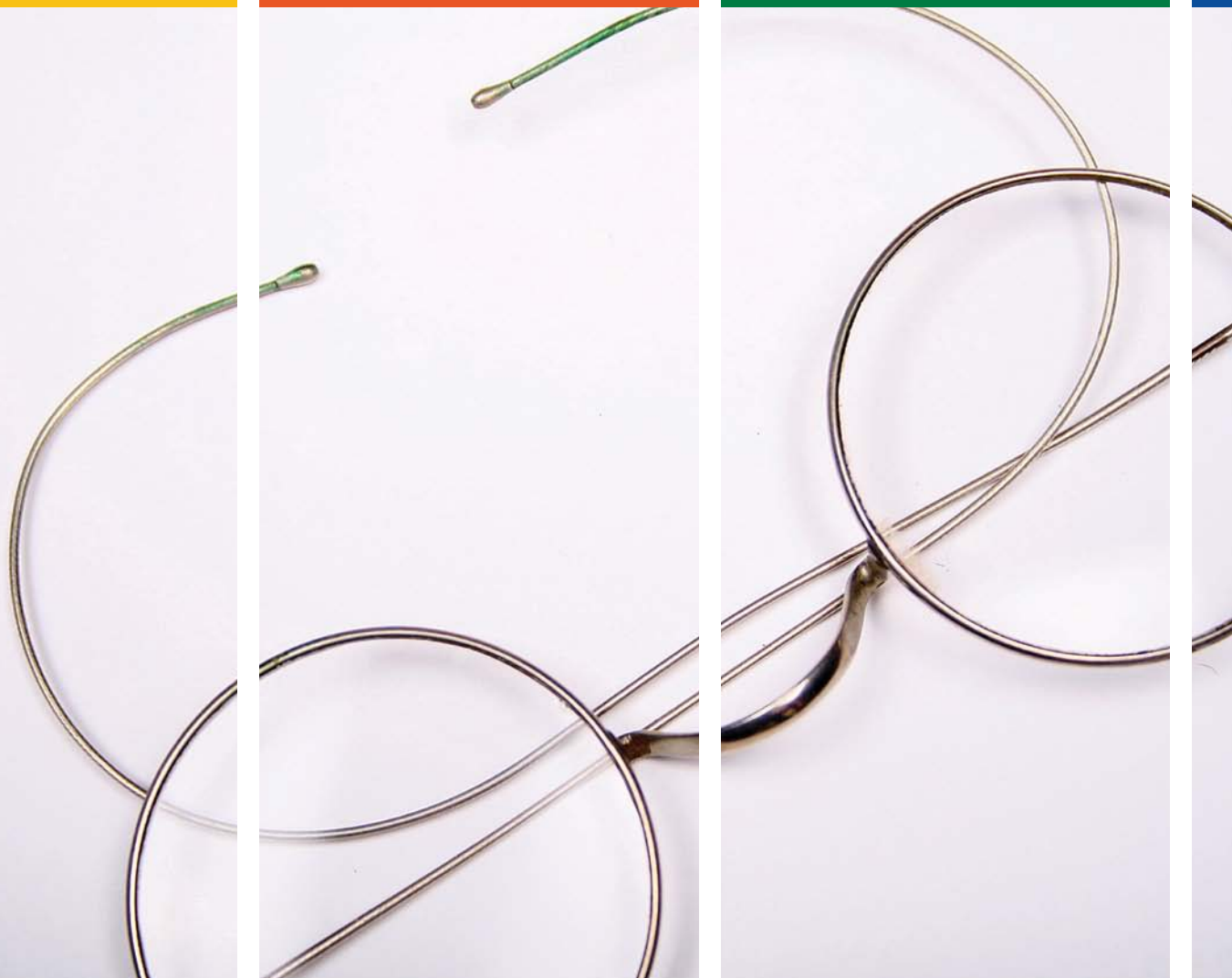
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# CHAPTER 3

## Progress Report



## CHAPTER 3: Progress Report

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

### Research programme of the SALRC

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

Project	Title	Responsible researcher
25	Statute law: The establishment of a permanently simplified, coherent and generally accessible statute book <ul style="list-style-type: none"> <li>• Statutory law revision: Redundancy, obsolescence and constitutionality of legislation</li> <li>• Review of the Interpretation Act</li> </ul>	Mr Pierre van Wyk Mr Fanyana Mdumbe Mr Linda Mngoma Ms Maureen Moloji Mr Tshepang Monare Ms Tania Prinsloo Ms Nerisha Singh Ms Lowesa Stuurman Mr Willie van Vuuren Ms Ronel van Zyl  Mr Pierre van Wyk
94	Arbitration <ul style="list-style-type: none"> <li>• Community dispute resolution structures</li> <li>• Family mediation</li> </ul>	Ms Maureen Moloji
100	Family law and the law of persons <ul style="list-style-type: none"> <li>• Custody of and access to minor children</li> <li>• Review of aspects of matrimonial property law</li> <li>• Hindu marriages</li> </ul>	Ms Ananda Louw Ms Anna-Marie Havenga Ms Maureen Moloji
107	Sexual offences: Adult prostitution	Ms Dellene Clark Ms Carien Pienaar
122	Assisted decision-making: Adults with impaired decision-making capacity	Ms Anna-Marie Havenga



Project	Title	Responsible researcher
125	Prescription periods	Mr Tshepang Monare
126	Review of the law of evidence <ul style="list-style-type: none"> <li>• Hearsay and relevance</li> <li>• Electronic evidence</li> </ul>	Mr Willie van Vuuren Ms Nerisha Singh
127	Review of administration orders	Mr Tienie Cronje Ms Lowesa Stuurman
133	Specific civil action in respect of consequential damages arising from hoaxes	Ms Ananda Louw
134	Administration of estates	Mr Tienie Cronje
135	Review of witchcraft legislation	To be assigned
136	Multi-disciplinary legal practices	Mr Tienie Cronje
137	Expungement of certain criminal records	Mr Willie van Vuuren
138	The practice of <i>ukuthwala</i>	Mr Fanyana Mdumbe

## Preliminary investigations

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

- Cyber crime
- Access to Justice
- Protection of journalistic sources
- Pornography in the mass media

The Commission is still awaiting the Minister's decision on whether to include investigations into the issue of violence against pregnant women and the protection of journalistic sources. The Commission approved an investigation into the expungement of certain criminal records on 13 March 2010. The Minister approved the inclusion of *Project 137 – Expungement of certain criminal records* in the SALRC's programme on 28 April 2010.

The Commission approved an investigation into the practice of *ukuthwala* on 14 August 2010. The Minister approved the inclusion of *Project 13 – The practice of ukuthwala* in the SALRC's programme on 2 December 2010.

## SALRC research programme and government priorities

The projects on the SALRC's programme are in line with the government's priorities as identified in the State of the Nation Address delivered by President Jacob Zuma on 11 February 2010, the outcomes envisaged for Government's Programme of Action and the strategic plan developed by the Department of Justice and Constitutional Development (DOJCD) for the period 2011 to 2016.

In the State of the Nation Address, the President reiterated the obligation upon government departments to 'work faster, harder and smarter'. The focus of *Project 25 – Statutory law revision* at present is constitutionality of legislation in view of section 9 of the Constitution, and repeal of redundant and obsolete provisions. The review will go a long way towards ensuring the constitutionality of the entire statute book. The review will, in addition, improve government's ability to deliver services by 'cleaning up' the statute book through the repeal of redundant and obsolete legislative provisions. In this manner the review will make a meaningful contribution towards making the state more efficient and responsive to the needs and aspirations of the people.

The President highlighted the need to ensure that women, children and persons with disabilities can access developmental opportunities. The Project 100 family law and the law of persons investigations into custody of and access to minor children; review of aspects of matrimonial property law; and investigation into Hindu marriages are aimed at assisting members of the community, especially women, to exercise their rights and protect their interests and the interests of their children. The investigation into assisted decision-making relating to adults with impaired decision-making capacity (Project 122) aims to provide for measures to deal with the shared problems faced by persons who need assistance with decision-making. The project aims to address the needs of especially older people, mentally disabled persons and other adults who need support in exercising their legal capacity.

The President highlighted government's commitment to five priorities, namely education, health, rural development and land reform, creating decent work, and fighting crime. He committed government to further its work to reduce serious and violent crimes, and to ensure that the justice system works efficiently. The efficiency of the criminal justice system will be enhanced by the review of the law of evidence (Project 126). The investigation into sexual offences focusing on adult prostitution (Project 107) is a critical step in finding ways to address a social problem which has strong links with organised crime on the one hand, and the exploitation of vulnerable groups on the other hand.

The review of the Interpretation Act 33 of 1957 (part of Project 25) to bring the Act in line with the principles of constitutional democracy and practices of interpretation used by Parliament and the courts since 1994, will enhance the efficiency of the justice system. The investigation into prescription periods (Project 125) is aimed at harmonising the provisions of existing laws on prescription periods. The differing provisions for prescription periods in statutes lead to legal uncertainty and unfair advantages to especially government institutions in some instances. Apart from possible constitutional challenges in the latter instance, uniform prescription periods will benefit all citizens as users of the justice system.

Government identified 12 outcomes for 2010 and beyond to achieve its programme of action. These outcomes are, amongst others, the following:

- Outcome 3: All people in South Africa are and feel safe.
- Outcome 12: An efficient, effective and development-oriented public service and an empowered, fair and inclusive citizenship.

As indicated previously under the discussion on the President's State of the Nation address, the review of the law of evidence (Project 126) will support the fight to reduce crime and corruption. Corruption and the high incidence of violent crime in South Africa contribute significantly to feelings of fear and anxiety suffered by many in the country.

Any measures to increase the successful prosecution and conviction of criminals to add to people's safety and to make them feel safer are to be welcomed.

The investigation into assisted decision-making relating to adults with impaired decision-making capacity (Project 122), and the investigation into custody of and access to minor children (Project 100), are important to support an efficient, effective and development-oriented public service and an empowered, fair and inclusive citizenship. Both these projects are investigating, amongst others, the provision of legal procedures and establishing government systems to increase protection and improve levels of service delivery provided to vulnerable and marginalised groups by the state institutions concerned, thus enhancing the quality of their citizenship.

The DOJCD's Strategic Plan sets out the Department's policy priorities, programmes and project plans for the current five-year planning cycle, as approved, within the scope of available resources, and indicates, among others, its commitment to the following:

- Ensuring that everyone in South Africa is and feels safe.
- Developing policies for protecting the rights of vulnerable groups and victims in our society.
- Administering deceased and insolvent estates efficiently.
- Promoting legislation and constitutional development to meet the needs of society.

As indicated above, the review of the law of evidence (Project 126) will support efforts towards ensuring that everyone in South Africa is and feels safe. Protecting the rights of vulnerable groups and victims in our society is a consideration in the investigation into adult prostitution, as women – especially women from poor communities – are usually the victims of exploitation in the sex industry. The investigation into assisted decision-making relating to adults with impaired decision-making capacity (Project 122) focuses on the needs of especially older people, mentally disabled persons and other adults who need support in exercising their legal capacity.

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

The investigation into the administration of estates (Project 134) will play a major role in improving the efficient administration of deceased and insolvent estates. The review of the entire South African statute book for constitutionality in view of section 9 of the Constitution (part of Project 25) will make a major contribution towards the promotion of constitutional development. The right to equality is one of the founding principles of the Bill of Rights as enshrined in the Constitution.

A significant number of the Bills promoted to Parliament by the DOJCD and other state departments flows from SALRC investigations. Bills currently before Parliament and Acts recently finalised that resulted from SALRC

investigations include the following:

- The Protection of Personal Information Bill [B9–2009] is being considered by the Portfolio Committee on Justice and Constitutional Development (Project 124 – Privacy and Data Protection).
- The Protection from Harassment Bill [B1–2010] is being considered by the Portfolio Committee on Justice and Constitutional Development (Project 130 – Stalking).
- The Prevention and Combating of Trafficking in Persons Bill [B7–2010] is being considered by the Portfolio Committee on Justice and Constitutional Development (Project 131 – Trafficking in Persons).
- The Transport Laws Repeal Bill [B19–2010] was introduced into Parliament on 19 July 2010. The Transport Laws Repeal Act 10 of 2010 was published on 2 December 2010 and came into operation on 16 February 2011 (Project 25 – Statutory Law Revision).

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

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

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

### ***Redundancy, obsolescence and constitutionality of legislation***

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

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

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

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

On 28 February 2011 a progress report on the investigation was forwarded to DOJCD for submission to the Minister of Justice and Constitutional Development (the Minister) with a view to informing Cabinet about the progress made in the investigation. The progress report was placed on the agenda for the Cabinet meeting to be held in April 2011.

Prof Cathi Albertyn developed a document for the SALRC setting out guidelines for the identification of legislative provisions that are obviously in conflict with section 9 of the Constitution. The guidelines are based on an analysis of Constitutional Court judgements. The tables of constitutional cases as per Prof Albertyn's report have been updated and made available to the researchers involved with Project 25. Future judgements of the Constitutional Court relating to the 'equality' clause in the Constitution will be added as and when they become available.

The Commission considered the status of Project 25 on 23 June 2007. The Commission noted that internal research capacity to conduct statutory law review was limited due to the fact that the majority of researchers are attending to other projects on the SALRC's programme. The Commission approved in principle the appointment of advisory committee members by the Minister to increase the Commission's research capacity in respect of fourteen national state departments that administer a high number of statutes. The departments at the time were the Departments of Agriculture, Communications, Defence, Education, Environmental Affairs and Tourism, Health, Home Affairs, Justice and Constitutional Development, Labour, Land Affairs, Minerals and Energy, National Treasury, Provincial and Local Government, and Trade and Industry.

The SALRC submitted a memorandum to DOJCD in September 2007 proposing the appointment of advisory committees by the Minister. The Minister appointed 112 advisory committee members on 31 July 2008. The first meetings of the advisory committees took place during October and November 2008.

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

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

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

Department	Progress
Agriculture, Forestry and Fisheries (DAFF)  Ms Ronel van Zyl	The statutes administered by DAFF are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. Due to the diversity of agricultural legislation and the lack of experts in this field, it was decided that the SALRC will develop the consultation paper in-house, using the research submitted by advisory committee members. The target date for submitting the consultation paper to DAFF for comment is October 2011.
Arts and Culture (DAC)  Ms Lowesa Stuurman	The statutes administered by DAC are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The methodology applied in the project has changed since the researcher, who resigned in January 2008, developed the first draft consultation paper on the matter. The draft consultation paper therefore needs to be augmented with additional research. The target date for submitting the consultation paper to DAC for comment is 30 September 2011.
Basic Education (DBE)  Mr Linda Mngoma	The statutes administered by DBE were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DBE on 4 June 2010 for comment. DBE comment was received on 26 October 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 29 April 2011.
Communications (DOC)  Ms Maureen Moloji	The statutes administered by DOC were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOC on 31 May 2010 for comment. DOC comment was received on 18 August and 19 October 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 29 April 2011.
Cooperative Governance and Traditional Affairs (DCGTA)  Mr Linda Mngoma	The statutes administered by DCGTA were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DCGTA on 28 July 2009 for comment. On 17 November 2010 the Commission approved the publication of the discussion paper. Discussion Paper 120 was published on 8 December 2010 for general information and public comment. The return date for comment was 31 March 2011. The target date for finalising the draft report for submission to the Commission for consideration is 30 November 2011.

Department	Progress
Defence and Military Veterans (DOD)  Ms Maureen Moloji	The statutes administered by DOD were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOD on 26 March 2010 for comment and discussed with DOD at a workshop held on 30 March 2010. DOD comment was received on 23 July 2010. The draft discussion paper was submitted to DOD on 23 August 2010 for comment. DOD comment was received on 20 October 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 29 April 2011.
Energy (DOE)  Mr Pierre van Wyk	The statutes administered by DOE were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOE on 2 October 2009 for comment. DOE comment was received on 25 February 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 116 was published on 25 August 2010 for general information and public comment. The return date for comment was 31 January 2011. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2011.
Environmental Affairs (DEA)  Mr Tshepang Monare	The statutes administered by DEA are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DEA for comment is 30 September 2011.
Health (DOH)  Ms Ronel van Zyl	The statutes administered by DOH are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DOH for comment is 30 November 2011.
Higher Education and Training (DHET)  Mr Linda Mngoma	The statutes administered by DHET were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DHET on 4 June 2010 for comment. DHET comment was received on 22 September 2010. From comments received from both DHET and the Department of Basic Education (DBE), it transpired that there are no substantial legislative proposals with regard to DHET legislation. In February 2011 it was decided that the limited research proposals emanating from this investigation should be incorporated into the DBE discussion paper. On 1 March 2011 the decision and the reasons for termination of the investigation were communicated to DHET. DHET accepted the proposal.
Home Affairs (DHA)  Ms Maureen Moloji	The statutes administered by DHA are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DHA for comment is 30 September 2011.

Department	Progress
Human Settlements (DHS)  Mr Linda Mngoma	<p>The statutes administered by DHS were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DHS on 7 May 2008 for comment. DHS comment was received on 17 June 2008. On 25 October 2010 the Commission approved the publication of the discussion paper. Discussion Paper 115 was published in November 2008 for general information and public comment. The return date for comments was 28 February 2009. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2011.</p>
International Relations and Cooperation (DIRCO)  Ms Nerisha Singh	<p>The statutes administered by DIRCO were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DIRCO on 23 February 2011 for comment with a return date of 31 May 2011. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 30 November 2011.</p>
Justice and Constitutional Development (DOJCD)  Mr Fanyana Mdumbe Mr Willie van Vuuren	<p>The statutes administered by DOJCD are being analysed to determine which are redundant, obsolete or unconstitutional. It was decided to develop separate discussion papers dealing with DOJCD legislation.</p> <p>Discussion Paper One deals with legislation pertaining to legal professions, courts and institutions, civil procedure and evidence, substantive criminal law, substantive civil law, wills, estates and insolvency and constitutional and political legislation. DOJCD Consultation Paper One was submitted to DOJCD on 21 June 2010 for comment. DOJCD comment was received on 12 January 2011. The target date for finalising draft Discussion Paper One for submission to the Commission for consideration is 30 September 2011.</p> <p>Discussion Paper Two deals with legislation pertaining to family law and marriage. DOJCD Consultation Paper Two was submitted to DOJCD for comment on 10 January 2011. DOJCD comment was received on 9 May 2011. The target date for finalising draft Discussion Paper Two for submission to the Commission for consideration is 30 September 2011.</p> <p>Discussion Paper Three deals with legislation pertaining to criminal procedure. The target date for submitting Consultation Paper Three to DOJCD for comment is 30 June 2011.</p> <p>Discussion Paper Four deals with the Transkei Penal Code. The Judge President of the Transkei High Court requested a review of the Transkei Penal Code and the Dangerous Weapons Act 71 of 1968, as far as they are still in force in the territory of the former Transkei. The Eastern Cape High Court declared in <i>The State v Thunzi and Another</i> that section 4 of the Dangerous Weapons Act, 1968 (Transkei) is unconstitutional.</p>



Department	Progress
	<p>On 2 December 2010 the Constitutional Court ordered in the <i>Thunzi</i> case that the Speaker of the National Assembly, the Chairperson of the National Council of Provinces and the Minister of JCD have to notify the Court by 8 November 2011 of the legislative steps taken to fulfil the undertaking to rationalise the laws that are the subject of the litigation. A task team consisting of DOJCD and SAPS officials was appointed to give effect to the <i>Thunzi</i> judgment. The target date for submitting Consultation Paper Four to DOJCD for comment is 30 September 2011.</p>
<p>Labour (DOL) Mr Linda Mngoma</p>	<p>The statutes administered by DOL were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOL on 1 August 2009 for comment. DOL comment was received on 6 October 2009. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 117 was published on 23 August 2010 for general information and public comment. The return date for comments was 30 November 2010. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2011.</p>
<p>Mineral Resources (DMR) Mr Pierre van Wyk</p>	<p>The statutes administered by DMR were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DMR on 12 January 2010 for comment. DMR comment was received on 30 August 2010. Comment on additional obsolete provisions identified in DMR legislation was received from DRDLR on 27 October 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 29 April 2011.</p>
<p>National Treasury Mr Fanyana Mdumbe</p>	<p><i>Non tax legislation</i></p> <p>The statutes administered by National Treasury that are not tax related were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to National Treasury in June 2008 for comment. National Treasury comment was received on 13 May 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 119 was published on 1 October 2010 for general information and public comment. The return date for comments was 31 January 2011. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2011.</p> <p><i>Tax legislation</i></p> <p>The statutes administered by National Treasury that are tax related are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to SARS and National Treasury for comment is 30 September 2011.</p>

Department	Progress
Public Works (DPW) Mr Linda Mngoma	The statutes administered by DPW were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DPW in October 2007 for comment. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 121 was published on 23 February 2011 for general information and public comment. The return date for comment is 31 May 2011. The target date for finalising the draft report for submission to the Commission for consideration is 30 November 2011.
Rural Development and Land Reform (DRDLR) Mr Linda Mngoma	The statutes administered by DRDLR were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DRDLR on 29 January 2010 for comment. DRDLR comments were received on 9 April 2010. On 14 August 2010 the Commission approved the publication of the discussion paper. Discussion Paper 118 was published on 23 August 2010 for general information and public comment. The return date for comment was 30 November 2010. The target date for finalising the draft report for submission to the Commission for consideration is 30 September 2011.
Social Development (DSD) Ms Tania Prinsloo	The statutes administered by DSD are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the draft consultation paper to the project leader for consideration and comment is 30 September 2011.
Tourism (DT) Mr Tshepang Monare	The statutes administered by DT were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DT on 28 January 2011 for comment. The return date for comments is 15 April 2011.
Trade and Industry (DTI) Mr Tshepang Monare	The statutes administered by DTI were analysed to determine which are redundant, obsolete or unconstitutional. A consultation paper with repeal and amendment proposals was submitted to DTI on 1 June 2010 for comment. In February 2011 the SALRC sent a letter to the DG of DTI as no comment had been received from DTI to date. The target date for submitting the draft discussion paper to the Commission for consideration is 30 September 2011.
Transport (DOT) Mr Fanyana Mdumbe	The statutes administered by DOT were analysed to determine which are redundant, obsolete or unconstitutional. The consultation paper with repeal and amendment proposals was submitted to DOT on 20 October 2006 for comment. DOT comment was received during March 2007. Discussion Paper 114 was published for general information and public comment on 29 May 2008. The closing date for comment was 31 August 2008.

Department	Progress
	The Commission approved the report on 10 October 2009. On 3 May 2010 the Minister approved the publication of the report and the referral thereof to DOT. The Transport Laws Repeal Bill [B19-2010] was introduced into Parliament on 19 July 2010. The President assented to the Transport Laws Repeal Act 10 of 2010 on 30 November 2010. The Act was published in Government Gazette No. 33828 of 2 December 2010. Proclamation 7 of 2011 published in Government Gazette No. 34030 of 16 February 2011 determined 16 February 2011 as the date on which the Act came into operation.
Water Affairs (DWA) Mr Tshepang Monare	The statutes administered by DWA are being analysed to determine which are redundant, obsolete or unconstitutional in order to develop a consultation paper with repeal and amendment proposals. The target date for submitting the consultation paper to DWA for comment is 30 June 2011.

### **Review of the Interpretation Act**

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

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

Due to his involvement in Project 25 the researcher had not been able to attend to this project for an extended period. The researcher has been developing the draft report since November 2010. On 8 November 2010 the researcher participated in a round table discussion with officials from National Treasury, the Financial Intelligence Centre, SARS, the Reserve Bank and the Financial Services Board on this review. The researcher provided an overview of the review of the Interpretation Act project and the proposals made in Discussion Paper 112. The participants undertook to submit comment in 2011. From February to March 2011 the researcher followed up with the Department of Public Service Administration (DPSA) and the Financial Services Board on progress with their awaited comments. National Treasury and DPSA were granted extension to comment until 6 June 2011 at their request. The target date for submitting the draft report to the project leader for consideration and comment is 31 August 2011. The target date for finalising the draft report for submission to the Commission for consideration is 30 November 2011.

## Project 94 – Arbitration

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

### ***Alternative dispute resolution***

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

Information regarding *Issue Paper 8 – Arbitration: Alternative dispute resolution* published in May 1997 appears in the 1998 annual report. *Discussion Paper 83 – Arbitration: Domestic arbitration* and *Discussion Paper 87 – Arbitration: Community dispute resolution structures* was submitted to the Minister of JCD at a media conference on 8 September 1999. The closing date for comment was extended to 30 November 1999. Information regarding Discussion Papers 83 and 87 appears in the 1999 annual report. The Commission has considered the draft report on several occasions and referred it for amendment. The target date for submitting the draft report to the Commission for consideration is 29 April 2011.

### ***Family mediation***

The field of family and divorce mediation developed in a highly segmented fashion as services in the past were provided along lines of race, culture and income level. Family advocates and the divorce courts do utilise mediation, but family advocates have been criticised for not making proper use of mediation procedures, while mediation in the divorce courts is a limited, irregular and informal part of the settlement process. Social workers in provincial institutions are also involved in this area and court referrals often result in intervention requests.

The advisory committee decided that a discussion paper on family mediation would be completed subject to the finalisation of the investigation into community dispute resolution structures. At this stage the researcher is giving priority to Hindu marriages and Project 25 investigations.

## Project 100 – Family law and the law of persons

The Commission approved on 23 June 2007 that the name of Project 128, 'Review of aspects of the law of divorce', be changed to 'Custody of and access to minor children' in accordance with its focus and that, because of possible mutual elements in Project 128 and Project 129 – Review of matrimonial property law, both investigations should be dealt with as subprojects under the Commission's existing broad investigation into family law and the law of persons (Project 100). The Commission also approved that the Minister be approached to appoint a joint advisory

committee for the two sub-projects.

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

The Commission approved on 9 September 2006 the inclusion of an investigation into the recognition of Hindu Marriages in the SALRC's programme. This investigation is conducted as part of *Project 100 – Family law and the law of persons*.

### ***Custody of and access to minor children***

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

The researcher allocated to this project left the SALRC at the end of April 2009 and the project was assigned to another researcher from 1 May 2009. The newly assigned researcher met with the advisory committee on 22 June 2009 to discuss the way forward. It was decided that the existing draft discussion paper would be published as an issue paper after it has been remodelled according to a framework approved at the meeting.

In addition to the investigation into those aspects of family mediation that were covered in the original document, the issue paper will also focus on the broader developments in family law in South Africa impacting on care and contact matters. The investigation will include family mediation in the informal sector and the viability of family courts. The object of the investigation is to develop a new integrated structure for the implementation of family law in South Africa with specific reference to care and contact issues. The target date for finalising the draft issue paper for submission to the Commission for consideration is 31 December 2011.

### ***Review of aspects of matrimonial property law***

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

The question whether sharing of pension benefits on divorce should be included in the investigation in view of the envisaged pending implementation of draft legislation dealing with this issue was resolved through consultation with DOJCD in January 2009. It was agreed that in view of the fact that DOJCD will not promote the Sharing of

Pension Benefits Bill / Divorce Amendment Bill (which emanated from a 1999 report of the Commission) in the near future, problems pertaining to the sharing of pension benefits on divorce would also be addressed in the review of matrimonial property law.

Preliminary research to develop an issue paper proceeds while the researcher allocated to the investigation is still involved in Project 122, which receives priority. The target date for submitting the draft issue paper to the advisory committee is June 2012.

### ***Hindu Marriages***

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

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

On 7 September 2009 the Minister of JCD approved the appointment of four advisory committee members to assist the researcher to fast-track the investigation. The advisory committee met on 23 November 2009 to decide on the way forward on this investigation. At this meeting the advisory committee identified a need for an additional committee member to enhance the capacity of the committee. The Minister appointed Advocate Devina Nadarajan Perumal as an advisory committee member on 12 January 2010. The target date for finalising the draft discussion paper for submission to the Commission for consideration is 30 September 2011.

### **Project 107 – Sexual offences: Adult prostitution**

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

The legal response to prostitution differs from society to society and over the course of time. Internationally, the topic of prostitution remains an emotive one and opinions on the legal response to prostitution are generally strongly polarised. Within the current totally criminalised setting, this is no different in South Africa. The researchers assigned to this project received in excess of 2 600 email submissions in addition to many handwritten and faxed submissions. To ensure full public participation in the investigation and afford all interested parties an opportunity to express their views, the SALRC is planning stakeholder specific meetings on a consultation paper, which will precede the report. Expert meetings on Sexual Offences: Adult Prostitution with government stakeholders and selected interest groups are planned for November 2011.

## **Project 122 – Assisted decision-making: Adults with impaired decision-making capacity**

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

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

An issue paper on this project was published at the end of 2001. A discussion paper was published for general information and comment in January 2004 and is discussed in the 2003/2004 annual report. An extensive draft Bill comprising about 150 clauses was developed after broad consultation. Consultation with the DOJCD policy unit and with the Chief Master of the High Court on policy issues took place during 2007. Flow charts of processes reflected in the draft Bill were prepared at the request of the Chief Master during 2008 to enable long-term planning for the envisaged implementation of the proposed legislation. Policy input on the draft Bill was received from DOJCD on 27 January 2009.

The finalisation of the SALRC's draft report and draft Bill on assisted decision-making was interrupted by a request from the South African Human Rights Commission in September 2009 that the report and draft Bill should take into

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

The matter is complicated by the fact that the South African government has not yet taken concrete steps to implement the CRPD in South Africa by way of general legislation. A South African interpretation of the relevant provisions of the CRPD is therefore not available. On the advice of the Department of International Relations and Cooperation, and to take the matter forward, the SALRC in January 2010 embarked on further research to establish a draft interpretation of those articles of the CRPD which are relevant to the SALRC's draft proposals. The interpretation will serve as a basis for amendments to the text of the proposed draft Bill with a view to ensure its compliance with the CRPD. The interpretation and the amended text of the draft Bill will be submitted for consultation to government and other stakeholders before work on the draft report is resumed.

Drafts of an interpretation of the relevant provisions of the CRPD were submitted to the project leader on 31 March 2010 and 31 May 2011. Additional research and work on the draft interpretation continued during June and July 2010. Working sessions with a project committee member to amend the draft Bill, supported by additional research done throughout, took place from July 2010 to March 2011. The researcher completed the review and amendment of the proposed draft Bill on Assisted Decision-making for compatibility with the CRPD in draft form in December 2010. Further research was conducted and amendments effected subsequent to consultation with an expert official from the Office of the Master of the High Court, Pretoria. The current target date for finalising the draft report and proposed draft Bill for submission to the Commission for consideration is 31 March 2012.

## **Project 125 – Prescription periods**

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

*Issue Paper 23 – Prescription periods* was published for general information and comment in August 2003 and is discussed in the 2003/2004 annual report. The researcher involved in the preparation of the draft discussion paper was transferred to another department, and the project was assigned to a newly appointed researcher in June 2008. The researcher submitted the first draft of the discussion paper to the project leader in July 2009. After incorporating comments from the project leader and doing additional research to address concerns raised by the project leader, the researcher submitted additional drafts of the discussion paper to the project leader in October 2009 and February 2010. The target date for finalising the draft discussion paper for submission to the Commission is 29 April 2011.



## Project 126 – Review of the law of evidence

In 2001 the Commission's advisory committee dealing with the simplification of criminal procedure made a proposal for a review of the law of evidence with a view to simplifying this area of the law and aligning it with technological developments. The Commission endorsed the decision of the advisory committee and recommended the inclusion of the project in the SALRC's programme. The Minister approved the inclusion of an investigation to review the rules of evidence in the SALRC's programme in December 2001. An advisory committee for the investigation was approved on 26 November 2003. The Commission resolved that the advisory committee on the review of the rules of evidence should also direct the investigation into the use of electronic equipment in court proceedings.

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

Legal certainty on the extent of constitutionally enforceable rights is in the public interest. It is equally important to be able to ascertain the rules of evidence for the sake of case preparation. This issue impacts on the accused, the prosecution and the police in criminal cases, and on the parties to litigation in civil cases. The law of evidence is integral to the enforcement of substantive law and consequently has attracted the interest of non-governmental organisations working in specific fields such as child justice and the abuse of women.

The publication of *Issue Paper 26 – Review of the law of evidence* was announced at a media conference on 7 March 2008. The closing date for comments was 30 June 2008, but was extended at the request of a number of role players and because of limited response to the paper. The issue paper was redistributed in January 2009 under cover of a letter summarising the contents and requesting comment by the end of March 2009.

The project leader reconsidered the advisory committee's decision to proceed with discussion papers dealing with different aspects of evidence separate from its sub-investigation into the admissibility of electronic evidence in civil and criminal matters. She recommended that further papers on the review of the law of evidence be put on hold until Issue Paper 27 on electronic evidence has been finalised and the consultation phase in respect of both the issue paper and the proposed discussion paper has been concluded.

### ***Hearsay and relevance***

*Discussion Paper 113 – Review of the law of evidence: Hearsay evidence and relevance* was released at a media conference on 7 March 2008. The closing date for comments was 30 June 2008, but was extended at the request of a number of role players and because of limited response to the paper. The discussion paper was redistributed in January 2009 under cover of a letter summarising the contents and requesting comment by the end of March 2009. The advisory committee resolved not to embark on a public consultation phase and to finalise its report on hearsay and relevance based on the comments received from role players.

After research in this investigation had been completed, it transpired that the admissibility of electronic evidence, the provisions of the Electronic Communications and Transactions Act of 2002 (ECT Act) and the provisions of the Law of Evidence Amendment Act of 1988 dealing with hearsay evidence cannot be considered in isolation. A report on hearsay evidence cannot be finalised without considering the provisions of the ECT Act and the admissibility of electronic evidence in general.

### **Electronic evidence**

In view of the challenges posed by technological developments, an overarching investigation reviewing aspects of criminal and civil law is a long-term goal. In adopting an incremental approach to the subproject on electronic evidence and related matters, the SALRC has in the first instance decided to publish an issue paper exploring issues relating to the admissibility of electronic evidence in criminal and civil proceedings. *Issue Paper 27 – Electronic evidence in civil and criminal proceedings: Admissibility and related issues* was released for general information and public comment by way of a media statement issued on 16 March 2010. The closing date for comment was 31 August 2010.

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

Comment and submissions received on Issue Paper 27, together with further in-depth research, will form the basis of a discussion paper where the issues identified for review and reform will be discussed in detail and preliminary recommendations for reform considered. The target date for finalising the evaluation of the comments on Issue Paper 127 is 30 June 2011.

### **Project 127 – Review of administration orders**

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

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

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

The Commission's preliminary views include the following:

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

A document with proposed amendments to the Magistrates Courts Act 32 of 1944 has been compiled to address some of the problems identified. The document will serve as a basis for discussion at a workshop to be held on 31 May 2011. The target date for finalising the draft discussion paper to the Commission for consideration is December 2011.

### **Project 134 – Administration of estates**

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

Draft legislation recommended in an interim report dealing with the administration of small estates and streamlined procedures for other estates was submitted to the Minister on 19 August 2008. The acting Chief Master has requested that promotion of legislation be held back until the Integrated Case Management System – Masters (ICMS-Masters) has been developed. The system provides for the filing of electronic documents and the management of estates reported at service points (magistrate's offices) by experienced and well-qualified staff at the Masters' Offices.

### **Project 135 – Review of witchcraft legislation**

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

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

The Commission approved a review of legislation pertaining to witchcraft on 1 August 2009. The Minister approved the inclusion of *Project 135 – Review of witchcraft legislation* in the SALRC's programme on 23 March 2010.

### **Project 136 – Multi-disciplinary legal practices**

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

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

The Commission approved the inclusion of an investigation into multi-disciplinary legal practices on 25 October 2008. The Minister approved the inclusion of *Project 136 – Multi-disciplinary legal practices* in the SALRC's programme on 23 March 2010.

### **Project 137 – Expungement of certain criminal records**

During the deliberations on the Criminal Procedure Amendment Bill (enacted as the Criminal Procedure Amendment Act 65 of 2009), the Portfolio Committee on Justice and Constitutional Development received a number of inputs on the expungement of criminal records. The Portfolio Committee concluded that it is a complex matter that requires a balance between the right of citizens to be protected against criminals and the recognition that having a criminal record can cause undue hardship for an individual.

The Portfolio Committee decided to request that the Minister of JCD:

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

On 2 October 2009 the SALRC received a letter from the Minister requesting the chairperson to include a new investigation in its programme dealing with the expungement of certain criminal records. The Commission

approved an investigation into this matter on 13 March 2010. The Minister approved the inclusion of *Project 137 – Expungement of certain criminal records* in the SALRC's programme on 28 April 2010. The target date for finalising the draft discussion paper is 31 August 2011.

## **Project 138 – The practice of *ukuthwala***

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

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

The Commission approved an investigation into the practice of *ukuthwala* on 14 August 2010. The Minister approved the inclusion of *Project 138 – The practice of ukuthwala* in the SALRC's programme on 2 December 2010.

## **Preliminary investigations**

### ***Violence against pregnant women***

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

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

After consideration of a supplementary proposal paper on 10 October 2009, the Commission approved the inclusion of the project, but under an amended title, namely 'Violence against Pregnant Women'. A memorandum to request the Minister of JCD to approve the inclusion of the project in the SALRC's programme was submitted to

the Department. The Commission is still awaiting the Minister's decision on whether to include this investigation in the SALRC's programme.

### ***Cyber crime***

The Commission initiated a preliminary investigation into cyber crime in response to growing concern about the adequacy of current legislation to address the rising threat of cyber crime. The researcher was allocated to the preliminary investigation in August 2009. The target date for finalising the proposal paper for submission to the Commission for consideration is 31 August 2011.

### ***Access to Justice***

This preliminary investigation is an initiative of the SALRC in terms of its statutory powers to initiate investigations. The purpose of the preliminary investigation is to investigate obstacles to access to justice for the poor, use of indigenous languages in courts and access to justice for women and people with disabilities with a view to proposing legal reforms if necessary. The target date for finalising the proposal paper for submission to the Commission for consideration is 29 April 2011.

### ***Protection of journalistic sources***

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

The Commission approved the inclusion of the investigation in the SALRC's programme on 14 August 2010. The researcher submitted a memorandum to the DOJCD to request the Minister's approval for the inclusion of the investigation in the SALRC's programme. The Commission is still awaiting the Minister's decision on whether to include this investigation in the SALRC's programme.

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

The Deputy Minister of Home Affairs sent a letter to the SALRC on 15 September 2009, requesting advice on the possibility of an absolute ban on the dissemination and circulation of pornography through the electronic and printed media, as well as mobile technology. The request was discussed at the Commission meeting of 13 March 2010, where it was decided to conduct a preliminary investigation into the matter. The proposal paper resulting from the preliminary investigation was considered at the Working Committee meeting of 17 November 2010.

The Chairperson subsequently sent a letter to the Deputy Minister of Home Affairs in December 2010, informing her that the Commission is of the opinion that the existing legislative framework protecting children from exposure to pornography is inadequate and that ways of regulating and filtering pornography need to be explored in a holistic manner and not just in respect of a ban. Further, that the Working Committee decided that this matter warrants inclusion in *Project 107 – Sexual Offences*, where it will be dealt with alongside other relevant matters pertaining to pornography and the effect thereof on children, but that she should proceed with in-house legislative intervention if she wishes. On 6 January 2011 the researcher was informed telephonically by the Deputy Minister of Home Affairs that she would correspond with the Chairperson and the Minister of JCD to request that the SALRC give attention to this matter.





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# CHAPTER 4

## Reports Completed



## CHAPTER 4: Reports Completed

### Project 25 – Statutory Law Revision: Legislation administered by the Department of Transport

The South African Law Reform Commission (SALRC) approved the report on *Project 25 – Statutory Law Revision: Legislation administered by the Department of Transport* on 10 October 2009. The report was submitted to the Minister of Justice and Constitutional Development on 17 February 2010 for approval and referral thereof to the Minister of Transport. The Minister approved the report on 3 May 2010. The SALRC released the report for public information on 9 June 2010.

#### 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.

#### Review of legislation administered by the Department of Transport

As part of this investigation, the SALRC has reviewed 218 Acts administered by the national Department of Transport (DOT), which Acts were enacted between 1910 and 2004. The subject-matter of these Acts includes railways, harbours, aviation, transport services, shipping, road transportation, advertising on roads, the adjudication of traffic offences and the Transnet Pension Fund. A consultative meeting was held with the legal advisers of the DOT on 20 October 2006 to discuss the investigation and the involvement of the DOT. The consultation paper containing the SALRC's preliminary findings and recommendations were also handed to the DOT's legal advisers for comment. On 20 November 2006 the DOT informed the SALRC that it agrees with the preliminary findings and proposals contained in the consultation paper.

The SALRC further developed the consultation paper referred to above and converted it into a discussion paper. Discussion Paper 114 was published for general information and public comment on 29 May 2008. It explained the background to the project on statutory law revision; set out the guidelines utilised by the SALRC to test the constitutionality, redundancy or obsolescence of statutes; listed the statutes administered by the DOT; provided detailed findings and proposals for law reform in respect of the statutes found wanting; and included a draft Transport Acts Repeal Bill setting out legislation or provisions in legislation that had been identified for repeal.

Specific stakeholders that were requested to comment on the discussion paper included the Department of Transport; agencies reporting to the Minister of Transport such as Transnet, the South African Civil Aviation Authority and the South African National Roads Agency; provincial departments responsible for transport; and the Parliamentary Portfolio Committee on Transport. The SALRC also received comments on the discussion paper from the Department of Justice and Constitutional Development; the Department of Transport, Roads and Public Works of the Northern Cape Provincial Government; the Department of Roads and Transport of the Mpumalanga Provincial Government and Transnet Freight Rail. On 1 October 2008 the Minister of Transport informed the SALRC that the DOT concurred with the recommendations made in the discussion paper. In January 2009 the DOT informed the SALRC of its decision to include the draft Transport Acts Repeal Bill as proposed in Discussion Paper 114 in its legislative programme for 2009.

## **Transport Laws Repeal Act 10 of 2010**

On 19 March 2009 the SALRC informed the Minister of Justice and Constitutional Development that it had no objections to the promotion of the Transport Acts Repeal Bill to Parliament, as the SALRC envisaged that the draft Bill in the SALRC report on transport legislation to follow would be similar in all respects to the draft Bill contained in Discussion Paper 114. The Transport Laws Repeal Bill [B19-2010] was introduced into Parliament on 19 July 2010.

On 30 November 2010 the President assented to the Transport Laws Repeal Act 10 of 2010. The Act was published in the *Government Gazette* on 2 December 2010 by Notice No. 1148. The President determined 16 February 2011 as the date on which the Transport Laws Repeal Act, 2010 (Act No. 10 of 2010) came into operation (Notice No. 7 in *Government Gazette* No. 34030 of 16 February 2011). Act 10 of 2010 repealed a number of Acts and provisions in Acts administered by the Department of Transport that had been identified by the SALRC as redundant or obsolete.

The SALRC expresses its sincere gratitude to the Department of Transport for its cooperation and assistance during this investigation, for initiating the parliamentary process to implement its recommendations, and for promoting the Transport Laws Repeal Act 10 of 2010 in Parliament.



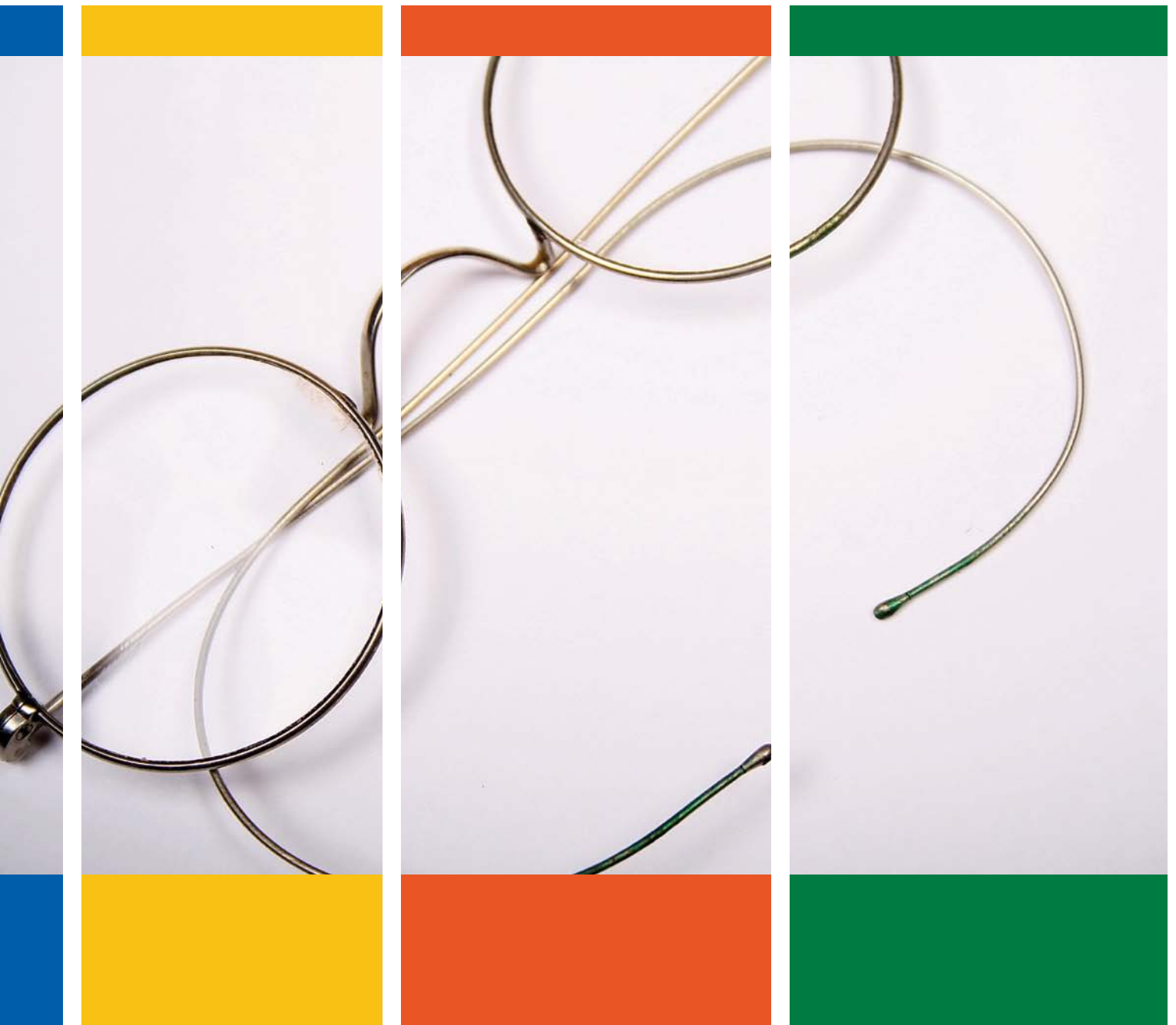
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# CHAPTER 5

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

### **Interaction with foreign law reform bodies and institutions**

On 23 April 2010 the SALRC hosted a delegation from the Ethiopian Institution of the Ombudsman, led by Ms Fozia Amin Aliye, the Chief Ombudsman, and accompanied by Adv Thembi Bokako, Senior Manager: Executive Support in the Office of the Public Protector. The delegation, which included investigation officials, was on a visit to the Office of the Public Protector. The delegation was briefed on the working methods and mandate of the SALRC.

### **International liaison**

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

On 28 April 2010 Ms Ananda Louw participated in a panel discussion with the President of the International Association of Privacy Professionals from the United States, the Group Privacy and Compliance Director from Barclays, United Kingdom and the Head of Information Privacy, ABSA. The purpose of the meeting was to raise awareness of the newly proposed South African privacy legislation. The challenges faced and lessons learnt by the UK and the USA when privacy legislation was introduced there were also discussed.

On 9 June 2010 Ms Stuurman responded to inquiries from the UK Home Office with regard to prostitution and human trafficking in the context of the Soccer World Cup in South Africa.

The SALRC hosted two students from the University of Maryland School of Law as interns from 14 June 2010 to 31 July 2010. The students were assigned to Project 107: Adult prostitution and Project 100: Hindu marriages respectively.

On 8 November 2010 Mr Tienie Cronje participated in a telephone conference with the Chief Master and World Bank officials on the regulation of insolvencies.

Ms Ronel van Zyl did a presentation on the SALRC, its objects, functions, working methods and current research programme to LLM students from the John Marshall Law School, Chicago, USA on 15 March 2011.

## **Attendance of international conferences and meetings**

Mr Tienie Cronje attended the Colloquium of International Exchange of Experience in Insolvency Law in Prague in May 2010. He also attended the Annual General Meeting and Conference of the International Association of Insolvency Regulators in Dublin, Ireland from 20 to 24 September 2010 on behalf of the Chief Master of the High Court. Mr Cronje chaired a Latin America and Africa Group Session.

Mr Cronje, on invitation from the World Bank, attended the INSOL / UNCITRAL / World Bank 9<sup>th</sup> Multinational Judicial Colloquium in Singapore from 12 to 13 March 2011 and the INSOL International Annual Regional Conference in Singapore from 14 to 15 March 2011.

## **Ismail Mahomed Law Reform Essay Competition**

### ***2009 Competition***

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

The prestigious Ismail Mahomed prize for 2009 was awarded to two law students at a ceremony held at the Constitutional Court on 16 April 2010. Among the dignitaries present at the ceremony were Mr Jeff Radebe, the Minister of Justice and Constitutional Development; Judge Yvonne Mokgoro, former judge of the Constitutional Court and Chairperson of the SALRC; Mrs Mahomed, the widow of the late Chief Justice; and Mr Enver Mahomed, the brother of the late Chief Justice and his family.

The 2009 winners are Mr Theo Steyn, an LLB graduate from the University of South Africa, for his essay entitled 'Vat and e-Commerce – Still looking for answers?' and Mr Jonathan Parsonage, an LLB graduate from the University of Cape Town, for his essay entitled 'The shape of things to come? *Ubuntu* as a framework for the imposition of punishment in South Africa'. Each winner received a gift voucher to the value of R10 000, sponsored by Juta & Co.

### ***2010 Competition***

The 2010 Competition was launched in September 2010, and is once again sponsored by Juta & Co. Exciting changes

were introduced in 2010 in that prizes are offered for the best essay by an LLB (undergraduate student), and for the best essay by an LLM (post-graduate) student. The prize for each of the winners in the LLB and LLM category is an Incredible Connection voucher or a book voucher to the value of R10 000, or a one-year subscription to *Juta's South African Law Reports* from 1947 to date on CD-ROM.

The runner-up in the LLB and LLM category will each receive an Incredible Connection or a book voucher to the value of R5 000, or a one-year subscription to *Juta's Statutes and Regulations of South Africa* on CD-ROM. In addition, the supervisors and the law faculties of the winners will receive a credit voucher to the value of R1250.

### **Entries received**

The closing date for the submission of entries for the 2010 competition was 30 November 2010. The response from law students and law faculties has been most encouraging. The following essays dealing with a wide range of legal issues such as constitutional rights, company law, family law and the criminal justice system, were received:

### **LLB Category**

<b>Name</b>	<b>Title of essay</b>	<b>University</b>
Sekgame Shadrack Tebeile	Marital rape	University of Limpopo
Timothy Fish Hodgson	Reasonableness as a comparative heuristic, polycentricity, separation of powers and socio-economic rights jurisprudence	University of Cape Town
Asnath Kgosana	Best interests of the child in custody disputes	University of Limpopo
Itumeleng Kgatla	A critical analysis of the principle of cadre deployment and local government: Municipal Systems Amendment Bill, 2010 and its impact on service delivery	University of Limpopo
René Myburgh	The concept of business rescue	Nelson Mandela Metropolitan University
Tiny Musesengwa	A multi-dimensional assessment of the schism between prostitution and the law in South Africa	University of Fort Hare
Nzbulululo Silas Siphuma	The introduction of the National Health Insurance scheme and its impact in the health sector	University of the North West (Mafikeng Campus)
Dylan Luke Bradford	The lacuna in South African legislation dealing with the recovery of arrear maintenance under a reciprocal maintenance order	Rhodes University
Sukoluhle Joy Chilongo	Law reform in post-apartheid South Africa	University of Pretoria



Name	Title of essay	University
Lebogang Alinah Segooa	Use and possession of drugs (comparing the drug policy of South Africa and the drug policy of Netherlands)	University of Limpopo
Bafana Wilmoth Ntuli	Judicial oversight and debt enforcement in immovable property: The saga continues	University of Johannesburg
Rebecca Browning	Titling and governance: Debates on communal land in South Africa after Tongoane	University of Cape Town
Stuart Scott	Does copyright law have a sense of humour? The need for the introduction of a clear defence to copyright infringement based on parody and satire	University of KwaZulu-Natal
Ruan van Heerden	The electronic lodgement of deeds and the impact thereof on legislation and the legal profession	University of the Free State
MJ De Bruyn	Freedom of contract versus unfair contractual terms with special reference to exemption clauses	University of the Free State
Duncan Murray	The law of partnerships: A comparative study	University of the Free State
Lesley Maman	Living together is not a dream: Domestic relationships in South Africa	University of the Free State
Lizelle Bouwer	The corporate leniency policy in South African law of competition	University of the Free State
Diana Ferreira Dos Santos	Trademark law: A comparative study of South Africa and the United Kingdom	University of the Free State
Yvette J van Vuuren	Communication in cyberspace: Hidden minefield or technological brilliance	University of the Free State
MM Matheolane	Tackling 'tenderpreneurship': Improving public procurement through competition law	University of Cape Town

### **LLM Category**

Name	Title of essay	University
Sanita van Wyk	A comparative study of crimes against life in South Africa and Germany	University of Stellenbosch
Dountio Ofimboudem Joelle	The protection of traditional knowledge: Possibilities and challenges arising from the protection of biodiversity in South Africa	University of the Western Cape
Henri J Nkuepo	Enhancing the capacity of policy makers to mainstream gender in trade policy and make trade responsive to women's needs: A South African perspective	University of the Western Cape

***Evaluation panel and adjudication of essays***

A panel consisting of Judge Willie Seriti (Vice-Chairperson of the SALRC and Chairperson of the panel); Adv Thulisile Madonsela (Public Protector); Professors Cathi Albertyn (Wits University and part-time Commissioner: SALRC); Thandabantu Nhlapo (Deputy Vice-Chancellor: University of Cape Town); Managay Reddi (Dean of the Faculty of Law: University of KwaZulu-Natal); and Pamela Schwikkard (Dean of the Faculty of Law: University of Cape Town and part-time Commissioner: SALRC), was appointed in December 2010 to evaluate the essays and to identify the winners and the runners-up of the 2010 competition. The panel unanimously agreed that the Ismail Mahomed Prize for law reform in the LLB category should be awarded to Messrs Stuart Scott (winner) and Timothy Hodgson (runner-up); and in the LLM category, to Ms Sanita van Wyk (winner) and Mr Henri Nkuepo (runner-up).

**Electronic and printed media and liaison**

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

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

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

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

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

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

Project	Activity	Date
Project 25 Review of the Interpretation Act Mr Pierre van Wyk	Round table discussion with officials from National Treasury, the Financial Intelligence Centre, SARS, the Reserve Bank and the Financial Services Board. The researcher provided an overview of the review of the Interpretation Act 33 of 1957 and the proposals made in Discussion Paper 112.	8 November 2010
Project 63 Review of the law of insolvency Mr Tienie Cronje	International Association of Insolvency Regulators questionnaire on employees' entitlement.	April 2010
	Member of the NEDLAC task team that finalised a draft report on the Insolvency and Business Recovery Bill.	June 2010
	Address to the 5th meeting of the Financial Services Board regulators round table on the background to insolvency reform.	12 July 2010
	Lecture on cross-border insolvency to AIPSA diploma students at the University of Johannesburg.	15 July 2010
	Interview with SABC 2 on the regulation of the insolvency industry for the programme 'Focus'.	5 September 2010
	2nd Annual Insolvency Conference of the Association of Insolvency Practitioners in Southern Africa (AIPSA) and panel member for a discussion on the regulation of insolvency.	28 to 29 October 2010
	Assistance to the Chief Master with responses to Parliamentary questions dealing with insolvency.	10 November 2010
	Questionnaire on consumer insolvencies for the World Bank.	10 November 2010
	Comment on the Companies Amendment Bill [B40 – 2010] for the Portfolio Committee on Trade and Industry.	November 2010
	Facilitation of a meeting of government role-players (DOJCD, DTI, NCR) on a report by USAID Financial Sector Program dealing with insolvency systems in South Africa – Strengthening the regulatory framework.	1 December 2010

<b>Project</b>	<b>Activity</b>	<b>Date</b>
	Workshop on Insolvency Systems in South Africa – Strengthening the regulatory framework hosted by the University of Pretoria and USAID Financial Sector.	3 December 2010
	Insolvency practitioners working session on the draft Minister’s policy on the appointment of insolvency practitioners.	8 to 10 December 2010
Project 100 Family law and the law of persons  Custody of and access to minor children  Ms Ananda Louw	14th Annual Family Law Conference hosted by Miller Du Toit Cloete Incorporated and the University of the Western Cape. The conference focussed on family law issues such as relocation, international adoption, representation of the child and child participation in proceedings, surrogacy, specialised training in the family law field, addressing problem areas within the current system, financial claims (in an international context), forced marriages and an update on the consequences of religious marriages.	17 to 18 March 2011
Matrimonial property law	Inquiries from the public regarding problems with pension benefits on divorce and the relevance of the SALRC investigation.	Throughout the reporting period
Ms Anna-Marie Havenga	Liaison with Prof Dr Katharina Boele-Woelki, Family Law expert attached to the Molengraaff Instituut voor Privaatrecht, Universiteit Utrecht, the Netherlands, to obtain current information on developments regarding property relations between spouses in Europe.	1 April to 7 June 2010
	Liaison with and response to Ms Karin Lehman, Senior Lecturer at the Faculty of Law, University of Cape Town, regarding an enquiry on the focus and ambit of the SALRC investigation and related information.	25 October to 22 November 2010
	Response via the Secretary of the SALRC to Mr S Botes of the State Attorney, Pretoria to an enquiry relating to section 20(7)(b) of the Supreme Court Act 59 of 1959 and Rule 43 of the High Court Rules of Court (Uniform Rules of Court).	13 January 2011

Project	Activity	Date
Project 107 Sexual offences (Sexual Offences Act 32 of 2007)  Ms Dellene Clark	Inquiries from and assistance to the Sexual Offences and Community Affairs Unit of the NPA regarding the application of the Sexual Offences Act, 2007.	Throughout the reporting period
	Guidance to the Children's Institute of UCT regarding the potential anomaly of statutory rape and child marriage.	3 May 2010
	Meeting to discuss the National Policy Framework on the Management of Sexual Offences with officials from the Chief Directorate: Victim Support and Specialised Court Services of the DOJCD.	11 May 2010
	Comment on the Report by the Developmental Leadership Program 'New Research on Women's Coalitions' in respect of NGO involvement in the Sexual Offence Project.	18 May 2010 to 15 March 2011
	Symposium on the effects of children's exposure to pornography	26 to 27 July 2010
	Comment to the Film and Publication Board on its second draft Protocol Management of Child Pornography.	16 September 2010
	Deliberations and expert meetings regarding the Teddy Bear Clinic matter in respect of sections 15 and 16 of the Sexual Offences Act (Jules High rape matter).	18, 19 and 24 November 2010 1 to 10 February 2011
	Guidance to the CMR Mpumalanga in the compilation of a document on obligatory reporting in matters of a sexual offence by social workers and church leaders.	19 and 25 November 2010 2 December 2010
Sexual offences: Adult prostitution  Ms Dellene Clark Ms Carien Pienaar	Numerous local and foreign media enquiries regarding prostitution and the 2010 FIFA Soccer World Cup	Throughout the reporting period
	Research seminar on 'Prostitution in South Africa: Developing a research agenda' under the auspices of SVRI, MRC and CATW.	14 to 15 April 2010
	Radio interview on RSG regarding prostitution and a judgement by the Labour Appeal Court.	June 2010
	Expert meeting with Ms Vera Baird, the former UK Solicitor General, via telephone conference.	21 July 2010
	Workshop for prostitutes on legislative models hosted by SISONKE JHB, Rustenburg and SWEAT.	29 July 2010
	Expert meeting with former police officer Piet Byleveldt on the subject of prostitution and brothels.	10 August 2010

Project	Activity	Date
	Workshop on Informal Cross Border Trade hosted by the Department of Women, Children and People with Disabilities and the United Nations Fund for Women in view of prostitution at border posts.	21 September 2010
	Society of Law Teachers of Southern Africa 2011 Conference.	17 to 19 January 2011
Project 110 Review of the Child Care Act	Inquiries from social workers and members of the public regarding the Children's Act 38 of 2005 and parental responsibilities and rights in particular.	Throughout the reporting period
Ms Ronel van Zyl	Official launch of the Children's Act hosted by the Department of Social Development.	21 May 2010
	Training on parental responsibilities and rights as part of family mediation training offered by Family Life South Africa, Johannesburg.	28 May 2010 5 August 2010 18 February 2011
	Meeting with officials from the Directorate: Child Justice and Family Law of the DOJCD and members of the Rules Board for Courts of Law on the child-friendliness of court rules.	4 August 2010
Project 122 Assisted decision-making: Adults with impaired decision-making capacity	Inquiries by the public on the current legal position regarding assisted decision-making for persons with Alzheimer's disease and other mental disabilities and the SALRC's envisaged proposals for law reform.	Throughout the reporting period
Ms Anna-Marie Havenga	Meeting with representatives of the Directorate: Persons with Disabilities of the Ministry for Women, Children and People with Disabilities to obtain input on the need for compatibility of the proposed draft Bill with the United Nations Convention on the Rights of Persons with Disabilities (CRPD).	6 April 2010
	Meeting with official of the Master's Office Pretoria to obtain input and discuss problems relating to the text of the draft Bill and its compatibility with the CRPD.	8 and 9 February 2011
Ms Margaret Meyer (Advisory Committee Member)	Inquiries by the public on the current legal position regarding assisted decision-making for persons with Alzheimer's Disease and other mental disabilities and the SALRC's envisaged proposals for reform.	Throughout the reporting period
	Information on the SALRC investigation to attendants of a Curatorship Course for Master's Office personnel, Justice College.	15 September 2010

Project	Activity	Date
	Overview of the SALRC investigation in the course of an information session on curatorship and administration in terms of the Mental Health Care Act 17 of 2002 for the Parys Free State Alzheimer's Organisation.	16 September 2010
	Presentation on curatorship, administration in terms of the Mental Health Care Act 17 of 2002 and the SALRC investigation's envisaged impact on assisted decision-making at the Sally Martins Care Facility, Parys, Free State.	16 September 2010
	International Symposium of the Globalisation of Dementia – Issues and Responses presented by the International Longevity Centre – South Africa (operated within the Institute of Ageing in Africa at the University of Cape Town).	26 October 2010
	Overview of the SALRC investigation in the course of training 66 social workers of the Gauteng Department of Health and Social Development on curatorship and administration in terms of the Mental Health Care Act 17 of 2002.	14 March 2011
	Information on the SALRC investigation in the course of training 54 social workers of the Gauteng Department of Health and Social Development on curatorship and administration in terms of the Mental Health Care Act 17 of 2002.	17 March 2011
Project 123 Protected disclosures  Ms Dellene Clark	Seminar on the status of whistle-blowing in South Africa: Open Democracy Centre	25 August 2010
Project 124 Privacy and data protection  Ms Ananda Louw	Radio programmes and interviews to the media on the Protection of Personal Information Bill.	Throughout the reporting period
	Inquiries by members of the public and other stakeholders on the impact of the proposed Protection of Personal Information Bill.	Throughout the reporting period
	Meetings with DOJCD and the Department of Home Affairs to provide the Departments with information regarding the use of standard contractual clauses in ensuring trans-border transfers of personal information.	Throughout April 2010

Project	Activity	Date
	Assistance to DOJCD with the passing of the Protection of Personal Information Bill through the parliamentary process. This included numerous meetings with officials from DOJCD, attending the meetings of the Portfolio Committee on Justice and Constitutional Development and the Technical Committee to brief members, attending public hearings and providing the Committee with a response to the submissions and attending and participating in the deliberations of the Committees.	April 2010 to March 2011
	Meetings with DOJCD and DTI to discuss a comprehensive document, compiled for this purpose, on the comparison between the Protection of Personal Information Bill and the National Credit Act, 2005 and the impact of these two pieces of legislation on the protection of personal credit reporting information.	15 and 23 June 2010 30 July 2010 2 August 2010
	Meeting with representatives from the various banking institutions of South Africa, at the request of the Banking Association, to explain the impact of the Protection of Personal Information Bill on the banking industry.	14 July 2010
	Presentation by Open Democracy Advice Centre on whistleblowers.	25 August 2010
	Presentation on the Protection of Personal Information Bill as the introductory speaker at a conference entitled 'Protection of Personal Information – Coming to terms with the effects of the Bill on your Organisation'.	10 and 11 November 2010
	Presentation on the Protection of Personal Information Bill at the year-end meeting of the Debt Council.	16 November 2010
	Information session on the Protection of Personal Information Bill at the Pensions Funds Legal and Secretarial Section of Momentum.	3 February 2011
	Presentation on the Protection of Personal Information Bill at a two day conference on the Bill hosted by the Intelligence Transfer Centre.	9 March 2011
	Information session on the Protection of Personal Information Bill at the Financial Services Board.	24 March 2011



Project	Activity	Date
Project 130 Stalking  Ms Dellene Clark	Panel guest on the TV show 3rd Degree Plus to explore stalking, its prevalence and effects on SA Women, aired in honour of Shadi Rapiro, a 3rd Degree journalist who was murdered by her stalker in 2009.	12 April 2010
	Interviews by Saturday Star on the SALRC's recommendations.	28 May 2010 20 July 2010
	Interview by Helen Gray of Cosmopolitan Magazine	20 July 2010
	Parliamentary deliberations and briefings on the Protection from Harassment Bill [Bill 1 – 2010]	4 August 2010 22 and 23 February 2011 14 and 15 March 2011
	Panel guest on SABC 3 Talk with Noleen	21 September 2010
Project 131 Trafficking in persons  Ms Lowesa Stuurman	Briefing of Ms Ophilia Kalumuna, a LLM student from Tanzania at the University of Pretoria, on the various processes in place to address trafficking in persons within and across the borders of South Africa.	8 April 2010
	Inter-sectoral committee meeting to develop a national operational plan on how to deal with cases of trafficking in persons during the Soccer World Cup.	14 April 2010
	Consultative workshop 'Shelter service providers for victims of human trafficking' hosted by the Department of Social Development.	15 to 16 April 2010
	Deliberations of the Portfolio Committee on Justice and Constitutional Development on the Prevention and Combating of Trafficking in Persons Bill [B7 –2010] (TIP Bill).	21 April 2010 15 September 2010 26 and 27 October 2010 2 and 3 November 2010 2 March 2011
	Consultative meeting on the National Policy Framework for the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 hosted by the Chief Directorate: Promotion of the Rights of Vulnerable Groups of the DOJCD.	11 May 2010
	Meeting with a Thembisa community worker regarding possible awareness-raising campaigns in Thembisa on human trafficking.	8 June 2010
	Inter-departmental preparatory meeting for the 5th session of the Conference of the Parties to the United Nations Convention on Organised Crime and its Protocols, which was held in Vienna, Austria from 18 to 22 October 2010.	21 September 2010

<b>Project</b>	<b>Activity</b>	<b>Date</b>
	Meeting with officials from the DOJCD and the National Prosecuting Authority: Sexual Offences and Community Affairs Unit to discuss their concerns in respect of the TIP Bill.	14 October 2010
	Co-chair of the Interdepartmental Working Session: Interdepartmental plan and state of readiness reports in respect of the TIP Bill.	19 October 2010
	Meeting with officials from the DOJCD and the head of SAPS Legal Services to discuss SAPS's concerns in respect of the TIP Bill.	20 October 2010
	Representative of the Chief Directorate: Legislative Development of the DOJCD at a roundtable discussion on the TIP Bill hosted by the National Prosecuting Authority: Sexual Offences and Community Affairs Unit.	6 and 7 December 2010
	Meeting with DOJCD and the Department of Home Affairs (DHA) to discuss issues emanating from the public hearings on the TIP Bill that will impact on DHA.	2 February 2011
	Meeting with DOJCD and the Department of Social Development (DSD) to discuss issues emanating from the public hearings on the TIP Bill that will impact on DSD.	3 February 2011
	Meeting with DOJCD, DSD and SAPS to discuss matters of mutual concern in respect of the TIP Bill.	7 February 2011
	Meetings with officials from DOJCD and the NPA to discuss the NPA's comments on and proposed amendments to the TIP Bill.	18 and 25 March 2011
Project 134 Administration of estates	Heads of Master's Office meeting and presentation on 'Services by Master: Launching of web portal'.	3 and 4 November 2010
Mr Tienie Cronje	Preparation of document on the interpretation of section 2C(2) of the Wills Act 7 of 1953 for the Chief Master.	6 January 2011
	Meeting with the South African Institute of Chartered Accountants on regulation 910 of the Regulations pertaining to the liquidation and distribution of deceased estates.	27 January 2011

Project	Activity	Date
Project 138 The practice of <i>ukuthwala</i>	Dialogue hosted by the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, where the cultural practice of <i>ukuthwala</i> was discussed.	24 February 2011
Mr Fanyana Mdumbe	Dialogue hosted by the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities and the Department for Women, Children and People with Disabilities.	2 March 2011
	14th Annual Family Law Conference hosted by Miller Du Toit Cloete Incorporated and the University of the Western Cape. The conference focussed on family law issues such as relocation, international adoption, representation of the child and child participation in proceedings, surrogacy, specialised training in the family law field, addressing problem areas within the current system, financial claims (in an international context), forced marriages and an update on consequences of religious marriages.	17 to 18 March 2011
Ms Ronel van Zyl	Presentation on the SALRC, its objects, functions, working methods and current research programme to new DOJCD officials as part of the DOJCD Induction Programme.	16 March 2011
	Representative of the SALRC at a workshop hosted by the Commission for the Protection and Promotion of Cultural, Religious and Linguistic Communities.	18 March 2011

## Internet

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



# CHAPTER 6

## Acknowledgements



## **CHAPTER 6: Acknowledgements**

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

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

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

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

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

Review the Past

Reform the Present

Anticipate the Future

# Annexures



**ANNEXURE A: Issue papers published by the Commission**

Serial number of issue paper	Project number	Title of investigation	ISBN number Publication date
1	104	Money laundering and related matters	0 631 17404 1 May 1996
2	100	Family violence	0 621 17495 5 July 1996
3	90	Harmonisation of the common law and the indigenous law: Customary marriages	0 621 17531 5 September 1996
4	90	Harmonisation of the common law and the indigenous law: The application of customary law: Conflict of personal laws	0 621 17532 3 September 1996
5	100	Family law and the law of persons: Review of the maintenance system	0 621 17652 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 X 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 April 1998
14	108	Computer related crime: Options for reform in respect of unauthorised access to computers, unauthorised modification of computer data and software applications and related procedural aspects	0 621 28710 5 August 1998
15	59	Islamic marriages and related matters	0 621 30089 6 May 2000



<b>Serial number of issue paper</b>	<b>Project number</b>	<b>Title of investigation</b>	<b>ISBN number Publication date</b>
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 35016 8 January 2004
26	126	Review of the law of evidence	0 621 37676 0 March 2008
27	126	Electronic evidence in civil and criminal proceedings: Admissibility and related issues	0 621 389226 5 March 2010

## ***ANNEXURE B: Discussion papers published by the Commission***

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

<b>Serial number of discussion paper</b>	<b>Project number</b>	<b>Title of investigation</b>	<b>ISBN number Publication date</b>
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
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

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

<b>Serial number of discussion paper</b>	<b>Project number</b>	<b>Title of investigation</b>	<b>ISBN number Publication date</b>
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
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

Serial number of discussion paper	Project number	Title of investigation	ISBN number Publication date
54	47	Unreasonable stipulations in contracts and the rectification of contracts	0 621 16038 5 May 1994
55	89	Declaration and detention of persons as State patients in terms of the Criminal Procedure Act, 1977, and the release of such persons in terms of the Mental Health Act, 1973, including the onus of proof regarding the mental condition of an accused or convicted person	0 621 16358 9 December 1994
56	98	International co-operation in criminal prosecutions	0 621 16820 3 May 1995
57	88	The recognition of a class action in South African law	0 621 16928 5 September 1995
58	85	Aspects of the law relating to AIDS	0 621 16964 1 September 1995
59	94	Arbitration	0 621 16971 4 September 1995
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

<b>Serial number of discussion paper</b>	<b>Project number</b>	<b>Title of investigation</b>	<b>ISBN number Publication date</b>
68	85	Aspects of the law relating to AIDS	0 621 17550 1 October 1996
69	94	International commercial arbitration	0 621 17602 8 December 1996
70	100	Family law and the law of persons: Domestic violence	0 621 17650 8 February 1997
71	86	Euthanasia and the artificial preservation of life	0 621 17724 5 April 1997
72	85	Aspects of the law relating to AIDS: Pre-employment HIV testing	0 621 27350 3 June 1997
73	85	Aspects of the law relating to AIDS: HIV/AIDS and discrimination in schools	0 621 27697 9 August 1997
74	90	Customary law: Customary marriages	0 621 27723 1 September 1997
75	111	Constitutional jurisdiction of magistrates' courts	0 621 27997 8 March 1998
76	90	Customary law: Conflicts of law	0 621 28007 0 April 1998
77	112	Sharing of pension benefits	0 621 28020 8 April 1998
78	105	Review of security legislation: The Interception and Monitoring Prohibition Act 127 of 1992	0 621 28847 0 November 1998
79	106	Juvenile justice	0 621 28851 9 November 1998
80	85	Aspects of the law relating to AIDS: The need for a statutory offence aimed at harmful HIV-related behaviour	0 621 28854 3 December 1998
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

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

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



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

## ***ANNEXURE C: Investigations included in the Commission's programme since its establishment***

<b>Project number</b>	<b>Title</b>	<b>Year of report</b>	<b>Reference number of published report</b>	<b>Result</b>
1	The codification of certain crimes against the State	1974	RP 17/1976	Recommended legislation not implemented
2	Investigation into a proposed new process for the administration of certain estates	1974	Not published	No new legislation recommended
3	The submission of questions of law in civil cases to the Appellate Division of the Supreme Court	1974	Not published	Section 36 of Second General Law Amendment Act 94 of 1974 enacted
4	Investigation into the element of fault in injuria	1978	Not published	No legislation recommended – see also Project 44
5	The safeguarding of money held in trust by an agent on behalf of a client	1974	Not published	No legislation recommended
6	Review of the law of evidence			
	The admissibility in civil proceedings of evidence generated by computers	1982	RP 95/1982	Computer Evidence Act 57 of 1983 enacted, since repealed
	Final report	1986	ISBN 0 621 11348 4	Law of Evidence Amendment Act 45 of 1988 enacted
7	Revision of pre-Union statutes			
	Repeal of certain pre-Union Statutes	1975	Not published	Pre-Union Statute Law Revision Act 36 of 1976 enacted
	Repeal of certain pre-Union statutes	1976	Not published	Pre-Union Statute Law Revision Act 43 of 1977 enacted
	Retention of certain pre-Union statutes	1977	Not published	Pre-Union Statute Laws Revision Act 24 of 1979 enacted

Project number	Title	Year of report	Reference number of published report	Result
8	Steps aimed at making the common law more readily available	-	-	Several works published – see previous annual reports and Annexure G
9	Review of the law of trusts	1986	June 1987	Trust Property Control Act 57 of 1988 enacted
10	Draft convention for a uniform law of agency of an international character in respect of the sale of goods	1974	Not published	No legislation recommended
11	Investigation into the common law rule that interest may not accrue beyond the principal debt	1974	RP 18/1975	Recommendations not implemented – see section 68A of the Insurance Act 27 of 1943, since repealed, in respect of policy loans
12	Review of the law of divorce			
	Report	1977	RP 57/1978	Divorce Act 70 of 1979 enacted – see also Project 40
	Section 7(3) of Act 70 of 1979	1991	ISBN 0 621 14140 2	Divorce Amendment Act 44 of 1992 enacted – see also Projects 100 and 114
13	Investigation into the right of recourse of spouses in respect of contributions towards necessities for the joint household	1974	RP 79/1975	Matrimonial Affairs Amendment Act 13 of 1976 enacted, since repealed – see also Project 15
14	The prescribing of a rate of interest in respect of debts where no rate of interest applies in law	1974	Not published	Prescribed Rate of Interest Act 55 of 1975 enacted
15	The matrimonial property law with special reference to the Matrimonial Affairs Act, 1953, the status of the married woman, and the law of succession in so far as it affects the spouses	1982	RP 26/1982	Matrimonial Property Act 88 of 1984 enacted – see also Projects 41 and 51

Project number	Title	Year of report	Reference number of published report	Result
16	Investigation into the application of set-off in insolvency	1975	Not published	No legislation recommended – see Project 63
17	Examination of the convention on the form of an international will	1975	Not published	No legislation recommended – see Project 22
18	Investigation into the enforceability of foreign arbitration awards in the Republic	1975	Not published	Recognition and Enforcement of Foreign Arbitral Awards Act 40 of 1977 enacted
19	Investigation into the shifting of the onus of proof in bribery charges	1975	Not published	No legislation recommended – see Project 75
20	Investigation into the substitution of petition proceedings in superior courts	1975	Not published	Petition Proceedings Replacement Act 35 of 1976 enacted
21	Limitation of the institution of legal actions against the State	1977	Not published	No legislation recommended – see also Project 42
22	Review of the law of succession			
	Intestate succession	1985	ISBN 0 621 09611 3	Intestate Succession Act 81 of 1987 enacted
	Legitimate portion or right to maintenance	1987	Not published	Maintenance of Surviving Spouses Act 27 of 1990 enacted
	Formalities of a will, alteration and revocation of wills, disqualification from inheriting, substitution and the succession rights of adopted children	1991	ISBN 0 621 14189 5	Law of Succession Amendment Act 43 of 1992 enacted
23	Risk as a ground for liability in delict	1985	ISBN 0 621 10202 4	No legislation recommended

Project number	Title	Year of report	Reference number of published report	Result
24	Investigation into the courts' powers of review of administrative acts			
	Report	1992	ISBN 0 621 15356 7	See Project 115
	Supplementary report	1994	Not published	See Project 115
25	Statute law: The establishment of a permanently simplified, coherent and generally accessible statute book			
	Repeal of Laws Act	1980	Not published	Repeal of Laws Act 94 of 1981 enacted
	Investigation into certain aspects of the Prescription Act 68 of 1969	1983	Not published	Prescription Amendment Act 11 of 1984 enacted
	Investigation into further aspects of the Prescription Act 68 of 1969	1984	Not published	No legislation recommended
	Repeal of the Black Administration Act, 1927	2004	ISBN 0 621 35472 4 RP 213/2004	Repeal of the Black Administration Act and Amendment of Certain Laws Act 28 of 2005 enacted
	Statutory Law Revision: Redundancy, obsolescence and constitutionality of legislation			See Chapter 3
	Legislation administered by the Department of Transport	2009	ISBN 0 621 40020 5	Transport Laws Repeal Act 10 of 2010 enacted
	Review of the Interpretation Act	-	-	See Chapter 3
26	Criminal law consolidation: Theft and house-breaking	1977	Not published	Recommendations regarding legislation not implemented
27	Abolition of civil imprisonment	1976	Not published	Abolition of Civil Imprisonment Act 2 of 1977 enacted – see also Project 54

Project number	Title	Year of report	Reference number of published report	Result
28	Investigation into leases in respect of movables	1976	Not published	No legislation recommended
29	Investigation into the application of <i>mens rea</i> in statutory offences	1982	GP-S 300	No legislation recommended
30	Investigation into an unlimited right of appeal for convicted persons in criminal proceedings	1976	RP 73/1977	No legislation recommended
31	Investigation into the law relating to presumption of death	1977	Not published	Dissolution of Marriages on Presumption of Death Act 23 of 1979 enacted
32	Review of the law of admiralty	1982	RP 12/1983	Admiralty Jurisdiction Regulation Act 105 of 1983 enacted
33	Review of the law of prize	1987	-	Recommendations not implemented
34	Examination of the legal consequences of artificial insemination and the duty of support in respect of certain adulterine children	1978	Not published	No legislation recommended – see also Project 38
35	Negligent use of fire-arms	1978	Not published	No legislation recommended
36	Investigation into delictual liability in cases of misrepresentation	1983	Not published	No legislation recommended
37	Review of preferent claims in insolvency	1984	ISBN 0 621 090840 X	Recommendations not implemented – see Project 63
38	Investigation into the legal position of illegitimate children	1985	ISBN 0 621 10205 9	Children's Status Act 82 of 1987 enacted, since repealed and re-enacted in the Children's Act 38 of 2005
39	Investigation into the legal consequences of suspensive conditions in contracts of sale	1985	ISBN 0 621 11350 6	No legislation recommended
40	Evaluation of the effect of the Divorce Act 70 of 1979	1983	Not published	No legislation recommended

Project number	Title	Year of report	Reference number of published report	Result
41	The division of pension benefits on divorce			
	Report	1986	ISBN 0 621 11357 3	Divorce Amendment Act 7 of 1989 passed
	Supplementary report	1994	RP 158/1995 ISBN 0 621 16869 6	Referred back to the SALRC – see Project 112
42	Investigation into time limits for the institution of actions against the State			
	Report	1985	Not published	Recommendations not implemented
	Supplementary report	1998	ISBN 0 621 28862 4	Institution of Legal Proceedings against Certain Organs of State Act 40 of 2002 enacted
43	Investigation into the advancement of the age of majority	1985	ISBN 0 621 10246 6	No legislation recommended
44	A comprehensive and comparative inquiry into the protection of all rights of personality	-	-	Struck off
45	Women and sexual offences in South Africa	1985	ISBN 0 621 09609 1	Law of Evidence and the Criminal Procedure Amendment Act 103 of 1987, Criminal Law and Criminal Procedure Act Amendment Act 39 of 1989 and Prevention of Family Violence Act 133 of 1993 enacted
46	The giving of security by means of movable property			
	Report	1991	ISBN 0 621 14544 0	Security by means of Movable Property Act 57 of 1993 enacted
	Supplementary report	1993	Not published	Act 57 of 1993 enacted

Project number	Title	Year of report	Reference number of published report	Result
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
55	Removal of certain restrictions in respect of land	1984	Not published	No legislation recommended
56	Submission of a question of law to the Appellate Division of the Supreme Court relating to the calculation of finance charges under the Limitation and Disclosure of Finance Charges Act 73 of 1968	1976	Not published	<i>Ex parte Minister of Justice</i> 1978 2 SA 572 (A)



Project number	Title	Year of report	Reference number of published report	Result
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	(Unpublished/ Informal)	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

Project number	Title	Year of report	Reference number of published report	Result
67	The Usury Act and related matters	-	-	Struck off
68	Access to police dockets	1992	ISBN 0 621 15349 4	Not implemented in view of the access to information provisions in the 1993 and 1996 Constitutions
69	The acquisition and loss of ownership of game	1991	ISBN 0 621 14138 0	Game Theft Act 105 of 1991 enacted
70	Limitation of civil liability of professional persons	-	-	Struck off
71	The protection of child witnesses	1991	ISBN 0 621 14139 9	Criminal Law Amendment Act 135 of 1991 enacted
72	The alienation of personal servitudes	-	-	Struck off
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

Project number	Title	Year of report	Reference number of published report	Result
	Final report: Out-of-court settlements in criminal cases	2002	RP 218/2002 ISBN 0 621 33511 8	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
74	Debt collecting			
	Interim report on imprisonment for debt	1994	RP 199/1995 ISBN 0 621 16956 0	Magistrates' Courts Amendment Act 81 of 1997 enacted
	Final report	1995	RP 198/1995 ISBN 0 621 16960 9	Debt Collectors Act 114 of 1998 enacted, since repealed Act 81 of 1997 enacted
75	Bribery	1991	ISBN 0 662 15184 43	Corruption Act 94 of 1992 enacted, since repealed
76	Jewish divorces	1994	RP 56/1995 ISBN 0 621 16707 X	Divorce Amendment Act 95 of 1996 enacted
77	Constitutional models	1991	Report: ISBN 0 621 14239 5 Summary: ISBN 0 621 14197 6	No legislation recommended
78	Interest on damages	1994	ISBN 0 621 16231 0	Prescribed Rate of Interest Amendment Act 7 of 1997 enacted
79	Natural fathers of children born out of wedlock	1994	RP 55/1995 ISBN 0 621 16706 1	Natural Fathers of Children born out of Wedlock Act 86 of 1997 enacted, since repealed – now regulated by the Children's Act 38 of 2005
80	Accession to the Hague 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

Project number	Title	Year of report	Reference number of published report	Result
81	Submission of a question of law to the Appellate Division of the Supreme Court concerning certificates under instruments of debt as conclusive proof of liability	1991	Not published	<i>Ex parte Minister of Justice in re: Nedbank v Abstein Distributors and Donnelly v Barclays National Bank</i> 1995 3 SA 1 (A)
82	Sentencing			
	A new sentencing framework	2000	RP 57/2001 ISBN 0 621 30679 7	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in December 2000
	A compensation scheme for victims of crime in South Africa	2004	Ministerial approval of publication of report is awaited	Report was submitted to the Minister of Justice and Constitutional Development for approval of publication in May 2004, August 2006, February 2009, September 2009 and November 2009
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 Matters 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 passed
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

Project number	Title	Year of report	Reference number of published report	Result
92	The re-evaluation of the offence created by section 1 of Act 1 of 1988	-	-	Struck off
93	Speculative and contingency fees	1996	RP 37/1997 ISBN 0 621 17648 6	Contingency Fees Act 66 of 1997 enacted
94	Arbitration			
	International arbitration	1998	RP 30/1999 ISBN 0 621 28861 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 1998
	Domestic arbitration	2001	ISBN 0 621 31453 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in June 2001
	Community dispute resolution structures	-	-	See Chapter 3
	Family mediation	-	-	See Chapter 3
95	The admissibility of computer-generated evidence	-	-	Struck off
96	Apportionment of Damages Act, 1956	2003	RP 208/2003 ISBN 0 621 34987 9	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in July 2003
97	Unjustified enrichment	-	-	Struck off
98	International co-operation in criminal prosecutions	1995	RP 47/1996 ISBN 0 621 17357 6	International Co-operation in Criminal Matters Act 75 of 1996 enacted Proceeds of Crime Act 76 of 1996 enacted, since repealed Extradition Amendment Act 77 of 1996 enacted



Project number	Title	Year of report	Reference number of published report	Result
99	The application of the rule <i>huur gaat voor koop</i> with reference to the question whether a lessee has a choice to continue the lease with a new lessor after the sale of the leased property	-	-	Struck off
100	Family law and the law of persons			
	Access to minor children by interested persons	1996	RP 107/1996 ISBN 0 621 17515 3	Recommendations incorporated in the Children's Act 38 of 2005
	Domestic violence	-	See Annexure G	Domestic Violence Act 116 of 1998 enacted
	Maintenance: Interim report	1998	RP 137/1998 ISBN 0 621 28685 0	Maintenance Act 99 of 1998 enacted
	Custody of and access to minor children	-	-	See Chapter 3
	Review of aspects of matrimonial property law	-	-	See Chapter 3
	Hindu marriages	-	-	See Chapter 3
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

Project number	Title	Year of report	Reference number of published report	Result
105	Review of security legislation			
	Monitoring and Interception Prohibition Act 127 of 1992	1999	RP 203/1999 ISBN 0 621 29897 2	Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002 enacted
	Terrorism	2002	RP 216/2002 ISBN 0 621 33513 5	Protection of Constitutional Democracy against Terrorism and Related Activities Act 33 of 2004 enacted
106	Juvenile Justice	2000	RP 159/2000 ISBN 0 621 30228 7	Child Justice Act 75 of 2008 enacted
107	Sexual offences	2002	RP 16/2003 ISBN 0 621 33583 5	Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 enacted
	Adult prostitution	-	-	See Chapter 3
108	Computer-related crimes	-	-	Struck off
109	Review of the Marriage Act	2001	RP 117/2001 ISBN 0 621 31454 4	Report under consideration by Department of Home Affairs – report submitted to the Department in 2001
110	Review of the Child Care Act	2002	RP 17/2003 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

Project number	Title	Year of report	Reference number of published report	Result
113	Use of electronic equipment in court proceedings	-	-	Struck off – continued as part of Project 126
	Postponement of criminal cases via audiovisual link	2003	RP 211/2003 ISBN 0 621 34990 9	Criminal Procedure Amendment Act 65 of 2008 enacted
114	Publication of divorce proceedings	2002	RP 217/2002 ISBN 0 621 33572 6	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2002
115	Review of administrative law	1999	ISBN 0 621 29881 6	Promotion of Administrative Justice Act 3 of 2000 passed
116	The carrying of firearms and other dangerous weapons	-	-	Struck off
117	The legal position of voluntary associations	-	-	Struck off
118	Domestic partnerships	2006	ISBN 0 621 37255 7	Civil Union Act 17 of 2006 enacted  Proposed Domestic Partnerships Bill under consideration by Department of Home Affairs
119	Uniform national legislation on the fencing of national roads	-	-	Struck off
120	Section 63(3) of the Insurance Act 27 of 1943	-	-	Struck off
121	Consolidated legislation pertaining to international co-operation in civil matters	2006	ISBN 0 621 38480 2	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in August 2008
122	Assisted decision-making: Adults with impaired decision-making capacity	-	-	See Chapter 3

Project number	Title	Year of report	Reference number of published report	Result
123	Protected disclosures	2007	ISBN 0 621 38278 5	Report under consideration by Department of Justice and Constitutional Development – report submitted to the Department in November 2008
124	Privacy and data protection	2009	ISBN 0 621 38922 7	Introduced into Parliament on 25 August 2009 as the Protection of Personal Information Bill [Bill 9 – 2009]
125	Prescription periods	-	-	See Chapter 3
126	Review of the law of evidence	-	-	See Chapter 3
127	Review of administration orders	-	-	See Chapter 3
128	Review of aspects of the law of divorce	-	-	Struck off – see Project 100
129	Review of aspects of matrimonial property law	-	-	Struck off – see Project 100
130	Stalking	2006	ISBN 0 621 38320 1	Introduced into Parliament on 5 February 2010 as the Protection from Harassment Bill [Bill 1 – 2010]
131	Trafficking in persons	2008	ISBN 0 621 38926 5	Introduced into Parliament on 15 March 2010 as the Prevention and Combating of Trafficking in Persons Bill [Bill 7 – 2010]
132	Abolition of the oath	-	-	Struck off
133	A specific civil action in respect of consequential damages arising from hoaxes	-	-	Struck off

Project number	Title	Year of report	Reference number of published report	Result
134	Administration of estates			
	Interim report	2008	ISBN 0 621 38277 8	Interim report under consideration by Department of Justice and Constitutional Development – interim report submitted to the Department in November 2008
135	Review of witchcraft legislation	-	-	See Chapter 3
136	Multi-disciplinary legal practices	-	-	See Chapter 3
137	Expungement of certain criminal records	-	-	See Chapter 3
138	The practice of <i>ukuthwala</i>	-	-	See Chapter 3

## **ANNEXURE D: Members of the Commission in order of appointment**

<b>Title/Name</b>	<b>Term of office</b>
<b>Chairpersons</b>	
Judge D H Botha, Judge of Appeal	28/09/1973 to 28/12/1975
Chief Justice P J Rabie	27/02/1976 to 31/05/1982
Judge G Viljoen, Judge of Appeal	30/09/1982 to 30/11/1988
Judge H J O van Heerden, Judge of Appeal	01/12/1988 to 31/12/1995
Chief Justice I Mahomed	01/01/1996 to 17/06/2000
Madam Justice Y Mokgoro, Justice of the Constitutional Court *	03/11/2000 to 31/12/2006 01/01/2007 to date
<b>Vice-Chairpersons</b>	
Judge President N James	28/09/1973 to 13/07/1977
Judge G Viljoen, Judge of Appeal	22/09/1977 to 27/09/1982
Judge H J O van Heerden, Judge of Appeal	30/09/1982 to 30/11/1988
Judge P J J Olivier, Judge of Appeal	01/12/1988 to 31/12/1998
Madam Justice Y Mokgoro, Justice of the Constitutional Court	01/01/1999 to 02/11/2000
Judge M L Mailula, Judge of the High Court	01/01/2002 to 31/12/2006
Judge W L Seriti, Judge of the High Court *	01/01/2007 to date
<b>Full-time members</b>	
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
<b>Members</b>	
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

<b>Title/Name</b>	<b>Term of office</b>
Mr F H Grosskopf SC	01/07/1977 to 21/11/1980
Mr G G Smit	01/02/1979 to 01/01/1982
Mr P A J Kotzé	01/11/1979 to 30/10/1988
Mr P M Nienaber SC	14/06/1981 to 27/07/1982
Mr P J J Olivier SC	30/09/1982 to 01/12/1988
Prof J T Delpont	30/09/1982 to 27/05/1987
Prof D J Joubert	21/12/1987 to 31/12/1995
Dr W G M van Zyl	01/11/1988 to 31/10/1991
Mr R P McLaren SC	24/07/1989 to 31/10/1990
Prof C R M Dlamini SC	08/05/1991 to 31/12/1995
Mr J A Venter	12/03/1992 to 31/12/1995
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
Judge D Davis *	01/01/2007 to date
Ms M Sello *	01/01/2007 to date
Mr D Ntsebeza SC *	01/01/2007 to date
Mr T Ngcukaitobi *	01/01/2007 to date
Prof P J Schwikkard *	01/01/2007 to date
Prof C Albertyn *	01/01/2007 to date

\* Current members

## **ANNEXURE E: Advisory committees of the Commission and their members**

<b>Project</b>	<b>Members</b>	<b>Background</b>
Project 25 Legislation administered by the Department of Agriculture, Forestry and Fisheries	Adv D Ntsebeza SC (project leader)	Part-time Commissioner SALRC
	Ms D Collier	University of Cape Town
	Prof ML Mbaob	University of the North West
	Ms M Moselakgomo	Agricultural Research Council
Project 25 Legislation administered by the Department of Basic Education	Judge D Davis (project leader)	Part-time Commissioner SALRC
	Prof E Bray	University of South Africa
	Ms S Budhu	University of South Africa
	Dr R Joubert	University of Pretoria
	Ms W Kaguongo	University of Pretoria
	Prof BP Wanda	University of Fort Hare
Project 25 Legislation administered by the Department of Communications	Prof PJ Schwikkard (project leader)	Part-time Commissioner SALRC
	Dr T Cohen	Neotel Regulatory Affairs
	Ms J Limpitlaw	Communications expert and lawyer
	Ms N Mabandla	Edward Nathan Sonnenbergs Attorneys
	Ms C Raffinetti	Edward Nathan Sonnenbergs Attorneys
	Ms LA Thornton	Lisa Thornton Inc
	Ms H Zondo-Kabini	Bowman Gilfillan Inc Attorneys
Project 25 Legislation administered by the Department of Co-operative Governance and Traditional Affairs	Mr T Ngcukaitobi (project leader)	Part-time Commissioner SALRC
	Prof M Beukes	University of South Africa
	Mr J Brickhill	Legal Resources Centre
	Ms A du Plessis	University of the North West
	Mr T Madlingozi	University of Pretoria
	Prof N Olivier	University of Pretoria
	Dr DM Pretorius	Bowman Gilfillan Inc Attorneys
	Ms R Roos	University of the North West
	Mr M Tenza	Walter Sisulu University
	Prof H van As	Nelson Mandela Metropolitan University



Project	Members	Background
Project 25 Legislation administered by the Department of Defence and Military Veterans	Adv D Ntsebeza SC (project leader)	Part-time Commissioner SALRC
	Adv T Norman	Durban Bar
	Rear Admiral D Smart	Formerly of the SANDF
	Adv A Tshivhase	University of Cape Town
Project 25 Legislation administered by the Department of Energy	Adv D Ntsebeza SC (project leader)	Part-time Commissioner SALRC
	Ms PV Mnonopi	University of Fort Hare
	Dr OJ Olowu	North West University
	Mr C Stevens	Tabacks and Associates Attorneys
	Prof E van der Schyff	University of the North West
Project 25 Legislation administered by the Department of Environmental Affairs	Prof PJ Schwikkard (project leader)	Part-time Commissioner SALRC
	Prof L Feris	University of Cape Town
	Prof L Kotze	University of the North West
	Ms KO Lefenya	University of the North West
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	University of the North West
Project 25 Legislation administered by the Department of Health	Judge W Seriti (project leader)	Vice Chairperson SALRC
	Dr P Andanda	University of the Witwatersrand
	Adv A Hassim	The Aids Law Project
	Ms M Mushariwa	University of the Witwatersrand
	Ms K Pillay	University of the Witwatersrand
	Dr J Singh	University of KwaZulu-Natal
	Prof M Slabbert	University of South Africa
Project 25 Legislation administered by the Department of Higher Education and Training	Judge D Davis (project leader)	Part-time Commissioner 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

<b>Project</b>	<b>Members</b>	<b>Background</b>
Project 25 Legislation administered by the Department of Home Affairs	Judge Y Mokgoro (project leader)	Chairperson SALRC
	Ms A Bhamjee	University of the Witwatersrand
	Prof M Carnelley	University of KwaZulu-Natal
	Prof T Davel	University of Pretoria
	Prof J Heaton	University of South Africa
	Ms MAB Majoko	University of KwaZulu-Natal
	Adv N Morei	University of the North West
	Prof T Mosikatsana	University of the Witwatersrand
	Mr J Pokroy	Pokroys Attorneys
	Mr C Watters	Watters Attorneys
Project 25 Legislation administered by the Department of Justice and Constitutional Development	Prof C Albertyn Mr T Ngcukaitobi (joint project leaders)	Part-time Commissioner SALRC Part-time Commissioner SALRC
	Mr R Badal	Raj Badal and Associates Attorneys
	Mr G Bradfield	University of Cape Town
	Ms K Lehmann	University of Cape Town
	Ms B Majiki	Majiki and Vuba Attorneys
	Adv M Malete	Pelo-Tshwaana Consultancy CC
	Prof L Meintjes van der Walt	University of Fort Hare
	Mr MM Mongake	University of the North West
	Mr T Mutangi	University of Pretoria
	Ms C Ncube	University of Cape Town
	Dr I Nonjongo	University of Cape Town
	Mr M Paleker	University of Cape Town
	Ms K Phelps	University of Cape Town
	Prof M Reddi	University of KwaZulu-Natal
	Dr A Skelton	University of Pretoria
Dr C Theophilopoulos	University of the Witwatersrand	
Judge RH Zulman	Retired Judge of the High Court	

Project	Members	Background
Project 25 Legislation administered by the Department of Labour	Judge D Davis (project leader)	Part-time Commissioner SALRC
	Dr K Calitz	University of Stellenbosch
	Prof M Christianson	University of the Witwatersrand
	Ms M Conradie	University of the Free State
	Prof C Cooper	University of the Witwatersrand
	Mr HJ Deacon	University of the Free State
	Mr A K Funnah	University of Pretoria
	Prof E Kalula	University of Cape Town
	Prof R le Roux	University of Cape Town
	Adv R Letseku	University of Limpopo
	Ms N Lubisi-Nkoane	University of Fort Hare
	Mr K N Matshekgga	University of Johannesburg
	Prof O Sibanda	University of South Africa
	Mr C Todd	Bowman Gilfillan Inc Attorneys
Prof BPS van Eck	University of Pretoria	
Ms T Zondeki	University of Fort Hare	
Project 25 Legislation administered by the Department of Mineral Resources	Adv D Ntsebeza SC (project leader)	Part-time Commissioner SALRC
	Ms PV Mnonopi	University of Fort Hare
	Dr OJ Olowu	North West University
	Mr C Stevens	Tabacks and Associates Attorneys
	Prof E van der Schyff	University of the North West
Project 25 Tax legislation administered by National Treasury	Judge D Davis (project leader)	Part-time Commissioner 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

<b>Project</b>	<b>Members</b>	<b>Background</b>
Project 25 Legislation administered by the Department of Rural Development and Land Reform	Prof C Albertyn (project leader)	Part-time Commissioner SALRC
	Prof J Bekker	University of Pretoria
	Prof W du Plessis	University of the North West
	Prof W Freedman	University of KwaZulu-Natal
	Ms L Mbatha	University of the Witwatersrand
	Prof H Mostert	University of Cape Town
	Prof N Olivier	University of Pretoria
	Prof J Pienaar	University of Stellenbosch
	Prof A van der Walt	University of Stellenbosch
	Prof J van Wyk	University of South Africa
Project 25 Legislation administered by the Department of Tourism	Prof PJ Schwikkard (project leader)	Part-time Commissioner SALRC
	Prof L Feris	University of Cape Town
	Prof L Kotze	University of the North West
	Ms KO Lefenya	University of the North West
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	University of the North West
Project 25 Legislation administered by the Department of Trade and Industry	Judge D Davis (project leader)	Part-time Commissioner SALRC
	Prof F Cassim	University of the Witwatersrand
	Prof P Delpont	University of Pretoria
	Dr A Govindjee	Nelson Mandela Metropolitan University
	Prof M Havenga	University of South Africa
	Prof A Itzikowitz	Edward Nathan Sonnenbergs Attorneys
	Mr MM Mnisi	University of Johannesburg
	Mr JR Modise	University of the North West
	Mr TK Mojela	University of Limpopo
	Prof TH Mongalo	University of Cape Town
	Prof M Roestoff	University of Pretoria
	Prof EC Schlemmer	University of South Africa
Prof E Snyman-Van Deventer	University of the Free State	

Project	Members	Background
	Prof JC Sonnekus	University of Johannesburg
	Ms A Stern	Formerly of the University of the Witwatersrand
Project 25 Legislation administered by the Department of Water Affairs	Prof PJ Schwikkard (project leader)	Part-time Commissioner SALRC
	Prof L Feris	University of Cape Town
	Prof L Kotze	University of the North West
	Ms KO Lefenya	University of the North West
	Mr T Murombo	University of the Witwatersrand
	Mr A Paterson	University of Cape Town
	Prof W Scholtz	University of the North West
Project 100 – Family law and the law of persons  Custody of and access to minor children  Review of aspects of matrimonial property law	Judge D van Zyl (Chairperson)	Inspecting Judge in the Judicial Inspectorate of the Department of Correctional Services; formerly Judge of the Western Cape High Court
	Prof E Bonthuys	University of the Witwatersrand
	Adv F Bosman	Advocate of the High Court Former Chief Family Advocate
	Prof IP Maithufi	University of Pretoria
	Ms Z Moletsane	Central Divorce Court, Johannesburg
	Prof T Mosikatsana	University of the Witwatersrand
	Prof J Mowatt	Rhodes University
	Adv M Sello	Part-time Commissioner SALRC
Project 100 – Family law and the law of persons  Hindu Marriages	Prof C Albertyn (project leader)	Part-time Commissioner SALRC
	Adv DN Perumal	University of KwaZulu-Natal
	Ms P Pillay-Shaik	Bowman Gilfillan Inc Attorneys
	Ms S Samuel	Legal Resources Centre, Durban
	Ms Y Sooka	Executive Director, Foundation for Human Rights
	Mr A Trikamjee	Practising attorney and Hindu priest

<b>Project</b>	<b>Members</b>	<b>Background</b>
Project 122 – Assisted decision-making: Adults with impaired decision-making capacity	Judge B du Plessis (project leader)	Judge of the North Gauteng High Court
	Prof J Bekker	Retired Dean of the Faculty of Law, Vista University
	Ms D Mahlangu	Department of Social Development
	Ms M Meyer	Office of the Master of the High Court
	Judge Y Mokgoro	Chairperson SALRC (since 1 January 2007)
	Dr S Selemani	Psychiatrist in private practice
	Mr L Vitus	Retired Executive Manager of the SA Federation for Mental Health
Project 126 – Review of the law of evidence	Prof PJ Schwikkard (project leader)	Part-time Commissioner SALRC
	Prof L Fernandez	University of the Western Cape
	Adv T Masuku	Cape Bar
	Judge T Ndita	Judge of the Eastern Cape High Court
	Judge M Nhlantla	Judge of the Eastern Cape High Court
	Judge W Seriti	Vice-Chairperson SALRC

## ANNEXURE F: Present programme of the Commission

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

## **ANNEXURE G: Papers published by the Commission in its research series**

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



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 <i>Hooge Raad</i> reported by Willem Pauw	ISBN 0 621 09715 2
7	Mr P J J Viljoen	South African Noter-up to the Institute of Justinian	ISBN 0 621 09743 8
8	Prof P van Warmelo and Adv C J Visser	Aantekeninge van Johannes Voet oor die Inleidinge van Hugo de Groot (text and translation)	Vol 1 ISBN 0 621 10641 0  Vol 2 ISBN 0 621 10642 9
9	Prof L J du Plessis	Translation of Vinnius' <i>Tractatus de Pactis</i>	ISBN 0 621 10277 6
10	Prof W J Hosten (ed and transl), Mrs C van Soelen and Mr P Ellis	Treatise on the quasicontract called <i>promutuum</i> and on the <i>condictio indebiti</i> by Robert-Joseph Pothier	ISBN 0 621 10722 0
11	Prof R Whitaker	<i>Quaestiones juris privati</i> by Cornelius van Bijniershoek	Vol 1 ISBN 0 621 10657 7  Vol 2 ISBN 0 621 10675 5
12	Profs J T Delpont and C R M Dlamini	Two lectures on law reform	ISBN 0 621 10670 4
13	Mr H C Smuts (ed)	Report on the Fourth International Congress with the theme "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 <i>Corpus Juris Civilis</i> of Justinian including the Institutes of Gaius	ISBN 0 621 13088 5
15	Margaret Hewett (transl)	<i>Censura Forensis</i> Part I Book V by Simon van Leeuwen	ISBN 0 7970 2231 7
16	SALRC	Domestic Violence	Accessible on SA Law Reform Commission Website

Serial Number	Author, editor, compiler, etc	Title or subject	Reference number
17	SALRC / GTZ	Empirical study of the sentencing practices in South Africa	ISBN 0 621 30091 8
18	SALRC / GTZ	Sentencing: An empirical, quantitative study on the progress and finalisation, including by conviction, of criminal matters reported to the police	ISBN 0 621 31582 6
19	SALRC / GTZ	Simplification of criminal procedure: Settlements out of court - a comparative study of European criminal justice systems	ISBN 0 621 29881 6



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