

MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION

PROJECT 135: DISCUSSION PAPER: REVIEW OF THE WITCHCRAFT SUPPRESSION ACT 3 OF 1957

The South African Law Reform Commission (SALRC) has approved the publication of a discussion paper on the review of the Witchcraft Suppression Act, for public comment. The discussion paper follows an issue paper, published in September 2014, which highlighted matters for possible law reform with regard to the practice of witchcraft and the prohibition thereof in the legislation under review. The discussion paper outlines challenges related to witchcraft and some of the consequences suffered by communities because of harmful witchcraft practices. The paper makes preliminary recommendations for law reform, contained in a draft Bill.

Requests for a review of the Witchcraft Suppression Act present two disparate positions. On the one hand is the argument that the Act must be repealed, as it violates constitutionally protected rights of people who practise witchcraft. On the other hand is the call to regulate witchcraft practices because of the dire consequences suffered by communities through harmful practices associated with witchcraft. The discussion paper highlights the balance that needs to be struck between these two positions, especially in light of the constitutional imperatives within which both arguments are located.

The discussion paper thus also highlights the distinction that needs to be drawn between witchcraft as a religious and/or cultural belief, versus practices associated with harmful witchcraft beliefs. In this regard the Commission focuses not on the practise of witchcraft itself but on harmful associated practices. The Commission has identified specific harmful practices associated with witchcraft, which need to be addressed and regulated. These are witchcraft accusations, witch findings, crimes associated with witchcraft, and muti killings. Offences have therefore been created in the draft Bill to give guidance on the extent of regulation of the crime and the penalties for those offences.

The Commission invites interested and affected stakeholders to make submissions on the discussion paper and draft Bill. This input will help to shape the recommendations made by the Commission in its final report, which will be prepared after further extensive consultation with various stakeholders.

The project leader for the investigation is Prof Marita Carnelley of the Law Faculty at University of KwaZulu Natal, who is also a commissioner in the SALRC. The SALRC legal researcher is Ms Jennifer Joni. The discussion paper is available online at

<http://www.doj.gov.za/salrc/index.htm> and can also be obtained from Mr Jacob Kabini (tel 012 622 6327).

The closing date for comment is **30 April 2016**. All comments and representations must be made in writing, and are invited from any interested person or organisation. Submissions should be sent to one of the following addresses:

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SA Law Reform Commission
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PRETORIA, 0001

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The contact person for this media statement and the discussion paper is Ms J Joni (tel 012 622 6336).

**ISSUED BY THE SECRETARY, SA LAW REFORM COMMISSION, CENTURION,
PRETORIA**

DATE: 19 JANUARY 2016

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