

MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION

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

The South African Law Reform Commission has approved the publication of an issue paper towards a review of witchcraft legislation, for public comment. The issue paper draws attention to matters for possible law reform with regard to the practice of witchcraft and the prohibition thereof as contained in the legislation under review.

An issue paper contains a preliminary survey of the current legal position, and forms the basis for further investigation and consultation by the Commission. It does not present clearly defined recommendations for law reform. The views and recommendations presented in an issue paper are therefore not to be regarded as the Commission's final views. Submissions received in response to an issue paper, and the results of further research, form the basis for a discussion paper. The discussion paper is to be published at a later stage and will contain the results of comparative studies, the Commission's preliminary recommendations for law reform, and possibly draft legislation.

The issue paper is intended to facilitate focused debate on the relevant issues and to provide all role players with the chance to identify related matters for investigation. With the constitutional dispensation brought about by the Constitution of the Republic of South Africa, 1996, a number of laws as old as the Witchcraft Suppression Act (1957) have had to be measured against it to ensure that they do not encroach on constitutionally protected rights.

The issue paper outlines submissions that the Commission has received to date on the topic of witchcraft legislation. These submissions reflect the need to balance the rights of individuals with the need to protect communities from witchcraft-related murders or ritual killings. Some claim that the practice of witchcraft is an expression of their right to religion. Others state that protection is necessary to prevent the dire consequences that result from the practice of witchcraft, which have become prevalent in modern South Africa. The Commission has published this issue paper to gauge public opinion on critical topics, and to assist in the proper formulation and understanding of those issues before considering options for law reform.

Questions and topics which the issue paper raises include the following:

- whether and how to define witchcraft;

- whether the practice of witchcraft should be regulated by law (eg a revised version of the Witchcraft Suppression Act), and if so, which aspects of witchcraft should be prohibited by law;
- to consider possible alternatives to legislative regulation of witchcraft or witchcraft-related violence;
- whether aspects of witchcraft that are deemed non-harmful or which have positive connotations should be exempt or excluded from legislative regulation;
- how the law should account for forms of witchcraft such as Paganism which people practise as part of their religion;
- how the law and the state should deal with witchcraft-related violence (eg killings for body parts); and
- whether the consumers or end users of *muti* should be punished.

The project leader for the investigation is Judge Mandisa Maya, a judge at the Supreme Court of Appeals. The Commission researcher is Ms Jennifer Joni. The issue paper is available at the following website: <http://salawreform.justice.gov.za/index.htm> and it can also be obtained from Mr Jacob Kabini (tel 012 622 6327).

The closing date for comment is **31 October 2014**. 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:

The Secretary
SA Law Reform Commission
Private Bag X 668
PRETORIA, 0001

Telephone: (012) 622 6336
Fax: 086 266 1935
E-mail: jjoni@justice.gov.za

Respondents may provide comment beyond the issues and questions raised in the issue paper, and are welcome to draw other relevant matters to the Commission's attention.

ISSUED BY THE SECRETARY, SA LAW REFORM COMMISSION, CENTURION

DATE:

The contact person for enquiries in respect of this media statement and issue paper is Ms J Joni (012) 622 6336.

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