

**ABOUT  
SECTION27**

SECTION27 is a public interest law centre based in South Africa that seeks to influence, develop and use the law to protect, promote and advance human rights, particularly the rights to basic education, access to health care services and food.

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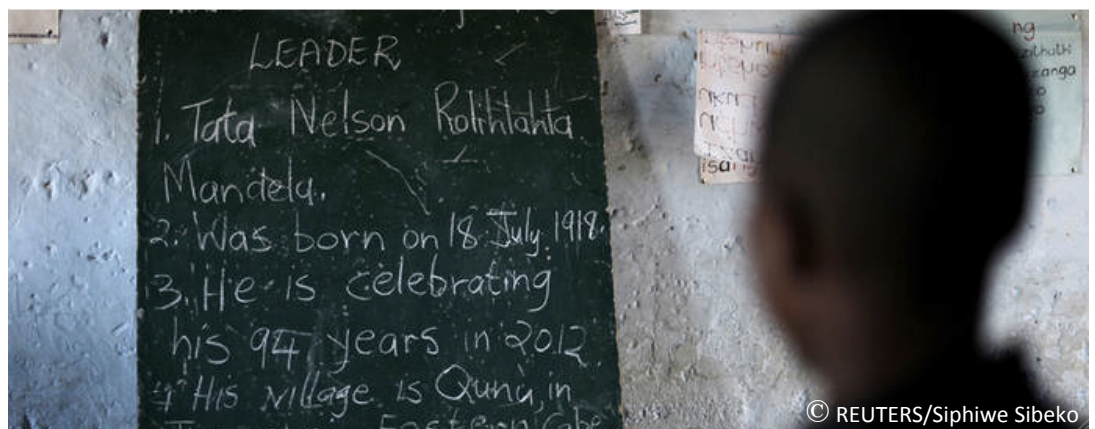
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**SUCCESS STORY**

How civil society has used a human rights based approach to advance the right to education

# THE LIMPOPO TEXTBOOK CRISIS IN SOUTH AFRICA

How SECTION27 used rights-based strategies to hold the government accountable



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## Context & Issue

Limpopo is a rural province in northern South Africa. It has high levels of poverty and unemployment and some of the worst performing schools in the country, due, in part to gross mismanagement and corruption in the provincial government. Education in Limpopo is in crisis, and many schools do not have access to key components of the right to basic education, such as toilets, drinking water, desks, paper, chalk and even classrooms, to ensure a conducive learning environment. These conditions disrupt teaching and learning.

In 2012, a new curriculum was introduced for learners in Grades 1, 2, 3 and 10. However, by the start of the school year in January, textbooks for this new curriculum had not yet been delivered to schools, forcing children to learn and teachers to teach without the necessary learning materials. Students were unable to do their homework and prepare for lessons and examinations, or consolidate what they had learned in class.

In February 2012, SECTION27, a public interest law centre, visited schools in Limpopo and confirmed the failure of the government to ensure delivery of textbooks to Limpopo students. To secure textbook delivery and hold the government accountable, SECTION27 used rights-based strategies, focusing on litigation in conjunction with community activism and direct lobbying.

# Violation of the Right to Education

The failure by the South African government to deliver textbooks to Limpopo schools is a violation of the right to receive a quality education. Adequate teaching materials, including textbooks, are essential for effective teaching and learning and therefore form part of the right to a quality education. In addition, because most learners in the other South African provinces received their textbooks on time, the failure to deliver textbooks to Limpopo learners is also a violation of the right to equality.

## Applicable Law

### International Law

South Africa ratified the Convention on the Rights of the Child in 1995 and the UNESCO Convention against Discrimination in Education in 2000, which both guarantee the right to quality education:

- Article 29 of the Convention on the Rights of Child defines the aims of education. In its General Comment 1, the Committee on the Rights of the Child states that “every child has the right to receive an education of good quality which in turns requires a focus on the quality of...teaching and learning processes and materials...” In addition, according to Article 28, States have an obligation to achieve the right to education on the basis of equal opportunity.
- According to Article 4 of the UNESCO Convention against Discrimination in Education, States have the obligation “to ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the condition relating to the quality of education provided are also equivalent”.



### National Law

Section 29 of the South African Constitution provides that “everyone has the right to a basic education”. Under this Section, the State has an immediate obligation to do everything possible to realise the right to basic education in full for learners across South Africa.

In addition, the South African Schools Act and various policy documents and statements, adopted in conformity with the Constitution, guarantee that each learner will have his or her own textbook for each subject.

Finally, section 195 of the South African Constitution, which sets out the basic values and principles governing public administration, requires responsiveness to people’s needs and a government that conducts itself according to the principles of openness, transparency and accountability.

**It is on the basis of this legal framework that SECTION27 held the South African government accountable and secured the procurement and delivery of textbooks.**

## Actions Taken

SECTION27's overall objective was to secure textbook procurement and delivery. To achieve this objective, SECTION27 used litigation as its primary tool. This was supported by media work, direct lobbying of the government, evidence gathering and monitoring government compliance, as well as engaging with parents, school governing bodies and local community organisations.

SECTION27 first became aware of the lack of textbooks through media reports. In February 2012, after a number of public undertakings to ensure immediate textbook delivery were not met, SECTION27 addressed a letter to the Department of Education requesting clarity on the situation and an indication as to when textbooks would be delivered. They were invited to a meeting and an agreement was reached for the delivery of textbooks by mid-April.

However, this deadline was not met. Having received no response to several follow-up letters to the Department of Education, SECTION27 decided to take the case to court. In May 2012, the Judge confirmed that there was a violation of the right to basic education and ordered the delivery of textbooks by mid-June.

Following this decision, SECTION27 monitored the government's compliance with

the court order, visiting Limpopo schools to confirm whether textbooks had been delivered. They also encouraged parents, students and teachers to report missing textbooks.

By the mid-June deadline, no textbooks had been delivered, and, after threatening further litigation, SECTION27 secured a settlement with the Department of Education to deliver textbooks by no later than the end of June. At the beginning of July, the government claimed that 98% of the textbooks had been delivered to schools, but SECTION27's client schools continued to report that they had not received their textbooks. SECTION27 and the Department of Education agreed to appoint a team to conduct an independent verification of textbook delivery. This investigation revealed that 22% of Limpopo students still had not received their textbooks by the end of June. However, even after these findings were published, the Department of Education still did not complete its delivery of textbooks in compliance with the court order.

Therefore, in September 2012, SECTION27 decided to return to court to secure full textbook delivery for 2012, and for the upcoming 2013 academic year. The Judge confirmed the government's failure and

required the full delivery of textbooks for the 2012 school year by mid-October, and for the 2013 school year by mid-December 2012. The Department of Education filed affidavits stating that all textbooks for 2012 and 2013 had been delivered.

However, schools continued to report shortages of their textbooks for 2012. Given the late stage of the school year, SECTION27 did not return to court to compel delivery of textbooks for the few remaining weeks of 2012. SECTION27 therefore shifted its focus towards monitoring the textbook delivery for the 2013 school year. Together with partner organisations, SECTION27 monitored textbook delivery to schools across South Africa from the start of the 2013 school year.

Throughout this campaign, SECTION27 mobilised and raised awareness about the Limpopo textbook crisis, organising demonstrations outside the court, holding workshops on the right to education, releasing press statements, holding press conferences, writing opinion pieces and providing updates on the case through social media. The media played an effective role in generating public awareness by reporting the latest developments of the case and exposing of the political corruption that led to the textbook crisis.

# Outcomes & Lessons Learned



At the end of 2012, as a result of SECTION27's actions, almost all students in Limpopo had received their textbooks. The situation continued to improve in relation to textbook delivery for 2013 and 2014, as systems were improved to support efficient textbook delivery. SECTION27 will continue to monitor the procurement and delivery processes and to engage the Department of Education until all schools have received all of their textbooks.

This case has encouraged more community involvement in addressing the education crisis in Limpopo. A community organisation, Better Education for All (BEFA), made up of teachers, principals and parents, was formed in Limpopo in response to the textbooks crisis. Recognising the need for mobilisation around the education crisis, BEFA will raise awareness of problems in education and work to find solutions.

In addition, there is belief that the law is an important instrument in enabling change, and community members appear to have a renewed trust in the legal process. Social movements fighting for equal access to quality basic education have been strengthened and this has resulted in public pressure on government

departments to comply with their obligations.

However, this case has also shown that litigation is most effective when combined with community mobilisation. Court decisions on their own may not bring about systemic changes, especially in countries that experience non-compliance with court orders by government departments. Ultimately, a legal court order supported by community mobilisation

and public pressure will be more effective in holding governments accountable.

More broadly, the textbook case has contributed to raising greater attention and public debate around the responsiveness and accountability of representatives. Trade unions have become more vocal about the working conditions of teachers and put more pressure on the government to improve them. Moreover, as a result of the Limpopo textbook case, the South African Human Rights Commission has undertaken an investigation into the issue of the broader problems relating to textbook procurement and delivery to make recommendations to improve these systems. This investigation has involved input from the government and civil society stakeholders, including SECTION27.

The President also appointed a task team to investigate the circumstances surrounding the textbooks crisis, and who should be held responsible for this crisis. The task team recommended that further investigations, with a view to disciplinary proceedings, should be taken against a number of senior officials in the national and provincial education departments.



## Next Steps

- The process of procurement and delivery of textbooks must ensure that every year, every learner has access to the appropriate learning materials. Therefore, SECTION27 will continue to monitor textbook delivery across Limpopo and other provinces.
- As a result of the work on the textbook case, SECTION27 has received instructions to act for schools to address issues such as poor infrastructure, sanitation, furniture and funding for day-to-day operational expenses. They will work with the government to bring about the systemic change necessary for the realisation of the right to education.

## Additional Information

[The 2012 Limpopo Textbook Crisis: A study in rights-based advocacy, the raising of rights consciousness and governance \(Feranaaz Veriava\), September 2013](#)

[Decision of the High Court, Section27 and others v. the Minister of Education, 17 May 2012](#)

[Decision of the High Court, 4 October 2012](#)

[BBC radio documentary on the trail of South Africa's missing textbooks](#)

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