

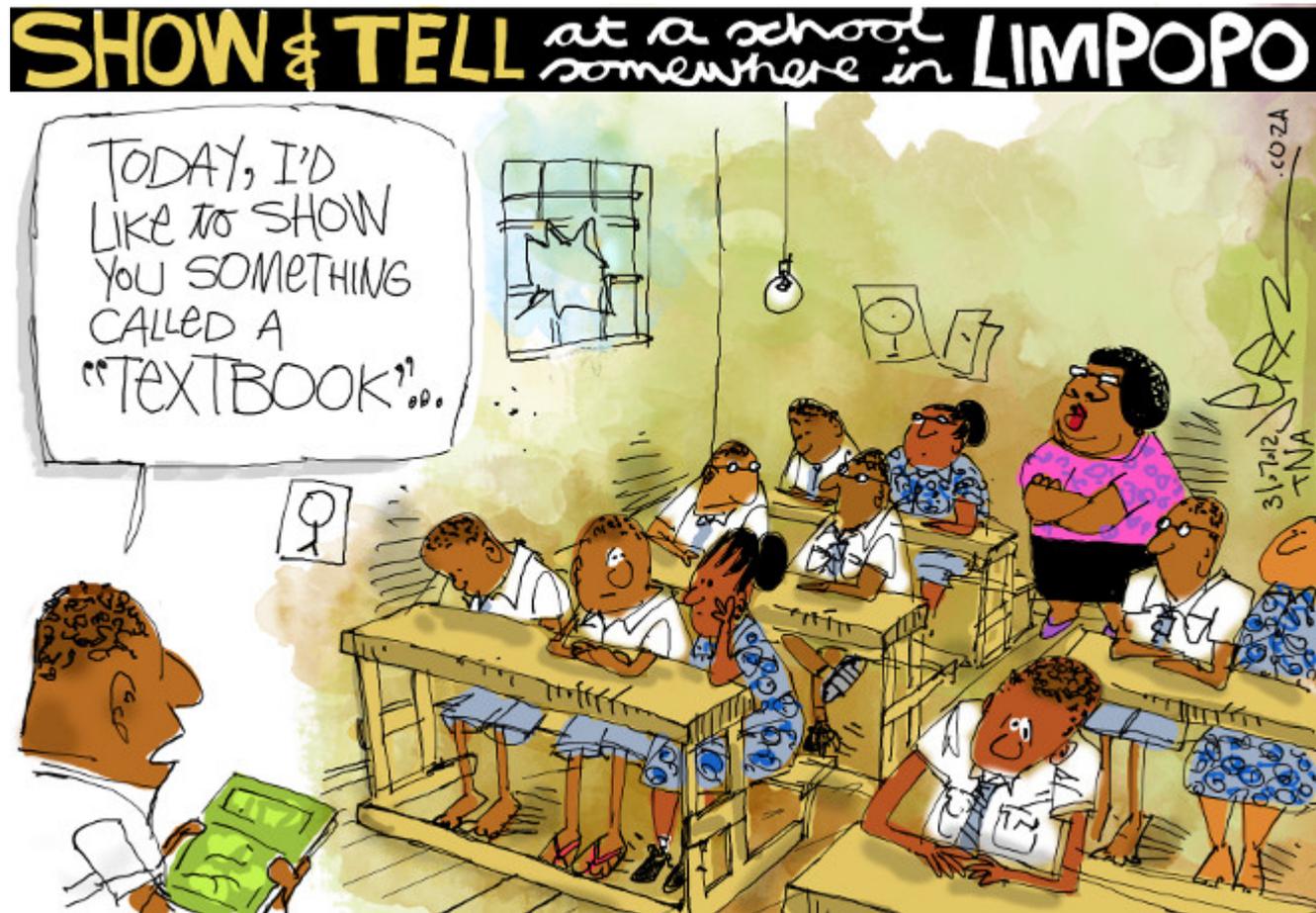
## Education in Limpopo: A failure of legislative oversight?

An analysis of the role of the Limpopo  
provincial legislature in the textbooks crisis

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# Introduction



# Textbooks crisis

- + Department's own deadlines

- + 15 June 2012

- + 20 June 2012

- + 27 June 2012

- + What now?

## Textbooks crisis – continued

- + Extensive debate and public interest
  - + NGOs and civil society
  - + Media
  - + Parents, learners and teachers
  - + Other members of the public
- + Where are our representatives?

# Textbooks crisis - continued

## + Factors leading to the crisis

- + Provincial Department failed to order textbooks from publishers
- + National intervention – still no orders
- + Overspent on 2011/12 budget
- + EduSolutions contract
- + No funds to procure books

# Separation of powers

- + Separation of functions between executive, legislative and judicial branches
  - + Legislature makes law
  - + Executive implements and enforces law
  - + Judiciary applies law
- + Independence and interdependence
- + Checks and balances

# Focus of legislative oversight

- + Implementation of laws
- + Application of budgets
- + Strict observance of constitution and legislation
- + Effective management of government departments

# Mechanisms for oversight

- + Budget vote
- + Questions for executive reply
- + Members' statements
- + Notices of motion
- + Plenary debates
- + Constituency work

# Oversight by courts?

## + Public interest litigation

- + Courts directing executive to discharge obligations
- + Courts making budget decisions
- + Supervisory orders incl structural interdicts

# Section 100 Intervention

- (1) *When a province cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the national executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including –*
  - (a) . . .
  - (b) *assuming responsibility for the relevant obligation in that province to the extent necessary to –*
    - (i) *maintain essential national standards or meet established minimum standards for the rendering of a service;*
    - (ii) *maintain economic unity;*
    - (iii) *maintain economic security; or*
    - (iv) *prevent that province from taking unreasonable action that is prejudicial to the interests of another province or the country as a whole*

# Budget

- + Did not reflect true state of affairs
  - + Under-reflected remuneration of staff
  - + Intention to shift between items contrary to PFMA
  - + Fully funded only staff remuneration
  - + Funds for other items would be found "somewhere"
- + Why was it approved??

# National oversight

- + Section 100 intervention – national executive oversight of provincial executive
  - + Assume direct responsibility
- + January visit by Portfolio Committee
  - + Follow-ups?

## National oversight – continued

- + Karodia report to NCOP – 6 March
  - + Specifically highlighted textbooks
  - + EduSolutions contract
  - + Orders not placed
  
- + Textbooks only ordered June 2012

## National oversight – continued

- + 5 July Portfolio Committee visit
  - + Too little too late?
- + Questions by opposition parties
  - + Direct accountability
  - + Importance of separating from party politics

## National oversight – continued

- + 7 August: Portfolio Committee rejected catch-up plan
- + Important to achieve meaningful catch-up properly implemented

# Provincial oversight

## Sections 133(2) and (3) of the Constitution:

- (2) Members of the Executive Council of a province are accountable collectively and individually to the legislature for the exercise of their powers and the performance of their functions.*
- (3) Members of the Executive Council of a province must –*
  - (a) act in accordance with the Constitution and, if a provincial constitution has been passed for the province, also that constitution; and*
  - (b) provide the legislature with full and regular reports concerning matters under their control.*

# Provincial oversight

- + Provincial Portfolio Committee postponed meeting
- + Awaiting confirmation of budget for 2013

# Structural interdict as court remedy

- + Executive reporting to courts instead of legislature
- + Structural interdict
- + Resisted by Minister: courts taking the place of legislature
- + What does this mean for SoP?

# Legislatures and civil society

- + Powerful relationship
- + Oversight by elected representatives
- + Reduce SoP issues in relation to courts

# Conclusion

