



Moving from inputs to outcomes

Realising the Right to Basic Education by developing South African law to include a right to read and write

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We believe that the development of binding literacy regulations based on widely accepted core elements of literacy instruction would be a useful development, with the potential to accelerate improvements in literacy rates and give children the best chance possible to realise their right to read, or their right to basic education. Existing policy, legislation and jurisprudence all suggest that regulations would be appropriate, and, in the case of a breach of those regulations, that the courts would willingly direct the government to comply with them.

1. The inability to read for meaning as a breach of the right to basic education

The South African education system has seen some improvements in learner results since PIRLS 2006, but recent trajectories still posit that it will take 80 years before 95% of Grade 4 learners are able to read for meaning (Spaull 2022), and those are pre-Covid-19 trajectories.

The inability of the majority of our learners to read and write for meaning is an indicator of a system failing to provide all of the inputs necessary to give children a reasonable opportunity to learn to read for meaning. It is also the infringement of an existing right – the right to basic education. An infringement of the right can only be remedied by addressing a group of interrelated and complex inputs and processes, rather than one solitary input, for example, making textbooks available to all learners. Whether there should be a stand-alone ‘right to read’ that grants learners the right to a specific outcome, or, on the other hand, that the right to basic education should be interpreted in a way that being unable to read for meaning constitutes an infringement of the right, may be legally significant but we believe it is of little practical importance. We submit that remedying a breach of either right would call for similar, if not the same, remedies.

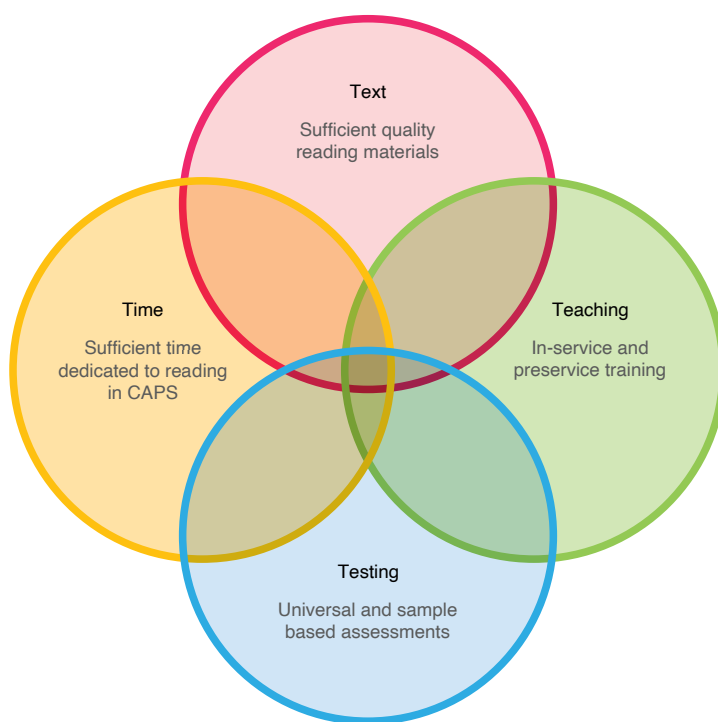
2. Moving from aspirational policies and plans to binding regulations

South Africa is not short on policies, frameworks and strategies that have been developed in the last 20 years to address the reading crisis in the Foundation Phase: Drop Everything and Read, Read to Lead, the Early Grade Reading Studies, the 2008 National Reading Strategy, the Eastern Cape’s Reading Plan 2019–2023, the Western Cape Reading Strategy 2020–2025, to name but a few. But, unlike regulations,

these are not laws. They represent what national and provincial governments hope to achieve – their good intentions and aspirations – with some principles and methods that the State hopes will be used to achieve them. As excellent as many of these policies may be, they are not binding. They do not set standards or procedures that must be followed. Budgets are sometimes made available to fund the implementation of the campaigns and policies, at least for a period, but these are discretionary, and the state can move funds away from them as they please. Many policies are not well understood by those that need to implement them, and in some cases, they may not even be aware of them. There is also a real threat of policy overlap and contradiction, with multiple role-players pushing different policies and interventions. We submit that binding regulations, drawn up by the DBE and provincial education department’s own experts on literacy, with input from the public (including teachers, academics, and civil society) would provide the much-needed, binding blueprint for improving literacy levels as quickly as possible.

3. What would be included in the regulations?

A review of the literacy literature reveals four⁵⁵ necessary, largely uncontested, strategic interventions to improve literacy which we believe, at a minimum, should be found in binding regulations – time, teaching, text and testing.



Time: Acquiring proficient literacy skills takes time, particularly for low-achieving students. Even if the recommended CAPS guidelines are followed, it appears that not enough focus is being placed on literacy in our curriculum at the Foundation Phase. We submit the CAPS document should be reviewed and ways found to ensure that sufficient time is both allocated to and actually spent on literacy activities. The proposed reading regulations should reference the curriculum in relation to literacy. It must be crystal clear what is required of teachers during the time they must spend on literacy activities.

Teaching: Teacher knowledge and skills in reading pedagogy must improve for literacy rates to improve. Ensuring that university teaching programmes are fully accredited (not always the case) and that university-based teacher educators are in tune with what teachers need to know is critical. Reading regulations that prescribe quality, accredited literacy training for Foundation and Intermediate Phase student teachers must ensure that all teachers entering the system are well-equipped to assist children

55 Literature refers to 6Ts for effective primary school literacy instruction – time, teaching, texts, testing, tasks and talk, see Allington (2002) and Spaul & Pretorius (2022). However, we argue that at least the first four of the ‘Ts’ (i.e. time, teaching, texts, testing), from the South African perspective, must be adequately addressed by the state in the proposed regulations, as part of the content of the right to read. The remaining ‘Ts’ (tasks and talk) could arguably be canvassed in the regulations dealing with teaching, and we suggest that they would not be appropriate as standalone elements

reach the benchmark by the age of 10, and teachers already in the system must complete in-service training of a particular quality that is assessed. Teachers should be given a reasonable amount of time to successfully complete the course.

Text: In 2008 the DBE gazetted “guidelines” for recommended reading materials, setting out what could be described as the minimum package required. Despite this, 15 years later, severe shortages of quality, appropriate reading materials at multiple levels to cater for the range of abilities in classrooms persist. We believe that the DBE’s “guidelines” need to be updated and then upgraded to binding standards that require sufficient texts to be available. Policies are too easily ignored.

Testing: To know if children are on track to realise their right to read, there must be assessments. While there are criticisms of a slavish reliance on testing, there is also a growing acknowledgment that without regular standardised testing in some form, we are unable to get even a basic understanding of the scope, location, and nature of the literacy problem in South Africa. Without widespread universal testing, we also have little sense of whether interventions are making any difference. The regulations should prescribe what is tested and when.

4. Are binding regulations feasible?

Legislating for literacy achievement is not novel. Numerous US states have adopted legislation that requires schools to adopt particular approaches to reading instruction (Pondiscio 2021) and in North Carolina, the law now requires that teacher licensing includes “three continuing education credits directly related to literacy and based upon the science of reading method” (Moore 2021, 1). South Africa needs to craft its own reading laws in order to systematically address the four problematic “T”s, and overcome the State’s uneven and ad hoc responses to the literacy crisis that have resulted in a smorgasbord of policies. Regulations are also needed to provide clarity to the state on its obligations in terms of delivery and budgeting. Significant improvements to literacy levels could be made if reading regulations are well-crafted, using a broad, participatory process.

5. What are the next steps to developing reading regulations?

In quarter 1, 2023, a number of civil society organisations will launch the “**Right to Read Regulations Campaign**” which aims to mobilize civil society and the education sector, as well as society at large, to call on the Minister to draft (with help from literacy experts) and then adopt binding reading regulations. It is hoped this will be achieved through traditional advocacy methods, but if those are unsuccessful, litigation to direct the Minister to adopt regulations could be considered.

The **specific objectives** for the Campaign are to ensure that:

- Reading Regulations are drafted and circulated for comment within 12 months, and adopted within 24 months
- There is general consensus amongst stakeholders, and experts that the regulations at least address the current problems summarised by the four Ts.
- Sufficient Budget is set aside/identified by the DBE and PEDs to implement the regulations.

The South African Human Rights Commission, Funda Wandé, Section27, and the Legal Resources Centre are founding organisations for the Campaign, however once launched, any organisation or network affiliation can join the Campaign.

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