



An Investigation into the Effectiveness of Section 139 of the Constitution in Municipalities under Administration: A Case of KwaZulu-Natal Municipalities

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Abstract

The local government sector in South Africa is always marred with challenges in service delivery which is an indication that some municipalities are struggling to fulfil their constitutional mandates or obligations. The Constitution Act (1996) of the Republic of South Africa mandates provincial and national government departments to intervene in municipalities that are failing to meet their constitutional obligations such as service delivery, revenue collection, financial management, financial reporting, playing an oversight role, etc. Even though there are diagnostics reports detailing the reasons for dysfunctionality of municipalities that end up being under Section 139, the three main contributing factors to such kind of intervention are collapse of governance, failed service delivery and financial crisis. The rising number of municipalities under Section 139 intervention in South Africa in general is alarming. This has led to general perception that possibly Section 139 interventions are not effective. Both the Auditor-General of South Africa and the Chairperson of the Select Committee of Cooperative Governance and Traditional Affairs joined the Parliamentary Committee in raising concerns about possible ineffectiveness of Section 139 interventions. These are some of the reasons why this study investigated effectiveness of Section 139 interventions in KwaZulu-Natal municipalities.

Keywords: *Section 139; Intervention, Administration; Dysfunctionality, Collapse of Governance; Service Delivery; Obligations; Financial Crisis; Diagnostics; Constitution; Municipalities; Indicators; Targets; Performance*

Introduction

The Constitution Act (1996) of the Republic of South Africa mandates provincial and national government departments to intervene in municipalities that are failing to meet their constitutional obligations such as service delivery, revenue collection, financial management reporting, playing of oversight role by governance structures, etc. On the main dysfunctionality of municipalities that led them to be put under administration is attributable to collapse of governance, financial crises, and failure to

deliver services. This kind of intervention is in a form of either provincial or national administration and is mandated and provided for by Section 139 of the Constitution.

There is generally a perception in many studies that Section 139 of the Constitution, that is intervention or administration, would not be necessary if Section 154 of the Constitution were effective and properly implemented by government departments. Section 154 of the Constitution mandates government departments to provide support and build capacity in municipalities to be able to fulfil their constitutional obligation. The question then is how municipalities deteriorate in terms of functionality to such an extent that they are put under administration. In all fairness many government departments do not have adequate capacity to support especially the metropolitan municipalities and secondary cities, in fact these municipalities have more capacity than most of the government departments.

In most cases when a municipality is put under administration, the Provincial Executive Authority or Member of the Executive Council (MEC) or Minister appoints a Ministerial Representative (MR) or Administrator to take over the executive role. Most if not all Ministerial Representatives or Administrators are appointed as consultants by government departments and deployed to dysfunctional municipalities which then confirms that some government departments do not have adequate internal capacity to even fulfil their constitutional obligations.

There is also a perception especially amongst political leadership in various government levels that Section 139 interventions are generally not effective. This was a poignant question from the Select Committee of the National Council of Provinces (NCOP) responsible for Cooperative Governance and Public Administration where members wanted to know why the Section 139 interventions were not efficient. The Select Committee further questioned the role of South African Local Government Association (SALGA) in the process of administration, whether the Ministerial Representatives are qualified for the job and whether there is any misdiagnosis of the challenges faced by these municipalities that are put under administration.

Aim and Objectives of the Study

The main aim of the study was to investigate the effectiveness of Section 139 of the Constitution in municipalities under administration with specific reference to KwaZulu-Natal municipalities.

The objectives of the study were to:

- Review the legislative provision of Section 154 of the Constitution.
- Review the legislative provision of Section 139 of the Constitution.
- Test the legalities of Section 139 of the Constitution.
- Review literature on effectiveness of Section 139 of the Constitution.
- Assess the state of KwaZulu-Natal municipalities that are under Section 139 of the Constitution.

Literature Review

Legislative provision for the support by national and provincial governments to municipalities (Section 154 of the Constitution)

Section 154 of the Constitution of the Republic of South Africa states that the national and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. This section is very important because it clarifies where the kind of support to be provided by both provincial and national government to municipalities begins. There is a very strong public perception that if section

154 were effective and government was doing its work effectively in supporting municipalities, there would be no need for section 139 intervention or administration. Whilst municipalities are also blamed for dysfunctionality which leads to Section 139 interventions, provincial and national government departments should equally shoulder the same blame and check if their section 154 support is working effectively.

Legislative provision on provincial intervention in local government

Constitution of the Republic of South Africa Act, 1996

Section 139(1) of the Constitution states that when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation including-

- a) Issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations;
- b) Assuming responsibility for the relevant obligation in that municipality to the extent necessary to:
 - i) Maintain essential national standards or meet established minimum standards for the rendering of service;
 - ii) Prevent the Municipal Council from taking unreasonable action that is prejudicial to the interests of another municipality, or the province as a whole; or
 - iii) Maintain economic unity, or
- c) Dissolving the Municipal Council and appointing an administrator until newly elected Municipal Council has been declared elected if exceptional circumstances warrant such a step.

The spirit of section 139 is that the actions from 1a-c should follow a chronological order. This means that before the relevant authority can intervene, he or she must issue a directive to the municipality or Municipal Council alerting them to the failure in terms of fulfilling its obligation. It is important as well to explain that the constitutional obligation of a municipality is to deliver services to its communities. The question then would be at what level of failure to fulfil an obligation will a municipality be deemed dysfunctional. This is a very important debate since there have been municipalities that have been put under administration but are still able to deliver almost all services though it may not be 100% to the satisfaction of its communities and these are the municipalities that take the Provincial Authorities to courts challenging why they are put under Section 139 intervention.

Section 139(1)(b), which should ordinarily be chronologically preceded by section 139(1)(a), states that the provincial authority should assume responsibility of the obligations of that municipality. What this means is that the Department of Cooperative Governance and Traditional Affairs, for example, should physically take over and perform those functions that are failing in municipalities. Although the Constitution does not specify how the department should take over this obligation, a simple logic will be that staff of the Department of Provincial Governance and Traditional Affairs should be physically present at the municipality and take over those municipal functions that are failing. Since the start of these interventions government departments have appointed consultants to deploy in municipalities and have not deployed their own staff. The question though will be whether the Department of Cooperative Governance and Traditional Affairs does have staff with relevant capacity, skills, and experience to perform those functions. Generally, most municipalities are more capacitated than most if not all government departments of Cooperative Governance and Traditional Affairs in all provinces. Linked to this question is whether the provincial authority has done a thorough and proper diagnosis of the challenges that led to dysfunctionality of municipalities leading to administration. In many cases the decision to put a municipality under administration is taken in haste based on hearsay or media reports or some opposition parties or sections of communities submitting complaints to the executive authority.

There is also no framework that provides for inter alia, how the diagnosis is done and how the Section 139 intervention is implemented.

Section 139(1)(c), which should be a last resort involves the dissolution of the Municipal Council and appointing an administrator. Whilst the Department of Cooperative Governance and Traditional Affairs has generally avoided putting municipalities under section 139(1)(c), which is applauded, there seems to be a gap in terms of how the municipality is run during that time. Dissolution of the Council means there is no-one who represents communities and that surely affects service delivery. The appointment of an administrator has been questionable. Firstly, to have a single person with both executive and legislative authority may be dangerous and risky because there are no checks and balances. There is also a concern that most administrators are people who do not have experience in managing municipalities. There is also a perception that this may be contributing towards the ineffectiveness of Section 139 interventions. Maybe this is another reason why administration fails. There are perceptions that some of these administrators do not even develop turn-around strategies or plans to deal with challenges facing municipalities under administration.

The deployment of an administrator can only be done when a Municipal Council has been dissolved. This therefore begs a question whether the provincial authorities are correct to appoint an administrator when the Municipal Council is not dissolved and there is one municipality in South Africa (Mogalakwena Local Municipality) that challenged the deployment of the Administrator, and they won the case.

Municipal Finance Management Act, 2003

Provincial administration or intervention by the provincial executive is also elaborated on in the Municipal Finance Management Act (MFMA). Section 136(1) states that if the Member of the Executive Council (MEC) for local government in a province becomes aware that there is a serious financial problem in a municipality, the MEC must promptly-

- a) Consult the Mayor of the municipality to determine the facts;
- b) Assess the seriousness of the situation and the municipality's response to the situation; and
- c) Determine whether the situation justifies or requires an intervention in terms of section 139 of the Constitution.

(2) If the financial problem has been caused by or resulted in a failure by the municipality to comply with an executive obligation in terms of legislation or the Constitution, and the conditions for an intervention in terms of section 139(1) of the Constitution are met, the provincial executive must promptly decide whether or not to intervene in the municipality.

(3) If the municipality has failed to approve a budget or any revenue raising measures necessary to give effect to the budget, as a result of which the conditions for which an intervention in terms of section 139(4) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with section 26.

(4) If the municipality, as a result of a crisis in its financial affairs, has serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, as a result of which the conditions for an intervention in terms of section 139(4) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with section 139.

Whilst the MFMA may not be specific about financial mismanagement or financial crisis which may result into Section 139 intervention, it is clear that it includes failure to approve, spend and account for the budget; fraud and corruption; failure to meet financial obligations such as paying creditors, paying

salaries and also failure to collect revenue due to the municipality. This explanation is also provided just to check if in terms of financial crises in municipalities, they are in such a level for them to be put under administration.

Whilst the Constitution of the Republic of South Africa is the supreme law of the country, the MFMA provides emphasis on dealing with financial challenges which result into Section 139 intervention and states that the Financial Recovery Plan should be mandatory when the municipality is in a financial crisis. The question though will be whether administrators are able to diagnose the financial crises, develop, implement, and monitor the Financial Recovery Plan given the fact that many of these administrators are not necessarily qualified in finance.

Constitutionality of the Section 139 Interventions

There has been a lot of jurisprudence to prove that in some cases Section 139 interventions are done in haste and politically thus violating the Constitution of the Republic of South Africa. One example cited by Makoti and Odeku (2018) is the case of the *Premier of Western Cape v Overberg District Municipality*, 2011(4) SA441 (SCA) where the Supreme Court of Appeal had to adjudicate a dispute dealing with an intervention on the basis of Section 139(4) where the Western Cape Provincial Government dissolved the Council of Overberg District Municipality on the basis that they failed to approve the annual budget. The Court found that it was not justifiable to dissolve a Council on the basis of failing to approve the budget instead the Provincial Government should have provided support until the budget was approved.

It is also important to note that interventions should have procedural fairness and follow the procedural guidelines. There is no doubt that the spirit of the law (Constitution) is such that both provincial and national governments should exercise the executive authority in good faith with the sole aim of improving the functionality of the municipality to meet its obligations, not to abuse their executive authority and using Section 139 as a punitive measure.

Makoti and Odeku (2018) further provide an example of case law where the intervention was not justified. In the case of *Mogalakwena Local Municipality v Provincial Executive Council, Limpopo and Others*, 2014]4 All SA67(GP) (19 June 2014) the applicants were the councillors of the Mogalakwena Local Municipality who challenged the Executive Council of Limpopo. The intervention was in terms of 139(1)(b) of the Constitution. This section empowers the provincial government to perform an executive obligation where a municipality is failing to meet its constitutional obligations. The Provincial Executive can either issue a directive describing non-compliance by the municipality and directing it to comply within certain timeframes or the provincial Executive can assume the performance of such obligation if the municipality fails to meet the obligation within the timeframe provided. Section 139(1)(c) of the Constitution states that the Provincial Executive can dissolve the Council of a failing municipality and appoint an Administrator. This step is usually looked at by the Constitutional Court as a last resort and should be taken with great caution and reasonable protection of the municipality. Mettler (2003) affirms that the institutional integrity of a municipality becomes, without a doubt, under attack whenever there is this kind of intervention. In the case of *Mogalakwena Local Municipality*, the Constitutional Court found that the Provincial Executive erred by appointing an Administrator which is provided for under Section 139(1)(c) whereas the intervention was in terms of Section 139(1)(b).

Effectiveness of Section 139 interventions

The Select Committee on Cooperative Governance and Public Administration is equally concerned that there is very minimal positive progress achieved in municipalities under administration. This effectively means that the scale tilts more towards ineffectiveness whilst acknowledging that there are some, though very few, municipalities where there has been positive progress. In KwaZulu-Natal

there are currently 2 municipalities with directives in terms of Section 139(1)(a) namely uMhlathuze and Msunduzi Local Municipalities. There are 8 KwaZulu-Natal municipalities that are under Section 139(1)(b) and these are Mpopoana Local Municipality, uThukela District Municipality, Inkosi Langalibalele Local Municipality, uMzinyathi District Municipality, uMkhanyakude District Municipality, Inkosi Mtubatuba Local Municipality, Umzumbe Local Municipality and Zululand District Municipality. The total of 10 (out of 54) municipalities under Section 139 in KwaZulu-Natal is highly concerning. Municipalities like uMzinyathi District Municipality and Inkosi Langalibalele Local Municipality have been under Section 139 since 2016 and 2017 respectively.

Whilst Msunduzi Local Municipality has also been in and out of Section 139 intervention for a long time, the fact that Section 139(1)(b) was terminated by 30 April 2024 and substituted by Section 139(1)(a) which is issuance of a directive maybe interpreted as improvement even though it is very insignificant. There are partial achievements of the improvement targets in Mpopoana and Inkosi Langalibalele Local Municipalities in terms of the Governance indicator because governance structures are now operational, and meetings do take place. It should also be mentioned that both Zululand District Municipality and uMhlathuze Local Municipality challenged the Section 139 intervention in court and judgement is reserved. Both municipalities believe they are not the candidates for Section 139.

Ineffectiveness of Section 139 Interventions

There is a growing concern about seemingly ineffectiveness of Section 139 interventions in South African municipalities. This has recently been expressed by the Chairperson of the Select Committee on Cooperative Governance and also by the Auditor-General of South Africa. Literature has also expressed that whilst the number of Section 139 interventions are widespread in South Africa, there is a growing apprehension about their effectiveness (Chamberlain and Masiangoako, 2021). The study by Ledger and Rampedi (2019) found that a significant number of interventions failed to record more than only marginal improvements in the selected indicators, and most municipalities could not be considered as having recovered to optimal operation. They attribute the ineffectiveness of interventions to the fact that the underlying problems of dysfunctionality are not being adequately addressed. Linked to this is that there is no framework that is developed to guide the process of intervention and in many cases, challenges leading to dysfunctionality of municipalities may be political, but these interventions do not have any programme to address political challenges.

According to Ledger and Rampedi (2019) the majority of interventions are invoked against municipalities which are experiencing a crisis of finance, and serious persistent material breaches of financial obligations and commitments. Section 139(5)(a) of the Constitution provides that when an intervention is invoked as a result of financial crisis and serious or persistent material breaches of financial obligations and commitments, the Provincial Executive must impose a Recovery Plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments. Khaile (2023) maintains that the imposition of the Financial Recovery Plan is required to be consistent with the guidelines and procedures prescribed by Sections 141 and 148 of the Municipal Finance Management Act (MFMA) of 2003 which prescribe the preparation, approval, implementation, review, and termination of the Recovery Plan.

Other authors such as De Visser and November (2017) have joined in to express that Section 139 interventions are not effective. The South African Parliamentary committees such as Parliamentary Group and Select Committee on Cooperative Governance both raised similar concerns in 2020 and 2024 respectively. Ledger and Rampedi (2019) found that the majority of municipalities under Section 139 interventions are repeat offenders, Madibeng Local Municipality being the most serial offender, and this is evident of the growing concerns that those municipalities that are under Section 139 have it very difficult to get out of interventions which then confirms ineffectiveness of Section 139 interventions. Khaile's (2023) study, though not conclusively and categorically stating that Section 139 interventions are

ineffective, it presents very strong and solid evidence that Section 139 interventions did not help municipalities get out of financial crises, thus unable to improve their audit outcomes.

The State of Kwazulu-Natal Municipalities Under Section 139 Interventions

There are currently 10 municipalities that are under Section 139 interventions in KwaZulu-Natal, however for purposes of this study only 8 of them will be discussed. The other 2 municipalities that is uMhlathuze Local Municipality and Zululand District Municipality will not be discussed because they have challenged their interventions in Court since they believe they are not the candidates for Section 139 intervention and the judgement is reserved.

Mpofana Local Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGER | STATUS |
|---|--------------------|
| 1.Failure to appoint senior managers | Achieved |
| 2. Poor cash flow | Not achieved |
| 3. Failure to implement cost cutting measures | Partially achieved |
| 4. Poor audit outcomes | Partially achieved |
| 5. Ballooning electricity debt from Eskom | Not achieved |
| 6. Mismanagement of conditional grants | Achieved |
| 7. Electrification project stalled | Achieved |

Figure 1: Triggers of Intervention at Mpofana Local Municipality

Mpofana Local Municipality only achieved 3 out of 7 targets and this is not good performance and what is of greater concern is that all financial indicators were not achieved.

uThukela District Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGER | STATUS |
|--|--------------------|
| 1.Ineffective MPAC and Audit Committee | Not achieved |
| 2. Week oversight by Council, Exco and Committees | Partially achieved |
| 3. Community protests over lack of service delivery | Not achieved |
| 4. Labour protests and vandalization of infrastructure | Not achieved |
| 5. Lack of Water technical capacity | Not achieved |
| 6. Poor state of infrastructure | Not achieved |
| 7. Extensive water losses | Not achieved |
| 8. Lack of capacity to undertake water and sanitation function | Not achieved |
| 9. Qualified audit opinion and weak financial controls | Not achieved |
| 10. Financial challenges | Not achieved |
| 11. Underspending on capital budget | Partially achieved |
| 12. Underspending on capital grants | Achieved |

Figure 2: Triggers of Intervention at uThukela District Municipality

uThukela District Municipality only achieved 1 out of 12 indicators which is again very poor performance.

Inkosi Langalibalele Local Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGER | STATUS |
|--|---------------|
| 1.Failure to deal with Job Evaluation resulting in labour unrests | Achieved |
| 2.Failure to address the bloated organogram | Achieved |
| 3.Failure to play oversight role | Achieved |
| 4.Failure by Municipal Public Accounts Committee (MPAC) to investigate Unauthorised, Irregular, Fruitless and Wasteful Expenditure | Achieved |
| 5.Mismanagement of conditional grants | Achieved |
| 6.Poor contract management | Achieved |

Figure 3: Triggers of Intervention at Inkosi Langalibalele Local Municipality

Inkosi Langalibalele Local Municipality managed to achieve all (100%) targets that were set which is commendable.

uMzinyathi District Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGER | STATUS |
|--|--------------------|
| 1.Allegations of maladministration, fraud and corruption | Not achieved |
| 2.Poor cashflow | Not achieved |
| 3.Non-implementation of cost containment measures | Not achieved |
| 4.Failure to appoint Municipal Manager, Chief Financial Officer and Director: Trading Services | Partially achieved |
| 5.Failure to implement programmes to capacitate councillors on governance | Not achieved |

Figure 4: Triggers of Intervention at uMzinyathi District Municipality

This municipality has regrettably not achieved any of the targets.

uMkhanyakude District Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as at August 2024:

| TRIGGER | STATUS |
|--|---------------|
| 1.Precarious cashflow position | Not achieved |
| 2.Failure to table completed internal forensic investigations | Not achieved |
| 3.Failure to prevent and investigate Unauthorised, Irregular, Fruitless and Wasteful Expenditure | Not achieved |
| 4. Poor project management supervision | Not achieved |
| 5. Failure to fill vacancies of senior management | Not achieved |
| 6. Lack of preventative maintenance programme | Not achieved |

Figure 5: Triggers of Intervention at uMkhanyakude District Municipality

This municipality has regrettably not achieved any of the targets.

Inkosi Mtubatuba Local Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as at August 2024:

| TRIGGER | STATUS |
|---|--------------------|
| 1.Senior management vacancies | Partially achieved |
| 2.Failure to submit reports and investigate Unauthorised, Irregular, Fruitless and Wasteful Expenditure | Not achieved |
| 3.Failure to deal with waste management services (no landfill operating license) | Not achieved |
| 4.Dysfunctional oversight structures | Partially achieved |

Figure 6: Triggers of Intervention at Inkosi Mtubatuba Local Municipality

This municipality has regrettably not achieved any of the targets.

Msunduzi Local Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGERS | STATUS |
|--|--------------|
| 1. Failure by Council to exercise oversight on management | Not achieved |
| 2. Failure by Council to resolve service delivery challenges | Not achieved |

Figure 7: Triggers of Intervention at Msunduzi Local Municipality

This municipality has regrettably not achieved any of the targets.

Umzumbe Local Municipality

The following are the issues that were raised as triggers of the Section 139 intervention together with progress on the implementation as of August 2024:

| TRIGGER | STATUS |
|---|--------------------|
| 1.Dysfunctional ward committees | Not achieved |
| 2.Public protests | Not achieved |
| 3.Failure to resolve service delivery issues | Partially achieved |
| 4.Dysfunctional Council | Achieved |
| 5.Failure to exercise oversight | Not achieved |
| 6.Failure to investigate allegations of malfeasance and maladministration | Not achieved |
| 7.Failure to prevent and investigate UIFW | Not achieved |
| 8.Failure to table budget and IDP | Ratified |
| 9.Failure to fill vacancies for senior managers | Not achieved |
| 10.Failure to exercise oversight on financial management | Not achieved |
| 11. Failure to enforce the Code of Conduct for councillors | Not achieved |
| 12.Section 106 Forensic Recommendations not yet implemented | Not achieved |

Figure 8: Triggers of Intervention at Umzumbe Local Municipality

Umzumbe Local Municipality only achieved one out 12 targets and it should be noted as well that their budget and IDP were ratified which means were approved outside the statutory compliance date.

Research Methodology

The study aimed at investigating the effectiveness of Section 139 of the Constitution of the Republic of South Africa. 8 KwaZulu-Natal municipalities that are still under administration were analysed comparatively to establish if there is any improvement of effectiveness of the interventions. Section 139 intervention indicators were used as qualitative proxy indicators to assess the effectiveness of Section 139 interventions. This was combined with qualitative document analysis which was based on theoretical inputs and reports on Section 139 interventions.

Research Findings and Conclusions

A total of 54 indicators for 8 municipalities were analysed with an intention of establishing how many of them were achieved, partially achieved, or not achieved at all. It should be noted that those indicators that were partially achieved were classified as not achieved for the purposes of this study because they were not complete. Out of 54 indicators only 11 were achieved and 43 indicators were not achieved. This is an achievement of only 20% which is not good performance in terms of assessment and this very low percentage is indicative that Section 139 interventions are not effective.

Out of 8 municipalities only 1 municipality, that is, Inkosi Langalibalele Local Municipality that managed to achieve all targets (6 targets in total). Municipalities that failed to achieve even a single target are uMzinyathi District Municipality which has 5 targets, uMkhanyakude District Municipality which has 6 targets, Msunduzi Local Municipality which has 2 targets and Inkosi Langalibalele Local Municipality which has 4 targets. The municipality which has the highest number of targets is Umzumbe Local Municipality with 12 targets and only 1 target was achieved which translates to only 8% achievement rate. There is a total of 20 financial related targets and only 1 was achieved and this confirms that municipalities under administration also struggle to recover financially. It is also remarkable that 5 (63%) out of 8 municipalities failed to fill senior management vacancies which included Municipal Managers and Chief Financial Officers (CFOs). 7 out of 8 municipalities had dysfunctional Council structures and committees which is a concern because underlying and contributing factor to such dismal performance may be political and there is nothing that specifically targets political challenges except that Section 139 interventions just try to ensure that Council structures are restored and are able to hold meetings.

Recommendations

Based on the findings and conclusions of the study the following recommendations are made:

- There should be an analysis of the current legislative provisions for Section 139 intervention of the Constitution and Section 142 of the MFMA with a view to establish if there are any gaps in law that contribute towards the ineffectiveness of Section 139 interventions.
- The Department of Cooperative Governance, together with all relevant stakeholders should develop and test the Section 139 Framework that will help in the uniform application and implementation of section 139 interventions.
- There needs to be a proper alignment between the intervention process and the MFMA provision for municipalities that are under Section 139 but also have financial crises.
- There should be a deeper diagnosis of the political challenges in municipalities under Section 139 and this should be done beyond the Council and include the contribution and the role political structures have towards dysfunctionality of municipalities.
- There should be a deeper analysis of each of the indicators that are not achieved or partially achieved to establish the reasons thereof.

Conclusion

The study investigated the effectiveness of Section 139 of the Constitution in municipalities that are under administration or interventions with reference to 8 KwaZulu-Natal municipalities. The study focused on literature review outlining the legislative provisions of interventions; constitutionality of Section 139 interventions; effectiveness of Section 139 interventions; ineffectiveness of Section 139 interventions and analysis of 8 KwaZulu-Natal municipalities under Section 139 interventions. The research concluded that Section 139 interventions in the selected 8 KwaZulu-Natal municipalities were not effective. Recommendations were made to improve the effectiveness of Section 139 interventions.

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