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**Dissertation**

**Influence of provincial intervention on the administration of the uMkhanyakude  
District Municipality, **South Africa**.**

**By**

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## **DEDICATION**

This dissertation is dedicated to my late mother Mrs Litha Ntshangase-Khumalo. May your soul rest in peace dear Mama. I am keeping your last wishes. My achievements are through your inspiration. I am proud of you.

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I want to thank the Almighty Jehovah for this work and for sustaining my life thus far. I wish to offer a special word of thanks to my supervisor, Prof. Tyanai Masiya, for his guidance and constructive criticisms on the proposal and the dissertation itself. I appreciate his patience, courage, and guidance towards the completion of this work. May God Bless Him.

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## ABSTRACT

This study investigates the influence of provincial intervention on the administration of uMkhanyakude District Municipality in KwaZulu-Natal. Section 139(1) (b) of South Africa's 1996 Constitution allows the provincial government to intervene in municipalities experiencing governance challenges with a view to improving management and service delivery. Qualitative case study design was employed to explore the long term impacts of provincial intervention on governance, administrative challenges and stakeholder perceptions in uMkhanyakude District Municipality. The study population comprised of municipal officials, business community members and governance stakeholders in uMkhanyakude District Municipality. A purposive sample of 25 participants was selected including 15 municipal officials and 10 business representatives. Semi structured interviews were used as main data collection tool, and secondary data included municipal reports, policy documents and relevant legislative frameworks. Data were analysed thematically.

The study focused on key themes, including governance and political stability, financial management and accountability, service delivery challenges, and the sustainability of interventions. Notably, the study found that uMkhanyakude District Municipality continues to experience governance instability despite provincial interventions. Financial mismanagement, characterised by excessive and inappropriate expenditure, persists as a significant issue. Moreover, service delivery remains irregular particularly in water, infrastructure and public facilities. Political interference has intervention strategies, and the lack of post-intervention monitoring has led to recurring governance failures. Based on the study's findings, recommendations include enhancing political stability through improved oversight and governance frameworks, strengthening financial accountability via strict financial controls and audits, and improving service delivery by increasing community participation and implementing responsive municipal service plans. To mitigate political interference, policies should be established to limit political influence on municipal activities. Long-term monitoring mechanisms should also be put in place to assess the sustained impact of interventions on governance.

**Key words:** District Municipality; Provincial intervention; Service delivery; uMkhanyakude.

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|              |                                                  |
|--------------|--------------------------------------------------|
| <b>AG</b>    | Auditor-General                                  |
| <b>BTO</b>   | Budget and Treasury Office                       |
| <b>COGTA</b> | Cooperative Governance and Traditional Affairs   |
| <b>DBSA</b>  | Development Bank of Southern Africa              |
| <b>IDP</b>   | Integrated Development Plan                      |
| <b>LGTAS</b> | Local Government Turnaround Strategy             |
| <b>MFMA</b>  | Municipal Finance Management Act                 |
| <b>MPAC</b>  | Municipal Public Accounts Committee              |
| <b>MSA</b>   | Municipal Systems Act                            |
| <b>PMG</b>   | Parliamentary Monitoring Group                   |
| <b>RSA</b>   | Republic of South Africa                         |
| <b>SAICA</b> | South African Institute of Chartered Accountants |
| <b>SALGA</b> | South African Local Government Association       |
| <b>SCM</b>   | Supply Chain Management                          |
| <b>UDM</b>   | uMkhanyakude District Municipality               |

## CHAPTER 1

### INTRODUCTION AND BACKGROUND

#### 1. 1. INTRODUCTION

This study examined the influence of provincial intervention in the administration of the uMkhanyakude District Municipality, located in the northern region of KwaZulu-Natal province. In April 2015, the KwaZulu-Natal provincial government placed uMkhanyakude Municipality under administration in a bid to prevent the collapse of governance and to bring back stability and order. Section 139(1) (b) of South Africa's 1996 Constitution allows the provincial government to intervene in municipalities experiencing governance challenges. The provision allows the state government to assume certain powers of the municipality if it believes that the municipality is failing in its executive duties, failing "to meet its financial obligations or failing to provide basic services" (SALGA, 2020:6). This decision must be taken in consultation with key stakeholders such as COGTA, and approved by a two-thirds majority of provincial legislatures. Section 139(1) (b) of South Africa's 1996 Constitution has sparked considerable debate and controversy. Some scholars and practitioners argue that it undermines local government (Makoti and Odeku, 2018), while others assert that it is essential for addressing municipal administration and service delivery (Kalonda and Governder, 2021).

Municipal interventions have been widespread across South Africa, with numerous studies examining these interventions (Ledger and Rampedi, 2019; Kampi, 2017; Heydenrich 2008; Wright, Dube and du Plessis, 2022). Ledger and Rampedi (2019) provide a comprehensive overview of municipal interventions by province from 1998 to 2019, highlighting the following numbers: KwaZulu-Natal (40), Gauteng (3), Eastern Cape (15), Free State (14), Limpopo (2), Mpumalanga (11), North West (43), Northern Cape (3), and Western Cape (9).

The primary objective of this study is to examine the influence and performance of provincial intervention. This examination is crucial for both theoretical and practical purposes, as it aims to bridge the gap between constitutional interventions and their consequences at the local government level. Furthermore, this study seeks to inform

policymakers and civil servants, supporting them in carrying out their responsibilities effectively. Ultimately it aims to provide valuable insights for various stakeholders, including the business community, civil servants, community members, and local government politicians. The findings of this study will significantly inform public policy on public administration, particularly in relation to local government. The research will provide in-depth insight into the intricacies of provincial intervention in the uMkhanyakude District Municipality, and contribute to a deeper understanding of the impact of provincial interventions in municipal governance in South Africa.

## **1.2. ORIENTATION OF THE STUDY**

Public administration researchers hold varying views on the challenges posed by multilevel governance mechanisms. Kaywood, (2021) argues that, the system of governance, which results from the distribution and sharing of powers among various spheres of government creates difficulties. For example, in South Africa, intervention occurs when a municipal council neglects its executive responsibilities, such as failing to adopt a budget (Glasser and Wright, 2020). Moreover, Glasser and Wright, (2020), note that Section 139(5) is invoked when a municipality fails to meet its financial commitments or deliver essential services in a satisfactory manner. Similarly, the (HSF) (2019) observes that municipalities are heavily regulated by the state and provinces, and possess significant powers to intervene in cases of municipal failure.

State and provincial interventions have been triggered by the perceived failure of certain municipalities to deliver essential services. Research suggests that the widespread service delivery protests in South Africa may be attributed to municipalities' inadequate provision of essential services (Masiya, et al., 2019). Masiya, et al (2019) identify several factors contributing to citizen dissatisfaction with service delivery, including unfulfilled political promises, poor service delivery, high poverty rates, apartheid-era imbalances, perceived relative deprivation and inequality.

Masiya, et al (2019) suggest that increasing the provision of basic services could reduce the number of protests. However, municipalities face numerous challenges that hinder their ability to do so. Historically, local governments have been characterised by bureaucratic and autocratic tendencies, leading to poor policy implementation (Gumede and Tshishonga, 2021). Moreover, municipalities have struggled with

persistent governance-related deficiencies (Khaile, 2023 and Masiya, 2021). These deficiencies include inadequate consultation and community involvement in the IDP/budget process, political instability in councils, breaches in supply chain management, and weak management structures such as audit boards and public accounts committees).

Glasser and Wright (2020) highlight that municipalities face significant financial management challenges. This is exemplified by, the Auditor General, South Africa (2022) report, which found that only 22% of KwaZulu-Natal's 54 provincial municipalities submitted high quality annual financial statements. Moreover, 70% (38 municipalities) failed to curb irregular expenditure. Notably, eight of the 10 municipalities in KwaZulu-Natal with the poorest audit outcomes were under administration.

To address municipal financial distress, the law does offer legal remedies (Glasser and Wright, 2020). Section 139 (1) interventions empower provincial governments to intervene in municipalities (Kampi, 2019). As per the Constitution, the provincial government may adopt regulations or assume administrative control during the intervention process (Glasser & Wright, 2020). Section 139 outlines specific financial and non-financial circumstances under which provinces and/or the national government may intervene to support struggling local municipalities and prescribes the procedure for resolving problems (Ledger, and Rampedi, 2019).

According to SALGA (2020), a provincial government can intervene in a municipality under the following circumstances:

- Incapacity to perform executive duties: The municipality is unable to execute its executive responsibilities.
- Budgetary constraints: The municipality cannot approve its implement necessary revenue-raising measures;
- Violation of essential services: The provision of essential services or the municipality's ability to meet its financial obligations is seriously or persistently compromised due to a financial crisis.

- Acknowledgement of inability: The municipality acknowledges its inability to fulfil its financial or other commitments.

However, in theory, section 139 interventions in municipalities should only be used as a last resort, after provincial support for municipalities has failed. Provincial intervention to address non-compliance is typically seen as punitive rather than corrective (SALGA, 2020). This study investigates the influence of Section 139 (1)(b) of the Constitution, specifically the intervention by the Kwazulu-Natal government in the uMkhanyakude District Municipality.

### **1.3. PRINCIPAL-AGENT THEORY**

This study applies the principal-agent theory, which originated with Stephen Ross and Barry Mitnick in the 1970s. Since then, it has been employed in various fields, including marketing, economics, accounting, political science, and organisational behaviour. The theory aims to design the optimal contractual relationship for the principal-agent relationship (Bernhold & Wiesweg, 2021).

According to Lane (2020), the core principle of principal-agent theory is that politicians, as principals, wield the political power to demand accountability and performance from their subordinates, who act as agents of the state. To achieve the desired behaviour, the principal uses incentive systems or agreements. The agent's problems are categorised as 'hidden characteristics', 'hidden action', 'hidden information', and 'hidden intention' (Bernhold & Wiesweg, 2021).

In relation to the study, this theory can be stated as the KwaZulu-Natal provincial government being the principal and the uMkhanyakude District Municipality the agent. According to Aleksovskaja (2021), the principal-agent theory has proven to be a versatile and effective tool for understanding the impacts of institutional arrangements on the accountability of public decision makers and public policy. This is achieved through performance management, oversight research, and the political appointment system or the cadre deployment system (Aleksovskaja, 2021). The principal - agent-theory mentioned in this chapter is used to develop the conceptual framework that enabled the examination of the effect of intervention on the local government of the

uMkhanyakude district. This section introduces the origin and fundamentals of principal-agent theory, and discusses the functions of local government and provinces.

### **1.3.1 Origin and foundation of principal agent theory**

This study employs the Principal-Agent Theory, originally developed by Stephen Ross and Barry Mitnick in the 1970s. The theory has been widely applied across various disciplines, including marketing, economics, accounting, political science, and organisational behaviour, at its core, the Principal-Agent Theory optimises contractual relationships between a principal and an agent (Bernhold & Wiesweg, 2021).

The theory recognises that politicians, as principals of state agents, wield power to enforce accountability and performance among bureaucratic entities (Kampi, 2017:42). This underscores the governance imperative, where elected officials shape public administration and policymaking to align with political mandates and societal objectives (Bole, 2022:42). Historically, Principal-Agent Theory examined contractual relationships characterised by information asymmetry, necessitating mechanisms to mitigate opportunistic behaviour (Chen, 2018).

Within the public sector, the Principal-agent relationship is facilitated through mechanisms such as political appointments, cadre deployment, oversight mechanisms, and performance management systems. These mechanisms aim to ensure that agents including government officials, bureaucrats act in accordance with the principal's directives (Bole, 2022:42). The theory acknowledges the agency dilemma, where agents may prioritise self-interest leading to inefficiencies, policy misalignment, or even corruption.

South Africa's cadre deployment policy illustrates this dynamic, where political actors appoint individuals to key government and public sector positions based on political allegiance rather than meritocratic considerations. While this system is intended to reinforce policy coherence and executive control, it has also raised concerns regarding maladministration, state capture, and the erosion of bureaucratic neutrality. The Principal-Agent Theory provides a valuable analytical framework through which such governance dilemmas can be scrutinised, particularly in relation to mechanisms

designed to enhance transparency, oversight, and institutional accountability (Chen, 2018).

Thus, the principal intends to influence the agent's behaviour through suitable incentive agreements or systems. The "agent's problems formulated within the principal-agent theory take the form of 'hidden characteristics', 'hidden action' and 'hidden information' and the most challenging variant, 'hidden intention'" (Bernhold & Wiesweg, 2021:117). In the context of this study, the KwaZulu-Natal provincial government is considered the principal while the uMkhanyakude District Municipality acts as the agent.

Gailmard (2012:20) and Aleksovska(2021) argue that the principal-agent theory provides a flexible and useful approach for interpreting the effects of institutional arrangements on the accountability of public decision-makers and policy. Cooperative governance, in terms of institutional arrangements, requires a clear and appropriate regulatory environment regarding the duties of the local, provincial, and national governments, as well as the efficient execution of these duties within each sphere of government (Societies. net, 2022). It should be noted that the concurrent and exclusive functions of the local and provincial government are outlined in Schedules 4 (Functional Areas of Concurrent National and Provincial Legislative Competence) and 5 (Functional Areas of Exclusive Provincial Legislative Competence) of the Constitution, respectively. Further details on local government, are provided in the subsequent section.

### **1.3.2 Local government (Agent)**

The concept of "local" in economic development refers to the fact that political jurisdiction at the local level is frequently the best place for economic intervention, as it comes with the accountability and legitimacy of an elected body (COGTA, 2023). Local government is the part of the South African public sector closest to citizens, making it essential for providing essential goods and services, as well as developing local areas (Ndevu & Muller, 2018). According to De Visser (2023:11) Local government is an autonomous sphere of government; deriving its powers from the Constitution, rather than from national or provincial governments. The Constitution

outlines the duties governing interactions between a province and municipalities including provincial oversight, monitoring, assistance and regulation of municipalities (De Visser, 2020:11). In accordance with Section 153(a) of the Constitution of the Republic of South Africa, (1996), municipalities must organize and manage their administration, budgeting, and planning processes to prioritize community basic needs and foster social and economic development (RSA, 1996).

#### **1.4. PROBLEM STATEMENT**

The ongoing governance and financial crises in South African municipalities have led to provincial government interventions, as provided for in Section 139 of the Constitution of South Africa. However, municipal failures persist, raising concerns about the effectiveness of these interventions in addressing governance and service delivery issues in the long term. The uMkhanyakude District Municipality in KwaZulu-Natal, South Africa, is a notable example, having undergone several provincial interventions since 2012 due to poor leadership, corruption and ineffective service delivery (KwaZulu-Natal Provincial Treasury, 2021).

The municipal council has been unable to meet, approve essential governance documents like (IDPs) and budgets, and implement recommendations from forensic investigations. Furthermore, the municipality has incurred irregular and unauthorised, fruitless and wasteful expenditure of R2.786 billion and has a poor revenue collection rate of 41.64%. This has resulted in the municipality being unable to meet its creditor obligations, with payment delays of up to 122 days (KwaZulu-Natal Provincial Treasury, 2021).

This persistent dysfunctionality raises fundamental questions about the capacity of provincial interventions to address deep-seated municipal failures. Despite the interventions, research has shown that many municipalities return to dysfunctionality after provincial supervision is lifted (Madumo, 2016; Powell, et al., 2020). The fundamental problem is that provincial interventions may not address the root causes of municipal failure, including capacity constraints in institutions, politics, and governance. Inadequate post - intervention monitoring mechanisms exacerbate the

situation, as provincial governments may repeat interventions without noticeable improvements (Ncube and Monnakgotla, 2016).

The consequences of municipalities like uMkhanyakude failing to achieve financial and governance stability are severe. At the local level, it leads to ineffectual service delivery, affecting residents who rely on municipal services such as water, sanitation and infrastructure development. At the provincial and national levels, frequent interventions strain government resources, which could be used for other developmental projects and programmes, perpetuating the myth of a failing local government system. This dysfunctionality also erodes public confidence in governance structures, potentially leading to low civic participation and political instability.

## **1.5. OBJECTIVES OF THE STUDY**

1.5.1 To examine the role of the municipalities in South Africa.

1.5.2 To examine the reasons for provincial intervention in the uMkhanyakude District Municipality by the KwaZulu-Natal provincial government since year 2015.

1.5.3 To analyse the challenges of provincial intervention on the constitutional mandate of the uMkhanyakude District Municipality.

1.5.4 To provide recommendations on how the provincial intervention can enhance the quality of service provided by the uMkhanyakude District Municipality.

## **1.6. RESEARCH QUESTIONS**

1.6.1 What is the role of the municipalities in South Africa?

1.6.2 What are the reasons for provincial intervention in the uMkhanyakude District Municipality by the KwaZulu-Natal provincial government?

1.6.3 What are the challenges of provincial intervention in uMkhanyakude District Municipality?

1.6.4 How can provincial intervention enhance service delivery in uMkhanyakude District Municipality?

## 1.7. JUSTIFICATION OF THE STUDY

Section 139 of the Constitution has been used frequently to address municipal dysfunction in South Africa. However, there is a limited understanding of the long-term effectiveness of these interventions in restoring governance, financial stability and service delivery. While existing research has examined the causes of municipal failure and the constitutional basis for intervention, it has not extended to the post-intervention trajectory of municipalities, particularly in cases where provincial intervention has been repeated (Ngumbela, 2021; Moji, et al., 2022; Wright, et al., 2022).

The uMkhanyakude District Municipality in KwaZulu-Natal is a pertinent example of a municipality that has undergone multiple provincial interventions due to persistent governance failures, financial mismanagement, and administrative instability. However, no study has provided a thorough evaluation of whether these interventions have resulted in lasting positive changes or whether the municipality has remained trapped in a cycle of dysfunction. This research aims to address this empirical gap by critically evaluating the impact of provincial intervention on uMkhanyakude's governance, financial management and service delivery capacities in the last eight years.

In addition to contributing to the academic literature, the study has important legislative and policy implications. It examines the actual application of the provincial intervention and oversight mechanisms within South Africa's legal frameworks and informs policy refinements to the criteria, duration, and post-intervention recovery process of municipal takeovers. This will enhance the governance structure and decrease the likelihood of recurring failures. Furthermore, through a case-based analysis of uMkhanyakude's intervention experience, this study will provide beneficial insights to other municipalities facing similar crises policymakers, municipal administrators, and governance practitioners. These insights will inform the development of more effective, evidence-based intervention strategies that promote long-term municipal resilience rather than just crisis management. Ultimately, this study will bridge the gap between legal intention and real-world intervention results, enhancing the accountability, transparency and sustainability of local government in South Africa.

## **1.5. RESEARCH METHODOLOGY**

According to Saunders, Lewis, and Thornhill (2009), research methodology refers to the methods and processes used to collect and analyse data. Similarly, Babbie and Mouton (2009:103), define a research methodology method, technique, or procedure used to carry out the research design or research plan. Bhattacharjee (2013) adds that research methodology encompasses how to make scientific discoveries, ensuring accurate data collection, explaining results to use the results to make better decisions.

### **1.8.1 Research Paradigm**

This study is situated within the interpretivist research paradigm. Interpretivism is grounded in the belief that social reality is constructed through human interaction and is best understood by exploring the subjective meanings and experiences of individuals involved in a particular context (Creswell, 2014; Nieuwenhuis, 2016). Given the study's focus on the influence of provincial intervention on the administration of the uMkhanyakude District Municipality, the interpretivist paradigm is appropriate because it seeks to understand the complex, context-dependent processes, perceptions, and power dynamics that shape governance and service delivery at the local government level.

### **1.8.2 Research Approach**

This dissertation used a qualitative approach to gather information about the influence of provincial intervention. In social research, "qualitative research" refers to a general research paradigm where researchers start by considering social action from the inside out (Babbie and Mouton, 2009). According to Kumar (2011), a qualitative research approach typically focuses on the various perspectives that individuals or groups have on a given social reality. This approach was deemed the most appropriate to the nature of this study as it emphasises the description and narration of feelings, opinions, perceptions and experiences of key informants.

### **1.8.3 Research design**

This study adopted a case study design. A research design provides a structured approach to conducting an investigation, guiding the research process, and ensuring alignment with its objectives (Babbie & Mouton, 2010). It defines the framework for

data collection and specifies the methods required to achieve the study's goals. A case study is a methodological research approach used to gain comprehensive understanding of a contemporary issue within a defined setting (Coombs, 2022). It is one of the most widely used and accepted qualitative research methods in the social sciences (Coombs, 2022).

This study focused on the uMkhanyakude District Municipality, a jurisdiction facing challenges that have necessitated provincial intervention. Various key informants were selected to share their perspectives, opinions, and experiences regarding provincial intervention. key informants were allowed to share their views, opinions, and experiences regarding provincial intervention. The study utilised in-depth interviews, which gathered information through asking open-ended questions. This method provided detailed insights into key informants' thoughts and experiences related to provincial intervention.

#### **1.8.4 Study population and sampling**

According to Casteel and Bridier (2021), a study population refers to the complete assemblage of individuals, objects, or phenomena that a researcher intends to examine. Similarly, Zikmund and Babin (2013) define a population as a group of units that a research project seeks to study. Creswell (2008) describes the target population as "the number of individuals with shared characteristics who may be of interest for the purposes of this study." In this research, the study population consists of members of the business community and local government officials within the uMkhanyakude District Municipality.

#### **1.8.5 Sample Size and Sampling Procedure**

The researcher employed a non-probability sampling technique and utilised **purpose sampling** in his analysis. Purpose sampling allows for the extraction of rich, relevant information from selected key informants while also being time-efficient and enabling direct data collection. According to Kumar (2011), sampling involves selecting a subset of individuals from a population for study and using the data collected to support research objectives. A sample is a subset of the research population, as defined by Goddard & Melville (2004).

In the uMkhanyakude District Municipalities, the following were selected from the study,

- 7 uMkhanyakude District Municipality councillors,
- 7 senior municipal managers,
- 7 representatives from non-profit organisations (NPOs), and
- 7 members of the business community.

This sample size aligns with Creswell's (2014) recommendations, which suggest that a qualitative research sample ranging from 5 to 20 participants is appropriate for achieving data saturation.

For this study, purposive sampling was employed. Purposive sampling involves the deliberate selection of participants based on their relevance to the research (Bird, 2009). This approach enabled the researcher to select cases best suited to addressing open-ended research questions and achieving the study's objectives (Saunders, Lewis, and Thornhill, 2009). The use of purposive sampling was particularly significant when engaging with the officials from the uMkhanyakude District Municipalities, as they possess expert knowledge regarding the provincial intervention.

#### **1.8.6. Data Collection Methods**

Data collection is the process of gathering information from various sources to obtain comprehensive and accurate answers to research inquiries (McLaughlin, 2016). In this study, data was obtained from two distinct sources:

primary data, which was acquired through direct observation and inquiry, and secondary data, which was derived from the analysis of previous research.

The collection of primary data involved the use of structured and semi-structured interviews, questionnaires (both structured and unstructured), and direct observation. In contrast, secondary data was gathered from the analysis of municipal publications, books, peer-reviewed journals, annual reports, performance reports, and strategic plans.

#### **1.8.6.1 Semi structured interviews**

This study used semi structured interviews. According to Creswell (2009), semi-structured, open-ended questions are utilised to elicit the thoughts and ideas. These interviews provide data that aligns with research questions and objectives (Saunders, Lewis, and Thornhill, 2009). This study employed semi-structured interviews to obtain reliable information from key informants. According to Gill and Johnson (2002: 20), semi-structured interviews include a series of leading inquiries which render it simpler to identify the elements that lend significance to the studies, and that also gives the researcher more leeway to pursue an impression of the interviewee or elicit a more in-depth explanation from the Participant.

Semi structured interviews were conducted with participants at their respective offices and the time of their convenience. Each interview lasted about 45 minutes. Interview responses were recorded and later transcribed with the consent of the interviewees.

The following text has been added "Semi-structured interviews offered a valuable balance between structure and flexibility, making them ideal for exploring perspectives on provincial interventions. They allowed the researcher to follow a guiding framework while still adapting to participants' responses, enabling deeper probing and the discovery of unexpected insights. This approach encouraged participants to speak in their own words, fostering richer, more authentic data. It was also especially useful for sensitive topics, such as corruption as it built rapport and provided the space for nuanced perspectives to emerge. Additionally, the structured element aided in organising and analysing the data more efficiently than fully unstructured interviews.

#### **1.8.6.2 Documentary evidence**

In addition, this study employed documentary drawing on policy documents, government reports, strategic plans, and relevant legislative frameworks to analyse the implementation of provincial interventions. The use of documentary analysis enabled a contextual and historical understanding of the policy environment, provincial interventions and governance dynamics.

#### **1.8.6.3 Method of data analysis**

Qualitative data encompasses all non-numerical information, though in some cases, numbers may also be classified within this category. This type of data primarily consists of words, spoken language, and text (ICPSR, 2023). The researcher analysed data obtained from interviews administered to key informants. These sources provided insights, opinions, and personal experiences, making them valuable primary sources for analysis. According to Hammond and Wellington (2013), thematic analysis is a systematic approach that enables the classification, organisation, and interpretation of data by identifying both differences and similarities. The primary sources of information were analysed using thematic analysis.

After conducting semi-structured interviews with participants, the researcher transcribed the interview recordings to adequately and accurately capture participants' responses. The transcripts were then coded and recurring patterns and key themes relevant to the research objectives were identified. Through this process, similar responses were grouped together and thematic categories that reflected the main issues raised by participants were developed. This allowed for an in-depth exploration of how provincial intervention was experienced by different stakeholders and how it influenced the administration of the uMkhanyakude District Municipality. Thematic analysis enabled the researcher to compare perspectives across different participant groups and to triangulate interview findings with secondary data from municipal reports and policy documents. This enhanced the credibility and richness of the analysis. This approach provided insights into the effects of provincial intervention at the municipality.

#### **1.8.6.4 Validity, reliability, and trustworthiness strategies for the study**

The study adopted trustworthiness strategies appropriate for qualitative inquiry. The study employed the criteria of credibility, transferability, dependability, and confirmability as outlined by Enworo (2023) and Kasrye (2023). Specifically, credibility was enhanced through triangulation, using multiple data sources that included semi-structured interviews, municipal reports, and policy documents, to substantiate findings. The study also conducted member checking by sharing key findings with selected participants to confirm the accuracy of interpretations. To support transferability, the study provides rich, contextual descriptions of the research setting,

participants, and processes, which allows readers to assess the applicability of these findings to other contexts. Dependability was addressed by maintaining an audit trail of research decisions, data collection procedures, and coding processes. Confirmability was ensured by documenting reflexive notes and keeping records of how interpretations and conclusions were reached, thereby minimising researcher bias. These strategies collectively strengthened the trustworthiness and rigour of the study's qualitative data and findings.

### **1.9. LIMITATIONS AND DELIMITATIONS**

As stated by Jansen (2022), research limitations refer to inherent constraints in a study that are beyond the researcher's control. Such factors may include time, funding, data collection challenges, and Participant availability. In this study, two major limitations were observed, which include time constraints and the size of the sample for data collection.

The time limitation for data collection posed a challenge, potentially affecting both the quality and quantity of data gathered. To mitigate this, the researcher ensured that the data collection process was well planned to include all key Participants within the available timeframe and that interviews and surveys were conducted as efficiently as possible. Another limitation was the study's qualitative nature, which relied solely on participant responses, increasing the risk of response bias. To address this, the researcher applied triangulation where possible, incorporating multiple data sources and cross-checking responses against those of other participants to enhance the study's validity and reliability. On the other hand, delimitations are the boundaries set by the researcher to define the study's scope, objectives, and research questions (Jansen, 2022).

This study was conducted in the uMkhanyakude District Municipality, with participants including municipal councillors, senior managers, business organisations, and non-governmental organisations within the district. The research was confined to a specific geographical area to allow for an in-depth investigation of provincial interventions within a single municipal context. Additionally, the study employed purposive sampling, selecting municipal stakeholders most likely to provide relevant and meaningful insights. Although this approach yielded rich insights, the generalisability

of the findings may be limited, as they cannot be easily applied to other municipalities. However, the study was situated within broader municipal governance literature and the findings were analysed in relation to their potential applicability to other municipalities facing similar challenges.

The exclusion of political leaders, civil society and community representatives was intentional and informed by the study's objective of understanding provincial intervention impacts on governance, financial management, and service delivery. Focusing on the municipal administration and local economic actors enabled the study to generate meaningful and actionable insights regarding these interventions. For future research, it would be beneficial to expand the scope by including community residents and provincial oversight structures providing a more holistic account of the effects of provincial interventions.

#### **1.10. ETHICAL CONSIDERATIONS**

According to Gray (2014), ethics refers to a common set of guidelines for researchers working with human subjects. These guidelines are designed to protect the safety, dignity, rights, and well-being of study participants. To participate in a research study, individuals must provide signed informed consent. This process places a significant moral and professional responsibility on the researcher to ensure that ethical concerns remain a priority throughout the study.

The following key ethical considerations were observed by the researcher:

:

##### **1.10.1 Seeking Permission**

Before commencing the study, the researcher obtained the necessary authorisation from the University and relevant authorities. This step was taken to adhere to academic standards and to ensure that the uMkhanyakude District Municipality was fully informed about the study's objectives.

##### **1.10.2. Informed Consent**

To collect data from participants, it was essential to ensure they were fully informed about the research and any potential risks. The researcher conducted interviews only after obtaining explicit informed consent from participants.

According to Kumar (2011), obtaining consent is crucial, and it is the researcher's responsibility to inform participants of the study's objectives and ensure that their participation is voluntary and free from coercion. Additionally, in this study, participants were made aware that they had the right to withdraw at any stage.

### **1.10.3 Voluntary Participation**

The examination of individuals' lives or interactions with others is a common aspect of social research. As a result, many individuals feel uncomfortable discussing their personal experiences with unfamiliar individuals. In this study, the researcher ensured that each participant provided consent and was not coerced into participating.

### **1.10.4 Confidentiality**

Confidentiality was a crucial aspect of the research process, as participants shared their personal perspectives on the topic under investigation. The researcher had a duty to protect participants and maintain the confidentiality and security of the data, preventing unauthorised access. In adherence to ethical principles, the researcher ensured that participant's identities remained anonymous by assigning those code names during data analysis. Additionally, the researcher refrained from disclosing the participants' specific positions in the study.

## **1.11. CHAPTERS' LAYOUT**

The study is structured as follows:

### **1.11.1 Chapter One: Introduction**

This chapter consists of the following subheadings: introduction, literature review, theoretical framework, problem statement, objectives of the study, research questions, rationale or justification of the study, research methodology, research approach, research design, study population, sample size and sampling procedure, data collection methods, interviews, method of data analysis, limitations and delimitations, ethical consideration, seeking permission, informed consent, voluntary participation and confidentiality.

### **1.11.2 Chapter Two: The state of local government in South Africa**

The chapter examines the state of local government in South Africa and provides an overview of the local government system. Municipalities in South Africa are responsible for delivering services to millions of people. Following the end of apartheid, local government underwent a restructuring process, beginning with the creation of local transitional authorities and culminated in the Municipal Systems Act of (2000) and the Municipal Finance Management Act (2003).

### **1.11.3 Chapter Three: Framework for provincial intervention.**

This chapter outlines the constitutional framework for provincial intervention in local government, including the oversight roles of the minister responsible for local government, the National Council of Provinces, and the provincial legislature. It also integrates the principal-agent theory framework, highlighting key factors relevant to this research. Within the scope of this study, a theoretical framework is essential to support the premise that constitutional intervention impacts the uMkhanyakude District Municipality.

### **1.11.4 Chapter Four: Findings and Analysis**

This chapter presents the research findings, addressing the research questions outlined earlier in this study.

### **1.11.5 Chapter Five: Conclusion and Recommendations**

This chapter provides recommendations for the municipality based on insights derived from the research findings.

## **1.12. Chapter summary**

This chapter, analyses provincial intervention in the management of uMkhanyakude District Municipality under Section 139(1)(b) of the South African Constitution. It examines the rationale for such interventions, their success rates, and impact on governance, financial stability, and service delivery. The increasing frequency of these interventions has come under scrutiny, particularly regarding their long-term sustainability.

This study is set against the background of a broader municipal crisis in South Africa, characterised by financial mismanagement, service delivery failures and political instability. The research problem highlights that despite numerous interventions, municipal instability persists. As of 2021, the irregular expenditure exceeded R2.786 billion, while the revenue collection rate stood at 41.64% (KwaZulu-Natal Provincial Treasury, 2021).

The chapter begins by introducing the Public Administration theory as a framework for understanding governance, focusing on moral hazard, information asymmetry, and accountability. It highlights the gap between constitutional intervention mechanisms and actual governance outcomes, questioning whether provincial takeovers genuinely resolve underlying issues or merely mask systemic failure.

This study adopts a qualitative case study approach, using interviews and document analysis to examine the effects of provincial intervention. Its objective is to provide policy recommendations to enhance the effectiveness of interventions and the sustainability of municipal governance. Ultimately, this research contributes to the ongoing debate on local government reform, intervention accountability, and democratic governance in South Africa.

## CHAPTER 2

### THE STATE OF LOCAL GOVERNMENT IN SOUTH AFRICA

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#### 2.1 INTRODUCTION

This chapter provides an overview of the current state of local government in South Africa, its role and scope, the challenges in local government that have led to provincial interventions, and a summary. In South Africa, municipalities are responsible for delivering services to millions of people. Post-apartheid local government underwent a restructuring process, beginning with the creation of local transitional authorities and culminating in 2000 with the Municipal Systems Act (2000) and the Municipal Finance Management Act (2003). The Constitution of the Republic of South Africa mandated local governments to: democratise local government; promote social and economic development; create a secure and healthy society; and improve local participation.

#### 2.2 CURRENT SYSTEM OF LOCAL GOVERNMENT IN SOUTH AFRICA

The South African local government system is divided into three main categories: metropolitan municipalities, district municipalities, and local municipalities. Metropolitan municipalities govern the largest metropolitan areas, while district municipalities oversee multiple local municipalities, and local municipalities serve smaller towns and rural areas. South Africa has 257 municipalities, comprising eight metropolitan municipalities, 44 district municipalities, and 205 local municipalities (Bikam & Chakwizira).

The structure of municipal executive government consists of three distinct systems, as outlined by SALGA (2023). The plenary system grants executive power to the entire council, with the mayor acting as chairperson. The collective system assigns executive authority to an executive committee, which is appointed by the council and chaired by the mayor. In this system, the executive committee includes representatives from all political parties, proportionally based on their seats in the council. The mayoral system, on the other hand, vests executive power in the mayor, who is elected by the city council and may delegate certain responsibilities to a committee. Cooperative governance plays a fundamental role in aligning the three spheres of government to

support local municipalities in fulfilling their mandates, as highlighted by SACITIES (2022).

**Table 2.1      Municipal Categories**

| <b>Class</b>         | <b>Description</b>                                                                                                                                                                                                  | <b>Number</b> |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| Secondary cities(B1) | All local municipalities referred to as secondary cities                                                                                                                                                            | 21            |
| Large Towns(B2)      | All municipalities with an urban core. There is huge variation in population sizes amongst these municipalities and they do have urban dwelling population                                                          | 29            |
| Small Towns(B3)      | Characterised by no large town as core urban settlement. Typically have a relatively small population, mostly urban and based in few small towns. Rural areas are characterised by the presence of commercial farms | 111           |
| Mostly rural(B4)     | Characterised by the small towns, communal land tenure and villages or scattered groups of dwellings, typically located in former homelands                                                                         | 70            |

*Source, SAC 2019*

From the above table (Table 2.1), different types of municipalities vary significantly in terms of revenue generation, expenditure, financial allocation, reliability, skill levels, and overall capacity (SACITIES, 2022). Even within a single category, there are substantial differences (A, B, and C3). In South Africa, there are 257 municipalities, comprising eight metropolitan municipalities, 44 district municipalities, and 205 local municipalities. South African municipalities in rural areas often face a deteriorating financial situation, which negatively impacts business operations, increases financial risks, and hampers livelihoods and economic growth (De Visser, 2023; Bohler-Muller, 2016).

## **2.3 ROLE AND PURPOSE OF LOCAL GOVERNMENT**

### **2.3.1 Introduction**

This section examines the role and scope of local governance in South Africa. Numerous studies have been conducted by scholars and municipal consultants on this

topic, as those published in by (Mashamaite & Lethoko, (2019), SALGA, (2023), SACITIES, (2022), Shava & Mazenda, (2021). The following subsections elaborate the roles of local government in South Africa, based on the provisions outlined in various laws, policies, and instruments, including the Constitution.

Local government plays a dual role. On one hand, it is responsible for the administrative provision of goods and services. On the other hand, it serves as a platform for citizens to participate in identifying local public needs and finding ways to address them. The system of local representative government effectively combines representation and administration within the framework of local government (Republic of South Africa (RSA), 1996). The South African Constitution aims to provide democratic and transparent governance to local communities, ensure sustainable service delivery, promote social and economic progress, create safe living conditions, and encourage community participation in local government affairs (Powell, et al., 2020).

### **2.3.2 Constitution and local government**

The vision outlined in the preamble of the Constitution set the stage for a democratic and inclusive society shaped by the collective will of the citizens (Republic of South Africa (RSA), 1996). This foundational document led to a significant restructuring of institutions, creating a system with three interconnected levels of government (national, provincial, and local) that work together to advance a new municipal framework focused on specific goals and developmental priorities (Kaywood, 2021). The South African government is built on the principles of participative and representative democracy, accountability, honesty, and the protection of people's basic rights, as stated in the Bill of Rights (Kaywood, 2021:48). The municipal council, as stipulated in Section 151 (2) of the Constitution, holds both legislative and executive authority within a municipality (SALGA, 2024:8). T

his council is responsible for making decisions regarding the exercise of all powers and the performance of all functions within the municipality. Additionally, municipalities are empowered to govern local government affairs autonomously. The authority vested in a municipal council enables for the creation and enforcement of rules applicable to all individuals within its jurisdiction (SALGA, 2024:8). This authority typically encompasses three distinct powers: legislative, executive, and judicial.

According to SALGA (2024), a municipality exercises its legislative authority by making and administering by-laws for the effective governance of matters under its jurisdiction.

The Constitution establishes the framework for developmental local government in South Africa and sets out the fundamental principles governing its operation. Section 152 of the Constitution defines the overarching objectives of local government (SALGA, 2024:4).

152. (1) The aims of local government are – (a) to provide democratic and accountable governance for local communities; (b) to ensure the delivery of services to communities in a sustainable manner; (c) to foster social and economic development; (d) to promote a safe and healthy environment; and (e) to facilitate the participation of communities and community organisations in local government affairs.

Since the enactment of the Constitution, various national laws and policies have been introduced to embed its principles in the governance of all levels of government. For instance, Section 195(1) of the Constitution and Section 50 of the Local Government: Municipal Systems Act 32 of 2000 (MSA) reinforce these principles. The Constitution assigns complex responsibilities to local government, significantly impacting citizens' well-being. Laws such as the Municipal Financial Management Act, the Municipal Systems Act, the Municipal Structures Act, and the Municipal Property Rates Act support local government in fulfilling its constitutional mandate. These legislative frameworks aim to establish a democratic, transparent, and progressive local government system, aligning with the Constitution's vision (Powell, et al., 2020).

### **2.3.3 Municipal Financial Management Act [No. 56 of 2003]**

The Municipal Finance Management Act (MFMA) is designed to improve budgeting, accounting, and financial management within local government, ensuring long-term financial stability and enhancing municipalities' capacity to provide services to their communities (Powell, et al., 2020). This legislation, supported by the annual Division of Revenue Act, operates alongside other local government laws and regulations to form a comprehensive governance framework. Additionally, the MFMA mandates sound and sustainable financial management practices in municipalities, emphasising community participation in the budgeting process (SALGA, 2024). The Constitution further requires municipalities, within their administrative and financial capabilities, to

work towards achieving the objectives of local government (SALGA, 2024). These objectives include providing democratic and accountable governance, ensuring sustainable service provision, promoting social and economic development, creating a safe and healthy environment, and encouraging community participation in local government affairs. Furthermore, Section 18 of the MFMA stipulates that a municipality's annual budget must be funded through anticipated revenues, cash reserves from previous surpluses, or borrowed funds solely for capital projects (South Africa National Treasury, 2022:12).

### **2.3.4 The Local Government Municipal Structures Act 117 of 1998**

The Structures Act, officially known as the Local Government Municipal Structures Act 117 of 1998, serves as the legal framework for the establishment of a new generation of municipalities in South Africa (Republic of South Africa (RSA), 1996). This Act not only defines the new system of local government but also categorises the different types of municipalities that can be formed within each classification. Additionally, it outlines the distribution of powers and responsibilities among these municipalities and addresses issues related to the structure and functioning of local government (SALGA, 2024).

Moreover, the Structures Act extensively details the role of the Municipal Council, including aspects such as the election of council members, removal from office, internal proceedings, and council dissolution (SALGA, 2024:4). More importantly, Local government has a developmental duty to structure and manage its administration, budgeting and planning processes in ways that prioritise the basic needs of communities (Kaywood, 2021:55). Section 153 elaborates on the roles and duties of a municipality (Republic of South Africa (RSA), 1996:74): A municipality must structure and manage its administration, budgeting, and planning processes to prioritise the basic needs of the community and promote social and economic development. A municipality must participate in national and provincial development programmes.

### **2.3.5 Municipal Systems Act 32 of 2000**

The Constitution of the Republic of South Africa (1996), Section 152, mandates local government to provide democratic and accountable governance for local communities,

ensure sustainable service provision, promote social and economic development, create a safe and healthy environment, and encourage community participation in local government matters (Mashamaite and Lethoko, 2019:119). The *Municipal Systems Act* plays a crucial role in defining the legal framework for municipalities within the cooperative governance system. It not only outlines the structures of local government but also regulates various aspects of municipal organisation, planning, participation, and service delivery. By clarifying the rights and responsibilities of the municipal council, local communities, and municipal administration, this legislation strengthens democratic governance at the local level (Powell, et al., 2020).

Additionally, the Act is fundamental for municipal revenue collection, ensuring municipalities can fulfil their constitutional mandate of delivering essential public services (Khambule, 2018). The *Municipal Systems Act 32 of 2000*, also known as the *Systems Act*, establishes the legal status of municipalities and sets out procedures for the execution of municipal powers and duties (SALGA, 2024). Furthermore, this Act provides guidelines for local public administration. In contrast, the *Municipal Structures Act* ensures a proper allocation of responsibilities and authority among different types of municipalities, governs the internal systems and structures of municipalities, and establishes appropriate electoral systems for local government (Powell, et al., 2020). The municipal council holds both executive and legislative authority, enabling it to make decisions on behalf of the municipality. It can delegate decision-making powers and execute its functions in various ways, including policy formulation, administrative management, project development, law enforcement, and budget creation (Powell, et al., 2020).

The *Local Government: Municipal Systems Act (32 of 2000)* mandates municipalities to promote social and economic development, ensure access to affordable services, and encourage community participation in municipal affairs. The Act provides the principles, mechanisms, and processes necessary for municipalities to achieve their developmental mandate (Mashamaite & Lethoko, 2019:120). Consequently, local government is responsible for governing the local affairs of communities, subject to national and provincial oversight. Furthermore, it is the responsibility of local governments, with support from provincial and national authorities, to address historical inequalities and disadvantages caused by past policies. Local government

must ensure that services in previously disadvantaged areas are upgraded to provide equitable access to all residents (SALGA, 2023).2.3.6 Local government roles and Section 195 of the Constitution

This section focuses on Section 195 of the Constitution, which advocates for ethical and accountable public administration. It outlines the fundamental values and principles that govern public administration in South Africa. Section 195 emphasises the importance of democratic values, professional ethics, and the efficient use of resources (Republic of South Africa (RSA), 1996; Motaung, 2021). These principles apply to all levels of government, state organs, and public enterprises. National legislation is required to uphold these values and principles. Essentially, Section 195 sets the standards for public administration, highlighting transparency, responsiveness, accountability, and the effective use of resources. Failure to comply with these principles can hinder public officials from fulfilling their constitutional duties related to protecting and promoting the rights enshrined in the *Bill of Rights*. Additionally, Motaung (2021:9) underscores the connection between Section 195 of the Constitution and municipal legislation and regulations at the local government level.

In conclusion, local government in South Africa plays a vital role in national development by delivering essential services and overseeing transformation. To fulfil its mandate effectively, it requires strong institutional and managerial support, adequate financial resources, and a robust statutory framework. Challenges such as poverty, unemployment, and service delivery deficits highlight the need for ethical public administration practices. Transparency and accountability are fundamental principles that should guide local government operations to promote community well-being and progress. Furthermore, local government serves as a key driver of local economic development, ensuring service provision and enhancing the overall quality of life for residents.

## **2.4 CHALLENGES IN LOCAL GOVERNMENT THAT LED TO PROVINCIAL INTERVENTIONS**

The Local Government Turnaround Strategy (LGTAS 2021) and local government experts have identified several challenges facing this sector. These challenges include administrative incapacity, inefficient service delivery, underspending, corruption, inadequate consultation, poor responsiveness, and lack of accountability (Tshishonga, 2021).

### **2.4.1 Administrative incapacity**

This section examines administrative incapacity in municipalities. According to the South African National Treasury (2022:9), the decline in the local government system is largely attributed to political failures, particularly within municipal councils. These failures negatively impact the administrative level, including the Executive Management Team, led by the Accounting Officer. For local government to fulfil its developmental role, it must be supported by adequate institutional and management structures, financial capacity, and statutory provisions (Kaywood, 2021:58). However, weak and strained political and administrative leadership remains a critical issue.

Additionally, political instability caused by hung councils and coalition governments has resulted in frequent council disruptions and failure to implement mandated programmes (South Africa National Treasury, 2022:3). The Batho Pele principle, which prioritises service delivery under the "People First" doctrine, applies to all levels of government. The government is required to engage regularly with the public, establish service standards, enhance service access, address service failures, and ensure optimal resource utilisation (Kaywood, 2021:56). Therefore, administrative structures, political leadership, and communities all share the responsibility of recognising, preventing, and addressing administrative incapacity.

### **2.4.2 Inefficient delivery**

This section provides a brief overview of inefficiencies in service delivery within municipalities. A study by Zhou and Utete (2023) on government service efficiency in

South Africa found that most government interventions were poorly coordinated and inadequately communicated, leading to inefficiency. Similarly, Kalonda and Govender (2021) identified key factors contributing to poor service delivery, including lack of community participation, leadership deficiencies, inadequate skills, financial constraints, corruption, and ineffective strategic management. These challenges are further supported by Thusi and Selepe (2023), who emphasise that many municipalities struggle to fulfil their core function of delivering effective and efficient services.

#### **2.4.3 Under spending and corruption**

This subsection explores the persistent issues of corruption and financial mismanagement in municipalities. A study by Sefara & Odeku (2023) found that despite the existence of anti-corruption laws, corruption continues unabated in municipalities, severely impacting service delivery, particularly for vulnerable communities. Similarly, Mkentane (2023) found that maladministration, financial mismanagement, and looting have led to the downfall of numerous municipalities. Shongwe & Meyer (2023) further highlight that these financial issues hamper effective service delivery and contribute to municipal inefficiency. They further highlight that these financial issues hamper effective service delivery and contribute to municipal inefficiency.

Many municipalities also struggle to develop effective budgets to address service delivery challenges (Shongwe & Meyer, 2023:140). The failure to draft proper budgets results in financial instability, making municipalities unable to operate efficiently (Shongwe, 2023). Research indicates that over 70% of municipalities fail to function satisfactorily due to financial mismanagement and the ineffective use of allocated budgets (Shongwe and Meyer, 2023:141).

#### **2.4.4 Inadequate consultation**

This section analyses the lack of public consultation in municipal governance. According to the Auditor-General of South Africa (AG) (2023), municipalities' spending on consultants has increased significantly, rising from R1.36 billion in 2020-2021 to R1.61 billion in the current period. Consultants were primarily hired for asset management (34%), tax services (29%), and financial statement preparation (26%)

(AG, 2023). The South African Institute of Chartered Accountants (SAICA) has reported a skills shortage in municipalities, leading to an over-reliance on consultants.

The Auditor-General (AG) (2021) noted that 74% of municipalities consistently use consultants, which raises concerns about compliance with the Municipal Finance Management Act No. 56 of 2003 (MFMA). The main reasons for consultant dependency include skills shortages (68%), a combination of skills shortages and vacancies (30%), and vacancies alone (2%) (SAICA, 2021). Additional challenges such as limited public participation, political interference, poor communication, and high turnover among top officials have further worsened service delivery (Chili et al., 2023). Despite repeated warnings, municipalities continue to increase their reliance on consultants, leading to rising consultancy costs—from R1.3 billion in 2020/21 to R1.5 billion in 2021/22 (South Africa National Treasury, 2022:3). The lack of strategies to reduce consultant dependency creates a cycle where municipalities fail to develop internal capacity and remain reliant on external assistance.

#### **2.4.5 Poor responsiveness and lack of accountability**

This subsection addresses poor responsiveness and the lack of accountability in municipalities. Numerous studies and reports highlight these issues. Kalonda and Govender (2021) emphasise the lack of accountability and responsiveness in local government. Similarly, Toxopeüs (2019) notes that the absence of experienced personnel and ineffective oversight committees prevents municipalities from addressing governance failures and maladministration. A study by Ngqobe, Fourie, and Tshiyoyo (2021:108) found that municipal oversight committees struggle to carry out their responsibilities effectively. This challenge is not only due to poor functionality but also a lack of expertise among councillors, making it difficult for them to scrutinize complex financial and operational reports.

Nevertheless, Mlambo and Maserumule (2023) attribute the lack of responsiveness and accountability to the failure of municipalities to fulfil their constitutional and legislative obligations. A clear disparity exists between the various forms of accountability and the measures implemented to enforce them. Ngqobe, Fourie, and Tshiyoyo (2021) argue that municipal accountability is shaped by diverse socio-political factors and encompasses multiple dimensions, including political, legal, financial, and hierarchical accountability.

#### **2.4.6 Financial mismanagement**

This section examines financial mismanagement in local governance in South Africa. Numerous studies have been conducted on this topic by scholars and municipal consultants, including those published by Ferry and Ruggiero (2023), Fourie and Malan (2022), Shava and Mazenda (2021), and SACITIES (2022).

The financial situation of local governments has continued to deteriorate, partly due to increasing economic pressure, which has led to consumers failing to make payments, but also due to inadequate financial management (Auditor-General Report, 2022). Many municipalities in South Africa are struggling to remain financially viable due to corruption and a lack of resources (Mishi, et al., 2022). Furthermore, South Africa is widely known for its high levels of fraud, corruption, and collusion among public officials, with limited consequence management to address these issues (Fourie and Malan, 2022).

Inadequate institutionalised financial and performance management controls continue to put municipalities at a disadvantage, leaving them ill-prepared to operate effectively during periods of transition and volatility (Auditor-General Report, 2022). A study conducted by Shava and Mazenda (2021) found that poor financial management stems from inadequate leadership, which is reflected in the deteriorating financial health of local municipalities.

More broadly, local government is characterised by corruption and poor governance, which results in a lack of capacity to provide services, as resources are misallocated for personal enrichment rather than community development (Tshishonga, 2021:32). Some municipal entities are financially disadvantaged and unable to generate their own revenue, making it difficult to meet the growing demands of urban environments (Tshishonga, 2021:32).

The Auditor-General's 2022 report found little improvement in financial reporting quality, continued over-reliance on the audit process to detect and correct errors, and poor use of consultants (Auditor-General Report, 2022). This was also reported in 2018, where municipalities frequently employed individuals who lacked the necessary qualifications to provide sound financial and performance management. This resulted

in fraudulent activities, irregular expenditure - exceeding R30 billion in 2017 and 2018 - and misconduct without consequences (Auditor-General Report, 2018).

Auditing in the public sector is increasingly subject to scrutiny and political influence, particularly in the wake of financial crises that have impacted public finances at both the state and local levels (Ferry and Ruggiero, 2023). Previous reports revealed that most municipalities failed to address inappropriate, irregular, ineffective, and wasteful spending, and in cases where municipal leaders and senior management did take action, it was limited (Auditor-General Report, 2022). Similarly, the lack of service provision in municipalities can be attributed to their financial dependency and the shortage of necessary resources and infrastructure to meet public demands (DBSA, 2023).

Most financially struggling municipalities are in rural areas with high poverty, inequality, and unemployment, preventing them from fulfilling their constitutional obligations (SACITIES, 2022). The Constitution allows for interventions such as assuming control, disbanding councils, and budget oversight, with the national government stepping in if provinces fail to act (De Visser, 2024). Financial mismanagement leads to overspending, poor revenue collection, cash flow issues, and under-expenditure on capital grants (SACITIES, 2022). Despite these financial challenges, South Africa has generally succeeded in expanding administrative services. However, service quality remains a concern, with dissatisfaction often manifesting in protest movements (Botes, 2018). The prevalence of unethical and corrupt practices among public officials has further weakened government departments' ability to provide public services effectively and efficiently (Shava and Mazenda, 2021). While some progress has been made in preventing corruption and mismanagement at the municipal level, the pace of reform remains slow (Ferry and Ruggiero, 2023). Therefore, local government fiscal arrangements must strengthen the link between tax payments and service provision while promoting local control over public services (SACITIES, 2022).

#### **2.4.7 Political interference**

Political interference disrupts municipal decision-making in South Africa (Shava and Mazenda, 2021). Although the Constitution envisions local government as an

independent entity, hierarchical political structures have weakened its autonomy (SACITIES, 2022). Challenges such as inadequate leadership, inefficiency, and corruption compromise municipalities' institutional capacity (Khambule, 2018; Mashamaite and Lethoko, 2018). Political patronage often overrides expertise, and smaller municipalities struggle to attract skilled financial officers due to low remuneration (SACITIES, 2022).

Coalition governments have become common, but political parties prioritise control over democratic governance (SACITIES, 2022). Mayors wield less authority than provincial leaders and are appointed by party hierarchies rather than elected through councillors (SACITIES, 2022). Local government plays a crucial role in service delivery and development (SALGA, 2023), but political factionalism and coalitions have hindered governance, decision-making, and investor confidence (SACITIES, 2022).

The council's instability and lack of control over public accounts committees have made governance processes less efficient than ever (Auditor-General Report, 2022). From a political perspective, Tshishonga (2021) highlights that political, administrative, and fiscal accountability both horizontal and vertical remain unfulfilled. Additionally, vacant posts, along with the deployment of unskilled and incompetent personnel, particularly among senior municipal managers, contribute to the challenges facing local governments.

Mamokhere (2022) examined the underlying causes of service delivery challenges in South African municipalities. The study identified poor governance, urbanisation, corruption, political-administrative interference, political instability, and internal conflicts as key factors. To address these issues, the author suggests strengthening governance and leadership, enhancing citizen participation, improving financial management, developing human resource capacity, fostering intergovernmental collaboration, reducing political-administrative interference, combating corruption, and addressing the effects of rapid urbanisation to promote sustainable service delivery.

The absence of a clear accountability system has hindered the efficient provision of services to communities (Shava and Mazenda, 2021). Furthermore, cities face a

growing challenge: while their populations, especially among lower-income groups, are increasing, household incomes are declining due to economic downturns. This leads to rising demand for services while fewer households can afford to pay for them (SACITIES, 2022). Additionally, inadequate human resource deployment, poor strategic planning, and weak operational management further reduce service quality and sustainability (Tshishonga, 2021). Addressing these challenges requires strategies such as increasing citizen participation in local governance and fostering community partnerships in service delivery.

#### **2.4.8 Service delivery**

This section examines service delivery challenges at the local government level.

Service delivery refers to the provision of essential utilities such as safe water, electricity, healthcare, road infrastructure, street lighting, traffic management, waste collection, sewage treatment, and municipal parks and recreational services (DBSA, 2023). Over the past two decades, municipalities have struggled to provide the necessary services and infrastructure to address apartheid-era inequalities and the demands of rapidly growing urban areas (SACITIES, 2022). These challenges have resulted in uneven service provision, inadequate infrastructure maintenance and development, and inefficiencies in supply chain management (SCM). The following subsections elaborate on the various service delivery challenges faced by municipalities across the country.

##### **2.4.8.1 Water service delivery challenges**

This section provides an in-depth analysis of the challenges in delivering water services. Various studies, including those by Shongwe and Meyer (2023), Masiya, Davids, and Mangai (2023), and the General Household Survey, have examined the ongoing water crisis. Masiya, Davids, and Mangai (2023:27) found that national satisfaction with water and sanitation remained relatively stable between 2003 and 2016, averaging 56%. Their research (2023:31) also revealed that dissatisfaction was more pronounced among poorer communities compared to wealthier ones. The General Household Survey, cited by Masiya, Davids, and Mangai (2023:34), reported an increase in access to piped water from 84.9% in 2002 to 90.8% in 2012. However, despite this improvement, public dissatisfaction with water quality has continued to

rise. The Auditor-General's 2020 report highlighted significant concerns about the municipality's management of water shortages in villages. The report found that the municipality had hired service providers to distribute water using tankers. The service providers overcharged the municipality for water transportation and the use of water tankers. Alarming, regardless of distance, all water tankers were paid the same flat rate, irrespective of their size or capacity (Shongwe and Meyer, 2023:147). Furthermore, the contract documentation between the municipality and the service providers was difficult to locate, raising additional concerns.

Furthermore, the closure of certain water treatment stations severely impacted the municipality's ability to provide essential services, affecting the communities within the municipality (Shongwe and Meyer, 2023:147). Given these circumstances, local municipalities must act reasonably to provide basic services such as housing, water, refuse collection, and electricity to all residents. It is essential to ensure that poor and vulnerable populations, including women and children, have better access to adequate basic services (Masiya, Davids, and Mangai, 2023:23).

#### **2.4.8.2      *Energy service delivery challenges***

This subsection outlines the challenges in delivering energy services. Several studies, including those by Trace (2020), Khonjelwayo and Nthakheni (2021), PWC (2022), and The Conversation (2023), have addressed this issue. According to Trace (2020), load shedding is a widespread problem in many Sub-Saharan African countries, with South Africa's rolling blackouts attracting significant attention due to their economic impact. Eskom, the state-owned utility responsible for over 90% of the country's electricity supply, has been implementing rotational load shedding for years, making it a daily occurrence. Addressing the energy supply gap could be facilitated by the involvement of South African municipalities (PWC, 2022). The energy shortage has severely impacted South Africa's cities, increasing operational costs and reducing business productivity, while residents depend on the municipality's executive (Trace, 2020).

Additionally, Khonjelwayo and Nthakheni's study (2021), which surveyed 113 employees from the electricity division of the City of Tshwane (CoT), found that CoT's management is focused on tackling energy losses and their impact on the

municipality's financial health. PwC's Craig Kesson stresses the importance of a collaborative effort between the private and public sectors, especially municipalities, to develop sustainable energy strategies to address the shortfall (PWC, 2022). The Conversation (2023) describes South Africa's electricity crisis as a "perfect storm," caused by factors such as aging coal power stations, delays in upgrading the Koeberg nuclear station, and significant failures at the Medupi and Kusile coal power stations.

#### **2.4.8.4      *Housing service delivery challenges***

This section discusses the challenges in delivering housing services. According to Roeland's 2023 analysis, South Africa's emerging social housing sector faces systemic challenges. The sector's ability to provide new housing units at the necessary pace and scale is hindered by rising construction costs, slow land release, and insufficient grant funding. Roeland (2023) highlights a significant shortage of decent and affordable housing, with cities still grappling with the legacy of apartheid-era planning. Social housing is the only programme in South Africa that directly addresses spatial transformation.

Marutlulle's 2019 study identifies the government as the primary cause of these challenges, particularly due to promises of free housing, economic policies, and housing strategies that fail to effectively address existing issues. The study suggests that resolving the housing delivery crisis is crucial for future political stability in urban areas. Similarly, a study by Masiya, Davids, and Mangai (2023:32) using Principal Component Analysis shows that a larger proportion of Participants are dissatisfied (26.5%) or very dissatisfied (17.2%) with affordable housing compared to those who are satisfied (33.5%) or very satisfied (6.8%). Furthermore, a higher percentage of the poor (31.5%) or extremely dissatisfied (29.2%) with housing compared to the non-poor (22.1%) or very dissatisfied (9.9%) indicates widespread dissatisfaction with the availability of affordable housing.

#### **2.4.8.4      *Sanitation service delivery challenges***

This section discusses the challenges in delivering water and sanitation services. Water and sanitation are closely interconnected, and South Africa, like many other

developing nations, faces significant obstacles in ensuring a sustainable water supply and sanitation services due to extensive backlogs in infrastructure (Motsoeneng, 2022). Research by Masiya, Davids, and Mangai (2023:27) shows that 78.2% of Participants are satisfied with sanitation supply. However, the findings (Masiya, Davids, and Mangai, 2023:31) reveal that a higher percentage of individuals living in poverty are dissatisfied (29.2%) or very dissatisfied (24.2%) with the provision of water and sanitation, compared to those not living in poverty (dissatisfied – 19.9%, very dissatisfied – 9.9%). Consequently, access to sanitation services in South Africa remains unequal, as demonstrated by incidents of children falling into pit latrines (Motsoeneng, 2022).

Service delivery protests in South Africa have become a topic of discussion, rooted in the resistance movement against apartheid and the imposition of local authorities (Tshishonga, 2021). These protests are multi-faceted. Protesters are sometimes caught up in land disputes, political party issues, or work-related matters, often without fully understanding the responsibilities of local government in providing services (Mishi, et al., 2022). This indicates that the South African local government faces numerous challenges, particularly in terms of financial, land, and human resources, all of which are crucial for effective service delivery (Tshishonga, 2021).

## **2.5 SUMMARY OF THE CHAPTER**

In conclusion, service delivery in South Africa remains a significant challenge for local municipalities. The root causes include political instability, poor financial management, and inadequate administrative practices. Additionally, local government faces issues such as administrative and technical incapacity, lack of public participation, and insufficient consultation. Staff shortages, lack of technical skills, and poor maintenance further contribute to the service delivery backlog.

Furthermore, coalition governments are common in South Africa, with political parties prioritizing control over democracy. Mayors have limited authority, as they are appointed by party hierarchies, which leads to challenges in effective governance and service delivery. The lack of adherence to ethical standards and the rise in corruption

within public administration also present substantial obstacles to efficient service provision. To address these challenges, strategies have been proposed, including increased civic engagement, community collaboration, and improved municipal governance. These measures are vital for revitalising and potentially enhancing service delivery in local governments.

## CHAPTER 3

### FRAMEWORK FOR CONSTITUTIONAL INTERVENTION

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#### 3.1. INTRODUCTION

This chapter discusses the constitutional framework for intervention in local government, covering the supervisory functions of the minister responsible for local government, the National Council of Provinces, and the provincial legislature. For this research, a theoretical framework was necessary to support the assumption regarding the impact of constitutional intervention on the uMkhanyakude District Municipality.

The theoretical framework is based on a contract where local government (the agent) performs tasks on behalf of the client (the principal), namely the national and provincial governments. This contract is derived from constitutional provisions, specifically the duties of local government and the power granted to provincial governments to intervene in the affairs of local government

#### 3.2. THE LEGAL FRAMEWORK FOR INTERVENTIONS

This study focuses on the influence of constitutional interventions, specifically Section 139(1)(b), and centres on the legal framework surrounding these interventions. Section 139(1) of the Constitution provides three instruments for intervention: issuing instructions from the provincial government to the municipal council, assuming responsibility, and dissolving a municipal council (De Visser & November, 2019). These provisions form the basis for the majority of interventions in practice, particularly when a municipality is placed under administration.

The legal framework allows for four distinct intervention procedures, which can be applied based on the level or manifestation of dysfunction within a municipality (De Visser & November, 2019). The first intervention procedure is the regular intervention, which includes issuing instructions to the municipal council, assuming responsibility, and dissolving the council. The second procedure addresses serious financial issues, while the third applies when a municipality fails to approve a budget and take necessary action. The fourth intervention is employed when a municipality faces a financial crisis (De Visser & November, 2019).

These interventions are considered in conjunction with the Municipal Systems Act (2000), which outlines the responsibilities of local authorities, including prioritizing the basic needs of the municipality, promoting its development, and ensuring all members have access to at least a minimum level of community services (Masiya, Davids, & Mangal, 2019). The Municipal Finance Management Act (2003) provides the framework for budget preparation and approval, while the Municipal Property Rates Act (2004) encourages municipal participation and the establishment of rate guidelines (Masiya, Davids, & Mangal, 2019). This dissertation focuses on the first type of intervention.

There are three identified scenarios in which a province (or, in cases where a province fails to act, the national government) may intervene in a municipality (Ledger and Rampedi, 2019). These include that Section 139(1) deals with the failure to perform an executive obligation, Section 139(4) with the failure to adopt a budget or implement related measures, and Section 139(5) with serious financial problems. In general, Section 139(1) empowers the competent provincial government to intervene by taking appropriate measures to ensure the fulfilment of an executive obligation when a municipality fails to do so, including:

1.(a) Issuing a directive to the Municipal Council, outlining the extent of the failure to fulfil its obligations and specifying the necessary steps to rectify it.

*1(b) Assuming responsibility for the relevant obligation in that municipality to the extent necessary to:*

- *Maintain essential national standards or meet established minimum standards for service delivery;*
- *Prevent the Municipal Council from taking unreasonable actions detrimental to another municipality or the province as a whole; or*
- *Maintain economic unity.*

*1.(c) Dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council is in place, if exceptional circumstances warrant such action.*

This dissertation focuses specifically on the full text of Section 139(1)(b), which states: (1) If a municipality cannot or does not perform an executive obligation under the Constitution or legislation, the competent provincial authority may intervene by taking all appropriate steps to ensure the fulfilment of that obligation, including:

(b) assuming responsibility for the relevant obligation in that municipality to the extent necessary to:

- *Maintaining essential national standards or meeting established minimum service standards;*
- *Preventing the Municipal Council from taking unreasonable actions prejudicial to another municipality or the province as a whole; or*
- *Maintaining economic unity.*

With the understanding above, correctly diagnosing the issue is essential in determining which part of Section 139 to invoke, as specific legal remedies have been established for distinct issues. Section 139(1) of the Constitution outlines three key steps for intervention: (1) issuing an instruction, (2) assuming responsibility, and (3) dissolving the Council (De Visser, and November, 2019).

Section 139 provides a structured framework detailing both financial and non-financial circumstances in which provincial and/or national governments may (or must) intervene in struggling municipalities. It also sets out a clear methodology for addressing different types of municipal challenges. However, in practice, legislation is often drafted without fully considering future amendments or is inconsistently implemented (Ledger and Rampedi, 2019). This suggests that the proper implementation of constitutional obligations under Section 139 is critical for enabling local government institutions to recover from intervention.

### **3.3 CONSTITUTIONAL INTERVENTIONS PROCESS**

First, the primary responsibility for initiating intervention rests with the provinces, and interventions can only be initiated by the national government in specific circumstances where a province has failed to take action (Ledger and Rampedi, 2019). The decision to initiate an intervention is made by the Provincial Executive Committee (PEC), which then notifies the relevant municipality. The Constitution outlines three possible steps for provincial intervention: issuing a directive, assuming powers, or dissolving the ward council (Glasser and Wright, 2020).

The current wording of Section 139 provides a clear list of financial and non-financial circumstances under which provinces and/or the national government may (or must)

intervene in financially distressed municipalities and sets out a specific process for resolving such challenges (Ledger and Rampedi, 2019:4). An intervention under Section 139(1) (b) of the Constitution terminates automatically if the Minister does not authorise it within 28 days or expressly opposes it within the statutory 28-day period (De Visser and November, 2019). Provinces tend to rely on Section 139(1) (b) to manage local governance issues. However, one key observation is that Section 139 has often been used as a political tool to settle disputes among party members, resulting from political infighting and instability within municipalities (Dodovu, 2019).

According to Dodovu (2019), when a provincial government imposes a reorganisation plan under Section 139(1)(b), it must notify the provincial legislature, the Minister, and the National Council of Provinces (NCOP) within 14 days. The Minister then has 28 days to approve or reject the intervention, while the NCOP must reach a decision within 180 days. De Visser and November (2019) support this view, highlighting that provincial governments often do not utilise interventions under Sections 139(4) and 139(5), but instead primarily rely on Section 139(1) of the Constitution. Their findings indicate that many interventions fail to meet the required timelines for submission and approval by the Minister and the NCOP. The extent of provincial intervention in local governance through Section 139 is significant. If a provincial government invokes Section 139 without specifying the relevant subsection, the affected municipality may not fully understand its shortcomings (Ledger, 2019; Bole, 2022). Under the provisions of Section 139(1) of the Constitution, a provincial government is empowered to take all necessary measures to ensure the fulfilment of a municipality's executive duties (Makoti and Odeku, 2018:76).

These interventions can take several forms, including issuing directives, assuming executive responsibilities, or dissolving a municipal council (Sections 139(1)(a)-(b)-(c) of the Constitution). As required by Section 139 of the Constitution (1996:76), the Provincial Executive Council (PEC) must take appropriate action to ensure compliance and service delivery within the municipality.

- *Maintain essential national standards or meet established minimum standards for rendering a service.*

- *Prevent the municipal council from taking unreasonable action that is prejudicial to:*
- *The interests of another municipality, or*
- *The province as a whole.*
- *Maintain economic unity.*

The provisions set forth in each subsection of Section 139 of the Constitution establish boundaries and criteria that restrict the extent of provincial government involvement in local government within a specific subsection (Khaile, 2023; Ledger, 2019). Instead, the Provincial Executive Council prioritised Section 139(1)(b) to assume a municipal executive obligation, which the judge deemed unacceptable (Bole, 2022). SALGA clearly outlines the requirements for intervening in a municipality. A provincial government can intervene in a municipality if it meets one of the following criteria (SALGA, 2020:6):

- *A municipality is unable to fulfil an executive obligation;*
- *A municipality is unable to approve a budget or any revenue raising measures necessary for implementation.*
- *The municipality is facing a financial crisis and is in serious or persistent material breach of its obligations to provide basic services or meet its financial commitments.*
- *The municipality admits that its inability to meet its obligations or financial commitments.*

SALGA's support role to municipalities requires engagement with national and provincial governments in their regulation of municipalities. However, ideally, Section 139 interventions in municipalities should be a measure of last resort undertaken only when provincial support to municipalities has failed. In most cases, provincial intervention is considered punitive rather than corrective to address non-compliance" (SALGA, 2020:27). Local government in South Africa operates in a highly regulated environment. In this context, discussions of the functions and shortcomings of municipalities require an assessment of the legal and regulatory frameworks that define and provide a roadmap for municipal operations. Therefore, this study

investigates the influence of Section 139 (1) (b) of the Constitutional Intervention by the Kwazulu-Natal Provincial Government in the uMkhanyakude District Municipality.

However, there is no detailed rule within Section 139(1) that explicitly defines an "executive obligation." It can be interpreted to mean any executive function of the municipality, including its financial management, as it is currently (though unofficially) understood (Ledger and Rampedi, 2019:17). Furthermore, legislation does not explicitly outline the provincial government's obligations, leading to the frequent appointment of administrators to facilitate the intervention process. These administrators often remain in their positions until a new council is appointed (Dodovu, 2019). The challenge with Section 139(1) (b) is that committees place municipalities under intervention without proper oversight to determine or whether the appointed stewards are effectively fulfilling their duties.

### **3.4 NEED FOR THE CONSTITUTIONAL INTERVENTION**

The Department of Cooperative Governance and Traditional Affairs (the Department) serves as the administrator of local government affairs and the primary source of information on interventions. Several scholars have studied the necessity of constitutional intervention (Gumede and Tshishonga, 2021; Kampi, 2017; Nirmala & Kapesa, 2024; Rulashe & Ijeoma, 2022; Makoti and Odeku, 2018; Bole, 2022). For instance, the Local Government Turnaround Strategy (LGTAS) and various local government scholars have analysed the challenges facing this sphere of government in South Africa. Poor performance is one of the broad challenges affecting local governments, often attributed to the ineffective implementation of policies and the enduring legacy of autocratic and bureaucratic apartheid-era local governance (Gumede and Tshishonga, 2021).

Furthermore, persistent governance deficiencies in municipalities have necessitated provincial interventions as a corrective measure (Kampi, 2017:48). These deficiencies frequently include political instability in local councils, breaches of supply chain management regulations, ineffective governance structures such as audit and local public finance committees, and inadequate community consultation in the statutory Integrated Development Plan (IDP) and budget-related processes, among other issues (Kampi, 2017:48). A recent report by Maluleke (2023), the Auditor-General of

South Africa, highlights the widespread dysfunctionality of municipalities. According to Maluleke (2023), local government is plagued by financial mismanagement, council and administrative instability, and deteriorating municipal infrastructure. Consequently, service delivery failures lead to declining living standards and increased public protests. The report emphasises that improvements in service delivery depend on competent, accountable, and citizen-cantered leadership committed to improving the lives of ordinary South Africans. Additionally, it notes that 40% of municipalities cited a combination of skills shortages and job vacancies as key challenges (Erasmus, 2023).

It appears that the drafters of the Constitution anticipated the potential for local government underperformance. As a result, the Constitution provides a framework for provincial intervention when a municipality is deemed to be failing in its responsibilities. These interventions are becoming increasingly common as various issues continue to impede municipal effectiveness (Khaile, 2023). Therefore, the provisions and associated powers of intervention must be interpreted within the broader constitutional context, particularly regarding the distribution of power among different levels of government (Rulashe & Ijeoma, 2022).

Moreover, intervention becomes critical when the failure to deliver basic community services has severe and potentially irreversible consequences, particularly for vulnerable and impoverished communities (Makoti and Odeku, 2018:74). Beyond addressing service delivery failures, interventions also serve to promote accountability and good governance within local government structures (Makoti and Odeku, 2018:74). Under the constitutional provisions governing interventions, provincial governments are empowered to take all necessary measures to ensure that municipalities fulfil their executive duties (Makoti and Odeku, 2018:76). Such interventions may include issuing directives to the affected municipality, assuming executive responsibilities, or dissolving a municipal council under Section 139(1)(a)-(b)-(c). In line with these provisions, Section 139 of the Constitution (1996:76) mandates the Provincial Executive Council (PEC) to intervene in a municipality by assuming responsibility for the obligation to:

- *Maintain essential national standards or meet established minimum standards for rendering service.*
- *Prevent the municipal council from taking unreasonable actions that are prejudicial to the interests of another municipality or the province as a whole.*
- *Maintain economic unity.*

It should be noted that the South African system of local government faces a number of challenges related to the role of local government in strengthening democracy, on the one hand, and the position of local government in a system of multi-level governance, on the other. According to HSF (2019), municipalities are subject to heavy regulation by state and local governments, and provinces have strong powers to intervene in failed municipalities. This implies and justifies the encroachments of intervention. The current status of the constitutional encroachments of intervention is presented in the following section.

### **3.5. CAUSES OF PROVINCIAL INTERVENTION**

In this section, causes are discussed as a catalyst or an action leading to the intervention under Section 139(1) (b) of the Constitution as presented by various scholars (Bole, 2022; Ledger and Rampedi, 2019; Glasser and Wright, 2020; Masiya, Davids and Mangal, 2019). Interventions are driven by variety of challenges, including community dysfunctions and failure to implement impactful management measures. Even more pronounced is the underperformance caused by the systematic failure to fulfil its executive and other legislative mandates (OUTA, 2024). Explicit references are made to governance and administration issues, such as municipal political instability; weak oversight of municipal performance; failure to hold monthly charter meetings of the council; dysfunctional municipal public finances, as reasons for municipalities falling under intervention.

For example, a study conducted by Bole (2022) on the implementation of intervention in Madibeng Municipality; notes several reasons for the intervention, including the lack of water supply to all communities around Madibeng, which led to protests over service delivery, poor earnings and debt collection.

Ledger and Rampedi (2019) uncover deeply dysfunctional communities that, while representing only a minority of all local governments, have a significant negative impact on the people unfortunate enough to live there. The deterioration of living conditions in local communities often leads to protests and the failure of administration. Masiya, Davids, and Mangal (2019) highlight that local government institutions are responsible for providing services and infrastructure essential for citizens' well-being and have the task of ensuring growth and development to support community participation and accountability. Failure to comply with these obligations results in constitutional intervention under Section 139(1)(b). According to Rulashe & Ijeoma (2022), failure to perform an executive obligation requires reading Section 139(1) to indicate a municipality's failure to fulfil an executive obligation.

This legal requirement mandates the state government to identify the unfulfilled leadership obligation sufficiently for the municipality to meet it. It is also an essential element in the intervention process, as it determines the scope of responsibility for the provincial government. Additionally, the word "executive" in Section 139(1) refers to obligations imposed on municipalities by the Constitution or legislation. A recent study by Bole (2022:173) examines how Section 139(1)(b) of the Constitution was applied in Madibeng Municipality by the North-West Province Executive Council. The study's findings were interpreted based on four core criteria: (1) governance, (2) administration, (3) financial management, and (4) provision of basic services. The study shows that the situation in Madibeng has not improved from 2010 to 2021. Several factors were cited, including the frequent invocation of Section 139(1) (b) for Madibeng Municipality, which had been placed under administration five times.

The lack of water provision to all communities around Madibeng led to protests, poor earnings and debt collection, and unhonoured payment agreements by the community and creditors. The study also found an increase in illicit spending, significant amounts of irregular expenses, and continued fruitless and wasteful spending annually. Moreover, municipal contracts were awarded in violation of supply chain management regulations and lacked supporting documentation. This suggests that reliance on Section 139(1) (b) has not had a beneficial impact.

In almost all cases, intervention occurs when the municipality is in or near a state of total operational and financial collapse. This is often after many years of severe

problems, such as poor audit results, deteriorating finances, corruption allegations, severe political infighting that has paralysed the council (as in Oudtshoorn), long-term issues in paying suppliers (particularly bulk service providers) and staff, and a complete breakdown in service delivery (Ledger and Rampedi, 2019:8). Much of the provincial evidence filed in connection with these interventions uses the phrase “total collapse” to describe these municipalities, and this is generally not an exaggeration (Ledger and Rampedi, 2019:8).

This view is supported by Bole (2022), who examines the application of intervention, focusing on subsection (b) of constitutional interference. The study's outcome shows that, in relation to Section 139 of the 1996 Constitution of the Republic of South Africa, provincial government intervention is possible when local authorities fail to fulfil their executive obligations. However, the study by Bole (2022) agrees that provincial governments are often perceived as seeking to usurp power from local governments through the implementation of Section 139.

### 3.6. CURRENT STATE OF CONSTITUTIONAL INTERVENTION

This section outlines the current application of constitutional intervention across South Africa. Section 139 of the Constitution empowers the provincial government to intervene in a municipality if it fails to fulfil its executive obligations under the law. Provincial intervention in local government, as defined in Section 139 of the Constitution and the Local Treasury Management Act, was implemented starting in January 2023. A total of 33 municipalities were placed under administration for various reasons, representing 12% of the 283 municipalities in South Africa. The following table (Table 3.1) lists the number of municipalities that are under administration or subject to constitutional intervention.

**Table 3.1: Current municipalities Under Administration**

| TOTAL NUMBER<br>OF<br>MUNICIPALITIES<br>PER PROVINCE | NAMES<br>OF<br>MUNICIPALITIES | TYPE<br>OF<br>INTERVENTION | DATE<br>INSTITUTED | STATUS |
|------------------------------------------------------|-------------------------------|----------------------------|--------------------|--------|
|                                                      |                               |                            |                    |        |

|                          |                                    |                                                                                                                                   |                |         |
|--------------------------|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------|---------|
| <b>Eastern Cape: 3</b>   | Enoch Mgijima LM                   | S139(7) of the Constitution(National intervention in the stead of the provincial executive in terms of section 139(5)(a) and (c)) | April 2022     | Ongoing |
|                          | Amathole LM                        | S139(5) of the Constitution                                                                                                       | January 2021   | Ongoing |
|                          | Makana LM                          | S139(5) of the Constitution                                                                                                       | 2019           | Ongoing |
| <b>Free State: 3</b>     | Mangaung Metropolitan Municipality | S139(7) of the Constitution(National intervention in the stead of the provincial executive in terms of section 139(5)(a) and (c)) | April 2022     | Ongoing |
|                          | Mafube LM                          | S139(5)(a)&(c) Of the Constitution                                                                                                | June 2022      | Ongoing |
|                          | Tokologo LM                        | S139(5)(a)&(c) Of the Constitution                                                                                                | June 2022      | Ongoing |
| <b>Gauteng: 3</b>        | Emfuleni LM                        | S139(5) of the Constitution                                                                                                       | June 2018      | Ongoing |
|                          | WestRand DM                        | S139(5) of the Constitution                                                                                                       | February 2019  | Ongoing |
|                          | Merafong LM                        | S139(5) of the Constitution                                                                                                       | September 2022 | Ongoing |
| <b>KwaZulu Natal: 07</b> | Umzinyathi DM                      | S139(1)(b) of the Constitution                                                                                                    | October 2016   | Ongoing |
|                          | Mpofana LM                         | S139(1)(b) of the Constitution                                                                                                    | December 2017  | Ongoing |

|                         |                         |                                                                                                                                   |               |         |
|-------------------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------|---------------|---------|
|                         | Inkosi Langelibalele LM | S139(1)(b) of the Constitution                                                                                                    | December 2017 | Ongoing |
|                         | Mtubatuba LM            | S139(1)(b) of the Constitution                                                                                                    | March 2019    | Ongoing |
|                         | Msunduzi LM             | S139(1)(b) of the Constitution                                                                                                    | April 2019    | Ongoing |
|                         | Uthukela DM             | S139(1)(b) of the Constitution                                                                                                    | August 2018   | Ongoing |
|                         | UMkhanyakude DM         | S139(1)(b) of the Constitution                                                                                                    | January 2021  | Ongoing |
| <b>Mpumalanga: 5</b>    | Emalahleni LM           | S139(5) of the Constitution                                                                                                       | October 2018  | Ongoing |
|                         | Govan Mbeki LM          | S139(5) of the Constitution                                                                                                       | October 2018  | Ongoing |
|                         | Msukaligwa LM           | S139(5) of the Constitution                                                                                                       | October 2018  | Ongoing |
|                         | ThabaChweu LM           | S139(5) of the Constitution                                                                                                       | October 2018  | Ongoing |
|                         | Lekwa LM                | S139(7) of the Constitution(National intervention in the stead of the provincial executive in terms of section 139(5)(a) and (c)) | April 2021    | Ongoing |
| <b>Northern Cape: 2</b> | Phokwane LM             | S139(5) of the Constitution                                                                                                       | July 2020     | Ongoing |
|                         | Renosterberg LM         | S139(5) of the Constitution                                                                                                       | August 2020   | Ongoing |
| <b>North-West (9)</b>   | Madibeng LM             | S139(5) of the Constitution                                                                                                       | January 2022  | Ongoing |

|                       |                              |                                |                |                                                                   |
|-----------------------|------------------------------|--------------------------------|----------------|-------------------------------------------------------------------|
|                       | Tswaing LM                   | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Ditsobotla LM                | S139(5) of the Constitution    | January 2022   | Dissolution of Municipal Council effective from 19 September 2022 |
|                       |                              | S139(1)(C) of the Constitution | September 2022 |                                                                   |
|                       | Dr Ruth Segomotsi Mompoti DM | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Kgetleng Rivier LM           | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Mahikeng LM                  | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Ramotshere LM                | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Naledi LM                    | S139(5) of the Constitution    | January 2022   | Ongoing                                                           |
|                       | Kagisano-Molopo LM           | S139(1)(b) of the Constitution | September 2022 | Ongoing                                                           |
| <b>Western Cape:1</b> | Beaufort West LM             | S139(5)(a) of the Constitution | August 2021    | Ongoing                                                           |

Source: COGTA, 2023

The vast majority of the interventions in the table above concern Section 139(5), which allows for intervention when a municipality cannot or does not comply with an executive obligation under the Constitution or relevant statute. The remedy for this non-compliance includes enforcing a remedial plan (a), dissolving the ward council

(b), and if the ward council is not dissolved as per paragraph (b), assuming responsibility for the implementation of the remedial plan (c). The table shows that, in practice, all of the KwaZulu-Natal interventions initiated by the Province of KwaZulu-Natal were due to failures to comply with an executive obligation.

Most of these interventions took place in the North West (nine municipalities) and KwaZulu-Natal (seven municipalities), with Mpumalanga Province accounting for five municipalities. Eastern Cape, Free State, and Gauteng each had three municipalities under intervention, while Northern Cape had two, and Western Cape had one. Northwest Province contributed twenty-seven percent (27%) of all interventions, while KwaZulu-Natal contributed twenty-one percent (21%). These numbers include the most recent interventions carried out between 2016 and 2023. The following section discusses the rationale behind the use of Section 139(1) (b) constitutional intervention in various municipalities.

### **3.7. SECTION 139(1) CONSTITUTIONAL IMPLEMENTATION PROCESS**

This section discusses the application and implementation process of Section 139(1). Overall, the implementation of Section 139(1) interventions is affected by a multitude of internal and external factors, ranging from the local government system itself to the capacity of local governments to effectively plan and implement interventions (Kampi, 2017:35). The intervention in terms of Section 139(1) constitutes a scheme employed by the Constitution to ensure that municipalities fully comply with their executive functions as mandated by the Constitution and other legislation (Makoti and Odeku, 2018:77). These mandates are imposed by law in the interests of service delivery. Furthermore, local government institutions are responsible for delivering services and infrastructure that are critical to citizens' well-being and are tasked with ensuring growth and development to enhance community participation and accountability (Masiya, Davids, and Mangal, 2019).

In all interventions under Section 139(1), the province appoints a person to act as the steward of the municipality. This person assumes full responsibility for all executive functions of the municipality, including key areas such as finance, supply chain management, and service delivery operations (Ledger and Rampedi, 2019:11). For

example, on August 5, 2020, a new administrator was appointed in Richmond Parish. However, the outcome of the implementation of Section 139(1)(b) was negatively impacted by the COVID-19 lockdown (COGTA, 2020).

The appointed administrator is typically either a provincial official seconded for the purpose or an outside consultant specifically appointed to oversee the intervention. This role grants administrators' considerable discretion regarding their actions, with little oversight or data to evaluate their performance (Ledger and Rampedi, 2019:11). For instance, Section 139(1) (b) was implemented in Msunduzi Municipality due to its poor functionality (less than 50% operational), incomplete projects, and allegations of fraud and corruption (COGTA, 2020). Additionally, regulatory structures were poorly functioning, coupled with cash flow problems and poor contract management. The new administrator was appointed on August 1, 2020, and the implementation of Section 139(1) (b) continues to work toward restoring the council's functionality. In practice, most administrators focus on addressing the issues that have raised the greatest public concern.

Consequently, actual intervention often reflects deep-rooted administrative traditions, with the selective (and usually incorrect) application of incidental legislation (Ledger and Rampedi, 2019:22). Section 139 explicitly calls for interventions to occur before a municipality collapses completely. However, in practice, interventions are often used as a last resort, long after the municipality has deteriorated, or postponed as long as possible to "respect the autonomy" of local government (Ledger and Rampedi, 2019).

In addition, Section 139(1) (b) was implemented in Mpofana Municipality due to underspending of infrastructure grants, poor fund management, poorly functioning oversight structures, a lack of consequence management, and challenges with poor cash flow. This was further exacerbated by poor audit scores, maladministration, and escalating debt to Eskom (COGTA, 2020). An administrator was appointed, and the outcome of the implementation of Section 139(1)(b) indicates that the intervention led to the restoration of the Board of Directors. Once a steward is in place, the province typically provides limited funds to address the most pressing issues, often involving the payment of key suppliers.

However, for every type of problem, there are corresponding solutions to be implemented, including the option to dissolve the Council in certain circumstances—specifically if it fails to act as required in relation to the implementation of remedial actions (Ledger and Rampedi, 2019:16). To summarise from Ledger and Rampedi's (2019) study, Section 139 demonstrates that the law was intended to appoint administrators only in very specific circumstances, such as when the municipal council is dissolved for a reason specified in the law.

A province may assume responsibility for a specific executive obligation under Section 139(1)(b). Section 139 of the Constitution represents an effort to enact legislation that should prevent any municipality from experiencing the operational and financial collapse that many are currently facing. However, the main reason this legislation is seen as ineffective is that none of the institutions responsible for its implementation have acted as intended. The implementing or supervisory authorities have often failed to select the correct provision of Section 139, and instead, they typically use inappropriate sections, which results in serious negative consequences (Ledger and Rampedi, 2019).

### **3.8. CORE PRINCIPLES OF LOCAL GOVERNMENT**

However, the Constitution of the Republic of South Africa (RSA) of 2000 views local government as an equal partner with its own autonomy within a non-hierarchical structure of government "spheres." However, political structures, which are inherently hierarchical, have diluted this autonomy (Sacities.net, 2022). As a result, the local "voice" has been generally weakened, with more influence given to provincial rather than local leaders and officials. Additionally, many highly qualified politicians and experts transition out of the municipal system into provincial and national departments.

In response to these challenges, the District Development Model (DDM) was introduced in 2020 and is currently being piloted and refined to enhance local government efficiency (Sacities.net, 2022:261). The DDM aims to foster closer cooperation and coordination in planning processes among all three spheres of government. However, there are conflicting perspectives on its impact. Some argue that the DDM promotes a centralist approach that undermines the autonomy of local and provincial governments, as resources allocated to municipal and provincial plans

and budgets may be redirected to a collective plan and budget. Conversely, others contend that the DDM serves as a valuable tool for improving intergovernmental relations and fostering cooperative governance.

### **3.9. PROVINCIAL GOVERNMENT (PRINCIPLE)**

The Constitution assigns provincial governments specific responsibilities and powers over municipalities (Makoti and Odeku, 2018). Given these powers, provincial governments, particularly local government departments and treasury offices, should adopt a more strategic and focused role in providing support and resources to low-capacity municipalities.

The provisions related to provincial oversight (supervision and assistance) are outlined in Sections 154(1) and 155(6) & (7), while the authority to oversee municipalities is established in Section 139 (Mahlangeni, 2020). Additionally, Section 139 of the Constitution regulates provincial government interventions in municipal councils, while Section 106 of the Municipal Systems Act governs the supervision of municipalities. Furthermore, the Constitution allows provinces to assume municipal functions if a municipality fails to fulfil its obligations. However, this intervention raises concerns about municipal autonomy, particularly given the disparities between well-functioning and struggling municipalities (Sacities.net, 2022:260). The Constitution emphasises a bottom-up, participatory governance approach, promoting community-driven development.

The provincial government has legislative and executive authority to ensure effective municipal performance by regulating the exercise of municipal executive authority (Mahlangeni, 2020). However, the National Development Plan (NDP) highlights that partisan interference in decision-making processes and political appointments has caused instability, undermining both officials' morale and citizens' trust in public institutions, including local government (Ndevu and Muller, 2018:187). A key reason for the lack of effective performance management is the reluctance of governing bodies to make the difficult decisions necessary for meaningful improvements in critical areas (Ndevu and Muller, 2018:187).

In public administration, the principal-agent theory has been widely applied, with notable results in Chinese governance. Research indicates that effective

administrative management requires clear legal support, well-defined responsibilities, and clear delegation of authority (Chen, 2018). This theory has also been utilised in political science to analyse policy implementation and public policy formulation. Land (2013) highlights key issues in client-agent interactions, particularly in relation to performance and incentives.

This framework positions the government as the client in public service delivery, while the citizens act as clients to political actors, depending on the governing structure. Moreover, in the field of corporate real estate management (CREM), Bernhold and Wiesweg (2021) suggest that an internal principal-agent relationship exists between the CREM function (acting as the owner) and the business unit (acting as the user). These contractual relationships define service expectations, cost structures, and qualitative performance standards. Due to task specialisation and the division of labour, contracts between organisational units typically resemble exchange-based contractual agreements (Bernhold and Wiesweg, 2021).

Thus, the provincial government holds both legislative and executive authority to ensure municipalities effectively perform their functions. This includes regulating how municipalities exercise their executive powers. Additionally, national and provincial governments' regulatory authority can establish essential standards related to municipal services. The principal-agent theory can be applied at different levels of public administration to enhance governance effectiveness and accountability.

### **3.10. IMPACTS OF INTERVENTIONS ON MUNICIPALITIES ACROSS THE COUNTRY**

This section discusses the impact of intervention on municipalities. A study by Bole (2022) examining the application of Section 139(1)(b) in the City of Matlosana Local Municipality (CMLM) shows that the intervention team never had the required local government experience. The leader of the intervention was called the administrator. The appeal to Section 139(1) (b) failed in the CMLM. In the case of the City of Matlosana Local Municipality (CMLM), the intervention team failed to demonstrate the local government expertise it was expected to have. Therefore, municipality officials had to orient the intervention team and guide the process to do the work on their behalf (Bole, 2022). One gets the impression that provincial governments are attempting to usurp power from the municipalities by enforcing intervention. In response to

difficulties in implementing intervention, Parliament passed a number of amendments to the provision, adding a further menu of interventions, particularly those related to budget failures, financial crises, and the dissolution of local councils (De Visser and November, 2019:10).

A study conducted by Bole (2022) examines the causes of provincial governments seizing power from municipalities through the implementation of Section 139. The results of his study show that the majority of these court decisions were in favour of the municipalities. He emphasises that the litigation arose primarily due to the lack of regulations governing the implementation of interventions. To illustrate: a study conducted by Bole (2022) on the implementation of Section 139(1)(b) intervention in Madibeng Municipality notes several impacts, including poor administration of intervention and lack of due diligence on the part of the provincial executive council when making the decision to invoke the intervention. More critically, the study found that the intervention team lacked the necessary skills, competencies, and experience in local government. Similarly, an evaluation of constitutional interference in Langeberg Municipality under Section 139(1) reveals the provincial government's disregard for the constitution in its interactions with the municipality (Dodovu, 2019). Ledger and Rampedi (2019) emphasise that Section 139(1) intervention makes explicit reference to the need to maintain essential national standards or to comply with specified minimum standards for the provision of a service, which is a clear indication that the legislation provided for its application while taking into account more serious problems in the delivery of a specific municipal service rather than the entire executive power of the municipality.

In the Marks Local Municipality, the interventions were instituted under Section 139(1)(b) of the constitution, which provides that the provincial government assumes responsibility for the fulfilment of an executive obligation when a municipality cannot or does not comply with that obligation (Kaile, 2023, 2020). In the same sense, the impact depends on the effectiveness and sustainability of the intervention. Khaile (2023) identifies some of the root causes of intervention failure of and mechanisms to respond to such failures. Likewise, the effect of this Section 139(1)(b) interference has drawn opposition from the Ngaka Modiri Molema District Municipality (NMMDM),

as the North West Provincial Executive Council (NWPEC) allegedly failed to comply with material requirements. The NMMDM appealed to the Mafikeng High Court for an injunction against the NWPEC. The court proceedings ultimately resulted in the renunciation of this intervention for procedural reasons (material requirements) (Kampi, 2017). The court ruling related solely to NWPEC's failure to comply with legal procedures and not to the legitimacy of the rationale for the intervention (Kampi, 2017:99).

However, there has also been debate in the literature and in the courts as to whether liability exists under Subsection 139(1)(b). By way of illustration, the High Court in Mquma ruled that the three interventions in Section 139(1) are alternative forms of intervention and that it is not necessary for the acceptance of responsibility or dissolution to always be preceded by an instruction. In a judgment related to the constitutional intervention under Section 139(1), the Gauteng Executive Council decided to dissolve the municipal council of the City of Tshwane Metropolitan Municipality (Bronstein & Glaser, 2020), finding that the collapse of the council meetings revealed a deep-rooted inability to resolve political issues within the council, leading to its dysfunctionality.

The council was unable to make any decisions, including those necessary to discharge executive duties, for months, until the Gauteng provincial government intervened under Section 139(1) of the Constitution and dissolved the council. Similarly, according to Rulashe & Ijeoma (2022), failure to fulfil an executive obligation necessitates an interpretation of Section 139(1) to establish that a municipality has failed to discharge its responsibilities. This legal requirement mandates the state government to identify the specific unfulfilled obligation, ensuring that the municipality is given the opportunity to address it.

Moreover, this identification is a critical component of the intervention process, as it defines the extent of the provincial government's accountability. Additionally, Section 139(1) explicitly links the term "executive obligation" to duties imposed on a municipality by the Constitution or legislation. A similar perspective is presented by Nirmala & Kapesa (2024), who examines governance processes in two municipalities, namely the Masilonyana Local Municipality (MLM) and the Nala Local Municipality

(NLM) in the Free State Province. His study reveals discrepancies between the prescribed intervention procedures and the actual processes implemented by decision-makers.

According to Nirmala & Kapesa (2024), these inconsistencies stem from the absence of comprehensive legislation regulating municipal interventions. The study also highlights the complexity and political dynamics of local government, particularly partisan power struggles, which often hinder the effectiveness of interventions. More importantly, intervention requires more than mere compliance with an executive obligation; it also mandates adherence to national service delivery standards, prevents municipal councils from engaging in actions detrimental to other municipalities or the province as a whole, and maintains economic unity (Rulashe & Ijeoma, 2022). However, the misapplication of Section 139(1)(b) is partly due to a lack of clarity regarding the precise definition of an executive obligation within the context of the legislation (Ledger & Rampedi, 2019:27). As a result, Section 139(1)(b) necessitates both a clear objective and a defined scope of accountability (Rulashe & Ijeoma, 2022). The primary objective of accountability, as emphasised by Rulashe & Ijeoma (2022), is to elevate municipalities to a minimum standard of governance.

Similarly, Mathenjwa (2014) investigates contemporary trends in provincial government oversight of local government in South Africa. His study identifies the case of the Overberg District Municipality, which was placed under administration after its council failed to approve a budget before the start of the new fiscal year. On 14 July 2010, the Western Cape Provincial Executive decided to dissolve the Overberg District Municipality under Section 139(4) of the Constitution. However, both the municipality and its coalition-led council challenged this decision in court, seeking to have it overturned. Likewise, the Mquma Local Municipality, formerly known as Butterworth Municipality, was placed under provincial intervention, but the municipality contested the decision in court, securing an injunction against the Eastern Cape Executive Council to prevent the dissolution of its municipal council (Mathenjwa, 2014).

These cases illustrate ongoing disputes between municipalities and provincial governments over intervention measures. This view is supported by Ledger and Rampedi (2019), who, referencing the 2009 Mquma judgment, explore the definition of an executive obligation and argue that failure to fulfil such an obligation constitutes

grounds for intervention. Bole (2022) aligns with this perspective, echoing the sentiments of former City of Matlosana Local Municipality (CMLM) city manager and Ngaka Modiri Molema district councillor, who contended that provincial governments have frequently misapplied interventions over the years. For instance, during the implementation of Section 139(1)(b) in the CMLM, the intervention team leader was improperly granted the title of administrator with absolute authority, thereby undermining the powers of elected officials (Bole, 2022).

According to Bole (2022), the law stipulates that the position of municipal manager should be filled through a council resolution rather than being imposed as part of a Section 139(1)(b) intervention. Moreover, the intervention team only became familiar with municipal operations once municipal employees began performing the actual work (Bole, 2022). This lack of preparedness hindered the intervention's effectiveness, failing to improve service delivery outcomes. Consequently, the intended objectives of the intervention were not achieved (Bole, 2022).

Mathenjwa (2014) highlights that the simultaneous distribution and division of powers among different branches of government pose significant challenges, often leading to disputes between these branches. Ngaka Modiri Molema District Municipality (NMMDM), Madibeng Local Municipality, and City of Matlosana Local Municipality share common issues regarding the appeal and implementation of Section 139(1)(b) interventions. The overarching challenge is that these interventions did not yield positive outcomes in any of the three municipalities (Bole, 2022). Similarly, Msunduzi, Richmond, and Abaqulusi municipalities have experienced Section 139(1)(b) interventions. While the interventions in Msunduzi and Abaqulusi appeared to have successfully restored municipal councils to functional status, the Richmond intervention was marred by challenges, particularly during the lockdown period (COGTA, 2020).

According to Bole (2022), several constitutional gaps exist in the application of Section 139(1):

- The Constitution does not specify timeframes for intervention periods following the invocation of Section 139(1).

- It does not outline the terms of reference for intervention teams under Section 139(1)(b).
- It does not provide for the appointment of an administrator during Section 139(1)(b) interventions.
- It does not clearly define the roles and responsibilities of the administrator and the municipal council, except in cases where an individual assumes the municipal executive obligation on behalf of the province.

However, a provincial government's decision to intervene in a municipality constitutes a significant intrusion into that municipality's autonomy. For this reason, both the decision and its implementation must meet several substantive and procedural requirements (De Visser & November, 2019). The intervention process under Section 139(1)(b) must comply with procedural requirements, including the issuance of a written notice to the failing municipality (Makoti & Odeku, 2018:76), which should:

- *Identify the executive obligation the affected municipality has allegedly failed to fulfil, thereby justifying the intervention.*
- *Issue a directive to the municipality, demanding that it execute the specified obligation.*
- *Invite the municipal council to submit written representations outlining its efforts to comply with the Constitution and other legislation.*
- *Allow the municipality a reasonable period to submit its response and fulfil the identified executive obligations.*

Makoti and Odeku (2018:76) support this view, emphasizing the concern over whether these interventions are strictly a response to municipalities failing to meet their legal obligations or whether provincial governments themselves fail to provide adequate support to struggling municipalities. According to Ledger and Rampedi (2019), many interventions have been inappropriately applied because authorities have invoked Section 139(1) instead of Section 139(5), which grants provincial executive councils the sole authority to intervene in municipal affairs. Although municipalities are meant to operate independently, their autonomy is clearly constrained by Section 139 of the Constitution (Makoti & Odeku, 2018).

Among the different forms of intervention, Section 139(1)(b) is the most frequently applied. The Constitution outlines three steps within Section 139(1): (1) issuing a directive, (2) assuming responsibility, and (3) dissolving the municipal council. Section 139 was intended to provide a legal mechanism to prevent municipalities from experiencing severe operational and financial collapse, which many currently face (Ledger & Rampedi, 2019). However, the legislation is often rendered ineffective due to misapplication. None of the responsible institutions have implemented Section 139 as intended, as they frequently misuse incorrect provisions of the section, leading to severe negative consequences (Ledger & Rampedi, 2019).

While efforts have been made to identify the root causes of intervention failures and mechanisms to address them, no studies have specifically examined the influence of Section 139(1)(b) interventions in uMkhanyakude District Municipality by the KwaZulu-Natal provincial government. This study aims to fill that gap, contributing to both academic literature and practical governance. The following section elaborates on Chapter Three, which presents the theoretical framework.

### **3.11. SUMMARY OF THE CHAPTER**

This chapter has contextualised the theoretical framework underpinning constitutional intervention in the case of uMkhanyakude Municipality. The discussion utilised the principal-agent theory alongside the legal framework governing constitutional intervention under Section 139(1) of the Constitution. The principal-agent theory posits that the principal can employ various mechanisms to oversee and coordinate the functioning of the agent. In the context of local governance, when municipalities (acting as agents) fail to fulfil their mandated responsibilities, the provincial government (acting as the principal) is constitutionally required to intervene under Section 139(1)(b) to ensure compliance with legal and administrative obligations. Thus, the theoretical framework conceptualises the relationship between local government and higher tiers of government as a contractual arrangement, wherein municipalities function as agents executing responsibilities on behalf of the national and provincial governments, which act as the principal authorities.

## CHAPTER 4

### FINDINGS AND ANALYSIS

#### 4.1 INTRODUCTION

The previous chapter examined the framework for constitutional intervention. This study aims to assess the impact of provincial intervention on municipal administration, governance, and service delivery within the uMkhanyakude District Municipality. This chapter focuses on analysing provincial intervention within the uMkhanyakude District Municipality. The primary objectives of the study were,

- To examine the reasons for provincial intervention in the uMkhanyakude District Municipality by the KwaZulu-Natal provincial government since year 2015
- To analyse the influence of provincial intervention in uMkhanyakude District Municipality by KwaZulu-Natal provincial government
- To analyse the effects of provincial intervention on the constitutional mandate of the uMkhanyakude District Municipality
- To provide recommendations on how the provincial intervention can enhance the quality of service provided by the uMkhanyakude District Municipality.

The study employed a qualitative research approach, utilising a case study design and in-depth interviews. The sample consisted of 28 Participants, including:

- 7 uMkhanyakude District Municipality councillors,
- 7 senior municipal managers,
- 7 representatives from non-profit organisations (NPOs), and
- 7 members of the business community.

These participants were identified as key informants within the uMkhanyakude region. Thematic analysis was employed as the primary analytical framework. The findings of this study revealed several key themes related to the influence of provincial intervention on the administration of the uMkhanyakude District Municipality.

## 4.2 OVERVIEW OF UMKHANYAKUDE DISTRICT MUNICIPALITY

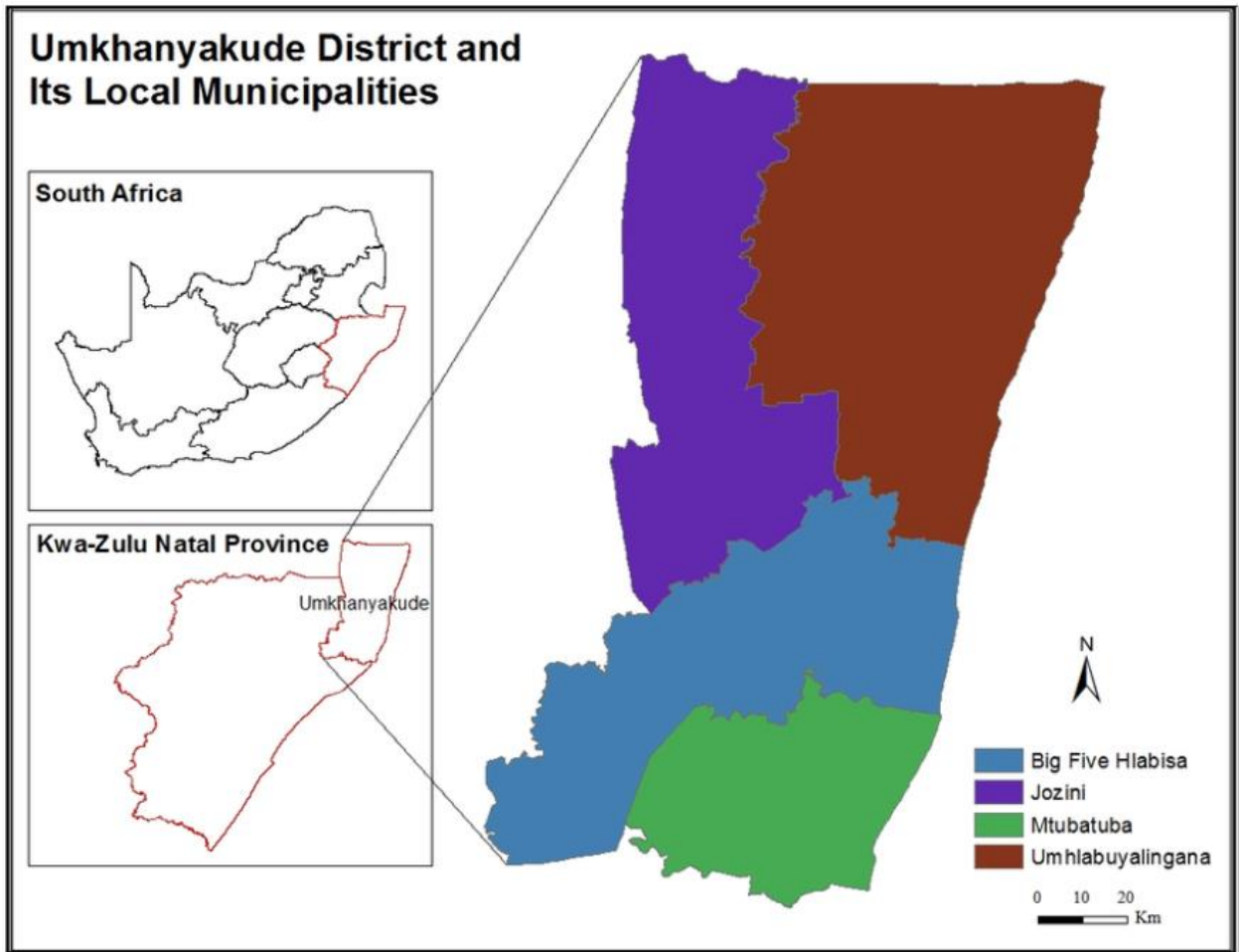
### 4.2.1 Background information

The uMkhanyakude District Municipality is located in the far north of KwaZulu-Natal Province, along the eastern coastline. It is the second-largest district in the province and comprises four local municipalities:

- uMhlabuyalingana,
- Jozini,
- Big 5 Hlabisa, and
- Mtubatuba.

The district shares borders with the Indian Ocean to the east, Mozambique and Eswatini to the north, and two KwaZulu-Natal districts to the south and west. It is positioned in the north-eastern corner of the province (uMkhanyakude District Municipality IDP, 2024). Land tenure in the district is predominantly communal, managed under the Ingonyama Trust, while privately owned commercial farms are concentrated along a narrow corridor near the N2 highway between Mtubatuba and Mkuze. The district spans 12,848 km<sup>2</sup>, with over 21% of the land designated as a conservation area, primarily within the iSimangaliso Wetland Park, a UNESCO World Heritage Site (uMkhanyakude District Economic Profile, 2021). Additionally, smaller reserves in the district fall under the jurisdiction of Ezemvelo KZN Wildlife. With the seventh-largest population in the province, uMkhanyakude District Municipality has recorded an average annual population growth rate of 1.24% over the past decade. The following map (Figure 4.1) illustrates the geographical location of uMkhanyakude District Municipality within the national and provincial context.

**Figure 4.1 uMkhanyakude District Municipality**



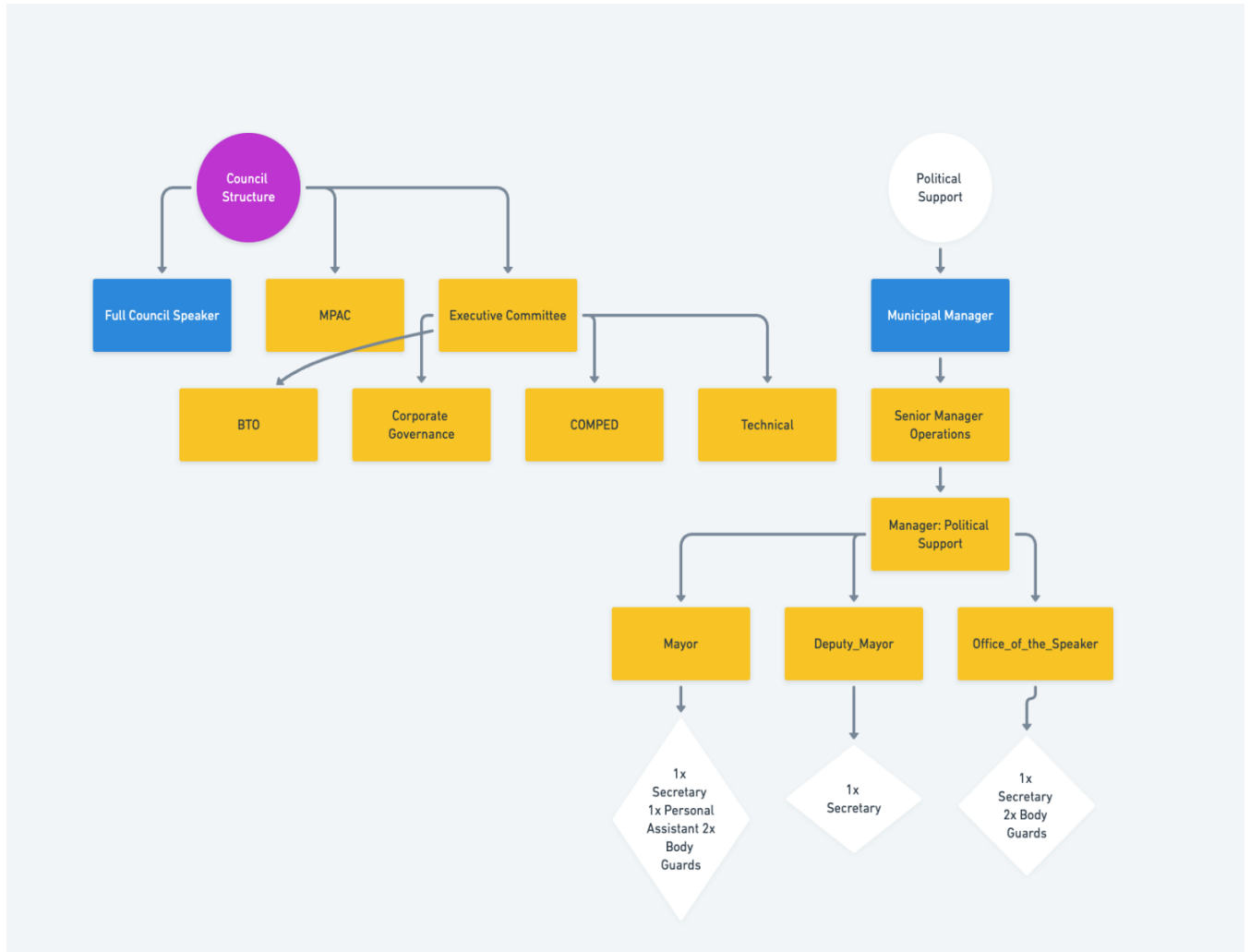
Source: Dlamini, Rampedi, and Ifegbesan, (2017)

The above, Map of the uMkhanyakude District Municipality shows the various local municipalities within the district constituting the study area.

#### 4.2.2 Organogram of UDM

This portion provides a detailed explanation of the organisational chart of the UDM, including the council structure and management structure support. These frameworks offer insight into the operational functioning of the uMkhanyakude district municipality. Figure 4.2 shows the council and political structures.

**Figure 4.1: Council Structure**



*Source: UMKHANYAKUDE DM IDP review 2024/2025*

The powers and functions of the uMkhanyakude District Municipality, as outlined in sections 83 and 84 of the Municipal Structures Act, include the following (UDM IDP review 2024/2025):

- Integrated Development planning for the District Municipality and its Local Municipalities, considering the plans of each municipality.
- Bulk water supply for a significant portion of municipalities in the district.
- Bulk electricity supply for a significant portion of municipalities in the district.
- Municipal Health Services for the entire District Municipality.
- Fire Fighting Services for the entire District Municipality.

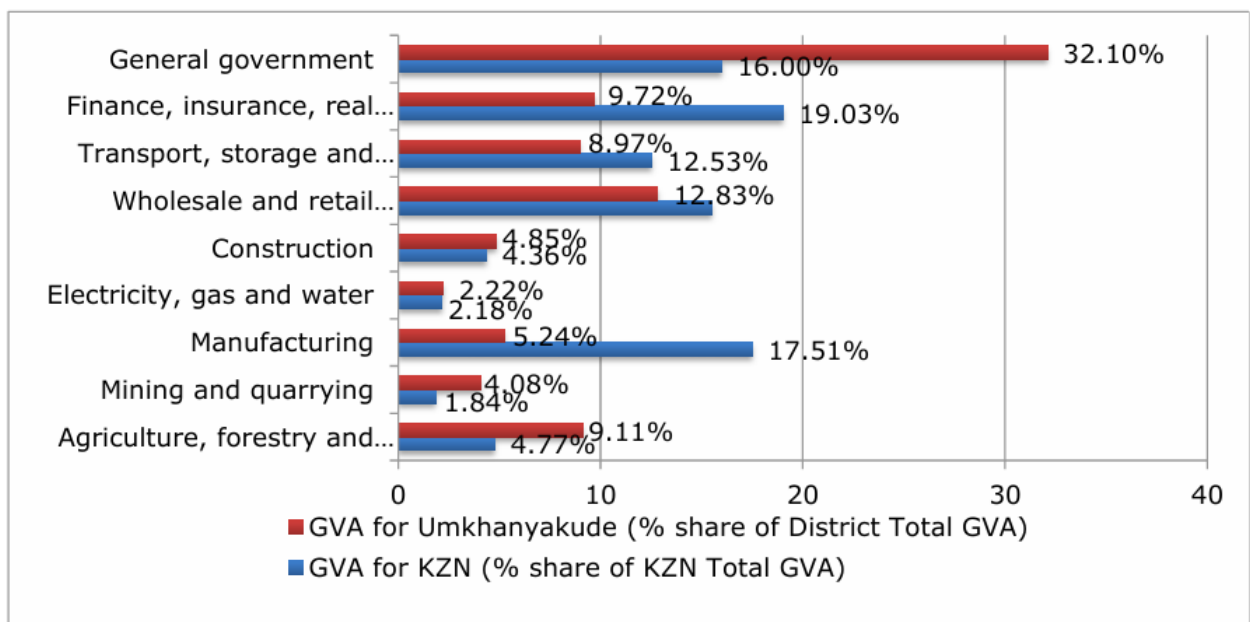
Additionally, certain functions are shared between the district and its municipalities, which include:

- Promotion of local tourism
- Firefighting services
- Municipal airports;
- Municipal planning
- Municipal public transport
- Cemeteries, funeral parlours, and crematoria;
- Refuse removal, dumps, and solid waste removal
- Establishment, conduct, and control of fresh produce markets and abattoirs, and - Municipal roads as part of the transportation system for the District Municipality.

### 4.3 Economic profile of uMkhanyakude District Municipality

This section provides detailed information on the economic structure and contribution profile of the uMkhanyakude district municipality. It presents the Gross Value Added (GVA) by sector for the year 2019. The table below (Figure 4.3) illustrates the respective contributions of each sector.

**Figure 4.2: Gross value added**



Source: Global Insight, (2021)

Based on the 2021 report from the KwaZulu-Natal provincial government, the economy of the uMkhanyakude District Municipality is primarily driven by the public sector, particularly government services. This sector contributes nearly a third of the region's Gross Value Added (GVA). The involvement of the private sector in the district's economy is relatively limited in the secondary sector but more prominent in the tertiary and primary sectors. Additionally, the report highlights that wholesale and retail trade, catering, and accommodation, supported by tourism and cross-border activities, constitute the second-largest industry in the district after government, accounting for 12.83% of economic activity. This is followed by finance at 9.72% and agriculture at 9.11%. Furthermore, the uMkhanyakude District Municipality has the second smallest economy in the province, after the uMzinyathi District Municipality, contributing a modest 1.93% to the provincial GVA.

However, the uMkhanyakude District Municipality stands out as one of the most impoverished municipalities, not only within the KwaZulu-Natal province but across South Africa (Mthembu & Hlophe, 2020). As a result, it is among the four district municipalities that have been granted presidential public funding to implement initiatives aimed at alleviating poverty (Mthembu & Hlophe, 2020; Dlamini, Rampedi & Ifegbesan, 2017).

Similarly, based on Patrick's research (2020:5), the majority of the population in uMkhanyakude, specifically over 70%, survives on a monthly income of less than R800. Moreover, more than 83% of households in the area live below the poverty line. Additionally, around 14% of unemployed individuals in the district have not received formal education, while another 17% have only completed elementary schooling (Patrick, 2020:5). The KwaZulu-Natal Department of Economic Development, Tourism, and Environmental Affairs reports the Gross Value Added for uMkhanyakude Municipality as shown in Table 4.1 below:

**Table 4.2: GVA uMkhanyakude District Municipality**

| GVA                     | uMkhanyakude                         |               |
|-------------------------|--------------------------------------|---------------|
|                         | Sector's share of regional total (%) |               |
|                         | 2008                                 | 2018          |
| 1 Agriculture           | 17,8%                                | 12,7%         |
| 2 Mining                | 1,9%                                 | 1,4%          |
| 3 Manufacturing         | 7,9%                                 | 8,0%          |
| 4 Electricity           | 2,9%                                 | 6,0%          |
| 5 Construction          | 4,4%                                 | 3,9%          |
| 6 Trade                 | 14,8%                                | 13,2%         |
| 7 Transport             | 8,6%                                 | 8,4%          |
| 8 Finance               | 15,0%                                | 15,8%         |
| 9 Community services    | 26,8%                                | 30,6%         |
| <b>Total Industries</b> | <b>100,0%</b>                        | <b>100,0%</b> |

Source : uMkhanyakude IDP 2024/5

#### 4.4. Brief Demographic Profile for uMkhanyakude Municipalities

This section provides detailed information about the demographic profile of the uMkhanyakude municipalities. It encompasses the four main municipalities, namely UMhlabuyalingina, Jozini, Big 5 Hlabisa, and Mtubatuba.

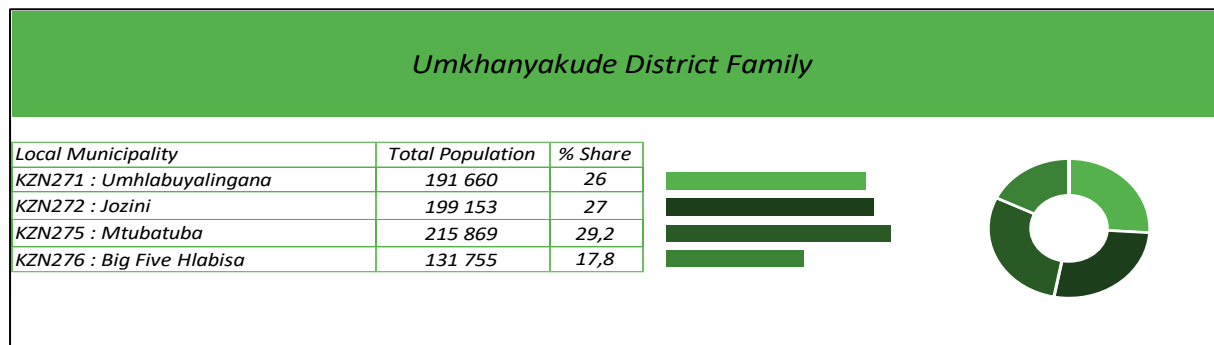
**Table 4.3: uMkhanyakude Total Population**

|  | <b>TOTAL POPULATION 2022</b> | <b>MALE</b>   | <b>% Male</b>   |
|-------------------------------------------------------------------------------------|------------------------------|---------------|-----------------|
|                                                                                     | <i>Umkhanyakude</i>          | 343 703       | 46,5            |
|                                                                                     | 738 437                      | <b>FEMALE</b> | <b>% Female</b> |
|                                                                                     |                              | 394 733       | 53,5            |

*uMkhanyakude Total Population by Gender – Census 2022*

The district's population profile reveals that females make up 53.5% of the total population, while males account for 46.5% (see Table 4.2). Consequently, the female population in the district surpasses that of males.

**Table 4.4: uMkhanyakude Municipality population**



**Source: STATSSA2022 Census**

The population family breakdown for the uMkhanyakude district is presented in Table 4.3 above. The percentage of population accounted for by Mtubatuba is followed by Jozini, UMhlabuyalingina, and Big five Hlabisa.

A major concern outlined in the National Development Plan 2030 is the significant problem of youth unemployment in South Africa. The data provided above showcases the progression of unemployment rates from 2008 to 2018, offering insights into the specifics of this issue within the district municipality (see Table 4.4).

**Table 4.5: uMkhanyakude district municipality Unemployment Rate**

| Year | Unemployment rate, official definition (%) |                  |        |           |                  |
|------|--------------------------------------------|------------------|--------|-----------|------------------|
|      | uMkhanyakude                               | uMhlabuyalingana | Jozini | Mtubatuba | Big Five Hlabisa |
| 2008 | 30,4%                                      | 26,1%            | 24,9%  | 37,1%     | 37,2%            |
| 2009 | 29,2%                                      | 24,4%            | 25,5%  | 34,3%     | 35,4%            |
| 2010 | 29,5%                                      | 24,2%            | 27,7%  | 33,0%     | 35,4%            |
| 2011 | 30,3%                                      | 24,2%            | 30,5%  | 32,1%     | 36,0%            |
| 2012 | 31,7%                                      | 25,3%            | 31,8%  | 33,8%     | 37,6%            |
| 2013 | 33,5%                                      | 27,2%            | 33,7%  | 35,5%     | 39,4%            |
| 2014 | 34,1%                                      | 27,9%            | 34,3%  | 35,9%     | 40,0%            |
| 2015 | 33,8%                                      | 27,8%            | 34,0%  | 35,5%     | 39,6%            |
| 2016 | 35,2%                                      | 29,3%            | 35,3%  | 36,9%     | 41,2%            |
| 2017 | 37,4%                                      | 31,5%            | 37,5%  | 39,0%     | 43,5%            |
| 2018 | 37,9%                                      | 32,1%            | 38,3%  | 39,1%     | 43,9%            |

*Source: KZN Department of Economic Development, Tourism and Environmental Affairs*

## 4.5 STUDY SAMPLE PROFILE

A total of 28 participants were selected from business circle, councillors, municipal managers and non-profit organisations (NPOs) all of whom responded positively to

the interview. They were categorised by age group, gender, highest academic qualification, and organisational status.

## **4.6 STUDY FINDINGS.**

Several themes emerged from this study, highlighting the influence of provincial intervention in the uMkhanyakude District Municipality. These themes include political instability, poor service delivery, internal conflicts, failure to implement the Municipal Finance Management Act (MFMA), maladministration, lack of transparency, failure to convene council meetings, absence of municipal structures, non-disclosure of budget plans, lack of accountability, poor audit practices, mismanagement of municipal funds, and fraud. The themes are discussed in detail in sections that follow

### **4.6.1 Challenges of the provincial intervention in uMkhanyakude District Municipality**

Despite the intended benefits of the intervention, several challenges were identified. These challenges are discussed in detail below.

#### **4.6.1.1 Political interference**

The interviews conducted with participants highlighted that political interference complicated the provincial intervention efforts.

One Participant noted,

*"Political interference does cause the challenges." Such interference often seeks to secure partisan advantages within the intervention process, either to uphold the existing status quo or by driving changes that benefit specific interests (Participant, 11).*

Additionally, another Participant stated that,

*"The KwaZulu-Natal provincial government encounters "external political interference" during the intervention process" (Participant, 11).*

Consequently, political interference obstructs provincial intervention efforts, hindering the advancement of good governance in the management of the municipality. This observation aligns with the caution expressed by Ledger and Rampedi (2019), who noted that evaluating the effectiveness of interventions is intricate due to the numerous political and administrative factors that exist within a municipality. Furthermore, this perspective is supported by Masiya, Davids & Mangai (2021:111), who remarked that *“There is often no political will to support innovation, and resistance thereto is common.”* According to Mamokhere (2022), the political environment presents significant challenges on the ground, with issues involving traditional leaders, councillors, and communities, alongside political interference and manipulation.

#### **4.6.1.2 Political dynamics and coalition Challenges**

The study found that political dynamics and coalition arrangements pose challenges to the KwaZulu-Natal provincial government's intervention process in the uMkhanyakude District Municipality. A total of 23 out of 28 respondents pointed out that coalitions resulted in political differences that presented governance challenges. For example, one Participant indicated that,

*“Political dynamics within the municipality often limit the effectiveness of implementing section 139(1)(b) of the Constitution”* (Participant 5).

Another participant stated that,

*“The challenge is the coalition. The municipality cannot fulfil its mandate even under intervention due to each party’s competing interests”. Consequently, some political leaders are reluctant to comply with section 139(1)”* (Participant 7).

This finding is consistent with research by Bole (2022), who stated that provincial intervention at the local government level is inherently political. The Municipal Council, as the main decision-making body, comprises representatives from different political parties who often prioritise factional political interests over good governance. Additionally, Ledger and Rampedi (2019) cautioned that assessing the effectiveness

of interventions is complex due to the multiple political and administrative factors at play in a municipality.

#### **4.6.1.4 Legal and procedural complexities**

The research revealed that the KwaZulu-Natal provincial government encounters various legal and procedural complexities.

In this regard, one participant remarked that,

*"Sometimes, section 139(1)(b) of the South African Constitution does not expedite the project implementation process" (Participant 16).*

Furthermore, Participant 19 recognised that,

*"Legal and procedural complexities present significant obstacles" in the process of the KwaZulu-Natal provincial government in the intervention process in the case of uMkhanyakude District Municipality".*

This finding aligns with the research conducted by Ledger and Rampedi (2019:27) posit that,

*"The misapplication of section 139(1)(b) has been partly attributed to a lack of clarity regarding what constitutes an 'executive obligation' under this legislation."*

They underscore that appointing an administrator to assume all executive functions of the municipality while the Council remains in office poses problems. Further, Bole, (2022:89) argues that there are no prescribed standardised administrative practices around the initiation of an intervention that cover the entire Section 139 framework.

#### **4.6.2 Causes of Provincial Intervention in uMkhanyakude District Municipality**

##### **4.6.2.1 Political instability**

The study revealed that political instability is a key factor that led to the invocation of Section 139(1) (b) in the uMkhanyakude District Municipality. A total of 26 out of 28

Participants agreed that this intervention was justified due to political instability. Some of their comments include the following:

*“The council and municipal structures were not seating and there was a very high level of political instability.”* (Participant 1)

*“Poor service delivery, municipal corruption, misuse of public funds, and political instability were rampant.”* (Participant 2)

*“The municipality was not effective in its functions and therefore rendered useless due to political interferences.”* (Participant 3)

The link between political instability and provincial intervention is also supported by scholars such as Bole (2022:115), who notes that political instability is a major cause of municipal dysfunction, often creating opportunities for career politicians to embezzle public funds. His research in the North West province found that 60% of municipalities placed under Section 139(1) management were affected by political instability and tensions within the ruling party, the ANC. He further observed that this instability contributed to declining service delivery in the province.

Similarly, Ledger and Rampedi (2019:8) found that intense political competition has crippled municipal councils, with many claiming that political factors influenced intervention decisions. In this context, Masiya, Davids, and Mangai (2021) identified political interference and lack of cooperation among councillors from different parties as significant challenges, often resulting in municipalities being placed under administration. These findings indicate that political instability significantly affects municipal performance. Participants in this study confirmed that this was a key factor in placing uMkhanyakude Municipality under Section 139(1)(b) of the Constitution to restore functionality.

#### **4.6.2.2 Poor service delivery**

The findings also revealed that poor service delivery was a major reason for placing uMkhanyakude Municipality under provincial administration. Twenty-one Participants out of the 28 interviewed widely recognised poor service delivery as a key factor leading to the provincial intervention.

Participant 5 highlighted that,

*“Political instability, poor service delivery, community protests, and unfavourable audit outcomes were among reasons for provincial intervention. This intervention is to ensure that the municipalities comply with their responsibilities”.*

On the other hand, Participant 6 confirmed that,

*“Critical posts were not filled, and there was poor service delivery, and municipal maladministration”.*

Thus, the Participants opine that poor service delivery contributed to section 139(1)b provincial intervention in uMkhanyakude municipality.

This view is shared by numerous researchers. For instance, Greffrath and Van der Walddt (2016a:148) state that intervention is often triggered by general municipal dysfunction, inadequate service delivery, and rising public protests. Similarly, Bole (2022:99) found that in the North West Province, councils failed to spend conditional grants, leading to poor service delivery. As a result, the province has had a high number of municipalities placed under administration due to governance failures (Bole, 2022:119). Makoti and Odeku (2021:75) also note that poor service delivery demonstrations have prompted provincial government intervention in affected municipalities. The JB Marks Local Municipality in North West has also struggled with service delivery due to increasing fraud and corruption, ultimately leading to its placement under administration (Khaile, 2023).

These perspectives also align with those of Dlamini (2018:51) and Mulopo, Kalinda, and Chimbari (2020:2), who describe uMkhanyakude District Municipality as facing poor economic development, limited infrastructure, and persistent service delivery failures.

#### **4.6.2.3 Internal fighting**

Participants revealed that internal fighting contributed to the provincial intervention under Section 139 in uMkhanyakude District Municipality. Out of the 28 interviewed

Participants, 20 of them identified internal fights as having contributed to poor governance and subsequently provincial intervention.

One Participant stated that:

*"internal fighting, led to the application of Section 139(1)(b) of the Constitution in uMkhanyakude Municipality". (Participant 9)*

Similarly, another Participant noted that:

*"Political instability and political interference resulting from political infighting were the primary reasons for placing the municipality under administration" (Participant 10).*

Similarly, when asked about the reasons for provincial intervention in UMkhanyakude District Municipality, Participant 11 highlighted:

*"Insufficient service delivery, political instability, and internal fighting"*

Numerous scholars support these perspectives. Reddy (2016:1) found that political disputes and conflicts between political and administrative sectors in South African local government have negatively impacted municipal service delivery. Additionally, Makoti and Odeku (2018) highlight frequent conflicts and legal disputes between provincial governments and municipalities. Masiya, Davids, and Mangai (2021) further identify ongoing political power struggles among administrators and political figures at the local government level as affecting municipal governance. Specifically, Bole (2022:119) argues that political factionalism and infighting contribute to the invocation of Section 139 interventions.

#### **4.6.2.4 Non-compliance with the Municipal Finance Management Act No 56 of 2003**

All Participants also revealed that non-compliance with the Municipal Finance Management Act (MFMA) was a key reason for placing uMkhanyakude Municipality under Section 139(1)(b) of the Constitution. The MFMA (Act 56 of 2003) aims to ensure effective financial management in municipalities by establishing treasury

norms and standards. However, Participants indicated that this obligation is not being met.

One Participant stated:

*"Poor audit opinions, misuse of municipal funds, lack of service delivery, and poor administration necessitated provincial intervention"* (Participant 12).

Another Participant reported pointed out that:

*"Failure to spend infrastructure grants, lack of consequence management, poor cash flow, supply chain management challenges, poor audit outcomes, maladministration, failure to appoint senior managers, allegations of fraud and corruption, and incomplete projects led to the provincial intervention"* (Participant 13).

Furthermore, a Participant argued that,

*"There was no certainty that proper procurement rules and procedures were followed by municipal officials"* (Participant 14)

These responses indicate that non-compliance with the MFMA has contributed to the poor financial performance of uMkhanyakude Municipality, ultimately leading to provincial intervention. The MFMA is designed to promote financial accountability and governance within municipalities, and failure to adhere to its provisions results in administrative and financial dysfunction. The results align with Ledger & Rampedi's (2019) who argue that the challenges facing local government framework include non-compliance with legislation. Khaile, Davids and Khaile (2023:164) also posit that,

*"The obstinate problem of non-compliance with municipal financial legislation in South Africa has largely been explained as a principal-agent problem. Accordingly, the municipal officials as the agents are depicted as potentially non-compliant, dishonest and corrupt".*

In this context, Shuping and Uwizeyimana (2021), revealed that the Auditor-General of South Africa, reported that from the financial year 2012-2013 to 2019-2020, more than 75 percent of the municipalities in the country were non-compliant with crucial legislation.

#### **4.6.2.5 Maladministration**

The majority of Participants identified maladministration as a key factor leading to the decision to place uMkhanyakude Municipality under Section 139(1)(b) of the Constitution. Among the 24 of the 28 Participants who identified maladministration as a problem, some of them stated the following;

Participant 15 said that,

*“Maladministration such as wasteful expenditure led to the provincial intervention in uMkhanyakude District Council.*

Furthermore, Participant 16 pointed out that,

*“Poor administration led to the placement of uMkhanyakude municipality under s 139(1)b of the constitution of south Africa”.*

According Participant 17,

*“Municipal maladministration, such as misuse of public funds contributed to the placing of the uMkhanyakude municipality under section 139(1)(b) of the Constitution of South Africa”.*

While Participant 18 posited that,

*“Poor municipal governance, resulted in provincial intervention”.*

A number of researches have also linked maladministration to Section 139 interventions. The Parliamentary Monitoring Group (2020) reported that the Madibeng Local Municipality was placed under intervention five times due to maladministration among other problems. Makoti and Odeku (2018:69) supported the use of Section 139 as a mechanism to prevent maladministration and corruption. While Bole (2022:193) examined the implementation of Section 139(1)(b) in the City of Matlosana Local Municipality (CMLM) based on four core criteria: governance, administration, financial management, and service delivery. The study found that weak governance structures, a lack of performance management systems, and increasing unauthorised, irregular,

fruitless, and wasteful expenditure contributed to the municipality's failure and the need for provincial interventions.

#### **4.6.2.6 Lack of transparency in administration**

A majority of Participants in this study (18 out of 28) highlighted the lack of transparency as a key factor contributing to the decision to place the uMkhanyakude Municipality under Section 139(1)(b) of the South African Constitution. Participants provided the following perspectives:

*"The municipality struggled in terms of service delivery, and there is no transparency in decision-making processes"* (Participant 13).

*"Yes, there has been a lack of transparency of the administration in this municipality"* (Participant 28).

*"Fraud, failure to adopt the Integrated Development Plan (IDP), and lack of transparency in administration have been common problems in the municipality"* (Participant 21).

These findings confirm Jele's (2023:21) argument that,

"a lack of accountability among municipal officials and a lack of transparency in processes are major factors leading to inadequate service delivery. Both accountability and transparency are key principles of good governance that facilitate the effective delivery of services."

Furthermore, Chigwata, De Visser, and Ayele (2021) assert that the finances of a local authority must be transparent, allowing civil society to question and hold the council accountable. Transparency and accountability, therefore, play a critical role in promoting good governance and improving service delivery (Jele, 2023).

Concerns regarding lack of transparency is among factors that have led to the intervention under Section 139(1)(b) in Umkhanyakude District Municipality, prompting provincial oversight to ensure adherence to good governance principles such as transparency. The issue of transparency in public administration is a significant global concern.

Section 139(1)(b) of the Constitution links executive obligations to maintaining ‘essential national standards’ and ensuring ‘established minimum standards for the rendering of a service (Bole, 2022:83). One such minimum standard is transparency in administration. Public servants in municipalities must align with Bole’s (2022:42) definition of good governance, which emphasises transparency, ethical leadership, integrity, and accountability. The lack of these principles in administration has contributed to the municipality’s challenges. Existing research supports the importance of transparency in municipal governance.

#### **4.6.2.7 Non-sitting of council meetings**

Council meetings serve as platforms for making critical decisions within the municipality; neglecting to conduct these meetings presents challenges for municipal administration. This study found that the inadequacy of council meetings contributed to the uMkhanyakude municipality being placed under section 139(1)(b) of the South African Constitution. All Participants argued that council meetings were not being conducted. Below are some of the responses regarding the problem of non-sitting of council meetings.

Participant 22 argued that,

*“Provincial intervention was also necessitated by an absence of council sittings which are essential for guiding council business”*

The essence of regular council meetings is confirmed by Participant 23, who argued that,

*“Ensuring that council meetings take place assists with prudent municipal management and service delivery”.*

Council members engage in discussions and debates on a diverse range of issues during meetings to make decisions that reflect the interests of the general public. The infrequency of council meetings in uMkhanyakude adversely affected the municipality's performance, ultimately resulting in the invocation of section 139(1)(b) of the Constitution of South Africa.

These findings align with Bole's (2022:96) in the City of Tshwane Metropolitan Municipality,

*“Failed council meetings led the MEC of COGTA to blame the Speaker for failing to execute her duties, in contravention of the Code of Conduct for councillors found in Schedule 1 of the Municipal Systems Act.”*

As a consequence of the lack of council meetings, the Gauteng provincial executive council resolved to invoke Section 139(1) read with Section 154 of the Constitution. In the same vein, Mamokhere (2022:16) argues that political rifts within municipalities are a concern for service delivery, where many municipal councils have in some instances failed to convene meetings due to rampant political infighting. These views demonstrate the extent to which failure of council meetings across municipalities has influenced the invocation of section 139(1) (b) of the Constitution.

#### **4.6.2.8 Absence of municipal structures**

This study revealed that the absence of municipal structures such as ward committees contributed to the placement of the uMkhanyakude District Municipality under Section 139(1)(b) of the Constitution of South Africa. A total of 25 Participants out of 28 mentioned that municipal structures in the district were dysfunctional. The Municipal Structures Act 117 of 1998 mandates that all municipalities with ward committees establish administrative frameworks to empower these committees to fulfil their functions and exercise their authority efficiently. According to Section 2(b) of the Municipal Systems Act, Act 117 of 1998, a municipality consists of its political structures, administration, and community. Participants interviewed regarding the rationale for placing the uMkhanyakude municipality under section 139(1)(b) of the South African Constitution stated:

*“The council and Municipal structures were no longer sitting, and there was a high rate of political instability” (Participant, 24).*

On the contrary, another Participant reported that,

*“Prior to the provincial intervention, the UMkhanyakude municipal council was inactive and Ward meetings were erratic, indicating a lack of working municipal*

*structure. Conversely, during the intervention process or the implementation of section 139(1)(b) within the municipality, the municipal structures began to function”.*

Similarly, a study by Bole, (2022) found that the administration and council of Madibeng Local Municipality experienced instability for over 20 years due to non-functional structures, resulting in the municipality being subjected to Section 139(1) intervention on five occasions.

#### **4.6.2.9 Failure to disclose budget plans**

Nineteen of the 28 Participants also revealed that failure to disclose budget plans was a significant factor which led to the section 139 constitutional intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality. For example, one businessman expressed concern that the lack of transparency regarding budget plans created challenges, stating,

*“The municipality adopted unfunded projects, due to failure to disclose the budget plans.”(Participant, 26)*

Additionally, a member of the municipal management team noted that,

*“The municipality had a “disclaimer” and that the budget was unfunded” (Participant, 27).*

The perspectives indicate that disclosure of budget plans reflects a commitment to transparency and accountability within the uMkhanyakude District Municipality. Furthermore, revealing these budget plans may demonstrate a proactive stance in financial management, which is essential for the uMkhanyakude District Municipality to effectively address the needs of the community.

Numerous scholars have examined the budgeting strategies of municipalities. For example, Masiya, Davids, and Mangai (2021:110) conducted a study titled “*Factors affecting the performance of South African municipal officials: stakeholders’ perspectives.*” Their findings revealed that,

*“Local government transformation in South Africa has imposed significant demands on municipalities to effectively, economically, and efficiently manage*

*their administrative and financial resources in order to fulfil their developmental responsibilities”.*

They highlighted the necessity for “municipal officials to be accountable for outcomes, rather than merely for budget expenditures.” In a similar vein, Bole (2022:209) noted that “A specific budget must be established and supported by the EXCO to address particular issues identified in municipalities when Section 139 is invoked, as municipalities often face financial constraints due to various contextual factors.” Furthermore, “over 70% of municipalities are experiencing difficulties in operating effectively, maintaining the provision of essential services, and ensuring the sustainable expenditure of their allocated annual budgets” (Shongwe and Meyer, 2023:141).

#### **4.6.2.10 Lack of accountability**

A significant majority of Participants (26 out of 28) indicated that the decision to invoke Section 139(1)(b) of the Constitution was warranted, primarily due to the existing lack of accountability. Accountability in municipalities refers to the obligation of local government bodies to operate transparently and to be held responsible for their actions and decisions.

Participant 22 noted that,

*"The municipality was characterised by lack of accountability which led to provincial intervention."*

While Participant 15 posited that,

*"Municipal finances were often misused without anyone being held to account."*

Participant 23 remarked that

*"Ensuring that funds are allocated appropriately and minimising unnecessary expenditures is an important tenet of accountability."*

Furthermore, a participant from the business community highlighted that,

*"There is need to ensure that the budget is not overstated and that all municipal procedures are adhered to." (Participant, 20).*

It is important to note that the absence of accountability in the uMkhanyakude District Municipality adversely affected the municipality's performance. The Constitution serves as the highest legal authority, mandating municipalities to manage their financial resources with care and fostering accountability within the local government sector (Zweni, Yan, and Uys, 2022). Various studies support this perspective, emphasising the importance of effective governance in local administrations. Bole (2022:225) highlights Section 6 of the Municipal Systems Act, which empowers municipal administrations to implement measures aimed at preventing corruption, addressing community needs, and ensuring accountability among personnel. His research underscores the lack of fundamental business values such as accountability, accessibility, communication, professionalism, value for money, integrity, and discipline within three municipalities: Ngaka Modiri Molema District Municipality, Madibeng Local Municipality, and City of Matlosana Local Municipality.

#### **4.6.2.11 Poor audit practices**

A significant majority of participants (27 out of 28) indicated that the decision to invoke section 139(1)(b) of the constitution was justified citing, among other reasons, inadequate audit practices. A clean audit in municipalities indicates a comprehensive review of financial records that identifies no discrepancies or irregularities. Sentiments around poor audit practices were raised by a number of Participants.

*"Poor audit practices were the order of the day and, every leader supports this intervention and is optimistic that they will ultimately achieve a clean audit." (Participant, 26).*

Another Participant concurred, noting:

*"Yes, the intervention is relevant as it aims to achieve a clean audit in each financial year which had become rare." (Participant, 28).*

Similarly, Participant 7 reported:

*"Poor audits, misuse of municipal funds, lack of service delivery, and inadequate administration adversely affect the district municipality's performance".*

In this context, Participant 27 emphasised:

*"Improvement will be evident through a positive audit report, which the municipality is diligently striving to obtain."*

The intervention of the provincial government in the uMkhanyakude District Municipality is deemed necessary due to its failure to obtain clean audits. Thus, these perspectives reinforce the justification for invoking Section 139(1)(b) to improve municipal financial management. Consequently, intervention from the provincial government through an appointed administrator is perceived as a means of providing the necessary guidance to improve financial management.

These findings mirror those of researchers such as Bole (2022:114) who indicates that municipalities in the North West Province have not demonstrated significant progress toward achieving clean audits, citing a decline in audit outcomes.

Furthermore, research by Zweni, Yan, and Uys (2022:1) suggest that municipal managers at various levels struggle to manage budgets effectively.

#### **4.6.2.12 Mismanagement of municipal funds and fraud**

Numerous Participants identified financial mismanagement and fraudulent activities as key factors contributing to the uMkhanyakude District Municipality's placement under administration. Of the 28 Participants, 23 pointed out that poor administration of local government funds, coupled with instances of fraud, severely erodes public trust, impedes community development, and results in substantial financial losses. One Participant noted that:

*"The failure to utilise infrastructure grants, lack of accountability, poor cash flow, and challenges in supply chain management, allegations of fraud and corruption, as well as incomplete projects are all signs of mismanagement that bedevilled in Umkhanyakude District Municipality." (Participant, 10)*

Another Participant stated that,

*"Poor service delivery, municipal mismanagement, the misuse of public funds, and political instability" have necessitated the provincial intervention.*  
(Participant, 14)

As a result, the consequences of poorly managed finances and fraudulent activities significantly hindered the district municipality's ability to effectively respond to community service delivery.

Participant perspectives align with scholarly findings advocating for provincial interventions under Section 139(1)(b) as a means of addressing financial mismanagement. A study by Mabunda, Mvunabandi, and Chonco (2023) examined the impact of financial mismanagement on service delivery in municipalities and concluded that it was affecting service delivery within the eThekweni Municipality. Consistent with this, research by Masiya, Davids, and Mangai (2021:111) found that weak financial controls contributed to significant irregular expenditures in municipalities. Despite these challenges, there remains potential for improving municipal efficiency, particularly by curbing wasteful and unauthorised expenditures.

#### **4.9 Theoretical Implications of the empirical findings**

The principal-agent theory provides a compelling lens through which to examine the dynamics of provincial intervention in the administration of the uMkhanyakude District Municipality. At its core, the theory conceptualises the relationship between the provincial government (the principal) and the municipal administration (the agent) as one characterised by delegated authority, accountability, and the persistent risk of agency problems such as information asymmetry and goal misalignment (Lane, 2020; Bernhold & Wiesweg, 2021). This framework is particularly relevant in the South African context, where Section 139(1)(b) of the Constitution empowers provincial governments to intervene in municipalities that fail to fulfil their executive obligations, including financial management and service delivery (SALGA, 2020).

Empirical findings from the study reveal that, despite the intent of provincial intervention to restore governance stability and improve service delivery, the persistent challenges in uMkhanyakude District Municipality underscore the limitations inherent

in the principal-agent relationship. Interviews with municipal officials and business stakeholders highlighted that, while the provincial government assumed administrative control to address governance failures, the intervention was hampered by several agency problems. For instance, municipal officials often retained critical operational knowledge and local context, resulting in information asymmetries that limited the effectiveness of provincial oversight. This aligns with principal-agent theory's assertion that agents may possess 'hidden information' or engage in 'hidden actions' that are not fully observable by the principal, thereby complicating accountability and performance monitoring.

Furthermore, the study found that political interference and the lack of post-intervention monitoring contributed to recurring governance instability. This reflects the principal-agent dilemma of 'hidden intentions,' where agents may pursue objectives that diverge from those of the principal, particularly in environments marked by weak oversight and fragmented incentives. The empirical evidence of continued financial mismanagement and irregular service delivery, despite provincial intervention, suggests that the incentive structures and contractual mechanisms put in place were insufficient to align municipal actions with provincial objectives. Excessive and inappropriate expenditure persisted, and service delivery remained irregular, especially in the provision of water, infrastructure, and public facilities.

The findings also point to the importance of robust monitoring and evaluation mechanisms to mitigate agency problems. The absence of sustained oversight after the initial intervention period allowed old patterns of mismanagement and instability to re-emerge. This supports the principal-agent theory's emphasis on the need for ongoing supervision, clear performance metrics, and credible sanctions to ensure that agents act in the best interests of the principal.

#### **4.10 Summary of the Chapter**

The chapter provided an examination of section 139(1)(b) concerning Provincial Intervention in the uMkhanyakude District Municipality. In addition to the descriptive statistics regarding the participants' profiles, the analysis focused on the reasons for

the application of section 139(1)(b) of the Constitution to uMkhanyakude, and the challenges encountered during the provincial intervention process.

The provincial government was granted authority by the South African Constitution to support the uMkhanyakude District Municipality through interventions outlined in section 139(1)(b). These interventions include placing the municipality under administration, overseeing decision-making processes, and introducing stability and expertise to improve governance.

The analysis highlights the reasons for placing uMkhanyakude under section 139(1)(b) of the Constitution. These include political instability, internal conflicts, non-compliance with the Municipal Finance Management Act, lack of service delivery, maladministration, lack of transparency in administration, failure of council meetings, absence of council sittings and municipal structures, failure to disclose budget process plans, lack of accountability, poor audit practices, mismanagement of municipal funds, and fraud.

The analysis also highlights challenges hindering the provincial intervention in uMkhanyakude district municipality. The study noted namely political dynamics as the primary challenges faced by the provincial government in the intervention process in uMkhanyakude District Municipality. Political interference causes challenges, as well as the coalition poses a challenge, while political dynamics within the municipality often hinder the effectiveness of the provincial government in the intervention process.

## CHAPTER 5

### CONCLUSION AND RECOMMENDATIONS

#### 5.1 INTRODUCTION

Chapter four presented an analysis of the research findings and discussions Chapter five encapsulates the study's conclusions and offers recommendations aimed at enhancing the positive effects of provincial intervention on the administration of the local municipality.

#### 5.2 SUMMARY OF CHAPTERS

The overarching research question for this study was: "What are the effects of provincial intervention on the administration of the uMkhanyakude District Municipality?" To address this central question, the study pursued the following objectives:

- To examine the role of the municipalities in South Africa
- To investigate the reasons for provincial intervention in the uMkhanyakude District Municipality by the KwaZulu-Natal provincial government since year 2015
- To analyse the challenges of provincial intervention on the constitutional mandate of the uMkhanyakude District Municipality
- To provide recommendations on how the provincial intervention can enhance the quality of service provided by the uMkhanyakude District Municipality.

The following sections summarise the findings and conclusions of each chapter in relation to these objectives.

**Chapter One** introduced the topic, providing an overview of the influence of provincial intervention on the administration of the uMkhanyakude District Municipality. It details the significance of the study, the background of the problem, and the research purpose. It also outlines the research questions and objectives, methodology, population and sampling techniques, data collection instruments, and analytical approach.

**Chapter Two** reviewed existing research on Section 139(1)(b) constitutional intervention in municipalities, exploring its causes and effects within South Africa. The chapter discussed the application of Section 139(1)(b) across different municipalities and the implementation process. It also presented the theoretical framework underlying the study, specifically examining agency theory in the context of provincial intervention. The review identified key governance challenges such as political instability, poor financial management, administrative inefficiencies, lack of public engagement, and ethical misconduct, all of which undermine effective service delivery at the local government level.

**Chapter Three** outlined the constitutional framework governing intervention in local government, detailing the oversight roles of the Minister of Cooperative Governance, the National Council of Provinces, and the provincial legislature. It applied the principal-agent theory to explain the dynamics between municipalities (agents) and the provincial government (principal), highlighting the mechanisms available to regulate municipal operations. The study asserted that when municipalities fail to meet their obligations, provincial governments are constitutionally mandated to intervene under Section 139(1)(b). This chapter contextualised the intervention in uMkhanyakude Municipality within the broader legislative and administrative framework governing local government in South Africa.

**Chapter Four** presented the research findings, outlining the reasons for intervention, its impact on governance, and the challenges encountered during implementation. The analysis highlighted factors necessitating intervention, such as political instability, internal conflicts, non-compliance with the Municipal Finance Management Act, maladministration, and financial mismanagement. The study also identified improvements brought about by the intervention, including strengthened governance structures, enhanced service delivery, and increased compliance with legal and regulatory standards. However, challenges such as political interference, coalition conflicts, and governance inefficiencies continue to hinder effective municipal administration.

### **5.3 SUMMARY OF KEY FINDINGS**

The results revealed several causes of provincial intervention, including political instability, service delivery issues, internal conflicts, failure to comply with the Municipal Finance Management Act (MFMA), maladministration, lack of transparency, failure to conduct council meetings, absence of municipal structures, failure to present budget plans, lack of accountability, poor audit practices, inadequate disclosure of financial reports, as well as corruption and fraud.

#### **5.3.1 Political instability**

Political instability was identified as one of the primary causes for the provincial government's intervention in the municipality. The study results revealed that the municipality experienced high levels of political rivalry, uncoordinated councillors, and political interference, which affected municipal governance. As reported, the municipal council and structures were unable to meet regularly, making decision-making and service delivery challenging.

#### **5.3.2. Poor Service Delivery**

Poor service delivery was noted as the main reason for the provincial government's intervention. The lack of essential municipal services, such as water, electricity, road maintenance, and waste management, was attributed to financial mismanagement and poor administration.

#### **5.3.3 Infighting and Non-Compliance with the MFMA**

The study revealed that the municipality faced significant leadership challenges, with political parties and political leadership contributing to poor performance. Furthermore, failure to comply with the Municipal Finance Management Act (MFMA), an inability to fill senior management positions, and inadequate attention to spending controls were identified as major issues. Participants noted that poor audit reports, corruption, and maladministration exacerbated the situation, prompting the need for provincial government intervention.

#### **5.3.4 Corruption and Lack of Transparency**

Corruption emerged as a recurring issue in the findings. Participants highlighted that the municipality suffered significant losses due to corruption, inefficiency, and poor management. Additionally, a lack of accountability in municipal financial decisions and reporting was identified as a key challenge.

#### **5.3.5 Failure of Council Meetings and Lack of Municipal Structures**

The survey results also indicated that council meetings were not being held as frequently as required, which affected municipal administration. The absence of municipal structures, such as ward committees, weakened governance and reduced public participation.

#### **5.3.6 Challenges experienced in the Provincial intervention**

The study also identified several challenges associated with the provincial intervention. Political interference was seen as a significant issue. Participants stated that external political forces interfered with municipal affairs, rendering the intervention ineffective. The coalition politics within the municipality also posed a challenge, as the political parties' interests conflicted with the provision of services. Legal and procedural complexities were another hurdle; Participants noted that Section 139(1)(b) interventions could sometimes slow down project implementation due to bureaucratic delays. Political instability, failure to deliver services, financial misconduct, and poor management necessitated the application of Section 139(1)(b) of the South African Constitution. Although the intervention has brought about some improvements, particularly in budgeting and financial reporting, several challenges remain. The political processes, coalition disputes, and bureaucratic obstacles continue to pose problems. The findings indicate that there is a need for stronger supervision, accountability, and local institutions to ensure the municipality's viability and effectiveness after the intervention.

### **5.4 RECOMMENDATIONS**

The study's findings highlight several critical issues that led to provincial intervention. Based on these challenges, the following recommendations are made to enhance governance and service delivery in the Umkhanyakude District Municipality.

#### **5.4.1. Enhancing Political Stability and Governance**

The research has established that political instability has been a major factor in the municipality's failures. To address this, a defined mediation process should be put in place within the municipality to manage conflicts among councillors and political actors. The municipality should also adopt a clear structure to distinguish between political leadership and administrative functions, minimizing interference with municipal operations. Furthermore, council members and municipal officers should undergo governance training to improve their ethical leadership, accountability, and decision-making skills. Political parties should prioritise consensus-building to focus on service delivery rather than political rivalry.

#### **5.4.2. Improving Financial Management and adherence to the MFMA**

Financial mismanagement and non-compliance with the MFMA have placed the municipality in a very poor position. To address this, the municipality should implement strict financial controls, including audits, expenditure reporting, and internal controls, to prevent corruption. There is also a need to enhance the qualifications of financial personnel and municipal auditors to effectively oversee the municipality's financial affairs. Furthermore, continued training on the MFMA, financial management, procurement, and other related aspects should be provided to municipal officers. This will help establish a transparent budget disclosure process, which will, in turn, restore the public's confidence in the municipality's financial management.

#### **5.4.3. Good Governance and Transparency**

This research concludes that transparency is crucial in municipal governance to ensure that citizens are informed and can demand accountability. The municipality should adopt open governance practices where budgetary information, expenditures, and decisions are made publicly available. Internal audit controls should be strengthened, and independent oversight bodies should be established to achieve this objective. Additionally, the community should be encouraged to participate in municipal meetings, express concerns, and provide input into the decision-making process. The use of digital platforms to provide real-time access to municipal financial reports and decisions will further enhance transparency.

#### **5.4.4 Reviving Council Meetings and Enhancing Municipal Structures**

Non-attendance of council meetings has led to governance paralysis in the municipality. To address this, strict measures should be enforced to ensure that meetings and procedures are properly followed. The Speaker of the Council should ensure that meetings are scheduled in a timely manner and that quorum is met. Community development committees and participation structures should be reactivated to strengthen the local government machinery. It is essential that council members are held accountable for their actions and for what they are achieving in the communities they serve.

#### **5.4.6 Political interference and coalition conflicts**

This study found that political interference has negatively impacted governance and service delivery in the municipality. There is a need to develop a policy that limits political interference in municipal administration. Coalition partners should ensure that governance agreements promote stability and service delivery. A third party could be appointed to resolve political disputes that affect municipal governance. It is recommended that the provincial government continue to supervise and support the municipality to prevent political influences from leading to dysfunctionality.

#### **5.4.7 Simplified Legal and Procedural Arrangements**

Legal and procedural challenges have hindered the effectiveness of provincial intervention. There is a need to provide clearer guidance on the implementation of Section 139(1)(b) interventions to reduce administrative delays and ensure a smooth transition from provincial to municipal governance. The municipality's legal capacity should also be enhanced to ensure compliance with legal provisions. Training on legal governance and procedural arrangements should be offered to municipal officials and councillors to increase their legal knowledge and improve their ability to address legal issues.

### **5.5 FUTURE RESEARCH**

Future investigations into Section 139(1)(b) of the Constitution may focus on several critical aspects, particularly the principal obstacle hindering effective provincial intervention: political interference. This interference can manifest in various forms, including the influence of party politics, the prioritisation of political agendas over the

needs of local communities, and the potential for corruption or nepotism. Such dynamics can undermine the intended purpose of provincial intervention, which is to ensure that local governments operate effectively and in the best interests of their constituents.

Furthermore, these investigations may delve into the mechanisms through which political interference occurs, analysing case studies where provincial intervention has been obstructed by political considerations. This could involve examining the roles of various stakeholders, including provincial governments, local municipalities, and political parties, to understand how their interactions can either facilitate or obstruct the intervention process. In addition to identifying obstacles, future research may also explore the unique benefits associated with provincial intervention. These benefits could include enhanced governance, improved service delivery, and the promotion of accountability at the local level. By intervening, provincial authorities can provide essential support and resources to struggling municipalities, helping them to overcome challenges such as financial mismanagement, inadequate infrastructure, or service delivery failures. Moreover, provincial intervention can foster greater collaboration between different levels of government, encouraging a more integrated approach to addressing local issues. This collaboration can lead to the sharing of best practices, the pooling of resources, and the development of innovative solutions tailored to the specific needs of communities. Finally, a comprehensive examination of both the obstacles and benefits of provincial intervention under Section 139(1)(b) of the Constitution will provide valuable insights into how to enhance governance and service delivery at the local level, ensuring that the constitutional framework is effectively utilised to support the needs of all citizens.

## **5.6 CONCLUSION**

This study analysed the influence of provincial intervention on the administration of the uMkhanyakude District Municipality since 2015. The study revealed that, despite the good indentations for the provincial intervention to restore effective governance, financial management, and service delivery, challenges remain. The municipality continues to experience governance instability, marked by ongoing political interference, weak oversight, and insufficient post-intervention monitoring. Financial

mismanagement and irregular expenditure have not been fully addressed, and service delivery remains inadequate.

Using the principal-agent theory, the study showed that agency problems, including information asymmetry, misaligned incentives, and limited accountability, undermined the effectiveness of provincial interventions. There is still lack of robust monitoring and evaluation mechanisms after the intervention which has allowed old patterns of mismanagement to re-emerge. The findings underscore the importance of enhancing political stability through improved governance frameworks, strengthening financial accountability with stricter controls and audits, and fostering greater community participation in municipal affairs. Limiting political interference and instituting long-term monitoring are essential for ensuring that interventions have a lasting positive impact.

This study contributes valuable insights for policymakers, practitioners, and scholars. It emphasises that provincial intervention is necessary to address municipal dysfunction, but its success depends on addressing the current challenges and building strong, accountable local governance structures.

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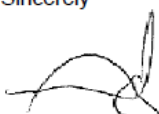
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## APPENDIX 1: ETHICAL CLEARANCE CERTIFICATE

Find tex

|                                                                                                                                                                                                                                                    |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| <br>UNIVERSITEIT VAN PRETORIA<br>UNIVERSITY OF PRETORIA<br>YUNIBESITHI YA PRETORIA                                                                                | <b>POSTGRADUATE COMMITTEE</b><br><br><b>Faculty of Economic and Management Sciences</b> |
| 7 November 2024<br><br>Professor G van Dijk<br>School of Public Management<br>and Administration<br><br>Dear Prof van Dijk                                                                                                                         |                                                                                         |
| <b>APPOINTMENT OF EXTERNAL EXAMINERS</b><br><br>The appointment of external examiners for the below-mentioned student was considered by the Postgraduate Committee on <b>7 November 2024</b> . The committee's decision is reflected below:        |                                                                                         |
| <b>Student:</b>                                                                                                                                                                                                                                    | <b>Khumalo T</b>                                                                        |
| <b>Student number:</b>                                                                                                                                                                                                                             | u20823267                                                                               |
| <b>Degree:</b>                                                                                                                                                                                                                                     | MAdmin (Public Management and Policy)                                                   |
| <b>Supervisor:</b>                                                                                                                                                                                                                                 | Prof T Masiya                                                                           |
| <b>Co-supervisor:</b>                                                                                                                                                                                                                              | -                                                                                       |
| <b>Examiners approved:</b>                                                                                                                                                                                                                         |                                                                                         |
| <b>Name</b>                                                                                                                                                                                                                                        | <b>Institution</b>                                                                      |
| 1. Prof Modeni Mudzamba Michael Sibanda                                                                                                                                                                                                            | University of Fort Hare                                                                 |
| 2. Dr Alouis Chilunjika                                                                                                                                                                                                                            | National University of Lesotho                                                          |
| <b>Alternate examiners approved:</b>                                                                                                                                                                                                               |                                                                                         |
| <b>Name</b>                                                                                                                                                                                                                                        | <b>Institution</b>                                                                      |
| 3. Prof Gideon Zhou                                                                                                                                                                                                                                | University of Zimbabwe                                                                  |
| Please note that the student should under no circumstances know who constitutes the examination panel.                                                                                                                                             |                                                                                         |
| Sincerely<br><br><br><br><b>pp PROF K BARAC</b><br><b>CHAIR: POSTGRADUATE COMMITTEE</b><br><br>cc: Prof T Masiya<br>Department Admin.<br>Student Administration |                                                                                         |

## APPENDIX 2: APPROVAL OF TITLE REGISTRATION



Faculty of Economic  
and Management Sciences



Our ref: 20823267  
Contact person: Mr JS Mphse  
Tel: +27 012 420 5279  
E-mail: jacob.mphse@up.ac.za

14 August 2023

Dear Mr Khumalo,

### APPROVAL OF TITLE REGISTRATION

I have a pleasure in informing you that the following title registration has been approved.

**Influence of provincial intervention on the administration of the Umkhanyakude District Municipality**

Your enrolment as a student must be renewed annually until you have complied with all the requirements for the degree, preferably during the official period of enrolment but before **28 February**. You will only be entitled to the guidance of your supervisor if annual proof of registration can be submitted

Yours sincerely



For: **Prof Chitiga-Mabugu**  
**Dean Faculty of Economic and Management Sciences**

APPENDIX

3:

RESEARCH

APPROVAL

LETTER



Harlingen No. 13433, Kingfisher Road,  
Mkuze, 3965  
PO Box 449, Mkuze, 3965  
Tel : 035 573 8636  
Fax : 035 573 1386  
Email: [mm@ukdm.gov.za](mailto:mm@ukdm.gov.za)  
Enquiries: Miss Palesa Masinga

14 August 2023

University of Pretoria  
Private Bag x20  
Hatfield  
0028

Attention: Dr Tyanai Masiya

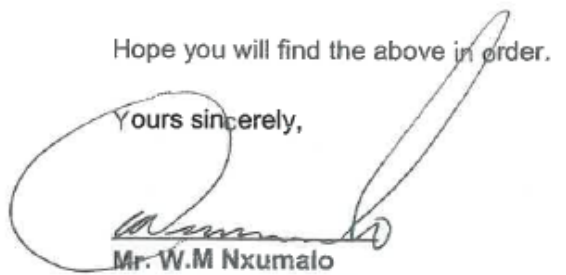
**PERMISSION TO CONDUCT THE STUDY**

This letter serves to confirm that Mr. Thokozani Khumalo student number u20823267 has been granted the permission to do the study, his topic is, **(Influence of provincial intervention on the administration of the uMkhanyakude District Municipality)**

The Municipality does not have any objections on this research and it is highly hoped that the study will assist the Municipality in terms of enhancing service deliver.

Hope you will find the above in order.

Yours sincerely,

  
Mr. W.M Nxumalo  
Acting Municipal Manager  
uMkhanyakude District Municipality

## APPENDIX 4: INFORMED CONSENT FORM



Faculty of Economic and Management Sciences

### Letter of Introduction and Informed Consent

#### School of Public Management and Administration

##### Title:

Influence of provincial intervention on the administration of the uMkhanyakude District Municipality.

Research conducted by:

**Mr. T. Khumalo (Student No. u20823267)**

**Cell phone No: 0663361464**

Dear Participant

You are invited to participate in an academic research study conducted by Mr. Thokozani Khumalo, Master's student from the School of Public Management and Administration at the University of Pretoria.

The purpose of the study is to investigate Influence of provincial intervention on the administration of the uMkhanyakude District Municipality.

Please note the following:

- This is an anonymous study survey as your name will not be revealed. The answers you give will be treated as strictly confidential as you cannot be identified in person based on the answers you give.
- Your participation in this study is very important to us. You may, however, choose not to participate and you may also stop participating at any time without any negative consequences.
- Please answer the interview questions as completely and honestly as possible. This should not take more than 30 minutes of your time.
- The results of the study will be used for academic purposes only and may be published in an academic journal. We will provide you with a summary of our findings on request.
- Please contact my study leader, Dr. Tyanai Masiya my supervisor at the following contact information, Email: [tyanai.masiya@up.ac.za](mailto:tyanai.masiya@up.ac.za), Tel: +27 (0) 12 420 2138, if you have any questions or comments regarding the study.

In research of this nature the study leader may wish to contact respondents to verify the authenticity of data gathered by the researcher. It is understood that any personal contact details that you may provide will be used only for this purpose, and will not compromise your anonymity or the confidentiality of your participation.

Please sign the form to indicate that:

- You have read and understand the information provided above.
- You give your consent to participate in the study on a voluntary basis.

\_\_\_\_\_  
Participant's signature

\_\_\_\_\_  
Date

## APPENDIX 5: RESEARCH INSTRUMENTS

### Interview questions group 1

#### UMkhanyakude District Municipality councillors

##### Section A: Biographical Data

##### A1. Gender Profile of Participant

|        |  |
|--------|--|
| Male   |  |
| Female |  |

##### A2. Age Distribution of Participant

|               |  |
|---------------|--|
| Below 25 year |  |
| 26 - 35 years |  |
| 36 - 45 years |  |
| 46 - 55 years |  |
| Plus 56 years |  |

##### A3. Highest Qualification of Participant

|                    |  |
|--------------------|--|
| Matric Certificate |  |
| Undergraduate      |  |
| Post graduate      |  |
| Master's Degree    |  |

##### A4. Organisation Status of Participant

|       |  |
|-------|--|
| NPO   |  |
| Other |  |

## Section B

**Objective 1: To discover the reasons why the uMkhanyakude municipality was placed under constitutional intervention by the KZN provincial government**

- B1. Do you think it was a correct decision to place the municipality under section 139 (1) (b) of the constitution?.....
- B2. Was there any support before the intervention by KZN provincial government and or national government?  
.....
- B3. Do you think all key stakeholders were consulted about the decision to intervene  
.....
- B4. Do you think there is participative leadership in the municipality? Does everyone contribute towards leadership process now that there is intervention?.....
- B5 Do you think the municipality leaders supports the intervention?.....

**Objective 2: To investigate the effects of constitutional interventions on the performance of the uMkhanyakude District Municipality?**

C1 Do you agree that the municipality has improve since intervention?  
.....

C2 Do you agree that the service delivery and AG opinion has improved since intervention?.....

C3 Do you agree that other stakeholders like community and business people have a role to play?.....

C4 Do you agree that the municipality is now ready to be removed from intervention?.....

C5 Do you agree that there is now a positive impact after intervention?.....

### Interview questions

1. Was there any support rendered to the uMkhanyakude District Municipality by the KZN provincial governments prior to the invocation of the s139(1) interventions? If yes, what was the nature of such support?.....
2. What have been the overall impacts of the intervention in the uMkhanyakude District Municipality?.....
3. What are the effects of s139(1) interventions in the case of the uMkhanyakude District Municipality?.....
4. What were the reasons for section 139 constitutional intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
5. What specific powers does section 139(1)(b) of the Constitution of South Africa grant to the provincial government in respect of the uMkhanyakude District Municipality?.....
6. What measures has the KwaZulu-Natal provincial government taken to ensure effective governance in the uMkhanyakude District Municipality?.....
7. Has the intervention by the KwaZulu-Natal provincial government improved service delivery in the uMkhanyakude District Municipality? If yes, how?.....

8. What role do local communities and business people play in the intervention process?.....
9. What are the challenges facing the KwaZulu-Natal provincial government in the intervention process in the case of uMkhanyakude District Municipality?.....
10. What are the potential benefits and drawbacks of the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
11. What is the relationship between section 139(1)(b) of the Constitution of South Africa and the Municipal Finance Management Act in relation to the case of uMkhanyakude District Municipality?.....
12. What is the role of the national government in the intervention process?.....
13. What lessons can be learned from the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?...

## Interview questions group 2

### uMkhanyakude District Municipality senior managers

#### Section A: Biographical Data

##### A1. Gender Profile of Participant

|        |  |
|--------|--|
| Male   |  |
| Female |  |

##### A2. Age Distribution of Participant

|               |  |
|---------------|--|
| Below 25 year |  |
| 26 - 35 years |  |
| 36 - 45 years |  |
| 46 - 55 years |  |
| Plus 56 years |  |

##### A3. Highest Qualification of Participant

|                    |  |
|--------------------|--|
| Matric Certificate |  |
| Undergraduate      |  |
| Post graduate      |  |
| Master's Degree    |  |

##### A4. Organisation Status of Participant

|       |  |
|-------|--|
| NPO   |  |
| Other |  |

## Section B

Objective 1: To discover the reasons why the uMkhanyakude municipality was placed under constitutional intervention by the KZN provincial government

- B1. Do you think it was a correct decision to place the municipality under section 139 (1) (b) of the constitution?.....
- B2. Was there any support before the intervention by KZN provincial government and or national government?  
.....
- B3. Do you think all key stakeholders were consulted about the decision to intervene  
.....
- B4. Do you think there is participative leadership in the municipality? Does everyone contribute towards leadership process now that there is intervention?.....
- B5. Do you think the municipality leaders supports the intervention?.....

**Objective 2: To investigate the effects of constitutional interventions on the performance of the uMkhanyakude District Municipality?**

C1 Do you agree that the municipality has improve since intervention?  
.....

C2 Do you agree that the service delivery and AG opinion has improved since intervention?.....

C3 Do you agree that other stakeholders like community and business people have a role to play?.....

C4 Do you agree that the municipality is now ready to be removed from intervention?.....

C5 Do you agree that there is now a positive impact after intervention?.....

### Interview questions

14. Was there any support rendered to the uMkhanyakude District Municipality by the KZN provincial governments prior to the invocation of the s139(1) interventions? If yes, what was the nature of such support?.....

15. What have been the overall impacts of the intervention in the uMkhanyakude District Municipality?.....

16. What are the effects of s139(1) interventions in the case of the uMkhanyakude District Municipality?.....

17. What were the reasons for section 139 constitutional intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....

18. What specific powers does section 139(1)(b) of the Constitution of South Africa grant to the provincial government in respect of the uMkhanyakude District Municipality?.....

19. What measures has the KwaZulu-Natal provincial government taken to ensure effective governance in the uMkhanyakude District Municipality?.....

20. Has the intervention by the KwaZulu-Natal provincial government improved service delivery in the uMkhanyakude District Municipality? If yes, how?.....

21. What role do local communities and business people play in the intervention process?.....
22. What are the challenges facing the KwaZulu-Natal provincial government in the intervention process in the case of uMkhanyakude District Municipality?.....
23. What are the potential benefits and drawbacks of the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
24. What is the relationship between section 139(1)(b) of the Constitution of South Africa and the Municipal Finance Management Act in relation to the case of uMkhanyakude District Municipality?.....
25. What is the role of the national government in the intervention process?.....
26. What lessons can be learned from the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?...

### Interview questions group 3

#### uMkhanyakude District Municipality business community

##### Section A: Biographical Data

##### A1. Gender Profile of Participant

|        |  |
|--------|--|
| Male   |  |
| Female |  |

##### A2. Age Distribution of Participant

|               |  |
|---------------|--|
| Below 25 year |  |
| 26 - 35 years |  |
| 36 - 45 years |  |
| 46 - 55 years |  |
| Plus 56 years |  |

### A3. Highest Qualification of Participant

|                    |  |
|--------------------|--|
| Matric Certificate |  |
| Undergraduate      |  |
| Post graduate      |  |
| Master's Degree    |  |

### A4. Organisation Status of Participant

|       |  |
|-------|--|
| NPO   |  |
| Other |  |

## Section B

Objective 1: To discover the reasons why the uMkhanyakude municipality was placed under constitutional intervention by the KZN provincial government

B1. Do you think it was a correct decision to place the municipality under section 139 (1) (b) of the constitution?.....

B2. Was there any support before the intervention by KZN provincial government and or national government?

.....

B3. Do you think all key stakeholders were consulted about the decision to intervene

.....

B4. Do you think there is participative leadership in the municipality? Does everyone contribute towards leadership process now that there is intervention?.....

B5 Do you think the municipality leaders supports the intervention?.....

**Objective 2: To investigate the effects of constitutional interventions on the performance of the uMkhanyakude District Municipality?**

C1 Do you agree that the municipality has improve since intervention?  
.....

C2 Do you agree that the service delivery and AG opinion has improved since intervention?.....

C3 Do you agree that other stakeholders like community and business people have a role to play?.....

C4 Do you agree that the municipality is now ready to be removed from intervention?.....

C5 Do you agree that there is now a positive impact after intervention?.....

**Interview questions**

27. Was there any support rendered to the uMkhanyakude District Municipality by the KZN provincial governments prior to the invocation of the s139(1) interventions? If yes, what was the nature of such support?.....

28. What have been the overall impacts of the intervention in the uMkhanyakude District Municipality?.....

29. What are the effects of s139(1) interventions in the case of the uMkhanyakude District Municipality?.....

30. What were the reasons for section 139 constitutional intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
31. What specific powers does section 139(1)(b) of the Constitution of South Africa grant to the provincial government in respect of the uMkhanyakude District Municipality?.....
32. What measures has the KwaZulu-Natal provincial government taken to ensure effective governance in the uMkhanyakude District Municipality?.....
- 33.** Has the intervention by the KwaZulu-Natal provincial government improved service delivery in the uMkhanyakude District Municipality? If yes, how?.....
34. What role do local communities and business people play in the intervention process?.....
35. What are the challenges facing the KwaZulu-Natal provincial government in the intervention process in the case of uMkhanyakude District Municipality?.....
36. What are the potential benefits and drawbacks of the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
- 37.** What is the relationship between section 139(1)(b) of the Constitution of South Africa and the Municipal Finance Management Act in relation to the case of uMkhanyakude District Municipality?.....
38. What is the role of the national government in the intervention process?.....
39. What lessons can be learned from the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?...

## Interview questions group 4

### uMkhanyakude District Municipality non-governmental organizations

#### Section A: Biographical Data

##### A1. Gender Profile of Participant

|        |  |
|--------|--|
| Male   |  |
| Female |  |

##### A2. Age Distribution of Participant

|               |  |
|---------------|--|
| Below 25 year |  |
| 26 - 35 years |  |
| 36 - 45 years |  |
| 46 - 55 years |  |
| Plus 56 years |  |

##### A3. Highest Qualification of Participant

|                    |  |
|--------------------|--|
| Matric Certificate |  |
| Undergraduate      |  |
| Post graduate      |  |
| Master's Degree    |  |

##### A4. Organisation Status of Participant

|       |  |
|-------|--|
| NPO   |  |
| Other |  |

## Section B

Objective 1: To discover the reasons why the uMkhanyakude municipality was placed under constitutional intervention by the KZN provincial government

- B1. Do you think it was a correct decision to place the municipality under section 139 (1) (b) of the constitution?.....
- B2. Was there any support before the intervention by KZN provincial government and or national government?  
.....
- B3. Do you think all key stakeholders were consulted about the decision to intervene  
.....
- B4. Do you think there is participative leadership in the municipality? Does everyone contribute towards leadership process now that there is intervention?.....
- B5. Do you think the municipality leaders supports the intervention?.....

**Objective 2: To investigate the effects of constitutional interventions on the performance of the uMkhanyakude District Municipality?**

C1 Do you agree that the municipality has improve since intervention?  
.....

C2 Do you agree that the service delivery and AG opinion has improved since intervention?.....

C3 Do you agree that other stakeholders like community and business people have a role to play?.....

C4 Do you agree that the municipality is now ready to be removed from intervention?.....

C5 Do you agree that there is now a positive impact after intervention?.....

### Interview questions

40. Was there any support rendered to the uMkhanyakude District Municipality by the KZN provincial governments prior to the invocation of the s139(1) interventions? If yes, what was the nature of such support?.....

41. What have been the overall impacts of the intervention in the uMkhanyakude District Municipality?.....

42. What are the effects of s139(1) interventions in the case of the uMkhanyakude District Municipality?.....

43. What were the reasons for section 139 constitutional intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....

44. What specific powers does section 139(1)(b) of the Constitution of South Africa grant to the provincial government in respect of the uMkhanyakude District Municipality?.....

45. What measures has the KwaZulu-Natal provincial government taken to ensure effective governance in the uMkhanyakude District Municipality?.....

46. Has the intervention by the KwaZulu-Natal provincial government improved service delivery in the uMkhanyakude District Municipality? If yes, how?.....

47. What role do local communities and business people play in the intervention process?.....
48. What are the challenges facing the KwaZulu-Natal provincial government in the intervention process in the case of uMkhanyakude District Municipality?.....
49. What are the potential benefits and drawbacks of the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....
- 50.** What is the relationship between section 139(1)(b) of the Constitution of South Africa and the Municipal Finance Management Act in relation to the case of uMkhanyakude District Municipality?.....
51. What is the role of the national government in the intervention process?.....
52. What lessons can be learned from the intervention by the KwaZulu-Natal provincial government in the uMkhanyakude District Municipality?.....