

Section 139 interventions in South African local government, 1994-2015

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Abstract

Recent trends point to the fact that national and provincial government interventions in the local sphere of government in South Africa have become more commonplace. These trends can be seen, within the broader context of state dysfunction, to constitute a novel and discernible phenomenon, namely “interventionism”. Furthermore, the theoretical body of knowledge related to the phenomenon of state dysfunction suggests that issues of poor service delivery and “bad” governance are not exclusively at play in interventionism. Political factors that are indicative of state dysfunction may also serve as more covert reasons to intervene in municipalities in order to influence the balance of political power in a given province, municipality, or within a party itself.

The purpose of this article is to analyse past interventions, premised upon Section 139 of the Constitution in local government, during the period 1994 to 2015. The intention is to explore both the trends (i.e. frequency analysis) and nature of such interventions (i.e. qualitative analysis through case studies and contemporary sources) and to make certain deductions regarding interventionism within the context of state dysfunction in South African local government. Factors are identified that suggest that electoral, factionalist and political motives may rival and surpass constitutional and governance reasons for implementing such interventions.

Keywords: Constitution; Interventionism; Local Government; Municipalities; Section 139; State Dysfunction.

Introduction

The 1990s was a time of significant change and development in the configuration of South African politics and government. The first democratic and non-racial elections took place in 1994, ushering in a new political dispensation. Two years later, in 1996, the final Constitution of the Republic was proclaimed which, amongst other progressive changes, asserted local government to be a fully-fledged independent and autonomous sphere of

government. Consequently, local government, with its 278 local, district and metropolitan municipalities became one of the three distinctive interrelated spheres of government within South Africa's system of co-operative governance and intergovernmental relations. The sphere became an equal partner of the national and provincial government and is used as state apparatus to translate national policies and programmes into service praxis.¹ Two years later, in 1998, the structural configuration of the local sphere of government was finalised in the Local Government: Municipal Structures Act (117 of 1998) which prescribes procedures for the establishment of various categories of municipalities, the division of their powers and functions, electoral procedures and various other structural attributes.

Soon, however, fault lines in this integrated system of governance appeared when the Eastern Cape Provincial Government intervened in the Butterworth Transitional Local Council in March 1998 and assumed full responsibility for the administration of the municipality. For the first time a provincial intervention in local government, as prescribed by Section 139 of the Constitution, became a reality. Seven more interventions in municipalities followed in 1999² and raised numerous questions about Section 139 interventions by provincial executives. For example, what are the nature and scope of such interventions? Under what circumstances can a province exercise this power? In other words, what substantive requirements merit an intervention? What are the procedural requirements? What are the potential socio-economic and political ramifications? Can interventions be utilised as a "smoke-screen", a mere instrument in the service of local and regional political power dynamics?

The purpose of this article is to analyse Section 139 interventions in local government during the period 1994 to 2015. The intention is to explore both the trends (i.e. frequency analysis) and nature of such interventions (i.e. qualitative analysis through case studies and contemporary sources) and to make certain deductions regarding this phenomenon of "interventionism" within the context of state dysfunction at local government sphere in South Africa. 1994 has been chosen as a nominal starting point in the timeline of political and governmental change that transformed South African local government after apartheid, even though the first Section 139 intervention only occurred in 1998.

1 M Meiring, "Evaluation of intergovernmental relations in South Africa with specific reference to local authorities", S Nagel (ed.), *Handbook of Global Public Policy* (New York, Marcel Dekker, 2000), p. 110.

2 See "Appendix: List of Section 139 Interventions" at conclusion of article.

State dysfunction and its manifestation in the local sphere

Recent times have witnessed a swell of commentary related to the integrity of the state and the possibility of South Africa becoming a “failed state”.³ Indeed, the notion of state failure is acquiring greater prominence in popular discourse, although from often contradictory vantage points. Yet, even though the discourse on South African “state dysfunction” (a more accurate term than “state failure”) may be motivated by a combination of political opportunism, pessimism, or hysteria, at its centre lays a kernel of veracity that must be accounted for – public dissatisfaction and protest are escalating, economic growth is slowing, and basic service delivery is deteriorating in the domains where it is most needed. These realities point towards a state that is not only struggling to comply with the demands of its citizens, but is also paralysed by the inertia of its own elite or the latter’s lack of political will to expedite sound government and governance in the public interest. Whilst this might not reflect a diagnosis of state “failure”, it does indicate a condition of “dysfunction”, as elaborated upon below.

In the only contemporary empirical investigation dealing with the problem of South African state dysfunction, Greffrath argues that a dysfunctional state represents a “fundamental deviation from the ideal-typical Weberian conception of state, the dysfunctional attributes of which manifest in societal, institutional and international contexts” and is furthermore “incapable and/or unwilling to fulfil the functions of state in the public interest and for the public good”.⁴ Currently, the South African societal context bears witness unequivocally to such dysfunction, as citizens increasingly adopt disruptive methods of violent protest to register their political grievances with government. In addition there are persistently high levels of crime, lawlessness and racial tension. However, the origins of many of these societal problems can be traced back to the institutional domain, where government must use

3 C Gibbons, “When do failed states start to fail?”, *ENCA News* 20 March 2014 (available at <http://www.enca.com/opinion/when-do-failed-states-start-fail>, accessed, 2 May 2015); A Boraine, *What's gone wrong? On the brink of a failed state* (Cape Town, Jonathan Ball, 2014), p. 91; C Sunter “What does a 25% probability for a failed state really mean?”, 23 October 2012 (available at <http://www.clemsunter.co.za/whatdoesa25probabilityforafailedstatereallymean.html>, accessed, 2 May 2015); J Cartwright, “South Africa is a failed state under Zuma the illiterate clansman”, *The Independent*, 17 December 2015 (available at <http://www.independent.co.uk/voices/south-africa-is-a-failed-state-under-zuma-the-illiterate-clansman-a6777431.html>, accessed, 25 January 2016); G Mills & J Herbst, “South Africa is NOT a failed state. Just a country with issues”, *Rand Daily Mail*, 24 November 2015 (available at <http://www.rdm.co.za/politics/2015/11/24/south-africa-is-not-a-failed-state.-just-a-country-with-issues>, accessed, 25 January 2016).

4 WN Greffrath, “State dysfunction: The concept and its application to South Africa”, Ph.D, NWU, 2015, p. 217.

the apparatus and institutions of state to deliver public goods to citizens in pursuit of the common good.⁵ The importance of functional and effective political institutions cannot be overstated, particularly in instances where political expectations are high and state resources are limited – such as local government in South Africa. With regards to the latter, March and Olsen argue that institutions “affect how political actors are enabled or constrained and the governing capacities of a political system”. Huntington is even more direct in stating that “a government with a low level of institutionalisation is not just a weak government; it is also a bad government”.⁶ Thus, Greffrath concludes that the South African state exhibits symptoms of dysfunction, especially in the institutional domain of state, where:⁷

[T]he emergence and consolidation over two decades of an ANC regime dynamic whereby the interests of the ruling party have come to dominate the interests of the state and the common good, and the growing difficulty with which the state is able to resolve acute socio-political issues before they become anti-systemic, instances of which increasingly manifest as rejection of the authority of the state [and] are escalating both in frequency and intensity.

There is a mounting body of anecdotal evidence that suggests a growing, and indeed severe, condition of dysfunction in South African municipalities as the organisational entities in the local sphere of government.⁸ The annual audit outcomes of the Local Government: Municipal Finance Management Act (MFMA) 1 of 1999 highlight the problem of financial management in local government.⁹ In the media, service delivery protests continue to be reported on a weekly basis highlighting the disintegration of municipal infrastructure in rural areas.¹⁰ The Department of Cooperative Governance and Traditional

5 This recalls the fundamental notion of the state as a collaborative human arrangement through which a ‘common good’ is pursued. The essence of this view was developed through the philosophies of Bodin, Hobbes and Locke. See K Malan, *Politocracy: An assessment of the coercive logic of the territorial state and ideas around a response to it* (Pretoria, PULP, 2012), p. 114.

6 SP Huntington, *Political order in changing societies* (New Haven, Yale University Press, 1968), p. 28.

7 WN Greffrath, “State dysfunction...”, Ph.D, NWU, 2015, p. 354.

8 N Moore, “North West: Service delivery? What service delivery?”, *Daily Maverick*, 19 June 2015 (available at <http://www.dailymaverick.co.za/article/2014-06-19-north-west-service-delivery-what-service-delivery>, accessed, 8 June 2016).

9 For example, no municipality in the North West province has ever received an unqualified financial audit since auditing began. The Eastern Cape, Northern Cape, Limpopo and Mpumalanga provinces are also perennial underperformers. The 2014/15 audit revealed that municipalities incurred irregular expenditure of at least R4.2 billion. See Auditor-General of South Africa, “Consolidated General Report: Local Government Audit Outcomes. 2014/2015”, Pretoria, Office of the Auditor-General, 2016, p. 22.

10 At the time of writing, three major violent service delivery protests in Vuwani, Hammanskraal and Durban were widely reported in the media. During the same period, the COO of the SABC, Hlaudi Motsoeneng, announced the national broadcaster will no longer report on service delivery protests because it incites violence. See G Nicolaidis, “Motsoeneng: Not covering violent protests is responsible journalism”, *Eyewitness News*, 27 May 2016 (available at <http://ewn.co.za/2016/05/27/Not-covering-violent-protests-is-responsible-journalism>, accessed, 8 June 2016).

Affairs (COGTA) itself has on many occasions acknowledged the persistent challenges it faces at local government sphere.¹¹ The latter admission is made despite the numerous policy initiatives, turnaround programmes, and special projects that the department and its predecessors have conceived and implemented over the last ten years. It is evident that these strategies have proven ineffective in turning the tide of local government underperformance.

Escalating levels of political and civic volatility have become highly visible in the form of service delivery protests, directed at local government institutions and infrastructure, as a means of registering dissatisfaction with broader governance.¹² Whilst it is self-evident that these protests speak to community dissatisfaction with the rendering of basic services, in other words, to the “material functions” of local government institutions, the phenomenon must also be regarded in a more nuanced light. For example, Booysen argues that service delivery protests are a means of calling the political authorities to account.¹³ In this manner, protest is less a reaction to material conditions and more oriented to a form of political participation. From this pragmatic position, Booysen regards protest in South Africa as being primarily opposed to both the quality of service delivery “and” to the public representation of grass-roots needs and desires.¹⁴ Thus, service delivery protests are as much a reaction to the “material” dimension of state dysfunction as it is to the “representative” functions which those institutions are unable to fulfil.

Whereas protest may be interpreted as a reflection of alienation from political institutions, the accountability of these municipal institutions at local government sphere also correlates with the quality of services they render to citizens, i.e. their material functions. Where the resources used to deliver public goods and functions are scarce, the level of accountability for the expenditure of these resources becomes a reliable reflection of the quantity and quality of service delivery. In this regard, the financial management in local government has a track record which is in equal parts well-known and dire. For example, the Auditor-General reported that out of the 335 local government institutions and entities audited during 2012-2013, only 9%

11 The Presidency, “Twenty year review South Africa: Background paper on local government”, Pretoria, The Presidency, 2014; COGTA, “State of local government in South Africa”, Pretoria, COGTA, 2009.

12 M Hough, “Violent protest at local government level in South Africa: Revolutionary potential?”, *Scientia Militaria*, 36(1), 2008, p. 8.

13 S Booysen, “With the ballot and the brick: The politics of attaining service delivery”, *Progress in Development Studies*, 7(1), 2007, pp. 21-32.

14 S Booysen, “With the ballot and the brick...”, *Progress in Development Studies*, 7(1), 2007, p. 21.

(30) achieved an unqualified audit.¹⁵ In the Free State, Limpopo and North West provinces, none of the 91 municipal institutions and entities achieved a clean audit.¹⁶ Regardless of the causes and motive forces behind such protests, it is undeniable that the phenomenon has attained systemic proportions over the last decade in South Africa, as illustrated in the table to follow (Image 1):

Image 1: Number of service delivery protests (2004-2015)

Year	Protests
2004	10
2005	34
2006	2
2007	32
2008	27
2009	105
2010	111
2011	81
2012	173
2013	155
2014	191
2015	164

Source: Municipal IQ, “Press Release: Service delivery protests up in this election year”, 11 May 2016 (available at: http://www.municipaliq.co.za/index.php?site_page=press.php, accessed, 9 September 2016).

These figures indicate an escalation of service delivery protests, and it appears as if protests will likely remain a dominant feature of agitating dissatisfaction in South African political life in the future. It is noting that records of service delivery protests generally commence in the year 2004. This would suggest that the phenomenon rose to prominence during that time, and that the preceding decade of democratic government did not generally witness regular protests of a similar nature. It was also during this time that the phenomenon was first noted in scholarly publications.¹⁷ The contrast between the surge in

15 Auditor-General of South Africa, “Consolidated general report: Local government audit outcomes. 2012/2013”, Pretoria, Office of the Auditor-General, 2014, p. 32.

16 Auditor-General of South Africa, “Consolidated general report: Local government audit outcomes. 2012/2013”, Pretoria, Office of the Auditor-General, 2014, p. 35.

17 P Alexander, “Rebellion of the poor: South Africa’s service delivery protests: A preliminary analysis”, *Review of African Political Economy*, 31(123), 2010, p. 24; R Ballard, A Habib, I Valodia & E Zuern, “Globalization, marginalization and contemporary social movements in South Africa”, *African Affairs*, 104(417), 2005, p. 626.

protests since 2004 when compared to the relative stability during the first decade following 1994 may be due to the unique political climate during that time. The political legitimacy of the ANC in the immediate post-apartheid years was overwhelming. Successive electoral victories in 1994 and 1999 with 62.65% and 66.35% of the vote, respectively, reflected the popularity and dominance of the party. Consequently, these ten years also represented a political ‘honeymoon period’ for the ANC in government, during which ‘political and symbolic gains can substitute for material gains’.¹⁸ However, as the Freedom of Expression Institute explains:¹⁹

The honeymoon period could not continue. As the country approached its second one-person, one-vote elections, considerable attention was focused on whether government was delivering on its promises. Questions were raised over whether the programme of welfare reforms adopted by government after the first elections, the Reconstruction and Development Programme (RDP), was being shelved in favour of a macro-economic framework aimed at increasing South Africa’s ability to compete in the global economy. The government’s commitment to human rights – especially the freedoms of expression and association – continued to be tested.

The advent of service delivery protests therefore reflects South Africans’ dissatisfaction with the inadequate pace of service delivery after an initial period of apparent leniency in expectations. In likening this trend of protest with those demonstrations that occurred during the dusk of apartheid, Atkinson remarks that:²⁰

For a ‘Rip van Winkel’ who had fallen asleep in 1988 and awoken in 2005, it might appear as if the ‘rolling mass action’ of the end-of-apartheid period had simply continued into the dawn of democratic government in South Africa. Furthermore, in many cases, government responses to such protests have been as uncompromising and inscrutable as those of the National Party of old.

It is disconcerting that, judging from the figures above, the incidence of violent protests has once again become a defining feature of life in South Africa.

18 R Rothstein, *After the peace: Resistance and reconciliation* (Boulder, Lynne Rienner, 1999), p. 23.

19 Freedom of Expression Institute, “South Africa since 1994”, D Jones (ed.) *Censorship: A World Encyclopedia* (New York, Routledge, 2001), p. 2289.

20 D Atkinson, “Taking to the streets: Has developmental local government failed in South Africa?”, S Buhlungu, J Daniel (eds.), *State of the nation: South Africa 2007* (Cape Town, HSRC Press, 2007), p. 54.

Municipal (dys-)functionality

The role and functions of local government in South Africa changed markedly during the course of the twentieth century, since local government structures have generally been designed to reproduce an urban system in accordance with the policy objectives of the prevailing government of the day.²¹ Local government was instrumental in the establishment and perpetuation of grand apartheid through strict racial control of urbanisation, the racial segregation of settlements, the racial division local authorities, and discrepancies in the provision of services and housing.²² The doctrine of separate development was therefore premised on segregated structures of local government and regulated by legislation such as the Group Areas Act (41 of 1950), the Urban Bantu Councils Act (79 of 1961) and the Black Local Authorities Act (102 of 1982). Consequently, the purpose of local government during apartheid (and under the 1961 Constitution) differs drastically from the democratic and developmental goals elucidated in legislation since 1994.

What is expected of municipalities in South Africa? In other words, when can they be regarded as “functional” and what would “dysfunction” in the context of broader state dysfunction entail? Answers to these questions should be sought in Section 152 of the Constitution which determines a set of developmental objectives that each municipality must strive to achieve within the limitations of its financial and administrative capacity. The realisation of these objectives should culminate in responsive, accountable, responsible and legitimate local government. These objectives furthermore should lead to the provision of services to communities in a sustainable manner and to the promotion of a safe and healthy environment. All of these objectives of local government should be contextualised as being congruent with the fundamental, normative and constitutionally entrenched guidelines applicable to the entire government, including municipalities. Section 195 of the Constitution provides such guidelines as far as the public administration of South Africa are concerned. These include:²³

- the promotion of efficient, economic and effective use of resources;
- accountable public administration;
- transparency by providing information;

21 I Tsatsire, K Raga, JD Taylor, EJ Nealer, “Historical overview of specific local government transformatory developments in South Africa”, *New Contree*, 57, May 2009, p. 133.

22 N Ismail, S Bayat & I Meyer, *Local government management* (Halfway House, Thomson Publishing, 1997), p. 42.

23 RSA, *Final Constitution of the Republic of South Africa, Act 200* (Pretoria, Government Printer, 1993), Section 152.

- responsiveness to the needs of the community;
- facilitating a culture of public service and accountability;
- promoting and maintaining high standards of professional ethics; and
- cultivating good human resource management and career development practices, to maximise human potential.

These values and principles should inform the manner in which municipalities deliver basic services, for example, water provision, sanitation and waste removal services in the local community.

Municipal functionality is further clarified in terms of Section 156 of the Constitution which provides that a municipality has the responsibility to administer the local government matters listed in Part B of Schedules 4 and 5 to the Constitution. Schedule 4 outlines the functions over which national and provincial government may concurrently pass laws and exercise oversight. Several of these functions speak to the service delivery mandate of local government, e.g. air pollution, waste disposal and water services. National government may, however, set minimum service standards in this regard.

Based on the above it could be argued that municipal functionality can be seen as a situation where municipalities possess the necessary capacity to discharge their constitutional mandate and responsibilities; render basic services to the satisfaction of the community and where the community regards the municipal council to be legitimate, trustworthy and responsive to its needs. In addition the municipal council and administration should have the necessary competence to execute their functions and the broader socio-economic and political objectives of the state should be operationalised.

However, the realities currently evident in many municipalities are far removed from this ideal. Indeed, municipal dysfunction in South Africa is not only prevalent but also multifaceted in nature, judging by the frequent media reports on issues of protest, corruption, maladministration, incapacity, environmental degradation and the waste of resources. The challenges besetting municipalities demonstrate that the local sphere is far from being a responsible and responsive agent of the people. These challenges are well documented in a variety of official documents and, more recently, in the Medium-Term Strategic Framework (MTSF) 2014–2019 and the “Back to Basics” programme of the Department of Cooperative Governance and

Traditional Affairs.²⁴ Issues highlighted in the National Development Plan (NDP) include the tension in the political–administrative interface, unstable administrative leadership, skills deficits, a lack of accountability and authority, poor organisational design and low staff morale.²⁵ In the MTSF of 2014–2019 it is noted that there is a concern that corruption and maladministration have become deeply entrenched in some municipalities. This state of affairs is exacerbated by a lack of accountability and transparency in service delivery. In this regards, the South African Local Government Association (SALGA) currently differentiates between municipalities that are “doing well”, are “reasonably functional” or “almost dysfunctional” and those that are “in the ICU” (i.e. in distress).²⁶

Municipalities categorised as being “almost dysfunctional” and “in distress” share commonalities such as:

- political in-fighting and instability;
- non-compliance with rules and regulations;
- high staff vacancy rates;
- high levels of incompetency among staff;
- low levels of capital budget spending and inappropriate spending of budgets;
- overall disregard for financial and supply chain management regulations;
- compromised service delivery;
- high level of community dissatisfaction resulting in protests; and
- absence of strategic and integrated planning.

It is further observed that communities that generally lack awareness and knowledge of their rights will be unable to take action and confront the municipality over poor service delivery. As a result, a culture of ambivalence (if not impunity) takes root among municipal authorities, who know they will not be challenged, since citizens are not aware of their rights and do not know how to seek recourse when their legitimate expectations remain unmet or are abused.²⁷ The MTSF 2014–2019 refers explicitly to the decline in public trust in local government and sees it as a result of poor governance

24 Department of Co-operative Governance and Traditional Affairs (CoGTA), *Back to basics: Serving our communities better!*, Pretoria, CoGTA, 2014.

25 National Planning Commission (NPC), *National Development Plan 2030*, Pretoria, NPC, 2012.

26 South African Local Government Association (SALGA), *Report from the Chief Executive Officer*, Presentation, The 8th National Municipal Managers Forum, 4 September 2014, p. 26.

27 ET Mdlongwa, “Makana Municipality Budget Analysis”, *Public Service Accountability Monitor*, October 2014 (available at <http://www.ru.ac.za/media/rhodesuniversity/content/psam/documents/.pdf>, accessed, 23 March 2016).

and accountability.²⁸ Previous “State of Local Governance” reports produced by the Good Governance Learning Network (GGLN) have also referred pertinently to themes of trust, disillusionment, frustration and anger on the part of communities who feel that their rights are not recognised, their experiences are not acknowledged and their voices are not heard.²⁹

Former Minister of Co-operative Governance and Traditional Affairs, Pravin Gordhan further conceded on 15 August 2015 that the Department had concluded that:³⁰

The bottom third of municipalities are frankly dysfunctional, and significant work is required to get them to function properly. Though most of the necessary resources to render the functions or maintain the systems are available, the basic mechanisms to perform these functions are often not in place. It is in these municipalities that we are failing our people dramatically.

Former Deputy Minister of COGTA, Yunus Carrim, previously admitted that national government failed to intervene early on when a host of municipalities were showing signs of failure. In fact, they did not “anticipate” the extent to which constant “power struggles” within and between municipalities “would paralyse service delivery” and did not foresee the extent to which municipalities would become the “soft underbelly of patronage and corruption in our country”.³¹ In COGTA’s State of Local Government Report (2009) it is acknowledged that the crisis is multi-faceted including “widespread institutional and delivery paralysis, political factionalism, massive services’ backlogs, a spreading culture of patronage, fraud and nepotism, ineffective and inaccessible systems of accountability, huge amounts of fruitless and wasteful expenditure, lack of financial management and poor overall skills as well as increasing alienation of ordinary people from local government”.³² As a result, the state of local government can be described as one of recurring

28 M Pieterse, “Development, the right to the city and the legal and constitutional responsibilities of local government in South Africa”, *South African Law Journal*, 131(1), 2014, pp. 149-177; The Presidency, “2014-2019 Medium Term Strategic Framework, Outcome 9”, Pretoria, The Presidency, 2014.

29 Good Governance Learning Network (GGLN), “In Pursuit of responsible and responsive local governance: Perspectives from civil society on local governance in South Africa (A state of local governance report)”, Cape Town, GGLN, 2015. The issues noted also feature consistently in issues 2012-2014 of the state of local governance report compiled by the GGLN.

30 T Lund, “Local government reform: Pravin’s big challenge”, *Financial Mail*, 11 December 2014 (available at <http://www.financialmail.co.za/coverstory/2014/12/11/local-government-reform-pravins-big-challenge>, accessed, 11 May 2016).

31 DT McKinley, “A state of deep crisis in South Africa’s local government”, *The South African Civil Society Information Service*, 10 March 2011 (available at <http://www.sacsis.org.za/site/article/635.1>, accessed, 11 May 2016).

32 Department of Cooperative Governance and Traditional Affairs (COGTA), State of local government in South Africa: Overview report, Pretoria, COGTA, 2009.

crisis management, with successive rescue packages, grandiose development plans and failing political promises.

Scholars and observers of local government have also identified persistent problems surrounding functionality. In a paper titled *Assessing the Quality of Local Government in South Africa*, Hoffman concluded that:³³

Local governments in the bottom quartile only perform about forty percent of their functions successfully and they show no signs of improving ... On average, local governments undertake successfully only about fifty five percent of their core functions.

Similarly, a recent study assessing the outcomes of decentralised local government argued that ‘16 years after the adoption of the Constitution, municipal governance in South Africa is in a state of paralysis, service delivery failure and dysfunction.’³⁴

The latest policy directed towards remediating the poor functionality of local government is the National Development Plan. Chapter 13 of the NDP notes that “South Africa needs to focus on building a capable and developmental state”.³⁵ More specifically, the NDP identifies the need for optimal functioning, coordinated institutions with skilled employees who consistently provide good services and are committed to the public good. It also specifies the need to mainstream citizen participation. The aim is to improve confidence in the state in all sectors, including communities. The principle of capability, reflected in the NDP, is not restricted to skills and capacity but also includes values and a commitment to public service. One of the key remedies suggested for strengthening local government is to: “Take a more long-term approach to developing skills together with a professional ethos and commitment to public service”. This is a particularly important shift. It moves from the earlier concern that capacity and resources (including finances) are the key factors hindering the effective functioning of local government, to a broader focus that encompasses matters relating to ethos and intent. Without an explicit public service ethos informing organisational practices and the individual behaviour, there is little hope that the required shift to responsible and responsive governance will take root.

33 B Hoffman, “Assessing the quality of local government in South Africa”, *Centre for Democracy, Development and the Rule of Law*, Stanford University, (available at http://cegedev.org/assets/miscellaneous_files/wgape/12_Hoffman.pdf, accessed, 11 May 2016), p. 22.

34 T Koelble & A Siddle, “Institutional complexity and unanticipated consequences: The failure of decentralization in South Africa”, *Democratization*, 21(6), 2014, p. 1117.

35 National Planning Commission (NPC), National Development Plan 2030 ,Pretoria, NPC, 2012, p. 410.

Municipal support and oversight

The importance of a renewed public service intent and ethos is further emphasised by the fact that an extensive statutory and regulatory framework exists to ensure municipal support and oversight. Section 154 of the Constitution mandates national and provincial government to support the local sphere of government, and pursuant to this numerous laws and policies have been created namely:

- The Constitution of the Republic of South Africa, 1996;
- Intergovernmental Fiscal Relations Act 97 of 1997;
- Local Government: Municipal Structures Act 117 of 1998 (as amended);
- Local Government: Municipal Systems Act 32 of 2000 (as amended);
- Local Government: Municipal Finance Management Act 56 of 2003 (as amended);
- Intergovernmental Relations' Framework Act 13 of 2005;
- Framework for Managing Programme Performance Information, 2007;
- The Role of Premiers' Offices in Government-wide Monitoring and Evaluation: A Good Practice Guide, 2008;
- The Green Paper: National Strategic Planning, 2009;
- Policy on Improving Government Performance, 2010; and
- South African Statistical Quality Assessment Framework (SASQAF), 2010.

Furthermore, the Government-wide Monitoring & Evaluation System (GWM&ES) was established (2007) to foster an integrated framework for the monitoring and evaluation of policy programme implementation endeavours in all spheres of government. In addition, according to the Annual Report, the primary mandate of the national Department of Cooperative Governance and Traditional Affairs is the promotion of sustainable development by providing support to local government initiatives.³⁶ The support should strengthen the financial, human, technical and administrative capacities of municipalities, enabling them to achieve their developmental objectives. However, the State of Local Government Assessment Report shows that, despite significant gains, many municipalities are in deep distress. They continue to falter in the delivery of basic municipal services including clean water, electricity and sanitation. The Consolidated General Report: Local Government Audit

³⁶ Department of Cooperative Governance and Traditional Affairs (COGTA), Pretoria, Annual Report 2010/2011, 2011, p. 10.

Outcomes also indicated that the weak monitoring and oversight processes of systems within COGTA and its provincial equivalents have led to a decline of the importance and significance of audits within the municipalities.³⁷ The State of Local Government Assessments Report also reveals that the causal reasons for the distress in municipalities mainly relate to the following:

- inadequate accountability measures and support systems;
- weak intergovernmental monitoring and support; and
- weak application of intergovernmental checks and balances, that is, the oversight and review process administered by DCoG.³⁸

In further municipal support endeavours SALGA initiated the Municipal Audit Support Programme (MASP) to help municipalities which have qualified or which have adverse audit outcomes to gradually improve and, by sustaining the improvements, to upgrade their audit outcomes. In the same way it aims to support municipalities with unqualified audit outcomes.

In response to general municipal dysfunction, inadequate service delivery levels and rising levels of public protest, the South African Government has a statutory and moral obligation to intervene in the affairs of municipalities. In this regard, Van der Waldt and Greffrath analysed the nature of such “interventionism” in municipalities in South Africa and constructed a typology of interventions. They came to the conclusion that the nature, scope, and intentions of such interventions are not always clear, and further argue that there is sufficient evidence to suggest that government increasingly not only regards interventionism as a viable approach to improve the functionality of municipalities, but also uses it to achieve pragmatic political ends. Thus, scholars and observers scrutinising local government should not regard interventions as isolated or unrelated occurrences, but rather “as part of an emergent strategy in South African governance” – that of “interventionism”. Considering the possible covert political motives behind municipal interventions, as well as the ineffective monitoring and inadequate intergovernmental support of municipalities, it becomes increasingly unlikely that key developmental goals such as poverty alleviation, food security, job creation and infrastructure delivery will be realised at local government sphere.³⁹

37 Auditor-General of South Africa, Pretoria, Office of the Auditor-General, Consolidated general report: Local government audit outcomes, 2010/2011, 2012, p. 96.

38 Department of Co-operative Governance and Traditional Affairs, State of local government assessments report, (Pretoria, Government Printer, 2009), p. 22.

39 J de Visser, N Steytler & J Mettler, *Provincial supervision: Manual for the application of section 139 of the constitution* (Pretoria, Department of Provincial and Local Government, 2000), p. 45.

In order to analyse the growing trend of municipal intervention, the next section will focus specifically on the constitutional prescripts for such interventions, as stipulated in Section 139 of the Constitution.

Section 139 interventions: Requirements and ambiguities

As noted previously, despite their distinctive roles, the Constitution authorises national and provincial executives to intervene in provincial administration and local government respectively, within certain constitutional constraints. These interventions are authorised by Sections 100 and 139. The national or provincial executive may intervene in a manner and to the extent prescribed by the Constitution (procedural requirements), but are required to provide reasons for intervention in provincial or local government affairs, respectively (substantive requirements).

Section 139(1) of the Constitution pertains to “a municipality” and the failure of such a municipality to execute its constitutional obligations. However, the precise nature and extent of such failure is unclear. For example, is the failure of one municipal department, as seen in the fact that it has become dysfunctional, sufficient to justify an intervention? Such an interpretation would suggest that a province may intervene in a municipality where, say, waste disposal and water supply are inadequate, while all other departments are performing well. Alternatively, will an intervention be justified when the council as a political structure becomes dysfunctional due to factionalism and in-fighting?; or when the Chief Executive Officer (i.e. Municipal Manager) acts in an irresponsible manner?; or are interventions only required when a combination of these conditions are present? The ambiguities and scope of interpretation surrounding the word “municipality” make it particularly difficult to ascertain and analyse the reasons behind provincial interventions, as well as the scope and extent of such interventions.⁴⁰

In terms of Section 151(2) of the Constitution the executive and legislative authority of a municipality are vested in the Municipal Council, and it therefore is the highest authority in a municipality. It could thus be argued that the word “municipality” should be seen as a comprehensive concept incorporating “all” structures and systems of a municipality, including its

⁴⁰ J November, “The role of provinces in the use of interventions in terms of Section 139(1)(a)-(c) of the Constitution” (LL.M, UWC, 2104), p. 24; J De Visser & N Steytler, *Local Government Law of South Africa, 2nd ed.*, (Durban, LexisNexis, 2012), p. 67.

workforce. From this perspective, a Municipal Council is accountable to the province in the context of Section 139, and, if any of the municipal structures or its offices fail to perform their obligations and responsibilities, the Municipal Council may request the provincial authorities to intervene.⁴¹

The potential for political misuse

An additional ambiguity surrounds Section 139 interventions when it is taken into account that the Constitution mandates interventions “When a municipality cannot or does not fulfil an *executive obligation* in terms of *legislation*”. Again, it is unclear what particular executive (i.e. administrative) obligation is being referred to, or to which legislation (i.e. statutes) such obligations are or should be linked. However, some insight into these questions has been provided by the National Treasury which, during a parliamentary portfolio committee meeting held on the 11th of February 2015, established a link between Section 139 of the Constitution and Section 137 of the Local Government: Municipal Finance Management Act 56 of 2003. It noted that provincial government would be “obliged to intervene” if there were a financial crisis, but could use “discretion” in cases where there were problems in making payments or where expenditure exceeded revenue.⁴² It was also noted that where interventions were not supported by proper action plans, they tended not to be effective.

Furthermore it is unclear whether provincial government may intervene in a municipality where there is non-adherence to the “developmental mandate and broad objectives of local government” as stipulated by the Constitution, or where a “specific” statutory obligation (i.e. municipal service function) is not adhered to. As noted previously in this article, the objectives of municipalities are very broadly defined by Section 152 as “... to ensure the provision of services to communities in a sustainable manner, the promotion of social and economic development and the promotion of a safe and healthy environment”. It would, however, be very difficult to objectively and quantifiably measure a municipality’s non-achievements of these objectives, since they constitute long-term developmental outcomes rather than short-term municipal outputs

41 C Murray & Y Hoffman-Wanderer “National Council of Provinces and Provincial Intervention in Local Government”, *Stellenbosch L. Rev.*, 18, 2007, p. 7.

42 Parliamentary Monitoring Group, Intervention in Mtubatuba Local Municipality; Briefing by Mayor and Member of Executive Council, PMG, 2015 (available at <https://pmg.org.za/committee-meeting/19989/>, accessed, 10 April 2016).

(i.e. services and products). If these Section 152 constitutional objectives are used as a yardstick, it could reasonably be argued that, based on the general state of dysfunction, and the dysfunction in municipalities in particular, at least sixty percent of all municipalities in South Africa would require immediate section 139 interventions. To further labour the point: during a Parliamentary National Council of Provinces (NCOP) and COGTA meeting held on the 7th of February 2011, the North West Province briefed the Committee on the constitutionality and procedural aspects of the dissolution of the administration of Ngaka Modiri Molema District Municipality.⁴³ These were based on Section 139(1)(c) and, according to the province, were threefold: governance, administration and service delivery. In other and similar committee briefings the grounds cited for interventions included poor governance and management of council matters by the municipal councils, poor leadership and oversight by the councils, breach of code of conduct by councillors, poor relations between council and administration, deterioration of service delivery, poor administrative leadership and lack of administrative capacity within the municipal administrations. Once again, these reasons are generic and it is unclear what exactly prompted the province to intervene. There is no account of the criteria which must be employed when initiating an intervention on the basis of poor “governance”, “administration” and “service delivery”, nor is there any indication of how such criteria are to be operationalised.

The phrasing of Section 139 includes “cannot or does not”. These are ambiguous words which also require clarification. In legal terms, the word “cannot” generally refers to a situation where someone is “incompetent or unable” to do something. Accordingly, a municipality may have had the intention to perform, but due to reasons (perhaps some beyond their control) is incapable of doing so.⁴⁴ The word “does not”, however, “infers intention”. Thus, a municipality may have the necessary capability, but due to “a reason of intent” there may be reluctance or even covert resistance to fulfilling certain obligations. The question consequently arises as to how such obstructive intention could be verified? Are the high numbers of service delivery protests or boycotts, for example, an indirect symptom of such obstructive intent in municipalities, or should the province provide other evidence to prove

43 Parliamentary Monitoring Group, Termination of intervention in Ngaka Modiri district: Department of Local Government and Traditional Affairs, North West briefing, PMG, 2011 (available at <https://pmg.org.za/committee-meeting/12500/>, accessed, 24 April 2016).

44 J November, “The role of provinces in the use of interventions in terms of Section 139(1)(a)-(c) of the Constitution”, LL.M, UWC, 2104, p. 25.

the existence of such, usually covert, circumstances? It is this scenario, often encountered in dysfunctional municipalities, together with the phenomenon of state dysfunction in general, that stimulates conspiracy theories and speculations of machinations intended to benefit political actors at the expense of municipal governance. Based on such assumptions, it may be implied that provincial intervention could be expedited or withheld purely on the basis of realpolitik, and that Section 139 is employed where there are factional and regional political dynamics in order to sway the balance of power in municipalities.

From the preceding discussion, it is evident that the justification for Section 139 interventions is arguably too broad and the requirements too vague. These shortcomings may enable individuals, groups or parties with certain political intentions to misuse interventions as an instrument to achieve political goals, at the expense of governance. By the same token, it would be particularly difficult to pinpoint such covert intentions since the particular reasons provided by a province as justification for an intervention are typically vague and unspecific.

Analysis of Section 139 interventions

The most challenging part of studying Section 139 interventions in South Africa is that there is no consolidated and comprehensive database of such interventions over the past twenty years. Therefore, a significant part of the research for this article involved compiling a database by consulting various archival sources, including parliamentary portfolio committee minutes, government gazettes and departmental media briefings. The result is the list contained in the Appendix: List of Section 139 Interventions, which for the first time consolidates all Section 139 interventions between 1996 and 2015. According to this list, there have been a total of 74 Section 139 interventions between 16 March 1998 and 10 September 2015. As noted previously, the first intervention occurred in the Butterworth (Mnquma) Transitional Local Council in 1998, when the Eastern Cape provincial government intervened in the municipality based on the “inability of the Council to fulfil its executive obligations”.⁴⁵ The number of interventions per year is listed in the table as Image Two below:

⁴⁵ J de Visser, “A legal analysis of provincial intervention in a municipality”, LL.M, UWC, 2009, p. 43.

Image 2: Number of interventions, 1996-2015⁴⁶

1996	1997	1998	1999	2000	2001	2002	2003	2004	2005
0	0	1	7	0	0	0	1	5	3
2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
0	7	2	14	9	0	1	12	2	10

Source: Appendix: List of Section 139 Interventions.

Heightened political instability

From Image Two the frequency of interventions has risen significantly since 2009. Whereas there were 26 interventions in the twelve years between 1996 and 2008, since 2009 there has been a total of 48 interventions. This clearly illustrates an increasing trend in provincial interventions, which if extrapolated is likely to increase in future. Such a trend would also suggest that conventional policy initiatives aimed at strengthening local governance have proved ineffective, and that provincial government has to a large extent been forced to intervene directly on a more frequent basis.

It is notable that the number of interventions begins to rise dramatically in 2009, since this is also the year in which service delivery protests are established as a major characteristic feature of the South African political landscape. In 2009, there were 105 service delivery protests recorded, which coincided with a record high number of interventions in the same year. From a historical perspective, 2009 stands out as a year of particular political upheaval in South Africa. Thabo Mbeki had resigned as president of the Republic on 24 September 2008, after the National Executive Committee of the ANC had “recalled” him.⁴⁷ Mbeki had in December 2007 been supplanted as president of the ANC by Jacob Zuma at the party’s 52nd national conference in Polokwane. Significant factionalist rifts had been exposed in the struggle for ascendancy in the ANC and many Mbeki loyalists chose to leave the party

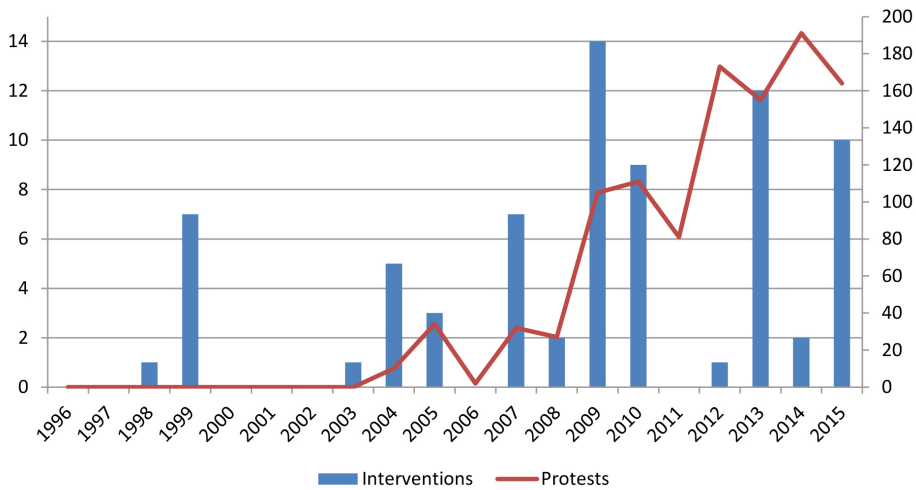
⁴⁶ The research involved in the compilation of the Appendix was conducted during September 2015. A variety of sources were used including media reports, government gazettes and, in particular, the minutes of parliamentary portfolio committees between 1996 and 2015. The result is an accurate reconstruction of the extent of Section 139 interventions for the time period.

⁴⁷ ANC, Statement by the President of the African National Congress, Jacob Zuma on behalf of the ANC National Executive Committee, 22 September 2008, (available at <http://www.anc.org.za/show.php?id=5904>, accessed, 14 June 2016).

after Zuma's victory at Polokwane.⁴⁸ Thus, the period leading up to the 2009 election was a time of significant political reconfiguration, not only in senior party echelons, but also at local government sphere, as those loyal to Mbeki were purged and those supportive of Zuma sought to obtain positions of power and influence.⁴⁹ This intra-party reconfiguration, combined with the instability inherent to election years, likely produced a spike in both Section 139 interventions and protests.

Since that time, the number of service delivery protests per annum has been consistently high, and Section 139 interventions have occurred more or less regularly with the exception of 2011, which was a local government election year. The link between interventions and service delivery protests would appear to support this article's point of departure that government interventionism is closely related to state dysfunction (see Image 3 to follow):

Image 3: Correlation between Section 139 interventions and service delivery protests, 1996-2015



Source: Appendix: List of Section 139 Interventions; Municipal IQ, 2015.

Another trend which becomes evident from this graphical representation is the large number of interventions prior to local government elections. Local government elections were held in the years 2000, 2006 and 2011, and during these years no interventions were conducted. However, in the preceding two

⁴⁸ Anon., *Mail & Guardian*, "Mbeki resigns before the nation", 21 September 2008, (available at <http://mg.co.za/article/2008-09-21-mbeki-resigns-before-the-nation>, accessed, 14 June 2016).

⁴⁹ A Mehler, H Melber & K Van Walraven (eds.), *Africa Yearbook*, 4 (Leiden, Brill Academic Publishers, 2008), p 489.

years there were eight, thirteen and twenty-three interventions, respectively. One logical conclusion that can be drawn from this pattern is that Section 139 interventions are used tactically in order to secure electoral support prior to local government elections, which directly determine the balance of power in the local sphere of government. Such a trend would also indicate that interventions are utilised for political ends, rather than as a means to enhance governance at local level, as postulated in the preceding section. Indeed, it has frequently been alleged that Section 139 interventions may be invoked for the sake of political expediency and factional interests in highly contested municipalities.⁵⁰

The influence of factionalism

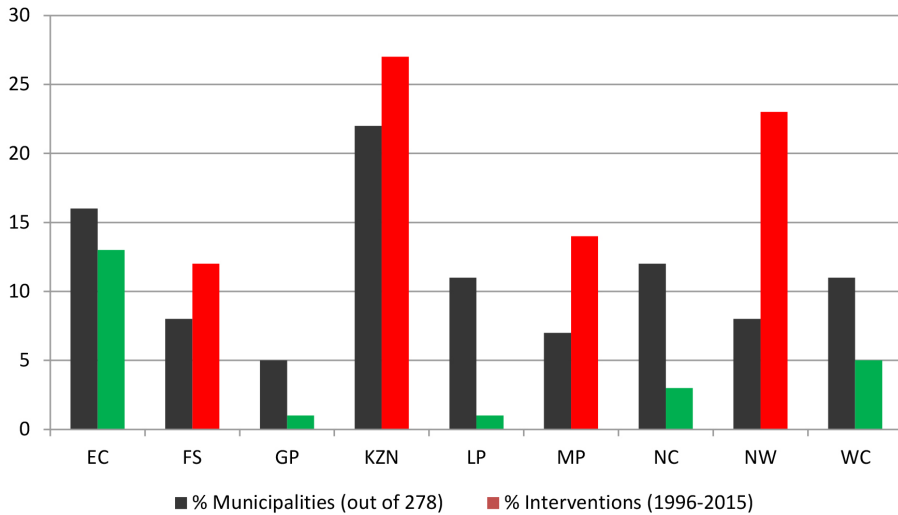
Whether *bona fide* or not, an intervention necessarily disrupts the political status quo in a given municipality and may therefore serve to either neutralise or empower political elites or factions, if such groupings exist. However, when political factionalism is rampant within a region or municipality, the political stakes surrounding an intervention inevitably rise, as does the prospect of incumbents being replaced not with neutral office bearers, but with factionalised opposition instead. Furthermore if (as is often the case) local factions are linked to provincial or national interests within a party, the impartiality of the provincial intervention becomes contested. Since political or factionalist intentions are invariably concealed and known only by ‘insiders’ it is impossible to verify accurately the extent to which Section 139 interventions are politicised. Nevertheless, if it is possible to establish a correlation between provinces that are prone to factionalist politics and provinces that host a disproportionately high number of interventions, it could be argued that political factionalism and related issues, and not substantive governance objectives, represent an additional motive for provinces to intervene in municipalities.

The graph below represents each province, firstly according to its “share of the total number of municipalities”, and secondly according to its “share of

⁵⁰ S Stone, ANC factions clash at Rustenburg meeting, *City Press*, 30 January 2016, (available at <http://citypress.news24.com/News/anc-factions-clash-at-rustenburg-meeting-20160130>, accessed, 7 March 2016); M Loewe, “New start for council”, *Dispatch Live*, 20 September 2014, (available at <http://www.dispatchlive.co.za/opinion/new-start-for-council/>, accessed, 3 March 2016); Anon., *Taung Daily News*, “MEC stokes factional fires”, 12 April 2013, (available at <https://taungdailynews.wordpress.com/2013/04/12/mec-stokes-factional-fires/>, accessed, 3 March 2016).

total Section 139 interventions”. Those provinces with a favourable ratio of interventions are indicated in grey and those with more interventions than their proportion of municipalities are indicated in black (see Image 4).

Image 4: Proportional frequency analysis of interventions per province



Source: Appendix: List of Section 139 Interventions; Municipal IQ, 2015.

Four of the nine provinces exhibit a high number of section 139 interventions relative to their total of municipalities. This gap is the largest for the Free State, Mpumalanga and North West provinces. KwaZulu-Natal also exhibits a high relative number of interventions, but proportionally this is less significant, given that almost a quarter of South Africa’s municipalities are located in that province. What is surprising is that the perennially underperforming provinces of the Eastern Cape and Limpopo have witnessed comparatively few interventions, given the generally poor quality of municipal service delivery in those provinces. According to a recent Good Governance Africa report, the Eastern Cape is home to 12 of the twenty worst performing municipalities in South Africa, with the remainder spread between KwaZulu-Natal and Limpopo.⁵¹ Limpopo in particular is a conundrum since, despite its poor record of municipal service delivery and the fact that it hosts 30 (11%) of South Africa’s municipalities, it has only seen a single Section 139 intervention over the last 20 years.

⁵¹ Good Governance Africa, “Government Performance in South Africa 2016” (available at <http://gga.org/local-governance/local-governance-survey-summary>, accessed, 10 May 2016), p. 1.

The question therefore arises why interventions have occurred so frequently in provinces such as Mpumalanga, North West and the Free State, but not in the Eastern Cape and Limpopo provinces, where municipal service delivery is of a comparably poor, or worse, standard. A survey of available literature and news reports reveals the presence of political factionalism in all nine provinces.⁵² However, three provinces exhibit particularly high levels of factionalism⁵³ within local and provincial ANC structures. These have been well documented in the media namely the Free State,⁵⁴ North West⁵⁵ and Mpumalanga.⁵⁶ Recently, three provinces have also been referred to as the “Premier League”, in reference to the premiers’ alleged factional alignment in support of President Jacob Zuma.⁵⁷ This would indicate that political allegiances and networks are important features of party politics and governmental affairs in those provinces. It also supports the notion that interventionism may be employed to serve political or factionalist ends, at the expense of governance.

As noted, the task of incontrovertibly verifying the causative relationship between high levels of factionalism and the frequency of Section 139 interventions is difficult, given the hidden and often clandestine nature of factionalist politics, referred to above. However, identifying at least a “correlation” between the two variables suggests that the two phenomena are not entirely unrelated in South African government and politics. It would also confirm the shortcomings in the formulation of Section 139 of the

52 Helen Suzman Foundation, “ANC factionalism: Curse or blessing?”, *Focus*, 29, 1st Quarter, 2003; African National Congress, Report on the State of the Organisation by ANC Secretary General Gwede Mantashe, 20 September 2010 (available at <http://www.anc.org.za/show.php?id=5946>, accessed, 7 March 2016); R Munusamy, “ANC NGC: Zuma, Mantashe ring alarm bells as membership plunges by 37%”, *Daily Maverick*, 9 October 2015 (available at <http://www.dailymaverick.co.za/article/2015-10-09-anc-ngc-zuma-mantashe-ring-alarm-bells-as-membership-plunges-by-37/#.Vt1YHebYvGI>, accessed, 7 March 2016).

53 *The Economist*, “A future of division, factionalism, stagnation and patronage”, 2008 (available at <http://www.economist.com/node/11893529>, accessed, 7 March 2016).

54 H Nhlabati, “Uncertainty hits Free State ANC meeting”, *Sowetan Live*, 21 June 2012 (available at <http://www.sowetanlive.co.za/news/2012/06/21/uncertainty-hits-free-state-anc-meeting>, accessed, 7 March 2016); L Piombo & L Nijzink, *Electoral politics in South Africa: Assessing the first democratic decade* (New York, Palgrave Macmillan, 2005), p. 115.

55 S Stone, “ANC factions clash at Rustenburg meeting”, *City Press Online*, 30 January 2016 (available at <http://city-press.news24.com/News/anc-factions-clash-at-rustenburg-meeting-20160130>, accessed, 7 March 2016); T Phagane, “Ramaphosa to reconcile warring factions in N West”, *SABC*, 6 January 2016 (available at <http://www.sabc.co.za/news/a/b1ae80004b369e988cccee445cadceaa/-Ramaphosa-to-reconcile-warring-factions-in-N-West>, accessed, 7 March 2016).

56 N Marrian, “ANC axes four mayors in Mpumalanga shake-up”, *Business Day Live*, 28 July 2015 (available at <http://www.bdlive.co.za/national/2015/07/28/anc-axes-four-mayors-in-mpumalanga-shake-up>, accessed, 7 March 2016).

57 R Munusamy, “ANC’s leadership race: The rise of the ‘premier league’”, *Daily Maverick*, 7 September 2015 (available at <http://www.dailymaverick.co.za/article/2015-09-07-ancs-leadership-race-the-rise-of-the-premier-league/#.VzG0ZOTYvGI>, accessed, 10 May 2016).

Constitution which, as discussed previously, leave room for wide interpretation and possible misuse. In this manner, an instrument intended by the framers of the Constitution to serve as a remedy for dysfunctional municipalities may, in certain circumstances, be used to further erode governance and democracy.

Conclusion

The purpose of this article was to explore Section 139 in the context of interventions, to present a complete catalogue of Section 139 interventions in South Africa and to analyse the trends related to such interventions. Theoretical points of departure were identified in the form of state dysfunction and government interventionism. It was argued that government intervention becomes more likely in the context of dysfunction and as service delivery deteriorates to the extent that it may constitute an identifiable practice in the form of “interventionism”. Furthermore, the theoretical underpinnings of state dysfunction suggest that issues of service delivery and governance are not exclusively at play in interventions. Political factors that are indicative of state dysfunction such as factionalism may also serve reasons to intervene in municipalities with the aim of influencing the balance of political power in a given municipality or within a party itself. The subsequent analysis of Section 139 interventions supported this perspective, and trends were identified that suggest that electoral and factionalist concerns may surpass governance requirements in certain geopolitical contexts.

The irony, and unfortunate reality, is that the self-same provinces and municipalities which are ravaged and rendered dysfunctional by political factionalism and conflict are often the most acutely in need of constructive governmental intervention – the founding purpose and intent which underpins Section 139 of the Constitution.

Appendix: List of Section 139 Interventions

Date	Province	Municipality
16 March 1998	Eastern Cape	Butterworth / Mnquma Transitional Local Council
17 February 1999	Northern Cape	Warrenton / Magareng Transitional Local Council
11 May 1999	Mpumalanga	Ogies/Emalahleni Transitional Local Council

19 July 1999	Free State	Tweeling Local Council
3 August 1999	North West	Merafong / Wedela Transitional Local Council
3 August 1999	North West	Stilfontein Transitional Local Council
20 August 1999	Northern Cape	Umsobomvu Local Municipality
13 October 1999	Free State	Moqhaka Local Municipality
23 December 2003	Eastern Cape	Ngquza–Hill Local Municipality
10 March 2004	North West	Mafikeng Local Municipality
19 May 2004	North West	Mamusa Local Municipality
19 May 2004	Eastern Cape	Qaukeni Local Municipality
31 July 2004	Eastern Cape	King Sabata Dalindyebo Local Municipality (incl. Umtata and Mqanduli)
8 November 2004	Eastern Cape	Elundini Local Municipality
1 January 2005	Mpumalanga	Thaba Chwe Local Municipality
2005	Free State	Moqhaka Local Municipality
2 November 2005	KwaZulu-Natal	Abaqulusi Local Municipality
19 March 2007	Western Cape	Oudtshoorn Local Municipality
22 August 2007	KwaZulu-Natal	EMadlangeni / Utrecht Local Municipality
22 October 2007	Western Cape	Central Karoo District Municipality (incl. Beaufort West)
5 December 2007	KwaZulu-Natal	Amajuba District Municipality
5 December 2007	KwaZulu-Natal	Umzinyathi District Municipality
5 December 2007	KwaZulu-Natal	Newcastle Local Municipality
12 December 2007	Mpumalanga	Mbombela Local Municipality
28 May 2008	Free State	Xhariep District Municipality
20 June 2008	Free State	Mohokare Local Municipality
25 February 2009	Mpumalanga	Pixley Ka Seme Local Municipality
20 April 2009	Eastern Cape	Alfred Nzo District Municipality
29 April 2009	Eastern Cape	Koukamma Local Municipality
1 July 2009	North West	Ngaka Modiri Molema District Municipality
8 July 2009	Gauteng	Nokeng Tsa Taemane Local Municipality
14 July 2009	Mpumalanga	Mkhondo Local Municipality
22 October 2009	Mpumalanga	Lekwa Local Municipality
22 October 2009	Mpumalanga	Thaba Chweu Local Municipality
4 November 2009	Free State	Thabo Mofutsanyane District Municipality
24 November 2009	KwaZulu-Natal	Indaka Local Municipality
24 November 2009	KwaZulu-Natal	Okahlamba Local Municipality
24 November 2009	KwaZulu-Natal	Umhlabuyalingana Local Municipality
3 December 2009	Free State	Nala Local Municipality

8 December 2009	Free State	Masilonyana Local Municipality
23 February 2010	Eastern Cape	Sunday's River Valley Local Municipality
10 March 2010	North West	Madibeng Local Municipality
10 March 2010	North West	Moses Kotane Local Municipality
10 March 2010	North West	Tswaing Local Municipality
16 April 2010	Mpumalanga	Thembisile Hani Local Municipality
10 March 2010	KwaZulu-Natal	Msunduzi Local Municipality
21 May 2010	Free State	Naledi Local Municipality
1 July 2010	North West	Mafikeng Local Municipality
14 July 2010	Western Cape	Overberg District Municipality
19 September 2012	KwaZulu-Natal	Mtubatuba Local Municipality
23 January 2013	KwaZulu-Natal	Imbabazane Local Municipality
20 March 2013	KwaZulu-Natal	Abaqulusi Local Municipality
1 April 2013	North West	Ditsobotla Local Municipality
1 April 2013	North West	Matlosana Local Municipality
17 April 2013	Mpumalanga	Bushbuckridge Local Municipality
17 April 2013	Mpumalanga	Emalahleni Local Municipality
19 March 2013	North West	Maquassi Hills Local Municipality
19 March 2013	Eastern Cape	Mnquma Local Municipality
20 March 2013	KwaZulu-Natal	Umzinyathi District Municipality
20 March 2013	KwaZulu-Natal	Uthukela District Municipality
17 April 2013	KwaZulu-Natal	Ugu District Municipality
17 July 2013	KwaZulu-Natal	Umvoti Local Municipality
12 March 2014	Limpopo	Mogalakwena Local Municipality
1 September 2014	KwaZulu-Natal	Mooi Mpfana Local Municipality
1 January 2015	North West	Matlosana Local Municipality
16 February 2015	KwaZulu-Natal	Mtubatuba Local Municipality
23 March 2015	North West	Madibeng Local Municipality
23 March 2015	North West	Ngaka Modiri Molema District Municipality
23 March 2015	North West	Tswaing Local Municipality
23 March 2015	North West	Ventersdorp Local Municipality
7 May 2015	KwaZulu-Natal	Mtubatuba Local Municipality
22 July 2015	Western Cape	Oudtshoorn Local Municipality
29 July 2015	KwaZulu-Natal	Indaka Local Municipality
10 September 2015	Eastern Cape	Makana Local Municipality