

**A CRITICAL ASSESSMENT OF THE EASTERN CAPE PROVINCIAL  
GOVERNMENT INTERVENTION IN DYSFUNCTIONAL MUNICIPALITIES: "A  
CASE STUDY OF SUNDAYS RIVER VALLEY LOCAL MUNICIPALITY"**

**BY**

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## **DECLARATION**

I, Mxolisi Vuyo Njikelana, hereby declare that this mini-dissertation submitted to the University of Fort Hare for the Degree of Masters of Public Administration (MPA) has never been previously submitted by me for a degree at this or any other university, that this is my own work in design and execution and that all material contained therein has been duly acknowledged.

Signed.....

Date.....

## **DEDICATION**

This work is dedicated to my mother Doris Bukiwe Njikelana neé Ncapayi who raised me and my siblings with love and strict discipline. Her compassion for others who are less fortunate makes her distinct amongst others.

Her unwavering resilience in guiding the family as the only surviving matriarch is noted and appreciated. May God bless you with many more years so that you continue being with us a little while longer.

To my family; wife, Tamara and daughter Yolani, this work is also dedicated to you. May you also share in my accomplishments and take a leaf from some of the pages of the research project.

## **ACKNOWLEDGEMENTS**

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The late Ms. M.W. Mama, former Director: Municipal Administration Component, of the former Department of Local Government and Traditional Affairs (now Department of Cooperative Governance and Traditional Affairs). The mentorship and guidance of this great mind left an indelible mark to me as she was pivotal in my development as a Public Administration Practitioner at the provincial local government. She also did not hold back and assisted in the initial stages of the study even though her health was deteriorating.

Mr. S. Madyaka, former Chief Director; Municipal Governance and Support of the Department of Cooperative Governance and Traditional Affairs who also played a role in my development in the Public Administration arena. His wise counselling and guidance in the initial chapters of this study will be noted throughout my entire life.

I am also thankful to all my informants and respondents for their inputs and allowing me to interview them. Your contribution is highly appreciated.

## **ABSTRACT**

The research seeks to assess the effectiveness of the provincial intervention in accordance with section 139 of the Constitution, 1996 in dysfunctional municipalities in the Eastern Cape as a viable instrument vis-à-vis the implementation of the continuous support in terms of section 154 of the same Constitution. Both sections are legislative obligations on the part of the national and provincial spheres of government. The two sections are legal instruments of monitoring and support and their implementation in municipalities by the then Department of Local Government and Traditional Affairs (now known as Department of Cooperative Governance and Traditional Affairs) in the Eastern Cape is the focus of the study. However, the two instruments are not achieving their objectives as more municipalities continue remaining dysfunctional despite provincial interventions.

The government set out a broad vision of developmental local government. This is essentially a vision that calls on municipalities to find means of confronting the legacy of underdevelopment and poverty in their local areas. Whereas section 154 seeks to ensure support and strengthen capacity of municipalities, section 139 presupposes intervention in areas where a municipality has failed to perform. The latter section is usually invoked when everything else has failed by way of the continuous support provided by section 154.

The study examined critical aspects on the implementation of the two instruments by DLGTA, particularly at Sundays River Valley Local Municipality. It looked at the challenges that necessitate the provincial government to intervene in dysfunctional municipalities as well as at implementation challenges. It also looked at the impact of the provincial intervention and checked on the section that is likely to make an impact between the two. In so doing, the municipal functionaries; Mayor/Speaker, Section 56 Managers, departmental officials of DLGTA and stakeholders representing citizens of Sundays River Valley were interviewed. The results of the study reflect challenges in the implementation of the two instruments by the DLGTA and it would be advisable for the DLGTA to consider the findings and recommendations in an attempt to contribute in overcoming the section 139 challenges.

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## CHAPTER ONE

### INTRODUCTION AND GENERAL ORIENTATION

#### 1.1 Introduction/Background Motivation for the Research

National and provincial spheres of government have at their disposal sections 154<sup>1</sup> and 139<sup>2</sup> of the Constitution of the Republic of South Africa, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and rendering support in municipalities. Whereas section 154 seeks to ensure support and strengthen capacity of municipalities, section 139 presupposes intervention in areas where a municipality has failed to perform. The latter section is usually invoked when everything else has failed by way of the continuous support which seeks to strengthen the capacity of municipalities so that they manage their own affairs, exercise their powers and to perform their functions as provided for in terms of section 154. Section 139 is usually perceived by municipalities as being the most drastic of the two sections and is regarded as being punitive thus leading to reaction and resistance. However, the above legal instruments are not achieving their objectives as more municipalities continue remaining dysfunctional despite provincial interventions.

With the ushering in of democracy in 1994, the South African political landscape was radically changed by the current dispensation with the sole intention of bettering the lives of a people who had been marginalized and subjected to abject underdevelopment for the greater part of the last century. The fragmented system of local government that was in place before the advent of democracy, which excluded the majority of the population, had to be done away with. This resulted into the amalgamation of the former white controlled areas, black townships next to these areas as well as the adjacent rural areas and that culminated to the so called, "wall to wall municipalities" in 2000. This was to ensure that no area within South

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<sup>1</sup> The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

<sup>2</sup> When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation.

Africa would be left outside of municipal boundaries. The 843 local councils that were obtaining in South Africa pre - 1994 were reduced and replaced by a system that resulted into 278 municipalities. In spite of these measures, the intended recipients of the envisaged "better life for all" sadly remain in the state they were in before the advent of the new democracy.

A new form of struggle which borrows tactics from the protracted standoff that characterised the low intensity war between the marginalised black majority in the townships and the apartheid regime is now being waged sporadically by the so called township dwellers against the newly established local authorities. The struggle is taking shape at the urban front of the newly established local municipalities. The current administration is now confronted by a new challenge that threatens to render local government dysfunctional.

Strengthening the capacity of municipalities has been the priority and focus of the government. To realise this; Project Consolidate, 5 year Local Government Strategic Agenda, Local Government Turn-Around Strategy and lately Operation Clean Audit (OCA) are all but some of the initiatives of monitoring and support that have been employed by government in the last two terms of Councils. They are initiatives that had been devised to address dysfunctionality in municipalities.

Whilst Section 139 of the Constitution, 1996 is providing an overarching framework to be utilized by national and provincial governments when intervening in the affairs of dysfunctional municipalities, relevant legislation and regulations offer guidance on the areas of possible breach by the municipalities in complying with their prescribed executive obligations. In this regard, Sections 25 – 26 and 136 – 139 of the Local Government: Municipal Finance Management Act, (Act 56 of 2003) also known as the MFMA details amongst others the following:

- types of interventions;
- discretionary provincial interventions;
- mandatory provincial interventions arising from financial crises; and
- criteria for determining serious financial problems.

Guidelines for the application of Sections 100 and 139 of the Constitution provide a manual on the application of these two sections and further elaborate on the latter section in the MFMA. These are procedural steps in the implementation of Sections 100 and 139 of the Constitution, 1996.

The study at hand purposes to assess the effectiveness of the provincial intervention in accordance with section 139 of the Constitution, 1996 in dysfunctional municipalities in the Eastern Cape as a viable instrument vis-à-vis the implementation of the continuous support in terms of section 154 of the same Constitution. Both sections are legislative obligations on the part of the national and provincial spheres of government. The implementation of both sections of the Constitution, 1996 in Eastern Cape municipalities is the focus of the study.

## **1.2 Statement of the Problem**

Transformation of the South African society became the cornerstone policy of the government after the above stated changes in the political landscape. Meaningful changes in the broader society were instituted to address the legacy of underdevelopment. The government at the third sphere of government is expected to propagate the idea of a developmental local government, a local government that will work with the communities in addressing social backlogs, (White Paper on Local Government, 1998: 17). The objectives of a local government, values and principles governing the public service are detailed in sections 152 (1) and 195 (1) of the Constitution, 1996 respectively and are expected to ensure the provision of services to the communities in a sustainable manner. These are the foundations of a developmental local government. The state that is obtaining currently at the local government level is a far cry from what is expected by the current government.

The Constitution, 1996 provides for three spheres of government that are distinctive, interdependent and interrelated. Distinctiveness presupposes a degree of legislative and executive autonomy which, most of the times is conveniently construed at this level of government as referring to a sphere delinked from the set national standards and norms as well as rules and regulations formulated by the national government. Municipalities at the third sphere of government are supposed to be

distinct, autonomous and capable of managing their own affairs in terms of the new dispensation; however, this has proven not be the case.

A number of municipalities in the new dispensation are on the brink of collapse and are actually portraying this sphere of government as being dysfunctional. Presumably, legal instruments like sections 154 and 139 of the Constitution, 1996 at the disposal of the provincial government, do not seem to be able to prevent the state of decay in which today, a number of municipalities find themselves. The political infighting, sub-standard provision of services, nepotism, and disparities in salaries, mismanagement of funds, fraud and corruption often lead to dysfunctionality of municipalities, thus total halt of municipal operations. It is at this time that the provincial government usually invokes section 139 of the Constitution, 1996 and intervenes by taking over the supervision of a municipality.

Section 139 firstly, is a mechanism meant to be a deterrent of poor administration and governance in municipalities and secondly, it is a mechanism for restoration of sustainable good governance and acceptable standards of service delivery. But what seems to be the case, more municipalities are put under "Administration" in terms of this section. The question is whether such invocation does bring about or realise such objectives.

In accordance with the provisions of section 154 of the Constitution, 1996 the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and perform their functions. The very existence of the Department of Local Government and Traditional Affairs (DLGTA) in the Eastern Cape is premised on the provisions of this section. Sundays River Valley Municipality (SRVM) forms part of the forty five (45) municipalities that are supported and monitored by the DLGTA.

In a memorandum of the DLGTA dated 19 January 2010, written to request for approval of the Eastern Cape Provincial Executive Council (EXCO) to delegate the power to invoke section 139 (1)(b) of the Constitution, 1996 to the MEC of the DLGTA, challenges of the municipality's inability to fulfil its executive obligations are

detailed. This was due to political and administrative instability which was prevailing at the time within SRVM. The non provision of water services to communities for a period in excess of five days and proposed power cuts by Eskom to the community of SRVM due to non payment by the municipality were violations of executive obligations. The financial mismanagement accompanied by the approval of an unfunded budget was also a violation of the people's rights to basic services and healthy environment. The above stated violations are some of the reasons that led to the invocation of section 139 (1)(b) of the Constitution, 1996.

In view of the problems that are pervasive in the local government sphere as well as practical experiences of the DLGTA in the Eastern Cape in its interactions with municipalities, the study aims at investigating the impact of the application of section 139 of the Constitution, 1996 as a viable tool to address issues of dysfunctionality in municipalities. The researcher also seeks to assess the effectiveness of the implementation of section 139 vis-à-vis implementation of section 154 of the Constitution, 1996 by DLGTA in the Eastern Cape. The study will look into the policy and implementation issues in respect of these two constitutional instruments.

### **1.3 Research Questions**

The questions the study seeks to answer are:

- What are the challenges within Eastern Cape municipalities that necessitate the provincial government to intervene in perceived dysfunctional municipalities?
- Is the provincial intervention in municipalities making an impact in terms of serving as a deterrent to non compliance by municipalities?
- What are the implementation challenges experienced by DLGTA in respect of the instruments of monitoring and support as provided by sections 154 and 139 of the Constitution, 1996?
- Between the two legal instruments stated above, which is the most effective and likely to make an impact in terms of achieving the objectives of monitoring and support in municipalities?

## **1.4 Research Objectives**

The objectives of the study are to:

- Investigate if factors that necessitates provincial intervention in the Eastern Cape municipalities are well captured and understood in terms of magnitude and implications, particularly at Sundays River Valley Local Municipality;
- Assess as to whether the provincial intervention does make an impact in a more sustainable manner in terms of serving as a deterrent to non compliance and poor performance by municipalities;
- To determine the capacity and readiness of DLGTA to execute its mandate as enshrined in section 154 and 139 of the Constitution, 1996 and
- Determine the more effective of the two legal instruments stated above in bringing about positive and sustainable impact in terms of achieving the objectives of monitoring and support in municipalities.

## **1.5 Significance of the Study**

Sections 154 and 139 of the Constitution, 1996 in the context of local government in South Africa are recent legal imperatives of monitoring and support bestowed on national and provincial governments. The researcher has a keen interest in the two legal instruments as means of addressing dysfunctionality in municipalities given the decay that is obtaining at the third sphere of government.

The researcher hopes that other researchers will in the near future contribute to this line of enquiry. The findings of the study will be useful to provincial departments of local government across the country as well as the National Department of Co-operative Government. Local government practitioners both at national and provincial government assigned to capacitate municipalities will benefit immensely from the findings.

## **1.6 Ethical Considerations**

De Vos *et al*, (2002: 62) state that the fact that human beings are the objects of study in the social sciences, brings unique ethical problems to the fore that would never be relevant in the pure, clinical laboratory settings of natural sciences. Kumar,

(2005: 211) points out that there are certain behaviors in research – such as causing harm to individuals, breaching confidentiality, using information improperly and introducing bias – that are considered unethical in any profession.

The researcher will respect both the confidentiality and human dignity of the respondents and where secrecy is requested anonymity will be guaranteed. It will be important that the researcher obtains the informed consent of the potential participants and that participants will be told the purpose and objectives of the study before it is undertaken.

### **1.7 Scope and Limitations of the Study**

The study focuses on the engagements between the DLGTA in the Eastern Cape and SRVM, a municipality that DLGTA intervened in, in terms of section 139 (1)(b) of the Constitution, 1996. The intervention in the municipality commenced on 23 February 2010 and was terminated on 31 December 2011. Sundays River Valley Local Municipality is targeted to validate the contention of the researcher.

Given the sensitive nature with which the section 139 intervention as a legal instrument to support dysfunctional municipalities is perceived by those inclined to resist it, some respondents within these municipalities might not readily provide information. In instances of this nature the researcher will have to assure respondents anonymity and confidence in handling this type of research.

### **1.8 Clarification of Concepts and Terms**

#### **1.8.1 Administration**

Administration is a joint action taken by two or more persons to achieve a goal (Cloete, 1986:1). Public administration is a joint action taken to achieve a goal in a political environment wherein the administration is involved in the translation of policies. It is the work done by officials in the executive institutions of the three spheres of government and can be classified into six different functions, namely; Policy making, Organizing, Financing, Staffing, Procedure determination and Controlling, (Cloete, 1986:2). Public Administration can also be seen as the social science studying public administration in government.

### **1.8.2 Developmental Local Government**

Developmental local government is a local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives, (White Paper on Local Government, 1998: 17). Central to this is the notion of social upliftment of local communities through impact from social development and economic growth. Integration and co-ordination of these activities and democratization of the process through participation together with strategic-visionary leadership form the basis of developmental local government.

### **1.8.3 Local sphere of government**

Local sphere of government is a localized form of government. In the Republic of South Africa, government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated, (Mama, 2008:10).

### **1.8.4 Municipality**

A municipality in terms of section 2 of the Local Government: Municipal Systems Act, 2000 is an organ of state within the local government sphere, performing both legislative and executive functions as authorised by the relevant legislation within a geographical area defined by the Local Government Municipal Demarcation Board. Its key components are political structures, administration and local community, (Madyibi, 2005:11).

### **1.8.5 Section 139 of the Constitution, 1996**

Provincial intervention in local government is when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator

until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step, (Constitution, 1996:76). This, in other words refers to an action taken by the Provincial Executive Council (PEC) to fulfil a constitutional mandate in addressing a dysfunctional area within a municipality probably due to incapacity or incompetence.

### **1.8.6 Section 154 of the Constitution, 1996**

The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions, (Constitution, 1996:85). The two spheres of government, national and provincial have a constitutional obligation to monitor, support and strengthen the capacity of municipalities on the basis of co-operative governance. Further, section 154 provides for the fulfilment of interdependence and inter-relatedness of these spheres without compromising their distinctiveness.

As stated above section 154 is the continuous support rendered by the national and provincial governments which seeks to strengthen the capacity of municipalities in areas where they are perceived to be lacking. Section 139 on the other hand refers to the action of the provincial government when taking appropriate steps by assuming responsibility for the relevant obligations that a municipality is failing to fulfil and including dissolving a Municipal Council in exceptional circumstances and appointing an Administrator until a new Municipal Council is elected. Section 154 and 139 are legal instruments that complement each other in addressing issues of monitoring and rendering support in municipalities. Section 139 is usually invoked when everything else has failed by way of the continuous support (section 154) and is meant to address dysfunctional or collapsed municipalities.

### **1.8.7 Service Delivery**

Service delivery is the provision of public activities, benefits or satisfactions. Services relate both to the provision of tangible public goods and to intangible service themselves. These refer to goods like houses and services like electricity provision rendered by a municipality, (Fox and Mayer, 1996:118).

### **1.8.8 Transformation of Municipalities**

Mama, (2008:11) citing a Technical *MINMEC* Report, May 2001, explains the term "Transformation of Municipalities" by claiming that it is the rationalisation of municipalities by means of a restructuring process to create manageable and sustainable municipalities. She also explains that this was caused by a dire need to establish municipalities that are inclusive of the rural villages that were previously marginalised and which could carry the responsibility of functions to be transferred to this sphere of government. One of the important tasks in the transformation of local government in South Africa was the determination of new municipal boundaries, an exercise that resulted in the disestablishment of 843 municipalities and the creation of only 284 new municipalities. Currently there are 278 municipalities that constitute the local government sphere. There also is a continuous consideration to review the number of existing municipalities with the objective of creating more viable municipalities rather than those that are not viable currently obtaining.

### **1.8.9 Cooperative Governance**

The Constitution defines the roles and responsibilities of national and provincial government with respect to local government. It obliges all spheres of government to co-operate with one another in mutual trust and good faith through fostering friendly relations; assisting and supporting one another; informing one another of, and consulting one another on, matters of common interest; and co-ordinating their actions and legislation with one another, (White Paper on Local Government, 1998: 38 – 39).

The above is the basis on which co-operative governance is founded and is entrenched in the Constitution (1996). Craythorne, (2011:14 – 15) states that section 40 of the Constitution has established three spheres (not tiers) of government, which are distinctive (that is, separate from each other), interdependent and interrelated. He further states that the word interdependent means that one sphere of government cannot act arbitrarily against another sphere and likewise, the use of the word "interrelated" reflects back to section 1 of the

Constitution, which establishes the Republic of South Africa as one sovereign, democratic state founded on the values stated there. All spheres of government must observe and adhere to the principles detailed in section 41 and must conduct their activities within the parameters envisioned in these principles.

### **1.8.10 Intergovernmental Relations**

The White Paper on Local Government refers to intergovernmental relations as the set of multiple formal and informal processes, channels, structures and institutional arrangements for bilateral and multilateral interaction within and between spheres of government, (White Paper on Local Government, 1998:38).

Ganca, (2008:23) states that Intergovernmental Relations (IGR) refers to 'the complex and interdependent relations amongst three spheres of government as well as the co-ordination of public policies amongst the national, provincial and local government'. She goes on to claim that the term 'intergovernmental relations system' is used in her research report to refer to the various components of governance, administrative and fiscal arrangements operating at the interface between national, provincial and local governments.

Kahn *et al*, (2011:11) explain the term 'intergovernmental relations' as referring to mutual relations between all spheres of government and all organs of state in South Africa. The legislative framework for such relations and the hierarchic order of governmental institutions are specified in the Constitution of the Republic of South Africa, 1996 and other legislation by which governmental institutions are created for a specific end. The 1996 Constitution (Republic of South Africa 1996: 25-26) promotes intergovernmental relations by setting out the principles of cooperative government and intergovernmental relations that must be followed by all spheres of government and all government bodies in South Africa.

### **1.8.11 MinMecs**

MINMECs are forums that bring together ministers at national level with the equivalent members of the Executive Council at provincial level (MEC's). Minmecs play a pivotal role in coordinating activities between the national and provincial

governments. These structures are key IGR institutions for achieving collective decisions on policy, planning, budget priorities, progress reviews and interactions with parastatals. The Minmeecs are sector-based meetings created to promote cooperation, coordination and communication between the national departments and their provincial counterparts. Generally, Minmeecs play the role of providing advice, identifying problems, anticipating potential areas of conflict, commenting on national policy and proposing legislation. They also determine the government's short and long-term priorities, (Kahn *et al*, 2011: 76-77).

### **1.8.12 MuniMEC**

A MuniMEC is an intergovernmental forum established by a MEC in the Province to promote and facilitate coordination between the province and the municipalities in the Province. The Act does not provide for the establishment of a MuniMEC, however a MuniMEC is a key forum in attempting to ensure alignment between provincial and local government initiatives in the province.

The Eastern Cape has established sector-focused MuniMECs which comprise the MEC and Municipal Mayors, as well as relevant portfolio councillors, and which meet on quarterly basis. These sector-focused MuniMECs are supported by the relevant sector departments.

In addition, the MEC for Local Government and Traditional Affairs in the Eastern Cape has also developed a Local Government MuniMEC that focuses on promoting and facilitating effective and efficient intergovernmental relations between the province and municipalities in the province. MuniMEC plays a pivotal role between the Premier's Coordinating Forum (PCF), and the District Mayor's Forums (DIMAFO's) in the province. The role of MuniMEC in the province is to ensure that there is coordination, integration and alignment of IDP's from the DIMAFOs with the Provincial Growth and Development Strategy (PGDS) of the PCF, (IGR in Practice - The Practitioner's Handbook: Local Government and Traditional Affairs – Province of the Eastern Cape, 2011: 60).

### **1.8.13 Integrated Development Planning (IDP)**

This is a process through which municipalities prepare a strategic development plan for a five year period. It is a principal strategic planning instrument which guides and informs all planning, budgeting, management and decision making in a municipality. It is a legislative requirement that supersedes all other plans that guide development in a municipality. Every new Council that comes into office after elections has to prepare its own IDP. The new Council can, either adopt the IDP of its predecessor or develop a new IDP taking into consideration already existing planning documents.

Because of its participatory nature, it takes a municipality approximately 6 – 9 months to complete an IDP and this timing is closely related to the municipal budgeting cycle. The IDP is reviewed annually which results in the amendment of the plan if necessary. IDP is about the municipality identifying its priority issues/problems, which determine its vision, objectives and strategies followed by identification of projects to address such issues, (Department of Provincial and Local Government – IDP Guide Pack: General Overview, 2000:4). It is clear from the above that IDP is a municipal strategic planning document for delivery of services.

### **1.8.14 Wall to Wall Municipalities**

De Visser, (2005:75)<sup>3</sup> states that the Constitution demands that municipalities be established 'for the whole of the territory of the Republic'. The principle, which became known as the principle of 'wall to wall' local government did away with the fragmented state of affairs that prevailed before the establishment of these municipalities in 2000 and included the rural areas under traditional authorities' rule in the system of local government as outlined in the Constitution. The aim was to create inclusive and viable municipal entities. The number of municipalities was reduced from 843 to 284 thereby making South Africa the country with some of the largest municipalities in the world according to De Visser.

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<sup>3</sup> De Visser, W.J.2005. "Developmental Local Government: A Case Study of South Africa – <http://books.google.co.za/books?id> (10/08/2014).

Before the advent of democracy in South Africa, the local government that was obtaining excluded the majority of the population. Homelands, black townships next to the former white controlled areas and rural areas did not form part of the local government system. The principle of 'wall to wall' meant that all these areas including the former white controlled areas were amalgamated to form new municipalities whose boundaries were demarcated by the Municipal Demarcation Board (MDB) in such a way that they were back to back leaving no area outside of municipal jurisdiction. This was to ensure that no area within South Africa was left outside of municipal boundaries; hence these municipalities were called 'wall to wall municipalities'.

### **1.9 Preliminary Framework for the Research**

In the ensuing chapter outline, the following themes will receive special attention. **Chapter two** engages on the literature currently obtaining at the local government sphere since the advent of the new "wall to wall municipalities". An overview of challenges obtaining at local government sphere will receive special attention. A perspective from the Office of the Auditor – General in respect of audit outcomes of the Eastern Cape local government for the financial years ended 2010/11, 2011/12, and 2012/13 respectively will be looked into. Theories underpinning the focus of the study will be dealt with. Transformation and restructuring of the society in South Africa which got underway after the advent of democracy in 1994 as well the legal context under which the changes took place. Lastly, the intergovernmental relations concept between the three spheres of government will be scrutinised paying special attention to the challenges of dysfunctional municipalities.

**Chapter three** details the institutional and structural challenges obtaining at SRVM. Analysis of the provincial intervention at SRVM will be looked into as well as the subsequent results of the section 139 (1)(b) intervention. Strengths and risks inherent in the two legal instruments of monitoring and support as provided by sections 154 and 139 of the Constitution, 1996 will be detailed. History of support rendered at the municipality by DLGTA and the outcome as well as the impact of section 139(1)(b) intervention at SRVM.

**Chapter four** will be based on data collection for the purpose of validating the researcher's concerns and interests. Different techniques to be used in collecting data for analysis will be detailed. These will include survey design method, questionnaires and interviews. Whereas, **Chapter five** will be looking into the analysis of the data that will be gathered as well as presentation and interpretation **Chapter six** will deal with the conclusion and recommendations of the study.

### **1.10 Conclusion**

Having stated in the introduction that national and provincial spheres of government have at their disposal sections 139 and 154 of the Constitution, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities, the researcher saw a need to investigate the challenges experienced at the local government sphere given the continuous outcry and sporadic stand-offs between communities and municipalities widely covered in the media. The above stated legal instruments do not seem to be achieving their objectives as more municipalities continue remaining dysfunctional.

Section 154 and 139 of the Constitution, 1996 in the context of local government in South Africa are recent legal imperatives, therefore it is incumbent upon researchers to investigate and establish if these two instruments are serving their purpose and if not to come up with proposed solutions that will make them effective. The findings of the study will be useful to practitioners assigned to capacitate municipalities both at national and provincial departments of local government.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

Despite the strides made at the third sphere of government during the last thirteen years, the system of local government in South Africa is faced with enormous challenges that threaten to render it dysfunctional. Since the creation of the “wall to wall municipalities” in 2000, this sphere of government faces diverse challenges that undermine the progress and successes achieved so far, (Mgwebi, 2010:3) details the following as being challenges that are prevailing at local government sphere:

- Serious leadership and governance deficiency;
- Weak responsiveness and accountability to communities;
- High rate of financial mismanagement practice for non-developmental purposes, which includes corruption;
- Inadequate human resource capital to ensure professional administrations;
- Positive relations between labour, management and councils; and
- Failure of municipalities to fulfil legal requirements to ensure the active participation of communities in local government processes.

Mgwebi, (2010:3) further argues that these failures have resulted in regular service delivery backlogs and protests throughout the country and this has resulted in a general negative perception regarding the overall performance of the municipalities in particular as well as the entire local government system in general.

#### **2.2 Overview of the Problems and Challenges affecting Local Sphere of Government**

There is general public outcry for improved service delivery in municipalities resulting in stand-offs between communities and municipalities and this invariably manifests itself in violent protests that are accompanied by either removal of political office bearers from office or damaging of public property and burning of individual councillor homes. The problems currently besetting municipalities manifest themselves in various observable and discernible activities which portray an

unbecoming behaviour on the part of municipal functionaries. One of the key problems that seem to be pervasive in the local government sphere is the notion of political interference in the municipal administration matters of municipalities.

Cameron in (Kanyane and Koma, 2014:17) states that the function of policy formulation should be that of the politician, whereas policy implementation should be the domain of the administrator. The two, namely, policy formulation and implementation, should not be confused. This means that political interference in municipal administration affairs should, under no circumstances, come into play. Kanyane and Koma, (2014:18) further purport that it appears that there is excessive political interference on the part of political office bearers (councillors) with respect to municipal affairs. Though the Municipal Systems Act succinctly delineates the responsibilities of both the political office-bearers and municipal officials, with a view to ensure the smooth running of a municipality, conflicts of roles still persist.

The authors go on to state that there are instances of wherein the awarding of procurement projects by municipalities is politically insinuated. Furthermore, councillors influence and enforce decisions relating to human resource appointments for low level placed officials, a domain that is basically domicile with municipal managers in terms of section 55(e) of the Municipal Systems Act as amended. Also on this (Ndletyana *et al*, 2013:15) cite the Auditor General's audit report for the year 2010-11 where they point to contracts worth R3.274 million awarded to councillors and family members. Not only did councillors use their positions for self-enrichment, but a substantial number of people were employed into positions for which they were not qualified.

For the purposes of the study at hand these activities are summarised hereunder as follows:

- Political turmoil (infighting) prevalent in municipal councils – ordinary councillors within councils wanting to remove political office bearers due to either disparities in salary scales or inability to participate in the tender processes (procurement) which enriches specific individuals as a result of kickbacks if not participating as silent partners;

- Although the Local Government: Municipal Finance Management Act, (Act 56 of 2003) MFMA categorically removes participation of councillors from procurement activities, specific political office bearers pull their weight and influence the process, e.g. a Mayor allegedly being a service provider owning a number of companies and or awarding tenders to relatives and friends;
- Nepotism which is rife in municipal institutions – appointments that are irregular wherein unqualifying incumbents are favoured because of connections to either councillors or senior managers within municipalities, a habit which leads to disgruntlement from other quarters often coupled with incapacity to perform the required duties;
- Irregular council resolutions – adoption of up-scaling of salaries of functionaries in municipalities without ministerial approval and most often than not ignore management salaries and allowances or disregard resolutions taken by the bargaining council with regard to junior staff salaries and instead agree to apply for condonation; and
- Governance matters – Council meetings fail to take place and statutory matters are not dispensed with thus leading to non passing of statutory obligations, e.g. adoption of by-laws, Integrated Development Plans (IDP) and budgets.

Joel Netshitenzhe; an Executive Director at Mapungubwe Institute for Strategic Reflection (MISTRA) in his foreword on the book “Patronage Politics Divided Us: A Study of Poverty, Patronage and Inequality in South Africa” by Ndletyana *et al* (2013:6) states that nineteen years into democratic South Africa, the third sphere of government is facing strain in many areas of the country. Netshitenzhe in Ndletyana goes on to say numerous surveys, over different periods, indicate that local government is the least trusted of all spheres of government. Local protests over poor delivery of social services have become a recurrent feature in many communities.

Ndletyana *et al*, (2013: 15) are contending that at the heart of challenges facing the sphere of local government is the phenomenon of patronage politics. They make a claim that the phenomenon of patronage politics has proven itself not only to be one

persistent challenge, but also a toxic kind. Patronage politics is widespread, manifesting itself in the various sectors of society, both public and private. Within the public sector, local government seems to be most afflicted by patronage politics.

Ndletyana *et al*, (2013:24) further state that the broad consensus holds that political patronage happens when state resources are used to reward individuals in return for their electoral support. Patronage is considered immoral, and is often associated with practices whereby appointments to public office or government resources and contracts are disbursed to undeserving, incompetent individuals. The authors cite Fukuyama who reminds that in American cities 'political machines are built up on the basis of who scratches whose back and not some "modern" motivation like ideology or public policy'. The phenomenon "scratch my back I will scratch yours" plays itself out in patronage politics at the local government sphere.

The political infighting, sub-standard provision of services, nepotism, disparities in salaries, mismanagement of funds, fraud and corruption often lead to dysfunctionality of municipalities, thus halting municipal operations due to strike actions and divisions. It is at this time that the provincial government intervenes by taking over the supervision of a municipality in terms of section 139 of the Constitution, 1996. Section 139 is a mechanism meant to be a deterrent but what seems to be the case more municipalities are put under "Administration" in terms of this section. Municipalities resist this take over by the provincial government and challenge the province in courts or in some instances after having mismanaged the municipal funds voluntarily apply to be put under section 139 of the Constitution, 1996 when they are on the brink of collapse or continue to be ungovernable, with total disregard of the law.

Having compiled assessments conducted across the country between April and August 2009 derived from the consolidated national report of the nine provincial reports, the late Minister for Cooperative Governance and Traditional Affairs (CoGTA), Mr. Sicelo Shiceka was able to ascertain the root causes of the current state of distress in many of the country's municipalities in order to inform a National Turn-Around Strategy for Local Government. Also having analysed the previous assessments and reviews of the state of local government as well as reviewing the

support programmes that have been put in place in recent years like Project Consolidate (PC) and the 5 Year Local Government Strategic Agenda (LGSA) and notwithstanding the progress yielded by these initiatives, it is clear that a number of stubborn service delivery and governance problems remain and have been identified in municipalities over a number of years, (State of Local Government in South Africa: Overview Report – National State of Local Government Assessments, 2009:3-4).

The stubborn service delivery and governance problems remain consistently at the forefront of government's developmental challenges. These priority areas include:

- Huge service delivery and backlog challenges, e.g. housing, water and sanitation;
- Poor communication and accountability relationships with communities;
- Problems with the political administrative interface;
- Corruption and fraud, e.g. dubious appointments;
- Poor financial management, e.g. negative audit opinions;
- Number of (violent) service delivery protests;
- Weak civil society formations;
- Intra – and inter-political party issues negatively affecting governance and delivery; and
- Insufficient municipal capacity due to lack of scarce skills.

The aforementioned report further contends that it is evident that national government has allocated hugely significant sums of money to building capacity over the years. Notwithstanding the resources allocated to local government sphere the outcomes have been disappointing and it is clear government needs to begin to do things differently. In assessing the reality of poor municipal performance, the report claims that cognisance needs to be taken of the unresolved problems identified in previous assessments, and the intergovernmental impact of the failure, both institutionally and for communities, (State of Local Government in South Africa: Overview Report – National State of Local Government Assessments, 2009: 5).

The consolidated national report summarises the detailed findings and contextualises them within an assessment of baselines for functionality and sustainability. The

report goes on to claim that the starting point is to identify the mismatch between intent and practice and to assess how far the government has met the constitutional objectives for local government. In doing so the government began to reassess which governance and service delivery standards constituted a functional municipality, and to what degree did the state need to re-shape and rationalise its resources to support the intent of developmental local government. The report also contends that in broad terms a functional municipality is one that is actively striving to meet the outcomes as specified in the White Paper on Developmental Local Government (1998), (State of Local Government in South Africa: Overview Report – National State of Local Government Assessments, 2009: 5-6).

### **2.3 Perspective of the Office of the Auditor – General on Audit Outcomes (2010/11-2012/13)**

Three reports in a row, on the audit outcomes of municipalities of the Eastern Cape reflect a state of stagnation and lack of forward movement wherein both the leadership at a political level in municipalities and government structures like the Provincial Executive Council, and in particular the provincial treasury, the DLGTA, district municipalities and South African Local Government Association (SALGA) which have an oversight role in municipalities have failed to implement recommendations expressed by the Office of the Auditor General over the past three financial years.

Weak internal controls, focused monitoring, non - skilling and empowering of councillors so that they discharge their responsibilities and lastly, lack of implementation on commitments made by oversight structures in municipalities are some of the challenges observed to be contributing to the current state of affairs on the audit outcomes of municipalities. This is succinctly expressed by Mr. Terrence Nombembe, the former Auditor – General when he says, “the current leadership practices and oversight are not having the desired impact on the drive towards clean administration”, (General report on the audit outcomes of local government: Eastern Cape, 2010-11).

### 2.3.1 Audit Outcomes of the Eastern Cape Local Government

In a foreword by the former Auditor – General; Mr. Terence Nombembe, in the “General Report on the Audit Outcomes of the Local Government: Eastern Cape, 2010/11”, paints a bleak picture of relatively slow progress towards clean administration in respect of the 45 Eastern Cape municipalities. This was on the occasion of the presentation of a general report summarizing the results of the audit outcomes of local government for the financial year ended 30 June 2011 to the legislature and municipal councils of the Eastern Cape Province.

The outcomes show a year-on-year gradual improvement towards unqualified audit opinions by a few municipalities. Similarly, little progress has been made on the status of internal controls, resulting in minimal to no improvement reported in the areas of supply chain management (SCM), service delivery reporting, human resource (HR) management and information technology (IT) controls. In addition almost all the financial statements that were reported on still required material adjustments at the time of the presentation of the report before finalization. This in essence means that municipalities are given a chance to fix some aspects on the submitted financial statements before the final audit outcomes are pronounced. Hence, none of the municipalities have as yet achieved a clean audit.

The following reasons for this slow progress according to the former Auditor – General can be found:

- Firstly, around half of the political leaders at municipal level have not been responsive to the audit expressions of the Auditor-General. This meant that, for the year under review, very little effort was made to establish basic internal controls and management disciplines. Without a positive and committed reaction from mayors and councillors, opportunities to build a sustainable culture of accountability at municipal level remain limited;
- Secondly, the fact that in almost all instances there were no consequences for poor performance, confirms the above stated view; and

- The third element of the slow progress towards clean administration, namely the appointment of inadequately competent and skilled officials in key position, added to this challenge, with about two thirds of these officials not meeting the expected minimum performance norms of generating credible reports and maintaining a sound internal control environment.

Again in the foreword the Auditor – General is imploring mayors and councillors to take full ownership of the internal control environment and insists on daily disciplines that ensure excellence in financial management, service delivery execution and compliance with laws and regulations, thus setting a tone for the credibility of all reports. This implies a serious investment in appointing skilled staff and implementing performance management systems with clear and decisive consequences. Internal audit functions, audit committees and municipal public accounts committees (MPAC's) similarly need to ensure that all their activities contribute to the credibility of information that will inform council's strategic thinking, decision-making and monitoring.

To complement these requirements, the Auditor – General suggested that the provincial executive, and in particular the provincial treasury, the DLGTA, district municipalities and the South African Local Government (SALGA), must enhance the coordination of their ongoing capacity – building support for the municipalities in the areas of concern. Elevated cooperation between the provincial public accounts committees and the portfolio committee on local government would improve oversight in dealing with the challenges faced by local government.

### 2.3.2 Improving on the Audit Outcomes

The Eastern Cape Province faces a number of challenges, as highlighted in the "General Report on the Audit Outcomes of the Local Government: Eastern Cape, 2010-11". According to the Auditor-General the current leadership practices and oversight are not having the desired impact on the drive towards clean administration. This is evidenced by the number of regressions that are prevalent

year-on-year and the related lack of progress on key commitments made, (General report on the audit outcomes of the local government: Eastern Cape, 2010-11).

In order for the province to move forward and create an environment that is conducive to clean administration and accountability, the Auditor-General directs that the province needs to entrench the following pillars of sustainability:

- The leadership must take ownership of key control implementation, together with the vigilant and consistent monitoring of key controls. Where commitments are made and actions plans are put in place to address specific weaknesses, these need to be implemented, again coupled with a focused monitoring process to test the success of these interventions and to enable early corrective action;
- Processes should be put in place to evaluate and address the credibility, reliability and timeousness of information used for decision-making, thereby strengthening the decision-making processes and allowing the leadership to be more proactive; and
- The environment should be professionalized by implementing effective HR management that ensures that the correct skills and capacity are in place at Audit ees (government entities being audited). This includes holding individuals accountable and taking action against poor performance and non-delivery.

From the picture painted by the Auditor-General it is clear that all is not well in the state of municipalities of the Eastern Cape. Municipalities are either bordering on the brink of dysfunctionality or are collapsing. This is a far cry from what is expected of municipalities in general by the Zuma Administration.

The audit outcomes of local government for the financial year ended 30 June 2012 presented to the same legislature and municipal councils of the Eastern Cape reflect a similar picture as those presented in the financial year ended 30 June 2011. Again in the foreword, the Auditor-General points out that similar findings to those reported in the previous year persist. In the closing remarks in this foreword the

Auditor-General claims that the commitments of the role players in response to the previous year's audit results have generally not been implemented or were implemented too late to have an impact on the 2011-12 outcomes. Lack of forward momentum indicates a leadership core that is not committed to change, and fails to view the implementation of commitments seriously or even resists changing to the required behaviour, (General report on the audit outcomes of the local government: Eastern Cape, 2011-12).

Again in a foreword to the report on the audit outcomes of municipalities in the Eastern Cape for the financial year ended 30 June 2013, the third in a row, the new Auditor – General; Kimi Makwetu echoes the same sentiments previously reflected by his predecessor. In this report he cites his predecessor as having stated that councillors were not delivering on their basic responsibilities at the level of excellence required of them by legislation, as well as the citizens of their constituencies. Mr. Nombembe, the previous Auditor - General, having recommended to the legislature, provincial executive council, provincial coordinating departments and South African Local Government Association to join hands to ensure that all councillors are skilled and empowered to discharge their responsibilities effectively, the current Auditor – General finds that little progress has been made in this regard, (General report on the audit outcomes of the local government: Eastern Cape, 2012-13).

Makwetu considers the five-year trend in outcomes as, evidence that progress has been slow to the extent that the overall poor state of financial and performance management in the province overshadows positive developments by way of a net improvement in six audit outcomes. The low levels of assurance provided by councillors on the credibility of what is being done at municipal level together with the poor state of internal controls, show that much work has to be done to ensure proper accountability in local government in the province. Makwetu claims that this is not an impossible task if there is commitment to implement basic financial and performance management disciplines, (General report on the audit outcomes of the local government: Eastern Cape, 2012-13).

In an overview to the report, Makwetu paints a picture of lack of forward movement by way of improvement in the audit outcomes of the Eastern Cape municipalities. Detailed below are some of the areas of concern in the report of the audit outcomes for the year ended 30 June 2013:

- Year-on-year audit outcomes have improved but stagnant disclaimers remain a concern;
- Five-year movement of outcomes indicates slow progress and serious concerns about the sustainability of outcomes;
- Three district municipalities out of six lead by example while two get 6<sup>th</sup> consecutive disclaimer;
- Slight improvement in the quality of annual performance reports points to slow progress;
- Level of compliance with legislation has not improved and remains at critical level;
- The leadership did not respond appropriately to the message to address the increasing trend in irregular expenditure;
- The provision of water and sanitation services and road infrastructure should receive urgent attention;
- Improvement in timely submission of financial statements but quality remains poor;
- Little progress on critical risk area of supply chain management;
- 65% of the municipalities did not comply with HR-related legislation;
- Only seven out of 36 municipalities made use of consultants for financial reporting managed to improve their audit opinion; slight improvement in IT controls; and
- Movement in internal controls indicates marginal progress but decisive action is still needed.

## **2.4 Theories Underpinning the Study**

### **2.4.1 Localist Theory**

Madyibi, (2005:26) cites Ismael *et al* when he states that the local community in a municipality is authorised to elect councillors in terms of the constitution of the country. Madyibi further states that they, as council, have a mandate to govern by enacting by-laws, draw up budgets, fix tariffs, hire employees and engage in developmental programmes to serve the needs of the municipality. Such governance is local-needs driven and councillors should account to the local electorate. The protagonists of this theory see local government as independent and autonomous institutions that are viable and financially independent of the national government. The criticism against this school of thought is that it separates local government from the central government.

### **2.4.2 Systems Theory**

Municipalities representing the third sphere of government are engaged in a relationship with other entities of government like the provincial and national departments of local government which are mandated to support and strengthen the capacity of municipalities so that they are able to perform their functions of delivering services to communities under their jurisdiction.

The theoretical foundation of the school of thought propagated by the systems theory underpins the interactions among the spheres of government and respective government departments in the three spheres. Shafriz *et al*, (2007:248) propound that the systems theory views an organisation as a complex set of dynamically intertwined and interconnected elements. Any change in any element of the system causes changes in other elements, so are the system thinkers. Thus, when management makes decisions involving one organizational element, unanticipated impacts usually occur throughout the organizational system.

Smit and Cronjé, (2003:45-46) state that the systems approach to management views an organisation as group of interrelated parts with a single purpose: to remain in balance (equilibrium). The action of one part influences the other parts and causes imbalance. Managers should view the organisation as a whole and should

anticipate the effect of their decisions on other parts of the organisation. From a systems point of view, management should maintain a fair balance between the various parts of the organisation as well as between the organisation and its environment.

The systems approach propagated takes into consideration the relationship between the organisation and its external environment. In respect of a municipality serving a particular community, the external environment can be viewed as the community that is to be served by the municipality concerned. The municipality in this case is an organisation that depends on the external environment – communities. When the communities are dissatisfied with the level of service they are getting from the municipality the relationship will be broken down, thus affecting the equilibrium. In extreme circumstances it will take the intervention of a provincial sphere in order to restore the balance. A series of relationships exist between all the different entities of government and this is the case between the relationships that are existing among the three spheres of government.

### **2.4.3 The Bureaucratic Theory**

The manner in which government entities are structured is underpinned by the theory of bureaucratic management. Max Weber, a German sociologist in his theory reasoned that any goal-oriented organisation comprising thousands of individuals would require the carefully controlled regulation of its activities. The theory stresses the need for a strictly defined hierarchy, governed by clearly defined regulations and authority, (Smit and Cronjé, 2003:41).

Hellriegel *et al*, (2008: 48) also collaborate this assertion when they say bureaucratic management relies on rules, a set hierarchy, a clear division of labour, and detailed procedures. It provides a blue print of how an entire organization should operate. It prescribes seven characteristics: a formal system of rules, impersonality, division of labour, hierarchical structure, a detailed authority structure, lifelong career commitment, and rationality. Together these characteristics represent a formal, somewhat rigid method of managing.

Weber's ideal bureaucracy is based on legal authority. Legal authority stems from rules and other controls that govern an organisation in its pursuit of specific goals. Managers are given the authority to enforce the rules by virtue of their position. Obedience is not owed to an individual person but to a specific position in the hierarchy of the organisation. These positions would outlive the people occupying them. Weber's approach to management has stood the test of time relatively well. In South Africa, with its relatively few managers and large numbers of unskilled workers, devotion to rules and other controls set by managers is still a relevant way of managing. Even organisations employing skilled workers still use principles of Weber's approach, (Smit and Cronjé, 2003:41-42).

One of the limitations of this approach is that bureaucratic rigidity results in managers being compensated for doing what they are told to do – not for thinking. Managers are often rewarded for complying with old, sometimes even outdated, rules whereas the contemporary environment requires managers continuously to improve on current practice. Hence rules may become ends in themselves, (Smit and Cronjé, 2003:42).

This scenario is even worse given the transformation challenges facing the South African government. The eradication of the legacy of apartheid places an enormous burden on the government of the day to better the lives of the previously marginalised sectors of the population. Limited organisational flexibility and slow decision making are also limitations which, in today's turbulent environment, can lead to the loss of golden opportunities. This, on the other hand should be balanced against the need to guide the relatively newly transformed South African public service which is faced with the gigantic task of addressing backlogs caused by underdevelopment due to apartheid policies.

Esau, (2006: 48-49) states that the term bureaucracy is almost always associated with the negative connotations such as red tape, obstacles, delays, rigidity. When focussing on new approaches to service delivery one expects the bureaucracy to deliver services in an efficient and effective manner. Weber's bureaucracy emphasized that functions and duties be performed in a uniform and systematic way. Rules and regulations governed the behaviour of individuals within the

organisation. These rules and regulations ensured that individuals understood what acceptable behaviour as opposed to what was not, on the one hand. They also guided individual behaviour towards achieving organizational objectives.

Weber's theory on the bureaucracy as a rational organisation is useful when discussing the functioning of the public service. Important features noteworthy to mention, include a hierarchical structure that ensures accountability, security of tenure and subsequent development of institutional knowledge, clear rules and regulations and supervision of staff, (Esau, 2006:50).

## **2.5 Transformation and Restructuring of the South African Society**

In Chapter One, it was mentioned that the transformation of the South African society became the cornerstone policy of the ANC led government after the radical changes in the political landscape. The government embarked on a drive to institute meaningful changes in the broader society in order to address the legacy of underdevelopment and in this regard the election of the then new government (Government of National Unity) set South Africa on a path of renewal and transformation. The Reconstruction and Development Programme (RDP) became the policy instrument which directed the progress of the transformation strategy. As the programme developed it was expected to integrate the different organs of government, centrally, regionally and locally in a concerted drive towards the national goals of renewal, (White Paper on Reconstruction and Development, 1994:6).

Through this instrument the government committed itself to redistributing resources to address inherited inequalities. The RDP was a policy framework for integrated and coherent socio-economic programme. It sought to mobilize all South Africans and the country's resources toward the final eradication of the results of apartheid. Its goal was to build a democratic, non-racial and non-sexist future and represented a vision for the fundamental transformation of South Africa by:

- developing strong and stable democratic institutions;
- ensuring representivity and participation;

- ensuring that the country becomes fully democratic, non-racial and non-sexist society; and
- creating a sustainable and environmentally friendly growth and development path, (White Paper on Reconstruction and Development, 1994:7).

RDP was expected to develop a process of consultation and joint policy formulation and encouraged organisations within the civil society to take responsibility for the effective implementation of the programme. A number of reasons were advanced to justify the introduction of this policy framework and detailed below is a synopsis of the problems that led to the adoption of the RDP:

- South African history was dominated by colonialism, racism, apartheid, sexism and repressive labour practices;
- the result is that poverty and degradation exist side by side with modern cities and a developed mining, industrial and commercial infrastructure;
- income distribution is racially distorted and ranks one of the most unequal in the world;
- rural areas were divided into underdeveloped Bantustans and well-developed, white-owned commercial farming areas;
- towns and cities were divided into townships without basic infrastructure for blacks and well-resourced suburbs for whites;
- segregation in education, health, welfare, transport and employment left deep scars of inequality and economic inefficiency;
- in commerce and industry, large conglomerates dominated by whites control large parts of the economy; and
- cheap labour policies and employment segregation have concentrated skills in white hands.

The mentioned list is endless and the result is that in every sphere of this society – economic, social, legal, political, moral, cultural, environmental – South Africans were confronted by serious problems. Only a comprehensive approach to harnessing the resources of our country can reverse the crisis created by apartheid. Attacking poverty and deprivation was the first priority of the democratic government. To achieve this goal there was a need for a programme that was achievable,

sustainable and met the objectives of freedom, and improved standard of living and quality of life for all South Africans within a peaceful and stable society characterised by equitable economic growth. RDP was designed to be such a programme with full knowledge of the challenges and obstacles facing the country, (White Paper on Reconstruction and Development, 1994:7- 8).

### 2.5.1 Transformation of the South African Public Service

To implement the transformation of society, the government's first priority was to transform the way the government itself operates. Co-ordinated, efficient, transparent, and consultative government was the basic premise of the RDP. This laid the groundwork for the involvement of other sectors of society, (White Paper on Reconstruction and Development, 1994:12).

After the first democratic elections in 1994, the ANC-led government was also faced with the challenge of restructuring and transforming the public service in order to meet the developmental and service needs of communities. The government introduced and committed itself to a process of institutional transformation and reform based on the vision of establishing a coherent, representative, competent public service by introducing the Public Service Act of 1994. This Act formed the basis for integrating the fragmented system of state administration inherited from its predecessor into a national public service.

The White Paper on Transformation of the Public Service (1995:7) states that, "the public service inherited by the government in many ways promoted and defended the social and economic system of apartheid. As such, it was characterised by a number of problematic policies and practices which, if left unchanged, could seriously compromise the ability of the new government to achieve its major goals of reconstruction and development, nation building and national reconciliation, and community empowerment, and democratic participation. These included:

- lack of representativeness;
- lack of popular legitimacy;
- lack of service delivery;
- centralised control and top – down management;

- lack of accountability and transparency;
- absence of effective management information;
- low productivity;
- poorly paid and demotivated staff;
- conflicting labour relations; and
- lack of professional ethos and work ethic”.

The aforesaid challenges are being tackled through a comprehensive programme of policy initiatives underpinned by progressive legislative changes. The three tiers of government continue to face change at an accelerating rate. Drivers of change, such as the Public and Municipal Finance Management Acts, Local Government: Municipal Systems Act and the Batho Pele principles are amongst the most significant, and impact across all areas of the public sector.

#### 2.5.2 Transformation of Local Government in Post Apartheid South Africa

Democratising the system of local government in South Africa required a total transformation of all the municipalities and the services they provide. Local government as government closest to the people demanded particular attention as the services they are expected to provide in a transformed system affect the daily lives of all inhabitants of the state. The newly elected democratic government had to transform the system of local government to meet the demands of a non-racial society which was totally fragmented as a result of the former government’s policy of apartheid, (Thornhill, 2008: 492-493).

Apartheid had left its imprints on South Africa’s human settlements and municipal institutions. Transformation requires an understanding of the historical role of local government in creating and perpetuating local separation and inequity and the impact of apartheid on municipal institutions. Apartheid was not the beginning of geographic, institutional and social separation at the local spheres. Segregation was already a policy by the time apartheid was introduced in 1948, (Kanyane and Koma, 2014: 2-3).

The two authors further content that the Group Areas Act (1966), the key piece of apartheid legislation, instituted strict residential segregation and compulsory removal of black people to own group areas. Through spatial separation, influx control and a policy of own management for own areas, apartheid aimed to limit the extent to which affluent white municipalities would bear the financial burden of servicing disadvantaged black areas. This piece of legislation restricted the permanent presence of Africans in urban areas through the pass system and reserved a viable municipal revenue base for white areas by separating townships and industrial and commercial development.

McCarney, in Kanyane and Koma (2014:5), purports that countries seeking to remake the structure of their societies place a strong emphasis on the development of a viable and effective system of local government. Democratic local government is assumed to be a prerequisite of national democracy. Also, it affords citizens and communities more opportunities to engage officials and politicians. Again, Swilling and Monteiro, in Kanyane and Koma (2014:5), state that across the globe, the establishment of strong local government is perceived to be a necessary condition for successful democratisation, market-oriented economic policy frameworks, local economic development, effective management of urbanisation and the establishment of environmentally sustainable planning and development systems.

When the new government assumed office in 1994 it inherited plus or minus 1100 fragmented local authorities scattered across the country. These structures bore no resemblance to one another as some were fully operational (for Whites); some were token local authorities (for Black people); some were advisory structures (for people of mixed origin and for people of Indian descent); and some urbanised communities were administered by the so-called homeland or Bantustan governments. To transform these fragmented structures, required extensive political choices; administrative restructuring; and the reconsideration of the role of the local sphere of government in the new political dispensation. The transformation process posed significant challenges as efficient and effective services had to be maintained or introduced in cases where services were non-existent or sub standard. The issue of

the political and administrative interface is just one of the complex issues in any newly democratised state which requires attention, (Thornhill, 2008:493).

The Constitution of South Africa, Act 200 of 1993 (The Interim Constitution) ushered in three discernible phases in the South African local government. These were to be known as the Pre – Interim Phase (1994 – 1995), Interim Phase (1995 – 2000) and the Final Phase (2000 – beyond). The 1993 Constitution came about as a result of post – 1990 multi – party negotiations. Chapter 10 of the Interim Constitution fundamentally changed the constitutional status of local government. For the first time in the history of the country, the right of local government to exist was constitutionally entrenched, as were its powers and functions, Craythone (2003:4).

Kanyane and Koma (2014:7), state that the 1990s saw the negotiation of a new constitutional system in South Africa in all spheres of government. An agreement was reached during constitutional negotiations amongst the major stakeholders, most notably between the then ruling party, which was the National Party (NP), and the current ruling party, namely the African National Congress (ANC), to restructure and deracialise local government in the following three phases:

#### Pre – Interim Phase

Reddy, (1996:59 - 61) states that the pre – interim phase ran from the promulgation of the Local Government Transition Act 209 of 1993 (February 1994) which should be read in conjunction with chapter 10 of the Republic of South Africa Constitution Act 200 of 1993 until the elections in November 1995. These two Acts regulated this phase and the main purpose can be summarized as follows:

- abolish the old apartheid structures;
- establishment of transitional structures;
- operation of transitional structures;
- establish voting systems; and
- mechanisms for resolving conflicts.

In 1993 a bilateral forum, the Local Government Negotiating Forum was established to negotiate the transition to the new form of local government. The local government forum confirmed the bipolar division of membership in transitional local authorities. Each Transitional Local Council would have a non-statutory membership of 50% selected under the banner of the South African National Civics Organisation (SANCO) and a statutory half which consisted of representatives of existing segregated local government authorities, representatives of local government associations, white provinces and the National Party (NP), (Kanyane and Koma, 2014:8).

### Interim Phase

Madyibi, (2005:40-43) claims that this period endured from December 1995 to December 2000 when democratic municipal councils were elected based on a common voter's roll. This was the birth of the "wall to wall municipalities". He further states that the interim phase, which was regarded as a political development from the pre – interim stage was characterized by:

- politicization of the local communities;
- transformation of municipal administrations;
- economic uncertainties; and
- high expectations from ordinary people for good life in general.

Madyibi, further argues that the purpose of the local Government Transition Act, 1993 (Act 209 of 1993) is "to provide for revised interim measures with a view to promoting the restructuring of local government..." The developments in the interim phase enabled or created a climate conducive to a true local government transformation. The establishment of provincial committees for Local Government in respect of various provinces; the creation of Transitional Councils (Urban and Rural) with urban being comprised of Transitional Metropolitan Councils (TMC's) and Transitional Local Councils (TLC's) and rural being made of Transitional Representative Councils/ Transitional Rural Councils (TRC's); and the establishment

of the Local Government Demarcation Boards in respect of the various provinces which was later replaced by the National Demarcation Board were some of the transformational developments that took place during this phase.

The other development in this phase saw the enactment of four important pieces of legislation around local government. These were:

- Organised Local Government Act 52 of 1997;
- Local Government: Municipal Demarcation Act 27 of 1998;
- Local Government: Municipal Structures Act 117 of 1998; and
- Local Government: Municipal Systems Act 32 of 2000.

Cloete in Kanyane and Koma, (2014:8) again states that this phase started with the first local government elections and ended with the implementation of the final constitutional model of local government in 1997 (although power sharing arrangements remained in effect until 2000). This implied that elected transitional councils would still reserve 30% seats for whites in the municipalities. In May 1994 the new ANC dominated Government of National Unity (GNU) faced a major Challenge: the need to rationalize some 850 racially based local authorities. As part of the forum principle, existing racial councils were replaced by interim non-racial structures representing former white councils and ANC dominated civics in equal numbers.

### The Final Phase

Cloete in Kanyane and Koma, (2014:8) again states that the phase began with the final constitutional model of local government in 1997, although some of the constitutional provisions only took effect after the 2000 local government elections. The 1996 Constitution provided for strong and entrenched local government. It made provision for the different spheres of government to exercise exclusive powers and perform their functions in such a manner that there would be no encroachment on geographical, functional or institutional integrity of another sphere.

Madyibi (2005: 43 - 44) states that this phase is characterized by the categorization of municipalities into three distinct models, namely:

- Category A – metropolitan municipalities that have exclusive municipal executive and legislative authority;
- Category B – local municipalities that share legislative and executive authority with category C; and
- Category C – district municipalities that have legislative and executive authority in an area with more than one municipality.

This is the period starting after the December 2000 Municipal elections and stretches to the present date. A number of developments which were in a way informed by the Constitution, 1996, Local Government: Municipal Demarcation Act 27 of 1998, Local Government: Municipal Structures Act 117 of 1998 and Local Government: Municipal Systems Act, (Act 32 of 2000), took place in the local government sphere as it later came to be known.

These developments took the form of consolidating the old and racially based municipal boundaries from 1100 municipalities to 843 in 1995. With the demarcation of 1998 the number was reduced even further to 284 which later were amended to 283 municipalities. Currently there are 278 municipalities that are obtaining in the Republic of South Africa. This process resulted in the establishment of “wall to wall municipalities” based on the criteria of proximity into one solid municipality, the determination of the number of councillors by the MEC for Local Government using a formula determined by the National Minister for Provincial and Local Government, the obligation on municipalities to have Municipal Councils, the assigning of powers and functions for the different categories of municipalities and the division of such powers and functions between district and local municipalities, etc, (Madyibi, 2005: 45 – 48).

Reddy (2010: 67), also contends that a three phase-model with emphasis on local democracy, redistribution, efficiency and effectiveness was key to transforming local

government in South Africa. The Local Government Transition Act 209, 1993, facilitated the first phase and the democratic elections held in 1995-1996 constituted the second phase. Three core pieces of legislation, namely the Local Government: Municipal Demarcation Act 27, 1998, the Local Government: Municipal Structures Act 117, 1998, and the Local Government: Municipal Systems Act 32, 2000, which constituted the final phase, facilitated the transformation process. The December 2000 elections marked the end of the transition period and the number of municipalities was reduced nationally from 843 to 283.

Sibanda, Davids and Reddy in Kanyane, (2014:92) further confirm the aforementioned contention when they state that in 2000, the transition of municipalities into fully-fledged status brought about a reduction from 843 transitional municipalities to a total of 284 municipalities. The total number of municipalities was further reduced to 283, in 2006, following the demarcation process in terms of the Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and constituted then 6 metropolitan municipalities, 231 local municipalities, and 46 district municipalities. The cut was made again from 283 to 278 after the May 2011 local government elections.

### 2.5.3 White Paper on Local Government, 1998

Key to the transformation envisaged by the government is the idea of a developmental local government. After consultation with interested parties, the then Ministry for Provincial Affairs and Constitutional Development published the government's policy guidelines which set parameters on how local government was going to work, (Thornhill, 2008:496-497). The White Paper *inter alia* provides for the following:

- Local government should be developmental. This implies that it should exercise its powers and perform its functions in a manner maximizing their impact on social development and economic growth as well as affording the municipal community the opportunity to be involved in development;

- The White Paper recognizes the existence of metropolitan municipalities as well as two other categories catering for citizens living outside of metropolitan areas. These are category B or local municipalities and category C municipalities labeled as district municipalities. The latter category also includes category B municipality its geographical area.
- The policy provides for a dynamic leadership in the political structure. Powers here could be delegated to provide for wider participation in political processes. It also provides for mixed electoral system where a council consists of ward and proportional representatives elected on a party list system.
- The White Paper also attends to matters of municipal administration *viz* service delivery. In this regard provision is made for municipalities to utilize the full spectrum of service delivery options including contracting out, public-private partnerships and related mechanisms.
- The financing of local government services is also addressed. The policy provides for municipalities to be assigned revenue sources as well as intergovernmental transfers to supplement their revenue so as to enable them to provide the extensive services now entrusted to this sphere. Specific provision is made for budgeting, accounting, financial reporting, and the Generally Accepted Accounting Practices.

Transformation of the system of local government was preceded by clear policy guidelines. The White Paper on local government covered most of the political and administrative components required for a new system of local government and administration. This was a break from the past in that municipalities would be non-racial; would provide a wider range of services than before; and would be an equal partner in the whole system of government without fear of being subjected to policy decisions by the other two spheres of government. Various legislative measures were passed to give effect to the policy guidelines contained in the White Paper, (Thornhill, 2008:497-498).

#### 2.5.4 Developmental Local Government

The concept of developmental local government is of cardinal importance as it imposes additional specific obligations on municipal councils. Councillors are now required to meet specific Constitutional and other developmental legislative prescriptions pertaining to their communities and areas of jurisdiction. Section 153 of the Constitution, 1996 identifies local government as being responsible for setting the developmental framework in their respective jurisdictions and such frameworks will vary from municipality to municipality. In addition to providing traditional municipal services, municipalities must now lead, manage and plan for development, (Tsatsire *et al*, (2010: 271-272).

The White Paper on Local Government (1998:37), defines developmental local government as local government committed to working with the citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives. Municipalities have been accorded a developmental role to enhance service delivery. Furthermore, the Constitution requires municipalities to structure and manage their administration budgeting and planning processes to give priority to the basic needs of communities and promote social and economic development.

Tsatsire *et al*, (2010: 275) cite Section 23 (1) of the Local Government: Municipal Systems Act 32 of 2000 presenting the vision of developmental local government, as envisaged in the Constitution:

A municipality must undertake developmentally oriented planning so as to ensure that it:

- (a) strives to achieve the objects of local government set out in Section 152 of the Constitution
- (b) gives effect to its developmental duties as required by Section 153 of the Constitution

South African Local Government Association (SALGA) in Tsatsire expresses concern that there appears to be lack of common understanding, both within and outside local government, of what developmental government really means. It argues that being developmental means that local authorities need to shift their focus from infrastructural services to social and economic development. This implies a shift from an emphasis on services delivery to the impact of service delivery outputs on the quality of life communities. This approach, SALGA argues, necessitates the formulation of a corporate development strategy that is not just the sum of service delivery objectives or individual functions, but that represents a set of decisions or choices about what interventions need to be made within a municipality's external environment to produce the desired development impact.

## **2.6 Theoretical view of IGR in South Africa**

Thornhill (2009:671), states that co-operative arrangements are required in all states with multiple levels/ spheres of government. Most contemporary states have multiple levels or spheres of government to provide services to their diverse communities. The local government sphere is a creation of each state and its functions and powers are dependent on the structure and policies of the national government and South Africa is no exception to this.

Looking at the South African government structure in terms of federal and unitary government, it becomes clear that South Africa has a basic unitary system, but with very strong and broad federal characteristics. An important reason for this is that the constitutional assembly, in an attempt to democratize South African society by bringing government closer to the people, conferred specific constitutional mandates on provinces and local authorities. However, the government has kept a component of central control to regulate and improve this transformation or democratization, and to facilitate and coordinate the reconstruction and development of disadvantaged communities. This is what makes South Africa's governmental structure unique and difficult to classify in terms of the traditional differentiation between federal and unitary states, (Kahn *et al*, 2011: 29).

In elaborating further on the aforementioned arrangement, (Kahn *et al*, 2011: 63) state that the nature and scope of IGR in contemporary South Africa is a product of negotiations that led to the ending of apartheid in the early 1990's. Levy and Tapscott in (Kahn *et al*, 2011:63) observe that the ending of apartheid and the Transition to democracy led to fundamental changes in the form and function of the state. These are reflected in both the restructuring of intergovernmental relations and the redefinition of the responsibilities at the different levels of government. Although the current IGR system in South Africa represents a departure from the apartheid setup and aims at promoting democracy and service delivery, it has weaknesses, which limit attainment of the objectives that it pursues.

Inherent in intergovernmental relations is the decentralization of powers and functions to the other spheres of government, (Sondlo: 2006:23). Burki *et al* in (Sondlo, 2006:23) explains, "Decentralization as the term is used here refers to the process of devolving political, fiscal and administrative powers to sub national units of government". In South Africa, decentralization is seen in the context of transition from apartheid rule with tiers of government to a democratic South Africa with its spheres of government. In the process, the spheres gained more powers than the former tiers. Burki *et al*, further contend that decentralization shifts the structure of local accountability from central government to local constituents and that decentralization has improved services in some jurisdictions and worsened it in others.

Thornhill, (2009:672-673) states that section 40 of the Constitution, 1996 makes provision for three spheres of government, each being distinctive yet interdependent and interrelated. Thus it identifies the need for co-operative government to ensure that each of the spheres is allocated distinguishable functions and powers, but the Constitution also requires that each sphere acknowledges the functions and powers of the other two spheres.

In section 41 of the same Constitution particular principles are laid down to guide the relationship among the three spheres of government requiring *inter alia* that:

- each sphere must not assume any power or function except those conferred on them in terms of the Constitution;
- each sphere must exercise its powers and perform its functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere, and
- each sphere must co-operate with the other spheres of government in mutual trust and good faith and avoid legal proceedings against each other.

Structures of intergovernmental relations exist in all spheres of government. They exist at the vertical and horizontal level and there are direct and indirect linkages from one sphere to another, (Sondlo, 2006:36). Ganca, (2008:29) citing the Intergovernmental Relations Framework Act states that mutual co-ordination of policy, legislation and implementation are key values of cooperative government. Effective intergovernmental forums are therefore at the heart of a system of intergovernmental relations. They are often complemented and supported by technical structures, where officials of the same spheres of government meet in preparation and support of the political equivalent. The key task of any IGR Forum is to be a platform where the constituent organs of state share information and consult and coordinate their activities. This is particularly important with regard to planning. IGR Forums are a useful avenue to avert public confrontation and judicial action when there are tensions between spheres of government.

Thornhill, (2009: 673-674) further argues that policies, legislation and activities of the three spheres of government should be co-ordinated to ensure that the provisions of the Constitution, 1996 are adhered to and that policies and actions of one sphere are not in conflict with or are detrimental to those of another sphere. To honour the conditions set in the Constitution Act, 1996; to maintain the unity of the state; and to promote the well-being of its inhabitants; specific provisions have been

included in the Constitution to assist in co-ordinating the public sector activities performed in the three spheres *viz.*

- Section 44(2) allows Parliament to intervene by passing legislation even with regard to any matter assigned exclusively to the provinces (schedule 5) when it is necessary to maintain national security; maintain economic unity; maintain essential national standards; establish minimum standards; or prevent one province from an action that may be detrimental to another province or the country as whole;
- Section 100 provides for national executive intervention in provincial administration and allows national government to intervene if a province does not or cannot fulfill an executive obligation in terms of the Constitution or legislation. This intervention could include taking appropriate steps to ensure the fulfillment of that obligation e.g. by issuing a directive to the provincial executive; or by assuming responsibility for the relevant obligation; and
- Section 139 provides for provincial executive intervention in local government in a similar manner allowing national government to intervene in provincial affairs. The provincial executive can intervene in a municipality if it cannot or does not fulfill an executive obligation in terms of legislation. It may do so by e.g. issuing a directive to the municipal council describing the extent of the failure to fulfill its obligations and stating the steps required to meet the obligation; assuming responsibility for the relevant obligation; dissolving a municipality and appointing an administrator until a new council has been duly elected or restored by the provincial government.

Lastly, (Thornhill, 2009:674) emphasizes that the Constitution, 1996 is abundantly clear on the reasons for the possible intervention of the national executive in provincial matters (similar to the justification for the intervention by Parliament in provincial affairs) i.e. to

- maintain essential national standards or to meet minimum standards for the rendering of a service;
- maintain economic unity;
- maintain national security; or
- prevent a province from taking unreasonable action that is prejudicial to the interests of another province or to the country as a whole.

Similar reasons are contained in section 139 regarding the intervention of a province in the affairs of a municipality. These provisions clearly illustrate that intervention should only be considered in cases when a sphere acts contrary to the spirit of co-operative government. It is precisely on the basis of the above that DLGTA intervened in the affairs of Sundays River Valley Local Municipality in the Eastern Cape in 2010.

Levy and Tapscott, (2001:72) maintain that the division of powers amongst the three spheres does not stop with the allocation of specifically listed subjects in the two schedules (schedule 4 and 5 of the Constitution). Further powers are allocated with reference to the capacity of different governments and their needs. The Constitution gives provincial governments and, in certain cases, the national government the power to intervene in areas reserved for municipalities to monitor developments, to give support, to promote municipal capacity and, finally and boldly, “to see to the effective performance by municipalities of their functions”. Section 125(3) of the Constitution captures a similar national responsibility towards provinces.

The Constitution goes further than requiring a stronger sphere of government to support and develop the capacity of a weaker sphere or spheres. In section 100, it gives the national executive the power to intervene directly in a province if that province fails to fulfill a legal obligation. If necessary, the national government can go as far as taking over the obligation. Section 139 establishes the same power for provinces in relation to municipalities. These powers were used soon after the Constitution was adopted. Provinces intervened in municipalities which faced serious

difficulties in political and financial management or service delivery matters. This could be avoided by better monitoring and early warning systems – i.e. better intergovernmental relations – allowing problems to be addressed before it becomes necessary to use the more drastic intervention power, (Levy and Tapscott, 2001:72).

Through the aforementioned provisions the Constitution requires one sphere to be involved in the affairs of another, sometimes merely fulfilling a supportive function but in other circumstances directing activities. Difficult intergovernmental relations will inevitably accompany involvement of this kind. It is also sometimes interpreted as evidence that, despite the notion of equal, balanced roles conveyed by the use of the word spheres, the system is in fact hierarchical, (Levy and Tapscott, 2001:72).

According to the White Paper on Local Government, provinces have seven key roles to play in terms of local government. These roles are as follows:

- A developmental role in terms of which the provincial government should ensure that the integrated development plans of the municipalities combine to form a viable development framework across the province and are vertically integrated with provincial growth and development strategy;
- An intergovernmental role whereby local government is included in provincial decision-making and the horizontal co-operation and co-ordination between municipalities in the province;
- A regulatory role in terms of section 155 (7) of the Constitution, the exercise of municipalities' authority on Schedule 4B and 5B matters;
- An institutional development and capacity-building role in terms of section 155(6) of the Constitution whereby province promotes the development of local governments capacity in order to perform their own functions and manage their own affairs;
- A fiscal role in terms of which province monitors the financial status of municipalities;

- A monitoring role in terms of which province monitors local government's execution of Schedule 4B and 5B matters and performances in accordance with the objectives of section 152 of the Constitution; and
- An intervention role in terms of section 139 of the Constitution, in terms of which provincial government intervenes in a municipality by sending directives, assuming responsibility or by dissolving a municipal council, (Smith,2002: 8 – 9).

Mettler, (2000:1) states that chapter 7 of the Constitution gives provincial government very specific obligations and powers in respect of municipalities. Mettler further states again that the provisions dealing with the issue of provincial oversight (monitoring and support) are found in sections 154(1) and 155(6) and (7). The power to supervise municipalities is found in section 139.

Notwithstanding the autonomy conferred on the local government sphere in the current dispensation with powers derived from the Constitution and no longer delegated from the national or provincial government, the Constitution further refers to various obligations that will determine the relations between a province and a municipality. These obligations are the monitoring, support, regulation and supervision by provinces of municipalities. By and large, the obligations have been further defined in legislation such as the Municipal Structures Act and the Municipal Systems Act and other national legislation. The sum of these relationships may be clustered under the term "intergovernmental relations" although the term itself captures much more, (Mettler, 2000:1).

Mettler, (2000:12) again states that the obligations to monitor, support, regulate and supervise must find expression in the practice of provincial-local relations. Mettler proposes two dimensions on the relations between province and local government. The first relates to the mechanisms, processes and procedures that will facilitate relations between the province and local government as a whole within the province. In this regard, the establishment of a MEC/Mayors forum, along MinMec lines may be a consideration. Equally, the establishment of a Speakers' forum may

add value to the relations as it would serve to function as a legislative coordinating tool with a view to promote best practices and the attainment of provincial norms and standards. Mettler further proposes the participation of provincial organized local government in the provincial legislature as an imperative. This will serve to mediate any tension that may arise in the exercise of the legislative authority by the two spheres as well as having positive spin-off in the increased capacity on the part of organized local government.

The second relate to the relations between the province and individual municipalities. In this regard, the relations between the province and district and metropolitan municipalities may be critical. In terms of the current division of powers between categories of municipalities, these two categories of municipalities will be the driving engines of delivery within a province. The purpose of relations between the province and these municipalities, beside the monitoring, support, regulation and supervision purposes, must be to coordinate and facilitate the alignment and implementation of provincial development plans and strategies within these municipalities. Such plans need to be identified in the integrated development planning processes between the province and municipalities, (Mettler, 2000:13). The proposals suggested by Mettler could have positive far reaching consequences if the entire local government sphere in the country can adopt them.

Ganca, (2008:22) mentions that *Intergovernmental Relations Framework Act (IRFA)*, 2005 (Act No. 13 of 2005) is a key piece of legislation for intergovernmental relations. Before its adoption there was no single formal law that defined IGR, and it set the basic framework for intergovernmental relations and provided procedures for the settlement of intergovernmental disputes. The Constitution sketches only the broad outlines and principles of South Africa's intergovernmental relations. This lack of detail reflects an understanding that the intergovernmental relations system in South Africa must be flexible and negotiable within certain broad parameters. The objective of the IRFA is to give effect to the constitutional requirement regarding structures and institutions to promote IGR and mechanisms and procedures to facilitate dispute resolution. The purpose of this is to encourage co-ordination by the

three spheres of government in the implementation of policy and legislation. Another requirement is to promote certainty, stability and predictability in the system of IGR, as well as transparency and accountability.

Ganca, (2008:22) contends that the IRFA sets out in greater detail the purpose and basic legal framework for IGR across the three spheres of government and provides procedures for the settlement of disputes. The Act establishes a broad statutory framework dealing with:

- key principles of co-operative government and IGR;
- intergovernmental forums that form the institutional spine of IGR;
- implementation protocols that facilitate integrated service delivery; and
- rules for the settlement of intergovernmental disputes.

## **2.7 Conclusion**

The transitional challenges together with a host of other issues that are hindering provision of basic services to the local citizens are matters that are the focus of government efforts to stabilize local government sphere and this chapter underscored this argument. Since the ushering in of the new democratic dispensation in South Africa in 1994, local government is still faced with governance and service delivery challenges, hence excessive service delivery protests over 20 years of democracy. Numerous surveys, over different periods, indicate that local government is the least trusted of all spheres of government. Local protests over poor delivery of social services have become a recurrent feature in many communities. Structures and systems of accountability, such as ward committees and processes to develop integrated development plans, seem largely not to have delivered the initial promise.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

The basis for every scientific research is the method employed which describes how the research is to be undertaken with adequate consideration of the problem, objectives and the research question. Babbie and Mouton, (2001:74) define it as a plan or blueprint of how one intends conducting a research. It includes a set of strategies, domains and techniques used in generating or testing theory or problem solving. Mama, (2008:59) states that in every research project it is important to determine exactly what methods are to be used to collect data and what factors will influence the collection. The method will explain how to get to the conclusion.

The chapter at hand seeks to describe the research methodology used in the study. Strategies by which the researcher identified the population and the sample as well as how the researcher presents the research design together with methods and procedures used in the collection of data are detailed. The study gathered information using specific tools such as questionnaires, interviews and analysis of information thus leading to the conclusion and recommendations on the research problem. In this way the theory propounded by the investigator was validated.

#### **3.2 Research Design**

Bless and Higson-Smith, (1995:63) understand research design as the planning of any scientific research from the first to the last step. It is a programme to guide the researcher in collecting, analyzing and interpreting observed facts. The two authors describe the process as research management or planning. Secondly, they define research design as a specification of the most adequate operations to be performed in order to test specific hypothesis under given conditions.

Hakim, (1987:26) explains that a descriptive study seeks to elicit a comprehensive and improved understanding of a situation as it offers a rich – descriptive report of the individual's perceptions, attitudes, beliefs, views, feelings, meanings and interpretations. The research design formulated will enhance proper planning and structuring of the study at hand and in the end validate the researcher's contention. If scientific research is a method describing how the research is to be undertaken the researcher is of the view that this study, as a scientific research, adequately investigates the impact of the intervention by the DLGTA in dysfunctional municipalities in the Eastern Cape in terms of both sections 154 and 139 of the Constitution, 1996.

The study is based both on qualitative and quantitative approaches using both the interview and the questionnaire techniques where applicable. O' Leary (2010:127-128) claims that mixed approaches can: help you capitalize on the best of both traditions and overcome many of their shortcomings; allow for the use of both inductive and deductive reasoning; build a broader picture by adding depth and insights to 'numbers' through inclusion of dialogue, narratives, and pictures; add precision to 'words' though inclusion of numbers tallying, and statistics (which can make results more generalizable); allow you to develop research protocols in stages; offer more than one way of looking at a situation; facilitate capturing varied perspectives; and allow for triangulation.

### **3.2.1 Quantitative Approach**

A quantitative approach utilizes methods such as experiments and surveys to describe and explain phenomena. Brynard and Hanekom (1997:29) state that in this approach the researcher assigns numbers to observations. By counting and measuring "things" or "objects", data is produced. They further contend that methods utilized in this approach could include techniques such as observation, pilot studies, quantitative analysis and questionnaires. O' Leary (2010:106) again contends that in the social sciences, this methodological approach also allows the researcher to step away from the object of study, the society the researcher is

necessary a part of, and therefore maintain scientific objectivity. This then has allowed the researcher to work towards traditional indicators such as validity, reliability, generalizability, and reproducibility.

O' Leary, (2010:106) adds that the process of quantification allows the researcher to tackle large populations and offers validity of results through the use of statistics and probability. Numerical data was also collected in the course of the study hence numerical analysis has been done. Through this approach numeric description of trends, attitudes and opinions of a population was derived by studying the sample of that population. In the study, municipal functionaries, DLGTA officials as well as stakeholders represented by business, labour and community organizations of the selected municipality is the sample that was studied.

### **3.2.2 Qualitative Approach**

Babbie and Mouton (2002: 270) claim that the primary goal of studies using the qualitative approach is to describe and understand social phenomena rather than explain it. They claim that this approach to qualitative research also suggests that "qualitative" is viewed as referring to a broad methodological approach to the study of social action. The term is used to refer to a collection of methods and techniques, which share a certain set of principles or logic. The qualitative method is used for the purposes of gaining access to research subjects, for data collection and for analysis. On the basis of the collected and analyzed data, the assumptions of the study could be confirmed or rejected.

Delving into qualitative methodologies means working in a world that accepts and even values: the search for holistic meaning; research conducted in natural settings; emergent methodological design; small numbers; non-random sampling strategies; rich qualitative data; inductive analysis; and even the possibility of negotiated outcomes that recognize the need for the researched to be party to a researcher's constructed meanings. The goal is to gain an intimate understanding of people, places, cultures, and situations through rich engagement and even immersion into

the reality being studied, (O' Leary, 2010:114). The researcher used this approach in order to evaluate the effectiveness of the legal instruments of monitoring and support at the disposal of the national and provincial government. In this regard the study at hand employed qualitative methods in order to assess the impact of the intervention by the DLGTA in dysfunctional municipalities in the Eastern Cape in terms of both sections 139 and 154 of the Constitution, 1996.

### **3.3 Target Population**

Brynard and Hanekom, (1997:43) state that "population" does not refer to the population of a country but to objects, subjects, phenomena, cases, events or activities, which the researcher wishes to study in order to establish, new knowledge. The purpose of the research determines which subjects, objects, phenomena, etc. are to be chosen as the "population" from which the sample is to be selected. (Bless and Higson, 1995:87) explain a population – sometimes referred to as 'target population' – as the set of elements that the researcher focuses upon and to which the results obtained by testing the sample should be generalized. It is absolutely essential to describe accurately the target population.

The DLGTA oversees support to all the forty five municipalities in the Eastern Cape. SRVM is a municipality of the Eastern Cape Province which was under administration in terms of Section 139 of the Constitution, 1996 from February 2010. The section 139 (1)(b) intervention was put in place and ran up until end of December 2011. The municipality was targeted for the purposes of the study.

Forming part of the targeted population was the former Mayor/ Speaker and any two Senior Managers (section 56 Managers) during the intervention period at the selected municipality as well as the Administrator appointed to oversee the intervention. Also targeted were senior officials of the DLGTA in the Eastern Cape. The General Manager (Chief Director): Municipal Governance and Support, who was in charge of the chief directorate that coordinated the intervention in the targeted municipality as well as two Senior Managers who headed directorates that were

directly involved by way of assisting the appointed Administrator who was tasked with turning things around in the municipality. The Senior Managers were from Municipal Development Finance and Municipal Administration Directorates. The two directorates are at the core of governance by way of the monitoring and support rendered by the DLGTA to the municipalities of the Eastern Cape. Stakeholders representing citizens, e.g. business, community organizations as well the unions representing labor in the selected municipality were also targeted.

### **3.4 Sampling and Sampling Method**

De Vos *et al*, (2002: 199) state that researchers study a sample in an effort to understand the population from which it was drawn. As such, researchers are interested in describing the sample not primarily as an end in itself, but rather as means of helping them to explain some facet of the population. They further state that the major reason for sampling is feasibility. A complete coverage of the total population is seldom possible, and all members of a population of interest cannot be reached. The use of samples may therefore result in more accurate information than might have been obtained if one had studied the entire population.

Babbie and Mouton, (2002: 166) state that sometimes it is appropriate to select one's own sample on the basis of one's own knowledge of the population, its elements, and nature of one's research aims. In short this means that the study at hand was based on purposive sampling. They also state that purposive sample is the type of sample that is based on the judgment of the researcher in that, the sample is composed of elements that contain the most characteristic, representative or typical attributes of the population, De Vos *et al*, (2002: 207). The researcher has selected participants according to the needs of the study. Through the sample selected from the targeted population an evaluation of the impact of the two aforementioned legal instruments was done. **Table 1** below presents the selected sample.

**Table 1**

<b>Sample</b>	<b>Sample Size</b>	<b>Participated</b>	<b>Non Participants</b>	<b>% Participated</b>
Municipal Functionaries	3	3	0	100
Departmental Officials	4	4	0	100
Stakeholders (Citizens)	3	2	1	66,6
<b>Total</b>	<b>10</b>	<b>9</b>	<b>1</b>	<b>90</b>

A number of municipalities in the Eastern Cape were earmarked for provincial intervention by the DLGTA early in 2009 due to the fact that they were experiencing structural and institutional challenges. DLGTA successfully requested and received approval from the Provincial Executive Council to intervene in the affairs of Sundays River Valley Local Municipality. The study evaluated the role of DLGTA in terms of its mandate towards the targeted municipality in respect of both aforementioned legal instruments. Again the study also assessed the impact of these two legal instruments as perceived by the DLGTA officials, functionaries from Sundays River Valley municipality and their communities at large. A comparative assessment on the effectiveness of the two legal instruments of monitoring and support in the targeted municipality was also done.

### **3.5 Data Collection Methods and Procedures**

Walsh, (2001:7-9) explains the term 'data' as simply referring to the items of information that are produced through research. When using a questionnaire, the 'data' that the researcher collects are the answers that each respondent gives to the questions asked. This kind of data is new, original research information that's directly obtained by the researcher. In the case the study at hand, municipal functionaries represented by the Mayor/Speaker and two Section 56 Managers (top management), and departmental officials responded to the questionnaires provided. Again stakeholders representing citizens were interviewed and responded. Responses received from all the respondents became the original information obtained by the researcher.

Secondary data refers to sources information that already exists on the subject being researched. Documents, books on a subject, information on the internet, information generated in the local government sphere in the case of the study at hand, reports as well as what has already been researched on the subject being investigated by the researcher form part of this secondary data. Primary and secondary sources which include data from respondents and available reports and documents generated in the South Africa local government sphere during the new dispensation were made use of in the study.

The survey and interview method as well as observation techniques were mainly used by the researcher in the collection of data from the selected respondents. O' Leary (2010:180) argues without doubt that surveys and interviews are methods of choice in social science data collection. Surveys and interviews put the researcher in charge. Data collection can be directed to match the research question, hypothesis, aims and objectives with some precision. The interview as a method of collecting data allows the researcher to explain his or her questions if the respondent is not clear on what was asked and also allows deeper probing with follow-up questions. Contact of two minds in a face-to-face conversation could have a positive effect on the respondent interviewed by opening up with opinions and case instances, Brynard and Hanekom (1997:32).

A disadvantage of the interview could be the fact that respondents may fear to commit by telling the truth, (Ibid, 1997:38). Bless and Higson-Smith, (1995:110) state that incompetent interviewers may introduce many biases and recording of comments of the respondents can be a delicate matter because of the great variety of answers and their complexity. Interviews can be also be time consuming and thus expensive.

Questionnaires have their own advantages and disadvantages. Brynard and Hanekom, (1997:38-39) explain that the advantage of a questionnaire is that respondents have time to think about answers to questions in the questionnaire and a large number of respondents distributed over a large geographical area can be

reached. A self-administered questionnaire offers the advantage of the possibility of anonymity and privacy, which in turn encourages candid responses on sensitive issues whereas in an interview there will be fewer incomplete questionnaires and fewer misunderstood questions. There will be a generally higher return rates, and greater flexibility in terms of sampling.

Disadvantages that can be experienced include the fact that a researcher is not at hand to explain uncertainties which may result in biased or distorted answers by the respondents and questionnaires could be quite costly, especially where a large number of respondents have to be reached in order to minimize the percentage error in the results obtained. Respondents will have to be supplied with addressed envelopes with the correct postage affixed.

In the study at hand the respondents (municipal functionaries) were emailed the questionnaires and all responded thus providing 100% responses as indicated in **Table 1** in the chapter at hand. Questionnaires to departmental officials were hand delivered again all responded thus providing 100% responses. Indeed, candid responses on sensitive issues were received from all respondents due to the advantages offered a self administered questionnaire. Three municipal functionaries and tree departmental officials as well as the Administrator that was appointed by the DLGTA participated as outlined in **Table 1**. Out of three respondents representing stakeholders of the community that were approached only two participated and answered to the interview questionnaire. The third respondent representing business community of SRVM declined to participate citing fear of bringing damage his business interests. The overall response rate to the self-administered questionnaire and the interview questionnaire was that a 90% response rate was achieved. The main challenge that was encountered was the fact that the intervention took place in 2010 and some of the respondents needed to have their memories refreshed by colleagues hence it took time for the questionnaires to be returned.

### **3.6 Data Analysis**

Data analysis is the process of bringing order, structure and meaning to the mass of collected data, (De Vos *et al*, 2002: 339). In the analysis process the researcher will employ data filtering technique and graphical analysis. Once data collection has been completed, an in-depth analysis of the data will be made by means of data filtering. The researcher filtered the massive amount of data collected until only that which is critical to the research remains. This process will be guided by the following variables; research topic, hypothesis if there is any, objectives, quality of data, relevance, confirmation of the research problem and target population, (Brynard and Hanekom, 1997: 48 – 50). In the study at hand the research question also guided the process.

Statistical data not only require careful analysis but also provide attractive display for easier understanding and communication. One of the choices a researcher has to make is whether a set of information is best presented as a table, a graph or as text. The main objective of a graph is to present data in a way that is easy to understand and interpret, and interesting to look at. A researcher's decision to use a graph should be based mainly on this consideration. Graphic representation often makes it easier to see the pertinent features of a set of data. Graphs can be constructed for every type of data – quantitative and qualitative – and for any type of variable, (Kumar, 2005: 252-253). All the data that was collected from primary and secondary sources on the subject under investigation was analyzed and assessed using the tools mentioned above to validate the researcher's contention.

A quantitative analysis was done wherein the data collected was scrutinized closely with some of the responses being analyzed numerically. The number of respondents, gender issues pertaining to respondents, responses needing yes and no answers given and the type of responses by respondents were interpreted by assigning numerical values to them as well as interpreting them graphically. On the descriptive responses a qualitative analysis was done giving meaning to the views provided by respondents from the mass of data collected.

### **3.7 Conclusion**

The foregoing chapter covered the methodology or detailed strategy on how the information gathering process was conducted by the researcher. The main focus was to explain the tools used in the gathering of data from the targeted respondents and the tools were carefully selected to suit the study. From the analysis of the responses of the respondents the key questions of the research were answered. It assisted in explaining the relationship between the tools of monitoring and support provided by section 154 and 139 of the Constitution, 1996 in their implementation in municipalities by DLGTA, particularly at SRVM. The evaluation research conducted also established the successes and failures of the intervention as implemented by the DLGTA at Sundays River Valley Municipality. The researcher detailed the research design wherein the target population, sampling method, data collection and procedures and data analysis were presented.

## **CHAPTER FOUR**

### **QUANTITATIVE ANALYSIS**

#### **4.1 Introduction**

Analysis of data collected from respondents using self-administered questionnaires and interview questionnaires, which is information gathered from primary sources is the main activity contained in the chapter at hand. "This analysis of data is conducted so that the researcher can detect consistent patterns within the data, such as the consistent covariance of two or more variables", (Bless and Higson-Smith, 2004:137).

Through the data analysis exercise the generalisation process becomes possible. "Furthermore, the data analysis process allows the researcher to generalize the findings from the sample used in the research, to the larger population in which the researcher is interested", (*Ibid*, 2004:137).

Analysis involves "breaking up" the data into manageable themes, patterns, trends and relationships. The aim of analysis is to understand the various constitutive elements of one's data through an inspection of the relationships between concepts, constructs or variables, and to see whether there are any patterns or trends that can be identified or isolated, or to establish themes in the data. Analysis also involves interpretation which is the synthesis of one's data into larger coherent wholes. Interpretation means relating one's results and findings to existing theoretical frameworks or models, and showing whether these are supported or falsified by the new interpretation. Interpretation also means taking into account rival explanations or interpretations of one's data and showing what levels of support the data provide for the preferred interpretation, (Mouton, 2009: 108 – 109).

The researcher guided by the research questions in this chapter presents a summary of the grouped data, the results of the analysis and discussions thereof. The chapter at hand (quantitative analysis) as well as the following chapter on qualitative analysis cover all that is encapsulated by the aforementioned argument. Both chapters are interrelated and are mainly about bringing interpretation to the collected data in order to make generalizations on the emerging trends and patterns.

The main objective of the study was to assess the effectiveness of the provincial intervention in accordance with section 139 of the Constitution, 1996 in dysfunctional municipalities in the Eastern Cape as a viable instrument vis-à-vis the implementation of the continuous support in terms of section 154 of the same Constitution. The implementation of both sections of the Constitution, 1996 in the Eastern Cape municipalities was the focus of the study. The study focused on two key objectives:

- to assess the impact of application of section 139 of the Constitution, 1996 vis-à-vis implementation of section 154 of the same Constitution; and
- to provide recommendations pertaining to the implementation of the instruments of monitoring and support enshrined in the Constitution.

#### 4.2 Quantitative Data Analysis

As indicated in chapter three, a questionnaire made up of seventeen questions was administered to the functionaries who were in the employ of the municipality at the time of the intervention at SRVM. The functionaries were represented by the Mayor/Speaker and two Section 57 Managers.

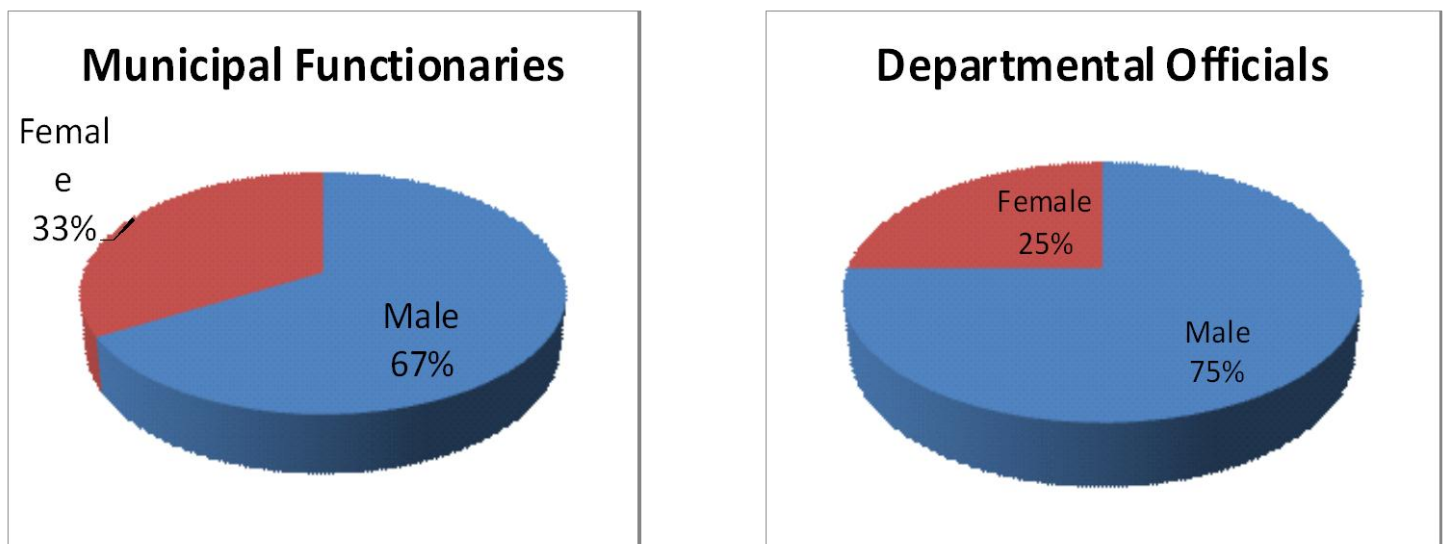


Figure 1

The pie chart in **figure 1**, graphically illustrates the gender representation in the category represented by municipal functionaries. It was observed that all respondents returned their filled questionnaires and this represents a 100%

response. Within this category of respondents a gender balance was observed in that two of the respondents were females. This then translates to 67% female representation at the political leadership and management level. The same set of questions was again administered to departmental officials targeted in the study and all respondents returned their filled questionnaires. This again indicates a 100% response by the respondents. A second pie chart in **figure 1**, again graphically illustrates gender representation in the category of departmental officials. Within this category of respondents a great gender disparity was observed in that only one respondent was a female out of four respondents. This translates to 25% female representation at the departmental level. The DLGTA needed to address issues of equity at the level of senior management. At the time, female representation was at unacceptable levels because the males were seen to be dominating.

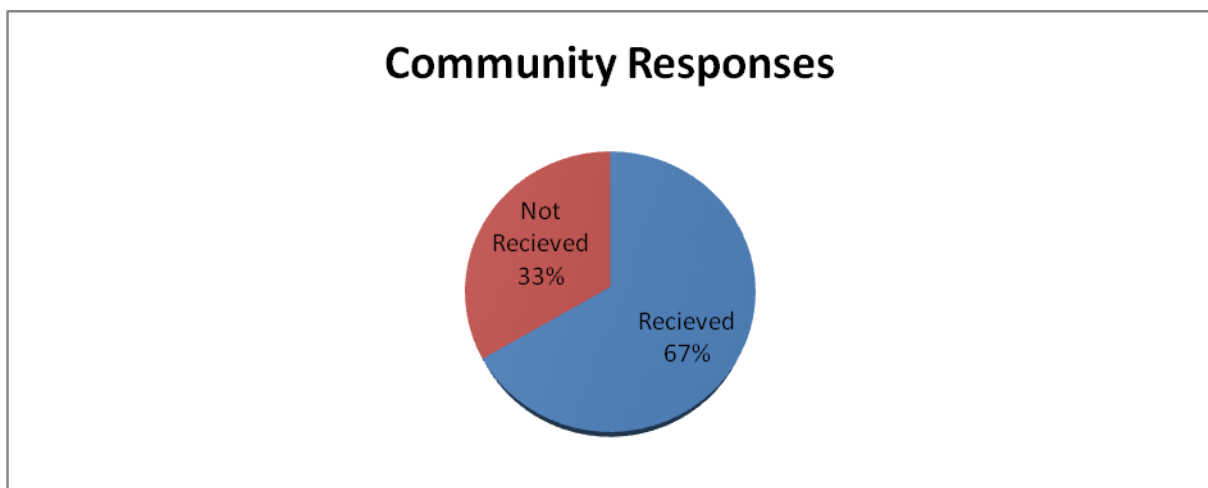


Figure 2

Three members representing stakeholders of the community were also interviewed. They were asked a set of eight similar questions and only two cooperated by answering to the interview questionnaire. One respondent representing business fraternity (butchery) declined to participate citing fear of bringing damage to his business. A 67% response was achieved and from the pie chart in **figure 2** participation trends are graphically presented.

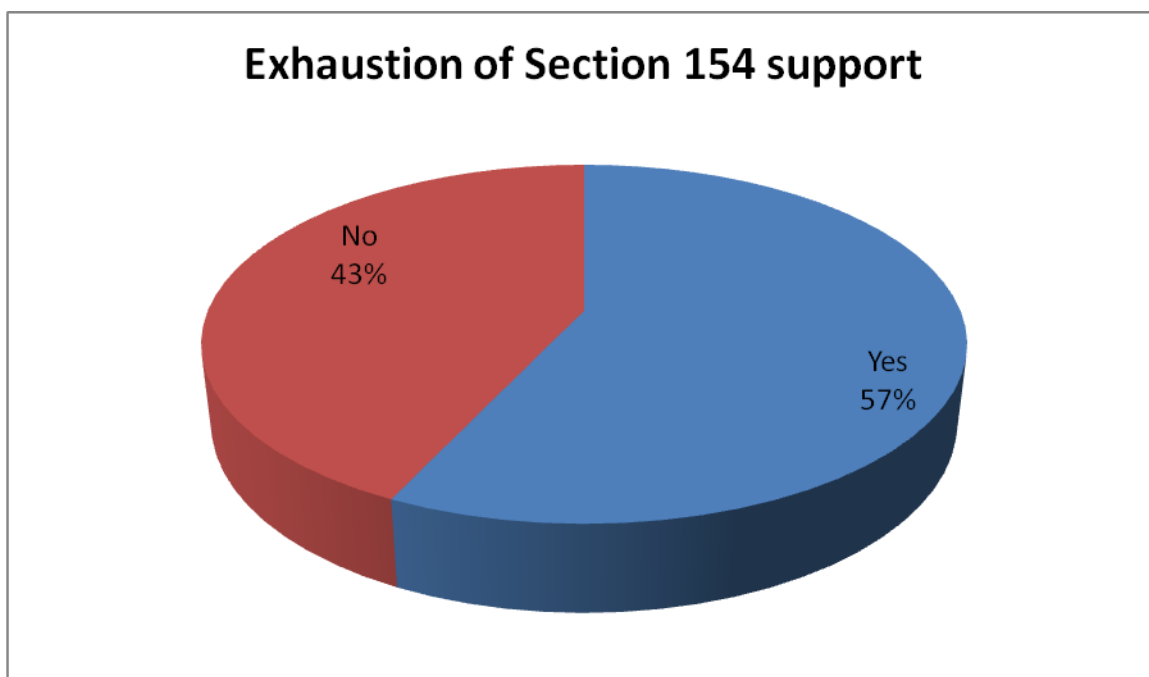


Figure 3

Coming to the analysis of the responses, a varied number of responses on the yes or no questions were received from the respondents thus leading to an observation of perceived disagreement on some of the issues pertaining to the implementation of the instruments of monitoring and support which are under investigation at SRVM.

On the question of whether section 154 of the Constitution was exhausted at SRVM before the invocation of section 139 of the same Constitution, it was observed that 57% of the respondents answered no whereas 43% answered yes. This indicates that there is disagreement between the municipal functionaries and the departmental officials. What also was observed was the fact that all municipal functionaries and one departmental official answered no whereas the rest of the departmental officials answered yes. A graphical representation of this disagreement between municipal functionaries and departmental officials is presented by the pie chart in **figure 3**.

On whether the provincial section 139 intervention in municipalities does make an impact in terms of serving as a deterrent to non – compliance, it was observed that 100% of the respondents were in agreement by answering yes. This indicates that the provincial intervention does make an impact in terms of serving as a deterrent to non – compliance by municipalities.

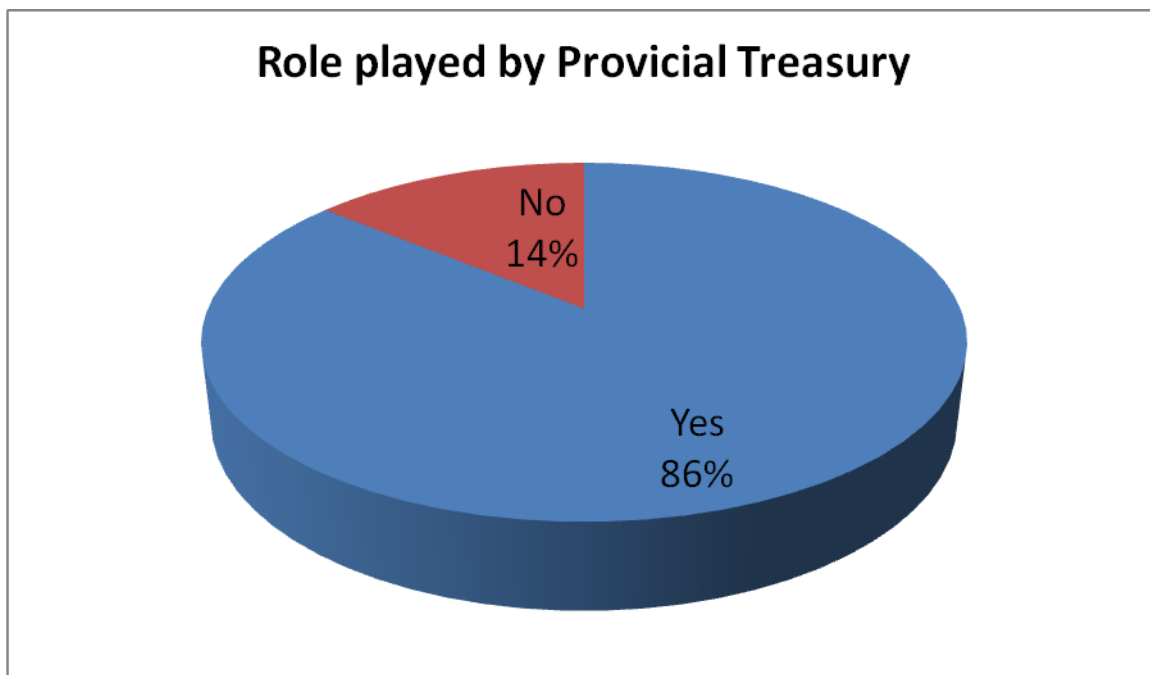


Figure 4

The pie chart in **figure 4** illustrates the responses on the role played by the Provincial Treasury at SRVM prior and during the intervention period, 86% of the respondents acknowledged the role played by Provincial Treasury at SRVM prior and during the intervention. 14% of the respondents answered no to the question. What became clear on the explanations provided to qualify the responses was the question of the two departments; i.e. DLGTA and Provincial Treasury, which work in silos.

Checking the capacity and readiness of the DLGTA to execute its mandate as enshrined in sections 154 and 139 of the Constitution, all respondents answered yes meaning the DLGTA was ready and capacitated to execute its mandate. This was a 100% yes from all the respondents. On whether there were any measures that were put in place at SRVM in order to avert dysfunctionality and collapse, all respondents answered yes. This again was a 100% yes from all the respondents. This again is an indication that section 139 of the Constitution, 1996 does make an impact in terms of averting dysfunctionality and collapse in municipalities. Section 139 is a measure that is used to turn things around in dysfunctional municipalities and this due to the powers given to the provincial department. No graphical presentation is displayed in respect of both questions.

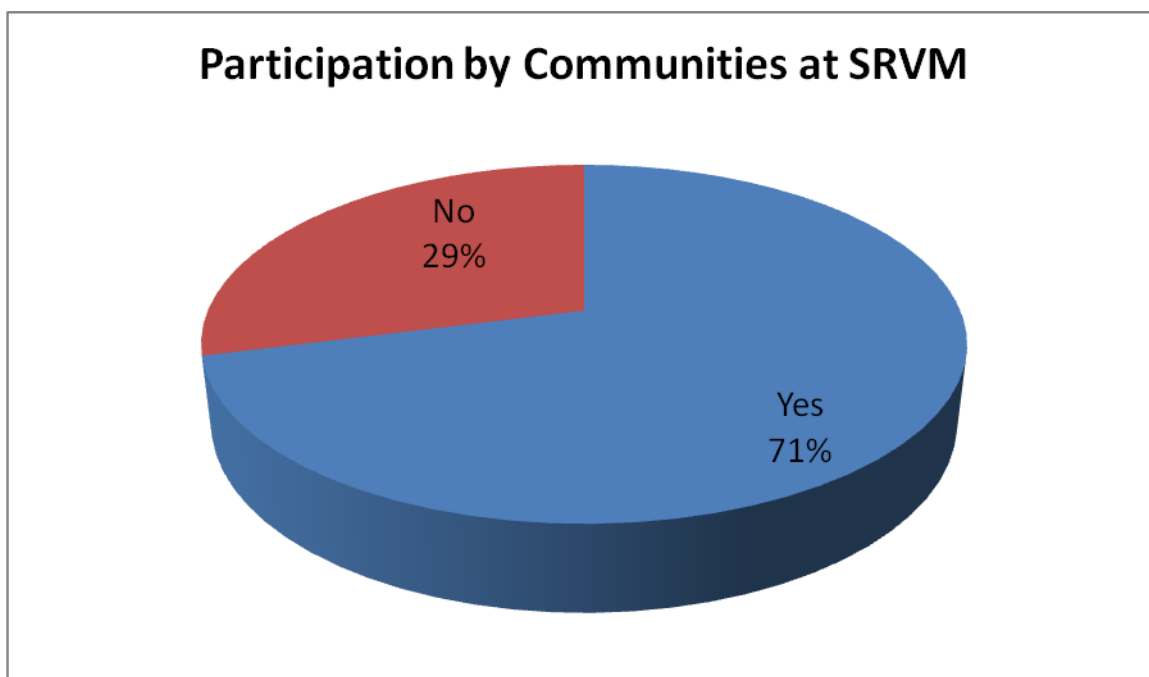


Figure 5

Lastly, **figure 5** displays graphically in a pie chart, participation trends by members of the community in the affairs of the municipality prior and during intervention period. Responses indicate a 71% answer of yes whilst 29% answered no. This is an indication that there could have been some form of participation by the communities prior the intervention. The 71% yes response was brought about by the intervention measures fostered by the Administrator as one of the key performance areas in the terms of reference.

### 4.3 Conclusion

The researcher in the chapter at hand uses an approach where numbers or numerical values are assigned to observations. Numerical data was collected in the course of the study hence numerical analysis has been done. By counting and measuring “things” or “objects”, data is produced. Through this approach numeric description of trends, attitudes and opinions of a population were derived by studying the sample of that population. In the study, municipal functionaries, DLGTA officials as well as stakeholders represented by business, labour and community organizations of the selected municipality is the sample that was studied. The responses from the respondents were analyzed and numerical values attached to the data collected.

In the data analysis process undertaken in the foregoing chapter the researcher made use of a technique called graphical analysis for the purposes of displaying statistical data. The main aim for doing this is to present data in a way that is easy to understand and interpret. Observations were made from the responses of the respondents to the effect that the two instruments of monitoring and support provided by sections 154 and 139 indeed do complement each other in their application by DLGTA in particular at SRVM.

## CHAPTER FIVE

### QUALITATIVE ANALYSIS

#### 5.1 Introduction

The researcher is using a case study of Sundays River Valley Local Municipality to showcase the common challenges obtaining at the local sphere of government. Having received responses from the respondents who were selected as the sample of the targeted population, analyzed and interpreted the data generated. The DLGTA oversees support to all the forty five municipalities in the Eastern Cape. SRVM is a municipality of the Eastern Cape Province which was under administration in terms of Section 139 of the Constitution, 1996 from February 2010 to January in 2011.

Analysis of data collected from respondents using self-administered questionnaires and interview questionnaires, which is information gathered from primary sources became the main activity contained in the chapter at hand. "This analysis of data is conducted so that the researcher can detect consistent patterns within the data, such as the consistent covariance of two or more variables", (Bless and Higson-Smith, 2004:137).

The researcher again included secondary data which refers to sources of information that already exists on the subject being researched in the analysis conducted from the responses of the respondents. Documents, books on a subject, information on the internet, information generated in the local government sphere in the case of the study at hand, reports as well as what has already been researched on the subject being investigated by the researcher form part of this secondary data. Available reports and documents generated in the South Africa local government sphere during the new dispensation were made use of in the study.

As indicated in the previous chapter, the researcher guided by the research questions in this chapter presents a summary of the grouped data, the results of the analysis and discussions thereof. The previous chapter and the chapters at hand are

interrelated and are mainly about bringing interpretation to the collected data in order to make generalizations on the emerging trends and patterns.

## **5.2 Qualitative Data Analysis**

This section of the analysis details the views of the municipal functionaries, departmental officials and stakeholders representing the community of Sundays River Valley Municipality. An analysis of the descriptive views of the respondents is carefully detailed to check on trends and patterns that are emerging that will ultimately provide evidence for the researcher to make generalizations on which the researcher's contention will be validated.

As indicated in the quantitative analysis each category of respondents was subjected to the same set of similar questions and the responses were summarised according to similarity of opinions. Three functionaries at a political and management level of the municipality, i.e. the Mayor/Speaker and two Section 57 Managers at the time of the intervention were provided with the same questionnaire. Again three departmental officials, i.e. Chief Director, and two Senior Managers from the DLGTA who were responsible for the intervention at SRVM at the time as well as the appointed Administrator were also given the same questionnaire which was answered by the municipal functionaries. Lastly, two representatives who are stakeholders in the community were interviewed. They were a labour representative at SRVM and a member of the Emlungisi Disability Organisation.

### **5.2.1 The Views Emerging from the Municipal Functionaries**

Data collected from this category of respondents brings to the fore a number of observations. Below are some of the perspectives that were observed:

- **awareness by municipal functionaries at the level of political leadership and management on whether section 154 of the Constitution, 1996 (continuous support) was exhausted prior invocation of the section 139 of the same Constitution.**

Information gathered from respondents indicates an agreement between the Mayor/Speaker and the Section 57 Managers. All respondents are unanimous in

agreeing that this instrument was never exhausted prior the invocation of section 139. All the respondents point to political instability that was prevailing at the municipality at the time. There were infightings and factions within the majority party coupled with a number of Section 57 Managers leaving the institution. The municipality was also not financially stable and was unable to meet its obligations let alone pay salaries of staff hence it resorted to use of conditional grants for operational costs. This again was coupled with community frustrations and protests. In an environment like this, one with political instability at the core of the problems of the municipality, no amount of support from national and provincial governments would have been embraced. Advice and recommendations from these spheres could not be implemented.

- **linkage between the two legal instruments as well as the role of the Mayor/Speaker, Section 56 Managers, Administrator and Departmental Officials in the implementation of the legal instruments in a municipality.**

All respondents in from this category articulated in unison that the linkage between the two legal instruments is about the support that is rendered by the other two spheres of government to capacitate and support the municipalities so that they are able to run their affairs in their own space, i.e. delivering services to the communities. Once they fail in doing what they are mandated to do the provincial government has at its disposal section 139 of the Constitution as an instrument that will put corrective measures to restore proper governance and sound administration systems so that the municipality performs the functions that it is mandated to do by the Constitution.

The Mayor/Speaker will play the oversight role and create a proper environment for the administration to perform its duties. Both the Mayor/Speaker and Section 56 Managers are responsible for managing the affairs of the municipality to the best advantage of the community. The Administrator is appointed to bring about a plan to turn things around in a municipality on behalf of the provincial government when municipal functionaries fail to deliver on their mandate. Departmental officials are to

ensure that capacity support is given wherever lack thereof is identified as well as give support to the Administrator.

- **the impact of provincial intervention in terms of serving as a deterrent to non-compliance by municipalities.**

Municipal functionaries are in agreement on the impact of the intervention and go on to qualify this assertion by stating that a municipality has to operate within the confines of legislation thus becoming compliant which in the end improved financial stability, service delivery and oversight. They agree that lack of compliance at SRVM resulted in conditional grants being diverted to salaries and housing projects as well as other issues.

- **change management issues and the concept of IGR at SRVM in respect of the two instruments of monitoring and support (s154 and s139).**

Responses on the change management issue talk to the need to change on the way things were done in the past by those charged with the responsibility of oversight as well as change by management on the way it thinks about strategic issues in an institution that is failing in its mandate. There is a view among the respondents that change management on municipal functionaries must actually be at capacity building on the identified skills shortages. Both the politician's perspective on what their role is and at the management's perspective on how to run the organisation, needs to change. The change is necessary to ensure service delivery to the community is improved and that better accountability on the finances of the organisation can be implemented.

Municipal functionaries are of the same understanding about matters relating to cooperative governance enshrined in the Constitution as well as the IGR Act. Cooperation between the three spheres is of importance if communities are to be served. The view emerging within this category is that the problems that were obtaining at SRVM were a direct result of not heading principles of cooperative governance. Not working with other spheres on matters of compliance resulted in the municipality degenerating thus the need for invocation of the section 139

intervention which ultimately fostered change in the municipality through powers bestowed to the provincial government.

On the rating in terms of the Key Performance areas the respondents in this category are unanimous that the municipality fared poorly in all municipal functional areas. The Key Performance Areas were; Transformation and institutional Development, Financial Viability and Management, Good Governance, Basic Service Delivery and Local Economic Development. This is an indication of a municipality that is on the verge of collapse.

- **Section 154 as a tool of monitoring and support that provides early warning signals of the potential failure in governance and administration systems thus resulting into dysfunctionality.**

Responses from municipal functionaries at SRVM indicate that management did its best to bring to the attention of the political arm of the municipality the warning signals. It is reported by the respondents in this category that the Council at the time did not convene regularly and if they did, no constructive decisions were taken due to the political instability. The warning signals were also reported to National, Provincial and Treasury through the reporting requirements expected of a municipality. Provincial Treasury assisted with drafting of a financial recovery plan which was never implemented by the Council until the intervention.

- **the role played by the National and Provincial Departments as well as the District Municipality at SRVM in respect of the instruments of monitoring and support prior and during the intervention.**

Data received from municipal functionaries reveal that prior to the intervention there was a distant interaction between the three entities mentioned – receiving of reports and the overseeing of compliance issues. The respondents confirm that during intervention period the three entities moved closer to the municipality in trying to resolve the municipal problems. There is a sense that the District Municipality played its role but on its own it couldn't have resolved the problems at SRVM without the other two entities coming on board.

On the role of the Provincial Treasury, data indicates that all the municipal functionaries are in agreement that assistance was provided by way of the development, execution and monitoring of the financial recovery plan.

- **readiness and capacity of DLGTA to execute its mandate as provided by sections 154 and 139 of the Constitution as well as the section that is most effective and likely to make an impact between the two.**

Information gathered from municipal functionaries reveals agreement between the respondents on the readiness and capacity of DLGTA to execute its mandate and all respondents rated the DLGTA high in terms of the execution of its mandate. Also, one view from the respondents is that both sections are effective depending on the severity or nature of the problems faced by a respective institution.

- **public participation by the communities in the affairs of the municipality prior and during the intervention period.**

From information gathered, respondents agree on the participation of communities in the affairs of the municipality but on the rating in the involvement of the community in the municipality's affairs a different outcome is received which is contrary to the unanimous view of participation by the same community. The two responses are indicative of a cover up by the respondents represented by the municipal functionaries.

### **5.2.2 The Views Emerging from the Departmental Officials**

Observation from the gathered data revealed that the respondents from this category complimented some of the assertions or responses by the municipal functionaries but conflicted with some of their assertions.

- **awareness by the departmental officials on whether section 154 of the Constitution, 1996 (continuous support) was exhausted prior invocation of the section 139 of the same Constitution.**

Based on the data gathered, it was found that one respondent out of four respondents answered with a no answer thus complimenting the responses of the

view held by municipal functionaries. This is a view that is opposed to the yes answer provided by the other three respondents who are of the view that section 154 support was exhausted. The Administrator would not have been in a position to know of support rendered prior the intervention as she only came to the municipality when she was appointed to the position of Administrator after the provincial government had intervened in the affairs of the municipality.

The official who answered no gave a number of reasons which led to the DLGTA invoking section 139 of the Constitution at SRVM. In the respondent's opinion, even though section 154 was never exhausted there were compelling reasons for the invocation of section 139 of the Constitution. This respondent cites the volatile situation wherein the ratepayers had taken a legal action against the municipality for the reinstatement of the dismissed or suspended Municipal Manager. The respondent again cites dire financial situation of the municipality which resulted in the use of conditional grants for operational costs. Again the infighting between the divided councillors is also mentioned. This opinion of the respondent collaborates the views of the municipal functionaries when they also state that such section 154 support in the environment at the time would not have been embraced by the municipality.

- **linkage between the two legal instruments as well as the role of the Mayor/Speaker, Section 56 Managers, Administrator and Departmental Officials in the implementation of the legal instruments in a municipality.**

Data emerging from Departmental Officials compliments what is articulated by the municipal functionaries in the aforementioned regard. With the officials, the emphasis is on the articulation of the Constitutional prescripts as enshrined by the two legal instruments of monitoring and support. When all else fails by way of the section 154 of the Constitution, section 139 of same Constitution will be invoked as a corrective measure to restore stability in the areas of governance, administration and service delivery.

- **the impact of provincial intervention in terms of serving as a deterrent to non-compliance by municipalities.**

Again, data gathered from the respondents point to compliance issues being adhered to in the municipality hence funds for water services were ring-fenced for such intended purposes as this was one of the sore points wherein some areas were without water for a period of time. This was a violation of the rights of citizens and thus a failure by the municipality on its executive obligations. Operations of SRVM during the intervention were within the ambit of the law leading to better audit outcomes – navigating from disclaimer to qualified audit outcomes. Reporting to prescribed institutions improved as well as the collection of revenue. Again, improved public participation and governance is noted by respondents. The respondents were also quick to note the improvements once the intervention was in place meaning compliance and impact during the intervention period was observed.

- **change management issues and the concept of IGR at SRVM in respect of the two instruments of monitoring and support (s154 and s139).**

Respondents represented by the departmental officials concur with the views of the municipal functionaries in respect of the issues of change management. Respondents expressed the need on the part of the politicians to be changed in order to ensure that all their executive obligations are performed and that they provide political guidance over the fiscal and financial affairs of the municipality. The respondents further contend that management and the rest of the municipal employee should ensure accountability about their actions and also comply with the prescribed laws and regulations. Another view advanced by the respondents is the fact that municipal functionaries need to change on the way they act towards communities they serve. They need to involve communities in their own development so as to promote a culture of ownership and need also to plan with them.

Responses of the departmental officials echo the same sentiments as expressed by the municipal functionaries wherein they related how DLGTA convened a meeting

with the municipal council prior the intervention where the council was notified of its failure to fulfil its constitutional obligations despite departmental support in terms of section 154. An amicable solution was arrived at in the meeting wherein the Council accepted the support in terms of section 139 as it was the only solution that could save the municipality from collapse. This was done in the spirit of cooperative governance.

Departmental officials were also unanimous by giving low ratings to the municipality in terms of the Key Performance Areas as represented by; Transformation and Institutional Development, Financial Viability and Management, Good Governance, Basic Service Delivery and Local Economic Development. This was in line with the responses of the municipal functionaries.

- **section 154 as a tool of monitoring and support that provides early warning signals of the potential failure in governance and administration systems thus resulting into dysfunctionality.**

Emerging opinions of respondents from the category represented by departmental officials indicate that the DLGTA became aware of the situation in SRVM through its monitoring and support mechanisms. The data obtained also indicate that the municipality was advised of the consequences of the municipality's actions but there seemed to be no political will to address the observed failures. According to the respondents, it is on this basis that DLGTA took the decision to invoke section 139 of the Constitution. This was done in order to avert total collapse of the municipality.

- **the role played by the National and Provincial Departments as well as the District Municipality at SRVM in respect of the instruments of monitoring and support prior and during the intervention.**

Data collected in respect of the roles played by the mentioned entities indicate a lukewarm support from the national sphere except for the support during the intervention. The district seemed to have supported the most prior the intervention and this has been acknowledged by the respondents represented by the municipal functionaries. Again respondents in the category acknowledge a significant support from all the three entities during the intervention period.

In respect of the role played by Provincial Treasury data reveals that this department has always supported the municipality prior and during the intervention but what seems to be at odds is the fact that this department and the DLGTA seem to have operated in silos prior the intervention. Provincial Treasury being the custodian of financial management in municipalities should from time to time share information with the DLGTA which is a department that oversees municipalities. It is only during intervention periods that there was a working relation between the two provincial departments.

- **readiness and capacity of the DLGTA to execute its mandate as provided by sections 154 and 139 of the Constitution as well as the section that is most effective and likely to make an impact between the two.**

Data from all the respondents indicate that there was readiness and capacity on the part of the DLGTA to execute its mandate at SRVM as mandated by sections 154 and 139 of the Constitution. The respondents representing departmental officials also rated the DLGTA high in the execution of its mandate.

Information gleaned from the collected data bring to the fore the fact that section 154 support is effective and more likely to make an impact. This support is also sustainable where there is stable political and administrative environment. The data also indicates that section 139 is effective to restore the functionality of the municipality, because of the power that is vested in the Administrator. This support on the other hand is regarded as not being sustainable in that it is time bound as well as expensive due to the funds that need to be injected in order that it can be effective.

- **public participation by the communities in the affairs of the municipality prior and during the intervention period.**

With the data coming from respondents represented by departmental functionaries it was clear that there was little participation by the communities in the affairs of the municipality. The public participation was only prioritised during the intervention

period. Further data also reveal that DLGTA did not have adequate resources to provide post intervention support.

### **5.2.3 The Views Emerging from Stakeholders Represented by Citizens**

The information gathered from the data collected presented the view point of the stakeholders representing the communities of Sundays River Valley Municipality. It was observed that within the community there are organised associations which represent different interests. South African Municipal Workers Union (SAMWU) represents a labour formation within SRVM and looks after the interest of the workers in the employ of the municipality. This grouping also has interests in matters of service delivery besides labour matters because first and foremost, they are residents within the Sundays River Valley Municipal area. Emlungisi Disability Organisation represents the physically challenged members of one of the townships in the municipality.

- **justification of the invocation of section 139 instead of the intensification of section 154 of the Constitution by the Provincial Government.**

In the data collected from the targeted community representatives, it was observed that the stakeholders agreed with the invocation of the section 139 of the Constitution. This indicates a level of dissatisfaction within the communities of Sundays River Valley Municipality. The SAMWU member went further and cited some of the underlying reasons that justified the invocation of the section 139 intervention. Lack of capacity on how the administration was run, lack of revenue collection, no communication between the municipality and the community, no oversight committees in the areas of finance, administration technical and community service are some of the reasons advanced. In this regard the invocation of the section 139 of the Constitution was supported by community members.

- **community role in the affairs of the SRVM in so far as participation in governance and administration matters.**

Observations made from the data collected indicate agreement in this category of respondents wherein they acknowledge the participation of the community in the affairs of the municipality during the intervention period. Participation in ward committees and being allowed to come and observe in the Council meetings are some of the activities which are cited by the respondents. This also indicates the impact and changes brought about by the section 139 intervention which are also acknowledged by respondents from the other categories asked to respond to the issues of community participation in municipal affairs. The tendency of municipalities is to leave communities behind. Community participation is one of the building blocks of good governance.

- **impact made by the provincial intervention in terms of changing the lives of the community of Sundays River Valley Municipality.**

It is observed in the information gathered that the two respondents in this category are contrasting each other when responding to the question posed. One of the respondents did not see any impact made by the intervention whilst the other observed a fifty percent change in the lives of the citizens. This again collaborates some of the observations from the other categories of respondents such as the municipal functionaries and departmental officials when they recorded in their responses a significant impact made during the intervention period.

- **relations obtaining between the community and Sundays River Valley Municipality prior the intervention and ongoing public education on the role of public in managing municipal performance.**

Again it was observed from the data collected from the responses of the two respondents is contrasting in that one respondent cited in a lamenting mood the termination of the housing project at SRVM in which communities participated. From information at the disposal of the researcher documented in one of the chapters of this study, there was a need to terminate this project as it became clear to the Administrator that it contributed to the challenges facing the municipality. The other

respondent in the data gathered revealed a non-existent relationship between the municipality and the community. Non-existent ward committees before the intervention and decisions taken by council that were not informed by the community were some of the reasons advanced.

Again an observation is made on the contrasting views between the two respondents from the data collected in respect of the ongoing public education on the role of public in managing municipal performance. One respondent claims no education in this regard ever took place whilst the other cited existence of ward committees where sometimes public meetings engage in activities to educate people about performance.

- **role played by community organisations to increase credibility and legitimacy of the performance of the municipality and other views of on the implantation of the legal instruments of monitoring and support.**

Information from data reveals the involvement of community organisations in the forums initiated by the Administrator. The observer status afforded to SAMWU in Council and some management meetings is a testimony to this. From the gathered data, it is observed that the other respondent acknowledges efforts by the respondent in ensuring involvement of the community in municipal projects.

Lastly, the data brings to the fore wishes and fears of the members of the community of Sundays River Valley Municipality. It is revealed through the information gathered that the community acknowledges that SRVM is a small rural municipality that is in need of revenue as well as support from the provincial government. Also, it is coming out from the data that things are no longer they way they were when the intervention was in place. One respondent blames the lack of support that is no longer forthcoming from the other spheres of government since the intervention was terminated. This is an indication of the lack of after care or post monitoring and support by DLGTA after the termination of the intervention.

## **5.3 The Views Emerging from Documentary Analysis**

### **5.3.1 General Challenges that Led to Provincial Intervention at SRVM**

In a memorandum of the DLGTA dated 19 January 2010, written to request for approval of the Eastern Cape Provincial Executive Council to delegate the power to invoke section 139 (1)(b) of the Constitution, 1996 to the MEC of the DLGTA, a whole range of challenges besetting the municipality is detailed. The challenges were due to the municipality's inability to fulfill its executive obligations because of political and administrative instability which was prevailing at the time within SRVM. The application for invocation of section 139(1)(b) of the Constitution, 1996 in the affairs of SRVM was sparked by a visit to the municipality wherein the DLGTA learnt of the following:

- Paterson town (an area under SRVM) had been without water supply for a period of six weeks and the municipality was unable to buy chemicals that purify water for the whole area. This indicated that there was no money under the operational budget;
- The department learnt that the municipality utilized the conditional grant of R10, 5m earmarked for Paterson water for other purposes;
- Whilst the budget had been approved by the Council the budget remained at the time unfunded and was unrealistic;
- The monthly income of the municipality was R1, 5m whereas the salaries on monthly basis amounted to R2m and this left a deficit of R500 000 per month;
- The municipality had been ravaged with adverse and disclaimer audit reports since the year 2006/7, 2007/08 and 2008/09 financial years;
- Supply Chain Management processes of the municipality were flawed;
- There were fourteen members of council, (twelve ANC and two DA). The ANC councillors were divided into two groups, a difficult situation that compromises the decision of the Council in that the DA served as brokers for

support to the other six ANC councillors. A consensus was as a result never reached on any matter; and

- Eskom continuously threatened to cut the power supply because of failure by the municipality to meet its monthly obligations.

The DLGTA visited the municipality after the Ratepayers Association took the Council to court due to the reinstatement of a dismissed Municipal Manager. The municipality and the department were cited as respondents to the case. The Municipal Manager having been dismissed in June 2009 after being suspended for a long period due to alleged misappropriation of funds was reinstated in October 2009. During this period the Director of Community Services acted as the Municipal Manager. During the same period, the municipality also suspended the Chief Financial Officer (CFO) and this meant that two critical positions were having incumbents acting. There were no attempts by the municipality to charge the CFO in order to finalize the case.

The absence of administrative leadership led to further misappropriation of funds by staff. There was also an unsubstantiated allegation that the reinstated Municipal Manager paid himself plus/minus R90 000 (over and above the R130 216 paid to him during the period of suspension, an amount which remained an audit query) for the period he was dismissed without a council resolution. The DLGTA felt that section 139<sup>4</sup> (1)(c) of the Constitution, 1996 would have been desirable under the circumstances stated here; however, the DLGTA applied to the Provincial Executive Council (Provincial Cabinet) for provisions of section 139 (1)(b) of the Constitution.

In essence, the non provision of water services to communities for a period in excess of five days was a violation of an executive obligation and this municipality was unable to provide water services to Paterson for six months. Likewise, the proposed power cut by Eskom to the community of SRVM due to non payment by

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<sup>4</sup> When a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation, including-  
(c) dissolving the Municipal Council and appointing an administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

the municipality was a violation of an executive obligation. The financial mismanagement accompanied by the approval of an unfunded budget was a violation of the people's rights to basic services and a healthy environment. It is on this basis that the department requested the approval of the Provincial Executive Council of the Eastern Cape to invoke section 139 (1)(b) of the Constitution, 1996 and delegate such responsibility to the MEC for Local Government and Traditional Affairs in the Eastern Cape. The approval was granted and the DLGTA intervened in the affairs of Sundays River Valley Local Municipality in terms of section 139 (1)(b) of the Constitution of the Republic of South Africa, 1996 and appointed an Administrator; Mrs. V. Zitumane who assumed duties on 23 February 2010.

### **5.3.2 Audit Opinions of SRVM from 2003/04 – 2012/13 Financial Years**

<b>Financial Year</b>	<b>Audit Opinion</b>
2003/04	Disclaimer
2004/05	Disclaimer
2005/06	Disclaimer
2006/07	Adverse
2007/08	Adverse
2008/09	Disclaimer
2009/10	Disclaimer
2010/11	Qualified
2011/12	Qualified
2012/13	Disclaimer
2013/14	Disclaimer

The Office of the Auditor-General after every audit exercise conducted on all government entities will express a finding in the form of various opinions ranging from the best to the worst performance of the entities audited.

The various categories in the range of audit opinions are explained in detail below:

<b>Audit opinion</b>	<b>Performance</b>
<b>Clean audit</b>	The financial statements are free from material misstatements (in other words, a financially unqualified audit opinion) and there are no material findings on reporting on performance objectives or non-compliance with legislation.
<b>Unqualified audit</b>	The financial statements contain no material misstatements. Unless a clean audit outcome is expressed, findings have been raised on either reporting on predetermined objectives or non-compliance with legislation, or both these aspects.
<b>Qualified audit</b>	The financial statements contain material misstatements in specific amounts, or there is insufficient evidence to conclude that specific amounts in the financial statements are not materially misstated.
<b>Adverse audit</b>	The financial statements contain material misstatements that are not confined to specific amounts, or the misstatements represent a substantial portion of the financial statements.
<b>Disclaimer audit</b>	The auditee provided insufficient evidence in the form of documentation on which to base an audit opinion. The lack of sufficient evidence is not confined to specific amounts, or represents a substantial portion of the information contained in the financial statements.

Looking at the audit opinions of SRVM from the Office of the Auditor-General dating back to 2003/04 Financial Year, it is observed that SRVM has always received the most unfavourable audit outcomes and only showed improvement during the DLGTA section 139 (1)(b) intervention under the stewardship of Mrs. V. Zitumane, the appointed Administrator. Immediately after the termination of the section 139 (1)(b) intervention, SRVM regressed to the "Disclaimer audit opinions" and this is also a reflection of the absence of an "after-care" by the DLGTA.

### 5.3.3 Percentage of Debtors to own Revenue at SRVM

FINANCIAL YEAR	AMOUNT BILLED		TOTAL	AMOUNT COLLECTED		TOTAL	PERCENTAGE OF COLLECTION
	Rates	Services		Rates	Services		
2010/11	12 219 070	43 646 315	55 865 385	7 255 215	12 909 299	20 164 514	36
2011/12	11 903 501	33 677 729	45 581 230	9 683 159	6 696 224	16 379 383	36
2012/13	15 307 029	42 164 718	57 471 747	10 772 222	17 389 486	28 161 708	49
2013/14			-			-	
2014/15 Jul-Dec	14 870 666	27 540 902	42 411 568	6 405 840	6 769 615	13 175 455	31
TOTAL	54 300 266	147 029 664	201 329 930	34 116 436	43 764 624	77 881 060	39

Although the section 139 intervention commenced in February 2010 (2009/10, Financial year) no information was available for this particular financial year as the DLGTA had not started with the collection of data on revenue collection. Again, from the table displayed above no information is reflected in the 2013/14 Financial Year row and this is as a result of the unrest that took place in 2012/13 Financial Year. A protest action by residents of the municipality against lack of service delivery culminated in municipal offices being gutted down with fire and records of the municipality were destroyed.

The table also depicts that SRVM collects an average of 39% as against the norm of 95% as determined by the National Treasury. The low collection level amongst others is attributed to a faulty financial system which could not produce correct and accurate accounts for some time, high percentage of people registered as indigent as there are no industries in the municipal area. The low percentage is also an indication of unrealistic budget. Section of 18 (1) of the Municipal Finance Management act, (Act No. 56 of 2003) stipulates that an annual budget may only be funded from realistically anticipated revenue to be collected. Section 18(2) further stipulates that revenue projections in the budget must be realistic, taking into account projected revenue for the current year based on collection levels to date and actual revenue collected in previous financial years.

The accumulated debtors stood at R162 million as at the end March 2015 of which R138 million is owed for 120 days and above and recoverability is doubtful. The schedule depicted above shows that the municipality had a reasonable collection level during the intervention period. This collection level dropped down after the intervention was terminated.

#### **5.3.4 Analysis on the Provincial Intervention at SRVM**

The comprehensive review ahead of the municipal elections in 2006 which assessed the lessons of local government since 1994 and lessons from Project Consolidate proposed a strategic framework for achieving sustainable local government. These lessons directly contributed to the adoption of the 5 Year Local Government Strategic Agenda (5-Year LGSA), The Government – Wide 5 – Year Local Government Strategic Agenda: Implementation Plan, (2006:2-3).

This framework gives guidelines on how a functional municipality is measured and provides Five Key Performance Areas (KPA) for measuring municipalities. All the functional areas within a municipality are grouped around these five (5) KPA's which are hereunder listed:

- Municipal Transformation and Organizational Development;
- Basic Service Delivery;
- Local Economic Development;
- Municipal Financial Viability and Management; and
- Good Governance and Public Participation

Using the KPA's provided by the framework the generic challenges detailed hereunder, more often than not are common to all dysfunctional municipalities and SRVM was also no exception. In a presentation by the appointed Administrator; Ms V. Zitumane at SRVM – "Sundays River Valley Municipality Turnaround Status Report as at 31 October 2011", a picture of the status quo before and after the Section 139 (1)(b) intervention is painted. Below in detail, the Administrator presents firstly, a synoptic overview of the persistent challenges at local government level juxtaposed

against those obtaining at SRVM. Secondly, a turnaround plan developed by the Administrator as well as achievements thereof [impact of the section 139 (1)(b) intervention at SRVM] are presented. Not all achievements are extracted from the aforementioned presentation; only high level items are included in the below analysis.

#### **5.3.4.1 Local Government Challenges and SRVM**

##### **Financial viability and management**

- Poor or very low revenue collection
- Ineffective financial management systems especially billing and supply chain management
- Limited financial management skills
- Lack of accountability
- Poor management of Indigent Policy Systems
- Complete disregard of Financial Policies and procedures

Specifically with the target municipality the issues detailed below amongst others led to the provincial intervention wherein they formed part of the executive obligations that were assumed by the DLGTA:

- Non payment for services rendered, collection rate at 30%
- Poor billing system
- Limited financial competencies and skills
- Poor indigent policy and system
- Inadequate organizational structure and high vacancy rate
- Complete disregard of procurement policies
- Non-credible budget

## **Institutional development and transformation**

- Structure not aligned to the IDP (strategy of the municipality)
- High vacancy rate in critical scarce skills
- Poor record management
- Poor relations with labour
- Lack or inadequate training budget for capacitating of functionaries
- Lack of required competencies
- Outdated policies
- Lack of understanding of delegation system
- Lack of clarity on roles and responsibilities

Specifically with the target municipality (SRVM) the following issues amongst others made the municipality to be found wanting thus leading to a further executive obligation being assumed by DLGTA:

- Structure was not aligned to the IDP
- High vacancy rate
- Chaotic leave administration and poor processes and systems
- Lack of required competencies in critical departments e.g. infrastructure and finance
- Non-functioning of local labour forum
- Performance management not measured nor cascaded down
- Lack of procedure manuals and critical policies
- Outdated policies, delegations and rules of order

## **Infrastructure and service delivery**

- Poor maintenance of infrastructure
- No service standards
- No capacity in technical field
- Misappropriation of funds allocated for infrastructure

Specifically to SRVM the following detailed issues amongst others constituted another executive obligation that was further assumed as part of the DLGTA intervention:

- Non-functioning street lights and high mast lights
- Internal roads not adequately maintained
- Water and electricity losses
- No infrastructure maintenance plan hence poor maintenance of infrastructure
- Lack of capacity (staff and required competencies)
- Irregular utilization of conditional grants meant for infrastructure (DWAF and DOH) [Department of Water Affairs and Forestry & Department of Health]
- Cemeteries and streets not adequately cleaned
- Water and electricity shortages

### **Governance**

- Poor relations between councillors and staff
- Poor relations between councillors and communities
- Ineffective Ward Committee System
- Poor audit outcomes due to:
  - Non-compliance with policies & legislation
  - Lack of a risk management plan
  - General weak internal control environment
  - Poor leadership and oversight

Specifically to SRVM the sample of issues detailed below highlight another failed executive obligation by the municipality which was also assumed by the DLGTA in the approved intervention:

- Public participation not effective
- Poor relations between Council, communities and administration

- Gross lack of policy compliance, esp. procurement and financial management policies
- Disclaimers for more than six successive years
- No risk management plan, no internal audit plan, no anti-corruption and fraud measures
- Performance management not conducted, no Service Delivery Budget and Implementation Plan (SDBIP)
- Management oversight/governance not effective

### **Local economic development (LED)**

There is strong correlation between local economic development and financial viability in a municipality. Sadly, this KPA most of the times is not understood by many municipalities. Paying particular attention to LED by creating space to emerging entrepreneurs and assisting small business more often than not leads to more employment thus more revenue collection for the municipality, e.g. those declared indigent would be reduced from the Indigent Register thus increasing revenue of the municipality.

Specifically to SRVM the issues tabulated hereunder also constituted to challenges experienced by the municipality and also formed part of the executive obligation assumed in the intervention by the DLGTA:

- Led strategy not aligned to spatial development framework and IDP
- Strategy not specific about strategic objectives to be achieved and how those were to be met
- Other departments not aligning their plans and programmes to enhance LED
- LED strategy focusing on short term projects and not on a long term vision
- No focus on Extended Public Works Programme (EPWP) as an interim measure to create jobs
- No structure in place to deal with LED and key sectors

### **5.3.4.2 Intervention focus areas**

The DLGTA having assumed responsibilities of the identified executive obligations which were not being fulfilled by SRVM as reflected in the memorandum of DLGTA dated 19 January 2010 appointed an Administrator to oversee the intervention on behalf of the MEC. A turnaround strategy sometimes referred to as “financial recovery plan” for the municipality was developed by the Administrator. This is nothing else other than a plan to turn things around in the municipality so that it is able to sustain itself and deliver services to the communities under its jurisdiction. The areas of the intervention were as follows:

- Finance;
- Human Resource/ institutional development;
- Infrastructure and service delivery;
- Legal; and
- Public participation/governance

The turnaround focus areas were aligned to the five KPA’s used for measuring the functionality of a municipality, reflected in the 5 Year Local Government Strategic Agenda framework. The turnaround focus areas as well as a sample of the achievements attained through the intervention are detailed hereunder as follows:

#### **Finance**

##### **▪ IMPLEMENTATION OF FINANCIAL RECOVERY PLAN**

- Revenue collection
- Credit and debt management policy review
- Indigent policy review and register consolidation
- Database cleansing and management
- Electricity and water loss management
- Finalization of property valuation
- Critical vacancy filling

- Training and capacity building of staff especially finance staff

### **Achievements/impact**

A number of successes were recorded against the set targets detailed in the above turnaround focus area but only a selected few will be detailed hereunder:

- Credit control and debt management policy reviewed and implemented. Collection ratio up to 51%
- IDP, budget and SDBIP submitted and approved on time
- Statutory reports are submitted on time
- Credible budget approved in time and in line with IDP
- Payment of R20m from the department of housing which had been outstanding for 2 years reduced the debt book
- Implementation of a new and improved billing as well as financial management system (incorporating HR system)
- Creditors repayment period improved (new and current creditors)
- Procedures implemented to ensure conditional grants only utilized for intended purpose

### **Institutional development and transformation**

- Human Resource Policy, Procedure Manual, Rules of Order & Delegations review
- Organizational review – finance and infrastructure to be prioritized
- Review of local labour forum representation and membership
- Develop a training plan based on skills audit
- Train staff on performance management and cascade it to all levels
- Cascade performance management to all levels
- Develop a leave procedure manual

## **Achievements/impact**

- Organizational structure reviewed to align to IDP
- All 16 critical vacancies that were budgeted for were filled
- Roles and responsibility manual & Rules of Order developed and approved
- Delegations approved but to be reviewed to be in line with the new system
- HR policies reviewed and performance management policy system approved
- Fraud prevention policy developed
- Disciplinary cases were dealt with effectively through the assistance of DLGTA
- A new leave procedure manual and reconciliations done

## **Infrastructure and service delivery**

- Refund all funds utilized for operating expenses – on agreed terms (2010-11)
- Build in-house skills (critical vacancies provided for 2010-11)
- Prioritize infrastructure organizational review and vacancy filling
- Review implementing agency status of SRVM until the financial position and capacity challenges are resolved (revert developer role to DOH)
- Develop an infrastructure master & maintenance plans (2010-12)
- Increase operations and maintenance budget (done in 2010-11)
- Prioritize infrastructure that is critical to economic growth, e.g. local road maintenance and street lighting (2010-11 Budget)
- Develop service standards and procedure manuals (outsource)

## **Achievements/impact**

- 12 km of Paterson Bulk Water Supply (BSW) of pipeline complete and Kirkwood water off-take approved & implemented to mitigate water shortages
- Addo treatment works project approved & rain water harvesting at Paterson implemented
- Verified supplier & contractor payments and outstanding creditors paid (20m)
- Potholes repaired and work was still on progress at the time

- MOU signed with Amatola Water Board to assist in the Water Services Authority (WSA) & Water Services Provider (WSP) mandate
- Water and sanitation turnaround plan was developed
- The artisan electrician post & building control officer were filled
- Cleansing and refuse removal and cleaning of cemeteries done
- Opening of the testing grounds fully utilized, new positions filled and this has enhanced the revenue inflow

### **Governance**

- Develop a public participation policy
- Review audit committee and internal audit steering committee charter
- Develop a Risk management plan and internal audit plan
- Develop an anti-corruption and fraud prevention plan
- Strengthen support for ward committees
- Integrate matters of internal controls into PMS
- Investigate all allegations of corruption, maladministration and misconduct
- Ensure CDW effectiveness

### **Achievements/impact**

- Stakeholder engagement is now taking place during IDP, Budget and Planning Processes
- Draft public participation policy has been developed
- A new audit committee has been appointed
- An internal audit plan that incorporates risk management plan was developed and monitored and the internal control environment has improved, though there were still challenges at supply chain at the time
- An oversight committee has been established and council has approved the establishment of a public accounts committee
- Two corruption related offences currently being dealt with and finalized  
CDW's interaction with SRVM has been strengthened

- SDBIP has been developed and performance monitored quarterly

### **Local economic development**

- The development of an LED master plan for SRVM as part of the turnaround strategy for economic growth is a starting point
- The LED master plan will provide a detailed map and practical programmes to be pursued for the future development and growth of this area
- The LED master plan will entail a comprehensive land use planning and development strategy that can be used to guide all development within the SRVM
- The plan should reflect the vision contained in the SRVM integrated development plan and should be aligned to the broader spatial development framework of SRVM

### **Achievements/impact**

- A representative local economic development forum was established
- A local tourism organization is fully functional and has received a funding of R500 000 from Cacadu for marketing
- 8 co-operatives were established and were provided with job creation opportunities by using them as alternative service delivery vehicles through EPWP (intervention period)
- An LED strategy was under review with funding received from DLGTA
- Internal LED capacity was enhanced with DLGTA financial support
- Land audit analysis (done)
- Spatial Development Framework (under review)
- Environmental management plan (DEDEA to be approached for funding)

### **5.3.5 Outcome Evaluation of the Section 139 (1)(b) Invoked at SRVM**

#### **5.3.5.1 Purpose and Scope of the Evaluation by DLGTA**

In the report, "Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013" compiled by the DLGTA a further insight is provided which contributes immensely on the researcher's report. On 30 January 2013 the DLGTA visited the municipality in an attempt to evaluate the support rendered to SRVM in accordance with the Monitoring & Evaluation Guidelines adopted by the DLGTA in May 2011. The purpose of the compiled report was to present the findings of the outcome evaluation of the provincial government intervention in SRVM in terms of Section 139 (1)(b) of the Constitution. According to the report, "In general, evaluation is a decision making tool to assess the strengths and weaknesses of a programme or project and/ or the results of completed or ongoing interventions. Its aim is to improve future interventions through lessons learnt", (Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013).

This is corroborated by Mouton (2009: 160), who explains that outcome evaluation research aims to answer the question of whether an intervention (programme, therapy, policy or strategy) has been successful or effective. The main aim of outcome or product evaluation studies is to establish whether the intended (and unintended) outcomes of the programme have materialized. This would include immediate or short-term outcomes, as well as long-term outcomes (or the so-called "impact" of the programme).

The objectiveness of the report could be questioned by those who are not part of the DLGTA in that members of the team tasked with the evaluation exercise and the component responsible for the compilation of the report on the outcome evaluation of the intervention at SRVM and the findings thereof are all employed by the same organization, the DLGTA which intervened in the affairs of SRVM and all report to

the same Head of Department who was part of a decision to intervene at SRVM. The DLGTA has a policy on Monitoring & Evaluation Guidelines adopted in May 2011.

In the executive summary of the report "Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013", it is reported that after receiving approval from the Provincial Executive Council, the DLGTA appointed an Administrator for an initial period of six (6) months which was later extended to twenty two (22) months. The purpose of appointing the Administrator was to ensure that the situation is turned around in the municipality through *inter alia*:

- Restoring an environment conducive for proper administration;
- Facilitating the appointment of the Municipal Manager once the case against the incumbent was concluded;
- Finalizing the disciplinary hearing of the Chief Financial Officer;
- Compiling a financial recovery plan;
- Addressing issues raised by the Auditor General;
- Establishing a dedicated unit for public participation;
- Identifying all instances of irregular, wasteful and unauthorized expenditure;
- Developing a risk management plan;
- Addressing all instances of fraud and corruption; and
- Developing a revenue enhancement strategy.

In outlining the purpose and scope of the evaluation the DLGTA states the following: "In line with the statutory mandate of the department, its vision and mission, outcome evaluations are recommended per program/intervention in order to determine the extent to which changes expected in municipalities as outlined in the turnaround plans are happening. It will therefore be extremely interesting for the department to know and value the support rendered through the intervention", (Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013).

In the same report it is further stated that, the purpose of evaluation is to provide evidence of the success or failure of any given support to a municipality. In this regard, the objectives of the outcome evaluation are to assess the following:

- The effectiveness of the intervention by the department through the appointment of the Administrator;
- Achievements against the planned activities in the Turnaround Plan in SRVM; and
- Progress and continuity at the end of the term of the Administrator.

According to the report the expected outcomes for the evaluation of the Section 139 (1)(b) intervention at SRVM were as follows:

- Improved approach to hands-on support to municipalities;
- Lessons learnt out of the interventions and strategic adjustments in the manner in which support is rendered to municipalities; and
- Sustainability of the benefits emanating from the intervention.

The scope of work has been informed by the principles and terms of reference of the Administrator and has targeted the following areas of intervention:

- Financial & Asset Management;
- Infrastructure & Service Delivery;
- Local Economic Development;
- Internal Audit;
- Human Resource & Performance Management;
- Legal Services; and
- Good Governance & Public Participation.

### **5.3.5.2 Evaluation Findings**

According to the aforementioned report, the evaluation findings presented cover seven (7) functional areas and emanate from the achievements as indicated in the close out report of the Administrator. The seven functional areas are as follows:

- Finance and asset management;
- Infrastructure and service delivery;
- Local economic development;
- Internal audit;
- Human resource;
- Legal services; and
- Good governance and public participation.

In each of the aforementioned functional areas is a group of key result area's (KRA's). Budget and Treasury Office, Realistic and credible budget, Alignment of the budget with IDP, Efficient and reliable billing system, Compliance with Treasury Regulations for reporting, etc constitutes some of the KRA's in the "Finance and Asset Management" functional area. A breakdown of planned activities and achievements for each of the KRA's are then presented and tabulated in a template. Below is an extract of the "Budget and Treasury Office" KRA from the template presenting the planned activities as well as achievements obtained:

## Key Result Area

Key result area	Baseline	Planned activities	Achievements	Evidence	Comments
<b>A Budget and Treasury Office with Chief Financial Officer as Head i.t.o Sec. 80 of MFMA</b>	-CFO was suspended and 2 people acted as CFO in different periods	-Recall suspended CFO -Solicit CFO from National Treasury to provide technical support	-The suspended CFO recalled from March 2012 to date -Additional support provided through DBSA and COGTA with effect from 01 July 2010 but support was withdrawn on 31 January 2011 -Support reinstated on 01 October 2011 and will be provided for the next financial years up to 2013	-Letter of recalling the CFO -Letter to National Treasury requesting technical support -Approval letter from National Treasury and support plan	-The documents were received. -Akhile was seconded from National Treasury for a 2 year period starting from August 2011 to provide technical support

Immediately after the presentations of each functional area in the template are narrative findings on each of the KRA's presented in the template. The narrative findings on the aforementioned KRA of the "Finance and Asset Management" functional area are as follows:

- Budget and Treasury Office – only two activities were planned to achieve the challenges raised in the baseline. The activities were achieved successfully and evidence to that effect is available;
- Realistic and credible budget – three activities were planned to achieve baseline challenges. The activities were achieved successfully and the evidence to that effect is available;
- Alignment of the budget with IDP – only one activity was planned to address challenges raised in the baseline and achieved successfully and evidence is available;
- Efficient and reliable billing system – three activities were planned and not all were achieved in addressing the challenges in the baseline report. A

dedicated official to monitor the indigent register is not yet appointed as there is no formal delegation letter. This KRA still needs to be reconsidered as it can affect the service delivery of the municipality; and

- Compliance with Treasury Regulations for reporting – one activity planned in line with the baseline. The achievement of this KRA remains an area of concern as there was no evidence to prove that success was achieved.

Lastly, areas of concern were identified and tabulated after the narrative findings of each functional area. The following were areas of concern raised in the “Finance and Asset Management” functional area:

- Efficient and reliable billing system;
- Encouragement of consumers to pay for services;
- Compliance with Treasury Regulations; and
- Financial policies are developed, adopted and implemented.

### **5.3.5.3 Lessons Learnt on the Outcome Evaluation**

The outcome evaluation process at SRVM involved the gathering and assessment of information and officials at municipal level were available and cooperative in the answering of the questionnaires except for the functional areas of Finance and Infrastructure Services. One of the possible reasons advanced for this was that the Director for Technical Services had been recently appointed and municipal officials at the time of the intervention were not willing to assist. It is also noted in the report that the Administrator did not only focus on the planned areas but went an extra mile in ensuring Local Economic Development is enhanced in the municipality, (Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday’s River Valley Municipality – January 2013).

The report findings evidently show achievements in as far as what was planned by the Administrator. These include the following:

- An environment conducive for proper administration is restored: where politicians and officials understand their roles and responsibilities and are working together;
- Post of Municipal Manager had to be filled (at the time);
- Disciplinary hearing of the Chief Financial Officer was finalized;
- A financial recovery plan was compiled;
- Issues raised by Auditor General have been addressed;
- A dedicated unit for public participation has been established; and
- Identifying all instances of irregular, wasteful and unauthorized expenditure.

#### **5.3.5.4 Conclusion and Recommendations of the Outcome Evaluation**

The report, "Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013" concludes by pointing out a number of things that should be taken into account when intervening in municipalities in terms of section 139 of the Constitution which will address the challenges raised in the KRAs. These are as follows:

- Establishment of the monitoring team in line with the KRA's targeted by the intervention;
- Relevance of members serving in the Project Steering Committee in line with the with key KRA's of the intervention;
- Strict utilization by the officials of the monitoring tools/ mechanisms developed by the department when rendering support to municipalities;
- The monitoring of provincial interventions should take into account the following recommendations:
  - Period of time between the appointment of the Municipal Manager and the withdrawal of the Administrator;

- Utilization of the municipal officials during the period of the intervention instead of doing work for them;
- Close post monitoring of the municipal intervention after the Administrator has left in order to determine the sustainability of the support.

The report again makes the following recommendations which should be taken into account by the Project Steering Committee when monitoring the provincial intervention:

- **Time frame:** To determine if the programme is being implemented within the planned time frames. Monitoring time will inform management of delays in the delivery of outputs and enable management to come up with appropriate remedial actions.
- **Measurable deliverables:** Checking if the project expenditure is in line with the budget and consumption plans.
- **Quality of outputs:** Tracking the quality of outputs being delivered by the project.

The report further contends that monitoring usually precedes evaluation of a section 139 intervention and therefore to determine the effectiveness, efficiency and sustainability of the provincial intervention at SRVM, an outcome evaluation was conducted. Although the intervention had KRAs that were successfully achieved it is clear that the provincial intervention had challenges as some of the KRAs were not delivered successfully. During the evaluation SRVM officials were afforded an opportunity to provide evidence to prove achievements. Areas where evidence could not be provided must be regarded as areas of concern and were mostly common in infrastructural projects. Determining the sustainability of the support provided during the intervention remains a challenge.

### **5.3.6 Executive Summary on the Observations made in the Implementation of the Instruments of Monitoring and Support at SRVM**

#### **5.3.6.1 Implementation of Section 154 of the Constitution, 1996**

The national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions, (Constitution, 1996:85). The two spheres of government have a constitutional obligation to monitor, support and strengthen the capacity of municipalities on the basis of co-operative governance. The power of "support" can be employed by provincial governments to strengthen existing local government structures, powers and functions and to prevent a decline or degeneration in such powers, structures and functions, (Mettler, 2000:9).

From the foregoing chapter the researcher was able to discern a weakness in the application of the instruments of monitoring and support. It is clear from the facts gleaned in the memorandum of DLGTA dated 19 January 2010 cited earlier in the chapter that DLGTA only reacted to the already volatile situation in the municipality after the Ratepayers Association had taken the Council to court over the reinstatement of a dismissed Municipal Manager. In the court application, the municipality and the department had been cited as respondents to the case. The reaction by DLGTA is not in line with the spirit and mandate given to the provincial department provided by section 154 of the Constitution.

A number of observations are made in respect of the implementation of the aforementioned instrument of monitoring and support. DLGTA lacked early warning systems to detect some of the rot which ultimately led to invocation of the section 139 (1)(b) of the Constitution, 1996 in the affairs of SRVM. Section 154 of the Constitution provides for such systems. The researcher amongst others lists the following as being some of the observations:

- The political instability that was prevailing at the municipality which was a major contributing factor could not be picked up early;
- The municipality had been ravaged with adverse and disclaimer audit reports since the year 2006/7, 2007/08 and 2008/09 financial years and DLGTA systems (components of the department) did not heed these pointers;
- Provincial Treasury Department being the custodian of financial systems and budgets of municipalities did to seem to have played its role in alerting DLGTA of problems at SRVM. There seems to be lack of the complementing role expected between the two departments;
- Departmental systems in the form of the various components obtaining within the department seem to have been caught off guard in that some of the problems highlighted as being the contributing factors to the intervention were not detected thus pointing to weak application of instruments of monitoring and support;
- There does not seem to be an in-depth study undertaken before the intervention is commenced (collating of information). A whole lot of problems were detected by the Administrator during the intervention; and
- All this points to a monitoring that is a periodic event as opposed to an ongoing exercise thus relegating the role of the Department in terms of its mandate as enshrined by section 154 of the Constitution.

### **5.3.6.2 Implementation of Section 139 of Constitution, 1996**

Provincial intervention in local government is when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step, (Constitution, 1996:76).

First and foremost, the provincial intervention in terms of section 139 of the Constitution, 1996 is a mechanism meant to be a deterrent to poor administration and governance in municipalities. Secondly, it is a mechanism for restoration of sustainable good governance and acceptable standards of service delivery, but the researcher in chapter one states that, what seems to be the case, more municipalities are put under "Administration" in terms of this section. The question is whether such invocation does bring about or realise such objectives. On gleaning the report, "Eastern Cape: Outcome Evaluation of Section 139 (1)(b) invoked at Sunday's River Valley Municipality – January 2013", again in respect of the implementation of this particular instrument of monitoring and support by DLGTA, a number of observations are made. The researcher amongst others lists the following as being some of the pertinent observations:

- During the intervention period the DLGTA did not have a properly constituted multi-disciplinary monitoring team, i.e. having relevant officials from the components within the department that deal with various municipal line functions so as to check progress on the intervention at SRVM in line with the KRA's targeted by the intervention;
- There seems not to have been strict utilization by the officials of the monitoring tools/ mechanisms developed by the Department when rendering support to municipalities;
- Also noted was the failure by the DLGTA to have control on the period of time between the appointment of the Municipal Manager and the withdrawal of the Administrator as this led to extra costs being incurred by the Department towards the remuneration of the Administrator;
- There was also no effort made to prepare municipal officials on the implications of the Section 139(1)(b) intervention hence they were inclined to resist the intervention and this led to non utilization of these officials during the period of the intervention and instead work was done for them;
- DLGTA further did not do a close post (aftercare) monitoring of the municipal intervention after the Administrator was withdrawn in order to determine the sustainability of the support;

- Although the intervention had KRAs that were successfully achieved it is clear that the provincial intervention had challenges as some of the KRAs were not delivered successfully. Officials of SRVM were unable to provide evidence to prove achievements in some areas. As a result, where evidence could not be obtained such areas were regarded as areas of concern and were mostly common in infrastructural projects; and
- This brings to the fore the issue of record keeping which in most municipalities is a challenge which most of the times is a resultant fact to unfavorable audit opinions;
- Determining the sustainability of the support provided during the intervention remains a challenge;

#### **5.4 Conclusion**

In chapter two, having put into perspective the legal instruments of monitoring and support within the policy framework that is in existence at the local government sphere, an attempt is also made in the foregoing chapter to focus on the implementation of the two legal instruments by the DLGTA at SRVM prior and during the section 139 intervention. In the process of doing so the context of some of the problems that lie at the heart of local government sphere are brought to the fore.

The analysis on the implementation of the two legal instruments of monitoring and support at the SRVM situation sharply puts into focus the shortcomings of the DLGTA in respect of its mandate as enshrined by the provisions of sections 154 and 139 of the Constitution, 1996. The two spheres of government have a constitutional obligation to monitor, support and strengthen the capacity of municipalities on the basis of co-operative governance. The observations highlighted in the chapter are pertinent to the challenges that are besetting the third sphere of government. Lack of proper implementation of the instruments of monitoring and support bestowed to the national and provincial spheres of government contributes to the problems that are inherent in the local government sphere. This sphere of government will remain stressed until this is addressed.

## **CHAPTER SIX**

### **CONCLUSION AND RECOMMENDATIONS**

#### **6.1 Introduction**

The introduction in the report, "The State of Local Government in South Africa: Overview Report" earlier cited, states that the basic premise of the report is that 'Local Government is Everyone's Business'. Notwithstanding the achievements in local government since the ushering in of the new democratic municipal dispensation in December 2000, key elements (municipalities) of the local government system are in distress. It is on the basis of reports like the one aforementioned and many more which have painted a grim picture on the state of local government as well as the implications thereof, that indeed confirm that 'Local Government should be Everyone's Business'.

Local government in the Eastern Cape is also not spared from this state of affairs and the researcher is using a case study of Sundays River Valley Local Municipality to showcase the common challenges obtaining at this sphere of government. The researcher investigated the effectiveness of the provincial intervention as provided for by section 139 of the Constitution, 1996 vis-à-vis the implementation of the continuous support in terms of section 154 of the same Constitution. The study also assessed as to whether the provincial intervention does make an impact in a more sustainable manner in terms of serving as a deterrent to non-compliance and poor performance by municipalities and also determined the capacity and readiness of DLGTA to execute its mandate as enshrined in section 154 and 139 of the Constitution, 1996. As such, the more effective of the two legal instruments in bringing about positive and sustainable impact in terms of achieving the objectives of monitoring and support in municipalities was determined.

National and provincial spheres of government have at their disposal sections 154 and 139 of the Constitution of the Republic of South Africa, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities. Section 154 refers to a concept where

national and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. Section 139 on the other hand takes place when a municipality cannot or does not fulfill an executive obligation in terms of the Constitution or legislation. In this case the relevant provincial executive may intervene by taking appropriate steps to ensure fulfillment of that obligation; including issuing a directive to the municipal council, describing the extent of the failure to fulfill its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the municipal council and appointing an Administrator until a newly elected municipal council has been declared elected, if exceptional circumstances warrant such a step.

Whereas section 154 seeks to ensure support and strengthen capacity of municipalities, section 139 presupposes intervention in areas where a municipality has failed to perform. The latter section is usually invoked when everything else has failed by way of the continuous support which seeks to strengthen the capacity of municipalities. Section 139 is usually perceived by municipalities as being the most drastic of the two sections and is regarded as being punitive thus leading to reaction and resistance. However, the aforementioned legal instruments are not achieving their objectives as more municipalities continue remaining dysfunctional despite provincial interventions.

In the study at hand, Chapter one acknowledges the availability legal instruments of monitoring and support provided for by sections 154 and 139 of the Constitution, 1996 at the disposal of the national and provincial governments. Although they are suppose to complement each other in addressing issues of dysfunctionality in municipalities they don't seem to be achieving their objectives. The researcher saw a need to investigate and establish if the two instruments are serving their purpose and if not come up with proposed solutions that will make them effective.

The transitional challenges together with a host of other issues that are hindering provision of basic services to the local citizens are matters that are the focus of government efforts to stabilize local government sphere and Chapter two underscored this argument. The continuous service delivery protests since the ushering in of the new democratic dispensation in South Africa in 1994, is proof that local government is still faced with governance and service delivery challenges. The chapter was devoted at tracing and contextualizing the challenges besetting the third sphere of government.

Methodology or a detailed strategy on how the information gathering process was conducted by the researcher is contained in Chapter three. The main focus was to explain the tools used in the gathering of data from the targeted respondents which were carefully selected to suit the study. From the analysis of the responses of the respondents the key questions of the research were answered. This assisted in explaining the relationship between the tools of monitoring and support in their implementation in municipalities by DLGTA, particularly at SRVM.

There was use by the researcher in Chapter four of an approach where numbers or numerical values are assigned to observations. Numerical data was collected in the course of the study hence numerical analysis has been done. Through this approach numeric description of trends, attitudes and opinions of a population were derived by studying the sample of that population. In the study, municipal functionaries, DLGTA officials as well as stakeholders represented by business, labour and community organizations of the selected municipality is the sample that was studied. The researcher also used a technique called graphical analysis for the purposes of displaying statistical data. The main aim for doing this was to present data in a way that is easy to understand and interpret.

In Chapter five, the analysis of the two legal instruments of monitoring and support at the SRVM situation sharply puts into focus the shortcomings of the DLGTA in respect of its mandate as enshrined by the provisions of sections 154 and 139 of the Constitution. The filtering process in the chapter took into account the research

topic, objectives of research, validity of data, contribution of data towards research, relationship of data to topic and contribution towards confirmation of the research problem. The researcher also made use secondary data which refers to sources of information that already exists on the subject being researched in the analysis.

## **6.2 Findings of the Study**

From the foregoing assessment of the effectiveness of the provincial intervention in accordance with section 139 of the Constitution, 1996 in dysfunctional municipalities in the Eastern Cape as a viable instrument vis-à-vis the implementation of the continuous support in terms of section 154 of the same Constitution, a number of conclusions and generalizations are drawn. Chapter five under the observations made in the implementation of the instruments of monitoring and support at SRVM details some of the findings that are emerging from the study.

### **6.2.1 Findings in Respect of Section 154 of the Constitution, 1996**

The findings relating to section 154 are as follows:

- the political instability that was prevailing at the municipality which was a major contributing factor could not be picked up early;
- the municipality had been ravaged with adverse and disclaimer audit reports since the year 2006/7, 2007/08 and 2008/09 financial years and DLGTA systems (components of the department) did not heed these pointers;
- Provincial Treasury Department being the custodian of financial systems and budgets of municipalities did to seem to have played its role in alerting DLGTA of problems at SRVM. There seems to be lack of the complementing role expected between the two departments;
- departmental systems in the form of the various components obtaining within the department seem to have been caught off guard in that some of the problems highlighted as being the contributing factors to the intervention

were not detected thus pointing to weak application of instruments of monitoring and support;

- there does not seem to be an in-depth study undertaken before the intervention is commenced (collating of information). A whole lot of problems were detected by the Administrator during the intervention; and
- all this points to a monitoring that is a periodic event as opposed to an ongoing exercise thus relegating the role of the Department in terms of its mandate as enshrined by section 154 of the Constitution.

### **6.2.2 Findings in Respect of Section 139 of the Constitution, 1996**

The findings relating to section 139 are as follows:

- during the intervention period the DLGTA did not have a properly constituted multi-disciplinary monitoring team, i.e. having relevant officials from the components within the department that deal with various municipal line functions so as to check progress on the intervention at SRVM in line with the KRA's targeted by the intervention;
- there seems not to have been strict utilization by the officials of the monitoring tools/ mechanisms developed by the Department when rendering support to municipalities;
- also noted was the failure by the DLGTA to have control on the period of time between the appointment of the Municipal Manager and the withdrawal of the Administrator as this led to extra costs being incurred by the Department towards the remuneration of the Administrator;
- there was also no effort made to prepare municipal officials on the implications of the Section 139(1)(b) intervention hence they were inclined to resist the intervention and this led to non utilization of these officials during the period of the intervention and instead work was done for them;
- DLGTA further did not do a close post (aftercare) monitoring of the municipal intervention after the Administrator was withdrawn in order to determine the sustainability of the support;

- although the intervention had KRAs that were successfully achieved it is clear that the provincial intervention had challenges as some of the KRAs were not delivered successfully. Officials of SRVM were unable to provide evidence to prove achievements in some areas. As a result, where evidence could not be obtained such areas were regarded as areas of concern and were mostly common in infrastructural projects; and
- this brings to the fore the issue of record keeping which in most municipalities is a challenge which most of the times is a resultant fact to unfavorable audit opinions; and
- determining the sustainability of the support provided during the intervention remains a challenge.

### **6.2.3 Other Findings Emerging from the Study**

Further findings emerging from the study are as follows:

- DLGTA seem to have only reacted to an already volatile situation at SRVM after the Ratepayers Association had taken the Council to court over the reinstatement of a dismissed Municipal Manager. The reaction by DLGTA is not in line with the mandate of the provincial department provided by section 154 of the Constitution;
- DLGTA lacked early warning systems to detect some of the problems which ultimately led to invocation of the section 139 of the Constitution in the affairs of SRVM; and
- there was no in-depth study undertaken before the intervention. a lot of problems i.e. things like corruption, were only uncovered by the Administrator during the intervention.

### **6.3 Recommendations**

On the basis of the research emerging from each chapter and the findings, the researcher is suggesting the following recommendations for the DLGTA in order to assist in the implementation of the instruments of monitoring and support in future:

- **Lack of Requisite Capacity by the Intervening DLGTA**

The intervening department is seen to be lacking in terms of human and financial resource thus making it impossible to carry out its mandate to the latter. Various components within the department usually lack funding and are thus unable to send officials to be part of teams that will assist in the areas of need. There is high vacancy rate within the DLGTA and components are thin on the ground thus making it difficult to deploy staff to municipalities under administration. Appointed Administrators are met with resistance from municipal officials and cannot do all the work by themselves.

DLGTA need to seriously look at the capacity and resources issues of the various components within the organization so that DLGTA is able to have enough capacity and be able to monitor municipalities on a regular basis whether in terms of section 154 or 139 of the Constitution. This will strengthen DLGTA in its mandate of monitoring and support. Through this exercise DLGTA will be able pick up the early warning signals of dysfunctionality in municipalities and quickly put measures in place to avoid the costly and time bound section 139.

- **Silo Mentality Syndrome Between the DLGTA and Provincial Treasury**

The prevalent culture within the aforementioned two departments, that of not cooperating with each other in terms of what they are mandated to do in respect of support to municipalities. Provincial Treasury is a custodian of financial systems and budgets of municipalities whilst DLGTA looks at governance and administration side

of things at the local sphere. Information should be shared between the two departments so that the two departments cooperate with one another instead of working in silos. Through cooperation problems can be detected early and can be tackled jointly. Sadly this is not the case currently and instead duplication of support is obtaining.

- **A thorough in-depth study be undertaken to look into all underlying challenges in a dysfunctional municipality**

DLGTA usually rushes into an intervention without having studied the situation within a dysfunctional municipality. There is usually no in-depth study undertaken before or during the commencement of the intervention (collating of information). A whole lot of problems and depth of the challenges are only realized by the Administrator during the intervention thus increasing the scope of work of the Administrator. The Administrator will in the process not be seen to have delivered on some of the challenges as they were never part of the terms of reference. Out of an in-depth study of the challenges uncovered the terms of reference of the Administrator will be properly crafted so that the work of the Administrator is monitored.

- **A Properly Constituted Multi-disciplinary Monitoring Team for a Section 139 Intervention**

Usually there is no dedicated team on the part of the DLGTA to monitor progress in the intervention. Appointed officials are usually not committed in the Project Steering Committees set up to monitor the interventions. There is a need to have a properly constituted multi-disciplinary monitoring team, i.e. having relevant officials from the relevant components within the DLGTA which will deal with various municipal line functions and check on progress on the intervention in line with the KRA's targeted by the intervention, (Terms of Reference).

- **Close Post (aftercare) Monitoring Exercise to look after the Gains Achieved**

Once the intervention is over the DLGTA fails to do an aftercare and the municipality is left to fend for itself. This is a critical period in a municipality that is coming out of an intervention. On the onset of interventions there is usually a departure of top officials for one reason or another. With the withdrawal of the Administrator top officials will have just been appointed and will be finding their feet within the new environment in the municipality. There is a need to sustain the gains achieved during the intervention period. The withdrawal of the Administrator at the end of intervention without close post monitoring leads to regression in municipalities that were under Administration. This exercise will make sure that the support provided during the intervention is sustained.

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# Appendix A

## QUESTIONNAIRE GUIDE

MAYOR/SPEAKER

MUNICIPAL OFFICIALS (SECTION 56 MANAGERS)

DEPARTMENTAL OFFICIALS (CHIEF DIRECTOR/  
ADMINISTRATOR/ SENIOR MANAGERS)

# Impact Assessment Tool

## Questionnaire Guide

### Mayor/Speaker

#### General

##### **Overview**

National and provincial spheres of government have at their disposal sections 154 and 139 of the Constitution, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities. Section 154 refers to a concept where the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. Section 139 on the other hand takes place when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. In this case the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

##### **Respondents**

This questionnaire has been prepared for the participation of the Mayor/Speaker Only. Mayor is the head of the municipal council and the Speaker is the chairperson of council in the municipality. Politicians have a responsibility to meet the needs of the communities and report on service delivery issues. Strong political leadership have to make difficult policy judgements, work with a range of players and guide the actions of the administration to promote the social and economic well-being of local communities.

##### **Guidelines**

Please note that the information gathered during this research will be handled in a responsible manner within the confines of research ethics.

##### **Process**

The researcher will administer the questionnaire based on the direct engagement with respondents.

##### **Communication**

The researcher will engage the respondents in both Xhosa and English. However, all responses will be captured in English.

##### **Disclaimer**

This questionnaire has been prepared for a research project undertaken to fulfil the requirements of a Degree of Masters in Public Administration at the University of Fort Hare.

Your participation will be greatly appreciated













# Impact Assessment Tool

## Questionnaire Guide

### Municipal Officials (Section 56 Managers)

#### General

##### **Overview**

National and provincial spheres of government have at their disposal sections 154 and 139 of the Constitution, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities. Section 154 refers to a concept where the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. Section 139 on the other hand takes place when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. In this case the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

##### **Respondents**

This questionnaire has been prepared for the participation of Municipal Officials Only. Municipal Officials are appointed to implement Council and Government Policies. They are the coalface of operationalising policies into feasible programmes, projects and activities.

##### **Guidelines**

Please note that the information gathered during this research will be handled in a responsible manner within the confines of research ethics.

##### **Process**

The researcher will administer the questionnaire based on the direct engagement with respondents.

##### **Communication**

The researcher will engage the respondents in both Xhosa and English. However, all responses will be captured in English.

##### **Disclaimer**

This questionnaire has been prepared for a research project undertaken to fulfil the requirements of a Degree of Masters in Public Administration at the University of Fort Hare.

Your participation will be greatly appreciated

**Part 3**

**Management Perspective**

**Section 56 Manager**

3.1 Sections 154 and 139 of the Constitution, 1996 are legal instruments of monitoring and support that complement each other. Section 154 is the continuous support that must be rendered by the national and provincial government. In your view was this instrument exhausted at Sundays River Valley Municipality prior the invocation of s139?

Yes	
No	

3.2 If no. In your opinion, what are the reasons that compelled the DLGTA to invoke section 139 of the Constitution, 1996 at Sundays River Valley? Explain.

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3.3 Comment briefly on the linkage between the two legal instruments as well as the role of the Mayor/Speaker/Section 56 Managers/Administrator/ Departmental Officials, in the implementation of the above stated legal instruments in a municipality.

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3.4 Does the provincial intervention in municipalities make an impact in terms of serving as a deterrent to non – compliance by municipalities.

Yes	
No	

Qualify the response given above by explaining briefly, making a reference to the situation at Sundays River Valley Municipality.

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3.5 Section 139 is understood within the concept of change management. Who needs to be changed or what needs to be changed and for what reason?

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3.6 The interaction between the DLGTA and the municipalities in terms of the two instruments of monitoring and support (s154 and S139) is understood within the concept of IGR. What is your understanding of the relations between these spheres in respect of the principles of co-operative governance as legislated prior the intervention.

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3.7 How would rate Sundays River Valley in terms of the Key Performance areas tabulated below at the time the decision to invoke s139 was taken?

- 1 Poor
- 2 Average
- 3 Good









# Impact Assessment Tool

## Questionnaire Guide

### Departmental Officials (Chief Director/Administrator/Senior Managers)

#### General

##### Overview

National and provincial spheres of government have at their disposal sections 154 and 139 of the Constitution, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities. Section 154 refers to a concept where the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. Section 139 on the other hand takes place when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. In this case the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

##### Respondents

This questionnaire has been prepared for the participation of Departmental Officials Only. Departmental Officials are appointed to implement Government Policies. They are the coalface of operationalising policies into feasible programmes, projects and activities.

##### Guidelines

Please note that the information gathered during this research will be handled in a responsible manner within the confines of research ethics.

##### Process

The researcher will administer the questionnaire based on the direct engagement with respondents.

##### Communication

The researcher will engage the respondents in both Xhosa and English. However, all responses will be captured in English.

##### Disclaimer

This questionnaire has been prepared for a research project undertaken to fulfil the requirements of a Degree of Masters in Public Administration at the University of Fort Hare.

Your participation will be greatly appreciated



Qualify the response given above by explaining briefly, making a reference to the situation at Sundays River Valley Municipality.

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4.5 Section 139 is understood within the concept of change management. Who needs to be changed or what needs to be changed and for what reason?

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4.6 The interaction between the DLGTA and the municipalities in terms of the two instruments of monitoring and support (s154 and S139) is understood within the concept of IGR. What is your understanding of the relations between these spheres in respect of the principles of co-operative governance as legislated prior the intervention.

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4.7 How would rate Sundays River Valley in terms of the Key Performance areas tabulated below at the time the decision to invoke s139 was taken?

- 1 Poor
- 2 Average
- 3 Good







**4.17 Optional**

Are there any other comments/ views/ challenges on the implementation of the legal instruments provided by sections 154 and 139 of the Constitution, 1996 at Sundays River Valley prior and during the intervention?

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**END**

# Appendix B

INTERVIEW GUIDE

STAKEHOLDERS REPRESENTING CITIZENS

# Impact Assessment Tool

## Interview Guide

### Stakeholders Representing Citizens

#### General

##### **Overview**

National and provincial spheres of government have at their disposal sections 154 and 139 of the Constitution, 1996 as legal instruments that are supposed to complement each other in addressing issues of monitoring and support in municipalities. Section 154 refers to a concept where the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. Section 139 on the other hand takes place when a municipality cannot or does not fulfil an executive obligation in terms of the Constitution or legislation. In this case the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation; including issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and any steps required to meet the obligations, assuming responsibility for the relevant obligation in that municipality and dissolving the Municipal Council and appointing an Administrator until a newly elected Municipal Council has been declared elected, if exceptional circumstances warrant such a step.

##### **Respondents**

This questionnaire has been prepared for the participation of Stakeholders representing Citizens of Sundays River Valley Only. Stakeholders representing citizens are the voice of individual members of the Sundays River Valley Municipality. They are the direct recipients of services that Sundays River Valley Municipality is expected to deliver.

##### **Guidelines**

Please note that the information gathered during this research will be handled in a responsible manner within the confines of research ethics.

##### **Process**

The researcher will administer the questionnaire based on the direct engagement with respondents.

##### **Communication**

The researcher will engage the respondents in both Xhosa and English. However, all responses will be captured in English.

##### **Disclaimer**

This questionnaire has been prepared for a research project undertaken to fulfil the requirements of a Degree of Masters in Public Administration (MPA) at the University of Fort Hare.

Your participation will be greatly appreciated

## **Part 5**

### **Citizens Perspective**

- 5.1 Please indicate the name of your organisation/company/church, your interest and the number of people you represent?
- 5.2 Section 154 and 139 of the Constitution, 1996 are legal instruments of monitoring and support that complement each other. Section 154 is the continuous support which seeks to strengthen the capacity of municipalities so that they manage their affairs, exercise their powers and perform their functions as provided for in the Constitution whilst Section 139 presupposes intervention in areas where a municipality has failed to perform, i.e. it is invoked when everything has failed by way of the continuous support. In your view was the invocation of section 139 justified instead of intensifying Section 154 by the provincial government?
- 5.3 Briefly describe the role that the Community played in the affairs of the Sundays River Valley Municipality in so far as participation in governance and administrative systems matters.
- 5.4 Did the provincial intervention made an impact in terms of changing the lives of the community of Sundays River Valley Municipality?
- 5.5 Briefly describe the relations that were obtaining between the community and Sundays River Valley Municipality prior the intervention.
- 5.6 Describe any form of ongoing public education campaign on the role of the public in managing municipal performance more especially for the leadership of civic and community organisations.
- 5.7 The involvement of stakeholders such as citizens and the community organizations increases the credibility and legitimacy of the performance of the municipality. What role was played by your organisation in this regard?
- 5.8 Are there any other comments/ views/ challenges on the implementation of the legal instruments of monitoring and support as provided by sections 154 and 139 of the Constitution, 1996 prior and during the intervention?

**END**