

**PRECAUTIONARY SUSPENSIONS IN THE PUBLIC SERVICE: REFLECTIONS
FROM SOUTH AFRICA**

BY

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**A MINI-DISSERTATION SUBMITTED IN FULFILMENT OF THE REQUIREMENTS
FOR THE DEGREE OF MASTERS OF LAWS (LLM) IN LABOUR LAW IN THE
SCHOOL OF LAW, UNIVERSITY OF LIMPOPO (TURFLOOP CAMPUS)**

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2013

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ABSTRACT

The study will analyse the fairness or unfairness of precautionary suspensions and the rights of employees in the Public Service who are placed on precautionary suspensions with reference to section 23(1) of the Constitution of the Republic of South Africa, 1996, which states that: (1) “ Everyone has the right to fair labour practices”

Section 186(2)(b) of the Labour Relations Act 66 of 1995 defines what an unfair labour practice is with specific reference to a precautionary suspension. It reads thus: (2) “ Unfair labour practice means any unfair act or omission that arises between an employer and an employee involving – (b) the unfair suspension of an employee or any other unfair disciplinary action short of dismissal in respect of an employee”

The study will also look at circumstances under which precautionary suspension is invoked on Senior Management Service employees in the public service in terms of chapter 7, clause .2.7(2) of the Senior Management Service Handbook, 2003.

Decided cases will be referred to which shows that one of the reasons why many precautionary suspensions are set aside when challenged in court, is because some employees who are assigned to deal with labour issues in the government departments are not competent to deal with those issues. The issue of political appointments impacts directly on service delivery if people are appointed to positions because of political affiliation than competency.

DECLARATION BY THE STUDENT

I, Jane Tsakane Baloyi hereby declare that the mini-dissertation for the Masters of Laws (LLM) in Labour Law degree at the University of Limpopo, hereby submitted by me, has not previously been submitted for a degree at this or any other institution and that it is my work in design and execution. All reference materials contained herein have been duly acknowledged.

Signature: _____

Date: _____

DECLARATION BY THE SUPERVISOR

I, Adv. Mamagabe Henry Thobejane hereby declare that I supervised the research of this mini-dissertation by Jane Tsakane Baloyi for the degree of Masters of Laws (LLM) in Labour Law and submit that it be accepted for examination purposes.

Signature: _____

Date: _____

DEDICATION

I dedicate this work to the following people in my life:

- To my loving mother, you are the greatest.
- To my husband Harley Ngobeni, who encouraged and assisted me throughout this research. You are the source of my inspiration. It couldn't have been possible without you.
- To my children Bongani, Amukelani, and Ntsako, thanks for understanding when I could not be with you because of my studies. I truly believe that you will enjoy the fruits of the reward.
- To my brothers and sisters, I am what I am today because of you.

ACKNOWLEDGEMENT

All glory must be unto God.

Special thanks go to the following people:-

- My supervisor Adv. M.H. Thobejane for your time, commitment and support which you showed at all times, to make this piece of challenging work a success.
- Professor Kolawole Odeku, your guidance and insight made it possible for this research to be a success.
- To my loving parents, the late Nelson Mzamane Baloyi and his loving wife Grace Mbazima Baloyi, you were and are the best.
- To my husband Harley Ngobeni for being there for me. You are a source of inspiration.
- To my beloved children you were there for me and I am very proud of you.
- To my siblings Daniel, Maria, Thomas and Anna, I know that you will always be there for me irrespective of the circumstances.
- To my colleague and friend, Advocate Mmopa Queen Seakamela, thanks for the advice that you shared with me in our school work and the encouragement, determination that we shared, you were never selfish. You tirelessly helped to type this work. You were a good teacher, and your contributions could not go unnoticed.

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