8. The law and regulation of internships in South Africa

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8.1 INTRODUCTION

In South Africa, creating jobs and reducing the unemployment rate are key economic and social challenges.¹ Although higher education is posited to be essential for economic and social development,² graduates still face challenges when transitioning from education to work. Thus, graduates do not automatically find jobs immediately after completing their studies.

Historically, black people in South Africa were disadvantaged by the apartheid government and colonialism, which barred them from attaining a meaningful education and prevented them from acquiring the skills they needed to thrive in a changing economy.³ In addition, poverty has a great impact on individuals' lives and can undermine individual success in the long run. This continues to feed into the struggle to achieve sufficient financial stability to pursue higher education and, unfortunately, those who do receive an education will still struggle to get jobs. The government attempts to counter this through initiatives such as the National Student Financial Aid Scheme, which assists students from disadvantaged families to pay for their tuition, food and accommodation at colleges and universities.

¹ Murray Leibbrandt, Ingrid Woolard, Hayley McEwen and Charlotte Koep, *Employment and Inequality Outcomes in South Africa* (Southern Africa Labour and Development Research Unit, University of Cape Town 2010).

² Mpho Phago and Lebo Thwala, *Baseline Study on Students' Perceptions and Attitudes Towards the HWSETA Postgraduate Research Bursary Programme* (HWSETA 2015), <http://www.hwseta.org.za/download/baseline-study-on-students-perceptions-and-attitudes-towards-the-hwseta-postgraduate-research-bursary-programme-full-paper/>, accessed 30 March 2021.

³ Siphokazi Koyana, *Final Report on the Internship Baseline Study* (South African Graduates Development Association 2013) 28, https://www.dphu.org/uploads/attachements/books/books_3612_0.pdf, accessed 30 March 2021.

Although for some time South Africa has been experiencing growth in its graduate labour force, the graduate unemployment rate has also been on the rise: the dilemma being that there are more graduates and fewer jobs.⁴ This is doubly problematic as it wastes scarce human capital and is detrimental to the economy in the long run.⁵ Although employers have embarked on a plethora of strategies to assist unemployed individuals to attain skills for the workforce at all levels,⁶ there is no evidence of their success.

Internships were initiated to alleviate the shortage of skills within specific fields⁷ and to reduce the high unemployment rate. Since internships are subject to different terms and conditions in different sectors, interns face a variety of challenges in their employment journey, even though in particular cases they are regarded as employees by the law.⁸ Interns may render their services for no compensation or for only very low pay, which does not cover their cost of living and so does nothing to alleviate poverty.

In order to combat graduate unemployment, internships have become one of the ways in which young people can be offered structured entry-level positions in their chosen occupation or profession.⁹ Nonetheless, for some graduates, internship programmes are no panacea as opportunities to progress beyond them and into employment vary. Graduates are also commonly treated differently as a result of, for example, their Grade Point Average¹⁰ and/or

⁴ The unemployment rate of graduates has risen dramatically from 4.4 per cent in the first quarter of 2011 to 7.9 per cent in the first quarter of 2019. See Statistics South Africa, *Quarterly Labour Force Survey* (Statistical release P0211, Stats SA 2019), <http://www.statssa.gov.za/publications/P0211/P02111stQuarter2019.pdf>, accessed 30 March 2021.

⁵ Faith Oluwajodu, Derick Blaauw, Lorraine Greyling, Ewert PJ Kleynhans, 'Graduate Unemployment in South Africa: Perspectives from the Banking Sector' (2015) 13 SA J Hum Res Manage art 656.

⁶ Koyana (n 3) 29.

⁷ These fields include information technology and telecommunications; quality and regulatory professionals; and business, management and economics. See 'Department of Higher Education and Training, Skills Development Act 97/1998: National List of Occupations in High Demand, 2018', Republic of South Africa, *Government Gazette*, vol 636, no 41728 (22 June 2018), <http://www.dhet.gov.za/Information%20Systems%20Coordination/GAZETTE.pdf?platform=hootsuite>, accessed 30 March 2021.

⁸ See eg *Andreanis v Department of Health* (2006) 5 BALR 461, discussed later in this chapter.

⁹ South African Board for People Practices (SABPP), *Internships: A Guide for Employers* (SABPP 2014) 2–4, <https://www.workinfo.com/images/Attachments/SABPP/Internships-A-Guide-for-Employers-June2014.pdf>, accessed 30 March 2021.

¹⁰ Ruth Imose and Larissa Barber, 'Using Undergraduate Grade Point Average as a Selection Tool: A Synthesis of the Literature' (2015) 18 *Psychologist-Manager J* 1.

institutional preference.¹¹ This chapter mainly focuses on black graduates, as it has been shown that they suffer from higher unemployment than any other race.¹² The way in which internships are regulated affords them no assistance. Consequently, social justice is still not achieved in this regard.

8.2 REGULATING INTERNSHIPS AND GRADUATE CHALLENGES

The terms ‘intern’ and ‘internship’ have been defined in various ways, often depending on the field in which they are used. An intern is usually understood to be ‘a person who is employed at an entry-level position in an organisation in a structured programme to gain practical experience in [a] particular occupation or profession’.¹³ A typical example can be seen in the guidelines published by Stellenbosch University, which describe an internship as ‘a planned, structured and managed programme that provides work experience for an agreed period of time’,¹⁴ which may last up to two consecutive years. An internship has also been described as ‘career specific work experience that one undertakes during/after one’s studies in order to gain the practical experience required to operate and make a positive contribution with respect to the career path one eventually pursues’.¹⁵

¹¹ In a qualitative study by Elza Lourens and Magda Fourie-Malherbe, one of the participants stated: ‘if I can choose only 5 candidates to interview, I will prefer to choose the candidates from the more established institutions like UCT and Stellenbosch’. Elza Lourens and Magda Fourie-Malherbe, *From Graduate to Employee: Examining the Factors that Determine the Professional Success of Graduates from Disadvantaged Backgrounds* (Cape Higher Education Consortium 2017) 43, <http://www.chec.ac.za/files/2017-06-30%20Final%20CHEC%20research%20report%20with%20cover%2030%20June%202017.pdf>, accessed 30 March 2021.

¹² Nombuelo Precious Mncayi, ‘The Determinants of Employment Status of Young Graduates from a South African University’ (Master’s thesis, North West University 2016), https://pdfs.semanticscholar.org/87dc/f8da9f500df106d71cc92838361466c5dfe9.pdf?_ga=2.126369229.1312254481.1584645323-433629486.1584645323, accessed 30 March 2021.

¹³ SABPP (n 9) 3. The definition includes graduates and school leavers, but not work placement trainees. See also Stellenbosch University, *Guidelines for Internships at Stellenbosch University* (Stellenbosch University 2018), <https://www.sun.ac.za/english/human-resources/Documents/HR%20WEB%20-%20MHB%20WEB/Documents-Dokumente/Policies-Beleide/Staff%20Development/PD0328-%20Guidelines%20for%20internships%20at%20Stellenbosch%20University.pdf>, accessed 30 March 2021.

¹⁴ Stellenbosch University, *ibid* 2.

¹⁵ SA Works, ‘FAQ SA Works’ (*SA Works*, 2011), <http://www.saworks.co.za/faq.html>, accessed 30 March 2021.

8.2.1 The South African Employment Law on Internships

The transition of graduates from education to employment requires skill development within different professions. South Africa has enacted various pieces of legislation to regulate the workplace skills development of South African citizens. At the forefront is the Skills Development Act 97 of 1998, the main purpose of which is to develop the skills or human resources of the South African workforce: ‘to improve the quality of life of workers, their prospects of work and labour mobility’.¹⁶ The Employment Equity Act 55 of 1998 aims to eliminate unfair discrimination¹⁷ and to implement affirmative action measures in order to address employment discrimination.¹⁸

In addition, the Black Economic Empowerment Act 53 of 2003 encourages companies to increase the numbers of their black employees, managers, shareholders and service providers.¹⁹ This Act was intended to support the Black Economic Empowerment initiative, the aim of which is to empower the majority black people in South Africa, who in the past were suppressed by the apartheid government from participating in the economic affairs of the country.²⁰ However, the initiative has been subject to criticism.²¹

There are also policies to support the development of skills, such as the National Skills Fund, with a mandate of encouraging companies to pay skills levies, which they can later claim back if they can establish that the employees were trained according to set targets. In addition, there is a National Skills Development Strategy, the purpose of which is to improve the effectiveness and efficiency of the skills development system.²² One scheme that was designed to alleviate graduate unemployment is the Joint Initiative for Priority Skills Acquisition.²³ It proposes the implementation of special training programmes, bringing back retirees or expatriates to work in South Africa and attracting new

¹⁶ Skills Development Act 97 of 1998 s 2(1)(a). In addition, the Skills Development Levies Act 9 of 1999 provides for the imposition of a skills development levy.

¹⁷ See Employment Equity Act 55 of 1998, ch 2.

¹⁸ Ibid ch 3.

¹⁹ Koyana (n 3).

²⁰ Elvin Shava, ‘Black Economic Empowerment in South Africa: Challenges and Prospects’ (2016) 8 J Econ Behav Stud 161.

²¹ Ibid. See also Alec Hogg, ‘Gerhard Papenfus: BEE – A South African Dilemma’ (*BizNews*, 6 March 2015), <https://www.biznews.com/thought-leaders/2015/03/06/bee-south-african-dilemma>, accessed 30 March 2021; Anthea Jeffery, ‘BEE is Flawed and should be Scrapped’ *Mail & Guardian* (Johannesburg, 18 January 2013), <https://mg.co.za/article/2013-01-18-bee-is-flawed-and-should-be-scrapped/>, accessed 30 March 2021.

²² Koyana (n 3).

²³ Oluwajodu and others (n 5).

immigrants.²⁴ The South African Board for People Practices also encourages all employers, whether large or small, to create at least one internship and develop at least one young person for the future of South Africa.²⁵

In January 2018, the President of the Republic of South Africa, Matamela Cyril Ramaphosa, launched a programme aimed at developing youth, known as the Youth Employment Service. This initiative was implemented to reduce the high rate of unemployment among, and to afford necessary work skills to, young people in South Africa, in partnership with businesses and organized labour.²⁶ In his speech, he indicated that: ‘Another pillar of our national effort to creating jobs for our young people was ensuring the preparation for work readiness. We need sustainable programmes that will prepare the youth for first-time employment.’²⁷

Despite all these initiatives, differing approaches across sectors present a challenge in the regulation of internships. In some instances, an individual intern may satisfy all the legislative criteria of being an employee, including being under the control of the employer, and so qualify for the benefits accorded to those who are employees or in an employment relationship. For instance, in some circumstances, it has been shown that an internship may, according to the employer, exist for more than two years. For instance, take *Andreanis v Department of Health*, where an intern who was dismissed after working at a hospital for four years successfully argued that, despite being an intern, she qualified as an employee.²⁸ The applicant had been an intern in a state hospital for a period of four consecutive years, and she was then dismissed. The court ruled in her favour and held that she qualified as an employee by application of section 213 of the Labour Relations Act 66 of 1995 (LRA). Her dismissal was regarded as unfair and she was reinstated with full back pay.

The LRA provides guidelines on who is an employee.²⁹ However, in some circumstances, for example where a contract is void, an individual may not

²⁴ Kalie Pauw, Haroon Bhorat, Sumayya Goga, Liberty Ncube, Morne Oosthuizen and Carlene Van Der Westhuizen, ‘Graduate Unemployment in the Context of Skills Shortages, Education and Training: Findings from a Survey’ (2006) DPRU Working Paper 06/115, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=961353, accessed 30 March 2021.

²⁵ SABPP (n 9).

²⁶ Amanda Khoza, ‘Ramaphosa Launches YES Initiative to Address Youth Unemployment’ (*fin24*, 27 March 2018), <https://www.fin24.com/Economy/ramaphosa-launches-yes-initiative-to-address-youth-unemployment-20180327>, accessed 30 March 2021.

²⁷ Ibid.

²⁸ *Andreanis* (n 8).

²⁹ See Republic of South Africa, ‘Code of Good Practice: Who Is an Employee’ (notice 1774, *Government Gazette*, no 29445, 1 December 2006).

receive all the benefits of being an employee. Take, for instance, *Kylie v CCMA*,³⁰ in which a sex worker was employed by a massage parlour as an employee even though prostitution is illegal. In that case, the Labour Appeal Court stated that, despite the wrongful nature of the contract, sex workers are entitled to the benefit of the constitutional right to fair labour practices. However, while sex workers can be employees, it would be contrary to public policy for the courts to grant them any relief in respect of a claim for unfair dismissal.³¹ Most importantly, a contract of employment exists where both parties to an employment contract can be identified and the true nature of the contract is determined.

In some cases, the courts are hesitant to conclude that an intern or trainee is an employee in accordance with any applicable employment law. In *Mokone v Highveld Steel and Vanadium*,³² the arbitrator found that the applicant had only occasionally done some work for the respondent while he was completing studies financed by the respondent, and thus the arbitrator found that the applicant had not been an employee in terms of the LRA.³³

Employers have been warned that ‘hiring interns as a way to get free extra help in the office [is] venturing down a slippery slope, which may lead to the matter being referred to the Commission for Conciliation, Mediation and Arbitration (CCMA)’.³⁴ This is because the definition of ‘employee’ in section 213 of the LRA is broad and applies not only to any person, other than an independent contractor, who works for remuneration but also to ‘any other person who in any manner assists in carrying on or conducting the business of an employer’.³⁵ Indeed, in a case concerning an articulated law clerk, the Labour Court of South Africa established that, even where training is the main purpose of a contract, this is not inconsistent with the existence of an employment relationship under the LRA.³⁶ With similar reasoning, many other interns would be regarded as employees under the LRA.

³⁰ (2008) 29 ILJ 1918 (LC). The Court held that, while it would be inappropriate for a sex worker to be reinstated or compensated for a dismissal without a valid reason, they should nevertheless be accorded a hearing before dismissal.

³¹ Ibid.

³² (2005) 12 BALR 5.

³³ See also Paul Benjamin and Urmilla Bhoola, ‘Subordination, Parasubordination and Self-Employment: A Comparative Study of Selected African Countries’ in Giuseppe Casale (ed), *The Employment Relationship: A Comparative Overview* (Palgrave Macmillan 2011) 116.

³⁴ Dianne Shaddock Austin, ‘You Must Tread Cautiously When You Use Unpaid Interns’ (*HR Pulse*, 4 April 2013), <http://www.hrpulse.co.za/tech2/opinion/229470-you-must-tread-cautiously-when-you-use-unpaid-interns>, accessed 30 March 2021.

³⁵ Labour Relations Act 66 of 1995, s 213(a), (b).

³⁶ *Mashaba v Cuzen & Woods Attorneys* (1998) 19 ILJ 1486 (LC), [37].

The Basic Conditions of Employment Act 1997 (BCEA) also has a wide scope applying not only to ‘all employees and employers’, defined in the same way as in section 213 of the LRA, but also to ‘persons undergoing vocational training except to the extent that any term or condition of their employment is regulated by the provisions of any other law’.³⁷ Therefore an intern, whether regarded as an employee as legislatively defined or undergoing vocational training, provided the terms and conditions of employment of the latter are not regulated by other laws, has the right to be compensated by the employer under the BCEA. In addition, since 2002, both Acts contain provisions which put in place a presumption of employment status where a person satisfies at least one of a number of specified criteria, including their work being ‘subject to the control or direction of another person’.³⁸ This presumption of employment applies regardless of the form of the contract and is designed to give effect to the International Labour Organization’s (ILO’s) Recommendation on the Employment Relationship No 197.³⁹

Alternatively, employers may benefit from taking on interns for skills development in that salaries and training expenses for black interns may be included in the expenditure measured for Broad-Based Black Economic Empowerment points.⁴⁰ Employers are also obliged to pay a skills levy, which is used to fund skills development.⁴¹ However, these initiatives cannot assist the whole populace of unemployed graduates without skills. The Department of Labour, which administers the Skills Development Act, established the Sector Education and Training Authorities (SETAs), which pay grants to employers to fund internships. While SETAs are institutionally empowered to effect change, they ‘lack capacity to conduct demand forecasting to inform sectoral and national strategies’, and this has generally been ‘recognized as a major weakness’.⁴²

³⁷ Basic Conditions of Employment Act 1997, s 3(1), (2). See also Labour Relations Act, ss 213, 200A.

³⁸ Labour Relations Act, s 200A; Basic Conditions of Employment Act, s 83A.

³⁹ See Republic of South Africa, ‘Code of Good Practice’ (n 29). See also *Kylie v CCMA* (2010) 7 BLLR 705 (LAC).

⁴⁰ ‘Department of Trade and Industry, Broad-Based Black Economic Empowerment Act 53/2003: Code of Good Practice’, Republic of South Africa, *Government Gazette* (no 36928, 11 October 2013). See also Employment Tax Incentive Act 26 of 2013.

⁴¹ Keep Climbing, ‘How Much Internships Pay’ (*7sundays*, 16 September 2016), <http://7sundays.co.za/KeepClimbing/2016/09/16/how-much-are-interns-paid/>, accessed 30 March 2021.

⁴² Glenda Kruss, Angelique Wildschut, Dean Janse van Rensburg, Mariette Visser, Genevieve Haupt and Joan Roodt, *Developing Skills and Capabilities through the Learnership and Apprenticeship Pathway System: Synthesis Report* (Human Sciences Research Council 2012) 5.

8.2.2 Challenges Faced by Graduates

The nature of internships varies across companies; however, most internships are unpaid, especially in non-government organizations, and most work takes place in the public sector.⁴³ Owing to the high demand for the acquisition of necessary skills and work experience by graduates, some do not object to working without pay. This is arguably the case even in other countries, as a route chosen by either the graduate or the employer. For example in the USA, the rapid increase in unpaid internships has prompted arguments both for and against them based on their impact on the interns.⁴⁴ In South Africa 'low- or no-pay "creative internships" are proliferating at an astonishing rate – something that has industry veterans, educators and savvy graduates questioning the ethics behind this trend'.⁴⁵ Despite this, most interns believe that internships are attractive and that they assist an individual to gain a foothold in their chosen industry, enhancing their résumé and, most importantly, enabling them to acquire soft skills relating to business etiquette, conflict resolution and teamwork. Many believe, therefore, that it is an individual's decision whether to take a paid or unpaid internship.⁴⁶

Several problems associated with internships raise issues relating to their regulation. The period for which an internship extends has proven to be a problem. Normally, internships last anything from three months to two years; but there are exceptions.⁴⁷ Many interns must accept unpaid internships for the purposes of gaining work experience. This is problematic in that recent graduates must still pay for their fares to work, food at work and other incidental expenses. For those fortunate enough to be paid, the amount is often not adequate to cater for their needs and newly adopted lifestyles.

Successful transitioning from education into the labour market is critical in a young person's life, and an inability to do so may have long-term socio-economic effects.⁴⁸ Yet success in this regard has become increasingly

⁴³ SA Works (n 15).

⁴⁴ Nicolas A Pologeorgis, 'Unpaid Internship Impact on the Labor Market' (*Investopedia*, 25 June 2019), <https://www.investopedia.com/articles/economics/12/impact-of-unpaid-internships.asp>, accessed 30 March 2021.

⁴⁵ Staff Writer, 'Are South African Interns Being Taken Advantage Of?' (*BusinessTech*, 2 March 2019), <https://businesstech.co.za/news/business/301968/are-south-african-interns-being-taken-advantage-of/>, accessed 30 March 2021.

⁴⁶ Staff Writer, 'Paid vs Unpaid Internships in South Africa' (*BusinessTech*, 4 September 2016), <https://businesstech.co.za/news/banking/135439/paid-vs-unpaid-internships-in-south-africa/>, accessed 30 March 2021.

⁴⁷ *Andreanis* (n 8).

⁴⁸ ILO, 'Global Commission on the Future of Work' (ILO Issue Brief No 2, 17 February 2018).

challenging for most black graduates, as they are still disadvantaged when it comes to acquiring employment in South Africa: thus by the second quarter of 2019, Stats SA found that 46 per cent of black African people were unemployed, compared with 9.8 per cent of white people.⁴⁹ Historically, the income gap between the employed and the unemployed has been as much a determinant of South Africa's high level of inequality as the gap between low and high earnings.⁵⁰

Consequently, for most black graduates, internships have not fulfilled the promise of being a step towards employment but instead have, at least anecdotally, dragged them backwards, as they form part of a ladder that can be non-functional at any point. After progressing to internships, black graduates often then fall back to being unemployed at the end of their internships.⁵¹ The difficulty of establishing themselves in the world of work kicks in soon after completion of their studies, a cause for depression among graduates. Consequently, graduates take on any opportunity that presents itself in order to gain work experience (even if the internship is not aligned with their field of study). This has an impact on graduates' preparation for entry into the real world of work as employees.

In South Africa, the issue of inequality at work also plays an important role in the labour market and regulation of employment.⁵² According to the ILO, by 2010 South Africa had the highest unemployment rate globally⁵³ and it was still the highest, at 29.1 per cent, in December 2019.⁵⁴ Job seeking in the form of internships, traineeships or vocational work anecdotally can undermine the

⁴⁹ Dennis Webster, 'Unemployment in South Africa Is Worse than You Think' *Mail & Guardian* (Johannesburg, 5 August 2019), <https://mg.co.za/article/2019-08-05-unemployment-in-south-africa-is-worse-than-you-think/>, accessed 30 March 2021. See also Mncayi (n 12).

⁵⁰ Murray Leibbrandt, Ingrid Woolard, Arden Finn and Jonathan Argent, 'Trends in South African Income Distribution and Poverty since the Fall of Apartheid' (2010) OECD Social, Employment and Migration Working Paper No 101, <http://dx.doi.org/10.1787/5kmms0t7p1ms-en>, accessed 30 March 2021.

⁵¹ Zipho Majova, 'Black Graduates are Faced with the Bitter Choice of Either Working for Free, for the Bare Minimum, or Not Working at All' (*Daily Maverick*, 30 July 2018), <https://www.dailymaverick.co.za/opinionista/2018-07-30-from-degree-to-internship-to-unemployment-the-life-of-a-black-graduate/>, accessed 30 March 2021.

⁵² Trading Economics, 'South Africa Unemployment Rate' (2 December 2019), <https://tradingeconomics.com/south-africa/unemployment-rate>, accessed 30 March 2021.

⁵³ ILO, *Brazil: An Innovative Income-Led Strategy* (ILO 2011). See also Nicoli Nattrass, 'Meeting the Challenge of Unemployment?' (2014) 652 *Annals Am Academy Pol & Soc Sci* 87.

⁵⁴ Countryeconomy.com, 'Unemployment', <https://countryeconomy.com/unemployment>, accessed 30 March 2021.

development of skills of new graduates, especially in cases where graduates undertake work not related to their field of study.

Lack of technological skills also presents a barrier to the successful transition of graduates to the world of work. The development of educational institutions is the key to overcoming this challenge, as a lack of institutional resources and facilities prohibits the acquisition of basic skills prior to completion of graduates' studies, which has long-lasting impacts on them. Minimal access to resources such as the Internet and other facilities, such as computer laboratories, has a negative impact on students' preparation for their careers. In an era when technology is integral to many workplaces, these graduates will also be at a disadvantage even in acquiring an internship. Most black graduates are unable to use the Internet, and those that can lack access to it owing to financial constraints.

8.3 THE TRANSITION OF GRADUATES INTO THE WORLD OF WORK

8.3.1 Adaptation

Problems related to the education-to-work transition have been observed in many jurisdictions, not only in South Africa. Thus, the transition from education to the world of work can be a shock to graduates. For example, it has been noted in Australia and the USA that, when graduates transition, they are confronted by the gap between theory and its practical application to work, known as 'reality shock'.⁵⁵

It is posited that the 'right to be trained is a component of the complete development of the human personality',⁵⁶ and 'through better training, spiritual and physical productivity in the workplace can be improved'.⁵⁷ Therefore, the importance of enabling a successful transition from education to work cannot be overstated. The ILO Global Commission on the Future of Work stated that the transition from school to work is becoming increasingly difficult.⁵⁸ Despite all the challenges faced by graduates transitioning from university to the world

⁵⁵ Marlene Kramer, *Reality Shock: Why Nurses Leave Nursing* (Mosby 1974); Matthew D Ankers, Christopher A Barton and Yvonne K Parry, 'A Phenomenological Exploration of Graduate Nurse Transition to Professional Practice within a Transition to Practice Program' (2018) 25 *Collegian* 319.

⁵⁶ University of Free State Business School, 'The Elements of the Tripartite Relationship' (*University of Free State* 2015), <https://lms.tuit.co.za/courses/107/pages/the-elements-of-the-tripartite-relationship>, accessed 30 March 2021.

⁵⁷ *Ibid.*

⁵⁸ ILO, 'Global Commission' (n 48).

of work and skills development, there are various factors that can positively cater for the latter and assist in the development of their careers.

Thus, internships are believed to enable individuals to gain work experience and learn from the ground level what is required in certain fields. Moreover, internships assist graduate interns to assess their strengths, aptness and dedication to the industry.⁵⁹ To the extent that internships can provide these opportunities, the challenge is to ensure that they do, that they are well regulated and not exploitative, and that black graduates enjoy equality of access to them.

8.3.2 Developments in Educational Institutions

Despite the high unemployment rate, education remains the key to young people's success in the labour market.⁶⁰ Yet often there are mismatches in expectations regarding the transition from education to work. Generally, graduates believe that education alone is enough to make it in the world of work, and institutions of higher learning have traditionally considered their graduates to be well prepared for the workplace, certainly as regards theoretical knowledge. However, employers often perceive graduates as lacking vital skills for employment.⁶¹

A study by Griesel and Parker examined these common misunderstandings of the roles of higher education and employers.⁶² Light certainly needs to be shed on their differing perspectives as this lack of alignment affects the extent to which graduates are equipped to enter and adapt to the labour market.⁶³ Griesel and Parker indicate that there is a need to address gaps between employer expectations and higher education outcomes. If, in the end, the mandate of higher education is not to provide job-related skills, but instead to perform the distinct role of preparing graduates with generic skills they can apply in the changing contexts of the work environment,⁶⁴ then internships could play an important role.

⁵⁹ SA Works (n 15).

⁶⁰ Statistics South Africa, 'Youth Graduate Unemployment Rate Increases in Q1: 2019' (*Stats SA*, 15 May 2019), <http://www.statssa.gov.za/?p=12121>, accessed 30 March 2021.

⁶¹ Oluwajodu and others (n 5).

⁶² Hanlie Griesel and Ben Parker, *Graduate Attributes: A Baseline Study on South African Graduates from the Perspective of Employers* (South African Qualifications Authority 2009) 3.

⁶³ Thato Valencia Mmatli, 'Adaptation Challenges Faced by Recent Graduates in South African Multinational Organisations' (MA thesis, University of the Witwatersrand 2015).

⁶⁴ Griesel and Parker (n 62) 5–28.

There are several higher education institutions in South Africa that, based on their recognition within the national and international spheres, gain leverage for their graduates in the world of work. Ironically, this becomes yet another factor for exclusion and inequality in the world of work, because an average graduate from these recognized institutions may be ranked higher than a meritorious (or an A-plus) student from an underprivileged institution. Generally, this arises from the status that an institution of higher education possesses and/or its rankings. In turn, other institutional developments are triggered by this recognition, including donations to the institution by its alumni.

The struggle for resources (for example, donations) will prevail for a very long time in underprivileged institutions. It is very rare for a black graduate from a poor background, who must work hard to take care of their family and eradicate poverty at home, to also give back to the development of an institution.

For black graduates, education is a tool to do away with poverty. The struggle to transition from education to work and out of poverty continues to be felt acutely during the job application process, which may require the use of complex and demanding social media platforms. These challenges can become a barrier to gaining employment, for example, because an Internet connection requires money. As Majova states: 'privileged white graduates may be oblivious to these issues but for majority of black graduates, this costly process excludes them from fully participating in the job seeking process'.⁶⁵

Several South African institutions of higher education⁶⁶ only engage in teaching and do not carry out regular career exhibitions or any form of graduate recruitment.⁶⁷ Consequently, individual graduates are often effectively excluded from attaining information about prospective organizations offering vacancies.

According to Oluwajodu and others, most employed graduates studied at the University of Johannesburg, the University of Cape Town (UCT),⁶⁸ the University of the Witwatersrand and the University of South Africa.⁶⁹ These universities have regular career-awareness programmes, career counselling

⁶⁵ Majova (n 51).

⁶⁶ These 'access universities' include the University of Zululand, University of the Free State and University of Limpopo.

⁶⁷ LM Luan, interview, 24 October 2012. See also Oluwajodu and others (n 5).

⁶⁸ The University of Cape Town is one of the most recognized and highly ranked universities in Africa, and well known within the international educational sphere. It offers more than 20 programmes (ranging from a career advice service, employer relations and global citizenship, to teaching and learning strategies) that prepare students to transition into the workforce in South Africa and globally.

⁶⁹ Oluwajodu and others (n 5).

and recruitment visits, and a reputation for high educational standards, facilities and equipment.⁷⁰ It then becomes difficult for graduates from other universities to gain employment and develop their careers.⁷¹ Institutional status thus continues to be inextricably linked with the success of graduates in entering the labour market.

8.3.3 Interns Equipped for Work

A qualification puts an individual one step through the employment door. However, this is not the only factor that determines whether a graduate will obtain a job. In order to do away with unforeseen challenges faced by graduates when transitioning from education to the world of work, they often seek to acquire the necessary skills within their chosen field through internships. Work experience also plays an important role in the employability of an individual graduate,⁷² since it is believed that it develops employability skills, which are argued to enhance employability among graduates.⁷³ However, there is an exception in the South African Public Services and Administration, as in 2018 Minister Ayanda Dlodlo announced that ‘South Africans need no work experience to get entry-level government jobs’.⁷⁴

Employability relates to the skills and attributes needed to gain employment and to progress in an industry.⁷⁵ Although the government and other private stakeholders have been trying to establish ways in which internships may be provided to train graduates and prepare them for work, this has not overcome the mismatched skills, inequality, high unemployment rate and lack of skills in some professions. Most graduates take on internships that do not build their growth, nor develop their skills, because their aim is to acquire a job to

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² ILO, ‘Global Commission’ (n 48) fig 2.

⁷³ Ben Davies, Katie Gore, Jan Shury, David Vivian, Mark Winterbotham and Susannah Constable, *UK Commission’s Employer Skills Survey 2011: UK Results* (UK Commission for Employment and Skills 2012).

⁷⁴ Staff Writer, ‘South Africans No Longer Need Work Experience to Get Entry-Level Government Jobs’ (*Mybroadband*, 16 November 2018), <https://mybroadband.co.za/news/government/285158-south-africans-no-longer-need-work-experience-to-get-entry-level-government-jobs.html>, accessed 30 March 2021.

⁷⁵ Susima Samudrika Weligamage, ‘Graduates’ Employability Skills: Evidence from Literature Review’ (ASAIHL Conference, Phnom Penh, Cambodia, 22–24 November 2009), http://fac.ksu.edu.sa/sites/default/files/weliganmage_2009_graduates_employability_skills_evidence_from_literature_review.pdf, accessed 30 March 2021.

alleviate poverty. While this might address poverty for a short period of time, it establishes a vicious cycle.

Taking up any internship programme can have detrimental consequences, as the intern may not be part of any other internship in the future. Internships are meant to enable interns to transfer their educational skills into the practical world of work, putting them in a better position than their counterparts when applying for work in the future and increasing their motivation to work in their field.⁷⁶ In addition, internships should provide graduates with an opportunity to practise skills relating to their studies in preparation for future work.⁷⁷ However, when graduates are looking for ways to provide for their families, taking an internship not aligned with their profession is not an immediate problem.

A range of other problems is evident in relation to internships. For example, the South African health sector experiences challenges when it comes to interns' skills and their development soon after completion of their internships. As Bola and others put it, there are deficiencies in supervision and safety across all rotations and hospitals, despite the internship programme being extended to two years.⁷⁸ In addition, health interns' supervision and workload have not always complied with the standards set by the Health Professions Council of South Africa.⁷⁹ Research in this field has described concerns regarding teaching, workload and supervision.⁸⁰ More generally, Morrow claims that stress in graduates rises when their capabilities do not meet expectations and there is a lack of support in the workplace, especially from managers.⁸¹ Notwithstanding this, it is sometimes the case that when interns demonstrate an ability to transfer acquired skills then, depending on their resources, com-

⁷⁶ SA Works (n 15).

⁷⁷ Department of Public Service and Administration, *The Public Service Internship Programme: Step by Step Guide* (Department of Public Service and Administration 2006), http://www.kzncomsafety.gov.za/LinkClick.aspx?link=DPSA_Internship.pdf&tabid=146&mid=459, accessed 30 March 2021.

⁷⁸ Sumrit Bola, Eudiet Trollip and Fran Parkinson, 'The State of South African Internships: A National Survey against HPCSA Guidelines' (2015) 105(7) SAMJ 535, <http://www.samj.org.za/index.php/samj/article/view/10059/6834>, accessed 30 March 2021.

⁷⁹ The Health Professions Council of South Africa is a statutory body established under the Health Professions Act 56 of 1974. See Bola and others, *ibid*.

⁸⁰ Ni Ni Sein and John Tumbo, 'Determinants of Effective Medical Intern Training at a Training Hospital in North West Province, South Africa' (2012) 4(1) African J Health Professions Educ 10.

⁸¹ Sandra Morrow, 'New Graduate Transitions: Leaving the Nest, Joining the Flight' (2009) 17 J Nurs Manage 278.

panies may offer them a permanent salaried position;⁸² however, there is no evidence of this.

8.4 CONCLUSION

To achieve social justice in South Africa, the role of higher education should be extended to developing disadvantaged students in order to assist in their employability.⁸³ If this is lacking, the aims of alleviating poverty, reducing unemployment and equal distribution of resources will be defeated. The regulation of internships in South Africa has been criticized. Thus, even though internships give graduates an advantage in acquiring work in the future, inequalities in attaining them still play a bigger role. Thus, those who were privileged in the past continue to benefit, as they are still benefiting from the consequences of apartheid. Again, graduate development is defeated.

Although the law and regulation of internships in South Africa is important for young people as individuals, it is also of wider social significance. The education and employment of graduates is a critical way of tackling two of the most difficult problems experienced by South Africa: unemployment and poverty. However, unemployment and poverty are linked closely with the problem of inequality – a seemingly intractable issue that is entwined in our daily lives.

The law makes provisions to adjudicate disputes, but this might not be of assistance for the vast majority, who are not familiar with the law. Acquiring jobs in this changing world is fraught with the challenges mentioned previously which black graduates are facing. The South African government is not doing enough to address challenges faced by black graduates, especially those from underprivileged universities, whom employers are not keen on taking. There is evidence of the high unemployment rate of black graduates, but unfortunately no evidence on whether the existing initiatives are alleviating poverty and assisting those who were disadvantaged during the apartheid era.

Many issues that are perceived as problems of unemployment have hidden partners which make the job-seeking process more difficult for black graduates. Poverty leads to challenges, such as access to the resources required to develop an individual's technical skills. In addition, educational institutions vary in prestige and, often, black students attend the poorer institutions, which provide little support for students seeking employment. The graduates of these universities cannot afford to donate to them, setting up a vicious cycle in which the poor get poorer.

⁸² SA Works (n 15).

⁸³ Lourens and Fourie-Malherbe (n 11).