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Legal practitioners transitioning into academia as novice lecturers to teach procedural modules in the law curriculum: A need to provide support for the transition

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1   Introduction

In South Africa, the legal fraternity is dubbed a noble profession. Hence, many students in higher education institutions opt to register for a Law degree. These students eventually graduate, some in record time and others later. This engendered an influx of law graduates in the legal fraternity. This influx created a saturated market with supply exceeding demand. This led to one of the Attorneys practicing in Durban asserting their discontent on the oversaturation of law graduates by stating that '... [e]ver since 1998, we have seen an oversaturation of legal graduates... [t] he tendency of our universities to allow anyone to study and simply pass must stop. Otherwise, we will see Attorneys unable to secure employment in the legal profession'.[1] Indeed, what this Attorney cautioned years back is a reality in the current setup. There are a lot of legal practitioners in the country, and most of them find it difficult to make a career they hoped for in practice. Thus, they seek refuge in the academic spaces as lecturers, hoping to land opportunities to serve as part-time lecturers, fixed-term lecturers, and some as permanent lecturers.

To a certain extent, this is to the advantage of the Law faculties because ordinarily when dealing with procedural modules, Law faculties prefer to recruit legal practitioners with experience in litigation to teach the modules. This is encouraged because legal practitioners could bring

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1   Mkhize 'Free for all' (2013) *De Rebus Journal* 5.

practical experience to class. However, the challenge arises when the said faculties ignore the fact that when these legal practitioners join academia, they are regarded as novice lecturers irrespective of the experience amassed in practice. They often face challenges in the transition. This is underscored by Herman et al when they provided that '... [t]he notion of 'transition' is understood as a process that involves mobility from one state to another; often disengaging from a prior role and engaging in one that is new. ... adapting to new, unfamiliar tasks and value systems in higher education (HE) might be challenging ...'[2] These scholars managed to capture the reality of most legal practitioners who transition into academia. Although in most cases, novice lecturers appointed in higher education attend a generic institutional induction, the induction lasts a few days and is barely enough to integrate them into academia.[3]

Academia comprises performance areas related to research, teaching and learning, supervision, and many others. These performance areas are typically interlinked, intertwined, and/or interconnected. This is unlike in practice, where typically, litigation occupies centre stage, with research and supervision bearing a different meaning. For example, research in academia involves publishing academic papers in accredited journals. This process involves a rigorous blind review process to ensure sound quality.[4] In the main, it is geared towards the development of legal thought and legal theory.[5] In practice, a legal practitioner who prepares a case for trial does research. This is done to solve an existing issue, not to develop a legal thought and theory. Brand buttresses this by stating that '[a]n advocate writing a legal opinion on a brief from an attorney does research and writes to address and resolve a practical legal problem raised by a case or dispute in real life'.[6] Worth noting is that, in practice, there is no process of review.

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2   Herman et al 'Entering the world of academia is like starting a new life: A trio of reflections from health professionals joining academia as second career academics' (2021) *International Journal for Academic Development* 70.
3   Ramhurry & Luneta 'Getting by with a little help from my friends: The contribution of mentorship practices to the social learning of the novice lecturer in the capacity of being an academic' *South African Journal of Higher Education* 151.
4   Tempelhoff 'Peer review in academic journals: A Pandora's box' 2020 *South African Journal of Science* 1.
5   Brand 'What is academic legal writing?' (2012) *Pretoria Student Law Review* 10.
6   As above.

The distinction in purpose indicates the existing disconnect of expectations between practice and academia. This disconnect extends to teaching/facilitation/supervision. In practice, experienced legal practitioners typically deal with candidates who have completed their qualifications and have a legal background, i.e., (i)Junior Counsels, (ii) Professional Assistants, (iii) Candidate Attorneys, (iv) Paralegals, and (v) Legal Secretaries. In this case, the role of experienced legal practitioners is to hone what these professionals already know and supervise/monitor their work. On the contrary, lecturers in academia deal with students with no legal background, and their role is to ensure that students grasp principles and procedures that are new to them. At this juncture, it is apparent that there is a disconnect between practice and academia and the disconnect gives rise to two questions, i.e., (a) whether legal practitioners transitioning into academia as novice lecturers need support for the transition, and (b) whether such support could add value to the academic space. To answer these questions, a non-empirical and qualitative method of research shall be used to assist in discussing some of the concepts inherent in the academic space. These concepts include but are not limited to (i) Teaching and Learning, (ii) Research, and (iii) Supervision.

2   Teaching and learning

In 2010, George Siemens and Kathleen Matheos argued that Universities are confronted with evolving technologies that allow the technologically savvy to interact with one another and content in new ways.[7] Therefore, the academe should strive to adapt its tuition and research to this development.[8] In 2020, due to the COVID-19 pandemic, there was an abrupt introduction of Emergency Remote Teaching and Learning (ERTL) in higher education.[9] ERTL is defined by Hodges et al as a ' temporary shift of instructional delivery to an alternate delivery mode

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7   Siemens & Matheos 'Systemic changes in higher education' (2010) *Technology and Social Media in Education* 1.
8   As above.
9   Mthethwa & Luthuli 'The impact of COVID-19 pandemic on teaching and learning at tertiary institutions, opportunities and challenges' (2021) *African Journal of Public Affairs* 92.

due to crisis circumstances'.[10] The introduction of ERTL came with both constraints and opportunities. Concerning the former, some students and lecturers in academia were not conversant with remote teaching and learning. The latter presented an opportunity for lecturers and students to undergo training on remote teaching and learning. This chapter argues that, ideally, and from the definition of ERTL, this method ought to have been abandoned once COVID-19 restrictions are lifted. The understanding is that ERTL was a temporary measure that should last until the emergency is abated.

It would not be farfetched to argue that, at this stage, the COVID-19 pandemic has waned and thus the emergency is abated. On this strength, the majority, if not all, higher education institutions returned to the traditional modes of teaching and learning. Interestingly, these institutions retained some of the teaching and learning modes instigated or catalysed by the ERTL, such as virtual classes and online assessments. On this premise, this chapter argues that Law faculties should ensure that the legal practitioners recruited as novice lecturers are tech-savvy. If they are not, adequate support should be provided in time. This is because, unlike in practice, where legal practitioners sometimes use the services of Candidate Attorneys, Pupils, or secretaries to aid their technological limitations. In academia, novice lecturers do not enjoy such a privilege.

In academia, novice lecturers are responsible for everything, and as a rare occurrence, a tutor could be assigned to them. A tutoring system is an academic support programme where excelling students in different modules are used to provide learning assistance to students at lower levels.[11] The tutors serve as a support structure for students. They do not replace the lecturers and perform their roles. Hence, even if the tutor is assigned to a novice lecturer, tutors will not conduct a class on behalf of the lecturer, cannot set formative and summative assessments for the lecturer, and cannot grade formative and summative assessments for the lecturer. Of importance, teaching, assessments, and grading are amongst some of the non-negotiable core tasks of the lecturer in academia. Currently, these tasks are often conducted on an online or virtual

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10   Hodges and others 'The difference between emergency remote teaching and online learning'   https://er.educause.edu/articles/2020/3/the-difference-between-emergency-remote-teaching-and- online-learning (accessed 25 November 2024).
11   Underhill *The role of a peer tutor development programme in an academic literacies module* (Masters in Education Thesis 2009 University of Johannesburg) 15.

platform. Hence, it is imperative for a legal practitioner transitioning into academia as a novice lecturer to be tech-savvy and for the Law faculties to provide adequate support for the transition timeously if the lecturer is not tech-savvy.

This chapter submits that the HE institutions' return to some of the traditional modes of teaching and learning and the retention of other ERTL modes gave rise to a blended method of teaching and learning. This method may be challenging for legal practitioners transitioning into academia as novice lecturers because it is nascent, and most academics are still trying to understand it. A spanner in the works concerning blended learning is the lack of a universal definition. This creates confusion, and academics tend to choose what works for them. Currently, several scholars advance different explanations of blended learning. For example, Van Rensburg and Oguttu submit that a blended method is the 'combination of several teaching and learning methodologies with the traditional way of teaching'.[12] Tshabalala et al. believe that it is 'the mixture of traditional delivery, including lectures, group discussions, apprenticeships, and experiential learning, together with e-learning methods, which accommodate the various learning needs of a diverse audience in a variety of subjects.'[13] Cheung et al provide that 'a method of teaching and learning qualifies to be called blended learning only if it involves a meaningful and purposeful combination of two or more learning'.[14] These multiple explanations may confuse novice lecturers and lead them to do the wrong things. This chapter, therefore, argues that Law faculties also need to ensure novice lecturers are acquainted with the blended method of teaching and learning. Once support is provided on the teaching and learning modalities, Law faculties should direct their attention to teaching philosophies.

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12   Janse van Rensburg & Oguttu 'Blended teaching and learning: Exploring the concept, barriers to implementation and designing of learning resource' (2022) *South African Journal of Higher Education* 286.

13   Tshabalala, Ndeya-Ndereya & Van der Merwe 'Implementing blended learning at a developing university: Obstacles in the way' (2014) *The Electronic Journal of e-Learning* 102.

14   Cheung et al 'Instructional design practices for blended learning.' (2010) International Conference on Computational Intelligence and Software Engineering: Wuhan, China.

Tlali and Lefoka argue that people who teach students are always expected to develop a teaching philosophy.[15] According to these scholars, a teaching philosophy assists in providing a coherent approach to lecturing.[16] It also enables lecturers to reflect on what, how, and why they teach.[17] Ngene argues that lecturers need to understand some of the important principles found in academia to develop a good teaching philosophy. He provides that 'to develop an informed teaching philosophy, the lecturer needs to understand the basic concepts of pedagogy, curriculum development, assessment, mentorship and support, postgraduate supervision, and scholarship of teaching and learning'.[18] In academia, some of the common acceptable teaching and learning philosophies include but are not limited to constructivism, progressivism, and humanism.[19] These philosophies are more aligned with the student-centered approach to teaching.[20] Philosophies such as perennialism, positivism, behaviorism, and essentialism typically advance a teacher-centered approach to teaching.[21]

In most cases, the legal practitioners transition into academia as novice lecturers without understanding teaching philosophies, or worse, without knowing about their existence. This is because, in practice, legal practitioners do more litigation and little to no teaching. Teaching philosophies are important in driving the teaching and learning agenda of the institution. The lack of understanding of these philosophies could make it difficult for novice lecturers to decide which mode of teaching is best for their modules and their students. Furthermore, they may not know whether to adopt a student-centered approach to teaching or a teacher-centered approach. Therefore, novice lecturers should be assisted in understanding teaching philosophies to drive an effective teaching and learning agenda. Of importance, an effective teaching and learning

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15   Tlali & Lefoka 'Foregrounding a teaching philosophy statement in scaffolding reflective practice and professional development of higher education teachers in Lesotho' (2023) *Cogent Education* 1.
16   Tlali & Lefoka (n 15) 1.
17   Tlali & Lefoka (n 15) 1.
18   Ngene 'Teaching philosophy in a teaching portfolio: Domain knowledge and guidance' (2023) *Advances in Medical Education and Practice* 1232.
19   Ngene (n 18) 1234.
20   As above.
21   As above.

agenda is not limited to teaching modalities and teaching philosophies, it extends to assessments.

Rawlusyk explains assessment as 'a variety of tasks by which teachers collect information regarding the performance and achievement of their students'.[22] In the main, assessment has two purposes which are learning and certification.[23] These two purposes brought about concepts such as assessment for learning and assessment of learning. The former is explained by Koen as 'part of the instructional process and having a diagnostic, forward-looking purpose of aiming to improve future learning, and of giving encouragement'.[24] In the main, it is designed to promote student learning. Both teachers and students can use the feedback to assess themselves and emphasise areas that need improvement. The same author explains the latter as 'a means of gauging and making judgments regarding students' achievements for purposes of selection and certification…'.[25] Primarily, this focuses on certification. Hence, academia has amongst other types of assessments, formative and summative assessments. Formative assessments relate well with assessment for learning because their purpose is to promote ongoing growth and student learning whereas the goal of summative assessment is to judge students' competency at the end of the semester or year (instructional phase).

For want of relevance, it is important to highlight that the majority of legal practitioners transitioning into academia as novice lecturers are not familiar with the purpose of assessments and their types thereof. Therefore, it may be difficult for them to understand that assessment is not a step that comes after learning, nor is it a separate process from learning. It is part of learning. Therefore, they should know that assessments are not only conducted after the instruction. They could also be conducted before the instruction through a diagnostic assessment and during the instruction through a formative assessment. This will provide the lecturer with diagnostic feedback in terms of the student's knowledge, thus, enabling them (students and lecturers) to decide on

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22   Rawlusyk 'Assessment in higher education and student learning' (2018) *Journal of Instructional Pedagogies* 2.
23   As above.
24   Koen *Exploring assessment for learning in one higher education classroom* (Master's thesis 2011 Stellenbosch University) 22.
25   As above.

topic(s) that need more attention. This means assessment is not always conducted for the sole purpose of grading. This is augmented by the fact that some scholars are arguing for the 'ungrading' method of assessment. Ngene submits that '[u]ngrading, where there is no award of a mark for assessment, but the teaching method allows feedback and dialogue, has become an attractive practice among many scholars'.[26] This assessment method focuses less on grades and more on learning. After familiarising legal practitioners transitioning into academia as novice lecturers with the importance of teaching and learning agenda, Law faculties should now move their attention to the research component which is one of the important aspects of an academic. Generally, in academia research is currency, hence, the popular saying '*In the academe you either publish or perish*'.

3   Research

In the legal fraternity, the generation that attended higher education institutions, perhaps, three decades to four decades ago differs materially from the current generation. The generational aspect is important in this section because it has directly or indirectly contributed to a paradigm shift regarding students' needs in higher education institutions. This is because students' learning needs may be universal, however, learning styles need to be mediated by generational preferences.[27] This gives higher education institutions pressure to ensure they conduct their academic agenda in a way that will satisfy the contemporary students (old generation) and attract the new ones (new generation).[28] Jordan, Elisha, and Zhang argue that in the current setup, higher education institutions have the responsibility to develop courses and research projects that could bring solutions to the problems faced by the communities.[29] For want of relevance, a few decades ago in the Law field, B. Proc and B. Iuris

26   Ngene (n 18) 1236.
27   Skene, Cluett & Hogan. 'Engaging Gen Y students at university: What web tools do they have, how do they use them, and what do they want?' Proceedings of First Year in Higher Education Conference, Brisbane, Australia.
28   Rowe 'Knowledge and attitudes regarding the use of social software in a physiotherapy department' (2009) *JCHS* 2.
29   Jordaan, Markus & Zhang '"Generation Z students" voices on the roles of university in developing socially responsible graduate: A case study of South Africa and China' (2022) *The International Journal of Learning in Higher Education* 15.

were recognised qualifications in good standing. The Bachelor of Laws (LLB) was a postgraduate degree. Only a few students embarked on a Master's of Laws (LLM), and in the rarest of cases, a Doctor of Laws (LLD) was pursued. This created a situation where teaching a module was solely to produce good legal practitioners. Little to no emphasis was placed on the academic research component.

In contrast, the current approach not only focuses on producing good legal practitioners. It also seeks to create a conducive environment for academic research and publications. This is because the current generation of students is interested in research and pursuing postgraduate studies. With the growing number of postgraduate students and sheer interest in research, legal practitioners transitioning into academia as novice lecturers to teach procedural modules in the law curriculum are expected to become researchers. Becoming a researcher (publishing articles, engaging in LLM projects, or PhD projects) is not an easy task. It tests one's cognitive, personal, and emotional strength.[30] In most cases, legal practitioners transitioning into academia to teach procedural modules lack researcher identity. This is because, in general, procedural modules are perceived to be more practical with fewer prospects of research potential. Researcher identity is a critical aspect of a researcher.[31] It is premised on the idea of what you can do and where you belong in the process of becoming a researcher.[32] What you can do entails understanding the field you want to pursue and where you belong entails different things, such as the community of scholars in your field.[33]

Generally, it is difficult to publish in procedural law as opposed to other fields of law. This is because there are few researchers in the field of procedural law. Consequently, the review process becomes unnecessarily long due to the lack of available reviewers. In this context, it may be argued that this is because procedural modules are mostly taught by legal practitioners who are part-time lecturers or who transitioned into academia from practice. In most cases, they are either not interested in

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30   Weise, Lamas & Suñé 'Becoming a researcher. Dialogical-self-based methods to the identity formation of postgraduate Students' (2020) *Quaderns de Psicologia* 2.

31   Castelló, et al 'What perspectives underlie 'researcher identity'? A review of two decades of empirical studies' (2021) *Springer Nature Higher Education* 568.

32   Noonan 'Doctoral pedagogy in stage one: Forming a scholarly identity' (2015) *International Journal of Educational Leadership Preparation* 22.

33   As above.

academic research, or are still trying to understand it and its intricacies, or they were simply not afforded adequate support for the transition. To change the status quo, Law faculties should be prepared to provide adequate support to legal practitioners who are transitioning to academia as novice lecturers. Among the many supports they could offer is to acquaint them with academic research as early as possible.

Although it is generally difficult to publish in procedural law, scholars such as Theophilopoulos and a few others provide a glimmer of hope that the status quo could change. They are making considerable strides to promote research in procedural modules. Therefore, Law faculties should take pride in these scholars' efforts and build from there. Ngalo provides that 'procedural law is there to enforce the basic principles of evidence to protect the rights of accused, arrested, and detained persons.'[34] Cassim and Mabeka provide that '[i]n South Africa, the law of civil procedure involves the issuing, service, and filing of documents to initiate court proceedings in the courts such as the superior courts and lower courts.'[35] Probing into these scholars' submissions, it is argued that procedural law is predominantly based on practical interactions. Regrettably, students in many law faculties largely deal with the theoretical part of it. They are seldom, if at all, exposed to the practical part of procedural law until they graduate and become Candidate Attorneys or Pupils.

For example, issuing pleadings means taking pleadings to court for the clerk or registrar to record them, serving pleadings involves the services of the sheriff, and there are rules attached to it, such as personal services. If students were also involved in the practical side of all this, they would probably identify grey areas and loopholes, and investigate them in their postgraduate studies or as research papers. Since students mainly deal with the theoretical part, it may be difficult for a novice lecturer to stimulate research interest in the students. This is especially true when they (novice lecturers) are not familiar with or interested in academic research. Be that as it may, in higher education, all lecturers are expected to promote academic scholarship and encourage students to research and pursue their postgraduate studies. Of importance, this

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34   Ngalo *The right to a fair trial: An analysis of S342 (A), S168 of the Criminal Procedure Act, and a permanent stay of prosecution* (Master of Laws Mini-dissertation 2017 University of KwaZulu-Natal) 65.

35   Cassim & Mabeka 'The Africanisation of South African Civil Procedure: The way forward' (2013) *Journal of Law Society and Development* 2.

includes legal practitioners who are transitioning to academia as novice lecturers teaching procedural modules. Therefore, this chapter argues that charging these novice lecturers with a duty to create a conducive environment for academic research, publications, and postgraduate enrolment without providing adequate support is onerous. This is because most legal practitioners are not familiar with research as we understand it in academia. As a result of this, Law faculties are urged to play their part by providing adequate support to novice lecturers transitioning into academia to teach procedural modules. When Law faculties provide support, that support should not be limited to research but should also be extended to supervision.

4   Research supervision

Academic research supervision has gained considerable recognition as an important task in academia. By its very nature, it is complex and requires a combination of teaching, research, and interpersonal skills.[36] Ngulube argues that postgraduate supervisory pedagogy is one of the less explored aspects in the academe.[37] As indicated in 1 above, supervision in academia and practice has different meanings. In academia, research supervision involves transferring knowledge and transforming students into independent researchers.[38] In practice, supervision largely involves overseeing or monitoring subordinates' (employees) work. In this process, no research element is involved. If by any chance a research element is involved, it is not research as we understand it in academia. This is augmented by Bertelsmann, who opines as follows:

> By now it is surely common knowledge among South African practitioners that the majority of Professional Indemnity (PI) claims arise out of two areas of practice – Road Accident Fund claims and conveyancing matters. When we scratch beneath the surface and examine what the majority of these matters have in common, the single most frequent answer is that they are dealt with by staff who have no formal legal qualification, or if they are legally qualified, then they

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36   Hendrickse 'COVID-19: An alternative approach to postgraduate supervision in the digital age' (2022) *South African Journal of Higher Education* 110.

37   Ngulube 'Postgraduate supervision practices in education research and the creation of opportunities for knowledge sharing' (2021) *Problems of Education in the 21st Century* 257.

38   Masuku 'Supervision as a tool of producing independent researchers: Reflecting on supervision processes' (2017) *International Journal of Sciences and Research* 340.

have little experience in practice. Coupled with this inexperience or absence of legal qualifications, the absence of effective supervision is the most significant factor that leads to these PI claims. The failure to effectively supervise staff is, in our experience, the single most important reason why claims arise in all areas of law.[39]

The above excerpt illuminates the different meanings of supervision in academia and practice. More often than not, legal practitioners who transition into academia as novice lecturers join academia bearing an understanding of supervision in line with practice. As a result, research supervision becomes a new term for them, and they are likely to struggle with it. Commonly, they struggle with some of the important features of research supervision, i.e., (a) the difference between mentoring and supervision, (b) the administrative processes involved in research supervision, and (c) the responsibilities of the supervisor and the supervisee. These features will be discussed in this section.

From the outset, it is important to highlight that extant literature indicates a lack of a universal definition of mentoring. Nuis, Segers, and Beausaert support this by submitting that 'despite the prevalence of mentoring programs in higher education, the conceptualization and implementation of mentoring are severely hampered by the proliferation of definitions and operationalizations'.[40] Crisp and Cruz, in their critical review of the literature on mentoring between 1990 and 2007, found that mentoring has been defined in more than 50 different ways.[41]

Blackwell defines mentoring as 'a process by which persons of a superior rank, special achievements, and prestige instruct, counsel, guide, and facilitate the intellectual and/or career development of persons identified as protegees'.[42] Terrion and Leonard defined mentoring as 'a helping relationship in which two individuals of similar age and/or experience come together, either informally or through formal mentoring schemes, in the pursuit of fulfilling some combination of functions that

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39   Bertelsmann 'Effective supervision in your legal practice' (2015) *De Rebus Journal* 26.

40   Nuis, Segers, and Beausaert 'Conceptualizing mentoring in higher education: A systematic literature review' (2023) *Educational Research Review* 2.

41   Crisp & Cruz 'Mentoring college students: A critical review of the literature between 1990 and 2007' (2009) *Research in Higher Education* 527.

42   Blackwell 'Mentoring: An action strategy for increasing minority faculty' (1989) *Academe* 9.

are career-related and psychosocial'.[43] Furthermore, Chitsamatanga et al define mentoring 'as a powerful development intervention that aims to support, assist and guide developing relationships established in the context of a formal mentorship between a mentee and mentor'.[44] Khumalo and Ndlovu argue that the different definitions exist mainly because the word mentoring could mean different things to different disciplines, scholars, and organisations.[45] From these definitions, there exists a contestation of whether mentoring could be referred to as a formal or informal process.

The term supervision also lacks a universal definition. Ketteridge and Shiach define supervision as a 'professional relationship executed per discipline customs and practice. The relationship is guided by intellectual and interpersonal integrity, fairness, respect, clarity about roles and responsibilities, and student autonomy ...'.[46] Odularu and Akande provide that 'supervision is often related to the conventional, one-to-one communication between students and their supervisors and is designed to aid students in evolving into autonomous researchers and scholars in their respective fields'.[47] Lessing provides that supervision refers to the 'guidance and overseeing of a postgraduate research student by a supervisor to do postgraduate research of high quality and to gradually master appropriate disciplinary research knowledge'.[48] From these definitions of supervision, it would not be far-fetched to submit that supervision is a formal process. Therefore, this makes it apparent that mentoring and supervision are different. Mentoring typically gravitates towards assisting the mentee with personal growth, while supervision is more focused on achieving institutional goals. Therefore, it is important

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43   Terrion & Leonard 'A taxonomy of the characteristics of student peer mentors in higher education: Findings from a literature review' (2007) *Mentoring & Tutoring* 150.

44   Chitsamatanga, Rembe & Shumba, 'Mentoring for female academics in the 21st century: A case study of a South African university' (2018) *International Journal of Gender and Women's Studies* 52.

45   Khumalo & Ndlovu, 'Mentoring as a form of transformation in academia' 2024 *African Journal of Inter/Multidisciplinary Studies* 4.

46   Shiach 'Supervising research students' in Fry (ed) *A handbook for teaching and learning in higher education: Enhancing academic practice* (2009) 175.

47   Odularu & Akande 'Reflection of experiences with academic supervisors, Supervisees and issues of power' (2024) *South African Journal of Higher Education* 254.

48   Lessing 'The role of the supervisor in the supervisory process' (2011) *South African Journal of Higher Education* 921.

for novice lecturers transitioning into academia from practice to understand these concepts and their differences. This understanding will avert a situation where novice lecturers pay more attention to the mentoring role instead of the supervision role. This is because, primarily, novice lecturers are recruited to advance the institutional goals.

Once novice lecturers understand the difference between mentoring and supervising, they should embark on understanding the administrative processes involved in research supervision and the responsibilities of the supervisor and the supervisee. In most Universities, research supervision is administered under the Postgraduate Office. There are frameworks governing the entire process of research supervision. These frameworks provide a guideline on the administrative processes of supervision and the role of the supervisor and the supervisee.

Often, novice lecturers are hardly advised of the existence of these frameworks on time. This creates a challenge because they take supervisory roles with limited knowledge about some of the administrative processes, such as an agreement between a student and the supervisor. This agreement serves as a binding contract between the supervisor and the supervisee. The agreement typically outlines the responsibilities of the student and the supervisor. Due to this lack of knowledge, novice lecturers tend to supervise students based on how they were supervised when they were still students. Mhlahlo underscores this by arguing that '[t]he field of research supervision tends to have insufficient protocols to guide novice supervisors and their students... many supervisors rely on their own 'experiences of being supervised' to guide them through the supervision process'.[49] This chapter argues that a lack of adequate support is the cause of all this. The writings of Odulara and Akande underscore this as follows:

> ... the author identifies several prevalent challenges within the process through a systematic review of the literature on postgraduate supervision in South Africa. These challenges included ... insufficient training and support for supervisors and ineffective communication between supervisors and supervisees ...The author concludes that there is a need for a more coordinated and systematic approach

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49   Mhlahlo 'Reflecting on supervision experiences: Honours students' research projects in Development Studies at the Nelson Mandela University' (2024) *South African Journal of Higher Education* 165.

to improving postgraduate supervision in South Africa, including... providing training and support for supervisors, and establishing mentorship programs.[50]

Based on the above excerpt, the chapter further argues that legal practitioners who transition into academia as novice lecturers would struggle with research supervision if they are not provided with adequate support. Moreso that, there exists a smaller pool of academics who supervise postgraduate students in the procedural field.

5   Possible interventions

5.1   Staff capacity development

Thus far, the chapter has demonstrated that legal practitioners transitioning into academia as novice lecturers are likely to encounter challenges in the transition if adequate support is not provided. Although it is accepted that the induction provided to novice lecturers is a form of support, this chapter argues that it is not enough to alleviate the possible challenges highlighted in this chapter. Therefore, this chapter argues that adequate support should include Staff Capacity Development. Law faculties should take advantage of the existing government initiatives, such as the University Capacity Development Programme (UCDP), to provide adequate support to legal practitioners transitioning into academia. One of the objectives of the ministerial statement on the implementation of the UCDP is to create an academic pipeline that enables the development of new academics.[51] Furthermore, to advance quality research and teaching development opportunities.[52] Another available government initiative is the Staffing South Africa's University Framework (SSAUF). Amongst other purposes of the SSAUF is to 'support newly recruited academics to develop teaching expertise,

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50   Odularu & Akande (n 47) 260.
51   Department of Higher Education and Training 'Ministerial Statement on the Implementation of the University Capacity Development Programme' https://www.dhet.gov.za/UCD%20Policies/Ministerial%20Statement%20on%20the%20management%20and%20implementation%20of%20the%20UCDP%202021-2023.pdf (accessed 15 January 2025) 16.
52   As above.

develop research skills, including scientific publication skills …'.[53] As part of staff capacity development and the implementation of the UCDP objectives and the SSAUF's purpose, Law faculties should consider exploring the need to ensure that novice lecturers acquire qualifications for teaching in higher education and receive training on conducting assessments. The respective qualifications could be obtained by registering for a Postgraduate Diploma in Higher Education (PGDHE) and Assessor and Moderator Training. In terms of research and supervision, Law faculties should spread awareness of available grants that support emerging researchers.

5.1.1   *Postgraduate Diploma in Higher Education (PGDHE)*

As part of capacity development, Law faculties should consider enrolling legal practitioners transitioning into academia for a qualification in PGDHE. This is a generic programme that is offered in most higher education institutions in South Africa.[54] Machingambi explains PGDHE as an 'extensive, theoretically grounded formal two-year programme that engages academics in learning theory and practices in HE settings. Those who pursue the programme develop their capacity to engage deeply and critically with the scholarship of teaching and learning…'.[55]

In this programme, the students deal with modules such as, but not limited to, (a) Learning, Teaching, and Assessment in Higher Education. This module deepens the theoretical understanding of teaching, learning, and assessment in higher education. The module further equips the students with knowledge in innovative teaching, learning, and assessment strategies in higher education, (b) Curriculum Development and Quality Assurance in Higher Education. This module exposes the students to theories and principles of curriculum design, development,

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53   Department of Higher Education and Training 'Staffing South Africa's Universities Framework a Comprehensive, Transformative Approach to Developing Future Generations of Academics and Building Staff Capacity' https://www.justice.gov.za/commissions/feeshet/docs/2015-Staffing-SAUniversitiesFramework.pdf (accessed 25 January 2025) 6.

54   Lebelo & Moloi 'Decolonising the postgraduate diploma in higher, education curriculum at one university of technology in South Africa' (2021) *South African Journal of Higher Education* 82.

55   Machingambi 'Academics' experiences of a post graduate diploma in higher education programme: a case of a university in South Africa' (2020) *International Journal of African Higher Education* 35.

review, and quality assurance. The module further provides students with skills and expertise in curriculum design, development, review, and quality assurance, (c) Educational Technology in Higher Education. This module equips students with the knowledge that underpins the curriculum and educational developments in a world dominated by technology. The module further provides students with a deeper understanding of theories that are relevant to Technology Education teaching, learning, and assessment, and (d) Postgraduate Supervision and Research Ethics. The module identifies and discusses international, regional, and local issues influencing practices in the postgraduate sector of higher education. The module further provided a critical reflection on different styles and structures relating to postgraduate supervision and their appropriacy in different contexts, including roles, functions, and responsibilities of supervisor and supervisee.

The emergence of PGDHE was important to disrupt the longstanding academic practices grounded on the idea that anyone with a Master's or Doctoral degree in their discipline can teach well.[56] This feeds on the misconception that one's disciplinary knowledge, experience, and research output are adequate for effective teaching.[57] This misconception permeated most Law faculties in South Africa. As indicated above, most Law faculties prefer experienced legal practitioners to teach procedural modules. However, they do not appreciate the reality that a skilled legal practitioner may fail to teach effectively in academia. Hence, this chapter argues that Law faculties need to support legal practitioners transitioning into academia by ensuring they enroll for PGDHE. This chapter further argues that PGDHE comprises module(s) that equip novice lecturers with pedagogies and their approaches. This is because, in essence, this programme professionalises teaching in higher education, and every module in the programme seeks to enhance the lecturer's teaching, research, and supervision capabilities.

In the law discipline, most practitioners transitioning into academia as novice lecturers have limited or no knowledge of pedagogical approaches. They often join academia with neither a higher education

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56   Machingambi (n 55) 34.
57   Subbaye & Dunpath 'Early career academic support at the University of KwaZulu-Natal: towards a scholarship of teaching' (2016) *Studies in Higher Education* 1805.

teaching qualification nor a teaching background. Borrowing from Machingambi's contribution, where the author conducted empirical research and interviewed participants who completed PGDHE, the participants held a unanimous view that '[t]he programme was of tremendous value to their current and future teaching roles in higher education. A thread that ran through all the responses was that the programme should be a requirement for all those who intend to join the sector as lecturers ... It suggests that university teachers should receive pedagogical training before appointment'.[58] This study concurs with the suggestion that lecturers should receive pedagogical training before appointment, however, it appreciates the realistic position that this may be difficult to implement due to a variety of reasons. Amongst these reasons is the fact that there is a general lack of awareness of the existence of this programme in the legal fraternity. Furthermore, not all Universities in South Africa offer this programme.

5.1.2   *Assessor and moderator skill programme*

Another qualification that Law faculties should consider is the Assessor and Moderator Training. According to the Education Training and Development Practices Sector Education and Training Authority (ETDP SETA), the Assessor and Moderator Skills Programme provides a wide range of SAQA unit standard-based course that covers best practice standards of assessing outcomes-based learning.[59] Concerning Assessments, this training teaches lecturers how to conduct assessments in their area of expertise.[60] The ETDP SETA is helping academia by providing training that equips lecturers to be able to (a) demonstrate an understanding of outcomes-based assessment, (b) plan and prepare for assessment, (c) conduct assessment, (d) provide feedback on assessments, and (e) review assessment. This is because the training covers topics such as (i) assessment methodologies, (ii) designing assessment tools, (iii) conducting fair and valid assessments, (iv) providing constructive feedback, (v) maintaining assessment records, and (g) reviewing

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58   Machingambi (n 55) 39.
59   Education, Training and Development Practices Sector Education and Training Authority.
60   As above.

assessments to identify strengths and weaknesses.[61] Looking at these topics, it would not be far-fetched to submit that, when coming to assessment, this could bridge the existing gap between the practical experience amassed by novice lecturers in practice and the academic expectations set out by higher education institutions.

Worth noting is that understanding assessment alone is not enough. The process of moderation also needs to be understood and given the necessary attention. This is because moderation is an integral part of quality assurance in academia. Moderation has been adopted to ensure that the assessment principles of fairness, validity, and reliability are complied with.[62] Despite this, Van Tonder submits that 'there exists a meager amount of available research and literature on the moderation of assessment as a quality assurance mechanism'.[63] This places novice lecturers in a difficult position because only a few scholars participated in the academic discourse relating to moderation. Thus, there exists a small pool from which novice lecturers could learn. The lack of participation in the moderation discourse conspired to create a situation where lecturers tend to differ when coming to the epistemological foundation for moderation.[64] This lack of meeting minds breeds confusion and inconsistencies in academia. On the strength of this, this chapter argue that moderation training could illuminate these inconsistencies and confusion. This is because the EDTP SETA, in its training, provides tools to ensure a proper understanding of the moderation practices. These tools include, but are not limited to, (a) moderation policy and procedure, (b) moderation plan, (c) moderation guide, (d) moderation record report, and (e) moderation report and record.[65] If novice lecturers are supported to attend this training, their challenges concerning assessments could be mitigated, or even better, eradicated.

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61   As above.
62   Makae 'HODs' views on their capacity to conduct moderation of school based assessment in tourism' (2018) *African Journal of Hospitality, Tourism and Leisure* 1.
63   Van Tonder 'Rethinking the moderation of student assessment in South African universities' (2015) *Journal for New Generation Sciences* 130.
64   As above.
65   Education, Training and Development Practices Sector Education and Training Authority.

6   Conclusion and recommendations

The chapter demonstrated that in the legal fraternity, practice and academia are two different environments. Therefore, legal practitioners who transition into academia as novice lecturers face challenges during the transition. The chapter investigated two questions to wit (a) whether legal practitioners transitioning into academia as novice lecturers need support for the transition, and (b) whether such support could add value to the academic space. In answering these questions, the chapter presented the challenges faced by legal practitioners transitioning into academia. For example, in most cases, legal practitioners transitioning into academia are not familiar with important practices that drive an effective teaching and learning agenda. These practices include but are not limited to the (a) formulation of teaching philosophies, (b) implementation of different teaching modalities, (c) implementation of blended learning, and (d) understanding the purpose of an assessment. In this instance, failure to provide support may compromise the teaching and learning agenda. For example, novice lecturers may set question papers that do not comply with the requirements for assessment. Furthermore, they may fail to pitch the questions at the right level in line with the module's NQF level.

Regarding the research component, most legal practitioners transitioning into academia do not grasp how research is perceived in academia, where the primary purpose is to develop legal thought and theory. The advancement of legal thought and theory is driven by the publication of scholarly work that undergoes rigorous peer review. Moreover, these novice lecturers are expected to become researchers and cultivate research interest among the students they teach. This task becomes challenging when the novice lecturers themselves lack an understanding of academic research. In light of this, this chapter asserts that if timely and adequate support is not offered to these novice lecturers, they will struggle to publish scholarly work.

Similarly, regarding supervision, most legal practitioners moving into academia do not comprehend how supervision is defined within this context. They often face difficulties in differentiating between mentorship and supervision and encounter challenges in addressing administrative issues related to supervision. Administrative issues encompass the existence of a supervisor-supervisee agreement that

regulates the relationship between the supervisor and the supervisee, and also stipulates the responsibilities of both parties. If these challenges remain unaddressed, the throughput of postgraduate students' research in the procedural module will fail to improve.

The law faculties could support legal practitioners transitioning into academia by enrolling them in programs such as PGDHE and Assessor and Moderator training. The PGDHE will address issues related to Teaching and Learning, Supervision, Research, Quality Assurance, and Curriculum Development due to its specific modules that focus on these matters. Moreover, this program is designed to professionalise teaching in higher education. Once candidates complete this program, they become qualified/accredited higher education teachers.

The Assessor and Moderator Program will equip novice lecturers with the skills needed for formulating assessments and moderation, thereby improving the quality of the assessments. Upon completion of this training, the candidates become qualified/accredited assessors and moderators. This will safeguard the quality of assessments in law faculties. Furthermore, the knowledge gained from the PGDHE and Assessor and Moderator Training, along with their certifications, will add value to the academic space.

This chapter recommends that law faculties prioritise enrolling legal practitioners who transition into academia as novice lecturers in PGDHE and Assessor and Moderator Training. Law faculties should also encourage all staff members to undergo these trainings. The chapter further recommends that law faculties should raise awareness in the legal fraternity about the existence of these programs and encourage those interested in joining academia in the future to consider enrolling. At this stage, it would be ill-advised to make these qualifications a minimum requirement for joining academia due to a lack of awareness in the legal fraternity about their importance. However, it is recommended that these qualifications serve as an added advantage for candidates applying for academic posts in law faculties. As a future recommendation, when the Law faculties are confident that there is wide awareness of PGDHE and Assessor and Moderator training, and also that their importance in academia is well understood. They should consider adding these qualifications to the minimum requirements for academic posts.