

The labour market policy environment: current context and possible future trends

Haroon Borat

haroon.bhorat@uct.ac.za

with Kezia Lilenstein & Safia Khan

Development Policy Research Unit and School of Economics, University of Cape Town

Indlulamithi South Africa 2030 Scenarios Research Conference

I March 2018

Outline

- **Labour legislation**
 - LRA & BCEA and LM Institutions
- **Active labour market policy in South Africa**
 - The national minimum wage
 - The employment tax incentive
- **Collective bargaining and the role of trade unions**
- **Conclusion: The future challenge of the missing middle**

Labour legislation in post apartheid South Africa

- Three key acts form centerpiece of labour legislation in South Africa:
 - *Labour Relations Act (LRA)*,
 - *Basic Conditions of Employment Act (BCEA)*, and
 - *Employment Equity Act (EEA)*.
- LRA: Promote fair labour practice, supported by BCEA which regulates basic standards of employment.
- EEA: Equal opportunity through elimination of unfair discrimination.
- Acts combined aim: Establishing rights of employers and employees, drafted in accordance with ILO standards.

Labour legislation in post apartheid South Africa: The CCMA and dispute resolution

CCMA Settlement Rates, 2016/17

Performance Measure	Conciliation Settlement Rate	Mutual Interest Settlement Rate	Arbitration Settlement Rate
Q1	74.2	63.2	54.4
Q2	70.1	63.2	54
Q3	68.8	63.7	53.3
Q4	68	63.5	53.6
2016/17	68	63.5	54.2

- LRA promotes dispute resolution through the Commission for Conciliation, Mediation and Arbitration (CCMA).
- Efficient CCMA functioning contrasted with very low turnover rates of Labour Court.
- Disputes in LCs and LACs can take years to be resolved.
- Case management system in CCMA digitised, but not in LCs.

Labour legislation in post apartheid South Africa: key amendments, LRA

1996	1998	2000	2002	2014
<p>Facilitate and regulate organisational rights of trade unions.</p> <p>Promote and facilitate collective bargaining.</p>	<p>Provisions for pension and medical schemes.</p> <p><i>Adjust requirements for extending collective agreements in bargaining council to non-parties.</i></p>	<p>Specified the laws around bargaining council registration, extension agreements, and council agents.</p> <p>Gave bargaining councils power to provide industrial support services to participating parties.</p>	<p><i>Enhance enforcement of collective bargaining agreements.</i></p> <p><i>Extend services and functions of bargaining councils to informal sector.</i></p>	<p><i>Provide greater protection for workers placed by temporary employment services by:</i></p> <p><i>Regulating employment of fixed term contracts and part-time employees earning below earnings threshold;</i></p> <p><i>Specifying liability for employers' obligations;</i></p> <p><i>Limiting temporary employment to genuine temporary work that does not exceed six months.</i></p>

Labour legislation in post apartheid South Africa: key amendments, BCEA

2002	2012	2013	2014
<p><i>Set sectoral determinations on minimum wage rates and minimum wage increases.</i></p> <p>Specify circumstances under which ordinary hours of work can be varied.</p> <p>Regulate extension of overtime.</p>	<p>Periodic review of earnings threshold.</p>	<p>Prohibit employers from requiring employees to make payments to secure employment, purchase goods & services.</p> <p><i>Provision for minimum increases to actual wages in addition to minimum wage rate for vulnerable workers.</i></p> <p><i>Prohibit or regulate task-based work, piecework, home work, sub-contracting and contract work.</i></p> <p>Provisions for increasing the penalties and maximum fines for certain offences of Act.</p>	<p>Determination of minimum wages for domestic workers who work more than 27 hours per week.</p>

Labour legislation in post apartheid South Africa: possible future trends

Medium to long run:

Three potential paths or scenarios that legislative changes may take in South Africa:

1. Labour regulation steady State
2. Increased worker protection
3. A flexible labour market

Labour legislation in post apartheid South Africa: possible future trends

Scenario 1: Labour regulation steady state

- Growth and employment patterns influenced by factors other than the labour regulatory regime.
- Labour market policy has a muted, or steady state impact, on growth and employment outcomes in the South African economy.

Labour legislation in post apartheid South Africa: possible future trends

Scenario 2: Increased worker protection

- Continuous renegotiation of existing labour regulatory regime resulting in higher protection e.g. collective rights, hours of work, wage levels, and nature of emp. relationship.
- If increased protection induces higher wage and non-wage costs, growth and employment driven by such changes.
- Existing evidence: Excessive regulatory changes towards protection likely to have deleterious effects on employment and compliance levels.
- Increased worker protection scenario includes possibility of more constrained employment environment and rising levels of non-compliance.

Labour legislation in post apartheid South Africa: possible future trends

Scenario 3: A flexible labour market

- Erosion of some of the LRA and BCEA provisions.
- Has potential to reduce wage and non-wage costs to firms, resulting in the possibility of rising employment levels.
- Could induce social instability and an unstable industrial relations environment.
- Most unlikely of the three scenarios.

Lowest hanging policy fruit: Significant improvement in functioning of the labour courts would reduce costs of hiring and firing resulting in enhanced worker protection and incentivise firms to hire more workers.

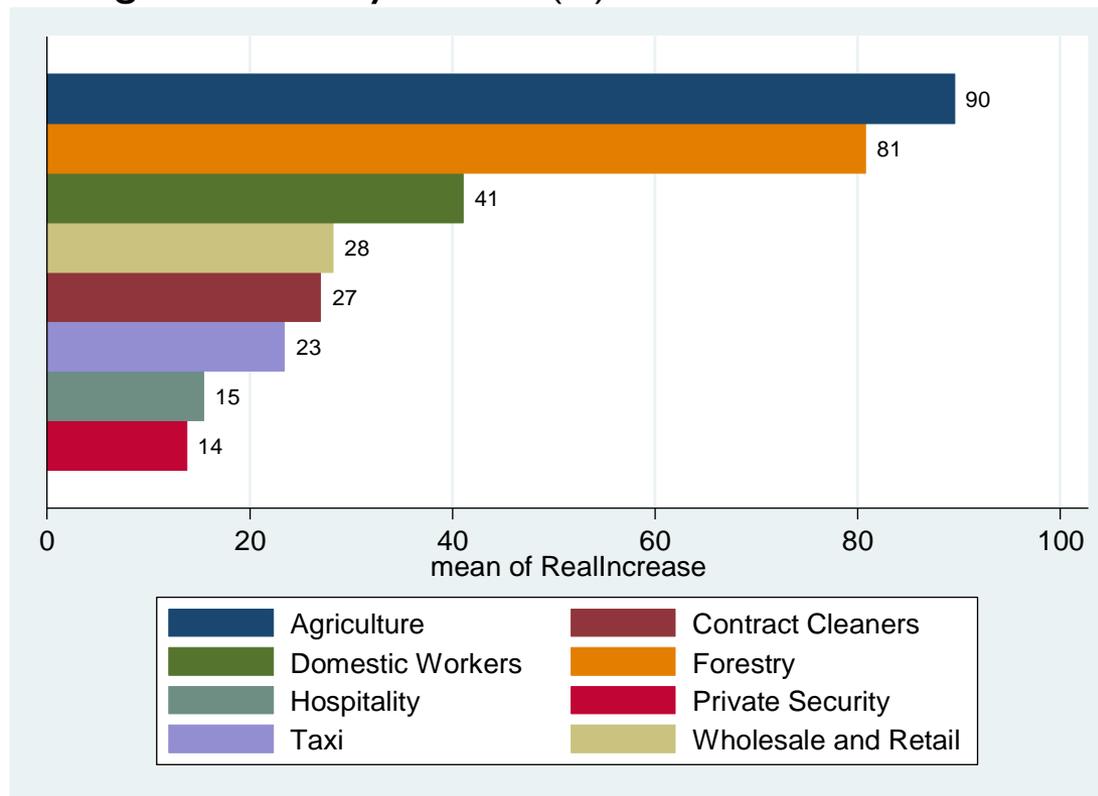
Active labour market policy minimum wages

Two distinct wage-setting systems in South Africa:

- System of sectoral minimum wage laws covering 11 sectors where union membership is low and individuals in vulnerable work.
 - Includes domestic workers, farm workers, the forestry sector, hospitality workers, learnerships, the private security sector, the taxi sector, the wholesale and retail sector, the civil engineering sector, and contract cleaners.
- Outside sectoral minimum wage system, wages set as outcome of bargaining process between employer and employee representatives.
- Minimum wages have been directly responsible for uplifting those at the bottom of the income distribution.

Active labour market policy minimum wages

Real minimum wage Increase by Sector (%)



Source: DoL (2015a), own calculations.

Note: The growth rates listed above represent the real minimum wage increases for each SD from the time each SD was established – i.e. the Contract Cleaning SD increase of 22 percent is measured from 1999 to 2015, while the Hospitality SD increase of 13 percent is measured from 2007 to 2015.

Active labour market policy

minimum wages

May 2018: National Minimum Wage (NMW) scheme, operational:

- Set at a nominal value of R3 500 per month, or R20 per hour.
- Onset of NMW: Concerns around possible employment losses.
- Empirical uncertainty regarding the employment effects of NMW.
- Of particular concern are sectors which currently have low wage floors e.g. Furniture industry facing wage increases of up to 166%.
- General concerns around labour intensive sub-sectors which hire large number of low-skilled workers: May bear adjustment costs of NMW.
- Wage increases also increase probability of non-compliance, thus undermining the NMW.

Active labour market policy minimum wages

Wage Gini Coefficient by minimum wage scenario and elasticity (2014)

Scenario	Elasticity	Wage Gini Coefficient (R3 400)
Employed Households Only		
Current (Pre-NMW)	-	0.62
	-0.1	0.56
	-0.3	0.60
	-0.5	0.62
Employed and Unemployed Households		
Current (Pre-NMW)	-	0.80
	-0.1	0.77
	-0.3	0.79
	-0.5	0.80

CGE Model Results show:

- Across all scenarios – Inequality reduction highest with lowest wage elasticity because disemployment effects minimised.
- Employed households only, wage Gini in 2014 was 0.62.
- When unemployed households included the pre-NMW Gini rises to .80 and drops to 0.77 at most post-NMW
- Key: NMW must NOT be viewed as a tool for reducing national inequality levels.

Source: Modified from Borat et al., 2016.

The national minimum wage: possible future trends

Medium to long run effects of policy shaped by *implementation decisions*.

- *Exemption*: Unclear whether DoL will seriously consider delayed implementation requests from firms. Large number of sub-sectors where no phasing-in could mean closure and employment losses.
- *Adjustment*: Annual adjustment to NMW remains unclear. ‘CPI-plus’ route which ignores macroeconomic environment may be hazardous.
- *Convergence*: Unclear whether there is intention for convergence of lower minimum wage set for domestic and farm workers. The employment impact of these decisions must be taken into account.
- *Exclusion*: Will exclusions be considered for small and medium enterprises?

The national minimum wage: possible future trends

A framework to think through the medium to long-run impact of the NMW:

Outcome	Employment < 0	Employment ≥ 0
Violation = 0	Outcome 3	Outcome 1
Violation $\neq 0$	Outcome 4	Outcome 2

- Best case scenario (1) the NMW results in neutral or positive employment effects.
- Second best scenario (2) no disemployment effects but some level of violation.
- Second worst outcome (3) disemployment effects but zero violation.
- Worst case scenario (4) both disemployment effects and violation.

Active labour market policy

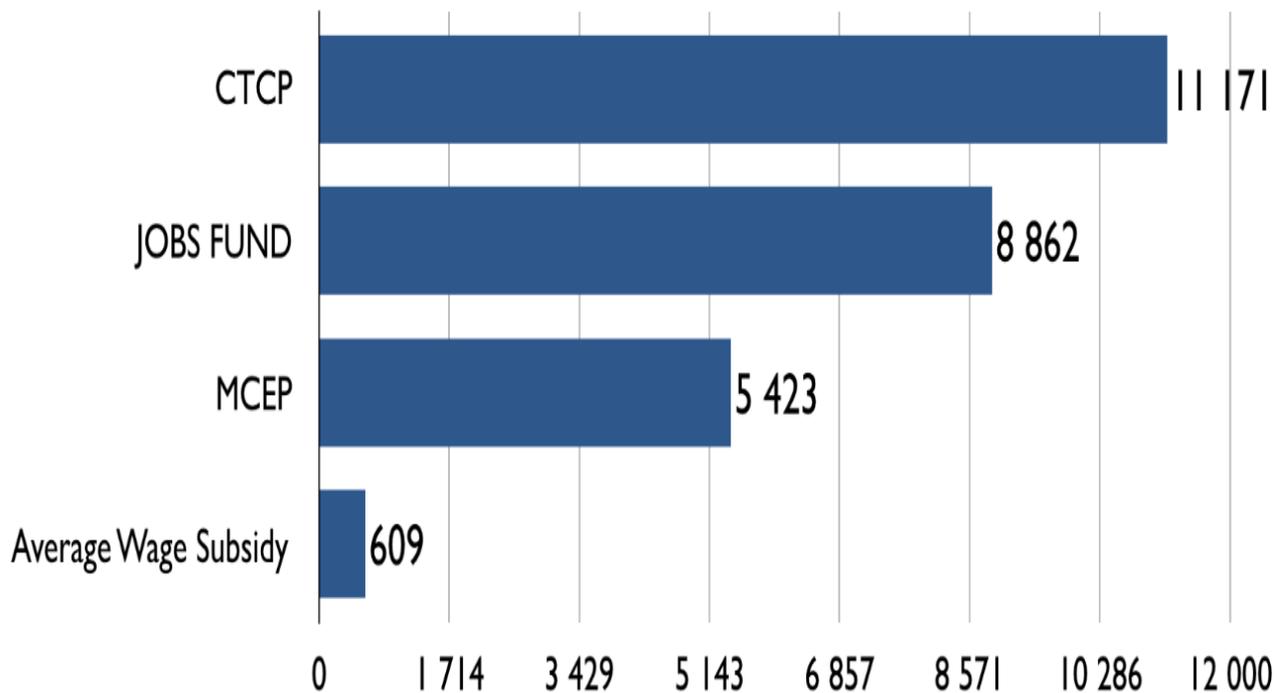
The ETI

- The Employment Tax Incentive Scheme is a policy targeted at reducing high levels of youth unemployment.
 - First Phase, 2014-2016. Extended to end February 2019.
 - Intervention is an income tax rebate per eligible employee aged 18-29 years, for those employees hired on or after 1st October 2013 and who earn less than R6 500 per month.
- Only demand side incentive utilised by government to absorb excess labour supply.
- Objective is to offset costs of hiring young, typically inexperienced workers, in labour market where education is not always a reliable signal of ‘job readiness’.

Active labour market policy

The ETI

Fiscal Cost per Job of South African Employment Stimulation Policies (USD PPP 2016)



- Incentive supports total of 686 402 jobs , representing some 5.1% of total jobs and 15% of jobs held by youth.
- Policy appears to be a cost-effective method for job creation.

The ETI:

Possible future trends

- In the short-term the ETI has already been extended into 2019.
- The ETI plays an important role as the only demand-side incentive aimed at expanding employment in South Africa.
- Scheme critical in reducing cost of employment and simultaneously building skills and work experience of young people.
- Introduced more wage-earners to high number of unemployed households, improving prospects of those most severely affected by low growth and poor employment absorption.
- Two longer run trajectories which the government can take:
 - The ETI is abandoned defaulting to the NMW and LRA as representing the only form of active labour market policy designed to create employment.
 - The ETI is continued and possibly expanded to include other innovative labour demand policy interventions.

Collective bargaining : The role of trade unions

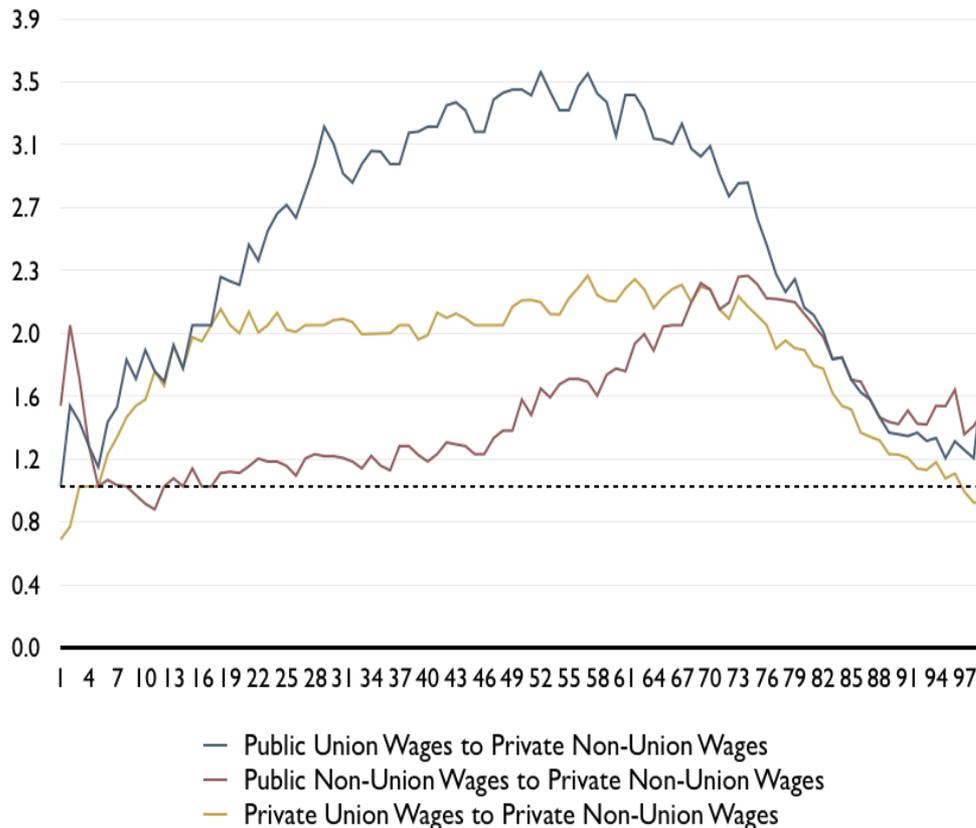
Trade Union Membership in South Africa: Public & Private Sector, selected years

Year	Private Sector Unions		Public Sector Unions	
	Number	Share of workers	Number	Share of workers
1997	1 813,217	35.6	835,795	55.2
2001	1 748,807	30.6	1 070,248	70.1
2005	1 925,248	30.1	1 087,772	68.4
2010	1 888,293	26.3	1 324,964	74.6
2013	1 868,711	24.4	1 393,189	69.2
2016	2 596,084	18.2	1 192,447	66.1

- Public sector's formal workforce membership has risen to 66% while the private sector's share has declined to 18%.
- A key new segmentation between strength of unionised public and private sector workers in South Africa.

Collective bargaining : The role of trade unions

Wage Ratios by Percentile, Public & Private Union Status, 2014.



- Unionised workers earn more on average than non-unionised private sector workers.
- In the SA labour market, public sector unionised workers earn the highest wages.
- In middle of distribution public sector wage premia relative to non-unionised private sector workers are highest.
- *Private sector workers in the middle of the distribution suffer the most from a lack of real earnings growth, given in part their small union wage premium.*

The role of trade unions: possible future trends

- Collapse of mining and manufacturing accounts for large proportion of private sector union membership decline.
- Leads to unionisation pattern seen elsewhere: Rise of high proportion of public sector union members earning a wage premium relative to similar workers in private sector.
- South African labour market characterised *on average* by highly organised, well remunerated public sector vs. less organised, lower paid private sector.
- Long Run Dynamics:
 - More labour intensive growth trajectory resulting in larger share of semi-skilled job creation may give rise to an increase in private sector union membership.
 - However impulse of the 4th Industrial Revolution brings threat of capital intensive economic growth and replacement of medium skilled workers in repetitive task occupations implies that private sector workers are more likely to become displaced.
 - Presents crucial challenge for private sector unions as they attempt to organise and grow.

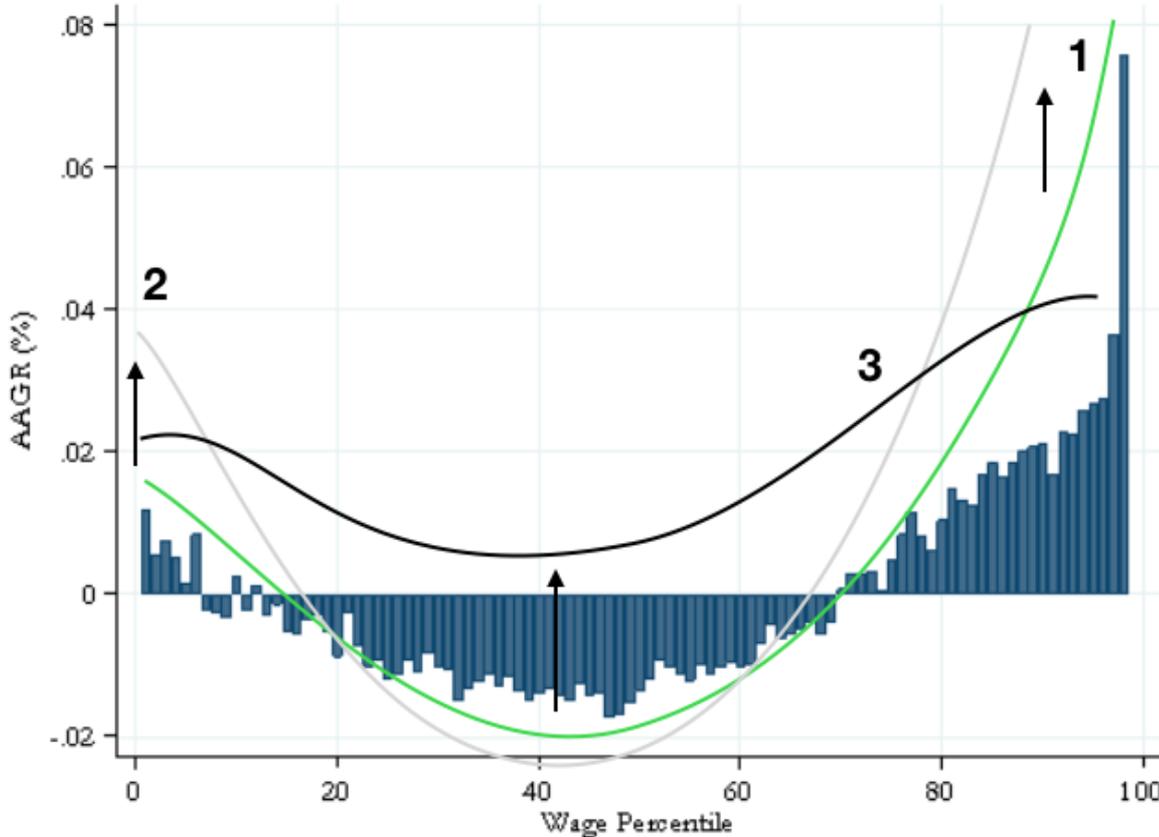
Conclusion

- Labour legislation, the NMW, the ETI and role of trade unions are key labour market factors in thinking about the economy's future.
- We can caricature these trends broadly into those firstly designed to enhance and increase the level of worker protection in the economy and secondly, those which either attempt to mitigate potential job losses from the former, or indeed explicitly are designed to incentivize employment generation.
- Which balance of *worker protection-employment incentivizing* will manifest in South Africa's long-run future remains a key, yet open question.

Conclusion

Historical pattern of labour legislation, sectoral determinations and structural change have seen a u-shaped growth pattern in real earnings emerge: Line 1.

Real Wage Growth in South Africa, By Percentile, 1997-2015



Three future paths the economy can take - depicted by Lines 1, 2 & 3:

- **Line 1:** Status Quo.
- **Line 2:** 'Entrench the Missing Middle'
- **Line 3:** 'Uplift the Missing Middle'.

Conclusion: Moving Forward

- *Line 1: Status Quo*
 - Shows bottom end of the distribution uplifted through policies such as minimum wage which has protected real earnings growth.
 - Top of the distribution benefitted from skills biased economy.
 - Workers in middle of distribution – in medium-skilled jobs, the informal sector, technology-sensitive jobs – seen decline in the growth of their real earnings.
 - This is the ‘missing middle’ of the South African labour market.
- *Line 2: ‘Entrench the Missing Middle’*
 - Deepening of Line 1 pattern, where middle of distribution sinks into larger real earnings losses as the economy polarises further.
 - Protectionist policies continue to uplift those at bottom while those at the top reap the benefits of the skills premium afforded by an economy remaining on a skills-biased growth path.
- *Line 3: ‘Uplift the Missing Middle’*
 - Workers in middle of the distribution see an increase in wages. Occurs through greater employment incentives to those in middle and improved organisation of private sector unions for semi-skilled employees.
 - Reversal of missing middle must be led however, by pursuit of a more comprehensive set of growth policies designed to create a large number of low wage jobs.

Thank you