

A Catholic Theology Of Employment-at-Will

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At the same time they look for ways to use resources more efficiently, Catholic health care's administrators and managers also seek to construct financially sound organizational practices to strengthen their ministry's market presence in a manner consistent with Catholic social thought. Given these somewhat competing interests, it is relevant to examine the issue of workforce reduction. This article will focus on workforce reduction in the context of employment-at-will as most health care organizations use this model.

In a 2013 article in *Health Progress*, Sr. Patricia Talone, RSM, PhD, describes several guiding principles from church teaching that apply to such reductions.¹ We believe the ministry as a whole would benefit from a deeper understanding of how Catholic social thought can shape our understanding of at-will employment structures within which work force reductions may occur, as well as the corresponding obligations to the at-will employee that such theological reflection might bring with it.

Employment at will, as we understand and use the term here, refers to the employer's right to terminate an employee at any time for any legal reason, with or without cause. For the employee, there is no contract setting out terms of employment, so he or she is free to leave a job at any time without legal consequences. Since there is no contract, at-will employment also means the employer can change the terms of the employment relationship — wages, benefits, paid time off — with no advance notice and incurring no conse-

quences within the confines of the law.

In an employment-at-will structure, the ultimate risk for an employee is losing his or her job. We will use the term “workforce transition” to cover any situation in which a person might lose current employment — layoffs, a change in job duties that requires significant education or acquisition of new skills, eliminating vacant positions or eliminating positions through mergers, acquisitions, restructuring or outsourcing.

Given the Catholic Church's theological emphasis on the right to work and the dignity of the worker, it might seem that a workforce transition could never be appropriate within a Catholic moral framework. However we agree with Sr. Talone that there are circumstances under which Catholic social thought could justify a workforce reduction and may even require it. Nevertheless, a workforce transition must be a mechanism of last resort in order to be morally justified. It must include identifying alternative efforts to defray costs and exploring other steps before resorting to terminating a person's employment.

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CATHOLIC SOCIAL THOUGHT ON EMPLOYMENT

For a theological understanding of the predominant American model of employment at will, we must first look at employers' general ethical obligations according to Catholic thought. The church's social teachings on labor are a helpful starting point for reflection, particularly writings by Pope Leo XIII, Pope Pius XI, Pope Paul VI, Pope John Paul II (especially in *Laborem Exer-*

cens) and Pope Benedict XVI. Given the dramatic changes in the economic reality of the United States, we will focus primarily on the writings of John Paul II and Benedict XVI.²

In 1981, John Paul II summarized his critique of the market economy as the failure to remember the primacy of persons in community over commodities.³ In this failure lies the lost centrality of work in relationship to human dignity and human flourishing, namely, the obligation and the right of all persons throughout the world to work in order to satisfy their own needs and to contribute to the common good.⁴

As Benedict XVI reminds us, this is not just a right to work, but a right to “decent” work, meaning work that “expresses the essential dignity of every man and woman in the context of their particular society.”⁵ Labor is not a mere factor of production nor a means to the end of increased production; rather, we are to understand our work in terms of our dignity as co-creators, contributing to the common good, human solidarity, the environment and family life.⁶

Stressing the idea of an obligation to provide the opportunity to work in the context of the common good means the community has an obligation to foster the right of employment to all persons. John Paul II emphasizes this point through a discussion of unemployment, noting, “The role of the agents [those responsible for economic policy] included under the title of indirect employer is to act against unemployment, which in all cases is an evil and which, when it reaches a certain level, can become a real social disaster.”⁷ This duty of policymakers and employers is noted most dramatically in John Paul II’s 1997 homily at Legnica, Poland, in which he states:

Alongside the problem of unemployment there is also the attitude of those who consider the worker as a tool of production, with the result that man is insulted in his personal dignity. In practice this phenomenon takes the form of exploitation. It is often manifested in conditions of employment in which the worker not only has no guaranteed rights but is subjected to such an atmosphere of uncertainty and fear of the loss of his job that he is in practice

deprived of any freedom of decision ...work is ‘for man’ and not man ‘for work’ [sic]. God places before us great tasks, demanding from us testimony in the social sphere. As Christians, as people who believe, we must sensitize our consciences to every kind of injustice and every form of exploitation, open or disguised. *Here I speak first of all to those brothers in Christ who give work to others. Do not let yourselves be deceived by*

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*visions of immediate profit, at the expense of others [emphasis added]. Beware of any semblance of exploitation ... to those who undertake work, any type of work, I say: Do it responsibly, honestly and accurately. Take on your duties in a spirit of cooperation with God in the work of the creation of the world.*⁸

One might argue that John Paul II was too narrowly confined by his personalist perspective on contemporary economic life. For example, Daniel Finn, PhD, professor of theology at the College of Saint Benedict and Saint John’s University in Minnesota, points out that in the encyclical *Laborem Exercens*,

The pope restricts the meaning of “capital” to the material means of production — namely, tools, machines, factories — as distinct from “labor” or those persons who work. From this definition he easily concludes that there should be no conflict between capital and labor. Since persons are without doubt more important than things, labor must have priority over capital. John Paul’s analysis eclipses the more common meaning of the conflict between labor and capital, namely the clash between the interests of workers and the interests of owners of the means of production.⁹

The debate, Finn suggests, should more accurately reflect the reality that the issue of employment is one of claims of workers that conflict with claims of owners. Benedict XVI, on the other hand, understands labor and capital quite differently. He argues that “the primary capital to be safeguarded and valued is man, the human person in his or her integrity.”¹⁰ There can be no conflict between capital and labor if labor is understood as a type of capital.

Even though Benedict XVI has an alternative understanding of the relationship between capital and labor than John Paul II, two things are clear about Catholic social thought. First, there is no necessary conflict between capital and labor.¹¹ In John Paul II’s view, persons always must have priority over products because, as Finn points out, persons are more important than things. In Benedict’s view, labor is a form of capital, and a thing cannot be in conflict with itself.

Second, there is a sense of complementarity between labor (in the sense of employment) and capital.¹² Each depends upon the other to fulfill its purpose; “capital cannot do without labor, nor labor without capital.”¹³ Both exist for the good and dignity of the human person. Thus, even though one may be given priority over the other in certain situations, they cannot truly conflict because they both serve the same end: the betterment of humanity. Nevertheless, these are

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the claims with which our moral tradition must wrestle. The absence of significant thought on the application of this theology to the modern managerial environment makes a theological analysis on workforce transition all the more daunting.

That said, it is possible to draw some conclusions.

Employment at will: There is a fundamental premise in Catholic social thought, especially in the work of John Paul II, that “full employment

of the labor force should be the first priority of any social organization.”¹⁴ Conversely, especially if we add Benedict XVI’s insight, it seems reasonable to argue that a corporation in danger of going bankrupt has the right to restructure its “capital,” which may require job losses for some workers. The social tradition offers a nuance on employment and the nature of work in relationship to human dignity — it holds that Catholic health care’s obligation is to create opportunities for work that accords with human dignity and provides opportunity for human flourishing.

That said, the provision of opportunity is not the provision of guaranteed employment. The Catholic social tradition does not go this far; it recognizes that such an obligation would bind employers to an unsustainable end.

Government also has a role in creating opportunities for work. John Paul II argues the state’s primary role is to create conditions “which will insure job opportunities by stimulating those activities where they are lacking.”¹⁵ He recognizes “the State could not directly ensure the right to work for all its citizens unless it controlled every aspect of economic life and restricted the free initiative of individuals.”¹⁶

Given the opposition John Paul II has toward this level of governmental control, it seems to suggest that at least temporary or cyclical unemployment in the marketplace could be morally justified, even though unemployment is “in all cases an evil”¹⁷ and full employment is “a mandatory objective for every economic system oriented towards justice and the common good.”¹⁸

Yet, it seems that John Paul II also is arguing that maintaining profit is never a sufficient reason for laying off workers.¹⁹ He warns employers not to “be deceived by visions of immediate profit, at the expense of others.”²⁰ Thus, Catholic social thought maintains that all employers, Catholic or otherwise, should be prohibited from seeking profit “by means of reducing the opportunities for work.”²¹

The important context for the question at hand provides the guard rails within which any decision regarding the varying forms of workforce transitions must navigate.

On a practical level, workforce transitions due to unprofitable investments are infrequent. The more common reality is a corporation’s desire to ward off declining profits. If John Paul II’s silence

on the moral standing of workforce transitions in general leaves open the possibility that they are not inherently immoral, then the significant question becomes under what conditions might a workforce transition be morally licit?

In answer to this question, it seems reasonable to conclude from John Paul II's work that because the primary moral justification of the ownership of capital is the production of work, a profitable corporation is morally suspect were it to allow workforce transition without at least commensurate efforts to accommodate declining margins through other mechanisms.

This is the substantive difference between a typical at-will employment philosophy and one informed by Catholic social thought. Usually an at-will employment philosophy would not require moves to avoid workforce transitions and to accommodate employees, because employers have not contractually agreed to such accommodations. Consequently, in this line of thinking, employers are not obligated to do it, and employees are not owed it. What is right to do and what one is obligated to do are, for the most part, determined solely by what one has agreed to do. One is certainly allowed to go beyond that bare minimum, but justice does not require one to do so.

In Catholic social thought, that reasoning is insufficient. More recent reflection within Catholic social thought affirms that love, which in this context is known as charity, should be the ultimate standard for social policies, not simply justice.²² Benedict XVI echoes St. John the Evangelist in saying, "God is love; everything has its origin in God's love, everything is shaped by it, everything is directed towards it."²³

Benedict XVI's further reflection on the relationship between charity and justice is especially enlightening: "Charity goes beyond justice, because to love is to give, to offer what is 'mine' to the other; but it never lacks justice, which prompts us to give the other what is 'his,' what is due to him by reason of his being or his acting."²⁴

Charity and justice are, therefore, not opposed to each other. Charitable actions are always just, because, after all, unjust actions are uncharitable. Consequently, charity and justice are inseparable. Charity cannot occur without justice, but justice without charity is detached and indifferent. Justice that does not adequately consider the whole person is certainly not charitable, but more to the point, it is incomplete and therefore inhuman.

John Paul II expresses a similar concept with regard to the relationship between mercy and

justice. Granted, this is outside the context of Catholic social thought, yet it mirrors the relationship between charity and justice. Like charity, mercy often is seen as being in direct conflict with justice, especially in the context of corrective or retributive justice. For example, a manager can either exact full punishment on an employee who has done wrong, or she can be merciful and give that person an opportunity to learn and grow from the mistake. Even though managers can

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strike a middle path and require a lighter punishment with probation, such compromises are still composed of parts that are either just or merciful.

However, God is rich in mercy "out of the love with which he loved us" and "justice serves love."²⁵ Mercy is the manifestation of love.²⁶ Justice and mercy are both oriented towards and subordinate to charity. Charity is not opposed or contrary to justice, but transcends it. Thus, justice should be the foundation for social policies, but they also must be perfected by or completed in charity.

Consequently, a workforce transition must be used as a mechanism of last resort for Catholic health ministries facing significant financial pressures. Certainly, as the examples above illustrate, they must not be used as a substitute for an action plan. Before a workforce transition can be justified, several other measures to achieve financial solvency should be attempted. In fact, we believe that some of these measures *must* be used in order for a workforce reduction to be justified — so much so that we believe it would be morally unjustified to deprive someone of the opportunity for work *without* attempting these alternative measures (see page 72).²⁷

Obviously some of these efforts would have a greater financial impact than others, and the ability to implement them would differ significantly between organizations. Moreover, some of the smaller changes are unlikely to actually save enough capital to prevent someone from losing his or her job. While this is true, it misses the important role of solidarity in these decisions. Solidarity is a principle of Catholic social thought that orients institutional or societal decisions to the common good. This means our organizational structures should focus on the good of all — as opposed to the good of the many or the few, or the

good of the greatest number over the few. Solidarity recognizes “the equality of all in dignity and rights and the common path of individuals and peoples towards an ever more committed unity.”²⁸

Some of the alternative measures are especially reflective of a commitment to solidarity,²⁹ including finding new roles in the organization for those who are laid off, the elimination or suspension of perquisites, and executive pay cuts. Again, the actual dollar amount may be so small that no single position is saved, but these measures speak to the equal dignity of all and the unity toward which the virtue of solidarity calls us. These particular measures are opportunities for leaders to recognize the sacrifice that workforce transition places on employees and to sacrifice along with them. It is a way for the organization to say, “We are all in this together.”

We agree with John Paul II when he admonished us all in saying, “May solidarity prevail over

the unrestrained desire for profit.”³⁰ Moreover, the goal of Catholic social thought is not to prevent every job from being lost, but to create a just economic and organizational structure, where both the mission of the work and the opportunities for work remain vital and sustainable. As a result, we believe such efforts are still justified, and might be obligatory, from the standpoint of solidarity, even if they are unlikely to prevent a loss of employment.

LABOR IS PEOPLE

As members of an industrialized economy, people work to earn a living and secure goods. Work also is one of the major ways that people participate in community. From this membership — and integrally related to the image of God that Catholic social thought recognizes is inherent to all of us — we derive our right to an opportunity for employment. The community has a corresponding obli-

ALTERNATIVE MEASURES TO AVOID WORKFORCE TRANSITION

- Executive pay cuts
- Limit or front load accrual of paid leave
- Voluntary early retirement incentives
- Move to a four-day work week that is still full-time, if appropriate for the position
- Reduce paid time off cash-in options
- Avoid human resources and recruiting costs by moving employees to a new position, or retrain and redeploy them in a new field
- Hiring freeze
- Require payroll deduction for co-pays, deductibles or co-insurance if not paid at time of service to eliminate billing costs
- Voluntary or forced reduction in hours
- Require direct-deposit for paychecks and reimbursed expenses
- Eliminate free parking for those who do not carpool, or offer it for those who do
- Voluntary or forced use of vacation
- Redesign processes to eliminate waste
- Negotiate for benefits that do not add costs (e.g. discounts at fitness centers, cellphone carriers, sporting events)
- Eliminate or reduce bonuses or at-risk compensation
- Allow employees to job share
- Reduce advertising or marketing costs
- Eliminate open positions
- Reduce or eliminate overtime
- Reduce benefits for employees' spouses who have coverage under their own employer
- Freeze on travel, office supplies
- Ensure the value of employee recognition programs is worth their costs (picnics, service awards, etc.)
- Freeze on promotions, tuition assistance
- Eliminate benefits that employees can get on their own like newspaper or magazine subscriptions, or company phones
- Across-the-board pay cuts
- Send employees to other companies with a temporary need and bill for the labor
- Conduct benefits-eligibility audit to ensure all enrolled individuals are eligible
- Offer unpaid or reduced-pay sabbaticals
- Shift outsourced work to employees
- Voluntary or forced reduction in hours (18 states would allow partial unemployment benefits in this case)
- Eliminate perquisites (e.g. lunches out, office refreshments, food at meetings)

gation to construct its economic institutions and policies so that this right can be exercised.

Catholic social thought recognizes that labor is people, not simply another commodity to be bought and sold. The context that must create the opportune conditions for persons to flourish through employment is the set of conditions that is rightly in accord with human dignity. Once those conditions have been created and the individual “responsibly, honestly and accurately” labors, the complex economic environment has met the obligations of Catholic social thought with regard to providing the opportunity to work.

However, this does not absolve employers from other obligations to employees. Numerous other steps can, and in many cases should, be taken before reductions in the opportunity to work can be justified. Nevertheless, the requirements that Catholic social thought places on employers is justifiably short of an unconditional guarantee to employment.

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NOTES

1. Patricia Talone, “Downsizing for Reform: How Does Church Teaching Guide Us?” *Health Progress* 94, no. 5 (September–October 2013): 52–54.
2. Pope Francis’ papacy began in March 2013. His writings so far only indirectly address this topic, so we will add additional content from him by way of footnote only.
3. John Paul II, *Laborem Exercens* no. 13; Francis, *Evangelii Gaudium*, no. 53.
4. John Paul II, *Laborem Exercens*, no. 7.
5. Benedict XVI, *Caritas in Veritate*, no. 63.
6. National Conference of Catholic Bishops, *Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy* (United States Catholic Conference, 1986), nn. 32, 132, 251–5, 258, 296; Pope Francis, *Evangelii Gaudium*, no. 54.
7. John Paul II, *Laborem Exercens*, no. 18.
8. John Paul II, “The Necessity of Jobs, the Meaning of Work,” homily at Legnica, Poland, *Origins* 27, no. 4 (June 26, 1997): 89.

9. Daniel R. Finn, “John Paul II and the Moral Ecology of Markets,” *Theological Studies* 59, no. 4 (1998): 662–79.
10. Benedict XVI, *Caritas in Veritate*, no. 25.
11. *Compendium of the Social Doctrine of the Church*, 276–77.
12. *Compendium of the Social Doctrine of the Church*, 277.
13. Leo XIII, *Rerum Novarum*, 19.
14. John Paul II, “The Influence of Labor Unions,” Address to Workers in Buenos Aires, April 10, 1987, *Origins* 16, no. 45 (April 23, 1987).
15. John Paul II, *On the Hundredth Anniversary of Rerum Novarum: Centesimus Annus* (Washington, D.C.: United States Catholic Conference, 1991): no. 48.
16. John Paul II, *Centesimus Annus*, no. 48.
17. John Paul II, *Laborem Exercens*, no. 18.
18. *Compendium of the Social Doctrine of the Church*, 288.
19. John Paul II, Address to the Pontifical Academy of Social Sciences, April 23, 1997.
20. John Paul II, homily at the Airport of Legnica, Poland, June 2, 1997.
21. Finn.
22. In this context, charity does not have the meaning we typically ascribe to it. Here it means Christian love, from the Latin word *caritas*.
23. Benedict XVI, *Caritas in Veritate*, no. 1.
24. Benedict XVI, *Caritas in Veritate*, no. 6.
25. John Paul II, *Dives in Misericordia*, 4.
26. John Paul II, *Dives in Misericordia*, 3.
27. Eric Campbell, “Rational Restructuring: RIF Alternatives,” Level 5 Advantage website, www.level5advantage.com/html/layoff_alternatives.html.
- Rita Zeidner, “Strategies for Saving in a Down Economy,” *HR Magazine*, 54, no. 2 (Feb. 1, 2009) www.shrm.org/Publications/hrmagazine/EditorialContent/Pages/0209zeidner.aspx.
- Wall Street Journal How-To Guides, “What are Alternatives to Layoffs?” guides.wsj.com/management/recruiting-hiring-and-firing/what-are-alternatives-to-layoffs.
- Wayne F. Cascio, *Employment Downsizing and Its Alternatives: Strategies for Long-Term Success* (Alexandria, Va.: Society for Human Resources Management Foundation, 2009) www.shrm.org/about/foundation/products/documents/downsizing%20epg-%20final.pdf.
28. *Compendium of the Social Doctrine of the Church*, 192.
29. Francis, *Evangelii Gaudium*, no. 58.
30. John Paul II, homily, 46th International Eucharistic Congress in Poland, Sunday, June 1, 1997.

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