A Catholic Theology of Employment-at-Will

Mark Repenshek, PhD
Senior Director Ethics, Ascension Health
Healthcare Ethicist, Columbia St. Mary’s

Objectives:

- to understand the unique relationship employment-at-will creates between employer and employee;
- to examine the intersection of recent papal thought on the dignity of work and this unique relationship; and
- to determine the implications of this intersection for a continually financially stained Catholic healthcare systems.
Setting the Context: Juxtaposition

KentuckyOne Health begins layoffs
LOUISVILLE, Ky. (WDRB) -- KentuckyOne Health began laying off employees Monday, a move that was foreshadowed late last month when CEO Ruth Brinkley said the nonprofit healthcare system needed to improve operations by $218 million by mid-2015.

The layoffs, which were announced in an email to employees Monday afternoon, should be complete by the end of the month, KentuckyOne said. The company has not said how many of its nearly 15,000 employees might be affected.

Hospitals might limit executives' pay hikes after run of big increases
J.K. Wall May 3, 2014

The clearest example came at St. Vincent Health last year, which let go of three of its highest-paid executives as it laid off about 865 employees. Two receiving pink slips were Dr. Jon Rahman, St. Vincent's chief medical officer, and Dr. Alan Snell, chief medical informatics officer.

Rahman received $544,000 in 2012 compensation. Snell received nearly $362,000.

Also departing was St. Vincent CEO Vince Caponi, who moved into another job with St. Vincent's parent organization, St. Louis-based Ascension Health. Caponi's 2012 compensation topped $2.1 million.

Setting the Context: Juxtaposition

St. Mary's Hospital, Dean Health parent SSM Health Care to cut jobs
2013-10-09  St. Mary's Hospital, Dean Health parent SSM Health Care to cut jobs
JIM DOYLE | St. Louis Post-Dispatch | jdoyle@post-dispatch.com | 314-340-8372

SSM Health Care, a St. Louis-based nonprofit hospital system that has fallen under increasing financial pressure, is preparing to lay off a number of employees....

Healthy hospitals turn to layoffs to bend own cost curve
By Melanie Evans
Posted: June 27, 2011 - 12:01 am ET

In Wisconsin, Columbia St. Mary's blamed the weak economy and too much hospital capacity for recently announced layoffs. "As a result, we are restructuring to establish greater alignment with our future strategies and adjusting our operations and staffing levels to reflect current patient volumes," the Milwaukee-based system said in a statement. Officials declined an interview request.
Chart 4.6: Aggregate Hospital Payment-to-cost Ratios for Private Payers, Medicare and Medicaid, 1992 – 2012

Source: Avalere Health analysis of American Hospital Association Annual Survey data, 2012, for community hospitals.
1) Includes Medicaid Disproportionate Share payments.
2) Includes Medicare Disproportionate Share payments.

Chart 4.7: Hospital Payment Shortfall Relative to Costs for Medicare, Medicaid and Other Government, 1997 – 2012

Source: Avalere Health analysis of American Hospital Association Annual Survey data, 2012, for community hospitals.
1) Costs reflect a cap of $5 on the same-to-charge ratio.
The Problem:
In response to the increasingly complex economic environment in which Catholic healthcare operates, administrators and managers are looking for ways to use resources more efficiently and to construct more financially sound organizational practices so as to strengthen health ministries, and to do so in a manner consistent with Catholic Social Thought.
Setting the Context: Juxtaposition

While total U.S. employment dropped by over 2% between 2000 and 2010, health care employment grew by more than 25% during the same period.

### Definition: Employment-at-will

Employment-at-will means that an *employer* can terminate an employee at any time for any reason (except an illegal one) or for no reason, without incurring legal liability.

Likewise, an *employee* is free to leave a job at any time for any or no reason without adverse legal consequences, as opposed to a contract for terms of employment.

“At-will” employment also means that an employer can change the terms of the employment relationship with no advance notice and no consequences within the confines of the law (e.g., wages, benefits, or paid time off).
Distinction: Workforce Transitions

The terms reduction in force (RIF) and layoff are not exactly congruous and include some overlap.

A more comprehensive term is “workforce transition” which includes:

- layoffs
- 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.

In short, a workforce transition covers any situation in which a person might lose her current employment.

Workforce Transitions

Thesis:
There are circumstances under which Catholic Social Thought could justify a workforce transition, and may even require it.

Conditions:
A workforce transition must be a mechanism of last resort in order to be morally justified, and the Catholic entity must identify alternative efforts to defray costs with necessary first steps before resorting to terminating a person’s employment.
St. John Paul II, *Laborem Exercens*

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. 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.

John Paul II, “The Necessity of Jobs, the Meaning of Work”

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 [sic] 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’.

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 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.

Homily at Legnica, Poland, Originia 27, no. 4 (June 26, 1997): 89
Benedict XVI

*Caritas in Veritate*, no. 63, Benedict XVI notes this is not just a right to work but a right to “decent” work, which means work that “expresses the essential dignity of every man and woman in the context of their particular society.” 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.

Benedict XVI, *Caritas in Veritate*, no. 25, Benedict XVI notes “the primary capital to be safeguarded and valued is man [sic], the human person in his or her integrity.” There can be no conflict between capital and labor if labor is understood as a type of capital.

Francis

*Evangelii Gaudium*, no. 53. Today everything comes under the laws of competition and survival of the fittest, where the powerful feed upon the powerless. As a consequence, masses of people find themselves excluded and marginalized: without work, without possibilities, without any means of escape.

Human beings are themselves considered consumer goods to be used and then discarded. We have created a “throw away” culture which is now spreading. It is no longer simply about exploitation and oppression, but something new. Exclusion ultimately has to do with what it means to be a part of the society in which we live; those excluded are no longer society’s underside or it fringes or its disenfranchised—they are no longer even a part of it.
Central Claims—Papal Thought

First, there is no necessary conflict between capital and labor. In John Paul II’s view, persons must always have priority over products because persons are more important than things. In Benedict’s view, labor is capital and a thing cannot be in conflict with itself.

Compendium of the Social Doctrine of the Church, 276-277.

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

Compendium of the Social Doctrine of the Church, 277.

Application of Catholic Social Thought to Employment at Will
Primary Implications for Catholic Healthcare

The obligation for Catholic healthcare is to create opportunities for work. The specific type of work is that which is in accord with human dignity and that which provides opportunity for human flourishing.

The provision of opportunity is not the provision of guaranteed employment. The Catholic social tradition does not go this far, and recognizes that such an obligation would bind employers to an unsustainable end within which work and the opportunity for work are unsustainable.

John Paul II is also arguing it is never appropriate to lay off workers merely to maintain profit. He warns employers not to “be deceived by visions of immediate profit, at the expense of others.”

The Tradition maintains that all employers, Catholic or otherwise, should be prohibited from seeking profit “by means of reducing the opportunities for work.”

The important context for the question at hand is the guide rails within which any decision regarding the varying forms of work force transitions must navigate.
## Alternative Measures to RIF

### Qualifying Comments:

Obviously some of these efforts would have a greater financial impact than others, and the ability to implement them would differ significantly between organizations.

Some of the smaller changes are unlikely to actually save enough capital to prevent someone from losing their job. While this is true, it misses the important role of solidarity in these decisions.

<table>
<thead>
<tr>
<th>Executive pay cuts</th>
<th>Reduce advertising or marketing costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit or front load accrual of paid leave</td>
<td>Eliminate open positions</td>
</tr>
<tr>
<td>Voluntary early retirement incentives</td>
<td>Reduce or eliminate overtime</td>
</tr>
<tr>
<td>Move to a 4-day work week that is still full-time, if appropriate for the position</td>
<td>Reduce benefits for employees’ spouses who have coverage under their employer</td>
</tr>
<tr>
<td>Reduce PTO cash-in options</td>
<td>Freeze on travel, office supplies</td>
</tr>
<tr>
<td>Avoid HR and recruiting costs by moving employees to a new position, or retain and redeploy them in a new field</td>
<td>Ensure the value of employee recognition programs is worth their costs (picnics, service awards, etc.)</td>
</tr>
<tr>
<td>Hiring freeze</td>
<td>Freeze on promotions, tuition assistance</td>
</tr>
<tr>
<td>Require payroll deduction for co-pays, deductibles or co-insurance if not paid at time of service to eliminate billing costs</td>
<td>Eliminate benefits that employees can get on their own like newspaper or magazine subscriptions, or company phones</td>
</tr>
<tr>
<td>Voluntary or forced reduction in hours</td>
<td>Across-the-board pay cuts</td>
</tr>
<tr>
<td>Require direct-deposit for paychecks and reimbursed expenses</td>
<td>Send employees to other companies with a temporary need and bill for the labor</td>
</tr>
<tr>
<td>Eliminate free parking for those who do not carpool or offer it for those who do</td>
<td>Conduct benefits-eligibility audit to ensure all enrolled individuals are eligible</td>
</tr>
<tr>
<td>Voluntary or forced use of vacation</td>
<td>Offer unpaid or reduced-pay sabbaticals</td>
</tr>
<tr>
<td>Redesign processes to eliminate waste</td>
<td>Shift outsourced work to employees</td>
</tr>
<tr>
<td>Negotiate for benefits that do not add costs (e.g. discounts at fitness centers, cell-phone carriers, sporting events)</td>
<td>Voluntary or forced reduction in hours (18 states would allow partial unemployment benefits in this case)</td>
</tr>
<tr>
<td>Eliminate or reduce bonuses or at-risk compensation</td>
<td>Eliminate perquisites (e.g. lunches out, office refreshments, food at meetings)</td>
</tr>
<tr>
<td>Allow employees to job-share</td>
<td></td>
</tr>
</tbody>
</table>

Alternative Measures to RIF
The Principle of Solidarity and Workforce Transitions

Solidarity recognizes “the equality of all in dignity and rights and the common path of individuals and peoples towards an ever more committed unity.”

Compendium of the Social Doctrine of the Church, 192.

Some of the alternative measures identified above are especially reflective of a commitment to solidarity

• new roles in the organization for those who are laid off,
• the elimination or suspension of perquisites, and
• executive pay cuts

“May solidarity prevail over the unrestrained desire for profit.”

Homily of John Paul II, 46th International Eucharistic Congress in Poland, Sunday, 1 June 1997, 4.

Conclusions

As members of an industrialized economy, work is the major way in which persons earn a living to secure the goods commensurate to our nature

Work is also one of the major ways that persons participate in community

From this membership and integrally related to the image of God inherent to all of us, we derive our right to an opportunity for employment

The community has a corresponding obligation to construct its economic institutions and policies so that this right can be exercised
Conclusions

The context that must create the opportune conditions for persons to flourish through employment is that set of conditions that is right 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.