

RESTORING DIGNITY TO EMPLOYMENT IN ZAMBIA: LEGAL AND MORAL MOTIVATION TO PROMOTE THE COMMON GOOD

PRELIMINARY REACTIONS

Introduction

“...and let me be neither rich nor poor. So give me only as much food as I need. If I have more, I might say that I do not need you. But if I am poor, I might steal and bring disgrace on my God.” (Proverbs 30: 8-9)

These simple words from the Old Testament of the Bible contain a powerful challenge to the present ordering of the world’s societies and economies, which have yielded unparalleled disparity between rich and poor. Free-market capitalism has emerged as the dominant economic paradigm for the 21st Century and probably beyond, founded in the ideology that an unregulated private sector maximizes economic growth, with benefits then spreading to all members of society. In reality, billions struggle to merely afford their basic needs while the wealthiest within each nation wield great power. Whereas Christianity seeks to promote the “common good” of all humans “created in the image of God,” the current economic paradigm promotes the good of a rich minority over a poor majority.

Focusing on Zambia, the latest data collected by the Central Statistical Organisation (CSO) reveals that just 10% of Zambia households earn half (50%) of the total income taken home in all houses across Zambia. At the same time, about two-thirds (67%) of Zambian households are unable to afford their basic needs and are considered poor, and 46% of Zambian households are unable to afford even basic food items and are considered extremely poor. It is a complex matter to identify all the factors, internal and external, that have led to this disparity between rich and poor, but it is possible to analyse how the Laws of Zambia, which guide the functioning of Zambian society, economy and politics, have allowed the emergence of a wealthy elite and the sustenance of a poor majority.

As part of our mission “to promote a society where faith promotes justice for all, in all spheres of life, especially for the poor,” the Jesuit Centre for Theological Reflection (JCTR) offers its input into the current discussions concerning wages, terminal benefits, conditions of service, and other issues affecting employees in Zambia. At this moment of elevated debate, the JCTR releases these “Preliminary Reactions” to the prevailing labour situation in Zambia, in order to bring fresh ideas to old debates, to challenge polarised positions of key stakeholder groups and to point towards the middle ground for the benefit of all. The recommendations presented here are not to be interpreted as the final word, but only as the grounds for additional discussion and intelligent debate.

This particular position paper focuses on the point in a free-market economy where benefits ideally “trickle-down” to the people: the relationships between employers and employees. The first section explains the Zambian situation through a statistical profile of the Zambian workforce and three case studies that highlight the vulnerability of the Zambian employee. The second section looks at prevailing legal, ethical and moral guidance to employee-employer relationships, contained within the Laws of Zambia, the International Labour Organisation (ILO) Conventions of which Zambia is a signatory and the Church’s Social Teaching (CST). Finally, the concluding section explains how the combination of prudent legal motivation and personal moral motivation are necessary to restore dignity to employment within Zambia and offers some preliminary recommendations.

Section 1: Context:

Who is the Zambian Employee?

According to the 2002-2003 Living Conditions Monitoring Survey from the CSO, the total labour force in Zambia totals 4.1 million people and includes all the men and women in Zambia who are primarily involved in work in one form or another. It includes peasant farmers, fishermen, traders in the informal sector, civil servants, employees of private businesses, etc. Controversially, the CSO also includes within their count of the labour force all boys or girls over an age of 12 who are also primarily engaged in work instead of attending school. Child labour is a serious reality in Zambia, but many have expressed outrage at the inclusion of children within the officially recognised “labour force.” The CSO excludes 30% of Zambians over the age of 12 from the labour force, including approximately 1.6 million youth and adults who are in school, 90,000 who are retired and 60,000 who are unable to work for other reasons. Of the roughly 4.1 million Zambians in the labour force, approximately 640,000 (16%) are unemployed, with about 135,000 of the unemployed living in rural areas and 505,000 in urban areas.

Therefore, the CSO estimates that approximately 3.5 million Zambians are currently employed as part of the Zambian labour force. Of these 3.5 million Zambians, 60% are self-employed and another 20% are unpaid family workers. In other words, the majority of Zambian workers are not paid wages or salary by an employer and are likely engaged in occupations such as agriculture, fishing, informal trade, business, etc. It is the remaining 20% of the currently employed labour force or approximately 700,000 workers who are in actuality *employees*, or workers who receive “remuneration in wages or salaries either in cash or in-kind.”

Approximately 350,000 employees have a private sector employer, 175,000 are employed by the government, 35,000 work for parastatal companies, 70,000 are domestic workers and 70,000 are pieceworkers. Roughly 520,000 are men and 180,000 are women. Also, approximately 520,000 are urban employees and 180,000 rural employees. From this same CSO study, it is not possible to divide these roughly 700,000 employees into those who have an informal sector employer and those who are employed within the formal sector. But for comparison purposes, the number of employees who made NAPSA contributions in 2004 totalled between 300,000 and 350,000 people. This difference suggests that a majority of Zambian employees are finding work within the informal sector, which is the undocumented, non tax-paying portion of the economy. For the many domestic workers, piece-workers, traders, shopkeepers and others who remain hidden within the bustling informal sector, the Zambian labour laws stand only as legal declarations that guide conditions of employment and remain nearly unenforceable.

This analysis of numbers reveals that the labour laws concerning minimum wages, “casualisation of labour” (defined below), terminal benefits, etc., only establish employment standards for a small group of Zambians: roughly 700,000 employees (including those in the informal sector and employees as young as 12 years!) out of a total Zambian population estimated at 10.8 million. But for these employees of Zambia and the many children, dependents and extended family standing behind them, progressive labour laws that encourage fair remuneration are fundamental to increasing the number of meals consumed within homes, the education levels obtained in schools, the longevity and quality of lives enjoyed during retirement, the probability of families escaping the poverty trap.

Worker Vulnerability in Zambia (Three Case Studies)

1) Cashier for Multinational Company and Casualisation of Labour

Mary (not her real name) is a recent grade-12 graduate who has been working since the beginning of 2005 as a cashier for a multinational company in Lusaka. She initially signed a six-month contract of employment, which has recently been renewed for another six months. Her basic pay is K1950 per hour and the normal schedule for all of the cashiers is three 8-hour shifts per week. No allowances are provided for either travel or lunch. When she works all three shifts, her weekly payslip shows total earnings of K46,800 and a take-home pay of K41,400. There is a K5,400 deduction taken out for income tax.

Travelling by bus to work costs Mary K1,900 one-way or K3,800 roundtrip. Also, she finds working as a cashier very tiring and spends approximately K6,000 each workday to buy lunch. There are no employee discounts. Therefore, in order to travel to work and be productive for the 3 shifts in a week she spends almost K30,000, which leaves only about K12,000 as weekly take-home. Mary is thankful to be living with her sister who helps her out meeting basic needs, and she feels bad for her co-workers raising children with the same small wage. Even though she earns very little money, she is happy to be getting work experience and would never raise her complaints with management in fear of losing her job.

During recent wage negotiations between the union and management, workers went on an “illegal” strike that closed down all locations across Zambia for a few days. Even though Mary is not part of the union, she and the other part-time workers joined in the strike action to show their frustration with conditions of service. Speaking with one of the members of the bargaining team, Mary found out that the unionised employees were earning only about K400,000 per month for six 8-hour shifts worked in a week. They were demanding an increment worth K500,000 in terms of basic pay and allowances, but the management was not willing to offer more than K150,000. For the 60% of employees hired on a part-time basis just like Mary, the only hope is that management will increase their hourly wage in proportion to the increment given to unionised workers. Mary wishes that she also had a union to negotiate on her behalf for better conditions of employment, including travel and lunch allowances, more permanent contracts, provision for terminal benefits, paid leave days and holidays, possibility of promotion, etc.

2) Kamwala Shopkeeper and Poverty Wages

Mr. Banda (not his real name) was hired in 2003 as a Sales Assistant within a Kamwala shop in Lusaka. As remuneration he was given a monthly gross pay that totalled K148,000 including K98,000 as a basic monthly salary along with a K30,000 lunch allowance and a K20,000 transport allowance. His work schedule was set at six days per week for a total of 48 hours per week. On each payslip 5% was deducted out of the gross salary as a contribution towards NAPSA. His gross income was below the PAYE tax exemption rate and therefore no deductions were made for Pay As You Earn.

Upon promotion in 2004 his gross pay was increased to K190,000, including K130,000 as a basic monthly salary and K60,000 as allowances. The same 5% NAPSA deduction applied to each paycheck. He was recently given a promotion to the position of manager and his gross pay is now K250,000 in compensation for 9-hour workdays (1 hour to close the shop each night) six days per week, totalling over 48 hours in a week. Upon visiting the NAPSA offices in 2005, he discovered that his employer had contributed nothing in his name since the time he was employed in 2003. Mr. Banda worries about his retirement and fears losing his job, for his contract does not include any provision for gratuity or retirement benefits.

Mr. Banda spends K2,400 roundtrip each day to travel to Kamwala, which totals approximately K65,000 on transportation in a month as compared to his K30,000 transport allowance. Also, the Lusaka City Council collects levies from shops for upkeep of surrounding areas, and Mr. Banda's employer requires him to pay K7,500 each month towards this fee. After NAPSA deductions, this leaves only about K165,000 to meet all of the basic needs for those in his household, including his wife, one child, his mother and his young sister. According to the JCTR *Basic Needs Basket* for August 2005, a family of six living in Lusaka needs K1,358,990 to afford essential food and non-food items, with a nutritious diet alone costing K513,590. His family struggles to afford two simple meals in a day and to pay the school fees for Mr. Banda's young sister.

3) Ndola Precious Metals Plant and Non-Payment of Terminal Benefits

In 1976 Mr. Bwalya (not his real name) was hired by the Zambia Consolidated Copper Mines Limited (ZCCM) as a worker in the Precious Metals Plant of the Ndola Copper Refinery. The Precious Metals Plant (PMP) was responsible for refining all gold, silver, platinum and other precious metals in Zambia. In 1976 Mr. Bwalya's starting salary was K96 (approximately US\$150) per month, and as common practice ZCCM also provided for housing, education and health needs of his family. In terms of terminal benefits, he opted not to contribute towards the Mukuba Pension Scheme and instead was guaranteed a retirement benefit of 3 months salary per year of service applicable after 10 years.

With the privatisation of ZCCM in the mid-nineties, the Precious Metals Plant was taken over in September of 1998 by Minerva Zambia Limited, in which the Binani Group was the major shareholder. Of 75 employees at that time, 31 were chosen to continue working at the PMP and the other 44 were retired or made redundant and given their terminal benefits. For the 31 employees chosen to stay-on, including Mr. Bwalya, they were given a letter on the 25th of August 1998 explaining the change in ownership. The letter states "Minerva Zambia Limited will offer to employ you in the same job and terms and conditions of service not less favourable than those on which you are currently employed by ZCCM." Also, "Benefits that have accrued to you in respect of your service with ZCCM (including service with its predecessor companies, where applicable) will be transferred and held on your behalf by Minerva Zambia Limited upon your acceptance of this offer." Mr. Bwalya and his colleagues were given just one day to consider continuing work and sign the new contract, or face termination of employment with ZCCM and forfeit all terminal benefits.

Having been coerced to sign a new contract under the new owners, Mr. Bwalya and 30 of his co-workers continued to work in the Precious Metals Plant alongside 40 new employees and under the same management. Though the PMP continued operating as a highly profitable enterprise, the doors of the plant were closed in May of 2001. How did this happen? The Binani Group of investors had placed the Precious Metals Plant as collateral on a loan withdrawn to finance another investment. When the Binani Group began to default on its loan repayments to a number of banks, the PMP was placed in receivership in the year 2000 and was closed in 2001 when no other private investors emerged.

This is how Mr. Bwalya and 70 other employees found themselves suddenly without employment and without their accrued terminal benefits. A private company was appointed to liquidate the assets of the Precious Metals Plant, and all of the money collected went towards repayment of outstanding bank loans instead of payment of money owed to workers. At that time Mr. Bwalya was earning K733,000 (approximately US\$250) per month and for 25 years of service his redundancy pay should have totalled K37 million. Instead he was given only 3-months severance pay for the failure of Minerva Zambia Limited to give 3-months

notice of contract termination. The GRZ has indicated that it has no obligation to pay benefits to the 71 former workers of the PMP, even to the 31 former ZCCM workers who were not allowed to collect their accrued benefits in 1998 as ownership was transferred.

Mr. Bwalya continues to fight desperately for the benefits owed to him and his colleagues. He believes that the government will eventually pay all former employees of the Precious Metals Plant, especially since the government has compensated workers from the Luanshya mine, which also closed in similar circumstances due to the collapse of the Binani Group. As a small group of grieved workers, the former PMP employees cannot generate the political will to get their benefits or the money to fund a lawyer to take their case through the courts. The Miners Union of Zambia has also turned its back on these former Precious Metal Plant employees. Nine of the 71 former workers have since died before receiving any benefits, and their widows' houses are in a deplorable state. None of the 71 workers have managed to recover financially and emotionally from the shock of losing their stable jobs with the mines. Families have been evicted, children have been forced onto the streets and lives have been lost due to preventable diseases. When he receives what is owed to him, the 51-year old Mr. Bwalya hopes only to send his children back to school and to purchase some land for farming.

Section 2: Legal, Ethical and Moral Guidance

Legal Guidance on Employment: The Laws of Zambia

The previous three stories are testament to a few types of employee vulnerability in Zambia, in terms of wages, casual conditions of service and terminal benefits. But these three stories fail to illuminate just how diverse, widespread and severe the abuse of employment has become in this country, with the worst cases likely hidden behind closed doors or overlooked within the informal economy. There are domestic workers across the country earning just K50,000 for 12 to 18 hour days, 6 or 7 days a week. There is a mine in the Copperbelt with just 70 permanent, unionised employees and 1800 "casual employees" on short-term contracts with limited benefits. There are children working long hours crushing stones just to help pay for food at home. There are employees regularly injured and killed in preventable tragedies that result from the neglect of employers.

Extreme poverty in Zambia has bred a dangerous work environment where many workers are willing to suffer abuse by their employers for fear of losing what little they earn. It is in this desperate climate that labour laws become highly important for the protection of basic human rights and promotion of human dignity. The following overview of the present labour laws in Zambia provides explanation of how employees are currently suffering abuse through both legal and illegal labour practices.

The Laws of Zambia: Key Chapters on Labour

- **The Employment Act (CAP. 268):** establishes guidelines on employment of an employee in Zambia.
 - "Employee" defined as a person who has entered into a contract of service, excluding a legal casual worker or an apprentice.
 - "Casual employee" defined as any "employee the terms of whose employment provide for his (or her) payment at the end of each day and who is engaged for a period of not more than six months" (Act No. 15 of 1997).

- **Minimum Wages and Conditions of Employment Act (CAP. 276) (Statutory Instruments (SI) No. 2 & 3):** establishes minimum guidelines for remuneration of an employee in Zambia
 - “Employee” is a person defined as such in CAP. 268 on employment.
 - CAP. 276 does not apply to government workers and district councillors, those in domestic service, and those who undergo the process of collective bargaining.
- **Industrial and Labour Relations Act (CAP. 269):** establishes guidelines on employee and employer organisations and on the process of collective bargaining.
 - “Employee” defined as any person who has entered into a contract of service, including a casual employee.
- **The Income Tax Act (CAP. 323):** establishes guidelines for all employers and employees concerning payment of income taxes and Pay As You Earn (PAYE) to the Zambian Revenue Authority (ZRA).
 - “Employee” defined as any individual who is paid or given an emolument, including salary, wage, overtime, commission, fee, bonus, gratuity, allowance, pension or other advantage.
 - “Casual employee” defined as any employee whose payment period is less than five days.
- **The National Pension Scheme Act, No. 40 of 1996:** establishes guidelines for all employers who must contribute to the National Pension Scheme Authority (NAPSA) on behalf of their employees.
 - “Contributing employer” defined as a person, association, institution, or firm registered as a taxpayer with a contract of service with an “employee.”
 - “Employee” is given no definition.

Legal Categories of Employees and Regulatory Protections

❖ Category 1: Casual Employee

- According to The Employment Act, this legal category of employee only includes an employee who is engaged for a period less than six months and who is paid daily.
- According to The Income Tax Act, this legal category of employee includes any employee who is paid at least on a weekly basis (5 business days). A casual employee must pay income taxes in line with the ZRA “Tax Table for Daily Paid Casual Workers.”
- A casual employee does not qualify for legal protection under CAP. 268 on employment or CAP. 276 on minimum wages and conditions of service.
- A casual employee is free to join a union as guaranteed under CAP. 269 on industrial relations.

Commentary:

According to the Laws of Zambia, the definition of a legal “casual employee” remains open to interpretation, but the benefits guaranteed to a casual employee are very clear. A casual employee is legally guaranteed nothing but his or her wage, and this wage could be as low as 1 Ngwee per day! Excluded from legal protection under CAP. 268 on employment and CAP. 276 on minimum wages, a casual employee is not guaranteed a legal minimum wage, job security, allowances or terminal benefits. Furthermore, a casual employee cannot qualify for the PAYE tax exemption rate on income under K280,000 and must pay income tax on every single Kwacha earned. It is evident that a casual employee is legally guaranteed very little in terms of remuneration for services offered.

Who is a legal casual employee? Up until the year 1997, a “casual employee” was a worker who was engaged for a period less than 24 hours and who was paid at the end of that day. In other words, the labour laws strongly discouraged the hiring of employees on short contracts, but also recognised that certain jobs (i.e. repairs, transport, etc.) are very temporary in nature and demand short-term employment. The Employment Act (CAP. 268) was amended in 1997 in response to the emergence of a private sector in Zambia, and a “casual employee” was re-defined at this time to include all workers engaged for a period less than six months but still paid on a daily basis. In other words, the labour laws recognise that certain jobs that emerge (i.e. repairs, construction, transport, etc.) extend for periods greater than a single day but still demand short-term employment. The legal casual employee fills a very important gap in society (often doing piecework), but it is the abuse of this type of employee that has become referred to negatively as the “casualisation” of labour.

Casualisation can be understood as the re-hiring of one casual worker or multiple casual workers on contracts less than six months to fill a position that is permanent in nature. Bringing to mind the first case example, the multinational company has employed Mary on multiple 6-month contracts to fill the permanent position of cashier. The work demands a more permanent type of employee, but Mary’s employer has opted to hire many part-time, casual employees to minimise the amount of remuneration paid to the labour force and to maximise profits. This practice exploits a loophole in the labour laws, for CAP. 268 on employment fails to explicitly make it illegal to hire casual workers to fill permanent positions.

Whether or not Mary is a legal casual employee is also open to interpretation. She is paid on a weekly basis in line with the definition of “casual employee” from the ZRA, but she is not paid on a daily basis as stipulated under The Employment Act. Regardless of whether or not Mary’s employer is breaking the law, this multinational company is serving a great injustice to nearly 1,000 Zambian employees. Mary and her colleagues are paid nothing more than their small hourly wages and are still required to pay income tax of about 10% on these meagre earnings. They receive no transport allowance or lunch allowance and are positioned to receive no terminal benefits when their employment finishes.

No money is being put away towards retirement, for the employer is not withdrawing anything for NAPSA. The legal requirement is that all employees contribute 5% of earnings to NAPSA (with 5% matching contribution by employer), but the NAPSA Act fails to clarify whether a casual employee is legally required to contribute. Mary and her co-workers are also legally free to unionise, but they are extremely vulnerable to intimidation without any legal protection of their jobs. Through casualisation, employers ultimately pass the burden of providing social security to workers onto families, the government, the church, charitable agencies, etc.

❖ **Category 2: Temporary Employee**

- A “temporary employee,” as defined in this position paper (not in the Laws of Zambia) for clarity, refers to someone employed under the specifications of an “oral contract,” one that is less than 6 months and that the law does not require to be made in writing (CAP. 268).
- A temporary employee could be a “piecemaker” (a worker compensated for work done and not for time of work), a seasonal worker, a part-time or full-time worker, a worker paid hourly wage or paid salary, a member of the formal or informal sector, an employee on a probationary period, etc.
- A temporary employee is primarily given legal protection through CAP. 276 on minimum wages and conditions of service:

- **Wages:** temporary employee guaranteed a minimum wage linked to profession, 1.5 times the hourly wage for overtime (beyond 48 hour workweek) and double the hourly wage for holidays and Sundays (CAP. 276). Statutory Instruments (SI) 2 and 3 from 2002 set the prevailing minimum wages as follows:
 - **General Worker (SI No. 2)**
 - Category I – K400/hr for general worker, cleaner, handyman, office orderly, guard
 - Category II – K98,000/month for driver
 - Category III – K135,000/month for clerk or receptionist
 - Category IV – K200,000/month for typist
 - **Shopkeeper (SI No. 3)**
 - Grade I – K95,000/month for package wrapper, delivery vehicle assistant, handyman, orderly, general
 - Grade II – K100,000/month for lift operator, driver of motorcycle, sales assistant, packer, watchman
 - Grade III – K150,000/month for assistant bicycle assembler, assistant dispatch clerk, driver of a motor vehicle requiring ordinary license, shelf packer, shoe repairer, tailor's assistant, telephone operator, window dresser's assistant
 - Grade IV – K165,000/month for bicycle assembler, check-out operator, darkroom assistant, driver of motor vehicle requiring heavy duty vehicle license, picture framer
- **Benefits:** temporary employee guaranteed monthly allowances of K30,000 for transport and K20,000 for lunch. Also, on death of employee, spouse or child, a general worker is guaranteed a coffin, K50,000 and 50 kgs of mealie meal and a shopkeeper is guaranteed a coffin, transport to the funeral and K70,000 (CAP. 276).
- **Gratuity / Redundancy:** temporary employee not legally guaranteed any gratuity at the end of the contract or redundancy if the contract is broken before its termination. Temporary employee is only guaranteed 30 days prior warning to the termination of employment or else the provision of full payment for the entire contract period (CAP. 268).
- **Retirement:** temporary employee must contribute 5% of each payslip (with matching 5% contributed by employer) towards NAPSA benefits, which can be collected upon reaching retirement at age 55 (NAPSA Act, 1996).
- **Tax:** temporary employee legally required to pay income tax on all earnings greater than the PAYE exemption threshold of K280,000, in accordance with the percentages of the PAYE tax schedule. If a temporary employee is a non-salaried employee (i.e., consultant), the employer is required to withhold 15% of remuneration and pay it directly to ZRA and the employee is expected at the end of the year to pay the balance owed in PAYE taxes.

Commentary:

The Employment Act (CAP. 268) has not undergone major modifications since the time when all employees in Zambia worked either for the GRZ or for parastatal companies. In other words, the primary law guiding employment in Zambia was written at a time before the emergence of the private sector, and therefore fails to offer clear legal guidance to employment in all its modern forms. The Employment Act separates employees (excluding casual employees) into just two categories: workers employed on an “oral contract” and workers employed on a “written contract.” In this position paper, for purposes of clarity, the employee on an “oral contract” (less than six months) is given the name of a “temporary employee,” and the employee on a “written contract” (greater than six months) is given the name of a “permanent employee.” These primarily two legal categories of employees were appropriate before the 1990s, when the prevailing policy of the government (the sole

employer) was to hire an employee first on a six-month probationary period (oral contract) and then on a permanent basis (written contract) until an employee retired either upon reaching 25 years of service or an age of 55.

Each individual business within the private sector today has its own policy on hiring labour, but a common guiding principle is to minimise costs of production in order to maximise profits. Depending upon the unique needs and strategy of a private employer, employees might be hired on a part-time (less than 48 hours per week) or a full-time basis, on a 1-year, 5-year or open-ended contract, with conditions stipulating a salary or an hourly wage, in a position that allows unionisation or not, on a formal or informal basis, etc. Establishments within the private sector are extremely diverse in size, shape, employment policies, etc. and this is a positive result of the free-market economy. Unfortunately, the labour laws in their current form do not accommodate for the wide-range of employee categories that exist today and do not offer prudent legal protections to each individual type of employee.

For example, the “temporary employee” is nearly an obsolete category of worker in Zambia, especially since the introduction of the new definition of casual employee as someone employed up to six months. Why should an employer pay a wage that meets the legal minimum wage, transport and lunch allowances, etc. to a “temporary employee” when a casual employee is legally guaranteed much less. Who exactly is a legal “temporary employee?” Does a “temporary employee” have to be a fulltime, salaried employee? Would an employee engaged as a consultant qualify as a “temporary employee?” If so, is an employer legally required to contribute to NAPSA on behalf of every consultant? What if the consultancy work takes longer than 6 months? Confusion about the legal obligations of employers has been the primary cause of labour disputes in Zambia and has also allowed employers to exploit legal loopholes to minimise investment in workers. The seriousness of this confusion becomes even clearer in terms of the “permanent employee,” especially when exploring the issue of terminal benefits.

❖ **Category 3: Permanent Employee**

- A “permanent employee,” as defined in this position paper (not in the Laws of Zambia), refers to someone who is employed under the specifications of a “written contract,” one that is greater than 6 months and that must contain a number of key provisions in writing (CAP. 268).
- A permanent employee could be a worker on a 1-year or a 25-year contract, a part-time or full-time worker, a worker paid salary or hourly wage, a cleaner or managing director, a unionised or non-unionised employee, a member of the formal sector or someone employed informally, etc.
- However, unionised employees, government workers and domestic workers are legally excluded from CAP. 276 on minimum wage and belong to a separate category of legal employee (see Category 4).
- A permanent employee is given significant legal protection through provisions under both CAP. 276 on minimum wages and CAP. 268 on employment.
- **Wages:** permanent employee guaranteed same minimum wages as temporary employee (CAP. 276).
- **Benefits:** permanent employee guaranteed all benefits of a temporary employee and also 2 paid leave days per month of service and 3 months sick leave at full pay plus a subsequent 3 months at half pay (CAP. 276). A permanent employee also guaranteed paid maternity leave of 90 days for females having 2 years continuous service (CAP. 268).

- **Gratuity / Redundancy:** permanent employee guaranteed “redundancy payment” when employment is terminated before expiration of a contract. A redundancy payment of 2 months basic pay (general worker) or 2.5 months basic pay (shopkeeper) per year of service is currently guaranteed through CAP. 276 on minimum wages. However, an employee is not guaranteed redundancy (gratuity) if he or she is on a fixed contract and redundancy coincides with the end of the term (CAP. 268).
 - Redundancy benefits must be paid on the day that employment is terminated or an employee must be continually paid full wages (CAP 268 Amendment – Act 15 of 1997).
- **Retirement:** permanent employee guaranteed either 3 months of basic pay per year of service as retirement (after a minimum of 10 years of service and upon reaching the age of 55) or pension from a pension scheme approved by the Minister of Labour (CAP. 276). Also, a permanent employee must contribute 5% of each payslip (with matching 5% contributed by employer) towards NAPSA benefits, which can be collected upon reaching retirement at age 55 (NAPSA Act, 1996).
- **Tax:** permanent employee legally required to pay income tax on all earnings greater than the PAYE exemption threshold of K280,000, in accordance with the percentages of the PAYE tax schedule.

Commentary:

The second story about the Kamwala shopkeeper demonstrates the great injustice of the legal wages and conditions of service provided to Zambian employees. Though Mr. Banda earns a wage that keeps his family in extreme poverty, his starting salary of K98,000 and his current salary of about K250,000 is in line with the national minimum wage for a shopkeeper. He is also given the legal minimum allowances of K20,000 lunch and K30,000 transport. His employer takes 5% of Mr. Banda’s earnings for NAPSA contribution, but has illegally failed to pay this money and an additional 5% to the NAPSA offices. Also Mr. Banda’s contract fails to mention any provision for terminal benefits upon retirement or redundancy, which may lead to confrontation when the period of employment ends. The majority of disputes heard by labour officers relate to non-payment of terminal benefits.

The Minimum Wages and Conditions of Employment Act (CAP. 276) has been the most controversial law concerning employment in Zambia, especially due to its provisions for retirement and redundancy pay. Historically it came into affect only to protect the most vulnerable workers, especially the non-unionised, and as such it contains minimum wage provisions for specific types of vulnerable employees (i.e. shopkeeper, driver, typist, bicycle assembler, etc.). But CAP. 276 has been interpreted to set the standard practices of remuneration for all employees in Zambia. Managing directors earning over K50 million per month and contributing to private pension schemes have used CAP. 276 to claim extremely large terminal benefits upon retirement. Unions negotiating collective agreements have demanded that all contracts contain a provision for full terminal benefits in terms of both redundancy and retirement. It is now the common understanding in the country that at the end of a period of employment, an employee is legally guaranteed some sort of terminal benefit. But this is not the case.

According to current provisions under the labour laws, an employer is only obligated to pay a terminal benefit if an employee is 1) made redundant or 2) qualifies for retirement. These two provisions set better guidelines for a government or parastatal employee hired on a permanent contract as opposed to a private sector employee hired on a contract of fixed duration. In the first case, to qualify for redundancy requires being terminated from employment before the end of a contract. In the prevailing situation where private employers

often hire employees on contracts of 1 to 5 years, an employee is not considered redundant if he or she is simply not rehired with an employer at the end of a contract. In other words, the current industry practice of offering “gratuity,” or a terminal benefit to coincide with the end of a contract, is not legally required of employers. For highly skilled workers filling “specialty positions” in a competitive business environment, it is almost a foregone conclusion that contracts will provide for tempting gratuities. But for average workers filling “non-specialty positions,” (i.e. Mr. Banda the shopkeeper), it is likely that an employer will offer a contract written in such a way to offer no gratuity and no terminal benefits (i.e., a 9-year contract).

In the second case, to qualify for retirement requires working for one employer for a period greater than 10 years and reaching an age of 55. Again, with the high turnover of employees and with the emergence of short-term contracts of 1 to 5 years, it is unlikely that many employees will ever qualify for the full retirement benefit of 3 months pay per year of service. Furthermore, the laws currently encourage an employer to hire on short-term contracts or at least make employees redundant before 10 years in order to minimise costs. Another concern with the retirement benefit is that even those employees who have contributed to a *viable* private or public pension scheme (this excludes Zambia National Provident Fund, which failed to earn interest on contributions at the same pace as inflation) are still legally guaranteed terminal benefits of 3 months ending pay per year of service on the day of retirement. If NAPSA proves itself as a viable pension scheme in the long term, will it remain necessary for the law to obligate employers to pay retirement benefits to all employees?

The current debates about adjusting Statutory Instruments 2 & 3 of The Minimum Wages and Conditions of Service Act have stalled since 2002 over the issue of terminal benefits. Employer groups claim that the cost of hiring labour is too expensive in Zambia, and at the root cause they site their legal obligation to pay retirement benefits and the expectation of all workers to receive gratuity at the end of employment. It is for this reason, they claim, that the wages of all employees are kept low and that contracts are set for periods less than 10 years. On the other hand, the unions constantly face resistance in negotiating for wage increments that even meet the cost of basic food items and that keep up with the rapidly rising cost of living. The union leaders claim that employers pay exorbitant wages to top management and take home large profits, while at the same time bluffing that wage increases for the average worker are financially impossible. Unfortunately, employers (including the government) are not legally required to open their books to reveal the disparity between the highest and lowest paid employees, the CSO has no data on the spectrum of wages in Zambia and the ZRA, after consulting its legal department, has denied a request to access this sensitive but critical information.

❖ **Category 4: Permanent Employee Excluded from CAP. 276 on Minimum Wages**

- A “permanent employee excluded from CAP. 276” as used here refers to employees “of the Government of the Republic of Zambia; engaged in domestic service; of district councils; and in occupations where wages and conditions of employment are regulated through the process of collective bargaining under the Industrial and Labour Relations Act” (CAP. 276).
- A permanent employee excluded from CAP. 276 is primarily given protection under CAP. 268 on employment:
 - **Wages:** employee guaranteed no minimum wage.
 - **Benefits:** employee guaranteed paid maternity leave of 90 days for females having 2 years continuous service (CAP. 268).

- **Gratuity / Redundancy:** employee guaranteed “redundancy payment” when employment is terminated before expiration of a contract. The Minister of Labour has the power to determine the rate of redundancy pay. An employee is not guaranteed redundancy (gratuity) if he or she is on a fixed contract and redundancy coincides with the end of the term (CAP. 268).
 - Redundancy benefits must be paid on the day that employment is terminated or an employee must be continually paid full wages (CAP 268 Amendment - Act 15 of 1997).
- **Retirement:** employee required to contribute 5% of each payslip (with matching 5% contributed by employer) towards NAPSA benefits, which can be collected upon reaching retirement at age 55. Government workers who contribute to the Public Services Pension Fund or the Local Authorities Suprannuation Fund are excluded from NAPSA. Domestic workers in the informal sector are also excluded from NAPSA, since only employers registered with ZRA are included in NAPSA (NAPSA Act, 1996).
- **Tax:** employee legally required to pay income tax on all earnings greater than the PAYE exemption threshold of K280,000, in accordance with the percentages of the PAYE tax schedule.

Commentary:

There is a fourth legal category of employee in Zambia and that is any permanent employee who has been specifically excluded from the legal protections of the Minimum Wages and Conditions of Employment Act (CAP. 276). One such group is the domestic worker, which allows the legal abuse of maids, gardeners, cooks, etc. in terms of poor wages, long hours and the absence of other minimum benefits. It is unclear why domestic workers are singled out from provision of a minimum wage. One explanation could be that many domestic workers receive non-wage benefits (i.e. housing, food, etc.) and therefore should not also be entitled to a standard minimum wage. Another explanation could simply be that most domestic workers are employed on an informal basis with unclear conditions of service, which makes it difficult to set a meaningful minimum wage law for these hidden employees. Regardless of the rationale, exclusion of domestic workers from CAP. 276 on minimum wages has invited people to take advantage of these typically vulnerable employees.

In terms of government employees, many of them find themselves in the same position as employees who go for collective bargaining, for most government employees also belong to trade unions. One exceptional difficulty faced by government employees is that the total wage bill of the government must not exceed 8% of expenditure in the budget. This cap on the wage bill has been set by Zambia’s international creditors in order to limit the amount of taxpayer and donor money that is spent simply on government operational costs. The wage freeze in 2004 for civil servants was imposed in order to adhere to IMF conditionalities and to meet the HIPC Completion Point for debt cancellation. At the same time, many have criticised the government for freezing the wages of civil servants while maintaining exorbitant wages, full allowances and gratuities to all high-ranking, non-vulnerable government officials. In the case of both government employees and employees who go for collective bargaining, unions have typically negotiated for all of the same provisions guaranteed by CAP. 276 on minimum wage related to wages, benefits and terminal benefits.

Story number 3 concerning Mr. Bwalya and the Precious Metals Plant raises a number of questions related to employees who undergo collective bargaining through a union. Excluding unionised employees from CAP. 276 on minimum wages is founded on the assumption that employees who are free to collectively bargain are non-vulnerable. But in the case of Mr. Bwalya, his chapter of the Miners Union of Zambia only numbered 71

members and both Minerva Zambia Limited and the GRZ have taken advantage of this weakness to refuse payment of terminal benefits. In other words, what if union leadership fails to act in the interest of the employee or if a large employer is able to bully a weak union into accepting poor conditions of service? Should these employees be excluded from the minimum provisions of labour established through CAP. 276 on minimum wages and conditions of service? What is a good definition of a “vulnerable worker?”

The three case examples portray varying degrees of employee vulnerability in Zambia. Mr. Bwalya as a unionised, permanent employee was the least vulnerable of the three in terms of the law, but like thousands of other former employees in Zambia he was retrenched and left without terminal benefits. Mr. Banda is more vulnerable than Mr. Bwalya as a non-unionised permanent employee, especially in terms of a minimum wage that fails to meet the cost of basic food items let alone the cost of all basic needs. Mary is the most vulnerable of the three as a casual employee, in terms of wages, benefits, retirement and the absence of job security. The informal sector employee and the self-employed are even more vulnerable than any formal sector employee, especially in terms of job security and the inability to pay into a retirement scheme such as NAPSA. Defining vulnerability in terms of social security, the reality is that very few Zambian employees can work with confidence that the basic needs of the family will be met in retirement, after next year, even until the current month-end.

Ethical Guidance on Employment: Conventions and Covenants Signed by Zambia

The Government of the Republic of Zambia (GRZ) is signatory to numerous international covenants that contain principles about the rights of all people as human beings. The principles of these covenants provide internationally accepted “ethical” guidance for the formulation of policies within signatory countries. Since the year 1919 the International Labour Organisation (ILO) has formulated international conventions on the rights of workers, and these conventions stand as the International Labour Standards in guidance of work. As of 2002 Zambia is signatory of 39 conventions out of 184 in total, including conventions that call for a minimum wage tied to cost of basic needs and productivity of a worker (C26), legislation to protect the wages of employees in case a company is liquidated (C95), legal protection of workers to severance pay on termination of employment (C158) and the right of workers to organise and operate without intimidation as a union (C87, C98).

In April 2005 the United Nations Committee on Economic, Social and Cultural (ESC) Rights evaluated Zambia’s initial report on its fulfilment of obligations under the International Covenant on Economic, Social and Cultural Rights. As mandated in the conditions of the Covenant, the GRZ submitted to the committee a report documenting all the measures it has taken to promote the Economic, Social and Cultural rights of the Zambian people. Following the established protocol for submission of such reports, a representative of the JCTR also travelled to Geneva and presented a civil society “Parallel Report” detailing the instances where the Zambian government has not adequately promoted the realisation of ESC rights. These complementary submissions offered a detailed picture of life in Zambia in terms of work, land rights, gender equality, access to housing, water, sanitation, etc.

The “Concluding Observations” of the United Nations Committee evaluation serve as an independent and international evaluation of how Zambia is fulfilling its obligation to implement policies that promote the ESC rights of the people. Focusing specifically on the economic rights of Zambians, they also serve as some evaluation of which policies need revision to align with the ethical guidance of the International Labour Standards:

- **On Wages:** “The Committee is concerned that the current minimum wage is not sufficient to provide an adequate standard of living for workers and their families and that it is available to few workers, given the large number of the population who work in the informal sector.”
- **On Social Security:** “The Committee is further concerned that comprehensive social protection is not available to the vast majority of the population, in particular low-income workers, workers over 55 years of age and workers employed in the informal sector.”
- **On Union Activities:** “The committee is concerned about the limits on the right to strike and, in particular, the procedural requirements which make it difficult to effectively exercise the legal right to strike in the State party.”

Moral Guidance on Employment: The Church’s Social Teaching

In addition to the legal and ethical guidance offered by the Zambian government and the international community, the Church’s Social Teaching (CST) also offers a moral perspective on employment. The JCTR, guided by the CST in our analysis and actions, notes that at the heart of the Christian tradition lies the challenging example set by Jesus: one of love, special attention to the downtrodden and simplicity of lifestyle. In addition to the teaching directly from the Bible, the CST includes writings of church leaders, such as pastors, bishops, etc., on how Christians should live as positive members of society.

One of the first notable CST documents comes from Pope Leo XIII, *On the Condition of Labour* (1891), which amidst the industrial revolution called for respect of the dignity and rights of the worker. And exactly ninety years later, the encyclical *On Human Work* (1981) by Pope John Paul II re-emphasised the dignity of the worker, particularly by stressing how labour must be given priority over capital.

The Second Vatican Council also gave a strong challenge to society concerning the conditions of service for workers: “Remuneration for work should guarantee people the opportunity to provide dignified livelihood for themselves and for their families, on the material, social, cultural and spiritual level, taking into account the role and the productivity of each worker, the state of the business, and the common good.” (*Church in the Modern World*, 1965, #67)

In 1999, the leaders of the Catholic Church in Southern Africa gave a statement highlighting the deep respect of the Christian tradition for the work of women and men: “Through work, we cooperate with the creator in bringing to fulfilment the created world; we exercise our God-given abilities and talents as co-workers with God in the great task of transforming the material world. Work is not simply an onerous necessity...it is the manifestation of our creativity.” (*Economic Justice in South Africa*, p. 21)

In a pastoral letter at the start of the Third Republic, the Catholic Bishops of Zambia stated very strongly: “The creation of adequate employment is a great challenge, as more and more of our people, especially the young, are becoming frustrated and hopeless in failing to find jobs. As new investments are sought in this country, these should be the kind which generate jobs. Fair wages call for constant adjustments, especially under the pressure of inflation. In particular, domestic workers need greater legal protection and a decent minimum wage.” (*The Future Is Ours*, 1992, #32)

The understanding of the dignity of work within the CST has evolved alongside changes in society and economy over the past century, and the following are some of the key values that have emerged for the guidance of labour:

Guiding Values:

- ❖ **Human Dignity:** Created in the image of God, all humans are possessors of innate dignity that should be equally respected and uplifted.
 - A man or woman at work is never just a cog in the wheel, but someone created in God's image.
- ❖ **Sanctity of Work:** As dignified beings created with unique talents, a human fulfils his or her mission on earth by using these talents to transform the world in a positive way, or in other words, to work as a co-creator with God.
 - Realising the sacredness of work, employees should work with enthusiasm, creativity and love.
- ❖ **Promotion of Common Good:** While working to have a positive impact on the world, humans should recognise the equality of all humans created in the image of God and be sure that actions do not promote the good of the few over the majority.
 - While paying in relation to worker skill and productivity, employers should also avoid extreme disparity in the remuneration of employees.
- ❖ **Option for the Poor:** Recognising the vulnerability and voicelessness of the poor, special attention ought to be paid to how actions, structures, attitudes, etc., inhibit the poor from using their talents to transform the world positively.
 - Employers and labour laws should make special provision for the uplifting of all vulnerable employees, including those formally employed, informally employed, self-employed or unemployed.

Section 3: Policy and Personal Change

Restoring Dignity To Employment Through Legal Motivation

With a mission of formulating amendments to labour policy and advising the government on all labour issues, the Tripartite Consultative Labour Council (TCLC) operates as a representative body of employers, employees and the government. Representatives of trade unions, employer groups and the Ministry of Labour are mandated to meet at least three times in a year to discuss all pressing labour concerns. It is through the TCLC that amendments and updates can be made to all the labour laws, including to the existing provisions for minimum wages and minimum conditions of service. Upon receiving recommendations from the TCLC, parliament can make major amendments to the labour laws (last done through ACT 15 of 1997). Also, the Minister of Labour and Social Security has the power to make smaller changes (following guidelines within The Employment Act) through Statutory Instruments. For example, Statutory Instruments 2 and 3 on Minimum Wages and Conditions of Employment (CAP. 276) are to be updated at least every two years by Statutory Instrument.

The JCTR works to promote the common good of the Zambian society, and in relation to labour laws, this encompasses promoting the ability of workers to meet basic needs without also hindering the growth of employment opportunities. It is in this spirit that the JCTR advises that members of the Tripartite Consultative Labour Council, Honourable Members of Parliament, all employees and employers in Zambia and members of the public at large to consider closely the following recommended modifications to labour legislation:

The Government of the Republic of Zambia Ought To:

- 1) Harmonise within all labour laws, including those on income tax and NAPSA, definitions of "employee" and "casual employee" and clarify which legal provisions are guaranteed to distinct categories of employees, including casual employees,

temporary employees, permanent salaried employees, permanent employees paid hourly wages, employees on fixed contracts, employees paid for work done and not for time of work (i.e., pieceworkers, consultants, etc.), government employees, unionised employees and informal sector employees.

- 2) Educate employers, employees, employer groups, employee groups and the public at large on the obligations of employers and rights / duties of each employee category in regard to wages and conditions of employment.
- 3) End the “casualisation” of labour in Zambia, by closing the loophole in The Employment Act (CAP. 268) that allows the re-hiring of a casual worker or multiple casual workers on short-term contracts to fill a position that is continuous in nature.
- 4) Revise the Minimum Wages and Conditions of Employment Act (CAP. 276) in such a manner that it sets the minimum acceptable standards for the treatment of *any employee* in Zambia, including employees in previously excluded groups (casual employees, domestic workers, government employees, unionised workers, etc.).
- 5) Modify the Minimum Wages and Conditions of Employment Act (CAP. 276) so that the legal minimum wage is linked to a *Poverty Datum Line* (PDL) set at the cost of basic needs for an average-sized family in Zambia, in the manner detailed below:
 - Establishment of *Poverty Datum Lines* in each district tied to the total cost of essential food and non-food items for an average sized family (through consultation of the CSO and JCTR Basic Needs Baskets)
 - Fixing of the Legal Minimum Wage to the *Poverty Datum Line* in each district of Zambia.
 - To be updated *annually* in line with rises in the cost of basic needs
 - To provide exemption for small and nascent (new) employers to pay employees in line with the cost of essential food items alone (*Extreme Poverty Datum Lines*).
- 6) Offer incentives such as greater access to bank facilities and loans, subsidies on utility bills, marketing opportunities, etc., to those businesses that cannot afford to pay the full minimum wage, especially those within the informal economy.
- 7) Establish a legal obligation for employers to pay gratuity benefits (at a minimum 2-months pay per year of service) to any employee whose employment is terminated (through either redundancy or through expiration of a contract) before legal retirement at age 55 or after 25 years of service.
- 8) Strive to make NAPSA a viable social security scheme for all workers in the long-term, by embracing the informal employee and the self-employed through special contribution schemes and by increasing the flexibility for contributors and survivors to collect accrued benefits before a contributor reaches the age of 55, while also maintaining the fund’s financial sustainability.
- 9) As NAPSA reaches 25 years of existence and if NAPSA proves its viability as a national pension scheme, remove the legal obligation of employers to pay retirement benefits (at minimum 3-months pay per year of service) to employees in Zambia.
- 10) Pay all outstanding terminal benefits owed to former employees of the GRZ and to retrenched employees of any privatised company.
- 11) Increase the wages of the lowest paid government employees to exceed the *Poverty Datum Lines* in each district (in line with legal minimum wage), while at the same time maintaining a wage bill of 8% of government expenditure.
- 12) Enshrine the rights of the worker within the Bill of Rights of the New Constitution, by approving Provision 66 (2) of the Draft Constitution that states: “a worker has the right to (a) fair remuneration, equal work for equal pay, and to work under satisfactory, safe and healthy conditions.”
- 13) Strengthen the capacity of the Ministry of Labour and Social Security to monitor employment across all districts of Zambia and ensure compliance with all provisions of the labour laws.

Encouraging the Common Good:

These 13 recommendations of the JCTR in regards to amending labour laws have been carefully constructed to promote the common good of Zambian employers and employees and the Zambian society at large. The majority of the labour laws were originally drawn up before independence or before the liberalisation of the Zambian economy, and the present Zambian context demands revised, harmonised laws to promote both the protection of the vulnerable employee and the growth of private sector employment. The JCTR proposes that the heart of the revised labour laws needs to be a clear, comprehensive and grounded Minimum Wages and Conditions of Employment Act (CAP. 276) that promotes the common good within individual places of employment.

In terms of minimum wage, the JCTR proposes that the legal minimum wage for an employee should be tied to a *Poverty Datum Line*, which is the cost of essential food and non-food items for an averaged sized family in a specific area. According to the JCTR *Basic Needs Basket* for August 2005, the cost of essential food and non-food items for a family of six in Lusaka was K1,358,990. Therefore, employers in Lusaka would be required to pay a monthly minimum wage of over K1.3 million, with workers paid hourly wages and pieceworkers guaranteed an equivalent rate of pay.

The JCTR also recommends that an absolute minimum wage be set in Zambia, and that it be tied to an *Extreme Poverty Datum Line* set at the cost of essential food items for an average sized family in a particular area of Zambia. Looking again at the JCTR *Basic Needs Basket* for August, the cost of essential food items totalled K513,590 in Lusaka. Therefore, the absolute minimum wage in Lusaka would be at least K500,000 per month. This absolute minimum wage would apply only for those employers who financially could not afford to pay the full legal minimum wage. These small or nascent employers would be allowed to apply through the Ministry of Labour and Social Security for an exemption from the legal minimum wage, subject to approval through inspection of employer records. These employers who could not afford to pay the full minimum wage could also be a target group for offering government incentives, such as access to loans, banking services, subsidised utility bills, etc., to encourage the growth of these establishments. This would also serve as an entry-point for informal businesses to enter the formal economy in a gradual manner.

In terms of terminal benefits, the JCTR also makes two distinct proposals to clarify the legal obligations of employers. First, for all employees who are terminated from employment before legal retirement (either 25 years of service or reaching the age of 55), employers should be legally obligated to pay gratuity of at least 2 months pay per year of service. This money could be set-aside by the employer or contributed by the employer to a private pension scheme approved by the Ministry of Labour and Social Security. In the case of death of employee, terminal benefits must also be made available to survivors. This guaranteed terminal benefit is in recognition of the vulnerability of any employee who loses employment, and is meant to ease the transition of an employee from one job to another.

Second, the JCTR recommends that if NAPSA proves itself as a viable pension scheme in the long-term, employers should be excluded from a legal obligation to pay their employees retirement benefits of 3 months pay per year of service. For NAPSA to prove its viability, it needs to prove its financial sustainability while also increasing the flexibility of contribution and collection options. In terms of contributions, options must be afforded to members of the informal sector and to the self-employed.

In terms of collection options, pension collection points must be made available in decentralised locations across the country. Also, collection of pension must be made

available to those who legally retire (after 25 years of service) before the age of 55 and to survivors of contributors who never legally retire. As the system stands now, a survivor of an employee who makes 25 years of contributions yet dies before collecting a pension check is not legally entitled to a pension from NAPSA. Only after all of these concerns are remedied could the law be revised to remove the legal obligation of employers to pay retirement benefits to employees at the rate of 3 months pay per year of service. Also, this legal change could only be made after the year 2024, when the first employee to make at least 25 years of contributions to NAPSA reaches retirement age.

In essence, these two legal changes in combination would remove the pressure on employers to hire on a short-term basis and instead would motivate long-term employment in Zambia. The only way for an employer to escape the legal obligation to pay terminal benefits would be to employ a worker until he or she could legally retire and collect a pension from NAPSA. The “penalty” for making an employee redundant or for hiring an employee on a fixed contract would be the legal obligation to pay gratuity of at least 2 months pay per year of service. Can employers afford to pay wages in line with the cost of living and mandatory gratuities for all short-term employees?

While it may seem like only Zambian employees would benefit from these proposed changes, employers could also save money from these proposals in the short and long-term. Of course, the average Zambian employee who earns far below K1,000,000 would receive an immediate pay increase and would also be guaranteed gratuity at the end of employment. In the short run, the unavoidable monthly cost to private-sector employers (and government) due to increases in cost of labour would effectively motivate employers to cut costs elsewhere, either by managing operations more efficiently or by giving pay-cuts to employees earning in great excess of the legal minimum wage (i.e., high-ranking figures in government, managing directors, etc.). It is time that all employers are challenged on the notion that the only variable of total operational costs that can be minimised is the cost of hiring labour, especially the poorest-paid labour! Setting a floor price for the cost of each employee would serve as a sudden shock to lethargic or inefficient management.

In response to the argument that employers would then inevitably fire employees, the revised labour laws could actually encourage employers to re-negotiate contracts to guarantee long-term service from all of their employees. In addition to this incentive of increased stability of labour, employers would face financial difficulties in immediately retrenching workers due to the obligation to pay gratuities to all employees. And if an employer truly could not pay the full minimum wage to all workers, the option would still remain to apply for an *exemption* from the Ministry of Labour and Social Security. (This would, of course, require capacity building in this Ministry to undertake the task of deciding who should get exemptions.) In the long run, the removal of the legal obligation for an employer to pay retirement benefits to each and every employee would allow individual employers to save significant amounts of money, ranging into the billions of Kwacha for medium to large employers.

Furthermore, the benefits would promote the common good of the Zambian society at large. Putting more money into the hands of the average Zambian equates to greater support of Zambian workers, especially farmers in the rural areas. Whereas those at the top have an inclination to spend money on luxury items (vehicles, electronics, flights abroad, etc.) that benefit workers outside of Zambia, the average Zambian is more likely to spend money to buy more food, send children to school, visit relatives within Zambia, etc. In addition, by setting the minimum wage in line with district-specific *Poverty Datum Lines*, economically deprived districts with lower minimum wages could attract greater business investment. It is clear, therefore, that the promotion of the common good of Zambia begins more importantly with the promotion of the common good of Zambian employees.

Restoring Dignity to Employment Through Moral Motivation

Though prudent labour laws provide a foundation for uplifting the Zambian employee, a Zambian house free from worker vulnerability can only be constructed one block at a time, with no member of society evading responsibility. Restoring dignity to employment concerns each one of us and our countless personal choices: to be productive members of society, to work our hardest given the opportunity, to use our talents to transform the world positively, to pay wages that do justice rather than give charity, to respect rather than exploit labour laws, to challenge accepted abuse of vulnerable workers, to remedy the causes of child labour, to uplift the dignity of our brothers and sisters, to live motivated by love. It is the belief of the JCTR that the Zambian employee will only be free from injustice when employers are simultaneously motivated by prudent government regulation and a moral obligation to respect the basic human dignity of workers in their roles as co-creators with God.

Both the Zambian Government and the Christian Church in Zambia have a unique moral obligation to employ in a just manner and to set positive examples for the nation. The government, as steward of public resources and of the public good, has a moral obligation to distribute resources in a fair manner that benefits all Zambians rather than a few of the powerful. And the Church, as the embodiment of the social teaching of Jesus, has a moral obligation to uplift the spiritual health of all members and the physical well being of those it can, including all its employees. Also, in a country where informal employment outside of the law is more common than formal employment, the social teaching of the Christian Church reminds each one of us of our duty under the New Covenant to follow the example of Christ irregardless of the laws of humans. As Jesus set the deaf, the blind, the sick free from their afflictions, we too should strive to uplift each other and promote the common good through loving actions that recognise the dignity of all humans. What does employment look like if motivated by love?

As employers of maids, houseboys, pieceworkers, shopkeepers, assistants, traders, etc., love motivates payments that empower employees to meet basic needs or hours of service that allow employees to supplement their income elsewhere. Love motivates bonuses, advances, increments, advice, condolences, congratulations, praise, and thanksgiving. Love motivates gratuity that empowers an employee to move forward, start his or her own business, build a house, go back to school, better utilise his or her talents to better the world. Love motivates respecting the labour laws, reporting worker abuse, challenging friends who abuse others, refraining from corruption, operating clean businesses. Love puts friendship, family, community and nation before individual glory.