

THE ROLE OF RELIGION AND RELIGIOUS FREEDOM IN ENHANCING DEVELOPMENT: A LATIN AMERICAN PERSPECTIVE

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Abstract:

Proposition: an ethical point of view when addressing *Religious Rights and Economic Development* is unavoidable.

Latin American perspective, outlining the main concerns in two fields:

1. Demands for reasonable accommodation in the workplace grounded in religious freedom (religious holidays, tasks rejected on the basis of freedom of conscience in health and education, religious dress) which impact workers and employers.
2. Demands from enterprises –either profit or non-profit- requesting exemptions (from taxes or affirmative duties) from the State in the fields of health and education. This involves the State duty to respect pluralism, democracy and neutrality.

A final reflection on the aggravated responsibility of both decision makers (employers – enterprises & the State) as management leaders and opinion leaders, from an ethical and also juridical point of view.

Key words: religious rights, economic development, religion, freedom.

Resumen:

Proposición: Desde un punto de vista ético, a la hora de abordar los Derechos Religiosos y Desarrollo Económico, se hace inevitable.

Desde la perspectiva latinoamericana, se destacan las principales preocupaciones en dos áreas:

1. Las demandas de ajustes razonables en el lugar de trabajo, basadas en la libertad religiosa (fiestas religiosas, las tareas rechazadas sobre la base de la libertad de conciencia en materia de salud y educación, vestimenta religiosa) trabajadores que impacto y los empleadores.
2. Las demandas de las empresas -ya sea con o sin ánimo de lucro que soliciten exenciones (de impuestos o derechos afirmativas) del Estado en los ámbitos de salud y educación. Esto implica,

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¹ This article is based on the oral presentation by the author, following this statement as proposed by the 2014 G20 Interfaith Summit, INTERFAITH CONFERENCE *ECONOMIC DEVELOPMENT & RELIGIOUS FREEDOM: EXPLORING THE RELIGIOUS DIMENSION OF DEVELOPMENT*, Session: *Religious Rights and Economic Development: International Perspectives*, Gold Coast, Australia, Nov. 16 – 18, 2014, Griffith University, <https://www.griffith.edu.au/conference/g20-interfaith-summit/g20-interfaith-summit-2014>

el deber del Estado de respetar el pluralismo, la democracia y la neutralidad.

Una reflexión final sobre la responsabilidad agravada, de dos tomadores de decisiones (empleadores -empresas y el Estado) como líderes de gestión y los líderes de opinión, desde el punto de vista ético y también jurídico.

Palabras claves: derechos religiosos, el desarrollo económico, la religión, la libertad.

1. “DEVELOPMENT OBJECTIVES CANNOT BE OPTIMIZED WITHOUT TAKING THE ROLE OF RELIGION INTO ACCOUNT”²

I am borrowing this statement from the organizers³, and even appropriating it as my own. Let me repeat: “*Development objectives cannot be optimized without taking the role of religion into account*”. I was tempted to rest my case here, because almost all I believe about the subject is comprehended in the phrase, in which case I might have given up my turn now in favour of next panellists of the conference. However, I felt at that time when addressing the three hundred people at the audience, that some other words were actually expected from someone who had been so generously invited by the hosts and flown there from the opposite side of the globe. So let us set focus on these issues.

2. PROPOSITION: AN ETHICAL POINT OF VIEW WHEN ADDRESSING RELIGIOUS RIGHTS AND ECONOMIC DEVELOPMENT IS UNAVOIDABLE

If we may define “enterprise” as *any human activity towards an end involving one or more persons*, then we must base our reflections on economic activities and development upon certain anthropological foundations that will enable an adequate comprehension of human conduct, as a prerequisite to the task of managing talents by the employer⁴.

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³ The organizers of the G20 Interfaith Conference, Australia, 2014, at cited above

⁴ Concepts discussed in the 2014 Postgraduate Course on Human Management and Responsibility imparted

Considering the growing socialization, an approach to human management cannot be alien to the responsibility of professionals towards the society in which they live, which is like the “habitat” of their own organisations. This habitat may be either improved by their professional performance, hence increasing its human capital, or be harmed when this performance fails to meet the technical skills required by the given profession, which may be never considered unrelated from personal honesty⁵.

Man is an end in himself in all human activity, never a means. The institution serves the person, not vice versa. Solidarity is demanded on the grounds that the other –neighbour, our fellowman- belongs to me, and I therefore owe him (solidarity indicates belonging).

Therefore, the relationship between the authority and the subordinates *“is far more like that between the conductor of an orchestra and the instrumentalist than it is like the traditional superior/subordinate relationship”... “In turn, the knowledge worker is dependent on the superior to give direction and, above all, to define what the “score” is for the entire organization, that is, what are standards and values, performance and results.”... “The superior in an organization employing knowledge workers cannot, as a rule, do the work of the supposed subordinate any more than the conductor of an orchestra can play the tuba. Altogether, an increasing number of people who are full-time employees have to be managed as if they were volunteers. They are paid, to be sure. But knowledge workers have mobility. They can leave. They own their “means of production,” which is their knowledge. We have known for fifty years that money alone does not motivate to perform. Dissatisfaction with money grossly demotivates.”⁶*

“I believe before including Ethic classes, no matter how necessary they may be, the first thing to be questioned is the anthropological “model” –explicit or implicit- from which all the other sessions of the rest of the areas are imparted. Although it may appear at first sight that our idea of what and who a man is has no relation with a class of Finance, for instance, in which technical aspects are discussed, it is not like this. Because as long as man continues to be thought of as an economic animal, moving exclusively in pursuit of his own interest –because of the money he may earn- and that the enterprise’s unique objective is generating profit, then it is practically impossible to affirm that this view will not influence how one stands on any given business issue. The much touted set of values is not a theoretical question: it manifests itself in everyday decisions. And no matter how noble the

by Juan José GARCÍA, University of Montevideo.

⁵ GARCÍA, Juan José, the 2014 Postgraduate Course on Human Management and Responsibility

⁶ P. DRUCKER, *Management Challenges for the XXI Century*, cited by Juan José GARCÍA in the referred 2014 course

values we aspire to, they shall not be more than fruitless good intentions unless they are determined consistently.” ... “if the aim is just earning money, the rest will be just strategies to obtain it. And even if it entails cheating, as long as you are not discovered ...”⁷

What do these statements and reflections have to do with *Religious Rights and Economic Development*, or with “*The role of religion and religious freedom in enhancing development*”? They basically provide the common premise, the starting point from which to approach the role of religion and religious freedom in enhancing development. If consideration of the religious nature of man is disregarded, if he is only considered as a factor –one of many factors- in the production chain and business machinery, then he will be de-personalized; that is, he will be deprived of his own nature. Man is a religious animal by nature. He has been such since prehistoric times and all around the globe, across all cultures. He may also be a political animal, a social being and even an economic person. But none of these categories may neglect the religious nature of man, a demand grounded on human dignity. Any other approach, even in –or particularly in- economic areas, would deny man’s basic and unique nature. So if development is the aim, no means of attaining it can –by ontic imperative- rescind from human dignity, therefore human rights, and freedom of religion or belief as the first and primary freedom. No true development may arise if religious freedom is not respected.

Even God’s first enterprise in relation to humankind –Creation- respected times of rest and granted man freedom to choose.

To illustrate how this conciliation between economic development and religious freedom has been dealt with in Latin America, we will analyse some of the main present concerns in our continent and discuss the given as well as suggested solutions to reconcile the dilemma of gaining one’s own bread by the sweat of one’s brow⁸ while loving God above all things⁹.

⁷ Juan José GARCÍA, *LA ÉTICA NO SIRVE PARA NADA*, Chapter from the book *Somos lo que hacemos. Reflexiones para ejecutivos políticamente incorrectos*, Random House Mondadori, Ed. Sudamericana Uruguay, Montevideo, 2012.

⁸ Bible, Genesis 3:19

⁹ First Commandment (Bible), main principle of almost every religion. Longer version: “Loving God *with all your heart and with all your soul and with all your mind and with all your strength*”, Bible, New Testament, Mark 12:30

¹⁰ ASIAÍN PEREIRA, Carmen, *Religión y Derecho Laboral en el Uruguay. Intentando conciliar el “Ganarás el pan con el sudor de tu frente” con el “Amarás a Dios sobre todas las cosas” ante el César, en el Uruguay*, en

3. SOME OUTLINES ABOUT LATIN AMERICA BEFORE STARTING: HISTORICAL, CULTURAL, RELIGIOUS AND LEGAL BACKGROUND AND CONTEXT

When the West “discovered” the New World in 1492, it came across a huge multi-cultural, multilingual, multi-religious continent inhabited by diverse nations, showing outstanding differences in terms of historical evolution and cultural development, political, social and economic organization. This miscellany of pre-existing native peoples was partly driven to uniformity- particularly in the sphere of religion or belief-, through the evangelization sponsored by the Spanish and Portuguese Crowns involved in the conquest, with some presence of France, England and Holland, as well. Other aspects of uniformity brought by the Europeans were those of culture and language. Thus, the multiplicity of religious cults existing in the continent, mainly polytheistic and pantheist, were gradually converted – more formally than in substance- to Catholicism, since European conquerors and immigrants brought the Catholic Church and culture as part of Colonization¹¹. Notwithstanding the true conversion of huge portions of the Latin American population, some of the native religions persisted, though often veiled or disguised as Catholic belief, later reappearing in the form of syncretism.

The fact that the Catholic Church preceded the advent of independent States was crucial in determining the denominational structure adopted by several constitutions after the independence of states. Most countries embraced the Roman Catholic Church as the State Church, and followed the “Patronage” model, while other faiths were respected on the grounds of the principles of freedom and equality.

After a gradual process of secularization (Uruguay being the pioneer), all Latin American countries with the exception of Costa Rica are non-denominational, neutral or secular at present, although most of them grant some degree of privilege to the Roman Catholic Church. As opposed to the rest of the religious denominations, for example, this church is

RELIGIÓN Y DERECHO LABORAL: análisis concordatario de su regulación jurídica en las Américas, Italia y España, CALVI DEL RISCO, J.A. (Coord.), Consorcio Latinoamericano de Libertad Religiosa, Lima, Perú, 2013, pp. 6-45

¹¹Conversion of native peoples into Catholicism was a duty of State for the Crowns and the subsequent independent governments. The 1853 Argentinean Constitution, for instance, ordered the Congress to promote the conversion of “Indians” to Catholicism.

acknowledged as a legal entity governed by public law in most countries (with the exception of Mexico and Uruguay, where it is a private legal entity), while the rest must register to attain legal status. Justifications for this privileged position come from the fact that the Roman Catholic Church is historically rooted and constitutes the traditional religion, as well as the majority religious group.

A relevant historical fact in Latin America is that there were no religion wars, at least no significant armed conflicts based on religion.

As for social composition and religious diversity, another important characteristic of Latin American countries is their pluralistic societies, as a result of immigration from many different origins -mainly European, but also from Africa as slaves and Asia-, mingling with pre-existing native peoples. Consequently, societies have gone from multiplicity to uniformity after colonization, and back to diversity in the religious arena, after immigration and after the resurrection of native beliefs and culture, giving place to the presence of many religious denominations.

As for religious composition of society, Roman Catholics are still the majority group, but the number of its members is slowly decreasing nowadays, giving way to new religious movements, mainly neo-Pentecostals of Brazilian origin and neo-Christians. Historical protestant churches coexist with modern evangelical churches from different origins and neo-Christians or post-protestants. Nowadays non-Catholic Christians are the second majority group. Armenian, Greek and Russian Orthodox churches are also present. Jewish communities of diverse movements have roots throughout Latin America, but are particularly strong in Argentina, the country with the largest Jew community in Latin America and one of the most numerous in the world¹². Orthodox Jews stand side by side with Conservatives and Reformists. Islam has arrived relatively recently and established small but growing communities, especially in frontier regions. Buddhist and Hindu groups, Spiritualist, Theosophical schools and Rosae Crucis and sympathizers of the Bahá'í faith are also present. There are variants from Caribbean belief traditions in its areas of influence. Afro-Brazilian religions are strong in the south. A very particular Latin American phenomenon is the mingling of African religions with Brazilian faiths and Catholic ingredients, giving place to the emergence of syncretism. This happens when a belief tends

¹² NAVARRO FLORIA, J., *Law and Religion: present challenges in Latin America*, in *Law and Religion in the 21st Century. Relations between States and Religious Communities*, Eds. Silvio Ferrari and Rinaldo Cristofori, Ashgate Publishing, 2010, ISBN: 978-1-4094-1143-7

to encourage the practice of other religious beliefs or to incorporate some elements of other faiths, or tries to disguise some other belief tradition as Catholic, borrowing its typical elements of faith, such as Christ, the Virgin Mary or saints, and renaming them or assimilating them to its own deities, or performing Catholic rites together with native rites, or embracing the Catholic faith without surrendering other beliefs. A new religious creed is born, known as religious “Syncretism”, a symbiosis of religions.¹³

As for the rule of International Human Rights Law, we proudly emphasize the fact that the American Declaration of the Rights and Duties of Man¹⁴, was prior to the 1948 Universal Declaration of Human Rights, and encompasses the same type of principles. Acknowledging the *dignity of the individual*, the American Declaration has as the *principal aim the protection of the essential rights of man and the creation of circumstances that will permit him to achieve spiritual and material progress and attain happiness*¹⁵. In its Preamble, it proclaims freedom and equality, in dignity and in rights of every individual, and the natural dimensions of *reason and conscience*. The right to Religious Freedom and Worship is established in Article III.

As most countries have signed and ratified most –if not all- of the main International Treaties and Declarations concerning Freedom of Religion and Belief as a human right, Human Rights International Law, together with general principles of Law explicitly or implicitly acknowledged and International Customary Law, Mandatory Law –*ius cogens*- are part of the Human Rights Regime or Constitutionality Regime which governs every Latin American State with supremacy, either by express incorporation by the Constitution or tacitly, but either way binding them after the Vienna Convention on the Law of Treaties¹⁶. Moreover, Human Rights Law provisions are self-executing in national legal systems¹⁷.

¹³ For further details, see ASIAÍN PEREIRA, Carmen, *Law and Religion in Latin America. General Aspects of Law and Current Concerns*, Hilary/Easter, 2009, *Law and Justice The Christian Law Review*, Worcester WR2 4PB UK, <http://www.lawandjustice.org.uk/LAWJUSTICE>, pp. 62-78

¹⁴ Organization of American States (OAS), Res. XXX, 9th Intl Conf., May 2nd, 1948, Bogotá, Colombia

¹⁵ Introduction to the Declaration of the Rights and Duties of Man

¹⁶ Vienna Convention on the Law of Treaties, 1969, arts. 26, 27 & 53.

“Article 26. “PACTA SUNT SERVANDA” Every treaty in force is binding upon the parties to it and must be performed by them in good faith.”;

“Article 27. INTERNAL LAW AND OBSERVANCE OF TREATIES. A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46.”;

“Article 53. TREATIES CONFLICTING WITH A PEREMPTORY NORM OF GENERAL INTERNATIONAL LAW (“JUS COGENS”) A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which

Our main regional instrument is the American Convention on Human Rights "Pact of San Jose, Costa Rica"¹⁸, mandatory for most of the countries in the Americas, except Canada and the United States of America (although they are members of the Organization of American States -OAS-), and Cuba, which was excluded.

Article 12 specifically deals with Freedom of Conscience and Religion, in a phrasing similar to Article 18 of the UDHR¹⁹. Particular importance is attached to freedom to maintain or to change one's religion or belief, in a phrasing which leaves no doubts of its vast scope, as the consideration given to freedom to engage in religious persuasion and proselytism. Freedom of Thought and Expression and Freedom of Association (specifically motivated by religion)²⁰ are dealt with in articles 13 through 16, which includes a democratic clause as a requisite for admissible restrictions of this right.

Other relevant documents are the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights known as "Protocol of San Salvador"²¹, which *Considering the close relationship that exists between economic, social and cultural rights, and civil and political rights, in that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person,*

no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."

¹⁷ For further details, see ASIAIN, C. Chapter *Religion and Religions in Latin American Constitutional Framework*, in DURHAM et al., *Law, Religion, Constitution. Freedom of Religion, Equal Treatment, and the Law*, Ashgate Publishing Limited, England, 2013, ISBN 9781472416131, pp. 125-150, quoting International Law and Constitutional Law experts.

¹⁸ OAS Nº 36, Nov., 22nd, 1969

¹⁹ Article 12. Freedom of Conscience and Religion. 1. Everyone has the right to freedom of conscience and of religion. This right includes freedom to maintain or to change one's religion or beliefs, and freedom to profess or disseminate one's religion or beliefs, either individually or together with others, in public or in private. 2. No one shall be subject to restrictions that might impair his freedom to maintain or to change his religion or beliefs. 3. Freedom to manifest one's religion and beliefs may be subject only to the limitations prescribed by law that are necessary to protect public safety, order, health, or morals, or the rights or freedoms of others. 4. Parents or guardians, as the case may be, have the right to provide for the religious and moral education of their children or wards that is in accord with their own convictions.

²⁰ Article 16. Freedom of Association. 1. Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes. 2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.

²¹ OAS Nº 69, 11/17/88

*for which reason both require permanent protection and promotion if they are to be fully realized, and the violation of some rights in favour of the realization of others can never be justified*²², then focuses on the right to Work and Education.

The more recent Inter-American Convention Against all forms of Discrimination and Intolerance from 2013²³ deals with religious minorities and prevents discrimination.

The Latin American legal framework for religious freedom is rounded out by several Concordats²⁴ signed between the Holy See and Venezuela, Argentina, Colombia, Peru, Haiti, Bolivia, Dominican Republic, and most recently with Brazil²⁵, as well as bilateral treaties or agreements between the States and some other religious denominations.

Ultimately, Freedom of Religion is specially protected by the Latin American constitutions, and its promotion by statutory law and courts is obligatory.

4. DEMANDS FOR REASONABLE ACCOMMODATION IN THE WORKPLACE GROUNDED IN RELIGIOUS FREEDOM WHICH IMPACT WORKERS AND EMPLOYERS

As we all know, the workplace has recently turned into a new battlefield for religious freedom. Latin America is not immune to these conflicts -despite its historically-rooted uniformity, common tradition and strong Christian influence- due to the growing pluralism in its societies.

a. RELIGIOUS HOLIDAYS

One of the main concerns has to do with respecting times or special days of religious rest or celebration, based on religious imperatives, i.e., religious holidays. As most countries respect Catholic holidays in civil life, demands for similar reasonable accommodations or exemptions from working on religious holidays have been brought by Seventh Day Adventists and Orthodox Jews.

These challenges appeal to the core of both religious freedom and labour rights, demanding respect of the freedom not to be confronted with religion. When these rights

²² Preamble of the Protocol

²³ Adopted in La Antigua, Guatemala, June 5th, 2013, ratified by Argentina, Brasil, Ecuador, Haití, Panamá and Uruguay

²⁴ For further details, see NAVARRO FLORIA, J., coord., *Concordatos y acuerdos entre la Santa Sede y los países Americanos*, Ed. Universidad Católica Argentina, Buenos Aires, 2011, ISBN 978-987-620-180-3

²⁵ The latter, signed on Nov, 13th, 2008

are overlooked, workers are compulsorily submitted to the dilemma of choosing between observing their religious day of rest or keeping their job, whenever the employer fails to accommodate their situation.

While this issue is not directly addressed by the constitutions, it has been dealt with in the light of the Right to Freedom of Religion or Belief by courts first and sometimes later by legislation.

In Argentina, under the influence of the United States courts and International Human Rights Law, the Supreme Court has developed a solid and steady jurisprudence –the Argentinian *sabbatarian cases*- enforcing the right to religious holidays in the workplace and has ruled that employers should incorporate such protections in the labour contracts of Seventh Day Adventists and Orthodox Jews whenever possible, taking into account some legitimate limits to this imposition, emulating the balancing test. Later on, in 1995 and 1996 two statutes recognized religious holidays for non-Christian beliefs, like Jews and Muslims²⁶.

Chile²⁷ has proclaimed a national holiday for Evangelical and Protestant churches²⁸, after having recognized several Catholic festivities as national holidays²⁹.

Peru has a prototype Religious Freedom Statutory Law³⁰, modern in its formulation and in tune with International Human Rights Law. Amongst other protections of public

²⁶ See LO PRETE, O., *Los feriados de carácter «religioso» en la Argentina*, in <http://www.calir.org.ar/pubrel04103.htm#ref>. Law N° 24.571 declared non-labor days, for all inhabitants professing the Jew religion, the following days: “JEW NEW YEAR’S DAY – Rosh Hashaná” (2 days) and the “DAY OF ATONEMENT” – Iom Kipur” (1) day. Law 24.757 declared non-labor day for all inhabitants professing Islam, the following: “MUSLIM NEW YEAR’S DAY – Hégira”, the day after the “festival of the breaking of the fast” - Id Ai-Fitr, and the “Festival of Sacrifice” - Id Al-Adha. See also LO PRETE, Octavio, “Los feriados de carácter religioso en la Argentina”, *Anales Derecho UC, Actas del IV Coloquio, Consorcio Latinoamericano de Libertad Religiosa*, Pontificia Universidad Católica de Chile, 2005.

²⁷ For further detail, CELIS BRUNET, A.M., *Iglesias y Estado en la República de Chile*, in NAVARRO FLORIA, J. (coord.), *Estado, Derecho y Religión en América Latina*, Marcial Pons, Buenos Aires, 2009, pp. 125-146.

²⁸ Law N° 20.299 sets October 31st as the Evangelical and Protestant Churches Day

²⁹ Laws N° 2.977 (Sundays, Assumption of the Virgin, Holy Friday and Saturday, Holy Saints, Immaculate Conception), N° 18.432 (Saints Peter and Paul), N° 19.973 (Christmas) and N° 20.148 (Our Lady of Carmen).

³⁰ Religious Freedom Statutory Law N° 29635, from Dec., 21st, 2010

manifestation of religion, it consecrates the right to celebrate religious holidays and the corresponding accommodation, which must be provided by the private or public employer.

Colombia deals with the subject in a general way in its 1994 Statutory Law on Freedom of Religion, article 6, which includes the right to celebrate festivities³¹.

In Brazil these kinds of initiatives are being processed after the 2008 Concordat with the Holy See. In 2009 the Chamber of Deputies sanctions the General Law on Religions, extending the rights acknowledged by the Concordat with the Holy See, in favour of Evangelicals, as part of a parliamentary agreement with Catholics. The Bill not only benefits Evangelicals, but also includes registered creeds like Jews and Muslims³².

Uruguay's eccentricity, on the other hand, stands out due to the state's intrusive redefinition (invasion) of Christian holidays during secularizing trend. All religious holiday names were changed by pagan denominations. Easter Week was renamed *Tourism Week* (a moveable holiday whose date each year, as sanctioned by the state, corresponds to the dates the Holy See sets for Easter Week). This holiday was made a whole non-working week (7 days) with the deliberate purpose of emptying churches. However, a bill recognizing Freedom of Conscience and Institutional Autonomy was passed in December, 2010³³ and recently re-introduced, on September 15th, 2015³⁴, in either versions paying special attention to conscientious objection to working on religious holidays, amongst other acknowledgements.

An employee who values and is willing to observe his religious beliefs and commandments even to the point of facing a labour conflict or losing his job, is a worker with high moral standards. Notwithstanding the fact that private enterprises –as well as public- should try to adjust the labour contract to accommodate the religious duties of its workers –in terms of rights and duties of man- it appears to be much more advantageous for the enterprise in

³¹ Statutory Law on Freedom of Religion N° 133 of 1994, art. 6 *“La libertad religiosa y de cultos garantizada por la Constitución comprende, con la siguiente autonomía jurídica e inmunidad de coacción, entre otros, los derechos de toda persona:”* (b) *“De practicar, individual o colectivamente, en privado o en público, actos de oración y culto; conmemorar sus festividades; y no ser perturbado en el ejercicio de sus derechos;”*

³² Source: <http://www.protestantedigital.com/ES/Internacional/articulo/9770/Brasil-el-parlamento-aprueba-la-ley-general-de>, visited 05/09/15

³³ Proyecto de Ley de Libertad de Conciencia e Ideario, Comisión de Derechos Humanos, Carpeta N° 559 de 2010 Repartido N° 467, dic. 2010, available at <http://www0.parlamento.gub.uy/repartidos/AccesoRepartidos.asp?Url=/repartidos/camara/d2010120467-00.htm>

³⁴ Bill.

terms of economic development, to keep an employee with such strong principles, especially when the changes that are needed to accommodate him are rarely too burdensome. An example of respect, of consideration of the human being, would be spread by the management, which will return to the management in a positive manner, not only from the conscientious objector, but from the rest of the employees.

From an ethical point of view, it seems that challenging the employee to lose his job unless he submits to working on a religious holiday –and to abandon his belief, in fact- doesn't meet any test of reasonable proportionality. *A worker should never be faced with the dilemma of having to choose between gaining one's own bread by the sweat of one's brow, or loving God above all things, since reconciliation of both principles is possible, desirable and mandatory according to Human Rights Law.*

b. TASKS REJECTED ON THE BASIS OF FREEDOM OF CONSCIENCE, IN HEALTH AND EDUCATION

Legislation has recently introduced innovations in the area of health assistance, which are particularly sensitive to ethics and bioethics –such as certain interpretations of sexual and reproductive rights³⁵, the consequent obligation to perform certain practises (sterilization, intrauterine device insertion), or prescribe contraception including abortifacients³⁶, legalization of elective abortion (as in Uruguay)³⁷, assisted human reproduction³⁸, Right to Gender Identity and Change of Name and Sex³⁹, Anticipated Statement of Will⁴⁰, Implicit Organ Donation⁴¹, Legalization of marihuana consumption and expenditure⁴², amongst

³⁵ Argentina, Law N° 25.673 of 2003, Responsible Procreation and Sexual Health National Program (Programa Nacional de Salud Sexual y Procreación Responsable); Uruguay Law N° 18.426 of 2008, Sexual and Reproductive Rights Defence (Defensa del derecho a la Salud Sexual y Reproductiva).

³⁶ Uruguay, administrative regulation (Decree) N° 273/2010, N° 383/2010 & N° 9/2011.

³⁷ Uruguay has legalized and regulated voluntary abortion as a right until the 12th week of pregnancy. Law N° 18.987 (Choice Termination of Pregnancy – Interrupción Voluntaria del Embarazo), Oct 30, 2012. Administrative regulation N° 375/2012

³⁸ Uruguay Law N° 19.167, Administrative regulation N° 311/2014.

³⁹ Uruguay, Law N° 18.620 of 2009.

⁴⁰ Argentina (Law N° 26.529) and Uruguay (Law N° 18.473) have approved laws regulating the Anticipated Statement of Will in 2009.

⁴¹ Uruguay Law N° 18.968 of 2013, opposed by members of Afro-Brazilian religions (Umbanda)

⁴² Uruguay, Law N° 19.072 of 2014, available at <http://www.parlamento.gub.uy/leyes/AccesoTextoLey.asp?Ley=19172&Anchor=>

others). In some countries, such as Colombia⁴³ and Argentina⁴⁴, abortion has been authorized by the judiciary in cases of rape or for therapeutic reasons, even without the legislative framework to justify it.

As a consequence of this irruption of so called “health practises” which challenge ethics, bioethics, beliefs and religious creeds, a number of health workers –from gynaecologists to nurses, paramedics to hospital administrative personnel- have resisted compliance with the legal obligation to perform the questioned practises, on the basis of conscientious objection.

While freedom of conscience is proclaimed by the vast majority of the legal systems – mainly in the Constitutions-, and some even acknowledge the right to conscientious objection by Constitution⁴⁵ or as a legal clause⁴⁶ or exemption when the practise is imposed, the right to actually and effectively oppose medical practices of bioethical concern is not always clear, having been denied despite recognition, and otherwise protected in other cases, but either way having created grave conflicts in the workplace. *The worker faces the unaffordable dilemma of having to choose between living his life –also in the workplace- in accordance to his religion or conscientious beliefs and therefore losing his family’s income, or having to deny his faith, beliefs or principles in order to keep his source of maintenance.*

⁴³ Cases resolved by the Constitutional Court of Colombia, like Sentence C 355/06, which decriminalized abortion in 3 cases dealing with life or health risk for the woman, malformation of the fetus determining non-viability, or as a consequence of a sexual crime, in PRIETO, V., *Derecho Eclesiástico Colombiano*, in *ESTADO, DERECHO Y RELIGIÓN EN AMÉRICA LATINA*, NAVARRO FLORIA, J.G. (coordinador), Marcial Pons, Buenos Aires, 2009, pp. 120-121. Some analysers like Ilva HOYOS qualified this Sentence as “Abortion of State” (IX Colloquium of la Latin American Consortium for Freedom of Religion or Belief, Montevideo, 2009).

⁴⁴ Supreme Court of Justice of Argentina, case “T.S.” of January, 2001, Sentence published by *El Derecho*, t. 191, p. 429 and “B.A.”, of July, 12th, 2001 dealing with early childbirth induction in cases of anencephaly, reported by NAVARRO FLORIA, J.G., *Algunas cuestiones actuales de Derecho Eclesiástico argentino*, in *ANUARIO DE DERECHO ECLESIASTICO DEL ESTADO*, Vol. XXI, Cuenca, Spain, 2005, pp. 309-310, and also in NAVARRO FLORIA, J.G., *La Libertad de creencias en la Argentina, 2008*, in *ANUARIO* (op. Cit.) Vol. XXVI, 2010, pp. 97-98

⁴⁵ Constitution of Brazil, art. 5; Colombia art. 18, Ecuador art. 20, Paraguay, arts. 37 and 129.

⁴⁶ Uruguay: The “Law on Anticipated Statement of Will” (N° 18.473, Apr, 21, 2009, Article 9), the Statute for the Exercise of Nursing (N° 18.815, Article 18) and the Law on legalization of Abortion (18.987, art. 11) regulate the right to conscientious objection, with some limits. The Code of Medical Ethics (Law N° 19.286 of 2014), arts. 36, 40 (in case of abortion), 42 (sterilization) and 62. Argentina: Administrative Regulation N° 1282/2003 (of Law N° 25.673, 2003, Responsible Procreation and Sexual Health National Program), Art. 10. Peru: Law N° 29.635 on Freedom of Religion or Belief (2010), art. 4.

In Uruguay, a group of Gynaecologists contested the Administrative Regulation of the Law on Elective Abortion, in view of the fact that it introduced illegal and unconstitutional limitations to the right to conscientious objection to abortion⁴⁷, and also on the grounds that it restricted the free exercise of medicine⁴⁸, and ultimately because it discriminated against objectors. The Administrative Court first granted a preliminary injunction considering that *the right to conscientious objection had indeed been seriously damaged, since it is notably restricted if compared to the Law which is being regulated and to its acknowledgement as a fundamental human right.*⁴⁹ In its final judgement, the Court annulled several of the contested articles of this regulation, with *erga omnes* effects, that is, not only for the contesting physicians, abolishing these norms which have now disappeared from the legal system, on the grounds that *“conscientious objection constitutes a fundamental right and that, in consideration of the question which was being legislated, the Parliament was conscious of the contradictions that the practise of abortion generated, y and for this reason, consecrated a broad exercise of that right.”*...*“all public authorities are obliged to adopt those measures as necessary to provide for its effectiveness”*⁵⁰, considering the right to conscientious objection as *“a constitutionally protected right”*.⁵¹

Accommodation of the employees' beliefs in the workplace in such a sensitive area challenges both the employer -hospital authorities- as well as the State –which is supposed to guarantee freedom of conscience by Law and to enforce it through the Government. Restriction of conscientious objection to practise an abortion or to prescribe abortifacients or marihuana, means denial of the fundamental human right of freedom of conscience and religion or belief. *No physician nor paramedic nor pharmacist should, in Justice, be*

⁴⁷ Administrative Decree N° 375/2012 article denied the right to conscientious objection in several circumstances, such as when pregnancy may constitute a health hazard for the woman (which according to the administrative regulation, was any circumstance that might be considered by the physician as a bio-psycho-social health or life risk for the woman), and it could not be invoked to reject the preparatory or post-abortion acts, amongst other violations.

⁴⁸ The Decree also vans the Physician to give advice to the woman in a manner that might dissuade her from aborting, and also prevents him from notifying the father without consent of the mother, amongst other illegitimate restrictions.

⁴⁹ Administrative Litigation Court, Sentence N°297/14, Aug., 14th, 2014. Extract translation by the author.

⁵⁰ Administrative Litigation Court, Sentence N°586/15, Aug., 11th, 2015. Extract translation by the author, available at <http://www.tca.gub.uy/fallos.php> page 20-21.

⁵¹ Page 26 of the cited Court Sentence N° 586/15

compelled to abandon his faith or belief, much less be forced to engage in conduct condemned by his or her religion, in order to keep his job, nor vice versa, be deprived of his salary if he opts to act consistently with his beliefs. Either options set one part of himself against another, *the worker against the believer*, and this inner conflict is absolutely unnecessary as well as unfair. *The individual conflicted in this way is not able to maintain his integrity and unity within his own being.*

Moreover, even if we exclusively focus on the enterprise's perspective, *we might consider the casualties that the business will undoubtedly suffer, either by losing a qualified employee, or keeping an employee whose morale and spirit has been broken because of an inner conflict.*

The same type of conflict can occur where marihuana is sold legally in pharmacies, potentially challenging the employees' freedom to abstain from handling such sales on religious or ethical grounds or on scientific evidence.

These innovations and reforms in the health area, far from being neutral, actually respond to a given ideology and anthropology, embedded in relativism, individualism and the utilitarian trend of ethics. As a consequence, it spreads its impact into other fields, such as education, where a new moral paradigm is replacing the traditional one in many cases.

Thus, Education becomes another arena of conscientious and religious conflicts in the workplace, whenever an educator is legally compelled to teach a model which his or her deepest beliefs and principles reject as false and biased.

However, a distinction should be made between private and public enterprises (either schools, colleges, universities or any educational institute) in this area. Because, whereas in the private sphere priority should be legally given to institutional autonomy on the grounds of the principles of freedom of association and enterprise, freedom of expression and collective freedom of religion or belief, the State on the contrary, should be guided by the principle of neutrality. In the first case, the teacher may be required to impart the institution's view on these issues; the right of parents to choose their child's religious and moral education and the burdened duties that the teacher has in this labour relationship with this special employer, also contribute to this conclusion. On the other hand, since under the principle of neutrality the State has limited or no competency to take a stance on moral and religious issues, at the same time that it must present all the different approaches and views on a given subject, it cannot influence or require teachers to align with one or another given stance in nondenominational, purely public institutions.

This is -despite the distinction made- another sensitive area of possible conflict in the workplace, which challenges both the private and public manager in his conciliatory skills.

Consideration must be given to the rights of pupils –the main objective of the whole education system–, as well as of the rights of their parents, to the defining principles of the institutions, as well as to the labour rights of the teacher, and finally, to the principle of State neutrality.

C. RELIGIOUS DRESS

Latin America has somehow remained untouched by the recent controversies aroused by the question of the Islamic headscarf⁵² or other kinds of religious dress in public space, mainly because of two possible reasons. One is the fact that Muslim immigration has been smaller in number than in other parts of the world, and where it has taken place, it was in a more gradual manner, allowing adaptation from the foreigner and from the national inhabitant. And the other reason might be Latin America's democratic, republican and pluralistic tradition, always open to immigration from diverse nationalities and accustomed to dealing with multiculturalism within its societies, in which the various native peoples coexist with Europeans and their mingled descendants, African, Asian, Armenian, Jew, Rome and more recently Muslim migration. A third explanation may be the strong Catholic tradition, which not only involves clergymen and women wearing religious dress and moving freely in society, but also the religious doctrine of the Second Vatican Council on Freedom of Religion and its manifestation both in private and public spheres, as well as respect of other religious expressions.

The only limitations on religious dress in Latin America are justified for security reasons, such as the prohibition on covering the face or head inside financial institutions, or when identification is absolutely necessary for identity cards or at airports.

5. DEMANDS FROM ENTERPRISES –EITHER PROFIT OR NON-PROFIT-REQUESTING EXEMPTIONS (EITHER FROM TAXES OR FROM AFFIRMATIVE DUTIES) FROM THE STATE IN THE FIELDS OF HEALTH

⁵² However, this does not mean it has been totally alien to these issues. A recent debate arose in Uruguay, when Syrian refugee school girls attended school wearing the Islamic veil, recalling the discussions on secularism and secularity, with no legal consequences.

AND EDUCATION. THIS APPEALS THE STATE DUTY TO RESPECT PLURALISM, DEMOCRACY AND NEUTRALITY.

The right of faith communities, religious institutions or entities defined by a certain ideology, principles or belief, to conduct their civil life in accordance with their principles and to religious freedom, though proclaimed by International Human Rights Law and acknowledged by the Constitution, is an issue presently undergoing revision, having been expressly denied by Law in some cases involving bioethics and having certainly been under question in the field of Education.

As examples of the first type of denial stand the cases in which abortion –either therapeutic, in a case of rape, or even elective abortion where it has been legalized- is proclaimed as lawful –or even a right- and hospitals and clinics are required to provide it, along with other practises such as sterilizations, sex reassignment surgery, in vitro fertilization, etc.

In Uruguay –the only Latin American nation along with Cuba where voluntary abortion is legal- the Law on Elective Abortion mandates that all institutions that are part of the Integrated National Health System provide abortion upon request, under the circumstances de-criminalized by law, therefore considering it a right of the mother. Although the law foresees that some institutions defined by their religion or beliefs might have objections to complying with this obligation, obtaining an exemption from this legal obligation depends on several strict and limiting procedures and is ultimately defined by the Ministry of Public Health –with jurisdiction to deny it-; and according to administrative regulation, in the case that the exemption were granted, the hospital must pay a third party to perform its duty and supervise its compliance, therefore nullifying the objection. The same kind of unlawful administrative regulations have mandatorily obliged all institutions to perform sexual and reproductive health practises –such as prescribing abortifacients- without exception. The Roman Catholic Church has contested them before the Administrative Litigation Court, but her complaints have not been actually analysed on the grounds of the absence of locus standi, e.i., not having standing to sue, since the actual Church was not directly compelled to perform the practises as it was not a health institution (and the Catholic Hospital had not sued).

In Colombia, several Christian hospitals have refused to perform therapeutic abortions on the basis of institutional autonomy. The Constitutional Court has stated that whereas

individual conscientious objection is entitled to due respect, the same exemption is not applicable to institutions, therefore denying “institutional objection”⁵³.

Other countries, on the contrary, have foreseen this situation and given a fair solution which respects the institution’s ideological, ethical or religious affiliation. The Law on Freedom of Religion of Peru acknowledges both individual conscientious objection and the “collective dimension of freedom of conscience”⁵⁴. Argentina has provided specific clauses to protect the institutional autonomy of hospitals defined by religion or belief, exempting them from having to perform certain practises in the area of sexual and reproductive health⁵⁵.

The other main conflict arena has been that of Educational institutions and their right to teach their doctrine, even if it conflicts with other rights such as freedom of expression, or if it results in unfair discrimination.

Teaching and spreading religion in private schools is free, and also in public ones, depending on the country, but problems might emerge when the rights of certain minorities conflict with the contents of education from the perspective of discrimination, and with a biased moral or ethical perspective opposed to certain traditions, especially in sensitive the areas such as the concept of family and marriage, sexual conduct and drug consumption. As for educational institutions defined by religion or beliefs, the present challenge is for them to maintain and transmit their principles and doctrine when the government has defined a different “progressive” trend aligned with gender ideology and sexual and reproductive rights.

Argentina has anticipated a solution to this conflict by Law⁵⁶, ruling that public schools run by private management –denominational or not- will comply with the statute which

⁵³ See PRIETO, Vicente, *Las objeciones de conciencia en instituciones de salud*, Ed. Temis – Universidad de La Sabana, Bogotá, Colombia, 2013, pp. 1-13, analysing the jurisprudence of the Constitutional Court of Colombia, specially Sentence C-355 of 2006 y and the subsequent.

⁵⁴ Peru, Religious Freedom Law N° 29.635, from Dec., 21st, 2010, article 4, “Conscientious objection” and article 6 on “Religious entities’ collective dimension”, which includes as collectives rights, amongst others: (d) the free exercise of their mission, worship, (e) spread and propagate their own creed...

⁵⁵ Argentina, Law N° 25.673, 2003 “Sex Health and Responsible Procreation National Program”, article 10 establishes the right of *private institutions defined by religion or belief* to be exempted from performing certain health and reproductive services, on the basis of their religious definition.

⁵⁶ Law N° 25.673, art. 9°: “*Las instituciones educativas públicas de gestión privada confesionales o no, darán cumplimiento a la presente norma en el marco de sus convicciones.*”

regulates sexual and reproductive health, in accordance with their affiliation. Another Statute allows educational institutions to adapt the curricula to meet the institution's identity and the beliefs of its members⁵⁷.

Even though no cases of this sort have reached the courts, it has been an issue of serious concern, challenging institutional autonomy, the right to freedom of religion or belief in its collective and also individual dimension, freedom of association, freedom of expression and academic freedom of the institution itself –not only the freedoms to which the teachers are entitled-, as well as the rights of parents to choose the moral and religious education of their children, and the rights of students. From the point of view of the enterprise, the threat is for the institutions to continue existing, since autonomy neglection may eventually lead to the institution closing its business. Discussion has led the Latin American Consortium for Freedom of Religion or Belief to hold an international conference of experts to deal with institutional autonomy, producing a number of consensus conclusions, such as: “The financial motives of a corporation should not be an absolute barrier for an organization contemplating an ideological objection. For-profit companies are created, directed and conducted by human beings who exercise human rights inherent in human dignity – both collective and individual rights. To restrict the rights of corporate entities is to restrict the rights of individuals, who are identifiable and possess an identity defined by religion and ideology”⁵⁸.

Both hospitals and schools need to take three parties into consideration: the institution, its employees and its customers (patients and pupils or students). Institutional autonomy - derived from being an entity defined by religion or belief- must be respected as a principle of democracy, pluralism and the Rule of Law, entailing a duty of the State as well as of the citizens. Democracy and pluralism are built upon the free coexistence of diverse tendencies and ideologies within society. It does not derive from the imposition of one given ideology, not even by the trendy democratic or politically correct stance of the moment. And institutions are entitled to rights, because they are nothing else but human beings associated by an idea or principle, aimed at promoting it in society. Employees –medical doctors and paramedics, teachers and professors- have inherent labour rights and all human rights. But from the moment they agree to serve an institution defined by religion

⁵⁷ Law 26.150 “National Plan of Integral Sexual Education”, art. 5: “*Cada comunidad educativa incluirá en el proceso de elaboración de su proyecto institucional, la adaptación de las propuestas[del plan] a su realidad sociocultural, en el marco del respeto a su ideario institucional y a las convicciones de sus miembros*”.

⁵⁸ Statement by more than 30 law and religion academics from Latin America, available at <http://www.libertadreligiosa.org/files/CONCLUSIONES%20versi%C3%B3n%20final.pdf>

or belief, they consent to guide their expertise in a manner aligned with their employer, which partially limits their labour relations. We believe that the third party –the patient and the pupil or student- are often neglected and forgotten in this tripod relation, and should be considered as main characters, as the main reason why these special types of enterprises actually exist: to serve them. And they or their guardians have turned to these entities defined by religion, belief or ideology precisely because of the institution’s identity and principles.

6. “DEVELOPMENT OBJECTIVES CANNOT BE OPTIMIZED WITHOUT TAKING THE ROLE OF RELIGION INTO ACCOUNT”

Quoting this *leit motif* again brings us back to the dilemma referred to at the beginning: the proper reconciliation between the duties and rights to gain one’s own bread by the sweat of one’s brow⁵⁹, while loving God above all things⁶⁰.

The United Nations Human Rights special rapporteur Heiner Bielefeldt has recently addressed this concern under the title 'SHARING LIVES IN WORKPLACE'⁶¹ in his speech to the U.N. General Assembly, outlining that freedom to express one's religion or belief without discrimination should be protected in the employment area, urging *all governments to take every appropriate measure to prevent and eliminate all forms of intolerance and discrimination based on religion or belief*. Since *“The management of religious or belief diversity in the workplace constitutes a major challenge for today's employment policy”, limitations of the right to manifest a person's religion or belief in the workplace, if necessary, must be specific and narrowly defined. That way they can comply with international human rights standards*. While he admits that *“Both public and private employment contracts can stipulate specific work-related obligations which may limit some manifestations of an employee's religion or belief”, he offers a number of practical recommendations, and puts forward the concept of “reasonable accommodation” as a tool.*

The workplace is in most cases a replica of plural society in miniature. Management –both private and public, including the role of the State- have a duty to create a home-like

⁵⁹ Bible, Genesis 3:19

⁶⁰ First Commandment (Bible), main principle of almost every religion

⁶¹ Heiner Bielefeldt, speech to U.N. General Assembly, Oct. 23rd, 2014, available at <http://www.ecumenicalnews.com/article/freedom-of-religion-belief-must-be-protected-in-workplace-says-un-expert-26981>, with comments.

atmosphere for the inhabitants of this society in miniature, a duty to build bridges for understanding and respect between the individuals coexisting in it, furthermore, the duty to develop the necessary measures and policies to transform this habitat into another matrix for pacific coexistence and promotion of human dignity. The failure of the Tower of Babel stands as the negative experience we should avoid.

7. A FINAL REFLECTION ON THE ENHANCED RESPONSIBILITY OF BOTH DECISION MAKERS (EMPLOYERS – ENTERPRISES & THE STATE) AS MANAGEMENT LEADERS AND OPINION FORMERS, FROM AN ETHICAL AND ALSO JURIDICAL POINT OF VIEW.

The scene from the movie *I as in Icarus*⁶² showing the Milgram experiment has motivated these reflections due to its strong impact.

We are responsible because we are free. Responsibility calls to freedom; without freedom, responsibility does not exist. And without responsibility, freedom may never be correctly exercised.

Responsibility is enhanced for those who exercise authority. Hence, it is more demanded from those who wield power. The rulers are held to a higher responsibility than the governed, because by means of the exercise of power they are capable of determining the conduct of the governed.

The Milgram experiment⁶³ demonstrates how a person following orders from a legitimate authority may engage in causing unthinkable harm to his peers, and that when an authority endorses the instructions, people obey and continue to harm. In fact, according to the experiment results, 67% of the population is willing to obey an order even if it entails harming a fellow. This test on obedience to authority shows how, even though the agent has the chance to decide (which means “cutting”⁶⁴) not to harm, he restrains himself from “cutting”. Instead, he conforms to the decision already made by his superior, hiding behind the superior’s authority and pretending to transfer his own responsibility onto the

⁶² https://www.youtube.com/watch?v=G9_gnsEdUCg, visited Sept. 6th, 2015.

⁶³ Summary at <http://www.simplypsychology.org/milgram.html>, visited Sept. 6th, 2015.

⁶⁴ de-cide, from Latin, *decider*, ‘determine,’ from *de-* ‘off’ + *caedere* ‘cut’

authority. The experiment postulates the thesis that “when an order is given by an authority or exercising power, people obey and do nothing to contradict it”.

When obeying the authority, the person just relies on the comfort that the decision to harm a fellow creature has been already made by a third party, and not by an ordinary third party, but by someone with a legitimate authority, either scientifically, academically, morally or legally based.

The reason why the authority is held more responsible than the agent of obedience is precisely due to this effect that authority produces on its subordinates, a concept which is also applicable to leaders and rulers, and to those who wield State power.

The current government policy of imposing the obligation to perform the so-called “health practises” (which have been recently promoted to the category of human rights by circumstantial majorities in Parliament) to individuals and institutions, which confronts their freedom of conscience, religion or beliefs or their institutional autonomy, should be analysed in light of these reflections.

Subordinates or the governed –both by the State and by the employers in the workplace- feel they are just complying with rules. The same applies to hospital and school managers or directors: they are convinced to be observing the law. As they personify the authority of the centre, they receive orders, but they also impart orders.

What the researchers wanted to test through the experiment was how far would the obeying agent go while following the orders given by an authority figure, without analysing or questioning its legitimacy.

Just as in the experiment, the orders are given by white coats in hospitals and by heads in schools, in both cases from an expert who not only represents administrative (and legal) authority, but also scientific, moral, and academic capacity. So the obeying agent is anaesthetized.

This brings us back to focus on the heavy responsibility that falls on leaders –rulers, managers, employers, authorities- when dictating rules to be followed by subordinates. It also highlights the impact that law (from legal to administrative regulations and management directions in the workplace) has on morals and ethics. Although their spheres of action are separate, rules certainly have an educational effect, and contribute to draw the line between what is right and what is wrong.

Becoming aware of this effect appears to be the first step towards responsible management, in order to harmonize religious rights and economic development.