

The legal validity of the institutional mission statement: foundations and practical applications

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[This document is a proposal by the author based on his own presentation and on various interventions and exchanges of ideas during the expert meeting, in which several lawyers and specialists from other disciplines participated. The texts presented by these speakers will be made available for more information on their contributions.]





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1. Institutional mission and identity have legal implications

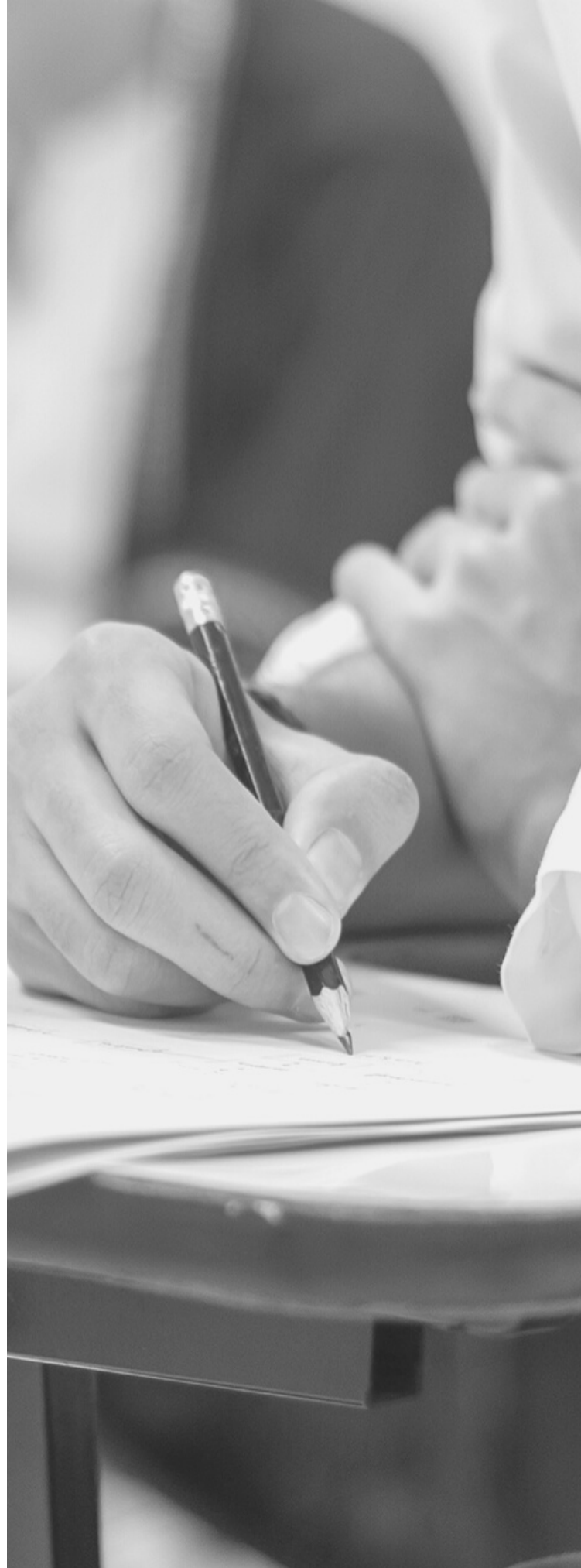
Mission is a central element in an institution's existence and work, as it unifies people around a shared purpose. The birth and development of each organization's identity is central to motivating different people to take part in it, as well as to managers' concern for its governance and strategic policies.

This is common to every legal entity, yet it takes on special nuances in those institutions that adhere to a particular ethic or religion – irrespective of its doctrine – which in some countries are called "tendency organizations." This is particularly the case for Christian-inspired educational or welfare institutions, on which this document focuses. Their specific missions and charismas are set out in a foundational mission statement, which serves as a guiding beacon for its central purpose and its action as a coordinated whole. This, of course, has legal grounds, effects and implications.

2. Fundamental rights on which the institutional mission statement is based

The creation and growth of an institution founded on ethical and religious principles – even if it is not confessional in nature, from the point of view of Canon Law – is a tangible exercise of the fundamental rights of its members and of the organization itself.

According to many countries' general legislation, the founders and the entity itself can profess a Christian-inspired mission statement, as a right derived from various fundamental rights widely recognized in constitutional norms, and from the international human rights treaties they have signed.





The right to establish an institutional project with a religiously-inspired identity provides a solid foundation when coupled with many other basic, interdependent rights. These include: freedom of association for religious or ideological purposes, religious freedom, freedoms of thought and conscience, freedom of expression, freedom of information, freedom of research, the right to educate, the right to work and to freely exercise one's profession, freedom to contract, the right to equality and freedom from discrimination on the basis of belief. They are the human rights of the members of the institution and the fundamental rights of the entity itself, exercised collectively by common accord. In educational institutions, the right to the establishment and defense of a particular mission statement is also based on the right of parents to choose their children's moral and religious education, which is recognized in numerous international human rights treaties.

In some countries, moreover, there is constitutional jurisprudence on the direct existence of the fundamental right to found institutions with mission statements and to guide their development, internally and externally, in accordance with that instrument: this is the case, for example, in Germany and Spain.

Therefore, the right to have a legally effective mission statement that both spells out and defends the Christian identity of the entity that adopts it, while influencing the institution's work, is a qualified right by force of the rights from which it derives. It is a prerogative with special legal protection far exceeding the mere freedom to associate for useful economic purposes.

3. Statute, statutory activity and mission statement

Every legal entity must have a statute, which is the basic constitutive regulation that grounds it legally, establishing its internal organization and undergirding its outward-focused activities.

Human beings and legal entities have opposite degrees of capacity before the law. People have broad capacity: they can do anything they please that is not legitimately prohibited by law. Conversely, legal entities can only do what their statute's "statutory activity" or "legal purpose" spells out: sell, produce, provide services, or teach, research, cure, etc.

Every legal entity must have a statutory activity, which is its reason for being. In this broad sense, they all have a "mission." However, not every legal entity has a "mission statement," as these are particular to "tendency institutions" - entities specifically organized around central ethical or religious ideas that are meant to inspire and enliven their institutional work.

Usually the Christian-inspired institution's statute contains the mission statement's most essential principles, but does not include it fully. It may be included, for example, as an annex. More often it is a separate document, which develops in greater detail the foundational ideas or values that inspire the statutory activity, only touched upon generally in the statute. This document also sets out the main implications and applications of these principles in relation to members of the institutional community and to the social environment in which the entity exists.

The mission statement, in turn, implies a legal peculiarity of the statutory or "institutional" activity. Because of the interconnected principles that it recognizes and to which the organization subscribes, the teaching, or healing, etc., are not "generic." In a Christian-inspired entity, the institutional activity will be imbued by the identity born of its specific founding principles, thereby making it unique.

4. The legal embodiment of the mission statement in a well-written text

Although it is legally possible for a legal entity to have a written "statutory activity," but a merely implicit "mission statement," it is highly advisable that Christian-inspired entities set down their mission statements in writing. In particular, the founding principles and organizational identity must be embodied in a well-written text or in several specific documents.

In addition to its legal relevance, having these principles and values comprehensively written down allows them to serve their essential function as an axis on which the life of the legal entity revolves. Having a text or texts that present the idea is indispensable to transmitting it completely and making it known to the different members of the institutional community.

The mission statement can be condensed in one document, sometimes with annexes, or may comprise several texts. The primary document can be general, focusing on principles, and the other documents can treat specific issues, such as a code of ethics for teaching, research, government policy, procurement, etc. Having a central text - with frequently updated annexes - that expresses the mission and the principles surrounding specific circumstances helps communicate the foundational principles. In any case, if the mission statement is broken down into various documents, it should be clear that all the texts have the same legal weight as "mission statement," even if only the central document is so titled, and the supporting documents have titles of their own.

Additionally, the text that embodies the idea in writing should be clear, understandable and comprehensive, in order to strengthen its power to bring the institution to life and to bring to light all the richness of its project. This is why it must contain the mission and its main definitions, more or less general or specific depending on each element. Thus, for example, in a university, the mission statement must contain the central elements of its educational project. These include the Christian principles that permeate its teaching, as well as the values, institutional culture and virtues that the university community aspires to live out, its social mission, its teaching and research vision, and how it integrates the numerous branches of the learning community: local and foreign students, administrative and non-teaching staff, researchers, professors, graduates, etc.

Logically, in addition to being written, the mission statement must be accessible if it is to fulfil its inspirational function in the institution's life. In addition to printed editions, it should be available on the entity's website, so that anyone who has anything to do with the institution - its members, employees, students, patients - can easily consult it, or turn to it for guidance and inspiration, etc.

Finally, the themes and areas included in the mission statement should be carefully defined, professing its Christian identity in a manner that is respectful of other visions. In the present cultural context, a mission statement with these characteristics is acceptable by a large majority of people.





5. Who enacts the mission statement?

Modern institutions often have complex governance structures. There are different internal structures and decision levels: some for day-to-day management, and others for higher-order decisions. There are even countries where there may be differences between the legal entity of ownership, as an entity recognized by law in general (who makes employment decisions and can make judgements, etc.), and educational or care institutions that depend on it, with a sort of "academic personality" to impart teaching and degrees, or a "health personality" to help patients, etc. The responsibilities of each of these bodies and units must be clearly set out in their statutes. On the other hand, as previously mentioned, legal entities are limited to carrying out what their statutes describe as their "statutory activity." Therefore, in order to have legal value, the mission statement must be approved by those bodies within the entity that have the power to reform the statutes, usually following formal approval mechanisms. This would be the board of directors of a civil association, or the board of trustees of a foundation, etc. - high-level bodies that do not usually coincide with the day-to-day governing bodies of an educational or healthcare entity (rectory, board of directors, etc.).

Conversely, if the idea is approved by a school's board of directors, for example, but not by the civil association that owns it, an ultra vires act could result. "Beyond the powers" acts fall outside the authority or charter of a governing body. This could render the legal instrument created by such action null and void.

6. The mission statement ordinarily has legal weight

One might wonder how much legal weight the mission statement has, as a document that spells out the particulars of the statute, expressing the ethos of the foundational project - the values and principles with which the founders imbued the institution in a collective exercise of their rights.

First, the aforementioned right of a Christian-inspired institution to establish a mission statement with legal effects is a qualified right, derived from various fundamental rights recognized by constitutions and international human rights treaties.

Secondly, given that every legal entity has the right to hold a particular mission statement before the law, the legal value of each specific instrument depends largely on its wording. That is, it depends on the organization's will – or lack thereof – to establish it as an operational legal document that generates rights and obligations, or to make it a merely programmatic document without legal weight. Mission statements should generally have legal-regulatory value, containing some directly applicable parts, with legal enforceability, and others that are programmatic or inspirational in nature. Therefore, any Christian-inspired institution that seeks to provide itself with a legally-binding mission statement, for internal (governing bodies, employees, officials, teachers, etc.) or external (third party and State) actors, must create it as such, using language and legal techniques that indicate its general relevance and value, as well as that of each of its parts and paragraphs.

Thirdly, the mission statement's value depends on its relationship with the institution's status and the value that status confers on the document containing the mission statement. A mission statement inadequately connected to the stated statutory activity would imply an ultra vires act by its authors. Because even if they had formal authority (they decide who has the power), they would lack substantial authority to enact foundational principles in no way set out by the statute. For example, a statute that in no way mentions the Christian identity of an institution does not adequately support a mission statement that expresses such identification or develops some of its manifestations. Therefore, if necessary, whether because the statute is old, because it contains relevant omissions, or for other reasons, the statute should be reformed first, before setting down a mission statement in full conformity with it.

Finally, the mission statement's legal validity will also particularly depend on the legislation and case law of each national jurisdiction. A few countries expressly provide for the right to adopt an order of expressed values, with specific protection. Another few countries will prohibit the establishment of organizations with religious inspiration, or will deny legal effectiveness to individual religious ideas – violating international law, at the very least. Most national law will protect the right to form religious-inspired entities with mission statements that support their institutional objectives, without explicitly recognizing and protecting them. Rather, they are left to be interpreted on the basis of fundamental rights recognized in each system – religious freedom, right of association, etc., and the system of private law for the creation, organization and governance of associations, foundations, etc.



7. The institution must affirm its Christian identity in writing in its statute and mission statement

Any institution with a Christian ethos should clearly explain its Christian – or Catholic, should that be the case, character. There are several reasons for this. On the one hand, for clarity and transparency within and outside the organization. Furthermore, it is notable that the legal configuration with the greatest legal protection to act according to its identity and values is the religious organization, followed closely by the religious-inspired civil entity with a definite mission statement – foundations, civil associations. An institution with a defined ethical mission statement, but without a religious or confessional perspective, has less protection in national and international law than those that are qualified by religious freedom.

Therefore, in the event of external conflict, with regard to third parties or to the State, the institution with a Christian-inspired mission statement has a qualified right to establish its own mission that far exceeds the rights of freedom of enterprise and of association for useful purposes. What's more, an entity with a religious mission statement is especially sheltered by religious freedom and freedom of expression – strategic or essential rights for the configuration of a rule according to higher law.

These rights are exercised collectively, within the fundamental right of free association for ideological, religious, or social purposes, and are often linked to freedom of education and research, together with other fundamental rights.



This implies that the institution can legally assert its mission statement, even exercising the right to refuse legal impositions that violate the personal conscience, religious freedom, freedom of thought, and other collective rights of the founders or adherents. This fundamental right to claim exception from impositions necessarily follows from the right to pursue institutional aims in accordance with the freely chosen, foundational religious, ethical, or philosophical ideas. Some jurisdictions recognize this as the "right to institutional conscientious objection."

Consequently, even when an institution with a Christian identity is established as a civil institution in accordance with national laws (i.e. civil associations or foundations), it can simultaneously be a "religious institution" or even a "confessional institution" as far as those national laws are concerned. That is, when national law distinguishes between "religious" and "secular" institutions, or between "confessional" and "non-confessional" organizations, it does not refer to canons 803 and 807 of the Code of Canon Law, which deal with "officially Catholic" entities, which depend on the ecclesiastical hierarchy in some specific manner. Countries' norms seek to determine the religious or secular foundational ethos of an institution, in order to grant or deny it the qualified protection of the collective exercise of religious freedom.

In other words, a Catholic-inspired institution can be formally Catholic, if it is officially recognized according to the aforementioned canons. Alternatively, without being formally or officially so, it can still be materially or substantially Catholic if it adheres in its statutes and mission statement to Catholic principles and teachings, manifesting the foundational will to conform institutional activity to the doctrine of the Catholic Church.

Therefore, it might be advisable for some institutions founded in the past - formally civil but substantively Catholic in nature - to reformulate their statutes and mission statements, in order to claim their protection as substantially religious, Christian (or specifically Catholic), or non-secular. As stated, the State considers them "confessional" institutions, because they have religious mission statements, even if they lack Canon Law confessional status.

Finally, to establish the principles that form the backbone of a Catholic-inspired entity, it is advisable to expressly refer to the "Magisterium of the Catholic Church, as contained in the teachings of the high pontiffs, ecumenical councils and competent bodies of the Holy See." This is because, in the event of a legal dispute, this specification can avoid difficult determinations of the precise content of a mission statement that makes general mention of "the teachings of the Church." This avoids unnecessary discussions about whether the teachings of some ecclesiastics, who espouse doctrines contrary to the Magisterium without having its munus, are properly "Catholic."





8. The degree to which adherence to the mission statement may be required differs according to the job post

People who work in tendency organizations with various labor arrangements- from someone with a full-time contract to a visiting professor who gives a few classes a year in one course - are basic and irreplaceable elements in transmitting its identity. Insofar as the work that the institution's collaborators carry out is compatible with the mission statement, it furthers the identity and embodies the foundational project. On the contrary, a lack of commitment to the mission statement can obfuscate or weaken the mission and organizational culture, and even frustrate it entirely.

Nonetheless, not all job posts have the same responsibility to the institutional mission and identity. The relevance - in legal terms as well - of that identification depends on the particular type of work carried out. Different posts allow for different degrees of identification with the institution's mission and fundamental values. Greater identification and responsibility are required of those who hold positions with greater impact on the nucleus of the institution's work (for example, a chaplain or a manager). On the other hand, other positions are, with respect to specific tasks, for the most part neutral regarding the essential content of the founding mission (for example, a security guard or a librarian).

This correlates with a basic condition: in a Christian-inspired entity there are naturally different personal degrees of adherence and identification with the mission statement and its ethos. This can be seen at any given time, as well as over the lives of people and institutions. Therefore, a Christian-inspired institution that wants to bring its mission statement to life and to disseminate it, can simultaneously welcome very diverse people into the fold, given this legitimate gradation of commitment to the mission and foundational values.

Along those lines, there are different levels of commitment. These begin with the basic duties of respect and responsibility for the organizational community's fundamental principles – which may be required a priori of anyone carrying out the entity's work. They proceed through successive levels of commitment that apply to administrative personnel, physicians, professors of general subject matter, and teachers of Christian subject matter. Finally, they arrive at high levels of adhesion and commitment to the mission statement.

These positions of reinforced loyalty go hand-in-hand with some leadership positions that have a more specific mission to bring the Christian message to life (as, for example, hospital chaplains). Therefore, as in any tendency organization with a philosophical, political or social, ethos, core positions in Christian-inspired institutions are naturally occupied by “tendency carriers,” which is to say, people whose personal and professional lives are firmly aligned with the institutional project and its underlying values, leading the growth and development of the foundational spirit.

Furthermore, given the universal character of Christian values – which many people can share based on humanist values – it is possible to invite everyone who forms part of the organization, irrespective of whether or not they are Christian or the position they hold, to make the mission their own, contributing to some or all parts of the institutional project.

In conclusion, everyone in the organization can be required to commit to respecting the institutional mission statement and to promoting it with loyalty and diligence to the extent of their possibilities and within the limits of their personal convictions, doing it no harm. The mission statement is thus an inspiring invitation to the entire institutional community to contribute to the common mission, whose primordial human values can be shared by all, regardless of the degree of personal adherence that each may legitimately have to the Christian creed to which the organization subscribes.

9. The scope of the legal obligations the mission statement imposes on those who serve in the institution

In light of the above, it is possible to manage a proper balance between respect for the employee's rights at work and study, and for his freedom of beliefs, convictions and private life, with respect for the rights of the tendency institution. It is a matter of harmonizing the fundamental rights of the different parties involved.

This does not mean, however, that the mission statement does not impose certain obligations of strict compliance. Therefore, those who work in the institution cannot act directly to erode the institution's reputation, undermining its differentiation with other institutions in its sector and its very reason for being. To do so would constitute an unjustifiable abuse of rights.



For example, a professor could not invoke the freedom to teach to exhort against an educational institution's founding principles, against its right to its own mission statement and its own freedom to teach, collectively exercised by the organization. The institution makes tools available to the professor, grants him a teaching position and gives him a relationship with specific beneficiaries, assigning him students. So he must adapt, as in any employment relationship, to the legitimate requirements of the employer who hired him and to whom those assets and those legal relationships belong. The law calls such action "bad faith" in employment, which, when serious and protracted, can lead to dismissal with just cause for disciplinary reasons.

Therefore, a relationship with a religious-based organization, whose main purpose is research and teaching with a Christian outlook, allows for some subjectivity in terms of rights. This occurs, for example, with freedom of expression: as the entity's core business is to express a message to the community – and in particular to the students – that message must be harmonious and consistent with the vision and mission that inspire the institution. Clearly, the professor or employee cannot use his or her freedom of expression precisely to break down the institution's primary objective, as if he or she were not related to the institution. This is not a restriction on his or her rights. On the contrary, if a professor tried to oppose the mission statement's ideology – especially in the classroom, to the students the institution provides, in the course he has been granted – it would be an abuse of rights and a lack of good faith. In such a case, he would not be reasonably exercising a fundamental right of his own.

What's more, such an act would in many cases violate the rights of the students and their parents, who chose and committed to a particular institution with defined values. It would be an unjust abuse of rights for the employee to steamroll over the rights of those who chose that educational entity precisely for its Christian identity. In this regard, given that an institution's Christian identity is public, it must be assumed that the students and their families knew the entity's mission statement and institutional culture – or at least their foundations – and that they chose it taking these characteristics into account in some degree.

Therefore, a tendency organization is within its rights to demand that an employee's public academic and professional conduct respect its mission statement and reveal no aggression towards it. It may also require diligent collaboration with the mission's aims, and commitment to its development and life, within the employee's possibilities and convictions.

Conversely, the institution may not demand of the worker an internal adhesion to the institutional values. First, such adhesion by definition cannot be coerced, and second, one's private life cannot be invaded.



The particular rights and obligations of each party in each legal relationship shall be defined on the basis of the particular mission statement — as it specifies respect for specific rights and goods — related to the contract between the parties, and on the adherence to that mission statement established by the contract or by a specific agreement in that regard. Those documents, where appropriate, may include the requirement of standards that are legitimately enforceable by the institution and freely accepted at the outset of the employment relationship by the employee wishing to join such a value-oriented institution. In this way, the expressed clarity and transparency of institutional values confers normative force on the mission statement and gives legal security to all parties.

The legal relevance of an affront to the mission statement depends on the specific harm to the institution and its mission. This can be determined on three levels: the type of institution (in descending order: religious institution; primary school; secondary school; university; hospital); the person's role there (in descending order: chaplain; manager; professor; secretarial personnel; maintenance staff, etc); and the type of behavior involved (in descending order: public activity in the institution; work or activities with public import beyond the job; or private behavior).

With regard to public or professional activities beyond the scope of the workplace, while these may be in principle fall outside the employment relationship, some constitutional jurisprudence considers them to violate the employee's obligation to respect the mission statement. This is the case when affronts are notorious, intentional, related to the mission statement's ideology, or affect the educational or charitable work entrusted to the job post. Even when actions take place beyond the scope of the employer's managerial powers, the general principle of labor law contemplates an exception when those actions have a negative impact on its work or harm the organization's interests.



10. Public and private acts, and adhesion to the mission statement

For these reasons, public acts – in which obligations to act or to refrain from acting in accordance with the mission statement may exist – should be demarcated from private ones, which are immune from coercion.

This boundary line between them arises from the following: private acts are those that in no way affect institutional public order or morals, nor harm the rights of the entity or of third parties. Any action that damages or offends one of these goods is not private, but rather of a public nature, and therefore subject to the legal sphere. In these areas, “exemplary behavior” can be required, but only within the scope of one’s usual public behavior.

Beyond this, the mission statement may only suggest how one live a certain spirit or virtues in the private sphere, as coherency in one’s life is a matter of individual privacy. These private actions are by definition beyond the reach of the power of the law, and therefore beyond the legal reach of the mission statement. It is essential to make clear the illegitimacy of negative legal consequences to private matters.

In principle, harmonizing the rights of the employee and the institution should not be difficult, as the mission statement should address matters of ordinary, public behavior in the academic and professional spheres. The parts of the mission statement that touch on beliefs, convictions, virtues, etc., are largely invitations to join in and to grow in a common ethos, approaching the warmth of the Christian spirit that imbues the institution. As such, they cannot impose legal requirements or impositions. The institution may consider how to improve the personal and even the spiritual lives of students and employees, but this aspirational aim of the mission statement can only be suggested or encouraged, not legally compelled.

The above explains the illegitimacy of a direct link between mission statement and employment contract through contractual clauses establishing penalties for non-compliance with the statement’s principles or values, because the document includes aspects related to values and beliefs, which cannot be covered by clauses of strict obligations.

Commitment to diligent dissemination, for example, and even the obligation of general respect, leave room for subtleties, and by nature tend to elude a scheme of sanctions. In any case, they are more appropriate to a system of improvement objectives.

In other words, the continuity of a contract cannot be conditional upon the comprehensive completion of a Christian-based institution’s mission statement – that is to say the fulfillment of all the ethical and doctrinal elements contained therein. These statements contain some elements that are essentially part of the bigger picture, rather than operative or enforceable in integrum, here and now. People incorporate it and live it gradually, according to their possibilities in each moment.

The employment contract should be limited to demanding knowledge of, respect for and non-aggression towards the mission statement within the limitations and personal convictions of the employee. However, some serious attacks on the mission statement can merit severing the employment relationship, as they imply bad faith with respect to the job and frustrate its very purpose.





Special care should be taken to include in the written mission statement what the institution can legitimately consider establishing as mandatory requirements – such as academic requirements or respect for a collegiate governing body. Others, like spreading the Christian faith, are proposals and aspirations that the institution can legitimately espouse as part of its own identity, but cannot turn into specific obligations other than those related to non-aggression towards its stated mission. As has been noted, these elements are gradual. Positions of reinforced loyalty require a greater commitment than do jobs that are of marginal or neutral importance to the institution's identity. Nevertheless, sometimes workers who carry out tasks presumably less relevant to the organization's identity collaborate more effectively with its mission than do others who occupy managerial posts.

11. Labor conflicts require patience, prudence and professional management

Some important aspect of the institution's mission statement may sometimes conflict with notorious public behaviors of someone who works in the organization, to the significant detriment of the institution. Such situations are similar to those that other tendency organizations normally have to deal with, such as an environmental-defense NGO, or a political party, or a trade union, or any association that has a specific ethos or message.

Throughout the process, it is always wise to apply patience, prudence and professional management. In exceptional cases, if no other alternative has been feasible, and dismissal is deemed necessary, legal counsel will recommend the possible means, depending on the local laws. These may include justified causes of disciplinary dismissal, or dismissal without cause (in the legal sense) – in countries where this is permitted, and will determine the timing and characteristics of each. It is advisable that in special cases, the managers who will ultimately decide the case take into account the opinion of those who manage institutional communication, in addition to the legal counsel.

Conflict can range from cases where disciplinary misconduct is directly categorized in legal regulations – repeated and unjustified absences, habitual drunkenness that impacts work, etc.— to breaches of the mission statement that are less clear legally, as they touch upon what the law refers to as "transgression of good contractual faith." Sometimes both classes of transgression are involved in the same conflict, which could lead to dismissal. Usually, if there are various motives for assessing a possible dismissal, legal and managerial practices usually opt, for legal efficiency, for whichever is clearer and more expeditious from a procedural and administrative point of view. For example, if there are frequent failures to present important reports on time combined with allegations of mistreatment of subordinates, the cause of dismissal would usually be limited to the former, which is spelled out in some statutes as "continuous and voluntary decline in the productivity of normal work," and is measurable and easily demonstrable. The latter, legally referred to as "verbal offenses to people who work in the company," might in some cases be more difficult to prove.

Several European and other national statutes have adopted systems in which, apart from dismissal with cause due to grave and willful misconduct, which lead to dismissal without severance pay (disobedience, verbal or physical offenses towards the employer or other workers, harassment of other workers for reasons of ethnicity, creed, gender, disability, etc., transgressions of good contractual faith, among others), only specific objective causes beyond the worker's responsibility justify dismissal (technical, organizational, economic or production matters) – in these cases with compensation. If the judge discounts any of these non-disciplinary grounds, the employee is reincorporated and compensated for wrongful dismissal. Under these statutes, if such a case should arise that a dismissal must be considered on terms of serious and specific offenses towards the mission statement (for lack of a better alternative), the possibility of framing them as actions classified and accepted by the courts as cause for disciplinary dismissal should be carefully considered. These include bad contractual faith, with violation of reasonable expectations of loyalty.

Unlike the aforementioned model, many legal systems permit, in addition to dismissal with just cause and without severance pay, dismissal without cause accompanied by compensation. When the dismissal is deemed necessary, it may be preferable to do it this way, even if there is proof of cause for dismissal, given that legal proceedings on dismissals tend to exhaust both parties.

Finally, there are countries, like the United States, that have put in place systems of free dismissal of non-union workers, regulated essentially by the contracts they have signed. In these cases, faced with serious, customary actions detrimental to the institutional identity, dismissal can be the appropriate means of defending the mission statement.

It is important to note, however, that when a dismissal is discriminatory or violates fundamental rights, all three of the systems described award aggravated compensation, and the first two usually nullify the dismissal and reinstate the worker.

In any case, it should be stressed that the mission statement serves essentially positive and preventative ends. In this respect, a well-designed mission statement helps to inspire and open possibilities to bring the culture to life, as well as to prevent affronts to the respect it deserves. Therefore, it would rarely be legitimate, and even less often appropriate to use the mission statement as a norm that results in dismissal if broken. Nevertheless, in an extreme case, with serious, direct and continued attacks on the institution's reason for being, it can be justified or even unavoidable to dismiss someone who attacks the very nature of the institution. In such a case, as the mission statement has legal generalities, non-compliance with the duties assumed upon employment that constitute such harm could serve as just cause for dismissal with a reasonable expectation of being supported in the courts.



12. Coming to tolerate ideas that attack the institutional identity

It may also occur that despite efforts to the contrary, the loyalty that might have been expected does not come to be. Sometimes cases arise of workers, professors and even managers who choose public academic or professional behavior that goes against the mission statement in a serious and persistent manner, contravening the nucleus of the institutional mission, and yet dismissal is not possible –or even desirable. First, not every infraction is serious; most are quite the opposite.

Furthermore, it may be most prudent to wait to act, giving the person time and space to reflect on and modify his attitudes contrary to the institutional identity and culture. People need time, and can improve with repeated attempts. It is the law of gradualness. Many people understand and have the personal resources to change their attitude once the issues, rationale, implications and expectations are explained to them.

The aforementioned cases often involve conflict management over a longer period than some people in the institution may find advisable. But they should be helped to see that the classic “doctrine of tolerance for evil” may be in play on the part of those in charge. According to this doctrine, not all the desired good can always be achieved; sometimes evils that are within one’s power to avoid should be tolerated; there is an obligation to prudence and justice to avoid making the situation worse, which could lead to a moral obligation to refrain from acting when worse consequences or impediments to important goods are foreseeable. As positive precepts, fostering good and avoiding ill are not *semper et pro semper* obligations. (cfr. S. Agustín, *De libero arbitrio*, I, 6 and 14; *De ordine*, 4; S. Tomás de Aquino, *S. Th.*, II-II, q. 10, a. 11; II-II, q. 77, a. 1 ad 1; I-II, q. 101, a. 3, ad 2; León XIII, *Libertas Praestantissimum*, 1888, n. 23; Pío XII, “*Discurso Ci riesce*”, 6-XII-1953, n. 16; “*Discurso al Tribunal de la S. Rota*”, 6-X-1946; S. Juan Pablo II, *Veritatis Splendor*, 1993, n. 52). In complex circumstances, with formal and material boundaries, prudence should guide the application of these principles.

However, there is nothing to keep one from prudently providing the means to combat unjust affronts to the freedom and identity of the legal entity with a Christian identity. In any case, respect for people and prudence will reveal the best course of action and the right balance between giving opportunities and fulfilling duties towards other members of the community and towards the institution itself.

13. The mission statement in the selection and recruitment of personnel

What was previously discussed about levels of responsibility regarding the mission statement is necessary to properly carry out the task of personnel management in Christian-inspired institutions. This gradation makes it possible to balance the contribution of all the members of the tendency organization, by offering myriad ways to belong to and work in it.

At the same time, this logical scale of adhesion and dissemination of the mission statement according to different functions within the organization lends itself to systematizing and explaining clearly the profiles required for each position.

It should be noted that there is a general right to freedom of contract, common to any organization. Any NGO or company is free to operate, hiring according to the requirements it deems reasonable and appropriate to the legitimate demands of each post. In addition to this generic right, institutions with ethically or religiously based mission statements have a qualified right – with relatively broad autonomy to set the contractual parameters – to take care in selecting those who will hold positions particularly designed to help to bring the organizational mission to life. For this, it must weigh accordingly the requirements of the position and function – leadership, personality, work history and professional qualifications according – against an appropriate identification with the values and principles of the mission statement. Hiring in this way, confined to these cases, could not be called unlawful discrimination.



On the other hand, in order to better understand how a person's professional profile fits with positions or functions important to institutional identity, it may be useful to mimic a common practice of American universities, which invite as visiting professors academics who are being considered as potential faculty. Similarly, invitations to give specific seminars, conferences or courses, or to participate in certain activities or investigations, may help both parties before formalizing a permanent position.

In any case, in any hiring process it is a good practice to give the candidate the mission statement: either providing a printed version or the link to its place on the institutional website with sufficient time to read it. This will allow the potential employee to get to know the mission statement in sufficient detail to be able to imagine what tasks might be required of him and whether he would feel comfortable working in a certain position under that precise institutional framework.

Likewise, delving deeper into the mission statement to further understand the richness of its principles and applications is commonly part of the normal induction procedures in different organizations. This makes for a positive, specific welcome to the institution, a system of training or introduction in the organization and its specific mission.

People who already work in the institution: employees, officials, teachers, health personnel, etc., should also be invited to deepen their understanding of the mission statement. The person who assigns their day-to-day tasks can follow up with them, and human resources management can periodically revisit with them the mission statement and the principles and values imbedded therein, to see how they can disseminate the institution's identity from their position with its specific functions.

At the level of the governing bodies, it is appropriate to return periodically to the mission statement, to delve more deeply into it and keep it in mind when governing and making decisions.

Furthermore, beyond the scope of labor relations, it is highly desirable to disseminate the mission statement also among all the publics that make up an organization's community, such as families, students and patients.

For different methods of diffusion, in addition to the publication of the entire mission statement on the entity's website, different types of materials tend to be appropriate (brochures, videos, articles, presentations) that fully or partially express the mission statement's values, adapted to the institution's different publics and participants, taking into account the needs and interests of each.



14. Knowledge of the mission statement and commitment to respect it should be acknowledged in writing.

As follows from above, the mission statement should inform the relationship between the employee and the Christian-inspired institution, respecting clear limits and scope. The following procedures provide an “informed consent”, and should be carried out with everyone who joins the institution, regardless of their specific employment or professional relationship under employment or contractual law, to add certainty. They:

1. are provided with a copy of the mission statement —as suggested in the previous section.
2. have enough time to read it and assess its implications.
3. sign a clause in the employment contract, or a specific agreement, or even a unilateral declaration, stating a) that they are familiar with the mission statement’s text. b) that they agree to respect it and to refrain from everything that would amount to a direct attack on it, and c) that they will collaborate loyally and diligently with the institution, to the extent of their possibilities and to the extent that their personal convictions allow, to develop and promote the mission statement’s principles and values.

Furthermore, some extra or alternative standard requirements may be added in the hiring processes of other types of organizations, such as data protection, confidentiality, anti-bribery rules, or others. In some institutions, even educational ones, these are expressed in the code of ethics or conduct, which may be a document annexed to the mission statement.

Depending on the circumstances, such a clause, convention or declaration relating to respect for, non-aggression towards and promotion of the mission statement could be omitted, considering that, in a good faith context, those attitudes would also be enforceable without such provisions. In any case, signing the documents, under the above conditions, demonstrates actual knowledge of the institutional identity embodied in the mission statement’s text, promotes a personal attitude of respect for and adoption of the mission statement to some degree, while simultaneously acting as constituting the necessary evidence should a situation become contentious.

15. Conclusions

The following may be concluded from this document:

1. Christian-inspired entities' institutional missions have [legal implications](#).
2. These entities' right to profess an institutional mission statement and to configure their actions in accordance with their principles is based on [holding several fundamental rights essential](#) to democratic society.
3. The mission statement is a specification of the [statutory activity declared in the statutes](#), which hints at what the mission statement later expands upon in greater detail.
4. The mission statement should be reflected in a [well-written text](#), whether in one document or in a collection of related documents within the mission statement's hierarchy.
5. The mission statement is [legally binding if the entity so desires](#). In that case, care should be taken to follow certain requirements as to composition and correlation with the statutes, among others. This legal weight can vary according to the specific legislation and case law of different countries.
6. In order to guarantee its legal validity, the mission statement should be [enacted by the institutional bodies](#) empowered to reform the statutes.
7. Christian or Catholic identity should be [expressly stated in the statutes](#) and the mission statement, as religious liberty confers qualified protection of institutional rights, without its being a confessional institution under Canon Law.
8. The degree to which identification with the mission statement can be required of employees is depends on their [post and function within the institution](#). It ranges from the most basic or general adherence to the institution's fundamental principles to key positions that can expect the reinforced loyalty of "tendency carriers", with high levels of personal and functional adherence to the institutional identity.
9. Mission statements usually include some [operational aspects](#) that can be required of people along with others that are more inspirational – inviting without implying legal obligations.



10. A person's continued [employment](#) cannot depend on his comprehensive compliance with a Christian-inspired institution's mission statement. That is to say, his observance of each and every ethical and doctrinal element contained therein.
11. The general obligations that can be required of anyone regarding the mission statement are to be [familiar](#) with it, to respect it, to refrain from doing direct harm to its principles, and to faithfully and diligently promote and disseminate it to the extent that their personal convictions allow.
12. The aforementioned obligations (point 11) should be established in [writing in a clause](#) in the employment contract, or – according to the laws of the country in question – set out in a specific bilateral agreement or assumed as a unilateral declaration of the will of the person joining the institution.
13. With respect to the organization, there should be a clearly defined line between [public and private acts](#). Actions that do not affect the public institutional order and morale or the rights of members of the entity or third parties are subject to each person's individual judgement and outside the mission statement's legal purview.
14. Public or professional behavior beyond the institution's specific sphere – though in principle external to the organization and the labor agreement – can in some unique cases be considered a [violation of the employee's obligation](#) to respect the mission statement.

15. From the point of view of potential labor conflicts, the mission statement is essentially **preventative**.

16. In cases of lack of respect for or aggression towards the mission statement, the **principle of tolerance** should usually be employed. This implies patience, prudence, responsible management and providing opportunities.

17. In **certain extreme cases**, after serious deliberation and consultation with legal and communication professionals, dismissal on the grounds of grave harm to the mission statement is warranted. Dismissal can be either disciplinary – on the grounds of noncompliance with contractual obligations and transgression of good faith – or through mechanisms of compensation for dismissal without cause.

18. The **legal relevance of affronts to the mission statement** depends upon the particular harm to the organization and its institutional aims, which can be measured according to the nature of the organization, the importance of the person's position to its identity, and the type of behavior in question.

19. In addition to broadly disseminating the mission statement, including posting it on the institution's website, it should be **specifically shown to everyone** being interviewed for any position. Furthermore, anyone offered a position should recognize in writing his or her familiarity with and commitments to it as specified in conclusion 11.

20. When choosing personnel for key positions that should be held by tendency carriers, both their **professional experience and their level of identification** with the institutional identity should be considered.

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