The Messenger Matters

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HR Management: The Messenger Matters
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Recently, the U.S. Supreme Court provided a wonderful opportunity to merge the biblical message and Catholic Social Teaching with mission and values in employment decisions. As previous editions of Update have noted, the Bible, Christian theological tradition, and Catholic Social Teaching (CST) all highlight the welcoming of the foreign born into our land. In contrast, U.S. immigration laws ban the employment of persons who are not citizens or otherwise authorized to work by the federal government—setting up a conflict between the law and the Christian religious tradition to welcome the stranger as the native.

1 See Collier, E. (Fall 2011). Higher education, mission and undocumented students. Update, 11; and Weldon, L. (Summer 2011). The Catholic Church and immigration: Pastoral, policy and social perspectives. Update, 20. Both articles also provide a number of resources on Catholic responses to immigration.

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of the elements that contribute to St. Bonaventure University's uniqueness.

St. Bonaventure has defined its mission, articulated its core values, and identified its strategic priorities and commitments. The university community is conscious of the ongoing challenge to both understand the meaning of those obligations and act in accordance with them. At the same time, the community is aware of its responsibility to refashion its strategic commitments in the light of new questions and changing circumstances. All members of the campus community are thus continually challenged to be faithful to its essential nature and to fulfill its mission, embody its values, and meet the demands of its strategic commitments.

At other Catholic colleges and universities—as at St. Bonaventure—these obligations should be known at the time of hiring, the subject of ongoing reflection and discussion, and the subject of periodic assessment if the institution is to fulfill its responsibility to its students, supporters, and the public at large. □

Legal Threats to Discerning the Divine
One common theme in the biblical stories regarding immigrants reveals that the messenger of God frequently arrives as the immigrant, the sojourner, the stranger, the other. In Leviticus 19:34, we hear God’s instruction to “treat the immigrant as the native, for continued on page 10

4 Hosanna-Tabor at 710.
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the federal law faced by the employee occur in at least three occasions: (1) when initially seeking employment; (2) when hired with authorization, but subsequent events cause an otherwise good employee to become unauthorized under the immigration laws, necessitating termination; and (3) when hired despite lack of authorization, which was not discovered until information comes to the notice of the employer and termination is required under the immigration laws—all scenarios not faced by a native.

Severe consequences follow all three scenarios, including the loss of employment and possible removal from the country, breaking up families and communities, and disrupting the workplace. Immigration law is complex. Conflicting instructions and regulations, and changing judicial interpretations and congressional actions all merge to make the complexity especially daunting to human resources departments and workers themselves. Fear of sanctions may chill institutions, with the consequences falling upon the workers.

Why not seize this opportunity to seek ways to ameliorate the process within legal parameters? Internally, colleges and universities can work with their human resources staff to implement policies that make the employer sanction provisions as hospitable as possible. If an applicant would be hired but for lack of paperwork, work with local bar associations to provide lists of competent immigration attorneys, including those of the Catholic Legal Immigration Network, Inc. (CLINIC) or Catholic Charities. Some employers provide for the expense of legal assistance for employees who discover they may be eligible for employment, but simply lack the proper paperwork. Consider policies to rehire workers terminated for lack of proper status, but who subsequently obtain status.

Outside campus, colleges and universities can work to educate Congress to the incompatibility of employer sanctions with CST and the biblical call to hospitality. Demonstrate the tragic loss to the common good when undocumented students graduate from our nation’s schools, but fail to use their skills because they cannot obtain work authorization. Inform local communities about how employer sanction provisions break up communities and hurt the common good.

Universities and colleges may also opt to build upon the research that demonstrates how employer sanctions undermine the U.S. economy, stifle business initiative, and weaken local communities. Immigration attorney Angelo Paparelli reminds us that one purpose of employer sanctions is to increase employment opportunities for U.S. citizens. If the undocumented person brings innovation, ideas, and imaginative solutions for increasing the number of jobs in this nation, then perhaps new theories of work and corporate legal structure might lead to solutions that fulfill the purpose of IRCA without necessitating removal of that person. Universities and colleges could link business schools with their entrepreneurial institutes and law schools to seek those novel responses. Such collaboration could fulfill St. Vincent DePaul’s call to be “inventive to infinity.” Law schools could also provide the legal scholarship and briefs that respond to those cases, raising the issues Chief Justice Roberts postponed to a subsequent day.

Unfortunately, the draconian timelines of employer sanctions and the harsh realities of immigration law limit the remedies that might be available. Continuing relationships to legal services for immigrants might be the best an institution can provide for those not hired or subsequently terminated under employment sanctions. Hiring an undocumented person as a minister of care might also offer pastoral help with particular sensitivity to those terminated or not hired under the law. Indeed, the messenger matters.

We invite you to respond to this column through our blog, http://hr-forum.ccu.blogspot.com/. There, we also invite you to post links to your mission statements as well as HR and compensation philosophy documents. This sharing will permit a fuller discussion of how mission and CST influence the employment process.

The opinions expressed in this column are the author’s alone and do not represent those of DePaul University or the Association of Catholic Colleges and Universities. This article does not provide legal advice on the matters discussed above. Any issues involving employment and immigration should be discussed with a competent licensed attorney in your state.

6 For one example of how IRCA fails to meet its alleged purposes, see Massey, D.S., Durand, J., and Malone, N.J. (2002). Beyond Smoke and Mirrors: Mexican Immigration in an Era of Economic Integration. New York: Russell Sage Foundation.


you were once slaves in Egypt.” In Hebrews 13:2, we are instructed to show hospitality to the stranger, for in so doing, we often entertain the divine messenger. As the last two editions of Update have noted, CST on immigration has developed from these biblical understandings and the Catholic theological tradition of treating the stranger equally as the native. Laws that prohibit hiring of a foreigner or a person not designated by the national government as authorized to work under the Immigration Reform and Control Act of 1986 (IRCA) stand in stark contrast to such biblical understandings of ourselves and the immigrant. In effect, they deny a faith-based organization’s ability to discern whether the one it seeks to call for leadership is that divine messenger, jeopardizing the religious organization’s future.

When the U.S. Conference of Catholic Bishops recently issued Our First, Most Cherished Liberty, it cited several examples of government laws that challenged the Church’s ability to be the Church, including state laws such as those in Alabama that restrict the Church’s ability to show hospitality through its ministries to feed the hungry, clothe the naked, and shelter the homeless. The bishops recognized that the conflict between the state and conscience might at times cause one to either refuse to follow an unjust law or face the consequences of civil disobedience.

Such decisions are weighty ones and require significant thought and prayerful discernment within the community. The Hosanna-Tabor decision, however, may provide faith organizations the ability to maintain integrity with their Holy Scriptures and teachings while following the law. The ministerial exception might allow organizations to hire undocumented persons in ministerial positions. Imagine university ministers who have fled their homelands seeking safety and peace in the United States, teaching the Joseph story of freedom from slavery to leadership positions. Imagine undocumented persons who have traveled from Central America crossing deserts and suffering hardship leading a Bible study on the Exodus for university students. Imagine if religious universities and colleges joined churches, synagogues, and mosques throughout the nation in hiring undocumented persons as ministers, rabbis, or imams who—through prayer, witness, and example—revealed the message of hospitality to the stranger. Would our students gain greater understanding of CST and the biblical message? Would universities and colleges discover new ways to incorporate and implement CST into their policies and procedures?

For prudential reasons, some might argue that Chief Justice Roberts’ decision to leave this question for another day is too slim a reed to put institutions at legal risk by hiring an undocumented person as a minister. Others might note that the complexity of immigration laws and the confusing interaction of civil and criminal penalties make this claim to the ministerial exception too frightening to envision. Indeed, although immigration law has been considered a civil law for over a hundred years, the federal government has enacted laws increasingly criminalizing offenders, both those entering this nation and those employing them. Even if the ministerial exception protected an institution, hiring an undocumented person as a minister does not automatically protect that minister from greater risk to deportation, as the person’s underlying undocumented status would not seem to change with employment under the Hosanna-Tabor exception. Thus, increased risk of apprehension and removal might find few undocumented persons willing to accept a call to university minister positions.

Such fear underscores how employer sanctions restrict the religious freedom of faith-based organizations to choose their ministers without government interference. The Supreme Court’s insistence that government cannot deny religious institutions autonomy to name their leadership dovetails with the bishops’ insistence that Catholics join with other religions to provide education when government laws violate religious liberty. Employer sanctions, by denying the community of faith its ability to call its messenger, eviscerate the community’s ability to discern the divine messenger or choose its leaders. Given the bishops’ call to vigilance, even for those universities and colleges not willing to risk seeking the ministerial exception for the undocumented, such institutions can still take other actions to oppose this restriction on religious liberty.

Taking Action
The bishops stressed that Catholic colleges, universities, and other faith-based institutions can play a special role in the effort to engage more members of the body politic in protecting religious liberty. Employer sanctions and the I-9 forms that all new employees must complete to demonstrate their authorization to work in the United States provide a particularly apt place for education about CST, mission and values, and religious liberty. The harsh consequences of