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# BLENDING SCRIPTURE AND LAW: THE LACK OF CHRISTIAN LAW AND THE DANGERS IT PRESENTS IN CHRISTIAN ARBITRATION

Emily Holland\*

## I. INTRODUCTION

Finding a health insurance company is not easy. There are endless amounts of options, all with positive and negative aspects, and each one comes at a cost. Finding one that aligns with and supports what a family believes in and stands for is another issue. However, certain companies have created a type of healthcare that is Christian, and instead of paying high premiums each month, the company collects money from its users in monthly “shares” and uses the money collected to pay for other members’ healthcare costs.<sup>1</sup> As a Christian and a concerned consumer, one might purchase the healthcare and hopefully find that it works great for a family. Each month a share is paid, and when a member of the family visits the doctor, the bills are covered under the plan.<sup>2</sup>

Suppose the consumer slips and falls on a patch of ice while out late at night and hurts their wrist, warranting a trip to the emergency room. After a few tests, the doctor diagnoses a broken wrist, fits a cast, and sends the patient home. After a few days of learning to adjust to life with one hand, a notice comes from the new health plan. The accident violated the community guidelines laid out in the user agreement, and the bills will not be covered. Annoyed, the consumer files a claim with the

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<sup>1</sup> See generally, Medi-Share, *Program Guidelines and Frequently Asked Questions*, CHRISTIAN CARE MINISTRY 1, 7 (Jul. 1, 2018) <https://mychristiancare.org/globalassets/media/medi-share/medi-share-guidelines.pdf>.

<sup>2</sup> *Id.* at 7.

health plan and waits to hear back. After months, the health plan again states that the bills will not be covered and must be paid. A complaint is filed in a local court, hoping to force the provider to pay the claim. A few days later, a letter arrives demanding the claim be dropped. There was an agreement to decide any and all disputes with the provider under the rules and practices of Christian arbitration.

Within the span of a day, most people sign or access multiple levels of contracts of adhesion, including those that bind the user to arbitration should a dispute arise. Usually, nothing happens, and the consumer never exercises or experiences the effect of an arbitration agreement. However, when a dispute arises, a consumer may find themselves in arbitration rather than the courtroom, and in certain cases, there are prayers and biblical law incorporated into those agreements.<sup>3</sup> These Christian arbitration agreements will be the focus of this article.

This paper will examine the ways in which a lack of an established substantive law within the Christian faith tradition affects the Christian arbitration process and explore the possible means to address these issues. Part II will outline the history and functions of Christian tribunals, highlighting the unique space within the justice system that these special tribunals fill. Part III will discuss the differences between the application of law in tribunals of other religious faith traditions and the application of law in Christian arbitration. Part IV will demonstrate how a lack of concrete and applicable law creates issues in the enforceability of an arbitration agreement, the selection and challenge of arbitrators, and the challenge to the awards themselves. Finally, Part V will outline possible remedies to ensure that Christian arbitration is carried out in a way that honors all parties involved. Part VI concludes with a proposal to carefully acknowledge the issues discussed and implement the changes suggested to the field of Christian arbitration.

## II. THE HISTORY AND GOALS OF CHRISTIAN TRIBUNALS

Christianity has a deep conviction to look to the church and faith before taking internal disputes to the civil courts.<sup>4</sup> This conviction is based on a collection of Bible verses in the book of 1 Corinthians stating, “If any of you has a dispute with another, do you dare to take it before the ungodly for judgment instead of the Lord’s people?”<sup>5</sup> and “[I]f you have disputes about such matters, do you ask for a ruling from those whose way of life is scorned in the church?”<sup>6</sup> “Is it possible that there is nobody among you wise enough to judge the dispute between believers?”<sup>7</sup> These

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<sup>3</sup> *Id.* at 39.

<sup>4</sup> R. Seth Shippee, *Blessed Are the Peacemakers: Faith-Based Approaches to Dispute Resolution*, 9 ILSA J. INT’L & COMP. L. 237, 241 (2002).

<sup>5</sup> 1 Corinthians 6:1.

<sup>6</sup> 1 Corinthians 6:4.

<sup>7</sup> 1 Corinthians 6:4–5.

verses, along with other verses scattered throughout the Bible,<sup>8</sup> have convinced Christians that there is a better way to settle disputes and has sparked a movement away from the courts and into church mediated dispute resolution.<sup>9</sup> Religious arbitration is attractive to Christians in general as many find major differences between the values of the American legal system and the values of the church body.<sup>10</sup> This system also allows churches to decide internal disputes within the setting and rules of their professed faith.<sup>11</sup>

This desire for a church-related dispute resolution practice prompted members of the Christian Legal Society to create the Christian Conciliation Service in 1982.<sup>12</sup> This developed in a variety of other ministry partnerships, eventually forming the Institute for Christian Conciliation under ICC Peace, which serves as the premier provider of Christian conciliation practices in the United States.<sup>13</sup> One office within the organization has grown from overseeing one to two cases per year to facilitating over 500 cases per year,<sup>14</sup> making the system of dispute resolution and the service itself a key player in dispute resolution.

The Institute for Christian Conciliation (ICC) provides an outline for the facilitation of resolution services which has developed into a standard handbook for Christian conciliators.<sup>15</sup> This handbook states that the purpose of Christian conciliation is to “glorify God by helping people to resolve disputes in a conciliatory rather than an adversarial manner” and further the reconciliation process to help people learn how to avoid similar conflicts in the future.<sup>16</sup> The standard process for Christian conciliation will typically move from counseling to mediations and end in a binding arbitration if the dispute cannot be settled through mediation.<sup>17</sup> This paper will focus on the rules and procedures governing arbitration proceedings under these procedures, as the process is binding; however, it is important to note that by the time a dispute reaches arbitration proceedings it has typically already gone through counseling and mediation beforehand, making the dispute a difficult or controversial decision.

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<sup>8</sup> See *Matthew* 5:23–24 (advocating the settling of grievances with one another prior to worship).

<sup>9</sup> Richard R. Hammar, *Establishing an Arbitration Policy for Church Staff Disputes*, CHURCH L. & TAX (Jan. 15, 2013), <https://www.churchlawandtax.com/blog/2013/january/establishing-arbitration-policy-for-church-staff-disputes.html>.

<sup>10</sup> Michael Broyde, *The Rise and Rise of Religious Arbitration*, WASH. POST (June 25, 2017, 5:10 AM), [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/26/the-rise-and-rise-of-religious-arbitration/?utm\\_term=.72a6f8ea54b2](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/26/the-rise-and-rise-of-religious-arbitration/?utm_term=.72a6f8ea54b2).

<sup>11</sup> *Id.*

<sup>12</sup> CENTER FOR CONFLICT RESOLUTION, CHRISTIAN CONCILIATION HANDBOOK, [www.ccr4peace.org/crhandbookbound.doc](http://www.ccr4peace.org/crhandbookbound.doc) (last visited Oct. 24, 2018).

<sup>13</sup> Shippee, *supra* note 4, at 242–43.

<sup>14</sup> CENTER FOR CONFLICT RESOLUTION, *supra* note 12.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> ICC Peace, *Guidelines for Christian Conciliation (Version 4.7)* 1, 4 (Nov. 1, 2016), <https://peacemaker.training/wp-content/uploads/2018/04/Guidelines-version-4.7-icc-peace.pdf>.

The development of this process has also contributed to the achievement of two functions of the Christian arbitration system. First, the development of Christian arbitration systems allows for disputes that cannot be settled in a court of the law to be tried and heard in front of a tribunal that understands the intricacies of the faith and practice.<sup>18</sup> Because courts are at the very least deferential to religious tribunals, tribunals receive the bulk of matters that happen within the framework of religion.<sup>19</sup> Many of these decisions would have no path for recourse in traditional court systems, so tribunals provide justice in areas where the secular system cannot.<sup>20</sup> Therefore, the development of Christian tribunals is necessary to fill in the gaps where the court systems are unable to decide a case because a significant point turns on an issue of religious law.<sup>21</sup>

Second, the development of Christian arbitration systems allows Christians to apply biblical principles to disputes that could otherwise be decided based solely on the secular court system.<sup>22</sup> Arbitration or conciliation agreements in contracts allow Christians the ability to choose to have their disputes settled under the principles under which they live.<sup>23</sup> Allowing people who share a belief system to arbitrate with the principles of the faith provides greater access to the exercise of freedom of religion and allows people to have slight control over the parameters of the dispute resolution.<sup>24</sup>

These functions also bring up a distinct separation between the types of disputes that typically fall within the jurisdiction of the Christian tribunals. Some disputes that end up under religious arbitration are those that are entangled with religious doctrine so that the courts are not able to decide the case on the merits.<sup>25</sup> Other disputes that fall within the jurisdiction of Christian tribunals are those that could normally be decided by a secular tribunal or court, but there is an agreement to arbitrate with a religious tribunal in a contract.<sup>26</sup> An agreement that brings the

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<sup>18</sup> Michael A. Helfand, *Litigating Religion*, 93 B.U. L. REV. 493, 498 (2013).

<sup>19</sup> *Id.* at 499. Today, most courts have moved to a doctrine of judicial abstention from matters of religion as dictated by the Establishment Clause, making the existence of religious tribunals to handle ecclesiastical disputes a necessity. *Id.*

<sup>20</sup> *Id.* at 496.

<sup>21</sup> Michael A. Helfand, *Between Law and Religion: Procedural Challenges to Religious Arbitration Awards*, 90 CHL-KENT L. REV. 141, 158 (2015).

<sup>22</sup> Broyde, *supra* note 10.

<sup>23</sup> See *Prescott v. Northlake Christian Sch.*, 141 F. App'x. 263, 273–74 (5th Cir. 2005) (holding that an arbitration award was valid even though it was not based on state law but on the Bible which the parties had agreed to).

<sup>24</sup> Helfand, *supra* note 21, at 141, 157–58.

<sup>25</sup> See *Patterson v. Shelton*, 175 A.3d 442, 450 (Pa. Commw. Ct., 2016). The court upheld an arbitration award that it had previously overruled because the court had later found it lacked subject matter jurisdiction over the dispute because it required interpretation of religious matters by the court, rendering the arbitration award the only valid judgment in the case. *Id.*

<sup>26</sup> See *Encore Prods., Inc. v. Promise Keepers*, 53 F.Supp.2d. 1101, 1111 (D. Colo., 1999) (holding that an agreement to arbitrate under Christian conciliation practices was valid because the parties had voluntarily agreed to it).

disputes brought under the jurisdiction of a Christian arbitration may be knowing or unknowing, depending on whether the clause was a negotiated part of the conflict or in a contract of adhesion.<sup>27</sup> This paper will focus on the consequences of enforcing unknown religious arbitration agreements when the dispute could otherwise be settled in a secular court.

### III. THE DIFFERENCE IN APPLICABLE LAW IN CHRISTIAN TRIBUNALS AS OPPOSED TO TRIBUNALS OF OTHER RELIGIONS

One of the benefits of arbitration is the ability to choose the standards of law under which the dispute will be governed, and religious arbitration is no different. The ability to shape the procedure and rules for the arbitral process allows churches and organizations to shape the culture in which disputes are decided.<sup>28</sup> Many Christians see the process as a way to escape confrontational aspects of the courtroom and to settle disputes peacefully within the language and mediation of scripture.<sup>29</sup> However, the departure from the common law of the courtroom leaves room for different law to be applied to disputes, occasionally with costs to one or both of the parties. This is further aggravated by the lack of an established tradition of law within Christianity, unlike the established traditions of *fiqh* in Islam and the *halakha* in Judaism.<sup>30</sup>

Most Christian conciliation processes establish the Bible as the rule of law. The Rules of Procedure outline that “the Holy Scriptures (the Bible) shall be the supreme authority governing every aspect of the conciliation process.”<sup>31</sup> Because the Bible is a collection of different writings and teachings covering topics ranging from the salvation of the world to the genealogies of important Biblical figures, it does not read like a statute to be applied to a set of facts or a legal opinion that aids in applying the law.<sup>32</sup> This can lead to a problem in religious arbitration, because interpreting the Bible as law can be inconsistent and could contradict or at least not fulfill laws in the place of the conflict, in this case, U.S. Law.<sup>33</sup>

Applying the Bible as a standard of law has been heavily debated, even within the religion as a whole. For Thomas Aquinas, scriptures serve as the backdrop of all

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<sup>27</sup> When the parties negotiate for a religious arbitration agreement, it would be reasonable to hold both parties to that agreement, but when the clause is a part of a contract which one of the parties agreed to in order to use a service or without bargaining, there are issues that arise in enforcing religious clauses against the person. *See generally* Jeff Dasteel, *Religious Arbitration Agreements in Contracts of Adhesion*, 8 Y.B. ARB. & MEDIATION 45 (2016).

<sup>28</sup> Broyde, *supra* note 10.

<sup>29</sup> Hammar, *supra* note 9.

<sup>30</sup> Mark L. Movsesian, *Religious Legal Theory: The State of the Field: Fiqh and Canons*, 40 SETON HALL L. REV. 861, 862–63 (2010).

<sup>31</sup> CENTER FOR CONFLICT RESOLUTION, *supra* note 12.

<sup>32</sup> *What is the Bible?*, BIBLICA, <https://www.biblica.com/resources/bible-faqs/what-is-the-bible/> (last visited Jan. 27, 2018).

<sup>33</sup> *See Prescott*, 141 F. App'x. at 273–74 (finding that applying biblical law over state law was proper in Christian arbitration proceedings).

lawmaking and the moral driving force behind the laws.<sup>34</sup> However, Aquinas considers the law contained in the Old Testament, which is the part of the scriptures that sounds and looks most like law, to be merely persuasive authority on the life and actions of the Christian in a community, not as a binding practice of law in life.<sup>35</sup>

Other scholars find that Jesus' life and teaching provide a basic understanding of how a Christian ought to live and when it is possible to resist the common law in exchange for the moral law of God.<sup>36</sup> However, neither of these theories provide an accurate law to determine the rightful beneficiary of a will or the possible negligence of an employee and how it affected the other person, which is the heart of the difference between the Christian legal tradition and those of Islam and Judaism.

The most established law within the Christian tradition is Canon law, which is the law of the Catholic Church establishing how the church is organized and conducts business.<sup>37</sup> The majority of the laws included in this system create a procedure for normal church business and disputes within the church.<sup>38</sup> This law is heavily theological in nature and deals with disputes where the church is included as a party in some way, and still requires interpretation and combination with applicable secular law in order to be applied to disputes outside the church.<sup>39</sup> Although many other denominations of the Christian church have a type of procedural law for the organization, these would need to reference or depend on secular law in order to determine the outcome of a dispute arising from a contract or other issue outside of straight church doctrine.<sup>40</sup> Therefore, the only established body of law that can be attributed to the Christian tradition leaves significant gaps in the practice of dispute resolution, setting Christian tribunals apart from Jewish and Muslim counterparts in how and where the law is drawn from.

There are two major differences between the approach to the study and practice of law in Christianity compared to practices within Islam and Judaism.<sup>41</sup> First, the division between divine and secular law is a western Christian concept that is not as

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<sup>34</sup> William S. Brewbaker III, *The Bible as a Law Book? Thomas Aquinas on the Juridical Uses of Scripture*, 12 RUTGERS J. OF L. & RELIGION 77, 98 (2010).

<sup>35</sup> *Id.* at 104.

<sup>36</sup> Robert F. Cochran & Dallas Willard, *The Kingdom of God, Law, and the Heart*, in LAW AND THE BIBLE 151, 159 (InterVarsity Press, 2013).

<sup>37</sup> Father James Goodwin, *What is Canon Law All About*, SUNDAY VISITOR (Mar. 1, 2017), <https://www.osv.com/RSS/365DaysToMercy/TabId/2752/ArtMID/21013/ArticleID/21660/What-Is-Canon-Law-All-About.aspx>.

<sup>38</sup> *Id.*

<sup>39</sup> Marianne Perciaccante, *The Courts and Canon Law*, 6 CORNELL J. L. & PUB. POL'Y 171, 173 (1996).

<sup>40</sup> See ICC Peace, *supra* note 17, at 17 ("Conciliators shall take into consideration any state, federal, or local laws that the parties bring to their attention, but the Holy Scriptures (the Bible) shall be the supreme authority governing every aspect of the conciliation process.").

<sup>41</sup> These distinctions are based on generalizations of the beliefs of each religion. This paper intends to compare the general way each religion approaches legal thought, understanding that there is a wide variety of legal thought and scholarship within each legal community.

distinct in other religions.<sup>42</sup> While Christianity tends to be at odds with secular law at times and acknowledges the existence of a government and legal system apart from itself, Judaism and Islam see the law as a hybrid practice that binds religious and secular together under the traditional law.<sup>43</sup> Christianity exists completely under another set of law, usually the ruling authority, and does not participate in the legal discourse unless a conflict arises between Christian thought and secular thought, usually around a moral standard.<sup>44</sup>

Another fundamental difference, especially as compared to Islam, is the role of law in the traditional practice of religion. In Islam, law is a central tenant of the daily life of the believer, contributing to an entire discourse of the interaction between God and believers through law.<sup>45</sup> The law is seen as the primary mode of connection and relation to God.<sup>46</sup> Christianity does not base its faith on a body of law, but instead seeks connection and relationship with God through a study of the nature of God in theology.<sup>47</sup> This study seeks to understand who God is, rather than God's will.<sup>48</sup> Christianity believes that a study of the nature of God will reveal how a follower ought to live, explaining why there is little substantive law in Christian thought.<sup>49</sup>

Jewish and Muslim law both provide direct rules for daily life and certain types of contract and relationships which have been developed through the traditional study of law.<sup>50</sup> The law in classical Islam includes practically all areas of life, "including how to comport and groom oneself, how to pray, what to eat, how to conduct business and make contracts, how to buy and sell real property, whom to marry, how to divorce, and how to divide one's estate."<sup>51</sup> This is contrasted with a strong departure from the study of Christian law in fear of becoming legalistic and distracting from spiritually-based worship at the center of Christianity.<sup>52</sup> Instead, the idea of grace over rules invades the daily practice of Christians, and there is little

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<sup>42</sup> Lena Salaymeh, "Comparing" Jewish and Islamic Legal Traditions: Between Disciplinary and Critical Historical Jurisprudence, 2 NEW HIST. JURIS. & HIST. ANALYSIS OF L. 153, 163 (2015).

<sup>43</sup> *Id.* at 163.

<sup>44</sup> See Sean Sullivan, Anne Gearan & Mike DeBonis, "It Woke a Sleeping Giant": Republicans Challenge Democrats Over N.Y. Abortion Law, Northam's Comments, WASH. POST (Feb. 7, 2019), [https://www.washingtonpost.com/politics/it-woke-a-sleeping-giant-republicans-challenge-democrats-over-ny-abortion-law-northams-comments/2019/02/07/4579ba38-2af7-11e9-b2fc-721718903bfc\\_story.html?noredirect=on&utm\\_term=.7dddaa855e50](https://www.washingtonpost.com/politics/it-woke-a-sleeping-giant-republicans-challenge-democrats-over-ny-abortion-law-northams-comments/2019/02/07/4579ba38-2af7-11e9-b2fc-721718903bfc_story.html?noredirect=on&utm_term=.7dddaa855e50) (detailing the action that Republicans, driven by Christian voters, have taken against the New York abortion bill based on the idea that the moral law of God contradicts the law).

<sup>45</sup> Movsesian, *supra* note 30, at 862.

<sup>46</sup> *Id.* at 862.

<sup>47</sup> *Id.* at 862–63.

<sup>48</sup> *Id.* at 863.

<sup>49</sup> *Id.* at 864.

<sup>50</sup> Matthew I. Wheeler, *Similarities Between Jewish Halacha, Islamic Sharia, and Catholic Canon Law*, SENTENTIA MATTA (Jan. 11, 2018).

<sup>51</sup> Movsesian, *supra* note 30, at 876.

<sup>52</sup> *Id.* at 871, 877.



practical study on laws that apply directly to those within the faith.<sup>53</sup> Instead, the majority of scholarship relies on how and when Christians should interact with the laws of the governing body in power over them by incorporating aspects of civil law into the scholarship.<sup>54</sup>

#### IV. THE LACK OF AN ESTABLISHED AND CONSISTENT BODY OF LAW IN CHRISTIANITY CREATES ISSUES IN ENFORCEABILITY AND CONTRACTS OF ADHESION, QUALIFICATIONS OF ARBITRATORS, AND CHALLENGES TO THE DECISIONS OF ARBITRAL TRIBUNALS

There are three distinct issues that arise when Christian arbitration is carried out without an established law to which the decision may be held, specifically when one party is bound to the arbitration agreement through a contract of adhesion. The first issue is present in the enforcement of arbitration clauses against parties from a contract of adhesion requiring Christian arbitration when one of the parties had no say in the clause and signed the contract in order to use a product or service.<sup>55</sup> The second applies to challenges to the appointment of certain arbitrators based on religious qualifications and adherence to a Christian lifestyle.<sup>56</sup> Finally, the religious principles applied to secular legal issues create a decision that is unreviewable by the court system when a secular arbitration award with the same process of decision could be challenged.<sup>57</sup>

The lack of substantive law illustrates the importance of consent to a governing body of law in arbitration proceedings.<sup>58</sup> When two parties knowingly agree to arbitrate any disputes in a contract under religious arbitration, both parties agree to have the dispute resolved within Christian holy scriptures, no matter what the exact interpretation of the scriptures is.<sup>59</sup> However, when one party writes an agreement to arbitrate under Christian rules and the other party agrees to use their services or product without knowingly submitting themselves to arbitration that takes place within a system lacking an established law, the procedural safeguards of the standard arbitration process disappear.<sup>60</sup> There is little knowledge or exposure to what the potential outcomes could be.<sup>61</sup>

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<sup>53</sup> *Ephesians* 2:8-9 (“For it is by grace you have been saved, through faith—and this is not from yourselves, it is the gift of God—not by works, so that no one can boast.”).

<sup>54</sup> Movsesian, *supra* note 30, at 877.

<sup>55</sup> Dasteel, *supra* note 27, at 46.

<sup>56</sup> *Id.* at 51.

<sup>57</sup> *Id.*

<sup>58</sup> Movsesian, *supra* note 30, at 864.

<sup>59</sup> See Helfand, *supra* note **Error! Bookmark not defined.**, at 148. This article further expands on the idea that the ability to choose the law of the arbitration is an integral part of the parties’ freedom of religion but focuses more on agreements to arbitrate when both parties are willing and knowing participants. *Id.* at 151.

<sup>60</sup> Dasteel, *supra* note 27, at 55.

<sup>61</sup> *Id.* at 46, n. 10.

With the Bible as the ruling authority, there are few decisions arising from Christian conciliation that would not turn on at least some matter of religious doctrine.<sup>62</sup> This requires that either the parties agree or the arbitrator decides the type of doctrine to be used in the arbitration in order to move forward in the proceedings.<sup>63</sup> However, there may be issues with the proceedings when all parties believe they have an established law to work with at the beginning of the proceedings, but they later come to realize that the law that they were depending on was not interpreted like the arbitrator or the other party interpreted the scripture used to decide the point.<sup>64</sup> This becomes particularly dangerous when one party had no say in the arbitration agreement, yet is bound to the outcome.

*A. Christianity Creates a Procedural and Substantive Unconscionability in Contracts of Adhesion for Christian Arbitration.*

While the courts have treated agreements to Christian arbitration the same as agreements for secular arbitration, other scholars have found that some key differences in agreements to arbitrate in a religious setting as opposed to a secular setting create a procedural unfairness when it comes to religious arbitration.<sup>65</sup> First, as noted above, scriptures in the Bible, rather than a codified or common law, become the set of rules and legal standard for the arbitration.<sup>66</sup> This leaves greater room for interpretation and bending legal principles to fit within the law, specifically within scriptural passages that are controversial and lend themselves to disputes.<sup>67</sup>

The large subject matter allowed as a part of the Christian arbitration process allows for the possible unconscionability when an agreement over a secular matter is forced into religious arbitration.<sup>68</sup> The guidelines do not limit the subject matter of the disputes that can be brought before Christian conciliation and seem to encourage a wide range of subject matter.<sup>69</sup> The guidelines expand the jurisdiction to “contract, employment, family, personal injury, church, landlord/tenant, real estate, creditor/debtor, and professional conflicts.”<sup>70</sup> The only limitation placed on

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<sup>62</sup> Michael Corkery & Jessica Silver-Greenberg, *In Religious Arbitration, Scripture is the Rule of Law*, N.Y. TIMES (Nov. 2, 2015), <https://www.nytimes.com/2015/11/03/business/dealbook/in-religious-arbitration-scripture-is-the-rule-of-law.html>.

<sup>63</sup> See ICC Peace, *supra* note 17, at 24. Rule 40(B) allows the arbitrator to “grant any remedy or relief that they deem scriptural, just, and equitable, and within the scope of the agreement of the parties.” *Id.* This gives the arbitrator the power to decide the type of doctrine used in the process as long as it is “scriptural.” *Id.*

<sup>64</sup> See Michael Broyde, *Criticisms of Religious Arbitration*, WASH. POST (June 28, 2017), [https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/28/criticisms-of-religious-arbitration/?utm\\_term=.53c729b1342d](https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/06/28/criticisms-of-religious-arbitration/?utm_term=.53c729b1342d).

<sup>65</sup> Broyde, *supra* note 64.

<sup>66</sup> Dasteel, *supra* note 27, at 47.

<sup>67</sup> See generally Prescott, *supra* note 23, at 263, 273–74.

<sup>68</sup> Dasteel, *supra* note 27, at 46.

<sup>69</sup> ICC Peace, *supra* note 17, at 4.

<sup>70</sup> *Id.*

arbitration is in regards to “legal issues over which civil courts will not relinquish jurisdiction[,] . . . issues that are solely within the jurisdiction of the family[,] . . . or issues that are solely within the jurisdiction of the church.”<sup>71</sup> This allows Christian conciliators to decide matters which could be decided by local courts and allows people who are not members of specific churches a line of recourse within the faith system.<sup>72</sup> The guidelines also strongly suggest that Christians should not take a dispute with another Christian to the courts, but instead exhaust the Christian conciliation process.<sup>73</sup>

As Christian conciliation has gained popularity among evangelical communities, a number of major companies with religious undertones have placed boilerplate Christian conciliation agreements within their user agreements, submitting seemingly secular issues before religious arbitration.<sup>74</sup> Some of the more notable companies include Medi-Share, a Christian healthcare cost-sharing platform,<sup>75</sup> and Teen Challenge, a rehabilitation program for troubled youth.<sup>76</sup> These clauses are usually within a larger agreement that a consumer or applicant signs in order to participate in the program, and thus they often unwillingly submit themselves to Christian conciliation.<sup>77</sup> Contracts of adhesion, while allowed to submit disputes to secular arbitration, pose problems when such contracts are applied to religious arbitration, especially when the subject matter of a dispute seems secular.<sup>78</sup> When disputes governed by religious arbitration clauses are included in contracts of adhesion, the individual party may never have realized the scope of the agreement, and especially in cases like *Spivey v. Teen Challenge*, may have signed an agreement out of necessity.<sup>79</sup>

Arbitration agreements are typically enforced under the Federal Arbitration Act (FAA).<sup>80</sup> Similarly, most state courts apply the same standard when questioning the enforceability of the agreement.<sup>81</sup> The standard for evaluating the enforcement of

<sup>71</sup> *Id.* at 5.

<sup>72</sup> *Id.* at 7.

<sup>73</sup> *Id.* at 8.

<sup>74</sup> See Medi-Share, *supra* note 1, at 39.

<sup>75</sup> Medi-Share, *supra* note 1, at 39. This arbitration agreement clause includes “claims under any federal, state, local statutory or common law” and requires that the disagreement first go through the internal appeals process in the Medi-Share Guidelines before the user is able to submit the claim to Christian conciliation processes. *Id.* Further, once the claim is submitted to conciliation processes, binding arbitration is automatically entered into if the dispute cannot be resolved by mediation. *Id.*

<sup>76</sup> Corkery & Silver-Greenberg, *supra* note 62.

<sup>77</sup> *Id.*

<sup>78</sup> Dasteel, *supra* note 27, at 48.

<sup>79</sup> *Id.* at 54.

<sup>80</sup> 9 U.S.C. § 2 (enforcing all arbitration agreements unless there is a reason the contract itself would be revoked).

<sup>81</sup> Jason Cheung, *Enforceability of an Arbitration Clause in a Contract*, LEGAL MATCH (May 17, 2018), <https://www.legalmatch.com/law-library/article/enforceability-of-an-arbitration-clause-in-a-contract-for-the-purchase-or-sale-of-goods-products-or-services.html>.

arbitration clauses are the same contract laws that apply to the contract as a whole.<sup>82</sup> These practices have created a rebuttable presumption that an arbitration agreement will stand if it is clearly and accurately written.<sup>83</sup> So far, this presumption seems to apply to Christian arbitration clauses as well.

The idea of enforcement of religious arbitration agreement arises from the Supreme Court's encouragement to enforce arbitration agreements coupled with the idea that the parties chose to submit themselves to religious arbitration.<sup>84</sup> When an agreement to arbitrate is knowingly signed, the party should be held responsible for decisions made and any disputes arising should be submitted to arbitration.<sup>85</sup> However, if an agreement is signed to submit a future dispute to religious arbitration without the parties' full consent, there may be room to argue that such contracts cannot be enforced.<sup>86</sup> Yet the trend in federal and state courts is to enforce contracts of adhesion unless there is both procedural and substantive unconscionability.<sup>87</sup> So to demonstrate the need for reform within compelled Christian arbitration, there must be a demonstrated procedural and substantive unconscionability.<sup>88</sup> While procedural unconscionability is generally assumed in contracts of adhesion, the substantive unconscionability is somewhat harder to find.<sup>89</sup>

Jeff Dasteel argues that religious arbitration inherently creates substantive unconscionability in contracts of adhesion because there is usually a weaker party, typically the consumer, that agrees to arbitration, sometimes outside of their own religion, in order to use a product or service.<sup>90</sup> This arises when an individual would like to challenge the implementation of the Christian organization's rules of procedure, typically because there is a rule or practice that is counter to the individual's own religious practices.<sup>91</sup> The weaker, individual party is unable to challenge the procedure, even though it violates their own religious beliefs and therefore their first amendment rights because the courts have found it difficult to interpret the language of the rules when moving into a determination of ecclesiastical measures.<sup>92</sup>

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<sup>82</sup> *Id.*

<sup>83</sup> Dasteel, *supra* note 27, at 50.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at 52. Refusing to intervene in the decisions of people to arbitrate as they agree "furthers the goal of religious freedom for those who voluntarily enter into religious arbitration agreements and want their secular disputes resolved based on religious principles by arbitrators who themselves . . . agree to adhere to designated religious principles and procedures to resolve the disputes." *Id.*

<sup>86</sup> *Id.* at 54.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.* at 56.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

One example of a seemingly unfair arbitration agreement that was upheld is in *Ellison v. Teen Challenge of Florida, Inc.*, in which a mother sued the drug rehabilitation program where her son was being treated when he escaped treatment, overdosed, and passed away.<sup>93</sup> Nicklaus was readmitted to the program on a judge's order in order to avoid jail time.<sup>94</sup> As a part of his initial enrollment in the program, Nicklaus signed an agreement requiring all disputes to be submitted to arbitration.<sup>95</sup> Nicklaus's mother, Pamela Spivey, wanted to find out what had happened in the treatment center but was met with no answers, and when she brought suit to find answers about the night he disappeared, Teen Challenge advised her that her son's signature on the arbitration agreement still stood and that the agreement would be upheld.<sup>96</sup> The court enforced the contract because there was no substantial issue and because her son's decision to sign the agreement also bound Ms. Spivey, including being bound to a religious arbitration agreement.<sup>97</sup> Ms. Spivey made several arguments against the enforcement of the religious arbitration practices as violating her religious beliefs, but because Nicklaus had signed the agreement knowingly, the arbitration agreement still stood.<sup>98</sup>

*B. The Requirement of Abiding by a Christian Lifestyle is Too Vague and Poses Problems if the Appointment of an Arbitrator is Challenged.*

The second issue is that religious arbitrators themselves must be qualified based on a set of religious texts, making their appointment virtually unreviewable by secular courts, as doing so would call for interpretation of the religious text upon which the qualification is based.<sup>99</sup> There are also external bodies that can get involved in religious arbitration, such as a church stepping in to encourage a member to participate in arbitration.<sup>100</sup> These distinctions allow religious arbitrators, and specifically Christian arbitrators in influential areas, to control the arbitration almost outside of any reviewing body.

The Standard of Conduct requires the conciliator to accept a responsibility to God, to civil authorities and other professionals and organizations, to the parties, and to the public.<sup>101</sup> This qualifies any conciliator functioning under the ICC certificate to facilitate conciliation processes; however, the qualification process relies heavily

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<sup>93</sup> Corkery & Silver-Greenberg, *supra* note 62.

<sup>94</sup> *Id.*

<sup>95</sup> Spivey v. Teen Challenge of Fla., Inc., 122 So. 3d 986, 988 (Fla. Dist. Ct. App. 2013).

<sup>96</sup> Corkery & Silver-Greenberg, *supra* note 62.

<sup>97</sup> Spivey, 122 So. at 994–95.

<sup>98</sup> Corkery & Silver-Greenberg, *supra* note 62.

<sup>99</sup> Dasteel, *supra* note 27, at 47.

<sup>100</sup> CENTER FOR CONFLICT RESOLUTION, *supra* note 12, at r. 26.

<sup>101</sup> ICC Peace, *supra* note 17, at 27–28.

on religious obligations.<sup>102</sup> It requires the conciliator to adhere to a statement of faith with eight affirmations including basic principles of the Christian faith and requires involvement and attendance at a Christian church.<sup>103</sup> Under the responsibility to civil authorities, the conciliator is charged to respect civil authorities and cooperate as the law required; however, it also allows the conciliator to resist civil authorities if “there is a clear scriptural reason.”<sup>104</sup> The standard requires conciliators to remain neutral and to apply the Holy Bible as the rule of law.<sup>105</sup>

There are no educational requirements for Christian conciliators, only the completion of training programs at the top Christian conciliation programs.<sup>106</sup> Comparatively, admittance to the roster for the American Arbitration Association requires a degree in the field of expertise that the arbitrator claims to have, along with 10 years of experience in that field.<sup>107</sup> Because the decisions created in Christian arbitration can be binding on the parties involved, it is important that the arbitrator fully understand the breadth of the implications of the decision, so training programs are simply not enough.<sup>108</sup> It is dangerous to bind parties in dispute over aspects of Biblical and legal doctrine when the arbitrator has little Biblical training or legal training, especially when the arbitrator’s decision is not reviewable by courts.<sup>109</sup>

Further, because qualifications under the standard of conduct are entrenched in Christian doctrine and practice, there is little room to challenge the appointment of an arbitrator.<sup>110</sup> While the standard of conduct requires neutrality between the parties, there may be the possibility that religious bias plays a role in issues where one of the parties has been required to go to arbitration as the result of a contract of adhesion, especially when the person subject to arbitration is not a Christian.<sup>111</sup> Again, this

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<sup>102</sup> *Id.* at 27–28

<sup>103</sup> *Id.* at 27.

<sup>104</sup> *Id.* This provision is supported by Acts 4:19 (“Whether it is right in the sight of God to listen to you rather than to God, you must judge.”) and Romans 13:1–7 (outlining submission to civil authorities according to Paul). While both of these passages speak to the way Christians view submission and resistance to authority, the wide interpretation of “clear scriptural reason” in the guidelines may pose a problem. Some Biblical scholars actually argue that these verses, especially Romans 13, present a Christian community that lives within and under the local governments. See Matthew G. Neufeld, *Submission to Governing Authorities: A Study of Romans, 13:1–7*, 23 *DIRECTION J.* 90 (1994), <http://www.directionjournal.org/23/2/submission-to-governing-authorities.html>.

<sup>105</sup> ICC Peace, *supra* note 17, at 27.

<sup>106</sup> Tara Barthel, *How to Be a Christian Conciliator*, TARA BARTHEL (Oct. 24, 2008), <http://www.tarabartheel.com/how-to-be-a-christian-conciliator/>.

<sup>107</sup> Am. Ass’n of Arb., *Qualification Criteria for Admittance to the AAA National Roster of Arbitrators*, AM. ASS’N OF ARB.,

[https://www.adr.org/sites/default/files/document\\_repository/Qualification\\_Criteria\\_for\\_Admittance\\_to\\_the\\_AA\\_A\\_National\\_Roster\\_of\\_Arbitrators.pdf](https://www.adr.org/sites/default/files/document_repository/Qualification_Criteria_for_Admittance_to_the_AA_A_National_Roster_of_Arbitrators.pdf) (last visited Jan. 28, 2018).

<sup>108</sup> ICC Peace, *supra* note 17, at 24 (“The arbitrators’ decision shall be legally binding on the parties.”).

<sup>109</sup> Dasteel, *supra* note 27, at 51.

<sup>110</sup> *Id.* at 51.

<sup>111</sup> ICC Peace, *supra* note 17, at 27–28.

will be hard to challenge, as the decisions are based on Biblical principles that cannot be reviewed by the courts, so a traditional challenge may not address the bias.<sup>112</sup>

In traditional non-religious arbitration, if an arbitrator is appointed and one of the parties feels that there is bias or the arbitrator is not qualified, the appointment can easily be challenged and the arbitrator removed if there is just cause.<sup>113</sup> However, because the qualifications of an arbitrator in Christian arbitration are based heavily in religious doctrine, the qualifications themselves make it difficult for the appointment of an arbitrator to be challenged.<sup>114</sup> “[A] court is incompetent in the case of a religious arbitration to determine whether a particular arbitrator met the religious qualifications in the arbitration agreement because such an analysis by the court would be an impermissible entanglement in ecclesiastical matters.”<sup>115</sup> Therefore, the system itself must be prepared to qualify the arbitrators making the decisions.

### *C. The Application of Religious Principles to Secular Law Creates Decisions that are Outside Review by Secular Courts*

The guidelines illustrate the process of challenging Christian conciliation and Christian conciliators. They establish that the first step when there is conflict is to approach the person and work it out between the two parties.<sup>116</sup> If it cannot be resolved between the parties, it is taken to the local church community, which will try and resolve it in a faithful manner.<sup>117</sup> This may include the church in which the party to the conciliation process is a member, or it may be helpful to seek out the church leaders of the church where the conciliator is a member.<sup>118</sup> The final step in the review process is to request a formal review from the ICC, but only if the conciliator is an active member or candidate for the Institute.<sup>119</sup> The ICC will encourage private resolution and will determine if the conciliator violated the ICC Standard of Conduct for Christian Conciliators.<sup>120</sup> If a violation is found, the ICC may take “remedial or restorative disciplinary actions against the conciliator.”<sup>121</sup> While this establishes some process of review for Christian arbitration awards, it does not evaluate the award itself and cannot set aside an award, making the review

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<sup>112</sup> See *Garcia v. Church of Scientology Flag Serv. Org., Inc.*, No. 8:12-cv-220-T-27TBM, 2015 WL 10844160, at \*11 (M.D. Fla. Mar. 13, 2015) (holding that even though a contract required a former Scientologist’s dispute to be arbitrated by current Scientologists, the court could not determine the bias of the arbitrator because the First Amendment bars such review).

<sup>113</sup> Dasteel, *supra* note 27, at 51.

<sup>114</sup> *Id.* at 51.

<sup>115</sup> *Id.* at 51.

<sup>116</sup> ICC Peace, *supra* note 17, at 7.

<sup>117</sup> *Id.* at 8.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

process more of a disciplinary action than a course of action for those who feel an award was unfair.

Further, the award cannot be brought before a court and challenged because there are religious doctrine and ecclesiastical matters involved in the awards decision.<sup>122</sup> The Supreme Court has ruled:

For where resolution of the disputes cannot be made without extensive inquiry by civil courts into religious law and policy, the First and Fourteenth Amendments mandate that civil courts shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity, but must accept such decisions as binding on them, in their application to the religious issues of doctrine or polity before them.<sup>123</sup>

Therefore, most decisions of Christian arbitrators cannot be reviewed in civil courts, even when the suit turns mostly on a point of secular law. This creates a full range of awards that are nonreviewable, and arbitrators that are not held accountable to their awards.<sup>124</sup> This makes the system particularly indigestible to those forced into arbitration by contracts of adhesion.

#### V. RECOMMENDATIONS TO BRIDGE THE GAP AND CREATE A WISER APPLICATION OF CHRISTIAN ARBITRATION.

As discussed above, there are major benefits that stem from the existence of Christian arbitral tribunals. These benefits include the establishment of a body that is able to hear and decide religious disputes otherwise excluded from the courts, along with the freedom to have disputes heard within the belief system to which one subscribes.<sup>125</sup> However, the freedom to choose must be part of the equation for the tribunals to function within their bounds. There are other checks that can be in place to ensure that even the contracts of adhesion that are upheld are carried out in a way that honors each party involved and does not result in one or both parties leaving at odds with the idea of Christian arbitration. These checks include a stricter process of review for enforcement of Christian arbitration agreements included in a contract of adhesion, the creation of a set of rules and qualifications for arbitrators that an outside body could review without making religious judgments, and the creation of a board of review for religious arbitrations with a standard procedure for applying religious principles to secular legal ideas.

In order to address the enforceability of agreements to arbitrate under Christian law, there needs to be a strict form of review when the courts are considering the enforcement of an agreement to arbitrate resulting from an agreement to arbitrate. Consider the *Spivey* case discussed above. In that case, the mother was required to resolve her claim under Christian arbitration even though the arbitration agreement

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<sup>122</sup> Dasteel, *supra* note 27, at 52–53.

<sup>123</sup> Serbian E. Orthodox Diocese v. Milivojevich, 426 U.S. 696, 709 (1976).

<sup>124</sup> *Diocese*, 426 U.S. at 709.

<sup>125</sup> Helfand, *supra* note 18, at 157–58.



was listed in a contract signed by her son in order to participate in a drug rehabilitation program.<sup>126</sup> The court ruled that her son had signed the document voluntarily, so the agreement would still stand.<sup>127</sup> Yet, this case does not take into account the differences that arose between Spivey and the organization with regard to the law that would be applied in order to interpret the document. Nor does it fully take into account the religious differences the mother argued, even though they were within the same faith.<sup>128</sup> Still more pressing is the failure of the court to address the issue that Nicklaus's options were to either to enter the agreement and participate in the rehabilitation program or to go to jail, making the assent to the terms arguably involuntary and unconscionable.<sup>129</sup> The court instead decided that there was no question as to whether the arbitration agreement was entered into voluntarily, and that Ms. Spivey would be held to the same standard as her son, even if that meant compelling her into religious actions as a part of the arbitration because she was standing in the place of her son.<sup>130</sup> This type of judgment seems to be directly at odds with the goals of the operation of Christian arbitration because one of its goals is to allow disputes between Christians to be settled in a non-adversarial way, not to force Christian arbitration on an unwilling party.<sup>131</sup>

Therefore, a strict scrutiny standard should be put in place to protect unwilling participants from being forced into religious arbitration when it was not a negotiated term of the contract. When a party is challenging an agreement to arbitrate, the court should look for factors that would contribute to unconscionability, such as the unavailability of any substantive Christian law that would be applied in the arbitration.<sup>132</sup> An analysis of the situation would be helpful to determine whether or not the company or service requiring arbitration would have an unfair advantage over the individual challenging the arbitration clause.<sup>133</sup> It would be beneficial to flip the use presumption for enforcement to require a rebuttable presumption that a religious arbitration agreement within a contract of adhesion is invalid, forcing companies with boilerplate Christian arbitration agreements to demonstrate how the Bible is

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<sup>126</sup> *Spivey*, 122 So. at 989.

<sup>127</sup> *Spivey*, 122 So. at 995.

<sup>128</sup> *Spivey*, 122 So. at 994.

<sup>129</sup> An entire paper could be written about the questions raised in this case. However, as a young man entering into a drug rehabilitation center, it was unlikely that Nicklaus would have reasonably expected that his contract for service would force him into arbitration, and there is an extreme inequality of bargaining power between him and the people requiring him to sign the form to enter treatment, likely making the contract unconscionable. See *The Enforceability of Adhesion Contracts*, LAWSHELF, <https://lawshelf.com/videos/entry/the-enforceability-of-adhesion-contracts> (last visited Jan. 25, 2019).

<sup>130</sup> *Spivey*, 122 So. at 995.

<sup>131</sup> The general benefits of religious arbitration allow the dispute to be settled within a belief system when the parties agree to do so. Helfand, *supra* note 18, at 157–58.

<sup>132</sup> The courts could also view the provision for religious arbitration as a choice of law provision and determine whether the choice of law was appropriately added and consented to. See *id.* at 148–49.

<sup>133</sup> This type of analysis would provide the parties with an option to prove unconscionability in the agreement and potentially void the agreement if it particularly unfair. See Dasteel, *supra* note 27, at 58.

integral to the resolution of the case.<sup>134</sup> Should a court find that the Bible is not integral to the understanding of the issues the case could be recommended to a religiously-neutral, traditional arbitration.<sup>135</sup>

In order to address the variance in the qualifications for religious arbitrators and the underwhelming qualification for either Biblical or legal knowledge or knowledge of the issue of the case, religious arbitration institutions should reevaluate the standards for arbitrators covering disputes. As discussed above, the qualifications for arbitrators at the top Christian conciliators do not require a legal degree, a degree in dispute resolution, or a knowledge of theology and Biblical interpretation, but only the completion of training programs.<sup>136</sup> Christian arbitration associations should instead hold their arbitrators to the highest standards of Biblical and legal knowledge, encouraging them to continuously pursue learning and achievement in both fields.<sup>137</sup> The standards for arbitrators should also be codified and explained within each association to allow review of the appointment of arbitrators and challenges for bias. There should be a set standard for the “Christian lifestyle” to which arbitrators must be held accountable.<sup>138</sup>

Finally, it would be beneficial for arbitration associations to establish a venue for review in order to address the inaccessibility of challenges to religious arbitration and hold arbitrators accountable to the parties after an award is made. While the ICC has a system of rules in place in order to address issues with arbitrators violating the rules, as mentioned previously, this system functions as a disciplinary board rather than a board of review.<sup>139</sup> Instead, the different organizations should create a system for review, along with a clear set of principles that qualify an award for review.<sup>140</sup> Further, Christian arbitration associations should require their arbitrators to disclose at least the basic principles upon which he or she made the award so that the parties may be fully aware of the ways that the arbitrator acted and weighed the decision in

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<sup>134</sup> This is compared to the presumption that all agreements to arbitrate will be found enforceable unless they are vague. 9 U.S.C §2. This would be particularly beneficial in cases where a large company has a boilerplate clause in their use agreement. It would force a company to prove why the dispute could not be solved absent the religious elements. See *Medi-Share*, *supra* note 1.

<sup>135</sup> This would still create the rebuttable presumption that an arbitration clause is enforceable; however, it would protect the rights of the people challenging the clause under a religious freedom concern or a concern with the application of “Christian law” to secular principles, allowing for arbitration, but under traditional common law. See *Dasteel*, *supra* note 7, at 52.

<sup>136</sup> *Barthel*, *supra* note 106.

<sup>137</sup> This could be further expanded to other areas that may have a direct bearing on the arbitration at issue, like a business leader when the dispute involves a business transaction. Epaminontas E. Triantafyllou, *Do We Need More “Expert” Arbitrators? And If So, In What?*, YOUNG ICCA BLOG (Feb. 11, 2014), <http://www.youngicca-blog.com/do-we-need-more-expert-arbitrators-and-if-so-in-what/>.

<sup>138</sup> *ICC Peace*, *supra* note 17, at 27.

<sup>139</sup> *Id.* at 8.

<sup>140</sup> The system currently in place by the ICC has some guidelines but does not define the ramifications for reconsideration. See *ICC Peace, Rules of Procedure*, r.41 (2019), <https://www.instituteforchristianconciliation.com/rules-2019/>.

order to consider a challenge.<sup>141</sup> This system could help hold arbitrators accountable, remove unfair or biased awards, and help the associations decide what areas upon which to focus their training. It would benefit both the parties and the associations and would ensure that each party's evidence and presentation are considered.

## VI. CONCLUSION

The presence of religious arbitration, including Christian arbitration, is welcome and encouraged when it makes it possible for disputes arising from Christian and religious matters to be heard and decided fairly. It is also welcome when two parties agree to have a dispute heard under the laws, practices, and principles of the faith. Finally, it is welcome when it allows Christian organizations the ability to settle disputes arising out of their transactions in a way that honors the principles upon which the company was built. However, there are issues that arise when Christian arbitration is imposed on people who were not able to bargain for a clause in a contract or sign a contract in order to use a product or service, especially because Christianity's lack of an established law leaves much of procedure and substantive law up to interpretation. These issues may be rectified by cautious implementation of arbitration agreements found in contracts of adhesion when they turn on important Christian doctrine, through standardized qualifications and definition of those qualifications for arbitrators, and through a system of review within the system in order to challenge awards that are unfair and biased.

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<sup>141</sup> The current rules do not require the arbitrator to document the decision-making process. *Id.* at r.40 (“The arbitrators may, but need not, inform the parties of the reasoning by which the decision was reached.”).