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## GOOD FAITH AND ITS IMPACT ON THE ARBITRATOR'S DUTY OF DISCLOSURE

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### ABSTRACT

*Arbitration has faced several obstacles when resorted to as a mechanism for resolving disputes, which makes it necessary to develop guarantees capable of removing such obstacles. Arbitration laws have revealed several gaps in this regard, including the lack of clarity as to what an arbitrator must disclose. This calls for principles that support arbitral and judicial institutions, foremost among them the principle of good faith in the conduct of parties to the arbitral relationship – particularly the arbitrator, who is its most important element. Good faith is regarded as one of the unwritten sources in international trade that courts use when interpreting facts and circumstances that may affect the arbitrator's neutrality and independence. Accordingly, this study examines this principle, its underlying philosophy, and the obligations derived from it that aim to achieve fairness between disputing parties and prevent the undue preference of one party's interest over another's. This, in turn, helps avoid recourse to annulment actions or applications to challenge an arbitrator, both of which tend to prolong disputes. Among these obligations are: the parties' duty to refrain from contradictory conduct; the duty of the parties to inform, or to inquire into, circumstances and facts that may affect the arbitrator's impartiality and independence; and seriousness in appointment so as to deny the party acting in bad faith the opportunity to misuse the process.*

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**KEYWORDS:** Good Faith; International Commercial Arbitration; Arbitrator; Duty of Disclosure.

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## 1. INTRODUCTION

Courts have relied on general principles of law – such as good faith – to distill practical ideas arising from the substance of legal rules. These principles assist in interpreting legal provisions and have influenced the interpretation of statutory rules applied in arbitration. In international arbitration, tribunals have relied on such principles as they emerge from doctrinal explanations and judicial applications. Some scholars indicate that good faith has two functions: first, it is a general principle of law and an unwritten source of legal rules; second, it is a tool employed by judges and legislators to apply the law to concrete realities<sup>1</sup>. Good faith has significant weight in case law. In many instances, failure to comply with it has led to the annulment of arbitral awards, undermining arbitration's effectiveness and reducing parties' willingness to resort to it. It has also contributed to lengthening procedures and increasing court congestion<sup>2</sup>. Courts have repeatedly emphasized the general nature of this principle and that it may not be violated. For example, a Hungarian arbitral award issued in 1995 stated that good faith is one of the general principles of international trade and that no party may exclude it<sup>3</sup>. There is also an important precedent where an ICC tribunal in Paris departed from Turkish and French law and applied good faith as a substantive principle governing international commercial dealings<sup>4</sup>.

Given the lack of clarity in legislative provisions requiring arbitrators to disclose, and given the broad scope of good faith, the courts enjoy discretion to characterize legal facts and determine whether they affect the arbitrator. After this brief introduction, the first chapter sets out the concept of good faith.

### *Chapter One*

#### **The Concept of the Principle of Good Faith**

Providing a single, precise definition of good faith is difficult. It is a concept marked by ambiguity because it is used in more than one context and

overlaps with moral elements and notions such as mistake, ignorance, and non-intentional fault. In addition, its roles and functions are diverse. Because of this breadth, explaining good faith has become challenging.

Good faith is a principle that permeates many areas of law; its meaning in arbitration differs from its meaning in criminal or civil law. It is also a standard that incorporates custom and prevailing economic and commercial factors in international trade. It is therefore a practical criterion that enters the assessment of arbitrators and judges. Some have considered it the highest level of behavioral discipline in all circumstances<sup>5</sup>., we address the definition of the principle in a separate section.

### *Section One*

#### **Definition of Good Faith**

Most arbitration statutes do not define good faith, nor do they expressly refer to it despite its importance in solving many disputes. Therefore, we rely on doctrinal views. The definitions most relevant to this study are those framed from a civil-law perspective, because disclosure is an obligation borne by the arbitrator and arises naturally from performance of the parties' obligations, whether imposed by law or by the contract between them. Some define good faith as "loyalty and honesty in what the contracting parties intend and seek to achieve by concluding what they agreed<sup>6</sup> upon." In other words, it requires performing what the parties' will has turned to, with sincerity and honesty, and not departing from those elements unless by the parties' consent. This definition seeks to capture good faith in contractual relationships.

Because the purpose of disclosure is to protect the parties by requiring the arbitrator to act with impartiality and independence so that the resulting award is valid and does not contain loopholes enabling a party to challenge it<sup>7</sup>, the intent of the disputing parties and the arbitrator is to realize the purpose for which their agreement was concluded –

<sup>1</sup>) Rijken, *Incomplete Contracts and Good Faith in Different Legal Systems*, Sage Journals, Vol. 46, Issue 4, 2009, p.925.

<sup>2</sup>) Boroumand, Bibi Fatemeh and Shahbazinia, Morteza and Arabian, Asghar: *Ritual Goodwill of the Parties to Arbitration*, Quarterly Journal of Comparative Law Research, Volume 24, Issue 4, Winter 2020, p.2.

<sup>3</sup>) The ruling of the Hungarian Arbitration Court issued on November 17, 1995 in case No. 94124, was referred to by Dr. Belhaj Al-Arabi, *The Legal Framework of the Pre-Contractual Stage in Algerian Civil Law, A Comparative Study*, Dar Wael Publishing - Amman - 2010 - p. 71.

<sup>4</sup>) *Pabalk Ticaret Ltd. v. Norsolor S.A.*, Case no. 3131/1979, 9 Y.B. Comm. Arb. 109 (ICC Int'l Ct. Arb.).

<sup>5</sup>) Ahmed, *Arbitration in Internal and International Financial Transactions*, Civil, Commercial, Administrative and Customs - A Comparative Study, Dar Al Nahda Al Arabiya, 2006, p. 22.

<sup>6</sup>) Walid Saleh Morsi Ramadan, *The Binding Force of the Contract and the Exceptions to It between Islamic Jurisprudence and Civil Law*, Dar Al-Jami'a Al-Jadeeda, Alexandria, 2009, p. 264.

<sup>7</sup>) Khater, Talaat, (2015) *The neutrality and independence of the arbitrator between theory and practice*; Egypt, Dar Al-Jami'a Al-Jadeeda, p. 134.

something that cannot be achieved without good-faith performance of obligations.

### *Section Two*

#### **The Philosophical Basis for Applying the Principle to the Duty of Disclosure**

Any contractual relationship is meant to produce the effects the parties intended. Accordingly, good faith operates at two stages the negotiation stage, where the relationship is formed, and the performance stage, where what was agreed is carried out. This relationship should not be tainted by conduct involving mistake, deception, or fraud; any such conduct is a breach of good faith because it contradicts the parties' intention and undermines mutual trust. Good faith functions as an interpretation of the mutual contractual trust among all parties, with the goal of avoiding conduct that harms one party and improperly favors another's interests<sup>8</sup>. It is also described as a preventive obligation: it is not merely a remedy after a legal problem arises, but an obligation designed to protect the parties' interests at the time of contracting so as to prevent harm. Nonetheless, breach of good faith may require judicial intervention. The idea of good faith has helped rescue many rights where arbitration or judges could not find a specific legal text to support them. It is difficult to confine in a narrow definition; it expands to compensate harm, correct deviations, and achieve justice when a text is absent or unclear. Justice is not separate from law—indeed, the law often refers to justice and good faith<sup>10</sup>. Therefore, the arbitration agreement should be subject to good faith. The principle applies to the disputing parties and to arbitrators and arbitral institutions, and generally to any participant in arbitral proceedings, including counsel or experts<sup>11</sup>. Because arbitration depends on the parties' agreement, it is natural that their conduct—intentional or not—may violate the agreement<sup>12</sup>. Due to the absence of a comprehensive system protecting others from harm caused by negligence in negotiations or performance, legislation grants parties ways to protect their

interests and requires them to avoid bad-faith or fraudulent conduct throughout all stages of arbitration, from appointment of the arbitrator to issuance, correction, and enforcement of the award<sup>13</sup>. When the arbitrator discloses information and circumstances that may harm his or her independence and impartiality, the arbitrator must adhere to truthfulness and good faith<sup>14</sup>. Thus, good faith influences the interpretation and application of rules in a manner that meets the needs of international trade. Had arbitral practice been more consistently grounded in good faith, many criticisms of arbitration could have been avoided, since good faith is a central principle of international trade<sup>15</sup>.

### *Chapter Two*

#### **Obligations Derived from the Principle of Good Faith**

The obligations associated with good faith are numerous and difficult to exhaust. In this chapter, we address the principal obligations imposed by good faith on the parties in performing their obligations—whether in formation or performance of the arbitral relationship. We summarize them as: the duty to inform and to inquire; the duty to refrain from contradictory conduct; and seriousness in appointing the arbitrator.

### *Section One*

#### **The Duty to Inform and to Inquire**

To ensure mutual trust in contractual relations, legislation has sought to protect parties from deception, misrepresentation, and unfair advantage. This is reflected in a duty to inform, which is grounded in good faith. Failure to warn or inform a contracting party of hidden defects or material discrepancies may constitute "passive" fraud even without active intervention by the debtor<sup>16</sup>.

The content of this pre-contract duty is that if one party knows—or ought to know—a fact of decisive importance to the other party, the first party must disclose it, particularly where the other party could not reasonably discover it independently or was

<sup>8</sup>) Sulaiman, Shiraz, *Good Faith in Concluding Contracts*, Dar Dijla, Baghdad, 2008, p. 148.

<sup>9</sup>) Ibid.

<sup>10</sup>) Al-Ahdab, Abdul Hamid, *Arab Arbitration Journal*, Issue 3, Dar Al-Nahda Al-Arabiya, 2000, p. 72.

<sup>11</sup>) Cremades, Bernardo M. "Good Faith in International Arbitration", *American University International Law*, 2012, p. 787.

<sup>12</sup>) Adabi Hamidreza and Mashayekhi Sattar, *Scope and characteristics of the estoppel rule in domestic public law*, *International Journal of Nations Research*, Volume 4, 2019, p. 72.

<sup>13</sup>) Taghipour, *La responsabilité de l'arbitre (du juge privé) dans le droit du commerce international (droit français et droit comparé)*, 2013, thèse UB (dir. E. Loquin).

<sup>14</sup>) Adabi Hamidreza and Mashayekhi Sattar, *Scope and characteristics of the estoppel rule in domestic public law*, *International Journal of Nations Research*, Volume 4, 2019, p. 72.

<sup>15</sup>) Ahmed, Wael, *Good Faith in International Sales*, Dar Al Fikr Wal Qanun, Egypt, 2010, p. 208.

<sup>16</sup>) Al-Nasiri, Mustafa, (2013 AD); *The International Commercial Court*; Alexandria, Modern University Office, p. 347.

entitled to rely on the first party due to the nature of the contract, the status of the parties, or inaccurate information previously provided<sup>17</sup>.

Some scholars view the duty to inform as reciprocal, such that each party may be both creditor and debtor at the same time, although the common view is that one party often bears the heavier burden of disclosure<sup>18</sup>.

Paragraph (7) of the IBA Guidelines provides that an arbitrator must investigate and verify whether any potential conflict of interest exists, or any facts or circumstances that could raise doubts about impartiality, integrity, or independence. An arbitrator may not rely on lack of knowledge to justify non-disclosure if the arbitrator did not make a reasonable effort to investigate. The IBA Guidelines also provide that a party should object within 30 days of receiving a disclosure, or of learning facts or circumstances that may constitute a potential conflict of interest. Some scholars argue that selecting the third arbitrator through the party-appointed arbitrators, or through an arbitral institution, substantially reduces suspicions of lack of integrity.

Certain judicial trends—particularly in France—have taken the view that parties have a duty to inquire into facts that are publicly known, and that the arbitrator need not disclose such facts<sup>19</sup>. The French Cour de cassation has held that this inquiry duty arises during the constitution of the tribunal (the nomination/appointment stage) and does not extend beyond it; thereafter, post-constitution disclosure becomes the arbitrator's ongoing duty until the dispute is concluded. Other scholars argue that the parties' inquiry is not a separate "obligation" but rather an aspect of their right to investigate any circumstance that may raise doubts about the arbitrator's impartiality and independence, enabling them to lodge a timely challenge<sup>20</sup>. Some believe the expansion of the inquiry duty beyond the appointment stage, noting that it undermines trust in the arbitrator by implying continuous suspicion<sup>21</sup>.

Likewise, the same court, in the Tecnimont case, in its judgment issued in December 2018, affirmed the parties' obligation to conduct inquiries. However,

it appears that the court decided to extend the temporal scope of this obligation beyond the commencement of the arbitral proceedings. This approach was strongly criticized in legal scholarship, as it contradicts the previously settled case law holding that the parties' duty to conduct inquiries is limited to the stage of appointing the arbitrator and does not extend throughout the duration of the arbitration. Moreover, it completely undermines the parties' confidence in the arbitrator, as it implicitly assumes that the parties will continue to harbor doubts about the arbitrator despite his disclosure and throughout the arbitral proceedings, prompting them to investigate the accuracy of the information and facts disclosed<sup>22</sup>. Furthermore, a breach of this obligation within the scope of arbitration does not give rise to civil liability if the injured party becomes aware of it only after the award has been rendered; such awareness does not result in the forfeiture of the right due to the issuance of the award, but rather entitles the party to bring an action for annulment<sup>23</sup>.

In the arbitrator's relationship with the parties, good faith requires the arbitrator to disclose the nature of any relationship with the dispute or its parties. Liability rules—contractual or tortious—also require the arbitrator to act in good faith; otherwise, the arbitrator may incur liability. Tort liability may arise where the arbitrator negotiates without genuine seriousness, whereas contractual liability may arise during performance where the basis of the obligation was tainted by deception or unfairness.

## Section Two

### The Principle of Refraining from Contradictory Conduct (Estoppel)

Parties to the arbitral relationship must refrain from contradictory conduct that breaches obligations imposed by law. For instance, a party may try to evade submitting the dispute to arbitration by claiming that it was not a party to the arbitration agreement. Such contradictory behavior should be avoided; the objective is a fair hearing. Accordingly<sup>24</sup>, the arbitrator must disclose any relationship with a party or the dispute, and the parties must not

<sup>17</sup>Jacques Ghestin, *The Comprehensive Treatise on Civil Law - Formation of the Contract*, translated by Mansour Al-Qadi, University Foundation for Studies and Publishing, 2008, p. 46.

<sup>18</sup>Sulayman Shizar, *Ibid.* p383.

<sup>19</sup>The ruling of the French Court of Cassation is published online at the following website:

<https://www.dalloz-actualite.fr>

<sup>20</sup>Louis Christophe Delanoy, «Les obligations respectives des arbitres et des parties en matière d'indépendance de l'arbitre et Paris», 29 Mai 2018 et Paris 27 Mars 2018, p538.

<sup>21</sup>Marc Henry, « La connaissance en arbitre de l'indépendance et l'impartialité, note Cass. Civ. 1re, 16 décembre 2215 », p. 545.

<sup>22</sup>Thomas Clay, « Tecnimont Saison 6, «entre action et réaction», 2019 , p. 427.

<sup>23</sup>Haddad, Hamza, *Arbitration in Arab Laws, Part One*. 1st ed. Beirut: Al-Halabi Publications, p. 347.

<sup>24</sup>Borumand, Bibi Fatemeh; Shahbazinia, Morteza; and Arabiyan, Asghar, *op. cit.*, p. 19.

manipulate the process by claiming ignorance of relationships that are generally known or by arguing—without basis—that such relationships cannot affect the arbitrator's impartiality and independence. The arbitrator's duty of disclosure is continuous throughout the proceedings, requiring disclosure of any change affecting the arbitrator's relationship to the dispute or its parties, and refraining from any conduct harmful to a party.

This is linked to the concept of proprietary estoppel, whereby one party's deliberate silence encourages the other to continue acting in a way that infringes the first party's rights. For example<sup>25</sup>, The parties may accept the appointment of an arbitrator despite the existence of a connection between him and the dispute or its parties, and then, after some time, bring an action for annulment or request the removal of the arbitrator on the pretext of lack of impartiality or independence. However, a party that participated in the arbitral proceedings leading to an arbitral award without objecting to the constitution of the arbitral tribunal may no longer, according to the estoppel rule, request the enforcement judge to refuse enforcement of the award on the ground of an irregularity in the tribunal's constitution. This plea is dismissed because that party implicitly consented to the constitution of the arbitral tribunal<sup>26</sup>. As stated in one ruling: "A litigant may not invoke a challenge to an arbitral award contrary to what he had previously stated or accepted during the course of the arbitral proceedings."

The term estoppel is derived from the Latin word *Stuppa*, known in Greek as *Stuppe* and in German as *Stoppan*, and borrowed from the Old French term *Estoupe*, which was replaced in the nineteenth century by the word *Etoupe*. Its roots trace back to English law at a time when the language of the law was Norman French. The term carries several meanings, including "valve" or "stopper" (*bouchon*). This principle emerged in the twelfth and thirteenth centuries, originating in English law, and later spread to other legal systems such as Australian and American law. International commercial arbitration

contributed to the adoption of this rule in Latin legal systems, such as French law. This principle has assisted arbitrators and judges in overcoming deception and procedural bad faith in order to direct proceedings toward fairness and justice. The doctrine prohibits contradictions or stratagems that lead to injustice, and the principle of good faith in the performance of contracts and obligations constitutes the legal foundation of this rule. Some have defined it as "a legal bar or prohibition against a claim in denying facts previously alleged or prior conduct, preventing the person against whom estoppel is raised from refuting a fact or adducing contrary evidence"<sup>27</sup>.

The term Estoppel is derived from the Latin word *Stuppa*, known in Greek as *Stuppe* and in German as *Stoppan*, and borrowed from the Old French term *Estoupe*, which was replaced in the nineteenth century by the word *Étoupe*. Its roots go back to English law at a time when the language of the law was Norman French. The term carries several meanings, including "valve" or "stopper" (*bouchon*). This principle emerged during the twelfth and thirteenth centuries, where it was initially grounded in English law, and later spread to other legal systems such as Australian and American law. International commercial arbitration contributed significantly to the transfer of this rule to Latin legal systems, particularly French law<sup>28</sup>. This rule has assisted arbitrators and judges in overcoming deceit and duplicity in proceedings, in order to guide procedures toward equity and justice. It prohibits contradictions or stratagems that lead to injustice<sup>29</sup>.

The legal foundation of this rule lies in the principle of good faith in the performance of contracts and obligations<sup>30</sup>. Some have defined it as "a legal bar or inadmissibility of a claim preventing the denial of facts based on an initial allegation or prior conduct, whereby the person against whom estoppel is raised is prevented from refuting a fact or producing evidence to the contrary"<sup>31</sup>.

The French Court of Cassation adopted the doctrine of estoppel in its judgment of 6 July 2005,

<sup>25</sup>) Ahmed, Mustafa, The Speciality of Good Faith before the International Commercial Arbitration Authority, PhD Thesis, Ain Shams University, Egypt, 2022, p. 499.

<sup>26</sup>) The ruling of the Paris Court of Appeal, First Civil Chamber, published in the Arbitration Journal, Dar Al Nahda Al Arabiya, Issue 2, 2009, p. 817.

<sup>27</sup>) Cairo Court of Appeal, Seventh Commercial Circuit, Case No. 57 of 128, 2012.

<sup>28</sup>) Suad, Mahaji, The Stubl or what is known as the principle of non-contradiction to the detriment of others in procedural law, The Academic Journal of Legal and Political Research, Issue 3, p4.

<sup>29</sup>) Shahbazinia, Morteza and Iftikhar Jahromi, Goodarz, A Study of the Estoppel Rule in English and American Law, International Legal Journal of the Islamic Republic of Iran, Volume 20, 2004, p. 7.

<sup>30</sup>) Al-Mousawi Ali, The Rule of Closure and its Legal Applications, a research paper presented at the Second Scientific Conference of the College of Law, Al-Nahrain University, Baghdad, 2010, p8.

<sup>31</sup>) Shaaban, Jamil, Means of Addressing Procedural Abuse in Private International Relations, Al-Muhaqqiq Al-Hilli Journal of Legal and Political Sciences, Issue 3, Year 11, Babylon, 2019, p. 17.

ruling the annulment action against an arbitral award inadmissible when brought by a party who had resorted to arbitration and participated in its proceedings without reservation for a period exceeding nine years. This ruling arose in the dispute between the Islamic Republic of Iran and the United States and is considered the first judgment to expressly refer to this doctrine. The Court held that “a party who requested arbitration before the Iran–United States Claims Tribunal and participated for more than nine years in the arbitral proceedings without raising any reservation may not, pursuant to the doctrine of estoppel, be permitted to advance a contradictory argument alleging that the tribunal ruled in the absence of an arbitration clause or on the basis of its invalidity.”

Procedural estoppel is a formal procedural rule applied in judicial disputes to prevent inconsistency in statements and conduct. The Iraqi Civil Code refers to this principle in Article 150, which provides that “a contract must be performed in accordance with its contents and in a manner consistent with the requirements of good faith.” Good faith here means that each party must perform its contractual obligations and avoid causing harm to the interests of others by refraining from fraud, deceit, and contradictory conduct. Accordingly, the principle of estoppel is intrinsic and central to the application of good faith in international commercial disputes before arbitral tribunals. The positive engagement of the parties with the arbitral process reflects respect for arbitration and forms part of their conduct in relation to the subject matter of the international commercial dispute; arbitration and its subject matter are indivisible<sup>32</sup>.

In another judgment, one court held that “if one of the parties to the dispute continues with the arbitration proceedings while aware of a violation of a condition in the arbitration agreement or of a provision of this law that may be derogated from by agreement, and fails to raise an objection to such violation within the agreed time limit or, in the absence of agreement, within a reasonable time, such party shall be deemed to have waived its right to object.” This rule thus favors the protection of arbitral proceedings from abuse by one of the parties to the dispute<sup>33</sup>.

### Section Three

#### Seriousness in Appointing the Arbitrator

Sometimes parties agree to appoint a sole arbitrator, which poses no difficulty. However, in other cases, one party appoints an arbitrator and the other party refuses to appoint its arbitrator. Many laws<sup>34</sup> allow the first party to apply to court to set a deadline compelling the other party to appoint an arbitrator.

A practical question arises where a party’s refusal reflects bad faith aimed at delaying resolution. Some legislations address this by allowing the arbitrator appointed by the other party to act as the sole arbitrator, in order to prevent time-wasting by the party acting in bad faith. Some systems require judicial authorization<sup>35</sup>. French courts have considered such solutions not contrary to public policy or morals, provided that the applicable law permits it and the appointing party proves it notified the respondent of the appointment.

It is also often recommended that, where possible, the third arbitrator or presiding arbitrator be of a nationality different from that of both parties. Psychologically—and sometimes politically—the prospects of neutrality are greater when the arbitrator is from a different state. This is associated with the idea of “national neutrality<sup>36</sup>.” Many institutional rules reflect this idea, such as provisions in ICC rules and the UNCITRAL Arbitration Rules. In English practice, national neutrality is often considered an important safeguard in international commercial arbitration; failure to respect it may create an unhealthy atmosphere of suspicion surrounding the proceedings.

### RESULTS

This article shows that good faith is a general principle that can be relied upon in questions of disclosure by assessing how facts and circumstances affect the arbitrator where the award gives rise to doubts about impartiality and independence. Because many legislations leave the substantive scope of disclosure unclear, it is necessary to rely on other means to interpret the facts and circumstances accompanying the proceedings where they raise doubts about the arbitrator’s neutrality and independence.

<sup>32</sup>) Mustafa, Ahmad, *Ibid*, p. 499.

<sup>33</sup>) The ruling of the Egyptian Court of Cassation, Economic Circuit, Appeal No. / 18309 / of the 89th Judicial Year, issued on 27-10-2020.

<sup>34</sup>) Article (17/1/a) of the Egyptian Arbitration Law states: “If the arbitration panel is composed of one arbitrator, the aforementioned court shall choose him based on the request of one of the parties.”

<sup>35</sup>) Khaled, Hisham, *The Formation of the Arbitration Court in International Trade Disputes*, Knowledge Establishment, Alexandria, Volume One, no publication year, p. 59.

<sup>36</sup>) Khaled, Hisham, *Ibid*, p. 95.

Case law-based inquiry duties help block the path for the party acting in bad faith. The study also indicates that certain facts may evidence bad faith, including lack of seriousness in appointing the arbitrator. In such circumstances, courts may appoint the sole arbitrator appointed by the other party, and the party acting in bad faith may not later invoke lack of impartiality or independence as a defense, because it was obliged to appoint an arbitrator and not deliberately prolong the dispute.

Good faith is preventive in nature: it aims to avoid conduct that raises doubts about neutrality and independence and prevents the improper preference of one party's interests over another's. It compensates harm, corrects deviations, and achieves rights where legislative texts are absent or unclear.

Good faith is no less important than justice principles to which the law often refers when interpreting facts.

The article also identifies a relationship between estoppel and the present topic: where parties accept an arbitrator despite knowing of connections to the dispute or a party, estoppel may preclude them from later challenging the award on grounds contrary to their earlier conduct. Parties are bound not to argue against what they previously accepted during the arbitration process.

Finally, the duty to inform and to inquire aims primarily at ensuring good-faith conduct among all participants and preventing procedural manipulation that prolongs disputes and undermines the main reason parties choose arbitration—speedy resolution.

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