INFORMATION ETHICS AND SECURITY

Future of International World Time

SYLVIA KIERKEGAARD (Ed.)

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Preface

Law shapes and reflects politics, economics and society. The purpose of law is to regulate society and its development. The law provides guidelines to proper behaviour and governs the relationships between individuals, organizations and nations.

Information Ethics and Security - Future of International World Time brings together the various themes and aspects connected with the topic of private and public law. The aim of this book is to take account of these significant changes and provide readers with the most authoritative and current information in the areas of private and public law. These include the most recent information within the legal structure behind a number of trends in the internet and a detailed investigation into the dealings of governments and international organizations.

The purpose of the Conference is to build communities among constituencies interested in these varied yet related topics, including researchers, policymakers and legal scholars, who are seeking to develop new ideas and to enhance their understanding of the legal policies both public and private. These papers represent six continents and more than two dozen countries provide an enriching and unique experience.

The Legal scholars participating in this year's international conference organized by The International Association of IT Lawyers held in Portugal and who have had the time and interests in discussing various aspects in public and private law. I would like to thank all the authors who have contributed to this book. I hope that this book, and the contribution within it, will help us identify a common legal solution to certain legal issues.

Professor Sylvia Kierkegaard
October, 2014

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The Principle Of Good Faith In The Implementation Of Arbitration Proceedings

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Abstract. Business disputes may occur due to bad will by either of the disputing parties, or because of their ignorance into looking at problems that occur. Problems from a dispute that continue without a settlement and that could have been reached, have now evolved into complex problems.

With the parties agreement to an arbitration clause, as applicable in the law provided for in Article 1338 paragraph (1) of the Indonesian Indonesia Civil Code, which states: "All agreements made is valid as the law applies to those who make it."

The agreed choice of dispute settlement as set forth in the arbitration clause, which is the law for the parties, must be followed in good faith by the parties to resolve the settlement as provided in Article 1338 (3) of the Indonesian Indonesia Civil Code, which states "the agreements must be performed in good faith.".

Thus the choice of dispute resolution through arbitration that has been set forth by the parties is a legal option which is known as the "law of the parties." It is fitting for the parties, who undergo an arbitration process, that they are aware of the choice of law chosen by the parties in the dispute, namely as a form of settlement that is peaceful, fast and confidential, so later at the end of a decision the parties involved in the dispute should be elated to accept the decision and voluntary establish it, without the need for efforts to execute the decision.

A. Introduction

The globalization era has touched almost every line of business, including trading, monetary and industrial fields. As long as the business runs, we do not realize that business causes many disputes among businessmen in implementation of the working contracts, entered between the businessmen. That is why there is a need for efficient, low-cost and fast dispute proceedings, which will also maintain the reputation and trading relations between the parties that have the legal dispute.

Furthermore, if the dispute cannot be solved in a relatively short term, because one of the parties does not act in good faith or is deliberately suspending the dispute in the implementation of pre-dispute, when the dispute happens, or in the proceeding, a disadvantage will be felt by the people/companies doing their businesses, which may cause bankruptcy.

Business disputes can be caused by the existence of bad intentions from the parties having the legal dispute or due to their lack of knowledge of looking at the occurring problems ending without any resolution.

A fast dispute proceeding maintains the confidentiality of both parties and is handled by professionals and experts. This is a reason the business society have the preference to choose the dispute proceeding through Arbitration instead of district court proceedings.

In the effort of resolving the said dispute, the parties make an agreement that accommodate an arbitration clause, which is basically regulated and emphasize that there is a dispute. The two parties will undergo a discussion to resolve the dispute, and if the discussion does not result in a solution, the parties have agreed to an arbitration/Ad-Hoc institution to resolve their disputes.

The arbitration principal is "non-confrontation and cooperative," in which the parties resolve the disputes they have by looking for the solution of the problems/trading dispute in order to do trading activities again after the dispute has been solved by the 3rd party.

The hope and big heart in the implementation of the arbitration process is done by the disputers based on the good faith. These good faith decisions in the arbitration, is a solution of the dispute and is trusted by the parties as a "win win solution".

BLACK Law Dictionary:[1]

> **Arbitration**. "A process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have an opportunity to be heard. Where arbitration is voluntary, the disputing parties select the arbitrator who has the power to render a binding decision."

Stanford M. ALTSCHUL, (The Most Important Legal Terms You'll ever Need to Know, 1994):

> "**Arbitration**. An alternative dispute resolution system that is agreed by all parties to a dispute. The system provides for private resolution of dispute in a speedy fashion."

RODALE (The Synonym Finder, 1986) states:

> **Arbitration**. "Mediation, negotiation, bargaining, peacemaking, bringing together, reconciliation, reconcilement, conciliation, intervention, interposition, intermediation, interference. Judgement, adjudication, decision, determination, settling, settlement, Hearing, trial, parley, conference, discussion."

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[1] Black, H.C., *Black's Law Dictionary, Definition of the Term and Pharases of American and English Jurisprudence, Ancient and Modern*, West Group, St Paul Minnesota, 7th. Edition, , 1999, page 105.

Subekti argues: [2]

> "Arbitration is a dispute solution by one person or several arbitral that are appointed by the parties that have the dispute by not taking it to the court."

Article 1 Clause (1) Undang-Undang Arbitrase dan Alternatif Penyelesaian Sengketa Indonesia No. 30 Tahun 1999 (Indonesia Arbitration Law and Dispute Resolving Alternatives):

> "Arbitration is a civil dispute resolution outside the court which is based on the arbitration agreement written by both disputants."

Based on the definition and the opinions of the experts, we can see that the process and the way arbitration work in resolving arbitration disputes, is a peaceful dispute resolution, which is chosen by the disputants preceded by the arbitration clausal in the working contract of the disputants, in which the parties appointed the third party or arbitrary, who is trusted and has the expertise by the parties with the specific time process to give an arbitration decision in a closed proceedings.

The legal choice of a dispute resolution, through arbitration proceedings and the appointment of an arbitrary, show that the dispute between the parties is a legal choice. In selecting arbitration the parties can make a trusted decision that has a good effect on both parties, so it can be a win-win solution.

With the arbitration agreement/clausal made by the parties, this has the legal power as a law (pacta sunt servanda), which is regulated in Article 1338 clause (1) Kitab Undang-Undang Hukum Perdata Indonesia (Indonesia Civil Code) that states:

> "(1) All the agreements that is made legally applied as the law for those who made it."

The choice of dispute resolution by arbitration by the parties is a legal choice which is known as "law of the parties," so that the parties should realize that the legal choice, which is dispute resolution should be done in peace, fast and confidential, so that in the future the parties should accept the decision of the arbitration, even without force.

> "(3) The agreements must be implemented with good faith."

As an effort to support cooperation among businesses in the economic development in Indonesia, we need to give the knowledge to the businessmen in implementing the agreements, that generally the parties use the legal services to make/review the contract, both pre-contract, post contract implementation, contract disputes resolution and the end of the contract.

The contract made by the businessmen should have the same principal basis that is that every contract is based on the good faith.

In business terminology, good faith comes from Latin words "bona fide", which is defined as an effort to not seek for immoderate fortune, or not deceiving the other party,

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[2] Abdurrasyid, Priyatna, Arbitrase dan Mediasi (*Arbitrastion and Mediation), Lampiran Makalah I-1A*, Pusat Pengkajian Hukum, First Edition March 2003, page 34.

faithful to fulfill the duty or observance of reasonable standards of fair dealing. Meanwhile in legal term, good faith is an abstract term and comprehensive, including sincere belief or motive without hatred or intention to deceive other parties. With that background, this paper will be discussing the principle of good faith in the making of a contractual agreement.

The problems that usually are found in the arbitration proceeding is that many parties do not implement the arbitration well, or they do not act in good faith. So, there are many things that contradict the arbitration agreement/clause that has been made. The parties that do not want the arbitration process in the dispute will report to the court or making a criminal report for the problems that they face, so that the execution will meet some constraints by suing to cancel the arbitration decision or resisting the arbitration decision, that have the legal power.

B. PRINCIPAL OF GOOD FAITH AND THE INTERPRETATION

1. Principal of good faith according to the civil law legal system

Good faith is a main principle in the field of business and law. One that acts in good faith, which is positive in the eye of the law, is said to be working with invisible faults, and is thus free. This consideration is often implemented to determine the level of the right and duty in many agreements made by people. Good faith is an expectation and pillar in implementing the content of the contract.

The principle of good faith is derived from the contract law and civil law, which is rooted in the Roman law.[3] The common law system traditionally does not recognize the principle of good faith in a contract. A country where the common law system has recognized the principle of good faith in the contract legal system is United States.[4]

In Indonesia, the principle of good faith has been accommodated in the Indonesian legal system. In Book III of the Indonesia Civil Code[5], it is acknowledged that there are four important principles, which is universal, those are principle of freedom of contract, principle of pacta sunt servanda, principle of good faith and principle of consentualism. The first three principles are: the freedom of contract, pacta sunt servanda and good faith, these can be concluded from the Article 1338 Indonesia Civil Code that states:

> "All agreements that is made according to the law acts as a law for those who made it. The agreements cannot be cancelled except with the agreement of both parties or because of the reasons that stated by the law. The agreement should be implemented with good faith."

Although it is not clearly stated, it is implied that in all agreements, there should be good faith from both parties. This good faith is not limited to the time of doing legal relationship, but in doing their right and duty from this relationship.

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[3] Look Mary E. Histock, The Keeper of the Flame: Good Faith and Fair Dealing in International Trade, *Loyola of Los Angeles Law Review*, Vol 25 April 1996, page 160

[4] Ibid, page 160

[5] Harahap, M. Yahya, *Segi-segi Hukum Perjanjian (Aspects of Contract Law)* (St.No. 23/1847), Alumni, Bandung, 1986, page 3

In the case of the arbitration process that need consistency in treatment of the parties to keep the good faith as stated in the Article 6 paragraph (7):

> "The written agreement of such resolution of the dispute or difference of opinion be final and binding on the parties concerned, shall be implemented in **good faith**, and shall be registered in the District Court within no more than thirty (30) days after it has been signed."

Furthermore, in Article 97 Law number 40 year 2007 re Limited Liability Company (UUPT), it is stated that every member of the board of directors must have good faith and responsibility in doing their duty in the interest of the company's business.[6] It means that the directors (or commissariats) have the fiduciary responsibility, which demands the directors (or commissariats) to act with the good faith, loyalty and fairness in the interest of the company.

According to Subekti, good faith is an important joint in the agreement law. In the beginning the legal experts in Indonesia thought that good faith was subjective, while in the Netherland, the good faith definition has been expanded and the good faith is seen as an objective matter.

For example, in Nieuwe Burgelijk Wetboek (NBW), the definition of good faith consists of the principle of appropriateness and decency (redelijkheid en bilijkheid). So, good faith in doing the duties and the rights that comes from the legal relationship (agreement) should be considered the norms of appropriateness and decency by avoiding the actions that might cause loss to the other parties.[7]

Furthermore, Subekti also stated that the laws itself always pursue two goals, to ensure certainty (order) and fulfilling the justice demand. In the first clause Article 1338

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[6] Article 97 Undang-Undang Perusahaan Terbatas Indonesia No. 40 Tahun 2007 (Indonesia Limited Liability Company):

(1) The directors are responsible for the management of the company a stated in Article 92 clause (1)
(2) The management as stated in clause (1) must be done by every member of director boeard with good faith and full responsibility.
(3) Every member of director beard fully responsible personally for he loss of the company if the director make mistakes or negligent to do their job according to the provision as stated in clause (2)
(4) In the term that the director board consists of 2 (two) people or more, the responsibility as stated in clause (3) is applied for all the boards' members.
(5) The boards' members do not responsible for the loss as stated in clause (3) if it is proven that:
    a. The loss is not because of their faults of negligence;
    b. They have managed the company with good faith and care for the interest and according to the vision and mission of the company;
    c. Do not have a clash of interest directly or indirectly for the management action that causes the loss; and
    d. They have done the preventive actions for the loss.
(6) In the name of the company, the shareholders that represent the at least 1/10 of the whole share with the voting rights can sue through the court against the board members that because of their fault causes the loss of the company.
(7) The provisions stated in clause (5) does not decrease the rights of the other board members and/or commissariat members to sue in the name of the company.

[7] Subekti, *Hukum Perjanjian (Law of Contract)*, Itermasa, Jakarta, 2001, page 41
also see, Wirjono Prodjodikoro, *The Principles Law of Contract*, Edition VII, Sumur Bandung, Bandung, 1979 page 85.

of the Indonesia Civil Code, it can be seen as a requirement or legal certainty demand (agreement is binding). The third clause of Article 1338 of the Indonesia Civil Code should be seen as a demand of justice.[8]

2. The Interpretation of Good Faith

Although almost everyone generally understands what is meant by good faith, it becomes the most important principle in the contract law and is accepted in many legal systems. Doing good faith, realizing it or not becomes a reality that is hard to be implemented in the legal terms. It can be understood, because the regulation of good faith in the contractual law is minimal, even in the civil law countries that include the good faith in the civil law book.

The implementation of good faith based on the Article 1338 in the Indonesia Civil Code is not easy, considering that good faith is not something that is self evident, but it is vulnerable of many interpretations, as stated in Black Law's Dictionary,[9] good faith is:

State of mind, in which:

(1) Honesty in the trust or intention;
(2) Loyalty in duties and responsibilities;
(3) Obedience to the commercial standards in transaction of trading or particular business; or
(4) There is no intention to fraud (defraud) or seeking for unconscionable advantage.

Sutan Remy Sjahdeini,[10] on the other hand stated that good faith is:

> "The intention of the parties in an agreement to not cause the partners a loss or public disadvantage."

According to Ridwana Khairandy: [11]

> "Good faith should exist from the phase of pre-contract in which the parties started to negotiate to reach the agreement and the contract implementation phase."

From all the definitions above, it can be found that there are many different definitions, but all underlines the good action/intention, that does not cause disappointment, loss for other people. The good action should be maintained from the beginning until the end of the legal relationship of the parties.

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[8] Subekti loc cit

[9] Black, Henry Campbell. op cit., page 693

[10] Sjahdeini, Sutan Remy. Sjahdeini, Sutan Remy, *Freedom of Contract and Balanced Protection for the Parties in the Credit Agreement in Indonesia.* Jakarta: Institut Bankir Indonesia. 1993. page.112

[11] Khairandy, Ridwan, *Itikad Baik Dalam Kebebasan Berkontrak* (*Good Faith in Freedom of Contract*). Jakarta: Pasca Sarjana FH-UI. 2003. page. 190

Good faith emphasizes on the loyalty of a common agreement and is consistent with the hope that is corrected from their parts, not including the types of actions that have traits of bad faith, because it violates the society's standards of decency, fairness or reasonableness[12].

With the provisions in Article 1338 clause 3, the parties are expected to implement the contract which is balanced for both parties. The position of the strong creditor in a contract is stated in Article 138 first paragraph of the Indonesia Civil Code is balanced with the duty to have a good faith.[13]

3. The Principle of Good Faith in Negotiation Process and Preparation of Contract

The scope of the good faith, which is stated in civil law in many countries such as Indonesia, still only emphasizes on the implementation of the contract, whereas, good faith should exist from the negotiation and preparation of the contract. In many countries, like Italy, the good faith has been stated in the process of negotiation and preparation of the contract. Article 1337 of the Italian Civil Code, states that the parties in doing negotiation and preparation of the contract, must do so in good faith.

In Netherland, the good faith in the process of negotiation and the preparation of contract has been acknowledged through the Hoge Raad in the case Baris v. Riezenkamp (HR. 15 November 1957, NJ 1958, 67).14 This verdict stated that the negotiated parties must have good faith with the consequences, that the other party should pay attention to the legal interest of the other party in a contract. Although the jurisprudence of Holland has accepted the good faith in the negotiation and preparation of contract, this principle is not adopted yet in Nieuwe Burgelijk Wetbboek (NBW), and therefore the development of this principle is submitted to the court.

C. IMPLEMENTATION AND PROBLEMS FACED

1. Procedures for Arbitration

The procedure of arbitration is basically the same as a trial held in the general court, one thing that distinguishes it from the other is the limited time the trial takes and that the decision is final and binding. Legal proceedings cannot be performed unless evidenced by the criminal action, as provided in Article 70 Law No. 30 of 1999 on Arbitration Law.

The procedure for an arbitration trial is as set forth below:

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[12] Black, Henry Campbell, loc. cit, page 701:

[13] Badrulzaman, Mariam Darus, *Kompilasi Hukum Perikatan – Bagian Kedua : Tujuan atas Beberapa Aspek Hukum dari Prinsip-prinsip UNIDROIT dan CISG (Law Compilation Engagements - Part Two : Overview on Some Legal Aspects of the UNIDROIT Principles and the CISG)*, Citra Aditya Bhakti, Bandung, 2001, page 88.

[14] P.L. Wery, P.L. Wery, *Perkembangan Tentang Hukum Itikad Baik di Nederland (Developments on the law of Good Faith in the Nederland)* (HR 15 November 1957, NJ 1958, 67), Percetakan Negara, Jakarta, 1990, page 15

1) The administrative fee must be fully paid by both parties (for the same section) before the start of the arbitration case. In general, the determination of the amount of administrative fees is based on the percentage of charges filed by the applicant.
2) Arbitration is established by legal provisions, the parties' agreement and the direction of the arbitrators.
3) Arbitration could be established in accordance with the policy of an institution or the policy of an ad hoc thus the procedure of arbitration will be based on the institution's policy or the ad hoc.
4) The most important in the procedure of arbitration is the *Code of Ethics and Conduct for Arbitrator*
5) Arbitration trials are closed and therefore can only be attended by those who have the power from the leadership of each of the parties and are known by both parties. Other parties can not attend unless approved by both parties and from the arbitrator/arbiter council.
6) With the registration of Arbitral Decision at the District Court, the decision has the power of executorial.
7) The implementation of Arbitral Decision does not need to wait for the execution of the District Court but it can be done voluntarily by the parties concerned.

Every institution will have a different arbitration and ad hoc procedure from others, although they resemble each other. The great difference usually lies in the cost and time period for the process of the arbitration and implementation / arbitral trials.

According to ALTSCHUL:[15]

> "A Trial of a case before a private tribunal agreed to by the parties so as to save legal cost, avoid publicity, and avoid lengthy trial delay."

The presence of a mediator is especially needed to resolve the dispute either in the process of Arbitration or Alternative Dispute Resolution (ADR). Settlement of disputes by peaceful means will make allowances for the hearts of the disputing parties. As long as the parties can be placed side by side and are willing to express volition, then the parties can find the peace that is based on good faith, thus as the opinion of ALTSCHUL above, they can be proven to be able to settle the dispute without cost, as it can be carried out by the parties by running ADR process.

2. Reason For Choosing Arbitration

Arbitration (ADR) is considered to be more convenient for the parties to resolve their disputes rather than through the District Court. This is due to:

[15] ALTSCHUL Standart M, The Most Important Legal Terms You'll Ever Need To Know, 1994.

1) Agreement that is made could directly specify the Arbitration clause to anticipate if there is a dispute in the long run, thus the parties can reach a settlement through arbitrary ones;
2) The parties could choose arbitration institution that will handle it, or may through the ad hoc;
3) Could choose a court place for the trial;
4) Confidential arbitration process, provide an assurance of confidentiality and unwanted publicity, because it is closed and not confrontational and cooperatively going - peaceful, the difference with the court held open to the public, press are often exposes in the mass media. A state that may harm the parties, especially the reputation that may affect the integrity, the reliability of those who are in disputes;
5) By nature it leads to the privatization of dispute settlement and may say to be addressed to the position of "win-win" and not to what typically happens in a court risking a "win-loose" trial and a lot occur something such as "trade of law;"
6) Could determine the procedural law of arbitration in accordance with the dispute at hand, for example: Indonesian National Board of Arbitration (BANI Arbitration Center), The International Chamber of Commerce (ICC), The International Centre for Settlement of Investment Dispute (ICSID), United Nations Commission of International Trade Law (UNCITRAL), Singapore International Arbitration Centre (SIAC);
7) Could predict/determine the time, place and court fees (depending on the procedural law used);
8) Could choose a single Arbitrator / Arbitrator from respective parties which is trusted;
9) Arbitration decision, in accordance with the will and intention of the parties is a final and binding decision to the parties for the dispute; instead of a court decision which is open to judicial review that takes a long time.
10) Arbitration is good only for bona fide entrepreneurs and those who have a good faith, and not those who often use courts as a tool to circumvent obligation or buying time in fulfilling obligations , of course, with the help of a lawyer, which is not responsible.
11) Because the decision is a final and binding , its procedures can be fast, not expensive and much lower than the costs that to be incurred in public court trials. Especially if you happen to be handled by a lawyer which is less responsible thus the problem may be getting worse with a bad will and thus extending the process for as long as possible.
12) The procedure of arbitration is more informal than court procedures and therefore open to acquire such kindship settlement procedures and and peace ("amicable") solution; to maximize opportunities to continue commercial relationship between the parties in the future after the end of the process of dispute settlement.

13) Specialized in international arbitration, creating procedures for settlement of commercial disputes peacefully (arbitration) is the result of the things below, for example:
    a. The parties (foreign) hesitate to submit their disputes in national courts;
    b. Especially if the opponent disputes is an institution or an individual citizen. There is always a concern that the judiciary of the country concerned is not, or at least not be affected by its mastery and not being independent;
    c. Foreigners are lacking understanding of the procedures / procedures of a state court and feels in a disadvantageous position.
    d. Judicial states use the national language in general but now more or less it has been guaranteed to enactment the " United Nations Conventional on the Enforcement of Foreign Arbitral Award 1958" (New York Convention 1958), which has been ratified by almost all countries, including the industrial- and developing countries.[16]

Based on the above considerations, both parties who dispute a settlement through arbitration should maintain good faith. When the signed contract, during the contractual period and, if an incident of dispute occurs, the necessity of maintaining the good faith should be considered. This is so that the dispute settlement can gain benefits in the interests of the parties. In contrast, if the parties cannot act in good faith whilst carrying out the process of a dispute settlement, then the considerations mentioned will not be helpful. What has become into a dispute will not end well, for example considerations in the arbitration process such as: confidentiality, provide assurance to the confidentiality and publicity, publicity, when at the execution of the arbitration decision the respondent seeks to deny its obligation by postulating things sought from the arbitration process, all as a loophole in order to circumvent the problems of its obligation to pay a compensation. All this will in the end only harm the good name and delay the completion of such process.

3. Principle of Good faith as a Pillar in Implementation Process For Arbitration

Good faith or attitudes of the parties, who are in disputes in resolving differences/disputes at hand, should refrain from signing contract of the parties to the dispute. Since a contract was signed, it has raised a legal relationship, the rights and obligations of the parties, all during the proceeding of the contract, until the outcome of the arbitration.

As what has been mentioned in section B regarding good faith, the principle of arbitral law is actually coming from the agreement between the parties themselves, and is in accordance to the Article 1338 of the Indonesia Civil Code. Paragraph (3) is especially based upon the good faith of the both parties.

Arbitration is a process that should be based on the good faith of the parties to the dispute, because if it is not based on good faith, the choice of law for the parties is said

[16] Ibid, page 36

to be incompatible. If this process is done cooperatively, transparent, closed (confidentiality assured), an amount of money is paid for the percentage of the value of claims for compensation, and should be kept with the spirit of good faith. How can it be possible for an arbitration decision of a dispute settlement solution to be a win-win solution, if it is not based on good faith as a pillar in the dispute settlement of arbitration, as an arbitration trial process is no longer appropriate if proven that there is bad will by one of the parties? Moreover, if the party that has an obligation to make restitution of the contents of the arbitration decision and does not accomplish, either voluntarily or by force, and are attempting a time delay in order to not meet its obligations, then it is evident that the party has acted in bad will. The end results are publicized; thereby the reason behind the parties' choice to use dispute settlement through arbitration becomes ineffective.

The choice of dispute resolution through arbitration is a legal option known as the "law of the parties". The parties should establish the arbitration process and remain aware of the choice of legal law chosen by the parties to the dispute, namely as a conciliatory settlement that forms peacefully, fast and secure confidential decisions to disputes being experienced by the parties. At the end of any decision resulting from an arbitration, the parties to the dispute should be elated, accepting the decisions and should voluntarily follow the decisions content, without the need for such forceful measures in carrying out the execution.

D. Conclusion

In conclusion, the author finds that the application of the principle of good faith in doing business activities, particularly the implementation of cooperation contracts made by the parties, will create a legal relation of rights and obligations of the parties in fulfillment of the cooperation and good business development, as agreed and binding for the parties, and applicable as a law for them according to the provisions of Article 1338 in the Indonesia Civil Code, which is made on the basis of good faith.

Settlement of a contractual dispute arising from the arbitration, and alternatively of dispute settlement can be resolved properly and quickly by following the existing laws. Proceeded by the existence of an arbitration clause in the contract made by the disputing parties, it is to be registered in a legal law institution authorized in accordance with the stipulation in the contractual arbitration clause. It also requires support expertise, for example the assistance of a professional lawyer, either by the ADR and/or by arbitration process. For the party, who is beyond the disputes as a mediator or decision maker in the arbitration, it is usually easier to see the problem than it is for the parties already involved in the dispute.

In order to establish all the processes in settling the dispute, the principle of good faith should be kept until the final process of dispute has been reached. That has been the option chosen by the parties in settling the dispute in an arbitration court, with the aim to seek such solution to the problems faced, by giving the trust to the third Party/Arbiter as the dispute decision maker.

All problems that arise now, particularly the implementation of good faith, where the execution of the contract, until the onset of the disputes and the settlement of disputes through arbitration and the arbitration decision, should be executed voluntary and pursuant to the terms of decision of the said arbitration. The decision of the arbitration made by a respectable, professional and independent arbitrator should be acknowledged and implemented accordingly.

Given that all disputes that went into the process of litigation would be published, how can the parties to the dispute who have chosen the dispute settlement through the arbitration, no longer be concerned about maintaining and preserving confidentiality during the arbitration trial process after such request for execution? This is due to one party's dissatisfaction with and disobedience to the decision, thus the party seems to have had no good faith.

By prioritizing the principle of good faith and understanding the contents of an existing contract, it can be easier to resolve a contractual dispute, even without stalling for various reasons regarding the dissatisfaction of the litigants.

Embedding the principle of good faith, that was ongoing in the process of cooperation and in the process of dispute settlement through arbitration until the execution of arbitration decision, it would be convenient for the disputed parties to institute a high sense of trust between the parties. When the parties continue to maintain the principle of good faith, especially the party that has an obligation to pay in the arbitration decision, this will lead to sympathy and special assessments. This makes that party receiving the compensation develop trust in further cooperation with the party who have paid the compensation, rather than to have a partnership with other parties that are not necessarily expected to have the same good faith. It must be realized that the decisions based on the law of the parties will provide a win-win solution.

INFORMATION ETHICS AND SECURITY

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The IAITL conference series is the first international conference of its kind, gathering experts from academia, government and industry to discuss key legal issues related to Legal, Security and Privacy Issues in IT, Private Law, Public Law and the intersection between economics and law.

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The papers in this book represent the contributions from legal scholars and practitioners who participated in the 2014 IAITL conference held in Lisbon, Portugal. It contains critical discussions that demonstrates their strong commitment to their profession and passion within their field of law. This book is a valuable resource for individuals seeking a global legal perspective and it will provide a glimpse into the changes underway.

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