

Review Article

# Comparative Analysis of Good Faith in Contract Performance under Pakistani and Chinese Law: Integrating Artificial Intelligence into Contractual Compliance and Governance

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**Citation:** Ullah, A., Ali, A., Shueeb, M., & Khan, U. U. (2025). Comparative Analysis of Good Faith in Contract Performance under Pakistani and Chinese Law: Integrating Artificial Intelligence into Contractual Compliance and Governance. *Innovative Research Journal of Education*, 3(2):1-9. DOI: <https://doi.org/10.62497/irjed.251>. Available at: <https://irjpl.org/irjed/article/view/251>.

## Article Info

Received: Oct 19, 2025

Revised: Dec 12, 2025

Accepted: Dec 15, 2025

## Keywords

good faith, contract performance, Pakistani law, Chinese law, artificial intelligence, ai, contractual compliance, legal governance, comparative law

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Journals (IRJPL).

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## Abstract

**Introduction:** This paper aims to introduce and briefly summarize the principle of good faith in the context of contract law, which is central in the majority of legal traditions but which is interpreted and applied differently in different jurisdictions. The contract law of Pakistan, which is based on the Indian Contract Act 1872, is common law-based and does not contain a general duty of good faith but rather specific doctrines of fraud, misrepresentation, undue influence, and coercion. China, however, has specifically adopted good faith as a general principle and made its presence a contractual duty in the performance of a contract in its Civil Code of 2020. This gap poses difficulties in cross-border trade, especially in the context of ongoing economic ties between China and Pakistan, including the China-Pakistan Economic Corridor.

**Objective:** The purpose of this article is to analyze, critique, and compare the concept, codification, and enforcement of good faith in contract performance in Pakistan and China. It also examines the role of AI in contractual governance in fostering compliance and good faith performance in both jurisdictions.

**Methodology:** This study uses a doctrinal and comparative method by looking at the provisions of the laws, judicial interpretations, and the implications of good faith on both legal systems. The analysis is based on primary sources such as the Indian Contract Act 2022, the Chinese Civil Code 2020, and pertinent judgments of Pakistani and Chinese courts. Also, secondary sources such as scholarly articles, comparative legal studies, and policy documents are reviewed. Recent empirical work on how natural language processing has been used in contract review informs the investigation of the integration of AI.

**Results:** The analysis uncovered the basic difference in the way good faith is interpreted and addressed. The Pakistani law takes a cautious stance and is contextual, meaning that good faith is recognized in specific situations like an insurance contract and a fiduciary relationship and not as a general duty. In

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contrast, Chinese law makes good faith a clear and legally binding obligation in all contractual relationships, with specific obligations of notification, assistance, and confidentiality. The judicial interpretations in the People's Republic of China have also broadened the scope of good faith and allowed for the courts to be able to resolve opportunistic conduct and to adjust the terms of a contract to the changing circumstances.

**Conclusion:** Harmonized approaches are needed with regard to cross-border contracting due to the comparative divergence. AI presents potential solutions for interpreting contracts, monitoring compliance in real-time, and more. Good faith performance can be reinforced with a hybrid approach to AI governance that includes a combination of transparent audit trails, distinct decision boundaries, and adequate human oversight while also being sensitive to jurisdictional variations. But in high-consequence decisions such as interpretation of legal matters, equitable judgments, and public accountability, complete automation is unsuitable. Further studies are needed to empirically assess the use of AI tools for cross-border contractual governance.

## 1. Introduction

The principle of good faith has long been regarded as a cornerstone of contract law across different legal traditions. It serves both as a guiding norm for contractual conduct and as a constraint on opportunistic behavior. Yet, as McKendrick and Liu observe in their comparative analysis, good faith in contract performance is a concept that means different things in different legal systems [7]. This interpretive divergence becomes particularly striking when comparing common law jurisdictions, such as Pakistan, with civil law systems, such as China.

Pakistan's contract law, inherited from the British colonial legal system, is rooted in the Indian Contract Act 1872, which does not explicitly codify a general duty of good faith [1]. Instead, Pakistani courts have approached good faith through specific doctrines, including fraud, misrepresentation, undue influence, and coercion, without recognizing it as an independent, freestanding obligation. This cautious, incremental approach reflects the broader common law skepticism toward open-textured equitable standards.

In contrast, the Chinese Contract Law, enacted in 1999 and subsequently incorporated into the Civil Code of 2020, explicitly embraces good faith as a fundamental principle. Article 6 of the Civil Code stipulates that parties to civil legal relations shall follow the principle of good faith and uphold the

principle of honesty and trustworthiness [2]. The Civil Code further provides that parties must abide by the principle of good faith and perform obligations of notification, assistance, and confidentiality in accordance with the nature and purpose of the contract [5]. This codified commitment signals a different jurisprudential starting point.

The divergence between these two approaches raises important questions for cross-border commercial transactions, dispute resolution, and the design of compliance systems. As Chinese-Pakistani economic cooperation deepens, particularly through initiatives such as the China-Pakistan Economic Corridor, the need for harmonized understanding and enforceable standards of good faith becomes increasingly pressing.

Simultaneously, the emergence of artificial intelligence in legal practice presents new opportunities to address these comparative challenges. AI-driven contract review systems, employing transformer-based natural language processing models, have demonstrated the capacity to extract clauses, identify risks, and monitor compliance with significant improvements in precision and efficiency [3,4]. These technological advances suggest that AI could serve as a governance mechanism to operationalize good faith obligations across jurisdictional boundaries.

This article undertakes a critical comparative analysis of good faith in contract performance under Pakistani and Chinese law, addressing the following research questions:

1. How is the principle of good faith conceptualized, codified, and enforced in Pakistani and Chinese contract law?
2. What are the practical implications of these divergent approaches for contractual compliance and dispute resolution?
3. How can artificial intelligence be integrated into contractual governance to enhance good faith performance while respecting jurisdictional differences?

The analysis proceeds in five parts. Part Two examines the doctrinal foundations of good faith in Pakistani law. Part Three analyses the Chinese legal framework. Part Four presents a comparative synthesis with illustrative case examples. Part Five explores the role of AI in contractual compliance and governance, addressing opportunities, challenges, and governance requirements. The conclusion offers recommendations for cross-border contracting and future research.

## 2. Good Faith in Pakistani Contract Law: Doctrine and Practice

### 2.1 Legislative Framework

Pakistan's contract law is governed by the Indian Contract Act 1872, a colonial-era statute that continues to provide the foundational framework for contractual obligations [1]. The Act does not contain a general provision requiring parties to act in good faith. Rather, it addresses specific instances of bad faith through doctrines such as fraud, misrepresentation, undue influence, and coercion (Table 1). The absence of a general good faith obligation reflects the common law tradition from which the Act derives.

Section 37 of the Contract Act establishes the obligation to perform contractual promises, but the standard of performance is framed in terms of exact performance rather than good faith. Similarly, Section 51 addresses reciprocal promises but does not articulate a broader duty of cooperation or fairness. The focus remains on the literal terms of the contract and the factual performance of obligations.

**Table 1:** Good Faith-Related Provisions in the Indian Contract Act 1872

| Section    | Doctrine            | Description                                                                           |
|------------|---------------------|---------------------------------------------------------------------------------------|
| Section 14 | Free Consent        | Consent not caused by coercion, undue influence, fraud, misrepresentation, or mistake |
| Section 15 | Coercion            | Committing or threatening to commit any act forbidden by the Penal Code               |
| Section 16 | Undue Influence     | Where one party is in a position to dominate the will of another                      |
| Section 17 | Fraud               | Acts committed with intent to deceive or induce another to contract                   |
| Section 18 | Misrepresentation   | Unwarranted statements or non-disclosure with intent to induce another                |
| Section 51 | Reciprocal Promises | Performance of reciprocal promises but no articulation of a broader duty              |
| Section 37 | Contract Act        | Establishes the obligation to perform contractual promises                            |

### 2.2 Judicial Interpretation

Pakistani courts have largely followed the English common law tradition in their approach to good faith. The Supreme Court of Pakistan and provincial High Courts have recognized good faith in specific contexts, particularly in insurance contracts, fiduciary relationships, and government contracts, but have stopped short of recognizing a general duty.

In insurance cases, courts have enforced the principle of utmost good faith, requiring full disclosure by the insured. This is understood as an exceptional requirement, however, not as evidence of a general principle. Pakistani courts have consistently held that insurance contracts are contracts of the utmost good faith, requiring parties to disclose all material facts. In fiduciary relationships, courts have acknowledged duties of

loyalty and disclosure, but again as arising from the specific nature of the relationship rather than from contract law generally. Relationships such as principal-agent, trustee-beneficiary, and director-company have been recognized as giving rise to duties of good faith.

In government contracts, courts have occasionally recognized duties of fairness and transparency, particularly in the context of public procurement. However, these duties are often framed in terms of administrative law rather than contract law, reflecting the public interest dimension of such contracts.

This judicial caution is consistent with the common law position articulated in cases such as *Walford v Miles* [1992] 2 AC 128, where the House of Lords refused to recognize a duty to negotiate in good faith [8]. The concern is that open-ended equitable standards create uncertainty, invite litigation, and undermine the principle of freedom of contract. While Pakistani courts have not adopted this position uncritically, they have generally refrained from imposing good faith obligations beyond those explicitly recognized.

### 2.3 The Good Faith Gap in Pakistani Law

The absence of a general good faith obligation creates interpretive gaps in Pakistani contract law. Where contractual terms are ambiguous, courts may need to imply terms to give effect to the parties' intentions, but the basis for such implication is limited. Similarly, where one party has acted opportunistically without breaching an express term, the other party may lack a remedy.

This gap becomes particularly significant in long-term commercial relationships, where the contract cannot anticipate every contingency. In such contexts, good faith can serve as a gap-filler, enabling courts to adapt contractual obligations to changed circumstances. Without a clear basis for doing so, Pakistani courts may struggle to address opportunistic behavior that falls outside the scope of express terms.

### 2.4 Legislative Reform Proposals

There have been periodic calls for legislative reform to introduce a general duty of good faith in Pakistani contract law. The Pakistan Law

Commission has considered proposals to amend the Contract Act to incorporate good faith principles, but no comprehensive reform has been enacted. The current position reflects a deliberate choice to maintain the common law approach, balancing predictability against flexibility.

### 2.5 Cross-Border Contracting Implications

For cross-border contracts involving Pakistani parties, the absence of a general good faith obligation creates practical challenges. Foreign parties accustomed to jurisdictions where good faith is enforceable may face difficulties in seeking remedies for opportunistic behavior. Similarly, Pakistani parties may be held to standards of good faith when contracting under foreign law, creating potential for divergence in expectations and performance.

## 3. Good Faith in Chinese Contract Law: Codification and Enforcement

### 3.1 The Civil Code Framework

The Chinese Civil Code of 2020, which came into effect on 1 January 2021, replaced the Contract Law of 1999 and consolidated China's civil law framework [2]. The Civil Code explicitly enshrines good faith as a fundamental principle of civil legal relations. Article 6 provides that parties to civil legal relations shall follow the principle of good faith and uphold the principle of honesty and trustworthiness.

Article 509 of the Civil Code, which addresses contract performance, provides that parties shall fully perform their obligations as agreed. Parties shall abide by the principle of good faith and perform obligations of notification, assistance, and confidentiality in accordance with the nature and purpose of the contract [5]. This provision establishes three specific duties derived from good faith: 1. Notification; 2. Assistance; 3. Confidentiality (Table 2):

1. **Notification:** Parties must inform each other of circumstances that affect contract performance.
2. **Assistance:** Parties must cooperate in facilitating contract performance.
3. **Confidentiality:** Parties must protect confidential information obtained through the contractual relationship.

**Table 2: Good Faith Provisions in the Chinese Civil Code 2020**

| Provision   | Content                                                                         | Application                                         |
|-------------|---------------------------------------------------------------------------------|-----------------------------------------------------|
| Article 6   | Principle of good faith and honesty                                             | Fundamental principle for all civil legal relations |
| Article 7   | Civil subjects shall act in good faith                                          | General obligation in civil legal relations         |
| Article 509 | Good faith performance; duties of notification, assistance, and confidentiality | Contract performance obligations                    |
| Article 500 | Liability for pre-contractual bad faith                                         | Culpa in contravened                                |
| Article 501 | Confidentiality obligations                                                     | Protection of trade secrets                         |
| Article 522 | Good faith in performance by third parties                                      | Third-party performance obligations                 |
| Article 533 | Contract modification due to changed circumstances                              | Good faith adaptation                               |

### 3.2 Pre-Contractual Good Faith: Culpa in Contravenendo

Chinese law recognizes good faith obligations extending beyond contract performance to the negotiation phase. Article 500 of the Civil Code establishes liability for pre-contractual bad faith, providing that a party who engages in negotiation in bad faith or intentionally conceals material facts shall be liable for damages [2].

This provision aligns Chinese law with the German civil law tradition and the principles of the Common European Sales Law. It requires parties to negotiate in good faith, refraining from conduct that undermines the negotiation process or exploits the other party's vulnerability. The duty extends to disclosure of material facts, although the extent of disclosure required depends on the nature and purpose of the contract.

### 3.3 Good Faith as a Gap-Filler and Interpretative Principle

Chinese courts have used good faith as a gap-filler to address situations not expressly covered by contract terms or statutory provisions. The principle enables courts to imply terms where the contract does not address a particular matter, giving effect to the parties' intentions. Courts may interpret ambiguous terms in light of the principle of good faith, favoring the interpretation that promotes fair dealing and cooperation. In changed circumstances, courts may use good faith to adapt contractual obligations, ensuring that performance remains consistent with the contract's purpose and the parties' reasonable expectations. Good faith may also be used to limit the exercise of contractual rights where such exercise would be unfair or oppressive, consistent with the principle of abuse of rights.

### 3.4 Judicial Enforcement and Interpretation

Chinese courts have developed an extensive body of case law applying good faith principles. The Supreme People's Court has issued judicial interpretations and guidance cases that elaborate on the application of good faith in contract performance. Key areas of application include:

*Changed Circumstances:* Article 533 of the Civil Code establishes that where circumstances change fundamentally after contract formation, making performance manifestly unfair, the party affected may request renegotiation or judicial modification of the contract [5]. This provision embodies the principle of good faith by enabling adaptation to changed circumstances.

*Abuse of Rights:* Courts have used good faith to prevent parties from exercising contractual rights in a manner that causes unjustified harm to the other party. This application reflects the principle that rights must be exercised in good faith and in accordance with their social purpose.

*Remedies and Damages:* Courts have considered good faith in assessing remedies, reducing damages where the claimant has failed to mitigate losses or acted in bad faith, and adjusting remedies to reflect the parties' respective contributions and responsibilities.

## 4. Comparative Analysis

### 4.1 Conceptual Divergences and Convergences

The comparative analysis reveals both fundamental differences and surprising convergences between Pakistani and Chinese approaches to good faith (Table 3).

**Table 3:** Comparative Analysis of Good Faith in Pakistani and Chinese Law

| Aspect                | Pakistani Law                               | Chinese Law                          |
|-----------------------|---------------------------------------------|--------------------------------------|
| Legal Basis           | No general codification; specific doctrines | Explicit codification in Civil Code  |
| Scope                 | Limited to specific contexts                | General application to all contracts |
| Pre-Contractual       | Limited recognition                         | Express culpa in contravened         |
| Interpretative Role   | Limited to implied terms                    | Broad interpretative principle       |
| Gap-Filling           | Limited by implied term doctrine            | Express good faith gap-filling       |
| Judicial Activism     | Cautious, context-dependent                 | Active, principle-driven             |
| Remedies              | Specific statutory remedies                 | Flexible judicial remedies           |
| Changed Circumstances | Limited recognition                         | Express provision for adaptation     |

#### 4.2 The Good Faith Jurisprudence Continuum

The divergent approaches can be understood along a continuum of good faith jurisprudence. At one end lies the formalist approach, where good faith is recognized only where expressly provided or in specific relationships. Courts adopt a cautious approach, seeking to avoid open-ended equitable standards. At the other end lies the functional approach, where good faith is an overarching principle that informs all aspects of contract law. Courts actively employ good faith to achieve equitable outcomes and adapt obligations to circumstances. Pakistan falls closer to the formalist end of the continuum, while China exemplifies the functional approach.

#### 4.3 Practical Implications

The divergence has practical implications for drafting, interpretation, and remedies. Contracts governed by Pakistani law require detailed provision for matters that Chinese law would address through good faith obligations.

Conversely, contracts governed by Chinese law may rely on good faith to fill gaps that would need to be expressly addressed under Pakistani law. Courts in each jurisdiction will interpret contractual terms differently, with Chinese courts more willing to consider the broader context and purpose of the contract. The remedies available for bad faith may also differ, with Chinese courts having broader discretion to grant equitable remedies.

### 5. Integrating AI into Contractual Compliance and Governance

#### 5.1 AI Applications in Contract Review

AI technologies have transformed contract review and compliance monitoring. Natural language processing models, particularly transformer-based architectures, have demonstrated exceptional performance in clause extraction, risk identification, and compliance verification [3,4] (Table 4).

**Table 4:** AI Contract Review Capabilities

| Capability            | Technology                    | Application                                          |
|-----------------------|-------------------------------|------------------------------------------------------|
| Clause Extraction     | NLP, Named Entity Recognition | Identifying and categorizing contractual provisions  |
| Risk Identification   | Classification Models         | Flagging problematic or non-standard clauses         |
| Compliance Monitoring | Rule-Based Systems + ML       | Tracking performance against contractual obligations |
| Anomaly Detection     | Unsupervised Learning         | Identifying unusual or suspicious patterns           |
| Document Comparison   | Text Similarity Algorithms    | Comparing versions and identifying changes           |
| Predictive Analytics  | Time-Series Forecasting       | Predicting risks and outcomes                        |

#### 5.2 Bridging Jurisdictional Divergences

AI systems can help bridge the interpretive gaps between Pakistani and Chinese law through comparative clause mapping, where AI can map contractual clauses against requirements in both jurisdictions, identifying potential conflicts or gaps. Cross-jurisdictional compliance monitoring enables AI to monitor compliance with obligations

under both Pakistani and Chinese law, flagging divergences and recommending corrective action. Good faith indicators derived from AI analysis of performance data can identify patterns indicative of good or bad faith, supporting early intervention and dispute prevention.

### 5.3 Challenges and Limitations

Despite the promise of AI, several challenges and limitations must be acknowledged. Data quality remains a concern, as AI performance depends on the quality and completeness of data. Contractual data may be incomplete, inconsistent, or inadequately digitized. Interpretative complexity is another significant challenge, as good faith requires nuanced judgment that AI currently cannot replicate. Legal interpretation involves policy choices, balancing of interests, and contextual understanding that exceed AI capabilities. Bias and fairness concerns arise

because AI systems may encode biases present in training data, potentially reinforcing inequalities or discriminatory outcomes. Finally, accountability mechanisms must be clearly established for decisions influenced by AI systems.

### 5.4 Human-in-the-Loop Governance

The most appropriate governance model for AI-supported contractual compliance is human-in-the-loop. This model recognizes that AI can handle analytical tasks while humans exercise authority, judgment, and accountability (Table 5).

**Table 5:** Human-in-the-Loop Governance Model

| Component             | AI Role                          | Human Role                         |
|-----------------------|----------------------------------|------------------------------------|
| Contract Review       | Clause extraction, risk flagging | Interpretation, legal judgment     |
| Compliance Monitoring | Data analysis, alert generation  | Investigation, action              |
| Interpretation        | Pattern identification           | Contextual analysis, policy choice |
| Decision Making       | Recommendations                  | Final authority, accountability    |
| Dispute Resolution    | Evidence organization            | Adjudication                       |

## 6. Practical Recommendations

### 6.1 For Cross-Border Contracting

Parties engaging in cross-border contracting between Pakistan and China should explicitly specify governing law with awareness of differences in good faith jurisprudence. Drafting clarity is essential, as contracts should anticipate good faith obligations that may be implied or imposed in each jurisdiction. The selection of dispute resolution mechanisms that can accommodate jurisdictional differences is also important. Finally, parties should consider implementing AI tools for contract review and compliance monitoring that are calibrated to both jurisdictions.

### 6.2 For Legal Reform

Pakistan should consider incremental reform to codify good faith principles, recognizing the benefits of clarity in international commerce. China should continue developing judicial guidance to ensure consistent application of good faith principles.

### 6.3 For AI Governance

AI systems should ensure transparency by providing clear explanations of their outputs and limitations. Meaningful human oversight must be maintained over high-consequence decisions. Fairness testing and bias mitigation strategies should be implemented. Clear rules for data use,

retention, and secondary purposes must be established.

## 7. Research Gaps and Future Directions

Several research gaps warrant attention. First, limited empirical studies exist on AI performance in cross-jurisdictional contract governance. Second, research on human-AI team performance in legal compliance remains limited. Third, the interaction between legal cultures and AI-mediated compliance requires further investigation. Fourth, AI tools must be designed for varying levels of digital infrastructure, particularly in low-resource settings. Fifth, systematic reporting of AI failures and near-misses is needed to support learning and improvement.

## 8. Conclusion

The comparative analysis reveals fundamental differences in how Pakistani and Chinese law conceptualize and enforce good faith in contract performance. Pakistan's common law tradition adopts a cautious, context-dependent approach, recognizing good faith primarily in specific relationships without establishing it as a general obligation. China's civil law framework, by contrast, explicitly codifies good faith as a fundamental principle, supported by specific duties and active judicial enforcement.

These divergences create challenges for cross-

border commercial transactions, but also opportunities for innovation through AI integration. AI technologies can bridge interpretative gaps through automated contract review, real-time compliance monitoring, and predictive analytics. However, complete automation remains inappropriate for high-consequence decisions involving legal interpretation, equitable judgment, and public accountability.

The future of contractual governance lies not in the replacement of human judgment by AI, but in strategic augmentation where machines handle analytical tasks, and humans exercise authority, judgment, and accountability. This hybrid model, grounded in transparent audit trails and meaningful human oversight, can strengthen good

faith performance across both jurisdictions while respecting their distinctive legal traditions.

### Author Contributions

Asad Ullah and Ammad Ali designed the study; Muhammad Shueeb and Ubaid Ullah Khan performed the experiments and collected data; Asad Ullah analyzed the data and wrote the manuscript; all authors reviewed and approved the final version.

### Conflict of Interest

The authors declare no conflict of interest.

### Ethical Approval

Not applicable because the article reviews published literature and policy documents.

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