

**IN THE MATTER OF PROCEEDINGS BROUGHT
UNDER THE ICC ANTI-CORRUPTION CODE**

Between:

THE INTERNATIONAL CRICKET COUNCIL (“ICC”)

And

**MR IRFAN AHMED
MR NADEEM AHMED
MR HASEEB AMJAD**

AWARD ON SANCTION

INTRODUCTION

1. In paragraph 63 of its Award dated 16 July 2019 (“the Liability Award”), the Anti-Corruption Tribunal (the “Tribunal”) invited submissions on sanction from the parties. On 22 July 2019, the ICC filed its submissions. None of the Respondents chose to respond to those submissions by the time ordered, i.e. 31 July 2019, or at all.

APPROACH TO SANCTION

2. As recorded in the Liability Award, the Tribunal found the Respondents guilty of offences under various Articles of the Anti-Corruption Code (**Code**), as follows:¹

INTERNATIONAL MATCH(ES)	PLAYER		
	Irfan Ahmed	Nadeem Ahmed	Haseeb Amjad
Charges under the 2012 Code			

¹ This table summarises the Anti-Corruption Tribunal's determination of the charges as set out at para 50 *et seq.* of the Liability Award.

Hong Kong v Scotland ICC CWC Qualifier Queenstown New Zealand 13 January 2014	Article 2.1.1- Fixing/Contriving to Fix or otherwise influence a match		Article 2.1.1- Fixing/Contriving to Fix or otherwise influence a match	
	Article 2.4.2- Failing to Disclose approaches/invitations to fix		Article 2.4.2- Failing to Disclose approaches/invitations to fix	
Hong Kong v Canada ICC CWC Qualifier Queenstown New Zealand 17 January 2014	Article 2.1.1- Fixing/Contriving to Fix or otherwise influence a match			Article 2.1.1- Fixing/Contriving to Fix or otherwise influence a match
	Article 2.1.3- Failing, for reward, to perform			Article 2.1.3- Failing, for reward, to perform
	Article 2.4.2 - Failing to Disclose approaches/invitations to fix			Article 2.4.2- Failing to Disclose approaches/invitations to fix
Hong Kong v Zimbabwe ICC World T20 Chittagong Bangladesh 12 March 2014	Article 2.1.2 – Seeking, accepting, offering or agreeing to accept a bribe/reward to fix/contrive to fix			
Charges under the 2014 Code				
2016 ICC World T20 Qualifiers July 2015	Article 2.1.3 – Seeking, accepting, offering or agreeing to accept a bribe/reward to fix/contrive to fix			
	Article 2.4.4 – Failing to Disclose approaches/invitations to			

	fix received by him to engage in Corrupt Conduct			
2016 ICC World T20 March/April 2016	Article 2.1.3 - Seeking, accepting, offering or agreeing to accept a bribe/reward to fix/contrive to fix		Article 2.1.3 - Seeking, accepting, offering or agreeing to accept a bribe/reward to fix/contrive to fix	

3. The range of Ineligibility for the above offences is prescribed by Code Article 6.2 of the 2012 Code and 2014 Code, as follows:

CODE	OFFENCE	LOWER RANGE	UPPER RANGE
2012	Article 2.1.1	A minimum of five (5) years period of Ineligibility	Lifetime Ineligibility
	Article 2.1.3		
	Article 2.4.2	A minimum of one (1) year period of Ineligibility	Maximum of five (5) years) period of Ineligibility.
2014	Article 2.1.2	A minimum of five (5) years period of Ineligibility	Lifetime Ineligibility
	Article 2.1.3		
	Article 2.4.4	A minimum of six (6) months	Maximum of five (5) years.

4. Additionally, in all cases, the Tribunal has the discretion to impose a fine of such amount as it deems appropriate.

FACTORS RELEVANT TO THE ANTI-CORRUPTION TRIBUNAL'S DETERMINATION OF SANCTION

5. In accordance with Code Article 6.1, where a breach of the Code is upheld by a Tribunal, it is necessary for the Tribunal to impose an appropriate sanction upon the Participant from the range of permissible sanctions set out in Code Article 6.2. (see para 3 above). In determining

that sanction, the Tribunal must determine the relative seriousness of the offence, including by identifying any relevant aggravating and mitigating factors (Code Articles 6.1.1 and 6.1.2).

B1. Inherent seriousness of the offending – the starting point

6. Each of the Respondents has been found by the Tribunal to have committed offences under Code Article 2.1. which are the most serious corruption offences contemplated by the Code, rooted in the fundamental sporting imperatives that underpin it.²
7. In light of the inherent seriousness of this offending, the Tribunal accepts that in determining the appropriate sanction against each of the Respondents it should weigh very heavily these fundamental sporting imperatives, including, in particular, the need (i) to deter others from similar wrongdoing (i.e., preventing corrupt practices from undermining the sport),³ and (ii) to maintain public confidence in the sport.⁴

² See, in particular, Code Articles 1.1.1 to 1.1.4: ('The ICC has adopted this Anti-Corruption Code in recognition of the following fundamental sporting imperatives: 1.1.1 All cricket matches are to be contested on a level playing-field, with the outcome to be determined solely by the respective merits of the competing teams and to remain uncertain until the cricket match is completed. This is the essential characteristic that gives sport its unique appeal. 1.1.2 Public confidence in the authenticity and integrity of the sporting contest is therefore vital. If that confidence is undermined, then the very essence of cricket will be shaken to the core. 1.1.3 Advancing technology and increasing popularity have led to a substantial increase in the amount, and the sophistication, of betting on cricket matches. The development of new betting products, including spread-betting and betting exchanges, as well as internet and phone accounts that allow people to place a bet at any time and from any place, even after a cricket match has started, have all increased the potential for the development of corrupt betting practices. That, in turn, increases the risk that attempts will be made to involve Participants in such practices. This can create a perception that the integrity of the sport is under threat. 1.1.4 Furthermore, it is of the nature of this type of misconduct that it is carried out under cover and in secret, thereby creating significant challenges for the ICC in the enforcement of rules of conduct').

³ See, e.g., ICC v Butt, Asif and Amir, the seminal Anti-Corruption Tribunal decision dated 5 February 2011), para 217, 'We must take account of the greater interests of cricket which the Code itself is designed to preserve and protect. There must, we consider, be a deterrent aspect to our sanction.'

⁴ See e.g., in relation to the point of principle, Bolton v Law Society [1994] 1 W.L.R. 512) at 518, 'To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied readmission ... A profession's most valuable asset is its collective reputation and the confidence which that inspires'. Also, in the sporting context, Bradley v Jockey Club [2005] EWCA Civ 1056 , at para 24, 'Where an individual takes up a profession or occupation that depends critically upon the observance of certain rules, and then deliberately breaks those rules, he cannot be heard to contend that he has a vested right to continue to earn his living in his chosen profession or occupation. But a penalty which deprives him of that right may well be the only appropriate response to his offending.' This point of principle was recently accepted in the case of ICC v Irfan Ansari, decision of the Anti-Corruption Tribunal dated 19 February 2019 at para 7.23.

8. The commission of these most serious Code Article 2.1 offences by a Participant will always attract a period of Ineligibility of at least five years and can, in appropriate cases, result in a lifetime ban from the sport. The ICC submits that a lifetime ban should apply to two of the three Respondents in this case (being Irfan Ahmed and Nadeem Ahmed).

B2. Aggravating and mitigating factors

9. Code Articles 6.1.1 and 6.1.2 set out (non-exhaustive) lists of factors that may, respectively, aggravate or mitigate the nature of an offence. In considering the specific matters addressed in these lists, and any other aggravating or mitigating factors that the Tribunal might consider relevant and appropriate, the Tribunal must undertake a qualitative exercise, determining the weight to give to each in coming to an appropriate sanction in each case.

B2.1. Aggravating factors - Irfan Ahmed and Nadeem Ahmed

10. In respect of the offending of both Irfan Ahmed and Nadeem Ahmed:

- 10.1 Both were experienced international cricketers at the time of their offending, who attended a number of anti-corruption education sessions (before and during the period of their offending). Therefore, both were very well aware of their anti-corruption obligations and the ICC's efforts in respect of combatting anti-corruption, which, notwithstanding, they knowingly undermined, in the most egregious manner.
- 10.2 The offending conduct has taken place over a significant period of time, longer than two years (on the available evidence), and has concerned a significant number of International Matches. In other words their offending is no isolated or 'one off' incident.⁵
- 10.3 The offending conduct involved significant premeditation and a degree of sophistication, including, inter alia, an organised network of and significant contact

⁵ Cf. the position of the Respondents in ICC v Butt, Asif and Amir , who received ten year (for participation in two related fixes), seven year (one fix), and five year (one fix) periods of Ineligibility respectively – see para 223 ('[There are] a number of factors that point strongly to the need to locate the offence in one of the lowest rather than the most serious end of the spectrum. Perhaps fortunately for them, an [un]promising career in spot-fixing was nipped in the bud by the NOTW investigation. The charges before us, we repeat, are limited to a single Fix in the case of Mr Amir and Mr Asif, and to two Tests in the case of Mr Butt, and, in his case, they are in reality part of the same basic transaction').

with match-fixers,⁶ the production and dissemination of a 'script',⁷ the use of coded language,⁸ a system for organising fixes using a web-based email accounts,⁹ and the active pursuit of customers (i.e., S)¹⁰.

10.4 Both brothers appear to have made significant sums from their corrupt conduct. For example, the WhatsApp messages suggest that Irfan Ahmed was to be paid '20k' for a session,¹¹ and that a windfall would arise from Hong Kong's qualification for the ICC World Twenty20.¹² S's evidence was that Nadeem Ahmed (on behalf of himself and Irfan Ahmed) sought a US\$10,000 advance from him to engage in fixing.¹³ Consistent with receipt of such illicit income (even if not proof of profit from corruption in itself), Witness A notes in his evidence that 'Irfan and Nadeem seemed to be living beyond their means ... they are both paid around HK\$11,000 per month by the Cricket board'.¹⁴

10.5 While, the Tribunal notes that, in general terms, there may sometimes be a material distinction between seriousness in respect of spot-fixing and match-fixing,¹⁵ it accepts that in the present case the fixing was of such a nature that it had, at the very least, the clear potential to affect the results of matches. The spot-fixes/proposed spot-fixes

⁶ See Liability Award, paras 22 to 24.

⁷ See Liability Award, para 38.1.

⁸ See Liability Award, para 41.9.

⁹ See Liability Award, para 41.10.

¹⁰ See Liability Award, para 41.6 *et seq.*

¹¹ See Liability Award, para 35.

¹² See Liability Award, para 38.7.

¹³ See Liability Award, para 41.12.

¹⁴ p.2.

¹⁵ See WPBSA v Lee, a Disciplinary Panel (of another sport) decision (on sanction and costs) dated 24 September 2013, para 6 ('The damage to the sporting integrity of a contest is clear if the end result is fixed. But there is also damage to the sporting integrity of a contest if even part of it is not played honestly without affecting the end result. Participants, spectators and television audiences are entitled to see the entire contest played out with both sides trying their best. Furthermore, it may often not be possible to engage in such "spot-fixing" without at least the potential for the end result to be affected ... [7] It is therefore essential that sanction is indeed sufficient to deter others from match-fixing and spot-fixing').

had the clear potential to affect the results of matches - in particular, by engaging in/offering spot-fixes whereby a significant number of runs were conceded/to be conceded, the outcome of a match could foreseeably have turned on the spot-fix. Moreover, in any event S's evidence is that Nadeem Ahmed offered (on behalf of both himself and Irfan Ahmed) to fix the results of matches, not 'just' to engage in spot-fixing.¹⁶

- 10.6 The brothers' corrupt conduct in respect of the 2016 ICC World T20, a marquee event in the international cricketing calendar, is especially serious in the sense that it carried increased potential to undermine the integrity of the sport and public confidence in it.
- 10.7 Not only has the offending involved more than one Participant, it is clear that each of the brothers sought to corrupt others. Whichever of them succumbed to corruption first, which the Tribunal cannot determine, it can determine that each has encouraged the other through their continuing corrupt activity. Moreover, whether or not one or other of the brothers in fact spread the 'cancer' of corruption to Mr Amjad, Irfan Ahmed appears to have at least been the conduit between Mr Amjad and P/R,¹⁷ and in any event both Irfan Ahmed and Nadeem Ahmed clearly sought to corrupt other players (e.g., A and ['player']).¹⁸
- 10.8 Finally, as the necessary corollary of their denial of guilt, neither has to date shown any remorse for their conduct.
11. In respect of Irfan Ahmed, the Tribunal must take account of the fact that he entered into an agreed decision with the ICC in April 2016, concerning breaches of Article 2.4.2 of the ICC Code (i.e. his failure to report approaches made to him by X). Therefore, not only does Irfan Ahmed have a disciplinary record that includes relevant prior offending (which is an aggravating factor in itself), he also entered into that agreement in the full knowledge that he had committed other offences. In the agreed decision, he benefitted from mitigation in respect of (among other things) his voluntary admissions and cooperation with the ACU, and his display of remorse and contrition. The entering into of that agreed decision by him on false pretenses i.e. concealment of the dimensions of his actual previous offending as recorded in the liability award, must now count as a very significant aggravating factor against him.

¹⁶ See Liability Award, para 41.7.

¹⁷ See Liability Award, para 37).

¹⁸ See Liability Award, paras 41.7 and 49.

B2.2. Aggravating factors – Haseeb Amjad

12. In respect of the proven offending of Haseeb Amjad relating to the Hong Kong v Canada match of 17 January 2014:

12.1 He was an established cricketer at the time of the offending, who had attended an anti-corruption education session prior to his offending, and who attended two subsequently. He too was therefore very well aware of his anti-corruption obligations and the ICC's efforts in respect of combatting anti-corruption, which he nonetheless knowingly undermined.

12.2 The spot-fix he carried out involved him conceding a very significant number of runs, early in the match, and therefore the outcome of the match could foreseeably have turned on the spot-fix.

12.3 Again, the offending involved more than one Participant. Even if, Mr Amjad did not himself seek to corrupt others, and there is no allegation or evidence that he did, his involvement in the spot-fix in the Hong Kong v Canada match on 17 January 2014 encouraged the offending of his co-conspirators, Irfan Ahmed and Nadeem Ahmed.

12.4 Finally as the necessary corollary of his denial of guilt, he has to date shown no remorse for his conduct.

B2.3. Mitigating factors

13. The Tribunal cannot identify any mitigating factor in respect of Irfan Ahmed.

14. The Tribunal accepts that neither Nadeem Ahmed nor Haseeb Amjad has any relevant previous disciplinary record (the ICC says that it is certainly not aware of any previous relevant misconduct). However, in respect of Nadeem Ahmed in particular, the ICC submits, and the Tribunal further accepts, that that mitigating factor should be given no weight, or no effective weight, given the overall seriousness of his offending.¹⁹

B3. Code Article 6.3.2

¹⁹ Consistent with the approach adopted in [ICC v Ansari](#) . , at paragraph 8.3 ('The Tribunal appreciates that this is the maximum sanction in terms of ineligibility vouched for by the Code but the seriousness of the offences enhanced by substantial aggravating factors against which there is but a single and minor mitigating factor to be set off, justify the conclusion that it is appropriate. The fact that it is possible to envisage offences against each Article of even greater gravity than Mr Ansari's does not of itself compel a reduction below the maximum in his case. Cricket would, in the Tribunal's view, be better off without Mr Ansari's participation for the period it has determined').

15. Code Article 6.3.2 specifies that if the Tribunal were to determine that a Respondent 'is guilty of committing two offences under the Code in relation to the same incident or set of facts, then (save where it orders otherwise or for good cause shown) any multiple periods of Ineligibility imposed should run concurrently (and not cumulatively)'.²⁰
16. The Tribunal notes that Code Article 6.3.2 does not define the degree of proximity for the requisite relationship to subsist between the offence and the relevant incident or set of facts. Under English law, which is the governing law of the Code,²⁰ proximity is dictated by context,²¹ and the context here is of exception to the general rule that would allow the Tribunal freedom to determine whether periods of Ineligibility should run cumulatively or concurrently. In principle therefore the chameleon linking phrase 'in relation to' should be construed narrowly rather than broadly in the context of Code Article 6.3.2.²²
17. The Tribunal finds that Code Article 6.3.2 applies to Haseeb Amjad's breaches in respect of the Hong Kong v Canada match, i.e. that his sanctions for these breaches which relate to the same incident should run concurrently.²³ However given the narrow construction that Code Article 6.3.2 should in its view be given, the Tribunal finds that the provision has no material application in the context of Irfan Ahmed and Nadeem Ahmed's offending, which by contrast spans a period in excess of two years, and covers numerous International Matches.

B4. Lifetime bans

²⁰ Per Code Article 11.5, 'The Anti-Corruption Code is governed by and shall be construed in accordance with English law ...'.

²¹ See, for example, Svenska Petroleum Exploration AB v Lithuania [2006] EWCA Civ 1529, at para 137.

²² See also ICC v Ansari, at paragraph 7.6 *et seq.*

²³ Consistent with the approach adopted in ICC v Butt, Asif and Amir at para 232, in respect of Mr Butt ('Mr Butt has also been found guilty of a breach of Article 2.4.3 in failing to disclose to the ACSU matters that came to his attention that evidenced an offence under the anti-corruption code by a third party, i.e. Mr Majeed, in the context of the approaches made to bat a maiden at the Oval Test. The range of permissible code of ineligibility (sic) for this offence is a minimum of six months and a maximum of two years. However, Article 6.3.2 specifies that where a player is found guilty of committing two anti-corruption code offences in relation to the same set of facts and sanctioned separately, any sanction imposed should run concurrently. We believe that the precondition for a concurrent sentence is satisfied. Accordingly, this sanction, which we assess in all the circumstances at one year's ineligibility, has no actual impact on Mr Butt's future').

18. The Tribunal endorses the ICC's cogent submission "Participation in cricket at an elite level is experienced only by a very few, but it is followed and enjoyed by many millions. It is clear from the evidence in this case that Irfan Ahmed and Nadeem Ahmed viewed cricket as a vehicle to make illicit gains, and abused their talent - not to mention the sport itself - to that corrupt end. In short, their offending could not be more serious".
19. As noted above, the maximum sanction available to the Tribunal in respect of Code Article 2.1 offences is a lifetime period of Ineligibility. In considering the appropriateness and proportionality of that sanction, the Tribunal has in mind the comments of the CAS Panel in Savic v PTIOs, CAS 2011/A/2621 (which were articulated in a tennis case, but, mutatis mutandis, apply equally to cricket and to offending of the gravity of Irfan Ahmed and Nadeem Ahmed)

1. The lifetime ban

8.33 The Panel takes account of the following matters:

- (i) Pursuant to the provisions of the Program, the AHO has a measure of discretion in setting a sanction.
- (ii) According to CAS jurisprudence, the sanction imposed on an athlete must not be disproportionate to the offence and must always reflect the extent of the athlete's guilt (*CAS 2001/A/330 R. v. FISA*).
- (iii) CAS has accepted in match-fixing cases in football that a life ban can constitute a proportionate sanction because of the damage caused to the integrity and the image of the sport (*CAS 2010/A/2172 O v. UEFA*).
- (iv) Match fixing is the most serious corruption offence in tennis and a threat to the integrity of professional sport, as well as to the physical and moral integrity of players. It also constitutes a violation of the principle of fairness in sporting competitions.
- (v) In the case at hand, the Appellant tried to corrupt another player.
- (vi) Applying a similar reasoning, the Panel in *CAS 2011/A/2490 Kollerer v ATP, WTA, ITF & GSC*, deemed it irrelevant whether a person is successful in actually fixing a match or not (para. 120) and found for the reasons expressed there:

"no option other than to confirm the lifetime ban imposed by the AHO. As explained in detail by the Governing Bodies, the sport of tennis is extremely vulnerable to corruption as a match-fixer only needs to corrupt one player (rather than a full team). It is therefore imperative that, once a Player gets caught, the Governing Bodies send out a clear signal to the entire tennis community that such actions are not tolerated. This Panel agrees that any sanction shorter than a lifetime ban would not have the deterrent effect that is required to make players aware that it is simply not worth the risk. Therefore, the Panel concludes that the sanction of a life ban imposed by the AHO decision is not disproportionate to the offence" (para 123).

- (vii) In *Matuzalem*, the Swiss Federal Tribunal approached the question of whether disciplinary sanctions violated public policy not *in abstracto*, but by reference to the specific interest the sanctioning sport governing body wishes to pursue.

"The measures taken by such sport federations which gravely harm the development of individuals who practice the sport as a profession are licit only when the interests of the federation justify the infringement of privacy" (para 4.3.3 in fine).

- 8.34 Applying that test in the present case, the interest that the sanctioning authority is seeking to enforce is the protection of the integrity of sport against corruption, a fundamental sporting principle explicitly mentioned in the UTAP provisions. This is a compelling interest to balance the Appellant's rights to work unlike the obviously lesser interest of contractual stability sought to be relief on by FIFA in *Matuzalem* to justify a life ban. There are other means to enforce a debt than as lifetime ban; but such a ban is the only truly effective means of purging a sport of corruption.

- 8.35 Therefore for all these reasons, the Panel concludes that the sanction of a life ban imposed by the AHO Decision does not violate public policy and is not disproportionate to the offences committed in the present case.

20. The Tribunal is persuaded that, in the context of this case and what has been found by it to be proven, the appropriate sanction, for the good of cricket and for the purpose of deterrence, Irfan Ahmed and Nadeem Ahmed should be banned for life.

21. The ICC does not seek a fine in respect of any of the Respondents on the basis (consistent with the Savic decision, para 8.38) that lifetime Ineligibility is sufficiently severe to reflect the gravity of the offending.

22. The Tribunal sees no reason for this purpose to be sterner than the ICC. No fine will be imposed on any Respondent.²⁴

ORDER

23. For the above reasons the Tribunal:

23.1 imposes a period of lifetime Ineligibility on each of Irfan Ahmed and Nadeem Ahmed in respect of their offending under Article 2.1 and a (consequentially symbolic) period of five years' Ineligibility in respect of their offending under Article 2.4; and

23.2 imposes on Haseeb Amjad a period of Ineligibility of 5 years having due regard to the circumstances of the case as it has found them to be.

24. In accordance with Code Article 6.4, the Respondents' periods of provisional suspension are to be credited against any period of Ineligibility to be served (all the Respondents were provisionally suspended on 8 October 2018).

Michael J Beloff QC

Michael J Beloff QC Chairman of the ICC Anti-Corruption Tribunal
Simon CG Coplestone
Imtiaz U Ahmad Asif

as from Dubai 26 August 2019

²⁴ No order for costs has been sought. None will be made.