

ANALYSIS OF LAWS/REGULATION RELATED TO RACISM IN CRICKET

Written by Neil J. Shah

3rd Year B.Com. LL.B. Student, Institute of Law Nirma University, Ahmedabad, India.

International Cricket Council (ICC) is the global governing in administering the functioning of cricketⁱ. It has 105 members and they all work together under the directions given by ICC for administering the sport of cricket. ICC has number of rules and regulations for this sport, code of conduct for players, match officials, player supported personnel, which they all are bound to comply by these rules and laws made by ICC. ICC is responsible for conducting international tours, ICC World Cup for 50 overs and for T20 World Cup, ICC Champions Trophy and various other championships and international matches among its member nations. ICC also has the duty to appoint umpires and referees, who look after the on-field proper functioning of the game. ICC has set some code of conduct to ensure discipline for international cricket and also coordinates action against any kind of match fixing as per Anti-Corruption and Security Unit and for any kind of misbehaviour or racist comments or any sort of discrimination with the opponent or match officials or spectator or player support personnel then also action can be taken as per Anti-Discrimination Policy.

ICC just want to ensure that this global sport is enjoyed by all who are involved directly or indirectly without any kind of offensive, insulting, humiliating or intimidating on the basis of race, religion, culture, colour, descent, nationality, ethnic origin, sex, gender, sexual orientation, disability, marital status and/or maternity statusⁱⁱ. In order to maintain the integrity, public image and popularity for this sport, after October 2012, a new policy was framed for any kind of racism and discrimination in the cricket. Anti- Racism Code was replaced by Anti –Racism Policy in order to achieve the desired aims which is the core thing about bringing this reformed policy. This policy is one of the strictest policies and it demands a commitment from ICC and its members to promote it and encourages the participation irrespective of their race, colour, religion, caste, etc. and ensures no discrimination in this sport. The Policy contains a

series of clear but flexible requirements for each Member, whether Full, Associate or Affiliate, in terms of the Member's own conduct, its education and training of others, its communications with spectators and others, and its reporting to the ICC, each in respect of International Matches played within its jurisdictionⁱⁱⁱ.

Anti-Discrimination Code for Participants is one of the most important policies and has 12 articles, with two appendixes where one deals with definitions and other one with expedited procedure for offences under the discrimination code during occurrence of ICC event.

Article 1 Scope and Application^{iv}: All the participants who are involved in this global sport are bound by all the rules and code of conduct of anti-discrimination code, be it from players from player support personnel to umpire to umpire support personnel. All are having bound the responsibility of knowing the conduct as per this code and also to know what the definition of offence as per this code is. All participants are bound to submit exclusive jurisdiction to judicial commissioner and decide on the basis of this code. No court proceedings should be there while investigating such cases of racism or other platforms than judicial commissioner and appeal panel of ICC. All Players and Player Support Personnel representing the National Cricket Federation's representative side are automatically bound by, required to comply with, and shall submit themselves to the jurisdiction of this Anti-Discrimination Code; and all players or player support personnel representing the domestic or invitational team shall not be bound by this Anti-Discrimination Code. Instead, such individuals will be bound by, required to comply with, and shall submit themselves to the jurisdiction of the relevant National Cricket Federation's own applicable rules of conduct^v.

Article 2 Offence: Engaging in any conduct (whether through the use of language, gestures or otherwise) which is likely to offend, insult, humiliate, intimidate, threaten, disparage or vilify any reasonable person in the position of a Player, Player Support Personnel, Umpire, Match Referee, Umpire Support Personnel or any other person (including a spectator) on the basis of their race, religion, culture, colour, descent, national or ethnic origin, sex, gender, sexual orientation, disability, marital status and/or maternity status^{vi}. Any kind of behaviour as per the definition is said to be an offence as per this code.

Article 3 Reporting an alleged offence under the Anti-Discriminatory Code: Any individual such as umpire associated with International Match, or in relation with the alleged offence was committed, match referee umpire associated with International Match, or in relation with the

alleged offence was committed, ICC's CEO or Team Manager or CEO of either of the National Nation whose representatives were the participants in International Match, were this alleged offence was committed. This has to be lodged in the report in writing either to Match Referee or ICC legal department within the 7 days of the occurrence of such event

Article 4 Notification and Conciliation Procedure: When the Match Referee or ICC Legal Department gets the lodged report then it is sent to General Counsel, he investigates this case with a very detailed manner and even speaks to the participants of that International Match. If in the initial review, if there is no case to answer, then ICC would notify the person who lodged this report and no further action would be taken. If in the initial review, there is case to answer then this matter would be resolved by Conciliation process. It is duty of all the parties involved in the Conciliation process to engage with Conciliator and this process should be done with open mind with honesty and with utmost good faith.

Article 5 The Disciplinary Procedure: In the reasonable amount of time, ICC is required to appoint one member from ICC' Code of Conduct Commission to act as Judicial Commissioner to hear the sitting alone. This appointed member must be independent from the parties and should be free from any involvement in this matter. This appointed authority is to undergo with preliminary hearing first with ICC and its legal team with the party's representatives and this should be done in a reasonable time. Then accordingly the Judicial Commissioner can frame and issues involved and inform the date of the hearing. After hearing arguments from both the parties involved and the verdict of Judicial Commissioner is said to be binding on all the parties.

Article 6 Standard of Proof and Evidence: This article is stating all the evidences and proof of the matter is accepted as per the alleged offence committed, only on the discretion of the appointed Judicial Commissioner, he is not binding by rules of admissibility of evidence, but facts of the matter under this Code is established by the reliable means and there are the proof and evidences involved in this matter.

Article 7 Sanctions: In any matter came to Judicial Commissioner if he comes to conclusion that an offence under this code has been committed, and then he will impose an appropriate sanction on the concerned Participant. This sanction can be from ban of 1 Match till lifetime ban from this support. The duration for punishment is decided by the Judicial Commissioner of the matter.

Article 8 Appeals: The final decision by Judicial Commissioner can be challenged by an appeal, and will be heard again only if Appeal Panel permits and feels to do. Such appeal is to be made by a) who is convicted by Judicial Commissioner and b) ICC'S CEO. Notice for this appeal is to be sent to ICC'S General Counsel in writing within 7 days of the sanction given. After hearing again, any decision made by the Appeal Panel is considered to be final and will be binding on all the parties.

Article 9 Recognition of Decisions: Any final decision and sanction under this code shall be recognized and respected by the ICC and its members with all the National Cricket Federation who are complying with this code, notice of the same should be given to them, without any formality. They all should help to take very step required to enforce such decisions.

Article 10 Amendment and Interpretation of The Anti- Discrimination Code: This code has been amended by ICC from time to time with effect on the specified date by ICC. This code is to be interpreted as an independent code and not as a reference to the existing law or statues of National Cricket Federation or any government. This code is governed by English Law and its jurisdiction is also like as per the English Courts.

Monkeygate, January 2008^{vii}: This has been known one of the most controversial incidents of racism. When Indian Spinner Harbhajan Singh addressed Andrew Symonds as a monkey and later on he had to apologize for his comment and was banned for 3 tests and 50% match fee.

Jones calling Amla terrorist, August 2006^{viii}: Former Aussie player and broadcaster made a blunder while giving Live TV commentary for South Africa and Sri Lanka test match. He called Amla “terrorist got another wicket” while he took a catch of Kumar Sangakkara. He was later on removed from the broadcaster.

Lehmann’s Biggest Mistake^{ix}: Former Aussie player and coach was banned for 5 matches by ICC after using abusive and racist language towards Sri Lankan team where he got run out during ODI in 2003, where he spoke “black*****” while returning to the pavilion and it was heard by Sri Lankan Team Management and later on after the match Lehmann had apologised to the whole team and its skipper Sanath Jayasuriya. There was no formal lodged complaint but ICC stepped in and gave Lehmann punishment.

The Darren Sammy Incident^x: This incident is the most recent one that came out from the box. Sammy was former player of Sunrisers Hyderabad in IPL tournament. He and Sri Lankan all-rounder Thisara Perera were addressed as ‘Kalu’ by many of the players from the team. Sammy thought that word meant ‘stallion’ in India, but recently he found out the actual meaning of that word was dark men in India. Later on, he talked with one of his team mates from the team and the matter is buried in the hatchet.

The rules on discrimination in the sport of cricket are enough and the ICC is trying its best to implement it in the strictest manner as per the matter. There are instances when player among themselves only solve the matter and ICC comes to know about it later on, in such matters when no formal complaint is lodged then ICC cannot do anything about it. We often say the sport of cricket is a gentlemen’s game but by knowing the racist incidents that have happened in the past makes us feel about it and we rethink about this game. ICC has been very concerned with regard to public image, trust, popularity of this sport of cricket and is trying to implement laws on all aspects from racism to corruption in every possible manner. The laws for racism are enough as per my opinion and as we have already observed that regular amendments are made to keep it with the changes in the trend. The players solving matters among themselves shouldn’t be promoted and proper formal action against the concerned party must be taken by ICC and its legal team for racism on and off the field. Every sport is played with certain level of aggression on the field but that level of aggression should be in limit and no racist comments or any discrimination should be made. ICC policy for anti-racism is effective one and new one was enforced from 1st August 2019, so let the time say whether it is effective enough or not as in for 4 months no proper international cricket is played. The role of ICC in handling such incidents is a significant one and they have been in a good position till now.

ENDNOTES

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- ⁱ www.icc.cricket.com
ⁱⁱ Anti-Discrimination Policy for International Cricket of ICC
ⁱⁱⁱ Available at <https://www.icc-cricket.com/about/integrity/anti-racism>
^{iv} Ant-Discriminatory Code, 2019
^v Article 1.6.2.1 and 1.6.2.2 of Anti-Discrimination Code
^{vi} Article 2.1.1 of Anti-Discrimination Code
^{vii} Available at <https://cricket.yahoo.net/news/10-instances-cricket-married-racism->
^{viii} Supra at 6
^{ix} Supra at 6
^x Supra at 6

