

IJLS QUESTIONS ON ETHICS

1. You have accepted the brief in a criminal case. Your client tells you “*Look I did the crime, just get me out*”. What will you tell him?
 - (a) You tell him that it is impossible “because of my ethics”
 - (b) You tell him- I will try
 - (c) You cross-examine every witness as regards to their credibility, their capacity to remember facts and events only
 - (d) You call witnesses suggested by your client, who have sworn to you that the accused was not there
 - (e) You take the case, cross-examine one witness and put to him that “*he might well himself have done it*”

2. The Legal aid service has appointed you in a criminal case of rape. You do not wish to take the case. How do you proceed? Will you see the Presiding Magistrate, explain to him or her the reasons for your refusal or will you accept the brief because you have been practicing criminal law for 5 years now?

3. You see on your table a document marked “Top secret for your eyes only”. This document is damning against the opposing party. It has not been sent by your attorney or by your client. Your client, an old lady of limited means has never been able to bring you any proof to sustain her case.
How can you use this document?
 - (a) You return it to the opponent’s attorney-at-law and explain to him the circumstances.
 - (b) You take a photocopy, return the document without specifying the sender and subsequently use it in Court.
 - (c) You return the brief of your client to your attorney and tell him you will not take the case and destroy the document.

4. It was a Monday morning, client came to the chambers at 9am before the banks are open. Client asks to be defended. Barrister accepts and claims a fee of Rs 10, 000. The client takes Rs 10,000 from the bag in Rs 100 notes and pays the barrister. Can the barrister accept such payment? Should the barrister contact someone for advice? Should the barrister say that he will not appear because of doubt? Would accepting money in the given scenario amount to a criminal offence and even a potential breach of the Criminal code under the section relating to handling stolen property?

5. A client is charged with fraud and insists on using a forged document for a case. The barrister refuses to do so and request the Magistrate to allow him to withdraw from the case in the ‘interest of justice’. The magistrate refuses to accede to the barrister’s request on the ground that the above basis is too vague and that he/she needs to know what has happened

in the case. The barrister refuses to comply with the Magistrate's request but the Magistrate insists to know. Does the barrister have to impart the reason to the Magistrate?

6. X is retained by defendant who is facing serious criminal charges. Due to some circumstances, X is unable to defend as professionally as is expected under the Code of Ethics. The defendant is convicted and sentenced. What are the action that could be taken against X and how X should compensate the defendant for his negligence?
7. You are representing a client in a bail application. In conference prior to the application, the client reveals that he has a previous conviction for assault and has failed to surrender to court on two occasions in the past. When you arrived in Court later, the prosecution counsel informed you that your client has a clean record. The bail application starts. What should you do on these circumstances?
8. Counsel X has a hectic schedule due to heavy load of work. Client A approaches him and relates to counsel his problem and tells him it is urgent. Counsel X knows that he will not have time to deal with client A's case but still takes the case. Is there a breach of the Code of Ethics for barristers?
9. A newly called barrister cannot meet the two ends at the end of the month. X barges in his office and tells the counsel '*Chef, mo ine fer n fraud. Geter kuma ou pou fer mai tir moi dan sa case la meme si bizin coz menti ek rod fos temoin - Mo ena kas moi ek mo pou payer*'. Assuming you are the counsel, what do you do?
10. You appear for the Prosecution and you happen to overhear Defence Counsel talking to the Accused in the following terms: "There is a strong case against you, I advise you to plead Guilty despite the fact that you are not." The matter is about to be called. What should you do in the circumstances?
11. You appear in a case against a very senior member of the Bar. On the day of the trial, you are made aware informally that the opposing Counsel is attending a golf tournament and that his junior will appear on his behalf to request a postponement on the ground that the Counsel is laid up. What should you do in the circumstances?
12. Is the law practitioner obliged to draw the attention of the court to a relevant law or precedent, even if it is unfavourable to his/her client?