

**CODE OF CONDUCT FOR DIRECTORS AND
INSPECTORS OF
AREA/SHARIA/CUSTOMARY COURTS**

BY

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1.0 Introduction

1.1 The Judiciary is and has always been the fulcrum of good governance in a country like ours. It is the impartial arbiter of disputes between the citizen inter se, and between citizens and the government. It is the determinant of disputes on laws and the application of the constitution. It serves to enforce the laws of the land and protect citizens from crime. It must be said that a person's perception of the safety or civilization of his society is bound up inextricably with whether such a citizen feels that justice can be done in that society. Indeed, the exercise of judicial power of court has remarkable effects upon the lives and fortunes of those who appear before it. Certainly, the public would not expect such power to be reposed in anyone whose honesty, ability or personal standards are questionable. It is therefore necessary for the members and staff of the judiciary to strictly observe certain standards of conduct, both in and out court in order to maintain public confidence and integrity of the judiciary.

1.2 There is no doubt that staff of the judiciary are expected to behave according to certain standards both in and out of court. These standards are not merely expected to be exercise voluntarily on a personal basis but a certain standard of conduct needs to be observed by and imposed on the entire members of the court in the interest of justice administration. Therefore, it is desirable for staff of the judiciary to conform with professional and judicial ethical standards while carrying out their respective power and duties. Those on the helm of affairs of the judiciary must assume responsibility for ensuring high

standards of ethical behaviour of its staff in order to sustain the value of integrity and public confidence. Directors and Inspectors of the Area/Sharia/Customary Courts, the target audience of this paper, are complementary to and supportive of the role of Judicial Officers in the administrative of justice. Therefore, they must work assiduously and in harmony with Judicial Officers and other staff of the judiciary to ensure effective dispensation of justice.

2.0 Directors and Inspectors of Area/Sharia/Customary Courts

2.1 Before going deep into this paper, let me briefly discuss who a Director/Inspector of Area/Sharia/Customary Court is; and what are his functions and powers? The discourse would lead to effective appreciation of conduct expected to observe and adhere to.

2.2 Permit me to use Laws applicable to the Federal Capital Territory, Abuja for ease of reference. Both FCT Area Court Act 2010 and FCT Customary Court Act, 2007 provide for the establishment of Inspectorate Division to perform general administrative control and supervision in accordance with the law.

2.3 In summary, the inspector of Area/Sharia/Customary Courts is saddled with the following duties:

- a. Carrying out inspection of Area/Sharia/Customary courts on regular basis
- b. Acting on complaints received from litigants. Here, the inspector has to perform the function of investigator
- c. Supervising the activities of a number of junior officers in the Inspectorate
- d. Supervising training programmes of staff in the inspectorate
- e. Advising on the formulation, execution and review of policies and programmes relating to the smooth running of their respective courts. An inspector may give advice in respect of constitution, jurisdiction and membership of the court

- 2.4** The law has given Director/Inspector enormous power of supervision over Area/Sharia/Customary Court Judges, part of which are as follows:-
- a. He may require lower court judge to submit report of any cause or matter tried in that court
 - b. He has the power to have access to all courts under his supervisory jurisdiction and to access records and proceedings as well.
 - c. He has power at any stage of proceedings before final judgement, either by his own motion or on the application of a party to a cause or matter, to make order staying further proceedings on terms as he may consider just
 - d. He may also transfer cause or matter to appropriate court be it Magistrate, Area Court, District Court or Customary Court
 - e. He may also report the case or matter to the Sharia Court Appeal or Customary Court of Appeal as the case may be.
 - f. An Inspector, who has reported any case to the Sharia Court of Appeal/Customary Court of Appeal under the law, shall have power to make interim order suspending the operation of any order made by the lower court in the case.

3.0 UNIVERSELY ACCEPTABLE ETHICAL VALUES FOR THE JUDICIARY

Taking into consideration their enormous powers as stated above, the Directors/Inspectors of the Area/Sharia/Customary Courts shall while discharging their duties respect and promote acceptable ethical values for the judiciary to wit:-

- 3.1. Independence of Court:** Judicial Independence is a pre-requisite to the rule of law and fundamental guarantee of fair trial. It is therefore necessary especially for the Directors and Inspectors to uphold and exemplify judicial independence. It is the responsibility of the Directors/Inspectors as part of their supervisory powers, to ensure lower court adjudicates honestly and impartially on the basis of the law and the evidence, without external interference or fear of interference from anyone.

Test: how often are you able to exercise your supervisory powers or perform your functions independently on the basis of your own assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason; and how does it so appear to a reasonable observer?

3.2. Impartiality: Impartiality is the fundamental quality and the core value of the judiciary. Impartiality must exist both as matter of fact and as matter of reasonable perception. If partiality is reasonably perceived, it is likely to leave a sense of grievance and of injustice, therefore destroying the confidence of the public in the judicial process. The perception of impartiality is measured by the standard of reasonable observer. The perception that Court is not impartial may arise in different ways, for example a reasonable observer may perceive partiality of a Court through conflict of interest or behaviour of a judge, Director, Inspector or any staff of the Court in and outside the court.

Test: are you able to ensure by your conduct both in and out of court that you perform your supervisory functions and powers without favour, bias or prejudice, and that you have not done anything that is likely to create in the mind of a reasonable observer an impression of a lack of impartiality –taking into account your powers of transfer/staying further proceedings or suspension of any order made by a judge in a cause or matter?

3.3. Integrity: integrity is the attribute of rectitude and righteousness. The components of integrity are honesty and judicial morality. A Director/Inspector should always, not only in the discharge of duties, act honourably and in a manner befitting his office, be free from fraud, deceit and falsehood; and be good and virtuous in behaviour and in character. There are no degrees of integrity as so defined. Integrity is absolute. In the judiciary, integrity is more than a virtue; it is necessity.

Test: do you always act, the discharge of official duties as well as in your private life, honourably and free of fraud, deceit and falsehood without engaging in any conduct that would be perceived by a reasonable observer as diminishing respect for the office you hold as Director/Inspector

3.4. **Propriety:** propriety and the appearance of propriety are essential elements of lifestyle of a judge and staff of the judiciary. What matters more is not what a Director/Inspector does or does not, but what others think he has done or might do. For example, an Inspector, while acting on a complaint, is seen moving up and down with the complainant or having private talk and at length with him (the complainant) without the other party will create wrong perception. Public expects a high standard of conduct from you as staff of the judiciary, therefore whenever in doubt about attending an event or receiving a gift or doing any other activity, ask these question,

- Is it Fair?
- Do I feel good about it?
- How will others feel about it?
- Will I be willing to put such action in writing?
- How might this look in the eyes of the public?
- Whether Conduct would adversely affect Independence, integrity, impartiality and obligation to respect the Law and performance of the official duties
- Would it create an unsavory reputation?
- What is the dictate of the personal's conscience to the situation?

Test: does the conduct you perform compromise your ability to carry out your judicial responsibilities with integrity, impartiality, independence and competence, or is the conduct likely to create in the mind of a reasonable observer a perception that your ability to carry out judicial responsibilities in that manner is impaired?

3.5. **Equality:** Ensuring equality treatment to all before the court. Fair and equal treatment has long been regarded as an essential attribute of justice.

Equality according to law is not only fundamental to justice, but is strongly linked to judicial impartiality.

Test: are you familiar with, and do you recognize cultural, racial and religious diversity in Nigeria, and do you discharge your functions with due respect for the principle of equal treatment of parties by avoiding any bias or prejudice on irrelevant grounds such as sex, religion, disability, age, illness, marital status or sexual orientation, and do you ensure that all persons who made a complaint before you are treated with sensitivity and courtesy and in manner that respects their human dignity and fundamental human rights?

- 3.6. **Competence and Diligence:** Competence and diligence are also required in the due performance of official duties. Director/Inspector is responsible for efficient administration of justice. This involves court management, record keeping, management of funds, and supervision. If he is not diligent in monitoring and supervision, the resulting inefficiency will increase costs and undermine the administration of justice. Therefore, Director/Inspector should maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of court officials

4.0. How to Promote Ethical Behaviour and Prevent Fraud and Corruption

4.1. Why We Need to Promote Professional Standards in the Judiciary:

- i. To motivate good behaviour by developing the right culture and effective deterrents;
- ii. To reduce the opportunity for wrongdoing through good systems, security and control;
- iii. To raise awareness;
- iv. To create a more trustworthy and trusted Judiciary;

- v. To encourage the use or adoption of existing standards/guidelines for dealing with ethical dilemmas or challenges that Judges and Staff of the judiciary should face in and out of Court;
- vi. To avoid abuse of procedural discretion and to ensure impartiality;
- vii. To identify how the role of staff of the Court impacts the Administration of justice;
- viii. To reinforce public confidence in the Judiciary.

4.2. Development of a Professional Standards Strategy

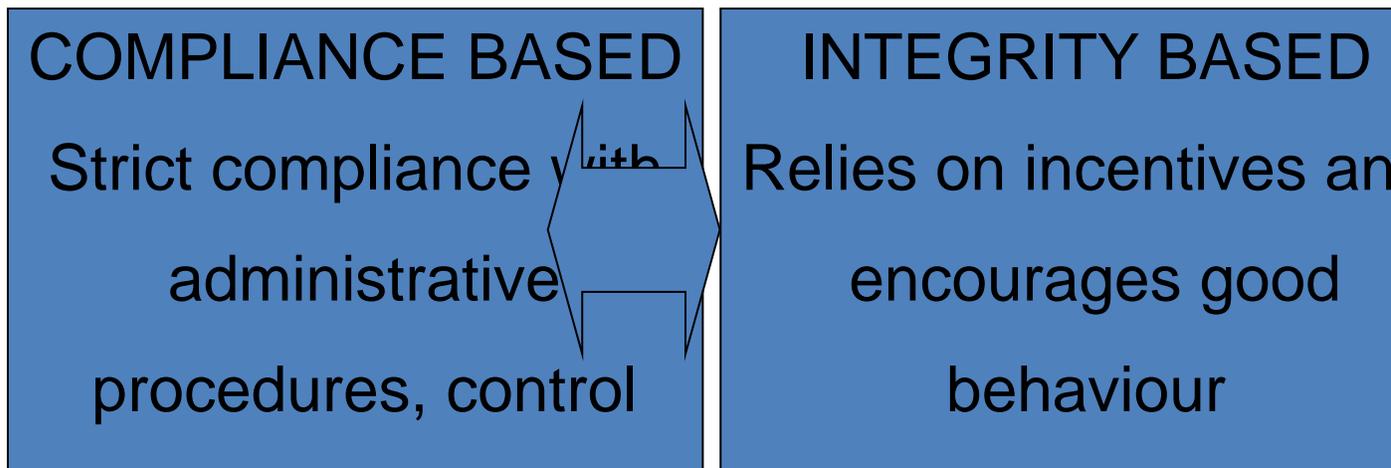
The Judiciary needs to create a sound ethics infrastructure of guidance, management and control which is based on four key principles:-

- i. Structure and system: Create the structure and systems to manage resources, information and knowledge securely, effectively and accountably, particularly those related to sensitive information, finance and procurement;
- ii. Personnel policy and practice: Develop personnel policies and practices to ensure people of the highest integrity are recruited to and promoted within the organisation and then trained, assessed and supported;
- iii. Visible leadership and effective management: Provide effective management within the organisation, with visible leadership at the top and effective communication, supervision, control and monitoring at all levels, to prevent and challenge unethical behaviour;

iv. Pro-active tactics and techniques: Develop pro-active tactics and techniques to identify, detect and deter corruption, dishonesty and unethical behaviour coupled with appropriate sanctions

4.3. Implementation of Ethical Behaviour and Professional Standards in the Judiciary: Implementation and enforcement of professional standards can be done in two ways, namely:-

- a. Compliance based measure: this measure that ensure full compliance of rules and procedure while carrying out official work and appropriate sanctions are prescribed against any defaulter of the rules; and
- b. Integrity based measure: this is a programme designed based on incentive specifically made to encourage good behaviour in the work place. The incentive enhances the quality of professional standards and ensures achieving organizational goals.



4.4. Components of Sound Ethics Infrastructure

- i. Commitment: Commitment and willingness are required especially at very senior level (like the level of Director/Inspector) towards enhancing ethical behaviours otherwise efforts to encourage ethical behaviour will be in vain. They must be seen demonstrating such ethical behaviours by deeds and not just words otherwise called 'walk the talk';
- ii. Effective leadership at all levels: there must be an effective leadership capable of defining boundaries of acceptable behaviour. The leader of the organisation must be capable of communicating the standards and taking responsibility as well as being accountable;
- iii. Supportive public service conditions: Staff needs decent living and working conditions. Job security, opportunity for promotion and career development and fair play must be ensured while selection processes must be seen to be fair and impartial. Think over the DANGER if staff felt underpaid, over-worked and insecure;
- iv. Efficient accountability mechanisms: It makes inappropriate activities harder to undertake while audit and evaluation of performance will become strong. Efficient accountability mechanisms make provisions for formal support of Whistle-Blowing process, where report of inappropriate behaviour could channel to appropriate authority/personnel;
- v. Effective legal framework: This is the teeth of the overall infrastructure which defines standards. Legal framework provides systems for enforcement through investigation and prosecution;
- vi. Workable Codes of Conduct: Codes of Conduct is vital in ensuring ethical behaviours especially where rules are reduced into public service documents. The codified conducts must be practicable and workable.

5.0. ETHICAL CODE FOR DIRECTORS AND INSPECTORS

- 5.1. In this modern society, every profession has its own code of conduct and professional ethics, written or unwritten for the control and management of the affairs of the profession and the conduct of its members. Here is the Code of Conduct for the Court Employees of the Federal Republic of Nigeria. This Code applies to all categories of Employees of all Courts including all employees of all Special Courts, Tribunals, Commissions of Enquiry, staff of the respective Federal and State Judicial Service Commissions and FCT Judicial Service Committee and such other bodies set up to perform judicial and quasi-judicial functions. The provisions of this Code is explicit as regard to its applicability to the Directors and Inspectors of the Area/Sharia/Customary Courts, therefore becomes subject of our discussion in this presentation as the topic demands.
- 5.2. Other general Codes that Directors and Inspectors must also observe in the performance of their duties include the following:
1. Constitution of the Federal Republic of Nigeria, 1999.
 2. The Public Service Rules
 3. The Civil Service Rules
 4. The United Nations Basic Principles on the Independence of the Judiciary
 5. The Bangalore Principles of Judicial Conduct

6.0. An overview of the Code of Conduct for Court Employees

- 6.1. In the performance of his duties, Director/Inspector is bound to observe high level of integrity because the office he holds in public trust and thereby must comply with the provisions of the Code of Conduct for Court Employees. The Code provides guide in order to regulate the ethical

behavior and to ensure discipline, efficiency, integrity and accountability of staff of the Judiciary. The Code is divided into four major Rules

- Rule 1: Accountability
- Rule 2: Relationships
- Rule 3: Abuse of Position
- Rule 4: Decorum and Comportment

6.2. Attempt is made to highlight the contents of these Rules in the following paragraphs:-

6.3. **RULE 1 –ACCOUNTABILITY:** Director/Inspector is accountable for the resources, property and funds entrusted to him. He is expected to use the resources under his control in a careful and transparent manner and in accordance with the laid down rules and regulations. It also involves accountability for his decisions and actions to the Public and he must submit himself to whatever scrutiny is required of his office by the proper authority. He must not place himself under any financial or other obligations that might influence the performance of his duties.

6.3.1. Director/Inspector is accountable for every confidential information entrusted to him or which comes to his knowledge in the course of the performance of his duties; he should neither speak to the media or grant an interview in his personal capacity as a free citizen in a way that may be injurious to the collective integrity of his employment; nor disclose to any unauthorized person any confidential information which may have come to his knowledge in the course of his employment; nor does he give any official document of the judiciary in any form without authorization.

- 6.3.2. Sensitive information and court record of pending or disposed of case which come either to the knowledge or custody of the Director/Inspector in the course of the performance of his official duties should never be revealed until it is made a matter of public record. Even when it becomes public, Director/Inspector should exercise a great deal of discretion. Note that the judiciary is bound by the professional secrecy with regard to deliberations and to confidential information acquired in the course of discharging its functions.
- 6.3.3. Accountability does not only entail carrying out given instruction but also conveying a report of the performance of same to appropriate authority. If an action is simply to obey an instruction, accountability will then demand the report of compliance to such instruction or, in cases of failure of compliance, inability or impossibility for tenable reasons, an explanation must be given. For instance, where you are asked to carry out supervision or to investigate a matter, accountability requires you to report as to whether the instruction was carried out or not and how it has been done or why it has not been done.
- 6.3.4. If an action requires exercise of discretion, that is, taking decision or making choices by an Inspector, accountability demands a step further, that is, an explanation of a judicious exercise of the discretion in reaching the decision or making the choice.
- 6.3.5. Director/Inspector may be required to give an account of action or omission, not only to the administrative heads who give the directives or instructions but also to the judge, either in administrative capacity or in judicial proceedings or to the public as the case may be.

6.4. RULE 2 –RELATIONSHIP:

- 6.4.1. A director/Inspector shall avoid close personal association with lawyers, litigants and members of the public, where such association may reasonably give rise to suspicion or appearance of partiality or favouritism. He should refrain from lobbying or attempting to influence official decision including posting to a particular duty post by reason of a relationship with a superior officer, or resisting a transfer to another jurisdiction.
- 6.4.2. A director/Inspector should not be a member of, belong to or take part in any club and or organization, the membership of which is incompatible with the functions and dignity of his office.
- 6.4.3. A director/Inspector should not discriminate on the basis of, nor display by words or conduct, a bias or prejudice based upon tribe, religion, nationality, gender or other protected group, in the conduct of service to the court and public. And he should discharge his duties in a timely, impartial, diligent and courteous manner.
- 6.4.4. Nothing from the foregoing provisions prevent you from maintaining good, official and officious relationship with judges, lawyers, co-employees and members of the public in a manner which is devoid of partiality and conflict of interest with members of the public. The constitution of the Federal Republic of Nigeria allows you to associate and belong to organization but such membership must not be incompatible with the function and dignity of your officer. in view of this rule, it seems that you are not suppose to engage in political activities in order to curtail situation in which you may find yourself using your

position or the court to the advantage of a political party against another. The rule does not permit you to become a member of secret society.

6.4.5. It is a part of your routine duties to provide services to lawyers, litigants, political and religious groups, and other sector of the public. It is your responsibility to provide these court users with utmost service regardless of individual, racial, religious, sexual, national or political affiliation. No form of discrimination is acceptable and where found, it should be expose and eliminated. You are also required to be very cautious not to become unduly and compromisingly familiar with individuals or groups so as to eradicate any appearance of partiality towards one against the other. Your social activities must therefore be limited to prevent a close personal association which is inimical to your onerous duty.

6.4.6. It must be underscored that over familiarity with lawyers in ways capable of degenerating into favouritism or partiality within the judicial system should be thrown overboard. Likewise, familiarity with judges particularly judges of the lower should also be avoided either with regard to cases pending in the court or filed in the registry or with respect to internal administrative matters like posting or schedule of duties. However, it is important to underscore as well that exhibiting respect and politeness to litigants is expected from you so that the public will be able to repose full confidence and assurance of justice in the court. However this attitude towards litigants should be not overstretched.

6.4.7. Your participation in societal, organizational or religious activities should not infiltrate into work place through a display of literature, badges, signs, or other materials for advertisement. Soliciting for and receiving funds at the workplace for such purpose are also not appropriate and unacceptable. No office equipment or resources of any kind be used for promoting any religious, club or organizational activities in the workplace.

6.4.8. This rule wants to ensure that official actions of Directors/Inspectors are not affected or appear to be affected by kinship, rank, position or influence of any party to a suit or person.

6.5. RULE 3 –ABUSE OF POSITION:

6.5.1. Abuse of position means using your position as Director/Inspector to secure personal privileges or exemptions. Abuse of position might not be done for personal gain alone but to favour relatives, friends, influential persons or members of your tribe, religion or any other affiliation.

6.5.2. Rule against Personal Enrichment: the rule prohibits Director/Inspector from:

- a. Using or accepting to use his position or office to secure unwarranted privileges, gratifications or confer any corrupt or unfair privilege upon himself or any relation or association.
- b. Soliciting, requesting or accepting any special compensation or fee beyond that received from his employer for work done
- c. Using resources, property or funds under his control for purposes other than those for which they are meant.

- d. Soliciting patronage from litigants or members of the public for purposes of preparing affidavits or other processes for monetary consideration or utilizing court resources for such purposes.
- e. Offering legal advice, tout, canvass or present himself in a manner as to give impression of being capable of influencing the course of justice.
- f. Appropriating to himself or disbursing by way of loan to himself or any person, court fees, fines, or other funds in his custody; nor demanding or accepting any gift or benefit of any kind, as a condition for performance of his duties, for himself or on behalf of any person on account of anything done or omitted to be done by him in the discharge of the duties of his office
- g. Generally, this rule prohibits Director/Inspector from accepting any gift from any person who has dealing with the court. While acceptance of gratifications for performance of duties is strictly forbidden

6.5.3. Rules against Conflict of Interest: conflict of interest exists when staff's ability to perform his duty is impaired or when other persons derive some benefits through his position as staff of the Court. Therefore, the rule provides that Director/Inspector shall not put himself in a position where his personal interest conflicts or appears to conflict with interest of the Court nor engage in any business which may conflict or appear to conflict with the performance of his official duties

6.5.4. The rationale behind this rule is that, almost always, wrong signals may be sent to the public that the Director/Inspector will advance favourable or preferential treatment to other in the future. Another investable

reason is to secure the integrity of the judiciary. Director/Inspector should take cognizance that Abuse of position/office amounts to corruption which is punishable under the provisions of the Independent Corrupt Practices and other Related Offences Act; Economic and Financial Crimes Commission (Establishment) Act; Advance Fee Fraud and other Fraud Related Offences Act.

6.5.5. The Rule does not prohibit Director/Inspector from receiving personal gifts or benefits from relatives or personal friends to such extent and on such occasion as are recognized by custom; neither does it stop him from taking loan from financial institutions in its regular course of business on the same terms generally available to other people. He may also receive books supplied by publishers on complimentary basis; so as scholarship or fellowship awarded on the same terms applied to other people.

6.5.6. The Rule against Conflict of Interest has to do with specific areas whereby Director/Inspector may engage in other employments which will jeopardize their interest as court employees. The code tries to emphasize that your position as Director/Inspector should be your primary employment while outside engagements should be performed outside the normal working hours of the court and must not conflict or interfere with performance of your duties and responsibilities in court or require or induce you to disclose information acquired in the course of your official duties or performed by utilizing the resources of the court.

6.6. RULE 4 –DECORUM AND COMPORTMENT:

6.6.1. The rule provides that Director/Inspector shall attend to all enquiries from lawyers, litigants and members of the public with utmost courtesy

and without employing foul or indecent language. Director/Inspector shall promptly carry out any official directive or instruction from his superior officer and be committed in the discharge of his duties. He has a mandate to study and comply with the existing laws, rules of court, and schedule of duties. He should conduct himself at all times in a manner to promote public confidence in the integrity, impartiality and independence of the judiciary. He shall be punctual at work and should not absent himself from duty without leave or permission from his superior officer, first sought and obtained. He should dress formally while on duty. He must avoid all forms of inappropriate and indecent dressing and also promote ethical conduct in the discharge of his duties as prescribed by the Code. He is under a duty to report an improper conduct by any person, either court employee or members of the public, to the appropriate authorities.

6.6.2. Decorum means 'a behaviour that reasonable persons consider to be correct and polite' while Comportment means 'to behave oneself in a particular manner'.

6.6.3. The court being a public place, Director/Inspector is highly visible in action and conduct and this reflects upon, not only himself, but also the court so much so that improper behavior or its appearance may compromise his professional integrity. Impropriety must be avoided before you take a particular action and you must conduct yourself in a manner that commands public trust and confidence.

6.6.4. A Director/Inspector may be said to have contravened the rule on decorum and comportment if he does the following:-

- a. He employs demeaning and derogatory language against a person who reports a complaint or the other party in cause or matter.
- b. He fights, threatens, intimidates or is hostile to person(s) requesting information about the stage of investigation in any cause or matter under his supervision
- c. He refuses to comply with lawful directives of his superior.
- d. He does not know how to carry out an investigation in a cause or matter that was reported to him and directed to carry out investigation.

Note that a breach or violation of any rule contained in the Code constitutes gross misconduct or misbehavior and may attract action, and this should be without prejudice to the penalty which may be imposed by any law where the breach is also a criminal.

6.0 Conclusion

It is important to know that Ethics is more than the set of rules provided in a code of conduct for enhancing the good conduct or comportment of the Directors/Inspectors. Administration of justice is sacred duty which only fit and proper persons are chosen to administer, and every person so called to serve in that sacred temple must be conscious of his behaviour. Public confidence in the court system depends on the perceived integrity of its entire staff that performs a particular role in the administration of justice. Consequently, Directors/Inspectors are required to have solid grounding in understanding good morals and ability to resolve ethical dilemmas while discharging their judicial functions. Ultimately, they should know their code of professional conduct like preachers know their

holy books. This will go a long way in ensuring an independent, strong, respectable and responsible judiciary.

Final test

1. What is the propriety of receiving gifts during festivities such as Christmas, Id Fitr/Kabir, Easter etc. donated by a lawyer, a litigant or any other court user to commemorate such occasions? Appropriate/Not Appropriate
2. Can you conduct a business within court premises as long as it is charitable in nature and does not conflict with official duties? Yes/no
3. A court employee who is found not on criminal charge for an ethical violation arising from same facts cannot be sanctioned administratively? True/false.
4. Your final test will take place outside this virtual platform, in your court and in your life even when you are away from the court. True/False

Thank you for listening