

Gulaaltota Qorannoowwan Maxxanfamanii

Dr. Taaddasaa Leencoo

Tasfaayee Booressaa

Habtee W/Sanbata

Shaambal Hordofaa

Nohi Taakkalaa

Sulxaan Abdoo

Angeessaa Itichaa

Gulaaltuu Barreefamaa fi Dizzaayinii

Naahili Xaafaa

@2012

Gabaajeewwaniifi Kottoonfachiiftota

FDRE	Federal Democratic Republic of Ethiopia
UNDP	United Nations Development Program
ORA	Oromia Revenue Authority
ONRS	Oromia National Regional States
FGD	Focus Group Discussion
USA	United States of America
HoF	House of Federation
PLC	Private Limited Companies
TIN	Tax Identity Number
VAT	Value Added Tax
HoPR	House of Peoples' Representative
OJSPTLRI	Oromia Justice Sector Professionals Training and Legal Research Institute
RDFI	Rippaabiliika Dimokiraatawaa Federaalawaa Itoophiyaa
SDFHH	Seera Deemsa Falmii Hariiroo Hawaasaa
ALA	Akka Lakkoofsa Awurooppaa
ILQSO	Inistiitiyuutii Leenjiifi Qorannoo Seeraa Oromiyaa
A/A/QO/Y/M/H/K	Abbaa Adeemsa Hojii Qorannoo Yakcaa fi Murtii Haqaa kennisiisuu
MMA	Mana Murtii Aanaa

BAAFATA**FUULA**

Ergaa Daarikteera Ol'aanaa Inistiitiyuutichaa I-Iv

**Challenges of Taxation Power in Oromia National Regional State:
Analysis of Constitution, Law and Practice.....1-68**

Teferi Bekele

Dame Chali

Abdi Asefa

Wekgari Dulume

Jemal Beriso

Mesfin Debebe

Tarekegn Kenea (involved in data gathering)

Moti Abdisa (involved in data gathering)

**Dhugummaa Ragaa Kenninsa Tajaajila Haqaa Mirkaneessuu:
Seeraafi Qabatama.....69-159**

Abdusalaam Abbee

Daagim Oljirraa

Geetaachoo Fayyisaa

Habtaamuu Bultii

Qorannoowwan ILQSO'dhaan bara 2001-2011

Gaggeeffaman.....160-172

Ergaa Daarikteera Olaanaa Inistitiyuutichaa

Inistiityutiin Leenjii Ogeessota Qaamolee Haqaa fi Qo'annoo Seeraa Oromiyaa Dambii lakkofsa 77/99'tiin yoo hundaa'u, hojiwwan gurguddoo lama akka hojjetuufi dha. Inni tokko, leenjii itti fufinsaan kenuun ogeessota sirna heeraa fi seeraa kabajuu fi kabachiisuu danda'an baay'inaa fi qulqullinaan horachuu dha. Inni bira fi maxxansa kanaan walqabatu, rakkowwan sirnaafi hojimaata haqaa naannicha keessatti mul'atan irratti qo'annoo fi qorannoo gaggeessuun yaada haaraa burqisiisuun fooyya'iinsi sirna haqaa itti fufinsaan akka jiraatu taasisu dha.

Haaluma kanaan, Inistiityutiin keenya yeroo hundeffame, bara 1999 irraa eegalee rakkolee ogeessota qaamolee haqaa biratti gama dandeettii ogummaa, naamusaa fi ilaalchaan mul'atan sagantaa leenjii hojiin duraatiin, leenjii hojii irraa yeroo dheeraatiin fi leenjii hojii irraa kan yeroo gabaabaatiin leenjii kennaa ture cinaatti, dhimmoota leenjiin furmaata argachuu hin dandeenyeefi qorannoo barbaadan irratti bara, baraan sakkata'a taasisuudhaan mata-dureewwan adda addaa irratti qorannoo taasisuun bu'aa argannoo qorannichaa akka yaada furmaataatti kaa'aman qaamolee qorannicha hojii irra oolchuu danda'anii fi qaamolee hirtaaf gama adda addaatiin beeksifamaa turee jira.

Inistiityutichi erga hundeffame eegalee hanga ammaatti mata-dureewwan adda addaa **62 irratti** qorannoo gaggeessuun yaadota furmaata qorannichaan adda bahan bu'uura qajeelfama qorannoo jiruun erga mirkanaa'aniin booda qaamolee ilaallatuuf akka dhaqqaban taasifamaas turee jira. Qorannoowwan kunniinis kenninsa tajaajila haqaa jiru bu'a qabeessa taasisuu keessatti dhimmoota qabatamaan gufuu guddaa ta'uun adda bahan irratti kan gaggeeffaman yammuu ta'u, bu'aan hojii gama kanaan jiru safaramuu ykn ibsamuu kan danda'u argannoowwan qorannoodhaan adda bahanii kaa'aman

hojii irra ooluun haqa mirkaneessuu keessatti hawaasa yoo fayyadanidha. Qorannoong gaggeeffamu hojii irra hin oolu yoo ta'e, qorannoo gaggeessuuun qofaa isaatti bu'aa akka hin taane beekamaa dha.

Bu'aan qorannoo hojiirra kan oolu qaamolee haqaa biratti waan ta'eef, tumsiif fi fedhiin hoggansi qaamoleen haqaa sadarkaa sadarkaan jiru hojimaata mana hojii gaggeessanii bu'aa qorannoong taasifame akka galteetti fayyadamuun dhaabbata gaggeessaa jiran fooyyeessuuf qaban baay'ee murteessaa dha. Keessattuu, karoora waggaa qabamu keessatti qorannoowwan taasifaman mala ittiin hojiirra oolchuu danda'an ilaachisee qabiyyee karoorigchaa gochuun yoo irratti hin hojjatamne bu'aa qorannoong taasifameen mana hojii jijiiruun sirna ta'ee itti fufuuf rakkisaa ta'a.

Qorannoowwan hanga ammaatti Inistiitiyuutiin gaggeeffaman rakkolee qaamolee haqaa furuu keessatti gaheen qaban olaanaa akka ta'e xiinxala yeroo adda addaa gageeffamaa tureen gama qaamolee haqaatiin mirkanaa'aa kan jiran yoo ta'eliee, bu'aawwan qorannoondhaan adda bahanii jiran hunda duguuganii hojii irra oolchuu fi hojii irra oolmaa argannoo qoranno jajjabbeessuu ilaachisee hanqinoonni bal'aan akka jiran hubachuun danda'amme jira. Kanas sagantaawwan adda addaan hiikuuf yaalamaa kan ture ta'us, hoggansi tarkaanfiiwwan bu'aa qoranno hojii irra oolchuu keessatti fudhatamuu qaban fudhachuu fi jijjirama barbaachisaa taasisuu keessatti kutannoo fi kaka'umsi jiru laafaa akka ta'e; xiyyeffannoo fi hordoffiin jiru hanqina kan qabuu fi qorannoowwan gaggeeffamanis qaama ilaallatuuf sadarkaa barbaadamutti dhaqqabamaa akka hin taane sakkata'iinsa jijjirama bu'aan qoranno Inistiitiyuutiin bara 2005 hanga 2009tti gaggeeffaman fide ilaachisee taasifame irraa hubachuun kan danda'amu dha.

Qaamolee haqaa qorannoowwan waggaa waggaadhaan Inistiitiyuutii kanaan gaggeeffamanif xiyyeffannoo kennuun hojii irra oolmaa qoranno kanneen

akka jajjabaatu taasisuu keessattis ta'e, dhimma kallattiin isaan ilaallatu immoo abbuumaadhaan fudhachuun hojii irra oolchuu keessatti gaheen qaban olaanaa dha. Gama Inistitiyuutiin hanqinoota qulqullina qorannoo mirkaneessuun fi hojii irra oolmaa qorannoo jajjabeessuun walqabatee jiru furuuf irratti hojjatamaa kan jiru yammuu ta'u, qorannoowwan Inistitiyuutichaan gaggeeffaman keessatti abbootiin hirtaa calqaba qorannoo irraa eegalee hanga hojii irra oolmaa qorannichaatti akka keessatti hirmaataniif sochiin eegalamee jira. Akkasumas, workishooppii qopheessuun bu'aawwan qorannoo kanneenii qaamolee dhimmi ilaallatuuf ifa taasifamaa jira. Dabalataan, fuula marsariitii Inistitiyuutichaa (www.ilqso.gov.et) irrattis yeroon gadhiifamaa turanii jiru.

Haa ta'u malee, tarkaanfiiwwan kanniin fudhachuu qofaan bu'aan qorannoo dhaqqabamaa ta'eera jechuun hin danda'amu. Kanaaf, qorannoowwan waggaan, waggaan taasifaman gabaabsuun haala maxxansaaf mijatuun jildeessuun barbaachisaa ta'ee waan argameef qorannoowwan bara 2010 taasifaman jaha keessaa afur addatti maxxanfamanii kan jiran akka ta'e ni yaadatama. Qorannoowwan hafan lamaanis akkasuma gabaabbatanii Joornaalii Seeraa Oromiyaa Jildii 8^{ffaa}, Lak.1 irratti maxxanfamanii jiru. Haaluma walfakkaatuun, qorannoowwan bara 2011 keessaa Inistitiyuutii keenyaan gaggeeffaman sadii keessaa qorannoowwan lama gabaabbatanii maxxansa kana keessatti kan haammataman yammuu ta'u, qorannoon tokko hafes Joornaalii Seeraa Oromiyaa Jildii 9^{ffaa}, Lak.1 irratti maxxanfamee jira.

Kaayyoon maxxansa bu'aa qorannoowwan kanaas qorannoowwan Inistitiyuutichaan taasifaman beeksisuun fi dhaqqabamaa taasisuun hojii irra oolmaa qorannoo jajjabeessuuf waan ta'eef; ogeessooni seeraa qaamolee haqaa naannoo keenya, hooggansii fi qaamni sadarkaa sadarkaan jiru hundi argannoowwan qorannoo kanaa hojii irra akka oolan shoora isaanii akka

bahatanii fi darbees dhiibbaa uumuu akka danda'an carraa uumuuf yaadamee ti. Kanaaf, bu'aawwan qorannoo kanneen hojii irra ooluu akkaataa itti danda'an ilaalchisee qaamoleen haqaa karoora waggaa isaanii keessatti haammachisuun mala qorannoon Inistitiyuutii keenyaan gaggeeffaman hojii irra ooluu danda'an irratti gahee keessan akka bahattan abdiin qabu ibsaa; guutuu qorannoowwan kanaa fuula marsariitii Inistitiyuutii keenya asii olitti ibsame irraa argachuun kan danda'amu ta'uu yaadachisuun fedha.

Dhuma irrattis, milkaa'ina qorannoo kanaaf qaamoleen yaadota qoranna kanaaf galtee ta'an kenuun deeggarsa taasiftan; akkasumas, haala adda addaatiin gumaacha taasiftan, keessattuu qorattoota Inistitiyuutii keenya, gulaaltota qorannoowwan kanaa, Akkaadaamii Hooggansaa Oromiyaa fi Abbaa Taayitaa Galiiwwan Oromiyaa galatoomfachuun barbaada.

Dubbisa Gaarii !!!

Tasfaayee Booressaa

Daarikteera Ol'aanaa Inistiitiyuutichaa

Bitootessa 2012

Adaamaa

CHALLENGES OF TAXATION POWER IN OROMIA NATIONAL REGIONAL STATE: ANALYSIS OF CONSTITUTION, LAW AND PRACTICE

*Teferi Bekele, Abdi Asefa, Wekgari Dulume & Mesfin Debebe**

*Dame Chali & Jemal Beriso***

*Tarekegn Kenea & Moti Abdissa****

1. Introduction

Tax is a crucial revenue source for economic development of a country. Among income sources of government, income from taxation takes lions share.¹ In a modern fiscal system, tax is a backbone of government expenditure.² This, however, doesn't mean there are no other ways through which government could raise revenues for its development endeavors.³ According to the UN General Assembly, to achieve sustainable development goals, countries must be able to raise adequate internal tax revenue.⁴ This is because, development through foreign help alone would not be feasible in the long-run and the grant might come with strings attached to it.

*All are legal researchers at Oromia Justice Sector Professionals Training and Legal Research Institute.

**Both are researchers at Oromia Leadership Academy

***Both are experts at Oromia Revenue Authority. They involved in data gathering.

¹The Federal Democratic Republic of Ethiopia Government Capacity Building Strategy Document Prepared by Information Minister in 1994, P259.

² Yonas Girma Adimassu and Ümit Süleyman ÜSTÜN (2017), a Review of Constitutional Principles Regarding Taxation: Ethiopian and Turkish Perspective, P 3.

³ William Kratzke, Basic Income Tax 2016-2017 (4th Ed., CALI eLangdell Press (2016), P1.

⁴ On goal 17 target 1 of A/RES/70/1 Transforming our world: the 2030 Agenda for Sustainable Development, Strengthen domestic resource mobilization, including through international support to developing countries, to improve domestic capacity for tax and other revenue collection is one way to realize sustainable development goals by 2030.

According to UNDP, in its working paper 77, taxing is the main source of revenue for government of developing countries. Domestic resource mobilization is, therefore, the appropriate and reliable source for economy of developing countries' sustainable development.⁵ However, low income countries face a number of challenges to increase their revenue since designing a system that efficiently collect tax revenue is an uphill battle. Political, economic structure, social and cultural problems obliterate the developing countries effort to collect tax effectively.⁶ Large informal sector, misuse of transfer pricing, high debt burden, growth instability, low levels of per capita income, weak tax administration, domestic savings and investment plus weak governance, and capacity also contribute to low tax collection in developing states.⁷

Due to this, most developing countries face substantial fiscal challenges: spend more; spend better; tax more; tax better.⁸ Ethiopian government's priority is bringing rapid and sustainable development with the goal of becoming middle income country by 2025. Realization/achievement of this goal requires sustained and dependable domestic revenue mobilization scheme. As indicated in the Sustainable Development Goals, one way of domestic resource mobilization is through effective taxation.

⁵ UNDP Working Paper, Performance and Prospects of Tax Collection in Ethiopia (2016), P 4.

⁶ Timothy Besley and Torsten Persson, *Why Do Developing Countries Tax So Little?* Journal of Economic Perspectives (2014), Vol. 28, No.4, F100.

⁷ Wondwossen Jerene, *Challenges of Value Added Tax (VAT) Collection Performance: A Case Study of Hawassa City Revenue Authority*, The International Journal of Business & Management (2016).

⁸Richard M., Tax Challenges Facing Developing Countries: A Perspective from Outside the Policy Arena (2007).

Ethiopia, as a federal state⁹ separates power between federal and regional governments. Genuine federalism presupposes autonomy of states; and this autonomy could only be realized with financial capacity of the autonomous state. Financial capacity could be insured in part if the autonomous state has full power to generate revenue for activities conducted within its jurisdiction. With this in view, the FDRE Constitution shared power between federal and regional government. The sharing of the power is done through constitutional provisions.¹⁰ Among shared powers, taxation power is one. Accordingly, starting from Article 96 taxation power is divided among federal and regional governments. The tax assignment between federal and regional government is supposed to be done according to fiscal federalism principle.

However, the tax assignment made by the FDRE Constitution is challenged by different scholars who evaluated the matter from the point of fiscal federalism theory. Studies show that Ethiopian federalism gears toward the practice of centralism despite constitutional provisions; and this is manifested in two ways: high party centralization and fiscal dependence of the states on the federal government.¹¹ Federalism in nomenclature and centralism in practice is serious problem particularly on revenue generation and taxation

⁹The FDRE Constitution under Article 1 explicitly established a federal form of government. See Proclamation No. 1/1995, Proclamation of the Constitution of the Federal Democratic Republic of Ethiopia. This could be understood from the nomenclature of the State. Accordingly, Ethiopian state shall be known as The Federal Democratic Republic of Ethiopia.

¹⁰ The FDRE Constitution under Article 95 says “Federal Government and the States shall share revenue taking the federal arrangement into account.”

¹¹ See for example, Alefe Abeje, The Role of the Federal System on the Structure and Operation of Political Parties in Ethiopia, European Scientific Journal (2014); Zemelak Ayitnew, The Politics of Sub-national Constitutions and Local Government in Ethiopia, 16 Perspectives on Federalism, Issue 2 (2014); Asnake Kefale, Federalism and Ethnic Conflict in Ethiopia: A Comparative Regional Study (New York: Routledge 2013); Mehari Taddele, Federalism and Conflicts in Ethiopia, Conflict Trend, available at: <www.meharitaddele.academia.edu/TeshagerMehari.pdf>

power and can really challenge the federal system that needs a solution through research.

Tax administration in developing countries lacks the capacity to monitor compliance among taxpayers.¹² Fragile tax administration system, an informal economy that usually escapes the tax net and the under development of modern attitude towards paying taxes of a nation are handicaps to effective collection of tax revenue.¹³ Tax administration must be equipped with strong enforcement muscle to police the defaulting tax payers. In this regard, the Oromia Revenues Authority (hence forth ORA) enforcement trend signifies its inefficiency and ineffectiveness. There are instances of intervention from within the executive branch to block the enforcement of legally granted power of the ORA, thereby dwarfing its enforcement muscle. In light of the aforementioned ideas, this research analyzed the tenability of allocation of taxation power under the FDRE Constitutional framework in light of the theories of fiscal federalism. It also interrogated legal and practical gaps in tax administration system of ONRS. In general, this research has the objective of examining the taxation power and revenue generation and collection activities of ONRS. In doing that, the analysis of constitutional, legal, policy and practical challenges to the tax administration system of ONRS is made.

To achieve its objective, the research employed both qualitative and quantitative method. Primary and secondary data are gathered from taxpayers of different categories [Level of A, B and C] as well as expertise of tax authorities at regional, zonal and woreda levels. Interviews are conducted with judges at different levels of regular courts in Oromia and presiding judge at

¹² Zhou Gideon and Madhikeni Alouis, *Systems, Processes and Challenges of Public Revenue Collection in Zimbabwe*, American International Journal of Contemporary Research (2013), Vol. 3, No. 2.

¹³ Timothy Besley and Torsten Persson, *Supra* note 6.

Tax Appeal Commission; Members of Tax Grievance Committee, Directorate Director & auditors at Oromia Auditor-General, Legal Affairs Directorate Director at Federal Ministry of Revenue, Budget and Finance Standing Committee Chairperson at Caffee. Focus Group Discussions is conducted at 22 woredas with a group of 5-10 persons from taxpayers, tax assessors and assignors as well as tax collection experts, tax grievance committee, trade and licensing experts. We have analyzed 45 real cases decided by regular courts and 5 cases decided by tax appeal commission.

A total of 1015 questionnaires were filled by tax authority expertise and taxpayers. The sample size for questionnaire is calculated according to the formula developed by Kothari. According to the data obtained from Oromia Revenue Authority (December, 2018) there are 22, 290 A level taxpayers, 26,905 B level taxpayers and 348,725 C level, total **397,920 taxpayers** in Oromia National Regional State. When we determine the amount of sample according to Kothari¹⁴ formula:

$$\begin{aligned} ? = & Z^2 * p * q * N \\ & (e^2 (N - 1)) + (Z^2 * p * q) \end{aligned}$$

Where:

n= required sample size

Z^2 = is the abscissa of the normal curve that cuts off an area α at the tails ($1 - \alpha$ equals the desired confidence level. The value for Z is found in statistical tables which contain the area under the normal curve. e.g., $Z=1.96$ at 95% confidence level; and $Z^2=3.841$).

¹⁴ C.R. Kothari, Research Methodology, Method and Techniques (2004), P20.

N= the population size (N=397,920)

P= the population proportion (assumed to be 0.5, this would provide the maximum sample size)

e = is the desired level of precision or margin of error (5% error or 0.05)

$$q = 1 - P$$

Thus;

$$n = (3.841 * 0.5) * (1 - 0.5) * 397,920 = 399.61$$

$$((0.05^2) * (397920 - 1)) + (3.841 * 0.5) * (1 - 0.5))$$

Accordingly, among 397,920 A, B and C level taxpayers of the Oromia Revenue Authority level, 400 of them were identified as a sample size to respond to the questionnaire, as illustrated in above. We then proportionately calculated for the three levels (A, B and C) of taxpayers.

Hence, for level A taxpayers, the sample size will be 22 taxpayers, for B level taxpayers, the sample size will be 27 taxpayers and for C level tax payers, the sample size for this study will be 351 taxpayers.

With regard to the place from where to collect, we cluster Oromia into three clusters [Western, South and South East, and Eastern]. Necessary data are collected from 7 Zones; namely, (Jimma, South West Showa, West Arsi, Bale, East Hararge, Arsi, East Showa), 7 town administrations; namely, (Adama, Shashamane, Sebeta, Jimma, Bale Robe, Burayu and Bishoftu) and 22 woredas; namely (Gomma, Shabe, Karsa, Waliso, Bacho, Tole, Negelle Arsi, Gadab Asassa, Bishan Gurracha, Gasara, Goba and Madda Walabu). Western, South and South Eastern and Eastern clusters are purposely selected based on the regions revenue generating capacity and collection performances.

Collected data are analyzed both manually and computerized system. In the data processing procedure, editing, coding, classification and tabulation of the collected data is used. Quantitative data [questionnaire] are analyzed using the statistical package for social sciences (SPSS) version 20. Descriptive statistics like frequencies, percentage and figure are applied to facilitate meaningful analysis and interpretation of research findings. Qualitative data obtained through interviews, FGD and open-ended questionnaire were analyzed thematically with the use of direct quotations and narrations from the participants. Moreover, doctrinal analysis was also employed mainly to know the existing problems in constitutional, legal, policy, and even practical gaps as far as substantive and procedural aspects of taxation are concerned. These were primarily examined against the established theories of fiscal federalism, experiences of other federations¹⁵ and other relevant literature.

The remainder of this article is divided into four sections, including this introduction. In the first section (introduction) the context is set, problems relating to taxation particularly in federal states along fiscal federalism theory as well as tax administration problems are examined. The methodology employed to conduct the research is explained in the first section. Section two provides experiences of some federations regarding tax assignment. Section three deals with legal analysis and how the existing legal system is affecting taxation power and revenue generating capacity of the region. In the fourth section, practical problems relating to taxation and tax administration of the

¹⁵ Researchers considered experiences of four federations (America, Canada, Switzerland and Nigeria) on tax assignments based on the relevance they have with Ethiopian federation. As such, experienced federations and those which are not center-seeking are chosen for analysis. The United States federal system has influenced many other federal systems including Ethiopia's vertical division of power. Canadian federation is selected as it represents best-practice system of fiscal federalism. Switzerland is known for highly favoring autonomy of Cantons. Nigeria gears to favor federal; but best experience on natural resource.

region is analyzed. Finally, in the fifth section, conclusions and recommendations are forwarded.

2. Experiences of Some Federations on Tax Assignment

One of the basic features of any federation is that political power (commonly related to legislative, executive, judicial and financial functions) is constitutionally divided between the federal and states, and that both orders of government are autonomous with respect to the powers granted to them.¹⁶ This is called expenditure responsibility and becomes meaningful when supported by division of taxation power. Just like division of expenditure responsibilities, division of taxation power varies across federations.

According to Anwar Shah, four general principles require consideration in assigning taxing powers to various governments. These are economic efficiency, national equity, administrative feasibility and fiscal need/revenue adequacy.¹⁷ These four principles suggest that user charges are suitable for use by all orders of government, but the case for decentralizing taxing powers is not as compelling as is that for decentralizing public service delivery. This is because; regional and local taxation can introduce inefficiencies into the allocation of resources across the federation and cause inequities among people in different jurisdictions. Moreover, collection and compliance costs can increase significantly and these problems are more severe for some taxes than for others.

Hence, the selection of which taxes to decentralize must be made with care, balancing the need to achieve and sustain fiscal and political autonomy and

¹⁶Assefa Fiseha, Federalism and the Accommodation of Diversity in Ethiopia: A Comparative Study (3rd Revised Ed.), p93.

¹⁷ Anwar Shah, Principles of Fiscal Federalism in the Practice of Fiscal Federalism: Comparative Perspective (A Global Dialogue on Federalism, Volume IV), p20.

accountability at regional and local orders of government against the disadvantages of having fragmented tax system.¹⁸ With this background, let's see experiences of certain federation.

2.1. Canada

Like any federal country, political power is divided between the federal and provincial governments. The Constitution lists a number of powers that are exclusively federal, such as defense, international trade, criminal justice, money and banking, international waterways, unemployment insurance, bankruptcy, and divorce.¹⁹ Exclusive provincial powers listed in the Constitution include health, education, social services, civil and property rights, administration of justice, highways, and matters of a local nature.²⁰ Other areas are shared between the federal and provincial governments, including immigration, agriculture, and pensions, although only in the former two is the federal government paramount.²¹ Moreover, residual powers are given to provincial government.²² Below provincial governments, there are local governments whose powers emanate from provincial legislations.²³ They are responsible for local matters, such as local policing, water, sewage and garbage, local roads, and recreation.²⁴ They often participate in the delivery of provincial services, such as welfare and education.²⁵

In order to finance these responsibilities, taxation power is also divided between federal and provincial levels of governments. Both have access to the

¹⁸ *Ibid.*

¹⁹ Robin Broaday, Fiscal Federalism in Canada, in the Practice of Fiscal Federalism: Comparative Perspectives (A Global Dialogue on Federalism, Vol. II, 2007, P102.

²⁰*Ibid.*

²¹*Ibid.*

²²*Ibid.*

²³*Id*, P104.

²⁴*Ibid.*

²⁵*Ibid.*

main taxes so that a degree of revenue-raising autonomy can be achieved.²⁶ The federal government can also use any form of taxation it chooses, and it is free to spend as it sees fit and to borrow and to lend.²⁷ Provinces can raise revenues for their own purposes using “indirect taxes,” although in practice this has been widely interpreted to include virtually any tax, except that aimed at taxing non-residents.²⁸ The provinces also own the natural resources within their borders and can manage and tax them as they see fit.²⁹ Royalties and the sale of licenses are used in the case of oil and gas, and mining income taxes apply to minerals of various sorts.³⁰ Fees are also obtained from renewable resources such as timber. In some cases, especially hydroelectricity, provincial crown corporations are used to generate profits for general revenues.³¹ This has turned out to be a very important feature of the Canadian federation and one that has led to intergovernmental conflicts.

2.2.Switzerland

Since the constitution of 12th September 1848, in Switzerland, there are three layers of government: (1) the communes, at the local level, (2) the Cantons, at the intermediate level and the Confederation, at the national level-which are interconnected by many vertical and horizontal relationships.³² The Swiss Constitution divides power between the Federation and Cantons in truly federal way. The constitution specifies the powers of the federation, the joint powers of the federation and the Cantons. It vests the residuary powers with

²⁶*Ibid.*

²⁷*Id.*, P102

²⁸*Ibid.*

²⁹*Ibid.*

³⁰*Id.*, P111.

³¹*Ibid.*

³²Bernard Dafflon, Fiscal Federalism in Switzerland: A Survey of Constitutional Issues, Budget Responsibility and Equalization, Working Paper Nr 278 (1999), P2.

the Cantons. The Cantons enjoy autonomy in respect of the legislation and administration of all those subjects which have not been given to the federation.³³

Article 3 of the new Federal Constitution of 1999 guarantees the Cantons' sovereignty in all the spheres in which the Constitution does not explicitly provide for the federal government's competence.³⁴ Each new competence for the centre therefore requires a constitutional amendment, which necessitates the consent of both a majority of the voters and a majority of the Cantons. The autonomy of the Cantons is also guaranteed by the legislative power with two Chambers. The Confederation has authority only in those areas in which it is empowered by the federal Constitution (e.g., foreign affairs, defense, customs, and monetary policy).³⁵

More than any other countries, states or cantons have fiscal autonomy and power. When such power and autonomy is threatened by federal government, there is possibility of asking for referenda; and 50% referenda in the world is taken in Swiss due to fiscal policy.³⁶ Swiss cantons³⁷ have extensive fiscal autonomy. Contrary to most other countries, the Swiss fiscal system is characterized by an extensive fiscal federalism with high fiscal autonomy at all governmental levels, by direct popular rights which include fiscal referenda

³³Top 9 Federal Features of the Swiss Federation Political System <http://www.politicalsciencenotes.com/switzerland/top-9-federal-features-of-the-swiss-federation-political-system/1438> <accessed on 4/17/2019>.

³⁴Bernard, *supra* note 32, P4.

³⁵A Global Dialogue on Federalism, The Practice of Fiscal Federalism: Comparative Perspectives, Vol. IV, P321.

³⁶A Global Dialogue on Federalism, *Id.*, P319.

³⁷Switzerland consists of twenty “full cantons” and six “half cantons.” With respect to fiscal matters, there are twenty-six cantons with twenty-six different fiscal constitutions. For detail, see the 1848 Federal Constitution of Swiss Art.3. These constituent polities have their own income and property taxes.

at the cantonal and local levels, and by particular constitutional and/or statutory fiscal restraints in order to prevent excessive public debt.³⁸

In Swiss fiscal constitution, canton/states have substantial autonomy not only in expenditure but also in revenue. In Swiss, personal and corporate income taxes could be taxed at state and local level. Cantons have the basic power to tax income, wealth, and capital. The municipalities can levy a surcharge on canton taxes. The federal government relies mainly on indirect (proportional) taxes, a value-added tax, and specific consumption taxes, such as the mineral oil tax.³⁹ Both federal and canton enact tax laws in Swiss. In the course of enacting such laws, if the confederation interfere too much of cantons' interest, cantons can launch referendum opposing such law provide at least eight of cantons demand referenda. The first of such referendum was held in 2004 canton's opposing tax reform that taxes owner-occupied houses and apartments. The referendum was successful, and the reform was rejected. Since then, the federal finance minister has been much more hesitant to mingle with issues that touch canton interests. The experience of Switzerland shows centralizing and federal interference on state taxation autonomy may lead into disintegration of federation.

2.3.The United States of America

In the USA, the responsibilities of government are apportioned among the levels of government.⁴⁰ For example, the central government has general responsibility for defense; the states, for most prisons and roads; and local governments, for schools. Certain powers, such as taxation and the regulation

³⁸Lars P. Feld and Gebhard Kirchgässner, Sustainable Fiscal Policy in a Federal System: Switzerland as an Example (2005), P281.

³⁹A Global Dialogue on Federalism, *supra* note 35, P329.

⁴⁰Gregory Gleason, Fiscal Federalism in the US (2016) available at: <https://www.researchgate.net/publication/265045678> <accessed on 4/23/2019>.

of commerce are shared. This is because once expenditure responsibilities are divided among federal, state, and local governments, it is necessary to ensure the means of fulfilling such responsibility. The ability to raise revenues via taxes will be considered first.⁴¹

The US Constitution imposes relatively few limitations on taxation at the US federal (Article 1 Section 8) and sub-national government levels.⁴² The only restriction imposed on state taxing power is the prohibition against taxing exports from a state. Thus, federal, state, and local governments overlap considerably in their use of revenue sources.⁴³ For instance, corporate income taxes are source of revenue for both federal and states. In the United States of America, state can tax corporate; and taxing state shall apportion the corporate tax base for multistate firms basing on the activity sufficiently connected to the state. Whether a corporation's income can be taxed by certain state or in a given state is based on the connection of the activity to such state.⁴⁴

According to Kurt Schmidheiny⁴⁵, the USA is known for its fiscal decentralization preceded by Canada and Switzerland. This shows in comparative terms, the United States is moderately non-centralized country and taxation power is shared among federal, state and local; even though their constitution do not mention local government which are treated under state laws.⁴⁶ The major feature of the distribution of powers, which applies

⁴¹Daphne A. Kenyon, *Fiscal Federalism* (2018), http://encyclopedia.federalism.org/index.php/Fiscal_Federalism <accessed on 4/23/2019>.

⁴²A Global Dialogue on Federalism, *supra* note 35, P353.

⁴³A Global Dialogue on Federalism, *supra* note 35, Id., p349.

⁴⁴A Global Dialogue on Federalism, *supra* note 35, Id., p361.

⁴⁵Kurt Schmidheiny, Emerging Lessons from Half a Century of Fiscal Federalism in Switzerland (2017), P3.

⁴⁶R. L.Watts and Marianne Vigneault, Fiscal Federalism in the United States (2000), P1.

symmetrically to all 50 states, is the arrangement whereby the Constitution lists subject matters delegated to the federal government and leaves fairly substantial residual authority to the states. In USA, excise tax is given to regional states. Moreover, property taxes are almost exclusively taxed by local governments and generate nearly three-fourths of local revenues. Most local governments with taxing authority can levy property taxes too.

2.4.Nigeria

The Nigerian Constitution recognizes three tiers of governments: federal, state and local. The Constitution spells out the assignment of functions and areas of fiscal jurisdiction among the various units of the Nigerian federal system. Regarding expenditure responsibility, the constitution indicates the exclusive federal legislative list⁴⁷, concurrent legislative list on which both federal and states governments enact laws⁴⁸and residual functions⁴⁹. Coming to taxation, the major sources of revenue – import duties, mining rents and royalties, petroleum profit tax, corporate income tax, excise duties and value-added tax and personal income tax come under the jurisdiction of the federal government.⁵⁰ On the other hand, entertainment taxes, road taxes (motor vehicle and driver's licenses), pools, betting and lotteries taxes, gambling taxes, land registration, survey fees, development levies, property taxes fall under the jurisdiction of state governments.⁵¹ Similarly, local governments have tax jurisdiction over market and trading licenses, and different fees like motor park dues, marriage, birth and death fees, registration fees, public

⁴⁷The 1999 Nigerian Constitution, Section 4 (Second Schedule).

⁴⁸The 1999 Nigerian Constitution, Section 4 (Second Schedule).

⁴⁹ The Nigerian Constitution, Section 4 (7a).

⁵⁰Akpan H. Ekpo, Federal Republic of Nigeria in the Practice of Fiscal Federalism: Comparative Perspectives (A Global Dialogue on Federalism, Vol II, 2007), P213

⁵¹Akpan H. Ekpo, *Ibid*, Pp 226-227

convenience, sewage and refuse disposal fees, signboard and advertisement permit fees.⁵²

In spite of the assignment of tax revenue at different levels of federation, Nigerian fiscal federalism is characterized by its excessive centralization-hence high vertical fiscal imbalance.⁵³

Oil-producing Areas and Resource Control

Crude oil is the primary engine for national economic growth and development. It contributes almost 90% of Nigeria's total foreign exchange earnings.⁵⁴ The national budget is also predicted on the expected annual production and price of crude oil.⁵⁵ It is, thus, quite reasonable to expect that the areas producing the nation's crude oil would be very highly compensated for what is taken from them as well as for the devastation of the land engendered by the exploration process.⁵⁶ Exploration results in environmental degradation of all types – land (despoliation of farmlands), water (destruction of fishing areas and sources of drinking water), and air (release of many pollutants causing diseases in humans, animals, and plants).⁵⁷ The devastation and degradation suffered by the oil-producing areas are indications of the extraordinary expenditure needs of those areas that ought to be addressed by intergovernmental transfers.

⁵²Akpan H. Ekpo, *Id*, P227.

⁵³*Id.*, P214

⁵⁴*Ibid.*

⁵⁵*Ibid.*

⁵⁶*Ibid.*

⁵⁷*Ibid.*

3. Analysis of Constitutional and Legal Issues

3.1. Constitutional Issues

It is general truth that both federal and regional governments discharge their governing responsibilities in federal states. The same is true in our case. As per Art. 94 (1) of the FDRE Constitution, both federal and regional governments borne their respective expenditures needed to discharge the functions assigned to them. One way through which bearing ones' own expenditure could be possible is by raising revenue in their administrative boundaries through taxation. The divisions of taxation power under the FDRE Constitution are exclusive federal power of taxation (Art.96), exclusive regional power of taxation (Art. 97), concurrent (joint) power of taxation (Art. 98), and undesignated (residual) power of taxation (Art.99).⁵⁸

The exclusive jurisdiction of the federal government's taxing power is those sources listed under 96 of the FDRE Constitution. For instance, levying and collecting custom duties, taxes and other charges on imports and exports is exclusively given to federal government and over 75% of federal government revenue source is said to be these ones.⁵⁹ According to this supreme law, there is no legal way for the federal government to levy and collect taxes alone on other sources than those listed under Article 96.

Similarly, exclusive tax jurisdiction of the states is listed under Art.97 of the FDRE Constitution. Regional governments were empowered to levy and collect taxes and duties on revenue sources reserved to them.⁶⁰ For instance, states shall levy and collect profit and sales taxes on individual traders carrying

⁵⁸ Some like Dr. Taddese Lencho identifies other types of division of taxation like related taxes-a tax related to federal or state exclusive.

⁵⁹Interview with Kuma Shumi, Head of Sebeta Town Administration Revenue Authority on 29/5/2011.

⁶⁰See the FDRE Constitution Art. 52 (2 e).

out a business within their territory.⁶¹ As per provision of Art.97 (5), states have power to levy and collect taxes on income derived from private houses and other properties within the state. Taxing properties situated within the region may include even federal properties situated in the region provided it is profit making property.⁶²

Article 98 of the FDRE Constitution is the joint taxation power of the federal and regional governments. According to this provision, both governments have concurrent power on the revenue sources listed under this Article; be it to levy or to collect taxes. So, it is incorrect if only one tier of government is doing the task alone without the consent of the other. Joint taxation power literally presupposes both governments share the proceeds derived from such activity. Customarily there are two trends on joint taxation through which fiscal imbalance or mismatch of revenue means and expenditure is tackled.⁶³ According to Shah, tax-base and revenue-sharing mechanisms are customarily practised on concurrent taxation power assigned by constitution in developed and developing countries, respectively. Tax-base sharing is when two or more orders of government levy rates on a common base while revenue-sharing is when one tier of government has unconditional access to a specified share; though levying and collection of tax is done by other tier of government in most cases federal government. Revenue-sharing agreements typically specify how revenues are to be shared among the federal government and the state. The trend of Ethiopia on joint taxation is revenue-sharing. Oromia, for instance, does not involve in levying and collection of joint tax but share

⁶¹See the FDRE Constitution Art. 97 (4).

⁶²See the FDRE Constitution Art.100 (3) for detail.

⁶³Anwar Shah, Introduction: Principle of Fiscal Federalism available at http://www.forumfed.org/libdocs /Global Dialogue/Book_4/BK4-en-int-Shah.pdf

revenue collected from such source according to sharing formula enacted by the HoF which was enacted in 2004 E.C.⁶⁴

The evil part of this is that it is massively affecting tax revenue generating capacity of Oromia from joint tax is criteria used to determine who share proceeds from the joint taxes. In Oromia, there are bundles of PLCs and share companies which are treated as joint taxation power of federal and Oromia as per Article 98 (2) of the FDRE Constitution. However, the practice currently in this regard is PLC and share companies are paying their tax at registration place and where they take Tax Identification Number (TIN). It is the registration places that take the share of income derived from PLC and share companies. Accordingly, different companies while working in Oromia merely because they take their TIN address outside the region particularly Finfinnee; the proceeds of joint taxes is automatically changed from Oromia to Finfinnee which researchers argue that it is unfair.

The current practice that use TIN address as criteria to share joint taxes is massively affecting Oromia's tax revenue generating capacity could be argued against from two points of view. The first one is from position of Finfinnee as part of Oromia. Obviously, Finfinnee is the Capital City of Oromia and its existence within Oromia regional state is confirmed by the FDRE Constitution. As such whether companies TIN address and its registration is in Finfinnee or Oromia should not make change; since one's capital may not be outside of a region's jurisdiction. So, even when TIN address of registration gives sharing

⁶⁴The percentage share of federal and regions is determined to be equal share on trade profit, taxes on dividend, employment income tax of workers in public enterprises jointly established, be it on large scale mining or companies; 70% for federal and 30% for regions on sales tax related to above; and 60% for federal and 40% for regions on royalties of resource taxes. See for detail the federal democratic republic of Ethiopia ministry of revenue federal inland and revenue authority letter written on 21/12/95 numbered Ref. No /2032/9

power of joint taxes, Oromia cannot lose much since majority of companies operating in Oromia are registered and get their TIN from Finfinnee.

The other is from residence based taxation point of view. The resident based taxation instructs that, a country can tax persons if they are residents or domiciled in the country regardless of the source of income. In the case of companies, the place of incorporation can be considered as residence or domicile of a country or regional state of federating units.⁶⁵ This means the region within which companies work can tax or at least unconditionally get share in joint taxation. This argument is supported by an article published on tax justice network. In that article, income or profits which result from international activities such as cross-border investment may be taxed where the income is earned (the source country), or where the person who receives it is normally based (the country of residence). Residence taxation of income is based on the principle that people and firms should contribute towards the public services provided for them by the country where they live, on all their income wherever it comes from.⁶⁶

Regarding undesignated (residual) power of taxation (Art. 99) of the FDRE Constitution, the House of Federation and the House of Peoples' Representatives, shall in a joint session, determine by two-thirds majority vote on the exercise of powers of taxation which have not been specifically provided for in the Constitution. This means, residual power of taxation, depending upon decision of joint session of the two Federal Houses can be assigned to either level of government or concurrently to both levels of

⁶⁵ Tojo Jose, what is the difference between residences based taxation and source based taxation? (2016) <https://www.indianeconomy.net/splclassroom/what-is-the-difference-between-residence-based-taxation-and-source-based-taxation/> <accessed on 6/25/2019>.

⁶⁶ Tax Justice Network, https://www.taxjustice.net/cms/upload/pdf/Source_and_residence_taxation_-_SEP-2005.pdf <accessed on 6/22/2019>.

government unlike residual legislative power which is totally reserved for the states.

With this constitutional framework, let's proceed with analyzing Ethiopia's tax allocation to tiers of government based on surveyed experiences of certain federations and existing fiscal theories.

3.1.1. Areas Which Need Reassignment

Under the FDRE Constitution, some tax bases are misallocated and needs reassignment. For example, the power to tax the income and winnings of national lotteries and other games of chance is given to the federal government (Art.96 (4)). But, the experiences of surveyed countries like Nigeria show that such taxes because of their very nature are best administered at state level of government.

Similarly, under the FDRE Constitution, property tax is allocated between the federal and state governments. Taxation power on property is allocated based on the ownership of the property. If the property is owned by the federal government, taxation power belongs to the federal government (art.96 (6)). On the other hand, if the property is owned by the state government, taxation power belongs to the state government (art.97 (6)). Again, there are cases whereby the Federal and State Governments have concurrent power of taxation on jointly established enterprises⁶⁷ although such enterprises are not established yet. However, almost all surveyed foreign experiences like Australia, Brazil and Canada show that property tax is best administered at state or local level of government. Hence, there is no need to divide the power of property tax into two levels of government in Ethiopian case.

⁶⁷ The FDRE Constitution, Art.98 (1).

3.1.2. Joint Power of Taxation

Regarding joint (concurrent) taxes, the Constitution stipulates that the revenue derived from concurrent tax sources shall be divided between the center and the regional governments as determined by the House of Federation taking the federal arrangement into account.⁶⁸ The sources of joint taxes are: 1) on profit, sales, excise and personal income taxes on enterprises which the center and regional governments jointly established 2) on sales and excise taxes and profits of companies⁶⁹ 3) on dividends due to shareholders 4) on income derived from large-scale mining and all petroleum and gas operations and royalties on such enterprises.⁷⁰

One basic issue related with such types of taxes is how to determine the basis for the apportionment of revenue since the Constitution does not set a percentage for the share of the center and the sharing region. Literature in the area tells us that the share of the percentage can be determined considering factors such as how much the financial capacity of the center is dependent on shared taxes, whether or not the division of shared taxes plays a role in income distribution, and the need to reward efficient regions.⁷¹ In Ethiopia, both levels of government proposed and the House of Federation decided the share of the federal and state governments as indicated by the following table:

⁶⁸ The FDRE Constitution, Arts. 62 and 95.

⁶⁹ There is a difference between the Amharic and the English version of Art. 98 (2) of the FDRE Constitution. While the English version limits the scope only to profit taxes on companies, the Amharic version says sales and profit taxes on companies. Moreover, excise tax is not included under Art. 98 (2). But it is not reasonable to exclude it. Hence, it is good understand the content of Art.98 (2) to include profit taxes, sales taxes and excise taxes (For details, see Solomon Nigussie, Fiscal Federalism in the Ethiopian Ethnic-based Federal System (Wolf Legal Publisher, 2008, P142)

⁷⁰ The FDRE Constitution, Art.98.

⁷¹Teresa Ter-Minasian, Intergovernmental Fiscal Relations in a Microeconomic Perspective: An Overview; in Teresa Ter-Minasian (ed.) Fiscal Federalism in Theory and Practice (IMF, Washington DC,1997),Pp11-12 as cited in Solomon Nigussie, Supra note 69 Pp213-214

			The share of the centre & the regions on a tax-by- tax basis from each type of tax %	
1		Types & source of joint revenue	Share of the centre	Share of the region
	1.1	Revenue from enterprises jointly established by the center and region	Not available	Not available
2	Revenue from companies			
	2.1	Profit taxes	50%	50%
	2.2	Service, sales (VAT) and excise taxes	70%	30%
	2.3	Taxes on dividends	50%	50%
3	Revenue from large-scale mining and all petroleum and gas operations			
	3.1	Tax on profits	50%	50%
	3.2	Royalties	60%	40%

As one can grasp from the above table, the overall share balance tilted toward the federal government. Considering the role of the federal government in income distribution and the substantial contribution of these taxes such as taxes on companies, one can justify as to why the balance of percentage is tilted toward the centre. Let us consider some of them separately.

A) Taxes on Natural Resources

A constitutional provision on natural resource taxes tells us that both layers of government can jointly tax incomes derived from large-scale mining and all petroleum and gas operations, and royalties on such operations.⁷² What constitutes large-scale and small-scale mining operation is a matter defined by another law. There is variation among federations regarding assignment of natural resource tax. For example, in Canada, it is totally assigned to the provincial level of government.⁷³ In Brazil and Nigeria, where natural resource tax is not totally assigned to the federal government, states and municipalities receive adequate compensation for the exploration of petroleum, gas, hydroelectricity, and other mineral resources inside their territory or in the adjacent maritime platform. So much so that sub-nationals from where natural resource is explored receive special treatment than other sub-nationals and the federal government. Normally, tax on natural resources is not exclusively reserved to the states because it may aggravate the gap between resource-rich and resource-poor states.⁷⁴

In Ethiopia too, the revenue from taxation on income from large-scale mining and all petroleum and gas operations and on royalties collected from both operations are shared between the federal and regional government.⁷⁵ The appropriate revenue-sharing mechanism should address at least two contending interests. First, the region where the natural resource belongs may at times raise a sense of entitlement.⁷⁶ The exploration activity may impose additional costs in the region such as on the environment/security. Second, all

⁷²The FDRE Constitution, Art.98 (3).

⁷³ This has obviously dual implications. First, it ensured the autonomy of the provincials substantially by covering their expenditure responsibilities. Second, it increased horizontal imbalance among federating as a drawback.

⁷⁴ Solomon Nigussie, *Supra* note 69, Pp142-143

⁷⁵ The FDRE Constitution Art.98 (3).

⁷⁶ Solomon Nigussie, *supra* note 69, P143.

the regions and peoples of Ethiopia have a vested interest in the income generated from mining operation, as the Constitution confers ownership rights on natural resources to the state and to the peoples of Ethiopia.⁷⁷ The present tax revenue sharing on natural resources is 50% (federal government) /50% (for states) for profits, and 60% (for federal) / 40% (for states) for royalty.⁷⁸ Even if all Nations, Nationalities and Peoples of Ethiopia are owners of natural resources under the Constitution, making such share is important to ensure regional fiscal autonomy. Moreover, in line with experiences of certain federations like Brazil and Nigeria, one can safely conclude that at least the idea of compensating the specific state where that natural resource is situated is reflected in sharing of joint tax revenue on natural resource.

The main question that remained unsolved is the mechanisms by which the states can check the fact that their share is appropriately transferred to them. Interview conducted with Oromia Revenue Authority on the issue reveals that there is no dependable system technology by which the states can properly do that.⁷⁹ The existing trend is simply comparing the transferred amount with the previous years. If the transferred amount by this year is less than the previous year, it may lead to suspect wrong amount of transfer.⁸⁰

B) Tax on Companies

According to Art.98 (2), taxes on the profits and sales of companies (partnerships and private limited companies) and dividends due to shareholders' are sources of concurrent taxes.⁸¹ From the perspective of

⁷⁷ The FDRE Constitution, Art.40 (3).

⁷⁸ See the above table.

⁷⁹ Interview with Tarekegn Kenea, Tax Officer at Oromia Revenue Authority, 10/10/2011

⁸⁰ *Ibid.*

⁸¹ Although excise tax is not mentioned under Art.98 (2), in practice, it is actually levied on products or the sale of companies. Hence some argue that its exclusion is ‘a slip of a pen’ as there is no reason to exclude it (Solomon Nigussie, *Supra* note 69, P142).

theories of fiscal federalism, the allocation of company tax is basically seen from the mobility factor of the economic activities of the companies. They usually operate in more than one state because their economic activities involve a multitude of factors from different jurisdictions, i.e., factors of production (capital, labour, land) may be used from several states and products and sales are going back to these regions.⁸²

But in Ethiopia, it is not mobility, rather the type of the enterprise that primarily distinguishes the issue.⁸³ Except for sole proprietorship, private enterprises such as a partnership and private limited companies are taxed by the federal government.⁸⁴ However, if these companies are not engaged in business in several regions (say in case of laundry or a beauty salon), allocating them to the federal government serves little purpose.⁸⁵ Hence, it is reasonable to assign such kinds of businesses to regional states so as to enhance regional fiscal autonomy. If such allocation is made, the potential challenge would be how to know whether the business is operating in one or more than one states. And this can be handled by integrating (networking) tax revenue data of the country. Moreover, the business and licensing proclamation no 980/2016 obliges business organizations to notify the government whenever they open a new branch.⁸⁶

3.1.3. Residual Taxes

Regarding undesigned (residual) power of taxation, Art. 99 of the FDRE Constitution reads, the House of Federation and the House of Peoples'

⁸² Solomon, *supra* note 69, P142.

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ Commercial Registration and Licensing Proclamation, Proclamation No.980/2016, Art.5 (4).

Representatives, shall in a joint session, determine by two-thirds majority vote on the exercise of powers of taxation which have not been specifically provided for in the Constitution. This means, residual power of taxation, depending upon decision of joint session of the two Federal Houses can be assigned to either level of government or concurrently to both levels of government unlike residual legislative power which is totally reserved for the states.⁸⁷ This has potential to substantially limit fiscal autonomy of states though the FDRE Constitution in principle advocates autonomy of states. To some extent, it also deviated from the general fiscal principle of revenue follows function.

3.2. Legal Issues

In the above section, we have tried to analyze the FDRE Constitution with regard to assignment of taxation power between federal and regional governments. Now, we will try to assess some of federal and Oromia regional state laws with regard to taxation. This part intends to examine how these laws are affecting revenue generation capacity of the region. In general, most of the legislations that have been enacted by the regional government have been focused in implementing the federally enacted counterpart legislation. When the contents of the laws are considered, they are almost exact copy of the federally enacted legislation with minor changes as to nomenclature and application clauses. This has labeled the legislations as copy of federally enacted laws rather than regional laws. These have led to the laws not being fully utilized to solve the regions apparent problems of not being able to raise enough revenue that it supposed to. Because, the laws have worked not on

⁸⁷The FDRE Constitution Article 52(1) reads as follows: All powers not given expressly to the Federal Government alone, or concurrently to the Federal Government and the States are reserved to the States.

expanding the regions' revenue raising capacity. But, rather on implementing the existing revenue sharing quota.

3.2.1. Federal Legislations Related to Taxes

A) Federal Tax Administration Proclamation No. 983/2016

The proclamation is enacted with the intention of governing the administration of domestic taxes with a view to render the tax administration system more efficient, effective and measurable. This proclamation included duties and responsibilities of tax authorities, taxpayers, supports needed from different sectors, how tax disputes should be resolved and administrative as well as criminal responsibilities for violation of tax laws. This proclamation is all about tax administration and doesn't have any effect on revenue generation of Oromia region and we believe detail look into the proclamation is of no use for the purpose this research.

B) Federal Income Tax Proclamation No. 979/2008

This is a vast proclamation divided into 11 sections with 102 Articles. Under Article 7, the part dealing with scope of applicability of the proclamation, it says it is applicable to all Ethiopian residents with respect to their worldwide income and non-resident with respect to Ethiopian source of income. The proclamation is meant to regulate all income taxes from employment income taxes under schedule A⁸⁸, taxes from rental of buildings under schedule B⁸⁹, taxes from trade under schedule C⁹⁰, and other income taxes under schedule D⁹¹. In addition, the proclamation has incorporated how incomes from mining

⁸⁸ Federal Income Tax Proclamation No.979/2016, Arts. 10-12.

⁸⁹ Federal Income Tax Proclamation No.979/2016, Arts.13-17

⁹⁰ Federal Income Tax Proclamation No.979/2016, Arts.18-27

⁹¹ Federal Income Tax Proclamation No.979/2016 Arts.51-64

and petroleum production will be levied and collected. As per Art. 37 taxation of license of mining and petroleum operation is regulated by this proclamation and mining income tax proclamation 53/1993 and amendments thereto is repealed by this proclamation.⁹² This proclamation is one implemented by the federal government and it may give interpretation that collection of mining income tax is given to federal government while actually the FDRE Constitution gives the power of levying and collection of mining income tax for both federal and regional governments. So, this has potential effect of reducing Oromia Regional State tax.

Progressive type of taxation is applicable in Ethiopia in general and in Oromia in particular. Progressive taxation is used for employment income tax⁹³, rental income tax⁹⁴, and business income tax for individuals,⁹⁵ while flat rate of 30% is applicable for bodies; be it rental income tax or business income tax.⁹⁶

C) Value Added Tax Amendment Proclamation No. 609/2008

Ethiopia introduced value added tax (VAT) in the year 2003 as a replacement to sales tax. Since then, VAT is becoming the principal source of revenue for the Ethiopian government. This proclamation replaced the previous sale tax proclamation with the view to minimize the damage that may be caused by attempts to avoid and evade the tax and helps to ascertain the profit obtained by the taxpayers.⁹⁷ It is enacted to easy tax administration, to reduce consumption and to increase saving which in turn enhances investment.⁹⁸ VAT is applicable to any transaction taken throughout the country by those

⁹²Federal Income Tax Proclamation No.979/2016, Art.100 (1 (b)).

⁹³Federal Income Tax Proclamation No.979/2016 Art. 11

⁹⁴Federal Income Tax Proclamation No.979/2016 Art. 14 (2).

⁹⁵Federal Income Tax Proclamation No.979/2016 Art. 19 (2).

⁹⁶ For detail, see Federal Income Tax Proclamation No.979/2016 Arts.14 (1) and 19 (1).

⁹⁷Value Added Tax Proclamation No. 285/2002, the preamble.

⁹⁸ See for detail the preamble of Value Added Tax Proclamation No.285/2002.

registered to use sale machine based on the type of activity they work on or by the amount of annual transaction they carry out. So, it is collected throughout the country and shared between federal and regional governments. The percentage of share between federal and regions is 70%, 30% respectively. This percentage was fixed in 1995 G.C.⁹⁹ The percentage is not fair since the federal government benefit without any effort. Two problems are observable from the VAT proclamation.

First, it negates constitutional provision in the sense that, taxes from individual traders is assigned to regions and there should be no room to take some taxes from individual traders either as joint or federal taxation power. In case of VAT, the practice is all areas collect VAT and send to federal government in block account and the federal government share to them according to sharing formula which is said to be 70, 30. If it had to be shared between federal and regions, fairness of the percentage needs investigation since it is reducing revenue of regions in general and Oromia region in particular.

The second problem revolves around substance of the proclamation. Especially, the penalty provision is affecting some since there is possibility of incapability to pay 50,000 birr which thereby pool them out of the trade negatively affecting revenue of the region.¹⁰⁰ Others prefer to be punished comparing benefit they get from such punishment vis- a-vis conducting transaction without using cash register. The penalty provision did not take into consideration different existing malities realities.

⁹⁹ Look at the FDRE Ministry of Revenue Federal Inland Revenue Authority letter written numbered 01/ አ1/1 by 8/11/1995.

¹⁰⁰ FGD Bishoftu, Oromia, Ethiopia, Conducted on 9/02/2019.

D) Mining Operations Proclamation No. 678/2010

Large-scale mining and all petroleum and gas operations income tax is designated as the concurrent power of the federal and state governments.¹⁰¹ With the exclusion of large-scale mining, states are also empowered to collect taxes on income derived from mining operation as stated under article 97 (8) of the FDRE Constitution. The HPR of the federal government issued proclamation no. 678 of 2010 to regulate the development and utilization of mineral resources. Under article 65 (2) of proc. No. 678 of 2010 income tax from large-scale mining shall be governed by Mining Income Tax Proclamation No 53 of 1993 as amended by Proclamation Number 23 of 1996.

Despite large-scale mining being a concurrent taxation power of the federal and state government, it is the HPR of the federal government that issued the proclamation that regulates the taxation of large scale mining. The authority that issues license for large-scale mining is also the FDRE Ministry of Mines and Energy.¹⁰² It is not clear what role and say the states, which are concurrently empowered over large scale mining by the Constitution, had in the promulgation and subsequent administration as well as revenue sharing of large scale mining. The Mining Operations Proclamation No. 678/2010 under article 65 (2) states that artisanal and small-scale mining income tax can be collected as per the laws of concerned state. A contrary reading seems as if large-scale mining were given to federal and others to regional states. Actual practice shows that large scale mining is taxed by the federal government which has negative effect on the revenue generation of Oromia.

¹⁰¹ The FDRE Constitution, Art.98.

¹⁰² Mining Operations Proclamation No. 678/2010, Art. 2 (16) cum. Art. 26 (1).

E) Proclamation and Regulation on Investment (Proclamation No 769/2012 and Regulation No. 312/2014)¹⁰³

If properly implemented, investment is a very important instrument to bring about development. Because of this, many developing countries provide different incentives. The type of incentives could be fiscal, financial, or other types.¹⁰⁴ Fiscal incentives may include reduction of the standard corporate income tax, tax rate, investment and reinvestment allowances, tax holiday, accelerated depreciation, exemptions from import duties.¹⁰⁵ Financial incentives are government grants, subsidized credits, government equity and participation.¹⁰⁶ Regulatory incentives, subsidized services, market privileges, and foreign exchange privileges are other types of incentives for the investors.¹⁰⁷ The rationale behind investment incentives is to attract investors so as to secure economic benefits such as job creation, technology transfer, regulation of foreign exchange.¹⁰⁸

Tax incentives as a type of fiscal incentives for investment are used to attract investors. But, they vary in form and across jurisdictions. In Ethiopia too, investment proclamation and its implementing regulation provide many tax incentives for the investors.¹⁰⁹ These could be exemptions from payment of customs duty while importing capital goods and construction materials and/or exemption from income tax depending upon the type of investment the

¹⁰³Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers (Amendment) Regulation No 312/2014.

¹⁰⁴Tesfaye Abate, Investment Law (Teaching Material Prepared under the Sponsorship of the Justice and Legal System Research Institute, 2009), P 211.

¹⁰⁵Bhalla and Ramu (2001), P503 in Tesfaye Abate, *supra* note 104, P211

¹⁰⁶*Ibid.*

¹⁰⁷*Ibid.*

¹⁰⁸*Ibid.*

¹⁰⁹A Proclamation on Investment, Proclamation No.769/2012; Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers (Amendment), Regulation No 312/2014.

investor engaged in. Income tax exemption could, for example, last for a decade or even more.¹¹⁰ This obviously has negative implication as it decreases the amount of tax revenue.

3.2.2. Oromia Region's Taxes Legislations

In general, most of the legislation that has been enacted by the regional government has been focused in implementing the federally enacted counterpart legislation. When the contents of the laws are considered, they are almost exact copy of the federally enacted legislation with minor changes as to nomenclature and scope of application clauses. This has labeled the legislations as copy of federally enacted laws rather than regional laws. These have led to the laws not being fully utilized to solve the regions' apparent problems of not being able to raise enough revenue that it is supposed to. This is because, the laws have worked not on expanding the regions revenue raising capacity. But, rather on implementing the existing revenue sharing quota.

A) A Proclamation to Amend Rural Land Use Payment and Agricultural Income Tax of Oromia Regional State's Proclamation No 99/2005 (Proclamation No 131/2007)

A glance at the proclamation, one can easily grasp two things. The first is the amount of tax levied and collected from farmers is very small. For rain dependent farmers, depending upon land size (hec.), the amount of tax ranges from 15 birr (for land size < 0.5 hec.) to 260 birr (for land size > 5 hecs.). Given that 87% of Ethiopian population lives on agriculture, taxing maximum

¹¹⁰A government or non-government organization or private investor who develops forest based on the directives of Oromia Investment Commission shall be exempted from rural land use payment (see Art.2 (4) of Proclamation No 131/2007 A Proclamation to Amend Rural Land Use Payment and Agricultural Income Tax of Oromia Regional State's Proclamation No 99/2005).

of 260 birr substantially reduces the amount of regional revenue incurred from tax. Similarly, those farmers who produce using rain and irrigation, it ranges from 45 birr (for land size < 0.5 hec.) to 280 birr (for land size > 5 hec.). In both cases, the tax rate is progressive upto 5 hectares and flat above 5 hectares. In such arrangement, a farmer holding 6 hectares and 10 hectares makes equal payment, i.e., 260 or 280 birr as the case may be. This is unfair as it contradicts with the principle of ability-to-pay.

The second is the existence of tax exemption on rural land use. Accordingly, a government or nongovernment organization or **private investor** who develops forest based on the directives of Oromia Investment Commission shall be exempted from rural land use payment. Considering that the government develops forests and makes its use for the benefit of the public, one can trace the reason why the government is exempted from tax. But, it is difficult to trace the reason why non-governmental organizations and private investors are exempted from tax as it is presumed that most of them work for profit. The implication of this on revenue generation for the government is obviously negative.

B) Proclamation for Amendment of Oromia National Regional Governments Income Proclamation, Proclamation No.202/2009

Regarding the scope of application, the proclamation clearly meant to be in congruent with the provisions of the Constitution. Because it clearly states (under art. 4) that it will exclude all the constitutionally federal mandated incomes as per art. 96 of the Constitution. Under art.10, the proclamation has widened its application by covering that anybody that has an income also has the responsibility to pay tax. The proclamation is roughly divided into general parts that deal with definition and other things related to scope of the proclamation, specific tax base part that specifically lays out tax bases that are

subjected income tax and at what rate (Arts. 11-73) and the penalty part which outlines any offence that are related to tax evasion and avoidance that might occur in the process of income taxation.

In its preamble, though the proclamation has stated to work toward inclusion of trade activities that are outside the tax net, in reality the content of the proclamation is not focused on businesses that are outside the tax net, rather on businesses that are already in the tax system. The proclamation has tried to do so by definition. The proclamation would be functional against registered and unregistered businesses that of any kind that earn any income. Because, it literally indicates under art. 10, that anybody who earns any income is liable to tax as per the proclamation. Furthermore, the proclamation has included under its scope the taxation of any income generating activities that are not exclusively given to the federal state by virtue of art. 96 of the Constitution are subjected to the proclamation. Which means that the concurrent revenue power that has been mentioned under art. 98 of the Constitution would be subjected to the Oromia National Regional taxation authority. This would make the revenue raising capacity of the region more prominent. Over all, Proclamation 202/2009 did not reinvent the wheel but rather used the design queue that has been set by the constitution and proclamation 979/2008 of the federal income proclamation. The provision of the Proclamation 202/2009 goes in line with the power of revenue division that is envisioned under the Constitution, Arts. 96-100.

On the issue of business organizations and companies that work in the region the proclamation has avoided clear contention with the Constitution. The proclamation tried to cover the business organization that work in the region through definitions such as defining what is meant by resident business organization and by dividend (Art. 2 (7) of proclamation 202/2009). The

proclamation's definition for organization that works permanently in the region (dhabbata dhaabbiidhaan hojjetu) tried to expand the state's power of taxation across all business organization that permanently work in the region. But, as per Article 98 (2) of the Constitution, it has been designated as concurrent power of taxation of the states and the federal government. As has been mentioned earlier, the proclamation has taken the prerogative of subjecting the concurrent power of the federal and state power of taxation that has been mentioned under Art. 98 of the Constitution. Additionally, the Proclamation has further qualified branches and other company operating in the region to be liable to income tax payments under Art. 7. By this argument, the proclamation has clearly indicated that PLC is subjected to the region's income tax proclamation. This could be hailed as the right track toward expanding the tax base for the region's ability to raise revenue.

On the source of income, the proclamation has introduced a general definition of source of income which could help in covering all the incomes that are generated from the region to be taxed by the region. Thus, under Art.8, the proclamation clearly stipulated that all the connections that should be taken into consideration, when defining the sources of income and, whether it should be subjected to the taxation power of the region. One can see that the proclamation rightfully covered all the connections that indicated that the income was earned from the region and thus should pay tax for the region. Because connections such as employment income that emanated from the region should be taxed by the region are mentioned. Also all commercial income that emanated from the region is supposed to be taxed by the region according to the proclamation. Additionally, none residents that perform business in the region through themselves or their business are subjected to the region's taxation power.

The proclamation also covered the issue of dividends that is paid to its members as income that is gained in the region. The issue of entertainment tax is also covered by entertainment proclamation no. 202/2009 although it has limited scope of application. It applies only to entertainments such as soccer and concerts as indicated under Art. 50. Additionally, the entertainment tax that is due is only for teams or entertainment providers that are out of Ethiopia. The law seems to suggest that in Ethiopian entertainers are not subjected to the tax. On employment income, the proclamation has used the approach of residence and where the work is done when defining employment income under Art. 8 (1) of proclamation 202/2009. This could be said to be new idea which could be taken as a deviating point from the constitutional division based on employer. This seems to have expanded the employment income tax that could be levied that is under Art. 97 (1) of the Constitution. Since the proclamation has basically taken the place of employment as a base for determination whether the employee should pay tax to the region or not.

The proclamation has divided taxpayers like its counterpart of the federal tax proclamation and inadvertently took the estimation for taxpayers under the category “C” of taxpayers. The issue with this is that though the law clearly indicates the mandatory deduction of general expenses that is allowed for the tax payers as later will be indicated in data gathered, the practical application is in a bit of predicament. Because the estimation practically take into account what is present in the shop at the time of arrival of the estimating group not what the taxpayers actually have. This is observed in contrary provision under art. 21 and 22 of the proclamation. On oil and mineral business, the region has levied an income tax of 25% after deductions. This is without qualification of any federally registered or not of the business which goes in line with the thought that it is a concurrent area regional governments, can regulate it with their own laws. The proclamation in nowhere mention the issue of division

between large-scale and small-scale mining. Thus seems to direct the application of the provision of the proclamation on all mining activities. Because under Art.5 of the proclamation has provided that it would be applicable to all class of business persons and organizations. Furthermore, the proclamation provides that, where the place of production of the mineral or oil is in the region, then it will be taken as a business that is residing in the region and will be subjected to taxation (Art. 6).

The proclamation has introduced new tax bases such as inheritance tax (Art. 53), profit tax (Art. 52), windfall gain or profit (Art.56), undivided profit Aart. 57), a profit earned by a non-resident through their permanent business in the region (Art. 58), any income that is not classified under the schedule are taxable flat rate (Art. 58). These are incorporated as additional tax bases, but as will be discussed this area are not being focused on to expand the tax base of the region.

C) Oromia Regional Government Income Tax Proclamation No. 203/2009

This proclamation is responsible for tax administration and collection in region. For most, the proclamation is a strait forward proclamation which is intended for implementation of proclamation 202/2009 which is considered in the previous topic. With regard to employees, the proclamation directs that the employers must register them with the tax authority to get them TIN if they are unregistered according to Art. 11 (3). Thus seems to indicate that the all employees in the region save those that are exclusively under the Federal jurisdiction must be registered with the authority. This also goes in line with the advocated principle that every taxpayers should have one TIN as provided under Art. 15. The very purpose of TIN is to track the tax record of the taxpayer. This is mentioned under Art.16 of the proclamation. However, the

reality is that there is no way to track the TIN that a person gets from the different locality. This is being manifested in reality through the non-traceability of transaction, especially in relation to VAT and other transaction that require receipt. Apparently the problem of cancelation of TIN registration is not as is provided under Art. 17 of the proclamation which requires the clearance for any transaction is not affected.

For the purpose of taxation, the taxpayers are required to keep documentation as per art.19 of the proclamation. However, these only work for taxpayers who are by law required to keep record. However, these taxpayers are required to keep the record of their transaction and issue receipt for any transaction they make. The real problem is they do not keep a good record and usually issue a receipt for their transaction. This prominent problem exists in practice, especially with VAT registered taxpayers. By law taxpayers can declare their tax liability through self-assessment or through any determination made by the authority based on reliable and verifiable source of information as per Art. 25 of the proclamation. In such case, if taxpayer failed to declare their assessment, the authority would be forced to estimated mode of assessment as per art. 28. But, the taxpayer would still have the right to lodge complaint in accordance with Art. 28 (3) of the proclamation. Additionally, the tax authority could make jeopardy assessment in case of fear of default or the taxpayer unwillingness to asses itself. In any case, of the assessment the taxpayer can appeal to the tax authority for review of the tax or any amendment needed.

Arts.40, 56, 59 and 89 of the proclamation generally indicates that if the taxpayer failed to object the assessment made, he shall be liable to pay them. Thus, the taxpayer has the right to appeal to tax board, high court, and supreme court consecutively if he chooses to. To avert the default of taxpayer, the law has provided procedures to insure the taxpayer's compliance with his/her

obligation. These are present under Arts. 41 and 42. This indicate that any non-collected tax is the problem of implementation not that of the law. Because the law have provided the authorities with option vast as far as the seizure power of the taxpayers' property in case of default without waiting for court warrant. For securing of payment of tax that could be due, the law has further provided the authorities with the power to ask for preservation of funds and assets that are deposited with the financial institutions in the country. This includes any materials that have been deposited with the institutions for safekeeping as per Art. 44. These actions must be backed by court order within 10 days. If the financial institution failed to comply with this orders they shall be personally liable for the tax debts of the personally. The tax authority has the power to claim any property from third parties through garnishee. Additionally, law goes as far as providing the power of the tax authority to request instating of departure prohibition if the taxpayers are risk of flight. The tax authority has also the power to close the business or part thereof for 14 days. Unfortunately, this is the most exercised power of the tax authority. If the taxpayer is responsible for tax is transferring his assets to related persons, the transferee shall be personally liable for the tax due in addition to recovering of parts of the property transferred. Furthermore, the authority ,under Art. 50, is given the power to regulate fraud that is aided by professionals such as certified auditors, accountants or public auditors. Thus, if they have knowingly participated in the fraud or evasion, they shall be jointly and severally be liable for the amount of evaded or deducted tax with the taxpayers. For investigation and searching of the suspected persons, and premises, the authority is empowered to enter, search and seize without notice.

An appeal procedure that is present under Art. 56 is a little bit unorthodox considering an ordinary procedure of appeal in ordinary courts in civil cases. Because, it requires taxpayer to object within 21 days any authorities decision.

The authorities are given the power to reject any objection that did not provide valid ground of objection and any amendment that the taxpayer wishes. Thus, the tax authority if it believes that valid ground is presented passes the objection to the tax objection review authority. If not, it shall reject the objection upon which the taxpayer shall be entitled to object again on valid ground within 21 days.

The tax objection review committee shall make recommendation to the authority. The authority shall make its objection decision based on the committee's recommendation. This procedure shall make the authority review its own decision effectively hearing appeal of its own decision, which could work against the taxpayer's right. The taxpayer, if not satisfied with the authorities decision or no decision has been given within the given time, can further present its appeal to tax appeal commission. But, the appeal can only be valid if the 50% of the tax imposed is paid which could be referred to as hurdle that could be hard to clear by taxpayer. The taxpayer, if not satisfied with the decision of the tax appeal commission, can further take his/her appeal to high court and further to the Supreme Court consecutively. The appeal to high court shall be treated as valid if and only if the taxpayer has paid 75% of the tax in question further limiting the taxpayers' right of appeal. Furthermore, the ordinary court can only entertain tax appeal cases on issue of laws not on issue of tax amount and facts. However, the problem lies in the identification of what constitute the issue of facts in practice. From these procedures of appeal the following could be concluded, the procedure is narrow and effectively limits the taxpayer's right of appeal. The amount of money that is paid to be heard could prove to be problematic.

Ideally, the law requires the tax-registered person to present their clearance to participate in any bidding or renew their license. But, the practice of the bodies

working in congruent is not less than often. This has led to problem of tax evasion and fraud practice between the tax authority and license renewing authority.

4. Practical Issues: Data Presentation, Analysis and Interpretation

The practical issues around revenue generation of Oromia National Regional State are discussed in this section.

4.1 Awareness of Taxpayers

Table 4.1: Awareness of Taxpayers

	Experts		Taxpayers	
	Frequency	Percent	Frequency	Percent
yes	183	29.5	309	78.4
no	59	9.5	24	6.1
a little	375	60.4	60	15.2
Total	617	99.4	393	99.7

Source: Data gathered by OSLA & OJSPTLRI, and own computation 2019.

Table 4.1 tries to find out if the taxpayers have enough awareness as to why they are paying taxes. The results we see on table 4.1 from experts and tax payers are quite different. Taxpayers have quite high valuation of their awareness on the issue of taxes which is 78% of the responses from the tax payers say they do know why they are paying taxes, only 6% of the responses said they do not have enough awareness and 15% of the responses said they have a little awareness on why they are paying taxes.

Contrary to the taxpayer's valuation, experts of revenue authority said the majority of the taxpayers (about 60%) have a little awareness as to why they

pay taxes and only about 30% of the responses say they do have enough awareness. Only 9.5% of the responses said taxpayers do not have enough awareness as to why they pay taxes.

Based on the findings of table 4.1 and the results of qualitative data gathered and own observation, we cannot conclude that the awareness level of tax payers on why they are paying taxes is enough. Moreover, it is rather better if we rely on the data solicited from the taxpayer by the FGD. In almost all FGD¹¹¹ conducted, claim of the taxpayers for their reluctance to pay their taxes willingly is because of their knowledge as to why they are paying taxes and governments failure to do necessary infrastructure by the taxes collected. Moreover, taxpayers are expected to know why they pay taxes when they are given awareness about the matter. Revenue authority of the region is the institution responsible for awareness creation about taxes. Interviews¹¹² with heads of revenue authorities at zonal, towns and woreda levels revealed tax payers were not given awareness as they had to be. Lack of awareness also resulted in reduction of taxes ought to be collected.

Lack of awareness is seriously affecting our taxpayers, especially on VAT.¹¹³ Although the tax authority is mandated to do the task of awareness creation, it cannot do that because of budget deficiency. Even it is hard to get computers to prepare training manuals. Accessing taxpayers is also not an easy task.

¹¹¹ FGD conducted at Agaro town with taxpayers representatives, experts from trade sector, small and medium Enterprises and revenue authority on 8/6/2011 E.C; conducted in Menna Woreda with traders and experts on 6/6/2011 E.C. FGD conducted in Toke Kutaye Woreda with representatives of traders, experts from trade sector, small and medium Enterprises and revenue authority on 19/6/2011; FGD conducted in Ada'aBerga Woreda with representatives of traders, experts from trade sector, Small and Medium Enterprises and revenue authority on 13/6/2011 E.C.

¹¹² Interview conducted with Kuma Shuma, Head of Sebeta city administration revenue authority on 29/5/2011 E.C; Ayisha Rago head of Jima zone revenue authority on 4/6/2011 E.C and Bekelu Desta Head of West Showa zone revenue authority on 12/06/2011

¹¹³ FGD at Batu conducted on 3/6/2011.

Taxpayers are quitting their business because of lack of awareness on how to manage their business with regard to tax laws and procedures.

The problem of lack of awareness is manifested not only with taxpayers but also with leaders of tax authority.¹¹⁴ It is good if the recruitment system for tax authority leaders is merit-based.¹¹⁵ Merit-based recruitment gives a chance to have vibrant tax authority leaders and this in turn helps to have a strong collaboration with concerned sectors. Having tax officers who are aware of tax laws and rules is timely since taxpayers are becoming proficient in tax laws.¹¹⁶

4.2 Taxpayers Registration and Notification of Transactions

Table 4.2: Taxpayers Registration & Notification of Transaction

Response	Experts		Taxpayers	
	Frequency	Percent	Frequency	Percent
Yes	78	12.6	212	53.8
No	229	36.9	102	25.9
A little	311	50.1	73	18.5
Total	618	99.5	387	98.2

Source: Data gathered by OSLA & OJSPTLRI, and own computation 2019.

The above table is concerned with taxpayers' honesty in registering and notifying their transactions to revenue authority. Table 4.2 reveals an interesting result that only about 54 % of the taxpayers said they register and notify the authority, while about 26% of the respondents said they do not

¹¹⁴ FGD at Batu conducted on 3/6/2011.

¹¹⁵Ibid.

¹¹⁶ FGD at Limmu & Bilbilo on 6/6/2011.

register and notify the authority properly. 18.5% of the responses said they notify and register the authority occasionally.

On the other hand, if we look at the result from the experts, the result clearly validates the idea that taxpayers are not quite honest in registering and notifying the authority. If we see the results from the table, only 12.6% of the respondents say, taxpayers would properly register and notify the authority, about 37% of the responses said they do not properly register and notify the authority and the majority of the respondents said taxpayers would register and notify their transactions a little or few times.

From table 4.2, taxpayers' and experts' response on the honesty of taxpayers to register their income and notify revenue authority significantly vary and we accepted that of experts' response concluding taxpayers are not quite honest in registering and notifying the authority. We reached on such conclusion basing on different interviews we conducted with officers of revenue authorities at different levels.¹¹⁷ The interview result shows prevalence of tax evasion and tax avoidance.

Likewise, the researchers tried to explore additional information from respondents with open ended questionnaires for what reason that they were not properly register and notify their true income. Most of the respondents explained that taxpayers have little awareness on the importance of tax, proliferation of contrabands and absence of issuing receipts mainly from distribution center/ wholesalers/, specifically from 'Merkato'¹¹⁸ and taxpayers also have no interest to issue receipt.

¹¹⁷ Interview conducted with Kuma Shuma, Ayisha Rago and Bekelu Desta, 12/06/2011; and Interview conducted with Mr. Nuredin, Deputy head of Seka Cokorsa Woreda revenue authority on 5/6/2011.

¹¹⁸ The largest open market in Ethiopia and a center for distribution of goods and items

In addition to this, the expert of the tax authority has no trust on the tax payers' statement of daily sales volume as most of the merchants conceal their true income to get cross-cut prosperity. They also unnecessary claim deduction of expenses to avoid their tax duty. They have no files that show their true expenses and they suspect that if they clarify their true income, the tax authorities will put high tax on them. Selfishness and unpatriotic behaviors is seen from taxpayers. Moreover, the revenue experts themselves have no commitment to control tax hiding. There is no a strong regulation and the authorities by themselves were exposed to high corruption. Because of this, there is no fair taxation among similar businesses in the same area and that their daily/annual income is inflated in the process of estimation.

4.3. Tax Fairness and Correctness

In order to measure the fairness and correctness of the tax system, the study has used few variables that would enable the researchers to find out the tax payers' view on tax fairness and correctness. By using the tax payers' responses to the questions we would try to pin point the problem area in revenue assignment and collection in Oromia National Regional State.

Table 4.3 Fairness and correctness of the tax system (n= 394)

No	Fairness of the tax system	Fair	Mediu m	Not Fair	Mean	SD
1	Did you think that the amount of tax you pay is fair in relation to the benefit that you received from the government?	14.9 7	40.86	42.1 3	2.277 2	.7123 0
2	Do you think that the amount of tax you pay is fair in relation to the ability to pay?	17.5 1	37.06	43.6 5	2.266 1	.7438 6

3	Did the tax system consider natural calamities and economic situations while determining your tax liability?	5.84	44.16	46.9 5	2.424 1	.6046 6
4	Did the revenue authority give periodic training about tax and related issues?	5.33	51.78	41.1 2	2.364 3	.5839 6
5	Is there any disciplinary problem on the side of tax collectors?	13.4 5	46.19	37.0 6	2.244 1	.6811 4
6	Did the authority arrange a convenient way of collecting tax (time efficient & effective)	28.4 3	46.45	21.5 7	1.928 9	.7174 4
7	How often did the authorities use technologies in tax administration operations	18.5 3	49.24	25.8 9	2.078 6	.6850 9

Source: Data gathered by OSLA & OJSPTLRI, and own computation 2019

Scale: 1 = Fair

2 = Medium

3 = Not Fair

Table 4.3 has shown the summary of tax fairness and correctness for different variables. If we look at the values, we get from the table some stand out findings about the tax system fairness and correctness. As we can see from the table for the variables which asks about the revenue authorities' consideration about natural calamities and economic situation while determining tax liabilities and the other variable about the revenue authority's status on giving periodic training about tax and related issues have scored not fair ($\mu = 2.42$ and $\mu = 2.36$) respectively. If we see the values for the other three items which are fairness of the tax system in relation with the benefit they received, the amount of tax assigned in relation with the ability- to-pay and third the existence of disciplinary problems on the side of tax collectors, the mean value

computed shows that it is not fair ($\mu = 2.27$, $\mu = 2.26$ and $\mu = 2.24$ for the three items respectively). On the other hand, the score for the two items remaining on the use of technologies in tax administration and the revenue authority's ability to arrange convenient way of collecting taxes have scored medium with the score ($\mu = 2.07$ and $\mu = 1.92$) respectively. For the items listed in the above table, we can see their values one by one below.

Regarding tax fairness and correctness, the researchers have found many complaints from the tax payers, there are times whereby equal treatment of taxpayers is missing. This is so, especially in case of registering traders into VAT.¹¹⁹ Sometimes, traders who do not qualify for VAT are registered for VAT; and those who qualify are not registered for VAT.¹²⁰ This is mainly because of being discriminatory in income estimation.¹²¹ The existence of discrimination is also manifested in case of landholding tax-any farmer holding any land size pays equal amount of tax (260 birr) and this amounts to treating unequal's equally.¹²²

In different interviews¹²³ and FGD¹²⁴, both revenue authorities and taxpayers admitted tax assessment problem. Tax authorities do not make necessary preparation beforehand but simply organize committee at the time of tax imposition. The amount of tax supposed to be paid by taxpayer is determined

¹¹⁹ FGD at Batu, conducted on 3/6/2011.

¹²⁰*Ibid.*

¹²¹*Ibid.*

¹²² FGD at Limmuu and Bilbilo on 6/6/2011.

¹²³ Interview conducted with Ayisha Rago Head of Jimma Zone Revenue Authority on 4/6/2011 E.C; Esmael Ababor Deputy, President at Jimma Zone High Court on 5/6/2011; WayesaBaqana, BekaDeribi, and FayeraTeresa, inspection team at the High Court of West Showa Zone on 11/6/2011 E.C; YilmaWayyesa, Budget and Finance Standing Committee Chairperson of the regional Council (Caffe) on 26/6/2011; FayisaTolesa, A judge at Oromia Supreme Court.

¹²⁴FGD conducted in Menna Woreda with traders and experts on 6/6/2011 E.C; FGD conducted in Agaro town with tax payers representatives, experts from trade sector, small and medium Enterprises and revenue authority on 8/6/2011 E.C.

without proper evaluation of the ability-to-pay and income they generate. The 2009 E.C. tax imposed is largely blamed in that regard.¹²⁵

Hiding properties by taxpayers when estimation is conducted is another challenge.¹²⁶ “When estimation committee is mobilized, the taxpayers know that the committee is coming for evaluation and estimation, and they (the taxpayers) hide some of the properties with a view to reduce the amount of tax duty estimated. Contrary to this, those who do not have information do not hide the properties of taxable transaction. This creates disparities on the amount of assigned tax. At the end of the day, the taxpayers blame tax estimation committee on the ground that even though they (taxpayers) run similar transaction, the tax estimators’ valuation is biased”¹²⁷ And this results in two drawbacks: escalation of grievances by the taxpayers and losing tax revenue by the government.¹²⁸

Moreover, once tax is estimated, it lasts for three years according to the existing working directives. In practice, even there are cases where it lasts for six years.¹²⁹ There should be a system that helps to revise the estimation monthly, quarterly, half-a-year and yearly and take up the average estimation.¹³⁰ Because, when you trade, you either benefited or lose. Hence,

¹²⁵Interview with Bekelu Desta, Head of West Showa Revenue Authority conducted on 12/06/2011 E.C; FGD conducted in Ada'aBerga Woreda with representatives of traders, experts from trade sector, small and medium Enterprises and revenue authority on 13/6/2011E.C. FGD conducted in Agaro town with tax payers representatives, experts from trade sector, Small and Medium Enterprises and revenue authority on 8/6/2011 E.C; Interview with WayesaBaqana, BekaDiribi, FayeraTeresa, on 11/6/2011 E.C .

¹²⁶Silashi Endale, Deputy Head at East Shewa Zone Tax Authority, 29/5/2011.

¹²⁷FGD at Limmu &Bilbilo Woreda on 6/6/2011; FGD conducted at Metta Woreda Tax Authority, Conducted on 24/6/2011.

¹²⁸Badirya Rashid, Head at East Shewa Zone Tax Authority, 29/5/2011; Silashi Endale, Deputy Head at East Shewa Zone Tax Authority, 29/5/2011.

¹²⁹Jafar Mikael, Revenue Operation Coordinator at Aweday Town Tax Authority,13/6/2011

¹³⁰ For example, the practice in Revenue Authority of Tigray Regional State reveals such scenario.

it is not good to wait for three years. The researchers asked whether they presented their case to court for declaration of bankruptcy and they responded that they are category C taxpayers and do not have documents to adduce. There should be a room for revision once estimation made.¹³¹

Bureau or Zonal officials are making unnecessary influence upon lower tax authorities.¹³² They want to fix the minimum amount of tax estimation (E.g., it should not be below 250 birr) without properly knowing the existing facts.¹³³ Because of many reasons, the estimation we conduct is not fair nowadays¹³⁴. Because of this, it is difficult to fully implement it.¹³⁵

- From the Tax Authority perspective, there is a need to transfer a taxpayer from category D to C; from C to B; from B to A following the estimation.¹³⁶ This sometimes has the risk of wrongly transforming the taxpayer to inappropriate category by exaggerating the amount of estimation.¹³⁷ In tax estimation committee, taxpayers are also members but some of them claim that their views did not get appropriate weight in many cases.¹³⁸
- Especially, it is the Zone Tax Authority that registers taxpayers to VAT; but they do not have adequate information and this may create grievance among taxpayers.¹³⁹ The risk may not be limited to grievance but also extend to make them out of business. For example, in Ada'a Woreda, the young organized on barber shop business are required to pay high tax by

¹³¹ FGD conducted at Aweday Town Tax Authority on 12/6/2011

¹³² FGD conducted at Aweday Town Tax Authority on 12/6/2011.

¹³³ FGD conducted at Aweday Town Tax Authority on 12/6/2011.

¹³⁴ FGD conducted at Metta Woreda Tax Authority on 24/6/2011.

¹³⁵ FGD conducted at Metta Woreda Tax Authority on 24/6/2011.

¹³⁶ FGD conducted at Dugda (Maki) Tax Authority on 1/6/2011

¹³⁷ FGD conducted at Dugda (Maki) Tax Authority on 1/6/2011;

¹³⁸ FGD conducted at Dugda (Maki) Tax Authority on 1/6/2011

¹³⁹ FGD conducted at Dugda (Maki) Tax Authority on 1/6/2011

estimation and at the end of the day they stopped working the business at all and became dependent upon their family.¹⁴⁰ This could be verified by making analysis of a number of licenses issued by Trade and Market Office and returned to the same within a certain time (a year, for example)¹⁴¹.

On the other hand, if we look at the data gathered by interviews and FGD, it reveals existence of problem as the proactive measure is hardly taken by tax administration authorities to make imposition of taxes on taxpayers based on their paying ability.¹⁴²

Data gathered through interviews and FGD confirms the above data. The problem still lies with tax administration; since they simply rely on eye evaluation¹⁴³ on what can be observable at the time of tax assignment and determination of the amount of taxpayers expected to pay. Moreover, assessment and evaluation are made once for the term of three years minimum, especially for the ‘C’ level taxpayers. Since natural calamities are unforeseeable from its nature, they are hardly considered at the time of tax assignment by tax authorities.

¹⁴⁰ FGD conducted at Ada'a Woreda Tax Authority on 30/5/2011

¹⁴¹ FGD at Ada'a Woreda on 30/5/2011

¹⁴² Interview with Bekelu Desta, Head of West Showa Revenue Authority conducted on 12/06/2011 E.C; FGD conducted in Ada'a Berga Woreda with representatives of traders, experts from trade sector, Small and Medium Enterprises and revenue authority on 13/6/2011 E.C. FGD conducted in Agaro town with tax payers representatives, experts from trade sector, Small and Medium Enterprises and revenue authority on 8/6/2011 E.C.

¹⁴³ Interview conducted with Ayisha Rago head of Jima zone revenue authority on 4/6/2011 E.C. FGD conducted in Menna Woreda with traders and experts on 6/6/2011; Interview with Bekelu Desta, Head of West Showa Revenue Authority conducted on 12/06/2011 E.C; Interview conducted with Kuma Shuma, Head of Sebeta city administration revenue authority on 29/5/2011 E.C; FGD conducted in Menna Woreda with traders and experts on 6/6/2011 E.C; FGD conducted in Ada'a Berga Woreda with representatives of traders, experts from trade sector, Small and Medium Enterprises and revenue authority on 13/6/2011 E.C

The results of FGD and interviews conducted also shows existence of low periodic training by tax authorities so as to enhance the knowledge and importance of tax for the country. Interviews¹⁴⁴ admitted limited nature of training given to taxpayers but due to lack of human power they have and logistic problems of their offices. Researchers' observation even the offices of the authority also confirmed the existence of such problems.

For instance, in an interview with Husen Usman,¹⁴⁵ director of legal service directorate at Oromia Revenue Authority misconduct of tax collection officers has been reported and even there were situations when investigation and criminal charges were opened to their tax collectors. This call for critical look at disciplinary problem of their officers of tax collection as it negatively impacts generating tax revenue of the region on one hand; and reduces tax paying interest of taxpayers.

From the researcher's observation at woreda level in order to use technologies there are many problems observed. Most of the woredas studied do not have enough computers, generators and internet connections. Even at zonal level the researchers have observed problems with connections to use technologies to facilitate tax administration.

¹⁴⁴ Interview conducted with Ayisha Rago, Head of Jimma Zone Revenue Authority on 4/6/2011 E.C. According to Ayisha, at the time of collecting data the Authority has only 53% of human power of what is studied by BPR so as to deliver effective service. Different tax officers; like Nuredin of Saqa Coqorsa Revenue Authority Office, Tolasa of Ada'aBarga, Kuma of Sabata Town and so on said budget and logistic constraint are hindering them to give awareness for taxpayers for the efficient tax collection and attitudinal change of tax payers.

¹⁴⁵ Interview with Husen Usman, Director of Legal Service Directorate at Oromia Revenue Authority, 23/2/2011 E.C.

The problem is evident in the FGD and interviews conducted at different places¹⁴⁶ revealed modernizing tax collection and administration system is lacking in Oromia and it is affecting revenue generating capacity of the region.

4.4. Challenges of Tax Collection Process

Challenges of tax collection are analyzed from taxpayers' & experts' views.

A) From Taxpayers' View

Table 4. 4. A. Challenges of tax collection process (n= 394)

No	Challenges of tax collection process	Agree	Medium	Disagree	Mean	SD
1	Revenue authority experts have the ability and experience to solve and control complex issues raised	30.20	48.48	16.24	1.8529	.68479
2	Corruption practice in state government hinders revenue generation	36.55	21.57	35.03	1.9837	.87762
3	Fraudulent actions of the revenue collector hamper revenue collection	30.71	26.14	35.03	2.0470	.84572
4	Poor services rendered by state government are responsible for low revenue generation	44.92	23.10	22.08	1.7465	.82541
5	State government staff are well monitored in the process of collecting revenue	34.77	37.82	20.30	1.8443	.75512
6	Wrong attitude about importance of tax among tax payers prevents taxes to be collected	54.82	22.08	14.72	1.6492	1.81594
7	Low tax payment capacity were hindering revenue collection	51.78	24.11	16.75	1.6219	.77358
8	Traditional mode of tax collection is hindering revenue collection	53.55	21.83	14.97	1.5730	.76010
9	Revenue authority staffs are fair and neutral in assigning and collecting revenues	22.59	35.28	33.76	2.1219	.77574
10	Tax payers have problems in using cash register machine	42.64	25.63	19.54	1.7370	.80048

¹⁴⁶ For instance, interview conducted with Ayisha Rago Head of Jima Zone Revenue Authority on 4/6/2011 E.C; Interview conducted with Kuma Shuma, Head of Sebeta Town Administration Revenue Authority on 29/5/2011 E.C. FGD conducted in Menna Woreda with traders and experts on 6/6/2011.

Source: Data gathered by OSLA & OJSPTLRI and own computation, 2019

Scale: **1 = Agree**

2 = Midium

3 = Disagree

All three levels of taxpayers at woreda and zonal revenue authority are asked to answer ten questions regarding tax collection challenges they observe in their locality. From the ten items we have asked, the top challenges the tax payers have rated is traditional mode of tax collection, wrong attitude about the importance of tax among taxpayers and low taxpayment capacity ($\mu=1.57$, $\mu=1.64$, $\mu=1.62$) are respectively rated as the challenges of revenue collection in Oromia region. Next to the three top items listed challenges of revenue collection, we can see from the table that two items that is, poor services rendered by the state government and tax payers inability to use cash register machine have come at 4th and 5th level according to the taxpayers rating of the challenges of revenue collection with ($\mu= 1.74$ and $\mu= 1.73$) respectively.

The table shows the effect of the items concerning corruption practice in the government organization and fraudulent actions of the revenue collectors are medium challenges for the tax collection. For the item concerning the revenue authority staffs neutrality and fairness, the table shows that the tax payers have revealed existence of problem in that regard. Regarding the fairness and neutrality of the staffs, almost 34% of the respondents disagree that the staffs at revenue authority offices are fair and neutral in tax assignment and collection. So, in the process of tax collection, wrong attitude on paying taxes, traditional model of tax collection, low level of paying capacity, poor service by tax authorities and failure to use cash register machine by taxpayers are highly challenging tax collection process in Oromia and it is affecting negatively revenue generating capacity of the region.

On the other hand, there is a problem with using cash register machine according to tax payers' FGD which claims that the attitude toward using this machine (especially for VAT registers) is not positive.¹⁴⁷ Taxpayers perceive that taxes generated from using machine will be used for dispositions of federal government; if that is the case, why do I use it?¹⁴⁸ "I am not comfortable with cash register machine. At a time, I was penalized for not properly using it. I dislike it!"¹⁴⁹

B) From Experts View

Table 4.4.B Challenges facing revenue collection (n= 621)

No	Challenges Facing Revenue Collection	Agree	Inconclusive	Disagree	Median	SD
1	Weak administrative capacity to assess taxes and levies and then to enforce revenue laws and by-laws	64.25	14.01	17.39	2.00	1.08
2	The system of tax administration is unsuitable and kills time	64.41	9.98	21.42	2.00	1.14
3	Very poor use of technology in tax administration	68.60	7.89	20.93	2.00	1.22
4	Taxpayer resistance and low tax morale on the part of the citizenry	76.17	8.05	13.04	2.00	1.09
5	Corruption, including embezzlement of revenue	46.54	23.67	25.12	3.00	1.23
6	Political pressure on the revenue collectors to relax in revenue collection	50.89	14.81	30.11	2.00	1.27
7	Ensuring that all due government revenue is collected and tax evasion and avoidance are controlled	77.62	5.96	14.33	2.00	1.07

¹⁴⁷ FGD at Itaya Conducted on 7/6/2011.

¹⁴⁸Ibid; FGD at Aweday town, *Supra* note 133.

¹⁴⁹ A taxpayer participating in FGD at AdamiTullu Tax Authority on 3/6/2011.

8	Addressing stakeholders' (community) expectations by exercising Various statutory powers fairly in accordance with the law without political interference	72.14	9.34	15.78	2.00	1.09
9	Expediting tax decision making and rulings by putting in place well established procedures and criteria	72.79	8.21	16.75	2.00	1.11
10	Low integrity of leaders, experts and tax collectors	47.34	18.20	30.60	3.00	1.26
11	Poor laws and guidelines to control tax payers who want to evade tax.	49.28	13.53	33.66	2.00	1.34
12	There is poor procedure to implement laws on tax evaders and tax exemption	64.09	8.53	25.12	2.00	1.26
13	Low awareness of the public about the tax system	76.81	6.76	13.37	2.00	1.07
14	Lack of Qualified and Experienced Revenue Officers	49.60	14.65	33.49	2.00	1.25
15	Lack of awareness of the tax laws by Tax authority	47.18	14.49	35.91	3.00	1.27

Source: Data gathered by OSLA & OJSPTLRI, and own computation, 2019

Scale: 1 = Strongly Agree 2 = Agree 3= Medium

4 = Disagree 5 = Strongly Disagree

The researchers have identified fifteen items that could be the source of challenges for revenue collection in the region so that the experts at region, woreda and zone could rate the challenges. We can see from the table 4.4.B above that there are five major items that the respondents agree that it is a challenge for revenue collection process in the region. These five items are: 1. Taxpayer resistance and low tax morale on the part of the citizen ($\mu = 2.01$, $\delta=1.09$) 2. Low awareness of the public about the tax system ($\mu = 2.05$, $\delta=1.07$) 3. Ensuring that all due government revenue is collected and tax evasion and

avoidance are controlled ($\mu = 2.09$, $\delta=1.07$) 4. Addressing stakeholders' (communities') expectations by exercising various statutory powers fairly in accordance with the law without political interference ($\mu = 2.18$, 1.10) and 5. Expediting tax decision-making and rulings by putting in place well established procedures and criteria ($\mu = 2.21$, $\delta=1.11$). These five items are rated clearly that they are the major challenges for revenue collection by experts.

In addition to these top five challenges, according to expert's ratings of the challenges we can group four items which can come next to the above items which could be the source of challenges for revenue collection in the region. These items are: (1. Very poor use of technology in tax administration ($\mu = 2.25$, $\delta=1.22$) 2. Weak administrative capacity to assess taxes and levies and then to enforce revenue laws and by-laws ($\mu = 2.37$, $\delta=1.08$) 3. The system of tax administration is unsuitable and time consuming ($\mu = 2.37$, $\delta=1.14$) 4. There is poor procedure to implement laws on tax evaders and tax exemption ($\mu = 2.38$, $\delta=1.26$).

The mean values for six remaining items are greater than 2.5 for 1.Political pressure on the revenue collectors to relax in revenue collection. 2. Corruption, including embezzlement of revenue 3. Poor laws and guidelines to control tax payers who want to evade tax. 4. Lack of Qualified and Experienced Revenue Officers 5. Low integrity of leaders, experts and tax collectors 6.Lack of awareness of the tax laws by Tax Authority.

In general, if we look at the result from table 4.4 the items listed in the table to measure challenges facing revenue collection in Oromia region, although the result shows that the problem emanated from the combination of factors, we can pin point very important issues that affect revenue collection according to its wait and severity. The critical challenges listed by the experts

focuses on the attitude of tax payers, their morale and awareness and the second most important issue raised is the administrative capacity of the authority like human, technology, laws, procedures etc.

The results of FGD and interview conducted also shows that the tax system is not encouraging to willingly pay the tax.¹⁵⁰ Several factors account for this:

- a) Unlawful trade practices.¹⁵¹
- b) Unlawful trade practices on chat. For example, there is no direct contract or agreement between buyer and seller on chat.¹⁵²
- c) There are cases whereby tax authority is geographically less accessible to taxpayers.
- d) The tax administration has a problem on promotion of its employees. Eg. even if you advanced your education level, there is no promotion¹⁵³.
- e) There is no adequate human power. For example, in Metta Woreda Tax Authority, the structure needs 34 employees. But, in reality there are only 15 employees.¹⁵⁴
- f) There is shortage of logistics necessary to discharge duties¹⁵⁵.
- g) Lack of adequate awareness on tax laws, especially on VAT. You get initiation only when you know well the substance of something.¹⁵⁶

¹⁵⁰FGD conducted at Adami Tulu Tax Authority, on 3/6/2011; FGD conducted at Tiyo Woreda Tax Authority, on 6/6/2011.

¹⁵¹ FGD conducted at Adami Tulu Tax Authority on 3/6/2011; FGD conducted at Limmu & Bilbilo Woreda Tax Authority, on 6/6/2011; FGD conducted at Metta Woreda Tax Authority, on 24/6/2011.

¹⁵² FGD at Aweday town on 12/6/2011

¹⁵³ FGD at Itaya 7/6/2011.

¹⁵⁴ FGD at Metta Woreda on 24/6/2011.

¹⁵⁵ FGD at Metta Woreda on 24/6/2011.

¹⁵⁶ FGD at Dugda (Maki) Woreda on 1/6/2011.

- h) The existing collaboration between tax authority and other stakeholders is not strong. Had it been strong, unlawful trade practices will not be as such expanded.¹⁵⁷

4.5. Strategies for the Enhancement of Revenue

Table 4.5 Strategies for the Enhancement of Revenues

No	Strategies for the enhancement of revenues	Agree	Inconclusive	Disagree	Median	SD
1	Establishing more accessible and transparent payment facilities	76.49	8.86	12.40	2.00	1.10
2	Improvement on the fiscal policy, legal and regulatory framework (e.g. equal treatment of all investors)	76.01	9.82	12.88	2.00	1.04
3	Broadening the tax base	75.85	8.53	10.47	2.00	1.06
4	Increasing income and property estimation	48.79	18.36	28.66	2.00	1.22
5	Increasing the number of tax payer and taxable items	72.30	12.40	12.72	2.00	1.10
6	Bringing the illegal economies to legal economies	78.90	7.09	12.56	1.50	1.14
7	Building strong financial management and building strong financial administration system	80.35	7.09	10.14	2.00	1.06
8	Using resources effectively, reducing expenditure, spending on the right project and maintaining the balance between capital and revolving budget	76.01	9.02	13.37	2.00	1.15
9	Improving the administration of tax (focusing on improving the capacity of the tax authority to function its duties.	79.23	6.60	13.20	1.00	1.17
10	Enhancement of taxpayers' education and sensitization (e.g. understand the need to pay taxes the principle of large numbers)	79.07	5.31	13.69	1.00	1.15
11	Citizens' access to and right to information on taxes collected and how revenue is spent	78.10	9.18	11.59	1.00	1.18

¹⁵⁷ FGD at AdamiTullu Woreda Tax Authority, on 3/6/2011; FGD at Metta Woreda Tax Authority, on 24/6/2011; FGD at Awaday woreda On 12/06/2011; FGD at Tiyo Woreda Tax Authority on 06/06/2011

12	Providing a very suitable taxpaying system for the tax payer	82.61	7.09	9.18	1.00	1.0 5
13	Building trusted procedure and system of tax administration	84.54	6.44	7.73	1.00	0.9 9

Source: Data gathered by OSLA & OJSPTLRI and own computation, 2019

Scale: 1 = Strongly Agree 2 = Agree 3= Medium

4 = Disagree 5 = Strongly Disagree

Different levels of experts from different parts of Oromia have been involved in rating their views on how to enhance revenue. Thirteen items have been identified as a strategy of revenue enhancement and participants of the study have cast in their feeling on how to increase revenue in the region.

If we look at the results of the items listed in the table 4.5 the respondents unequivocally responded that all of the listed strategy is important in enhancing revenue in the region except one item which states increasing income and property estimation as a strategy to enhance revenue which is rated medium.

From the listed items the top three strategies for enhancing revenue in the region are: 1) Building trusted procedure and system of tax administration 2) Providing a very suitable taxpaying system for the taxpayer and 3) Building strong financial management and building strong financial administration system.

In addition to that, for all items except one, the mean value for the items is either 2 or less than two which clearly shows that it is important to use the above strategies to enhance revenue of the region.

4.6. Tax Misdeed and Corruption

Table 4.6 Tax Misdeed and Corruption

No	Tax Misdeed and Corruption	High	Medium	Low	Median	SD
1	How do you rate your knowledge on the subjects of tax evasion, tax avoidance and tax power abuse	42.35	42.51	12.40	3	0.92
2	How do you rate tax evasion practices and existences in your woreda/town/zone					
2.1	Having two transaction record books (false and real record book)	32.37	22.87	40.42	3	1.34
2.2	Registration of false transaction and amending the book of accounts	41.55	27.38	27.70	3	1.26
2.3	Using false evidences and receipts	29.15	23.67	44.44	3	1.34
2.4	Hiding account books	28.34	25.60	41.06	3	1.31
2.5	Hiding property owned from tax estimators and collectors	52.66	19.00	20.61	2	1.82
3	How do you rate the existence of tax evasion for different types of taxes in your town/woreda					
3.1	VAT	59.58	18.04	13.37	2	1.21
3.2	Employment income tax	41.71	24.80	28.02	3	1.32
3.3	Transaction income tax	54.11	30.92	11.76	2	1.02
3.4	Building rent income tax	49.92	20.77	25.60	2	1.29
3.5	Turnover tax	47.34	28.02	18.20	2	1.17
3.6	Excise tax	19.81	17.39	36.07	3	1.38
4	At what stage do you think tax evasion is the worst					
4.1	At the estimation phase	59.26	16.59	11.92	2	1.15
4.2	At the payment phase	44.44	23.19	17.71	2	1.21

Source: Data gathered by OSLA & OJSPTLRI, and own computation, 2019

Scale: 1= Strongly Agree 2 = Agree 3= Medium

4 = Disagree 5 = Strongly Disagree

Table 4.6 deals with issues of corruption and tax misdeeds. In the table, we can see three categories of questions. The first part tries to deal with the existence of tax evasion and misdeeds, the second part tries to categorize tax evasion and misdeeds into the types of taxes and the third part asks about at what stage the problem is evident. If we see the first part from tax evasion and misdeed practices, hiding property owned from tax estimators and collectors is rated high by experts the median value for this is 2 which means high according to the scale. The other items which deal with evasion and misdeed have scored median value of 3, which means medium. But, if we rate the four remaining items according to their severity; registration of false transaction and amending the book of accounts will come second, having two transaction record books (false and real record book) will be third and using false evidences and receipts and hiding account books will come fourth and fifth.

The second issue we see is rating the types of taxes according to their involvement in tax evasion and misdeed. Accordingly, as it can be inferred from the table, four types of taxes have scored high in terms of involvement in tax evasion and misdeed. These are 1. VAT 2. Transaction income tax 3. Building rent income tax 4. Turnover tax. The result for these four items measured with median value is 2, which is represented in the score high. Employment income tax and excise tax has scored medium.

The result from interviews and FGD also reveals that VAT is very susceptible to evasion since most of the time taxpayers do not give receipt and the trend of customers to ask for receipt is very low.¹⁵⁸ Moreover, since administration of VAT is given to federal government by law, it is difficult to administer

¹⁵⁸ Interview conducted with Kuma Shuma, Head of Sebeta city administration revenue authority on 29/5/2011 E.C. Interview conducted with Ayisha Rago head of Jima zone revenue authority on 4/6/2011 E.C. Interview conducted with Bekelu Desta Head of West Showa zone revenue authority on 12/06/2011.

when it comes to regions on one hand; and there is wrong attitude that revenue generated from VAT is for federal government and little focus is given to its collection.

Some tax officers may abuse their power.¹⁵⁹ They may unnecessarily favor some of the taxpayers especially during estimation¹⁶⁰.

Taxpayers hide their property from tax liability by using different techniques. These patterns are as follows:

- *Hiding their property like storing elsewhere during estimation since they get information from the tax officers themselves as to when tax estimation is conducted. Selling and storing area is totally different. What tax estimator sees and estimates is different from the reality.*
- *Not using cash register machine; especially on transactions conducted during night*
- *Not issuing receipts by traders including importers and wholesalers in Addis (Merkato).*
- *Concealing the amount of taxable income*
- *Exaggerating deductible expenses*
- *Mixing and trading lawful transactions with unlawful transactions*
- *Having two books of accounts: -one using for getting loans from the bank & the other using for getting trade license.*

Although there are several reasons for tax misdeeds and evasions, expansion of contraband (illegal trade) and absence of educative measure/penalty on unlawful traders are the major ones.¹⁶¹

¹⁵⁹Nuru Kumbi, Head at Lode Hetosa Woreda Tax Authority, 7/6/2011.

¹⁶⁰Nuru Kumbi, Head at Lode Hetosa Woreda Tax Authority, 7/6/2011.

¹⁶¹Mr. Girma Dadhi, Vice Director at Oromia Revenue Authority; Mr Abdisa Dhufera, Head of Plan and Budget at Oromia Revenue Authority; Mr Husen Usman, Legal Advisor at Oromia

5. Conclusions and Recommendations

One of the basic features of federalism is constitutional division of power between the center and the federating units. Each level of government is autonomous in areas assigned to it by the constitution. However, the autonomy of each level of government does not make sense unless the assigned function is backed by finance thereby necessitating generation of adequate revenue, including tax revenue. It is generally true that tax is the most important source of revenue for countries. However, it is uphill battle for developing countries to revitalize tax revenue. If we consider Ethiopia's performance tax to GDP ratio, it is not very much remarkable. This is also the case in Oromia region. For instance, by the year 2008 E.C, revenue generated by Oromia state alone covered only 28% of its total cost. The remaining 72% costs were covered by subsidies and grants made by the federal government. In the long run, this could challenge the federation as it is difficult to envisage genuine federalism without adequate revenue necessary for discharging functions and responsibilities.

This research deals with analyzing constitutional, legal and practical issues of taxation power in Oromia National Regional State. Methodologically, the research employed both qualitative and quantitative approach. Qualitative approach (doctrinal analysis, interviews, FGD, and semi-structured questionnaires) is used to deeply understand the existing gaps with the present assignment of taxation power between the federal and regional governments under the FDRE Constitution; and to know the existing challenges of collection as well as its practices at Oromia Revenue Authority. Quantitative

Revenue Authority; Mr Iticha, Head of Revenue Authority at Dugda Woreda, 1/6/2011; Mr GabereluAbarra, Head of Revenue Authority at Tiyo Woreda, 8/6/2011; Kalil Heyyi, Head of Revenue Authority at Hexossaa Woreda, 7/6/2011, Mr Solomon Kabada, Head of Revenue Authority at Haromaya Woreda, 13/6/2011

data collected from both taxpayers and tax officials in Oromia by questionnaire are analyzed by using SPSS to identify practical problems hindering tax revenue generating capacity of the region. The overall findings of the research can be clustered into constitutional, legal and practical issues.

A) Constitutional Issues

1. Tax Sources That Need Reassignment

Lessons drawn from experiences of several federations show that taxes on the income and winnings of national lotteries and other games of chance are best administered at regional levels. However, in Ethiopia, they are assigned to the federal government. Similarly, property taxes are allocated based on the ownership right of that property. But, property taxes by their nature are best administered at regions. Hence, the FDRE Constitution should be amended to reassign taxes on the income and winnings of national lotteries and other games of chances and properties to regional governments.

2. Joint Taxes

Regarding joint taxes under the FDRE Constitution, two things worth considering: taxes on companies and mechanism of knowing the truth or otherwise of the shared and transferred amount of taxes to the regional government.

- ✓ The assignment of company taxes in Ethiopia is not justifiable when viewed from the perspective of theories of fiscal federalism. The theory of fiscal federalism advocates that company taxes are best administered by the federal government because of their mobility factor (operating in more than one federating units). But, in Ethiopia, it is not the mobility factor, rather the type of business organization that is used to allocate taxation power on companies. Hence, it is good to revise the Constitution

so as to make company operating within specific region to be taxed by that region. And, companies operating in more than one region to be taxed by the federal government.

- ✓ The practice of joint taxes in Ethiopia currently is the federal government levy and collects taxes while regions take their shares from proceed according to the formula set by the House of Federation. The challenge in this regard is difficulty of checking genuineness of the share transferred to regions (Oromia in our case) by the federal government. This is because, there is no nationally integrated system-based mechanism by which states can check the amount of taxes collected from joint taxation and transferred to them. Hence, it is appropriate for Oromia Revenue Authority to deal with Ministry of Revenue to device system-based mechanism of checking the collected and transferred amount of joint taxes as this increases confidence and trust between the federal and regional governments.
- ✓ One problem that is massively affecting tax revenue generation of Oromia from joint tax is the practice of using Tax Identity Number (TIN) address to determine who should share proceeds of joint taxes. This practice of using TIN address and registration place without considering residence-based taxation need is causing joint taxes to be shared between federal and Finfinnee; or only federal government takes income taxes from these companies in the name of Finfinnee as federal city. And this is highly affecting Oromia's tax revenue generating capacity. Thus, this practice needs to be replaced by residence based taxation principle so that proceeds of joint taxes from companies operating within Oromia are shared between Oromia region and the federal government.

3. Undesignated Taxes

Considering the historical background of Ethiopia, the federation favors autonomy of the states. This is discernable from the provision of the FDRE Constitution which assigns residual (undesignated) power to the states (Article 51 and 52). The tax assignment made by the Constitution, however, is blamed for tilting the balance toward the federal thereby giving little attention to the principle of fiscal decentralization. This is vividly observable from the undesignated taxation power under Article 99 of the FDRE Constitution which left the matter for future decision by the two Federal Houses (HoPRs and HoF). Hence, it is good to leave residual power of taxation for regions so that fiscal autonomy of the states is strengthened.

B) Legal Issues

The research analyzed different tax related laws of both Federal and Oromia Regional States which have potential of affecting tax revenue generating capacity of Oromia. These laws include: Value Added Tax, Federal Income Tax, Federal Tax Administration, Investment Laws, Mining Operation Proclamations from federal tax laws; and Agricultural Income Tax, Oromia Income Tax and Oromia Tax Administration Proclamations from Oromia region's tax legislations. Analysis of these laws reveals the following:

- 1) Some laws such as investment proclamations are negatively affecting income generation capacity of Oromia because of incentives they provide. For example, they exempt from taxes for decades. There are even cases whereby the projects stop their production upon the end of exemption period thereby resulting in zero benefit both to the country and Oromia. This calls for legislator to rethink on investment incentives that includes exemption from taxes.

- 2) Proclamations such as federal income tax and mining operation are creeping to take revenue sources assigned to region exclusively and jointly to both levels of government by favoring the federal government. For instance, from a contrary reading of a provision of mining operation proclamation that says: artisan and small scale is taxed as per regional laws [Art 65 (2)], it seems large-scale mining is totally taken to the federal government alone although such taxes are joint taxes as per the FDRE Constitution. Moreover, the federal income tax included mining income tax as if it were federal exclusive taxation power. But, all mining income taxes are given to regions except that of large-scale mining which is joint tax. Hence, such laws should be amended conforming to the tax assignment in the FDRE Constitution.
- 3) VAT proclamation is vague and negatively affecting Oromia tax revenue. It is not clear whether all proceeds from VAT is shared or only VAT collected from joint taxes are shared. For instance, as observed from practice in Oromia, even tax officials are not clear with which VAT from which sources should be sent to the federal government and which one is left to them. All VAT collected in the region is sent to federal in blocked account and share of the region will be back from the federal government. Regions, including Oromia should not have given VAT collected from sole proprietorship. But, since VAT proclamation is not explicit on the issue, the exclusive tax revenue that is due for Oromia is unduly being shared with the federal government. Hence, it is suggested to amend VAT proclamation to make it clear on the issue. Until that, tax officials of the region should understand the true meaning of the proclamation and accordingly.

C) Practical Issues

The existing practical challenges hindering tax revenue generation capacity of Oromia are explained both from tax authority and taxpayers. Because of budget constraint, the tax authorities are not supported with adequate infrastructures such as technology and human power. Their collaboration with stakeholders such as trade and market development offices is also not strong enough. Moreover, they lack full understanding of tax laws, especially on VAT and joint taxes. The existing systems mainly on daily income estimation of taxpayers are highly subjective and susceptible to abuse. These all resulted in ineffective and inefficient tax administration in the region; weak control of unlawful trade practices, corruption and contrabands; and weak control of tax evasion and misdeeds. Hence, government should reconsider the budget allotted to tax authorities so that tax authorities can equip themselves with necessary technologies and adequate human power. Tax authorities should also work in close collaboration with its stakeholders to bring informal economies to tax net.

Taxpayers' attitude towards paying tax and their low awareness about the tax system is another challenge to generate adequate tax revenue in Oromia. The manifestations are hiding property owned from tax estimators and collectors, amending and registration of false transactions, having two books of accounts, using false evidence and receipts are some of the practices. Therefore, Oromia Tax Authority and Oromia Medias should work on enhancement of taxpayers' education and sensitization.

DHUGUMMAA RAGAA KENNINSA TAJAAJILA HAQAA

MIRKANEESSUU: SEERAAFI QABATAMA

*Abdusalaam Abbee, Daagim Oljirraa, Geetaachoo Fayyisaa fi Habtaamuu Bultii**

1. Seensa Qorannichaa

Ragaan hundee haqaa ti.¹ Haqni immoo ragaan mirkanaa'a. Ragaan dhugummaa dhimma falmisiisaa ta'e tokko adda baasee agarsiisuu fi haqa mirkaneessuuf, dursa ofii isaatii dhugummaa qabaachuu qaba. Haa ta'u malee, ragaa dhugummaa hin qabne irratti hundaa'uun murtiilee dogongoraa fi mirga lammilee miidhaan hedduun yoo kennaman ni hubatama. Fakkeenyaaf, USAatti erga bara1989 (ALA) qofa namoonni yakka osoo hin raawwatiin adabaman 1,600 qorannoo DNA gaggeeffameen yakkaraa bilisa ta'uun adabbiin isaanii ka'eefii ture.² Biyyoota guddataa jiran hedduu keessattis dogongoraan murteen du'aa kennamaa akka jiru qorannoowwan ni agarsiisu.³ Adabbii dogoggoraa kanaaf wantoota ka'uumsa ta'an keessaa ijoon ragaa dhugummaa hin qabnee fi himata sobaati.⁴

Ragaaleen dhugummaa hin qabne bifaa garagaraatiin biyya keenya keessattis mul'achaa akka jiran ni hubatama. Jechi ragummaa sobaa, ragaalee sanadaa kan akka ragaa barnootaa, ragaa abbaa qabiyyummaa fi qabeenyaa, ragaa teekniikaa fi pilaanii balaa tiraafiikaa, ragaa mana yaalaa, ragaa kaffaltii taaksii fi gibiraa,

*Hundi isaaniiyuu qorattoota seeraa Inistiitiyuutii Leenjii Ogeessota Qaamolee Haqaafi Qorannoo Seeraa Oromiyaa dha.

¹ Tersence Anderson and *etal*, Analysis of Evidence, 2nd ed., Cambridge, (2005), F1

² Medill Justice project, Wrongful Convictions, www.medilljusticeproject.org/wrongful-convictions/ <accessed on 28/10/2018>.

³ Amnesty International, Death Sentences and Executions in 2016, F6; Justice Denied: Global Study of Wrongful Death Row Convictions, The Cornell Center on The Death Penalty Worldwide, 2018.

⁴ Emily Barone, The Wrongly Convicted, Time.com/wrongly-convicted/ < accessed on 28/10/2018>.

fi kkf eeruun ni danda'ama. Ragaan amanamaa akka hin taane sababootni taasisan hedduu dha.

Ta'e jedhanii ragaa dhugummaa hin qabne kennuu fi ta'e jedhanii raawwii dhimma tokkoo irratti hubannoo qaban dhoksuu; akkasumas, haala namni raawwii gochaa tokko itti hubatu, dandeettii qalbeeffanna fi yaadatanii ibsuu namaa, sodaachifamuun ragaa baatuu sababoota dhugummaa ragaa afaanii miidhan keessaa isaan ijoo dha.⁵ Itti dabalees, ogeessi ta'e jedhee, dagannoon yookaan hanqina dandeettii irraa ka'uun ragaan ogummaa inni kenu dhugummaa qabaachuu dhabuu mala. Qaama aangoo qabuun mirkanoeffamuun dhabuun; akkasumas, shakkisiisaa ta'uun qabiyee sanadaa fi mallattoo waliigaltootaa, dhugummaa guutuun ragaa sanadaa irra akka hin kaa'amne taasisu.⁶ Bifuma walfakkaatuun, ragaaleen qabatamaa/naannoo yeroo walitti qabaman, hiikamanii fi hojiirra oolan gochaa dhugummaa isaanii miidhuu danda'uun carraa faalamuu guddaa qabu.⁷ Dhugummaa ragaa sadarkaa qaamolee ragaa maddisiisanitti faalamuu danda'a. Kuni immoo qaamoleen kunneen ragaa qaamolee biroof kennan dhugummaa isaa sirna itti eegsisanii fi mirkanoeffatan dhabuu irraa madda.

Murtiin ragaa dhugummaa hin qabne bu'uura godhatee kennamu namni qulqulluun yakka hin dalagne akka adabamu, namni gocha yakkaa raawwate bilisaan akka gaggeeffamu, namni mirga hin qabne mirga akka argatu, haala hin malleen dirqama akka fudhatuu fi itti gaafatamummaa seeraa jalaa miliquu taasisa. Kun immoo mirga namoomaa fi dimokiraasii lammilee akka sarbamuu gochuun haqni harka namoota dhuunfaa akka galu taasisuun nageenyaa fi

⁵ Wise, Richard A. and Safer, Martin A., "A Method for Analyzing the Accuracy of Eyewitness Testimony in Criminal Cases", *Court Review*: The Journal of the American Judges Association (2012), F22

⁶ Tom Singer, *To Tell the Truth, Memory Isn't That Good*, Montana Law Review, Vol. 63, Issue 2 (2002), F5.

⁷ Tom Singer, Akkuma 6^{ffaa}.

tasgabbiin biyyaa rakkoo keessa akka seenu godha. Rakkoon kun Naannoo Oromiyaa keessattis bal’inaan kan calaqqisu ta’uu qorannoowwan garagaraa ni akeeku.⁸

Sababa ragaa dhugummaa hin qabne bu’uura murtii gochuutiin miidhaa namoota dhuunfaa fi biyya irra gahaa jiruuf hanqinni gama seeraa fi hojimaataan jiru gahee guddaa taphata. Imaammatni Sirna Haqaa Yakkaa biyya keenyaa rakkoo ragaan dhugummaa hin qabneef sodaan nageenyaa ykn doorsifamuun ragootaa tokko akka ta’e ni akeeka.⁹ Sababa kanaafis ragaan dhugummaa qabu akka jiraatuuf eegumsi raga-baatotaa jiraachuu akka qabu ni agarsiisa. Haa ta’u malee, akka naannoo keenyaatti seerri kun hin bane; qaamni dhimma kana hordofus adda ba’ee hojiitti hin seenne.

Gama biraan, Imaammatni Sirna Haqaa Yakkaa Itoophiyaa qabiinsi ragaa amansiisaan akka jiraatuuf sirni qorannoo duraa (preliminary inquiry) diriiruu akka qabu kan akeeku yeroo ta’u¹⁰, sirni kun seera deemsa falmii yakkaa keessatti kan tumamee jiru ta’ullee raawwiinsaa hanga barbaadamutti hojiirra hin oolle. Ragaan ogummaa gosa ragaa biroo irraa amala adda isa godhu qaba. Ragaan kun dhimma ogummaa waliin kan wal qabatu fi beekumsa ogeessota qaamolee haqaa ol waan ta’eef raawwiidhaaf akka tolutti seerri ifa ta’e jiraachuun barbaachisaa dha. Itoophiyaatti, dhimmi ragaa ogummaa seera deemsa falmii hariiroo hawaasaa keessatti hanga tokko uwvisa kan qabu yeroo ta’u, seera deemsa falmii yakkaa keessatti garuu callifamee bira darbameera. Dhimmi kun seerota biroodhaanis kan ilaalamititi. Ragaa ogummaa

⁸Biirroo Haqaa Oromiyaa, Murtii Haqaa Kennuun Walqabatee Haala Ragaa Sobaa Naannoo Oromiyaa keessatti Argamu, 2005, Boqonnaa 2ffaa; Habtamuu Bulti, The Impact of False Testimony on Rendering Justice, ILQSO, (2001).

⁹ Imaammata Sirna Haqaa Yakkaa RDFI, Ministeera Haqaa, Guraandhala 25, 2003, kutaa 3.19.

¹⁰Imaammata Sirna Haqaa Yakkaa RDFI, Kutaa 3.18.

ilaalchisee seerri qindaa'aa ta'e jiraachuu dhabuun hojimaata irratti rakkoo qaqqabsiisa.

Kaayyoon qoranna kanaas miidhaa ragaan dhugummaa hin qabne geessisaa jiruu fi madda rakkoo kanaa agarsiisuun, tooftaalee dhugummaa ragaa mirkaneessuu dandeessisan akeekuun haqni akka hin jallane deeggaruu dha. Qorannoон kun dhugummaa ragaa afaanii/namaa, ragaa sanadaa fi ragaa qabatamaa qaama kaminuu maddisiifamuun hojii qaamolee haqaa qofaaf (qorannoо yakkaa, himanna, fi murtii) keessatti galtee ta'an sakatta'uun, tamsa'ina ragaa dhugummaa hin qabnee fi miidhaa gama kanaan dhaqqabaa jiru agarsiisuu irratti xiyyeffata. Qorannoон kun ragaan dhugummaa hin qabne miidhaa mirga lammilee irraan gahu olaanaa akka ta'e qaamolee haqaa fi hawaasa bal'aaf hubannoo kan uumu ta'a. Wantoota madda ragaa amanamummaa hin qabne ta'an adda baasee agarsiisuun qaamoleen haqaa fi hawaasni bal'aan madda ragaa dhugummaa hin qabne ittisuu irratti akka xiyyeffatan taasisa. Qaamoleen haqaa tooftaalee dhugummaa ragaa ittiin mirkaneessan bu'uura godhachuun tajaajila haqaa akka kennan ni gargaara.

Qorannoон kun mala akkamtaatti fayyadamuun gaggeefame. Maloota akkamtaa keessaa af-gaaffii fi xinxalli galmees hojiirraa oolaniiru. Af-gaaffiin hooggantootaa fi ogeeyyi mana murtii, abbaa alangaa, poolisii, komishinii naamusaa fi farra malaammaltummaa, mana sirreessaa, waajjira lafaa, hospitaalotaa fi buufataalee fayyaa, tajaajilamtoota, Abbootii Gadaa fi abukaattoo seera irraa walitti qabameera. Daataan kun sababoota dhugummaa ragaa miidhan, ragaaleen dhugummaa hin qabne bu'uura murtii ta'aa akka jiran, miidhaa sababa ragaa dhugummaa hin qabneetii dhaqqabaa jiruu fi tooftaalee dhugummaa ragaalee mirkaneessuuf hojiirra ooluu qaban adda baafachuuf hojiirra ooleera. Daataan galmees murtii argatan sakatta'uun argame miidhaa akkamii geessisaa akka jiru, qaamoleen haqaa maloota akkamii fayyadamuun

dhugummaa ragaa mirkaneessaa akka jiranii fi hanqinaalee gama kanaan jiran agarsiisuuf hojiirra oolan.

Haala kanaan, daataan qorannichaa godinaalee Oromiyaa saddeet (8) jechuunis: Shawaa Bahaa, Godina Adda Naannawaa Finfinnee, Shawaa Lixaa, Shawaa Kaabaa, Jimmaa, Harargee Lixaa, Arsii Lixaa fi Baalee keessatti argaman sadarkaa godinaalee fi aanolee isaan jala jiran lama- lama irraa walitti qabameera. Sadarkaa naannoo fi federaalatti immoo Mana Murtii Waliigala Oromiyaa, Abbaa Alangaa Waliigalaa, Komishinii Poolisii Oromiyaa, Komishinii Bulchiinsa Manneen Sirreessaa, Komishinii Naamusaa fi Farra Malaammaltummaa Oromiyaa, Biiroo Eegumsa Fayyaa fi Biiroo Lafaa, Abbaa Alangaa Waliigala Federaalaa, A/T/Bulchiinsaa fi To'anno Nyaataa, Qorichaa fi Kunuunsa Fayyaa Magaalaa Finfinnee irraa daataan funaanamee jira. Walumaagalatti, Afqaaffiwwan 149 fi galmeeleen 203 walitti qabamuun xinxalamani jiru. Qaamoleenii fi ogeeyyiin daataan irraa funaaname eddattoo kaayyeffataa (purposive sampling) irratti hundaa'uun filataman. Hogbarruulee fi muuxannoowwan sakatta'amanis tooftaalee dhugummaa ragaalee mirkaneessuuf hojiirra ooluu qaban akeekuuf ilaalamaniiru.

2. Ragaa: Sakatta'a Hog-Barruu

2.1. Maalummaa fi Barbaachisummaa Ragaa

Barreessaan *Alan Taylor* jedhamu ragaan ‘odeeffannoo ijoo falmii hubachiisuuf dhiyaatu’ jechuun ibse.¹¹ Ragaan ijoo falmii (fact at issue) qofa osoo hin taanee, ijoo falmii waliin walitti dhufeenyaa qaban (collateral facts, facts related to fact at issue) mirkaneessuufis kan dhiyaatu dha. Falmii mana murtii keessatti dhimmooni hundi ragaan akka mirkanaa'an hin eegamu; falmii irratti dhiyaate amanuun abbaa dhimmaa (admission), tilmaama manni murtii fudhatu

¹¹ Alan Taylor, Principles of Evidence, 2nd edition, Cavendish Publishing, 2000, F 43.

(presumption) fi hubannaa mana murtii (judicial notice) akka ragaatti fudhatamuun bu'uura murtii ta'u.

2.2. Amaloota Ragaa Gaarii (Features of Good Evidence)

Gahumsiifi qulqullinni ragaa qabiyyee, rogummaa fi barbaachisummaa ragaa dhiyaatuun madaalama. Akka waliigalaatti, ragaa gaariin amaloota gurguddoo lama qabu: rogummaa fi fudhatamumma.¹²

2.2.1. Rogummaa

Rogummaan dandeettii ragaan dhiyaate qabxii falmii hubachiisuuf qabu dha. Kunis ragaan tokko fudhatamummaa qaba jechuuf gatii ragummaa isaa fi qabxii falmii mirkaneessu gidduu walitti dhufeenyi loojikaawaa ta'e jiraachuu qaba. Ragaan fudhatamummaa qabaachuuf gatiin mirkaneessa (probative value) isaa sadarkaa ijoo falmii hubachiisuu isa dandeessisu qabaachuu qaba.

2.2.2. Fudhatamummaa

Fudhatamummaa fi rogummaan dhimmoota walitti hidhata qabani dha. Fudhatamummaan irra caalmaan dhimma seerati. Fudhatamummaan ragaawan qaama murtii kenu biratti dhiyaatan murtii haqa qabeessa kenuuf gufuu akka hin taane mala ittin to'atamuudha. Kunis ragaan dhiyaatu garmalee akka hin baay'anne, dadhabpii fi turtii akka hin heddummeessine taasisuudhani. Dabalataan, odeeffannoon ykn ragaan dhiyaatu kabaja namootaa, keessumattuu kanneen falmiin ala jiran akka hin tuqneef ofeeggannoo godhamu dha.

2.2.3. Amanamummaa

Ragaan rogummaa fi fudhatamummaa qabu bu'uura murtii ta'uuf amanamaa ta'uutu irraa eegama. Ragaan tokko hangam yoo rogummaa fi fudhatamummaa qabaatellee amanamummaa kan hin qabne yoo ta'e miidhaa qabaata. Kanaaf, amanamummaan ragaa amaloota gurguddoo ragaa keessaa isa tokkoo fi ijoo

¹² Overview of Evidence Text Book (Jones and Bartlett publishers), F8.

dha. Amanamummaan ragaa kan mirkanaa'u sakatta'aa fi madaallii ogeessotni seeraa taasisaniin qulqulla'a.

2.3. Gosoota Ragaa

Ijoo dubbii tokko hubachiisuuf ragaan dhiyaatu mala ittiin hubachiisan, walitti dhufeenya qabxii falmii fi ragaan dhiyaatu qaban irratti hundaa'uun ragaan gosoota garagaraatti qoodamuu danda'a. Ijoo dubbii hubachiisuudhaaf maloota fayyadamnu irratti hundaa'ee ragaan, ragaa namaa (testimonial evidence), ragaa ogummaa (expert evidence), ragaa sanadaa (document evidence) fi ragaa ibsituu (real or demonstrative evidence) jedhamee qoodama.¹³

2.3.1. Ragaa namaa

Ragaan namaa ykn ragaan afaanii (witness testimony or oral evidence) mala namoonni yeroo baay'ee qaamaan mana murtiitti dhiyaatanii ijoo falmii irratti odeeaffannoo kennani dha.¹⁴ Qajeeltoon ragaan namaa afaaniin ykn dubbiin kennama. Ragaan namaa, ragaa namni tokko (layman) qaama miiraa isaatiin hubatu irratti hundaa'ee kennamu ykn ragaa ogeessaa ta'uu danda'a.

2.3.2. Ragaa ogummaa

Ogeessi nama ogummaa kallattii barnoota tokkoo (field of expertise) irratti beekumsa gahaa, leenjii ykn muuxannoo hojii ogummicha ilaallatu kan qabu yoo ta'u, ragaan ogummaa ammoo jecha ragummaa jechaan yookaan barreffamaani hubannoo fi beekumsa qaburratti hundaa'uu ragummaa ogeessi kennu akka ta'etti fudhatama.

¹³ የፖ.ና ደሰሳኔ የማስረጃ ምክና ጥናቸው በፍትህ አካላት በለም-ያዋቹ የስልጠና ማዕከል የተዘጋጀ.

¹⁴ Ratanlal and Dhirajlal, The Law of Evidence, 21st ed., F387.

2.3.3. Ragaa Sanadaa

Ragaan sanada yaada barreeffamaan, fakkiin ykn mallattoon wanta jajjabaa irratti ibsamee fi sagaleen waraabame ta'ee ijoo falmii hubachiisuuf dhiyaachuu kan danda'u dha.¹⁵

2.4. Ragaa Dhugummaa Hin qabnee fi Sababoota Ragaa Dhugummaa Hin qabne Babal'isan

Ragaa dhugummaa hin qabne sababoota hedduu bu'uureffachuu mala: ragaa sobaa ta'e jedhamee kennamu, jecha ragummaa dhugummaa hin qabne dogoggoranii kennamu, ragaa ogummaa dhugummaa hin qabne ykn xiinxala saayinsawaa hin taane bu'ura godhatee kennamu, ragaa sanadaa sobaan qophaa'e (forgery) dhiyaatu, ragaa sanadaa qabiyyeen isaa jijiirame (falsification) kennamuu fi kkf ragaa dhugummaa hin qabne jedhamani kan beekamani dha. Ragaan dhugummaa hin qabne akka dhiyaatu sababootni taasisan hedduu dha. Isaanis, akka itti aanutti haa ilaallu.

2.4.1. Hanqina namni waa qalbeeffachuu irratti qabu (Perception)

Qalbeeffachuun adeemsa taatee, raawwii yookaan gocha tokkoo xiyyeffannoo itti kennanii hubatanii dha. Namni taatee/ gocha/ raawwii tokko erga miirratee (ilaalee, dhagahe, dhaqqabe, fuunfatee fi dhandhamee) booda qalbeeffata. Dandeettiin dhimma tokko qalbeeffachuu namaa sababoota garagaraatiin walaaluu danda'a. Kunis ilaalcha, fedha, jibba, muuxannoo yookaan beekumsa dhimma sana irratti namni sun qabu irratti hundaa'ee siritti yookaan al-sirriin ta'uu mala. Umurii fi koorniyaa/saallis gama kanaan gahee mataa isaa qabaata. Fakkeenyaaaf, namni rifeensa sirreessu kafana namni tokko uffatu caalaa haala rifeensi nama sanaa itti sirreffamee jiru, nama biraa caalaa carraa hubachuu fi

¹⁵ Rishee Rhudra and Shubham Aparajita, *Evidence: Its Role and Kinds*, International Journal of Law and Legal Jurisprudence Studies, Vol.2, Issue 7, p.329.

qalbeeffachuu qaba. Ijoollee fi namni guddaan akkasumas dhiiraa fi dhalaan taatee tokko wal-qixa qalbeeffachuu dhabuu danda'u. Hubannoo, shaakallii fi miirri isaan dhimma sana ilaachisee qaban wal-qixa waan hin taaneef raawwii raawwatame ilaachisee qalbeeffanna garagaraa qabaachuu malu.

Seerri deemsa falmii hariiroo hawaasaa kwt 269 (1) adeemsi ragaa fuudhuu/ dhagahuu maqaa, umurii, hojii/ogummaa, bakka jirenyaa, fi kakuu raawwachuu fi raawwachuu dhabuu raga-baatuu galmeessuun akka eegalutuma. Raga-baatuun dhimma irratti ragaa bahu hangam qalbeeffachuu akka danda'u kallattii kan agarsiisan keessaa tokko umurii fi hojii/muuxannoo namni sun qabu ta'uu seerri kun beekamtii kennee jira. Hima biraan, abbootiin seeraa dhugummaa ragaa xiinxaluu keessatti sadarkaa qalbeeffanna nama tokkoo yaada keessa galchuun barbaachisaa akka ta'ee fi sadarkaa qalbeeffanna namaa wantoota agarsiisianniif xiyyeffannoo kennuun barbaachisaa akka ta'e seerri kun kallattii agarsiisa jechuu dha.

2.4.2. Hanqina namni sammuutti qabachuu irratti qabu (Encoding)

Adeemsa raaawwii tokko hubachuu fi yaadachuu keessatti sadarkaa lammaaffaa, irratti taateen raawwatu waan qalbeeffatan sammuutti qabachuu/ sammuutti galmeessuu dha. Galmeessuun waan qalbeeffatanitti hiika kennuun sammuun raawwii dhimma sana keessatti raawwate akka qabaatu gochuu dha. Dhimma qalbeeffatanitti sirriitti hiika kennuun, sammuun akka qabatu gochuun, hubannoo, fedha, ilaalcha yookaan jibba dhimma sana irratti duraan qabnu bu'uureffatee namaa gara namaatti garaagarummaa qabaachuu danda'a. Itti dabalees, haalli dhimmi ijoo falmii ta'e tokko itti raawwate miira namaa kan miidhuu fi sodaa kan uumu yoo ta'e, haala raga-baatuun sun raawwii sana itti hiikuu fi sammuutti qabatu of-danda'ee kan miidhudha. Bu'uura S/D/F/H/H kwt 269 (1)' tiin, ogeessi ragaa fuudhu hojii ragaa fuudhuu eegalun dura maqaa, umurii fi gahee hojii raga-baatuu akka galmeessu tumee jira; umurii fi gaheen

hojii raga-baatuu taatee qalbeeffate tokkotti hiikkaa kennuun sammuutti qalbeeffachuu irratti raga-baatuu tokko irraa gara raga-baatuu biraatti garagarummaa jijiirama uumuu danda'u qabaachuu mala. Kanaafuu, adeemsa xiinxala ragaa keessatti dhimmootni kanneen giddu-gala xiyyeeffannoo qaama ragaa sana madaaluu ta'uu akka qabu ijoo akeeku dha.

2.4.3. Hanqina sammuutti qabatanii turuu irratti namni qabu

Taatee tokko qalbeeffachuun erga sammuutti qabatanii booda yeroo turmaata isaa keessa sababootni dhiibbaa irratti geessisuun qabiyee wanta qalbeeffatamee jijiiran hedduu dha. Fakkeenyaaaf, odeeffannoo raga-baatuuun tokko qabu odeeffannoo boodarra namni kun raga-baatuu, poolisii, abbaa alangaa ykn qaama biraa irraa dhaga'uun jijiiramu/fooyya'uu danda'a. Odeeffannooboodarra namni sun dhagahe yaadannoo inni qalbeeffate irratti qabu kan miidhu waan ta'eef, gochoota raawwatamanii fi nama raawwate sirriitti qulqulleessanii ragaa bahuu irratti dhiibbaa mataa isaatii geessisuun kan danda'u dha.

2.4.4. Hanqina waa yaadachuu irratti namni qabu (retrieve)

Namni taatee tokko sammuutti qabate, odeeffannoo qaama garagaraa irraa argate ka'umsa godhachuun raawwii dhimmichaa fi qaama raawwate yaadata (adda baasaa). Adeemsa gocha raawwate yaadatanii ibsuu keessatti maddi odeeffannoo guddaan yaadannoo sammuutti qabatan keessaa maddisiisuun yoo ta'u, qaawa yaadannoo kuufatan keessatti mudatu duuchuuf ammoo namni hawwa, ilaalcha, jibba, amantaa, beekumsaa fi hubannoo dhimma walfakkaataa irratti dura qabu bu'uura godhachuun itti guutuu yaala. Kanaafuu, ragaa namni kennu raawwii sammuutti kuufatee qabuu fi yaadota ofii uumee itti dabalu walitti makuun akka ta'e qorannoowwan garagaraa ni ibsu.

2.4.5. Ta'e jedhanii ragaa dhugummaa hin qabne kennuu (ragaa sobaa)

Namni taatee hubate tokko ta'e jedhee dhoksuun jecha ragaa kennuu yookaan taatee haaraa uumuun jecha ragaati jedhanii jecha ragaa dhugummaa hin qabne kennuu ragaa sobaa kennuu jedhamee fudhatama.¹⁶ Namni sababoota garagaraatiif jecha ragaa sobaa kennuu danda'a: adabbii irraa baraaramuuf, bu'aa hin malle argachuuf, michuu isAAF eegumsa taasisuuf, yeeloo/qaanii itti dhufuu malu jalaa bahuuf jecha soba raguu danda'a.¹⁷

Jechi ragaa sobaa kennamu gama tokkoon dandeettii raga-baatuun jecha ragaa sobaa kennuu irratti qabuu fi shaakala/qophii inni taasisuun, gama biraatiin, hanqina dandeettii fi ogummaa ogeessi ragaa fuudhu dhugummaa ragaa qulqulleessuu irratti qabu akka qaawwaatti fayyadamee murtii kennamuuf galtee ta'a. Sababni guddaan ragaan sobaa murtii kennamuuf galtee akka ta'u kan taasisu hanqina dandeettii dhugaa calaluu irratti ogeessi ragaa fuudhu qabu dha: ogeessi ragaa fuudhu yeroo baay'ee duuchaatti raga-baatuu amana, amala dhuunfaa raga-baatuu irratti odeeffannoo hin sassaabbatu; akkasumas, jecha ragaa kenname ragaalee biroo wajjiin wal-bira qabee sirriitti madaalu dhabuutu irraa mul'ata.¹⁸ Ragaa sobaa to'achuuf, kanaafuu, dandeettii fi gahumsa shaakallii raga-baatuu adda ittiin baafatan; akkasumas, dandeettii fi gahumsa jecha ragaa sobaa ittiin xiinxalan gonfachiisuun barbaachisaa dha.

Akka qorannoowwan xiinsammuu agarsiisanitti, namni tokko itti yaadee jecha ragaa sobaa yeroo kenu qaamaa fi dhangala'iinsa dubbii isaa irratti jijiirama garagaraatu mul'ata. Jecha ragaa sobaa kennuu jecha ragaa dhugaa kennuu

¹⁶ Seera Yakkaa RDFI 453; Hand Book of Psychology of Investigative Interviewing: Current Developments and Future Directions (Ed. Ray Bull, Tim Valentine and Tom Williamson, John Wiley and Sons, Ltd, 2009), F301.

¹⁷ Handbook of Psychology of Investigative Interviewing: Current Developments and Future Directions, Akkuma 16^{ffaa}, F 313.

¹⁸ Barry S. Cooper, Hugues Herve' and John C. Yuillee, Evaluating Truthfulness: Detecting Truth and Lies in Forensic Contexts (John Wiley and Sons, Ltd, 2009), F312.

caalaa kan nama dhiphisu fi naasisu waan ta'eef yeroo jecha ragaa kenuuf qopha'anii fi yeroo jecha ragaa kennaa jiran keessatti jijiirama adda addaatu sirna hargansuu, sirna dhangala'iinsa dhiigaa fi kkf irratti mul'ata. Fakkeenyaaf, dha'iinsi onnee ni dabala, rukuttaan dhangala'iinsa dhiigaa ni dabala, hafuurri ni ciccita, akkasumas ni dafqisiisa.

Bifuma walfakkaatuun, nama jecha ragaa sobaa kenu irratti jijiiramni miiraa akka raawwatu qorannoowwan garagaraa ni agarsiisu. Fakkeenyaaf, asii fi achi mimicciiramuu, sagalee olkaasuu fi gadi buusuu, gaaffii osoo hin deebisin dura gorora irra deddeebiin liqimsuu, sagalee cirachuu (qarachu), roma'uu, fuula gurraachessuu, harka walitti riguu/sukkuumuu, dalga nama ilaaluu, ija guutaniil ilaaluu dhabuu fi kkf nama jecha ragaa sobaa kenu irratti mul'achuu danda'a.¹⁹

2.5. Miidhaa Ragaan Dhugummaa Hin qabne Geessisu

Ragaan sobaa sirna haqaa irratti dhiibbaa hamaa fi hangana hin jedhamne hordofsiisa.²⁰ Adda duraan, bulchiinsi sirna haqaa, haqa-qabeessaa fi bu'a-qabeessa akka hin taane taasisuudhaan dhugummaa manneen murtii gaaffii keessa galcha. Hojiin haqa barbaaduu manneen murtii dhugummaa ragaa gareewwanii irratti kan hundaa'u dha. Kana jechuun, ragaan sobaa rogummaa qabu murtiin dhugaa irraa dabe akka kennamu waan taasisuuf keniinsa haqaa irratti dhiibbaa olaanaa qaba. Kunis kaayyoo barbaachisummaa mana murtii waliin kan walitti bu'uu fi namootni qulqulluun yakkaan akka adabaman yookin qabeenya, lubbuu fi bilisummaa isaanii akka dhaban kan taasisu; akkasumas, namootni yakka raawwatan akka bilisa bahan godhu dha. Kunis hawaasni sirna haqaas ta'e manneen murtii irraa amantaa akka dhaban akkasumas sirna jiruufi olaantummaa seeraatiif bitamuudhaaf fedhii akka dhaban,²¹ hawaasaaf jibbiinsa

¹⁹Akkuma18^{ffaa}.

²⁰Anne Bowen Poulin, *Convictions Based on Lies: Defining Due Process Protection*, Penn State Law Review, vol. 116 (2), F 311.

²¹Perjury Prosecutions After Acquittals, Marquette Law Review, Vol 71, F704

akka horatan taasisa. Keessattuu, dhimma yakkaa keessatti jechi sobaa ragaadhaan dhiyaatu jiruufi jirenya gara fuula duraa himatamaa daran kan murteessu dha.²²

2.6. Ragaa Dhugummaa Hin qabne To'achuu Ilaalchisee Itti Gaafatamummaa Qaamoleen Garagaraa Qaban

Balaan ragaan dhugummaa hin qabne dhaqabsiisu hir'isuuuf abbootiin hirtaa jechuunis qaaamoleen ragaa kennanis ta'ee kanneen ragaa kana fayyadaman gahee qabu. Keessumattuu, qaamolee haqaa kan ta'an kan akka poolisi, abbootii alangaa, qaamni abbaa seerummaa fi abukaatoo qindoominaan hojjechuu qabu.²³ Rakkoo ragaa sobaa xiqqeessuu keessatti qaamolee adda duraan gahee taphachuu qaban keessaa tokko poolisi dha. Shakkamtootni yakkaa, namootni eeruu fi himannaayakkaa dhiyeessan yookin miidhamtootni, ragaaleeniifi kkf gara sirna haqaa yeroo dhufan jalqaba irratti qaamni quunnaman poolisi dha. Kanarraa ka'uudhaan hayyootni tokko tokko '*gatekeepers to the criminal justice system*' jechuun qaama kana ibsu. Kunis poolisiin duula rakkoo ragaa dhugummaa hin qabne irratti taasifamu keessatti qaama bakka murteessaa qabatee jiru dha. Kana jechuun, ciminni yookin hanqinni poolisiin dhugummaa ragaa madaaluu irratti qabu qaamolee haqaa mara irratti dhiibbaa kan hordofsiisu dha. Itti gaafatamummaa olaanaa kana bahachuudhaaf hojimaata qoranna eeruu dhiyaatuu fi ragaa dhiyaatu mara simatu osoo hin taane, muuxannoo gaggaarii fudhachuudhaan of-gahoomsaa qaama adeemu ta'uu qaba.

²²Tim Bower Rodriguez, the Impact of False Testimony, 2013 (<http://www.timbowerrodriguez.com/impact-false-testimony/>).

²³Stephen Bindman *et al*, The Path to Justice: Preventing Wrongful Convictions (Federal/Provincial/Territorial Heads of Prosecutions Subcommittee on the Prevention of Wrongful Convictions Co-chairs, 2011), P ix < <https://www.ppsc-sppc.gc.ca/eng/pub/ptj-spj/ptj-spj-eng.ndf>> irratti kan aræamu.

Eegumsa mirgoota bu'uuraa dhala namaaf manneen murtii walabaa ogeessota naamusaa fi dandeettii qabaniin hogganamu qabaachuun barbaachisaa dha. Waldhibdee uumamu furuu keessatti manneen murtii ragaa isaaniif dhiyaatu dhugaa fi amanamaa ta'uu mirkanoeffachuu qabu. Ragaan sobaa murtii isaan kennaniif bu'uura kan ta'u yoo ta'e mirgootni bu'uuraa kanneen akka bilisummaa qaamaa fi mirga qabeenyaa dhala namaa ni sharafamu. Kanaafuu, manneen murtii ragaa yammuu dhaga'anis ta'e madaalan loogii irraa bilisa ta'uun tooftaalee garagaraatti gargaaramuun ragaan isaaniif dhiyaate dhugaa ta'uu isaa mirkanoeffachuuuf dirqama qabu.

Uummatni tajaajilaaf gara manneen murtii dhufu falmii isaa dhugaa qofa irratti kan hundaa'e akka ta'u ragoonni manneen murtiitti dhiyaatanii ragaa ba'an jecha ragummaa dhugaa akka kennan; akkasumas, qaamni ragaa sanadaatti gargaaramus ragaa sanadaa dhugaa ta'e qofatti akka gargaaramu hubachiisuuf barsiisuu keessatti gahee guddaa qabaatu. Dabalataanis, qaamoota yakkoota ragaa sobaan wal qabatan irratti murtii fi adabbii barsiisaa kenuun hawaasnisi ta'e namni badii dalage gochicha irraa akka baratu taasisuuf dirqama seeraan kennameef qabu.

Qaamni inni biraa rakkoo ragaa sobaa hir'isuu keessatti gahee olaanaa taphachuun irraa eegamu abbaa alangaati. Abbaan alangaa ragaan himannaak iyya naaf mirkaneessu jedhee qabatee mana murtiitti dhiyaatu ragaa sobaa akka hin taane mirkanoeffachuuuf dirqama qaba. Sirna haqa yakkaa keessatti ogeessaak amiyuu caala haqni akka bahu dhama'uun kan irraa eegamu abbaan alangaati. Sababni isaa, abbaan alangaa bakka bu'aa nama dhuunfaa tokkoo osoo hin taane bakka bu'aa birmadummaa waan ta'eefi dha. Kunis hojimaataa loogii hin qabne akka raawwatuu fi aantummaan isaas haqaaf malee namoota yookin gareef akka hin taane kan isa dirqisiisu dha. Hojii isaas yeroo hojjetu yakkamaan akka haqa jalaa hin miliqnee fi namni qulqulluun akka hin adabamne kaayyoo jedhuun

ta'uu qaba. Kunis dirqama hojii isaa yeroo bahatu mala hin malle gargaaramuuu namootni qulqulluun badii akka taasifaman gochuu yookin ragaa sobaa gargaaramuuu irraa of qusachuu qofa osoo hin taane ragaan sobaa yeroo kennamuu isaa baru sirreffamnii fi tarkaanfin seeraa akka fudhatamu taasisuu dabalata. Abbaan alangaa ragaa sobaa miidhamtootni yakkaa dhiyeessan akka iccitii maamilaa eeguutti fudhachuun icciitii qabachuuf dirqama hin qabu.²⁴

Abukaatoon himatamaa bakka buufamus abbaa alangaa waliin gahee walfakkaataa qaba. Ragaan tokko soba ta'uu osoo beekuu yookin amanuu olkaa'uun, oomishuun, mana murtiif dhiyeessuun abukaatoodhaaf al-naamsaawummaa dha.²⁵ Dirqamni kun maamila isaa ragaa soba ta'e mana murtiif dhiyeeffachuu barbaadu yaada isaa akka jijiirratu gorsuu, amansiisuu, fi dhorkuu kan dabalatu dha. Kana malees, maamilli isaa ragaa sobaa dhaddachaaf dhiyeessuuf yaada isaatiin kan itti fufe yoo ta'e abukaatoon dhimma maamila sanaa dhiisuu qaba. Ragaan maamila isaatiif mana murtiitti dhiyaate soba ta'uu turee yoo hubates yaada cufiinsaa keessatti caqasuu dhiisuu yookin mana murtiif ifatti beeksisuu qaba. Akkasumas ogessotni isa waliin yookiin isa jalatti hojjetan ragaa sobaa akka hin gargaaramne taasisuuf dirqama ni qabaata.²⁶

Dhaabbileen ragaa kennan kenninsa ragaa keessatti of eeggannoo gochuu qaban hanqisuun, ykn beekaa ragaa dhugummaa hin qabne yoo kennan itti gaafatamummaa hariiroo hawasaa ni qabaatu. Dhaabbilee nam-tolchee yoo ta'e immoo gaafatamummaa hariiroo hawaasaatiin dabalata seerri ifatti yoo kaa'e itti gaafatamummaa yakkaas qabaachuu malu. Dhaabbileen mootummaa akka

²⁴Christopher M. Casa, Obligations of Prosecutors and Defense Attorneys to Prevent False Testimony (Nassau Lawyer, November 2017), F 9.

²⁵ New York Rules of Professional Conduct (Effective April 1, 2009, As amended through January 1, 2017), F 9.

²⁶ Akkuma 25^{ffaa}.

dhaabbataatti itti gaafatamummaa yakkaa hin qabaatan.²⁷ Itti gaafatamummaan yakkaa kan hojjettoota ykn hoggantoota dhaabbatichaa ta'a. Haaluma kanaan, namni sanada sobaa qopheessee/hojjete ykn fooyesse bu'ura seera yakkaa kwt 375 fi kanneen itti aananiin kan adabamu ta'a.²⁸

2.7. Sirna Madaallii Ragaa Keessatti Dhugummaa Ragaa Sanadaa Mirkaneessuu

Ragaa sanadaa ilaachisee sirni madaallii isaatii, sirnoota bekamoo lama jalatti kufa. Isaanis, sirna madaallii ragaa daanga'aa (regulated evidence) fi ragaa gadhiisii (free assessment of evidence) dha. Seerri keenyas sirnoota lameen kana walcina hojiirra oolcha. Sirnawwan ragaa lamaan kanneenii fi dandeettii dhugaa mirkaneessuu isaan qaban akka armaan gadiitti gabaabsinee ilaalla.

2.7.1. Dhugummaa sanada mirkanaa'ee galmaa'ee madaaluu

Sanadni mirkanaa'ee galmaa'e tokko ragaa amanamummaa guutuun irratti gatamuu fi qaama kamiinuu murtiin irratti hundaa'ee kennamu akka ta'e Labsiin Mirkaneessaa fi Galmeessa Sanadootaa ni tuma;²⁹ Dabalataanis, S/H/H kwt 2010 fi 2011 jalatti waliigalteen barreffamaa qaama aangoo qabuun mirkanaa'ee galmaa'ee sanada qaama kamiyyuu duratti fudhatama qabuu fi irratti hundaa'uun murtii kennuun danda'amu akka ta'e ifatti tumee jira. Sanadni mirkanaa'ee galmaa'ee jedhamu sanada qaama aangoo sanada mirkaneessuun galmeessu biratti mirkanaa'ee qofa osoo hin taane, sanadni qaama mootummaa rogummaa qabuun kennamee fi pirotokoolii barbaachisu hunda hammatee jiru akka sanada mirkanaa'eetti fudhatamuun sanada amanamummaan guddaa irra

²⁷Seera Yakkaa RDFI, lak 36 kwt 34 (1).

²⁸ Seera Yakkaa RDFI, Kkwt 375 fi kanneen itti aanan.

²⁹ Seera Hariiroo Hawaas aa (SHH), kwt. 2010 (2); Labsii Mirkaneessaa fi Galmeessa Sanadootaa Federaalaa, Lak 922/2008, kwt 23; Haa ta'u malee, sanadni mirkanaa'ee galmaa'e tokko seeraa ala mirkanaa'ee jedhamee qaama sanadicha mirkaneesseen dorkamee jiru hanga dhorkichi hin kaanetti akka sanadichi hin mirkanoofnetti fudhatamuun fudhatamummaan sanadichaa amantaan guutuun kan irratti hin gatamne ta'a jechuu dha.

ka’amu ta’ee fudhatama.³⁰ Ragootni qaamolee mootummaatiin kennaman fi qaama mootummaan mirkanaa’anii galma’an, hanga qaama rogummaa qabuun hin haqamnetti ragaa of-danda’ee dhaabbatuu fi amanamummaa olaanaa qabaatu waan ta’eeef, qabiyyee isaa sanadni mirkanaa’e qabu tokko qulqulleessuuf ragaa namaa dhagahuun barbaachisaa miti jechuu dha.

Amanamummaa sanada mirkanaa’ee galmaa’e irratti gaaffiin kan uumamu yoo ta’e garuu gaaffii dhiyaatu simatee manni murtii sanadichi akka mirkanaa’etti akka turu yookaan akka haqamu murtii kennuu danda’a. Gaaffiin kun haala lamaan mana murtiitti dhiyaachuu danda’a:

- Sanadni mirkanaa’ee tokko seeraa ala mirkanaa’e jechuun akka haqamuutti, qaamni dantaa irraa qabu, kallattiin himanna hundeessuu danda’a. Himanna akkasii kanaaf wantootni ka’umsa ta’uu danda’an hedduu dha. Isaanis, sanadni tokko ogessota sanada akka hin mirkaneessine dhorkamaniin kan mirkanaa’e ta’uu, sanadichi foormaalitii fi ijoowwan ijoo adeemsa mirkaneessa sanada keessatti hammatamuu qaban osoo hin hammatiin kan mirkanaa’e ta’uu yookaan ragaalee seeraa-ala ta’an dhiyeessuun sanadichi kan mirkanaa’e yoo ta’e namni qabiyyee sanada mirkanaa’ee yookaan abbaan qabeenyaan sanadni sun ilaallatuu fi qaamni sanada sana mirkaneesse himata mana murtiitti dhiyeessuun sanadni jedhame seera ala kan mirkanaa’e waan ta’eeef, akka haqamu gaafachuu danda’u.³¹
- Adeemsa falmii keessatti sanadni mirkanaa’ee akka ragaatti dhiyaate tokko amanamummaa hin qabu jechuun sanadichi akka ragaatti akka hin dhiyaanne jedhe murtii akka irratti kennuutti gareen ragichi irratti dhiyaate mana murtii hayyama gaafachuu danda’a. Amanamummaa sanada gaaffii

³⁰ Fakkeenyaaaf, SHH kwt 2010 fi 2015; Martin Oudin, Evidence in Civil Law-France, Institute for Local Goverance, (2015), F29;

³¹ Labsii Mirkaneessaa fi Galmeessa Sanadootaa Federaalaa, lak 922/2008, kwt 28.

keessa jiruu akka fashaleessuuf qaamni hayyama argate, bu'uura ajaja manni murtii kennuun, ragaa sanadaa birootiin, ragaa namaatiin, yookaan ragaa biroo dhiyeessuun sanadicha ragaa amanamaa akka hin taanetti madaaluu danda'a.³² Hima biraan, amanamummaan ragaa sanadaa mirkanaa'ee galmaa'e tokko akka sanada hin mirkanoofneetti ragaa wal-falmitootni filatan kamiinuu fashalaanuu akka hin qabne ogeessotni seeraa ni ibsu.³³

Gaaffilee armaan olitti dhiyaatanitti murtii kennuuf, manni murtii, tarkaanfilee garagaraa fudhachuun ragaan barreffsamaa dhiyaate dhuguma ragaa mirkanaa'e ta'uu isaa, bu'uura seeraatiin kan mirkanaa'e ta'uu yookaan bu'uura seeraatiin ragummaan isaa hafaa kan ta'e ta'uusaa qulqulleessuu qaba. Ijoowwan kanneen gabaabinaan akka armaan gadiitti ilaaluu yaalla.

- Sanadni akka ragaatti dhiyaate tokkoo sanadichi akka sanada mirkanaa'ee galmaa'e miti jedhamee mormiin irratti kan ka'u yoo ta'e, manni murtii chaappaa waajjirichaa fi mallattoo raawwattoota hojichaa qulqulleessuutti dabalee dhugumma sanadichi qaama jedhame biratti mirkanaa'ee kan galmaa'e ta'uu waajjira kenneera jedhamerraq qulqulleessuu danda'a. Qaama mirkaneesse irraa haftee sanadichaa gaafatee fudhachuuf, namni dhimma waliigalteen irratti raawwate irraa dantaa qabu kaffaltii barbaachisaa kaffaluun garagalcha isaa fudhachuu danda'a.
- Sanadni mirkanaa'ee galmaa'e bu'uura seeraatiin yerootti fudhatamummaa dhabu jira. Fakkeenyaaaf, waliigalteen bakka bu'iinsa, waliigaltee qaama aangoo sanada mirkaneessuu qabuun mirkanaa'e galmaa'e waan ta'eef, bu'uura s/h kwt 2231 fi 2232tiin du'a, bakka-jirteen dhabamuu, dandeettii dhabuu fi kasaaruu bakka bu'aa yookaan bakka buusaatiin waliigaltichi hafaa ta'uu danda'a. Haala addaatiin bitaa-mirgi kan waliigalle taanaan,

³²SHH, kwt 2010 (2).

³³ጥለሁን ተኩም ንጽሕር 392.

haalota caqasaman keessaa tokko bakka bu'aa yookaan bakka buusaa irratti raawwannaan waliigaltichi fudhatama kan dhabu ta'a jechuu dha.

2.7.2. Dhugummaa sanadaa hin galmoofne madaaluu

Ragaan barreffamaa dhuunfaa sanada bu'uura ulaagaalee seerri teechnisun barreffamanii waliigalootaa fi raga-baatotaan mallatteeffamanii harka waliigalootaa/namoota dhuunfaa qofa jiranii dh. Haata'u malee, qaama aangoo sanadoota mirkaneessuu qabutti dhiyaatanii kan hin mirkanoofnee fi hin galmoofne dha. Ragaan barreffamaa bu'uura qajeeltoo seeraatiin barreffamee fi mallattaa'e ragaa seerri amanamummaa guddaa gonfachiise jedhamanii beekamu. Haa ta'u malee, bitaa-mirgi qabiyyee sanadichaa, mallattoo isaanii yookaan guyyaa irratti barreffamee jiru ilaachisanii salphaatti wal-haaluu danda'u. Dhimmoota ijoo ta'an kanneen irratti bitaa-mirgi qabiyyee sanadicha irratti kan wal-haalan taanaan yookaan mallattoo (barreffama harka isaanii) haallaan manni murtii sanadicha akka ragaatti fudhatee irratti hundaa'ee murtii kennuuf tarkaanfilee armaan gadii fudhachuu danda'a.

Namootni barreffamaan waliigaltee isaanii hundeessanii fi booda qabiyyee sanadichaa irratti kan waldhaban yoo ta'e, waldhabdeen kun attamitti furamuu akka qabu seerri hariroo hawaasaa kwt 2006(1) irratti tumee jira. Akka tumaa seera kanaatti, qabiyyeen sanadicha irra jiru bu'uura waliigaltee raawwataniin kan barreffame ta'uu kan ibsu yoo ta'ee fi gareen biroon ammoo qabiyyeen sanadicha irra jiru waan irratti waliigalan kan ibsu miti kan jedhu taanaan, manni murtii waldhabdee sanatti furmaata kennuuf ragaa akaakuu tokko qofa dhagahuu akka qabu seerri ibsee jira. Innis, qabiyyeen sanadicha irra jiru sirriidha gareen jedhu sirrii ta'uusaa kakuun nan mirkaneessa jennaan yookaan qabiyyeen sanadichaa sirrii miti gareen jedhu gareen inni biraa sirrii ta'uusaa kakuun haamirkaneessu yoo jedhan, manni murtii kaksiisuun kakuu kennname akka ragaatti simachuun irratti hundaa'ee murtii kennuuf danda'a.

Namni sanadni hin galmoofne akka ragaatti irratti dhiyaatu, mallattoo ykn barreeffamni harka isaatiiti jedhame *kan isaa akka hin taane ifatti ibsuun* sanadicha haaluu akka danda'u s/h/h kwt 2007(1) ni tuma. Sanadni akkasii dhaaltota namoota mallatteessaan jedhamu irratti kan dhiyaate taanaan dhaaltotni himatni irratti dhiyaate, mallattoo ykn barreeffamni sanadicha irra jiru *kan dhaalchisaa isaanii akka ta'etti kan hin fudhanne ta'uu ibsuu gofti* sanadicha haaluuf gahaa akka ta'e s/h/h kwt 2007(2) tuma. Haalota lamaan kanneeniin sanada akka ragaatti dhiyaate irra mallatoon ykn barreeffamni jiru haalamnaan mallattoo ykn barreeffamni sanadicha irra jiru kan eenuu akka ta'e ogeessi qoratee akka qulqulleessu *manni murtii ajajuu danda'a*. Akka haala dhangala'iinsa tumaalee seera kanaatti, keessumaa kwt 2007 ija tumaa kwt 2005tti yoo ilaalamu, mallatoon sanada irra jiru haalamnaan manni murtii yoo barbaade akka qoratamu ajajuu yookaan akka ragaatti fudhachuu dhabuu danda'a jechuu dha. Jechi qorachiisuu jedhu hiikkoo ogeessi ija ogummaatiin barreeffama yookaan mallattoo irratti walta'uun dhabame eenuu akka barreesse/mallatteessu qulqulleessuu jechuu dha. Itti dabalees, tumaan seerichaa *manni murtii mallattoo/barreeffamni haalame akka qoratamu ajajuu danda'a* jedha. Akka qoratamuuf ajaja kennuu danda'a jechuun tumaa seerichaa qorannoona qaama alaa tokkoon akka gaggeeffamu malee ragaa namaa mana murtiitti dhiyaatanii jecha ragummaa isaanii kennaniin kan adda bahu akka ta'etti hin ibsu.

2.7.3. Ragaa akaakuu hundatti fayyadamuun soba ta'uu qabiyyee sanadaa madaaluu

Ragaan barreeffamaa dhuunfaa (ragaa barreeffamaa hin mirkanoofnee) garee sadaffaa irratti ragaa amantaa guutuu qabu ta'ee hin fudhatamu; qabiyyee isaa sirii miti jedhanii falmuu fi soba ta'uu qabiyyee sanadichaa yookaan guyyaa sanadichi barreeffame ragaa akaakuu kamiinuu mirkaneessuu akka danda'an

seerri aangessee jira.³⁴ Kanaaf, gareen sadaffaa ragaa barreeffamaa dhiyaate sirii miti kan jedhan taanaan haqina kan qabu ta'uusaa ragaa namaatiin, ragaa barreeffamaatiin ykn kakuun ykn ragaa biraatiin mirkaneessuu danda'u jechuu dha.

2.8. Sirna Ragaa Fuudhuufi Gaaffii Qaxxaamuraa Gaggeessuu Keessatti Dhugummaa Ragaa Afaanii Mirkaneessuu

Sirna ragaa fuudhuu fi madaaluu keessatti hojiwwan garagaraa hojjechuun dhugummaa ragaa mirkaneessaa deemuun ni danda'ama. Armaan gaditti hojiwwan sana gabaabinaan ilaaluu yaalla.

2.8.1. Ragaa fuudhuun dura haalota mijeffamuu qaban

Af-gaaffii gaggeessuuf qophii taasisuun of-kennuu raga-baatuu kan dabalu akkasumas milkaa'ina nama af-gaaffii gaafatuu kan dabalu dha. Kanaafuu, af-gaaffii gaggeessuun dura qophii taasisuun barbaachisaa yoo ta'u, bu'uura yaadota armaan gadiitiin af-gaaffii taasisuuf qophaa'uun barbaachisaa dha:

- Odeeffannoo waliigalaa walitti qabachuun raga-baatuun ragaa bal'aa akka kenuu taasisuu akkasumas af-gaaffii gaggeeffamu kallattii qabsiisuuf baay'ee barbaachisaa dha
- Hanga danda'amaa ta'etti af-gaaffiinakkuma gochi ragaan irratti kennamu raawwateen gaggeeffamuu qaba. Battalatti ragaa fuudhuun raga-baatuun miira raawwii gochicha hubateen ragaa akka bahu kan taasisu yoo ta'u haalli kun ammoo ragaa bal'aa fi dhugummaan irratti gatamuu danda'uu walitti qabachuu danda'a.
- Af-gaaffiin kutaa mijawaa kan jeequmsa hin qabnee fi yaada keessatti sassaabbatanii dubbachuu danda'an keessatti akka gaggeeffamu gochuuf naannoo mijawaa qopheessuun barbaachisaa dha

³⁴ SHH, Kwt. 2009 fi 2010(2).

- Meeshaalee af-gaaffii gaggeessuu keessatti gumaacha qabaatan kan akka qalamaa, waraqaa, sagalee waraabduu fi kkf dursa qopheessanii dhiyeessuu
- Ragaan fuudhame hundi waraabamee akka turu gochuuf haal-duree barbaachisan mijessuu
- Raga-baatota qofa qofatti adda baasanii qabuun odeeffannoo walirraa argataniin jechi ragaa isaanii miira isaanii irraa kan maddu akka hin taane taasisa

2.8.2. Hojiiwwan yeroo af-gaaffii gaggeessan hojjetamuu qaban

Haalli ogeessi raga-baatuu wajjiin af-gaaffii gaggeessu ragaa bal'aa fi dhugummaa qabu fuudhuu wajjiin hidhata kan qabu waan ta'eef haalli ragaan keessatti fuudhamu dhimma xiyyeffannoo argachuu qabu dha. Kanaaf, ogeessi af-gaaffii raga-baatuu wajjiin gaggeessu:

Ogeessi raga-baatuu wajjiin af-gaaffii gaggeessu jalqaba raga-baatuu wajjiin wal-baruu fi hariiroo uumuun barbaachisaa dha.³⁵ Wal-ta'umsi akka uumamu gochuun raga-baatuun of-gadhiisee sodaa malee yaada isaa akka kenu gargaarutti dabalee miira isaa adda baasuu keessattis gahee qabaata. Akkaataa waa'ee mataa isaa itti dubbatu (cimina sagalee fi iftoomina fuulaa) fi akkaataa haala raawwii dhimma ragaa irratti kennuu yeroo dubbatu garagarummaa kan qabu ta'uu adda baasuu fi garagarummaan kan jiraatu yoo ta'e ammoo maddi garagarummaa isaa maal akka ta'e qorachuuf kan gargaaru ta'a.

Raga-baatuun si'oomee bal'inaan jecha ragaa isaa akka kennutti gaaffii deebii daanga'aa barbaadu gaafachuu irratti xiyyeffachuu gaarii miti; gaaffilee banaa kan akka 'Waa'ee nama yakkicha raawwatee maal beekta? Maala akka

³⁵ John Ashcroft, *et al*, Eyewitness Evidence: A Trainer's Manual for Law Enforcement, U.S, Department of Justice office of Justice Programs, F19.

raawwate jecha afaan keetiin atumti natti himtaa? Gaafachuun odeeaffannoo bal'aa argachuuf nama gargaara.

Yaadannoo ragaa-baatuu dammaqsuu: Raga-baatuun sammuutti kan qabatee jiru keessa baasuun jecha ragummaa isaa bifa-guutuu ta'een kennuu akka danda'utti yaadannoo (memory) isaanii dammaqsuu/kakaasuun barbaachisaa dha.

Haala raga-batuun keessa jiru adda baasuu: Haala kana qulqulleeffachuuf gaaffii salphaa kan akka 'Attam jirta? Jiruu fi jirenyi kee attami?fi kan biraan gaafachuun namni sun yaada guutuu kan qabu, araara keessa kan jiru, dhishuu yookaan sodaa cimaa keessa kan jiru ta'uu qulqulleessuu keessatti bu'aa qabaata.

Yoo barbaade mallattoo fi fakkiin yaada isaa akka ibsu haala mijeessuu: Daa'imnii fi namni haqina sirriitti dubbachuu qabu akkasumas wanti raawwate safuu wanta uummatni ifatti dubbachuu hin filanne taanaan barreeffamaan akka ibsu yookaan fakkiin akka agarsiisu haala mijeessuun jecha ragaa bal'aa walitti qabuuf gumaacha mataa isaa qabaata.

Jech a ragaa fuudhame haala raga-batuun ibseen galmeessuu: Jechi ragaa kenname barreeffamaan, vidiyoon ykn mala biraatiin kan fuudhame yoo ta'eliee jechi ragaa fuudhamee yeroo gabaabaa keessatti gara barreeffamaatti jijiiramuu qaba. Yeroo barreessan ammoo hanga danda'amaa ta'etti jecha raga-batuun fayyadame fayyadamuun gaarii ta'a.

Raga-batuu wajjiin daandii walquunnamtii mijeessuu: Hariiroo hundaa'e akka adda hin cinne gochuun gaariidha. Af-gaaffii gaggeeffamee erga xumuramee booda raga-batuun dhimma ragaan irratti kennamu ilaachisee jecha ragaa kennamu qabu kan yaadate yoo ta'e bilbilaan ykn barreeffamaan akka ibsu haala mijeessuun barbaachisaa dha.

2.8.3. Gaaffii qaxxaamuraa gaggeessuu/gaafachuu

Gaaffiiin qaxxaamuraa tooftaa dha; tooftaa dhugaa baasuu fi soba saaxiluu dha. Garuu, shakkamaa adda baasuu dhabuu kan furu akka hin taane qorannoowwan garagaraa ni agarsiisu. Adeemsa hojiirra oolmaa seeraa keessatti meeshaa guddaan dhugaa baasuuf kalaqame gaaffii qaxxaamuraa akka ta'etti fudhatama.³⁶ Raga-baatuu fuulaa-fuulatti gaaffii qaxxaamuraa gaafachuun qaama hojii haqa mirkaneessuu keessaa isa guddaa tokko yoo ta'u, sirna waliin jiraachuu hawaasaa, wal-to'achaa deemuu qaamolee mootummaa fi yaad-rimee yakka balaaleffachuu uummataa bu'uura kan godhatee dha. Kaayyoo kana galmaan gahuuf namni gaaffii qaxxaamuraa gaafatu haalota adda addaa ka'umsa godhachuu dhugummaa jecha ragaa kennname qulqulleessa:

- Raga-baatuun kaayyoo fi itti-gaafatatummaa kakuu raawwachuuun dhugaa dubbachuuuf qabu kan hubachuu hin dandeenye ta'uu agarsiisuu
- Hanqina mirra'achuu qabaachuu (hanqina dhaga'uu, arguu, fuunfachuu fi dhandhamuu qabaachuu) mul'isuu
- Sababoota qalbeeffanna, hubannaa fi yaadachuu miidhan/xiqqeessan kaasuun hanqina waa raawwatame yaadatee ibsuu kan qabu ta'uu ibsuu
- Hanqina of ibsuu qabaachuu agarsiisuu
- Kan gama qabatu (bias) ta'uusaa agarsiisuu
- Murtii kennamu irraa dantaa dhuunfaa kan qabu ta'uu agarsiisuu
- Amala soba dubbachuu kan qabu ta'uu agarsiisuu
- Jecha ragaa isaa micciiree dubbachuuuf matta'aa kan fudhate ta'uu agarsiisuu
- Jechootni ragaa kennaman kan wal hin simne, wal-dhiitan; akkasumas, shakkisiisoo kan ta'an ta'uu isaanii agarsiisuu

³⁶Jules Epstein, The Great Engine That Couldn't: Science, Mistaken Identifications, and the Limits of Cross Examination, Stetson Law Review (2007), Vol. 36, F766.

- Jecha ragaa nama gaaffii qaxxaamuraa kan gaafatu deeggarsu irraa walitti qabachuu

2.8.4. Meeshaalee hammayyatti fayyadamuu

Malli lammafaan dhugummaa jecha ragaa kennname tokko ittiin madaalan meeshaa ammayyaatti fayyadamuu dha. Meeshaaleen dhugummaa ragaa madaaluuf gargaaru jedhamanii hojiirra oolan *polygraph, voice stress analyser, thermal imaging fi functional magnetic resonanse imaging* jechamu. Meeshaan *Polygraph* jedhamu dha'iinsa onnee, sirna argansuu fi mir'achuu gogaa safaruun raga-baatuun yeroo jecha ragaa kennaa jirutti dhiphinaa fi naasuu akkamii keessa akka jiru ibsuun dhugummaa jecha ragaa isaatii gita kamitti xiinxalamuu akka qabu akeeka. Meeshaan *voice stress analyser* jedhamu jijiirama haala dubbannaa fi bahuu sagalee madaaluun raga-baatuun dhiphina akkamii keessatti jecha ragaa isaa kennaa akka jiru agarsiis; dhiphachuun ammoo xiyyeffannoo akkamii jecha ragaa sanaaf kennamuu akka qabu akeeka. Meeshaan *therminal imaging* jedhamu dabaluu ho'a qaamaa kan madaalu yoo ta'u, *functional magnetic resonance imaging* jedhamu ammoo yeroo jechi ragaa kennamaa jirutti raawwii fi dhiphina sammuu raga-baatuu keessatti gaggeeffamaa jiru kan safari dha.

2.9. Sirna Madaallii Keessatti Dhugummaa Ragaa Afaanii Mirkaneessuu

Adeemsa mirkaneessa ijoo falmii keessatti xiinxalli ragaa hojii gahee guddaa qabu dha. Hojiin xiinxala ragaa hojii qaamni dirqama ragaa dhiyeessuu fi mirkaneessuu qabu gita seerri barbaadutti mirkaneessuu isaa qulqulleessuu dha.³⁷ Hima biraatiin, fknf, falmii yakkaa keessatti, hojiin xiinxala ragaa ragaa abbaan alangaa dhiyeessuu fi himatamaan dhiyeessu akka waliigalaatti

³⁷Jan Hendrik de la Rey, The Fact Finding Process and Burden of Proof during Litigation (University of Pretoria, Nov, 20007) , F35.

walfaana/waliin madaaluu, carraa dhugaa/soba ta'uu ragaa madaaluu, amanamummaa raga-baatota abbaa alangaa fi himatamaa madaaluun shakkii tokko malee himatamaan yakka ittiin himatame raawwachuu/raawwachuu dhabuu isaa madaalanii adda baasuun murteessuu dha. Madaalii ragaa gaggeessuu keessatti qabxiilee armaan gadii yaada keessa galchuun dhugummaa ragaa mirkaneessuu keessatti galtee guddaa ni qabaatu.

2.9.1. Ragaan dhiyaate ragaa biroon walsimuu qulqulleessuu

Ragaan dhiyaate tokko ragaalee duraan yookaan boodaan kennamanii wajjiin kan deemu yookaan kan isaan deeggaru taanaan carraa dhugaa ta'uu guddaa ni qabaata. Fakkeenyaaf, jechi ragummaa raga-baatuu tokkoo jecha ragaa raga-baatota biroo wajjiin yookaan ragaa barreffamaa yookaan ragaa biroo wajjiin kan walfudhatu ta'uunsaa mirkanoofnaan ragaan sun ragaa nama tokkoo qofa osoo hin taane ragaa qaama biraanis deeggarame waan ta'eef, ragaa fudhatumummaa olaanaa qabaatu ta'a jechuu dha.

2.9.2. Miira raga-baatuu (demeanour) adda baasuu

Amaloonni sochiiwwan qaamaa raga-baatuu irratti yeroo jecha ragummaa isaa kenu mul'atu dhugummaa jecha ragaa kennamaa jiruu wajjiin hidhata gaarii qaba. Rifannaan kallattii garagaraatiin calaqqisuu danda'a: raga-baatuuun bakka jecha ragummaa isaa taa'ee itti kennuu keessatti amala inni calaqqisiisu, jijiirama amalaa fi qaama nafa raga-baatuu irratti mul'atuu fi dhiibbaa raga-baatuuun geessisuu yaalu akka fakkeenyaatti caqasuuun ni danda'ama. Rifannaan raga-baatuu irraatti yeroo mul'atu manni murtii dhugummaa jecha ragummaa isaa qulqulleessuuf, walsimuu/walfaallessuu jecha ragummaa isaa, jechi ragummaa isaa jecha ragummaa raga-baatuu biroo wajjiin kan deemu/kan hin deemne ta'uu, jechi ragummaa kenname dhugaa jiru wajjiin kan deemu ta'uu

adda baasuun barbaachisaa dha. Itti dabalees, manni murtii dandeetti qalbeeffanna, ofitti amanamummaa fi nama amanamaa ta’uu raga-baatuu sanaa yaada keessa galchuun dhugummaa jecha ragummaa nama sanaa madaaluun barbaachisaa dha.

2.9.3. Hubannoo raga-baatuu qulqulleeffachuu

Jechi ragummaa ‘argeera’ yookaan ‘adda baaseera’ jechuun kennamu xiyyeeffannoon xinxalamee dhugummaan isaa qulqulla’uu raga qabuu dha. Dandeettii namni waa argee adda baasuu irratti qabu laafaa ta’uu danda’a. Waan ilaalan arganii yookaan qalbeeffatanii adda baasanii sammuutti qabachuu irratti wantootni dhiibbaa uumuu danda’an hedduu dha. Isaanis, gahumsa ijaa/qaroo, jiraachuu wantoota argaatti danqaa ta’an kan akka ifti gahaan jiraachuu dhabuu, golgaan jiraachuun, hubannoo raga-baatuuun duraan nama ragaan irratti kennamu irratti qabu, haala uffannaa shakkamaa, dhiyeenyaa fi fageenya raga-baatuuun bakka gochi itti raawwatamerra qabuu fi kkf dandeettii ilaalanii arguu (qalbeeffachuu) irratti namni qabu wantoota daran miidhan keessatti ramadamu.

2.9.4. Dandeettii hubachuu fi yaadachuu raga-baatuu adda baasuu

Sababoota uumamatiiniis ta’e sababoota biroo irraan kan ka’e dandeettiin hubatan yaadachuu namaa gara namaatti garagarummaa kan qabuu dha. Jechi ragummaa kennamu dandeettii waa hubachuu fi yaadachuu raga irratti kan hundaa’e ta’ee argama. Yeroo akkanaa ragaan kennamu of eggannoo fi xiyyeeffannoodhaan ilaalamuu kan qabu yoo ta’u, gama kanaan ragaan amanamummaa hin qabne bu’uura murtii akka hin taane gochuuf, qaamni raga madaalu qabxiilee armaan gadii bu’uura godhachuun madaaluun qaba.³⁸

- ✓ Dandeettii (ability) taatee tokko yaadachuu fi barbaachisummaa taatee sana yaadachuu

³⁸ Jan Hendrik de la Rey, F 59.

- ✓ Dhiibbaa (impression) taatee sana hubachuun uume
- ✓ Turtii yeroo taatee sanaa
- ✓ Taatee sana irraa ragaan sun maal akka xiinxale ykn hubate (inference he has drawn)
- ✓ Dandeettii taatee sana irraa maal akka hubate yaadachuu fi taatee sana irraa maal akka xiinxale (infer) gargar baasanii ilaaluu ragichaa

2.9.5. Wal faallessuu jecha raga-baatootaa

Jechi ragoota gargaraa kan wal faallessee argame yoo ta'e jecha ragootaa sana keessaa yoo xiqqaate jechi raga-baatuu isa tokkoo dhugaa miti jechuun ni danda'ama. Haa ta'u malee, wal faalleesun jecha ragootaa irraa jecha ragaa isa kamiituu amanamaadha kan isa kamiitu ammoo amanamaa miti kan jedhu adda baafchuun ulfaata ta'a. Wal faallessuun jecha ragootaa dhimmoota xixiqqaaijoo dubbii mirkaneessuuf hin gargaarre ykn hidhata hin qabne irratti yoo ta'e, jechi ragoota sanaa gutummaatti hin amanamu guduunfaa jedhu irra ga'uun sirrii hin ta'u. Gama biraan, jechi ragoota kan wal falleesse dhimmoota bu'uuraa (material contradictons) irratti yoo ta'e jecha ragoota kanaa irratti hundaa'uun murtii dabarsuun haqa dabsuu waan danda'uuf of eeggannoo barbaachisaan taasifamuu qaba.³⁹

2.9.6. Jecha ragummaa raga-baatuu queenxee madaaluu (The single witness)

Ijoo falmii qabamee jiru mirkaneessuu/fashaleessuuf raga-baatuun tokko yoo dhiyaatu, dhugummaa jecha ragummaa isaa mirkaneessuuf ulaagaa/ qajeeltoon ifatti adda bahee taa'e hin jiru. Haa ta'u malee, manni murtii firooma yookaan

³⁹ Akkuma 38^{ffaa}.

jibba raga-baatuu himatamaa wajjiin qabu yaada keessa galchuun dhugummaa jecha ragummaa isaa madaaluutu irraa eegama.⁴⁰

2.9.7. Jecha ragummaa raga-baatuu daa'ima madaaluu

Ragummaan raga-baatuu daa'ima xiyyeffannoon akka madaalaman kan taasisan sababoota lamatu jira. Daa'imi ni taatee qalbeeffatan boodarra waan arganii fi hubatanii wajjiin walitti dabaluu ykn waldhabuu akkasumas yaada namni kennuun salphaatti carraa booji'amuu guddaa qabu. Itti dabalees, manni murtii ragaan daa'ima irraa argame ragaa amanamummaa qabuu fi irratti hundaa'anii murtii kennan ta'uusaa qulqulleessuuf umurii daa'ima raga-baatuu, dandeettii qalbeeffanna isaa fi guddina waliigalaa daa'imichaa sirriitti madaaluun barbaachisaa dha

2.9.8. Ragaa qaban waammachuu dhabuu

Gareen falmii dhimma falmiif ka'umsa ta'e irratti ragaa utuu qabuu ragaa isaa waammachuu dhabuun yeroo mara ergaa badaa kan dabarsu miti. Haata'u malee, dhimma ijoo falmiif sababa ta'e qaamni beeku bakka jiruttii fi gareen falmii sun quba qabutti ragaa sana waammachuu dhabuun ragaan alatti hafe sun falmii isaa kan hin deggarre ta'uu kan agrisiisu fi jechi ragoota garee dhugaa ta'uu kan agarsiisu ta'uu danda'a.⁴¹

2.10. Haalota Dhugummaa Ragaa Ogeessaa Miidhan

Ogeessi ragaa kennu kamiyyuu loogii irraa bilisa ta'uu fi beekumsa rogummaa qabu irratti hundaa'ee jecha ragummaa isaa kennu qaba. Ogeessi dirqama isaa kana sirnaan akka hin baanee fi dhugummaa ragaa ogummaa inni kennu guutuu akka hin taane wantootni godhan hedduu dha. Isaanis, loogii (bias), gama-qabachuu (partisanship) fi dhimma ragummaa irratti kennan irratti beekumsa

⁴⁰Jan Hendrik de la Rey, The fact finding process and burden of proof during litigation, University of Pretoria, Nov, 20007, F55

⁴¹ Akkuma 40ffaa. F 56.

gahaa dhabuu dha. Ogeessi yommuu ragaa ogummaa kenu beekaa (conscious bias) ykn utuu hin beekin (unconscious bias) jecha ragummaa dhugummaa hin qabne kennuu danda'a. Hima biraatiin, itti yaadee loogii raawwachuutiin, dhimma murteeffamu keessaa dantaa maallaqaa dhuunfaa qabaachuutiin ykn dantaa beekumsa sammuu (intellectual interest) dhimma murtiin irratti kennamu irratti qabaachuutiin jecha ragummaa dhugaa ta'e kennuu dhabuu mala.

3. Xiinxala Daataa

3.1. Dhugummaa Ragaa Mirkaneessuu Keessatti Duudhaa

Uummata Oromoo

Uummatni Oromoo, adeemsa badii raawwate qulqulleessanii murtii kennuu ilaachisee yoo mammaaku, '**Kan faajjii qabu faajiitti eeree, kan faajjii hin qabne badiitti eere**' jedha.⁴² Akka mammaaksa kanaatti, dhimma falmii kaase qulqulleessuu keessatti ragaan kan argame taanaan wal-dhabdeen sun ragaa bitaa-mirgaa dhagahuun furmaata kan argatu yoo ta'u, ragaan kan irratti hin argamne taanaan ammoo hirbuun furmaata argata jechuu dha. Hirbuu jechuun nama badii raawwate jedhamuun jaarsa biyyaa irratti himatame tokko gochicha raawwachuu ykn raawwachuu dhabuusaa kakuun dhugaa jiru adda akka baasu taasisuu jechuu dha.

Hirbuun kutannoo uummatni kakuu bu'uureffatee dhugaa baasuuf qabu kan agarsiisu dha. Namni himatame adabbii itti dhufu sodaatee sobaan akka hin kakannetti, dhugaa jirtu sodaa tokko malee kan dubbatu taanaan uummatni deeggarsa maallaqaa taasisuufii akka danda'u jaarsoliin waan isaaf ibsaniif, sobaan hin kakatu. Sobaan kakannaan kakuun sun (hirbuun) ni cabsiti, nagaan bahee deebi'ee nagaan mana isaatti hin galu jedhamee amanama. Adeemsalee lamaan kanneeniin, Oromoone, gocha ragaan irratti argame ragaa bu'uureffatee

⁴²Af-gaaffii Abbaa Gadaa Maammudee Adam, Abbaa Gadaa Harargee Bahaa fi Harargee Lixaa, 6/6/2011.

qulqulleessa, gocha ragaan irratti hin argamne ammoo nama himatame sanaa fi firoota isaa kaksiisuun raawwii gocha tokkoo qulqulleessee haqa baasa.⁴³ Gabaabaatti, duudhaan Oromoo, ragaa sobaa bahuutiin raawwatamuu gocha tokkoo dhoksuu osoo hin taane, dhugaa dhokate kallattii garagaraatiin baasanii haqa mirkaneessuu irratti kan ijaarame dha.

3.2. Rakkoo Dhugummaa Dhabuu Ragaa

Ragaan tajaajila sirna haqaa keessatti dhiyaatu dhugummaa kan hin qabne yoo ta'e badii guddaa qaqqabsiisa. Tajaajila sirna haqaa naannoo Oromiyaa keessatti rakkoon dhugummaa dhabuu ragaa bifaa garagaraatiin kan calaqqisu yeroo ta'u, rakkoon kun ragaa afaanii, ragaa sanadaa fi ragaa ogummaa irratti bal'inaan ni mul'ata.⁴⁴

Sirna haqaa yakkaa naannichaa keessatti namoonni Waajjiraalee poolisiitti dhiyaachuun eeruu sobaa dhiyeessuu fi namoota ragaa ta'uu danda'an sobaan qindeessuun nama qulqulluu himachuun ni jira.⁴⁵ Rakkoon akkanaa kun qabatamaan godinaalee naannichaa garagaraa keessatti kan uumaman ta'uu galmeewwan manneen murtii sakatta'ame ni agarsiisu.⁴⁶ Akka fakkeenyattis dhimma Magaala Shaashamaneetti uumamee ilaaluun ni danda'ama.⁴⁷

⁴³ Af-gaaffiwan Ob. Killee Baddachaa Jiraata Aanaa Wondoo Ganda Gootoo Onomaa 15/05/11, Ob. Waatoo Saamiroo, Jiraata Aanaa Wondoo Ganda gootoo Onomaa 15/05/11, Ob. Muhammad Hirphoo Jiraataa Aanaa Wondoo Ganda Waraansaa 15/05/11, Ob. Bulloo Tophoo, Aanaa Wondoo ganda Maddoo gaafa 15/05/11 waliin gaggeeffame.

⁴⁴ Akkuma 43^{ffaa}.

⁴⁵ Afgaaffii Ob. Xibabuu Gurmuu, A/seeraa Mana murtii Magaalaa Burayyuu waliin gaafa 13/05/2011 taasifame.

⁴⁶ Falmii yakkaa, A/A vs. Asaffaa Alamu, M/M Magaalaa Burayyuu, L.G 49446, gaafa 20/2/2010 murtaa'e; Falmii A/Alangaa GAONF fi Mangistuu Yomborii , Falmii yakkaa A/A fi Abbabuu Kumsaa faa N-4 M/M/A/ Kuyyuu Lakk Galmee Mana Murtii 43003.

⁴⁷ Afgaaffii Ob Zarihun Dhugumaa, Hogganaa Waajjira Abbaa Alangaa Godian Arsii Lixaa waliin gaafa 13/5/2011 taasifameen ragoonni sobaan dhiyaatanii shakkamaan miidhamtuu rasaasaan yammuu rukkutu arginee jirraa jechuun ragaan mana yaalaa yeroo dhiyaatu madaan kan rasaasa akka hin taane kennee yammuu dhimmichi irra deebiin qoratamu miidhaan jedhame kan balaa konkolataatiin dhaqqabe akka ta'e qulqulla'ee jira.

Hojin qorannoo yakka balaa tiraafikaa yeroo gaggeeffamu qorataan poolisii teekinikaa wixinee balaa wayita kaasu nama dagannoo qabu akka hin qabnetti isa dagannoo hin qabne immoo akka qabuutti yeroo dhiyeessutu jira.⁴⁸ Ragaa kennamu irrattis namni miidhamee utuu jiruu namni miidhame hin jiru jechuu⁴⁹ fi nama konkolaataa balaa qaqqabsiise konkolaachisaa ture dhiisuun nama biraadhaan pilaanii kaasuun ni mul'ata.⁵⁰

Namootni wal dhibdee qaban dhimmoota hariroo hawaasaa irrattis ta'e dhimmoota yakkaa irratti manneen murtii biratti ragaa sobaa dhiyeessuun falmii isaanii yeroo gaggeessan bal'inaan akka mul'atu ogeeyyiin ni dubbatu.⁵¹ Dhimmoota yakkaa irratti ragooliin poolisii biratti jecha kennan mana murtii ga'anii jecha jijiiru, ragaa A/Alangaa fi faccisa soba ta'aniis ni dhiyaatu.⁵² Sirreffamtoota mana sirreessaa keessa jiran keessa hedduun ragaa sobaatiin himatamanii akka itti murtaa'etti kan komatan hedduu akka ta'e ogeessonni mana sirreessaa illee ni ibsu.⁵³ Dhimmoota hariroo hawaasaa irratti gareewwan

⁴⁸Af-gaaffii Ob. Anuwaar Huseen, Qindeessaa Nageenya Tiraafikkii Bul/Mag/Buraayyu walii gaafa 03/05/2011 taasifame; Hamid Abbaa Maccaa fi Tashoomaa Tulluu, Abbootii seeraa MMA Jimmaa walii gaafa 20/05/2011 taasifame.

⁴⁹ Afgaaffiiwan Ob. Girmaa Abarraa, Itti gaafatamaa M/H/A/Alangaa M/L/Xaafuu walii gaafa 15/05/2011; Ob. Biqilaa Garbii, Abukaatoo Seeraa walii gaafa guyya 27/05/11taasifame.

⁵⁰ Afgaaffii Ob. Girmaa Abarraa, Ittigaafatamaa M/H/A/Alangaa M/L/Xaafuu walii gaafa 15/05/2011 taasifame.

⁵¹Afgaaffii Ob. Muhaabbaa Abarraa, A/Seeraa Mana Murtii Magaalaa Buraayyu walii gaafa 13/05/2011 taasifame

⁵²Falmii yakkaa A/Alangaa A/M/Jimmaa fi Huseen Ahmad gidduutti M/M/A/M/Jimmaa Lakk Galmee 38763; Falmii yakkaa A/A/M/Buraayyu fi Asaffaa Alamu gidduutti MM Magaalaa Burrayyu L.G 49446, gaafa 20/2/2010 murtaa'e; Falmii yakkaa A/A Godina Shawaa Bahaa fi Daawwaa Obsee N-2 lakk.Galmee MMO Godina Shawaa Bahaa 18477 irratti taasifamee; Afgaaffii Ob. Bulchaa Addunyaa, A/Ad/Qo/Ya/Mu/Ha/kennisisaa M/H/A/Alangaa M/Buraayyu walii gaafa 13/05/2011 taasifame.

⁵³ Afgaaffii Ob. Abinat Ittaanaa, A/H/I Sirreessa Sirreffamtootaa, M/Si/Go/A/N/F walii gaafa 16/05/2011; Kom Manbaru Abarraa, Ogeessa seeraa Mana sirreessaa Godina Shawaa liixa walii gaafa 65/6/2011; Insp. Abbabaa Manashaa hogganaa M/sir Go/Sh/Kabaa walii gaafa 30/05/2011; Abbaabuu Kuusaa, sirrefamaa ragaa sobaatiin himatamee itti murtaa'e, mana sirreessa Godina Shawaa Kabaa walii gaafa 30/05/2011; Darajjee Kabaa, sirreffamaa Mana sirreessaa Godina Shawaa Lixaa walii gaafa 6/6/2011; Dajanee Dhugaasaa, sirrefamaa Mana Sirreessaa Godina Shawaa liixa walii gaafa 6/6/2011 gaggeeffame

falmii ragaa namaa sobaa qindeessuun falmii gaggeessuun mirga isaaniif hin malle yeroo argatantu mul'ata.⁵⁴ Dabalees, abbootiin dhimmaa ragaa sanadaa dhugaaa hin taane qopheessuun, qopheessifachuun ykn jijiiruun manneen murtiitti ni dhiyeessu.⁵⁵ Ragaaleen barreeffaamaa ykn sanadaa qaamolee mootummaan irraa kennaman yeroo hedduu walii isaa kan falleessu ta'ee argama.⁵⁶ Kana bira darbees qaamoleen mootummaa ragaa sanadaa dhugaa hin taane irra deddeebiin kennu.⁵⁷

3.2.1. Miidhaa ragaan dhugummaa hin qabne dhaqqabsiisu

Ragaan dhugummaa hin qabne hundeedhuma irraa yoo hin ittifamne hojii qaamolee haqaa keessatti galtee ta'uun mirga namootaa miidhuun hojii sirna haqaa akka waliigalaatti balaaf saaxila. Ragaan dhugummaa hin qabne namni mirga hin qabne akka argatu kan mirga qabu immoo akka dhabu gochuu irra illee darbee bilisummaa nama nagaa mulquu fi namni yakkadalage illee itti

⁵⁴Falmii yakkaa A/Alangaa Go/A/N/Finfinnee fi Alamaayyoo Leelloofaa N-3 gidduutti M/M/O/Go/A/N/Finfinnee L.G.M.M 14965

⁵⁵ Falmii hariiroo hawaasaa Shunaa Nuunnee fi Haakim Nuunnee N2 gidduutti MMA Shaallaa Lakk.Galmee 14809 irratti gaggeeffamaa ture; Falmii yakkaa A/Alangaa KNFMO fi Adaanech Immiruu MMO godina Arsii lixaa lakk gal mee M.M 29590; Afgaaffii Ob. Muhaabbaa Abarraa, A/Seeraa Mana Murtii Magaalaa Buraayyu walii gaafa 13/05/2011 taasifame, Gaaddisaa Nagawoo Abbaa Dhimmaa MMO Godina Shawaa Lixaa walii gaafa 06/06/2011 taasifame.

⁵⁶ Afgaaffii Ob. Muhaabbaa Abarraa, A/Seeraa Mana Murtii Magaalaa Buraayyu walii gaafa 13/05/2011; Muhammad Nashaa A/seeraa MMO Godina Arsii Lixaa gaafa 13/05/11 taasifame

⁵⁷ Falmii yakkaa A/Alangaa KNFMO fi Adaanech Immiruu MMO godina Arsii lixaa lakk gal mee 29590; Afgaaffii Ob. Muhammad Nashaa A/Seeraa MMO Godina Arsii Lixaa walii gaafa 13/05/11 taasifame

gaafatamummaa irraa akka baraaramu taasisaa jira.⁵⁸ Murtileen haala kanaan kennamaa jiran amantaa hawaasichi sirna haqaa irraa qabu miidhaa jiru.⁵⁹

Ragaan dhugummaa hin qabne adeemsi kenninsa haqaa akka dheeratu taasisuun lammilee dhamaatiif saaxila. Murtii haqa hin taane akka kennamu taasisa, yeroo fi qabeenya mootummaa fi ummataa qisaasessa.⁶⁰ Ragaan dhugummaa hin qabne haala kanaan suuta, suuta sirna haqaa naannichaa hanga laamshessutti deemaa jira.⁶¹

Sirreffamtootni mana sirreessaa keessa jiran dhimma ragaa sobaa irratti yaada kennan qaamoleen haqaa ragaa sobaa ofii isaanii qindeessanii sobaan akka himatamaa jiran ibsu.⁶² Walumaagalatti, dhugummaa dhabuu ragaalee tajaajila sirna haqaa naannoo Oromiyaa keessatti mirga namoota dhuunfaa fi hawaasa naannichaa irratti qaqqabsiisaa jiru bal'aa dha. Namoonni yakka raawwatan ragaa dhugaa hin taane bu'uura godhatanii itti gaafatamummaa jalaa ba'aa, namoonni abbaa mirgaa hin taanes murtii ragaa dhugaa hin taane bu'uura godhatanii mirga isaaniif hin malle argachaa jiru.

⁵⁸ Falmii yakkaa A/Alangaa M/Buraayyuu fi himatamaa Asaffaa Alamu, M/M Magaalaan Burrayyuu, L.G 49446, gaafa 20/2/2010 murtaa'e; Falmii yakkaa A/A fi Abbabuu Kumsaa faa N-4 M/M/A Falmii maatii Ob. Alamaayyoo Leeloo fi Aadde Tsadaaluu Baacaa gidduutti M/Murtii A/M/Sulultaatti Lakk. Galmee 39285 gaafa 17/08/2006 murtaa'e; Falmii yakkaa A/Alangaa Go/A/N/Finfinnee fi Alamaayyoo Leelloofaa N-3 gidduutti M/M/O/Go/A/N/Finfinnee, lakk galme 43003 irrattii taasifame; Falmii yakkaa A/Alangaa A/Go/N/Finfinnee fi Biraanuu Tufaa faa N-4 M/M/A/Go/A/N/Finfinnee Lakk Galmee 15272; Falmii yakkaa A/Alangaa GAONF fi Mangistuu Yomborii gidduutti M/M/Olaanaa Go/A/N/Finfinneetti shakkamaan sobaan himatamuun baramee akka himannii irraa ka'u ajajame, xalayaa lakk. 0122773 gaafa 12/03/2011 Mana Hojii Abbaa Alangaa Mummichaa Naannoo Oromiyaan barraa'e.

⁵⁹ Afgaaffii Ob. Saamu'eel Gammachu A/Seeraa Mana Murtii Aanaa Kuyyuu waliin gaafa 28/05/2011 ; Ob. Bulchaa Addunyaa A/Ad/Qo/Ya/Mu/Ha/kennisiisaa M/H/A/Alangaa M/Buraayyuu waliin gaafa 13/05/2011 taasifame; Afgaaffii Ob. Dabalaa Higguu A/Ad/Qo/Ya/Mu/Ha/kennisiisaa Aanaa M/Jimmaa waliin gaafa 20/05/2011 taasifame

⁶⁰ Afgaaffii Zalaalam Tsaggaayee hogganaa Mana Hojii A/Alangaa Aanaa Mannaa waliin gaafa 21/05/2011 taasifame

⁶¹ Afgaaffii Miliyon Tarrafaa Abbaa seeraa MMO Go/Jimmaa waliin gaafa 22/05/2011taasifame

⁶² Afgaaffii Darajjee Kabaa fi Dajanee Dhugaasaa, Sirreffamtoota, Mana sirreessaa Godina Shawaa Lixaa waliin gaafa 6/6/2011 taasifame

3.2.2. Sababoota ka'umsa ragaa dhugummaa hin qabne

Ragaaleen dhugummaa hin qabne sababoonni ka'umsa isaanii maal kan jedhu adda baasuuf bifaa af-gaaffiin; akkasumas, galmeewwan adda addaa sakata'amanii jiru. Dhimmoonni akka sababa ka'umsatti teechipaman tokkoon tokkoo isaanii akka armaan gaditti xiinxalamani jiru.

❖ Faayidaa fi hariroo

Walitti dhufeenyaa gosummaa qabaniin iddo tokko tokkotti waa'ee raawwii taatee tokkoo yammuu gaafataman ykn waa'ee taatee tokkoo yammuu ibsan bifaa seera deeggaruun osoo hin taane miseensa gosa isaanii fayyaduuf yaaduun qaama seeraatti jecha ragummaa dhugummaa hin qabne kenuun akka jiru dha.⁶³ Gama biraatiin immoo wal beekumsa, firooma, faayidaa⁶⁴, jibba⁶⁵ irraa ka'uunis ragaan dhugummaa hin qabne dhiyaachaa jira.⁶⁶

Sababiin ragaa dhugummaa hin qabne kan biraa immoo wal-falmitootni wal-injifachuu irratti waan xiyyefataniif dhimmicha irratti ragaa sirrii ta'e yammuu dhaban, maatii ofii ijaaranii ragaa dhiyeessuun ni mul'ata.⁶⁷ Kana malees, ragaan dhugummaa hin qabne faayidaa hin malle argachuuf jecha kan dhiyaatu

⁶³ Afgaaffii Komandar Mangistuu Ijaaraa, A/Adeemsa Qorannoo Yakkaa fi Murtii Haqaa Kennisiisuu, Qajeelcha Poolisii Godina Arsii Lixaa waliin gaafa 13/5/2011; Ob. Yusuuf Qaalluu A/seeraa MMO Godina Baalee waliin gaafa 21/05/11; Ob. Abdulmaalik Jeeyilaan A/seeraa fi B/B pireezidantii MMA Sinaanaa waliin gaafa 23/05/11 taasifame

⁶⁴Afgaaffii Saj/Olaanaa Abbabaa Gachaa, I/g division taaktikii wa/Pol/Mag/Burraayyuu waliin gaafa 13/05/2011 taasifame; Damee Kumsaa A/seeraa MMA Aanaa Kuuyuu waliin gaafa 29/05/2011

⁶⁵ Afgaaffii ob. Abinat Itaanaa, A/H/I sirreessa sirreffamtootaa, M/Si/Go/A/N/F waliin gaafa 16/05/2011 taasifame Tashoomaa Tulluu, Abbaa seeraa MMA Jimmaa waliin gaafa 20/05/20

⁶⁶ Falmii Yakkaa A/Alangaa Godina Baalee fi Sisaay Gizaaw Lakk galmees MMO Godina Baalee 25273 ta'e keessatti midhamaa fi ragoonni qinda'anii sababa jibbaa himtamaa irratti qabaniif himataman yakka tokko osoo hin raawwatamiin haleella ofumaa isaaniitiin irratti taasisanii himataman yaalii ajjechaa raawwatee jiraa jechuun wal-qindeessanii yammu jecha ragummaa kennan qulqulleessa Manni Murtii Ol'anaa taasiseen jibba himatama irraa qabaniif ta'uun mirkana'ee himtamaan bilisaan akka buhu taasifamee jira.

⁶⁷ Af-gaaffii Ob. Jamaal kabbee I/G waajjira haqaa Aanaa shashamannee 14/05/11; ob. Shaafii Haj.Ahimad A/seeraa MMA Wondoo waliin gaafa guyyaa 15/05/11taasifame

ta'uu dhimmoota manneen murtii dhiyaatan irraa akkasumas yaada hirmaattootaan dhiyaate irraa hubachuun ni danda'ama. Fknf, bakka bu'ummaa sobaa fayyadamuun qabeenya namaa garee 3ffaatti dabarsuun ni jira.⁶⁸ Haaluma walfakkaatuun, raga sobaatiin dhaaltummaa raggaasisuun falmii qabeenya dhaalaa dhiyeessuun ni jira.⁶⁹

❖ Sodaachuu

Sirna haqaa biyya tokko keessatti ragaan iddo guddaa kan qabu ta'uun ni beekama. Ragaan kun eegumsi barbaachisaan kan hin taasifamneef yoo ta'e, baduu ykn qabiyyeen isaa jijjiramuu danda'a. Seera yakkaa keenya keessattis nama ragaa ta'ee dhiyaate irratti bifa kamiinu dorsiisuu, midhaa fi dhibbaa geessisuun itti gaafatamumma yakkaa akka hordofsiisu ni tuma.⁷⁰ Qabatamaan wantootni jiran maal akka fakkatan hirmaattotni qorannoo gaafatamanii namoota dhimmi irratti qulqulla'a'aa jiruun ragootni jecha ragummaa isaanii akka hin kennine doorsifamu, yeroo tokko tokko immoo dhaanamuun⁷¹ akka jiru ibsu. Akka fakkeenyatta dhimma ajjeecha Awwaday ilaaluun ni danda'ama.⁷² Haaluma wal-fakkatuun, gocha ajjechaa magaalaa Shaashmaanne keessatti

⁶⁸ Zabiibaa Mussaa fi Amaan Bariisoo, Mana Murii Olaanaa Godina Adda Adaamaa, Galmee lakk 25546 keessatti nama biyya alaa jiru fakkeessuun bakka bu'ummaa waajjira Abbaa Alangaa irraa fudhachuun lafa maqaa zabiibaa Muusaatiin jiru garee 3ffattii akka gurgramuu taasifamee jira,

⁶⁹ Falmii hariroo hawaasaa Shunaa Nuunnee fi Haakim Nuunnee N-2 MMA Shaallaa Lakk. Galmee 14809 keessattis himataan haati isaa bara 1978 du'uu fi awwaalamuu raggaasisuun raga dhaaltummaa mana murtii irraa kennname galmeen wal-qabsiisuun dhiyeesse himatamtooni qabeenya gahee hadha isaa akka kennaniif gaafateera. Manni murtii dhimmicha irratti ragaa dhagahuun lafti falmiin irratti ka'e maqaa du'aa abbaa wal-falmitootatiin galmaa'ee kan jiru ta'uu waajjira lafa baadiyyaa irraa qulqulleeffatee gahee haadha isaa akka gad-lakkisanii murtesee jira. Ol'iyyanno himatamtooni MMO Godina Arsii Lixaa lakk. galmee 38195 ta'e irratti dhiyeessaniin haati deebii kennaal lubbuu jiraachuu qaamaan dhaqamee akka qulqulleefamu taasiseera.

⁷⁰ Seera Yakkaa RDFI, kwt. 444

⁷¹ Af-gaafii Abbaa Gadaa Hasan Yuuyyoo Aanaa Haramayyaa, 6/6/2011

⁷² Af-gaafii Komandar Girmaa Maammoo, abbaa adeemsaa qorannoo yakkaa fi murtii haqaa kennisiisaa, qajeelcha poolisii godina harargee bahaa, 4/6/2011 taasifameen ajjechaa Awwaday keessatti raawwatameen wal-qabatee namoonni 90 ol raga ta'anii eeramanis soda irraa kan ka'e waajjira poolisii dhiyaatanii jecha ragummaa isaanii hin kennine

raawwate qorannaan qulqulleessuuf namni ragaa ta'u dhabamee rakkoo akka turre dha.⁷³ Namoonni nageenya isaanii, maatii isaanitiif akkasumas miidhaa qabeenyaaya isaaanii irra gahu yaaduun dhugaa argan ragaa bahuuf hayyamama hin ta'an.⁷⁴ Akka fakkeenyaatti hirmaataan qorannoo kanaa tokko akka ibseetti yakka raawwatame tokko yoo arge ragaa akka hin baane sababiin isaa immoo miidhaan narra gaha jedhee sodaa qabaachuu dubbateera.⁷⁵ Gama biraatiin immoo ragoonni sababa doorsifamuu maatii isaanii irra gahuun ragaa dhugummaa hin qabne kennanis jiru⁷⁶.

Kanaan wal-qabatee sirni eegumsaa eru kennitootaa fi raga baatoottaa hojiirra oolchuuf diriirfame akka naannoo keenyatti jiraachuu dhabuun akka rakkotti ka'uu danda'a.⁷⁷ Gama kanaan akka mootummaa federaalaatti seerri eegumsa eruu kennitootaa fi raga baatoota bahee hojii irra kan jiru ta'us gama mootummaa naannoo oromiyaan seerri gama kanaan bahes ta'e akkaatuma seera yakkaa keessatti ibsameenu sirni eegumsaa diriiree hojii irra hin jiru. Kun immoo akkuma ibsame ragoonni miidhaa sodaachuun ragaa bahuuf hayyamama ta'uu dhabuu yeroo hammaatetti immoo akka jecha isaanii jijiran taasisa.

⁷³ Basaazzin Baahiluu, A/Adeemsa qorannoo yakkaa fi murtii haqaa kennisiisuu, waajjira haqaa aanaa wandoo gannet, gaafa 15/5/2011

⁷⁴ Af-gaafii ob. Kumaa Didhaa A/seeraa MMO Godina Arsii Lixaa waliin gaafa 13/05/11, insp. Hamiid Araatoo qorataa yakkaa waajjira poolisii Aanaa Shashamannee 13/05/11; Ajaja Kudhanii Malaakuu Ballaxaa Jiraataa magaala Goobbaa Ganda 05waliin gaafa guyyaa 23/05/11; Saj/Ol Geetuu Girmaa Ab/Ad/Ku/Qo/Ya waajjira Poolisii Aanaa Kuyyuu waliin gaafa 29/05/2011

⁷⁵ Af-gaafii Ajaja Kudhanii Malaakuu Ballaxaa Jiraataa magaala Goobbaa Ganda 05 waliin gaafa guyyaa 23/05/11taasifame

⁷⁶ Af-gaafii Basaazzin Baahiluu, A/Adeemsa qorannoo yakkaa fi murtii haqaa kennisiisuu, waajjira haqaa aanaa wandoo gannet, gaafa 15/5/2011

⁷⁷ Taddasaa Nugusee Ab/Ad/Qo/Yak/Mur/Haq/kenisiisa Mana Hojii A/Alangaa Naannoo Oromiyaa waliin gaafa 19/06/11; ob. Kadiir Hasoo A/Alanga Mana Hojii A/Alangaa Aanaa Baabbilee, gaafa 05/06/11gaggeeffame.

❖ Walsimuu dhabuu aadaa hawaasaa fi sirna seeraa ammayyaa

Duudhaa fi aadaa hawaasaa cinatti dhiisanii seera qofaan dhugaa baasuuf deemuun mataan isaa rakkoo dha. Sababiin isaa hawaasni seera aadaa fi duudha isaanii beekamtii hin kennineef tumsuu irraa of-quasatu.⁷⁸ Ragaan sobaa babal'achuun jirenya ammayyaa waliin kan wal qabatudha. Yeroo durii ummatni Oromoo aadaa fi safuu soba ittiin baasu qaba. Inni kunis sirna kakuu cimaa gaggeessuun akka ta'e dha.⁷⁹ Aadaan ummataa dhugaa itti baasaa ture laafina agarsiisaa dhufuun hawaasni madda ragaa sobaa akka ta'aa dhufu, sobuun akka qaroominaatti akka ilaalamu taasisee jira.⁸⁰ Dhimmoota yakkaa irratti uummatni dantaa miidhamaa, hawaasummaa fi faayidaa bitaa-mirgaa bifa ni mirkaneessa jedhanii yaadaniin araaraan xumuratu. Miidhamaa fi namni miidhaa geessise erga araramanii booda, miidhamaas ta'e ragoonni yakki raawwatamuu ragaa ta'uun nama miidhaa geessiseef miidhamaa wajjiin, jaarsolii araarsanii kan wal nama dhabsiisuu fi hawaasa tasgabbii fi kabaja akka dhorkuutti waan fudhatamuuf qaama seeraatti dhiyaatanii jecha ragummaa isaanii hin bahan.⁸¹ Abbootii Gadaa fi jaarsoliin biyyaa aangoo namoota waldhaban akka araarsan mootummaan aangoo kennee jira. Jaarsooni araaraa dhimmoota hundaa yakkota araaraan gudunfamuun seeraan daangeeffaman dabalatee akka araaraan xumuramu taasisu. Dhimma kanneen irratti qaamoleen haqaa yakka raawwate seeratti yoo dhiyeessan namootni jecha ragummaa isaanii

⁷⁸ Afgaaffii Abdulmalik Jeeylaan A/Seeraa fi B/B Pirezidaantii MMA Sinaana waliin gaafa 23/05/11 gaggeeffame.

⁷⁹ Afgaaffii ob. Tasfaayee Taaddalaa, Abbaa seeraa Mana Murtii Mag/ Laga Xaafuu Laga Daadhi waliin gaafa 15/05/2001 taasiafame

⁸⁰ Af-gaafii ob. Geetaachoo Magarsaa Abbaa Seeraa MMA Kuyuu waliin gaafa 29/05/2011; Naahoom Salamoon, Abbaa Alangaa Wajjira Haqaa Aanaa Kuyyu waliin gaafa 28/05/2011; Gaarradoo Taaffasaa, Abbaa seeraa Mana murtii Mag/ Laga Xaafuu Laga Daadhi waliin gaafa 5/05/2011; ob. Damee Kumsaa, A/seeraa MMA Aanaa Kuyyu waliin gaafa 29/05/2011 gaggeeffame.

⁸¹ Af-gaafii Komaadar Tashoomaa Tafarraa, Hogganee Waajjira Poolisii Aanaa Wandoo Gannat waliin gaafa 15/5/2011 taasifame

dhiyaatanii akka hin kennine taasisaa jiru,⁸² yoo jecha kennatan ta'es jecha tanaan dura kennan akka jijjiran taasisu. Fakkeenyaa dhimma maagaala jimmiaa ilaaluun ni danda'ama.⁸³

❖ Olaantummaa seeraatti amanuu dhabuu

Namni miidhame jedhu tokko miidhaa irra qaqqabe ragaa isaaf mirkaneessu dhiyeessuun seeraan haqa argachuu ni danda'a. Haa ta'u malee, namoonni kallattii adda addaa ragaa dhugummaa hin qabne qindeessuun himata dhiyeessuu. Akka sababaatti immoo yeroo baay'ee mana murtiitti falmiidhaan moo'achuu qofaaf otoo hin taanee beenyaa jaarsummaadhaan argatan olkaasuuf itti fayyadamu.⁸⁴ Inni biraatii immoo gocha yakkaa raawwate tokko qulqulleessuuf ragaa ijaa mirkaneessu kan dhabamu yoo ta'ee nama raawwate jedhamee shakkame irratti hawaasni ragaa qindeessuun namni shakkame akka adabamu gochuu yaalu ni jira.⁸⁵

Gama biraatiin, gochi yakkaa tokko yoo raawwatu namni ragaa ta'u yammuu dhabamu haqni koo baduu hin qabu ilaalcha jedhu irraa nama raawwii

⁸²Af-gaafii wwan ob. Basaazzin Baahiluu, A/Adeemsa qorannoo yakkaa fi murtii haqaa kennisiisuu, Mana hojii A/Alangaa Aanaa Wando Gannat waliin gaafa 15/5/2011; ob. Barisoo Kaduu, A/Adeemsa Murtii Haqaa Kennisiisaa, Mana Hojii A/Alangaa Aanaa Adaamii Tulluu waliin gaafa 16/5/2011 gaggeeffame.

⁸³A/Alangaafi Huseen Ahmed, MMA Magaalaa Jimmaa LG 08763 keessatti miidhamtuun dirqisiifamee gudeedamee jira erga jettee mana murtiiti jecha ragummaa kenniteen booda himatamaa faana araaramuuun ragaa ittisaa ta'uudhaan fedha kootiin raawwadhe jechuun jecha ishii kennitee jirti. Akka sababaattis seerri yakkaa keenya dhimma gudeeddii irratti araara waan hin hayyameef ittigaafatatummaa jalaa bahuuf kan taasiftee dha.

⁸⁴Af-gaafii Aaddee Abbebakh Dasaaleny Abbaa Seeraa MMA Tokkee Kuttaayee waliin gaafa 04/06/2011; ob Girmaa Tolasaa, Abbaa Alanagaa Aanaa Dandii Waliin gaafa 5/6/2011; I/Insp. Biraanuu Atoomaa, qorataa Poolisii Aanaa Dandii waliin agaafa 5/6/2011taasifame

⁸⁵Fakkeenyaaaf, Af-gaafii Inispektar Ahmaddiin Maammad, qorataa poolisii aanaa Baabbillee, 5/6/2011 waliin taasifameen dhimma isaan qunname keessatti dhimma harree hatame yeroo tokko irratti ragoonni harree hatamee ilma himatamaa harkatti qabamee turee himatama harkatti qabnee jechuun raganii yeroo gaafii qaxxamuraan qulqulleessi taasifametti himatama harkatti kan hin qabne ta'u ibrani iru. Kunis kan maddu qabeenyichi himatama harkatti qabamuu baatus qabeenya kan hate isaa ilaalacha jedhu hawaasni horachuu irraa kan madde ta'u Isaati.

gochiichaa hin argine akka argetti dhiyaatee ragaa akka bahu taasisuun⁸⁶ akka jiru hirmattootni qorannichaa ni ibsu. Kanaan wal-qabatee adeemsi qorannoo keenya laafaa fi gadifageenya kan hin qabne ta'uun isaa gochootaakkanaaf karaa akka bane kaasuun ni danda'ama.

❖ Kenniinsaa fi qabiinsa ragaa

✓ Ragaa sanadaa

Kennisiifi qabiinsi ragaa keenya mataan isaa dhugummaa ragaa irratti dhiibbaa akka uumaa jiru ogeessonni qaamolee haqaa hedduun isaanii ni dubbatu. Kanaan wal-qabatee ragaa sanadaa mana qopheessaa fi waajjira lafaa irraa dhufan lafa tokko irratti nama tokkoo ol ragaa kennuun ni mul'ata.⁸⁷ Kana malees, yammuu ragaan gaafatamu seenaa lafichatiin wal-qabatee ibsa kennuu dhabuu. Lafti falmiin irratti ka'ee yoom irraa eenyuun akkamitti qabame jedhanii ibsuu irra yaada dhuunfaa ofii barreessanii dhiyeessuun ni mul'ata.⁸⁸ Yeroo tokko tokko immoo namoonni lafa yeroo dheeraaf erga kireeffatanii booda laficha karaa adda addaatiin maqaa ofiitiin shallagsiisuu ni jira. Kara biraatiin, ragaan qindaa'aa ta'e waajjira keessatti guutame argamuu dhabuun ogeessa ragaa kennuuf waan rakkisuuf callisee jaarsolee biyyaa dubbisuun yaada isaanii bu'uura godhatee ragaa kenna.⁸⁹ Kun immoo ragaaleen haala kanaan dhiyaatan akka wal-falleessan karaa banuu isaa hirmaattootni

⁸⁶ Af-gaafii ob. Basaazzin Baahiluu, A/Adeemsa qorannoo yakkaa fi murtii haqaa kennisiisuu Mana hojii A/Alangaa aanaa wandoo gannat, gaafa 15/5/2011; ob. Jamaal kabbee I/G Mana hojii A/Alangaa Aanaa shashamannee waliin gaafa guyyaa 14/05/11taasifame

⁸⁷ Af-gaaffiwan ob. Mahammad Nashaa, A/seeraa MMO Godina Arsii Lixaa waliin gaafa 13/05/11; ob. Kumaa Didhaa A/seeraa MMO Godina Arsii Lixaa waliin gaafa 13/05/11; ob. Hirphoo Irreessoo, Pirezidaantii MMA Shashamannee waliin gaafa 14/05/11; ob. Shaafii Haj.Ahimad A/seeraa MMA Wondoo waliin gaafa 15/05/11; Ob. Dhaabii Baqqalaa, Ob. Abdoo Abdulqaadir I/Ga/Wa/Bu/I/F/La/Baadiyyaa Go/Jimmaa waliin gaafa 21/05/2011 taasifame

⁸⁸ Af-gaaffiwan ob. Shaafii Haj.Ahimad, A/seeraa MMA Wondoo waliin gaafa 15/05/11; ob. Gammachuu Lammaa Pirezidantii MMA Ada'aa waliin gaafa 27/05/11taasifame

⁸⁹ Af-gaaffiwan Ob. Behaayiluu Kiflulu, A/Seeraa M/Mu/A/Dandii waliin gaafa 06/06/2011; Ob. Abbabaa Kabbadaa O/Seeraa Wa/La/Baadiyyaa A/Dandii waliin gaafa 06/06/2011, Ob. Saamu'el Gammachuu, A/Seeraa Mana Murtii Aanaa Kuyyuu waliin gaafa 28/05/2011 taasifame

qorannichaa ni dubbatu.⁹⁰ Ogeessotuma waajjira tokkootu ragaa garagaraa mana murtiif kenna.⁹¹ Qabiyyee lafaa walitti makuudhaan nama tokkoof ragaa abbaa qabiyyummaa kennunis darbee darbee ni mul'ata.⁹²

Lafaan walqabatee ragaalee kennaman irratti rakkoo qabiinsa ragaa dabalatee hanqinni naamusaa ogeessota gandaa fi raawwattoota bira jiru ragaa dhugummaa qabu kennuu irratti dhiibbaa uumaa jira.⁹³ Falmiin lafaa manneen murtii keenya keessatti hedduummataa dhufan kanniin sirnaan furmaata itti laachuuf ragaan dhugaa fi amanamaa ta'e barbaachisaa dha. Qabiinsaa fi kenninsa ragaa ammaan tana jiruun haqa barbaadamu kennun rakkisaa akka ta'a dhufe hirmattootni qorannoo ni kaasu.

Dabalataanis, yammuu ragaan sadarkaa adda addaa irraa dhiyaatu wal fallessu ulaagaa kana ittiin fo'uuf gargaaru jiraachuu baatus ragaa qaama isaa olaanaa irraa ergame akka fudhatamaa jiru dha.⁹⁴ Kanaan walqabatee qaamoleen haqaa keenya keessa hojimaanni jiru qaamni ol'aanu ogeessota gahumsaanis ta'e dandeettiin caalan qabuu tilmaama jedhu irraa kan madde akka ta'e hubachuun ni danda'ama. Haa ta'u malee, bakka haalli qabiinsa ragaa manneen hojii dadhabaa ta'ee jirutti qaamni ol'aanu maal irratti hundaa'ee ragaa dhugaa ta'e kenna kan jedhu rakkoo guddaa dha. Sababiin isaa, ragaan ogeessaa sirnaan xiinxalamuuf dhimmootni kanaaf gargaaran gurmaa'anii argamuu qabu.

⁹⁰ Af-gaaffiwwan Ob.Mohaabbaa Abarraa, A/Seeraa Mana Murtii Magaalaa Buraayyu walii gaafa 13/05/2011 Ob. Saamu'eel Gammachuu, A/Seeraa Mana Murtii Aanaa Kuyyuu walii gaafa 28/05/2011, Ob. Beehayiluu Kifluu, A/Seeraa MMA Dandii walii gaafa 06/06/2011 taasifame;

⁹¹ Af-gaaffi Ob. Dhaabii Baqqalaa, B/B/Dursaa Ga/Mi/Ho/Ol/Ri/f/Se/Magaalaa M/Buraayyu walii gaafa 13/05/2011; Ob. Mohaabbaa Abarraa, A/Seeraa Mana Murtii Magaalaa Buraayyu walii gaafa 13/05/2011

⁹² Af-gaaffi Ob Abbabaa Kabbadaa, O/Seeraa Wa/La/Baadiyyaa A/Dandii walii gaafa 06/06/2011

⁹³ Af-gaaffi ob.Urgee Teessoo ogeessa karoora fi qophii lafa invastimantii Aanaa Baabbilee walii gaafa guyyaa 06/06/11taasifame

⁹⁴ Afgaaffiwwan Ob. Girmaa Dachaasaa, A/Seeraa Mana Murtii Olaanaa Go/Sh/Kaabaa walii gaafa 29/05/2011; ob. Lammeessaa Abdataa A/Alangaa Go/Sh/Lixaa walii gaafa 05/06/2011 taasifame

Ragaaleen kunniin immoo yoo jiraatanis qaama gadii biratti kan argamani dha. Kanaaf, qaama ol'aanu irraa yaadni kennamu isa jalaa irra yeroo maraa fooyya'aadha jedhanii yaaduun dogongora dha.

✓ **Ragaa ogummaa**

Ogeessi falmii keessatti firii dubbii manni murtii/qaamni aangoo qabu akka qulqulqulla'u ajaju bu'uura ogummaa barbaadamuu adda baasee agarsiisuun alatti ofii isatii garee falmitootaa keessaa isa kamtu badii akka qabu yookaan garee kamtu badii akka hin qabne ibsuu hin qabu. Qabatamaan Ragaan wixinee balaa tiraafikaa ogeessa sadarkaa garagaraa irra jiraniin kaafamu yeroo wal faallessus ni mul'ata.⁹⁵ Kanamalees kenninsa ragaa ogummaatiin wal-qabatee daangaa ragaa itti kenu qaban darbuun yammuu ragaa kennan ni muldhata. Ogeessonni wixinee pilaanii balaa hedduun dhimma ragaa irratti gaheen isaanii maal akka ta'e sirnaan adda hin baasani.⁹⁶ Ogeeyyiin ibsa ogummaa akkamii kennuu akka qabanii fi ibsi isaan kennanis maal akka hordofsiisu sirnaan hubachuu dhabuun ni jira.⁹⁷ Keessattuu dhimmoota balaa tiraafikaa keessatti sababa rakkoo fi haala balaan itti dhaqabe ibsuu irra darbuun qaamni kun balleessa qabaa jechuun yammuu ragaa kennan ni mul'ata.⁹⁸

Dhimma olii kana irratti, ogeessi tiraafikii iddo balaa kaasu firii dubbii akka qulqulleessu gaafatame haala konkolaataa, haala daandii, haala miidhamaa fi haala raawwii fi taatee balaan itti raawwatame ibsuun ala garee walfalmitootaa keessaa isa kamtu badii akka qabu murteessuun gahee hojii isaa miti.

⁹⁵ Afgaaffii Ob. Lammeessaa Abdataa A/Alangaa Go/Sh/Lixaa waliin gaafa 05/06/2011 taasifame

⁹⁶ Akkuma 95^{ffaa}.

⁹⁷ Afgaaffii Ob. Kumalaab Abarraa, A/Seeraa Mana Murtii Aanaa Dandii waliin gaafa 05/06/2011 taasifame

⁹⁸ Fakkeenyaaaf, Falmii yakkaa A/A fi Nurhaddin Xahaa, Mana Murtii Olaanaa Godina Shawaa Bahaa, galmee lakk. 50919 keessatti pilaanii ogeessaan dhiyaate irratti konkolaachisaan of-eeggannoo taasisuu osoo hin goone hafee balaa dhaqabsiise waan ta'ee balleessaa qabaa jechuun dhiyaatee jira. Kana jechuun alatti bifaa ogummaatiin rakkolee jiran kan ibse miti

Rakkooleen kunniin maddi isaanii ogeessi yammu ragaa ogummaa kennu maal irratti xiyyefata kan jedhuun wal-qabatee seeroonni ykn istandaardiiwan qajeelchan dhabamuu isaaniiti. Kana malees ogeeyyiin wixinee iddo balaa ta'e jedhanii ragaa ogummaa sobaa ta'e kennan jiru.⁹⁹ Kanneen biroon immoo hanqina dandeettii irraan kan ka'e ragaa ogummaa dogoggorsiisaa ta'e kennanis¹⁰⁰ ni jiru.

Gama biraatiin, ragaaleen mana yaalaatii dhufan bifa dhimmicha falmii keessatti ka'e ibsuu danda'uun dhiyaachuu dhabuun ni jira.¹⁰¹ Inni biraan immoo ragaan qorannoo reeffaas si'a tokko tokko odeeffannoo sirnaan fudhachuu dhabuun nama rukkutamee ajjeefamuun ifatti beekamu du'a uumamaati jechuun ragaa kennuun ni mul'ata.¹⁰² Yeroo tokko tokko immoo ragaaleen mana yaalaa irraa kennaman miidhaa dhaqqabe olkaasanii dhiyeessuun ni mul'ata.¹⁰³

Kana malees, yeroo ragaan mana yaalaatii dhufu dhimmuma tokko irratti garaagarumma itti uumu ni mul'ata. Fakkeenyaaaf, yakka gudeeddii irratti ragaan dhufu yammu garaagarummaa itti agarsiisu ni jira.¹⁰⁴ Tilmaama umriinis wal-

⁹⁹ Af-gaaffiwwan Ob. Girmaa Dachaasaa, Ob. Behaayiluu Kifluu, saj Faxxanaa Gizaaw qorataa balaa Tiraafikaa Komishinii Poolisii Oromiyaa waliin gaafa guyyaa 17/07/11

¹⁰⁰ Af-gaaffi Ob. kumalaa Abarraa, Ob. Lammeessaa Abd A/Alangaa Go/Sh/Lixaa waliin gaafa 05/06/2011, Ob. Jilaaloo Mul'isaaA/Ad/Qo/Yak/Mu/Ha/Kennisiiwu M/H/A/Alangaa Go/Jimmaa waliin gaafa 21/05/2011, saj Faxxanaa Gizaaw qorataa balaa Tiraafikaa komishinii poolisii Oromiyaa waliin gaafa guyyaa 17/07/11

¹⁰¹ Fakkeenyaaaf, Af-gaaffi ob. Mohammad Nashaa A/seeraa MMO Godina Arsii Lixaa waliin gaafa 13/05/11 taasifame keessatti sadarkaa miidhaa ifatti ibsuu irra yeroo qaqqaban ni dhukkuba bifa jedhuun akka dhiyaataa jiruu dha. kun immoo miidha dhaqqabee himata dhiyaateen walcinaa qabani murtii kennuuf rakkisaa dha.

¹⁰² Af-gaaffi ob. Taaddasa Nugusee Ab/Ad/Qo/Yak/murt/Haq/Kennisisa Mana Hojii A/Alangaa Nanno Oromiyaa 19/06/11, Ob. Lammeessaa Abdataa A/Alangaa Go/Sh/Lixaa waliin gaafa 05/06/2011, Ob. Morodaa Gulummaa A/Alangaa Go/Sh/Lixaa waliin gaafa 06/06/2011, Ob. Tashoomaa Girmaa Abbaa Alangaa Muummichaa mana hojii A/Alangaa Naanno Oromiyaa waliin Gaafa guyyaa 17/07/11 taasifame

¹⁰³ Af-gaaffi Ob. Kumaa Didhaa A/seeraa MMO Godina Arsii Lixaa gaafa 13/05/11, Ob. Jamaal kabbee I/G Mana hojii A/Alangaa Aanaa shashamannee 14/05/11, Ob. Shaafii Haj.Ahimad A/seeraa MMA Wondoo 15/05/11, Ob. Bayyanaa Hayiluu Abbaa Seeraa MMO godina Shawaa Lixaa waliin gaafa 6//2011 taasifame

¹⁰⁴ Af-gaaffi Ob. Hirphoo Irreessoo Pireezidaantii MMA Shashamannee 14/05/11, Ob. Biqilaa Garbi Abukaatoo seeraa waliin gaafa guyyaa 27/05/11, Ob. Melese Abraham Qindeessaa garee

qabatee ragaan dhiyaatu dhugaa lafa irra jiru kan ibsu ta'uu dhabuun ni jira.¹⁰⁵ Fakkeenyaaf, Hospitaalli Gobbaa, umurii miidhamtuu dhuunfaa Liidiyaa Geetachoo jedhamtu akka qoratu mana murtiin ajaje, bu'aa qorannoo isaa mana murtiif yoo ergu, raajiin qaama miidhamtuu qoratee umuriin ishee waggaa 10-16 giddutti akka argamu ragaa kenneera.¹⁰⁶

Dhimmoota kanaaf akka sababaatti wantootni ka'an ragaan yaalaa dhaabbilee fayyaa irraa dhiyaatu tilmaama irratti hundaa'e kan kennamu waan ta'eeef saaxilamummaan isaa olaanaa akka ta'ee dha.¹⁰⁷ yammuu tilmaamaan kennanis hedduun ragaa dhiyaatani ibsa waliin kan kennaman miti. Kanaan wal-qabatee ragaan yeroo ibsi baldhaa irratti kennamee dhiyaatus akka jiru dhimmoota ilaalaman irraa hubatamee jira. Akka fakkeenyaatti ragaa tilmaama ragaa hospitaala Paawuloos miliniyeemi meedikaal koolleejji irraa tilmaama umrii ilaachisee kennamee ilaaluun ni danda'ama.¹⁰⁸

Haala kamiin ragaan kennama waan jedhu irratti hojimaatni wal-fakkaatan osoo jiraatee ragaaleen dhimma akkaataa barbaadamuun ibsanii akka dhiyaatan taasisuun ni danda'ama. Dhimma tokko irratti ragaan xiinxalamee kan dhiyaatu yoo ta'e, qaamoleen haqaas dhimmicha akka hubatan ni taasisa. Inni biraan

yakkaa MMO Godina Baalee waliin gaafa 21/05/11, Ob. Kumalaa AbarraaA/Seeraa Mana Murtii Aanaa Dandii waliin gaafa 05/06/2011 taasifame, Ob. Lammeessaa Abdataa A/Alangaa Go/Sh/Lixaa waliin gaafa 05/06/2011, Bayyanaa Hayiluu Abbaa Seeraa MMO godina Shawaa Lixaa waliin gaafa 6//6/2011

¹⁰⁵ Af-gaaffiwwan Ob. Biqilaa Garbii Abukaatoo Seeraa waliin gaafa guyyaa 27/05/11; Ob. Bayyanaa Hayiluu Abbaa Seeraa MMO Godina Shawaa Lixaa waliin gaafa 6//6/2011taasifame

¹⁰⁶ Ragaa yaalaa Liidiyaa Geetaachoo, Hospitaala Gobbaa, lakoofsa Kaardii 361875, gaafa 20/03/2011, dhimmuma kana irratti ragaa Hospitaala Rifaraala Koolleejji Saayinsii Fayyaa Yuniversiitii Hawaasaa irraa dhiyaate immoo umriin miidhamtuu waggaa 13-14 ta'aa jechuun dhiyaateera.

¹⁰⁷ Af-gaaffii Ob. Saamu'eel Gammachu, A/Seeraa Mana Murtii Aanaa Kuyyu waliin gaafa 28/05/2011 taasifame

¹⁰⁸ Fakkeenyaaf, A/Alangaa fi Baqqalaa Moo'aa lak galmee MMO GAONF 17121,ta'e irratti Hospitaalichi qorannoo qaama alaa, lafee fi ilkaanii taasiseen xiinxala baldhaa gaggeesseen booda tilmaama umrii ibsee jira. Haa ta'uu malee, haalli kun dhimmoota hunda irratti akka hin taaneef yeroo ibsa malee tilmaama umrii qofa kennan akka jiran dhimma A/Alangaa fi Asaffaa Alamuu, MM Magaalaa Burrayyuu, L.G 49446 fi A/A fi Mgarsaa Cimdii MMA Burraayuu, Lak Gal. 49421 hubachuun ni danda'ama.

immoo dhugummaa ragaaleen wal-qabatee itti gaafatamummaa seeraa mirkaneessuufis barbaachisaa dha. Ragaan kenname ija ogummaan xiinxalamuu isaa adda baasuuf kan gargaaru dha. Hojimaata amma jiruun garuu hedduun isaanii duchumaan kan barraa'ee dhiyaatu waan ta'eef, hanqinaalee adda addaaf kan saaxilame dha.

Inni biraa immoo hiikkaa afaanitiin walqabatee rakkoo jirudha. Ragaan ogummaa afaan ingiliziin yeroo barraa'u afaan Oromootti hiikuu irratti dogoggorooni qabiyyee ragichaa jijjiuruu danda'an ni uumamu.¹⁰⁹ Fakkeenyaaaf, dhimma tokko irratti himatamtootni miidhamaa dhuunfaa Abdurahaman Saaddiq ilkaan isaa afur cabsanii jechuun S/Y kwt 555 jalatti himatamani ragaan barreeffama Hospitaala Goobbaa irraa dhiyaate hiikkaan Afaan Oromoo ilkaan afur cabee yaalameera. Deebisanii dhaabuun ajajamee jira jedha. Abukaattoon himatamtoota ragaan barreefamaa dhiyaate hiikkan afaan oromoo kan ingiliffaan wal-hin fakkaatu jechuun gaafate doktorri ragaa jedhame kenne dhiyaatee jecha ragummaa kenneen ilkaan cabe kan uumamaa osoo hin ta'in nam-tolchee dha jechuun ibsee jira.¹¹⁰

Dhimma olii kana irratti hiikkaan afaan Oromoo guutummaan guutuutti qabiyyee ragichaa bifa jijjiuruun kan dhiyaate dha. Yeroo hedduu Manneen murtii waraabbii afaan Ingilizii galmeetti hidhuun waan hin baramneef sirrummaa turjumaanichaa ilaaluuf illee carraa hin argatan.¹¹¹ Gama biraatiin

¹⁰⁹ Af-gaaffii Ob. Girmaa Dachaasaa, Ob. Saamu'eel Gammachu A/Seeraa Mana Murtii Aanaa Kuyyuu waliin gaafa 28/05/2011 taasifame

¹¹⁰ Lakk Galmee MMA Goobbaa 25464 A/Alangaa Aanaa Goobbaa fi Minilik Salamoon fa'a N-7 himatamtootni miidhamaa dhuunfaa Abdurahaman Saaddiq ilkaan isaa afur cabsanii jechuun S/Y kwt 555 jalatti himatamani ragaan barreeffama Hospitaala Goobbaa irraa dhiyaate hiikkaan Afaan Oromoo ilkaan afur cabee yaalameera. Deebisanii dhaabuun ajajamee jira jedha. Abukaattoon himatamtoota ragaan barreefamaa dhiyaate hiikkan afaan oromoo kan ingiliffaan wal-hin fakkaatu jechuun gaafate doktorri ragaa jedhame kenne dhiyaatee jecha ragummaa kenneen ilkaan cabe kan uumamaa osoo hin ta'in nam-tolchee dha jechuun ibsee jira.

¹¹¹ Af-gaaffii Ob. Girmaa Dachaasaa, A/Seeraa Mana Murtii Olaanaa Go/Sh/Kaabaa waliin gaafa 29/05/2011; Saamu'eel Gammachu, A/Seeraa Mana Murtii Aanaa Kuyyuu waliin gaafa 28/05/2011 taasifame

immoo manni murtii qaamolee ragaa tokko kennuuf roguummaa hin qabne ragaa akka kennan yeroo taasisan ni mul'atu. Fakkeenyaaaf, gandi dhimmoota ragaa irratti kennuuf aangoo fi gahumsa irratti hin qabne irratti ragaa yoo kennu mul'ata.¹¹² Kun immoo dhimmicha irratti ragaan dhugaafi qulqulluu ta'e akka hin dhiyanne taasisuu keessatti gahee ol'aanaa qaba.

3.3. Ga'umsaa fi Hanqina Seeraa fi Hojimaataa

3.3.1. Qorannoo yakkaa

Yakka qulqulleessanii adabuu keessatti gahee olaanaa kan qabu hojii qorannoo yakkaati. Hojiin qorannoo yakkaa hojii gahumsa addaa, yeroo gahaa fi meeshaa hammayyaa kan barbaadu dha. Haa ta'u malee, qorannoo yakkaa naannoo keenya keessatti gaggeeffamu humnaa fi ogummaa hojichi barbaaduun fi meeshaalee hammayyaatiin deeggaramee raawwachuu irratti hanqina bal'aa kan qabu waan ta'eef bifa saayinsaawaa ta'een gaggeeffamaa hin jiru jechuun ni danda'ama.¹¹³ Ragaa gahaa walitti qabuu dhabuu fi ragaalee walitti qabanis bifa qindaa'aa ta'ee fi salphaatti qaama birootiif akka hubatamuu danda'uun kurfeeffamee fi xiinxalamee hin dhiyaatu.¹¹⁴

Bakka baay'eetti qorannoon yakkaa kutaa dhiphoo tokko keessatti bakka namoota hedduummatanii ta'anitti kan gaggeeffamu waan ta'eef namootni eeruu kennanii fi ragaa bahan ofirraa bu'anii odeeffannoo bal'aa akka hin kennine, yaadni isaanii akka bittinnaa'u; akkasumas, ogeessotni yaada sassaabbatanii fi sodaa malee hojii dhugaa baasuu irratti akka hin xiyyeeffanne taasisuu keessatti

¹¹² Af-gaaffii Nabii Bulloo, Ittigaafatamaa Abbootii Alangaa Koomishinii Farra Malaammaltummaa Oromiyaa damee kibbaa, 16/5/2011

¹¹³ Afgaaffiiwwan Ob. Girmaa Addunya, I/Gaafatamaa M/H/A/Alangaa A/G/Jaarsoo waliin gaafa 28/05/2011; Ob. Bulchaa Addunya, Saj Abiy Abbabee, Saj Dirbabaa Tolasa Qorataa yakkaa Qa/Po/G/Sh/Kaabaa waliin gaafa 28/05/2011 gaggeeffame.

¹¹⁴ Af-gaaffiiwwan Ob. Jilaaloo Mul'isaa A/Ad/Qo/Yak/Mu/Ha/Kennisiisuu M/H/A/Alangaa Go/Jimmaa waliin gaafa 21/05/2011 , Ob. Lammeessaa Abdataa A/Alangaa Go/Sh/Lixaa waliin gaafa 05/06/2011 taasifame

gahee qabaachaa akka jiru ogeessotni ni kaasu.¹¹⁵ Iccitiin abbaa dhimmaa hin eegamu. Poolisiin raawwatamuu yakkaa akkuma hubateen hojii qorannoo yakkaa eegaluun odeeffannoo rogummaa qaban walitti qabachuu irratti akka naannoo keenyaatti hanqinni akka jiru af-gaaffiin gaggeeffame ni ibsa.¹¹⁶ Sababoota hojiin kun qaawwa akka godhatu taasisan armaan gaditti gaggabaabsinee ilaaluu yaalla.

❖ Gahumsa qorattoota yakkaa

Qorannoon yakkaa hojii ogummaa, barumsaa fi gahumsa addaa barbaadu. Namni tokko qorataa poolisii ta'uuf leenjii ogummaa qorannoo ittiin gaggeessan yoo argate qorataa poolisii hojii qorannoo yakkaa raawwachuuf gahumsa qabu ta'uu danda'a jechuu dha. Haaluma kanaan, namoota qorattoota poolisii ta'uu barbaadaniif leenjii akaakuu garagaraa argachuun gara hojii gaggeessa qorannootti dabalamu; beekumsaa fi gahumsa qaban yeroo gara yerootti gabbifachuuf leenjii hojiirraa ni argatu¹¹⁷. Qorattootni yakkaa gahumsa hojiin qorannoo yakkaa barbaadu gonfataniiru jechuun akka hin danda'amne namootni daataa qorannoo kanaa irraa walitti qabame ni ibsu.¹¹⁸ Yeroo ammaa qorattootni gaaffilee siqqaa-siqqee saddeettan bu'uura godhachuun odeeffannoo guutuu fi dhugaa walitti qabuurratti hojjetaa hin jiran jechuun ni danda'ama. Haalli

¹¹⁵Girmaa Addunya I/Gaafatamaa M/H/A/Alangaa A/G/Jaarsoo waliin gaafa 28/05/2011 taasifame; Kom Ajanee Ragaasaa; Afqaaffi Saj/Olaanaa Abbabaa Gachaa, I/g division taaktikii wa/Pol/Mag/Burraayyu waliin gaafa 13/05/2011 taasifame

¹¹⁶Afqaaffiwwan Masfin Taammiruu A/A fi B/B Ab/Ad/Qor/Yak/ fi Mur/Haq/kennisiisaa Mana Hojii A/Alangaa Aanaa Goobbaa 23/05/11, Ob. Takilee Girmaa A/Alangaa Mana Hojii A/Alangaa Godina Harargee bahaa 04/06/11, Ob. Taaddasaa Nugusee Ab/Ad/ Qo/yak/Murt/Haq/kenisiisa Mana Hojii A/Alangaa Naannoo Oromiyaa 19/ 06/ 11waliin taasifame.

¹¹⁷ Af-gaaffi Inspektor Fiqaadu Taaffesaa, Daarkiteera Ol'aanaa Kenna Leenjii fi Barumsaa Kolleejji Poolisii Oromiyaa, 12/7/2011 waliin gaaggeeffame.

¹¹⁸Af-gaaffi I/A/Kom Kennesaa Hasan, Ob. Bulchaa Addunyaa, Ob. Jilaaloo Mul'isaa A/Ad/Qo/Yak /Mu/Ha/ Kennisiisuu M/H/A/Alangaa Go/Jimmaa waliin gaafa 21/05/2011 gaggeeffame.

qorattootni poolisii qorannoo yakkaa itti gaggeessan raga-baatotaa wajjiin af-gaaffii kan gaggesan malee qorannoo yakkaa raawwatu nama hin jechisiisu¹¹⁹

Wantootni hanqina gahumsa qorattotaaf akka sababaatti eeramuu danda'an baay'ee dha. Isaan keessaa muraasa akka armaan gadiitti haa ilaallu.

- ✓ Faayidaa fi miindaa qorattootni poolisii yeroo si'anaa jiru hawwataa akka hin taane qorattootni poolisii fi abbootiin alangaa ni dubbatu.¹²⁰ Kun immoo ogeessotni gahumsa fi muuxannoo qaban hojii kanarra turanii hojjechurra hojii biroo akka barbaaddatan taasisaa jira.¹²¹
- ✓ Leenjiin kennamu baatii sadii qofaaf Kolleejji Poolisii akaakuu qorannoo taaktikaa fi tekiniikaa irratti akka waliigalaa qofatti kan kennamu waan ta'eef, yakka gosa hunda gahumsaan qorachuu kan dandeessisan akka hin taane daataan walitti qabame ni ibsa.¹²² Leenjiin kennamu baay'inaan tiyoorii irratti kan hundaa'e dha; leenjifamtoota qabatama hojii jirutti madaqsuu irratti hanqina bal'aatu jira.¹²³
- ✓ Qorattootni poolisii leenjii waliigalaa fudhatu malee kan sanada sobaa, ashaaraa ykn yakka malaammaltummaa qorachuuf haala addaan

¹¹⁹ Af-gaaffiwwan Komaadar Tashoomaa Tafarrraa, Hogganaa Waajjira Poolisii Aanaa Wandoo Gannat waliin gaafa 15/5/2011; Komadanar Duulaa Liiban, Hogganaa Qajeelcha Poolisii Godina Arsii Lixaa waliin gaafa 13/5/2011 gaggeeffame.

¹²⁰ Af-gaaffii Kom Mulugeetaa Takilee, A/Ad/Qo/Ya/Mu/Ha/Kennisiisuu Qa/Po/Go/Jimmaa waliin gaafa 20/05/2011 taasifame,

¹²¹ Af-gaaffii Warqinaa Dhaabaa Hoogganaa Mana Hojii Abbaa Alangaa Aanaa Dandii waliin gaafa 05/06/2011, Saj/Ol Jamaala Ajjamaa I/G/Ku/Qo/Ya waajjira Poolisii Aanaa Dandii waliin gaafa 05/06/2011, Ob. Leenjisaa Gurmeessaa Abbaa Alanagaa Mana hojii A/Alangaa Aanaa Dandii waliin gaafa 6/5/2011taasifame

¹²² Af-gaaffii Inispektar Fiqaduu Taaffasaa, olitti yaadannoo lak. 18.

¹²³ Hanqina gama gahumsa qorattootaatiin jiru furuuf Kolleejjiin sagantaa leenjii dheeraa (dipiloomaa fi digirii) diriirsuun namootni barumsa olaanaa qaban filatamanii dandeetii qorannoo yakkaa gaggeessuu olaanaa gonfataniit akka bahanif bara darbe hojii bal'aa eegalee akka jiru Kolleejjiin Poolisii Oromiyaa ni ibsa (Daarkiteera Leenjii fi barnootaa Kollejichaa)

ogummaa gonfatee hin jiru. Kanaaf, qorataa poolisii ragaalee galmeessuu malee hiikanii itti fayyadamuu hin danda'an.¹²⁴

- ✓ Qorattootni poolisii dhiyeenya eeb bifamanii bahaa jiran gahumsa seeraa fi gahumsa qorannoo yakkaa qabaachuu dhabuu¹²⁵.
- ✓ Ogeessonni poolisii pilaanii iddo balaa tiraafikii kaasan ragaa dhugummaa hin qabne fakkeenyaaaf, daandii ariifataa irratti nama dallaa cabsee seenuuun konkolataadhaan rukkutame dursa kennuufii dhabe jechuun yommuu ragaa kennan hubachuu ibsame.¹²⁶
- ✓ Dandeettii fi gahumsa qorattoota yakkaa yeroo gara yerootti gadi bu'aa dhufeera.¹²⁷

❖ **Qindoominaan qorannoo yakkaa gaggeessuu**

Abbootiin alangaa fi qorattootni poolisii waliin qorannoo yakkaa gaggeessuuun isaanii bu'aa garagaraa argamsiisaa jira. Hojii qorannoo yakkaa keessatti bal'inaan jiraachuun abbootii alangaa hojichi bu'uura seerri ajajuun akka gaggeeffamu taasisuu, mirga shakkamaa fi raga-baatotaa akka kabajamu gochuu, deddeebii abbootii dhimmaa akka hir'atu taasisuu; akkasumas, yeroo qorannoo yakkaa itti gaggeessanii fi himannaq itti qopheessan gabaabsuuun kenniinsi tajaajila haqaa si'oominaan akka raawwatu taasisuu keessatti gumaacha guddaa taasisaa jira. Haa ta'u malee, Abbaan Alangaa yeroo hunda qorattoota poolisii waliin ta'uun qorannoo gaggeessuu dhabuu fi galmee qorattootni poolisii qofaa isaanii qoratanii fidan irratti abbootiin alangaa tokko

¹²⁴ Af-gaaffii Komandar Girmaa Maammoo, Abbaa Adeemsa Qorannoo Yakkaa fi Murtii Haqaa Kennisiisaa, Qajeelcha Poolisii Godina Harargee Bahaa waliin gaafa guyyaa 4/6/2011taasifame.

¹²⁵ Af-gaaffii Ob. Basaazzin Baahiluu, A/Adeemsa Qorannoo Yakkaa fi Murtii Haqaa Kennisiisuu, Mana Hojii A/Alangaa Aanaa Wandoo Gannat waliin gaafa 15/5/2011; Komandar Mangistuu Ijaaraa, A/Adeemsa Qorannoo Yakkaa fi Murtii Haqaa Kennisiisuu, Qajeelcha Poolisii Godina Arsii Lixaa waliin gaafa 13/5/2011 gaggeeffame.

¹²⁶ Af-gaaffii Ob. Tashaalaa Aangessaa, Hogganee Waajjira A/A/W Go/A/N/F waliin gaafa 6/05/20 taasifame.

¹²⁷ Af-gaaffii Saajin Addisu Qixxeessaa, A/Adeemsa Qorannoo Yakkaa fi Murtii Haqaa Kennisiisuu, Aanaa Wandoo Gannat waliin gaafa 14/5/2011taasifame.

tokko galmee hin qoranne irratti hin mallatteessinu jechuun diduu akka mu'atu dha.¹²⁸

❖ Qorannoo duraa (preliminary inquiry)

Bu'uura S/D/F/Y kwt 80 ykn ajaja abbaan alangaa kennuun qorannoон duraa gaggeeffamuu akka qabu seerri ni tuma. Qorannoон duraa deeggarsa mana murtii aanaа bakka yakki itti raawwate jiruun ragaan raga-baatuu irraa walitti qabamuу dha. Raga-baatota dhagahaman abbaa alangaa mana murtii sanaa dhiyeessisee kan dhageessisu yoo ta'u, manni murtii, murtii haqaaf barbaachisaadha jedhee hubannaan raga-baatuuun dabalataa waamamee akka dhagahu ajajuun dhagahuu akka danda'u seerri ni ibsa.¹²⁹

Qorannoон duraa mana murtii jalaatti ragaan akka dhagahamu gochuutti dabalee raga-baatotni mana murtii dhimma murteessutti akka dhiyaataniif ragoonni wabii akka qabsiisan waan taasisuuf haala mijataa kan uumu dha. Kana malees, ragaan bal'inaan yerootti akka walitti qabamu, ragaan amanamummaa fi fooyya'aa qabaatu akka walitti qabamu ni taasisa.¹³⁰ Qorannoон duraa ragaah dhugummaa qabu walitti qabuu keessatti gahee olaanaa kan qabaatu yoo ta'ellee, hanqinaa hubannoo fi xiyyeffannoo kennuу dhabuurraa qorannoон kana gaggeessuun kan baratamee miti.¹³¹

¹²⁸ Af-gaaffii Komandar Mangistuu Ijaaraa, A/Adeemsa Qoranno Yakkaafi Murtii Haqaa Kennisiisuu, Qajeelcha Poolisii Godina Arsii Lixaa waliin gaafa 13/5/2011 gaggeeffame.

¹²⁹ Seera Adeemsa Falmii Yakkaa Itoophiyaa, kwt. 87

¹³⁰ Af-gaaffiwwan Ob. Muhammad Nashaa A/seeraa MMO Godina Arsii Lixaa waliin gaafa 13/05/11, Ob. Hirphoo Irreessoo pirezidaantii MMA Shashamannee waliin gaafa 14/05/11, Ob. Gammachuu Lammaa Pirezidaantii MMA Ada'aa waliin gaafa 27/05/11, Ob. Bisraat Tasfaayee, Qindeessa Garee Hariiroo Hawaasa MMO Godina Shawaa Bahaa 28/05/11, Ob. Barisoo Kaduu, A/Adeemsa Murtii Haqaa Kennisiisaa, Mana hojii A/Alangaa Aanaa Adaamii Tulluu waliin gaafa 16/5/2011 gaggeeffame.

¹³¹ Af-gaaffii Kom. Nuurasaa Akkanaa A/Ad/Qo/Ya/Mu/Ha/Kennisiisuu Qa/P/G/Sh/Lixaa waliin gaafa 05/06/2011 taasifame

❖ Bakka yakki itti raawwate deemuun qorannoo gaggeessuu

Hojii poolisii keessaa tokko raawwii gocha yakkaa qulqulleessuu akka ta'e olitti ilaalleerra. Adeemsa hojii yakka raawwate qulqulleessuu keessatti qorattootni poolisii bakka yakki itti raawwate qaamaan deemanii odeeffannoo fi ragaa barbaachisaa walitti qabachuu akka danda'an seerri adeemsa falmii yakkaa ni akeeka.¹³² Bu'uruma kanaan, qorattootni fi abbootiin alangaa keenya bakka yakki itti raawwate deemuun ragaalee barbaachisoo ta'an walitti qabachuuf yaalii akka taasisan qorattootni ni kaasu.¹³³ Haa ta'u malee, baay'inaan qorannoon yakkaa gadi bu'amee bakka yakki itti raawwate deemamee akka hin gaggeeffamne ogeessotni ni ibsu. Keessumattuu, yakkoota walxaxoo fi ciccimoo ta'an irratti qorannoon gadi bu'amee gaggeeffamuu kan qabu ta'ee osoo jiruu bal'inaan kan hin gaggeeffamne ta'uu qorattootni yakkaa ni dubbatu.¹³⁴ Bal'inaan gadi bu'amee gaggeeffamuu dhabuun qorannooyakkaa ragaan sobaa/ dhugummaa hin qabne qaamolee haqaatti akka dhiyaatan taasisaa jira.¹³⁵

¹³² Seera Deemsa Falmii Yakkaa, kwt 32.

¹³³ Afgaaffii Saj. Ol Shaaqoo A/Firaa A/Ad/Qo/Ya/Mu/Ha/Kennisiisuu A/Maannaa waliin gaafa 22/05/2011 taasifame.

¹³⁴ Af-gaaffii Ob. Dabalaa Higguu, Kom Dajanee Raggaasaa, Saj.Ol Tafarrii Siisay qo/Ya/Qa/Po/M/L/Xaafuu waliin gaafa 15/05/2011 taasifame

¹³⁵ Fakkeenyaaaf, Af-gaaffii Ob. Basaazzin Baahiluu, A/A/Qo/Y/M/H/ Kennisiisuu, Mana Hojii A/Alangaa Aanaa Wando Gannet waliin gaafa 15/5/2011 irratti yeroo tokko manatu gubate jedhamee eeruun kennname; namichi gube jedhame qabame. Ragaan nammaa dhagahame; gubachuu manichaa fi namni shakkame raawwachuu kan ibsu xalayaan ganda irraa ergame dhiyaate. Shakkamaan yakki jedhame kan hin raawwatamne ta'uu irra deddeebi'ee dubbachuun dhugaa jiru qorattootni qaamaan gadi bu'anii akka qulqulleessan waan gaafateef, gadi bu'anii akka qulqulleessan ta'e. Bakka yakki itti raawwatame jedhame gahanii raawwatamuu yakkichaa yoo qoratan manni gubate jedhame kan hin gubanne ta'uu fi gama sanaan yakki raawwatame kan hin jirre ta'uu mirkaneesson. Godina Addaa Oromiyaa Naannawaa Finfinnee Magaalaa Buraayyuutti, namni Mangistuu Yomborii jedhamu yakka gowwomsuu raawwateera jedhame eeruun irratti dhiyaate. Namichi to'atamuun ragaan nammaa waajjira poolisiitti irratti dhagahame. Shakkamaan yakki jedhame isaan kan hin dalagamne ta'uu irra deddeebi'ee ibsuun bakka yakkichi itti raawwate deemanii akka qulqulleessan gaafate. Gadi bu'anii dhimmicha yoo qulqulleessan

Sababootni bakka yakki itti raawwatame deemanii qorannoo yakkaa akka hin gaggeessine taasisan keessaa hanqinni loojistiki, humna namaa fi qorattootni poolisiifi abbootiin alangaa gahee hojii qorannoo yakkaa keessatti qaban sirnaan hubachuu dhabuu dha. Inni biraatimmoo ragaan kennname shakkisisa yammuu ta'ee raga dabalataan qoratamuuf deemamu poliisiifi A/Alangaa rgaa ittisaa hin dhagahu jechuun galmeen sirnaan osoo hin qoratamiin himanni akka dhiyaatu ta'aa jiraachuu ibsu¹³⁶

❖ Eeruu fi jecha raga-baatuu fuudhuu

Seerri deemsa falmii yakkaa kwt 24 irratti qorataan poolisi yakka raawwate ilaalcissee nama eru kenu irraa haala raawwii gochichaa, yeroo itti raawwate, eenyummaa nama gochicha raawwatee fi ragaalee ijoo ta'an; akkasumas, odeeaffannoo rogummaa qaban hunda gadi fageenyaan galmeessuu akka qabu tumee jira. Odeeaffannoo raawwii yakkichaa fi shakkamaa ilaallatan kanneen gadi fageenyaan galmeessuun qorannoo yakkaa keessatti dhugummaa raawwii yakkichaa mirkaneessuuf kan tajaajilu dha. Namootni baay'een gocha raawwate ol-kaasanii, akkasumas, namoota gochicha hin raawwanne akka raawwatan fakkeessanii eruu yoo kennan ni mul'atu.¹³⁷ Qorattootni poolisiis yeroo eruu fuudhan gaaffilee garagaraatti fayyadamanii dhugummaa isaa qulqulleessuuf xiyyeffannoon hojjechaa akka hin jirre namootni ni ibsu.¹³⁸ Itti-dabalees, qorattootni bu'uura seeraatii fi bilisummaa guutuun eruu fuudhuurra akka abbaan dhimmaa yaadetti kallattii fedha isaatiin eruu galmeessuutu mul'ata.¹³⁹

yakkichi nama biraan kan raawwate ta'uu fi shakkamaan sun nama yakkaraa bilisa ta'uu mirkaneessan. Eerun kennamee fi ragaan dhagahame soba ta'uu adda baafatan.

¹³⁶ Af-gaaffii I/Insp. Biraanuu Atoomaa, Qorataa Poolisii Aanaa Dandii waliin agaafa 5/6/2011

¹³⁷ Af-gaaffiwwan Ob. Naahoom Salamoon, Abbaa Alangaa Mana Hojii A/alangaa Aanaa Kuyyuu waliin gaafa 28/05/2011; It/saj Taaddasaa Baqqalaa qorataa poolisii Aanaa Kuyyuu waliin gaafa 29/05/2011

¹³⁸ Af-gaaffii Ob. Jilaaloo Mul'isaa A/Ad/Qo/Yak/Mu/Ha/Kennisiusu M/H/A/Alangaa Go/Jimmaa waliin gaafa 21/05/2011 taasifame; Saajin Abiy Abbabee Qo/Poolisii Go/A/N/F waliin gaafa 16/05/2011 taasifame

¹³⁹ Nuuraddiin Xahaa Hogganuu, KNFMO Damee Kibbaa waliin gaafa 2/05/20 taasifame

Eeruun yakkaa erga galmaa'ee booda qorattootni poolisii Bu'uura s/d/f/y kwt 30tti, raga-baatota gaaffilee garagaraa gaafachuun waa'ee yakkichaa fi shakkamaa odeeffannoo dhuga-qabeessa walitti qabachuu akka qabu ni akeeka. Haa ta'u malee, qorattoonni yakkaa hojii qorannoo yakkaa irratti qorannoo bal'isanii qorachuu, gaaffiwwan ragooliin gaafatamuu qaban hunda duguuganii gaafachuu irratti hanqina bal'aa qabu.¹⁴⁰ Hima biraatiin, qorannootni poolisii yeroo raga-baatota irraa odeeffannoo walitti qabatan, xiyyeffannoo barbaachisu kennaa hin jiran jechuun ni danda'ama.¹⁴¹

3.3.2. Himannaa

Hojjin qorannoo yakkaa akkuma xumurameen Abbaan Alangaa himata banuu ykn banuu dhiisuu, qorannoon dabalataa ykn qorannoo duraa akka gaggeeffamu murteessuu danda'a.¹⁴² Nama yakka raawwachuu shakkame irratti ragaan argame himachiisee balleessaa jechisiisuf gahaa yoo hin taane Abbaan Alangaa himata banuu akka hin qabne seerichi dhorkee jira. Abbaan alangaa shakkamaa himachuuf kan murteessuu yoo ta'e, guyyoota 15 keessatti himata banuu akka qabu seerri deemsa falmii yakkaa ni ajaja.¹⁴³ Himannaan dhiyaatus gochaa fi yaad-gocha nama himatamee, iddo fi yeroo yakkichaa (akkuma haala isaatti nama ykn qabeenya yakkichi irratti raawwate) fi tumaa seeraa himatamaan darbe ibsu qaba.¹⁴⁴

¹⁴⁰Saj Abiy Abbabee, Ob. Bulchaa Addunyaa, I/A/Kom Kennesaa Hasan A/Ad/Qo/Ya/Mu/Ha/kennisiusu Qa/Po/M/Jimmaa waliin gaafa 20/05/2011; Afgaaffii Ob. Jilaaloo Mul'isaa A/Ad/Qo/Yak/Mu/Ha/Kennisiusu M/H/A/Alangaa Go/Jimmaa waliin gaafa 21/05/2011 taasifame, Ob. Tasfaayee Girmaa A/Ad/Qo/Ya/Mu/Ha/kennisiusu M/H/A/Alangaa A/G/Jaarsoo waliin gaafa 28/05/2011 taasifame; I/A/Kom Kennesaa Hasan, Ob. Bulchaa Addunyaa, Ob. Jilaaloo Mul'isaa, Saj Dirbaabaa Tolasaa; Galaanaa Tolasaa, Saj/ol Mangistuu Asaffaa A/Ad/Qo/Y Aanaa Kuyyuu waliin gaafa 29/05/2011; Namootni tokko tokko raga-baatotaa wajjiin af-gaaffii gaggessu malee qorannoo yakkaa raawwatu nama hin jechisiis jedhu(Nuuraddiin Xahaa)

¹⁴¹ Afgaaffii Saj/Olaanaa Abbabaa Gachaa, I/g Divizyinii Taaktikii Wa/Pol/Mag/Burraayyu waliin gaafa 13/05/2011 taasifame;

¹⁴² Seera Deemsaa Falmii Yakkaa, Labsii lak. 185/1961, kwt 38

¹⁴³ Seera Deemsaa Falmii Yakkaa, kwt 38 fi 109

¹⁴⁴ Seera Deemsaa Falmii Yakkaa,, kwt 111

Seerri deemsa falmii yakkaa ragaan himata waliin dhiyaatuu akka qabu ifatti kaa'uu baatuus hojimaataan garuu ragaan yeroo hedduu himata waliin dhiyaataa jira. Himanni qabiyyee qabatuu qabu hin hammatin ykn iftoomina hin qabne, mirga ofirraa ittisuu himatamaa sarbuun cinaatti, ragaah dhuugummaa hin qabneef saaxilamummaan isaa olaanaa dha. Himata gama A/Alangaatiin dhiyaatuun wal-qabatee rakkoowwan qabatamaan jiran maal faa akka ta'an hirmaattotni qorannoo gaafatamanii waajjira haqaa sadarkaan jiru irraa galmeen akka banamu dhiibbaan waan taasifamuuf,¹⁴⁵ Abbootiin Alangaas ragaah gahaa osoo hin qabaatin himata dhiyeessuu,¹⁴⁶ Abbaan alangaa ragaah ittisaa hin dhaga'u yaada jedhu irraa ka'uun yakka raawwate sirnaan osoo hin qoratiin himannaan banuu¹⁴⁷ fi abbaan alangaa shakkamaa yoo himatu keewwata isa cimaan caqasuuun, ragaah isaas haaluma sanaan qindeeffatee dhiyeessuun akka mul'atu dha.¹⁴⁸

Dhimmoota mana murtiitti ilaalamani murtii argatan yammuu ilaallus galmeewan ragaah gahaa osoo hin jiraatiin himata dhiyaate ilaaluun danda'amee jira.¹⁴⁹

¹⁴⁵ Af-gaafii Ob. Masfin Taammiruu A/A fi B/B Ab/Ad/Qor/Yak/ fi Mur/Haq/kennisiisaa Mana Hojii A/Alangaa Aanaa Goobbaa 23/05/11

¹⁴⁶ Af-gaafii Ob. Masfin Nugusee Abbaa seeraa MMO G/Jimmaa waliin gaafa 20/05/ 2011, Ob. Masfin Taammiruu A/A fi B/B Ab/Ad/Qor/Yak/ fi Mur/Haq/kennisiisaa Mana Hojii A/Alangaa Aanaa Goobbaa 23/05/11,

¹⁴⁷ Af-gaafii Ob. Nuuraddiin Xahaa, Hogganee KNFMO Damee Kibbaa waliin gaafa 2/05/20

¹⁴⁸ Af-gaafii Masfin Nugusee Abbaa seeraa MMO G/Jimmaa waliin gaafa 20/05/2011

¹⁴⁹ Fakkeenyaf, Lak. Galmee MMA Goobbaa 25020, falmii yakkaa A/A Aanaa Goobbaa fi himatamaa Abdurazaaq Muhammed jidduu tureen A/Alangaa himataamaan gaafa guyyaa 04/09/10 halkan keessaa sa'a 1:30 Magaalaa Goobbaa ganda 03 mana siree Alamayyoo Cabud keessatti miidhamtuun dhuunfaa Musharraf Muusaa Aadam barattuu yunivarsiitii waggaal 1ffaataate sababa firummaa qabaniin meesha warri kee siif erge fudhadhu jechuun gowwomsee erga seensiseen booda sodaachisee gudeedee kan jedhu yammuu ta'u ragaan mana yaalaa irraa dhiyaate miidhamtuun umriin ishii waggaal 21 ol akka ta'eef duburummaan haarawa baduu isaa ni ibsa. Dhimma armaan olii kana keessatti miidhamtuun himatamaan na gudeede jechuun haa ragdu malee ragaan naannawaa A/Alangaa iddooyakki raawwatame ture miidhamtuuf himatamaan walumaan dhufanii siree qabatanii buluu isaanii ragaah bahee jira. Ragaan biraah waanuma miidhamtuun itti himte kan beektu dha. Miidhamtuun gocha irratti raawwatameen wal-qabatee mormii tokkos gochuu ragaan naannawaa A/Alangaan dhiyaate wanti agarsiisu hin

Gamaa biraatiin, galmeewwan gad-fageenyaan osoo hin qoratiin ragaa qindaa'ee dhiyaateen himanna dhiyeessuun ni mul'ata.¹⁵⁰ Haaluma wal-fakkaatuun dhugummaa dhimmoota himata dhiyaatee osoo hin qulqulleessin ragootuma nama gama himataatiin dhiyaatan caqasee himata hundeessuu ni jira.¹⁵¹

Manni murtii galmeewwan mana murtii himatamaan jecha adda addaa irratti kenne jedhamee himanni irratti dhiyaateef ragaa namaatiin ibsame lamaan dhiyeessee ilaalee murtii kenne irratti himatamaan galmee dura jedhamee irratti jecha ragummaa kennuu isaa wanti agarsiisu akka hin jirre qulqulleessee jira. Lakk. Galmee 020620 irratti immoo falmiin daangaa ka'ee himatamaan kun immoo ragaa miidhamaa ta'ee dhiyaachuun daangaan darbame akka hin jirreef wal-falmitootni daangaa adda addaa kan qaban ta'uun ibsee jira. Xiinxala isaa keessatti manni murtii himatamaan jecha kennuu isaa galmee tokko qofa irratti

jiru. Haala kana keessatti A/Alangaa himata bu'ureessuun hanqina akka ta'e hubachuun ni danda'ama

¹⁵⁰Fakkeenyaaaf, falmii A/Alangaa GAONF fi Mangistuu Yomborii jidduu tureen himatamaan gaafa guyyaa 26/06/10 guyyaa keessa sa'a 7:30 keessa GAONF Magaalaa Holotaa keessatti bakka Addaa Hoteela Paasfiiki jedhamee beekamutti miidhamaa dhuunfaa Bantii Qaabataa gara biyya Ameerikaa sin geessa jedhee goyyomsee qarshii kuma afurtama fudhate jedhamee himatamee himatamaan gochicha hin raawwanne sobaan himatamee jedhee ragoonni A/Alangaa dhiyaatanii erga rageessanii booda manni murtii ofirraa ittisii jedhamee. Himatamaan waajjira A/Alangaa waliigalaatti iyyata dhiyeesseen dhimmichi akka qulqulla'uuf gaafate yeroo dhimmichi gadi bu'amee qulqulla'u dhimmicha soba ta'uun irra gahamee A/Alangaa himata isaa kaasee jira.

¹⁵¹Fakkeenyaaaf, MMO Godina Harargee Bahaatti Lak. Galmee 42481 falmii A/Alangaa Godina Harargee Bahaa fi himtamaa Abraahim Saalii Muusaa irratti dhiyaateen himatamaan itti yaadee gaafa guyyaa 25/03/2006 Mana Murtii Aanaa kurfaa Calleetti dhaddacha hariiroo hawaasaatti falmii lafaa miidhamaa Toofiq Ahmadnuur Muhammad qabu ture irratti ragaa miidhamaa ta'uun dhiyaatee jecha ragummaa tanaan dura falmii lafaa miidhamaa ammaa nama biraa waliin qabu irratti lafti falmii kaafte kan miidhamaa ammaati jedhee ture jijjiroon lafti kan miidhamaa ammaa miti waan jedheef seera yakkaa kwt 453(2) jalatti himatame. Ragaan A/Alangaa dhiyaatanii himatamaan kun mana murtii Aanaa Kurfaa Calleetti dhiyaatee jecha ragummaa kenneen falmii duraan ture irratti lafti kan miidhamaa ammaa akka taate erga rageessee booda falmii lafuma kana irratti nama biraa waliin gaggeessu irratti manuma murtii duraatti dhiyaatee lafti kan miidhamaa mitii jechuun jecha ragummaa isaa jijjiree jira jechuun ibsanii jiru.

akka ta'ee fi falmiin galmeewwan lamaanuu irratti jiru falmii garagaraa fi walfalmitoota garagaraa akka ta'e qulqullessee jira.

Abbaan Alangaa yammuu himata hundeessu galmeewwan himatamaan jecha irratti kenne jedhame kana ilaaluu osoo qabuu raga namaa qofaatiin himata banuun isaa dogongora. Dhimma kana irratti ragaa namaa caalaa galmeewwan himatamaan jecha adda adda irratti kenne jedhaman caqasuun gahaa fi amansiisaa ture.

Kana malees, A/Alangaa loogii irraa bilisa ta'ee ragaa gama lachuu jiru sirnaan ilaaluun haqa baasuuf tumsuu irra himatamaa adabsiisuuf qofa hojjetu ni jira.¹⁵² Fknf, yeroo ragaa tilmaama miidhaa gahee qaama bilisaa irraa akka dhiyaatu taasisuu qabu miidhamaa irraa akka dhiyaatu taasisu ni jira.¹⁵³

Dhimma kana keessatti midhaan hatame boqqolloo akka ta'e ibsamee jira; hangi isaalle caqasamee jira. Tilmaamni qabeenya miidhamaan dhiyaate hangam dhugummaa akka qabu salphaadhumatti waajjira gabaa to'atu irraa argachuun osoo danda'amuu ragaa miidhaman dhiyaate caqasanii himachuu rogummaa kan qabu miti. Haala qabatamaa gabaa naannoo keenya keessa jiruunis boqqolloon kuntaala tokkoo qarshii 2500 (kuma lamaa fi dhibba shan) kan hin taane ta'u Abbaan Alangaa quba qabaata jedhamee tilmaama.

¹⁵² Af-gaafii Ob. Muhaabbaa Abarraa, A/Seeraa Mana Murtii Magaala Buraayyu walii gaafa 13/05/2011 taasifame; Ob. Kumalaa Abarraa, A/Seeraa Mana Murtii Aanaa Dandii walii gaafa 05/06/2011 taasifame

¹⁵³ Himata A/Alangaa Aanaa Wondoo fi himatamtoota Budhaa Mangashaa N-2 irratti dhiyeesseen himatamtooni gaafa guyyaa 12/04/2011 halkan keessa tilmaamaan sa'a 8:00 yammuu ta'u Aanaa Wondoo ganda shiree boraaraa iddo Shaaloo jedhamutti maasaa qonnaa dhaabbata ELFORA keessa seenuuudhaan boqqolloo KG 50 mata mataan walumaagalatti tilmaamni isaa qarshii 2500(kuma lamaa fi dhibba shan) ta'u waan hataniif jechuun seera yakkaa kwt 669(3)B jalatti himata hundeesse. Tilmaama boqqolloo hatame jedhamee dhaabbanni miidhamaan dhuunfaa akka dhiyeessu taasisee jira. Ragaan dhiyaates boqqolloo KG 100 qarshii 2500(kuma lamaa fi dhibba shan) akka ta'e caqasee dhiyaatee jira.

3.3.3. Falmii

Adeemsawwan falmii keessa jiran sirnaan kan hin hogganamne yoo ta'e hojii haqa mirkaneessuu keessatti gufuu ta'uu danda'u. Hanqinootni adeemsa dhagaha ragaa keessatti mul'atan ragaan dhugummaa hin qabne galtee murtii akka ta'an karra kan saaqu waan ta'eef hojii xiyyeffannoo barbaadudha. Qorannoo kana keessatti qabatamni naannoo Oromiyaa keessa jiru maal akka fakkaatuu fi hanqinoonni gama kanaan mul'atan xiinxalamani jiru.

❖ Kakuu

Dhugaa baasuu keessatti kakuun gahee ol'aanaa qaba.¹⁵⁴ Seera deemsa lameen keessatti ragaan firii dubbii tokko hubachiisuuf bitaa fi mirgaan waamame kakuu raawwachuu akka qabu ibsamee jira.¹⁵⁵ Kakuun raga baatuun dhiyaate raawwachuu qabu maal akka ta'e qajeelfama dhaddacha Manni Murtii Waliigala Oromiyaa baase keessatti caqasamee jira.¹⁵⁶ Haa ta'uu malee, hojmaanni jiru garaagarummaa kan qabu ta'uu yaadonni hirmaattota qorannoo irra kennname ni hubachiisa. Manni murtii akkaataa qajeelfama dhaddachaa keessatti teechifameen kaksiisuu dhabuun nijira¹⁵⁷. Kakuun qajeelfamaan teechifamee jiru abbootii seeraa biratti gutummaan kakachiisuun akka hin jirre ibsamee jira. Jechoonni kakuu keessatti ibsaman naannoo tokko tokko keessatti hiikkoon isaanii beekamaa miti kan jedhus ni ka'a. Akkasumas kakuu akka haala aadaa fi amantaa hawaasa naannoo giddu galeessa godhateen kaksiisuu dhabuun akka jiru dha.

Qajeelfama dhaddachaa mana murtii waligala Oromiyaatin bahe keessatti kakuu akka fakkeenyatti teechifameen alatti abbootiin seeraa akka haala qabatama naannoo ilaala kakuu dhugaa basuuf isaan dandeessisuun akka kakachiisuu

¹⁵⁴ Af-gaafii Ob. Tashoomaa Tulluu, Abbaa seeraa MMA Jimmaa waliin gaafa 20/05/20

¹⁵⁵ Seera deemsa falmii yakkaa Itoophiyaa kwt 136(2)

¹⁵⁶ Qajeelfama Dhaddachaa mana murtii waligala Oromiyaa lakk.8/2004 kwt. 7(4)

¹⁵⁷ Af-gaafii Ob. Basaazzin Baahiruu, A/A/Qo/Y/M/H/ Kennisiisuu, Mana Hojii A/Alanga Aanaa Wandoo, 15/5/2011

danda'an aangessee jira. Haa ta'u malee akkuma gubbaatti ibsame qabatamaan kakuu haala aadaa, duudhaa fi amantaa naannoo jiruun wal simsiisuun akkasumas qabatama haala naannoo giddu galeessa kan godhate taasisuun¹⁵⁸ itti hojjataa akkha hin jirre hirmattootni qorannoo af-gaaffiin waliin taasifames ni kaasu.

❖ Ijoo falmii fi ragaa qabachuu

Falmii hariiroo hawaasaa keessatti manni murtii himataaf deebii dhiyaate qulqulleessuun ijoo wal-falmitootni irratti wal-dhaban akka ijoo falmiitti qabee akka falmiin irratti gaggeeffamuuf ragaadhaan qulqulla'u taasisa.¹⁵⁹ Falmii yakkaa keessatti immoo dhimmi akka ijootti qabamee qulqullaa'u himanna A/Alangaan dhiyaatee himatamaan waakkate dha.¹⁶⁰ Seera deemsa falmii yakkaa keenya keessattis himatamaan yakka ittiin himatame raawwachuu ilaalchisee yoo waakkate A/Alangaa himanna dhiyeesse erga saaqeen booda ijoo ragaan isaa mirkaneessuuf deemu ni hubachiisa. Ijoon A/Alangaa akka mirkanessuuf irraa eegamu dhimmoota tumaa seeraa gochicha yakka taasisan keessatti caqafamaniin wal-qabatee firiwwan dubbii himanna keessatti caqafaman akka ta'e hubachuun ni danda'ama.¹⁶¹ Kanaan wal-qabatee hojmaatni jiru maal akka ta'e qulqulleessuuf sakatta'a taasifameen manneen murtii keessatti hojmaatni adda addaa jiraachuu isaa hubatameera.

Inni duraa, akkaataa seera deemsa falmii keessatti teechifameen A/Alangaa ijoo ragaa osoo hin qabsiisin ragaa caqasuu dha.¹⁶² Inni 2^{ffaa} immoo yeroo ijoon gaafatamu bifa iftoomina hin qabneen ijoon himatuma keenya jechuun akka

¹⁵⁸Af-gaaffii Kom. Nuurasaa Akkanaa A/Ad/Qo/Ya/Mu/Ha/Kennisiisuu Qa/P/G/Sh/Lixaa waliin gaafa 05/06/2011 taasifame

¹⁵⁹ Seera Deemsaa Falmii Hariiroo Hawaasa, kwt 247-248

¹⁶⁰ Jonnathan daak and Claire Mcgoulay Criminal evidence in context,second edition, F 3

¹⁶¹ Seera deemsa falmii yakkaa kwt 132-142 wal-faana dubbisi

¹⁶²Darajje Kabaa N-3 fi A/Alangaa Godina Shawaa Lixaa Lak Galmee 13339

waliigalaatti kan ibsamu dha.¹⁶³ Kan xumuraa Manni Murtii A/Alangaa yoo ijoo qabsiifachuu barbaadan akka qabsiifatan jechuun bifaa jedhuun filannoosaa A/Alangaaf dhiisuutiin kan gaafatani dha.¹⁶⁴

SDFY kwt 136(1) jalatti A/Alangaa akaakuu ragaa dhiyeessee ijoo ragaa waliin qabsiifachuu akka qabu tumee jira. Ragaan dhiyaatu maal akka ragu dursanii ijoo qabsiisuun himatamaan himata irratti dhiyaate ofirraa ittisuu gaheen qaba. Inni 2ffaa immoo dhugummaa raga mirkaneessuufis gaheen isaa salphaa miti. Ragaan dhiyaate jecha ragaa dhugummaa qabu kennuu fi dhabuu isaa ittiin madaaluufis kan gargaaruu dha. Kanaaf gama kanaan A/Alangaa ijoo osoo hin qabatin ragaan akka dhagahamu taasisuunis ta'e ijoon ifatti osoo hin qabamin ragaa dhagahuun jecha ragummaa kenname dhugummaa isaa sakatta'uu irratti dhiibbaa mataa isaa kan qabu dha.

Haaluma wal-fakkaatuun himatamtoota abukaatoon falmataniin wal-qabatee ijoo ragaa ittisaa qabsiisanii falmuun kan jiru ta'us yeroo ijoon ragaa utuu hin qabsiifaman dhagahamus ni jira¹⁶⁵. Himatamtoota dhuunfaan falmaniinis wal-qabatee sirnaan ijoo qabsiifachuu irratti hanqinni kan jiru ta'uu isaati. Gara biraatiin immoo yeroo dhimmi akka ijootti qabamee qulqullaa'uun hin barbaachifne himatamaa bilisa baasuuf jecha yeroo akka ijootti akka qabamu taasisuun ragaan dhgummaa hin qabne dhimmicha irratti akka dhiyaatu godhamu ni jira.¹⁶⁶

Falmii tokko keessatti ijoon qabamu gosa ragaa dhiyaatuuf akkaataa ragaan itti dhiyaatus kan murteessuu dha. Ijoon qabamu kan dogongoraa ta'e yoo ta'e

¹⁶³ Abarraa Beekumaa fi A/Alangaa Godina Shawaa Lixaa lak. Galmee MMO Shawaa Lixaa 13751

¹⁶⁴ Masrasha Agenyaw fi A/Alanga Shawaa Kaaba Lak. Galmee MMO Shawaa Kaabaa 45866

¹⁶⁵ Falmii yakkaa A/Alangaa Aanaa Gobbaafi Minilik Salamoon fa'a N-6 Lak Galmee Mana Murtii Aanaa Goobbaa 25464

¹⁶⁶ Af-gaaffii Saajin Addisu Qixxeessaa, A/A/Qo/Y/M/H Kennisiisuu, Aanaa Wandoo Gannat waliin gaafa 14/5/2011 gaggeeffame.

ragaan dhimmicha hubachiisuuf dhugummaa hin qabne akka dhiyaatu gochuu keessattis gahee mataa isaa qabaata. Kanaaf yammuu ijoon qabamu ofeeggannoo cimaa taasisuun ni barbaachisa.

❖ Gaaffilee sirnaan gaafachuu

Seerota deemsa lameenuu keessatti abbootiin seeraa sadarkaa kamittuu gaaffilee ragaaf dhiyeessuu akka danda'an ni teechisa.¹⁶⁷ Qabatamaan manneen murtii keenya keessa hojmaata jiru hubachuuf sakatta'a taasifameen hirmattoota qorannoo irraa yaadni adda addaa dhiyaatee jira. Yaadoota kanneen keessaa Manneen murtii ragaa sobaa hambisuuf yommuu ragaan dhaga'amu gaaffin dhimmoota qulqulleessuuf yaalii kan taasisan ta'u, haa ta'u malee tooftaalee ragaa dhugummaa hin qabne addaa ittiin baasuuf jiran hojiirra oolchuu irratti hanqinni akka jiru kaasu.¹⁶⁸ Yaada gama biraatiin immoo Abbootiin seeraa daangaa aangoo isaanii darbuun gaaffii qaxxamuraa kan gaafataniif gama garee falmitootaan gaaffii qaxxaamuraa bal'inaan akka hin gaggeessines akka daangeeffaman, yammuu sababa kanaan mormiin ka'u dhaaddacha jeeqjan jechuun akka sodaachifamanii dha.¹⁶⁹ Abbootiin seeraa gama isaaniitiin yammuu dhugaa qulqulleessuuf gaaffilee adda addaa kaasan garee falmitootaan komiin akka irratti ka'u ni dubbatu.¹⁷⁰ Abbootiin seeraa dhimmicha qulqulleessuuf murtii haqaa kennuuf akka isaan dandeessisu sadarkaa kamittuu gaaffii qulqulleessaa gaafachuu akka danda'an seeraan ifatti tumamee jira. Manneen murtii gaaffileen gaafatan kan dhugaa baasuuf isaan dandeessisu qofa ta'u qaba. Qabatama jiruun yeroo tokko tokko Abbootiin

¹⁶⁷ Seera Deemsa Falmii Yakkaa kwt 136(5) fi Seera Deemsa Falmii Hariiroo Hawaasa kwt 266 wal faana dubbisuu

¹⁶⁸ Afgaaffii Ob. Xibabuu Gurmuu A/seeraa Mana murtii Magaalaa Burayyuu waliin gaafa 13/05/2011 taasifame

¹⁶⁹ Af-gaaffii Ob. Basaazzin Baahiluu, A/A/Qo/Y/M/H kennisiisuu, Mana Hojii A/Alangaa Aanaa Wandoo Gannat waliin gaafa 15/5/2011 taasifame.

¹⁷⁰ Af-gaaffii Ob. Gammachuu Lammaa, Pireezidaantii MMA Ada'aa waliin gaafa 27/05/11 taasifame

seeraa bifaa gartummaa garee tokkoo agarsiisuun yammuu itti gaafatan ni mul'ata.

Gama biraatiin, qaamni ragaan irratti dhiyaate ijoo rogummaa qabu irratti ragaan irratti dhiyaate sobsiisuuf barbaachisaa dha jedhee yaadu gaafachuu akka danda'u seera deemsa falmii irratti teechifamee jira.¹⁷¹ Gaaffileen kunniniis dandeettii ragaan dhiyaate taateewan qayyabachuu qabu ibsuun, amala dhuunfaa ragaan hawaasa keessatti qabu caqasuun, faayidaa ragaan dhimmicha irraa qabu agarsiisuun akkasumas ragaan dhiyaate roga qabataa kan jiru ta'uu kan agarsiisan akka ta'uu danda'an barruulee adda addaa keessatti teechifamani jiru. Gaaffileen rogummaa hin qabne akka hin dhiyaanne to'achuun gahee mana murtii ta'us gaaffilee haala barbaadamuun akka hin gaafanne daangeessuun hojmaata seeraa irraa maqeef dhugaa baasuu keessattis danqaa akka ta'e dha.

Yaadota kanniin irraa kan hubatamu gaaffilee adda addaa kaasuun dhimmoota qulqulleessuu irratti hojmaanni garaagarummaa qabu kan jiru ta'uu isaati. Kunis yeroo gadifageenyaan qulqulleessuuf itti deemamus kan jiru ta'uu fi akkaataa barbaadamuun itti deemuu dhabuun akka jiru dha. Abbaan Alangaa ragaan isaa dhageessifachuu dura qophii kan taasisu ta'us ragaan ittisaa irratti garuu tarreen ragaan dursee waan isa hin qaqqabneef dursanii qophaa'uu irratti hanqinni akka jiru ni ka'a. SDFY yammuu ilaallu himataa fi himatamaan gaafa dhimmichi dhagahamuuf beellamametti ragaan isaanii dhiyeeffachuu akka qabaniif maqaa ragoota kanaa dursanii mana galmeef dhiyeessanii yaamicha akka fudhatu qaban ni teechisa.¹⁷² Hojmaatni ammaan tana qabatamaan manneen murtii keenya keessa jiru himatamaan ragoota irratti dhiyaatan himatuma waliin dursee kan fudhatu ta'us gama isaatiin garuu maqaa ragoota ittisaa mana galmeef kan dhiyeessu erga ragaan A/Alangaa irratti dhiyaatee ofirraa ittiis jedhamee booda

¹⁷¹ Seera Deemsaa Falmii Yakkaa, Kwt 137 (3).

¹⁷² Seera Deemsaa Falmii Yakkaa, Kwt 124 (1)

akka ta'e hubachuun ni danda'ama. Kun immoo A/Alangaa dursee qophii gahaa akka hin goone kan taasisu akka ta'e hubachuun ni danda'ama. Dursanii eenyummaa ragootaa beekuun kallattii adda addaatiin dhugummaa jecha ragummaa isaanii mirkaneesuuf gahee mataa isaa qabaata.

Gama biraatiin immoo qabatamaanis dhimmoota ilaalaman keessatti Abbootiin Alangaa dhimmoota ofii isaaniitii hordofaniin wal-qabatee sirnaan gaafachuu irratti hanqina hedduu akka jiru dha.¹⁷³ Jecha ragaa gaaffii duraa keessatti kenne bu'uura gochuun maloota gaaffii qaxxaamuraa jiran akkasumas gaaffilee amanamummaa ragaa miidhan kaasuu irratti hanqinni baldhinaan ni mul'ata.¹⁷⁴ Akka fakkeenyatti ragaaleen ittisa ta'anii dhiyaatan hedduun isaanii maatii akka ta'an hubachuun ni danda'ama. Yerooakkanaa A/Alangaa ragaan dhiyaate dantaa kan qabu ta'uu agarsiisuu irratti hanqinni hedduun ni jira.

3.4. Madaallii Ragaa

Murtii haqa qabeessa ta'ee fi dhugaa bu'uura godhate kennuu keessatti madaalliiin ragaa hojii xiyyeffannoo barbaadu dha. Ragaan adeemsa falmii kamiyyuu keessatti dhiyaatu dhugummaa kan qabu ykn kan hin qabne ta'uu danda'a. Dhugummaa ragaa ijoo falmii mirkaneessuuf dhiyaate adda baasuun murtii kennuuf ragaa dhiyaate sirnaan madaaluun hojii murteessaa ta'e dha. Madaalliiin ragaa qulqullina hin qabne ykn dadhabaa ta'e murtiin kennamu ragaa dhugummaa hin qabne bu'uura kan godhate akka ta'u taasisa.

Madaalliiin ragaa yammuu taasifamu rogummaa, fudhatamummaa fi amanamummaa ragaan sun qabun xiinxaluun dirqama ta'a. Ragaan rogummaa hin qabne ijoo falmii mirkaneessuu kan hin dandeenye waan ta'eef murtii kennuu keessatti fudhatama hin qabaatu. Gama biraatiin ragaan fudhatamummaa hin qabne sababoota garagaraatiif seeraan kan daangeffame

¹⁷³Afgaaffii Ob. Kumalaabarraa, A/Seeraa MMO Go/Sh/Kaabaa waliin gaafa 29/05/2011; Ob. Saamu'eel Gammachuu A/Seeraa MM Aanaa Kuyyuu waliin gaafa 28/05/2011 taasifame.

¹⁷⁴Akkuma 175^{ffa}.

waan ta'eef hangam rogummaa fi amanamummaa qabaatus murtii kennuu keessatti galtee ta'uu hin danda'u. Madaallii ragaa keessatti hojiin inni bu'uuraa fi ulfaataa ta'u amanamummaa ragaa dhiyaatee mirkaneeffachuu dha. Madaalliin ragaa akaakuu ragichaa irratti hundaa'ee qabxiilee garagaraa qabaata.

3.4.1. Jecha ragummaa ragaa namaa

Amanamummaa ragaa namaa dhiyaatee mirkaneeffachuu manneen murtii amalaan fi maalummaa ragaa dhiyaatee fi amanamaa ta'uu (credibility) raga-baatuu tilmaama keessa galchuu qabu. Hojii kana keessatti manneen murtii wal fakkaachuu jecha ragaa raga baatuu, wal simuu jecha raga-baatotaa, walsimu jecha ragummaa raga-baatuu fi akaakuu ragaalee adda addaa dhiyaatanii, dandeetti hubachuu fi yaadachuu fi carraa taatee tokko arganii adda baasuu raga-baatuu fi k.k.f xiinxaluutu irraa eegama. Akkasumas dhimmicha irraa dantaa qabaachuu raga-baatuu, miira raga-baatuun dhaddacha irratti agarsiisu, baay'inaa fi umurii raga-baatuu tilmaama keessa galchuun barbaachisaa dha. Gama biraatiin ragaa ijoo falmii mirkaneessuu isa gargaaru osoo qabuu dhiyeeffachuu dhabuu fi gaaffii qaxxaamuraa gaafachuu dhabuu¹⁷⁵ garee falmitootaas dhimma madaallii ragaa keessatti ilaalamuu qabu dha.

Akka waliigalaatti, qabxiilee madaallii olii keessaa jiraachuun qabxii tokkoo ykn muraasaa amanamummaa ragaa dhiyaatee of-danda'ee kan miidhu ta'uu yookaan ta'uu dhabuu kan danda'u waan ta'eef, manni murtii qabxiilee madaallii dhiyaatan kanneen akka ulaagaa tokkotti fudhachuun dhugummaa ragichaa xiyyeeffannoona madaaluutu irraa eegama. Dabalataniis, manneen murtii wayita ragaa madaalan naamusa ogummaa gonfachuun addattimmoo

¹⁷⁵ Haa ta'u malee, falmii yakkaa keessatti firii dubbii tokko irratti gaaffii qaxxaamuraa gaafachuu dhabuu garee falmitootaa dhugummaa firii dubbii sanaa fudhachuu ilaalamuu akka hin qabne Seerri deemsaa falmii yakkaa keewwatni 140 ni tuma. Kanaaf, qabxiin kun falmiwwan yakkaa irratti kan hojjetu hin ta'u.

loogii irraa bilisa ta'uun ragaa dhiyaate madaala isaa eeguun xiinxaluu qabu. Hojimaatni manneen murtii gama madaallii ragaatiin jiru maal akka fakkaatu beekuuf Sakatta'a taasifameen, hanqinootni adda addaa ni mul'atu. Hanqinoonni kunniinis madaalliiin ragaa bifa wal fakkaataa ta'een taasifamuu dhabuu, loogii irraa bilisa ta'uu dhabuu, qabxiilee amanamummaa ragaa adda baasuuf gargaaran sirnaan hojjirra oolchuu dhabuu dha.

Fakkeenyaaaf, falmii abbaa alangaa fi Darajjee Kabaa faa N-3 gidduu ture irratti¹⁷⁶ himatamtootni gaafa 17/12/2009 nama Obsaa Kabaa jedhamu himatamaa 1ffaan shugguxii itti dhukaasuun, himatamaa 2ffaan qoncooraan mataa dhahee, himatamaa 3ffaan hankaakseen cinaacha waraantuun ajjeessan jedhamanii Seera Yakkaa kwt 539 jalatti himataman. Abbaan Alangaa raga-baatota sadii fi ragaa mana yaalaa dhiyeffate. Ragooliin namaa dhiyaatanis jecha ragummaa isaanii kennaniiru. Haa ta'u malee, jechootni ragoota A/Alangaa kopha, kophaatti; akkasumas, wal-faana yammuu ilaalamu walitti bu'iinsa hedduu akkasumas dhimmoota amanamaa hin taane of keessaa qabu. Ragaan A/Alangaa 1ffaa miidhaman gaafa yakki raawwatamu himatamtoota 2^{ffaa}, 3^{ffaa} fi nama yeroo hin qabamne waliin deemaa turee yammuu jedhu ragaan A/Alangaa 2^{ffaa} gama isaatiin miidhamaa waliin deemaa osoo jiran himatmttootni bosona itti bahanii yakkicha raawwachu dubbata. Gama biraatiin ragaan A/Alangaa 1^{ffaa} barii haati manaa du'aa dhufte na gaafatte jennan hin agarree jechuun yammuu ibsu ragaan 3^{ffaa} gama isheetiin isiin akka hin gafanneen dubbattee jirti. Dabalataanis ragaan 1^{ffaa} osoo waliin barbaannu namni haadha manaatti bilbilee ergasii dhaqnee reeffa agarre jechuun rageera. Ragaan A/Alangaa 2^{ffaa}n gama isaatiin karaa himatamttoonni reeffa harkisan irra deemne reeffa bishaan isaan itti gatan keesssaa agarre malee namuu bilbilaan nutti hin himne jechuun raage. Haatii manaa du'aa (raga 3^{ffaa}n) gama ishiitiin

¹⁷⁶ Falmii yakkaa Abbaa Alangaa Shawaa Lixaafi Darajjee Kabaafaa-n-3, Mana Murtii olaanaa Godina Shawaa Lixaa, Lak.G 13339

ragootiin A/Alangaa 1^{ffaa} fi 2^{ffaa}n uummata keessatti himatamtoonni abbaa manaa ishee ajjeessuu isaanii natti himanii yammu jettu ragaan A/Alangaa 1^{ffaa} immoo raawwii yakkichaa ilaachisee hanga gaafa poolisiitti jecha kennatutti nama kamittuu kan himne dubbata. Dabalataanis ragaan A/Alangaa 2^{ffaa} gaaffii duraa keessatti du'aan dura isaa deemaa akka ture ibsee yammuu gaaffii qaxxamuraa gaafatamu immoo walcinaa haasawa deemaa turre jechuun dubbatee jira. Haaluma walfakkaatuun ragaan A/Alangaa 3^{ffaa}n gaaffii duraa keessatti ragaa A/Alangaa 1^{ffaa} fi 2^{ffaa} iddo reefaatti arge jettee gaaffii irra deebii keessatti ammo namoonni hedduu waan turaniif ragaa kana arguu ishii kan hin yaadanne ta'uu dubbattee jirti. Gama tokkoon waa'ee raawwii yakkichaa uummata keessatti ragaan kun nutti hime jechaa gama kaaniin achitti arguu adda baafachuu dhabuu ishii kaasuun ishee dhugummaa jecha ragummaa ishii shakkii olaanaaf kan saaxiludha.

Gama biraatiin, ragaan A/Alanagaa 3^{ffaa}n gaafa 19/12/2009 jecha ishee poolisiif yammuu kennitu waa'ee ragootni 1^{ffaa} fi 2^{ffaa} raawwii yakkichaa ilaachisee itti himan poolisiif akka hin himne dubbattee jirti. Namni abbaan manaa jalaa du'e waa'ee raawwii yakkichaa namoota ragaa ijaa ta'an jedhamaniin itti himamee jecha poliisiif yammuu kenu haala kamiin raawwii yakkichaa akka beekuu danda'e, eenyuun akka itti himamee fi akkamitti akka itti himame ibsuu dhabuun jechi ragummaa kun amanamaa kan hin taane ta'uu isaa mul'isa. Qabxiin biraa immoo shakkamaa tokkoffaan gaafuma reefi argame sana to'atamee hidhaa osoo jiruu ragonni kunniin raawwii yakkicha ilaachisee poolisiif erga yakki raawwatameen booda sababa gahaa malee ji'a sadii turanii jecha ragumma isaanii kennuun isaani yammuu ilaalamu dhuguma ragooni kunniin raawwii yakkicha ni beku kan nama jechisiisuu danda'u miti. Kana malees namni firri isaa ajjeefamee waa'ee raawwii yakkichaa osoo hin dubbatin hagana turuun isaa barsiifata jiru waliin yoo ilaalamu shakkii uumuun isaa hin

hafu. Jecha ragoota kanaa yammuu ilaallu ijoo dubbii gurguddoo ta'an irratti garaagarummaa kan agarsiisan akka ta'e hubachuun ni danda'ama.

Manni murtii dhugummaa jecha ragaa yammuu madaalu jechi ragaa gaaffilee garagaraa¹⁷⁷ keessatti kenne kan wal-fakkatu ta'uu fi jechi ragootni kennan kan wal-simuu ta'uu ilaalutu irraa ture. Haata'umalee manni murtii ragaa A/Alangaa yammuu xinxalu, jecha ragoota A/Alangaa irraa firiwwaan dubbii himata bu'uureesson qofa funaanuun, firiwwan dubbii amanamummaa jecha ragoota madaaluu isa dandeessisan hedduu osoo hin xiinxaalin bira darbee jira. Duraa duuba taateewwan raawwii yakkichaa ilaachisee jechi ragootaa garaagara, jechi ragummaa kennaman tokko tokkos dhama dhabeessa (irrational) ta'ee osoo jiruu manni murtichaa jecha ragootaa akka amanamaa ta'etti fudhatee jira.

Gama biraatiin, manni murtichaa ragaa ittisaa yammuu madaalu jechi ragoota firiwwan dubbii ijoo ragaan mirkaneessuuf qabsiifatan irratti kan wal-fakkaatan ta'us firiwwan dubbii dalgee (collateral fact) wal-hin simne qofa funaanuun ragootni ittisaa wal-ijsaaranii himatamaa bilisa baasuuf yaadaniiti bifaa jedhuun jecha ragaa ittisaa kufaa taasisee jira. Manni murticha jecha ragaa ittisaa 1^{ffaa} fudhachuuuf dhiisuu isaa osoo hin caqasin bira darbee himatamtootni balleessaa qabu jechuun himatamaa 1^{ffaa} wagga 20, himatamaa 2^{ffaa} wagga 18 akkasumas himatamaa 3^{ffaa} wagga 18 adabeera. Himatamtootni murtii kana mormuun ol iyyata Manni Murtii Waliigala Oromiyaatti¹⁷⁸ kan dhiyeffatan ta'us manni murtichaa hanqinaalee madaallii ragaa Mana Murtii Olaanaan raawwataman sirreessuu hin dandeenye. Manni murtichaa walitti bu'iinsi jecha ragoota Abbaa Alangaa amanamummaa ragichaa kan miidhu akka hin taane

¹⁷⁷ Gaaffileen kunnin gaaffi duraa, gaafii qaxxaamuraa, gaafii keessa deebii fi gaafii qulqulleessa mana murtii jechuu dha.

¹⁷⁸ Falmii yakcaa Darajjee Kabaafaa N-3 fi A/Alangaa Naannoo gidduutti Mana Murtii Waliigala Oromiyaa lakk. Galmee 272497 gaafa 25/08/2010 murtaa'e

ibsuun inumaayyuu haala naannoo raawwii yakkichaa ture irraa fi balaafamummaa himatamaa 1^{ffa}a irraan kan ka'e walitti bu'iinsi jecha ragaa uumamuu danda'a jechuun xiinxala dogongoraa taasisee. Dabalataanis, firii dubbii ragoonni Abbaa Alangaa 1^{ffa}a fi 2^{ffa}a n maaliif taatee raawwii yakkichaa namatti utuu hin himiin yeroo dheeraa turuu danda'an kan jedhu qulqulleeffachuu galmee qorannoo keessatti himatamaan 1^{ffa}a tanaan dura nama ajjeesuu isaa akkasumas ragaa sobaan nama himachuun adabsiisuu isaa caqasuuun balaafamummaa himatamaa 1^{ffa}a irraan kan ka'e waan sodaatanif jecha isaanii hin kennis turuu kan ibsan fudhatee jira. Haata'u malee Ragootni A/Alangaa 1^{ffa}a fi 2^{ffa}a n mana murtii ol'aanaatti jecha isaanii yeroo kennan raawwii yakkichaa gaafuma reeffi argame ragaa A/Alangaa 3^{ffa}tti himuu isaanii kan agarsiisu galmee keessatti galma'ee kan jiru ta'uutu hubatama. Manni murtichaa wal simuu dhabuu jecha ragoota A/Alangaa fi taateewwan argan yeroon himuu dhabuu ragoota A/Alangaa bifaa kanaan erga sababeesseen (justify) booda "haalonne uumaman kun himatamtoonni goonkumaa yakkicha hin raawwanne kan nama jechisiisu miti" jechuun qabxii ol iyyataa gama kanaan dhiyaate kufaa godhee jira.

Akka waliigalatti, Manni Murtii Olaanaa jecha ragoota A/Alangaa yammuu madaalu walitti bu'iinsi jechoota raga baatotaa amanamummaa ragichaa akka miidhuu hin dandenyetti fudhachuu himatamtoonni ofirraa haa ittisan yammuu jedhu ragaa ittisaa irratti garuu walitti bu'iinsa firii dubbii dalgee (collateral fact) caqasuuun amanamaa akka hin taane ibsee jira. Kun immoo manni murtii dhimma kana keessatti yammuu ragaa madaalu haala wal-fakkatuun (uniformly) ragaa kan hin madaalle ta'uutu akkasumas loogii irraa bilisa akka hin taane hubachuu ni danda'ama. Manni murtii waliigalaas hanqina madaallii ragaa kana otoo hin sirreessin darbuun dogongora.

Haaluma wal fakkaatuun madaallii ragaa irratti manneen murtii dogoggoroota wal fakkaataa yeroo uumantu mul'ata. Dhimma biraa tokko irratti miidhamtuu dhuunfaan ragaa A/Alangaa taatee dhiyaachuun himatamaan gocha humnaan dirqisanii gudeeduu ishii irratti raawwachuu ibsuun manni murtii ragaa naannoo biroo dhiyaatan waliin xiinxalee himatamaan akka of irraa faccis u ajaja. Himatamaanis miidhamtuu kana ragaa faccisaa taasissee yeroo dhiyeessu miidhamtuun himatamaan humnaan dirqisiisee akka ishee hin gudeedinif gochicha fedhii isheetiin kan raawwatame ta'u waan ibsiteef manni murtichaa himatamaa bilisaan gaggesseera. A/Alangaas murtii kennname komachuudhaan Mana Murtii Olaanaa Go/Jimmaatti ol iyyannoo kan dhiyeesse yeroo ta'u manni murtichaas jechi miidhamtuun ragaa ittisaa yeroo taate kennite sossobbiin kan argame ta'u kan hubatamu ta'u ibsuun Murtii dhaddacha ijibbaataa mana murtii waliigala federaalaatiin kennname¹⁷⁹ caqasuun himatamaa irratti murtii balleessummaa kennun murtii M/Murtii jalaa diigeera.

Dhimma kana irratti miidhamtuun dhuunfaa sadarkaa gara garaatti dhaddachuma tokko irratti dhiyaachuun jecha wal faallessu kennun ishii dhugummaa jecha ragummaa isheen kennite gaaffii keessa kan galchudha. Jecha ragummaa miidhamtuu dhuunfaan kennite lamaan keessaa kamtu dhugaadha kan jedhu beekuun hin danda'amu. Ragooliin A/Alangaa biroon dhiyaatan immoo ragaa naannoo taateewan raawwii yakkichaa booda jiran qofa kan beekan malee qofaa isaaniitti raawwii yakkichaa mirkaneessuu kan danda'an miti. Haalli shakkisiisaan akkanaa utuu jiruu fi shakkii kana irraa fayyadamaa kan ta'u qabu himatamaa ta'ee utuu jiruu manni murtii Olaanaa Go/Jimmaa murtii balleessummaa kennun isaa dogoggora dha.

¹⁷⁹Falmii yakkaa Ashabbir Mallasii fi A/Alangaa Federaala giddutti Mana Murtii Waliigala Federalaa Dhaddacha Ijibbaataa Lak. Galmee 137545, Fulbaana 30, 2010 (Jiildii 22^{faa})

Gama biraatiin, manni murtii waliigala Federaalaa dhaddacha ijibbaataa kenne jechi ragummaa miidhamaa/tuu dhuunfaa akka ragaa ittisaatti kenname sossobbii ykn faayidaan kan argame ta'uun Abbaa Alangaan kan mirkanaa'e yoo ta'e malee fudhatamuu akka qabuu fi miidhamaa/tuun yakki raawwatamuu dhabuu isaa kan mirkaneesse/ssite yoo ta'e himatamaan bilisaan gaggeeffamuu akka qabu ibsee jira.¹⁸⁰ Manni murtii olaanaa godinichaa jechi ragummaa ittisaa miidhamtuu dhuunfaa sossobbii ykn faayidaan argamuu isaa Abbaan Alangaa utuu hin hubachiisin jechi ragummaa ittisaa sossobbiidhan argame bifaa jedhuun ragaa ittisaa kufaa godhee himatamaa adabuun isaa dogoggora dha. Kun immoo jechi ragaa sobaa bu'uura murtii ta'uun namni nagaan akka adabamuuf karaa banuu danda'a.

3.4.2. Ragaa ogummaa

Manneen murtii adeemsa sakatta'a firii dubbii keessatti ragaa ogummaa dhiyaate dhugummaa isaa mirkaneeffachuuuf deemsa addaa kan ragaa namaa irraa fagoo ta'e gargaaramuuun dirqama ta'a. Yaadni ogummaa ragaa ogeessaatiin kennamu yaada beekumsaa fi ogummaa abbootii seeraan ala ta'a jedhamee waan yaadamuuf madaallii ragaa keessatti amanamummaa qabaachuu ragaa ogummaa maloota goса ragaa biroof hojiirra oolfaman hojiirra oolchuun adda baafachuun hin danda'amu. Rakkoo kana furuuf biyyootni biroon dhimma kana seera baasuun akka hogganan yoo ta'u sirna seeraa biyya keenyaa keessatti dhimma ragaa ogummaa irratti seerri qinda'aa ta'e ba'ee hojiirra hin oolfamne. Kun immoo ragaan ogeessaan eenyu akka ta'e, ga'een ragaa ogeessaan maal akka ta'e, ragaan ogeessaan fudhatamummaa qabaachuuf ulaagaa maalii guutuu akka qabu, amanamummaa fi dhugummaa ragaa ogummaa haala kamiin mirkaneeffachuuun akka danda'amu, yaadni ogummaa madaallii ragaa keessatti

¹⁸⁰Falmii yakkaa Ashabbir Mallasii fi A/Alangaa Federaalaa gidduutti Mana Murtii Waliigala Federalaa Dhaddacha Ijibbaataa Lak. Galmee 137545, Fulbaana 30, 2010 (Jiildii 22^{faa})

ulfaatina akkamii akka qabuu fi xiinxalli isaa akkam ta'uu akka qabu irratti qabatama hojii keessatti rakkoo uumaa jiraachuutu mul'ata.

Dhimmoota waliigalaa ragaa ogummaa irratti seerri qinda'aan jiraachu baatus dhimmoota itti gaafatamummaa yakkaa murteessuu, tarkaanfii sirreessaa (corrective measure) daa'imman yakka raawwatan irratti fudhatamuu fi sirreeffammaa dhibee sammuu wal xaxaaf saaxilame irratti manneen murtii ragaa ogummaa dhaga'uu akka qaban tumaalee seera yakkaa 51, 54 fi 116(3) irraa hubachuun ni danda'ama. Tumaalee seera yakkichaa irraa kan hubatamu manneen murtii yaadni ogummaa dhiyaate argannoo saayinsawaa murta'aa (definite scientific finding) bu'uura kan godhate yoo ta'e ragicha fudhachuuuf dirqama akka qaban eera. Tumaaleen kun manneen murtii yaada dhuunfaa ogeessi kennuu fi yaada murtii seeraa (legal inferences) isaan ofiif fudhataniin daanga'uu akka hin qabnee fi ragicha fudhachuuuf dirqama akka hin qabaanne kaa'ee jira. Haata'u malee manneen murtii yaadni ogummaa dhiyaate argannoo saayinsawaa murta'aa kan ta'ee fi kan hin taane ulaagaa (test) maaliitiin adda baasuu akka qaban seerri ifaan taa'e hin jiru. Dabalataanis yeroo hedduu dhimmi ragaan ogummaa irratti dhiyaatu beekumsaa fi ogummaa ogeeyyi seeraatiin ala waan ta'eef ragaan ogummaa dhiyaate argannoo saayinsawaa murta'aa bu'uura kan godhate ta'uu fi ta'uu dhabuu haalli ittiin adda baasuu danda'an maal akka ta'e seerri kallattii agarsiisu hin jiru. Kunis ogeeyyiin madaallii ragaa keessatti ragaan ogummaa bifaa kamiin fudhachuu fi dhiisuu akka qaban irratti hubannoo ga'aan akka hin jiraanne taasissee jira.¹⁸¹

Gama biraatiin, ulfaatina ragaa ogummaatti kennamuu qabu ilaachisee seerri qinda'aa ta'ee fi dhimmoota hundaaf raawwii qabu waan hin jirref manneen murtii haaluma isaanitti fakkaateen ragaa ogeessaa dhiyaate yeroo madaalan ni

¹⁸¹ Afgaaffii Ob. Saamu'eel Gammachu, A/Seeraa MM Aanaa Kuyuu waliin gaafa 28/05/2011; Ob. Girmaa Dachaasaa, A/Seeraa MMO Go/Sh/Kaabaa waliin gaafa 29/05/2011; Ob. Kumalaab AbarraaA/Seeraa MMO Go/Sh/Kaabaa waliin gaafa 29/05/2011 taasifame

mul'ata. Manneen murtii ragaa ogummaa isaaniif dhiyaate akka ragaa dabalataa ykn deggeraa (corroborative) ykn akka ragaa xumuraa (conclusive) ta'etti iti gargaaramuu ni danda'u.¹⁸² Manneen murtii ragaa ogummaa dhiyaate gaafa fudhatanis ta'e kufaa godhan sababa isaa eeruu akka qaban beekuun barbaachisaa dha.

Dhimmoota ragaa ogummaa kana irratti seera ifaa fi qinda'aa ta'e jiraachuu baatus manni murtii waliigala federaalaa dhimmoota ragaa ogummaan wal qabatan garagaraa irratti murtii kennee jira. Murtiiwan yeroo garagaraa dhimmoota gara garaa irratti kennaman kunniin dirqisiisoo waan ta'aniif murtiiwan qaawwa seeraa jiru hanga tokko cufuu danda'anii fi kallattii agarsiisuu danda'ani dha jedhamee yaadama.

Manni murtii waliigala federaalaa dhaddachi ijibbaataa kun dhimma falmii hariiroo hawaasaa tokko irratti¹⁸³ ragaa ogeessaa jechuun namoota beekumsa addaa barnootaan, leejiidhaanii fi muuxannoo dhaan argatan yeroo ta'an manneen murtii namni ragaa ogeessaa jedhamee dhiyaate dhimma irratti yaada kenu irratti beekumsa ga'aa dhimmicha irratti qabaachuu isaa dursee mirkanoeffachuu qaba jechuun ibsee jira. Manni murtichaa ragaan ogeessaa yaada ogummaa wayita kenu loogii irraa bilisa ta'uu akka qabuu¹⁸⁴ fi gareen falmii biraan ragaan ogeessichaa loogii irraa bilisa ta'uu dhabuu isaa irratti falmii gaggeessuuf mirga akka qabaatan akeekaa jira.

¹⁸²Abreha Mesele, The Standards in Admitting Expert Evidence in Ethiopia: Some Practical Discrepancies, Mizan Law Review (2017), p.245 (<http://dx.doi.org/10.4314/mlr.v11i1.9>)

¹⁸³Mani Murtii waliigala federaalaa dhaddach ijibbaataati falmii hariiroo hawaasaa Iyyataa Waldaa itti gaafatamummaan isaa murtaa'e Yessuu fi waamamtoota Dajanee Baqqalaa faa N-2 lak. Galmee 65930 (jiildii 12^{ffaa}, gaafa 14/10/2003 murtaa'e).

¹⁸⁴Manni Murtii Waliigalaa Federaalaa dhaddachi ijibbaataa falmii hariiroo hawaasaa A/Taayitaa daandiawan Bu/M/Finfinne fi Ambaachoo Fiqaadee gidduutti lakk. Galmee 97023 gaafa 28/04/2009 murtaa'e irratti haaluma wal fakkaataa ta'een "ragaan ogeessaa yaada ogummaa loogii irraa bilisa ta'e kennuuf dirqama akka qabuu fi yaadni ogummaa ogeessa loogii irra bilisa hin taaneen kennamu fudhatamuu akka hin qabne ifatti kaa'ee jira."

Dabalataanis, manni murtii kun dhimma ragaan ogeessaa yaada ogummaa isaa irratti kenne irratti namoonni dhimmicha irratti ogummaa hin qabne jecha ykn yaada ragummaa faallaa ta'e kan kennan yoo ta'e manneen murtii sababni gahaa ta'e yoo jiraate malee yaada ogummaa ragaan ogeessaa kenne fudhatamuu akka qabuu fi kufaa gochuu akka hin qabne ifatti ibsee jira. Haata'umalee, manni murtii kun dhimma kana keessatti sababni ga'aan maal akka ta'e waan ibse hin qabu.

Gama biraatiin, manni murtichaa dhimma yakkaa tokko irratti¹⁸⁵ yaadni ogummaa ogeessa tiraafikaa gatii ragummaa kan dhabu yaadni ogummaa kennname deemsa dambii ogummichaa eeggatee kan hin kennamnee fi hin dhiyaanne, yaadni ogummaa dhiyaate jecha ragummaa ragooliin ijaa bakkaa fi yeroo balaan qaqqabu turan waliin wal bira qabamee yeroo ilaalamo qabxiwwan ijoo ta'an irratti kan wal faallessu yoo ta'e qofa ta'uu akka qabu ifa taasisee jira. Dabalataanis manni murtichaa dhimma kana keessattis ragaan ogeessaa loogii irraa bilisa ta'uu akka qabuu fi yaadni ogummaa ogeessaan kennname sababa ga'aa malee jecha ragummaa namootni ogummaa hin qabne kennaniin kufaa ta'uu akka hin qabne ibseera. Ta'us, ragaan ogummaa ogeessa tiraafikaan kennname dambii ogummichaa eeggatee kennamuu fi dhabuu isaa abbootiin seeraa haala kamiin adda baafachuu akka danda'an ykn maloota (tests) akkamii gargaaramuu akka qaban waan agarsiise hin qabu.

Walumaagala, murtiwwan kanneen irraa kan hubannu ragaa ogeessaan nama ogummaa tokko irratti beekumsa addaa barnootaan, leenjiidhaan ykn muuxannoodhaan argate ta'uu, ragaan ogeessaa jecha isaa loogii irraa bilisa ta'ee kennuu akka qabu, jechi ykn yaadni ogummaa inni kenu kan xumuraa akka hin taanee fi garee falmii biraatiin mormiin irratti ka'uu akka danda'u,

¹⁸⁵Mana Murtii Waliigala Federaalaa Dhaddacha Ijibbataa A/Alangaa Naannoo Kibbaa fi Alamaayyoo lakk.galmee 92141, gaafa 30/01/2009 murtaa'e (Jiildii 17^{ffaa}).

manneen murtii jecha ragummaa ragaa ogeessaa sababa ga'aa malee kufaa gochuu akka hin qabnee fi jechi ragummaa ragaa ogeessaatiin kennamu kan namoota ogummaa hin qabneerra fudhatamummaa kan qabaatu ta'uun isaati. Kunis amanmummaa ykn dhugummaa ragaa ogummaa mirkaneessuuf kan gargaaru ta'uun falmisiisaa hin ta'u. Haata'u malee, murtiwwan mana murtii kanaan kennaman dhugummaa ragaa ogummaa adda baafachuuf manneen murtii maloota (test) akkamii hordofuu akka qaban waan akeeke hin qabu.

Haala qabatamaa madaallii ragaa ogummaan wal qabatee manneen murtii naannoo Oromiyaa keessa jiru rakkoo kan qabu ta'uun ni hubatama. Manneen murtii qaamni garee falmiitiin ogeessa jedhamee dhiyaatu ga'umsa barbaachisu qabaachuu isaanii adda utuu hin baasin yaada ogummaa isaanii fudhachuun kan mul'atu ta'uu ogeessota dubbisnee fi galmeewwan sakattaane irraa hubachuun danda'ameera. Manneen murtii dhimma yakka balaa tiraafikaan wal qabatu irratti Abbaan Alangaa ogeessa teknikaa wixinee balaa kaase wayita ragaa taasisee dhiyeessu gahee hojii inni waajjiricha keessatti qabu adda baafachuu malee haala kamiin beekumsa addaa dhimmicha irratti akka argate, haala barnootaa isaa, leenjii fudhachuu fi dhabuu isaa, gosa leenjii fudhatee fi muuxannoo hojii inni dhimma sana irratti qabu adda baafatee yaada ogummaa isaa hin fudhatu. Namni tokko ragaa ogummaa kennuuf ga'aa dha kan jedhamu beekumsa addaa barnoota, leenjii ykn muuxannoodhaan argate qabaachuu akka qabu murtiwwan mana murtii waliigala federaalaa olitti eerre irraa kan hubatamu ta'us ulaagaa kanaan qaamni ragaa ogummaa kennuuf dhiyaate ogeessa moo miti kan jedhu adda baasuuf haalli itti adeemamu hin mul'atu. Abbootiin seeraa afgaaffii qorannoo kanaa irratti hirmaatan akka jedhanitti manni murtii yaada ogummaa gaafa barbaadu waajjira rogummaa qabutti xalayaa barreessee waajjirichi ogeessa jedhee nama itti amane ofif erga.¹⁸⁶

¹⁸⁶ Afgaaffiwwan Ob. Girmaa Dachaasaa A/Seeraa Mana Murtii Olaanaa Go/Sh/Kaabaa waliin gaafa 29/05/2011, Ob. Saamu'eel Gammachuu A/Seeraa MM A/Kuyyuu waliin gaafa

Manni murtii namni sun ogeessa moo miti jedhee ulaagaa ittiin madaalu waan hin qabneef akkanumatti namuma waajjirri erge irraa yaada ogummaa fudhata.¹⁸⁷ Manneen murtiis yaada ogummaa namni ogeessa jedhamee dhiyaate kenne kana fudhachuun bu'uura murtii taasisu. Kun immoo ragaan ogummaa dhugummaa hin qabne bu'uura murtii akka ta'uuf saaxila.

Gama biraan, ragaan ogummaa ragaa ijaa wal biraan qabamee yeroo ilaalamu ulfaatina akkamii qabaata kan jedhu irratti hubannoona wal fakkaataan hin jiru. Manneen murtii sababa ga'aan jiraachuu utuu hin ibsinii, fi yaadni ogummaa kennname ragaa ittisaa himatamaan waan faalleffameef qofa kufaa taasifamee jechi ragaa namaa ragaa ogummaa irra fudhatumummaa akka argatu yeroo taasifamutu jira.¹⁸⁸

Gama biraatiin, haalli kenniinsa ragaa ogummaa irratti hanqinootni hedduun kan mul'atan ta'uun mata duree olii irratti ilaallee turre. Hanqinoota kana keessaa tokko ragaan ogummaa sababa saayinsawaa ta'een kan hin deggaramne ta'uun dha. Ragaa ogummaa keessumaa dhimmoota umurii himatamaa/tuu ykn miidhamaa/tuu dhuunfaa irratti dhiyatuu fi yakkota balaa tiraafikaa irratti wixineen bakka balaa dhiyatuu sababa saayinsawaa ta'een kan hin dhiyaanne ta'uus manneen murtii ragicha guutummaatti fudhachuun bu'uura murtii isaanii yeroo taasisan ni mul'ata. Hima biraan, ragaan ogummaa tilmaama dhuunfaa irratti hundaa'ee kennamu manneen murtiin fudhatamanii galtee murtii manneen murtii ta'aa jiraachuuutu hubatama. Ragaan ogummaa tilmaama dhuunfaa irratti dhiyatuu immoo dhugummaan isaa shakkisiisaa kan ta'uun fi

28/05/2011, Ob. Lammeessaa AbdataaA /Alangaa Go/Sh/Lixaan waliin gaafa 05/06/2011 taasifame

¹⁸⁷ Afgaaffiwwan Ob. Girmaa Dachaasaa A/Seeraa MMO Go/Sh/Kaabaa waliin gaafa 29/05/2011, Ob. Saamu'eel Gammachuu A/Seeraa MM A/Kuyyuu waliin gaafa 28/05/2011 taasifame

¹⁸⁸ Falmiiwwan yakkaa Abbaa Alangaa Vs. Nurhaddin Xahaa, Mana Murtii Olaanaa Godina Shawaa Bahaa, galmee lak 50919 fi A/Alangaa fi himatamaa Maasreshaa Aagenyawu, mana murtii olaanaa Go/Sh/kaabaa Lak Galmee 45866

manneen murtiis ragaan ogummaa kenname dambii fi deemsa ogummichaa bifa hordofeen kennamuu isaa akka adda baafachuu hin dandeenye taasisa. Manneen murtii dhugummaa ragaa ogummaa mirkaneeffachuu maloota isaan dandeessisuu danda'an keessaa tokko immoo ragaan kenname haala dambii ogummaa sanaa kan hordofe ta'uu fi ta'uu dhabuu dha. Ragaan ogummaa dhiyaatu sababa saayinsawaa bu'uura kan godhate kan hin taanee fi tilmaama dhuunfaa bu'uura kan godhate yoo ta'e immoo dhugummaa isaa haala kanaan adda baafachuun kan danda'amu miti.

Hanqinni kenniinsa ragaa ogummaan wal qabatee jiru inni biraan ogeessotni ragaa ogummaa kennan gahee isaanii adda baasanii beekuu dhabuu dha. Yakkoota balaa tiraafikaan wal qabatan keessatti ogeessi wixinee bakka balaa kaasu konkolaachisaan balaa qaqqabsiise dirqama inni qabuu fi dirqama inni cabsee argame bifa saayinsawaa ta'een ibsuu irra darbuun yaada murtii jechuun konkolaachisaan balleessaa qabaachuu isaa fi dagannoo kan qabu ta'uu isaa ibsuun ni jira. Murtii dhuma konkolaachisaas dagannoo qaba moo hin qabu kan jedhu murtii kenuun gahee manneen murtii yeroo ta'u ogeessonni kunniin gahee mana murtii keessa seenuun yaada murtii kan kennan yeroo ta'u manneen murtiis yaada ogeessaa kanneeniin dhiibbaa keessa galuun ragicha sirnaan utuu hin madaalin murtii akka kennan hirmaattota qorannoo kanaa irraa hubachuu dandeenyeerra.

Dabalataanis, madaallii ragaa ogummaa wal faalleessee dhiyaatu ilaachisee manneen murtii sababa ga'aa malee ragaa ogummaa gama tokkoon dhiyaate kufaa gochuun raga ogummaa garee biraan dhiyaatu amananii fudhachuu murtii kenuun jira. Hanqinooni akkanaa dhimmoota falmii yakkaa ilaalamani keessatti ifatti kan mul'ate dha.¹⁸⁹

¹⁸⁹ Falmii yakkaa Abbaa Alangaafi Dammee Bultii faa, Mana Murtii Olaanaa Godina Shawaa Bahaa, Lak. Gal. 50082.

Walumaagalatti, muuxannoон biyyoota biroo fi murtiiwan mana murtii waliigala federaalaa dhaddacha ijibbaataan kenname irraa kan hubatamu dhugummaa fi amanamummaa (credibility and validity) ragaa ogummaa mirkanoeffachuuf malootni garagaraa hojiirra ooluu danda'u. Kanneen keessa tokko ragaan ogeessaa gaaffii qaxxaamuraa akka gaafatamu taasisuu dha. Gaaffii qaxxaamuraa ragaa ogeessaa gaafachuun dhugummaa ragaa ogummaa adda baasuuf kan gargaaru ta'us malli kun ogeessota qaamaan mana murtiitti dhiyaatanii yaada ogummaa kennan qofa irratti hojiirra ooluu danda'a. Muuxannoон manneen murtii keenya akka agarsiisanitti immoo ragaan ogummaa hedduun barreeffamaan mana murtiif kan dhiyaatan malee ragaan ogeessaa qaamaan dhiyaachuun hangas mara kan mul'atu miti.

Gama biraan, seerri deemsa falmii yakkaa keewwatni 136(2) fi 142(2) ragaan ogeessaa sirna kakuu erga raawwateen booda jecha ragummaa isaa akka kennuu qabu ifatti teechisee jira. Haata'u malee, ragaa ogeessaa mana murtiitti hin dhiyaanne ilaalcissee sirni kakuu fi gaaffiin qaxxaamuraa hojiirra ooluu hin danda'u. Dabalataanis maloonni dhugummaa ragaa ogummaa hojiirra oolfaman jecha ragaan ogeessaa tokko kenne ragaa ogeessaa biraa waamuun qulqulleeffachu, boordii dhaabbilee dhimmichi ilaaluu irraa qulqulleeffachu ykn waldaalee ogummaa ogeessichi miseensi itti ta'e irraa yaada fuudhuun qulqulleeffachuun keessatti argama. Manneen murtii keenya garuu maloota kanneen sirnaan hojiirra oolchuun dhugummaa ragaa ogummaa mirkanoeffachuun ragaa dhiyaate madaaluu irratti hanqina bal'aa qabu.

3.4.3. Ragaa sanadaa

Madaallii ragaa sanadaan walqabatee ogeeyyiin seeraa ragaa sanadaa yeroo mara dhugaa kan ta'eef amanamummaan isaa kan hin shakkisiisne taasisanii fudhachu ni jira. Haata'u malee sanadoonni kun alatti qophaa'anii kan dhiyaatan waan ta'eef waantonni amanamummaa isaanii gaaffii keessa galchan jiraachuun malu. Falmiiwan Hariiroo hawaasaa irratti ragaan qaamolee

mootummaan kennaman yeroo hedduu wal falleessa.¹⁹⁰ Waajjiruma tokkotu dhimma tokko irratti ragaa garagaraa wal faallessu kenna.¹⁹¹ Ragaan barreffamaa (ibsa) dhimma falmii lafaa irratti dhiyaatu yeroo baay'ee kan wal falleessu ta'ee mul'ata.¹⁹² Manneen murtii ragaa barreffamaa kennamu kana qofaa isaa akka ragaa xumuraa (conclusive) ta'etti fudhatan ni jiru.¹⁹³ Keessumaa falmii qabiyee lafaa irratti manneen murtii dhimmoota tokko tokko yeroo qulqulleeffachuuuf barbaadan waajjiroolee biroo ibsa kan gaafatan yeroo ta'u ibsa waajjiroonni ergan guutummaatti bu'uura godhatanii murtii kennuun jira.¹⁹⁴ Kanaaf, ragaalee sobaa qaamolee kanaa irraa bahu ittisuuf ykn hambisuuf tooftaalee fi maloota adda addaa fayyadamuun dhugummaa, sirrummaa, fi amanamummaa ragaalee kanaa sakatta'uun mirkaneessuun gaarii ta'us gama kanaan tooftaalee jiran hojiirra oolchuu irratti manneen murtii keessatti hanqinni kan mul'atu ta'uun ilaalameera.

3.5. Itti-gaafatamummaa Qaamolee Ragaa Sobaa

Kennanii Mirkaneessuu

Maloota ragaa amanamummaa hin qabne ittiin to'atan keessaa tokkoo itti-gaafatamummaa qaamolee ragaa sobaa kennanii mirkaneessaa deemuu dha. Qaamoleen haqaa daangaa aangoo isaanii fi gita itti-gaafatamummaa isaanii keessatti amanamummaa ragaa mirkaneessuun kenniinsa tajaajila isaanii haqa-

¹⁹⁰ Afgaaffii Ob. Muhaabbaa Abarraa, A/Seeraa MM Magaalaa Buraayyuu waliin gaafa 13/05/2011 taasifame

¹⁹¹ Akkuma 192^{ffa}.

¹⁹² Afgaaffiwwan Ob. Mohaabbaa Abarraa A/Seeraa MM Magaalaa Buraayyuu waliin gaafa 13/05/2011; Ob. Saamu'eel Gammachu A/Seeraa MM A/Kuyyuu waliin gaafa 28/05/2011; Ob. Beehayiluu Kifluu A/Seeraa A/Dandii waliin gaafa 06/06/2100 taasifame

¹⁹³ Afgaaffiwwan Ob. Behaayiluu Kiflee A/Seeraa A/Dandii waliin gaafa 06/06/2100; Ob. Saamu'eel Gammachu A/Seeraa MM A/Kuyyuu waliin gaafa 28/05/2011 taasifame. Akkasumas, falmiwwan hariiroo hawaasaa Warquu Daadhiifi Magarsaa Hordofaa fi Qanno Booranaa, Mana Murtii Aanaa Ada'aa, Galmee Lak 59310; Huseen Muhammad (N 4) fi Faaxumaa Huseen (N-3), Mana Murtii Godina Jimmaa, galmee lak 40072 (19-03-2010) akka fakkeenyatti ibsuun ni danda'ama.

¹⁹⁴ Afgaaffiwwan Saamu'eel Gammachu A/Seeraa MM A/Kuyyuu waliin gaafa 28/05/2011; Ob. Behaayiluu Kifluu A/Seeraa A/Dandii waliin gaafa 06/06/2100 taasifame

qabeessa gochuuf, namoota ragaa sobaa kennan seeratti dhiyeessanii akka gaafataman gochuun namoota ragaa sobaa kennanii fi fakkaattii isaanii gocha yakkaa kanarrraa daangessuun barbaachisaa dha. Hima biraatiin, hojii qorannoo yakkaa yookaan adeemsa hojii himannaayakkaa ilaachisee namni odeeaffannoo dogoggoraa ogeessota hojiwwan kanneen hojjetaniif kenne yookaan namni ragaa ta'ee mana murtiitti yookaan qaama aangoo abbaaseerummaa qabutti ta'e jedhee jecha ragummaa sobaa kenne adabuun tarkaanfii haqummaa hojii kenniinsa haqaa mirkaneessanii fi ragaa amanamummaa hin qabne to'atan keessaa isa tokko dha. Namootni jecha ragummaa sobaa kennan bu'uura tumaa seeraatii fi haala miidhaa ragaan sobaa geessaa jiruun itti gaafatamaa hin jiran.¹⁹⁵ Qaamoleen haqaa, gama kanaan, namoota jecha ragummaa isaanii ykn sanada sobaa qaama haqaatti dhiyeessan itti-gaafatamaa gochaa deemuu irratti hanqina bal'aa qabu.¹⁹⁶

Namoota ragaa sobaa kennan irratti poolisiin qorannoo gaggeessuu irratti, abbaan alangaa himata dhiyeessuu fi manni murtii murtii kennuu irratti hanqina bal'aa waan qabaniif tarkaanfin fudhatamu laafaadha.¹⁹⁷ Ragaa sobaa hambisuuf qindoominaan hojjechuu ilaachisee qaamoleen haqaa gahee bahuurratti jechuunis namoota mana murtiitti, waajjira haqaas ta'e waajjira poolisiitti jecha ragummaa sobaa kennan faana bu'anii akka adabaman hin taasisan. Hojii kana yaadaa fi qindoomina tokko qabaatanis ittisuu irratti hojii isaan hojjetan laafaa dha.¹⁹⁸

¹⁹⁵Af-gaafii Ob. Muhaabbaa Abarraa A/Seeraa MM Magaalaa Buraayyu waliin gaafa 13/05/2011 taasifame , Ob. Behaayiluu Kifluu A/Seeraa M/Mu/A/Dandii waliin gaafa 06/06/2011 taasifame; Sinishaw Magarsaa Abukaatoo seeraa waliin gaafa guyyaa 29/05/11

¹⁹⁶Afgaaffiwwan Ob. Xibabuu Gurmuu A/seeraa Mana murtii Magaalaa Burayyu waliin gaafa 13/05/2011; Saj/Olaanaa Abbabaa Gachaa, I/ G Divizyinii Taaktikii Wa/Pol/Mag / Burraayyu waliin gaafa 13/05/2011 taasifame

¹⁹⁷Af-gaafii Ob. Zarihun Dhugumaa, Hogganaa Waajjira Abbaa Alangaa Godian Arsii Lixaa waliin gaafa 13/5/2011 ta'e.

¹⁹⁸Afgaaffii Ob. Xibabuu Gurmuu A/seeraa Mana murtii Magaalaa Burayyu waliin gaafa 13/05/2011 taasifame.

Qaamoleen haqaa, keessumattu poolisii fi Abbaan alangaa yakki ragaa sobaa yommuu raawwatamuu qoratanii adabsiisuu dhiisuun eeruu eeguun ni jira.¹⁹⁹ Keessumattuu, nama raawwii yakkaa ilaachisee odeeffannoo dogoggoraa waajjira poolisiitti akkasumas waajjira haqaatti kennuun adeemsaa qorannoo yakkaa yookaan himanna dogoggorsiisan, fi mana murtii jecha ragummaa sobaa kennaan qaamaan osoo hubatani seeratti dhiyeessanii adabsiisurra qaamni biraan hanga eeruu dhiyeessuufitti eeguun bal'inaan akka calaqqisu namootni af-gaaffii deebisan ni ibsu.²⁰⁰ Gabaabaatti, poolisii fi abbaan alangaa kaka'umsaa fi kutannoo dhabuu,²⁰¹ ragaa diinoomee ilaachisee itti gaafatamummaa mirkaneessuuf hanqinni seeraa jiraachuu,²⁰² qaamoleen haqaa akkuma waliigalaatti dhimma kanatti xiyyeefannoo ga'aa kennuu dhabuun irraa ni mul'ata²⁰³

Manni murtii nama ragaa sobaa kenna jedhamee murtii balleessummaa irratti darbe adabbii gahaa murteessuun adabuu irratti laafinni ni mul'ata. Yakki ragaa sobaa raawwatamuusaa manni murtii dhaddacha irratti yoo mirkaneeffateyyuu battalatti adabuu yookaan himannaan irratti akka dhiyaatu gochurra yeroo baay'ee akekkachiisaan bira darbuu filata. Ragaan sobaa dhaddacha irratti dhiyaachaa kan jiru ta'uu manni murtii ragaa dhagahuun osoo hin barbaachisin carraa dhagahuu qabaachuu qaba. Nama ragaa sobaa kennaa jiru sana battalatti adabuu ilaachisee manni murtii aangoo kan qabu ta'uu yookaan ta'uu dhabuu ilaachisee yaadootni wal-faallaa ta'an ni dhagahamu.

²⁰⁰ Afgaaffii Miidhaksoo Arguu Abbaa Alangaa Go/Sh/ Kaabaa waliin gaafa 29/05/2011 ta'e.

²⁰¹ Afgaaffiwwan Ob. Behaayiluu Kifluu A/seeraa Mana Murtii Aanaa Dandii waliin gaafa 06/06/11; Ob. Kumalaa Abarraa, A/Seeraa Mana Murtii Aanaa Dandii waliin gaafa 05/06/2011 taasifame

²⁰² Afgaaffii Ob. Saamu'eel Gammachuu A/Seeraa MM A/Kuyyuu waliin gaafa 28/05/2011 gaggeeffame.

²⁰³ Afgaaffiwwan Ob. Girmaa Taaddasaa A/Dhimmaa M/Mu/A/Kuyyuu waliin gaafa 28/05/2011, Saj Balaachoo Nasiibuu qorataa yakkaa A/T/Kuttaayee waliin gaafa 05/06/2011 taasifame,

Yaadni jalqabaa, bu'uura tumaa s/d/f/y kwt 108(1)tti manni murtii himannaan osoo hin dhiyaatiin, yakkoota dambii darbuu (petty offence) yoo ta'e malee, nama adabuun akka hin danda'amne tuma. Nama yakka raawwate battalatti adabuun mirga ofirraa ittisuu isaatii kan miidhu waanta'eef, manni murtii namni tokko yakka jecha ragummaa sobaa kennaa jiraachuu isaa osoo beekee illee battalatti adabuun sirrii miti ejjennoo jedhu qabatu. Bu'uraa yaada kanaatiin, manni murtii yakki ragaa sobaa kennuu raawwatamuu hubannoон eeruu poolisii ykn waajjiira abbaa alangaatti kennuu qaba jechuudha. Dabalataanis yakkoota akkanaa battalatti adabbii kennuun mirga heeraan namaaf kenname mirga ofirraa ittisuu fi abukaattoodhaan bakka bu'amuun falmii gaggeessuu kan sarbu waan ta'eef fudhatama kan qabaatu miti jedhu.

Yaadni lammaffaan, manni murtii, aangoo adabuu qaba kan jedhu yoo ta'u bu'uura yaada kanaatti, s/d/f/h/h kwt 481(1)tti dhaddacha dhimmoota hariirro hawaasaa irratti manni murtii nama tumaa seera adabbii yakkaa kwt 446-447 irra darbuun yakka ragaa sobaa kennuu raawwate manni murtii dhaddacha irratti yeroosuma adabuu akka danda'u aangessee jira. Bu'uura tumaa seera kanaatiin manni murtii raawwachuu yakkaa dhaaddacha irratti kan mirkaneeffate taanaan haqa mirkaneessuuf jecha yakkicha adabuun dhimma qabatee jiruufis ta'e dhugummaa kenniinsa tajaajila haqaa akka waliigalaatti mirkaneessaa deemuu keessatti gahee olaanaa ni taphata jedhu. Tumaa seeraa kanarraa akka hubachuun danda'amu manni murtii tarkaanfii battalumatti fudhachuu kan danda'uu badiiwan adeemsa falmii hariiroo hawaasa keessatti akka ta'ee dha.

Yaadota armaan olii keessaa kan irra caalaa amansiisaa ta'e yaada isa jalqabaa ti. Sababni isaas heerri biyyattii bara 1987 ba'e keewwata 20 jalatti namni himatame mirgoota akka ragaa isa irratti dhiyaate dursee beekuu, gaaffii gaafachuu, ragaa ittiin ofirraa ittisu dhiyeffachuu, mirga abukaattoon bakka bu'uu fi k.k.f kan qabu yeroo ta'u yakkoota bifaa kanaa dhaddacha irratti

battalatti murtii kenuun mirgoota kana kan sarbu dha. Seeri deemsa hariiroo hawaasaa waggoota dheeraa dura kan ba'ee fi heera biyyattii dursee kana ba'e waan ta'eef raawwiin isaas bifa heera biyyattii fi mirga namoomaa hin tuqneen ta'uu qaba. Dabalataniis amalaan yakki ragaa sobaa ofii isaa qorannoo dabalataa kan barbaadu ta'uu kan danda'uu fi yakka dhaddacha jeequu waliin wal bir aqabamee ilaalamuu hin danda'u. Gama biraatiinis, yakkoota akkanaa dhaddacha hariiroo hawaasaa irratti gaafa ta'u battalatti adabaa dhaddacha yakkaa wayita ta'u immoo adeemsa idileetiin akka ilaalamu taasisuun mirga namni seera duratti bifa wal-fakkaataa ta'een ilaalamuuf qabu kan sarbu ta'a.

Gocha yakka ragaa sobaa adabuuf, bu'uura seera yakkaa kwt 453tti jechi ragummaa sobaa kan mana murtiitti (judicial) yookaan qaama aangoo abbaa seerummaa (quasi judicial) qabutti kennname ta'uu qaba. Jechi ragaa raga-baatuu waajjira poolisiitti kennname kan mana murtiitti kennnamee wajjiin kan waldhawu (walfaallessu) yoo ta'elée hanga jechi ragummaa mana murtiitti kennname soba ta'uunsa hin mirkanoofnetti gargar ta'usaa qofaan adabuun hin danda'amu. Namoota jecha ragummaa isaanii adeemsa hojii qorannoo yakkaa irratti kennan, dhaddacha irratti dhiyaatanii jecha ragummaa isaanii jijiran qofaaf itti gaafatamaa gochuu hin danda'amu jechuu dha. Sababni isaas, seerri ifa ta'e raga-baatuu jecha jijiiruu qofaan (hostile witness) itti gaafatamaa godhu hin jiru. Murtii Manni Murtii Waliigala Federaalaa Dhaddacha Ijibbaataa kennees raga-baatuu tokko jecha ragummaa waajjira poolisiitti kenne mana murtiitti waan jijiire qofaaf seera yakkaa kwt 453 jalatti kan adabamu akka hin taane murtii kallattii agarsiisu kennee jira.²⁰⁴ Falmii yakkaa A/Alangaa Aanaa Qarsaa

²⁰⁴Falmii yakkaa A/Alangaa N/Amaaraa fi Faantee Nigusfaa (N-3) gidduu, Mana Murtii Waliigala Federaalaa Dhaddacha Ijibbaataa lakk.Galmee 153228, gaafa 24/01/2011 murtaa'e; Afgaaffii Ob. Galaanaa Tolasa, A/A Mana Hojii A/Alangaa Go/A/N/F waliin gaafa 16/05/2011 taasiafame

fi himatamaa Kaamiil Iisaa²⁰⁵ jidduu ture irrattis Manni Murtii Aanichaa ejennoo wal-fakkaataa qabachuun himatamaa bilisaan gaggeessee jira. Dhimma kana irraa kan hubatamu ittigaafatamummaa namoota ragaa dhugummaa hin qabne qaamolee haqaa biratti kennanii ilaachisee qaawwaan akka jiruuf qabatama hojji keessatti rakkoo uumaa kan jiru ta'uu dha.

Yakkoonni ragaa sobaa waliin wal qabatan raawwatamanii wayita argamanitti araarama kamiyyuu malee haaluma dhimmichaa irratti hundaa'uun tarkaanfiiwan adabbii yakkaa, hariiroo hawaasaa fi bulchiinsaa namoota ykn qaamota biroos ta'e namoota yakka kana raawwatan barsiisuu danda'u fudhachuun barbaachisaadha. Sirni itti gaafatamummaa diriiree jiru sirnaan hojiirra kan hin oolfamne yoo ta'e rakkoo ragaa sobaan wal qabatee jiruu fi miidhaa inni qaqqabsiisaa jiru maqsuun gonkumaa kan danda'amu miti. Ragaan sanadaa ykn ragaan ogummaa kan kenname qaama mootummaa bira yoo ta'e tarkaanfin bulchiinsaa namoota badii sana dalagan irratti akka fudhatamuu taasisuu fi raawwii isaa irratti hordoffii taasisuun barbaachisaa dha. Haata'umalee hojiin gama kanaan hojjetamaa jiru laafina bal'aa kan qabu ta'uu hirmaattota qorannoo irraa addaa baasuu dandeenyeerra.

4. Yaadota Gudunfaa fi Furmaataa

4.1. Yaadota Gudunfaa

Tajaajila sirna haqaa naannoo Oromiyaa keessatti rakkoon dhugummaa dhabuu ragaa bal'inaan callaqqisa. Rakkoon kun gosoota ragaa afaanii, ogummaa fi sanadaa irratti mul'ata. Yeroo ammaa kana ragaaleen dhugummaa hin qabne kun hojji qaamolee haqaa keessatti galtee ta'uun bu'uura murtii taasifamaa jiru.

Dhugummaa dhabuun ragaalee kun tajaajila sirna haqaa naannoo Oromiyaa keessatti miidhaa inni mirga namoota dhuunfaa fi dantaa hawaasa naannichaa

²⁰⁵Falmiin yakkaa A/Alangaa Go/H/Bahaa fi himatamaa Kamiil Iisaa, M/Murtii Olaanaa G/H/Bahaa lak. Galmee 39989, gaafa 07/10/2009 murtaa'e.

irratti qaqqabsiisaa jiru bal'aa dha. Bilisummaa fi dantaan qabeenya namoota dhuunfaa murtii ragaa dhugummaa hin qabne bu'uura godhatee kennamaa jiruun miidhamaa jira.

Ragaan dhugummaa hin qabne qaamolee haqaatti akka dhiyaatu sababootnitaasisanRagootiin faayidaa ofiif ykn nama biroof argamsiisuuf jecha qaamolee haqaa biratti dhiyaachuun ragaa dhugummaa hin qabne kennu. Gareen falmitootaa ragaa sobaa qaamolee haqaatti akka dhiyaatu taasisuun faayidaa hin malle argachaa ykn argamsiisaa jiru. Gama biraatiin namoonni jibba wal irraa qaban haaloo walitti ba'uun nama biroo miidhuuf ragaa dhugummaa hin qabne qindeessuun nama qulqullu yakka hin raawwanne akka adabamu taasisu. Sababoota kanneeniif ka'umsa guddaan ammoo aadaa fi duudhaan uummatichaa sharafamaa dhufuu dha.

Sababni biroon, sodaachuu raga-baatotaati. Gareen falmitootaa tokko tokkoo dhuunfaanis ta'e akka gosaatti raga-baatuun waan arge qaama haqaatti dhiyatee akka ragaa hin baane ni akekkachiisu. Akekkachiisa kennamerra darbanii jecha ragummaa isaanii yoo kennan haalli qabeenya isaanii itti mancaasan, maatii isaanii fi isaan irraan miidhaa qaqqabsiisaa jiran godinoota tokko tokko keessatti mul'achaa jira. Kanaan wal-qabatee sirni eegumsaa eeruu kennitootaa fi raga- baatootaa akka naannoo keenyatti diriifame jiraachuu dhabuurraan kan ka'e rakkoo kana salphisuun hin danda'amne.

Hawaasni Oromoo dhimma yakkaa ciccimoos ta'e sasalphoo araaraan xumura; nama miidhe ni adaba, akkasumas nama miidhameef beenyaan akka kennamu taasisa. Sirni seera yakkaa keenya garuu yakkoota himanna dhuunfaan dhiyaatan qofa araaraan akka xumuraman hayyama.Namni yakka ciccimoo irratti erga araaramee booda himatamaa itti-gaafatamummaa seeraa jalaa baasuuf ragaa dhugummaa hin qabne kenna. Itti-dabalees, gocha yakkaa ragaa

gahaa irratti hin qabne adabsiisuuf jecha hawaasni ragaa sobaa qindeessuun qaamolee haqaatti haalli itti dhiyeessan ni jira.

Inni bira, hanqinoota qabiinsaa fi kenniinsa ragaa irratti jirudha. Qabiinsi ragaa qabiyyee lafaa jiru ammayyaa'uu dhabuu irraan kan ka'e qabiyyee lafaa tokko irratti namoota garagaraaf ragaa abbaa qabiyyummaa kennuun, qabiyyee lafaa nama biroo irratti ragaa abba qabiyyummaa nama kan biraaf kennuun, qaamni lafa bulchu ragaa ykn ibsa akka kennu yammuu gaafatamu namoota dubbisuun yaada dhuunfaa kennuun waan mul'atuuf ragaa dhugummaa hin qabne akka babala'atuuf saaxilaa jira. Gama biraan qaamoleen tokko tokko dhimma ofii aangoo irratti hin qabne irratti ragaa kan kennan yeroo ta'u kanneen biroon immoo ragaa ogummaan hin deggaramne kan kennan ta'uu hubachuun danda'ameera.

Kenniinsa ragaa ogummaa ilaachisee hanqinootni mul'atan hedduu dha. Dhimmoota akka yakkoota balaa tiraafikaa fi tilmaama qabeenyaa irratti namoonni ogeeyyiidha jedhamanii ragaa ogummaa akka kennan taasifaman gita hojii dhimmicha ilaallatu irratti qcaramanii waan jiraniif qofa ragaa ogummaa kan kennanidha malee dandeettii fi beekumsi isaan dhimmicha irratti qaban adda baafamee miti. Ragaan ogummaa dhimmoota qorannoo umurii himatamaa/tuu ykn miidhamaa/tuu fi wixinee pilaanii yakkoota balaa tiraafikaa irratti dhiyaatan irratti sababa saayinsawaa caqasuun yaada ogummaa ofii dhiyeessuu irra yaada tilmaama dhuunfaa irratti hundaa'e kennuun bal'inaan mul'ata. Kun immoo ogeeyyiin ogummaa isaaniitti garmalee akka fayyadaman gochuun dhugummaa ragaa kennamu sobaaf kan saaxiluu fi itti gaafatamummaa isaanii illee akka hin mirkanoofne kan taasisu dha.

Gama biraan, ogeeyyiin ragaa ogummaa gahee isaanii sirnaan beekuu dhabuu fi ogeeyyiin qaamolee haqaas ragooliin ogeessaa yaada xumuraa/gudunfaa (legal inference) kan barbaadan ta'uu irraan kan ka'e yaada ogummaa sababoota

saayinsawaa ta'een deggaranii dhiyeessuu irra murtii dhumaaf kennuun dhimmoota wixinnee pilaanii balaa tiraafikaa irratti bal'inaan kan mul'atu dha. Ogeessonni ragaa ogummaa dhugummaa hin qabne ta'e jedhanii kennanis ni jiru.

Qorannoo reefaa irratti ogeeyyiin fayyaa si'a tokko tokko miidhaawwan qaamaa du'aa irratti qaqqabee ture guutummaatti dagachuun ykn dhiisuun dhukkuboota uumamaa du'aan dura qabu irratti xiyyeffachuu sababa du'aa taasisuun ragaa kenu. Rakkoon biraan kenniinsa ragaa ogummaan wal qabatee mul'atu dhimma hiikkoo afaniiti. Ragaan mana yaalaa hospitaalota hedduu irraa kennaman afaan Ingiliziin kan kennaman yeroo ta'u turjumaanaan wayita hiikamutti haala qabiyyee ragaa sanaa jijiiruun afaan hiikuun dhiyeessuun ni mul'ata. Rakkoowwan kenniinsa ragaa ogummaa bal'inaan mul'atu kanaaf maddi biraan seerri biyya keenyaa haala kenniinsa ragaa ogummaan wal qabatee jiru haguuggii kan hin kenninee fi qajeelfamni (guideline) ogeeyyiin ragaa ogummaa yeroo kennan istaadaardiiwwan hordofuu qaban qajeelchu dhabamuu dha.

Adeemsa kenniinsa tajaajila haqaa keessatti qorannoon yakkaa hojii ijoo raawwatamuu yakkaa fi dhugummaa ragaa qulqulleessuun murtiin haqa-qabeessi akka kennamu keessatti taasifamu dha. Haata'u malee, qorannoon yakkaa naannoo keenyatti gaggeeffamu bal'inaan qoranno yakkaa taaktikaa yoo ta'u odeeffannoo miidhamaa, shakkamaa fi raga-baatota irraa walitti qabuu fi isuma xiinxalanii murtii kennuu irratti kan xiyyeffatu dha. Toofaan kun ragaalee akaakuu biroo walitti qabuu fi xiinxalee dhugaa baasuu kan danda'u waan hin taaneef adeemsi hojii qoranno yakkaa hanqina kan qabudha. Tooftaa qoranno yakkaa taaktikaa gahumsa qabu gaggeessufillee kutaa tasgabbii qabuu fi mijataa ta'e dhabamuun, baay'inaa fi gahumsa ogeessotaa hojichi barbaadu muraasa ta'uun hojiin qoranno yakkaa gaggeeffamaa jiru hanqina yerootti

gaggeeffamuu dhabuu fi odeeaffannoo bal'aa irratti hundaa'uu dhabuu waan hordofsiisuu ragaalee amanamummaa hin qabne to'achuu irratti qaawwa hojii kan qaqqabsiisaa jiru dha.

Himannaayakkaatiin wal-qabatee gama A/Alangaatiin dhugummaa ragaa dhiyaatee osoo hin qulqulleesin akkasumas ragaan gahaan osoo hin jiraatin himata dhiyeessuu, ijoo ragaa sirnaan osoo hin qabsiisin falmii gaggeessuu, ragaa A/Alangaas ta'ee ragaa ittisaa gaaffilee barbaachisoo ta'an gaafachuun dhugaa baasuu irratti hanqinaaleen ni mul'atu. Abbootiin Alangaa keessattuu ragaalee ittisaa dhagahuu irratti qophii barbaachisaa ta'e godhanii waan hin dhiyaanneef gaaffilee sirnaan duguuganii gaafachuun dhabuun ni jira.

Manneen murtii keessatti ragaalee dhiyaatan akkaataa qajeelfama dhaddachaatiin akkasumas haala qabatamaa aadaa fi amantii naannichaa bu'uura godhatanii kaksiisuu dhabuu,akkataa seera deemsa falmii yakkaa irra taa'een ijoon ragaa A/Alangaa ifatti akka qabsiifamu gochuu dhabuu, yeroo tokko tokko immoo ijoon osoo hin qabamin falmii gaggeessuu, ijoo hin barbaachifne qabachuu, ijoo qabame dhiisuun ijoo biraaxiinxaluu fi dhimmoota yeroo gahaa fudhatanii dhugaa baasuuf yaaluu irratti rakkoleen ni jiru. Dhagaha ragaa keessatti A/seeraa gaaffileen akka qulqulleessatti gaafatan akkaataa seera deemsa falmii yakkaa irra taa'etti kan dhugaa baasuuf gargaaru osoo hin taane haala gartummaa qabun akka dhiyaatuu fi akkasumas bitaaf mirgi gaaffilee barbaachisaa ta'e akka hin gaafanne daangeessuun ni jira.

Murtii haqa qabeessa ta'ee fi dhugaa bu'uura godhate kennuu keessatti madaalliiin ragaahojii xiyyeffannoo barbaaduu fi bu'uura ta'e dha. Dhugummaa ragaa ijoo falmii mirkaneessuuf dhiyaate adda baasuun murtii kennuuf ragaa dhiyaate sirnaan madaaluun hojii murteessaa ta'e dha. Madaalliiin ragaahulqullina hin qabne ykn dadhabaa ta'e murtiin kennamu ragaahdhugummaa hin qabne bu'uura kan godhate akka ta'u taasisa. Hojimaatni manneen murtii gama

madaallii ragaatiin jiru maal akka fakkaatu beekuuf Sakatta'a taasifameen, hanqinoonti adda addaa kan mul'atanidha. Hanqinooni kunniinis madaallii ragaa bifa wal fakkaataa ta'een taasifamuu dhabuu, loogii irraa bilisa ta'uu dhabuu, tooftaawwan beekamoo amanamummaa ragaa adda baasuuf gargaaran sirnaan hojiirra oolchuu dhabuu dha.

Gama biraatiin, amala addaa ragaan ogummaa qabu irraan kan ka'e dhimmoota rogummaa, fudhatamummaa fi amanamummaa isaan wal qabatan irratti seerri ogeeyyi haqaa qajeelchuu danda'an barbaachisoo dha. Haata'u malee biyya keenyatti dhimmoota kan irratti seerri qinda'aa ta'ee fi ogeeyyi qaamolee haqaa qajeelchuu danda'an jiraachuu dhabuun madaallii ragaa ogummaa taasifamu irratti hanqinooni gargaraa akka uumaman taasisaa jira. Manneen murtii keenya maloota dhugummaa fi sirrummaa (credibility and validity) ragaan ogummaa mirkaneeffachuuf mana murtii waliigala federaalaa dhaddacha ijibbaataan fi muuxannoon biyyoota biroo keessatti barataman sirnaan hojiirra oolchuun dhugummaa ragaan ogummaa mirkaneeffachuun ragaan dhiyaate madaaluu irratti hanqina bal'aatu jira.

Namoota ragaan sobaa kennan itti gaafatamoo taasisuu irratti qaamoleen haqaa qindoominaanis ta'e dhuunfaan gahee hojii isaan irraa eegamu bahuu irratti hanqina bal'aa qabu. Waajirri poolisii fi waajirri abbaa alangaatti namoota eeruu sobaa yookaan odeeffannoo sobaa akka raga-baatutii dhiyaatanii kennan akkasumas mana murtiitti dhiyaatanii jecha ragummaa isaanii gara sobaatti jijiiranii kennan seeratti dhiyeessanii adabsiisuuf tattaaffii qaamoleen kanneen taasisan laafaa dha. Gochi yakka ragaan sobaa raawwachuu isaa osoo organii yakka sana gara seeraatti dhiyeessanii adabuurra qaamni biraan haga eeruu dhiyeessutti eeguun irraa ni mul'ata. Itti dabalees, manni murtii namootni yakka ragaan sobaa raawwachaa jiraachuu isaanii yoo hubate yeroo baay'ee akeekkachiisaan biraan darba, adabbii kennamu ni daangessa, yakkichi akka

qoratamuuf ajaja kennuurraa of daangessuun callisaan biraan darbuu filata. Murtiin yakkoota ragaa sobaa irratti kennamu gadaanaa ta'uun gochaan kun akka babal'atuuf gahee mataa isaa qaba. Gama ragaa sanadaatiinis namoota ragaa sanadaa dhugaa hin taane qopheessan, kennanii fi itti gargaaraman seeratti dhiyaatanii yakkaan akka itti gaafataman taasisuu keessatti sochiin jiru laafaa dha.

Walumaagala, rakkoon dhugummaa dhabuu ragaa tajaajila sirna haqaa naannoo Oromiyaa keessatti bifa garagaraatiin mul'ataa kan jiruu fi mirga namoota dhuunfaa fi hawaasaa irraan miidhaa geessisaa jira. Babal'achuu rakkoo kanaaf sababoonni hawaasummaa, dinagdee fi siyaasaan wal qabatan kan jiran yeroo ta'u rakkoo kana ittisuu dhabuu keessatti hanqinoonni hojimaata hojii qorannaayakkaa hanga murtiitti jiranii fi seera keessatti mul'atan gahee olaanaa qabu.

4.2. Yaadota Furmaataa

Qorannoo kana keessatti argannoowwan armaan olitti adda ba'aniif akka furmaataatti yaadonni armaan gadii eeramanii jiru.

a. Hubannoo uumuu

- Gochootni ragaa dhugaa hin taane kennuu, kennisiisuu, qopheessuu fi itti gargaaramuu yakka, cubuu ta'u fi safuu, duudhaa fi aadaa hawaasaa keessatti kan balaaleffatamu ta'u isaa fi nagaa fi tasgabbii hawaasaa kan miidhu ta'u karaa sab-quunnamtii garagaraatiin, dhaabbilee amantaa fi jaarsoota biyyaatti gargaaramuun bakkeewwan garagaraatti hawaasaaf hubannoo walirraa hin cinne uumuu.

b. Leenjii ogummaa cimsu kennuu

- Dhimmoota qorannaayakka, falmii fi madaallii ragaa irratti leenjii ogummaa, dandeettii fi naamusa cimsuu abbootii seeraa, abbootii alangaa fi qorattoota poolisiif kennuu.

c. Labsii, qajeelfamaa fi maanuwaalii rogummaa qaban baasuu

- Raga-baatotni miidhaa isaan irra gahuu danda'uuf jecha qaamolee haqaatti ragaa dhugaa ta'e kennuu irraa akka of hin qusanneef sirna eegumsa raga-baatotaa hojirra oolchuun eegumsa seeraa gahaa akka argatan taasisuu
- Gocha raga-baatuu diinomee (hostile witness) tumaa ifa ta'een yakka taasisuun itti gaafatamummaan akka jiraatu gochuu.
- Madaallii ragaa namaa irratti qabxiwwan dhugummaa ragaa namaa adda baasuuf gargaaranii fi qajeelchu danda'an adda baasuun maanuwaalii qopheessuu hojicha deggaruu.
- Ulaagaalee fudhatamummaa ragaa ogummaa murteessuuf hojirra oolfamuu qabanii fi, tooftaawan ykn maloota (tests) dhugummaa fi sirrummaa ragaa ogummaa ittiin mirkaneeffachuu danda'amu adda baasuun maanuwaalii ogeessota qajeelchu qopheessuun hojirra akka oolfamu taasisuu.

d. Kenniinsaa fi qabiinsa ragaa hammayeessuu

- Qabiinsaa fi keniinsa ragaalee tekinoolojii hammayaatti fayyadamuun hammayeessuu
- Istaandardiiwwanii fi qabiyyee ragaalee ogummaa guutuu qaban ilaachisee sirna diriisuu
- Dhaabbileen fayyaa Oromiyaa keessatti argaman ragaa ogummaa garagaraa kennan afaan hojii naannichaan akka kennan taasisuu

e. Hojii qorannoo yakkaa hammayeessuu

- Gaggeessa hojii qorannoo yakkaa hammayeessuun barbaachisaa dha. Tooftaa qorannoo yakkaa teknikaan akka gabbatu taasisuuf humna namaa leenji'ee fi meeshaalee hammayyaa'oo ta'an dhiyeessuu;
- Qorattoota poolisii gahumsa qaban horachuuf adeemsa fo'anno fi ramaddii kaadhimamtootaa fooyyessuu, dhimmoota leenjiin irratti kennamanii fi

yeroo leenjiin keessatti kennaman fooyyessuu, leenjifamtootni shaakala barbaachisaa akka argatan taasisuu;

- Gahumsa qorattoota poolisii dabalaan deemuuf leenjii hojiirraa kennuu;
- Bakka hojii mijataa uumuu jechuunis qulqullinaa fi bal'ina kutaa qorannoo fooyyessuu;
- Yakkoota mana murtii olaanaatti ilaalamani fi seerri qorannoo duraa (preliminary inquiry) irratti gaggeeffamuu qaba jedhee ajaju ilaalchisee qorannoo duraa bal'inaan gaggeessuu
- Yakkoota ciccimoo fi walxaxoo ta'an akkasumas yakkoota raawwatamuun isaanii shakkii uuman ilaalchisee bakka yakki itti raawwate deemanii odeeffannoo walitti qabuu
- Mindaa fi faayidaa qorattoota poolisii fooyyessuun gita hojichaa hawwataa taasisuu

f. Bilisummaa hojii abbaa alangaa mirkaneessuu

- Bilisummaa hojii A/Alangaa fi sirna ittigaafatamummaa cimsuun hojiin A/Alangummaa haqaa mirkaneesuuf qofa akka tajaajilu taasisuu.

g. Tarree ragaa ittisaa himatamaa dursanii abbaa alangaa

dhaqqabsiisuu

- Dhagaha dhimmaa dursee Abbaan Alangaa qophii dhaddachaaf akka tolutti tarree ragaa ittisaa himatamaa dursee beekuu irratti hojimaata diriirsuu.

h. Qajeelfama dhaaddachaa fi sirna kakuu sirnaan hojiirra oolchuu

- Dhagaha dhimmaa keessatti adeemsoota seeroota deemsa falmii fi qajeelfama dhaddachaa mana murtii waliigala Oromiyaa keessatti teechifamanii jiran sirnaan hojirra oolchuu.
- Sirna kakuu qabatama naannoo tilmaama keessa galchuu, gareewwan falmii ijoo ragaa sirnaan qabsiisuu fi manni murtii gaaffilee rogummaa qabu bakkaa fi sadarkaa isaa eeguun mirga gareen falmii biraan ragaa sana

fashaleessuu bifaa hin daangessineen gaafachuu. Hojii kana dhugoomsuuf hojii ooditii galmee sirnaan gaggeessuu fi ittigaafatamummaa mirkaneessuu.

- Ragoonni kopha kophatti akka kakatan taasisuu
 - i. **Itti-gaafatamummaa mirkaneessuu**
- Abbootii dhimmaa ragaan sobaa akka dhiyaatu taasisan, raga-baatota jecha ragummaa sobaa kennan, ragaa ogeeyyii yaada ogummaa dhugaa fi sirrii hin taane kennan, ragaa sanadaa dhugaa hin taane qopheessan, kennanii fi itti gargaaraman seeratti dhiyaatanii yakkaan akka itti gaafataman taasisuun adabbii barsiisaa ta'e akka kennamu gochuu fi adabbii kennamu karaa sab-quunnamtii garagaraa beeksisuun hawaasni irraa akka baratu taasisuu.

Qorannoowwan ILQSO'dhaan bara 2001-2011 Gaggeeffaman

Lakk.	Mata-Duree Qorannoo	Bara hojjetame
1	The Impacts of False Testimony on Rendering Justice In Oromia	2001
2	Falmii Lafa Baadiyaa Hiikuu Keessatti Rakkoowwan Qabatamoo Yeroo Ammaa Mul'atan: Seeraa Fi Baratama	2001
3	Walitti Dhufeenyaa Qaamolee Haqaa Oromiyaa Rakkoo	2001
4	Qajeeltoowwan Bu'uuraa Manneen Murtii Ittiin qajeelfaman	2001
5	Bilisummaa Abbaa Seerummaa, Itti Gaafatamummaa fi Iftooma	2001
6	Deemsa Falmii Yakkaa:Sirna Walitti Fufiinsa Dhagaya Dhimma Yakkaa	2001
7	Ittigafatamummaa Naamusa Abbootii Seeraa Oromiyaa	2002
8	Rakkoo Raawwanaa Toofitaa Saffisa Adeemsa Falmii Yakkaa(RTD)	2002
9	Madaallii Raawwii Hojii Abbootii Seeraa Oromiyaa: Barbaachisummaa Fi Sirna Raawwii Isaa	2002
10	Qo'anno Madaallii Bu'aa Sagantaa Leenjii Hojiin Duraa: Oromiyaa Marsaa Duraa	2002

11	Imaammata Qo'annoo Fi Qorannoo Institiyuti Leenjii Ogeessota Qaamolee Haqaa Fi Qo'annoo Seeraa Oromiyaa: Barbaachisummaa Fi Wixinee Isaa	2003
12	Sababoota Hedduummina Dhimmoota Manneen Murtii Oromiyaa	2003
13	Amantaa Uummatni Sirna Haqa Yakkaa Naannoo Oromiyaa Irratti Qabu	2003
14	Aangoo Fi Gahee Hojji Ofisaroota Seeraa Manneen Murtii Naannoo Oromiyaa	2004
15	Qorannoo Imaammata Leenjii Instiitiuyutii Leenjii Ogeessota Qaamolee Haqaa Fi Qorannoo Seeraa Oromiyaa:Barbaachisummaa Fi Haala Raawwii Isaa	2004
16	Madaallii Raawwii Hojji Abbootii Alangaa Naannoo Oromiyaa: Barbaachisummaa Fi Sirna Raawwii Isaa	2004
17	Bu'aawwan Sagantaalee Fooyyaalinsaa Manneen Murtii Oromiyaa: Kallattii Si'oomina, Dhaqqabamummaa, Fi Bilisummaa Fi Itti Gaafatamummaan Yoo Madaalamu	2004
18	Kunuunsa Sirni Haqa Yakkaa Miidhamtoota Yakkaaf Godhuu Fi Rakkowwan Wal-Qabatanii Mul'atan	2005
19	Murtii Dhimma Maatii Keessatti Eegumsa Dantaa Daa'immanii Isa Olaanaaf Taasifamuu Qabu:Haala Qabatamaa Naannoo Oromiyaa	2005

20	Bu'aa Fi Midhaa "Seeraa" Raabaa-Gadaa: Kaallattii Seerotaa Fi Heera Mootummaa RDFitiin	2005
21	Juvenile Justice System In Oromia Region	2005
22	Qorannoo Sakatta'a Bu'aa Leenjii Hojiin Duraa Fi Leenjii Hojiirraa Yeroo Dheeraa ILOQHQSO(1999-2003)	2005
23	Madaallii Qulqullina Murtii Manneen Murtii Oromiyaa	2005
24	Waltti Dhufeenya Dhaabbilee Sab-Qunnamtii Fi Manneen Murtii Federaalaa Fi Oromiyaa	2005
25	Bu'aa Qabeessummaa Sirna Qorannoo Yakkaa Abbaan Alangaa Fi Poolisiin Waliin Gaggeessan	2005
26	Gahee Mana Murti Fi Maanguddoon Araaraa Rakkoo Baay'achuu Diiggaa Gaa'ilaa Hir'isuu Keessatti Qaban	2005
27	Sakaatta'a Garagahiinsa Maamiltootni Tajaajila Leenjii Fi Qorannoo Iniistiitiyuutii Leenjii Ogeessota Qaamolee Haqaa Fi Qorannoo Seeraa Oromiyaa Kennamu Irratti Qaban	2006
28	Gahumsa Hojii Haaromsa Sirreeffamoota Manneen Amala Sirreessaa Oromiyaa	2006
29	Faayidaa Dhimma Yakkaa Mala Aadaan Xumuruu Fi Daangaa Raawwii Isaa	2006

30	Rakkoolee Hojiirraa Oolmaa Fi Sadarkaa Bu'aawwan Qorannoo ILOQHQSON Gaaggeeffaman	2006
31	Bala Tiraafika Hir'isuun Walqabatee Rakkoolee Qaamolee Haqaa Biratti Mul'atan	2006
32	Yakka Dirqisiisanii Gudeeduu: Rakkoowwan Qorannoo Irraa Hanga Murtii Kennisiisutti Mula'atan	2006
33	Rakkoowwan Qabiyyee Lafa Baadiyyaa Faayidaa Uummataatiif Gad-Lakkisiisuun wal-qabataniijiran	2007
34	Hariiroo Hojii Fi Sirna Hiikkaa Waldhabbi Falmii Hojii Keessatti Rakkoolee Mul'atan	2007
35	Rakkoowwan Adeemsa Seera Wixineessuu Keessatti Mul'atan	2007
36	Tajaajila Poolisii Hawaasaa: Maalummaa, Faayidaa Fi Hojiirra Olmaa Keessatti Rakkoowwan Mul'atan	2007
37	Dhimmoota Hariiroo Hawaasaa Keessatti Mirgaa Fi Dantaa Ummataa, Mootummaa Fi Namoota Dhuunfaa Kabachiisuu Aangoo Biirroo Haqaa Oromiyaa Fi Raawwii	2007
38	Sadarkaa Eegumsi Mirga Shamattootaa Irra Jiru	2008
39	Sakatta'iinsa Dhiibbaa Naannoo Gaggeessuu: Seeraa Fi Hoj-Maata	2008

40	Qorannoo Sakatta'a Bu'aa Leenjii Fi Qorannoo ILOQHQSO	2008
41	Daldala Seeraan Alaa To'achuu: Rakkowwan Seeraa Fi Hoj-Maata Qaamolee Haqaa Keessatti Mul'atan	2008
42	Naamusaa Ogeessota Qaamolee Haqaa: Sakatta'a Haala Qabatamaa Naannoo Oromiyaa	2008
43	Kenninsaa Fi Barreessa Murtii Manneen Murtii Oromiyaa: Xiinxala Rakkoolee Seeraa Fi Hojimaataa	2009
44	Koree Sagantaa Fooyya'insa Sirna Haqaa Oromiyaa: Seeraa fi Hoj-Maata	2009
45	Sakatta'a Bu'a qabeessummaa Hojiwwan Komishinii Naamusaa fi Farra Malaamaltummaa Oromiyaa	2009
46	Rakkoolee Bu'aa Qabeesummaa Mannen Murtii Bulchiinsa Fi Aangoo Keessa Deebii Manneen Murtii Idilee:-Haala Qabatamaa Naannoo Oromiyaa	2009
47	Adabbii Dhimmoota Yakkaa: Rakkoolee Gurguddoo Hojiirra Oolmaa Qajeelfama Adabbii fi Adabbiwwan Hidhaan Alaa	2009
48	Bu'a-qabeessummaa Tajaajila Abukaatoo Ittisaa	2010

49	Gahee Abbaan Alangaa Mirga Shakkamaa fi Himatamaa Yakkaa Kabajachiisuu Keessatti Qabu: Seeraa fi Raawwii	2010
50	Sanadoota Mirkaneessuu fi Galmeessuu Keessatti Rokkoowwan Seeraa fi Hojmaataa Naannoo Oromiyaatti Mul'atan	2010
51	Kenniinsa Koroora fi Dhiifamaa Sirreefamtoota seeraa Naannoo Oromiyaa: Seeraa Fi Hojmaata	2010
52	Rakkoolee To'anno Dambiilee fi Qajeelfamoota Aangoo Bakka Bu'insaan Bahanii: Haala Qabatamaa Oromiyaa	2010
53	Sakatta'a Bu'aa Sagantaalee Leenjii Fi Qorannoo ILOQHQSO (2005-2009)	2010
54	Challenges of Taxation Power in Oromia National Regional State: Analysis of Constitution, Law and Practice	2011
55	Dhugummaa Ragaa Kenninsa Tajaajila Haqaa Mirkaneessuu: Seeraafi Qabatama	2011
56	Bu'a-qabeessummaa Mana Murtii Hawaasummaa Ganda Mootummaa Naannoo Oromiyaa	2011