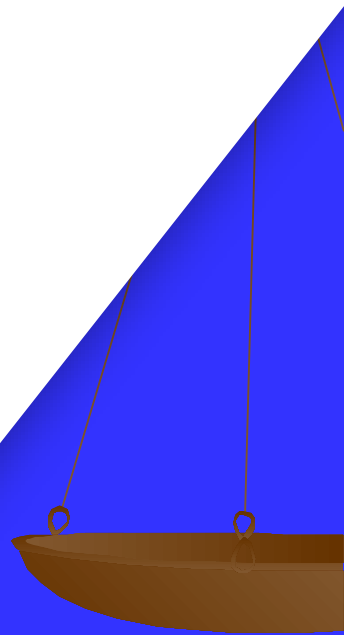
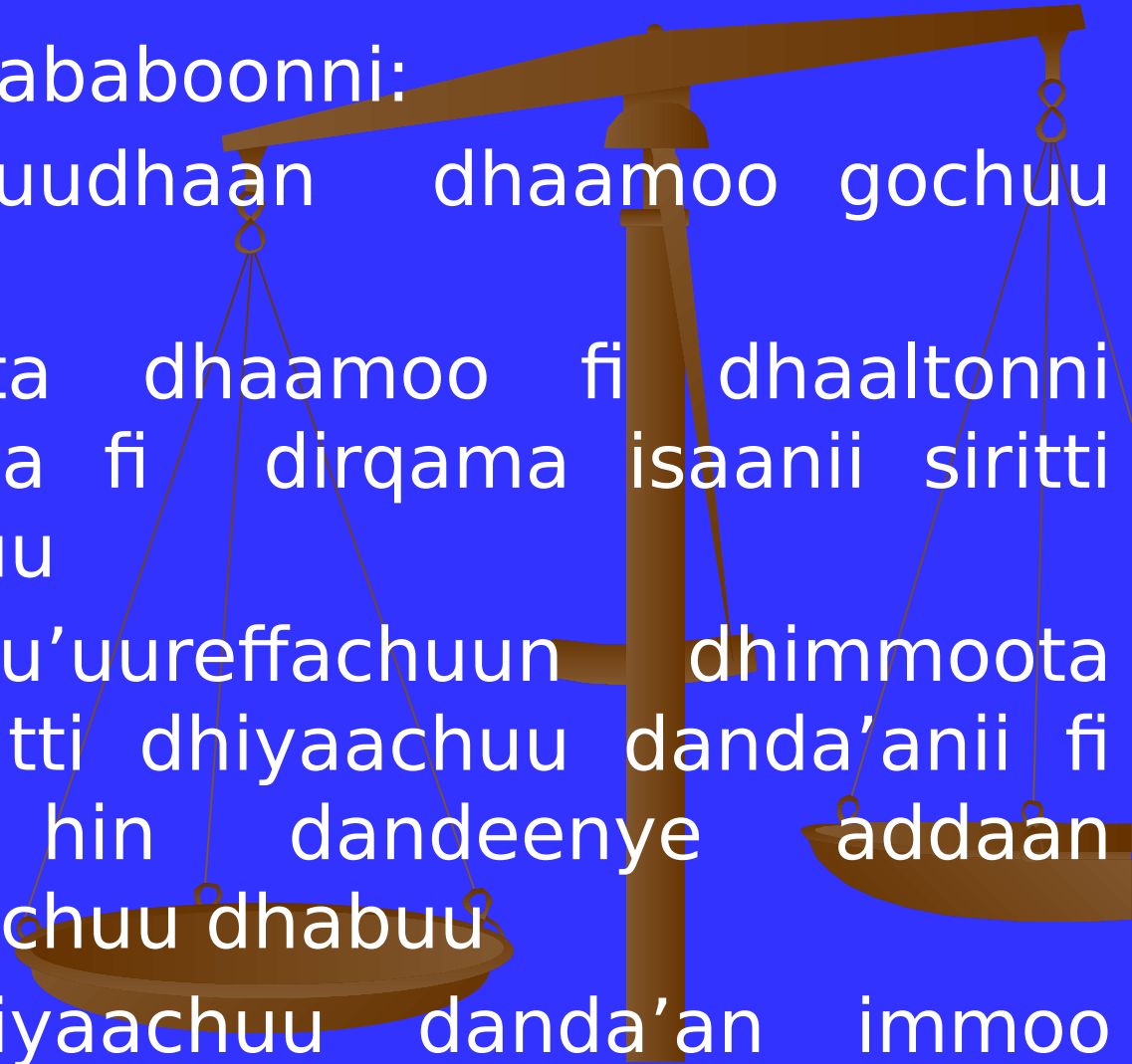


**DHAALA BU'UU
DHAAMOODHAA
RAAWWATAMU**



Seensa

- dhimmoota dhaalaa MM tti baay'inaan dhiyaatan Harki caalaan dhaamoo kan bu'uureffatanii dha.
- Baay'ina kanaaf sababoonni:
 - ✓ Seera hordofuudhaan dhaamoo gochuu dhabuu.
 - ✓ Fayyadamtoota dhaamoo fi dhaaltonni seeraa mirgaa fi dirqama isaanii siritti beekuu dhabuu
 - ✓ dhaamoo bu'uureffachuun dhimmoota dhaalaa MM tti dhiyaachuu danda'anii fi dhiyaachuu hin dandeenye addaan baasanii hubachuu dhabuu
 - ✓ Kanneen dhiyaachuu danda'an immoo



❖ **Rakkoo seerichaa.**

➤ **Tumaaleen seera dhaalaa dhaamoo ilaallatan tokko tokko iftooma dhabuu.**

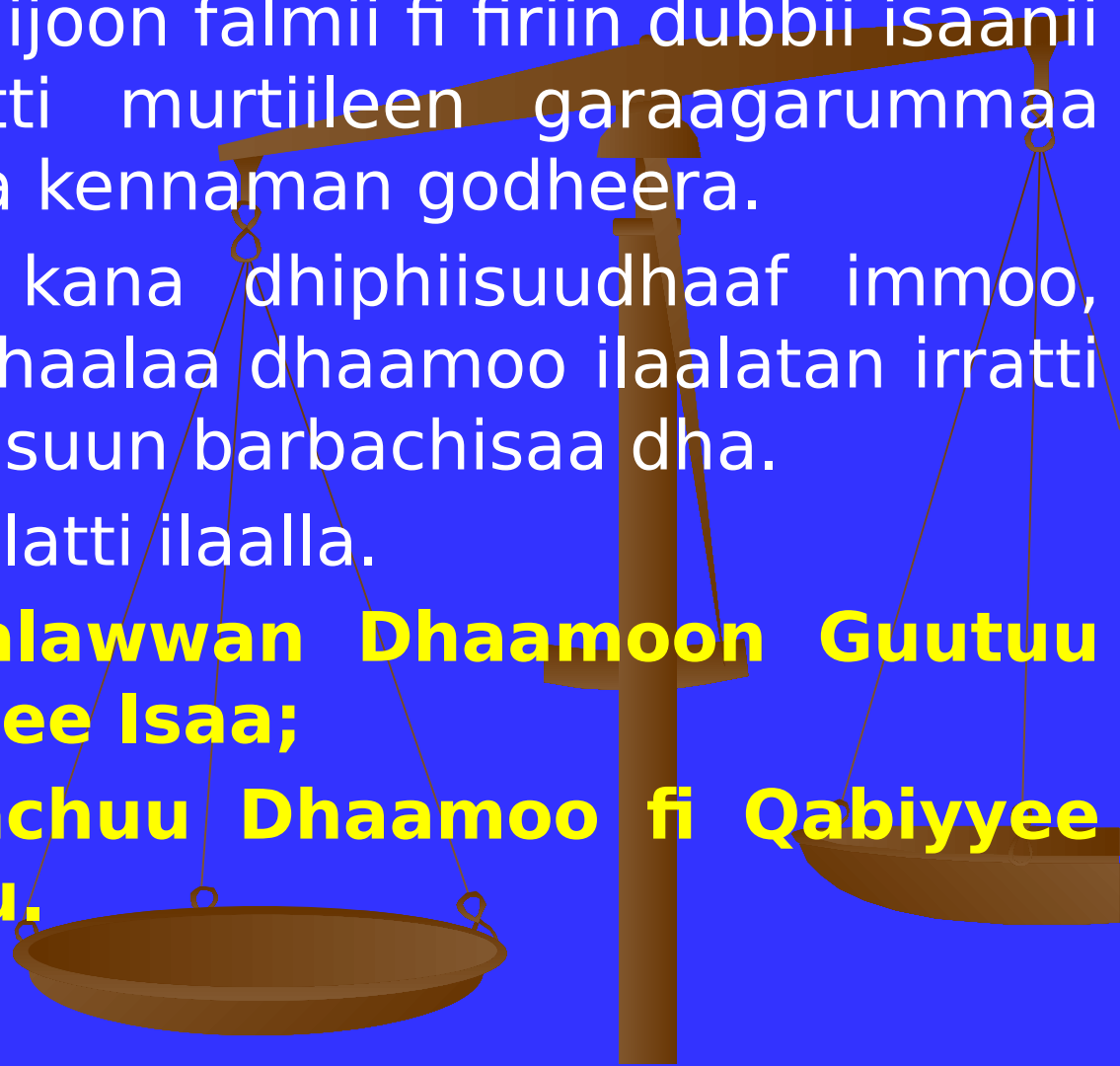
✓ Kunis dhimmoota ijoon falmii fi firiin dubbii isaanii walfakkaatu irratti murtiileen garaagarummaa bal'aa qaban akka kennaman godheera.

✓ Garaagarummaa kana dhiphiisuudhaaf immoo, tumaalee seera dhaalaa dhaamoo ilaallatan irratti hubannoo jiru cimsuun barbachisaa dha.

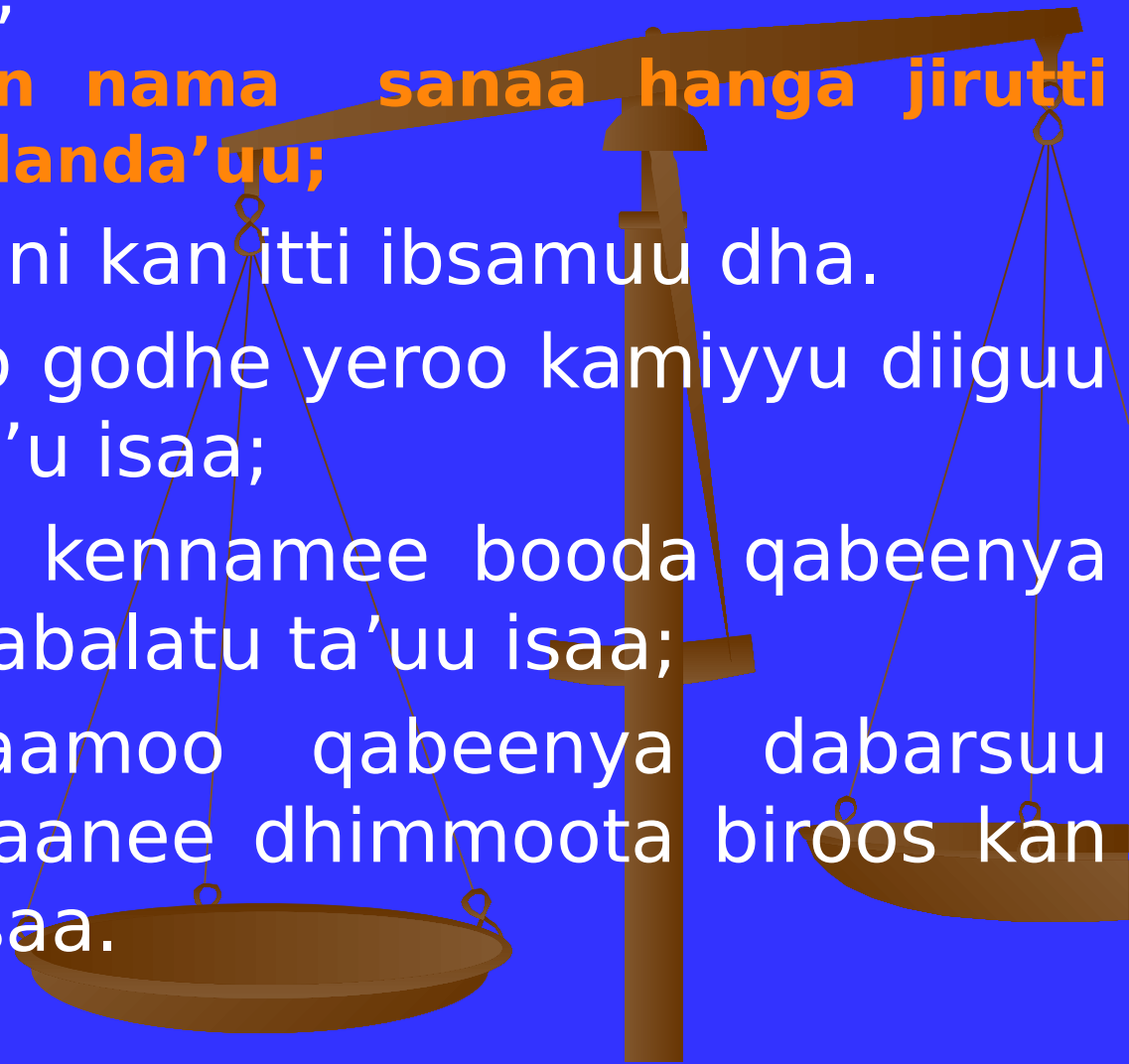
➤ **Kanas kutaa lama jalatti ilaalla.**

✓ **Kutaan I: Haalawwan Dhaamoon Guutuu Qabuu fi Qabiyyee Isaa;**

✓ **Kutaan II: Jiraachuu Dhaamoo fi Qabiyyee Isaa Hubachisuu.**



- **Dhaala Bu'uura Dhaamoon Raawwatamu**
- Amaloota dhaamoo:
 - ✓ Dhaamoon du'aati nama tokko wajjiin kan walqabatuu dha;
 - ✓ **Kanaaf lubbuun nama sanaa hanga jirutti hojirra oolu hin danda'uu;**
 - ✓ Dhaamoon yaadni kan itti ibsamuu dha.
 - ✓ Namni dhaamoo godhe yeroo kamiyyu diiguu kan danda'uu ta'u isaa;
 - ✓ Erga dhaamoon kennamee booda qabeenya horatame kan dabalatu ta'uu isaa;
 - ✓ Qabiyyeen dhaamoo qabeenya dabarsuu qofa osoo hin taanee dhimmoota biroos kan hammatu ta'u isaa.

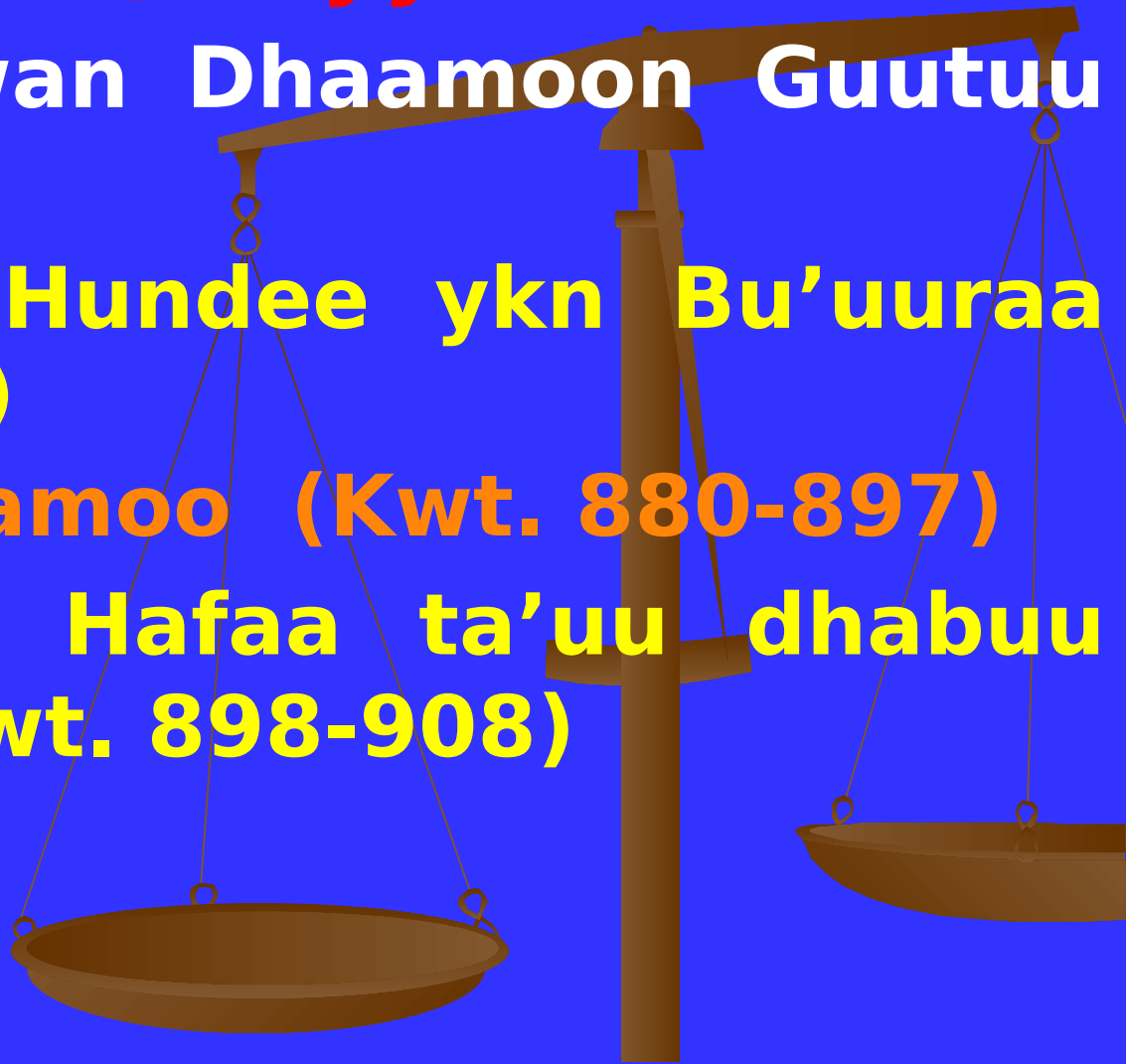


Kutaa I:

Haalawwan Dhaamoon Guutuu Qabuu fi Qabiyyee Isaa

1.1. Haalawwan Dhaamoon Guutuu Qabu

- ✓ Haalawwan Hundee ykn Bu'uura (Kwt .857-879)
- ✓ Foormii Dhaamoo (Kwt. 880-897)
- ✓ Haqamuu fi Hafaa ta'uu dhabuu dhaamoo (Kwt. 898-908)

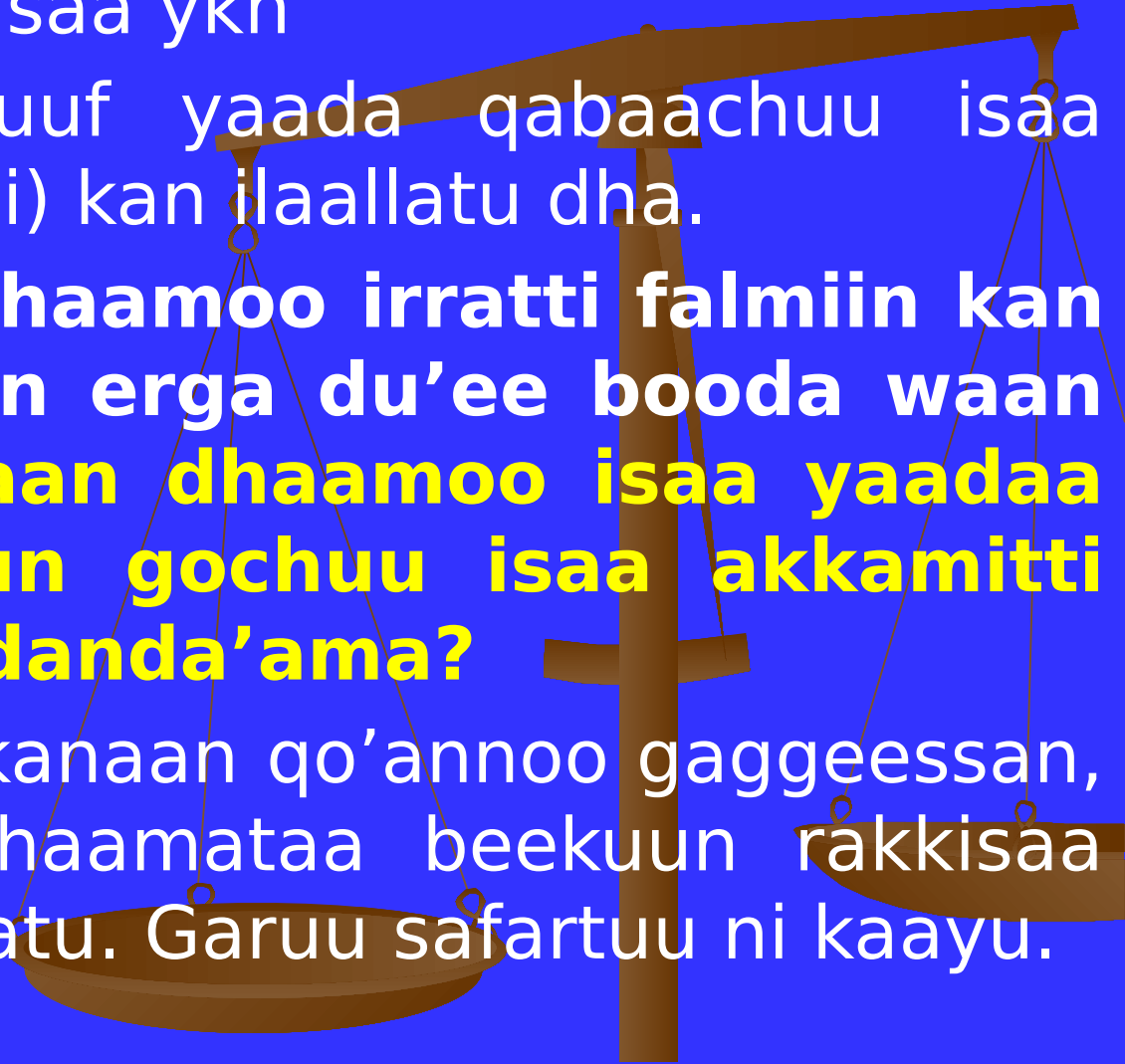


- **Haalawwan Hundee (Kwt. 857-879)**
- Bakka lamatti qoodun ilaaluun ni danda'ama. Isaaniis:
 - ✓ Haalawwan **uumama** **dhaamootiif** barbaachisoo ta'an:
 - Inherent or intrinsic elements of will
 - ✓ **Qabiyyee** **dhaamichaa** **irratti** **kan** **xiyyeffatan**:
 - seeraa fi safuu ummataa kan faallessan ta'uu fi ta'uu dhabuu isaa haalawwan too'atan



A.Haalawwan Uumama Dhaamootiif Barbaachisoo ta'an

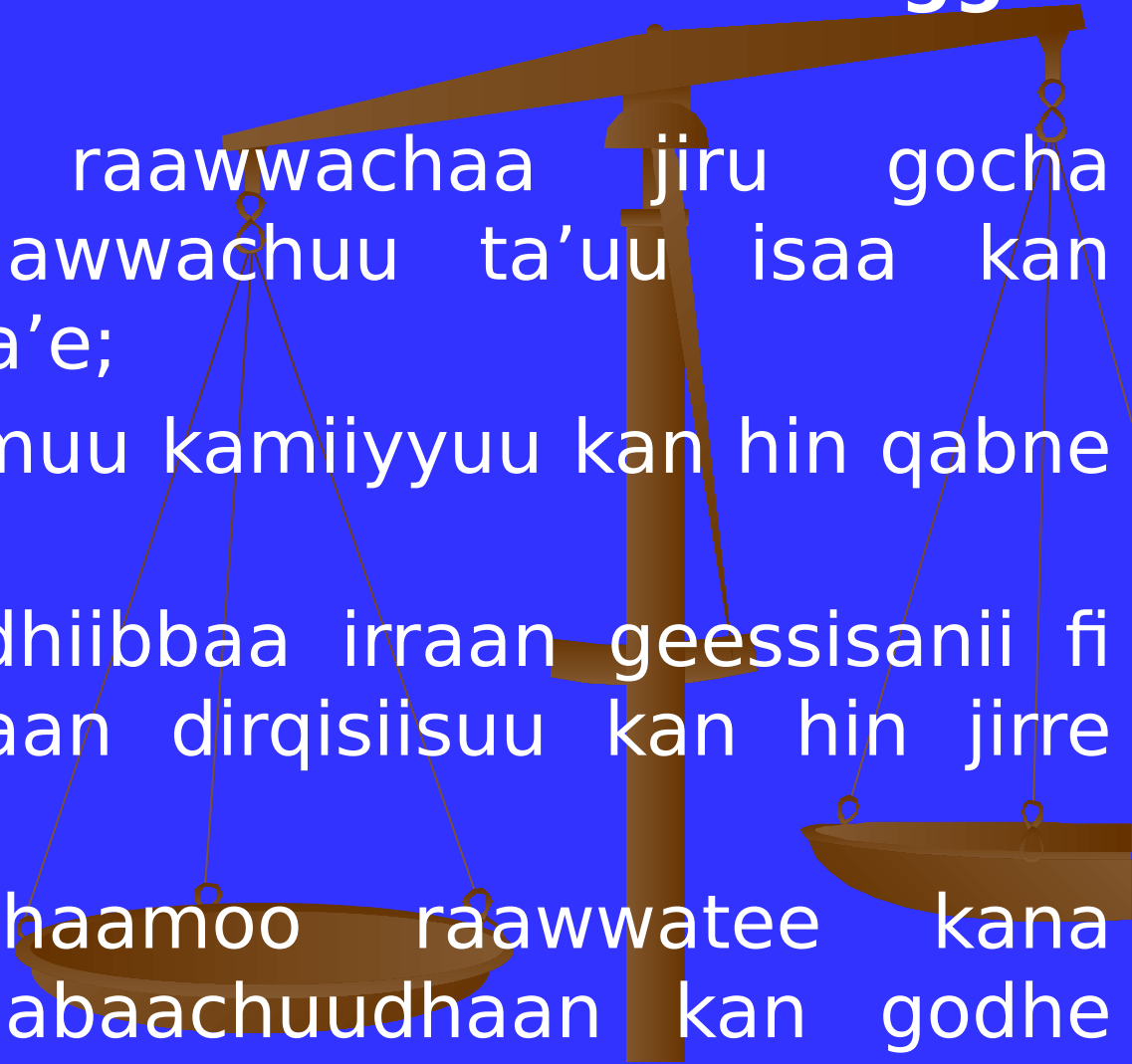
- Dhaamataan hogguu dhaamoo raawwatu:
 - ✓ haala sammuu isaa ykn
 - ✓ dhaamoo gochuuf yaada qabaachuu isaa (Animus testandi) kan ilaallatu dha.
- Garuu gaaffiin “**dhaamoo irratti falmiin kan ka’u dhaamataan erga du’ee booda waan ta’eef dhaamataan dhaamoo isaa yaadaa fi fedha guutuun gochuu isaa akkamitti mirkaneessuun danda’ama?**”
- Hayyoonni gama kanaan qo’annoo gaggeessan, haala sammuu dhaamataa beekuun rakkisaa ta’uu isaa ni dubbatu. Garuu safartuu ni kaayu.



➤ **Safartuuwwan dhaamataan yaadaa fi fedha dhaamoo raawwachuu guutuu fi bilisa ta'e qabaachuu isaa tilmaamuu dandeessisan:**

❖ **Isaanis dhaamataan dhaamicha hogguu raawwatu:**

- ✓ gochi inni raawwachaa jiru gocha dhaamoo raawwachuu ta'uu isaa kan hubatu yoo ta'e;
- ✓ rakkina sammuu kamiyyuu kan hin qabne ta'uu isaa;
- ✓ haalawwan dhiibbaa irraan geessisanii fi gochi humnaan dirqisiisuu kan hin jirre ta'uu isaa;
- ✓ qabiyyee dhaamoo raawwatee kana beekumsa qabaachuudhaan kan godhe

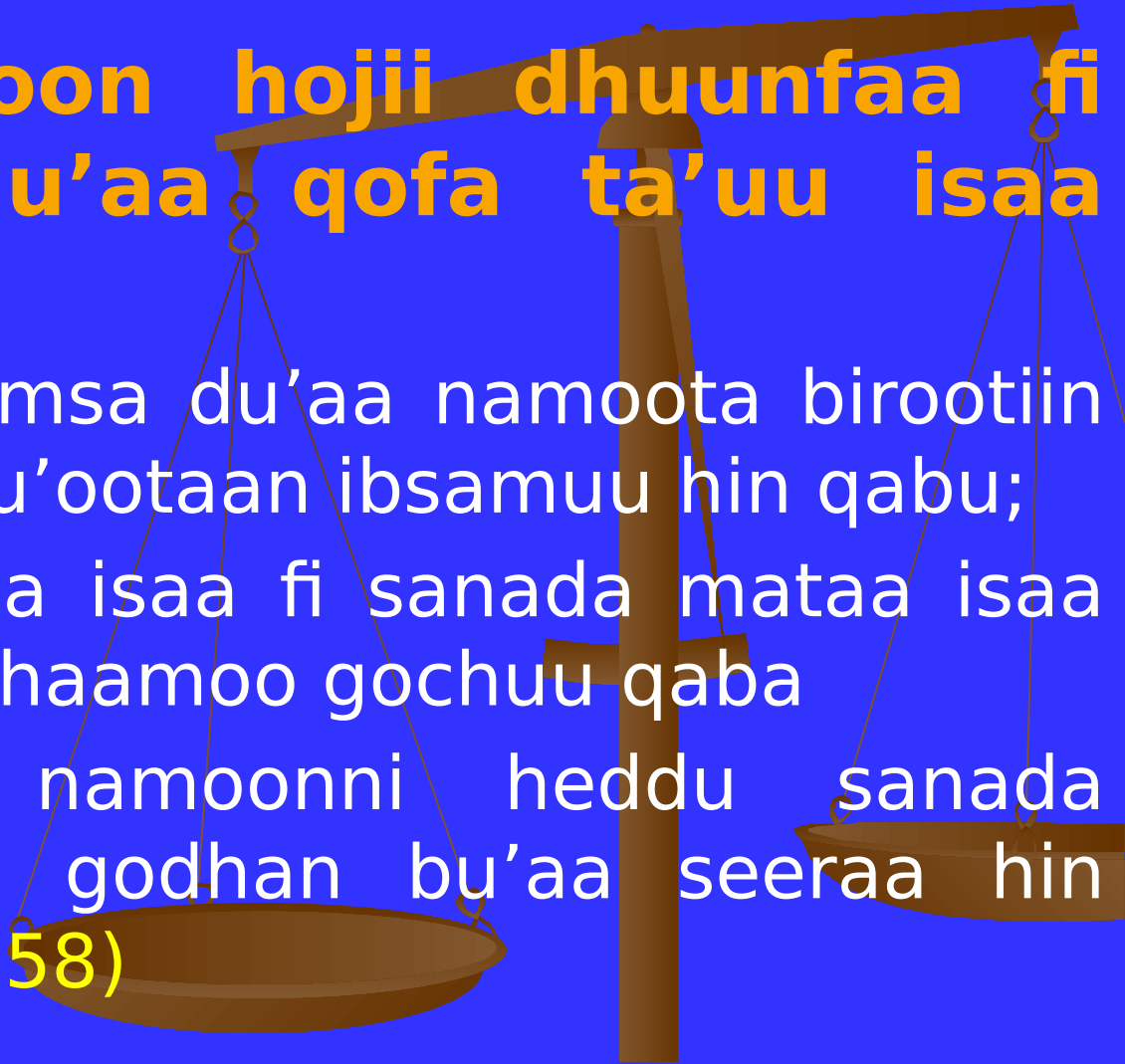


❖ Seerri keenyaas dhaamoon yaadaa fi fedha du'aa kan calaqqisisu ta'uu isaa mirkaneessuuf safartuuwwan gargaaran kaayee jira.

❖ Isaanis:

❖ **1ffaa, dhaamoon hojii dhuunfaa fi ibsa yaada du'aa qofa ta'uu isaa (Kwt. 857):**

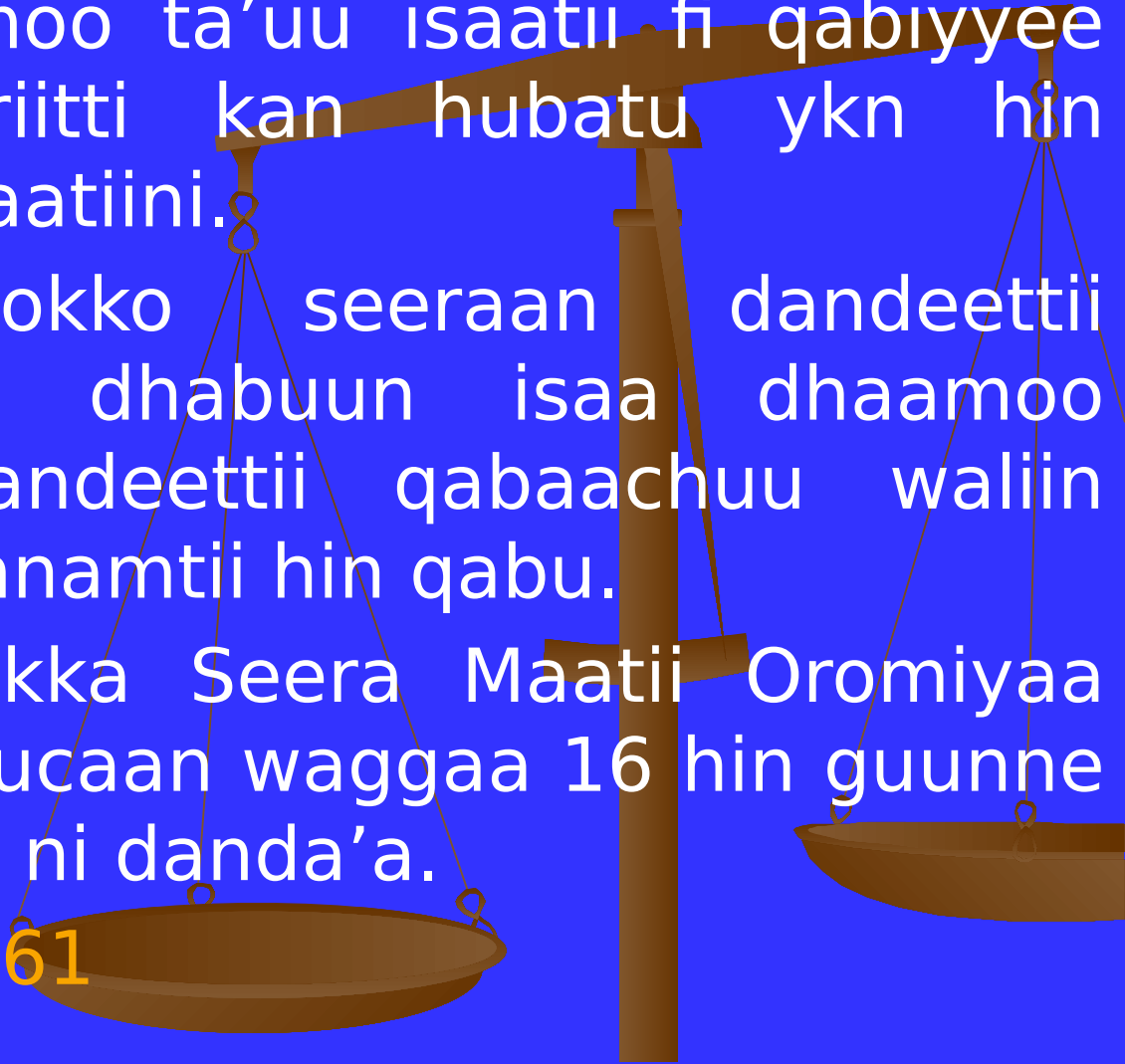
- Yaadni dhaamsa du'aa namoota birootiin ykn bakka bu'ootaan ibsamuu hin qabu;
- Du'aan qofaa isaa fi sanada mataa isaa danda'een dhaamoo gochuu qaba
- Dhaamoon namoonni heddu sanada tokko irratti godhan bu'aa seeraa hin qabu (Kwt. 858)



❖ 2ffaa, Dandeettii Dhaamoo

Raawwachu Dhaamataa:

- Kun kan madaalamu dhaamataan gochi inni raawwatu dhaamoo ta'uu isaatii fi qabiyyee dhaamichaa sirriitti kan hubatu ykn hin hubanne ta'uu isaatiini.
- NB. namni tokko seeraan dandeettii qabaachuu ykn dhabuun isaa dhaamoo raawwachuuf dandeettii qabaachuu waliin kallattiin walquunnamtii hin qabu.
- Fakkeenyaaf, akka Seera Maatii Oromiyaa kwt. 313(2) tti mucaan waggaa 16 hin guunne dhaamoo gochuu ni danda'a.
- **Kwt. 860 fi kwt. 861**



❖ 3ffaa, Dhaamichi Dirqamaan ykn Dogongoraan ykn dhiibbaadhaan godhamuu dhabuu :

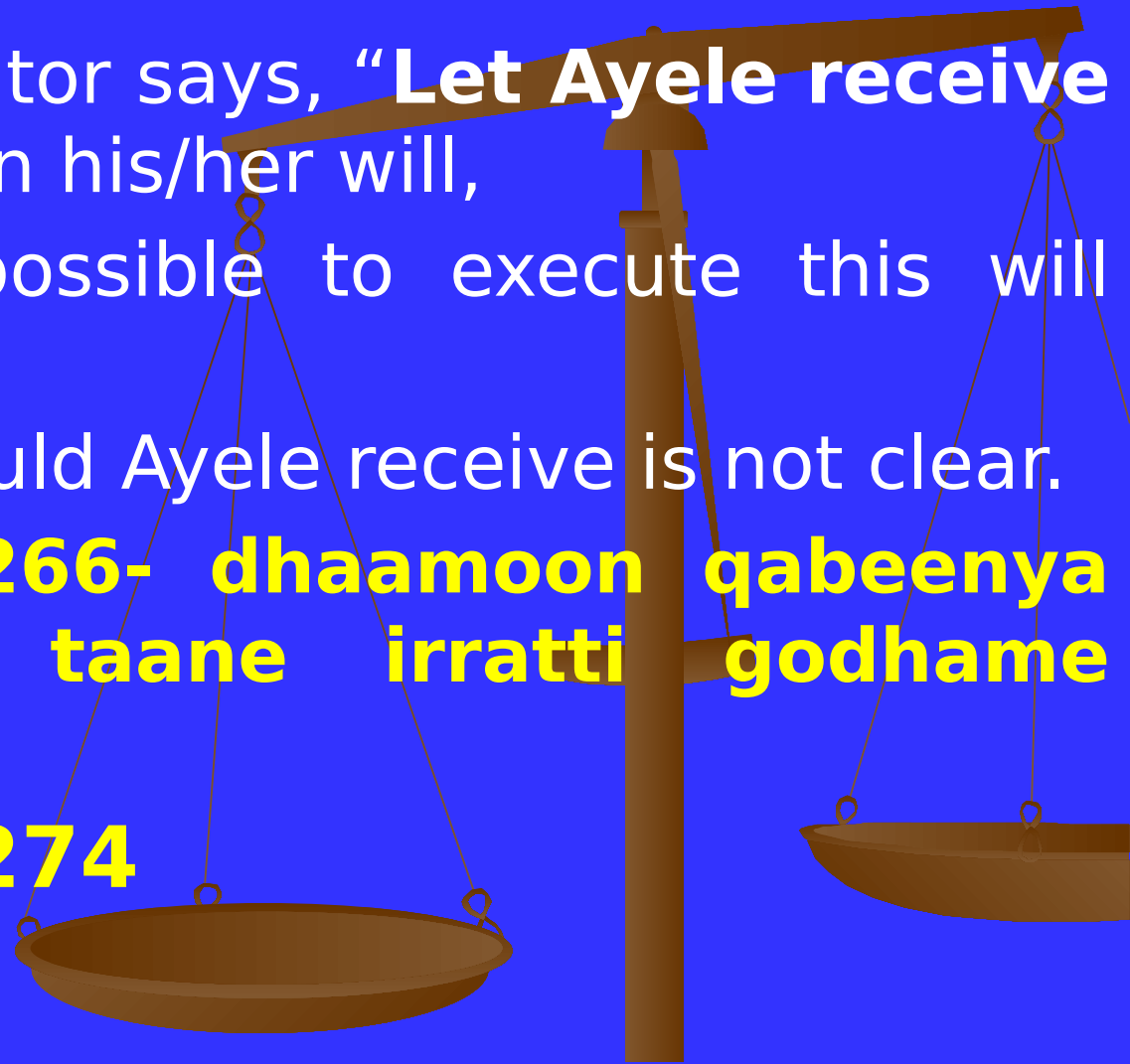
- Dhaamoon dirqamaan ykn dogongoraan yoo godhame diiggamuu ni danda'a (Kwt 867 fi 877)
- Du'aan sababa dhiibbaa sammuutiin yeroo sanatti dhaamoo kan godhe yoo ta'e AS dhaamoo godhame hir'isuu ykn diiguu akka danda'an seerichi tumeera (**Kwt. 868-875**)

- Art.877(1)...Invalidation of contracts on the ground of error shall apply by analogy (Art. 1697.1705 and 1803.1818).
- Art.867(2) the provisions of this Code relating to the annulment of contracts on the ground of **violence shall** apply by analogy (Art. 1706-1709 and 1808-1818).

Ilaallatan:

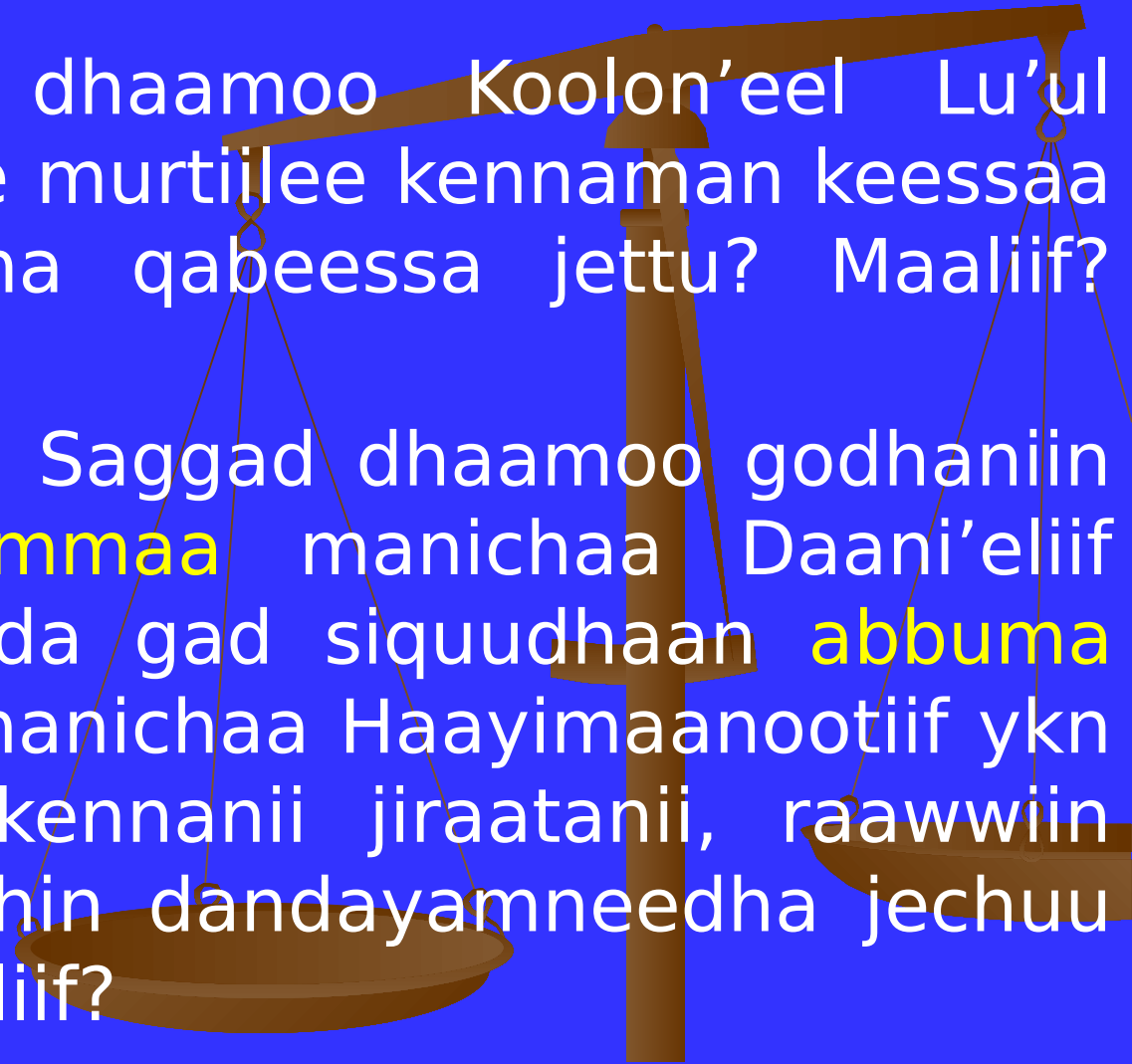
- Dhaamoon fedhaa fi bilisaan kan raawwatame ta'us qabiyyeen ykn jechi dhaamichaa seera, immaammata mootummaa ykn safuu kan faallessu yoo ta'e, bu'aa seeraa qabaachuu hin danda'u (**Kwt. 865 fi 866**). **Seerri maatii oromiyaa kwt.313(2) dhaamoon seeraa fi safuu uummataa kan faallessu yoo ta'e bu'aa hin qabu jedhe. Daa'imni waggaa 16 dhaamoo gochuu akka danda'us nikaa'a.**
- Dhaamoon Iftooma hin qabnee fi raawwatamuu hin dandeenye : **Kwt. 865, Execution impossible**
- (1) tells us that a testamentary provision which fails to specify in a sufficiently clear manner its

- ❖ E.g. 1, “**Let somebody take my laptop computer.**”
 - It is impossible to determine who is that somebody.
- ❖ E.g. 2, If the testator says, “**Let Ayele receive my something**” in his/her will,
 - it is also impossible to execute this will correctly.
 - What thing should Ayele receive is not clear.
- ❖ **Jildii 8ffaa, F. 266- dhaamoon qabeenya kan isaa hin taane irratti godhame ragga’aa miti.**
- ❖ **Jildii 8ffaa, F. 274**



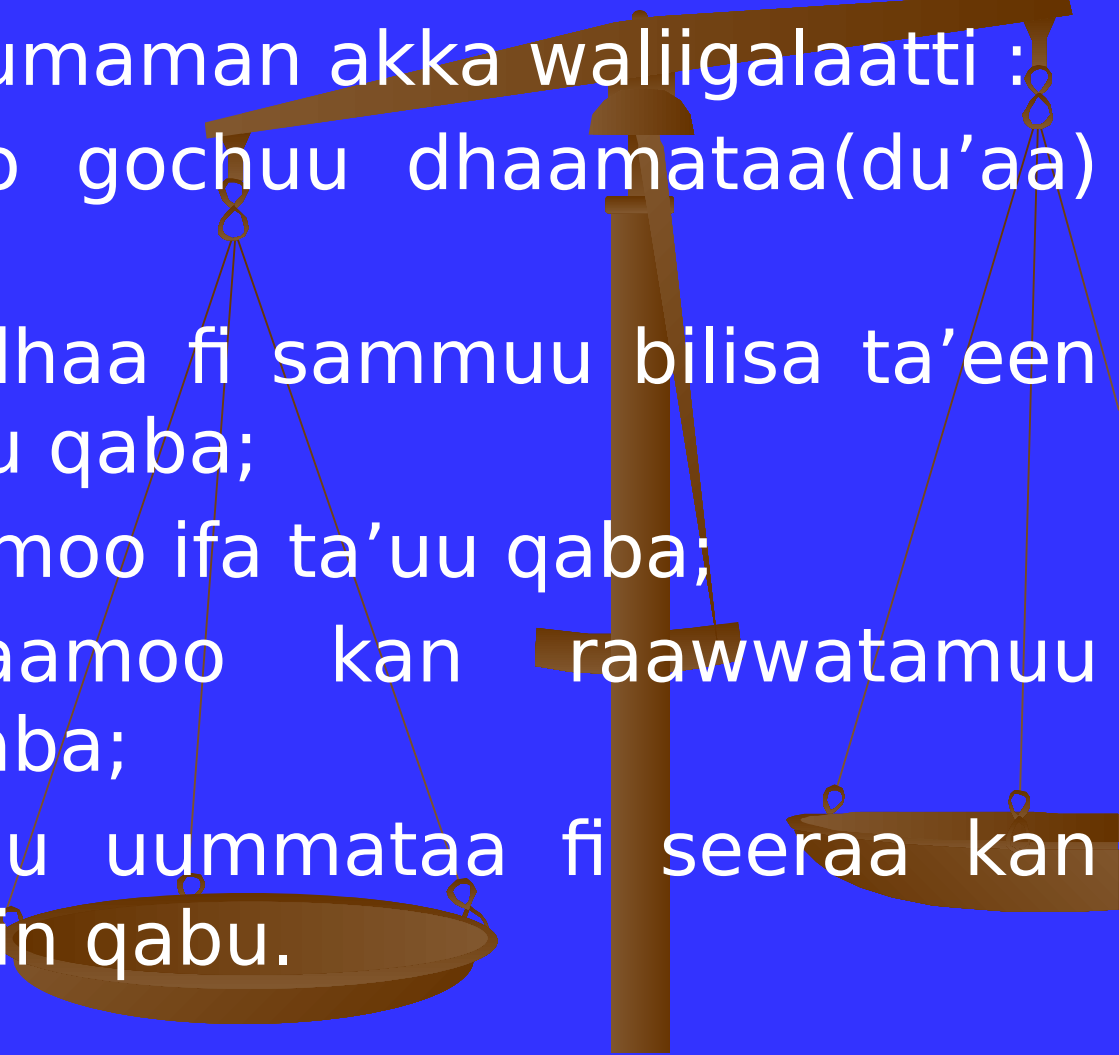
MARII

- Dhaamoon tokko raawwatamuu kan hin dandeenyedha kan jedhamu yoomi?(Kwt.865 ilaalaa).
- Kallattii kanaan dhaamoo Koolon'eel Lu'ul Saggad ilaalchisee murtiilee kennaman keessaa isa kamitu dhama qabeessa jettu? Maaliif?
Fuula, 19-20
- Koolon'eel Lu'uul Saggad dhaamoo godhaniin **abbaa qabeenyummaa** manichaa Daani'eliif erga kennan booda gad siquudhaan **abbuma qabeenyummaa** manichaa Haayimaanootiif ykn Iteenashiif silaa kennanii jiraatanii, raawwiin dhaamichaa kan hin dandayamneedha jechuu dandeenyaa? Maaliif?



Goolabbii

- Dhaamoon tokko seera duratti gatii akka qabaatuuf haalawwan guutamuu qaban keessa haalawwan hundee isaan seera dhaalaa Itoophiyaa jalatti tumaman akka waliigalaatti :
 - ✓ Yaadni dhaamoo gochuu dhaamataa(du'aa) jiraachuu qaba;
 - ✓ Dhaamataan fedhaa fi sammuu bilisa ta'een dhaamoo gochuu qaba;
 - ✓ Qabiyyeen dhaamoo ifa ta'uu qaba;
 - ✓ Qabiyyeen dhaamoo kan raawwatamuu danda'u ta'uu qaba;
 - ✓ akkasumas safuu uummataa fi seeraa kan faallessu ta'uu hin qabu.

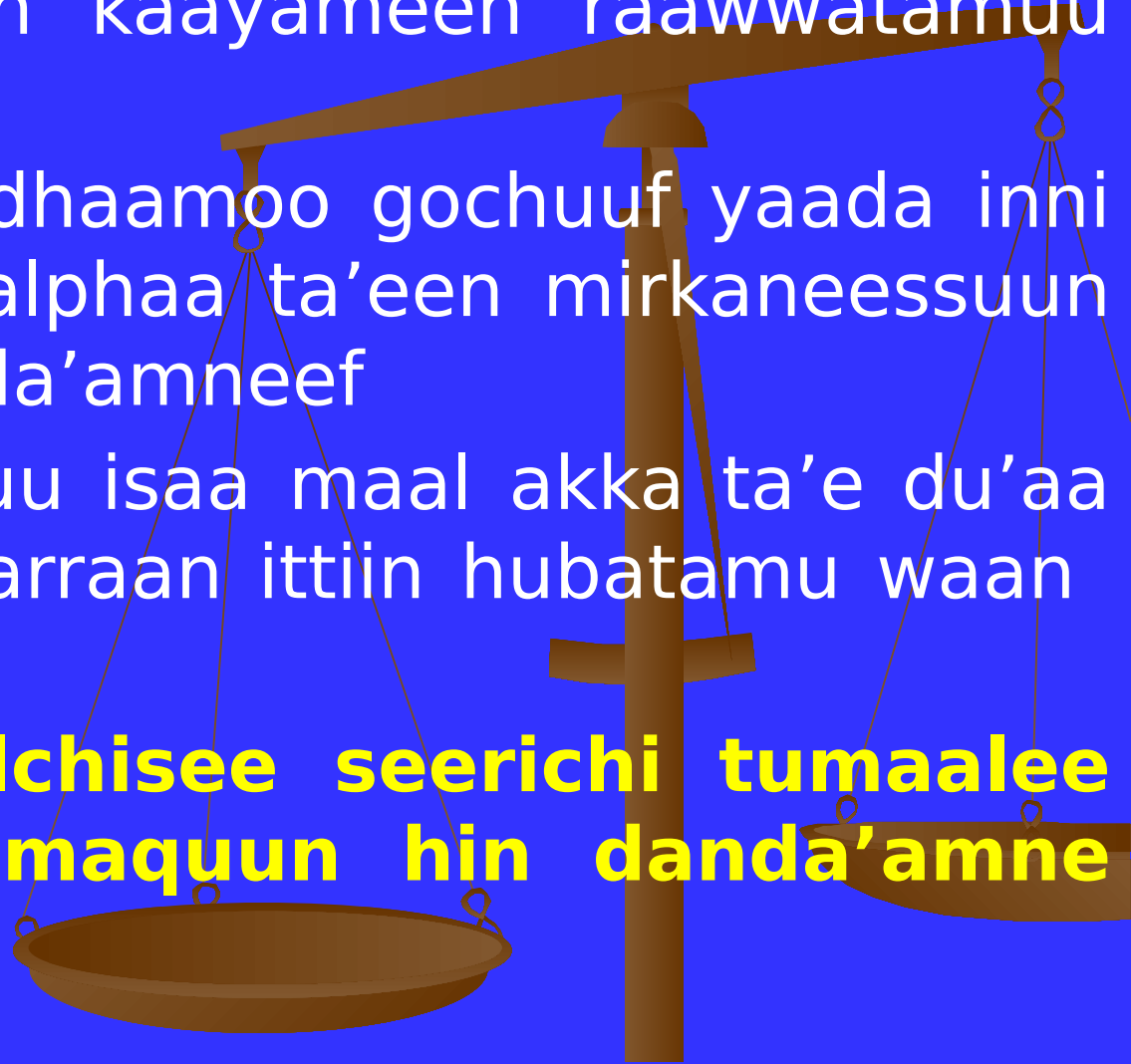


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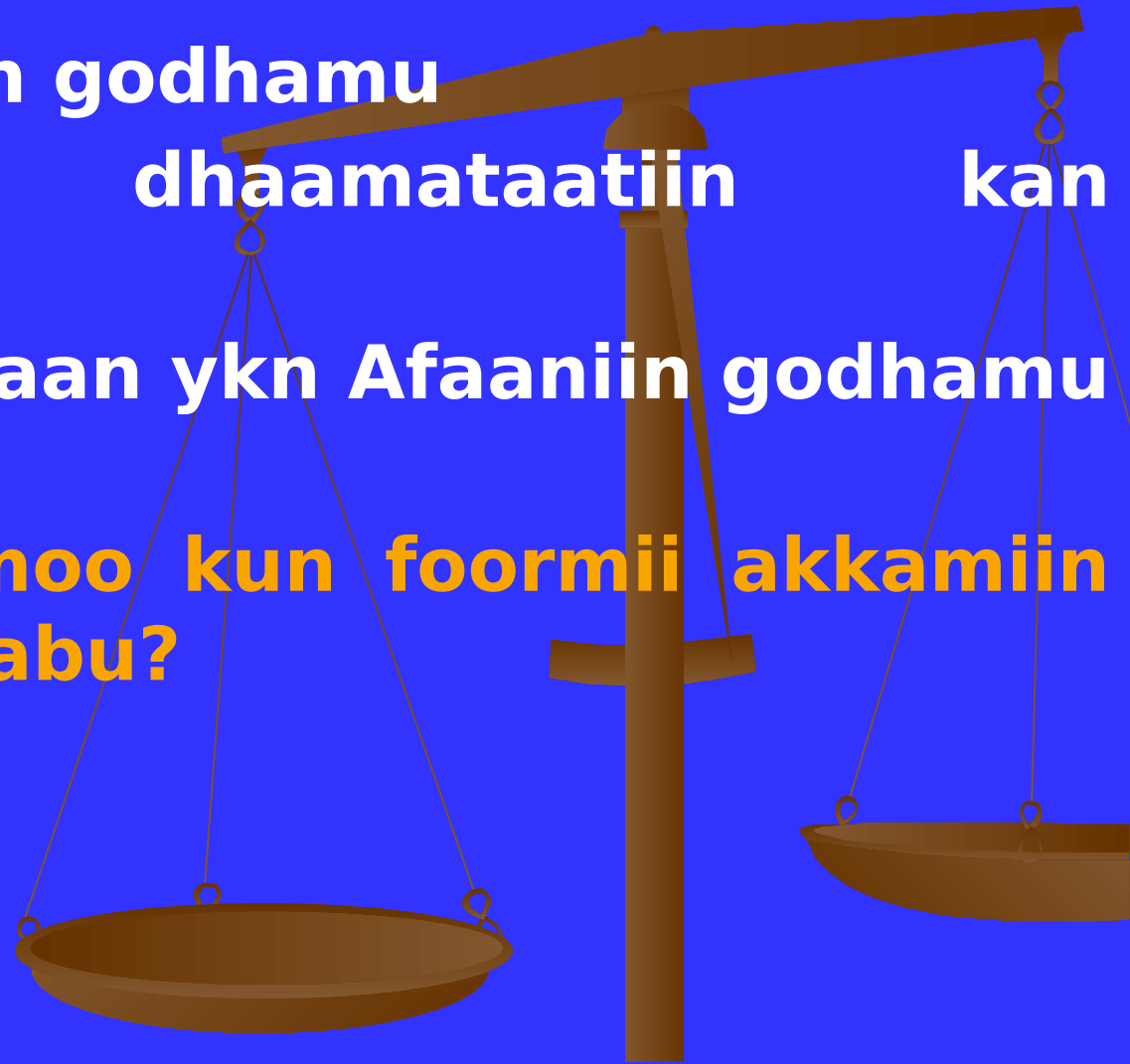


Foormii

- Dhaamoon tokko seera duratti gatii akka qabaatuuf haalli guutamuu qabu kan biroo, foormii seerichaan kaayameen raawwatamuu dha.
- ✓ Dhaamataan dhaamoo gochuuf yaada inni qabu karaa salphaa ta'een mirkaneessuun waan hin danda'amneef
- ✓ Yaadni sammuu isaa maal akka ta'e du'aa gaafachuun carraan ittiin hubatamu waan hin jirreef,
- ✓ **Foormii ilaalchisee seerichi tumaalee dirqii irraa maquun hin danda'amne kaayeera.**



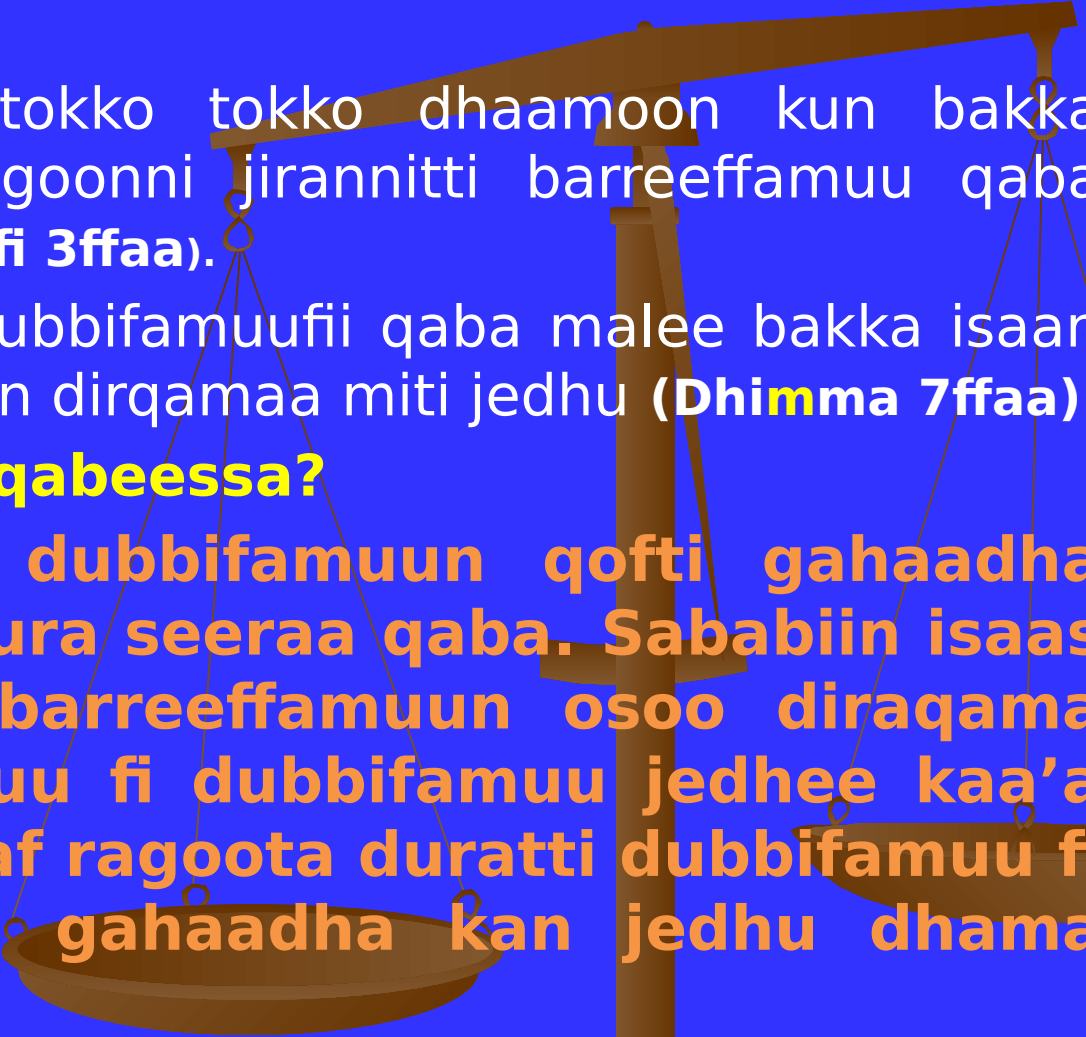
- ❖ Akkuma gosa dhaamootti garaagarummaa qabu.
- ❖ Seera keenya jalatti gosoonni dhaamoo sadii dha:
 - **Dhaamoo Ifaan godhamu**
 - **Barreeffama dhaamataatiin kan godhamuu fi**
 - **Dhaamoo Jechaan ykn Afaaniin godhamu dha**
- ❖ **Gosoonni dhaamoo kun foormii akkamiin raawwatamuu qabu?**



Dhaamoo Ifaan Raawwatamu

- Dhaamoon ifaan raawwatamu foormii akkamiin godhamuu akka qabu seera dhaalaa kwt. 881 jalatti tumamee jira.
- **SHH kwt. 881 dubbisaa**
- **Foormiiwwan guutamuu qaban kamiinfaa dha?**
- **Qabatamaan rakkoowwan hiikkoo fi raawwii gama kanaan mul'atan maali?**

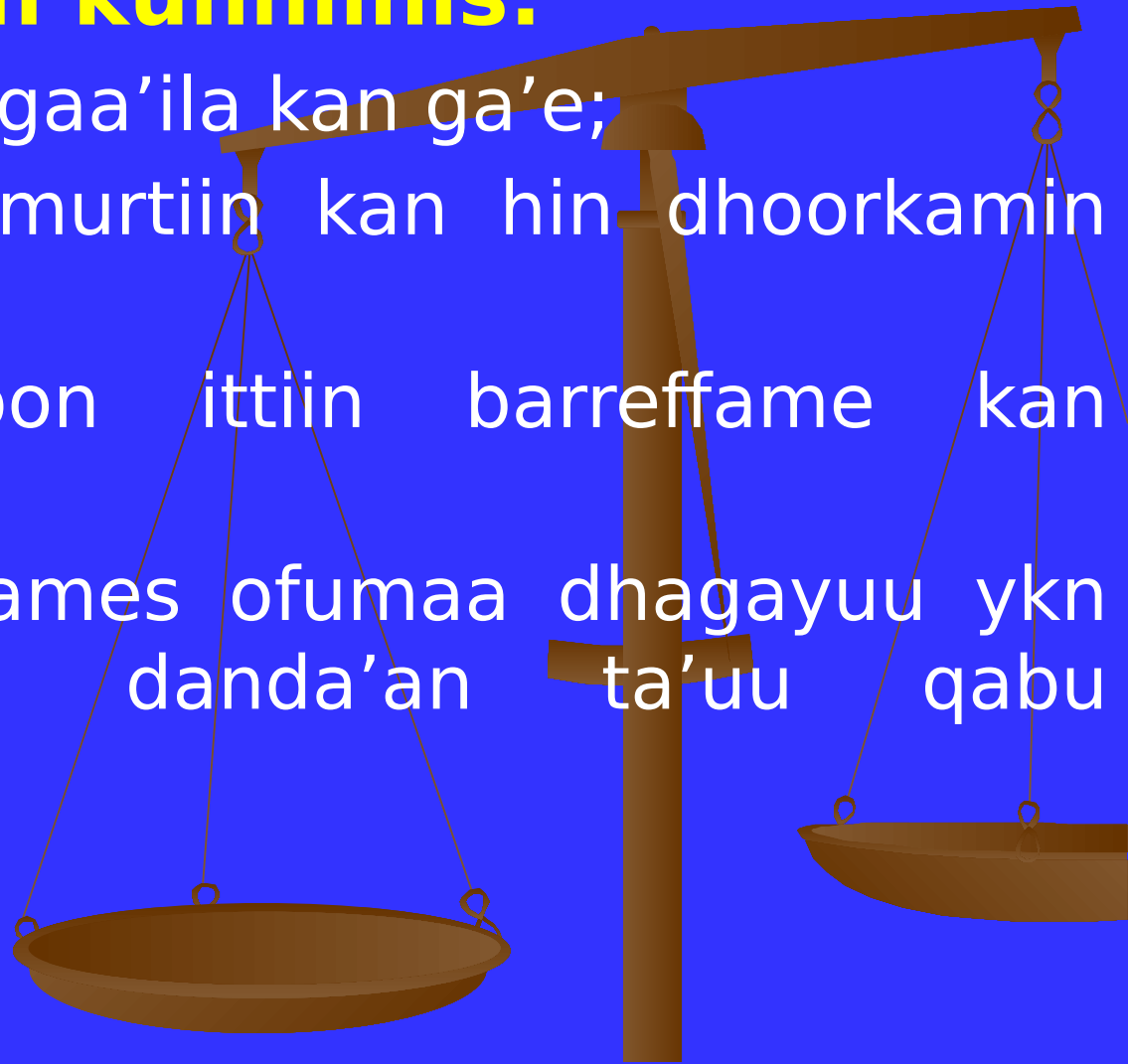


- A. **Dhaamataan Dubbachaa Jecha Isaa Namni Biraa ykn Ofumaa kan Barreesse ta'uu qaba.**
- **Dhaamoon ifaan godhamu seera duratti gatii akka qabaatuuf ragooleen kan barbaachisan hogguu dhaamichi barreeffamuu dha moo? dubbifamuu dha jettuu?**
- Gama kanaan AS tokko tokko dhaamoon kun bakka dhaamataan ykn ragoonni jirannitti barreeffamuu qaba jedhu (**Dhimma 7ffaa fi 3ffaa**).
- Isaan Kaan immoo dubbifamuufii qaba malee bakka isaan jiranitti barreeffamuun dirqamaa miti jedhu (**Dhimma 7ffaa**)
- **Isa Kamitu dhama qabeessa?**
- **Ragoota duratti dubbifamuun qofti gahaadha kan jedhutu bu'uura seeraa qaba. Sababiin isaas ragoota duratti barreeffamuun osoo diraqama ta'ee barreeffamuu fi dubbifamuu jedhee kaa'a ture seerri. Kanaaf ragoota duratti dubbifamuu fi mallatteeffamuun gahaadha kan jedhu dhama qabeessa.**
- 

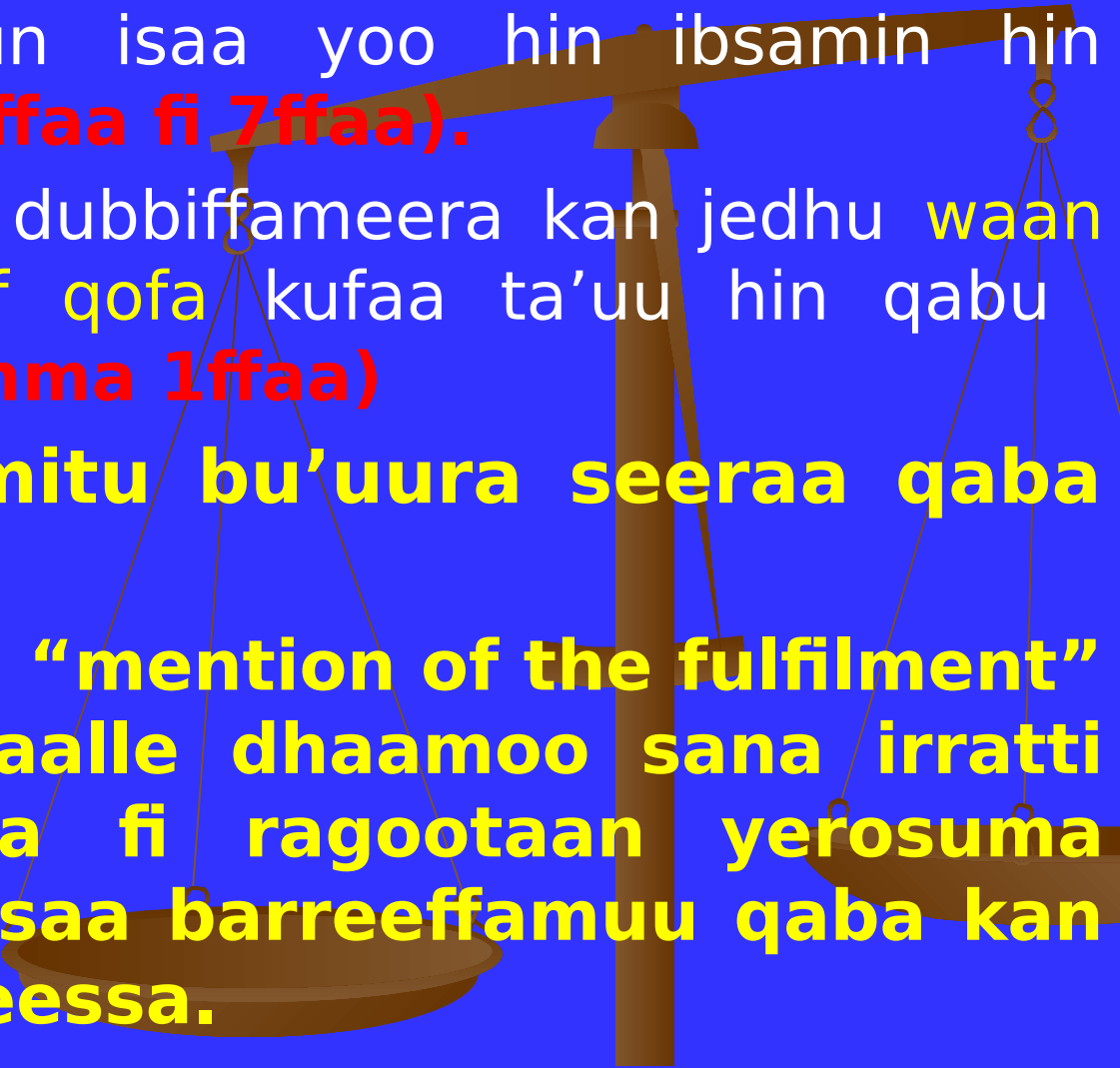
B. Dhaamichi Dhaamataa fi Ragoota Afur Duratti Dubbiffamuu isaatii fi sirni kun raawwatamuu isaa kan ibsu ta'uu qaba.

❖ **Ragoonni afran kunniinis:**

- ✓ Umuriin isaanii gaa'ila kan ga'e;
- ✓ seeraanis ta'e murtiin kan hin dhoorkamin (Kwt.883(1)).
- ✓ Afaan dhaamoon ittiin barreffame kan beekanii fi
- ✓ waan barreeffames ofumaa dhagayuu ykn dubbisuu kan danda'an ta'uu qabu (Kwt.883(2)).



MARII

1. Qabatamaan gama ulaagaa dubbiffamuu kanaatiin MM keessatti ejjannoowwan lamatu jira.
 - MM muraasa keessatti dhaamoon ifaan ragoota afur duratti dubbiffamuun isaa yoo hin ibsamin hin ragga'u (**Dhimma 3ffaa fi 7ffaa**).
 - Isaan kuun immoo dubbiffameera kan jedhu waan irratti hin ibsaminiif qofa kufaa ta'uu hin qabu jechuun falmu (**Dhimma 1ffaa**).
 - **Ejjannoo isa kamitu bu'uura seeraa qaba jettu?**
 - **Kwt 881(2) jalatti "mention of the fulfilment" kan jedhu yoo ilaalle dhaamoo sana irratti dubbifamuun isaa fi ragootaan yerosuma mallatteeffamuu isaa barreeffamuu qaba kan jedhu dhama qabeessa.**
- 

2. sirni dubbiffamuu raawwatamuu ibsuu kan qabu eenyuun ta'uu akka qabu irratti addaan baaten ni jira.

➤ MM tokko tokko “....ragooleen dhaamichi dubbiffamee fi hoggasuma mallatteessuu isaanii mataa isaaniitiin yoo ibsame malee dhaamataan ibsamuun isaa gayaa miti....” jechuun murteessu.

➤ Isaan kuun immoo “...eenyuun illee haa ibsamuu sirni kun raawwatamuu isaa yoo ibsame gahaa dha” jechuun murteessu.

➤ **Ejjannoowwan Kanneen Hoo akkamitti ilaaltu?** Ejjennoon lammataa kun dhama qabeessa ta'a.



.Dubbifamuun dhaamoo ibsamuu fii ibsamuu dhabuu irratti ejjennoowwan adda addaatu jira

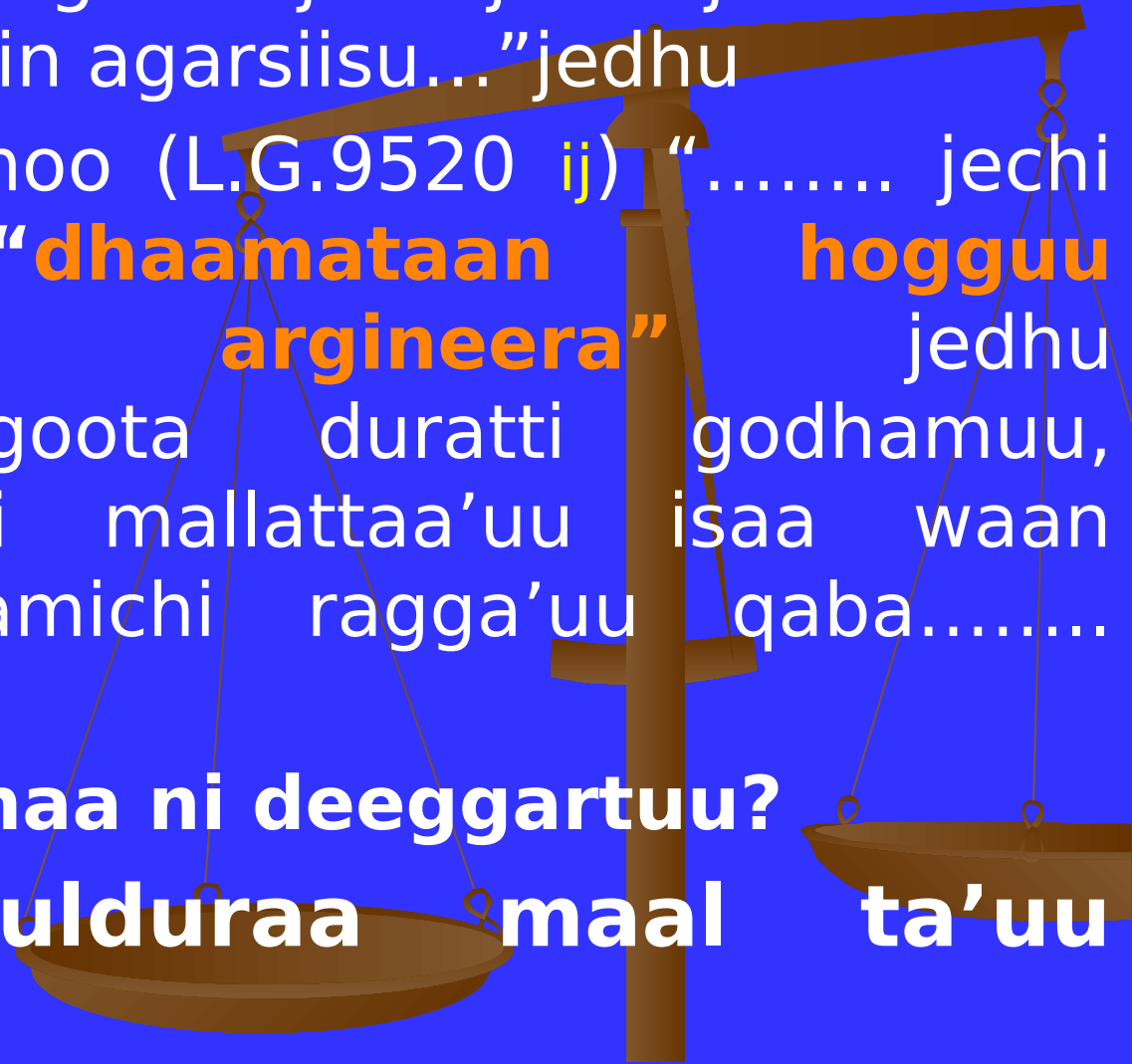
- ❖ MM tokko tokko dubbifamuun isaa ifatti ibsamuu qaba jechuum murteessumu (**Dhimma 5ffaa**)
- ❖ Isaan kuun immoo (L.G. 10858ij)“...sanada dhaamichaa irratti “**Nuti jaarsooleen hogguu dhaamatan kan arginee fi dhageenye ta’uu keenyaa ni mirkaneessina**” jechi dhaamoo jedhu dhaamichi ragoota fuula duratti akka dubbiffameetti kan lakkofsiisuu dha” jechuun murtii kennu.

Ejjannoo kam deeggartu? Bu’uura seeraa??

“arginee jirra” yoo jedhan ragoonni waa’ee dhaamoo sanaa arguu isaanii waan ta’eef dhaamataa fi ragoota duratti dhaamoon dubbifamuu, mallattaa’uu fi akka dubbifame ibsamuusaa argineerra jechuu isaaniiti. Kun bu’uura seeraa kan qabuu fi dhama qabeessa.

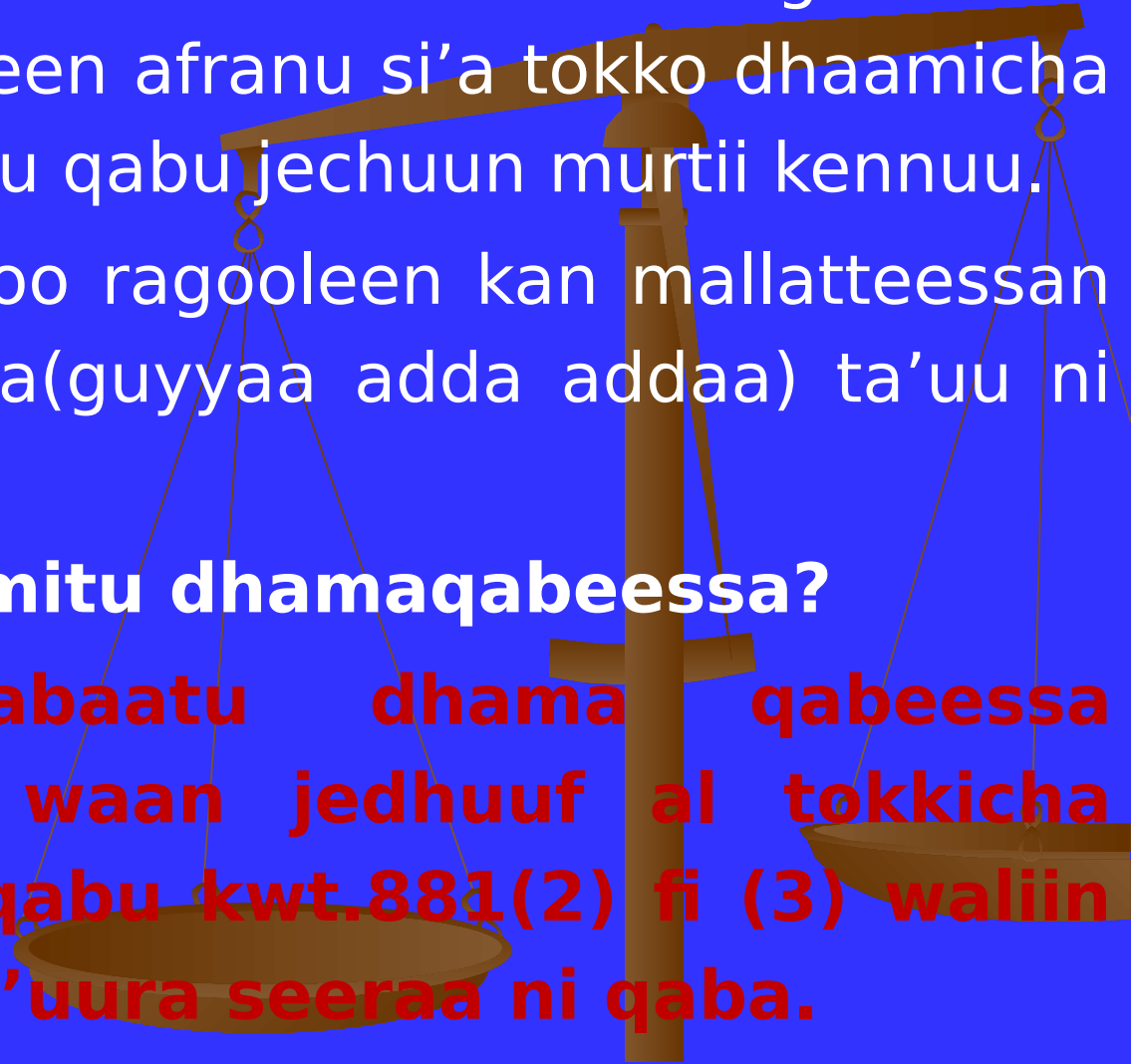
4. **Dubbifamuu dhaamoo** **Arguu** ilaalchisees addaan baateen ni jira:

- MM tokko tokko “...serichi ifaan dubbiffamuu waan kaayeef arginee jirra jechi jedhu sirni raawwatamuu hin agarsiisu...” jedhu
- Isaan kuun immoo (L.G.9520 ij) “..... jechi dhaamoo **“dhaamataan hogguu mallatteessuu argineera”** jedhu dhaamichi ragoota duratti godhamuu, dubbiffamuu fi mallattaa’uu isaa waan muli’suuf dhaamichi ragga’uu qaba.....” jedhu.
- **Ejjannoo MM kanaa ni deeggartuu?**
- **Kallattiin Fuulduraa maal ta’uu qaba?**



C.Dhaamata fi ragoonni *Hoggasuma* Barreeffama Dhaamoo irratti Mallattoo isaanii ykn kan qubaa irra kaayuu qabu.

- AS tokko tokko dhaamichi seera duratti gatii akka qabaatuuf ragooleen afranu si'a tokko dhaamicha irratti mallatteessu qabu jechuun murtii kennuu.
- Isaan kuun immoo ragooleen kan mallatteessan yeroo adda addaa(guyyaa adda addaa) ta'uu ni danda'a jedhu.
- **Ejjannoo isa kamitu dhamaqabeessa?**
- **Ejjennoo jalqabaatu dhama qabeessa “immediately” waan jedhuuf al tokkicha mallatteessuu qabu kwt.881(2) fi (3) waliin yoo ilaalame bu'uura seeraa ni qaba.**



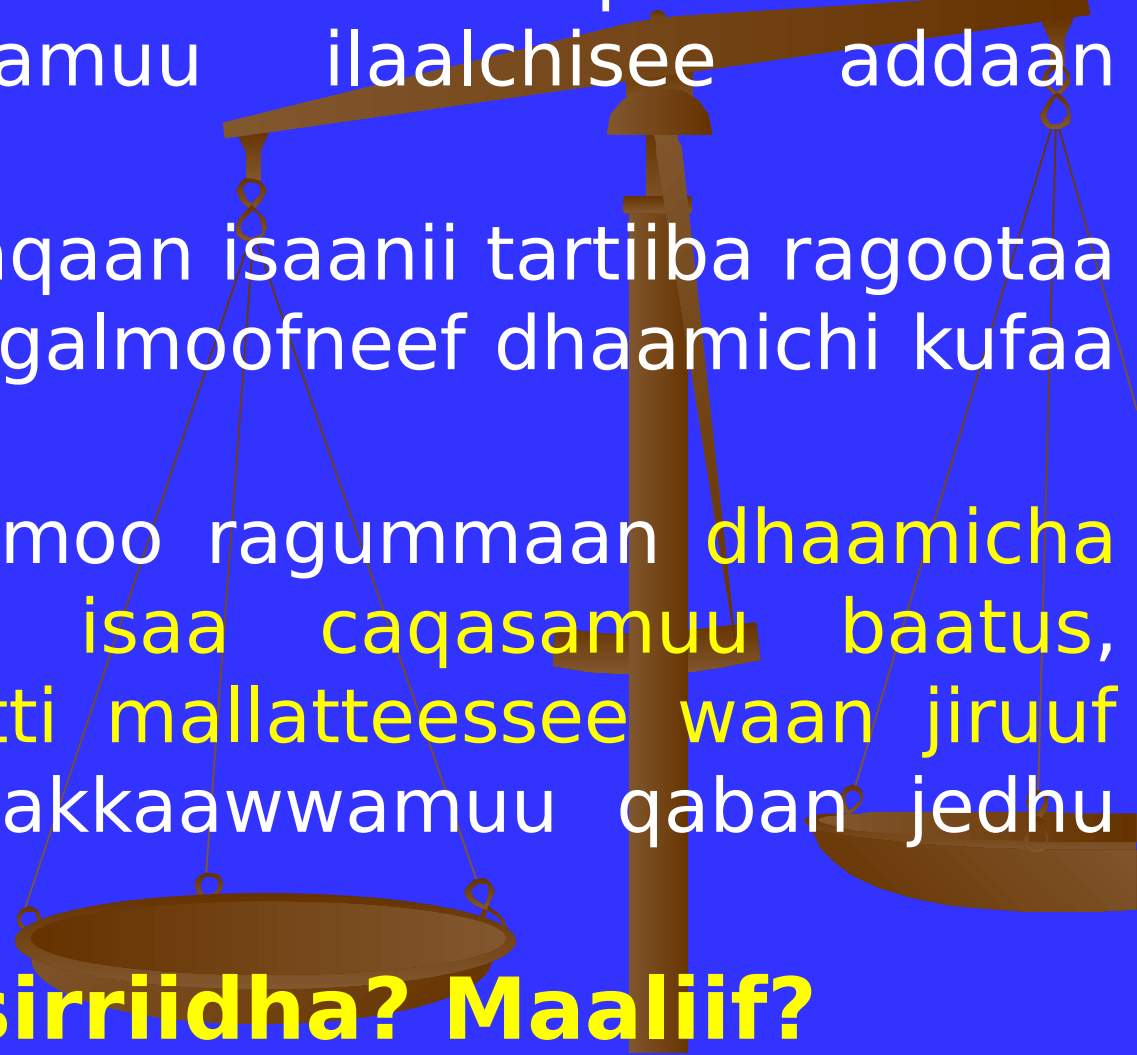
D. Ragoota keessaa inni tokko A/S ykn Qondaalaa waliigaltee waliigalchuuf aangoon kennameef yoo ta'ee fi dhaamoon bakka inni hojii isaa gaggeessutti yoo godhame, ragoonni lama qofti gahaa dha(Kwt.882). Qondaalli kun tarree ragootaa jalatti mallatteessuun dirqama miti mallattoon irra haa jiraatu malee. Sababni isaa inni waajjiricha bakka bu'ee waan hojjetuuf mallattoon isaa ykn chaaphaan irra jiraachuun qofti gahaadha.

E. Dhaamoon ifaan godhamu guyyaa, ji'aa fi bara itti barreeffame argisisuu qaba (Kwt.887(1)).

Ulaagaalee tarraa'an kana seerri dirqisiisoo godhee waan kaa'eef tokko keessaa hir'annaan dhaamoo sana kufaa taasisa jechuudha.

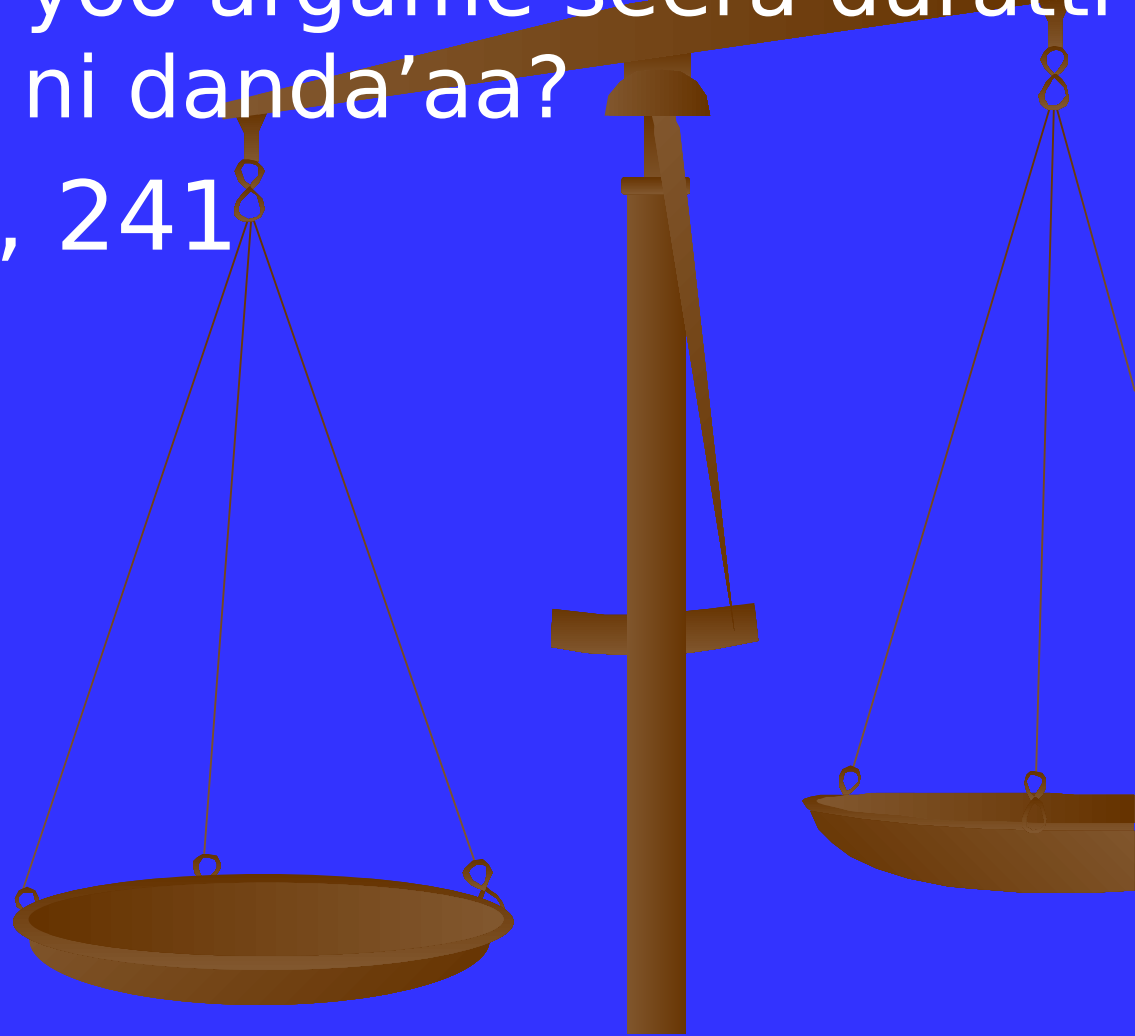
MARII

- Qabatamaan A/S ykn qondaalaa waliigaltee waliigalchuuf aangoon kennameef maqaan isaanii dhaamoo irratti hin caqafamin akka ragaatti laakka'amuu ilaalchisee addaan baateen ni jira.
- AS muraasni maqaan isaanii tartiiba ragootaa irratti waan hin galmoofneef dhaamichi kufaa dha jedhu ,
- Isaan biroo immoo ragummaan dhaamicha irratti maqaan isaa caqasamuu baatus, dhaamicha irratti mallatteessee waan jiruuf akka ragaatti lakkaawwamuu qaban jedhu (dhimma 4ffaa).
- **Murtii kamtu sirriidha? Maaliif?**



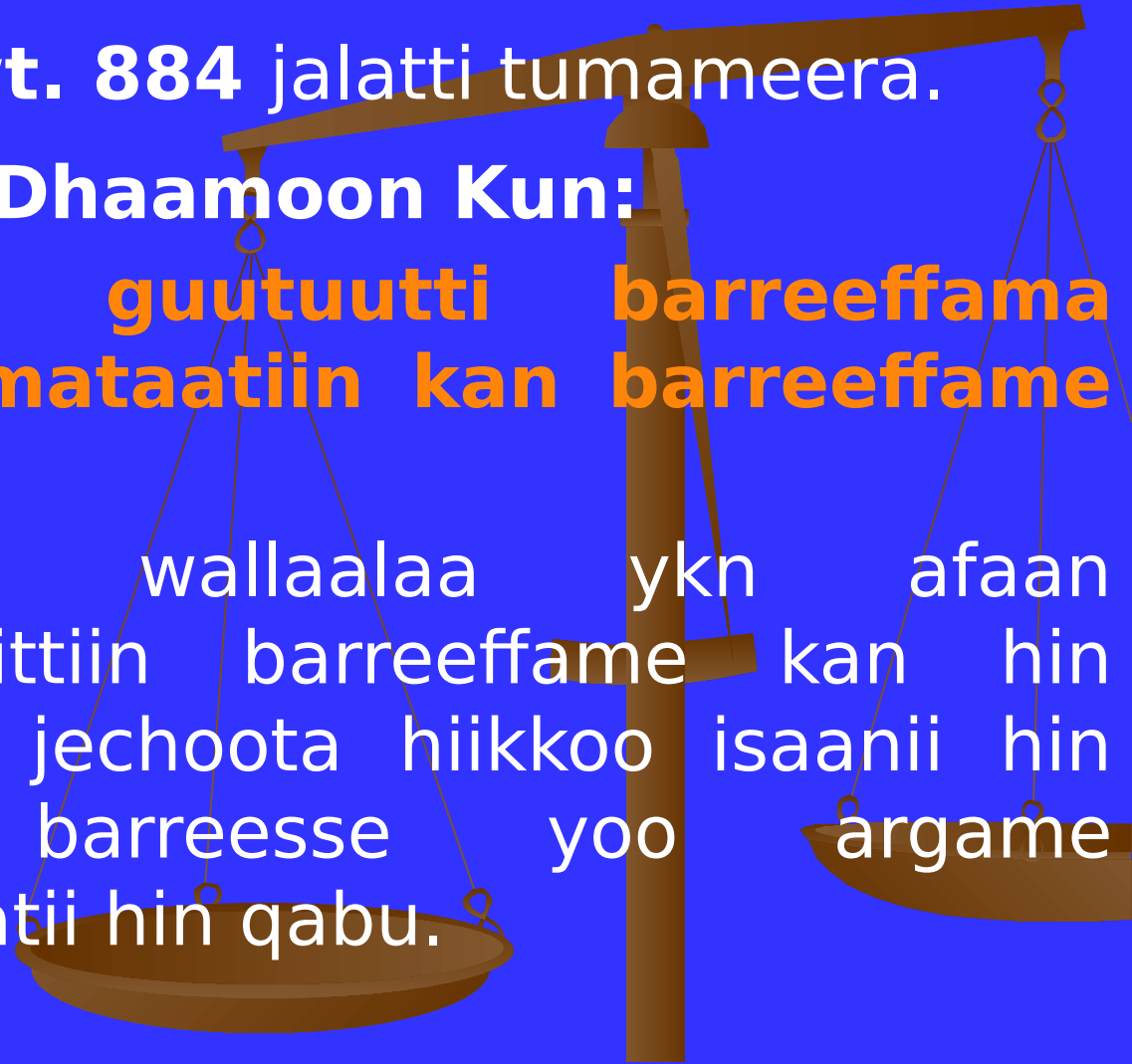
MARII

- Dhaamoon ifaan godhamu tokko foormiiwwan guutuu qabu keessaa tokkichi hir'atee yoo argame seera duratti gatii qabaachuu ni danda'aa?
- Jildii 8ffaa, fuula, 241



Dhaamoo Barreeffama Harkaa Dhaamataatiin raawwatamu.

- Dhaamoon kunis foormii akkamiin raawwatamuu akka qabu SHH **kwt. 884** jalatti tumameera.
- **Bu'uura Kanaan Dhaamoon Kun:**
 - A. **Gutuummaan guutuutti barreeffama harkaa dhaamataatiin kan barreeffame ta'uu qaba;**
 - Dhaamataan wallaala ykn afaan dhaamichi ittiin barreeffame kan hin beekne ykn jechoota hiikkoo isaanii hin beekneen barreesse yoo argame dhaamichi gatii hin qabu.



B. Barreeffamni kun **dhaamoo ta'uu isaa ifatti kan mul'isu ykn ibsu** ;

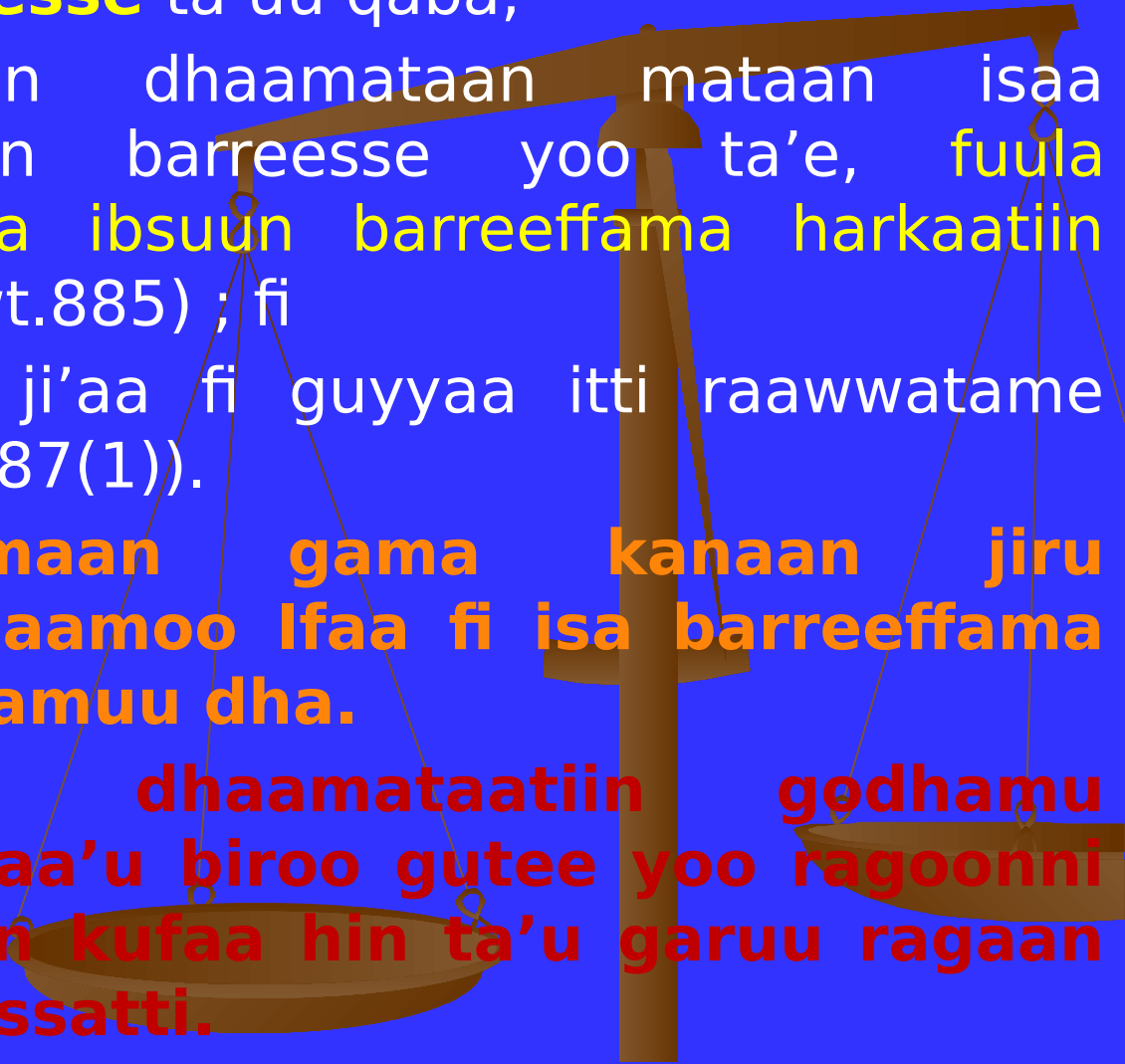
C. Fuula tokko ol yoo ta'e dhaamataan **fuula hundarrattuu mallattoo isaa kaayuu fi guyyaa irratti kan barreesse** ta'uu qaba;

D. Dhaamoon kun dhaamataan mataan isaa taayippiidhaan kan barreesse yoo ta'e, fuula hundarratti kanuma ibsuun barreeffama harkaatiin agarsiisuu qaba (Kwt.885) ; fi

E. Dhaamichi bara, ji'aa fi guyyaa itti raawwatame mul'isu qaba (Kwt.887(1)).

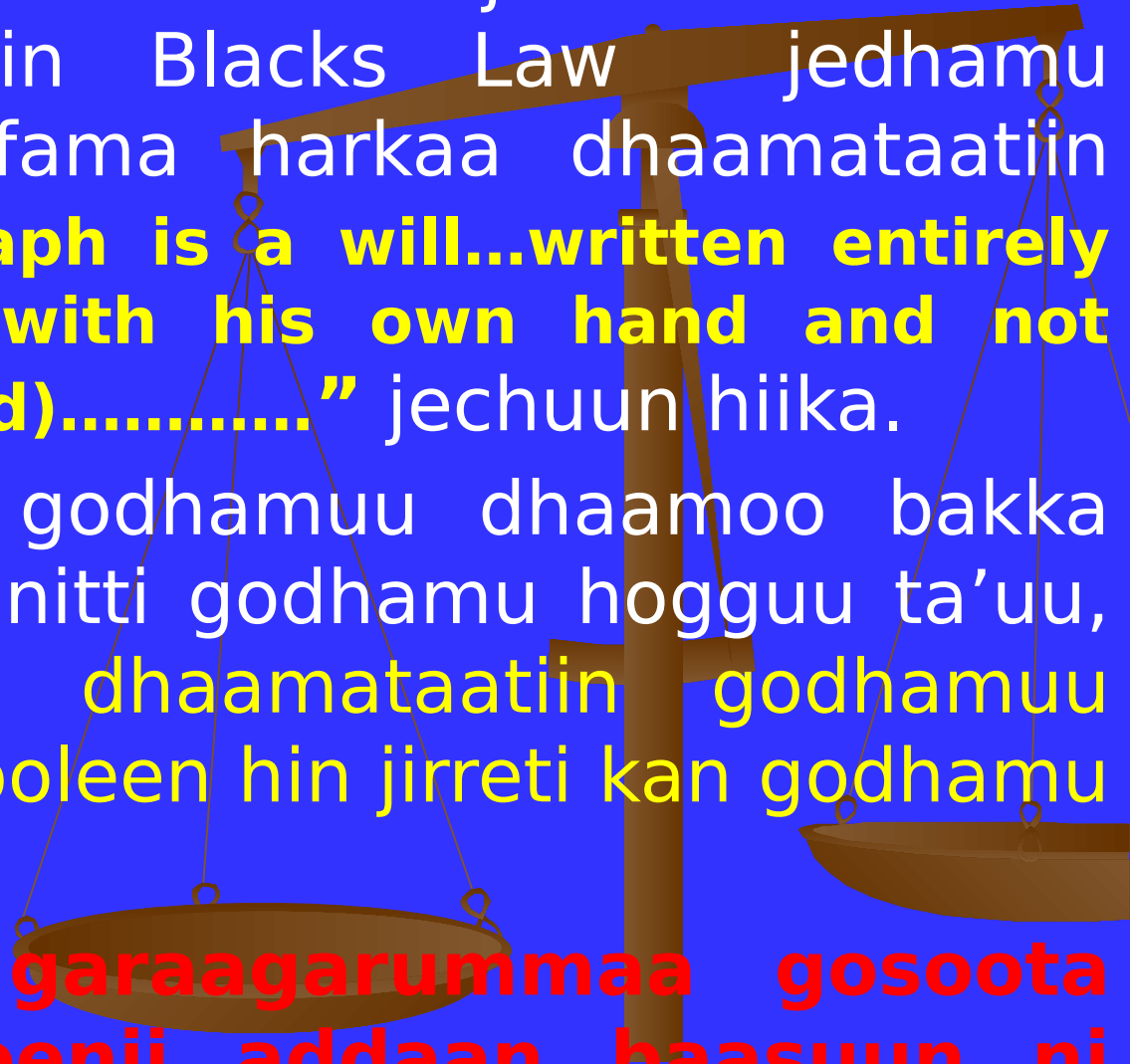
❖ **Rakkoon qabatamaan gama kanaan jiru garaagarummaa dhaamoo ifaa fi isa barreeffama dhaamataatin godhamuu dha.**

❖ **Dhaamoon harka dhaamataatiin godhamu ulaagaalee seerri kaa'u biroo guttee yoo ragoonni irratti mallatteessan kufaa hin ta'u garuu ragaan dirqama miti as keessatti.**



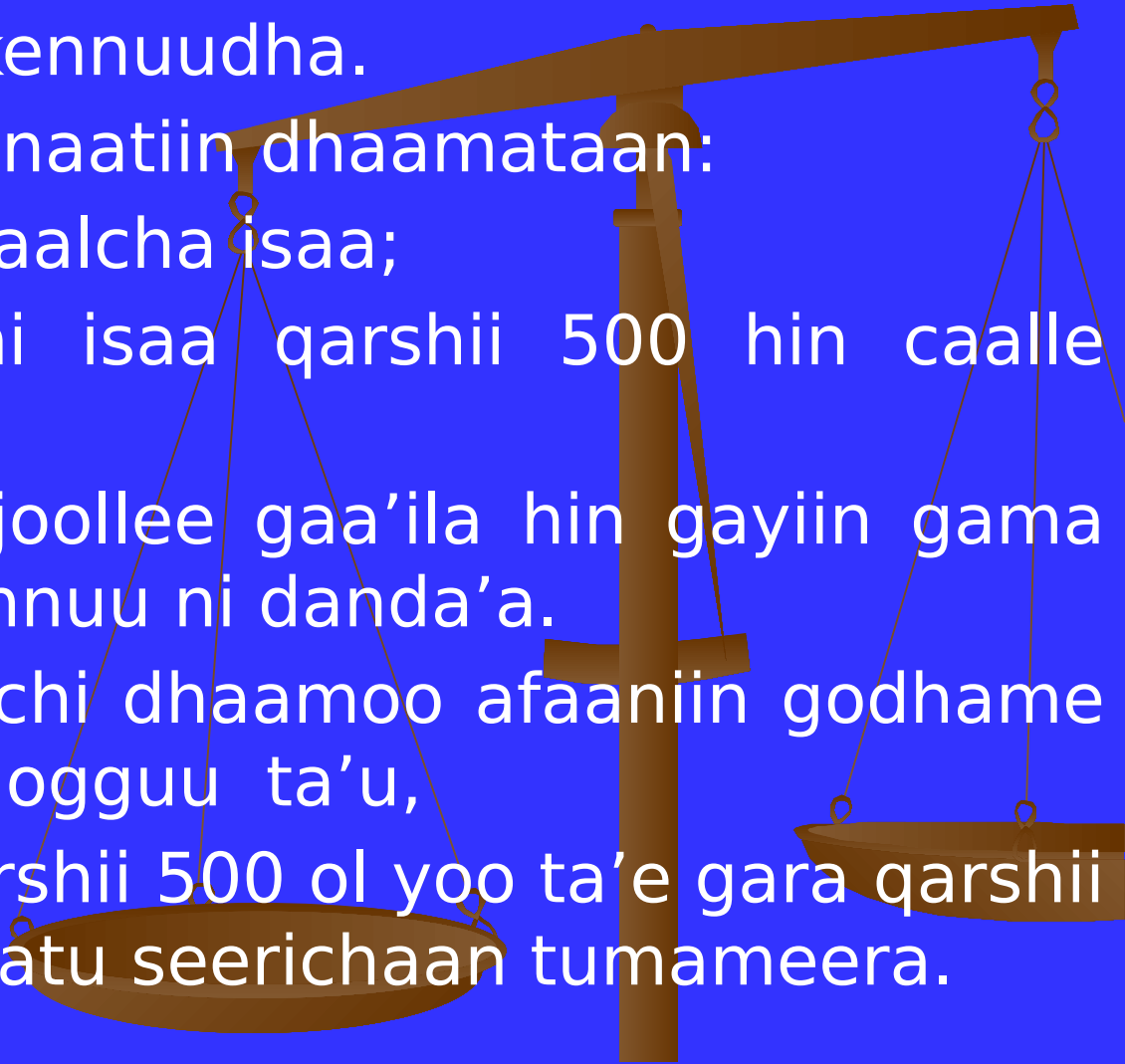
MARII

- MMOOF "... hogguu dhaamoon godhamu ragoonni argamuun dhaamicha dhaamoo ifaan godhamu hin taasisu jechuu dhaan ibseera. Dikishinariin Blacks Law jedhamu dhaamoo barreeffama harkaa dhaamataatiin godhamu "**holograph is a will...written entirely by the testator...with his own hand and not witnessed (attested).....**" jechuun hiika.
- Dhaamoon ifaan godhamuu dhaamoo bakka ragooleen argamanitti godhamu hogguu ta'uu, kan barreeffama dhaamataatiin godhamuu immoo bakka ragooleen hin jirreti kan godhamu dha"jedheera.
- **Haala kanaan garaagarummaa gosoota dhaamoo kanneenii addaan baasuun ni**



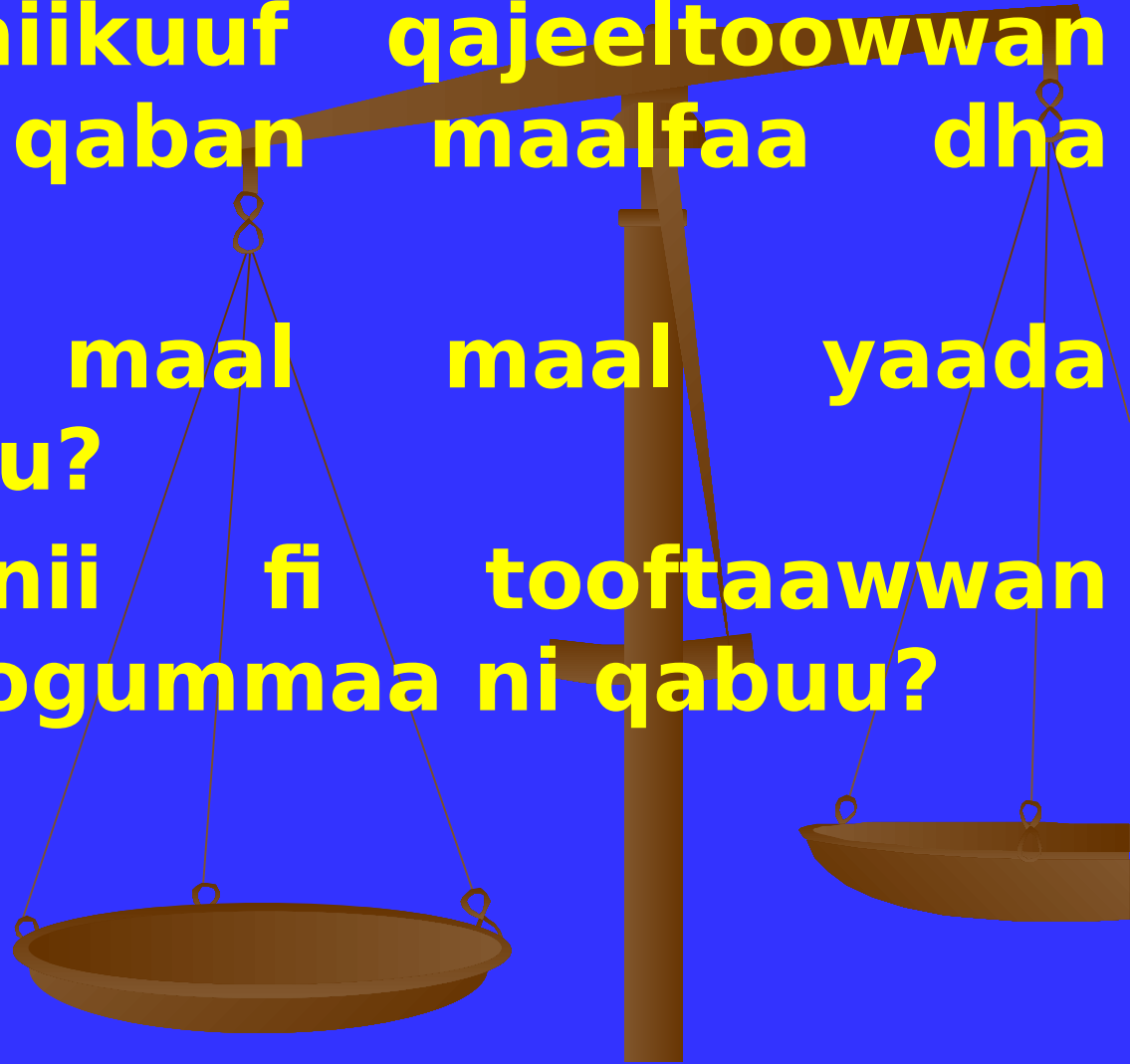
Dhaamoo Afaaniin Godhamu

- Namni tokko duuti isaa itti dhiyaachuu hubatee ragoota lama kan umuriin gaa'ilaaf gayee fi kan seeraan ykn murtiin hin dhoorkamin duratti haala jecha dhaamoo itti kennuudha.
- Gosa dhaamoo akkanaatiin dhaamataan:
 - ✓ waa'ee sirna awwaalcha isaa;
 - ✓ kennaa tilmaamni isaa qarshii 500 hin caalle godhuu fi
 - ✓ waa'ee guddisa ijoollee gaa'ila hin gayiin gama ilaaluun murtii kennuu ni danda'a.
- Isaan kanaan ala jechi dhaamoo afaaniin godhame gatii kan hinqabne hogguu ta'u,
- Garuu tilmaamni qarshii 500 ol yoo ta'e gara qarshii 500 akka gadi xinnaatu seerichaana tumameera.

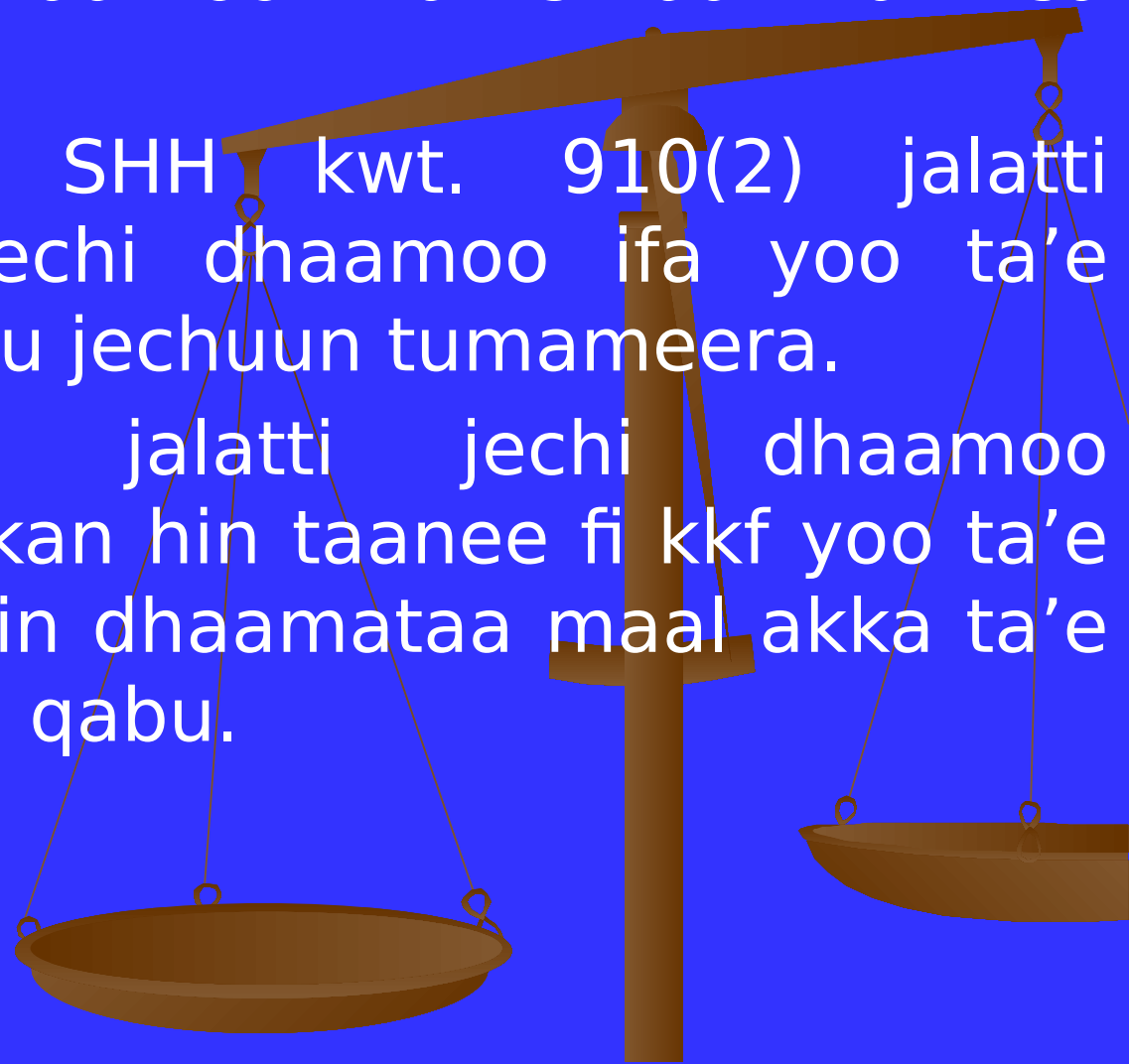


MARII

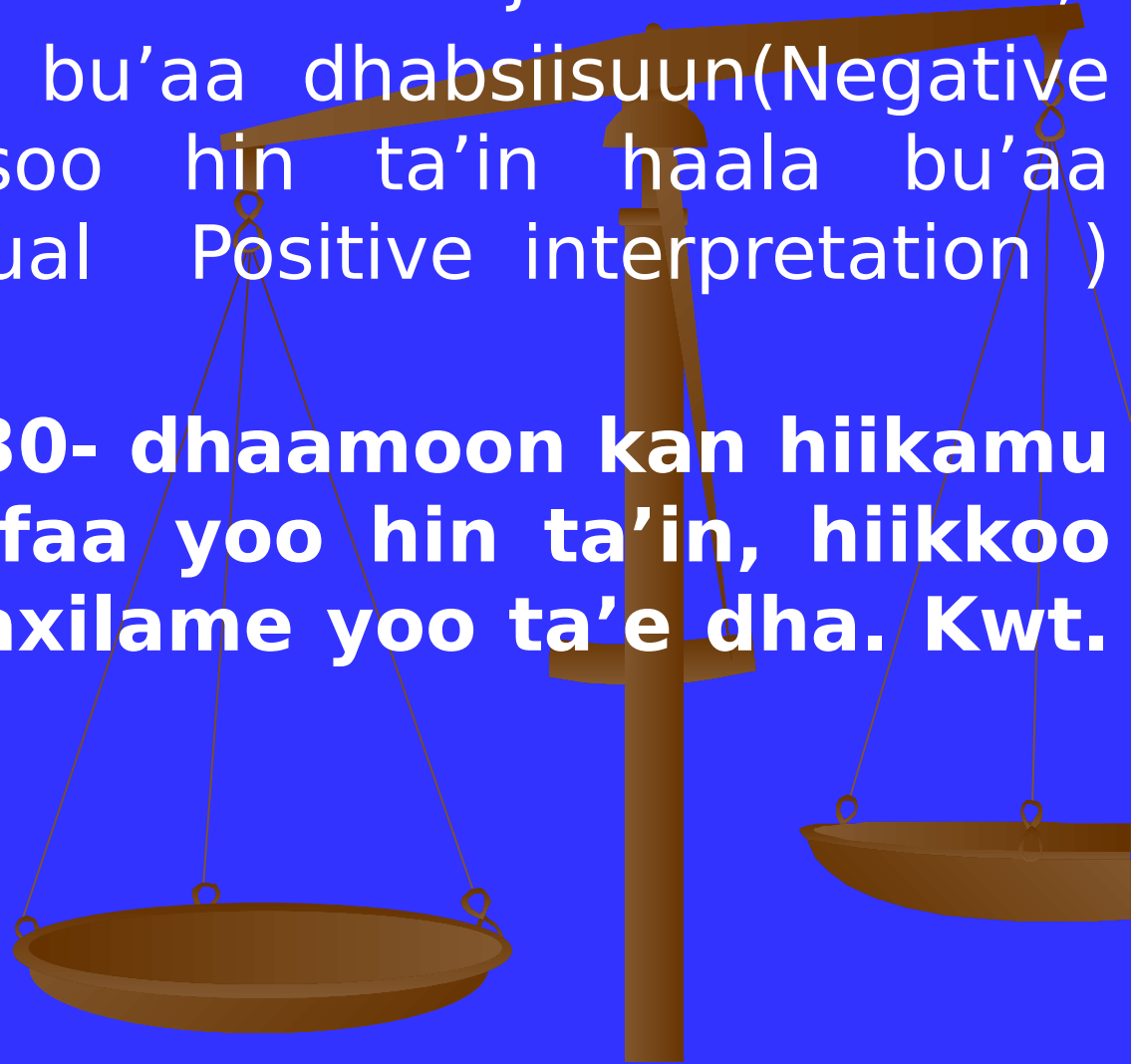
- Akka waliigalaatii dhaamoon akkamitti hiikkamu qaba jettu?
- Dhaamoo hiikuuf qajeeltoowwan hordofamuu qaban maalfaa dha jettu?
- Qabatamaan maal maal yaada keessa galchitu?
- Qajeeltoowwanii fi tooftaawwan seera hiikuu rogummaa ni qabuu?



- Interpretation may designate the avoidance of uncertainty or ambiguity of the language used in the instrument''
- Qajeeltoon kun dhaamoo irrattis raawwatiinsa ni qabaata,
- Bu'uura kanaan SHH kwt. 910(2) jalatti qajeeltoon kun jechi dhaamoo ifa yoo ta'e hiikkamuu hin qabu jechuun tumameera.
- SHH kwt.910(1) jalatti jechi dhaamoo shakkisiisaa, ifaa kan hin taanee fi kkf yoo ta'e MM yaada fi fedhiin dhaamataa maal akka ta'e tilmaamuun hiikuu qabu.

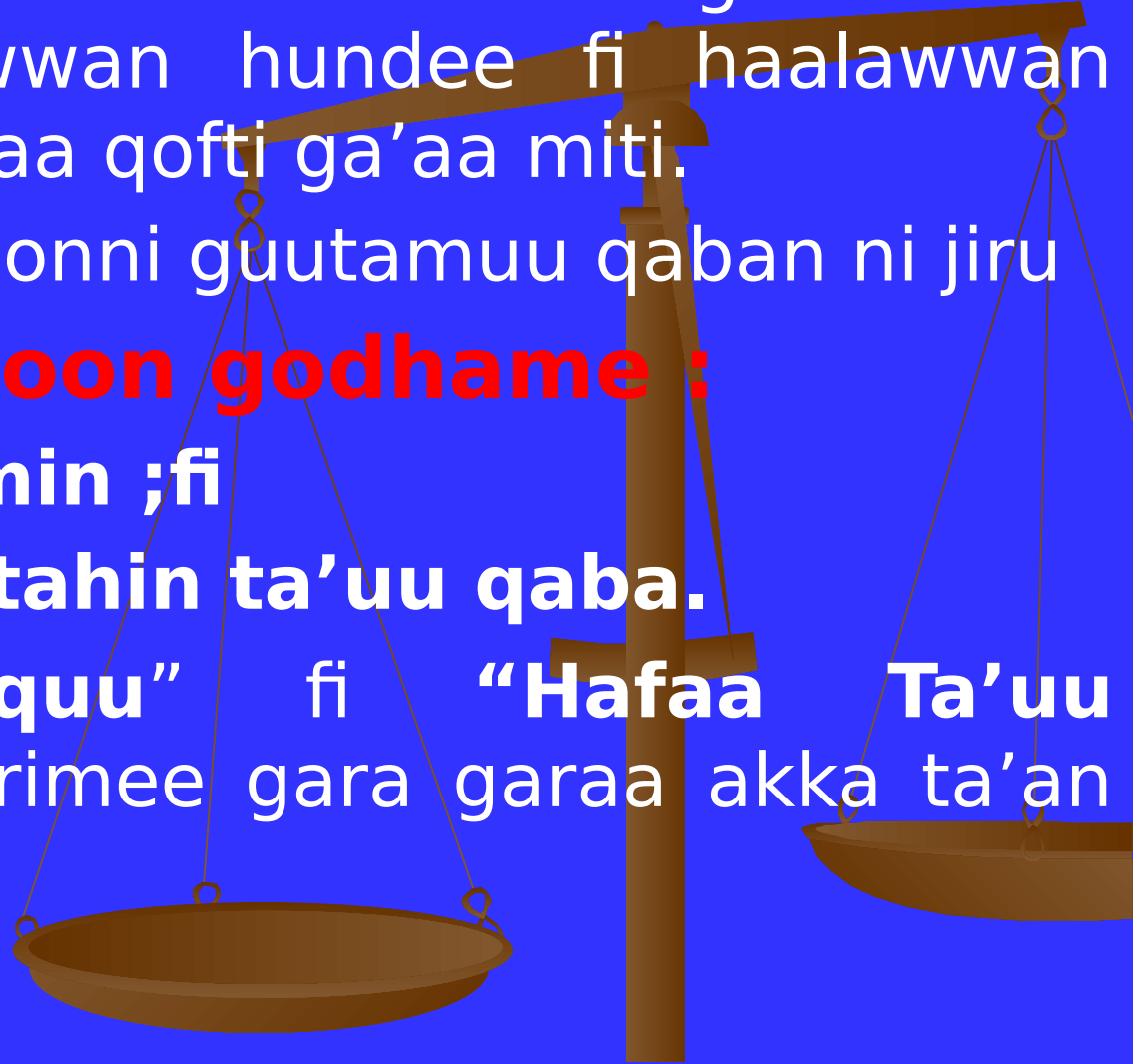


- Gama biraatiin dhaamoon bu'uura tilmaama seera keessatti ibsameen hiikkamuu qaba(kwt. 911).
 - ✓ Fakkeenya tilmama kwt. 925 jalatti tumame,
- Haala dhaamicha bu'aa dhabsiisuun(Negative Interpretation) osoo hin ta'in haala bu'aa buusisuun (Effectual Positive interpretation) ta'uu qaba.
- **Jildii 10ffaa, F. 30- dhaamoon kan hiikamu jechoonni isaa ifaa yoo hin ta'in, hiikkoo hedduuf kan saaxilame yoo ta'e dha. Kwt. 910, 911, fi 925**



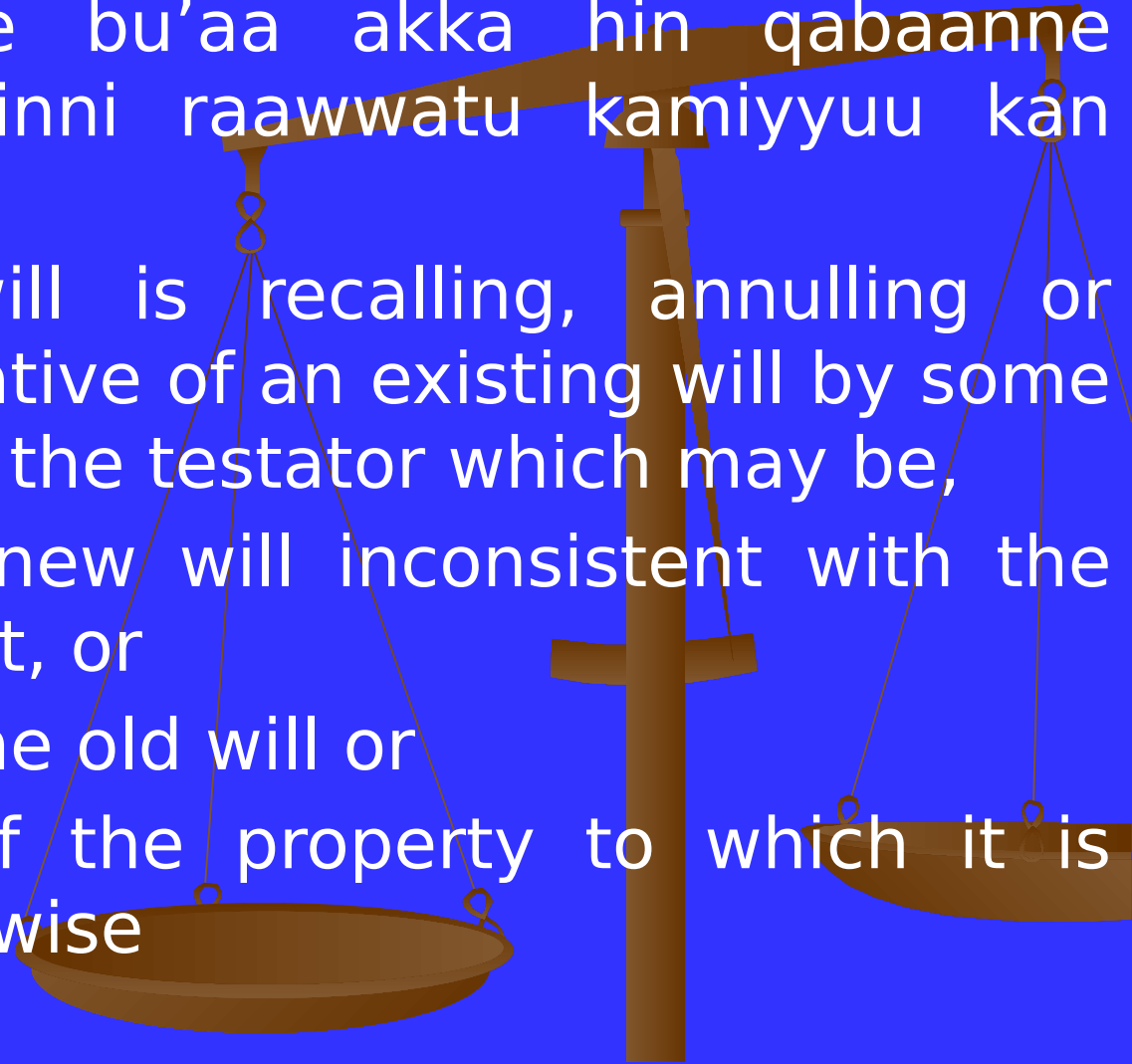
Haqamuu fi Hafaa Ta'uu Dhabuu Dhaamoo

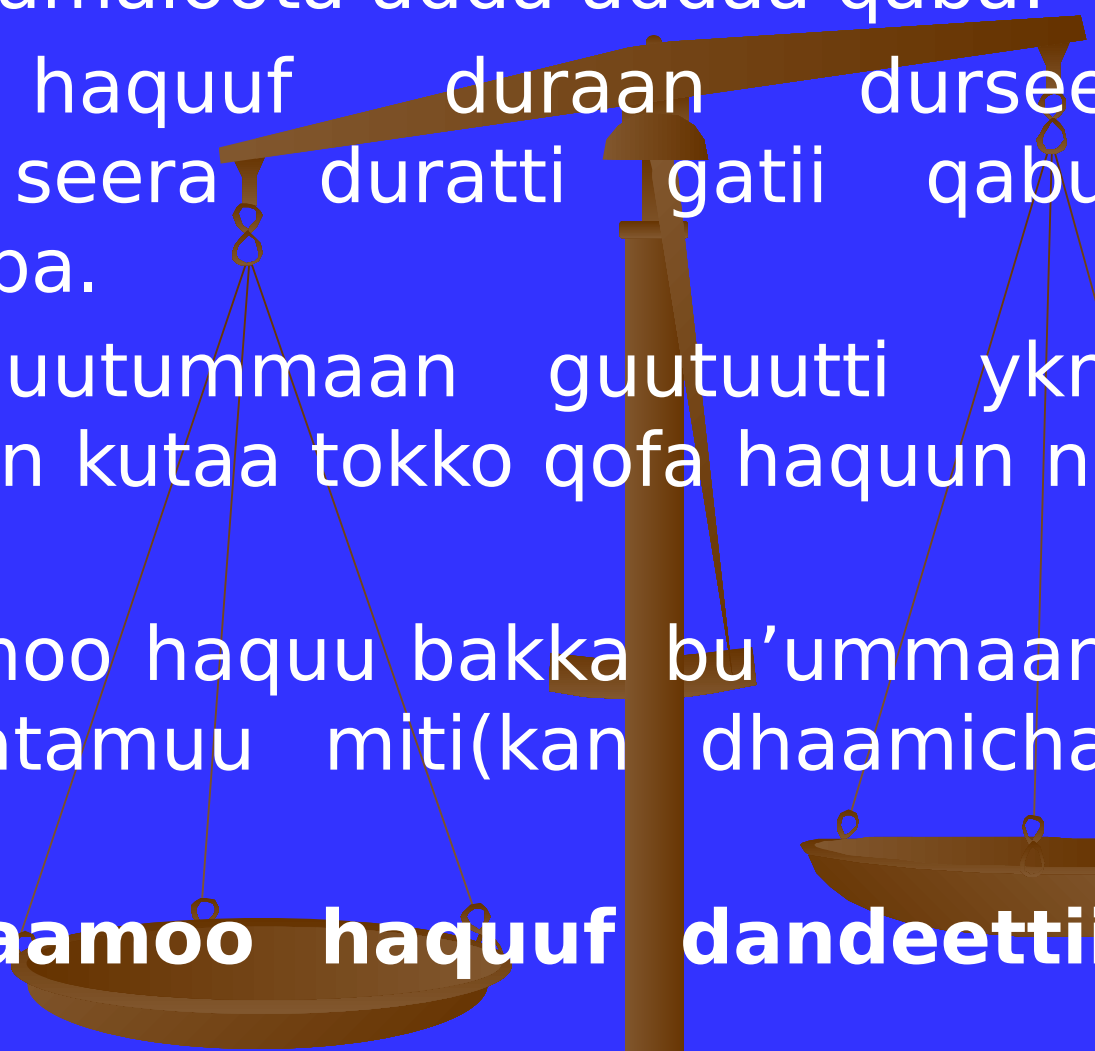
- Dhaamoon tokko seera duratti gatii akka qabaatuuf haalawwan hundee fi haalawwan foormii guutuun isaa qofti ga'aa miti.
- dabalataan wantoonni guutamuu qaban ni jiru
- **Isaanis dhaamoon godhame :**
 - ✓ kan hin haqamin ;fi
 - ✓ kufaa kan hin tahin ta'uu qaba.
- “Dhaamoo Haquu” fi “Hafaa Ta'uu Dhaamoo” yaad-rimee gara garaa akka ta'an hubatamuu qaba.



Dhaamoo Haquu (Revocation of Will)

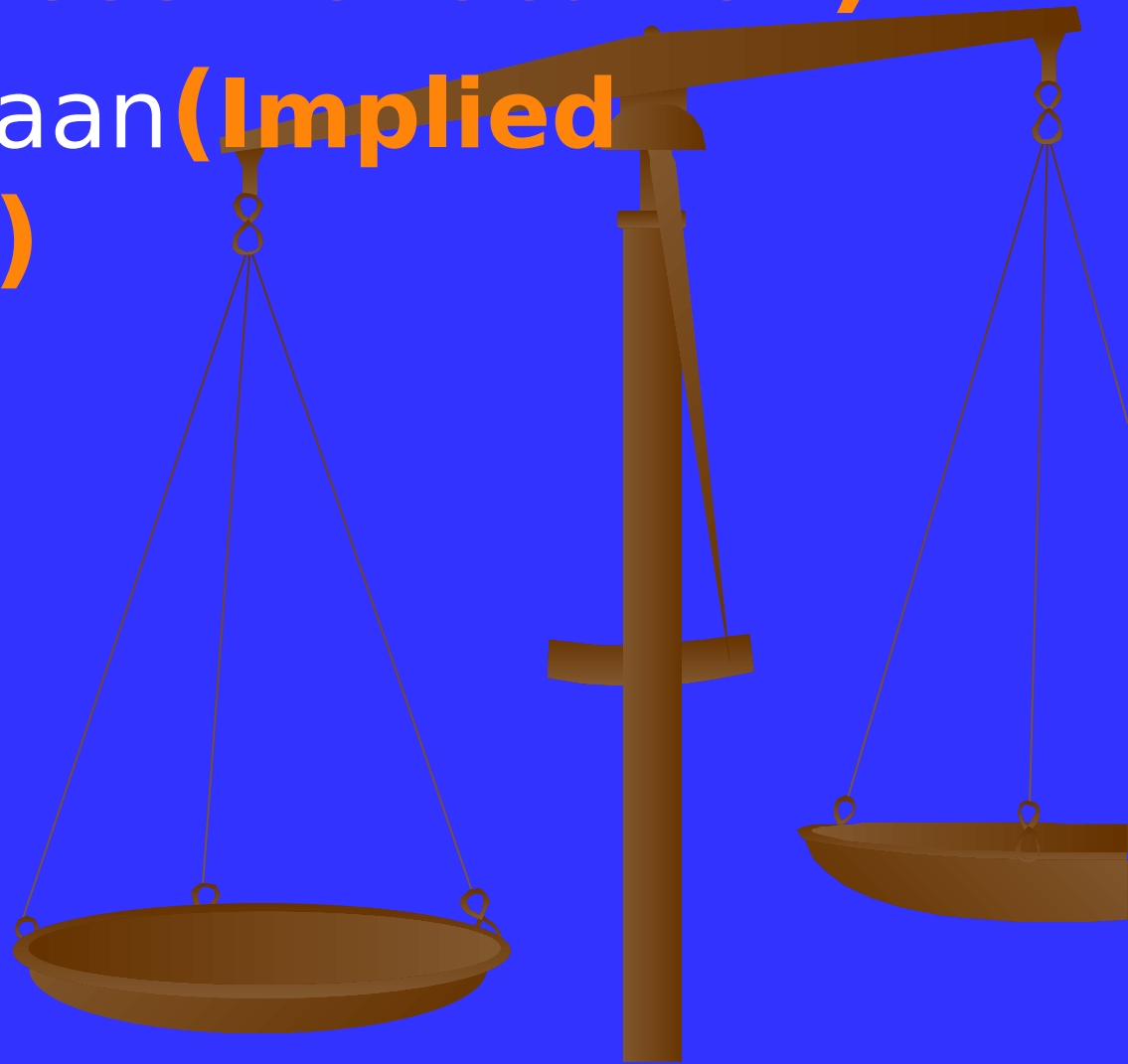
- Dhaamataan erga dhaamoo godheen booda dhaamoon godhe bu'aa akka hin qabaanne yaaduun gocha inni raawwatu kamiyyuu kan ibsuu dha.
- Revocation of will is recalling, annulling or rendering in operative of an existing will by some subsequent act of the testator which may be,
 - ✓ by making a new will inconsistent with the terms of the first, or
 - ✓ by destroying the old will or
 - ✓ by disposing of the property to which it is related or otherwise



- Dhaamataan dhaamoo godhuuf mirga akka qabu hunda dhaamoo haquufis mirga guutuu qaba.
 - Dhaamoo haquun amaloota adda addaa qaba:
 - ✓ Dhaamoo haquuf duraan dursee dhaamoon seera duratti gatii qabu jiraachuu qaba.
 - ✓ dhaamoo guutummaan guutuutti ykn gamisaan ykn kutaa tokko qofa haquun ni danda'a.
 - ✓ Gochi dhaamoo haquu bakka bu'ummaan kan raawwatamuu miti(kan dhaamicha godhe qofa).
 - **Dhaamataan dhaamoo haquuf dandeettii qabaachuu qaba.**
- 

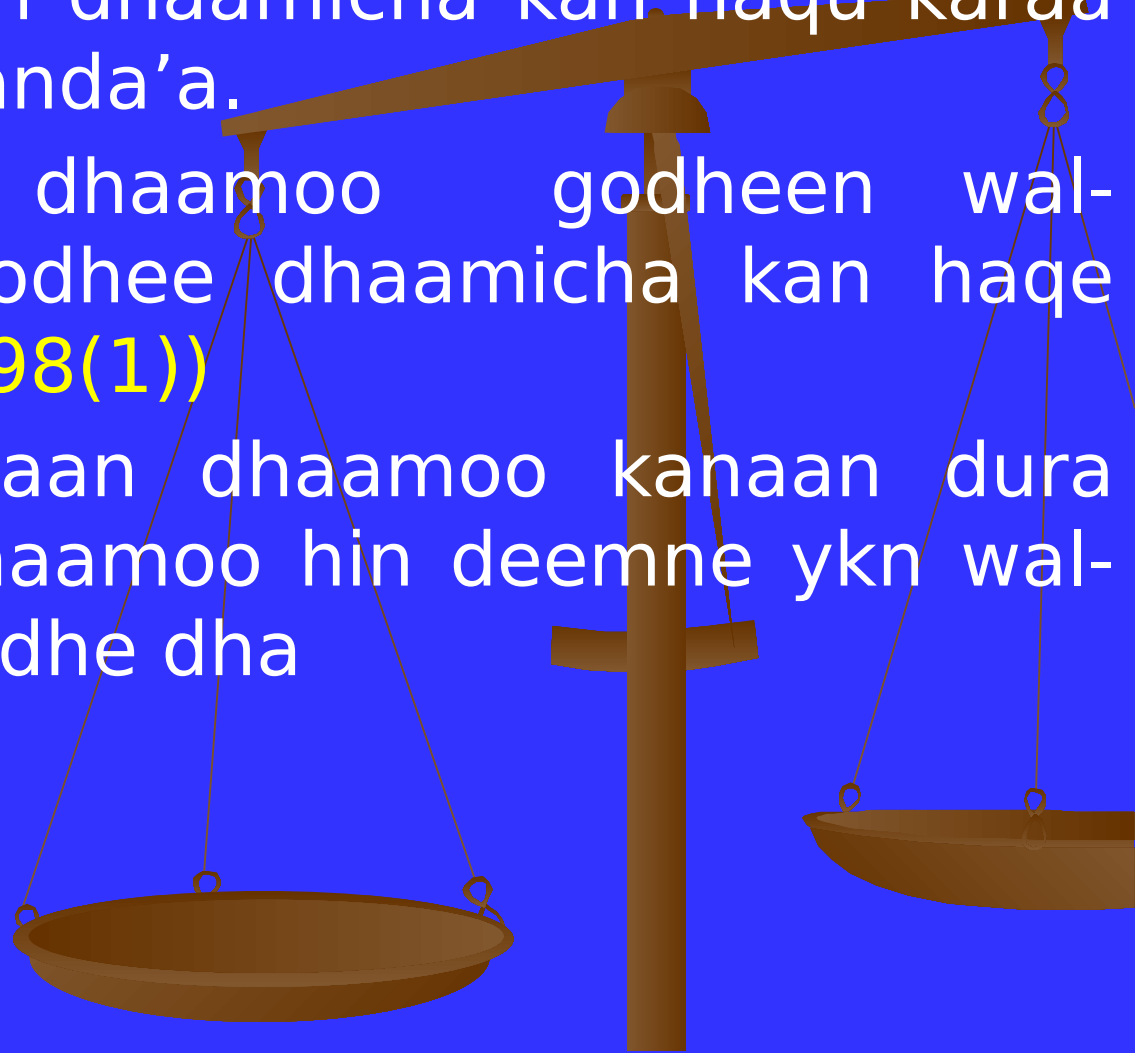
➤ Dhaamoon bifa lamaan haqamuu ni danda'a:

- ✓ Ifaan (**Express Revocation**): fi
- ✓ Al-kallattiidhaan (**Implied Revocation**)



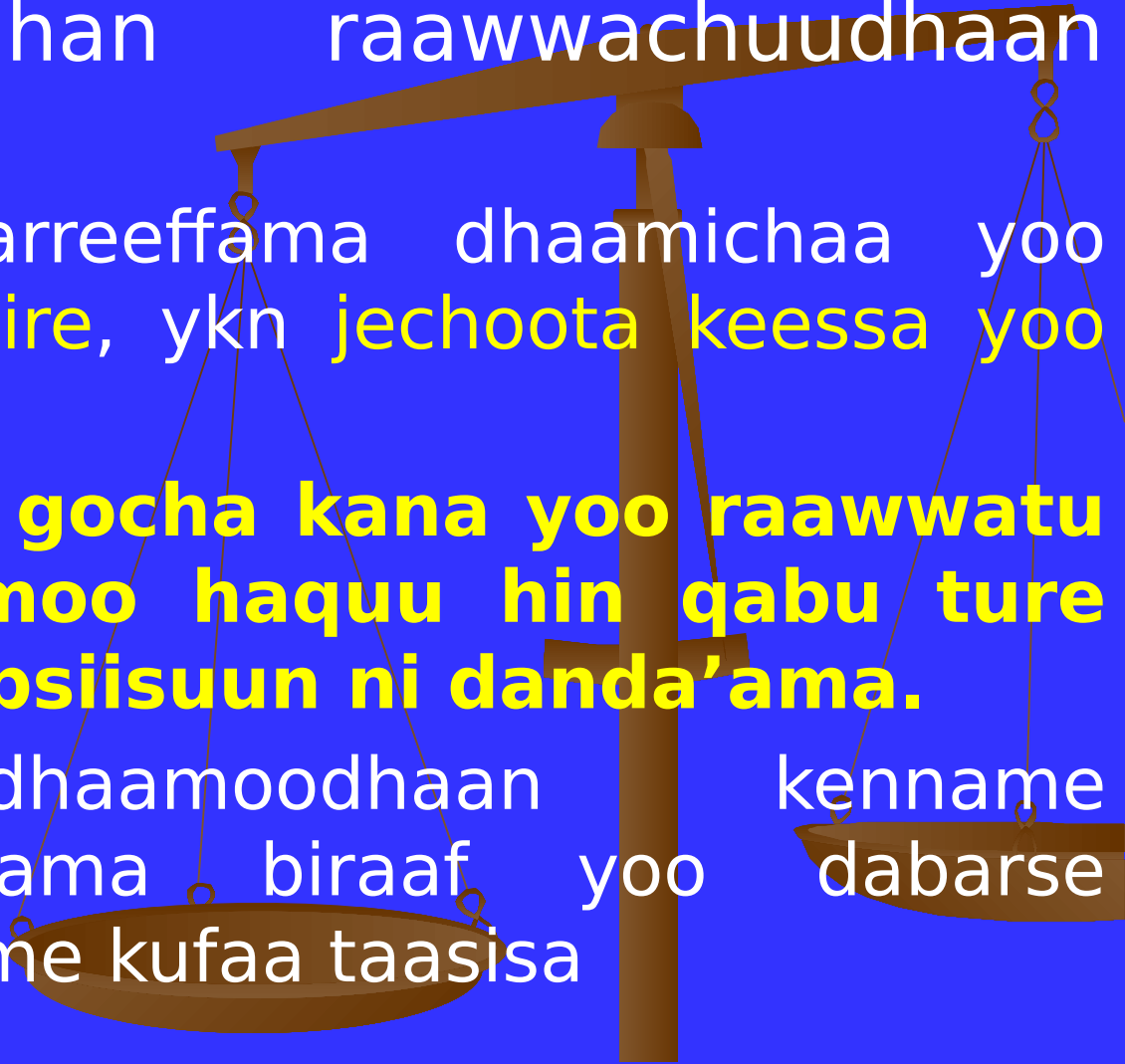
Ifaan Dhaamoo Haquu (Express Revocation):

- dhaamataan ifaan dhaamicha kan haqu karaa lamaan ta'uu ni danda'a.
 - ✓ 1ffaa, foormii dhaamoo godheen wal-simsiisee ifa godhee dhaamicha kan hage yoo ta'e (Kwt. 898(1))
 - ✓ 2ffaa, dhaamataan dhaamoo kanaan dura godhe waliin dhaamoo hin deemne ykn wal-faallessu yoo godhe dha



Al-kallattiin Dhaamicha Haquu (Implied Revocation)

- Dhaamichi gatii akka hin qabaanne gochoota godhan raawwachuudhaan haquu dha.
- ✓ Dhaamataan barreeffama dhaamichaa yoo balleesse, yoo cire, ykn jechoota keessa yoo haqee dha.
 - **Dhaamataan gocha kana yoo raawwatu yaada dhaamoo haquu hin qabu ture jedhamee sobsiisuun ni danda'ama.**
- ✓ Qabeenya dhaamoodhaan kenname dhaamataan nama biraaf yoo dabarse dhaamoo godhame kufaa taasisa

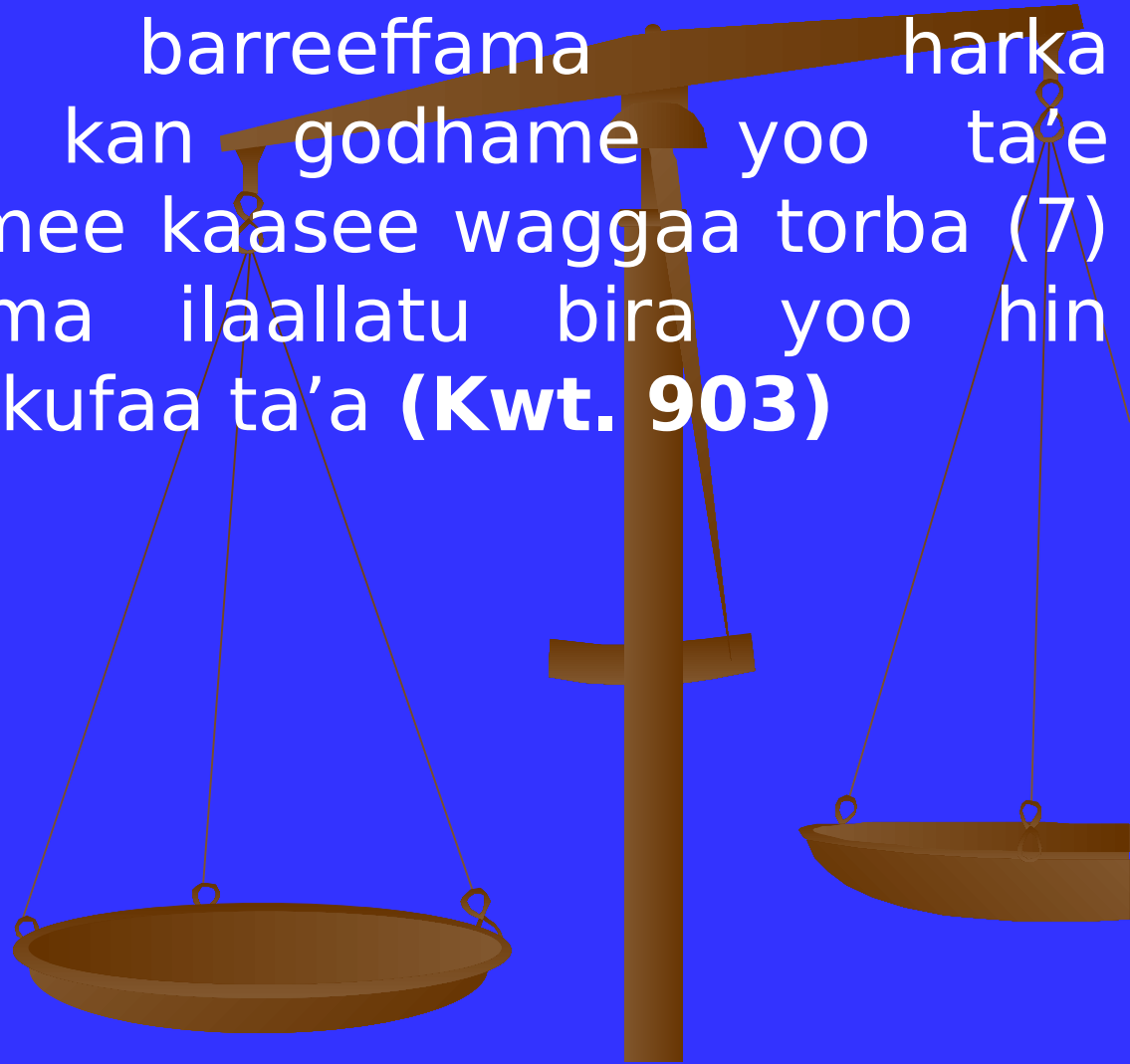


Hafaa Ta'uu Dhaamoo (Lapse of Will)

- Lapse is the termination or failure of a right or a privilege through neglect to exercise it within some limit of time or through failure of some contingency'
- **Bu'uura kanaan** dhaamoon erga godhameen booda :
 - ✓ daangaa yeroo seeraan tumame keessatti dhaamataan waan raawwachuu qabu yoo raawwachuu dhabe ykn
 - ✓ haala uumamu irratti hundaa'uun dhaamichi bu'aa seeraa akka hin qabaanne seerri hogguu daangaa godhu dha.

➤ 1ffaa:Dhaamataan wanta seerri ajaju raawwachuu hafuu kan ilaallatan:

- ✓ Dhaamoon barreeffama harka dhaamataatiin kan godhame yoo ta'e guyyaa godhamee kaasee waggaa torba (7) keessatti qaama ilaallatu bira yoo hin kaayamin hafe kufaa ta'a (**Kwt. 903**)



➤ 2ffaa:Dhaamoon erga godhameen booda haallan uumamaniin

Walqabata:

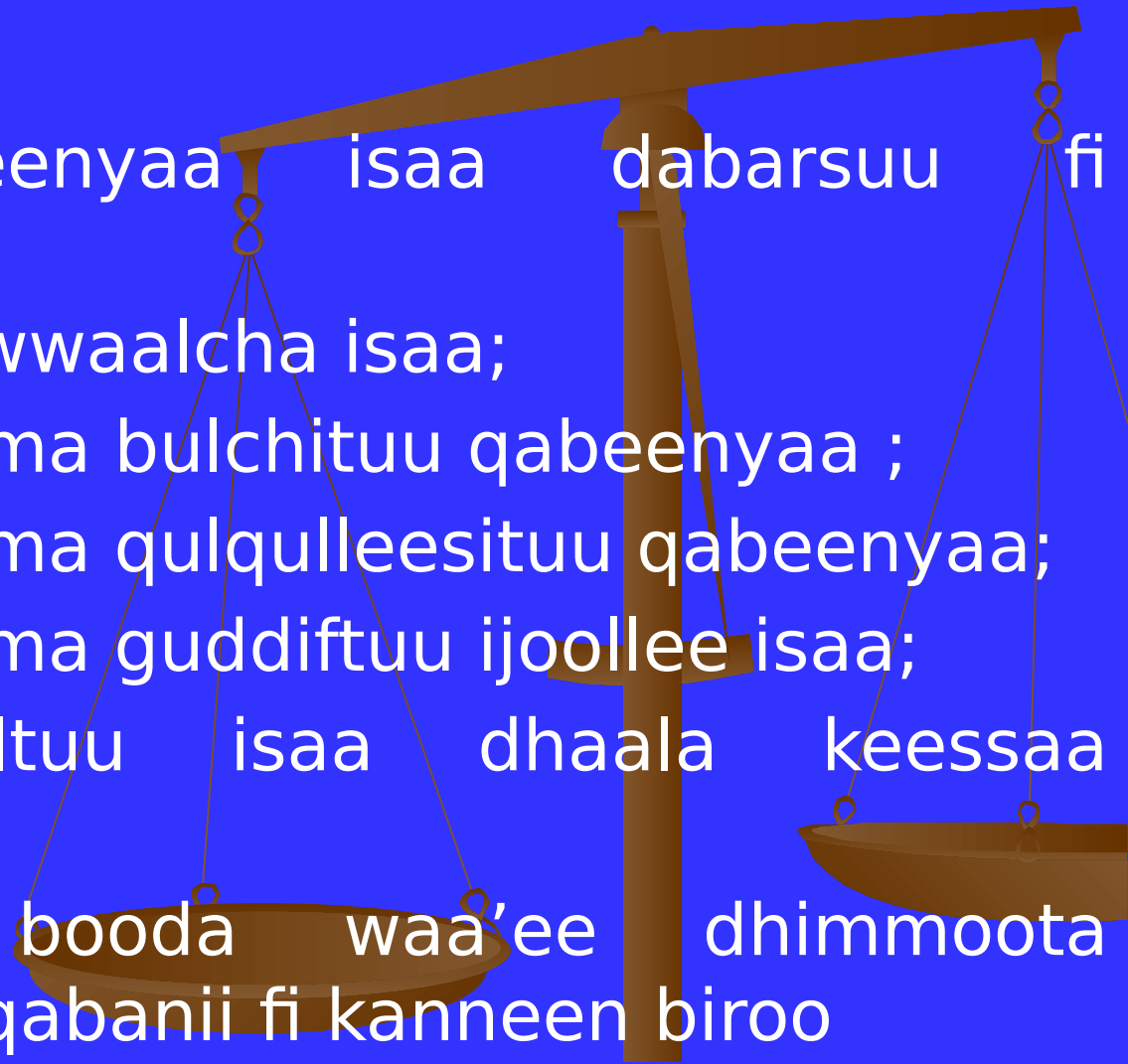
- ✓ Dhaamoon afaanii godhame guyyaa godhamee kaasee ji'a sadiin booda dhaamataan lubbuun yoo jiraate kufaa dha(**kwt.902**)
- ✓ mucaan yoo dhalatee fi innis dhaaluuf kan fedhu yoo ta'e (**Kwt. 904**)
- ✓ Sababa du'aatiin alatti, gaa'elli yoo diiggame (**Kwt. 906**)
- ✓ Namni dhaamoon godhameef dursee yoo du'e ykn kennaa dhaamoo fudhachuu yoo hin danda'iin ykn fudhachuuf fedhii yoo hin qabaatin (**Kwt. 902, 904-907**)

Qabiyyee Dhaamoo

➤ Namni tokko dhaamoo isaatiin dhimmoonni adda addaa akka hammatamu gochuu ni danda'a.

➤ **Fakkeenyaaf:**

- ✓ Waa'ee qabeenyaa isaa dabarsuu fi qoodiinsaa;
- ✓ Waa'ee sirna awwaalcha isaa;
- ✓ Waa'ee muudama bulchituu qabeenyaa ;
- ✓ Waa'ee muudama qulqulleesituu qabeenyaa;
- ✓ Waa'ee muudama guddiftuu ijoollee isaa;
- ✓ Waa'ee dhaaltuu isaa dhaala keessaa buqqisuu; fi
- ✓ Erga du'ee booda waa'ee dhimmoota raawwatamuu qabanii fi kanneen biroo



➤ **Du'aan Dhaamoo Isaa Keessatti**
Dhimmoota Akka Hammataman
Gochuu Danda'u Keessaa
Murteessaa Kan Ta'an:

- ✓ **Kennaa Dhaamoo Waliigalaa**
(Legacy by Universal Title)
- ✓ **Kennaa Dhaamoo Addaa (Legacy**
by Singular Title)
- ✓ **Dhaala keessaa buqqisuu**
(Disherison) dha.



Kennaa Dhaamoo Waliigalaa, kwt. 912

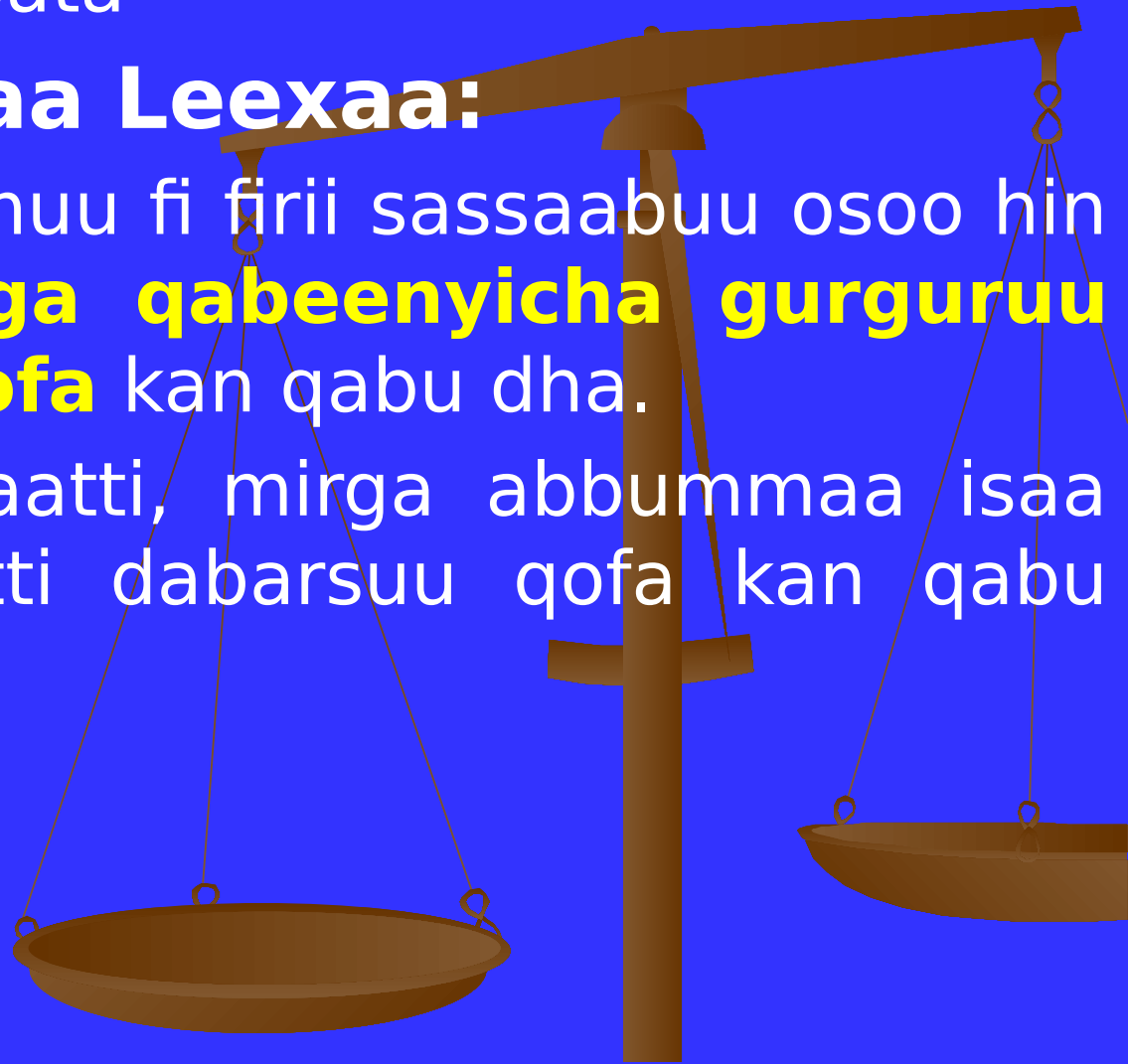
- Namni tokko kenna dhaamoo waliigalaa godhe kan jedhamu,
 - ✓ qabeenya isaa akkuma jiruun ykn hamma murtaa'e tokko;
 - ✓ abbaa qabeenyumaa guutuu (**full o/ship**) ykn abbummaa leexaa (**bare o/ship**)
 - ✓ nama tokkoof ykn namoota hedduuf dabarsuuf jecha dhaamoo ittiin dhaalchisu yoo godhee dha. **Namni dhaamoon waliigalaa godhameef dhaaltuu seeraatti fkkeeffama yoo dhaammataan dhaamoo keessatti dhorke malee.**
- ❖ **Abbummaa guutuu ykn leexaa jechuun maal jechuu dha???**

➤ **Mirga Abbumaa Guutuu:**

- ✓ mirga fayyadamuu, firii isaa sassaabuu fi gurguruu, jijjiiruu fi mirga abbumaa dabarsuu of keessatti qabata

➤ **Mirga Abbumaa Leexaa:**

- ✓ mirga fayyadamuu fi firii sassaabuu osoo hin qabaatiin, **mirga qabeenyicha gurguruu ykn jijjiiruu qofa** kan qabu dha.
- ✓ Akka waliigalaatti, mirga abbummaa isaa garee sadafaatti dabarsuu qofa kan qabu dha.



➤ **kan dabarsu qabeenya isaa hunda ykn gamisa isaa ta'uu qaba.**

- ✓ Qabeenya isaa tokko tokkoon tarreessuun osoo hin taane, **'qabeenya kiyya hunda'** ykn **'qabeenya kiyya gamisa'** ykn **'qabeenya kiyya kan hin sochoone hunda ykn gamisa isaa'** ykn **dhibbeentaa hanganaa** jechuun ibsuu qaba dhamoo waliigalaa yoo ta'e.
- ✓ Fayyadamaan kennaa dhaamoo waliigalaa qabeenya kam dhaaluuf akka deemu beekuu hin danda'u.
- ✓ **Jildii 10ffaa, F. 70** , Dhaalchisaan dhaaltonni seeraa akka hin dhaalle yaaduun qabeenya isaa hundumaa caqasuun kennaan dhaamoon godhan bu'uura kwt. 911 fi 912 tiin kennaa waliigalaati .

MARII

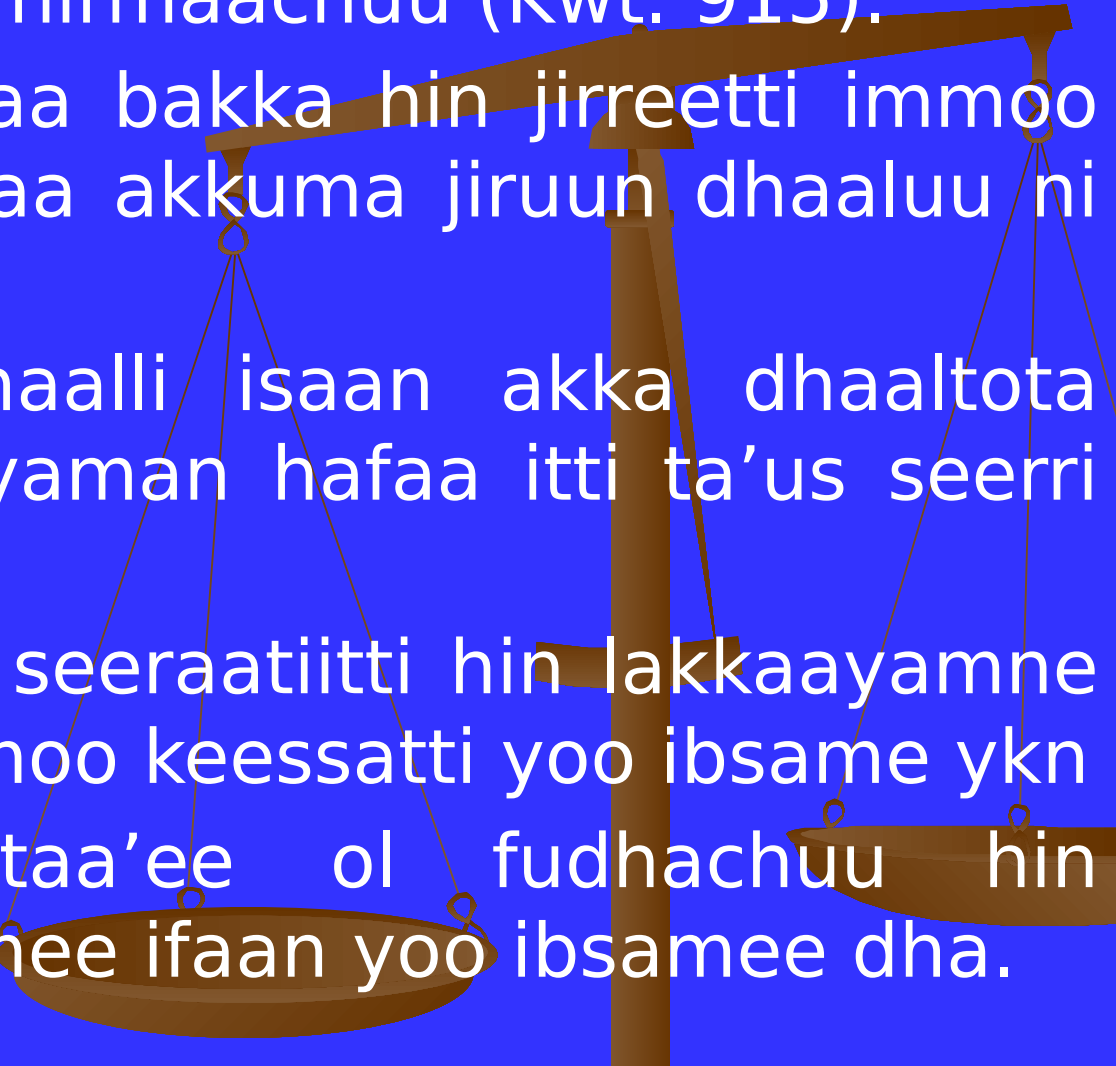
➤ Bu'aan kennaa dhaamoo waliigalaa maali?

- ✓ Isa kennaan godhameef ilaalchisee!
- ✓ Dhaaltoota sadarkaa 2ffaa, 3ffaa fi 4ffaa ilaalchisee!



➤ **Fayyadamtoonni Waliigalaa:**

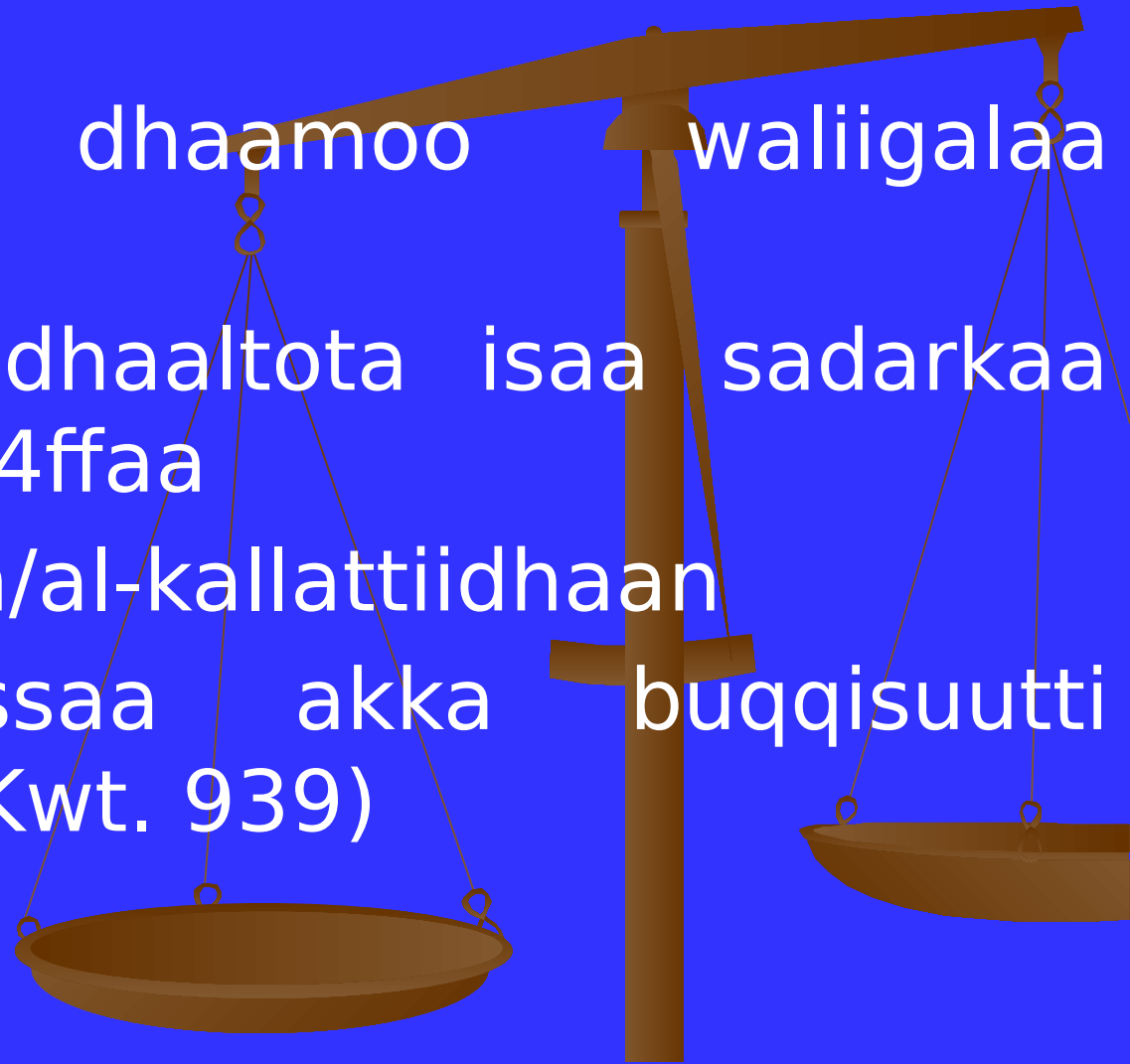
Dhaamoo

- ✓ Akka dhaaltota seeraatti laakkayamuudhaan dhaala keessatti hirmaachuu (Kwt. 915).
 - ✓ Dhaaltonni seeraa bakka hin jirreetti immoo qabeenya dhaalaa akkuma jiruun dhaaluu ni danda'u.
- Haata'u malee, haalli isaan akka dhaaltota seeraatiitti lakkaayaman hafaa itti ta'us seerri ni tuma:
- ✓ akka dhaaltota seeraatiitti hin lakkaayamne jedhamee dhaamoo keessatti yoo ibsame ykn
 - ✓ hamma murtaa'ee ol fudhachuu hin danda'an jedhamee ifaan yoo ibsamee dha.
- 

➤ **Dhaaltoota sadarkaa 2ffaa, 3ffaa fi 4ffaa ilaalchisee:**

- ✓ Dhaamoo isaatiin ifatti yoo mul'ise malee,

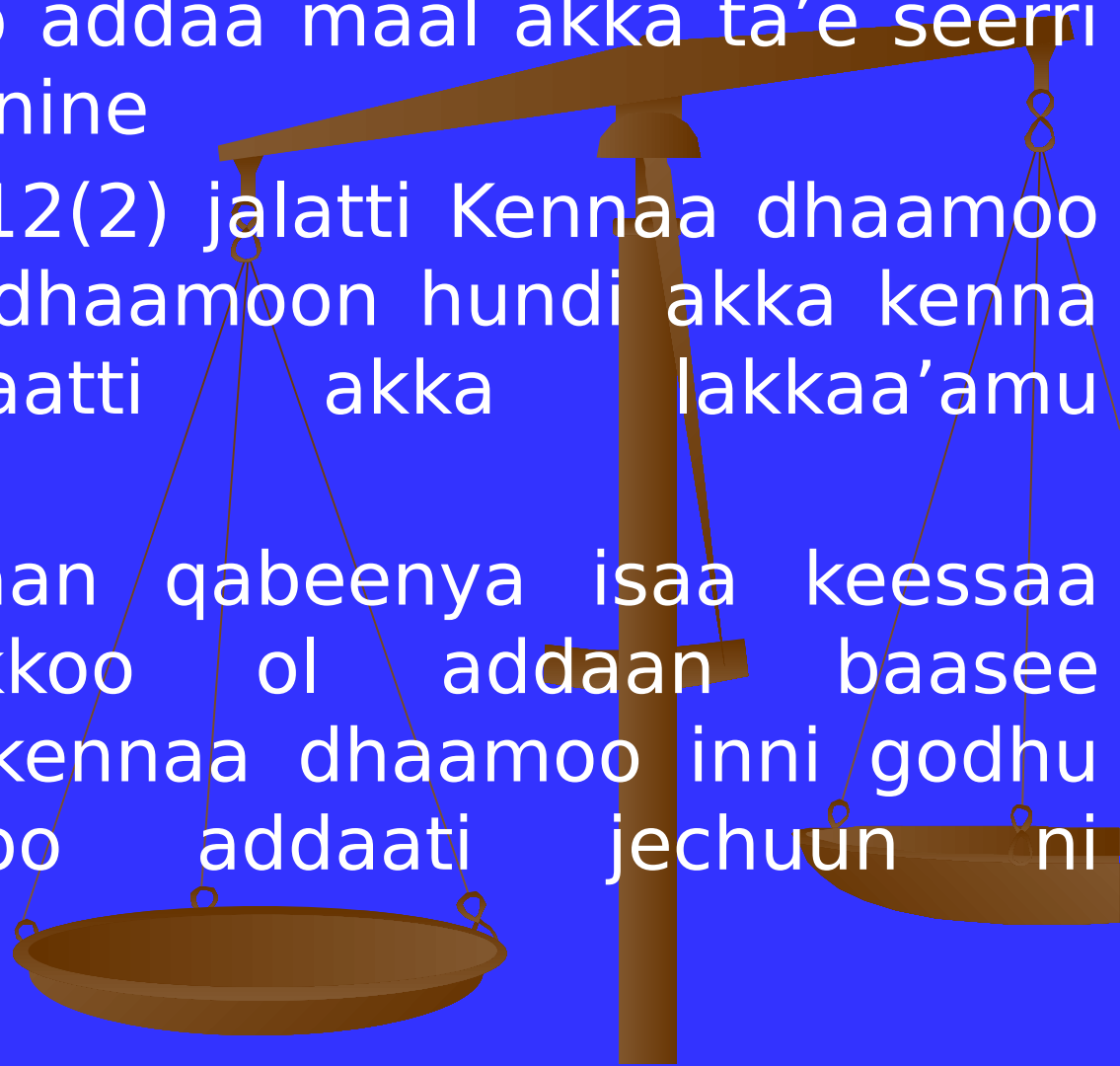
kenna dhaamoo waliigalaa
gochuudhaan
dhaamataan dhaaltota isaa sadarkaa
2ffaa, 3ffaa, fi 4ffaa
callisuudhaan/al-kallattiidhaan
dhaala keessaa akka buqqisuutti
lakkaayama (Kwt. 939)



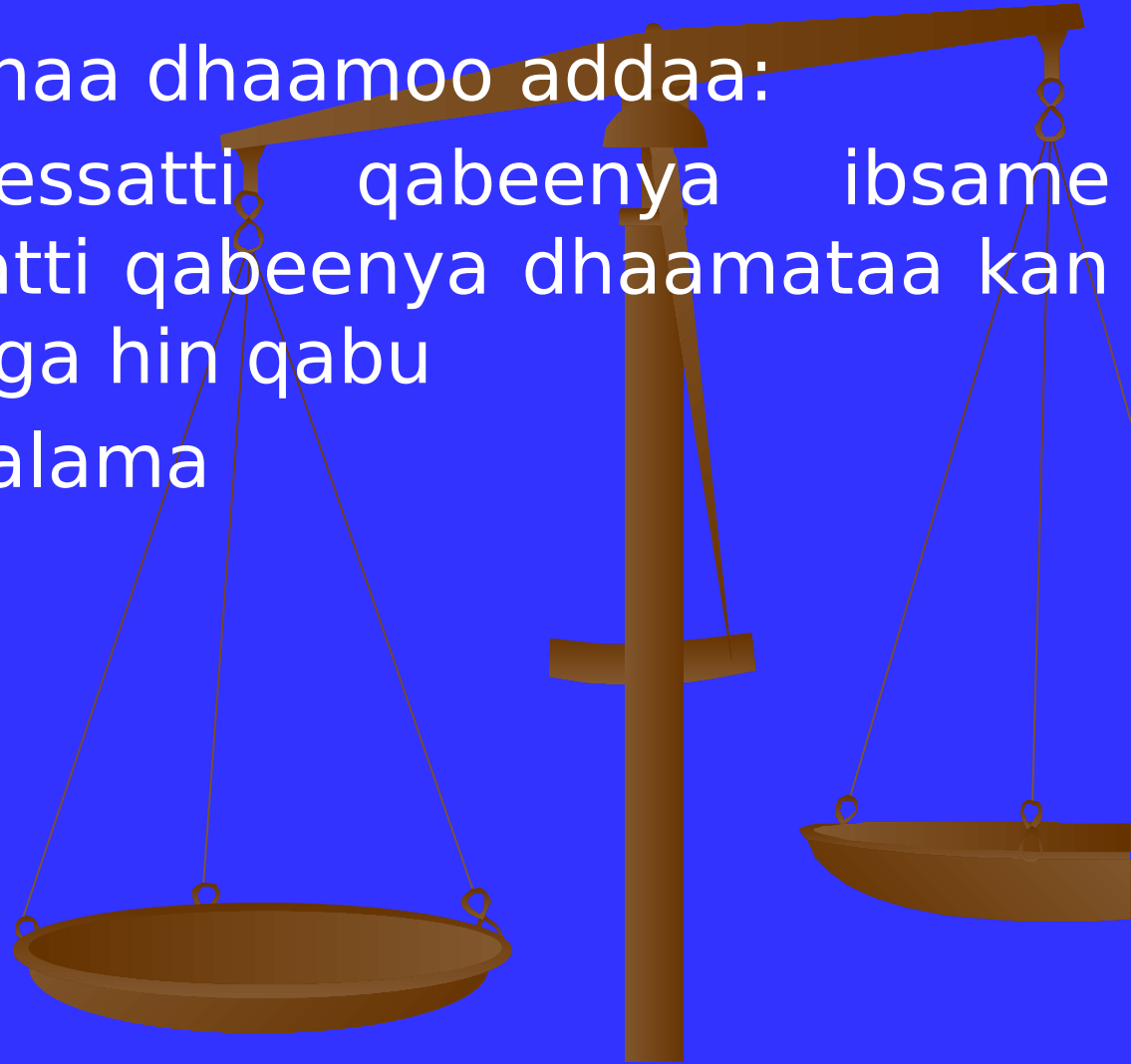
Kennaa Dhaamoo

Addaa

- kennaan dhaamoo addaa maal akka ta'e seerri hiikkoo itti hin kennine
- Garuu SHH Kwt.912(2) jalatti Kennaa dhaamoo waliigalaatiin ala dhaamoon hundi akka kenna dhaamoo addaatti akka lakkaa'amu tumameera.
- Kanaaf dhaamataan qabeenya isaa keessaa tokko ykn tokkoo ol addaan baasee tarreessuudhaan kennaa dhaamoo inni godhu kennaa dhaamoo addaati jechuun ni danda'ama.

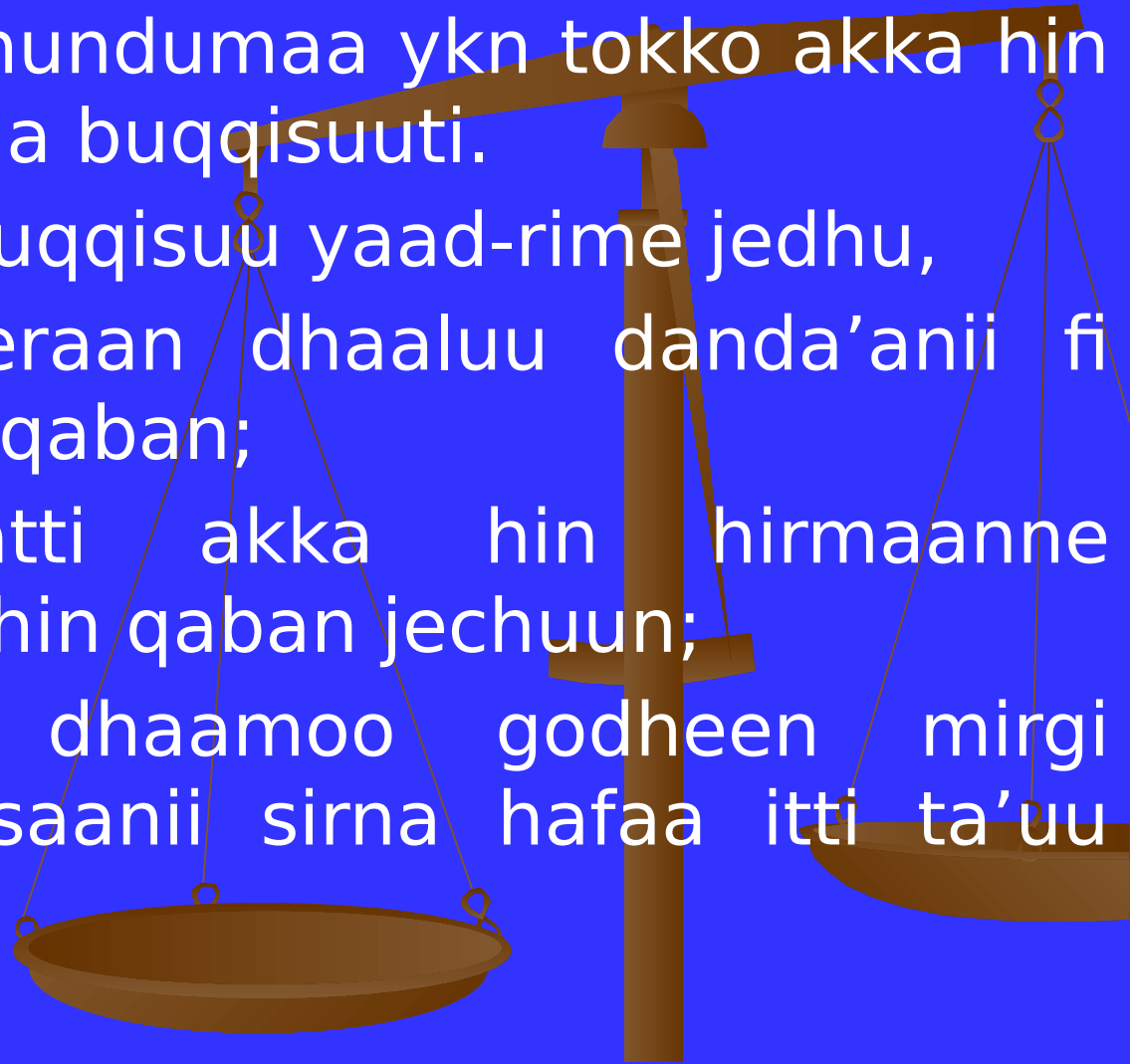


- Dhaamataan '**konkolaataa manaa kiyya**', '**mana jireenyaa kiyya**', fi kkf jechuun kennaan dhaamoo inni godhu kennaa dhaamoo addaa ti.
- Fayyadamaan kennaa dhaamoo addaa:
 - ✓ Dhaamoo keessatti qabeenya ibsame fudhachuun alatti qabeenya dhaamataa kan biroo irratti mirga hin qabu
 - ✓ Akka idaatti ilaalama



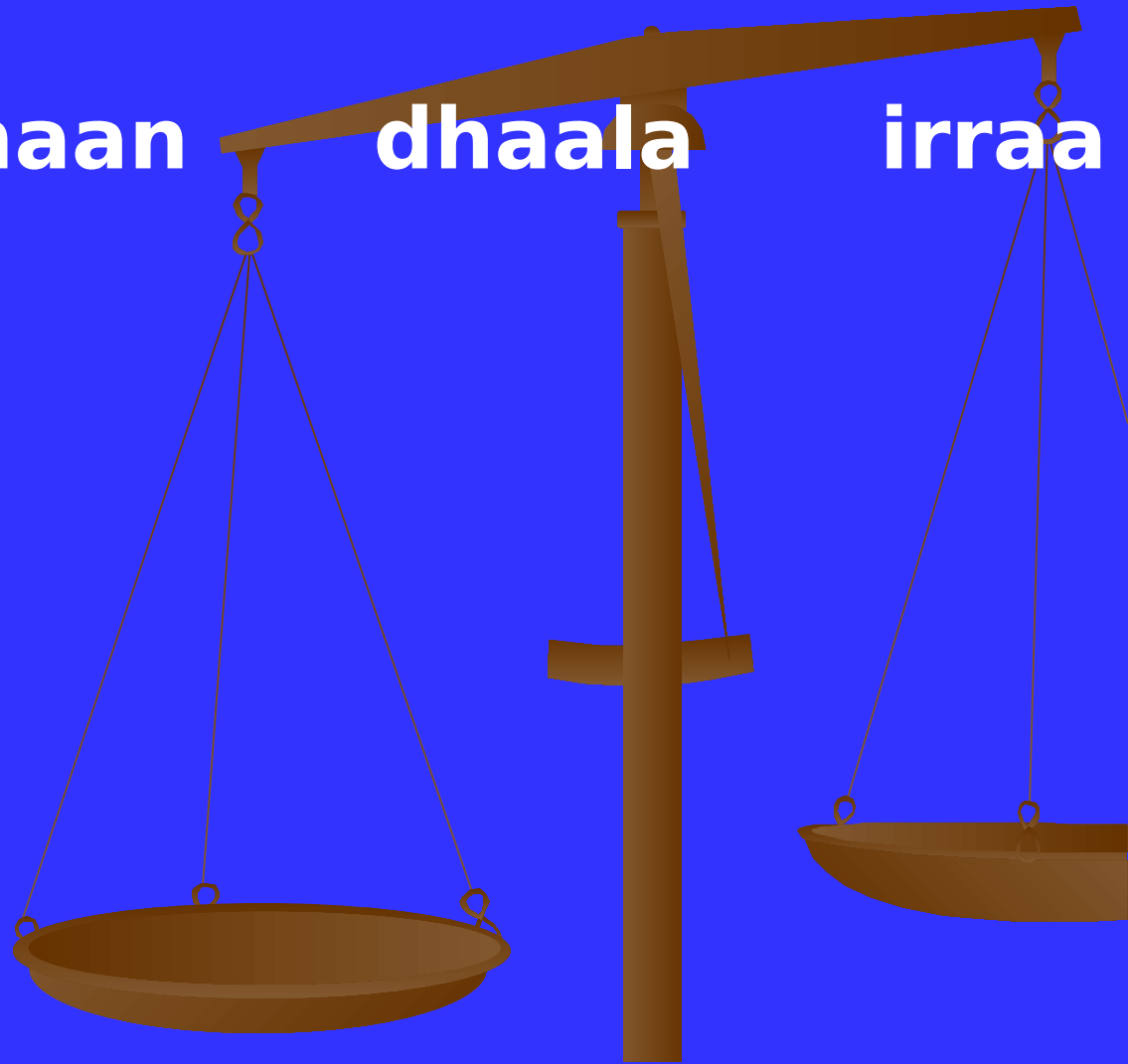
Dhaaltuu Dhaala Keessaa Buqqisuu

- Qabiyyeen dhaamoo inni biroo jecha dhaamoo dhaaltota seeraa hundumaa ykn tokko akka hin dhaalle dhaala irraa buqqisuuti.
- Dhaala keessaa buqqisuu yaad-rime jedhu,
 - ✓ namoonni seeraan dhaaluu danda'anii fi firooma dhiigaa qaban;
 - ✓ dhaala keessatti akka hin hirmaanne dhaaltota ta'uu hin qaban jechuun;
 - ✓ du'aan jecha dhaamoo godheen mirgi dhaaltummaa isaanii sirna hafa itti ta'uu dha.



➤ **Sirni dhaala irraa buqqisuu bifa
lamaan raawwatamuu ni dandaya:**

- ✓ **Haala ifa ta'een dhaala irraa
buqqisuu fi**
- ✓ **Al-kallattiidhaan dhaala irraa
buqqisuu**



➤ Haala Ifa Ta'een Dhaala Irraa Buqqisuu

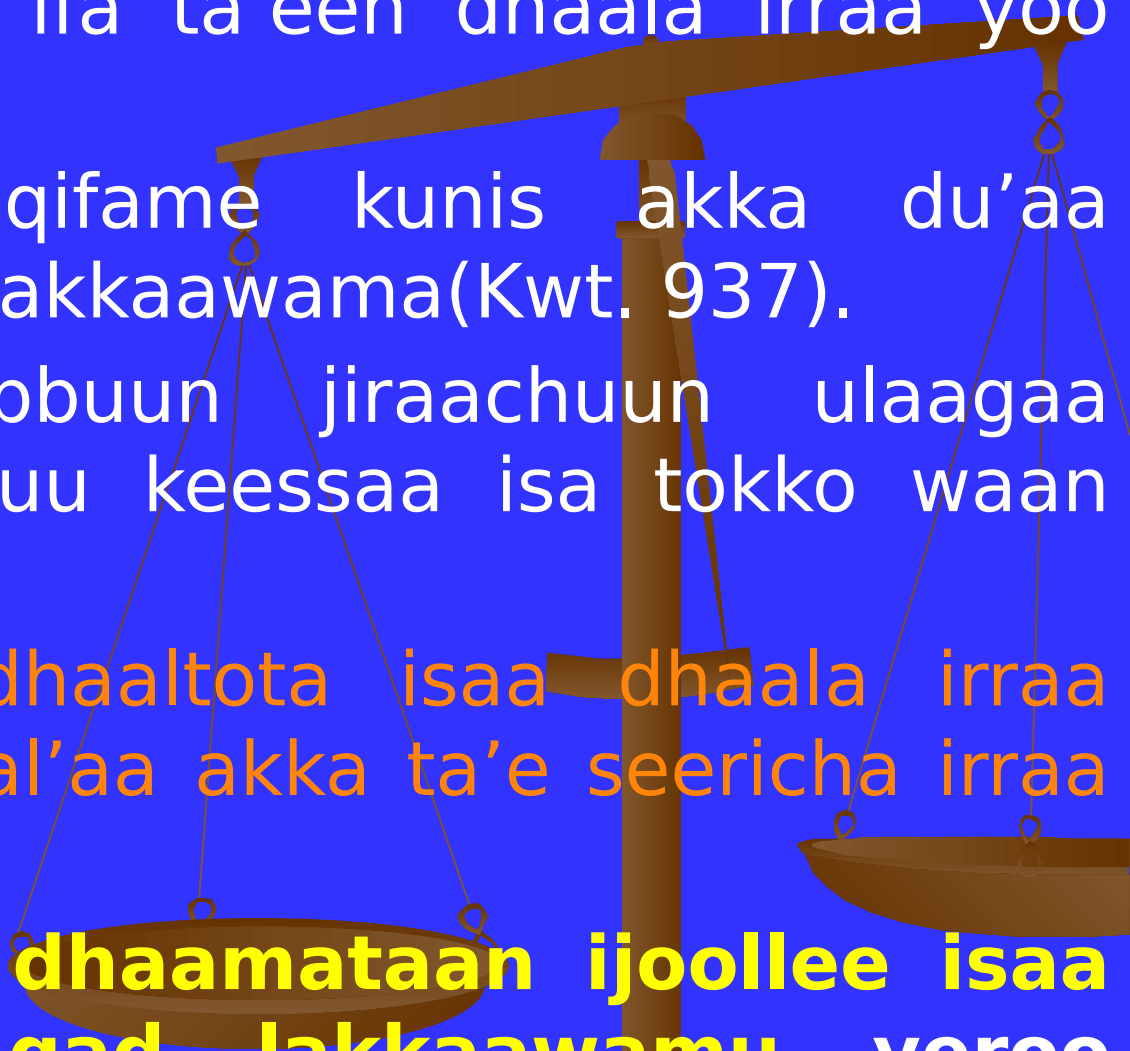
✓ dhaaltota seeraa ykn isaan keessaa tokko jecha dhaamoo ifa ta'een dhaala irraa yoo buqqisee dha.

✓ Dhaaltuun buqqifame kunis akka du'aa dursee du'eetti lakkaawama(Kwt. 937).

✓ Dhaaluuf lubbuun jiraachuun ulaagaa dhaaluu danda'uu keessaa isa tokko waan ta'eefi dha.

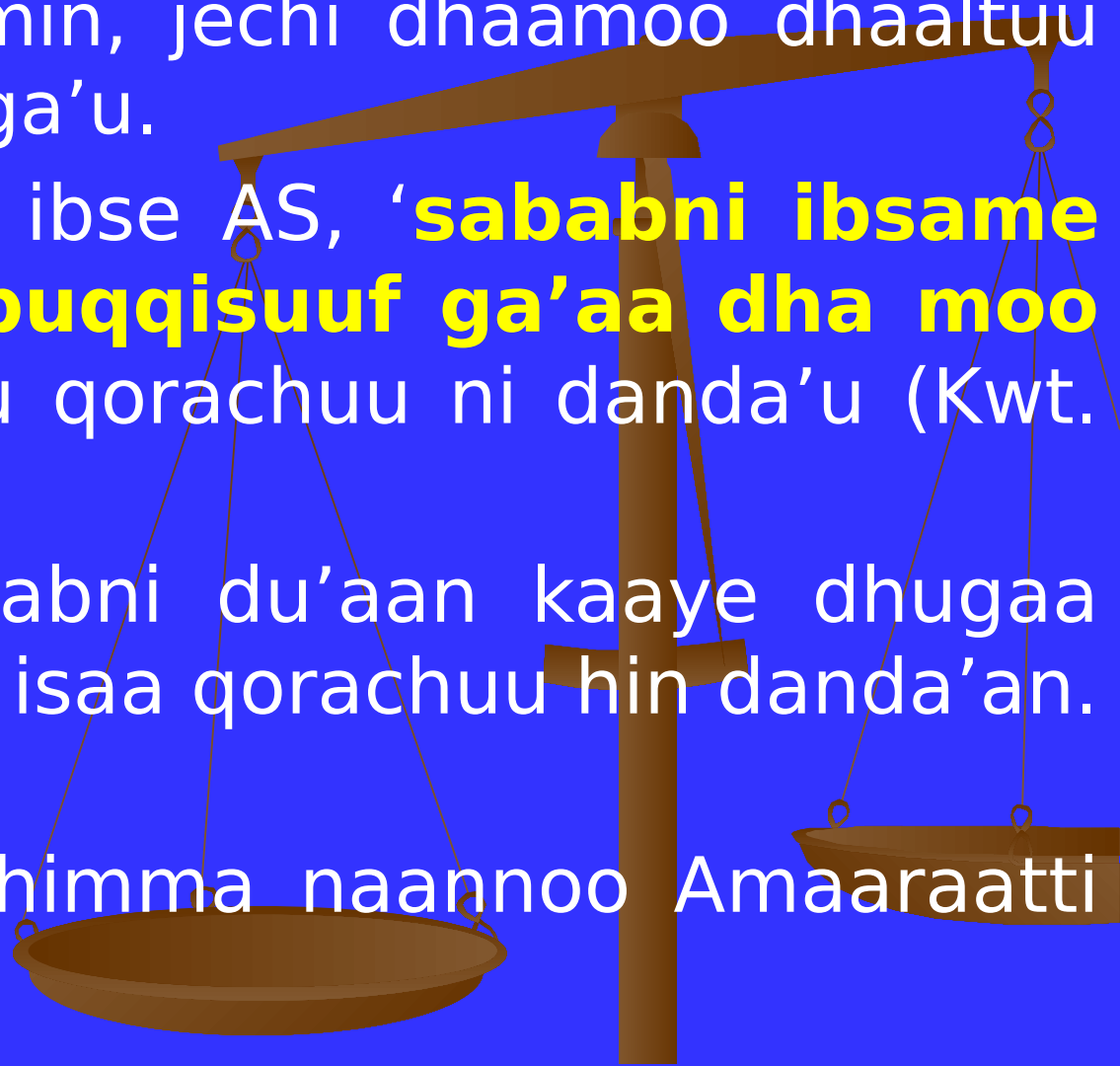
➤ Aangoo du'aan dhaaltota isaa dhaala irraa buqqisuuf qabu bal'aa akka ta'e seericha irraa ni hubatama.

➤ Haata'u malee, **dhaamataan ijoollee isaa ykn dhaaltuu qad lakkaawamu veroo**



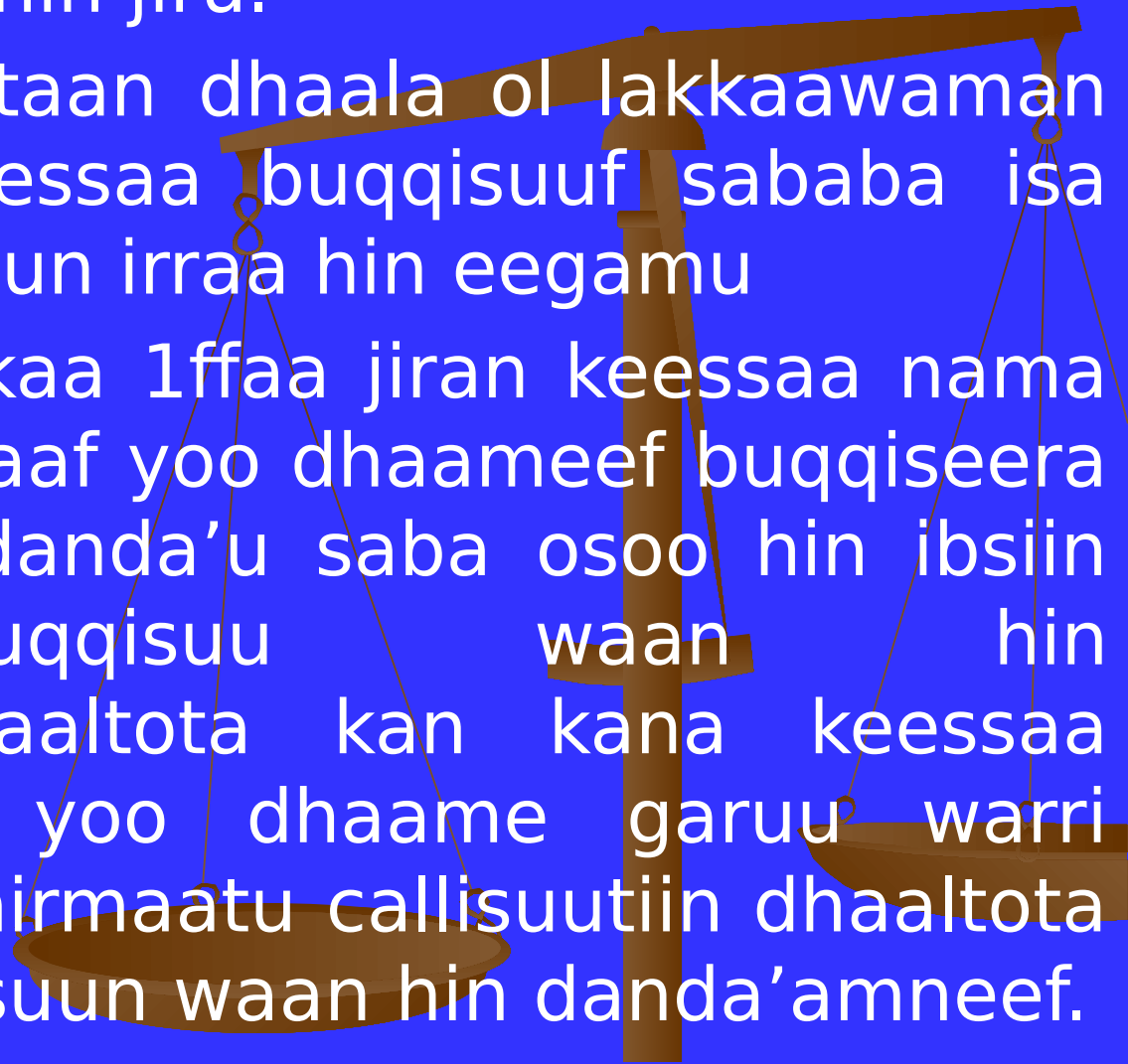
➤ **Bu'uura Kanaan:**

- ✓ Du'aan sababa buqqisuuf isa geessise dhaamoo keessatti ibsuu qaba.
- ✓ yoo hin ibsamin, jechi dhaamoo dhaaltuu buqqisu hin ragga'u.
- ✓ Sababa du'aan ibse AS, '**sababni ibsame dhaala irraa buqqisuuf ga'aa dha moo miti**' kan jedhu qorachuu ni danda'u (Kwt. 938(2))
- ✓ Garuu A/S sababni du'aan kaaye dhugaa ykn soba ta'uu isaa qorachuu hin danda'an. (Kwt. 938(3))
- ✓ fuula 33 dhimma naannoo Amaaraatti ilaallame)



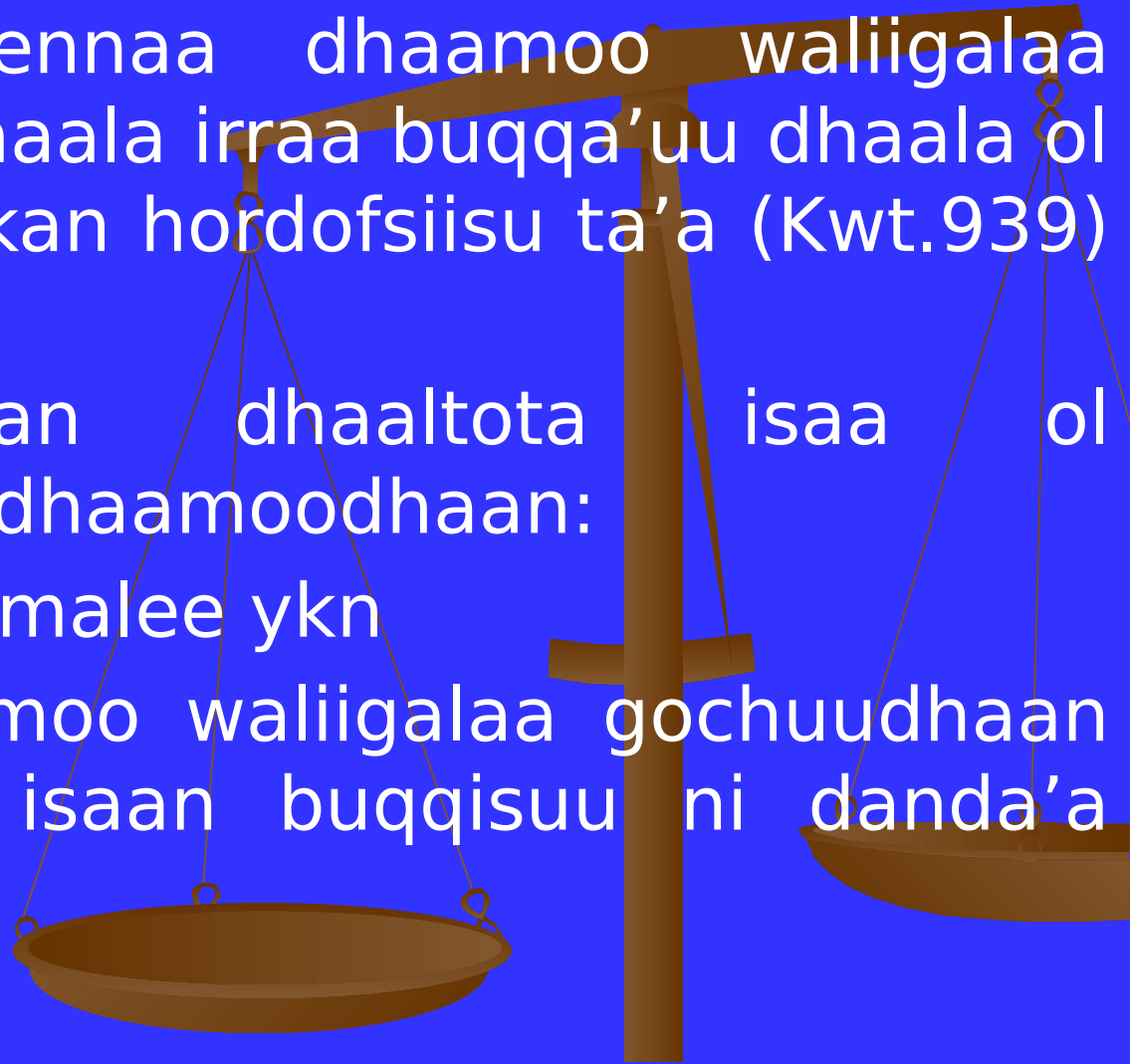
➤ **Gama Biraatiin:**

- ✓ Dhaamataan dhaaltuu ol lakkaawaman dhaala irraa buqqisuuf aangoo qabu seeraan wanti daanga'e hin jiru.
- ✓ Kanaaf dhaamataan dhaala ol lakkaawaman dhaala isaa keessaa buqqisuuf sababa isa geessise caqasuun irraa hin eegamu
- ✓ Dhaaltuu sadarkaa 1ffaa jiran keessaa nama tokkoof maqumaaf yoo dhaameef buqqiseera jedhamuu hin danda'u saba osoo hin ibsiin callisee buqqisuu waan hin dandeenyeef.dhaaltota kan kana keessaa nama tokkoof yoo dhaame garuu warri biroonis waliin hirmaatu callisuutiin dhaaltota sad.1ffaa buqqisuun waan hin danda'amneef.



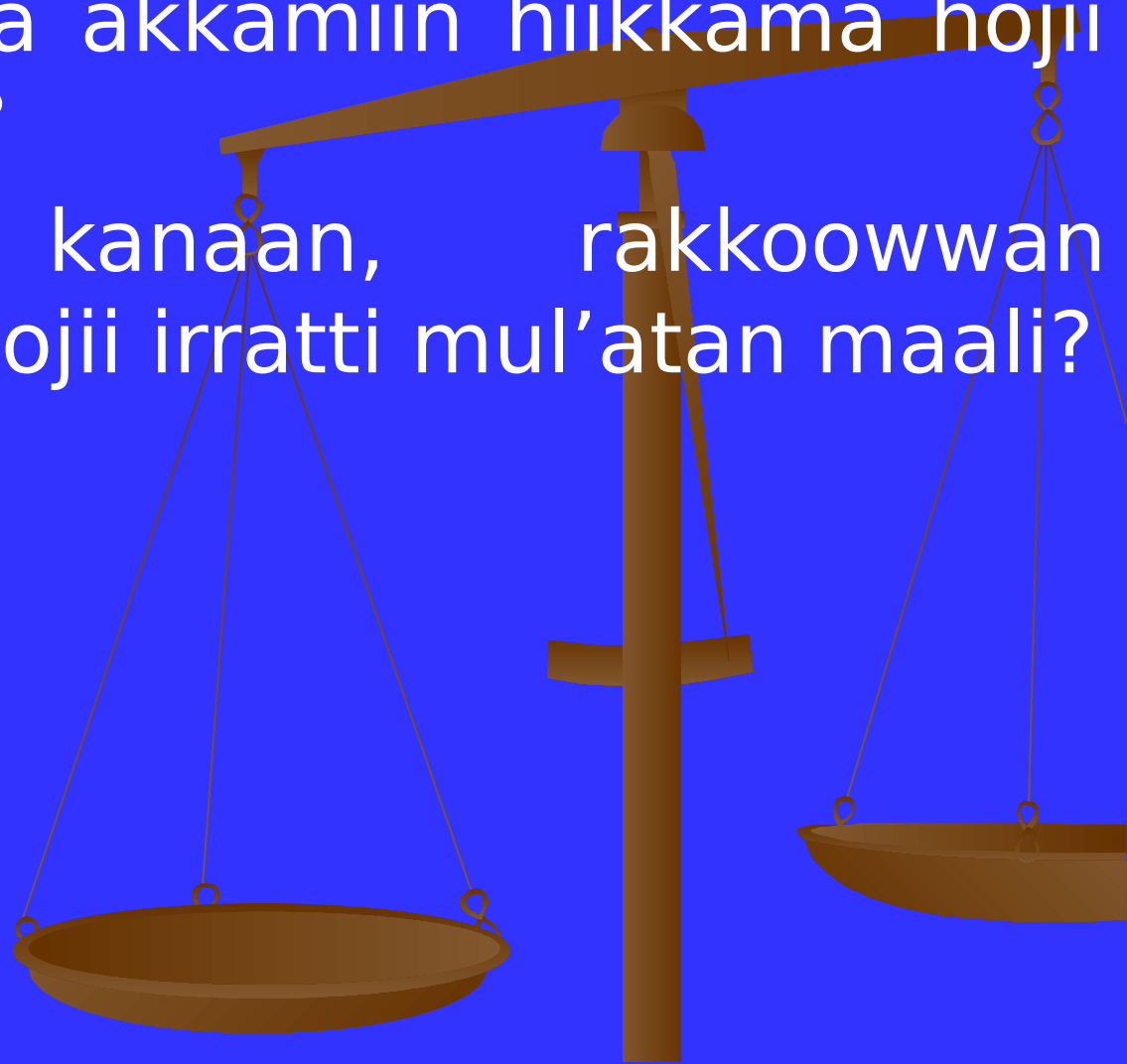
Al-kallattiidhaan Dhaala Irraa Buqqisuu

- Jechi dhaamoo faallaa ta'e yoo jiraate malee, dhaamataan kennaa dhaamoo waliigalaa gochuun isaa dhaala irraa buqqa'uu dhaala ol lakkaawamanii kan hordofsiisu ta'a (Kwt.939)
- Kanaaf, du'aan dhaaltota isaa ol lakkaawwaman dhaamoodhaan:
 - ✓ sababa tokko malee ykn
 - ✓ kennaa dhaamoo waliigalaa gochuudhaan dhaala irraa isaan buqqisuu ni danda'a jechuudha.



MARII

- Tumaalee seera dhaalaa dhaala keessaa buqqisuu ilaalata gama manneen murtiittiin haala akkamiin hiikkama hojii irraa oolaa jiru?
- Kallattii kanaan, rakkoowwan qabatamaatti hojii irratti mul'atan maali?



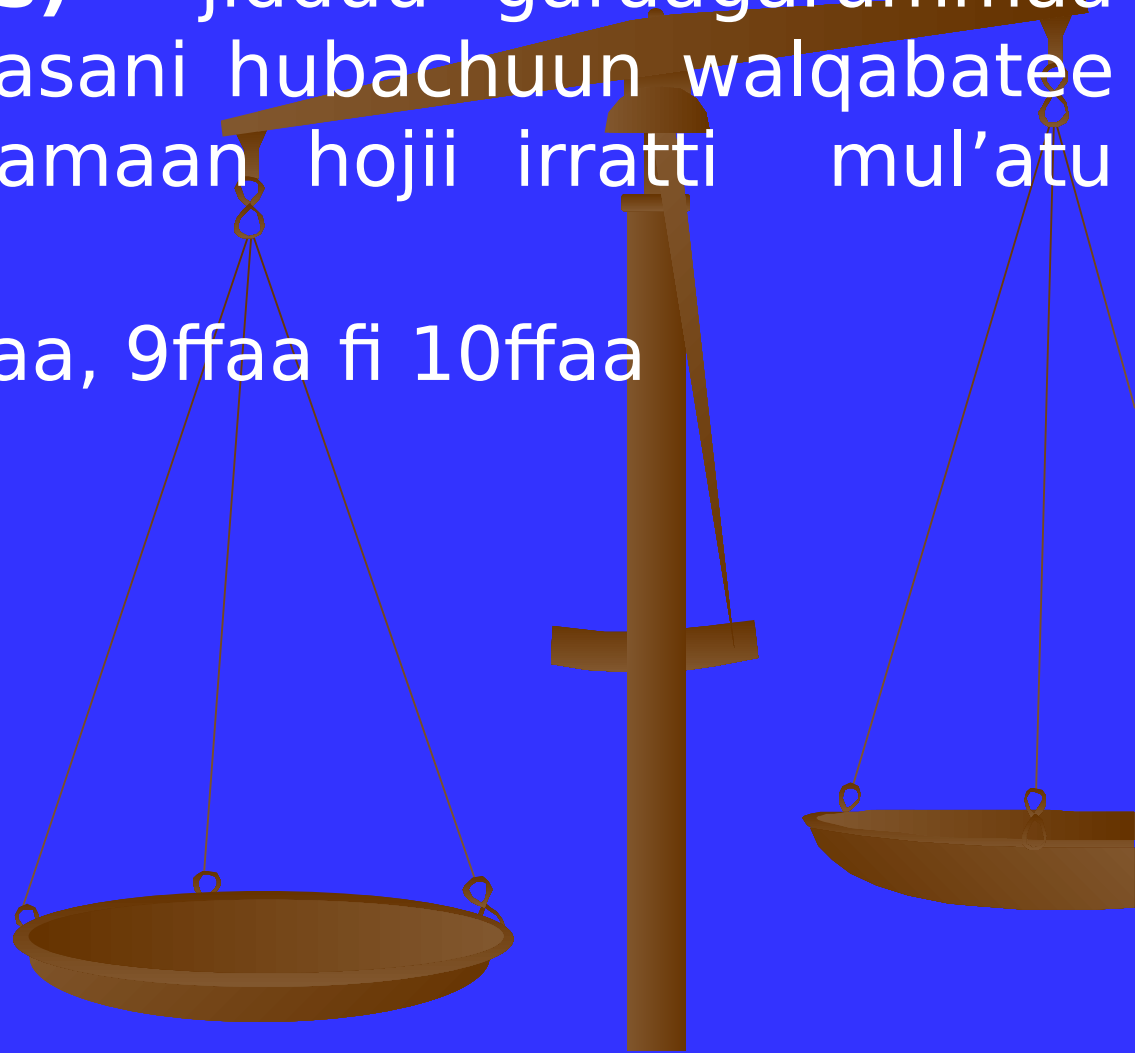
❖ Rakkoo Qabatamaan 1ffaa

- Yaad-remeewwan ‘ifaan dhaala keessaa buqqisuu’ fi ‘callisuun ykn al-kallattiin dhaala keessaa buqqisuu’ jedhaniin walqabate rakkinni qabatamaan hojii irratti mul’atu jira.
- Dhimmoota 8ffaa, 9ffaa fi 10ffaa



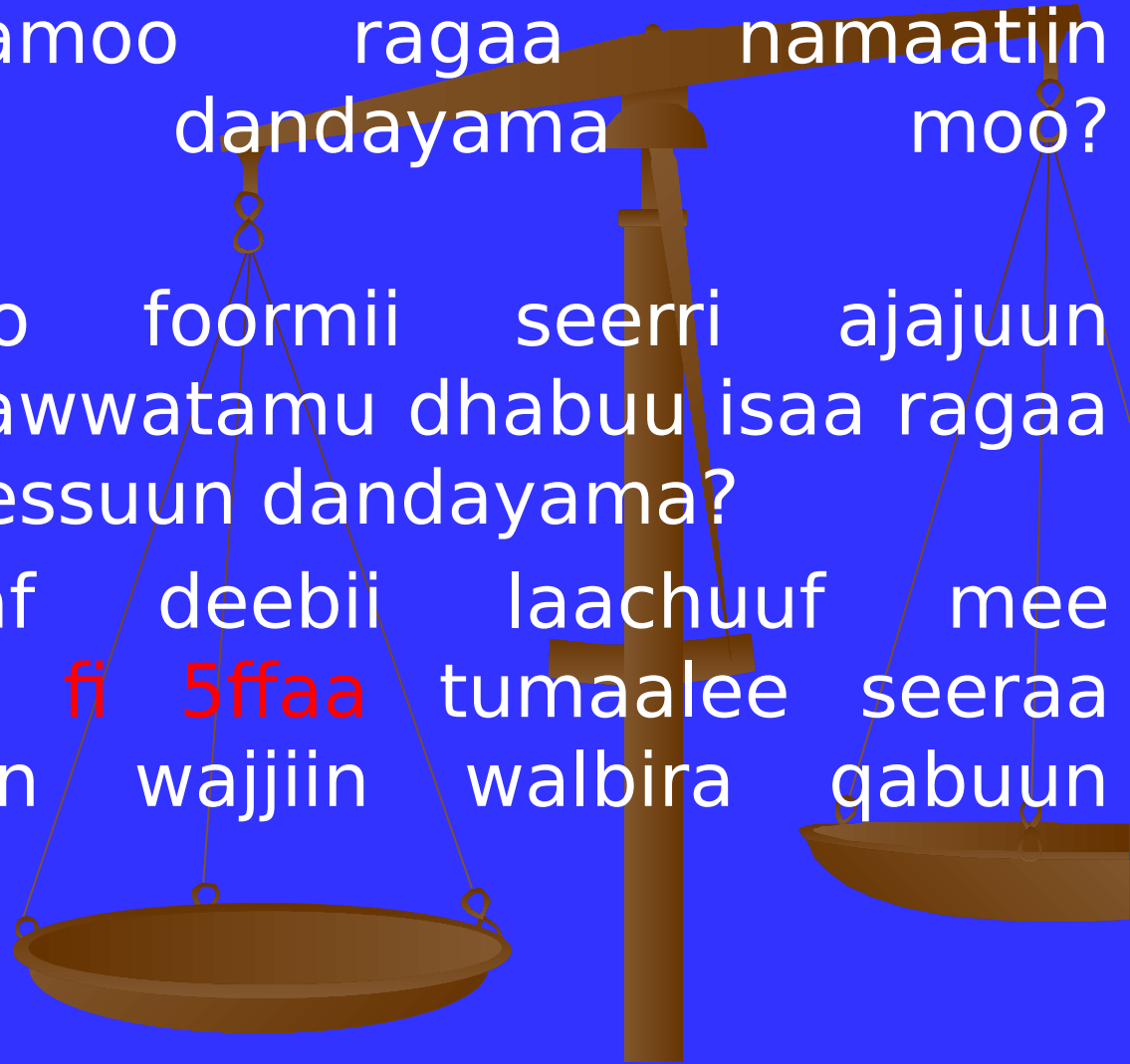
❖ Rakkoo Qabatamaan 2ffaa

- ‘Dhaala irraa buqqisuu (disherison) ‘fi ‘dhaaltummaaf kan hin malle ta’uu (**Unworthiness**) jidduu garaagarummaa jiru addaan baasani hubachuun walqabatee rakkinni qabatamaan hojii irratti mul’atu jira.
- Dhimmoota 8ffaa, 9ffaa fi 10ffaa



2.2. Jiraachuu Dhaamoo fi Qabiyyee Isaa Mirkaneessuu

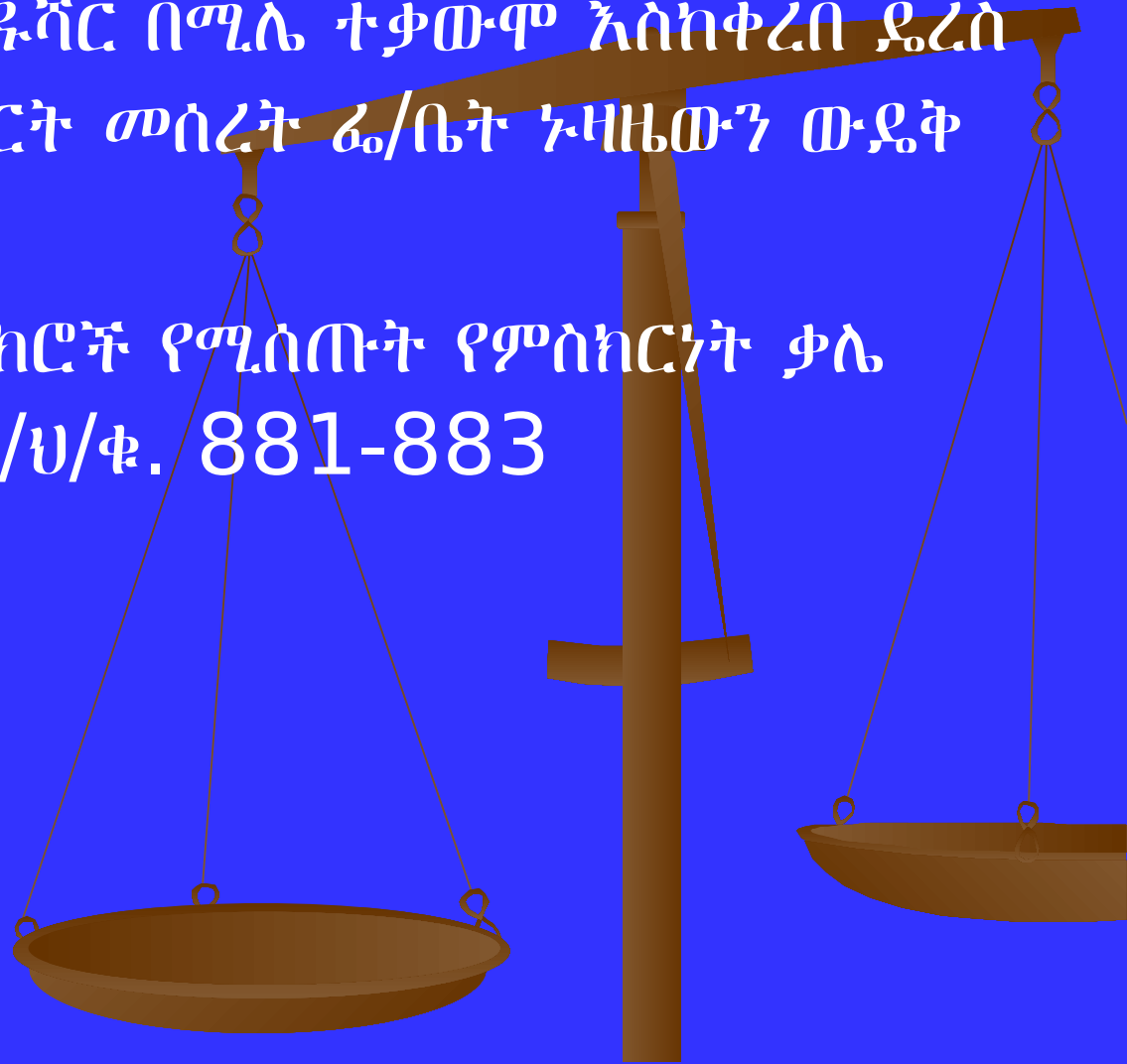
- Dirqamni hubachisuu eenyuu irratti kufa?
- Qabiyyee dhaamoo ragaa namaatiin mirkaneessuun dandayamaa moo? Hindandayamu?
- Dhaamoon tokko foormii seerri ajajuun raawwatamu fi raawwatamu dhabuu isaa ragaa akkamiin mirkaneessuun dandayama?
- Gaaffiilee kanaaf deebii laachuuf mee dhimmoota 4ffaa fi 5ffaa tumaalee seeraa rogummaa qaban wajjiin walbira qabuun xiinxala.

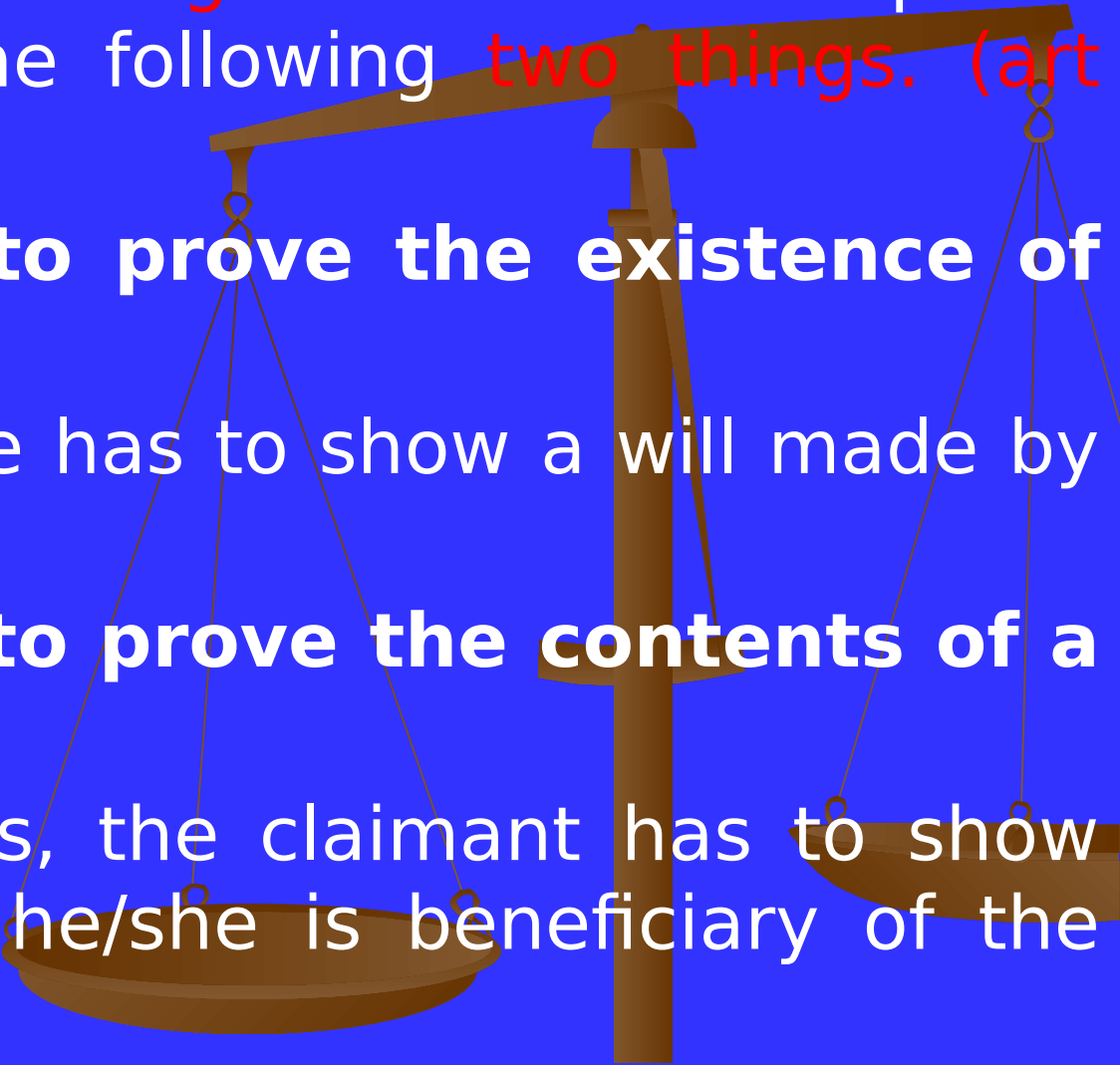


❖ **Jildii 11ffaa, L.G. 59268**
ታዬ እና እነ ብፁአን ታዬ /ሦስት ሰዎች/
03/2003

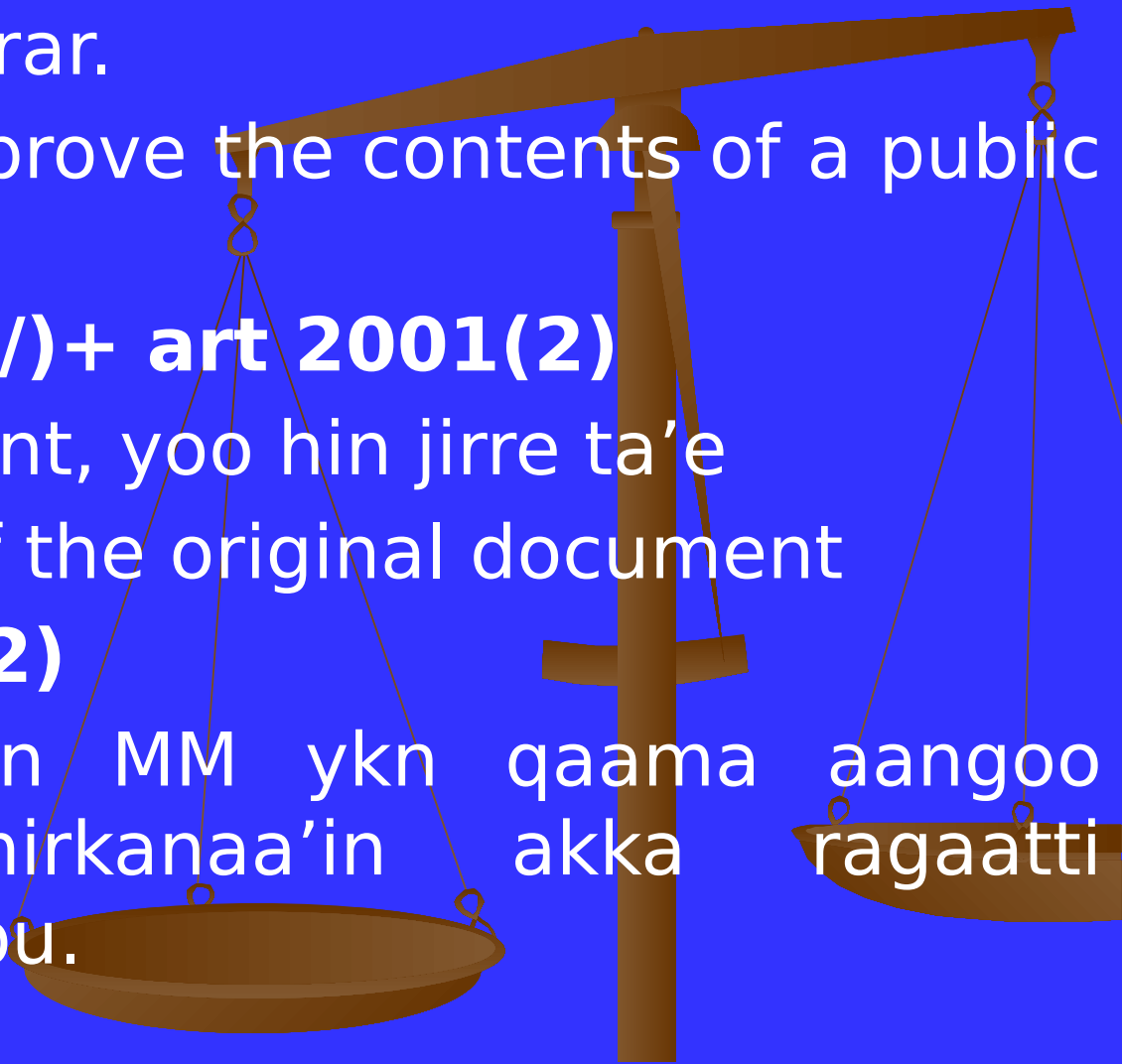
ወ/ሪት ዝባዴ
ግንቦት

- ኑዛዜ ህጋዊ አይም እንዲሻር በሚሌ ተቃውሞ እስከቀረበ ዴረሰ በየትኛውም ህጋዊ መስርት መሰረት ፌ/ቤት ኑዛዜውን ውዴቅ ሉያርገው ስመቻለ
- በኑዛዜ ሊይ የነበሩ ምስክሮች የሚሰጡት የምስክርነት ቃሌ ስሚኖረው ዋጋ ,የፌ/ብ/ህ/ቁ. 881-883



- ❖ dirqamni jiraachuu fi qabiyyee dhaamoo hubachiisuu qaama mirga nan qaba jedhurratti kan kufeedha(kwt, 896 & 897)
 - ❖ The **one who claims a right in a will** has to prove one or both of the following **two things**. (art 896)
 - **1st, s/he has to prove the existence of the will.**
 - ✓ That is, he/she has to show a will made by the testator.
 - **2nd, s/he has to prove the contents of a will.**
 - ✓ In other words, the claimant has to show the fact that he/she is beneficiary of the will.
- 

- Art, 897, the existence and contents of a public or holograph will **shall be proved only by producing the original will itself or the copy of the original will**, certified to be true by the court registrar.
- witnesses cannot prove the contents of a public will.
- **see art,897/1&2/)+ art 2001(2)**
 - ✓ Primary document, yoo hin jirre ta'e
 - ✓ Certified copy of the original document
- **SHH kwt. 2005(2)**
- Dhaamoon koppiin MM ykn qaama aangoo qabuun hin mirkanaa'in akka ragaatti fudhatama hin qabu.



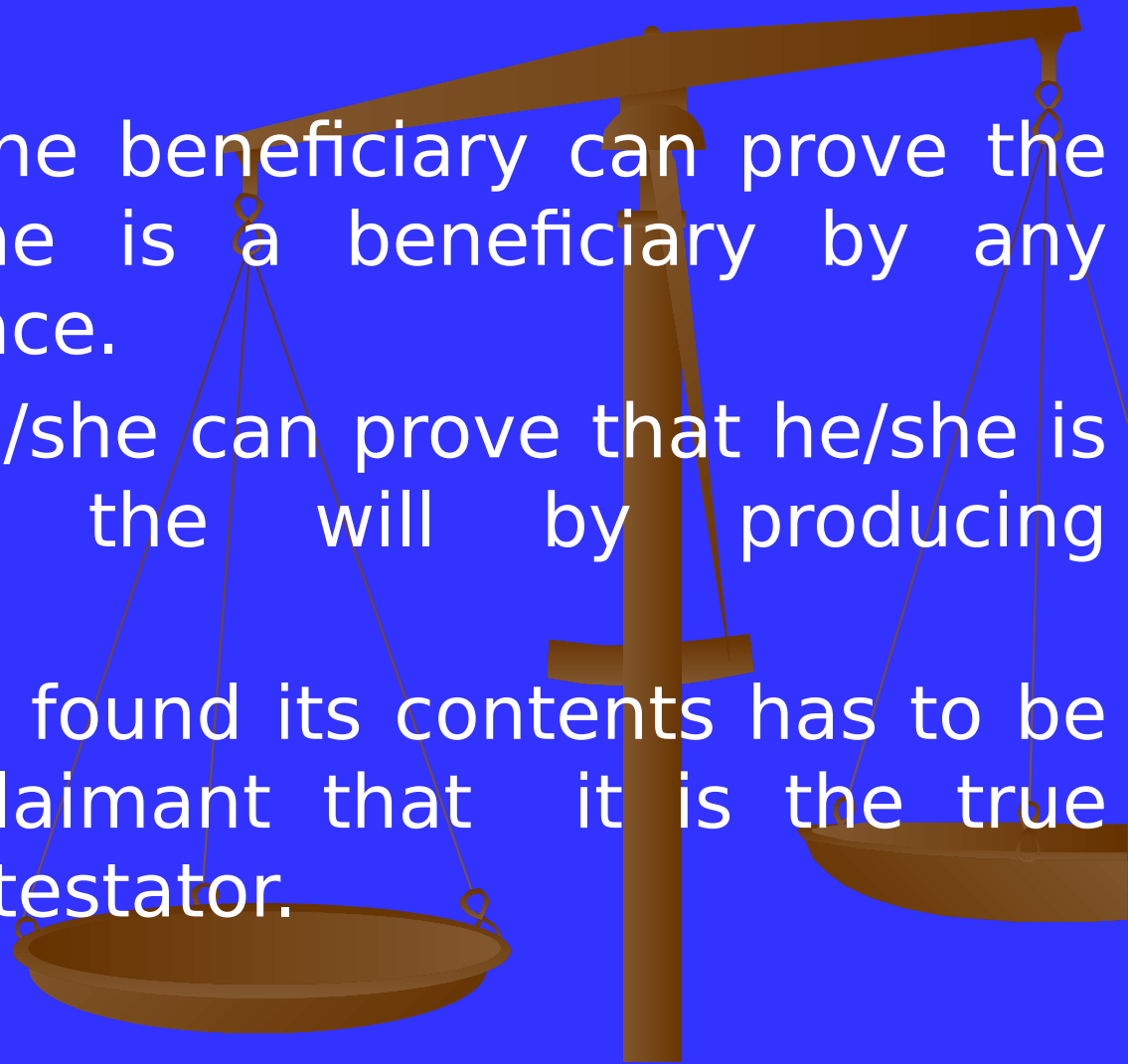
- **Jildii 11ffaa, L.G. 54013** ወ/ሮ አሰመረት ነጋሲ እና ወ/ሮ ጽጌረዲ ሰዩም ጥር **12/2003**
- በፌ/ብ/ህ/ቁ. 881 መሰረት የተረገ ግሌጽ ኑዛዜ ሊያ ያን የተናዛዢ የጣት አሻራ በተመከተ ክርክር በቀረበ ጊዜና በፍረንሲክ ምርመራ

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 መደረግ የሚገባ ስመሆኑ የፌ/ብ/ህ/ቁ. 881, 1677/1/, 2007/2/, 897/1/, 896

➤ The only exception to such rule of prove by the will itself is to get compensation from the person who has destroyed or caused the destruction of the will by his/her fault or negligence.

- ✓ In such cases the beneficiary can prove the fact that he/she is a beneficiary by any means of evidence.
- ✓ For example, he/she can prove that he/she is beneficiary of the will by producing witnesses.
- ✓ ones the will is found its contents has to be show by the claimant that it is the true intention of the testator.



- When a person dies leaving behind a will, there are seven basic steps that must be followed as required by the inheritance law. These are:

1st ,whether the deceased has left the will **must validly be ascertained**

2nd credibility of the will needs to be established.

- The will needs to be validated to ensure that it really is the last one written by the deceased person and was testified.
- This requires the will to go through probate court.

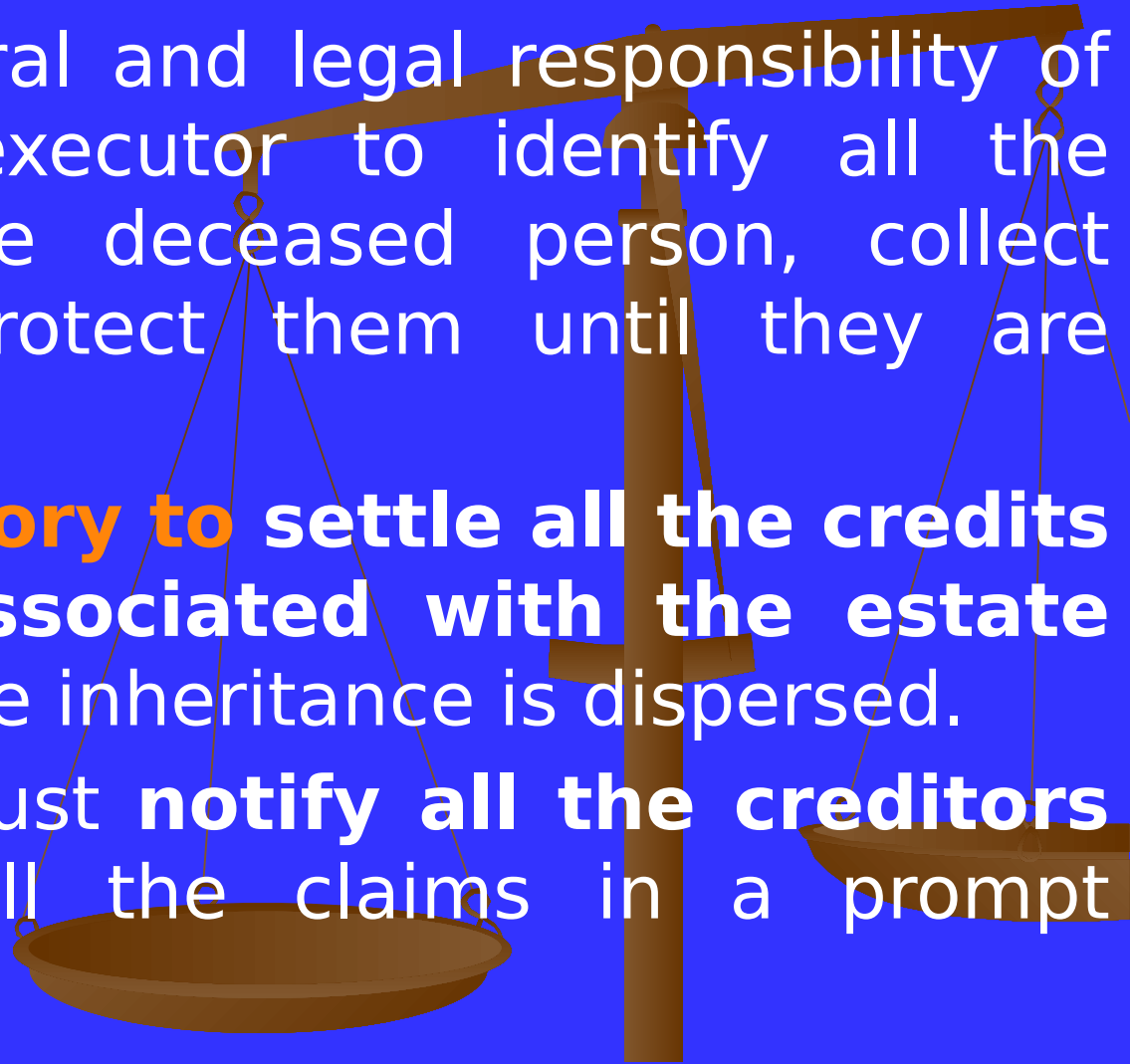
3rd,the heirs named in the will have to be contacted whether or not **they may object** the will or the claim made by the applicant.

4th , has to **verify** the existence of all the **assets** such as bank accounts, stocks, bonds, real estate properties and other valuables **that are mentioned in the will.**

- It is the moral and legal responsibility of the estate executor to identify all the assets of the deceased person, collect them and protect them until they are distributed.

5th , It is **mandatory to** settle all the credits and **taxes associated with the estate** before any of the inheritance is dispersed.

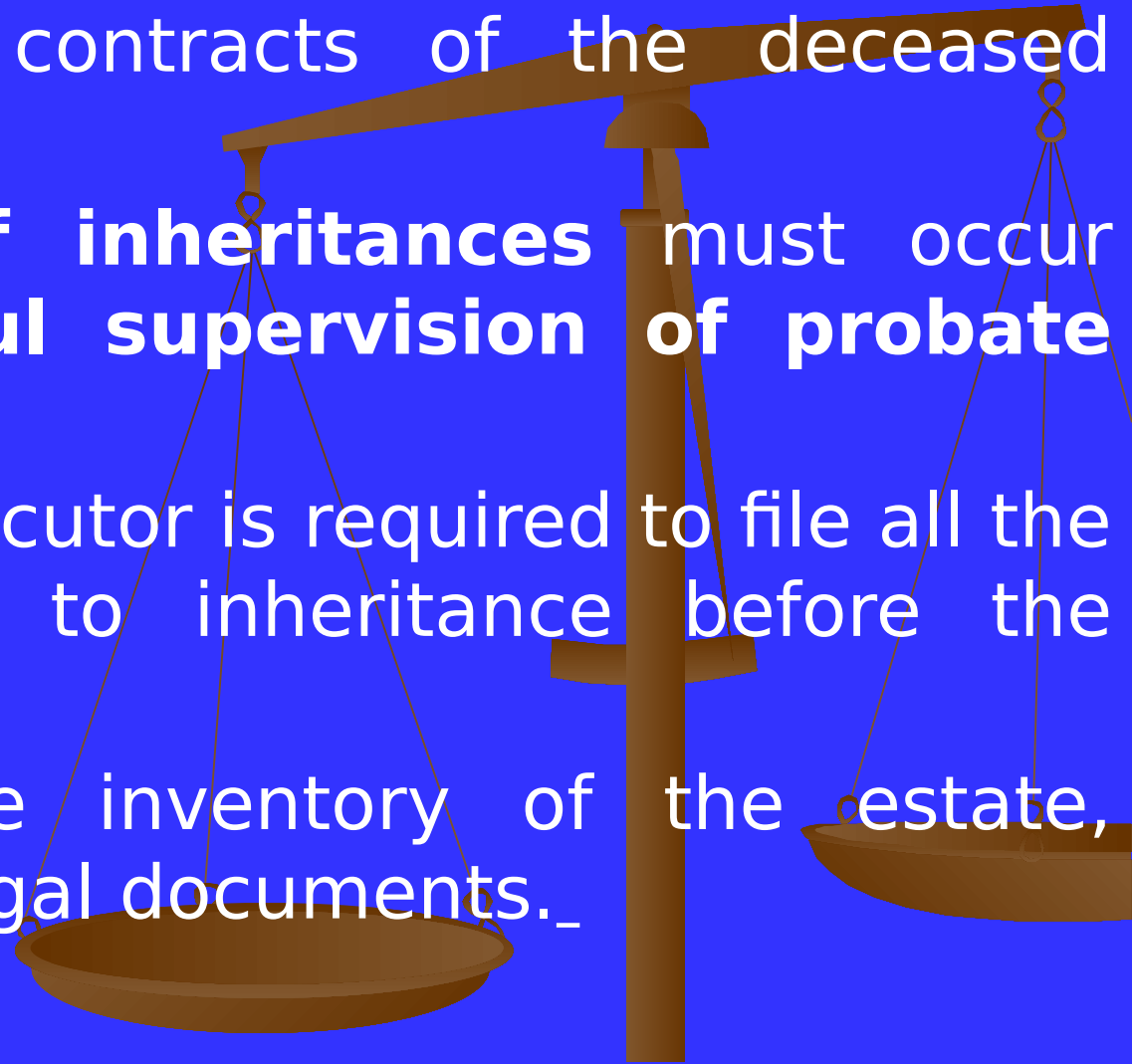
- Executors must **notify all the creditors** and settle all the claims in a prompt manner.



6th ,Information about **the death of an individual must be duly notified** to the Social Security Commission, insurance companies and credit card companies to cancel all the existing contracts of the deceased person.

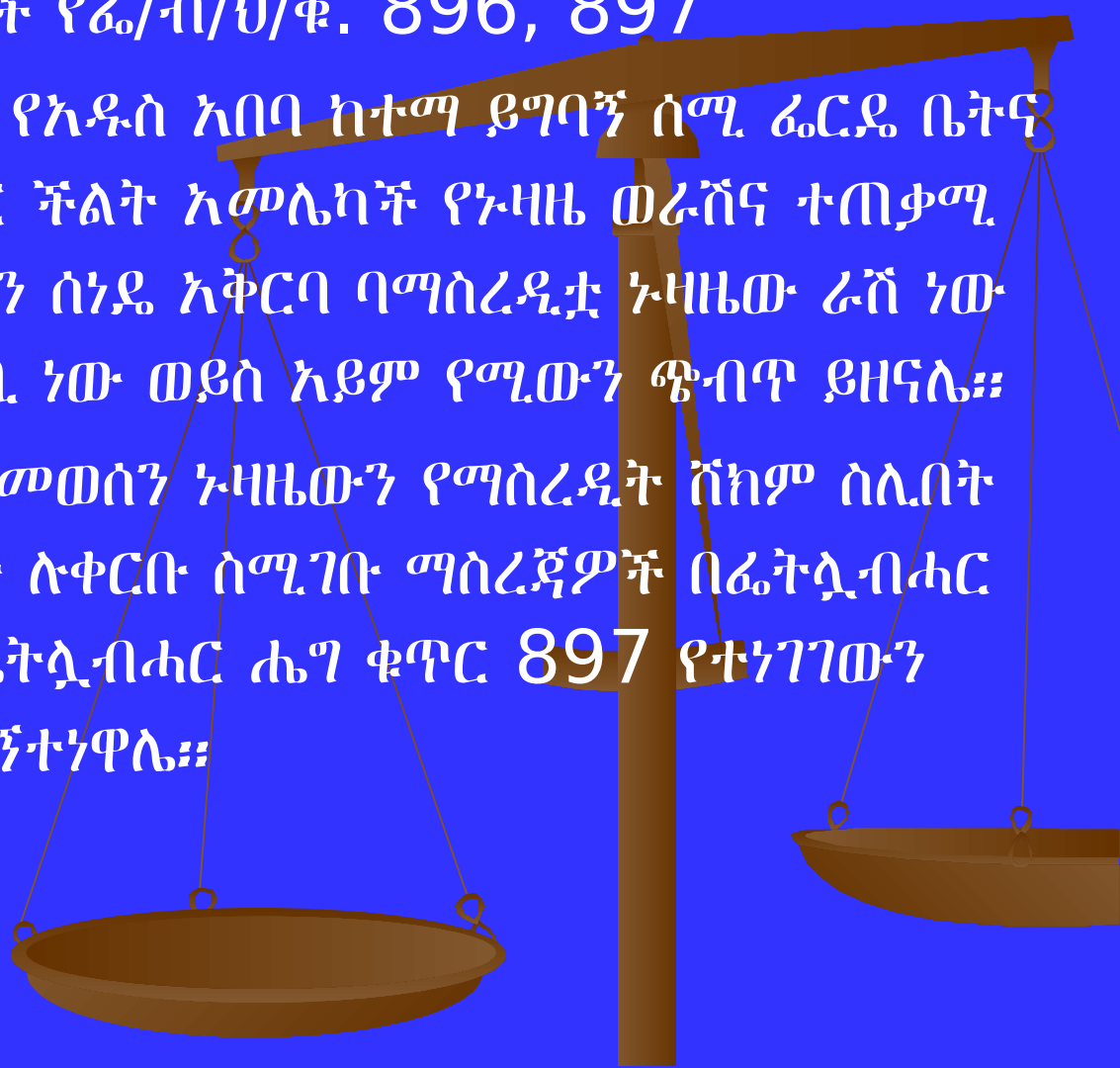
7th,distribution of inheritances must occur under the **careful supervision of probate court.**

- For this, the executor is required to file all the papers related to inheritance before the probate court.
- These include inventory of the estate, accounts and legal documents._



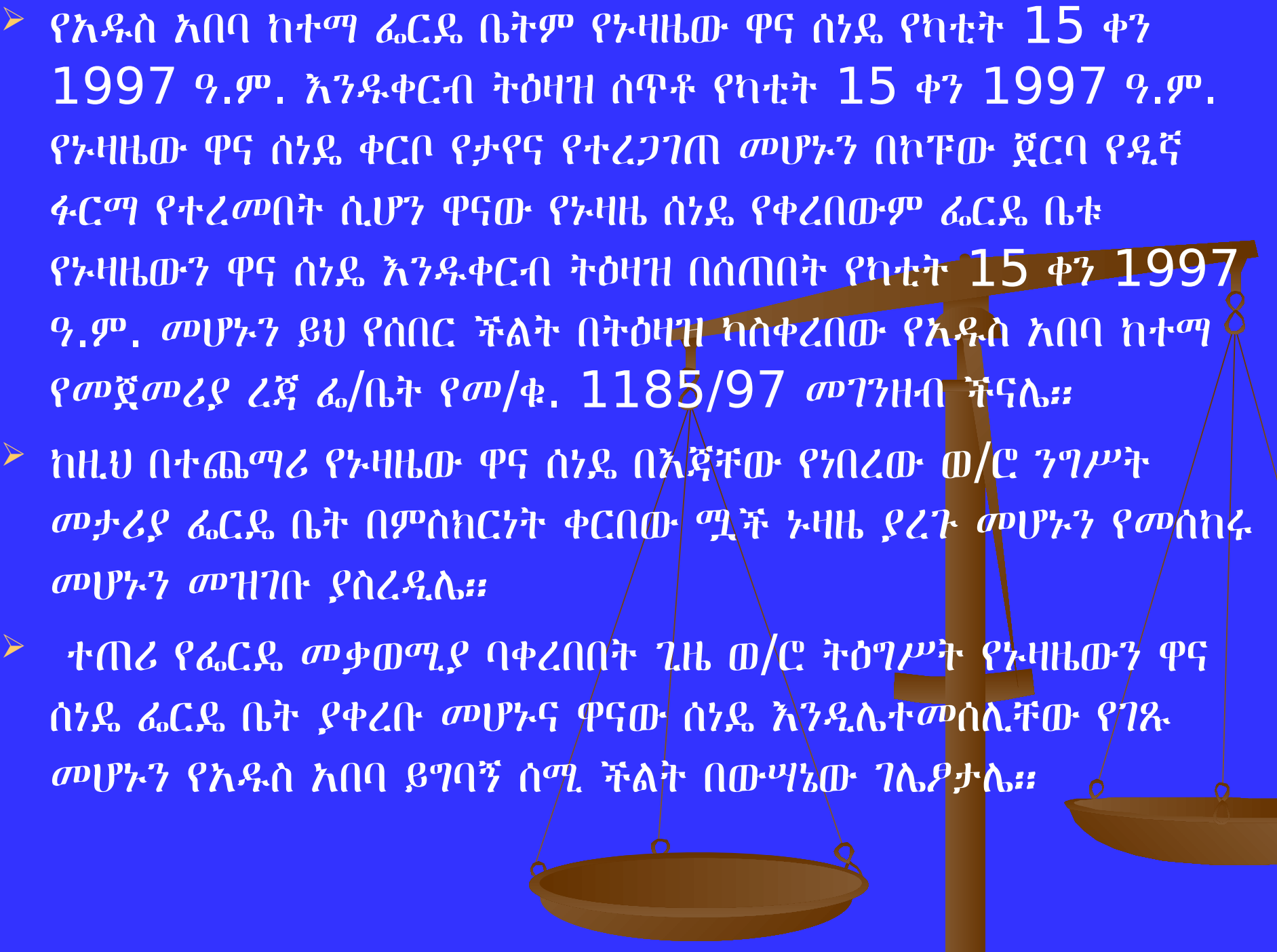
❖ **V. 11, L.G. 49831, ወ/ሪት ሮማን ግዛው እና አቶ ግርማ አብርሃም ጥቅምት 02/2003**

- የኑዛዜ መኖርን የማስረዳት ሽክም ስሊበት ወገንና ኑዛዜውን ማስረዳት ሉቀርቡ ስሚገቡ ማስረጃዎች የፌ/ብ/ህ/ቁ. 896, 897
- መዝገቡን እንመረመርነው የአዱስ አበባ ከተማ ይግባኝ ሰሚ ፌርዴ ቤትና የአዱስ አበባ ከተማ የሰበር ችልት አመሌካች የኑዛዜ ወራሽና ተጠቃሚ መሆኗን የኑዛዜውን ዋናውን ሰነድ አቅርባ ባማስረዳቷ ኑዛዜው ራሽ ነው በማት የሰጡት ውሳኔ ተገቢ ነው ወይስ አይም የሚውን ጭብጥ ይዘናሉ።
- ከሊይ የተያዘውን ጭብጥ መወሰን ኑዛዜውን የማስረዳት ሽክም ስሊበት ወገንና ኑዛዜውን ማስረዳት ሉቀርቡ ስሚገቡ ማስረጃዎች በፌትሷብሐር ሔግ ቁጥር 896 እና በፌትሷብሐር ሔግ ቁጥር 897 የተነገገውን ማገናዘብ አስሊጊ ሆኖ አግኝተነዋል።





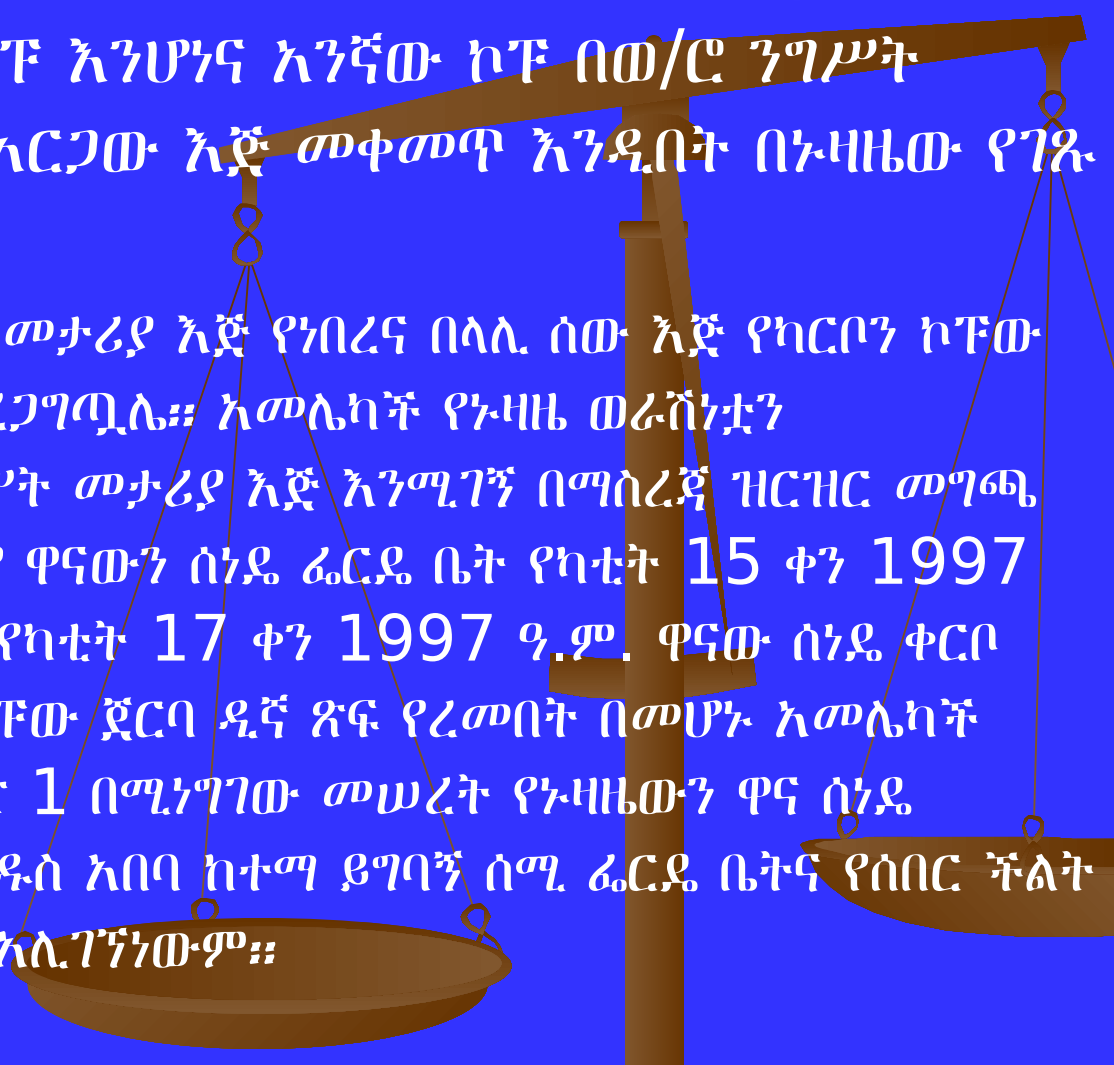
- ኑዛዜ መኖሩንና በኑዛዜው የሰረውን ቃሌ የማስረዳት ግዳታ ያበት የኑዛዜ ተጠቃሚ ነኝ የሚው ሰው መሆን እንዲበት የፌ/ ሔግ ቁጥር 896 ይነግጋሉ።
- የኑዛዜ ተጠቃሚው መብቱን ያገኘው በግሌጽ ወይም በተናዛኝ ጽሁፌ በተረገ ኑዛዜ በሆነ ጊዜ የኑዛዜውን መኖር ማረጋገጥ የኑዛዜውን ጽሁፌ ዋናውን ወይም ውሌ ማዋዋሌ ስሌጣን በተሰጠው ሰው ዘንድ ወይም በፌ/ቤት መዝገብ ሹም ትክክኛ ሆኖ የተመሳከረ ግሌባጭ በማቅረብ እንሆነ የፌ/ሔግ ቁ. 897 (1) የሚነግግ ሲሆን ኑዛዜዎቹን ማስፀም በማናቸውም ላሊ መንገድ ማስረዳት እንማይቻል የፌ/ሔግ ቁ. 897 (2) ይነግጋሉ።
- አመሌካች በአዱስ አበባ ከተማ የመጀመሪያ ረጃ ፌርድ ቤት የሟች ወ/ሮ አስካ ወሌየስ መስከረም 1ቱ 1993 ዓ.ም. ያረጉት ኑዛዜ ተጠቃሚና ወራሽ መሆኗን አረጋግጦ እንዲወስንሊት ስታመክት የኑዛዜው ዋና ሰነድ በወ/ሮ ንግሥት መታሪያ እጅ መሆኑን ገሌፀው ፌርድ ቤቱ ዋናውን በማስቀረብ እንዲመከተው በፌ/ሥ/ሥ/ሔግ ቁጥር 223 መሠረት የካቲት 7 ቀን 1997 ዓ.ም. ባቀረቡት የማስረጃ ዝርዝር መግጫ ጠይቀዋል።

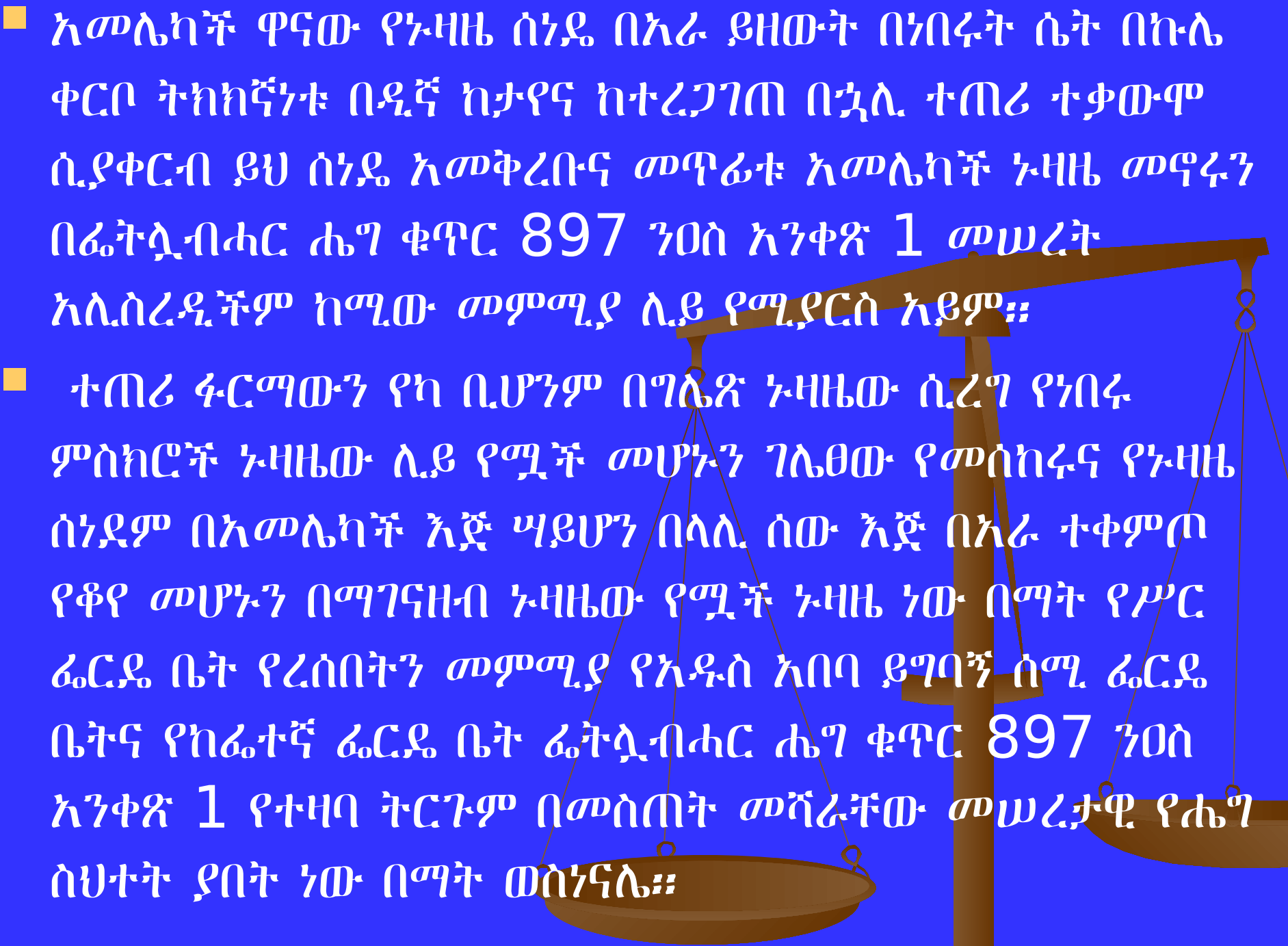


- የአዱስ አበባ ከተማ ፌርዴ ቤትም የኑዛዜው ዋና ሰነድ የካቲት 15 ቀን 1997 ዓ.ም. እንዲቀርብ ትዕዛዝ ሰጥቶ የካቲት 15 ቀን 1997 ዓ.ም. የኑዛዜው ዋና ሰነድ ቀርቦ የታየና የተረጋገጠ መሆኑን በኮፑው ጀርባ የዲኛ ፋርማ የተረመበት ሲሆን ዋናው የኑዛዜ ሰነድ የቀረበውም ፌርዴ ቤቱ የኑዛዜውን ዋና ሰነድ እንዲቀርብ ትዕዛዝ በሰጠበት የካቲት 15 ቀን 1997 ዓ.ም. መሆኑን ይህ የሰበር ችልት በትዕዛዝ ካስቀረበው የአዱስ አበባ ከተማ የመጀመሪያ ረጃ ፌ/ቤት የመ/ቁ. 1185/97 መገንዘብ ችላል።
- ከዚህ በተጨማሪ የኑዛዜው ዋና ሰነድ በእጃቸው የነበረው ወ/ሮ ንግሥት መታሪያ ፌርዴ ቤት በምስክርነት ቀርበው ሟች ኑዛዜ ያረጉ መሆኑን የመሰከሩ መሆኑን መዝገቡ ያስረዳል።
- ተጠሪ የፌርዴ መቃወሚያ ባቀረበበት ጊዜ ወ/ሮ ትዕግሥት የኑዛዜውን ዋና ሰነድ ፌርዴ ቤት ያቀረቡ መሆኑና ዋናው ሰነድ እንዲሌተመሰሊቸው የገጹ መሆኑን የአዱስ አበባ ይግባኝ ሰሚ ችልት በውሣኔው ገሌፆታል።

➤ ከዚህ ሊቆ የሚነሳው ጥያቄ አመሌካች የኑዛዜ ተጠቃሚና ወራሽ መሆኗን ማስረዳት የፌ/ሔግ ቁጥር 897 ንዑስ አንቀጽ 1 በሚነግገው መሠረት ዋናውን የኑዛዜ ሰነድ ወይም በፌርዴ ቤት መዝገብ ሹም የተረጋጠውን በማቅረብ አስረዴታች ወይስ አሊስረዴችም የሚው ነው። ሟች ወ/ሮ አስካ ወሌየስ ኑዛዜ ያረጉት በሁት ኮፑ እንሆነና አንኛው ኮፑ በወ/ሮ ንግሥት መታሪያ ሁተኛው በአባ ማሞ አርጋው እጅ መቀመጥ እንዲበት በኑዛዜው የገጹ መሆኑን ሰነድ ያሳያል።

➤ የኑዛዜው ዋና ሰነድ ወ/ሮ ንግሥት መታሪያ እጅ የነበረና በላሊ ሰው እጅ የካርቦን ኮፑው የነበረ መሆኑ በሥር ፌርዴ ቤት ተረጋግጧል። አመሌካች የኑዛዜ ወራሽነቷን የሚያረጋግጥላት ሰነድ በወ/ሮ ንግሥት መታሪያ እጅ እንሚገኝ በማስረጃ ዝርዝር መግጫ ሊቆ በመግጽ ወ/ሮ ንግሥት መታሪያ ዋናውን ሰነድ ፌርዴ ቤት የካቲት 15 ቀን 1997 ዓ.ም. እንዴታቀርብ ትዕዛዝ ሰጥቶ የካቲት 17 ቀን 1997 ዓ.ም. ዋናው ሰነድ ቀርቦ ከዋናው ጋር የተረጋገጠ መሆኑ በኮፑው ጀርባ ዲኛ ጽፍ የረመበት በመሆኑ አመሌካች የፌ/ሔግ ቁጥር 897 ንዑስ አንቀጽ 1 በሚነግገው መሠረት የኑዛዜውን ዋና ሰነድ በማቅረብ አሊስረዴችም በማት የአዱስ አበባ ከተማ ይግባኝ ሰሚ ፌርዴ ቤትና የሰበር ችልት የሰጡት የሔግ ትርጉም ተገቢ ሆኖ አሊገኘውም።





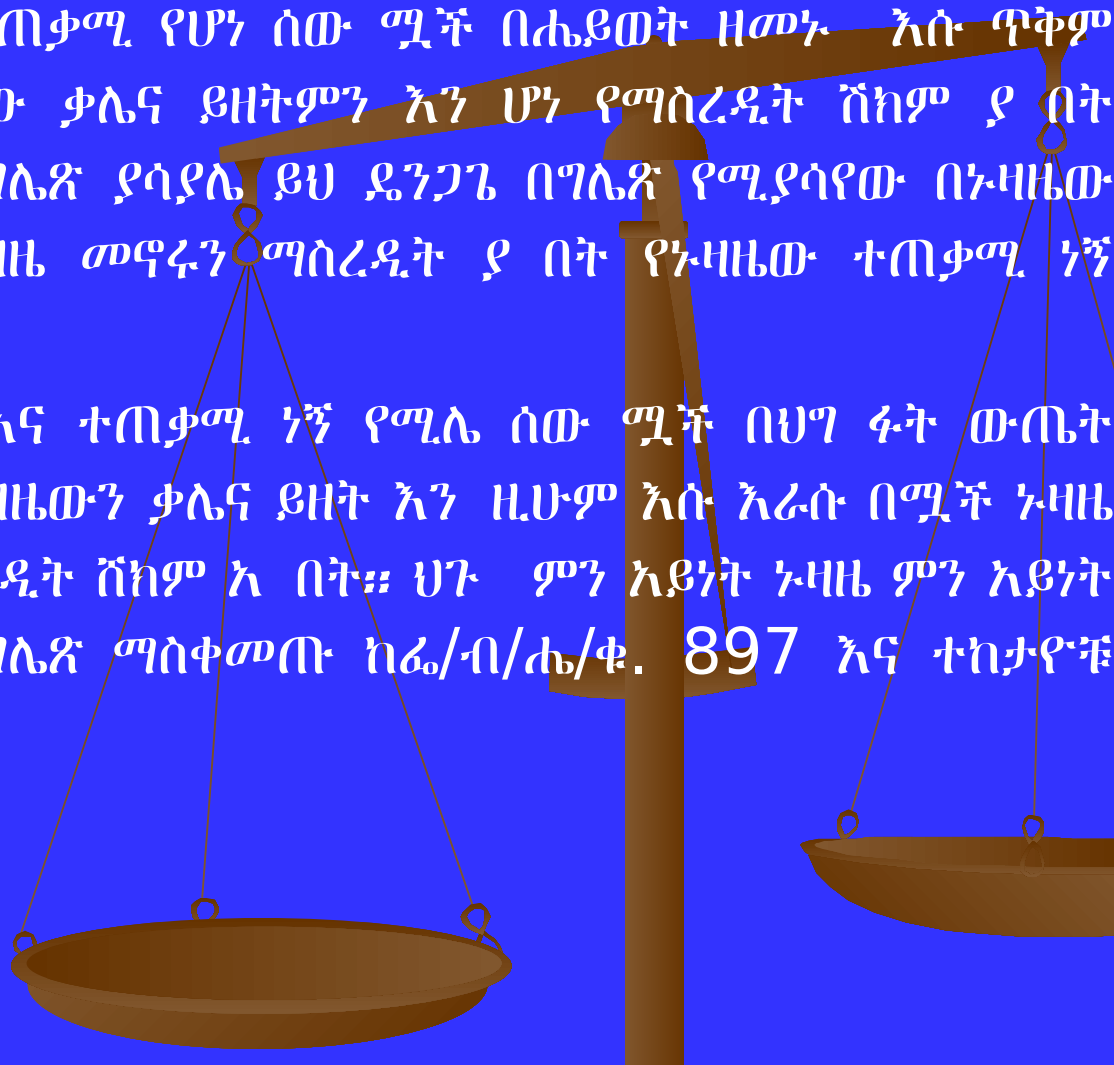
- አመሌካች ዋናው የኑዛዜ ሰነዴ በአራ ይዘውት በነበሩት ሴት በኩል ቀርቦ ትክክኛነቱ በዲኛ ከታየና ከተረጋገጠ በኋላ ተጠሪ ተቃውሞ ሲያቀርብ ይህ ሰነዴ አመቅረቡና መጥፊቱ አመሌካች ኑዛዜ መኖሩን በፌትሷብሐር ሐግ ቁጥር 897 ንዑስ አንቀጽ 1 መሠረት አሊስረዱትም ከሚው መምሚያ ሊይ የሚያርስ አይም።
- ተጠሪ ፋርማውን የካ ቢሆንም በግልጽ ኑዛዜው ሲረግ የነበሩ ምስክሮች ኑዛዜው ሊይ የሟች መሆኑን ገሌፀው የመሰከሩና የኑዛዜ ሰነዱም በአመሌካች እጅ ሣይሆን በላሊ ሰው እጅ በአራ ተቀምጦ የቆየ መሆኑን በማገናዘብ ኑዛዜው የሟች ኑዛዜ ነው በማት የሥር ፌርዴ ቤት የረሰበትን መምሚያ የአዱስ አበባ ይግባኝ ሰሚ ፌርዴ ቤትና የከፌተኛ ፌርዴ ቤት ፌትሷብሐር ሐግ ቁጥር 897 ንዑስ አንቀጽ 1 የተዛባ ትርጉም በመስጠት መሻራቸው መሠረታዊ የሐግ ስህተት ያበት ነው በማት ወስነናል።

■ **Jildii 10ffaa, F. 74--- kwt. 869**

■ በመሰረቱ የኑዛዜውን ቃሌና ይዘት አስመሌክቶ ማን ማስረዳት እንዲ በትና ምን አይነት ማስረጃዎች ማቅረብ እን ሚገባው በውርስ ሐግ ውስጥ ሌዩ ዴንጋጌዎች ተቀምጠው እናገኛ ን።

■ በዚህም መሠረት አንዴ የኑዛዜ ተጠቃሚ የሆነ ሰው ሟች በሐይወት ዘመኑ እሱ ጥቅም ያ ረገው ኑዛዜ መኖሩንና የኑዛዜው ቃሌና ይዘትምን እን ሆነ የማስረዳት ሽክም ያ በት መሆኑን የፌ/ብ/ሐ/ቁ. 896 በግሌጽ ያሳያል ይህ ዴንጋጌ በግሌጽ የሚያሳየው በኑዛዜው ሰነዴ ሊይ የሰ ረው ቃሌ እና ኑዛዜ መኖሩን ማስረዳት ያ በት የኑዛዜው ተጠቃሚ ነኝ የሚ ው ሰው መሆኑን ነው።

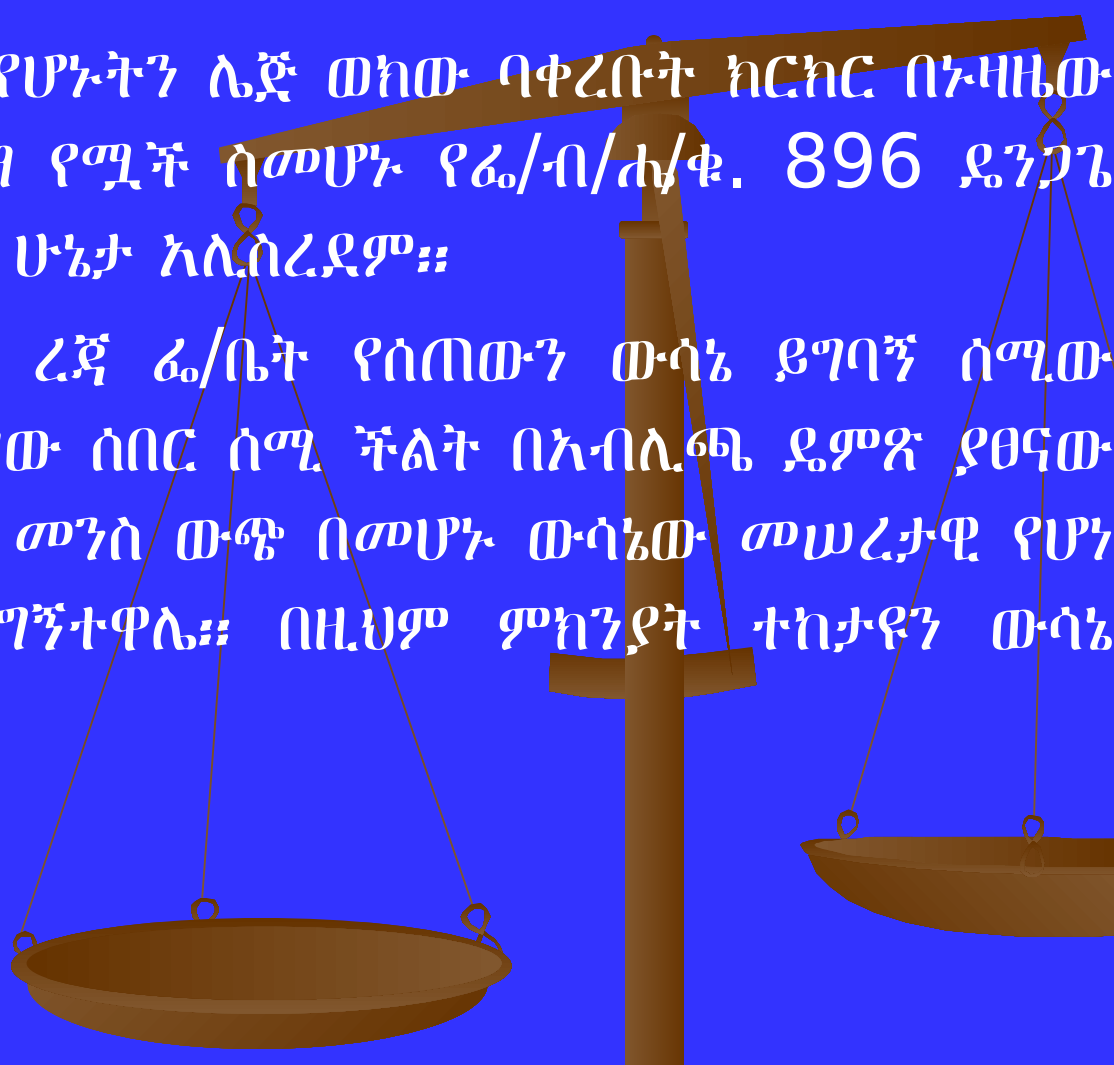
■ በመሆኑም የሟች የኑዛዜ ወራሽ እና ተጠቃሚ ነኝ የሚሌ ሰው ሟች በህግ ፋት ውጤት ያ ውን ኑዛዜ የ ፀመ መሆኑን የኑዛዜውን ቃሌና ይዘት እን ዚሁም እሱ እራሱ በሟች ኑዛዜ መሠረት ተጠቃሚ መሆኑን የማስረዳት ሽክም አ በት። ህጉ ምን አይነት ኑዛዜ ምን አይነት ማስረጃ መቅረብ እንዲ በትም በግሌጽ ማስቀመጡ ከፌ/ብ/ሐ/ቁ. 897 እና ተከታዮቹ ዴንጋጌዎች ያሳያሉ።



■ እንግዳህ አመሌካቾ ሟች በብዕር መረም ይቶለ የነበሩ መሆኑን ከማስረዳት እና በኑዛዜው ሰነዴ ሊያ የሰረው የጣት አሻራ የሟች አይም በማት መከራከር ብቻ በቂ ሲሆን ይህንኑ የማስተባበል ግዳታ ያሳቸው የኑዛዜው ተጠቃሚ የሆኑት ተጠሪ ሞግዚት የሆኑሊት ሌጅ ነች።

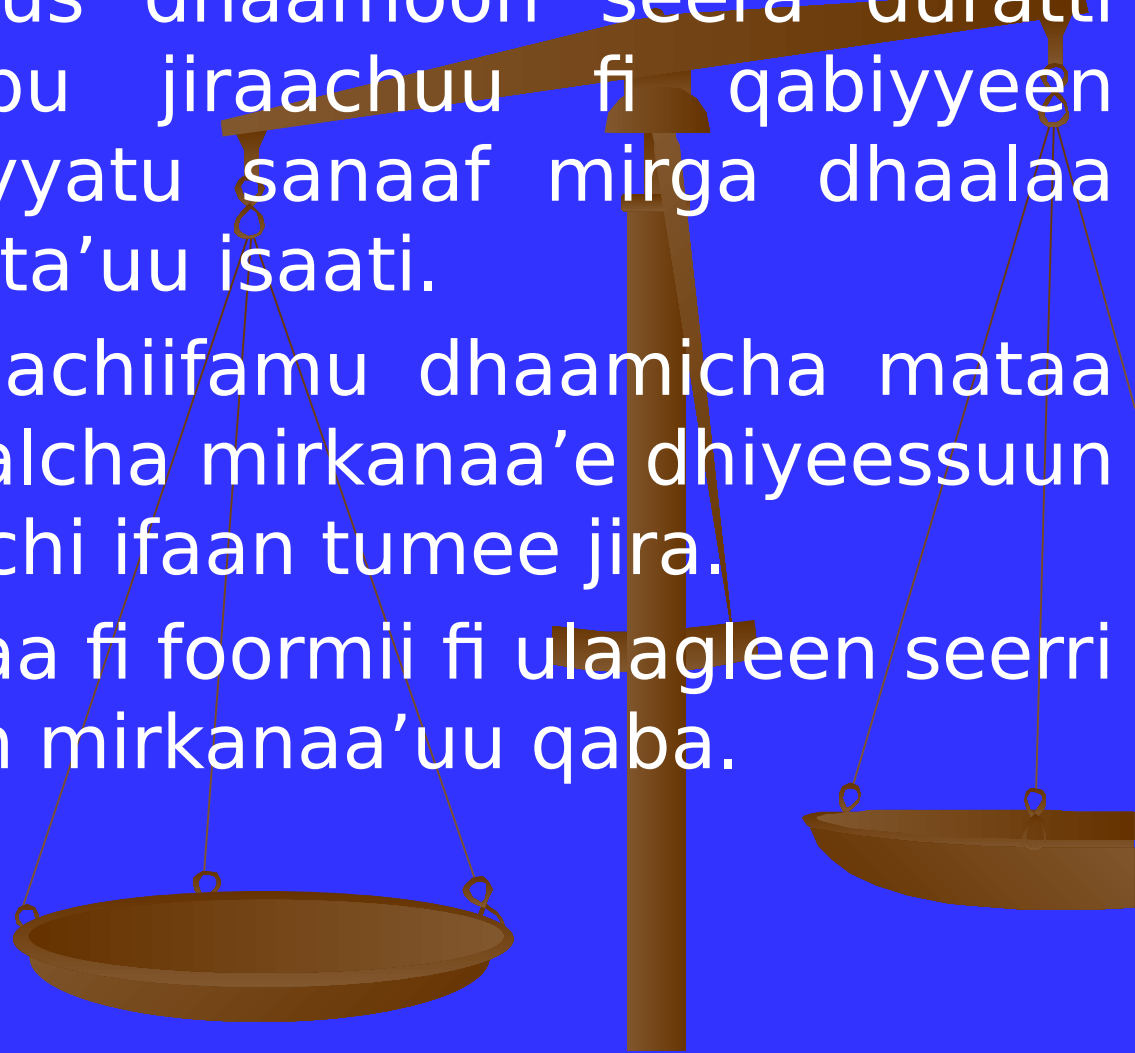
■ ተጠሪ ግሞ የኑዛዜ ተጠቃሚ የሆኑትን ሌጅ ወክው ባቀረቡት ክርክር በኑዛዜው ሰነዴ ሊያ ያውን የጣት ፋርማ የሟች ስመሆኑ የፌ/ብ/ሐ/ቁ. 896 ዴንጋጌ ይዘትና መንስ በሚያስገነዝበው ሁኔታ አሊስረደም።

■ በመሆኑም የስር የመጀመሪያ ረጃ ፌ/ቤት የሰጠውን ውሳኔ ይግባኝ ሰሚው ፌ/ቤት የሻረውም ሆነ የከተማው ሰበር ሰሚ ቸልት በአብሊጫ ዴምጽ ያፀናው ከፌ/ብ/ሐ/ቁ. 896 ዴንጋጌ መንስ ውጭ በመሆኑ ውሳኔው መሠረታዊ የሆነ የህግ ስህተት ያበት ሆኖ አግኝተዋል። በዚህም ምክንያት ተከታዩን ውሳኔ ሰጥተናል።

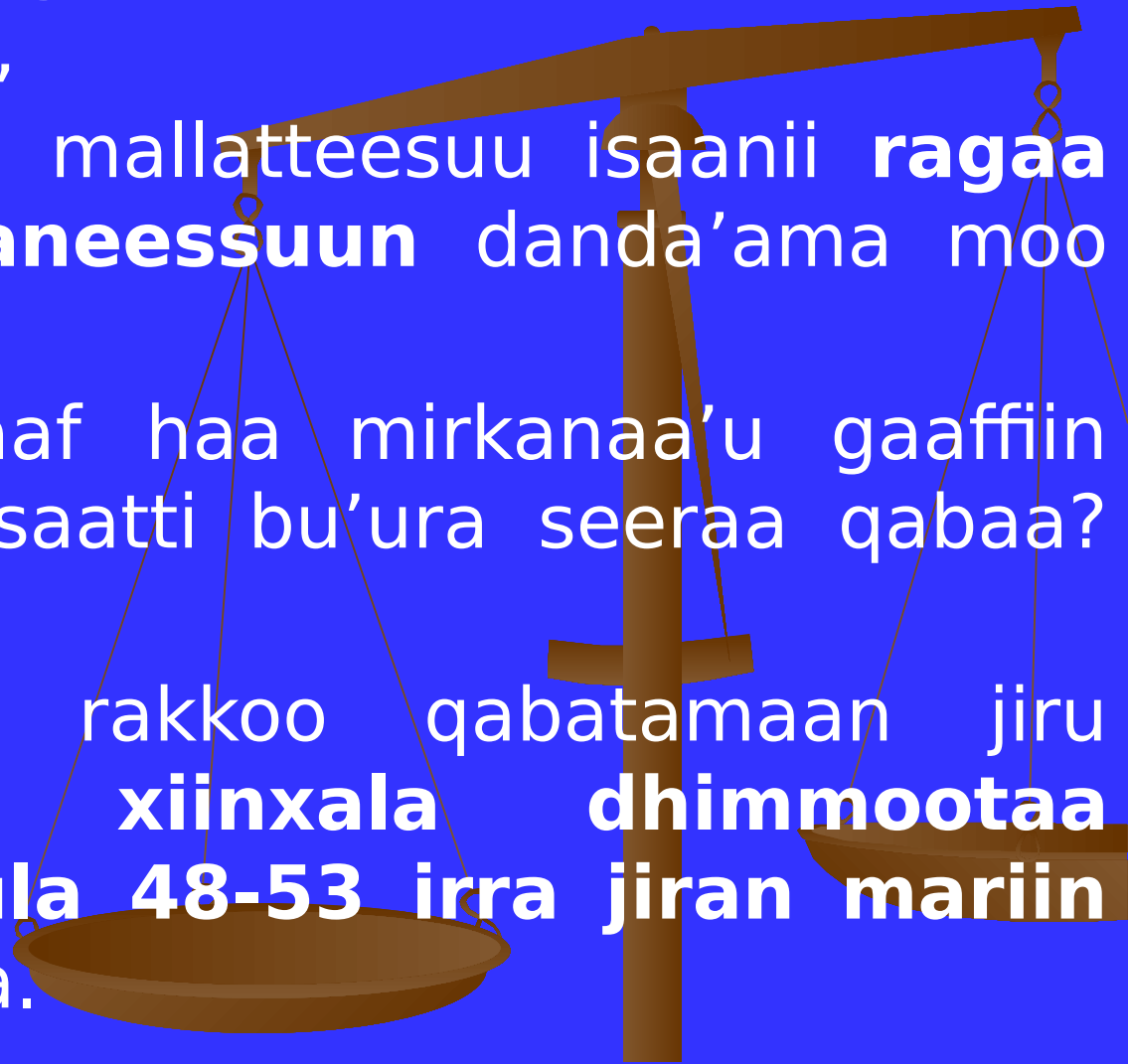


➤ Akka waliigalaatti:

- dirqamni hubachiisuu garee mirga ni qaba jedhu irratti kan kufu yoo ta'u,
- kan hubachiisus dhaamoon seera duratti fudhatama qabu jiraachuu fi qabiyyeen isaatis garee iyyatu sanaaf mirga dhaalaa kan gonfachiise ta'uu isaati.
- Kunis kan hubachiifamu dhaamicha mataa isaa ykn garagalcha mirkanaa'e dhiyeessuun akka ta'es seerichi ifaan tumee jira.
- Gosa dhaamichaa fi foormii fi ulaagleen seerri gaafatu guutuun mirkanaa'uu qaba.



- ta'us falmiiwwan Mmtti yeroo hedduu dhiyaatan qabiyyee dhaamoo **ragaa namaatiin** hubachiisuun ni danda'amaa ykn **foormii seerri gaafatuun** raawwatamuu fi dhiisuu isaa ykn,
- du'aan/ragoonni mallatteesuu isaanii **ragaa namaan mirkaneessuun** danda'ama moo hin danda'amu?
- dhaamoon naaf haa mirkanaa'u gaaffiin jedhu kophaa isaatti bu'ura seeraa qabaa? Kan jedhaniidha
- Gama kanaan rakkoo qabatamaan jiru hubachuudhaaf **xiinxala dhimmootaa modulicha fuula 48-53 irra jiran mariin** ilaaluun gariidha.



Galata Argadhaa!