

DEFENSE LAWYERS' DISCURSIVE STRATEGIES OF CONTROLLING THE LANGUAGE OF THE WITNESSES: QUESTIONING FORMS AND FUNCTIONS IN SOME CRIMINAL COURTS OF OROMIA REGIONAL STATE, ETHIOPIA

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Abstract: In everyday conversation the questioners and answerers are in an approximately symmetrical relationship that questioners do not have the information that they are requesting and the answerers are not obliged to answer. On the contrary, in the rule and role governed courtroom question/answer dyad, lawyers usually have particular version of events to control the language of the respondents where witnesses are compelled to respond, and do not have the right to question. So, it may hold back the production and interpretation of the evidence, and consequently hinder the execution of the tasks of the court trial. Such types of courtroom language-related problems are unexplored by academic research in Oromia Regional State. In this regard, no or little is known about these courtroom language-related problems in the criminal courts of the region. In an attempt to fill-in the existing gap, this study investigates how widespread such courtroom linguistic problems are and contribute to the limited conceptual and methodological values of linguistic analysis of courtroom oral discourse in legal institutions of the region. The analysis of this study is based on the authentic, naturally occurring courtroom defense lawyers-witnesses dyad of some Oromia Regional State Criminal Courtrooms. The aim of the study is, therefore, to present the discursive strategies of defense lawyers questioning forms and functions in their attempts to deconstruct persuasive testimony. In so doing, based on the way in which lawyers exploit the specialized speech-exchange linguistic system of the courtroom, the study focuses on the analysis of defense lawyers question forms and functions from the pragma-dialectical discourse perspectives. The findings of the study suggest that the use of declarative question, tag question, and projection question forms are the defense lawyers' discursive strategies to control and dominate the language of the witnesses. Such questioning forms function by potentially damaging witnesses' admission and limiting their response boundaries and are found the influential defense lawyers' discursive strategies through which the existing narratives of the witnesses are attacked and deconstructed.

Key words: discursive strategies, defense lawyer, questions forms and functions, pragmatic

**TOOFTAALLEEWAN LOOGAA ABUKAATONNI DUBBII AFAANII
WABEESITOOTAA ITTIIN TOO'ATAN: CAASAWWAN GAFFILEEFI
HIKKAWWAN ISAANIIRRATTI KAN XIYYEEFFATE, MANNEEN MURTHII
YAKKAA MOOTUMMAA NAANNOO OROMIYAA, ITOOPHIYAA**

Axeerara: Dubbii afaanii guyyu guyyuu keessatti hariiroon gaaffii gaafataafi deebii kennaa sadarkaa wal-qixxummaarratti kan mul'atu ta'ee, namonni gaaffii gaafatan deebii gaaffichaa kan hin beekne akkasumas

nammonni gaafficha deebaan deebii kennuuf hindirqaman. Gama birootin ammoo, gaaffif deebii manneen murtii seeraafi ga'ee hirmaattotaatin guduunfame keessatti garuu, abukaatonni tooftaa loggaa addaa dubbii afaan deebstootaa ittiin too'atan kan qabaniifi nammonni wabii deebii kennuuf kan dirqan garuu mirga gaaffii gaafachuu kan hin qabne dha. Kun ammoo adeemsa wabii yakkichaa hiikuufi qindeessuu keessatti gufuu ta'uudhan, hojjiifi bu'aa xiinxala yakka addaan baasuu xaddachaa hir'isa. Rakkooleen manneen murtii gama afaaniin Naannoo Oromiyaa keessatti mulatan ilaalchisee qorannoon geggeeffame hamma ammaatti hin jiru. Kanaafuu, rakkinaaleen hojii xaddachaa geggeessuu manneen murtii naannicha keessatti gama afaaniitiin mul'atan ilaalchisee wanti beekamu baayyee muraasa yookan hin jiru. Adeemsa yaalii hula mul'atu kana hiphisuuf taasifamu keessatti, qorannoon kun rakkoolee afaanii manneen murtii naannichaa keessatti mul'atan xiinxaluun gumaacha gama hubannoos ta'ee maleewwan adda addaa rakkooleen afaanii kun itti sakatta; amuu danda'an kaa'uudha. Xiinxalli qorannoo kanaa gaaffif deebii abukaatootaafi wabeessitoota manneen murtii oromiyaa kallattiirratti kan bu'ureeffateedha. Kaayyoon qorannoo kanaa tooftaa loogaa abukaatonni caasawwaniifi hiika itti kennuun deebii wabeessitoota faallesun galma yaadan itti gahan dhiyeessuudha. Haaluma kanaan, tooftaalee loogaa addaa abukaatonni dubbii afaanii wabeessitootaa too'achuuf fayyadamanirratti hundaa'uun, caasawwan gaaffiwwanii abukaatootaafi hiikkawwan isaanii gama diskoorsii gaaffiif deebii piraagmaatiksiitin xiinxala. Bu'aan qorannoo kana akka agarsisutti, caasawwan gaaffiilee kan akka dekalariiv, taagiifi pirojakshini jedhaman toofataa loogaa abukaatonni dubbii afaanii wabeessitootaa ittiin too'atan ta'uusaati. Caasawwan gaaffiilee akkanaa kunis wabiiwwan bifaa faallaa ta'een amansiisuu, yaada addan kuchissisuu, aakkasumas hamma dubbachuu qaban murteessuu akka danda'an abukaatota gargaareera.

Jechoota Ijoo: tooftaa loogaa, abukaatoo, caasawwan gaaffiileefi hiikkawwan isaanii, piraagmaatiks

ANALIZA DYKURSU PRAWNICZEGO PRZESŁUCHAŃ ŚWIADKA W SĄDZIE KARNYM W MIEŚCIE ADAMA (REGION OROMIA) W ETIOPII

Abstrakt: W codziennych rozmowach pytający i udzielający odpowiedzi pozostają w mniej więcej symetrycznym związku, a odpowiadający nie jest zobowiązany do udzielenia odpowiedzi. Na sali sądowej sytuacja jest odmienna. Przesłuchiwanie w charakterze zarówno świadków są zobligowani do udzielania odpowiedzi na pytania prawników. Autor bada strategię dyskursu obrońców na sali sądowej w Sądzie karnym w mieście Adama (Region Oromia) w Etiopii. Celem badania było pokazanie środków perswazji stosowanych przez obronę w celu uzyskania pożądanych odpowiedzi. Badanie wypełnia lukę, gdyż do tej pory nie zajmowano się tą tematyką w odniesieniu do strategii dyskursu sądowego w Etiopii.

Słowa kluczowe: strategię dyskursu, obrońca, pragmatyka, pytania i ich funkcja

1. Introduction

In the proceedings of courtroom questions/answers dyad, minimizing pressurizing and coercive question forms are essential in an attempt to make the truth less jeopardized in court trial. This can be achieved by informing and alerting the defense lawyers to the risks involved in such questioning forms and so that to modify such pressurizing and coercive questionings (Gibbons 2004). In this regard, as an applied (forensic) linguist (Shuy 2006), it is sensible to make an effort in addressing such types of pressing courtroom cross-examining lawyers language-related problems in Adama, Bishoftu and Asella Criminal

Courts to understand and investigate the extent to which such types of questionings can put the truth at risk to social injustice using authentic data. The study explores the discursive properties of both question forms and functions as cross-examining lawyers attempt to deconstruct witnesses' testimony.

Based on the Drew's (1992) defense lawyers specialized speech-exchange system of the courtroom, the paper demonstrates, after Gibbons (2003 2008), how and in what way the discursive strategies of lawyers' questioning forms function to pressure and coerce the witness into testifying what they do not mean and as a result causes the evidence to be twisted and distorted for social injustice. Hale (2004: 31) asserts that the discourse and the pragmatic function of cross-examination lawyers' main purpose is not to elicit new information (information-seeking), but to discredit the previously elicited examination-in-chief's case. The defense lawyers deconstruct a version of the same events to claim that the defendant is "not guilty, or is worthy of lenient treatment, or alternatively attempting to show that the prosecution's version has weaknesses which place it in "reasonable doubt" (Gibbons, 2007: 438). In cross-examination session, the witness is pressurized and even coerced by the forms of questions that the lawyers construct. According to Gibbons (2007), the cross-examining lawyer concentrates a more "destroying the prosecution's case" (Gibbons 2007: 439).

Similarly, Eades (2008) asserts that gratuitous concurrence can also function in conversations in a similar way as minimal responses do in many courtroom interactions. It also referred to as response tokens or feedback markers, such minimal responses – such as *yes*, *no*, *mm*, *yeh*, *OK* and *uh-huh* – generally indicate conversational involvement of listeners rather than agreement (Shuy 1990). At this stage, it is common for Oromia's Criminal Courtroom lay witnesses to respond to questions with answers which appear to indicate agreement, such as *yes*, *no*, and *yeh*. The analysis in this research exemplified the extent of the problem which can arise from a literal interpretation of such answers as indicating agreement. In this regard, the frequent 0-3 word length production, from the witness side was identified.

Gratuitous concurrence is supposed as the major problem in effective communication with lay witnesses. Eades (2008) repeats this view, giving a number of different explanations for why they believe that lay witnesses so readily use gratuitous concurrence. Some of the explanations given include: the "desire to please and be seen as agreeable", "fear of persons in authority", "not wanting to make a scene", "they do not think the courts will believe them if they tell their side of the story", and "they do not wish to admit that they do not know what has been asked of them" (Eades 2008: 95). She also asserts that gratuitous concurrence is widely recognized as occurring in all legal contexts: interviews with lawyers, and the police, and in courtroom evidence.

This is to emphasize that the more established preceding studies undoubtedly contribute to the discursive strategies of cross-examination questioning forms and functions. However, my argumentation here is that these studies are in limitations of

employing more authentic data or the number of both previous and recent courtroom cross-examination questioning studies which based their linguistic analysis of oral discourse on original source are not proportional with the visible courtroom language-related problems of our time or much lower to ascertain how such sort of problems studied are providing a more comprehensive authenticity of them. More specifically and most significantly, this type of courtroom linguistic problem, as far as my knowledge is concerned, is unexplored by academic research in Oromia Regional Region either using the original or the secondary official data. This is because, firstly, owing to the premature stage of such types of multidisciplinary field of legal language studies in the country, Applied Linguistics, there has been virtually no study on courtroom language-related problems used in Oromia Regional State in general and it's the selected Criminal Courts in particular. Secondly, because of the limited conceptual and methodological approaches in linguistic analysis of courtroom oral discourse, the attention given to investigate such types of courtroom language-related problem is neglected.

In this regard, it is found valuable to make an effort into uncultivated area of language-related problems of legal settings in some Oromia Regional State Criminal Courts to investigate the linguistic problems that can put the truth at risk to social injustice. Carrying out courtroom linguistic analysis of oral discourse in the place where authentic audio recordings is absent reduces the credibility of the findings (Tkačuková 2010). Therefore, the data source employed in this study is thought to be more credible even in filling the gap that exists in the more established studies (Cotterill 2003; Heffer 2005; Gibbons 2003, 2008; Tkačuková 2010). The courtroom language of Adama Higher Court trial is Afan Oromo. So, the judge, the lawyers and all other court communities speak Afan Oromo. But there were a frequent occasion when some witnesses (as far as the selected courtrooms incorporate a number of different ethnic groups found in Ethiopia) use Amharic Language (the language of wider communication). In such occasions the translator of the court translates Afan Oromo (of the judge and the lawyers) into Amharic Language (for the witnesses or defendants). So, the original data consist of both Afan Oromo and Amharic languages. Similarly, rather than using the secondary data source, this study presents an issue of authentic data which is absent in most similar previous studies from Adama Higher Criminal Court trial, where the study of courtroom language-related problem is entirely neglected, and where two languages – Afan Oromo and Amharic – are used as courtroom languages. Using the real data from selected Criminal Court trials, the researcher ascertains how the mentioned courtroom language-related problems are widespread and victimized the truth by analyzing the linguistic characteristics of destructive types in cross-examination questions.

2. An overview of Ethiopian Criminal Court procedures

The formal consent of 1994 new Ethiopian constitution was took effect in 1995. This 1995 Constitution replaced the nation's centralized unitary government with a federal republic based on a democratic form of government (Christophe 2007) which constitutes nine member states. In Ethiopia, law is created and passed by the country's federal legislative body, the House of People's Representatives (New York University 2006). Despite Ethiopia follows civil law system, the witness examination criminal procedure, as that of French evidentiary law, follows the criminal law system (New York University 2006: 51).

The Oromia Regional State is one of the nine member states in the federal government of Ethiopia (Christophe 2007) from which the criminal law system is drawn. New York University (2006) report notes that the Constitution directs the creation of three levels of state courts: the State Supreme Court, the High Court (or the Zonal Courts) which the focus area of this study, and the First Instance Court (or the Woreda Courts). The higher court consists of both the civil and criminal court of which the criminal court is the focus area of this study. In the Oromian Higher Court criminal procedure observed, the prosecution and defense present the evidence and question the witnesses after the judge's swearing-in and orientation/checking-in stages. Here, a well established understanding of what happens is that the two sides are attempting to construct competing versions of the same event or state (Bennett and Feldman 1981).

Similarly, Gibbons (2008) also asserts that in the Common Law system, when lawyers are cross examining a hostile witness, they have to play a complex game, where they are attempting almost simultaneously to construct and support their version of events and attack the version of the other side. Gibbons (2008) argues that the purpose of constructing a particular version strongly affects the social and informational relationships, causing them to differ substantially from those found in everyday conversation. The social relationship, rather than being roughly equal, is one of power asymmetry in that the lawyers have control of the questioning process and witnesses are obliged to reply. Lawyers are also in a position to pressure witnesses to agree with their version of events (Gibbons 2008). These typical personal and information relationships have a significant impact on the nature of both questioning exchanges and the form of questions. In this study, I focused on the abovementioned issues; demonstrating the selected court spoken discourse of courtroom proceedings. In so doing, the power asymmetry (Linguistic Power Imbalance as it has been used in this particular study) that exists in the cross-examination institutionalized speakers of Oromia Regional State Court participants, the cross-examining lawyers and the witnesses has been analyzed.

3. Research methodology

The methods chosen for the study certainly have profound effects on the outcomes (Patton 1990). The same holds for how subjects are selected and for how data are collected and analyzed. So, data that have been used to generate the findings were directly based on information from the authentic natural language use of courtroom talks of three heterogeneous trial participants-lawyers in defense, witnesses and judges. Purposive sampling technique is used to select the population for the study. Data were entirely drawn from Bishoftu, Asella and Adama town Criminal Court trial talks, and the naturally occurring spoken courtroom interactions were recorded and transcribed. Data were gathered by recording the courtroom entire talks that take place in the trials and additional hand-held note-taking/stenography technique was employed to record inaudible sound of the courtroom participants and to observe some non-verbal semiotic discourse aspects. The transcripts were done for the purpose of making a record of everything said in the courtroom, and in the efforts of minimizing the challenges of verbatimness and exactness that take place in stenographic recordings due to the nature of some spoken languages (see the full-fledged transcription conventions specified below).

| | |
|-------------------------|---|
| Capitals | Indicate raised volume |
| = | Indicates latched utterances, i.e. no pause between the end of one utterance and the start of the next |
| [| Indicates talk overlapping with that of another speaker, marked at the point in each utterance where overlap begins |
|] | Indicates talk overlapping with that of another speaker, marked at the point in each utterance where overlap ends |
| A number in parentheses | Indicates the length of a pause in seconds e.g. (3.2) |
| (xxxx) | Indicates an inaudible utterance |
| AA | Abbaa Alangaa (=Prosecutor lawyer) |
| A | Abukaatoo (=Defence lawyer) |
| J | Judge |
| T | Translator/court interpreter |
| W1 | Witness <u>No.</u> 1 |
| W2 | Witness <u>No.</u> 2 |
| W3 | Witness <u>No.</u> 3 |
| W4 | Witness <u>No.</u> 4 |

Personal Names (which are pseudonyms) are mainly used for the four witnesses (for example, in the four trial cases observed, I used “W1” to represent the witness who is questioned first in each of the four trial cases, “W2” to represent the witness who is questioned next in each of the four trial cases, “W3” to represent the witness who is questioned third in each of the four trial cases and “W4” to represent the witness who is finally questioned in each trial cases). Any other personal names in the transcript extracts are also pseudonyms. Identifying locality names have been changed, with the exception of major kebeles, towns and jobs.

Note: In the data presentation, I didn't translate (into English) the courtroom translators' (Afan Oromo to Amharic) works, for the analysis is limited to the language of the four trial participants (the judges, the two opposing lawyers and the witnesses). So, I represent it with (-----) mark.

So as to make the naturally occurring spoken data original, the transcripts and the translations were made in conscious of avoiding making changing to the participants' actual language. So, induced changes which include correction of inaccurate grammar, elimination of false starts, syntactic rearrangements or restoration of dialectal features into standard forms were avoided.

4. Data presentation and analysis: discussions of question forms used as defense lawyers' discursive strategies

“Questions in everyday discourse consist of a situated exchange in which the questioner and answerer are in a roughly symmetrical relationship in which each is entitled to request information from the other” (Gibbons 2008: 115). This implies that in our normal day-to-day interaction experience, questioners naturally do not have the information that they are requesting and the answerer is not obliged to answer. According to him, in everyday speech, there is a common Gricean anticipation that the answer will bring the information requested. Unlike everyday questioning, as the findings of the study illustrate, courtroom questioning differs markedly in that lawyers usually have a particular version of events in mind that they are attempting to confirm with the witness (see extract 1). Frequently, “witnesses are compelled to answer, and do not have the right to ask questions” (Gibbons 2008: 115). Similarly, Drew's (1992) analysis of cross-examination illustrates the combative nature of courtroom interaction and analyses the way in which lawyers exploit the specific speech-exchange system of the courtroom to challenge versions of events presented by witnesses. Therefore, courtroom

questions differ from everyday questions in both their social and their information characteristics (Schegloff 1984, 1992, 2007), (see extract 1 for lawyers' social characteristics).

Extract 1 illustrates unequal social relationships and defense lawyers' attempts to gain the reconstruction and confirmation of their particular prepared version of events that have a range of linguistic manifestations within the question part. These choices of linguistic demonstrations lead lawyers to include much of the information in their questions. In so doing, "the lawyers enable to exert pressure on witnesses to go along with their version of events" (Gibbons 2008: 120). A broad description of types of question in legal contexts is given in Gibbons (2003: 102-107) and Gibbons (2008: 115-130). So, in the analysis of question forms and their functions of this study, I specifically deal with this description as source of secondary data in order to remain abreast of established knowledge on each aspect.

4.1 Declarative Questions

Declarative question in the courtroom manifests power imbalance in such a way that it contains the lawyer's version and puts pressure on the witness to agree. The questions are put as a direct statement, in declarative rather than interrogative form, and await the witness's agreement. In an instance follows in extract 1 below, the lawyer made it clear that he was providing his own version of events by saying "*that is not my request*", and was making a bald statement of his version for the witness's agreement, "*the victim has been hit when he was crossing the road*" (turn 1). In this manner, the lawyer enabled to successfully put the witness in to agreement, "*Yes*" (turn 2)

Extract 1, Case 2, Cross-Examination question to W1

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|--|--|
| 1. A: Lakki. Gaaffiin kiyya akkasii miti, miidhamaan karaa yoo qaxxaamuru rukutame bajaajirraa bu'eetii jette. | 1. A: No, that is not my request; the victim has been hit when he was crossing the road, you said? |
| 2. W1: Eeyyee. | 2. W1: Yes. |

This type of question may sometimes have a rising question intonation, making it more question-like, as in extract 2. In this particular extract the lawyer in defense, made the declarative more question-like by raising the intonation of the word of the question... OTHER...'

Extract 2, Case 2, Cross-Examination question to W2

A: Konkolaataan kuni firaankoorraa gara axanaa
taraa deemaa ture jette, 'Ee... inni
miidhamaan inni du'emmoo karaa gara
KAANIRRA ce'aa ture' jette?

A: This car was going from Franco to Atena
tera, you said, 'Ee...the victim the dead was
crossing the OTHER side' you said?

In extract 3, the declarative sentence is the most straightforward sentence type. It is syntactic configuration which displays an unmarked (i.e. expected) order of the functional categories (Subject – he, Predicator – could see, Direct Object – the hit boy, etc.) This means that the Subject comes first in the sentence, followed by the Predicator, which in turn is followed by a Direct Object and an Indirect Object (front light). Therefore, extract 3, turn 1 below, is syntactically 'declarative', but pragmatically it is a 'statement' (Aarts 2001: 62).

Extract 3, Case 2, Examination-in-chief question to W3

1. AA: Kanaaf, mucaa rukutame kana bsaa
fulduraatiin arguu danda'a Karaarratti
2. W3: Ni arga, eeyyee.

1. AA: Therefore, he could see the hit boy
with front light on the road
2. W3: Yes, he could see.

Though the above pieces of discourse (extracts 1-3) may appear interactive, the entire structure and content of witness responses were determined by the lawyer. In fact, the crime narrative could largely be reconstructed only on the basis of the content and flow of the examining lawyer's turns while the witness provides just the details. In essence, the lawyers' questions provide the next link (extract 3, turn 1) in the narrative chain of events and the witness submissively provides the required "small piece" of information, "*Yes, he could see*" (turn 2). This also shows that lawyers can guide the witness by putting words in their mouths in other ways than asking Yes/No questions as opposed to declaratives or Wh-questions. Hence, counting question types is not found necessarily a true reflection of what is happening, or of the interactive process under investigation.

In a nutshell, although in courtroom dialect this is called a question, it reads much more like an accusation – one that the witness is obliged to respond to by the rules of procedure. It is important to realise that the terms declarative, interrogative, imperative and exclamation are syntactic labels that refer to sentence types that have certain syntactic characteristics while the notions statement, question, directive and exclamation, by contrast, are pragmatic notions (Aarts 2001: 62). Pragmatics is the study of the meaning of

linguistic expressions in context (Aarts 2001). In other words, pragmatics is concerned with language use. With regard to each of the sentence types discussed above we have observed that they all have a distinctive use.

In many cases, utterances are considered as interactive since a deictic term refers to the content of the witness’ prior contribution. Looking at the nature of interactiveness, according to Gibbons (2008), there is a basic contrast between those contributions that interact with the *content* of witness contributions and those that interact with the *witness*. This latter category encompasses non-questions and potentially indirect questions where the main clause relates directly to the witness’s person (e.g. “*Didn’t Feyisa hold Yeshitla*” in turn 1). But, the turn, as a whole, still involves the lawyer adding to the Discourse Space rather than adding onto what the witness has provided (see turn 1 and 6 in Extract 4 below). The discursive implication is that Feyisa held the defendant, and the defendant fired to defend himself.

Extract 4, Case 4, Cross-Examination questions to W2

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|--|--|
| <p>1. A: Fayyisaan harkasaa ofirraa qabee bahuurraan kan hafe Yeshitilaa hin qabnee?</p> <p>2. T: ፈይሳ እጁን መ ዞ ከመ ው ጣ ት ውጭ እጁን አልያዘውም</p> <p>3. W2: ማ?</p> <p>4. T: ፈይሳ</p> <p>5. W2: አዎ (xxxx)</p> <p>6. A: Kana bichaa yaadattamoo, qabuuf qabuu dhabuusaa ni beekta jedhaniini?</p> <p>7. T: ይህንን ብቻ ነው የምታስታውሰው ? ወይስ መያዝ አለመያዙን ነው?</p> <p>8. W2: አልያዘው ም መሳሪያውን ስይዝ “ማ ሎ ማ ሎ” ብሎ እጁን ገፍቶ አጠገቡ ስላለ ወጣ።</p> | <p>1. A: Didn’t Feyisa hold yeshtila except snatching his hand away and left the room?</p> <p>2. T: -----</p> <p>3. W2: Who?</p> <p>4. T: Feyisa</p> <p>5. W2: Yes</p> <p>6. A: Do you remember only this or, whether he held him or not?</p> <p>7. T: -----</p> <p>8. W2: He didn’t hold, when he seize the gun, saying “ማ ሎ ማ ሎ” (which is equivalent to, ‘please, please’, in English) as he was beside him, he snatched his hand from him and went out</p> |
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4.2 Tag Questions

Tag question is the most important type of courtroom questioning known for its intimidating and coercive nature. Gibbons (2003: 101) says that tag questions are “strengthening devices, which make the demand for compliance greater than that of a simple question” and so the tag form is “more coercive” than simple polar questions. In this study the most significant forms of tag questions employed were the statement and the tag. In the form of a statement, the lawyer was including his version of events (the information). In the form of tag, the lawyer was exerting various forms of interactive pressure upon the witness (the social). This form of courtroom question is therefore a “paradigm

example of linguistic form matching pragmatic function” (Gibbons 2008: 121). As a result, it is found that most of the questions in cross-examination took the form of tags, and that there were many types of tags used for abovementioned purposes as scrutinized below.

4.2.1 Modal verb tag questions

Gibbons (2008) identifies two types of modal tag questions (reverse polarity and same polarity). In this regard, reverse polarity tag questions were used to put pressure on a witness to agree. This was demonstrated in the tag “did you not”, Extracts 5 and 7, “was + pronoun + not” in Extracts 6, and by “can’t + agent” in Extract 8.

Extract 5, Case 4, Cross-Examination question to W1

- A: Miti! 48 qarshii kumaafi dhibba 8tti A: No, 48 you said, it is about 1,800 Birr, tilmaammama jette, mitii? did you not?
W1: Eeyyee W1: Yes

In abstract 5, the examining lawyer enables to oblige the witness to agree, “yes” with his version of event that the witness said “*it is about 48 birr*” using reverse polarity tag, “*did you not?*”

Extract 6, Case 4, cross-examination question to W1

- | | |
|---|---|
| 1. A: =suuqii isin kireessitanii mitii - gibbuma keesan mitii. | 1. A: It was the shop you hire, was it not? It was your own compound, wasn't it? |
| 2. T: የራሳችሁ ግቢ ያከራችሁት ግቢ ነው አይደለም? | 2. T: ----- |
| 3. W1: አዎ። ድርጅቱ (አንት ያለው) በቁጥሩ ነው በቁጥሩ ነው ሰዎች ይቀያየራሉ በየጊዜው ነጋዴዎች አንዱ ይገባል አንዱ ይወጣል። | 3. W1: Yes, the trade in number it is number that the renter substitute timely as one merchant rent another withdraws |

Here, in extract, 6 turn 1, through the use of reverse tag-question “*wasn't it?*”, the examining lawyer pressurize the witness to agree “yes” in turn 3 that the conflict was taken place in their own compound.

Extract 7, Case 3, Cross-Examination question to W1

- | | |
|---|---|
| 1. A: Danda'a miti. Qorqorroo hammam, hammam akka fuudhe hin beektuu? | 1. A: You know how many sheets he took away, did he not? |
| 2. W1: Qorqorroo 48. | 2. W1: 48 sheets |

Extract 8, Case 2, Cross-Examination questions to W2

- | | |
|--|---|
| 1. A: Ishii, Ramadan! Ee... nuti kan argine; ani kan arge, rukutaafi sagalee qofaadha mitii kan jette? | 1. A: Ok, Ramadan! Ee... we saw, I saw only the hit and the sound, wasn't you said this? |
| 2. T: እኔ ያየሁት ምትና ድምጽ ነው ብለሃል ቅድም | 2. T: ----- |
| 3. A: Kanumaa mitii ka ati jette? | 3. A: Wasn't this what you said? |
| 4. T: እኛው ነው አንተ ያልከው? | 4. T: ----- |
| 5. W2: አዎ። | 5. W2: Yes. |

The reverse polarity tag “wasn’t you...” (in Extract 8, turn 1), “wasn’t this what you said?” in Extract 8, turn 3, challenges the witness’ claim whether he heard the mere sound or saw the actual event.

In the same way, same polarity tag-questions were used to spread hesitation on the witness’s version of events. In Extract 9, cross-examination W1 below, the lawyer used same polarity tag-question to distrust the witness’s previous answer.

Extract 9, Case 2, Cross-Examination question to W1

- | | |
|--|---|
| 1. A: =Ibsaa makiinaa hin jenne, ibsaan magaalaa keessa hin jiru jette mitii gaafsana? | 1. A: =I didn’t say the car’s light, on that day you said, there was no light in the town, isn’t it? |
| 2. W1: Eeyyee. | 2. Yes |

4.2.2 Agreement tag questions

Gibbons (2008) asserts that agreement tag questions operate and functions in a similar way to modal tag-questions, but use expressions such as “isn’t it?”, “am I right” and “is that correct?” or simply “right?” or “true?”. Like modal tags, they can have “either-or” polarity (Example, extract 10); negative (Example, extract 11) and positive (Examples, extracts 12, 13, 14).

Extract 10, Case 4, Cross-Examination question to W2

- | | |
|---|--|
| 1. A: Komodiinoon ati gabaabduu jettu kuni keessa dhokatte minii? | 1. A: you hid yourself in the short comodino, yes or not? |
| 2. T: “አጭር ነው” የምትለው ኮሞዲኖ ውስጥ ተደብቀሃል አይደል? | 2. T: ----- |
| 3. W2: አ? | 3. W2: What? |
| 4. T: አጭር ነው የምትለው ኮሞዲኖ ውስጥ ተደብቀሃል አይደል? | 4. T: you hid yourself in the short comodino, short. |
| 5. W2: አዎ በሰዓቱ ጥይቱ ሲተኮስ ተደብቄ እዛ ውስጥ ነኝ ያለሁት። | 5. W2: Yes, at that time when the gun was firing I was there hiding myself |

Extract 11, Case 3, Cross-Examination questions to W1

- | | |
|--|--|
| 1. A: Mee... ati himatamtoota kana, gaafa isaan fudhatan hin jirtu mitii? | 1. A: Look, you, these criminals, you <i>were not</i> present at the time they took off, isn't that true? |
| 2. W1: Guyyaa isaan fudhatan hin jiru. | 2. W1: I was not present at the time they took it off. |
| 3. A: Gaafa isaan qorqorroo dhaqanii wasaneerraa fudhatan hin jirtu. | 3. A: You were not present at the time they took the sheets off? |
| 4. W1: Hin jiru. | 4. W1: I wasn't present. |

Extract 12, Case 4, Cross-Examination questions to W1

- | | |
|---|--|
| 1. A: =suuqii isin kireessitanii mitii- gibbuma keesan mitii? | 1. A: It was the shop you rented isn't it, your own compound right? |
| 2. T: የራሳችሁ ግቢ ያከራችሁት ግቢ ነው አይደለም? | 2. T: ----- |
| 3. W1: አዎ። ድርጅቱ (አንት ያለው) በቁጥሩ ነው በቁጥሩ ነው ሰዎች ይቀያየራሉ በየጊዜው ነጋዴዎች አንዱ ይገባል አንዱ ይወጣል። | 3. W1: Yes,..... |
| 4. A: ((Ehii) Ee.... mee, mee gara rasaasa dhuka'e jette, ee... Bilaalirratti rasaasa 3tu dhuka'e jettee miti? | 4. A: (Yes), Ee... look, look you said about bullets fired, ee... you said three bullets fired on Bilal, right? |
| 5. T: ቢላል ላይ 3 ጥይት ነው የተተኮሰው ነው ያልከው አይደል? | 5. T: ----- |
| 6. W2: አዎ) | 6. W1: (Yes) |

Extract 13, Case 4, Cross-Examination question to W2

- | | |
|--|--|
| 1. A: Komodiinon ati gabaabduu jettu kuni keessa dhokatte minii? | 1. A: You hid in the comodino you claim short, right? |
| 2. T: “አጭር ነው” የምትለው ኮሎይዲኖ ውስጥ ተደብቀሃል አይደል? | 2. T: ----- |
| 3. W2: አ? | 3. W2: Yes? |

Extract 14, Case 3, Cross-Examination question to W1

- | | |
|---------------------------------|--|
| A: Margaafi Girmaa jette mitii? | A: You said, Marga and Girma, is that true? |
| W1: Eeyyee. | W1: Yes. |

4.2.3 Full verb tag questions

The strange alternative of tag questions is the full form tag question of hyper-explicit language (Gibbons 2008). The full form of the verb used in the following extract function to put pressure on the witness to reply in a similarly exact way, allowing no scope for partial disagreement (see extract 15 and 16 below).

Extract 15, Case 4, Cross-Examination question to W4

- | | |
|---|---|
| 1. A: Kanumadhaa dhahee, dhahuusaa arge kan jettan. | 1. A: 'I saw when he was hitting,' was that what you're saying , |
| 2. W4: Eeyyee. | 2. W4: Yes |

With the full form of the verb used in extract 15 (*was that what you're saying*, turn 1), the cross-examining lawyer enabled to convince the witness (based on the previous subsequent elicited witness's testimony) that what he has actually testified before the court and testified before the defense lawyer are different. Using this form of tag-question the lawyer pressurized the witness to discredit the evidence he gave to judge, in the recent judge-witness question/answer check-up (orientation stage).

Extract 16, Case 4, Cross-Examination questions to W4

- | | |
|---|--|
| 1. A: Abbaa tokkotti, Abduljaliiti ykn Jamaalitti Yeshixilaan dhukaasee dhahuusaa argita-niitreee yoos? | 1. A: At that time, did you see when <i>Yeshtila</i> was firing and shot one particular person, <i>Abduljalil</i> or <i>Jamal</i> ? |
| 2. W4: Hin argine yoosan. | 2. W4: I didn't see at that time. |
| 3. A: Ishii, lamaan isaanittuu rasaasa dhukaasee rukutuu hinagarre? | 3. A: Ok, <i>you did not see</i> when he fired and shot either of them? |
| 4. W4: Hin agarre | 4. W4: I didn't see. |

Similarly, as that of extract 15, the cross-examining lawyer pressurized the witness to discredit the previously elicited evidence using (*At that time, did you see when...turn 1*), and so that the witness fully agreed that he didn't see (*I didn't see at that time*, turn, 2).

4.2.4 Yes or no Tag Question

In the following extract, strange tag 'yes or no', explicitly demanding a 'yes' or 'no' reply, as shown in Extracts 17 and 18 below.

Extract 17, Case 4, Cross-Examination question to W1

- | | |
|--|--|
| 1. A: Ee.... mee, mee gara rasaasa, dhuka'e jette. Ee.... Bilaalirratti rasaasa 3tu dhuka'e jette, miti? | 1. A: Ee...look, look to the firing, you said fired. Ee...you said three bullets have been fired on Bilal, yes or no? |
| 2. T: ቢላል ላይ 3 ጥይት ነው የተተኮሰው ነው ያልከው አይደል? | 2. T: ----- |
| 3. W: አዎ | 3. W1: Yes |

Extract 18, Case 4, Cross-Examination question to W1

- | | |
|---|--|
| 1. A: Jamaal si boodarra dhahame mitii? | 1. A: Jemal has been shot next to you, yes or no? |
| 2. T: ጅማል ካገተ ታላ ነው አይደል የተመታው? | 2. T: ----- |
| 3. W1: አዎ | 3. W1: Yes |

In the above extracts (extract 17 and 18), we can see the way ‘*Yes or no Tag Question*’ constrain the respondent by limiting the choice of expected answers. They limit the choice of answers to either ‘a yes or a no’, hence exerting a high level of control on the witnesses.

4.3 Information limiting questions and their effects

We have already seen various types of question that include all the information, and where the witness is licensed only to agree or disagree. Other familiar question types can be assessed similarly for the amount of information the lawyers allow the witnesses to contribute, and by the level of pressure they place for agreement.

4.3.1 Polar Yes-No questions

These include all the information, but usually exert no pressure for agreement, as in Extract 19 below.

Extract 19, Case 4, Cross-Examination question to W1

- | | |
|---|--|
| 1. A: Han kufte sadanuu erga dhahamteeyi? | 1. A: Did you get faint after you have been hit the three? |
| 2. T: የወደከው 3ቱን ከተመታህ ቢታላ ነው? | 2. T: ----- |
| 3. W1: አዎ | 3. W1: Yes |

4.3.2 Choice questions

In choice questions, the witness was given a choice of two alternatives, but no other answer was approved. Sometimes, as in extract 20, the choice was given as a front/back choice.

Extract 20, Case 2, Cross-Examination question to W1

- | | |
|--|---|
| 1. A: Yeroo dhahu sana konkolaataa gara duubaatiin turtan moo gara fuulduraatiin turtan? | 1. A: When it was hitting, were you at the back of the car or at the front side of the car? |
| 2. W1: Karaa duubaa. | 2. W1: At the back. |

In extract 21 below, the witness is given a choice between persons while in extract 22; it is a choice of timings.

Extract 21, Case 4, Cross-Examination question to W4

- | | |
|---|---|
| 1. A: Abbaa tokkotti, Abduljaliiti ykn Jamaalitti Yeshixilaan dhukaasee dhahuusaa argitaaniitiree yoos? | 1. A: Did you see when Yeshtila was firing and shot one particular person, Abduljalil or Jamal? |
| 2. W4: Hin argine yoosan. | 2. W4: I didn't see at that time |

Extract 22, Case 2, Cross-Examination question to W2

- | | |
|---|--|
| A: Lamaanuu osoo ati hin seenin dhuka'e moo erga seenteeti kan sirratti duka'e? | A: Have both of them fired on you before you entered or after you entered? |
|---|--|

On the other instances, there may be a choice between single words, as in extract 23 where the witness is given choice between “right” “left” or “front” side, and the witness chose “left” in his reply.

Extract 23, Case 2, Cross-Examination question to W2

- | | |
|---|--|
| 1. A: Karaa ce'aa, mirgarratti moo bitaarratti kan rukutame | 1. A: Crossing the road, was he hit to the right or to the left side ? |
| 2. T: ግራ ላይ ነው ወይስ ቀኝ ላይ ነው የተመታው? | 2. T: ----- |
| 3. W2: ግራ | 3. W2: Left |

These all abovementioned choice questions recognize in the response only information provided by the lawyers. However, in addition to creating a processing challenge for the witness, this strategy does allow cross-examining lawyers to insert potentially deconstructing assertions within what may appear to be a relatively constructive question. The example given, Extract 24, below illustrates this potential. In this extract, the cross-examining lawyer was questioning a witness in order to ascertain the precise reason that made the criminal to shot on the victims.

In so doing, he firstly tended to elicit the witness if the victims and the criminal were exchanging some words (turns 5 and 7). In turn 6, the witness responded that he didn't hear what they were communicating one another. After the cross-examining lawyer had proved that there were no exchanges of words between the two rivals (turn 7), he started to deconstruct what the witness was recently testified to the court that he saw when the criminal fired and shot the victims (turns 11, 13, 15, 17).

Finally in extract 24, turns 19 and 21, the cross-examining lawyer succeeded in deconstructing the overall happening of the testimony that the witness recently testified. The cross-examining lawyer questions' positive responses of the witness in turns 18, 20 and 22 proved that the formulation of the final question as a potentially damaging admission that the witness didn't see when the criminal fired and shot the accusers. This was one of the most influential lawyer's discursive strategy through which the existing narrative was attacked and deconstructed by the cross-examining lawyer questions.

Extract 24, Case 4, Cross-Examination questions to W4

- | | |
|--|---|
| 1. A: Ee..., meeti, yennaa Yeshixilaan dhufe, dubartootas namootas fideeti kunoo ati bahi asii ati asiitii waan gootu hin qabdu miseensas miti naan jedhe jette. | 1. A: Ee..., look, when Yeshitila came, he brought women, other persons and said, leave out, you said, he enunciated me, 'you have nothing to do around, you are not our member'. |
| 2. W4: Eeyyee. | 2. W4: Yes. |
| 3. A: Yennaa kanatti, Yeshixilaan kana yogгаа jedhu, warri miseensa abbaa qabe-enyaa ta'an sun keesumattuu dura ta'an maal jedhan turan? | 3. A: At that time, when Yeshitila said this, what other members, businessmen, especially the head, were saying? |
| 4. W4: Kafalleeti si finnee. Ati (kana raawwadhu) hin ka'in nu barreessi naan jedhan. | 4. W4: They said, we brought you on aymen, don't go out (do it) take the minute. |
| 5. A: Siin akkas haa jedhanii, isatti hoo? | 5. A: Let they said this to you, what were they saying to him? |
| 6. W4: Isatti wanta dubbatan hin dhageenye anatti dubbatan malee; inni natti dubbataa, isaan natti dubbatan malee, isaan waan waliin jedhan hin dhage-enye. | 6. W4: I didn't hear what they said to him rather than to me, he was speaking to me, they were speaking to me, more than that I didn't hear what they were communicating one another. |
| 7. A: Ee... dhukaasa rasaasaa kan jalqabee, ykn rasaasa kan baafatee kanumaa, sababuma kanaan, kanumaa waan jedhameef rasaasa baafateeree - Waa tokkoo otoo ittiin hin jedhin? | 7. A: Ee..., firing, or was this the reason to drew the gun, for this reason, has he drawn his gun because of what has been said - Without saying anything to him? |
| 8. W4: Isa waan baafateef isatu beekakaa. Anaan bahi jedhee. Deebi'ee dhufee ani bahuu dinnaan kaanitti qabe siin jedheem. | |

9. A: Ayyee. Amma sila ennaa si gaafatan,
jecha kennuudhaaf dura manni murtii si
gaafatu.
10. W4: Im....=
11. A: =Ee... rasaasa namatti dhukaasetii jette.
Dhukaasuu beektaa jennaan beeka
jettani turtan.
12. W4: Eeyyee.
13. A: Kan beeka jettan kanuma amma jettan
kanamoo rasaasa dhukaasee nama
dhahuusaa ykn nama miidhuu isaa
maal argitan?
14. W4: Dhahuudhaaf Bilaalitti aggaameti
dhabee siin jedhe. Na harkaa baafatee,
itti garagaleeti irra dhaabbata.
15. A: [Kanuma]
16. W4: [Jarri sadeen na duubaa wacci.]
17. A: Kanumadhaa dhahee, dhahuusaa arge
kan jettan.
18. W4: Eeyyee.
19. A: Abbaa tokkotti, Abduljaliiti ykn
Jamaalitti Yeshixilaan dhukaasee
dhahuusaa argitaniitiree yoos?
20. W4: Hin argine yoosan.
21. A: Ishii, lamaan isaanittuu rasaasa
dhukaasee rukutuu hin agarre?
22. W4: Hin agarre.
8. W4: It is him who knows why he drew it.
He said to me go out. I told you,
when he returned back and found
me that I didn't leave the room, he
aimed at others.
9. A: Ok! Recently, when they were
asking you, when the court asked
you to give the evidence
10. W4: Im....=
11. A: =Ee..., you said he fired a gun to the
men. When they asked you, 'do
you know that he fired on them?'
you replied, yes I know.
12. W4: Yes,
13. A: Is what you said, 'I know', what you
said right now or what have you
seen when he shot and harmed a
person?
14. W4: I told you that he aimed at Bilal and
missed him. He escaped me; he
returned to him and stands against
him
15. A: [Was it just this]
16. W4: [The three guys were shouting
behind me]
17. A: Was it just this that you said, 'he shot,
I saw him firing?'
18. W4: Yes.
19. A: So, have you seen when Yeshitila
fired and shot a single person,
Abduljelil or Jamal?
20. W4: At that time, I didn't see?
21. A: Right, you didn't see when he fired
on them and shot either of them?
22. W4: I didn't see.

In addition to these types of question complexities and deconstructive techniques, the cross-examination lawyer also managed to provide, within the question, a projected indication of what the response should contain, both in terms of the extent and content of the response. The next section examines an exploration of cross-examination lawyers' strategies for limiting response boundaries.

4.4 Questions That Limit Witnesses' Response Boundaries

The first cross-examination lawyers' testimony constraining strategy involves the clear demarcation of response boundaries within the initial elicitation, a technique illustrated below (Extract 25). In this extract, the whole narratives (22 turns) ask the witness to comment on a single cross-examining lawyer's question, '*Have you seen this car in advance as it was being driven, before the accident happened?*' But the witness's response was constrained by the use of '*for what I asked, say, 'I know' for what you know*' (turn 12).

Similarly, the cross-examining question in turn 7- '*I didn't ask that - I didn't say that. What I'm saying is, FOLLOW ME!*', '*Have you seen this car in advance as it was being driven, before the accident happened?*' and, '*HAVE I ASKED YOU THAT? Don't you tell him* (turn 10)' were all testimony constraining cross-examining lawyers' intimidating discursive strategies. In addition to the limitation of response content, the lawyer was also able to interrupt the witness in the middle of his response, to provide a reminder of the boundaries set up in the initial question (turns 7, 10 and 12).

The pragmatic implication of the cross-examining proposition in turns 7, 10, and 12 was to protect the witness's inherently vital evidences from being elicited to the court. In turn 7, for example, the cross-examining lawyer interrupts the witness's discussion (turn 6) that tended to illustrate the degree of the collision. In a similar vein, in turn 10, the cross-examining lawyer interrupts the witness's demonstration, '*I heard the sound Gua!*' (turn 9) that could display the level of the accident from being testified. In so doing, the cross-examining lawyer was using different constraining strategies to make a clear demarcation of the response boundaries. In the first instance there was coercive strategies, for example, '*HAVE I ASKED YOU THAT?*' (turn 10), '*I didn't ask that*', and '*FOLLOW ME!*' (turn 7).

In this extract, it was not only the lawyer that was intimidating the witness, but the judge and the translator were also cooperatively pressurizing the witness. For example, in turn 19 and 22, the judge himself was playing his own role in demarking the response boundaries of the witness. In turn 19, the judge actually interrupted the witness and reminded him to give just what cross-examining lawyer asked in short and in turn 22 he rejected the witness's detailed answers. In the same manner, the translator also overlapped and demarked the witness's response to be encircled to cross-examining lawyer's question (turn 21). Such strategy is extremely effective for the lawyer, since the request type is condensed from his initial diffuse narrative into a small but perfectly formed Yes/No request (for example, turn 16). Generally, the addressee was thus effectively prevented from hearing about the potentially significant content of the evidence.

Extract 25, Case 1, Cross-Examination questions to W4

- 1 A: Ee... Ala jirtu, ee... konkolaataan, ee... karaa Finf--- (ማካው) kara Harar irraa dhufuu dursanii arganiittuu isin konkolaataa san isin balaan kun osoo hin qaaqqabiin?
2 T: አደጋው ከመድረሱ በፊት ከተረረ አየመጣ ያለውን መኪና አይተውታል?
3 W4: ሲመታ ነው እንጂ ከዚያ በፊት አላየሁም
4 A: Ee... yeroo inni, akkaataa inni deemaa ittiture hin agarree dursitanii?
5 T: በምን ሁኔታ ይመጣ እንደነበረ አላየም ቅድሚያ?
6 W4: ፍጥነት ላይ ነበረ - ፍጥነት ፍሬን የያዘበት ቦታ=
7 A: =Amma isa hin jenne ani - isa hin jenne. Wanni ani jechaa jiruu, NA DUUKA DEEMI! Konkolaataan kun balaa osoo hin qaaqqabsiisiin dura dursitanii argitaniittu yoo inni deemuu?
8 T: ቅድሚያ አደጋው ከማድረሱ በፊት መኪናው ሲሄድ አይተዋል ወይ?
9 W4: አላየሁትም። ሲመታው ብቻ ነው ያየሁት? ጓ! ሲል ብቻ ዞር ስል=
10 A: =Amma san yooman si gaafadhe? Itti naa hin himtuu.
11 T: እሱን አይደለም የጠየኩት ቅድሚያ አደጋው ከመድረሱ በፊት መኪናው=
12 A: =Waanan ani__ ilaa waanan ani gaafadhe kan beektan nan beekaa=
13 T: =ብቃ የምጠይቆትን የሚያውቁትን አውቃለሁ=
14 A: =Kana naa deebisaa jedhiin. Konkolaataan kun yoo dakanaa dhufuu hin agarreee jettan.
15 T: መኪናው ከታች ሲመጣ አላየሁም ብለዋል.
16 A: Eeyyee, erga rukutamee, erga balaan kun ga'ee argitanii?
17 T: አደጋው ከደረሰ ከተመቱ በኋላ ነው ያየት?
18 W4: ቀጥታ መስመር ይዞ ከታችኛው መስመር ወደ አዲስ አበባ=
19 J: =አጭር አየው መልሱ አጭር ነው - ከመታ በኋላ ነው ያየት?
20 W4: ከመታ በኋላ ሲመታው ይ, ሲል ዞር ስል ቆመ ያዝ ለቀቅ አደረገ [በዚያን ጊዜ እኔ]
21 T: [የተጠየቁትን ብቻ]
22 J: ለምን ዝርዝር ውስጥ ትገባለህ?
1. A: Ee... you were out of the compound, ee...the car, on Finfinne road, (to mean) did you see when the car was coming from Harar, before the accident happened?
2. T: -----
3. W4: I saw it when it hit the man, I didn't see it before that.
4. A: Ee... when it, haven't you seen the way it was being driven?
5. T: -----
6. W4: It was on speed – where he held the footbrake=
7. A: =I didn't ask that - I didn't say that. What I'm saying is, FOLLOW ME! Have you seen this car in advance as it was being driven, before the accident happened?
8. T: -----
9. W4: I didn't see it. I saw it hitting the man, when I heard the sound, Gua! =
10. A: =HAVE I ASKED YOU THAT? Don't you tell him?
11. T: I didn't ask you that, before the accident happened, the car=
12. A: = What I, look, for what I asked, say, 'I know' for what you know=
13. T: -----
14. A: Tell him to respond me this. You said, I didn't see the car when it was coming upwards.
15. T: -----
16. A: Yes, did you see that he was hit, after the accident had happened?
17. T: -----
18. W4: It was coming straight upwards to Addis Ababa =
19. J: =Short, look, the answer is short – have you seen after he hit him?
20. W4: After he hit him and sounded, Dua, when I turned back he was holding and releasing the footbrake, [at that time I]
21. T: [just what you are asked]
22. J: Why you speak its detail?

4.5 Wh-questions

Wh-questions enable the witness to supply more information. In the following extract, the lawyer's wh-question led the witness to undertake the gratuitous concurrence. The child-witness was giving a *yes* or its variant responses, such as *yeh* ('*ኧ*' in the context of this research). The most important defense strategy was to get the prosecution witness (es) to agree to damaging propositions. As the brief discussion of gratuitous concurrence, section 1, has indicated above, the cross-examination in this case was riddled with apparent gratuitous concurrence. The lawyer uses a number of subtle strategies to lead the witnesses to agree, in situations which were quite likely to produce gratuitous concurrence.

The examination was made at the beginning of the first trial of the courtroom hearing. Yabsira was an 11 years of age youngest child witness I ever met in the courtroom trial observation. He has been giving evidence for about an hour-chief, cross, and re-examinations. He has shown signs of being overwhelmed by the experience, as it has been delineated in extract 26 below.

In this extended narrative of 27 turns, it was only to elicit a single question. Turn 6 was a typical example of the questioning style of defense lawyer. It questions three propositions: (1) '*to what speed did you observe that car?*' (2) '*how quick you observe the white car you mentioned to that instant?*' and (3) '*on what distance you observed?*' This all were with the requirement for a single answer which was requested in the rest of the turns (*how far the car was from the child*). There was little chance for the witness to think about his answer (6:4, 7:2, 8:1, and 6:5 seconds being quite long silences) in the process of pressuring by repeated question tags, the final one with a different request.

These were all strategies conducive to the elicitation of gratuitous concurrence child witness (turns 3, 8, 13, 15, 20, 22, 24 and the more damaging agreement turn, turn 27). It is impossible to know whether the witness did actually agree with the crucial response he gave in turn 27, but we have seen above several reasons which would urge caution about giving a literal interpretation to this answer.

Extract 26, Case 1, Cross-Examination questions to W1

1. A: Halkan keessaa sa'aa sagal, ee... yeroo
sani ariitiin fiiga jette, mee ariitii
ta'uusaatiifi ta'uu dhiisuusaa maaliin
addaan baaftee, halkan sa'aa 9 kunoo
halkan keessaa ariitiidha jette.

1. A: It was 3:00 PM, ee...at that time it was on
speed, you said, look, how did you
identify either the car was on speed or
not since you said it was 3:00 pm and the
car was on speed?

2. T: ሌሊት ነው_9 ሰዓት ነው ብለሃል። በፍጥነት እየመጣ ያለው ስትል ነበርና ሌሊት ላይ ፍጥነት መኖሩንና አለመኖሩን እንዴት ነው ልታውቅዎቻልከው?
3. W1: ጅ?
4. T: ፍጥነት በፍጥነት መምጣቱን እንዴት ነው ልታውቅዎቻልከው?
5. W1: ጅ... አጠገቤ ሲደርስ ዞር ስል ማለት ነው የመኪና ድምጽ ሰማሁ ከላክስ አላደረገም ዞር ስል አጠገቤ ሲደርስ ሸሽሁ
6. A: አይ! Gaaffiin kooyii, ee... yeroo sin daandii ce'uuf deemtani; waliin ce'uuf deemtan, mee hagamitti argite konkolaataa san ati, konkolaataa adii jette san hangamitti argite fageenya hangamiirratti argite ati?
7. T: አንተ መንገድ ስታቋርጡ መኪናውን በምን ያህል ርቀት ላይ ነው ያየኸው ምን ያህል ርቀት ላይ ነው ያየኸው አንተ?
8. W1: ጅ?
9. T: ምን ያህል ርቀት ላይ ነው ያየኸው?
10. W1: በጣም ነው የቀረበው ከዚያ በፍጥነት ሲመጣ ዞር ስል እየሁ እኔ
11. T: አንተ ባየህበት ሰዓት በምን ያህል ርቀት ላይ ነበር ምን ያህል ይርቃል በጣምት?
12. J: ከአንተ ማለት ነው?
13. W1: (6;4) (confused)...
14. T: ምን ያህል?
15. W1: (7:2) (silent).
16. A: Mee... mallattoomana kana keessatti agarsiisi. Hagam, hagam fagaata?
17. T: እስቲ ከዚህ አካባቢ ካለው ምን ያህል ርቀት ከዚህ ምን ያህል ይደርሳል ከዚህ ምን ያህል የት ይደርሳል?
18. W1: ርቀቱ?
19. T: ርቀቱ መኪናውን ያየህበት ሰዓት ቦታ ምን ያህል ነው?
20. W1: (8: 1)(silent: confused)
21. J: ስንት እርምጃ ይሆናል ካንተ?
22. W1: (6:5)(Still confused, no answer)
23. A: Mee... duruma dursitee argitee jirtaa?
24. W1: 25 ሜትር=
25. A: =Sadarkaa kanarratti argitee?
26. T: በዚህ ርቀት ላይ ነው ያየኸው?
27. W1: አዎ
2. T: -----
3. W1: Ee?
4. T: How did you identify whether the car was coming with speed, speed?
5. W1: Ee...when it was approaching towards me I mean when I turned I heard the car's sound he didn't make clacks when I turned the car approached me I run off.
6. A: No, my question is, ee... when you tried to cross the road you were to cross together, look, to what speed did you observe that car, how quick you observe the white car you mentioned to that instant, on what distance you observed?
7. T: -----
8. W1: Ee?
9. T: on what distance you observed?
10. W1: It was too approaching then when it was coming with speed when I returned I saw it.
11. T: when you were watching, how far away the car was from you, guess
12. J: it means from you?
13. W1: (6;4) (confused, silence)...
14. T: How many?
15. W1: (7:2) (silence)
16. A: Show with sign in this room, how far, how far it was?
17. T:-----
18. W1: Distance?
19. T: The place from where you observed the car how far was it?
20. W1: (8: 1)(silent: confused)
21. T:How far was it from you in yards?
22. W1: (6:5)(Still confused, no answer at all)
23. A: Look, have you seen from the beginning?
24. W1: 25 metres
25. A: Have you seen from this range?
26. T: -----
27. W1: Yes.

4.6 Projection questions

Projection questions are another quite general characteristic of courtroom questions that contain verbal projections (reported speech) and mental projections (reported thought and belief) (Gibbons, 2008). He asserts that such types of questions were a principally efficient way of including a vast volume of information from the lawyer's version of events. Based on their structure, they also might put high degrees of pressure for agreement upon witnesses. For example see extract 27 below:

Extract 27, Case 4, Cross-Examination question to W2

- | | |
|---|--|
| A: Ee... ati erga rasaasni dhuka'uu jalqabeeti achumaan jiraa, erga isaan bahaniitii achi bahe jetteeta. Komodiinoo jalaati erga jettee, Yeshixilaan jara kanatti haa dhukaasuu, hin dhukaasiinii; maaliif ati yeroo dura sitti dhuka'u waan seenteef, akkamitti arguu dandeesse? | A: Ee... you said, I was there from the time when the gun was being started firing, I got out after they left, if you say you were under the comodino, whether Yeshtila fired or not on these men, because you entered as soon as the firing started, how did you see it? |
|---|--|

In a verbal projection like “*you said, ...*”, there is an assumption that the witness was committed to the truth of the core proposition (*‘I was under the comodino from the time when the gun was being started firing, I got out after they left’*), making it difficult to deny. Therefore, if the witness answers “*No*”, this denial is primarily a denial of saying this, but does not deny that he was under the comodino from the time when the gun was being started firing (although the denial may affect this core proposition if there is no other evidence for the fact). The core information (he was under the comodino from the time when the gun was being started firing) is to some degree presupposed or embedded.

Extract 28, Case 4, Cross-Examination questions to W4

- | | |
|---|---|
| 1. A: Ee... meeti, yennaa Yeshixilaan dhufe, dubartootas namootas fideeti kunoo ati bahi asii. Ati asiitii waan gootuu hin qabdu miseensas miti naan jedhe jette. | 1. A: Ee... look, you said that Yeshtila came with a certain women and men and ordered me to leave the room saying that you can do nothing here since you are not our member. |
| 2. W4: Eeyyee. | 2. W4: Yes |
| 3. A: Yennaa kanatti, Yeshixilaan kana yoggaa jedhu, warri miseensa abbaa qabeenyaa ta'an sun keesumattuu dura ta'an maal jedhan turan? | 3. A: At that time, when Yeshtila said this what were the members specially the coordinator was saying? |
| 4. W4: Kafalleeti si finnee. Ati kanaraawwaw-dhu hin ka'in nu barreessi naan jedhan. | 4. W4: They said, we brought you on payment, don't get up just write for us. |

In extract 28, using the projection question “*you said ...*” turn 1, presupposes that the witness has recounted how Yeshitila ordered him to leave the room saying that he could do nothing there since he was not their member, and his refusal not to leave the room itself was very difficult to be denied.

Extract 29, Case 4, Cross-Examination question to W2

- | | |
|---|--|
| 1. A: Yennaa rasaasni dhuka’e jedhe, yennaa rasaasni dhuka’e, erga dhukaasni eegaleen booda ani dhokadheera komodiinoo jala jette. Isaan keessan jiran moo duubaan jiru? | 1. A: When you say the gun fired, when the gun fired, you said that after the firing started, I hid under the comodino, were they inside or backwards? |
| 2. T: ከተኩሱ በኋላ አንተ እዚያ ውስጥ ከገባህ በኋላ እነሱ ከኋላ ናቸው ከፊት ናቸው? | 2. T: ----- |
| 3. W2: ከእኔ ፊት | 3. W2: In front of me |

The basic form of the question in extract 29 is “... *were they inside or backwards?*” Once more the projection “*you said that...*” makes it hard to deny and the final positive agreement tag (“*were they inside or backwards?*” turn 1) places further pressure for agreement.

5. Conclusions

Conceivably the most prominent aspect of criminal courtroom questions is that they are so diverse from everyday questions. In day-to-day questions, authentic requests are provided for information from a questioner who does not know the answer. Here the answerer is not obliged to answer. In the contrary, in courtroom questioning, the questioner already has the answer, in which the answerer is obliged to answer.

The findings of the study suggest that the answerers are pressured to answer in the way the questioners wishes by means of a wide range of linguistic parameters such as discourse, exchange and question forms. The findings of the study reveal that the defense lawyers are attempting to have the witnesses either contribute to or agree with a version of events predetermined by these questioners. At the discourse level, defense lawyers construct the narratives element by element, by series of questions that recycled preceding information and ask for very limited pieces of new information. At the exchange level, there is an asymmetrical questioning/answering relationship that includes a lawyer evaluative third part. At the level of question forms, an

over-representation of questions that limited the scope for response in a range of ways, in an attempt to control the information provided by the witnesses.

The cross-examining lawyers' question forms are related to the degree of coerciveness of question types in order to achieve their discursive dynamicity. Declarative questions and tag questions are strongly biased towards a confirmative answer and consequently were more pressurizing and coercive questions. They also offer the cross-examining lawyers more obvious advantage as these question forms are perceived as statements so as to help the cross-examining lawyers in changing the questions into evidence to enable them to give evidence on behalf of witnesses and reduce witnesses to the role of minimal responders. In the other manner, tag questions have also a further pragmatic meaning that makes it the most coercive type of cross-examining lawyers' questions as they imply that the cross-examining lawyers previously know that the answer is right (information relationships). Projection questions are an efficient way of including a vast volume of information from the lawyer's version of events, and are used to put a high degree of pressure for agreement upon witnesses.

The rationalization that defense lawyers are typically giving for such types of questionings is that they 'test the evidence'. In fact, as the outcome of the study proposes, this justification is uncertain that the questioning process seems more likely to distort the evidence of witnesses rather than test it.

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