UBUSHINJACYAHA v. NDAGIJIMANA

[Rwanda URUKIKO RW'UBUJURIRE – RPAA 00455/2021/CA (Kaliwabo, P.J.) 18 Ugushyingo 2022]

Amategeko agenga imanza nshinjabyaha – Icyaha cy'ubwicanyi – Kugira ngo igikorwa cyahitanye ubuzima bw'umuntu cyitwe ubwicanyi, nyirukugikora agomba kuba yagize ubushake bwo kwica, ubwo bushake bukaba aribwo bugize ingingo y'ingenzi mu mikorere y'icyo cyaha kuko aribwo butandukanya ubwicanyi n'icyaha cyo gukomeretsa bigatera urupfu (aho uwagikoze aba yashatse gukubita ariko adashaka kwica) ndetse n'icyaha cyo kwica utabishaka biturutse ku burangare cyangwa ubushishozi buke.

Incamake y'ikibazo: Uru rubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, uregwa akurikiranywe ku cyaha cyo kwica uwitwa Uwuhoreye amukubise inkoni mu rubavu rw'ibumoso. NDAGIJIMANA Vianney yaburanye yemera ko yakubise inkoni nyakwigendera agahita apfa, ariko ko byatewe n'intonganya bagize ngo akaba atari yagambiriye kumwica, asaba kugabanyirizwa igihano.urwo Rukiko rwqaciye urubanza rusanga uregwa ahamwa n'icyaha cy'ubwicanyi nuko rumuhanisha igifungo cya burundu.

Uregwa yajuririye Urukiko Rukuru avuga ko yatonganye na nyakwigendera ararakara bituma amukubita inkoni nawe amukubita indi atagambiriye ku mwica, yasabye ko yahanirwa icyaha cy'urugomo kuko bari basanzwe babana, ntacyo bapfa, asaba ko yagabanyirizwa ibihano. Urwo Rukiko narwo rwaciye urubanza rwemeza ko nta gihindutse ku mikirize y'urubanza rwajuririwe nyuma yo gusanga inyito ikwiranye n'icyaha uregwa yakoze ari ubwicanyi.

Uregwa yarongeye ajuririra urukiko rw'Ubujurire avuga ko Urukiko Rukuru rutahaye agaciro ubusabe bwe bwo guhindurirwa inyito y'icyaha kuko icyaha yahamijwe kidahuje na kamere y'ikiburanwa, asaba ko yahanirwa gukubita no gukomeretsa byateje urupfu, asaba no kugabanyirizwa igihano kuko ntacyo yapfaga n'uwahohotewe.

Ubushinjacyaha bwo bwaburanye buvuga ko nta nenge iboneka mu rubanza rwaciwe n'Urukiko Rukuru kuko icyaha cy'ubwicanyi aricyo uregwa yakoze akaba ari nacyo ahanirwa. Buvuga ko umugambi wo kwica Uwihoreye ugaragazwa n'intwaro yakoreshejwe (inkoni), aho yayikubise mu mbavu (mu cyico), imbaraga nyinshi yakoresheje akubita, kandi ko ibi yabikoze yihorera kubera inkoni avuga yari yaraye akubiswe, bityo icyaha kikaba kitaramugwiririye.

Incamake y'icyemezo: 1. Kugira ngo igikorwa cyahitanye ubuzima bw'umuntu cyitwe ubwicanyi, nyirukugikora agomba kuba yagize ubushake bwo kwica, ubwo bushake bukaba aribwo bugize ingingo y'ingenzi mu mikorere y'icyo cyaha kuko aribwo butandukanya ubwicanyi n'icyaha cyo gukomeretsa bigatera urupfu (aho uwagikoze aba yashatse gukubita ariko adashaka kwica) ndetse n'icyaha cyo kwica utabishaka biturutse ku burangare cyangwa ubushishozi buke.

Urubanza ruhindutse gusa ku birebana n'igihano;
Uregwa ahanishijwe igifungo cy'imyaka 25.

Amategeko yakoreshejwe:
Itegeko Nº68/2018 ryo kuwa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, Ingingo ya 107.

Imanza zakoreshejwe:

Ubushinjacyaha v. Cyuma Miruho, RPA 0142/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 19/09/2014, ruboneka mu Cyegeranyo cy'ibyemezo by'inkiko, RLR V2- 2015.
Ubushinjacyaha v. Uwamurengeye, RPAA 0110/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 31/01/2014 ruboneka mu cyegeranyo cy'ibyemezo by'inkiko RLR V1- 2014.

Inyandiko z'abahanga:
M. Véron, Droit Pénal Spécial, 11 éd., Sirey,Paris, 2006, P.33.

Urubanza

I. Imiterere y'urubanza

[1] Urubanza rwatangiriye mu Rukiko Rwisumbuye rwa Gasabo, Ubushinjacyaha bukurikiranyeho NDAGIJIMANA Vianney icyaha cyo kwica UWIHOREYE Emmanuel amukubise inkoni mu rubavu rw'ibumoso. NDAGIJIMANA Vianney yaburanye yemera ko yakubise inkoni UWIHOREYE Emmanuel mu rubavu agahita apfa, ariko ko byatewe n'intonganya bagize ngo akaba atari yagambiriye kumwica, asaba kugabanyirizwa igihano.

[2] Mu rubanza RP 01018/2019/TGI/GSBO, Urukiko Rwisumbuye rwa Gasabo, rushingiye ku mvugo ya NDAGIJIMANA Vianney wasobanuriye Ubugenzacyaha impamvu yamuteye kwica UWIHOREYE, rushingiye no ku mvugo z'abatangabuhamya barimo MUNYANDINDA Abel, NIYONZIMA Alphonse na NKUNDIMANA Léonard , rwasanze NDAGIJIMANA Vianney ahamwa n'icyaha cy'ubwicanyi rumuhanisha igifungo cya burundu.

[3] NDAGIJIMANA Vianney yajuririye Urukiko Rukuru avuga ko yatonganye na UWIHOREYE Emmanuel ararakara bituma amukubita inkoni nawe amukubita indi atagambiriye ku mwica, yasabye ko yahanirwa icyaha cy'urugomo kuko bari basanzwe babana, ntacyo bapfa, asaba ko yagabanyirizwa ibihano.

[4] Mu rubanza RPA 01837/2019/HC/KIG, Urukiko Rukuru rwasanze nta yindi nyito ikwiranye n'icyaha NDAGIJIMANA ashinjwa uretse ubwicanyi kuko yishe UWIHOREYE abigambiriye, abitewe n'inzika yagize yo kuba ku munsi ubanziriza uwo, yari yagiranye amakimbirane na UWIHOREYE, uyu akamukubita. Rwemeje ko imikirize y'urubanzaa RP 01018/2019/TGI/GSBO rwaciwe n'Urukiko Rwisumbuye rwa Gasabo ku wa 27/08/2019 igumaho.

[5] NDAGIJIMANA Vianney yajuririye urukiko rw'Ubujurire avuga ko Urukiko Rukuru rutahaye agaciro ubusabe bwe bwo guhindurirwa inyito y'icyaha kuko icyaha yahamijwe kidahuje na kamere y'ikiburanwa, asaba ko yahanirwa gukubita no gukomeretsa byateje urupfu, asaba no kugabanyirizwa igihano kuko ntacyo yapfaga na UWIHOREYE.

[6] Ubushinjacyaha bwo busanga nta nenge iboneka mu rubanza rwaciwe n'Urukiko Rukuru kuko icyaha cy'ubwicanyi aricyo NDAGIJIMANA Vianney yakoze akaba ari nacyo ahanirwa. Buvuga ko umugambi wo kwica UWIHOREYE Emmanuel ugaragazwa n'intwaro yakoreshejwe (inkoni), aho yayikubise mu mbavu (mu cyico), imbaraga nyinshi yakoresheje akubita, kandi ko ibi yabikoze yihorera kubera inkoni avuga yari yaraye akubiswe, bityo icyaha kikaba kitaramugwiririye.

[7] Iburanisha ryabaye kuwa 01/11/2022 NDAGIJIMANA Vianney yunganiwe na Me URAMIJE James naho Ubushinjacyaha buhagarariwe na HABIMANA Jean Cabin, Umushinjacyaha ku Rwego rw'Igihugu. Uru rukiko rurasuzuma inyito yahabwa icyaha NDAGIJIMANA Vianney akurikiranyweho, runasuzume niba yagabanyirizwa igihano nk'uko abisaba.

II. ISESENGURA RY'URUBANZA

Kumenya niba Urukiko Rukuru rwarakoze ikosa ryo guhamya NDAGIJIMANA Vianney icyaha cy'ubwicanyi mu mwanya w'icyaha cyo gukubita no gukomeretsa byateye urupfu

[8] NDAGIJIMANA Vianney yaburanye avuga ko Urukiko rwamuhamije icyaha cy'ubwicanyi kandi ibikorwa yakoze bigize icyaha cyo gukubita no gukomeretsa byateye urupfu. Yasobanuye ko UWIHOREYE bari basanzwe babana mu nzu imwe, ko nta kibazo bari bafitanye cyari gutuma amwica, ahubwo ko bagize intonganya yamuteye umujinya akamukubita inkoni mu rubavu, bimuviramo gupfa.

[9] NDAGIJIMANA Vianney akomeza avuga ko anenga ko Urukiko Rukuru rwashingiye ku mvugo z'abatangabuhamya bavuze ko yaje yitwaje ikibando akakimukubita mu rubavu, nyamara ngo ntibisobanuye ko iyi nkoni yari ayizanye ku mpamvu zo gukubita UWIHOREYE, ahubwo nk'umushumba wari mu kazi, nta kindi yari kuba yitwaje uretse inkoni, ko kuba ariyo yamukubise byatewe n'uko ariyo yari hafi mu gihe bagiranga intonganya. Yavuze ko, iyo agambirira kwica UWIHOREYE yari kumwica mu ijoro aho babanaga bombi gusa kuruta ko yaza kubikorera mu ruhame rw'abantu. Yasabye ko yagabanyirizwa igihano kandi agahanirwa gukubita no gukomeretsa byateye urupfu.

[10] Me URAMIJE James wunganira NDAGIJIMANA Vianney avuga ko uyu yagombye guhanirwa icyaha cyo gukubita no gukomeretsa byateye urupfu aho kuba icy'ubwicanyi kuko yatonganye na UWIHOREYE batagiraga icyo bapfa, amukubita inkoni mu rubavu bimuviramo gupfa ariko atari agambiriye kumwica.Yavuze ko uwo yunganira yiyemerera nta gushidikanya ko yakubise inkoni Uwihoreye atagambiriye kumwica kuko bari basanzwe ari inshuti akaba ariyo mpamvu asaba ko inyito y'icyaha yahinduka.

[11] Ubushinjacyaha bwasubije kuri iyi ngingo buvuga ko impamvu y'ubujurire ya NDAGIJIMANA y'uko yahamijwe icyaha atakoze kandi atemera nta shingiro ifite kuko Urukiko Rukuru rwayitanzeho igisubizo, aho mu gika cya 11 cy'urubanza rujuririrwa rwasobanuye impamvu inyito y'icyaha itagomba guhinduka kubera ko NDAGIJIMANA yiyemerera ko yakubise UWIHOREYE ntacyo bapfuye, bivuze ko batigeze barwana, ko ahubwo yamubwiye ngo n'atege amukubite nk'uko nawe (UWIHOREYE) yaraye amukubise, ko kandi yamukubise mu rubavu, igice cy'umubiri gishobora gutera ibyago byo gupfa ku buryo bwihuse, bityo ko icyaha kitigeze kimugwirira.

[12] Ubushinjacyaha bukomeza buvuga ko, icyemezo cy'Urukiko Rukuru gihuza n'ibisobanuro bitangwa n'umuhanga mu mategeko, Kint Robert, uvuga ko ubushake bwo gukora icyaha cy'ubwicanyi bushobora kureberwa ku ntwaro zakoreshejwe muri ubwo bwicanyi, cyangwa se uburyo zakoreshejwe, igice cy'umubiri zakoreshejweho, amagambo yavugwaga mu gihe hakorwaga ibikorwa by'ubwicanyi, ibihe uwishe n'uwishwe barimo, umuhate wa nyir'ugukora ubwicanyi, ndetse n'icyaba cyarabimuteye, ndetse ko n'ibyavuye muri raporo yasuzumye umurambo bishobora

gushimangira umugambi nyiri ugukora icyaha yari afite[1]. Ubushinjacyaha bwanzuye buvuga ko NDAGIJIMANA Vianney yari afite ubushake bwo kwica Uwihoreye Emmanuel, harebwe intwaro yakoresheje (inkoni), aho yayikubise mu mbavu (mu cyico), imbaraga nyinshi yakoresheje akubita, raporo ya muganga nayo ikaba igaragaza ko Uwihoreye yahise avira amaraso mu nda imbere, bityo Urukiko Rukuru rukaba rutaragenekereje mu guhana NDAGIJIMANA Vianney.

UKO URUKIKO RUBIBONA

[13] Ingingo ya 107 y'Itegeko nº68/2018 ryo kuwa 30/08/2018 riteganya ibyaha n'ibihano muri rusange, iteganya ko " *Umuntu wica undi abishaka, aba akoze icyaha. Iyo abihamijwe n'urukiko, ahanishwa igihano cy'igifungo cya burundu*".

[14] Urukiko rurasanga, nk'uko Ubushinjacyaha bubiburanisha, ibishingirwaho mu kumenya ko uwakubise umuntu yaba yarafite umugambi wo kumwica cyangwa niba ntawo yarafite, bisuzumirwa mu cyakoreshejwe n'igice cy'umubiri cyakubiswe. Iki gitekerezo ni nacyo Urukiko rw'Ikirenga rwafashe mu manza zitandukanye harimo urw'Ubushinjacyaha bwaburanye na CYUMA MIRUHO[2] n'urw'Ubushinjacyaha na UWAMURENGEYE[3]. Ibi ni nako bisobanurwa n'abahanga mu mategeko barimo Michel Véron[4] nawe wishingikirije ku manza nyinshi zaciwe n'Urukiko rw'Ubufaransa rusesa imanza, uvuga ko ubushake bwo kwica bushobora gusuzumirwa mu ntwaro zakoreshejwe zishobora gutera akaga ko gupfa, n'igice cy'umubiri cyakubiswe.

[15] Ku birebana n'uru rubanza, dosiye igaragaza ko mu Bugenzacyaha NDAGIJIMANA abazwa uko yakoze icyaha aregwa, uyu yasobanuye ko kuwa 14/06/2019 yarwanye na UWIHOREYE bapfa icupa bari bamennye mu kabari, ngo UWIHOREYE amukubita inkoni ahita agenda arataha, ko nawe bucyeye bwaho kuwa 15/06/2019 yagiye kumureba akamubaza icyamuteye kumukubita kandi yarimo yishyuzwa icupa atamennye, anamubwira ko nawe agomba kumwishyura, ahita amukubita inkoni mu rubavu aragenda, ko hashize akanya agashiramo umwuka. Iyi mvugo ye ihuza n'iy'abatangabuhamya barimo MUNYANDINDA Abel, NIYONZIMA Alponse na NKUNDIMANA Léonard (mu nyandiko-mvugo y'ibazwa ryabo ryo kuwa 19/6/2019) bose basobanuye ku buryo bumwe uko icyaha cyakozwe, ko NDAGIJIMANA yaje yitwaje ikibando akagikubita mu rubavu UWIHOREYE amuhora ko baraye bagiranye amakimbirane bakarwana, naho raporo ya muganga ikaba yaragaragaje ko UWIHOREYE yazize kuvirirana munda, impamvu yabyo ikaba ari inkoni yamukubise mu rubavu.

[16] Urukiko rurasanga kugira ngo igikorwa cyahitanye ubuzima bw'umuntu cyitwe ubwicanyi, nyirukugikora agomba kuba yagize ubushake bwo kwica, ubwo bushake bukaba aribwo bugize ingingo y'ingenzi mu mikorere y'icyo cyaha kuko aribwo butandukanya ubwicanyi n'icyaha cyo

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[1] KINT Robert, Droit pénal Spécial, Manuels de droit rwandais, UNR, 1993, p.71-72. "On pourra trouver des indices propres ā établir la volonté spécifique de donner la mort dans les moyens employés(nature des armes ou autres instruments), dans la manière dont ils ont été maniès et l'endroit ou ont été administrés les coups, dans les props proférés lors des faits, les situations respectives de la victime et de son agresseur, l'acharnement de l'auteur, parfois le mobile. Les constatations faites lors de l'autopsie sont souvent d'une importance capitale en vue d'établir l'intention de donner la mort

[2] Reba urubanza RPA 0142/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 19/09/2014 haburana Ubushinjacyaha na Cyuma Miruho, ruboneka mu Cyegeranyo cy'ibyemezo by'inkiko, RLR V2- 2015;

[3] *Reba urubanza RPAA 0110/10/CS rwaciwe n'Urukiko rw'Ikirenga ku wa 31/01/2014 haburana Ubushinjacyaha na UWAMURENGEYE ruboneka mu cyegeranyo cy'ibyemezo by'inkiko RLR V1- 2014*

[4] *M. Véron, Droit Pénal Spécial, 11 éd., Sirey,Paris, 2006, P.33. "La preuve de l'intention ou animus necendi soulève bien des difficultés car la preuve directe en parrait impossible. Aussi, la Cour de cassation admet qu'on puisse la rechercher dans les circonstances qui entourent le meurtre, notamment dans le fait que l'accusé a utilize des moyens mortels, des armes dangereuseset a frappéou visé sa victim sur une partie vitale du corps"*

gukomeretsa bigatera urupfu (aho uwagikoze aba yashatse gukubita ariko adashaka kwica) ndetse n'icyaha cyo kwica utabishaka biturutse ku burangare, ubushishozi buke, kudakurikiza amategeko n'ibindi, nk'uko bisobanurwa n'abahanga mu mategeko[5].

[17] Urukiko rurasanga, hashingiwe ku mvugo ya NDAGIJIMANA ubwe ndetse n'iz'abatangabuhamya, kuwa 15/06/2019 nta mirwano yabaye hagati ya NDAGIJIMANA na UWIHOREYE ahubwo NDAGIJIMANA yaje asanga UWIHOREYE, amwibutsa ko yaraye amukubise, bityo ko nawe agiye kumwishyura , ari nabwo yamukubise inkoni mu rubavu, undi ahita apfa, bityo imvugo aburanisha muri uru Rukiko ko yakubise UWIHOREYE biturutse ku mirwano bagiranye kuwa 15/06/2019 ikaba nta shingiro ifite.

[18] Urukiko rurasanga, indi ngingo NDAGIJIMANA ashingiraho avuga ko Urukiko Rukuru rwasesenguye nabi imikorere y'icyaha irebana no kuba ntacyo yapfaga na UWIHOREYE ndetse ko iyo agambirira kumwica yari kubikora mu ijoro aho bari kumwe bonyine. Urukiko rurasanga, mu gusuzuma inyito y'iki cyaha bitari ngombwa kumenya impamvu yatumye NDAGIJIMANA yica UWIHOREYE, ahubwo harebwa niba uyu yaragambiriye kwica kandi akabigeraho cyangwa niba yarakubise nta mugambi wo kwica, hanyuma urupfu rukaba ingaruka.

[19] Urukiko rurasanga mu rubanza RPA 0142/10/CS n'urubanza RPAA 0110/10/CS zaciwe n'Urukiko rw'Ikirenga ndetse zigatangazwa mu cyegeranyo cy'ibyemezo by'inkiko, nk'uko zavuzwe haruguru, Urukiko rwarasobanuwe ibyitabwaho n'umucamanza mu gutandukanya icyaha cy'ubwicanyi n'icyaha cyo gukubita no gukomeretsa bibyara urupfu, ingingo zitabwaho zikaba ari icyakoreshejwe, igice cy'umubiri cyakoreshejweho, n'ubukana byakoranywe.

[20] Urukiko rurasanga, kuba NDAGIJIMANA yaravuye aho ari agasanga UWIHOREYE amubwira ko nawe aje kumukubita nk'uko undi yamukubise ku munsi ubanziriza uwo, kuba yarakoresheje inkoni (nubwo avuga ko yari asanzwe ayitwara kubera akazi k'ubushumba akora), kuba uyu yarahisemo gukubita mu mbavu ahagana ku mutima (mu cyico), kuba yarakoresheje imbaraga zihagije zatumye UWIHOREYE ahita apfa, ibi byose bituma uru Rukiko narwo rwemeranywa n'Urukiko Rukuru ko icyaha NDAGIJIMANA yakoze ari ubwicanyi aho kuba gukubita no gukomeretsa byateje urupfu.

[21] Urukiko rurasanga nta kosa ryakozwe n'Urukiko Rukuru mu guhamya NDAGIJIMANA Vianney icyaha cyo kwica, bityo ubujurire bwe bugamije guhindura inyito y'icyaha bukaba nta shingiro bufite.

A.Kumenya niba NDAGIJIMANA yagabanyirizwa igihano

[22] NDAGIJIMANA Vianney yajuririye Urukiko rw'Ubujurire avuga ko agamije gutakambira urukiko kugira ngo agabanyirizwe igihano kuko icyo yahanishijwe n'inkiko zibanza ari kirekire mu gihe yaburanye yemera icyaha cyo gukubita inkoni UWIHOREYE bikamuviramo gupfa, ko kandi yarangije kumva ububi bw'icyaha, ko aramutse agabanyirijwe atazongera gukora icyaha ukundi . Yakomeje avuga ko urupfu rwa UWIHOREYE rwamugwiririye, ko ntacyo bapfaga ahubwo ko byatewe n'amakimbirane bagiranye bigatuma akora icyaha ahubutse, abisabira imbabazi.

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[5] Jean PRADEL & Michel DANTI-JUAN, Droit Pénal Spécial, Droit commun, Droit des affaires, édition 2007/2008, p.34. " L'élément intellectuel du meurtre consiste dans la volonté de causer la mort (animus nocendi) et cet élément est fondamental car lui seul permet de distinguer le meurtre des coups mortels où l'agent en voulant les coups n'a pas voulu la mort et de l'hommicide involontaire où l'agent n'a même pas voulu les coups".

[23] Me URAMIJE James wunganira NDAGIJIMANA avuga ko uyu yiyemerera icyaha ku buryo budashidikanywaho, ko ukwemera kwe no gusaba imbabazi byamubera impamvu nyoroshyacyaha ituma agabanyirizwa ibihano, asaba ko mu kugabanya igihano, Urukiko rwashingira ku ngingo ya 59 y'Itegeko n° 68/2018 ryo kuwa 30/08/2018 riteganya ibyaha n'ibihano muri rusange ndetse no ku rubanza RPAA 00032/2019/CA rwaciwe n'Urukiko rw'ubujurire kuwa 28/02/2020, aho rwabonye ko nta mpamvu yatuma Urukiko rutagabanya igihano mu gihe rusanga aricyo kiboneye, asaba ko NDAGIJIMANA yahanishwa igifungo cy'imyaka 10.

[24] Ku birebana n'igabanyagihano, Ubushinjacyaha busanga iyi ngingo nta shingiro ifite kuko NDAGIJIMANA waburanye asaba guhanirwa icyaha cyo gukubita no gukomeretsa byateje urupfu biboneka ko nta mutima afite wo kwemera icyaha mu gihe ahunga uburemere bwacyo, bityo ko ntaho Urukiko rw'Ubujurire rwahera rumugabanyiriza igihano ku cyaha atemera.

UKO URUKIKO RUBIBONA

[25] Ingingo ya 49 z'Itegeko nº68/2018 ryo kuwa 30/08/2018 riteganya ibyaha n'ibihano iteganya ko: "Umucamanza atanga igihano akurikije uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu zatumye agikora, uko uwagikoze yari asanzwe yitwara, imibereho ye bwite n'uburyo icyaha cyakozwemo."

[26] Urukiko rurasanga, nk'uko rwabisobanuye hejuru, nta gushidikanya ko NDAGIJIMANA yishe UWIHOREYE yabigambiriye kuko yafashe umwanya wo kumusanga aho ari, amubwira ko agiye kumukubita nk'uko nawe yaraye abimukoreye. Rurasanga kandi icyaha gifite uburemere kuko ari igikorwa cyambuye ubuzima umusore ukiri muto, ariyo mpamvu Urukiko rwamuhanishije igihano gisumba ibindi byose.

[27] Urukiko rurasanga nyamara, imikorere y'icyaha igaragaza ko igikorwa cyo kuwa 15/06/2019 ari inkurikizi y'imirwano yari yaraye ibaye hagati ya UWIHOREYE na NDAGIJIMANA, uyu akaba yarananiwe kwifata, bigatuma ajya gushaka UWIHOREYE ngo nawe amwishyure inkoni yaraye amukubise, iyi mitekerereze y'uburakari bwa NDAGIJIMANA ikaba yaramuteye gukora icyaha cyo kwica mugenzi we.

[28] Urukiko rurasanga, imikorere y'icyaha igaragaza ko NDAGIJIMANA yahubukiye kwihorera inkoni yari yaraye akubiswe, akaba atarabanje gutekereza ku ngaruka z'icyaha agiye gukora, iyi mitekerereze ikaba inashingira ku kigero cy'imyaka y'ubusore (29ans) uyu yarimo igihe yakoraga icyaha.

[29] Urukiko rurasanga, ingingo ya 49 y'Itegeko n° 68/2018 ryo kuwa 30/08/2018 ryavuzwe haruguru iteganya ibikwiye kwitabwaho mu kugena igihano, bimwe muri byo bikaba ari uburemere bw'icyaha, ingaruka icyaha cyateye, impamvu yatumye uregwa akora icyaha n'uburyo icyaha cyakozwemo.

[30] Urukiko rurasanga ku birebana n'uru rubanza, uburemere bw'icyaha NDAGIJIMANA yakoze bugomba gusuzumirwa hamwe n'uburyo cyakozwemo nk'uko byasobanuwe haruguru, bityo igifungo cya burundu yahanishijwe kikagabanywa, agahanishwa igifungo cy'imyaka makumyabiri n'itanu.

III. ICYEMEZO CY'URUKIKO

[31] Rwemeje ko imikirize y'urubanza RPA 01837/2018/HC/KIG rwaciwe n'Urukiko Rukuru kuwa 12/03/2021 ihindutse gusa ku birebana n'igihano.

[32] Rwemeje ko NDAGIJIMANA Vianney ahanishwa igifungo cy'imyaka makumyabiri n'itanu (25ans) kubera icyaha cy'ubwicanyi yakoreye UWIHOREYE Emmanuel.

[33] Rutegetse ko NDAGIJIMANA Vianney asonerwa amagarama y'urubanza kubera ko yaburanye afunzwe