UBUSHINJACYAHA v. MUKAKABANO N'UNDI

[Rwanda URUKIKO RUKURU – RP0015/2017/HCCI (Mukamurenzi, P.J.) 20 Werurwe 2018]

Amategeko Mpanabyaha – Icyaha cyo gucuruza abantu – Ibigize icyaha cyo gucuruza abantu – Kugira ngo icyaha cyo gucuruza abantu kibeho hagomba ibintu bitatu ari byo: ibikorwa byakozwe nko gushakisha umuntu, kwimurira umuntu ahandi, uburyo bwakoreshejwe burimo gukoresha ingufu, uburiganya n'ibikangisho, ndetse n'ikigamijwe nko kumwangiza ubuzima no kumubyaza inyungu zitemewe.

Amategeko Mpanabyaha – Ibyaha byo gucuruza abantu – Kuvana abantu mu gihugu ugamije kubacuruza – Kuba umuntu ujyanywe ari mukuru kandi nawe yashakaga kugenda ntibyaba impamvu ituma uwabikoze adakurikiranwa kuko bikorwa mu buryo bw'uburiganya – Itegeko Ngenga No01/2012/OL ryo kuwa 02/05/2012 rishyiraho Igitabo cy'amategeko ahana, Ingingo ya 251 – Umugereka wo kuwa 15/11/2003 w'Amasezerano Mpuzamahanga ku bijyanye n'ikumira n'ihanwa ry'icuruzwa ry'abantu by'umwihariko abagore n'abana, ingingo ya 3.

Incamake y'ikibazo: Mu Rukiko Rukuru, urugereko ruburanisha ibyaha byo mu rwego mpuzamahanga n'ibyaha byambuka imbibi, Ubushinjacyaha bwakurikiranye Nyirabagenzi na Mukakabano ku cyaha cyo gucuruza abantu nyuma yuko Nyirabagenzi na Murekatete bafatiwe ku mupaka w'u Rwanda n'Ubugande i Gatuna, bavuga ko bagiye gushaka akazi mu gihugu cya Omani.

Ubushinjacyaha bukagaragaza ko bagaruwe Murekatete agiye gucuruzwa na Nyirabagenzi. Bugaragaza kandi ko kuva mu mwaka wa 2014, Murekatete Amina yashishikarijwe ibyo kujya gukora akazi muri Omani ariko icyo gihe abuzwa kugenda n'uko yari afite umwana muto, ko nyuma mu 2017, Nyirabagenzi yongeye kumushishikariza kugenda anyuze kuri nyina, amubwiraga ko muri Omani hari akazi n'ubuzima bwiza, maze ku gitutu cya nyina wamwumvishaga ko ari umukobwa wabyaye ko aramutse agiye yabasha kubona akazi bagahindura ubuzima, anamubwira ko hari abandi bakobwa bagiye kandi bamerewe neza, bituma nawe afata icyemezo yemera kugenda ariko bafatirwa ku mupaka wa Gatuna kandi ko Nyirabagenzi afite abandi bantu bakorana barimo Mukakabano, uyu akaba ariwe Ubushinjacyaha buvugako ariwe wahuje Nyirabagenzi, Murekatete nuwitwa Lydia (Fatima) bari guhamagara bageze i Kampala kugirango abafashe kuzagera muri Omani maze aha Nyirabagenzi nimero ze za telephone.

Abaregwa baburanye bahakana icyaha, kuri Nyirabagenzi asobanura ko we na Murekatete bafashwe bari mu rugendo bajya gushaka akazi kandi ko ubushinjacyaha butagaragaza ko yafatiwe ku isoko ricururizwaho abantu, uwo yari agiye kugurisha nawe, n'igiciro yahawe kandi ko Murekatete buvugako yari agiye kugurisha ari umuntu ukuze utakora ikintu adashaka.

Naho kuri Mukakabano, yireguye avuga ko atashatse kugira uwo acuruza, asobanura ko yabaye muri Omani kuva 2012 kugeza 2014 akaba yarafite nimero yuwitwa Lydia (Fatima) ukora muri sosiyete yo muri Kenya ishakira abantu akazi kugirango nashaka gusubirayo azamufashe. Ko yamenyanye na Nyirabagenzi bahuriye ku rubuga rwa whatsup rw'abanyarwanda baba muri Omani nyuma yaho amubwiyeko ashaka kuzasubirayo gushaka akazi amuha nimero ya Lydia (Fatima) kugirango azamufashe.

Incamake y'icyemezo: 1. Kugira ngo icyaha cyo gucuruza abantu kibeho hagomba ibintu bitatu ari byo: ibikorwa byakozwe nko gushakisha umuntu, kwimurira umuntu ahandi, uburyo bwa koreshejwe burimo gukoresha ingufu, uburiganya n'ibikangisho, ndetse n'ikigamijwe nko kumwangiza ubuzima no kumubyaza inyungu zitemewe.

2. Ibikorwa Nyirabagenzi akurikiranyweho byo gushakisha, gushishikariza no gutwara Murekatete amuvanye mu Rwanda amujyana mu gihugu cya Omani, umugambi we ukaburizwamo n'uko bagaruriwe ku mupaka wa Gatuna bigize icyaha cy'ubwinjiracyaha cyo kugira uruhare mu kuvana abantu mu gihugu (trafficking), aho kuba icyaha cyo gucuruza abantu.

3. Kuba Murekatete wari ujyanywe, ari mukuru kandi nawe yarashakaga kugenda ntibyaba impamvu ituma Nyirabagenzi adakurikiranwa kuko yari atwawe mu buryo bw'uburiganya bishingikirije uburyo yari abayeho mu bukene, ari n'umukobwa wabyariye iwabo. Iki cyaha kibaho kabone n'iyo ugikorewe yaba yabyemeye.

4. Kuba Mukakabano Nadia yaragize uruhare rwo guhuza Nyirabagenzi Mariam, Murekatete Amina nuwitwa Fatima wari i Kampala wari kubafasha kujya muri Omani, icyo gikorwa kigize ubwinjiracyaha mu cyaha cyo kuvana abantu mu gihugu (trafficking).

Abaregwa bahamwa n'ubwinjiracyaha mu cyaha cyo kugira uruhare mu kuvana abantu mu gihugu (trafficking);
Amagarama aherereye ku isanduku ya Leta.

Amategeko yashingiweho:
Itegeko Ngenga N°01/2012/OL ryo kuwa 02/05/2012 rishyiraho igitabo cy'amategeko ahana, ingingo ya 27,250,251 niya 252.
Umugereka wo kuwa 15/11/2003 w'Amasezerano Mpuzamahanga ku bijyanye n'ikumira n'ihanwa ry'icuruzwa ry'abantu by'umwihariko abagore n'abana, ingingo ya 3.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Nyirabagenzi Mariam na Murekatete Amina bafatiwe ku mupaka w'u Rwanda n'Ubugande i Gatuna, bavuga ko bagiye gushaka akazi mu gihugu cya Omani. Murekatete Amina abazwa yavuze ko yahoraga ashishikarizwa gushakirwa akazi muri Omani abuzwa kugenda n'uko yari afite umwana muto. Ubushinjacyaha bwaregeye urukiko buvuga ko Murekatete Amina yagaruriwe ku mupaka wa Gatuna agiye gucuruzwa na Nyirabagenzi Mariam abifashijwemo na Mukakabano Nadia Yazida. Aba barabihakana, Nyirabagenzi Mariam avuga ko bombi bafashwe bagiye gushaka akazi mu gihugu cya Omani naho Mukakabano Nadia Yazida avuga ko nimero za telefone yahaye Nyirabagenzi Mariam ari iz'umuntu wari kumufasha kubona akazi n'ibyangombwa byo kujya muri Omani ko atari agamije kugira uwo acuruza.

[2] Ibibazo bisuzumwa mu rubanza ni ukumenya niba Nyirabagenzi Mariam yarafashwe ajyanye Murekatete Amina mu mahanga agamije kumucuruza no kumenya niba kuba Mukakabano Nadia Yazida yaratanze nimero za telephone z'umuntu wari kubafasha gushaka ibyangombwa byo kujya mu gihugu cya Omani bigaraza uruhare mu cyaha aregwa.

II. IBIBAZO BIGIZE URUBANZA N'ISESENGURWA RYABYO

Kumenya niba Nyirabagenzi Mariam yarafashwe ajyanye Murekatete Amina mu mahanga agamije kumucuruza.

[3] Ubushinjacyaha buvuga ko kuva mu 2014, Murekatete Amina yashishikarijwe ibyo kujya gukora akazi muri Omani ariko icyo gihe abuzwa kugenda n'uko yariafite umwana muto, ko nyuma mu 2017, Nyirabagenzi Mariam yongeye kumushishikariza kugenda anyuze kuri nyina, amubwira ko muri Omani hari akazi n'ubuzima bwiza, maze ku gitutu cya nyina wamwumvishaga ko ari umukobwa wabyaye ko aramutse agiye yabasha kubona akazi bagahindura ubuzima, anamubwira ko hari abandi bakobwa bagiye kandi bamerewe neza, bituma nawe afata icyemezo yemera kugenda ariko bafatirwa ku mupaka wa Gatuna.

[4] Ubushinjacyaha buvuga kandi ko Nyirabagenzi Mariam afite abandi bantu bakorana barimo Mukakabano Nadia Yazida n'abandi baba mu gihugu cya Kenya, nk'uwitwa Fatima bita Lydia bari guhamagara bageze i Kampala akababafasha kubona ibyangobwa byo kujya muri Omani. Busobanura ko Nyirabagenzi Mariam abazwa mu bugenzacyaha ndetse no mu bushinjacyaha yemeye ko yafatiwe i Gatuna ari kumwe na Murekatete Amina bagiye muri Uganda aho bari guhurira n'uwitwa Lydia wari kubafasha kujya muri Omani, ko aniyemerera ko ariwe washishikarije Murekatete ko muri Omani hari akazi keza n'ubuzima bwiza ko ahazi yahabaye.

[5] Ubushinjacyaha buvuga ko icyaha cyo gucuruza abantu gitangirira ku bikorwa byo gushishikariza, gutoranya, gushakirwa ibyangombwa n'amatike no kujyanwa, ko ibyo byose byabaye ariko kubwamahirwe bafatirwa i Gatuna. Buvuga ko ubushake nabwo bugaragarira muri uko gushishikaza yizezwa ibitangaza birimo akazi keza, kandi ko bamufatiranye mu bukene.

[6] Nyirabagenzi Mariam ahakana icyaha aregwa avuga ko ubushinjacyaha butagaragaza ko yafatiwe ku isoko ricururizwaho abantu, uwo yari agiye kugurisha nawe n'igiciro yahawe. Asobanura ko we na Murekatete bafatiwe ku mupaka bagiye i Bugande, ko bari mu rugendo bajya gushaka akazi, kandi ko atigeze amushishikariza ibyo kujya muri Omani kuko ubwe batari baziranye, ahubwo ari nyina wamusabye kumumujyanira kubera ko yari azi ko yabaye muri Omani kandi ko yari agiye gusubirayo. Avuga kandi ko Murekatete ubwe agaragaza uburyo yabonye passport mu 2014 akavuga n'abayimushakiye kandi we akaba ataziranye nabo, ko n'igihe yayishakiwe we yakoraga muri Omani, aba ari naho amenyera ko yashakaga kujyayo. Yongeraho ko atari we wamuhaye itike imujyana mu rugendo barimo, ko bahuriye Nyabugogo, bafata imodoka bari kumwe, ko ikindi kandi Murekatete nawe ari umuntu ukuze akaba atari gukora ikintu adashaka.

[7] Akomeza avuga ko yabaye muri Omani amezi icumi, agaruka mu Rwanda kontaro ye itarangiye aje gushyingura mukuru we, akazi yari afite bagaha abandi, ko ubwo yafatwaga yari asubiyeyo gushaka akazi ajyanye na Murekatete, ko bari kubifashwamo n'uwitwa Fatima bita Lydia bari gusanga i Kampala bari baravuganye kuri telefone ahawe nimero na Mukakabano Nadia Yazida bamenyaniye muri Omani bahakora, akaba yari yanamubwiye ko azazana na Murekatete Amina.

[8] Me Assumani Minsiragwira avuga ko nta kimenyetso simusiga ubushinjacyaha butanga usibye imvugo za Murekatete Amina zitagaragaramo ko Nyirabagenzi Mariam yari mu bashakaga kumujyana muri Omani mu 2014. Avuga kandi ko Nyirabagenzi nta mugambi yagize wo gucuruza abantu, kuko kuba yarafashwe ari kumwe na Murekatete nta gikorwa cyo gucuruza abantu kirimo kubera ko byari kwitwa gucuruza abantu iyo amutwara ntihazagire umenya ko yamutwaye, kandi Murekatete Amina nawe akaba yarashakaga kujya gushaka akazi. Asoza avuga ko n'ibimenyetso ubushinjacyaha butanga harimo gushidikanya, kuko nta soko, nta muguzi, nta n'igiciro byagaragajwe, ko bashingiye ku biteganywa n'ingingo ya 165 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha asanga ugushidikanya kwarengera ushinjwa, maze Nyirabagenzi akagiwa umwere.

UKO URUKIKO RUBIBONA

[9] Urukiko rusanga ubushinjacyaha bushingira ku kuba Nyirabagenzi Mariam yarafatiwe ku mupaka wa Gatuna atwaye Murekatete Amina, kuba aho bari bagiye batahazi uretse kuvuga gusa kujya gushaka akazi muri Omani no kuba hari abantu batazi bari kubashakira ibyangombwa n'itiki izabageza muri Omani bukabiheraho burega Nyirabagenzi Mariam icyaha cyo gucuruza abantu.

[10] Urukiko rusanga mu miburanire ya Nyirabagenzi Mariam no mu ibazwa rye mu iperereza avuga ko yabaye muri Omani akora akazi ko mu rugo ariko aza kugaruka mu gihugu, ko nyuma yashatse gusubira yo gushaka akazi kubera ko yabonaga afite imibereho mibi abaza nyina wa Murekatete Amina niba uyu agishaka kujyayo kugira ngo bazajyane kuko ubwo yari muri Omani yamenye ko yashakaga kuhajya. Rusanga anavuga ko kugera muri Omani bari kubifashwamo n'uwitwa Fatima cyangwa Lydia, uba muri Kenya ahari company ishakira abantu akazi, ko batari baziranye ariko ko bari bavuganye kuri telefone ahawe nimero ze na Mukakabano Nadia.

[11] Urukiko rusanga Murekatete Amina abazwa mu bugenzacyaha yaravuze ko atari asanzwe aziranye na Nyirabagenzi Mariam, ko kugira ngo bamenyane yanyuze kuri nyina, nawe amwumvisha ko yajyana nawe gushaka akazi muri Omani, anamubwira ko yahagirira ubuzima bwiza, ko no mu 2014, uwitwa Mama Mudasiru, nabwo aciye kuri nyina umubyara, yashatse kumujyana ariko arabyanga kuko icyo gihe umwana we yari akiri muto. Rusanga anavuga ko bari gushyikira ku mupaka wa Uganda na Kenya bakahahurira n'umuntu atazi amazina ye wari kubaha itike y'indege yo kujya muri Omani kandi ko atari azi uwo yari agiye gukorera.

[12] Urukiko rusesenguye ibivugwa n'Ubushinjacyaha n'ibivugwa na Nyirabagenzi ndetse n'imvugo ya Murekatete Amina, rusanga kuva mu 2014, Murekatete Amina yarashakishijwe ndetse anashishikarizwa kujya gukora muri Omani kuko yashakiwe ibyangombwa n'uwitwa mama Mudasiru ariko ntiyagenda bitewe n'uko yari afite umwana muto. Runasanga mu 2017, Nyirabagenzi Mariam nawe anyuze kuri mama we yaramushishikarije kujya muri Omani amubwira ko yahabona akazi ndetse anamwizeza ko bazajyana, ndetse baza gufatirwa ku mupaka wa Gatuna bavuga ko bagiye i Bugande aho bari guhurira n'umuntu wari kubafasha kugera mu gihugu cya Omani.

[13] Urukiko rusanga muri urwo rugendo bigaragara ko Murekatete atari azi aho agiye, uburyo azagerayo, abantu bari kumufasha muri urwo rugendo ndetse n'icyo yari gukora agezeyo. Rusanga ariko Nyirabagenzi we bigaragara ko ariwe ufite amakuru y'urwo rugendo, azi aho ajyanye Murekatete kuko ariwe wamushatse amusaba ko bajyana gushaka akazi muri Omani, azi inzira bazanyuramo kuko yivugira amazina y'uwari kubafasha bageze i Bugande bita Fatima cyangwa Lydia akanavuga ko

banavuganaga kuri telefone kuko yari yarahawe nimero ze na Mukakabano Nadia. Rusanga Nyirabagenzi anavuga ko uwo Fatima bita Lydia yari yarafashije abandi bakobwa kujya muri Omani.

[14] Urukiko rusanga ingingo ya 250 1° y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 rishyiraho igitabo cy'amategeko ahana iteganya ko icuruzwa ry'abantu ari ibikorwa bihindura umuntu igicuruzwa bijyanye no gushakisha cyangwa kwimurira umuntu ahandi mu gihugu cyangwa mu mahanga hakoreshejwe uburiganya, ibikangisho, imbaraga cyangwa agahato, ububasha ubikora aba amufiteho, akenshi hagamijwe kumwangiriza ubuzima cyangwa kumubyaza inyungu zitemewe akoreshwa mu biterasoni, mu buraya, mu bikorwa binyuranyije n'amategeko, mu bisa n'ubucakara, kumwica urubozo no kumukorera urugomo ndengakamere cyangwa kumukoresha imirimo yo mu rugo nk'umuja, hishingikirijwe intege nke umuntu afite zikomoka ku bibazo afitanye n'ubuyobozi, ku gutwita k'umugore wibana, indwara, ubumuga n'ibindi bibazo byatuma umuntu muzima akora icyo atatekereje.

[15] Urukiko rusanga ibyo bisobanuro bihura n'ibivugwa mu ngingo ya 3 y'umugereka wo ku wa 15/11/2000 w'amasezerano mpuzamahanga ku bijyanye n'ikumira n'ihanwa ry' icuzuzwa ry'abantu by'umwihariko abagore n'abana u Rwanda rwashyizeho umukono kuwa 26/09/2003, iyo ngingo ikaba inavuga ko icyo cyaha kibaho kabone n'iyo ucuruzwa yaba yabyemeye. [1]

[16] Urukiko rusanga nanone ingingo ya 251 y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 ryavuzwe yo iteganya ko umuntu wese ugira uruhare, ku buryo ubwo ari bwo bwose, ari we cyangwa abicishije ku wundi, mu gutorokesha umuntu avanywe mu Rwanda ajyanywe mu mahanga agamije kumucuruza, akoresheje ubushukanyi, imbaraga, ibikangisho n'ubundi buryo bw'agahato; yishingikirije ibibazo umuntu afitanye n'ubuyobozi, ubutabera, ubupfubyi, ubukene, kwibana, ubumenyi buke, imirimo ivunanye, umuryango w'indahekana, ibura ry'akazi, uburwayi, ubumuga bw'umubiri cyangwa bwo mu mutwe, icyuho mu itegeko n'ibindi byatuma umuntu muzima akora ibyo atatekereje.

[17] Urukiko rusesenguye ibikubiye muri izo ngingo, rusanga kugira ngo icyaha cyo gucuruza abantu kibeho hagomba ibintu bitatu ari byo: ibikorwa byakozwe nko gushakisha umuntu, kwimurira umuntu ahandi, uburyo bwa koreshejwe burimo gukoresha ingufu, uburiganya n'ibikangisho, ndetse n'ikigamijwe nko kumwangiza ubuzima no kumubyaza inyungu zitemewe.

[18] Urukiko rurebye ibiteganywa n'izo ngingo, ndetse n'ingingo ya 27 y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 ryavuzwe ivuga ku byerekeranye n'ubwinjiracyaha, rusanga ibikorwa Nyirabagenzi Mariam akurikiranyweho byo gushakisha, gushishikariza no gutwara Murekatete Amina amuvanye mu Rwanda amujyana mu gihugu cya Omani aho yamwumvishaga ko azabona akazi keza akagira ubuzima bwiza, umugambi we ukaburizwamo n'uko bagaruriwe ku mupaka wa Gatuna bigize icyaha cy'ubwinjiracyaha cyo kugira uruhare mu kuvana abantu mu gihugu, aho kuba icyaha cyo

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[1] *Article 3 of Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organized crime (15/11/2000), provides that : for the purposes of this Protocol :* ***a.*** *« Trafficking in persons » shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of the person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other form of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.* ***b.*** *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.*

gucuruza abantu giteganywa n'ingingo ya 252 y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 ryavuzwe kuko urukiko rusanga igikorwa yakoze ari ukuvana umuntu mu Rwanda amujyanye mu mahanga mu rwego rwo kumucuruza.

[19] Urukiko rusanga ibyo Nyirabagenzi Mariam avuga ko ajyana na Murekatete atari agamije kumucuruza, ko ari mukuru kandi nawe yashakaga kujya gushaka akazi, nta shingiro bifite kuko harebwe ko ariwe washakishije Murekatete anyuze kuri nyina avuga ko bajyana muri Omani kandi azi neza ko nta byangombwa byo kujyayo afite, hakanarebwa ko avuga ko hari umuntu batazi bavuganaga kuri telefone bari guhurira mu gihugu cy'Ubugande wari kubafasha kubona ibyangombwa, akabaha n'itike y'indege, atanavuga icyo bo bazakora cyangwa bazatanga kugira ngo abafashe, urukiko rusanga urwo ruhererekane rugaragaza ko Nyirabagenzi Mariam yari azi neza ko ibyo akora ari ukuvana Murekatete mu gihugu agamije ku mucuruza yishingikirije ubukene yari afite kubera kubura akazi .

[20] Rusanga kandi kuba Murekatete ari mukuru kandi ko nawe yashakaga kugenda bitaba impamvu ituma Nyirabagenzi adakurikiranwa kuko Murekatete yatwawe mu buryo bw'uburiganya bishingikirije uburyo yari abayeho mu bukene, ari n'umukobwa wabyariye iwabo bituma afata icyemezo cyo kugenda. Byongeye kandi n'amasezerano mpuzamahanga ku bijyanye n'ikumira n'ihanwa ry'icuruzwa ry'abantu by'umwihariko abagore n'abana yavuzwe, akaba ateganya ko icyaha kibaho kabone n'iyo ucuruzwa yaba yabyemeye.

Kumenya niba kuba Mukakabano Nadia Yazida yaratanze nimero za telefone z'umuntu wari gufasha Nyirabagenzi na Murekatete kubona ibyangombwa byo kujya mu gihugu cya Omani bigaraza ko yagize uruhare mu ikorwa ry'icyaha akurikiranweho.

[21] Ubushinjacyaha buvuga ko Nyirabagenzi Mariam ashinja Mukakabano Nadia Yazida ko ariwe wamuhuje na Fatima bita Lydia wari kubashakira ibyangombwa, akabafasha mu rugendo rwo kujya muri Omani, ko ari nawe wamubwiye ko hari abandi bakobwa babiri bagiye bamunyuzeho kandi ko nawe yemera ko ariwe watanze izo nimero. Buvuga ko iyo nimero ya telefone yatanze ari inkunga ikomeye yatumye Nyirabagenzi Mariam agera ku mugambi we wo kujya gucuruza Murekatete kandi ko yanakoranaga na Fatima bita Lydia mukohereza abantu muri Omani kuko yari azi n'abandi bantu yafashije kujyayo barimo Sayidati na Dalila, anazi ko ashobora gushakira Nyirabagenzi na mugenzi we ibyangombwa bibajyana muri Omani.

[22] Ubushinjacyaha bukomeza buvuga ko icyaha cyo gucuruza abantu kidakorwa n'umuntu umwe, gikorwa n'udutsiko dutandukanye, ko na Lydia yari kubaha abandi nabo bakabaha abandi kugeza bageze kucyo bashaka, ko kitagereranywa n'ubucuruzi bw'imyaka busanzwe, icuruzwa ry'abantu ryo riterwa n'aho bajyanywe n'impamvu ajyanywemo, ishobora kuba uburaya, imirimo adashaka cyangwa atakekaga ko ariyo agiye gukora, gukoreshwa ubucakara cyangwa ibindi bikowa bisa nabyo kimwe, kumuvanamo ibice by'umubiri n'ibindi, ko kuri Murekatete nawe hatagaragazwa imirimo yari agiye gukora, uwo yari agiye gukorera ndetse n'igihembo yari guhabwa.

[23] Mukakabano Nadia Yazida avuga ko umushinjacyaha atagaragaza isoko bari bagiye gucuruzaho Murekatete, uwari ugiye kugura n'igiciro bari kubaha. Asobanura ko yabaye muri Oman kuva 2012 kugeza 2014, aragaruka, ko ariho yamenyeye Nyirabagenzi Mariam bahuriye kuri whatsapp, urubuga rw'abanyarwanda baba muri Omani, nyuma baza guhura bagarutse mu Rwanda baramenyana, ko ari naho yamenyaniye n'abandi barimo uwitwa Salima na Inès basubiye muri Omani bashakiwe akazi na company yo muri Kenya. Avuga ko uwo Salima ariwe wamuhuje na Lydia, umurundikazi ukora muri iyo company, kugira ngo nashaka gusubirayo azamufashe, ko ari muri ubwo buryo yabonye nimero

z'uwo Lydia, maze Nyirabagenzi amubwiye ko ashaka gusubira muri Omani nawe arazimuha kugira ngo azamufashe gushaka akazi kubera ko we atashakaga gusubirayo.

[24] Akomeza avuga ko atibuka igihe yahereye Nyirabagenzi izo nimero kandi ko atamubwiye icyo yavuganye na Lydia, ko atanamumenyesheje iby'urugendo rwe na Murekatete. Yongeraho ko Nyirabaganzi Mariam ari umuntu mukuru, ko aho muri Omani yari asanzwe ahazi yarahabaye azi ko ntabyo gucuruza abantu bihakorewa, ukaba utanakorerwa ubundi bugizi bwa nabi kuko iyo ugiyeyo uca muri polisi yaho, ugakorana amasezerano n'umukoresha wawe, yarangira ukongera ugaca muri polisi yaho bakagusinyira ugataha, ko na Murekatete nawe ari mukuru nta wari kumushyiramo ikintu adashaka.

[25] Me Minsiragwira Assumani, avuga ko kuba Mukakabano Nadia Yazida yaratanze nimero ya telefone atari igikorwa kigize icyaha cyo gucuruza abantu, bikaba bitanagize ubufatanyacyaha, kuko iyo bari muri Omani baba bariyo mu buryo buzwi, ko rero hashingirwa ku ngingo ya 165 y'itegeko ryerekeye imiburanishirize y'imanaza z'inshinjabyaha akagiwa umwere.

UKO RUKIKO RUBIBONA

[26] Urukiko rusanga Mukakabano Nadia Yazida yemera ko ariwe wahaye Nyirabagenzi Mariam nimero ya telefone ya Fatima bita Lydia wari kumufasha kubona ibyangombwa byo kujya gukora muri Omani. Rusanga anavuga ko nawe atarahura n'uwo Fatima bita Lydia ariko ko nimero ze yazimenye bitewe n'undi mukobwa witwa Salima uri muri Omani kugira ngo nashaka gusubirayo azamuceho kuko akora muri company yo muri Kenya ibashakira akazi.

[27] Urukiko rusanga kandi mu miburanire ya Nyirabagenzi no mu mvugo ze abazwa avuga ko Mukakabano Nadia ariwe wamuhuje na Lydia bari gusanga i Kampala kandi ko yari yamwijeje ko azabashakira ibyangombwa byo kujya muri Omani, ko nawe bavuganye umubwira ko azaba ari kumwe na Murekatete, anavuga ko ari Nadia wahaye nimero za telefone z'uwo Lydia abandi bakobwa bagiye mbere yabo bitwa Sayidati na Dalira.

[28] Urukiko rusesenguye ibiteganywa n'ingingo ya 251 y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 ryavuzwe, rusanga kugira uruhare mu kuvana abantu mu gihugu bigaragarira mu buryo ubwo ari bwo bwose, umuntu abikoze ku giti cye cyangwa abicishije ku wundi. Urukiko rugasanga rero kuba Mukakabano Nadia yaratanze nimero za telefone mu rwego rwo guhuza Nyirabagenzi Mariam na Murekatere Amina n'uwo bita Fatuma cyangwa Lydia bari guhurira i Kampala muri Uganda kugira ngo abafashe gushaka ibyangombwa byo kujya muri Omani bigaragaza ko yagize uruhare mu kuvana Murekatete Amina mu Rwanda amujyanye mu mahanga agamije kumucuruza.

[29] Urukiko rusanga ibyo avuga ko nta ruhare yagize mu cyaha akurikiranyweho ngo kuko icyo yatanze ari nimero za telefone gusa kandi akaziha Nyirabagenzi wari usanzwe azi muri Omani, nta shingiro bifite kuko urebye uko asobanura uburyo yamenyanye n'uwo Fatima bita Lydia n'uburyo Nyirabangezi asobanura uburyo yamuhaye nimero ze, akanamubwira abandi bakobwa yazihaye akababafasha ndetse nawe akamwizeza ko azabafasha kubona ibyangombwa no kubona akazi, ndetse na Nyirabagenzi akavugana n'uwo Lydia amubwira ibya Murekatete bari kujyana bigaragaza ko Mukakabano Nadia Yazida akorana n'uwo muntu bita Fatima cyangwa Lydia basanga i Kampala kandi akaba azi neza ko abo amwoherereza nta kindi kiba kigamijwe uretse kubacuruza kuko avuga abandi

bakobwa baba muri Omani batavuga icyo bakora, akaba yaranabwiye Nyirabagenzi abandi bakobwa baciye kuri uwa bita Fatima ariko ntibagaragaze aho baherereye uretse kuvuga muri Omani.

[30] Urukiko rusanga kuba Mukakabano Nadia atari aziranye na Murekatete Amina, atazi na gahunda yari afitanye na Nyirabagenzi Mariam bitavuze ko nta ruhare yagize mu gikorwa cyo gushaka kumujyana mu mahanga hagamijwe ku mucuruza kuko, nk'uko byasobanuwe hejuru, yagize uruhare rwo kubahuza n'uwo bita Fatima cyangwa Lydia, abaha nimero ye ya telefone bavuganiragaho ndetse akanabizeza ko azababafasha kubona ibyangombwa byo kujya muri Omani n'akazi, ikindi kandi bikaba bitari ngombwa ko amenyana nawe kuko ikirebwa aha ari uruhare yagize mu rwego rwo kumwohereza hanze y'igihugu n'icyari kigamijwe.

[31] Harebwe ariko ibiteganywa n'ingingo ya 27 y'Itegeko Ngenga N°01/2012 ryo kuwa 02/05/20012 ryavuzwe ivuga ku byerekeranye n'ubwinjiracyaha, rusanga igikorwa Mukakabano Nadia yakoze kigize icyaha cy'ubwinjiracyaha mu cyaha cyo kugira uruhare mu kuvana abantu mu gihugu agamije kubacuruza kuko Murekatete yagaruriwe ku mupaka ntabashe kugera ku mugambi we.

Ibyerekeranye n'ibihano

[32] Ubushinjacyaha busabira Mukakabano Nadia Yazida na Nyirabagenzi Mariam igifungo cy'imyaka icumi n'ihazabu igera kuri miliyoni eshanu.

[33] Nyirabagenzi Mariam avuga ko nta ruhare yagize mu kugenda kwa Murekatete Amina, ko atari we wamushishikarije ko bose bagendaga bavugana n'abo bari guhura uko bizagenda. Anavuga ko afite abana ba mukuru we arera bafite uburwayi budakira, ko nyina ari umukecuru nta muntu wundi wabarera aramutse afunzwe, ko ari yo mpamvu yari yafashe icyemezo cyo gusubira muri Oman gushaka akazi.

[34] Mukakabano Nadia Yazida avuga ko yasabye ko ubushinjacyaha bugaragaza ibiganiro byari kuri telefone ye yagiranye na Fatima ariwe Lydia ariko ko butabitanze, ko yanabubwiye ko afite abana, barimo umwe wavuye mu ishuli ariko ntibwabiha agaciro.

[35] Me Assumana Minsiragwira ubunganira avuga ko ibimenyetso birimo gushidikanya kuko ubushinjacyaha butagaragaza ko bari bagiye kugurisha Murekatete Amina, ko rero hashingirwa ku biteganywa n'ingingo ya 165 y'Itegeko ryerekeye imiburanishirize y'imanza z'inshinjabyaha abo yunganira bakagirwa abere kuko gushidikanya birengera ushinjwa.

[36] Ingingo ya 251 iteganya ko umuntu wese ugira uruhare, ku buryo ubwo ari bwo bwose, ari we cyangwa abicishije ku wundi, mu gutorokesha umuntu avanywe mu Rwanda ajyanywe mu mahanga agamije kumucuruza : 1° akoresheje ubushukanyi, imbaraga, ibikangisho n'ubundi buryo bw'agahato; 2° yishingikirije ibibazo umuntu afitanye n'ubuyobozi, ubutabera, ubupfubyi, ubukene, kwibana, ubumenye buke, imirimo ivunanye, umuryango w'indahekana, ibura ry'akazi, uburwayi, ubumuga bw'umubiri cyangwa bwo mu mutwe, icyuho mu itegeko n'ibindi byatuma umuntu muzima akora ibyo atatekereje ahanishwa igifungo kuva ku mwaka umwe (1) kugeza ku myaka itatu (3) n'ihazabu y'amafaranga y'u Rwanda kuva ku bihumbi magana atanu (500.000) kugeza kuri miliyoni ebyiri (2.000.000).

[37] Urukiko rusanga nk'uko rwabisobanuye mu bika bibanza ibikorwa Nyirabagenzi Mariam na Mukakabano Nadia Yazida bakoze bigize icyaha cy'ubwijiracyaha mu cyaha cyo kugira uruhare mu kuvana abantu mu gihugu kuko hagaragajwe ko Nyirabagenzi Mariam yashishikarije Murekatete Amina

kujyana nawe muri Omani, bakanamufata amujyanye naho Mukakabano Nadia Yazida akaba yarabahuje n’uwo bita Fatuma cyangwa Lydia bari gusanga i Kampala akabafasha kujya muri Omani.

[38] Urukiko rusanga rero hashingiwe ku biteganywa n’ingingo ya 251 y’Itegeko Ngenga N^{o}01/2012 ryo kuwa 02/05/2012 ryavuzwe n’iya 30 y’iryo tegeko Ngenga ivuga ku ihananwa ry’ubwinjira cyaha cy’ubugome cyangwa gikomeye, buri wese yahanishwa igifungo cy’umwaka umwe n’amezi atandatu n’ihazabu y’amafaranga ibihumbi 500.000 Frw.

III. ICYEMEZO CY’URUKIKO

[39] Rwemeje ko Nyirabagenzi Mariam na Mukakabano Nadia Yazida bahamwa n’icyaha cy’ubwinjiracyaha mu cyaha cyo kugira uruhare mu kuvana abantu mu gihugu.

[40] Ruhanishije buri wese igihano cy’igifungo cy’umwaka umwe (1) n’amezi atandatu (6) n’ihazabu y’amafaranga ibihumbi 500.000Frw.

[41] Rutegetse ko basonerwa amagarama y’urubanza kuko baburana bafunze

[42] Rwibukije ko kujurira bikorwa mu gihe kitarenze ukwezi kumwe (1), kubarwa uhereye igihe urubanza rusomewe.