M.A v KING FAISAL N'ABANDI

[Rwanda URUKIKO RWISUMBUYE - RC 00118/2019/TGI/GSBO (Mukantabana, P.J.) 09 Mata 2021]

Amategeko agenga imanza z'imbonezamubano – Uburyozwe – Uburyozwe buturutse ku makosa yo mu ubuvuzi (Medical liability) – Uburyozwe bw'ibitaro – Iyo umuganga cyangwa umuforomo ari mu bitaro nk'umukozi wabyo, atuma ibitaro biryozwa ibikorwa by'uburangare, we nk'umukozi, yakoze mu mbibi z'akazi ke (vicarious liability)

Amategeko agenga imanza z'imbonezamubano – Uburyozwe – Uburyozwe buturutse ku makosa yo mu ubuvuzi (Medical liability) – Uburangare – Iyo Ibitaro bishigingiye kuri raporo y'ibisubizo by'ibizamini bitari byo (wrong diagnosis) yakozwe n'ibindi bitaro bikabaga umurwayi bikamuvanaho igice cy'umubiri bitabanje gusuzuma bundi bushya, nyuma bagasanga ko iyo ndwara ntayo biba bikoze igikorwa cy'uburangare.

Amategeko agenga imanza z'imbonezamubano – Uburyozwe – Uburyozwe buturutse ku makosa yo mu ubuvuzi (Medical liability) – Uburangare – Gusuzuma umurwayi no kumuha ibisubizo by'ibizamini bitari byo (wrong diagnosis) – Kuba umuganga asuzuma akanatanga ibisubizo by'indwara (Pathologist) yatenze ibisubizo by'ibizamini yafashe yemeza ko umurwayi arwaye cancer kandi ntayo arwaye, ibyo bisubizo bikashingirwaho abagwa kandi nta cancer arwaye aba akoze igikorwa cy'uburangare.

Incamake y'ikibazo: M.A yagize ikibazo cy'ibere kuko yumvaga harimo akabyimba kandi kakajya kamurya hanyuma aza kugana ibitaro bya King Faisal baramusuzuma hanyuma inzobere ziyobowe na Kyonkunda zemeza ko arwaye cancer y'ibere ibyo bitaro binasaba ko yabagwa byihutirwa. Kubera ubushobozi buke bwo gukomeza kwivuriza muri ibyo bitaro, urega yaje kujya kwivuriza mu bitaro bya Gahini dore ko byo biri hafi n'aho yari atuye nabyo bibonye bidafite ubushobozi bwo kumubaga bimwohereza kuri Rwanda Military Hospital. Agezeyo yaberetse impapuro z'ibizamini yakoresheje zigaragaza ko afite cancer y'ibere hanyuma abaganga baramuganiriza abasaba ko bamukorera ikindi kizamini ariko bo bamubwira ko ikizamini yakorewe muri King Faisal gihagije nta mpamvu yo kongera kumupima bahita banamubaga. Nyuma yo kubagwa, abaganga bo muri ibyo bitaro bafatanyije n'abo mu bitaro bya King Faisal bamukoreye ikindi kizamini cyo kureba ko mu mubiri we harimo uturemangingo twa cancer basanga ntaturimo bemeza ko nta cancer yari arwaye. Nyuma yo gukurwaho ibere, yakomeje kujya agira ububabare bituma ahitamo gushaka uko yabona indishyi zo kuba yarakuweho urugingo rudafite ikibazo bikaba byaramuteye ubusembwa.

Amaze kubona ibyo, urega yareze Ibitaro bya King Faisal mu Rukiko Rwisumbuye rwa Gasabo nabyo bigobokesha Kyonkunda na Rwanda Military Hospital asaba ko byamuha indishyi zikomoka ku bushishozi buke bwatumye atakaza urugingo rwe aho ibitaro bya King Faisal byemeje ko afite cancer y'ibere kandi ntayo afite, ibitaro bya Rwanda Military Hospital nabyo bigahita bimubaga ibere bitabanje gukora ikindi kizamini kandi hari hashize amezi umunani hakozwe ikizamina cya mbere.

Ibitaro bya King Faisal bivuga ko bitigeze bivura urega ku buryo byaryozwa ubumuga yatewe no kumubaga ibere rikavaho burundu ngo kuko n'itegeko rigenga ubwishingizi ku buryozwe bw'ubuvuzi riteganya ko uburyozwe bureba igikorwa cy'ubuvuzi cy'umuganga wavuye

umurwayi kandi urega akaba ataravuwe n’umuganga wo muri ibyo bitaro kuko umuganga yari afite ubundi buryo bwo kuvura umurwayi atamubaze kuko hari uburyo bwinshi bwo kuvura cancer. Ikindi kandi ni uko ibipimo byagaragaje ko umurwayi yari afite cancer yo mu rwego rwa kabiri yashoboraga kuvurwa hakoreshejwe ubundi buryo butari ukubaga kuko kubaga aribwo buryo bwanyuma bukoreshwa cyane cyane kuri cancer yo mu rwego rwa gatatu hakaba haragombaga rero gukoresha ubwo buryo bundi butari ukubaga. Bikomeza bisobanura ko hari imanza z’inkiko zitandukanye ku isi zisobanura ko abaganga b’inzobere mu kuvura indwara n’abaforomo muri rusange ntibashobora kuryozwa igikorwa cyo gusuzuma cyangwa kuvura indwara mu buryo butanoze.

Rwanda Military Hospital yiregura ivuga ko mu buryo bwa gihanga, umuganga wemewe kandi ubizi iyo yakoze igikorwa undi muganga aba adashobora kumuvuguruza ko ahubwo areba ibikubiye mu mwanzuro wakozwe na mugenzi we bityo Umuganga wo mu bitaro bya Rwanda Military Hospital bitari ngombwa gukorera umurwayi ikindi kizamini kuko icyakozwe cyari gihagije bagasanga uwakoze ikizamini cyemeza ko urega afite cancer y’ibere ariwe wagize uburangare akaba ari nawe ukwiye kubazwa indishyi.

Kyonkunda we avuga ko atasabwa kuryozwa indishyi kuko atikoreraga ahubwo yakoreraga ibitaro bya King Faisal kandi ngo nta raporo yigeze akora yoherereza umurwayi umuganga isaba ko yabagwa. Akomeza avuga ko umurwayi atanabazwe kubera raporo ko ahubwo byatewe n’uko yari asanganwe ubundi burwayi bw’ubuhumekero akaba aribyo byatumye abagwa.

Incamake y’icyemezo: 1. Uburyozwe bw’indishyi bushingiye ku ikosa ry’umuganga buba uburyozwe bw’ikigo akorera iyo yakoze ayo makosa ari mu kazi ke, nubwo ayo makosa adatandukanwa n’uwayakoze ariko ko aho akorera naho bafitanye isano n’aho umurwayi yakorewe amakosa. Bityo, King Faisal Hospital Rwanda Ltd igomba kwirengera ikosa ryakozwe na Prof Dr Kyonkunda Lynnette, akaba umuganga wayo ryo kwemeza uburwayi bwa “cancer” kandi ntabwo M.A yari arwaye nkuko byaje kugaragara nyuma yo kumubaga.

2. Iyo Ibitaro bishigingiye kuri raporo y’ibisubizo by’ibizamini bitari byo (wrong diagnosis) yakozwe n’ibindi bitaro bikababaga umurwayi bikamuvanaho igice cy’umubiri bitabanje gusuzuma bundi bushya, nyuma bagasanga ko iyo ndwara ntayo biba bikoze igikorwa cy’uburangare. Bityo kuba ibitaro bya Rwanda Military Hospital byabaze umuryayi bigendeye kuri raporo itavugisha ukuri ko umuntu arwaye koko bitabanje gusuzuma bundi bushya umurwayi, bikizera ibipimo bya King Faisal Hospital Rwanda Ltd byakoze igikorwa cy’uburangare.

3. Kuba umuganga asuzuma akanatanga ibisubizo by’indwara (Pathologist) yatenze ibisubizo by’ibizamini yafashe yemeza ko umurwayi arwaye cancer kandi ntayo arwaye, ibyo bisubizo bikashingirwaho abagwa kandi nta cancer arwaye aba akoze igikorwa cy’uburangare. Bityo kuba umuganga wa King Faisal Hospital Rwanda Ltd yasuzumwe akanatanga ibisubizo by’indwara ya M. A yemeza ko arwaye cancer kandi ntayo arwaye, n’ikikorwa cy’uburangare gikwiye kuryozwa indishyi.

Ikirego gifite ishingiro.

Amategeko yashingiweho:

Itegeko Nshinga rya Repuburika y'u Rwanda ryo kuwa 04/Kamena 2003 nkuko ryavuguruwe kugeza ubu, Ingingo ya 22.
Itegeko N° 22/2018 ryo ku wa 29/04/2018 ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi, ingingo ya 111.
Itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ku mwuga w'ubuvuzi, ingingo ya 2,3,5,13.

Imanza zifashishijwe:
Urubanza KAMATENESI v. KING FAYCAL HOSPITAL RWANDA Ltd - [2019] 2 RLR

Urubanza

I. IMITERERE Y'URUBANZA

[1] M.A ahagarariwe na Me Rutayisire Ildephonse yatanze ikirego cy'indishyi avuga ko zikomoka kubushishozi bucye byatumye atakaza urugingo rwe rw'ibere rimwe ry`iburyo, arega King Faisal Hospital nayo igobokesha Pof.Lynnette Kyonkunda Sinior Consultant Pathologist ufite RMDC 3234 na Rwanda Military Hospital. Me Rutayisire Ildephonse asobanura ko urega afite imyaka 43, King Faisal Hospital ikaba yaremeje ko arwaye cancer ubwo yajyaga kuhakoresha ikizami kuko yari afite akabyimba kwibere ry'iburyo kamuteraga uburibwe bwazaga rimwe na rimwe muri iryo bere.

[2] Uburanira urega avuga ko M.A yabonyeko akomeje kubabara kandi kwa muganga barababakanguriraga kwisuzumisha vuba mu gihe bumvise akabyimba mw'ibere, nibwo yagiye Legacy Hospital kuwa 31/07/2917 abonana na Dr Subira Manzi, amaze kumukorera ikizamini cya mammography, yahise amuha Transfer Form imujyana kuri King Faisal Hospital kugirango akorerwe ikizamini cya Core Biopsy. Tariki 02/08/2017 ahabwa results aho ikizamini cyahawe nimero Biopsy: 715/17 cyasohotse cyemezako arwaye cancer yo mubwoko bwa Ductal Carcinoma Grade 2 (TOTAL SCORE 0 + 6/7) y'ibere ry'iburyo nkuko bigaragazwa muri rapport yacyo ya King Fiasal Hospital yemejwe n'umuganga wabo witwa Prof. Kyonkunda Lynnette Sinior Consultant Pathologist, akaba ariwe wakoze verification.

[3] Me Rutayisire Ildephonse akomeza asobanura ko icyo gihe muganga witwaga Dr Raymond wari umuganga wa Cancer z'abagore muri King Faisal Hospital yohereje M.A kuri DR Ntirenganya Faustin (CHURGIE) amaze kumuha igisubizo cyuko arwaye cancer yibera yitwa DUCTAL CARCINOMA OF GRADE 2(TOTAL SCORE 0+6/7) amubwira ko akwiye kwihutira kubagwa. Docteur Ntirenganya Faustin amaze kubona uyu murwayi hamwe niyo rapport, yandikiye King Faisal Hospital asaba M.A gusubira King Faisal Hospital gukoresha ibizamini bibili aribyo 1. mmuno – histochemisrty, yakorewe King Faisal Hospital tariki 08/11/2017. 2. CT SCAN ikorerwa ahitwa Mediheal Diagnostic & Fertility Center kuwa 27/10/2017. Result za CT SCAN ya Mediheal Diagnostic & Fertility Center, rapport yabo yagaragaje ko nta metastasis igaragara, bisobanura ko nta cancer yari yakwirakwira mu mubiri, ariko ibyo ngo ntibyakuragaho ko atagomba kubagwa kuko byari byemejwe n'ikizamini cya BIOPSY gifite N^{O} 715/17 cyemejwe na Prof.Kyonkunda Lynnette senior consultant pathologist wa King Faisal Hospital.

[4] Uyu M.A amaze kubona ko bihenze kwivuriza ku Nkurunziza na King Faisal Hospital, yaje gutaha asaba transfer ku bitaro bimwegereye bya Gahini District Hospital yitwaje results za King Fiasal Hospital zagaragazaga ko arwaye cancer y'ibere ry'iburyo Ductal carinoma. Maze abaganga b'ibitaro bya Gahini babonye ko arwaye canseri kandi bo batabasha kumubaga, bamuhaye transfer kuwa 28/11/2017 ijya kuri Rwanda Military Hospital service ya surgery/oncology.

[5] M.A ageze kuri Rwanda Military Hospital muri service ivura cancer yaberetse ibizamini yakoresheje: King Faisal Hospital abaganga ba Kanombe bamaze kubona ko arwaye cancer yibere ry'iburyo nkuko byemejwe na King Fiasal Hospital babanje kumuvura mubuhumekero kuko yarasanzwe afite ikibazo cya Asthma. Yaje gukorerwa CT SCAN mubitaro bya Kanombe nanone mbere yuko abagwa iryo bere na Dr Lule Samuel kuwa 06/03/2018.

[6] Nyuma yo kubagwa yaje gukorerwa ikindi kizamini cyitwa Mastectomy specimen, basanga nta cells za cancer (no atypical cells) afite nkuko bigaragara muri rapport ya Rwanda Military Hospital bise Clinical Narration yo kuwa 12/03/2018. Bamubwiye ko nta cancer yibere afite. Ibi byasobanuwe n'abaganga babigaragaza muri rapport yo kuwa 07/05/2018. Banamubwira ko nta miti ya cancer acyeneye.

[7] Me Rutayisire Ildephonse uburanira urega akaba avuga ko ikosa ryakozwe na King Faisal Hospital yemeje ko M.A arwaye Cancer (Ductital carcinoma grade 2) byatumye abaganga ba RMH bamukuraho ibere bitari ngombwa nkuko rapport zibigaragaza cyane ko iyanyuma ibyo bitaro byombi RMH na KFH bihuriyeho yo kuwa 07/05/2018 ibigaragaza, nyuma yo kumubaga ibere nta Cancer arwaye ngo byamuviriyemo kubura urugingo (ibere) bitari ngombwa kandi mu gihe yarakiri mu myaka 43 yo kubyara, ngo binamuviramo ubumuga, agahinda, Psychological, stigma, ubukene n'ibindi, akaba ariyo mpamvu asaba indishyi.

[8] Kuba kandi n'ibitaro bya Rwanda Military Hospital aribyo byabaze urega bigendeye kuri results za King Fiasal Hospital, Me Rutayisire Ildephonse akaba agaragaza ko yabazwe hashize amezi 8 nyuma yuko results za King Faisal Hospital zemeje ko arwaye kanseri , Rwanda Military Hospital ntiyongere gukora ikizami mbere yo kubaga ngo barebe niba iyo canseri ihari koko n'igipimo yaba igezeho, asaba urukiko ko rwasuzuma niba ibi bitaro byombi Rwanda Military Hospital na King Faisal Hospital byaryozwa indishyi.

[9] Urega uhagarariwe na Me Rutayisire Ildephonse akaba asaba indishyi zishingiye ku kuba M.A ubu adafite amabere yombi ndetse n'imbaraga ze zikaba zaragabanutse kuko ingingo ze zituzuye, akaba abisabira indishyi zingana na 100,000,000F zuko King Faisal Hospital mu bushishozi bwayo bucye, byatumye M.A abagwa ibere barikuraho burundu kandi bitari ngombwa. Indi mpamvu Me Rutayisire Ildephonse uhagarariye M.A ashingiraho ikirego cy'indishyi ni uko bamukuyeho urugingo rwe rw'ibanze nk'umugore ufite umugabo ndetse yari akiri mu myaka yo kubyara ashobora kwongera kubyara abisabira indishyi z'akababaro zingana na 100,000,000frw.

[10] Ikindi ni uko M.A uko kubagwa ngo byaramusigiye ububabare ahorana kandi bitaringombwa, bigatuma agira n' ipfunwe mu bandi bagore bamubona afite ibere rimwe,ndetse bikaba bishobora kumugiraho ingaruka mu rugo rwe imbere y'umugabo kuko atagifite amabere yose,abisabira indishyi z'ibangamiraburanga zingana na 100,000,000 FRWS, no kuba ngo akibabara kandi akeneye kugura ikintu cyabugenewe batanga kwa muganga cyambarwa n'abagore

badafite amabere yose, ndetse ko gihenze uyu urega atabasha kukigurira, hakiyongeraho agahinda ahorana, ibi byose akaba aribyo asabira indishyi zisobanuwe haruguru.

[11] Me Rutayisire Ildephonse anasaba indishyi zingana na 5,000,000FRWS kuko urega yiyambaje umunyamategeko atanga iki kirego, dore ko ngo King Faisal Hospital yanze ko ikibazo cyirangizwa mu bwumvikane mu ibaruwa urega yayandikiye yo kuwa 06/12/2018 banga kuyisubiza.

[12] Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital yireguye avuga ko ibitaro ahagarariye bitigeze bivura M.A kuburyo byaryozwa ubumuga yatewe no kumubaga ibere rikavaho mu buryo bwa burundu, avuga ko itegeko rigenga ubwishingizi k'uburyozwe bw'ubuvuzi riteganya ko uburyozwe bureba igikorwa cy'umuganga wavuye umurwayi, bityo kuba King Faisal itarigeze ivura urega, ko ntacyo ashobora kuryoza King Faisal Hospital ko uwamuvuye yari afite ubundi buryo bwo kumuvura atamubaze ibere. Avuga ko ntaruhare King Faisal yakoze muricyo cyemezo n'igikorwa cyo kumubaga ibere, akaba asanga ntaburyozwe akwiriye gusaba Faisal. Me Isaac Mockey Bizumuremyi nawe yasabye Igihembo cy’Avocat kingana na FRWS 15,000,000 harimo n’amafaranga y’ikurikirana rubanza.

[13] Rwanda Military Hospital ihagarariwe mu rubanza na Me Gumisiriza Hilary avuga ko uhagarariyeM.A yagaragaje indishyi aregera arazisobanura ashingiye ku gikorwa cy'ubuganga cyakozwe na King Faisal, ko ikibazo gihari kiri scientifique, kuri we akaba ngo atumva aho urukiko rwashingira , rudashingiye kuri raporo iri scientifique kandi ko mu mikoranire y'ibitaro nta bitaro bitegeka , ariko scientifiquement ngo umuganga wemewe kandi ubizi iyo yakoze igikorwa ngo ntabwo undi aza kumuvuguruza , ko areba ibikubiye mu mwanzuro wakozwe na mugenzi we, akaba asanga negligence Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital avuga ko yakozwe na Rwanda Military Hospital ntayabayeho. Me Gumisiriza Hilary avuga ko umuganga wa Rwanda Military Hospital yakoze ibyagombaga gukorwa kandi ngo yashingiye ku byari byemejwe, byari byabonywe na muganga wa Faisal. Avuga ko muganga yabisobanuye neza ko urega iyo aba amaze amezi umunani arwaye cancer aba yarapfuye, ahubwo ngo bagaragaje ko ari asima arwaye, akaba asanga negligence yarakozwe n'umuganga wapimye ko hari cancer, nyamara nyuma akemeza ko idahari, ku ruhande rw’ ibitaro bya gisirikare akaba abona nta buryozwe by’indishyi ubwo aribwo bwose kuko nta kosa byakoze mu rwego rw'ubuvuzi

[14] Uburanira Prof. Kyonkunda Lynnette Me Gatari salim steven avuga ko uwo ahagarariye muri uru rubanza ataryozwa indishyi kuko yakoreraga King Faisal Hospital atikoreraga ku giti cye , ikindi ngo nta na raporo yakozwe igaragaza ko yohererejwe umuganga kugira ngo urega ajye kubagwa ,kuko ngo no kuri page ya 2 ya raporo hari hagaragajwe ko niveau ya cancer yari ku rwego rwa kabiri nayo igabanyijwemo uduce tubiri, ariko ngo iyo urebye neza usanga atarabazwe kubera raporo, ahubwo ko byatewe n'indwara yo mu bihaha, bivuze ko iyo aba adafite ubwo burwayi atari kubagwa. Kuba yarabazwe nyuma y'amezi umunani, Me Gatari salim steven akaba asanga bitumvikana ukuntu icyakozwe muri ayo mezi cyashingirwaho, hatabayeho kumukorera ibindi bizamini, akaba atanabona impamvu Rwanda Military Hospital itakoreye urega ibindi bizami birebana na niveau cancer igezeho ko byari gutuma bareka kumubaga. Avuga ko urukiko arirwo ruzashishoza ugomba gucibwa indishyi kuko we atamugena.

Ibibazo bisuzumwa mu rubanza

A. **Kumenya uruhare rwa King Faisal Hospital ku buryozwe bw'indishyi zisabwa n'urega no kumenya niba Prof. Kyonkunda Lynnette umuganga muri ibi bitaro hari indishyi yaryozwa ku giti cye.**
B. **Kumenya niba Rwanda Military Hospital itaragombaga gukorera ikizami M.A cyo kumenya ko arwaye cancer mbere yo kumubaga ibere nk'umuntu wari umaze amezi umunani akorewe icyo kizami n'uruhare rwayo ku buryozwe bw'indishyi zisabwa n'urega.**

II ISESENGURA RY'IBIBAZO MU RUBANZA

A. **ku kibazo cyo kumenya uruhare rwa King Faisal Hospital ku buryozwe bw'indishyi zisabwa n'urega no kumenya niba Prof. Kyonkunda Lynnette umuganga muri ibi bitaro hari indiahyi yaryozwa ku giti cye.**

[15] Me Rutayisire Ildephonse uburanira M.A avuga ko indishyi asaba azishingira k' ububabare ahorana bwaturutse ku bubagwa ibere ,aho umuganga wa King faisal Hospital witwa Prof.Kyonkunda Lynnette senior consultant pathologist yemeje ko ikizamini cya BIOPSY gifite N^{O} 715/17 cyemejwe tariki 02/08/2017 na King Fiasal nkuko iyo rapport ibigaragaza, aho Dr Raymond umuganga wa Cancer z'abagore muri King Faisal Hospital yohereje M.A kuri DR Ntirenganya Faustin (CHURGIE)amaze kumuha igisubizo cyuko arwaye cancer yibera yitwa DUCTAL CARCINOMA OF GRADE 2 (TOTAL SCORE 0+6/7). Ibijyanye no kubagwa ibere bikaba byarakorewe mu bitaro bya Rwanda Military Hospital, uburanira urega avuga ko yabazwe nyuma y'amezi umunani results za King Faisal HospitaL zemeje ko arwaye cancer.

[16] Uburanira urega avuga ko ibyo Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital ivuga ndetse n'ingingo z'amategeko ishingiraho ngo nizo ziyitsindisha, kuba yiyemerera ko aribo bamusuzumye ndetse bakemeza ko arwaye canser, ibi aribyo nkomoko yo kubagwa ndetse agakurwaho ibere, iyo batemeza ko arwaye cancer uyu urega aba atarabazwe, asobanura ko King Faisal Hospital yirengagiza ko igikorwa cyo gusuzuma ari kimwe mu bikorwa bigize ubuvuzi, ko bihura neza nibivugwa mungingo ya 2 y'itegeko rigenga umwuga wubuvuzi bashingiyeho, aha akaba yibutsa ko nyuma yuko uyu urega akurwaho ibere, King Faisal Hospital yakoze rapport yemeza ko yabazwe atarwaye canser, ko ibi ubwabyo ari ukwiyemerera icyaha inshuro ebyiri, urega akaba ariho ahera avuga ko iyo King Faisal Hospital itemeza ko arwaye canser aba atarabazwe ngo atakaze ibere rye burundu, akanibaza impamvu bemeje ko arwaye canser kandi ntayo arwaye , Me Rutayisire Ildephonse avuga ko ibi aribyo byemeza ko King Faisal Hospital igomba kwirengera amakosa yokoze yose ikaryozwa indishyi zasobanuwe haruguru .

[17] Me Rutayisire Ildephonse avuga kandi ko kuba n'ibitaro bya Rwanda Military Hospital aribyo byabaze urega bigendeye kuri results y'ikizami yari yatanze muri King Fiasal Hospital, zemezaga ko arwaye canser nyuma y'amezi munani yari ashize icyo kizami gikozwe, uku guhita babaga nyuma y'icyo gihe cyose cyari gishize ,ntibabanze gukora ikindi kizami, ahubwo bagakoresha ikizami bamaze gukuraho ibere, uburanira urega akavuga ko ikizami cyagaragaje ko M.A bamubaze ibere nta canser arwaye ko iyo Raporo King Faisal Hospital yayemeranijweho n'ibitaro bya Rwanda Military Hospital akaba ariyo mpamvu asaba urukiko ko rwasuzuma responsabilite y'ibitaro bya King Faisal Hospital na Rwanda Military Hospital byose bikaryozwe indishyi hagendewe ku makosa byakoze.

[18] Ku ruhande rw'uburanira King Faisal Hospital mu kwiregura Me Isaac Mockey Bizumuremyi,.asobanura ko urega avuga ko yabazwe ibere rye kubera raporo ya King Faisal Hospital yemezaga ko afite indwara ya cancer ,aha King Faisal Hospital ngo ihakana responsabilité nkuko isobanurwa n'urega kubera impamvu zikurikira: - Ikirego gishingiye ku kuba urega yarakuweho ibere rye burundu ariko nawe ubwe yemeza ko King Faisal Hospital atariyo yamubaze (yamuvuye) ,- King Faisal Hospital yakoze service ya Laboratoire gusa.- Ntabwo King Faisal Hospital yategetse ibitaro byavuye urega uburyo agomba kuvurwamo (kubagwa) kandi ngo hari uburyo bwinshi bwo kuvura cancer.

[19] Ikindi ngo ni uko King Faisal Hospital ntanga na recommendation y'uburyo ubwo aribwo bwose bwo kuvura urega. Aha bamenyeshaga urega ko kubaga umurwayi wa Cancer ukuyeho burundu igice cy'umubiri kirwaye ataribwo buryo bwonyine bwo kuvura (traitement) cancer,bivuze ko umuganga uvura umurwayi wa cancer ariwe uhitamo uburyo amuvuramo ashingiye kuri grade ya cancer ,aho igeze ikura, imyaka afite, amahirwe yo gukira, no kuba ishobora kongera kugaruka, ko ibyo byemezo abigeraho ashingiye k'ubumenyi bwe (compétence), ubushishozi (diligence), ndetse n'ibyuma (équipement) afite ashobora gukoresha mukuvura uwo murwayi (https://www.cancer.gov/about-cancer/diagnosis-staging/prognosis/tumor-grade-fact-sheet#how-does-tumor-grade-affect-a-patient8217s-treatment-options).

[20] Uburanira King Faisal Hospital akaba amenyesha urega ko résultats za Laboratoire zemeza ko umurwayi afite cancer, bidahagije kugirango umuganga ahite afata icyemezo cyo kubaga umurwayi cyangwa ngo ahite amenya uburyo ari buvuremo umurwayi. iyo umuganga amaze kubona umurwayi afite indwara ya cancer, akora icyo bita staging, ariyo gukora ibizamini bindi bigamije kugaragaza ukuntu cancer yaba yarasatiriye ibindi bice by'umubiri. Ko Cancer y'ibereye yo ibanza gusatira mukwaha ku kuboko kw'iruhande rw'ibere rirwaye. Iyo muganga amaze kumenya aho cancer igeze mumubiri, nibwo amenya uburyo azavura umurwayi.

[21] Me Isaac Mockey Bizumuremyi avuga ko hari uburyo bwinshi umuganga yahitamo gukoresha avura umurwayi wa cancer ariko ubukunzwe gukoreshwa cyane ni uburyo butatu (03) aribwo kubagwa (chirurgie). Ubu n'uburyo bwo kubaga umurwayi bagukuramo canser. Kugeza ubu hari uburyo butandukanye bwo kubaga canser y'ibere harimo ubu bukurikira: Lumpectomy – tumorectomie. (breast-conserving surgery). Uburanira uregwa avuga ko ubu ari uburyo bwa chirurgie aho muganga ahandura ikibyimba cya cancer kiri mwibere akakivanamo atabaze ibere ngo arikureho burundu, ni ukugaba ibere ukavanamo ikibyimbya kiri mw'ibere hamwe nindi nyama ntoya iri kurubande rw'ikibyimba. (La tumorectomie est l'un des traitements du cancer du sein qui consiste à retirer la partie du sein où se trouve la tumeur. Contrairement à la mastectomie, il s'agit d'une chirurgie conservatrice. Il est systématiquement suivi en radiothérapie. Naho Mastectomy [mastectomie Me Isaac Mockey Bizumuremyi avuga ko ubu nabwo ari uburyo bwo kubaga ibere rirwaye cancer ukarivanaho burundu. (La mastectomie est l'ablation chirurgicale du sein, le plus souvent réalisée après un cancer du sein. Lorsque le chirurgien n'enlève « que » la tumeur et conserve le reste du sein, on parle de tumorectomie ou d'opération conservatrice. Après une mastectomie, il est possible d'effectuer une reconstruction mammaire.

[22] Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital avuga ko ubu buryo ngo nibwo umuganga wa Kanombe Military Hospital yahisemo mu kuvura urega. Agaragaza ko urubuga rwa American Cancer Society (https://www.cancer.org/cancer/breast-

cancer/treatment/treatment-of-breast-cancer-by-stage/treatment-of-breast-cancer-stages-i-iii.html) rutanga amakuru y'inzobere mukuvura indwara ya cancer rwifashishije ibitabo by'inzobere z'abaganga ba Kanseri aribo; 1) Morrow M, Burstein HJ, Harris JR; 2) Sparano JA, rwemeza ko cancer yo kurwego rwa kabiri (ariyo urega yari yapimwe) yashoboraga kuvurwa atabazwe ibere ngo barivaneho burundu. Abo bahanga bavuga ko cancer yo kurwego rwa kabiri (Grade 2) ishobora kuvurwa muburyo bukurikira: Lumpectomy (tumorectomie). (breast-conserving surgery- BCS) yo guhandura ikibyimba mw'ibere udakuyeho ibere burundu, hakaba na Neoadjuvant and adjuvant systemic therapy (chemo and other drugs). Ubu buryo ngo umurwayi abanza guhabwa imiti mbere na nyuma yo kubagwa. Imiti ahabwa mbere yo kubagwa iba igamije gukumira development no gukwirakiwira kwa cellules za cancer no kugabanya ingano y'ikibyimba, cyamara kugabanuka muganga akagihandura atakuyeho ibere (Chirurgie mammaire conservatrice – BCS).

[23] Uburanira King Faisal Hospital asobanura ko ibi bivuze ko urega yashoboraga kuvurwa cancer adakuweho ibere bityo ibyo akaba yabibaza umuganga wahisemo kuvanaho ibere cyangwa se urukiko rugasuzuma niba urega atarasobanuriwe izo options akihitiramo icyo yifuza kuko ntamurwayi ubagwa nta consentement ibayeho nkuko yabisobanuye haruguru, avuga ko King Faisal Hospital itigeze itegeka cyangwa ngo itange recommendation yo kubaga ibere ry'urega rikavaho burundu, ko Rwanda Military Hospital yagombaga no guhitamo uburyo bwa Lumpectomy tumorectomie kandi urega agakira bitabaye ngombwa guhita abagwa agakurwaho ibere burudu.

[24] Ibi uburanira King Faisal Hospital abivuga kubera ko, urega yapimwe kuwa 01/08/2018, kuwa 27/10/2017 urega akorerwa staging kuri Mediheal nyuma y'amezi atatu basanga cancer itarigeze ikwirakwira, bisobanuye ko muganga yagombaga kumenya ko cancer ikiri hasi kubaga agakuraho ibere burundu bitari ngombwa. Ikindi kandi na nyuma ya Staging umurwayi yabazwe kuwa 06/03/2018 hashize amezi 4 n'iminsi 10 bivuze ko umuganga wabaze urega atagombaga kubaga umurwayi nyuma yigihe kingana kuriya (8 moins) atabanje kongera gupima ngo arebe uko kanseri ihagaze kugirango amenye inzira avuramo umurwayi.

[25] Me Isaac Mockey Bizumuremyi akomeza asobanura ko urubuga rwa American Cancer Society ruvuga ko umurwayi ufite cancer iri kuri Grade ya 3 aho ikibyimba gifite ingano irenga 5 cm, nabwo ashobora kuvurwa cancer yibere hakoreshwejwe uburyo bwa Lumpectomy (tumorectomie). (breast-conserving surgery- BCS) bwo guhandura ikibyimba mw'ibere udakuyeho ibere burundu, ubanje guha umurwayi imiti ya chimiothérapie mbere yo kumubaga chimiothérapie ikaba ituma ikibyimba kiba gito maze kigahandurwa mw'ibere bakoresheje uburyo bwa Lumpectomy (tumorectomie).

[26] Anabisobanura mu rurimi rw'igifaransa muri aya magambo: Il existe deux approches principales pour traiter le cancer du sein de stade III: À partir de la thérapie néoadjuvante, le plus souvent, ces cancers sont traités par chimiothérapie néoadjuvante (avant la chirurgie). Pour les tumeurs HER2-positives, le médicament ciblé trastuzumab (Herceptin) est également administré, parfois avec du pertuzumab (Perjeta). Cela peut réduire suffisamment la tumeur pour permettre à une femme de subir une chirurgie conservatrice du sein. Si la tumeur ne rétrécit pas suffisamment, une mastectomie est pratiquée. Les ganglions lymphatiques à proximité devront également être vérifiés. Une biopsie du ganglion sentinelle (SLNB) n'est souvent pas une option envisageable

pour les cancers de stade III; une dissection du ganglion axillaire (ALND) est donc généralement pratiquée.

[27] Souvent, la radiothérapie est nécessaire après la chirurgie. Si la reconstruction mammaire est effectuée, elle est généralement retardée jusqu'à la fin de la radiothérapie. Dans certains cas, une chimiothérapie supplémentaire (adjuvante) est également administrée après la chirurgie. Les femmes atteintes d'un cancer HER2-positif reçoivent du trastuzumab après une intervention chirurgicale pour compléter le traitement avec ce médicament pendant 6 mois à un an. Les femmes atteintes d'un cancer du sein à récepteurs hormonaux positifs (ER positif ou PR positif) recevront également un traitement hormonal adjuvant qui peut généralement être pris en même temps que le trastuzumab.

[28] À partir de la chirurgie Une autre option pour les cancers de stade III est le traitement chirurgical en premier. Comme ces tumeurs sont assez grosses et / ou se sont développées dans les tissus voisins, cela signifie généralement une mastectomie. Pour les femmes ayant des seins assez gros, le BCS peut être une option si le cancer ne s'est pas développé dans les tissus voisins. SLNB peut être une option pour certains patients, mais la plupart auront besoin d'un ALND. La chirurgie est généralement suivie d'une chimiothérapie adjuvante et / ou d'un traitement hormonal et / ou du trastuzumab. La radiothérapie est recommandée après la chirurgie. bityo ibisubizo bya Faisal bikaba ngo ntaho bihuriye na traitement yatanzwe nkuko yabisobanuye haruguru.

[29] Uburanira uregwa asobanura kandi ko indwara ya cancer ishobora kuvurwa hakoreshejwe uburyo bwa Radiothérapie aribwo bwo gushiririza cellules za Kanseri. Abishyize mu rurimi rw'igifaransa la radiothérapie (également appelée radiothérapie) est un traitement du cancer qui utilise de fortes doses de rayonnement pour tuer les cellules cancéreuses et réduire la taille des tumeurs. À faibles doses, les rayons X permettent de voir à l'intérieur de votre corps, comme pour les rayons X de vos dents ou vos os cassés.

[30] Uburyo Radiothérapie ikora: À des doses élevées, la radiothérapie tue les cellules cancéreuses ou ralentit leur croissance en endommageant leur ADN. Les cellules cancéreuses dont l'ADN est endommagé ne peuvent plus se diviser ou meurent. Lorsque les cellules endommagées meurent, elles sont décomposées et éliminées par le corps. La radiothérapie ne tue pas les cellules cancéreuses tout de suite. Il faut des jours ou des semaines de traitement avant que l'ADN soit suffisamment endommagé pour que les cellules cancéreuses meurent. Ensuite, les cellules cancéreuses continuent de mourir pendant des semaines ou des mois après la fin de la radiothérapie. Uburanira uregwa avuga ko ubu buryo nabwo bwashoboraga gukoreshwa, urega atabazwe ibere ngo barivaneho burundu.

[31] Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital avuga ko imiti ya chimiothérapie (Médicaments de chimiothérapie). Ko iyi miti yica Cellules za Kanseri, ikabikora yica cellules, ihagarika kandi inagabanya cellules za canseri mu rwego rwo kugirango zitiyongera mubwishi kugeza igihe izari mumuburi zishira burundu nyuma hagakorwa Radiothérapie ishiririza ibisigazwa bya cellules za Kanseri.

[32] Uburanira uregwa agaragaza ko hari ubundi buryo butari ubwo kubaga ibere bwagombaga gukoreshwa n'ibitaro bya Kanombe Hospital, akaba yibaza impamvu yatumye hafatwa icyemezo cyanyuma gikunze gukoreshwa muri cancer yo kuri Grade ya 3 ngo nkuko yabisobanuye haruguru.

Avuga ko ibi bisobanuro byoze atanze bigaragaza ko King Faisal Hospital ntaruhare yagize mu ibagwa ry'urega bityo ikaba ntaburyozwe bw'indishyi ikwiye gucibwa.

[33] Mu iburanisha ryo kuwa 03/09/2020 ubwo urubanza rwasubukurwaga bamwe mu baganga bari bakoze raporo y'uko indwara ya cancer ivurwa nkuko byari byategetswe n'urukiko bitabiriye kuza mu rukiko ngo bayisobanure uwitwa Manirakiza Ashille nyuma yo kurahira sobanuye raporo yo kuwa 25/08/2020, avuga ko ari raporo yakozwe kuri M.A , bahereye ku busabe bw'abaganga , ikorerwa kuri M.A , asobanura uko iyi raporo yakozwe banavugana naM.A , Docteur Manirakiza Ashille yagaragaje ko M.A yagiye kwivuriza kuri Legacy afite akabyimba ku ibere ry'iburyo abonana n'umuganga w'abadamu aramusuzuma.Avuga kandi ko uwo muganga yamwohereje kuri King Faisal bamukorera ikizamini cy'ibere bagendeye kuri examen ya ecographe.Bakora examen bavuga ko afite cancer y'ibere yo murwego rwa 2.Ubwo yamwohereje kubagwa ibere ku Nkurunziza abonanye n'umuganga ubaga,nyuma ajya ku bitaro bya Gahini ,nyuma nabo bamwohereza muri Rwanda Military Hospital kugirango bamubage.

[34] Uyu muganga Manirakiza Ashille akomeza asobanura ko interviw yakozwe hamwe n'umurwayi. Yabajijwe igihe yaboneye ko ibere rifite ikibazo, avuga ko ari hagati y'imyaka 4 na 5 mbere yo kujya Legacy, bamubaza ukuntu yamenye ibisubizo byo kuri King Faisal, asubiza ko yahawe rendez vous yo kujya gufata ibisubizo ababwira ko yabijyanye kuri Legacy abishyira muganga SUBIRA nawe amwohereza kwa Dusabe.Nyuma nibwo ku Nkurunzi bamusabye additional texts ajya kuzisaba nubundi kuko bagombaga gufata kuri ka kanyama. Bamubajije impamvu yagiye Gahini ababwira ko kwari ukugira ngo abone uko avurirwa mu ivuriro rya Leta. bamubajije impamvu yatinze kubagwa, avuga ko ari ukubera asma yari arwaye.

[35] Manirakiza Ashille avuga ko babajije urega niba yaraganirijwe kukuba bazamuvanaho ibere, avuga ko ariko byagenze ariko ko we yabasabye ko bakongera kumukorera isuzuma ariko umuganga amubwira ko ibyakorewe Kingi Faisal bihagije. Abajijwe impamvu yemeye ko bamubaga batongeye gupima avuga ko yatekereje ko ariko abaganga bakora. Abajijwe niba atashoboraga gusaba ko bamuvura ku bundi buryo batavanyeho ibere, asubiza ko ariko bo bafashe icyemezo. Abajijwe kukuba ariwe wasinye cyangwa hari undi wamusinyiye avuga ko ariwe wisinyiye ubwe, abajijwe ku buryo yabonye ibisubizo bya Kanombe nyuma yo kubagwa, avuga ko umukobwa we ariwe wagiye kubifata. Abajijwe uko yabyakiriye, asubiza ko byari bimubabajije kubera ukuntu yari yarabajije abaganga ubundi buryo bavuramo atari ukuvanaho ibere ryose ntibabyumva. Abajijwe niba hari impinduka cyangwa ingaruka yabonye mu mubiri nyuma yo kubagwa asubiza ko agifite uburibwe mu mu biri ku gice cy'iburyo. Abajijwe niba hari ibindi bizamini yafatwa kugira ngo bongere basuzume mu mubiri we, Asubiza ko akibitekerezaho. Abajijwe ikindi yifuza, avuga ko akeneye ubutabera ko ntawundi muntu yumva yagana kuko yarenganye.

[36] Docteur Manirakiza Ashille mu gusobanura raporo yakoze afatanyije na bagenzi be b 'abaganga yo kugaragaza uburyo indwara ya cancer ivurwa avuga ko bongeye kubaza n'umukobwa we, nawe asubiza ko nta kindi ko abaganga bajya bategа amatwi ababagana kuko nyina yasabye kenshi ko batarivanaho ntibamwumva. Avuga ko basabye M.A n'umukobwa we ko babasinyira kuri raporo baranga bababwira ko bashaka kopi kuriyo raporo.

[37] Docteur Manirakiza Ashille agaragaza ko mu busesenguzi bwabo basanze, kuvanaho ibere bingana no kuvanamo akabyimba ukongeraho radiotherapie. Ubu buryo bwo kuvura bwaje mu

Rwanda muri 2019, bivuga ko abaganga icyo gihe bakoresheje uburyo bari bafite, ko umuganga adakwiye kubaga atarabona ibizamini kandi ko ibizamini byakorewe King Faisal Hospital byakozwe nabi, bituma habaho kubaga nabi, ko umuntu wakoze Biopsy ariwe uba afite ububasha bugena uko kubaga bigenda, ko Biopsy yakorewe muri King Faisal Hospital ngo ariyo yateye ibyo bibazo.

[38] Umuganga Karinganire nawe uri mubakoze raporo igaragaza uko indwara ya cancer ivurwa nkuko byari byategatswe n'urukiko avuga ko Biopsy ariyo igaragaza standard y'uburwayi. Asobanura ko Biopsy yakorewe muri King Faisal Hospital yateye ibyo bibazo. Abajijwe niba nta bindi bizami byagombaga gukorwa n'ibitaro bya Kanombe mu rwego gukurikirana uwo muntu ngo hamenyekane ko yari arwaye Cancer koko, avuga ko yumva bitari ngombwa kuko King Faisal Hospital ari ibitaro bikomeye kandi n'umuganga wabikoze ari umuganga ukomeye n'abandi bareberaho ngo yumva bitari gukunda. Docteur Ashille yongeraho ko ibyo mugenzi we avuze ari ukuri, ko hari n'ikibazo cy'amafaranga, ngo uko batindaga niko uburwayi bujya ahandi.

[39] Me Mockey Bizumuremyi uburanira King Faisal Hospital avuga ko Docteur Ashille na Docteur Karinganire bagaragarije urukiko abo bavuganye nabo, ibyo basuzumye n'amakuru bahawe nyuma bajya kuri conclusion, ariko kandi ngo ntabwo yumvise basobanura uburyo cancer ivurwa, ko bakabaye bavuga kuri terme de referance bakagaragaza niba cancer y'uriya murwayi yari kuyihe etape, ko yari yizeye ko bavuga ko iyi cancer uyu yari ariho ngo ivurwa gute. Ku ruhande rwa King Faisal Hospital ngo bumva harimo icyuho(gap).

[40] Docteur Ashille yasabye ijambo avuga ko babivuze haruguru ko basanzwe bavura abarwayi ba cancer y'ibere, avuga ko kuvanaho ibere bingana no kuvanaho akabyimba ukongeraho radiotherapy. Bijyanye n'uko umurwayi yari afite stage ya 2 ko aribwo buryo barikumuvuramo. Ariko kuko yari arwaye asthma uburyo yavuwemo ngo nibwo bwajyaga kuba bwiza. Asobanura ko Terme de referance bafite nayo nuko mu ibaruwa bakiriye bababwiwe kujya kuri case ko bakoze ibyo bagombaga gukora.

[41] Nyuma y'ibisobanuro kuri raporo yakoze n'agaganga basobanuwe haruguru Me Mockey Bizumuremyi uburanira King Faisal Hospital avuga ko impuguke z'abaganga zitakoze inshingano zategetswe n'urukiko. Mucyemezo cy'urukiko gishyiraho abahanga babaganga murubanza RC 0011/2019/TGI/GSBO cyo kuwa 17/02/2020 mugika cya 9 kuri page ya 3, umucamanza yategetse abahanga gukora inshingano mumagambo akurikira: "Dutegetse ko Umukuru w' urugaga rw'abaganga gushyiraho itsinda ry'abahanga batatu bagomba gukora raporo irebana na procedure y'uko indwara ya cancer isuzumwa, ikemezwa, kugeza ivuwe, umurwayi abazwe, ndetse bakanayisobanura", nkuko raporo yabo bahanga ibivuga kurupapuro rwambere, ndetse nkuko banabisobanuye mu rukiko, bakoze inshingano bahawe n'urugaga rwabaganga rwabashyizeho, izo nshingano zikaba zitandukanye muri byose nizo urukiko rwategetse. izo nshingano z'urugaga ni The team tasked to give a detailed report on the following subjects: -Background and nature of the case- Interviews and interpretation, - Summary of the medical file notes- Findings and analysis- Responsibilities of any involved medical/paramedical staff with facts,- Conclusions and recommendations.

[42] Kuwa 23/10/2021 Me Mockey Bizumuremyi yashyize muri system ibaruwa igaragaza ko kuwa 17 Gashyantare 2020 mu cyemezo cyarwo, urugaga rwabaganga rwashyizeho abahanga batatu arino Dr. Kalinganire Emile, Dr, Achille Manirakiza, na Dr. Japhet Ntezamizero. Mu kirego

cya M.A , arega King Faisal Hospital Rwanda kuba yaramupimye ikemeza ko afite indwara ya cancer, uburanira uregwa akaba asanga harabayeho na “conflit d’interests” zabamwe mubahanga bakoze iriya raporo, agaragaza ko Docteur Emile Kalinganire na Docteur Achille Manirakiza ari abakozi b’ibitaro bya gisirikare (Rwanda Military Hospital) bahembwa n’ibyo bitaro ngo barengeye inyungu z’akazi k’ umukoresha wabo bituma badakora inshingano bahawe n’ Urukiko bakajya kuganira na M.A , ari kumwe n’umujyanama we muby’amategeko, ndetse nabandi bafitanye isano, akanga gusinyira ibyo yababwiye ariko bakabishingiraho mugufata umwanzuro wabo,kandi batarigeze bagera kuri King Faisal Hospital.

[43] Uburanira King Faisal Hospital avuga ko ibi bigaragaza ukubogama gukabije. Ko kandi bishoboka ko abaganga bakoze iyi raporo ariyo mpamvu banze kurahirira ibyo bakoze nkuko ingingo ya 93 y’itegeko rigenga ibimenyetso ibiteganya, avuga ko bashobora kuba bazi neza ko iyo bakora indahiro bajyaga kuzakurikiranwa n’amategeko nkuko bivugwa muri iyi ngingo, ashingiye ku ngingo ya 93 y’itegeko rigenga ibimenyetso mu manza n’itangwa ryabyo asaba ko raporo yakozwe n’abaganga yasobanuwe haruguru itashingirwago muri uru rubanza.

[44] Avuga kandi ko servise za laboratoire zatanzwe na Faisal zitari mubikorwa by’ubuvuzi buteganijwe n’itegeko rigomba gutangirwa indishyi bikaba bisobanuye ko Faisal ntagikorwa yakoze kivugwa mu ngingo ya 258 ya CCL III cyangwa iya 13 y’itegeko ryavuzwe haruguru ryerekeye ubwishingizi bw’ubuvuzi, ibi akaba abivuga mu buryo bwo kugaragaza ko nta n’uburyozwe bw’indishyi kuri Faisal.

[45] Kyonkunda Lynnette umuburanyi wa gobokeshejwe ku ngufu ahagarariwe na Me Gatari Salim steven avuga ko atarezwe ahubwo yagobokeshejwe na King Faisal Hospital, ko atari umu consultat, ahubwo yari umukozi w'ibitaro bya FAISAL, asobanura ko inshingano yubahirizaga ntabwo zari inshingano za Lynnette ahubwo yuzuzaga nk'umukozi w'ibitaro. Ikindi ni uko abaganga bagaragaje ko ikizamini cyakorewe mede hill nta cancer yakwiriye ahandi. Asobanura ko itegeko bakomeje kugarukaho rirebana n'ubuvuzi kuri Kyonkunda Lynnette ngo yakoze ibyo yagombaga gukora nk’umukozi w'ivuriro, ko urega atagannye King Faisal asanzeyo Kyonkunda Lynnette nk'umuconsultat we. Ikindi ni uko Lynnette icyo yakoze ari interpretat y’ ibyavuye muri laboratoire ya King Faisal Hospital, Lynnette ngo ni umuntu ku giti cye wakoreraga ibitaro.

[46] Ikindi Me Gatari salim steven uburanira Kyonkunda Lynnette yavuze nikijyanye na raporo yakozwe kuko ngo iyo urebye kuri page ya 2 y’iyo raporo babajije M.A , nyuma yo kubona raporo , asaba urukiko kuzareba ibibazo yagiye abazwa n’uburyo yagiye asubiza, avuga ko hari hagaragajwe ko niveau ya cancer yari ku rwego rwa kabiri nayo igabanyijwemo uduce tubiri , ariko iyo urebye neza usanga atarabazwe kubera raporo, ahubwo byatewe n'indwara yo mu bihaha, bivuze ko iyo aba adafite ubwo burwayi atari kubagwa, ko kuba yarabazwe nyuma y'amezi umunani , bitumvikana ukuntu ikizami cyakozwe muri ayo mezi cyashingirwaho, ikindi yasobanuye ko habayeho kumukorera ibindi bizamini , akaba yibaza impamvu batamukoreye ibireba niveau cancer yaba igezeho ngo babe batararetse kumubaga.

[47] Me Gatari salim steven asobanura kandi ko muri uru rubanza rwa M.A, ashingira ikirego cye ku kuba Dr. Kyonkunda Lynette wakoreraga mubitaro bya King Faisal Hospital Rwanda Ltd yaramusuzumye akemeza ko arwaye indwara ya Cancer bigashingirwaho n’umuganga wa Rwanda Military Hospital akamubaga ibere rye bakarikuraho. Muriyi nyandiko, agaragaza ko Dr. Kyonkunda nta makosa yakoze mu buryo bw’umwuga n’amategeko. Avuga ko uburyozwe

bw'umuganga buba iyo yagize uburangare mukazi ke bikagira ibyo byangiriza umurwayi yavuraga, akaba asanga uwo ahagarariye nta ndishyi yaryozwa muri uru rubanza.

[48] Me Isaac Mockey Bizumuremyi asobanura ko Dr. Kyonkunda Lynette ariwe wagize uburangare, (negligence) mu rwego rw'amategeko ko ari ukutita ku nshingano", agaragaza ko umucamanza Alderson asobanura "uburangare" ashingiye ku cyemezo cy'Urukiko Rukuru rwo mu Bwongereza (English High Court) mu rubanza hagati ya Blyth na. Birmingham Waterworks agira ati "uburangare ku nshingano ni ukwanga gukora igikorwa cyose umuntu wese utekereza, uri mu bihe bisa ubusanzwe bigenderwaho mu gukora ibikorwa nk'ibyo bya kimuntu, yashoboraga gukora cyangwa se umuntu wese ushishoza cyangwa utekereza atashoboraga gukora". Avuga ko abaregwa bagomba kuryozwa ibyo bikorwa kubera kutita ku nshingano zabo iyo nta mugambi wo kubikora bagaragaje, abagenjeje gutyo birengagije gukora ibyo umuntu utekereza yashoboraga gukora cyangwa se ibyo umuntu wese ubyitwararitse atashoboraga gukora".

[49] Me Isaac Mockey Bizumuremyi avuga ko ibisobanuro bigaragajwe haruguru, uburangare ku nshingano bigaragara iyo umuntu atabashije gukora ibyo umuntu utekereza yashoborga gukora. Mu rwego rw'umwuga w'ubuganga, igisobanuro cy' uburangare ku nshingano cyaje guhindurwa mu rubanza hagati ya Rex. na Bateman n'Umucamanza w'Umwongereza Lord Hewart CJ agaragaza ko ari igipimo ngenderwaho n'umuntu utekereza ukora uwo mwuga.

[50] Hagamijwe gusobanukirwa neza inshoza y'imikorere mibi y'umuganga nk'uko yasobanuwe n'inkiko zo mu bihugu bitandukanye ku isi, ni ngombwa gusobanurira abarwayi kimwe n'abandi bose bakenera serivisi z'ubuvuzi ko abakozi bo mu rwego rw'ubuvuzi batagomba kandi badashobora kugusezeranya kugukiza uburwayi ufite igihe cyose ubagana usaba serivisi zabo. Abaganga b'inzobere mu bijyanye n'uburwayi (Pathologists), abaganga bakora muri laboratwari, abaganga bafite ubumenyi rusange mu kuvura indwara, abaganga b'inzobere mu kuvura indwara n'abaforomo muri rusange ntibaryozwa kandi ntibashobora kuryozwa igikorwa cyo gusuzuma cyangwa kuvura indwara mu buryo budakwiye/ butanoze. Ihame ni uko kutishimira serivisi wahawe n'umuganga wawe n'ikiguzi watanze bitaganisha ku ikosa ryatuma hatangwa indishyi zishingiye kuri icyo gikorwa. Uburyozwe mu rwego rw'ubuvuzi bubaho iyo hagaragajwe uburangare ku nshingano bikozwe n'umuganga.

[51] Uburanira King Faisal avuga ko abakora mu rwego rw'ubuvuzi ntibatandukanye n'abandi bakozi nk'abacamanza, abanyamategeko, abacungamutungo, n'abagenzuzi. Atanga urugero rw' icyemezo cy'umucamanza cyateshejwe agaciro n'urukiko rw'ubujurire kubera kwibeshya ku itegeko, gusobanura nabi itegeko, cyangwa se indi mpamvu yose yatuma bidakorwa uko bikwiye, uwo mucamanza ntahanirwa kuba ataciye urubanza mu buryo buboneye avuga ko ibyo ni nako bigenda ku banyamategeko, abacungamutungo n'abagenzuzi. Umunyamategeko ntazahanirwa ko atatsinze urubanza rubarirwamo miliyoni z'amadolari biturutse ku bushobozi bwe buke mu kuburana. Uko byagenda kose, uwo munyamategeko agenerwa igihembo cyumvikanyweho yaba yatsinze urubanza cyangwa yarutsinzwe.

[52] Uburanira uregwa akomeza asobanura ko uwo munyamategeko ngo ntiyirengera ibirebana n'uko urubanza aburana mu izina ry'umukiriya we ruzarangira. Cyakora ngo ibi ntibivuga ko abanyamategeko bataryozwa igihe abakiliya babo batsinzwe imanza biturutse ku kutita ku nshingano. Ikindi yavuze n'ikijyanye n' abacungamutungo n'abagenzuzi bategura raporo

z'imicungire y'umutungo n'ubugenzuzi, ariko igihe cyose ugomba gushyira umukono ku nyandiko igaragaza ko batazabazwa amakosa azaboneka muri iyo raporo.

[53] Me Isaac Mockey Bizumuremyi yatanze urugero rw'urubanza hagati ya Glenn Hall na Glyn R. Hilbun, M.D. rwaciwe muri 1985, Urukiko rw'Ikirenga rwa Mississippi rwemeje ko umuganga adatanga icyizere cyo gukira ku giti cye, ko yaryozwa ikosa rirebana no kudasesengura neza ikibazo, kwibeshya ku kugaragaza ibimenyetso by'indwara cyangwa se kwigaragaza kw'ibimenyetso by'indwara bitateganijwe. Iyo umuganga yiyemeje gusuzuma umurwayi, aba yiyemeje gushyira mu bikorwa inshingano zishingiye ku mategeko zo gukoresha ubushishozi bw'ibanze bwa kiganga no gutanga mu bushobozi bwe ubuvuzi bw'ibanze muri serivisi agomba gutanga. Icyo yaryozwa ni uko umurwayi we yavuga ko umuganga yananiwe gukora inshingano yiyemeje mu rwego rw'amategeko. Bityo rero, imikorere mibi y'umuganga ni ikosa ryo mu rwego rw'amategeko rikozwe n'umuganga uvura cyangwa ubaga iyo atabashije gukora ubuvuzi bufite ireme nk'uko bisabwa n'amategeko.

[54] Me Isaac Mockey Bizumuremyi akomeza asobanura ko amategeko yo mu Bihugu bigendera ku mikorere y'ubutabera bwo mu Bwongereza (common law legal system) kuri we ngo akaba yemeza ko ariyo aboneye mu gutanga ubutabera kuva mu mwaka wa 1957 avuga ko uburyozwe bw'umuganga bwigaragaza iyo biturutse ku kutita ku nshingano bikozwe n'abakozi bo mu buvuzi. Mu rubanza rufatwa nk'icyitegererezo ku birebana n'uburyozwe bw'umuganga rwaciwe n'urukiko rwo mu Bwongereza ruzwi nka Bolam na Friern Hospital Management Committee, Umucamanza McNair yasobanuye igipimo kigomba kugenderwaho mu kugaragaza uburyo abakozi bo kwa muganga bagomba kwita ku barwayi babo (Bolam test). Muri urwo rubanza, Umucamanza McNair, J yasobanuye ko "igipimo ni ikigero cy'ubuhanga bwihariye bufitwe n'umuntu usanzwe ubifitiye ubuhanga ukora umwuga w'ubuganga.

[55] Asobanura kandi ko atari ngombwa ko umuntu aba afite ubuhanga bw'ikirenga, hari itegeko ririho rivuga ko bihagije kugira ubuhanga busanzwe ku muntu ubifitiye ubushobozi ukora umwuga runaka. Ku birebana n'umukozi wo kwa muganga, uburangare ku nshingano ni ukutabasha gukora ibikwiye mu rugero rumwe n'abandi bakozi bo mu buvuzi babifitiye ubushobozi babikoramo mu bihe bihuye. Hagomba gushyirwaho igipimo cy'urugero kimwe kiboneye cyangwa ingero nyinshi ziboneye, kandi iyo yubahirije kimwe muri ibyo bipimo bikwiye, ntabwo aryozwa uburangare ku nshingano ze."

[56] Me Isaac Mockey Bizumuremyi agaragaza ko M. S. Pandit na Shobha Pandit bavuga ko nubwo igihe cyose umuganga yaba atashobora gukiza umurwayi we, asabwa gukoresha ubumenyi n'ubuhanga byihariye afite mu buryo bukwiriye ashyira imbere inyungu z'umurwayi wishyize mu maboko ye. Mu rubanza hagati ya Hunter na Hanley rwaciwe n'Urukiko rwo muri Suwedi, Umucamanza Clyde yavuze ko "Mu birebana no gusuzuma no kuvura, ibitekerezo biranyuranye cyane, kandi ntabwo byakwitwa ko umuntu atitaye ku nshingano hashingiwe gusa ku kuba umwanzuro yafashe utanyuranyije n'uw'abandi bakoraga umwuga umwe, cyangwa yagaragaje ubuhanga cyangwa ubumenyi buke ugereranije n'ubw'abandi bari kuba bagaragaje.

[57] Igipimo nyakuri cyo gupima uburangare ku nshingano mu gusuzuma no kuvura abarwayi ni ukuba umuganga yagaragaje ko yananiwe gukora ibikwiye, ibintu bidashobora gukorwa n'undi muganga wese mu gutanga ubuvuzi mu buryo busanzwe. Avuga ko uyu murongo ariwo washimangiwe mu mwaka wa 1980 n'Umushingamategeko Denning wo mu Nteko ishinga

amategeko y'u Bwongereza mu rubanza hagati ya Whitehouse na Jordan ubwo yemezaga ko "ku munyamwuga, ikosa ryo kwibeshya ku mwanzuro ridafatwa nko kutita ku nshingano".

[58] Me Isaac Mockey Bizumuremyi avuga ko umurongo wavuzwe hejuru wafashwe n'Urukiko rw'Ikirenga rwo mu Bwongereza rutanga igisubizo cyo mu rwego rw'amategeko kukibazo cyaM.A yagejeje mu rukiko. Ni ukuvuga ko igihe umuganga, akoresheje ubuhanga n'ubunanararibonye bwe mu buryo buboneye, yibeshye mu gusuzuma ku birebana n'imimerere y'ubuzima bw'umurwayi we agafata umwanzuro utandukanye n'ukuri, ntiyafatwa nk'aho atitaye ku nshingano ze, bityo rero ntaryozwa indishyi zaturuka kuri icyo gikorwa.

[59] Mu yandi magambo yasobanuye ko kwibeshya ku cyemezo mu gusuzuma umurwayi cyangwa kutabasha kuvura indwara ko bitavuga ko buri gihe kutita ku nshingano ku muganga bituma hadatangwa indishyi zikomoka kuri icyo gikorwa, agaragaza ko iki kibazo cyasuzumwe mu buryo bucukumbuye na Komisiyo yo mu Buhinde ishinzwe ibirebana n'imfu zo mu bitaro mu rubanza hagati ya Dr. Subramanyam na Dr. B. Krishna Rao, aho yavuze ko "amahame arebana no kutita ku nshingano mu rwego rw'ubuvuzi asobanutse, ko umuganga aryozwa kutita ku nshingano ze iyo atabashije gukora ibisabwa by'ingenzi mu mwuga w'umuganga. Asoza avuga ko umuganga adashobora kuryozwa kutita ku nshingano ze gusa hashingiwe ku kuba yibeshye ku cyemezo yafashe".

[60] Uburanira urega avuga bibaje kubona King Faisal hari aho ihakana ko itavuye M.A kandi baramwakiriye ndetse ngo bakamusuzuma ari nabo bamubwiye icyo arwaye ari (canser) ntayo yari arwaye, akaba asanga uburanira King Fisal yivuguruza kuko ngo yemera ko bamwakiriye ndetse bakamusuzuma ndetse bakemera ko aribo bemeje ko arwaye canser, akibaza impamvu atemera ko aribo nkomoko yibibazo byose, agaragaza ko gususuzuma umurwayi kwa muganga ari kimwe mubikorwa bigize igikorwa cy'ubuvuzi.

UKO URUKIKO RUBIBONA

[61] Urukiko rushingiye ku ngingo ya 2 Al2 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ku mwuga w'ubuvuzi ivuga ku gikorwa cy'ubuvuzi ko igikorwa cy'umuvuzi wabigize umwuga mu rwego rwo kuvura ari ugusuzuma, kwirinda indwara, guteza imbere ubuzima bw'umurwayi cyangwa ubw' umuntu wese uhabwa serivisi z'ubuvuzi.

[62] Urukiko rushingiye ku ngingo ya 3 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ku mwuga w'ubuvuzi ivuga ku burenganzira, ku gaciro k'umuntu n'icyubahiro cye ko umukozi wo mu buvuzi wabigize umwuga akora umurimo ashinzwe yubaha ubuzima bw'umuntu icyubahiro cye n'agaciro ke.

[63] Urukiko rushingiye ku ngingo ya 5 Al4 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ku mwuga w'ubuvuzi ivuga k'uburenganzira n'umutekano w'umurwayi ko umurwayi cyangwa umuntu wese uhabwa ibikorwa by'ubuvuzi ko afite uburenganzira bwo kubona ibisubizo nyabyo igihe yakorewe ibizami.

[64] Rushingiye ku ngingo 13 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ivuga k' uburenganzira bwo kuregera indishyi ko uwahuye n'ingaruka zituruka ku buvuzi afite

uburenganzira bwo kuregera indishyi, mu gihe cyose isano riri hagati y'ingaruka n'ubuvuzi bigaragaye.

[65] Urukiko rusanga ibitaro bya King Faisal Hospital bitarubahirije ibitegenywa mu ngingo ya 5 Al4 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi nkuko yasobanuwe haruguru kuko raporo yakozwe n'umuganga w'ibyo bitaro Prof. Kyopnkunda Lynnette Sinior Consultant yagaragaje ko results y'ikizamini cya BIOPSY: 715/17 cyasohotse yemeza ko M.A arwaye canseri y'ibere ry'iburyo yo mubwoko bwa DUCTAL CARCINOMA GRADE 2 (TOTAL SCORE 0 + 6/7), kandi nta cancer yari arwaye muri iryo bere nkuko byagaragajwe n'ikizami urega yakorewe nyuma yo kumubaga ibere bakarikuraho.

[66] Urukiko rusanga kandi ibyo Me Isaac Mockey Bizumuremyi uburanira King Faisal Hospital, avuga ko hari uburyo bwinshi umuganga yahitamo gukoresha avura umurwayi ariko ko ubukunzwe gukoreshwa cyane agaragaza ko ari butatu (03) aribwo Kubagwa (chirurgie), Lumpectomy – tumorectomie. (breast-conserving surgery) na Mastectomy [mastectomie].

[67] Urukiko rusanga ubu buryo bwo kuvura Me Isaac Mockey Bizumuremyi uburanira King Faisal asobanura, ari uburyo bukoreshwa ku muntu basanganganye indwara ya cancer aha Me Isaac Mockey Bizumuremyi arirengagiza ko M.A nta ndwara yari arwaye nkuko byaragagajwe na raporo ya nyuma y'uko urega abagwa ibere yakozwe n'abagaganga ba King Faisal Hospital bafatanyje n'abaganga b'ibitaro bya Kanombe aribo babaze ibere rya M.A Asmpta bakarikuraho, ibi bikaba bigaragaza ukwivuguruza kw'ibitaro bya King Faisal Hospital, kuko results y'ikizamini cya BIOPSY: 715/17 cy'urega cya mbere yo kubagwa cyakorewe muri ibi bitaro igaragaza ko arwaye cancer, King Faisal Hospital ikaba itarubahirije ibiteganywa mu ingingo ya 5 Al4 y' itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ku mwuga w'ubuvuzi ivuga ko umurwayi cyangwa umuntu wese uhabwa ibikorwa by'ubuvuzi afite uburenganzira bwo kubona ibisubizo nyabyo igihe yakorewe ibizami.

[68] Rusanga Ibyo Me Isaac Mockey Bizumuremyi avuga ko King Faisal Hospital itaryozwa indishyi ashingiye ku manza zaciwe n'ibindi bihugu zasobanuwe haruguru nta shingiro byahabwa kuko urukiko Rwisumbuye rwa Gasabo rutazishingiraho mu gihe ibyemezo byazo bishingiye ku mategeko agenga ibihugu byabo, anyuranyije n'ibiteganywa n'amategeko yo mu Rwanda yasobanuwe haruguru agaragaza ibigomba kubahirizwa akanasobanura ko umurwayi agomba guhabwa ibizami by'ukuri, ndetse n' ingingo ya 13 y'itegeko ryasobanuwe haruguru ikaba iteganya n'uburengazira bwo kuregera indishyi k'uwahuye n'ingaruka zituruka ku buvuzi.

[69] Urukiko rushingiye kuri Jurisprudence y' urubanza N° RCAA 00019.2017.SC rwatanzweho ikimenyetso n'urega, aho urukiko Rwikirenga rwategetse ko icyemezo cy'urukiko Rukuru kidahindutse ku ndishyi zari zategetswe n'urukiko Rwisumbuye aho haregerwa indishyi zikomoka ku ikosa ry'uburangare bw'abaganga b'ibitaro bya King Faisal Hospital muri uru rubanza bagaragaza ko n'uburenganzira bw'umurwayi butubahirijwe bituma agira ingaruka zituruka ku buvuzi, ibitaro bya King Faisal Hospital bikaba aribyo byategetswe gutanga indishyi .

[70] Rushingiye ku gingo ya 111 y'itegeko N° 22/2018 ryo ku wa 29/04/2018 itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza.

[71] Rusanga ibitaro bya King Faisal Hospital bigomba kwirengera amakosa y’umukozi wabyo Prof. Kyopnkunda Lynnette Sinior Consultant yagaragaje ko results y’ikizamini cya BIOPSY: 715/17 cyasohotse yemeza ko M.A arwaye cancer y’ibere ry’iburyo kandi ntayo arwaye nkuko na Jurisprudence y’ urubanza Nº RCAA 00019.2017.SC isobanuwe haruguru ibitaro bya King Faisal Hospital aribyo byatanze indishyi zikomoka ku ikosa ry’abaganga bayo, akaba ariyo mpamvu King Faisal Hospital igomba guha M.A indishyi zinganga 40.000.000F kuko ariyo nyirabayazana yo kugirango acibwe ibere ry’iburyo, izi ndishyi zikaba zigenwe hagendewe kuzo M.A yari yasabye mu buryo bw’ubwumvikane mbere y’uko atanga ikirego cy’indishyi, kuko izo asaba muri uru rubanza zingana na 300.000.000 FRWS atazigaragariza ibimenyetso zose.

[72] Urukiko rusanga kandi King Faisal Hospital igomba gutanga amafaranga y’ikurikiranarubanza angana 500.000FRWS n’amafaranga y’igihembo cy’Avocat angana 2.000.000FRWS. Rusanga Prof. Kyopnkunda Lynnette Sinior Consultant nta ndishyi agomba kuryozwa muri uru rubanza kuko indishyi zikomoka ku ikosa yakoze ziryozwa ibitaro yakoreraga bya King Faisal Hospital nkuko zisobanuwe haruguru.

B. Kumenya niba Rwanda Military Hospital itaragombaga gukorera ikizami M.A cyo kumenya ko arwaye cancer mbere yo kumubaga ibere nk’umuntu wari umaze amezi umunani akorewe icyo kizami, n’uruhare rwayo ku buryozwe bw’indishyi zisabwa n’urega.

Uburanira Rwanda Military Hospital avuga ko M.A yagiye kwivuza mu bitaro bya Legacy, bamusaba ko yabanza kwisuzumisha mu bitaro bya King Faisal Hospital. Ku italiki ya 31/07/2017, yageze muri King Faisal HospitaL, akorerwa ikizamini cyangombwa, nyuma yaho ngo M.A yaje kujya kuri MediheaL Center, ajya no ku Nkurunziza, ariko ngo yaje kubona ko bihenze, yegera ibitaro bya Gahini, ariko kubera ko idafite ubushobozi bwo gukora icyo kizami cya Pathologist, avuga ko umuganga wa King Faisal Hospital yemeje ko bamuha transfer mu bitaro n’ubundi bisanzwe byakira abarwayi kuva mu Burasirazuba n’abahandi aribyo Rwanda Military Hospital.

[73] Akomeza asobanura ko M.A yageze mu bitaro bya Gisilikare by’u Rwanda, abaganga babonye results yari afite, avuga ko nta kindi cyagombaga gukorwa uretse gukora icyari cyemejwe n’umu Pathologist wabizobereye,asobanura ko nta wundi muganga wari kuvuguruza ikizamini cyakozwe, uretse gukurikiza icyemejwe gukorwa , ko kandi ko muri procedure za kiganga ngo iyo umurwayi wese bamaze kumuvanaho igice cy’umubiri, ari ngombwa ko bongera gusuzuma kugira ngo barebe niba uburwayi bwaba butarakwiye ahantu hanini kuko umuganga aba ashaka kumenya (To what extent is the spread of the disease), no kumenya uburyo umurwayi yavurwa ku gice bakaseho ibere. Uburanira Rwanda Military Hospital ashingira kuri raporo yakozwe n’agahanga b’abaganga bashyizweho n’urugaga rw’abaganga barimo uwitwa Docteur Manirakiza Ashille na Karinganire.

[74] Me Mockey Bizumuremyi uburanira King Faisal Hospital yagaragaje ko . Docteur Ashille na Docteur Karinganire, aba baganga batakoze inshingano bari bategetswe n’urukiko, ko bakabaye bavuga kuri terme de referance bagaragaza niba cancer y'uriya murwayi yari kuyihe etape, no kuri iyo raporo bakaba batarashyizeho indahizo yabo nkuko biteganywa n’amategako, anagaragaza ko babogamiye ku bitaro bya Rwanda Military Hospital, kuko ngo ari abakozi baho bahembwa umushahara n’ibyo bitaro, Me Mockey Bizumuremyi akaba ariho ahera asaba ko raporo yabo itahabwa ishingiro.

[75] Me Gatari salim steven uburanira Kyonkunda Lynnette avuga raporo yakozwe ntaho igaragaza ko urega yoherejwe kugira ngo ajye kubagwa, asaba urukiko ko rwareba ibibazo yagiye abazwa n'uburyo yagiye asubiza, kandi ko no muri iyo raporo berekenaga koM.A niveau ya cancer afite yari ku rwego rwa kabiri nayo igabanyijwemo uduce tubiri, ko iyo urebye neza usanga atarabazwe kubera raporo, ahubwo byatewe n'indwara yo mu bihaha, bivuze ko iyo aba adafite ubwo burwayi atari kubagwa.

[76] Me Rutayisire Ildephonse uburanira M.A agaragariza urukiko ko uwo ahagarariye nta cancer yari arwaye, akaba yumva nta buryo ubwo aribwo bwose bwo kuvuramo cancer yajyaga kuvurwamo.

UKO URUKIKO RUBIBONA

[77] Urukiko rushingiye ku ngingo ya 13 y'itegeko itegeko N° 49/2012 ryo kuwa 22/01/2013 rigena ubwishingizi ivuga ko uwahuye n'ingaruka zituruka ku buvuzi afite uburenganzira bwo kuregera indishyi, mu gihe cyose isano riri hagati y'ingaruka n'ubuvuzi bigaragaye.

[78] Urukiko rushingiye ku itegeko nshinga rya Repuburika y'u Rwanda ryo kuwa 04/Kamena 2003 nkuko ryavuguruwe kugeza ubu mu ngingo yaryo ya 22 ivuga ko agaciro k'umuntu mu maso y'abandi kagoma kubahirizwa.

[79] Urukiko rusanga ibyo uburanira Rwanda Military Hospital avuga ko M.A yageze mu bitaro bya Gisilikare by'u Rwanda, abaganga babonye results yari afite bagahita bamubaga ibere ry'iburyo kuko ko ngo nta kindi cyagombaga gukorwa uretse gukora icyari cyemejwe n'umu Pathologist wabizobereye, ko nta wundi muganga wari kuvuguruza ikizamini cyakozwe, uretse gukurikiza icyemejwe gukorwa.

[80] Rusanga izi mvugo za Me Gumisiriza Hilary uburanira Rwanda Military Hospital ntashingiro zahabwa kuko ataragaraza itegeko ashingiraho ryerekana ko abo baganga bagombaga kubaga M.A ibere nta kizami kindi bakoze, bakagendera kuri raporo y'umuganga wa King Faisal Hospital ya nyuma y'amezi umunani icyo kizami gikozwe.

[81] Kuba Rwanda Military Hospital itarakoze ikindi kizami mbere yo kubaga ngo bamenye niba M.A arwaye cancer koko ari nabyo byari kugaragaza niveau yari kuba igezeho cyangwa niba nta cancer y'ibere arwaye, cyane ko n'ikizami Rwanda Military Hospital yakoze imaze kumubaga ibere raporo yakozwe n' abaganga bayo ndetse n'abaganga ba King Faisal Hospital bemeje ko nta cancer y'ibere M.A arwaye.

[82] Kuba Mediheal Diagnostic & Fertility Center kuwa 27/10/2017. Result za CT SCAN ya Mediheal Diagnostic & Fertility Center, rapport yabo yagaragaje ko nta metastasis igaragara, bisobanurako nta cancer yari yakwirakwira mumubiri wa M.A, ibi nabyo Rwanda Military Hospital ntiyabyitaho ngo ireke kubaga itabanje gukora ibizami byayo mu rwego rwo kureba ko bihura nibyo bashingiyeho babaga, ari nabyo byari gutuma bamenya niba hari indwara ya cancer mu ibere ry'urega.

[83] Kuba uburanira Rwanda Military Hospital avuga ko umuganga yabisobanuye neza, ko urega iyo aba amaze amezi umunani arwaye cancer aba yarapfuye, ahubwo ngo bagaragaje ko ari

asima arwaye, akavuga ko negligence yakozwe n'umuganga wapimye ko hari cancer, nyamara nyuma akemeza ko idahari, akabishingiraho avuga ko ibitaro bya Rwanda Military Hospital bitagira uburyozwe ubwo aribwo bwose ngo kuko nta kosa byakoze mu rwego rw'ubuvuzi.

[84] Kuba kandi uburanira Rwanda Military Hospital ashingira kuri izi mvugo z'umuganga zisobanuwe haruguru, byumvikane ko Rwanda Military Hospital yabaze urega nta cancer arwaye, kuko n' imvugo ze zivuguruzanya , hamwe avuga ko abaganga babaze urega nta kindi kizami bagombaga gukora ngo ko bangendeye ku cya King Faisal Hospital cyemezaga ko urega arwaye cancer, kandi cyari kimaze amezi umunani gikozwe,ubundi agashingira ku mvugo z'umuganga wazuze ko iyo urega aba amaze amezi umunani arwaye cancer aba yarapfuye,ikindi kandi n'aho uburanira Rwanda Military Hospital avuga ko icyo bagaragaje ari uko M.A arwaye asima, ibi nabyo ntabwo byaba intandaro yo kumubaga ibere bakarikuraho nta cancer yarimo.Akaba ariho urukiko ruhera rugaragaza ko Me Gumisiriza Hilary uburanira Rwanda Military Hospital ibyo avuga nta shigiro bifite.

[85] Rusanga kandi na raporo yakozwe n'abahanga bashyizweho n'urugaga rw'abaganga itashingirwaho muri uru rubanza ngo rwemeze ko ibyo bavuzemo byose ari ukuri , kuko ibyo urukiko rwari rwategetse kwari ugukora raporo irebana na procedure y'uko indwara ya cancer isuzumwa, ikemezwa, kugeza ivuwe, umurwayi abazwe, ndetse bakanayisobanura, raporo yakozwe n'abahanga bashyizweho n'urugaga rw'abaganga ibikubiyemo bitandukanye n'ibyo urukiko rwari rwabategetse gukora kuko bayikoze bagendeye ku nshingano bahawe n'urugaga arizo : The team tasked to give a detailed report on the following subjects: - Background and nature of the case,- Interviews and interpretation, -Summary of the medical file notes,- Findings and analysis,- Responsibilities of any involved medical/paramedical staff with facts,- Conclusions and recommendations, kandi n'uregwa akaba yaragaragaje ko iyo raporo nta ndahiro yabo baganga iriho nkuko iteganywa n'ingingo ya 93 y'itegeko N^{o} 15/2004 ryo kuwa 12/06/2004 ryerekeye ibimenyetso mu manza n'itangwa ryabyo.

[86] Kuba abaganga ba Rwanda Military Hospital barakoze ikizami bamaze kubaga ibere rya M.A barikuyeho bagasanga nta cancer rirwaye, aba baganga bakaba bari bafite competence yo gukora ikizami mbere yo gukuraho ibere ry'urega, kuko byari no kurinda M.A gutakaza urugingo rwe (ibere) cyane ko nta n'indwara ya cancer yarimo, ikindi n'urega yari yabanje gusaba abaganga kutamubaga ibere bagakoresha ubundi buvuzi, kandi akaba yari yanabasabye ko bakongera kumukorera irindi suzuma , abaganga ba Rwanda Military Hospital bakaba baramubwiye ko nta bundi buvuzi bakoresha atari ukubaga ibere, bigaragaza ko nta bushishozi bagize, bakaba batarubahirije n'agaciro ka M.A nkuko biteganywa n'itegeko nshinga mu ngingo yaryo ya 22 yasobanuwe haruguru.

[87] Kuba Me Rutayisire Ildephonse uburanira urega avuga ko nyuma yo kumubaga ibere nta Cancer arwaye byamuviriyemo kubura urugingo(ibere) bitari ngombwa kandi yari agishobora ku byara kuko icyo gihe yari afite imyaka 43, bikanamuviramo ubumuga, agahinda, Psychological, stigma, ubukene nibindi, akaba asaba urukiko ko rwasuzuma niba Rwanda Military Hospital na King Faisal Hospital byombi baryozwa indishyi hashingiwe kuri raporo yabyo ya nyuma yo kubaga M.A , kuko abaganga bo muri ibi bitaro byombi bafatanyije kwemeza ko nta cancer iri mu ibere bari bamaze gukuraho.

[88] Urukiko rusanga Rwanda Military Hospital ariyo yabaze ibere rya M.A nta cancer arwaye nkuko bisobanuwe haruguru kandi nayo ikaba itabihakana, ikaba yarateje urega ibyago byo kubura ibere rye, n'aho ryavuye babaga bituma ahorana ibibazo mu buzima bwe nkuko byasobanuwe na Me Rutayisire Ildephonse,abagobokeshejwe bakaba batarigeze babivuguruza ,bikaba ari ingaruka zituruka ku buvuzi no kutubahiriza uburengazira bw'umurwayi aho urega yabanje gusaba abaganga ba Rwanda Military Hospital kumukorera ubundi buvuzi atari ukumubaga ibere bakabyirengagiza, akaba riyo mpamvu na Rwanda Military Hospital nayo igomba kuryozwa indishyi.

[89] Urukiko rukaba rushingiye ku ngingo ya 13 y'itegeko ryasobanuwe haruguru iteganya uburengazira bwo kuregera indishyi k'uwahuye n'ingaruka zituruka ku buvuzi. Bityo Rwanda Military Hospital ikaba igomba guha M.A indishyi z'uko bamubaze ibere bakarikuraho nta cancer arwaye zingana na 60.000.000F, kuko Rwanda Military Hospital ariyo yakoze ikosa rinini ugereranyije n'iryakozwe na King Faisal Hospital, ku bijyanye n'ibyago M.A yagize byo gukatwa ibere rikavaho nta mpamvu. Izi ndishyi zikaba zigenwe mu bushishozi bw'urukiko kuko izo urega asaba atazigaragariza ibimenyetso zose.

[90] Urukiko rushingiye ku ngingo ya 111 y'itegeko Nº 22/2018 ryo ku wa 29/04/2018 itegeko ryerekeye imiburanishirize y'imanza z'imbonezamubano, iz'ubucuruzi, iz'umurimo n'iz'ubutegetsi ivuga ko ikirego cy'amafaranga y'ikurikiranarubanza ari ikirego gishamikira ku kirego cy'iremezo kigamije kwishyuza ibyakoreshejwe mu rubanza, akaba ariyo mpamvu Rwanda Military Hospital igomba guha M.A amafaranga 2.000.000FRW y'umunyamategeko wamuburaniye muri uru rubanza ikanatanga n'amafaranga 500.000F y'ikurikiranarubanza. Rusanga King Faisal Hospital na Rwanda Military ibi bitaro byombi bigomba gufatanya kwishyura amafaranga y'amarama y'urubanza angana 20.000F.

[91] Urukiko Rwisumbuye rwa Gasabo rukaba rusanga M.A indishyi agomba guhabwa n'ibitaro bya King Faisal Hospital n'ibitaro bya Rwanda Military Hospital harimo amafaranga y'igihembo cy'Avocat n'amafaranga y'ikurikiranarubanza ari 105.000.000frws, hakiyongeraho n'amafaranga 20.000F y'amagarama y'urubanza.

[92] Urukiko rusanga kandi indishyi zisabwa n'uburanira King Faisal Hospital ntazo ihawe kuko ntacyo itsindiye muri uru rubanza.

III. ICYEMEZO CY'URUKIKO

[93] Rwemeye kwakira ikirego cya M.A kuko cyatanzwe mu nzira no mu buryo bukurikije amategeko rumaze ku gisuzuma rusanga gifite ishingiro ku ndishyi zasobanuwe haruguru.

[94] Rutegetse King Faisal Hospital guha M.A indishyi zinganga 40.000.000F. amafaranga 500.000FRWS y'ikurikiranarubanza n' amafaranga 2.000.000FRWS y'igihembo cy'Avocat.

[95] Rutegetse Rwanda Military Hospital guha M.A indishyi zinganga 60.000.000F, amafaranga 500.000FRWS y'ikurikiranarubanza n' amafaranga 2.000.000FRWS y'igihembo cy'Avocat.

[96] Rutegetse Rwanda Military Hospital gufatanya na King Faisal Hospital kwishyura amafaranga y’amagarama y’urubanza angana 20.000F.