

UBUSHINJACYAHA v. HAGUMIRAGIRA

[Rwanda URUKIKO RW'IKIRENGA – RPA 0223/09/CS (Kayitesi Zaïnabo. J.P.,
Hatangimbabazi na Munyangeri J.) 2 Ugushyingo 2013]

Amategeko yerekeye imiburanishirize y'imanza z'inshinjabyaha – Gushakisha ibimenyetso bishinja n'ibishinjura – Ishidikanya rirengera ushijnwa – Ubushinjacyaha bugomba no kwibanda ku bimenyetso bishinjura; iyo bidakozwe bitera gushidiukanya – Itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, nk'uko ryahinduwe rikuzuzwa kugeza ubu ingingo zaryo: 5, 19 na 165

Incamake y'ikibazo: Urukiko Rukuru rwagize umwere Hagumiragira Narcisse ku byaha byo gukomeretsa bikomeye, icyaha cy'ubujura buciye icyuho n'icyaha cy'ubwinjiracyaha bw'ubuhotozi. Ubushinjacyaha bwajuririemu Rukiko rw'Ikirenga ariko mu iburanisha buhindura imiburanire bувуга ko bubona hari ugushidikanya ku bimenyetso bishinja uregwa kuko butigeze bubaza abatangabuhama bashinjura batanzwe n'uregwa.

Mu iburanisha ariko, Ubushinjacyaha bwisubiyeho bувуга ko n'ubwo bwajuriye bubona hari ugushidikanya ku mikorere y'icyaha kuko Hagumiragira yagaragaje ko hari ibyo yapfaga n'abo mu juryango we kandi hakaba hari n'abatangabuhama bamushinja batabajijwe.

Incamake y'icyemezo: Mu gihe Ubushinjacyaha bwivugira ko bwibanze gusa ku bantu bashinja uregwa ibyaha bumukurikiranyeho, nyamara ntibugenzure n'ibimenyetso bimushinjura bigizwe n'imvugo z'abatangabuhama, hagomba kwemezwa nk'uko Ubuhagarariye abivuga, ko hari ugushidikanya ku kuba uregwa yarakoze ibyaha ashinjwa, bityo rero kuba gushidikanya kurengera ushijnwa, uregwa agomba gukomeza kugirwa umwere.

**Ubujurire ntashingiro bufite
Imikirize y'urubanza rwajuririwe igumye ho
Amagarama y'urubanza aherereyeku Isanduku ya Leta.**

Amategeko yashingiweho:

Itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ingingo ya 5, 19 na 165.

Nta manza zifashishijwe.

Urubanza

I. IMITERERE Y'URUBANZA

[1] Uru rubanza rwatangiriye mu Rukiko Rukuru Ubushinjacyaha burega Hagumiragira Narcisse icyaha cyo gukomeretsa bikomeye, icyaha cy'ubujura buciye icyuho n'icyaha cy'ubwinjiracyaha cy'ubuhotozi byakorewe Kabagina n'umukobwa we kuwa 07/05/2008.

[2] Urukiko rwaciye urubanza kuwa 31/07/2009 rwemeza ko ibyaha aregwa bitamuhamama, rutegeka ko Hagumiragira Narcisse atsinze.

[3] Ubushinjacyaha bwajuririye Urukiko rw'Ikirenga, mu mwanzuro wabwo wanditse bukavuga ko Urukiko Rukuru rwirengagije ibimenyetso bwatanze bihama Hagumiragira icyaha bumurega.

[4] Urubanza rwaburanishijwe kuwa 02/09/2013, Hagumiragira Narcisse yunganiwe na Me Ndikumana Vincent na Me Simbizi naho Ubushinjacyaha buhagarariwe na Mutayoba Alphonse.

II. IKIBAZO KIGIZE URUBANZA N'ISESENGURWA RYACYO.

Kumenya niba hari ibimenyetso bidashidikanyaho bihama Hagumiragira icyaha akurikiranyweho.

[5] Mu mwanzuro wabwo w'ubujurire, Ubushinjacyaha buvuga ko Urukiko Rukuru, ruya guhanaguraho ibyaha bwareze Hagumiragira Narcisse, icyo gukomeretsa bikomeye, icy'ubujura buciye icyuhu n'icy'ubwinjiracyaha cy'ubuhotozi byakorewe Kabagina n'umukobwa we, rwirengagije ibimenyetso bwatanze bimuhama ibyo byaha birimo imvugo z'abatangabuhama banyuranye.

[6] Mu iburanisha ry'uru rubanza ariko, Uhagarariye Ubushinjacyaha avuga ko n'ubwo bajuriye, asanga nyamara hari ugushidikanya ku byaha bukurikiranye kuri Hagumiragira, bitewe n'uko uyu mu kwiregura yagaragaje ko azira amakimbirane afitanye n'abantu bo mu muryango we, ko kandi hari abantu bamushinjura yatanze, Ubushinjacyaha bukaba butarababajje, ngo hamenyekane niba yaratabaranye n'abatabaye kwa Kabagina n'umukobwa we, cyangwa se ko atigeze atabara, ahubwo akaba yari afatanije n'abagabye igtero kwa Kabagina.

[7] Uhagarariye Ubushinjacyaha yarangije asaba Urukiko ko rwagumishaho imikirize y'urubanza bwajuririye, maze Hagumiragira agakomeza akagirwa umwere kubera ko gushidikanya birengera uregewa.

[8] Hagumiragira n'abamwunganira bavuga ko bahuza n'ibyo Uhagarariye Ubushinjacyaha avuga, ko kuba bumushinjura bigaragaza ko buhagariye rubanda yose, ko rero nabo basanga haragombaga kubazwa abantu bahruranye na Hagumiragira, batibanke ku bantu bo mu muryango wa Kabagina. Bavuga ko kuba ibi bitarakozwe, bituma habaho gushidikanya ku byaha Hagumiragira aregwa, bityo, akaba akwiye kugirwa umwere, hashingiwe ku ngingo ya 165 y'itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha.

[9] Inyandiko ziri muri dosiye y'uru rubanza zigaragaza ko Hagumiragira, akigezwa mu Bugenzacyaha, akekwo ibyaha byavuzwe haruguru, yasobanuye ko abeshyerwa kuba yari mu gitero cyagabwe kwa Kabagina, kubera ko yatabaranye n'abandi baturanyi batabaye Kabagina, akaba yaratane amazina y'abantu batabaranye barimo Munyambonera Jerimani, Nibamwe Sipiriyani, Inosenti, uwitwa Angélique, Sezibera, Makanika, Sadam n'abandi, abo bose akaba yarifuzaga ko babazwa kugirango bagaragaze ko yatabaranye cyangwa atatabaranye n'abandi igithe Kabagina aterwa, ibyo bikaba bitarizeze bikorwa kugeza aburana

mu Rukiko Rukuru, ahubwo Ubushinjacyaha bukaba bwaramureze bushingiye ku mvugo z'abantu yavugaga ko bafitanye amakimbirane yo mu muryango.

[10] Ingingo ya 5 n'iya 19 z'itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, nk'uko ryahinduwe rikazuzwa kugeza ubu, zerekana uko iperereza rikorwa ku byaha bikurikiranywe ku muntu ukekwaho kuba yabikoze, aho zisobanura ko ko hagomba gukusanya ibimenyetso bishinja n'ibishinjura¹.

[11] Urukiko rurasanga mu gihe Ubushinjacyaha bwivugira ko bwibanze gusa ku bantu bashinja Hagumiragira ibyaha bumukurikiranyeho, nyamara ntibugenzure n'ibimenyetso bimushinjura bigizwe n'invugo z'abatangabuhama bavuzwe haruguru bamubonye atabara Kabagina, hagomba kwemezwa nk'uko Ubuhagarariye abivuga, ko hari ugushidikanya ku kuba Hagumiragira yarakoze ibyaha ashinjwa, bityo rero hashingiwe ku ngingo ya 153 y'itegeko n° 13/2004 ryo ku wa 17/5/2004 ryerekeye imiburanishirize y'imanza z'inshinjabyaha, ivuga ko gushidikanya kurengera ushijnjwa, Hagumiragira agomba gukomeza kugirwa umwere.

III. ICYEMEZO CY'URUKIKO

- [12] Rwemeje ko ubujuire bw'Ubushinjacyaha nta shingiro bufite.
- [13] Rwemeje ko Hagumiragira akomeza kuba umwere ku byaha akurikiranyeho.
- [14] Rwemeje ko imikirize y'urubanza rwaciwe n'Urukiko Rukuru idahindutse.
- [15] Rutegetse ko amagarama y'urubanza aherera ku isanduku ya Leta.

¹ Ingingo ya 5: Iyo havuzwe igikorwa cy'iperereza, bisobanura ibikorwa byose bigamije gushakisha ibyaha, gukusanya ibimenyetso byaba ibishinja cyangwa ibishinjura kimwe n'ibikorwa bigamije gusuzuma niba ushijnjwa agomba gukurikiranwa cyangwa kudakurikiranwa.

Ingingo ya 19: Ubugenzacyaha bushinzwe gushakisha ibyaha, kwakira ibirego n'inyandiko zижyanye n'ibyo byaha, gukusanya ibimenyetso bishinja n'ibishinjura, no gushakisha abakoze ibyo byaha, abafatanyije na bo n'ibitso byabo kugira ngo bakurikiranwe n'Ubushinjacyaha